

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA

INTERIM ADMINISTRATIVE ORDER # 2004-00-11

RECORDED 07/08/04 08: Harold Bazzel, Clerk Bay County, Florida DEPUTY CLERK DL #1 Trans # 622100

RE: COURT APPOINTED COUNSEL AND DUE PROCESS COSTS, EFFECTIVE JULY 1, 2004

Whereas, section 27.42, Florida Statutes, was created in Chapter 2003-402, Laws of Florida and amended in Senate Bill 2962, passed by the 2004 Florida Legislature, and established the Circuit Article V Indigent Services Committee, its composition, and its responsibilities;

Whereas, section 27.42, Florida Statutes, created in Chapter 2003-402, Laws of Florida and amended in Senate Bill 2962, passed by the 2004 Florida Legislature, sets out the responsibilities of the Circuit Article V Indigent Services Committee to manage the appointment and compensation of court-appointed counsel with a circuit pursuant to subsection 27.40 and 27.5303, Florida Statutes;

Whereas, section 27.42, Florida Statutes, created in Chapter 2003-402, Laws of Florida and amended in Senate Bill 2962, passed by the 2004 Florida Legislature, requires the Circuit Article V Indigent Services Committee to maintain a registry pursuant to section 27.40, Florida Statutes, and to apply any eligibility and performance standards set by the Legislature;

Whereas, section 27.42, Florida Statutes, created in Chapter 2003-402, Laws of Florida and amended in Senate Bill 2962, passed by the 2004 Florida Legislature, directs each Circuit Article V Indigent Services Committee to develop a schedule of standard fees and expense allowances for the categories of cases specified in section 27.5303, Florida Statutes, consistent with the overall compensation rates in that section and within the amount of appropriated funds allocated by the Justice Administrative Commission to the circuit for this purpose;

Whereas, Circuit Administrative Order 2004-00-10, Circuit Article V Indigent Services Committee for the Fourteenth Judicial Circuit, Effective July 1, 2004, appointed the committee members to carry out the legislative responsibilities; and

Whereas, there is an immediate need for an interim plan setting forth a schedule of fees and expense allowances as set forth above as well as a process for payment of said fees and expenses pending a final plan to be adopted by the Circuit Article V Indigent Services Committee.

Now Therefore, it is ORDERED and ADJUDGED that the following policies, procedures, compensation rates, and related due process expenses, which have been developed and approved by the Circuit Article V Indigent Services Committee, are effective July 1, 2004:

Court Appointed Counsel

- 1. Attorneys who were eligible for appointment as court appointed counsel in conflict cases, dependency cases and other types of cases in the Fourteenth Judicial Circuit prior to July 1, 2004, shall continue to be eligible for appointment in said cases until such time as the Circuit Article V Indigent Services Committee formally sets up and adopts an attorney registry list.
- 2. Court appointed counsel meeting the following criteria shall be eligible for compensation from the Justice Administrative Commission via section 27.42, Florida Statutes, as created by 2003-402, Laws of Florida, and amended by Senate Bill 2962 by the 2004 Legislature, when the following are met:
 - A. The Court appointed counsel submits to the Justice Administrative Commission his/her name, social security number and other appropriate personal information as required by the Justice Administrative Commission;
 - B. The court appointed counsel submits documentation of his/her appointment to each specific case (e.g., court order for appointment or portion of order related to appointment, docket or minute sheet documenting appointment); and
 - C. The court appointed counsel submits charging document related to each appointed case (e.g., Information).
- 3. Court appointed counsel shall be compensated at an hourly rate of \$75 for in and out of court legal services for those cases that they are under appointment as of July 1, 2004, or for any cases appointed on or after July 1, 2004, up to the statutory caps set by section 27.5304, Florida Statutes. Court appointed counsel shall also be compensated for reasonable expenses as follows:

- Photocopies at a rate of \$0.25/copy;
- Postage at its actual expense;
- ► Long-distance telephone calls at the rate of \$0.25/per minute;
- ► Local facsimile transmissions at the rate of \$0.25/per page;
- Long-distance facsimile transmissions at the rate of \$1.00/per page; and
- Such other expenses as the court may approve.

