

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2009-049 PA/PI-CIR

**RE: COURT REPORTING PLAN AND PROCEDURES FOR PUBLIC ACCESS TO  
ELECTRONIC RECORDINGS OF COURT PROCEEDINGS**

Rule of Judicial Administration 2.535 confers authority upon the Chief Judge to develop a court reporting plan. Specifically, Rule 2.535(h)(3) requires the Chief Judge, after consultation with the circuit court and county court judges in the circuit, to 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. Further, Rule 2.535(h)(4) authorizes the Chief Judge to provide for electronic recording and transcription of proceedings.

It is necessary to amend the Circuit's court reporting plan due to the Supreme Court's opinion in *In re Amendments to the Florida Rules of Judicial Administration and the Florida Rules of Appellate Procedure- Implementation of Commission on Trial Court Performance and Accountability Recommendations*, 2009 WL 2045399, 34 Fla. L. Weekly S452 (Fla. July 16, 2009) and thus, Administrative Order 2007-079 must be updated. This opinion will become final on August 1, 2009, and accordingly, the procedures adopted in this Administrative Order are divided between proceedings recorded prior to August 1, 2009, and those recorded on or after August 1, 2009. The procedures adopted for proceedings recorded prior to August 1, 2009, provide for notice and an opportunity to be heard prior to release of these recordings because persons may not have been on notice that their private conversations might be released.

Pursuant to the authority of the Chief Judge in Rule of Judicial Administration 2.215, and § 43.26, Florida Statutes, it is

**ORDERED:**

**A. FUNDAMENTALS OF COURT REPORTING PLAN**

**1. Scope**

The court reporting plan set forth in this Administrative Order delineates procedures to be followed for various proceedings on a circuit-wide basis. However, due to insufficient state funded positions, it continues to be necessary at the West Pasco Judicial Center for stenographic contract court reporters to record all trials pursuant to section 394.910 et seq., Florida Statutes; all termination of parental rights trials pursuant to Chapter 39, Florida Statutes; all hearings on the waiver of parental notification of abortion pursuant to section 390.01114, Florida Statutes; all felony trials; and all proceedings in cases where the death penalty could potentially be imposed, including capital postconviction proceedings. When sufficient resources become available, the Court intends to bring the delivery of all court reporting services at the West Pasco Judicial Center into accordance with the court reporting plan for the remainder of the circuit.

In any proceeding in which the type of court reporting equipment or services specified in this Administrative Order are not available, the Administrative Office of the Courts (AOC) may utilize any court-employed court reporter or court equipment, or services with which it has contracted, without further order of the Court. Under emergency or any other exigent circumstances in which contracted services, personnel, or equipment are not available, the AOC may utilize whatever other means of reporting is available under the circumstances, but must notify the Chief Judge of the exigency as soon as possible.

## **2. Definitions**

The term “approved court reporter” means a court employee or contractor who performs court reporting services, including transcription, at public expense and who meets the court’s certification, training, and other qualifications for court reporting.

The term “approved transcriptionist” means a court employee, contractor, or other individual who performs transcription services at public expense and who meets the court’s certification, training, and other qualifications for transcribing proceedings.

The term “civil court reporter” means a court reporter who performs court reporting services in civil proceedings not required to be reported at public expense and meets the court’s certification, training, and other qualifications for court reporting. In the Sixth Circuit a “civil court reporter” is a stenographic court reporter who holds a current certification as a Registered Professional Reporter or other higher-level certification from the National Court Reporter’s Association and who has provided documentation of that certification to the AOC; or who otherwise meets standards set by the AOC to provide court reporting services in the Sixth Judicial Circuit.

The term “court-employed stenographic court reporter” means an “approved court reporter” who is employed by the court and who meets the court’s qualifications to perform stenographic court reporting.

The term “court-employed digital court reporter” means an “approved court reporter” who is employed by the court and who meets the court’s qualifications to monitor or transcribe electronic recordings.

The terms “electronic record” or “electronic recording” means the audio, analog, digital, or video record of a court proceeding made using electronic equipment owned or operated by the Sixth Judicial Circuit.

