

1 **Rule 4-201. Record of proceedings.**

2 Intent:

3 To establish the means of maintaining the ~~official~~ record of court proceedings in all
4 courts of record.

5 ~~To establish the manner of selection and operation of electronic devices.~~

6 ~~To establish the procedure for requesting a transcript for a purpose other than for an~~
7 ~~appeal.~~

8 To permit a party to have a court proceeding reported by a certified court reporter if
9 permitted by the court.

10 To permit a certified court reporter to prepare an official transcript if permitted by the
11 court.

12 Applicability:

13 This rule shall apply to all courts of record.

14 Statement of the Rule:

15 (1) ~~Guidelines for court reporting methods. The v~~Verbatim record of court
16 proceedings ~~shall be maintained in accordance with the following guidelines:~~

17 (1)(A) ~~Except as provided in this rule, a~~ A video or audio recording system shall
18 maintain the verbatim record of all court proceedings.

19 (1)(B) ~~An official~~ If requested by the court, a certified court reporter ~~or approved~~
20 ~~substitute court reporter licensed in Utah~~ shall maintain ~~the a~~ verbatim record in all trial
21 court proceedings in capital felonies.

22 (1)(C) If approved by the court, a party may arrange for a certified court reporter
23 licensed in Utah to maintain a verbatim record of a court proceeding.

24 (1)(D) A certified court reporter licensed in Utah may maintain a verbatim record of a
25 court proceeding if an audio or video recording system is unavailable.

26 ~~(1)(C) At the judge's discretion and subject to availability, an official court reporter or~~
27 ~~approved substitute court reporter should maintain the verbatim record in:~~

28 ~~(1)(C)(i) all evidentiary hearings after arraignment and all trials in first degree~~
29 ~~felonies;~~

30 ~~(1)(C)(ii) in cases in which the judge finds that an appeal of the case is likely,~~
31 ~~regardless of the outcome in the trial court;~~

32 ~~(1)(C)(iii) in cases in which the judge determines there is a substantial likelihood a~~
33 ~~video or audio recording would jeopardize the right to a fair trial or hearing; or~~

34 ~~(1)(C)(iv) in any other proceeding or portion of a proceeding, upon a showing of~~
35 ~~good cause.~~

36 ~~(1)(D) If a proceeding is reported by a court reporter, an electronic recording of the~~
37 ~~proceeding shall not be made, except that electronic recording may be made as part of~~
38 ~~the judge's or court reporter's notes for personal use.~~

39 ~~(1)(E) Reporters shall be assigned to cover courtroom proceedings as set forth~~
40 ~~above. In the event of a conflict in the request for an official court reporter, the trial court~~
41 ~~executive or managing reporter shall confer with the presiding judge, who shall resolve~~
42 ~~the conflict.~~

43 ~~(1)(F) A recording technology other than the presumed technology may be used if~~
44 ~~the presumed technology is not available. The use of a technology other than the~~
45 ~~presumed technology shall not form the basis of an issue on appeal.~~

46 ~~(1)(G) (1)(E)~~ The Administrative Office of the courts shall periodically study the
47 state of the art of electronic recording technology and technology employed in computer
48 integrated courtrooms and make recommendations to the Judicial Council of systems to
49 be approved.

50 (2) Record security.

51 ~~(2)(A) If a proceeding is recorded by an analogue video recording system, at least~~
52 ~~two original recordings shall be made. One original recording and log shall be filed with~~
53 ~~the clerk of the court. A second original recording shall be kept in a secure, off site~~
54 ~~storage area.~~

55 ~~(2)(B) If a proceeding is recorded by an analogue audio recording system, one~~
56 ~~original recording shall be filed with the clerk of the court.~~

57 ~~(2)(C) If a proceeding is reported by a court reporter or recorded by a digital~~
58 ~~recording system, the The administrative office of the courts shall maintain the digital~~
59 ~~files, and backup files and archive files. The clerk of the court shall maintain the official~~
60 ~~transcript.~~

61 (3) ~~The official court record.~~ Official transcripts.

62 ~~(3)(A) If the record of a hearing is transcribed by an official court reporter or official~~
63 ~~court transcriber, the certified transcript is the official record. If the record of a hearing is~~
64 ~~not transcribed, the court reporter's file, the tape or the digital file is the official record.~~

65 ~~(3)(B) The clerk of the court may release the official court record only to court~~
66 ~~personnel or the official court transcriber. The clerk shall enter in the docket the name of~~
67 ~~the recipient and when the official court record was released and returned. Obtaining a~~
68 ~~copy of the official court record shall be governed by rules regulating access to court~~
69 ~~records.~~

70 (3)(A) A transcript prepared and filed by a certified court reporter from the reporter's
71 notes is an official transcript. The court reporter must agree to comply with statutes and
72 rules applicable to transcripts of court proceedings. Records filed by the court reporter
73 with the court are the property of the court.

74 (3)(B) A transcript of a video or audio recording of a court proceeding prepared and
75 filed by an official court transcriber in accordance with the procedures established in
76 Utah Rule of Appellate Procedure 12 is an official transcript.

77 (3)(C) An official transcript can be used in any trial court or appellate court
78 proceeding.

79 ~~(4) Requests for transcripts.~~

80 ~~(4)(A) (3)(D)~~ A request for an official transcript for an appeal is governed by Utah
81 R.App.P. 11 and Utah R.App.P. 12 Rules of Appellate Procedure 11 and 12. A request
82 for an official transcript for other court proceedings is governed by Rule of Appellate
83 Procedure 12.

84 ~~(4)(B) A request for transcript or expedited transcript shall be accompanied by the~~
85 ~~fee established by the Utah Code and filed with the court executive or, if one has been~~
86 ~~appointed, the managing court reporter. The court executive or managing court reporter~~
87 ~~shall assign the preparation of the transcript in the same manner as Utah R.App.P. 12.~~

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