

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

IN RE: COURT REPORTING
SERVICES PLAN

Administrative Order
No. 2.2

PURSUANT to Fla. R. Jud. Admin. 2.070, and after consultation with the Circuit and County Court Judges of the Twentieth Judicial Circuit, the Court hereby revises, adopts and implements the following Circuit-wide plan for the reporting or recording of all proceedings required to be reported or recorded at public expense.

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CLERK OF COURTS

I. PROVISION OF SERVICES - The Twentieth Judicial Circuit is currently in a period of transition from court reporting services as defined by Fla. R. Jud. Admin. 2.070(a) to electronic court recording and transcription as permitted by Fla. R. Jud. Admin. 2.070(g)(3). During this period of transition, the Twentieth Judicial Circuit hereby implements a hybrid plan which shall incorporate multiple service delivery strategies for the reporting or recording of all proceedings required to be reported or recorded at public expense. The plan utilizes both independent contract court reporters and employee electronic court recorders.

II. APPLICABLE PROCEEDINGS - This Administrative Order and the contracts entered into in accordance with the terms of this Administrative Order and the other authorities cited herein shall apply to all criminal and juvenile proceedings, including depositions, and any other judicial proceedings required by law or the court to be reported or recorded at public expense, as required by Fla. R. Jud. Admin. 2.070(g).

III. METHODS OF REPORTING

A. **STENOGRAPHIC REPORTING** - In any required proceeding set forth in paragraph II above, stenographic reporting by a court reporter as defined by Fla. R. Jud. Admin. 2.070(a) may be utilized.

B. **ELECTRONIC RECORDING**

1. **Terminology** – The term “electronic recording” shall include audio tape recording, videocassette tape recording, or recording by any other electronic means, including, but not limited to, digital or other technology.

2. **Applicable Proceedings** - Electronic recording as contemplated by Fla. R. Jud. Admin. 2.070(g)(3) may be used in all criminal, juvenile, and mental health proceedings, and any other judicial proceedings required by law or the court to be reported or recorded at public expense, including, but not limited to, the following:

- a. First appearance hearings;
- b. Adversary preliminary hearings;
- c. Criminal trials and all pre-trial and post-trial proceedings;

- d. Criminal contempt proceedings;
- e. Criminal depositions;
- f. Guardianship proceedings;
- g. Baker Act proceedings;
- h. Marchman Act proceedings;
- i. Juvenile detention and delinquency hearings;
- j. Juvenile dependency shelter hearings;
- k. Foster care review panel hearings;
- l. Dependency and termination of parental rights proceedings;
- m. Proceedings for families and children in need of services;
- n. Proceedings before General Masters or Magistrates in family law matters;
- o. Child support enforcement hearings, including Support and Visitation Enforcement (SAVE) hearings and Department of Revenue (DOR) hearings;
- p. Petitions for injunctions against domestic violence hearings;
- q. Petitions for Waiver of Parental Notice of Abortion; and
- r. Elsewhere as required or so ordered by the court.

IV. INDEPENDENT CONTRACT COURT REPORTERS - Court reporting services as defined by Fla. R. Crim. P. 2.070(a) may be provided by independent contractors subject to contracts entered into between the Administrative Office of the Courts and the court reporters. All contracts executed and in force and effect at any time during the operation and application of this Administrative Order shall be kept on file with the Court Administrator.

A. **QUALIFICATIONS** - Each independent contract court reporter whose services are utilized pursuant to a contract shall be a proficient Computer-aided Transcription (CAT) court reporter. In addition, independent contract court reporters shall:

1. Be certified by the National Court Reporters Association as a Registered Professional Reporter, Registered Merit Reporter, Registered Diplomate Reporter, or

Real-time Reporter; or,

2. Have otherwise demonstrated proficiency in stenographic court reporting.

B. SCOPE OF SERVICES - The scope of services to be provided by independent contract court reporters is specifically limited to that which is covered by the contracts entered into by and between the Administrative Office of the Courts and the court reporters. Should it become necessary to obtain court reporting services in addition to those contemplated by the contracts, the Court Administrator shall coordinate the provision of such court reporting services and shall ensure the proficiency of the court reporters utilized.

C. COURT REPORTERS AS OFFICERS OF THE COURT - Pursuant to Fla. R. Jud. Admin. 2.070(f), an independent contract court reporter is an officer of the court while acting as a reporter in a judicial proceeding or discovery proceeding. As an officer of the court, the court reporter shall comply with all rules and statutes governing the proceeding which are applicable to court reporters, and the failure to do so shall constitute neglect of duty for which sanctions may be imposed in the exercise of the court's inherent authority, or pursuant to Florida Statute § 43.26(4), or as otherwise provided by law.

