

Court Reporter Roundtable

Faculty

Hon. Susan Orth, Floyd Superior Court , Moderator

Kyle Gillaspie, Staff Attorney, Indiana Court of Appeals

Cindy Klusmeier, Court Reporter, Floyd Superior Court

Derek Peterson, Information Technology & Training
Coordinator, Marion Superior Court



Important Links

INcite

<http://www.mycourts.in.gov>

A court reporter needs access to: ICOR (Court Reporter Annual Report) & Benchbooks (Court Reporter Handbook)



Roll of Attorneys:

<https://courtappr.in.gov/rollofattorneys>



Court Staff Information Homepage:

<http://www.in.gov/judiciary/2798.htm>

Appellate Case Search:

<https://courtapps.in.gov/docket>



Appellate Rule 9(H): Payment for Transcript

- Within thirty (30) days after the filing of the Notice of Appeal, a party must enter into an agreement with the Court Reporter for payment of the cost of the transcript

Payment for Transcript continued

- If a party does not make payment arrangements for the transcript and is not entitled to a free transcript, then the Court Reporter should bring this to the attention of the Court on Appeal by filing either (1) a motion for extension of time to complete the transcript; or (2) a notice stating that payment arrangements have not been made for the transcript.
- The Court on Appeal will then issue an order to show cause to the party requesting the transcript, which may result in the dismissal of the appeal.

In Forma Pauperis

- Under Appellate Rule 40, a party can seek permission from the Court of Appeals to proceed on appeal in forma pauperis.
- This only relieves a party of the obligation to pay the appellate filing fee.
- This does not entitle a party to a free transcript.

Appellate Rule 9(J): Confidential Documents Excluded from Public Access

- Documents and information excluded from public access pursuant to Administrative Rule 9(G) shall be filed in accordance with Trial Rule 5(G) and Administrative Rule 9(G).

Administrative Rule 9(G): Court Records Excluded from Public Access

- The general rule is that court records should be accessible to the public. *See* Ind. Administrative Rule 9(D)(1).
- Administrative Rule 9(G)(1) lists information in case records that is excluded from public access and is confidential

Administrative Rule 9(G)(1)

- The following information is excluded from public access by Administrative Rule 9(G)(1):
 - Adoption, paternity, and juvenile proceedings records
 - Grand jury proceedings and personal information relating to jurors or prospective jurors
 - Pre-Sentence investigation reports
 - Medical, mental health, and tax records
 - Information relating to protective and no-contact orders
 - Social Security and bank account numbers
 - Witnesses or victims of domestic violence or sex crimes

Trial Rule 5(G)

- If a document includes information that is excluded from public access, then it must be filed in accordance with Trial Rule 5(G).
- Whole documents excluded from public access should be placed on light green paper or have a light green coversheet attached to the document marked “Not for Public Access” or “Confidential”.

Trial Rule 5(G) continued

- If a portion of a document contains confidential information excluded from public access:
 - The information should be omitted or redacted from the filed document;
 - The confidential information should be placed on green paper in a separate confidential volume marked “Confidential” or “Not for Public Access”; and
 - It should also identify the document and location within the document to which the redacted material pertains.

Administrative Rule 9(G)(1.2)

- If information that is excluded from public access is admitted into evidence during court proceedings open to the public, that information remains excluded from public access only if a party prior to or contemporaneously with its introduction into evidence, affirmatively requests that the information remain excluded from public access.
- If no affirmative request is made, then confidentiality is waived.

Administrative Rule 9(H)

- If information is not confidential under Administrative Rule 9(G) and a party wants that information excluded from public access, then the party must comply with Administrative Rule 9(H), which requires a hearing before the trial court.

Appellate Rule 29: Exhibits

- Appellate Rule 29(A): Documentary exhibits shall be included in separately bound volumes. An index of the exhibits should be placed at the front of the first exhibit volume.
- Appellate Rule 29(B): Non-Documentary exhibits should not be sent to the Court on Appeal and shall remain in the custody of the trial court.

Common Issues with Transcripts seen by the Appellate Clerk and the Court of Appeals

- Transcript is not bound properly.
- Transcript and exhibits do not contain a cover sheet.
- Confidential exhibits that do not comply with Administrative Rule 9(G) and Trial Rule 5(G).
- Multiple hearings are not combined into one transcript volume.
- Non-documentary exhibits.
- Disassembling direct appeal records admitted as exhibits in post-conviction proceedings.

WHEN DOES THE “CLOCK” START?





APP RULE 25(A) File transcript of evidence within 90 days of the date Notice of Appeal unless the period expires on a non-business day (Saturday, Sunday, holiday or a day the Clerk is not open).

