

Supreme Court of Florida

AOSC10-1

IN RE: COURT REPORTING SERVICES IN FLORIDA'S TRIAL
COURTS

ADMINISTRATIVE ORDER

In July 2002, the Commission on Trial Court Performance and Accountability was established by the Supreme Court for the purpose of proposing policies and procedures on matters related to the efficient and effective resource management, performance measurement, and accountability of Florida's trial courts. In In Re: Commission on Trial Court Performance and Accountability, No. AOSC06-54 (Fla. Sept. 19, 2006), the Commission was directed to make recommendations on the effective and efficient management of due process services with a focus on clarifying the legal and operational issues arising from the use of digital technology and with developing operational standards and best practices for providing court reporting services. Further, in In Re: Commission on Trial Court Performance and Accountability, No. AOSC08-32 (Fla. Aug. 15, 2008), the Commission was directed to continue with the development and

implementation of standards of operation and best practices for the major elements of Florida's trial courts.

To address these directives, the Commission formed a court reporting workgroup which included judges, trial court administrators, general counsel, court technology officers, and court reporting managers representative of the various courts across the state. In October 2007, after an extensive interactive review process with the trial courts, the Commission submitted a report to the Supreme Court entitled, *Recommendations for the Provision of Court Reporting Services in Florida's Trial Courts*. The Commission also submitted a supplemental report to the Supreme Court under the same title in November 2009. Both reports focus on recommended standards of operation and best practices for court reporting services. A "standard of operation" is defined as a *mandatory* practice and a "best practice" is defined as a *suggested* practice to improve operations but, due to the possibility of local conditions beyond the court's control, is not required.

The attached standards of operation and best practices, which were proposed by the Commission in the above mentioned reports, are hereby adopted as a means to ensure the effective, efficient, timely, and uniform provision of court reporting services in Florida's trial courts. The entities responsible for compliance with specific standards of operation and best practices are identified on the attachment.

The Office of the State Courts Administrator is charged, time and resources permitting, with assisting the trial courts in implementing the standards and best practices including: establishing performance goals, developing or revising data collection systems to monitor performance, providing educational opportunities and resource materials, and providing other technical assistance as needed.

The Trial Court Budget Commission is charged with monitoring court reporting budgets to ensure, to the extent possible given the fiscal environment, that all trial courts have the appropriate level of resources to implement and maintain adherence to the standards of operation and best practices.

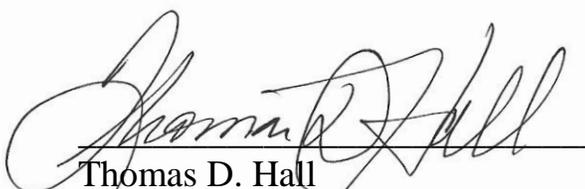
The attached standards of operation and best practices are incorporated herein by reference and shall be effective upon the signing of this order.

DONE AND ORDERED at Tallahassee, Florida, on January 7, 2010.



Chief Justice Peggy A. Quince

ATTEST:



Thomas D. Hall
Clerk, Supreme Court



Standards of Operation and Best Practices for Court Reporting Services in Florida's Trial Courts

[Entities responsible for implementation of the standards and practices are identified in brackets]

I. Court Reporter Qualifications

A. Standard of Operation

1. Court reporting employees and contract service providers shall meet all professional standards and training requirements established by Florida statute, court rule, the State Courts System, and the chief judge of the circuit. *[All trial courts and all court reporting employees and contractors]*

B. Best Practices

1. Court employees or contractors providing stenographic services for the State Courts System will achieve and maintain the designation of Registered Professional Reporter (RPR) as defined by the National Court Reporters Association. *[Stenographic employees and contractors]*
2. Court employees or contractors providing digital court reporting or transcript services for the State Courts System will achieve and maintain certification with the American Association of Electronic Reporters and Transcribers (AAERT). *[Digital court reporting employees and contractors]*
3. Court employees or contractors providing voice-writing services for the State Courts System will achieve and maintain certification with the National Verbatim Reporters Association (NVRA). *[Voice-writing employees and contractors]*
4. Judicial circuits shall ensure availability to real-time stenographic services, either through the use of court employees or contract service providers. *[All trial courts]*