## **3. The Record**

For all proceedings in which the Court is required to provide a record, the “official record” is the transcript, which is the written record of court proceedings as produced by an “approved court reporter” and filed with the Clerk of the Circuit Court. For all other court proceedings, the “official record” is the transcript, which is the written record of court proceedings as produced by a “civil court reporter” and filed with the Clerk of the Circuit Court.

The official record does not include CDs, DVDs, tapes, or any other electronic record 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 Administrative Order.

Only one official record of a court proceeding may be produced. A transcript of a court proceeding that is not produced by an “approved court reporter” or a “civil court reporter” is not an official record and may not be used in court proceedings.

## **B. COURT REPORTING PROCEDURES BY COURT DIVISION**

### **1. Circuit Court**

#### **a. Appellate Division**

The Court does not provide any court reporting services in Appellate Division matters. However, parties wishing to record oral argument in Appellate Division proceedings may use any “civil court reporter” in accordance with Section E of this Administrative Order.

#### **b. Civil Division**

Parties in Civil Division proceedings may use any “civil court reporter” in accordance with Section E of this Administrative Order except that all trials in which the Court is required to provide a record, including but not limited to trials under section 394.910 et seq., Florida Statutes, shall be reported by “court-employed stenographic court reporters.” If sufficient “court-employed stenographic court reporters” are not available, such trials may be reported by any other “approved court reporter.”

All other proceedings in which the Court is required to provide a record, including but not limited to those under section 394.910 et seq., Florida Statutes, shall be reported by an “approved court reporter.”

#### **c. Criminal Division**

All proceedings except for trials and capital proceedings, which are addressed in Section F of this Administrative Order, shall be reported by “court-employed digital court reporters.” Trials shall be reported by “court-employed stenographic court reporters.” If sufficient “court-employed stenographic court reporters” are not available, such trials may be reported by any other “approved court reporter.”

#### **d. Probate Division**

Parties in Probate Division proceedings may use any “civil court reporter” in accordance with Section E of this Administrative Order except that all proceedings in which the Court is required to provide a record, including but not limited to proceedings pursuant to Chapter 744, Florida Statutes, regarding (1) adjudication of incapacity; (2) appointment of a guardian; (3)

modification, termination, or revocation of the adjudication of incapacity; or (4) restoration of capacity, shall be reported by an “approved court reporter.”

**e. Family Division**

Parties in proceedings governed by the Florida Family Law Rules of Procedure may use any “civil court reporter” in accordance with Section E of this Administrative Order except that all proceedings in which the Court is required to provide a record, including but not limited to domestic violence proceedings under section 741.30, Florida Statutes; as well as all dating, sexual, and repeat violence proceedings under Chapter 784, Florida Statutes, shall be reported by an “approved court reporter.”

All proceedings under the Florida Rules of Juvenile Procedure, including trials, shall be reported by “court-employed digital court reporters,” except that termination of parental rights trials pursuant to Chapter 39, Florida Statutes, and proceedings to waive parental notification of abortion pursuant to section 390.01114, Florida Statutes, shall be reported by “court-employed stenographic court reporters.” If sufficient “court-employed stenographic court reporters” are not available, such proceedings shall be reported by any other “approved court reporter.”

**2. County Court**

**a. Civil Division**

The Court provides no court reporting services for proceedings in the Civil Division. However, the parties may use any “civil court reporter” in accordance with Section E. of this Administrative Order.

**b. Criminal Division**

All criminal proceedings, including trials, shall be reported by “court-employed digital court reporters.”

**c. Small Claims Division**

The Court provides no court reporting services for proceedings in the Small Claims Division. However, the parties may use any “civil court reporter” in accordance with Section E of this Administrative Order.

**d. Traffic Division**

Civil Proceedings: All civil proceedings in the Traffic Division in Pinellas County shall be reported by electronic recording. The Court provides no court reporting services for civil proceedings in the Traffic Division in Pasco County; however, a party may record a civil traffic infraction hearing in accordance with Florida Rule of Traffic Court 6.460(b).

Criminal Proceedings: All criminal proceedings in the Traffic Division shall be reported by “court-employed digital court reporters.”

**C. COURT REPORTING PROCEDURES FOR HEARINGS BEFORE GENERAL MAGISTRATES AND HEARING OFFICERS**

All proceedings before general magistrates and hearing officers shall be reported by electronic recording with the exception of hearings before Civil Traffic Infraction Officers in Pasco County as more fully set forth in Section B(2)d of this Administrative Order.

