

SEMINOLE COUNTY BUDGET CHANGE REQUEST

Date 2/25/03 BCR# 03-38

FROM: Department Judicial Division County Court Section _____

Signatures: Department Director Sue A Block Division Manager _____

WHAT IS NEEDED:

- Accounting adjustment: Item is budgeted, but funds are in incorrect account line.
- More funds for Budgeted Item: Item is budgeted, but additional funds are required.
- New item: Item is not in this fiscal year's budget.
- Capital Substitution: Substitution or change of a currently budgeted capital item.
- Fund & Acct # _____ Budget Item # _____ Budget Amount \$ _____
- Capital replacement retention: Capital item was slated to be replaced but needs to be retained. BCC# _____

- Describe item and show calculation of all associated costs of item.
- Explain why item is needed. (If equipment is to be replaced, include description, model, year, BCC#)
- Identify source of funds and why these funds are no longer needed for their original intent.
- For savings on capital items give account #, budget item #, amount budgeted, purchase order #, and actual purchase cost.

Pursuant to FS 741.30 (Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement) hearings and related court matters must be recorded starting January 2, 2003.

A transfer of funds is being requested for the purchase of video/audio recording equipment to accommodate the requirements of the above statute. Video/Audio is also being requested in order to be consistent and compatible with future purchases of recording equipment throughout the county.

FILL IN THIS PORTION IF A TRANSFER OF FUNDS IS NEEDED: Fund #12401/Fund Name County Court Fac. Fees

	FUND/ACCOUNT#	AS400 CIP#	PENT CIP#	ACCOUNT TITLE	TOTAL
TRANSFER	010536-59099998			Reserve for Contingency Fund	34920.00
FROM	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
				TOTAL	34920.00

	FUND/ACCOUNT#	AS400 CIP#	PENT CIP#	ACCOUNT TITLE	TOTAL
TRANSFER	031100-56064000			Machinery and Equipment	34920.00
TO	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
				TOTAL	34920.00

CONCURRENCE OF OTHER INVOLVED DIVISIONS (ie: Comp Svcs/hard & software; Fleet/vehicles; Purchasing/capital; Sppt. Svcs; etc)

Signature _____

Div or Dept _____

FISCAL SERVICES

RECOMMENDATION: Approval Disapproval Analyst Deborah Smith Director _____

APPROVING AUTHORITY: _____ DFS Director _____ County Manager BCC (Meeting Date) 3/11/03

Approved Not approved Date Signed _____ Signature _____

FINANCE: Transfer has been posted Date _____ Signature _____

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(1) There is created a cause of action for an injunction for protection against domestic violence.

(a) Any person described in paragraph (e), who is either the victim of domestic violence as defined in s. 741.28 or has reasonable cause to believe he or she is in imminent danger of becoming the victim of any act of domestic violence, has standing in the circuit court to file a sworn petition for an injunction for protection against domestic violence.

(b) This cause of action for an injunction may be sought whether or not any other cause of action is currently pending between the parties. However, the pendency of any such cause of action shall be alleged in the petition.

(c) In the event a subsequent cause of action is filed under chapter 61, any orders entered therein shall take precedence over any inconsistent provisions of an injunction issued under this section which addresses matters governed by chapter 61.

(d) A person's right to petition for an injunction shall not be affected by such person having left a residence or household to avoid domestic violence.

(e) This cause of action for an injunction may be sought by family or household members. No person shall be precluded from seeking injunctive relief pursuant to this chapter solely on the basis that such person is not a spouse.

(f) This cause of action for an injunction shall not require that either party be represented by an attorney.

(g) Any person, including an officer of the court, who offers evidence or recommendations relating to the cause of action must either present the evidence or recommendations in writing to the court with copies to each party and their attorney, or must present the evidence under oath at a hearing at which all parties are present.

(h) Nothing in this section shall affect the title to any real estate.

(i) The court is prohibited from issuing mutual orders of protection. This does not preclude the court from issuing separate injunctions for protection against domestic violence where each party has complied with the provisions of this section. Compliance with the provisions of this section cannot be waived.

