

Guide to Producing the Official Court Record



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ACKNOWLEDGEMENTS

Special thanks to Molly Perry¹ for drafting the Policy Guide manuscript and collating commentary from Judge James Anderson, III, Fulton County Magistrate Court; Chief Judge H. Frederick Mullis, Jr., Oconee Judicial Circuit; Judge Robin W. Shearer, Juvenile Court, Western Judicial Circuit; Lynn Epps, Court Administrator, Blue Ridge Judicial Circuit; and Sue Rohlfs, Office of Court Reporting, Eastern Judicial Circuit. The insight and expertise provided by the trial court judges and court professionals vastly improved the manuscript. Communications and management of the Policy Guide timeline was possible due to logistical support and invaluable assistance provided by Aquaria Smith, Program Manager of the Board of Court Reporting; and many thanks to Zan Patorgis, Legal Compliance Officer, JC/AOC, Research and Regulatory Matters for legal analysis of relevant statutes, case law, and court rules.

This Policy Guide would not be possible without the dedicated effort and persistence of 2013-2015 Judicial Council Court Reporting Matters Committee members: Chief Judge Sara L. Doyle, Court of Appeals of Georgia; Judge Linda S. Cowen, State Court of Clayton County; Judge Edward Lukemire, Houston Judicial Circuit; and Chief Judge Kathy S. Palmer, Middle Judicial Circuit. Gracious appreciation to Michelle Barclay, Director of Communications and Assistant Director, JC/AOC, Office of Children, Families, and the Courts, and Patricia Buonodono, J.D., C.W.L.S., Child Support Project Director, JC/AOC, Office of Children, Families, and the Courts for the editorial contributions and publication of the Policy Guide.

Special acknowledgements to the 2012 Judicial Council Court Reporting Matters Committee, its Advisory members, and the 2013 Judicial Council Special Fee Committee for the initial study and policy recommendations that resulted in Judicial Council adoption of the Court Reporting Policies and Fees in Criminal Cases and the development of this Guide. Finally, sincere gratitude to the Supreme Court of Georgia, the Judicial Council of Georgia, Chief Justice Hugh P. Thompson, former Chief Justice Carol Hunstein, and Marla S. Moore² for three years of consistent support, which helped to make this Guide possible.

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Section I Introduction

I.1 Purpose and Applicability

This Guide is intended as a resource for Georgia judges to be used when creating and preserving a true and accurate record of court proceedings. It contains policies formally adopted by the Judicial Council and references and links to statutory and case law regarding court reporting.

I.2 Authority

Pursuant to statute, the Judicial Council defines and regulates the practice of court reporting and promotes the efficient and effective administration of justice (O.C.G.A. § 15-14-23). The Judicial Council's Court Reporting Matters Committee studies potential improvements in producing the court record, recording/reporting processes, and fees; and its Board of Court Reporting certifies court reporter qualifications and oversees compliance with rules and regulations.

I.3 Definitions

(1) *Board*: Board of Court Reporting of the Judicial Council.

(2) *Certified court reporter*: any person certified by the Board to practice verbatim reporting under O.C.G.A. § 15-14-22.

(3) *Certified transcript*: an official transcript of any court proceeding certified to be a true, complete, and correct transcript of such proceedings by a court reporter pursuant to O.C.G.A. § 15-14-5.

(4) *Court record*: all documents . . . or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or, in the necessary performance of any judicial function, created or received by an official of the Supreme Court, Court of Appeals, and any superior, state, juvenile, probate, or magistrate court; includes records of the offices of the judge, clerk, prosecuting attorney, public defender, court reporter, or any employee of the court (O.C.G.A. § 50-18-91(2)).

(5) *Court reporting*: the making of a verbatim record by means of manual shorthand, machine shorthand, closed microphone voice dictation silencer, or by other means of personal verbatim reporting of any testimony given under oath before, or for submission to, any court, referee, or court examiner or any board, commission, or other body created by statute or by the Constitution of this state or in any other proceeding where a verbatim record is required. The taking of a deposition is the making of a verbatim record as defined in this article (Ga. L. 1974, p. 345, § 4; Ga. L. 1993, p. 1315, § 7).

(6) *Digital recording*: use of a professional-level recording system to capture court proceedings and produce a subsequent transcript. Digital audio recording is a sound recording process that converts audio or analog signals to electronic format for storage and integration with other digital applications, such as case management and calendaring systems.

(7) *Independent contractor*: a court reporter who exercises an independent business in performing the duties of employment and is not subject to the immediate direction and control of an employer as to the time, manner, and method of performing duties (O.C.G.A. § 51-2-4).

- (8) *Official court reporter*: a court reporter appointed by the court to serve as the assigned court reporter in a particular proceeding or in the course of proceedings before a particular judge, court, division or judicial circuit (O.C.G.A. §§ 15-14-1 to 15-14-3).
- (9) *Public record*: All court records made available for public inspection unless access is otherwise limited by law or order of the court, including records filed with the clerk of court and any presentments or recordings of proceedings otherwise made in open court. See Uniform Superior Court Rule 21.
- (10) *Record/Recording*: to cause the true and accurate details of a proceeding to be registered in reproducible form using authorized methods. See <http://www.merriam-webster.com>.
- (11) *Report/Reporting*: to transcribe or convert from take down or a recording of a proceeding to text or other format.
- (12) *Take down/Takedown*: to take stenographic notes or otherwise record proceedings using authorized methods.
- (13) *Transcribe*: to produce an official record in hardcopy or digital written text format from proceedings recorded or otherwise taken down by authorized means.
- (14) *Transcript*: an official record in hardcopy or digital written text format from proceedings recorded or otherwise taken down by authorized means.

Section 2 Court Record

2.1 Generally

Court records include orders, motions, transcripts, and other documents filed with the court and are generally public information and available for inspection unless access is limited by procedure or law.

Access to court records is governed by court rules and not the Open Records Act. See, Op. No. 239, Judicial Qualifications Commission (28 August 2013).

While the court may technically “control” access to public records, its discretion must be guided by the presumption of public access to judicial documents.

2.2 Responsibilities of Court Officials

Court officials, namely clerks of court, have the responsibility to make available for inspection all court records that are not sealed. Court clerks may charge for copies of documents at the rates set out by statute (O.C.G.A. § 15-6-77).

Clerks must also comply with the procedures for preparing the appellate record set out by O.C.G.A. § 5-6-43 and the Rules of the Supreme Court and Court of Appeals of Georgia.

2.3 Transcript Is a Public Record

See Judicial Council Policy 2.3; January 1, 2015.

Once filed by the court reporter, the transcript is a public record, and copies may be provided at the same rate determined by the clerk or by law as any other public record. The transcript may not be considered a public record if sealed or otherwise protected by law. See Uniform Superior Court Rule 21.

Since a transcript becomes a public record once filed, except in those situations where access to the record is restricted by the court or by law, the court clerk may provide a photocopy to a party in lieu of payment to the court reporter. When charging a fee for photocopying transcripts on file with the clerk of the appropriate court, the clerk may include the cost of personnel in determining the photocopying charge. See O.C.G.A. § 50-18-70.

[For information on fees and authorization of payment to court reporters, see Section 7, pp. 11-12.]

2.4 Business Continuity

See Judicial Council Policy 2.4; January 1, 2015.

Each court is responsible for ensuring that an accurate record of court proceedings is produced as an essential requirement of due process of law.

To ensure business continuity, it is recommended practice that the court maintain a record of court proceedings irrespective of the production of the official transcript. The business continuity record maintained by the court is owned by the court.

