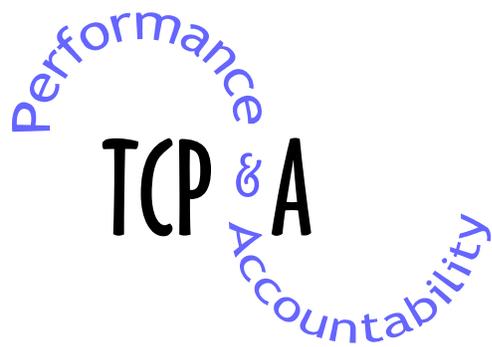
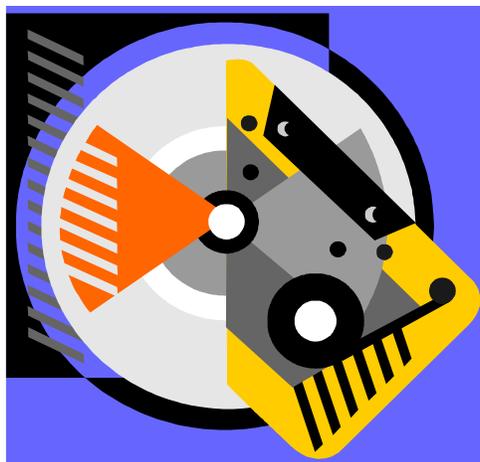


Supreme Court of Florida Commission on Trial Court Performance and Accountability



Court Reporting in Florida's Trial Courts *Post-Revision 7*

February 2005



Respectfully submitted:

Alice Blackwell White

Chair

Circuit Judge, Ninth Judicial Circuit

Robert B. Bennett, Jr., Chief Judge, Twelfth Judicial Circuit

Mike Bridenback, Court Administrator, Thirteenth Judicial Circuit

Jack H. Cook, Circuit Judge, Fifteenth Judicial Circuit

Brian J. Davis, Circuit Judge, Fourth Judicial Circuit

James V. Dominguez, County Court Judge, Hillsborough County

Seung Woo Im, County Judge, Pinellas County

Caron Jeffreys, Court Administrator, Twentieth Judicial Circuit

Peter R. Lopez, Circuit Judge, Eleventh Judicial Circuit

Ellen Sly Masters, Circuit Judge, Tenth Judicial Circuit

Carol Lee Ortman, Court Administrator, Seventeenth Judicial Circuit

Jonathan Sjostrom, Circuit Judge, Second Judicial Circuit

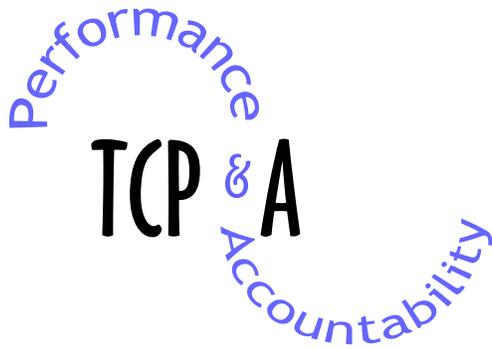
Staff Provided by:

Office of the State Courts Administrator

500 South Duval Street

Tallahassee, Florida 32399-1900

www.flcourts.org



*Court Reporting in Florida's Trial Courts
Post-Revision 7*

Executive Summary

As of July 1, 2004, Revision 7 to Article V of the Florida Constitution became fully implemented and certain court costs, traditionally borne by the counties, became a state responsibility. Court reporting services in Florida's court system is one such cost. In Fiscal Year 2004-05, the Florida Legislature appropriated approximately \$26,000,000 in recurring funds to the State Courts System for court reporting costs. It continues to be the responsibility of the Supreme Court Commission on Trial Court Performance and Accountability (Commission), in partnership with other Supreme Court commissions and committees, to review the operations and management of the provision of this service.

Traditionally, policies and practices for the delivery and management of court reporting have varied substantially throughout the state, as have costs. It is critical that sufficient standardization of policies and practices regarding the provision of court reporting be applied statewide to achieve effective, accountable, and comparable service delivery models. This document reports on the continued work of the Commission in developing policy recommendations for court reporting services. Specifically, the Commission has developed a Statewide Plan for the Effective Use and Management of Court Reporting Services. The Commission recommends that the goals, objectives, and strategies in the plan be utilized at the circuit and state level in operating and managing court reporting services, including the development and evaluation of court reporting budgets.

BACKGROUND

The Supreme Court Commission on Trial Court Performance and Accountability (Commission) was established in July 2002 for the purpose of proposing polices and procedures on matters related to efficient and effective resource management, performance measurement, and accountability of Florida's trial courts. In December 2002, the Commission released its Report and Recommendations for Court Reporting. This report discussed the purpose, legal necessity, delivery methods and models, costs, and performance measurement of court reporting services. This document also provided recommendations regarding the purpose of court reporting, performance measures, statute and rule revisions, best practices, and funding for electronic court reporting. Statutes and court rules related to court reporting may be found in Appendix A.

