



## Minnesota Judicial Branch

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<b>Category:</b>	Court Operations
<b>Title:</b>	Capturing the Record of Court Proceedings – Backup Recordings and District Copies
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### Capturing the Record of Court Proceedings – Backup Recordings and District Copies

#### I. POLICY STATEMENT

It is the policy of the Minnesota Judicial Branch that an audio recording of every court proceeding taken by an Electronic Court Reporter or Electronic Record Equipment Operator on the record shall be recorded on a court owned and approved audio recording system to ensure that a transcript of the court proceeding can be produced. An audio backup recording shall be made of all court proceedings taken stenographically by stenographic court reporters on a court owned and approved audio recording system. All audio recordings and backup recordings are to be filed in the Repository established under Policy 523 and a copy shall be stored at the district.

The purpose of this policy is to ensure that there will be an audio backup recording of court proceedings, recorded on court owned and approved equipment, that can be used to produce a transcript in the event a transcript cannot be produced from the stenographic record. In addition, it is the purpose of this policy to ensure that a transcript can be produced from an audio recording.

#### 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. Audio recording system – A court owned and approved digital/electronic system or court licensed video conferencing software that records sound, used for audio recording of court proceedings.

- C. Backup recording - An audio recording of a court proceeding taken by a stenographic court reporter made using an approved audio recording system when the record is taken using stenographic equipment. For audio recording systems with backup features, that recording is the backup recording.
- D. Court Proceedings – Hearings and trials for district court cases heard before a judge, referee, or child support magistrate, on the record. For the purposes of this policy, court proceedings do not include conciliation court proceedings; other proceedings before a judge, referee or child support magistrate that are not on the record; or proceedings before hearing officers, or Alternative Dispute Resolution (ADR) neutrals.
- E. 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.
- F. District Copy – A copy of an audio recording or a backup recording stored with the District.
- G. 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.
- H. Electronic Recording Equipment Operator (EREO) – Court staff ~~who are~~ certified to capture a verbatim record of court proceedings using an audio recording system. Unless certified to prepare transcripts, these employees are not authorized to prepare transcripts of court proceedings. For purposes of this policy this definition of EREOs includes court employees who are certified court reporters, but not currently serving as official court reporters.
- I. Official Record – The official record of the proceeding is the transcript as provided in Rule 4, subd. 3(a) of the Minn. R. Pub. Access.
- J. Stenographic Court Reporter – A court reporter who captures a verbatim record of court proceedings using stenographic equipment and prepares and distributes transcripts.
- K. Video Conferencing Software – A platform for video and audio conferencing licensed by the court. Video Conferencing Software does not include courtroom audio systems.
- L. Definitions in Judicial Council Policy 523, Storage of Captured Records of Court Proceedings, apply to this policy.

### **III. PROCESS**

- A. Audio Recording System.

1. Courtrooms must be equipped with a court owned audio recording system or an audio recording system must be readily available for use in a courtroom.
2. Audio recording systems used in the Judicial Districts, including Courtroom Audio Systems and Video Conferencing Software, must be approved by the State Court Administrator (SCA), who shall maintain a list of approved systems.
3. The audio recording system must be operated by an authorized operator.
  - a. For purposes of capturing the audio recording, authorized operators are ECRs and EREOs.
  - b. For purposes of backup recordings, authorized operators are stenographic court reporters, court administration staff present in the courtroom, or other staff who operate the audio recording system from a centralized location.

#### B. Backup Recordings.

1. Backup recordings taken by a stenographic court reporter must be made of all court proceedings taken on stenographic equipment, using an approved courtroom audio system or approved video conferencing software, if the courtroom audio system is not available for the court calendar. Audio recordings made using other recording equipment, such as an audio recording feature on stenographic equipment, or a tape recorder, do not meet the requirements of this Policy.
2. The backup recording system must be operated by a stenographic court reporter or an authorized operator of the recording equipment designated by the district administrator, taking into consideration available courtroom staff and technology. System checks shall be conducted daily with spot checking of audio quality as provided in the judicial district court record management plan.
3. Log notes/tags for backup recordings are not required, but may be included.
4. Backup recordings of proceedings may be used to assist in the preparation of transcripts by official court reporters or per diem reporters, or in the event a court reporter is unavailable to produce a transcript. Rules of Public Access to Records of the Judicial Branch, Rule 4, subd. 3(a) and (c)(2).
5. Backup recordings of any spoken words in the courtroom that are not part of the proceeding shall only be used pursuant to Rules of Public Access to Records of the Judicial Branch, Rule 4, subd. 3(b) and (c)(3).
6. The backup recording of a proceeding shall only be provided to a judge, the judge's law clerk, or designee at the direction of the judge who presided at the court proceeding, a judge who is assigned to the case, or the chief judge, for use by the

court. Rules of Public Access to Records of the Judicial Branch, Rule 4, subd. 3(c)(3).

C. Filing Requirements.

1. The audio recording of a court proceeding taken by an ECR or EREO using an authorized courtroom audio system, along with the log notes/tags that are date and time-coded to the digital recording, must be filed and stored in the Repository as provided in Judicial Council Policy 523, Storage of Captured Records of Court Proceedings.
2. The audio recording of a court proceeding taken by an ECR or EREO using authorized video conferencing software along with log notes/tags, must be filed and stored in the Repository as Provided in Judicial Council Policy 523, Storage of Captured Records of Court Proceedings.
3. Backup recordings of court proceedings taken by a stenographic court reporter using an authorized courtroom audio system or video conferencing software shall be filed in the Repository.

D. District Copy.

1. A copy of audio recordings of court proceedings taken by an ECR or EREO including log notes/tags, and all backup recordings must also be stored by the District where recorded, in a secured location maintained by the District Office, separate from the Repository and the audio recording system used to take the audio record.
2. The District is responsible for operating, monitoring and maintaining storage of the District Copy of audio recordings, including log notes/tags, and backup recordings.

E. Record Ownership. All audio recordings, log notes/tags, backup recordings and district copies of court proceedings are the property of the Minnesota Judicial Branch.

F. Access.

1. Access to audio recordings and stenographic records is governed by the Minnesota Rules of Public Access to Records of the Judicial Branch; Judicial Council Policy 523; Storage of Captured Records of Court Proceedings; and this Policy.
2. District copies of audio and backup recordings should only be accessed and used in the event the stenographic record or the audio recording stored in the Repository is not accessible, except as otherwise provided in this Policy or Policy 523.
3. District copies of audio and backup recordings may be accessible by the Information Technology Division (ITD) staff; the Judicial District Administrators and the State Court Administrator, or their designees; and by court order.

G. Record Retention. All backup recordings and district copies 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 and the secured location where the redundant recordings are stored.

#### **IV. APPLICATION**

- A. This policy applies statewide to all court proceedings, as defined in this policy.
- B. This policy does not restrict an official court reporter from making additional copies or backups of court proceedings for the purpose of producing a transcript.

#### **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.