

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
455 Golden Gate Avenue
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Report

TO: Members of the Judicial Council

FROM: Reporting of the Record Task Force
Hon. James A. Ardaiz, Chair
Ms. Pat Sweeten, Director, Executive Office Programs Division
Ms. Christine E. Patton, Regional Administrative Director,
Bay Area/Northern Coastal Region

DATE: February 18, 2005

SUBJECT: *Final Report of the Reporting of the Record Task Force*
(Action Required)

Issue Statement

The making of the official record of court proceedings is integral to the credible and efficient operation of the courts. Across the state, inconsistencies have long existed in transcript format, court reporter employee training, and transcript charges. The current process by which transcripts and reporters' notes are delivered, maintained, and stored is cumbersome because of the courts' reliance on paper transcripts and delivery by traditional mail carriers. At times, and for a variety of reasons, the trial courts report that the pool of court reporters has been insufficient to meet their needs. Rules 4 and 9 of the California Rules of Court, which address court reporting, are ambiguous regarding responsibility for designating and preparing transcripts for civil appeals.

Recognizing these challenges, the Judicial Council created the 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 our state. These recommendations, which follow in condensed form, are presented and discussed in detail in the attached *Final Report of the Reporting of the Record Task Force* (hereafter "final report"). If the council approves these broad policy recommendations, their implementation will require time to conduct feasibility studies, pilot projects, and post-project evaluations; propose new and amended statutes and rules; and develop the necessary infrastructure for statewide implementation.

Recommendation

The Reporting of the Record Task Force recommends that the Judicial Council accept the *Final Report of the Reporting of the Record Task Force* and take the following affirmative actions:

1. Approve the objectives of requiring secure and efficient delivery, maintenance, and storage of electronic transcripts, master index volumes, and reporters' notes;
2. Direct the Administrative Office of the Courts (AOC) to establish a uniform format for paper and electronic transcripts of court proceedings;
3. Direct the AOC to conduct feasibility studies, pilot projects, post-project evaluations, planning, and implementation for statewide conversion to a secure Web-based system that will deliver, maintain, and store electronic transcripts, master index volumes, and reporters' notes, which will enable the courts to assume responsibility for and control of these electronic documents;
4. In conjunction with the transition to electronic transcripts and statewide conversion to a secure Web-based system, direct the AOC to seek the establishment of standardized word rates for transcripts;
5. Direct the AOC to finalize the curriculum for the training of official court reporters and incorporate it into the AOC Education Division/CJER's ongoing programs; and
6. Direct the AOC to develop and propose language to amend rules 4 and 9 of the California Rules of Court to clarify the responsibility for designating and preparing paper transcripts for civil appeals.

The full text of the task force's final report is attached for your review.

Rationale for Recommendation

The Reporting of the Record Task Force engaged in a comprehensive process to address the key issues affecting court reporting, establish overarching objectives for addressing those issues, and develop recommendations for a coordinated approach to resolving the problems associated with achieving those objectives. This process began with reviewing what constitutes the record, how the transcript is produced, and the difficulties encountered. The task force agreed that each of its recommendations would flow from the following concept that it developed during one of its first meetings, "The record should be timely, produced at a reasonable cost, accessible, user-friendly, uniform, and safely preservable." The key issues to be addressed included divergence in transcript costs, difficulty in

verifying the costs of transcripts, challenges in recruiting and retaining qualified shorthand reporters, varying transcript formats, ambiguity over control of the transcript, and the courts' consideration of alternative reporting methods. The overarching objectives developed include broadening access to the courts, ensuring that court reporting services are provided efficiently, reducing the expense of litigation by simplifying and standardizing court reporting practices, and utilizing available and future technology to enable the courts to collect and process information. In developing recommendations for a coordinated approach, the task force considered current statutes, cost-effectiveness, and employee impact.

The rationales underlying the task force's major recommendations are discussed below.

Transcript uniformity

The task force proposes the establishment of a uniform format for both paper and electronic transcripts of court proceedings per the specifications contained in the final report. Transcript format includes, but is not limited to, fonts, margins, line spacing, and characters per line. Currently, the format of transcripts varies from court to court, and this variance creates not only difficulty in readability for the user, but also divergent costs due to the manner in which transcript charges are determined. The task force's recommendations are based on the following considerations:

1. Elimination of inconsistent transcript formats among various jurisdictions – With the establishment of a statewide transcript format, all transcripts of court proceedings will be more consistent. Uniformity increases a transcript's readability and usability. Until standardized word rates are established, format uniformity improves the consistency of the transcript.
2. Applicability to paper and electronic systems – A uniform transcript format has dual applicability to current and future court needs. A uniform format may be applied to the paper transcripts that the courts currently utilize. This same format may also be applied to electronic transcripts when the courts transition to an electronic system.

Transition to electronic transcripts

The task force assumed that we operate in a paper-based system and recommends the development of an electronic system that is compatible with a paper system and allows for printing of a paper transcript that is identical to the electronic transcript. This will provide not only ease of use but also exact compatibility for purposes of research and citation. Specifically, the task force proposes an eventual statewide conversion to a secure Web-based system to deliver, maintain, and store electronic transcripts, master index volumes, and reporters' notes. The following

considerations underlie this recommendation:

1. Reduced costs – Conversion to an electronic system should result in reduced court costs for processing and distributing transcripts. The ability to store transcripts and reporters' notes on disks and networks should also greatly reduce the courts' storage costs.
2. Recognition of advances in technology as well as the expectations of current and future users – Unlike paper transcripts, electronic transcripts will incorporate technological advances and can offer features such as keyword searches, cut and paste functions, and speedy transmission.
3. Improved access for all users – Because transcripts will be available for printing from a secure online site, litigants will no longer need to locate and contact a court reporter to purchase the transcript. Court employees also will no longer be required to search in storage facilities for transcripts and reporters' notes.
4. Flexibility for individuals to utilize transcripts in both paper and electronic form – Those persons who wish to work with an electronic transcript can access the transcript online and take advantage of the above-mentioned features. Those individuals who wish to work with a paper transcript can simply download and print the entire transcript or portions thereof.
5. Recognition of ecological responsibility – The conversion to an electronic system supports the overall business trend of moving toward paperless operations. The recommendation also responds to ecological concerns by reducing paper waste.

Standardized word rates

The task force recommends that standardized word rates be established for electronic transcripts. This proposal is consistent with current law, which sets forth a rate per 100 words. The establishment of standardized word rates will also be cost-effective. Because readily available computer software technology can provide nearly instant word counts, standardized word rates will provide the most accurate way to assess charges. The word-counting software will make it possible for all transcript users to verify the accuracy of the word counts. Standardized word rates also will allow regular transcripts to be priced consistently throughout the State of California.

Alternative Actions Considered

In developing its recommendations, the task force considered and decided against recommending the continued use of different transcript formats, continued reliance on paper transcripts, and alternative use of page rates. In recommending a uniform transcript format, the task force wanted to make it possible for litigants and other users to rely on receiving transcripts that are consistent in format and cost from one county court system to another. With its recommendation to transition to electronic transcripts and establish a statewide Web-based system, the

task force wanted to take advantage of the tremendous strides in technology to improve public access.

In recommending the establishment and use of word rates rather than page rates, the task force concluded that page rates do not address users' concerns about the need for accuracy and consistency in transcript charges. With a uniform transcript format, electronic access, and word rates, users and courts will have access to standardized transcripts and a consistent and verifiable method of determining the accuracy of transcript costs that is in accord with present statutory requirements.

Comments From Interested Parties

A draft of the *Final Report of the Reporting of the Record Task Force* was posted to the California Courts Web site for comment from September 27 to November 5, 2004. The following groups were informed of the availability of the draft report for comment: administrative presiding justices, presiding judges, the Clerk of the Supreme Court, appellate court clerks/administrators, court executive officers, various interested persons, and individuals on the Rules and Projects Committee's circulation list. Additionally, leaders of the following California court reporter associations were invited to comment: California Court Reporters Association, California Official Court Reporters Association, Los Angeles County Court Reporters Association, and Deposition Reporters Association. A total of 62 individuals and organizations commented on the draft report. A chart containing the comments received and the task force's responses is attached. The comments are organized by the final report's sections and recommendations, rather than by commentator.

A number of the comments received on the draft report pointed to the need for clarification, primarily of the basis or rationale for the recommendations. The comments were helpful, and many of the issues raised have been clarified in the final report. To assist in the review of the final report, principal comments on and responses to each section are summarized below.

Section I: The Task Force Background, Charge, Composition, and Process – Some commentators remarked on the task force's composition. Currently, the majority of transcripts purchased by the courts are produced by stenographic reporters in accord with existing statutory, regulatory, and case law requirements. Therefore, most of the issues before the task force required reaching resolution directly with stenographic reporters. To provide a balance, the task force was composed of judicial officers, court administrators, court clerks, and attorneys, in addition to stenographic reporters.

Section II: Primary Focus of the Task Force and Definition of "The Record" – The one individual providing comments on this section indicated that the task force should have engaged in a more in-depth review of alternative reporting methods. In

the event that existing statutes are amended to allow for greater use of alternative methods of reporting the record, the input of professionals in the fields and affected parties will be considered.

Section III: Delivery, Maintenance, and Storage – The comments focused on elements of the recommended transition to electronic transcripts and statewide conversion to a Web-based system. The task force wanted to take advantage of the tremendous strides in technology to improve access to transcripts, which is consistent with council’s goal of improving access to justice. The task force recognized the current and prospective utilization of technology in record production and the changing expectations of users. If the recommendations are approved, and upon completion of the pilot projects and feasibility studies, AOC staff and other interested parties will develop and propose the specific structure, safeguards, protocols, and other features needed.

Section IV: Stenographic Court Reporting Systems – Commentators raised questions about the need to purchase new equipment and software for the proposed transition to electronic transcripts and a statewide Web-based system. It is unlikely that most court reporters will need to purchase new equipment and software, as many reporters currently use computers and have access to the Internet. This issue will be more fully addressed during the feasibility study and the development and implementation stages of the Web-based system.

Section V: Transcript Uniformity – Numerous comments reflected different preferences for various elements of the uniform transcript format recommended by the task force. The very number of these comments reflects the inconsistent practices that the task force was charged to address. With the unification of the trial courts in the state, consistency has become more important than ever as litigants and other transcript users need to be able to rely on receiving transcripts that are consistent in format and cost from one county court system to another. Lack of uniformity raises cost implications because of the manner in which different courts determine transcript fees.

Section VI: Word Rates and Responsibility for Electronic Transcripts – Many commentators raised questions about the use of word rates. The major purpose of this recommendation is to address the widespread disparity in transcript cost within and among courts throughout the state. Word rates also are consistent with current statutory requirements. Because of technological improvements, it is now possible to count words precisely, making word rates the most accurate and efficient methodology for assessing compensation for transcript production. Upon transmission of an electronic transcript, reporters will be compensated and the courts will assume responsibility for and control of the transcript, thereby improving access to the transcript.

Section VII: Alternative Methods of Producing the Electronic Transcript – Many comments focused on the specifics of the agreement that was reached in compromise between the AOC and the California Court Reporters Association (CCRA). The task force recognized that some of its court reporter members represented specific constituencies and that the positions and votes of those members were affected by their respective constituencies. The task force chair, other task force members, and AOC staff met with the leadership of the different constituencies (specifically CCRA, California Official Court Reporters Association (COCRA), Los Angeles County Court Reporters Association (LACCRA), and Deposition Reporters Association (DRA)) to invite them to participate in subsequent discussions. CCRA and LACCRA, which represent the majority of official court reporters in the state, agreed to participate. COCRA and DRA declined. The task force chair, other task force members, and AOC staff then engaged in discussions with the leadership of CCRA and LACCRA to effectuate compromises on the significant issues affecting their constituencies and the courts. Through compromise, participants reached an agreement that received widespread support. Over 1,200 official reporters (approximately 80 percent of official court reporters in California) signed petitions supporting the agreement. With the support of CCRA and LACCRA, those task force members who represented these constituencies voted for the agreement. The task force accepted and supported the agreement as providing consensus on the diverse perspectives of its members. The agreement allowed consensus to be reached on major issues by considering statutory restrictions, cost-effectiveness, expansion of technology, and employee impact. Such consensus would not have been achievable without the participation of the leadership of the professional associations that chose to participate.

Section VIII: Statewide Training for Official Court Reporters – The few comments on this section focused on the need for training beyond official court reporters. The AOC Education Division/CJER will evaluate the training requirements relating to court reporting issues.

Section IX: Transcripts for Civil Appeals – The comments on the draft version of this section pointed to the need for clarification of the explanation. As a result, this section has been revised in the final report.

Implementation Requirements and Costs

The task force recommendations represent broad policy changes that will need further development. In planning for the implementation of the task force recommendations that are approved by the council, the AOC will review the impact of and address the funding needed to accomplish the changes involved.

Attachments

Final Report

Reporting of the Record Task Force

Judicial Council of California
Administrative Office of the Courts
February 18, 2005

Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, California 94102-3688

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This report is also available on the California Courts Web site:
<http://www.courtinfo.ca.gov/courtadmin/jc/tflists/reprecord.htm>

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- The leaders and members of the California Court Reporters Association
- The leaders and members of the California Official Court Reporters Association
- The leaders and members of the Los Angeles County Court Reporters Association
- The Court Reporters Board of California
- Court reporters of the state of California
- The many court executive officers who facilitated the participation of their reporter employees in meetings between the Administrative Office of the Courts and court reporter leadership

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EXECUTIVE SUMMARY

This report contains the findings and recommendations of the Reporting of the Record Task Force, a 17-member body formed in April 2002. The Judicial Council charged the task force with evaluating the provision of court reporting services. The task force proposes extensive reform to the transcript format, the current manner of delivering and storing the transcript, training for court reporters, and transcript fees. This report provides a concise synopsis of the issues, evaluations, and recommendations.

