

# Court Transcript Standards and Procedures Manual

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# Court Transcript Standards and Procedures Manual

This manual is the authoritative reference for transcript standards and procedures for Ontario courts.

Authorized Court Transcriptionists (ACTs) must comply with the standards and procedures as set out in this manual.

# Version Table

| Version Date      | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| April 1, 2022     | <ul style="list-style-type: none"> <li>Section 1.9 - NEW (Issues with recording quality)</li> <li>Section 3.8 - UPDATED (Substantive changes due to changes to the Rules for Criminal Appeals)</li> <li>Section 4 - UPDATED (changes made to inclusions and exclusions due to change to the Rules for Criminal Appeals)</li> <li>Section 6 - UPDATED (Substantive changes due to the April 1, 2022 implementation of the updated fee schedule)</li> <li>Section 7 - NEW (Pandemic related practice directions)</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| December 5, 2022  | <ul style="list-style-type: none"> <li>References to 'Queen's Printer' replaced with 'King's Printer'</li> <li>Removal of non-essential graphics throughout</li> <li>General formatting updates throughout</li> <li>Added 'Relevant Websites and Resources' box throughout.</li> <li>Acronyms Table: <b>UPDATED</b> - CLD, POA and RMC added</li> <li>Section 1.4: <b>UPDATED</b> - Removed reference to O. Reg. 92/04</li> <li>Section 1.5: <b>NEW</b> - Link to Section 5.3 added</li> <li>Sections 1.8, 1.9, 3.8.3.2, 3.8.3.3, 3.8.3.4, 3.8.3.5, 6.4: <b>UPDATED</b> - 'Supervisor of court operations' replaced with 'Recording management office'</li> <li>Section 2.3.1: <b>UPDATED</b> - Email address of ORB added.</li> <li>Sections 2.3.1, 2.3.2, 2.3.3, 2.3.4, 2.3.5: <b>UPDATED</b> - 'No. of Copies' updated.</li> <li>Section 3.3: <b>UPDATED</b> - Notice about amendments to O. Reg. 158/03 and direction on the use of the appropriate Certificate of Transcripts</li> <li>Section 3.4: <b>UPDATED</b> - Removal of "The ACT who certified the transcript may wish to insert their name, ACT ID, telephone number and/or ACT email below the certification on the last page." and link to section 5.3 added.</li> <li>Section 3.12: <b>UPDATED</b> - Bullets #9 revised to remove reference to Courtroom Procedures Manual. Bullets #10 and #11 added re electronic transcript standards and requirements</li> <li>Section 5.1: <b>NEW</b> - Bullet #2 added</li> <li>Section 5.2: <b>UPDATED</b> - Revisions to incorporate Form 3 and deletion of, "If the portion for approval exceeds 50 pages, the ACT must deliver that portion in hard copy to the designated staff member at the court location."</li> <li>Section 5.3: <b>UPDATED</b> - Details on certification standards and requirements.</li> <li>Section 6.1: <b>UPDATED</b> - Link to O.Reg. 94/14 updated</li> </ul> |
| April 27, 2023    | <ul style="list-style-type: none"> <li>French footer added to cover page</li> <li>Acronyms table updated to include YCJA</li> <li>Section 1.5: <b>UPDATED</b> - 'oath' replaced with 'certification'; 'written' inserted before 'record'.</li> <li>Section 2.2.5: <b>UPDATED</b> - Inserted hyperlink to s. 5.3.2</li> <li>Section 3.5: <b>UPDATED</b> - Clarification that <i>paper</i> transcripts may be printed double sided</li> <li>Section 3.8.3: <b>NEW/UPDATED</b> - Relevant Websites and Resources table inserted and Appeal Certificates table reformatted</li> <li>Section 3.8.6: <b>NEW</b> - <i>Naming Conventions for Electronic Transcripts Filed with the Court of Appeal</i></li> <li>Section 3.8.7: <b>NEW</b> - <i>Indicating the Proceeding Type/Details on the Cover Page of Court of Appeal Transcripts</i></li> <li>Section 4.5.1: <b>UPDATED</b> - Inserted hyperlink to s. 5.3.2</li> <li>Section 5.3.1: <b>UPDATED</b> - Clarification on the use of the appropriate Certificate of Transcript in relation certifying transcripts of recording certified in Form 1</li> <li>Section 5.3.2: <b>UPDATED</b> - <i>Certification of Stenograph Reporters</i> removed and replaced with <i>Certification of Audio Recording that Do Not Contain a Form 1 Certification</i>; table of certification language inserted</li> <li>Section 5.3.3: <b>UPDATED</b> - <i>Certification of Audio Recording that Do Not Contain a Form 1 Certification</i> replaced with Giving Evidence as to a Transcript</li> </ul>                                                                                                                                                                                                                                                                                                                                                                   |
| April 28, 2023    | <ul style="list-style-type: none"> <li>Section 3.8.3.5: <b>UPDATED</b> - Hyperlink added to s. 3.8.6 <i>Naming Convention for Electronic Transcripts Filed with the Court of Appeal</i></li> <li>Section 5.2: <b>UPDATED</b> - Disclaimer reformatted (Request for Judicial Approval of Transcript Form)</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| March 4, 2024     | <ul style="list-style-type: none"> <li>Acronyms Table – <b>UPDATED</b> – SCM added</li> <li>Section 3.1.1, 5.2, 6.5 – <b>UPDATED</b> – References to EATS replaced with SCM</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| Version Date | Description                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|              | <ul style="list-style-type: none"> <li>○ Removed content related to ACTs needing to sign for transcript preparation packages and ACTs authorizing another ACT to pick up recordings on their behalf.</li> <li>• Section 3.4.15: <b>NEW</b> - Added Gender Specific Titles</li> <li>• Section 5.2: <b>UPDATED</b> - Structural changes to sections</li> <li>• Section 5.2.2: <b>NEW</b> - Standard naming convention - SCM email subject line</li> </ul> |

# Acronyms

| Acronym | Definition                        |
|---------|-----------------------------------|
| ACT     | Authorized Court Transcriptionist |
| CLD     | Criminal Law Division             |
| COA     | Court of Appeal for Ontario       |
| CSD     | Court Services Division           |
| MAG     | Ministry of the Attorney General  |
| OCJ     | Ontario Court of Justice          |
| POA     | Provincial Offences Act           |
| RMC     | Recording Management Coordinator  |
| SCM     | Sensitive Content Management      |
| SCJ     | Superior Court of Justice         |
| YCJA    | Youth Criminal Justice Act        |



# SECTION 1: Overview

## 1.1 What is a Transcript?

A transcript is a certified written record of an in-court proceeding.

## 1.2 Why are Transcripts Produced?

Transcripts are produced for a variety of reasons. Examples of common reasons for requesting transcripts are:

- to document court proceedings for future reference
- to provide a written record of evidence of a trial for appeal purposes
- for publication in legal books to be used for the purpose of case law

## 1.3 How are Transcripts Produced?

Transcripts are produced by authorized persons who transcribe, proofread, edit and certify from recordings produced by a court reporter.

## 1.4 Who can Produce a Transcript?

[Ontario Regulation 158/03: Certification of Recordings and Transcripts](#) pursuant to the [Evidence Act](#), provides that a person who is trained and qualified to transcribe court recordings, and is a member of a class of persons authorized by the Attorney General, may transcribe the recording and certify the transcript.

The [Approval and Authorization](#) signed by the Attorney General on April 8, 2014 sets out the authority for persons to transcribe and certify transcripts of in-court proceedings.

ACTs must comply with the Superior Court of Justice and Ontario Court of Justice Undertaking of Authorized Court Transcriptionist for Access to Audio Court Recordings.

Once a transcript order has been received and the ACT has been provided with the audio recording, it is the responsibility of the ACT to maintain a record of the transcript production.

## 1.5 What is the Purpose of Certification?

The certification process is in place for establishing the authenticity of the transcript produced from the record of proceedings. It is a signatory certification by an authorized person formally attesting that the transcript is a true and accurate written record of the proceedings.

See [section 5.3](#) for more information on transcript certification standards.

## 1.6 When is a Transcript Produced?

Not all recorded proceedings are transcribed. Transcription is only initiated when:

- An order for the transcript of proceedings is received
- When a proceeding meets the criteria for an automatic transcript order

## 1.7 What is Included in the Transcript?

Depending on the type of case and the purpose of the transcript order, certain portions of the proceedings may or may not be included in the transcript. [Section 4](#) of this manual outlines rules for inclusions and exclusions in transcripts.

Unless specifically governed by the rules set out in Section 4, the content of the transcript may be determined by the specifics set out in the transcript order. For instance, an ordering party may request the entire transcript, or a specific portion of the transcript.

If an excerpt or a specific portion of a proceeding is requested, the ordering party must be precise as to what they are requesting be transcribed and provide a definitive frame of reference. Refer to [Section 2.1](#) of this manual for further details.

## 1.8 Use of *[Indiscernible]* in a Transcript

Every effort must be made to accurately transcribe proceedings. When a word or phrase is **impossible** to discern, and all avenues to ascertain what was said have been exhausted, you may insert *[indiscernible]* at that point in the transcript. *[Indiscernible]* should be used **rarely**.

If the audio recording is not clear, or the annotations are insufficient, the recording management office at the court location where the in-court record was taken must be notified.

## 1.9 Court Recording Issues and Process When a Transcript Cannot be Produced

If an ACT receives an audio recording for the purposes of producing a transcript and discovers there are issues with the quality of the audio, the ACT should contact the recording management office at the location where the proceeding took place to advise that there are issues with the audio quality.

If the audio quality of the recording prevents an ACT from producing a court transcript, ACTs are advised to fill out the ACT quality survey as recommended by CSD. This information is posted on the ACT Dashboard on the [Authorized Court Transcriptionists for Ontario website](#).

# SECTION 2: Beginning the Transcription Process

## 2.1 Transcript Orders

The transcription process is initiated either by written request for a transcript or an "automatic" transcript order. An automatic order is generated by either the type of proceeding, or disposition of the proceeding. Transcript orders are requested by ordering parties who access the Authorized Court Transcriptionists for Ontario website to select the authorized court transcriptionist (ACT) of their choice. The ordering party completes a Transcript Order Form and submits the Transcript Order form to the ACT. All sections of the Transcript Order Form must be completed in order for the court office to process the request and for the ACT to access the digital court recording.

The ordering party may request an entire proceeding, or a specific portion of the proceeding be transcribed. If requesting a portion of the proceeding only, the ordering party must be precise as to what they are requesting be transcribed and provide a definitive frame of reference. For example, they may order the evidence of a witness, a specific portion of the proceeding such as the "Reasons for Judgment" or the "Charge to the Jury" or they may request that a specific time frame within the proceedings be transcribed (i.e. commencement of court until the morning recess).

The completed Transcript Order Form should be forwarded by the authorized court transcriptionist to the court where the proceedings took place. This form should be submitted via email through the generic Recording Management Coordinator (RMC) mailbox and will be processed by court staff performing recording management functions. Upon staff receiving a Transcript Order Form from an ACT, the transcript order details are entered into the court's electronic Recording Management System (RMS). Providing the ACT has signed an undertaking with the court to access the court recording and there are no restrictions to providing the requesting party with a transcript, recording management staff will prepare the materials required for transcription and provide them to the ACT, who has been retained by the ordering party.

**All recordings, annotations and documents released to the court transcriptionists for transcription purposes must be securely stored and kept confidential at all times. As well, transcripts produced or in the preparation stage, must be maintained in a secure and confidential manner and released only to the authorized ordering party.**

### 2.1.1 Providing Transcripts to the Judiciary for Reference in Court

When a transcript will be referenced in court, it is the responsibility of the party who intends to reference the transcript to order and provide a certified copy of the transcript to the judicial official, at no cost to the court.

## 2.2 Orders for Restricted Transcripts

**Access to certain transcripts is restricted.** Upon receiving an order for a transcript, to ensure legislative requirements are met, the ACT is required to review the order information and the type of hearing and/or restrictions to determine whether the ordering party is authorized to be provided with the transcript. If there is a restriction to the authorized party receiving the transcript, it is the responsibility of the ACT to contact the ordering party to inform them of the access restriction. The ordering party must obtain a judicial order in order to be authorized to receive the transcript. The ACT is required to include a copy of the judicial order when submitting the Transcription Order Form to the RMC generic mailbox.

The procedures for distribution of restricted transcripts are outlined below.

Note that a publication warning may be required on the cover page and first page of each volume of transcript.

**Access to transcripts is restricted in the following situations outlined in the sections that follow.**

### 2.2.1 Court Orders Restricting Access

A court may make an order restricting access to information about a proceeding in order to protect the privacy and security of parties or witnesses, and the confidentiality of information provided during the proceedings. Any restrictions made by order of the court must be strictly adhered to when preparing transcripts. If a publication ban was ordered during the proceeding, details of the ban are required to be typed on the cover page; table of contents and "Publication Ban" must be inserted as a footer on each page of the transcript.

**Note:** A court ordered publication ban does not restrict access to the transcript; there must be a specific court order restricting access.

### 2.2.2 Youth Criminal Justice Act (YCJA) Proceedings

#### Relevant Websites and Resources

- Youth Criminal Justice Act: <https://laws-lois.justice.gc.ca/eng/acts/Y-1.5/page-13.html?txthl=119>
- Parental Responsibility Act: <https://www.ontario.ca/laws/statute/00p04>
- Young Offenders Act: <https://laws-lois.justice.gc.ca/eng/acts/y-1/index.html>

YCJA records are **NOT publicly accessible**. Access to youth transcripts are prohibited to everyone except designated persons under Section 119 of the *Youth Criminal Justice Act* **AND** then only when the request is made within the legislated access period set out in s. 119(2) of the YCJA. Access to youth transcripts produced under the *Provincial Offences Act* (POA) should be dealt with in the same manner as YCJA matters.

Unless a judicial officer ordered the transcript, the court manager or supervisor must approve the preparation of the transcript. Requests for additional copies of these transcripts should also be referred to the court manager or supervisor for approval. Note that the *Youth Criminal Justice Act* restricted access warning must be included on the cover page of these transcripts.

#### Warning for Youth Criminal Justice Act Transcripts:

INFORMATION CONTAINED HEREIN IS PROHIBITED FROM PUBLICATION PURSUANT TO  
SECTIONS 110 AND 111 OF THE YOUTH CRIMINAL JUSTICE ACT

This warning is not required on transcripts for youths charged under the *Youth Criminal Justice Act* who have received an Adult Sentence, if the transcript is prepared after the 30-day time period for restricted access has elapsed and no appeal has been filed.

Transcripts of *Parental Responsibility Act* matters that use evidence or records pertaining to the *Youth Criminal Justice Act* must include the applicable warning required under the *Youth Criminal Justice Act*.

#### Parties Who May Have Access:

On request, persons designated under s. 119(1) of the YCJA shall be given access to youth justice court transcripts, **as long as the access periods have not expired**. Access periods are set out in s. 119(2).

ACTs may access the YCJA Access chart on the Resources tab of the Authorized Court Transcriptionist for Ontario website.

Where the ACT cannot determine whether the person is entitled to access the transcript they seek, the ordering party should be directed to seek clarification from the Youth Justice Court by way of a Youth Justice Court order.

#### **Access Periods – Non-Disclosure Provisions:**

It is an offence under s. 138(1) of the Youth Criminal Justice Act to provide access or to disclose the records (including transcripts) without judicial authority after the time periods set out in s.119(2)(a) to (j) of the YCJA have expired. Once the access period has expired, access is restricted to everyone except for the young person. (No one, including the Crown can access the transcript after the access period has expired, unless a court order has been obtained). The court, Review Board, police or government agency may not use or disclose the records kept regarding a young person, unless a Youth Justice Court orders otherwise under s. 123(1).

### **2.2.3 Young Offenders Act Proceedings**

The *Young Offenders Act* was repealed and replaced by the *Youth Criminal Justice Act*. Under section 44 of the *Young Offenders Act*, access to transcripts of proceedings against young offenders is restricted to specific individuals. Unless ordered by a judicial officer, the court manager or supervisor must approve the preparation of the transcript and any requests for additional copies.

### **2.2.4 Parental Responsibility Act Proceedings**

Transcripts of *Parental Responsibility Act* matters that use evidence or records pertaining to the *Youth Criminal Justice Act* or the *Young Offenders Act* must be treated like *Youth Criminal Justice Act/Young Offenders Act* transcripts. The transcript may only be provided to the claimant, the claimant's lawyer or agent, the child, the child's parents and the lawyer or agent for the child or the parents.

### **2.2.5 Intake Court Proceedings**

Intake court is a forum for the police and private citizens to present information before a justice of the peace to initiate criminal proceedings, request orders for examination under the *Mental Health Act*, etc. Intake court proceedings are recorded by the presiding judicial officer and authorized persons may request transcripts of the intake court proceedings.

**Access to transcripts of intake proceedings is restricted as follows:** If legal process issues as a result of the hearing (i.e. charges have been filed) transcripts can be produced and distributed. If legal process does not issue as a result of the hearing, transcripts should not be produced nor distributed to anyone without a court order.

**Note:** *As a court reporter does not record and annotate intake court proceedings, it may be acceptable to insert "inaudible" or "indiscernible" in brackets in those areas of the transcript of an intake court proceeding where the ACT is unable to hear what was said, or is unable to discern with certainty what was spoken.*

The ACT who prepares the transcript should certify a transcript from an intake court proceeding as follows:

THIS IS TO CERTIFY THAT the foregoing is a true and accurate transcription of the audio recording number (tape/disk number/year) to the best of my skill, ability, and understanding.

See [Section 5.3.2 – Certification of Audio Recordings that Do Not Contain a Form 1 Certification](#) for more information.

## 2.2.6 Pre-enquête Proceedings

Following an initial intake court interview, the justice of the peace may conduct a *pre-enquête* hearing to determine whether legal process should issue against someone on the basis of information provided (e.g. whether criminal charges should be filed.) This hearing takes place in a courtroom with a court reporter present.

*Pre-enquête* proceedings are conducted *in camera*. Transcripts of a *pre-enquête* hearing are restricted to the **public** as follows:

- **If Process is Issued:** For both private and Crown prosecutions, the documents and transcripts of the *pre-enquête* hearing become publicly accessible once the defendant has been arrested or the summons has been served, unless there are other legislative restrictions to access (i.e. YCJA), or a specific order of the court restricting access.
- **If Process is Not Issued:** The documents and transcript of the *pre-enquête* hearing are not publicly accessible.

Where the justice of the peace has adjourned the hearing, access is denied unless ordered by the Court.

## 2.2.7 Record Suspensions and Clemency (formerly ‘Pardons’)

### Relevant Websites and Resources

- Criminal Records Act: <https://laws-lois.justice.gc.ca/eng/acts/C-47/index.html>
- Policy and Procedures on Public Access to Court Files, Documents and Exhibits: <https://www.ontario.ca/document/access-court-files-documents-and-exhibits>

A record suspension allows people who were convicted of a criminal offence, but have completed their sentence and demonstrated they have rehabilitated themselves, to have their criminal record kept separate and apart from other criminal records.

Under the Criminal Records Act, the Parole Board of Canada may order, refuse to order, or revoke a record suspension for convictions under federal acts or regulations of Canada. The Parole Board of Canada is the official and federal agency responsible for making record suspension decisions.

Ontario has adopted a policy that the subject of the record suspension may be provided a copy of any records that still exist if they (or a designated person acting on their behalf) requests this.

Such a request should be made in writing to the court by using the “Request for Copies of Court Documents” form. Proper identification must be provided and staff must be satisfied that the person requesting the record (or the designated person acting on their behalf) is in fact the person to whom the record relates.

More information about the Ministry of the Attorney General’s policies and procedures on public access to court files, documents and exhibits is available online on the government of Ontario’s website.

## 2.2.8 Absolute and Conditional Discharges

An **Absolute Discharge** may only be transcribed within one year from the date the discharge was issued.

A **Conditional Discharge** may only be transcribed within three years from the date the discharge was issued.

Following these specified time periods, no further transcripts of the individual’s case may be prepared without a court order [s.6.1(1) of the *Criminal Records Act*.]

**Exception:** The person who is the subject of the discharge may be provided a transcript if they (or a lawyer acting for them) provides appropriate identification, or if requested by an enforcement agency that requires the document for the purpose of investigation of another matter.

## 2.2.9 Child Protection Proceedings

Under Section 87(4) of the *Child, Youth and Family Services Act, 2017* (CYFSA), child protection hearings and appeals of child protection decisions are closed to the public unless ordered by the court. Access to transcripts of CYFSA proceedings may only be given to a party to the hearing or a party's solicitor. **Other persons, including legal publishers, may not be given transcripts of these proceedings unless the court orders otherwise.** Parties to these proceedings are usually the Children's Aid Society and the child's parents. Ensure you have the correct corporate name of the approved child protection agency on the cover page.

## Openness Proceedings

Openness proceedings are confidential and are restricted under the *Child, Youth and Family Services Act, 2017*. **Access to transcripts of openness proceedings is restricted to the parties to the proceeding and their lawyers or agents.**

There are three types of openness orders:

1. If a child who is in extended society care is the subject of a plan for adoption, the children's aid society may make an application for an "openness order" any time before the child is adopted. [194(1), CYFSA].
2. If a child who is in extended society care is the subject of a plan for adoption and there is an outstanding access order, the children's aid society must give notice to every person who has been granted a right of access under the access order, and every person with respect to whom access has been granted under the access order. Every person who has been granted a right of access may bring an openness application within 30 days of being given notice that the children's aid society intends to place the child for adoption. [196(1), CYFSA].

If a child is a First Nations, Inuk or Métis child who under an Extended Society Care order is the subject of a plan of adoption, the children's aid society must give notice to a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities and the child [s.197(1), CYFSA]. The child and/or the representative of the child's bands, and First Nations, Inuit or Métis communities may file an application for openness.

## 2.2.10 Adoption Proceedings

Under 204(1) and 215(6) of the *Child, Youth and Family Services Act, 2017*, an application for an adoption order or an appeal of an adoption order shall be heard and dealt with in the absence of the public. **Under 222(2) of the *Child, Youth and Family Services Act, 2017*, documents and the in-court recordings and annotations are sealed and filed in the court office and must not be opened except by court order.** A party requesting a transcript must make an application to the court to have the adoption envelope unsealed. If the applicant is successful, they must provide a copy of the order to court staff responsible for processing transcript orders.