In addition to official reporting of court proceedings, it is recommended that the court require a digital recording of proceedings where transcripts are required or the court determines it is otherwise necessary to ensure business continuity. Courts utilizing digital recording for business continuity should follow the policies and procedures set forth in Judicial Council Policy 3.1 for the management of digital recording equipment and personnel assigned to its operation. Digital recordings should be stored in a secure, accessible location; indexed for convenient retrieval; and retained according to applicable retention schedules.

As an alternative to digital recording, the court can designate as the business continuity recording a backup recording generated by a court reporter who takes down assigned court proceedings. If so designated, a court reporter who takes down an assigned court proceeding shall generate a backup recording and provide it to the court on a periodic schedule (daily, weekly or monthly) as ordered by the court.

2.5 Court Record Retention

The “Official Judicial Branch Record Retention Schedules” lends guidance on retention of certain court records. See <http://georgiacourts.gov/content/records-retention-schedules>. However, the Judicial Council has not adopted retention schedules for all types of court records. Local governments may have instructions on retention of administrative records that may be useful to courts.

The Georgia Records Act is currently found at O.C.G.A. § 50-18-91 et seq.

Section 3 Methods of Recording Court Proceedings

3.1 Generally

Georgia law defines the term “court reporting” as making a verbatim record by means of manual shorthand, machine shorthand (stenotype), closed microphone voice dictation silencer (stenomask), or other means of personal verbatim reporting (O.C.G.A. § 15-14-22). The chosen method is regulated through testing and certification by the Board.

Technological change over the years has allowed for the transition from strictly manual, abbreviated note-taking to machine-assisted note-taking to computer-aided transcription to fully electronic (audio and video) methods requiring trained operators in some states.

3.2 Realtime

Realtime reporting technology allows for the instant conversion of stenographic notes into English text displayed on monitors or projection screens placed in the courtroom. Computerized steno machines utilize software that translates stenographic shorthand and symbols and spoken word symbols and allow reporters to keep courtroom records in a digital format.

For rules related to recommended practices and qualifications, licensing, and procedures pertaining to realtime reporting, see Judicial Council Policy 3.2.

3.3 Digital

Digital recordings and related materials are part of a comprehensive transcript management system that governs the life cycle of the court record from the initial court proceeding through the filing of a transcript.

If a judge chooses to authorize the digital recording of court proceedings, a trained digital monitor should operate the recording equipment and preserve the proceedings as provided under Judicial Council Policy 3.1.

Digital recording may not be used as the verbatim recording in death penalty and other felony trials unless (1) authorized by the court and operated according to Judicial Council policy or (2) as a secondary record of proceedings under a pilot project of limited duration to study the feasibility of a recording system.

For rules related to recommended practices and qualifications, licensing, and procedures pertaining to digital monitors, see Judicial Council Policy 3.1.

Section 4 Reporting/Recording Proceedings

4.1 Takedown of Proceedings

4.1.1 Criminal Cases

Under Judicial Council Policy 2.1, the following proceedings must be taken down:

1. All proceedings in death penalty cases.
2. All habeas corpus proceedings. See O.C.G.A. § 9-14-50; Uniform Superior Court Rule 44.10.
3. Felony cases (see O.C.G.A. §§ 17-8-5, 5-6-41(a)), including:
 - a. Guilty pleas and nolo contendere pleas;
 - b. During trial, all evidence including testimony, objections and rulings thereon, motions and rulings thereon, jury charge, and sentencing;
 - c. Motion for new trial hearings (Hall v. State, 162 Ga. App. 713 (1982)).
4. Guilty pleas and nolo contendere pleas in misdemeanor cases.

The takedown of all other proceedings in felony or misdemeanor cases, such as pretrial motions, voir dire, opening statements (O.C.G.A. § 17-8-5), colloquies, closing arguments (O.C.G.A. § 17-8-5), and probation revocation hearings are discretionary and shall be taken down only when requested by the court, counsel, or defendant.

No proceeding in magistrate, municipal, or probate court other than as required by law shall be taken down unless requested by the court, counsel, or defendant. But see Uniform Magistrate Court Rule 30.11 (requiring verbatim recording of guilty pleas).

4.1.2 Civil Cases

In civil actions, trial courts are not required to have evidence and proceedings reported by a court reporter. In any case – civil or criminal – a party has the right to have any proceeding recorded at his/her own expense.

4.2 Exhibits

Documentary evidence, photographs of physical evidence, and video and audio recordings shall be provided to the court reporter in digital format at the time of tender, unless otherwise ordered by the court. See Judicial Council Policy 2.2. In the interest of efficiency, the court may decide to wait until after the day's or entire case's proceedings have concluded to require tender in digital format and should coordinate with the parties on how and when this will occur.

Section 5 Transcripts

5.1 Generally

As defined in Section 1.3 (13), the transcript is an official record produced in hardcopy or digital written text format from proceedings recorded or otherwise taken down by authorized means.

The transcript and all of its components – including digital recordings – are not copyrightable property of the court reporter. Rather, the transcript is the property of the court.

5.2 Format and Style

Standards for transcripts assure fair, equitable, and uniform treatment of parties. Transcripts ordered and filed after January 1, 2015, shall be produced in searchable portable document format (.pdf), or another approved electronic format with document search capability, and filed with the clerk of court in a medium that can be stored electronically. See Appendix A.3 of the Judicial Council Policies for a sample transcript.

5.3 Production and Delivery

It shall be the duty of each court reporter to transcribe the evidence and other proceedings of which he or she has taken notes as provided by law whenever requested to so to do by counsel for any party to such case and upon being paid the legal fees for such transcripts. See, O.C.G.A. § 15-14-5.

In all criminal cases, when a transcript is required or requested to be prepared, it shall be filed with the clerk of court immediately upon completion and certification. The court reporter shall notify the court, prosecutor, defense attorney(s), and/or self-represented defendants(s) of the date the transcript is filed with the clerk of court and provide each with a digital copy of the transcript at no additional charge.

[For information on fees and authorizing payment to court reporters, see Section 7, p 12.]

Unless other time periods are adopted by a court, the following shall be the time periods for filing transcripts:

1. Other than in a death penalty case governed by Unified Appeal procedures, any transcript required to be prepared shall be filed with the clerk of court no later than 120 days from the date of conclusion of the proceeding for which the transcript is required to be prepared.
2. Any transcript to be prepared only upon request shall be filed with the clerk of court no later than 120 days from the date of the request for transcript. The request for transcript shall be made in writing to the court reporter and a copy sent to the clerk of court by the requesting party.

The court may grant one 60-day extension for filing a transcript. An extension shall be requested in writing and signed by the judge, with a copy sent to the clerk of court. For good cause shown by the court reporter, the judge may extend the time for filing beyond 180 days.

If the judge authorizes an extension for filing a transcript beyond the 120-day time period or the time period otherwise adopted by a court, the judge shall determine, in his or her discretion, the appropriate page rate and include it in the order approving the request. Such discretion, however, shall be limited

to a page rate published in the Judicial Council of Georgia Fees for Services by Official Court Reporters, Criminal Cases.

5.3.1 Electronic Signatures

Transcripts may be electronically certified. Any transcript electronically certified must include a certificate as described by O.C.G.A. § 15-14-5 and must include the electronic signature of the court reporter. The electronic signature shall be unique to and under the sole control of the court reporter using it and constitute evidence of a legal signature of the court reporter. Electronic signatures may include a digitized image of a signature, a typed name with an accompanying certification number, or any other sound or symbol that indicates that the court reporter intends to be bound by the signature.

See <http://bcr.georgiacourts.gov/content/resource-guide?menu=main>.