**D. COURT REPORTING PROCEDURES FOR HEARINGS COMMENCING OUTSIDE OF REGULAR COURT HOURS**

**1. General Procedures**

The proceedings described in this section will be electronically recorded. If electronic recording is unavailable due to exigent circumstances, the proceeding may be recorded by any other available means, including but not limited to handheld digital voice recorders. The trial clerk and bailiff shall ensure that the recording equipment remains on throughout the proceeding.

Regardless of which recording method is used, the date, time, name of the judge or other presiding official, party names, and case number shall be stated at the outset of the recording. If a handheld digital voice recorder is used, the trial clerk in attendance shall place the recorder in an envelope and label the envelope with the date of the proceedings and the name of the presiding judge. On the next regular court business day, the trial clerk shall deliver the recorder to the digital court reporting department for transfer of the recording to its equipment.

**2. First Appearance Hearings (Advisories) Pursuant to the Florida Rules of Criminal Procedure or Juvenile Procedure**

Advisories commenced on weekends, holidays or at any other time outside of regular court hours shall be electronically recorded. In Pinellas County, jail personnel shall be responsible for ensuring that the electronic recording equipment is started prior to the commencement of the proceedings. In Pasco County, the AOC shall be responsible for ensuring that electronic recording equipment is set to automatically record proceedings from 8:00 a.m. until 3:00 p.m. on weekends and holidays. The trial clerk and bailiff shall be responsible for back-up recording via handheld digital voice recorders.

**3. Chapter 39 Shelter Hearings and Proceedings to Waive Parental Notification of Abortion**

Shelter hearings pursuant to Chapter 39, Florida Statutes, and proceedings to waive parental notification of abortion pursuant to section 390.01114, Florida Statutes, which are commenced on weekends, holidays, or any other time outside of regular court hours shall be electronically recorded. In Pinellas County, the AOC shall be responsible for ensuring that the electronic computer recording equipment is started prior to the commencement of the

proceedings. In Pasco County, the AOC shall be responsible for ensuring that electronic recording equipment is set to automatically record proceedings from 8:00 am until 3:00 pm on weekends and holidays. The trial clerk and bailiff shall be responsible for back-up recording via handheld digital voice recorders.

**E. COURT REPORTING PROCEDURES WHERE THE COURT DOES NOT PROVIDE A RECORD**

1. If a party wishes to make a record of a court proceeding for which the Court does not provide a record as delineated in this Administrative Order, it is the responsibility of the party or the party's attorney to secure the services of a "civil court reporter," as defined in this Administrative Order.

2. All notices of hearings for proceedings where the Court does not provide a record must specify whether the party setting a matter for hearing will be securing the services of a court reporter; and, if so, the name and address of the 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. See Florida Rule of Judicial Administration 2.535(b).

3. Only "civil court reporters" as defined in this Administrative Order may be used. If a court reporter arrives to report a particular proceeding but is not a "civil court reporter," the judge may, after inquiry to determine the qualifications of the reporter, authorize the individual reporter to report a specific proceeding.

**F. COURT REPORTING PROCEDURES IN CAPITAL CASES**

1. Any proceeding involving the potential or actual imposition of the death penalty, including but not limited to pretrial hearings, trials, sentencing hearings, and postconviction hearings, shall be reported by a "court-employed stenographic court reporter" or a contract stenographic court reporter.

2. When a jury returns a verdict of guilty as charged in a case where the State is seeking the death penalty, the judge should orally instruct the court reporter to immediately begin transcribing the trial as well as any hearings conducted by any judge throughout the pendency of the case.

3. Upon the imposition of the death penalty, the judge should orally instruct the court reporter to immediately begin transcribing the penalty phase of the trial, the *Spencer* hearing, any other hearings held after the verdict but prior to sentencing, and the actual sentencing hearing.

4. At the conclusion of a case management conference, Rule 3.850 or 3.851 evidentiary hearing, or any other evidentiary post-conviction hearings in a case in which a death sentence has been imposed, the judge conducting the hearing should orally instruct the court reporter to immediately begin to transcribe the hearing(s).