Charge

The official charge of the Reporting of the Record Task Force was to evaluate and make recommendations to the Judicial Council regarding, but not limited to, the following issues relating to reporting of the record within California:

1. Standardization of stenographic court reporting systems;
2. Uniformity of transcript formats;
3. Expanded use of court reporters' evidence and presentation technology;
4. Ownership of transcripts and related products;
5. Uniformity of transcription and other court reporting service fees;
6. Delivery, maintenance, and storage of transcripts via electronic and paper media, including access to reporters' notes;
7. Training of court reporters;
8. Review of provisions relating to court reporting of the Appellate Rules of the California Rules of Court and related statutes; and
9. Shortage of qualified court reporters, including such issues as recruitment, retention, and the consequent need to develop criteria for the use of alternative methods of reporting and maintaining the record.

Recommendations

Over its two-year term, the task force developed recommendations for the production and handling of transcripts of court proceedings in California and other court reporting issues. The task force assumed that we operate in a paper-based system and recommends the development of an electronic system that is compatible with a paper system and allows for an identical printout of the electronic transcript. This report offers the following recommendations:

1. Adopt the following overarching standards for the delivery, maintenance, and storage of electronic transcripts, master index volumes, and reporters' notes:
 - A. Delivery
The transcript, master index volume, and reporter's notes must be in a form that can be transmitted electronically. The electronic transmission must be secure, timely, and cost-effective.
 - B. Maintenance and Storage
The electronic transcript, master index volume, and reporter's notes must be maintained and stored in a manner that is secure, accessible to authorized persons, and cost-effective.
2. Establish a secure Web-based system for the delivery, maintenance, and storage of the electronic transcript, master index volume, and reporter's notes, which will provide for a "mirror image" printout of the electronic transcript.
3. Conduct feasibility studies, pilot projects, and post-project evaluations for the delivery, maintenance, and storage of the electronic transcript, master index volume, and reporter's notes.
4. Ensure the use of court reporting equipment and software capable of complying with the following:
 - A. Any interim electronic transcript format recommendations for the implementation of the online registration and certification pilot project; and
 - B. The final electronic transcript format recommendations arrived at upon the completion of the above pilot project for the statewide transition to online registration and certification.
5. Ensure the use of court reporting equipment and software capable of producing electronic transcripts and notes. Reporters may continue to use

the equipment and software of their choice, as long as these are able to comply with the task force's recommendations and meet the needs of the courts.

6. Establish a uniform format for paper and electronic transcripts of court proceedings per the specifications contained in this report.
7. Take the following actions concerning word rates for electronic transcripts:
 - A. For payment purposes, seek the establishment of a standard word rate (hereafter "basic word rate") for (1) all electronic transcripts purchased by the court and (2) all electronic transcripts of criminal and juvenile proceedings, irrespective of purchaser;
 - B. Ensure that the basic word rate results in overall net revenue neutrality for reporters and overall net expenditure neutrality for the courts; and
 - C. For all electronic transcripts other than those compensated at the basic word rate seek the establishment of an adjusted word rate (hereafter "adjusted word rate") that is 18 percent above the basic word rate.
8. Ensure the use of a single statewide software program to count the number of words in all electronic transcripts of court proceedings.
9. Establish procedures through which upon transmission and payment to the reporter the court assumes control of and responsibility for the electronic transcript.
10. Ensure that all paper and electronic transcripts produced from nonstenographic reporting methods and transmitted to the courts comply with all recommendations contained in this report.
11. Ensure development and implementation of a comprehensive curriculum for the training of official court reporters through the assistance of the Administrative Office of the Courts' Education Division.

12. Implement the following changes concerning paper transcripts for civil appeals:
 - A. Amend the California Rules of Court so that the term “certified transcript” shall include either a certified original or a copy that has been certified as an accurate duplicate of the original.
 - B. Amend the California Rules of Court to require the reporter to certify each copy of the transcript as an accurate duplicate of the original.
 - C. Amend rules 4 and 9 of the Appellate Rules of the California Rules of Court to clarify and simplify the process in which a designated paper transcript is prepared for filing to the appellate court.

This report is available on the California Courts Web site:

<http://www.courtinfo.ca.gov/courtadmin/jc/tflists/reprecord.htm>

I. THE TASK FORCE: BACKGROUND, CHARGE, COMPOSITION, AND PROCESS

This report contains the findings and recommendations of the Judicial Council's Reporting of the Record Task Force.

Background

Beginning in 1994, the Court Reporting Subcommittee of the Judicial Council's Trial Court Presiding Judges Advisory Committee (TCPJAC) and Court Executives Advisory Committee (CEAC) reviewed matters regarding court reporting services with court reporter leadership. Over the years, the issues directed to the subcommittee became more complex and numerous. The key issues included divergence in transcript costs, difficulty in verifying the costs of transcripts, challenges in recruiting and retaining qualified shorthand reporters, varying transcript formats, ambiguity concerning control of the transcript, and the courts' consideration of alternative reporting methods.

In addressing these issues, it is important to understand that the requirements for court reporting are set out in state law and rules of court. If a transcript is to be made, the use of stenographic reporters is specifically mandated for many proceedings (e.g., felonies, specified juvenile proceedings) and the use of electronic recording to make the official record is allowed only in limited instances (e.g., misdemeanors, limited civil, infractions). In general, transcripts filed with the Courts of Appeal must be certified by a stenographic reporter.

Cost of Criminal Transcripts

Current law specifies that stenographic reporters be compensated at specific rates per 100 words (or "folios") for original transcripts and reduced rates for transcript copies. By practice, these rates are typically modified by court-specific "folio multipliers," used by individual courts, and intended to provide a shortcut method for calculating the actual number of folios per page. Thus, for example, a court that uses a "folio multiplier" of 2.5, would assume that each transcript page contains 2.5 folios or (2.5 x 100) 250 words.

In the aggregate, for example, the superior courts combined expended approximately \$25 million in fiscal year 2000–2001 to purchase transcripts. The cost per page varies from court to court due to the inconsistent application and the inconsistent number of words per page. For example, because of the use of different

folio multipliers across the state, the charge for a transcript page ranges from \$2.65 to \$3.45 per page.

Cost of Civil Transcripts

The total amount that the public expends on civil transcripts is unknown. While there is no statute authorizing a different transcript fee structure for civil transcripts, the rates charged vary both within and among the different courts. Most often, private arrangements for the production and purchase of these transcripts are made between the reporter and parties.

Availability of Qualified Shorthand Reporters

Since the early 1990's, California's courts have experienced a steady decline in the number of available qualified shorthand reporters. In 2001, 40 applicants passed the California Certified Shorthand Reporter Exam, compared to a high of 309 persons in November 1995.¹ In 2004, the number of applicants who passed the exam continued to decline. Specifically, in March 2004 a total of 28 applicants passed the exam.² In July 2004, 21 individuals were successful in passing the exam.³ These decreasing numbers are compounded by the fact that those individuals passing the exam may choose to work in other arenas instead of the courts. These other arenas include deposition reporting, closed captioning, and the provision of translation services to the hearing-impaired.

Additionally, the reduction of court reporting schools and curriculums in California over recent years complicates the courts' ability to attract sufficient numbers of well-trained reporters.

¹ California Court Reporters Association, "Student Shortage Summit Report, October 2001," <http://www.cal-ccra.org/Summit.htm> (accessed January 7, 2005).

² Court Reporters Board of California, "Examination Statistics—March 2004," http://www.courtreportersboard.ca.gov/exams/examstats_0304.pdf (accessed January 7, 2005).

³ Court Reporters Board of California, "Examination Statistics—July 2004," <http://www.courtreportersboard.ca.gov/exams/examstats0704.pdf> (accessed January 7, 2005).

Dual Status of Court Reporters

The stenographic reporters employed by the courts occupy a unique dual status. These reporters are considered court employees when they take notes in recording a proceeding and operate as independent contractors when they are producing and selling the certified verbatim transcript. Hence, reporters receive a salary from the courts as employees for recording the proceedings and earn a separate income from the sale of the transcripts they produce from their notes, which are made in their capacity as court employees. The dual status has also led to disagreement and ambiguity with respect to ownership of the transcript.

Formation of the Task Force

In this context, the members of the Court Executives Advisory Committee's Court Reporting Subcommittee proposed to Chief Justice Ronald M. George, Chair of the Judicial Council, that a task force be created to address these issues comprehensively.

The Judicial Council of California is the policymaking body for the state's judicial system, as provided in article VI, section 6 of the California Constitution. In fulfilling its responsibilities to the people of California, the Judicial Council sets the direction and provides leadership for improving the quality of justice and for advancing its consistent, independent, impartial, and accessible administration. The Chief Justice of California chairs the Judicial Council. The Administrative Office of the Courts (AOC), the staff agency of the Judicial Council, provides staff support to the council's advisory bodies, including this task force.

In the winter of 2002, Chief Justice George approved the creation of the Reporting of the Record Task Force and its charge. Accordingly, AOC staff contacted various professional groups to encourage broad participation in the task force's nomination process. In April 2002, Chief Justice George appointed the task force members. The task force reports directly to the Judicial Council.

Charge

The Judicial Council charged the task force with assessing the process of producing the certified verbatim record. The issues within the task force's charge directly relate to the council's strategic plan, *Leading Justice Into the Future*. Specifically, the task force's work is expected to promote the council's goals of broadening access to the courts; ensuring that justice is administered in a timely and an efficient manner; reducing the expense of litigation through simplification and standardization of court practices; and utilizing technology to enable the courts to collect, process, analyze, and share information.

The official charge of the Reporting of the Record Task Force was to evaluate and make recommendations to the Judicial Council regarding, but not limited to, the following issues relating to reporting of the record within California:

1. Standardization of stenographic court reporting systems;
2. Uniformity of transcript formats;
3. Expanded use of court reporters' evidence and presentation technology;
4. Ownership of transcripts and related products;
5. Uniformity of transcription and other court reporting service fees;
6. Delivery, maintenance, and storage of transcripts via electronic and paper media, including access to reporters' notes;
7. Training of court reporters;
8. Review of provisions relating to court reporting of the Appellate Rules of the California Rules of Court and related statutes; and
9. Shortage of qualified court reporters, including such issues as recruitment, retention, and the consequent need to develop criteria for the use of alternative methods of reporting and maintaining the record.

Owing to time constraints, the task force was not able to address item three of the charge.

Interested persons may visit the California Courts Web site to download a copy of this report and obtain other general information concerning the task force:

<http://www.courtinfo.ca.gov/courtadmin/jc/tflists/reprecord.htm>

Membership and Staffing

In proposing the composition of the task force, the Court Reporting Subcommittee was guided by the determination that a diverse task force—one reflecting various stakeholders’ views—would develop comprehensive recommendations grounded in first-hand experience. Consequently, membership positions were created for an appellate court justice, superior court judges, appellate and trial court administrators, official court reporters, and attorneys. After appointment of the task force’s members, the Court Reporters Board of California was granted a nonvoting liaison position.

Specifically, the task force consisted of 17 voting members and 1 nonvoting liaison from the following sectors of the judicial and legal communities:

- Appellate court justice as voting chair (1 position);
- Superior court judges (2 positions);
- Appellate court clerk/administrator (1 position);
- Superior court executive officers or their management designees (5 positions);
- Appellate lawyer of the Office of the Attorney General (1 position);
- Appellate lawyer experienced in criminal litigation (1 position);
- Appellate lawyer experienced in civil litigation (1 position);
- At-large court reporters (2 positions);
- California Court Reporters Association representatives (2 positions)⁴;
- California Official Court Reporters Association representative (1 position);
- and
- Nonvoting liaison with the Court Reporters Board of California (1 position).

The Executive Office Programs Division of the AOC provided primary staff support to the task force. Other AOC divisions provided expertise and support, including the AOC’s Bay Area/Northern Coastal Regional Office, Office of Governmental Affairs, and Office of the General Counsel.

Timeline and Schedule

Task force members were appointed to an approximate two-year term, from April 2002 to August 2004. The task force first met in June 2002 and met approximately every six weeks thereafter.

⁴ Two persons were appointed as California Court Reporters Association representatives. At a later date, one of these positions was converted to an at-large position.

Process for Development of Recommendations

The objective underlying the creation of a diverse task force was that such a body could explore a range of varying viewpoints as it developed its recommendations concerning statewide inconsistencies in court reporting practices. It was essential that the viewpoints of all stakeholders represented by task force members be expressed and heard.

To assist the task force, the AOC contracted with a professional consultant skilled in meeting facilitation. The consultant's primary responsibilities were to facilitate meeting discussions and assist in the development of meeting materials.

Guided by its charge, the task force engaged in a comprehensive process to address the key issues affecting court reporting, establish overarching objectives for addressing those issues, and develop recommendations for a coordinated approach to resolving the problems associated with achieving those objectives. This process began with reviewing what constitutes the record, how the transcript is produced, and the difficulties encountered. The task force agreed that each of its recommendations would flow from the following concept that it developed during one of its first meetings, "The record should be timely, produced at a reasonable cost, accessible, user-friendly, uniform, and safely preservable." The key issues to be addressed included divergence in transcript costs, difficulty in verifying the costs of transcripts, challenges in recruiting and retaining qualified shorthand reporters, varying transcript formats, ambiguity concerning control of the transcript, and the courts' consideration of alternative reporting methods. The overarching objectives developed include broadening access to the courts, ensuring that court reporting services are provided in an efficient manner, reducing the expense of litigation through simplification and standardization of court reporting practices, and utilizing available and future technology to enable the courts to collect and process information. In developing recommendations for a coordinated approach, the task force considered current statutes, cost-effectiveness, and employee impact.