In July 2004, Chief Justice Barbara J. Pariente, charged the Commission with proposing an overall management system for due process services. In this regard the Commission has been directed to coordinate with the legislatively created Article V Indigent Services Advisory Board. The Commission has also been directed to give priority attention to the development and implementation of a management system for court reporting. This management system will address practices and procedures for interagency coordination with clerks, state attorneys, public defenders and court-appointed counsel; delivery models, standards, funding, and technology options; performance and cost data; and long-term improvement strategies. (AOSC04-20)

Judge Alice Blackwell White, Commission Chair, established a Court Reporting Workgroup to assist in the post-Revision 7 development of a court reporting management system. The Workgroup members are as follows:

Robert B. Bennett, Jr., Chief Judge, Twelfth Judicial Circuit, Facilitator

Ann Kaylor, County Court Judge, Tenth Judicial Circuit

Jan Shackelford, Circuit Court Judge, First Judicial Circuit

Carol Lee Ortman, Trial Court Administrator, Seventeenth Judicial Circuit

Jon Lin, Court Technology Officer, Fifth Judicial Circuit

Betty Sue Vincent, Director, Court Reporting, Eighth Judicial Circuit

The Workgroup was charged with reviewing court reporting issues, with a focus on three primary objectives:

- ▶ develop a plan with goals, objectives, and strategies for improving the effectiveness and efficiency of the delivery of court reporting services in the trial courts;
- ▶ develop operating principles for the implementation of digital court reporting; and
- ▶ develop strategies for the implementation of digital court reporting.

The Workgroup met on three occasions during the fall of 2004 to develop a plan for improving the efficiency and effectiveness of court reporting services in Florida's trial courts. This plan was subsequently edited and approved by the Commission in December 2004.

Note on Terminology:

The term "court reporting" has a common meaning for most people, who relate it to stenographic recording. "Court reporters" are commonly understood to be operators of stenographic court machines. Modern court reporting, however, can rely on other technologies such as audio and video recording, which in some cases are operated remotely or by courtroom officials who are also performing other tasks. In this report, the function of "court reporting" is frequently discussed in two major components. The contemporaneous recording of words and events in a courtroom, whether by stenographic or by other means, is referred to as "recording." The subsequent conversion of the record into written text is referred to as "transcription." The overall process is referred to as "court reporting."

OUTLINE OF STATEWIDE PLAN FOR EFFECTIVE USE AND MANAGEMENT OF COURT REPORTING SERVICES

| GOAL | OBJECTIVE | STRATEGY |
|--|--|--|
| <p>All records of court proceedings will be accurate and of high quality.</p> | <p>In order to ensure quality, the court will be solely responsible for recording all events required to be recorded at public expense.</p> | <ul style="list-style-type: none"> ▶ Clarify that the court is responsible for making the record and maintains ownership and control of the official record of the proceeding. ▶ Eliminate reliance on the clerks of court to facilitate the creation of official recordings of court proceedings. |
| | <p>All recording methods utilized in the trial courts will accurately capture the words spoken in court.</p> | <ul style="list-style-type: none"> ▶ Adopt policy guidelines that prioritize implementation of digital court reporting technology based upon the principle that digital recordings are superior to analog recordings in terms of durability, storage capacity, and general sound quality. ▶ Ensure that court reporting and court recording staffs meet all professional standards and training requirements as established by the state courts system. |
| | <p>All digital recording systems will comply with statewide standards for digital court recording, as established by the Florida Courts Technology Commission.</p> | <ul style="list-style-type: none"> ▶ Replace or improve electronic equipment that does not meet all of the appropriate technology standards. |
| <p>Court proceedings will be covered by the appropriate court recording method.</p> | <p>Court reporting services will be provided in an efficient and effective manner.</p> | <ul style="list-style-type: none"> ▶ Realistically review the recording needs of each division of court in order to balance the utilization of stenographic court reporting services and digital recording to maximize service delivery and minimize expenditures. |
| | <p>Digital recording capacity will exist in all courtrooms utilized for cases in which recording is required at public expense.</p> | <ul style="list-style-type: none"> ▶ Develop and maintain current circuit profiles to assist in identifying and prioritizing digital court reporting needs. ▶ Utilize the most efficient digital recording method for proceedings held outside of “traditional” courtrooms (i.e., hearing rooms, chambers, jails, hospitals). ▶ Develop policy guidelines regarding digital court reporting in non-capital felony proceedings, including jury trials. |
| | <p>Capital cases will be recorded and transcribed in compliance with court rules.</p> | <ul style="list-style-type: none"> ▶ Prioritize the use of real-time court reporters in capital cases in accordance with Rule 2.070, Rules of Judicial Administration. ▶ Identify and evaluate alternative methods and technologies capable of providing expedited transcript production in capital cases. |
| <p>High-quality records for appellate review will be submitted timely.</p> | <p>Appellate transcripts will comply with court rules for record submission.</p> | <ul style="list-style-type: none"> ▶ Trial courts will coordinate with stakeholders to ensure that transcripts are appropriately prepared and submitted timely. |
| <p>The necessity for the preparation of written transcripts will be reduced.</p> | <ul style="list-style-type: none"> ▶ Clarify that where high-quality electronic records are created, the electronic recording is the official record of the proceeding. | |
| <p>Courts will have adequate funding that will be expended prudently.</p> | <p>Cost per unit in the twenty circuits will demonstrate a tendency to cluster around an acceptable norm.</p> | <ul style="list-style-type: none"> ▶ Implement a resource management system to monitor service delivery and expenditures for performance and accountability. |
| | <p>Court reporting services will be procured in a cost-efficient manner.</p> | <ul style="list-style-type: none"> ▶ Review court staffing ratios and method of service delivery (contract or employee) and rates to determine if additional savings may be realized. ▶ Establish cost-effective staffing ratios/models for centralized as well as remotely monitored digital court reporting systems. |

**STATEWIDE PLAN FOR EFFECTIVE USE AND MANAGEMENT
OF COURT REPORTING SERVICES**

GOAL: ALL RECORDS OF COURT PROCEEDINGS WILL BE ACCURATE AND OF HIGH QUALITY.

