

# United States District Court Southern District of Illinois

David R. Herndon, Chief Judge  
Nancy J. Rosenstengel, Clerk of Court



## **PLAN FOR MANAGEMENT OF COURT REPORTERS AND RECORDING SERVICES**

---

### **I. Introduction**

In order to achieve effective control and management of court reporting, the United States District Court for the Southern District of Illinois adopts this Plan for Management of Court Reporters and Recording Services, subject to the rules and regulations of the Judicial Conference of the United States (“Judicial Conference”). This Plan applies to all Official Court Reporters employed by the court and supersedes the Court Reporter Management Plan dated March 2009.

The Clerk of Court is authorized by the Chief Judge to supervise the combined court reporting and recording operations of the court. The Clerk of Court shall designate a Court Reporter Supervisor who will be responsible for the day-to-day management of court reporting and recording services within the court. This Plan is designed to:

- obtain effective management of the court reporting and recording operations by proper supervision and control;
- make clear that Official Court Reporters, although assigned to a particular judge, serve *en banc* and may be assigned as needed throughout the district to any active judge, senior judge, visiting district judge, or magistrate judge;
- achieve the most effective utilization of both services of Official Court Reporters and recording services;
- avoid backlogs of transcripts; and
- minimize the use of contract court reporters.

### **II. Duties of the Court Reporter Supervisor**

The Chief Judge delegates the following supervisory responsibilities to the Clerk of Court or her designee:

- Assigning and reassigning Official Court Reporters for the purpose of fairly and efficiently distributing the court’s overall workload while minimizing travel and assuring the overall lowest cost to the court;
- Approving or denying leave for Official Court Reporters, including annual leave, sick leave, telework, and excused absences, subject to the requirements of the Administrative Office of the United States Courts (“AO”), the Judicial Conference, and local policies;
- Reviewing transcripts to ensure full compliance with format requirements of the Judicial

- Conference;
- Reviewing transcript billings to ensure that authorized transcript rates are charged;
- Determining Official Court Reporters' compliance with the provisions of 28 U.S.C. § 753(b) concerning the recording, certifying, and filing of electronic recordings of all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases;
- Reviewing the records of Official Court Reporters to ensure timely filing of all reports required by the AO and the Judicial Conference, namely Form AO 40A *Attendance and Transcripts of United States Court Reporters* and AO 40B *Statement of Earnings of United States Court Reporters*; and
- Monitoring all requests for transcripts.

### **III. Appointment and Dismissal of Court Reporters**

This court is presently authorized five full-time Official Court Reporters: four in East St. Louis and one in Benton. Official Court Reporters are appointed in accordance with the provisions of the Court Reporter Act, 28 U.S.C. § 753, and the policies and procedures of the AO and the Judicial Conference. This court will only appoint Official Court Reporters who possess the following qualifications:

- A minimum of at least four years of prime court reporting experience in the freelance field of service or in other courts or a combination thereof;
- Certified by testing for listing on the registry of professional reporters of the National Court Reporters Association ("NCRA") or passed an equivalent qualifying examination;
- Realtime court reporting proficiency.

Newly appointed Official Court Reporters are subject to a three month probationary period. Official Court Reporters who do not perform in a competent and satisfactory manner will be subject to dismissal.

Should it be necessary to reduce the number of Official Court Reporters (due to a reduced workload, a reduction in the number of judges or reported in-court hours, or a change in the staffing formula), positions shall be reduced in accordance with the following priorities: attrition, relocation, or termination, with a minimum notice of sixty days. Competence and skill level will be the primary consideration in determining whether termination is appropriate, but the Clerk of Court is the ultimate arbiter of which Official Court Reporters best meet the present needs of the court, subject to approval by the Chief Judge.

### **IV. Leave and Attendance of Court Reporters**

All Official Court Reporters are covered by the Annual & Sick Leave Act of 1951, formerly referred to as the Leave Act, 5 U.S.C. § 6301 *et. seq.*, and earn annual and sick leave pursuant to the Act. Official Court Reporters serve the court as a whole and shall be present in their assigned courthouse office during regular duty hours (normally 8:00 a.m. to 4:30 p.m.) for a forty hour work week.

Official Court Reporters shall submit all requests for leave, including telework, through the Electronic Leave Management Organizer (ELMO) for approval. Planned sick leave for appointments and medical treatment must be requested far enough in advance to permit the scheduling of an alternate reporter, if necessary. To avoid the need to hire a contract court reporter, Official Court Reporters should attempt to coordinate their leave when no proceedings are scheduled or when

another Official Court Reporter can cover court.

In order to allow Official Court Reporters to participate in the judiciary's telework program, Judicial Conference guidelines permit them, with approval, to perform official duties outside of the courthouse. Official Court Reporters may telework only when doing so does not affect adequate court coverage.

