

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
AMENDED COURT REPORTER MANAGEMENT PLAN
December 12, 2018
(Revision of August, 1995 Plan)

1. Introduction

This Court Reporter Management Plan (Plan) in the United States District Court for the District of Colorado has been approved and adopted by the Court. It provides full utilization of court reporters and digital recording equipment to best serve the actual needs of the Court. The Plan supplements the statutory duties, detailed guidelines and procedures contained in Volume 6 of the *Guide to Judiciary Policy*, 28 U.S.C. § 753 (Court Reporters Act), and the Federal Rules of Appellate Procedure, specifically Rules 10 and 11(a) and (b).

2. Employment and Hours

Official court reporters (official reporters) are employed by and serve at the pleasure of the Court as part-time and full-time salaried employees who are appointed by the Court for an indefinite term, pursuant to the authority of the Judicial Conference of the United States. Official reporters are appointed in accordance with the provisions of 28 U.S.C. § 753 and the qualifications established by the Judicial Conference of the United States and shall serve as long as the budget and volume of work justify retaining the full complement of official reporters.

Pursuant to Judicial Conference policy, all initial appointments shall be on a probationary basis for a period not to exceed one (1) year. Upon appointment, official reporters shall be administered an Appointment Oath of Office and the Oath for Recording Court Proceedings.

Official reporters who do not perform in a competent and satisfactory manner or do not comply with requirements of this Plan shall be subject to dismissal.

Official reporters report on a regular tour of duty which consists of a forty (40) hour week, Monday through Friday, from 8:00 a.m. to 5:00 p.m., or as required to meet the needs of the Court.

Official reporters placed on a regular tour of duty are permitted to earn annual and sick leave in accordance with 5 U.S.C. Chapter 63, Subchapter I. Guidelines for administration of leave are addressed in the Policies and Procedures Manual for the District of Colorado. The Court Operations Supervisor shall review attendance records and approve leave for all official reporters.

Administrative leave may be granted to attend training needed to maintain an official reporter's professional credentials or certifications, and for other approved educational purposes, up to 24 hours per year. All requests for administrative leave must be approved in advance by the Clerk of Court.

3. En Banc Assignment of Reporters

Official reporters are nominally assigned to a district judge; however, an *en banc* system will be utilized. Official reporters shall be shared among judicial officers, as necessary, to: ensure an even distribution of work and that the needs of the entire Court for reporting services are met, to prevent the

overload of any individual official reporter, to minimize travel between divisions, and to minimize the need for temporary and contractual reporting services.

Hearings held before magistrate judges in this district shall be digitally recorded. However, if a court reporter is requested by a magistrate judge for a trial or a suppression hearing, the Clerk of Court shall staff that proceeding with a court reporter. Other evidentiary hearings and complex or difficult proceedings may, upon request by a magistrate judge, be staffed with a court reporter if available.

The number of official reporters and electronic court recorder operators (ECRO) required to cover all the Court's reporting needs will be determined based upon the volume of work, and with consideration of the most current staffing formula approved by the Judicial Conference.

An official reporter shall retain employment at the will of the Court, *en banc*, regardless of the death, resignation, or retirement of an individual judicial officer. If the volume of work does not justify retention of the full complement of official reporters, a reduction shall be accomplished through relocation, attrition, or by giving a reasonable notice for termination of the appointment of no less than 60 days.

4. Private Reporting Work

Official reporters are not permitted to perform private (freelance) work of any kind during their regular tours of duty.

5. Travel by Official Reporters

Official reporter travel in the District of Colorado must comply with the official travel guidelines promulgated for all employees and the travel regulations contained in the *Guide to Judiciary Policy*. Out-of-district travel by official reporters for work-related reasons must be approved by the Clerk of Court.

6. Access to Data Communications Network

Official reporters shall have access to the Data Communications Network (DCN) via a shared computer located in the clerk's office and may access the DCN remotely from their private computers in accordance with the Court's remote access policy. They shall also be afforded necessary access to file transcripts in Case Management/Electronic Case Filing (CM/ECF) and read-only access to Chambers Electronic Organizer (CEO).

