

INTERIM RULES FOR RECORDING GRAND JURY PROCEEDINGS

(Effective July 16, 2008 pursuant to Promulgation Order No. 08-002-01)

1. **Digital or analog formatting:** The Court Reporters' Unit will record in digital formatting using FTR Recorder. For analog recordings already existing in the Court Reporters' Unit tapes will be made available in re-formatted form.

2. **Storage:**
 - (a) A copy of a CD may be filed in the case file, identified as the Grand Jury proceedings and maintained in the file in a sealed envelope. In lieu of a CD of the recordings, the court reporters' unit may place a Certification in the file that a true and correct copy of the master recording of the proceedings was turned over to counsel, with the date and time, also certifying that the master of the recording is kept at the Court Reporters' Unit of the Clerk of Court of the Superior Court of Guam.

 - (b) All grand jury proceedings are to be stored in the same form in which they were recorded, i.e, analog or digital, and will also be stored in a stand-alone hard drive. Additionally, all grand jury digital recordings shall be archived onto CDs and maintained within the Court Reporters Unit. All existing analog grand jury recordings are kept on the master cassette tapes, archived within the Court Reporters Unit.

3. **Security and Archiving:** The Court Reporters' Unit is a sub-division of the Courts & Ministerial Division of the Superior Court of Guam, and the Clerk of Court is responsible for the security of the Court Reporters' Unit and access to its storage media. All grand jury recordings will be maintained in an archive room which will remain double locked.

4. **Dissemination:**
 - (a) The Court Reporters' Unit of the Judiciary of Guam may substitute a digital (CD) or cassette tape (analog) recording of any grand jury proceedings in lieu of a written transcript thereof, pursuant to 8 GCA § 50.28. The release of such a recording to the parties shall constitute full compliance with 8 GCA § 50.28.

 - (b) A written copy of only the relevant part of the grand jury proceedings may be ordered filed with the criminal case after counsel for the defense or the government has verified to the court in a written declaration that the attorney has listened to the tapes and files an accompanying written motion for the relevant part of the grand jury proceedings. Upon a showing of good cause, the court may grant the motion. "Good cause" is defined by a motion which challenges the sufficiency of an indictment, a motion for diversion, or when a witness who testified before the grand jury is expected to testify at trial or another hearing and the grand jury testimony may be used for impeachment. The written motion should be filed no later than seven days before the scheduled hearing or twenty-one days before trial.

(c) The Court may impose a sanction under Rule 2.1 of the Local Rules of the Superior Court of Guam, effective June 1, 2007, for any motion which the Court deems was filed frivolously or with the primary purpose of having a written transcript produced for written review without good cause.

(d) If the motion is granted, the cost for transcribing the grand jury transcripts shall be paid by the party requesting the transcript. If the party requesting the transcript is represented by court appointed counsel, the cost for transcription of the grand jury transcripts is recoverable as a reimbursable cost for court appointed counsels.

5. Review:

(a) An order granting a Rule 4(b) for-cause motion may be immediately appealed as an interlocutory appeal.

(b) The Administrator of the Courts shall report annually to the Judicial Council as to the number of motions filed in accordance with Section 4(b) above, the disposition of the motions, and any information pertinent to compliance with this rule.