

IN THE CIRCUIT COURT OF THE 16TH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA IN AND FOR MONROE COUNTY

ADMINISTRATIVE ORDER NO. 2.081

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IN RE:

COURT REPORTING SERVICES PLAN

Filed and Recorded in Official Records of
MONROE COUNTY KEVIN MADOK, CPA

WHEREAS, Florida Rules of Judicial Administration Rule 2.535 confers authority upon the Chief Judge to develop a court reporting plan. Specifically, Rule 2.535(h)(3) requires that the Chief Judge, after consultation with the circuit and county court judges in the Sixteenth Judicial Circuit, shall enter an administrative order developing and implementing a circuit-wide plan for court reporting of all proceedings required to be reported at public expense using full or part-time court employees or independent contractors;

WHEREAS, Rule 2.535(h)(4), Florida Rules of Judicial Administration permits the Chief Judge, after consultation with the circuit and county judges in the Sixteenth Judicial Circuit, to enter a circuit-wide plan that authorizes electronic recording of court proceedings and subsequent transcription by approved court reporters or approved transcriptionists of any judicial proceedings;

WHEREAS, Rule 2.535(i), Florida Rules of Judicial Administration requires the chief judge of each circuit to enter an administrative order developing and implementing a circuit-wide plan for court reporting in all trials in which the State seeks the death penalty and in capital post-conviction proceedings; and

WHEREAS, in accordance with the authority vested in the Chief Judge by Article V, § 2(d) of the Florida Constitution, § 43.26 Fla. Stat., and Florida Rules of Judicial Administration Rules 2.215 and 2.535;

IT IS HEREBY ORDERED:

- I. **Definitions and Designations.** For purposes of this Administrative Order, the terms below have the following definitions and designations:
 - (A) "Audio File" means a file containing digitized audio data that is generated from the performance of court reporting and which may be transmitted either in a compact disc (CD) format, an MP3 format, or in another format that may be received by electronic transmission.
 - (B) "Court reporter" means a contractor, contractor personnel, or any person employed by the Sixteenth Judicial Circuit who meets the Circuit's qualifications for delivery of court reporting services and whose duties include operating a stenographic machine in the courtrooms of the Sixteenth Judicial Circuit.

- (B) "Contractor" means any person or entity with whom the Circuit contracts to provide court reporting and/or transcription services for judicial proceedings required to be reported at public expense.
- (C) "Contractor Personnel" includes and is collectively defined as employees, independent contractors, subcontractors, agents, assigns, students, or interns of the contractor.
- (D) "Court Reporting" means the act of making a verbatim record of the spoken word, whether by the use of written symbols, stenomask equipment, stenographic equipment, or electronic devices, in any judicial proceeding in the courts of this Circuit.
- (E) "Digital Court Reporter" means a contractor, contractor personnel, or any person employed by the Sixteenth Judicial Circuit, who meets the Circuit's qualifications for delivery of court reporting services and whose duties include digitally recording judicial proceedings held in the courtrooms of the Sixteenth Judicial Circuit.
- (F) "Digital Court Reporting" means the process of digitally capturing and recording, with the assistance of encoding hardware and software, the complete verbatim Multi-Media Court Record of any judicial proceeding.
- (G) "Judicial Proceeding" means all criminal proceedings, juvenile delinquency proceedings, dependency proceedings, and any other matter before a judge or general magistrate or hearing officer when a verbatim record is required by law or rule of court, and all communications which take place in open court during such proceedings between the judge (including general magistrates and hearing officers) and the lawyers or other parties to the proceedings, and the testimony of any witnesses. This term does not include any communications which are protected by the attorney-client or work product privileges, or which are otherwise not part of the public proceedings before the judge, general magistrate or hearing officers. If there are *in camera* or side bar matters heard by the presiding judge, such proceedings are part of the record, but are exempt from public access, and shall only be made available to the court, parties to the action, and attorneys for the parties, unless the presiding judge orders otherwise.
- (H) "Multi-Media Court Record" means any combination of the digital audio file, metadata file, text file, annotated file, and video file that is generated from the performance of court reporting.
- (I) "Official Record" means the transcript, which is the written or electronically stored record of court proceedings as prepared by a court reporter, digital court reporter, or transcriptionist and filed with the Clerk of Court. The official record does not include CDs, DVDs, tapes, or any other electronic record of a judicial proceeding nor does it include any transcript of a court proceeding produced by a party or other entity not authorized by this Administrative Order.
- (J) "Transcriptionist" means a contractor, contractor personnel, or any person employed by the Sixteenth Judicial Circuit who performs

transcription services for the Sixteenth Judicial Circuit at public expense and who meets the Circuit's qualifications for transcribing proceedings.