7. Use of Contract and Substitute Court Reporters

Contract court reporters (contract reporters) serve the Court under a formal contract provided by 28 U.S.C. § 753(g). The Court pays contract reporters from appropriated funds managed by the Court. Contract reporters may be utilized only when all official reporters are unavailable due to assigned courtroom duties or authorized leave. Contract reporters should possess the required qualifications of official reporters. Contract and substitute reporters shall be administered an Oath for Recording Court Proceedings.

The Judicial Conference, as a matter of policy, discourages the use of substitute reporters, and limits such use to daily copy work, absence due to illness, vacations, or reasons beyond the official reporter's control. Official reporters should limit the use of substitute reporters by using scopists, proofreaders, and computer-assisted transcription systems to produce transcripts. An official reporter must obtain

advance approval from the Court Operations Supervisor prior to hiring a substitute. The official reporter is responsible for paying for the substitute from his/her personal funds.

8. Supervision of Court Reporters

The Court Operations Supervisor is responsible for the day-to-day management and supervision of an efficient reporting service within the Court and will report and be responsible to the Clerk of Court. The supervising responsibility of the Court Operations Supervisor shall lie primarily in the area of weekly court assignments, pooling, authorization of leave, and efficient service to the Court and litigants.

Each official court reporter in this district shall prepare and submit to the Court Operations Supervisor the quarterly report AO 40A, *Attendance and Transcripts of U.S. Court Reporters*, listing hours and days in court and any transcript backlog.

A practical approach shall be taken to the assignment of official reporters with due regard to prolonged proceedings. The Court Operations Supervisor shall endeavor to allow a reporter to remain with an assignment until conclusion or until the assigned reporter requests relief.

The Court Operations Supervisor shall ensure that all assignments are apportioned on an equitable basis to facilitate efficient reporting and transcription services to the Court and the Bar.

9. Transcripts

All transcripts must comply with the rules, regulations, and formats approved by the Judicial Conference of the United States as noted in the *Guide to Judiciary Policy*.

Pursuant to provisions of 28 U.S.C. § 753(b), reporters shall transcribe and certify such parts of the record of proceedings as may be required by rule or order of the Court, including all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording. Official and contract reporters shall file with the Clerk of Court all transcripts of such proceedings within 30 days of the close of the proceeding unless an electronic or digital audio backup record, accompanied by a certification of the reporter, is filed with the Clerk. Electronic sound recordings, or digital audio files, will be stored and retrieved from a designated computer drive in the clerk's office.

Pursuant to 28 U.S.C. § 753(f), all court reporters are required, when requested by a presiding judicial officer, to transcribe, certify, and file transcripts of proceedings without cost to the Court.

Court reporters must file appellate transcripts in accordance with the *Notice Regarding Access to Transcripts Filed in the Tenth Circuit Court of Appeals* unless the Court of Appeals has granted extension for filing. Court reporters must make timely requests for extensions of time. Court reporters are responsible for making the financial arrangements with the ordering party. If financial arrangements cannot be made expeditiously or if an "insufficient funds" payment is rendered by the ordering party, the court reporter shall promptly advise the Court of Appeals.

Orders for non-appellate transcripts must be placed directly with the court reporter. The ordering party shall make all necessary financial arrangements with the court reporter and shall submit any requested deposit prior to transcript production.

The Court Operations Supervisor is responsible for monitoring transcript quality and timeliness. Each court reporter shall advise the Court Operations Supervisor, by means of a Transcript Order Form

(TOF), of each appellate transcript order received, when received, the length of the transcript, the date arrangement for payment was completed, and the required delivery date. The TOF shall be docketed by the Court Operations Supervisor upon delivery of a completed TOF by the court reporter.

All transcripts produced must be certified and filed with the Clerk of Court, at no charge, concurrent with, but not later than three working days after, delivery to the requesting party or judicial officer.