5. Where immediate transcription instructions are given pursuant to paragraphs F(2) –(4) of this Administrative Order, the trial judge should also notify the Pasco Administrative Judge or the Pinellas Criminal Administrative Judge, as appropriate, who shall enter a written order authorizing the transcript(s).

6. Where immediate transcription instructions in a death penalty proceeding are required by this Administrative Order but are not given, the State Attorney or defense attorney shall move for transcription of the relevant proceedings and prepare an order to transcribe for the signature of the appropriate administrative judge.

7. Any order to transcribe issued pursuant this section shall also be construed as a designation to the court reporter and, unless a different timeframe is ordered by the Court, the transcript of the designated proceeding(s) shall be prepared within thirty (30) days. Court-employed and contract court reporters reporting death penalty proceedings shall use reporting methods, including but not limited to the measures set out in Rule 2.535(i)(1), (2), and (3) to ensure that transcripts are prepared expeditiously. However, nothing in this Administrative Order shall be construed to authorize payment for court reporting services beyond the regular contract rates. Payment beyond the regular contract rates may be authorized only by order of the Chief Judge.

8. All case transcripts in capital cases must be emailed to the Supreme Court of Florida in accordance with Supreme Court Administrative Order No. AOSC04-84 or any subsequent administrative order of the Supreme Court regarding electronic filing of transcripts in capital cases.

9. Real-time reporting procedures may be used only when specifically authorized by the Chief Judge.

## **G. COURT REPORTING PROCEDURES RELATED TO ELECTRONIC RECORDING**

### **1. Notice to court participants and the public**

All persons entering a courtroom in the Sixth Judicial Circuit are hereby notified that electronic recording equipment is in use and that anything said in the courtroom may be electronically recorded and released upon request. Persons should safeguard information they do not want recorded.

### **2. Participant Functions**

In order to ensure an accurate record of proceedings using electronic recording equipment, all participants must comply with the following procedures:

a. All court participants in the courtroom, including Clerks of Court, bailiffs, attorneys, and employees of the Court shall:

- (i) If unable to easily hear a participant in the proceedings, remind the judge that the participants need to speak with sufficient volume for the system to make an accurate recording,
  - (ii) Not tamper with microphones or electronic recording equipment, and
  - (iii) Immediately notify the Judge when it appears that someone is tampering with or has tampered with the electronic recording equipment.
- b. Bailiffs shall:
- (i) Ensure that no one tampers with microphones or the electronic recording equipment,
  - (ii) Promptly notify the Court of any evidence that the microphones or electronic recording equipment is not functioning properly,
  - (iii) Promptly notify the Court when a microphone at an attorney's table is left muted after a private conversation, and
  - (iv) Remind participants to speak into the microphone.
- c. The Court Clerk shall notify the "court-employed digital court reporter" by calling the digital court reporting control room when proceedings are about to begin or when they have concluded.
- d. The Judge shall:
- (i) Remind participants to speak into the microphone and answer verbally,
  - (ii) If the judge observes or is otherwise informed that equipment has been tampered with or is malfunctioning, notify the Administrative Office of the Courts,
  - (iii) If the judge observes participants being careless with equipment, remind participants to protect the court's equipment, and
  - (iv) If unable to easily hear a participant in the proceedings, remind the participants to speak with sufficient volume for the system to make an accurate recording.
- e. Attorneys and parties shall:
- (i) Speak clearly and speak into the microphone,
  - (ii) Not tamper with microphones or electronic recording equipment,
  - (iii) Ensure that microphones are on for all non-private communications,
  - (iv) Ensure that the microphone is muted for private communications, where mutable microphones are provided,
  - (v) Remember that non-verbal communication is not recorded,
  - (vi) Identify themselves for the record, and
  - (vii) Take all reasonable and available precautions to protect disclosure of confidential communications in the courtroom. Such precautions may include muting microphones or going to a designated location that is inaccessible to the recording equipment.

