

PLAN FOR MANAGEMENT OF COURT REPORTING SERVICES

UNITED STATES DISTRICT COURT

DISTRICT OF WYOMING

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING
JUN - 3 2014

Stephan Harris, Clerk
Cheyenne

- Pursuant to the resolutions of the Judicial Conference of the United States and after approval of the Judicial Council of the Tenth Circuit, the United States District Court for the District of Wyoming adopted the following plan on June 3, 2014. The Court desires through this Plan to achieve effective control and management of court reporting services which include stenographic, computer assisted and digital audio recorded. The Clerk of Court or designee ("Clerk") is authorized by the Court to supervise the combined court reporting and recording operations used by the Court.

- This plan is intended as a supplement to the provisions set forth in 28 U.S.C. § 753 (Court Reporters Act) and the *Guide to Judiciary Policy*.

- **ADOPTION OF PLAN:**

- This court adopts the following Plan for Management of Court Reporting Services subject to the approval of the reviewing panel for the Tenth Circuit Court of Appeals and subject to rules and regulations that the Judicial Conference of the United States may adopt. When approved, this plan will supersede the court reporting management plan now in effect in the District of Wyoming.

- **APPLICABILITY OF PLAN:**

- This plan applies to all court reporters employed by this court.

- **SUPERVISION OF COURT REPORTERS:**

- The clerk (or designee) is hereby designated and fully empowered to perform all supervisory, administrative and oversight functions hereinafter set forth. In addition, the clerk shall periodically advise the court regarding the effectiveness, efficiency and equity of work distribution of court reporting services provided pursuant to this Plan.

- (a) Hiring and terminating court reporters, subject to the approval of the court.

- (b) Approving or denying leave for individual official court reporters (official reporters), including annual leave, sick leave and excused absences, subject to the requirements of the Administrative Office of the United States Courts (AO), the Judicial Conference of the United States (Judicial Conference), and local policies.

- (c) Designating work for court reporters, with the goal of distributing the court's overall workload fairly and efficiently, minimizing travel, and assuring the lowest overall cost to the court. The clerk will consider the court's objective of having one court reporter assigned primarily to the work of each active district judge, and will consult with the official reporter's primary active district judge before designating the staff reporter to work for another judge.

- (d) Designating court reporters' place of work, with the objective of ensuring that all court reporters are available to meet the needs of the court.
- (e) Monitoring the relationship between the court reporter and parties, attorneys, court staff, and fellow court reporters.
- (f) Periodically monitoring requests for transcripts.
- (g) Periodically reviewing transcripts to assure full compliance with the format requirements of the AO and Judicial Conference.
- (h) Periodically reviewing transcript billings to assure that authorized transcript rates are charged and that billing is in proper form.
- (i) Determining court reporters' compliance with the provisions of 28 U.S.C. § 753(b) concerning the recording, certifying, and filing of electronic recordings of all criminal arraignments, pleas, and proceedings made in connection with the imposition of sentences.
- (j) Reviewing of official reporters' time records to assure proper maintenance and accuracy.
- (k) Reviewing the records of official reporters to assure the timely filing of all reports required by the AO and Judicial Conference.
- (l) Acting as a liaison to the courts of appeals on matters pertinent to court reporters and transcript production.

(m) Performing other duties as the court directs, such as compiling and maintaining records relating to court reporters' leave, insurance, and other administrative benefits.

(n) Disciplining or sanctioning court reporters pursuant to the provisions of this plan or the court's policies and guides and personnel manual.

• **EMPLOYMENT OF REPORTERS:**

• The District of Wyoming is authorized one official reporter staffing credit per active district judge.

(a) Official reporters are neither directly employed by nor are they part of the personal staff of an individual judge. Rather, they are employed by the court *en banc* and shall retain their employment at the will of the court *en banc*.

