

OPD Appellate Court Reporter FAQ

NOTE: This FAQ offers guidance to court reporters and transcriptionists. However, except as to OPD's own billing policies, OPD does not have regulatory or rulemaking authority over court reporters. All questions regarding the legal requirements of court reporting are ultimately up to the courts.

Q. What is necessary for OPD to pay for Verbatim Reports of Proceedings (VRPs) on appeal?

A. First, there must be a valid Order of Indigency on file with the Court of Appeals authorizing transcripts at public expense. Second, there must be a Statement of Arrangements showing that the transcripts have been ordered from you by an attorney for the indigent client.

[\[RAP 15.2\(b\), RAP 9.2\(a\)\]](#)

Q. What documentation does OPD require for payment?

A. OPD requires:

1. An OPD Invoice of Court Reporter or Typist, which must have an original signature from the court reporter or typist.
2. A copy of the Statement of Arrangements or amended Statement of Arrangements ordering the transcripts provided.
3. If transcribing voir dire (also called jury selection) or opening statements, the Statement of Arrangements must specifically mention that voir dire or opening statements are being ordered.

[\[RAP 9.2\(b\), RAP 15.4\(d\)\]](#)

Q. Does OPD need a copy of the Order of Indigency?

A. An Order of Indigency is no longer required to support payment for voir dire or opening statements. You do not need to attach the Order of Indigency to your OPD invoice.

[\[RAP 9.2\(b\)\]](#)

Q. Should I transcribe voir dire or opening statements?

A. Transcribe voir dire or opening statements only if *specifically* requested by the attorney in the Statement of Arrangements. If voir dire or opening statements are not requested in the Statement of Arrangements, OPD will not pay for those sections to be transcribed.

[\[RAP 9.2\(b\)\]](#)

Q. Do I need a copy of the Order of Indigency for my own records?

A. You should always insist that attorneys and pro se litigants provide you with a copy of the Order of Indigency before doing indigent appellate transcript work. A Statement of Arrangements providing for payment by OPD is not enough, there needs to be a Superior Court Order of Indigency finding that the client is entitled to transcripts at public expense (or, occasionally, an appellate court order granting a request for expenditure of public funds). If you're not sure whether an Order of Indigency is sufficient to support payment by OPD, please contact gideon.newmark@opd.wa.gov.

NOTE: An Order of Indigency is not required for Personal Restraint Petition cases where the client is represented by appointed counsel, but transcripts being ordered in such cases is rare.

[\[RAP 15.2\(b\), RAP 16.15\(h\)\]](#)

Q. What rules govern VRPs produced for appeal?

A. [RAP 9.2](#) governs the ordering, content, and format of VRPs. [RAP 9.5](#) governs filing and service of VRPs. [RAP 15.4\(d\)](#) governs billing.

Q. What are some of the important formatting requirements of RAP 9.2?

A. **RAP 9.2(e)(2)** requires a detailed table of contents with specified entries. Without an adequate table of contents, a VRP can be very frustrating for attorneys and the courts.

RAP 9.2(f)(1)(A) requires that pages indicate at the top or bottom which witness is testifying and whether they are testifying on direct, cross, re-cross, or re-direct. This is also a very important rule for ensuring usability of VRPs.

Failure to comply with formatting rules can result in a VRP being rejected for filing. Fixing a rejected VRP is at the transcriber's expense.

Q. How much do I bill for an original VRP?

- A. Bill \$3.65 for each page of the original. The first copy, which must be provided to appellate counsel, is included in this price.

Example: The Statement of Arrangements orders 1 day of trial, which is 200 VRP pages. Using OPD's invoice, bill for 200 pages at \$3.65 per page, or \$730. Do not bill for the copy sent to appellate counsel.

[\[RAP 15.4\(d\)\(1\), Supreme Court General Order 25700-B-582\]](#)

Q. Is there a higher per-page rate for dependency or RCW 71.09 (sexually violation predator) transcripts?

- A. All appeals are paid at the same rate; there are no exceptions. All transcripts for appeals are paid at the same \$3.65 per page rate. Different rates are allowed only for transcripts ordered by and for trial counsel, not for an appeal.

Q. When should I bill for copies at 25 cents per page?

- A. Billing for copies is authorized only in certain circumstances. Occasionally, someone who is not authorized to receive a VRP copy paid for by OPD will request one. If you do not list a reason for providing copies, payment can be delayed or denied. Below are the primary situations where billing for copies is allowed; if you are not sure, always contact OPD before providing copies.

- 1) Bill for copies, not originals, if a Statement of Arrangements orders a hearing that you have already transcribed for another case or another party to the case. You can bill for each page copied; there are no "free" pages when copying already-transcribed proceedings. Make sure to list "already transcribed" where the invoice directs you to list a reason for billing for copies.

