

# Guide to Judiciary Policy

Vol. 6: Court Reporting

## Ch. 1: Overview

[§ 110 Purpose](#)

[§ 120 Authority](#)

[§ 120.10 Court Reporter Matters Addressed in Volume 6](#)

[§ 130 Applicability](#)

[§ 140 Definitions](#)

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### § 110 Purpose

This volume provides policy guidance on the use of court reporting and electronic sound recording (ESR) methods in keeping the record in applicable federal court proceedings. It outlines the respective responsibilities of the court reporter and the court. It is the court's responsibility to administer reporting services, consistent with the requirements established by statute and by the Judicial Conference.

### § 120 Authority

Under the Court Reporters Act (28 U.S.C. § 753), every court session and other proceeding designated by rule or court order must be recorded verbatim by a court reporter or by ESR. The Act establishes the federal court reporter's duties and conditions of employment.

§ 120.10 Court Reporter Matters Addressed in Volume 6		
Chapter	Topic	Related Statutes and Policies
Chapter 2: Court Reporter Personnel and Administrative Matters	Appointment and termination of official court reporters. <b>See:</b> Guide, Vol 6, § 220.	<ul style="list-style-type: none"><li>• 28 U.S.C. § 753(a), (c)</li><li>• JCUS-SEP 1977, p. 55</li><li>• JCUS-MAR 1982, p. 10</li><li>• JCUS-MAR 2012, pp. 23-24</li></ul>
	Human resources matters related to official and contract court reporters. <b>See:</b> Guide, Vol 6, §§ 220, 230, 240, 250.	<ul style="list-style-type: none"><li>• 28 U.S.C. § 753(e)</li><li>• JCUS-SEP 1945, p. 10</li><li>• JCUS-SEP 1987, p. 63</li><li>• JCUS-SEP 2009, pp. 20-21</li><li>• 41 CFR part 102-74.410</li></ul>

<b>§ 120.10 Court Reporter Matters Addressed in Volume 6</b>		
<b>Chapter</b>	<b>Topic</b>	<b>Related Statutes and Policies</b>
	Allocation of court reporter authorized work units (AWU) for judges. <b>See:</b> Guide, Vol. 6, § 280.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753(a)</li> <li>• JCUS-MAR 1996, pp. 24-25</li> <li>• JCUS-MAR 1999, p. 26</li> <li>• JCUS-SEP 2017, p.18</li> <li>• JCUS-MAR 2018, pp. 20-21</li> <li>• JCUS-SEP 2018, pp. 24-25</li> </ul>
	Managing official and contract court reporters and their duties. <b>See:</b> Guide, Vol. 6, § 290.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753(a), (c), (d), (g)</li> <li>• JCUS-SEP 1944, pp. 14-15</li> <li>• JCUS-MAR 1971, p. 28</li> <li>• JCUS-MAR 1982, p. 8</li> <li>• JCUS-MAR 1987, p. 10</li> <li>• JCUS-SEP 1987, p. 63</li> </ul>
Chapter 3: Reporting Methods	Electing the method of taking the record, including stenotype, stenomask, realtime, or electronic sound recording. <b>See:</b> Guide, Vol. 6, § 310.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753(b)</li> <li>• JCUS-SEP 1983, p. 48</li> </ul>
	Realtime reporting technologies. <b>See:</b> Guide, Vol. 6, § 320.	<ul style="list-style-type: none"> <li>• JCUS-MAR 1994, p. 16</li> <li>• JCUS-SEP 1994, p. 49</li> <li>• JCUS-MAR 1996, p. 26</li> <li>• JCUS-SEP 1998, p. 42</li> <li>• JCUS-SEP 2011, pp. 30-31</li> </ul>
	Purchase of court reporting equipment. <b>See:</b> Guide, Vol. 6, § 320.30.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753(e)</li> </ul>
	Electronic sound recording (ESR) technologies. <b>See:</b> Guide, Vol. 6, § 350.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753(b)</li> <li>• JCUS-SEP 1983, p. 48</li> <li>• JCUS-SEP 1999, pp. 56-57</li> <li>• JCUS-MAR 2012, pp. 23-24</li> </ul>
Chapter 4: Reporting Activities	Reporting for magistrate judges. <b>See:</b> Guide, Vol. 6, § 410.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753</li> <li>• 28 U.S.C. § 636(b)-(c)</li> <li>• 18 U.S.C. § 3060(f)</li> <li>• 18 U.S.C. § 3401(e)</li> <li>• 18 U.S.C. §§ 4107(e), 4108(e)</li> <li>• JCUS-MAR 1980, p. 20</li> <li>• JCUS-SEP 1987, p. 63</li> </ul>

<b>§ 120.10 Court Reporter Matters Addressed in Volume 6</b>		
<b>Chapter</b>	<b>Topic</b>	<b>Related Statutes and Policies</b>
	Reporting for bankruptcy judges. <b>See:</b> Guide, Vol. 6, § 420.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753(b)</li> <li>• JCUS-SEP 1983, p. 48</li> <li>• JCUS-SEP 1999, p. 57</li> </ul>
	Reporting for the United States attorney's office. <b>See:</b> Guide, Vol. 6, § 430.41.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753</li> <li>• JCUS-SEP 1981, p. 97</li> </ul>
	Reporting for private parties. <b>See:</b> Guide, Vol. 6, § 430.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753</li> <li>• JCUS-MAR 1983, pp. 11-12</li> </ul>
	Employing substitute court reporters. <b>See:</b> Guide, Vol. 6, § 440.	<ul style="list-style-type: none"> <li>• JCUS-APR 1944, p. 3</li> <li>• JCUS-MAR 1975, p. 8</li> <li>• JCUS-MAR 1980, pp. 19-20</li> </ul>
	Procuring contract court reporters. <b>See:</b> Guide, Vol. 6, § 450.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753(g)</li> <li>• JCUS-MAR 1981, p. 24</li> <li>• JCUS-MAR 1982, pp. 8, 11</li> <li>• JCUS-MAR 1992, p. 27</li> </ul>
Chapter 5: Transcripts	Preparing transcripts. <b>See:</b> Guide, Vol. 6, § 510.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753(b)</li> </ul>
	Transcripts requested by a judge. <b>See:</b> Guide, Vol. 6, § 510.20.	<ul style="list-style-type: none"> <li>• JCUS-MAR 2009, p. 28</li> </ul>
	Transcripts on electronic media. <b>See:</b> Guide, Vol. 6, § 510.25(c).	<ul style="list-style-type: none"> <li>• JCUS-SEP 1991, p. 65</li> <li>• JCUS-SEP 2003, pp. 16-17</li> <li>• JCUS-SEP 2007, pp. 11-12</li> <li>• JCUS-SEP 2012, p. 26</li> </ul>
	Transcripts requested by private party. <b>See:</b> Guide, Vol. 6, § 510.30.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753(c)</li> <li>• JCUS-MAR 1982, p. 8</li> </ul>
	Transcript format. <b>See:</b> Guide, Vol. 6, § 520.	<ul style="list-style-type: none"> <li>• JCUS-SEP 1944, Appendix</li> <li>• JCUS-MAR 1995, p. 22</li> </ul>

<b>§ 120.10 Court Reporter Matters Addressed in Volume 6</b>		
<b>Chapter</b>	<b>Topic</b>	<b>Related Statutes and Policies</b>
	Transcript fees. <b>See:</b> Guide, Vol. 6, § 530.	<ul style="list-style-type: none"> <li>• 28 U.S.C. § 753(f)</li> <li>• JCUS-OCT 1946, p. 12</li> <li>• JCUS-MAR 1980, pp. 17-18</li> <li>• JCUS-MAR 1981, pp. 7-8</li> <li>• JCUS-MAR 1982, pp. 8-12</li> <li>• JCUS-SEP 1983, p. 51</li> <li>• JCUS-SEP 1986, p. 90</li> <li>• JCUS-SEP 1991, p. 65</li> <li>• JCUS-MAR 2009, pp. 28-29</li> <li>• JCUS-SEP 2011, pp. 30-31</li> </ul>
	Transcripts in CJA multi-defendant cases. <b>See:</b> Guide, Vol. 6, § 550.40.30.	<ul style="list-style-type: none"> <li>• JCUS-SEP 1987, p. 95</li> </ul>
	ESR files. <b>See:</b> Guide, Vol. 6, § 530.85.	<ul style="list-style-type: none"> <li>• JCUS-SEP 1965, p. 58</li> <li>• JCUS-MAR 1966, p. 5</li> <li>• JCUS-SEP 1977, p. 64</li> </ul>
	Transcripts for criminal appeals. <b>See:</b> Guide, Vol. 6, § 540.50.	<ul style="list-style-type: none"> <li>• JCUS-OCT 1971, pp. 61-62</li> </ul>
	Prohibition on copyrights. <b>See:</b> Guide, Vol. 6, § 560.	<ul style="list-style-type: none"> <li>• 17 U.S.C. § 506(c)</li> </ul>

## **§ 130 Applicability**

(a) This volume applies to the:

- U.S. district courts, including territorial courts (Guam, Northern Mariana Islands, Virgin Islands), and
- U.S. bankruptcy courts.

(b) This volume does **not** apply to the:

- United States Supreme Court,
- Court of International Trade,
- United States Court of Federal Claims, or
- Courts of appeals of the United States.

<b>§ 140 Definitions</b>	
Combined-Position Court Reporters	Under 28 U.S.C. § 753(a), the duties of a court reporter may be combined with those of any other employee of the court if the court and the Judicial Conference are of the opinion that it is in the public interest.
Contract Court Reporters	Courts are delegated procurement authority from the AO Director to procure services through the standard court reporter contract documents, and consistent with Guide, Vol. 6, § 450 (Contract Court Reporting).
Intermittent Employment	Service when an employee works on less than a full-time basis with no prescribed tour of duty. <b>See:</b> 5 CFR § 340.403 (Intermittent employment).
Non-Tour of Duty Court Reporter	A non-tour of duty court reporter is considered “on call” every day that the court is in session instead of being assigned a regularly scheduled administrative workweek ( <b>see:</b> “Tour of Duty” definition, below).
Official Court Reporters	Official court reporters, sometimes referred to as “staff court reporters,” are salaried employees of the district court appointed by the court for an indefinite term pursuant to the authority of the Judicial Conference. Includes temporary and combined-position court reporters.
Substitute Court Reporters	Substitute reporters are employees of official court reporters, hired with the court’s approval and paid by the employing court reporter. <b>See:</b> Guide, Vol. 6, § 440 (Substitute Court Reporters).
Temporary Court Reporters	Temporary reporters are part- or full-time salaried employees of the court appointed by the court for a limited term not exceeding three months.
Tour of Duty	A tour of duty is the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee’s regularly scheduled administrative workweek.

# Guide to Judiciary Policy

Vol. 6: Court Reporting

## Ch. 2: Court Reporter Personnel and Administrative Matters

### [§ 210 Overview](#)

### [§ 220 Appointment](#)

[§ 220.10 Equal Employment Opportunity](#)

[§ 220.20 Advertising Vacancies](#)

[§ 220.30 Qualifications for Appointment](#)

[§ 220.40 Appointment Oath of Office and Proceedings Oath for Court Reporters](#)

[§ 220.50 Probationary Appointments](#)

[§ 220.60 Reduction and Termination](#)

### [§ 230 Benefits](#)

### [§ 240 Tour of Duty](#)

[§ 240.10 Leave](#)

[§ 240.20 Restriction on Private Reporting Activities](#)

[§ 240.30 Duties of Official Court Reporters on a Regular Tour of Duty](#)

[§ 240.40 Telework for Court Reporters](#)

### [§ 250 Salary](#)

### [§ 260 Space, Facilities, and Supplies](#)

[§ 260.10 Space Guidelines for Official Court Reporters](#)

[§ 260.20 Space Guidelines for Contract Court Reporters](#)

[§ 260.25 Prohibition Against Advertising Court Address](#)

[§ 260.30 Electrical Outlets](#)

[§ 260.35 Furniture for Official Court Reporters](#)

[§ 260.40 Telephone Service](#)

[§ 260.45 Data Communications Network](#)

[§ 260.50 Supplies, Services, and Other Equipment](#)

[§ 260.55 Copy Equipment](#)

[§ 260.60 Antivirus Computer Software](#)

### [§ 270 Travel](#)

[§ 270.10 Travel Funding](#)

[§ 270.20 Approval by the Clerk of Court](#)

[§ 270.30 Travel by Substitute Court Reporters](#)

[§ 270.40 Travel by Contract Court Reporters](#)

[§ 270.50 Advance of Funds for Official Court Reporters](#)

### [§ 280 Allocation of Official Court Reporter Authorized Work Units for Judges](#)

[§ 280.10 Computation of Allocation](#)

[§ 280.15 Use of Funds Allocated for Court Reporters](#)

[§ 280.20 District Judge Court Reporter AWU Computation](#)

[§ 280.30 Senior District Judge Official Court Reporter AWU Computation](#)

[§ 280.40 Magistrate Judges](#)

[§ 290 Management of Court Reporters](#)

[§ 290.10 Types of Court Reporters](#)

[§ 290.20 Court Reporters' Duties](#)

[§ 290.30 Court Reporting Management Plan and Court Reporting Supervisor](#)

[§ 290.40 Records and Reports](#)

## § 210 Overview

This chapter provides guidance on personnel matters affecting court reporters, including space and facilities, travel, the annual allocation of authorized work units (AWUs), and management and supervision. For detailed guidance on personnel policies for all judicial employees, including official court reporters, **see:** Guide, Vol. 12 (Human Resources).

## § 220 Appointment

- (a) “Each district court of the United States . . . shall appoint one or more court reporters.” 28 U.S.C. § 753(a). **See:** Guide, Vol. 12, § 510.30 (Appointing Authority).
- (b) An official court reporter is appointed to serve at the pleasure of the court *en banc*. An official court reporter is required to serve all judges and the selection and retention of reporting staff should be addressed by the court as a whole. JCUS-MAR 1982, p. 10.

### § 220.10 Equal Employment Opportunity

The judiciary provides equal employment opportunity (EEO) and promotes and facilitates diversity and inclusion in its workforce. **See:** Model EEO Plan, Model Employment Dispute Resolution Plan, and Guide, Vol. 12, Ch. 2 (Fair Employment Practices).

### § 220.20 Advertising Vacancies

For guidance on how to advertise vacancies, **see:** HR Manual, Ch. 2, Sec. 5 (Recruitment/Advertising Sources).

## § 220.30 Qualifications for Appointment

For guidance on the authority for court unit employment qualifications requirements and links to qualification standards, **see:** Guide, Vol. 12, § 580 (Qualifications).

### § 220.30.10 Equivalent Qualifying Examinations

For guidance on qualifications for official court reporter applicants, **see:** Guide, Vol. 12, § 580.40.30(a)(3) (Equivalent Qualifying Examinations). For merit and realtime certification, **see:** Guide, Vol. 12, § 630.40.10 (Court Reporter Base Pay Levels).

### § 220.30.20 Waiver of Qualifications

For guidance on qualification waivers for official court reporter applicants, **see:** Guide, Vol. 12, § 580.40.30(b) (Waivers of Court Reporter Qualifications).

## § 220.40 Appointment Oath of Office and Proceedings Oath for Court Reporters

- (a) For guidance on appointment oaths of office, **see:** Human Resources Manual, Ch. 10, Sec. 2 (Appointments and Transfers).
- (b) In addition to the appointment oath for official court reporters, all other court reporters, including contract reporters, must be administered an oath for recording court proceedings. Sample oath:

I swear that I will faithfully, impartially, and truly report all court proceedings held before the judges of this district.

## § 220.50 Probationary Appointments

- (a) All initial appointments of official court reporters will be on a probationary basis, the length of which is to be fixed by the employing court. JCUS-SEP 1977, p. 56. **See:** Guide, Vol. 12, § 510.30 (Appointing Authority).
- (b) Each court's Court Reporting Management Plan should state the terms of the probationary period. It is recommended that the probationary period not exceed one year. **See:** Guide, Vol. 12, § 510.30(c).

## § 220.60 Reduction and Termination

- (a) The court is entitled to make changes in the reporting staff at will. All court reporters serve at the pleasure of the court *en banc*. There is no requirement that a court give preference to a reporter with seniority. In the case of a staff reduction, competence may be a primary consideration in deciding which court reporters are to be retained.



- (b) Reduction in Court Reporting Staff
  - (1) Should it be necessary to reduce the reporting staff because of reduced workload, and where this cannot be accomplished by relocation or attrition, the court should give a reasonable notice of termination. JCUS-MAR 1982, p. 10.
  - (2) If there is a reduced need for shorthand, stenotype, or other reporter services due to use of an electronic sound recording system, necessitating a reduction in court reporter staffing, funding for the court reporter position will be discontinued 90 days from the date of election to electronic sound recording systems. One additional period of up to 120 days beyond the original 90-day period will be allowed upon certification by the chief judge of the affected court to the circuit judicial council that additional staff resources are necessary. JCUS-MAR 2012, p. 23-24.

## § 230 Benefits

Official and combined-position court reporters are employees of the federal judiciary and are entitled to the same benefits available to other judiciary employees. **See:** JNet's Benefits page and Guide, Vol. 12, Ch. 7 (Benefits). For guidance on retirement programs for court reporters, **see:** Guide, Vol. 12, § 725(c).

## § 240 Tour of Duty

"A court that places some of its reporters on a regular tour of duty, must place all reporters in the same location on a regular tour of duty although courts may, for good and sufficient reasons when approved by their judicial councils, exempt any reporters on staff at the time of adoption of this policy." JCUS-SEP 1987, p. 63.

### § 240.10 Leave

- (a) An official court reporter, who is placed on a regular tour of duty consisting of a pre-specified number of work hours per week in the courthouse or on an approved telework plan is to earn leave consistent with 5 U.S.C. chapter 63, subchapter I ("Annual and Sick Leave Act of 1951," formerly referred to as the "Leave Act"). The official court reporter should confer with the clerk of court if there are questions concerning benefits eligibility and participation as a federal employee. Leave regulations contained in Guide, Vol. 12, Ch. 9 (Leave and Attendance) are the governing regulations.
- (b) An official court reporter who is covered by 5 U.S.C. § 6301 et seq., must use the appropriate type of leave for any paid absence from work. **See:**

Guide, Vol. 12, § 920 (Leave and Other Absences). There is no provision in 5 U.S.C. chapter 63 for the court reporter to hire substitutes to cover any absence.

- (c) A non-tour of duty official court reporter (and therefore not eligible to earn leave under 5 U.S.C. chapter 63, subchapter I) must provide substitutes as needed at his or her own expense or be placed in a non-pay status when taking vacations or leave for personal business or sickness (personal or family). The court will provide substitute coverage as needed when a non-tour of duty official court reporter is absent for court leave, military leave, bone marrow or organ donor leave, or to attend the funeral of an immediate relative who died in military combat.
- (d) Official court reporters not covered by 5 U.S.C. chapter 63, subchapter I are considered to be on call every day court is in session, whether or not they are assigned primarily to one judge as a matter of convenience. Therefore, if the court needs reporting services for senior judges, visiting judges, magistrate judges or land commissioners, official court reporters who are absent for whatever reasons are responsible for providing that coverage or providing a substitute.
- (e) An official court reporter is eligible for court leave, military leave, bone marrow and organ donor leave, and time-off to attend the funeral of an immediate relative who died in military combat, whether or not covered by 5 U.S.C. chapter 63 for annual and sick leave. **See:** Guide, Vol. 12, § 920.10.30 (Applicability).

### **§ 240.20 Restriction on Private Reporting Activities**

Official court reporters on a regular tour of duty may not perform any private work during their tour of duty, but may do so on personal time (nights or weekends) as long as the court determines that it is not in conflict with official duties. JCUS-SEP 1983, p. 49. The Comptroller General “has consistently held that time off from duty in a pay status authorized by law must be regarded as a part of the regular tour of duty...” Comptroller General Decision B-78359 (Sept. 1, 1948). Therefore, court reporters may not take annual leave to engage in private reporting activities.

### **§ 240.30 Duties of Official Court Reporters on a Regular Tour of Duty**

When official court reporters are not needed to record the proceedings of judicial officers during their regular tours of duty, they must remain available in the courthouse and may prepare official transcripts as required by 28 U.S.C. § 753 or by rule or order of court, including transcripts for which they are entitled to collect a fee from a party or the United States under 28 U.S.C. § 753.

## **§ 240.40 Telework for Court Reporters**

Court reporters who serve on a regular tour of duty and earn annual leave under the Leave Act (5 U.S.C. § 6301 et seq.) are permitted to participate in the judiciary's telework program if the court determines the employee to be eligible for telework under the court's telework program and has authorized the employee to do so. JCUS-SEP 2005, p. 31. **See:** Guide, Vol. 12, Ch. 10 (Telework).

## **§ 250 Salary**

28 U.S.C. § 753(e) provides that each official court reporter will receive an annual salary to be fixed from time to time by the Judicial Conference of the United States. For guidance on court reporter salary, **see:** Guide, Vol. 12, § 630.40 (Court Reporters).

## **§ 260 Space, Facilities, and Supplies**

28 U.S.C. § 753(e) provides that all supplies will be furnished by the official court reporter at his or her own expense. The Judicial Conference has authorized office space, furniture, limited communication services, and other services as described below.

### **§ 260.10 Space Guidelines for Official Court Reporters**

- (a) The courts should provide space for official court reporters to conduct their official business, including the transcription of official transcripts by themselves or their transcribers.
  - (1) The official court reporters are provided spaces adjacent to the chambers and courtroom.
  - (2) Official court reporter space is allocated according to Guide, Vol. 16, Appx. 2A (U.S. Courts Design Guide). The Design Guide is a guideline for space, not an entitlement to space.
- (b) Space will not be altered to accommodate equipment but dedicated electrical lines may be installed if approved by the clerk of court and subject to availability of funds.
- (c) Courts must coordinate all space issues with officials in the circuit executive's office so that approvals may be obtained, where appropriate, from the circuit judicial council.
- (d) Private reporting services are not to be operated in federal courthouses.

## § 260.20 Space Guidelines for Contract Court Reporters

Contract court reporters are not allotted space. Neither the court nor the Administrative Office of the U.S. Courts (AO) has authority to sub-lease space to contract court reporters. If the court desires to have contract court reporters located in the same building as the court, the court should pursue one of the following options:

- (a) In federal space, the court should request that the General Services Administration (GSA) grant a permit or a license to the contract court reporters for the desired space.
- (b) In leased space occupied by the court, the court could:
  - (1) direct the contract court reporter to deal directly with the lessor if the desired space is not leased by the GSA or it has already been deleted from the lease, or
  - (2) contact GSA for a lease amendment to have the desired space deleted from the lease and have the contract court reporter obtain the space directly from the lessor.

## § 260.25 Prohibition Against Advertising Court Address

A court reporter may not use the address of a government owned or leased building when advertising for private reporting work. A court reporter may not indicate by notation on the office door or by advertising that the court reporter engages in private reporting work in the federally provided office.

## § 260.30 Electrical Outlets

As part of the office space, the courts may pay reasonable costs to install “dedicated” electrical outlets for electrical machinery such as computers, word processors, or photocopiers used in the production of official transcripts.

## § 260.35 Furniture for Official Court Reporters

- (a) A court reporter is authorized the following level C furniture:
  - Desk, double pedestal, L-shaped, or U-shaped (choice of one),
  - Chairs (as required), including an ergonomic task chair with or without arms,
  - Systems furniture workstation, and
  - Filing Cabinet (one).

**See:** Guide, Vol. 16, § 420 (Furniture Levels and Cost Ceilings).

- (b) The court reporter's request for furniture and furnishings should be submitted to the clerk of court and filled from excess whenever possible. If excess cannot be obtained, the clerk of court should process the request subject to the availability of funds.

### **§ 260.40 Telephone Service**

- (a) The expense of telephone services must be borne by the court reporter. JCUS-SEP 1945, p. 13.
- (b) The court, however, may install communication equipment for its court reporters for official purposes, such as communicating with court officials about assignments and transcripts required by the court. The expense to relocate telephone lines due to subsequent changes of office space initiated by the court may be borne by the court.
- (c) Transcript Business

The government may not incur any telephone-related expenses for court reporters to:

- sell transcripts,
- give quotes for transcripts, or
- respond to general transcript inquiries from the public or parties.

### **§ 260.45 Data Communications Network**

- (a) Access to the Data Communications Network (DCN) must be through government-owned equipment (official court reporters at each of the official court reporter-staffed offices may share one computer plus related peripheral equipment at each location for access to the DCN) or through private computers connected remotely to the DCN, if authorized by the court. Official court reporters authorized by the chief judge, or his or her designee, to access the DCN for official purposes may be granted remote access via the local request for access process. **See:** Guide, Vol. 15, § 330 (Judiciary Network Security) and § 330.60.50(c) (Eligibility for Remote Access).
- (b) Substitute and contract court reporters may not be allowed access to the DCN at any time.

### **§ 260.50 Supplies, Services, and Other Equipment**

- (a) Under 28 U.S.C. § 753(e), all supplies must be furnished by the court reporter at his or her own expense. Examples include:

- all equipment and necessary software,
- transcript paper,
- ink cartridges,
- electronic storage media,
- software that assists with producing transcripts,
- software that assists with billing for transcripts,
- any costs associated with realtime software licensing, and
- other supplies and equipment used by court reporters in the production of transcripts.

**Note:** Antivirus and anti-malware software is not considered a “supply.”

**See:** § 260.60 (Antivirus Computer Software).

- (b) The only equipment provided by the court is one computer (and peripherals) at each location for access to the DCN for official purposes, such as accessing judiciary email to communicate with judges and clerk’s office staff and accessing JNet to obtain information. This equipment cannot be used for production of transcripts or for private reporting work.

#### **§ 260.50.10 GSA Self-Service Stores**

Court reporters are not authorized to purchase supplies from GSA.

#### **§ 260.50.20 Postage and Delivery Costs**

- (a) The Comptroller General has determined that each court reporter must pay for his or her own postage and all associated expenses of all mailings, including official mailings. Therefore, each court reporter must transmit all mail with prepaid postage affixed. **See:** Comptroller General Decision B-192018, Oct. 22, 1979.
- (b) If parties require delivery that incurs unusual costs, such as overnight mail services, messenger services, or other special delivery methods, the court reporter may bill the party for the difference between ordinary delivery costs and the cost for special delivery.

#### **§ 260.50.40 Letterheads**

Letterheads are supply items and must be obtained at a court reporter’s own expense. GSA regulations prohibit official court reporters of the federal courts to use, as a medium for advertising their private reporting businesses, letterheads that bear the seal or address of a United States courthouse or other federal building in which they have been assigned office space. **See:** § 260.25 (Prohibition Against Advertising Court Address).