***APP RULE 25(B)* Computing time – the day of the act, event or default from which the designated period of time begins to run shall not be included**



APP RULE 11(B) Deadline for Filing Transcript. Court Reporter shall have ninety (90) days after the appellant files the Notice of Appeal to file the Transcript with the trial court clerk or Administrative Agency. Notice of Filing of Transcript

WARNING

DEADLINES ARE MUCH
CLOSER THAN THEY APPEAR



- ***APP RULE 11(C) Extension of Time to File Transcript.*** Court Reporter feels Transcript cannot be filed within the time period prescribed, then shall move the Appellate Court for extension of time to file the Transcript pursuant to Rule 35 (A) and state in motion the factual basis for inability to comply with the prescribed deadline despite exercise of due diligence. File original and one copy of motion with the Clerk and serve copy on the parties to the appeal.

AN ACCURATE RECORD STARTS IN THE COURTROOM





TRIAL RULE 74 & CRIMINAL RULE 5

An accurate record is essential for trial and appeals. An accurate record is vital both in transcription and in estimating the cost. (witnesses, objections, admission of exhibits, proceedings outside presence of jury) C2-P33, C4-P62-70, C5-P75



***APP RULE 9* Parties in open Court proceedings tendering evidence containing items excluded from public access should comply with “green sheet’ requirements found in TRIAL RULE 5(G), but if they do not, and evidence is admitted without restriction, then it is no longer confidential. C2-P50**

Items on green sheets and intended to be kept confidential should be filed in a separately-bound volume marked “confidential.” Evidence admitted without restriction that would otherwise be confidential, is part of the public record and is part of the record on appeal whether as a documentary exhibit or oral testimony that is transcribed. C2-P50



Best Practice –

Reporter preparing transcript may want to insert a note, either on the front of the transcript volume or at the location of evidence indicating the particular evidence was offered and admitted without a request it remain confidential.

C2-P50





*ISSUES RELATED TO
PAYMENT, ADVANCE
DEPOSITS AND
FAILURE TO PAY*

**Depending on Model chosen by a Court for its Court reporter services, reporters may be paid a per page fee for preparation of transcript. This fee is established by local rule and is subject to advance approval by the Supreme Court before it can be implemented. Yearly changes in per page fees may be sought by amendment of the local Court rule.
ADM RULE 15 C5-P75 & C7-P106-109**

Reporter's contract is created with the person or entity that files the Notice of Appeal or Supplemental Request for Transcript, and additionally, is liable for the cost of preparation. C5-P75



If written request for deposit has been made, but not paid, Reporter is under no obligation to commence work on the transcript. C5-P75





WHEN IS STENOGRAPHIC REPORTER REQUIRED?



CRIMINAL RULE 24(D & I) Criminal Death Sentence Cases

“Stenographic reporting with computer-aided transcription” of all oral testimony, argument or other matters for which a record is made under *CRIMINAL RULE 5* in any trial or post-conviction proceeding.

Death sentence is imposed -- begin preparation of transcript immediately. *CRIMINAL RULE 19 & CRIMINAL RULE 24(I)*



- **Procure Reporter immediately. Communicate with reporter on all upcoming hearings is essential to ensure their presence. Notify them ASAP of cancellations.**
- **Trial Court' reporter and stenographic reporter may need to confer in filing of appellate record.**
- **Overlaps with Tips and Pitfalls of Transcripts Prepared by Other Reporters**

HOW DO YOU COME UP WITH AN ESTIMATE?



- Transcript is strictly limited by language contained in body of Notice of Appeal.
- Consult with appellant/counsel on any interpretation questions arising from language.

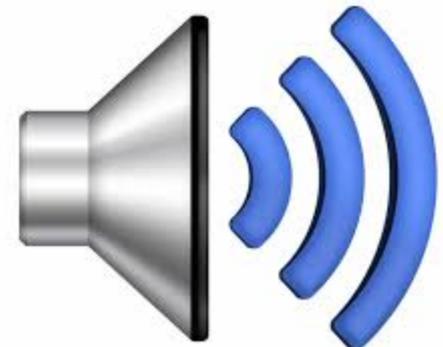
Best practice - resolution of questions be done in writing.



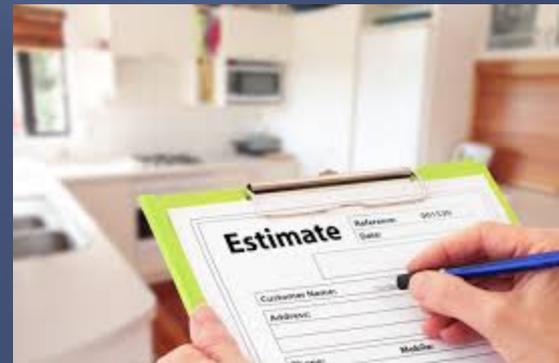
- Fees are set by local rule. Office supplies for binding and electronic transmission established by judges of your county.
- What is requested in Notice of Appeal?
- Review CCS and lot notes. Was there an actual record?

Length of audio - consider recesses, time spent reviewing documents, participants speaking fast or slow.

