



## Minnesota Judicial Branch

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<b>Title:</b>	Capturing the Record of Court Proceedings – Backup Recordings and Redundant Storage
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### Capturing the Record of Court Proceedings – Backup Recordings and Redundant Storage

#### I. POLICY STATEMENT

It is the policy of the Minnesota Judicial Branch that every court proceeding on the record shall be recorded on court owned and approved equipment to ensure that a transcript of the court proceeding can be produced. An audio backup recording shall be made of all court proceedings taken by stenographic court reporters. There shall be redundant storage of all audio recordings of court proceedings.

The purpose of this policy is to ensure that there will be an audio backup recording of court proceedings, recorded on court owned and approved equipment, that can be used to produce a transcript in the event a transcript cannot be produced from the stenographic record. In addition, it is the purpose of this policy to ensure that a transcript can be produced from an audio recording.

#### II. DEFINITIONS

- A. Audio recording - A digital/electronic recording of court proceedings that captures and preserves a verbatim record, using a court owned and approved audio recording system. A stenographic record is not an audio recording.
- B. Audio recording system – A court owned and approved digital/electronic system that records sound, used for audio recording of court proceedings.
- C. Backup recording - An audio recording of a court proceeding made using a court owned and approved audio recording system when the record is taken by a stenographic court reporter using stenographic equipment. For audio recording systems with backup features, that recording is the backup recording.

- D. Certified - An electronic court reporter or electronic recording equipment operator who has received a certification from the State Court Administrator's Office. A stenographic reporter who has received a Registered Professional Reporter (RPR) designation from the National Court Reporters Association (NCRA) or is exempt from the RPR requirement pursuant to Supreme Court Order 81-876 In Re Stenographic Court Reporters Minimum Qualifications and Administrative Procedures.
- E. Court proceedings – Hearings and trials for district court cases heard before a judge, referee, or child support magistrate, on the record. For the purposes of this policy, court proceedings do not include conciliation court proceedings; other proceedings before a judge, referee or child support magistrate that are not on the record; or proceedings before hearing officers, or Alternative Dispute Resolution (ADR) neutrals.
- F. Electronic Court Reporter (ECR) - A court reporter who is certified to capture a verbatim record of court proceedings using a court owned and approved audio recording system, and prepares and distributes transcripts.
- G. Electronic Recording Equipment Operator (EREO) – Court staff who are certified to capture a verbatim record of court proceedings using an audio recording system. Unless certified to prepare transcripts, these employees are not authorized to prepare transcripts of court proceedings. For purposes of this policy this definition of EREOs includes court employees who are certified court reporters, but not currently serving as official court reporters.
- H. Official Record – The official record of the proceeding is the transcript as provided in Rule 4, subd. 3(a) of the Minn. R. Pub. Access.
- I. Redundant Storage - Audio recordings of court proceedings stored in multiple places.
- J. Stenographic Court Reporter - A court reporter who is certified to capture a verbatim record of court proceedings using stenographic equipment and prepares and distributes transcripts.
- K. Stenographic Record – A record of a court proceeding taken by a certified stenographic court reporter.

### **III. PROCESS**

- A. Audio Recording System.
  - 1. Courtrooms must be equipped with a court owned audio recording system or an audio recording system must be readily available for use in a courtroom.
  - 2. Audio recording systems used in the Judicial Districts must be approved by the State Court Administrator (SCA), who shall maintain a list of approved systems.

3. The audio recording system must be operated by an authorized operator.
  - a. For purposes of capturing the audio recording, authorized operators are ECRs and EREOs.
  - b. For purposes of backup recordings, authorized operators may be court administration staff present in the courtroom, or a court reporter, or other staff outside of the courtroom who operates the audio recording system from a centralized location.

#### B. Backup Recordings.

1. Backup recordings must be made using a court owned and approved audio recording system of all court proceedings. Audio recordings made using other recording equipment, such as an audio recording feature on stenographic equipment do not meet the requirements of this Policy.
2. The backup recording system must be operated by an authorized operator of the recording equipment designated by the district administrator, taking into consideration available courtroom staff and technology. System checks shall be conducted daily with spot checking of audio quality as provided in the judicial district court record management plan.
3. Backup recordings of court proceedings taken stenographically using court owned audio recording system shall be stored in the Repository established in Judicial Council Policy 523; Storage of Captured Records of Court Proceedings.
4. Backup recordings of proceedings may be used to assist in the preparation of transcripts. Rules of Public Access to Records of the Judicial Branch, Rule 4, subd. 3(a) and (c)(2).
5. Backup recordings of any spoken words in the courtroom that are not part of the proceeding may be used only pursuant to Rules of Public Access to Records of the Judicial Branch, Rule 4, subd. 3(b) and (c)(3).
6. The backup recording of a proceeding may be played back or provided to a judge, the judge's law clerk, or designee at the direction of the judge who presided at the court proceeding, a judge who is assigned to the case, or the chief judge, for use by the court. Rules of Public Access to Records of the Judicial Branch, Rule 4, subd. 3(c)(3).

#### C. Redundant Storage.

1. The audio recording, along with the detailed log notes/tags that are date and time stamped to the digital recording, must be filed and stored in the Repository as provided in Judicial Council Policy 523; Storage of Captured Records of Court

Proceedings. A redundant copy of an audio recording must also be stored by the District in a second, separate, secured location.

2. The District is responsible for operating, monitoring and maintaining the redundant storage of audio recordings.

D. Records. All backup recordings and redundant copies of court proceedings are the property of the Minnesota Judicial Branch.

E. Access.

1. Access to audio recordings and stenographic records is governed by the Minnesota Rules of Public Access to Records of the Judicial Branch; Judicial Council Policy 523; Storage of Captured Records of Court Proceedings; and this Policy.
2. Audio recordings stored in redundant storage should only be accessed and used in the event the stenographic record or the audio recording stored in the Repository is not accessible, except as otherwise provided in this Policy.
3. Audio recordings in redundant storage may be accessible by the Information Technology Division (ITD) staff; the Judicial District Administrators and the State Court Administrator, or their designees; and by court order.

F. Record Retention. All backup recordings and redundant copies shall be retained for the period of time required in the District Court Records Retention Schedule. The court administrator or designee is responsible for destruction of records in the Repository and the secured location where the redundant recordings are stored.

#### **IV. APPLICATION**

- A. This policy applies statewide to all court proceedings, as defined in this policy.
- B. This policy does not restrict an official court reporter from making additional copies or backups of court proceedings for the purpose of producing a transcript.

#### **V. IMPLEMENTATION AUTHORITY**

Implementation of this policy shall be the responsibility of the State Court Administrator, acting as the Judicial Council's agent.

#### **VI. EXECUTIVE LIMITATIONS**

None.