

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE CREATION
OF A COMMITTEE TO REVIEW THE
PRESERVATION, ACCESS, AND
SEALING OF COURT RECORDS.

ADKT 410

FILED

NOV 30 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ADKT 410 Exhibits

- Exhibit A – Proposed Standards of Operation and Best Practices Manual for Making the Record
- Exhibit B – Letter of Dissent, In Part, from Judge John Tatro
- Exhibit C – Summary of Comments from Judges and Court Reporters
- Exhibit D – Analysis by Nevada Court Reporters Association
- Exhibit E – Making the Record Survey

11-36708

EXHIBIT A

STANDARDS OF OPERATION AND BEST PRACTICES MANUAL FOR MAKING THE RECORD

**STANDARDS OF OPERATION
AND BEST PRACTICES**

FOR

MAKING THE COURT RECORD



Prepared by the Official Court Records Subcommittee, a
subcommittee of the Nevada Supreme Court's Commission on
Preservation, Access, and Sealing of Court Records

October 2011

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INTRODUCTION

An accurate record of all court proceedings is an essential requirement of the due process of law. The judicial officer shall determine which method(s) of recording court proceedings are to be used based upon current economic issues, availability of reporters and recorders, and other relevant factors.

STANDARDS OF OPERATION AND BEST PRACTICES¹ FOR COURT REPORTING SERVICES IN NEVADA'S COURTS²

A “standard of operation” is a *mandatory* practice and a “best practice” is a *suggested* practice for adoption in all courts in order to improve the quality, timeliness, usability, and efficiency of making the court record.

I. OFFICIAL RECORD

Standards of Operation

Official Record means the certified verbatim transcript, which is the written record of court proceedings except:

- A. In the absence of a certified verbatim transcript, the certified court reporter/recorder notes or the sound recording shall be the official record.
- B. When a proceeding in a court is simultaneously recorded by multiple means, the judicial officer shall determine which recording is the official record, and the judicial officer’s decision shall be noted on the record.
- C. When the record is prepared by sound recording per NRS 3.380, the sound recording is the official record of the proceeding, unless it fails or is incomplete because of equipment or operational failure, in which case the record prepared by the certified court reporter shall be deemed, for all purposes, the official record of the proceedings. NRS 3.380 (5)

II. OWNERSHIP OF THE RECORD

Standard of Operation

The court shall be the owner of all certified court reporters’ notes or sound recordings made by an official reporter of the court or court recorder or other person designated by the judicial officer.

III. QUALIFICATIONS FOR CREATING THE OFFICIAL RECORD

Standards of Operation

Certified Court Reporter

- A. Court employees or contractors providing stenographic services for the courts must have achieved and must maintain the designation of Certified Court Reporter (CCR) as defined by

¹ Information was obtained from Florida’s *Standards of Operation and Best Practices for Court Reporting Services*; Michigan’s *Official Court Reporter/Recorder Manual*; Iowa’s *Digital Audio/Visual Recording Technology (DART) Committee Report*; Colorado’s Chief Justice Directive 05-03, Amended June, 2009, Supreme Court of Colorado’s *Management Plan for Court Reporting and Recording Services*; South Dakota’s I.P. Rule 2004-03; and the National Association for Court Management *Making the Verbatim Court Record Manual*.

² A list of definitions may be found in Appendix A.

Nevada Revised Statute (NRS) CHAPTER 656, court rule, regulations of the Nevada Certified Court Reporters Board, and the Nevada Administrative Code (NAC) CHAPTER 656.

- B. Court reporting employees and contract service providers shall meet all professional standards and training requirements established by NRS CHAPTER 656, court rule, regulations of the Nevada Certified Court Reporters Board, and the NAC CHAPTER 656.

Voice Writer*

- A. Court employees or contractors providing voice writing services for the courts must have achieved and must maintain the designation of Voice Writer as defined by Nevada Revised Statute (NRS) CHAPTER 656, court rule, and regulations of the Nevada Certified Court Reporters Board.
- B. Voice writer employees and contract service providers shall meet all professional standards and training requirements established by NRS CHAPTER 656, court rule, and regulations of the Nevada Certified Court Reporters Board.

**Please note, if voice writing services are used in a proceeding, the judicial officer shall ensure that the use of the voice writer is not a distraction to the proceeding.*

Court Recorders and Transcriptionists

- A. Court employees or contractors currently working for the court as of the effective date of the order approving the standards or operation and best practices manual, and who are providing digital court reporting services, which includes confidence monitoring while taking simultaneous notes to identify case events, speakers, unusual jargon, etc. and/or the transcription of the digital court recording, shall achieve and maintain certification with the American Association of Electronic Reporters and Transcribers, Inc. - Electronic Court Reporting and Transcribing (AAERT)³ within two years from the effective date of the order approving the standards of operation and best practices manual, unless the court employee or contractor has achieved and maintained the designation of Certified Court Reporter (CCR) as defined by the Nevada Revised Statute (NRS) CHAPTER 656, court rules, regulations of the Nevada Certified Court Reporters Board, and the Nevada Administrative Code (NAC) CHAPTER 656.⁴
- B. Court employees or contractors who are providing digital court reporting, which includes confidence monitoring while taking simultaneous notes to identify case events, speakers, unusual jargon, etc. and/or the transcription of the digital recording, and who are hired after the effective of the order approving the standards of operation and best practices manual, shall obtain certification within two years from their hire date, unless the court employee or contractor has achieved and maintained the designation of Certified Court Reporter (CCR) as

³ AAERT will maintain a list of Nevada-certified members and can share this information with the courts.

⁴ Current (2011) costs associated with AAERT certification: \$125 a year membership fee, \$45 for the certification test study guide, \$150 per certification test. Certificates granted by AAERT: CER**D (certified electronic and digital court reporter), CET**D (certified electronic and digital court transcriber), and CERT**D (certified electronic and digital court reporter and transcriber). The total cost for membership, study guide, and one test is \$320. AAERT charges \$75 to re-test. The costs to achieve CER**D and CET**D is \$470. Once a person is certified by AAERT, the certification will remain in effect unless the person is no longer a member in good standing with AAERT. AAERT does not require continuing education credits; however, they do offer them and maintain a record of the CE credits. AAERT's Certification Committee is presently reviewing and working towards online certification and a recertification program. Please go to <http://www.aaert.org/?page=CertificationInfo> for current costs associated with certification.

defined by Nevada Revised Statute (NRS) CHAPTER 656, court rule, regulations of the Nevada Certified Court Reporters Board, and the Nevada Administrative Code (NAC) CHAPTER 656.

Certified Electronic Operator⁵

- A. The Certified Electronic Operator (CEO) may be the judge, court clerk, bailiff, or other staff the court has designated as the CEO and is responsible for the operation of the digital recording equipment for making the court record.
- B. The CEO operating the recording system shall be adequately trained to proficiently operate the system. The CEO shall acquire certification from the (Administrative Office of the Courts (AOC) or JAVS or other entity)⁶ indicating they have received X number of hours of training⁷ on the digital audio and/or video equipment within two years from the effective date of the order approving the standards of operation and best practices manual. The CEO shall maintain certification by completing X number of hours⁸ of training every two years through (AOC or JAVS).
- C. The CEO must produce the clearest possible recording of proceedings.
- D. At a minimum, the certified electronic operator should know how to:
 - 1. Effectively monitor the recording system;
 - 2. Know courtroom procedures;
 - 3. Protect the recording under the direction of the judicial officer, which may include instructing lawyers and litigants to speak into microphones and identify themselves; stopping conversations or other extraneous noise that might interfere with an accurate recording, and asking the judge to recess the proceedings when necessary to adjust or repair the recording system;
 - 4. Troubleshooting of equipment and recording quality as appropriate for the system, vendor, and the resources of the courts.
- E. Training should be tailored to the specific needs of the recording system and court operations.
- F. Training should include but not be limited to the following:
 - 1. Storing and copying of records including partial records;
 - 2. Special handling of sealed or confidential hearings;
 - 3. Troubleshooting of equipment and recording quality as appropriate for the system, vendor, and the resources of the courts;
 - 4. Creating backups of files;
 - 5. Playing back a recording;
 - 6. Adjusting microphone volume;
 - 7. Microphone operations, including muting techniques.

⁵ Please note, if the certified electronic operator will be transcribing the electronic record the certified electronic operator shall achieve and maintain certification with the American Association of Electronic Reporters and Transcribers, Inc. (AAERT). Please see section III. Court Recorders and Transcriptionists of the Standards of Operation and Best Practices Manual for the requirements.

⁶ There would need to be further discussion in regards to the DAVS training and certification. Who would or could provide the training and certification? JAVS currently has a training video and manual that is provided to the courts when JAVS is installed.

⁷ The number of training hours required would still need to be determined.

⁸ The number of hours required to maintain certification would need to be determined.

IV. APPOINTMENT AND DUTIES OF COURT REPORTERS AND COURT RECORDERS⁹

Standards of Operation¹⁰

District Courts

NRS 3.320 Official reporter: Appointment; duties.¹¹

1. The judge or judges of any district court may appoint, subject to the provisions of this chapter (NRS Chapter 3) and other laws as to the qualifications and examinations of the appointee, one certified court reporter, to be known as official reporter of the court or department and to hold office during the pleasure of the judge appointing the official reporter. The appointee may be any business organization licensed by the Board if the person representing the business organization, who actually performs the reporting service, is a certified court reporter.
2. The official reporter, or any one of them if there are two or more, shall:
 - (a) At the request of either party or of the court in a civil action or proceeding, and on the order of the court, the district attorney or the attorney for the defendant in a criminal action or proceeding, make a record of all the testimony, the objections made, the rulings of the court, the exceptions taken, all arraignments, pleas and sentences of defendants in criminal cases, and all statements and remarks made by the district attorney or judge, and all oral instructions given by the judge; and
 - (b) When directed by the court or requested by either party, within such reasonable time after the trial of the case as may be designated by law or, in the absence of any law relating thereto, by the court, transcribe the record into a written transcript. The reporter shall certify that the action or proceeding was correctly reported and transcribed and, when directed by the law or court, shall file the written transcript with the clerk of the court.
3. As used in this section, "Board" means the Certified Court Reporters' Board of Nevada, created by NRS 656.040.

NRS 3.340 Official Reporter: Attention to duties; reporter pro tempore.

The official reporter of any district court shall attend to the duties of office in person except when excused for good and sufficient reason by order of the court, which order shall be entered upon the minutes of the court. Employment in his or her professional capacity elsewhere shall not be deemed a good and sufficient reason for such excuse. When the official reporter of any court has been excused in the manner provided in this section, the court may designate an official reporter pro tempore who shall perform the same duties and receive the same compensation during the term of his or her appointment as the official reporter.

⁹ Please see the Tier Implementation Table at the end of this manual for a guideline of methods district, justice, and municipal courts may use to make the record for various proceedings.

¹⁰ AB 249 was approved by the Governor and became effective May 29, 2011. AB 249 amended NRS 3.320, NRS 3.340, NRS 3.360, NRS 3.370, NRS 3.380, NRS 4.410, and NRS 4.420. The language in the Standards of Operation and Best Practices Manual reflects the amended language in AB 249; therefore, the language in the manual may not match the Nevada Revised Statute until the statute language is updated by the Legislative Council Bureau.

¹¹ The Commission recommends that ALL civil proceedings be digitally recorded, whether or not the party or attorney has requested a record of the proceeding be made by a court reporter or court recorder. Current statute does not require courts to make a record in a civil proceeding unless the party or attorney requests and pays for a court reporter or court recorder. If a party or attorney decides after the civil proceeding that he or she would like an official record of the civil proceeding, the party or attorney may make the request through the court and pay the appropriate fees. The court reporter or court recorder in the department where the civil proceeding was heard would be given the option to produce the official transcript for the party or attorney.

NRS 3.350 Official Reporter: Oath of Office.

The official reporter of any court, or official reporter pro tempore, shall, before entering upon the duties of office, take and subscribe the constitutional oath of office.

NRS 172.215 Proceedings After Commitment and Before Indictment.¹²

1. Whenever criminal causes are being investigated by the grand jury, it shall appoint a certified court reporter. If the certified court reporter is not an official reporter of the district court, the certified court reporter, shall, before entering upon his or her duties, take and subscribe the constitutional oath of office. The certified court reporter is entitled to receive the same compensation for services as an official reporter of the district court.
2. Except as otherwise provided in subsection 3, the certified court reporter shall include in the notes taken of a grand jury proceeding all criminal matters which come before the grand jury including:
 - (a) The charge by the impaneling judge;
 - (b) Any subsequent instructions or statements made by the judge;
 - (c) Each statement made by the district attorney;
 - (d) Each question asked of and response given by the witnesses who appear before the grand jury; and
 - (e) Any statements made by the grand jurors during the proceeding.
3. The certified court reporter shall not include in his or her notes:
 - (a) Any confidential communication between a witness and the witness's legal counsel, if the legal counsel is allowed to accompany the witness before the grand jury; or
 - (b) The deliberations and voting of the grand jury.

Limited Jurisdiction Courts

NRS 4.390 Required for Certain Proceedings.

Proceedings in each justice court must be recorded by using sound recording equipment except where the board of county commissioners of the county in which the court is located authorizes, and the justice of the peace appoints, a certified court reporter to take down the proceedings in the same manner and with the same effect as in a district court.

NRS 4.400 Operation of Equipment; Transcription of Recordings; Use of Transcript.

1. Each justice of the peace shall appoint and, with the approval of the board of county commissioners, fix the compensation of a suitable person, who need not be a certified court reporter and may have other responsibilities in the court to operate the sound recording equipment. The person so appointed shall subscribe to an oath that the person will so operate it as to record all of the proceedings.
2. The justice of the peace may designate the same or another person to transcribe the recording into a written transcript. The person so designated shall subscribe to an oath that the person has correctly transcribed it. The transcript may be used for all purposes for which transcripts are used and is subject to correction in the same manner as other transcripts.

¹²The Commission recommends adding "or court recorder" to the language in NRS 172.215. This would allow district courts the option of using either a court reporter or a court recorder to make the record in grand jury proceedings. Currently, the statute states that only certified court reporters may be appointed. The court recorder would be required to monitor the proceeding. This would provide the judicial officers the flexibility of using court recorders, as well as certified court reporters for grand jury proceedings.

Justice Court Rules of Civil Procedure Rule 80

- (a) **Proceedings on the Record – Method.** Proceedings which are required by law or rule to be on the record in each justice court must be recorded by using sound recording equipment or be reported by a certified shorthand reporter who shall take down the proceedings in the same manner and with the same effect as in a district court.
- (b) **Sound Recording Operator.** Whenever sound recording equipment is used to record proceedings, the justice shall appoint a suitable person to operate the sound recording equipment and such person shall subscribe to an oath that the person will so operate it as to record all of the proceedings to which the person is assigned and to preserve the tapes.¹³
- (c) **Sound Recording Transcription.** Whenever sound recording equipment is used to record proceedings the justice shall designate a suitable person to transcribe the recording into a typewritten transcript and such person shall subscribe to an oath that the person has correctly transcribed the recording. Such oath shall be affixed at the end of each transcript.
- (d) **Proceedings on the Record—Designation.**¹⁴ The following proceedings in each justice court shall be conducted on the record:
 - (1) Preliminary hearings on gross misdemeanor and felony cases;
 - (2) Traffic trials;
 - (3) Misdemeanor trials;
 - (4) Coroner’s inquests;
 - (5) Extradition waiver hearing; and
 - (6) Any other proceedings as required by statute or court order or may be properly requested by any of the parties to the action.
- (e) **Proceedings on the Record— Transcript as Evidence.** Proceedings recorded or reported shall be transcribed into typewritten transcripts, certified as correct and filed with the clerk or justice, as required by these rules or by statute. Whenever the testimony of a witness at a trial or hearing which was recorded or reported is admissible in evidence at a later trial, such testimony may be proved by the transcript thereof duly certified by the person who reported the testimony or the person who transcribed the sound recordings tapes.

NRS 171.198 Reporting Testimony of Witnesses (Preliminary Hearings)¹⁵

1. Except as otherwise provided in subsection 2, a magistrate shall employ a certified court reporter to take down all the testimony and the proceedings on the hearing or examination and, within such time as the court may designate, have such testimony and proceedings transcribed into typewritten transcript.
2. A magistrate who presides over a preliminary hearing in a justice court, in any case other than in a case in which the death penalty is sought, may employ a certified court reporter to take down all the testimony and the proceedings on the hearing or appoint a person to use sound recording equipment to record all the testimony and the proceedings on the hearing. If the magistrate appoints a person to use sound recording equipment to record the testimony and proceedings on the hearing, the testimony and proceedings must be recorded and transcribed in the same manner as set forth in NRS 4.390 to 4.420, inclusive. Any transcript of the testimony and proceedings produced from a recording conducted pursuant to this subsection is subject to the provisions of this section in the same manner as a transcript produced by a certified court reporter.

¹³ The Commission recommends updating the language in JCRCP Rule 80 (b) to read “recordings” instead of “tapes.”

¹⁴ The Commission recommends adding subsection (6) Protection order hearings to the list of proceedings on the record under JCRCP Rule 80 (d). The current subsection (6) will become subsection (7).

¹⁵ The Commission recommends adding “court recorder” to NRS 171.198. Currently, court recorders are allowed to make the record in district court if the death penalty is being sought, but court recorders cannot make the record during preliminary hearings in limited jurisdictions if the death penalty is sought. The court recorder would be required to monitor the proceeding.

3. When the testimony of each witness is all taken and transcribed by the reporter, the reporter shall certify to the transcript in the same manner as for a transcript of testimony in the district court, which certificate authenticates the transcript for all purposes of this title (NRS Title 14-Procedure in Criminal Cases).
4. Before the date set for trial, either party may move the court before which the case is pending to add to, delete from or otherwise correct the transcript to conform with the testimony as given and to settle the transcript so altered.
5. The compensation for the services of a reporter employed as provided in this section are the same as provided in NRS 3.370, to be paid out of the county treasury as other claims against the county are allowed and paid.
6. Testimony reduced to writing and authenticated according to the provisions of this section must be filed by the examining magistrate with the clerk of the district court of the magistrate's county, and if the prisoner is subsequently examined upon a writ of habeas corpus, such testimony must be considered as given before such judge or court. A copy of the transcript must be furnished to the defendant and to the district attorney.
7. The testimony so taken may be used:
 - (a) By the defendant; or
 - (b) By the State if the defendant was represented by counsel or affirmatively waived his or her right to counsel,
 ↪ upon the trial of the cause, and in all proceedings therein, when the witness is sick, out of the State, dead, or persistent in refusing to testify despite an order of the judge to do so, or when the witness's personal attendance cannot be had in court.

**Please note, if a municipal court¹⁶ is considered a court of record per NRS 5.010, please refer to NRS 5.073.*

V. OVERSIGHT

Standards of Operation

- A. All judicial officers or designees shall be responsible for the administration of any court reporting service in their court or department, as well as the timeliness of the production of transcripts, whether on appeal or for other purposes. The judicial officer or designee shall have in place a process to monitor transcript production. This responsibility may extend to effective management of the court's court reporters or court recorders.
- B. Court reporting employees and contract service providers are officers of the court and must comply with all applicable Nevada statutes, court rules, and other requirements established by the judicial officer.

¹⁶ Currently, Boulder City, Fallon, Mesquite, Yerington, and North Las Vegas Municipal Courts are not considered courts of record. North Las Vegas Municipal Court is working with the city to have the city ordinance changed so the court may become a court of record.

VI. ELIMINATING ANALOG RECORDING¹⁷

Best Practice

Courts should refrain from utilizing analog audio recording and should attempt, where practical, to replace analog with digital recording capability.

VII. RECORDING OF PROCEEDINGS¹⁸

Best Practices*

A. Oral Language Court Interpreters

A recording should be made and maintained of those portions of court proceedings where an oral language court interpreter is used for testimony, regardless of whether a court reporter is also reporting the proceedings by stenographic means. The audio recording should be maintained in the same manner as court reporters' notes.

B. Interpreters and Realtime Captioning Providers¹⁹

Where a Realtime Captioning Provider is used for testimony as outlined in NRS Chapter 656A, regardless of whether a court reporter is also reporting the proceedings by stenographic means, the unedited notes from the testimony of the Realtime Captioning Provider should be preserved by the court. The realtime captioning notes should be maintained in the same manner as court reporters' notes, but the realtime captioning notes should be clearly labeled and filed separately to avoid confusion regarding which is the official record.

C. Sign-Language Interpretation

In those proceedings where a sign-language interpreter is used and the court is equipped with video recording equipment, those portions of the proceedings should be video-recorded, regardless of whether a court reporter is also reporting the proceedings by stenographic means. The video recording should be maintained in the same manner as the court reporters' notes.

**Please note, any attorney/client conversations/discussions considered confidential would not be a part of the official court record and should be sealed or redacted as appropriate.*

¹⁷ A survey was sent to all Nevada trial courts in August of 2010 asking what type of recording system each court was using to make the record. Incline, Lund, Wells, and Wadsworth Justice Courts, as well as Carlin Justice/Municipal Court reported they are using tape/analog systems to record the record and are not equipped with a digital recording system. The Ninth Judicial District is not equipped with a digital recording system as of 3/28/11, but they are working with the AOC. The Family Court and Department 1 at the Second Judicial District Court are equipped with a digital audio/video recording system (JAVS) but Departments 3/4/6/7/8/9/10/15 are not equipped with any digital audio and/or video system. The Eighth Judicial District Court's Department 19, the Complex Litigation Center, is not equipped with a digital audio and/or video system and is still using a Lanier tape cassette.

¹⁸ The Commission recommends Section VII as a best practice versus a standard of operation since current technology may not allow the courts to isolate the oral language or sign-language interpretation. Oral language interpreters may speak directly into a machine or may interpret simultaneously, which would make it difficult or impossible to isolate the interpretation. In regards to sign-language interpreters, not all courts are equipped with video recording equipment; therefore, it may not be possible for the courts to video-record the sign-language interpreter. Also, many of the digital audio and/or video systems' cameras are voice-activated and would not focus on the sign-language interpreter, unless they were near the person speaking.

¹⁹ Realtime Captioning Providers offer Communication Access Realtime Translation (CART), which is a word-for-word speech-to-text interpreting service for people who need communication access. CART addresses the communication access needs of people who are Deaf, deaf, late-deafened or hard-of-hearing as required by the Americans with Disabilities Act.

VIII. AUDIOTAPES/VIDEOTAPES AS EVIDENCE

Standards of Operation

- A. Reporting of Audio/Video Recordings: Generally, audio/video recordings played in court are entered as an exhibit in a proceeding. Since such recordings are under the direct control of the court, audio/video recordings need not be transcribed unless otherwise instructed to do so by the judicial officer. When an audio/video recording is played in court the court reporter or court recorder shall indicate the beginning log number where the tape starts, the summary phrase "audio tape or videotape played" and the ending log number where the playing of the tape stops.
- B. If an audio recording is played as evidence and excerpts of the audio are played in court, log numbers shall reflect the beginning and conclusion points of the portion of the audio recording played.
- C. If a witness narrates a video as it is being played, log numbers shall be reflected at the beginning and conclusion of the portion of the video played or displayed.

IX. OPERATING DIGITAL AUDIO AND/OR VIDEO RECORDING EQUIPMENT

Standards of Operation

- A. Digital and/or audio recording systems shall comply with standards established by each court for digital audio and/or video court recording.
- B. Courts shall implement procedures for regular testing of digital and/or audio court recording systems to ensure proper operation.
- C. Courts using electronic recording methods shall establish standardized training for judges, hearing officers, and staff.²⁰

NRS 3.380 Sound recording equipment: Installation; operation; transcription of recording; use of transcript; provision by party of certified court reporter; effect. EXCERPT

1. The judge or judges of any district court may, with the approval of the board of county commissioners of any one or more of the counties comprising such district, in addition to the appointment of a court reporter as in this chapter provided, enter an order for the installation of sound recording equipment for use in any of the instances recited in NRS 3.320, for the recording of any civil and criminal proceedings, testimony, objections, rulings, exceptions, arraignments, pleas, sentences, statements and remarks made by the district attorney or judge, oral instructions given by the judge and any other proceedings occurring in civil or criminal actions or proceedings, or special proceedings whenever and wherever and to the same extent as any of such proceedings have heretofore under existing statutes been recorded by the official reporter or any special reporter or any reporter pro tempore appointed by the court.
2. For the purpose of operating such sound recording equipment, the court or judge may appoint or designate the official reporter or a special reporter or reporter pro tempore or the county clerk or clerk of the court or deputy clerk. The person so operating such sound recording equipment shall subscribe to an oath that he or she will well and truly operate the equipment so as to record all of the matters and proceedings.

²⁰ National Association for Court Management, *Making the Verbatim Court Record*, at 13 (June 2007), available to order on <http://www.nacmnet.org/miniguide.html>.

3. The court may then designate the person operating such equipment or any other competent person to listen to the recording and to transcribe the recording into written text. The person who:
 - (a) Transcribes the recording shall subscribe to an oath that he or she has truly and correctly transcribed the proceedings as recorded.
 - (b) Operates the sound recording equipment as described in subsection 2 shall:
 - (1) Subscribe to an oath that the sound recording is a true and accurate recording of the proceedings; and
 - (2) In the event of an error, malfunction or other problem relating to the sound recording equipment or the sound recording, report that error, malfunction or problem to the court.

NRS 4.400 Operation of equipment; transcription of recordings; use of transcript. EXCERPT
Each justice of the peace shall appoint and, with the approval of the board of county commissioners, fix the compensation of a suitable person, who need not be a certified court reporter and may have other responsibilities in the court to operate the sound recording equipment. The person so appointed shall subscribe to an oath that the person will so operate it as to record all of the proceedings.

X. DUTIES AND RESPONSIBILITIES OF COURT RECORDER

Standards of Operation

- A. The court recorder is responsible for producing a record of all proceedings in the court to which he or she has been assigned. The court recorder must produce the clearest possible recording of proceedings and must keep a written (handwritten, typed, or computer-generated) log of events in the proceeding. Satisfactory performance of the system depends almost entirely on the court recorder's understanding of the procedures outlined and his or her conscientious application of these procedures to his or her work in the court.
- B. Planning and preparing for each day is a mandatory function. The court recorders shall have readily available all necessary supplies for producing an accurate and clear recording and for creating log notes. To ensure a quality recording will be made, the court recorder must allow enough time before the proceeding begins to pretest the recording equipment and all microphones.
- C. Each department shall have an instruction sheet and troubleshooting information readily available.
- D. The tapes or compact disk (CDs) shall be properly labeled along with log notes and other accompanying information that the transcriber needs to produce a complete and accurate typed transcript of the proceedings. The court recorder must maintain a log of the proceedings. To assure the quality of the audio recording and the completeness of the log material, the court recorder may need to ask people to speak into a microphone, to speak louder, or to spell their names or the names of people or places they are talking about. It is highly recommended that the court recorders have the headphones on at all times and that the court recorder listens to the recording, not the source. This ensures the digital audio and/or video equipment is properly recording the proceeding.

Best Practices

At a minimum, the court recorder should know how to:

1. Effectively conduct confidence monitoring of the recording system;
2. Know courtroom procedures, legal terminology, and other technical vocabulary;

3. Produce accurate and detailed log notes;
4. Protect the record under the direction of the judicial officer, which may include instructing lawyers and litigants to speak into microphones and identify themselves; stopping conversations or other extraneous noise that might interfere with an accurate recording, and asking the judge to recess the proceedings when necessary to adjust or repair the recording system; and
5. Have legal-secretarial, writing, computer, grammatical, and verbal skills necessary to assist judicial officers to produce a certified verbatim transcript when requested.