(j) Notwithstanding any provision of chapter 47, a petition for an injunction for protection against domestic violence may be filed in the circuit where the petitioner currently or temporarily resides, where the respondent resides, or where the domestic violence occurred. There is no minimum requirement of residency to petition for an injunction for protection.

(2)(a) Notwithstanding any other provision of law, the assessment of a filing fee for a petition for protection against domestic violence is prohibited effective October 1, 2002. However, subject to legislative appropriation, the clerk of the circuit court may, on a quarterly basis, submit to the Office of the State Courts Administrator a certified request for reimbursement for petitions for protection against domestic violence issued by the court, at the rate of \$40 per petition. The request for reimbursement shall be submitted in the form and manner prescribed by the Office of the State Courts Administrator. From this reimbursement, the clerk shall pay any law enforcement agency serving the injunction the fee requested by the law enforcement agency; however, this fee shall not exceed \$20.

(b) No bond shall be required by the court for the entry of an injunction.

(c)1. The clerk of the court shall assist petitioners in seeking both injunctions for protection

against domestic violence and enforcement for a violation thereof as specified in this section.

2. All clerks' offices shall provide simplified petition forms for the injunction, any modifications, and the enforcement thereof, including instructions for completion.
3. The clerk of the court shall advise petitioners of the availability of affidavits of insolvency or indigence in lieu of payment for the cost of the filing fee, as provided in paragraph (a).
4. The clerk of the court shall ensure the petitioner's privacy to the extent practical while completing the forms for injunctions for protection against domestic violence.
5. The clerk of the court shall provide petitioners with a minimum of two certified copies of the order of injunction, one of which is serviceable and will inform the petitioner of the process for service and enforcement.
6. Clerks of court and appropriate staff in each county shall receive training in the effective assistance of petitioners as provided or approved by the Florida Association of Court Clerks.
7. The clerk of the court in each county shall make available informational brochures on domestic violence when such brochures are provided by local certified domestic violence centers.
8. The clerk of the court in each county shall distribute a statewide uniform informational brochure to petitioners at the time of filing for an injunction for protection against domestic or repeat violence when such brochures become available. The brochure must include information about the effect of giving the court false information about domestic violence.

(3)(a) The sworn petition shall allege the existence of such domestic violence and shall include the specific facts and circumstances upon the basis of which relief is sought.

(b) The sworn petition shall be in substantially the following form:

**PETITION FOR
INJUNCTION FOR PROTECTION
AGAINST DOMESTIC VIOLENCE**

Before me, the undersigned authority, personally appeared Petitioner (Name), who has been sworn and says that the following statements are true:

(a) Petitioner resides at: (address)

(Petitioner may furnish address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of the current residence to be confidential.)

(b) Respondent resides at: (last known address)

(c) Respondent's last known place of employment: (name of business and address)

(d) Physical description of respondent: _____

Race _____

Sex _____

Date of birth _____

Height _____

Weight _____

Eye color _____

Hair color _____

Distinguishing marks or scars _____

(e) Aliases of respondent: _____

(f) Respondent is the spouse or former spouse of the petitioner or is any other person related by blood or marriage to the petitioner or is any other person who is or was residing within a single dwelling unit with the petitioner, as if a family, or is a person with whom the petitioner has a child in common, regardless of whether the petitioner and respondent are or were married or residing together, as if a family.

(g) The following describes any other cause of action currently pending between the petitioner and respondent: _____

The petitioner should also describe any previous or pending attempts by the petitioner to obtain an injunction for protection against domestic violence in this or any other circuit, and the results of that attempt _____

Case numbers should be included if available.