Objective: In order to ensure quality, the court will be solely responsible for recording all events required to be recorded at public expense.

Strategy: Clarify that the court is responsible for making the record and maintains ownership and control of the official record of the proceeding.

Strategy: Eliminate reliance on the clerks of court to facilitate the creation of official recordings of court proceedings.

Discussion:

Perhaps the most critical issue for the provision of court reporting services is to ensure that all records of court proceedings will be accurate and of high quality. Meaningful appellate review relies on an accurate record of what transpired in a proceeding. Moreover, the transcript of the words spoken in open court is essential for the preparation of appeals by attorneys and is equally important for the court in reviewing the grounds for appeal.

The first step in ensuring accuracy and quality of the record is for the court to maintain sole responsibility for all court events required to be recorded at public expense (e.g., criminal, domestic violence, juvenile, guardianship, and Baker/Marchman Act proceedings). In other words, the court maintains sole ownership and control of the official record of a proceeding so that it is able to effectively institute and oversee quality control mechanisms. The Article V Indigent Services Advisory Board supported this objective in its January 6, 2004 Final Report, offering a specific recommendation that, "courts must have the ability to maintain control and ownership of the record of court proceedings."

Historically, clerk of court staff in many counties have assisted with performing court reporting functions, most commonly in county court proceedings that are recorded using analog technology. Even after the implementation of Revision 7, some circuits have contracts with the clerk of court for performing certain tasks such as "button-pushing," meaning they operate audio tape recorders in courtrooms. They may also perform other ancillary tasks such as labeling and storing tapes, etc. In other circuits, clerk of court staff continue to perform these court reporting functions without a contract and at no cost.

With the transition to state funding, the role of the clerk of court has been clarified and differentiated from that of court administration and the judiciary. Florida Statutes, in reference to court system funding, provides that "reasonable court reporting and transcription services necessary to meet constitutional requirements" is an element of the State Courts System to be provided by state general revenue (s. 29.004, F.S.) In comparison, Chapter 28, F.S., in reference

to clerks of the circuit courts, requires clerks to maintain records, keep the docket, and take the minutes of court proceedings. Florida law makes no provision for clerk responsibilities related to the official due process record of the proceeding. Consequently, taking the official record of a court proceeding is the sole responsibility of the court.

Objective: All recording methods utilized in the trial courts will accurately capture the words spoken in court.

Strategy: *Adopt policy guidelines that prioritize implementation of digital court reporting technology based upon the principle that digital recordings are superior to analog recordings in terms of durability, storage capacity, and general sound quality.*

Strategy: *Ensure that court reporting and court recording staff meet all professional standards and training requirements as established by the state courts system.*

Discussion:

An essential mechanism to ensure quality of the official record is to ensure that the technology utilized is accurately capturing the words spoken in court. As discussed in the Commission's 2002 report, certain technologies are more reliable than others.

Tape recording or analog recording has several disadvantages that undermine its desirability. The quality of analog tape recordings is frequently poor because many courtrooms have poor acoustics. Audio quality frequently suffers when there is excessive background noise or if the party does not speak clearly and loudly. Tapes that have been reused a number of times can also deteriorate in quality to a point where they may become inaudible. Additionally, tapes can be cumbersome to use. In searching for a particular passage, one must wind the tape forward and backward, looking for the passage of interest. Lastly, tapes consume considerable storage space and are easily damaged or inadvertently erased.

Digital recording is superior to analog tape recording in several respects. Just as a CD is clearer and crisper than a cassette tape, audio quality is improved with digital recordings. Some of the clarity occurs simply because digital systems use newer, better microphones than most analog systems. Digital systems also employ sound-enhancing techniques, such as channel-isolation, which allows the monitor or transcriber to screen out superfluous sounds and record only the person speaking into the microphone; or clean-up processes that screen out background noises. Further, the quality of a digital recording does not deteriorate in storage, as may occur with magnetic tape. Additionally, digital recordings may be searched for key words or markers, transmitted electronically to remote locations, copied for little cost, and inexpensively stored.

Another mechanism to ensure quality of the official record is to ensure that staff providing court reporting services meet all professional standards and training requirements established by the State Courts System. Thus, employees in court reporting positions shall meet current qualifications as established in State Courts System position descriptions and adhere to any future standards and training requirements as they are developed.

Objective: All digital recording systems will comply with statewide standards for digital court recording, as established by the Florida Courts Technology Commission.

Strategy: *Replace or improve electronic equipment that does not meet all of the appropriate technology standards.*

Discussion:

In June 2003, the Trial Court Technology Committee of the Florida Courts Technology Commission developed *Standards for Integrated Digital Court Recording Systems* in Florida's State Courts System. These standards were created to establish a working statewide model for the successful utilization of technology to remotely capture audio and/or video recordings of court proceedings. In introducing digital court reporting to courtrooms, there are five main standards: (1) produce a quality recording; (2) automate processes of digital court recording; (3) preserve the integrity of the record; (4) provide attachment support; and (5) provide electronic search and access for recordings. All products supplied by vendors of digital court reporting technology must be compliant with the standards by July 1, 2005.

In October 2004, the Court Reporting Workgroup sponsored a technical work session attended by court staff with court reporting expertise from around the state. Participants included judges, trial court administrators, court technology officers, and court reporting managers and staff. This session identified a number of priority recommendations (see Appendix B). Included was a recommendation to replace systems that do not meet the technical standards and a recommendation to upgrade and maintain existing service system technology. Specifically, it was suggested that software upgrades to stand-alone systems be planned and implemented where appropriate and, to the extent possible, existing resources (microphones, video cameras, wiring, etc.) be considered when upgrading or integrating additional technology.