Court appointed counsel shall prepare a Motion for Payment of Attorneys Fees, and shall include any statements from the Justice Administrative Commission related to the appropriateness to the requested fees. The presiding judge shall consider the request and, if no hearing is required, the judge may issue a court order authorizing payment of said fees and expenses. If court appointed counsel presents documentation and evidence to support the unusual and extraordinary circumstances that may justify the assessment of fees above the statutory caps, the judge may, after notice of hearing given to the Judicial Administrative Commission, approve fees in excess of the statutory caps and issue a court order supporting said payment of such fees and expenses.

4. Court appointed counsel shall follow the procedures set forth by the Justice Administrative Commission when seeking reimbursement for legal services to be compensated by the State of Florida. Each court appointed counsel shall be responsible for contacting the Justice Administrative Commission to determine the appropriate procedures for applying for payment for said legal services.

Related Due Process Expenses

Court Reporting Services:

- 5. All court reporting services for proceedings to be covered at public expense pursuant to rule 2.070 (g) (1), Rules of Judicial Administration, shall be coordinated through the Office of the Court Administrator by contacting the Manager of Court Reporter Services, Bay County Courthouse, for all counties within the Fourteenth Judicial Circuit. Specific procedures for criminal and juvenile depositions relative to the delivery of court reporting services are outlined as Attachment A and Attachment B to the Operational Procedures for Court Reporting, Fourteenth Judicial Circuit, (attached herein) and are available through the Manager of Court Reporter Services.
- 6. Because the Fourteenth Judicial Circuit operates under an employee model for court reporter services, the payment for court reporting services related to court appointed counsel is provided as part of the employee model formula. As such, the Justice Administrative Commission shall forward payment to the Office of the State Courts

Administrator on a quarterly basis for payment of court reporting services provided to court appointed counsel. Therefore, court appointed counsel are directed to use the employee model as their court reporting delivery system as coordinated and scheduled by the Office of the Court Administrator for the Fourteenth Judicial Circuit.

\$36

7. In unusual or extraordinary cases in which contract court reporters must be retained to cover court reporting services for court appointed counsel within the Fourteenth Judicial Circuit, the following rates of reimbursement, based on the Article V Indigent Services Advisory Board's recommendations, will be used as compensation for those proceedings required to be covered at public expense:

Appearance Fee (Each Hour after):	\$25
Appearance Fee (Overtime*/Weekend/Holiday-First Hour):	\$58
Appearance Fee (Overtime*/Weekend/Holiday-Each Hr after):	\$38
Regular Transcript Delivery (includes original + 1 copy): Expedited Transcripts (Delivery within 72-hours):	\$5/page \$8/page
(Includes original + 1 copy)	
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Media Copies Per Item:

Appearance Fee (1st Hour):

Audio Tape:\$5/tapeVideo Tape:\$15/tapeCD or Diskette:\$15/cd

NOTE: Contract court reporters will be expected to provide an audio tape or CD upon completion of depositions (rates listed above will apply) for use by the parties.

Court Interpreter Services:

- 8. Individuals involved in court proceedings to be covered at public expense have a due process right to understand the judicial proceeding in which they are involved. The Florida Legislature has provided funding to cover the cost of language and hearing impaired interpreters as it pertains to due process rights to the Florida State Courts System. Therefore, court appointed counsel shall complete the following procedures to ensure court interpreter services are available for any client in need of such interpretive services for court proceedings:
 - A. Submit a *Request for Court Interpreter Services* form (see Attachment C) by mail, facsimile, or electronic mail to the Office of the Court Administrator no later than five working days prior to the schedule proceeding. All parts of the form must be

completed in order to successfully schedule an appropriate court interpreter for the individual or for the court event.

B. If the requesting party has less than five days advance notice of the need for a court interpreter due to a substantiated emergency, then the party should contact the Office of Court Administrator immediately with the request. Following a verbal request, the requesting party shall submit the *Request for Court Interpreter Services* form along with a written statement of the emergency need.

An emergency is defined as a situation whereby the inability of an individual to effectively communicate with the court, legal counsel, or other critical personnel was NOT known in advance of a court proceeding.