(h) Petitioner is either a victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence because respondent has _____ (mark all sections that apply and describe in the spaces below the incidents of violence or threats of violence, specifying when and where they occurred, including, but not limited to, locations such as a home, school, place of employment, or visitation exchange) _____

_____ committed or threatened to commit domestic violence defined in s. 741.28, Florida Statutes, as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another. With the exception of persons who are parents of a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

_____ previously threatened, harassed, stalked, or physically abused the petitioner.

_____ attempted to harm the petitioner or family members or individuals closely associated with the petitioner.

_____ threatened to conceal, kidnap, or harm the petitioner's child or children.

_____ intentionally injured or killed a family pet.

_____ used, or has threatened to use, against the petitioner any weapons such as guns or knives.

_____ physically restrained the petitioner from leaving the home or calling law enforcement.

_____ a criminal history involving violence or the threat of violence (if known).

_____ another order of protection issued against him or her previously or from another jurisdiction (if known).

_____ destroyed personal property, including, but not limited to, telephones or other communication equipment, clothing, or other items belonging to the petitioner.

_____ engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence.

(i) Petitioner alleges the following additional specific facts: (mark appropriate sections)

_____ Petitioner is the custodian of a minor child or children whose names and ages are as follows: _____

_____ Petitioner needs the exclusive use and possession of the dwelling that the parties

share.

_____ Petitioner is unable to obtain safe alternative housing because: _____

_____ Petitioner genuinely fears that respondent imminently will abuse, remove, or hide the minor child or children from petitioner because: _____

(j) Petitioner genuinely fears imminent domestic violence by respondent.

(k) Petitioner seeks an injunction: (mark appropriate section or sections)

_____ Immediately restraining the respondent from committing any acts of domestic violence.

_____ Restraining the respondent from committing any acts of domestic violence.

_____ Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

_____ Awarding temporary custody of, or temporary visitation rights with regard to, the minor child or children of the parties, or prohibiting or limiting visitation to that which is supervised by a third party.

_____ Establishing temporary support for the minor child or children or the petitioner.

_____ Directing the respondent to participate in a batterers' intervention program or other treatment pursuant to s. 39.901, Florida Statutes.

_____ Providing any terms the court deems necessary for the protection of a victim of domestic violence, or any minor children of the victim, including any injunctions or directives to law enforcement agencies.

(c) Every petition for an injunction against domestic violence shall contain, directly above the signature line, a statement in all capital letters and bold type not smaller than the surrounding text, as follows:

I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN SECTION 837.02, FLORIDA STATUTES.

(Initials)

(d) If the sworn petition seeks to determine issues of custody or visitation with regard to the minor child or children of the parties, the sworn petition shall be accompanied by or shall incorporate the allegations required by s. 61.522 of the Uniform Child Custody Jurisdiction and Enforcement Act.

(4) Upon the filing of the petition, the court shall set a hearing to be held at the earliest possible time. The respondent shall be personally served with a copy of the petition, financial affidavit, uniform child custody jurisdiction and enforcement act affidavit, if any, notice of hearing, and temporary injunction, if any, prior to the hearing.

(5)(a) When it appears to the court that an immediate and present danger of domestic violence exists, the court may grant a temporary injunction ex parte, pending a full hearing, and may grant such relief as the court deems proper, including an injunction:

1. Restraining the respondent from committing any acts of domestic violence.

2. Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

3. On the same basis as provided in s. 61.13(2), (3), (4), and (5), granting to the petitioner temporary custody of a minor child or children.

(b) In a hearing ex parte for the purpose of obtaining such ex parte temporary injunction, no evidence other than verified pleadings or affidavits shall be used as evidence, unless the respondent appears at the hearing or has received reasonable notice of the hearing. A denial of a petition for an ex parte injunction shall be by written order noting the legal grounds for denial. When the only ground for denial is no appearance of an immediate and present danger of domestic violence, the court shall set a full hearing on the petition for injunction with notice at the earliest possible time. Nothing herein affects a petitioner's right to promptly amend any petition, or otherwise be heard in person on any petition consistent with the Florida Rules of Civil Procedure.

(c) Any such ex parte temporary injunction shall be effective for a fixed period not to exceed 15 days. A full hearing, as provided by this section, shall be set for a date no later than the date when the temporary injunction ceases to be effective. The court may grant a continuance of the hearing before or during a hearing for good cause shown by any party, which shall include a continuance to obtain service of process. Any injunction shall be extended if necessary to remain in full force and effect during any period of continuance.

