



## Minnesota Judicial Branch

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### Storage of Captured Records of Court Proceedings

#### I. POLICY STATEMENT

It is a policy of the Minnesota Judicial Branch that all records of court proceedings shall be filed with the court administrator to ensure compliance with Minn. Stat. § 486.03; safe and secure storage, retention, and maintenance of these records; and the ability to produce transcripts from these records when the person who took the record is unavailable to produce a transcript.

#### II. DEFINITIONS

- A. Audio recording - A digital/electronic recording of court proceedings taken by an ECR or EREO that captures and preserves a verbatim record, using an approved audio recording system with log notes/tags that are date and time-coded to the digital recording. A stenographic record is not an audio recording.
- B. Courtroom Audio System - A court owned audio recording system installed in courtrooms or readily available for use in a courtroom or remotely. A courtroom audio system does not include video conferencing software.
- C. Dictionary - A stenographic court reporter's electronic database of steno-to-English definitions and conversion rules used for translating raw electronic steno notes into English text.
- D. Electronic Court Reporter (ECR) - A court reporter who captures a verbatim record of court proceedings using a court owned and approved audio recording system, and is certified to prepare and distribute transcripts.

- E. Electronic Recording Equipment Operator (EREO) - Court staff certified to capture a verbatim record of court proceedings using an audio recording system authorized in Policy 523.
- F. Log Notes/Tags – Date and time-coded annotations of court proceedings that identify details including: case number, who is participating in the proceeding, and the chronological events of the proceeding, to enable searching the record.
- G. Official Court Reporter - An employee of the Minnesota Judicial Branch with a job classification of Official Court Reporter – Steno, Official Court Reporter – Electronic, or Court Reporter - Court Reporter Lead Worker.
- H. Paper-Only Court Reporter - A stenographic court reporter who captures the proceedings on stenographic equipment and generates only paper notes.
- I. Paper Notes - Paper stenographic tape containing the original untranslated, unedited, stenographic marks generated on stenographic equipment.
- J. Per Diem Reporter - A court reporter who is not an employee of the Minnesota Judicial Branch who is engaged on an as-needed basis to provide court reporting services when an official court reporter is not available.
- K. Raw Electronic Steno Notes - An electronic file containing the original untranslated, unedited, stenographic marks generated on stenographic equipment.
- L. Stenographic equipment (Steno Machine) - A specialized piece of equipment used by stenographic court reporters to capture proceedings as raw electronic steno notes and/or paper notes.
- M. Stenographic Court Reporter - A court reporter who captures a verbatim record of court proceedings using stenographic equipment and prepares and distributes transcripts.
- N. Transcript - A fully edited, final, certified document of the court proceedings.
- O. Translated Notes - A computer-generated document created through the conversion of raw electronic steno notes into English text, whether done in real time or post proceedings. Translated notes do not constitute a transcript.
- P. Video Conferencing Software - A platform for video and audio conferencing licensed by the court. Video Conferencing Software does not include courtroom audio systems.
- Q. Definitions in Judicial Council Policy 523.1, Capturing the Record Proceedings – Backup Recordings and District Copies, apply to this policy.

### **III. PROCESS**

- A. Secure Repository. The State Court Administrator (SCA) shall provide and maintain a secure repository (Repository) for the electronic filing of all stenographic records and audio recordings of court proceedings, as defined in section III.B of this policy.
  - 1. SCA shall adopt protocol for authorizing access to the Repository by official court reporters, electronic recording equipment operators (EREOs), court administrators, district administrators, appointing authorities, former official court reporters, and per diem reporters.
  - 2. The Repository must be a statewide system, searchable by those with access rights, and backed up nightly.
- B. Filing.
  - 1. All official court reporters, per diem reporters, and EREOs shall electronically file records of court proceedings with the court administrator in the county in which the case is venued, as provided in this policy.
    - a. If the record of court proceedings taken in one county includes cases venued in other counties, the court reporter, per diem reporter or EREO who took the record is responsible for notifying the SCAO ITD staff who administer the Repository of the names of each county of venue included in the record within the time for filing set in paragraph B.2 as follows:
      - i. Stenographic court reporters must list all counties on the submission form.
      - ii. ECRs and EREOs must follow a process designated by the State Court Administrator.
    - b. Each District must adopt a file naming convention that minimally includes the court session date and distinguishes multiple audio recordings for the same date from the same courtroom location. Districts shall document their naming convention in their Court Record Management Plan.
  - 2. The records of court proceedings shall be electronically filed at the conclusion of each day's court proceedings except as provided in paragraph 3 of this section. The records should be filed daily. If it is not possible to electronically file the court records at the conclusion of a day's court proceedings, they must be filed no more than ten business days after the conclusion of that day's court proceedings.