XI. DUTIES OF THE JUDICIAL OFFICER

Standards of Operation

- A. The judicial officer shall ensure that an adequate record of the proceedings has been made by:
 1. Maintaining court decorum to permit an accurate record to be recorded;
 2. Notifying participants of the method of the recording being utilized;
 3. Reminding participants to speak into the microphones at a sufficient volume, and to answer clearly and audibly;
 4. Calling the case by name and number and type of proceeding initially, and when switching from one case to another;
 5. Reminding all participants to properly identify themselves and to spell their names for the record;
 6. Reminding participants to remain close to microphones and to be aware of “dead” areas for both audio and video;
 7. Announcing on the recording if a sidebar conference is to be recorded;
 8. Reminding counsel, when necessary, to remain within an appropriate distance of microphones;
 9. Signifying when it is appropriate for attorneys to utilize mute buttons;
 10. Reminding participants not to make excessive noises that interfere with the recording such as rustling papers, tapping fingers on microphones, etc.;
 11. Reminding participants that only one person should speak at any time;
 12. Recessing periodically during lengthy proceedings so that court reporters and court recorders may remain alert and effective; and
 13. Notifying court administration, the clerk, or contract service provider if equipment has been tampered with or is not functioning.
- B. Once a recording of the proceeding is being made, the recording equipment shall remain in operation until the proceeding has concluded.

XII. DUTIES AND RESPONSIBILITIES OF THE CERTIFIED ELECTRONIC OPERATOR

Standards of Operation

- A. A system check shall be made to guarantee proper operation of electronic recording equipment each day prior to court beginning. The system check shall, at a minimum, consist of a test recording that confirms all components of the recording and playback system are functioning properly. The court shall establish a procedure for employees to follow in the event of an equipment malfunction. An alternative recording system should be available for use in the case of primary equipment failure.
- B. Courts shall establish policies addressing when recording systems are to be turned on and off consistent with judicial necessity.

- C. Courts shall assign one or more staff members to act as the point-of-contact for operational and repair issues. The point-of-contact staff person shall be trained in operating the equipment and in procedures to be followed in resolving operational issues, including contacting vendors.
- D. The certified electronic operator is responsible for turning the digital and/or analog equipment on and off, as necessary, to make a record of all proceedings in the court to which they have been assigned. The operator must produce the clearest possible recording of proceedings.
- E. At a minimum, the certified electronic operator should know how to:
 1. Effectively conduct confidence monitoring of the recording system;
 2. Know courtroom procedures;
 3. Protect the recording under the direction of the judicial officer, which may include instructing lawyers and litigants to speak into microphones and identify themselves; stopping conversations or other extraneous noise that might interfere with an accurate recording, and asking the judge to recess the proceedings when necessary to adjust or repair the recording system.

XIII. PARTICIPANTS' RESPONSIBILITIES

Best Practices

- A. Courts should memorialize in writing the responsibilities of all participants during a proceeding to ensure the quality of the official record.
- B. Attorneys should inform their clients of the method of recording being utilized and take necessary precautions to protect disclosure of confidential communications during the proceeding.
- C. Court reporters and court recorders should monitor equipment during a proceeding to ensure adequate operation and immediately notify the presiding judicial officer of problems with the equipment.
- D. Bailiffs and marshals should ensure that all participants refrain from tampering with equipment including the inappropriate use of microphone mute buttons or the unauthorized removal of microphones from their original location.

XIV. PREVENTING THE RECORDING OF CONFIDENTIAL COMMUNICATIONS

Best Practices

- A. Courts should post signs inside and outside all rooms in which proceedings are recorded using audio and/or video technology. The sign should provide notice to all who enter that any conversations occurring in the room may be recorded.
- B. Courts should post signs at attorney tables within rooms in which audio and/or video technology is used to record proceedings. The signs should caution attorneys and their clients that their conversations may be recorded.
- C. Courts should install microphones with "hold-to-mute" capability for those microphones used by attorneys or presiding judicial officers.
- D. Courts should conduct periodic training for stakeholders commonly coming into contact with the use of audio and/or video recording technology. The training should include a description of how the technology is operated and tips for effective courtroom behavior specific to the stakeholders.

- E. Courts should distribute and/or make readily available audio and/or video recording resource material (i.e., pamphlets, guide books, operator manuals, etc.) for stakeholders to assist with ensuring the quality of the official record.

XV. TRANSCRIPT PRODUCTION FOR THE COURTS

Standards of Operation

- A. It is primarily the responsibility of every judicial officer or person so designated to make certain that the court reporter, court recorder, or transcriber timely prepares and files transcripts pursuant to Nevada statutes NRS 189.010 to 189.030, NRS 172.225, NRS 171.198 (6), JCRCP Rule 80, and Nevada Rules of Appellate Procedure (NRAP).
- B. Court reporters, court recorders, and transcribers shall notify the court when they encounter poor-quality recordings. The court shall establish procedures to ensure these reports are investigated and any problems are remedied.²¹
- C. If a concordance indexing key words in the transcript is requested by the court or counsel, the court reporter, court recorder, or transcriptionists shall not charge more than the current statutory per-page rate as outlined in NRS 3.370.
- D. Compensation for the production of transcripts is set forth in NRS 3.370,²² NRS 4.410, and Nevada Rules of Appellate Procedure (NRAP).

NRS 3.380 Sound recording equipment: Installation; operation; transcription of recording; use of transcript; provision by party of certified court reporter; effect. EXCERPT

- 3. The court may ... designate the person operating such equipment or any other competent person to listen to the recording and to transcribe the recording into written text. The person who:
 - (a) Transcribes the recording shall subscribe to an oath that he or she has truly and correctly transcribed the proceedings as recorded.
 - (b) Operates the sound recording equipment as described in subsection 2 shall:
 - (1) Subscribe to an oath that the sound recording is a true and accurate recording of the proceedings; and
 - (2) In the event of an error, malfunction or other problem relating to the sound recording equipment or the sound recording, report that error, malfunction or problem to the court.
- 4. The transcript may be used for all purposes for which transcripts have heretofore been received and accepted under then existing statutes, including transcripts of testimony and transcripts of proceedings as constituting bills of exceptions or part of the bill of exceptions on appeals in all criminal cases and transcripts of the evidence or proceedings as constituting the record on appeal in civil cases and including transcripts of preliminary hearings before justices of the peace and other committing magistrates, and are subject to correction in the same manner as transcripts under existing statutes.
- 5. If a proceeding is recorded and a transcript is requested, a copy of the sound recording must, if requested, be provided with the transcript. The cost for providing the sound recording must not

²¹ See Appendix B for an example of the Electronic Recording Evaluation Sheet.

²² The Commission recommends adding paragraph 8 to NRS 3.370. The new language would read, "The court is entitled to compensation from the parties as outlined in subsection 1(d) and for reimbursement for any transcripts prepared pursuant to 1(c), 1(e)(2) and 1(f)(2) if the court provides the reporting, recording and/or transcribing services rather than utilizing an outside person who is entitled to be compensated under this statute."

exceed the actual cost of production and must be paid by the party who requests the sound recording.

6. In civil and criminal cases when the court has ordered the use of such sound recording equipment, any party to the action, at the party's own expense, may provide a certified court reporter to make a record of and transcribe all the matters of the proceeding. In such a case, the record prepared by sound recording is the official record of the proceedings, unless it fails or is incomplete because of equipment or operational failure, in which case the record prepared by the certified court reporter shall be deemed, for all purposes, the official record of the proceedings.

If a proceeding is recorded and a transcript is requested, a copy of the sound recording must, if requested, be provided with the transcript. The cost for providing the sound recording must not exceed the actual cost of production and must be paid by the party who requests the sound recording.

NRS 12.015 Actions involving indigent persons. EXCERPT

3. If the person is required to have proceedings reported or recorded, or if the court determines that the reporting, recording or transcription of proceedings would be helpful to the adjudication or appellate review of the case, the court shall order that the reporting, recording or transcription be performed at the expense of the county in which the action is pending but at a reduced rate as set by the county.

NRS 3.360 Official reporter: Report prima facie evidence.

The transcript of the official reporter, or official reporter pro tempore, of any court, duly appointed and sworn, when transcribed and certified as being a correct transcript of the testimony and proceedings in the case, is prima facie evidence of such testimony and proceedings²³.

Justice Court Rules of Civil Procedure Rule 80 (c)²⁴ EXCERPT

- (c) Sound Recording Transcription. Whenever sound recording equipment is used to record proceedings the justice shall designate a suitable person to transcribe the recording into a typewritten transcript and such person shall subscribe to an oath that the person has correctly transcribed the recording. Such oath shall be affixed at the end of each transcript²⁵.

Best Practices

When proceedings have been digitally recorded and a certified verbatim transcript of the proceedings has been requested:

1. Courts should assign a staff member to act as a transcript coordinator to ensure timely production of transcripts for appellate proceedings. This staff member should be familiar with the rules and practices involved in transmitting the verbatim record to the appellate court.
2. The certified verbatim transcript should be prepared by a court reporter, court recorder, or a court-approved transcriptionist.
3. Courts should establish an application process to approve transcriptionists that are not court employees.
4. Courts should maintain a list of court-approved transcriptionists²⁶.

²³ See Appendix C for example of certification of transcript.

²⁴ The Commission recommends adding language to the first sentence of Justice Court Rules of Civil Procedure, Rule 80 (c).

“Whenever sound recording equipment is used to record proceedings and a transcript is ordered or required, the judicial officer shall designate a suitable person...”

²⁵ See Appendix C for example of attestation.

²⁶ See Appendix D for an example of court-approved transcriptionists.

XVI. PROCEDURE WHERE TRANSCRIPT DEFECTIVE

Standards of Operation

NRS 189.035 Procedure Where Transcript Defective.²⁷

1. Except as provided in subsection 2, if the district court finds that the transcript of a case which was recorded by sound recording equipment is materially or extensively defective, the case must be returned for retrial in the justice court from which it came.
2. If all parties to the appeal stipulate to being bound by a particular transcript of the proceedings in the justice court, or stipulate to a particular change in the transcript, an appeal based on that transcript as accepted or changed may be heard by the district court without regard to any defects in the transcript.

XVII. ORDERING ORIGINAL TRANSCRIPTS AND COPIES OF TAPES OR DIGITAL RECORDINGS²⁸ OF THE PROCEEDING

Standards of Operation

- A. All official, original transcripts shall be ordered through the court.
- B. Only audio/video recordings transcribed by a court reporter, court recorder, or court-approved transcriptionist and certified as the verbatim transcript shall be considered the official record of the proceeding.
- C. Each court shall establish proposed local court rules outlining the procedures for that particular court for ordering transcripts, tapes, or digital recording disks²⁹ and then submit a copy of those local rules for review and approval by the Nevada Supreme Court.
- D. Original transcripts may be ordered from the courts following the procedures below:
 1. Courts shall provide the requesting party request forms for transcripts. Blank forms can be procured from the court as set forth by each court. The completed form must be sent to the address listed on the form for the appropriate court.
 2. The person ordering transcripts will be contacted directly by the court reporter or court recorder concerning payment of the appropriate fees. Transcripts will not be started, and the time limits stated for delivery of the transcripts will not commence, until satisfactory arrangements are made with the court reporter, court recorder, or court-approved transcriptionist for the payment of required fees.
 3. It is the requestor's responsibility to properly pay or obtain a court order approving waiver of fees in ordering of the transcripts. The requestor also must obtain, and the court reporter, court recorder, or transcriber must produce, a dated receipt for the payment. This is to avoid any dispute as to the date, manner, or fact that payment has been made.

²⁷ The Commission recommends adding municipal court to both Subsections 1 and 2. Subsection 1 would read, "The case must be returned for retrial in the municipal or justice court from which it came." Subsection 2 would read, "If all parties to the appeal stipulate to being bound by a particular transcript of the proceedings in the municipal or justice court..."

²⁸ The subcommittee was concerned that individuals may obtain a copy of the recorded proceeding and have the recording transcribed by anyone (whether they are qualified or not) and the transcript could be filed, in the court, as the official transcript. In researching this issue, the subcommittee found that Family Courts in the Eighth Judicial District and the First Judicial District already had a process and forms in place to prevent this from happening. The recommended procedure requires a person to fill out a form requesting a public copy of the CD. If a person wants a transcript of the recording, the person will be required to complete a Transcript Request Order and the court will forward the request to an approved court reporter, court recorder, or transcriber. It is also recommended that each court develop a list of approved court reporters, court recorders, and transcribers.

²⁹ See Appendix E for examples of forms courts may use to implement this process.

- E. Copies of all or part of tapes or digital records (CD-ROM) may be ordered in those courts that are able to provide this service. The court may, based upon each court's local court rules, reproduce tapes or create CDs on its own duplicating equipment and may sell copies of electronic sound recordings. The court may sell a whole or partial copy of the proceeding to the public, if available on CD, disks, or tape. The cost for providing a whole or partial copy of the proceeding must not exceed the actual cost of production.
- F. Courts shall establish protocols for producing copies of audio/video recordings in accordance with standards established by Nevada statute and local court rules. These protocols shall include, but are not limited to, procedures preventing the release of:
 - 1. Off-the-record discussions;
 - 2. Sidebar conferences and attorney-client conversations; and
 - 3. Any other information that is considered confidential.
- G. The court shall ensure the accuracy of the recording and provide certification of the recording's correctness.
- H. The copy of the electronic recording shall not constitute an official record of the proceedings.

XVIII. ORDERING COPIES OF ORIGINAL TRANSCRIPTS

Standards of Operation

- A. If a person requests a copy of a transcript that was produced by a court recorder or court transcriptionist, the court may provide a copy of the transcript and charge the current fee for the copy that is set forth in NRS 19.013 for district courts, NRS 4.060 for justice courts, and NRS 5.073 for municipal courts.
- B. If a person requests a copy of a transcript that was produced by a certified court reporter, the court may:
 - 1. Direct the person to contact the certified court reporter to obtain the copy, and the certified court reporter may collect the compensation that is set forth in NRS 3.370; or
 - 2. Charge in addition to the current fee for the copy that is set forth in NRS 19.013, NRS 4.060, and NRS 5.073, a fee for each page provided, which is equal in amount to the fee per page charged by the certified court reporter for the copy of the transcript as set forth in NRS 3.370. For each page provided, the court shall remit to the certified court reporter who transcribed the proceeding an amount equal to the fee per page as set forth in NRS 3.370. The court shall establish procedures to pay the certified court reporter on a monthly or quarterly basis.
- C. If a person requests a copy of a transcript that was produced by a certified court reporter and the court reporter cannot be located³⁰ within a reasonable time period, the court may create the copy and retain the fee.

XIX. BACKLOGS OR PRODUCTION DELAYS

Best Practices

The judicial officer or designee is authorized to take necessary steps to reduce backlog transcripts, tape, or disk copy production delays. Such steps may include, but are not necessarily limited to:

- 1. Adjusting the workload of the court reporter, court recorder, or transcriber to reduce backlogs.

³⁰ A list of certified court reporters can be obtained by going to the Nevada Certified Court Reporters Board's website at: <http://crptr.state.nv.us/Ory-LicenseesFullList.asp>

2. Terminating a contract with an outside vendor of transcription services and/or adding vendors of transcription services.

XX. DISCIPLINARY ACTIONS/SANCTIONS³¹

Standards of Operation

Certified Court Reporters

NRS 656.250 Grounds for denial, suspension or revocation of certificate or license: Miscellaneous grounds.

The Board may refuse to issue or renew or may suspend or revoke any certificate or license if the court reporter in performing or attempting to perform or pretending to perform any act as a court reporter has:

1. Willfully failed to take full and accurate stenographic notes of any proceedings;
2. Willfully altered any stenographic notes taken at any proceedings;
3. Willfully failed accurately to transcribe verbatim any stenographic notes taken at any proceedings;
4. Willfully altered a transcript of stenographic notes taken at any proceedings;
5. Affixed his or her signature to any transcript of his or her stenographic notes or certified to the correctness of such a transcript unless the transcript was prepared by the court reporter or was prepared under the court reporter's immediate supervision;
6. Demonstrated unworthiness or incompetency to act as a court reporter in such a manner as to safeguard the interests of the public;
7. Professionally associated with or loaned his or her name to another for the illegal practice by another of court reporting, or professionally associated with any natural person, firm, co-partnership or corporation holding itself out in any manner contrary to the provisions of this chapter (NRS CHAPTER 656) ;
8. Habitually been intemperate in the use of intoxicating liquor or controlled substances;
9. Except as otherwise provided in subsection 10, willfully violated any of the provisions of this chapter (NRS CHAPTER 656) or the regulations adopted by the Board to enforce this chapter (NRS CHAPTER 656);
10. Violated any regulation adopted by the Board relating to:
 - (a) Unprofessional conduct;
 - (b) Agreements for the provision of ongoing services as a court reporter or ongoing services which relate to the practice of court reporting;
 - (c) The avoidance of a conflict of interest; or
 - (d) The performance of the practice of court reporting in a uniform, fair and impartial manner and avoiding the appearance of impropriety.
11. Failed within a reasonable time to provide information requested by the Board as the result of a formal or informal complaint to the Board, which would indicate a violation of this chapter (NRS CHAPTER 656); or
12. Failed without excuse to transcribe stenographic notes of a proceeding and file or deliver to an ordering party a transcript of the stenographic notes:
 - (a) Within the time required by law or agreed to by verbal or written contract;
 - (b) Within a reasonable time required for filing the transcript; or
 - (c) Within a reasonable time required for delivery of the transcript.

³¹ The Commission recommends creating a Supreme Court Rule that would allow all courts to sanction court reporters, court recorders, and transcriptionists when there has been an issue with the production of a transcript in either civil or criminal cases.

Court Reporters' and Recorder's Duties and Obligations; Sanctions

Nevada Rules of Appellate Procedure (NRAP) Rule 13³²

- (a) Persons serving as court reporters or reporters pro tempore or court recorders in trials, proceedings, or hearings subject to Supreme Court review are, for such purposes, officers of the Supreme Court, and as such are accountable to the Supreme Court for the faithful performance of their duties and obligations. Subject to the provisions of NRAP Rule 9, any person acting as a court reporter or reporter pro tempore or court recorder in a trial, proceeding, or other matter subject to Supreme Court review has a duty expeditiously to prepare, and punctually to deliver, all transcripts needed for such review; such person accordingly has a duty to refrain from undertaking further professional assignments that may unduly interfere with timely preparation and delivery of transcripts necessary for review of matters already heard; and where appropriate such person shall promptly notify every affected judge of the reporter's or recorder's consequent unavailability to report matters currently being heard, so that substitute reporters pro tempore or court recorders may be obtained.
- (b) Sanctions. For default in the professional obligations of any court reporter or reporter pro tempore or court recorder, if such default threatens or adversely affects the efficiency or integrity of the Supreme Court, appropriate sanctions will be imposed. The Supreme Court may, for reasons stated, enter an order (1) referring an apparent offending court reporter or reporter pro tempore to the Certified Court Reporters Board of Nevada for disciplinary action in accordance with the provisions of Chapter 656 of the Nevada Revised Statutes; or (2) requiring an apparent offender to appear before the Supreme Court, or its designated master, to show cause why he or she should not be precluded from undertaking to act as a reporter or recorder in regard to any trial, proceeding, administrative hearing, or deposition, that is subject to Supreme Court review; why he or she should not be punished for contempt of court; and why damages should not be awarded to either or both parties, and to the State of Nevada, if loss of court time results.

XXI. PROBATION; ADMINISTRATIVE FINE

Standards of Operation

NRS 656.257 Probation; administrative fine.

1. In addition to or in lieu of suspending, revoking or refusing to issue or renew the certificate of a court reporter or the license of a court reporting firm pursuant to NRS 656.240, 656.250 or 656.253, the Board may, by a majority vote:
 - a. Place the court reporter or court reporting firm on probation for a period not to exceed 1 year; or
 - b. Impose an administrative fine against the court reporter or court reporting firm in an amount not to exceed \$5,000 for each violation for which the administrative fine is imposed.
2. Any penalty imposed pursuant to this section must be imposed by the Board at a hearing conducted pursuant to chapter 622A of NRS.

³² The Commission recommends adding language to the current Nevada Rules of Appellate Procedure, Rule 13, to include transcribers. The Commission recommends adding a new subsection (c), which would read, "In the absence of a court reporter or reporter pro tempore or court recorder, subsection b shall apply to the transcriptionist." The current rule only addresses sanctions and disciplinary actions for court reporters, reporter pro tempore, or court recorders. Transcripts may be sent to outside transcribers; therefore, the rule should also apply to transcribers.

XXII. STORAGE, RETENTION, ARCHIVING, AND PRESERVATION

Standards of Operation

- A. The courts shall retain the trial court record and notes of testimony in compliance with the Nevada Supreme Court's Minimum Records Retention Schedules³³, NRAP Rule 10 and Rule 11, NRS 4.420³⁴, JCRCP 80³⁵, and NRS 656.335.³⁶
- B. Each court must submit a copy of proposed local court rules and standards for the archiving, storage, and preservation of transcribed and un-transcribed notes of testimony, rough draft transcripts, reporter and recorder log notes, tapes, or other electronic or digital audio files, and any hardware, software, tools or dictionaries necessary for proper transcription to the Nevada Supreme Court for review and approval.³⁷
- C. Courts, contract service providers, and vendors of digital technology shall comply with all storage and retrieval standards for digital court recording as established by Supreme Court Rule and otherwise established by the local court rules.
- D. During the period of retention, paper or electronic notes shall be made available to the reporter of record, or to any other reporter or person the court may designate if the reporter of record is unavailable.
- E. All original and backup copies of recordings must be kept in a safe and controlled manner. If original or copies are kept in the court building, security measures must be employed so that original media cannot be tampered with or damaged. This includes court stenographer notes, indexes, or any other record that is kept in regard to a courtroom proceeding.

³³ Please see footnote 30 (below) for a detailed explanation of changes to NRS 4.420. The Commission recommends the language in the Supreme Court Minimum Retention Schedule for municipal and justice courts be changed so the language is consistent with the new language in NRS 4.420.

³⁴ AB 249 was approved by the Governor and became effective May 29, 2011. NRS 4.420 is hereby amended to read as follows:

1. Except as otherwise provided in this section:
 - (a) The sound recording of each proceeding in justice court must be preserved until at least 1 year after the time for filing an appeal expires.
 - (b) With respect to a proceeding in justice court that involves a misdemeanor for which enhanced penalties may be imposed, a gross misdemeanor or a felony, the sound recording of the proceeding must be preserved for at least 8 years after the time for filing an appeal expires.
2. If no appeal is taken, the justice of the peace may order the destruction of the recording at any time after the date specified in subsection 1.
3. If there is an appeal to the district court, the sound recording must be preserved until at least 30 days after final disposition of the case on appeal, but the justice of the peace may order the destruction of the recording at any time after that date.

Prior to the approval of AB249, NRS 4.420 only required the sound recording of each proceeding in justice court be preserved until at least 30 days after the time for filing an appeal expires. The new language requires the sound recording be preserved for at least 1 year after the time for filing an appeal expires and 8 years in proceedings in justice court which enhanced penalties may be imposed.

³⁵ It is recommended the language in JCRCP Rule 80 subsection (f) be changed so that it is consistent with the preservation period in NRS 4.420. Currently the rule reads, "The sound recording tapes of each proceeding shall be preserved until at least 30 days after the time for filing an appeal has expired. If an appeal is not taken and the prescribed period has elapsed, the justice may order the destruction of the recording. If an appeal is taken, the tape shall be retained until at least 30 days after final disposition of the case on appeal. The justice may order the destruction of the recording at any time after that date. Upon order of the district court the tape recording shall be forthwith transmitted to the district court."

³⁶ NRS 656.335 Court Reporter to Retain Certain Notes for 8 Years.

A court reporter shall retain his or her notes, whether or not transcribed, for 8 years if they concern any matter subject to judicial review. These notes must be kept in a manner which is reasonably secure against theft, tampering or accidental destruction.

³⁷ See Appendix F for an example of a court reporter acknowledgment concerning stenographic and electronic notes.

- F. At a minimum, courts' local rules and standards for the archiving, storage, preservation, and retention of transcribed and un-transcribed notes of testimony, rough draft transcripts, reporter and recorder log notes, tapes, or other electronic or digital audio files, and any hardware, software, tools or dictionaries necessary for proper transcription shall consist, of but not be limited to:
1. Establish timeframes (daily, weekly, monthly) in which the court reporters are required to download their transcribed and un-transcribed notes of testimony, and any dictionaries necessary for proper transcription;
 2. Establish formats in which the court reporters are required to download their transcribed and un-transcribed notes of testimony and any dictionaries necessary for proper transcription. Example, PDF, ASCII, etc.;
 3. Courts, contract service providers, and vendors of digital technology shall maintain forward migration processes to guarantee future access to the digital court record;
 4. Courts shall employ "record over" protection in their archive and redundancy functions;
 5. The system shall have security to control access;
 6. If a court reporter is maintaining stenographic notes in a digital format, both the original notes and, if available, a plain-language translation shall be backed up to a system controlled by the court;
 7. A standard file-naming format shall be established for digital audio recordings to ensure the court ability to accurately identify, retrieve, and use those records for the duration of their retention period;
 8. Courtroom recordings shall be transferred regularly to a central location for archiving;
 9. Multiple backups of the record shall be maintained for the life of the record.

XXIII. FORMAT

Standards of Operation

Court reporters, court recorders, and transcribers shall follow formatting guidelines for rough draft transcripts as outlined in NRAP Rule 3C Fast Track Criminal Appeals, NRAP 3E Fast Track Child Custody Appeals, and certified transcripts as outlined in NRAP 9 and NRS 3.370 (2).

TIER IMPLEMENTATION TABLE

Tier Implementation Table

The Table provides a guideline of the methods district, justice, and municipal courts may use to record the record for various proceedings. In some proceedings the courts may use a certified court reporter or a court recorder and in others they may also use a digital recording device. The definitions for each are provided below.

Definitions

“Certified Court Reporter” or **“Court Reporter”** means a person who is technically qualified and registered under NRS Chapter 656 to practice court reporting. The certified court reporter will be certified by the Certified Court Reporters’ Board of Nevada.

“Certified Court Recorder” means an individual who is employed by the court to record testimony by electronic means using confidence monitoring while taking simultaneous notes to identify case events, speakers, unusual jargon, etc. The “court recorder” will be certified by the American Association of Electronic Reporters and Transcribers, Inc. (AAERT).

“Certified Electronic Operator” means a person who operates the electronic recording equipment during court proceedings (i.e. turns the equipment on and off, makes sure the equipment is running properly, etc.) This person may be the judge, court clerk, bailiff, or other court staff the court has designated responsible for the operation of the digital recording for making the record.

“Confidence Monitoring” means listening to the electronic verbatim record as it is being made by use of headphones or other device to ensure the system is operating properly.

“Digital Recording Device” means a machine or device (e.g. Jefferson Audio and/or Video System (JAVS), CourtSmart, Olympus Digital Voice Recorder, etc.) that may be turned on and off for the purpose of digitally recording the court proceeding. The recording may be distributed to a certified court reporter, certified court recorder, or transcriber for transcription.