5.4 Physical Evidence

To comport with appellate court requirements and other Judicial Council rules and policies, the case transcript shall include all evidence (exhibits) in digital format. Documents not tendered into evidence are not part of the appellate record and should not be included.

5.5 Correctness of the Record

Trial court judges may change or correct transcripts prepared by a court reporter in order to accurately capture the record. Any issue as to the correctness of the record is to be resolved by the trial court.

Section 6 Official Court Reporter

6.1 Duties Generally

A court reporter's duties are governed by O.C.G.A. § 15-14-1, et seq. Section 15-14-1 provides that court reporters must attend all courts in the circuit for which the court reporter is appointed and, when directed by the judge, record exactly and take stenographic notes of the testimony and proceedings in the cases tried, except arguments of counsel. Court reporters and court reporting firms are subject to both statutory law and the Board of Court Reporting's Rules and Regulations, which are ratified by the Judicial Council. O.C.G.A. §§ 15-14-26; 15-14-37(f).

6.2 Qualifications

All court reporters must hold (1) a certificate as a certified court reporter; or (2) a temporary permit from the Board or a judge in compliance with Board procedures. A candidate for official court reporter must be at least 18 years of age, a high school graduate or equivalent, and of good moral character.

6.3 Certification

Certification is authorized by successfully passing an exam adopted by the Board of Court Reporting. O.C.G.A. § 15-14-30. A court reporter shall be certified only in the method tested; however, a certificate in more than one method is permissible.

6.4 Emergency Judicial Permit

Any judge of a court of record has the authority to request an emergency judicial permit, allowing a person who is not a certified court reporter in the State of Georgia to act as a temporary official court reporter in that judge's court for a period not to exceed one year, in accordance with O.C.G.A. § 15 14 34.

The person designated by the judge must send an Application for Emergency Judicial Permit and pay a fee set by the Board. Upon receipt and approval of the judge's request, the application and the fee, the Board may issue a permit for the person to serve as an official court reporter for that court only.

The emergency judicial permit is not renewable, and the permit holder is not permitted to work as a freelance reporter. No temporary official court reporter shall be granted more than one emergency judicial permit. The permit is no longer valid once the holder takes and passes the exam to become a certified court reporter in Georgia.

6.5 Professional Responsibility

6.5.1 Standards of Conduct

The Judicial Council adopted The Board of Court Reporting Code of Professional Ethics in June 1994 to define the ethical relationships and activities expected from court reporters. The Guidelines for Professional Practice are goals toward which every reporter should strive. By complying with these principles, reporters maintain their profession at the highest level.

6.5.2 Violations of Standards of Conduct

If a court reporter or court reporting firm violates statutory law, the Board's Rules and Regulations, or the Code of Professional Ethics, the court reporter or firm may be subject to discipline as outlined by Article 12 of the Board's Rules and Regulations. See <http://bcr.georgiacourts.gov/sites/default/files/BCR/Board%20Rules.pdf>.

A judge wishing to file a complaint against a court reporter or court reporting firm for a violation must complete a complaint form, which can be found at: <http://bcr.georgiacourts.gov>.

CODE OF PROFESSIONAL ETHICS

1. Be fair and impartial toward each participant in all aspects of reported proceedings.
2. Be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest. If a conflict or a potential conflict arises, the reporter shall disclose that conflict or potential conflict.
3. Guard against not only the fact but the appearance of impropriety.
4. Preserve the confidentiality and ensure the security of information, oral or written, entrusted to the reporter by any of the parties in a proceeding.
5. Be truthful and accurate when making public statements or when advertising the reporter's qualifications or the services provided.
6. If an official reporter, refrain from freelance reporting activities that interfere with official duties and obligations.
7. Determine fees independently, except when established by statute, court order, or applicable fee schedules, entering into no unlawful agreements on the fees to any user.
8. Refrain from giving, directly or indirectly, any gift, incentive, reward, or anything of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed \$50.00 in the aggregate per recipient each year.
9. Refrain from reporting in any method other than the method in which the reporter is certified.
10. Abide by the Rules and Regulations of the Board of Court Reporting.

GUIDELINES FOR PROFESSIONAL PRACTICE

1. Accept only those assignments when the reporter's level of competence will result in the preparation of an accurate transcript. The reporter should withdraw from an assignment when the reporter believes his/her abilities are inadequate and should recommend or assign another reporter who has the competence required for such assignment.
2. Prepare the record in accordance with the transcript format guidelines established by rule, statute, or court order.
3. Notify, whenever possible, the parties engaging the reporter if a substitute reporter, equally qualified, will be assigned to report the proceedings.
4. Preserve the notes/recordings in accordance with statute, court order, or retention schedules, or for a period of no less than five years through storage of the original paper notes/recordings or an electronic copy of either the notes/recordings or the transcript on computer disks, cassettes, backup tape systems, optical or laser disk systems, or other retrieval systems.
5. Meet promised delivery dates whenever possible, make timely delivery of transcripts when no date is specified, and provide immediate notification of delays.
6. Strive to become and remain proficient in the reporter's professional skills.
7. Keep abreast of current literature, technological advances and developments, and participate in continuing education programs.
8. Assist in improving the reporting profession by participating in national, state, and local association activities that advance the quality and standards of the reporting profession.
9. Cooperate with the bench and bar for the improvement of the administration of justice.

6.6 Court Reporter Management

6.6.1 Generally

The Judicial Council of Georgia Fees for Services by Official Court Reporters (Appendix A) applies to court reporters who are independent contractors. Courts that hire court reporters as employees shall arrange compensation and scope of work for them under their terms of employment, similar to other employees, using the fee schedule as a guide for salaries.

6.6.2 Employees or Independent Contractors

Courts should weigh the pros and cons of hiring court reporters as employees or independent contractors based on considerations such as budget, availability of certified court reporters, court caseload, customer service, and personnel management policies. Procurement or contracting rules may govern the engagement of contractors. Court reporters may be assigned to individual judges or, in urban courts with many judges, managed as a pool by a court administrator or managing court reporter.

Georgia courts exhibit a variety of approaches in their business relationships with court reporters. Courts that hire court reporters as employees may arrange compensation and scope of work for them under their terms of employment, similar to other employees. See Judicial Council Policy 1.1. Employees may be paid lesser or greater salaries depending on whether specific types of transcripts are billable. A court may furnish supplies, equipment, office space, or typists to assist employees with transcript production. An employee may be required to attend court and take down proceedings for criminal cases only or for both criminal and civil cases.

Independent contractors may be individuals or firms who are responsible for ensuring that individual court reporters are present when needed. If hiring a court reporter as an independent contractor, a court should anticipate and document what products and services will be delivered as well as potential non-fee costs to be included (e.g., office space, technology, equipment).

6.6.3 Oath

An official court reporter shall be sworn in open court to perform duties required by law (O.C.G.A. § 15-14-1). Many judges administer the oath orally and in writing and then file the written oath with the clerk of court.

6.6.4 Court Attendance

Judges are responsible for overseeing and approving court attendance and associated fees. An official reporter may not bill the court for takedown of proceedings in addition to court attendance.

[For information on fees and authorizing payment to court reporters, see Section 7, p 12.]

Section 7 Fees and Authorization for Payment

7.1 Fees

The rates to be charged in criminal and civil cases are set forth in Appendix A.1, Judicial Council Policies and Fees for Court Reporting Services. No fees other than those specified by the Judicial Council may be charged by non-employees for performing duties as official court reporters.

Fees for court attendance and transcripts of criminal court proceedings required by law or ordered by the court shall be paid by the court (see Policies 6.1). Fees for transcripts of criminal court proceedings not required by law or ordered by the court shall be paid by the party or parties requesting the transcript.

