

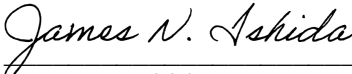
**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
JUDICIAL COUNCIL**

In the Matter of the Review of the	*	
New Court Reporter Management Plan	*	No. 449
of the United States District Court for	*	
the Eastern District of Virginia	*	

ORDER

The Court Reporter Management Plan of the United States District Court for the Eastern District of Virginia is hereby approved.

FOR THE COUNCIL:



James N. Ishida
Secretary

Date: March 8, 2022



**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**

**COURT REPORTER
MANAGEMENT PLAN**

(March 2022)

TABLE OF CONTENTS

1. PURPOSE OF PLAN	4
2. APPLICABILITY OF PLAN	4
3. TYPES OF COURT REPORTERS	4
a. Official Reporters.....	4
b. Contract Reporters.....	4
c. Substitute Reporters	5
4. COURT REPORTER ALLOCATIONS.....	5
5. EMPLOYMENT.....	5
a. Appointment of Official Reporters.....	5
b. Qualifications of Official Reporters	6
c. Probationary Period.....	6
d. Hours of Employment	6
e. Leave.....	7
6. RETIRED OR SEPARATED OFFICIAL REPORTERS.....	8
7. SUPERVISION	8
8. ASSIGNMENT OF COURT REPORTERS.....	9
9. RESTRICTION ON PRIVATE REPORTING ACTIVITIES.....	9
10. REPORTER SERVICES TO UNITED STATES MAGISTRATE JUDGES	9
11. TRANSCRIPTS.....	9
a. Transcript Orders.....	10
b. Format Compliance	10
c. Filing of Original Transcripts.....	10
d. Criminal Justice Act Proceedings.....	10
e. Fee Schedule	11
1) Fees	11
2) Transcripts Requested by a Judge	11
3) Electronic Sound Recordings	11
f. Timely Filing of Transcripts	12
g. Billing.....	12
h. Deposits.....	12
i. Overcharging.....	12
j. Fee Reduction.....	12
1) Appellate Transcripts	12
2) Non-Appellate Transcripts	13
k. Cancellation of Transcript Orders	13
l. Expedited Transcripts.....	13

m. Production of Daily and Hourly Transcripts.....	13
n. Transcript Backlog.....	13
12. ORDER FOR APPELLATE TRANSCRIPTS	13
13. REALTIME REPORTING.....	14
14. RECORDS MAINTENANCE.....	14
a. Filing, Certification, Availability and Storage of Steno Notes and Audio Files	14
b. Transcript or Audio Recordings of Arraignments, Pleas and Sentencings.....	15
c. In Case of Emergency “ICE” Document.....	15
15. MANDATORY REPORTS	15
a. Attendance and Transcript Report (AO40A).....	15
b. Statement of Earnings Report (AO40B).....	16
c. Records to be Maintained by Court Reporters	16
d. Penalty for Not Submitting Reports	17
16. INFORMATION TECHNOLOGY (IT) SECURITY	17
17. ACCESS TO DATA COMMUNICATIONS NETWORK (DCN)	17
18. APPROVAL OF THE COURT REPORTER MANAGEMENT PLAN.....	17
APPENDIX A CERTIFICATION OF COURT REPORTER	18
APPENDIX B CERTIFICATION OF COURT REPORTER UPON SEPARATION	19
APPENDIX C ELECTRONIC STORAGE OF NOTES & AUDIO FILES	20
APPENDIX D CONSOLIDATED IT SECURITY POLICY ADDENDUM FOR COURT REPORTERS.....	21
Executive Summary.....	22
1. Overview.	23
2. Applicability.	23
3. Definitions.	24
4. IT Security Training	24
5. Securing Judiciary Data.	24
6. Unauthorized Disclosure or Compromised Judiciary Data.....	27
7. Sanitization of Devices.	27

1. PURPOSE OF PLAN

The purpose of the Court Reporter Management Plan of the United States District Court for the Eastern District of Virginia is to provide information related to the day-to-day management of court reporting within the Court.

For more detailed guidelines and procedures relating to every aspect of court reporting in the federal judiciary, see the Court Reporters' Manual, which can be found in Volume 6 of the *Guide (Guide) to Judiciary Policies and Procedures*, 28 U.S.C. § 753, and the Federal Rules of Appellate Procedure, specifically Rules 10 and 11(a) and (b).

The Court adopts the following Court Reporter Management Plan (Plan), subject to the approval of the Judicial Council for the Fourth Circuit Court of Appeals, and subject to the rules and regulations of the Judicial Conference of the United States (Judicial Conference). When approved, the plan supersedes the former *Court Reporter Management Plan* adopted April 12, 2006, in the Eastern District of Virginia.

2. APPLICABILITY OF PLAN

This Plan is applicable to all court reporters (i.e., official, contract, and substitute) serving in any division of the United States District Court for the Eastern District of Virginia. The Eastern District of Virginia has four divisions: Norfolk, Alexandria, Richmond, and Newport News.

3. TYPES OF COURT REPORTERS

Court reporters are categorized according to how they are utilized or employed by the Court.

a. Official Reporters

Official court reporters, or official reporters, are salaried employees of the Court, employed *en banc*, for an indefinite term pursuant to the authority of the Judicial Conference.

b. Contract Reporters

Contract reporters are reporters that serve the Court on an as-needed basis as provided under 28 U.S.C. § 753(g), and under delegated procurement authority from the Administrative Office (AO) via daily contracts paid from contract funds. Contract reporters may be utilized only when all official reporters are unavailable due to assigned courtroom duties or authorized leave.

