

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO



NOTICE FROM THE CLERK

NO. 08-06

Revised Judicial Conference Policy with Regard to the  
Availability and Redaction of Electronic Transcripts of Court Proceedings

**Note: This Notice supersedes Notice from the Clerk No. 08-03 dated April 28, 2008.**

Effective May 15, 2008, the District of Puerto Rico, in accordance with Judicial Conference Policy and amendments to Federal Rule of Civil Procedure 5.2 and Federal Rule of Criminal Procedure 49.1 will implement the following policy regarding official court transcripts:

1. A transcript provided to the court by a court reporter or transcriber will be available at the Clerk's Office, for inspection only, for a period of 90 days after it is filed.
2. During the 90-day period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference. The transcript will be available at the public terminal at the Courthouse and remotely electronically available to any attorneys of record who have purchased a copy from the court reporter.
3. After the 90-day period has ended, the transcript will be available for copying in the Clerk's Office and for download through PACER.

Note: This policy applies to transcripts of events taking place in the court's courtrooms, not depositions taken outside of court or proceedings of state courts or other jurisdictions.

This policy establishes a procedure for counsel to request the redaction from the transcript of specific personal data identifiers before the transcript is made electronically available to the general public.

Counsel are strongly urged to share this notice with their clients so that an informed decision about the inclusion of certain materials may be made. The responsibility for redacting personal identifiers rests solely with counsel and the parties. Neither the Clerk nor the Court Reporter will review transcripts for compliance with this policy.

**Notice of Intent to Redact:**

Within seven (7) calendar days of the filing of an official court transcript, each party wishing to redact a transcript must inform the court by filing a Notice of Intent to Redact (form available on our website). Notices of Intent to Redact must be conventionally notified to court reporters/transcribers. If no such Notice of Intent is filed within the allotted time, the Court will assume redaction of personal data identifiers from the transcript is not necessary.

**Redaction Request:**

If a redaction is requested, counsel must submit to the court reporter a Redaction Request (form available on our website) within 21 calendar days from the filing of the transcript, indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted. Redaction Requests must be conventionally notified to court reporters/transcribers.

Note: This procedure is limited to the redaction of the specific personal data identifiers listed in the rules:

- social security numbers to the last four digits;
- financial account numbers to the last four digits;
- dates of birth to the year;
- names of minor children to the initials; and
- home addresses to the city and state.

If an attorney files a Notice of Intent to Redact but fails to timely file a Redaction Request or Motion to Extend Time, no redactions will be made and the original transcript will be remotely publicly available after 90 days.

**Requests for Additional Redactions:**

During the 21-day period, or longer if the Court so orders, counsel may move the Court for additional redactions to the transcript, in addition to those personal identifiers listed above, by filing a separate Motion for Redaction of Electronic Transcript. Until the Court has ruled on any such motion, the transcript will not be electronically available, even if the 90-day restriction period has ended.

**Remote Public Access to Transcripts:**

If a redacted transcript is filed with the Court, that redacted transcript will be remotely electronically available through PACER after 90 calendar days from the date of filing of the original transcript and the original transcript will never be made publicly available. If the original transcript is filed without redaction, that original transcript will be remotely electronically available through PACER after 90 calendar days.

**CJA Panel Attorneys:**

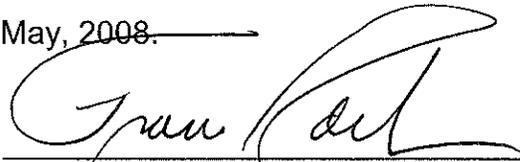
An attorney who is serving as appointed "standby" counsel for a pro se litigant must review the transcript as if the pro se party were his/her client. If an attorney represents a client pursuant to the Criminal Justice Act (CJA), including serving as standby counsel, the attorney conducting the review of the transcript is entitled to compensation under the CJA for functions reasonably performed to fulfill the obligation and for reimbursement of related reasonable expenses.

**PACER Fees:**

PACER fees will be applied both during and after the 90-day restriction period. Charges will not be capped at 30 pages as they are for other court documents, but will rather accrue for the entire transcript. The user will incur PACER charges for each time the transcript is accessed even though he/she may have purchased it from the court reporter and obtained remote access through CM/ECF. There is no "free look" for transcripts.

BY ORDER OF THE COURT.

In San Juan, Puerto Rico, this 8<sup>th</sup> day of May, 2008.



FRANCES RIOS DE MORAN, ESQ.  
CLERK OF COURT

enclosure:

Revised Version of Judicial Conference Policy  
on Privacy and Public Access  
to Electronic Case Files (March 2008)

**Judicial Conference Policy on Privacy and Public Access to Electronic Case Files**  
*March 2008*

Amendments to the Appellate, Bankruptcy, Civil, and Criminal Rules to implement the requirements of the E-Government Act of 2002 took effect on December 1, 2007. The new rules codify, to a large extent, the 2001 Judicial Conference privacy policy, as revised in 2003, requiring redaction of personal identifier information from filings.<sup>1</sup> The personal identifiers to be redacted are Social Security numbers, names of minor children, financial account numbers, dates of birth, and, in criminal cases, home addresses.<sup>2</sup>

Because of the enactment of the rules, the previous policy is no longer operative except for two portions of the earlier privacy policy that remain in force, separate from the new rules. They are listed below.