Requests for annual leave and teleworking will not be approved if an Official Court Reporter has any past due requests for extensions of time to file an appeal transcript or past due transcript requests, unless the leave request is to complete such transcript work.

## **V. Freelance Reporting**

Full-time Official Court Reporters are not permitted to perform any private (freelance) work of any kind. Official Court Reporters employed for less than forty hours per week may not engage in private reporting during their regular tour of duty. When no court proceedings require coverage, Official Court Reporters may perform reporting for grand juries, if approved by the Court Reporter Supervisor.

All Official Court Reporters are placed on a rotating list of transcribers available to transcribe digitally recorded hearings; the list is maintained by the Court Reporter Supervisor. The Official Court Reporter is responsible for contacting the party requesting the recording and making billing and delivery arrangements.

## **VI. Contract Court Reporters**

Contract court reporters shall be used only when no Official Court Reporters are available to cover a hearing, trial, or naturalization ceremony, and usage will be kept to a minimum. Whenever possible, electronic recording shall be used in lieu of hiring a contract court reporter.

## **VII. Transcripts**

The *Guide to Judiciary Policy*, Volume 6, Court Reporting, governs the preparation, billing, and delivery of transcripts:

- Appeal transcripts shall be produced before any other transcript. Official Court Reporters shall not agree to expedite any transcript which will delay the preparation of an appeal transcript. Preparation of criminal transcripts generally takes precedence over preparation of civil transcripts. Civil transcripts will be prepared in chronological order of the date of request.
- All appeal transcript orders shall be made on the Transcript Information Sheet Form provided by the Seventh Circuit Court of Appeals. The Official Court Reporter shall contact the ordering party no later than ten days after receipt of request to make financial arrangements for the preparation of appeal transcripts.
- In computing the transcript preparation deadline, time will not begin to run until the transcript order and/or the Transcript Information Form is received by the Official Court Reporter and adequate financial arrangements have been made for the transcript's preparation.
- An Official Court Reporter must prepare a final invoice (AO Form 44 or CJA Form 24) for

all transcript deliveries showing the exact charges and any refund or additional billing adjustments. Fee adjustments shall be made at the time of transcript delivery.

- This court and the court of appeals may each sanction any court reporter who habitually files late transcripts.
- Official Court Reporters are required to produce transcripts requested by a presiding district or magistrate judge without cost to the court within thirty days of the request unless the transcript has been ordered expedited.
- An Official Court Reporter shall transcribe promptly all proceedings requested by any party agreeing to pay the fees established by the Judicial Conference or any proceeding a judge or the court may direct.
- A certified transcript copy must be delivered by the court reporter to the Clerk of Court or her designee concurrent with, but no later than three working days after, delivery to the requesting party.

### **VIII. CJA Transcripts**

All transcripts produced for criminal defendants represented under the terms of the Criminal Justice Act must be billed on CJA Form 24. Attorney instructions for completing CJA Form 24 are located on the court's internet site. Judicial Conference policy prohibits a routine apportionment among the parties of accelerated transcript costs in CJA cases.

In multi-defendant cases involving CJA defendants, no more than one transcript should be purchased from the Official Court Reporter on behalf of the CJA defendants. Appointed counsel, the Clerk of Court, or the Official Court Reporter will arrange for duplication of the transcript, at a commercially competitive rate, for each CJA defendant for whom a transcript was approved. The cost of duplication will be charged to the CJA appropriation.

### **IX. Time Limits for Delivery of Transcripts**

Official Court Reporters shall deliver to the requesting party all transcripts of official proceedings prepared for an appeal and upload them to CM/ECF within the time limits prescribed by the Seventh Circuit Court of Appeals. When unable to complete transcripts by the due date, an Official Court Reporter may request an extension, which may not exceed ninety days from the due date. Click here for a link to the Seventh Circuit Court of Appeals Court Reporter's Request for an Extension of Time to File a Transcript <http://www.circ7.dcn/caseproc/FORMSoth/ctrexttm.pdf>. Only the Clerk of the Court of Appeals may extend the due date for an appeal transcript.

Transcript delivery dates are computed from:

- The date on which satisfactory financial arrangements are made, except for transcripts to be paid for by the United States or free copies ordered by the court; or
- The date on which the court reporter receives the appropriate request for transcript or CJA Form 24, which includes appropriate judges' date and signature, when the transcript is to be paid by the United States.

## **X. Certification of Court Reporter Notes and Electronic Recordings**

Pursuant to 28 U.S.C. § 753(b), 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 of Court, who shall preserve them in the public records of the court for not less than ten years.