- Audio has witnesses -- one minute = 1 page. Audio has no witnesses/argument only – one page = 1/2 page**



- **Determine amount to commence transcription and when balance is due.**
- **Send estimate to requesting party immediately upon filing of Notice of Appeal.**





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*CREATING A PAPER
TRAIL ON A
REQUEST FOR
PRIVATE-PAY AND/OR
UNREPRESENTED
TRANSCRIPT*

Chapter 5 stresses the importance of good, direct written communication between the Court Reporter and the Appellant - particularly the unrepresented Appellant.

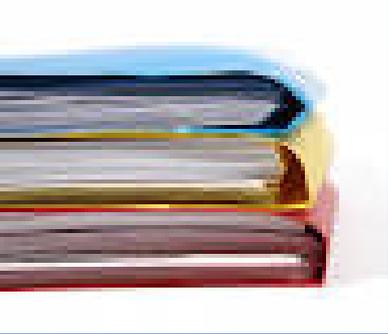


. Vital to make a solid record of efforts to advise a potential Appellant of anticipated costs and impact their failure to make payment arrangements will have on the preparation of their appeal.



Solid record supports any Verified Motion for Extension of Time to File Transcript, if needed, and provide records for reporting income taxes and submission of Annual Court Reporter Report.





- **Send estimate to requesting party outlining cost and supplies. Clearly state preparation will not commence until deposit has been made and full payment must precede delivery of transcript to Clerk for filing.**
- **Document any retainers and payments.**

- **Payments made nearing deadline for filing may require Reporter to file Verified Motion for Extension of Time to File Transcript. Paper trail of documentation and communication can be included in motion.**



- **Requests for non-appellate transcripts follow the same procedure regarding invoices.**





*TIPS AND PITFALLS
OF TRANSCRIPTS
PREPARED BY
OTHER REPORTERS*

CRIMINAL RULE 5 OR TRIAL RULE 74
Judge can farm out Notices to other
responsible competent persons. C5-
P94





Changes in staff within a Court, court calendar, and/or lengthy hearings may present a situation where the person who recorded the hearing is not available to prepare the transcript and create a backlog of Notices of Appeals. C5-P94

- **Discuss with Judge. Prefer “in house – by their own reporter”**
- **Contact reporters in your county for input – cost, reliable, transcript in timely manner.**
- **Discuss all aspects of Agreement. Determine your needs.**





Best practice – contract in writing. Verbal acceptable in-house.

- **All pertinent info will immediately need forwarded on Transcript farmed out to Reporter.**

9.) Play the C.Y. “blank” game.

10.) If you can't understand it now, chances are you won't understand it later!



Derek's Top Ten



1.) Organization is your best friend.

2.) Consistency is Key.

3.) Always ask the question.

4.) Know your deadlines.

5.) Make friends with the Appellate Rules.





Top 10

6.) *Play nice with the Pro-Se Litigants.*

7.) *Know which witch is which.*

8.) *Judge is Ruler of the Kingdom, but the Court Reporter holds the keys to the Castle.*

9.) Play the C.Y. “blank” game.

10.) If you can't understand it now, chances are you won't understand it later!



YOUR QUESTIONS



QUESTION 1

As a reporter, do you make corrections? Transcribe verbatim word for word? Or is it okay to “clean up” the “okays” and “uhs”? Where do you draw the line?



QUESTION 2

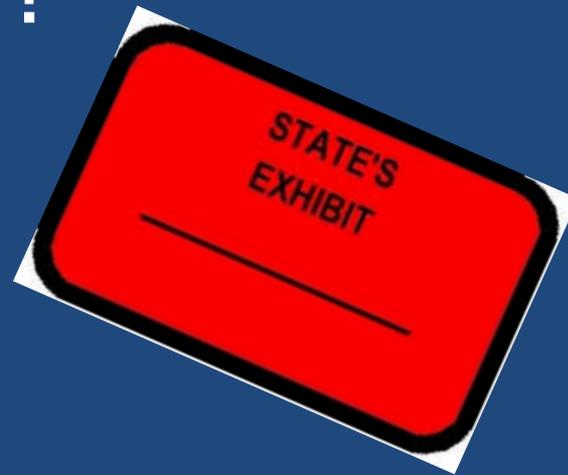
Are there preferred terms--
accused or defendant, for
example?



QUESTION 3



Does everyone scan the exhibits to put on the CD?





QUESTION 4

What should we do when conflicting advice comes from DOC and JTAC regarding how to handle issues/problems with abstracts?



QUESTION 5



Guidelines for
preparation/formatting/etc. of
transcripts

QUESTION 6

What is the best procedure if a witness is not asked to spell their name?



Interrupt the proceeding to ask?

Wait until after the hearing to get a correct spelling?

PLEASE INTERRUPT ME!

RESEARCH HELP DESK

I'm Here to Help You...

- Cite Your Resources
- Find Information on Your Research Topic
- Navigate our Online Catalog

Your request is more interesting than what I'm doing

QUESTION 7

How is a reporter compensated for the review/proof reading of another's work?



QUESTION 8

How should HIPPA and other transcript security issues be handled?