Contract court reporters shall not be paid by the Court when official court reporters are relieved of their courtroom duties to work on transcript backlogs. Costs associated with such substitute court reporting services shall be paid by the official

court reporter so relieved. (See Section 3.c. Substitute Reporters)

Travel of contract reporters within the district shall be limited to those occasions when no official reporter is available to travel to the location requiring reporting services. Travel expenses are paid to the extent provided in the contract.

c. Substitute Reporters

Substitute reporters are employees of official reporters, hired with the approval of the Court, who must meet the minimum qualification requirements established by the Judicial Conference. Use should be limited to expedited, daily, or hourly transcript work. The official reporter is responsible for paying for the substitute reporter from his or her personal funds. Official reporters are responsible for the performance of substitute reporters. *Guide*, Volume 6, Chapter 4, §440.90.

Additionally, the Court may direct an official reporter who is unable to complete transcripts in a timely fashion to hire and pay for a substitute reporter to record proceedings while the official reporter works on the backlog of transcripts.

4. COURT REPORTER ALLOCATIONS

Court reporter resource allocations for the Eastern District of Virginia are based on computations delineated in Volume 6, Chapter 2, §280.10 of the *Guide* in relation to the Court's number of active district judges and the activity of its senior judges.

5. EMPLOYMENT

a. Appointment of Official Reporters

Official reporters shall be appointed in accordance with the provisions of 28 U.S.C. §753 and Volume 6 of the *Guide*. Official reporters serve the Court *en banc*. To the extent feasible, new official court reporters should be proficient in realtime reporting or strive to achieve realtime certification.

Upon appointment as an official court reporter, the reporter shall be required by the human resources representative onboarding them to execute a certification form (see Appendix A, *Certification of Court Reporter*) that they have reviewed the Plan and understand their responsibilities, including:

- retention of all official notes, audio recordings, dictionaries, and software needed to prepare a transcript of a court proceeding; and,
- preparation and timely filing of all transcripts ordered during employment or after separation from the Court. A copy of this certification shall be filed in the official personnel file of said reporter.

An official reporter shall continue to retain employment at the will of the Court *en banc*, regardless of the death, resignation or retirement of an individual judge. If the volume of work does not justify retention of the full complement of reporters, a reduction shall be accomplished through relocation, attrition, or by giving a reasonable notice for termination of the appointment.

Whenever a new Plan is approved, all official court reporters will need to complete an updated certification form (see Appendix A, *Certification of Court Reporter*).

Any official reporter who fails to comply with the provisions of this Plan, a directive of the chief judge, or his/her designated official, or who does not perform in a competent and satisfactory manner in connection with his or her duties shall be subject to disciplinary action up to and including dismissal.

b. Qualifications of Official Reporters

In order to qualify for appointment, official reporters must meet the qualifications listed in the *Guide* Volume 12, Chapter 5, §580.40.30(a). A Registered Professional Reporter (RPR) certificate from the National Court Reporter's Association (NCRA) or evidence of passing an equivalent qualifying examination must be provided.

Certified realtime reporters are those reporters who have successfully completed either the Certified Realtime Reporter (CRR) examination offered by the NCRA, the Federal Certified Realtime Reporter (FCRR) examination offered by the United States Court Reporters Association (USCRA) or an equivalent examination that meets or surpasses the established standards for the CRR certificate. An applicable certificate must be presented as evidence of completion.

c. Probationary Period

Newly appointed official reporters shall be placed on a 12-month probationary period. Official reporters who do not perform in a competent and satisfactory manner shall be subject to dismissal. A court reporter dismissed during the 12-month probationary period does not have the right to appeal termination.

d. Hours of Employment

Official reporters are to report to court for duty during their assigned work hours when the Court and the clerk's office in each division are open, normally from 8:30 a.m. to 5:00 p.m., Monday through Friday, except for legal holidays, and when needed before and after usual work hours, including weekends, as directed by the Court and/or the clerk of court. In coordination with their respective

operations managers, official reporters are placed on a regular tour of duty and schedule consisting of 80 hours per pay period for full-time reporters or a reduced designated number of hours for part-time reporters. Official reporters shall adhere to the employee manual's time and attendance policies, including related provisions for lunch breaks between the hours of 11:00 a.m. and 3:00 p.m.

Unless on approved leave, an official reporter must remain available at his or her duty station or travel location, or remote site approved by the reporter's assigned judge(s) or operations manager, for the entire duration of their tour of duty or within designated work hours. Court reporters may, during their assigned tour of duty, prepare official transcripts as required by 28 U.S.C. §753(b) or by rule or order of the Court, including transcripts for which they are entitled to collect a fee from a party. Leave and telework time requests must be entered and approved prior to taking the leave or teleworking. (See EDVA Telework policy.)

e. Leave

All official reporters earn leave in accordance with the Annual and Sick Leave Act of 1951, 5 U.S.C., Chapter 63. Official reporters must use the appropriate type of leave for any paid absence from work and are required to submit applicable approved leave requests within the same pay period the leave is taken.

Leave records for official court reporters shall be maintained by the human resources department for the district in the same manner as those for other clerk's office employees.

1) Annual Leave Policy

All requests for annual leave for official court reporters shall be initially coordinated with and approved by their respective judge(s). Prior to entering the request into the Court's leave system for final approval, the operations manager or his or her designee will be consulted for coverage purposes and the need for any required adjustments.

2) Sick Leave Policy

In accordance with the *Guide*, Volume 12, Chapter 9, § 920.75, use of sick leave shall be strictly limited to personal illness or medical-related appointments, adoption-related purposes, general family care and bereavement, and to provide care to a family member with a serious health condition. Official court reporters are also eligible to use sick leave under the Family and Medical Leave Act (FMLA) and the Family Friendly Leave Act (FFLA).