(b) Official reporters are appointed according to the provisions of 28 U.S.C. § 753(a) and the policies and procedures of the AO and the Judicial Conference. Only court reporters fully qualified under the terms of 28 U.S.C. § 753(a) will be appointed. The court prefers applicants certified as realtime court reporters.

(c) Newly appointed official reporters are placed on probation for a period up to one year.

(d) Official reporters have no vested right of employment. The clerk may terminate an official reporter's employment with or without cause, with the approval of the court *en banc*. If the

overall work volume of the court does not justify retention of the full complement of official reporters, the court will reduce the number of official reporters through relocation, attrition, or by giving reasonable notice of termination.

- **ATTENDANCE:**

- All official reporters serve under the Leave Act, 5 U.S.C. § 6301 *et seq.*, and earn annual and sick leave pursuant to the Act. The official reporters' regular tour of duty is from 8:00 a.m. to 5:00 p.m., but each official reporter will be available outside regular tour of duty hours if the clerk directs. Unless otherwise approved by the clerk, official reporters will be in the courthouse during the periods of time when not reporting. However, in those instances where the official reporter has been excused or may not be present in the courthouse, telephone availability will be maintained with the clerk to ensure that if an emergency arises the official reporter can be made available within thirty (30) minutes.

- **LEAVE POLICIES:**

- The clerk maintains leave records for staff reporters.
 - (a) Official reporters submit all requests for leave through the Electronic Leave Management Organizer (ELMO) for the clerk's approval.
 - (b) Official reporters are subject to the same leave policies as clerk's office employees.

(c) Planned sick leave (i.e., for appointments, medical treatments, etc.) must be requested far enough in advance to permit the scheduling of an alternate reporter, if necessary. The court may contract for reporting services when a court reporter is on sick leave and no staff reporters are available to cover the absence.

(d) To avoid the need to hire contract reporters, official reporters should attempt to either coordinate their leave so that other official reporters can cover the leave or take leave when no proceedings are scheduled.

• **FREELANCE REPORTING:**

- Official reporters placed under the Leave Act may perform private (freelance) work, including depositions and grand jury proceedings, during their employment with the court, provided that such work is during non-core working hours, is approved by the clerk, and does not interfere with the reporter's responsibilities to the court.

• **SUBSTITUTE REPORTING SERVICES:**

(a) To the extent that the complement of official reporters cannot fulfill the reporting needs of this district, the court will employ contract, freelance, or per diem court reporters to satisfy the court's additional requirements, subject to the approval of the circuit council and of the AO. Every reasonable effort will be made through scheduling to reduce the need for temporary or

contractual court reporting services and to minimize the travel by these outside reporters.

(b) When the official reporters are on leave status, their assignments may be covered by any other available official reporter or by contract court reporting services provided at court expense. The court prefers contract court reporters with realtime certification.

(c) An official reporter shall not use a substitute court reporter without the prior approval of the judge and clerk.

(d) Any substitutes used shall be fully qualified under the standards adopted by the Judicial Conference. Substitute reporters shall adhere to transcript format and rate schedules in the same manner as official reporters.

- **TRANSCRIPTS:**

- The court has implemented the Judicial Conference Policy to Make Transcripts of Court Proceedings Available Electronically via Case Management/Electronic Case Filing (CM/ECF). This policy covers standards for court reporters filing transcripts electronically, public and attorney access to those transcripts, and redaction procedures.

- **Fees:**

- Fees for transcripts of official proceedings shall be those adopted by the court from time to time and incorporated as

Appendix A to this plan, not to exceed those fees authorized by the Judicial Conference of the United States.

- The clerk shall post on the court's external website a schedule of fees currently authorized by the Judicial Conference for regular and expedited transcripts, as well as for daily or hourly copy. Such schedule shall list the per page charge for originals and for copies, shall explain that one copy of each transcript ordered is to be filed with the court for court use at no expense to the litigants, and shall note the number of lines to be included on each page for which a full charge is made, and the margin requirements for those lines. The notice shall explain that an "expedited" transcript is one which is delivered within seven (7) calendar days after ordering and satisfactory financial arrangements for payment have been made, and a "14-day transcript" is one which is delivered within fourteen (14) calendar days after ordering, with the same financial arrangements having been made.