## § 260.55 Copy Equipment

- (a) Court reporters must provide their own copying facilities and equipment. They should not use the court's copying equipment for official or private business. Such use is restricted because it backlogs needed copying in the court and delays case processing. Also, copy fees are established by the Judicial Conference and must be charged by the clerk for any private copying done on a court's copier, and these fees are deposited into the United States Treasury. Use of court-provided copy equipment, even with the court reporter paying the established copy fees, would deplete the courts' local budget.
- (b) In an emergency, a court reporter may obtain approval from the clerk of court to use the court's equipment and reimburse the court the same user-charge paid by the public.

## § 260.60 Antivirus Computer Software

Court reporters must:

- (a) secure their personal computers against viruses from computer hackers by installing up-to-date antivirus software; and
- (b) take other preventative measures, such as the use of passwords and off-site backup of computer files.

For further guidance on IT security requirements, **see:** Guide, Vol. 15, Ch. 3.

**Note:** Antivirus and anti-malware software is not considered a "supply" within the meaning of 28 U.S.C. § 753(e), because it is a necessary component of the judiciary's IT security precautions. Therefore, although courts may choose to provide this software to court reporters, they are not required to do so.

## § 270 Travel

### § 270.10 Travel Funding

- (a) The clerk of the district court is given an annual allotment for travel that includes travel by official, temporary, and combined-position court reporters and electronic court recorder operators incident to providing services for sessions of court for judges and other judicial officers within the geographic boundaries of the district.
- (b) If additional travel funds are required for a court reporter to travel outside the district to accompany a judge for the purpose of recording court proceedings, the clerk of court may request additional funding from the

AO's Court Services Office. The request should be submitted in advance in writing along with a certification from the host court of its inability to provide court reporter services. If funds are available, a travel authorization and associated funding will be provided by the AO.

- (c) For guidance on reimbursement of travel expenses for assisting with daily or expedited transcripts, **see:** Guide, Vol. 19, § 450.40.

### **§ 270.20 Approval by the Clerk of Court**

For guidance on the clerk's authority to authorize court reporter travel, **see:** Guide, Vol. 19, § 425.20(c)(5) (Authorizing Officials). For guidance on the clerk's authority to delegate the authorization of travel to the court reporter supervisor, **see:** Guide, Vol. 19, § 425.30 (Redelegation of Authorizing Authority).

### **§ 270.25 Travel by Official Court Reporters**

Official court reporter travel is covered in the Judiciary Staff Travel Regulations (Guide, Vol. 19, Ch. 4).

### **§ 270.30 Travel by Substitute Court Reporters**

- (a) Substitute court reporters may be authorized to travel under the same circumstances as official, combined-position, and temporary court reporters and are allowed reimbursement for travel expenses when traveling away from their official duty stations.
- (b) Travel reimbursement may not be more than the amount that would have been allowed for an official, combined-position, or temporary court reporter.

### **§ 270.40 Travel by Contract Court Reporters**

- (a) A contract court reporter may be authorized to travel under the same circumstances as official court reporters. However, their travel expenses are paid or reimbursed to the extent provided in the contract.
- (b) Reimbursement is according to the Judiciary Staff Travel Regulations, except that conflicting contractual terms have precedence over the Travel Regulations. **See:** Guide, Vol. 19, § 455.20 (Contractors, Consultants, and Experts (Non-CJA)).
- (c) Contract court reporter funds are used to pay for this travel, not clerk's office travel funds.



## § 270.50 Advance of Funds for Official Court Reporters

Travel advances may be issued to official court reporters, consistent with the Judiciary Staff Travel Regulations. **See:** Guide, Vol. 19, § 470.30 (Travel Advances).

## § 280 Allocation of Official Court Reporter Authorized Work Units for Judges

- (a) “The number of [court] reporters shall be determined by the Judicial Conference of the United States.” 28 U.S.C. § 753(a).
- (b) Although reporting resources are allocated based on the number of active district judges and the activity of senior judges, these resources are assigned to the entire court. The Judicial Conference requires that court reporters do not form part of the personal staff of an individual judge but are employed by the court en banc that controls their assignments. **See:** § 220 (Appointment).

### § 280.10 Computation of Allocation

- (a) The total court reporter staffing allocation for a court consists of an annual allocation of court reporting resources based upon the sum of two computations.
  - (1) One computation is made for active district judge reporting requirements (not including Electronic Court Recorder Operator (ECRO) credit for active district judges using electronic sound recording systems).
  - (2) A second computation is made for senior district judge reporting requirements.
- (b) The allocation of reporting resources is redetermined each fiscal year as part of the budget development process.
  - (1) If the sum of the two computations is greater than the current level, funding is increased to address the need for additional reporting resources.
  - (2) If the sum of the two computations is less than the current level, the court’s allocation of reporting resources (and associated funding) will decrease. Depending upon how those resources have been used, a reduction in court reporter staffing may be necessary.

- (c) It is the court's responsibility to track activity that would result in a significant change in the level of authorized court reporter staffing. Courts should contact the AO's Court Services Office to request such adjustments to the allocation for court reporters if there is a significant change during the fiscal year. For active judge and senior judge resource calculations, **see:** JNet's Court Reporter Formula page.

### **§ 280.15 Use of Funds Allocated for Court Reporters**

- (a) Funds may be used by the court unit for full- or part-time official court reporters, contract court reporters or electronic court recorder operator positions.
- (b) Funds provided for the allocation of court reporter resources may be reprogrammed under the Budget Decentralization Program. For guidance on budget management, **see:** Guide, Vol. 13, Ch. 2 and the Court Budget Operating Manual.

### **§ 280.20 District Judge Court Reporter AWU Computation**

- (a) The number of court reporters authorized by the Judicial Conference in a district may not exceed the total of:
- the number of authorized Article III judgeships,
  - the number of authorized territorial judgeships,
  - the number of senior judges certified for a court reporter, and
  - for uncertified senior judges, the number of court reporters calculated by multiplying the quotient derived in the court reporter staffing formula by 1,763.04.

**See:** JNet's Staffing page; JCUS-SEP 2018, pp. 25-26.

- (b) The number of court reporters allocated to a district will be determined by the Conference-approved staffing formula for court reporters. JCUS-SEP 2017, p. 18.
- (c) Courts will have the discretion to fund court reporters from decentralized local funds above the funding allocation if the number onboard does not exceed the Conference-authorized total for the district as derived in paragraph (a).
- (d) If a court would like to exceed the Conference-authorized total, the court must use the options available in 28 U.S.C. § 753, or request an exception from the Judicial Resources Committee and the Judicial Conference.

- (e) The Judicial Conference authorized the AO, when the court requests, to provide court reporter staffing credit and associated funding based on judicial vacancies when an active district judge leaves the court without taking senior status, other than inactive senior status. The additional credit may be withdrawn if other vacant judgeships are filled before the specific vacancy for which the court reporter credit was given, or if the inactive senior status judge chooses to seek and attain certification as outlined in 28 U.S.C. § 371(e)(1). JCUS-MAR 1999, p. 26 and JCUS-SEP 2020, p. 30.

### **§ 280.30 Senior District Judge Official Court Reporter AWU Computation**

- (a) Many judges who take senior status retain large caseloads and continue to draw new cases, and therefore have reporting needs similar or equivalent to those of active judges in their districts.
- (b) Court reporter staffing credit (and associated funding) will be provided to the courts based upon the Judicial Conference-approved staffing formula, which provides:
  - (1) A credit of court reporter hours for senior Article III and territorial judges not certified for a court reporter by determining the average number of in-court hours per year for an active Article III judge, dividing the aggregate annual in-court hours reported by non-certified senior judges by that average, and then multiplying the quotient by 1,569.6; and
  - (2) Court reporter staffing credit equivalent to that for an active onboard district judge provided for any senior district judge certified annually by the circuit judicial council as drawing cases substantially on the same basis as all active judges in the district. (**Note:** The in-court hours for senior judges so qualifying will be removed from the calculation.)

#### **§ 280.30.10 Additional Computation Guidelines**

- (a) If an active judge has taken senior status during the prior statistical reporting period, in-court hours while an active judge will be counted toward the senior district judge court reporter's AWU computation.
- (b) To determine senior district judge in-court hours, data from JS 10 reports from the statistical reporting period (year) consistent with that used for the fiscal year clerks' office staffing allocations will be used.
- (c) In general, courts visited by judges on inter- or intra-circuit assignment have the responsibility to provide court reporting services for the visiting

judge from its complement of court reporting resources. In-court hours of visiting senior district judges reported by the home district will be included in that district's senior district judge court reporter AWU computation.

### **§ 280.40 Magistrate Judges**

- (a) Both the Congress and the Judicial Conference have encouraged the use of electronic sound recording equipment for recording magistrate judge proceedings.
- (b) They have also encouraged the use of audio recordings, as opposed to written transcripts, by all judges in reviewing the record of proceedings. The need for a court reporter to record proceedings conducted before magistrate judges will vary according to the type of proceedings and individual circumstances of the proceedings. **See:** Guide, Vol. 6, § 410 (Reporting for Magistrate Judges).

## **§ 290 Management of Court Reporters**

This section reviews the management and supervision of court reporters and outlines their duties as official court reporters or contract court reporters of the court.

### **§ 290.10 Types of Court Reporters**

For guidance on the types of court reporters in the federal courts, **see:** Guide, Vol. 6, § 140 (Definitions).

### **§ 290.20 Court Reporters' Duties**

#### **§ 290.20.10 Recording Proceedings**

Court reporters attend and record verbatim by shorthand or mechanical means such court sessions or other proceedings, as specified by statute, rule, order of court, Judicial Conference policy, and the guidance listed in this volume.

#### **§ 290.20.20 Transcribing and Filing Transcripts**

- (a) Transcripts Requested

Court reporters must promptly transcribe the proceedings requested by a judicial officer or by a party who has agreed to pay the fees established by the Judicial Conference, and any proceedings that a judge or the court may direct. 28 U.S.C. § 753(b).

(b) Transcripts Filed with the Clerk

The court reporter must also file with the clerk of court for the records of the court a certified transcript of all proceedings requested and prepared. The certified transcript, which may be in electronic format or hard copy as determined by the court, must be filed with the clerk of court concurrently with, but no later than three working days after delivery to the requesting party under 28 U.S.C. § 753(b).

(c) Transcripts or Audio Recordings of Arraignments, Pleas and Sentencings

(1) The court reporter must file a transcript or provide an electronic sound recording to the court, without charge, of all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases.

(2) Audio recordings filed under this section are public records and must be accompanied by a certification. This certificate, Form AO 35, will:

(A) List the docket number, the name of the defendant, and the nature of the proceedings (i.e., arraignment, plea or sentencing) in each case that is to be found on the sound recording.

(B) Document that the electronic sound recording was made in the regular course of the court reporter's profession.

(C) Document that the court reporter has played back the recording and certifies that it is a true and correct record of the proceedings, that it is sufficiently intelligible, that it can be transcribed without undue difficulty and that he or she has filed the original of the recording to which this certificate is attached.

(D) State that the court reporter has certified and filed his or her original shorthand notes or other original record with the clerk for preservation as required by 28 U.S.C. § 753(b) as amended.

(E) Include the signature of the court reporter.

**§ 290.20.30 Certifying and Filing Original Notes**

## (a) Statutory Authority

“The reporter or other individual designated to produce the record shall attach his [or her] official certificate to the original shorthand notes or other original records so taken and promptly file them with the clerk who shall preserve them in the public records of the court for not less than ten years.” 28 U.S.C. § 753(b).

## (b) Sample Certification

Each court reporter must certify the original notes and other original records with the following information:

Consistent with 28 U.S.C. § 753(b), I certify that these original notes are a true and correct record of proceedings in the United States \_\_\_\_\_ Court for the \_\_\_\_\_ District of \_\_\_\_\_ before \_\_\_\_\_ [Judicial Officer] on \_\_\_\_\_ [Date].

by \_\_\_\_\_.  
Signature of Court Reporter

## (c) Delivery of Records

The court reporter will deliver the original shorthand notes or other original records to the clerk of court within 90 days after the conclusion of the proceeding.

## (d) Format

Courts may require that the notes be filed with the clerk’s office in the specific format that best meets the court’s needs, such as PDF or in the proprietary format of the court reporter’s software. For recommended format and storage procedures, **see:** Guide, Vol. 6, § 520 (Transcript Format); JCUS-SEP 1944, Appendix; and JNet’s Storage of Original Notes and Audio Files page.

## (e) Clerk of Court

- (1) The clerk of court is responsible for the safekeeping of all such filed records.
- (2) The original notes or other original records and the copy of the transcript in the office of the clerk must be open during office hours to inspection by any person without charge.

- (3) The clerk may designate that the notes and recordings be transferred to the clerk's office for storage or maintained under suitable conditions in the official court reporter's office. **See:** National Archives and Records Administration's guidance on storage of materials.

(f) Court Reporters' Dictionaries

The court reporter's dictionary is part of the computer-aided transcription software that translates steno keystrokes or voice commands into words, phrases, and numbers.

- (1) Courts may choose to require court reporters to file copies of their dictionaries with the court.
- (2) In the event a court reporter is unavailable to produce transcripts due to illness or other unanticipated circumstance outside of the court reporter's control, the dictionary will assist another court reporter or transcriber with translating the original reporter's notes.
- (3) These dictionaries may only be used as needed to transcribe a court reporter's notes if a transcript is required and the court reporter is unable to produce the transcript.

(g) Records Disposition

Records disposition for original notes and all records relating to court reporting must be done consistent with the relevant records disposition schedule. **See:** Records Disposition Schedules (Guide, Vol. 10, Appx. 6A and Appx. 6B).

#### § 290.20.40 Maintaining and Filing Required Reports

Official court reporters must maintain and file reports related to attendance, transcript production, and earnings. **See:** § 290.40 (Records and Reports).

#### § 290.20.50 Administrative

As a condition of employment, official, temporary, and combined-position court reporters are required to perform administrative duties related to their work. Administrative duties include:

- billing for official transcripts ordered and prepared;
- delivery and/or mailing of transcripts;
- financial and other record keeping;
- preparation and filing of all required local and AO reports;

- answering telephone calls from court personnel, attorneys, and litigants;
- responding to correspondence;
- reading notes to the court, counsel, or a jury; and
- such other official duties as required by the court.

#### **§ 290.20.60 Administering Oaths Not an Official Duty**

Generally, court reporters inherently do not have the authority to administer oaths because this authority is not conferred by the statute creating their offices.

- (a) A court reporter may administer an oath, however, if he or she is a notary public and state, or local law empowers notaries to do so.
- (b) A court employee who is also a deputy clerk may administer oaths under 28 U.S.C. § 953. In this vein, the clerk of court may deputize an official court reporter who is not already a deputy clerk, conferring the oath-taking authority.

### **§ 290.30 Court Reporting Management Plan and Court Reporting Supervisor**

#### **§ 290.30.10 Introduction**

- (a) Each court has the responsibility to supervise its court reporters and electronic court recorder operators in the performance of their work, as well as in their dealings with the parties requesting transcripts.
- (b) The court must maintain efficient and cost-effective procedures that will provide for the recording of all proceedings required by law, without delaying the proceedings, and in such a manner that transcripts requested are delivered within the time and cost requirements of the Judicial Conference.
- (c) To achieve these ends, each court will designate in their court reporting management plan a supervisor who will carry out the requirements of the Judicial Conference, assigning reporting tasks in such a manner that resources are fully and efficiently utilized.

#### **§ 290.30.15 Court Reporting Management Plan**

The Judicial Conference recommends that the judicial council require each district court, subject to such exceptions as may be granted by the circuit council, to develop a court reporting management plan for the day-to-day management and supervision of an efficient court reporting service within the court. JCUS-MAR 1982, p. 8.



**§ 290.30.20 Responsibilities**

## (a) Circuit Judicial Council

- (1) The circuit judicial council will approve a Court Reporting Management Plan that complies with Judicial Conference requirements unless the court is granted an exception.
- (2) When the district courts amend their plans, the circuit judicial councils must review them to ensure that they contain all the required elements listed in § 290.30.25. Circuit councils will oversee the implementation of and compliance with court reporting management plans of the district courts. JCUS-SEP 1987, p. 63; JCUS-MAR 1982, p. 8.

## (b) District Court

Each district court must develop a Court Reporting Management Plan, as directed by the circuit judicial council.

## (c) Administrative Office

The AO is directed by the Judicial Conference to assist the courts in establishing supervised court reporting services and productivity standards.

- (1) An electronic copy of the court reporting management plan must be sent to the AO's Court Services Office for review.
- (2) Courts may obtain copies of sample court reporting management plans from the AO. **See:** JNet's Court Reporting Management Plans page.

**§ 290.30.25 Elements of a Plan**

Court Reporting Management Plans must provide for effective management of court reporting services through proper supervision and control. This ensures court reporting services for judges including visiting and senior judges, magistrate judges, and other judicial officers are provided as needed by:

- (a) Making clear that the court reporters serve the court *en banc* and not a particular judge;
- (b) Ensuring that court reporters fulfill their statutory duties;
- (c) Ensuring that court reporters adhere to Judicial Conference requirements;

- (d) Apportioning equitably the attendance in court and chambers among all the official court reporters assigned to a court at the same location;
- (e) Providing for supervision of the relationship between parties and court reporters through monitoring of transcript orders, delivery, billings, format, and rates charged by court reporters and transcribers (if the court uses electronic sound recording);
- (f) Stating the procedures for accepting transcript orders, delivery, and billings;
- (g) Providing for avoidance of backlogs of transcripts and assuring prompt delivery of high-quality transcripts, particularly for cases on appeal to the court of appeals;
- (h) Stating whether the court allows its official court reporters to engage in private reporting work and to what extent, and ensuring the court is following judiciary policies regarding restrictions on private reporting;
- (i) Delineating the number and type of court reporters and electronic court recorder operators required to cover all of the court's reporting needs, including the need for combined-position or temporary court reporters;
- (j) Delineating the need for contract court reporter services;
- (k) Minimizing travel of the official court reporters and outside court reporters hired to cover the court;
- (l) Providing for appointment and retention of fully qualified court reporters, and dismissing court reporters who do not perform in a satisfactory manner;
- (m) Stating the terms of the probationary period for newly appointed official court reporters;
- (n) Prohibiting the routine apportionment of accelerated transcript costs among parties in criminal cases;
- (o) Stating when court reporters are to deliver the certified transcript (whether in paper copy or electronic form) or the electronic sound recording for filing with the clerk of court;
- (p) Stating that the court reporter must file a transcript of arraignments, pleas, and sentencing proceedings within 30 days of the close of the proceeding unless they were recorded on electronic sound recording equipment, in which case the electronic recording or digital audio file, accompanied by a certification of the court reporter, must be filed with the court;

- (q) Stating that the court reporting supervisor (or other court official) must verify that forms, Form AO 40A (Attendance and Transcripts of United States Court Reporters) and Form AO 40B (Statement of Earnings of United States Court Reporters) have been reviewed before submission to the AO;
- (r) Ensuring that required records and reports are submitted in a timely manner;
- (s) Stating whether official court reporters are assigned a regular tour of duty, specifying the regular hours of attendance, and that the court reporting supervisor is responsible for maintaining leave records of official court reporters under 5 U.S.C. chapter 63, subchapter I ("Annual and Sick Leave Act of 1951," formerly referred to as the "Leave Act");
- (t) Stating how records for an electronic sound recording system are to be stored and retrieved, and how transcript quality and timeliness from such a system are to be monitored;
- (u) Stating the court policy for providing judiciary Data Communications Network (DCN) access to official court reporters; and  
**(Note:** Substitute and contract court reporters may not be allowed access to the DCN at any time. **See:** § 260.45(b).)
- (v) Establishing policy for the provision of realtime court reporting to parties and to the court, as well as the management of human, hardware, and software realtime resources.

#### **§ 290.30.40 Court Reporting Supervisor**

- (a) A supervisor of court reporting services must be designated for each district court or for each divisional office, depending on the court's management structure.
- (b) The supervisor may be a judge, district court executive, clerk of court, chief deputy, or other person designated by the court.
- (c) The responsibility of the supervisor is to implement and oversee the elements of the court reporting management plan, including the day-to-day management and supervision of all official court reporters.
- (d) Additionally, the supervisor will be responsible for determining whether billings and transcript formats comply with Judicial Conference requirements.

### § 290.30.45 Availability of Court Reporters and Scheduling

- (a) The court reporting supervisor is responsible for determining the availability of court reporters and electronic court recorder operators and ensuring each session of the court and every other proceeding designated by rule or order of the court be recorded by a court reporter or electronic sound recording.
  - (1) A court reporter's primary duty is to provide in-court and chambers reporting services.
  - (2) Transcript preparation requirements do not free a court reporter from the responsibility to record proceedings for visiting judges, senior judges, magistrate judges, or other judicial officers as required.
- (b) The Judicial Conference has not determined that realtime reporting is a requirement in all court proceedings.
  - (1) Therefore, those services may not be available in districts where the official court reporters are not capable of providing the services or where electronic sound recording is used.
  - (2) The court cannot use contract court reporter funding to pay appearance fees for a contract realtime reporter in place of an available court reporter when a court reporter cannot provide realtime services.
  - (3) A request for realtime reporting may not increase the court's contract costs in any way.
- (c) The supervisor is responsible for coordinating for contract court reporters when the official court reporters are on leave or are recording, or scheduled to record, proceedings in court or chambers. **See:** Guide, Vol. 6, § 450 (Contract Court Reporting).

### § 290.40 Records and Reports

- (a) Official court reporters must maintain accurate, legible records that are auditable. **See:** § 290.40.60 (Recordkeeping).
- (b) Official court reporters must complete record keeping forms that document the information contained in Form AO 40A (Attendance & Transcripts of United States Court Reporters) and Form AO 40B (Statement of Earnings of United States Court Reporters).

**§ 290.40.10 Statutory Authority**

- (a) Under 28 U.S.C. § 753(d), official court reporters must maintain records and file reports prescribed by the Judicial Conference.
- (b) Such records must be inspected and audited in the same manner as the records and accounts of clerks of the district courts, and may include records showing:
  - (1) the quantity of transcripts prepared;
  - (2) the fees charged and the fees collected for transcripts;
  - (3) any expenses incurred by the court reporters in connection with transcripts;
  - (4) the amount of time the court reporters are in attendance upon the courts for the purpose of recording proceedings; and
  - (5) such other information as the Judicial Conference may require.

**§ 290.40.20 Reporting Forms**

- (a) The Judicial Conference approved forms to be used by official court reporters in filing with the AO information as to their attendance in court, transcripts furnished and fees charged, as well as their receipts and expenses. The Conference directed that they be used by the official court reporters in conformity with the instructions accompanying the forms, in preparing and filing their reports. JCUS-SEP 1944, p. 15.; JCUS-SEP 1987, p. 63.
- (b) The district courts must review the reports submitted by official court reporters for completeness and accuracy.
  - (1) These reports are used both by the AO and by committees of the Conference in the allocation of additional personnel and in setting transcript fees and salaries.
  - (2) Official court reporters are required to maintain and certify, under penalty of perjury, proper records of time, attendance, transcript production, and earnings. JCUS-MAR 1987, p. 10.

**§ 290.40.30 Automated Court Reporter Application**

- (a) The Automated Court Reporter Application (ACRA) manages the automated creation and processing of Form AO 40A (Attendance and

Transcripts of U.S. Court Reporters) and Form AO 40B (Statement of Earnings of U.S. Court Reporters).

- (b) The application provides for the official court reporter to digitally sign the completed form and for a designated court official to review and digitally approve it. **See:** JNet's Reporting Requirements page.

#### **§ 290.40.40 Preparing Form AO 40A (Attendance and Transcripts of U.S. Court Reporters)**

- (a) Applicability

- (1) All official, temporary, and combined-position court reporters must complete this form quarterly consistent with the Form AO 40A Instructions, including partial quarters. This requirement does not apply to contract court reporters or court reporters who work intermittently (**see:** Guide, Vol. 6, § 140 (Definitions – Intermittent Employment)).

- (2) Private reporting should not be included on this form.

- (b) Due Date

This form must be submitted so that it is received within 20 days after the end of each calendar year quarter (i.e., by April 20, July 20, October 20, and January 20, for the preceding quarter).

- (c) Separation of Official Court Reporter

If an official court reporter retires, resigns, or is otherwise separated, Form AO 40A must be filed within 20 days from the date of separation.

- (d) Information included

For detailed instructions on filling out Form AO 40A, **see:** JNet's Form 40A Instructions page.

#### **§ 290.40.50 Preparing Form AO 40B (Statement of Earnings of U.S. Court Reporters)**

- (a) Applicability

All official, temporary, and combined-position court reporters must complete a Form AO 40B annually consistent with the Form AO 40B Instructions even if employed for only part of a year. This requirement does not apply to contract court reporters or court reporters who work intermittently (**see:** Guide, Vol. 6, § 140 (Definitions – Intermittent Employment)).

(b) Due Date

This form must be submitted so that it is received by April 15 of each year for the prior calendar year.

(c) Separation of an Official Court Reporter

In the event an official court reporter retires, resigns, or is otherwise separated, a Form AO 40B must be filed within 60 days from the date of separation, even if employed for only part of a year.

(d) Information Included

All income and expenses for official transcripts and private reporting must be reported. For detailed instructions on completing Form AO 40B, **see:** JNet's Form AO 40B Instructions page.

**§ 290.40.55 Certifying and Submitting Forms AO 40A and AO 40B**

(a) Certification by Official Court Reporter

By signing Form AO 40A or Form AO 40B, the official court reporter certifies under penalty of perjury under 28 U.S.C. § 1746, that the information requested is true and correct.

(b) Review by Court Official

- (1) The completed form must be presented to the appropriate court official for review and signature.
- (2) By signing the form, the court reporting supervisor or other court official indicates that he or she has reviewed the completed form.

(c) Submission

Forms not submitted using ACRA may be scanned and emailed to the attention of the AO-CSO Court Reporter Program Specialist. For contact information, **see:** JNet's Court Reporter Program Support page.

**§ 290.40.60 Recordkeeping**

(a) General

- (1) Under 28 U.S.C. § 753(d), court reporters' records are to be inspected and audited in the same manner as the records and accounts of clerks of the district courts.

- (2) Records to be inspected include those related to both official and private reporting activities.
- (b) For the purpose of completing the required forms, the following information (forms) must be completed and maintained:

- (1) Form AO 37 (Expense Ledger)

Form AO 37 contains accounts payable or expenses owed to a creditor resulting from a written contract, an oral contract, or an implied promise to pay.

- (A) Most expenses result from the purchase of supplies, equipment, employment services, and services on credit.
- (B) When a bill or employee's salary is paid, the official court reporter enters the transaction in the Expense Ledger.
- (C) Only expenses related to taking the record, preparing transcripts, and maintaining an office may be included.