9. If the court appointed counsel needs a court interpreter for counsel/client interviews, other "pre-court" proceedings, or to act as an interpreter specifically to sit at the counsel's table during a court proceeding, the Office of the Court Administrator may assist the court appointed counsel in locating a qualified court interpreter but will not process the invoice for such interpreter. Further, the selected interpreter for this service CANNOT be the same interpreter used as the official court interpreter.

Therefore, if an official court interpreter is scheduled for a deposition or court proceeding, this interpreter is ethically barred from being used in a "pre-deposition or pre-interview" scenario for the court appointed counsel.

- 10. Any invoices for court interpreters which are for counsel/client interviews, other "precourt proceedings, or to act as an interpreter specifically to sit at the counsel's table during a court proceeding, should be submitted directly for payment to the Justice Administrative Commission.
- 11. The following rates for language court interpreters for the Fourteenth Judicial Circuit shall be at the following hourly rates, as recommended by the Article V Indigent Services Advisory Board in their Final Report issued January 6, 2004:

Spanish Language/Haitian Creole

\$30/hour

(For Interpreters who have NOT completed the Court Interpreter Orientation Course or exam)

Spanish Language/Haitian Creole

\$40/hour

(For Interpreters who HAVE successfully completed the Court Interpreter Orientation Course)

Spanish Language/Haitian Creole

\$50/hour

(For Interpreters who HAVE successfully completed the Court Interpreter Orientation and Exam Course)

All Other Languages*

\$35/hour

(For Interpreters who have NOT completed the Court Interpreter Orientation Course or exam)

All Other Languages*

\$50/hour

(For Interpreters who HAVE successfully completed the Court Interpreter Orientation Course)

All Other Languages*

\$65/hour

(For Interpreters who HAVE successfully completed the Court Interpreter Orientation and Exam Course)

* Portugese, Italian, German, Yiddish, Other Indo Europeon Languages, Polish, Hebrew, Arabic, Chinese, Japanese, Russian, Other Eastern Europeon Languages, Hindi, Urdu, Pakistani, Farsi, South Pacific Island Languages, etc.

Use of Language line or other services will be contracted on an as needed basis at a prenegotiated rate.

Hearing Impaired Interpreter (Non-certified)

\$25 - 40/hour

Hearing Impaired Interpreter (Certified)

\$40 - 60/hour

12. When necessary, reasonable travel expenses shall be reimbursed to the interpreter pursuant section 112.061, Florida Statutes, after submission of a State of Florida Travel Voucher for Reimbursement of Travel Expenses.

Regular/Expert Witnesses:

- 13. As a measure to contain costs, any expert witness fees which exceeds \$150/hour or that could exceed a total fee of \$1,500 must be specifically pre-approved by the presiding judge. In obtaining this pre-approval, court appointed counsel employing or subpoenaing the individual must show to the presiding judge the necessity for a higher hourly rate for the witness or individual and/or the anticipated number of hours that his/her services will be needed and billed. This pre-approval procedure does not relieve counsel or the individual from complying with the other requirements set out in statutes or prescribed by the Justice Administrative Commission.
- 14. As a further cost containment, travel expenses associated with regular and expert witnesses shall be paid only upon submission of a Motion and Order for Payment prepared by the court appointed counsel subpoening the witness or hiring the individual. If mileage, lodging and subsistence, or per diem expenses are sought to be reimbursed,

the court appointed counsel shall ensure that attached to the Motion is a *State of Florida Voucher for Reimbursement of Travel Expenses* form which is completely and accurately filled out by the witness or individual. The witness or individual shall attach all necessary and original receipts to the form. Rates for mileage and per diem rates shall be as prescribed by section 112.061, Florida Statutes. Unless unusual or extraordinary situations are present and the presiding judge determines otherwise, the State of Florida's general instructions pertaining to travel and determination of expenses shall be used by the Court in determining the reasonableness and amount of the fee or expense charged.

- 15. When selecting any travel by common carrier, the state contract should be used or procedures followed if no state contract is available or if a lower rate is determined to be available. No incidental travel expenses or rental car charges shall be allowed unless preapproved by the Court, and if so approved, state contract for rental car arrangements shall be used whenever possible.
- 16. Should any witness or individual performing services under a court order be required to stay overnight in a commercial establishment within the Fourteenth Judicial Circuit while under subpoena, or while on a criminal case assignment, that witness or individual shall be required to stay at a commercial establishment which offers a state rate. If a problem exists for the witness or individual in securing a state rate, the court counsel should contact the Office of the Court Administrator for assistance.