(6)(a) Upon notice and hearing, when it appears to the court that the petitioner is either the victim of domestic violence as defined by s. 741.28 or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence, the court may grant such relief as the court deems proper, including an injunction:

1. Restraining the respondent from committing any acts of domestic violence.
2. Awarding to the petitioner the exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.
3. On the same basis as provided in chapter 61, awarding temporary custody of, or temporary visitation rights with regard to, a minor child or children of the parties.
4. On the same basis as provided in chapter 61, establishing temporary support for a minor child or children or the petitioner.
5. Ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent. When the court orders the respondent to participate in a batterers' intervention program, the court, or any entity designated by the court, must provide the respondent with a list of all certified batterers' intervention programs and all programs which have submitted an application to the Department of Corrections to become certified under s. 741.325, from which the respondent must choose a program in which to participate. If there are no certified batterers' intervention programs in the circuit, the court shall provide a list of acceptable programs from which the respondent must choose a program in which to participate.
6. Referring a petitioner to a certified domestic violence center. The court must provide the petitioner with a list of certified domestic violence centers in the circuit which the petitioner may contact.
7. Ordering such other relief as the court deems necessary for the protection of a victim of domestic violence, including injunctions or directives to law enforcement agencies, as provided in this section.

FS. 741.30(6)

(b) In determining whether a petitioner has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence, the court shall consider and evaluate all relevant factors alleged in the petition, including, but not limited to:

1. The history between the petitioner and the respondent, including threats, harassment, stalking, and physical abuse.
2. Whether the respondent has attempted to harm the petitioner or family members or

individuals closely associated with the petitioner.

3. Whether the respondent has threatened to conceal, kidnap, or harm the petitioner's child or children.
4. Whether the respondent has intentionally injured or killed a family pet.
5. Whether the respondent has used, or has threatened to use, against the petitioner any weapons such as guns or knives.
6. Whether the respondent has physically restrained the petitioner from leaving the home or calling law enforcement.
7. Whether the respondent has a criminal history involving violence or the threat of violence.
8. The existence of a verifiable order of protection issued previously or from another jurisdiction.
9. Whether the respondent has destroyed personal property, including, but not limited to, telephones or other communications equipment, clothing, or other items belonging to the petitioner.
10. Whether the respondent engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence.

In making its determination under this paragraph, the court is not limited to those factors enumerated in subparagraphs 1.-10.

(c) The terms of an injunction restraining the respondent under subparagraph (a)1. or ordering other relief for the protection of the victim under subparagraph (a)7. shall remain in effect until modified or dissolved. Either party may move at any time to modify or dissolve the injunction. No specific allegations are required. Such relief may be granted in addition to other civil or criminal remedies.

(d) A temporary or final judgment on injunction for protection against domestic violence entered pursuant to this section shall, on its face, indicate that:

1. The injunction is valid and enforceable in all counties of the State of Florida.
2. Law enforcement officers may use their arrest powers pursuant to s. 901.15(6) to enforce the terms of the injunction.
3. The court had jurisdiction over the parties and matter under the laws of Florida and that reasonable notice and opportunity to be heard was given to the person against whom the order is sought sufficient to protect that person's right to due process.
4. The date respondent was served with the temporary or final order, if obtainable.

(e) An injunction for protection against domestic violence entered pursuant to this section, on its face, may order that the respondent attend a batterers' intervention program as a condition of the injunction. Unless the court makes written factual findings in its judgment or order which are based on substantial evidence, stating why batterers' intervention programs would be inappropriate, the court shall order the respondent to attend a batterers' intervention program if:

1. It finds that the respondent willfully violated the ex parte injunction;
2. The respondent, in this state or any other state, has been convicted of, had adjudication withheld on, or pled nolo contendere to a crime involving violence or a threat of violence; or
3. The respondent, in this state or any other state, has had at any time a prior injunction for protection entered against the respondent after a hearing with notice.