## 2.2.11 Conferences

### a) Superior Court of Justice Criminal Pre-trial Conferences

Pre-trial conference hearings in the Superior Court of Justice are subject to a publication ban. **Transcripts cannot be ordered by either party without notice to all parties and the written approval of the pre-trial conference judge or another judge of the court.** Should the release of any pre-trial conference transcript be granted, the transcript must include the publication ban warning.



Rule 28.05 of the Superior Court of Justice Criminal Proceedings Rules made pursuant to s. 482 and s. 625.1 of the Criminal Code of Canada directs that unless otherwise ordered by the pre-trial conference judge, a pre-trial conference in a case where all parties are represented by counsel shall be conducted in a pre-trial conference room, judges' chambers or other suitable room in the courthouse where a full and frank discussion of the issues raised in the proceedings may take place. Where any party is not represented by counsel, the pre-trial conference shall be held in a courtroom closed to the public, and shall be recorded and the proceedings not published, broadcast or transmitted in any way, except by order of the pre-trial conference judge.

## b) Family Law Conferences

### Relevant Websites & Resources

- Family Law Rules: <https://www.ontario.ca/laws/regulation/990114>

Rule 17 of the Family Law Rules provides for three types of conferences: case conferences, settlement conferences and trial management conferences. These conferences may be recorded at the request of the presiding judicial official. These recordings are for the judge's use only. Transcripts of these recordings cannot be provided to any party without a court order or the consent of the presiding judicial official.

## 2.2.12 Small Claims Court Hearings

### Relevant Websites and Resources

- Rules of the Small Claims Court: [https://www.ontario.ca/laws/regulation/980258 - s20p10s6](https://www.ontario.ca/laws/regulation/980258-s20p10s6)

### Debtor Examination Hearings

In Small Claims Court a creditor may request an examination hearing if there is a default under an order for the payment or recovery of money. An examination of the debtor takes place under oath. The court and the creditor are provided information with respect to the debtor's financial situation. The public is not allowed to attend these proceedings unless ordered otherwise by the court. **Access to transcripts of these examinations in Small Claims Court is restricted to the parties only.**

### Settlement Conferences

Settlement conference hearings in the Small Claims Court may be recorded. Access to transcripts of these proceedings is restricted and should not be produced or distributed to anyone without a court order.

## 2.2.13 In Camera or Excluded Proceedings

### Relevant Websites and Resources

- Criminal Code of Canada: <https://laws-lois.justice.gc.ca/eng/acts/c-46/>

When the public is excluded from a court proceeding (*in camera* proceeding), the public may not have access to records relating to that portion of the proceedings. This includes the portion of the transcript where the public was excluded, the Information or any order that may have resulted.

The *Criminal Code* provides an option for exclusion of the public (*in camera* proceedings) in a number of circumstances, including:

- Section 486(1) - Exclusion of the public in certain cases
- Section 486.5(6) - Judge may hold private hearing to determine whether a publication ban under s. 486.4 or 486.5 should be made



- Section 278.93(3) and s. 278.94(1) - Evidence of complainant's sexual activity
- Section 278.4(1) and s. 278.6(2) - Production of record to accused
- Section 462.34(5) - Hearing to determine reasonableness of expenses in relation to an application of review of special warrants and restraint orders
- Section 672.5(6) - Exclusion of public from all or part of disposition hearing re: Mental Disorder
- Section 672.5(10) and s. 672.51(6) - Exclusion of accused and/or certain persons from (Mental Disorder) disposition hearing.

**Note:** *This list may not be exhaustive.*

If the public (or specific persons) is excluded under one of these sections, or on any other basis where the court orders that the public be excluded, the court records relating to that part of the proceedings in which the public was excluded should not be made accessible to anyone other than those parties that were exempted from the order (i.e. those participating in the hearing). All other persons requesting access must obtain a court order permitting access.

If the public is excluded from a portion of the proceedings, no access shall be given to any transcript or record made in relation to that portion of the proceedings in which the public was excluded.

### 2.2.14 Non-Disclosure of Witness Identity Orders under Section 486.31 of the Criminal Code

Section 486.31 of the Criminal Code authorizes the court to make an order to prevent witnesses from being disclosed and/or allows the witness to testify using a pseudonym in place of the witness' name. The judicial official may determine the appropriate pseudonym. When this order is made, all court documents and information relating to the case, including court recordings and transcripts, are not publicly accessible without an order of the presiding judicial official. Any party requesting a transcript must bring an application before the court requesting access, and if granted, provide the ACT with a copy of the order.

Once a section 486.31 order is made, previously recorded proceedings in the same case must not be disclosed, including transcripts that may have been previously prepared and released. Recording management staff will contact all ACTs who previously received recordings for the purposes of transcript production to advise that a justice has subsequently issued a non-disclosure order and no further copies of the transcript may be produced or released without a court order. Any recordings in the possession of the ACT for purposes of transcript production must be immediately destroyed or rendered inoperable. ACTs must comply with this non-disclosure order.

Should an applicant be successful in obtaining a court order to have the proceedings transcribed, ACTs are to transcribe verbatim and not edit either the name of the witness who testified by pseudonym or any portion of the transcript in any way.

## 2.3 Automatic Transcripts

Automatic transcript orders are generated automatically either because of the type of the proceeding or the disposition of the proceeding. Court staff will identify and provide information to the Recording Management staff when a transcript is required automatically. Court Services Division will place the transcript order with an ACT selected from the Authorized Court Transcriptionists for Ontario website.

**Transcripts are automatically prepared in the following situations:**

### 2.3.1 Mental Health Disorder Disposition Hearings

#### Relevant Websites & Resources

- Section 672.52 of the Criminal Code of Canada: <https://laws-lois.justice.gc.ca/eng/acts/c-46/page-104.html#docCont>

The court may make a finding that an accused is **not criminally responsible** due to mental disorder; or the court may make a finding that the accused is **unfit to stand trial**. If either of these findings is made, the court may hold an initial disposition hearing or refer the initial disposition hearing to the Ontario Review Board. Following are the four possible outcomes of a disposition hearing and the requirements for each:

1. The court may decide not to make a disposition and defer the matter to the Ontario Review Board:

| What to Include in the Transcript                                                                                                                                                        | No. of Copies            | Distribution and Invoicing Instructions                        | Transcript Required Within                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------------------------------------------|--------------------------------------------|
| Transcript of Proceedings in which referral to the Ontario Review Board was made and/or any other transcripts that the justice may order.<br><i>[s.672.52 - Criminal Code of Canada]</i> | One Certified Electronic | Submit the transcript and invoice to: Court Services Division. | 7 days from the date of the judicial order |

2. The accused may be ordered detained in custody in a hospital:

| What to Include in the Transcript                                        | No. of Copies            | Distribution and Invoicing Instructions                        | Transcript Required Within                  |
|--------------------------------------------------------------------------|--------------------------|----------------------------------------------------------------|---------------------------------------------|
| Transcript of Proceedings<br><i>[s.672.52 - Criminal Code of Canada]</i> | One Certified Electronic | Submit the transcript and invoice to: Court Services Division. | 30 days from the date of the judicial order |

3. Conditional Discharge: The offender may be ordered discharged to the community with conditions:

| What to Include in the Transcript                                                                                       | No. of Copies            | Distribution and Invoicing Instructions                        | Transcript Required Within                  |
|-------------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------------------------------------------|---------------------------------------------|
| Any portions of the proceeding as indicated in the Order for Transcript.<br><i>[s.672.52 - Criminal Code of Canada]</i> | One Certified Electronic | Submit the transcript and invoice to: Court Services Division. | 30 days from the date of the judicial order |

4. Absolute Discharge: For findings of not criminally responsible only, the accused is discharged absolutely.

| What to Include in the Transcript                                                                     | No. of Copies            | Distribution and Invoicing Instructions                        | Transcript Required Within                  |
|-------------------------------------------------------------------------------------------------------|--------------------------|----------------------------------------------------------------|---------------------------------------------|
| Any portions as indicated in the Order for Transcript.<br><i>[s.672.52 - Criminal Code of Canada]</i> | One Certified Electronic | Submit the transcript and invoice to: Court Services Division. | 30 days from the date of the judicial order |

The contact information for the Ontario Review Board is:

The Ontario Review Board, 10th Floor, 151 Bloor Street West,  
Toronto Ontario  
M5S 2T5

Telephone: (416) 327-8868  
Email: [ORB@ontario.ca](mailto:ORB@ontario.ca)  
Fax: (416) 327-8867

### 2.3.2 Proceedings under the Interjurisdictional Support Orders Act

|                                 |                                                                                                                                                                                           |
|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Relevant Websites and Resources | <ul style="list-style-type: none"><li>Interjurisdictional Support Orders Act: <a href="https://www.ontario.ca/laws/statute/02i13">https://www.ontario.ca/laws/statute/02i13</a></li></ul> |
|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The *Interjurisdictional Support Orders Act (ISOA)* sets out procedures for making and varying child or spousal support orders when one party lives in Ontario and the other lives in a reciprocating jurisdiction. Court staff will identify *ISOA* matters from the case event list as requiring an automatic transcript.

| What to Include in the Transcript | Deliver the Transcript to | No. of Copies            | Invoicing Instructions                    | Transcript Required Within       |
|-----------------------------------|---------------------------|--------------------------|-------------------------------------------|----------------------------------|
| Transcript of Proceedings         | Court Services Division   | One Certified Electronic | Submit invoice to Court Services Division | 30 days from the date of hearing |

### 2.3.3 Proceedings under Section 44 of the Family Law Act

Section 44 of the *Family Law Act* deals with the making or variation of support by a provisional support order, where the responding party fails to appear and lives more than 150km from where the case is heard. If the court orders a “provisional” support order because the responding party did not appear and lives more than 150 km from where the case was heard, transcripts of the entire hearing must be automatically prepared.

Court staff will identify s.44 *Family Law Act* proceedings required to be transcribed from the disposition (provisional support order) or from the case event list.

| What to Include in the Transcript | Deliver the Transcript to | No. of Copies            | Invoicing Instructions                    | Transcript Required Within       |
|-----------------------------------|---------------------------|--------------------------|-------------------------------------------|----------------------------------|
| Transcript of Proceedings         | Court Services Division   | One Certified Electronic | Submit invoice to Court Services Division | 30 days from the date of hearing |

### 2.3.4 Proceedings under Section 18 and Section 19 of the Divorce Act

Section 18 and section 19 of the *Divorce Act* deals with variation of support by a provisional support order, where the responding party lives in another province or territory.

Court Services Division will place the transcript order with an ACT selected from the Authorized Court Transcriptionists for Ontario website.

Provide Court Services Division with the transcripts for distribution.

| <b>What to Include in the Transcript</b> | <b>Deliver the Transcript to</b> | <b>No. of Copies</b>     | <b>Invoicing Instructions</b> | <b>Transcript Required Within</b> |
|------------------------------------------|----------------------------------|--------------------------|-------------------------------|-----------------------------------|
| Transcript of Proceedings                | Court Services Division          | One Certified Electronic | Court Services Division       | 30 days from the date of hearing  |

### 2.3.5 Incarceration in a Provincial Correctional Institution - Level 1 Offences

When an offender is sentenced to incarceration for longer than six months but less than two years for a Level 1 offence, they may be required to serve their sentence in a provincial correctional institution. A transcript of the charge to the jury and/or reasons for sentence will be ordered.

| <b>What to Include in the Transcript</b>                                  | <b>Deliver the Transcript to</b> | <b>No. of Copies</b>     | <b>Invoicing Instructions</b>                                                                                                                                                                                                  | <b>Transcript Required Within</b>                                                             |
|---------------------------------------------------------------------------|----------------------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Reasons for Sentence, and the Summary of Facts if ordered by the justice. | Court Services Division          | One Certified Electronic | Submit an Invoice for Service to Court Services Division. Mark invoice with budget code 546210. Note on the invoice that transcript is for an automatic transcript order for a sentence of six months to two years less a day. | 30 days from conviction (7 days if only the Reasons for Judgment and/or Sentence are ordered) |

# SECTION 3: Preparing the Transcript

## 3.1 Provision of Court Recordings for the Purposes of Transcript Production

ACTs are required to sign an *Undertaking of Authorized Court Transcriptionist for Access to Digital Audio Court Recordings* in order to be authorized to receive access to audio recordings for the purpose of transcript production. All relevant court recordings, annotations/log notes and supporting materials (such as copies of case law), filed with the recording management office will be provided to the ACT in the transcript preparation package. For clarification of information available on an exhibit, contact the recording management office.

If the ACT requires additional information to assist with transcription, they may contact the ordering party to obtain this information or contact the courthouse where the proceeding took place.

Once a transcript has been prepared and certified, the annotations/log notes, recordings must be destroyed as per the Undertaking of Authorized Court Transcriptionist for Access to Digital Audio Court Recordings.

### 3.1.1 Couriering Audio Recordings and Related Transcription Materials to ACTs

Where e-Delivery and Sensitive Content Management (SCM) is not available, the Superior Court of Justice and the Ontario Court of Justice have advised they will permit digital court recording files to be sent to the Authorized Court Transcriptionist (ACT) via courier on an encrypted CD.

The ACT must use a **bonded** courier company and must explicitly identify the name of the bonded courier company that will be responsible for pick-up and delivery of the encrypted CD. The ACT should provide this information in an email to recording management staff. Courier services must be paid for by the ACT.

Once the digital recording file and related materials has been couriered, recording management staff will provide the ACT with the password to decrypt the file by way of a separate email or by telephone. In order to decrypt the CD, the ACT must copy the encrypted file from the CD to their desktop. Once the file is copied onto the desktop, the ACT can double click on the file to enter the decryption password. If the ACT's computer does not recognize or automatically decrypt the file, the ACT may need to add a free software utility available at <https://secure.entrust.com/passworddecrypt/>.

## 3.2 Timeframes for Transcript Production

The ACT and the ordering party will agree to all aspects of the transcript order including availability to prepare and certify the transcript within the required timeframe and any specific delivery requirements. To assist in discussions with the ordering party, the ACT may want to take into consideration:

- Current commitments to complete other transcripts
- Length of the proceeding
- Complexity of the proceedings ordered (e.g., research may be required for instance on highly technical matters to confirm spellings, context etc.)
- Judicial editing requirements
- Purpose of the transcript (e.g. appeal transcripts for the Court of Appeal for Ontario must be transcribed within 90 days)
- Compliance with all terms of the Undertaking of Authorized Court Transcriptionist for Access to Digital Audio Court Recordings

### 3.2.1 Timelines for Completing Transcripts

Unless otherwise agreed to with the ordering party, the chart below provides an overview of the transcript timelines:

| Type of Transcript                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Timeline      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Bail hearings ordered for the purpose of a bail review scheduled to be held with two clear days' notice, or when required by the ordering party should be transcribed within 48 hours.<br><br>Pursuant to Section 520 and 520 (2) of the Criminal Code of Canada a bail review is able to be scheduled with two days clear notice.                                                                                                                                                                                                                                                                                     | 48 hours      |
| Application for Stay                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 7 days        |
| Reasons for Judgment or Sentence                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 7 days        |
| Disposition Hearings (other than automatic transcripts)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 7 days        |
| All Other Transcripts (non-Court of Appeal)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 30 days       |
| Court of Appeal Transcripts<br>See the following Practice Directions:<br>a) Court of Appeal Practice Direction respecting the timely hearing of criminal appeals<br><br>Please refer to the new Criminal Appeal Rules (effective November 1, 2021) for new timelines for the production of transcripts (Rule 37 – Transcripts – Production)<br><br>b) Practice Direction Concerning Civil Appeals in the Court of Appeal                                                                                                                                                                                               | 45 to 90 days |
| See Section <a href="#">2.3 Automatic Transcripts</a> for timelines and all other information regarding the following automatic transcript orders: <ul style="list-style-type: none"><li>▪ Sentence to a provincial correctional institution on level one offences</li><li>▪ <i>Interjurisdictional Support Order Act</i> hearings</li><li>▪ Section 44 <i>Family Law Act</i> hearings</li><li>▪ <i>Divorce Act</i> - Section 18 and 19 hearings</li><li>▪ Mental disorder disposition hearings</li><li>▪ Dangerous offender/long-term offender applications</li><li>▪ Judicial review of parole eligibility</li></ul> |               |

Reasonable time frames for completion of a transcript depend on the length, type and purpose of the transcript.

### 3.3 Examining the Form 1 Prior to Certification

#### Relevant Websites and Resources

- Ontario Regulation 158/03: Certification of Recordings and Transcripts: <https://www.ontario.ca/laws/regulation/030158>

The individual who recorded the court proceedings completes and signs a certificate in Form 1 ([O. Reg. 158/03](#)).

When ACTs complete a transcript, a Certificate of Transcript in Form 2 (for paper transcripts) or Form 3 (for electronic transcripts) must be signed to indicate the recording from which the transcript was prepared has been certified in Form 1. When preparing a transcript from a sound recording, the ACT must examine the Form 1, or a certified true copy of the Form 1 that was completed for the sound recording, in order to confirm that the sound recording has been certified. The Certificate of Transcript must contain the exact wording as regulated in *O. Reg. 158/03*.

### 3.4 Transcript Formatting Rules

All transcripts must adhere to the specific formatting rules summarized below [R. 4.09 Rules of Civil Procedure].

Authorized Court Transcriptionists must adhere to the formatting rules as set out in this manual. Authorization to prepare and certify court transcripts is limited to an individual. Business identifiers and advertising may not be included in the transcript.

[See section 5.3](#) for more information on transcript certification standards.

#### 3.4.1 Page Layout

Transcripts must be transcribed on approved, letter-sized transcript paper (216 x 279 mm) [AG 0087] with a vertical line 25 mm from the left side. The left margin of the transcript must be placed within the space delineated by the horizontal indicators at the top and bottom of this vertical line. Transcripts must have thirty-two lines of text per page, and every fifth line must be numbered in the margin.

#### 3.4.2 Headings

Capitalize and underline heading titles such as `EXAMINATION IN-CHIEF` or `REASONS FOR SENTENCE` and separate the heading title from the preceding text by two lines at 1.5 spacing.

#### 3.4.3 Time Notations

Time notations should only be included in transcripts of proceedings before a judge and jury. In these cases, the time of court opening, recesses, adjournment, jury entrances, and jury exits must be placed in brackets on the right margin.

### 3.4.4 Format of Questions and Answers

Every question or answer should start on a new line. Begin the first line with a “Q.” for question or “A.” for answer, indented 35 mm from the left margin. The text of the question or answer should follow within 10 mm of the “Q.” or “A.” Because of these indents, the first line of questions and answers should be a maximum of 130 mm in length. Other than this first line, every other line of questions and answers are not indented, and therefore should be a maximum of 165 mm in length.

### 3.4.5 Format for All Other Text

All lines of text that are not questions or answers should be indented 35mm from the left margin.

### 3.4.6 Page Numbers

The pages of the Table of Contents must be numbered using lower-case Roman numerals in parentheses (e.g. (i), (ii)). All pages in the body of the transcript, including the first page, must be numbered with Arabic numerals followed by a period (e.g. 1.) Page numbers should be centred at the top of the page.

### 3.4.7 Page Header

Include a short page header describing the proceedings. The header is placed at the top of each page (e.g. witness and type of examination, *voir dire*, committal, reasons for judgment, and reasons for sentence). The page header should be centred immediately beneath the page number.

14.  
Reasons for Sentence

When the examination of a witness is indicated in the header, the **full first name and last name** is to be set out, as follows:

7.  
Douglas Bell - in-Ch.  
Douglas Bell - Cr-Ex.

Note: When the court allows further cross-examination after completion of examination in-chief, cross-examination, and re-examination, the page header should indicate “Cr-Ex.” and not “re-Cr-Ex.”

Example of Header setting out witness testifying on a *voir dire*

22.  
Douglas Bell - Cr-Ex.  
(Voir Dire)

### 3.4.8 Cover Page

Every transcript of evidence must have a cover page indicating:

- Court name



- Court file number or appeal number assigned by the appellate court (Ontario Court of Justice, Superior Court of Justice, Court of Appeal or Divisional Court) (in the top right-hand corner)
- Title of the proceeding (as documented in the court file)
- Nature of the hearing, if clear. If not, type "P R O C E E D I N G S" in expanded text, as shown
- Place and date of the hearing
- Name of the presiding judge or officer
- Names of counsel

### 3.4.9 Table of Contents

Every transcript of evidence must have a table of contents including:

- Name of each witness with the page numbers at which the examination, cross-examination and re-examination of that witness commenced
- Page number at which the reasons for judgment commenced
- List of exhibits with the page number at which they were made exhibits. Note: descriptions of exhibits filed should mirror the description in the table of contents page
- For jury trials, the page number at which the charge to the jury, the objections to the charge and the re-charge commences
- Date the transcript was ordered, the date it was completed and the date the parties were notified of the completion (indicated at the bottom of the page)

### 3.4.10 Font

The provincial standard font for transcripts is 12 point Courier with line spacing set at 1.5, which will produce the standard 32 lines per page.

### 3.4.11 Format and Wording for Transcribing a Playback

Include the following notification in the transcript if a readback/playback occurred during the proceedings:

|                                                 |
|-------------------------------------------------|
| ... PLAYBACK PROVIDED AS REQUESTED BY THE COURT |
|-------------------------------------------------|

The portion of the proceeding which was played back is not transcribed, but is indicated as set out above. However, if the ordering party wishes a transcript of the evidence that was played back, it must be requested in the Transcript order form. The transcript of the portion played back is produced from the original testimony and not produced from the playback of the recording.

### 3.4.12 Format for other Types of Proceedings

ACTs should refer to the examples set out on the Authorized Court Transcriptionist for Ontario website for guidance regarding transcription of various types of proceedings and situations.

### 3.4.13 Preparing Transcripts that have Multiple Volumes for Court of Appeal

The Court of Appeal is currently accepting electronic transcripts (see [section 7](#) of this manual for Court of Appeal Practice Directions Concerning Electronic Certification of Court Transcripts during COVID-19).

Only when there is a requirement by the Court of Appeal to file paper format transcripts that include multiple volumes, ACTs should ensure that the volume numbers and pagination are sequential. For

instance, Volume 1 would include pages 1-250; Volume 2 would include pages 251-500, etc. Transcripts for the Court of Appeal for Ontario may be printed double-sided unless otherwise instructed.

