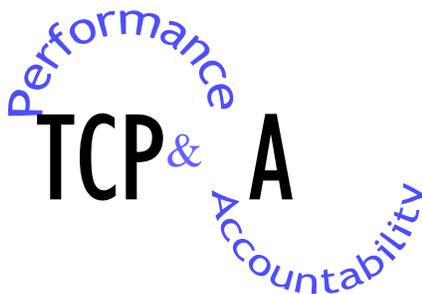


Robert B. Bennett, Jr.
Chair
Mike Bridenback
Brian J. Davis
Gay Inskeep
Thomas M. Jaworski
Kathleen J. Kroll
Peter R. Lopez



Peter F. Marshall
Ellen Sly Masters
Carol Lee Ortman
Jonathan Sjostrom
Terry D. Terrell
William L. Wright

November 20, 2009

The Honorable Peggy A. Quince
Chief Justice
Supreme Court of Florida
500 South Duval Street
Tallahassee, FL 32399

Dear Chief Justice Quince:

On behalf of the Commission on Trial Court Performance and Accountability, I respectfully submit the enclosed document entitled, *Recommendations for the Provision of Court Reporting Services in Florida's Trial Courts- Supplemental Report*. The Commission felt it was necessary to submit a supplemental report to the Supreme Court due to the recent release of SC08-1658 pertaining to court reporting rule revisions. While this supplemental report does not directly address the rule revisions, it does provide recommendations on refining the proposed standards of operation and best practices which were originally submitted in October 2007 and are still pending before the Court.

We very much appreciate the opportunity to refine our previous operational policy recommendations given the Court's opinion. If I may be of further assistance in any way, please do not hesitate to contact me. Thank you for your time and consideration.

Sincerely,

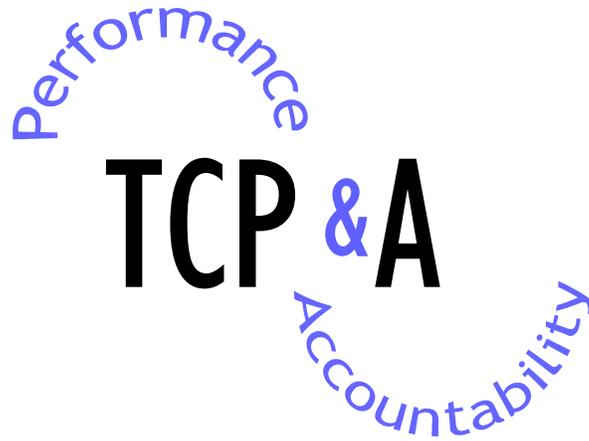
Robert B. Bennett, Jr.

Enclosures

cc: Justices of the Florida Supreme Court
Tom Hall, Clerk of the Florida Supreme Court
Lisa Goodner, State Courts Administrator
Commission on Trial Court Performance and Accountability Members

Supreme Court of Florida

Commission on Trial Court Performance and Accountability



**Recommendations for the
Provision of Court Reporting Services in
Florida's Trial Courts**

Supplemental Report

November 2009

Respectfully submitted:

The Honorable Robert B. Bennett, Jr.

Chair,

Circuit Judge, Twelfth Judicial Circuit

The Honorable Brian J. Davis, Circuit Judge, Fourth Judicial Circuit

The Honorable Thomas M. Jaworski, County Judge, Alachua County

The Honorable Kathleen J. Kroll, Chief Judge, Fifteenth Judicial Circuit

The Honorable Peter R. Lopez, Circuit Judge, Eleventh Judicial Circuit

The Honorable Peter F. Marshall, County Judge, Volusia County

The Honorable Ellen Sly Masters, Circuit Judge, Tenth Judicial Circuit

The Honorable Jonathan Sjostrom, Circuit Judge, Second Judicial Circuit

The Honorable Terry D. Terrell, Chief Judge, First Judicial Circuit

The Honorable William L. Wright, Circuit Judge, Fourteenth Judicial Circuit

Mr. Mike Bridenback, Court Administrator, Thirteenth Judicial Circuit

Ms. Gay Inskip, Court Administrator, Sixth Judicial Circuit

Ms. Carol Lee Ortman, Court Administrator, Seventeenth Judicial Circuit

Liaisons:

The Honorable Jorge Labarga, Justice, Supreme Court of Florida

The Honorable Lisa Davidson, Circuit Judge, Eighteenth Judicial Circuit

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Introduction

The purpose of this report is to provide the Supreme Court with supplemental recommendations regarding court reporting standards of operation and best practices originally proposed by the Commission on Trial Court Performance and Accountability (TCP&A) in October 2007, which are still pending before the Supreme Court.