- (2) Court reporters must fill out the required payment information for each expense, including:

- Payee;
- Date;
- Proof of payment (i.e., check number or proof of electronic funds transfer); and
- Invoice number.

- (3) Court reporters must list the expenses associated with the information in (2) above in the appropriate category:

- Compensation paid to substitute court reporters, note readers, transcribers, typists, scopists, and other clerical personnel;
- Employer contributions under the Federal Insurance Contributions Act (FICA), Social Security, and any other employer taxes or assessments relating to the employment of substitute court reporters or other personnel;
- Travel expenses for substitute court reporters and other personnel;
- Rent for copy equipment, Computer Aided Transcription (CAT) equipment, and other supplies and equipment related to the production of transcripts;
- Equipment repairs, maintenance contracts, and maintenance agreements;



- Postage;
- Telephone;
- Other communications expenses; and
- Supplies and materials.

(c) Form AO 38 (Attendance Ledger)

Form AO 38 is a daily log of time spent recording official proceedings before judicial officers by the court reporter and/or a substitute.

- (1) Court reporters may not include lunch periods, recesses, or standby time while waiting for the jury. However, standby time while in the courtroom or chambers may be included.
- (2) The court reporter must include:
  - Date;
  - Place;
  - Travel time; and
  - Recording time before judicial officers.
- (3) Court reporters may not round hours on a daily basis; however, total quarterly hours should be rounded up to the next whole number and entered on Form AO 40A.

(d) Form AO 39 (Transcript Order and Collections Ledger)

(1) General

Form AO 39 is divided into two parts: orders and collections.

- (A) It is used to record transcript orders. Once the transcript has been completed, the actual number of pages that are delivered is recorded.
- (B) All monies collected from the sale of transcripts are recorded on this form.
- (C) The court reporter must also include transcripts furnished to the court at no charge.

(2) When an order is taken, the court reporter must include the following entries:

- Name of ordering party,
- Case name,

- Case number,
  - Appeal or not, and
  - Date ordered or deposit received.
- (3) After the transcript has been prepared, the court reporter must include the following entries:
- Date of delivery,
  - Invoice number, and
  - Actual number of transcript pages.
- (4) When collections are received, the court reporter must include the following entries:
- Date of payment, and
  - Amount of payment.
- (e) Form AO 44 (Invoice)
- (1) General
- (A) Form AO 44 (Invoice) is a model invoice form. The court reporter must use this form or a similar invoice that includes an itemized statement of the transcripts sold to a party.
- (B) The court reporter should provide the ordering party with the original invoice, retain a copy to use as the accounts receivable file copy, and provide a copy to the court reporting supervisor to review for Judicial Conference rate requirements.
- (2) The invoice must identify the:
- Name of client,
  - Type of case (criminal or civil),
  - Date ordered,
  - Date delivered,
  - Name and case number “In the matter of,”
  - Number of pages,
  - Number of copies,
  - Type of delivery schedule,
  - Discounts,
  - Refunds,
  - Total due, and

- Certification of court reporter of compliance with fee and transcript format prescribed by the Judicial Conference.

### **§ 290.40.65 Court Reporter Forms Records Disposition**

Under Records Disposition Schedule 2, administrative records (Forms AO 38, 40A) can be disposed of five years after close of file; and financial records (Forms AO 37, 39, 40B, 44) can be disposed of six years and three months after the final transaction date.

### **§ 290.40.70 Review of Reports by Court**

- (a) General
  - (1) Each district clerk or his or her designee will review Forms AO 40A and AO 40B to ensure that the information identified below is complete and accurate.
  - (2) The review must be completed timely so that reports are submitted to the AO consistent with the dates established by the Judicial Conference.
- (b) For Form AO 40A (Attendance and Transcripts of United States Court Reporters), the review will:
  - (1) Ascertain that the court reporter has completed the form as required;
  - (2) Ensure that the entries pertaining to "Attendance" are consistent with those from Form AO 38 (Attendance Ledger), and with judicial statistics; and
  - (3) Ensure that the entries pertaining to "Transcripts" are consistent with those reported on Form AO 39 (Transcript Orders and Collections Ledger).
- (c) Form AO 40B (Statement of Earnings of United States Court Reporters)
  - (1) For "Official Transcripts," the review will:
    - (A) Ascertain that the court reporter has completed the form as required;
    - (B) Ensure that the entries pertaining to gross income for "Official Transcripts" are consistent with those reported on Form AO 39 (Transcript Orders and Collections Ledger);

- (C) Compare the entries pertaining to expenses for “Official Transcripts” to Form AO 37 (Expense Ledger), and the allowable expenses listed in the Form AO 40B Instructions;
  - (D) Verify that the court reporter has a receipt for each expense listed; and
  - (E) If questions arise, review Form AO 44 (Invoice), proof of payments, and transcript orders as necessary to ascertain the completeness and accuracy of the information reported.
- (2) For “Private Reporting,” the reviewer will verify only that the “Official Transcripts” column has been prorated accurately if the court reporter has co-mingled funds and resources for official and private activities.
- (d) The reviewer will bring any errors to the attention of the court reporter for correction before submitting the forms to the AO, and also advise the chief judge of the court of such errors.

**§ 290.40.80 Penalty for Not Submitting Reports**

- (a) Salaries will be withheld from official court reporters who are delinquent in complying with the Judicial Conference directive under the statute to report annually their attendance and financial reports. JCUS-MAR 1971, p. 28.
- (b) When reports are not received, the AO’s Court Services Office is responsible for ensuring that the official court reporter’s salary is withheld for as long as the official court reporter fails to submit the required reports. Withheld salaries are released upon receipt of the delinquent reports.

# Guide to Judiciary Policy

Vol. 6: Court Reporting

## Ch. 3: Reporting Methods

### [§ 310 Overview](#)

[§ 310.10 Authority](#)

[§ 310.20 Methods of Reporting](#)

### [§ 320 Realtime Reporting](#)

[§ 320.20 Authority for Use of Realtime Reporting](#)

[§ 320.30 Equipment](#)

[§ 320.40 Waiver of Responsibility](#)

[§ 320.50 Realtime Reporting Standards](#)

[§ 320.60 Realtime Services for Persons with Communications Disabilities](#)

[§ 320.70 Realtime Technical Standards](#)

### [§ 350 Electronic Sound Recording](#)

[§ 350.10 Authority for Use of Electronic Sound Recording](#)

[§ 350.20 Election to Use Electronic Sound Recording Equipment](#)

[§ 350.30 Electronic Court Recorder Operators](#)

[§ 350.40 Clerk of Court Responsibilities](#)

Appendices

Appx. 3A Realtime System Technical Requirements

Appx. 3B Analog Electronic Sound Recording Equipment Specifications

Appx. 3C Digital Audio Recording Technology Specifications

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## § 310 Overview

### § 310.10 Authority

- (a) Under [28 U.S.C. § 753\(b\)](#), “[e]ach session of the court and every other proceeding designated by rule or order of the court or by one of the judges shall be recorded verbatim by shorthand, mechanical means, electronic sound recording, or any other method subject to regulations promulgated by the Judicial Conference and subject to the discretion and approval of the judge.”
- (b) United States district judges have the discretion to determine the means for recording their proceedings.

**Note:** If a bankruptcy judge elects to use a court reporter, contract reporters are used to take the record. There are no official court reporters in bankruptcy courts. **See:** Guide, Vol. 6, § 420.10 (Bankruptcy Court).

## **§ 310.20 Methods of Reporting**

### **§ 310.20.10 Manual Shorthand Reporting**

Manual shorthand, or pen stenography, is a writing system used by court reporters that combines symbols, strokes, and/or letters to create a verbatim record of the spoken word. The two major shorthand languages are Gregg and Pitman.

### **§ 310.20.20 Stenotype Reporting**

Stenotype reporting is employed by a court reporter to create a verbatim record utilizing phonetic shorthand combinations translated by:

- computer-aided transcription (CAT) systems in realtime;
- CAT systems for later transcription by the reporter or scopist/notereader; or
- other industry-accepted transcription methods.

### **§ 310.20.30 Stenomask Reporting**

Stenomask reporting is employed by a court reporter trained to repeat the courtroom proceedings verbatim into a special face-mask microphone without disrupting the proceedings. The reporter's voice is recorded onto a tape recorder, recorded digitally, or spoken directly into speech recognition software for transcription to a written transcript. Certified realtime stenomask reporters may provide realtime services.

## **§ 320 Realtime Reporting**

A realtime reporter's skills, in combination with software technologies, allow a simultaneous translation of the spoken word to text. Software viewing programs permit instantaneous projection of the translation onto viewing monitors and grant court participants the ability to search, mark, and annotate the text.

### **§ 320.20 Authority for Use of Realtime Reporting**

The Judicial Conference endorsed the use of realtime reporting technologies by official court reporters in the district courts to the extent that funding is available to support their use. [JCUS-SEP 1994](#), p. 49. The Conference disapproved the use of realtime reporting systems in bankruptcy courts because they did not appear to be cost effective. [JCUS-MAR 1994](#), p. 16. The Director of the Administrative Office of the U.S. Courts (AO) may grant an exception for disabled bankruptcy judges to use realtime reporting systems. [JCUS-SEP 1998](#), pp. 42-43.

**§ 320.20.10 Certified Realtime Reporters**

- (a) The Conference recognizes as certified realtime reporters those official court reporters who have successfully completed the Certified Realtime Reporter examination offered by the National Court Reporters Association (NCRA), or who have passed an equivalent qualifying examination. The Conference permits only certified realtime reporters to sell realtime translation at rates approved by the Conference. [JCUS-MAR 1996](#), p. 26. For availability and scheduling considerations, **see:** Guide, Vol. 6, § 290.30.45.
- (b) Contract court reporters may also have taken and passed the Certified Realtime Reporter examination offered by NCRA, or an equivalent qualifying examination. A contractor with this credential may provide a realtime feed to parties to the case at the rates established by the Judicial Conference but may not charge transcript fees for providing a realtime feed to the presiding judge.

**§ 320.30 Equipment**

- (a) All parties requesting realtime services will be responsible for providing their own computers, viewer/annotation software, and monitors.
- (b) Upon the request of the parties, court reporters may make equipment and software available.
- (c) The certified realtime reporter will provide wiring necessary for his or her equipment. **See:** [§ 320.70.30 \(Responsibilities\)](#) and [§ 320.70.50 \(Responsibility for Realtime-Related Equipment\)](#), and [Appx. 3A \(Realtime System Technical Requirements\)](#).

**§ 320.40 Waiver of Responsibility**

- (a) It is the opinion of the AO's Office of the General Counsel as provided in an Oct. 5, 1999 memorandum that the court reporter is not at risk for personal liability arising from inaccuracies in realtime translation.
- (b) To avoid misunderstandings, realtime services must be presented with written warnings that they are unedited and subject to later revision. **See:** [§ 320.50.50 \(Realtime Disclaimer\)](#).
- (c) The Federal Tort Claims Act, [28 U.S.C. § 2671 et seq.](#), renders the government exclusively liable for harm caused by the negligent performance of official duties by a federal employee. **See:** Guide, Vol. 20, Ch. 2 (Federal Tort Claims).

## § 320.50 Realtime Reporting Standards

### § 320.50.10 General Policy

- (a) Effective June 1, 1996, the Judicial Conference established a new transcript category called “realtime unedited transcript.” [JCUS-MAR 1996](#), p. 26.
- (b) Realtime includes the following services:
  - The instantaneous translation of the proceedings on a computer monitor;
  - The ability to scroll forward and backward, search the record for key words or phrases and mark portions of the text using viewer/annotation software; and
  - The delivery of realtime translation and appended notes electronically during or immediately following adjournment.
- (c) When realtime services are requested by a party to the case, a certified realtime reporter may charge and collect the per page rate for the realtime translation. Court reporters are required to provide all necessary personal equipment and software.
- (d) Realtime reporting services offer several advantages, such as the following:
  - The software enables court reporters to display the English text translation instead of stenographic symbols;
  - Attorneys can use realtime as a litigation aid for purposes of trial proceedings;
  - Judges and court staff can work with increased efficiency with instantaneous access to the realtime translation; and
  - Before, during, or after the proceedings, attorneys and judges can insert issue codes into their realtime file for later reference.
- (e) Realtime translation may not be used for any purpose that requires a certified transcript of a proceeding.
- (f) In 2011, the Conference amended the maximum realtime translation rate policy adopted in 1999 to eliminate the requirement that a litigant who orders realtime services in the courtroom must purchase a certified



transcript (original or copy) of the same pages of realtime translation at the regular rates. [JCUS-SEP 2011](#), pp. 30-31.

### **§ 320.50.20 Qualifications of Court Reporters Charging for Realtime Translation**

Only court reporters who have successfully completed the NCRA Certified Realtime Reporter examination or who have passed an equivalent qualifying examination are recognized as federal certified realtime reporters and are permitted, but not required, to sell realtime translation.

### **§ 320.50.30 Production**

- (a) The Judicial Conference's transcript format guidelines (**see:** Guide, Vol. 6, § 520) apply to realtime translation, with the following exceptions:
  - (1) Realtime translation must be clearly marked as such with a header or footer that appears at the top or bottom of each page of transcript stating, "Realtime Unedited Transcript Only"; and
  - (2) The realtime translation should not include an appearance page, an index, or a certification.
- (b) Electronic files may not contain any protection or programming codes that would prevent copying or transferring the data. [JCUS-SEP 1991](#), p. 65 and [JCUS-SEP 2012](#), p. 26.

### **§ 320.50.40 Distribution**

- (a) A certified realtime reporter providing realtime translation should offer comparable services to all parties to the proceeding.
  - (1) The primary purpose of realtime translation is to provide access to a draft transcript of the proceedings on electronic media at the end of each day.
  - (2) It is not intended to be used in subsequent proceedings for any other purpose, or to be further distributed.
- (b) It should be noted that when realtime services are provided, there may be two versions of the transcript for one proceeding — unofficial (realtime translation) and official (certified transcript).
  - (1) The realtime translation may contain errors, some of which could change the accuracy or meaning of the testimony.

- (2) A realtime translation will not satisfy the requirement for the court reporter to provide or file a certified transcript with the district court clerk or as the record on appeal.
- (c) Realtime services may only be distributed to parties to the case who have ordered them.
  - (1) It should not be made available to the public, including news organizations or other nonparticipants, unless authorized by the presiding judge.
  - (2) It is recommended that each certified realtime reporter request that parties acknowledge receipt of a realtime translation by signing a disclaimer that explicitly states that the ordering party is aware that the realtime translation is not an official record of the court proceedings. **See:** [§ 320.50.50](#).

**§ 320.50.50 Realtime Disclaimer**

The following is a sample disclaimer statement:

<p>REALTIME UNEDITED TRANSLATION DISCLAIMER IN THE MATTER OF</p> <p>_____</p> <p>v.</p> <p>_____</p> <p>The realtime unedited translation of proceedings in the above-titled matter is delivered unedited and uncertified by the court reporter at the request of the undersigned.</p> <p>The undersigned agrees not to distribute this realtime translation in any form, written or electronic, to the public, including news organizations and other nonparticipants.</p> <p>The realtime translation may not be relied upon for purposes of verbatim citation of the record or used for any purpose that requires a certified transcript of a proceeding.</p> <p>The realtime translation has not been edited, proofread, or corrected. It is a draft transcript and is not certified to be true and correct. It may contain computer-generated mistranslations of stenotype code or electronic transmission errors, resulting in inaccurate or nonsensical word combinations, or untranslated stenotype symbols which cannot be deciphered by non-stenotypists. The realtime translation may differ from a certified transcript of the same proceedings in content, page and line numbers, punctuation, and formatting. The realtime translation contains no appearance page, index, or certification page.</p>
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The undersigned agrees to indemnify and hold harmless the court reporter for any use by any person of the realtime translation.

\_\_\_\_\_  
Printed Name of Purchaser

\_\_\_\_\_  
Signature of Purchaser

\_\_\_\_\_  
Date

## § 320.60 Realtime Services for Persons with Communications Disabilities

### § 320.60.10 General Policy

- (a) The Judicial Conference adopted a policy that all federal courts provide reasonable accommodations to persons with communications disabilities ([JCUS-SEP 1995](#), p. 75), which can include the use of Communications Access Realtime Translation (CART) or, if deemed appropriate by the court, limited realtime court reporting services.
- (b) The limited realtime accommodation should be limited to a live feed to the deaf or hard of hearing individual(s) and may not include enhancements such as keyword searching or an unedited transcript at the end of the proceedings.
- (c) CART or limited realtime services should be approved by the court only after alternatives that are more cost effective have been considered. These services, provided as an accommodation to persons with communications disabilities, are considered to be part of the court interpreting program. **See:** Guide, Vol. 5, § 255 (Services to the Hearing Impaired and Others with Communication Disabilities).

### § 320.60.20 Court Reporter Assigned to the Proceeding

- (a) If a contract court reporter provides these services, the contractor must be placed under contract in the same manner a spoken language interpreter, rather than as a contract court reporter. **See:** Guide, Vol. 5, Ch. 4 (Funding, Contracting, and Paying Contract Court Interpreters).
- (b) If an official court reporter is assigned to provide the accommodation, the reporter may not be compensated above their regular salary and may not charge for the realtime feed.

- (c) Conflict of Interest
  - (1) To avoid potential conflicts, the court reporter assigned to provide services to the deaf or hard of hearing individual must not be the court reporter taking the official record.
  - (2) If a transcript is needed at the end of the proceedings by any of the parties, it must be purchased through the usual channels from the court reporter assigned to the proceeding and not from the court reporter providing the accommodation.

### **§ 320.70 Realtime Technical Standards**

- (a) Realtime technical standards and guidelines have been developed governing the implementation and use of realtime reporting systems in the district courts.
- (b) The technical standards, below, apply to certified realtime reporters who charge fees for realtime reporting services.
- (c) These standards do not apply to court reporters who are producing realtime records for personal training purposes or who are providing the realtime services for internal court use only.

#### **§ 320.70.20 Authority**

At the request of the Judicial Conference, the AO developed technical standards and guidelines governing the implementation and use of realtime reporting systems in the district courts. The realtime court reporting technical standards were approved in January 1996 by the Committee on Automation and Technology (now the Committee on Information Technology).

#### **§ 320.70.30 Responsibilities**

- (a) Court Reporters
  - (1) Certified realtime reporters, who charge fees for realtime reporting services, must comply with these realtime translation system standards.
  - (2) Court reporters are responsible for providing necessary training and operational support to the judge and other judiciary staff in the use of realtime reporting services.

(b) Judges and Court Staff

- (1) To permit the effective coordination of software procurement and the necessary training and support of judiciary personnel, each district should standardize on a single specific realtime viewer/annotation software package.
- (2) Judges adopting realtime reporting services should select the version of the court-standard viewer/annotation software that is compatible with the appropriate computer operating system installed in chambers; that is, the judge and chambers staff should use the same computer operating system in chambers and the courtroom.

(c) Non-Judiciary Court Participants

- (1) Non-judiciary court participants (e.g., plaintiffs, defendants, counsel) may use the viewer/annotation software package they prefer, so long as it is compatible with the court reporter's realtime translation system.
- (2) These participants are responsible for ensuring the compatibility and necessary integration with the court reporter's realtime translation system.
- (3) To ensure proper interoperability, non-judiciary persons providing their own computers and viewer/annotation software should coordinate and pre-test their equipment with the realtime reporter before official proceedings begin.

**§ 320.70.40 Realtime System Technical Requirements**

For an overview of the realtime system technical requirements, **see:** Appx. 3A (Realtime System Technical Requirements).

**§ 320.70.50 Responsibility for Realtime-Related Equipment**

The following allocation of costs specifies which components of the realtime system are to be purchased and maintained by the court reporter, and which components are to be provided by the court:

- (a) Except to the extent the court has installed the router with built-in switch or equivalent technology as permanent infrastructure, regardless of who receives realtime reporting services, the court reporter is responsible for the acquisition, installation, and maintenance of:

- (1) the court reporter's realtime translation system and ancillary components;
  - (2) all necessary wiring, wireless technologies, and data communications connections (including any necessary connectors and adapters) to provide realtime reporting services between the court reporter's system and all locations serving a paying or potential paying customer;
  - (3) any equipment (e.g., personal computers, video monitors) or software (viewer/annotation software) provided by the court reporter to a paying customer or potential paying customer;
  - (4) any costs associated with realtime software licensing; and
  - (5) the router with built-in switch or equivalent technology.
- (b) The court is responsible for the acquisition, installation, and maintenance of:
- (1) all necessary wiring, or wireless technologies, including any necessary connectors and adapters, between the router with built-in switch or equivalent technology and the judge's bench, law clerk and courtroom deputy desks, witness stand, jury box, and public viewing area;
  - (2) any computers or monitors and appropriate realtime viewer/annotation software located at the judge's bench and law clerk/courtroom deputy desks; and
  - (3) any monitors for the witness stand, jury box, and public viewing area, and the computer used for video distribution to the monitors.

**Note:** In those courthouses under construction or undergoing major courtroom renovations, the court will provide conduits and electrical outlets for realtime reporting services at all appropriate locations in the courtroom. If the court chooses to install the router with built-in switch or equivalent technology as part of the permanent infrastructure to all potential users of realtime reporting, the judiciary will pay for the router with built-in switch or equivalent technology and installation.

### § 320.70.60 Compensation for Realtime Reporting Services

- (a) Under [28 U.S.C. § 753\(f\)](#), the Judicial Conference sets maximum fees court reporters may charge for preparing and providing realtime and official transcripts to non-judiciary persons. **See:** JNet's Maximum Transcript Rates page.

- (b) If a certified realtime reporter chooses to offer realtime reporting services, all requesting parties to a court proceeding will be able to capture in realtime the unedited, uncertified transcription on their personal computers during court proceedings. The court (e.g., the judge, law clerk, courtroom deputy) will have the option of being provided realtime reporting services without additional remuneration to the staff or contract court reporter.

## § 350 Electronic Sound Recording

### § 350.10 Authority for Use of Electronic Sound Recording

- (a) In 1983, following a study by the Federal Judicial Center, the Judicial Conference authorized the use of electronic sound recording of court proceedings, effective January 1984. [JCUS-SEP 1983](#), p. 48.
- (b) In 1999, the Judicial Conference approved digital audio recording technology as a method of taking the official record in federal court proceedings, to be implemented upon the development of guidelines by the AO Director. [JCUS-SEP 1999](#), pp. 56-57.
- (c) Electronic sound recording equipment must be multi-channel audio equipment. For analog and digital electronic sound recording equipment specifications and standards, **see:** Guide, Vol. 6, Appx. 3B and Appx. 3C.
- (d) Change in Method Elected
  - (1) In the event a judge changes the election of the method of recording court proceedings from official court reporters to electronic sound recording systems, funding for the official court reporter will be discontinued 90 days from the date of election to electronic sound recording systems.
  - (2) One additional period of up to 120 days beyond the original 90-day period will be allowed upon certification by the chief judge of the affected court to the circuit judicial council that additional staff resources are necessary. [JCUS-MAR 2012](#), p. 23-24. **See:** Guide, Vol. 6, § 220.60(c) (Staff Reduction and Termination).

### § 350.20 Election to Use Electronic Sound Recording Equipment

- (a) Use of Electronic Sound Recording by Individual Judges
  - (1) A United States district judge, including a senior judge, a bankruptcy judge, or a judge of a territorial district court, who elects to direct the full-time use of electronic sound recording to record

official proceedings of the court should advise, as appropriate, the chief of the AO's Court Services Office.

- (2) Funding for recording equipment for a judge opting to convert to electronic sound recording will be provided by the AO, subject to the availability of funds. **See:** BOC 3107.
- (b) As a general rule, electronic sound recording equipment should be used to record proceedings conducted before a magistrate judge. **See:** Guide, Vol. 6, § 280.40 (Magistrate Judges).
- (c) The electronic sound recording equipment provided under these guidelines may not be used to back up court reporters, who are required by law to furnish their own equipment, nor should the equipment be used to provide a back-up to the court if a court reporter is recording the proceedings, as there can only be one official original record of the proceedings.

## **§ 350.30 Electronic Court Recorder Operators**

### **§ 350.30.10 AO Responsibilities**

The AO will:

- (a) Provide electronic court recorder operator (ECRO) staffing credit to the court for each judicial officer electing to use electronic sound recording equipment.
- (b) Provide courts with models of Electronic Court Recording Manuals for use in developing policy and procedure guidance for local application. **See:** JNet's Electronic Sound Recording page.

### **§ 350.30.20 Electronic Court Recorder Operator Responsibilities**

The ECRO has a number of responsibilities:

- (a) Attach an official certificate to the analog audiotape or digital media that contains the recording of a proceeding. For example: "Certified by operator to be true and correct" and signed by the operator. For cassette tape labels with the certification included on the label, **see:** Guide, Vol. 6, § 290.20.30 (Certifying and Filing Original Notes) and Form AO 438.
- (b) Many clerks' offices require ECROs to upload audio files to a designated server where files are exclusively stored and capable of being searched electronically, and courts have indicated that filing a paper certification creates redundant paperwork.



- (1) To fulfill the statutory requirement, some courts require the operator to login to a computer system with a unique identifier and password to upload the files, serving as that operator's certification.
  - (2) This method fulfills the statutory requirement of certification of original notes and audio recordings. Uploading via a secure, unique user ID and password is a widespread method of securing transmissions. Courts should have each operator sign a copy of the policy, as evidence that everyone intends the uploads to be the certified original records, under [28 U.S.C. § 753\(b\)](#).
- (c) Maintain a log of the proceeding to be retained as an aid to the transcription of the record.

### § 350.40 Clerk of Court Responsibilities

The clerk of court is responsible for the efficient and effective functioning of electronic sound recording systems. These responsibilities include:

- (a) Supervising electronic court recorder operators.
- (b) Preserving the audio records according to the Records Disposition Schedule. **See:** Guide, Vol. 10, Appx. 6A and Appx. 6B.
- (c) Assigning operators to record proceedings as needed.
- (d) Cross-training personnel so that operators are available as needed.
- (e) Reproducing audio recordings and making them available as required by law, at the rates prescribed by the Judicial Conference.
- (f) Establishing a system for listening to the audio recordings by the public in the courthouse.
- (g) Arranging for the transcription of the record, or such parts thereof, as may be requested by the court or a party by:
  - (1) Sending a copy of the audio recording and a copy of the log to the transcription service;
  - (2) Receiving deposits from parties ordering transcripts, other than the United States, in an amount sufficient to cover the estimated cost of transcription, or directing parties to the approved transcription services to make payment arrangements;
  - (3) Monitoring final payment of the transcription service upon receipt of the certified transcript for the requesting party and the extra

certified transcript for the records of the court, and ensuring the fee charged to the party by the transcription service complies with transcript rates prescribed by the Judicial Conference

- (h) Monitoring transcripts produced by transcription services to ensure that they conform to the transcript format requirements of the Judicial Conference.

