

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2006-065 PA/PI-CIR

**RE: COURT REPORTING PLAN**

Rule of Judicial Administration 2.070 confers authority upon the Chief Judge to develop a court reporting plan. Specifically, Rule 2.070(g)(2) requires the Chief Judge, after consultation with the circuit court and county court judges in the circuit, to enter an administrative order developing and implementing a circuit-wide plan for court reporting of all proceedings required to be reported at public expense using full or part-time court employees or independent contractors.

Further, Rule 2.070(g)(3) authorizes the Chief Judge to provide for electronic recording and transcription of proceedings.

Additionally, Rule 2.070(h) mandates that the Chief Judge, after consultation with the circuit court judges in the circuit, enter an administrative order developing and implementing a circuit-wide plan for court reporting and expediting transcript preparation in all trials in which the state seeks the death penalty and in capital postconviction proceedings.

In Administrative Order 95-78, a court reporting plan was originally adopted for this circuit, and court reporting procedures for death penalty cases were implemented in 2000 in Administrative Order PA/PI-CIR-00-76.

However, when the Sixth Judicial Circuit began a transition from a contract court reporter model to a combination of electronic and court-employed court reporters, the court reporting plan underwent a comprehensive update in 2004 in Administrative Order 2004-018 PA/PI-CIR. Further, this transition has required five amendments.

As this transition is now nearing completion, the Chief Judge finds that a new comprehensive and cohesive Administrative Order setting forth the court's court reporting plan on a circuit-wide basis is warranted. Therefore, it is hereby

**ORDERED:**

**A. FUNDAMENTALS OF COURT REPORTING PLAN**

**1. Scope**

The court reporting plan set forth in this Administrative Order delineates procedures to be followed for various proceedings on a circuit-wide basis. However, due to insufficient resources, it is currently necessary to use stenographic contract court reporters in New Port Richey for all matters in which the Court is required to provide a record and which are heard before a judge. These matters include, but are not limited to, all proceedings in the Criminal Division of circuit or county court; all criminal proceedings in the Traffic Division of county

court; all proceedings under the Florida Rules of Juvenile Procedure; proceedings pursuant to section 394.910 et seq., Florida Statutes; domestic violence proceedings pursuant to Chapter 741.30, Florida Statutes; and dating, sexual, and repeat violence proceedings pursuant to Chapter 784, Florida Statutes.

Effective January 1, 2007, court-employed digital court reporters will begin providing reporting services for many of the above-listed matters. However, due to a lack of resources it will still be necessary to use stenographic contract court reporters in New Port Richey for an indefinite period in the following proceedings: felony criminal trials; termination of parental rights proceedings pursuant to Chapter 39, Florida Statutes; and trials pursuant to section 394.910 et seq., Florida Statutes.

Accordingly, Administrative Order 2006-027 PA-CIR, pertaining to interim procedures for stenographic reporting by contract court reporters at the West Pasco Judicial Center in New Port Richey, shall remain effective until further order of this Court. However, when sufficient resources become available, it is the court's intent to bring the delivery of court reporting services in New Port Richey into accordance with the plan for the delivery of services set forth for the remainder of the circuit.

In any proceeding in which the type of court reporting equipment or services specified in this Administrative Order are not available, the Administrative Office of the Courts (AOC) may utilize any personnel or services with which it has contracted without further order of the Court. Under emergency or any other exigent circumstances in which contracted services or personnel are not available, the AOC may utilize whatever other means of reporting is available under the circumstances, but must notify the Chief Judge of the exigency as soon as possible.

## **2. Definitions**

The term "certified court reporter" as used in this Administrative Order means a court reporter who holds a current certification as a Registered Professional Reporter or other higher-level certification from the National Court Reporter's Association and who has provided documentation of that certification to the AOC; or who has otherwise been approved by the AOC to provide court reporting services in the Sixth Judicial Circuit.

The term "contract court reporter" as used in this Administrative Order means a stenographic court reporter with whom the Sixth Judicial Circuit has contracted for court reporting services or a stenographic court reporter employed by a court reporting agency with which the Sixth Judicial Circuit has so contracted.