The task force attempted to arrive at its recommendations by consensus. As it addressed more issues, the task force found that full consensus could not always be achieved. In such instances, a vote was taken, and if a recommendation was approved by the majority, it was deemed to have passed. This report notes the instances in which votes were taken and indicates the results of those votes.

Informational Resources Available to the Task Force

Guests, Presenters, and Speakers

Various professionals were invited to speak to the task force to share their expertise. Such presentations established a common knowledge base for the task force.

Public Comment

Each task force meeting was open to the public. Any interested person could attend the meetings and observe the discussions taking place. The agenda for each meeting day allotted time for public comment, so that individuals would have an opportunity to share information directly with the task force.

II. PRIMARY FOCUS OF THE TASK FORCE AND DEFINITION OF “THE RECORD”

Primary Focus

The task force’s primary focus was the in-depth examination of the memorialization of the oral proceedings and its integration with other elements of the official court record.

The primary focus of the task force was the in-depth examination of the memorialization of the oral proceedings and its integration with other elements of the official court record. Specifically, the task force decided to focus on the following:

- How oral proceedings are memorialized now and how they could be memorialized in the future; and
- How the memorializations could be integrated and delivered with other portions of the official court record.

Definition of “the Record”

For the purposes of addressing the primary focus of the task force, the record is defined as the complete, accurate, certified verbatim memorialization of oral proceedings before the court.

After determining its primary focus, the task force developed a working definition of the word “record” to ensure that all members were using the term in common and with the same meaning. By this definition the word “record” encompasses only those memorializations that are *certified by a reporter as accurate* (e.g., the reporter’s transcript). Therefore, this definition does not include documents or items that are commonly considered part of

the official court record but are not certified by a reporter (e.g., exhibits and reporter’s notes).

III. DELIVERY, MAINTENANCE, AND STORAGE

Charge

Evaluate and make recommendations regarding the delivery, maintenance, and storage of transcripts via electronic and paper media, including access to reporters' notes.

Recommendations

1. Adopt the following overarching standards for the delivery, maintenance, and storage of electronic transcripts, master index volumes, and reporters' notes:
 - A. Delivery
The transcript, master index volume, and reporter's notes must be in a form that can be transmitted electronically. The electronic transmission must be secure, timely, and cost-effective.
 - B. Maintenance and Storage
The electronic transcript, master index volume, and reporter's notes must be maintained and stored in a manner that is secure, accessible to authorized persons, and cost-effective.
2. Establish a secure Web-based system for the delivery, maintenance, and storage of the electronic transcript, master index volume, and reporter's notes, which will provide for a "mirror image" printout of the electronic transcript.
3. Conduct feasibility studies, pilot projects, and post-project evaluations for the delivery, maintenance, and storage of the electronic transcript, master index volume, and reporter's notes.

Background

This section of the charge required the task force to evaluate the process by which the certified verbatim transcript (hereafter "transcript") and reporter's notes are delivered, maintained, and stored. The task force began its review with a focus on

the current paper process and then examined how an electronic process could meet the need for increased effectiveness and efficiency, and improved public access. The current process is cumbersome because of the courts' reliance on paper transcripts and delivery by traditional mail carriers.

To better understand the existing process for the delivery of transcripts, the task force invited a panel of superior and appellate court staff to share their experiences, concerns, and perspectives. Staff from the Court of Appeal, First Appellate District, also shared information concerning a past pilot project in which reporters submitted their transcripts on ASCII disks and the court attempted to convert and store the documents. The panelists brought forward many issues for consideration. First, the presenters generally shared the view that transcripts should be delivered electronically in the future. Second, they emphasized that a uniform format was essential to the smooth and accurate delivery of electronic transcripts. The First Appellate District staff related that inconsistent transcript formats often led to an inability to open files; difficulty in converting files for storage; and extensive demands on staff time to respond to these challenges. Even more important was the fact that the printed version of the transcript was not always identical to the version appearing on the disk. Also, the use of disks often resulted in corrupted or infected files.

As the task force began its evaluation, it looked at the current paper process with the objective of building an entirely new system. The task force recognized that the general trend in business is to move toward paperless operations. It also understood the courts' need to reduce storage space, labor costs, and the amount of staff time needed to locate documents. In developing its policy recommendations, the task force chose to focus on what would be ideal for future court operations. The task force's overall objectives were to provide recommendations that, if approved, would result in the more efficient transmitting and archiving of both the transcript and the reporter's notes.

After extensive consideration and discussion, the task force developed the following policy recommendations, shaped by the clearly perceived need to modernize the delivery and storage processes. The following recommendations would allow the courts to use emerging technologies and achieve greater efficiency.

Overarching Standards

The electronic transcript must continue to serve the same critical function as the paper transcript—the provision of an accurate, verbatim memorialization of judicial

proceedings. An accurate record of judicial proceedings is and will continue to be essential to the judicial process. Accordingly, the electronic transcript, master index volume, and reporter's notes (hereafter "documents") must be transmitted and maintained securely. Electronic transcripts must be capable of being printed identically to the electronic transcript and vice versa. This will provide not only ease of use but also exact compatibility for purposes of research and citation. See section V, "Uniformity of the Transcript," for a list of the master index volume's contents and section IX, "Transcripts for Civil Appeals," for a discussion of the master index volume's preparation.

Security

The electronic system for delivery, maintenance, and storage must protect against unauthorized changes to the documents so that they remain identical to the certified versions. The electronic system must comply with existing rules of court and laws regarding privacy and access. It must also prevent alterations to the transcript format.

The electronic system must protect against unauthorized access while also providing for immediate access. Security must be structured to include (1) control over all access types (e.g., access to read only, read and modify, search only, and track only); (2) safeguards against unauthorized alterations; (3) tracking capabilities; and (4) comprehensive and routine backup. The access system should include a cataloguing system that is consistent throughout the state and offers extensive search capabilities.

Timeliness

The electronic documents must be provided in a timely manner to the courts and other users. A key element of timeliness is online posting with instantaneous transmission and immediate access to the documents.

Transcript Management

Electronic storage must provide for permanent archival of the documents. The storage system should include effective and efficient management procedures; use of a secure Web-based system; protocols for retrieval and access; protocols for destruction; adaptability for system upgrades; and comprehensive backup capabilities. For long-term accessibility, the electronic storage system should have clear access protocols, efficient retrieval capabilities, and off-site backup.

Overall, the system that is developed and operated for delivery, maintenance, and storage of the electronic documents must be cost-effective.

Online Services

To be most effective, the delivery, maintenance, and storage system developed and implemented should be Web-based and provide for online registration, certification, and confirmation. For the purposes of this report, “certification” is defined as a reporter or transcriptionist’s attestation that the transcript is a verbatim, accurate, and complete memorialization of the oral proceedings. The task force recommends the use of a Web-based system because the Internet offers the qualities encompassed by the overarching standards discussed above: access, speed, accuracy, security, and cost-effectiveness. Appendix 1 is provided to illustrate the elements and steps that should be included in an online registration, certification, and confirmation process.

The conversion to an electronic system supports the overall business trend of moving toward paperless operations. The recommendation also responds to ecological concerns by reducing paper waste.

Feasibility Studies, Pilot Projects, and Post-Project Evaluations

Feasibility studies, pilot projects, and post-project evaluations should be conducted to facilitate the transition from a paper-based process to a Web-based system. These efforts will need to take into account the technology available at the time and the ability of reporters, transcribers, and the courts to make the transition. It is acknowledged that with the transition to a Web-based system, courts will assume greater responsibility for the electronic documents. Advances in technology should aid the courts in taking on this added responsibility.

Existing Statutory and Regulatory Provisions Affected by These Recommendations

Pursuant to AOC policies, this section lists relevant statutes, rules, and regulations, which should be reviewed for possible changes if this section's recommendations are implemented. These citations generally refer to the duties of court reporters, the number of copies to be delivered, costs for the transcript and copies, references to transcript media (such as paper transcripts), and definitions of “serve and file.”

Code Civ. Proc., §§ 269, 271, 274a; Gov. Code, §§ 69950, 69954, 69955; Pen. Code, §§ 190.8, 190.9, 869, 870, 871.5, 938.1, 938.3, 1539; Welf. & Inst. Code, §§ 347, 677.

Cal. Rules of Court, rules 4, 4.162, 9, 12.5, 31.2, 32; 32.1, 34.1, 34.2, 35, 35.1, 35.2, 39.1A , 39.1B , 39.4, 39.5, 40, 44, 59, 69, 124, 125, 129, 136, 184, 200.1, 243.2, 4.162 (Criminal), 2073, 2073.5.

Cal. Code of Regs., tit. 16, § 2473.

IV. STENOGRAPHIC COURT REPORTING SYSTEMS

Charge

Evaluate and make recommendations regarding standardization of stenographic court reporting systems.

Recommendations

4. Ensure the use of court reporting equipment and software capable of complying with the following:
 - A. Any interim electronic transcript format recommendations for the implementation of the online registration and certification pilot project; and
 - B. The final electronic transcript format recommendations arrived at upon the completion of the above pilot project for the statewide transition to online registration and certification.
5. Ensure the use of court reporting equipment and software capable of producing electronic transcripts and notes. Reporters may continue to use the equipment and software of their choice, as long as these are able to comply with the task force's recommendations and meet the needs of the courts.

Background

Reporters employed by the courts occupy a unique dual status. Hence, they receive a salary from the courts for their performance as employees and they earn separate income from their sale of the transcript. This description is provided as background information.

Pursuant to statute, reporters purchase and maintain their own court reporting systems. For the purposes of this report, the phrase "court reporting systems" encompasses software, stenographic writing machines, portable computers, and any other hardware or software (available now or in the future) used to create electronic transcripts and notes. While various versions of court reporting software exist on

the market, the primary function of each is to translate stenographic keystrokes into English text using the individual reporter's dictionary.

The task force first approached this portion of the charge by identifying all of the materials and tools that certified shorthand reporters currently use to create transcripts and notes. The task force also discussed the evolution of court reporting techniques and the forces that lead to change. Some reporters have kept the same equipment for many years, while others have moved to new technology. With the use of computers, most reporters convert stenographic notes to digital English text before printing the transcript on paper. Given the extensive use of computers in court reporting, the task force concluded that the transition to digital transcripts would not be difficult for most reporters. The move to the digital age is also shown by the fairly recent development of stenographic writing machines that offer digital storage of reporters' notes.

Compliance With Transcript Format Recommendations

After extensive discussion, the task force concluded that it will be necessary for reporters to use software and hardware that are compatible with the statewide Web-based system. The courts must be able to receive, transmit, store, and use electronic transcripts and notes without having to reformat or otherwise modify them. Court reporters would still have the flexibility to choose their court reporting systems, as long as their systems produce electronic transcripts and notes that conform to the recommendations in this report.

Existing Statutory and Regulatory Provisions Affected by These Recommendations

Pursuant to AOC policies, this section lists the relevant rule, which should be reviewed for possible changes if this section's recommendations are implemented. This rule deals with the specifications for electronic recording equipment.

Cal. Rules of Court, rule 980.6.

V. UNIFORMITY OF THE TRANSCRIPT

Charge

Evaluate and make recommendations regarding uniformity of transcript formats.

Recommendation

6. Establish a uniform format for paper and electronic transcripts of court proceedings per the specifications contained in this report.

The format, or physical appearance, of the certified verbatim transcript (hereafter “transcript”) varies significantly by court and even among official reporters in the same court. The lack of uniformity in the transcript’s format poses numerous difficulties in reading, transmitting, converting, and storing the record, and maintaining consistency of transcript fees. The task force began its analysis by identifying the major concerns of those who use and produce the transcript. The task force also discussed the evolution of transcript production and its relation to changing technologies. It became increasingly apparent that a standardized transcript would result in increased readability, efficiencies, and integration with the courts’ electronic systems.

Accordingly, it is recommended that a uniform format for paper and electronic transcripts of court proceedings be established per the following specifications. Transcript format affects the number of words on a page. As discussed in other sections of this report, current law specifies that stenographic reporters be compensated at specific rates per 100 words (or “folios”) for original transcripts and reduced folio rates for transcript copies. By practice, these rates are typically modified by court-specific “folio multipliers,” used by individual courts, and intended to provide a shortcut method for calculating the actual number of folios per page. While a uniform transcript format enhances credibility, it does not ensure that the actual number of words on a page conforms to the agreed-upon folio multiplier. This issue would be addressed by adoption of standardized word rates. (See section I, “The Task Force: Background, Charge, Composition, and Process” and section VI, “Word Rates and Responsibility for Electronic Transcripts” for more in-depth discussions of folios and folio multipliers.)