JUDY/M. PITTMAN, CHIEF JUDGE

A CERTIFIED TRUE COPY

HACIOL: ZZEL CLERK

OF THE CIRCUIT COURT

By Manda Madde

Operational Procedures for Court Reporting Fourteenth Judicial Circuit

The following procedures pertain to criminal court proceedings:

I. County Court

If equipment is available, all county court proceedings can be recorded.

II. Circuit Court

Court reporters will be present in most circuit court proceedings. However, there are some circuit court proceedings that can be recorded if a court reporter is not available.

III. Criminal Depositions

Court reporters will only report on depositions that fall into the three areas: capital cases, sexual battery cases, and cases with extraordinary circumstances. All other depositions will be recorded via a digital recorder.

IV. Live Court Reporting

While court reporters will still report on some depositions, those court reporters will need to use some type of recording device so that audio tapes or CD's can be made for the case files for both the prosecutor and defense attorney. Transcripts will only be done when a case is set for trial, or a portion of a deposition is needed for a court hearing.

V. Digital Court Reporting

For those depositions that use a digital recorder, an audio CD will be made for the case file for both the prosecutor and defense attorney. All digital recording equipment will be housed at the State Attorney's Office in each of the six counties.

VI. Requesting a Court Reporter/Digital Recorder

To request a court reporter or a digital recorder, an attorney must complete the request form. (See Attachment B.) The attorney must first check whether a digital recorder or live court reporter is needed. If a court reporter is requested, then one of the three boxes describing the case must be checked. If "Case with Extraordinary Circumstances" is checked, the attorney must state what those circumstances are and then obtain the signature required. If the request is from an assistant state attorney, then Jim Appleman or Peggy Peacock must approve the request. If the request is from a conflict or private attorney, then Jennifer Wells must approve the request. A signature is only needed if extraordinary circumstances are claimed.

Once the attorney completes the form, the attorney should fax it to the appropriate person at the bottom of the page. All live court reporter requests should go to Susan Diltz. Request for the digital recorders should go to the contact persons in the SAO in the respective counties. Please fax the Notice(s) of Taking Deposition(s) along with the request form. When a live court reporter is requested, please list the following locations (when appropriate) on the Notice of Taking Depositions:

Bay: Third Floor Conference Room, Bay County Courthouse

Calhoun: Calhoun County Courthouse (If there is already a

designated room currently used, you can add that as well.)

Gulf: Gulf County Courthouse (If there is already a designated

room currently used, you can add that as well.)

Holmes: Holmes County Courthouse (If there is already a

designated room currently used, you can add that as well.)

Jackson: Second Floor, Jackson County Courthouse

(The rooms may vary in Jackson County depending on

available space.)

Washington: Washington County Courthouse (If there is already a

designated room currently used, you can add that as

well.)

VII. Digital Recording

Once the request is made for a digital recorder, the assistant state attorney attending the deposition(s) will bring the recorder to the depo. The memory cards for the recorders have 22.5 hours of recording time if played on the LP (long playback mode). Specific instructions for use of the digital recorders are contained in Attachment B-1.

Each digital recorder has two memory cards. Each week the memory card that was used for the prior week will be picked up and taken to Bay County so individual CD's can be made for the attorneys per case. When one memory card is in Bay County, the second memory card will be in use for each digital recorder. After the audio CD's are made, the first memory card will be taken back to the counties the following week, and the second one will be picked up, and the process will continue on and on.

Specifically, the "pick ups" will occur as follows: Amber Baggett in Court Administration will pick up the memory stick and request sheets for Calhoun County on Wednesday and those for Washington and Holmes on Thursday of each week. The memory cards and request sheets will then be given to

Carol Dunaway (Court Administration), who will drop them off to Becky Akins, Digital Court Reporter, in Bay County. *Robyn Hatcher, Court Operations Consultant, will serve as a back-up to pick up the memory cards.*

Becky will download the recordings from the depos and "burn" CD's for the attorneys for each individual case. (There will be two CD's for each case one for the SAO and one for the defense.) Carol Dunaway will then take the memory cards and the CD's back to Amber Baggett, who will drop them off at the SAO in each of the counties. It will be the PD's or conflict/private attorneys' responsibility to get their copies of the CD's from the SAO in their county.