The operations manager will enter approved requests into the Court's

leave system. In accordance with applicable *Guide* provisions, it is within the discretion of the operations manager or his or her designee to request a medical certificate from an employee, including official court reporters, when sick leave has been requested and/or used before approval. In no event shall sick leave be used or authorized with the specific intent to work on a transcript backlog.

6. RETIRED OR SEPARATED OFFICIAL REPORTERS

Whenever an official reporter is separated (resigns, retires, or is dismissed), he or she will be required to meet with the operations manager and/or human resources to execute a certification (Appendix B) regarding his or her responsibilities for:

- the preparation of all transcripts which are currently ordered but not yet filed;
- the preparation of transcripts which may be ordered after separation of proceedings recorded during the period of employment; and,
- the requirement to provide information on any address and telephone number changes.

7. SUPERVISION

The chief judge has assigned court reporter supervisor duties to the operations manager of each office whose responsibilities are to effectively manage the court reporters assigned to their division through proper supervision and procedural systems, including but not limited to:

- a. Working in conjunction with the official reporters for the purpose of fairly and efficiently distributing the Court's overall workload while minimizing travel and assuring the overall lowest cost to the Court.
- b. Periodically monitoring requests to ensure that transcripts are prepared, delivered, and filed in a timely manner in full compliance with format requirements of the Judicial Conference and the *Guide*.
- c. Periodically reviewing transcript invoices to ensure proper transcript rates are being charged.
- d. Reviewing the records of official reporters to ensure the timely filing of all reports required by the AO and the Judicial Conference, namely AO Forms 40A (*Attendance and Transcripts of the United States Court Reporters*) and 40B (*Statement of Earnings of the United States Court Reporters*).
- e. Ensuring compliance by all court reporters with the provisions of 28 U.S.C. §753(b).
- f. Serving as liaison to the Fourth Circuit Court of Appeals regarding matters pertinent to court reporters and transcript production.

- g. Providing the clerk of court with necessary information related to the duties set forth above, the service status of designated official reporters, and the scheduling of contract court reporters as needed.
- h. Performing such other duties relating to court reporting as directed by the Court.

8. ASSIGNMENT OF COURT REPORTERS

In accordance with the *Guide*, an official reporter serves the Court *en banc*; however, because of the district's geographical considerations, official court reporters are assigned by the chief judge to active and/or senior district judges as primary assignments.

To the extent practicable in line with required coverage needs, each official reporter should work an equal number of hours in court. If a disparity in an official reporter's workload exists, upon approval of the chief judge and/or their assigned judge(s), an official reporter may be reassigned for a specific period. Time spent on transcript production will generally not be considered by the operations manager when assigning individual reporters.

Out-of-district travel by official reporters for work-related reasons must be approved by the clerk of court.

9. RESTRICTION ON PRIVATE REPORTING ACTIVITIES

Official reporters are not permitted to perform any private reporting work of any kind during their regular tour of duty, including depositions and reporting for grand juries, or utilize the facilities of the Court to perform any private work. The regular tour of duty extends to time off from duty in a pay status (i.e., annual leave).

Official reporters may perform private reporting work on personal time (nights and weekends) as long as there is no conflict with official duties or in violation of the *Code of Conduct for Judicial Employees*. Such private reporting work must be approved in advance by their assigned judge(s) or the chief judge. *Guide*, Volume 6, Chapter 2, §240.20; *Guide*, Volume 2, Part A, Chapter 3, Canon 4.

10. REPORTER SERVICES TO UNITED STATES MAGISTRATE JUDGES

As a general rule, *For The Record (FTR)* electronic sound recording equipment operated by a deputy clerk will be used to record routine proceedings before a United States Magistrate Judge. If a magistrate judge determines that the record should be taken by a court reporter, an official court reporter (if available) or contract reporter will be assigned by the operations manager or his or her designee. *Guide*, Volume 6, Chapter 4, §410.

11. TRANSCRIPTS

The *Guide*, Volume 6, Chapter 5, governs the preparation, billing, and delivery of transcripts. Each operations manager shall monitor the timely completion of applicable transcripts and notify the clerk of court promptly of any potential problems.

a. Transcript Orders

Requests for non-appellate transcripts must be ordered on AO Form 435, *Transcript Order* or a comparable form including the same information. Requests for appellate transcripts must be ordered on the *U.S. Court of Appeals for the Fourth Circuit - Transcript Order Form*. Transcript requests by a Criminal Justice Act (CJA) panel attorney must be ordered through the Court's eVoucher system.

Unless otherwise directed by the Court, court reporters will prepare non-appellate transcripts in chronological order by the date requested, with criminal transcripts generally taking precedence over civil transcripts. The length and complexity of each case will be taken into account so as not to deny the court reporter reasonable time necessary for effective preparation. Expedited orders can be prepared at the court reporter's discretion if not in conflict with appellate orders.

b. Format Compliance

All court reporters shall comply with the Judicial Conference transcript format requirements in the *Guide*, Volume 6, Chapter 5.

c. Filing of Original Transcripts

Official reporters shall electronically file in CM/ECF all official certified transcripts of official proceedings within three days of delivery to the ordering party. Contract reporters shall deliver the certified transcript in portable document format (PDF) to the clerk of court or designated official within three days of delivery to the ordering party.

Transcripts filed in CM/ECF will be available at the clerk's office for inspection only for a period of 90 days after filing. During the 90-day period, a copy of the transcript may only be requested from the court reporter and must be requested on AO Form 435 or comparable form. Fees charged for copies will be at the rate established by the Judicial Conference, as adopted by the Court. After the 90-day period has ended, the transcript will be available for copying in the clerk's office and for download through PACER at a rate published on the Miscellaneous Fee Schedule.