It is mandatory that such programs be certified under s. 741.32.

(f) The fact that a separate order of protection is granted to each opposing party shall not be legally sufficient to deny any remedy to either party or to prove that the parties are equally at fault or equally endangered.

(g) A final judgment on injunction for protection against domestic violence entered pursuant to this section must, on its face, indicate that it is a violation of s. 790.233, and a first degree misdemeanor, for the respondent to have in his or her care, custody, possession, or control any firearm or ammunition.

(h) All proceedings under this subsection shall be recorded. Recording may be by electronic means as provided by the Rules of Judicial Administration.

(7) The court shall allow an advocate from a state attorney's office, an advocate from a law enforcement agency, or an advocate from a certified domestic violence center who is registered under s. 39.905 to be present with the petitioner or respondent during any court proceedings or hearings related to the injunction for protection, provided the petitioner or respondent has made such a request and the advocate is able to be present.

(8)(a)1. The clerk of the court shall furnish a copy of the petition, financial affidavit, uniform child custody jurisdiction and enforcement act affidavit, if any, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. The clerk of the court shall be responsible for furnishing to the sheriff such information on the respondent's physical description and location as is required by the department to comply with the verification procedures set forth in this section. Notwithstanding any other provision of law to the contrary, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the jurisdiction to effect service. A law enforcement agency serving injunctions pursuant to this section shall use service and verification procedures consistent with those of the sheriff.

2. When an injunction is issued, if the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against domestic violence, certified by the clerk of the court, from the petitioner and immediately serve it upon a respondent who has been located but not yet served.

3. All orders issued, changed, continued, extended, or vacated subsequent to the original service of documents enumerated under subparagraph 1., shall be certified by the clerk of the court and delivered to the parties at the time of the entry of the order. The parties may acknowledge receipt of such order in writing on the face of the original order. In the event a party fails or refuses to acknowledge the receipt of a certified copy of an order, the clerk shall note on the original order that service was effected. If delivery at the hearing is not possible, the clerk shall mail certified copies of the order to the parties at the last known address of each party. Service by mail is complete upon mailing. When an order is served pursuant to this subsection, the clerk shall prepare a written certification to be placed in the court file specifying the time, date, and method of service and shall notify the sheriff.

If the respondent has been served previously with the temporary injunction and has failed to appear at the initial hearing on the temporary injunction, any subsequent petition for injunction seeking an extension of time may be served on the respondent by the clerk of the court by certified mail in lieu of personal service by a law enforcement officer.

(b) There shall be created a Domestic and Repeat Violence Injunction Statewide Verification System within the Department of Law Enforcement. The department shall establish, implement,

and maintain a statewide communication system capable of electronically transmitting information to and between criminal justice agencies relating to domestic violence injunctions and repeat violence injunctions issued by the courts throughout the state. Such information must include, but is not limited to, information as to the existence and status of any injunction for verification purposes.

(c)1. Within 24 hours after the court issues an injunction for protection against domestic violence or changes, continues, extends, or vacates an injunction for protection against domestic violence, the clerk of the court must forward a certified copy of the injunction for service to the sheriff with jurisdiction over the residence of the petitioner. The injunction must be served in accordance with this subsection.

2. Within 24 hours after service of process of an injunction for protection against domestic violence upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff with jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives a certified copy of the injunction for protection against domestic violence, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the department.

4. Within 24 hours after the sheriff or other law enforcement officer has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting such information to the department.

5. Within 24 hours after an injunction for protection against domestic violence is vacated, terminated, or otherwise rendered no longer effective by ruling of the court, the clerk of the court must notify the sheriff receiving original notification of the injunction as provided in subparagraph 2. That agency shall, within 24 hours after receiving such notification from the clerk of the court, notify the department of such action of the court.

(9)(a) The court may enforce a violation of an injunction for protection against domestic violence through a civil or criminal contempt proceeding, or the state attorney may prosecute it as a criminal violation under s. 741.31. The court may enforce the respondent's compliance with the injunction through any appropriate civil and criminal remedies, including, but not limited to, a monetary assessment or a fine. The clerk of the court shall collect and receive such assessments or fines. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Domestic Violence Trust Fund established in s. 741.01.