- Official Court Reporters shall maintain either the original paper notes or electronic notes of all court proceedings for a period of one year. Regardless of which storage method is utilized, the reporter will also transfer and certify his or her notes electronically to the district's Local Area Network (LAN) at least every thirty days. The reporter will verify the successful transfer of the notes file to the network.
- The marking, filing, and storing of reporters' notes and recorders' audio recordings shall be done routinely and in such a manner that another court reporter could have access to them in the event of an emergency.
- All digital audio recordings of proceedings will be stored on the court's network server. Network access to digital recordings is limited to authorized court personnel. When a request is made for a digitally recorded proceeding, the Court Reporter Supervisor will arrange for the proceeding to be transcribed by an Official Court Reporter or qualified transcriber.

## **XI. Arraignments, Pleas, and Impositions of Sentence**

Pursuant to 28 U.S.C. § 753(b), an Official Court Reporter must transcribe and certify all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases, unless they have been recorded by electronic sound recording. In addition, Official Court Reporters shall file a transcript of all such criminal proceedings within thirty days of their occurrence, unless they were recorded on electronic sound recording equipment. If recorded electronically, the electronic recording, accompanied by a certification of the reporter, shall be filed with the Clerk of Court.

## **XII. Realtime Reporting Standards**

Realtime is the instantaneous translation of the proceedings on a computer monitor. The *Guide to Judiciary Policy*, § 321.30.10(b), defines a realtime unedited transcript (also known as a realtime unedited translation) as "a draft transcript produced by a Certified Realtime Reporter as a byproduct of realtime to be delivered electronically during the proceedings or immediately following adjournment." Realtime includes the following services:

- The instantaneous translation of the proceedings on a computer monitor;
- The opportunity 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 realtime unedited transcript delivered during the proceedings or at the end of the day.

Each Certified Realtime Reporter should request that parties acknowledge receipt of a realtime unedited transcript by signing a disclaimer which explicitly states that the ordering party is aware that the realtime unedited transcript is not an official record of the court proceedings.

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, are recognized as Certified Realtime Reporters. Certified Realtime Reporters are permitted, but not required, to sell realtime unedited transcripts. When realtime services are requested by a party to the case, a Certified Realtime Reporter may charge and collect for a realtime unedited transcript. A Certified Realtime Reporter should not sell realtime unedited transcripts to anyone who is not a party to the case without prior approval of the presiding judge.

The transcript format guidelines prescribed by the Judicial Conference apply to realtime unedited transcripts with the following exceptions:

- Realtime unedited transcripts must be clearly marked as such with a header or footer which appears at the top or bottom of each page of the transcript or a computer generated watermark on each page stating, "Realtime Unedited Transcript Only;" and
- The realtime unedited transcript should not include an appearance page, an index, or a certification.

All parties requesting realtime services will be responsible for providing their own personal computers, viewer/annotation software, and monitors. Parties should coordinate and pre-test their equipment with the Certified Realtime Reporter before official proceedings begin.

A Certified Realtime Reporter who provides a realtime unedited transcript should offer comparable services to all parties to the proceeding. The primary purpose of realtime unedited transcripts is to provide access to a draft transcript of the proceedings at the end of each day. It is not intended to be used in subsequent proceedings for impeachment or for any other purpose, including further distribution.

### **XIII. Miscellaneous**

The Clerk of Court has determined that access to the court's Data Communication Network (DCN) by Official Court Reporters is appropriate. Such access is for official purposes and may include access to judiciary electronic mail, the J-Net, the Case Management/Electronic Case Filing ("CM/ECF") system (for case management and docketing purposes), calendaring systems, and automated forms. Official Court Reporters may access the DCN through a personal computer for teleworking purposes.

### **XIV. Conclusion**

This Plan for Management of Court Reporters and Recording Services will become effective upon its approval by the Judicial Council of the Seventh Circuit.

**APPROVED AS TO FORM AND SUBSTANCE:**

 Digitally signed by David R.  
Herndon  
Date: 2013.02.07 13:32:14 -06'00'

**Chief U.S. District Judge David R. Herndon**

JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 SOUTH DEARBORN STREET

CHICAGO, ILLINOIS 60604

COLLINS T. FITZPATRICK  
CIRCUIT EXECUTIVE  
PHONE (312) 435-5803

May 1, 2013

Ms. Nancy J. Rosenstengel  
Clerk  
Southern District of Illinois  
United States District Court  
Post Office Box 249  
East St. Louis, Illinois 62202

Dear Nancy:

The Judicial Council of the Seventh Circuit has approved the Plan for Management of Court Reporters and Recording Services for the United States District Court for the Southern District of Illinois. Please send a copy of the approved plan to the Administrative Office.

Sincerely,



Collins T. Fitzpatrick

CTF:tlw

cc: Chief Judge Frank H. Easterbrook  
Chief District Judge David R. Herndon  
Gino J. Agnello