Fees for court attendance, takedown, and transcripts of civil court proceedings shall be paid by the party or parties requesting same.

Once filed by the court reporter, a transcript is a public record, and copies may be provided by the clerk at the rate determined by law as any other public record.

7.2 Invoices

Court reporters should use the model invoice recommended by the Judicial Council (See Appendix A.2, p. 27) and submit it no less than once per month. Invoices incorporating substantially the same information may be used if approved by the court. If an alternative invoice form is approved by the court, it should include the name of the court, style of case and case number, presiding judge, attorney(s), date(s) of service, type(s) of service, number of transcript pages, and fee rates for service and/or transcript. Deadlines to tender invoices for court attendance, recordation/takedown, and transcripts should also be prescribed by the court.

A court reporter shall not bill for more than one court attendance per day. If the court schedule requires the court reporter to be present in more than one court on a given day, the court reporter should prorate the daily rate accordingly.

When multiple defendants are tried jointly, it is recommended that the court reporter produce one transcript per case number. The court reporter should not invoice multiple times for the same transcript; rather, the court reporter should invoice for one transcript and multiple cover sheets that reflect each case number.

7.3 Authorization for Payment

A judge authorizes and approves payment for court attendance by a court reporter at all proceedings over which the judge presides. Compensation for court attendance covers all takedown performed during the day or period authorized.

Section 8 Appellate Procedure

Appeals are governed by O.C.G.A. § 5-6-1 et seq. Additionally, both the Supreme Court and the Court of Appeals have promulgated rules relating to appeals in their courts. These rules are updated on a periodic basis and may be found on their websites at www.gasupreme.us and www.gaappeals.us.

APPENDIX A - Judicial Council of Georgia
Policies and Fees for Court Reporting Services in Criminal Cases
[Effective for Court Attendance and Transcripts Ordered after January 1, 2015]

Under O.C.G.A. Title 15, Chapter 14, the Judicial Council is authorized to define and regulate the practice of court reporting to uphold the administration of justice. Production of the official court record is an essential business process contributing to court users' access to and fairness in Georgia courts, and each court has the responsibility to effectively manage that process. Through the following policies and fees, as well as the certification and regulation of court reporters, the Judicial Council identifies best practices and policies to assist judges in executing this responsibility to the citizens of the state.

I.1 Application of Fee Schedule for Court Reporting Services

The Judicial Council of Georgia Fees for Services by Official Court Reporters (Appendix A) applies to court reporters who are independent contractors. Courts that hire court reporters as employees shall arrange compensation and scope of work for them under their terms of employment, similar to other employees, using the fee schedule as a guide for salaries.

I.2 Contingent Expense and Travel Allowance

[Note: To better reflect typical travel guidelines that disallow expense reimbursement for travel between home and place of employment, O.C.G.A. § 15-14-6 should be amended to remove the contingent expense and travel allowance for official court reporters serving a single-county jurisdiction. The ACCG or other interested organization should propose legislation to amend the statute clarifying that the contingency travel fee does not apply to single county circuits.]

I.3 Model Invoice for Services by Official Court Reporters

The Judicial Council recommends use of the model invoice contained in Appendix B to be submitted no less than once per month. Invoices incorporating substantially the same information may be used if approved by the court.

I.4 Format and Style of Transcripts

Standards for transcripts assure fair, equitable, and uniform treatment of parties. In all criminal cases filed after January 1, 2015, case transcripts shall be produced in searchable portable document format (.pdf), or another approved electronic format with document search capability, and filed with the clerk of court in a medium that can be stored electronically.

The following format and style shall be used for the production of all transcripts in Georgia courts. (See Sample Transcript, Appendix A.3)

A. Margins

Preprinted solid left and right marginal lines shall be placed on the transcript page so that text begins 1-3/4 inches from the left side of the page and ends 3/8 inch from the right side of the page.

B. Character Spacing

The letter character size shall be 10 letters to the inch, providing for approximately 63 characters per line.

C. Lines and Line Numbering

Each page shall include numbers indicating each line of transcription on the page and shall contain 25 lines of double-spaced text. If a page contains less than 13 lines, no charge shall be assessed. A page containing 13 or more lines will be charged as a full page. The last page will be charged as a full page, regardless of the number of lines.

Page numbers or notations are not considered lines of text.

D. Indentations

1. Question and Answer (Q&A)

For Q&A, indentation from the left margin shall be five spaces for the first line and none for subsequent lines.

2. Colloquy

On the first line, indentation from the left margin shall be ten spaces, followed by speaker identification and a colon, with the statement beginning two spaces after. Subsequent lines shall be indented five spaces from the left margin.

3. Additional Testimony

Depositions read at trial, if taken down as part of the trial transcript, shall be formatted the same as oral testimony, with the same indentations as Q&A. In a transcript, each question and answer read verbatim from a deposition shall be preceded by a quotation mark. At the conclusion of the reading, there shall be a closing quotation mark.

E. Page Numbering

Transcript page numbers shall be printed at the bottom right of each page. Pages shall be numbered consecutively beginning with page "1."

F. Cover Page

Each transcript shall include a cover page indicating:

- (1) court name;
- (2) case name and number;
- (3) name and title of judge;
- (4) type, date, location, and time of proceeding;
- (5) name and address of each attorney and party represented;
- (6) whether jury was present;
- (7) court reporter's name, address, and contact information;
- (8) volume number if multi-volume transcript (ex: Volume 1 of 3 in Arabic numerals).

G. Index

Each transcript shall contain a general index, a witness index, and an exhibit index. When a transcript has more than one volume, each volume shall contain a general index, a witness index, and an exhibit index.

- (1) The general index shall list all occurrences in chronological order, including the charge of the court.
- (2) The witness index shall list all witnesses in the order of their appearance with associated page numbers of their testimony on direct, cross, redirect, and re-cross examinations.
- (3) The exhibit index shall list each exhibit received into evidence with its description and associated page numbers when tendered and admitted.

H. Parenthetical Notations

Parenthetical notations, when appropriately separate from dialogue, must begin with an open parenthesis on the fifth space from the left margin, with the remark beginning on the sixth space from the left margin.

I. Exhibits

Documents, photographs, and physical evidence must comport with Rules 71 to 74 of the Supreme Court of Georgia and Rule 17 of the Court of Appeals of Georgia. Audio/video recordings played in court entered as an exhibit in a proceeding need not be transcribed unless ordered by the court.

2.1 Takedown and Transcript Filing in Criminal Proceedings

A. Takedown

1. The following shall be taken down:
 - (1) All proceedings in death penalty cases.
 - (2) All habeas corpus proceedings.
 - (3) Felony cases
 - (a) Guilty pleas and nolo contendere pleas.
 - (b) During trial, all evidence including testimony, objections and rulings, motions and rulings thereon, jury charge, and sentencing.
 - (c) Motion for new trial hearings.
 - (4) Guilty pleas and nolo contendere pleas in misdemeanor cases.
2. All other proceedings in felony or misdemeanor cases, such as pretrial motions, voir dire, opening statements, colloquies, closing arguments, and probation revocation hearings shall be taken down only when requested by the court, counsel, or defendant.
3. No proceeding in magistrate court other than required by law shall be taken down unless requested by the court, counsel, or defendant.

B. Preparation and Filing of Transcript

1. A transcript shall be prepared and filed in:
 - (1) All death penalty case proceedings.
 - (2) Felony trials, jury or non-jury, resulting in a guilty verdict.
2. When requested by the court, counsel, defendant, or petitioner, a transcript shall be prepared and filed in all other proceedings.