If a redacted transcript is filed with the Court, the redacted transcript will be electronically available through PACER after 90 days from the date of filing of the original transcript and the original transcript will no longer be publicly available.

d. Criminal Justice Act Proceedings

Transcript requests by a CJA panel attorney must be requested on a CJA 24 form through the Court's eVoucher system. The CJA 24 form must be signed by the

presiding judge prior to the production of the transcript.

In multi-defendant cases involving CJA defendants, no more than one transcript should be purchased from the reporter or transcriber on behalf of CJA defendants. The attorney for the CJA defendant who places the first transcript order will pay the original page rate and will be notified to provide the electronic version to co-counsel. However, if a paper transcript is needed by any other appointed CJA counsel, the court reporter may prepare a copy at commercially competitive rates. A CJA 24 form must be submitted through the Court's eVoucher system as the cost of duplication will be charged to the CJA fund. *Guide*, Volume 6, Chapter 5, §550.40.30.

In accordance with *Guide*, Volume 7, Part A, §320.30.20, the routine apportionment of accelerated transcript costs among parties in CJA cases is prohibited.

e. Fee Schedule

1) Fees

No court reporter shall charge fees for transcripts that exceed the authorized fee schedule of the Judicial Conference, as adopted by the Court. A copy of the fee schedule showing transcript rates is available from the clerk's office in each division and on the Court's website. Each court reporter is responsible for making financial arrangements with the party as soon as practicable.

2) Transcripts Requested by a Judge

As set forth in 28 U.S.C §753(f), official reporters must provide certified transcripts without charge to a requesting judge. Official reporters may charge only copy fees for transcripts provided to parties when the original transcript was produced at the request of a judge.

An official reporter may charge for preparing a transcript that is required by the district judge of oral hearings held before a magistrate judge on motions for summary judgment, with a report and recommendation to be provided. *Guide*, Volume 6, Chapter 5, §530.75(b)(4).

Contract reporters may charge a fee for producing transcripts ordered by a judge of this Court.

3) Electronic Sound Recordings

Official reporters may produce transcripts from audio recordings of court proceedings which the reporter did not attend. The official reporter is considered a transcriber and may be paid no more than as set out in the authorized fee schedule of the Judicial Conference, as adopted by the Court.

f. Timely Filing of Transcripts

It is the expectation of the Court that all transcripts are to be produced and filed in a timely manner. Transcript delivery dates are computed from:

- the date upon which satisfactory financial arrangements are made with private counsel via email; or,
- when the ordering party is the United States, the date upon which the transcript order is received by the court reporter via email; or,
- when the ordering party is CJA counsel, the date upon which the CJA 24 form is received by the court reporter via email; or,
- when ordered by a judge, the date upon which the Court order is provided to the court reporter.

g. Billing

All transcript orders shall be billed in writing by the official reporters, using an AO Form 44 Billing Invoice or comparable invoice including the same information. A copy of each invoice shall be retained by the court reporter and provided to the operations manager upon request.

h. Deposits

Reporters may request from the ordering party a deposit for a transcript based on the estimated number of pages. If the deposit exceeds the actual cost, the reporter shall reimburse the difference when the transcript is delivered to the ordering party.

i. Overcharging

Reporters found to be overcharging by violating the prescribed page, line, pitch-size formats, or by using any other non-conforming format, or by violating the time limit for delivery on a particular transcript category shall be required to make immediate restitution to the ordering party and may be subject to disciplinary action.

j. Fee Reduction

1) Appellate Transcripts

For appellate transcripts that are not timely filed, the Fourth Circuit Court of Appeals may impose the mandatory fee reduction in accordance with Rule 11(b) of the Federal Rules of Appellate Procedure. Such reduction of fees shall be credited to the ordering party by the reporter.

2) Non-Appellate Transcripts

A court reporter may not charge a higher fee than the one that corresponds to the delivery category achieved. For ordinary (30-day) non-appellate transcripts not timely filed, the Court may impose a fee reduction of 10% of the prescribed fee, unless an extension of time for the delivery of transcript has been granted by the presiding judge. The extension of time, if granted, will not exceed fifteen days, unless extraordinary circumstances exist as determined by the presiding judge.

k. Cancellation of Transcript Orders

A reporter shall immediately stop producing transcripts if advised of a cancellation. Any deposit received shall be refunded, excluding pages produced prior to the cancellation notice.

l. Expedited Transcripts

Official court reporters shall not expedite the preparation of any transcripts, unless ordered by the district court judge, that would delay the preparation of appellate orders.

m. Production of Daily and Hourly Transcripts

Production of daily and hourly transcripts are not to be subsidized by the Court. If additional reporters are required to provide such transcripts, the cost of such reporters shall be paid for by the official reporter. This provision does not, however, prohibit other official reporters from assisting in producing such transcripts if there are no other official proceedings to record and no substantial transcript backlog will result.

n. Transcript Backlog

Official court reporters are required to note transcript backlogs on their quarterly AO 40A Report Attendance and Transcripts of United States Court Reporters. At the direction of the judge to whom the official court reporter is assigned, operation managers are authorized to take measures necessary to reduce or eliminate transcript backlogs or production delays. Such measures may include, but are not limited to, the following: (1) reassigning or rotating the official court reporter on a temporary basis; (2) requiring the official court reporter to hire and pay a substitute court reporter; and (3) initiating progressive discipline, if necessary.

12. ORDER FOR APPELLATE TRANSCRIPTS

All transcripts of official proceedings produced for the purpose of appeal to the Fourth Circuit Court of Appeals shall be promptly delivered to the ordering party and filed with

the clerk of this Court in conjunction with Local Rules 10 and 11 of the Fourth Circuit Court of Appeals. Each operations manager may periodically monitor fees and delivery times.