Recommended Format Specifications

TRANSCRIPT ELEMENT	SPECIFICATION
Binding	<ul style="list-style-type: none"> • The following specifications apply to all paper transcripts other than pleas, sentencing, and probationary violation hearings, unless ordered in the notice to reporter to prepare transcript on appeal and preliminary hearing. • All paper transcripts must be securely bound down the left margin in volumes consisting of not more than one date. Paper transcripts must be bound front and back with materials and hardware that withstand normal handling without coming apart. • Acceptable binding hardware includes staples, brads, or other metal or plastic fasteners down the left margin. Any exposed binding hardware must be covered with tape to avoid injury or damage. • Acceptable binding materials include <ul style="list-style-type: none"> ▪ Card stock backs and white card stock fronts with the cover page printed on the front card stock; ▪ Card stock backs with clear acetate fronts to protect the cover page printed on regular bond paper; and ▪ Folder-style coverings with clear acetate fronts to protect the cover page printed on regular bond paper. • When using card stock for the cover page, no other protective sheet is necessary. When using bond paper for the cover page, the page must be covered with a protective material such as clear acetate. <p>(The task force voted in favor of this last specification regarding the use of an acetate cover when using bond paper. One task force member, Ms. Maura Baldocchi, voted against this specification.)</p>
Box/Border	The transcript format will not include a box or

TRANSCRIPT ELEMENT	SPECIFICATION
	border around text.
Capitalization	It is <i>preferred</i> that the transcript text be in upper and lower case once a uniform transcript format is established. Beginning five years after the establishment of a uniform transcript format, the text of all new transcripts <i>must</i> be in upper and lower case.
Characters per Line	The transcript text must contain up to 62 characters per line, with each line containing as many words as will fit within 62 characters. Characters include blank spaces.
Cover Page	<p>(See Appendix 2 for a sample cover page.)</p> <p>The cover page and title page must be combined. This merged document would be referred to as the “cover page.” A standardized template for the cover page must be used. Information contained in the cover page must include the following:</p> <ul style="list-style-type: none"> • Appellate court and superior court captions; • Appellate court and superior court case numbers; • Two filing blocks: appellate and superior; • Formal title of “Reporter’s Transcript of [date]”; and • Indication of whether the transcript is an augmented or supplemental record.
Death Penalty Transcripts	Death penalty transcripts shall be subject to all format recommendations.
Font Style and Size	The font for the transcript text must be 14 Arial point.
Headers and Footers	The transcript must not include headers and footers, except for page numbering.
Identification of Common Events	<p>Definition of the term “Identification of Common Events”: An explanation to the reader of events that are not reflected by the verbatim text, also referred to as blurbs or parentheticals.</p> <p>Location: The identification of common events must be located in the verbatim text where the</p>

TRANSCRIPT ELEMENT	SPECIFICATION
<p>Identification of Common Events (<i>continued</i>)</p>	<p>event occurs.</p> <p>Format: The identification of common events should be</p> <ul style="list-style-type: none"> • As short as possible, preferably one line; • Centered; • Written in plain English; • In parentheses; and • Separated by a blank line above and below its text. <p>Format samples:</p> <ul style="list-style-type: none"> • Incorrect: (Whereupon the proceedings were adjourned at 3:30 p.m. and continued to November 3, 2003) • Correct: (Adjournment) • Incorrect: (Whereupon the reporter read back the three previous questions and answers) • Correct: (Record read) • Incorrect: (Whereupon the lunch recess was taken at 12:30 p.m.) • Correct: (Recess) <p>Examples of appropriate events to identify are indicated within the following parentheticals:</p> <ul style="list-style-type: none"> • Excluded text: (Pages 45-55 sealed) (Reported but not transcribed) (Jury voir dire conducted) • Recesses, adjournments: (Recess) (Adjournment) • Readback: (Record read) • Oaths: (Bailiff sworn) (Jurors sworn) (Jury panel sworn) • Interjection by reporter: (Reporter interrupts) • Common interruptions: (Discussion off the record) • Response is not audible: (No audible response)

TRANSCRIPT ELEMENT	SPECIFICATION
Identification of Common Events (<i>continued</i>)	<p>It is the responsibility of the court to clarify on the record nonverbal conduct or events. Examples of nonverbal conduct or events that do not require independent clarification by the court reporter in the transcript include the following:</p> <ul style="list-style-type: none"> • Marking exhibits; • Uncommon events; • Changes in/departures from introductory information (see “Introductory Information” below); • Head nodding and finger snapping; and • On/off the record.
Identification of Speakers	<p>Definition of the term “Identification of Speakers”: A method of identifying clearly and unambiguously the maker of any given segment of colloquy in a reporter’s transcript.</p> <p>Common speakers that should be identified include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Alternate juror (by number); • Attorney; • Bailiff; • Clerk; • Court; • Defendant; • Foreperson; • Interpreter; • Juror (by number); • Person in audience; • Reporter; and • Witness. <p>Where there are two or more defendants charged with the same complaint or information, each defendant’s last name must be included in the identification. Example: “DEFENDANT SMITH” and “DEFENDANT BARRYMORE.”</p>

TRANSCRIPT ELEMENT	SPECIFICATION
<p>Identification of Speakers (<i>continued</i>)</p>	<p>Where two or more defendants or attorneys share the same last name, each individual’s first and last names must be included in the identification. Examples: “DEFENDANT MARY SMITH” and “DEFENDANT JOHN SMITH”; “MR. SAM LOWE: Q.” and “MS. VANESSA LOWE: Q.”</p> <p>Format:</p> <ul style="list-style-type: none"> • Example: “MR. DARROW: Yes.” • Identification must be in all caps, followed by a colon. • Single indent (5 spaces) the first character of text from the left text margin. • A colon should immediately follow the identification. <p>The spoken words being transcribed must be identified as “Q” or “A”.</p> <ul style="list-style-type: none"> • In colloquy, the letter “Q”, followed by a period, must follow the colon after the speaker’s name by two spaces, and the following text must begin two spaces from the “Q.” • In continuous question and answer, the text must follow the “Q.” or “A.” by five spaces.
<p>Indentation/Placement</p>	<ul style="list-style-type: none"> • New paragraphs: Single indent (5 spaces) the paragraph’s first line from the left text margin. The subsequent text must return to the left text margin. • Quoted material and jury instructions: Double indent (10 spaces) the first line of text from the left text margin. The rest of the text must be single indented (5 spaces) from the left text margin.
<p>Indexes</p>	<p>Chronological witness index: This index must include the following:</p> <ul style="list-style-type: none"> • Witness name(s); and • Type of examination with page numbers. <p>Exhibit index: An exhibit index will only be</p>

TRANSCRIPT ELEMENT	SPECIFICATION
Indexes (<i>continued</i>)	<p>required for paper transcripts. This index must include the following:</p> <ul style="list-style-type: none"> • Exhibit designation (Example: People’s 1); • Identification page number; and • Evidence page number. <p>(Exhibit indexes will not be required for the electronic record.)</p> <p>Death penalty index: This index must include the following:</p> <ul style="list-style-type: none"> • Identification of all sealed proceedings; and • Names of all parties present.
Introductory Information	<p>Daily appearances should appear immediately below the date line for that day’s proceedings. The date line should be in capitalized text and only include the month (spelled in full), the date, and the year. (Example: DECEMBER 20, 2004) The names of judicial officers and the court reporter’s name and license number should also appear in the introductory information.</p>
Justification	<p>The transcript text must be justified only at the left; it must <i>not</i> be justified at the right.</p>
Line Numbers	<p>The transcript format must include line numbers to designate lines of text.</p>
Line Spacing	<p>The transcript text must be double spaced.</p>
Lines per Page	<p>The transcript format must include 28 lines per page.</p>
Margins: Left	<p>The transcript format contains two left margins: the left <i>line numbering</i> margin and the left <i>text</i> margin.</p> <ul style="list-style-type: none"> • Left <i>line numbering</i> margin: The left margin from the document’s edge to the line numbering must be 1.25 or 1.3 inches. • Left <i>text</i> margin: The left margin from the document’s edge to the first character of a line of text must 1.75 or 1.8 inches. <p>Note: Many versions of computer software do not allow margins to be designated in quarter-inch increments.</p>

TRANSCRIPT ELEMENT	SPECIFICATION
Margins: Right	There is no specified right margin. Various format specifications (such as characters per line and font size) will determine the right margin.
Margins: Top and Bottom	The top and bottom margins of the transcript must be no less than .75 or .8 inches.
Master Index Volume	<p>Reporters must provide a separate master index volume for transcripts consisting of more than one volume. The master index volume must consist of the following items in the order listed below:</p> <ul style="list-style-type: none"> • Chronological duplicates of the cover pages for each transcript volume contained in the appellate record; • Chronological duplicates of the indexes for each transcript volume contained in the appellate record; and • Chronological duplicates of the reporters' certificates for each transcript volume contained in the appellate record. <p>The word "indexes" includes chronological witness indexes, exhibit indexes, and death penalty indexes.</p>
Pagination/Volume	<p>One day/one volume: Each volume must be designated by date and contain only that date's proceedings. Each volume must begin with page 1. The cover page of each volume must be numbered as page 1. Page numbers must be located on each page at the bottom right below the last line of text.</p>
Paper Size	Transcripts must be formatted to print on 8½" x 11" paper.
Vertical Line	The transcript format must not include a vertical line.

Existing Statutory and Regulatory Provisions Affected by This Recommendation

Pursuant to AOC policies, this section lists relevant rules and regulations, which should be reviewed for possible changes if this section's recommendation is implemented. These citations generally deal with the form of the transcript, copies of the transcript, and transcript format standards.

Cal. Rules of Court, rules 4, 9; Cal. Code Regs., tit. 16, § 2473.

VI. WORD RATES AND RESPONSIBILITY FOR ELECTRONIC TRANSCRIPTS

Charge

Evaluate and make recommendations on (1) the ownership of transcripts and related products, and (2) uniformity of transcription and other court reporting service fees. (Note: This combines charges 4 and 5 as listed in the Executive Summary.)

Recommendations

7. Take the following actions concerning word rates for electronic transcripts:
 - A. For payment purposes, seek the establishment of a standard word rate (hereafter “basic word rate”) for (1) all electronic transcripts purchased by the court and (2) all electronic transcripts of criminal and juvenile proceedings, irrespective of purchaser;
 - B. Ensure that the basic word rate results in overall net revenue neutrality for reporters and overall net expenditure neutrality for the courts; and
 - C. For all electronic transcripts other than those compensated at the basic word rate, seek the establishment of an adjusted word rate (hereafter “adjusted word rate”) that is 18 percent above the basic word rate.
8. Ensure the use of a single statewide software program to count the number of words in all electronic transcripts of court proceedings.
9. Establish procedures through which upon transmission and payment to the reporter the court assumes control of and responsibility for the electronic transcript.

As indicated at the beginning of this section, the charge directed the task force to address the “ownership of transcripts and related products.” The task force recommends that, upon appropriate payment, the responsibility and control of all such electronic products transfer to the court. The charge further directed the task force to address the

“uniformity of transcription and other court reporting service fees.” The task force interpreted this to mean that it was to identify the relevant factors for subsequent negotiations between the interested parties.

Basic Word Rate for Electronic Court-Paid Transcripts and for Electronic Criminal and Juvenile Transcripts, Irrespective of Purchaser

For the purposes of this report, the term “court-paid transcripts” refers to all certified verbatim transcripts (hereafter “transcripts”) purchased by the courts. The majority of the transcripts purchased by the courts are for criminal proceedings. However, the courts also purchase transcripts for other matters. Current law specifies that stenographic reporters be compensated at a folio rate for the transcripts produced. A folio is comprised of 100 words. Specifically, California Government Code section 69950 provides the basis for calculating the fee for a transcript. It states,

“(a) The fee for transcription for original ribbon or printed copy is eighty-five cents (\$0.85) for each 100 words, and for each copy purchased at the same time by the court, party, or other person purchasing the original, fifteen cents (\$0.15) for each 100 words.

(b) The fee for a first copy to any court, party, or other person who does not simultaneously purchase the original shall be twenty cents (\$0.20) for each 100 words, and for each additional copy, purchased at the same time, fifteen cents (\$0.15) for each 100 words.”

Although the statutory scheme does not specifically authorize a different transcript fee structure for purchasers other than the courts, the rates charged by reporters have varied both within and among the different court jurisdictions.

Historically, reporters have submitted paper transcripts to the courts. The thousands of transcripts purchased by the courts make it difficult to count manually and verify the number of words invoiced. For example, to ascertain how many folios are in the transcript, courts would have to count every word manually in the document, which is extraordinarily laborious and time-consuming.

Because of the difficulty in verifying the number of words in a transcript, the administrative concept of “folio multipliers” was developed to establish a basis for compensation. In using folio multipliers, the number of folios per page is assumed and is not actually counted. The fee is determined by multiplying the number of pages times the assumed number of folios per page. The task force staff conducted a

survey on folio multipliers and while the response from the courts was not 100 percent, courts reported a range of folio multipliers that includes a high of 3.0 and a low of 2.3 across the state. For example, in a court where a folio multiplier of 2.5 has been established, reporters are paid assuming there are 250 words per page usually without verification of the actual number of words on a page. Contentions that the number of folios on a page varies significantly within an individual transcript and between different transcripts have been a source of continuing controversy between courts, reporters, and the bar.

While the intent of creating folio multipliers was to provide an alternative to having to count the number of words in a transcript manually, the result has been inconsistency in the number of words paid for and provided. This has ultimately led to widespread disparity in the cost of the transcript within and among courts throughout the state. For example, for a transcript with the same number of words, the cost of an original and two copies of a transcript may range from \$2.65 per page based on a reported folio multiplier of 2.3 to \$3.45 per page based on a reported folio multiplier of 3.0. Given that, in passing and amending Government Code section 69950, the Legislature has established a definite pay rate for transcripts, folio multipliers provide for payments that are not clearly consistent with statute.

Millions of dollars are spent each year by superior courts to purchase transcripts. The superior courts are required to purchase transcripts for specific proceedings, and the courts generally purchase one original criminal transcript and two copies. In the aggregate, for example, the superior courts combined have expended approximately \$25 million in fiscal year 2000–2001 to purchase transcripts.

As a result of extensive discussion, the task force agreed on the need for a standard word rate (hereafter “basic word rate”) for (1) all electronic court-paid transcripts and (2) all electronic transcripts of criminal and juvenile proceedings, irrespective of purchaser. The major purpose of this recommendation is to create a more consistent transcript fee statewide. The task force agreed that this policy change must result in overall net revenue neutrality for reporters and overall net expenditure neutrality for the courts. Factors to be considered in establishing the basic word rate include copy income, an estimated average number of copies and originals, costs to the courts, and reduced costs to reporters.