GOAL: COURT PROCEEDINGS WILL BE COVERED BY THE APPROPRIATE COURT RECORDING METHOD.

Objective: Court reporting services will be provided in an efficient and effective manner.

Strategy: *Realistically review the recording needs of each division of court in order to balance the utilization of stenographic court reporting services and digital recording to maximize service delivery and minimize expenditures.*

Discussion:

This objective supports the appropriate application of digital court reporting in all divisions of court while acknowledging the current utilization of stenographic reporting for complex proceedings likely to demand expedited transcripts or be subject to subsequent appellate review.

Stenographic or real-time court reporting involves the use of a stenograph machine on which a court reporter presses a system of keys, which in turn allows the keystrokes to be recorded on a disk, in the internal memory of the computer, or on paper tape. Real-time stenographic systems are capable of translating a digitized stenographic record contemporaneously, producing an unedited written document even as the record is captured. The unedited text may be viewed immediately by judges and attorneys in the courtroom and allows hearing impaired persons to participate in the proceeding. The unedited text may then be corrected at a later time by the stenographer. Thus, a rough transcript is created during the proceeding that only requires the stenographer to edit or “scope” the document before it is finalized. This is beneficial for proceedings likely to have a demand for an expedited transcript and/or subsequent appellate review, such as capital murder cases.

Digital court reporting involves three basic types of operating systems. The first type involves local monitoring from a direct connection in a courtroom (stand-alone system). Stand-alone systems may be portable, such as a lap-top or hand-held device (MP3 player), or they may be stationary, such as a desk-top computer. Further, a digital court reporter may be required in the courtroom to operate the system. The reporter tags the recording, logs speakers, makes notations of who is present, and notes certain non-verbal events. The reporter also oversees sound quality and provides playback when directed to do so by the judge. In settings such as hearing rooms, judges’ chambers, or off-site locations, a digital court reporter may not be required, as the judge or magistrate may operate the system on their own.

The second type of digital recording is a network-enabled device that may be monitored from a central location (control room) in a courthouse. Typically, control rooms are found in larger courthouses. In a control room, one digital court reporter monitors several courtrooms at one time. The reporter, most often, views the proceedings via video cameras mounted in each courtroom and the judge may give directions to the control room over a microphone or by telephone.

The third type of digital recording involves the remote monitoring of any network-enabled device. This type allows for monitoring to take place outside of a courthouse and may include several different courtrooms in several different courthouses monitored from the same central location.

Appropriately applied, digital court reporting will improve the overall efficiency of court reporting services in several ways. It reduces the number of court reporting staff required to be physically present at proceedings, while reducing the need for stenographers in favor of less costly digital court reporters. Moreover, having a centralized or remotely monitored system streamlines equipment purchases and coverage of proceedings, especially for circuits with multiple counties. Further, most types of proceedings do not have a demand for transcripts, despite whether they are expedited or normally processed. By using digital court reporting for the majority of proceedings, the unnecessary production of transcripts is reduced. Based on recent data submitted to the Office of the State Courts Administrator by the trial courts, it is estimated that of the total transcript workload statewide, approximately 80% is related to transcript requests by non-court entities (e.g., state attorneys, public defenders, conflict counsel). When transcripts are requested by non-court entities, recordings may be copied to CD or DVD at

little cost and provided to these individuals who may then have transcripts produced using a private transcription service. This reduces the amount of court resources devoted to creating transcripts.

Objective: Digital recording capacity will exist in all courtrooms utilized for cases in which recording is required at public expense.

Strategy: *Develop and maintain current circuit profiles to assist in identifying and prioritizing digital court reporting needs.*

Strategy: *Utilize the most efficient digital recording method for proceedings held outside of "traditional" courtrooms (i.e., hearing rooms, chambers, jails, hospitals).*

Strategy: *Develop policy guidelines regarding digital court reporting in non-capital felony proceedings, including jury trials.*

Discussion:

As previously discussed, the Commission believes that digital court reporting will improve the efficiency of the overall provision of court reporting services in Florida's trial courts and therefore should be installed in courtrooms utilized for cases in which recording is required at public expense. During the October 2004 technical work session it was recommended that there should be a priority framework for funding new digital technology. The first priority would be courtrooms that are primarily used for proceedings required to be recorded at public expense (e.g., criminal, domestic violence, juvenile, guardianship, and Baker/Marchman Act proceedings). The second priority would be multi-use courtrooms that are partially used for proceedings required to be recorded at public expense (this applies particularly to courthouses in rural counties). The lowest priority would be courtrooms not used for proceedings required to be recorded at public expense (i.e., civil proceedings).

The type of digital court reporting system funded was also discussed at the work session. Non-traditional courtroom settings such as hearing rooms and off-site locations would have a lower priority to receive full digital systems (stand-alone or remotely monitored) as opposed to hand-held devices. Hearing rooms used for trial events or cases with high transcript demand would have priority to receive stand-alone systems verses portable devices.

The Office of the State Courts Administrator has been working over the past several months towards developing circuit profiles of existing court reporting systems including methods utilized, staffing models, and contracting procedures. This has been an on-going process hindered by the considerable variations from county to county and even courthouse to courthouse. Attempts to gather comprehensive and comparable information in formulating the profiles will continue.

Despite the recommendation to institute digital court reporting in all divisions of court, the Commission recognizes that policy guidelines need to be developed for felony proceedings,

including jury trials, as these proceedings tend to be of a more complex nature. The Commission recommends that these guidelines be created specifically for non-capital cases, as stenographic court reporters are likely to be used for capital proceedings (see objective below).