# Guide to Judiciary Policy

Vol. 6: Court Reporting  
Ch. 3: Reporting Methods

## Appx. 3A: Realtime System Technical Requirements

[§ 3A.10 Realtime Components](#)

[§ 3A.20 Interoperability Between Systems](#)

[§ 3A.30 Realtime Translation System Standards](#)

[§ 3A.40 Judges and Court Staff Realtime Viewer/Annotation System Standards](#)

[§ 3A.50 Realtime Interconnection Standards in the Courtroom](#)

[§ 3A.70 Realtime Courtroom Equipment Standards for Court Participants](#)

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### § 3A.10 Realtime Components

Realtime court reporting systems may be characterized as having two components: a realtime translation system used by the court reporter to translate stenotype keystrokes or voice recordings into English by using vendor-supplied stenotype or voice translation software in combination with the reporter's personalized translation or voice dictionary; and an interoperable viewer/annotation system used by other court participants to view, and perhaps search and annotate, the translated but unedited and uncertified translation.

### § 3A.20 Interoperability Between Systems

The realtime court reporting technical standards take an open-systems approach, so that the court and court reporter and all other court participants wishing to take advantage of realtime reporting may do so in a way that provides maximum flexibility and freedom of product choice, while ensuring that the various parts of the overall realtime system are interoperable and provide adequate service levels and security.

### § 3A.30 Realtime Translation System Standards

- (a) The court reporter's realtime translation system must be easily installed in the courtroom and operational within a few minutes, compatible with any realtime cabling or wireless technologies previously installed in a district courtroom (for technical details, **see**: § 3A.50 (Realtime Interconnection Standards in the Courtroom)), and capable of transmitting the translated but unedited and uncertified English text to locations specified by the court.

- (b) The court reporter may acquire and operate any realtime translation system (software and hardware) of his or her choosing which meets the prescribed realtime standards.

### **§ 3A.40 Judges and Court Staff Realtime Viewer/Annotation System Standards**

- (a) Each district court should adopt a single realtime viewer/annotation system standard for use by court personnel (e.g., judges and law clerks) within that district. Judiciary personnel will normally be trained and supported by the court reporters in the use of the standard viewer/annotation software chosen by the court. This standard does not apply to non-judiciary participants (e.g., plaintiffs, defendants, counsel), who may choose any realtime viewer/annotation software compatible with the court reporter's realtime translation system.
- (b) The realtime viewer/annotation system should be capable of:
  - (1) receiving the incoming text stream from the court reporter's realtime translation system via cabling or secured wireless connections;
  - (2) capturing and storing the realtime unedited text and entering annotations to that text during the proceedings; and
  - (3) preserving the content and correct positional linkage of all annotations to the realtime unedited text, to any additional realtime edits and updates provided by the realtime court reporter.

### **§ 3A.50 Realtime Interconnection Standards in the Courtroom**

- (a) All realtime interconnection standards must be in compliance with AO and local court guidelines. All connections must be secure and must not interfere with operations within the courtroom. All wiring must be installed in the courtroom in a way that is both unobtrusive and safe. For information on the Judiciary's Information Technology policies, including security matters, **see:** Guide, Vol. 15 (Information Technology).
- (b) Each court must determine, in consultation with court reporting and IT staff who is to be responsible for providing and ensuring compatibility of communications hardware.
- (c) If deemed efficient and secure court reporters may use DCN connectivity to provide judiciary participants (i.e., judges, law clerks, courtroom deputies, jury, and witnesses, etc.) with a realtime stream. On those computers that are connected to the DCN (e.g., the judge's computer on

the bench), the realtime viewing/annotation software must not interfere with the simultaneous operation of the computer on the DCN for DCN applications. **See:** Guide, Vol. 15, § 330 (Judiciary Network Security).

- (d) Non-judiciary participants may not receive access to the DCN at any time.

### **§ 3A.70 Realtime Courtroom Equipment Standards for Court Participants**

- (a) The court will provide for each requesting judge a personal computer at the bench with realtime viewer/annotation software, and a similar courtroom workstation configuration for the law clerk and courtroom deputy, as necessary. The court will provide all wiring and data communications connections needed to provide realtime services to the judge, law clerk, and courtroom deputy. As necessary, the court will provide similar connections to provide realtime services to chambers and clerk's office workstations.
- (b) Each realtime courtroom will have the capability of temporarily installing displays at the jury box or witness stand to permit hearing-impaired jurors and witnesses to view the realtime record. The court will provide the equipment and, as necessary, the cabled or wireless connections to provide realtime to these locations. Because of the varying size of courtrooms and participant locations in the courtroom, no specific type or size of video monitors can be recommended.
- (c) If the court chooses to install the necessary equipment and wiring as permanent infrastructure, the judiciary will pay for the equipment and installation in accordance with appropriate procurement requirements and include this equipment in the court's equipment inventory. Equipment and wiring installed as part of the court infrastructure by official court reporters prior to the re-issuance of this standard, remain the property of the court reporters.
- (d) If the court does not install the necessary equipment and wiring as permanent infrastructure, the court reporter will provide the equipment and all wiring and data communications connections needed to provide realtime reporting services to non-judiciary users. (Requirements contained in the Court Reporters Act, 28 U.S.C. § 753, remain.)

# Guide to Judiciary Policy

Vol. 6: Court Reporting  
Ch. 3: Reporting Methods

## Appx. 3B: Analog Electronic Sound Recording Equipment Specifications

[§ 3B.10 Purpose](#)

[§ 3B.20 Required Equipment Features](#)

[§ 3B.30 Analog System Equipment Options](#)

[§ 3B.40 Analog Cassette and Tape Features Required](#)

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### § 3B.10 Purpose

The purpose of these standards is to specify the types of sound recording equipment to be used when a judge directs the use of analog electronic sound recording equipment as the sole method of recording official court proceedings under 28 U.S.C. § 753(b).

### § 3B.20 Required Equipment Features

Electronic sound recording systems to be used in courtrooms by district judges must be able to provide continuous, uninterrupted recording for clear playback and transcription. The following features must be factory installed and may not include any modification by a dealer. The minimum requirements are as follows:

- (a) Dual transport system using standard audio cassettes;
- (b) Minimum of eight audio inputs recording onto four separate channels, with a minimum of two inputs per channel;
- (c) If a system uses tape with a leader, the tape must advance automatically beyond the leader before any recording on the tape commences;
- (d) Output for a headset for off-tape monitoring;
- (e) Recording speed of 15/16 inches per second;
- (f) A playback speaker, either external or internal, and an external speaker jack;
- (g) Safeguard to prevent erasure or over-recording;

- (h) Automatic switch over from one transport to the other must occur in the following situations:
  - (1) Detection of any prerecorded signal on the tape;
  - (2) Tape motion stops;
  - (3) Broken tape; and
  - (4) End of the tape, at least two minutes before the tape runs out.
- (i) Key lock to secure all functions as well as lock tape in unit;
- (j) Playback capability from each channel individually as well as from any combination of channels;
- (k) A search/playback function capable of quickly locating any point on the tape for playback, and of searching to the point of the last recorded signal so as to start recording at the point where the last recording left off;
- (l) Audible sound warning in the following situations:
  - (1) Detection of a prerecorded signal on a tape;
  - (2) Tape stops during recording; and
  - (3) Broken tape.
- (m) Audible sound warning at least 15 seconds in duration when the end of the tape is near and other transport is not ready to record;
- (n) Four-digit index display system with provisions for a remote index display; and
- (o) A device to reset the digital index counter to "0" and to rewind the tape to the beginning of the audiotape upon insertion of a cassette audiotape.

### **§ 3B.30 Analog System Equipment Options**

The following features are not required but are desirable:

- (a) Public address output;
- (b) Audible sound warning at least 15 seconds in duration in the event of a power loss or broken microphone line;
- (c) Eight hard-wired microphone inputs;

- (d) Adequate input sensitivity to accommodate dynamic microphones. If condenser microphones are required, they should be phantom powered;
- (e) Portable equipment;
- (f) A speaker jack that is separate from the jack for the headset used for off-tape monitoring;
- (g) An index display counter accurate within two digits in search or playback situations;
- (h) Audible sound recorded on the tape whenever the recording begins; and
- (i) Automatic gain control for each channel.

### **§ 3B.40 Analog Cassette and Tape Features Required**

- (a) Recording tape or cassette must be compatible with the recording machine;
- (b) The following are required features of the cassette case:
  - (1) Type: Standard Phillips;
  - (2) Body Material: Medium Impact, High Temperature Polystyrene;
  - (3) Window: Hard Clear Plastic;
  - (4) Bond: Screw Bond Joining, Top and Bottom;
  - (5) Slip Sheet: Polyolefin or Silicone Impregnated Paper;
  - (6) Guide Rollers: Delrin;
  - (7) Tape Hubs: Delrin;
  - (8) Roller Pins: Stainless Steel; and
  - (9) Pressure Pad: Phosphor Bronze and Felt.
- (c) The following are required features of the cassette tape:
  - (1) Length C90: 423 Feet, +5/-0 Feet;
  - (2) Tape Type: high grade, low noise, music quality, ferric oxide formulation, with mylar back; must be coated with dark color, must have very low shedding characteristics; such as the TDK ADC



series cassettes, the 3M-Scotch AVC series cassettes, or equivalents;

- (3) Leader: must be clear (less than 10% grey);
  - (4) Tape Oxide; and
  - (5) Translucence: equal to or greater than 80% grey.
- (d) The cassette cover must be one-piece clear soft plastic “soap dish” style with snap closing.

# Guide to Judiciary Policy

Vol. 6: Court Reporting  
Ch. 3: Reporting Methods

## Appx. 3C: Digital Audio Recording Technology Specifications

### [§ 3C.10 Introduction](#)

### [§ 3C.20 Digital Audio Recording Technology Overview](#)

### [§ 3C.30 Mandatory Requirements for Digital Recording Systems](#)

#### [§ 3C.30.10 Digital Sound Processing](#)

#### [§ 3C.30.15 Confidence Monitoring](#)

#### [§ 3C.30.20 Multi-Channel Recording and Channel Isolation](#)

#### [§ 3C.30.25 Storage Mechanisms](#)

#### [§ 3C.30.30 Playback Access](#)

#### [§ 3C.30.35 Capability to Duplicate Digital Audio Recordings to Analog](#)

#### [§ 3C.30.40 Archival Storage and File Formats](#)

#### [§ 3C.30.45 Common System for Transcribers](#)

#### [§ 3C.30.50 Emergency Backup](#)

#### [§ 3C.30.55 Disaster Recovery Plan](#)

#### [§ 3C.30.60 System Security](#)

### [§ 3C.40 Digital Audio System Needs Assessment](#)

#### [§ 3C.40.10 Centralized or Courtroom-Based System Configuration](#)

#### [§ 3C.40.15 Hardware and Software Compatibility and Network Capacity](#)

#### [§ 3C.40.20 Sound Systems](#)

#### [§ 3C.40.25 Record Annotation Options](#)

#### [§ 3C.40.30 System Integration Opportunities and Data Storage](#)

#### [§ 3C.40.35 Impact on Court Operations](#)

#### [§ 3C.40.40 Product Suitability and Customization Requirements](#)

#### [§ 3C.40.45 Records Management Issues](#)

#### [§ 3C.40.50 Transcription Issues](#)

#### [§ 3C.40.55 Training](#)

#### [§ 3C.40.60 Implications of Adding Courtrooms or Chambers to the System](#)

#### [§ 3C.40.65 Implications of Running a Mixture of Analog and Digital Systems](#)

#### [§ 3C.40.70 Emergency Backup Planning](#)

#### [§ 3C.40.75 Security Issues](#)

### [§ 3C.50 Integration of Digital Audio Recording Systems and CM/ECF](#)

### [§ 3C.60 System Acquisition and Implementation](#)

## **§ 3C.10 Introduction**

These guidelines contain information for courts to use in performing self-assessments when considering or implementing digital audio recording technology. As a preliminary step, courts may wish to review *Digital Audio Recording Technology: A Report of a Pilot Project in Twelve Federal Courts* (May 14, 1999), a Federal Judicial Center report that includes an attachment entitled “Description of the Features of a Digital Audio Recording System.”

## **§ 3C.20 Digital Audio Recording Technology Overview**

- (a) Digital audio technology involves a combination of sound systems (microphones and mixers), computers, and specialized software and/or hardware. These systems provide sound recordings in a digital format and also may provide annotation capabilities to automate log notes and tie them to the digital voice record. No simultaneous text or transcript is produced beyond the recorder’s log notes. Digital recording systems may be used with existing courtroom sound systems and may require a computer in the courtroom for the deputy clerk monitoring the record. This computer, as well as a computer for the judicial officer, if desired, may be linked to either the Data Communications Network (DCN) or used in stand-alone mode, depending on the design of the system. It should be noted these systems do not provide an instantaneous transcript in the courtroom, and they provide different services than those offered by realtime court reporting methods.
- (b) Digital recording systems typically provide the ability to append electronic court recorder log notes to digital voice files, which can then be transmitted to transcribers, judges, and court staff electronically. This technology allows judges and court staff to listen to the record from their own computers and can allow judicial officers and law clerks to make their own private annotations to the digital voice record, if desired.
- (c) This method of taking the record is replacing analog recording systems because it allows recorded information to be stored in digital format, which is consistent with other computer-integrated courtroom technologies. The digital format will permit integration of the record with other elements of electronic case management systems, such as docketing and imaging, thereby enhancing access to the record for judicial officers, chambers and clerk’s office personnel, the public, and the bar.

## **§ 3C.30 Mandatory Requirements for Digital Recording Systems**

The AO has determined that only a limited number of requirements must be met to provide the basic recording function. By limiting requirements, the AO anticipates that

courts will have greater flexibility in taking advantage of ongoing technological advances and will be able to tailor systems to each court's unique environment without undue restriction.

### **§ 3C.30.10 Digital Sound Processing**

A digital recording system must be able to convert the analog audio signal received from the microphones into a digital signal. Value-added elements may include mechanisms to boost or clarify the audio signal, or to save the recording in a compressed file format.

### **§ 3C.30.15 Confidence Monitoring**

- (a) Confidence monitoring is a mechanism for ensuring that the audio signal has been recorded accurately to tape, disk, or other storage media. The mechanism accesses the already recorded signal from tape, disk, or other storage media (not the signal directly from the microphones) and transmits it to a headset worn by the electronic court recorder operator who then is able to check the quality of the recording.
- (b) A digital recording system must have safeguards to prevent accidental erasure or over-recording of the record and provide automatic error detection to ensure continuous, uninterrupted recording for clear playback and transcription. It also must include an output for a headset for "off-media" monitoring, and a playback speaker in the courtroom to permit replay of the record.

### **§ 3C.30.20 Multi-Channel Recording and Channel Isolation**

- (a) The system must include multi-channel recording and channel isolation to keep separate the audio signals received from different microphones. Channel isolation provides the ability to listen to one channel of the recording while turning off the others. Isolating a channel is helpful for listening to or transcribing a playback without competing sound from other microphones.
- (b) For in-courtroom use, 4-channel recording is the minimum requirement, but in circumstances where 4-channel capability is not advantageous, such as in recording proceedings conducted over a telephone (for which only one signal source would be available), courts may suspend the requirement. All multi-channel digital audio recording systems must provide channel isolation capability.

### **§ 3C.30.25 Storage Mechanisms**

- (a) All systems must be able to store the audio signal as a digital file. Typical options for doing this include storing the file on the hard disk of the recorder's workstation or on a local server. Some systems may also offer automated mechanisms for writing a copy of the session recording to secondary storage, either digital audio tape (DAT) or other high-capacity portable media, including writeable compact discs (CDs). System configurations that include a central server may also copy recording files to that server.
- (b) The DAT or other high-capacity media provides a mechanism for storing session material off-line, which can be restored to primary storage if older records no longer available on-line are needed. Copying data to a central server allows material from different courtrooms to be readily accessible to others.

### **§ 3C.30.30 Playback Access**

All digital systems must provide the capability to listen to material that was previously recorded through playback in or out of the courtroom. Courts considering digital audio systems may wish to establish ease and extent of playback access as major criteria in selecting or configuring a system. Depending on the system configuration, access may be achieved from the court recorder's computer or from other networked locations such as computers in chambers. The ability to re-play recordings in chambers, on demand, without requiring assistance from the court recorder can be a major benefit offered by digital recording systems. Internet access is also a feature, and courts should ensure that adequate security measures are in place consistent with Guide, Vol. 15, Ch. 3 (IT Security).

### **§ 3C.30.35 Capability to Duplicate Digital Audio Recordings to Analog**

- (a) Digital audio format will completely replace analog formats in the future. However, many attorneys and transcription services may not be equipped to use digital recording formats. Thus, courts implementing digital audio recording systems must maintain the capability to convert digital recordings to an analog format, typically on a cassette tape, as prescribed in current electronic sound recording guidelines in Guide, Vol. 6, Appx. 3B.
- (b) The necessary duplicating and reformatting equipment must be able to provide 2-channel, analog recordings for general public use. Courts also may use digital media, such as CDs, when providing copies of recordings to transcribers, attorneys, and/or the general public. It should be noted that the availability of audio files via internet access is possible, but may not be practical due to the large file size of the recordings.

### § 3C.30.40 Archival Storage and File Formats

- (a) Recordings or annotation notes made by digital audio systems must be available according to the record retention schedules. **See:** Guide, Vol. 10, Appx. 6A and Appx. 6B. Digital systems must be able to export files for archiving in a non-proprietary format. Alternatively, files may be converted to analog format using standard cassette audio tape or archived in digital format with an executable file that allows users to replay the recording independent of proprietary software.
- (b) Digital audio recording systems often use proprietary formats to store their data files. Thus, it is possible that recordings made in one court may not be accessed by a court that did not own a proprietary license for the vendor system that created the file. Similarly, as technology changes and new capabilities are incorporated into recording systems, even if a court is still using the same vendor, it may have a difficult time restoring a recording that is several years old. This situation would interfere with the clerk's responsibility to maintain a copy of the record that is accessible both now and in the future, according to records disposition schedules established by law or the Judicial Conference.
- (c) Currently, there are no approved file formats or storage media standards for digital audio files. However, the ".wav" format for digital audio is a publicly available, non-proprietary format that can be accessed from many different products and utilities. Standard ASCII text files can be used as a standard format for the session information and annotations. Records management issues and the need for a migration plan are discussed in § 3C.40 (Digital Audio System Needs Assessment).

### § 3C.30.45 Common System for Transcribers

- (a) The federal judiciary endorses and encourages an open-systems approach to the implementation of digital audio recording systems within the federal courts.
- (b) While the federal judiciary does not want to preclude arbitrarily any vendor from marketing products to transcription services, for transcription purposes digital audio recording systems used in the federal judiciary must be able to produce digital files in an industry standard format, such as ".wav" for audio or ASCII for text.
- (c) In addition, transcribers must have the capability of isolating channels and adjusting the volume for each channel to transcribe accurately the record without requiring the transcribers to purchase proprietary hardware or software system components.

- (d) To meet this purpose, digital audio files may be accompanied by an executable program that allows the receiving transcription service to listen to the recording, isolate channels, adjust volume, and view any related annotations.

### **§ 3C.30.50 Emergency Backup**

- (a) Courts should ensure that appropriate backup measures are in place when using digital audio recording systems, including emergency equipment and procedures to be used when the primary recording system fails and is unable to take the record of a proceeding. Options include:
  - (1) having a spare computer with the digital recording system pre-loaded and ready for service to continue recording;
  - (2) using a low-end digital system, such as a laptop with a recording sound board to take the audio record and taking hand-written log notes; or
  - (3) reverting to a backup analog recorder and hand-written log notes.
- (b) The emergency plan also should include a method for entering the recording and any annotations taken with the backup system into the primary digital recording system so that there are no gaps in the material accessible through the digital system.

### **§ 3C.30.55 Disaster Recovery Plan**

Recording systems must include plans for off-line backup of the audio files and annotations database, as applicable, for disaster recovery. DAT or other high-capacity media provide a secondary storage mechanism coupled with periodic backups of the disks on the servers or workstations provide preventive maintenance of the record.

### **§ 3C.30.60 System Security**

Recording systems must include procedures to provide basic identity checking to validate the user. For systems that allow users other than court recorder operators, including judges, to make annotations or that allow users to declare their annotations “private,” there must be security procedures to lock and unlock those files. If internet access is offered, courts must install security measures consistent with the Guide, Vol. 15, Ch. 3 (IT Security).

### **§ 3C.40 Digital Audio System Needs Assessment**

- (a) Extensive planning is a critical element in the successful implementation of a digital audio recording system in a federal court setting. Such

planning can be complex because there are so many components, interactions, and sources of information to consider, as well as the acquisition process and implementation. Conducting a needs assessment will aid courts in planning and successfully acquiring a digital audio recording system.

- (b) It is important that each court carefully assess its requirements, distinguishing between required and optional functionality. Courts may establish a task force to assist in determining the requirements of the court. The information gathered by a task force can provide judges, chambers staff, courtroom staff, and transcribers information about the operation of hardware, software, and networks.
- (c) Courts should consider the following critical areas when making preliminary assessments of their requirements.
- (d) System requirements should be standardized as fully as possible in each court to make providing system support easier and to reduce time and costs for training operators and judicial officers.

### **§ 3C.40.10 Centralized or Courtroom-Based System Configuration**

- (a) Configurations for digital audio recording systems, distinguish between “stand-alone,” “networked,” and “central server” systems. “Stand-alone” refers to a configuration where all the components of the digital audio recording system reside on the court recorder’s computer in the courtroom. In “networked” configurations, some of the components of the digital audio system are located in the courtroom and some are located elsewhere. As long as all of the storage and access to the digital audio recording functions are maintained solely on the computer in the courtroom, it can be considered stand-alone — for example, even if the computer is also used to run e-mail over the network.
- (b) However, when a digital audio recording system function is performed over the network — for example, backups to a storage device — then it is considered to be a “networked” system. The networked system is described as being on the network and allowing other computers on the network to share access to the digital audio files on the main recording system in the courtroom. It also allows for the possibility of sharing storage devices and other peripherals that are on the network and not directly attached to the court recorder’s computer.
- (c) There may be two types of “stand-alone” configurations. The “isolated stand-alone” system is described as being totally isolated from the network and other computers, with all components physically attached to the court recorder’s computer located in the courtroom. The “participating



stand-alone” system is described as having all of the components for the digital audio recording system confined to a single computer in the courtroom, but that workstation is connected to the court’s network and can share in other network services for purposes not related to digital audio recording.

- (d) A “central server” configuration is one in which audio signals are sent from several courtrooms to servers and monitoring equipment in a single centralized control room. This approach requires less equipment in the courtroom and allows for more efficient use of servers, storage devices, and other peripherals. A court recorder in the central location records and monitors sessions being held in more than one courtroom at a time, logging one session while ensuring that the equipment is functioning properly in all others. A courtroom-based configuration maintains the recording, monitoring, and note-taking equipment and processes in the courtroom itself, with only long-term file storage in a central location.
- (e) Courts interested in pursuing the centralized option should be aware that because of the type and level of log notes taken in most federal courtrooms, a single court recorder would not be able to fully annotate the proceedings in multiple courtrooms. Thus, to the extent sound quality and an acceptable transcript depends on constant attention to the recording and on detailed log notes, central monitoring of multiple courtrooms is not recommended.

### **§ 3C.40.15 Hardware and Software Compatibility and Network Capacity**

- (a) Digital recording equipment may require new hardware and software as well as changes in the court’s existing network configuration and computer systems support. It is important for the court to work with potential vendors to identify potential problems and opportunities. Each offeror must provide minimum specifications and cost estimates during the market research phase of the acquisition process, including:
  - (1) Understanding how the court’s existing hardware and software will be used, with or without upgrades in the digital recording system;
  - (2) Identifying additional hardware and software that would be required and how that would be integrated into the court’s current computer environment. In this regard, potential conflicts with existing hardware and software should be identified; and
  - (3) Performing a detailed analysis of existing network capabilities in relation to the additional requirements that would be imposed by a digital audio recording system. Determining additional server

needs and other network equipment or connectivity requirements. Assessing system integration issues.

- (b) All requirements for system purchase and installation must be established in the appropriate procurement documents. **See:** Guide, Vol. 14, § 230.30 (Statements of Work).

### § 3C.40.20 Sound Systems

Courts should also work with digital audio recording system vendors to determine if their existing sound systems are adequate for the products under consideration. If installation of a digital audio system would require modification to existing sound systems, the court should consider using the services of one of the AO's audio/video design term contractors available through the Office of Information Technology's Infrastructure Management Division. These designers can ensure that existing sound systems are modified appropriately to accommodate this new digital technology.

**Note:** Digital audio recording system vendors should not open, adjust, or work in the court's existing audio sound system cabinets since this could invalidate warranties or maintenance contracts on the sound systems.

### § 3C.40.25 Record Annotation Options

- (a) Using a digital audio recording system to take the record of a proceeding can offer advantages, such as improved sound quality, easier access through electronic retrieval or transmission, and inclusion as an element in an electronic case file.

In addition, digital audio also typically offers the opportunity to directly link the audio file to the recorder's notes (or annotations made by others) for easy search, replay, or transcription. Alternatively, digital audio can allow notes from an external source, such as WordPerfect, to be related to the audio file via time synchronization.

- (b) Courts interested in digital audio recording systems should consider the following issues related to record annotation:
  - (1) The advantages of an integrated note-taking/recording system may include better linkage between log notes and the audio file(s) to which they relate. Disadvantages may include the need for a database file to maintain the log notes, more difficulty in editing log notes, and greater reliance on proprietary formats;
  - (2) Using a separate note-taking system, such as WordPerfect, may offer the advantage of easier editing, reliance on industry standards, and less technical complexity. However, the lack of direct integration with the audio record may require greater user

set-up time and adversely affect the ability to access and play selected parts of the record;

- (3) In evaluating integrated or separate system designs for notetaking or any other digital audio features, courts should test all systems and procedures to ensure that they meet the court's requirements provided in the Statement of Work which should include:
  - (A) Evaluating the level of effort required to set up a recording session. Consider whether setup information can be adjusted from session to session or must be completely reentered each time;
  - (B) Determining whether the screens accommodate all of the information that court recorders and/or transcribers need to enter into the log, such as names and addresses for all attorneys;
  - (C) Considering whether court recorders can enter this information at a convenient time and without disruption to court proceedings;
  - (D) Considering whether the court recorder's notes can be edited after they are entered; and
  - (E) Evaluating whether electronic court recorders can maintain the same level of quality with the new note-taking system as they achieved with the older system of log notes.
- (4) Consult with the court's judges as to whether they want to take private notes from the bench that could be integrated with the audio record. If so, they should be involved in selecting the design.