### 3.4.14 Front and Back Covers

Where there is a requirement to file certified court transcripts in paper format, covers must be from 176g/m<sup>2</sup> cover stock, in the following colours:

| Court                     | Type of Proceeding | Front Cover | Back Cover | Authority                                                                                                        |
|---------------------------|--------------------|-------------|------------|------------------------------------------------------------------------------------------------------------------|
| Ontario Court of Justice  | Criminal           | None        | Light Blue | Rule 4.07 (2) - Criminal Rules of the Ontario Court of Justice                                                   |
|                           | Family             | None        | Light Blue | Note: Criminal Rules of the Ontario Court of Justice apply to OCJ Family transcripts.                            |
| Superior Court of Justice | Criminal           | None        | Red        | Rule 4.07 (2) - Superior Court of Justice Criminal Proceedings Rules                                             |
|                           | Civil              | None        | Light Grey | Rule 4.07 (4) - Rules of Civil Procedure                                                                         |
|                           | Family             | None        | Light Grey |                                                                                                                  |
| Appeal Transcripts        | All                | Red         | Red        | Rule 4.07 (4) - Rules of Civil Procedure<br>Rule 4.07 (4) - Superior Court of Justice Criminal Proceedings Rules |

### 3.4.15 Gender Specific Titles

When **referring** to Crown Attorneys and Counsel in transcripts, the use of “Mr.” and/or “Ms.” is to be replaced with their first initial. For example:

| Current Requirement<br>(Non-gender specific titles)                | Previous Standard<br>(Gendered titles)                              |
|--------------------------------------------------------------------|---------------------------------------------------------------------|
| <b>S.</b> SMITH: Your Honour, Susan Smith for Crown.               | <b>MS.</b> SMITH: Your Honour, Susan Smith for Crown.               |
| <b>M.</b> JANNER: Michael Janner, counsel for my client, John Doe. | <b>MR.</b> JANNER: Michael Janner, counsel for my client, John Doe. |

Please note that ACTs are still required to type verbatim what is **spoken** on the record. If a speaker uses gender specific titles to address a party to the proceeding, ACTs will continue to type exactly what is said. For example:

S. SMITH: **Mr.** Davis, what is your current address?

## 3.5 Transcript Template

Use the electronic transcript page template [AG 0087] which is available exclusively to ACTs on the Authorized Court Transcriptionists for Ontario website. For paper transcripts, they may be printed double-sided unless otherwise instructed but must be printed consistently throughout each volume of the proceedings.

## 3.6 Preparing Transcripts with Publication Bans

**Do not edit transcripts with publication bans to delete information that reveals the identity of the participants.** The transcript must accurately reflect what occurred during the proceedings.

ACTs must ascertain whether there is a publication ban which has been ordered on a previous appearance when transcribing a continuing matter, i.e. preliminary inquiry, trial, etc.

Transcripts with publication bans must contain a warning on the cover page, on the Table of Contents and an indication of "Publication Ban" in the footer of each page of the transcript.

A publication ban does not imply a transcript may not be produced, nor does it necessarily place a restriction on who may receive a transcript. It is incumbent upon the ordering party to ensure that the ban is complied with unless and until the ban is lifted.

## 3.7. Warning for Youth Criminal Justice Act Transcripts

All youth court matters must have a warning designated by the *Youth Criminal Justice Act*. This warning prohibits the publication of the name of the youth and any evidence that may identify the youth. As well, it prohibits the publication of the name of a child or young person or any other information related to a child or young person that may identify the child or young person as having been a victim or a witness in connection with an offence committed by a young person.

The youth warning must be placed on the cover page and table of contents page along with any publication ban warnings.

In addition to the warning under the *Youth Criminal Justice Act*, the justice may impose an additional publication ban, which would then ban publication of all, or specified parts of the evidence. As well, any proceedings under the *Parental Responsibility Act* that refer to a transcript of a youth proceeding must contain this warning.

INFORMATION CONTAINED HEREIN IS PROHIBITED FROM PUBLICATION PURSUANT TO  
SECTIONS 110 AND 111 OF THE *YOUTH CRIMINAL JUSTICE ACT*

This warning is not required on transcripts for youths charged under the Youth Criminal Justice Act who have received an adult sentence, if the transcript is prepared after the 30-day time period for restricted access has elapsed, and an appeal has not been filed.

### 3.7.1 Warning for Transcripts of Child Protection and Adoption Proceedings

All transcripts produced for either a child protection and adoption hearing must have a warning placed on the cover page and the table of contents of the transcript. There is a specific wording for *Child, Youth and Family Services Act, 2017* (CYFSA) matters and another specific warning for an adoption hearing. The placement of the CYFSA warning on the cover page of the transcript is exactly the same as the placement of the publication ban warnings.

Pursuant to s.87(10) of the CYFSA, no person except a party or a party's solicitor shall be given a copy of a transcript of the hearing, unless the court orders otherwise.

### Child Protection Proceedings:

INFORMATION CONTAINED HEREIN IS PROHIBITED  
FROM PUBLICATION PURSUANT TO  
SECTIONS 87(7) and 87(8) OF THE  
*CHILD, YOUTH AND FAMILY SERVICES ACT, 2017*

### Adoption Proceedings:

INFORMATION CONTAINED HEREIN IS PROHIBITED  
FROM PUBLICATION PURSUANT TO SECTIONS 204(1), 204(2), 215(6), 222(2) AND  
227(1) OF THE *CHILD, YOUTH AND FAMILY SERVICES ACT, 2017*.

**Note:** For hearings heard under the *Child and Family Services Act*, the style of cause on the title page should reference the “point in time” of the legislation; however, the prohibition regarding the publication should reference the sections in the new legislation.

## 3.7.2 Warning for Transcripts Subject to Court Ordered Publication Bans

#### Relevant Websites and Resources

- Information on Publication Bans:  
<https://www.ontario.ca/page/publication-bans>

When the court imposes a publication ban, the transcript is still accessible to authorized parties. It is important that the details of the publication ban are set out on the cover page and table of contents of the transcript, as well as a notation of “Publication Ban” in the footer of each subsequent page.

**Note:** If the court orders a specific publication ban on a transcript of a proceeding under the *Youth Criminal Justice Act*, this specific warning should be included in addition to the standard warning on all *Youth Criminal Justice Act* transcripts.

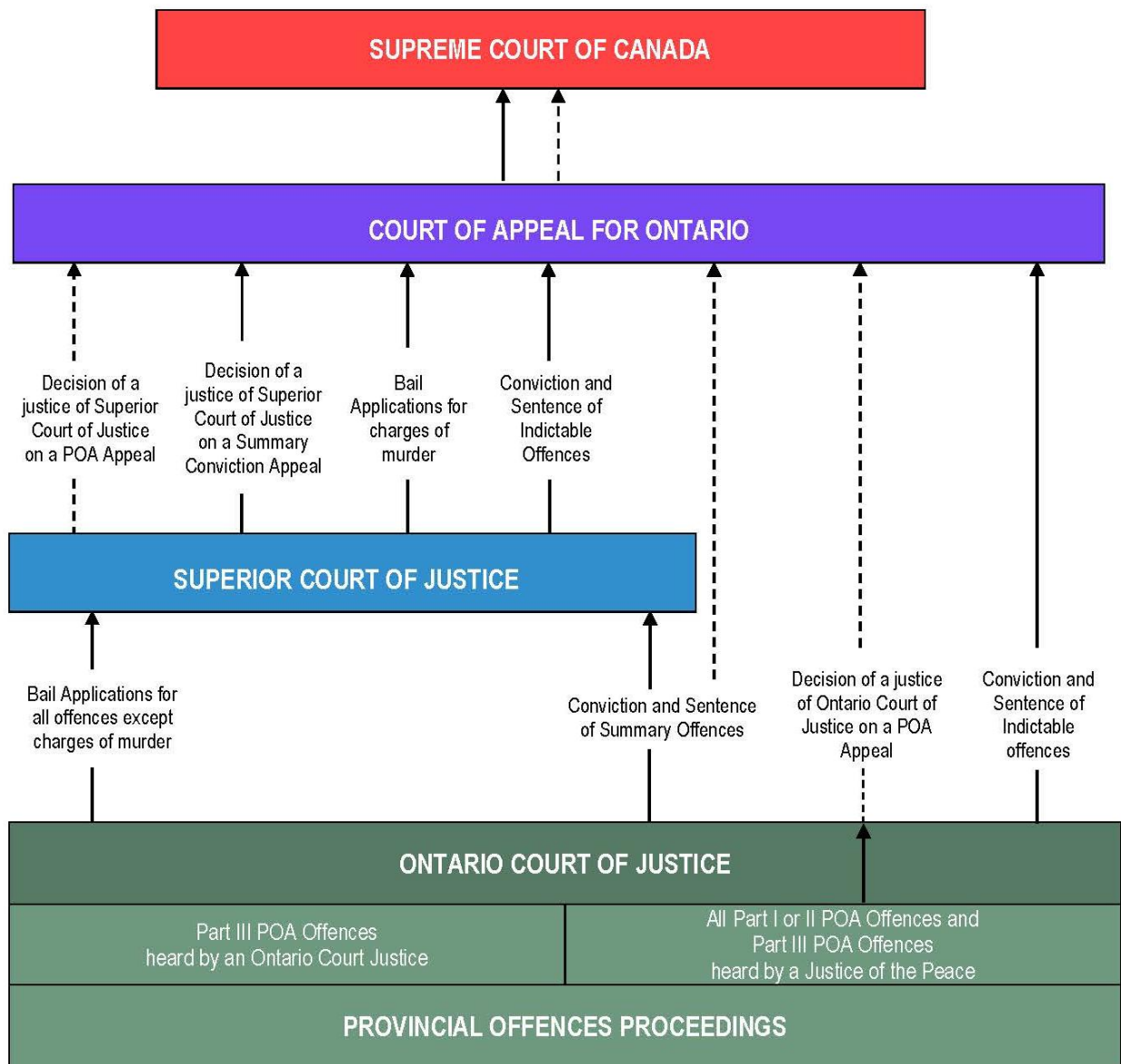
More information about publication bans can be found on the government of Ontario’s website.

## 3.8 Preparing Transcripts for Appeal

Procedures with respect to transcripts prepared for appeal are governed by the following rules:

|                                                                                                                                    |                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">R. 40.06 Criminal Proceedings Rules</a><br>(Applicable to summary conviction appeals to the Superior Court of Justice) | <a href="#">R.61.05 Rules of Civil Procedure</a><br>(Applicable to civil and family appeals to the Divisional Court and the Court of Appeal) |
| R. 36, <a href="#">37 &amp; 38, 57 and 67 Criminal Appeal Rules</a><br>(Applicable to criminal appeals to the Court of Appeal)     | <a href="#">R. 38 Family Law Rules</a><br>(Applicable to appeals from Family Court).                                                         |

### 3.8.1 Criminal Appeal Routes



Direct Appeal Route

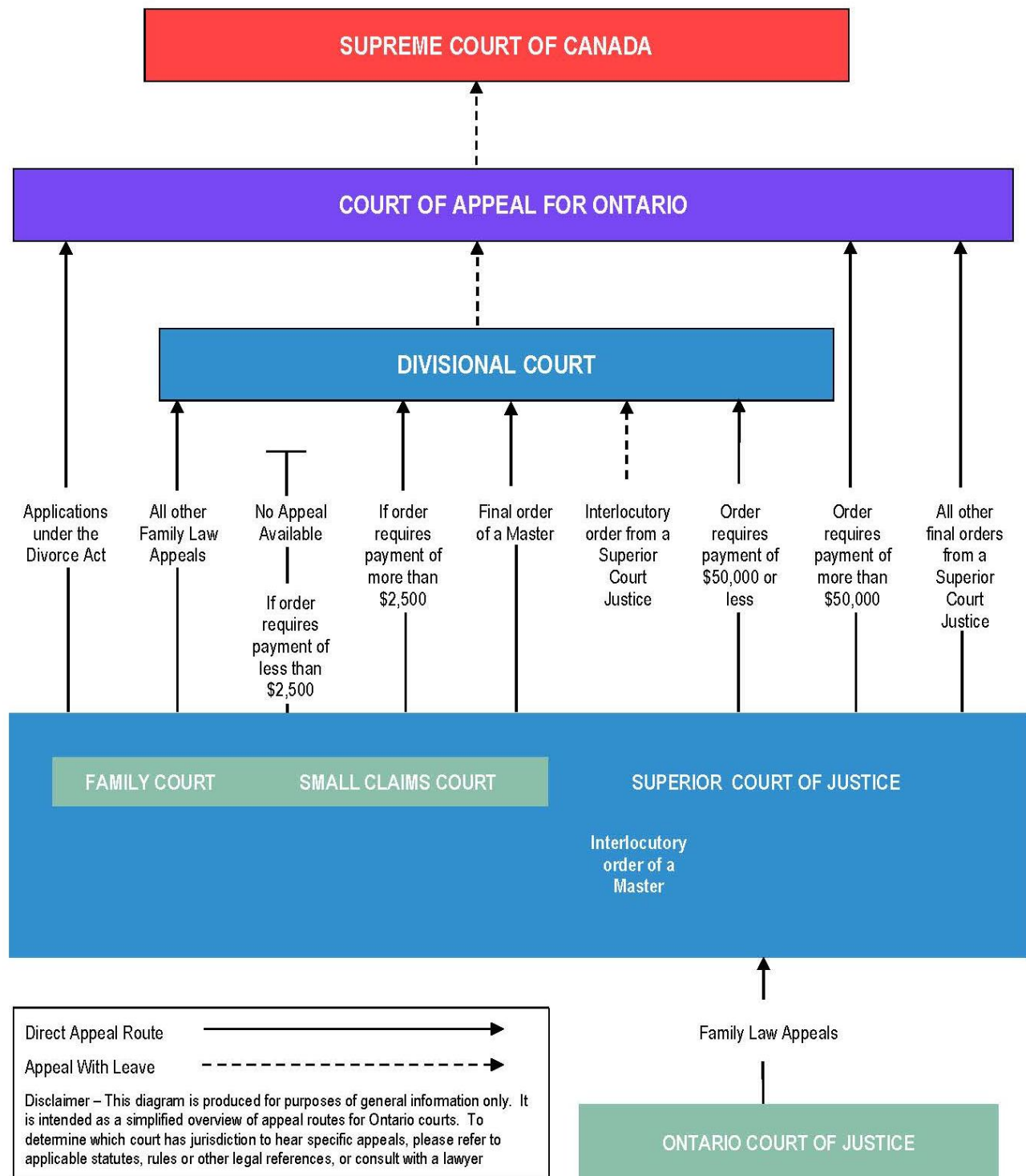


Appeal With Leave



Disclaimer – This diagram is produced for purposes of general information only. It is intended as a simplified overview of appeal routes for Ontario courts. To determine which court has jurisdiction to hear specific appeals, please refer to applicable statutes, rules or other legal references, or consult with a lawyer.

### 3.8.2 Civil and Family Appeal Routes



### 3.8.3 Transcript Certificates Related to Appeals

#### Relevant Websites and Resources

- Criminal Appeal Rules Forms:  
<https://ontariocourtforms.on.ca/en/criminal-appeal-rules-forms/>

The table below sets out the certificates required to be filed when transcripts are ordered and completed for the purposes of appeal.

| Appeal Certificates for Transcripts                                                    |                                                                                                    |                                                                                              |
|----------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| Appeals to Divisional Court                                                            | <b>Form RR 0384</b><br>Certificate/Proof of Ordering<br>Transcript for Appeal                      | <b>Form RR 0051</b><br>Certificate of Completion                                             |
| Summary Conviction<br>Appeals to the Superior<br>Court of Justice                      | <b>Form CSR-2C-40.08</b><br>Authorized Court Transcriptionist's<br>Certificate Respecting Evidence | <b>Form CSR-2D-40.08</b><br>Authorized Court<br>Transcriptionist's Completion<br>Certificate |
| Criminal Appeals to the<br>Court of Appeal for Ontario                                 | <b>Form 14</b><br>Certificate of Transcript Order                                                  | <b>Form 16</b><br>Certificate of Transcript<br>Completion                                    |
| Civil Appeals to the<br>Court of Appeal for Ontario                                    | <b>Form RR 0384</b><br>Certificate/Proof of Ordering<br>Transcript for Appeal                      | <b>Form RR 0051</b><br>Certificate of Completion                                             |
| Ontario Court of Justice<br>(Family Court) Appeals to<br>the Superior Court of Justice | <b>Form RR 0384</b><br>Certificate/Proof of Ordering<br>Transcript for Appeal                      | <b>Form RR 0051</b><br>Certificate of Completion                                             |

#### 3.8.3.1 Requirement for Appeal Number on the Certificate

When filling out certificates of transcript ordering and completion, ACTs are required to include the appeal number on the certificate.

The appellant will be provided with an appeal number from the appeal court. The ACT may inquire from the ordering party whether they have filed a Notice of Appeal.

If the Notice of Appeal has been filed at the appeal court by the appellant:

- (a) The appeal court will have assigned an appeal number.
- (b) If the ordering party has the appeal number available, that number should be added to the certificate; if not, the ACT or appellant may contact the appeal court and the appeal number will be provided.

If the Notice of Appeal has not been filed by the appellant:

- Type the certificate and leave the "Appeal File Number" section blank.
- Advise the ordering party that that section of the certificate must be filled in before the appellant files the certificate with the appeal court.
- Advise the ordering party that they must also follow-up and advise the ACT of the appeal court number once the Notice of Appeal has been filed, as the number must be added to the appeal transcript and to the Certificate of Completion.

- If the ordering party does not provide the appeal number, the ACT should contact the Court of Appeal staff, who will provide the appeal number.

### 3.8.3.2 Appeals from Provincial Offences Court

#### Relevant Websites and Resources

- Provincial Offences Act: <https://www.ontario.ca/laws/statute/90p33>

The Provincial Offences Act (POA) establishes the procedures that govern the enforcement and prosecution of offences created by provincial statute or regulation and municipal by-law. Parts I, II and III of the POA govern the commencement of proceedings.

Part I and II POA appeals do not require a transcript, unless otherwise ordered by the court [O. Reg. 722/94; s.135, *Provincial Offences Act*].

In the case of Part III POA appeals, a transcript is required [O. Reg. 723/94; s.116, *Provincial Offences Act*]. You are required to issue a Certificate of Clerk of Ontario Court of Justice as to Transcript of Evidence (Form 2) [POA 0403] to the appellant when the transcript is ordered. Provide a copy of this certificate to the recording management office at the court site.

After the Ontario Court of Justice has heard an appeal from a Part I or II matter, or after the Ontario Court of Justice or Superior Court of Justice has heard an appeal from a Part III matter, the case may be further appealed to the Court of Appeal, with leave [ss.139, 131, *Provincial Offences Act*]. In these cases, follow the standard procedure for preparing a criminal transcript for appeal to the Court of Appeal.

### 3.8.3.3 Appeals to Divisional Court

#### Relevant Websites and Resources

- Contact information /addresses for courthouses: <https://www.ontario.ca/locations/courts>

Upon receipt of a written request for a transcript, the ACT must issue Form RR 0384 - Certificate/Proof of Ordering Transcript for Appeal and submit it to the court office along with the Transcript Order Form.

Provide copies of the Certificate/Proof of Ordering a Transcript for Appeal certificate to:

- The appellant or the appellant's counsel,
- The appropriate Divisional Court

**Note:** The addresses of the Divisional court for each of the regions are located can be found on the Government of Ontario website

- Recording management office at the court site where the proceeding took place.

Upon completion of the transcripts provide copies of Certificate of Completion, Form RR 0551 to:

- The appellant or the appellant's counsel,
- The respondent or respondent's counsel,
- The appropriate Divisional Court
  - The addresses of the Divisional court for each of the regions are located can be found on the Government of Ontario website
- Recording management office at the court site where the proceeding took place.



### 3.8.3.4 Summary Conviction Appeals to the Superior Court of Justice

#### Relevant Websites and Resources

- Contact information /addresses for courthouses:  
<https://www.ontario.ca/locations/courts>

Pursuant to [Rule 40.08 of the Criminal Proceedings Rules for the Superior Court of Justice](#) (Ontario), upon receipt of a request for a transcript of proceedings for the purpose of appeal, **each** ACT must issue a Form [CSR-2C-40.08](#) (Certificate Respecting Evidence).

**Note:** Pursuant to the Rules, appellants must serve and file the Notice of Appeal (including Form 2C) within 30 days of the sentencing, or adjudication under appeal. ACTs should ensure Form 2C is completed in a timely manner in order for the appellant to meet this timeline. The certificate may be sent electronically to the RMC generic mailbox.

Certificate [CSR-2C-40.08](#) requires that ACTs identify specific additional portions of the proceedings to be included in the transcript if they pertain to a ground of appeal. **The ACT should consult with the appellant to clarify any questions concerning portions of the proceedings that are required to be transcribed for the appeal.**

The following sets out required contents of transcripts for summary conviction appeals:

Rule 40.08 (13): Unless otherwise ordered by a judge in accordance with rule 2.01, there shall be omitted from all transcripts of evidence:

- (a) all opening remarks by the prosecutor;
- (b) all argument on pre-trial motions or applications made at trial, excepting a notation that an application or motion was made (the ruling of the summary conviction court shall be transcribed), unless a ground of appeal to be argued relates to the pre-trial motion or application, in which case the transcript of the argument must be included in the transcript;
- (c) all objections to the admissibility of evidence, excepting a notation that the objection was made (the ruling of the summary conviction court shall be transcribed), unless a ground of appeal to be argued relates to the ruling on the admissibility of evidence, in which case the transcript of the argument must be included in the transcript; and,
- (d) the closing argument of the parties, their agent(s) or counsel unless a ground of appeal involves the reasons for judgment including, but not limited to grounds alleging an unreasonable verdict, misapprehension of evidence, a failure to properly apply the judgment in *R. v. W.(D.)* (1991), 63 C.C.C. (3d) 397 (S.C.C.), a failure to consider relevant evidence and the inadequacy of the reasons given.

Additional Portions of Transcript:

- (14) An order for the inclusion in the transcript of any portion of the proceedings referred to in subrule (13) may be made without the attendance of counsel of record, upon filing the written consent of counsel of record for all parties.
- (15) Any order for the inclusion in the transcript of any portion of the proceedings referred to in subrule (13) shall be sent to the court reporter [authorized court transcriptionist] within 5 days of the order having been granted, and a copy of the order shall be provided to the counsel of record for all parties, together with confirmation that the order has been sent to the ACT.
- (16) Everything that occurred following a finding of guilt shall be transcribed for use on the hearing of the appeal whether the appeal is against the finding of guilt or conviction and sentence or is against the sentence only.