2.2 Documentation of Evidence

To comport with appellate court requirements and other Judicial Council rules and policies, the case transcript shall include all evidence (exhibits) in digital format. Documentary evidence, photographs of physical evidence, and video and audio recordings shall be provided to the court reporter in digital format at the time of tender, unless otherwise ordered by the court.

2.3 Certified Transcript is a Public Record

A. Certification and Filing of Transcript

In all criminal cases, when a transcript is required or requested to be prepared, it shall be filed with the clerk of court immediately upon completion and certification. The court reporter shall notify the court, prosecutor, defense attorney(s), and/or self-represented defendants(s) of the date the transcript is filed with the clerk of court and provide each with a digital copy of the transcript at no charge.

Once filed, the transcript is a public record (O.C.G.A. § 50-18-70), and copies may be provided at the rate determined by the clerk or by law as any other public record.

B. Electronically Certified Transcript

Transcripts may be electronically certified. Any transcript electronically certified must include a certificate as described by O.C.G.A. § 15-14-5 and must include the electronic signature of the court reporter. The electronic signature shall be unique to and under the sole control of the court reporter using it and constitute evidence of a legal signature of the court reporter.

C. Time Period for Filing Transcript

Unless other time periods are adopted by a court, the following shall be the time periods for filing transcripts.

1. Other than in a death penalty case governed by the Unified Appeal procedures, any transcript required to be prepared shall be filed with the clerk of court no later than 120 days from the date of conclusion of the proceeding for which the transcript is required to be prepared.
2. Any transcript to be prepared only upon request shall be filed with the clerk of court no later than 120 days from the date of the request for transcript. The request for transcript shall be made in writing to the court reporter and a copy sent to the clerk of court by the requesting party.

A maximum of one 60-day extension for filing a transcript may be granted by the court. An extension shall be requested in writing and signed by the judge, with a copy sent to the clerk of court. For good cause shown by the court reporter, the judge may extend the time for filing beyond 180 days.

If the judge authorizes an extension for filing a transcript beyond the 120-day time period or the time period otherwise adopted by a court, the judge shall determine, in his or her discretion, the appropriate page rate and include it in the order approving the request. Such discretion, however, shall be limited to a page rate published in the *Judicial Council of Georgia Fees for Services by Official Court Reporters, Criminal Cases*.

2.4 Business Continuity

Each court is responsible for ensuring that an accurate record of court proceedings is produced as an essential requirement of due process of law.

To ensure business continuity, it is recommended practice that the court maintain a record of court proceedings irrespective of the production of the official record. The record maintained by the court is owned by the court and shall be made available to the public as required by law.

In addition to official reporting of court proceedings, it is recommended that the court require a digital recording of proceedings where transcripts are required or the court determines it is otherwise necessary to ensure business continuity. Courts utilizing digital recording for business continuity should follow the policies and procedures set forth in Policy 3.1 for the management of digital recording equipment and personnel assigned to its operation. Digital recordings should be stored in a secure, accessible location; indexed for convenient retrieval; and retained according to applicable retention schedules.

As an alternative to digital recording, the court may designate as the business continuity recording a backup recording generated by a court reporter who takes down assigned court proceedings. If so designated, a court reporter who takes down an assigned court proceeding shall generate a backup recording and provide it to the court on a periodic schedule (daily, weekly or monthly) as ordered by the court.

3.1 Digital Recording

I. Digital Recording of Court Proceedings

A. Digital recording is a sound recording process that converts audio or analog signals to electronic format for storage and integration with other digital applications, such as case management and calendaring systems.

B. Digital recordings and related materials are part of a comprehensive transcript management system that governs the life cycle of the court record from the initial court proceeding through the filing of a transcript. These recordings and materials are preliminary to the transcript and are owned by the court.

C. Digital recording may not be used as the verbatim recording in death penalty and other felony trials unless (1) authorized by the court and operated according to this policy or (2) as a secondary record of proceedings under a pilot project of limited duration to study the feasibility of a recording system.

II. Licensing of Digital Monitors

A. Preliminary Qualifications

To apply for licensure as a digital monitor, a candidate shall meet the following qualifications:

- (1) At least 18 years of age,
- (2) High school graduate or equivalent, and
- (3) Good moral character.

B. Application for License

A candidate for initial licensure as a digital monitor shall:

- (1) Apply for, pass, and receive notice of passing an exam offered by the American Association of Electronic Reporters and Transcribers (AAERT) for Certified Electronic Court Reporter, Certified Electronic Court Transcriber, or both;

- (2) Complete the Board of Court Reporting’s application for a licensed digital monitor; and
- (3) Pass the Georgia Written Test that assesses knowledge of the laws, rules, and regulations pertaining to court processes and court reporting in Georgia.

C. Initial and Continuing Education

Within twelve months of initial licensure, a digital monitor shall complete the Board-sponsored educational program for new digital monitors.

To qualify for licensure renewal, a digital monitor shall complete and submit a certificate for a minimum of ten hours of Board-approved continuing education each year.

D. Disqualification for Act of Dishonesty

Any applicant who commits any act of dishonesty with respect to any portion of the exam shall immediately be disqualified and will not be eligible to take the exam again for a period of two years from the date of the exam on which the applicant was disqualified.

E. License

After an applicant has met all requirements for licensing, the Board shall issue a license with a unique identification number to the digital monitor. The license shall designate the proficiency in which the digital monitor is licensed to practice from the following:

- (1) Licensed electronic recorder (LER),
- (2) Licensed electronic transcriber (LET), or
- (3) Licensed electronic recorder and transcriber (LERT).

F. Right to Review

The Board reserves the right to refuse to allow testing or licensing of any applicant for good cause.

III. Standard Operating Procedures and Rules

A. Supervision of Digital Monitors

1. The chief judge of each court may designate an administrator or a managing court reporter to oversee the digital audio recording of court proceedings.
2. The administrator or managing court reporter shall be responsible to:
 - a. Appoint, schedule, and supervise digital monitors for the purpose of equitably distributing workload and assuring the lowest overall cost to the court.
 - b. Verify certification records for all digital monitors working in the court’s jurisdiction.
 - c. Review the work and work product of digital recording monitors and report regularly to the chief judge.
 - d. Manage the preparation of transcripts of digitally recorded proceedings.
 - e. Coordinate requests and orders for digital recordings and transcripts and review related invoices for payment.

IV. Procedures and Best Practices for the Use of Digital Recording Technology

A. Signage

Signage provides important reminders to litigants, staff, and the public that the proceedings are being recorded and that anything spoken may be recorded.

1. The following is suggested language for signs placed at each table microphone, podium, and on the judge’s bench:
 - (1) *The court may be electronically recording proceedings.*
 - (2) *Speak clearly and slowly into the microphone.*

- (3) *Speak in normal conversational tone. Do not whisper.*
- (4) *Do not speak over another person.*
- (5) *Remain seated or at the podium.*
- (6) *Mute microphone for private conversations.*

2. The following is suggested language for a sign posted at the courtroom entrance door:

The court may be electronically recording proceedings. Silence in the gallery and litigation area is required. Remain seated and do not approach the bench until instructed to do so.

Courtroom participants may also need to be informed that the recording system may purposely or inadvertently remain operational between proceedings and/or after the proceeding has ended.

B. Opening Colloquy

For some or all proceedings, the judge may choose to supplement signage by opening the court session with an opening colloquy similar to the following:

These proceedings are being electronically recorded. Please clearly state your name and appearance for the recording. Speak clearly and directly into the microphone. Do not speak over each other. All responses must be made orally. Avoid gesturing or head nodding, as these gestures will not be captured for the record.