- II. Ownership of Records.** The Chief Judge of the Sixteenth Judicial Circuit, in his or her official capacity, is the owner of all records made by a court reporter, digital court reporter, or transcriptionist in proceedings required to be reported at public expense. The Court reserves the right to full and complete access to any unedited notes, paper tapes, electronic files, and audio or video recordings used to create the official record.
- III. Official Records of Court Proceedings.** Only one "official record" may be produced. For all proceedings in which the Court is required to provide a record, the "official record," as used in this Order, refers to the transcript of the proceedings as produced by an approved stenographic court reporter or an approved transcriptionist and filed with the Clerk of Court. The official record does not include CDs, DVDs, tapes, or any other electronic media recording of a court proceeding, nor does it include any transcript of a court proceeding produced by a party or other entity not authorized by this Order.
- IV. Court Reporting Procedures When the Court Does Not Provide a Record.** The Court does not provide court reporting services at public expense for proceedings held in the Circuit Civil Division, the County Civil Division, or the Family Division (except for proceedings that the Court is required to provide at public expense and which are specifically listed herein). If a party wishes to make a record of a court proceeding for which the Court does not provide a record, it is the responsibility of the party or the party's attorney to secure the services of an approved court reporter. All costs associated with the court reporter's appearance will be the responsibility of the party requesting the court reporter. This does not preclude the taxation of costs as authorized by law.
- V. Court Reporting Procedures by Division.** Court reporting coverage of proceedings recorded at public expense are as follows:

Capital Cases

Trials or Post-Conviction Proceedings- Stenography (real-time, when available)

All Other Proceedings-Stenography

Circuit Criminal

Trials 1st Degree- Stenography or Digital Recording

Trials 2nd Degree- Stenography or Digital Recording

Trials 3rd Degree- Stenography or Digital Recording

First Appearance- Digital Recording

All Other Circuit Criminal Proceedings- Stenography or Digital Recording

County Criminal

All County Criminal Proceedings-Digital Recording

Family Court

Juvenile Delinquency-Digital Recording

Dependency- Digital Recording

Shelter Hearings- Digital Recording

Termination of Parental Rights- Stenography or Digital Recording

Unified Family Court Cases- Stenography or Digital Recording

Domestic Violence Injunctions (all proceedings)

Digital Recording

Baker Act/Marchman Act/Guardianship/Jimmy Ryce (all proceedings)

Digital Recording

General Magistrate/Hearing Officer Proceedings

Digital Recording

Proceedings Taking Place Outside of Regular Court Hours

Stenography or Digital Recording

Computer-Aided Real-Time (CART) for Hearing Impaired (ADA)

Real-Time Stenography

VI. Electronic (Digital) Recording. In accordance with rule 2.535(h)(4), Florida Rules of Judicial Administration, the electronic recording and subsequent transcription by approved court reporters or approved transcriptionists, of any judicial proceedings that are otherwise required to be reported by a circuit court reporter, is hereby authorized.

(A) Court Reporting Services

(1) **Management.** Electronic court reporting in the Sixteenth Judicial Circuit is primarily managed by the Trial Court Administrator through the office of Court Reporting Services (CRS). CRS is responsible for ensuring that proceedings mandated by law to be recorded at public expense and which are recorded by CRS are recorded at the highest quality attainable, that accurate transcripts are prepared, and that the record is retained and archived as required by law.

(2) **Qualifications.** CRS employees and contract service providers shall meet all professional standards and training requirements

established by Florida statute, court rule, the State Courts System, and the Chief Judge of the Circuit.

- (3) **Officers of the Court.** CRS employees and contract service providers are officers of the court and shall not disclose or discuss any confidential information to which they may be privy. As officers of the court, employees must comply with all applicable Florida statutes, court rules, and other requirements as established by the State Courts System and the Chief Judge of the Circuit.

(B) Reliability of the Record. To ensure a reliable record of proceedings recorded electronically, the following procedures and directives are prescribed to be applied in all cases where electronic recording is used.