Provide copies of the [Certificate in Form 2C](#) to:

- All parties to the appeal
- The clerk of the Superior Court of Justice where the matter is being appealed.
  - *Addresses for the Superior Courts of Justice can be found on the government of Ontario website.*

- Recording management office at the court site. The certificate may be sent electronically to the RMC generic mailbox. When sending the email, the ACT must insert the following in the subject line “Certificate Respecting Evidence” or “Completion Certificate”.

#### Completion of Transcripts:

(18) Upon signing a certificate, each court reporter [authorized court transcriptionist] shall proceed with reasonable diligence to prepare and certify the transcript. All transcripts shall be prepared no longer than 90 days after the date the transcript was ordered or according to timelines agreed upon between the court reporter [authorized court transcriptionist] and the ordering party.

(20) Upon completion of the transcript, the court reporter [authorized court transcriptionist] shall forthwith notify the parties to the appeal and the clerk of the appeal court, in writing, that the transcript has been completed, by filing a Certificate in Form 2D, which shall include the date(s) to which the transcript relates.

#### Provide copies of the Certificate in Form 2D to:

- All parties to the appeal
- The clerk of the Superior Court of Justice where the matter is being appealed.
  - *Addresses for the Superior Courts of Justice can be found on the government of Ontario website.*
- The recording management office at the court site. The certificate may be sent electronically to the RMC generic mailbox. When sending the email, the ACT must insert the following in the subject line “Certificate Respecting Evidence” or “Completion Certificate.”

### 3.8.3.5 Appeals to the Court of Appeal for Ontario

#### Transcript Ordering and Completion Processes for Civil and Criminal Appeals

When an appellant files an appeal with the Court of Appeal, the appellant must provide proof to the court, that a transcript of the matter being appealed was ordered.

The tables below provide an overview of the process ACTs must follow for civil and criminal appeal matters.

#### Criminal Appeals:

The steps below outline the process for issuing the Certificate of Transcript Order (Form 14), Certificate of Completion (Form 16A) and filing the transcript with the Court of Appeal.

|    |                                                                                                                                                                                                              |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | The ACT receives a transcript order for a criminal appeal.                                                                                                                                                   |
| 2. | The ACT will complete the transcript information in the chart on the Certificate of Transcript Order (Form 14) and sign their name on the Certificate.                                                       |
| 3. | The ACT will send their completed portion of the Certificate of Transcript Order (Form 14) to the appellant.<br><b>NOTE:</b> ACTs are not responsible for <u>filing</u> the Form 14 with the Court of Appeal |
| 4. | The appellant is responsible for completing the remainder of the information included on the Certificate of Transcript Order (Form 14) (e.g., respondent’s name, party contact information).                 |
| 5. | The appellant is responsible for serving and filing the completed Certificate of Transcript Order (Form 14) with the Court of Appeal.<br><b>Applicable Rule:</b> Rule 37(2) of the Criminal Appeal Rules.    |
| 6. | Upon completion of the transcript, the ACT will complete and sign the Certificate of Completion (Form 16a).                                                                                                  |

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7. | <p>The ACT will notify the ordering party and send a copy of the Certificate of Completion (Form 16a) to all parties and file the certificate with the Court of Appeal via email to: <a href="mailto:coa.e-file@ontario.ca">coa.e-file@ontario.ca</a>.</p> <p><b>Applicable Rule:</b> Rule 37(7) of the Criminal Appeal Rules.</p>                                                                                                                                                                                                                                                                                                         |
| 8. | <p>Upon payment of the transcript, the ACT will send a searchable copy of the transcript to the Registrar and to all parties.</p> <p><b>Applicable Rule:</b> Rule 37(9) of the Criminal Appeal Rules.</p> <p>The ACT will email the transcript to the Court of Appeal at: <a href="mailto:coa.e-file@ontario.ca">coa.e-file@ontario.ca</a>.</p> <p><b>Note:</b> ACTs must ensure they follow the proper naming convention for court transcripts when filing with the Court of Appeal. Please refer to <a href="#">Section 3.8.6 Naming Conventions for Electronic Transcripts Files with the Court of Appeal</a> for more information.</p> |

### Civil Appeals:

The steps below outline the process for issuing the Certificate/Proof of Ordering Transcript Appeal (Form RR 0384).

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | The ACT receives a transcript order for a civil appeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 2. | The ACT will complete the information included on the Certificate/Proof of Ordering Transcript (RR 0384) and sign their name.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 3. | <p>The ACT will send a copy of the completed Certificate/Proof of Ordering Transcript (RR 0384) to the appellant.</p> <p><b>NOTE:</b> ACTs are not responsible for <u>filing</u> the Certificate/Proof of Ordering Transcript (RR 00384) with the Court of Appeal.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 4. | <p>The appellant is responsible for serving and filing the completed Certificate/Proof of Ordering Transcript (RR 0384).</p> <p><b>Applicable Rule:</b> R.61.05(5) Rules of Civil Procedure</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 5. | <p>Upon completion of the transcript, the ACT will complete and sign the Certificate of Completion (Form RR 0051) and send to the following:</p> <ul style="list-style-type: none"> <li>• The appellant or the appellant's counsel</li> <li>• The respondent (if known) or the respondent's counsel</li> <li>• Recording management office at the court site where the proceeding took place</li> <li>• Court of Appeal for Ontario at the following email address: <a href="mailto:coa.e-file@ontario.ca">coa.e-file@ontario.ca</a><br/>Court of Appeal for Ontario<br/>Osgoode Hall, 1st Floor, 130 Queen St. W.<br/>Toronto, ON M5H 2N5<br/>Tel: (416) 327-5020</li> </ul> <p><b>Note:</b> When sending the email to the Court of Appeal, the ACT must insert the following in the subject line: "Certificate of Completion" along with the Court of Appeal File number.</p> <p><b>Applicable Rule:</b> R.61.05(7) Rules of Civil Procedure</p> |
| 6. | <p>Upon payment of the transcript, the ACT provides the appellant with a copy of the transcript(s).</p> <p><b>Note:</b> ACTs must ensure they follow the proper naming convention for court transcripts when filing with the Court of Appeal. Please refer to <a href="#">Section 3.8.6 Naming Conventions for Electronic Transcripts Files with the Court of Appeal</a> for more information.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

|    |                                                                                                                                                                       |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7. | The appellant is responsible for serving and filing the electronic transcript with the Court of Appeal.<br><b>Applicable Rule:</b> 61.09 (3) Rules of Civil Procedure |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## Inmate Appeals

The steps below outline the process for issuing the Certificate of Transcript Order (Form 14), Certificate of Completion (Form 16A) and filing the transcript with the Court of Appeal for inmate Appeals

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | The ACT receives a transcript order for an inmate appeal from Court Services Division.<br><br><b>Note:</b> The Court of Appeal fills out the transcript order form with all the pertinent details and sends to the recording management staff at the courthouse where the trial took place).<br><i>Rule 57(2) of the Criminal Appeal Rules</i> outlines which portions of the transcript are required for inmate appeals.                                                                                                                                                                               |
| 2. | The ACT will complete the transcript information in the chart on the Certificate of Transcript Order (Form 14) and sign their name on the Certificate.                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 3. | The ACT will send the completed Certificate of Transcript Order (Form 14) via email to the: <ul style="list-style-type: none"> <li>• Court of Appeal at: <a href="mailto:coa.e-file@ontario.ca">coa.e-file@ontario.ca</a></li> <li>• Attorney General (this may either be the Provincial Crown or the Federal Crown – depending on the charges)</li> </ul>                                                                                                                                                                                                                                              |
| 4. | The ACT will complete the appeal transcript within the timelines outlined in the transcript order form. For example: <ul style="list-style-type: none"> <li>• 30 days for Superior Court of Justice judge's reasons for judgment</li> <li>• 45 days where sentence was sought under Dangerous Offender; and</li> <li>• 60 days for all other inmate appeals</li> </ul> <b>Note:</b> The transcript order form will include the due date for the transcript.<br><b>Applicable Rule:</b> 57(7) (a) – (c) of the Criminal Appeal Rules.                                                                    |
| 5. | Upon completion of the transcript, the ACT will complete and sign the Certificate of Completion (Form 16a).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 6. | The ACT sends a copy of the Certificate of Completion (Form 16a) to the: <ul style="list-style-type: none"> <li>• Court of Appeal via email to: <a href="mailto:coa.e-file@ontario.ca">coa.e-file@ontario.ca</a></li> <li>• The Attorney General</li> </ul> <b>Applicable Rule:</b> Rule 57(8) of the Criminal Appeal Rules                                                                                                                                                                                                                                                                             |
| 7. | Upon payment of the transcript, the ACT will send a searchable copy of the transcript to the Registrar and to all parties.<br><b>Applicable Rule:</b> Rule 57(9) & (10) of the Criminal Appeal Rules<br>The ACT will email the transcript to: <a href="mailto:coa.e-file@ontario.ca">coa.e-file@ontario.ca</a> .<br><b>Note:</b> ACTs must ensure they follow the proper naming convention for court transcripts when filing with the Court of Appeal. Please refer to <a href="#">Section 3.8.6 Naming Conventions for Electronic Transcripts Files with the Court of Appeal</a> for more information. |

### If Transcripts Cannot be Completed within the Timelines

If appeal transcripts cannot be completed within the required timelines, the ACT shall notify the ordering party, the opposing party (if known to the ACT), and the Court of Appeal (by emailing [coa.e-file@ontario.ca](mailto:coa.e-file@ontario.ca)), and include the case name, Court of Appeal file number, reason for delay and estimated completion date) The ACT must not contact the Court of Appeal to seek an extension.

### 3.8.3.6 Criminal Appeals to the Court of Appeal for Ontario

Updates to the Court of Appeal's Criminal Appeal Rules came into effect on November 1, 2021.

Under the Criminal Appeal Rules for the Court of Appeal for Ontario, transcripts are divided into the following categories:

#### Solicitor Appeals:

Rule 36: Transcripts - Ordering  
Rule 37: Production of transcripts,  
Rule 38: Prescribed contents

#### Appeals From Orders Made Under Part XX.1 of the Criminal Code – Mental Disorder:

Rule 67: Transcripts

The following are the relevant excerpts from the Criminal Appeal Rules:

#### **Solicitor Appeals**

##### **Section 36: Transcripts - Ordering**

###### ***Searchable Electronic Copy***

(1) In addition to any paper copies of the transcript that these rules, a practice direction, order or direction of the court or a judge may require or the appellant may want to order, the appellant shall order a searchable electronic copy of the transcript.

###### ***Certificate of Transcript Order to Be Filed Within 15 Days***

(2) Subject to the exceptions set out in subrules 36(3)(3), (6) to (9), within 15 days of filing the notice of appeal, the appellant shall serve and file a certificate of transcript order in Form 14 confirming that all copies of the transcript as required by these rules, a practice direction, order or direction of the court or a judge have been ordered.

###### ***Where It Is Not Possible to File the Certificate Within 15 Days***

(3) Where the appellant cannot through the exercise of reasonable diligence serve and file the certificate of transcript order as required by subrule 36(2), the appellant shall, within 15 days after the filing of the notice of appeal, serve and file a letter with the Registrar explaining why the transcript has not been ordered and proposing a reasonable timeline for ordering.

(4) If the respondent chooses to respond to the letter referred to in subrule 36(3), the response must be served and filed within seven days of being served with the letter referred to in subrule 36(3).

(5) After considering the letter filed by the appellant pursuant to subrule 36(3) and any response filed by the respondent pursuant to subrule 36(4), a judge or the Registrar may make an order extending the time for serving and filing the certificate of transcript order.

###### ***Appeal from Order of a Judge of the Superior Court of Justice Not Sitting as a Trial Judge***

(6) On an appeal from the decision of a judge of the Superior Court of Justice not sitting as a trial judge where no transcript is required other than that filed in the Superior Court of Justice, the appellant shall, at the time the notice of appeal is filed, file an undertaking in Form 15 that the appeal is from an order

of a judge of the Superior Court of Justice not sitting as a trial judge, no transcript is required other than that filed in the Superior Court of Justice and that transcript will be included in the appeal book pursuant to rule 39(1)(k).

***Appeal Where Legal Aid Funding Pending***

(7) Where Legal Aid Ontario has indicated that it will fund an appeal but the approval for transcript disbursements is pending, the appellant's lawyer may serve and file a letter of explanation with the Registrar instead of filing the certificate of transcript order in Form 14.

(8) When Legal Aid Ontario grants the approval for transcript disbursements, within 15 days after the approval, the lawyer shall serve and file a certificate of transcript order in Form 14.

***Procedure When Inmate Appeal Converts into a Solicitor Appeal***

(9) Where an appeal is commenced as an inmate appeal and the appellant subsequently becomes represented by a lawyer with respect to all or part of the appeal, within 15 days after being retained or appointed the lawyer shall:

- a. Determine what, if any, transcripts have already been ordered; and
- b. If applicable, serve and file a certificate of transcript order in Form 14 for any transcripts required by rule 38 but not yet ordered.

(10) Where the lawyer cannot through the exercise of reasonable diligence serve and file the certificate of transcript order in Form 14 as required by paragraph 36(9)(b), or if approval from Legal Aid Ontario for transcript disbursement is pending, subrules 36(3)-(5) and (7)-(8) apply.

***Failure to Comply with This Rule***

(11) Where an appellant fails to comply with any provision of this rule,

- a. The Registrar may:
  - i. Place the appeal, on notice to the parties, before a judge presiding in a status court to give direction on how the appellant must proceed; or
  - ii. Serve notice on the appellant that the appeal will be placed before the court to be dismissed as abandoned unless the default is cured within ten days after service of the notice; or
- b. The respondent may:
  - i. On notice to the appellant, make a motion to a judge for directions; or
  - ii. On notice to the appellant, request the Registrar to serve on the appellant the notice referred to in subparagraph 36(11)(a)(ii).

(12) Where the appellant does not cure the default within ten days after service of the notice under subparagraph 36(11)(a)(ii), or within such longer period as a judge may allow, the Registrar shall, on notice to the parties, place the appeal before the court to be dismissed as abandoned.

(13) The court, in considering an appeal referred to it under subrule 36(12), may dismiss the appeal as abandoned or make any other order that the interests of justice require.

(14) The Registrar shall serve the parties with a copy of an order dismissing the appeal as an abandoned appeal, or with any other order issued under subrule 36(13).

(15) Unless a judge otherwise directs or orders, service of a notice or an order by the Registrar on an unrepresented appellant who is not in custody under subparagraph 36(11)(a)(ii), subrule 36(12) and subrule 36(14) shall be by registered mail to the address for the appellant as set out in the notice of appeal or as filed with the Registrar.

(16) Where an appeal is dismissed as abandoned pursuant to this rule and a transcript has been ordered but not completed, the Registrar shall forthwith notify any authorized court transcriptionist who has filed a certificate of transcript order (Form 14) that the appeal has been dismissed.

***Parties May Order Copies of Transcript for Purposes Other Than Filing***

(17) A party to an appeal may order a copy of any portion of the transcript for purposes other than filing with the court.

### ***Practice Directions***

(18) The court may provide further direction regarding the ordering of transcripts through its practice directions including, but not limited to, the establishment of revised timelines for the ordering of transcripts in particular types of appeals.

## **Solicitor Appeals**

### **Section 37: Transcripts – Production**

#### ***Preparation and Completion of the Transcript***

(1) Upon signing the certificate of transcript order (Form 14), each authorized court transcriptionist shall proceed with reasonable diligence to prepare and certify the transcript.

#### ***Timelines for Completion of the Transcript***

(2) Unless otherwise directed or ordered by these rules, a practice direction, the court, a judge or the Registrar, all transcripts shall be completed as follows:

- a. In an appeal from sentence only, other than where a sentence under Part XXIV (Dangerous Offenders) was sought, no later than 45 days after the date the transcript was ordered.
- b. In all other appeals, no later than 90 days after the transcript was ordered.

(3) Where the appeal is from conviction or conviction and sentence and the proceedings lasted more than 20 days, if the transcript cannot be produced within 90 days, the appellant shall serve and file a document signed by the authorized court transcriptionist(s) preparing the transcript setting out the proposed schedule for production of the transcript, for the court's consideration.

(4) A judge may make an order abridging or extending the time or otherwise setting out a schedule for the completion of transcripts.

#### ***Duty to Inform the Court Where Completion Is Delayed***

(5) If the transcript will not be, or has not been, completed within the timelines set out in this rule, the authorized court transcriptionist shall forthwith notify the parties to the appeal and the Registrar, in writing, of the reason for the delay, and the date upon which the transcript will be completed.

#### ***Completion Not to Be Suspended***

(6) After a transcript has been ordered, the completion of the transcript shall not be suspended or the order countermanded without an order or direction of a judge or the Registrar, unless the authorized court transcriptionist has been notified in writing that the appeal has been dismissed as abandoned.

#### ***Certificate of Transcript Completion***

(7) When the transcript has been completed, the authorized court transcriptionist shall forthwith notify the ordering party and send a copy of the certificate of transcript completion in [Form 16A](#) to all parties and file the certificate with the court.

(8) If an authorized court transcriptionist notifies the ordering party that the transcript is complete or delivers the transcript to the ordering party, but fails to file the certificate of transcript completion within seven days of notification or delivery, the ordering party shall forthwith notify the Registrar, the other party(ies) and the authorized court transcriptionist of the transcript completion by serving and filing a notice of failure to submit certificate of transcript completion in [Form 16B](#).

#### ***Delivery of Transcripts***

(9) Upon payment, the authorized court transcriptionist shall forthwith send a **searchable electronic copy** of the transcript to the Registrar and to all parties.

(10) If the transcript is also produced in paper format, upon payment, the authorized court transcriptionist shall deliver:

- a. The court's copies of the transcript to the Registrar;
- b. Where the Attorney General is the appellant, all parties' copies of the transcript to the Attorney General; and
- c. Where the Attorney General is the respondent, the respondent's copies of the transcript to the Attorney General and all other parties' copies to the appellant.

***Failure of Authorized Court Transcriptionist to Comply with This Rule***

(11) Where an authorized court transcriptionist fails to comply with any provision of this rule, a judge or the Registrar may require the authorized court transcriptionist to appear before a judge presiding in a status court.

***Practice Directions***

(12) The court may provide further direction regarding the production of transcripts through its practice directions including, but not limited to, the establishment of revised timelines for the production of transcripts in particular types of appeals.

**Solicitor Appeals**

**Section 38: Transcripts – Prescribed Contents**

***Appeal from a Judge of the Superior Court of Justice Not Sitting as a Trial Judge***

(1) On an appeal from the decision of a judge of the Superior Court of Justice not sitting as a trial judge:

- a. The transcript of the proceedings in the Ontario Court of Justice as it was submitted on appeal or application to the Superior Court of Justice shall be requisitioned from the Superior Court of Justice pursuant to subrule 12(3) and included as part of the appeal book pursuant to paragraph 39(1)(k);
- b. A transcript of the proceedings in the Superior Court of Justice is not required except for the transcript of the Superior Court of Justice judge's reasons for judgment, if delivered orally;
- c. If a transcript of the Superior Court of Justice judge's reasons for judgment is produced, it shall be included in the appeal book pursuant to paragraph 39(1)(k); and
- d. If the appellant intends to rely on any other portion of the transcript of the proceedings from the Ontario Court of Justice or the Superior Court of Justice for purposes of the appeal, the appellant shall serve it on the other parties and file it with the court as a transcript rather than include it in the appeal book.

***Appeals Against Conviction or Acquittal***

(2) Subject to subrules 38(3)-(6), the transcript for an appeal against conviction or acquittal shall include the entire trial proceeding commencing with the arraignment and plea of the accused and concluding with the verdict of the jury or the reasons for judgment, as the case may be.

***Trial Transcript That May Be Omitted***

(3) Unless relevant to a ground of appeal, the following trial proceedings may be omitted from the transcript:

- a. Any proceedings in respect of the selection of the jury;
- b. The opening addresses of counsel;
- c. Any evidence given on a motion or application brought before, during or after the trial;
- d. In the case of a trial by judge and jury, any evidence given in the absence of the jury; and
- e. Any submissions of counsel pertaining to paragraphs 38(3)(a)-(d).



### ***Appeals Against Conviction and Sentence***

(4) In an appeal against conviction and sentence, in addition to the requirements of subrule 38(2), the transcript shall also include:

- a. Any evidence called in respect of sentence;
- b. Any submissions of counsel for the prosecution and for the defence on sentence;
- c. Any statement by the accused prior to the passing of sentence made under s. 726 of the *Code*; and
- d. The trial judge's reasons for sentence.

### ***Appeals Against Sentence Only – Plea of Guilty***

(5) In an appeal against sentence only where there was a plea of guilty, the transcript shall include the entire plea proceedings before the court, including:

- a. The arraignment;
- b. The statement of counsel for the prosecution;
- c. Any evidence called in respect of sentence;
- d. Any submissions of counsel for the prosecution and the defence on sentence;
- e. Any statement by the accused prior to the passing of sentence made under s. 726 of the *Code*; and
- f. The trial judge's reasons for sentence.

### ***Appeals Against Sentence Only – Plea of Not Guilty***

(6) In an appeal against sentence only where the plea was not guilty at the opening of the trial and was followed by the adducing of evidence:

- a. The transcript shall include:
  - i. In the case of a jury trial, the charge to the jury, the re-charge if any, and the verdict;
  - ii. In the case of a trial by a judge without a jury, the trial judge's reasons for judgment;
  - iii. Any evidence called in respect of sentence;
  - iv. Any submissions of counsel for the prosecution and for the defence on sentence;
    - v. Any statement by the accused prior to the passing of sentence made under s. 726 of the *Code*; and
  - vi. The trial judge's reasons for sentence.
- b. In addition to the transcript, the parties may choose to provide an agreed statement of facts in the appeal book pursuant to paragraph 39(1)(i).

### ***Parties May Order Additional Portions of Transcript***

(7) A party to an appeal may order additional portions of the transcript of the proceedings.

(8) If the party intends to rely on additional portions of the transcript for purposes of the appeal, the additional portions of transcript shall be served on the other parties to the appeal and filed with the court.

### ***Agreement Respecting Evidence***

(9) Instead of complying with this rule, the parties may, at any time prior to perfection, make an agreement respecting the transcript required for the appeal, and any such agreement shall be reduced to writing, signed by the parties, filed with the Registrar forthwith and form part of the contents of the appeal book under rule 39.