II. Oversight

A. Standards of Operation

1. Court reporting program employees and contract service providers are officers of the court and must comply with all applicable Florida statutes, court rules, and other requirements as established by the State Courts System and the chief judge of the circuit. *[All court reporting employees and contractors]*

2. Judicial circuits shall comply with court reporting contracting requirements as established by the State Courts System. *[All trial courts]*

III. Use of Clerk of Court Staff

A. Standard of Operation

1. Judicial circuits shall not engage clerk of court staff to provide court reporting services, other than those services or responsibilities established by Florida statute, court rule, and the State Courts System. *[All trial courts]*

IV. Cross-training

A. Best Practice

1. Judicial circuits shall explore cross-training initiatives with their court reporting employees for the provision of court reporting services. *[All trial courts]*

V. Assigning Coverage

A. Best Practice

1. Court staff responsible for scheduling hearings and preparing dockets will provide dockets to the court reporting manager or other designated court administration professional or contract service provider as far in advance as possible to ensure adequate time to assign appropriate court reporting coverage of proceedings. *[All court staff responsible for scheduling hearings and preparing dockets]*

VI. Eliminating Analog Recording

A. Best Practice

1. Judicial circuits shall refrain from utilizing analog audio recording and should attempt, where practical, to replace analog with digital recording capability. *[All trial courts]*

VII. Service Delivery Models

A. Best Practice

1. Judicial circuits shall implement procedures for assigning court reporting coverage of proceedings recorded at public expense as follows:
 - a. Digital court reporting alone should be used for county criminal, domestic violence injunction, delinquency, dependency, Baker Act, Marchman Act, guardianship, Jimmy Ryce, and general magistrate/hearing officer proceedings.
 - b. Either stenography or digital court reporting may be used for circuit criminal proceedings (unless digital court reporting is otherwise unavailable), termination of parental rights proceedings, crossover cases (Unified Family Court cases), and proceedings taking place outside of the regular business hours of the court.
 - c. Stenography alone should be used for capital cases and circuit criminal trials. Specifically, real-time or CAT stenography should be prioritized for capital case trials and post conviction proceedings.

[All trial courts]

VIII. Monitoring Ratios

A. Best Practice

1. Judicial circuits shall implement procedures for assigning the monitoring of proceedings recorded at public expense using the following ratios of the number of proceedings vs. court reporters.
 - a. Circuit criminal trials, capital cases, county criminal trials, Jimmy Ryce trials, and termination of parental rights proceedings should be monitored at a 1:1 ratio.
 - b. Delinquency and dependency proceedings should be monitored at a 2:1 ratio. All other circuit and county criminal proceedings and domestic violence injunction proceedings should be monitored at a 3:1 ratio.
 - c. Baker Act, Marchman Act, guardianship, and Jimmy Ryce proceedings should be monitored at a ratio of 4:1. However, this ratio may be lowered to 1:1 if these proceedings are held offsite and/or the presiding judicial officer is using a portable digital device.
 - d. General magistrate/hearing officer proceedings should also be monitored at a ratio of 4:1, if monitored by a digital court reporter as opposed to the presiding magistrate or hearing officer.

[All trial courts]

IX. Participant Responsibilities

A. Standard of Operation

1. Judicial circuits shall codify the responsibilities of all participants during a proceeding to ensure the quality of the official record. *[All trial courts]*

B. Best Practices

1. Judges, general magistrates, and hearing officers shall: notify participants of the method of recording being utilized, remind participants to speak into the microphone at a sufficient volume and answer verbally; ask participants to identify themselves and spell their names for the record; notify court administration, the clerk, or contract service provider if equipment has been tampered with or is not functioning; remind participants to protect the equipment; signify when it is appropriate for attorneys to utilize mute buttons; and recess periodically during lengthy proceedings so that court reporters may remain alert and effective. *[Judges, general magistrates, and hearing officers]*
2. Attorneys shall inform their clients of the method of recording being utilized and take necessary precautions to protect disclosure of confidential communications during the proceeding. *[Attorneys]*
3. Court reporters shall monitor equipment during a proceeding to ensure adequate operation and immediately notify the presiding judicial officer of problems with the equipment. *[Court reporters]*
4. Bailiffs shall ensure that all participants refrain from tampering with equipment including the inappropriate use of microphone mute buttons or the unauthorized removal of microphones from their original location. *[Bailiffs]*