- (1) **Court Reporting Services Responsibility.** CRS shall be responsible for capturing, managing, maintaining, and storing the complete verbatim Multi-Media Court Record in all judicial proceedings electronically recorded by CRS.
- (2) **Operation of Equipment.** The Court's electronic recording equipment shall be operated by CRS and/or such other persons designated by the Trial Court Administrator or Chief Judge. All equipment utilized by digital court reporters shall be operated and maintained in such a manner and under such conditions to ensure the reliability of capturing the record. These employees shall operate the electronic recording equipment in such manner and under such conditions as to ensure the production and safekeeping of an understandable recording capable of being transcribed into a reliable record. Digital court recording systems shall be regularly tested to ensure proper operation.
- (3) **Monitoring the Recordings.** The Digital Court Reporters shall monitor the recording input and shall immediately signal or notify the trial judge or presiding official, or such other person designated by the trial judge, when the quality of the recording is in question or doubtful.
- (4) **Responsibility of Other Court Personnel.** When electronic digital court reporting is utilized in a courtroom or hearing room, all court personnel and participants are expected to comply with this Administrative Order.
 - a. **Trial Judges, General Magistrates, and Hearing Officers.** In all proceedings in which digital court reporting is utilized, the judge, general magistrate, or hearing officer should remind all participants of the following:
 - i. The proceeding is being recorded and/or monitored.
 - ii. All questions require verbal responses.
 - iii. Each participant shall identify themselves, spell their names for the record, speak clearly, loudly, and distinctly into or near a microphone.
 - iv. Counsel shall not speak at the same time as witnesses or other counsel or otherwise interrupt or obstruct the

- recording of another's speech.
 - v. All physical and visible happenings and events are reported in sound.
 - vi. To notify the court if equipment has been tampered with or is not functioning.
 - vii. The proceedings will be stopped when needed to remedy any matter preventing an adequate recording.
 - viii. To protect the recording equipment.
 - ix. To signify when it is appropriate to use the "mute" button.
- b. **Court Deputies.** The court deputies should assist the trial judge, general magistrate, or hearing officer as needed or desired in maintaining courtroom discipline and should be alert for signals from the trial judge, general magistrate, hearing officer or clerks to communicate with others and to remedy any circumstances interfering with the making of an adequate recording. The court deputies shall ensure that all participants refrain from tampering with equipment, including the inappropriate use of microphone mute buttons or the unauthorized removal of microphones from their original location.
- c. **Counsel.** All participating counsel must be constantly aware of the special requirements for making a clear and reliable recording. Counsel must speak loudly, distinctly, and only from a position at or near a microphone. Counsel must make all directions and explanations verbally and should aid and direct witnesses as needed. Counsel should push the mute feature on the counsel table when engaging in privileged communications or should otherwise go to a location that is inaccessible to the recording equipment. Attorneys shall inform their clients of the method of recording being utilized and take necessary precautions to protect disclosure of confidential communications during the proceeding.
- (5) **Alteration or Circumvention of Recording System Prohibited.** Alteration or circumvention of the court's electronic recording system is prohibited. This includes, but is not limited to, unplugging a microphone or permanently engaging a microphone's mute switch. All parties shall operate on the assumption that their conversations are being recorded while in the courtroom. The mute switches provided are designed for brief moments of private consultation. Parties desiring to have extended private conversations should take appropriate measures including but not limited to going to a location that is inaccessible to the recording equipment. Persons who tamper with the digital court recording equipment, including the microphones, may be held in contempt of court.

(C) Safeguarding Confidential Communications. All persons entering a courtroom in the Sixteenth Judicial Circuit are hereby notified that electronic recording equipment is in use and that anything said in the courtroom or hearing room may be electronically recorded.

(1) **Signage.** Appropriate signs shall be placed outside all courtrooms and hearing rooms where digital court recording is being utilized to capture the records. Signs providing notice of the use of microphones shall also be posted on the counsel table. The signs shall provide notice to all who enter the courtroom or hearing room of the use of digital court recording equipment and that any conversations may be recorded.

(2) **Off-Record Events.** Electronic recording by the Digital Court Recording Services of off-record discussions or conversations are not made pursuant to any court rule, law, or ordinance, and are not recorded in connection with the transaction of official business of the judiciary. As such, any incidental electronic recordings of off-record discussions or conversations do not constitute a record of the judicial branch to which the public is entitled access, as defined by Rule 2.420, Florida Rules of Judicial Administration. In addition, all off-record conversations between attorneys and their clients are protected by the attorney-client privilege and shall remain confidential. CRS shall review recordings to be given to the public at large to ensure that matters protected from disclosure by law or court rule are not disseminated. Anyone who has or gains access to any recordings produced from the electronic court record shall not reveal, divulge, utilize in any fashion, or transcribe any attorney-client statements, conversations, or similar confidential communications that are recorded in the Sixteenth Judicial Circuit, unless otherwise provided by specific order of the Court.