- a. The date of filing is the date the record is submitted into the Repository (submission date). The submission date is the date of filing in the Repository.
  - b. The court session date is the date of the court proceeding.
  - c. In the event the record is updated (i.e., log notes/tags are modified), a modified date must be entered, without altering the original date of filing in the Repository and the court session date.
- 3. Stenographic records of court proceedings are deemed to be electronically filed with the court administrator when one of the following is stored in the Repository:
  - a. translated notes in a Rich Text Format (RTF) file, or
  - b. raw electronic steno notes in RTF format or the native format of the stenographic equipment with a copy of an updated dictionary saved in a Rich Text Format (RTF) file. If a dictionary already has been filed, only the raw electronic steno notes need to be filed.

In the event there is a calendar but no record is taken, the stenographic court reporter is required to file Stenographic Filing Submission Form indicating “no filing.”

- 4. Audio recordings of court proceedings taken by an ECR or EREO are deemed to be electronically filed with the court administrator when the audio recording and corresponding log notes/tags are stored in the Repository. Filing requirements for backup recording are addressed in Policy 523.1.
  - a. Only audio recordings shall be filed. Do not file video recordings of court proceedings.
  - b. Stenographic court reporters who are certified to take the record electronically under Policy 324, Minimum Qualifications for Court Reporters, Electronic Recording Equipment Operators, and Per Diem Reporters, may take the record electronically using an approved courtroom audio recording system or video conferencing software, unless otherwise provided in a District’s Court Record Management Plan.
  - c. In addition to filing the audio recording and the corresponding log notes/tags, stenographic court reporters who take the record of a court proceeding by audio recording, instead of by stenographic equipment, also are required to file a Stenographic Filing Submission Form,

identifying cases or calendar sessions taken electronically by audio recording, unless the District has a separate tracking system.<sup>1</sup>

d. Log Notes/Tags Standards:

- i. With the exception of Child Support Magistrate hearings, log notes/tags must include annotations that detail the chronological events of the court proceeding, including judicial officer's name, and for each case: case name, case number, names of attorneys, parties, witnesses and other participants; major events such as opening arguments, witnesses, type of examination, and exhibits offered and received. Log notes/tags must, at least, meet minimum standards set for certification as an ECR or EREO.
  - ii. With the exception of Child Support Magistrate hearings, when the audio recording is taken using a courtroom audio system, log notes/tags must be taken in the courtroom audio system, synchronized to the recording with time-coded annotations.
  - iii. With the exception of Child Support Magistrate hearings, when the audio recording is taken using video conferencing software, log notes/tags may be taken using a chat feature in the video conferencing software, or in Word, or email.
5. Paper-Only Court Reporters are not required to file their stenographic notes electronically. They are required to file their paper notes with the court administrator no more than **ten** business days after the conclusion of that day's court proceedings and record the filing of the paper notes in the Repository unless otherwise ordered by the district court because proceedings are not yet concluded. The paper notes shall be filed with the court administrator by placing them in a designated storage area. Local procedures for storing paper notes should be updated accordingly. If a local procedure does not exist, one must be established.

C. Access to Records in Repository

Access to records in the Repository is solely for the purpose of complying with this policy and relevant law. Access to records stored in the Repository is limited to the purposes outlined in this policy. This policy does not preclude court reporters or EREOs who captured the court record from using records outside of the Repository for business purposes, including, for example, making audio recordings available to judges, law clerks, and court administration staff.

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<sup>1</sup> Except as otherwise provided in this Policy, court reporters are not required to file a "no filing" submission form.

1. Court Reporters. Court reporters must be able to file records of court proceedings as required by this policy and access their own records for purposes of preparing transcripts, if necessary. Former official court reporters and per diem reporters shall not have access without the approval of the court administrator. Access to a stenographic court reporter's dictionary is limited to that stenographic court reporter, except when deemed necessary under paragraph D.6, and to the extent necessary for compliance monitoring under paragraph G.
  2. Electronic Recording Equipment Operators (EREO). EREOs must be able to electronically file records of court proceedings and view the records filed. EREOs shall have access upon approval of the court administrator.
  3. Court Administration.
    - a. The court administrator and/or designee for each county must have read/hear-only access to the records of proceedings to comply with statutory requirements and this policy. A designee shall have access with the approval of the court administrator.
    - b. Except as authorized in this policy, court administration staff shall not have access to the Repository.
  4. State Court Administrator's Office.
    - a. Information Technology Division (ITD) staff must have access to the Repository for purposes of securing, maintaining, and updating the Repository. ITD staff shall not have access without approval of their appointing authority.
    - b. Internal Auditor and staff must have access to the Repository for purposes of auditing the compliance.
- D. Transcript Preparation. The official court reporter or per diem reporter who captured the verbatim record of a court proceeding is the person to transcribe the record and shall prepare or arrange for the preparation of the transcript of the court proceeding, except as otherwise provided in this section.
1. Official court reporters who take a court reporter position in another county or judicial district continue to be responsible for preparing transcripts of court proceedings taken while in a prior position.
  2. The Assignment of Transcript Work provision in the Memorandum of Agreement: "Fourth Judicial District Court Monitoring Room Court Reporters" (9/28/2010) applies as long as it remains in force and effect.