TIER IMPLEMENTATION TABLE

District Court	Proceedings	Method of Recording		
	Criminal Jury/Bench Trial	Court Reporter	Court Recorder	
	Arraignments	Court Reporter	Court Recorder	
	Sentencing	Court Reporter	Court Recorder	
	Review Hearing	Court Reporter	Court Recorder	
	Evidentiary Hearing	Court Reporter	Court Recorder	
	Pre-trial and Trial Setting Conference ¹	Court Reporter	Court Recorder	Digital Recording Device ²
	Settlement on the Record	Court Reporter	Court Recorder	
	Status Conference/Hearing	Court Reporter	Court Recorder	
	Order to Show Cause	Court Reporter	Court Recorder	
	Entry of Plea	Court Reporter	Court Recorder	
	Change of Plea	Court Reporter	Court Recorder	
	Formal/Informal Probation	Court Reporter	Court Recorder	
	Probation Modification/Revocation	Court Reporter	Court Recorder	
	Status Check/Review	Court Reporter	Court Recorder	
	Civil Matters	Court Reporter	Court Recorder	Digital Recording Device
	Grand Jury	Court Reporter	Court Recorder ³	
	Any Proceeding with a Foreign Language Interpreter	Court Reporter with an Audio Recording	Court Recorder	
	Any Proceeding with a Sign Language Interpreter	Court Reporter with Audio/Video Recording	Court Recorder with Audio/Video Recording	
Justice Court	Proceedings	Method of Recording		
	All Preliminary Hearings (if death penalty will be sought)	Court Reporter	Court Recorder ⁴	
	All Preliminary Hearings (death penalty will not be sought)	Court Reporter	Court Recorder	Digital Recording Device
	Arraignments/First Appearance	Court Reporter	Court Recorder	Digital Recording Device
	Bench/Jury Trials (except where an Enhanceable Offense is charged)	Court Reporter	Court Recorder	Digital Recording Device
	Bench/Jury Trials with Enhanceable Offense, e.g. DUI, Domestic Violence	Court Reporter	Court Recorder	

¹ Only needs to be recorded when judicial officer is present.

² This is not the preferred method for any proceeding at the district court level. Use if only option available.

³ The subcommittee is making a recommendation to change NRS 172.215 to allow the use of certified court recorders for grand jury proceedings.

⁴ This would require a statute change to NRS 171.198.

Justice Court Cont.	Proceedings	Method of Recording		
	Guilty Pleas and Sentencing if Enhanceable Offense (DUI or Domestic Violence)	Court Reporter	Court Recorder	Digital Recording Device
	Change of Plea	Court Reporter	Court Recorder	Digital Recording Device
	Other Pleas and Sentencing	Court Reporter	Court Recorder	Digital Recording Device
	Status Check/Review	Court Reporter	Court Recorder	Digital Recording Device
	Civil Matters	Court Reporter	Court Recorder	Digital Recording Device
	Protection Order Hearings	Court Reporter	Court Recorder	Digital Recording Device
	Any Proceeding with a Foreign Language Interpreter	Court Reporter with an Audio Recording	Court Recorder	Digital Recording Device
	Any Proceeding with a Sign Language Interpreter	Court Reporter with Audio/Video Recording	Court Recorder with Audio/Video Recording	Digital Recording Device
Municipal Court	Proceedings	Method of Recording		
	Bench/Jury Trials (except where an Enhanceable Offense is charged)	Court Reporter	Court Recorder	Digital Recording Device
	Bench/Jury Trials with Enhanceable Offense, e.g. DUI, Domestic Violence	Court Reporter	Court Recorder	
	Arraignments	Court Reporter	Court Recorder	Digital Recording Device
	Guilty Pleas & Sentencing if Enhanceable Offenses (DUI or Domestic Violence)	Court Reporter	Court Recorder	Digital Recording Device
	Change of Plea	Court Reporter	Court Recorder	Digital Recording Device
	Other pleas and sentencing	Court Reporter	Court Recorder	Digital Recording Device
	Status Check/Review	Court Reporter	Court Recorder	Digital Recording Device
	Civil Matters	Court Reporter	Court Recorder	Digital Recording Device
	Any Proceeding with a Foreign Language Interpreter	Court Reporter with an Audio Recording	Court Recorder	Digital Recording Device
	Any Proceeding with a Sign Language Interpreter	Court Reporter with Audio/Video Recording	Court Recorder with Audio/Video Recording	Digital Recording Device
Family Court	Proceedings	Method of Recording		
	Guilty Pleas and Sentencing if Enhanceable Offense (DUI or Domestic Violence)	Court Reporter	Court Recorder	Digital Recording Device

Family Court Cont.	Proceedings	Method of Recording		
	Evidentiary Hearings	Court Reporter	Court Recorder	Digital Recording Device
	OSC Hearings	Court Reporter	Court Recorder	Digital Recording Device
	Civil Commitment ⁵	Court Reporter	Court Recorder	Digital Recording Device
	Protection Order Hearings	Court Reporter	Court Recorder	Digital Recording Device
	Probate Hearing	Court Reporter	Court Recorder	Digital Recording Device
	Settlements on the Record	Court Reporter	Court Recorder	Digital Recording Device
	Guardianship Hearings	Court Reporter	Court Recorder	Digital Recording Device
	Child Support Hearing	Court Reporter	Court Recorder	Digital Recording Device
	Status Hearing	Court Reporter	Court Recorder	Digital Recording Device
	Review Hearing	Court Reporter	Court Recorder	Digital Recording Device
	Other Hearings	Court Reporter	Court Recorder	Digital Recording Device
	Status Check/Review	Court Reporter	Court Recorder	Digital Recording Device
	Change of Plea	Court Reporter	Court Recorder	Digital Recording Device
	Any Proceeding with a Foreign Language Interpreter	Court Reporter with an Audio Recording	Court Recorder	Digital Recording Device
	Any Proceeding with a Sign Language Interpreter	Court Reporter with Audio/Video Recording	Court Recorder with Audio/Video Recording	Digital Recording Device
Juvenile Cases	Proceedings	Method of Recording		
	Trials	Court Reporter	Court Recorder	Digital Recording Device
	Plea Hearings	Court Reporter	Court Recorder	Digital Recording Device
	Report & Disposition (Sentencing) Hearings	Court Reporter	Court Recorder	Digital Recording Device
	Probation Reviews	Court Reporter	Court Recorder	Digital Recording Device
	Detention Hearings	Court Reporter	Court Recorder	Digital Recording Device
	Contested Hearings	Court Reporter	Court Recorder	Digital Recording Device
	Adjudicatory Hearings	Court Reporter	Court Recorder	Digital Recording Device
	Formal Supervision Review Hearings	Court Reporter	Court Recorder	Digital Recording Device
	Status Check/Review	Court Reporter	Court Recorder	Digital Recording Device
	Change of Plea	Court Reporter	Court Recorder	Digital Recording Device
	Any Proceeding with a Foreign Language Interpreter	Court Reporter with an Audio Recording	Court Recorder	Digital Recording Device
	Any Proceeding with a Sign Language Interpreter	Court Reporter with Audio/Video Recording	Court Recorder with Audio/Video Recording	Digital Recording Device

⁵ The Eighth Judicial District Family Court noted civil commitments are currently done at the hospital with a court reporter since JAVS equipment is not available.

APPENDIX A

Definitions

Certified Court Reporter or **Court Reporter** means a person who is technically qualified and registered under NRS Chapter 656 to practice court reporting. The certified court reporter will be certified by the Certified Court Reporters' Board of Nevada.

Certified Electronic Operator means a person who operates the electronic recording equipment during court proceedings (i.e. turns the equipment on and off, makes sure the equipment is running properly, etc.) This person may be the judge, court clerk, bailiff, or other court staff the court has designated responsible for the operation of the digital recording for making the record.

Certified Court Recorder means an individual who is employed by the court to record testimony by electronic means using confidence monitoring while taking simultaneous notes to identify case events, speakers, unusual jargon, etc. The "court recorder" will be certified by the American Association of Electronic Reporters and Transcribers, Inc. (AAERT).

Confidence Monitoring means listening to the electronic verbatim record as it is being made by use of headphones or other device to ensure the system is operating properly.

Court Reporting means the act of making a verbatim record of the spoken word, whether by the use of written symbols, steno mask/voice writing equipment, or electronic devices, in any proceedings pending in any of the courts of this state, including all discovery proceedings conducted in connection therewith, and all proceedings required by statute to be reported by a certified or official court reporter or court recorder.

Court Reporting Personnel includes court reporters, court recorders, transcriptionists, and any other personnel whether employed or contracted who make the court record for use in any Nevada trial court.

Court Reporting Firm means a person who, for compensation, provides or arranges for the services of a court reporter or provides referral services for court reporters in this State.

Digital Audio Files are those files created by digital recording systems and saved in a format that allows storage and playback through computer applications.

Digital Recording Device means a machine or device (e.g. Jefferson Audio and/or Video System (JAVS), CourtSmart, Olympus Digital Voice Recorder) that may be turned on and off with the purpose of digitally recording the court proceeding. The recording may be distributed to a certified court reporter, certified court recorder, or transcriber for transcription.

Electronic Record means the audio, analog, digital, or video record of a court proceeding.

Electronic Copy means a transcript delivered via any electronic, non-paper media.

Electronic Transcript means an official transcript delivered in any electronic, non-paper media.

Migration means the process of upgrading to new technologies while preserving accessibility to existing records. It also means the process of moving electronic data from one storage device or media to another.

Stenographic Notes means the original manually or mechanically produced notes in shorthand or shorthand writing taken by a court reporter while in attendance at a proceeding to report the proceeding; or the record produced by the use of voice writing by a court reporter while in attendance at a proceeding.

Voice Writing means the making of a verbatim record of a proceeding by repeating the words of the speaker into a device that is capable of digitally translating the words into text; or making a tape or digital recording of those words.

Rough Draft Transcript (computer diskette, hard paper copy, or electronically distributed) is a computer-generated transcript that can be expeditiously prepared in a condensed fashion, but is not proofread, corrected, or certified to be an accurate transcript.

Transcriptionist means any person employed or utilized by a court to prepare a transcript of a proceeding from an electronic or other recording. A court reporter or court recorder may also serve as a transcriptionist.

Realtime means a proficient stenographic court reporter using computer-aided transcription software is able to capture the verbatim record at the time it occurs and translate stenographic keystrokes into written text displayed on a computer screen. A realtime record is often accompanied by a software package to allow the user to annotate the record.

APPENDIX B

ELECTRONIC RECORDING EVALUATION

Date: _____

Instructions to Transcriber: Please fill out one evaluation form for each transcript. Return the form to the court of origin with the transcript.

1. Case Name _____ 2. Case No. _____

3. Judge _____ 4. In-Court Clerk _____

5. Courtroom: _____

6. Date of Proceedings _____

7. Transcriber: _____

8. Overall Recording quality a. good b. adequate c. poor

Transcribing difficulties:

- 9. Counsel away from microphone
 - a. opening statement
 - b. closing argument
 - c. other: _____
 - d. Counsel's name: _____

10. Inaudible bench conferences

Log Nos (if known)

11. Dead microphone _____

12. Microphone not attached to witness _____

13. Poor volume control

a. volume not balanced _____

b. volume too low _____

c. other: _____

14. Channel no. _____ not working _____

15. Other problems (identify time stamp or log numbers): _____

16. Log note quality generally: a. very good b. good c. adequate d. poor

17. Problems with log notes (e.g., illegible, inaccurate, no ending log numbers): _____

For court system use only:

On _____ a copy of this evaluation was sent to the judge and the in-court supervisor or clerk of court.

APPENDIX C

1 STATE OF NEVADA)
2) ss.
3 COUNTY OF)
4

5 I, <insert name>, Certified Court Reporter, in and for the State of Nevada, do hereby
6 certify:

7 That as such reporter I was present in Department No. <insert dept. no> of the above
8 court on <insert day, date,> at the our of <insert time a.m. or p.m.> of said day, and I then
9 and there took verbatim stenotype notes of the proceedings had and testimony given therein
10 upon the <insert type of proceeding> of the case of THE STATE OF NEVADA, Plaintiff,
11 vs. <insert defendant's name>, Defendant, Case Number <insert case number.>

12 That the foregoing transcript, consisting of pages numbered 1 to <insert end page
13 number>, inclusive, is a full, true and correct transcript of my said stenotype notes, so taken
14 as aforesaid, and is a full, true and correct statement of the proceedings had and testimony
15 given upon the <insert type of proceeding> of the above-entitled action to the best of my
16 knowledge, skill, and ability.

17 I further certify that I am not a relative nor an employee of any attorney or any of the
18 parties, nor am I financially or otherwise interested in this action.

19 I declare under penalty and perjury under the laws of the State of Nevada that the
20 foregoing statements are true and correct.

21 DATED: At Reno, Nevada, this <insert day> day of <insert month>, <insert year>.
22
23
24

25 _____
Certified Court Reporter CCR#

EXAMPLE

Example

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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-video recording of this proceeding in the above-entitled case to the best of my ability.

LARA CORCORAN
Court Recorder/Transcriber

APPENDIX D

[Home](#)[About the Courts](#)[Programs & Services](#)[Judicial/Magistrate List](#)[ADA](#)[Search Now](#)[GO](#)[Contacts](#)[FAQs](#)[Links](#)[Web Accessibility](#)[Example](#)[Attorney](#)[Public](#)[Locations](#)[JACS](#)

Court Approved Transcriptionists

[Court Approved Transcriptionists](#)

Description and Application Process

Beginning November 15, 2004, the Twelfth Judicial Circuit implemented the digital recording of certain court proceedings that are required to be reported at public expense. The Circuit's current policy of which proceedings are reported electronically and stenographically is set forth in Administrative Order 2009-18.2.

In the Twelfth Judicial Circuit, written transcripts of digitally recorded proceedings are not typically provided. Exceptions to this policy can be found in Administrative Order 2010-1-2. If a written transcript is needed, upon request and receipt of applicable payment, the Digital Court Recording Office will provide an audio CD of the requested court proceeding. The requestor can then make arrangements with a transcriptionist to prepare a written record of the court proceeding.

On July 16, 2009, the Florida Supreme Court entered Order No. SC08-1658, titled "In RE: Amendments to the Florida Rules of Judicial Administration and the Florida Rules of Appellate Procedure – Implementation of Commission on Trial Court Performance and Accountability Recommendations". This order amended Rule 2.535(h)(3), Fla. R. Jud. Admin., which now requires that all transcripts to be used for the purpose of appeal or prepared at public expense be prepared by an "approved court reporter" or "approved transcriptionist".

At this time all independent contractors who perform transcription services in the Twelfth Judicial Circuit, either for the purpose of appeal or at public expense, including transcriptionists who provide transcript services for the court, public defender's office, state attorney's office, court-appointed counsel, the Office of Criminal Conflict and Civil Regional Counsel, or who provide transcription services for a party declared "indigent for costs" which may be reimbursable by the Justice Administrative Commission, must be "approved transcriptionists".

Transcriptionists that would like to be considered as an "approved transcriptionist" must fill out the Court Approved Transcriptionist Application and mail with the signed Transcriptionist Confidentiality Agreement and a copy of all professional certificates to the Digital Court Recording Office. Both the Application and the Confidentiality Agreement are available on the Twelfth Judicial Circuit's website.

Upon acceptance of the application, the applicant will be mailed a CD containing two audio records of digitally recorded court proceedings from which he/she will be asked to provide two sample transcripts. The sample transcripts will be reviewed by a court employee who is also an "approved court reporter". If the sample transcripts are approved, the applicant will be notified and the contact information provided on the application, including name, phone number and mailing address, will be posted on the Twelfth Judicial Circuit's website. If the sample transcripts do not meet the circuit's expectation of a high rate of accuracy and adherence to commonly accepted rules of punctuation, grammar and transcription, the application will be rejected and an explanation of the reason for the rejection will be provided. The applicant may resubmit a revised sample transcript with corrections at any time to be reconsidered for approval.

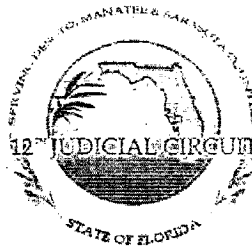
As an independent contractor, all "approved transcriptionists" not preparing transcripts for the court will be responsible for setting their own rates and terms of work. Court Administration will not take responsibility for the failure or inability of an "approved transcriptionist" to comply with the time requirements of transcripts needed for appeal purposes. If Court Administration becomes aware of an "approved transcriptionist" who does not routinely comply with the time requirements placed on appeal work or who no longer produces transcripts that meet the circuit's expectations described above, the situation will be reviewed. If necessary, the transcriptionist will be removed from the Court Approved Transcriptionist List and will no longer be permitted to perform transcription services at public expense within the circuit.

If you would like to be considered as an "approved transcriptionist", please mail the Court Approved Transcriptionist Application, Confidentiality Agreement and copies of professional certificates to the Digital Court Recording Office at the address below.

Digital Court Recording Office
12th Judicial Circuit Court Administration
PO Box 3000
Bradenton, FL 34205

Applications can also be scanned and emailed to dcrgrman@jud12.flcourts.org or faxed to (941)749-3692.

Example



Court Approved Transcriptionist Application

Contact Information

Name:			
Mailing Address:			
City:	State:	Zip:	County:
Place of Employment:			
Address of Employment:			
City:	State:	Zip:	County:
Which address for Mail? (Please circle one) Home Office			
Telephone (Please circle the number that you would like to have posted on the circuit's website):			
Office:	Residence:	Cell:	Fax:
E-mail Address:			

Transcription Qualifications and Experience

Describe transcription training you have taken:		
Current Certifications/Designations:		
Transcript Experience:	Years:	Months:
Type of Experience (<i>Court, Medical, Other – Specify</i>):		

For Court Experience, please complete the following:

NAME OF COURT	DATES OF EMPLOYMENT	TYPE OF PROCEEDINGS TRANSCRIBED

If you have previously performed transcription services at public expense, please list the names and phone numbers of the parties to whom you have provided these services. This includes transcript preparation for the court, public defender's office, state attorney's office, court-appointed counsel, the Office of Criminal Conflict and Civil Regional Counsel or any party declared "indigent for costs" and for whom the cost of the transcript was reimbursable by the Justice Administrative Commission?

Transcript Production Method

Describe your ability to produce expedited transcripts (five business days or less):

Please list the brand of software/equipment you use to produce transcripts (i.e. Case CATalyst, ProCat, SpeccCAT, MS Word, Word Perfect):

What is your normal turn-around time for producing transcripts once a request for same is received for a one hour hearing?

I understand that if this application and my sample transcripts are approved, that my name, address and telephone number will be placed on the court's website at www.jud12.flcourts.org.

APPLICANT SIGNATURE

DATE

Mail
 (1) This application form
 (2) Copies of all professional certificates
 (3) Oath of Confidentiality

**Digital Court Recording Office
 Twelfth Judicial Circuit Court Administration
 1051 Manatee Avenue West
 Bradenton, FL 34205**

12th Judicial Circuit Use Only:

Date Approved _____

Kimberly Miller
 Chief Deputy Court Administrator

Example



Example

12th Judicial Circuit COURT APPROVED TRANSCRIPTIONIST LIST

Effective July 7, 2010

BRENNAN, Lauri
1611 Jewel Drive
Sarasota, FL 34240
Home: (941) 371-0081
Cell: (941) 780-6604

COOK, Mary
675 Avenida DeMayo
Sarasota, FL 34242
Home: (941) 346-2772
Cell: (941) 266-6633

DEWITZ, Nancy
Phone: (325) 455-6886
[www.nancydewitz.com/
resume.html](http://www.nancydewitz.com/resume.html)

GARDELLI, Nancy B.
3572 Acorn Street
North Port, FL 34286
Office: (941) 426-4465
Fax: (941) 426-7055
www.acornfla.com

GIBBS, Janie
PO Box 2424
Oneco, FL 34264
Cell: (941) 518-7141

GLIDDEN, Carole B.
8175 Stirling Falls Circle
Sarasota, FL 34243
Home: (941) 358-2285

KEARNEY, Janene L.
314 Linden Drive
Ellenton, FL 34222
Home: (941) 722-3414
Cell: (941) 725-2057

**MEISENBACH,
Katherine L.**
Harbor Square, Suite 207
4134 Gulf of Mexico Drive
Longboat Key, FL 34228
Phone: (941) 228-9036;
(941) 932-3970; (941) 365-5855
Fax: (941) 383-6806
13575 58th St. North, Suite
200, Clearwater, FL 33760

MOIRANO, Kimberly K.
6480 36th Place
Vero Beach, FL 32966
Home: (772) 226-5188
Cell: (802) 343-0811

ROBERTS, Sandra
8110 Villa Grande Court
Sarasota, FL 34243
Cell: (941) 266-3286

SHAFFER, Josie G.
178 Tatum Road
Sarasota, FL 34240
Home: (941) 706-3080
Cell: (941) 416-4187

WENGER, Lisa D.
7015 229th Street East
Bradenton, FL 34211
Cell: (941) 704-5608

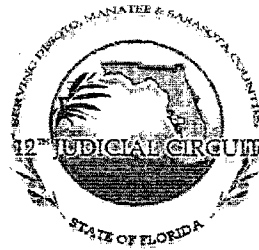
WOLFSON, Dale M.
610 Philadelphia Avenue
Chambersburg, PA
17201
Home: (717) 263-0531
Cell: (717) 404-2368
Fax: (717) 709-1143

AVTRANZ
845 North 3rd Avenue
Phoenix, AZ 85003
Phone: (800) 257-0885
Fax: (866) 954-9068
www.avtranz.com

ESCRIBERS
PO Box 7535
New York, NY 10116
Phone: (973) 406-2250
Fax: (973) 954-5619
www.escribers.net

Transcriptionists: If you would like to be added to the above list of court approved transcriptionists, please complete the Application and Confidentiality Agreement available on the Twelfth Judicial Circuit's website or contact the Digital Court Recording Office in Manatee County at (941) 749-3600 extension 7109. Appendix D

Example



Transcriptionist Confidentiality Agreement

I understand that all records concerning reports of child abuse, abandonment and neglect, including, but not limited to, reports made to the central abuse registry and tracking system, and all records generated as a result of such reports are confidential and shall not be disclosed except as specifically authorized by 39.202, F.S.

I hereby swear to uphold the confidentiality of any information learned by transcribing juvenile court hearings; I understand that I am subject to the same standards of confidentiality as the Department of Children and Families, the Court and private agencies pursuant to 39.0132, F.S.

I have read and understand this confidentiality agreement. My signature below affirms my agreement with this policy and my intention of adhering to it.

Signature

Printed Name

Date

APPENDIX E

CARSON CITY JUSTICE AND MUNICIPAL COURT

TRANSCRIPT REQUEST ORDER

Case No. _____ Defendant's Name: _____

Co-defendant Name: _____ Co-defendant Name: _____

Requesting Person's Name: _____ Contact Number: _____

Urgent need by _____ . Need no later than _____ .
(date) (date)

**Information for Preliminary Hearings Only: How many attorneys (including AG/DA) in the case?
_____ total.**

Court Reporters: Please prepare one original for the court and one copy for each attorney as indicated above and forward all to the court for distribution by the clerk.

Judge's Name: _____ Dept. I Dept. II Other: _____

District Attorney's AG's Full Name: _____

Public Defender's Conflict Counsel's Attorney's Full Name: _____

Civil Case: _____ vs. _____

Date(s) of Proceeding(s): _____

Type of Proceeding: Preliminary Hearing Other: _____

Requesting Clerk's Name: _____ (775) 887-2121 Ext. Number: _____

OFFICE SECTION:

DEPARTMENT ONE

DEPARTMENT TWO

Sunshine Reporting Services
(775) 323-3411

Capitol Reporters 515 W. Fourth St., Suite B Carson City, NV 89703
(775) 882-5322

Please transcribe and submit to the Carson City Justice Court located at 885 E. Musser Street, Suite 2007 Carson City, Nevada 89701. If you are unable to prepare, please notify the Clerk's Office at the number below. Compensation is paid pursuant to NRS 3.370.

Thank you,

Justice Court Staff
(775) 887-2121 Option 4.

FIRST JUDICIAL DISTRICT COURT
JUSTICE AND MUNICIPAL COURT

PUBLIC CD ROM ORDER FORM (CD ONLY)

885 E. MUSSER STREET CARSON CITY, NV 89701
DISTRICT COURT (775) 887-2082 (Third Floor)
JUSTICE/MUNICIPAL COURT (775) 887-2121 (Second Floor)

PLEASE BE ADVISED THAT THIS IS NOT A REQUEST FOR A TRANSCRIPT

Request for a copy of court proceedings may be submitted to the Clerk's Office in each respective court. **Please anticipate 2 to 4 weeks for completion of order. COPY OF A CD IS NOT A SUBSTITUTE FOR A CERTIFIED COURT REPORTER TRANSCRIPT. THE COURT DOES NOT TRANSCRIBE CD RECORDINGS. THE JUSTICE COURT WILL FORWARD CRIMINAL MATTERS FOR TRANSCRIPTION TO APPROVED TRANSCRIBERS. DISTRICT COURT TRANSCRIPTS MUST BE ARRANGED BY THE REQUESTING PARTY AND TRANSCRIBED BY A CERTIFIED COURT REPORTER. THE COURTS USE CAPITOL REPORTERS LOCATED AT 515 W. FOURTH STREET, SUITE B CARSON CITY, NEVADA 89703 OFFICE #(775) 882-5322 OR SUNSHINE REPORTING SERVICES AT (775) 323-3411.**

_____ \$10.00 One Court Proceeding on CD ROM
_____ \$ 9.50 To add one additional day of Court Proceedings to a previously duplicated tape.
Each additional date added (____ dates)

State Agency (No Charge) _____ Indigent Request (No Charge) _____
Agency Name Name

Parties: _____ vs. _____

Case No. _____ Dept _____ Judge _____

Date(s) of Proceeding: _____

Requesting Party or Firm Name: _____

Address: _____

City/State/Zip: _____

Phone No(s): _____ Contact Name: _____

PLEASE NOTE: THE VIEWING OF DOMESTIC PROCEEDINGS BY MINOR CHILDREN IS NOT CONSIDERED TO BE IN THEIR BEST INTEREST. THE PURPOSE OF THE CD RECORDING IS FOR ATTORNEYS AND CLIENTS AND IS PROHIBITED FROM BEING PUBLISHED OR SOLD. YOU MAY BE FOUND IN CONTEMPT OF COURT FOR VIOLATING THIS POLICY.

-INTEROFFICE USE ONLY-

Order Received by: _____ Date: _____

Order Filled by: _____ Date: _____

Client Notified: _____ Time: _____ VM Date: _____

CD Received by: _____ Date: _____

Example

INHOUSE

Example

Once transcript request is received
= REQUEST FOR TRANSCRIPT ESTIMATE

Figure estimate
= ESTIMATE FORM

Prepare and send formal estimate requesting deposit payment
= ESTIMATE OF TRANSCRIPT

Once deposit payment is received...

Prepare information sheet and assign
= TRANSCRIPT REQUISITION

Once transcript is completed
= FINAL BILLING OF TRANSCRIPTS

Customer pays balance...completed

REQUEST FOR TRANSCRIPT ESTIMATE

Today's Date _____

Requests for all JUVENILE transcripts require an EX-PARTE MOTION form that has been signed by the departmental Judge and filed at the Clerk's Office. Serve a copy on the Transcript Video Service office.

Entire Transcript _____ or Partial Transcript _____
(Start time: _____ Stop Time: _____)

* Please list any additional partial times on the reverse of this sheet and note it here.