10. Access to Electronically Filed Transcripts

Transcripts of proceedings before the U.S. District Judges and Magistrate Judges in the District of Colorado are required to be filed with the Court in electronic format. This Court follows the Judicial Conference policy of providing transcripts of court proceedings at the clerk's office before making official transcripts of court proceedings electronically available to the public. This policy applies to all transcripts of proceedings or parts of proceedings ordered on or after June 20, 2005 for civil matters and December 5, 2005 for criminal matters, regardless of when the proceeding took place. The requirements are as follows:

- a. A transcript filed with the Court shall be available at the Court's public terminal, for inspection only, for a period of 90 calendar days after it is filed.
- b. During the 90-day period (which may be extended by the Court), a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference. The transcript shall be viewable at the Court's public terminals, available to attorneys of record or parties who have purchased the transcript from the reporter, and other persons as directed by the Court.
- c. After the 90-day period has ended, the filed transcript will be available for inspection and copying in the clerk's office and for download from the Court's CM/ECF system through the judiciary's Public Access to Court Electronic Records (PACER) system. The transcript copy filed with the Clerk of Court may be reproduced without compensation to the court reporter or transcriber under the same terms and conditions that any other official public document in the case file may be reproduced.

11. Redaction of Electronic Transcripts

The responsibility for redacting personal identifiers rests solely with counsel and the parties. Neither the Clerk of Court nor the court reporter shall review transcripts for compliance with this policy. Attorney procedures and requisite forms for redaction are available on the District of Colorado court website. Generally, within seven (7) business days of the filing of an official court transcript, each party wishing to redact a transcript must inform the Court by filing a Notice of Intent to Request Redaction. If a redaction is requested, counsel must file and submit directly to the court reporter a Redaction Request within 21 days from the filing of the transcript, indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted. This procedure is limited to the redaction of the specific personal data identifiers listed below:

- a. Social Security numbers to the last four digits;
- b. Financial account numbers to the last four digits;
- c. Dates of birth to the year;
- d. Names of minor children to the initials; and
- e. Home addresses to the city and state (criminal cases only).

If counsel files a Notice of Intent to Redact but fails to timely file a Redaction Request or Motion to Extend Time, no redactions shall be made, and the original transcript shall be available to the public remotely or from the clerk's office after 90 calendar days. If counsel would like to request further redactions, in addition to those personal identifiers listed above, counsel must move the Court by filing a separate Motion for Redaction of Electronic Transcript. Until the Court has ruled on any such motion, the transcript will not be electronically available, even if the 90-day restriction period has ended.

If a redacted transcript is filed with the Court, that redacted transcript shall be electronically available through PACER after 90 calendar days from the date of filing of the original transcript, and the original transcript shall not be publicly available. If the original transcript is filed without redaction, that original transcript shall be electronically available through PACER after 90 calendar days.

12. Electronic Transcript Copy Fees

During the 90-day period (which may be extended by the Court), a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference. After the 90-day period has ended, the transcript copy is available, with fee, from the court reporter, by purchasing a copy in the clerk's office, or by downloading through PACER. Printed copies of the transcript made in the clerk's office will be charged at the per-page rate established in the Court's fee schedule. PACER fees are incurred each time the transcript is accessed even though the transcript may have been purchased from the court reporter.

13. Criminal Justice Act (CJA) Transcripts

All transcripts produced for and on behalf of CJA defendants shall be billed on the Authorization and Voucher for Payment of Transcript Form, CJA 24. Counsel shall submit the Form CJA 24 through eVoucher. The Court Operations Supervisor, in concert with the assigned court reporter/transcriber, is responsible for assisting the ordering party in the proper preparation of the Form CJA 24.

CJA trial transcripts shall not include opening or closing statements of counsel, jury *voir dire*, or jury instructions unless specifically authorized by the trial judge. The Court Operations Supervisor is designated to verify receipt of CJA transcript orders and shall ascertain the propriety of each voucher before submitting the form to the appropriate judicial officer for approval.

In accordance with the policies of the Judicial Conference of the United States, the routine apportionment of accelerated transcript costs among parties in multi-defendant criminal cases is prohibited. No more than one transcript at the original page rate shall be purchased from the court reporter on behalf of CJA defendants in multi-defendant cases. Either appointed counsel, the clerk's office, or the court reporter will arrange for duplication of the transcript, at a commercially competitive rate, for each CJA defendant for whom a transcript was approved. The cost of duplication will be paid from CJA funds. The Court may grant an exception to this policy based upon a finding that application of the policy shall unreasonably impede the delivery of accelerated transcripts to persons proceeding under the CJA.