The TCP&A was established by the Supreme Court in July 2002 to propose policies and procedures on matters related to efficient and effective resource management, performance measurement, and accountability of Florida's trial courts. Since this time, the TCP&A has issued three reports related to the provision of court reporting services in Florida's trial courts. The first report was issued in December 2002 and the second was issued in February 2005. The TCP&A's third report, *Recommendations for the Provision of Court Reporting Services in Florida's Trial Courts*, was issued in October 2007 in response to the Supreme Court's directive in AOSC06-54, to "make recommendations on the effective and efficient management of due process services" with a specific focus on "legal and operational issues arising from the use of digital technology" and "developing operational standards and best practices for providing court reporting services."

There were several principles guiding the TCP&A recommendations contained in the 2007 report. In examining the existing status of court reporting programs, there was an immediate recognition of the extreme operational variations that exist across the trial courts. With these variations, the need for uniformity in trial court operations system-wide was a primary focus. In recommending uniformity, priority attention was given to the effectiveness and quality of the court reporting process because of the impact these services have on due process rights. However, the maximization of resources and accountability for the resources expended was also of significant importance. Further, after a thorough exploration of current practices both in Florida and around the United States, consideration was given to the need for the trial courts to retain a reasonable amount of operational flexibility. Local market conditions, in which the trial courts have very little control, drive many of the practices. To ensure a certain level of operational flexibility, the TCP&A

decided to distinguish between a “standard of operation” and a “best practice” in developing the recommendations. A “standard of operation” was defined as a *mandatory* practice and a “best practice” was defined as a *suggested* practice.

The proposed standards of operation and best practices in the report speak to both legal and operational considerations that have not been fully addressed since Revision 7 and provide a comprehensive groundwork for court reporting operations in the trial courts. Issues covered included: the proper use of digital technology, staffing and service delivery models, transcript production, and the cost sharing arrangement with the public defenders, state attorneys, and Justice Administrative Commission.

Another critical part of the 2007 report was the proposed court rule revisions, which were based on three primary conclusions. First, that a transcript should be considered the official record of a court proceeding. Second, that the court owns the record of a judicial proceeding and has the authority to release copies of electronic recordings at the discretion of the chief judge. Third, that transcripts (including those created from digital recordings) may only be prepared by court reporters or transcriptionists approved by the court. Finally, the report also provided a proposed revision to section 934.03, Florida Statutes, stating that the interception of oral communications through “authorized electronic court reporting services in capturing the record of judicial proceedings” is a lawful act.

The Supreme Court held oral argument on the proposed rule revisions in April 2009. The Court issued SC08-1658 in July 2009 and adopted the majority of the proposed amendments but declined to adopt those amendments that would restrict disclosure of electronic recordings at the discretion of the chief judge. Subsequently, the TCP&A performed a review of the proposed standards of operation and best practices to determine the impact, if any, of the Supreme Court’s opinion. The following information provides the TCP&A’s supplemental recommendations in response to this review.

Protecting Confidential Information

Several of the standards of operation and best practices proposed in the 2007 report refer to the need to prevent either the recording of confidential information or the release of confidential information in the event that the recording of such information may not be avoided.

Under section *IX. Participant Responsibilities* discussed on pages 29-30 of the 2007 report, the following standards of operation and best practices are recommended.

Standard of Operation:

- Judicial circuits shall codify the responsibilities of all participants during a proceeding to ensure the quality of the official record.