13. REALTIME REPORTING

Court reporters who have successfully completed the Certified Realtime Reporter examination offered by the National Court Reporters Association (NCRA), the United States Court Reporters Association (USCRA), or who have passed an equivalent qualifying examination are recognized as Certified Realtime Reporters (realtime reporter). Only realtime reporters are permitted, but not required, to sell realtime translation at rates approved by the Judicial Conference.

All parties requesting realtime services will be responsible for providing their own personal computers, viewer/annotation software, and monitors. The realtime reporter will provide wiring necessary for his or her equipment. Official reporters are required to provide realtime services when requested by a judge of this Court. Realtime services may only be distributed to ordering parties of a case and will not be made available to the public unless authorized by the presiding judge.

The transcript format guidelines prescribed by the Judicial Conference apply to realtime translation with the following exceptions: realtime translation must be clearly marked as such with a header, footer or watermark on each page as “Realtime Unedited Transcript Only;” realtime translation should not include an appearance page, index or a certification; and if applicable, the electronic media label should be a different color than used on certified transcripts and should be marked with the words “Realtime Unedited Transcript Only.”

Realtime reporters should request that parties acknowledge receipt of a realtime translation by signing a disclaimer which explicitly states that the ordering party is aware that the realtime translation is not an official court record of the court proceedings. Preferred disclaimer format and language should be similar to that provided in *Guide*, Volume 6, Chapter 3, §320.50.50.

14. RECORDS MAINTENANCE

The work of all court reporters should be legible so that the notes of any court reporter can be read by another reporter, if necessary.

The filing and storing of all notes and audio recordings shall be in accordance with the procedures noted within the *Electronic Storage of Notes and Audio Files* (Appendix C). The stenograph/shorthand notes prepared by court reporters and all required electronic recordings shall be retained by the clerk’s office in accordance with 28 U.S.C. § 753(b) and shall be maintained in accordance with the *Guide*, Volume 10, Appendix 6b: Records Disposition Schedule 2.

a. Filing, Certification, Availability and Storage of Steno Notes and Audio Files

All steno notes and audio files shall be uploaded to the court's designated server by the 10th of every month for the preceding month.

An audio file can be removed once a transcript is produced in accordance with Judicial Conference policy.

Each reporter's dictionary shall be uploaded annually at the time of the filing of the annual report.

Only reporters and the operations manager shall have access to the uploaded files.

Contract reporters must submit their steno notes and audio files to the applicable operations manager or his or her designee via upload to a secure, encrypted USB drive provided by the Court. The operations manager or his or her designee will promptly upload the provided files on the secure drive to the designated court server.

b. Transcript or Audio Recordings of Arraignments, Pleas and Sentencings

Pursuant to the provisions of 28 U.S.C §753(b), court reporters must stenographically record verbatim and certify such parts of the record of proceedings as may be required by any rule or order of the Court, including all arraignments, pleas, and proceedings in connection with the imposition of sentences in criminal cases unless they have been recorded by electronic sound recording and such recording has been certified and maintained in the office of the clerk of court.

c. In Case of Emergency "ICE" Document

With the expectation that transcript production may be needed in emergency situations, each court reporter is encouraged to maintain an ICE document available for use in accordance with his/her division's established format.

15. MANDATORY REPORTS

a. Attendance and Transcript Report (AO40A)

Each quarter, all official reporters must prepare and file through the Automated Court Reporter Application (ACRA) the report of Attendance and Transcripts of United States Court Reporters (AO40A), which shall be reviewed and signed by the applicable operations manager. The form must be submitted to the operations manager within fifteen days after the end of the quarter so that it can be provided to the AO by the required 20 day deadline.

As part of the verification process, the official reporter must submit conforming copies of the AO38 Attendance Ledger and the AO39 Transcript Order and

Collections Ledger to the operations manager.

When reviewing the AO40A, the operations manager must:

- Ascertain that the reporter has completed the form as required;
- Ascertain accuracy and completeness;
- Compare the entries pertaining to attendance to the AO38; and,
- Compare entries pertaining to transcripts to the AO39.

b. Statement of Earnings Report (AO40B)

Each official reporter shall prepare and file through ACRA the annual Statement of Earnings of the United States Court Reporters (AO40B), which shall be reviewed and signed by the applicable operations manager. A report shall be required of all present and former official reporters, who were employed by the Court during the preceding year, without regard to length of service, including full or part-time employees and those hired on a limited time basis. A report is not required of contract reporters. The report shall be submitted to the operations manager no later than April 15th of each year.

As part of the verification process, the official reporter must submit conforming copies of the AO37 Expense Ledger, the AO38 Attendance Ledger, and the AO39 Transcript Order and Collections Ledger and must state that they have maintained receipts for any expense listed to the operations manager.

When reviewing the AO40B, the operations manager must:

- Ascertain that the reporter has completed the form as required;
- Ascertain accuracy and completeness;
- Compare the entries pertaining to official transcripts to the AO37 and against allowable expenses;
- Compare entries pertaining to gross income for official transcripts to the AO39; and,
- If necessary, verify that the court reporter has a receipt for each expense listed.

c. Records to be Maintained by Court Reporters

In order to permit the routine audit and inspection of records, official reporters shall maintain accurate, legible and up-to-date records of their expenses, attendance in court, transcript orders, and invoices. Such records shall be maintained on forms that conform to those prescribed by the Judicial Conference which include, but are not limited to, the following:

- AO37 – Expense Ledger
- AO38 – Attendance Ledger
- AO39 – Transcript Order and Collections Ledger

- AO44 – Invoice

d. Penalty for Not Submitting Reports

Failing to file an AO40A or AO40B may result in the withholding of the official reporter’s salary until such time that the report is filed. *Guide*, Volume 6, Chapter 2, §290.40.80.

16. INFORMATION TECHNOLOGY (IT) SECURITY

IT security requirements for court reporters are maintained in an addendum (Appendix D) to the Consolidated Information Technology Security Policy. Review and adherence to the provisions of the addendum is required of all court reporters.