Objective: Capital cases will be recorded and transcribed in compliance with court rules.

Strategy: *Prioritize the use of real-time court reporters in capital cases in accordance with Rule 2.070, Rules of Judicial Administration.*

Strategy: *Identify and evaluate alternative methods and technologies capable of providing expedited transcript production in capital cases.*

Discussion:

Rule 2.070, Florida Rules of Judicial Administration, related to court reporting states that court reporting in capital cases shall require the use of all measures necessary to expedite the preparation of the transcript including the use of a court reporter with the capacity to provide real-time transcription of the proceedings.

The Commission supports the use of real-time court reporters in capital cases while continuing to explore emerging technologies also capable of providing expedited transcripts.

GOAL: HIGH-QUALITY RECORDS FOR APPELLATE REVIEW WILL BE SUBMITTED TIMELY.

Objective: Appellate transcripts will comply with court rules for record submission.

Strategy: *Trial courts will coordinate with stakeholders to ensure that transcripts are appropriately prepared and submitted timely.*

Discussion:

Rule 9.200, Florida Rules of Appellate Procedure, provides that once a notice of appeal has been filed, the appellant has ten days to designate those portions of the proceedings not already on file that are deemed necessary for transcription. Once the court reporter has been served with this designation, he or she must acknowledge receipt of the designation and indicate when the transcripts will be completed. If the transcripts cannot be completed within 30 days, the court reporter must request such additional time as necessary to complete the transcripts. The parties have five days to object to the additional time requested.

Rule 9.010, Florida Rules of Appellate Procedure, provides that the same rules for the preparation of a record on appeal apply to appeals from the county courts to the circuit courts pursuant to Rule 9.030(c), Florida Rules of Appellate Procedure.

It is the intent of the Commission to ensure that due process rights related to the provision of court reporting services are protected. The right to a timely appeal is, in large part, dependent on the timely completion of the transcript. Therefore, it is imperative that the trial courts coordinate transcript production with those entities responsible, such as individual stenographers and contracted court reporting firms. Coordination may require close oversight and management of the process, revising the terms of contracts, and/or enhancing communications with attorneys.

Objective: The necessity for the preparation of written transcripts will be reduced.

Strategy: Clarify that where high-quality electronic records are created, the electronic recording is the official record of the proceeding.

Discussion:

The utilization of digital court reporting allows for an audio record to be created as opposed to the unedited text document created with real-time stenographic reporting. The existence of an audio record allows stakeholders to have immediate access to a recording of the court proceeding. Immediate audio access creates a more efficient avenue for accessing the record in those situations in which a transcript is not required. This reduces the number of written transcripts produced. Consequently, the electronic recording, when created, should be considered the official record of the proceeding.

GOAL: COURTS WILL HAVE ADEQUATE FUNDING THAT WILL BE EXPENDED PRUDENTLY.

Objective: Cost per unit in the twenty circuits will demonstrate a tendency to cluster around an acceptable norm.

Strategy: Implement a resource management system to monitor service delivery and expenditures for performance and accountability.

Discussion:

The effective management of court reporting services, regardless of service delivery method or model used, requires that court managers be able to oversee fundamental aspects of the services provided. At a minimum, court managers and policy makers must be able to determine the frequency of court reporting events, the volume of recording and transcription, the timeliness of transcript production, and the costs associated with court reporting services.

Prior to implementation of Revision 7 there was little consistency in the level of information collected locally, as court reporting services were funded by the individual counties. It is now critical for court managers at the circuit and state level to institute a standardized system for collecting court reporting data to support management and accountability for both performance and costs.

Each year there are both recurring and non-recurring direct state costs associated with court reporting. For recurring costs, the largest portion is salaries, benefits, and other recurring expense for each new and existing position. Also included in recurring costs are maintenance expenses for new and existing equipment. Non-recurring costs include Operating Capital Outlay and expense for each new position. Non-recurring costs also include Operating Capital Outlay for one-time equipment purchases over \$1,000 and expenses for one-time purchases under \$1,000.

There are also shared costs for court reporting services. These costs are shared between the State Courts System and state attorneys, public defenders, and court-appointed counsel. For instance, transcripts are still produced by court staff at the request of these entities. Accountability demands that they reimburse the state courts system for the transcription services provided by the courts system.

To ensure the prudent allocation of funds across the state, the unit cost per circuit should demonstrate a tendency to cluster around an acceptable mean. The unit cost is calculated by dividing the total recurring costs for court reporting in a circuit by the number of filings for cases that are required to be recorded at public expense (e.g., criminal, domestic violence, juvenile, guardianship, and Baker/Marchman Act proceedings). However, the Commission recognizes that jurisdictions must maintain local control over their own court reporting operations. The Article V Indigent Service Advisory Board also recommended in its January 6, 2004 Final Report that, "circuits and counties should be allowed flexibility to utilize methods of, and models for delivery, that prove to be the most effective and efficient within the context of their local environment."

Moreover, the Florida Department of Management Services agrees that flexibility at the local level is critical. The Department, charged with reviewing procurement of state funded services by the State Courts System, state attorneys, and public defenders released a report proposing strategies for achieving cost savings titled, *Article V Revision 7- Achieving Contracting Efficiencies in the State Courts System* (January 2005). Recommendations in the Department's report include the following operational strategies:

- ▶ Examine electronic/digital reporting needs by local region, and solicit services by region or circuit.
- ▶ Reference the State Attorney General contract for court reporting services (if applicable).
- ▶ Using strategic sourcing methodology, develop a statewide contract that could funnel volume to a single vendor. However, circuits and counties should be allowed flexibility to utilize delivery methods and models that prove to be most effective in their "local environments" until proper infrastructure and budgets are put in place.
- ▶ Approve funding for the creation, implementation, and maintenance of an Integrated Judicial Resource Management System to unify court system purchasing, aid in data collection, and assist in further identification of potential efficiencies.