Best Practices:

- Judges, general magistrates, and hearing officers shall: notify participants of the method of recording being utilized, remind participants to speak into the microphone at a sufficient volume and answer verbally; ask participants to identify themselves and spell their names for the record; notify court administration, the clerk, or contract service provider if equipment has been tampered with or is not functioning; remind participants to protect the equipment; signify when it is appropriate for attorneys to utilize mute buttons; and recess periodically during lengthy proceedings so that court reporters may remain alert and effective.
- Attorneys shall inform their clients of the method of recording being utilized and take necessary precautions to protect disclosure of confidential communications during the proceeding.
- Court reporters shall monitor equipment during a proceeding to ensure adequate operation and immediately notify the presiding judicial officer of problems with the equipment.
- Bailiffs shall ensure that all participants refrain from tampering with equipment including the inappropriate use of microphone

mute buttons or the unauthorized removal of microphones from their original location.

Under section *X. Preventing the Recording of Confidential Communications* discussed on pages 30-31 of the 2007 report, the following standards of operation and best practices are recommended.

Standard of Operation:

- Judicial circuits shall post signs inside and outside of all rooms in which proceedings are recorded using audio technology. The signs shall provide notice to all who enter that any conversations occurring in the room may be recorded.

Best Practices:

- Judicial circuits shall post signs at attorney tables within rooms in which audio technology is used to record proceedings. The signs shall caution attorneys and their clients that their conversations may be recorded.
- Judicial circuits shall install microphones with “hold-to-mute” capability for those microphones used by attorneys or presiding judicial officers in proceedings recorded using non-portable digital technology.
- Judicial circuits shall conduct periodic training for stakeholders commonly coming into contact with the use of audio recording technology. The training shall include a description of how the technology is operated and tips for effective courtroom behavior specific to the stakeholder.
- Judicial circuits shall distribute and/or make readily available audio recording resource materials (i.e., pamphlets, guide books, operator manuals, etc.) for stakeholders to assist with ensuring the quality of the official record.

These recommendations complement the TCP&A’s proposed revisions which were approved by the Supreme Court to rule 2.535(h)(5), Florida Rules of

Judicial Administration, *Safeguarding Confidential Communications When Electronic Recording Equipment Is Used In The Courtroom.*

(A) Court personnel shall provide notice to participants in a courtroom proceeding that electronic recording equipment is in use and that they should safeguard information they do not want recorded.

(B) Attorneys shall 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.

(C) Participants have a duty to protect confidential information.

Supplemental Recommendation One

As the Supreme Court decided not to place restrictions on the release of electronic recordings, there are standards of operation under section *XV. Transcript Production* on pages 35-38 of the 2007 report and under section *XVI. Producing Copies of Recordings* on pages 38-39 of the 2007 report, in which the TCP&A proposes some slight modifications in order to clarify the need to protect confidential information:

- All judicial circuits shall codify protocols for transcript production in accordance with court rule and standards established by the State Courts System. These protocols shall include, but are not limited to: procedures preventing transcription of off-the-record discussions, sidebar conferences, ~~and~~ attorney-client conversations, and other confidential information; the court's process for approving transcription services; and certification of the transcript for correctness.
- All judicial circuits shall codify protocols for producing copies of audio/video recordings in accordance with court rule and standards established by the State Courts System. These protocols shall include, but are not limited to: procedures preventing the release of off-the-record discussions, sidebar conferences, ~~and~~ attorney-

client conversations, and other confidential information to the public; the court's process for ensuring the accuracy of the recording; and certification of the recording for correctness.

Supplemental Recommendation Two

In order to provide very clear direction to the trial courts, the TCP&A also recommends an additional standard of operation as follows:

- Copies of audio/video recordings may be made available to attorneys, parties to a case, the media, and the public at large, after review to ensure that matters protected from disclosure are kept confidential in accordance with court rule and Florida statute.

The TCP&A referenced the Committee on Access to Court Records proposed amendments to rule 2.420(d)(1), Florida Rules of Judicial Administration currently under consideration by the Supreme Court. This revised rule language may provide guidance to court reporting programs on the specific items that should be considered confidential.