Personal Use _____ or *Appeal to the Supreme Court? _____
*Supreme Court Case Number _____
*Are child custody issues involved in this appeal? _____

**NOTE: This form does NOT replace the *Formal Request For Transcript* per NRAP 9. To meet time constraints, Transcript Video Services must be served a copy of the *Formal Request For Transcript* that has been FILED by the Supreme Court promptly.
* Per NRAP 9(b)(1)- Appellant shall furnish counsel for each party appearing separately a copy of the transcript. Any costs associated with the preparation and delivery of the transcript shall be paid initially by the appellant, unless otherwise ordered.**

Number of copies you are ordering: _____
(\$3.55 per page, per NRS. 3.370 - 1 copy and 1 original)
(\$4.10 per page, per NRS. 3.370 - 2 copies and 1 original)
(\$4.65 per page, per NRS. 3.370 - 3 copies and 1 original)
- All originals are placed in the case file; all copies go to the ordering party. Please be sure you order the correct number of copies, per NRAP 9, if you are filing an appeal to the Supreme Court of Nevada.

Date(s) of Hearing(s) _____

Case No: _____ Dept. _____ Judge _____

Case Name: _____ vs _____

Transcript Video Services makes every effort to produce transcripts in an expedient manner. However, due to the volume of requests received, there may be a delay in processing your request.

TRANSCRIPT(S) NEEDED BY DATE OF: _____

NAME (Please write legibly): _____

ADDRESS: _____

CITY/STATE: _____ ZIP: _____

PHONE: _____ FAX: _____

SIGNATURE: _____

This is only an estimate. Upon completion of transcript(s), a balance may be due or you may receive a partial refund of your deposit.
Eighth Judicial District Court - Family Division - Transcript Video Services
Phone 702.455.4977 Facsimile 702.455.2352

Example

ESTIMATE FORM

Entire Transcript Personal Not Sealed
 Partial Transcript Appeal Sealed

Case No. _____ PDR DBR DVD Video CR # _____

Plaintiff _____ Defendant _____

Department _____ Judge/Master _____

Prior transcription on CMS _____ Date est. filed for Appeal _____

Day of Week _____ Date _____

Start time _____ End time _____ = _____ Mins

Total no. of Minutes _____ Number of copies _____

Total est. amount _____ Deposit Amount _____

Estimator _____ Date Est. Completed _____

Date Called _____ Spoke to/Message _____

Date Faxed _____ Date Mailed _____

FORMULA:

1 Minute = 1 Page

No. of minutes x per page rate x 80% = estimate amount...round off to nearest \$5 and that is deposit amount.

1 Example

2
3 EIGHTH JUDICIAL DISTRICT COURT
4 FAMILY DIVISION
5 CLARK COUNTY, NEVADA

6 [REDACTED])
7 Plaintiff,) CASE NO. [REDACTED]
8) DEPT. J
9 v.)
10 [REDACTED])
11 Defendant.) ESTIMATE OF TRANSCRIPT

12 The office of Transcript Video Services received a request
13 for transcript estimate from Luis [REDACTED] on November 1, 2010,
14 for the following proceeding in the above-captioned case:

OCTOBER 27, 2010

15 for original transcript and one copy.

16 The estimated cost of the transcript is \$700.00.

17 Payment in the amount of \$700.00, payable to the Clark County
18 Treasurer, must be presented to the Clark County Family Court
19 Transcript Video Services Office prior to work commencing on the
20 transcript. If paying cash, please present exact amount.

21 DATED this 2nd day of November, 2010.

22 SHELLY A. AJOUB, _____
23 Supervisor
24 Transcript Video Services

25 Transcript ESTIMATE amount of \$ _____ paid on
26 date of _____ Cash _____ Check # _____

27 This is only an estimate. Upon completion of transcript(s), a balance may be due,
28 or you may receive a refund of your deposit if overpayment is greater than \$5.00.

NOTE: STATUTORY FEES ARE SUBJECT TO CHANGE PER LEGISLATIVE SESSION.

ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.

COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

TRANSCRIPT REQUISITION

PARTIES: **PLAINTIFF v DEFENDANT**

Example

FILED

NON-APPEAL

\$3.55 Per Page

0 + 1 Copy

CASE #

DEPT:

DATE(S) OF PROCEEDING(S):

1. TUESDAY, OCTOBER 26, 2010

10:16:42 - 11:34:47 = 78

Trailed & Recalled

11:35:58 - 11:37:57 = 02

RE: Motion to Enforce

TRANSCRIPT NEEDED BY: 11/30/10 or before

REQUESTING PARTY:

ADDRESS:

PHONE #

FAX #

DATE REQUEST REC'D:

Est done by:

This form by:

EST # OF PAGES:

EST AMOUNT:

EST FAXED:

EST PHONED:

DATE EST PAID:

Check/Cash/MO#/CC#

Transcript Assigned to: _____ Date: _____

TOTAL Transcript Pages: _____ x Rate \$ _____ Final Cost: \$ _____

Less Deposit: \$ _____

Balance Due: \$ _____

Date Refund Requested: _____ OR Refund Amount: \$ _____

DATE FILED: _____ Client Notified (date & name) _____

Date Transcript(s) Received and Final Payment Made: _____

Check # _____ Cash _____

Transcript Stats Reported on _____

(Month/Year)

Notes: _____

Example

COST

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**EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

_____) CASE NO. _____
v _____) DEPT. R
_____)

FINAL BILLING OF TRANSCRIPTS

The office of Transcript Video Services filed transcripts for Reylna _____ on October 13, 2010, for the following proceeding in the above-captioned case:

FEBRUARY 9, 2010

Original transcript and one copy was requested. The transcript totals 125 pages, final cost being \$443.75. A deposit in the amount of \$260.00 was paid August 6, 2010. The balance of \$183.75 is due upon receipt of transcripts. Please make balance payable to Clark County Treasurer. If paying cash, please present exact amount.

DATED this 13th day of October, 2010.

SHELLY A. AJOUB, SUPERVISOR
TRANSCRIPT VIDEO SERVICES

Amount of \$ _____ paid on date of _____
Check # _____ Cash \$ _____

ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.
COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

Example

OUTSOURCE

Example

Once transcript request is received
= REQUEST FOR TRANSCRIPT ESTIMATE

Figure estimate
= ESTIMATE FORM

Prepare and send formal estimate requesting deposit payment
= ESTIMATE OF TRANSCRIPT

Once deposit payment is received...

Prepare information sheet
= TRANSCRIPT REQUISITION
Prep for OUTSOURCING FIRM
Checklist

Note deposit payment on VENDOR DEPOSIT & FINAL PAYMENT form

Once completed transcript is received
= FINAL BILLING OF TRANSCRIPTS

Customer pays balance
Note final payment on VENDOR DEPOSIT & FINAL PAYMENT FORM

IF FEES-WAIVED ORDER, note on OUTSOURCING COSTS PAID BY COUNTY

...completed

REQUEST FOR TRANSCRIPT ESTIMATE

Today's Date _____

Requests for all JUVENILE transcripts require an EX-PARTE MOTION form that has been signed by the departmental Judge and filed at the Clerk's Office. Serve a copy on the Transcript Video Service office.

Entire Transcript _____ or Partial Transcript _____
(Start time: _____ Stop Time: _____)

* Please list any additional partial times on the reverse of this sheet and note it here.

Personal Use _____ or *Appeal to the Supreme Court? _____
*Supreme Court Case Number _____
*Are child custody issues involved in this appeal? _____

**NOTE: This form does NOT replace the *Formal Request For Transcript* per NRAP 9. To meet time constraints, Transcript Video Services must be served a copy of the *Formal Request For Transcript* that has been FILED by the Supreme Court promptly.
* Per NRAP 9(b)(1)- Appellant shall furnish counsel for each party appearing separately a copy of the transcript. Any costs associated with the preparation and delivery of the transcript shall be paid initially by the appellant, unless otherwise ordered.**

Number of copies you are ordering: _____
(\$3.55 per page, per NRS. 3.370 - 1 copy and 1 original)
(\$4.10 per page, per NRS. 3.370 - 2 copies and 1 original)
(\$4.65 per page, per NRS. 3.370 - 3 copies and 1 original)
- All originals are placed in the case file; all copies go to the ordering party. Please be sure you order the correct number of copies, per NRAP 9, if you are filing an appeal to the Supreme Court of Nevada.

Date(s) of Hearing(s) _____

Case No: _____ Dept. _____ Judge _____

Case Name: _____ vs _____

Transcript Video Services makes every effort to produce transcripts in an expedient manner. However, due to the volume of requests received, there may be a delay in processing your request.

TRANSCRIPT(S) NEEDED BY DATE OF: _____

NAME (Please write legibly): _____

ADDRESS: _____

CITY/STATE: _____ ZIP: _____

PHONE: _____ FAX: _____

SIGNATURE: _____

This is only an estimate. Upon completion of transcript(s), a balance may be due or you may receive a partial refund of your deposit.
Eighth Judicial District Court - Family Division - Transcript Video Services
Phone 702.455.4977 Facsimile 702.455.2352

Example

ESTIMATE FORM

Entire Transcript Personal Not Sealed
 Partial Transcript Appeal Sealed

Case No. _____ PDR DBR DVD Video CR # _____

Plaintiff _____ Defendant _____

Department _____ Judge/Master _____

Prior transcription on CMS _____ Date est. filed for Appeal _____

Day of Week _____ Date _____

Start time _____ End time _____ = _____ Mins

Total no. of Minutes _____ Number of copies _____

Total est. amount _____ Deposit Amount _____

Estimator _____ Date Est. Completed _____

Date Called _____ Spoke to/Message _____

Date Faxed _____ Date Mailed _____

FORMULA:

1 Minute = 1 Page

No. of minutes x per page rate x 80% = estimate amount...round off to nearest \$5 and that is deposit amount.

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Example

**EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

Plaintiff,
v.

Defendant.)
CASE NO. _____
DEPT. J)
ESTIMATE OF TRANSCRIPT

The office of Transcript Video Services received a request for transcript estimate from Luis _____ on November 1, 2010, for the following proceeding in the above-captioned case:

OCTOBER 27, 2010

for original transcript and one copy.

The estimated cost of the transcript is \$700.00.

Payment in the amount of \$700.00, payable to **OUTSOURCING FIRM NAME** must be presented to the Clark County Family Court Transcript Video Services Office prior to work commencing on the transcript. We are unable to accept cash.

DATED this 2nd day of November, 2010.

SHELLY A. AJOUB, _____
Supervisor
Transcript Video Services

Transcript ESTIMATE amount of \$ _____ paid on date of _____ Cash _____ Check # _____

This is only an estimate. Upon completion of transcript(s), a balance may be due, or you may receive a refund of your deposit if overpayment is greater than \$5.00.

NOTE: STATUTORY FEES ARE SUBJECT TO CHANGE PER LEGISLATIVE SESSION.
ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.
COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

TRANSCRIPT REQUISITION

PARTIES: **PLAINTIFF v DEFENDANT**

Example

SEALED
NON-APPEAL

\$3.55 Per Page

0 + 1 Copy

CASE #

DEPT:

DATE(S) OF PROCEEDING(S):

1. TUESDAY, OCTOBER 26, 2010

10:16:42 - 11:34:47 = 78

Trailed & Recalled

11:35:58 - 11:37:57 = 02

RE: Motion to Enforce

TRANSCRIPT NEEDED BY: 11/30/10 or before

REQUESTING PARTY:

ADDRESS:

PHONE #

FAX #

DATE REQUEST REC'D:

Est done by:

EST # OF PAGES:

EST FAXED:

DATE EST PAID:

This form by:

EST AMOUNT:

EST PHONED:

Check/Cash/MO#/CC#

Transcript Assigned to: _____ Date: _____

TOTAL Transcript Pages: _____ x Rate \$ _____ Final Cost: \$ _____

Outsourcing Shpg. \$ _____

Subtotal \$ _____

Per Page Less Deposit: \$ _____

Balance Due: \$ _____

Date Refund Requested: _____ OR Refund Amount: \$ _____

DATE FILED: _____ Client Notified (date & name) _____

Date Transcript(s) Received and Final Payment Made: _____

Check # _____ Cash _____

Transcript Stats Reported on _____
(Month/Year)

Notes: _____

Example

1 **COST**

2
3
4 **EIGHTH JUDICIAL DISTRICT COURT**
5 **FAMILY DIVISION**
6 **CLARK COUNTY, NEVADA**
7

8 [REDACTED]) CASE NO. [REDACTED]
9 [REDACTED])
10 v [REDACTED]) DEPT. O
11 [REDACTED])
12 [REDACTED]) **SEALED CASE**

13 **FINAL BILLING OF TRANSCRIPTS**

14 The office of Transcript Video Services filed transcripts
15 for Radford J. Smith, Chtd. on October 12, 2010, for the
16 following proceedings in the above-captioned case:

17 MAY 6, 2010 and JUNE 22, 2010

18 Original transcripts and one copy of each was requested.
19 The transcripts total 85 pages. Prep and delivery is \$20.00.
20 The final cost is \$321.75. A deposit in the amount of \$260.00
21 was paid September 14, 2010. The balance of \$61.75 is due upon
22 receipt of transcripts. Please make balance payable to
23 **OUTSOURCING FIRM NAME.** We are unable to accept cash.

24 DATED this 12th day of October, 2010.

25 SHELLY A. AJOUB, SUPERVISOR
26 TRANSCRIPT VIDEO SERVICES
27 _____

28 Amount of \$ _____ paid on date of _____
Check # _____ Cash \$ _____

*ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.
COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.*

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

Downtown Courthouse
191 North First Street
San José, CA 95113
(408) 882-2100

Example



ITEM REQUESTED

- Copy of Electronic Recording (A \$10.00 fee per recording is required. Not available for small claims cases)**
- Court Reporter's Transcript**
- Copy of Reporter's Transcript Already on File**
- This case is on appeal**

REQUESTOR INFORMATION

Requestor's Name: _____ Today's Date: _____
Requestor's Agency/Law Firm: _____
Requestor's Address: _____
Phone: _____ Alt. Phone: _____ Fax: _____
E-mail Address: _____

RECORDING/TRANSCRIPT INFORMATION

Court Reporter's Name*: _____
Case Name: _____ vs. _____
Case Number: _____
Hearing Date of Proceeding: _____ Time: _____ A.M. _____ P.M.
Type of Proceeding: _____
Judge's Name: _____ Department Number: _____

*NOTE: The use of electronic recording equipment in Small Claims cases is for the internal personnel purpose of monitoring judicial officer performance. An electronic recording of small claims hearings shall not be made publicly available. (Government Code 69957(b))

**Please complete this form and fax or mail to:
SANDRA ALCALA, Deputy Court Manager
Court Reporter Coordinator
191 North First Street
San José, CA 95113
Phone: (408) 882-2515
Fax: (408) 882-2595**

Example

**THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

TRANSCRIPT REQUEST FORM

Please enter as much information as possible, below, regarding the hearing or court event for which you wish a transcript. Please type contact information carefully, especially your email address. (Fields in red are required) Refer to the Court Reporter Transcripts and Electronic Recordings page for more information, especially the section on locating the Court Reporter's name.

Your information:

Your name: _____

Your phone number: (999) _____
999-9999

Your FAX #: _____

Alternate phone: _____

Your street address: _____

Your city, state, zip: _____

Your email address: _____

Law firm (if any): _____

Information about the court proceeding:

Dept.# : _____

Court Reporter name _____

Don't know the Court Reporter's name? Read how to look up the court reporter. (If electronic recording, please enter 'Recording' in reporter name field.)

Case name: _____

Case number: _____

Date of proceeding: Month 01 Day 01 Year 2011

Time of proceeding: A.M.

Judge's name: _____

Type of proceeding*: Civil

* Transcripts are not available for Small Claims cases per Government Code Section 69957

Additional Comments:

APPENDIX F

Example

**APPENDIX E COURT REPORTER ACKNOWLEDGMENT
(Concerning Stenographic and Electronic Notes)**

_____ Judicial District

I acknowledge that all stenographic and electronic notes produced by me during the time I am employed by the Judicial Department are the property of the _____ Judicial District.

I will regularly back up all electronic notes as directed by the Chief Judge or designee. If I produce paper notes, I will maintain them in a secure location and in an organized fashion according to local policy.

Should I leave the employment of the Judicial Department, I will ensure that all the electronic notes for the cases I have reported while a state employee are properly lodged on the server or that I have provided a backup copy on CD. I also will ensure that a current copy of my dictionary is on the server, with a backup copy on CD, and that all docket sheets are current as required by local policy. I will provide verification of same to the Chief Judge, District Administrator or Managing Court Reporter.

I understand that I will be given first right of refusal regarding preparation of any transcripts on those cases I have reported so long as I provide the District with my address, phone number and other contact information and keep that information current with the Managing Court Reporter, District Administrator or Chief Judge, and provided I do not have more than one outstanding appeal transcript beyond the 180 day allotted timeframe.

Dated this _____ day of _____, 200 .

Official Court Reporter

EXHIBIT B

**LETTER OF DISSENT IN PART FROM
JUDGE JOHN TATRO**

**JUSTICE AND MUNICIPAL COURT OF CARSON TOWNSHIP
CARSON CITY, NEVADA**

JUDGE ROBEY B. WILLIS
Department I

JUDGE JOHN TATRO
Department II



885 East Musser Street
Suite 2007
Carson City, Nevada 89701-4475

April 18, 2011

To: Commission on Preservation, Access, and Sealing of Court Records
From: Judge John Tatro, Official Court Records Subcommittee Co-chair
Re: Dissent in Part

I serve as co-chair of the Official Court Records Sub-Committee and am proud of the product we have created. Every member of the sub-committee has been very dedicated and contributed their knowledge and expertise to the development of the Standards of Operations and Best Practices Manual. The process was at times, tedious but everyone stayed with the issues. There were spirited debates which contributed greatly to the end result. That said, my objections are minor in the scheme of the report but could be major to the individual courts.

In the Tier Implementation Table we listed virtually every proceeding held in every judicial jurisdiction. The sub-committee then indicated in three columns which 'Method of Recording' should be used. The greatest level requires that either a 'Court Reporter' or a 'Court Recorder' must be used. The least restrictive level allows the use of any one of the three options including the 'Digital Recording Device.'

The lower courts and many district courts currently use the 'Digital Recording Device' method in many proceedings and have done so without issue for years. To require the greater level of 'Court Reporter' or 'Court Recorder' will be extremely burdensome and costly to the courts.

Currently, most courts in Nevada use individuals already working in the courtroom to run the recording devices such as clerks or bailiffs. They do not constantly monitor the recording like a 'Court Recorder' would, but do observe that it is running properly. Additionally, each judge has a monitor on the bench that displays readings that indicate what is or is not functioning.

To require courts to have 'Court Recorders' in these proceedings will mandate additional employees. Not one court in Nevada is in a position to increase its budget to hire a 'Court Recorder' or 'Court Reporter.'

**JUSTICE AND MUNICIPAL COURT OF CARSON TOWNSHIP
CARSON CITY, NEVADA**

JUDGE ROBEY B. WILLIS
Department I

JUDGE JOHN TATRO
Department II



885 East Musser Street
Suite 2007
Carson City, Nevada 89701-4475

The lower courts have been using recording devices without 'Court Recorders' for years with minimal problems. I have been a judge for over sixteen years and can only recall one case, out of thousands, that the recording did not work and actually the cassette tape was lost. I feel confident that there have been no more problems relating to recording devices than there have been with 'Court Reporters.'

It is my strong recommendation that the lower courts be allowed to use the 'Digital Recording Device' in all proceedings except death penalty preliminary hearings. The same argument applies to many district courts as well. As an example, the First Judicial District Court uses the 'Digital Recording Device' for everything but trials and will be forced to incur the cost of a 'Court Reporter' or 'Court Recorder.' The vast majority of these proceedings are rarely, if ever, appealed. I can say with certainty that the First Judicial District Court has no surplus funds for new employees or contracts. This is true for most district courts in Nevada. Therefore, I recommend that district courts in Nevada be allowed to use a 'Digital Recording Device' at all levels except criminal bench or jury trials.

EXHIBIT C

SUMMARY OF COMMENTS FROM JUDGES AND COURT REPORTERS

Summary of Comments from Judges
RE Standards of Operation and Best Practices Manual

We received 16 written responses in total.

5 from District Court Judges

10 from Justice and Municipal Court Judges

1 from Court Administrator

Judges that stated they agree with Judge Tatro's dissent in part:

- | | |
|----------------------|--------------------|
| 1. Judge Russell | 6. Judge Brisebill |
| 2. Judge Wilson, Jr. | 7. Judge Atkins |
| 3. Judge Howard | 8. Judge Perkins |
| 4. Judge Niman | 9. Judge Melville |
| 5. Judge Higgins | 10. Judge McGuffey |

Comments from NJLJ Summer Seminar SO & BP Manual

- Judge Tiras suggested we look at the definition of court reporter and asked if it means an individual who is employed by the court to record the proceeding. What if a court wants to borrow a court recorder from another court? Will all court recorders be considered court employees?
- Judge Richards and other judges noted there are many enhanceable offenses (new legislation) and it would be cost prohibitive for them to have a court reporter or court recorder to make the record in every case. Many times the attorneys come in and pled guilty for the clients and it would be a waste of money to require the courts to have a court reporter or court recorder in every case.
- Digital recording devices have been working fine in the justice and municipal courts with no problems.

Costs Concerns

- Severe Budget Cuts
- No money for additional staff or training for court recorders
- Critical Staff Shortage
- Concerned, if standard implemented as is, the court would have to lay off staff to meet the requirements
- Would be difficult to get people to travel to rural areas and for the courts to comply with the standards
- Costs burden to the courts
- The reason JAVS was installed was to eliminate the costs of additional staff

Judge McCarthy and Judge Schroeder noted that if they are going to be required to train and/or add staff that the requirement of certifying court recorders not be required or implemented until a much later date when the courts may have funding available for this.

Judge Russell and Judge Wilson said the First Judicial District (Carson City) employed 2 full time court reporters for over 25 years. In March 2008, they installed the JAVS system and continued to employ the court reporters. In 2009, the local government requested the court review their budget and

reduce expenditures due to budget shortfalls. To assist, the court decided to utilize JAVS exclusively with the exception of criminal and civil jury trials and any other hearings they deemed a court reporter would be more suitable. The court reporters departed on June 30, 2010. Eliminating these 2 positions equated to a savings of \$150,000 per year (salary/benefits). Because they agreed to reduce their budget by this amount the local court government agreed to pay for the JAVS annual maintenance contracts, (approximately \$18,000 a year).

Judge Howard noted the Tier Implementation Table of the proposed standards suggests all municipal court bench trials, where an enhanceable offense is charged, would be conducted by either a court reporter/recorder. He noted to require the lower courts to utilize either a court reporter/recorder would be as Judge Tatro alluded, "extremely burdensome and costly" to our courts.

Judge Perkins noted the requirements he is concerned about are on pages 2 and 9. He asked the Court to please remove the requirement that this routine clerical function now fall under mandatory certification, with active monitoring of the system, especially in the limited jurisdiction courts.

No problems with the use of JAVS

- | | |
|--------------------|------------------|
| 1. Judge Niman | 6. Judge Wilson |
| 2. Judge McCarthy | 7. Judge Russell |
| 3. Judge Brisebill | 8. Judge Howard |
| 4. Judge Higgins | 9. Judge Perkins |
| 5. Judge McGuffey | 10. Judge Vega |

Additional Comments

Judge Vega noted her department is equipped with JAVS. The court recorder is a Certified Stenographer Reporter. It is her belief that the AAERT requirement for recorders and transcribers should be modified to say either CSR or AAERT is acceptable. Death Penalty dailies are also often pre-arranged to be prepared by a CSR who is sometimes out of state but well qualified and trained. On occasion transcripts are prepared by individuals employed by court administration, so she would leave their qualifications and training to be addressed by their Chief Judge or Court Administrator. This would occur when there is a need for speed and we are in trial wherefore the recorder is in the courtroom and unable to be preparing a transcript simultaneously with her trial duties. She believes that otherwise she is already in compliance with the recommendations with one exception. It has been my practice to conduct my civil case pre-trial conferences in a more relaxed setting at a conference table in my chambers. A courtroom clerk is present and prepares a minute order. I will make a switch to begin doing them in the courtroom in the future.

Judge Higgins objects to the footnote 5 on page 4 that says that digital recording is not the preferred method at a prelim hearing and to use only if is the only available option. Pursuant to the statutory changes of the 2009 legislative session, it is an authorized and legal method of recording the proceedings.

Judge Wilson and Judge Russell noted additionally, attorneys who need transcripts for court proceedings first contact the Clerk's Office for the JAVS recording which is copied to a CD. It has always been the responsibility of the attorney to contact a certified court reporter to have the hearings transcribed. We have designated Sunshine Court Reporting (Sunshine) as the company to use for this service. Our agreement with Sunshine is to provide the court with an original transcript of all transcribed criminal proceedings. The majority requested criminal transcripts are paid for by the court.

As the majority of criminal cases are represented by the State Public Defender and appointed Conflict Counsel. Sunshine has the responsibility to provide copies to the appropriate attorneys in the case. Assigning court staff this responsibility will increase their workload and place court staff between Sunshine and the attorneys which will undoubtedly, cause confusion and delay the time to obtain needed transcripts. We have been working with the reduction of court staffing since 2005 and our current court staff are barely keeping up with their workload.

Judge Perkins request the requirement for a certified court recorder is removed from the standards.

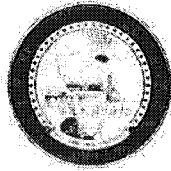
Judge Perry noted sent a letter stating he does not have experience with making and using a record of proceedings which are taped as opposed to those produced by a court reporter.

Judge Perry's experience in 37 years spent in many depositions, hearings, and criminal and civil trials the transcript prepared by court reporters is overwhelmingly accurate and easily accessible. He is not sure that recorded material would be as reliable and available.

Therefore, he cannot say that he thinks it is a great idea to use recordings in serious civil and criminal case. Unfortunately, he lacks the experience to give any more serious insight on the basis of his personal knowledge.

Judge Perry did review several documents by Chris Crawford, which he enclosed for our reference. He said the reference material seems to support the notion that using court reporters is more efficient, produces a more accurate and accessible record and is perhaps even cheaper than using recording devices. Judge Perry stated for these reasons, he urges cautious evaluation before making any changes.

Jennifer Klapper, Court Administrator, Tonopah Justice Court noted we may want to add something on the destruction of the record after the retention period has expired.



FIRST JUDICIAL DISTRICT COURT
CARSON CITY & STOREY COUNTY
STATE OF NEVADA

JAMES T. RUSSELL
District Judge, Department One
885 East Musser Street, Room 3061
Carson City, Nevada 89701
(775) 882-1996
Fax: (775) 887-2272

JAMES E. WILSON, JR.
District Judge, Department Two
885 East Musser Street, Room 3057
Carson City, Nevada 89701
(775) 882-1619
Fax: (775) 887-2296

MEMORANDUM

Date: June 22, 2011

To: Honorable State of Nevada Supreme Court Justices
All Judges

From: James T. Russell, First Judicial District Court Judge
James E. Wilson Jr., First Judicial District Court Judge

Re: Standards of Operation and Best Practices Manual for Making the Court Record

Dear Supreme Court Justices and Fellow Judges:

Thank you for the opportunity to comment on the proposed Standards of Operation and Best Practices Manual for Making the Court Record. The First Judicial District Court employed two full time court reporters for over 25 years. In March of 2008, we installed the Jefferson Audio Video Systems and continued to employ the court reporters. Prior to making changes from using court reporters, we thought it prudent to have experience with JAVS.