C. Procedures for Digital Monitors

The digital monitor (monitor) is responsible for producing backed up recordings of court proceedings using a digital recorder. The monitor produces log notes and other material containing the spelling of proper names, unusual terms, and beginning and end times enabling systematic playback.

In general, responsibilities include:

- (1) Assisting in identifying the best placement of microphones in the courtroom to achieve the goal of maximizing channel-to-channel voice separation for all speaking participants;
- (2) Monitoring the recording through headphones to ensure that the proceedings are being properly recorded by the digital recording equipment;
- (3) Taking and maintaining log notes and relevant lists of attorneys' names and addresses, witnesses, exhibits, and other information;
- (4) Playing back recorded court proceedings, as directed by the judge; and
- (5) Ensuring that the recording is properly stored and archived at the court.

1. Case Management System Entries

When appropriate, the monitor may be assigned responsibility for making entries into the court's case management system (CMS) for proceeding start and end times, appearances, court orders, and next hearing dates. For example, at arraignment or change of plea sessions, the digital monitor may be assigned responsibility for entering conditions of release, fine amounts, and conditions of probation into the court's CMS.

2. Practices and Procedures

a. Preparation for proceedings

i. Supplies

Make sure that all necessary supplies for producing a recording, making log notes, marking exhibits, and preserving the record are available and accessible. Supplies

could include headphones, the court calendar and docket, pens, pencils, legal pads, blank appearance sheets, witness and exhibit lists, and compact disks used for archiving the recording.

ii. Daily Testing

- (1) Test the recording and log notes software for operating functionality.
- (2) Check the microphone and camera placement in the courtroom according to the type of case and the flow and movement of the participants.
- (3) Test the recording quality of each microphone and the wiring by speaking into each microphone and listening to the recorded result on each audio channel. Problems could be caused by the microphones not being plugged into the proper channels or equipment or not being set on “Record” mode. Report any problems so that they can be fixed prior to the day’s proceedings.

iii. Default Settings

If default settings are used, check whether the system has been set back to the appropriate default setting and, in particular, that the setting accurately identifies the name of the judge presiding over the recorded proceeding.

iv. Communication with Judge

Determine how the judge would like to be notified or interrupted by the monitor during the court proceeding if the record is not being captured.

b. During Proceedings

i. Operation

The recording system should be operated at the direction of the judge.

ii. Confidential Communications

- a. The court should post signs providing notice that any conversations occurring in the room and, in particular any conversations at the attorney/party tables, may be recorded at any time.
- b. The court should install microphones with “hold to mute” buttons for microphones used by attorneys and the judge.

iii. Monitor Through Headphones

Using headphones, monitor what is being recorded onto the audio channels, not what is being said into the microphones, ensuring that the proceedings are being adequately and intelligibly recorded (known as “confidence monitoring”).

iv. Interrupting Proceedings

- a. The digital monitor should strive for an unobtrusive presence interrupting proceedings only as necessary and in accordance with protocols established with the judge. Monitors must use their best judgment before interrupting, since an interruption may not be desirable at a critical point in testimony. It may be necessary to interrupt proceedings to:
 - (1) Request the correct spelling of names or technical or unfamiliar names;
 - (2) Request that a party move closer to the microphone;
 - (3) Request that a person stop tapping a microphone or shuffling papers too close to it;
 - (4) Request that a non-verbal response be made audible; or
 - (5) Request that a party slow down his or her speech pattern.

b. Interrupt the proceeding and notify the judge when a record is not being made.

Examples include:

- (1) Technical failure of the equipment
- (2) The speaker's words are inaudible for reasons including:
 - A. Audio level of the recording is not adequate
 - B. Parties are speaking too softly or too rapidly
 - C. Parties are talking simultaneously over each other
 - D. Excessive shuffling of papers
 - E. A microphone remains muted
 - F. Excessive gallery or extraneous noise.

c. Monitors must use their best judgment before interrupting. An interruption may not be desirable at a critical point in testimony.

v. Off the Record Discussions

The recording should be stopped for “off the record” discussions only at the direction of the judge and only as long as the judge directs that the discussions not be recorded.

vi. Sidebar or Bench Conferences

Sidebar or bench conferences are part of the official record and need to be recorded unless the judge orders otherwise. Because these conferences are often whispered, it is important to monitor the volume and to ensure that the log notes identify each speaker.

vii. Jury Voir Dire

Creative microphone placement and/or the use of wireless microphones can help avoid problems with voir dire. The judge and attorneys should address jurors by name or number for proper identification during questioning. Monitors may need to be particularly vigilant at asking potential jurors to speak up.

viii. Language Interpreters

Digital recording preserves both the English and the foreign-language interpretation making it possible to confirm accuracy. The interpreter must be provided with a microphone assigned to a channel that is not the same as the channel assigned to the witness in order to ensure that the witness is not speaking over the interpreter. Log notes on when the interpreter is interpreting and the identity of the speaker whose words are interpreted are particularly important.

ix. Log Notes

Log notes allow for a simplified search of the electronic record for the playback of testimony during and after court proceedings.

- a. For all court proceedings, log notes must contain:
 - (1) Names/Identifiers - the full name of the judge, parties, and attorneys present and not present; case caption; and case number; and
 - (2) Time - the beginning and end times of each proceeding.

[Note: The digital recording software should automatically insert the beginning and end times along with any time that the recording is paused, started, or stopped. In court sessions where proceedings overlap, the monitor will need to be particularly diligent at logging start and stop times and may not be able to rely on the software to do so.]

- b. For trials and evidentiary proceedings, log notes must contain:
- (1) Names/Identifiers - the full name of the judge, monitor, parties, and attorneys present and not present; case caption; and case number;
 - (2) Time - the beginning and end times of each proceeding;

[Note: Log notes should also identify the time that each type of examination (direct, cross, voir dire) begins, the time that any off the record discussion begins, and the time that the jury enters or leaves the courtroom.]

- (3) Spelling/Unusual Names and Terminology - uncommon words, proper nouns, unusual phrases or jargon, events occurring on the record, attorney objections, and court rulings; consider a separate word list with the spelling of proper nouns and technical jargon;
- (4) Trial Events - the calling and swearing in of witnesses, the beginning of each type of examination, all attorney objections and court rulings, exhibit marking and identifying, motions for admission of evidence, references to statutes and rules and any other information that would assist transcription; commonly used abbreviations may be useful;
- (5) Identifying Speakers by Channel - speakers may move between multiple microphones during a proceeding, so it may be useful to develop a code to identify a speaker on a particular channel at a particular time.

[Note: A standard setup for channel allocation could serve as a useful guide in the majority of cases. For example:

- Judge/Jury/Bench or Well
- Witness
- Defendant
- Plaintiff]

- (6) Nonverbal occurrences - such as “witness nodded head,” and indicating times when attorneys are conferring off the record;
- (7) Abbreviations – for commonly understood standard terms, such as “YH” for “Your Honor;”
- (8) Shortcuts - as needed to identify speakers in the log notes during rapid fire colloquy with the judge, such as “Jones, then Smith, then Judge, Jones again, then Smith, etc.”

x. Appearance/Information Sheet

- a. For indexing case information, enter case information onto a digital or paper appearance/information sheet identifying the case along with the judge’s name and the names and spellings of the attorney(s) representing the parties in the case.

[Note: In some recording systems, this information can be entered when a recording is initiated, preserving it in a searchable format directly associated with the recording.]

- b. For most hearings, the sheet should contain the:
- (1) date of the hearing;
 - (2) full name of the judge and monitor;
 - (3) case number, case name, and type of hearing;
 - (4) full names and spellings of attorneys and self-represented litigants;

- (5) speaker identification codes selected for the log notes;
- (6) channel designation and seating arrangement for all parties.