Upon transmission, reporters will be compensated for the electronic transcript and the courts will assume control of the transcript.

It is anticipated that the establishment of the basic word rate will require formal negotiations. The basic word rate is not expected to become effective until the transition to electronic transcripts is implemented.

Task Force Vote

The task force voted to establish the basic word rate for (1) all electronic court-paid transcripts and (2) all electronic criminal and juvenile transcripts, irrespective of purchaser.

One task force member, Ms. Maura Baldocchi, voted against this recommendation.

Adjusted Word Rate for All Electronic Transcripts Not Compensated at the Basic Word Rate

Generally speaking, the majority of transcripts not purchased by the courts are transcripts of civil proceedings. The cost of transcripts for civil proceedings is even more varied than the cost of transcripts for criminal matters. The total amount that the public expends on civil transcripts is unknown. While there is no statute authorizing a different transcript fee structure for civil transcripts, the rates charged vary both within and among the different courts. Most often, private arrangements for the production and purchase of these transcripts are made between the reporter and parties. As a result, civil transcript charges vary from reporter to reporter, and within and across county lines. When a reporter is assigned to a civil case, the transcript fee is often not known to the litigant until he or she purchases the transcript.

For all electronic transcripts other than those compensated at the basic word rate⁵, the task force recommends establishing an adjusted word rate (hereafter “adjusted word rate”) that is 18 percent above the basic word rate. An adjusted word rate is proposed to create more consistency in fees for the public. The task force also agreed that an adjusted word rate is necessary because, on average, production of transcripts for civil proceedings may be more difficult with respect to the following:

- Research efforts;
- Varied and more complex computer dictionaries;
- Time spent reviewing stenotype notes to provide estimates and waivers;
- Time and cost to communicate with litigants, lawyers, and others;

⁵ The task force did not address compensation for special services such as real-time, expedited, and daily transcripts. None of the task force recommendations are intended to include compensation rates for such special services.

- Interaction with other court employees when acting as the primary reporter; and
- Delivery expenses.

Task Force Vote

The task force voted to establish an adjusted word rate that is 18 percent above the basic word rate for all electronic transcripts other than those compensated at the basic word rate. It is anticipated that the establishment of the adjusted word rate will require formal negotiations. The adjusted word rate is not expected to become effective until the transition to electronic transcripts is implemented. One task force member, Ms. Maura Baldocchi, voted against this recommendation.

Word Counting Software

Recommendation 8 proposes that the council require the use of a single statewide software program to count the number of words in all electronic transcripts of court proceedings. Using readily available computer software technology to provide almost instant word counts, standardized word rates will provide the most accurate way to assess charges.

The task force concluded that a word must not be defined by the number of characters it contains. Rather, the task force recommends the utilization of a commercially available software program's word counting function to verify the number of words in a document and to establish the word count baseline. Present and future software must provide an accurate word count that is consistent with the established word count baseline. The software program would constitute an accurate and verifiable method of determining the fee for an electronic transcript. This consistent and accessible method of determining the transcript fee would, for the first time, give purchasers a quick and reliable tool to ascertain the accuracy of a transcript invoice. The electronic word counting program would also assist reporters in addressing their clients' long-standing concerns and frustrations with respect to the difficulty in verifying the accuracy of transcript invoices. Additionally, it would allow court reporters to actively address the divergences among transcript fees throughout the state.

The word counting program must be accessible to stakeholders—the courts, reporters, litigants, and attorneys—so that they can personally verify the number of words contained in the electronic transcript. As technology changes, standards for the statewide software program may require modifications.

Task Force Vote

The task force voted to require the use of a single statewide software program to count the number of words in all electronic transcripts of court proceedings.

One task force member, Ms. Maura Baldocchi, voted against this recommendation.

Responsibility for and Control of the Electronic Transcript

Historically, reporters have controlled the sale of transcript copies.

Under the task force's recommendations, reporters will be paid the basic word rate by the court for the transcript after they have submitted it to the Web-based system. Upon this transmission, the courts will assume control of and responsibility for the electronic transcript consistent with that for other public records.

Task Force Vote

The task force voted for the courts to have responsibility for and control of the electronic transcript once it is transmitted via a secure Web-based system.

One task force member, Ms. Maura Baldocchi, voted against this recommendation.

Existing Statutory and Regulatory Provisions Affected by These Recommendations

Pursuant to AOC policies, this section lists relevant statutes, rules, and regulations, which should be reviewed for possible changes if this section's recommendations are implemented. These citations generally deal with the approved unit to be used for billing for transcription services.

Gov. Code, §§ 69950, 69954.

Cal. Rules of Court, rule 4.162.

Cal. Code of Regs., tit. 2, §§ 1021.1, 1021.8.

VII. ALTERNATIVE METHODS OF PRODUCING THE ELECTRONIC TRANSCRIPT

Charge

Evaluate and make recommendations regarding the shortage of qualified court reporters, including such issues as recruitment, retention, and the consequent need to develop criteria for the use of alternative methods of reporting and maintaining the record.

Recommendation

10. Ensure that all paper and electronic transcripts produced from nonstenographic reporting methods and transmitted to the courts comply with all recommendations contained in this report.

Agreement - Use of Nonstenographic Methods for Reporting of the Record, February 6, 2004

The task force recognized that some of its court reporter members represented specific constituencies and that the position and vote of those members were affected by their respective constituencies. The task force chair, other task force members, and AOC staff met with the leadership of the different constituencies (specifically the California Court Reporters Association (CCRA), California Official Court Reporters Association (COCRA), Los Angeles County Court Reporters Association (LACCRA), and Deposition Reporters Association (DRA)) to invite them to participate in subsequent discussions. CCRA and LACCRA, which represent the majority of official court reporters in the state, agreed to participate. COCRA and DRA declined this invitation. The task force chair, other task force members, and AOC staff then engaged in discussions with the leadership of CCRA and LACCRA to effectuate compromises on the significant issues affecting their constituencies and the courts. Through compromise, participants reached an agreement in February 2004. The agreement addresses the need for more flexible use of electronic recording while providing job protections for court reporters working in the courts.

The agreement received widespread support. After entering into the agreement with the AOC, CCRA circulated petitions to official court reporters to determine the level of support for the agreement. The petition included a copy of the agreement. Over 1,200 official court reporters (which represents approximately 80 percent of official court reporters in California) signed petitions supporting the agreement. COCRA, however, disputes the representation that a majority of official reporters endorse the agreement. The AOC and CCRA view the agreement as representing a mutually beneficial compromise that provides a long-term resolution to complex policy issues and addresses employee and court operational needs.

In February 2004, the Judicial Council's Policy Coordination and Liaison Committee approved the agreement in principle. Because of this action, no task force recommendations concerning the agreement are needed at this time.

Task Force Vote

In March 2004, the agreement was presented to the task force for consideration. The agreement allowed consensus to be reached on major issues by considering statutory restrictions, cost-effectiveness, expansion of technology, and employee impact. Such consensus would not have been achievable without the participation of the constituents of the professional associations that chose to participate. The task force views the agreement with CCRA as the culmination of both sides' long-standing efforts to reach an effective, cooperative resolution regarding electronic recording. For judges, court reporters, and court administrators, the compromise articulated in the agreement represents a unique opportunity to bring an end to chronic battles over this issue and move forward with providing court reporting services.

At the March 2004 task force meeting, a motion was made to adopt this agreement, without amendment. The task force voted in favor of this motion.

One member, Ms. Maura Baldocchi, voted against the motion in its entirety.

The text of the agreement as developed by the AOC and CCRA is presented here in its original version. It was not copyedited for the publication of this report.

**Agreement – Use of Non-stenographic Methods for Reporting of the Record,
February 6, 2004**

1. Job Protections

A. No official reporter or official reporter pro tempore as described in 1. A. ii. will lose his or her job or have his or her hours of employment reduced as a result of the use of nonstenographic means of making the official record. This provision applies to:

i. Official reporters who are employees of a trial court at any time between January 1, 2004, and the effective date of the statute.

ii. Official reporters pro tempore who performed services for a trial court at least an average of 14 days per month over a 12-month period or an average of at least 8 days per month over a 24-month period measured as of January 1, 2004, or the effective date of the statute. For any court that had a period of furlough within the time frames indicated, the number of furlough days will be added to the beginning of the time period for purposes of calculation.

B. This provision is not intended to restrict the trial courts in making assignments, require the trial courts to treat pro tempore reporters as employees, or preclude the trial courts from reducing hours or eliminating jobs for reasons other than the use of nonstenographic means of making the official record. Claims that a violation of provision 1.A. has occurred must be made within 18 months of the termination, layoff or reduction of hours.

C. Disputes about whether this provision has been violated shall be resolved through the same procedures as provided by SB 2140. Where court reporters in a trial court have an exclusive representative for purposes of collective bargaining and have negotiated a dispute resolution procedure pursuant to SB 2140, that procedure will be applicable.

2. Preparation of Transcripts of Electronically Recorded Proceedings

A. The local trial court must arrange for the transcription of electronically recorded proceedings. A transcript of electronic media cannot be used, cited, or transcribed as the official record of the proceedings unless the transcription is arranged through the local trial court.

B. The local trial court shall notify the ordering party that the official record is the transcript of the electronic media and that such transcription must be arranged through the local trial court.

C. Official reporters employed by the local trial court shall have the right of first refusal for all transcript preparation work stemming from the nonstenographic recording of proceedings. Where the official reporters are represented by an employee organization for purposes of collective bargaining, transcription will be pursuant to an agreement between the trial court and the local employee organization. The scope of the agreement shall be limited to a method for assuring the cost, the quality, and timeliness of transcription. If the official reporters decline to provide such transcribing services consistent with this section, the trial court may seek alternative arrangements for transcribing services.

D. The trial court shall pay official court reporter employees the statutory rate for transcript preparation. If the official court reporter employees decline to provide transcribing services at this rate, the court may obtain transcription services at market rates from either the official court reporter employees or alternate transcription services and enter into a contract, not to exceed one year, for such services. This process shall be repeated on an annual basis. Until such time as an agreement is reached with official court reporter employees, the court shall be authorized to use alternative transcription services.

E. If portions of an electronically recorded proceeding cannot be understood, the transcript shall indicate [unintelligible] or [inaudible] as appropriate. The procedures under which this will be implemented will be referred to the Reporting of the Record Task Force for recommendation.

3. Use of Nonstenographic Reporting to Make the Official Record

A. A court reporter shall be used in the following trial court proceedings to make the verbatim record:

1. All felony matters
2. All juvenile proceedings presided over by a judge
3. All criminal grand jury proceedings
4. All unlimited civil proceedings in large courts which are defined as Alameda, Orange, Los Angeles, Riverside, Sacramento, San Bernardino, San Diego, San Francisco and Santa Clara.

B. In other than large court unlimited civil proceedings, the provisions of California Code of Civil Procedure section 269 and California Rule of Court 891 remain unchanged.

C. In all other proceedings where a verbatim record is required, that record may be made by a court reporter or by nonstenographic means approved by the Judicial Council.

D. The phrase “where a record is required” is not intended to alter current statutory provisions under which circumstances a record is required except as explicitly specified. Except as specified, the only change intended is to provide specific circumstances under which nonstenographic means of reporting the record is permitted.

4. Use of nonstenographic recording

A. Nonstenographic recording may only be used to record proceedings where specifically authorized by statute. Other than in those proceedings where nonstenographic recording is permitted by statute, nonstenographic methods shall not be used to make the official verbatim record. The use of such nonstenographic recording shall be limited solely to judicial officers and/or court staff. Such nonstenographic recording shall not constitute a public record and may not be given away, sold or distributed to anyone, including the public or parties.

B. The local trial courts shall annually report to the Judicial Council all purchases of nonstenographic recording equipment and the type and number of courtrooms in which it is being utilized.

5. Legislative Moratorium

Unless by mutual agreement, neither the Judicial Council/AOC nor CCRA directly or through proxies will propose, initiate, support, or lobby for any legislation to alter in any way the provisions contained in this agreement for 10 years from the effective date of this legislation. The Judicial Council/AOC and CCRA shall not, however, be estopped from taking a position on such legislation in the event that some other entity or person proposes or introduces it.

6. Integrated Document

This agreement is an integrated document and the parties agree that all provisions are interdependent. Any amendment of the terms of this agreement except by mutual consent of the parties shall constitute a breach of good faith and render this agreement null and void. The parties agree that they shall use their best efforts in support of this agreement.

Section 2.E of the Agreement: Identification of Inaudible and Unintelligible Speech in Transcripts

Section 2.E of the above agreement states that if portions of an electronically recorded proceeding cannot be understood, the transcript shall indicate “unintelligible” or “inaudible” as appropriate. For the purposes of this report, “unintelligible” is defined as not capable of being understood or comprehended, and the term “inaudible” is defined as not capable of being heard. The task force was asked to clarify the circumstances under which these terms may be used. A rule of court is recommended to provide transcriptionists and reporters with clear guidelines clarifying when the text of transcripts should be designated “unintelligible” and/or “inaudible.”

The task force developed the following guidelines for staff who would ultimately draft this rule if the provisions of the agreement are enacted. The rule, if created, would require transcriptionists and reporters responsible for transcribing an electronic recording to take the following steps:

1. Use the terms “unintelligible” and/or “inaudible” only when necessary to ensure an accurate transcript;
2. Use their best efforts to transcribe the recorded proceedings accurately;
3. Listen to the recording using playback equipment that is compatible with the equipment used to make the recording;
4. Listen to the recording of each individual channel (where individual channels have been recorded) when necessary to determine what has been said; and
5. Indicate in the transcript that a portion of the recording was “unintelligible” or “inaudible,” as appropriate, only when such efforts to understand the proceedings have been unsuccessful.