As of July 2004, all circuits are required to provide court reporting data to the Office of the State Courts Administrator using a standard format. An example of the data collection form may be found in Appendix C. The data being collected focuses on the frequency and volume of court reporting workload. Funding has been requested to implement a Resource Management System that will allow for the collection of more complex timeliness and cost data.

Objective: Court reporting services will be procured in a cost-efficient manner.

Strategy: Review court staffing ratios and method of service delivery (contract or employee) and rates to determine if additional savings may be realized.

Strategy: Establish cost-effective staffing ratios/models for centralized as well as remotely monitored digital court reporting systems.

Discussion:

As recommended in the Department of Management Services' report, the Commission believes it may be possible to achieve further cost-savings. By examining service delivery needs in more detail, it may become clear whether consolidating certain court reporting functions across jurisdictions is feasible.

To ensure prudent spending, the Commission also recommends the establishment of standardized staffing ratios. While staffing ratios may vary depending on the type of proceeding, it was suggested by the technical work session participants that the optimum ratio would be one digital court reporter covering two proceedings. For felony jury trials, it was suggested that the ratio be one to one. The Commission supports the further examination of appropriate staffing ratios for digital court reporting.

APPENDIX A

Florida Statutes Related to Court Reporting

Section 27.0061, Florida Statutes – Transcription in Criminal Cases

Upon the demand of the state attorney, or the presiding judge in any criminal case, or the defendant within the time allowed for taking an appeal and for the purpose of taking an appeal in a criminal case, the court reporter shall furnish with reasonable diligence a transcript of the testimony and proceedings; and the costs for the same shall be taxed as costs in the case.

Section 29.004, Florida Statutes – State Courts System

For the purposes of implementing s.14, Art. V of the State Constitution, the elements of the state courts system to be provided from state revenues appropriated by general law are as follows:...(3) reasonable court reporting and transcription services necessary to meet constitutional requirements.

Section 390.01115(4)(e), Florida Statutes - Parental Notice of Abortion Act

- (4) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE
- (e) A court that conducts proceedings under this section shall provide for a written transcript of all proceedings and issue written and specific factual findings and legal conclusions...

Note: Section 390.0115, Florida Statutes, was declared unconstitutional in North Florida Women's Health & Counseling Services, Inc. v. State, 866 So.2d 612 (Fla. 2003). The Court in that opinion permanently enjoined enforcement of the statute.

Section 394.467(6)(a)2, Florida Statutes – Involuntary Inpatient Placement

- (6) HEARING ON INVOLUNTARY PLACEMENT
- (a)2. The testimony in the hearing must be given under oath and the proceedings must be recorded.

Section 741.30(6)(h), Florida Statutes - Domestic Violence Injunction

- (6)
- (a) Upon notice and hearing . . . the court may grant such relief as the court deems proper, including an injunction.
- (h) All proceedings under this subsection shall be recorded. Recording may be by electronic means as provided by the Rules of Judicial Administration.

Section 744.109, Florida Statutes – Guardianship Records

- (1) All hearings on appointment of a guardian; adjudication of incapacity; modification, termination, or revocation of the adjudication of incapacity; or restoration of capacity must be electronically or stenographically recorded.
- (2) If an appeal is taken from any of these proceedings, a transcript must be furnished to an indigent ward at public expense.

Court Rules Related to Court Reporting

Rule of Judicial Administration 2.070

Rule 2.070. Court Reporting (excerpts of the rule)

- (b) When Court Reporting Required. Any proceeding shall be reported on the request of any party. The party so requesting shall pay the reporting fees....
- (g) Court Reporting Services Provided for Mental Health Proceedings or at Public Expense.
 - (1) *When Reporting Required.* All criminal and juvenile proceedings, and any other judicial proceedings required by law or court rule to be reported at public expense, shall be reported.
 - (2) *Circuit Plan.* The chief judge, after consultation with the circuit court and county court judges in the circuit, shall enter an administrative order developing a circuit-wide plan for the court reporting of all proceedings required to be reported at public expense using either full or part time court employees or independent contractors.
 - (3) *Electronic Recording and Transcription of Proceedings without Court Reporters.* A chief judge may enter a circuit-wide administrative order, which shall be recorded, authorizing the electronic recording and subsequent transcription by persons other than court reporters, of any judicial proceedings, including depositions, that are otherwise required to be reported by a court reporter.
 - (4) *Grand Jury Proceedings.* Testimony in grand jury proceedings shall be reported by a court reporter, but shall not be transcribed unless required by order of court.
- (h) Court Reporting Services in Capital Cases.

. . . [T]he chief judge,... shall enter an administrative order developing a circuit-wide plan for court reporting in all trials in which the state seeks the death penalty and in capital post-conviction proceedings. The plan shall require the use of all measures necessary to expedite the preparation of the transcript, including but not limited to:

- (1) where available, the use of a court reporter who has the capacity to provide real-time transcription of the proceedings;
- (2) if real-time transcription services are not available, the use of a computer-aided transcription qualified court reporter;
- (3) the use of scopists, text editors, alternating court reporters, or other means to expedite the finalization of the certified transcript; and
- (4) the imposition of reasonable restrictions on work assignments by employee or contract court reporters to ensure that transcript production in capital cases is given a priority.