The term "digital court reporter" as used in this Administrative Order means a court reporter employed by the Sixth Judicial Circuit who monitors or transcribes electronic recording.

The terms "electronically recorded" or "electronic recording" as used in this Administrative Order refer to a means of reporting a court proceeding or a record of a court proceeding made by CourtSmart, MSRS, or other digital electronic equipment owned or operated by the Sixth Judicial Circuit.

The term “stenographic court-employed court reporter” as used in this Administrative Order means a stenographic court reporter employed by the Sixth Judicial Circuit.

### **3. The Record**

For all proceedings in which the Court is required to provide a record, the “official record” as used in this Administrative Order refers to the transcript of the proceedings as produced by a court reporter or transcriptionist acting under the authority of the AOC and filed with the Clerk of the Circuit Court. For all other proceedings, the “official record” as used in this Administrative Order refers to the transcript of the proceedings as produced by a certified court reporter and filed with the Clerk of the Circuit Court. The official record does not include CDs, DVDs, tapes or any other electronic media recording of a court proceeding.

Only one official record may be produced. CDs, DVDs, tapes or other electronic media recordings of court proceedings made under the authority of the AOC shall not be released absent an order of the Chief Judge. A trial judge may, however, when the electronic recording is needed by the Court to resolve an issue before the Court, authorize the use of a recording upon a showing of good cause.

## **B. COURT REPORTING PROCEDURES BY COURT DIVISION**

### **1. Circuit Court**

#### **a. Appellate Division**

The Court does not provide any court reporting services in Appellate Division matters. However, parties wishing to record oral argument in Appellate Division proceedings may use any certified court reporter in accordance with Section E. of this Administrative Order.

#### **b. Civil Division**

Parties in Civil Division proceedings may use any certified court reporter in accordance with Section E. of this Administrative Order except that all trials in which the Court is required to provide a record, including but not limited to trials under section 394.910 et seq., Florida Statutes, shall be reported by stenographic court-employed court reporters. If sufficient stenographic court-employed court reporters are not available, such trials may be reported by contract court reporters or by electronic recording.

All other proceedings in which the Court is required to provide a record, including but not limited to those under section 394.910 et seq., Florida Statutes, shall be reported by electronic recording, a stenographic court-employed court reporter, or a contract court reporter.

### **c. Criminal Division**

All proceedings except for trials and capital proceedings, which are addressed in Section F., shall be reported by electronic recording. Trials shall be reported by stenographic court-employed court reporters. If sufficient stenographic court-employed court reporters are not available, such trials may be reported by contract court reporters, or electronic recording.

### **d. Probate Division**

Parties in Probate Division proceedings may use any certified court reporter in accordance with Section E. of this Administrative Order except that all proceedings in which the Court is required to provide a record, including but not limited to proceedings pursuant to chapter 744, Florida Statutes, regarding (1) adjudication of incapacity; (2) appointment of a guardian; (3) modification, termination, or revocation of the adjudication of incapacity; or (4) restoration of capacity, shall be reported by electronic recording, a stenographic court-employed court reporter, or a contract court reporter.

### **e. Family Division**

Parties in proceedings governed by the Florida Family Law Rules of Procedure may use any certified court reporter in accordance with Section E. of this Administrative Order except that all proceedings in which the Court is required to provide a record, including but not limited to domestic violence proceedings under section 741.30, Florida Statutes; as well as all dating, sexual, and repeat violence proceedings under Chapter 784, Florida Statutes, shall be reported by electronic recording, a stenographic court-employed court reporter, or a contract court reporter.

All proceedings under the Florida Rules of Juvenile Procedure, including trials, shall be reported by electronic recording, except that termination of parental rights trials pursuant to Chapter 39, Florida Statutes, and proceedings to waive parental notification of abortion pursuant to section 390.01114, Florida Statutes, shall be reported by stenographic court-employed court reporters. If sufficient stenographic court-employed court reporters are not available, such proceedings may be reported by electronic recording or a contract court reporter.