(b) If the respondent is arrested by a law enforcement officer under s. 901.15(6) or for a violation of s. 741.31, the respondent shall be held in custody until brought before the court as expeditiously as possible for the purpose of enforcing the injunction and for admittance to bail in accordance with chapter 903 and the applicable rules of criminal procedure, pending a hearing.

(10) The petitioner or the respondent may move the court to modify or dissolve an injunction at any time.

History.—s. 1, ch. 79-402; s. 481, ch. 81-259; s. 4, ch. 82-135; s. 10, ch. 84-343; s. 1, ch. 85-216; s. 1, ch. 86-264; s. 21, ch. 87-95; s. 1, ch. 87-395; s. 6, ch. 91-210; s. 3, ch. 91-306; s. 1, ch. 92-42; s. 5, ch. 94-134; s. 5, ch. 94-135; s. 5, ch. 95-195; s. 3, ch. 96-392; s. 56, ch. 96-418; s. 5, ch. 97-155; s. 2, ch. 98-284; s. 158, ch. 98-403; ss. 12, 13, ch. 2002-55; s. 6, ch. 2002-65.

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IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT

SANDY CRAWFORD
CLERK OF CIR. CT.
DUVAL CO. FLA.

ADMINISTRATIVE ORDER NO.:
95-6
SUPERSEDES AMENDED 94-8

IN RE: COURT REPORTERS - Electronic Reporting

Pursuant to rule 2.070(c), electronic reporting is authorized in any judicial proceeding in the Circuit and County Courts of the Eighteenth Judicial Circuit, including depositions.

1. RESPONSIBILITIES OF THE CLERK:

The Clerk of the Court shall provide storage space and safekeeping for all tape recordings of court proceedings until disposition is authorized by Rule 2.075.

To insure a reliable record of proceedings, the following provisions, procedures and directives are hereby determined appropriate and are hereby prescribed to apply in all cases wherein any judge directs electronic reporting:

A. RECORDER OPERATOR - MONITOR: The Clerk of the Court upon request by any trial judge desiring the use of electronic recording, in any court proceeding, shall furnish qualified personnel, hereinafter called a recorder, to operate the electronic recording equipment in such manner and under such conditions as to insure the production and safekeeping of an understandable recording capable of being transcribed into a reliable record. The qualifications of such recorder shall be subject to the approval of the trial judge.

B. EQUIPMENT OPERATION: The recorder shall operate the recording equipment and shall monitor the recording input and shall immediately signal or notify the trial judge, or such other person designated by the trial

SEMINOLE COUNTY, FL
RECORDED & VERIFIED
95 FEB -8 PM 3:23

MARYANNE MORSE
CLERK OF CIRCUIT COURT
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judge, when the quality of the recording is questionable or doubtful including when:

1. any extraneous noise, disturbance or situation interferes with the recording;
2. when a witness or other person whose speech needs to be recorded is mumbling or is otherwise speaking inaudibly or making nonverbal responses such as facial or bodily gestures; expressions or demonstrations;
3. technical words need to be spelled;
4. unnecessary rustling of books or papers, whispering, finger or pencil drumming or other noise is being made near a micro-phone;
5. an authorized speaker places himself in a position in which he cannot be adequately recorded.

C. RECORDING LOG: The recorder shall make a detailed, accurate, legible handwritten log of all recorded proceedings. The log may consist of handwritten notes, court minute/order form(s), or a combination of both. The log shall be made as follows:

1. At the commencement of each recorded proceeding, the log will contain the following information:
 - (a) the name of the court;
 - (b) the court case number;
 - (c) the court case title involved;
 - (d) the place of the proceedings;
 - (e) the date and hour of the commencement and of each recess and adjournment and each resumption and of the conclusion of the proceedings;
 - (f) the name of the presiding judge and of the court clerk, the bailiff, the recorder operator-monitor, the attorneys, the parties and, as part of the proceedings, the witnesses.