Jerry Edwards, Court Reporter, will be responsible for picking up Gulf Counties memory card and request sheets each week and delivering it to Becky Akins. He will then return the memory card and CD's back to the SAO in Gulf County the following week.

Becky Akins will be responsible for getting the memory cards for Bay County and returning them with the CD's the following week. Becky will also keep all the request forms on file.

Eventually, as our technology gets better, we will be able to download the files in each county and not have to rely on the "courier" method.

VIII. Videoconferencing/Telephonic Appearances

If a court reporter needs to take a deposition or "appear" in court, there is the option for the court reporter to appear by video to save on time and travel. This is much more efficient for short hearings or depositions. Currently, this option is only available in Bay, Calhoun, Gulf, and Jackson Counties. When appropriate, the court reporter by appear by telephone. This method could be done in each of the six counties throughout the circuit.

IX. Transcripts

If an attorney needs a transcript, one can be requested using the Request for Transcript form (not yet developed).

X. Scheduling

It is imperative Susan Diltz has all of the judges' calendars throughout the circuit provided on a monthly basis with start and end times of proceedings. If capital cases, sexual battery cases, cases with extraordinary circumstance, or TPR's are scheduled, it must be noted so that a court reporter can appear. It is also important in the initial stages of these new procedures that Susan receive a copy of the depositions scheduled for each month from the SAO and PD's office.

XI. Employee Model

Due to the shortfall in monies provided by the legislature for court reporting, the Fourteenth Judicial Circuit will utilize the "employee model". In other words, the six court reporters who are now state employees, will be used throughout the circuit as much as possible and when economically feasible. If the court finds it needs additional help, the court will utilize contract court reporters on an as needed basis.

XII. Emergency Contacts

If anyone has a question or problem, the following people can be contacted:

Susan Diltz, Court Reporter Manager	@	(850) 747-5336
Becky Akins, Digital Court Reporter	@	(850) 747-5333
Diane Pate, Court Reporter	@	(850) 482-9623
Jennifer Wells, Court Administrator	@	(850) 747-5327

Request for Court Reporter/Digital Recorder **Criminal Depositions**

Instructions: Please complete this form and forward to the contact person listed below. Court reporters will only do depositions for capital ases, sexual battery cases, or cases with extraordinary circumstances. All other cases will use digital recorders. If you have a case with extraordinary circumstances, you must explain the circumstances and obtain the appropriate signature listed in the boxes below.

	Digital Recorder					
(Check one) [Court Reporter	(Check one below	<i>(</i>)			
		Capital Case Sexual Battery Ca Case with Extraor signature in	ase	elow before subn		otain required
Requi	est from SAO	Red	quest from PD's Off	ice Req	uest from Conflict o	r Private Attorney
Jim Appleman / Peggy Peacock State Attorney/Executive Director			Herman Laramore Public Defender		Jennifer Wells Court Administrator	
DEPOSITION INFO	ORMATION:				(Circle one below	<i>'</i>)
Attorney Requestir	ng Deposition(s):			State Attorno	ey / Public Defende	r / Conflict / Private
Date of Deposition	•	County: _		Loc	ation:	
Attorneys:			St	ate Attorney		
-			P[) / Conflict / Private	(Circle one)	
Style of Case:	State of Florida v.					
Case No.:						
Charge(s):		,				
Witness(es):	Please attach copie	es of Notice(s) of T	aking Deposition(s) to reflect witne	sses and times of	depositions.
If requesting a court reporter (any county), forward request to:	If requesting the digital recorder in Bay County, forward request to: SAO Brenda Keys or	If requesting the digital recorder in Calhoun County, forward request to:	If requesting the digital recorder in Gulf County, forward request to: DeAnn Wilder	If requesting the digital recorder in Holmes County, forward request to:	If requesting the digital recorder in Jackson County, forward request to: Nancy Basford	If requesting the digital recorder in Washington County, forward request to: Judy McGarigle
Court Reporter Fax: 850/747-5159	Barbara Hendley Fax: 872-4680	SAO Fax: 674-5028	SAO Fax: 229-1074	SAO Fax: 547-5890	SAO Fax: 482-1383	SAO Fax: 638-6039