In 2009, our local government requested that we review our budget needs in the hopes to reduce expenditures due to budget shortfalls. To assist with the budget shortfalls, we decided to utilize JAVS exclusively with the exception of criminal and civil jury trials and any other hearings we deemed that a court reporter would be more suitable. Our longtime court reporters departed employment on June 30, 2010. Eliminating these two positions equated to \$150,000 per year (salary/benefits). Because we agreed to reduce our budget by this amount, our local government agreed to pay for the annual maintenance contracts for the JAVS systems in our two courtrooms, one in the juvenile court, two courtrooms in the Justice/Municipal Court and the system in the Carson City Jail which costs approximately, \$18,000 per year.

Since we installed JAVS, we have used court employees who are already working in the courtroom to operate the systems. They do not constantly monitor the recording like a court recorder would, but do observe that it is running properly. Additionally, each judge has a monitor on the bench that displays the volume and

whether or not the system is functioning. We, on occasion, request attorneys, litigants, and witnesses to speak up during court proceedings. We have not had any complaints regarding JAVS and believe that our current standards are satisfactory.

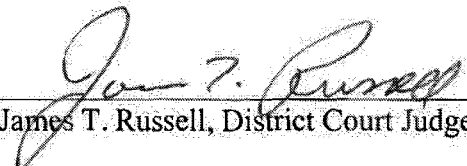
We concur with Judge John Tatro's Dissent in Part. To require the District Court to have court recorders in the proposed court proceedings will mandate us to request from our local government additional funds to pay for new employees. Essentially, we would be requesting reinstatement of funds that we saved by moving from court reporters to JAVS.

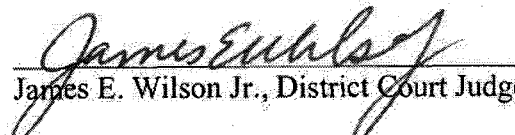
Additionally, attorneys who need transcripts for court proceedings first contact the Clerk's Office for the JAVS recording which is copied to a CD. It has always been the responsibility of the attorneys to contact a certified court reporter to have the hearings transcribed. We have designated Sunshine Court Reporting (Sunshine) as the company to use for this service. Our agreement with Sunshine is to provide the court with an original transcript of all transcribed criminal proceedings. The majority of requested criminal transcripts are paid for by the court. As the majority of criminal cases are represented by the State Public Defender and appointed Conflict Counsel. Sunshine has the responsibility to provide copies to the appropriate attorneys in the case.

Assigning court staff this responsibility will increase their workload and place court staff between Sunshine and the attorneys which will undoubtedly, cause confusion and delay the time to obtain needed transcripts. Attorneys are notorious for requesting things at the last minute and this will place a burden on court staff. We have been working with a reduction of court staffing since 2005 and our current court staff are barely keeping up with their workload.

We thank you for the opportunity to respond to this issue.

Sincerely,


James T. Russell, District Court Judge


James E. Wilson Jr., District Court Judge



Received

JUN 27 2011

SECOND JUDICIAL DISTRICT COURT

STATE OF NEVADA
WASHOE COUNTY

ROBERT H. PERRY
DISTRICT JUDGE
DEPARTMENT NINE

June 23, 2011

75 COURT STREET
RENO, NEVADA 89501
(775) 328-3162
FAX: (775) 328-3193

Ms. Stephanie Heying
Administrative Office of the Courts
201 S. Carson Street, Suite 250
Carson City, Nevada 89701

RE: Standards of Operation and Best Practices Manual for Making the Court Record

Dear Ms. Heying:

As a District Court Judge, I have no experience with making and using a record of proceedings which are taped as opposed to those produced by a court reporter. Therefore, my thoughts should be viewed from that perspective.

My experience in the thirty-seven years I have spent in many depositions, hearings, and criminal and civil trials is that the transcript prepared by court reporters is overwhelmingly accurate and easily accessible. I am not sure that recorded material would be as reliable and available.

Therefore, I cannot say that I think it is a great idea to use recordings in serious civil and criminal cases. Unfortunately, I lack the experience to give any more serious insight on the basis of my personal knowledge.

I have, however, reviewed several documents prepared by Chris Crawford which I enclose for your reference. These seem to support the notion that using court reporters is more efficient, produces a more accurate and accessible record and is perhaps even cheaper than using recording devices. Experience from other organizations and jurisdictions appear to bear that out.

For these reasons, I urge cautious evaluation before making any changes.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Robert H. Perry".

Robert H. Perry
District Court Judge

The Justice Court of East Fork Township

JUDICIAL AND LAW ENFORCEMENT CENTER

Post Office Box 218, Minden, Nevada 89423

(775) 782-9955

Thomas E. Perkins

Judge

July 5, 2011

Hon. James W. Hardesty
201 South Carson Street
Carson City, NV 89701-4702

Re: *draft* Standards of Operation and Best Practices Manual for Making
The Court Record

Dear Justice Hardesty,

This letter is to request that the requirement for a certified court recorder be removed from the standards.

Please consider this as comment on the draft standards, which Ms. Heying provided, along with your cover letter June 16, 2011. We also reviewed the standards at the mid-summer meeting of the Judges of Limited Jurisdiction. I am in complete agreement with Judge Tatro's dissent to the commission's draft standards, and am simply taking this opportunity to discuss a few of the features.

As you know, the justice and municipal courts in Nevada have been the leaders in electronic recording of their proceedings, and I doubt that those of us who have the JAVS system need the standards promulgated by the commission to do what we are already doing. The staff is trained, the equipment is in place, and the maintenance is regular and effective. In this court, each member of the staff is trained to operate the system, and quality recordings are stored and accessible. When the record is necessary, it can be retrieved and reviewed on any personal computer in the office. If a transcript is required, it is transmitted to a court reporter for an estimate, and the fees are required in advance before the transcript is prepared.

The problem with the standards, and it is a problem, is the way it requires certification and monitoring to perform a routine staff function, which is now being performed, across the state, by the most junior and basic clerical staff. It has been our experience since the onset of the recession that any increase in operational and personnel costs is taken from existing or reduced budgets, which means that if we have to certify one or more of our staff, or hire a contractor to perform this function, then there will be layoffs to recover the increased cost. As the layoffs we have experienced already impair our ability to function, this is not acceptable, under any circumstances.

Hon. James W. Hardesty
July 5, 2011
Page Two

The requirements I am concerned about are on pages 2 and 9 of the draft standards. Please ask the Court to remove the requirement that this routine clerical function now fall under mandatory certification, with active monitoring of the system, especially in the limited jurisdiction courts. Those of us who are already doing our job should not be required to absorb this unnecessary burden.

Sincerely yours,

Thomas E. Perkins,
Justice of the Peace

TEP/s
cc: Stephanie Heying, AOC

Email comments received from:

Judge Valorie Vega, Eighth Judicial District Court

I am hereby sending you my comments as requested by Justice Hardesty in his attached letter. I believe that I am one of the fortunate ones because I have a civil/criminal split calendar and sit in the Regional Justice Center in Department 2 of the 8th Judicial District Court which is equipped with the digital audio visual recording system known as JAVS. The court recorder in my department is a CSR. It is my belief that the AAERT requirement for recorders and transcribers should be modified to say either CSR or AAERT is acceptable. Death Penalty dailies are also often pre-arranged to be prepared by a CSR who is sometimes out of state but well qualified and trained. On occasion transcripts are prepared by individuals employed by court administration, so I will leave their qualifications and training to be addressed by our Chief Judge or Court Administrator. This would occur when there is a need for speed and we are in trial wherefore the recorder is in the courtroom and unable to be preparing a transcript simultaneously with her trial duties. I believe that otherwise I am already in compliance with the recommendations with one exception. It has been my practice to conduct my civil case pre-trial conferences in a more relaxed setting at a conference table in my chambers. A courtroom clerk is present and prepares a minute order. I will make a switch to begin doing them in the courtroom in the future. Thank you for the opportunity to comment.

Judge Jack Schroeder, administrative judge, Reno Justice Court

Respectfully, please, with respect to these proposed changes I ask the Nevada Supreme Court to consider the fact that this court is economically in one grand mal slump. Decreases have been going on for a long time by the court's funding agency, Washoe County. Furthermore, the County is in its "budgetary process," and it has targeted this court. The County seeks to decrease even more the budgetary needs of this court. Additionally, there is a substantial shortage of staff at this court; it is minimally staffed. As background, this court has in existence a JAVS system; seemingly and reportedly, the system is adequate for making a record. If more expenditures, training and/or staff are to be ordered by the Supreme Court of the State of Nevada, then as administrative judge, I urge that such be done well into the future when and if staffing and funding is appropriately supplied by the County to the court.

Judge Jack McGuffey, Virginia Justice Court

I would have to concur with Judge Tatro's dissent. The Virginia Township Justice Court is equipped with a DAVS system that is operated by my Deputy Clerk and have yet to experience any issue or problems. Have received great amount of positive feedback from those who require an instant DVD copy of their proceedings.

Bottom line, after recently experiencing heavy budget cuts, Storey County does not currently have a funds to hire and support a Court Recorder/Reporter and was the primary reason the expensive DAVS system was purchased & installed.

Judge Ron Niman, Ely Justice Court

Judge Tatro's response sums it up, our courts went to the JAVS system to make a better record which includes audio, video at the courts expense. If court reporters were required for other than the stated reasons there would have to be a list willing to travel to outlying areas, which has been a major problem in the past.

There is one other point I failed to state I have served on the bench since 1984 during this time frame the justice court clerk has on most occasions operated the recording devices we have used and continue to operate our device today there has never been a challenge made to our recordings or transcripts . I operate the recording-also

and have since 1984. Unless the change is due to no recordings or some other reasoning I believe we are all maintaining good court records.

Judge Ken Howard, Reno Municipal Court

I first express my appreciation for the efficiency and hard work put in by the Official Court Records Subcommittee in developing a Standard of Operation and Best Practices Manual for making the official record.

I fully understand and appreciate the many challenges existing not only to the Supreme Court, but all courts, in ensuring an accurate and timely court record. That said, I would like to strongly echo the comments of my colleague Judge John Tatro in his letter of April 18, 2011, wherein he expresses concerns with the practical implementation of the standards and best practices as it relates to the lower courts of this state.

The Reno Municipal Court, like many others, has used the digital recording device method for recording our court proceedings for many years without issue. Adoption of the new Standards of Operation will bring about a consequent change in our court operation.

The Tier Implementation Table of the proposed standards suggests that all municipal court bench trials where an enhanceable offense is charged would be conducted by either a court reporter or court recorder. No longer would we be able to utilize our currently existing digital recording system in these proceedings.

There are numerous violations that carry enhanceable penalties in our court including the following: (1) Domestic Battery (NRS 200.485), (2) Harassment (NRS 200.571), (3) Stalking (NRS 205.575), (4) Unlawful operation of audio/visual recording function in motion picture theater (NRS 205.216), (5) Graffiti (NRS 206.330), (6) Possession of an ounce or less of marijuana (NRS 453.336), (7) Reckless Driving (NRS 484b.653), (8) DUI (NRS 484c.110), (9) Child Restraint violations (NRS 484b.157). To require the lower courts to utilize either a court reporter or court recorder would be, as Judge Tatro has alluded, "extremely burdensome and costly" to our courts.

The Reno Municipal Court faces a 30% reduction in our budget this fiscal year. When we say we are doing more with less, we mean that earnestly. It's not a soundbite! It will be extremely difficult to assign personnel into the court to function as a court recorder. It will be extremely difficult for our courts to comply with these standards of operation purely from an economic standpoint.

If the current system of digital recording utilized in our court proceedings is working efficiently, why is there a need to correct our current method of recordation? I respectfully recommend that the lower courts be allowed to continue utilization of digital recording devices in all proceedings.

Judge Barbara McCarthy, Sparks Municipal Court

Responding on behalf of the Sparks Municipal Court, I concur with the appreciation, observations and concerns previously expressed by Judges Tatro and Howard.

As regards the Sparks Municipal Court specifically, I wish the Commission to know that I can personally attest to the fact that in the 10 plus years I have served on the bench in Sparks, we have never had an issue involving the compromise of the official court record with the digital recording system (JAVS) that we currently use. I understand the issue is not whether or not the JAVS system is adequate, but of developing uniform standards and best practices for all courts. While I theoretically applaud the recommendations of the Commission, the reality is the Sparks Municipal Court has suffered severe budget reductions the past several years. We in fact are operating presently at a critical staff shortage. We struggle everyday to provide timely interpreter services. We are facing budgetary and staffing issues that threaten our constitutional mandates.

I join in Judge Howard's recommendation that the lower courts be allowed to continue utilization of digital recording devices in all proceedings as we currently operate. In the alternative, I request that the timing of the implementation of the standards relative to the municipal courts be taken into consideration considering the dire financial circumstances at least some of the municipal courts face.

Judge Tina Brisebill, Pahrump Justice Court

Sorry to take so long to respond...I am still playing catch-up after being away for the seminar. I concur with Judge Tatro regarding the "court recorder" requirement. My staff is trained on the use of our JAVS equipment as well as the importance of the court record. In fact, at every weekly staff meeting the mantra – "If it isn't in the docket, it didn't happen" is repeated. To incur costs for some special training to operate an audio/visual recording system is frivolous given the current financial climate of the State and counties. We have been understaffed for at least 6 years and there is no relief in sight. Funds and time that would have to be used for unnecessary training would be better spent elsewhere.

Judge Tim Atkins, Laughlin Justice Court

After looking at the Court Record Manual, I have to agree with Judge Tatro and Judge Perkins. We have been using JAVS since I have become Judge. It's working, Its cost less, and I don't have to lay anyone off or put on more staff.

Judge Schweble, Eureka Justice Court

Judge Schweble agrees with Judge Perkins on the issue regarding the draft Standards of Operation and Best Practices Manual or Making the Court Record. Our office has only one full-time employee and it would be a burden to be required to certify one or more of our staff.

Judge Kevin Higgins, Sparks Justice Court

I concur with the remarks submitted by our Association President John Tatro as well as Judge Perkins from Douglas County.

As a practical matter I am unaware of a single instance of our JAVS recording system failing to record the court proceedings. It is cost efficient, accurate and the recordings can be emailed directly to our transcriptionists, many of whom are certified court reporters. Other than Preliminary Hearings no clerk is ever with me in the courtroom. I operate the system myself which simply requires the pushing of the start and stop buttons. We do not have any clerks available to be certified as 'court recorders,' in fact we many be losing personnel as we prepare to cut our budget another 10 percent.

I object to footnote 5 on page 4 that says that digital recording is not the preferred method at preliminary hearings and to use only if it's the only available option. Pursuant to the statutory changes of the 2009 Legislative Session, it is an authorized and legal method of recording the proceedings.

Of course, we will continue to use court reporters at any preliminary hearing if the death penalty is being sought. In all other cases we would request that the Sparks Justice Court continue to use the JAVS recording system. It is a system that works, is not broken and does not need to be fixed.

Thank you for soliciting comments on this matter.

Jennifer Klapper, Court Administrator, Tonopah Justice Court

After reviewing the draft manual for Making the Court Record, I do have a few comments. My comments are not a reflection of the Judge's beliefs or thoughts, only mine. My thoughts are mostly inspired by the financial hardships, lack of staff and obstacles rural courts are currently facing...

As a whole, and speaking of rural courts in particular, the Making the Court Record draft manual seems like a bit of overkill (for lack of a better word) to me. Although it was *very* thought provoking and gave me plenty to think about (for instance, where we probably have not been as informative as we could/should have been), these are all things in a day's work for the rural courts. A clerk in a rural court is expected not only to know and DO it all (criminal, civil, courtroom procedures, financial, etc), but they are also held to a very high standard that things are completed timely and efficiently – there is not much room for error of any kind. So my point is this – the manual is very informative on how to run the best recorder/reporter/digital recordings, but I am unsure of how realistic it will be financially and time wise to have staff certified and compensated to turn on/off the recorder while monitoring the recording and parties; this has always been a requirement of the clerk - with little to no issue - since recorders have become a fixture in the courtroom. Although a good idea, certification/compensation may not be entirely feasible.

Page 2: Court Recorders and Transcriptionists

- This Court chooses not to do its own transcriptions for many reasons, but the most influential being cost/resources. In these tough economic times with reduced work force, reduced hours (furloughs) and reduced pay, it is unrealistic to believe that many Courts have the time and/or resources needed to do their own transcriptions. As far as getting certified, I can understand the reasoning as far as meeting legal transcription requirements but am wondering if this might be better handled through a class offered at a training conference? The costs and time required for certification are just not conducive to the Court's financial and understaffed realities at this time.

Page 19: Storage, Retention, Archiving and Preservation

- This may have been addressed and I overlooked it, but I'm wondering if you might want to consider adding something on the destruction of the record after the retention period has expired? I know this can be found in a different statute, but it might handy if a reference was made.

Thank you for allowing me the opportunity to review the manual and to share my thoughts,

**Comments from Judge Gonzalez's Court Recorder in the
8th Judicial District**

STANDARD OF OPERATION ADDITIONS OR CORRECTIONS SHOULD READ

Page 1

- I. OFFICIAL RECORD
 - A. the **audio/video or sound recording** shall be the official record.
 - C. When the record is prepared by **audio/video or sound recording** ..., the **audio/video or sound recording** ...

- II. OWNERSHIP OF THE RECORD

The court shall be the owner of all certified court reporters' **and recorders'** notes or **audio/video or sound recordings** made

Page 8

- IX. OPERATING DIGITAL AUDIO AND/OR VIDEO RECORDING
 - 1. ... under existing statutes been recorded by the **official recorder** or ...
 - 2. ... the court or judge may appoint or designate the **official recorder** or

- XII. PARTICIPANTS' RESPONSIBILITIES

Page 11 C. **Court Recorders** should monitor equipment ...

Page 12

- XIV. TRANSCRIPT PRODUCTION FOR THE COURTS
 - 3. ... operating such equipment or any other **approved court transcriber to listen** ...
 - 6. ... may provide a certified court reporter **or court recorder** to make a record of and transcribe all the matters of the proceeding. In such case, the record prepared by **audio/video recording** is the official record ...

Page 14

- XVI. ORDERING ORIGINAL TRANSCRIPTS AND COPIES
 - B. Only audio/video recordings transcribed by a **court recorder** or court- approved transcriptionist and certified ...

APPENDIX D

Court Approved Transcriptionist

Paragraph 6

... reviewed by a court employee who is also an "**approved court recorder or transcriber**".

Paragraph 7

... all "approved transcriptionists" not preparing transcripts for the court will be **responsible for following statutory guidelines**

COMMENTS FROM NEVADA CERTIFIED COURT REPORTERS

RE STANDARDS OF OPERATION & BEST PRACTICES

Comment from six court reporters: Clarification should be made as to whether a Nevada CCR is qualified as a transcriptionist or whether they need to be certified under AAERT. (The reporting community seems divided on whether court reporters should transcribe audio tapes at all, whether they should be barred from placing their CCR number on the transcript if they do, or if they should take the AAERT test and strictly act as a transcriber if they do. Many currently transcribe, and several responses voiced dislike for the idea that they might have to take another test to continue transcribing court audio.)

Comment from two court reporters: Concern that members of the public or attorneys who request a copy of a transcript from the clerk's office will pay almost twice as much if the original proceeding was transcribed by a court transcriber than if the matter was transcribed by a court reporter.

Comment from at least six court reporters: Concerns and anecdotal accounts of poor audio quality by court reporters who transcribe court digital recordings (from four different counties). There was a lot of support for the tiered implementation table and the wider use of court recorders to monitor audio quality during the proceedings.

Comment from one court reporter: That the Eighth Judicial District Court judges declare the audio recording to be the official record even when counsel pay the cost to bring in a Certified Court Reporter to create the record, especially when expedited or daily copy or realtime transcripts are requested.

Comment from one court reporter: Concern that the goal of recording language interpreters is unrealistic with current equipment and courtroom practices.

Comment from one court reporter: Concern with court taking ownership of the record. (Misunderstanding – she believes court will have the sole copy of the court reporter's notes.)

Comment from one court reporter: Concern that court reporters will only be paid for transcripts on a quarterly basis. (Misunderstanding – this person did not understand that XVII(b)(2) applies only to those transcript copies ordered through the clerk's office after the proceedings have concluded.)

Comment from one court reporter: Desire to keep this person's own way of creating estimates and transcript order forms.

(The following comment were received AFTER July 10, 2011

A comment from two reporters: If a reporter is working in a courtroom where they also have audio recording in the background, this appears to say that the recording is ALWAYS the official record. It seems pretty clear to me, very first thing in the report, #1. A is pretty obvious, if there's no transcript, our notes OR the recording are the official record - either/or, whichever the court used. B is pretty clear also - if there's both, Karen is right, the judge decides which is the official record, but then C is pretty darn clear, too. Not any other way to interpret it. If there's a sound recording, it's the official record, period. If there's problems and it doesn't work, THEN the court reporter's obviously inferior notes are the official record. Seems in contradiction to B, but there it is. So do you agree with what my interpretation is?

** There were other lengthy responses to me that are in long, narrative form and cannot be easily distilled into categories nor focused on specific sections of the SO&BP. IF the Supreme Court desires, I have those responses and can supply them for review upon request.

EXHIBIT D

**NEVADA COURT REPORTERS ASSOCIATION
(NVCRA)**

***AN ANALYSIS OF COURT REPORTING AND
DIGITAL RECORDING IN THE NEVADA COURTS***



Nevada Court Reporters Association
www.nvcra.org

An Analysis of Court Reporting and Digital Recording in the Nevada Courts

February 19, 2011



JUSTICE

SERVED™

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Introduction

The Nevada Court Reporters Association has retained Justice Served®, a court management consulting firm, to provide a cost analysis of court reporting versus digital recording in the Nevada courts for the purpose of providing sufficient information to judicial decision-makers faced with altering the method of capturing the verbatim record as a result of budgetary pressures.

On the surface, it appears there are universal cost savings by replacing court reporters with digital recording equipment. However, there are a significant number of factors and quality issues to take into consideration in order to make an informed decision.

This study looks at the dynamics of digital recording, the dynamics of court reporting, the experience of other states faced with similar decisions, a comparison of transcript costs using both methodologies in a five-day trial, and a set of policy recommendations resulting from this examination.

The research was conducted and this report was prepared by Chris Crawford, a leading expert on judicial administration and the management of court reporter operations, and president of Justice Served®, a court management and technology consulting firm. For more information about Justice Served, visit www.justiceserved.com.

In his 37 years of experience as a California court administrator and private sector court management consultant, Crawford worked extensively in court reporting operations. He headed the court reporting office for the Los Angeles Municipal Court with over 90 court reporters on staff. He has also written several reports analyzing court reporting technologies and verbatim record dynamics for various state court reporter associations and the Association of Federal Court Reporters.

Executive Summary

Court leaders throughout the United States are making transformational decisions about how to continue delivering court services in this era of prolonged financial crisis. Among these decisions are how to capture the verbatim record and produce transcripts in a cost-effective manner, yet maintain the integrity of the court record.

46 of the 50 US states use some form of digital recording¹ (DR) and all but a handful use a combination of court reporters and DR. Various court jurisdictions throughout the US are considering whether to expand DR or even replace court reporters altogether as a cost-saving measure; some courts have already done so. In this report, we study this question of cost savings in Nevada courts by examining efforts in other states, and a side-by-side comparison of court reporting and DR in a sample Nevada jurisdiction.

What this examination reveals is that the budgetary impact does not result from a court reporter being replaced by technology, but by equipment and replacement staffing. Even if salary savings ensue from the salary differential between a court reporter and DR monitor, the overall costs still favor a court reporter, especially if a transcript is required, when the following issues are taken into consideration:

- Management and supervision.
- Transcript administration, production, delivery, billing, and accounts receivable.
- Court technology and network acquisition, maintenance, upgrade and repair.
- Added productivity from the court reporters' electronic work product, such as note storage, transcript storage/delivery, instantaneous, searchable realtime record, Reporter Electronic Data Interchange, and more.

The matter of transcript preparation and delivery are key components to a comparison of capturing the court record. As independent contractors, court reporters produce and deliver transcripts using privately purchased hardware, software, computer networks, supplies, shipping costs and even labor; the hardware and software must be regularly updated. A major shift to DR would require that individual Nevada court jurisdictions purchase recording equipment, hard-wire courtrooms, fund technology improvements (including updates) to support the capture, transmission and storage of massive digital audio files, and become the primary administrator of transcript production and delivery operations.

The experience of other states with expanded use of DR is that this policy shift resulted in the need to address several unintended consequences to widespread DR usage, including:

- Lack of standards in regards to DR staffing to monitor the equipment and annotate the recordings.
- The need for the court to exert quality control over choice and qualifications of transcribers.
- Liability associated with recording of privileged conversations between attorneys and their clients.
- The need to specify what is the "official" court record - the recording or a transcript (and even which transcript when the same DR record is produced by opposing counsel)?

In low-impact cases where transcripts are not often needed in Nevada courts, DR can be a cost-effective choice. However, the higher the stakes and the higher the need for a transcript, court reporters are more cost-effective.

¹ We define digital recording in this report as both analog and digital, and both audio and video.

1. The Dynamics of Digital Recording (DR)

Use of tape recorders in courts has evolved significantly over time, beginning with analog tape used mostly in courts where either the low-impact nature of proceedings (such as traffic or small claims) or the scarcity of court reporting resources in rural and remote jurisdictions drove the decision-making. The dynamics changed in the 1980s with the widespread use of video as the verbatim record-making method of choice in Kentucky, and the evolution of digital technology in the 1990s has now rendered audio recording as a viable option. The financial crisis beginning in 2008 has now accelerated the move to replace court reporting with DR using the justification of substantial cost savings resulting from the shift.

Two significant guiding policy resources address the use of DR in courts:

Making the Verbatim Court Record Miniguide, published in 2007 by the National Association for Court Management (NACM)²

Digital Recording: Changing Times for Making the Record, a white paper developed in 2009 by the Conference of State Court Administrators (COSCA)³

The salient portion of the NACM Miniguide publication is Chapter 4 *Decision Criteria / Factors – Identifying the Most Appropriate and Cost Effective Verbatim Record Method*, and in particular Section 4.2 entitled “Cost Considerations” with the following decision matrix:

² An online version of this publication is not available, but an order form is provided on the NACM website at <http://www.nacmnet.org/publications/pubsorderform.pdf>

³ A downloadable version of this white paper is available at <http://cosca.ncsc.dni.us/WhitePapers/DigitalRecording-Jan-2010.pdf>

An Analysis of Court Reporting and Digital Recording in the Nevada Courts

Cost Category	Court Reporters	Electronic Recording
Personnel – related costs	<ul style="list-style-type: none"> • Salary + benefits for record storage personnel (to the extent this function is not managed by the reporters themselves) • Reporter training costs • If a court reporter is not used, the court will have to incur the cost of providing in-house or contract transcription services and supervision of the process (and quality control) 	<ul style="list-style-type: none"> • Salary + benefits for dedicated equipment operators and supervisors. If an existing employee such as a courtroom clerk is put in this role, then identify what portion of that person's time is spent on this duty – including time spent managing the record (the federal analysis calculated this to be 60.4% of a courtroom clerk's time). • Salary + benefits for transcribers, if in-house employees are used for this purpose. If no in-house transcriber is used, court will still need someone to coordinate transcript production and possibly conduct QC over transcript quality. • Salary + benefits for recording equipment technicians • Salary + benefits for technical support associated with maintaining the equipment that would be used to store and retrieve electronic recordings for transcribers and/or interested purchasers. • Staff training costs
Temporary personnel	Per diem costs to fill in for staff reporters' vacation, sick days, vacancies	Per diem costs to fill in for staff vacation, sick days, vacancies

An Analysis of Court Reporting and Digital Recording in the Nevada Courts

Cost Category	Court Reporters	Electronic Recording
Equipment-related costs	<ul style="list-style-type: none"> • Reporting equipment, including steno machines, and/or computers and software (may be paid for by the reporter) • Reporter's equipment service and repair costs (may be paid for by the reporter) 	<ul style="list-style-type: none"> • Analog or digital recording equipment • Digital recording software licenses • Installation • Duplicating equipment, • Transcribing equipment, if done in-house • Video cameras, • Microphones, • Cabling, • Storage media (e.g., tapes, CD's, DVD's, servers) • Equipment service and repair
Long term storage	Depending on the applicable record retention policy, court may need to provide long term storage of raw reporter notes. If paper notes are made, then boxes or file cabinets will be needed to store them. If electronic reporter notes are made, then the court may need to prepare for periodic refreshing of storage media and for the ability to migrate to new playback software and equipment over time.	Depending on the applicable record retention policy, the court may need to provide long term storage of digital records. This should entail refreshing and migrating digital audio/video files to new playback equipment and software over time.
Other supplies	<ul style="list-style-type: none"> • Note paper • Office space 	<ul style="list-style-type: none"> • To the extent dedicated staff are used to operate or manage the electronic record. • When not attending to DR monitoring duties, these staff could be deployed to other clerical tasks.

