

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

ADMINISTRATIVE ORDER

NO. 2024-03

STRATEGIC PLAN FOR MAKING THE COURT'S RECORD

This 27th day of June 2024, IT IS ORDERED that Administrative Order No. 2024-03 hereby supersedes and replaces Administrative Directive 2001-1 in its entirety, as set forth below:

I. INTRODUCTION

Technologies which support the making of a court record continue to evolve at a rapid pace. As noted in Administrative Directive 2001-1, the labor pool of court reporters is shrinking and continues to decline. The Superior Court continues to value the services provided by its court reporters and continues its longstanding commitment that none of its reporters will lose their jobs as a result of new technology. Within the context of these realities, the Court has an obligation to make an accurate record of all proceedings and to ensure that the ability to do so is preserved into the long-term future.

This strategic plan amends and expands the Court's original strategic plan for making the Court's record, first established on April 12, 2001.¹ It addresses the Court's need to supplement stenographic recording through technology. The plan

¹ Admin. Dir. 2001-1.

provides for efficient and accurate record creation and management, while accounting for the severe shortage of stenographers, by incorporating record-making technology in court reporting. While the plan prioritizes the deployment of stenographers, it also details the process for directing the timely preparation of a transcript of a Superior Court proceeding. Whereas the record may be captured using technology, the certified transcript² shall constitute the Court's official record of a proceeding.³

II. CREATING THE RECORD

It is incumbent upon the Court to ensure that a record of its proceedings is made. Section 525 of Title 10 provides:

The Superior Court may from time to time employ such number of skilled court reporters and other employees, as may be necessary to create a verbatim record for the proper operation of the Court. The duties of these employees shall be to attend all sessions of the Superior Court in the several counties and such hearings before any Judge or judicial officers thereof, as may be required, to create a verbatim record of all evidence, opinions and other matters as the Superior Court may require and to perform such other duties as the Superior Court may prescribe. These employees shall receive such compensation as the Court shall from time to time determine. Before entering upon his or

² A “certified transcript” or a “certified transcription” is a transcript produced by the Court’s stenographic court reporter, a court reporter holding an American Association of Electronic Reporters and Transcribers (“AAERT”) certification or a person who has successfully passed the WKT (Written Knowledge Test) through the National Court Reporters Association (“NCRA”).

³ See *State v. Montgomery*, 2021 WL 1784768, at *1 (Del. Super.) (citing Admin. Dir. No. 2000-5, Del. Super. Ridgely, P.J. (Apr. 3, 2000); Admin. Dir. No. 2001-01, Del. Super., Ridgely, P.J., (Apr. 12, 2001)).

her duties to create the court record, every employee under this section shall take and subscribe the oath of office as required by the Delaware Constitution.

Notably, the General Assembly amended this section in 2022 because “[t]echnology has advanced which permits the Court to utilize other methods, in addition to stenographers, to create the Court’s record.”⁴ Thus, the Court employs stenographic and non-stenographic systems to create the record however, as noted above, the certified transcript of a proceeding shall constitute the “official record.”

A. Record Making Resources

The Superior Court employs a variety of resources to record its proceedings. The methods of recording range from “traditional” stenography to digital recording of virtual proceedings. The term “court reporter” is used to describe the various professionals tasked with ensuring the Court’s proceedings are accurately and efficiently recorded; “court reporters” include stenographers, electronic court reporters (“ECRs”) and other court individuals tasked with recording the Court’s proceedings.

1. Priority

Priority shall be given to assigning stenographic reporters to trials. When there is a shortage of stenographic reporters (vacation, sickness, vacant positions, etc.) proceedings may be recorded digitally. At the direction of the President Judge,

⁴ Synopsis, House Bill No. 461 (Oct. 21, 2022).

Superior Court's Court Administrator, when there is a shortage of stenographic reporters, shall determine when and where to assign and deploy court reporters consistent with this Administrative Order.

B. Stenographic Recording

1. Computer-Aided Transcription ("CAT")

Currently, stenographers record proceedings using a computerized stenograph machine equipped with digital storage. After the proceedings are completed, the reporter uploads the digital file to a server approved by the Court, and the computer-aided transcription ("CAT") software processes the keystrokes against the reporter's personal dictionary and translates them into readable English. The reporter then edits this draft translation by adding proper names and terminology not contained in the reporter's dictionary, manually converting "untranslates," resolving conflicts, and adding punctuation. The final result of this editing process is a certified transcript.

2. Realtime Reporting

Realtime Reporting evolved from CAT systems. Realtime Reporting displays the court reporter's writing on a monitor, almost instantaneously, as words are spoken in the courtroom. Realtime Reporting combines the writing, translating, and editing phases of CAT into a single function, allowing those granted access the

ability to read a “rough draft”⁵ of the spoken word soon after it is spoken. As the reporter writes (stenographically records) the proceeding, signals from the stenograph machine are processed into English and the words are displayed on a display screen. The output of words on a computer screen as written by a Realtime reporter is known as a Realtime Feed. The stenographer’s Realtime Feed may be provided to judges and attorneys. Realtime Reporting demands a higher level of skill from stenographers and requires that new terminology and proper nouns be loaded to the reporter’s dictionary. All stenographers shall provide a Realtime Feed to the judge when writing a proceeding. The Court shall not provide courtesy copies of Realtime transcripts, and Realtime transcripts do not constitute certified transcripts. A certified transcript may be produced following the editing and transcription described above.

Pursuant to Administrative Directive 2001-1, all current and future court reporters must be Realtime certified. This Realtime certification requires 96% accuracy of a translated transcript, which is the National Court Reporters Association certification standard. A translation rate of 98% accuracy is required of a reporter before they can provide transcripts to anyone outside of the Court. Current and future Realtime court reporters are expected to pass a test every three years to maintain their position and to justify the higher classification of their position.

⁵ The text displayed by Realtime Reporting does not constitute a certified transcript.

C. Digital Recording Technology

As its name implies, these systems digitally capture all audio (and, in some cases, video) of a proceeding. The recording is stored as a digital file on a server approved by the Court. [Administrative Order No. 2019-02](#) was issued to ensure consistent and timely storage of transcripts. Both “in person” and “virtual” proceedings may be digitally recorded. The judicial branch has prioritized and expended significant resources upgrading its courtrooms to increase the Court’s ability to use technology for numerous purposes, including the ability to capture the record.

1. In Person

The majority of Superior Court’s courtrooms have been upgraded to digitally capture audio from various sources throughout the courtroom (counsel tables, witness box, judge’s bench). Each of these sources is referred to as a “channel” in the digital recording system. Because these upgraded systems capture spoken audio from a variety of channels, when trained ECRs are available, they will tag the audio source to assist in the preparation of a transcript. Developing speech-to-text technology allows for the recorded audio to be displayed as text in a manner similar to Realtime Reporting. As set forth in Administrative Order No. 2019-02, the digitally recorded audio shall be stored on a server approved by the Court and be

available for transcription by a certified transcriptionist⁶ if requested by a party or the Court. The certified transcript constitutes the official record of an “in person” proceeding.

2. Virtual

The COVID-19 pandemic compelled the Court to leverage technology to best manage its docket under unprecedented circumstances. The Court utilized software applications which enabled it to conduct many proceedings remotely. As the health crisis subsided, the Court chose to retain many of the applications to maximize efficiency both in time expended and costs associated with physically appearing at the courthouse. Pursuant to Administrative Order No. 2019-02, the digitally recorded audio shall be stored on a server approved by the Court and be available for transcription by a certified transcriptionist if requested by a party or the Court. Again, the certified transcript constitutes the official record of a “virtual” proceeding.

MAINTAINING AND PRESERVING THE RECORD

The Chief Court Reporter in each county shall be responsible for maintaining

⁶ “Certified transcriptionists” include the Court’s stenographic court reporters, court reporters holding an American Association of Electronic Reporters and Transcribers (“AAERT”) certification or persons who have successfully passed the WKT (Written Knowledge Test) through the National Court Reporters Association (“NCRA”).

the record of all Court proceedings occurring within their respective county without regard to the format of the record, and shall coordinate their activities so that the management of the Court's record is consistent statewide. The record shall be stored in its original, digital format on servers approved by the Court. The record of all proceedings shall be archived and stored in accordance with Administrative Order No. 2019-02. No archival backup shall be removed from the premises of any courthouse without the prior written permission of the Superior Court's Court Administrator.

TRANSCRIPT REQUESTS

Requests for transcripts of proceedings shall be submitted to the Chief Court Reporter for the county in which the proceeding was held. Where a stenographer did not write the proceeding in the first instance, the digital recording (audio or video) shall be the source for generating a transcript. Transcripts may be produced by a court reporter holding an AAERT certification or a person who has successfully passed the WKT through the NCRA. The Chief Court Reporters shall assign transcript preparation requests equitably on a rotational basis. Whenever the production of a transcript is delayed, the Superior Court may contract with third-party vendors to prepare a certified transcript to timely create the Court's record. Superior Court's Court Administrator, when notified of a transcript preparation delay, shall determine the most efficient way to produce a certified transcript which

maintains the integrity of the Court's record and provide access to justice.

TRANSCRIPT FEES

The Court's adopted fee schedule is attached hereto as Appendix A. All attorneys of record must be notified by the court reporter when any part or all of a court transcript is ordered, in both civil and criminal cases not on appeal, and when trial is in progress. Requirements under Supreme Court Rule 7 give notice to all counsel of record in appeal cases.

/s/ Jan R. Jurden

President Judge Jan R. Jurden

APPENDIX A

BASE RATE:	Per Page
Original and one copy to ordering party	\$3.00
One copy to opposing and/or other party	\$2.00
 EXPEDITED RATE:	
Original and one copy to ordering party	\$5.00
One copy to opposing and/or other party	\$3.00
 OVERNIGHT COPY:	
Original and one copy to ordering party	\$6.50
One copy to opposing and/or other party	\$4.00
 DAILY (SAME DAY) COPY:	
Original and one copy to ordering party	\$6.50
One copy to opposing and/or other party	\$4.00
 REALTIME RATES:	
 CRIMINAL CASES:	
One Party or Agency	\$2.75
Two Parties or Agencies	\$2.30
* Mandatory transcript is not required except for appeal or impeachment purposes.	
 CIVIL CASES:	
* Plus, mandatory transcript rate for normal delivery based on present rates.	
 CIVIL CASES:	
\$2.50	