17. ACCESS TO DATA COMMUNICATIONS NETWORK (DCN)

Official reporters shall be provided the necessary hardware (one computer and peripherals) in order to access the DCN for official use. Official use includes access to judiciary electronic mail, the J-Net, JENIE, HRMIS, Case Management/Electronic Case Filing system (CM/ECF), calendaring systems, the automated travel voucher system, and automated forms. Official reporters are strictly prohibited from using any government-owned computer hardware or any automated systems access through the DCN to generate transcript income. Substitute and contract court reporters are prohibited from having access to the DCN.

18. APPROVAL OF THE COURT REPORTER MANAGEMENT PLAN

The Court adopts this Court Reporter Management Plan (Plan), subject to the approval of the Judicial Council for the Fourth Circuit Court of Appeals, and subject to the rules and regulations of the Judicial Conference of the United States (Judicial Conference). When approved, the plan supersedes the former *Court Reporter Management Plan* adopted April 12, 2006, in the Eastern District of Virginia. Updates to Plan Appendices are authorized as needed as long as changes do not conflict with approved Plan provisions.

This Court Reporter Management Plan for the Eastern District of Virginia, having been adopted by the District Judges of the U.S. District Court for the Eastern District of Virginia on March 1, 2022, and approved by the Judicial Council of the U.S. Court of Appeals for the Fourth Circuit on March 8, 2022, is effective as of March 8, 2022.



/s/ Mark S. Davis, Chief Judge
Eastern District of Virginia

APPENDIX A
CERTIFICATION OF COURT REPORTER

(v.3 11/2021)

EMPLOYEE NAME:
ADDRESS:

DATE OF HIRING:
TELEPHONE NO:

The following certification is made to the clerk of court:

- I understand that I have been hired to serve the judges of the United States District Court, Eastern District of Virginia, *en banc*, although I may have a primary assignment to one or more judges;
- I have read and understand the provisions of the Eastern District of Virginia’s most recently approved Court Reporter Management Plan;
- If newly hired, I understand that I will serve a probationary period of 12 months from the first day of my employment with the Court;
- I will be responsible for preparing or having prepared, in a timely manner, any transcript of proceeding in which I was the reporter during my employment with the Court and after my separation;
- All of my stenographic/shorthand notes will be properly maintained, and uploaded to the designated server in accordance with the Court Reporter Management Plan;
- All of my required audio files will be properly named and uploaded to the designated server in accordance with the Court Reporter Management Plan;
- I will upload to the designated server each year at the time of the filing of the annual report a copy of my main dictionary for the previous calendar year;
- I will immediately inform the operations manager and the human resource department of any change in my address or telephone numbers in order to facilitate the preparation of transcripts;
- I will read and adhere to the court reporter addendum of the Court’s Consolidated Information Technology Security Policy;
- I will uphold the confidentiality of all matters at all times;
- I have read and will adhere to all statutory requirements of 28 U.S.C. §753 and the standards of the Code of Conduct for Judicial Employees; and,
- I have read and will adhere to all the administrative practices defined in the *Guide to Judiciary Policy, Volume 6*.

Date

Court Reporter's Signature

Date

Operations Manager’s Signature

APPENDIX B

(v.1 03/2021)

CERTIFICATION OF COURT REPORTER UPON SEPARATION

Name: _____

Date of Separation: _____

Address: _____

Telephone Number: _____

E-mail Address: _____

The following certification is made to the clerk of court upon my separation:

1. All my stenographic notes and audio files have been submitted to the clerk of court as well as a copy of my computer-generated note file and a copy of my personal dictionary. The software program required is:
_____.
2. I am responsible for preparing any transcripts currently ordered, but not yet filed and any transcripts ordered after my separation.
3. I will immediately inform the clerk of court of any change in my address or telephone number in order to facilitate the preparation of transcripts.

Court Reporter's Signature

Date

Operations Manager's Signature

Date

APPENDIX C

(v.3 02/2022)

ELECTRONIC STORAGE OF NOTES & AUDIO FILES

The following procedures encompass storage of steno notes and applicable criminal case audio files. In accordance with 28 U.S.C. § 753(b), also known as the Court Reporter Act, court reporters are required to file with the clerk of court either a transcript or an electronic sound recording of all arraignments, pleas, and proceedings in connection with the imposition of a sentence in criminal cases. Additionally, federal court reporters are required to certify their original shorthand notes and file them with the clerk's office.

Today's technology allows for the use of paperless stenograph machines and the creation of electronic audio files. To ensure the files are accessible to the Court, standards relative to the file format, naming convention and preferred media are outlined below:

- Audio files must be saved in a computer compatible file format.
- When saving files, court reporters shall rely on the file format that is used by the court reporter's software.
- Official court reporters shall place on a designated court server both their steno notes and audio files for the preceding month by the 10th of every month.
- An audio file can be removed once a transcript is produced in accordance with Judicial Conference policy.
- Each reporter's dictionary shall be uploaded annually at the time of the filing of the annual report.
- Only reporters and the operations manager shall have access to the uploaded files.
- Contract reporters must submit their steno notes and audio files to the applicable operations manager or his or her designee via upload to a secure, encrypted USB drive provided by the Court. The operations manager or his or her designee will promptly upload the provided files on the secure drive to the designated court server.
- The steno notes and audio files will be stored on a designated court server. It should be noted that this storage method is for purposes of complying with the Court Reporter Act and is not meant to replace any archival system that reporters use.