Florida Rule of Civil Procedure 1.820(f) - Hearing Procedures for Non-binding Arbitration

Rule 1.820

- (f) Record and Transcript. Any party may have a record and transcript made of the arbitration proceeding at that party's expense.

Florida Rule of Civil Procedure 1.830(b) - Voluntary Binding Arbitration

Rule 1.830

- (b) Record and Transcript. A record and transcript may be made of the arbitration hearing if requested by any party or at the direction of the chief arbitrator.

Florida Rule of Criminal Procedure 3.133(b)(4) - Adversary Preliminary Hearings

Rule 3.133

- (b)(4) Record. At the request of either party, the entire preliminary hearing, including all testimony, shall be recorded verbatim stenographically or by mechanical means and at the request of either party shall be transcribed. If the record of the proceedings, or any part thereof is transcribed at the request of the prosecuting attorney, a copy of this transcript shall be furnished free of cost to the defendant or the defendant's counsel.

Florida Rule of Criminal Procedure 3.190(j)(2) - Deposition to Perpetuate Testimony

Rule 3.190

- (j)(2) If the defendant or the state desires to perpetuate the testimony of a witness living in or out of the state whose testimony is material and necessary to the case, the same proceedings shall be followed as provided in subdivision (j)(1), but the witness may be taken before an official court reporter, transcribed by the reporter, and filed in the trial court.

Florida Rule of Juvenile Procedure 8.100(e) - Delinquency Proceedings

Rule 8.100

- (e) Record of Testimony. A record of the testimony in all hearings shall be made by an official court reporter, a court approved stenographer, or a recording device . . . Official records of testimony shall be transcribed only upon order of the court.

Florida Rule of Juvenile Procedure 8.255(g) - Dependency Proceedings

Rule 8.255

- (g) Record. A record of the testimony in all hearings shall be made by an official court reporter, a court approved stenographer, or a recording device. . . . Official records of testimony shall be transcribed only upon order of the court.

Florida Rule of Juvenile Procedure 8.625(f) - Proceedings for Families and Children in
Need of Services

Rule 8.625

- (f) Record. A record of the testimony in all hearings shall be made by an official court reporter, a court approved stenographer, or a recording device . . . Official records of testimony shall be transcribed only upon order of the court.

Florida Family Law Rule 12.490(d)(2) and (g)(3) - General Masters Hearings

Rule 12.490

- (d)(2) The general master shall take testimony and establish a record which may be by electronic means as provided in Florida Rule of Judicial Administration 2.070(d) or by a court reporter. The parties may not waive this requirement.
- (g)(3) The cost of the original and all copies of the transcript of the proceedings shall be borne initially by the party seeking review, subject to appropriate assessment of suit monies.

Florida Family Law Rule 12.491(e)(2) and (h)(3) - Child Support Enforcement

Rule 12.491

- (e) General Powers and Duties. Upon the receipt of a support proceeding, the support enforcement hearing officer shall:
 - (2) take testimony and establish a record, which record may be by electronic means as provided by Florida Rule of Judicial Procedure 2.070(d);

- (h)(3) The cost of the original and all copies of the transcript of the proceedings shall be borne initially by the party seeking review, subject to appropriate assessment of suit monies.

Proceedings Recorded Based on Local Option

Some counties provide recording services in cases in which there is no statute or rule that mandates such services. Examples of these types of proceedings:

Part V of Chapter 397- The Marchman Act - Involuntary Drug Abuse Admissions

Chapter 61, Florida Statutes - Dissolution of Marriage

There may be many more proceedings that are recorded by local option, and it is possible that some counties with electronic recording retain a verbatim record of all proceedings.

APPENDIX B

Court Reporting Technical Work Session Recommendations

Prioritization of Digital Court Reporting Capability in Courtrooms

- Prioritization should be based on functionality.
- The first priority should be those courtrooms primarily used for proceedings recorded at public expense (such as county, juvenile, etc.).
- The next priority should be multi-use courtrooms (such as those in small counties).
- The last priority would be other courtrooms that are not typically used for proceedings that require court reporting (i.e., civil). Equipment may be installed for some of these courtrooms and proceedings may be assigned accordingly.

Hearing Rooms/Off-Site Hearings

- Self-contained/portable hand-held devices should be used for hearing rooms and off-site hearings.
- If magistrates operate lap-top or desk-top systems in a hearing room, they should be integrated and have indexing capability (court reporting FTE not required).
- There should be consistency of data types or formats where cost-effective.
- To the extent possible, existing resources should be considered when upgrading existing systems or when integrating additional technology.

Stand-Alone Systems

Stand-alone systems should have indexing capability and the capability to be connected to a network (including temporary storage that is moved to the network).

Remote Monitoring

- Connections and networked technology are dependant on the following factors:
 - Reliability
 - Redundancy
 - Operational and technical support capabilities
 - Volume of workload
- There should be a server in each courthouse (confirms technical standards).
- Clerks of court should be required to use barcodes on case files for indexing purposes.

Staffing Classifications

- There should be a *Court Reporter Manager* classification. There should also be a mechanism allowing for additional intermediate oversight (such as a designated position or special team leader status) in lesser stenographer and digital court reporting classes.
- The term *Stenographic* should be added to the *Court Reporter I* and *Court Reporter II* classifications.
- There should be a *Digital Court Reporter* classification. This classification should state that digital court reporters may be required to transcribe records.
- There should be a *Transcriber* classification.
- There should be an *Operational Support* classification. This classification should include responsibilities such as troubleshooting, coordinating with vendors and users, etc. This classification will replace the User Support Analyst, Court Operations Manager, and Court Program Specialist classifications.
- There should be a *Clerical Support* classification. Distribution of clerical support will be determined using workload formulas (i.e., filings).