[Note: In some recording systems, monitors can create name macros for all parties present for a case, enabling the monitor to quickly insert the full name of a party or an attorney by a single mouse click, entry, or keystroke combination.]

c. For trials and evidentiary hearings, the sheet should contain items (1)-(6) above, and the:

- (1) law firm and/or government agency names, street addresses, e-mail addresses, and business and cell phone numbers;
- (2) names of all witnesses;
- (3) description and number for all exhibits.

xi. Playback

- a. As directed by the judge, locate the requested portion and play it back, using the courtroom public address system or sound reinforcement system such as a set of speakers connected to the recording personal computer.
- b. After the playback, ask the participants to provide time for the monitor to resume duties before resuming the hearing.

[Note: The recording system should support immediate resumption after playback, with no interruption in the proceedings.]

xii. Conclusion of Daily Proceedings

Follow court practice to properly store and archive the recording at the court. This could include:

- (1) backing up the day's recordings to the court's electronic network,

[Note: If the system does not enable backup onto a network, back up the day's recordings onto a compact disk.]

- (2) labeling the recordings to enable their retrieval during the retention period,
- (3) setting the system on the appropriate default setting for the next day's proceedings, and
- (4) shutting down the recording system.

D. Procedures for Judges

- (1) Verify with the monitor that the system is operational.
- (2) Make participants aware that the court proceeding is being electronically recorded.
- (3) Remind participants to speak loudly and clearly.
- (4) State each case by name and number and type of proceeding each time a case is called.
- (5) Remind all participants to properly identify themselves when making their appearance at the beginning of each proceeding and to spell their names for the record.
- (6) Request attorneys to give their appearances at the start of each day of a continuous, multi-day trial.
- (7) Remind attorneys to take necessary precautions (i.e. cover the microphone or use the mute button) when they wish to consult with clients during the hearing.
- (8) Point out to those present that coughing or sneezing near a microphone will adversely affect the recording.

- (9) Permit attorneys to remain seated during proceedings and make sure that they are speaking into a microphone.
- (10) Remind participants that only one person should speak at a time. Discourage overlapping questions and answers or colloquy.
- (11) Discourage speakers wandering around the courtroom unless wireless microphones are used.
- (12) Hold “on the record” bench conference conversations at the bench conference microphone.
- (13) Leave the judge’s bench microphone turned on while in session.

E. Procedures for Attorneys and Courtroom Participants

- (1) Attorneys should inform their clients of the method of recording being utilized and take necessary precautions to protect disclosure of confidential communications during proceedings.
- (2) Upon speaking for the first time, identify yourself for the record. Spell your name and state whom you represent.
- (3) Provide the monitor with the correct spellings of unusual or technical names and words used.
- (4) Avoid moving microphones.
- (5) Always remain within arm’s reach of a microphone. If you approach the bench, wait until you are within arm’s reach of a microphone before speaking again.
- (6) For the benefit of the written record, avoid speaking while witnesses or other counsel are speaking. Only one person should speak at a time.
- (7) Address jurors by name or number for proper identification during voir dire.
- (8) Solicit verbal responses from all witnesses since the recording system can only pick up spoken words. Avoid “uh huh,” head nods, and gestures.
- (9) Avoid shuffling papers or making other noises when people are talking. Move away from the microphone before coughing or sneezing.
- (10) Use the mute button to consult with a client or make statements that should not be recorded. Be sure the mute button is off and the microphone is on before proceeding.
- (11) When at a bench conference, avoid blocking the microphone with documents and speak one at a time into the sidebar microphone.
- (12) When there are multiple cases set for hearing, hold discussions outside the courtroom or away from microphones.

APPENDIX A.1

Judicial Council of Georgia
Fees for Services by Official Court Reporters
Effective January 1, 2015

CRIMINAL CASES

Takedown		Preliminary Unedited Copy ¹		Certified Transcript	
Court Attendance ¹	Court Attendance with Realtime Feed ¹	Daily Copy ²	Expedited Copy ²	Page Rate	Exhibit Page Rate ⁴
≤ 8 hrs. = \$200.00 > 8 hrs. = \$235.00	≤ 8 hrs. = \$260.00 > 8 hrs. = \$290.00	\$7.60/page	\$5.70/page	≤ 120 days = \$6.00 > 120 days = \$5.00 ³	\$0.50

[See Judicial Council Policies and Fees for Court Reporting Services in Criminal Cases, 2.1 Takedown and Transcript Filing in Criminal Proceedings, for mandatory and discretionary takedown and transcript filing.]

¹ As authorized by the court.

² Daily copy is furnished within 24 hours from the close of court. Expedited copy is produced within 48 hours from the close of court. The transcript page rate is in addition to these fees.

³ See Policy 2.3 (C), Time Period for Filing Transcript, for discretion of judge in determining page rate for extensions.

⁴ If evidence not tendered digitally to court.

APPENDIX A.3

Sample Transcript

THE SUPERIOR COURT OF LOWNDES COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,)
)
)
 -VS-) CASE NO. 2011-CR-0359-5-RWS
)
 JOSE ANTONIO AYVAR-SOBERANIS,)
)
 DEFENDANT.)

TRANSCRIPT OF GUILTY PLEA PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. STILL
SUPERIOR COURT JUDGE
WEDNESDAY, APRIL 20, 2011
8:30 A.M.

APPEARANCES:

ON BEHALF OF THE STATE:
MICHAEL V. HERSKOWITZ, ESQ.
ASSISTANT DISTRICT ATTORNEY
LOWNDES COURTHOUSE
123 ASHLEY STREET
VALDOSTA, GA

ON BEHALF OF DEFENDANT:
CRISPIN J. QUINTANILLA, ESQ.
ATTORNEY AT LAW
3001 DOWNTOWN DRIVE
VALDOSTA, GA

ALSO PRESENT:
DAVID HOOVER, COURT INTERPRETER
312 WEST STREET
VALDOSTA, GA

LISA SMITH, RMR, CRR
OFFICIAL COURT REPORTER
POST OFFICE BOX 2010
VALDOSTA, GEORGIA 3001

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(Guilty Plea)

THE COURTROOM DEPUTY CLERK: Court calls the case of State vs. Ayvar-Soberanis, case 2011-CR-0359-5-RWS.

THE COURT: All right. If counsel and defendant will approach the podium, Mr. Goss will administer the oath to the defendant

JOSE ANTONIO AYVAR-SOBERANIS, having been duly sworn, was examined and testified through the interpreter as follows:

MR. QUINTANILLA: Good afternoon.

THE COURT: Mr. Herskowitz, you may proceed.

MR. HERSKOWITZ: Thank you, Your Honor. Mr. Ayvar-Soberanis, I'm showing you a Guilty Plea and Plea Agreement in this case. Turning your attention to page 13, is that your signature on the right side of the page by the name Jose Antonio Ayvar-Soberanis?

THE DEFENDANT: Yes.

MR. HERSKOWITZ: Mr. Quintanilla, did you sign as his counsel?

MR. QUINTANILLA: I did.

Your Honor, for the record, Crispin Quintanilla. I am his counsel, Your Honor.

THE COURT: Thank you.

MR. HERSKOWITZ: On page 14, sir, is that your signature given over the name Jose Antonio Ayvar-Soberanis?

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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA)
)
vs.) CASE NO: 2015-CR-0001-Z
)
JOSEPH O. SMITH,)
)
DEFENDANT.) VOLUME 1 OF 6

JURY TRIAL
HEARD BEFORE THE HONORABLE GEORGE JEFFERSON
SUPERIOR COURT JUDGE
JANUARY 13, 14, 15, 16, 17; SENTENCING ON JANUARY 20, 2015
COMMENCING AT 8:30 A.M.