14. Accepting Transcript Orders, Fees for Transcripts of Official Proceedings, and Delivery

No court reporter or transcriber shall charge fees for transcripts of official proceedings exceeding those established by the Judicial Conference of the United States and as adopted by the most recent Order of this Court.

The Intake Division shall post a copy of the current allowable fees in the Clerk's Office. The posting shall be prominently displayed in an area generally available to the public. A copy of the fee schedule shall also be posted on the Court's website.

Court reporters shall use Invoice Form AO 44 or a similar invoice that includes an itemized statement of the transcripts sold to a party. Each court reporter shall provide the ordering party with the original invoice, retain a copy to use as the accounts receivable file copy, and make a copy available to the Court Operations Supervisor for review of compliance with Judicial Conference rate requirements.

Transcripts may be provided via email, traditional paper copy, or CD-ROM in accordance with the September 1991 Judicial Conference policy. Court reporters/transcribers are authorized to charge for transcripts provided via email, or CD-ROM at the same maximum rates authorized for paper transcripts. No additional charge is permitted for the cost of the CD-ROM itself.

Failure of any court reporter/transcriber to comply with the Judicial Conference regulations governing page rates, page format, or time limits for delivery of transcripts may result in action by the Court including, but not limited to, dismissal and restitution.

15. Production of Daily and Hourly Transcripts

Production of daily or hourly transcripts is not to be subsidized by the Court. If extra court reporters are required to provide such transcripts, the cost of such shall be paid for by the official reporter out of the earnings derived from the higher transcript rates according to guidelines recommended by the Judicial Conference. This provision does not, however, prohibit other official reporters from assisting in producing such transcripts if there are no other official proceedings to report, including those of senior judges and magistrate judges, and when no substantial transcript backlog will result.

16. Realtime Court Reporting

In accordance with the Judicial Conference, certified realtime reporters are those official court reporters who have successfully completed the Certified Realtime Reporter examination offered by the National Court Reporters Association or who have passed an equivalent qualifying examination. The Judicial Conference permits certified realtime reporters to sell realtime translation at rates approved by the Conference. Contract reporters with this same credential may provide a realtime feed to parties to the case at the rates established by the Judicial Conference but may not charge fees for providing a realtime feed to the presiding judge.

Certified realtime reporters who charge fees for realtime reporting services must comply with the Administrative Office's technical standards and guidelines governing the implementation and use of realtime reporting systems in the district courts.

Realtime services are provided to judicial officers and court staff. Court reporters are responsible for providing necessary training and operational support to the judge and other judiciary staff in the use of realtime reporting services.

All non-judiciary parties requesting realtime services shall be responsible for providing their own computers, viewer/annotation software, and monitors, so long as all are compatible with the court reporter's equipment. Any party requesting to use their own equipment shall coordinate and pre-test equipment with the court reporter prior to official proceedings.

17. Time Limits for Delivery of Transcripts to the U.S. Court of Appeals

All transcripts of official proceedings produced by the court reporters or transcribers of this district for cases on appeal to the United States Court of Appeals for the Tenth Circuit shall be promptly delivered to the ordering party and filed with the Clerk of Court. Court reporters shall produce appellate transcripts in chronological order by the date due in the Court of Appeals and shall produce appellate transcripts before non-appellate transcripts. Unless otherwise directed by the Court, court reporters shall prepare non-appellate transcripts based upon the date due, with criminal transcripts generally taking precedence over civil transcripts. The length and complexity of each case shall be considered so as not to deny the court reporter reasonable time necessary for transcript production.

18. Storage of Shorthand Notes, Dictionaries, and Electronic Recordings

The Clerk of Court is responsible for the safekeeping of all court reporter records and electronic sound recordings. In compliance with 28 U.S.C. § 753(b), official reporters shall certify and file their original shorthand/stenotype notes and electronic sound recordings in a drive as provided through the Data Communications Network (DCN).

The District of Colorado requires official reporters to file copies of their dictionaries (main and job) in a computer drive accessible from the clerk's office. The dictionaries will be updated annually by each official reporter. In the event an official reporter is unavailable to produce transcripts due to illness or other unanticipated circumstance outside of his/her control, their dictionary will assist another court reporter or transcriber with translating the original reporter's notes. These dictionaries may only be used as needed to transcribe a reporter's notes if a transcript is required.

