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SUPREME COURT OF GUAM
IN THE SUPREME COURT OF GUAM

RE:)	Supreme Court Case No.
)	PRM 08-002
ADOPTION OF THE RULES FOR)	
RECORDING GRAND JURY)	
PROCEEDINGS)	PROMULGATION ORDER
)	NO. 08-002-01

On March 19, 2008 Guam Public Law 29-56 was passed into law. Section 2 of Public Law 29-56 provides that the Unified Judiciary is responsible for creating “appropriate rules for digital or analog formatting, storage media, security, archiving and dissemination of audio transcripts.” Guam Pub. L. 29-56 (Mar. 19, 2008).

Therefore, pursuant to Section 2 of Public Law 29-56 and the authority to “make and promulgate rules governing the administration of the judiciary and the practice and procedure in the courts of the judicial branch of Guam,” 48 U.S.C. § 1424-1(a)(6), the Supreme Court hereby adopts and promulgates, the following Interim Rules for Recording Grand Jury Proceedings:

1. **Digital or analog formatting:** The Court Reporters’ Unit will record in digital formatting using FTR Recorder. For analog recordings already existing in the Court Reporters’ Unit tapes will be made available in re-formatted form.
2. **Storage:**
 - (a) A copy of a CD may be filed in the case file, identified as the Grand Jury proceedings and maintained in the file in a sealed envelope. In lieu of a CD of the recordings, the court reporters’ unit may place a Certification in the file that a true and correct copy of the master recording of the proceedings was turned over to counsel, with the date and time, also certifying that the master of the recording is kept at the Court Reporters’ Unit of the Clerk of Court of the Superior Court of Guam.
 - (b) All grand jury proceedings are to be stored in the same form in which they were recorded, i.e, analog or digital, and will also be stored in a stand-alone hard drive. Additionally, all grand jury digital recordings shall be archived onto CDs and maintained

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1 within the Court Reporters Unit. All existing analog grand jury recordings are kept on
2 the master cassette tapes, archived within the Court Reporters Unit.

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

7 4. **Dissemination:**

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

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

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

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

5. **Review:**

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

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

1 These Rules are effective July 16, 2008 and shall remain in effect until further
2 ordered by this Court.

3 **SO ORDERED**, this 16th day of July, 2008.

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6 **F. PHILIP CARBULLIDO**
7 Associate Justice

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10 **KATHERINE A. MARAMAN**
11 Associate Justice

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ROBERT J. TORRES
Chief Justice