## **Application of Rules Regarding Transcripts to Appeals from Orders Made under Section 67: Transcript**

### ***Application of Rules Regarding Transcripts to Appeals from Orders Made under Part XX.1 of the Code***

(1) Subject to the subrules set out below that are specifically applicable to transcripts for appeals from orders made under Part XX.1 of the *Code*, the rules regarding transcripts apply to these appeals as appropriate and with necessary modifications.

(2) References elsewhere in these rules to an authorized court transcriptionist shall, in this part of the rules, also encompass a transcriptionist.

***Ordering of Transcript by Hospital or Attorney General***

(3) Unless otherwise directed or ordered by the court or a judge and subject to subrule 67(4):

- a) In appeals brought by the Attorney General or person in charge of the hospital in which the accused is in custody or to which the accused reports, within 15 days of filing the notice of appeal, the party bringing the appeal shall order the transcript of the proceedings before the court or Review Board; and
- b) In all other appeals, the court shall order the Attorney General to order the transcript of the proceedings before the court or Review Board.

***Registrar May Excuse Compliance***

(4) Where the appellant is the accused and is represented by a lawyer, in an appropriate case or where the parties consent, the Registrar may excuse the Attorney General from complying with paragraph 67(3)(b), and the accused's lawyer shall order the transcript of the proceedings.

***Contents of Transcript***

(5) Unless otherwise directed or ordered by a practice direction, the court or a judge, the transcript of the proceedings shall include:

- (a) Where the appeal is from a disposition by the court following a finding of unfitness, all evidence and proceedings, including submissions, relating to the fitness issue and the disposition resulting therefrom;
- (b) Where the appeal is from a disposition by the court following a verdict of not criminally responsible on account of mental disorder, all evidence and proceedings, including submissions, following the verdict;
- (c) Where the appeal is from a disposition or placement decision by the Review Board, all evidence and proceedings, including submissions, before the Review Board.

***Timeline for Completion of Transcript***

(6) Unless otherwise directed or ordered by a practice direction, the court or a judge, all transcripts under this rule shall be completed no later than 45 days after the date the transcript was ordered.

***Agreed Statement of Facts in Some Cases***

(7) Where the appeal is from a disposition following a finding of unfitness and the issue of fitness was postponed under s. 672.25(2) of the *Code*:

- a) If the accused is represented by a lawyer, the parties shall prepare an agreed statement of facts as to the evidence heard in respect of the offence, which shall be included in the appeal book; and
- b) If a lawyer has been appointed amicus curiae, if possible, the parties shall prepare an agreed statement of facts as to the evidence heard in respect of the offence, which shall be included in the appeal book.

(8) In the event of difficulty with agreeing on the statement of facts, any party may, on notice, bring a motion for directions.

***Serving and Filing Copies of Transcript***

(9) The party responsible for preparing the appeal book shall serve the transcript on each of the other parties to the appeal, including amicus curiae, if appointed, and then shall file the transcript with the court at the same time as they serve and file the appeal book pursuant to the timeline set out in subrule 68(6).

### 3.8.3.7 Inmate Appeals Ordered by the Court of Appeal

[Section 57 \(1\) of the Criminal Appeals Rules](#) sets out the process regarding inmate appeals for which Court Services Division may be invoiced.

1. An inmate in any correctional facility identifies their desire to appeal.
2. The inmate advises administrative staff at the institution in which they are incarcerated of their intention to appeal.
3. The institution will provide the inmate with the required forms to fill out.
4. The institution then forwards the paperwork on the inmate's behalf directly to the Court of Appeal.
5. The Registrar of the Court of Appeal, upon being served with the Form A Notice of Appeal document completed by the inmate, will forward a request to the court site where the inmate was convicted specifying the portions of transcripts required for the hearing of the inmate appeal.

Below are the relevant excerpts related to inmate appeals from the Criminal Appeal Rules:

#### **Rule 57 : Transcripts for Inmate Appeals**

##### ***Application of Rules Regarding Transcripts to Inmate Appeals***

(1) Subject to the subrules set out below that are specifically applicable to transcripts for inmate appeals, the rules regarding transcripts apply to inmate appeals as appropriate and with necessary modifications.

##### ***Transcripts to Be Ordered by Registrar***

(2) Upon receipt of an inmate notice of appeal, in consultation with the Attorney General, the Registrar shall order the following transcripts forthwith:

- a. Transcripts of rulings identified in the notice of appeal as being relevant to a ground of appeal; and
- b. In respect of an appeal against conviction only in a case that was tried by judge alone:
  - i. The closing submissions of counsel; and
  - ii. The reasons for judgment.
- c. In respect of an appeal against conviction only in a case that was tried by judge and jury:
  - i. The closing addresses of counsel;
  - ii. The pre-charge conference;
  - iii. The charge to the jury (including any questions from the jury, objections to the charge, or re-charge); and
  - iv. The verdict.
- d. In respect of an appeal against conviction and sentence in a case that was tried by judge alone:
  - i. The closing submissions of counsel;
  - ii. The reasons for judgment;
  - iii. The submissions on sentence; and
  - iv. The reasons for sentence.
- e. In respect of an appeal against conviction and sentence in a case that was tried by judge and jury:
  - i. The closing addresses of counsel;
  - ii. The pre-charge conference;
  - iii. The charge to the jury (including any questions from the jury, objections to the charge, or re-charge);
  - iv. The verdict;
  - v. The submissions on sentence; and
  - vi. The reasons for sentence.
- f. In respect of an appeal against sentence only in a case that was tried by judge alone:
  - i. The reasons for judgment;
  - ii. The submissions on sentence; and

- iii. The reasons for sentence.
- g. In respect of an appeal against sentence only in a case that was tried by judge and jury:
  - i. The charge to the jury (including any re-charge);
  - ii. The verdict;
  - iii. The submissions on sentence; and
  - iv. The reasons for sentence.
- h. In respect of an appeal against either conviction or sentence in a case where the appellant pleaded guilty to some or all of the charges:
  - i. The guilty plea proceedings;
  - ii. The submissions on sentence;
  - iii. The reasons for sentence; and
  - iv. If applicable, any other transcript required under other subsections of this rule; and
- i. In respect of an appeal from the decision of a judge of the Superior Court of Justice not sitting as a trial judge:
  - i. the transcript of the Superior Court of Justice judge's reasons for judgment, if delivered orally, which shall be included in the appeal book pursuant to paragraph 58(2)(h).

(3) Subject to paragraph 57(2)(i), in respect of an appeal from the decision of a judge of the Superior Court of Justice not sitting as a trial judge:

- a. The transcript of the proceedings in the Ontario Court of Justice as it was submitted on appeal or application to the Superior Court of Justice shall be obtained from the Superior Court of Justice pursuant to subrule 54(2) and included as part of the appeal book pursuant to paragraph 58(2)(h); and
- b. A transcript of the proceedings in the Superior Court of Justice is not required.

(4) The Registrar may order such other transcripts as may be suggested by the Attorney General.

(5) The appellant may make a motion to a judge for additional transcripts to be ordered.

#### ***Certificate of Transcript Order***

(6) Within 15 days of receiving an order for a transcript pursuant to this rule, the authorized court transcriptionist shall complete a certificate of transcript order in Form 14 and send the completed certificate to the Registrar along with a copy to the Attorney General.

#### ***Timelines for Completion of Transcript***

(7) Unless otherwise directed or ordered by a practice direction, the court, a judge or the Registrar, all transcripts under this rule shall be completed as follows:

- a. In an appeal from the decision of a judge of the Superior Court of Justice not sitting as a trial judge where no transcript is required other than the transcript of the Superior Court of Justice judge's orally delivered reasons for judgment, no later than 30 days after the date the transcript was ordered;
- b. In an appeal from sentence only, other than where a sentence under Part XXIV (Dangerous Offenders) was sought, no later than 45 days after the date the transcript was ordered; and
- c. In all other inmate appeals, no later than 60 days after the date the transcript was ordered.

#### ***Certificate of Transcript Completion***

(8) Upon completion of the transcript, the authorized court transcriptionist shall forthwith send a certificate of transcript completion in Form 16A to the Registrar along with a copy to the Attorney General.

#### ***Delivery of Transcripts***

(9) Upon payment, the authorized court transcriptionist shall forthwith send a searchable electronic copy of the transcript to the Registrar and to the Attorney General.

(10) If the transcript is also produced in paper format, upon payment, the authorized court transcriptionist shall deliver all copies of the transcript to the Registrar, who will then deliver any copies of the transcript for the Attorney General to the Attorney General.

**Note:** *Transcripts ordered by any other party with respect to an appeal on behalf of an inmate of a correctional facility are invoiced to that ordering party and do not fall under Section 57 (1) of the Criminal Appeals Rules.*

### 3.8.4 Contact information for Criminal Appeal Certificates

For criminal appeals where the provincial Crown is the respondent, the completed transcripts and all Forms must be sent to:

Electronic transcripts should be sent to Crown Law Office Criminal (CLOC)

Email: [EserviceCLOC@ontario.ca](mailto:EserviceCLOC@ontario.ca)

Please include the case name and Court of Appeal file number.

If paper copies are prepared, they should be sent to:

Crown Law Office – Criminal  
720 Bay Street, 10th Floor  
Toronto, ON M7A 2S9

For appeals where the respondent is the Federal Crown (Ontario Federal Prosecution Services) , the completed transcripts and all Forms must be sent to the following generic email address:

Ontario Federal Prosecution Services

Email [OntarioFedProsecutionServices@ppsc-sppc.gc.ca](mailto:OntarioFedProsecutionServices@ppsc-sppc.gc.ca)

Please include the case name and Court of Appeal file number.

### 3.8.5 Certificates/Agreements to Minimize Civil and Family Transcripts for the Court of Appeal

Pursuant to [R.61.05 Rules of Civil Procedure](#) the parties may agree to minimize the length of the transcript required for appeal.

(1) Provides that the appellant must serve a Notice of Appeal with an Appellant's Certificate Respecting Evidence (Form 61C), setting out only the portions of the evidence, that in the appellant's opinion are required for the appeal. O. Reg. 570/98, s. 5.

(2) Provides that within 15 days after service of the Appellant's Certificate, the respondent must serve a Respondent's Certificate Respecting Evidence (Form 61D), either confirming the Appellant's Certificate, or setting out any additions or deletions from it. If the respondent fails to serve a Respondent's Certificate, they are deemed to have confirmed the Appellant's Certificate.

(3) A respondent who fails to serve a respondent's certificate within the prescribed time shall be deemed to have confirmed the appellant's certificate. R.R.O. 1990, Reg. 194, r. 61.05 (3).

(4) Provides that instead of complying with subrules (1) to (3), the parties may, within thirty days after service of the notice of appeal, make an agreement respecting the transcript required for the appeal. R.R.O. 1990, Reg. 194, r. 61.05 (4); O. Reg. 19/03, s. 12.

(5) The appellant shall, within thirty days after filing the Notice of Appeal, file proof that the appellant has ordered a transcript of all oral evidence that the parties have not agreed to omit, subject to any direction under subrule 61.09 (4) (relief from compliance). R.R.O. 1990, Reg. 194, r. 61.05 (5).

(6) A party who has previously ordered a transcript of oral evidence shall forthwith modify the order in writing to comply with the certificates or agreement. R.R.O. 1990, Reg. 194, r. 61.05 (6).

(7) When the evidence has been transcribed, the ACT shall forthwith give written notice to all parties and the Registrar. R.R.O. 1990, Reg. 194, r. 61.05 (7).

(8) The court may impose costs sanctions where evidence is transcribed or exhibits are reproduced unnecessarily. R.R.O. 1990, Reg. 194, r. 61.05 (8).

### 3.8.6 Naming Conventions for Electronic Transcripts Filed with the Court of Appeal

The [Court of Appeal's Consolidated Practice Direction Regarding Proceedings in the Court of Appeal During the COVID-19 Pandemic](#) was updated on September 13, 2022.

A table outlining the Court of Appeal transcript naming convention is detailed below:

| <b>Formula for Naming Convention:</b><br>Character Code. Indication that transcript is of a sealed matter (if applicable). Description (if needed). Court of Appeal File Number. File Extension |                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Requirement                                                                                                                                                                                     | Details                                                                                                                                                                                                   |
| Character Code                                                                                                                                                                                  | For transcripts, use 'TRN'                                                                                                                                                                                |
| Indication that transcript is of a sealed matter (if applicable)                                                                                                                                | Use 'SLD'                                                                                                                                                                                                 |
| Description of transcript (if needed)                                                                                                                                                           | Short description that identifies the specific portion of the transcript (if relevant) or provides more information on the transcript. For instance, a change to the jury.                                |
| Court of Appeal File Number                                                                                                                                                                     | Older cases use the following sequence: <ul style="list-style-type: none"><li>• C#####</li></ul> Newer cases use the following sequence: <ul style="list-style-type: none"><li>• COA-YY-CR-####</li></ul> |
| File Extension                                                                                                                                                                                  | For instance: <ul style="list-style-type: none"><li>• .PDF</li><li>• .docx</li></ul>                                                                                                                      |

| Electronic Documents           |                                                                                                                                                                  |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Court of Appeal Forms          | Form 14.C12345.PDF<br>Form 16A.COA-22-CR-1234.PDF                                                                                                                |
| Jury Charge                    | TRN.JuryCharge.COA-23-CR-9753.PDF                                                                                                                                |
| Multiple Transcripts are Filed | TRN.August 22 2022.COA-22-CR-2321.PDF<br>TRN.August 23 2022.COA-22-CR-2321.PDF<br>TRN.August 24 2022.COA-22-CR-2321.PDF<br>TRN.August 25 2022.COA-22-CR-2321.PDF |
| Volumized Transcripts          | TRN.Vol 1.COA-23-CR-7753.PDF<br>TRN.Vol 2.COA-23-CR-7753.PDF<br>TRN.Vol 3.COA-23-CR-7753.PDF                                                                     |
| Entire Proceeding              | TRN.COA-23-CR-2321.PDF                                                                                                                                           |
| Sealed Proceeding              | TRN.SLD.COA-23-CR-1368.docx                                                                                                                                      |

### 3.8.7 Indicating the Proceeding Type/Details on the Cover Page of Court of Appeal Transcripts

When preparing transcripts for the Court of Appeal, particularly inmate appeals, it is important to be descriptive about the type/nature of proceeding on the cover page. For example, if Reasons for Sentence or Reasons for Judgment are ordered, the cover page should note:

R E A S O N S   F O R   S E N T E N C E

or

R E A S O N S   F O R   J U D G M E N T

Simply indicating 'P R O C E E D I N G S' is not sufficient. This information will allow court staff to update the appeal file accordingly and ensures that all relevant transcripts ordered for the case have been received.

## 3.9 Jury Trials

### 3.9.1. Jury Selection Process

When a transcript of a jury selection process is ordered, jury panel members are identified by their assigned jury panel identification number, however, should a jury panel member be addressed by their name, the name should be transcribed as stated and not edited in any way.

Example:

|    |                                                                                                                                             |
|----|---------------------------------------------------------------------------------------------------------------------------------------------|
|    | 8.                                                                                                                                          |
|    | Jury Selection                                                                                                                              |
|    | CLERK REGISTRAR: Number 11445, Michael Smith.                                                                                               |
|    | JUROR NUMBER 11445: Yes, I would ask to be excused from this panel, please.                                                                 |
| 5  | THE COURT: Mr. Smith, we will deal with your request once the Registrar has completed calling the names of the 20 potential jurors forward. |
|    | JUROR NUMBER 11445: Yes, thank you, Your Honour.                                                                                            |
|    | CLERK REGISTRAR: Number 31922, Adele Tompkins.                                                                                              |
| 10 | JUROR NUMBER 31922: Yes, I'm here.                                                                                                          |

## 3.10 Neutral Citations

Neutral citations may be assigned to any rulings or reasons of the Superior Court of Justice (with the exception of Small Claims Court.) when directed to be so assigned by a Justice.

|   |                                                                                                                                                                                               |
|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | 9.                                                                                                                                                                                            |
|   | Reasons for Judgment                                                                                                                                                                          |
|   | Lancaster, J.                                                                                                                                                                                 |
|   | CITATION: Smith v. Crossways 2010, ONSC 6454                                                                                                                                                  |
|   | R E A S O N S F O R J U D G M E N T                                                                                                                                                           |
|   | <u>LANCASTER, J.</u> (Orally):                                                                                                                                                                |
| 5 | I am required to consider whether or not the plaintiff had a financial obligation to ensure that the property under its control, through an agreement with the defendant, was left vulnerable |

### 3.10.1 Case Citations

When preparing transcripts that include case law references (which may include case citations, as well as paragraph and page numbers for case quotes), ACTs must transcribe the case law reference as it is stated on the court recording. Where someone has incorrectly stated a case citation in a recording, for example, wrong year or party name, ACTs should insert *[sic]* immediately following the misstated word to alert the reader to the error:

For example: *R. v. Alward and Mooney* (1976), 32 CCC (2d) 416 (ABCA) *[sic]*

In the example above, the speaker said on the record, “ABCA” but should have said “NBCA”. Case law references such as case citations and paragraph and page numbers can be different across various legal publications, e.g., Canadian Criminal Cases, Dominion Law Reports and Supreme Court Reports. To ensure that the case or quote referred to in court can be located, ACTs must transcribe the case law references as stated by the presiding judicial official, counsel or party and must not substitute another citation, paragraph number or page number.



**Note:** Periods are not required within publisher acronyms (e.g., C.C.C. may be set out as CCC or D.L.R. may be set out as DLR).

Examples of differences in various citations for the same case are shown below:

|                              |                                                                      |
|------------------------------|----------------------------------------------------------------------|
| Canadian Criminal Cases      | <b><i>R. v. Alward and Mooney</i></b> (1976), 32 CCC (2d) 416 (NBCA) |
| Dominion Law Reports         | <b><i>R. v. Alward and Mooney</i></b> , 76 DLR (3d) 290 NBCA         |
| Canada Supreme Court Reports | <b><i>R. v. Alward and Mooney</i></b> , [1978] 1 SCR 559             |

### 3.11 Retention Schedules

Audio records and annotations are retained for the period of time specified and determined by retention schedules authorized by the Chiefs offices for the Superior Court of Justice and the Ontario Court of Justice.

Should an ordering party request a transcript of a matter that is no longer required to be retained as per the Retention Schedules chart below, advise the ordering party that the matter is beyond the retention schedule and may not be available to be transcribed. Also, it may be unable to be transcribed if the proceeding was reported in shorthand, stenograph or stenomask.

Inquire at the court site where the proceeding was heard to ascertain if an audio recording is still available, and if so, the matter may be transcribed as requested.

Below is a simplified chart setting out a consolidation of the timelines pertaining to retention of in-court records.

| Retention Periods<br>Ontario and Superior Courts of Justice |                                 |                             |
|-------------------------------------------------------------|---------------------------------|-----------------------------|
| Years                                                       | Type of Record                  | To be Retained From         |
| 30                                                          | Dangerous Offender              | Date of judgment            |
| 30                                                          | First Degree Murder (SCJ only)  | Date of judgment or verdict |
| 20                                                          | Second Degree Murder (SCJ only) | Date of judgment or verdict |
| 30                                                          | Not Guilty - Insanity           | Date of judgment or verdict |
| 3                                                           | YCJA (OCJ)                      | Completion of the sentence  |
| 5                                                           | YCJA (Indictable Offence)       | Completion of the sentence  |
| 2                                                           | Small Claims Court              | Date of judgment            |
| 6                                                           | OCJ - All other cases           | Date of judgment            |
| 6                                                           | Justice of the Peace Intake     | Date of Judgment            |
| 10                                                          | SCJ - All other cases           | Date of judgment or verdict |

#### First and Second Degree Murder Proceedings Heard Prior to September 1, 1990

Prior to September 1, 1990 the Supreme Court of Ontario was the court of jurisdiction for first and second degree murder proceedings in Ontario. Inquiries concerning the availability of ordering a transcript for one of these proceeding may be made to the Superior Court of Justice at 361 University Avenue in Toronto, Telephone 416-327-5550.

**Note:** If the matter was appealed at the time, transcribed and certified for the Court of Appeal, the court reporting records according to the schedule are only required to be retained for two years. If the matter was not appealed at the time, the retention period is 30 years.

## Requests for Transcripts No Longer Available Due to Court Retention Schedules

When a transcript order is received for a matter where the recording can be disposed of in accordance with the Court Reporters Retention Schedules and the records have not yet been destroyed, a transcript preparation package can be forwarded to the ACT for transcription as requested unless prohibited by law.

When the requested matter has been disposed of as authorized by the Court Reporters Retention Schedules and the ordering party requests a letter setting out that a transcript is not able to be produced, the ordering party can be directed to the court office where the proceeding took place.

### 3.12 General Transcription Production

1. The ACT may wish to transcribe reasons for judgment, sentence, rulings, and/or charges to the jury before preparing the rest of the transcript, in order to allow for judicial review while the remaining portions of the transcript are being prepared (see [section 5.2](#) of this manual for more details on Judicial Review of transcripts). It is imperative that a draft transcript of matters requiring judicial editing is never released until the judicial official approves them for release.
2. If a word is obviously misspoken in court, such as a name or date, insert *[sic]* in square brackets after the word.
3. If the correct spelling of a name has not been provided and it is impossible to check, insert (ph) after the name to indicate a phonetic spelling.
4. Where the ACT has inserted either (ph) or *[sic]* in a transcript, a legend on the Table of Contents page setting out what those terms indicate **must** be outlined as follows:

| Legend                                                                                                 |
|--------------------------------------------------------------------------------------------------------|
| <i>[sic]</i> - Indicates preceding word has been reproduced verbatim and is not a transcription error. |
| (ph) - Indicates preceding word has been spelled phonetically.                                         |

5. While transcribing, maintain a readily accessible list of witnesses and exhibits for the Table of Contents. Insert the page numbers into the Table of Contents after the transcript has been completely proofread and printed as the page numbers may change with editing.
6. Check legal citations and quotations with the actual statute or case cited whenever possible.
7. Only live voices in the courtroom, directed to the court and intended for the record, are to be transcribed.

If a video or audio recording is played in the courtroom, the annotations will set out the start and end times that the audio or video recording was played. Indicate this in the transcript at the point where it occurred as follows:

...AUDIO RECORDING IS PLAYED

If the audio or video disk was entered as an Exhibit, indicate as follows:

...EXHIBIT 3, A VIDEO RECORDING IS PLAYED.