Compliance of Paper and Electronic Transcripts Produced From Nonstenographic Reporting Methods

All paper and electronic transcripts produced from nonstenographic reporting methods and transmitted to the courts must comply with all recommendations contained in this report.

Existing Statutory and Regulatory Provisions Affected by These Recommendations

Pursuant to AOC policies, this section lists relevant statutes, rules, and regulations, which should be reviewed for possible changes if this section's recommendations are

implemented. These citations generally deal with the ancillary powers and rights of those who produce the transcript (e.g., permitting payment to specified individuals, allowing specified individuals to administer oaths, or allowing specified individuals to report specified proceedings, such as telephonic or in camera proceedings), specifying who may report unlimited proceedings, and the definition of a “reporter's transcript.”

Code Civ. Proc., §§ 269, 273, 274a, 437(c), 651, 660, 914, 2093, 1953.06; Evid. Code, §§ 1042, 1062; Fam. Code, §§ 2451, 7895, 9005; Gov. Code, §§ 68086, 68525, 69941, 69942, 69944, 69946, 69952, 69953, 69955, 69956, 69957, 70137, 70141.11; Pen. Code, §§ 704, 817, 870, 871.5, 1127.

Cal. Rules of Court, rules 4, 4.162, 12, 31, 31.1, 31.2, 32, 32.1, 34.1, 35, 39.1A, 39.4, 39.8, 187.5, 890, 891, 980.5, 980.6.

VIII. STATEWIDE TRAINING FOR COURT REPORTERS

Charge

Evaluate and make recommendations regarding the training of court reporters.

Recommendation

11. Develop and implement a comprehensive curriculum for the training of official court reporters through the assistance of the Administrative Office of the Courts' Education Division.

Currently, there is no statewide training program for official court reporters beyond that required for their licensure. Some superior courts have developed training programs to educate official court reporters on the specific requirements of their positions.

Because the training programs were created by the courts to meet local needs, they vary in content and structure.

Statewide training for official court reporters would provide information concerning courtroom protocols, administrative responsibilities, transcript format, the legal mandates governing the profession, and changes to laws and rules.

At the request of the task force, the Education Division of the AOC collaborated with official court reporters in identifying the necessary elements of a comprehensive curriculum for the statewide training of reporters. Once the initial work is finalized, it will be available to courts and faculty to develop courses. These courses may be delivered through various training media, such as online courses, videos, and broadcasts. The training of official court reporters will remain one of the Education Division's ongoing areas of responsibility.

Note: The task force also recognized the need for court reporting training for other entities.

Existing Statutory and Regulatory Provisions Affected by This Recommendation

No existing laws, rules, or regulations appear to be affected by this recommendation.

IX. TRANSCRIPTS FOR CIVIL APPEALS

Charge

Evaluate and make recommendations regarding provisions relating to court reporting of the Appellate Rules of Court and related statutes.

Recommendation

12. Implement the following changes concerning paper transcripts for civil appeals:

- A. Amend the California Rules of Court so that the term “certified transcript” shall include either a certified original or a printout that has been certified as an accurate duplicate of the original.
- B. Amend the California Rules of Court to require the reporter to certify each printout of the transcript as an accurate duplicate of the original.
- C. Amend rules 4 and 9 of the Appellate Rules of the California Rules of Court to clarify and simplify the process in which a designated paper transcript is prepared for filing to the appellate court. At the request of the Judicial Council’s Rules and Projects Committee, the task force developed the following suggested language for rules 4 and 9:

Rule 4. Reporter’s transcript

(a) – (b) * * * [no change]

(c) Single transcript volume as substitute for deposit

If a party submits a single volume of certified transcript under (b)(3) as its entire designated reporter’s transcript, that volume’s index and reporter’s certificate constitute the master index volume.

(d) Multiple transcript volumes as substitute for deposit

(1) A party that designates more than one date for its reporter’s

transcript may substitute a certified transcript volume for any date as long as the transcript volume comprises the entirety of that day's proceeding.

(2) If all the designated transcript volumes have been prepared, the party must:

(A) prepare a bound master index volume consisting of duplicates of each transcript volume's index, reporter's certificate, and cover page complying with rule 9(c), and

(B) deliver the master index volume and all the designated transcript volumes to the clerk.

(3) If one or more of the designated transcript volumes has not been prepared:

(A) the party must deliver to the clerk duplicates of the cover page, index, and reporter's certificate of each transcript volume that has been prepared, and a duplicate of each prepared transcript volume;

(B) the clerk must forward the items received under (A) (excluding the duplicate of each prepared transcript volume) to the primary reporter or court designee;

(C) the clerk must safely store each delivered transcript volume until receipt of the completed designated transcript volumes and completed master index volumes from the primary reporter or court designee; and

(D) the primary reporter or court designee must prepare a bound master index volume consisting of duplicates of each transcript volume's cover page, index, and reporter's certificate, and must deliver the master index volume and each designated transcript volume to the clerk.

~~(e)–(g)~~ (e) – (i) * * * [no change to text]

Rule 9. Form of the record

(a) – (c) * * * [no change]

(d) ~~Daily~~ Certified transcript volume

~~Daily or other certified~~ A certified transcript volume of all or part of the designated proceedings, substituted for a deposit under rule 4(c)–(d), may be used for all or part of the reporter’s transcript as long as the transcript volume comprises the entirety of that day’s proceeding, but the pages must be renumbered consecutively and the required indexes and covers must be added.

(e) – (f) * * * [no change]

Background

The Judicial Council conveyed to the task force the broad responsibility of evaluating revisions to the Appellate Rules of the California Rules of Court forwarded to it for consideration. The council did not request that the task force review all of the appellate rules relating to court reporting.

In August 2000, the council's Rules and Projects Committee circulated proposed revisions to rules 4 and 9 for public comment. Rules 4 and 9 deal only with the reporter's transcript for civil appeals; they do not address other types of cases. Specifically, the committee proposed revisions to rules 4(b)(3), 4(d)(3), and 9(d). These rules allow parties⁶ in a civil suit to substitute "dailies" (certified and expedited transcripts of one day's proceedings) or partial certified transcripts as part of the record on appeal. Because the rules were written in a passive voice, it was not clear who was responsible for indexing, paginating, and binding such transcripts. The proposed revisions attempted to reaffirm that parties could submit transcripts of one day's proceedings or partial transcripts as the appellate record. The proposed revisions also clarified that the court reporter would be responsible for indexing, repaginating, and binding these transcripts for filing to the appellate courts. The court reporting community conveyed its opposition to these proposed revisions. So that resolution could be reached on this matter, these issues were forwarded to the task force as part of its charge.

The task force has developed suggested language for California Rules of Court 4 and 9. (See recommendation 12.C.) The task force would like to note that it has offered suggested language in response to a direct request from the Judicial Council's Rules and Projects Committee. The task force acknowledges that any revisions to rules 4 and 9 should occur within the council's rule amendment process. The revisions proposed by the task force rely on the incorporation of three other recommendations it has already developed: (1) that the transcript for each day's proceeding be contained in one separate volume (commonly known as "one day/one volume"); (2) that a "master index volume" be prepared when multiple transcript volumes are submitted for the appellate record; and (3) that the necessary information traditionally contained in a title page and cover page be merged into a new council form to be referred to as the "cover page." See section V, "Uniformity of the Transcript," for a more in-depth discussion of these recommendations.

⁶ For the purposes of this section, the word "parties" is defined as the persons who take part in the performance of any act, or who are directly interested in any affair, contract, or conveyance, or who are actively concerned in the prosecution and defense of any legal proceeding.

Intent of the Task Force

The recommendations concerning rules 4 and 9 deal with paper transcripts and are independent of the task force's recommendations regarding electronic transcripts. Specifically, the proposed revisions to rules 4 and 9 are meant to address litigants' current need to designate *paper* transcripts for filing to the appellate court. The task force recommends that the proposed rule revisions take effect as soon as possible to respond to this existing need. It is not necessary for the courts to transition to an electronic system before revising rules 4 and 9 as proposed in this section. While the task force has addressed this matter concerning paper transcripts, its overarching recommendation is that the courts transition to electronic transcripts and a Web-based system. When the courts transition to electronic delivery and the Web-based system, these rules should be reviewed again for consistency with the new system. Because it is possible that some litigants will possess paper transcripts well after the courts have transitioned to an electronic system, AOC staff will need to evaluate how courts can post both electronic and paper transcript volumes to this system.

Recommendation 12.A and 12.B

In considering its revisions to rules 4 and 9, the task force determined that it was also necessary to address the use of certified copies of the original transcript. For the purposes of this report, a transcript is "certified" when a reporter attests that the transcript is a verbatim, accurate, and complete memorialization of the oral proceedings.

Currently, reporters produce two types of transcripts: (1) original transcripts that are stamped "original" and include a certificate; and (2) transcript copies that are stamped "copy" and do not necessarily include a signed certificate. Although the litigant often purchases an original and one copy, reporters frequently store the "original" or provide it to the judge, and forward only the "copy" to the litigant. If the case is appealed, the litigant may not use the "copy" as part of the appellate record because it does not comply with current rules of court. To conform to the rules, reporters must repaginate all designated transcripts so that the pages are consecutively numbered, create a master index, and provide an appellate cover. Because repagination alters the transcripts, they are no longer "copies" of the original and are, instead, considered entirely new transcripts. Consequently, some reporters charge the litigant for another "original" transcript, even though the "copy" he or she previously purchased is essentially identical to the new "original" (except for page numbering, cover page, and lack of a certificate).

In the future, under proposed recommendations 12.A and 12.B, reporters will be required to certify all transcript volumes that they sell as *originals* or *accurate*

duplicates of the original. With the current use of computers and printers to produce transcripts, the traditional concept of a “copy” has changed. Now, most transcripts are printed from computer printers and are identical to the original. Carbon paper and copy machines, which once distinguished copies from an original, are no longer used. Accordingly, the task force recommends the words “accurate duplicate” be used to describe additional printouts of a transcript. With recommendation 12.A and 12.B, litigants will be able to purchase from the reporter two types of certified transcript volumes: (1) an original transcript volume with a reporter’s certificate attesting it is the original; and (2) a printout with a reporter’s certificate attesting that it is an “accurate duplicate” of the original. Because the task force has also recommended that transcripts be organized by one day/one volume and that the appellate record no longer be consecutively paginated, litigants will be able to designate certified transcript volumes already in their possession by date (whether the “original” or “accurate duplicate”) for filing to the appellate court. By being able to designate such transcript volumes, the costs of litigation will be reduced for appellants.

Recommendation 12.C

In proposing revisions to rules 4 and 9, the task force’s primary objective was to clarify and simplify the process in which a designated transcript is prepared for filing to the appellate court. The proposed revisions are intended to make it clear that a party may submit a certified transcript for just one day’s proceedings. As a result of the task force’s recommendation that each day’s proceeding be contained in one separate volume, parties will submit one or more transcript volumes rather than partial transcripts. If a party is submitting a transcript volume for only *one* day’s proceedings, that volume’s index⁷ and reporter’s certificate will suffice as the master index volume. A partial transcript of less than a full day’s proceedings may not be substituted.

When the party wishes to file transcript volumes for *two or more* days’ proceedings and all volumes are already prepared, no notice to prepare a transcript volume shall be given to the reporter. Instead, the party will be responsible for preparing a master index volume consisting of duplicates of each transcript volume’s cover page, index, and reporter’s certificate. The party will also be responsible for submitting the master index volume and accurate duplicates of each designated transcript volume to the superior court clerk’s office.

⁷ For the purposes of this report, the word “index” includes chronological witness indexes, exhibit indexes, and death penalty indexes.

The process for filing the appellate record will differ where the party wishes to submit transcript volumes for *two or more* days' proceedings, *but one or more of the designated volumes have not been prepared*. In this situation, the party must deliver to the superior court clerk's office duplicates of the cover page, index, and reporter's certificate of each transcript volume that has been prepared, and a duplicate of each prepared transcript volume. The clerk's office will then be responsible for forwarding these documents (excluding the duplicate of each prepared transcript volume) to the primary reporter or other designated employee. Upon the completion of all designated transcript volumes by the reporter(s), the primary reporter or court designee will then be required to assemble the necessary documents for the master index volume. Upon completing this responsibility, the primary court reporter or court designee will also be responsible for binding and forwarding the master index volume and all designated transcript volumes to the superior court clerk's office. To facilitate this process for parties, the task force also recommends that the council create a new form to incorporate the critical information traditionally contained in transcript title and cover pages. This new form will serve as the cover page for all transcripts for all purposes. By recommending that the council develop a form, the task force intends that parties will have easy access to a template that they can use to provide case-specific information for civil appellate cases without the necessity and expense of requesting that a court reporter create another cover page or reformat the transcript.

Revisions to rule 9(d) are proposed to reiterate that transcript volumes of one day's proceedings may be substituted for a portion or all of the reporter's transcript on appeal. Also, it will no longer be necessary to require that the *pages* of the reporter's transcript on appeal be numbered consecutively from volume to volume. Instead, parties will be able to assemble the designated transcript volumes for each day's proceedings in chronological order and forward these as the reporter's transcript on appeal.

Existing Statutory and Regulatory Provisions Affected by This Recommendation

Pursuant to AOC policies, this section lists relevant statutes, rules, and regulations, which should be reviewed for possible changes if this section's recommendation is implemented. These citations generally deal with the duties of a court reporter, page limits, and copies.

