

REVIEW OF COURT REPORTING PROCEDURES AND
PREPARATION OF TRANSCRIPTS IN THE
LOS ANGELES TRIAL COURTS

DECEMBER 1970

Office of the Auditor General

STATE OF CALIFORNIA

SACRAMENTO

The Joint Legislative Audit Committee
of the California State Legislature:

As a part of our management review of the Los Angeles trial courts, we have reviewed the courts' provisions for recording court proceedings and preparing transcripts.

FINDINGS:

1. The present procedures for recording court proceedings are:
 - Unduly expensive
 - Subject to avoidable errors
 - One of the factors delaying the speedy disposition of criminal cases.
2. Major improvements in terms of both cost and level of service could be achieved by:
 - Using electronic recording devices rather than stenographic reporters to record court proceedings
 - Using court employees to prepare transcripts.
3. Electronic recording of trials would save Los Angeles County taxpayers approximately \$5 million per year.

PRESENT PROCEDURES FOR RECORDING COURT PROCEEDINGS

WHICH PROCEEDINGS ARE RECORDED

All Superior Court proceedings are recorded except for proceedings in certain specialized departments. Exceptions include the appellate department and juvenile traffic. Some, but not all, juvenile non-traffic proceedings are recorded.

Preliminary hearings held in municipal court on felony charges are recorded. Most other Municipal Court proceedings are not recorded.

HOW COURT PROCEEDINGS ARE RECORDED

Recording of court procedures is done by a court reporter who sits in the courtroom and takes down the proceedings using a stenotype machine--a kind of shorthand typewriter. (A very few older reporters use handwritten shorthand.)

During the proceedings the court reporter may be asked to read back portions of the testimony from his stenotype tape.

COST OF TRANSCRIPTS

Court reporters receive their salaries for recording the proceedings, not for preparing transcripts. Transcripts, when needed, are purchased from the reporter at an additional cost.

The amount a reporter receives for his transcript is based on a statutory rate per hundred words. These rates currently are as follows:

Original transcript	\$.40 hundred words
Each carbon copy ordered with original	.10 hundred words
Subsequent copies	.20 hundred words
Each carbon copy ordered with subsequent copy	.10 hundred words

For payment purposes the county Auditor-Controller assumes that there are 250 words per page. On this basis the prices per 8 x 10 inch page are as follows:

Original transcript	\$1.00 page
Each carbon copy ordered with original	.25 page
Subsequent copies	.50 page
Each carbon copy ordered with subsequent copy	.25 page

WHEN TRANSCRIPTS ARE PREPARED

A transcript is prepared for every preliminary hearing. Transcripts of civil or criminal trials are prepared only when ordered by one of the litigants, usually for appeal purposes, or by the court.

WHO PAYS FOR TRANSCRIPTS

The county pays for transcripts of felony proceedings and for transcripts of misdemeanor proceedings if ordered by the district attorney, public defender, the court, or for indigents.

Litigants, or their attorneys, pay the reporter directly for any transcripts of civil proceedings.

TRANSCRIBER

Most court reporters employ transcribers. In preparing a transcript, the court reporter dictates from his notes (stenotype tape) into a recording device. The transcriber types the transcript from the recorder's dictation. The transcriber receives about 35 percent of the transcript fee for his services.

NUMBER OF REPORTERS EMPLOYED
BY LOS ANGELES TRIAL COURTS

The Los Angeles Superior Court staffs court reporters on the basis of approximately one reporter per judge or commissioner. Presently the Superior Court employs 154 full-time salaried court reporters and approximately 38 pro tem reporters who are paid on a per diem basis.

The 24 Municipal Courts in Los Angeles County employ a total of 49 salaried reporters and approximately 200 pro tem reporters.

COURT REPORTERS' SALARIES

The present salary range for full-time Los Angeles County court reporters is \$14,040 to \$17,496 per year. Most reporters are at the top step of the salary range. Pro tem reporters are paid a per diem rate of \$67.04. The average full-time court reporter in Los Angeles County receives about \$17,000 per year in salary payments (plus an additional amount from transcript sales).

COURT REPORTERS' EARNINGS
FROM TRANSCRIPT SALES

County records show how much Los Angeles County court reporters receive in salaries and from the sale of criminal case transcripts to the county. However, county records do not show how much court reporters receive from transcript sales to private litigants, since payment is made by the private party directly to the court reporter.

It is not unusual for a court reporter in Los Angeles County to receive \$10,000, or more, in criminal case transcript fees. In some instances, a reporter's known compensation (salary plus criminal case transcript fees, less the transcriber's share) is comparable to a judge's salary. A few reporters receive more than judges.

THE HOURLY COST OF A COURT REPORTER

As mentioned above, a full-time Los Angeles County court reporter earns an average salary of about \$17,000 per year. Estimating retirement and similar benefits at 12 percent, total earnings amount to about \$19,000 per year. Full-time court reporters receive a 30-day annual vacation. During the remaining 11 months, they work in the courtrooms about four hours per day, having the rest of the day available to work on transcripts for which they receive additional compensation.

Based on Judicial Council standards of 50,000 bench minutes per Superior Court judge per year, the salary cost of a stenographic reporter in a Los Angeles Superior Courtroom is about \$23 per hour ($\$19,000 \div 50,000 \times 60 = \22.80).

STENOGRAPHIC SERVICES FOR JUDGES

Judges' secretarial services are handled in the Los Angeles Superior Court by a pool of secretaries, and not by the court reporters. Judges with administrative responsibilities are assigned a full-time secretary. Other judges are served by a pool of stenographers staffed on the basis of approximately one stenographer for three judges. (We have not investigated the provision for judges' stenographic services in the 24 Municipal Courts in Los Angeles County.)

RECOMMENDATIONS WITH REASONS

RECOMMENDATIONS

1. USE ELECTRONIC RECORDING DEVICES RATHER THAN STENOGRAPHIC REPORTERS TO RECORD LOS ANGELES COUNTY SUPERIOR AND MUNICIPAL COURT PROCEEDINGS.
2. USE COURT EMPLOYEES TO PREPARE TRANSCRIPTS.

REASONS

Utilization of electronic recording devices and a typing pool in lieu of court reporters and their transcribers will:

1. Provide savings to Los Angeles County of over \$5 million per year.
2. Provide substantial savings and faster service to civil litigants.
3. Reduce by up to two weeks the average time from arrest to trial in felony cases by eliminating the two-week delay (for preparation of transcripts) between the preliminary hearing in the Municipal Court and the arraignment in the Superior Court.

4. Enable appeals to be heard sooner by the Courts of Appeal.
5. Allow better control over the accuracy of transcripts and eliminate the problems now faced upon the illness, death, or termination of a court reporter.
6. Allow control over the accuracy of the in-court translation of the testimony of non-English speaking witnesses.
7. Eliminate the need for a retrial when unrecorded Municipal Court and Juvenile Court proceedings are appealed, by providing an economical means of recording all trials.

ANNUAL SAVINGS TO
LOS ANGELES COUNTY

Los Angeles County could expect to save in excess of \$5 million each year through savings in reporters' salaries and lower transcript fees if Los Angeles County trial courts used electronic recording devices rather than court reporters.

Not included in the \$5 million figure are:

- Any savings which might result from a reduced county jail population due to a shorter time from preliminary hearing to Superior Court arraignment.
- Savings achieved by eliminating the need to re-try appeals of unrecorded Municipal Court and Juvenile Court proceedings.

HOW THE ANNUAL \$5 MILLION
SAVINGS IS COMPUTED

On the basis of salaries, per diem charges, and transcript fees, reporters were paid the following approximate amounts by the courts and county during 1969:

Recording costs:

Superior Court	\$2,609,000
Municipal Court	<u>1,239,000</u>
Total	3,848,000

Transcript fees:

Superior Court	\$ 679,000
Municipal Court	<u>1,125,000</u>
Total	<u>1,804,000</u>

Total recording and transcript costs	<u>\$5,652,000</u>
--------------------------------------	--------------------

Reporters' salaries and per diem rates have increased approximately 18 percent since the latter part of 1969. The 1970 Legislature authorized 15 new judges for the Los Angeles County Superior Court and 6 new judges for the Los Angeles Municipal Court. Applying these increases to the 1969 costs results in the following cost estimates for 1971:

1969 recording costs	\$3,848,000
18% increase in salaries and per diem	<u>693,000</u>
	4,541,000
Costs of providing reporters to 21 new judges	<u>362,000</u>
Projected 1971 recording costs	4,903,000
1969 transcript fees	\$1,804,000
Estimated 10% increase	<u>180,000</u>
Projected 1971 transcript fee costs	<u>1,984,000</u>
Total projected costs for court transcription, 1971	<u>\$6,887,000</u>

Multi-channel, fully-equipped electronic recorders cost about \$3,000 each, including installation costs; 300 of these recorders would therefore cost about \$900,000 and should be sufficient to provide recording devices for the courts in Los Angeles County. On the basis of a five-year useful life, this would amount to an annual cost to the county of \$180,000 ($\$900,000 \div 5 = \$180,000$).

One of the most recurrent criticisms of electronic recorders is that it may take as much as twice as long to transcribe from the voice recording as from the dictation of the court reporter. We have therefore calculated the estimated savings on the basis that transcription will cost twice as much.

Following is a tabulation of the estimated annual savings to be realized by Los Angeles County by use of electronic recorders:

Annual equipment cost	\$ 180,000
Transcription cost	<u>1,399,000</u>
	1,579,000
10% for cost of tapes, paper, etc.	<u>158,000</u>
Annual cost of recording and transcription using electronic recorders	1,737,000
Estimated 1971 costs of recorders' salaries and county purchased transcripts under present method	<u>6,887,000</u>
Estimated annual savings	<u><u>\$5,150,000</u></u>

The \$5 million annual savings estimate is conservative since:

- Costs of court reporters' retirement and similar benefits were not included in our calculations.
- Transcript fees paid to Los Angeles Municipal Court reporters have increased 120 percent over the last 5 years, but we have included only a 10 percent increase in our calculation.
- The 5-year estimated life used in our calculation is considered a minimum.
- Additional savings could be realized in those instances when the voice recording itself is used in lieu of a typed transcript.

LOWER TRANSCRIPT COST AND FASTER
TRANSCRIPT SERVICE FOR CIVIL LITIGANTS

Above, we discussed a \$5 million annual saving possible for Los Angeles County through use of electronic recording of court proceedings. Part of this savings was due to a lower cost for county purchased transcripts. Private litigants would also realize savings while at the same time obtaining faster service.

The transcript of a day's proceeding can easily run 300 pages. At \$1.25 per page (for an original with one copy) this amounts to \$375 per day. If transcripts are required on a daily basis, reporters are permitted to charge 50 percent more, so the cost for these daily transcripts can amount to around \$560 per day. With electronic recorders, duplicate copies of the tape recording could be provided to litigants at very low cost, thus giving nearly the equivalent of daily transcript service for \$20 to \$40 per day.

Typed transcripts, when needed, could routinely be prepared in one or two days and at a lower price than now charged for "regular" service.

REDUCED TIME FROM
ARREST TO TRIAL

Felony arraignments in the Superior Court are delayed two weeks from the date of the preliminary hearing in the Municipal Courts to allow time for preparation of transcripts. In most instances the only reason for the delay is to allow time for transcript preparation.

This two weeks has not normally been used for preparation by either prosecution or defense.

- Most Los Angeles County felony defendants are indigent and are represented by the public defender.
- Deputy district attorneys and deputy public defenders are normally assigned by courtroom, not case. The public defender and deputy district attorney who handle a case in Municipal Court usually are not the ones who handle it when it reaches Superior Court.
- The deputy public defender and deputy district attorney appearing in Superior Court usually see the case file just before Superior Court proceedings start.

With electronic recording, overnight preparation of preliminary hearing transcripts is feasible. In addition, where legislation has provided that the taped recordings are the official record, the tape of the proceedings will often suffice, eliminating the need for preparation of transcripts.

Overnight transcript preparation could eliminate the need for a routine two-week delay between the preliminary hearing in Municipal Court and Superior Court arraignment. Even where attorneys require preparation time between the preliminary hearing and Superior Court arraignment, prompt transcript availability would speed their preparation and allow an earlier arraignment than would otherwise be possible.

**EXPEDITED DISPOSITION
OF APPEALS**

When an appeal is made from a Superior Court judgment of conviction, the reporters who worked on the case receive notice to submit a transcript within 20 days. A reporter can file with the Court of Appeal for an extension of up to 80 days. Such extensions are routinely requested and routinely granted. However, it is not uncommon for reporters to take longer than the allowable 80 days to complete their transcripts.

Often four or five reporters will have worked on a single case. The transcript is held up until the slowest reporter finishes his work. Special problems occur if a reporter is terminated, becomes ill, dies, is on vacation, or is busy.

The two opposing attorneys in an appeals case usually need the transcript to prepare their briefs; thus, the total time to prepare an appellate case is the sum of transcript preparation time plus attorney preparation time. Reducing transcript preparation time would, in most cases, produce a corresponding reduction in the time it takes to get the appeal to court. With electronic recording, most trial transcripts could be prepared within about a week.

IMPROVED ACCURACY
OF TRANSCRIPTS

Under present procedures the transcript is the official record of the court proceedings. If errors in recording or transcribing occur, there is no way to detect them.

Electronic court recorders are used exclusively in the Alaska court system. The tapes produced by these devices are the official record of the court proceedings. When it is believed that errors in transcribing may have occurred, it is possible to compare the transcript to the taped recordings.

The following is quoted from an article in the November 1970 issue of the American Bar Association Journal. The article was written by the Administrative Director of Courts, Alaska Court System.