If comments are made throughout the playing of a video, indicate as follows:

...AUDIO RECORDING COMMENCES PLAYING  
(Type live voices here in the normal format)  
...PLAYING OF THE AUDIO RECORDING ENDS

8. Proceedings are considered to be on the record from the time that the Clerk Registrar officially opens court until the Clerk Registrar closes court. ACTs are to transcribe only what is spoken for the record when the judicial officer is present in the courtroom and/or when court is officially in session. Conversations that may be recorded at any time when court is not in session must not be transcribed.
9. In order to promote language and procedures to be more reflective of diverse court users, CSD staff may now invite individuals in court to share their pronouns. During a court hearing, subject to local judicial direction, CSD staff may:
  - Invite parties/representatives and others to share their pronouns and the pronouns for their clients, if completing counsel slips/Participant Information forms.
  - Invite individuals to include their pronouns when introducing themselves.
  - Ask justice participants to share their pronouns when swearing/affirming witnesses.

ACTs must transcribe prefixes (Mr./Ms./Mx., etc.) and/or pronouns (e.g., he/him, she/her, they/them, etc.) as they are stated on the court recording.

10. To ensure that transcript users are able to fully utilize their electronic transcripts, and to ensure compatibility with electronic court filing systems (Justice Service Online, CaseLines), ACTs must not lock or otherwise place restrictions on electronic transcripts in a manner that:
  - Requires a password to open the document (unless transcripts involve evidence with respect to which a sealing order has been made or for restricted proceedings).

**Note:** Parties are not to file or upload sealed documents via the electronic court filing systems.
  - Prevents or limits sharing/copying of the document (e.g., via email, saving copies on a USB, etc.).
  - Disables or otherwise restricts the printing function.
11. To protect the integrity of and to prevent tampering of certified electronic transcripts, ACTs must protect the document from any post-certification editing (e.g., apply a 'Restrict Editing' feature) to prevent any transcript user from changing the content of the transcript after it leaves the ACT's possession.

### 3.13 Superior Court of Justice Practice Direction Regarding Applications under s.11(b) of the Canadian Charter of Rights and Freedoms

Effective September 1, 2016, the Superior Court of Justice implemented a new practice direction governing s.11(b) applications under the *Canadian Charter of Rights and Freedoms*.

When preparing transcripts for s.11(b) applications, wherein evidence and submissions are heard, authorized court transcriptionists should only transcribe the portions reflecting discussions about

adjournments, scheduling and selection of the next court date, unless otherwise directed by the judge.

The practice direction is available in French and in English on the Superior Court's website.

- English: [Consolidated Provincial Practice Direction for Criminal Proceedings – Ontario Superior Court of Justice](#)
- French: [Directive de pratique provinciale consolidée pour les instances de droit pénal – Cour supérieure de justice de l'Ontario](#)

# SECTION 4: Inclusions and Exclusions

## 4.1 Introduction to Inclusions & Exclusions

Depending on the type of case, the purpose of the transcript, and the details of the transcript order, portions of the proceedings may or may not be included in the transcript. If the transcript order does not indicate which sections of the transcript to include or exclude, the following charts may be used as a guide. For transcripts required for court purposes, in all cases, the judicial official may order that a section be included in the transcript even though it would normally be excluded by the rules. The judicial official may also provide direction to omit part of the transcript that would otherwise be included.

**Note:** *In addition to what is set out above, the charts setting out those portions of the proceedings to be included/excluded for transcripts for appeal to the Court of Appeal must be adhered to unless: (a) there is consent of the respondent or the other party/parties, or (b) there is an order of the Court of Appeal specifying portions which are normally excluded to be included.*

### 4.1.1 Objections and Submissions

Objections by counsel or unrepresented parties, and the submissions with respect to those objections, are not transcribed unless the ordering party specifically requests that they be transcribed. The ruling with respect to the objection, however, must be included in the transcript. Objections and submissions should be indicated as follows:

```
... OBJECTION BY MR.SMITH
... SUBMISSIONS
```

### 4.1.2 Inclusions and Exclusions (Quick Reference Chart - Submissions)

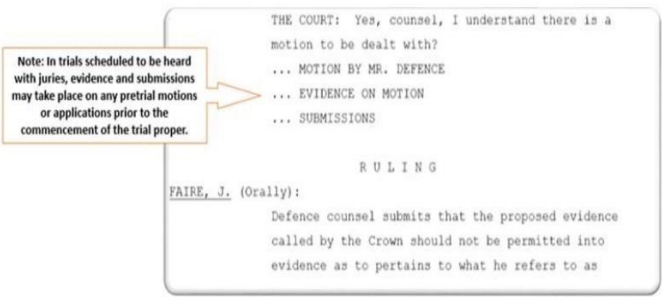
**The charts in Section 4 of this manual must be followed for inclusion/exclusion of submissions in appeal transcripts.**

The following reference chart summarizes the inclusion/exclusion of submissions.

Note that when an ordering party requests a portion be included or excluded in an appeal transcript which is normally not transcribed as per this section, they must provide the ACT with written consent of the other parties or an order of the appeal court, to have the portion included or excluded.

When a transcript is ordered but not required for the purpose of appeal, the ACT and ordering party should discuss whether or not the submissions are required to be included/excluded prior to submitting the transcript order to the court.

| Submissions and Objections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Included/<br>Excluded |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| <p><b>Contested Objections (and Submissions with Respect to Contested Objections)</b></p> <p>Objections made by counsel or unrepresented parties, which are contested, as well as submissions with respect to those objections, are not transcribed unless the ordering party specifically requests that they be transcribed. The objection and submissions are indicated only. (Note: Appeal rules require parties to have consent of all parties to the proceeding or an order of the appellate court to include them).</p> <p><b>Note:</b> <i>The ruling made by the justice following the objection and submissions must be included in the transcript.</i></p> <p>Objections and the submissions with respect to an objection are indicated in the transcript as follows:</p> <p style="text-align: center;">... OBJECTION BY MR.SMITH</p> <p style="text-align: center;">... SUBMISSIONS</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Indicated only        |
| <p><b>Objections (Uncontested)</b></p> <p>An objection may be made by counsel or an unrepresented litigant that the opposing side does not wish to contest, but rather acquiesces, i.e., re-words their question or agrees to move on. Submissions and a ruling are not required as the line of questioning or introduction of the contested evidence was not proceeded with.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Transcribed in full   |
| <p><b>Pre-trial or Mid-trial Motions/Applications</b></p> <p>A motion/application may be made by a party to the proceeding requesting that the court hear evidence or submissions and rule on an issue impacting the anticipated presentation of evidence during the trial. Generally these motions are made prior to a trial commencing and are referred to as <i>pretrial motions</i> or <i>pretrial applications</i>. These types of motions or applications may also arise during the course of the proceedings. In jury matters, the jury is excluded and is not privy to either the nature of the motion or application, submissions or ruling/s by the court. Pretrial motions/applications are indicated only in the transcript.</p> <p>Examples of common pre-trial motions include:</p> <ul style="list-style-type: none"> <li>• A motion pursuant to Section 24.2 of the <i>Canadian Charter of Rights and Freedoms</i> to exclude certain evidence;</li> <li>• Motion to Suppress – to have statements or evidence ruled as inadmissible. For example, if police conducted a search without reasonable cause, it may be possible to suppress the evidence found as a result of that search.</li> <li>• Motion for Change of Venue – may be made for various reasons including pre-trial publicity. If the local news has covered the case a great deal, it may be necessary to move the trial to another venue to protect the accused’s right to an impartial jury.</li> </ul> <p>The pre-trial or mid-trial motion/application is indicated only in the transcript.</p> <p><b>Note:</b> <i>The ruling made by the justice following the objection and submissions must be included in the transcript.</i></p> | Indicated only        |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
|  <p><b>Note:</b> In trials scheduled to be heard with juries, evidence and submissions may take place on any pretrial motions or applications prior to the commencement of the trial proper.</p> <p>THE COURT: Yes, counsel, I understand there is a motion to be dealt with?<br/> ... MOTION BY MR. DEFENCE<br/> ... EVIDENCE ON MOTION<br/> ... SUBMISSIONS</p> <p>R U L I N G</p> <p>FAIRE, J. (Orally):<br/> Defence counsel submits that the proposed evidence called by the Crown should not be permitted into evidence as to pertains to what he refers to as</p> |                     |
| <b>Submissions as to Judgment</b><br>Submissions by counsel or unrepresented litigants are made as to what the final judgment of the court should be. (In a criminal trial these submissions are as to whether the accused should be found guilty or not guilty.)                                                                                                                                                                                                                                                                                                                                                                                          | Indicated only      |
| <b>Submissions as to Sentence</b><br>Submissions as to sentence occur in criminal proceedings only after an accused has been found guilty of an offence. Submissions made by counsel/parties as to what sentence should be imposed on the offender are transcribed.                                                                                                                                                                                                                                                                                                                                                                                        | Transcribed in full |
| <b>Submissions as to Costs</b><br>Submissions as to costs are made with respect in civil and family matters. The submissions as to costs occur following Reasons for Judgment and are transcribed.<br><br><b>Note:</b> The ruling made by the justice with respect to costs must be included in the transcript.                                                                                                                                                                                                                                                                                                                                            | Transcribed in full |

## 4.2 Inclusions and Exclusions in Transcripts of Bail Hearings/Review

| Bail Hearings/Review                               | Include | Exclude                                 |
|----------------------------------------------------|---------|-----------------------------------------|
| Evidence – <i>Voir Dire</i> (ruled admissible)     | ✓       |                                         |
| Evidence – <i>Voir Dire</i> (ruled not admissible) |         | ✓<br>Unless requested by ordering party |
| All Other Evidence                                 | ✓       |                                         |
| Rulings                                            | ✓       |                                         |
| Submissions by Counsel                             | ✓       |                                         |
| Ruling on bail hearing/review                      | ✓       |                                         |

## 4.3 Inclusions and Exclusions in Transcripts of Preliminary Inquiries

If the transcript of the preliminary inquiry is being ordered for the purpose of reference at trial in Superior Court, include/exclude the following sections:

| Preliminary Inquiries                                                                                                                                                                        | Include | Exclude |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|
| Arraignment, Election and Caution                                                                                                                                                            | ✓       |         |
| Evidence – <i>Voir Dire</i> (ruled admissible)                                                                                                                                               | ✓       |         |
| Evidence – <i>Voir Dire</i> (ruled not admissible)<br>Note: If a <i>voir dire</i> , which has been ruled inadmissible, is requested to be transcribed, it should be bound separately and not |         | ✓       |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |   |   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|
| included as part of the transcript of evidence ordered for purposes of a trial in the Superior Court of Justice                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |   |   |
| All Other Evidence                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | ✓ |   |
| Submissions on <i>Voir Dire</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |   | ✓ |
| Submissions by counsel                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |   | ✓ |
| Rulings                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | ✓ |   |
| Caution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | ✓ |   |
| Order to Stand Trial                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ✓ |   |
| <p><b>Exception:</b> If a transcript of the preliminary inquiry has been ordered for the purpose of an Extraordinary Remedies Application (<i>certiorari</i> or motion to quash committal) in the Superior Court of Justice, do not exclude any portion of the proceedings. Failure to produce the entire transcript may cause delay in the Superior Court.</p> <p><b>Note:</b> If the preliminary inquiry has already been transcribed when the order for <i>certiorari</i> or motion to quash committal is received, excluded portions must be transcribed and incorporated where they occurred into the final transcript.</p> |   |   |

## 4.4 Inclusions and Exclusions in Criminal Transcripts for Appeal

Portions of proceedings that are included or excluded will vary according to the type and purpose of the transcript as set out in *Rule 38 of Criminal Appeal Rules*. The charts below provide details for indictable matters, summary conviction matters, etc.

Inclusions and exclusions in criminal transcripts for appeal of summary conviction matters depend on the type and purpose of the transcript, as outlined in *s. 40 of the Criminal Proceedings Rules*.

### 4.4.1 Inclusions and Exclusions in POA Appeals

A Part I or II POA appeal does not require a transcript unless the court hearing the review orders otherwise.

In a Part III POA appeal against conviction or acquittal, the transcript should include the evidence at trial and reasons for judgment.

In a Part III POA appeal against sentence only, or conviction and sentence, the transcript should include the evidence at trial, reasons for judgment, submissions on sentencing and reasons for sentence.

See *Rules of the Ontario Court of Justice in Appeals* under s.135, *Provincial Offences Act*, O. Reg. 722/94 and *Rules of the Superior Court of Justice and the Ontario Court of Justice in Appeals* under s.116 of the *Provincial Offences Act*, O. Reg. 723/94.

| Appeals to the Superior Court of Justice and the Ontario Court of Justice pursuant to s. 116 of the <i>Provincial Offences Act</i> | Include | Exclude |
|------------------------------------------------------------------------------------------------------------------------------------|---------|---------|
| Arraignment & Plea                                                                                                                 | ✓       |         |
| Opening Remarks                                                                                                                    | ✓       |         |
| Evidence – <i>Voir Dire</i> (ruled admissible)                                                                                     | ✓       |         |
| Evidence – <i>Voir Dire</i> (ruled not admissible)                                                                                 |         | ✓       |
| Admissions                                                                                                                         | ✓       |         |
| Submissions on <i>Voir Dire</i>                                                                                                    |         | ✓       |
| All other evidence                                                                                                                 | ✓       |         |



|                               |   |   |
|-------------------------------|---|---|
| Rulings                       | ✓ |   |
| Objections and Submissions    | ✓ |   |
| Any agreed statement of facts | ✓ |   |
| Facts                         | ✓ |   |
| Submissions as to Judgment    |   | ✓ |
| Reasons for Judgment          | ✓ |   |
| Submissions on Sentence       | ✓ |   |
| Reasons for Sentence          | ✓ |   |

#### 4.4.2 Review or Appeal of Bail Applications

Bail applications are generally heard by justices of the peace. For all matters **except** Youth Criminal Justice Act matters, a first review of the decision of the justice of the peace may be taken to the Superior Court of Justice. A subsequent review of the decision of the Superior Court of Justice may be taken to the Court of Appeal.

For Youth Criminal Justice Act matters only, a review of the decision of the justice of the peace may be taken to the Youth Court Judge of the Ontario Court of Justice. The Youth Court judge will hear the matter as an original application. A review of the decision of the Youth Court Judge may then be taken to the Superior Court of Justice. A review of the decision of the Superior Court of Justice may be taken to the Court of Appeal.

Include the following in transcripts prepared for review of bail applications:

| Type of Matter                          | Level of Review                                                    | Inclusions in the Transcript                                                                                                                                                                                                                                                        |
|-----------------------------------------|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Bail Applications for YCJA matters      | On review to the Youth Court Judge of the Ontario Court of Justice | Entire proceeding including evidence, submissions of counsel and ruling of the justice of the peace                                                                                                                                                                                 |
|                                         | On further review to the Superior Court of Justice                 | <ul style="list-style-type: none"> <li>Any transcript provided to the Youth Court judge will be provided to the SCJ by counsel.</li> <li>Any new evidence and submissions heard by the Youth Court judge</li> <li>Youth Court judge's ruling</li> </ul>                             |
|                                         | On further review to the Court of Appeal                           | <ul style="list-style-type: none"> <li>Any transcript provided to the Superior Court justice will be provided to the Court of Appeal by counsel.</li> <li>Any new evidence and submissions heard by the Superior Court justice.</li> <li>Superior Court justice's ruling</li> </ul> |
| Bail Applications for All Other Matters | On review to the Superior Court of Justice                         | Entire proceeding including evidence, submissions of counsel and ruling of the justice of the peace                                                                                                                                                                                 |
|                                         | On further review to the Court of Appeal                           | <ul style="list-style-type: none"> <li>Any transcript provided to the Superior Court justice will be provided to the Court of Appeal by counsel.</li> <li>Any new evidence and submissions heard by the Superior Court justice.</li> <li>Superior Court justice's ruling</li> </ul> |

### 4.4.3 Appeals as to Conviction for Indictable Offences

Please refer to Rule 38 of the Criminal Appeal Rules for the full list of prescribed contents for appeal transcripts.

The chart setting out those portions of the proceedings to be included/excluded for transcripts for appeal to the Court of Appeal for Ontario must be adhered to unless:

- a) there is consent of the other party/parties; or
- b) there is an order of the Court of Appeal setting out which other portions to include or exclude.

The following guidelines for inclusions and exclusions apply to transcripts for appeal of conviction of indictable offences.

| Appeals as to Conviction or Acquittal                                                                                                                                                                                                                                               | Include | Exclude |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|
| Subject to subrules 38(3)-(6), the transcript for an appeal against conviction or acquittal shall include the entire trial proceeding commencing with the arraignment and plea of the accused and concluding with the verdict of the jury or the reasons for judgment, as the case. | ✓       |         |
| <b>Trial Transcript That May Be Omitted</b><br>Unless relevant to a ground of appeal, the following trial proceedings may be omitted from the transcript:                                                                                                                           | Include | Exclude |
| Any proceedings in respect of the selection of the jury                                                                                                                                                                                                                             |         | ✓       |
| Opening Remarks and/or addresses by court and counsel<br>Note: If Admissions of Fact are contained in the opening remarks by counsel, include the opening in the transcript.                                                                                                        |         | ✓       |
| Any evidence given on a motion or application brought before, during or after the trial                                                                                                                                                                                             |         | ✓       |
| In the case of a trial by judge and jury, any evidence given in the absence of the jury.                                                                                                                                                                                            |         | ✓       |
| Any submissions of counsel pertaining to ( <i>Criminal Appeal Rules</i> , paragraphs 38(3)(a)-(d)).                                                                                                                                                                                 |         | ✓       |
| <b>Appeals Against Conviction and Sentence</b><br>In an appeal against conviction and sentence, in addition to the requirements of subrule 38(2), the transcript shall also include:                                                                                                | Include | Exclude |
| Any evidence called in respect of sentence                                                                                                                                                                                                                                          | ✓       |         |
| Any submissions of counsel for the prosecution and for the defence on sentence                                                                                                                                                                                                      | ✓       |         |
| Any statement by the accused prior to the passing of sentence made under s. 726 of the Code                                                                                                                                                                                         | ✓       |         |
| The trial judge's reasons for sentence                                                                                                                                                                                                                                              | ✓       |         |
| <b>Appeals Against Sentence Only - Plea of Guilty</b><br>In an appeal against sentence only where there was a plea of guilty, the transcript shall include the entire plea proceedings before the court, including:                                                                 | Include | Exclude |
| The arraignment                                                                                                                                                                                                                                                                     | ✓       |         |
| The statement of counsel for the prosecution                                                                                                                                                                                                                                        | ✓       |         |
| Any evidence called in respect of sentence                                                                                                                                                                                                                                          | ✓       |         |
| Any submissions of counsel for the prosecution and the defence on sentence                                                                                                                                                                                                          | ✓       |         |
| Any statement by the accused prior to the passing of sentence made under s. 726 of the Code                                                                                                                                                                                         | ✓       |         |

|                                                                                                                                                                                                                                                                                                                                                  |                                               |                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|----------------|
| The trial judge's reasons for sentence                                                                                                                                                                                                                                                                                                           | ✓                                             |                |
| <b>Appeals Against Sentence Only - Plea of Not Guilty</b>                                                                                                                                                                                                                                                                                        |                                               |                |
| In an appeal against sentence only where the plea was not guilty at the opening of the trial and was followed by the adducing of evidence:                                                                                                                                                                                                       | <b>Include</b>                                | <b>Exclude</b> |
| In the case of a jury trial, the charge to the jury, the re-charge if any, and the verdict                                                                                                                                                                                                                                                       | ✓                                             |                |
| In the case of a trial by a judge without a jury, the trial judge's reasons for judgment                                                                                                                                                                                                                                                         | ✓                                             |                |
| Any evidence called in respect of sentence                                                                                                                                                                                                                                                                                                       | ✓                                             |                |
| Any submissions of counsel for the prosecution and for the defence on sentence                                                                                                                                                                                                                                                                   | ✓                                             |                |
| Any statement by the accused prior to the passing of sentence made under s. 726 of the Code                                                                                                                                                                                                                                                      | ✓                                             |                |
| The trial judge's reasons for sentence                                                                                                                                                                                                                                                                                                           | ✓                                             |                |
| <b>Parties May Order Additional Portions of Transcript</b>                                                                                                                                                                                                                                                                                       |                                               |                |
| <p>A party to an appeal may order additional portions of the transcript of the proceedings.</p> <p>If the party intends to rely on additional portions of the transcript for purposes of the appeal, the additional portions of transcript shall be served on the other parties to the appeal and filed with the court.</p>                      |                                               |                |
| <b>Agreement Respecting Evidence</b>                                                                                                                                                                                                                                                                                                             |                                               |                |
| <p>Instead of complying with this rule, the parties may, at any time prior to perfection, make an agreement respecting the transcript required for the appeal, and any such agreement shall be reduced to writing, signed by the parties, filed with the Registrar forthwith and form part of the contents of the appeal book under Rule 39.</p> |                                               |                |
| <b>General Inclusions and Exclusions</b>                                                                                                                                                                                                                                                                                                         | <b>Include</b>                                | <b>Exclude</b> |
| Submissions on Motions and Applications (Any evidence given on a motion or application brought before, during, or after the trial)                                                                                                                                                                                                               |                                               | ✓              |
| Rulings on Motions or Applications                                                                                                                                                                                                                                                                                                               | ✓                                             |                |
| Arraignment & Plea                                                                                                                                                                                                                                                                                                                               | ✓                                             |                |
| Opening remarks and/or addresses by court and counsel<br><b>Note: If Admissions of Fact are contained in the opening remarks by counsel, include the opening in the transcript.</b>                                                                                                                                                              |                                               | ✓              |
| Evidence – <i>Voir Dire</i> (ruled admissible)                                                                                                                                                                                                                                                                                                   | ✓                                             |                |
| Evidence – <i>Voir Dire</i> (ruled not admissible)                                                                                                                                                                                                                                                                                               |                                               | ✓              |
| Admissions                                                                                                                                                                                                                                                                                                                                       | ✓                                             |                |
| Submissions on <i>Voir Dire</i>                                                                                                                                                                                                                                                                                                                  |                                               | ✓              |
| Rulings                                                                                                                                                                                                                                                                                                                                          | ✓                                             |                |
| Any evidence called in respect of sentence                                                                                                                                                                                                                                                                                                       | ✓                                             |                |
| Any submissions of counsel for the prosecution and for the defence on sentence                                                                                                                                                                                                                                                                   | ✓                                             |                |
| Contested Objections and Submissions                                                                                                                                                                                                                                                                                                             |                                               | ✓              |
| Any agreed statement of facts                                                                                                                                                                                                                                                                                                                    | ✓                                             |                |
| Facts                                                                                                                                                                                                                                                                                                                                            | ✓                                             |                |
| Submissions as to Judgment                                                                                                                                                                                                                                                                                                                       |                                               | ✓              |
| Reasons for Judgment                                                                                                                                                                                                                                                                                                                             | ✓                                             |                |
| Submissions on Sentence                                                                                                                                                                                                                                                                                                                          | Transcribe upon request of the ordering party |                |
| Reasons for Sentence                                                                                                                                                                                                                                                                                                                             |                                               |                |

| <b>Jury Trials - Inclusions and Exclusions</b>              | <b>Include</b> | <b>Exclude</b> |
|-------------------------------------------------------------|----------------|----------------|
| Any proceedings in respect of the selection of the jury     |                | ✓              |
| Any evidence or objections given in the absence of the jury |                | ✓              |
| Rulings in Absence of the Jury                              | ✓              |                |
| Charge to Jury                                              | ✓              |                |
| Questions from the Jury and submissions on questions        | ✓              |                |
| Objections to Charge to Jury                                | ✓              |                |
| Verdict of Jury                                             | ✓              |                |