## **2. County Court**

### **a. Civil Division**

The Court provides no court reporting services for proceedings in the Civil Division. However, the parties may use any certified court reporter in accordance with Section E. of this Administrative Order.

### **b. Criminal Division**

All criminal proceedings, including trials, shall be reported by electronic recording.

**c. Small Claims Division**

The Court provides no court reporting services for proceedings in the Small Claims Division. However, the parties may use any certified court reporter in accordance with Section E. of this Administrative Order.

**d. Traffic Division**

Civil Proceedings: All civil proceedings in the Traffic Division in Pinellas County shall be reported by electronic recording. The Court provides no court reporting services for civil proceedings in the Traffic Division in Pasco County; however, a party may record a civil traffic infraction hearing in accordance with Florida Rule of Traffic Court 6.460(b).

Criminal Proceedings: All criminal proceedings in the Traffic Division in Pinellas County and the East Pasco Judicial Center in Dade City shall be reported by electronic recording. All criminal proceedings in the Traffic Division at the West Pasco Judicial Center in New Port Richey shall be reported by contract court reporters until January 1, 2007. Beginning January 1, 2007, all criminal proceedings in the Traffic Division at the West Pasco Judicial Center in New Port Richey shall be reported by electronic recording.

**C. COURT REPORTING PROCEDURES FOR HEARINGS BEFORE  
GENERAL MAGISTRATES AND HEARING OFFICERS**

All proceedings before general magistrates and hearing officers shall be reported by electronic recording with the exception of hearings before Civil Traffic Infraction Officers in Pasco County as more fully set forth in Section B.2.d. of this Administrative Order.

**D. COURT REPORTING PROCEDURES FOR HEARINGS COMMENCING  
OUTSIDE OF REGULAR COURT HOURS**

**1. First Appearance Hearings (Advisories) Pursuant to the Florida Rules of  
Criminal Procedure or Juvenile Procedure**

Advisories commenced on weekends, holidays or at any other time outside of regular court hours shall be electronically recorded. Jail personnel shall be responsible for ensuring that the electronic computer recording equipment is started prior to the commencement of the proceedings.

Due to insufficient resources, electronic recording may not always be available for advisories in Pasco County. Therefore, until electronic recording has been implemented, advisories in Pasco County may be recorded by cassette tape recording. If recorded on cassette tape, the trial clerk and bailiff shall ensure that the tape recording equipment remains on throughout the proceedings. Upon the conclusion of proceedings, the trial clerk in attendance shall affix the date of the proceedings and the name of the judge presiding onto the label of the cassette tape(s), take possession of the tape(s), and store the tape(s) in accordance with the period prescribed by the Rules of Judicial Administration.

**2. Chapter 39 Shelter Hearings and Proceedings to Waive Parental Notification of Abortion**

Shelter hearings pursuant to Chapter 39, Florida Statutes, and proceedings to waive parental notification of abortion pursuant to section 390.01114, Florida Statutes, which are commenced on weekends, holidays, or any other time outside of regular court hours shall be electronically recorded. Court personnel shall be responsible for ensuring that the electronic computer recording equipment is started prior to the commencement of the proceedings.

Due to insufficient resources, electronic recording may not always be available for shelter and waiver hearings in Pasco County. Therefore, until electronic recording has been implemented, such hearings in Pasco County may be recorded by cassette tape recording. If recorded on cassette tape, the cassette tape utilized shall contain only the waiver hearing or shelter hearing and no other matter. The trial clerk and bailiff shall ensure that the tape recording equipment remains on throughout the proceedings. Upon the conclusion of proceedings, the trial clerk in attendance shall affix the date of the proceedings and the name of the judge presiding onto the label of the cassette tape(s), and the cassette tape(s) will be retained in the sealed case file.