### **§ 3C.40.30 System Integration Opportunities and Data Storage**

Integrating a digital audio recording system with a court's case management system to import case information electronically can save data entry time and reduce errors. Consult with the case management system's designers and supporters as to the feasibility and costs of such integration. Each court should determine if this functionality is a system requirement and, if so, this requirement must be identified specifically in the court's Statement of Work.

### **§ 3C.40.35 Impact on Court Operations**

A new recording system may have an effect on how the court functions. Courts must evaluate the following:

- (a) Modifications, if any, that may be required in current courtroom, chambers, or clerk's office procedures to accommodate a new way of doing business.
- (b) Physical impacts on the courtroom or other operational areas, including impact on courtroom aesthetics, court recorders' line of sight, and access to aisles and exits. Wiring issues and the ability to "hide" equipment should be reviewed carefully, particularly in older or ceremonial courtrooms.
- (c) Impacts on staffing, such as requirements for additional personnel for systems support and training.

### **§ 3C.40.40 Product Suitability and Customization Requirements**

In considering the purchase of a digital audio system, courts must determine whether the product under consideration accommodates the way cases are handled (e.g., appellate, bankruptcy, district, or magistrate matters).

- (a) Carefully assess each product's capabilities and features to determine the extent of customization, such as special screens or "hot keys," that may be required to handle particular proceedings, including motion calendars or special cases, such as sealed cases. If special screens and/or "hot keys" are needed, establish a training period to ensure that staff are familiar with their functionalities and capabilities.
- (b) If customization is needed, the court must clearly identify if the responsibility for making the changes lies with the court or the vendor.
  - (1) If the vendor is required to customize the product, the court must ensure that the required customization is defined in the Statement of Work. A vendor's proposal should then address the changes to be made with performance deadlines. The court must also ensure that the contract includes a requirement to support the system in the future with all customization.
  - (2) If the court is to be responsible for customizing the system, the court must ensure that it has adequate technical expertise and determine the extent of assistance, including software, manuals, or technical support, that the vendor must provide to help make such customization possible. Also, the court should consider whether such customization would affect vendor support or warranty provisions.
- (c) Courtroom staff, including those responsible for electronic sound recording, should be involved in evaluating proposals. The court should arrange for an actual in-courtroom test of a product, rather than a simple

office demonstration, as well as an explanation of training requirements and the kind of training to be provided.

- (d) If possible, the court should consider visiting another court with a system already installed and operating.

### **§ 3C.40.45 Records Management Issues**

Implementation of audio digital recording raises a number of records management issues. Central to these concerns is cost. Analog tapes require some maintenance over their record life span. Tapes deteriorate and must be stored in an acceptable temperature and humidity range. Digital records are susceptible to obsolescence of the software to read them and the hardware upon which they are stored. As a result, they need more care-taking and periodic refreshes for both hardware and software. For more information regarding retention of digital audio files, **see:** Guide, Vol. 10, Ch. 6 (Records Management); and Records Management page on JNet.

### **§ 3C.40.50 Transcription Issues**

A court must assess the court community's need for transcription services. If transcripts are regularly needed either by judges or attorneys, the court must determine whether transcription companies are available to transcribe the record.

- (a) Courts may find that if judges can easily listen to the record in chambers, or attorneys have access to the record via the internet, the demand for transcripts may decrease.
- (b) Moreover, the court must consider the use of digital audio recording technology with transcription firms to assess the readiness of the firms to make the switch to digital transcription. The court has no responsibility to provide sufficient volume to make the transcription company's special equipment purchase worthwhile.
- (c) The court must determine how to send digital audio files to transcription firms via the internet or modem. Special procedures will be necessary for the transcription of sealed, redacted, and other sensitive proceedings.
- (d) The court must determine whether the equipment meets industry standards. Foot pedals that meet industry standards must be used. The transcription software must allow them to keep their hands on the keyboard as much as possible and have windows and fonts that are sizeable and capable of displaying more than one line of text at a time. And, to assist transcribers in the identification of speakers, the digital recording software must time stamp the log notes when a court recorder begins the log note rather than at the completion of the note.

- (e) The court must identify transcription service providers that can accommodate digital recording files.

### **§ 3C.40.55 Training**

- (a) The training program must be tailored to the background and needs of the users, including judges and electronic court recorders, and must provide training materials and reference manuals that can be used after the training is completed. If a court's computer systems staff are to provide ongoing hardware and/or software support to users, they must be trained as well. With sufficient training, systems staff may be able to diagnose and, perhaps with telephone assistance from the vendor, resolve problems that would otherwise require site visits. Training requirements must be identified in the Statement of Work.
- (b) Responsibility for training should not fall entirely on the vendors. A court must help by identifying user needs (e.g., the level of computer literacy and/or the type and nature of tasks to be performed) and by scheduling uninterrupted training that includes hands-on courtroom experience as appropriate to the user. If users need basic computer training, the court should arrange for it to occur prior to training on the digital recording software. Courts must be willing to set aside sufficient time for on-going training and accommodate individual training needs as necessary.

### **§ 3C.40.60 Implications of Adding Courtrooms or Chambers to the System**

- (a) Courts wishing to "phase in" digital recording in a few courtrooms at a time must adhere to all procurement authority limitations. **See:** § 3C.60 (Systems Acquisition and Implementation).
- (b) Courts using a centralized digital audio design that want to install systems in additional courtrooms must be aware that existing equipment and services may need to be enhanced to support expansion. Adding courtrooms to these systems will necessitate changes to existing hardware, requiring more support from systems staff, and may necessitate hiring personnel for that purpose.
- (c) Contractors may be required to support infrastructure changes. It will be up to the court to coordinate the efforts of the various contractors so that each contractor can perform its responsibilities effectively. A good way to handle multiple contractors is to bring them together periodically for coordinating meetings.

### **§ 3C.40.65 Implications of Running a Mixture of Analog and Digital Systems**

Courts may decide to use digital recording systems in some, but not all, courtrooms that currently use analog electronic sound recording. Issues to consider include the following:

- Use of mixed recording modes may undercut the advantages of eliminating the older analog technology,
- Electronic court recorders may not be able to substitute for each other in different courtrooms unless cross-training is provided for on both systems,
- It may become complicated to produce tapes and obtain transcripts due to storage of the record in different modes and in different locations, and
- Integration of existing analog systems with new digital systems is problematic because the sound quality may be impacted adversely if parallel systems are maintained.

### **§ 3C.40.70 Emergency Backup Planning**

- (a) Courts may run their analog systems in parallel with the new digital systems as long as they deem necessary to mitigate risk to the record in the event of a malfunction. For courts that continue to use this mode for backup, the issues cited above regarding maintaining older technology, training, and locating recorded material will persist. Also, a major issue to be considered may be the need not only to split the audio signal from the microphone to feed into both the analog and digital systems, but also to amplify the signal to serve both recording systems. In some cases, installation of special equipment may be required.
- (b) An alternative to an analog backup is to have an emergency “crash cart” pre-loaded with the digital audio system that can be substituted quickly in the courtroom if a system fails. However, there are drawbacks to this approach. The first is the cost associated with buying and maintaining an emergency backup, which must be kept current (i.e., loaded with current versions of the software and possibly even the function key “shortcuts”) so that it can be substituted in the middle of court proceedings. Second, use of a crash cart resolves problems that arise from a faulty workstation in the courtroom, but would not necessarily compensate for server or network problems.
- (c) A second alternative that might be considered is use of a digital mini-disk recorder or laptop with sound input for emergency backup in court. This machine would not be able to reproduce a multi-track recording, but it could be substituted easily during a short break in proceedings. Since

such a digital recorder would only record audio, the electronic court recorder would have to revert to handwritten log notes. This approach addresses the cost and technology issues but does not address the problem of having the log notes in a non-digital format. This potentially could be solved if the digital audio files from a different source, such as a mini-disk, could be transferred into the principal digital recording system with log notes to be added at a later time.

### **§ 3C.40.75 Security Issues**

- (a) Digital audio recording systems require a security plan consistent with Guide, Vol. 15, § 310.20.10 (System Security Plans). This plan is a written assessment of the security risks associated with the system, and how these risks have been mitigated, including countermeasures or defenses put in place.
- (b) In addition to the guidance in Guide, Vol. 15, § 310.20.09, the information security plan for a digital audio recording system, would also include, but not be limited to, the following items:
  - (1) The means to authenticate valid users of the system, and written procedures covering authorized users and uses of the system,
  - (2) System level access protections allowing different kinds of access for different types of users, including features allowing locking of “private” annotation files,
  - (3) Protections for the possible inadvertent connection to a building LAN that could allow access to unauthorized users,
  - (4) Protections for problems resulting from sending digital files to authorized users (such as transcription services) over transmission media that would allow access by unauthorized users (e.g., sending unencrypted files over the internet),
  - (5) Protections for the possible tapping of cables carrying such information,
  - (6) Protections for other unauthorized listening to sealed or other sensitive court proceedings,
  - (7) Written backup and recovery procedures to ensure availability of the files and also to prevent unauthorized access to backup media of sensitive proceedings, and
  - (8) To the extent that the court opts to make digital audio recordings publicly available through the internet or other electronic means,



procedures must be in place to ensure privacy and protect sensitive information and to preclude malicious or inadvertent disclosure or alteration.

- (c) Each court must develop its own procedures and ensure that the system handles and secures sealed and other sensitive matters.

### **§ 3C.50 Integration of Digital Audio Recording Systems and CM/ECF**

Many courts have given considerable attention to the integration of digital audio recording records with the Case Management/Electronic Case Files system (CM/ECF) to improve the overall efficiency and effectiveness of court operations. Courts have expressed an interest in several processes for integrating digital audio recording records with CM/ECF.

### **§ 3C.60 System Acquisition and Implementation**

The court must develop a statement of work and select an acquisition method. **See:** Guide, Vol. 14, Ch. 2 (Procurement Planning and Preparation) and Ch. 3 (Purchasing Methods).

# Guide to Judiciary Policy

Vol. 6: Court Reporting

## Ch. 4: Reporting Activities

### [§ 410 Reporting for Magistrate Judges](#)

[§ 410.20 Statutory Authority](#)

[§ 410.30 Guidelines for Recording Court Proceedings](#)

[§ 410.50 Responsibilities](#)

[§ 410.60 Attendance Fees](#)

[§ 410.70 Transcripts of Magistrate Judge Proceedings](#)

### [§ 420 Reporting for Bankruptcy Judges](#)

[§ 420.10 Bankruptcy Court](#)

[§ 420.20 Electronic Sound Recording](#)

[§ 420.30 Authority for Use of Electronic Sound Recording](#)

[§ 420.40 Election to Use Electronic Sound Recording Equipment](#)

[§ 420.50 Electronic Court Recorder Operators](#)

[§ 420.60 Electronic Court Recorder Operator Responsibilities](#)

### [§ 430 Official Court Reporter Private Reporting Activities](#)

[§ 430.10 Overview](#)

[§ 430.30 Not Permitted During Tour of Duty](#)

[§ 430.41 Reporting for the United States Attorney's Office](#)

[§ 430.50 Use of Federally Provided Space and Equipment](#)

### [§ 440 Substitute Court Reporters](#)

[§ 440.10 Overview](#)

[§ 440.50 Voluntary Use of Substitute Reporter](#)

[§ 440.60 Judge Appointed \(Involuntary\) Use of Substitute Court Reporter](#)

[§ 440.80 Oath](#)

[§ 440.90 Court Reporter Responsibilities](#)

### [§ 450 Contract Court Reporting](#)

[§ 450.10 Statutory Authority](#)

[§ 450.20 Use of Contract Court Reporters](#)

[§ 450.30 Funds Appropriated for Contract Court Reporter Services](#)

### [§ 460 Private Court Reporting Services Hired by Parties](#)

[§ 460.10 Court Reporters Act](#)

[§ 460.20 Exceptions](#)

## § 410 Reporting for Magistrate Judges

- (a) All courtroom proceedings handled by United States magistrate judges must be recorded. Magistrate judges are an integral part of the district courts, and their requirements for court reporter services should be considered as part of the overall needs and resources of the district courts. The method of taking the record of proceedings conducted before magistrate judges will vary according to the type of proceedings and individual circumstances.
- (b) As a general rule, electronic sound recording equipment should be used to record proceedings conducted before a magistrate judge.
  - (1) Where the magistrate judge determines that a court reporter is required by specific rule or statute, or by the particular circumstances of an individual case, the court reporting supervisor should assign one of the official court reporters.
  - (2) If an official court reporter is not available, the court reporting supervisor may use a contract court reporter whose attendance is paid by the court; there can be no charge to the parties for the contract court reporter's attendance.

### § 410.20 Statutory Authority

The following statutes and rules require the use of court reporters or suitable electronic sound recording equipment to record specific magistrate judge proceedings:

- (a) 28 U.S.C. § 753 – Court Reporters Act

“Each session of the court and every other proceeding designated by rule or order of the court or by one of the judges shall be recorded verbatim by shorthand, mechanical means, electronic sound recording, or any other method, subject to regulations promulgated by the Judicial Conference and subject to the discretion and approval of the judge.”
- (b) 18 U.S.C. § 3060(f) – Preliminary Examinations

“Proceedings before United States magistrate judges under this section shall be taken down by a court reporter or recorded by suitable sound recording equipment.”
- (c) 18 U.S.C. § 3401(e) – Misdemeanors

“Proceedings before United States magistrate judges under this section shall be taken down by a court reporter or recorded by suitable sound recording equipment.”

- (d) 18 U.S.C. § 4107(e) and § 4108(e) – Consent Verification Hearings

“The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment.”

- (e) 28 U.S.C. § 636(c)(5) – Civil Consent Proceedings

“The magistrate judge shall, subject to guidelines of the Judicial Conference, determine whether the record taken pursuant to this section shall be taken by electronic sound recording, by a court reporter, or by other means.”

- (f) Fed. R. Crim. P. 5.1(g) – Preliminary Hearings

“Recording the Proceedings. The preliminary hearing must be recorded by a court reporter or by a suitable recording device. A recording of the proceeding may be made available to any party upon request. A copy of the recording and a transcript may be provided to any party upon request and upon any payment required by applicable Judicial Conference regulations.”

- (g) Fed. R. Crim. P. 6(f) – The Grand Jury (Indictment and Return)

“The grand jury — or its foreperson or deputy foreperson — must return the indictment to a magistrate judge in open court.”

- (h) Fed. R. Crim. P. 58(e) – Petty Offenses and Other Misdemeanors

“The court must record any proceedings under this rule by using a court reporter or a suitable recording device.”

- (i) Fed. R. Civ. P. 72(b)(1) which governs court-ordered referrals of dispositive motions and prisoner petitions to magistrate judges under 28 U.S.C. § 636(b) and requires that “[a] record must be made of all evidentiary proceedings and may, at the magistrate judge’s discretion, be made of any other proceedings.”

- (j) Fed. R. Civ. P. 73(a) implements the civil trial jurisdiction of magistrate judges permitted with the consent of the parties under 28 U.S.C. § 636(c) and provides that “[w]hen authorized under 28 U.S.C. § 636(c), a magistrate judge may, if all parties consent, conduct a civil action or proceeding, including a jury or nonjury trial. A record must be made in accordance with 28 U.S.C. § 636(c)(5).”

- (k) At least one court of appeals has concluded that 28 U.S.C. § 753(b) does not require that proceedings before a magistrate judge be taken down by a court reporter, but that electronic sound recording may be used instead. In *Nettles v. Wainwright*, 677 F.2d 404, 409 n.5 (5th Cir. Unit B 1982) (en banc) the court noted that “Congress consistently evinced the view that magistrate judge proceedings are not required to be taken down by an official court reporter using stenographic means but that electronic sound recording may be used instead.”

## § 410.30 Guidelines for Recording Court Proceedings

### § 410.30.10 Introduction

- (a) All matters handled by magistrate judges in open court must be recorded, whether civil or criminal proceedings.
- (b) A magistrate judge determines whether the record will be taken by electronic sound recording, by a court reporter, or by other means subject to the court’s Court Reporting Management Plan. **See:** § 410.20 (Statutory Authority).

### § 410.30.30 Determination of Recording Method

While formal guidelines have not been presented to the Judicial Conference for adoption, the following criteria are suggested for making a determination on the method of recording:

- (a) Use an official court reporter, an electronic sound recording system with a dedicated operator, or a contract court reporter for:
  - (1) detention hearings,
  - (2) motion hearings that involve witnesses or many exhibits;
  - (3) all trials and evidentiary hearings, including petty offense and misdemeanor trials; and
  - (4) special master references involving several witnesses and exhibits.
- (b) Use electronic sound recording equipment operated by the courtroom clerk (or clerical assistant) for:
  - (1) misdemeanor and petty offense cases (except trials);
  - (2) initial court proceedings in felony cases;

- (3) motion hearings in civil and criminal cases that do not involve witnesses or many exhibits; and
  - (4) civil and criminal conferences held in open court, including initial pretrial, discovery, omnibus, status, and final pretrial conferences.
- (c) The proper method of recording proceedings for which the method is not specified is left to the discretion of the magistrate judge within the guidelines of the court's Court Reporting Management Plan.

### **§ 410.50 Responsibilities**

- (a) Court Reporting Management Plan

As previously identified in Guide, Vol. 6, § 290.30.25 (Elements of a Plan), each court's Court Reporting Management Plan must include the reporting services required for the court's magistrate judges.

- (b) Magistrate Judge

The magistrate judge is responsible for notifying the court reporting supervisor in the event a court reporter is required.

- (c) Court Reporting Supervisor

The court reporting supervisor is responsible for making assignments to meet magistrate judges' needs consistent with Judicial Conference policy and local court rules.

### **§ 410.60 Attendance Fees**

- (a) Official, temporary, and combined-position court reporters or their substitutes may not charge attendance fees for reporting magistrate judge proceedings.
- (b) In no case may the parties be charged court reporter attendance fees regardless of which type of reporter, including substitutes or contractors, provides the service.

### **§ 410.70 Transcripts of Magistrate Judge Proceedings**

The preparation and cost of transcripts of magistrate judge proceedings reported by a court reporter, including a contract court reporter, are governed by 28 U.S.C. § 753.

**§ 410.70.10 Authorized Charges**

- (a) The court reporter must prepare a transcript of the requested portion of the proceedings for delivery to the party or judge making the request, consistent with applicable law, judiciary policy, and local court rules.
- (b) Official court reporters may not charge the court for producing a transcript when requested by a district judge or by a magistrate judge; however, they may charge parties who have requested transcripts.
- (c) Contract court reporters may charge for transcripts requested by a district judge or by a magistrate judge and by parties. However, contract court reporters must provide a certified transcript to the clerk of court without charge under 28 U.S.C. § 753(b).

**§ 410.70.20 When Required By a District Judge On Review**

- (a) Under 28 U.S.C. § 636(b)(1), a district judge must make a “de novo determination of those portions of [a magistrate judge’s] report or specified proposed findings or recommendations to which objection is made.”
  - (1) A number of decisions by the courts of appeals have held that the “de novo determination” provided for in 28 U.S.C. § 636(b)(1) requires the district judge to read the transcript or listen to the audio recording of the evidence considered by the magistrate judge.
  - (2) Examples:
    - (A) *Taylor v. Farrier*, 910 F. 2d 518 (8th Circuit 1990) (failure to review the evidence and failure even to have a transcript filed with the district court in this case made de novo review impossible), and
    - (B) *Calderon v. Waco Lighthouse for the Blind*, 630 F.2d 352 (5th Cir. 1980) (to make a de novo determination of the credibility of a witness, the judge must at least read the transcript or listen to the audio recording).
- (b) Fed. R. Civ. P. 72(b), which governs court-ordered referrals of dispositive motions, requires a transcript of the record or portions thereof when timely objections to the findings of a magistrate judge are filed unless the district judge otherwise directs.
  - (1) The party objecting to the recommended disposition must order a copy of the transcript.

- (2) A free copy will then be provided for the court's use under 28 U.S.C. § 753(b).

**§ 410.70.30 When Required By a Magistrate Judge**

- (a) To minimize costs and delays, it is recommended that a magistrate judge not order a transcript for the magistrate judge's own use in preparing findings and preparing a report. Nevertheless, in exceptional cases, the provision of a transcript may be necessary where:
  - (1) there is a lengthy or complex record,
  - (2) the subject matter of the hearing or trial is technical or difficult,
  - (3) important credibility questions are involved, or
  - (4) there are serious conflicts in the testimony.
- (b) Whenever possible, the magistrate judge should explore alternatives to the ordering of a lengthy transcript, including:
  - (1) the use of an electronic recording,
  - (2) the taking of notes by the magistrate judge,
  - (3) requiring the parties to file proposed findings of fact,
  - (4) the use of partial transcripts, and
  - (5) asking the court reporter to read back from the original notes.
- (c) Transcripts, moreover, should only be required in the case of evidentiary hearings.
- (d) Fed. R. Civ. P. 53 governs a magistrate judge acting as special master under 28 U.S.C. § 636(b)(2).
  - (1) Rule 53(e)(1) directs that, "in an action to be tried without a jury, unless otherwise directed by the order of reference, the master shall file . . . a transcript of the proceedings [with the clerk]. . . ."
  - (2) The Administrative Office of the U.S. Courts' (AO) Office of the General Counsel has concluded that Rule 53 requires the cost of such a transcript to be taxed to the parties, to be apportioned among them as directed by the court. This applies whether the transcript was prepared by an official court reporter, a court employed transcriber, or a contract court reporter.



## **§ 420 Reporting for Bankruptcy Judges**

### **§ 420.10 Bankruptcy Court**

- (a) Bankruptcy courts ordinarily use electronic sound recording. **See:** Guide, Vol. 6, § 350 (Electronic Sound Recording). If a bankruptcy judge elects to use a court reporter, contract reporters are used to take the record; there are no official court reporters in bankruptcy courts.
- (b) The Judicial Conference disapproved the use of realtime reporting systems (**see:** Guide, Vol. 6, § 320 (Realtime Reporting)) in bankruptcy courts because they did not appear to be cost effective. JCUS-MAR 1994, p. 16.

### **§ 420.20 Electronic Sound Recording**

The Court Reporters Act (28 U.S.C. § 753(b)) states that "[e]ach session of the court and every other proceeding designated by rule or order of the court or by one of the judges shall be recorded verbatim by shorthand, mechanical means, electronic sound recording, or any other method, subject to regulations promulgated by the Judicial Conference and subject to the discretion and approval of the judge." **See:** Guide, Vol. 6, § 350.

### **§ 420.30 Authority for Use of Electronic Sound Recording**

The Judicial Conference "approved digital audio recording technology as a method of taking the official record in federal court, to be implemented upon the development of guidelines by the Director of the Administrative Office. The guidelines should include technical and functional system requirements and a self-assessment tool for courts to use when deciding whether to purchase digital audio recording systems. Additional funds over the cost of analog systems will not be provided." JCUS-SEP 1999, p. 57. **See:** Guide, Vol. 6, § 350.10.

### **§ 420.40 Election to Use Electronic Sound Recording Equipment**

**See:** Guide, Vol. 6, § 350.20.

### **§ 420.50 Electronic Court Recorder Operators**

**See:** Guide, Vol. 6, § 350.30.

### **§ 420.60 Electronic Court Recorder Operator Responsibilities**

**See:** Guide, Vol. 6, § 350.30.20.

## § 430 Official Court Reporter Private Reporting Activities

### § 430.10 Overview

- (a) Private reporting activities are not salaried or statutory duties. Activities not related to recording court sessions and preparing official transcript for court sessions are considered private reporting. These include:
- grand jury reporting,
  - taking of depositions,
  - reporting for the United States Attorney's Office,
  - transcribing recordings for private parties, and
  - any other reporting activities not related to salaried or statutory duties.
- (b) The legislative history of 28 U.S.C. § 753 indicates that court reporters might engage in private reporting work.
- (c) The extent to which official court reporters are allowed to engage in private reporting is a matter that has been left to the discretion of each individual court.
- (1) When there is a scheduling conflict between official and private reporting work, the official court reporter must postpone private reporting work.
- (2) All private reporting activities must adhere to guidance in the court reporting management plan. JCUS-MAR 1983, pp. 11-12.
- (d) If the court has approved the official court reporter's engagement in private reporting activity, the court reporter must perform that work in a private office outside the court that is completely separate from official activities. All advertising must refer to the private office. Official court reporters may not use their physical court addresses, court email addresses, or government provided telephones when advertising for private reporting work. **See:** 41 CFR 102-74.410.

### § 430.30 Not Permitted During Tour of Duty

For guidance on restrictions on private reporting activities for court reporters on a regular tour of duty, **see:** Guide, Vol. 6, § 240.20 (Restriction on Private Reporting Activities).

## § 430.41 Reporting for the United States Attorney's Office

### § 430.41.10 Overview

- (a) The Department of Justice must provide for the recording of grand jury proceedings. JCUS-SEP 1981, p. 96-97.
  - (1) Reporting for a grand jury and taking depositions for a U.S. Attorney's office may be approved by the court but are considered private reporting work.
  - (2) They are not salaried or statutory duties of the official, temporary, or combined-position court reporters under 28 U.S.C. § 753.
  - (3) The only exception is for grand jury returns that take place in open court. **See:** Guide, Vol. 6, § 410.20(g) (The Grand Jury (Indictment and Return)).

**Note:** If a court reporter uses a computerized system of transcription which involves transcription by an independent service center (as opposed to an on-premises, self-contained system), the court reporter should **not** use it for grand jury proceedings and should consider some other method free from potential for abuse of the secrecy requirements for grand jury proceedings.

- (b) Court reporters under a tour of duty may not engage in grand jury or deposition reporting or any other private activities during their assigned hours. The Comptroller General determined that payment to an official court reporter for attendance at grand jury depositions would be in contravention of the double compensation statutes. **See:** Comptroller General Decision B-76606 (Oct. 7, 1948) and Department of Justice Circular No. 3916, Supp. No. 1, Oct. 31, 1945.

### § 430.41.20 Court Approval

- (a) Each court must decide, and document in their court reporting management plan, whether to permit court reporters to engage in private reporting for grand juries and depositions.
- (b) An official court reporter must request, in advance, approval from the court reporting supervisor to perform grand jury or deposition work.
- (c) The supervisor must determine that permitting such work will not be in conflict or adversely affect the production of transcripts.

### **§ 430.41.30 Disallowed Use of Substitute and Contract Court Reporters**

- (a) An official court reporter may not hire a substitute court reporter to report a proceeding before a judicial officer to free the official court reporter to report for a grand jury or take a deposition.
- (b) Courts may not contract for reporting services to free its official court reporters to report grand jury proceedings or take depositions.

### **§ 430.41.40 Department of Justice**

- (a) Transcription services for grand jury proceedings or depositions for the United States Attorney must be arranged by the Department of Justice.
- (b) Court reporters may charge for transcripts provided for grand jury proceedings and depositions at rates agreed to by the U.S. Attorney's office or other private parties. The maximum rates for transcripts established by the Judicial Conference do not apply.
- (c) If a court reporter's bid includes the services of assistants and the U.S. Attorney's office awards a contract to the court reporter, the cost of the assistants' services must be paid to the court reporter by the U.S. Attorney's office.

### **§ 430.50 Use of Federally Provided Space and Equipment**

- (a) Space, equipment, and supplies necessary for private reporting work are to be provided at the official court reporter's expense and used outside the courthouse.
- (b) Any employee the official court reporter hires for private reporting activities may not be housed in office space assigned to the court reporter for official duties within the courthouse or other federal building. **See:** Guide, Vol. 6, § 260 (Space, Facilities, and Supplies).

## **§ 440 Substitute Court Reporters**

### **§ 440.10 Overview**

Each official court reporter should devote his or her personal services to the duties of his or her position. When the official court reporter needs assistance to furnish transcripts of proceedings currently or for other reasons, he or she should be permitted to employ and compensate assistants satisfactory to the presiding judge. JCUS-APR 1944, p. 3.

### § 440.50 Voluntary Use of Substitute Reporter

- (a) Voluntary use of substitute court reporters is limited to those official court reporters who are not on a regular tour of duty. Official court reporters not under 5 U.S.C. chapter 63, subchapter I (“Annual and Sick Leave Act of 1951,” formerly referred to as the “Leave Act”) may employ substitute court reporters for absence due to illness, vacations, or reasons beyond the court reporter’s control, according to the requirements of the Judicial Conference. **See:** Guide, Vol. 6, § 240.10 (Leave).
- (b) Limiting the Voluntary Use of Substitute Reporters
  - (1) The Conference, as a matter of policy, discourages the use of substitute court reporters, and limits such use to daily copy work, absence due to illness, vacations, and other similar circumstances beyond the control of the court reporter. JCUS-MAR 1980, pp. 19-20. Only court reporters who are not on a regular tour of duty may utilize substitutes to cover these circumstances.
  - (2) Official court reporters who are not on a regular tour of duty should limit the use of substitute court reporters by using note readers, scopists, typists, and computer assisted transcription systems to produce transcripts.
- (c) Approval for Hiring

A non-tour of duty official court reporter must obtain advance approval from the court reporting supervisor before hiring a substitute, as provided in the court reporting management plan.

### § 440.60 Judge Appointed (Involuntary) Use of Substitute Court Reporter

- (a) Involuntary Appointment of Substitute Court Reporters

A district judge or the chief judge of a circuit may appoint a substitute court reporter if an official court reporter is unable to complete transcripts promptly. In addition, a court may direct an official court reporter who is unable to complete transcripts on time to hire a substitute court reporter. This will be at the expense of the official court reporter.
- (b) Determination of Need
  - (1) The substitute court reporters should be employed to service the requirements of the district judge where the official court reporter is unable to complete his or her transcripts promptly, and the salary of the official court reporter is subject to withholdings not to exceed

the sum necessary to compensate the substitute court reporter until the transcripts are current.

- (2) The need for substitute court reporter service is to be determined by the district judge affected or by the chief judge of the circuit, at his or her option, acting through the circuit executive. JCUS-MAR 1975, p. 8.

(c) Payment

(1) Payment of Substitute Court Reporter

If it is necessary for a judge to appoint a substitute court reporter, the official court reporter may:

- (A) voluntarily pay the substitute court reporter from the official court reporter's own funds, or
- (B) be placed on leave without pay and have the court pay the substitute court reporter.

(2) Withholding Salary

If the official court reporter chooses not to pay the substitute, the Judicial Conference has approved the withholding of salary of the official court reporter not to exceed the sum necessary to compensate the substitute court reporter until the transcripts are current. The court should notify the AO to withhold the salary of the official court reporter. JCUS-MAR 1975, p. 8.

### § 440.80 Oath

The substitute court reporter must take an oath to make and report faithfully, impartially, and truly all proceedings held before judicial officers. **See:** Guide, Vol. 6, § 220.40 (Appointment Oath of Office and Proceedings Oath for Court Reporters).

### § 440.90 Court Reporter Responsibilities

The official, temporary, or combined-position court reporter is ultimately responsible for the performance of the substitute court reporter. In particular, the official court reporter is responsible for ensuring that the substitute court reporter:

- (a) meets the minimum qualification requirements established by the Judicial Conference and the court for official court reporters;
- (b) provides satisfactory reporting services for the courts;

- (c) produces certified transcript for proceedings recorded by the substitute court reporter as required by statute or rule of the court upon request of a judge or order by parties;
- (d) follows the format and page rates established by the Judicial Conference;
- (e) certifies and files original notes with the clerk of court;
- (f) certifies and transcribes, or provides a certified electronic sound recording of all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases;
- (g) requests extensions of time for delivery of transcripts, if required; and
- (h) provides information on the number of pages of transcript produced for inclusion on the employing reporter's Form AO 40A.

## **§ 450 Contract Court Reporting**

### **§ 450.10 Statutory Authority**

- (a) Under 28 U.S.C. § 753(g), circuit councils are to provide the AO Director with a determination that, in a given district, court reporters should be provided on a contractual basis.
- (b) Under 28 U.S.C. § 332(d)(1) and (2)), the councils have the discretion to take a more active role in supervising the courts' administration of contractual court reporting programs if they wish. (AO's Office of the General Counsel opinion, Oct. 16, 1989.)
- (c) The need for contractual services should be delineated in the courts' Court Reporting Management Plans. **See:** Guide, Vol. 6, § 290.30 (Court Reporting Management Plan and Court Reporting Supervisor).

### **§ 450.20 Use of Contract Court Reporters**

#### **§ 450.20.10 District Court**

- (a) Under-utilized official court reporters should be made available for the reporting of proceedings before magistrate judges, senior judges, visiting judges, and land commissioners to minimize or obviate the need for contract court reporters. JCUS-MAR 1980, p. 20.
- (b) Before employing contract court reporters, a court should make every effort to fully utilize its official court reporters. The use of pooling systems

for official court reporters in multi-judge courts is encouraged. JCUS-MAR 1981, p. 24.

- (c) Through scheduling, the use of temporary or contractual services is to be minimized to every extent practicable. JCUS-MAR 1982, p. 8.
- (d) Reporting services for senior judges are to be provided through a combination of official court reporters and contract court reporters. JCUS-MAR 1982, p. 11.
- (e) The court is allowed to hire a contract court reporter to assist an official court reporter when all the following conditions exist:
  - (1) the official court reporter has requested relief because a judge has scheduled more than one trial per day, and the official court reporter is reporting for at least five hours on each such day;
  - (2) the chief judge of the district certifies that a judge has scheduled more than one trial per day requiring reporting services for five or more hours per day and the court's other official court reporters are unable to cover the proceedings because they are scheduled to report other proceedings or are on leave;
  - (3) the purpose for considering and approving the relief is not to allow the official court reporter to work on transcript production; and
  - (4) an official court reporter not under a tour of duty who is provided relief is prohibited from engaging in private reporting work on those days relief is provided. JCUS-MAR 1992, p. 27.

#### **§ 450.20.20 Procurement of Contract Court Reporting Services**

For guidance on locating and procuring contract court reporting services, **see:** JNet's Special Delegations - Court Reporting Services page.

#### **§ 450.30 Funds Appropriated for Contract Court Reporter Services**

- (a) Payment for Transcripts
  - (1) A general authorization for the payment for transcripts ordered from contract court reporters by district, magistrate, and bankruptcy judges has been provided.
  - (2) Funds allotted to the district and bankruptcy courts specifically for the attendance and travel of contract court reporters may not be used to pay contract court reporters for court-ordered transcripts.



For additional guidance, **see**: BOC 2532 (Payment for Transcripts).

- (b) Expenses for contract court reporter appearance fees are paid from BOC 2531.
- (c) Funds allotted for the attendance and travel of contract court reporters may not be used to assist official court reporters in the production of expedited, daily, or hourly transcripts, nor to replace official court reporters to allow them to engage in transcript production or in private reporting work. **See**: Guide, Vol. 6, § 270.40 (Travel by Contract Court Reporters).
- (d) Contractual attendance fees and the cost of court-ordered transcripts cannot be levied against parties.

## **§ 460 Private Court Reporting Services Hired by Parties**

### **§ 460.10 Court Reporters Act**

The Court Reporters Act (28 U.S.C. § 753) was enacted to end the practice of parties hiring private court reporting services. It is the responsibility of the courts to take the official record of court proceedings, and that statutory responsibility cannot be delegated to a party, an attorney, or a court reporting service hired by a party or attorney.

### **§ 460.20 Exceptions**

In unique circumstances, where expedited delivery is necessary but not available from the court, it may be appropriate for a judge to allow the attorneys or parties to bring their own private court reporting service for the purpose of creating an unofficial expedited record.

#### **§ 460.20.10 Court's Responsibility to Maintain Official Record**

If the judge allows the attorney or party to bring their own private court reporting service to take a record of the proceedings, the official record must still be created and maintained by the court.

#### **§ 460.20.20 Transcripts Produced by Private Court Reporting Service**

- (a) In some circumstances, after a transcript has been prepared by a court reporter hired by one of the parties or an attorney, the parties in a case may stipulate that the transcript so produced is representative of the proceeding in the case.
- (b) In instances like this, the presiding judicial officer may determine whether the stipulation is acceptable.

- (c) The stipulation must be made after the conclusion of the proceedings. If the stipulation is accepted before or during the court proceedings, the court must compensate that service provider.
- (d) The court and service provider must follow all statutory and Judicial Conference policies and procedures, including 28 U.S.C. § 753(g).

# Guide to Judiciary Policy

Vol. 6: Court Reporting

## Ch. 5: Transcripts

### [§ 510 Overview](#)

[§ 510.17 Transcript Categories](#)

[§ 510.20 Transcripts to the Court](#)

[§ 510.25 Transcripts and Records for the Clerk of Court](#)

[§ 510.30 Transcripts Requested by Parties](#)

[§ 510.35 Responsibilities](#)

[§ 510.40 Electronic Sound Recording Files](#)

[§ 510.45 Arraignments, Changes of Pleas, and Sentencings](#)

[§ 510.50 Statement of Reasons Report for Sentencing Guidelines](#)

[§ 510.55 Retired or Separated Official Court Reporters](#)

### [§ 520 Transcript Format](#)

[§ 520.15 Electronic Transcripts](#)

[§ 520.16 Compressed Transcript](#)

[§ 520.20 Realtime Translation](#)

[§ 520.23 Paper](#)

[§ 520.30 Margins](#)

[§ 520.33 Line Numbers](#)

[§ 520.36 Typing](#)

[§ 520.40 Content](#)

[§ 520.43 Title Page](#)

[§ 520.46 Indexes](#)

[§ 520.50 Numbering](#)

[§ 520.53 Cover](#)

[§ 520.56 Punched Holes](#)

[§ 520.60 Fastener](#)

[§ 520.63 Certification](#)

[§ 520.66 Copies](#)

[§ 520.70 Redaction](#)

### [§ 530 Fees](#)

[§ 530.10 Authority](#)

[§ 530.15 Scope](#)

[§ 530.25 Notification of Fees](#)

[§ 530.26 Prepayment](#)

[§ 530.27 Temporary Retention of Transcript Deposits by Clerk of Court](#)

[§ 530.30 Judge Ordered Transcripts](#)

[§ 530.40 Justifying Higher Rates](#)

[§ 530.50 Descriptions of Fees for Services](#)

[§ 530.55 Items for Which No Fee May Be Charged](#)

[§ 530.60 Permissible Extra Fees](#)

[§ 530.63 Realtime Translation](#)

[§ 530.65 Transcripts in CJA Cases](#)

[§ 530.70 Transcripts for Cases on Appeal](#)

[§ 530.75 Fees for Transcripts to Be Paid by the United States](#)

[§ 530.85 Electronic Sound Recording Files](#)

[§ 530.90 Certification of Transcript Rates](#)

[§ 530.95 Overcharging for Transcripts](#)

[§ 540 Transcripts for Cases on Appeal](#)

[§ 540.20 Federal Rules of Appellate Procedure](#)

[§ 540.40 Required Forms](#)

[§ 540.50 Full Transcript Not Required for Criminal Appeals](#)

[§ 550 Criminal Justice Act \(CJA\)](#)

[§ 550.40 CJA-Funded Transcripts](#)

[§ 550.50 Procedures for Payments](#)

[§ 550.60 Depositions](#)

[§ 560 Copyright Laws](#)

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## **§ 510 Overview**

One of the court reporter's primary responsibilities is to provide a transcript of court proceedings at the request of a party or by court order. The court reporter must also provide the court with a transcript or electronic sound recording of all arraignments, pleas, and proceedings related to the imposition of sentence in criminal cases. This chapter provides requirements for transcript production, delivery, fees, and format.

### **§ 510.17 Transcript Categories**

The Judicial Conference has approved the following transcript categories. No other transcript categories are authorized.

(a) 30-Day Transcript (Ordinary)

A transcript to be delivered within 30 calendar days after receipt of an order.

(b) 14-Day Transcript

A transcript to be delivered within 14 calendar days after receipt of an order.

(c) 7-Day Transcript (Expedited)

A transcript to be delivered within seven calendar days after receipt of an order.

(d) 3-Day Transcript

A transcript to be delivered within three calendar days after receipt of an order.

(e) Next-Day Transcript (Daily)

A transcript to be delivered on the calendar day following receipt of the order (regardless of whether that calendar day is a weekend or holiday) before the normal opening hour of the clerk's office.

(f) 2-Hour Transcript (Hourly)

A transcript of proceedings to be delivered within two hours from receipt of the order.

(g) Realtime Translation

A draft unedited transcript produced by a certified realtime court reporter as a byproduct of realtime to be delivered electronically during proceedings or immediately following receipt of the order.

## § 510.20 Transcripts to the Court

(a) 28 U.S.C. § 753(b) provides the duties and responsibilities of official court reporters, including the responsibility to provide certified transcripts without charge to a requesting judge. **See:** Guide, Vol. 6, § 290.20 (Court Reporters' Duties).

(b) Courthouse opening ceremonies, judge investiture ceremonies, and other ceremonies in which a judge presides are considered court proceedings, and the judge(s) presiding over these ceremonies may order that the proceedings be recorded or transcribed verbatim.

(1) If the court reporter assigned to the ceremony is an official reporter, the transcribing services and the production of the transcript are within the scope of the reporters' duties and no fees may be charged.

(2) Compensation for a contract court reporter must be consistent with the contract terms. **See:** Guide, Vol. 6, § 450 (Contract Court Reporting).

- (c) If requested by a judge, a court reporter may produce a non-certified or unedited transcript for a judge's use, and it does not have to be filed with the clerk for the records of the court.

## **§ 510.25 Transcripts and Records for the Clerk of Court**

### **(a) Transcript Delivery**

The court reporter must file with the clerk of court a certified transcript of all proceedings prepared.

- (1) The certified transcript must be filed with the clerk of court concurrent with, but not later than three working days after, delivery to the requesting party. The transcript may be in paper or electronic format as determined by the court.
- (2) When a contract court reporter produces a certified transcript at the request of a party or a judge, the contract court reporter must concurrently deliver a certified transcript to the clerk of court at no charge.

### **(b) Public Inspection**

- (1) The original notes or other original records and a copy of the transcript in the office of the clerk must be open during office hours to inspection by any person without charge.
- (2) The clerk's copy is an official court record that serves as the control copy, which the clerk may compare to verbatim records being forwarded on appeal.

#### **(3) Clerk's Transcript**

- (A) No fee is to be charged any person for use of the clerk's copy.
- (B) The clerk's copy is available to the judge if the judge desires to use it; and in some instances, where the "original papers rule" is followed, this copy may be forwarded to the court of appeals when an appeal is filed.

### **(c) Transcripts on Electronic Media**

Any electronic transcript filed with the court must be in portable document format (PDF) or any other format approved by the court and consistent with the Judicial Conference's approved format guidelines. JCUS-SEP 1991, p. 65, JCUS-SEP 2012, p. 26.

**§ 510.25.10 Transcripts in the Case Management/Electronic Case Files System**

- (a) The Judicial Conference adopted a policy requiring courts to make documents electronically available via the Public Access to Court Electronic Records (PACER) system. Courts must provide remote access to prepared electronic transcripts of court proceedings.
- (b) The Judicial Conference approved the following policy regarding the availability of transcripts of court proceedings in electronic format (JCUS-SEP 2007, p. 12):
  - (1) A transcript provided to a court by a court reporter or transcriber will be available at the office of the clerk of court for inspection only, for a period of 90 days (unless extended by the court) after it is delivered to the clerk.
  - (2) During the 90-day period (which may be extended by the court):
    - (A) a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference;
    - (B) the transcript will be available within the court for internal use;
    - (C) an attorney who obtains the transcript from the court reporter or transcriber may obtain remote electronic access to the transcript through the court's Case Management/ Electronic Case Files (CM/ECF) system for purposes of creating hyperlinks to the transcript in court filings and for other purposes; and
    - (D) access to the transcript in CM/ECF is restricted to four types of users:
      - court staff;
      - public terminal users;
      - attorneys of record or parties who have purchased the transcript from the court reporter/transcriber; and
      - other persons as directed by the court (e.g., appellate attorneys).
  - (3) After the 90-day period:
    - (A) the filed transcript will be available for inspection and copying in the clerk's office and for download from the

court's CM/ECF system through the judiciary's PACER system.

- (B) The transcript copy filed with the clerk of court may be reproduced without compensation to the court reporter or transcriber under the same terms and conditions that any other official public document in the case file may be reproduced.
- (c) The requirement to provide a certified transcript (whether in paper or electronic format, as determined by the court) to the clerk for the records of the court is unaffected by filing in CM/ECF. **See:** § 510.25(a).

#### **§ 510.25.20 Redaction of Electronic Transcripts**

- (a) The parties have the responsibility to review the transcripts and request redactions, if necessary, consistent with JCUS-SEP 2003, pp. 16-17, Guide, Vol. 10, § 320 (Required Redactions) and § 330 (Transcripts of Court Proceedings).
- (b) Court reporters and transcribers do not have the responsibility:
  - (1) To redact sensitive information from the transcript unless there is a redaction request made by the parties to the case, or
  - (2) To notify the parties of material that should be redacted.

#### **§ 510.30 Transcripts Requested by Parties**

- (a) Transcripts may be sold via electronic media in PDF, ASCII format, or other format requested by the ordering party and agreed to by the court reporter or transcriber, whether they represent originals, first copies, or additional copies.
- (b) Court reporters and transcribers must produce paper originals and paper copies at the Judicial Conference rates when ordered by parties. JCUS-SEP 1991, p. 65, JCUS-SEP 2012, p. 26.

#### **§ 510.35 Responsibilities**

- (a) Court Reporters

In dealing with parties requesting transcripts, court reporters must maintain a professional relationship and provide timely quality service. They must:



- (1) Adhere to the transcript format established by the Judicial Conference. **See:** § 520.
  - (2) Adhere to transcript page rates per delivery category established by the court and the Judicial Conference. **See:** § 530.
  - (3) Not require parties to purchase more pages than they want or need.
  - (4) Not require parties to purchase more copies than they want or need.
  - (5) Provide (whenever possible) the type of service requested (i.e., 30-day transcript (ordinary), 14-day transcript, 7-day transcript (expedited), 3-day transcript, next-day transcript (daily), or 2-hour transcript (hourly)). **See:** § 510.17.
- (b) Parties
- Parties requesting a transcript should complete Form AO 435 (Transcript Order) or other order form available from the court reporter.
- (c) Court Reporting Supervisor
- (1) The court reporting supervisor must monitor all orders for transcripts and the relationship between court reporters and those requesting transcripts.
  - (2) The court reporting supervisor must maintain records of all transcript orders to ensure compliance with all Judicial Conference requirements, including timely preparation, format, and fees charged.

## **§ 510.40 Electronic Sound Recording Files**

### **§ 510.40.10 Electronic Sound Recording Files in Lieu of Transcript**

(a) Availability

When proceedings have been recorded as the official record by electronic sound recording equipment, the court should advise parties requesting transcripts that they may choose to purchase copies of the electronic sound recording files, which may be less costly, from the clerk of court in lieu of transcript for their own use.

(b) Audio Recording Orders

- (1) The court may reproduce tapes or CDs on its own duplicating equipment or on commercial equipment and may sell the reproduction of the audio at the prevailing rate prescribed by the District Court or Bankruptcy Court Miscellaneous Fee Schedule in effect.
- (2) Courts may provide digital files of audio recordings via email or digital download.
- (3) Orders for audio recordings should be submitted to the clerk's office on Form AO 436 (Audio Recording Order).

(c) Backup recordings

- (1) This provision does not apply to court reporters' backup recordings used to augment the steno notes. Backup recordings made by court reporters for their own convenience and not otherwise required by 28 U.S.C. § 753 are the personal property of the court reporter.
- (2) There is no public entitlement to these recordings, or to backup recordings made for the convenience of the court, with the exception of recordings of arraignments, changes of plea, and sentencing filed with the clerk of court, which are covered above in § 510.40.10(b).

**§ 510.40.20 Professional Transcription Services – Electronic Sound Recordings**

(a) Professional Transcription Services

- (1) The court may have transcripts prepared from analog or digital audio files by professional transcription services based on credentials offered by the profession.
- (2) This would include firms or individuals that have been certified by the American Association of Electronic Reporters and Transcribers (AAERT) or other transcription certification organization that the court deems suitable.
- (3) Courts may use individuals who have received court reporter certification to transcribe audio files. While the Judicial Conference does not permit the AO to maintain a central listing of certified transcribers, a court may keep a local list of qualified transcribers.

(b) Procurement Guidelines

If a purchase for transcription services is estimated to be \$10,000 or more, the Court should follow the competition guidelines in Guide, Vol. 14, § 325.20.10(a) and (b).

(c) Costs

The court may not charge parties for the cost of duplicating electronic sound recording files of proceedings that the court sends to a transcriber for filling transcript orders.

(d) Transcript Orders

Orders for transcripts should be submitted to the clerk's office on a Form AO 435 (Transcript Order).

(e) Preparation

All format, delivery time schedule, and fee requirements adopted by the Judicial Conference apply as if the transcript were produced by one of the court's reporters.

(f) Official Court Reporters

(1) An official, temporary, or combined-position court reporter may agree to produce transcripts from audio recordings of court proceedings which the court reporter did not attend consistent with the court reporting management plan. Such transcripts may be ordered by parties or by any federal judge. The official court reporter is considered a transcriber and may be paid no more than the rates established by the Judicial Conference.

(2) Courts may not provide preferential treatment to court reporting staff by referring all transcription work to one or more official court reporters. The transcription work should be rotated evenly among the qualified transcribers authorized by the court to transcribe proceedings of electronic sound recording.

(g) Other Court Employees

(1) Court employees, other than official court reporters, may not retain fees for preparation of official transcripts.

(2) If a court employee, other than an official court reporter, produces transcript for a private party, the fees for such must be deposited into the United States Treasury. 18 U.S.C. § 209.

### **§ 510.40.30 Certification of Transcription**

The person or transcription services firm designated to transcribe the proceedings recorded by electronic sound recording must authenticate the original transcript and each copy with a certification on the last page. **See:** § 520.63 (Certification).

## **§ 510.45 Arraignments, Changes of Pleas, and Sentencings**

### **§ 510.45.10 Statutory Authority**

Under 28 U.S.C. § 753(b), the court reporter or other individual designated to produce the record is required to transcribe and certify such parts of the record of proceedings as may be required by any rule or order of court including all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording. **See:** Guide, Vol. 6, § 290.20.20(c).

### **§ 510.45.20 Transcripts and Electronic Sound Recordings of Arraignments, Pleas, and Sentencings**

- (a) If the court reporter elects to file an electronic sound recording of all arraignments, pleas, and sentencings in lieu of a certified transcript, the court reporter must file such recording with the clerk of the court with a certificate in the form provided in Guide, Vol. 6, § 290.20.20(c) at no expense to the government (judiciary). JCUS-MAR 1963, p. 10.
- (b) The court reporter must file a transcript within 30 days of the close of the proceeding unless it was recorded on electronic sound recording equipment, in which event the electronic recording, accompanied by a certification of the court reporter, must be filed as soon as the recording has been used to capacity, or the audio file uploaded to a designated server upon adjournment of the proceeding or consistent with the court's established procedures. 28 U.S.C. § 753.
- (c) Challenges to Validity of Conviction
  - (1) A judge should consider whether the clerk's copy is sufficient before approving the production of another copy at government expense for transcripts of arraignments, pleas, and sentences that are requested by a defendant proceeding under the Criminal Justice Act (CJA) who attacks the validity of the conviction under 28 U.S.C. § 2255 and wants to use transcripts of the plea and proceedings in connection with the imposition of the sentence in a motion.
  - (2) Since this motion is made in the trial court, there is always available in the clerk's files a certified electronic sound recording or a transcript copy of these proceedings (which the reporter must file

without charge, under 28 U.S.C. § 753) which is available to the defendant and to the court with other papers in the case, for consideration in connection with the motion.

- (d) Court reporters may charge parties (including the Department of Justice and other parties proceeding under the CJA) for transcripts of arraignments, changes of plea, or proceedings in connection with the imposition of sentencing when an electronic recording of the proceeding has been filed with the court in lieu of a written transcript. JCUS-MAR 1996, p. 27.
- (e) The opinion of the Administrative Office's (AO) Office of the General Counsel (OGC) is that unedited and uncertified transcripts (including realtime translations) are not acceptable in lieu of certified transcripts or audio recordings of arraignments, changes of plea, and sentencing proceedings. OGC Memorandum, July 7, 1978, Fees for Transcripts of Arraignments, Pleas, and Proceedings in Connection with the Imposition of Sentence.

## **§ 510.50 Statement of Reasons Report for Sentencing Guidelines**

### **§ 510.50.10 Statutory Authority**

- (a) The Sentencing Reform Act requires the district court to place on the record a statement of reasons for each criminal sentence under the Sentencing Guidelines. **See:** 18 U.S.C. § 3553(c).
- (b) Under 28 U.S.C. § 994(w), the court must send a report of the statement of reasons to the Sentencing Commission within 30 days following entry of judgment.

### **§ 510.50.20 Transcript of Statement of Reasons**

If the court requires the court reporter to prepare a transcript of the statement of reasons, the court reporter must furnish the transcript at no expense to the government.

## **§ 510.55 Retired or Separated Official Court Reporters**

- (a) Responsibilities
  - (1) Any official court reporter who terminates employment with the court remains responsible for producing requested transcripts of proceedings recorded during the period of employment at the rates in effect at the time the transcript was ordered.

- (2) Official court reporters must make every effort to serve the ordering party by producing the transcript according to the delivery schedule established by the Judicial Conference.
- (3) Any official court reporter refusing to transcribe a court proceeding could be ordered by the court to show cause.

(b) Payment for Transcripts for the Court

Retired or separated official court reporters are entitled to payment for the production of original transcripts requested by a judge after the date of retirement or separation provided that the transcripts are prepared from notes taken during the period of employment with the court and have not previously been ordered by a party.

(c) Performance Concerns

A court is not required to refer outstanding transcript orders to a separated official court reporter if the court has concerns regarding the official court reporter's performance.

(d) Original Notes

- (1) Official court reporter notes are the property of the court and must remain in the custody of the clerk of court. The original shorthand notes or other original records so taken are promptly filed with the clerk who must preserve them in the public records of the court.  
**See:** JNet's Storage of Original Notes and Audio Files page.
- (2) The notes may be removed only for purposes of providing a transcript.
- (3) An official court reporter no longer employed by the court must file a copy of the transcript with the clerk of court within three days of delivery to the ordering party. The court reporting supervisor should assist the retired or separated official court reporter in obtaining the notes and act as liaison between the reporter and ordering party.

(e) Dictionary

- (1) Courts may require separated official court reporters to file copies of their dictionaries with the court.
- (2) If a separated official court reporter may be unavailable to produce transcripts (due to illness, death, or the court's decision not to refer transcript orders to that official court reporter), the dictionary will

assist another court reporter or transcriber with translating the original official court reporter's notes if a transcript is required.

## **§ 520 Transcript Format**

The Judicial Conference first adopted the uniform transcript format in 1944 to assure that each party is treated equally throughout the country. JCUS-SEP 1944, Appendix.

- (a) The format requirements must be followed because minor changes result in significant monetary losses to parties. No court, judge, supervisor, court reporter, or transcriber may authorize a deviation from the requirements provided by the Judicial Conference.
- (b) The per-page transcript rates are based on strict adherence to the prescribed format.
- (c) The format standards incorporate government standards for archival materials and assure that all transcripts produced in federal courts are produced on the same basis.

### **§ 520.15 Electronic Transcripts**

- (a) Transcripts may be sold via electronic media in PDF, ASCII, or other format requested by the ordering party and agreed to by the court reporter or transcriber, whether they represent originals, first copies, or additional copies.
- (b) Each page of transcript sold via electronic media must be formatted consistent with the Judicial Conference's approved transcript format guidelines, and electronic media transcripts may not contain any protection or programming codes that would prevent copying or transferring the data. JCUS-SEP 1991, p. 65 and JCUS-SEP 2012, p 26.

### **§ 520.16 Compressed Transcript**

- (a) A compressed transcript captures two or more standard pages of transcript and reproduces them on a single page.
- (b) As with electronic media, court reporters and transcribers who have the capability may sell compressed transcripts on a per standard transcript-page basis, regardless if two or more standard transcript pages are compressed onto a single page of paper.
- (c) There is no requirement to provide such service.

## **§ 520.20 Realtime Translation**

The transcript format guidelines prescribed by the Judicial Conference apply to realtime translation with the exceptions outlined in Guide, Vol. 6, § 320.50.30 (Production).

## **§ 520.23 Paper**

(a) Size

Paper size is to be 8-1/2 X 11 inches.

(b) Weight

The weight of paper is to be at least 13 pounds for both originals and copies.

(c) Type

The paper type for both originals and copies is to be of chemical wood or better quality.

(d) Color

White paper is to be used for both originals and copies.

## **§ 520.30 Margins**

(a) The use of preprinted solid left and right marginal lines is required.

(b) The use of preprinted top and bottom marginal lines is optional.

(c) All preprinted lines must be placed on the page so that text actually begins 1-3/4 inches from the left side of the page and ends 3/8 inch from the right side of the page.

## **§ 520.33 Line Numbers**

Each page of transcription is to bear numbers indicating each line of transcription on the page.

## **§ 520.36 Typing**

### **§ 520.36.05 Ink Color**

Black ink is to be used for both originals and copies.



### **§ 520.36.10 Type Size**

The letter character size is to be 10 letters to the inch. This provides for approximately 63 characters to each line. (Type should be letter quality.)

### **§ 520.36.15 Number of Lines Per Page**

- (a) Line of Text Per Page Requirement
  - (1) Except as provided in (b) below, each page of transcription is to contain 25 lines of text.
  - (2) The last page may contain fewer lines if it is less than a full page of transcription.
  - (3) Page numbers or notations cannot be considered part of the 25 lines of text.
- (b) Exception
  - (1) An exception to the above requirement of 25 lines of text will be allowed when a next-day (daily) or 2-hour (hourly) transcript of jury trials is produced and the exception is approved by the presiding judicial officer.
  - (2) The exception allows a page break before and after sidebar conferences, bench conferences, and hearings on motions.
  - (3) Court reporters are required to reduce the page count for billing purposes by one-half page for every page of transcript that includes a sidebar conference, bench conference, or hearing on motions that is marked by such a page break.
  - (4) This exception as defined above will make it easier for a judge to provide portions of a transcript to a jury for review. JCUS-MAR 1996, pp. 26-27.

### **§ 520.36.25 Spacing**

Lines of transcript text are to be double spaced.

### **§ 520.36.30 Upper and Lower Case**

Upper and lower case is preferred, but all upper case may be used.

**§ 520.36.35 Indentations**

- (a) Question and Answer (Q and A)
  - (1) All Q and A designations must begin at the left margin.
    - (A) A period following the Q and A designation is optional.
    - (B) The statement following the Q and A must begin on the fifth space from the left margin.
    - (C) Subsequent lines must begin at the left margin.
  - (2) Since depositions read at a trial have the same effect as oral testimony, the indentations for Q and A must be the same as described above.
    - (A) In the transcript, each question and answer read from a deposition must be preceded by a quotation mark.
    - (B) At the conclusion of the reading, a closing quotation mark must be used.
- (b) Colloquy
  - (1) Speaker identification must begin on the tenth space from the left margin followed directly by a colon.
  - (2) The statement must begin on the third space after the colon.
  - (3) Subsequent lines must begin at the left margin.

(c) Quotations

Quoted material other than depositions must begin on the tenth space from the left margin, with additional quoted lines beginning at the tenth space from the left margin, with appropriate quotation marks used.

**§ 520.36.40 Interruptions of Speech and Simultaneous Discussions**

- (a) Interruptions of speech must be denoted by the use of a dash at the point of interruption, and again at the point the speaker resumes speaking.
- (b) At the discretion of the transcriber, simultaneous discussions may also be noted in this manner.

### **§ 520.36.45 Punctuation and Spelling**

Punctuation and spelling must be appropriate standard usage. For example, if a question in Q and A is indeed a question, it must be followed by a question mark.

### **§ 520.36.50 Page Heading**

- (a) A page heading (also known as a “header”) is brief descriptive information noted to aid in locating a person or event in a transcript.
- (b) A page heading must be provided on each page of witness testimony; it is optional for other types of persons and/or event notations.
- (c) Listing the last name of the witness or other party and the type of examination or another event is sufficient.
- (d) Page headings must appear above line 1 on the same line as the page number.
- (e) This information is not to be counted as a line of transcript.

### **§ 520.36.55 Parenthetical Notations**

- (a) Parenthetical notations are generally marked by parentheses; however, brackets may be used.
- (b) Parenthetical notations must begin with an open parenthesis or bracket on the fifth space from the left margin, with the remark beginning on the sixth space from the left margin.
- (c) Parenthetical notations are used for:
  - (1) customary introductory statements such as call to order of court or swearing in a witness, and
  - (2) indicating non-verbal behavior, pauses, and readback/playback.

For types of parenthetical notations, **see:** § 520.40.20(a).

### **§ 520.36.60 Legibility**

The original transcript and each copy are to be legible without any interlineations materially defacing the transcript.

## **§ 520.40 Content**

### **§ 520.40.10 Verbal**

Except as noted below, the transcript must contain all words and other verbal expressions uttered during the course of the proceeding.

(a) Striking of Portions of the Proceeding

No portion of the proceeding must be omitted from the record by an order to strike. Regardless of requesting party, the material ordered stricken, as well as the order to strike, must all appear in the transcript.

(b) Editing of Speech

(1) The transcript must provide an accurate record of words spoken in the course of proceedings. All grammatical errors, changes of thought, contractions, misstatements, and poorly constructed sentences must be transcribed as spoken.

(2) In the interest of readability, false starts, stutters, uhms and ahs, and other verbal tics are not normally included in transcripts; but such verbalizations must be transcribed whenever their exclusion could change a statement's meaning.

(c) Reporting of Audio/Video Recordings

Generally, audio/video recordings played in court are entered as an exhibit in a proceeding. Since such recordings are under the direct control of the court, audio/video recordings need not be transcribed unless the court so directs.

(d) Private Communications and Off the Record Conversations

Private communications and off the record conversations inadvertently recorded may not be included in the transcript.

(e) Call to Order, Swearing in, or Affirmation of Witnesses or Jurors

(1) Standard summary phrases must be used for customary introductory statements such as the call to order of court and the swearing in or affirmation of witnesses.

(2) These must appear in parentheses or brackets and begin with an open parenthesis or bracket on the fifth space from the left margin, with the remark beginning on the sixth space from the left margin.

(3) The following phrases can be employed:

- (Call to Order of the Court),
- (The Jury Is Sworn),
- (The Witness Is Sworn), and
- (The Witness Is Affirmed).

(f) Identification of Speaker

(1) All speakers must be properly identified throughout the transcript, initially by their full name, thereafter by the following designations or courtesy titles, in capital letters indented 10 spaces from the left margin:

(2) Proper Transcript:

<b>Speaker</b>	<b>Identification</b>
the judge	THE COURT
attorney	MR., MRS., MS., OR MISS + (last name)
witness	THE WITNESS (in colloquy)
interpreter	THE INTERPRETER
defendant (in criminal cases)	THE DEFENDANT

(g) Testimony Through Interpreter

When interpreters are used, it will be assumed that answers are made in a foreign language and interpreted unless a parenthetical “(in English)” is inserted.

**§ 520.40.20 Nonverbal**

(a) Designation of Portions of Proceedings and Time of Occurrence (Parenthetical Notations)

(1) Parenthetical notations in a transcript are a court reporter’s or electronic court recorder operator’s own words, enclosed in parentheses or brackets, recording some action or event. Parenthetical notations should be as short as possible but consistent with clarity and standard word usage.

(2) The following parenthetical notations should be used to designate portions of proceedings. Designations requiring a time notation are listed first:

(A) Proceedings Started, Recessed, and Adjourned, with Time of Day and Any Future Date Indicated where Appropriate

Examples:

- (Recess at 11:30 a.m.)
- (Recess at 12:30 p.m., until 1:30 p.m.)
- (Proceedings concluded at 5 p.m.)

(B) Jury In/Out

(i) Examples:

- (Jury out at 10:35 a.m.)
- (Jury in at 10:55 a.m.)

(ii) If a jury is involved, it is essential to indicate by the proper parenthetical notation whether the proceeding occurred:

- in the presence of the jury,
- out of the presence of the jury,
- out of the hearing of the jury,
- before the jury entered the courtroom, or
- after the jury left the courtroom.

(3) Defendant Present/Not Present

In criminal trials, this designation must be made if not stated in the record by the judge.

(4) Bench/Side Bar Conferences

(A) This designation must note whether the bench/side bar conference is on or off the record. If all the attorneys in court are not participating in the bench/side bar conference, the parenthetical notation must so indicate.

(B) Examples:

- (Bench conference on the record)

- (Bench conference off the record with Mr. Smith, Mrs. Jones, and Mr. Adams)
- (At side bar on the record)
- (At side bar)
- (End of discussion at side bar)

(5) Discussions off the Record

This designation must note where the discussion took place.

(6) Chambers Conferences

(A) This designation must note the presence or absence of parties in chambers.

(B) Examples:

- (Discussion off the record in chambers with defendant not present)
- (Discussion on the record in chambers with defendant present)

(b) Speaker/Event Identification

(1) References to speakers and events that occur throughout proceedings must be properly noted in capital letters and centered on the appropriate line.

(2) Examples:

- AFTER RECESS
- DIRECT EXAMINATION
- CROSS EXAMINATION
- REDIRECT EXAMINATION
- RECROSS EXAMINATION
- FURTHER REDIRECT EXAMINATION
- PLAINTIFF'S EVIDENCE
- PLAINTIFF RESTS
- DEFENDANT'S EVIDENCE
- DEFENDANT RESTS
- PLAINTIFF'S EVIDENCE IN REBUTTAL

(c) Nonverbal Behavior and Pauses

(1) It is the responsibility of the attorneys, as well as the judge in some instances, to note for the record any significant nonverbal behavior

(i.e., physical gestures, and lengthy pauses on the part of a witness.)

- (2) If counsel or the court refers to the witness's affirmative or negative gesture, parenthetical phrases may be used to indicate physical gestures.
- (3) Examples:
  - (Nods head up and down)
  - (Shakes head from side to side)
  - (Indicating)

(d) Readback and/or Playback

All readbacks and/or playbacks and the party requesting must be noted parenthetically as follows:

- (1) If the question and/or answer requested to be read or played back appears on the same page as the request, the following parenthetical must be used:

(The last question and/or answer was read/played back)

- (2) If, however, the question and/or answer, or both, appear on a previous page, the court reporter or audio operator should replay or restate the question and/or answer both, in full, with appropriate quotation marks and parentheses. The following parenthetical should be used for playbacks:

(The record was replayed)

(e) Indiscernible or Inaudible Speech on Electronic Sound Recording

- (1) Incomplete records of proceedings are unacceptable in a court of law. It is therefore highly undesirable to have any portion of a transcript labeled "indiscernible" or "inaudible."
- (2) Every effort must be made to produce a complete transcript. The use of "inaudible" or "indiscernible" should be used only when it is impossible to transcribe the record.

## § 520.43 Title Page

### § 520.43.10 Contents

Each transcript is to include a title page indicating:



- (a) court name;
- (b) district;
- (c) case name;
- (d) civil or criminal docket case number;
- (e) name and title of judge or other judicial officer presiding;
- (f) type of proceeding;
- (g) date and time of proceeding;
- (h) volume number (if multi-volume);
- (i) name and address of each attorney and name of party represented;
- (j) whether a jury was present;
- (k) court reporter's name, address, and telephone number, if steno based;
- (l) audio operator's name, plus name, address, and telephone number of transcription company, if electronic sound recording equipment based;
- (m) method by which the proceedings were recorded; and
- (n) method by which the transcript was produced.
- (o) Examples of this statement include the following:
  - (1) Proceedings recorded by mechanical stenography, transcript produced by note reading.
  - (2) Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.
  - (3) Proceedings recorded by shorthand/stenomask, transcript produced from dictation.
  - (4) Proceedings recorded by electronic sound recording, transcript produced by transcription service.

**§ 520.43.20 Record of Appearance**

Beginning on the title page, the court reporter is to include the complete record of appearances.

### **§ 520.43.30 Cost**

The court reporter may charge for the title page as a full page of transcript.

### **§ 520.46 Indexes**

Each volume is to contain an index that is to be numbered. It is preferable to have the index at the end. The court reporter may charge for the index page as a full page of transcript.

#### **§ 520.46.10 Requirement**

- (a) The index must indicate the pages at which each of the following begins:
  - DIRECT EXAMINATION,
  - CROSS EXAMINATION,
  - REDIRECT EXAMINATION,
  - RECROSS EXAMINATION,
  - FURTHER DIRECT EXAMINATION, and
  - RECALL OF EACH WITNESS.
- (b) The index must also indicate on behalf of whom the witness or witnesses were called, such as:
  - PLAINTIFF'S WITNESSES,
  - WITNESSES FOR THE GOVERNMENT,
  - DEFENDANT'S WITNESSES, and
  - WITNESSES FOR THE DEFENSE
- (c) A separate table in the index must indicate the page at which any exhibit was marked for identification and received in evidence.

#### **§ 520.46.20 Master Index for Longer Transcripts**

In a protracted case (i.e., a transcript of one thousand pages or more) in addition to the individual index, there may be a master index in a separate volume that compiles all of the individual indexes.

#### **§ 520.46.30 Keyword Index**

- (a) A keyword index provides an index of key words in the transcript and corresponding page number(s) in which the words appear.
- (b) A keyword index may be charged at the applicable page rate.
- (c) If the keyword index is provided on electronic media, no additional charge is permitted for the cost of the electronic media itself.

## **§ 520.50 Numbering**

### **§ 520.50.10 Pages**

- (a) The pages of the transcript are to be numbered in a single series of consecutive numbers for each proceeding, regardless of the number of days involved.
- (b) The court reporter must place the page number at the top right corner of the page flush with the right margin above the first line of transcription.
- (c) The page number does not count as a line of transcript.
- (d) The pagination of the transcript of the further proceedings in the same matter must follow consecutively the pagination of earlier proceedings, unless the presiding official directs otherwise.

### **§ 520.50.20 Multi-Volumes Transcripts**

Multi-volume transcripts must be numbered in either of the following ways:

- (a) Each volume of transcript must be numbered consecutively. One volume of transcript should be at least equal to one day of court proceedings.
- (b) Pages may be numbered consecutively for each volume of transcript, with the cover page of each volume designated page 1. Using this method, page numbers will begin with a volume number followed by the page number.

Examples:

- 1-14 (Volume 1, page 14)
- 2-54 (Volume 2, page 54)

- (c) If preferred, the pages may be numbered consecutively for an entire multiple-volume transcript.

Examples:

- 56 (Volume 1, page 56)
- 521 (Volume 3, page 521)

### **§ 520.53 Cover**

The court reporter is to cover at no charge the original and each copy of transcript with front and back covers of good quality, consisting of white or colored 140 pound index

paper, #1 sulphite paper, heavy weight transparent plastic, or similar material as the court approves.

### **§ 520.56 Punched Holes**

If the court reporter punches transcript with three holes in the left margin, the holes are to be 4-1/4" center to center, with the middle hole centered in the page.

### **§ 520.60 Fastener**

The court reporter is to secure the transcript for each proceeding separately with a suitable fastener of permanent nature.

### **§ 520.63 Certification**

#### **§ 520.63.10 Requirement**

- (a) The court reporter or transcriber is to authenticate the original transcript and each copy with a certification on the last page.
- (b) The certification is to appear on the last page of each volume of transcript. If more than one court reporter or transcriber is involved in the production of the transcript being certified, then the certifications of each court reporter or transcriber involved are required at the end of each volume. **(Note:** The contents of the title page should not be repeated as part of the certification.)
- (c) A rubber stamp with the certifications may be used to save time and space. A sample certification is provided in § 520.63.30.

#### **§ 520.63.20 Court Reporter's Charge for Certification**

- (a) If the court reporter places the certification on a separate page from any transcript text, then the court reporter may NOT charge for the certification page.
- (b) If the court reporter includes the certification on the last page of a transcript that contains actual transcript text, the court reporter can charge for that page of text.

#### **§ 520.63.30 Certification Examples**

- (a) Stenography/Stenomask

"I (we) certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter."

\_\_\_\_\_  
Signature of Court Reporter/Transcriber                      Date

\_\_\_\_\_  
Typed or Printed Name

(b) Transcriber’s Certification for Another’s Notes

“I (we) certify that the foregoing is a true and correct transcript, to the best of my ability, of the above pages, of the stenographic notes provided to me by the \_\_\_\_\_ [court name], of the proceedings taken on the date and time previously stated in the above matter. I (we) further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not financially nor otherwise interested in the outcome of the action.”

\_\_\_\_\_  
Signature of Transcriber    Date

\_\_\_\_\_  
Typed or Printed Name

(c) Electronic Sound Recording

“I (we), court-approved transcriber(s), certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.”

\_\_\_\_\_  
Signature of Approved Transcriber    Date

\_\_\_\_\_  
Typed or Printed Name

(d) Redacted Transcripts

At the end of the redacted transcript, and without causing a “page roll-over” (a smaller font may be used) the redacted transcript must be certified by the court reporter/transcriber stating:

“I (we) certify that the foregoing is a true and correct copy of the transcript originally filed with the clerk of court on day/month/year and incorporating redactions of personal identifiers requested by the following attorneys of record: \_\_\_\_\_, in accordance with Judicial Conference policy.

Redacted characters appear as an “x” (or a black box) in the transcript.”

\_\_\_\_\_  
Signature of Approved Transcriber

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or Printed Name

### **§ 520.66 Copies**

- (a) Transcript copies may be reproduced by any method of reproduction which produces black text on single-sided white paper.
- (b) There may be no markings on the original or copies that would hinder the clear reproduction by mechanical means by any court official or party.

### **§ 520.70 Redaction**

- (a) There are various software programs that are available to assist court reporters and transcribers in the redaction process. The use of these programs is permissible, as long as page and line integrity remain intact.
- (b) If a court reporter does not have access to such a program, the court reporter may also manually redact. Whatever method is used to redact, page and line integrity must be maintained from the original transcript to the redacted transcript.

#### **§ 520.70.10 Manual Redaction**

To manually redact, the court reporter/transcriber must place an “x” in the space of each redacted character. Manual redactions must have the same number of x’s as characters deleted to preserve page and line numbers of transcripts.

#### **§ 520.70.20 Title Page**

The title page of the transcript must indicate that it is a redacted transcript immediately below the case caption and before the Volume number and the name and title of the Judge. A notation of “REDACTED TRANSCRIPT” must be inserted on a blank line, and the addition of this text may not change the length of the title page.

#### **§ 520.70.30 Charge for Redacted Transcripts**

The Judicial Conference has not authorized an additional fee that the court reporter or transcriber can charge for providing redacted transcripts to the court for the electronic records of the court.

## § 530 Fees

### § 530.10 Authority

- (a) Under 28 U.S.C. § 753(f), each court reporter may charge and collect fees for transcripts requested by the parties, including the United States, at rates prescribed by the court subject to the approval of the Judicial Conference. JCUS-MAR 1980, pp. 17-18. **See:** Current maximum transcript rates on JNet's Court Reporting page.
- (b) Each district court must adopt a schedule of transcript fees for court reporters and transcribers, subject to maximum rates established by the Judicial Conference.
  - (1) The Conference has established several transcript categories (**see:** § 510.17) based on delivery times and whether the transcript is certified or a realtime translation and has set a maximum rate for each.
  - (2) The parties, court reporter, transcriber, and the court may not negotiate a higher rate without Judicial Conference approval; however, in exceptional circumstances the Director of the AO may authorize higher original transcript rates for official court reporters (**see:** § 530.40). JCUS-MAR 1981, pp. 7-8.
  - (3) Fees may be negotiated lower than the court approved rates. In setting the transcript rates to be charged by the court reporters in each area, the district court may look to comparable services rendered in the state courts and consider setting the transcript rates in their courts to coincide with any lower comparable state rate.

### § 530.15 Scope

The maximum rates adopted by the Judicial Conference are the maximum rates that can be charged by:

- official court reporters,
- temporary court reporters,
- combined-position court reporters,
- contract court reporters,
- substitute court reporters, and
- transcribers.

### **§ 530.25 Notification of Fees**

- (a) For the public to be aware of the maximum transcript fees to be charged, a schedule of the prescribed fees is to be posted prominently in the clerk's office. JCUS-MAR 1982, p. 9.
- (b) Courts should instruct clerks of court to notify members of the bar of the fee rates and format regulations established by the Judicial Conference and the procedure for addressing issues regarding fees charged.

### **§ 530.26 Prepayment**

Court reporters or transcribers may require prepayment of fees before beginning transcript preparation, except they may not require prepayment by the United States government.

### **§ 530.27 Temporary Retention of Transcript Deposits by Clerk of Court**

The clerk of court may receive and hold transcript fee prepayments as an incentive to the court reporter to fulfill transcript orders on time; and further, the court has the discretion to make this "escrow" arrangement standard practice for all transcript fees. 28 U.S.C. § 753. JCUS-MAR 1982, pp. 8-12. Memorandum, AO's Office of the General Counsel, Feb. 20, 2003.

### **§ 530.30 Judge Ordered Transcripts**

#### **§ 530.30.10 Official Court Reporters**

- (a) Title 28 U.S.C. § 753(b) establishes the duties and responsibilities of official court reporters, including the responsibility to provide certified transcripts without charge to a requesting judge.
- (b) Providing a transcript to a judge is considered part of an official court reporter's assigned duties and responsibilities. The official court reporter is paid an annual salary and only one original transcript can be produced. All subsequent orders for the same transcript are copies for which the lower fee would apply. The Judicial Conference transcript fee policy makes explicit that official court reporters may charge only copy fees for transcripts provided to parties when the original transcript was produced at the request of a judge. JCUS-MAR 2009, pp. 28-29. **See:** § 510.20 (Transcripts to the Court).

#### **§ 530.30.20 Contract Court Reporters**

- (a) The relevant provisions of the contract govern payment of transcript prepared for a judge. Contract court reporters, based on the terms of the



contract, are not subject to the requirement to provide original transcripts at no charge to a district or magistrate judge.

- (b) Contract court reporters' attendance fees cover only the time they spend in court. Therefore, the Comptroller General allowed payment to contract court reporters for transcripts produced when ordered by a judge of the court. **See:** Comptroller General Decision B-77066 (July 13, 1948).

### **§ 530.30.30 Land Commission Proceedings**

- (a) Official court reporters are not entitled to payment in addition to their salaries for providing transcripts of land commission proceedings to judges or to land commissioners appointed by judges in land condemnation cases.
- (b) Accordingly, neither the Department of Justice nor the AO may pay for such transcripts from their appropriations. However, contract court reporters are entitled to payment when such transcript is ordered by the court. **See:** Comptroller General Decision B-184875 (June 11, 1976).

### **§ 530.40 Justifying Higher Rates**

The Judicial Conference authorized the Director of the AO to increase transcript rates for original transcripts only (not copies or realtime translation) by no more than 20 percent of the existing maximum rate when, in the Director's judgment, a district court justifies such an increase. JCUS-MAR 1981, pp. 7-8.