#### 4.4.4 Appeals as to Conviction for Summary Conviction Offences

The following guidelines for inclusions and exclusions apply to transcripts for appeal of conviction on summary conviction offences. Additional portions to those listed may be included in the transcript upon:

- An order by a judge, with such order provided to the ACT within five days of the order having been granted
- Filing of the written consent of counsel of record for all parties to include.

| <b>Appeals as to Conviction for Summary Conviction Offences</b>                                                                                                                                                                                                                                                                                     | <b>Include</b> | <b>Exclude</b>        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------|
| Argument on pre-trial Motions or Applications<br>(Exclude arguments on pre-trial motions or applications, except a notation that an application or motion was made. <b>EXCEPTION</b> - Unless a ground of appeal to be argued relates to the pre-trial motion or application, in which case the argument must be included in the transcript).       |                | ✓<br>See<br>Exception |
| Arraignment & Plea                                                                                                                                                                                                                                                                                                                                  | ✓              |                       |
| Opening Remarks of Counsel                                                                                                                                                                                                                                                                                                                          |                | ✓                     |
| Evidence – <i>Voir Dire</i> (ruled admissible)                                                                                                                                                                                                                                                                                                      | ✓              |                       |
| Evidence – <i>Voir Dire</i> (ruled not admissible)<br><b>EXCEPTION</b> - Unless a ground of appeal to be argued relates to the evidence and ruling on the <i>voir dire</i> , in which case the evidence must be included in the transcript)                                                                                                         |                | ✓                     |
| All Other Evidence                                                                                                                                                                                                                                                                                                                                  | ✓              |                       |
| Submissions on <i>Voir Dire</i><br>(Exclude all objections to the admissibility of evidence excepting a notation that the objection was made. <b>EXCEPTION</b> - Unless a ground of appeal to be argued relates to the ruling on the admissibility of the <i>voir dire</i> evidence, in which case the argument must be included in the transcript) |                | ✓                     |
| Submissions on Objections<br>(Exclude all objections to the admissibility of evidence excepting a notation that the objection was made. <b>EXCEPTION</b> - Unless a ground of appeal to be argued relates to the ruling in which case the argument must be included in the transcript)                                                              |                | ✓<br>See<br>Exception |
| Rulings                                                                                                                                                                                                                                                                                                                                             | ✓              |                       |
| Submissions<br>(Exclude closing submissions of the parties, their agents, or counsel.<br><br><b>EXCEPTION</b> – Counsel’s argument is to be included in certain circumstances, depending on the grounds of appeal:                                                                                                                                  |                | ✓<br>See<br>Exception |

|                                                                                                                                                                                                                                                                                                                                                                                                          |   |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|--|
| (i) Where a ground of appeal relates to a ruling on a pre-trial motion/application, the argument on that pre-trial motion/application is to be included. (Rule 40.08(13)(b))                                                                                                                                                                                                                             |   |  |
| (ii) Where a ground of appeal relates to the admissibility of evidence, argument in relation to that evidence is to be included ( )                                                                                                                                                                                                                                                                      |   |  |
| (iii) Closing arguments are to be included where the ground(s) of appeal include(s) one or more of the following: (i) unreasonable verdict (ii) misapprehension of evidence (iii) failure to properly apply the judgment in R. v. W. (D.) (1991), 63 C.C.C. (3d) 397 (S.C.C.); (iii) a failure to consider relevant evidence and (iv) the inadequacy of the reasons given (Criminal Proceedings Rules, ) |   |  |
| (iv) on a sentence appeal, counsels' submissions on sentence are to be included (Criminal Proceedings Rules, Rule 40.08(17))                                                                                                                                                                                                                                                                             |   |  |
| Any Agreed Statement of Facts                                                                                                                                                                                                                                                                                                                                                                            | ✓ |  |
| Reasons for Judgment                                                                                                                                                                                                                                                                                                                                                                                     | ✓ |  |
| Submissions on Sentence                                                                                                                                                                                                                                                                                                                                                                                  | ✓ |  |
| Reasons for Sentence                                                                                                                                                                                                                                                                                                                                                                                     | ✓ |  |

**Note:** These charts are only guidelines for inclusions and exclusions in transcripts and should only be used if the transcript order does not indicate which sections of the transcript to include or exclude. In all cases, a justice may order that a section be included/excluded in the transcript even though it may not normally be included/excluded by the rules.

#### 4.4.5 Appeals as to Conviction and Sentence for Summary Conviction and Indictable Offences

In addition to the regular inclusions and exclusions for appeals against conviction outlined above, transcripts for appeals against conviction and sentence for summary and indictable matters must also include counsel's submissions as to sentence and any evidence called at the sentence hearing.

- [Criminal Appeals Rules](#) (Indictable offences)
- [Criminal Proceedings Rules](#) (Summary Conviction offences)

#### 4.4.6 Appeals against Sentence Only for Indictable Offences

The chart setting out those portions of the proceedings to be included/excluded for transcripts for appeal to the Court of Appeal must be adhered to unless:

- there is consent of the other party/parties, or
- there is an order of the Court of Appeal setting out which other portions to include.

If the original plea was "guilty" before any evidence was taken, the transcript must include the entire hearing before the court. [\[Rule 38 \(5\) Criminal Appeal Rules\]](#).

If the plea was "not guilty" and evidence was taken the transcript shall include:

| <b>Appeals Against Sentence Only – Plea of Guilty</b>                                                                                                      |                |                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|
| In an appeal against sentence only where there was a plea of guilty, the transcript shall include the entire plea proceedings before the court, including: | <b>Include</b> | <b>Exclude</b> |
| The arraignment                                                                                                                                            | ✓              |                |
| The statement of counsel for the prosecution                                                                                                               | ✓              |                |
| Any evidence called in respect of sentence                                                                                                                 | ✓              |                |
| Any submissions of counsel for the prosecution and the defence on sentence                                                                                 | ✓              |                |

|                                                                                                                                                                                                         |                |                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|
| Any statement by the accused prior to the passing of sentence made under s. 726 of the Code                                                                                                             | ✓              |                |
| The trial judge's reasons for sentence                                                                                                                                                                  | ✓              |                |
| <b>Appeals Against Sentence Only – Plea of Not Guilty</b><br>In an appeal against sentence only where the plea was not guilty at the opening of the trial and was followed by the adducing of evidence: | <b>Include</b> | <b>Exclude</b> |
| In the case of a jury trial, the charge to the jury, the re-charge if any, and the verdict                                                                                                              | ✓              |                |
| In the case of a trial by a judge without a jury, the trial judge's reasons for judgment                                                                                                                | ✓              |                |
| Any evidence called in respect of sentence                                                                                                                                                              | ✓              |                |
| Any submissions of counsel for the prosecution and for the defence on sentence                                                                                                                          | ✓              |                |
| Any statement by the accused prior to the passing of sentence made under s. 726 of the Code                                                                                                             | ✓              |                |
| The trial judge's reasons for sentence                                                                                                                                                                  | ✓              |                |

#### 4.4.7 Appeals against Sentence Only for Summary Conviction Offences

| <b>Plea of Guilty</b> | <b>Include</b> | <b>Exclude</b> |
|-----------------------|----------------|----------------|
| Entire proceeding     | ✓              |                |

| <b>Plea of Not Guilty</b>     | <b>Include</b> | <b>Exclude</b> |
|-------------------------------|----------------|----------------|
| Any agreed statement of facts | ✓              |                |
| Reasons for Judgment          | ✓              |                |
| Submissions on sentence       | ✓              |                |
| Reasons for Sentence          | ✓              |                |

### 4.5 Inclusions & Exclusions in Civil/Family Transcripts for Appeal

|                                 |                                                                                                                                                                                       |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Relevant Websites and Resources | <ul style="list-style-type: none"> <li>Rules of Civil Procedure: <a href="https://www.ontario.ca/laws/regulation/900194">https://www.ontario.ca/laws/regulation/900194</a></li> </ul> |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

In order to eliminate transcription of evidence that is not required by the appellate court, the appellant and respondent in civil appeals may set out an agreement or serve Certificates Respecting Evidence setting out exactly which portions of the proceedings are required to be transcribed for appeal. Under the Rules of Civil Procedure, the ACT does not have to be provided with these certificates or agreements unless they impact transcript preparation. [[Practice Direction May 1, 1993](#)].

The chart setting out those portions of the proceedings to be included/excluded for transcripts for appeal to the Court of Appeal must be adhered to unless:

- there is consent of the other party/parties; or
- there is an order of the Court of Appeal setting out which other portions to include.

Inclusions and exclusions in civil and family transcripts depend on whether the original case was heard before a judge alone, or a judge and jury, as follows:

| Civil Appeal: Judge Alone                                                                                                                 | Include | Exclude |
|-------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|
| Submissions on Motions and Applications                                                                                                   |         | ✓       |
| Rulings on Motions or Application                                                                                                         | ✓       |         |
| Agreed statement of facts                                                                                                                 | ✓       |         |
| Opening Remarks of Counsel<br>Note: If Admissions by counsel are addressed in the opening remarks; include the opening in the transcript. |         | ✓       |
| Evidence – <i>Voir Dire</i> (ruled admissible)                                                                                            | ✓       |         |
| Evidence – <i>Voir Dire</i> (ruled not admissible)                                                                                        |         | ✓       |
| All other evidence                                                                                                                        | ✓       |         |
| Submissions on <i>Voir Dire</i>                                                                                                           |         | ✓       |
| Contest Objections and Submissions                                                                                                        |         | ✓       |
| Rulings                                                                                                                                   | ✓       |         |
| Submissions as to Judgment                                                                                                                |         | ✓       |
| Reasons for Judgment                                                                                                                      | ✓       |         |

| Civil Appeal: Judge and Jury                                                                                                              | Include | Exclude |
|-------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|
| Opening Remarks of Counsel<br>Note: If Admissions by counsel are addressed in the opening remarks, include the opening in the transcript. |         | ✓       |
| Evidence before jury                                                                                                                      | ✓       |         |
| Evidence on <i>Voir Dire</i>                                                                                                              |         | ✓       |
| Questions from the jury and submissions on questions                                                                                      | ✓       |         |
| Submissions and Objections in the absence of the jury                                                                                     |         | ✓       |
| Rulings in absence of the jury                                                                                                            | ✓       |         |
| Submissions re: Charge to Jury                                                                                                            | ✓       |         |
| Closing addresses of counsel                                                                                                              |         | ✓       |
| Charge to Jury                                                                                                                            | ✓       |         |
| Objections to charge to jury and recharge if any                                                                                          | ✓       |         |
| Verdict of jury                                                                                                                           | ✓       |         |

#### 4.5.1 Appeals of an Assessment of Costs

Where a solicitor-client assessment of costs has been recorded and a transcript order is received, the preceding inclusions and exclusions do not apply on appeal. In these cases, it is only necessary to provide the reasons for judgment, however, include in the transcript whatever is requested by the ordering party.

There is no requirement to record assessment hearings and in some locations that do record these proceedings, there is no court reporter and therefore no Form 1 certification. The ACT should certify a transcript from either an intake court proceeding or an assessment of costs (where there was no reporter and therefore no Form 1 certification) as follows:

THIS IS TO CERTIFY THAT the foregoing is a true and accurate transcription of the audio recording number (insert number) to the best of my skill, ability, and understanding.

See [Section 5.3.2 – Certification of Audio Recordings that Do Not Contain a Form 1 Certification](#) for more information.

## **4.6 Inclusions and Exclusions in Automatic Transcripts**

See the Automatic Transcripts chart for inclusions and exclusions.

## **4.7 Inclusions and Exclusions in Other Transcripts**

For all other transcripts, transcribe the sections of the proceeding as the ordering party has requested and indicated in the transcript order.



# SECTION 5: Proofreading and Certifying the Transcript

## 5.1 Proofreading

1. Release a transcript only after it has been proofread and certified.
2. The ACT who certifies the transcript must be the same ACT that proofreads the prepared transcript, but need not be the same ACT that first prepares the transcript before proofreading.
3. Proofread by listening to the recording while reading the transcript and using the annotations or log notes as a reference.
4. Transcribe and proofread any rulings, reasons and charge to the jury first so they may be forwarded to the justice for review while preparing the balance of the transcript.
5. Ensure that the format is correct and that all relevant transcript rules have been followed.
6. Reference the resource materials provided on the Authorized Transcriptionists for Ontario website.
7. Have reference tools (e.g., access to internet, medical dictionaries, legal dictionaries) readily available.
8. Check legal citations and quotations against the actual statute or case cited whenever possible.
9. Do not rely on the computer's spell-check function to identify spelling errors. Spell-check may change words incorrectly.

### Proofreading Tips:

- Enlarge the aspect of the transcript on the computer screen while proofreading to see each word more clearly.
- Proofread lengthy transcripts in sections rather than all at once.

## 5.2 Judicial Approval of Draft Transcripts

The judicial official is entitled to review any rulings, reasons for judgment, reasons for sentence or charge to the jury before they are released. ACTs must provide the judicial official with a transcript for judicial review and approval and then incorporate all judicial edits before including that portion of the proceedings into the final transcript. **Transcribe the portion of the transcript that requires judicial review first and submit it for approval before transcribing the rest of the proceedings.** At the time the order is placed, the ACT should advise the ordering party that any rulings, reasons and/or charge to the jury must be approved by the judicial official prior to release.

Transcripts submitted for judicial review must include the following:

- i. The portion(s) of the - transcript being submitted for judicial review only. For example, a ruling, reasons for judgment, reasons for sentence or charge to the jury. Do **NOT** send any other portion of the transcript.
- ii. The cover page, so that the judicial official is informed as to the date and case particulars.
- iii. A completed *Request for Judicial Approval of Transcript* form (include next court date, 90 day appeal timeline or other [timelines](#) and the reasons as set out in the Court Transcript Standards and Procedures Manual).

### 5.2.1 Request for Judicial Approval of Transcript Form

ACTs are required to complete and submit a *Request for Judicial Approval of Transcript* form with their transcript requiring judicial approval

Prior to submitting a transcript for judicial approval, ACTs must ensure the transcript has been proofread for errors; is an accurate reflection of the recording; adheres to the formatting standards in Section 3; and reviewed for grammar and punctuation. It is not the role of the judicial official to proofread the transcript and correct the ACT's errors.

In order to ensure the judicial official that the transcript being submitted has been thoroughly reviewed for accuracy and meets formatting standards, ACTs will be required to confirm the following on the form:

*I confirm that, as per section 5.2 of the Court Transcript Standards and Procedures Manual, this transcript has been proofread for accuracy and adheres to the formatting standards set out in Section 3 of the Manual. I will not release this transcript without the required judicial approval. In addition, a signed copy of this approval form will be provided to the ordering party with the final transcript.*

Once the transcript has been approved by the presiding judicial official for release, ACTs must provide a signed copy of the Request for Judicial Approval of Transcript form to ordering parties as proof the transcript was approved by the presiding judicial official.

**Note:** *This only applies to transcripts that have been judicially edited and approved after March 4, 2019.*

The ACT **must** submit the portion(s) of the transcript requiring judicial approval to the designated email address noted on the Arkley website under "Email Addresses for Transcripts Submitted for Judicial Approval" at the court location that provided the recording. A *Request for Judicial Approval of Transcript* form must be completed and submitted along with the transcript to assist court staff in processing the request for approval as quickly as possible. If information is missing from the form, it will be returned to the ACT for completion. The designated court staff will arrange for delivery of the transcript to the justice.

Should follow-up be warranted, the ACT is to submit a follow-up email to this same address. **Do not contact the judicial official or their office directly.** The court office will follow local practices with respect to follow-up inquiries and provide a response back to the ACT and will also contact the ACT when the judicial official has approved the transcript for release.

Should the ordering party require the transcript by a specific date and approval has not yet been obtained, the transcript may be released without the rulings, reasons or charge to the jury. Once approval is obtained from the judicial official those portions may then be released.

**Never release the transcript to anyone other than the presiding justice or justice of the peace, who is entitled to review any rulings, reasons for judgment, reasons for sentence or a charge to the jury.** This rule is subject to the exception of transcripts ordered by the Canadian Judicial Council, the Ontario Judicial Council and the Justices of the Peace Review Council for the purpose of investigating a complaint against a judge, justice of the peace or other judicial officer. These transcripts are not to be submitted for review to the judicial officer who is the subject of the complaint. The court may also be required to provide the recordings of these proceedings to the councils.

Transcripts which contain rulings, reasons for judgment, reasons for sentence or a charge to the jury which have been judicially edited must be certified with the appropriate Certificate of Transcript (Form 2 for paper transcripts or Form 3 for electronic transcripts). When judicial edits include changes other than correcting punctuation, grammar or spelling, the ACT is directed to include the disclaimer beneath the Certificate of Transcript with respect to the portion that was judicially edited, as set out below:

\* This certification does not apply to the (Ruling(s), Reasons for Judgment, Reasons for Sentence, or Charge to the Jury) which was/were judicially edited.

This disclaimer is not to be inserted when the transcript is approved as submitted or when there are punctuation changes only.

Only note the portion actually judicially edited in the notation below the certification; i.e., ruling, reasons for judgment, reasons for sentence or charge to the jury.

### 5.2.2 Delivery of Draft Transcripts for Judicial Approval

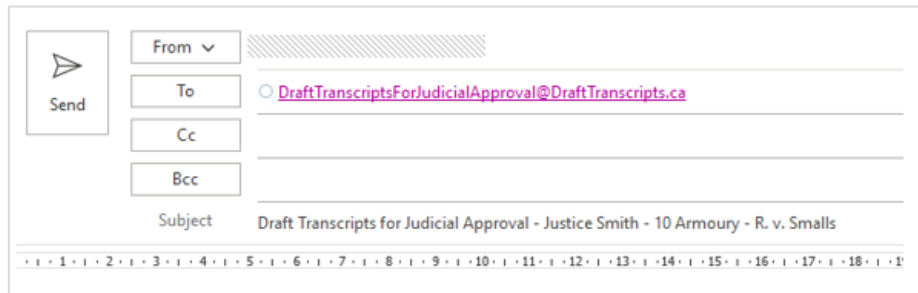
ACTs must submit their draft transcripts for judicial approval using Sensitive Content Management (SCM). The list of designated email addresses where ACTs are required to send draft transcripts for judicial approval are available to ACTs in the ACT Dashboard on the Authorized Court Transcriptionists for Ontario Website.

When submitting draft transcripts for judicial approval, ACTs must adhere to the following:

#### **SCM Email Subject Line: Standard Naming Convention**

- The subject line on the email to the designated email address should follow the standard naming convention: **Description** - **Name of Judicial Official** - **Court Location** - **Style of Cause**

For example: **Draft Transcripts for Judicial Approval** - **Justice Smith** - **10 Armoury** - **R. v. Eric Smalls**

A screenshot of an email composition interface. On the left is a 'Send' button with a paper plane icon. To its right are fields for 'From', 'To', 'Cc', and 'Bcc'. The 'To' field contains the email address 'DraftTranscriptsForJudicialApproval@DraftTranscripts.ca'. Below these fields is a 'Subject' field containing the text 'Draft Transcripts for Judicial Approval - Justice Smith - 10 Armoury - R. v. Smalls'. At the bottom of the form is a horizontal row of small, numbered tabs from 1 to 18.

**Note:** Extra precautions must be taken with *Youth Criminal Justice Act* (YCJA) transcripts. Never identify the young person by name in the email subject line. It is acceptable to replace the young person's first and last name with their initials. For example:

For example: **Draft Transcripts for Judicial Approval** - **Justice Lee** - **311 Jarvis** - **R. v. K. B**

#### **Draft Transcript Format (Electronic)**

- transcripts must be submitted in an editable format (Microsoft Word .doc or .docx) to allow the judiciary to make revisions electronically
- the "Restrict Editing" feature must be disabled on Microsoft Word
- transcripts will not be accepted in any locked format, (e.g., Adobe .pdf)

Submitting transcripts electronically in an editable format allow members of the judiciary to make revisions to transcripts electronically.

**Note:** When a judicial official returns a revised electronic transcript to an ACT, the ACT must review the electronic copy of the transcript, including any revisions made by judicial officials, before releasing to ordering parties to ensure the transcript remains accurate and complete.

### 5.2.3 Return of Transcript(s) to the ACT by the Judicial Official

A justice may decline to review a transcript in its entirety if they determine it contains an inappropriate amount of errors. Transcripts may be returned to the Authorized Court Transcriptionist with instructions on how to proceed.

### 5.2.4 Judicial Review of Transcripts Requested on a Rush Basis

If a transcript is ordered on a rush basis by a judicial official (e.g., charge to the jury) and is returned to the ACT for corrections, the transcript must be corrected by the ACT and resubmitted to the judicial official in the timeframe outlined in the Request for Judicial Approval of Transcript form.

### 5.2.5 Submitting Transcripts for Judicial Review That Have Been Previously Edited by the Judicial Official

If an ACT submits a ruling; reasons for judgment; reasons for sentence; or charge to the jury for judicial review/approval that was previously transcribed and already approved by the justice, the judicial assistant or RMC must provide the ACT with a copy of that judicially approved transcript to assist the ACT in their transcript production.

### 5.2.6 Written Reasons Provided by the Judicial Official

If the presiding judicial officer provides a copy of the written reasons (judgment or sentence; ruling, or charge to the jury) for reference purposes should a transcript be ordered, the court reporter will annotate that a reference copy has been received and provide it to the RMC.

