



**DISTRICT COURT ADMINISTRATOR
43RD JUDICIAL DISTRICT
MONROE COUNTY COURTHOUSE
STROUDSBURG, PA 18360**

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POLICY: MAKING THE RECORD USING ELECTRONIC RECORDING

EXECUTIVE SUMMARY

The purpose of this policy is to inform Judges, Quasi-Judicial Officers, Court staff, attorneys, and Court participants about use by the Court of Recordings and recording equipment in all Court Proceedings for purposes of creating the Official Record. Specifically, it is intended that Recordings will be captured only for On-The-Record proceedings and, as such, all recording devices used by the Court for creating the Official Record will be deactivated or turned off when the Court recesses, adjourns, takes Sidebar conversation, or otherwise indicates conversations shall be conducted Off-The-Record.

In order to notify persons accessing this Court of Recordings and the use of recording equipment in the courtrooms, signage is placed around each courtroom. In addition, Judges and Quasi-Judicial Officers may remind Court participants with an opening colloquy. Attorneys shall take the necessary precautions to protect attorney-client privilege in light of the use of Recording and are reminded of their obligations under Pennsylvania Rule of Professional Conduct (Pa.R.P.C.) 1.6, *Confidentiality of Information*.

DEFINITIONS

1. Confidence Monitoring – The process of monitoring the Recording of a Court Proceeding by the Court Recorder to ensure that the Recording is audible and intelligible.
2. Court – The Court of Common Pleas, 43rd Judicial District.
3. Court Proceeding(s) – Hearings, trials, arguments, and other proceedings over which a Judge or Quasi-Judicial Officer presides and for which a record is intended to be taken, and Grand Jury proceedings. Court Proceeding(s) shall not include proceedings such as arbitrations, conciliations or arguments for which a record is not intended.
4. Court Recorder (Recorder) - An individual employed, contracted or utilized by the Court to record testimony by electronic means (audio or audio-visual).
5. Court Reporter (Reporter) – An individual employed, contracted or utilized by the Court to record testimony whether through the use of a stenotype machine, stenomask equipment, written symbols (with or without Recording backup), or otherwise.
6. Off-The-Record – That portion of a Court Proceeding which is not intended to be a part of the Official Record and therefore will not be recorded.
7. Official Record – The official transcription created of On-The-Record proceedings as designated by the Presiding Judge or Quasi-Judicial Officer and certified by the Transcriptionist.
8. On-The-Record – That portion of a Court Proceeding that is intended to be a part of the Official Record and therefore will be recorded in accordance with this policy and, if requested, may be transcribed in accordance with applicable Rules of Procedure and Rules of Judicial Administration.
9. Quasi-Judicial Officers – Attorneys appointed by the Court to conduct Court Proceedings in accordance with the jurisdiction authorized by rule or statute, and commonly referred to as Masters or Hearing Officers.
10. Recording(s) – The capturing of audible verbal sounds through the use of electronic, stenographic, or other advanced technological devices.
11. Sidebar – Conversations between the Presiding Judge or Quasi-Judicial Officer and counsel or *pro se* litigants which occur at the bench and are Off-The-Record unless otherwise indicated by the Presiding Judge or Quasi-Judicial Officer.
12. Transcript – A certified, written, verbatim record of all or part of a Court Proceeding.
13. Transcriptionist – Any person employed, contracted or utilized by the Court to prepare a transcript of a proceeding from a Recording. A Court Reporter and a Court Recorder may also serve as a Transcriptionist.

POLICY

Procedures and Best Practices for the Use of Recordings

Recording of All Court Proceedings:

All Court Proceedings shall be recorded by the Reporter/Recorder. Recordings are not the Official Record. For all proceedings, the Official Record shall be the certified Transcript that is prepared by the Transcriptionist and shall only include transcription of On-The-Record proceedings. Recordings made by the Reporter/Recorder during the course of Court Proceedings are made solely for the purpose of creating the Official Record.

Recording Practices:

Recordings shall be captured only while Court is in session. Recordings shall commence when the Presiding Judge or Quasi-Judicial Officer takes the bench. Recordings shall not commence prior to that event and shall cease upon indication by the Presiding Judge or Quasi-Judicial Officer that Court is adjourned, in recess, at Sidebar, or that discussion shall be held Off-The-Record. Recordings shall resume upon indication by the Presiding Judge or Quasi-Judicial Officer that Court will commence On-The-Record.

Recording Procedure for Reporters/Recorders:

In order to ensure that On-The-Record Court Proceedings are accurately recorded, all Reporters/Recorders shall test and prepare equipment in advance of Court Proceedings. The Reporter/Recorder shall make a verbal announcement that he/she will test the equipment and subsequently announce when the test is concluded. Recording equipment shall be deactivated until the Presiding Judge or Quasi-Judicial Officer takes the bench. Upon indication by the Presiding Judge or Quasi-Judicial Officer that Court is adjourned, in recess, at Sidebar, or that discussion shall be held Off-The-Record, all Recordings shall cease and resume only in compliance with this policy.

Recording of Grand Jury Proceedings:

Recording of Grand Jury proceedings shall be in accordance with Pennsylvania Rule of Criminal Procedure (Pa.R.C.P.) 228 and, in the case of an Indicting Grand Jury, Pa.R.C.P. 556.8, or any other applicable rule of Criminal Procedure. Recordings shall commence upon indication of the District Attorney, or his/her designee, that Grand Jury proceedings shall commence. Recordings shall cease upon indication of the District Attorney, or his/her designee, that Grand Jury proceedings shall cease.

Review of Recordings:

Recordings shall only be listened to by: (a) the Reporter/Recorder while performing Confidence Monitoring and capturing Recordings during a Court Proceeding; (b) the Transcriptionist assigned by the Court to transcribe the Official Record, when a Transcript is requested by a party, counsel or the Court; (c) those in the courtroom when a portion of the Recording is played back at the direction of the Presiding Judge or Quasi-Judicial Officer during the course of the Court Proceeding in which the Recording is being made; and (d) the Reporter/Recorder for purposes of providing notes to the Presiding Judge or Quasi-Judicial Officer when requested by the Presiding Judge or Quasi-Judicial Officer.

Use Inconsistent With Policy:

Any request for use of Recordings for purposes other than stated within this policy may only be granted by the President Judge for good cause shown. Otherwise, use or review of Recordings for purposes other than those contained in this policy is not permitted.

Signage:

Signage indicates that proceedings will be recorded. Signs will be placed around the courtroom as follows:

- at counsel table;
- at the podium;
- on the Presiding Judge's or Quasi-Judicial Officer's bench; and
- at any other place the Presiding Judge or Quasi-Judicial Officer deems necessary.

Each sign shall state:

This Court Proceeding is being recorded by electronic audio and/or stenographic means. In order to create an accurate record, please consider the following:

- Please speak clearly and slowly into the microphone;
- Please speak in normal conversational tone and do not whisper;
- Please do not speak over another person;
- Please do not move too far from a microphone during argument or when conducting examination; and
- Please mute or cover the microphone if you do not want to be recorded.

Additionally, signs shall be posted at the entrance to each courtroom in a conspicuous location and shall state:

Notice

Recording equipment will be used in this courtroom for purposes of creating and maintaining a record of the proceedings when Court is in session.

Recording equipment is sensitive and may record conversations throughout the courtroom.

Opening Colloquy:

Judges and Quasi-Judicial Officers may open each Court Proceeding with a colloquy indicating the following:

- Call the Court to order,
- Indicate when the Court is on the record for the start of the day,
- Indicate that these proceedings are recorded, and
- **Indicate when the Court is On and Off-The Record**