VII. Retention of Stenographic Notes, Digital and Electronic Recordings.

Pursuant to Florida Rules of Judicial Administration Rule 2.430, court reporters, digital court reporters, or persons acting as court reporters for judicial proceedings shall retain the original notes or electronic records of the judicial proceedings as follows:

- Two (2) years from the date the transcript was filed or otherwise prepared.
- Five (5) years from the date of the relevant court proceeding, if no transcript was prepared in a non-felony case.
- Ten (10) years from the date of the relevant court proceeding, if no transcript was prepared in felony cases.

VIII. Transcripts. In appellate cases, a transcript may be provided upon the CRS manager's receipt of a Designation to Approved Court Reporter or

Approved Transcriptionist. In all other cases, recordings of proceedings will not be transcribed at public expense without a court order unless otherwise authorized by the Court.

- (A) **Transcriber.** Transcripts may only be produced by employee or contract court reporters and transcriptionists approved by the court in accordance with Rule 2.535, Florida Rules of Judicial Administration. All persons approved by the court to perform court reporting transcription services shall comply with all applicable court rules and standards established by the State Courts System and the Chief Judge.
- (B) **Original Transcript of Proceedings to be Filed.** Unless otherwise ordered by the Court, the original transcript of the proceeding shall be filed with the Clerk of Court.
- (C) **Accuracy.** All persons transcribing digital recordings shall certify the transcript as a true and accurate text of the digital recording of the proceeding. If any dispute arises as to whether the transcript accurately reflects the electronic and digital recording, the attorneys and/or parties shall first attempt to resolve the matter with the Manager of CRS or his or her designee. If the attorneys and/or parties are not able to resolve the matter with the Manager of CRS, then the matter shall be resolved by the presiding judge.

IX. Procedure for Requesting Electronic Recordings. All requests for a copy of an original recording must be submitted in writing to CRS. The form to be utilized is available at www.keyscourts.net and attached hereto as Exhibit A.

- (A) **Non-Parties and Attorneys Not of Record.** Any non-party who is not listed on the clerk's docketing system as an attorney of record may request and obtain a digital recording of a judicial proceeding recorded by CRS, except for proceedings held under the Rules of Juvenile Procedure, Baker Act proceedings, or any other exempt proceeding that shall not be provided to non-parties without an order of the presiding judge. The request will be treated as a request for public records in accordance with the Florida Rules of Judicial Administration and any applicable local administrative order. Before any audio file is released to a non-party in a case, it shall be redacted of any confidential material found therein, as defined by applicable law, and labeled accordingly.
- (B) **Parties and Attorneys of Record.** Attorneys of record and parties to a case, including self-represented litigants, seeking to obtain a digital recording of a judicial proceeding electronically recorded by CRS must execute an acknowledgement that states confidential information may be contained on the record, further dissemination of confidential information contained in the recording is prohibited, and violation of the prohibition against the dissemination may subject the requestor to an action for contempt of court. This form is available at www.keyscourts.net and attached hereto as Exhibit B.
- (C) **Certification.** All personnel providing a copy of the audio file shall certify the copy to be true and accurate.
- (D) **Disclaimer.** When an audio file of court proceedings is released, it

shall include a disclaimer that it is not the official record of the court proceedings and that it is not to be used in subsequent court proceedings.

- (E) **Fees and Rates.** A schedule of fees shall be established by CRS. Fee schedules for transcripts or copies of electronically recorded proceedings required to be reported at public expense are available in Administrative Order No. 2.071/14-1. Additional fees will be charged for requests that require extensive use of staff or technology resources in accordance with Florida Rules of Judicial Administration Rule 2.420. Fees will be charged for requests that require staff to listen to the recording and determine if it contains confidential and exempt information.
- (F) **Cost Sharing.** All releases of audio files and transcript production shall be in accordance with the fee schedule, except that the Office of the Public Defender, the Office of the State Attorney, and the Office of Regional Counsel shall participate in a Cost Sharing Agreement for Court Reporting Services. The Sixteenth Judicial Circuit provides court reporting services to these agencies based on an annual legislative appropriation to the Office of the State Courts Administrator.