- The clerk shall in each transcript paid for with government funds (whether under the Criminal Justice Act (CJA) or in civil appeals), review the transcripts filed and the bill submitted to ensure the correctness of the charges assessed.

- **Times for Delivery of Transcripts:**

- Transcripts of official proceedings of this district shall be delivered to the ordering party and filed with the Clerk for the

District of Wyoming within the time prescribed by the Judicial Conference.

- Transcripts of official proceedings of this district for the purpose of appeal shall be delivered to the ordering party and filed with the Clerk of the District of Wyoming within the time prescribed by the Court of Appeals for the Tenth Circuit or any extension obtained therefrom.

- Transcripts being produced by order of judicial officers of this court shall be delivered to the judicial officer and filed with the Clerk of the District of Wyoming within the time prescribed by that judicial officer.

- **CJA Transcripts:**

- All transcripts produced for and on behalf of CJA defendants shall be billed on CJA Form 24, copies of which shall be furnished by the clerk. The clerk and/or official court reporter shall assist the ordering party in the proper preparation of the CJA Form 24. Court reporters shall promptly furnish the necessary information to ensure timely completion of the form.

- The clerk is designated to verify receipt of CJA transcripts and shall ascertain the propriety of each voucher before submitting the same to the appropriate judicial officer for approval. Payment shall be made by the clerk upon approval of the judge or magistrate judge as may be appropriate.

- Apportionment of accelerated transcript costs among parties in CJA cases is prohibited. In multi-defendant cases involving CJA defendants, no more than one transcript should be purchased from the reporter on behalf of the CJA defendants. One of the appointed counsel, the clerk, or the official 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 charged to the CJA appropriation.

- **Daily or Hourly Transcripts:**

- The official reporter will notify the clerk when a request for daily or hourly transcripts is received. Production of daily or hourly transcripts shall not be subsidized by the court. If extra reporters are required to provide such transcripts, the cost of such reporters shall be paid by the official reporter.

- **Realtime Transcripts:**

- Court reporters are encouraged to provide realtime transcripts upon request of litigants. Reporters must comply with the Realtime Reporting Standards promulgated by the Judicial Conference of the United States.

- **Digital Audio Recorded Hearing Transcripts:**

- Each judge of this court shall determine whether reporting of official proceedings in his or her court shall be by certified court

reporter or by electronic sound recording in accordance with Volume 6, Chapter 3, *Guide to Judiciary Policy*.

- When court reporters are not used, court proceedings are memorialized through the use of electronic audio recording equipment. The clerk's office stores all digital audio recordings of proceedings on a network server. Network access to digital recordings is limited to authorized court personnel. When a request is made for a transcript of a digitally recorded proceeding, the clerk's office will arrange to have the proceeding transcribed or will produce a CD of the desired hearing for transcription purposes. Official reporters transcribing a digitally recorded proceeding will access the recording directly from the court's network.

- **SANCTIONS:**

- If any appeal transcript is not delivered within the specified time, the charge assessable to the ordering party shall be reduced unless the clerk of the court of appeals expressly waives this requirement.

- The rate of such reduction shall be one percent (1%) reduced from the total bill for each three (3) full days that the transcript remains undelivered to the clerk of the district court beyond the due date.

- Approval of an extension of time by the court of appeals pursuant to Fed. R. App. P. 11(b) does not constitute a waiver of the fee reduction

requirement. A showing of extreme or unusual circumstances will be required to obtain a waiver.

- Upon delivery of the transcript, the clerk of the district court shall calculate the sanctions to be imposed and shall notify the official, contract or substitute court reporter and the court of appeals. This notice shall be deemed a court order that sanctions shall be paid.

- Within ten (10) days of notice that sanctions have been imposed, the reporter shall deliver to the clerk of the district court a copy of the billing rendered to the ordering party, showing the total original charge, the penalty reduction subtracted from the total and the net bill to be paid by the ordering party. A copy of each such bill shall be forwarded to the court of appeals after receipt and review by the clerk.

- Nothing contained herein should be construed as approving untimely delivery of transcripts, nor should this provision be considered the only penalty that may be imposed by the court or circuit council.

- In addition, it is the policy of the Tenth Circuit Council that, irrespective of the imposition of monetary sanctions, any official, contract or substitute reporter who is unable to prepare a transcript within ninety (90) days of the date it is ordered, or within the period of any extension beyond ninety (90) days granted by the clerk of the court of appeals which is accompanied by an express waiver of sanctions, shall remove him or herself from the courtroom until the transcript has been filed with the district court clerk and shall provide a substitute at his or her own expense. See the Guide Volume 6, Chapter 5, § 540.

- **FILING OF SHORTHAND NOTES AND ELECTRONIC RECORDINGS:**

- Electronic versions of the shorthand notes prepared by the official reporters and contract reporters will be certified and filed with the clerk of court within ninety (90) days of completion of the proceedings.

- Pursuant to the provisions of Title 28 U.S.C. § 753(b), reporters must transcribe and certify all arraignments, pleas and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording and such recordings have been certified and maintained in the office of the official reporter or in the office of the clerk of court. Official and contract reporters shall file such transcripts with the clerk or provide the certified electronic sound recording of such proceedings within thirty (30) days of their occurrence.

- Official and contract reporters must provide the court with electronic versions of their shorthand notes and electronic sound recordings as outlined in this plan to be stored on the court's network server using standards established by the clerk of court. For the purposes of complying with the certification requirements of Title 28 U.S.C. § 753(b), the steno notes and audio files stored on the court's server are deemed "certified" by the court reporter and constitute the original records filed with the clerk.

- **ADMINISTRATIVE OFFICE REPORTS:**

- Reports shall be filed with the AO.

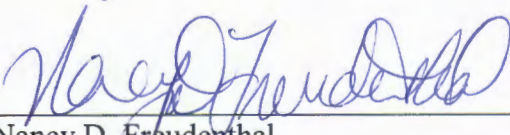
- The following reports are to be filed by each official reporter:

- The Report of Attendance and Transcripts of United States Court Reporters (AO Form 40A) shall be submitted quarterly during each calendar year of official reporting. A report for each calendar quarter is to be submitted utilizing the Automated Court Reporter Application (ACRA) system to the clerk of this court within twenty (20) days after the end of each quarter, a copy of which is provided through the ACRA system to the clerk of this court.

- The Statement of Earnings of United States Court Reporters (AO Form 40B) shall be submitted annually by all official reporters. The report shall be submitted utilizing the ACRA system of the AO no later than April 15th of the following calendar year, a copy of which is provided through the ACRA system to the clerk of this court. This report shall be kept confidential by the clerk.

The above plan for effective utilization of court reporters is hereby adopted and shall become effective on June 3, 2014.

Dated this 3 day of June, 2014.



Nancy D. Freudenthal
CHIEF UNITED STATES DISTRICT JUDGE

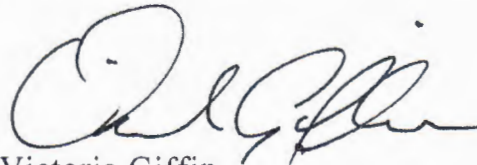
**JUDICIAL COUNCIL OF THE
UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

June 3, 2014

On this date the Judicial Council approved the Court Reporter Management Plan for the District of Wyoming, as submitted on May 29, 2014.

Entered on behalf of the Judicial Council
of the Tenth Circuit

By:



Victoria Giffin
Deputy Circuit Executive

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