Code Civ. Proc., §§ 269, 271, 274a; Pen. Code, §§ 869, 871.5, 938.1, 1539.

Cal. Rules of Court, rules 4, 9, 35, 35.1, 35.2.

APPENDIX 1

Online Registration and Certification: Electronic Transcripts, Master Index Volumes, and Reporters' Notes

This appendix illustrates the recommendations discussed in section III,
“Electronic Delivery, Maintenance, and Storage.”

APPENDIX 1

ONLINE REGISTRATION AND CERTIFICATION: ELECTRONIC TRANSCRIPTS, MASTER INDEX VOLUMES, AND REPORTERS' NOTES

The task force recommends that the entire online process begin with registration by the court reporter, transcriber, or other authorized individual (hereafter the “user”). The user would be required to log into a secure Web-based system to electronically deliver three documents: the transcript, master index volume, and reporter’s notes. (See “Web Screen 1.”) The user would log on by entering certain identifying information (e.g., license number or another log-in number, and password). The user would need to begin and complete the registration and certification process for each document he or she intends to submit.

After the system grants access to the site, the user would be required to enter information concerning the judicial proceeding (e.g., case caption and case type). (See “Web Screen 2.”) The user would also indicate the type of document he or she is submitting (e.g., stenographic notes, a corrected transcript, and master index volume). The user would also indicate if he or she is transmitting a transcript or master index volume for a death penalty case. If the user indicates that the document relates to a death penalty case, the document should be electronically flagged to alert the superior court clerk and transmitted to a databank dedicated to death penalty documents to expedite its processing. Similarly, the user would indicate if he or she is submitting a sealed or confidential transcript. To protect against unauthorized access to sealed or confidential transcripts, the online registration system would also forward these documents to a separate databank. At this point, the user would also attach the electronic file to be submitted.

Next, the user would be required to click on an attestation box to certify that the document is complete and accurate. (See “Web Screen 3.”) The task force recommends that the implementation group develop standardized attestation language. Where a transcript is submitted, the attestation language should state that the document is verbatim, accurate, and complete. It should also include the page numbers of the transcript and the user’s license number or other identifying number. Where a master index volume or notes are transmitted, the attestation language should convey that the document is accurate and complete. This text should also include the page numbers of the document and the user’s license number or other identifying number.

The computer-generated certificate should contain much of the same information currently included in the paper certificate. A benefit to using a Web-based system is that it, rather than the user, can generate some of the certificate's information. The task force recommends that the computer-generated certificate contain the following information (the specific data that would be generated by the computer are indicated):

- The document's title "Reporter's Certificate";
- Name of the superior court;
- Case caption;
- Superior court case number;
- Appellate court case number;
- Standardized attestation language (computer-generated text);
- User's name;
- Page numbers transmitted;
- Date of proceeding;
- Number of words in the document (computer-generated data);
- User's electronic signature (computer-generated data);
- Date (computer-generated data); and
- User's license number or other identifying number.

Once the user has entered all of the required information, he or she will have the opportunity to verify the accuracy of the online process by reviewing the data shown on a confirmation screen. (See "Web Screen 4.") This screen should allow the user to verify that his or her entries were accurately recorded. The task force recommends a confirmation screen as part of the online process to better ensure accurate transmittals. When the user has entered all the necessary data, reviewed the confirmation screen, and attached the file, he or she concludes the registration process by clicking on a "submit" button.

Electronic Receipt for Users

After the user has completed the online registration and certification process, the system should immediately send an electronic receipt to the user. This receipt could be in the form of an e-mail. The electronic receipt would serve two major purposes. First, it would provide the user with documentation showing he or she has electronically filed the transcript, master index volume, or notes. Second, when transcripts are filed, the online system would automatically calculate the number of words in the transcript and the receipt would indicate the total number of words contained in the document. As discussed in section VI, "Word Rates and Responsibility for Electronic Transcripts," the online system would use a standard

software program to provide a word count. Because the receipts for filed transcripts would provide a word count, the user could use this receipt to invoice for the transcript.

The electronic receipt should include the following data elements:

- Name or location of the online site;
- Contact information for the online site;
- Name of the superior court;
- Case caption;
- Superior court case number;
- Appellate court case number;
- Page numbers transmitted;
- Date of proceeding;
- Number of words in the document;
- User's name;
- User's license number or other identifying number;
- Date of transmittal; and
- Time of transmittal.

The electronic receipt marks the end of the user's responsibilities with respect to the online process. Once the user has transmitted the document and received the receipt, the courts would assume responsibility for delivery, maintenance, and storage of the document.

MOCK WEB SCREENS FOR ONLINE REGISTRATION AND CERTIFICATION

Note: All reporters, transcribers, and other authorized individuals (hereafter “users”) would be required to complete the following online registration when submitting a transcript, master index volume, or reporter’s notes to the superior court.

WEB SCREEN 1

Log-in

License number or other log-in number:

Password:

Confirm password:

[New Users?](#) Click here for instructions on enrolling as a registered user of this system.
[This link would provide a broad level of information concerning the registration process and direct the user to the appropriate superior court for specific instructions.]

Notes regarding Web Screen 1:

- The registered user will enter his or her license number (or other log-in number) and password to gain access to the system.*
- To enroll as a registered user, a reporter, transcriber, or other individual would be required to follow established procedures. The pilot project’s implementation group would be responsible for developing these procedures.*

WEB SCREEN 2

User's Profile

Name: Jane R. Doe License number or other identifying number: X
E-mail: jdoe@courts.ca.gov [Update e-mail address](#)

Case and Document Information

Superior Court of California, County of:
[Drop down list of counties]

Case caption:

Superior court case number:

Appellate court case number:

Case type:
[Drop down list of all major case types, including misdemeanor appeals]

Date of proceeding:
[Month, date, and year to be clearly specified]

All pages you are submitting (e.g., 1-100, 150-200):

Are you submitting a transcript or master index volume for a death penalty case?
 Yes No

Please check the appropriate box below to indicate the type of document you are submitting:

- | | |
|---|--|
| <input type="checkbox"/> Stenographic notes | <input type="checkbox"/> Supplemental transcript |
| <input type="checkbox"/> Transcript for one day's proceedings | <input type="checkbox"/> Augmented transcript |
| <input type="checkbox"/> Transcript with redacted information | <input type="checkbox"/> Corrected transcript |
| <input type="checkbox"/> Sealed or confidential transcript | <input type="checkbox"/> Master index volume |

Page numbers of the sealed or confidential portions (e.g., 30-35)

WEB SCREEN 2 (continued)

Attach File	
Attach File:	<input type="text"/> <input type="button" value="BROWSE"/>

Notes regarding Web Screen 2:

- The user's name, license number (or other identifying number), and e-mail address will be replicated in this screen.
- Clicking on the "Update e-mail address" link will take users to a screen where they can edit their e-mail addresses.

WEB SCREEN 3

Attestation
<p><i>[The pilot project's implementation group will develop standardized attestation language. The attestation language should include the page numbers of the document submitted and the reporter's license number.]</i></p>

WEB SCREEN 4

Confirmation	
<p>You have provided the following information and documentation. Please confirm the accuracy of the following:</p>	
Name: Jane R. Doe	
License number or other identifying number: XX	
E-mail: jdoe@courts.ca.gov	
Superior Court of California, County of: Santa Clara	
Case caption: People v. Smith	
Superior court case number: 62-37511	
Appellate court case number: C045111	
Case type: Juvenile Dependency	
Date of proceeding: March 8, 2004	
Document submitted: Transcript for one day's proceeding	
Are you submitting a transcript or master index volume for a death penalty case? No	
<p style="text-align: center;">CONFIRM & SUBMIT CANCEL</p>	
<p style="text-align: center;">GO BACK</p>	

APPENDIX 2

Sample Cover Page

Superior Court
County of Riverside

)
Court of Appeal
Fourth Appellate District

IN THE FOURTH APPELLATE DISTRICT
OF THE STATE OF CALIFORNIA
RIVERSIDE COUNTY SUPERIOR COURT

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

Appellate Court No. E-123456

NON-STANDARDIZED TRANSCRIPT,

Superior Court No. 1

Defendant.

REPORTER'S TRANSCRIPT OF JANUARY 1, 2005

VERBATIM COMMENTS ON THE REPORTING OF THE RECORD TASK FORCE'S DRAFT REPORT

September 27, 2004 – November 5, 2004

Note: The public's comments are provided here in their original version. Notes by the Administrative Office of the Courts staff are contained in brackets. The comments are organized by the final report's sections and recommendations, rather than by commentator. Therefore, the names of commentators will appear more than once if they provided comments on more than one section.

SECTION I: THE TASK FORCE: BACKGROUND, CHARGE, COMPOSITION, AND PROCESS				
<i>No.</i>	<i>Commentator, Title, and Organization</i>	<i>Position on Report</i>	<i>Comment</i>	<i>Task Force Response</i>
1.	American Association of Electronic Reporters and Transcribers, Inc. (AAERT) Janet B. Harris, President	Do not agree with Draft Report	<p>Thank you for the opportunity to submit comments on the draft report. We appreciate the lengthy and difficult task undertaken by the members of the Task Force, and the time members have committed to this process. I am responding as president of AAERT, the American Association of Electronic Reporters and Transcribers, Inc., and on behalf of our board of directors.</p> <p>We would like to specifically address the Task Force's charge of an "in-depth examination of memorialization of the oral proceedings." After reviewing the Draft Report, it appears the only method of memorializing oral proceedings was by the stenographic method. The Task Force was charged with Leading Justice Into the Future; however, technological advances in digital recording and voice-writing were not represented nor included to any appreciable extent in this examination. We believe this very limited view will severely impact the courts in the future. Alternative methods of reporting are capable of producing an accurate and timely record in a cost-effective manner. Successful implementations of digital reporting can be found in various courts and governmental agencies in the United States and abroad. We recommend the Task Force include persons certified in their respective alternative method of reporting to ensure a fair and comprehensive review of these growing technologies.</p>	<p>The task force represented a forum in which stenographic reporters and the Administrative Office of the Courts (AOC) could work directly with each other to address numerous issues concerning court reporting services. Currently, the majority of transcripts purchased by the courts are produced by stenographic reporters. Therefore, most of the issues before the task force required reaching resolutions directly with stenographic reporters. Accordingly, 5 of the 17 task force members were stenographic reporters. In the event that existing statutes are amended to allow for greater use of alternative methods of reporting the record, the input of professionals in the fields and affected parties will be valuable.</p>
2.	California Official Court Reporters Association (COCRA)	Do not agree with Draft Report	<p>COCRA supports the Judicial Council's strategic plan, Leading Justice Into the Future, which calls for paperless courts and the use of realtime court reporting to ensure justice is administered in a timely and efficient manner. COCRA is also supportive of the Judicial Council's goals of broadening access to our courts through the simplification and standardization of court practices. Court reporting technology is the most accurate and efficient way of creating and distributing the</p>	<p>In 2002, the Governor's Office proposed the greater use of electronic recording as a cost-saving measure in response to the state's budget crisis.</p> <p>Regarding freelance reporter and union</p>

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	Paige Moser, Vice President		<p>verbatim record of court proceedings.</p> <p>In advance of these positions and goals, COCRA met with William Vickrey in 2000 and offered to open lines of communication and collaboration with the Judicial Council/Administrative Office of the Courts. The RRTF promised to bring forward the dialogue and reforms COCRA was seeking.</p> <p>Instead, during its two-year life, the work of the RRTF was disrupted twice when the Judicial Council/AOC unilaterally petitioned the Legislature to reduce court reporting services and to take production of court transcripts away from court reporters. Both of these actions failed and resulted in the California Legislature's reaffirmation of using court reporters to report court proceedings and to produce the transcripts thereof. Perhaps more profound was a re-engenderment of court reporters' mistrust/alienation due to the Judicial Council's/AOC's lengthy record of administrative/legislative attacks on the profession of court reporting.</p> <p>These most recent setbacks also confirmed COCRA's initial doubts about the composition of the RRTF, which was dominated by court administration and was deficient in trial level participation from the bench and bar. Freelance court reporters, who are called in to court under certain circumstances, were denied a seat on the RRTF. Organized labor, which represents those proprietary and professional concerns of court reporters which underpin so much of the RRTF's charge, was also excluded from participation on the RRTF. Therefore, many of the RRTF's recommendations are flawed because they ignore or inadequately address the concerns of court reporters as producers of the court record.</p>	membership on the task force, see the responses to comments from the Deposition Reporters Association and Service Employees International Union in other sections of this chart.
3.	<p>Court of Appeal, Fourth Appellate District</p> <p>Hon. Judith McConnell Hon. David G. Sills Hon. Manuel A. Ramirez</p>	Not stated	<p>The setting out of the background, charge, composition and process did not reflect certain perspectives and issues respecting court reporting as seen by the judicial branch user.</p> <ul style="list-style-type: none"> ▪ Court reporters consistently delay preparation of reporter's transcripts one month in criminal cases and two months in civil cases. ▪ Too frequently the reporting and transcription is of poor quality. ▪ A paper transcript promotes efficient, thorough, and ergonomic research of the record. ▪ The fewer volumes of reporter's transcript, the better, as long as the pages 	Transcript preparation delays and quality of transcripts are important issues. However, they were not within the scope of the task force's charge.