X. Court Reporting Procedures in Capital Cases.

- (A) **Procedure.** Any judicial proceeding in which the State of Florida seeks the death penalty, including but not limited to pretrial hearings, trials, sentencing hearings, and postconviction hearings, shall be reported by a court reporter. The use of digital court reporting as the court reporting system is prohibited. If available, real-time stenography shall be used. All persons and entities, including contractors, providing court reporting services shall give priority to capital cases in the production of transcripts, and shall use all measures necessary to expedite the preparation of the transcript, including but not limited to:
 - (1) Where available, the use of a court reporter who has the capacity to provide real-time transcription of the proceedings;
 - (2) If real time transcription services are not available, the use of a computer-aided transcription qualified court reporter;
 - (3) The use of scopists, text editors, alternating court reporters, or other means to expedite the finalization of the transcript; and
 - (4) The imposition of reasonable restrictions on work assignments by employee or contractor court reporters to ensure that transcript production in capital cases is given priority.
- (B) **“Loaning out.”** Loaning out of stenographic notes is prohibited in capital cases to ensure that the court reporter has immediate access to the notes for production of the transcript.
- (C) **Instruction.** Judges shall give immediate instruction to the court reporter to begin transcription upon the return of the verdict in capital cases and immediately initiate an order approving the production of the transcript.
- (D) **Other Measures.** The CRS manager for the Sixteenth Judicial Circuit,

in coordination with the Trial Court Administrator and Chief Judge, is further directed and authorized to put into effect any other measures as allowed by law or rule to expedite the preparation and finalization of transcripts in capital cases.

- XI. Emergency Back-Up Plan.** In all proceedings in which the type and means of court reporting equipment or services specified in this Order are not available due to emergency circumstances, the Chief Judge or his or her designee may utilize and implement whatever other means of reporting is available to capture the court record.

Upon execution of this Administrative Order, Administrative Order Nos. 2.039, 2.039/95-1, 2.039/98-1, 2.039/99-1, 2.039/01-1, and 2.048 are hereby rescinded in their entirety.

DONE AND ORDERED at Key West, Monroe County, Florida, this 4th day of December, 2020.


MARK H. JONES
CHIEF JUDGE



State of Florida
Sixteenth Judicial Circuit
Digital Court Reporting

AUDIO REQUEST FORM

(All fields are required)

CASE INFORMATION

Case No.:	Name:	
Date(s) of Hearing(s):	Judge:	
Location (Key West/Marathon/Plantation Key):	Courtroom:	
Additional Case Details:		

REQUESTOR INFORMATION

Name:	Phone No.:	
Address:	Email:	
City:	State:	Zip:

FOR OFFICE USE ONLY

Date Received:	Date Completed:
Amount Paid:	Completed By:
M.O. #:	Is requestor a party in the case?

Additional Comments:



**State of Florida
Sixteenth Judicial Circuit
Digital Court Reporting**

PROHIBITION AGAINST DISSEMINATION

RELEASE OF AUDIO RECORDING OF COURT PROCEEDING TO
ATTORNEY OF RECORD OR PARTY

CASE STYLE:

CASE NUMBER:

DATE(S) OF HEARING(S):

The audio recording(s) of the above-referenced court proceeding(s) may contain information that is confidential or exempt from public disclosure by court order or under Florida or Federal Law. Dissemination of recordings or information to any other person is strictly prohibited, except as permitted by law, rule or court order. **Violation of this prohibition may subject you to legal action, including but not limited to an action for contempt of court.**

Prior to release of the recording to a member of the general public, the Administrative Office of the Courts (AOC) is required to review the recording for confidential or exempt information, and redact such information from the recording. **You may not undertake such redaction and dissemination.** Only the AOC may redact and/or disseminate recordings that contain confidential information.

I, _____, am an attorney of record or a party in the above referenced court case. Pursuant to Florida Supreme Court AOSC11-22, I acknowledge that I have read this **Prohibition Against Dissemination** and understand that further dissemination of the audio recording(s) provided to me is strictly prohibited and may subject me to legal action for contempt of court. I further acknowledge that I was offered and am hereby refusing to accept and pay the cost for redaction of the recording(s) with all confidential information redacted, which would not be prohibited from further dissemination. By my signature below, I acknowledge, understand, and agree to comply with this **Prohibition Against Dissemination.**

Signature of Requester:

Date:

Requester's Name:

Requester's Address:

Requester's City, State, Zip Code:

Requester's Telephone:

Requester's Email: