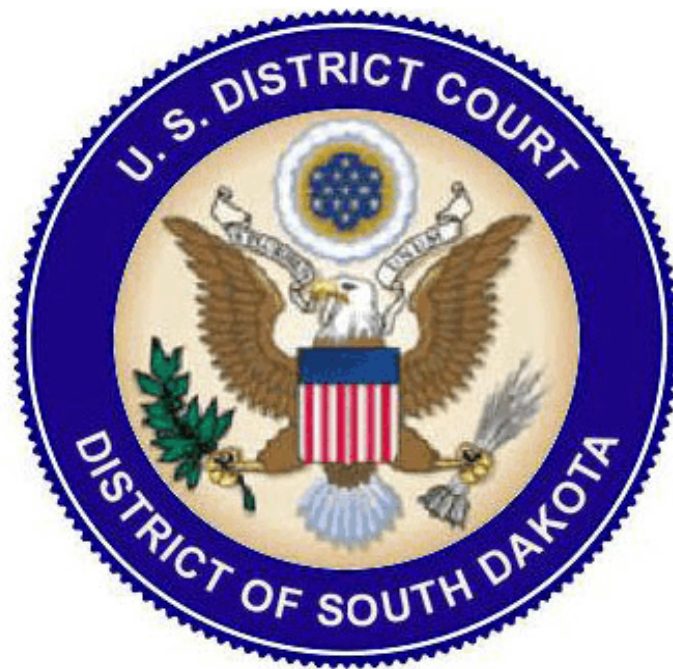


# **Court Reporter Services Management Plan**



**United States District Court  
District of South Dakota**

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF SOUTH DAKOTA**  
**COURT REPORTER SERVICES MANAGEMENT PLAN**

**Table of Contents**

<b>Subject</b>	<b>Section Number</b>
Introduction . . . . .	.1
Purpose . . . . .	2
Appointment of Official Court Reporters . . . . .	3
Duties . . . . .	4
Hours, Leave and Benefits . . . . .	5
Official Court Reporters Subject to the Leave Act . . . . .	6
Official Court Reporters Not Subject to the Leave Act . . . . .	7
Access to the DCN and Other Court-Owned Equipment . . . . .	8
Supervision of Official Court Reporters . . . . .	9
Assignment of Official Court Reporters . . . . .	10
Utilization of Contract Reporters to Replace Official Court Reporters . . . . .	11
Production of Transcripts . . . . .	12
Arraignments, Changes of Plea, and Sentencings . . . . .	13
Electronic Recordings Storage. . . . .	14
Dual Positions . . . . .	15
Sanctions . . . . .	16
Effective Date . . . . .	.17

## **1. Introduction**

- A. Producing a timely and accurate verbatim record and providing realtime reporting services are vital components of courtroom operations. The public's perception of equality, fairness, and integrity concerning the operation of the court depends substantially upon the accuracy, availability, and accessibility of its records. The ability of the court to ensure the quality of its records is critical in maintaining a high level of public trust and confidence. This Plan is designed to achieve and maintain a high level of performance in providing these services.
- B. As required by the Judicial Conference of the United States, this Plan is also designed to achieve effective management of court reporting services (including stenographic, computer assisted, and electronic sound recording), and to ensure that those services are provided in a way that complies with all relevant statutes, rules, regulations, and guidelines. This Plan designates the clerk of court as the person responsible to supervise the court reporting and recording operations of the court. The clerk of court may designate an employee or employees to assume the day-to-day management of court reporting and recording service within the court.

## **2. Purpose**

The Plan is designed to:

- A. provide high quality reporting/recording service for all court proceedings;
- B. provide high quality realtime service as needed;
- C. effectively manage official court reporters and recording operations through the use of proper supervision and control;
- D. make clear that official court reporters serve the court en banc and may be assigned as needed throughout the district;
- E. effectively utilize both the services of official court reporters and electronic recording services;
- F. avoid backlogs in transcript production and delivery;
- G. assure appointments and retention of fully qualified official court reporters, and dismissal of official court reporters who do not perform in a satisfactory manner;
- H. minimize the use of contract reporters; and
- I. enhance the efficient operation of the court.

### **3. Appointment of Official Court Reporters**

- A. The clerk of court has been designated by the court to appoint official court reporters with the approval of the court. Official court reporters will be appointed in accordance with the provisions of the Court Reporter Act, 28 U.S.C. § 753, and the policies and procedures of the Administrative Office of the United States Courts and the Judicial Conference of the United States.
- B. Pursuant to Judicial Conference Policy, all initial appointments made after the effective date of this Plan will be on a probationary basis for a period of one year.
- C. All official court reporters appointed after the effective date of this Plan will be designated to serve under the Leave Act, 5 U.S.C. § 6301 *et seq.*
- D. The number of official court reporters and their duty stations will be determined by the clerk of court in accordance with the Court Reporter Act, 28 U.S.C. § 753, and the policies and procedures of the Administrative Office of the United States Courts and the Judicial Conference of the United States.

### **4. Duties**

- A. Official court reporters are responsible for providing all duties required by the *Guide to Judiciary Policy*, Volume 6, *Court Reporting*, Judicial Conference Policy, and the court.
- B. Official court reporters are expected to provide realtime services to the judge in all of the district's courtrooms. Official court reporters may serve in several courtrooms in the course of a day and may be given short notice concerning a courtroom assignment.
- C. Official court reporters who are subject to the Leave Act may perform freelance work on personal time (nights or weekends) as long as the court determines it is not in conflict with official duties.
- D. Transcript production is considered by the Judicial Conference as outside work for which additional remuneration is received.

### **5. Hours, Leave, and Benefits**

- A. All official court reporters employed by the court will generally be available to the court en banc from 8 a.m. to 5 p.m. on any day the court facilities are open. Hours may fluctuate with need, and each official court reporter will be available outside regular hours as directed by the presiding judge or the clerk of court.

- B. Official court reporters, as employees of the federal judiciary, are entitled to many of the same benefits available to other federal employees. Both the official court reporter and the government contribute to the cost of the retirement system, life insurance, and health insurance. The official court reporter should confer with the clerk of court if there are questions concerning benefits as a federal employee.
- C. Official court reporters are not eligible for overtime or compensatory leave for work performed in excess of 80 hours per pay period.

## **6. Official Court Reporters Subject to the Leave Act**

- A. An official court reporter who is subject to the Leave Act is placed on a regular tour of duty consisting of 80 hours per payroll period in the courthouse. While transcript production is considered to be private income producing activity, an official court reporter who is not in court may work on transcripts during the 80-hour pay period. An official court reporter is to earn leave in accordance with the Leave Act, 5 U.S.C. § 6301 *et seq.*
- B. Official court reporters designated to serve under the Leave Act will submit an automated leave request for all leave, including leave without pay. Leave should be requested in advance to allow the clerk of court to arrange coverage for court hearings. Leave will be administered pursuant to the district's Timekeeping and Leave Policies. During such leave, a substitute reporter may be provided by the clerk of court on a contractual basis if other official court reporters are not available to cover the proceedings. It is not necessary for an official court reporter who is subject to the Leave Act to make arrangements for coverage of court hearings if leave has been requested and granted as provided in the Timekeeping and Leave Policies.

## **7. Official Court Reporters Not Subject to the Leave Act**

Official court reporters who are not covered by the Leave Act must provide substitutes as needed at their own expense or be placed in a "leave without pay" status when taking vacations, leave for personal business, or sickness. Official court reporters not covered by the Leave Act are considered to be on call every day the court facilities are open, whether or not they are assigned primarily to one judge as a matter of convenience. If the court needs reporting services for district judges, senior judges, magistrate judges, or visiting judges, salaried reporters who are absent for whatever reason are responsible for providing that coverage or providing a substitute.

## **8. Access to the DCN and Other Court-Owned Equipment**

- A. Each official court reporter is authorized to access the Judiciary's Data Communication Network (DCN) for official purposes. Official purposes include, but are not limited to:
- (1) reading and sending court-related electronic mail;
  - (2) accessing information on the court's intranet web site;
  - (3) performing on-line queries of case management and calendaring systems;
  - (4) using the court's administrative systems; and
  - (5) obtaining automated forms.
- B. An official court reporter is prohibited from using any government-owned telephone, computer hardware, or any automated system accessed through the DCN to assist in generating transcript income. Official court reporters must abide by the district's Internet Acceptable Use Policy.

## **9. Supervision of Official Court Reporters**

- A. The clerk of court, or his/her designee, has direct supervision of official court reporters. Official court reporters will answer to the clerk of court as to tour of duty, leave, and scheduling.
- B. The clerk of court, or his/her designee, will monitor:
- (1) billings to assure that fees, format, page content, and delivery schedules are met;
  - (2) all required records and reports to ensure that reports are filed in a timely manner;
  - (3) official court reporters to ensure that they fulfill their statutory duties and adhere to Judicial Conference requirements; and
  - (4) to a limited extent, workload. Because of the distance between the divisional offices, it is not economically feasible to equalize the reporters' workload on a district-wide basis.

## **10. Assignment of Official Court Reporters**

- A. It is the policy of the District of South Dakota that official court reporters are not permanently assigned to individual judges, but serve the district court en banc. Any official court reporter may be assigned by the clerk of court to serve any district judge, senior judge, magistrate judge, or visiting judge. Such assignments will be made in a manner designed to reduce the overall costs of providing official court reporter services within the district. Video conferencing equipment may be used to allow an official court reporter to be assigned remotely to a hearing.
- B. For ease of administration, each official court reporter is primarily assigned to one of the court's divisions. Duties will be equitably apportioned among official court reporters assigned to the same division.
- C. Official court reporters are at will employees of the court. If the volume of work does not justify retention of the full complement of reporters, a reduction will be accomplished by the clerk of court through relocation or by giving a reasonable notice for termination of the appointment of not less than 60 days.
- D. Contract reporters will be hired for trials and hearings conducted only when an official court reporter is not available at the location where the trial or hearing is to take place and it is not in the best interest of the court to have an official court reporter travel to the location.
- E. Transcript production is considered by the Judicial Conference as outside work for which additional remuneration is received. Time spent on transcripts, as well as transcript backlog, need not be considered when assigning official court reporters to trials or hearings.
- F. Whenever official court reporting services are required in the district, the clerk of court will meet this need by providing a high quality method of maintaining a quality verbatim record utilizing the most efficient method available. This could include requiring an official court reporter to travel, contracting for reporter services, or, with the approval of the presiding judge, the use of recording technology.

## **11. Utilization of Contract Reporters to Replace Official Court Reporters**

- A. Contract (freelance) reporters may be utilized when all readily available official court reporters are occupied in court reporting proceedings.

- B. When no other official court reporter is reasonably available, contract reporters may be utilized in place of official court reporters designated to serve under the Leave Act who are on authorized leave.
- C. Official court reporters who are not designated to serve under the Leave Act must provide substitutes as needed at their own expense or be placed in a “leave without pay” status when taking vacations, leave for personal business, or sickness. Contract (freelance) reporters may be utilized under these circumstances, but these arrangements must be approved in advance by the clerk of court. The cost associated with these arrangements will be borne by the official court reporter.
- D. The clerk of court may direct an official court reporter to pay the cost of contract (freelance) reporters needed to fulfill courtroom duties, if any official court reporter is relieved of courtroom duties to work on a transcript backlog. Transcript production is considered to be private income producing activity and there is an expectation that this work will not interfere with the court reporter’s courtroom responsibilities.

## **12. Production of Transcripts**

- A. For hearings in which the verbatim record was recorded by an official court reporter, requests for transcripts should be submitted to the official court reporter.
- B. For hearings in which the verbatim record was recorded by electronic equipment, requests for transcripts should be submitted to the clerk of court. The clerk of court will assign the task of producing a transcript to an official court reporter or a contract service.
- C. No court reporter, either official or contract, may charge fees for transcripts of official proceedings exceeding those prescribed by the Judicial Conference of the United States and adopted by this court. The furnishing of accelerated transcripts in criminal cases is discouraged. But there are some circumstances in which such transcript services are necessary and required, and accelerated transcript services may be provided. In those cases where accelerated transcript services are provided, the party who orders the accelerated transcript will pay for the original. All other counsel will be entitled to purchase a copy at the copy rate. A routine apportionment of accelerated transcript costs among parties in criminal cases is prohibited.
- D. Each official court reporter is required to certify on each invoice that the fee charged and the page format used conform to the regulations of the Judicial Conference of the United States. An official court reporter



must use AO Form 44, or its functional equivalent, to bill a non-CJA private requestor for a transcript in a civil, criminal, or miscellaneous case, or a CJA Form 24 for a transcript that will be paid by CJA funds. The official court reporter must sequentially number all invoices for transcripts, whether originals or copies. Copies of all invoices should be submitted to the clerk of court at the time of filing the transcript.

- E. Transcripts not delivered and filed within the specified time periods prescribed by the court are subject to a fee discount provision as follows:
  - (1) Transcripts ordered for district court purposes will be delivered within 30 days. An official court reporter who does not deliver a transcript within 30 days may charge only 90 percent of the prescribed fee unless an extension of the time for the delivery of the transcript has been granted by the presiding judge. The extension of time, if granted, will not exceed 15 days, unless extraordinary circumstances exist as determined by the presiding judge.
  - (2) Transcripts ordered for appeal purposes will be delivered within 30 days. An official court reporter who does not deliver a transcript within 30 days may charge only 90 percent of the prescribed fee; an official court reporter who does not deliver a transcript within 60 days may charge only 80 percent of the prescribed fee unless an extension of the time for the delivery of the transcripts has been granted by the clerk of the Court of Appeals.
- F. An official court reporter who is found to be overcharging for transcripts by virtue of violations in page format, line format, reduction in pitch, or allowable realtime charges, will be required to make immediate restitution.
- G. Official court reporters who are Certified Realtime Reporters may provide parties with realtime services when requested. The official court reporter may charge and collect for realtime unedited transcripts in accordance with the provisions of the policies and procedures of the Administrative Office of the United States Courts and the Judicial Conference of the United States.

### **13. Arraignments, Changes of Plea, and Sentencings**

- A. In courtrooms where judges use electronic sound recordings as the primary method of recording court proceedings, the clerk of court will maintain the audio files of arraignments, changes of plea, and sentencings as prescribed in section 14 of this Plan.
- B. In courtrooms where the judges use official court reporters as the primary method of recording court proceedings, and a transcript of the arraignment, change of plea, or sentencing is not filed with the clerk of court, the official court reporter will provide to the clerk of court an electronic recording of the proceeding within 30 days of the close of the proceeding. These recordings will be provided to the clerk of court in a format and manner directed by the clerk of court.

### **14. Electronic Recordings Storage**

The operation and maintenance of the digital recording system(s) is the responsibility of the clerk of court. Records from electronic sound recording systems will be stored on a network file server. These recordings will be copied to additional file replication servers for redundancy. The files will be stored indefinitely. Transcripts from electronic recordings will be produced in a manner prescribed by the clerk of court.

### **15. Dual Positions**

Some positions that have received Judicial Conference approval to have court reporting duties added to the position's regular responsibilities. Those employees shall be required to follow all statutory requirements, Judicial Conference policies related to court reporting, as well as the requirements for the Code of Conduct for Judicial Employees and this Plan.

### **16. Sanctions**

The clerk of court will determine what action to take against an official court reporter who violates this Plan. Sanctions will be applied consistent with the district's Adverse Action Procedures.

**17. Effective Date**

This Plan is effective on January 1, 2013.



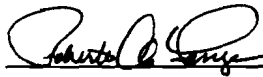
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Karen E. Schreier  
Chief Judge



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Jeffrey L. Viken  
United States District Judge



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Roberto A. Lange  
United States District Judge

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**EIGHTH CIRCUIT JUDICIAL COUNCIL**

**ORDER**

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I hereby certify that the Eighth Circuit Judicial Council has approved the Court Reporter Services Management Plan for the District of South Dakota, as adopted by the court on January 1, 2013.

  
Millie B. Adams  
Circuit Executive

St. Louis, Missouri  
January 17, 2013

cc: Judicial Council Members  
Chief Judge Jeffrey L. Viken  
Joseph A. Haas, Clerk of Court  
Administrative Office

Approval was given by the Court Reporter Management Committee.

JCO 2454