3. Upon separation from employment with the Minnesota Judicial Branch, former official court reporters remain responsible for preparing transcripts unless the court reporter:
  - a. notifies the court administrator(s) that s/he is no longer available to prepare transcripts;
  - b. fails to provide the court administrator with current contact information; or
  - c. fails to respond to requests in a timely manner as related to the urgency of the request; or
  - d. is incapacitated or has died.
4. Per diem court reporters are responsible for preparing transcripts unless the court reporter:
  - a. notifies the court administrator(s) that s/he is no longer available to prepare transcripts;
  - b. fails to provide the court administrator with current contact information; or
  - c. fails to respond to requests in a timely manner as related to the urgency of the request; or
  - d. is incapacitated or has died.
5. Transcripts of court proceedings recorded by an EREO shall be arranged for and prepared following local practices.
6. In the event that the official court reporter or per diem reporter who captured the record is deemed to be unavailable to prepare the transcript, the court administrator or designee shall find an official court reporter in the same county or district who is able to prepare the transcript except in the 4<sup>th</sup> Judicial District where the Assignment of Transcript Work provision in the Memorandum of Agreement applies.
  - a. A court reporter is deemed to be unavailable to produce a transcript if:
    1. the reporter is no longer responsible for preparing the transcript under paragraph D.3 or D.4;

2. the reporter is on leave and unable to prepare a transcript or request an extension; or
    3. there is an urgent need for a transcript to be produced immediately and the court reporter cannot be located.
  - b. Access to the record of the proceeding, including the stenographic dictionary, will be provided to the second court reporter to enable production of the transcript. Access must be approved by the court administrator or designee.
7. Official court reporters shall promptly notify their appointing authority, and if different, the judge who presided at a court proceeding, when:
  - a. the reporter is unable to timely complete a transcript within 60 days or such shorter period as is prescribed by applicable rules;
  - b. the reporter is unable to comply with a transcript delivery deadline set in an appellate court order; or
  - c. the appellate court has declared the court reporter to be ineligible to act as an official court reporter in proceedings and prohibited from performing any private reporting work until an overdue transcript is filed, or has been found in contempt of court for failing to comply with an appellate court order fixing a time within which the transcript must be delivered and filed. If declared by the appellate court to be ineligible, the court reporter must promptly comply with the appellate court order.
- E. Record Ownership. All recordings of court proceedings and log notes/tags are the property of the Minnesota Judicial Branch.
- F. Record Retention. All recordings of court proceedings shall be retained for the period of time required in the District Court Records Retention Schedule. The court administrator or designee is responsible for destruction of records in the Repository as required under the District Court Records Retention Schedule.
- G. Compliance.
  1. The court administrator or designee shall be responsible for monitoring compliance with the filing requirements of this policy and Policy 523.1.
    - a. Monitoring should be done on a regular basis, a minimum of quarterly (four (4) times per year).



1. If quarterly, the court administrator/designee must select a minimum of 5 business days in the quarter to review and review all calendars for those days for each county being reviewed.
  2. If the review is more frequent than quarterly, the court administrator/designee must select a minimum of 2 business days in the review period to review, and review at least 50% of all calendars for those days for each county being reviewed.
- b. For court proceedings taken stenographically, verify that steno records required under Policy 523 and backup recordings have been timely filed in the Repository, and verify there is a district copy of the backup recording.
  - c. For court proceedings taken electronically, verify the audio recording and log notes/tags have been timely filed in the Repository; and verify there is a district copy of the audio recording taken within the district.
  - d. Each review must be documented, identifying: who conducted the review; the date of review; the time period of the records reviewed; the scope of the records reviewed; the findings of the review; and follow-up action taken.
2. If the court administrator or designee determines records of proceedings were not filed or timely filed as required by this policy or Policy 523.1 or a district copy of an audio recording is not found, the court administrator or designee shall notify the court reporter or EREO, or District IT that compliance is required. If an official court reporter or EREO does not become compliant, the court administrator or designee shall notify the appointing authority in writing.
  3. A term of the assignment or contract for per diem reporters shall include a requirement to comply with this policy. If a per diem reporter does not become compliant, the court administrator or designee shall notify the judge(s) who presided at the court proceedings along with the judicial district administrator, that the per diem reporter shall not be used for per diem services unless this person agrees to comply with the filing requirements.
  4. To enable monitoring for compliance, reports shall be created and generated from the data in the Repository. The reports shall be accessible to all persons authorized to have access to the Repository.

#### **IV. APPLICATION**

1. This policy applies to official court reporters, per diem reporters, and electronic recording equipment operators who capture the record of a court proceeding.
2. This policy applies to all court proceedings before a judge, referee, or child support magistrate taken on the record, except conciliation court proceedings.
3. This policy does not restrict current practice for locations in which audio recordings are shared with judges, referees, child support magistrates, law clerks, and court administration staff for business-related purposes.
4. This policy does not restrict or impact an official court reporter's personal copies or backups of records of court proceedings.

#### **V. IMPLEMENTATION AUTHORITY**

Implementation of this policy shall be the responsibility of the State Court Administrator, acting as the Judicial Council's agent.

Actions identified in this policy to be completed by the District shall be implemented in the District's Court Record Management Plan.

#### **VI. EXECUTIVE LIMITATIONS**

None.