**I. Documents in criminal case files for which public access should not be provided**

The following documents in a criminal case shall not be included in the public case file and should not be made available to the public at the courthouse or via remote electronic access:

- unexecuted summonses or warrants of any kind (e.g., search warrants, arrest warrants);
- pretrial bail or presentence investigation reports;
- statements of reasons in the judgment of conviction;
- juvenile records;
- documents containing identifying information about jurors or potential jurors;
- financial affidavits filed in seeking representation pursuant to the Criminal Justice Act;
- ex parte requests for authorization of investigative, expert or other services pursuant to the Criminal Justice Act; and
- sealed documents (e.g., motions for downward departure for substantial assistance, plea agreements indicating cooperation or victim statements).

**II. The redaction of electronic transcripts of court proceedings**

Courts making electronic documents remotely available to the public shall make electronic transcripts of proceedings remotely available to the public if such transcripts are prepared. Prior to being made electronically available from a remote location, however, the transcripts must conform to Fed. R. Civ. P. 5.2(a), Fed. R. Crim. P. 49.1(a), or Fed. R. Bankr. P. 9037(a).

---

<sup>1</sup> JCUS-SEP/OCT 01, pp. 48-50 and JCUS-SEP 03, pp. 15-16.

<sup>2</sup> Fed. R. App. P. 25(a), Fed. R. Bankr. P. 9037, Fed. R. Civ. P. 5.2, and Fed. R. Crim. P. 49.1.

Once a prepared transcript is delivered to the clerk's office pursuant to 28 U.S.C. § 753, the attorneys in the case are (or, where there is a self-represented party, the party is) responsible for reviewing it for the personal data identifiers required by the federal rules to be redacted, and providing the court reporter or transcriber with a statement of the redactions to be made to comply with the rules. Unless otherwise ordered by the court, the attorney must review the following portions of the transcript:

- (a) opening and closing statements made on the party's behalf;
- (b) statements of the party;
- (c) the testimony of any witnesses called by the party;
- (d) sentencing proceedings; and
- (e) any other portion of the transcript as ordered by the court.

Within seven calendar days of the delivery by the court reporter or transcriber of the official transcript to the clerk's office, each attorney must inform the court, by filing a notice of redaction with the clerk, of his or her intent to direct the redaction of personal data identifiers from the electronic transcript of the court proceeding. If no such notice is filed within the allotted time, the court will assume redaction of personal data identifiers from the transcript is not necessary.

An attorney serving as "standby" counsel appointed to be available to assist a pro se defendant in his or her defense in a criminal case must review the same portions of the transcript as if the pro se defendant were his or her client. If the transcript relates to a panel attorney representation pursuant to the Criminal Justice Act (CJA), including serving as standby counsel, the attorney conducting the review is entitled to compensation under the CJA for functions reasonably performed to fulfill the redaction obligation and for reimbursement for related reasonable expenses.

A party is to submit to the court reporter or transcriber, within 21 calendar days of the transcript's delivery to the clerk, or longer if a court so orders, a statement indicating where the personal data identifiers to be redacted appear in the transcript. The court reporter or transcriber must redact the identifiers as directed by the party.

These procedures are limited to the redaction of the specific personal data identifiers listed in the rules. During the 21-day period, or longer if the court so orders, an attorney may move the court for additional redactions to the transcript. The transcript shall not be made available on the internet until the court has ruled upon any such motion.

The court reporter or transcriber must, within 31 calendar days of the delivery of the transcript to the clerk of court, or longer if the court so orders, perform the requested redactions, and file a redacted version of the transcript with the clerk of court. The original unredacted electronic transcript should be retained by the clerk of court.

## **Policy Note**

This policy applies to transcripts made available via CM/ECF, WEBPACER, PACER, RACER or a non-court related electronic depository (e.g., Exemplaris). It does not affect in any way the obligation of the court reporter or transcriber, pursuant to Judicial Conference policy, to promptly deliver to the clerk of court the court reporter's or transcriber's original records of a proceeding or the inclusion of a transcript with the records of the court.

If a party desires to respond to a motion for additional redaction, the court may establish a briefing schedule.

Nothing in this policy creates a private right of action.

Nothing in this policy changes any rules or policies with respect to sealing or redaction of court records for any other purpose.

This policy does not affect or limit the right of any party (or any other person or entity) to order production of a transcript on an expedited basis. This policy does not affect any court rules or ruling requiring the sealing of materials or the protection of sealed materials.

An attorney appointed pursuant to the Criminal Justice Act (CJA) is entitled to compensation under the CJA for functions performed to fulfill his or her obligations under the policy, including the following: (1) traveling to gain access to the transcript, if needed; (2) reviewing a transcript to determine whether to file notice of intent to redact; (3) filing a notice of intent to redact or a motion for an extension of time; (4) reviewing a transcript to determine the location of information to be requested to be redacted or whether to file a motion for additional redaction; (5) preparing and filing a redaction request or motion; and (6) other actions (including creating pleadings, attending hearings or other follow-up). The attorney is also entitled to reimbursement under the CJA for the costs of obtaining a transcript for purposes of review. If a case involving a CJA representation has already been closed and the original attorney is no longer available, or if standby counsel is no longer available, new counsel may be appointed under the CJA and compensated as outlined above. In the event that the original appointed counsel is still available, but has filed a final voucher for the underlying case, the attorney shall be permitted to file a supplemental voucher for compensation.

Extensions of time to comply with the deadlines set forth in these procedures should not be routinely granted, due to the potential for delay of court of appeals proceedings in the event redaction procedures extend beyond 31 days.