While the NACM Miniguide offers guidelines to assist decision-makers in choosing the most appropriate method of capturing the verbatim record, the COSCA White Paper recommends DR over court reporting and cites several factors in defense of this position, including a decline in court reporter resources. However, in their portrayal of *Efficient, Timely Transcript Production and Access to the Record*, several important

factors are missing⁴ including the question of whether or not dedicated staffing of DR equipment is needed.

This is a significant cost factor, yet most cost savings projections are attributable to merely replacing a court reporter with DR equipment. When DR equipment *and* staffing are factored in, the cost savings rapidly diminish. According to the American Association of Electronic Reporters and Transcribers (www.aaert.org), *(a) t all times, electronic recording equipment should be overseen by an experienced reporter, who also takes simultaneous notes regarding the proceedings. In digital systems, these notes can be very extensive, indeed. (Digital annotations are time-linked to the corresponding audio, so one can instantly go to that point in the record to re-listen to the actual testimony or colloquy or review the accuracy of an interpreter's translation.)*

Merely assigning DR monitoring duties to a judicial officer, courtroom clerk or bailiff is ill-advised and ignores the substantive duties for which these individuals are primarily responsible. As an example, a federal study indicated that DR monitoring duties, including time spent managing the record, consumed as much as 60.4% of a courtroom clerk's time⁵; this is hardly feasible when courtroom clerks have so many other responsibilities such as swearing in witnesses, checking in parties, monitoring the calendar, logging/tracking exhibits, locating/managing files, tracking judicial pleadings, writing up judicial sentences, answering phones, entering dispositions in the case management system and otherwise assisting the judge in caseflow management.

As a means of improving DR staffing cost savings, some DR vendors offer the ability for a single monitor to handle up to four courtrooms simultaneously, thereby substantially reducing the personnel costs associated with DR; but the COSCA White Paper offers no guidelines as to when and under what circumstances such multiple courtroom monitoring is appropriate (see Chapter 3 of this report for Florida's recommendations on the DR staffing formula). Intuitively, one would conclude that the more serious the case the more justification for a one-to-one DR staffing ratio.

Another important aspect of a court's decision to use court reporting or DR is the cost and effort of preparing a transcript. Chapter 4 of this report compares transcript preparation costs comparing court reporting and DR, and provides deeper background on the transcription preparation process. The bottom line is less effort is required to produce a written transcript from a hearing captured by a court reporter versus an electronically recorded hearing due to (1) the use of computer-aided transcription software by court reporters, and (2) courts that do not now manage transcript production would have to create this administrative structure in order to do so. The COSCA White Paper sees managing transcript production as an issue of control citing that (1) most proceedings do not require transcription, and (2) courts should have the flexibility to assign these tasks to internal staff or contractors. In effect, court reporters, even those who are salaried court employees, currently act as contractors for the purpose of preparation of transcripts because the Fair Labor Standards Act allows court reporters to act in a dual capacity of public (or quasi-public) sector employee to capture the

⁴ The National Court Reporters Association has rebutted several other aspects of the COSCA report in an open letter at <http://ncraonline.org/NR/rdonlyres/D8E7C915-E8F5-4D46-A6C6-6F6A28834A32/0/NCRAletteronCOSCAwhitepaper.pdf>.

⁵ Source: NACM Making the Verbatim court Record Miniguide, cited in the decision criteria matrix on Page 4 of this report.

An Analysis of Court Reporting and Digital Recording in the Nevada Courts

record, yet act as a private sector independent contractor when preparing a transcript. Presumably, this anomaly exists to promote efficiency and timeliness (a privatization of sorts) while avoiding the need to pay overtime.

The final issue regarding DR worthy of note is that in Nevada, the Federal Courts, the State Gaming Control Board and Nevada Gaming Commission all experimented with tape recording but returned to the use of court reporters in 1995. The Federal Courts have since opted for realtime court reporters, as Texas and Nebraska federal judges have done. The Gaming Control Board and Nevada Gaming Commission tried tapes for three years and, after incurring higher costs and receiving inferior service, went back to court reporters.

2. The Dynamics of Court Reporting

Even if they are salaried court employees when reporting the court record, when preparing transcripts, official court reporters in Nevada courts act as independent contractors and therefore bear all production costs, and work mostly after hours and on weekends. These court-reporter-paid costs include personal labor for production; purchase, update and use of computerized technology; purchase of supplies; hiring of support personnel; and delivery. When the court orders a transcript, it is filed within the court-directed or statutory time requirements.

The Nevada courts would be hard-pressed to achieve the free-market efficiencies in terms of timeliness and cost for production that court reporters produce as private contractors working on a profit incentive. If the court were responsible for the current methodology of transcript production, court reporters would have to be paid straight salary to produce transcripts during an eight-hour workday, the vast majority of which is currently spent capturing the record in the courtroom. Replacing the court reporter would mean that the court would be required to (a) pay overtime to existing court reporting staff; (b) hire additional court reporting staff; (c) hire or contract for transcription staff; or (d) a combination, all of which would increase the cost and time needed to produce transcripts.

It is important to note that the court does not currently pay overtime to court reporters because after-hours time spent producing transcripts is performed by the reporter as a private contractor. This public/private employment relationship is unique to the official court reporting profession and rarely found elsewhere. It is recognized by U.S. statute in the Fair Labor Standards Act, which was amended in 1995 to allow this unique "privatization" and relieves the courts from having to pay overtime for work demands that easily exceed 40 hours per week.

Like other professions, court reporting has been dramatically affected by technology. However, what sets court reporters apart are two distinctions: First, these technologies are privately funded by individual court reporters at no expense to the courts they serve; and second, court reporters have been "early adopters" of technology for the past 25 years – much earlier than a vast majority of the courts they serve. For example, over 98% of court reporters in Nevada use Computer Aided Transcription (CAT) for reporting and preparing transcripts of proceedings. Transcripts prepared by court reporters are backed-up for redundancy, significantly reducing instances of lost records, and they are capable of storage in web repositories for wider accessibility. In fact, Nevada law requires court reporters to maintain an archive of their notes for eight years, if done so electronically, in two electronic formats for safeguard purposes.⁶

The reason for this phenomenon is simple. In their role as private contractors producing transcripts, official court reporters are highly motivated to improve productivity. Investing in developing technology is a business necessity driven by a free market incentive. The side benefits to the courts, lawyers and litigants are impressive. CAT technology not only helps the court reporter to quickly produce a transcript, but proficient court reporters are able to simultaneously create and display a rough draft of the verbatim record at the time the proceedings occur. This feat is called Realtime reporting that judges, attorneys,

⁶ NRS 656.335 (<http://www.leg.state.nv.us/NRS/NRS-656.html#NRS656Sec335>) and NAC 656.410 (<http://www.leg.state.nv.us/nac/NAC-656.htm#NAC656Sec410>).

An Analysis of Court Reporting and Digital Recording in the Nevada Courts

litigants, and others are quickly learning to use to improve their own productivity. This instant display and text file of the spoken word allows judges, lawyers, clerks, interpreters, and others to add notes and annotations for current or later needs.

By changing the nature of their "product" from a paper transcript to a digital file, court reporters have provided several additional opportunities for cost savings and improved productivity by the court and its users. Some of these include digital storage, electronic transcript delivery, incorporation of the verbatim record into the court's case management system and electronic data interchange between the reporter and clerk to ease keystroke data entry tasks related to updating the court's data system.

Unlike other Nevada public employees, court reporters in nearly all jurisdictions in the state must personally pay for a wide variety of technology, and even staffing, in order to perform their dual role of court employee (to capture the verbatim record) and private contractor (to produce transcripts). Since the Nevada courts are not centralized and therefore operate by differing rules, most court reporters are not allowed to use court equipment for transcript production, nor are associated costs such as a reporter's equipment, technology and office supplies paid by an overwhelming number of Nevada court jurisdictions. Exceptions are rare.

These annual and start-up costs are as high as \$23,000 or more for technology, equipment and supplies, and could run as high as \$15,000, \$20,000 to \$30,000 or more for staffing. The choice to hire transcript production staff differs from reporter to reporter, and the decision is largely driven by the amount of transcript workload. A reporter could decide to hire only a scopist (editor of court reporting notes), only a proofreader, both or neither. There is no choice when it comes to technology, equipment and supplies – these are necessary and ongoing costs.

Accordingly, court reporters have made a significant investment in technology and productivity, which benefits the court in the form of low cost and rapid transcript production. A detailed breakdown of court reporter-paid costs is provided in the following tables:

STAFF COSTS

Annual Volume of Transcript Production	Scopist (\$1.25-1.50 per page)	Proofreader (40¢ per page)
1,000 pages	\$1,500 per year	\$400 per year
5,000 pages	\$7,500 per year	\$2,000 per year
10,000 pages	\$15,000 per year	\$4,000 per year
25,000 pages	\$37,500 per year	\$10,000 per year

NOTE: The decision to hire a scopist (editor of court reporting notes) and/or a proofreader is optional and differs from reporter to reporter, and the decision is largely workload-driven. Higher scopist and proofreader rates apply for an expedited transcript.

EQUIPMENT AND SUPPLY COSTS

Hardware, Software, Supplies, Etc. (replacement cycle indicated in parentheses)	Initial Cost	Annual Cost
Software: Transcript prep & billing (3-4 years)	\$3,995	
Hardware: Stenotype machine (5 yrs), laptop & desktop computers (3-4 yrs), two printers (4-5 yrs), photocopier (leased), fax machine (5 years) and necessary updates.	10,180	\$3,000
Supplies: Copy paper (25+ boxes X \$30), stenotype ribbons (\$15 x 3), carrying case (7 yrs), printer toner \$125+ x 10, cables, serial converter, connectors (5 yrs), fax toner (\$35 X 4), binding equipment & supplies (6 boxes/yr @ \$40 per 100+shipping), office supplies, "original" & "copy" stamps, packaging material, diskettes, address labels, research material, business cards, CDs.	420	3,035
Other: Stenotype machine (annual maintenance, support for software, including updates), Internet provider, wheel cart (5 yrs), home office furniture (5 yrs), training/seminars, training/vendor, postage, professional dues, certification/license, equipment insurance, cell phone, liability insurance.	570	3,997
Investment in equipment and supplies	\$15,165	
Annual ongoing costs	\$10,032	
Combined costs (start-up and annual)	\$25,197	

It is important to note that Nevada is a decentralized state when it comes to court governance, so in limited circumstances cost reimbursement decisions are left to individual jurisdictions. However, as a standard practice jurisdictions do not pay these costs and require that court reporters do so in the scope of their employment. Exceptions are rare.

3. The Experience in Other States

While technical and human error problems can occur with both court reporting and DR, there are many more documented instances of these problems in the use of DR. Having to retry a case or conduct a new hearing to recapture a lost record is a staggering price to pay for a “cost savings” that doesn’t hold up under analytical scrutiny. Here are some examples of digital recordings gone wrong:

Queensland Courts, Australia – (December, 2010) Supreme Court Chief Justice Paul de Jersey warned that the poor performance of the State Reporting Bureau presented a “concerning and continuing challenge to the reliable administration of justice in Queensland and must be urgently addressed.” The problems include error-ridden, incomplete or delayed transcripts resulting from a digital recording that replaced court reporters in several court jurisdictions. *Brisbane Times, Dec 14, 2010*

US District Court for the District of New Jersey - (March, 2010) An appeal from a criminal judgment of conviction in the Third Circuit US Court of Appeals found the trial record to be incomplete. The appellants identified approximately 10,000 indiscernible and/or inaccurate portions of the trial and sidebar transcripts, all of which required substantive corrections. After audio was recorded onto discs and later transcribed by a transcription service, the District Court was required to devote months of time reviewing the audio recording of the entire 8-month trial, including sidebars. That review found four recording discs that were defective and couldn't even be reviewed and are now being reviewed by an expert computer service. Despite the District Court's best efforts, the record is not certifiable at this point.⁷

Essex County, NJ – (Nov 2007) A mistrial caused by a courtroom recording failure may have cost a medical malpractice plaintiff in Essex County up to \$560,000 of a high-low settlement, and it is stirring calls for more court reporters in New Jersey courts.

Portland, OR – (February 2004) A series of missing or inaudible recordings leads to editorials calling for a revisit of replacement of court reporters with DR. These instances include one hour of missing key witness testimony in a 2003 murder case; a retrial of a 2002 complex civil environmental case because the DR failed to record proceedings onto a CD; attorneys handling criminal appeals saying their clients' rights are compromised by inaudible portions of recordings; and attorneys hiring their own court reporters for fear of an inaccurate court record.

Bryan TX – (December 2000) When Judge-Elect Rick Davis considered whether to use a court reporter or electronic recording in the 272nd District Court, he compared three trial transcripts – one produced by a court reporter and two produced by a DR transcriptionist. The comparative error rates were staggering:

Case	Transcript volumes	Total # of pages	# of Inaudibles / errors	% Error per page
State v Robinson (Court reporter)	9	1,288	8	>1%
State v Smith (DR)	6	717	171	24%
State v Nutall (DR)	3	304	45	15%

⁷ The motion is available at <http://www.depoman.com/downloads/DigitalAudioOnAppeal.pdf>

The best case studies of the choice between court reporting and DR can be found in the experiences of California and Florida, which follow.

The California experience with DR

In the past three decades, the California Courts and the California Legislature have struggled more than a dozen times with the prospect of replacing court reporters with DR in the state trial courts based upon the belief that such a change would result in substantial costs savings. These efforts are most often triggered by state budget shortfalls and the belief that advancements in DR technology render the use of court reporters to be less cost effective.

While some minor court proceedings are electronically recorded in the state, most proceedings utilize a court reporter using computer-aided-transcription technology. The latest attempts at widespread implementation of DR centered on recommendations by the CA Legislative Analyst that speculated upwards of \$111 million in annual costs savings would result. *In the past two years, this proposal has been rejected three times* because lawmakers considered four major drawbacks to such a policy shift:

1. Replacing court reporters with DR would result in substantial costs associated with retirement and severance payments to departing court reporters;
2. Purchasing DR equipment and hard-wiring courtrooms to replace court reporters would result in substantial start-up costs;
3. Replacing court reporters with DR equipment also required the hiring of DR monitors, thereby resulting in substantially less cost savings; and,
4. The productivity loss to judges and attorneys having to review an audio versus a written record, coupled with substantial transcript preparation cost increases associated with a DR record outweighed purported cost savings.

As part of this ongoing evaluation, the California Judicial Council created a *Reporting of the Record Task Force* in April 2002 and charged it with evaluating how court reporting services are provided. Over its two-year term, the task force developed recommendations for the future of court reporting in the state, covering such policy issues as transcript format, training needs, electronic transcripts, and the challenges in recruiting and retaining qualified shorthand reporters. Widespread use of DR was considered and rejected by the task force in their final report.⁸

Despite crushing budget deficits and tempting recommendations from legislative staff that substantial costs savings would ensue, California policy and law makers rejected the wholesale replacement of court reporters with DR. The CA Administrative Office of the Courts was among the many stakeholder groups testifying against such a proposal at budget hearings.

⁸ *Final Report of the Reporting of the Record Task Force*, February 18, 2005, <http://www.courtinfo.ca.gov/jc/documents/reports/0205item7.pdf>.

The Florida experience with DR

Like many states, Florida has grappled with economic hardship for several years in a row, partly attributable to tax structure and politics, and partly attributable to natural disasters such as hurricanes. Even though limited use of DR was authorized by statute in 1995, in a continuing effort to find cost savings the state pushed the widespread replacement of court reporters with DR in July, 2004, the first step of which was to shift the cost of managing the court record from local to state government.⁹

Despite this major push in 2004 to replace court reporting with DR, today *every circuit (general jurisdiction) court uses a mix of court reporting and DR service delivery methods*. Approximately twice as many proceeding hours are digitally recorded compared to court reporting.

While all outward appearances indicate cost savings and a seamless transition to at least partial replacement of court reporting services, the Florida Commission on Trial Court Performance & Accountability (CTCPA) has issued three reports¹⁰ on the subject that address several administrative policy and related DR issues, including:

- A determination was needed that the official record of court proceedings is the *transcript*, not an electronic recording;
- A rule was promulgated finding that the electronic recording was not a public record, and the court “owned” it and thereby controlled access to it;¹¹
- The court needed to be immunized from legal liability associated with unintended interception of privileged oral communications by DR equipment, including attorney/client communications;
- Before a court sells an DR record, it should ensure that inappropriate content is redacted (a labor intensive process);
- It is incumbent upon the court to provide an accurate record maintained by qualified staff – asking courtroom clerks or bailiffs to assume these chores is not the preferred solution;
- Instances of recording inappropriate content increased when DR equipment was unmonitored;

⁹ Revision 7 to Article V of the Florida Constitution, which shifted several due process costs from local to state government.

¹⁰ The first report was December 2002

(http://www.flcourts.org/gen_public/pubs/bin/crtreporting_pubs1.pdf) that anticipated implementation of DR, the second was in February 2005

(http://www.flcourts.org/gen_public/pubs/bin/crtreporting_pubs2.pdf) and the third was October 2007

(http://www.flcourts.org/gen_public/court-services/bin/TCPACTReportingFinalReport.pdf).

¹¹ Subsequent to the latest CTCPA report, the FL Supreme Court ruled that the DR record is indeed a public record and the trials courts had no right to restrict access to it (July 16, 2009, SC08-1658 In re: Amendments to the Florida Rules of Judicial Administration and the Florida Rules of Appellate Procedure – implementation of Commission on Trial Court Performance and Accountability recommendations, <http://www.floridasupremecourt.org/decisions/2009/sc08-1658.pdf>).

- Instances of equipment problems, inaudible portions and unrecorded proceedings increased when the DR record was unmonitored;
- Giving DR records to parties provided opportunities for modification of the record and/or errors associated with use of untrained transcribers; and,
- Both audio and video recording has advanced technologically so that digital recording is the preferred method over analog, yet many courts still use analog equipment.

What is clear from the Florida experience is that there are a myriad of administrative issues that must be addressed before DR is implemented in a trial court. When mandated and recommended best practices accompany implementation, additional costs are incurred in the form of appropriate equipment and adequate staffing by dedicated DR monitors. The budgetary impact is not that a court reporter is being replaced by technology, but by equipment and replacement staffing - even if salary savings ensue from the salary differential between a court reporter and DR monitor. This differential increases when a DR monitor handles multiple courtrooms simultaneously, but these instances should be driven by the complexity and severity of the proceeding types, as is the recommendation in the 2007 CTCPA Florida report. The costs associated with management and supervision of DR monitors and the transcription process were not addressed.

None of this discussion concerning the Florida experience addresses the loss of productivity associated with judges and lawyers having to review electronic recordings as opposed to transcripts, the additional costs for transcription of a DR record, and the loss of potential productivity associated with court reporters using Realtime technology to make the written record instantly available to the users.

4. Transcript Cost Comparison

The best comparison of transcript production costs is an analysis of court reporting and DR side-by-side in a five-day trial. In order to do so in a diverse state such as Nevada, we must choose a sample court jurisdiction, in this case Washoe County, which encompasses the greater Reno area. Each of the cost elements, calculations and related issues are described in detail as follows:

Cost Component	Court Reporter	Digital Recording
1. Personnel (5 days)	\$ 850	\$1,205
2. Transcript (1,000 pgs, Orig+2)	\$4,100	\$6,250
SUBTOTAL	\$4,950	\$7,455
3. Delivery costs	\$ 0	\$ 14
4. Tech acquisition/maintenance	\$ 0	\$ 35
5. IT network upgrades	\$ 0	\$ 223
6. Added servers	\$ 0	\$ 75
7. Management overhead	\$ 16	\$ 50
TOTAL COST COMPARISON	\$5,645	\$7,852

1. Personnel (5 days) – The per diem rate for a court reporter in Nevada is set by statute at \$170/day; there are no salaried court reporter positions and these positions do not perform DR monitoring duties. There is no consistent per diem or salary figure for DR monitors in Nevada because (a) DR is in scarce use, and (b) court jurisdictions use differing compensation rates. A private court reporting firm in Washoe County charges \$190/day for a court that uses DR, such as family court, while the Clark County District and Justice Courts pay salaries ranging from \$48,422 to 52,291 for Court Transcriber I and II positions dedicated to these tasks; averaging these two salaries, adding 30% for benefits and dividing by 225 (number of court days available) comes to \$291 as a daily rate. Splitting the difference between the private sector rate and Clark County salaries comes to a daily rate of \$241, which we will use as a representative rate for DR personnel costs.

2. Transcript (1,000 pages) – 1,000 pages of transcript is the estimated output from a five-day trial. For a court reporter-produced transcript, the statutory transcription rate is \$3.55 per page for an original and one copy; additional copies are 55 cents-per-page. These rates have not changes in over 11 years. For a transcript produced from DR, a survey of local transcription providers showed a range of \$6.75 per page for an original and one copy; additional pages at \$2.50 each. Clark County courts uses the salaried Court Transcriber positions to perform both DR monitoring and transcription tasks, but excess transcript demands result in either contracting elsewhere, the need for additional transcribers or overtime. For this purpose, we will use \$5.00 to transcribe an original and one copy from a DR recording, and \$1.25 per page for additional copies. These calculations for 1,000 pages of transcript appear in the table, and a typical order of an original and two copies.

3. Delivery costs – The US Postal Service rate of \$14.50 covers a large flat-rate Priority Mail box carrying approximately 25 pounds of printed transcript. Court reporters privately fund these costs. Overnight rates for private carriers run as high as \$383.00 for

this volume of paper, but presumably these added costs would be passed along to those demanding earlier delivery. DR would require management and tracking of these pass-along costs, while court reporters would do so in the course of their transcript production duties.

4. Tech acquisition and maintenance – The cost to purchase a single DR unit is approximately \$2,800, hard-wire installation is approximately \$20,000, and a one-year maintenance agreement is approximately \$200. As with all technology, DR equipment must have a life-cycle replacement, which we estimate to be every five years. If these equipment, maintenance and hardwire costs are amortized over a five-year period of time, the daily rate translates to \$7.
5. IT network upgrades - DR would place a substantial added burden on a court's IT computer network infrastructure attributable to the creation, transmission and storage of large digital audio files. Costs associated with network upgrades to support DR files would be approximately \$10,000 annually. The daily costs would translate to \$89, which are then multiplied by five. There is no need for a network upgrade to support court reporter operations.
6. Added servers - Costs associated with additional servers to support the storage area network for large DR files is approximately \$17,000 every five years, which translates to a daily rate of \$15. These estimates do not include additional IT personnel, if needed. No server enhancements are required to support court reporter operations.
7. Management overhead – This is a less scientific but nonetheless real cost to account for management overhead needed to support DR. Examples of these management tasks are the need to set up accounts receivable protocols to bill for transcripts, manage transcript orders, and generally supervise DR monitors who do not possess as high a level of professional training as a prerequisite of hiring compared to court reporters. By virtue of their professional training and independent contractor status producing transcripts, court reporters require minimal supervision, which is typically limited to coordination of assignments. \$10-a-day to account for overhead costs to manage DR is a reasonable assumption.

It is clear from this side-by-side comparison that even if the Washoe County Courts were successful in forcing either court reporters or some private transcription service to charge identical transcription rates as court reporters, the cost differential is still higher for DR compared to court reporting to produce a transcript from a five-day trial. Putting salaried transcribers on payroll to perform these tasks begs the issue of staffing formulas that would allow these individuals to both monitor the DR equipment and transcribe the outcome. The result is either higher staffing or overtime, neither of which are incurred with court reporters.

Most court jurisdictions have found that transcription costs are higher for DR recordings because they are simply more difficult to produce and free-market cost pressures prevail. It is also equally clear that even if a transcript is not required, the costs for DR staffing alone is higher compared to court reporting; these costs are exacerbated when transcript delivery, IT infrastructure improvements and management overhead are added.

An Analysis of Court Reporting and Digital Recording in the Nevada Courts

Since court reporters operate largely as independent agents, minimal supervision is needed compared to DR except for coordinating assignments and some administrative support. Court reporters also privately fund technology acquisition, maintenance, upgrades and networking, while DR requires that most courts substantially upgrade their computer network to support the creation and transmission of digital audio and video records, which are quite large compared to documents and other electronic files. Additional servers are also needed to accommodate storage and retrieval of these files.

5. Recommendations

For cost savings in low impact cases that have reduced need for a written transcript, DR can be an appropriate choice to supplement court reporting resources. However this practice should be select, not widespread, and should take into consideration the administrative impact and policy considerations that must accompany such a move, including the need for dedicated DR monitor staffing, qualified transcription services, technology infrastructure improvements and safeguards to reduce instances of equipment malfunction and inappropriate recording/transcription of portions of the record that violate privacy issues such as attorney-client privileged communication discussions.

Widespread replacement of court reporting with DR would result in substantial hidden and shifting costs that may impact the quality of justice, the productivity of those who work in the system, and the timeliness of case processing, as follows:

- **Productivity** – The role of a court reporter is not merely to “capture” the verbatim record and transcribe it when needed; it is to provide enhanced productivity to judges, attorneys, parties and court staff in dealing with the court record and managing information. The most significant impact of replacing court reporters with DR is the resulting loss in productivity by judges and key stakeholders, especially when dealing with complex cases. A good example is the need for “readback” of past testimony that can be performed instantly by a court reporter by a word or name search of the text-based record, while DR is incapable of this search unless annotated at the time of the recording, resulting in substantial delay while the testimony is located.
- **Transcript Production** – Nevada courts spend a substantial amount on transcript production; most independent analyses of transcript production costs show that producing a transcript from an electronic recording is more costly and less timely than one produced by a court reporter, most of whom use privately funded computer-aided-transcription software and hardware to achieve this productivity. The statutory fees that courts pay for a court reporter-produced transcript are relatively low compared to free market rates, so that switching to DR will likely drive up costs for transcript production and increase processing delays.
- **Capital Investments in Technology, Management and Staffing** – Even salaried court reporters act in a dual role of “employee” while reporting the verbatim record and “independent contractor” when transcribing that record. Accordingly in most NV jurisdictions, all of the costs for equipment, software, staffing, supplies and management of these processes are privately borne, saving the state millions of dollars in cost avoidance. Moreover, these private investments have ensured that courts reap substantial productivity benefits from state-of-the-art advances in technology. With DR, the individual court jurisdictions would be charged with making these investments and keeping technology current.
- **Accuracy and Certification of the Record** – Court reporters are trained, accredited and highly skilled professionals who prepare accurate transcripts based upon first-hand experience reporting the proceedings, research as to proper names and technical terms, and extensive use of technology and private staffing to produce and proof the record. When a court reporter “certifies” the record, it is an authentication to its accuracy. A transcript produced by a third party from DR is subject to error because all that DR captures is “sound,” which could include background noise, inaudible responses and unintelligible utterances. A “certified” DR transcript is merely an indication that a typist

unconnected to the record has done his or her best to discern its accuracy. Moreover, DR equipment will not inform the monitor that it is not functioning properly, and the discovery that a record is lost does not occur until it is too late. A "re-transcription" of previously transcribed audio files will reveal significant differences in "certified" drafts.