- Chapter 39 records relating to dependency matters, termination of parental rights, guardians ad litem, child abuse, neglect, and abandonment. §39.0132(3), Fla. Stat.
- Adoption records. §63.162, Fla. Stat.
- Social Security, bank account, charge, debit and credit card numbers in court records. §119.0714(i)-(j), (2)(a)-(e), Fla. Stat.
- HIV test results and patient identity within the HIV test results. §381.004(3)(e), Fla. Stat.
- Sexually transmitted diseases – test results and identity within the test results when provided by the Department of Health or the department's authorized representative. §384.29, Fla. Stat.
- Birth and death certificates, including court-issued delayed birth certificates and fetal death certificates, §§382.008(6) and 382.025(1)(a), Fla. Stat.
- Identifying information in petition by minor for waiver of parental notice when seeking to terminate pregnancy. §390.01116, Fla. Stat.

- Identifying information in clinical mental health records under the Baker Act. §394.4615(7), Fla. Stat.
- Records of substance abuse service providers which pertain to the identity, diagnosis, and prognosis of and service provision to individuals who have received services from substance abuse service providers. §397.501(7), Fla. Stat.
- Identifying information in clinical records of detained criminal defendants found incompetent to proceed or acquitted by reason of insanity. §916.107(8), Fla. Stat.
- Estate inventories and accountings. §733.604(1), Fla. Stat.
- Victim's address in domestic violence action on petitioner's request. §741.30(3)(b), Fla. Stat.
- Information identifying victims of sexual offenses, including child sexual abuse. §§119.071(2)(b), 119.0714(1)(h), Fla. Stat.
- Gestational surrogacy records. §744.3701, Fla. Stat.
- Grand jury records. Ch. 905, Fla. Stat.
- Information acquired by courts and law enforcement regarding family services for children. §984.06(3)-(4), Fla. Stat.
- Juvenile delinquency records. §§985.04(1), 985.045(2), Fla. Stat.
- Information disclosing the identity of persons subject to tuberculosis proceedings and records of the Department of Health in suspected tuberculosis cases. §§392.545, 392.65, Fla. Stat.

Additionally, the *Government-In-The-Sunshine Manual*¹, prepared by the Florida Office of the Attorney General and published by the First Amendment Foundation, provides a list of the statutory exemptions that protect specific records or information from public disclosure, as well as general guidance on compliance with Florida's public records laws. This manual covers a variety of topics including the confidentiality of: termination of parental rights records, Baker Act reports, medical records, and domestic violence information.

¹ *Government-In-The-Sunshine-Manual*, Florida Office of the Attorney General, Volume 31, 2009 Abridged Electronic Edition <http://www.myflsunshine.com/sun.nsf/sunmanual>

Service Delivery Models and Monitoring Ratios

Subsequent to the submission of the 2007 report to the Supreme Court, the Trial Court Budget Commission (TCBC) decided to apply some of the TCP&A's recommendations to budgetary policies. The TCBC's budget policies varied slightly from the specific recommendations of the TCP&A.

Supplemental Recommendation Three

As may be seen below, the TCP&A reviewed the TCBC's changes and now recommends certain modifications to the best practices on service delivery models (section VII. on pgs. 24-27 of the 2007 report) and monitoring ratios (section VIII. on pgs. 27-29 of the 2007 report).

- Judicial circuits shall implement procedures for assigning court reporting coverage of proceedings recorded at public expense as follows:
 - Digital court reporting alone should be used for county criminal, domestic violence injunction, delinquency, dependency, Baker Act, Marchman Act, guardianship, Jimmy Ryce, and general magistrate/ hearing officer proceedings.
 - ~~Digital court reporting is also recommended for proceedings that take place outside of the regular business hours of the court.~~
 - Either stenography or digital court reporting ~~should~~ may be used for circuit criminal proceedings (unless digital reporting is otherwise unavailable), delinquency, dependency, termination of parental rights proceedings, crossover cases (Unified Family Court cases), and proceedings taking place outside of the regular business hours of the court.
 - Stenography alone should be used for capital cases and circuit criminal trials. Specifically, real-time or CAT stenography should be prioritized for ~~circuit criminal trials and~~ capital cases trials and post conviction proceedings.

