



ADMINISTRATIVE ORDER

For the 5th Judicial District of Colorado

CLEAR CREEK COUNTY – EAGLE COUNTY – LAKE COUNTY – SUMMIT COUNTY

ADMINISTRATIVE ORDER RE: OFFICIAL TRANSCRIPTS/RECORDS

Effective: April 17, 2024

Expiration: Indefinite

Order Number: 2024-6

The Fifth Judicial District utilizes electronic/digital recording devices in its courtrooms to digitally record the majority of all court proceedings held in the District. In certain cases, predominantly District Court criminal cases, Court Reporters stenographically record the court proceedings. Chief Justice Directive 05-03 (V)(D)(2) authorizes each District to determine whether it will make available at the prescribed rate in the CJD electronic/digital copies of court proceedings. In the Judicial Districts that do not provide this service, the parties shall request a transcript using the procedure outlined in Chief Justice Directive 05-03(V)(D)(1).

After conferring with the Court Executive, the Clerks of Court, other staff members and the 5th Judicial District bench, a number of concerns regarding the production of electronic/digital copies of proceedings, including the following:

1. Microphones are placed throughout the courtroom, including at the parties' tables, to record the proceedings. As a result, confidential communications between counsel and client at counsel table may and likely will be recorded. These conversations are not part of the official court record and would not be transcribed by a transcriptionist preparing a written transcript from the audio proceeding. Court personnel copying the electronic recording will not be able to determine whether confidential communications have been recorded unless the staff member listens to the entire proceeding. Such a process is time intensive and the Court is not staffed for such time intensive work. Even if this process is followed, there is a significant risk of the release of confidential communications.

2. There are times when certain information must be redacted from the record before it can be released to the public, such as removing the name and any other information identifying the victim of sexual abuse, a child victim, or a child witness from the record. To properly redact such information, the Court staff is required to listen to the entire proceeding, stop the recording and redact the necessary information. Such a process is time intensive and the Court is not staffed for such time intensive work. Even if this process is followed, there is a significant risk of the release of information which should properly be redacted.
3. In certain court proceedings, there are occasions when other matters may be heard in the middle of the proceeding for which the electronic/digital recording is being requested, such as an advisement, a temporary protection order hearing or an emergency parenting time hearing. On these occasions, unrelated matters and/or matters which may in whole or in part not be subject to release may be included in the electronic/digital recording.
4. An electronic copy of a court proceeding is not an official record on appeal, motions hearing or other court proceedings. *See* Chief Justice Directive 05-03(V)(D)(2)(b). Only certified transcripts by court reporters or authorized transcribers may be used as an official record of court proceedings. Release of this information through an electronic/digital recording of court proceedings creates an inherent risk of misuse. This risk can be reduced or eliminated through a prohibition against the release of electronic/digital records.

Based on the foregoing, the Fifth Judicial District hereby adopts the policy that it will not provide copies of electronic/digital recordings of court proceedings, except for small claims proceedings where the electronic/digital recording may be considered the official court record or where otherwise provided by law or court rule. Persons requesting all or part of a court proceeding must complete and file a transcript request form which can be obtained from the clerk of court or which can be found on the judicial website for the 5th Judicial District.

This Order shall not apply to a request made by law enforcement for a copy of an electronic or digital recording when such request is made for investigative purposes.

This Order shall not apply to child interviews under C.R.S. § 14-10-126 which requires a record of the interview to be made and to be part of the record in the case.

This Order shall not apply to communication between courts under C.R.S. § 14-13-110, which requires a record of the communication being made and permits the parties access to the record.

Effective Date, Modification and Binding Effect. This Order shall be effective April 15, 2024 and shall remain in effect pending further Administrative Order.

SO ORDERED this 17th day of April, 2024.

BY THE COURT:



Paul R. Dunkelman
Chief District Judge, 5th Judicial District