- **"Off-shoring" of Transcript Production** – Court reporters are "guardians of the record" who place high value on the accuracy, impartiality and confidentiality of the court record. Selling audio files to attorneys and others could result in the use of overseas transcription services in an effort to save costs, resulting in violation of privacy, illegal disclosure of protected information, and identity theft. Selling audio files to attorneys and others also introduces opportunities to fraudulently alter the record using digital audio editing software.
- **Accountability** – Since court reporters are licensed, they are more accountable for their qualifications and attention to duty. No such controls exist over DR monitoring staff or privately retained transcript production contractors. Errors and delays in producing transcripts from a DR record have become a way of life in those states that have adopted its widespread use.
- **Replacing Transcripts with a DR Audio File is Not a Cost Savings** – One of the biggest myths about DR costs is that judges, attorneys, parties and court staff are able to review the audio DR files in lieu of a transcript and thereby realize substantial savings. Intuitively, it takes three-to-five-times longer to review an audio file compared to a written transcript; this is especially true of DR records that have not been annotated by a monitor. Widespread use of audio files is highly unproductive and will result in delay, while transcripts are more cost-effective, especially electronic versions of transcripts that are capable of word and name searches.
- **Personnel Cost Savings will Not Occur with DR** – The biggest justification for replacing court reporters with DR is the estimated cost in the form of salary savings by eliminating court reporters. These cost savings are over-projected for two reasons. First, it assumes that most DR monitoring can be done with a single staff person handling multiple courtrooms, or no monitoring staff at all. Every reputable source recommends dedicated DR staff monitoring and differs only when it comes to a formula for how many simultaneous courtrooms can be effectively covered by a single monitor. Second, transcript production cost savings are achieved by a court reporter using computer-aided-transcription software and privately-paid staff, both of which (technology and staffing) would become court costs when using DR.
- **Court Reporter Technologies Yield Substantial Cost Savings** – Court reporters have privately invested in computer hardware, software, telecommunications and staffing to make technological advances available to judges, attorneys, parties and court staff, thereby increasing productivity. One of these technologies, "realtime" instant display of the record for viewing and annotation, is a substantial benefit when efficiently resolving cases. Computerized court reporting, in general, produces electronic transcripts, ease of storage of notes/transcripts, printed concordance indices, condensed printed transcripts and computer-integrated courtrooms, which are substantial improvements in the administration of justice that will be lost with DR. Moreover, a court reporter's "realtime" record allows courts to make proceedings available to the hearing impaired, while computer-aided-transcription supports sight-impaired users, enabling courts to comply with *Americans with Disabilities* requirements. An emerging court reporter technology called REDI (Reporter Electronic Data Interchange) would ease the keystroke data entry chores of courtroom clerks and speed the updating of the court's case management

system by selectively marking and transferring case processing information from the court reporter-produced verbatim record. When this feature becomes marketable, the productivity gains for the court will be substantial.

- **The Unquantifiable** - While it is important to present accurate cost figures as we have attempted in this analysis of the financial impact of shifting from court reporting to DR, there are also a substantial number of unquantifiable negative consequences for doing so. It is important to ask *who is in charge of making the record? Are there a chain of players and equipment, or one individual who is responsible and accountable for accuracy and the integrity of the record?* A court reporter is currently the central figure in charge of the record. When the responsibility for the record is shared among several parties, such as a DR monitor, court clerks and court management, chances for errors and delay increase precipitously.

In short, widespread replacement of court reporters with DR does not provide universal cost savings, and the tradeoff is often negative consequences that impact the accuracy, timeliness and integrity of the record, as well as the productivity of judges, attorneys, court staff and litigants. These policy decisions should take into consideration the likelihood of the need for a transcript and the severity or complexity of the cases involved. A set of policy determination criteria should then be developed to determine (1) whether cost savings will occur and if so (2) whether the court has the management and technology infrastructure to absorb the verbatim record enterprise, and (3) whether the quality of the end product is sufficient to ensure the integrity of court proceedings.

Whenever courts examine these issues, it is imperative to have court reporters actively participate in the information gathering and even decision-making process. Capturing and preserving the court's verbatim record is a complex process; producing a transcript from that record is not as straightforward a process as it appears, especially in terms of cost and effort. Moreover, court reporter-paid technology enhancements could be harnessed by the courts to achieve further cost savings that would offset overall costs for court reporting services.

An Analysis of Court Reporting and Digital Recording in the Nevada Courts

Executive Summary

Court leaders throughout the United States are making transformational decisions about how to continue delivering court services in this era of prolonged financial crisis. Among these decisions are how to capture the verbatim record and produce transcripts in a cost-effective manner, yet maintain the integrity of the court record.

46 of the 50 US states use some form of digital recording¹ (DR) and all but a handful use a combination of court reporters and DR. Various court jurisdictions throughout the US are considering whether to expand DR or even replace court reporters altogether as a cost-saving measure; some courts have already done so. In this report, we study this question of cost savings in Nevada courts by examining efforts in other states, and a side-by-side comparison of court reporting and DR in a sample Nevada jurisdiction.

What this examination reveals is that the budgetary impact does not result from a court reporter being replaced by technology, but by equipment and replacement staffing. Even if salary savings ensue from the salary differential between a court reporter and DR monitor, the overall costs still favor a court reporter, especially if a transcript is required, when the following issues are taken into consideration:

- Management and supervision.
- Transcript administration, production, delivery, billing, and accounts receivable.
- Court technology and network acquisition, maintenance, upgrade and repair.
- Added productivity from the court reporters' electronic work product, such as note storage, transcript storage/delivery, instantaneous, searchable realtime record, Reporter Electronic Data Interchange, and more.

The matter of transcript preparation and delivery are key components to a comparison of capturing the court record. As independent contractors, court reporters produce and deliver transcripts using privately purchased hardware, software, computer networks, supplies, shipping costs and even labor; the hardware and software must be regularly updated. A major shift to DR would require that individual Nevada court jurisdictions purchase recording equipment, hard-wire courtrooms, fund technology improvements (including updates) to support the capture, transmission and storage of massive digital audio files, and become the primary administrator of transcript production and delivery operations.

The experience of other states with expanded use of DR is that this policy shift resulted in the need to address several unintended consequences to widespread DR usage, including:

- Lack of standards in regards to DR staffing to monitor the equipment and annotate the recordings.
- The need for the court to exert quality control over choice and qualifications of transcribers.
- Liability associated with recording of privileged conversations between attorneys and their clients.
- The need to specify what is the "official" court record - the recording or a transcript (and even which transcript when the same DR record is produced by opposing counsel)?
- In low-impact cases where transcripts are not often needed in Nevada courts, DR can be a cost-effective choice. However, the higher the stakes and the higher the need for a transcript, court reporters are more cost-effective.

This summary was prepared January 26, 2011 on behalf of the Nevada Court Reporters Association by Chris Crawford, president of JUSTICE SERVED®, a court management and technology consulting firm. Mr. Crawford has more than 37 years of court management experience, including 21 years managing California trial courts. For more information, please visit www.justiceserved.com. For a full version of the report, visit www.nvcra.com.

¹ We define digital recording in this report as both analog and digital, and both audio and video.

Court Reporters Provide Consistently Better Value.

Recording systems, both audio and video, have been offered for years as alternatives to court reporters. In most instances, they are not a desirable substitute for today's realtime court reporter. The following points outline different aspects of the value of court reporters.

1. **Court reporters keep the record clear.**

Court reporters sort and discriminate between testimony and background noise, such as sirens, coughing, inaudible or heavily accented speech and can clarify technical terms and spellings. They will also interrupt when the proceedings are out of control or when clarification is needed.
2. **Court reporters do not inadvertently record inappropriate exchanges.**

Court reporters have the ability to exclude off-the-record conversations from the transcript – such as side bar and attorney-client conversations. Electronic recording can be subject to a loss of control or be less secure – as an example – when machinery is inadvertently left on.
3. **Court reporters can locate testimony instantaneously.**

Court reporters can search for a word or phrase from any portion of their notes and can read back testimony instantly.
4. **Court reporters certify the record.**

Court reporters can certify the accuracy and integrity of the record and can testify to those points if necessary *because they were present during the reporting of that proceeding.*
5. **Court reporters are trained professionals.**

Court reporters undergo two or more years of academic and skills training and must demonstrate that they update their knowledge by earning continuing education units. They also must conform to a professional code of ethics to ensure there is no improper conduct that could possibly jeopardize the integrity of a proceeding.
6. **Court reporters produce proceedings digitally.**

Court reporters produce a digital record, as well as on paper, facilitating their use in litigation support systems, providing fast access to information.
7. **Court reporter's realtime transcripts can be cybercast.**

Court reporters' realtime transcripts can be sent over the Internet to allow participation by remote parties or consultants.
8. **Court reporters can provide unofficial transcripts.**

Court reporters can provide unofficial transcripts, or rough drafts, of testimony on paper or by electronic file virtually instantly.
9. **Court reporters can provide realtime translation.**

Court reporters provide instantaneous realtime translation of proceedings on computer screens in court, or in depositions. This service allows individuals to follow along word-for-word with the proceedings and make notes in that digital record. Audio and video systems produce only recordings.
10. **Court reporters can provide CART in the courtroom.**

Court reporters can provide CART (Communication, Access, Realtime Translation) for one-on-one captioning in the courtroom. This aids in reviewing testimony and provides access for attorneys, judges or witnesses who are hard-of-hearing, meeting the requirements of the Americans with Disabilities Act. Audio and video systems produce only recordings.
11. **Court reporters provide continuity of operations.**

Court reporters can continue reporting in the case of power outages, for example.

12. Court reporters have better back-up systems, with built in redundancies.

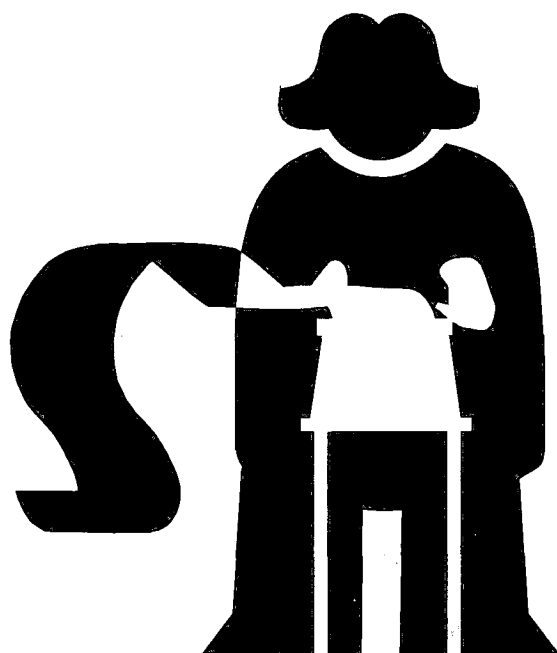
Court reporters have automated backup systems on their steno machines, laptops and periodically back up onto CDs and/or employ remote backup systems.

13. Court reporters maintain control of the record.

Court reporters control the taking of the record by being present to securely report the proceeding, identifying what is to be reported, and interrupting when necessary for clarification, then efficiently and accurately producing a written record when needed. Redactions are performed to protect the public's privacy, never leaving the imprinted metadata that could possibly be viewed by anyone.

EXHIBIT E
MAKING THE RECORD SURVEY

Official Court Records Subcommittee



Survey: Making the Court Record

August 2011

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Introduction

In June of 2010, the Commission on Preservation, Access, and Sealing of Court Records established the Official Court Records Subcommittee to examine the various methods used for making the court record. The subcommittee was charged with developing standards of operation and best practices to ensure the accuracy, efficiency, and timeliness of the official court record.

The mission of the Official Court Records Subcommittee was to study all aspects of court transcriptions, including the licensing requirements for court reporters, court recorders, and transcribers, the costs associated with transcriptions, the various methods used for making the record, and the timing and production of transcripts.

In order to get a better understanding of the methods Nevada courts were using to make the court record the subcommittee developed a survey, which was sent to all courts in Nevada, in August 2010. The survey focused on the various methods courts currently use to make the record and what, if any, problems the courts may have encountered while using the various methods, as well as the costs associated with making the record. The subcommittee analyzed and considered the survey results and feedback as they developed the Standards of Operation and Best Practices Manual.

Methodology

Survey Instrument

The survey instrument in Appendix A is comprised of 29 multiple choice and open-ended questions. The survey gathered information from each court regarding the method or methods their court currently use to create the court record and whether or not they have had any issues using these various methods.

The survey method was reviewed and approved by the Official Court Records Subcommittee's co-chairs, Judge John Tatro and Ms Karen Yates, prior to dissemination. The survey was electronically created using eSurveyPro, an online survey and assessment software used by the Administrative Office of the Courts (AOC). The survey link was electronically sent to all Nevada courts and the survey could be accessed at any time. Survey participants had the option of filling the survey out online or printing the survey and faxing it to the AOC staff. Hard copies of the survey were also made available and faxed to courts that either could not access the survey online or did not have an email account.

Data Collection

The survey was opened to participants on August 4, 2010, and closed on September 10, 2010. A total of 89 surveys were received. Of those 89 surveys 90% (n=80) were completed and 10% (n=9) were partially completed.

The Third Judicial District, Churchill County did not fill out a survey but did send an email answering some of the survey questions. The responses from the Third Judicial District were included in the survey results.

The Sixth Judicial District Court, Department 1, partially completed the survey. In response to the survey Judge Wagner sent Justice Hardesty a letter outlining his department's procedure for making the record and concerns regarding the JAVS system. A copy of this letter is included in Appendix B.

The Eighth Judicial District requested the survey be sent to all departments including the family division (n=43). Of the 43 departments in the Eighth Judicial District, 18 departments completed the survey and 2 departments

partially completed the survey. The multiple choice results from the Eighth Judicial District were combined, when possible, and the open-ended answers were included in the results.

Survey Analysis

Survey analysis was done using a combination of eSurveysPro and tables to show which methods courts are using to make the record, how many court reporters, court recorders, etc. the courts use monthly, and the estimated annual cost for the various methods used.

Results

District Courts

Method(s) Used for Making the Record

District Court	Certified Court Reporter	Digital Audio and/or Video System (DAVS)	Court Recorder
First Judicial District (Storey)	X	X	
First Judicial District (Carson City)	X	X	
Second Judicial District (Washoe) ¹	X	X	
Third Judicial District (Lyon)	X	X	X
Third Judicial District (Churchill)	X		
Fourth Judicial District (Dept. 1, Elko)	X	X	
Fourth Judicial District (Dept. 2, Elko) ²	X		
Fifth Judicial District (Dept. 2)	X	X	
Fifth Judicial District (Mineral County)	X	X	
Sixth Judicial District (Dept 1) (Humboldt, Pershing, & Lander)	X		
Sixth Judicial District (Dept. 2)		X	
Seventh Judicial District (Lincoln)		X	
Seventh Judicial District (Eureka)		X	
Seventh Judicial District (White Pine)		X	
Eighth Judicial District (Clark) ³	X	X	X
Ninth Judicial District (Douglas)	X		

Digital Audio Video Systems (DAVS) district courts are using:⁴

Various versions of the Jefferson Audio Video System (JAVS) are being used among the courts. JAVS version 5.0 (n=5) and 6.0 (n=9) are the two most commonly used versions used by the district courts.

¹ The Family Court and Dept.1 at the Second Judicial District Court are equipped with a digital recording system but the other depts. (3/4/6/7/8/9/10/15) are not.

² The Fourth Judicial District Court only uses DAVS for Drug Court and in emergencies for short hearings when the court reporter is not available.

³ Each department in the Eighth Judicial District may choose whether they want to use a certified court reporter or a court recorder. The Family Division uses JAVS exclusively. An attorney or party may request and pay for their own court reporter in Family Court.

⁴ The Ninth Judicial District is not equipped with a digital recording system as of 3/28/11 but they are working with the AOC. The Third Judicial District in Churchill County will have JAVS installed by June/July 2011. The Eighth Judicial District Court's Dept.19, the Complex Litigation Center, is not equipped with a digital recording system and is still using a Lanier tape cassette.

Number of certified court reporters, transcribers, or court recorders district courts use on a monthly basis

District Court	Certified Court Reporter	Transcriber	Court Recorder	Other
First Judicial District (Storey)	Once a month	0-1	1-3 times a month	
First Judicial District (Carson)	1 per month for jury trials only			JAVS exclusively with the exception of jury trials
Second Judicial District	8	0	0	0
Third Judicial District (Lyon)			3	
Third Judicial District (Churchill)	3			
Fourth Judicial District (Dept. 1)		1	Court Staff	
Fourth Judicial District (Dept. 2) ⁵	1	0	0	0
Fifth Judicial District (Dept. 2)	1			
Fifth Judicial District (Mineral)			2	
Sixth Judicial District (Dept. 1)	1			
Sixth Judicial District (Dept. 2)		1	1	
Seventh Judicial District (Lincoln)	0	1	0	
Seventh Judicial District (Eureka)				JAVS 6.0
Seventh Judicial District (White Pine)		Only upon request or Order of the Court		JAVS
Eighth Judicial District (Clark) ⁶	7	3	18	The use of a certified court reporter and court recorder varies per department.
Ninth Judicial District (Douglas)	24-25 on average			

Problems the district courts have had using the Digital Audio Video System (DAVS):⁷

- Program can run slowly;
- DAVS or microphone malfunctions/failures;
- People not speaking into the microphones or moving out of microphone range;
- Not enough microphones in the courtroom (n=6);
- Hearing individuals on the recordings;
- Bench conferences may not be recorded and the quality of the recording can be problematic;⁸
- JAVS recording has periods where something happens, i.e. shuffling of papers, coughing, etc., where the testimony is gone. You cannot hear it and there is no accountability on the recorder's part for quality control;
- Problems with the quality of the recording (n=5) and lack of oversight with the transcript quality (n=3);
- Lack of on-site personnel to handle the day-to-day issues that may come up with DAVS;⁹
- The system goes down resulting in the court's IT department having to come and repair during court proceedings.

⁵ Fourth and Sixth Judicial District (Dept. 1) are equipped with DAVS but prefer to use certified court reporters.

⁶ Eighth Judicial District (Dept. 4) has a court recorder who is a full-time employee on staff. She transcribes the proceedings as they are ordered by the attorneys. If the court recorder is too busy, the recordings will be sent to the in-house transcribers, or to a certified outside transcriber.

⁷ First (Storey), Fifth (Dept. 2 and Mineral), Sixth (Dept. 2), Seventh (Lincoln) (White Pine), Eighth Judicial District (Dept. 2, 23, D, and L) noted they have not had any problems.

⁸ Courts are adding or have added microphones to address this issue.

⁹ One technician covers 18 departments in the Eighth Judicial District.

Problems district courts have had using the various methods for making the record:¹⁰

- No problem with court reporters;
- Too many instances of inaudible or unintelligible;
- Occasional problem getting a record when a court reporter was used, but have encountered no such problems since switching to a court recorder;
- Transcriptionists guessing at the record, or are editing the record;
- Attorneys who routinely use court transcripts as a valuable tool complain about the quality of transcripts created by the JAVS systems in various courtrooms;
- Untimely transcripts (many extensions), and poor quality of transcripts from the recorder when, and if, you can get a transcript. Usually they just hand out CDs;
- Our system works very well. It is very handy to have the recordings to go back and review witness testimony when preparing orders for hearings and bench trials. Sending the transcripts out can be costly; our court would do well to employ some part-time transcriptionists;
- Not enough transcribers on staff to back up the court recorders.¹¹

Courts were asked if their court's DAVS is equipped with cameras, if so, are the cameras on during the entire proceeding. 22 departments responded yes, all the cameras are turned on during the proceeding. One department noted that their DAVS is not equipped with video and the remaining departments did not answer the question.

District Courts Annual Costs for Making the Record

District Court	Certified Court Reporter	Court Recorder	Transcriptionist	DAVS Maintenance Costs	DAVS Other Cost	Costs for transcripts
First Judicial Dist. (Carson)	\$20,000 ¹²			\$8,000 ¹³ \$2,000 for Juvenile Court		\$5,000
First Judicial Dist. (Storey)	\$1,720	Shared System	Included in reporter fee	\$890 ¹⁴		Included in reporter fee
Second Judicial Dist.	\$281,000					\$397,000
Third Judicial Dist.		\$143,495				\$32,000
Fourth Judicial Dist. (Dept. 1)			\$14,000	\$6,000		
Fourth Judicial Dist. (Dept. 2)	\$77,500			\$8,000	\$10,000	
Fifth Judicial Dist. (Dept 2)	\$75,000 plus benefits (total \$98000 approx)			\$1,500		
Fifth Judicial Dist. (Mineral)	\$9,400					
Sixth Judicial	60% of salary paid			\$3,385 all		Varies ¹⁵

¹⁰ First (Storey), Third, Fifth (Mineral), Seventh (White Pine), and Eighth (Dept. 2, E, L) Judicial District Courts responded they have not had any problems with the various methods for making the record.

¹¹ The Eighth Judicial District has 3 on-site transcribers in addition to the certified court reporters and court recorders.

¹² First Judicial District (Carson) stopped using court reporters for all hearings with the exception of jury trials. Early retirement was offered to 2 staff court reporters. Total annual savings was approximately, \$250,000. The new process was implemented July of 2010. Not enough time has passed since implementation to correctly assess their expenditures.

¹³ Costs are shared with Carson City Justice Court.

¹⁴ Costs shared with other departments.

¹⁵ Costs for transcripts vary annually depending on caseload. Each county is responsible for transcripts created in their county.

Dist. (Dept. 1)	by Humboldt County; 20% paid by Pershing & Lander County			three counties		
Sixth Judicial Dist. (Dept 2)		\$57,891		\$3,825		None ¹⁶
Seventh Judicial Dist. (Lincoln)	0	0	\$6,000	\$1,500	\$200	
Seventh Judicial Dist. (White Pine)			\$1000 to \$5000			
Seventh Judicial Dist. (Eureka)				\$2,750		Varies
Eighth Judicial Dist. (Dept 12)		\$21.38 an hour				
Eighth Judicial Dist. (Dept 7)		\$60,000				
Eighth Judicial Dist. (Dept 3) ¹⁷	\$75,000 includes per diem and transcripts.					
Ninth Judicial Dist.	\$40,000		\$25,000			

In courts using DAVS, the recording is converted into a type transcript by:

- Certified court reporters (n=5)
- Transcriptionist (n=4)
- Court recorder (n=3)
- Party, attorney, etc. may pick up a copy of the CD/DVD and have it transcribed at their own cost (n=5)
- The recording is not transcribed unless appeal is filed (n=5)

Problems district courts have had with delayed transcripts:

- Second Judicial District had a 1-2 month delay due to the certified court reporter not producing the record in a timely manner.
- Fifth Judicial District (Dept. 2) had delays when they were using the old FTR system.
- Eighth Judicial District:
 - 1-2 week delay due to the high volume of transcripts pending/manpower shortage.
 - 1-2 week delay due to preliminary hearing transcripts from justice courts not being completed in a timely manner.
 - 1-2 week delay due to the transcriber not producing the record in a timely manner.
 - 3-4 week delay. A transcript will be requested within a 20-30 day window. They try to keep as many in-house as possible. A court recorder cannot type a 3-day trial and still be in court every day so they may send the recordings to be transcribed by the in-house transcribers. They only have 3 transcribers who cover all days off for 18 departments, in addition to typing all overflow transcripts. Occasionally, they will need extra time to complete the transcripts and will ask for a 30-day extension from the Supreme Court.

¹⁶ Their court has only had to use a court reporter to transcribe five times in the last 6 years since utilizing JAVS.

¹⁷ Certified court reporter does not receive benefits.

Problems district courts have had with the quality of the record:

- Too many inaudibles (n=2)
- Typos (n=2)
- Problems with the cover sheet
- Transcript did not accurately reflect the proceeding

Additional comments or feedback:

- I am very happy with my employee and the quality of our record.
- The State Public Defender and one conflict counsel complained that a couple of CDs were hard to hear at times. The individual at the time of the hearing was not speaking loud enough. Additional microphones have been added in each courtroom and the judges are actively having individuals speak louder when this occurs. We have provided CaseViewer instructions, which is a free download that assists the person listening to the JAVS recording to better hear the proceedings by isolating tracks. This information is also provided to the transcribers to assist them in their preparation of the court transcripts.
- We are satisfied with the use of court reporters and have had no problems.
- We are happy with the JAVS recording system. The department has used audio recordings since 1998. The ability to replay testimony in audio and visual form is very helpful during jury trials and subsequent proceedings. The ease of providing copies of the recordings to parties at a reasonable cost is a significant, positive feature of the system.
- DAVS simply do not make a good record. I would never use a DAVS for a jury trial or a bench trial. There are just too many problems in getting a good and accurate record. Attorneys who regularly litigate in court and order transcripts should also be surveyed about their thoughts of a court reporter vs. DAVS. I believe that court reporters are an integral part of the court system and provide a superior service to a digital recording. It's impossible to replace the human benefits that accompany a court reporter. One being the ability to stop and clarify during the proceedings, if necessary. If something is inaudible or not quite clear, it's too late to clarify once the DVD is in the hands of an outside transcriptionist. Many of the transcripts produced by digital systems contain nonsensical sentences. If you look at the word, and you have some legal training, you can sometimes figure out what the word should have been or might have been, but I think that falls short of a reliable record. I've seen statute numbers transcribed as dates: instead of 123.010, it's 12/30/10. "I looked out through the peephole" is transcribed as "I looked out through the people." These are two examples of the mistakes that the attorneys have voiced frustration with when trying to prepare a case from a transcript produced by a digital system. The attorneys have also reported gaps in the transcripts. Court reporters can also provide real time services which most judges find very useful, as do the attorneys. While I think a digital system is useful in certain court settings, I don't think it should be used in a trial setting where someone's freedom is at stake. In our court the court reporter's work is backed up in three different locations. The court reporters here have the ability to transcribe one another's work should a court reporter be stricken ill or in the event of death. The court reporters here take their responsibility to the judicial system very seriously and are proud to be a part of it.
- There is definitely more than one way to make a record. However, in district court, where every proceeding is of great significance, we should use the best and most efficient way to make the record in order to ensure everyone's constitutional rights. Having a written record preserved in each and every criminal file for eternity is paramount to our judicial system continuing to operate at its best. The official court reporter has three external back-up drives and three different back-ups on her steno machine. She backs up every day after court, before she shuts her computer off. We do our best to see that everyone has access to the record in the tri-county area. All criminal transcripts are completed and filed within a two-week turnaround.
- We have been utilizing the JAVS system for the past six years and have not had any problems with the system. We are in the process of upgrading the system from JAVS 5.0 to 6.0 in one courtroom in Humboldt County and in Lander County.