X. Preventing the Recording of Confidential Communications

A. Standard of Operation

1. Judicial circuits shall post signs inside and outside of all rooms in which proceedings are recorded using audio technology. The signs shall provide notice to all who enter that any conversations occurring in the room may be recorded. *[All trial courts]*

B. Best Practices

1. Judicial circuits shall post signs at attorney tables within rooms in which audio technology is used to record proceedings. The signs shall caution attorneys and their clients that their conversations may be recorded. *[All trial courts]*

2. Judicial circuits shall install microphones with “hold-to-mute” capability for those microphones used by attorneys or presiding judicial officers in proceedings recorded using non-portable digital technology. *[All trial courts]*
3. Judicial circuits shall conduct periodic training for stakeholders commonly coming into contact with the use of audio recording technology. The training shall include a description of how the technology is operated and tips for effective courtroom behavior specific to the stakeholder. *[All trial courts]*
4. Judicial Circuits shall distribute and/or make readily available audio recording resource materials (i.e., pamphlets, guide books, operator manuals, etc.) for stakeholders to assist with ensuring the quality of the official record. *[All trial courts]*

XI. Operating Digital Recording Equipment

A. Standards of Operation

1. Digital recording systems shall comply with all statewide standards for digital court recording as established by the Florida Courts Technology Commission. *[All trial courts]*
2. Judicial circuits shall implement procedures for regular testing of digital court recording systems to ensure proper operation. *[All trial courts]*

XII. Tagging the Digital Recording

A. Standards of Operation

1. Judicial circuits shall ensure appropriate tagging of digital recordings is performed for proceedings in which there is a significant likelihood that transcripts will be requested. *[All trial courts]*
2. Judicial circuits shall establish standardized “tags” and produce a reference document of same to be distributed to all circuit court reporting staff, contract service providers, and approved transcriptionists. *[All trial courts]*

XIII. Ownership of the Official Record

A. Standard of Operation

1. The court shall retain ownership and control over the official record whether it is in paper or electronic format. The court shall also reserve the right to full and complete access to any unedited notes, paper tapes, electronic files, and audio or video recordings used to create the official record. *[All trial courts]*

XIV. Storage

A. Standards of Operation

1. Judicial circuits, contract service providers, and vendors of digital technology shall comply with all storage and retrieval standards for digital court recording as established by the Florida Courts Technology Commission and otherwise established by the State Courts System and the chief judge of the circuit. *[All trial courts, court reporting contractors, and court reporting technology vendors]*
2. Judicial circuits shall codify record retention protocols to be applied to stenographic paper tape/notes, unedited CAT/real-time text, analog and digital recordings in accordance with rule 2.430, Florida Rules of Judicial Administration. *[All trial courts]*
3. Judicial circuits shall implement storage and retrieval procedures to ensure timely and secure access to transcripts, analog or digital recordings, and any supporting materials related to the production of the official record. *[All trial courts]*

B. Best Practices

1. Judicial circuits shall examine the provision of secure and direct access to a network of electronic files and digital recordings related to the official record for certain internal stakeholders of the court such as court reporting employees, judges, general magistrates, and hearing officers. Circuits shall also examine the feasibility of providing limited and secure access to other stakeholders such as state attorneys, public defenders, and court-appointed counsel. *[All trial courts]*
2. Judicial circuits shall not disclose back-up recordings of proceedings to persons not employed or contracted by the court. *[All trial courts]*