D. NOTIFICATION PROVISION - In accordance with the duties and obligations of independent contract court reporters as officers of the court pursuant to the authorities cited above, when a request is made for a transcript or portion thereof from a court reporter, such reporter shall forthwith notify, in writing, or orally if written notification is not practicable, all other parties to the action that a request has been received. This provision shall not apply to any transcript ordered by the court.

E. RETENTION OF RECORDS - All independent contract court reporters governed by this Administrative Order shall retain all original notes and electronic records, including dictionaries, of the proceedings or depositions in strict accordance with Fla. R. Jud. Admin. 2.075(f).

V. ELECTRONIC RECORDING AND TRANSCRIPTION - In accordance with Fla. R. Jud. Admin. 2.070(g)(3), the Chief Judge hereby authorizes the electronic recording and subsequent

transcription by persons other than court reporters of any judicial proceedings, including depositions, that are otherwise required to be reported by a court reporter.

A. ELECTRONIC COURT RECORDING OFFICE

1. Authorized Proceedings – The Administrative Office of the Courts, Electronic Court Recording Office, is authorized to capture the record for criminal and civil judicial proceedings required by law or by rules of court to be reported or recorded at public expense. This Administrative Order does not authorize the Electronic Court Recording Office to record any proceedings unless those proceedings are required to be recorded at public expense. Parties to civil actions shall arrange for an independent court reporter to record those proceedings that the Court is not required to record or report at public expense.

2. Equipment and Procedures – The Court’s electronic recording equipment shall be operated by employees of the Administrative Office of the Courts and/or by such other persons designated by the Court Administrator. The procedures to ensure a reliable and secure record and compliance with applicable statutes and rules of court shall be promulgated by the Court Administrator, shall be on file in the Electronic Court Recording Office, and may be amended from time to time as deemed appropriate by the Chief Judge or the Court Administrator.

3. Employees as Officers of the Court - Employees of the Administrative Office of the Courts who perform electronic court recording and its related functions, as well as any other persons authorized by the Court Administrator to perform these functions, shall be officers of the court and shall not disclose or discuss any confidential information to which they may be privy.

B. TRANSCRIPTION – Proceedings or depositions electronically recorded at public expense and pursuant to this Administrative Order will be transcribed by court personnel employed by the Administrative Office of the Courts within the Electronic Court Recording Office or by independent contract transcriptionists, at the discretion of the Court Administrator or

the Court Administrator's designee.

C. QUALIFICATIONS OF TRANSCRIPTIONISTS - All persons transcribing electronically recorded proceedings or depositions, whether employees of the Administrative Office of the Courts or independent contract transcriptionists, shall meet the qualifications established by the Chief Judge or the Court Administrator to ensure the person's ability to transcribe the proceedings and to certify the correctness of the transcripts.

D. REQUESTS FOR TRANSCRIPT OR ELECTRONIC RECORDING - Requests for either a written transcript or, in instances where independent contract transcriptionists are used, a copy of the original recording of any proceeding or deposition electronically recorded by the Electronic Court Recording Office pursuant to this Administrative Order shall be submitted in writing to the Electronic Court Recording Office. The request shall be on a form available from the Administrative Office of the Courts or the Electronic Court Recording Office, and, if applicable, on any other form approved by the Florida Supreme Court as set forth in the Florida Rules of Appellate Procedure or any other rules of court. If the transcript or copy of the original recording is to be provided at public expense, the party shall attach to the request a conformed copy of the court order authorizing the transcription at public expense. However, if the request is submitted by the Office of the State Attorney, the Office of the Public Defender, or a court-appointed conflict attorney, with the costs and fees to be paid directly from the budgets of each respective office or the Justice Administrative Commission, the requirement that the request be accompanied by a court order authorizing transcription is hereby waived. If the request is for transcripts or copies of original recordings which may include confidential information, the request must be accompanied by an appropriate court order.

1. **Notification Provision** - When a request is submitted to the Electronic Court Recording Office for a transcript, the Electronic Court Recording Office shall forthwith notify, in writing, or orally if written notification is not practicable, all other parties to the action that a request has been received. In instances where independent contract transcriptionists are used, it shall be the responsibility of the independent contract

transcriptionist to notify, in writing, or orally if written notification is not practicable, all other parties to the action that a request has been received. This provision shall not apply to any transcript or copy of an electronic recording ordered by the court.