**E. COURT REPORTING PROCEDURES WHERE THE COURT DOES NOT PROVIDE A RECORD**

1. If a party wishes to make a record of a court proceeding for which the Court does not provide a record as delineated in this Administrative Order, it is the responsibility of the party or the party's attorney to secure the services of a certified court reporter.

2. All notices of hearings for proceedings where the Court does not provide a record must specify whether or not the party setting a matter for hearing will be securing the services of a court reporter. All costs associated with the court reporter's appearance will be the responsibility of the party requesting the court reporter. This does not preclude the taxation of costs as authorized by law. See Florida Rule of Judicial Administration 2.070(b).

3. Only certified court reporters may be used. If a court reporter arrives to report a particular proceeding but is not a certified court reporter, the judge may, after inquiry to determine the qualifications of the reporter, authorize the individual reporter to report a specific proceeding.

**F. COURT REPORTING PROCEDURES IN CAPITAL CASES**

1. Any proceeding involving the potential or actual imposition of the death penalty, including but not limited to pretrial hearings, trials, sentencing hearings, and postconviction hearings, shall be reported by a stenographic court-employed court reporter.

2. When a jury returns a verdict of guilty as charged in a case where the State is seeking the death penalty, the judge shall orally instruct the court reporter to immediately begin

transcribing the trial as well as any hearings conducted by any judge throughout the pendency of the case.

3. Upon the imposition of the death penalty, the judge shall orally instruct the court reporter to immediately begin transcribing the penalty phase of the trial, the *Spencer* hearing, any other hearings held after the verdict but prior to sentencing, and the actual sentencing hearing.

4. At the conclusion of a case management conference, Rule 3.850 or 3.851 evidentiary hearing, or any other evidentiary post-conviction hearings in a case in which a death sentence has been imposed, the judge conducting the hearing shall orally instruct the court reporter to immediately begin to transcribe the hearing(s).

5. Where immediate transcription instructions are given pursuant to paragraphs F.2.-4 of this Administrative Order, the trial judge shall also notify the Pasco Administrative Judge or the Pinellas Criminal Administrative Judge, as appropriate, who shall enter a written order authorizing the transcript(s).

6. Where immediate transcription instructions in a death penalty proceeding are required by this Administrative Order but are not given, the State Attorney or defense attorney shall move for transcription of the relevant proceedings and prepare an order to transcribe for the signature of the appropriate administrative judge.

7. Any order to transcribe issued pursuant to Section F. shall also be construed as a designation to the court reporter and, unless a different timeframe is ordered by the Court, the transcript of the designated proceeding(s) shall be prepared within thirty (30) days. Court-employed and contract court reporters reporting death penalty proceedings shall use reporting methods, including but not limited to the measures set out in Rule 2.070(h)(1), (2), and (3), to ensure that transcripts are prepared expeditiously. However, nothing in this Administrative Order shall be construed to authorize payment for court reporting services beyond the regular contract rates. Payment beyond the regular contract rates may be authorized only by order of the Chief Judge.

8. Real-time reporting procedures may be used only when specifically authorized by the Chief Judge.

## **G. COURT REPORTING PROCEDURES RELATED TO ELECTRONIC RECORDING**

### **1. Participant Functions**

In order to ensure an accurate record of proceedings using electronic recording equipment, all participants must comply with the following procedures:

a. All court participants in the courtroom, including Clerks of Court, bailiffs, attorneys and employees of the Court shall:

- (i) If unable to easily hear a participant in the proceedings, remind the judge that the participants need to speak with sufficient volume for the system to make an accurate recording,
- (ii) Not tamper with microphones or electronic recording equipment, and
- (iii) Immediately notify the Judge when it appears that someone is tampering with or has tampered with the electronic recording equipment.

b. Bailiffs shall:

- (i) Ensure that no one tampers with microphones or the electronic recording equipment,
- (ii) Promptly notify the Court of any evidence that the microphones or electronic recording equipment is not functioning properly,
- (iii) Promptly notify the Court when a microphone at an attorney's table is left muted after a private conversation, and
- (iv) Remind participants to speak into the microphone.