- I have always preferred court reporting because it allows for real time clarification and correction of what is being said in court as opposed to trying to later interpret a recording. I believe the cost is more beneficial to the court as a whole as well, since I believe the anecdotal evidence suggests strongly that court recording, which uses salaried employees with benefits and incurs extra costs for outsourced transcript production, is much more costly.
- Using JAVS the recorders are able to pick up comments/statements that may be missed initially during the proceedings. They are able to single out microphones and hear only one person when another is talking over them, which happens frequently. They proof their work by listening to the proceeding again, after typing it the first time, for any mistakes they might have made. Most of the problems come when the system is used improperly.
- I prefer certified court reporters much better than JAVS. I had JAVS in both municipal and justice court during civil proceedings. Besides encountering constant technical problems, I would get a record back saying "inaudible" the entire transcript. This after transcription. Thus, I prefer a court reporter. Additionally, I have had no less than 50 read backs of questions, either myself or the attorneys this week in hearings. Without a court reporter, I do not know how JAVS would read back a question without taking a lot of time. Just my preference as a trial attorney and judge.
- I am going to look into the question of the annual cost to my department of using a certified court reporter, since I do not know this information. I do believe, however, it is comparable to if not cheaper than the combined costs to the departments who use a recorder and an outside transcriber.

Justice Courts

Method(s) Used to Make the Record

Justice Court	Certified Court Reporter	DAVS	Court Recorder	Combination Court Reporter and DAVS	Tape Cassette
Argenta				X	
Austin		X			
Beatty				X	
Beowawe		X			
Bunkerville		X			
Boulder				X	
Canal				X	
Carlin					X
Carson City		X			
Dayton				X	
East Fork				X	
Eastline		X			
Elko ¹⁸				X	
Ely		X			
Esmeralda				X	
Eureka		X			
Goodsprings				X	
Hawthorne				X	
Henderson ¹⁹	X				
Incline					X
Jackpot			X		

¹⁸ Elko Justice Court noted they use DAVS for most hearings and a certified court reporter for some hearings.

¹⁹ Henderson and Union Justice Courts are equipped with JAVS but they prefer to use a certified court reporter.

Lake	X	X			
Las Vegas	X				
Laughlin			X		
Lund					X
Meadow Valley		X			
Mesquite		X			
Moapa		X			
Moapa Valley		X			
New River				X	
North Las Vegas		X	X		
Pahrnagat Valley	X		X		
Pahrump				X	
Reno				X	
Searchlight		X			
Sparks				X	
Tahoe				X	
Tonopah	X		X		
Union	X	X			
Virginia				X	
Walker River		X			
Wadsworth	X				X
Wells					X

Digital Audio Video Systems (DAVS) justice courts are using:²⁰

- Jefferson Audio Video System (JAVS) (n=21)
- Liberty (n=7)
- For the Record (FTR) (n=2)
- Reporter Deck II
- Digital DM 246
- Caselle

Number of certified court reporters, transcribers, and court recorders justice courts use on a monthly basis

Justice Court	Certified Court Reporter	Transcriber	Court Recorder	Other
Argenta	2			
Beatty	2			
Beowawe	1			
Boulder	2	1	1	
Bunkerville	0	0	0	
Canal	0	0	JAVS used daily	
Carson City				JAVS used exclusively, except in capital cases
Dayton Justice	4		Daily	
East Fork	Fridays only 1-5	Fridays only 1-5		

²⁰ Incline, Lund, Wells, Wadsworth, and Carlin Justice Courts are still using tape/analog systems to record the record and are not equipped with a digital recording system.

Survey: Making the Court Record

	times a month	times a month		
Eastline				Transcriptionist used only a few times a year for appeals
Elko Justice	1			DAVS
Ely		1	1	
Esmeralda				
Eureka		2		
Goodsprings	1-2	1-2	JAVS system used in every hearing	
Hawthorne	1			
Henderson	1			
Incline	0	0	0	0
Lake	4	1	0	
Las Vegas	23	23 ²¹		
Laughlin	0	0	Record criminal court every Thursday	
Lund		1		
Meadow Valley	0	1-2	0	
Mesquite	0	0	Everyday	
Moapa	0	As needed	0	
Moapa Valley		Monthly		
New River	Up to 5 times a month	Maybe once a month		JAVS-daily
North Las Vegas			2	
Pahrump	15	5		
Pahrnagat Valley	When we have a prelim hearing, DUI or Domestic Trial		Each Wednesday during court	
Reno	1 employee daily, 1 contract reporter daily	1-2		
Sparks	Approx. twice per month for recording and once or twice per month for transcription	3-4 times per month		
Tahoe	1			Clerks, judges, attorneys, parties, witnesses, bailiffs
Tonopah	1	1	1	
Union	1		1	
Virginia	2		Daily	
Walker River		1		
Wadsworth	1 or less	1 or less		
Wells				

Problems justice courts²² have had using the Digital Audio Video Systems (DAVS):

- Too many inaudibles;
- File sizes are large and cannot be emailed;

²¹ The court reporters are also the transcribers.

²² Argenta, Beowawe, Bunkerville, Dayton, East Fork, Elko, Esmeralda, Moapa, Reno, Searchlight, Virginia City, Meadow Valley, and Walker River Justice Courts (n=13) all responded they have not had any problems with their digital audio video systems.

- Problems with the quality of the record (n=2);
- Not enough microphones in the courtroom (n=5);
- Lack of familiarity with all of the functionality available;
- Problems identifying who is speaking when they say only a word or two;
- Problems with the system locking up and downloading or turning off during proceedings;
- Attorneys that do not speak loud enough or mumble or move away from the microphones;
- Difficulty finding someone to transcribe the recording and lack of oversight with transcript quality;
- Individuals sometimes do not speak clearly or loud enough. Judge must monitor this and prompt parties accordingly.

Problems justice courts have had using the various methods for making the record: ²³

- Tapes become worn out and do not work as planned. Sometimes the second tape does not start up when the first tape runs out.
- Rural location is their biggest and foremost issue. ²⁴
- We have not had any problems using the various methods for making the record. Since the court is in a rural area, they have maintained a working relationship with their contract certified court reporter. The certified court reporter is available, as needed, to transcribe for our DAVS system. ²⁵
- Trouble getting court records transcribed due to location. Recordings are only transcribed on preliminary hearings, when they are requested, and when they are appealed. We had issues with the microphones in the court, but we recently added two mics and an additional camera. ²⁶
- Our court uses the Liberty recorder and if they need something transcribed the individual transcribing has to have the Liberty player to listen to the proceedings. ²⁷
- North Las Vegas Justice Court recently went from using 3 court reporters to 2 court recorders. The current process is too new to identify any problems. They noted four issues the court had when they were using court reporters.
 1. We are a court of record, but did not have ownership rights to the official record, thus did not have control.
 2. Cost. Lengthy transcripts could cost thousands of dollars, although per diem costs are predictable and can be budgeted appropriately; the transcript page costs are not. FY 10 we were significantly under budgeted for the expenditures we incurred and required an augmentation to our budget.
 3. Timelines. Court reporters are contract employees, and it is sometimes difficult to control the timeliness of the transcripts.
 4. Quality. Court reporting depends upon the attention span and hearing ability of an individual. There were concerns about the accuracy of the record, although there are no specific instances or significant errors.
- Court uses a Lanier tape recorder to record court proceedings and the court has had trouble finding someone to transcribe the recording because their recording systems are not compatible. The time involved can delay getting the record to the district court in a timely manner. ²⁸
- The defense counsel, and sometimes the state, wants a transcript every time a preliminary hearing goes forward. We have the JAVS system to try to cut costs but with the transcripts being requested there is very little costs savings. The biggest problem is when we have to have a recording transcribed. Sometimes the

²³ Virginia City, Tahoe, Searchlight, Goodsprings, East Fork, Ely, Bunkerville, and Beatty Justice Courts (n=8) all responded they have not had any problems using the various methods for making the record.

²⁴ Tonopah Justice Court

²⁵ Elko Justice/Muni Court

²⁶ Eureka Justice Court

²⁷ Laughlin Justice Court

²⁸ Pahrangat Valley Justice Court

speaker does not speak clearly, and it is difficult to understand what they are saying. If a court reporter was present, they could clarify what was said immediately. They cannot do that with a recording.

- Transcriptionists have reported inaudible spots in the JAVS recordings; some are valid, some require turning the volume up and replaying the spot several times.
- The judges forget to have the witnesses spell their name for the record and the transcriptionists must call the clerks for the information.
- Union Justice Court has employed a fulltime certified court reporter since 1995 and has not had any problems with the timely transcripts, quality of transcripts or any other issues.

Courts were asked if their court's DAVS is equipped with cameras, if so, are the cameras on during the entire proceeding. 18 courts responded yes, all the cameras are turned on during the proceeding. 4 courts noted that their DAVS is not equipped with video and one court noted the video is turned on for security purposes.

Justice Courts Annual Costs for Making the Record

Justice Court	Certified Court Reporter	Court Recorder	Transcriptionist	DAVS Maintenance Costs	DAVS Other Cost	Costs for transcripts
Argenta	\$,2000		\$900	\$600		
Austin			\$500			\$500
Boulder	\$3,500			\$500		\$3,000
Beatty	\$2,000				\$495	
Beowawe			\$1,000-2,000	\$,700	\$250	
Canal	\$2,000-3,000				\$400	
Carson City				\$80,00 ²⁹		\$20,000
Dayton	\$1,500 (includes costs for transcripts)			\$1,545	\$11,859 (initial set up costs)	
East Fork	Depends on need		Depends on need	\$4,087.95		NRS 3.370
Eastline	\$1,000					\$1,000
Elko	\$77,500					\$20,000
Ely	\$0					\$5,000
Esmeralda	\$1,000					\$1,000
Eureka				\$1,850	\$100	\$5,000
Goodsprings	\$7,130.50 (includes costs for transcripts)					
Henderson	\$83,000					
Incline		\$50				\$250
Lake	\$10,000					\$1,000
Las Vegas	\$673,022			\$227,049		\$582,626
Lund			\$500			\$500
Meadow Valley			\$4,000	\$0 ³⁰		
Mesquite	Varies	Varies	Varies			Varies
Moapa			Less than \$300 a year			

²⁹ Carson City Justice Court shares the maintenance costs with the First Judicial District.

³⁰ Meadow Valley Justice Court shares a courtroom with the Seventh (Lincoln) Judicial District Court and the county maintains the service contract with the JAVS provider.

New River	\$6,483			\$2,000		\$1,509
N Las Vegas		\$111,500 ³¹			\$53,000 (initial set up cost)	
Pahrump	\$65,000 (includes costs for transcripts)					
Reno	\$59,000		\$845	\$4,400		\$32,000
Sparks	\$5000 (per diem costs)			\$7,000	\$200	\$11,000
Tonopah	\$,3500					
Union	\$82,603					\$17,069
Virginia City	\$2,000	\$100				
Walker River			\$1,500	\$500	\$100	
Wells						

In courts using DAVS, the recording is converted into a type transcript by:

- Certified court reporters (n=10)
- Transcriptionist (n=12)
- Court Recorder (n=2)
- Party, attorney, etc. may pick up a copy of the CD/DVD and have it transcribed at their own cost (n=7)
- The recording is not transcribed unless appeal is filed (n=8)

Problems justice courts had with delayed transcripts.³²

- Carson City reported a 1-2 week delay. They eliminated using a certified court reporter in court and it took a few weeks to refine the new process. They are currently receiving transcripts in a timely manner.
- Lund Justice Court reported a 1-2 week delay and said there were problems with the quality of the recording.
- Goodsprings and Reno Justice Courts reported a 3-4 week delay due to the certified court reporter not producing the record in a timely manner.
- Incline and North Las Vegas Courts reported a 1-2 month delay due to the certified court reporter not producing the record in a timely manner.
- Las Vegas Justice Court reported the length of delay has varied and was due to the certified court reporter not producing the record in a timely manner.
- Pahrump Justice Court reported it depends on the length of the transcript and the amount of time the court reporter is working in court. Sometimes the reporter has trouble with the recording and has to come to the court to listen to it.
- Tahoe Justice Court reported a delay of more than 3 months but did not provide a reason.

List of problems justice courts have had with the quality of the record:

- Too many inaudibles (n=2);
- Misinterpretation;
- Format transcribers were using was incorrect. Issue has been resolved.

³¹ North Las Vegas Justice Court recently transitioned from 3 certified court reporters to 2 court recorders. The court recorders are now county employees. The \$115,500 figure includes salaries, benefits, and supplies. The DAVS maintenance costs are managed by the county for all Clark County Courts.

³² 31 Justice Courts responded they have not had any problems with delayed transcripts.

Additional comments or feedback:

- DAVS works better than the old tape system. The court sends the file to the transcription service via the internet, the transcription service transcribes the record, and then the court goes to a website to download the transcription. We have only used this system a couple of times, but it has worked pretty well.
- JAVS is overpriced, one can buy a comparable system for a greatly reduced costs.
- JAVS has significantly saved the courts and local governments money. We often had court reporters show up for prelims and charge the \$170 sitting fee when the case would settle. Unfortunately, the court was not provided with the settlement information sooner. The court made numerous efforts trying to determine if a prelim would not go. Undoubtedly, cases settled the day of the scheduled hearing, costing the courts and local governments a significant amount of money. Our former policy was to pay the court reporter if they showed up. We did give them adequate notice to not come to court. Adequate notice was before they left their office.
- JAVS was the only system that the AOC offered to assist with purchasing costs, and therefore was the system that we chose. However, there are other systems that are comparable, or even superior, that would have cost less overall.
- Court reporters are not available within our area.³³ If a court reporter is used, the cost is tremendous and the turn around time is not quicker than a transcriber. All proceedings for the last few years have been accomplished by sound recording or the JAVS system. The quality of the system is actually better. The video is in real time and may be viewed by the district court or attorneys for appeals along with the transcription.
- Our court prefers to have a court reporter present during preliminary hearings due to the possibility of the recording system not working properly. We have had issues with downloading the record onto a disc and/or system locking up.
- North Las Vegas Justice Court expects their new process will save over \$400,000 over the next 5 years. It gives the court more control over the official court record and will ultimately produce a higher quality of transcript.³⁴
- Attorneys need to be educated that it is ok to use recordings. They all seem to prefer the written record.
- Attorneys do not always stay within the range of the microphones; they tend to roam away from them. If the court reporter is there, and misses something, they can always have it repeated.
- Union Township Justice Court has employed a fulltime certified court reporter since 1995. Historically, preliminary hearing transcripts are sent to district courts within 2 to 3 calendar days of a preliminary hearing. They have a laptop computer on the bench and real time writing from the court reporter to the laptop streams to the judge. The instantaneous review on the laptop allows the judge to have a clear reading of objections by attorneys and thereby expedite ruling especially ones offered with profundity. As a rural court in Nevada, having a real time certified court reporter as an employee eliminates many logistical problems. Some of the problems eliminated are; sending out a DVD to have it transcribed, finding a certified court reporter to come to Winnemucca for preliminary hearings and DUI/domestic batter trials, delay in getting a timely transcript, and resurrecting a transcript after years of dormancy in a case. This court takes great pride in the fact that Union Township Justice Court, Certified Court Reporter, Ed Von Ruden's transcript in the Hiibel case (542 U.S. 177) went to the United States Supreme Court. All courts in Nevada are unique and a solution for one will not necessarily work for all. Having a full time certified court reporter county employee is the best solution for Union Township Justice Court.

³³ Ely Justice Court

³⁴ North Las Vegas Justice Court recently transitioned from 3 certified court reporters to 2 court recorders. The court recorders are now county employees. The \$115,500 figure includes salaries, benefits, and supplies. The DAVS maintenance costs are managed by the county for all Clark County Courts.

Municipal Courts ³⁵**Method(s) used for making the record:**

- Digital Audio and/of Video System (n=7)
- Carlin Municipal Court uses a tape cassette
- Elko uses a combination of DAVS and court reporters
- Pahrnagat Valley uses a certified court reporter and court recorder

Digital Audio Video Systems Municipal Courts are using:

- For the Record (FTR) (n=4)
- JAVS 6.0 (n=3)
- JCG Liberty (n=1)

Number Municipal Courts Use on a Monthly Basis

Municipal Court	Certified Court Reporter	Transcribers	Court Recorders	Other
Carlin	0	0	0	0
Carson City				JAVS exclusively
Elko	1	0	0	JAVS
Fernley				8 times during court
Henderson	0	0	0	0
Las Vegas	0	0	0	JAVS
Reno		1	5	
Sparks	0	0	2	0
West Wendover				Transcriptionists are used a few times a year for appeals.

Courts were asked if their court's DAVS is equipped with cameras, if so, are the cameras on during the entire proceeding. 2 courts responded yes, some of the cameras are turned on during the proceeding and 3 courts noted they only use the audio portion.

List of problems Municipal Courts have had using DAVS:

- Problems with the quality of the record (n=3);
- Not enough microphones in the courtroom to pick up all the sound;
- Difficulty finding someone to transcribe the recording;
- Few minor issues with audio and connectivity but overall the JAVS system has worked well.

Problems municipal courts have had using the various methods for making the record:

- Individuals do not speak clearly or loud enough;
- System is becoming old and needs to be updated;³⁶
- Minimal technical difficulties with JAVS but are satisfied overall;

³⁵ Boulder City, Fallon, Mesquite, North Las Vegas, and Yerington Municipal Courts are not currently courts of record and did not complete the survey.

³⁶ Sparks Municipal Court

- Occasional software failure missed by staff, sessions not recording. Lack of redundant systems in place to ensure daily recording. Issues with legacy sound systems that have to be addressed.³⁷

Municipal Courts Annual Costs for Making the Record

Municipal Court	Certified Court Reporter	Court Recorder	Transcriptionist	DAVS Maintenance Costs	DAVS Other Cost	Costs for transcripts
Carlin			Individual or county pays for			
Elko	\$77,500 ³⁸					\$20,000
Fernley						
Henderson	0	0	0	\$3,000-5,000		\$1,000
Las Vegas				\$44,213		\$6,783
Reno			\$205	\$15,000	\$10,000	

In courts using DAVS the recording is converted into a type transcript by:

- Transcriptionist (n=2)
- The recording is not transcribed unless appeal is filed (n=2)

The municipal courts indicated they have not had problems with delayed transcripts or the quality of the transcripts they have received.

We did not receive any additional comments or feedback from the municipal courts.

Conclusion

In summary, methods used to make the record vary across the state of Nevada. Many of the district courts still prefer to use court reporters to make the record. The Eighth Judicial District Court is the only district court in Nevada where the judges use either a certified court reporter or a court recorder to make the record.

The majority of the justice and municipal courts in Nevada use digital audio and/or video recording systems to make the record, although some justice courts still prefer to use certified court reporters.

Based on the responses it would appear that a one-size-fits-all approach to making the court record may not be feasible in Nevada. Whichever method is used, whether it is a court reporter, court recorder, or digital audio and/or video system, it is of utmost importance that Nevada courts ensure that the record being made is accurate, efficient, and that a transcript may be produced in a timely manner.

The Official Court Records Subcommittee will take the survey responses into consideration as the Standards of Operation and Best Practices Manual is developed.

³⁷ Henderson Municipal Court

³⁸ Elko's response included both Justice and Municipal Courts.

APPENDIX A

Making the Record Survey
Answers marked with a * are required.

1 / 4	25%
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1. Introduction

Greetings: This survey is being conducted by the Court Reporter Subcommittee, a subcommittee of the Commission on Preservation, Access, and Sealing of Court Records.

The Court Reporter Subcommittee has been asked to study all aspects of court transcription, including the various methods Nevada courts use for making the record, the cost associated with transcriptions, and the timing and production of transcripts. Your input and experience will assist the subcommittee in developing recommendations to the Commission on these important issues. We appreciate you taking the time to complete this important survey. PLEASE COMPLETE THE SURVEY ON-LINE, or PRINT THIS OUT AND RETURN VIA FAX AT (775) 687-9811 NO LATER THAN FRIDAY, AUGUST, 20, 2010.

Please note: This survey has three sections: Methods for Making the Record, Costs Associated with Making the Record, and Timely and Efficient Transcription Production. Once you have completed the survey, please be sure to click the finished button on the last page.

If you have any questions, please contact Stephanie Heying at (775) 687-9815 or email: sheying@nvcourts.nv.gov.

1. Please enter the name of your court below: *



Making the Record Survey

Answers marked with a * are required.

2 / 4

50%

2. Methods for Making the Record

1. What method(s) does your court use to make the record? *

- Certified Court Reporter
- Digital Audio and/or Video System (DAVS)
- Court Recorder
- Tape Cassette
- Combination of Court Reporter and DAVS
- Other (Please Specify)

2. If your court is equipped with an electronic or digital system, which system does your court use?

- JAVS 5.0
- JAVS 6.0
- FTR
- CourtSmart
- Do not know
- Other (Please Specify)

3. How many of the following does your court use on a monthly basis?

Certified Court Reporters

Transcribers

Court Recorders

Other (please specify)

4. If your court is equipped with DAVS but is not currently using the system, is there a reason why?

- Yes
- No
- Do not know
- Not applicable

5. If you answered YES to question 5, what is the reason?

- Do not have enough personnel to run system
- Not familiar with the system

- Prefer to use certified court reporter
- Not applicable
- Other (Please Specify)

6. If your court is equipped with DAVS what, if any, problems has your court had using the system?

- Problems with the quality of the recording
- Not enough mics in the courtroom to pick up all sound
- Difficulty finding someone to transcribe the recording
- Lack of oversight with transcript quality
- We have not had any problems
- Other (Please Specify)

7. If your court has DAVS equipped with cameras, are the cameras on during the entire proceedings?

- Yes, all cameras are turned on
- Yes, some of the cameras are turned on
- No, we only use the audio portion of the system
- Do not know
- Other (Please Specify)

8. If your court does use DAVS, who converts the recording into a typed transcript?

- Certified Court Reporter
- Court Recorder
- Transcriptionist
- Recording is not transcribed unless appeal is filed
- Party, attorney, etc. may pick up a copy of the CD/DVD and have it transcribed at their own cost
- Do not know
- Other (Please Specify)

9. Is the person(s) transcribing the record for the court considered a: *

- Court employee
- Contract employee
- Do not know
- Other (Please Specify)

10. If your court utilizes DAVS, how are the recordings retained?

They are downloaded to a CD/DVD and stored at the court

They are stored on the court's computer system

Other (Please Specify)

11. What, if any, problems has your court had using the various methods for making the record? Please list:



Making the Record Survey
Answers marked with a * are required.

3 / 4 75%

3. Costs Associated with Making the Record

1. What are your court's annual costs associated with the use of a

Certified Court Reporter	
Court Recorder	
Transcriptionist	
Digital Audio and/or Video Maintenance Contract Costs	
Digital Audio and/or Video Other Costs	
Costs for transcripts	
Other, please specify	

2. If your court outsources the production of the transcription how is the individual compensated?

- Per Line
 - Per Page
 - Per Transcription
 - Per hour
 - Contract
 - Not applicable
 - Do not know
 - Other (Please Specify)
-



Making the Record Survey

Answers marked with a * are required.

4 / 4

100%

4. Timely and Efficient Transcription Production

1. Has your court had any problems with delayed transcriptions? *

- Yes
- No
- Not Sure
- Other (Please Specify)

2. If you answered yes to question 1, how long has the production of the transcripts been delayed?

- 1-2 weeks
- 3-4 weeks
- 1-2 months
- Other (Please Specify)

3. If you answered yes to question 1, what was the reason(s) for the delay?

- Problems with the quality of the recording
- Certified Court Reporter did not produce the record in a timely manner
- Transcriber did not produce the record in a timely manner
- Court Recorder did not produce the record in a timely manner
- Other (Please Specify)

4. Has your court had any problems with the quality of the transcripts that you have received? *

- Yes
- No
- Do not know

5. If you answered yes to question 4, what problems has your court had with the quality of the record?

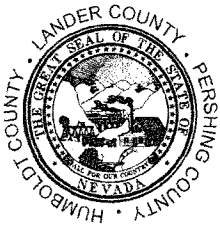
- Typos
- Too many inaudibles noted
- Transcript did not accurately reflect the proceeding
- Other (Please Specify)

6. Please provide us with any additional comments or feedback you may have in regards to making the record.



APPENDIX B

AUG 11 2010



SIXTH JUDICIAL DISTRICT COURT

DEPARTMENT I
P.O. BOX H
LOVELOCK, NEVADA 89419
775.273.2105 • FAX 775.273.4921

RICHARD A. WAGNER
DISTRICT JUDGE

August 10, 2010

Honorable James W. Hardesty
Justice of the Nevada Supreme Court
201 South Carson Street, Suite 300
Carson City, Nevada 89701-4702

Dear Justice Hardesty:

It has come to my attention that there is a Court Reporters Subcommittee presently making a survey concerning court reporters. Apparently that survey has gone out to the Justices of the Peace and court clerks. I may be mistaken, but it does not appear that the survey is going out to the district judges who most use court reporters.

I have seen a copy of the survey and do not believe it adequately addresses the issues relating to the use of court reporters, and I, therefore, hope through my letter to provide to you my views concerning court reporters.

Within our district in Department 2, Judge Montero is using the JAVS in all three counties, and I am using a real time reporter. For certain matters it appears to me that the JAVS system is appropriate and useful and perhaps economical, although I am not sure in the end it saves money. We are finding that the JAVS system is particularly useful for our masters, including child support and juvenile masters, and that on occasion it is useful for even general district court purposes.

There is, however, a huge difference in the quality of the record. We have in fact had within our district trials involving both the JAVS system and a court reporter. The court reporter is so far superior in accuracy to the JAVS system that for serious matters, I would not consider using that system for a record.

Honorable James W. Hardesty
Page 2
August 10, 2010

In addition, there are significant problems in certifying a record for accuracy. We are finding that people who push the buttons to operate the machines for the JAVS are certifying that it is in fact an accurate rendition of what occurred on the record. However, the transcriptions are often being carried out by other individuals and services out of town with numerous inaudible portions of the record, places where headshakes are apparently taking place out of view of the camera, and substantial errors in the record.

Of most importance is the record which is ultimately produced in that with the JAVS system, people are handed a disk to review the record. I cannot imagine either the Supreme Court or district judges, including pre-trial writ writs of habeas corpus and preliminary hearing transcripts being given to judges on a disk format with the object to review such record where every word may be critical. I can not imagine any of us judges having to sit and operate a machine trying to find the appropriate portions in the record in order to carry out our work.

You may believe that because of my age and long history in the legal community that I am simply resistant to change. While that may be true to some extent, we are using some of the latest technologies in our courts in an appropriate way. However, I believe it would be a major mistake for the legal community to become sloppy in its work and give up the necessity of accuracy that I was trained to expect from our legal system.

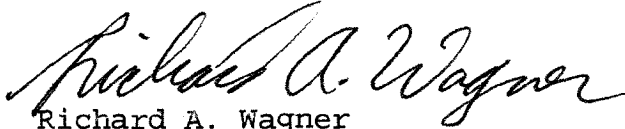
On various occasions my real time reporter provides services to those that have hearing problems and for important trials when daily transcripts are absolutely necessary and when accuracy is a necessity. The recording systems cannot compete in these situations.

My intention as a district judge is to continue using a real time reporter because I believe that the legal system must maintain quality and accuracy. I am not at all convinced that there is any great saving when you end up having several employees having to reproduce a record from the electronic recording system.

Honorable James W. Hardesty
Page 3
August 10, 2010

Thank you for your kind consideration of my views. I would hope that other district judges who are using reporters will have the opportunity to give input into your committee as well.

Sincerely,


Richard A. Wagner
District Judge

RAW:js

cc Ms. Karen Yates
Ms. Zoie Williams