2. On-Record Events When Court Reporter Present - If a court reporter records a proceeding (trial, hearing, or other court event), the request for a copy of the proceeding shall be submitted to the court reporter. In the event the Electronic Court Recording Office electronically recorded any proceedings covered by a court reporter, the electronic recordings were not made pursuant to any court rule, law, or ordinance, and the proceedings were not recorded in connection with the transaction of official business of the judiciary. As such, the incidental electronic recording of a proceeding that has been covered by a court reporter does not constitute a record of the judicial branch to which the public is entitled access, as defined by Fla. R. Jud. Admin. 2.051. The Electronic Court Recording Office will not provide copies of its electronic recordings of those same proceedings, if any. Exceptions to this policy may be considered and granted by the Chief Judge upon a showing of extraordinary circumstances.

3. Off-Record Events - Electronic recordings by the Electronic Court Recording Office of off-record discussions or conversations were not been made pursuant to any court rule, law or ordinance, and were not recorded in connection with the transaction of official business of the judiciary. As such, the incidental electronic recordings of off-record discussions or conversations, if any, do not constitute a record of the judicial branch to which the public is entitled access, as defined by Fla. R. Jud. Admin 2.051. In addition, it should be noted that all off-record conversations between attorneys and their clients are protected by the attorney-client privilege and shall remain confidential. The Electronic Court Recording Office will not provide copies of its electronic recordings of off-record discussions or conversations, if any.

E. CERTIFICATION OF TRANSCRIPTS OR ELECTRONIC RECORDINGS - All persons transcribing electronic recordings, whether court personnel or independent contract

transcriptionists, shall certify the transcript as a true and accurate text of the electronic recording of the proceeding or deposition. All court personnel providing a copy of the original recording on electronic medium, such as compact diskette, shall certify the copy to be true and accurate.

F. DISPUTES AS TO ACCURACY - If any dispute arises as to whether any transcript truly discloses what occurred, the disputing party shall motion the presiding court for settlement of the dispute, and, upon order of the court, the transcript shall be made to conform accordingly.

G. SAFEKEEPING OF RECORDINGS – All electronic recordings captured by the Electronic Court Recording staff pursuant to this Administrative Order shall be properly identified and securely stored in accordance with procedures promulgated by the Court Administrator and for a period of time as prescribed by the Florida Rules of Judicial Administration.

VI. COURT REPORTING IN CAPITAL CASES – Pursuant to Fla. R. Jud. Admin. 2.070(h), the following requirements are established for all independent contract court reporters who report trials in which the State seeks the death penalty and in all capital postconviction proceedings.

A. PURPOSE - The purpose of this subsection is to require the use of all measures necessary to expedite the preparation of the transcript. Those measures shall include, but are not limited to, the following:

1. 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 certified transcript; and,
4. The imposition of reasonable restrictions on work assignments by all independent contract court reporters to ensure that transcript production in capital cases is given a high priority.

B. TRANSCRIPTS - In addition to the foregoing requirements, the independent court

reporter in cases in which the State seeks the death penalty and all capital postconviction hearings shall be responsible for strict compliance with Fla. R. App. P.9.142(a)(2), and in particular its requirement that the reporter provide to the Clerk clearly labeled computer disks in a format approved by the Florida Supreme Court.

VII. FEES AND RATES

A. **ELECTRONIC COURT RECORDING** – Fee schedules for transcripts or copies of electronically recorded proceedings or depositions required to be reported at public expense shall be on file in the Electronic Court Recording Office. On and after July 1, 2004, the rates set forth on all fee schedules shall comport with the applicable rates established by the Twentieth Judicial Circuit Article V Indigent Services Committee, if any. If applicable rates have not been established by the Twentieth Judicial Circuit Article V Indigent Services Committee, the rates for electronic court recording and transcription services shall be established by the Chief Judge or the Chief Judge's designee, and may be amended from time to time at the discretion of the Chief Judge or the Chief Judge's designee. On and after July 1, 2004, in circumstances where proceedings are reported and transcribed by the Electronic Court Recording Office or an independent contract transcriptionist at the request of a Justice Administration Commission (JAC) entity (i.e. the Office of the State Attorney, the Office of the Public Defender, court-appointed conflict attorney), the fees for transcripts to be provided at public expense are to be paid directly by the Justice Administration Commission (JAC) entity in accordance with the provisions of Chapter 29, Florida Statutes, as amended by Laws of Florida, Chapter 2003-402 (HB113A) and Chapter 2004-265 (SB2962).