XV. Transcript Production

A. Standards of Operation

1. Transcripts may only be produced by employee or contract court reporters and transcriptionists approved by the court in accordance with rule 2.535, Florida Rules of Judicial Administration. *[All trial courts]*
2. All persons approved by the court to perform court reporting transcription services shall comply with all applicable court rules and standards established by the State Courts System and the chief judge of the circuit.
[Court approved transcriptionists]
3. All judicial circuits shall codify protocols for transcript production in accordance with court rule and standards established by the State Courts System. These protocols shall include, but are not limited to: procedures preventing transcription of off-the-record discussions, sidebar conferences, attorney-client conversations; and other confidential information; the court's process for approving transcription services; and certification of the transcript for correctness. *[All trial courts]*
4. Judicial circuits shall enter an administrative order developing and implementing a circuit-wide plan for court reporting in all trials in which the state seeks the death penalty and in capital postconviction proceedings in accordance with rule 2.535, Florida Rules of Judicial Administration.
[All trial courts]
5. All persons approved by the court to perform court reporting transcription services shall give priority to capital cases in the production of transcripts.
[Court approved transcriptionists]
6. Judicial circuits shall prohibit the "loaning out" of stenographic notes in capital cases to ensure the court reporter has immediate access to the notes for production of the transcript. *[All trial courts]*
7. Judges shall give immediate instruction to the court reporter to begin transcription upon the return of the verdict in capital cases and immediately initiate an order approving the production of the transcript (if applicable).
[Judges]
8. Judicial circuits shall incorporate requirements related to expedited transcript requests in court reporting service contracts. *[All trial courts]*
9. Judicial circuits shall specify consequences for contractors who fail to meet expedited transcript requirements in court reporting service contracts.
[All trial courts]

B. Best Practices

1. Judicial circuits shall encourage collegiality between all persons involved in expediting transcripts for capital cases. *[All trial courts]*
2. Judicial circuits shall collaborate with appellate courts regarding the oversight and management of the court reporting process, with particular emphasis on the production of transcripts for capital, dependency, and termination of parental rights cases. *[All trial and appellate courts]*
3. When requested, judicial circuits may provide a transcript for: appellate review, other purposes in which a transcript is considered a necessity by the court in the best interest of justice, or if an audio/video file is unavailable. A copy of the audio/video file, if available, shall be provided for all other purposes to the extent allowable under court rule. *[All trial courts]*

XVI. Producing Copies of Recordings

A. Standards of Operation

1. Copies of audio/video recordings may be made available to attorneys, parties to a case, the media, and the public at large, after review to ensure that matters protected from disclosure are kept confidential in accordance with court rule and Florida statute. *[All trial courts]*
2. All judicial circuits shall codify protocols for producing copies of audio/video recordings in accordance with court rule and standards established by the State Courts System. These protocols shall include, but are not limited to: procedures preventing the release of off-the-record discussions, sidebar conferences, and attorney-client conversations; and other confidential information; the court's process for ensuring the accuracy of the recording; and certification of the recording for correctness. *[All trial courts]*

XVII. Cost Sharing

A. Best Practices

1. Judicial circuits using state funded court employees to provide transcription services for public defenders, state attorneys, and court-appointed counsel shall operate under the cost sharing arrangement. *[All trial courts]*

2. When requested, judicial circuits operating under the cost sharing arrangement may provide transcripts to the state attorneys, public defenders, and court-appointed counsel for: appellate review, other purposes in which a transcript is considered a necessity by the court in the best interest of justice, or if an audio/video file is unavailable. A copy of the audio file, if available, shall be provided to these entities for all other purposes to the extent allowable under court rule. *[All trial courts]*

3. Judicial circuits operating under the cost sharing arrangement are required to provide a “statement of services provided” to local state attorneys, public defenders, the Justice Administrative Commission, and the Office of the State Courts Administrator. The “statement of services provided” shall include those services that will or will not be provided by state-funded court employees versus those services that may be purchased independently from contractors. This documentation shall also include services provided or not provided by division of court, proceeding type, and any variation that exists by county and/or courthouse. The “statement of services provided” shall include a corresponding time period in which these terms are in effect and shall be no less than one fiscal year (July 1 – June 30). *[All trial courts]*