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2. During the recorded proceeding the log will be made by reference to numbers on each magnetic tape and by reference to elapsed time numbers or symbols or other method of designating locations on each tape in such manner that by use of the log each step or event recorded can readily be located and retrieved for play-back or transcription. The following procedural steps will be shown: qualification of the jury, opening of court, voir dire examination, opening statements of counsel, presentation of evidence by each party (including the names of each witness called and each step of examination, i.e., direct, cross, re-direct, re-cross, etc., closing argument of counsel, jury instructions and all motions made during the proceedings and judicial rulings thereon, all pleas, all judicial findings, orders, sentences and orally pronounced judgments and adjudications and other notable events.
3. Consistent with directions from the trial judge, the recorder will see that all "technical" words are spelled by the witness and the spelling recorded in the log as an aid in transcription. The log will also clearly indicate by reference to the tape and location on the tape, the following:
1. the names of all speakers and their relationship to the proceedings if that relationship is not shown in the log prologue as specified in (1)(B)(f) above;
 2. the point of identification and admissibility of all exhibits;
 3. physical events of significance, such as bench side conferences, counsel hands exhibit to witness, witness draws on paper

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on easel, etc.

- D. STORAGE AND SAFEKEEPING: Tapes and recording logs are to be identified and safely and securely stored for the appropriate record retention period.
- E. REQUESTS TO LISTEN TO TAPES: A procedure, which ensures the safety of the original tape, shall be established to allow any requestor to listen to a tape. A court order shall not be required.
- F. REQUESTS FOR COPIES OF TAPES: A copy of a tape will be provided by the Clerk of Court upon request of a person or in writing and payment in advance of appropriate charges determined by the clerk.

2. RESPONSIBILITIES OF OTHER COURT SUPPORT PERSONNEL:

- A. TRIAL JUDGE: The trial judge should oversee the recorded proceeding to ensure a reliable record and see that:
 1. All who are present are informed that the proceeding is being recorded;
 2. All questions receive verbal responses;
 3. Each participant identifies himself and each person to whom he refers or addresses questions and speaks clearly, loudly and distinctly and speaks into or near a microphone;
 4. Counsel do not speak at the same time that witnesses or other counsel are speaking or otherwise improperly interrupt or obstruct the recording of other's speech;
 5. All physical and visible happenings and events are reported in sound, and
 6. The proceedings are stopped when needed to remedy any matter preventing an adequate recording.
- B. BAILIFF: The court bailiff should assist the trial judge as needed or desired in maintaining courtroom discipline and should be constantly alert for signals from the trial judge and recorder to communicate with

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others and to remedy any circumstances interfering with the making of an adequate recording.

- C. COUNSEL: All participating counsel must be constantly aware of the special requirements for making a clear, reliable, and transcribable recording and must speak loudly; distinctly and only from a position at or near a microphone. Counsel must make all directions and explanations verbally and should aid and direct all witnesses as needed.
- D. WITNESSES: Witnesses need not be given instructions and cautionary directions because they cannot reasonably be expected to immediately learn proper dictating or recorded speech techniques but as needed counsel should urge witnesses to (a) speak clearly, audibly and distinctly; (b) make responses verbally; (c) identify by name all persons to whom reference is made; and (d) to spell all technical words the recorder needs to spell in the log for transcription accuracy.

3. TRANSCRIPTION:

- A. TRANSCRIBER: The official court reporters shall be responsible for transcription of all tape recordings of court proceedings unless the parties stipulate or the court orders otherwise.
- B. REQUEST FOR TRANSCRIPT AND FEES: Any person may be furnished a transcript of proceedings upon written request to and payment of appropriate fees to the transcriber. An original and at least one copy of proceedings shall be transcribed and the transcriber shall file the original with the clerk.

If the Board of County Commissioners is responsible for payment, the fee shall be in accordance with the cost for a transcript authorized by Administrative Order 93-95-Ci for court reporters for like services. If 93-95-Ci has become obsolete the most recent superseding Administrative Order shall authorize the transcript cost.