c. The Court Clerk shall notify the digital court reporter by calling the digital court reporting control room when proceedings are about to begin or when they have concluded.

d. The Judge shall:

- (i) Remind participants to speak into the microphone and answer verbally,
- (ii) If the judge observes or is otherwise informed that equipment has been tampered with or is malfunctioning, notify the Administrative Office of the Courts,
- (iii) If the judge observes participants being careless with equipment, remind participants to protect the court's equipment, and
- (iv) If unable to easily hear a participant in the proceedings, remind the participants to speak with sufficient volume for the system to make an accurate recording.

e. Attorneys and parties shall:

- (i) Speak clearly and speak into the microphone,
- (ii) Not tamper with microphones or electronic recording equipment,
- (iii) Ensure that microphones are on for all non-private communications, and
- (iv) Remember that non-verbal communication is not recorded, and
- (v) Identify themselves for the record.

## **2. Administrative Office of the Courts Responsibilities**

a. Except for general magistrates and hearing officers, all AOC staff who have access to electronic recording equipment, including but not limited to all court reporters and Court Technology Office staff, shall execute an oath acknowledging their responsibilities to the Court. New employees shall execute the oath prior to assuming duties.

b. AOC personnel shall operate and maintain equipment so that an accurate recording is made. If the sound quality of a proceeding drops to a level that brings into question the ability to

transcribe the proceeding, the judge shall be notified immediately.

c. AOC personnel shall ensure that the electronic recording equipment will reliably provide for recording of the proceeding. For proceedings using electronic recording equipment, the AOC shall ensure that the proceeding is recorded to a hard drive and backed up on a server. The data shall be removed from the server and burned to a CD or DVD on a periodic basis. The AOC shall maintain the CD or DVD for the period of time prescribed by the Rules of Judicial Administration. Proceedings shall be properly identified, and shall be maintained in a manner that facilitates locating specific court proceedings for purposes of obtaining a transcript.

d. Digital court reporters or transcriptionists shall prepare transcripts of proceedings in accordance with procedures developed by the AOC. Such procedures shall include, but not be limited to, standards for addressing off-the-record discussions; sidebar conferences; and attorney-client conversations not directed to the Court. Digital court reporters or transcriptionists shall also certify the correctness of the transcript prepared.

If sufficient digital court reporters are not available to prepare transcripts in a timely fashion, the AOC shall arrange for transcription by a stenographic court-employed court reporter or other qualified independent contractors who shall transcribe in accordance with procedures developed by the AOC. The transcript produced by the AOC or other qualified independent contractors obtained by the AOC is the official record of the proceeding as more fully detailed in Section A.3. of this Administrative Order.

### **3. Protection of Equipment**

In order to ensure a reliable record of proceedings using electronic recording, microphones and other electronic equipment must be protected. Any willful act that disables or circumvents the proper recording of a proceeding, or any willful destruction of such equipment will be treated as contempt of court and will be enforced in accordance with Rule of Criminal Procedure 3.830 or 3.840.

### **4. Access to Control Room**

Access to any electronic recording monitoring location is strictly limited to those court employees whose job functions require access. Access by any other individual is strictly prohibited absent a specific authorization granted by the Chief Judge.

## **H. MISCELLANEOUS COURT REPORTING PROCEDURES**

1. A court reporter reporting a deposition may report a hearing to have a certified question answered regardless of whether the matter would normally be reported by the Court.

2. Hearings of administrative agencies conducted in court facilities may be reported by the agency's own reporters.

3. The State Attorney and Public Defender shall decide how court reporting services will be provided to their offices.

## **I. PROCEDURES FOR ORDERING TRANSCRIPTS**

1. Any person may order a transcript of a court proceeding except that proceedings under the Rules of Juvenile Procedure, Baker Act proceedings, or any other exempt proceeding shall not be provided to non-parties without a court order. Requests for a transcript of proceedings in Pinellas County or in East Pasco County should be made in writing utilizing the Transcript Request Form found on the internet at [www.jud6.org](http://www.jud6.org). In Pinellas County, this form should be submitted to the Administrative Office of the Courts, Suite H 2000, 14250 49<sup>th</sup> Street North, Clearwater, FL 33762. In East Pasco County, this form should be submitted to the Administrative Office of the Courts, Court Reporting Department, 38053 Live Oak Avenue, Dade City, FL 33523.