The original notes and records of contract reporters shall be certified and filed with the Clerk within 90 days of completion of the proceeding. If a transcript is ordered, the original notes or records shall be submitted within 90 days after the transcript is delivered to the requesting parties. It is important that the notes of all official and contract reporters shall be maintained in an electronic format.

Backup audio made by court reporters are the personal property of the court reporters. There is no public entitlement to these recordings, and they shall not be disseminated to any person or agency.

19. Retired or Separated Court Reporters

Any official reporter who terminates employment with the Court remains responsible for producing requested transcripts of proceedings reported during the employment at the rates in effect at the time the transcript was ordered. Court reporters must make every effort to serve the ordering party by producing the transcript according to the delivery schedule established by the Judicial Conference. Any court reporter refusing to transcribe a court proceeding may be ordered by the Court to show cause. The Court is not required to refer outstanding transcript orders to a separated reporter if the Court has concerns regarding the reporter's performance.

Court reporter notes are the property of the Court and must remain in the custody of the Clerk of Court. Notes may be removed only for the purposes of providing a transcript. A court reporter no longer employed by the Court must file a copy of the transcript with the Clerk of Court within three days of delivery to the ordering party. The Court Operations Supervisor shall assist the retired or separated court reporter in obtaining the notes and act as a liaison between the reporter and ordering party.

Upon separation or retirement, an official court reporter shall file copies of their dictionaries with the Clerk.

20. Reports and Records

The following reports are to be filed in a timely manner by each official reporter:

- a. Attendance and Transcripts of United States Court Reporters, Form AO 40A, shall be prepared and electronically submitted through the Automated Court Reporter Application (ACRA) within 20 days after the end of each calendar year quarter (i.e., by April 20, July 20, October 20, and January 20, for the preceding quarter). The Court Operations Supervisor must approve the AO 40A through the ACRA after submission by the official reporter. In the event an official reporter retires, resigns, or is otherwise separated from duty, an AO 40A must be filed within 20 days from the date of separation.
- b. Statement of Earnings of United States Court Reporters, Form AO 40B, shall be prepared and submitted annually by all official reporters. The report shall be electronically submitted through the ACRA so that it is received by April 15 of each year for the prior calendar year. The Court Operations Supervisor must approve the AO 40B through the ACRA after submission by the official reporter. This report shall be kept confidential. In the event an official reporter retires, resigns, or is otherwise separated from duty, an AO 40B must be filed within 60 days from the date of separation, even if employed for only part of a year.
- c. Official reporters shall maintain accurate, legible, and current records of their expenses, attendance in court, transcript orders, and invoices. These records shall be available for routine audits as necessary. Court reporters must maintain such records on forms prescribed by the Judicial Conference of the United States, which include, but are not limited to, the following forms:
 - i. AO 37 Expense Ledger;
 - ii. AO 38 Attendance Ledger;
 - iii. AO 39 Transcript Orders and Collection Ledgers; and
 - iv. AO 44 Invoice.

APPROVED BY THE COURT in Denver, Colorado this 12th day of December, 2018.

**United States Courts for the Tenth Circuit
Office of the Circuit Executive
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January 9, 2019

Mr. Jeffrey P. Colwell
Clerk
United States District Court
Alfred A. Arraj United States Courthouse
901 19th Street, Room A241
Denver, CO 80294

Dear Mr. Colwell:

The Judicial Council has approved the Court Reporter Management Plan submitted by the United States District Court for the District of Colorado. A copy of the order is attached. Please let me know if you have any questions.

Sincerely,



Leslee Fathallah
Deputy Circuit Executive

If:bsl

**MINUTES OF THE JUDICIAL COUNCIL
OF THE TENTH CIRCUIT**

January 9, 2019

On this date, the Judicial Council approved the Court Reporter Management Plan as submitted by the United States District Court for the District of Colorado.

The Judicial Council

A handwritten signature in blue ink, appearing to read "Leslee Fathallah".

By:

Leslee Fathallah
Deputy Circuit Executive

for David Tighe
Circuit Executive and Secretary to the
Judicial Council of the Tenth Circuit