- Judicial circuits shall implement procedures for assigning the monitoring of proceedings recorded at public expense using the following ratios of the number of proceedings vs. court reporters.
 - Circuit criminal trials, capital cases, county criminal trials, Jimmy Ryce trials, and termination of parental rights proceedings should be monitored at a 1:1 ratio.
 - Delinquency and dependency proceedings should be monitored at a 2:1 ratio. All other circuit and county criminal proceedings and domestic violence injunction proceedings should be monitored at a 3:1 ratio.
 - Baker Act, Marchman Act, guardianship, and Jimmy Ryce proceedings should be monitored at a ratio of 4:1. However, this ratio may be lowered to 1:1 if these proceedings are held offsite and/or the presiding judicial officer is using a portable digital device.
 - General magistrate/hearing officer proceedings should also be monitored at a ratio of 4:1, if monitored by a digital court reporter as opposed to the presiding magistrate or hearing officer.

Conclusion

Given the release of SC08-1658 and the TCBC's desire to use certain TCP&A proposals to develop budgetary policy, the TCP&A offers these supplemental recommendations for the Supreme Court's consideration. For convenient reference, Appendix A provides a comprehensive listing of the TCP&A's proposed standards of operation and best practices from both the October 2007 report and this supplemental report, in their final recommended form.

APPENDIX A
Standards of Operation and Best Practices for Court Reporting Services in
Florida's Trial Courts

I. Court Reporter Qualifications

A. Standard of Operation

1. Court reporting employees and contract service providers shall meet all professional standards and training requirements established by Florida statute, court rule, the State Courts System, and the chief judge of the circuit.

B. Best Practices

1. Court employees or contractors providing stenographic services for the State Courts System will achieve and maintain the designation of Registered Professional Reporter (RPR) as defined by the National Court Reporters Association.
2. Court employees or contractors providing digital court reporting or transcript services for the State Courts System will achieve and maintain certification with the American Association of Electronic Reporters and Transcribers (AAERT).
3. Court employees or contractors providing voice-writing services for the State Courts System will achieve and maintain certification with the National Verbatim Reporters Association (NVRA).
4. Judicial circuits shall ensure availability to real-time stenographic services, either through the use of court employees or contract service providers.

II. Oversight

A. Standards of Operation

1. Court reporting program employees and contract service providers are officers of the court and must comply with all applicable Florida statutes, court rules, and other requirements as established by the State Courts System and the chief judge of the circuit.
2. Judicial circuits shall comply with court reporting contracting requirements as established by the State Courts System.

III. Use of Clerk of Court Staff

A. Standard of Operation

1. Judicial circuits shall not engage clerk of court staff to provide court reporting services, other than those services or responsibilities established by Florida statute, court rule, and the State Courts System.

IV. Cross-training

A. Best Practice

1. Judicial circuits shall explore cross-training initiatives with their court reporting employees for the provision of court reporting services.

V. Assigning Coverage

A. Best Practice

1. Court staff responsible for scheduling hearings and preparing dockets will provide dockets to the court reporting manager or other designated court administration professional or contract service provider as far in advance as possible to ensure adequate time to assign appropriate court reporting coverage of proceedings.

VI. Eliminating Analog Recording

A. Best Practice

1. Judicial circuits shall refrain from utilizing analog audio recording and should attempt, where practical, to replace analog with digital recording capability.

VII. Service Delivery Models

A. Best Practice

1. Judicial circuits shall implement procedures for assigning court reporting coverage of proceedings recorded at public expense as follows:
 - a. Digital court reporting alone should be used for county criminal, domestic violence injunction, delinquency, dependency, Baker Act, Marchman Act, guardianship, Jimmy Ryce, and general magistrate/hearing officer proceedings.
 - b. Either stenography or digital court reporting may be used for circuit criminal proceedings (unless digital court reporting is otherwise unavailable), termination of parental rights proceedings, crossover cases (Unified Family Court cases), and proceedings taking place outside of the regular business hours of the court.
 - c. Stenography alone should be used for capital cases and circuit criminal trials. Specifically, real-time or CAT stenography should be prioritized for capital case trials and post conviction proceedings.

VIII. Monitoring Ratios

A. Best Practice

1. Judicial circuits shall implement procedures for assigning the monitoring of proceedings recorded at public expense using the following ratios of the number of proceedings vs. court reporters.
 - a. Circuit criminal trials, capital cases, county criminal trials, Jimmy Ryce trials, and termination of parental rights proceedings should be monitored at a 1:1 ratio.