Requests for a transcript of proceedings in West Pasco County should be made in writing to Judy G. Moukakis and Associates Inc., 7218 Massachusetts Avenue, New Port Richey, FL 34654. Any request must include sufficient information necessary to identify the proceeding, including the date of the proceeding, name of the presiding judge, the case name and Uniform Case Number, courtroom, portion of the proceedings requested, and whether the proceeding was stenographically or electronically reported.

Any transcript produced by the AOC or a contract court reporter will be filed with the Clerk of the Circuit Court unless the court orders otherwise or unless a rule of court provides otherwise.

2. All transcript requests submitted to the Court require a 50% deposit before the transcript will be produced or the request must be accompanied by an order to transcribe. The balance must be paid prior to receipt of the transcript. Rates for production of transcripts will be in accordance with separate Administrative Orders establishing rates for court reporting services. Except as otherwise provided, the AOC will not release a transcript until payment has been made in full. All payments, except for those made to the contract court reporter, must be by check or money order made payable to the State of Florida.

3. Counsel of record who are members in good standing of The Florida Bar and who also have an account in good standing may order an expedited transcript from the Court without paying a deposit. However, counsel must pay for the entire cost of the transcript prior to receipt. An account is in good standing when counsel has paid for all previously ordered transcripts.

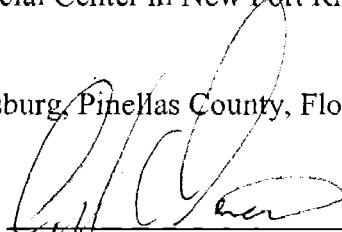
4. Transcripts requested by the Public Defender or State Attorney shall be billed in accordance with procedures established by the Trial Court Budget Commission. Where a defendant is represented by an attorney appointed from the Registry of the Sixth Judicial Circuit Article V Indigent Services Committee, or from the Registry of the Commission on Capital Cases or by a Capital Collateral Regional Counsel attorney, the transcript shall be provided without prepayment. Costs will be paid from the budget of the State Attorney, the Public

Defender, the Justice Administrative Commission, or by the Chief Financial Officer as appropriate.

5. Prepayment is not required for transcripts requested by the Guardian ad Litem Program or by Pasco or Pinellas Counties. The prepayment requirement may also be waived for other governmental entities by order of the Chief Judge.

Administrative Orders PA/PI-CIR-00-76, 2004-018 PA/PI-CIR, 2004-099 PA/PI-CIR, 2005-068 PA/PI-CIR, and 2006-028 PA/PI-CIR are hereby rescinded effective immediately. Administrative Order 2006-027 PA-CIR, pertaining to interim procedures for stenographic reporting by contract court reporters at the West Pasco Judicial Center in New Port Richey, shall remain effective until further order of this Court.

*✓* **DONE AND ORDERED** in Chambers at St. Petersburg, Pinellas County, Florida, this 16 day of August 2006.

  
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David A. Demers, Chief Judge

cc: All Pinellas and Pasco Judges  
The Honorable Bernie McCabe, State Attorney  
The Honorable Robert H. Dillinger, Public Defender  
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County  
The Honorable Jed Pittman, Clerk of the Circuit Court, Pasco County  
Gay L. Inskeep, Trial Courts Administrator  
Carol Heath, Director, Court Services Division, Pinellas County Clerk's Office  
Betty Henderson, Assistant Court Services Director, Pasco County Clerk's Office  
Kerry L. Rice, Deputy Courts Administrator, Pasco County  
Law Libraries, Pasco and Pinellas Counties  
Bar Associations, Pasco and Pinellas Counties  
Judy Moukakis and Associates