#### **§ 530.40.20 Procedure for Requesting Higher Rates**

- (a) Court
- (1) The chief judge of the district court must submit an analysis to the Director of the AO supporting:
- the rate the court is requesting;
  - the types of transcript under consideration (30-day (ordinary), 14-day, 7-day (expedited), 3-day, next-day (daily), and/or 2-hour (hourly)); and
  - the impact on total and net income derived by official court reporters based on annual average transcript production.
- (2) The analysis must include a justification based on the following information:

- (A) A comparison of transcript fees corresponding to 30-day (ordinary), 14-day, 7-day (expedited), 3-day, next-day (daily), and 2-hour (hourly) transcript categories of court reporters in the local or state courts.
  - (B) State and Local Court Reporter Compensation
    - (i) A comparison of total compensation of court reporters in the local or state courts including:
      - salary,
      - benefits,
      - private work,
      - transcript income, and
      - net income from official transcript sales.
    - (ii) The policies of the local and state courts that affect total compensation for court reporter work should be identified, including salary schedules, benefits, work hours, transcript format and whether transcript production is subsidized or supported by the purchase of equipment or supplies.
  - (C) Using Form AO 40A (Attendance and Transcripts of United States Court Reporters) and Form AO 40B (Statement of Earnings of United States Court Reporters) reports, an analysis of total income of official court reporters from salary, transcript sales, private work, and in-court hours of service over a three to five year period.
- (b) The AO will:
- (1) compare the salary, transcript income, and margins of profit of the district's official court reporters by using official court reporter statements of earnings, to those of other court reporters in other federal courts and nationally;
  - (2) evaluate the official court reporter turnover; and
  - (3) notify the chief judge whether the increase is justified and, if justified, the effective date of the rate change.

<b>§ 530.50 Descriptions of Fees for Services</b>	
<b>Item</b>	<b>Description</b>
(a) Transcript Production	The fees cover all costs of transcript production.
(b) Original Fee	For any given proceeding/date there can only be one original charge. All other transcripts of the same proceeding must be at the copy rates. The original fee rate may not be charged to parties who order a transcript that was already produced at the request of a judge.
(c) 14-Day, 7-Day (expedited), 3-Day, next-day (daily), and 2-Hour (hourly) Transcripts	In the case of 14-day, 7-day (expedited), 3-day, next-day (daily), and 2-hour (hourly) transcripts, the approved fees are to cover all costs of transcript production, including payments to extra court reporters, typists, and transcribers to help produce the transcript.
(d) Copy Fee	A copy fee is charged if the party orders and receives a copy.
(e) Fee for Sale of Transcript on Electronic Media	The rates allowed for electronic media transcripts are the same as those allowed for paper transcripts whether they represent originals, first copies, or additional copies. No additional charge is permitted for the cost of the electronic media.
(f) Compressed Transcripts	The maximum per page rate for each compressed original or copy of a transcript is the same as that for a full-size transcript.
(g) Realtime Feed	For realtime translation services, a rate is charged per page by the certified realtime court reporter.

For fee calculation examples, **see:** JNet’s Fee Calculation Examples page.

<b>§ 530.55 Items for Which No Fee May Be Charged</b>	
<b>Item</b>	<b>Description</b>
(a) Transcript Copy filed with the Court	No fee may be charged for any transcript provided to the clerk of court as the court’s copy. <b>See:</b> Guide, Vol. 6, § 290.20.20(b).
(b) Judge’s Copy	A judge-ordered copy is not the same as the certified copy delivered to the clerk for the records of the court. The official court reporter may not charge a party, including the government, for any certified transcript provided to a judge regardless of the existence of an order so granting. <b>See:</b> § 530.30.

<b>§ 530.55 Items for Which No Fee May Be Charged</b>	
<b>Item</b>	<b>Description</b>
(c) Viewing the Record by a Party	A transcript on file in the clerk's office may be examined without charge to a party or other member of the public. <b>See:</b> Guide, Vol. 6, § 290.20.30(e).
(d) Postage	Postage costs are considered an ordinary business expense; therefore, the court reporter or transcriber may not charge for ordinary postage. However, when the party requests expedited delivery, the court reporter or transcriber may bill the party for the difference between ordinary postage cost and the cost for expedited delivery. <b>See:</b> Guide, Vol. 6, § 260.50.20.
(e) Keyword Indexes	The index pages may be billed at the page rate, but no charge is permitted in addition to the normal page rates for keyword indexing services. <b>See:</b> § 520.46.30.
(f) Cover	The cover is a required part of the transcript and the court reporter may not charge extra for the transcript cover. <b>See:</b> § 520.53.
(g) Certification	The certification is a required part of the transcript and the court reporter may not charge extra for the certification. <b>See:</b> § 520.63.
(h) Canceled Orders	When a transcript order is canceled, only the pages produced may be charged. There is no charge for pages not produced. If a deposit was received and no pages were produced before the cancellation, the full deposit must be returned to the party. Any pages that were produced must be provided to the ordering party and a certified transcript filed with the clerk of court.
(i) Credit Card Fees, Service Fees, or Late Charges	Credit card fees accrued by a court reporter or transcriber who accepts payment via credit card may not be charged to the ordering parties. Additionally, no other service fees, convenience fees, or late payment penalties may be charged to the ordering parties.

## **§ 530.60 Permissible Extra Fees**

### **§ 530.60.10 Subsistence Cost for Court Reporters**

- (a) In areas where the official court reporter may need to hire contract court reporters from outside the community area to help produce 14-day, 7-day (expedited), 3-day, next-day (daily), or 2-hour (hourly) transcripts, the official court reporter may bill the requesting party for the subsistence costs of other court reporters or auxiliary personnel. JCUS-MAR 1981, p. 8.

- (b) These costs are authorized up to the amount of travel subsistence that a government employee may be reimbursed for the same travel. **See:** Guide, Vol. 19, Ch. 4 (Judiciary Staff Travel Regulations).
- (c) Compensation for auxiliary personnel as an attendance fee is not billable to the requesting party.

#### **§ 530.60.20 Payments Returned for Insufficient Funds (Bad Check Fees)**

- (a) If authorized by the court, the official court reporter may request the ordering party to reimburse the penalties associated with payment returned for insufficient funds from the ordering party.
- (b) If the official court reporter is not approved to seek reimbursement or is not able to retrieve reimbursement from the ordering party, the official court reporter should list the fee as an expense on his or her AO 40B form.

#### **§ 530.63 Realtime Translation**

For guidance on compensation for realtime translation, **see:** Guide, Vol. 6, § 320.70.60 (Compensation for Realtime Reporting Services).

#### **§ 530.65 Transcripts in CJA Cases**

Transcripts provided for parties proceeding under the CJA and to parties allowed to proceed in forma pauperis are to be paid from funds appropriated for those purposes. For complete guidance, **see:** § 550 (Criminal Justice Act (CJA)).

#### **§ 530.70 Transcripts for Cases on Appeal**

- (a) The appellant is responsible for ordering the transcript and paying the court reporter for the cost of the transcript. If the court of appeals requests that additional transcript pages be submitted, it is the responsibility of the parties to order and pay the court reporter or transcriber for such transcript. Rule 10, Federal Rules of Appellate Procedure.
- (b) No additional fee is charged to the party if the copy from the clerk's records is forwarded as part of the record on appeal. JCUS-SEP 1983, p. 51.

#### **§ 530.70.60 Fees for Transcripts to Be Paid by Parties**

- (a) Cases Covered
  - (1) Appeals to a Circuit from a District Court

- (A) Transcripts for appealed cases must be delivered within 30 days from the date ordered or from the date satisfactory arrangements for payment have been made.
- (B) If the customary practice of the court reporter is not to require prepayment, the 30-day period begins upon acceptance of the transcript order by the court reporter.

(2) Appeals from a Magistrate Judge to a District Judge

A transcript in a case on appeal from a magistrate judge to a district judge should be paid for in the same manner as an appeal from the district court to the court of appeals.

(b) Late Delivery of Transcripts

(1) Penalties

- (A) Each circuit council decides the due dates for the delivery of transcripts and the amount of penalties to be applied when such dates are not met. Therefore, court reporters and transcribers may not charge the full fee if they do not produce an appellate transcript within the time limits required by the circuit councils.
- (B) Additionally, the district courts or circuit councils may impose other penalties, including requiring the court reporter to compensate a courtroom substitute while the court reporter prepares the overdue transcripts. **See:** Guide, Vol. 6, § 410.20(c) (Judge Appointed (Involuntary) Use of Substitute Reporter).

(2) Waiver by Clerk of the Court of Appeals

- (A) The clerk of the court of appeals should grant exceptions to the fee reductions sparingly. Only the clerk of the court of appeals may waive this requirement for good cause. Otherwise, the fee reduction must be given.
- (B) Approval of an extension by the court of appeals under Fed. R. App. P. 11(b) does not constitute a waiver of the fee reduction by the clerk of the court of appeals.
- (C) A waiver must be granted separate and apart from the request for an extension of time by the court reporter or transcriber.

(3) Monitoring by Supervisor

The court reporting supervisor must monitor fees and transcript delivery to determine the court reporter's compliance with any required fee reduction.

(4) Overcharging

If overcharges occur by virtue of a late delivery, the court reporter or transcriber must refund the overcharges to the ordering party.

**See:** JCUS-MAR 1982, p. 10.

### **§ 530.75 Fees for Transcripts to Be Paid by the United States**

(a) In Forma Pauperis In appeal cases in forma pauperis in which the transcript is furnished at government expense, the Director of the AO is instructed to authorize payment for as many copies as are required to perfect the appeal by the rules of court. JCUS-OCT 1946, p. 12.

(b) Applicable Cases

(1) Transcripts for appeals to a circuit from the district court may only be paid for under one of the following categories:

(A) Court reporters may be paid under the Budget Object Code (BOC) 2532 general authorization for transcripts provided in civil proceedings to persons permitted to appeal in forma pauperis if the trial judge or circuit judge certifies that the:

- suit or appeal is not frivolous, and
- transcript is needed to decide the issue presented by suit or appeal.

(B) Court reporters may be paid under the CJA for transcripts for persons proceeding under the CJA, including transcripts for habeas corpus proceedings, and transcripts for proceedings brought under 28 U.S.C. § 2255.

**See:** § 550 (Criminal Justice Act (CJA)) and BOC 2532.

(2) Appeals to a District Court from the Bankruptcy Court

(A) The Court Reporters Act, 28 U.S.C. § 753(f), provides that the U.S. Government will pay for transcripts on appeal when the party requesting the transcript has been granted in forma pauperis status under 28 U.S.C. § 1915, and the trial judge

or a circuit judge has certified that the appeal is not frivolous but presents a substantial question.

- (B) This is the same determination that is made in the course of an appeal in a civil case before the district court.

(3) Special Master Proceedings

The United States may pay fees for transcripts of proceedings before a special master on behalf of an indigent who meets the requirements of 28 U.S.C. § 1915, if the order appointing the master provides for the preservation and filing of a record in any evidentiary hearing (**see:** Rule 53(b)(2)(C) of the Rules of Civil Procedure), and the proceedings of the special master are being reviewed by a district judge.

(4) Proceedings Before a Magistrate Judge

A transcript of oral hearings before a magistrate judge under 28 U.S.C. § 636(b) on motions for summary judgment, with a report and recommendation to be provided to the judge, falls within the purview of 28 U.S.C. § 636(b)(1)(B); therefore, when the transcript is required by the district court, the United States may pay the cost of preparing such transcript of an indigent litigant who meets the requirements of 28 U.S.C. § 1915(b)(2).

(5) Transcripts That May Be Paid From Court's Non-Appropriated Fund

If a litigant has met the requirements to proceed in forma pauperis under 28 U.S.C. § 1915, in situations where appropriated funds are not authorized for transcript payment (such as a transcript for an in forma pauperis litigant who is not proceeding on appeal), and a transcript is deemed necessary, the court may authorize payment from the court's non-appropriated fund.

(6) Transcripts Provided under the Criminal Justice Act (18 U.S.C. § 3006A, 28 U.S.C. § 2255, and *Habeas Corpus*)

- (A) Form CJA 24 (Authorization and Voucher for Payment of Transcript) is used by court reporters or transcribers to obtain payment for transcripts ordered under the CJA, except for transcripts ordered by the federal public or community defenders.

- (B) Transcripts required by federal public or community defenders should be ordered by means of a Form AO 435



(Transcript Order) or equivalent document. Court reporters should bill the federal public defender office via a completed Form AO 44. Once the AO 44 invoice is processed by the federal public defender office a Form SF 1034 is generated as part of the payment process.

- (C) Only transcripts ordered on a Form CJA 24 require prior judicial approval. Payments to court reporters are subject to audit by the Administrative Office. **See:** § 550 (Criminal Justice Act (CJA)).

- (c) Accepting Invoices with Annotated Information in Lieu of Form SF 1034 (Public Voucher for Purchases and Services Other than Personal)

Typically, the SF 1034 is the document used to authorize payment of fees for transcripts paid by the United States. In the case of transcript billing/payment, an annotated invoice may be used in lieu of the SF 1034, but the invoice must provide specific information as described below.

- (1) A general authorization has been provided to each court for transcripts which are required by the court from contract reporters or provided to parties proceeding in forma pauperis on appeal in non-CJA cases, without prior approval of the AO regardless of the cost of the transcript order.
- (A) Funding information will be disseminated to each court at the beginning of every fiscal year in the Allotment Guidelines for General Authorizations.
- (B) The transcript rate, which may not exceed the maximum rates approved by the Judicial Conference, must be stated.
- (C) All payments must be made in compliance with the transcript payment regulations outlined in this chapter. The invoice used in lieu of Form SF 1034 must include the:
- case number;
  - case name;
  - date of proceeding(s) transcribed; and
  - page rate.

- (2) Court-Ordered Transcript

If the transcript is court ordered from a contract court reporter, the invoice must state the name and title of the judicial official who

ordered the transcript, in addition to the information required in § 530.75(c)(1).

(3) In Forma Pauperis

If the transcript is for a party proceeding in forma pauperis in civil cases on appeal, or for a party proceeding in forma pauperis in any civil or criminal case before a United States magistrate judge conducted under 28 U.S.C. § 636(b) or 18 U.S.C. § 3401(b), and is required by the district court, the following are required, in addition to the information identified in § 530.75(c)(1):

(A) Certified Copy of Court Order

The invoice (or Form SF 1034) must be supported by a certified order of the court authorizing the party to proceed in forma pauperis and to receive the transcript at the expense of the United States.

(B) Certification

(i) In cases appealed to a court of appeals, there must be attached to the invoice (or Form SF 1034), a certification by the trial judge, or an appellate judge that “the appeal is not frivolous but presents a substantial question.” This is not required for matters on appeal to the district judge from a magistrate judge.

(ii) In a direct appeal in a case in which counsel is assigned under the CJA, neither the CJA nor 28 U.S.C. § 753(f) requires the signing of a pauper’s oath or certification by the Court that the appeal is not frivolous in order to obtain a transcript. **See:** Guide, Vol. 7A, § 320.30.10(b).

(C) Civil Actions on Appeal

In the instance of civil actions on appeal (other than habeas corpus or § 2255), the invoice (or alternative Form SF 1034) must include all items (A) and (B) above and:

(i) Type of civil appeal (e.g., civil rights, prisoner’s petition, private party)

- (ii) Number of copies chargeable to the federal judiciary and the distribution of such copies

(D) Condemnation Hearings and Proceedings

In addition to § 530.75(c)(1) above, in the instances of condemnation hearings and proceedings required by 28 U.S.C. § 753, the invoice (or Form SF 1034) must be supported by:

- (i) a certified copy of the court order allowing the transcript and specifying the number of copies to be furnished, and
- (ii) the number of copies chargeable to the federal judiciary and the distribution of such copies.

(E) Transcripts from State Court Proceedings Ordered by a Judicial Officer

Transcript fees for state court proceedings which have been ordered by federal judicial officers can be paid by appropriated funds upon receipt of an invoice from the court reporter or transcriber with verification of the request by the court.

(d) Filing the Invoice or Form SF 1034

Official court reporters may submit an invoice or the SF 1034 to receive payment. Contract court reporters must submit an invoice.

- (1) The original and first copy of the invoice or SF1034 must be submitted to the clerk of court or designated approving official.
- (2) The second copy should be retained in the court reporter's files.

(e) Payment

- (1) For guidance on payment of vouchers, **see:** Guide, Vol. 13, § 420. Payments may not be made in advance of the rendering of services. **See:** Guide, Vol. 13, § 430(c).
- (2) Payment Terms and Conditions for Contract Court Reporters

(A) Terms of Contract and Maximum Fee Rates

All fees for contract court reporters are set by the terms of a contract, subject to the maximum fee rates established by the Judicial Conference.

(B) Transcripts Ordered by the Court

- (i) The “Terms and Conditions” for the contract court reporter mandate that the court pay for an original transcript when ordered by the district or bankruptcy court and, with proper documentation, for a transcript ordered by a party proceeding in forma pauperis on appeal.
- (ii) Courts may not pay for a transcript ordered by and furnished to a party not proceeding in forma pauperis on appeal. **See:** § 510.25.

### § 530.85 Electronic Sound Recording Files

Upon request, the court may reproduce audio recordings of court proceedings on its own duplicating equipment or on commercial equipment and may sell copies of electronic sound recording files made as the official record to the public at the prevailing rate prescribed by the District Court Miscellaneous Fee Schedule or Bankruptcy Court Miscellaneous Fee Schedule, as appropriate. **See:** JCUS-MAR 2007, p.12.

### § 530.90 Certification of Transcript Rates

- (a) The court reporter is required to certify on each invoice that the fee charged, and the page format used conform to the regulations of the Judicial Conference. JCUS-MAR 1982, p. 9.
- (b) Form AO 44 (Invoice), contains the following certification that the court reporter must sign:

“I certify that the transcript fees charged, and page format used comply with the requirements of this court and the Judicial Conference of the United States.”

### § 530.95 Overcharging for Transcripts

- (a) Judicial Conference Policy

Each court may be directed to take any necessary action including, but not limited to, dismissal of the court reporter or restitution of overcharges,

whether they arise out of a violation of page rates, page format, or time limits for delivery. JCUS-MAR 1982, p. 9.

(b) Refunding

In the case of mistakes or failure to comply with the maximum rates established by the Judicial Conference and the district court, court reporters or transcribers must refund over-billings to the ordering party.

(c) Sanction

- (1) Court reporters who intentionally overcharge should be terminated.
- (2) Courts are advised to discontinue using transcription services which intentionally overcharge.

## **§ 540 Transcripts for Cases on Appeal**

Cases appealed to the United States courts of appeals require the timely transmission of the record from the lower court. A transcript of the proceedings normally is a required part of the record to be transmitted to the court of appeals. **See:** § 530.70 (Transcripts for Cases on Appeals).

### **§ 540.20 Federal Rules of Appellate Procedure**

#### **§ 540.20.10 Rule 10, Federal Rules of Appellate Procedure (The Record on Appeal)**

Rule 10 provides guidance on the record on appeal, including:

- composition of the record on appeal;
- transcript of proceedings;
- statement of the evidence when the proceedings were not recorded or when a transcript is unavailable;
- agreed statement as the record on appeal; and
- correction or modification of the record.

#### **§ 540.20.20 Rule 11, Federal Rules of Appellate Procedure (Forwarding the Record)**

Rule 11 provides guidance on forwarding the record, including:

- appellant's duty;
- duties of court reporter and district clerk;
- retaining the record temporarily in the district court for use in preparing the appeal;
- retaining the record by court order;

- retaining parts of the record in the district court by stipulation of the parties;  
and
- record for a preliminary motion in the court of appeals.

### **§ 540.40 Required Forms**

Court reporters must complete and submit the designated transcript order form used by their court/circuit indicating acceptance of the order as may be required by the court of appeals. Some courts are using the nationally supported Transcript Order form. **See:** Form AO 435 (Transcript Order).

### **§ 540.50 Full Transcript Not Required for Criminal Appeals**

All counsel should be required to exhaust all efforts to perfect appeals without full trial transcripts, by use of such traditional devices as preparation of limited transcripts, and preparation of an agreed statement or other summary of the evidence. JCUS-OCT 1971, pp. 61-62.

### **§ 550 Criminal Justice Act (CJA)**

Court reporters are to be paid for transcripts provided to parties proceeding under the CJA and to parties allowed to appeal in forma pauperis in civil cases from separate funds appropriated for those purposes at rates not to exceed those established by the Judicial Conference. 18 U.S.C. § 3006A(d)(1), 28 U.S.C. § 753(f), 28 U.S.C. § 1915(c).

#### **§ 550.40 CJA-Funded Transcripts**

**See:** Form CJA 24 (Authorization and Voucher for Payment of Transcript).

##### **§ 550.40.10 Requisition for Payment by Panel Attorneys**

**See:** Guide, Vol. 7A, § 320.30.10 (Authorization and Payment).

##### **§ 550.40.20 Prohibition on Routine Apportionment of Accelerated Transcript Costs**

**See:** Guide, Vol. 7A, § 320.30.20 (Accelerated Transcript Costs).

##### **§ 550.40.30 Transcripts in Multi-Defendant Cases**

- (a) In multi-defendant cases involving CJA defendants, no more than one certified transcript should be purchased from the court reporter on behalf of CJA defendants.
  - (1) CJA multi-defendant transcript orders may be requested in electronic format to simplify making multiple copies.

- (2) Alternatively, one of the CJA counsel or the clerk of court should arrange for the duplication, at commercially competitive rates, of enough copies of the transcript for each of the CJA defendants for whom a transcript has been approved.
  - (3) The cost of such duplication will be charged to the CJA appropriation.
  - (4) A court reporter could also furnish duplication services at the commercially competitive rate. JCUS-SEP 1987, p. 95. **See:** Guide, Vol. 7A, § 320.30.30 (Commercial Duplication in Multi-Defendant Cases).
  - (5) The guidance in this section is applicable whether the copy is ordered by a panel attorney, federal public defender, community defender, or other individual allowed to order under the CJA.
- (b) Courts may want to obtain price quotations from copy services (at least three where feasible) to determine the commercially competitive rate for each court location.
- (1) The AO estimates that 10 cents per page would be a maximum copy rate, with such rate often lower and rarely higher.
  - (2) Commercial rates should be monitored by the court on a periodic basis to ensure accuracy and compliance with the guideline.
- (c) This policy also applies where more than one transcript is ordered on behalf of a single party under the CJA. An example would be where a party under the CJA orders both an electronic media copy and a paper copy. In this example, the court reporter may charge the certified transcript rate (whether the transcript represents the original or a copy) for the electronic media transcript. The paper copy may be charged at the commercially competitive rate (estimated to be 10 cents per page).

## **§ 550.50 Procedures for Payments**

### **§ 550.50.20 Pro Se Defendants**

Vouchers for transcripts ordered by CJA-eligible pro se defendants will be processed and paid from the current fiscal year of the date the payment is processed, without regard to the date ordered.

**§ 550.50.30 Form CJA 24 (Authorization and Voucher for Payment of Transcript)**

## (a) Panel Attorneys

Invoices for transcripts ordered by panel attorneys are paid from the current fiscal year of the date the payment is processed, without regard to the date ordered. Requests for payments must be supported on Form CJA 24 (Authorization and Voucher for Payment of Transcript), approved by a judicial officer.

## (b) Purpose of Form

This form is used by court reporters or transcribers to obtain payment for transcripts ordered under the CJA by panel attorneys, a retained attorney whose client is unable to afford the cost of transcript service, a person who qualifies for representation under the CJA but who has chosen to proceed pro se, or an attorney from a legal organization (bar association, legal aid agency, or community defender organization not receiving a periodic sustaining grant under the CJA), but not for transcripts ordered by federal public or community defenders.

**Note:** Transcripts required by federal public or community defenders will be paid by means of a Form AO 435 (Transcript Order) or equivalent document. Court reporters should bill the federal public defender office via a completed Form AO 44. Once the AO 44 invoice is processed by the federal public defender office a Form SF 1034 is generated as part of the payment process. **See:** § 530.75(b)(6) (Fees for Transcripts to Be Paid by the United States).

## (c) Expenses Included in Payment for Transcript Produced

In addition to the transcript cost, the court reporter is to be reimbursed for the following expenses for which receipts must be attached to the form.

- (1) Travel and subsistence of assistants who aid in the preparation of next-day (daily) or 2-hour (hourly) transcript, if authorized in advance by the district judge or magistrate judge.
- (2) Extraordinary delivery costs, such as courier services or express mail. Regular postage is not to be claimed.



**§ 550.50.40 Form SF 1034 (Public Voucher for Purchases and Services Other than Personal)**

(a) Purpose of Form

Form SF 1034 can be used by court reporters to obtain payment of transcripts furnished to federal public defenders and persons proceeding in forma pauperis in civil cases on appeal, and for proceedings before a United States magistrate judge in any civil or criminal case if such transcript is required by the district court, in the case of proceedings conducted under 28 U.S.C. § 636(b) or 18 U.S.C. § 3401(b). Contract court reporters must submit an invoice.

(b) Federal Public Defenders

- (1) Transcripts are paid from the current fiscal year when the transcript is ordered and are vouchered on Form SF 1034 or equivalent, which is paid by the district court.
- (2) Judicial approval is not required.

**Note:** Form CJA 24 is no longer used for transcripts ordered by FPDOs.

(c) Community Defenders

- (1) Transcripts are paid directly by the Community Defender Offices from grant funds.
- (2) Judicial approval is not required; therefore, payment requests should not be submitted to the district court. **See:** Guide, Vol. 7A, § 430.10 (Payment for Transcripts).

**§ 550.50.50 CJA Panel Attorney Payment System**

The Criminal Justice Act Panel Attorney Payment System provides the process for payment of transcripts ordered under CJA, which are processed by the AO for payment by the Department of Treasury, not the district court's disbursing office.

**§ 550.60 Depositions**

Depositions for Criminal Justice Act attorneys are considered private reporting. **See:** Guide, Vol. 6, § 430 (Private Reporting Activities).

## § 560 Copyright Laws

- (a) Transcripts produced from records of proceedings in United States courts are not protected by copyright, whether the transcript was produced by a court employee, a contractor, or a transcriber. Transcripts are in the public domain, and they may be used, reproduced, and sold by attorneys, parties, and the general public without additional compensation to the court reporter, contractor, or transcriber. 17 U.S.C. § 101, § 105, and § 506(c) and *Samet & Wells, Inc. v. Shalom Toy Co., Inc.*, 429 F. Supp. 895, 901-2 (E.D.N.Y. 1977), *affirmed*, 578 F.2d 1369 (2nd Cir.).
- (b) Transcripts provided to ordering parties via electronic media may not contain any protection or programming codes that would prevent copying or transferring the data. JCUS-SEP 1991, p. 65 and JCUS-SEP 2012, p. 26.
- (c) Paper transcripts may not be provided on paper that restricts the secondary photocopying of the transcript. Paper must meet the guidelines established in § 520.23 and § 520.66.