APPENDIX D

(v.2 02/2022)



UNITED STATES DISTRICT COURT & UNITED STATES PROBATION OFFICE EASTERN DISTRICT OF VIRGINIA



CONSOLIDATED INFORMATION TECHNOLOGY SECURITY POLICY ADDENDUM FOR COURT REPORTERS

(February 2022)

Version 2.0



UNITED STATES DISTRICT COURT & UNITED STATES PROBATION OFFICE

EASTERN DISTRICT OF VIRGINIA



EXECUTIVE SUMMARY

This policy addendum is added to the Districts Court Reporter plan in response to the memorandum regarding IT Security for Court Reporters (published July 2019) by the Administrative Office of the United States Courts. The memo requires that at a minimum, Court Reporters for the Eastern District of Virginia will:

- Acknowledge and agree to the minimum standards set forth in this policy.
- Complete initial and annual IT security training.
- Maintain positive control over IT assets that process or transport Judiciary information.
- Install, or enable, minimum anti-malware protections including anti-virus and firewall.
- Install, or update, operating systems and patches to the most current versions.
- Ensure third-party application patches and firmware updates are installed/configured.
- Install, or enable, full-disk encryption on all IT assets processing or storing court data.
- Adhere, at a minimum, to the judicial password requirement policy.
- Sealed materials may only be accessed and worked on while in a secure judiciary facility.
- Notify Consolidated IT Department and the court immediately upon suspicion of data compromise (including any potential or actual unauthorized disclosure, loss, or theft).
- Adhere to sanitization guidelines upon notification by court unit executives, judges, or Director of IT.
- (Recommended) Configure event logging for all security, file management, and user account events that are essential in auditing access to protected IT equipment or judiciary data.

The District Court IT staff and Court Reporters acknowledge the complexity of meeting these requirements due to the personally owned business equipment that the Court Reporters are required to purchase and the separation that is maintained regarding IT staff assistance with that equipment.

IT staff will provide assistance with knowledge gaps and provide a “best effort” service by providing “over the shoulder” assistance to the Court Reporters to ensure that these IT security requirements are met. IT staff in no way will maintain control over or access a Court Reporters personally owned equipment.

1. Overview.

2. Applicability.

2.1. Scope. This policy addendum is applicable to such users filling role(s) as Court Reporters and all related IT equipment processing court data.

2.2. Roles and Responsibilities.

2.2.1. *Pre-established roles and responsibilities.* This policy addendum adheres to roles and responsibilities as outlined in the United States District Court & United States Probation Office, Eastern District of Virginia (EDVA), Consolidated IT Security Policy.

2.2.2. *Court Reporters.*

2.2.2.1. Review and acknowledge this policy addendum.

2.2.2.2. Apply minimum standards contained in this policy addendum to reporter-furnished IT equipment within 30 days of acknowledgement.

2.2.2.3. Suggest updates to this policy addendum, as necessary.

2.2.3. *Consolidated IT Department Helpdesk.*

2.2.3.1. Provide guidance, or direct IT support, if necessary, to enable Court Reporters' compliance with standards outlined in this policy addendum.

2.2.3.2. Suggest updates to this policy addendum, as necessary.

2.2.4. *Consolidated IT Department IT Security Officer.*

2.2.4.1. Review and recommend updates, if necessary, to this policy addendum annually, at minimum.

2.2.4.2. Review incident reports and respond in accordance with threat-level and established incident response procedures outlined in the parent IT Security Policy.

2.2.4.3. Establish process for auditing policy addendum compliance and conduct audit at least annually.

3. Definitions.

- 3.1. IT Systems Users (Users). As defined in the Eastern District of Virginia Consolidated Information Technology Policy.
- 3.2. Court Reporter. Any individual acting as a combined-position reporter, contract reporter, non-tour of duty court reporter, official staff reporter, substitute reporter, or temporary reporter in any capacity outlined by the Court Reporters Act (28 U.S.C. § 753) whereby IT equipment is used to process or store original or copied judiciary information/data.
- 3.3. IT Equipment. Any electronic device used for data processing or storage.
- 3.4. Physical Security. Methods used to protect devices from unauthorized handling, and facilities or spaces from unauthorized occupancy, that could result in loss or damage.
- 3.5. Logical Security. Software applications, tools, or features used protect systems containing judiciary information/data from unauthorized access or events.
- 3.6. Sensitive Information/Data. Data that, if compromised, poses a potential threat to judiciary operations or resources, including facilities, equipment, or personnel.
- 3.7. Compromised Judiciary Information/Data. Any information contained on IT equipment that has been, or is suspected to be, revealed to unauthorized individuals, either intentionally or unintentionally.
- 3.8. Security Incident. Any real or suspected event that compromised the confidentiality, integrity, or availability of information/data, computer systems, or networks.

4. IT Security Training

Consistent with the Guide to Judiciary Policy and Local IT Security Policy, all employees, including court reporters, will complete initial and annual IT security training. Required training is accomplished through review and acknowledgement of the Consolidated IT Security Policy and completion of a computer-based training course. Employees will receive an invitation email with instructions explaining how to enroll and complete the training.

5. Securing Judiciary Data.

- 5.1. Physical Security.
 - 5.1.1. *Sealed Documents.* Sealed documents should only be accessed and worked on while in secure judiciary facilities.
 - 5.1.2. *Judiciary facilities.* Always maintain physical control of IT equipment to prevent unauthorized disclosure of data or theft of property. Do not leave equipment

unattended in public areas. Lock computer screen when IT equipment is not within line-of-sight.

5.1.3. *Personal residential areas.* Ensure IT equipment is locked and powered down when not in use to effectively enable hard disk encryption. Be aware of surroundings and who is near IT equipment when judiciary information is being processed. Take appropriate measures to prevent accidental unauthorized disclosure.

5.1.4. *Vehicle or public areas* (hotels, libraries, food establishments, etc.). IT equipment should not be left in vehicles. If leaving IT equipment in vehicles is necessary, ensure it is powered down and not visible from outside the vehicle.