B. **COURT REPORTING BY INDEPENDENT CONTRACTORS** – Fees and rates for the recording and transcription by independent contract court reporters of court proceedings or depositions required to be reported at public expense shall be as set forth in the court reporting contracts referenced herein. On and after July 1, 2004, those rates shall comport with the applicable rates established by the Twentieth Judicial Circuit Article V Indigent Services Committee, if any. If applicable rates have not been established by the Twentieth Judicial Circuit

Article V Indigent Services Committee, the rates for the recording and transcription by independent contract court reporters shall be established by contract, and the Court Administrator may negotiate different rates in circumstances not contemplated by the contracts. Such circumstances may include, but are not limited to, out-of-circuit services, real-time reporting, or such other manner, mode or method of court reporting as circumstances may warrant. If different rates are not agreed to in advance, the rates established in the contracts shall apply. On and after July 1, 2004, in circumstances where proceedings are reported and transcribed by independent contract court reporters at the request of a Justice Administration Commission (JAC) entity (i.e. the Office of the State Attorney, the Office of the Public Defender, conflict counsel), the fees for transcripts to be provided at public expense are to be paid directly to the independent contract court reporter by the Justice Administration Commission (JAC) entity in accordance with the provisions of Chapter 29, Florida Statutes, as amended by Laws of Florida, Chapter 2003-402 (HB113A) and Chapter 2004-265 (SB2962).

VIII. TRANSCRIPTS - All transcripts must comply with the requirements of Fla. R. Jud. Admin. 2.070(e), and any rule or order of the court. A party requesting transcription at public expense must first obtain a court order authorizing transcription at public expense by filing a motion and submitting a proposed order to the presiding judge. In the event that the presiding judge is unavailable and the press of time requires immediate validation of such costs, such motions may be presented to the duty judge on call at the time of the request. Any request submitted to an independent contract court reporter or to the Electronic Court Recording Office for transcription at public expense shall be accompanied by a conformed copy of the court order authorizing the transcription at public expense. However, if the request for transcripts is submitted by the Office of the State Attorney, the Office of the Public Defender, or a court-appointed conflict attorney, with the costs and fees to be paid directly from the budgets of each respective office or the Justice Administrative Commission, the requirement that the request be accompanied by a court order authorizing transcription is hereby waived.

IX. OFFICIAL COURT RECORD – Neither independent contract court reporters nor transcriptionists, nor employees of the Administrative Office of the Courts shall file any written transcript

or electronic recording of a court proceeding or deposition with the Clerk of Courts unless directed to do so by the court, or unless otherwise required to do so by the Florida Rules of Appellate Procedure, or by any other rule or statute. The written transcript of any electronic recording shall not become part of the official court record until such time as it is filed with the Clerk of Courts.

X. REMOVAL OF COURT FILES FROM THE COURTHOUSE - No court file shall be removed from any courthouse by any independent contract court reporter or by any independent contract transcriptionist. The Clerk of Court shall provide space for independent contract court reporters and transcriptionists to review court files and shall allow independent contract court reporters and transcriptionists to photocopy a reasonable number of pages in a court file without charge for the purpose of preparing transcripts.

XI. INTERPRETATION AND EFFECTIVE DATE - This Administrative Order shall be read in para materia with Fla. R. Jud. Admin. 2.070, any administrative order promulgated by the Florida Supreme Court, and any other authorities cited herein. To the extent that any provision of this Administrative Order is inconsistent with any statute, rule of court, or administrative order of the Florida Supreme Court, the statute, rule or order shall prevail. This Administrative Order shall be effective September 1, 2003, nunc pro tunc, and shall remain in effect until further order of the Court.

DONE AND ORDERED in Chambers at Naples, Collier County, Florida, this 22nd day of February, 2006.

Hugh D. Hayes
Hugh D. Hayes
Chief Judge

STATE OF FLORIDA, COUNTY OF LEE
FILED FOR RECORD
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CT

This 27 Day of FEB 2006 Record in MINUTE
Book 50 Page _____ and Record Verified.
CHARLIE GREEN By A Murray
Clerk Circuit Court Deputy Clerk

History. - Administrative Order 2.2 (November 8, 2004); Administrative Order 2.2 (February 10, 2004); Administrative Order 2.2 (March 27, 2001); Administrative Order 2.2 (January 13, 2000); Administrative Order 2.2 (September 28, 1995); Administrative Order 2.2 (January 28, 1991); Administrative Order 88-1; Administrative Order 86-1 and Amendments thereto.

I certify this document to be a true and correct copy of the original on file in my office, Charlie Green, Clerk Circuit Court, Lee County, Florida
Dated: 2/27/06
By dm
Deputy Clerk