Emergency Contacts: If you have a question, please call:

INSTRUCTIONS TO SET UP THE DIGITAL RECORDER

- 1. Insert two AAA batteries.
- 2 Insert the SmartMedia card fully into position.
- 3. Set the power/lock switch to on.
- 4. Set the time/date. Press the menu button, press the FF or REW button to choose the time/date setup screen.
- 5. Press the play button. Time/Date screen appears. The hour indicator flashes, indicating the start of the time/date setup process.
- 6. Repeat steps 4 & 5 to set the time and date. Press the FF or REW button to set the number. Press the play button to accept the number.
- 7. Press the STOP button to end.
- 8. Make sure the microphone sensitivity switch on the side of the recorder is on CONF.
- 9. The recording mode should be in the LP (long playback mode). Press the menu button. Press the play button. The recording mode setup process begins. Press the FF or REW button to choose between the SP and LP. Press the play button. The recording mode setup process ends. Press the STOP button to close the menu.
- 10. Make sure the VCVA (variable control voice actuator) is in the OFF position. It is also on the side of the recorder.
- 11. Please use the AC adaptor for recording depositions when at all possible.

 HOWEVER, the batteries must remain in the recorder at all times so nothing is lost. The battery indicator on the display changes as the batteries lose power. When the batteries are too weak, the recorder shuts down and "BATTERY LOW" appears on the display. DO NOT LET THIS HAPPEN. When the battery indicator gets down to one, replace the batteries as soon as possible.

INSTRUCTIONS FOR DIGITAL TAPE-RECORDING

- 1. Insert the SmartMedia card into the recorder if it is not already inserted. (Be sure to put it in the correct direction).
- Set the power/lock switch to the on position.
 The display appears. The "Please Wait" indicator will appear. Check the battery indicator to ensure there is enough battery power.
- 3. All jobs will be recorded in folder A.
- 4. Press the record button to start recording.
- 5. Please have each person announce their name and spell it into the record for voice recognition. The date and time of each witness shall also be announced. The State Attorney shall swear in each witness.
- 6. When the recording of the witness is concluded, press the stop button and then press the power lock off button. This will start a new file number. Press the record button to start the next witness. Please repeat step 5 into the record. Continue this procedure for each witness. Please spell any unusual words into the record. Up to 199 files can be saved in folder A.
- 7. When finished recording all witness for the deposition, please set the power/lock switch to off for the next person to use.
- 8. If a witness is over 50 minutes in length, at the 50 minute mark you **must** stop the recorder, power lock off, and start a new file number. (This is for CD burning purposes). You may receive more than one CD for a deposition, depending on the length.

Court Interpreter Request Form

The following is required information in order to secure a qualified court interpreter for a court hearing or proceeding. Please complete the first box and forward to:
The Office of the Court Administrator

by fax: (850)747-5717 by email: johnstona@jud14.flcourts.org Questions, please call (850)747-5327

Request for Court Interpreter Services			
Name/Entity:	Contact Person:		
, 1441, 550	Fax:		
Name of Person Service is Requested: Type of Court Interpreter Requested: □ Hearing-Impaired □ Foreign Language Language/Dialect:			
Hearing/Proceeding Information:			
Case #: Type of Proceed Judge: Location:	eding:		
Judge: Location:			
Date: Starting Time: Requesting Party signature/approval:	Est. Ending Time:		
Note: If the need or circumstances for the assigned requesting party is responsible for contacting the consible so that such changes can be communicat interpreter. Failure to make such contact could restor the interpreter's charges.	Office of the Court Administrator as soon as ed and confirmed with the scheduled		

Coordination of Court Interpreter Services Office of the Court Administrator			
Request for Court Interpreter is: Approved Name of Interpreter: Appearing by Video Denied Reason for denial:	Phone:Phone:		
Court Administration Contact:	Phone:		