- b. Delinquency and dependency proceedings should be monitored at a 2:1 ratio. All other circuit and county criminal proceedings and domestic violence injunction proceedings should be monitored at a 3:1 ratio.
- c. Baker Act, Marchman Act, guardianship, and Jimmy Ryce proceedings should be monitored at a ratio of 4:1. However, this ratio may be lowered to 1:1 if these proceedings are held offsite and/or the presiding judicial officer is using a portable digital device.
- d. General magistrate/hearing officer proceedings should also be monitored at a ratio of 4:1, if monitored by a digital court reporter as opposed to the presiding magistrate or hearing officer.

IX. Participant Responsibilities

A. Standard of Operation

1. Judicial circuits shall codify the responsibilities of all participants during a proceeding to ensure the quality of the official record.

B. Best Practices

1. Judges, general magistrates, and hearing officers shall: notify participants of the method of recording being utilized, remind participants to speak into the microphone at a sufficient volume and answer verbally; ask participants to identify themselves and spell their names for the record; notify court administration, the clerk, or contract service provider if equipment has been tampered with or is not functioning; remind participants to protect the equipment; signify when it is appropriate for attorneys to utilize mute buttons; and recess periodically during lengthy proceedings so that court reporters may remain alert and effective.
2. Attorneys shall inform their clients of the method of recording being utilized and take necessary precautions to protect disclosure of confidential communications during the proceeding.
3. Court reporters shall monitor equipment during a proceeding to ensure adequate operation and immediately notify the presiding judicial officer of problems with the equipment.

4. Bailiffs shall ensure that all participants refrain from tampering with equipment including the inappropriate use of microphone mute buttons or the unauthorized removal of microphones from their original location.

X. Preventing the Recording of Confidential Communications

A. Standard of Operation

1. Judicial circuits shall post signs inside and outside of all rooms in which proceedings are recorded using audio technology. The signs shall provide notice to all who enter that any conversations occurring in the room may be recorded.

B. Best Practices

1. Judicial circuits shall post signs at attorney tables within rooms in which audio technology is used to record proceedings. The signs shall caution attorneys and their clients that their conversations may be recorded.
2. Judicial circuits shall install microphones with “hold-to-mute” capability for those microphones used by attorneys or presiding judicial officers in proceedings recorded using non-portable digital technology.
3. Judicial circuits shall conduct periodic training for stakeholders commonly coming into contact with the use of audio recording technology. The training shall include a description of how the technology is operated and tips for effective courtroom behavior specific to the stakeholder.
4. Judicial Circuits shall distribute and/or make readily available audio recording resource materials (i.e., pamphlets, guide books, operator manuals, etc.) for stakeholders to assist with ensuring the quality of the official record.

XI. Operating Digital Recording Equipment

A. Standards of Operation

1. Digital recording systems shall comply with all statewide standards for digital court recording as established by the Florida Courts Technology Commission.
2. Judicial circuits shall implement procedures for regular testing of digital court recording systems to ensure proper operation.

XII. Tagging the Digital Recording

A. Standards of Operation

1. Judicial circuits shall ensure appropriate tagging of digital recordings is performed for proceedings in which there is a significant likelihood that transcripts will be requested.
2. Judicial circuits shall establish standardized “tags” and produce a reference document of same to be distributed to all circuit court reporting staff, contract service providers, and approved transcriptionists.

XIII. Ownership of the Official Record

A. Standard of Operation

1. The court shall retain ownership and control over the official record whether it is in paper or electronic format. The court shall also reserve the right to full and complete access to any unedited notes, paper tapes, electronic files, and audio or video recordings used to create the official record.

XIV. Storage

A. Standards of Operation

1. Judicial circuits, contract service providers, and vendors of digital technology shall comply with all storage and retrieval standards for digital court recording as established by the Florida Courts Technology Commission and otherwise established by the State Courts System and the chief judge of the circuit.
2. Judicial circuits shall codify record retention protocols to be applied to stenographic paper tape/notes, unedited CAT/real-time text, analog and digital recordings in accordance with rule 2.430, Florida Rules of Judicial Administration.
3. Judicial circuits shall implement storage and retrieval procedures to ensure timely and secure access to transcripts, analog or digital recordings, and any supporting materials related to the production of the official record.