APPEARANCES:

JANE F. SMITH, ASSISTANT DISTRICT ATTORNEY
1000 WEST STREET, SUITE 200
ATLANTA, GEORGIA 30001

FOR THE STATE

JOSEPH F. DOE, ESQUIRE
JENNIFER SMITH, ESQUIRE
ATTORNEYS AT LAW
DOE & DOE, ATTORNEYS AT LAW
100 JONES STREET, ATLANTA, GEORGIA 30001

FOR THE DEFENDANT

BOB SMITH, RPR
COURT REPORTER, ATLANTA JUDICIAL CIRCUIT
100 HOLIDAY DRIVE
ATLANTA, GEORGIA 31000
(770) 000-0000

1 THE COURT: Good morning. And, Mr. Doe.

2 MR. DOE: My expert tells me that people might be more
3 willing to answer completely in writing more than open voice
4 in front of 40 or 50 other people. I've made copies in
5 advance in case you're willing to go along with it and it
6 asks about prior experiences with cases involving
7 molestation.

8 THE COURT: All right. Thank you for letting me know
9 that, and I'll let you know how we'll proceed.

10 (Whereupon, a recess was taken)

11 THE COURT: All right, Mr. Doe, I've looked at your
12 jury questionnaire.

13 Ms. Smith, do you have an objection to that? Don't
14 have an objection?

15 ASSISTANT D.A. DOE: Having just been handed that,
16 your Honor, I haven't had an opportunity to review all five
17 of the ques tions. It looked like these would be similar to
18 what the State would ask in general questioning, so I don't
19 have an objection to this as long as, of course, the State
20 is provided the answers as well as the defense.

21 (Pause in the proceedings)

22 THE COURT: And Kenny, how many jurors are in the jury
23 assembly room?

24 THE CLERK: We have some taken out already. You have
25 45 to come up here for you.

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Mr. HENRY JONES,
was called, and upon being first duly sworn,
was examined and testified as follows on

DIRECT EXAMINATION

BY ASSISTANT D.A. DOE:

Q. Now, I know you're sitting in the chair and you have a microphone in front of you. Can you talk in front of the microphone for everybody? And when you answer a question, if your answer is yes, if you'll say into the microphone "yes" or if it's no, if you'll say "no" because the guy sitting right here has to take everything down. So if you just nod he can't write that, okay?

Can you say it?

A. Yes.

Q. There you go, good job.

All right. Can you tell the jury your name?

A. Henry.

Q. What's your full name?

A. Henry Keith Jones.

Q. How old are you, Henry?

A. Seven.

Q. What school do you go to?

A. I don't know because I'm a new student.

Q. You just started at a new school?

1 (Charge of the Court)

2 THE COURT: And good afternoon, ladies and gentlemen
3 of the jury, we're now ready to move into the legal charge
4 phase of the case. During this phase of the case, the Court
5 will read to you the legal principles of law that you will
6 utilize during the deliberation process. As I've mentioned
7 and will again mention, it is your sole responsibility to
8 determine the facts of this case based upon the evidence
9 that you heard. You then apply the law that I provide to
10 you in these legal principles to the facts of the case as
11 you find the facts of the case to be, and that's the way
12 that you reach your unanimous verdict.

13 In order to do so and for perfection of the record
14 I'm required to read these to you, and I will start to read
15 these to you now.

16 You are considering the case of the State of
17 Georgia versus Joseph Smith as styled in Fulton County
18 Superior Court, Case Number 2015-CR-0001-Z. Mr. Smith in
19 this case has been charged with the offense of child
20 molestation. Mr. Smith is charged as follows: Joseph Smith
21 is charged with the offense of child molestation for that
22 the said accused in the County of Fulton and the State of
23 Georgia on or between August 12, 2014, and August 15, 2014,
24 the exact date being unknown to the State of Georgia, did
25 perform an immoral and indecent act in the presence of Henry

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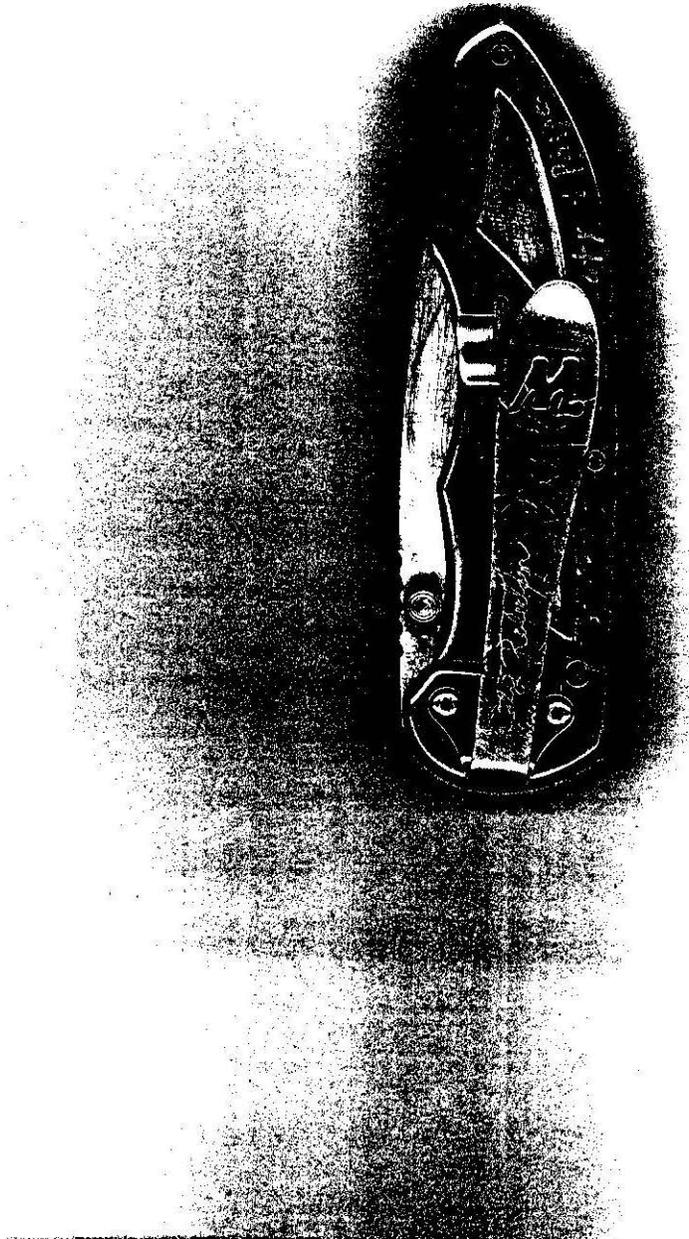
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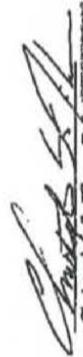


Georgia Bureau of Investigation Division of Forensic Sciences

Hereby Declares That

is certified to conduct analyses of breath specimens for their alcohol content pursuant to all provisions of the Official Code of Georgia Annotated authorizing the Georgia Bureau of Investigation, Division of Forensic Sciences to approve methods and issue permits to perform chemical analyses. This certification is subject to the rules and regulations of the Georgia Bureau of Investigation. This authorization is applicable to analyses utilizing the Intoxilyzer Model 5000 only.

This permit number, 39361
is effective July 19, 2011


Christopher S. Tilson, B.S.
Manager
Implied Consent Section

This permit expires July 18, 2015.

Agency # 4200