5.2. Logical Security.

5.2.1. *Anti-malware and system updates.*

5.2.1.1. Operating system updates and patches. Court Reporters will ensure a supported version of operating systems (Windows, iOS, Linux, Android, etc.) and vendor-recommended security patches are installed.

5.2.1.2. Virus protection. Native virus protection (i.e., Windows Defender Security Center) will be enabled, at a minimum, by Court Reporters on computers and mobile computing devices. If third-party security applications or hardware are required (e.g., iOS computers do not come equipped with native/built-in anti-virus applications) Court Reporters will install a commercial anti-virus application.

5.2.1.3. Firewalls. Native firewall protection (i.e., Windows Defender Security Center or residential router/switch combination devices firewall) will be enabled, at a minimum, by Court Reporters on computers, mobile computing devices, if capable, and/or between computers and mobile computing devices and external internet connections (i.e., residential routers for home-use).

5.2.1.4. Application vulnerability review, vendor updates and security patches. All third-party applications purchased and installed on computing devices will be listed and reported to the IT Security Officer for vulnerability research and mitigation. Applications include, but are not limited to, Adobe Shockwave Flash, Oracle, dictation software, audio capture software, etc. This process may be automated for improved efficiency (i.e., using Belarc Advisor application found at <https://www.belarc.com/AdvisorDownloadEmail>).

5.2.1.5. Firmware updates. All IT hardware will be equipped with the latest firmware to assist with vulnerability mitigation.

- 5.2.2. *Password policy.* Password policy will, at minimum, adhere to established guidelines within the IT Security Policy. Recommended passwords should be complex and of sufficient length to preclude guessing or other means of compromise.
- 5.2.3. *Data encryption.* Apply full-disc hardware encryption on all data storage devices using native or third-party applications. IT to assist with the selection and installation of native or third-party full-disc hardware encryption on all court reporter-owned data storage devices. IT to provide, whenever available and/or possible, court reporters with data encrypted thumb drives for IT-related information transfer.
- 5.2.3.1. *Computers.* Windows computers may be encrypted using the native BitLocker application. For other operating systems (i.e., Linux) or means of encryption (i.e., VeraCrypt), notify the consolidated IT department prior to implementing encryption so they may determine suitability.
- 5.2.3.2. *Peripheral devices.* Only use external hard drives or other peripheral devices with full-disc encryption capability. The consolidated IT department can be contacted for assistance locating approved full-disk encryption devices and methods.
- 5.2.4. *Log management.* Equipment capable of capturing events will be configured to locally log and notify users of potential malicious activity. This feature provides a history of events to be reviewed should a security incident occur. If possible, configure windows event forwarder, or a third-party forwarder (i.e., Splunk Universal Forwarder), to send logged events to a judiciary centralized log server.
- 5.2.4.1. *Logon events.* Captures what user accounts were logged on as well as failed logon attempts. Notifies of potential malicious activity and provides history of events should a security incident occur.
- 5.2.4.2. *Account management.* Shows whether local user accounts are created, modified, or deleted. Essential in monitoring malicious activity where administrative accounts are created for backdoor access to systems and files.
- 5.2.4.3. *Directory services access.* Records events associated with accessing, creating, modifying, and deleting directory accounts.
- 5.2.4.4. *Object access.* Shows the date and time files are accessed and/or modified and by what user account.
- 5.2.4.5. *Privilege use.* Shows events requiring elevated permissions (administrative rights).

6. **Unauthorized Disclosure or Compromised Judiciary Data.**

Unauthorized disclosure of data can be purposeful or accidental. Reasonable means of prevention should be employed to protect judiciary data from disclosure. Types of disclosure may include, but are not limited to, hacking, accidental emails, or even shoulder surfing. For example, a family member walking by your computer and witnessing information either on purpose or by accident, is considered unauthorized disclosure. Any event that is potentially harmful to judiciary data or may cause it to be disclosed to unauthorized persons must be identified and reported to the Consolidated IT Department so analysis and mitigation potential negative repercussions can take place.

Report any suspected or actual unauthorized disclosure of judiciary data within 24 hours (including non-work days). Send notifications using the incident response form to the IT Security Officer and the Director of IT. The form can be found at:

[http://vaedsharepoint/vaedit/IT%20Forms/VAE%20Incident%20Response%20Reportin g%20Form%20Fillable.pdf](http://vaedsharepoint/vaedit/IT%20Forms/VAE%20Incident%20Response%20Reportin%20g%20Form%20Fillable.pdf). You may also visit the Consolidated IT Department or contact the Helpdesk via phone.

7. **Sanitization of Devices.**

7.1. Stolen devices. Despite reasonable means of protection, devices can be stolen at any time by individuals who have enough determination. As a measure of protection for this issue, proper reporting and other measures can be taken to provide additional security.

7.1.1. *Reporting.* Devices believed to be stolen will be reported within 24 hours (including non-work days). Send notifications using the incident response form to the IT Security Officer and the Director of IT. The form can be found at: <http://vaedsharepoint/vaedit/IT%20Forms/VAE%20Incident%20Response%20Reporting%20Form%20Fillable.pdf>. You may also visit the Consolidated IT Department or contact the Helpdesk via phone.

7.1.2. *Remote wiping.* This feature will allow IT equipment data to be erased if it is lost or stolen. This is a vital feature to maintain positive control and security over sensitive information. For assistance enabling and modifying this feature on Windows, Apple, and Android devices, visit the Consolidated IT Department or contact the Helpdesk.

7.2. Decommissioned devices. When devices processing judiciary data are no longer in use, the hard drives should be destroyed to prevent disclosure. Contact the Consolidated IT Department for means/methods of zeroizing or destroying hard drives.