"...Hundreds of pages of transcript prepared by various 'certified' and 'official' reporters, so edited, revealed frequent instances of what we now feel are characteristic errors of the manual method: (1) editing of grammar and sentence construction; (2) omissions of questions and answers by reporters who apparently take it upon themselves to judge what is relevant or irrelevant; (3) failing correctly to hear and transcribe certain words that may sometimes be critical to the meaning of testimony; and (4) interpretative narration of testimony given too rapidly for verbatim transcription.

"For obvious reasons, none of these irregularities are desirable in court transcripts. The fact that a witness may not communicate with conciseness and grammatical correctness might well be considered important by an appellate court. Certainly the court should have the opportunity to determine the relevancy of all questions and answers. As to interpretations, there can be no substitute for that of the court, based on the actual verbatim testimony."

**CONTROL OVER ACCURACY OF
INTERPRETERS' TRANSLATIONS**

When a case involves a non-English speaking witness (a frequent occurrence in Southern California) the court appoints an interpreter who makes an in-court translation of the testimony. The court reporter takes down what the interpreter says.

With the present system, there is no check on the accuracy of the interpreter's translation. Electronic recording of court proceedings would allow such a check. If, during the course of the trial, a particular statement made by the non-English speaking witness became crucial, his actual statement in his own language could be re-examined and re-interpreted. On a routine basis, an individual interpreter's performance could be supervised by spot checks of the tapes of proceedings in which they had served.

**ELIMINATING THE NEED FOR RETRIAL UPON
APPEAL OF PRESENTLY UNRECORDED PROCEEDINGS**

Most juvenile cases are heard by commissioners. The juvenile has a right to have the commissioner's decision reviewed by a judge. However, not all juvenile proceedings are recorded, and if the proceeding was not recorded, then a rehearing is granted automatically on a request for review.

Electronic recording would be economical enough to permit all proceedings to be recorded, thus eliminating, in most cases, the need for a complete new trial on appeal of these proceedings.

**EARLY DIFFICULTIES WITH
RECORDING EQUIPMENT**

Although problems were encountered during early experiments in sound recording of court trials, these problems have been overcome with the development of equipment specifically designed for courtroom use. Many courts now allow or require the use of electronic court recorders.

In Alaska, the tape recordings produced by electronic recorders are the official record of the proceedings. The Supreme Court of New Jersey requires all municipal courts serving municipalities of 20,000 or greater population to have electronic recorders. Minnesota requires the use of electronic recorders in all capital punishment trials.

Federal magistrate courts use electronic recorders, and the United States Tax Court has contracted with a private firm to provide a reporting service using electronic recorders.

TRANSCRIBING SIMULTANEOUS SPEECH

A point invariably raised in any discussion of courtroom tape recording involves the situation where several people speak at the same time. It is held by some that simultaneous speech can be adequately recorded and transcribed by human reporters, but is difficult or impossible to transcribe from tape recordings. The present availability of multi-channel tape equipment with a separate microphone for each channel provides a solution to problems which might be encountered with simultaneous speech. Each channel can be played back separately or any combination of channels can be played back together, enabling the transcriber to hear each speaker separately or all speakers together.

Studies made for the Israel Ministry of Justice suggest that adequate transcripts may be obtained even with single-channel recorders.

Mr. Haim Gershonic served as a special industrial engineering consultant to the Israel Ministry of Justice during preliminary experiments with tape-recorded court proceedings. He reported, in an article in the March 1970 issue of Judicature, that during these experiments it was found that evidence was recorded intelligibly on one track and that many of the problems which were envisioned simply disappeared.

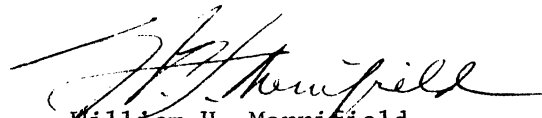
OPERATION OF THE RECORDING DEVICE

Operation of modern recording devices is relatively simple and in the typical courtroom could be handled by the court clerk. Courts now using electronic recorders have experienced no difficulty in having the court clerks operate the recording device in addition to their other duties. However, even in those instances where a separate operator might be required (for example, in the master calendar department), significant saving would still be realized, since the tape recorders require little training to operate and lower cost personnel could be used. The salary of an operator would be about half as much as Los Angeles County court reporters receive, but the hourly cost could be about one-quarter as much. This is because court reporters receive their salaries for about 4 hours of work per day, having the rest of their time available for the preparation of transcripts (for which they are separately compensated), whereas operators could be used for other work when court is not in session. In Alaska, the court clerk both operates the recorder and types most transcripts.

IMPLEMENTATION

Prior to the implementation of these recommendations, legislation will be required which will:

- (1) Allow the use of electronic sound recording devices in California trial courts and provide that the attendance of a reporter not be required when these devices are used.
- (2) Establish the sound recordings as the official record of court proceedings when electronic sound recording devices are used.


William H. Merrifield
Auditor General

December 31, 1970