Example: The Statement of Arrangements orders transcription of a hearing, but you already transcribed that hearing for trial counsel before trial. The VRP was 25 pages. You make two copies of your existing transcript, filing one with the Court of Appeals and mailing the other to appellate counsel. You bill OPD for 50 pages at 25 cents per page, listing "already transcribed" as the reason for billing for copies.

- 2) Bill for copies if there are multiple indigent appellants or respondents and they each request the same portions of the transcript in a Statement of Arrangements.

Example: In a termination case, Mother and Father, represented by different appellate attorneys, both order transcripts of the entire trial, which is 500 pages. Bill for 500 pages at \$3.65 per page, file the original with the Court of Appeals and send the first copy to one parent's attorney. Send the other parent's attorney a second copy, billing for another 500 pages at 25 cents per page. List "copy for other parent" as the reason you are billing for copies. The same would apply to a criminal case with multiple defendants.

[\[RAP 15.4\(a\)\(3\), OPD Court Reporter Invoice\]](#)

Q. How should I prepare VRP volumes for two attorneys ordering the exact same hearings in a consolidated case?

A. Produce a single set of VRPs for both attorneys. If the clients each have different case numbers, list both case numbers on the VRP title pages. You should not provide different transcripts to each attorney, they should each receive the same transcript that was filed with the Court of Appeals.

Q. What if two clients on a consolidated case are ordering different hearings?

A. For any hearings that are ordered by only one (or less than all) of the defendants, produce separate volumes under the individual clients' case numbers. It is fine to give these volumes their own separate pagination.

Example: In a case with two defendants, both attorneys order all pre-trial hearings and the entire trial, but each orders their own client's separate sentencing hearing. There are 5 shared volumes. Create one set of consecutively paginated volumes, numbered 1 through 5, for the pretrial hearings and trial. Volumes 1 through 5 should list the case names and case numbers of both clients on their title pages. Create separate volumes for each client's sentencing hearing, listing only the case name and case number of the individual client. You could label the sentencing volumes 6A and 6B, or simply "SENTENCING," or use a similar naming scheme so it is clear how the separate volumes fit with the rest of the VRP.

Q. Does OPD pay for transcripts ordered by a prosecutor or assistant attorney general?

A. OPD pays for the expenses of an indigent party only. OPD will not pay for transcripts ordered by a prosecutor, an assistant attorney general, or any non-indigent party.

[\[RAP 15.4\(a\)\]](#)

Q. Does an Order of Indigency guarantee payment by OPD in every case?

A. In the vast majority of cases with an Order of Indigency, OPD will pay for transcripts. However, sometimes a judge will sign an Order of Indigency for a case type where transcripts at public expense aren't authorized. The rules for which case types allow transcripts at public expense are complex. The best rule of thumb is that if it's a civil case, and it's not a civil commitment case, you should stop and check with OPD. An order of indigency obtained for a non-civil commitment civil case (SCOMIS case type 2) or a domestic relations case (SCOMIS case type 3) is usually not valid.

[\[RAP 15.2\(b\)\(1\)\]](#)

Q. How can OPD deny payment if a judge has signed an Order of Indigency?

A. Superior courts issue Orders of Indigency, but they don't have the power to expand the indigency rules on their own. Washington statutes and court rules limit when transcripts can be paid for at public expense. In cases falling outside those statutes and court rules, parties must petition the Supreme Court under RAP 15.2(c)(2) before their costs will be paid at State expense.

[\[RCW 10.73.150, RAP 15.2\(b\)\(1\)\]](#)

Q. Who should I contact if I'm unsure whether OPD will pay for a VRP?

A. Please e-mail Gideon Newmark, Appellate Program Manager, at gideon.newmark@opd.wa.gov. Administrative staff members cannot answer such questions and will forward any inquiries to the appellate manager.

Q. If OPD will not pay for a VRP, who is responsible for payment?

A. If a party that files a statement of arrangements is not indigent or does not have a right to counsel at public expense, that party is usually responsible for the cost of VRPs themselves. You should contact the person who filed the statement of arrangements about payment.

Q. Can I bill an appellate attorney for amounts that OPD won't pay?

A. Appellate attorneys for indigent clients cannot be held responsible for amounts OPD will not pay. OPD pays all amounts properly authorized by court rule or statute; additional charges cannot be passed on to appellate counsel or a third party. If you believe OPD has incorrectly denied payment, you can appeal OPD's decision under [RAP 15.5\(a\)](#).

Q. Who should submit the bill if I have hired another court reporter or transcriptionist to complete transcripts ordered from me personally?

A. If your name is listed on the Statement of Arrangements, you remain responsible for the transcripts, even if hiring someone else to help you. Please bill OPD yourself; payment for third parties helping you should be handled privately. If you can't oversee the work and need to pass it to someone else completely, please ask the attorney to file an amended Statement of Arrangements listing the person who will be completing the transcripts.

Q. How Can I appeal OPD's denial of a claim for payment?

A. You can appeal OPD's denial of a claim for payment by letter to OPD's advisory committee within 30 days of the denial.

[\[RAP 15.5\]](#)