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Any payor other than the Board of County Commissioners shall pay the normal fee charged by the transcriber.

C. RESPONSIBILITIES OF THE TRANSCRIBER:

1. CERTIFICATION: At the end of each transcription the transcriber shall certify before an officer authorized to administer oaths that:

"The above and foregoing transcript is a true and correct typed copy of the contents of portions of the magnetic tape or tapes in the judicial proceeding identified at the beginning of the transcript.

(signature) _____

Sworn to, signed and certified before me this _____ day of _____, 19____.

(signature) _____

_____ Notary Public

Print, Type, or Stamp
Commissioned Name of Notary

_____ Type of I.D. Produced or Personally Known _____
My Commission expires:

2. ACCEPTABILITY: Any transcript, so certified, shall be taken and considered as a prima facie correct statement of the testimony and proceedings to which it relates.
3. QUESTIONING ACCURACY: Any dispute as to whether any transcript accurately and correctly reflects the original proceedings may be submitted to, and settled by, the trial judge and the transcript will be made to conform to any resulting judicial ruling.
4. COMPLIANCE WITH APPELLATE RULES: All transcripts for the purposes of appeal shall meet all requirements for acceptance by the appellate court.
5. ACCOUNTABILITY: Any person authorized to transcribe court tapes shall give the clerk a receipt for the tapes and recording log and shall promptly perform the authorized services and shall immediately return the tapes and log

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to the clerk who shall reseal the tapes and return the tapes and log to safe storage.

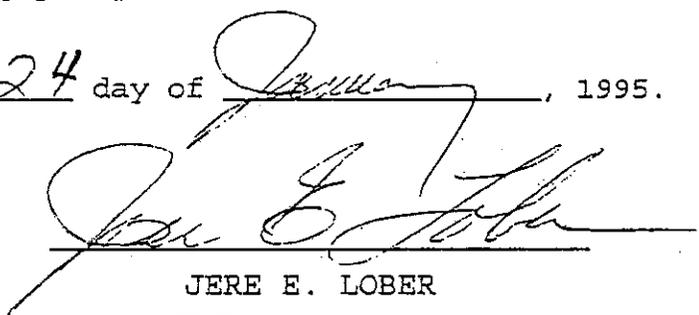
4. DEPOSITIONS:

Depositions may be electronically recorded. The party scheduling an electronically recorded deposition shall be responsible for safekeeping the tape of any testimony. Any party requesting transcription shall be responsible for notifying all parties that transcription is being requested and obtaining a neutral, competent transcriber. Depositions in criminal cases may be scheduled at the Office of the State Attorney, the Office of the Public Defender, or at any other location, if the parties agree.

5. CONSTRUCTION:

It is the intent of this order to fully implement and authorize electronic reporting as permitted by Rule 2.070 (c) (1) and to delegate to the trial judge in each case in the circuit also discretion, responsibility and authority relating thereto. It is also the intent of this order that it be liberally construed and that the provisions hereof be considered merely directive and not mandatory and that no objections on the ground that the directions herein were not followed be made or sustained unless coupled with a showing that such failure to comply resulted in material and substantial harm to the objecting party.

DONE AND ORDERED this 24 day of January, 1995.


JERE E. LOBER
CHIEF JUDGE

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Distribution:

- All Circuit And County Judges (Brevard and Seminole)
- Court Administration (Brevard and Seminole)
- Clerk of Court (Brevard and Seminole)
- State Attorney (Brevard and Seminole)
- Public Defender (Brevard and Seminole)
- Sheriff (Brevard and Seminole)
- Law Library (Brevard and Seminole)
- Bar Association (Brevard and Seminole)
- Court Reporters (Brevard and Seminole)

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STATE OF FLORIDA, COUNTY OF BREVARD
 I HEREBY CERTIFY that the above and foregoing is a
 true copy of the original filed in this office
 SANDY CRAWFORD, Clerk Circuit and County Court

DATED 2-6-95