### **3. Administrative Office of the Courts Responsibilities**

a. Except for general magistrates and hearing officers, all AOC staff who have access to electronic recording equipment, including but not limited to all “approved court reporters” and Court Technology Office staff, shall execute an oath acknowledging their responsibilities to the Court. New employees shall execute the oath prior to assuming duties.

b. AOC personnel shall operate and maintain equipment so that an accurate recording is made. If the sound quality of a proceeding drops to a level that brings into question the ability to transcribe the proceeding, the judge shall be notified immediately.

c. AOC personnel shall ensure that the electronic recording equipment will reliably provide for recording of the proceeding. For proceedings using electronic recording equipment, the AOC shall ensure that the proceeding is recorded to a hard drive and backed up on a server. The data shall be removed from the server and burned to a CD or DVD on a periodic basis. The AOC shall maintain the CD or DVD for the period of time prescribed by the Rules of Judicial Administration. Proceedings shall be properly identified, and shall be maintained in a manner that facilitates locating specific court proceedings for purposes of obtaining a transcript.

d. “Approved court reporters” and “approved transcriptionists” shall prepare transcripts of proceedings in accordance with procedures developed by the AOC. Such procedures shall include, but not be limited to, standards for addressing off-the-record discussions; sidebar conferences; and attorney-client conversations not directed to the Court. “Approved court reporters” and “approved transcriptionists” shall also certify the correctness of the transcript prepared.

If sufficient “court-employed digital court reporters” are not available to prepare transcripts in a timely fashion, the AOC shall arrange for transcription by a “court-employed stenographic court reporter” or “approved transcriptionist” who shall transcribe in accordance with procedures developed by the AOC. The transcript produced by the AOC or “approved transcriptionist” is the official record of the proceeding as more fully detailed in Section A(3) of this Administrative Order.

e. AOC personnel shall prepare and post notice to persons in all courtrooms that electronic recording equipment is in use and that persons should safeguard information they do not want recorded.

### **4. Protection of Equipment**

In order to ensure a reliable record of proceedings using electronic recording, microphones and other electronic equipment must be protected. Any willful act that disables or circumvents the proper recording of a proceeding, or any willful destruction of such equipment will be treated as contempt of court and will be enforced in accordance with Rule of Criminal Procedure 3.830 or 3.840.

## 5. Access to Control Room

Access to any electronic recording monitoring location is strictly limited to those court employees whose job functions require access. Access by any other individual is strictly prohibited absent a specific authorization granted by the Chief Judge.

## H. MISCELLANEOUS COURT REPORTING PROCEDURES

1. A court reporter reporting a deposition may report a hearing to have a certified question answered regardless of whether the matter would normally be reported by the Court.

2. Hearings of administrative agencies conducted in court facilities may be reported by the agency's own reporters.

3. The State Attorney, Public Defender, and Regional Counsel shall decide how court reporting services will be provided to their offices.

## I. PROCEDURES FOR ORDERING WRITTEN TRANSCRIPTS

1. Any person may order a written transcript of a court proceeding except that proceedings under the Rules of Juvenile Procedure, Baker Act proceedings, or any other statutorily exempt proceeding shall only be provided to those persons authorized by law.

2. Requests for a written transcript of proceedings should be made in writing utilizing the Transcript Request Form found at [www.jud6.org](http://www.jud6.org). In Pinellas County, this form should be submitted to the Administrative Office of the Courts, 14250 49<sup>th</sup> Street North, Suite H-2000, Clearwater, FL 33762, or via email to [jmesa@jud6.org](mailto:jmesa@jud6.org). In East Pasco County, this form should be submitted to the Administrative Office of the Courts, Court Reporting Department, 38053 Live Oak Avenue, Suite 124, Dade City, FL 33523, or via email to [epreporter@jud6.org](mailto:epreporter@jud6.org). In West Pasco County, this form should be submitted to the Administrative Office of the Courts, Court Reporting Department, 7530 Little Road, Room 203, New Port Richey, FL 34654, or via email to [wpreporter@jud6.org](mailto:wpreporter@jud6.org).

3. Any request must include sufficient information necessary to identify the proceeding, including the date of the proceeding, name of the presiding judge, the case name and Uniform Case Number, portion of the proceedings requested, and whether the proceeding was stenographically or electronically reported.

4. Any transcript produced by the AOC or a contract court reporter will be filed with the Clerk of the Circuit Court unless the Court orders otherwise or unless a rule of court provides otherwise.

5. All transcript requests submitted to the Court require a 50% deposit before the transcript will be produced or the request must be accompanied by an order to transcribe. The balance must be paid prior to receipt of the transcript. Rates for production of transcripts will be in accordance with separate Administrative Orders establishing rates for court reporting services.