B. Best Practices

1. Judicial circuits shall examine the provision of secure and direct access to a network of electronic files and digital recordings related to the official record for certain internal stakeholders of the court such as court reporting employees, judges, general magistrates, and hearing officers. Circuits shall also examine the feasibility of providing limited and secure access to other stakeholders such as state attorneys, public defenders, and court-appointed counsel.
2. Judicial circuits shall not disclose back-up recordings of proceedings to persons not employed or contracted by the court.

XV. Transcript Production

A. Standards of Operation

1. Transcripts may only be produced by employee or contract court reporters and transcriptionists approved by the court in accordance with rule 2.535, Florida Rules of Judicial Administration.

2. All persons approved by the court to perform court reporting transcription services shall comply with all applicable court rules and standards established by the State Courts System and the chief judge of the circuit.
3. All judicial circuits shall codify protocols for transcript production in accordance with court rule and standards established by the State Courts System. These protocols shall include, but are not limited to: procedures preventing transcription of off-the-record discussions, sidebar conferences, attorney-client conversations; and other confidential information; the court's process for approving transcription services; and certification of the transcript for correctness.
4. Judicial circuits shall enter an administrative order developing and implementing a circuit-wide plan for court reporting in all trials in which the state seeks the death penalty and in capital postconviction proceedings in accordance with rule 2.535, Florida Rules of Judicial Administration.
5. All persons approved by the court to perform court reporting transcription services shall give priority to capital cases in the production of transcripts.
6. Judicial circuits shall prohibit the "loaning out" of stenographic notes in capital cases to ensure the court reporter has immediate access to the notes for production of the transcript.
7. Judges shall give immediate instruction to the court reporter to begin transcription upon the return of the verdict in capital cases and immediately initiate an order approving the production of the transcript (if applicable).
8. Judicial circuits shall incorporate requirements related to expedited transcript requests in court reporting service contracts.
9. Judicial circuits shall specify consequences for contractors who fail to meet expedited transcript requirements in court reporting service contracts.

B. Best Practices

1. Judicial circuits shall encourage collegiality between all persons involved in expediting transcripts for capital cases.

2. Judicial circuits shall collaborate with appellate courts regarding the oversight and management of the court reporting process, with particular emphasis on the production of transcripts for capital, dependency, and termination of parental rights cases.
3. When requested, judicial circuits may provide a transcript for: appellate review, other purposes in which a transcript is considered a necessity by the court in the best interest of justice, or if an audio/video file is unavailable. A copy of the audio/video file, if available, shall be provided for all other purposes to the extent allowable under court rule.

XVI. Producing Copies of Recordings

A. Standards of Operation

1. Copies of audio/video recordings may be made available to attorneys, parties to a case, the media, and the public at large, after review to ensure that matters protected from disclosure are kept confidential in accordance with court rule and Florida statute.
2. All judicial circuits shall codify protocols for producing copies of audio/video recordings in accordance with court rule and standards established by the State Courts System. These protocols shall include, but are not limited to: procedures preventing the release of off-the-record discussions, sidebar conferences, and attorney-client conversations; and other confidential information; the court's process for ensuring the accuracy of the recording; and certification of the recording for correctness.

XVII. Cost Sharing

A. Best Practices

1. Judicial circuits using state funded court employees to provide transcription services for public defenders, state attorneys, and court-appointed counsel shall operate under the cost sharing arrangement.

2. When requested, judicial circuits operating under the cost sharing arrangement may provide transcripts to the state attorneys, public defenders, and court-appointed counsel for: appellate review, other purposes in which a transcript is considered a necessity by the court in the best interest of justice, or if an audio/video file is unavailable. A copy of the audio file, if available, shall be provided to these entities for all other purposes to the extent allowable under court rule.

3. Judicial circuits operating under the cost sharing arrangement are required to provide a “statement of services provided” to local state attorneys, public defenders, the Justice Administrative Commission, and the Office of the State Courts Administrator. The “statement of services provided” shall include those services that will or will not be provided by state-funded court employees versus those services that may be purchased independently from contractors. This documentation shall also include services provided or not provided by division of court, proceeding type, and any variation that exists by county and/or courthouse. The “statement of services provided” shall include a corresponding time period in which these terms are in effect and shall be no less than one fiscal year (July 1 – June 30).