Upon a transcript being requested, the ACT will transcribe from the recording and may use the copy provided for reference purposes. The draft transcript requires judicial review/approval prior to release, and the usual review process would apply.

## 5.3 Certifying the Transcript

Before submitting the transcript to the ordering party, ACTs must sign an oath of certification to formally attest to the accuracy of the transcript. Since the transcript must reflect what was said on the record in the courtroom, this oath provides assurances that the transcript is a reliable, accurate, and complete record of the proceeding. ACTs are responsible for the accuracy and completeness of the transcripts they certify. ACTs certify transcripts by signing and completing a Certificate of Transcript (Form 2 for paper transcripts, and Form 3 for electronic transcripts):

- **For hardcopy (paper) transcripts:**

ACTs must sign and complete the Form 2 with their wet ink handwritten signature.

- **For electronic transcripts:**

ACTs must sign and complete the Form 3 with their electronic signature. A typed name without encryption, with or without a font change, is **not** sufficient for the purposes of signing the Form 3.

As a best practice, electronic signatures for the purposes of certifying electronic transcripts must be created by the ACT and may include:

- A certificate-based digital signature that utilizes encryption technology.

- A scan of a wet ink handwritten signature. The scan may be used to create an image for use as the electronic signature.

**Note:** *The background must be white/transparent and must not be of low quality or pixelated.*

- An electronic handwritten signature created by way of an electronic stylus, trackpad, touchscreen, pointing device (i.e., computer mouse), or other similar method.

The Certificate of Transcript must be inserted on the last page of the transcript. For multi-volume transcripts, a Certificate of Transcript should be inserted at the end of each volume.

### 5.3.1 Examining the Form 1 for Open-Microphone Certification

On or after May 1, 2004, the appropriate Certificate of Transcript indicates that the recording from which the transcript has been prepared has been certified in Form 1.

- The court reporter who recorded the proceeding will verbally certify and annotate a Form 1 as part of the recording.
- Pursuant to [Ontario Regulation 158/03: Certification of Recordings and Transcripts](#), the authorized individual (court reporter) who makes a recording on an approved device must sign and complete a certificate in Form 1.
- The Form 1 certification provides assurance that the recording is a reliable, accurate, and complete record of the referenced proceedings.

### 5.3.2 Certification of Audio Recordings that Do Not Contain a Form 1 Certification

There may be recordings that are not accompanied by a completed Form 1. As a result, an ACT would not be able to certify the recording using the appropriate Certificate of Transcript. This may occur if the court proceeding was conducted using platforms such as teleconference or Zoom and court support staff may not have been present to take the court record using a digital recording device (DRD). As a result, the audio recording may not contain annotations.

| Type                                                      | Certification Language                                                                                                                                                                                                    |
|-----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Intake Court Proceedings                                  | THIS IS TO CERTIFY THAT the foregoing is a true and accurate transcription of the audio recording number (tape/disk number/year) to the best of my skill, ability, and understanding.<br><br><i>Name of ACT, ACT ID #</i> |
| Assessment Hearings<br>(Appeals of an Assessment of Cost) | THIS IS TO CERTIFY THAT the foregoing is a true and accurate transcription of the audio recording number (insert number) to the best of my skill, ability, and understanding.<br><br><i>Name of ACT, ACT ID #</i>         |

| Type                                                                                                                                                                                                                                                                                                                                                                   | Certification Language                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Recording Taken Using Stenographic Methods                                                                                                                                                                                                                                                                                                                             | THIS IS TO CERTIFY THAT the foregoing is a true and accurate transcription of the stenographic recording to the best of my skill, ability, and understanding.<br><br><i>Name of ACT, ACT ID #</i>                 |
| Other Matters Where a Form 1 Doesn't Exist<br><br><i>(e.g., Proceedings recorded using analogue technology (i.e., cassette tapes), proceedings conducted using alternative recording methods such as teleconference and/or Zoom, and where court support staff may not have been present to take the court recording using a digital recording device (DRD)), etc.</i> | THIS IS TO CERTIFY THAT the foregoing is a true and accurate transcription of the audio recording number (insert number) to the best of my skill, ability, and understanding.<br><br><i>Name of ACT, ACT ID #</i> |

### 5.3.3 Giving Evidence as to a Transcript

You may be subpoenaed to give evidence as to a transcript you have prepared. Review the transcript with the recording to ensure its accuracy.

There are two methods of proving the record:

1. The transcript may be introduced as typed and verified under oath, as follows: "I have reviewed the official record against the transcript, and it accurately reflects what is on the record."
2. The record may be played back from the open microphone recordings in the courtroom.

Always review the transcript against the record before appearing in court. You are required to bring all records of the portion of the proceedings in question into the witness box, including a hard copy of the transcript and any relevant recordings, annotations and certification.

# SECTION 6: Fees, Invoicing and Distribution of Appeal Transcripts

## 6.1 Transcript Fees

Effective April 1, 2022, ACTs are entitled to the fees for transcripts set out in [Ontario Regulation 94/14](#).

A summary of the fees for orders placed on or after April 1, 2022 is provided below:

| Electronic Format                                                                                                                                                  |                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| Service                                                                                                                                                            | Fee                                               |
| For a given ACT to transcribe, for the first time, all or part of the recording and produce a certified transcript, in electronic format.                          | \$6.30 per page or \$25.00, whichever is greater  |
| For a given ACT to transcribe, for the first time, all or part of a recording and produce a certified transcript, in electronic format, within five business days. | \$8.80 per page or \$25.00, whichever is greater  |
| For a given ACT to transcribe, for the first time all of part of a recording and produce a certified transcript, in electronic format, within 24 hours.            | \$11.75 per page or \$25.00, whichever is greater |
| For any additional certified or uncertified electronic transcripts by the same ACT, requested at the same time as a request for item 1, 2, or 3.                   | No charge                                         |
| For a certified or uncertified electronic transcript previously transcribed by the same ACT, requested at any other time.                                          | \$25.00                                           |

| Print Format                                                                                                                                                       |                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| Service                                                                                                                                                            | New Fee                                           |
| For a given ACT to transcribe, for the first time, all or part of the recording and produce a certified transcript, in printed format.                             | \$7.10 per page or \$25.00, whichever is greater  |
| For a given ACT to transcribe, for the first time, all or part of a recording and produce a certified transcript, in printed formation, within five business days. | \$9.60 per page or \$25.00, whichever is greater  |
| For a given ACT to transcribe, for the first time, all of part of a recording and produce a certified transcript, in printed format, within 24 hours.              | \$12.55 per page or \$25.00, whichever is greater |
| For a certified or uncertified electronic transcript, requested at the same time as a request for item 1, 2, or 3                                                  | No charge                                         |
| For any additional certified transcript of a recording previously transcribed by the same ACT, in printed format.                                                  | \$0.80 per page or \$25.00, whichever is greater  |

Deposits and/or payment of the regulated fees are arranged between the ACT and the ordering party.

## Previously Transcribed Transcripts

ACTs are responsible for informing the ordering party of any existing transcription before undertaking to re-transcribe a recording. Contact the Recording Management Office to confirm the status of the recording.

First copy fees for transcription of all, or part of, a recording and provision of a certified transcript are not payable if:

- a) that part of the recording has already been transcribed by another ACT; and
- b) the ACT who receives the order to transcribe part of a recording that has already been transcribed fails to notify the ordering party of the existing transcription.

## Accessible Electronic Transcripts

Accessible electronic transcripts should not cost extra for the ordering party, even if there are more pages as a result of larger font.

## Flat Rate Fee

The \$25 flat rate fee is for a certified or uncertified electronic copy requested at another time from the first (electronic or print) copy order. For example, if the ACT receives a request for an electronic copy of a transcript they prepared and have already received the first per page rate for, the ACT must charge the flat rate of \$25 to provide the copy.

## Reformatting of Transcripts for Court of Appeal for Ontario and Divisional Court

In the case of a certified transcript of all, or part, of a recording that is being provided for use in an appeal, the fees for transcription (first copy) are payable only with respect to any newly-transcribed pages of the transcript. ACTs will, however, be entitled to charge the first copy per page rate for pages added to the transcript (the title page, table of contents, or any new content).

ACTs are not entitled to charge a separate fee to perform reformatting changes, which mainly consist of removing unnecessary portions of the transcript.

## Paper Transcripts for Court of Appeal for Ontario and Divisional Court

Currently, the Court of Appeal permits that transcripts be filed electronically, unless otherwise ordered and so parties may not order printed transcripts.

### *Copies for Filing:*

If the Court of Appeal or Divisional Court specifically requires that the appeal transcripts be filed in paper format, only the first printed copy of Court of Appeal or Divisional Court transcripts are subject to the regulated rates. The King's Printer will print the additional copies required for filing, in accordance s.6.2 below, at no cost to the ACT or ordering party.

### *Copies for Parties:*

If parties order paper transcripts for their personal use, ACTs may charge the regulated rates for those copies.



## 6.2 Printing Transcripts for the Court of Appeal for Ontario and Divisional Court

### Relevant Websites and Resources

- Rule 61 of the Rules of Civil Procedure: <https://www.ontario.ca/laws/regulation/900194#BK591>
- Criminal Appeal Rules: <https://www.ontariocourts.ca/coa/criminal-appeal-rules/>

**Appeal transcripts are only printed by the King's Printer when paper transcripts are specifically required by the Court.**

As outlined in the [Court of Appeal's consolidated Practice Direction regarding proceedings during the COVID-19 pandemic](#), parties must file all documents electronically, including court transcripts. There are no requirements to file hard copies at this time. (Please refer to section 7 of this manual for more information regarding electronic filing of documents with the Court of Appeal.)

If the Court of Appeal or Divisional Court specifically requests that copies of transcripts are filed in paper format, ACTs must use Ontario Shared Services (OSS) Print Services (or the "King's Printer"). Court Services Division (CSD) will arrange and pay for these transcripts to be printed by the King's Printer.

To facilitate the printing process, ACTs will:

1. Complete the required sections of the Print Requisition (Court Transcripts) form available on the Authorized Court Transcriptionists for Ontario website.
2. Send the form along with an electronic copy of the transcript to the designated staff person at the court site. The Manager or Supervisor of Court Operations will authorize the request and forward it to Print Services (King's Printer) for photocopying and binding. Print Services will courier the paper format transcripts to the ACT.
3. Certify the transcripts and file/deliver the transcripts as set out in *rule 37(9) and 37(10) of Criminal Appeal Rules* and as outlined in *Rule 61.09 of the Rules of Civil Procedure for Divisional Court Appeals*.

**Note:** Both the Court of Appeal and Divisional Court require transcripts to be filed electronically in a searchable format.

If the ACT has not indicated on the print requisition how the transcript should be divided into volumes, the printer will exercise their discretion. If the table of contents is to be inserted in each volume, this must be noted in the "special instructions" section of the printing requisition.

Where the appellant orders transcripts in paper format (*not requested by the court*), payment of the paper format transcripts will be arranged between the ACT and the ordering party. The King's Printer will no longer print copies for the parties as part of its services.

## 6.3 Invoices

To assist ACTs with estimating the cost of a transcript, Recording Management Offices can provide information from the recording(s), e.g., hours, number of days, etc.

Fee waivers do not apply to court transcript fees.

### Court Services Division Invoices

The local Recording Management Office will send ACTs an Internal Transcript Order Form when a transcript is requested on behalf of CSD.

As specified on the Internal Transcript Order Form, electronic transcripts are the default transcript format for transcripts ordered by CSD. If paper copies are requested, the need will be specifically noted on the Order Form in addition to the electronic copy.

ACTs are not required to sign their invoice when submitting to CSD for payment.

The following transcripts may be ordered by CSD:

- Transcripts ordered at the request of the judiciary or CSD administration (Manager or Supervisor of Court Operations)
- Transcripts ordered for mental health order dispositions for the Ontario Review Board
- Transcripts of Reasons for Sentence ordered for periods of provincial incarceration (less than two years)
- Transcripts ordered with respect to hearings under the *Interjurisdictional Support Orders Act*, *Section 44 and 45 of the Family Law Act* and *Sections 18 of the Divorce Act*

### CSD Invoice Requirements

ACTs must invoice CSD using a personal invoice. When preparing invoices for CSD transcript requests, ACTs must include their/the:

- name
- ACT ID
- contact information
- RMS number
- date of invoice
- invoice number
- case name and court (OCJ or SCJ)
- transcript order details
  - format: electronic (certified or editable) or print
  - if print, number of copies
  - enhanced service options (24 hour or 5 days)
  - number of pages transcribed
  - rate
  - total amount owing

If GST/HST is charged, the invoice must include the ACTs Canadian Revenue Agency (CRA) Business Number (BN) and program account on the invoice (e.g., 123456789 RT 0001).

## 6.4 Special Distribution Requirements

### Preliminary Inquiry Transcripts Ordered by the Provincial Crown

CSD may be invoiced for one certified transcript in electronic format only when a CLD (Criminal Law Division) External Transcript Order is placed by the provincial crown and only when there has been an order to stand trial in the Superior Court of Justice (SCJ).

The following chart sets out the details for preliminary inquiry transcripts ordered for use in the SCJ, following an order to stand trial from the Ontario Court of Justice:

|                           |                                                                                                                                                |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Request Form:</b>      | <ul style="list-style-type: none"><li>• “CLD Transcript Order of a Preliminary Hearing – Committed to Stand Trial in SCJ” Order Form</li></ul> |
| <b>Copies and Format:</b> | <ul style="list-style-type: none"><li>• A certified transcript in electronic format</li></ul>                                                  |

|                  |                                                                                                                                                                                                                                                                                        |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Delivery:</b> | <ul style="list-style-type: none"> <li>• ACT to deliver via email to the Crown and Recording Management Office at the court office that provided the recording</li> <li>• ACT to provide a copy of the transcript order form and invoice to the Recording Management Office</li> </ul> |
| <b>Invoice:</b>  | <ul style="list-style-type: none"> <li>• ACT to attach a copy of the Order for Transcript form when submitting their invoice to Court Services Division</li> <li>• CSD will not be responsible for expedited fees for transcripts of preliminary hearings</li> </ul>                   |

### Preliminary Inquiry Transcripts Ordered by the Federal Crown or Defence Counsel

When preliminary inquire transcripts are ordered by the federal crown or defence counsel, ACTs invoice them directly for the costs. CSD is not invoiced for these orders. The copies and format are based on the order placed by the federal Crown or defence counsel.

### Summary Conviction Appeals

Whether the appellant is the Crown or the defence, prepare the transcript as per the requirements on the transcript order form or request. Both the Federal and Provincial Crown have agreed to notify the defence of the completion of the transcript.

For the office of the Provincial Crown:

- Electronic transcripts should be sent to: EserviceCLOC@ontario.ca
- Please include the case name and Court of Appeal file number in the subject line.

### Criminal Appeals to the Court of Appeal for Ontario

Only electronic copies of transcripts are required to be filed for an appeal unless otherwise ordered, as per the Court of Appeal's [Practice Directions and Notices Regarding COVID-19 - Court of Appeal for Ontario](#), effective March 29, 2021. There are no requirements to file hard copies at this time. See [section 7](#) of this manual, "Practice Directions Concerning Electronic Certification of Court Transcripts during COVID-19" for further details.

#### **Delivery of Transcripts:**

Once appeal transcripts for criminal matters have been completed and are ready for distribution, submit an invoice to the appellant and arrange for payment.

Rule 37(9) and (10) of the *Criminal Appeal Rules* provides that, upon payment:

- The ACT will send a searchable electronic copy of the transcript to the Registrar and to all parties.
- For delivery of print transcripts (when applicable), the ACT will deliver the transcript to the parties as outlined in Rule 37 (10) of the Criminal Appeal Rules.

**Note:** Where the Court of Appeal specifically requests paper format transcripts, ACTs may only charge the ordering party for **one** certified transcript. ACTs may use Print Services Ontario (King's Printer) to print any additional copies required for filing. Please refer to section 6.2: Printing Transcripts for the Court of Appeal for Ontario and Divisional Court for additional details.

If a transcript of a proceeding was prepared for an appeal to the Superior Court, and the matter is then appealed to the Court of Appeal, the existing transcript may be used at the Court of Appeal .

## Civil Appeals to the Court of Appeal and Divisional Court

As set out in the [Rules of Civil Procedure](#) 61.09 (1) and (3), ACTs must send the Certificate of Completion for civil appeals as soon as the transcript is complete to the:

- Appellant
- Respondent
- Registrar (Court of Appeal/Divisional Court)
- Recording management office (where the proceedings took place)

It is the responsibility of the appellant to send the transcript to the Court of Appeal for Ontario or Divisional Court within 60 days of the Registrar receiving notice that the evidence has been transcribed.

## 6.5 Secure Distribution of Electronic Transcripts

Sending court transcripts electronically in a secure method through a process that upholds privacy interests of the parties involved should be adopted as a best practice by all ACTs.

Transcripts may be e-mailed between the ACT and the court or the ACT and the ordering party. The e-mail must set out the details of any restrictions to access.

For transcripts involving evidence with respect to which a sealing order has been made or for restricted proceedings (e.g., in-camera), transcripts must be sent in a secure manner to ordering parties, as well as to courthouses for judicial officials to review.

Some examples of secure methods of transmission include the following:

- Password protecting the document prior to sending by email.
- Using Sensitive Content Management (SCM) to send documents to Ontario Public Service recipients (including CSD). If sent in this method, there is no need to password protect the document as SCM is a secure method of transmitting sensitive documents.

**Note:** When submitting electronic transcripts for judicial review, ACTs should use SCM as the secure method of transmission.

# SECTION 7: Practice Directions Concerning Electronic Transcripts During COVID-19

All levels of courts currently have provisions in place permitting electronically filing and/or signing court documents, including transcripts.

Additionally, amendments to the Rules of Civil Procedure (“RCP”), the Family Law Rules (“FLR”), and some rules governing criminal procedure now permit and/or require that transcripts be provided in electronic format unless directed otherwise by the court.

- For the Court of Appeal, please refer to: <https://www.ontariocourts.ca/coa/en/notices/covid-19/consolidated-practice-direction.pdf>
- For the Superior Court of Justice, please refer to: <https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/consolidated-notice/>
- For the Superior Court of Justice (Criminal), please refer to: [https://www.ontariocourts.ca/scj/practice/practice-directions/criminal/#PART\\_IX\\_Filing](https://www.ontariocourts.ca/scj/practice/practice-directions/criminal/#PART_IX_Filing)
- For Superior Court of Justice (Divisional Court), please refer to: <https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/div-ct-feb2021/>
- For the Ontario Court of Justice (Criminal), please refer to: [https://www.ontariocourts.ca/ocj/covid-19/covid-19-criminal-matters/#52\\_Filing\\_by\\_Email](https://www.ontariocourts.ca/ocj/covid-19/covid-19-criminal-matters/#52_Filing_by_Email)
- For the Ontario Court of Justice (Family), please refer to: [https://www.ontariocourts.ca/ocj/covid-19/covid-19-family-matters/#5\\_FILING](https://www.ontariocourts.ca/ocj/covid-19/covid-19-family-matters/#5_FILING)
- For the Ontario Court of Justice (Provincial Offences Act Matters), please refer to: [https://www.ontariocourts.ca/ocj/covid-19/notice-to-public-regarding-provincial-offences-act-matters/#10\\_Electronic\\_Signatures](https://www.ontariocourts.ca/ocj/covid-19/notice-to-public-regarding-provincial-offences-act-matters/#10_Electronic_Signatures)

## Appeal Transcripts:

The current Court of Appeal Consolidated Practice Direction regarding proceedings during the COVID-19 pandemic dispenses with any need to file hardcopy documents with the Court of Appeal pursuant to any of the procedural rules or practice directions unless otherwise ordered by the court, and states that “Parties must file all documents electronically. Paper copies of documents are not required.” This direction dispensing with the need to file hardcopy documents is effective until this notice is no longer in effect or is revised.

**Only electronic copies of transcripts are required to be filed for an appeal, as per the Court of Appeal’s recent notice and there are no requirements to file hard copies at this time.**

## Divisional Court Transcripts:

The Divisional Court Notice to the profession dated February 18, 2021 regarding the submission of electronic documents for hearings states that all documents required for a hearing must be available to the court electronically. Specifically, it states that “the requirement of electronic documents applies to all matters, including cases where parties filed paper documents prior to the suspension of regular court operations.”

Furthermore, it states that “hearing materials are to be uploaded to CaseLines or provided to the court through a document sharing platform provided by the parties.”

## SECTION 8: Minister's Approval and Authorization

ACTs are individuals who have completed the required qualifications to be authorized to transcribe and certify transcripts of in-court proceedings (as set out in an Approval and Authorization, below, signed by the Attorney General of Ontario, pursuant to Section 5 of the *Evidence Act* and [Ontario Regulation 158/03](#)).

### Approval and Authorization under

#### Section 5 of the *Evidence Act* and Ontario Regulation 158/03

Effective August 4, 2023, I hereby revoke the prior approval and authorization under Section 5 of the *Evidence Act*, RSO 1990, c E.23 and Ontario Regulation 158/03 dated at Toronto, Ontario on the 8<sup>th</sup> day of April 2014 and make the following approval and authorization:

#### Approved Sound Recording Devices:

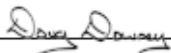
For purposes of subsection 5(1) of the *Evidence Act*, RSO 1990, c E.23, I approve the following types of devices for recording sound for purposes of recording evidence and proceedings in court:

1. Any device that is used to record sound in analogue or in digital mode, or in both.
2. Without limiting the generality of paragraph 1, any device in proper working order for recording sound that is a model made by the following manufacturers or marketed under the following brand names:
  - Analogue: Sony, Marantz, Lanier, Panasonic
  - Digital: Liberty Court Recorder, For the Record, Novo CourtLog.

#### Persons Authorized to Transcribe and Certify Transcripts from Sound Recordings:

- For purposes of subsection 4(2) of Ontario Regulation 158/03, I authorize any individual on the List of Authorized Court Transcriptionists maintained by:
  - a person or entity contracted by or on behalf of, or otherwise authorized by, the Ministry to provide services in relation to the registration of authorized court transcriptionists; or
  - a Municipal Partner, for transcripts of proceedings commenced under the *Provincial Offences Act* within its Court Service Area.
- For out-of-court proceedings, the current applicable rules of court and practices will continue to apply to the recording and transcription of proceedings.

Dated at Toronto this 28th day of July, 2023

  
The Honourable Doug Downey  
Attorney General