Staffing Ratios

- Staffing ratios should depend on the type of case.
- The optimum ratio should be 1 monitor for every 2 courtrooms, except for felony jury trials which may require 1 monitor for each courtroom. If scanning capability exists, the ratio may be raised to 1 monitor for every 4 courtrooms.

Transcript Policies

- When utilizing digital equipment, the primary audio recording (CD or DVD) should be considered the official court record.
- The mechanism to validate the accuracy of a transcript is for the judge to refer back to the audio recording.
- Digital court reporters should perform digital recording tasks. Existing stenographic and real-time reporters may be required to respond to an emergency request for an expedited transcript from a digital recording, if directed by the court.
- It would be beneficial to have a centralized statewide network or pool of stenographic and real-time reporters for use when local resources are unavailable.

Guidelines and Procedures

- Technical guidelines and procedures should be developed for the following topics:
 - Assigning responsibility for and how to operate equipment
 - Assigning responsibility for and how to install equipment
 - Off-site secure storage/back-up
 - Archiving

- Sound checks
- Maintaining situation logs
- Troubleshooting
- Safety locks on DVD's

- Operational guidelines and procedures should be developed for the following topics:
 - Creating support locally to assist with change to digital systems (committee of stakeholders, demonstrations, etc.)
 - Workflow (flowcharting process)
 - Courtroom decorum
 - Courtroom layout

- Training guidelines and procedures should be developed for the following topics:
 - How to operate equipment
 - How to install equipment
 - Problem-solving/troubleshooting
 - Maintaining situation logs
 - Courtroom decorum
 - Courtroom layout

Other Issues for Consideration

- There needs to be more integration with case management, docket, and calendaring systems.
- To assist with case management, barcodes should be added to case files (including lost case documents) to allow for barcode scanning. Scan of barcode should provide case number, name of judge and parties, and time stamp linking to electronic audio file.
- Uniform case numbers need to be used.
- Uniform indexing should be used with case number, judge's name, names of parties, time started, courtroom, and end time.
- Annotation/tagging terminology in circuits should be reviewed in order to develop a uniform data element dictionary for use by the entire state.
- There needs to be a determination of the court's role in providing technical system support.
- It should be a priority to ensure the use of competent and qualified court reporters in every jurisdiction.
- There needs to be flexibility for allowing conversion from an employee delivery model to a contract delivery model (and vice versa) based on market considerations.
- There is a need for a contingency plan that addresses migrating away from clerk of court staff performing court reporting functions.

APPENDIX C

Court Reporting Circuit Data Collection Form

| Uniform Data Reporting for Court Reporting | | | | | | | | | | | | |
|--|-------------------------|-----------------------------------|-----------------------------|----------------|--|--------|-------|------------|--------|-------------------------|------------|--------|
| <p>Important Notice: The purpose of this data is to identify how many hours of court proceeding were recorded at state court expense and the number of transcript pages prepared at state court expense. This data is not designed to identify how the service was provided (employee or contract) or correspond to employees' time sheets or to contractor's invoices, as the reality of providing these services can include scheduling and coverage requirements, travel time and waiting time.</p> | | | | | | | | | | | | |
| Circuit | | | | | | | | | | | | |
| Select Circuit | Steno | Central | 1:1 | audio | To private parties or other gov't entity | | | | | | | |
| July 2004 | | Digital | Digital | | | | | | | | | |
| Circuit criminal and criminal contempt | | | | | | | | | | | | |
| County criminal and criminal contempt | | | | | | | | | | | | |
| Dependency/CINS/FINS | | | | | | | | | | | | |
| Delinquency | | | | | | | | | | | | |
| Baker/Marchman/guardianship | | | | | | | | | | | | |
| Domestic Violence Injunctions | | | | | | | | | | | | |
| Magistrate/CSHO for family law or Title IV-D | | | | | | | | | | | | |
| Total | | | | | Total | | | | | | | |
| <p>By case type, report to the nearest .25 hour, the total number of hours your court reporter employees or contractors spent making a record of a proceeding. Include the usual time waiting for the proceeding to begin, down time, and short breaks as recording time. Do not include lunch breaks or longer breaks. If a reporter appears for an event where no record is taken, report nothing. For centralized digital recording, remember to count the cumulative number of hours being recorded in all courtrooms being monitored.</p> | | | | | | | | | | | | |
| # of original transcript pages provided with court resources | | | | | | | | | | | | |
| | To Judge or court staff | To Private other gov't Non-appeal | party or other gov't appeal | (shared model) | | | | | | | | |
| | | | | To SA | | | To PD | | | To Court-appt'd counsel | | |
| | | | | Depo | Non-appeal | Appeal | Depo | Non-appeal | Appeal | Depo | Non-appeal | Appeal |
| Circuit criminal and criminal contempt | | | | | | | | | | | | |
| County criminal and criminal contempt | | | | | | | | | | | | |
| Dependency/CINS/FINS | | | | | | | | | | | | |
| Delinquency | | | | | | | | | | | | |
| Baker/Marchman/guardianship | | | | | | | | | | | | |
| Domestic Violence Injunctions | | | | | | | | | | | | |
| Magistrate/CSHO for family law or Title IV-D | | | | | | | | | | | | |
| Total | | | | | | | | | | | | |
| Report all transcripts prepared by a court employee or court contractor in the appropriate category. | | | | | | | | | | | | |
| Report original transcript pages provided; do not report copies. | | | | | | | | | | | | |