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			<p>per volume are limited to about 300 (Cal. Rules of Court, rule 9(c)(1)).</p> <ul style="list-style-type: none"> ▪ Cross-volume consecutive pagination and volume numbering promote ease of reference to pages in a reporter's transcript. 	
4.	Mary Ann Lutz, President, Lutz & Company, Inc.	Agree with Draft Report only if modified	<p>The make up of the membership of the Task Force was, in general, incomplete. Several of the items in the charge require input from all court reporting methods currently functioning in the State of California's court system. The American Association of Electronic Reporters and Transcribers (AAERT) requested that a member of their association be afforded a seat at the table to offer perspective from an electronic court reporter's point of view. This request was denied. As the Past President of AAERT and an electronic court reporter for more than 18 years, I attended every Task Force meeting as a member of the public audience.</p> <p>The topics of the Task Force were primarily focused on format, standardization and the introduction of electronic transcripts to the state court system. These benign topics were dealt with carefully and with great attention to details. However, it was evident that the membership of the Task Force did not have adequate information regarding electronic reporting, how it functions, its technological advances and how the recommendations proposed would impact electronic reporting transcripts and/or reporters. Several times I made comments to the Task Force during the public comment period in an attempt to clarify these points. These comments were always met with much gratitude from the Task Force members. Unfortunately since public comment is only allowed once each day at the beginning of the agenda, the comments came after the discussion and a majority of the time the Task Force did not revisit the issues to allow for revisions or new discussions.</p> <p>Charge Number 9 has not been met. The Charge states, “Shortage of qualified court reporters, including such issues as recruitment, retention, and the consequent need to develop criteria for the use of alternative methods of reporting and maintaining the record.”</p> <p>This charge speaks directly to the method of electronic reporting. At no occasion did the Task Force discuss electronic court reporting, the technology, the method, the day-to-day functions, and preparation of transcripts. The facts regarding superior reporting, cost savings, and accuracy of transcripts, training</p>	See response to comment 1. Task force meetings provided time on the agenda for public comment so that views from those not represented on the task force could be heard. Ms. Lutz often shared information with the task force during the public comment portion of the meetings.

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			<p>and certification of electronic reporters and transcribers were never discussed. While there were demonstrations regarding technology and software of stenographic court reporting no such demonstration of electronic court reporting took place. This is a tremendous disservice to the Task Force members, California courts and the users of our court system.</p> <p>The Chair of the Task Force along with a small hand selected committee met in private with stenographic court reporting associations to accomplish an “agreement” to include some use of electronic reporting. Then this Task Force was asked to ratify the agreement and make it part of this draft. Again, never did this Task Force review aspects of electronic reporting. This Task Force was even asked to comment on “inaudible” portions of recorded proceedings. I submit to you that no evidence regarding what is an “inaudible” was shown. The assumption that “inaudible” is a phenomenon restricted to electronic reporting was promulgated without evidence, or real information, only speculation and pure conjecture from stenographic reporters who do not work with electronic reporting or have technical expertise in the field. Therefore, how could anyone expect this Task Force to make an informed, intelligent decision.</p> <p>Thus, the Task Force has failed to obtain a clear understanding of the alternative methods of court reporting. There should have been a full discussion of electronic reporting as well as Stenomask or Voice Writing reporting so that the entire Task Force fully understood the implications of their decisions and votes.</p> <p>Charge Number 9 has not been accomplished as the Task Force dealt with issues and made judgments with neither evidence nor information. They never had an opportunity to discuss what “non-stenographic method” is, how it works, the costs, how will those reporters be trained, et cetera.</p>	
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SECTION II: PRIMARY FOCUS OF THE TASK FORCE AND DEFINITION OF “THE RECORD”

<i>No.</i>	<i>Commentator, Title, and Organization</i>	<i>Position on Report</i>	<i>Comment</i>	<i>Task Force Response</i>
4.	Mary Ann Lutz, President,	Agree with Draft	The draft report states that, “The Task Force's primary focus was an in-depth examination of the memorialization of the oral proceedings and its integration	See response to comment 1.

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	Lutz & Company, Inc	Report only if modified	with other elements of the official court record.” This primary focus has not been met. This Task Force did not engage in “an in-depth examination of memorialization of the oral proceedings.” Currently the State of California has provisions for the use of electronic court reporting in the superior court for several hearing and proceedings. These memorializations of the oral proceedings were not examined, in fact barely acknowledged, and certainly not in an “in-depth” manner.	
SECTION III: DELIVERY, MAINTENANCE, AND STORAGE				
No.	Commentator, Title, and Organization	Position on Report	Comment	Task Force Response
5.	American Association of Electronic Reporters and Transcribers, Inc. (AAERT) Janet B. Harris, President	Do not agree with Draft Report	The Draft Report addresses several issues related to the maintenance, delivery, and storage of the court record. In the future, these issues will also apply to digital recordings as well as text documents. The preservation of the court record, from memorialization to storage, can be efficiently and cost-effectively achieved in a variety of ways, and so we encourage the Task Force to develop procedures and training for these alternative methods.	These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.
6.	Appellate Court Clerks, Courts of Appeal	Not stated	We are in favor of adopting standards to enable the electronic delivery, storage and maintenance of the reporter’s transcripts. However, it is not clear from the proposal that delivery to a party or a court of a bound paper copy is allowed for. Courts and parties will still need to be able to receive from the reporter(s) bound paper copies. Adopting standards for inclusion of the transmittal of electronic copies must not preclude the ability of requiring bound paper copies from the reporter. The responsibility for printing and binding of an official record should not be placed on the courts or the parties. Though the task force states that they ”...generally shared the view that transcripts should be delivered electronically in the future”, this court will still require a paper copy. Though we heartily welcome the addition of an electronic copy, we will require both from the reporter for the foreseeable future. This court	Ability to print transcripts – The task force does not recommend the elimination of the printed transcript. Instead, it proposes that reporters post electronic transcripts to a secure Web-based system for the courts to manage. Paper transcripts would not be eliminated because authorized users would be able to print out the transcripts or portions thereof that they need in paper form. Over time as practices evolve, it is anticipated that there will be a decreased need for paper

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			<p>will not support placing the burden on the courts to produce paper copies.</p> <p>Appendix 1 (Web Screens 2-4) Assuming the information in this screen is later searchable, it would be helpful to include the trial court judge’s name. There should be a button option for the reporter to indicate that additional material for the same case is being submitted so that the system will “remember” the county, caption, case number, etc., leaving the date of proceedings, page number, etc. blank.</p> <p>Web Screen 3 should include redaction certification.</p>	<p>copies of entire transcripts. The task force believes that an electronic system will meet the needs of both those who prefer paper transcripts and those who wish to utilize the benefits of electronic records. These benefits include the ability to cut and paste text, search for key words or phrases, download, transport on light-weight disks after downloading, and transition from expensive paper storage.</p> <p>Printing expense is a judicial branch budget issue that will be evaluated during implementation.</p> <p>If these recommendations are approved, the comments concerning the Web screens will be referred to the AOC staff that will implement these recommendations.</p>
7.	<p>California Court Reporters Association (CCRA)</p> <p>Yvonne Fenner, President</p>	<p>Agree with Draft Report</p>	<p><u>Comments:</u> Although CCRA realizes that the draft report is concepts only, CCRA feels some comments need to be made in relation to implementation. As to security on page 12 of the draft report, CCRA feels that safeguards must be in place so unauthorized persons do not gain access to certain transcripts. Specifically, juvenile court transcripts are not sealed, but are closed hearings but are they classified confidential? Others would include grand jury proceedings which are sealed until ten days after the transcript is picked up and the parties are given the opportunity to request the court keep the transcripts sealed. In a sexual assault on a child felony case, the transcripts should be released only to authorized parties to keep the privacy of the minor. Other hearings that come to mind are mental health hearings, rape of adult victims, adoptions, jury voir dire transcripts in criminal cases, and many others.</p> <p><u>Rationale:</u> The rationale is obvious in that minors are to be afforded privacy</p>	<p>Security of documents – Protecting the privacy of individuals and establishing safeguards against unauthorized access are vitally important to the courts. The security of the transcript was a major concern of the task force and was extensively discussed. The task force’s role was to develop broad-level policy recommendations. If these recommendations are approved, AOC staff will evaluate and propose the specific structure, safeguards, protocols, and other features of the system. This would be a lengthy process involving</p>

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		<p>from the public and victims. If the names of victims of sexual assault, mental health proceedings, adoption, and rape were to be placed on any electronic server, it could result in ridicule or worse to the victims. If juror's names that were not redacted (jurors who were questioned but did not serve) were to be put out on an electronic server, this could result in untold problems from contact or worse.</p> <p><u>Comments:</u> The various major software vendors that support court reporters should be consulted as to the implementation of electronic transcripts.</p> <p><u>Rationale:</u> The courts and reporting software vendors working together to implement electronic transcripts would benefit both the courts and court reporters in making this process efficient and workable. Input from the vendors would be crucial in helping the vendors understand what the courts want, and the vendors being able to supply the necessary requirements to the court reporters.</p> <p>WEB SCREEN TWO</p> <p><u>Comments:</u> CCRA feels there should be more accountability on sealed or confidential transcripts than just a box that is checked.</p> <p><u>Rationale:</u> Sealed and "confidential" transcripts often involve issues having to do with confidential informants, relocated witnesses, police officer's personnel files and other sensitive information which, if made public, could result in physical harm, reputations harmed, and even death.</p> <p>There have been situations in some larger jurisdictions where sealed and other information was made public by inadvertence on the part of the reporter, court clerk and even judges.</p> <p>A system should be in place which ensures the transcript the reporter is filing is not one that has been ordered sealed. By merely having the reporter "check a box" CCRA feels is not sufficient. Perhaps the filing of an affidavit by the reporter that there is no sealed transcripts in the filed transcript would ensure the transcript is not sealed information.</p>	<p>collaboration, research, and further council actions. Current rules of court, and laws on privacy and access will need to be amended so that they also apply to the electronic transcript and the Web-based system.</p> <p>It is anticipated that consultation with court reporting software vendors will take place during the feasibility study and pilot project.</p> <p>Web screen two and separate screen for notes – These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p>
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			<p>Clarification needs to be put forth on what is a “confidential” transcript. As stated in comments above, if the testimony or names of victims of crimes involving minors, or rape victims, etcetera, were to be made available for public view, this could result in untold problems.</p> <p><u>Comment:</u> A separate screen should be provided for note storage.</p> <p><u>Rationale:</u> A reporter’s notes are not the official certified transcript, and should not inadvertently be attached with the official, certified transcript.</p>	
8.	<p>California Official Court Reporters Association (COCRA)</p> <p>Paige Moser, Vice President</p>	Do not agree with Draft Report	<p>COCRA requests to be kept apprised of the formation of and be afforded an opportunity to participate in the work of a pilot project for the delivery, maintenance, and storage of the electronic transcript, master index, and reporter’s notes.</p>	<p>It is anticipated that the court reporter associations will have an opportunity to be involved during the development of the Web-based system.</p>
9.	<p>Court of Appeal, Third Appellate District</p> <p>Hon. Arthur G. Scotland Hon. Coleman A. Blease Hon. Rick Sims Hon. Rodney Davis Hon. George W. Nicholson Hon. Vance W. Raye Hon. Fred K. Morrison</p>	Not stated	<p>Preliminarily, we acknowledge our lack of specialized expertise in many topics discussed in the Draft Report, such as security of electronic transcripts and remuneration of court reporters. Thus, we forgo comment on many of the issues raised by the Draft Report and, instead, focus our remarks on a single topic of great concern to our court.</p> <p>The report appears to recommend the delivery, maintenance, and storage of the reporter’s transcript only in “a form that can be transmitted electronically.” (Recommendation 1 A & B.)</p> <p>We assume this means that no paper copy of the reporter’s transcript will be provided to the primary users of an appellate record, such as appointed appellate counsel and deputy attorneys general in criminal cases, and the appellate court, including appellate justices, their staff attorneys, and judicial assistants.</p> <p>If this assumption is correct, those users of the appellate record will have to read and review the reporter’s transcript by either (1) viewing it on a computer</p>	<p>See response “ability to print transcripts” to comment 6.</p>

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<p>Hon. Harry E. Hull, Jr. Hon. Ronald B. Robie Hon. M. Kathleen Butz</p>	<p>monitor, or (2) producing a paper copy of the record from the electronic transcript.</p> <p>Requiring users to read and review the appellate record solely by viewing computer monitors is simply not a viable option.</p> <p>The primary users of appellate records read and reread thousands of pages of reporter's transcripts each month. As former attorneys and now justices of the Court of Appeal and employers of judicial staff attorneys and judicial assistants, we know first hand how difficult it is to read volumes of written material by viewing a computer monitor.</p> <p>For example, some users suffer physical ailments from having to read volumes of information by viewing a computer monitor, including eye strain and repetitive stress injuries from scrolling. Others find that they can miss important information when reading off a screen rather than paper.</p> <p>And most users utilize the word processing capabilities of their computer while reading or reviewing the record. Therefore, to maximize speed and efficiency, they would have to simultaneously use two computer monitors, or a split screen that makes reading even more difficult.</p> <p>Also, in reviewing the record, conducting legal research, and drafting legal arguments, users of the appellate record must be able to view multiple pages of the record at the same time and to quickly re-reference pages in the record. Many users accomplish these tasks by marking pages of the record with paperclips or adhesive notes. Examining the record on a monitor does not allow the simultaneous viewing of multiple pages of the record in a readable manner, and using computer features to mark or annotate pages is fraught with danger because it alters the electronic record.</p> <p>Thus, in most cases, the primary users of the appellate record will have to use a paper copy of all or portions of the reporter's transcript. And this means that if the reporter's transcript is transmitted electronically to counsel and to the Court of Appeal, each of those users inevitably will have to print out a paper copy</p>	
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			<p>of all or selected parts of the transcript.</p> <p>The Draft Report fails to account for the costs of printing, which would be substantial and would include the cost of printers, paper, binders, and personnel to monitor the printing and binding processes. Rather than the court reporter simultaneously printing multiple copies of the transcript, each user will have to incur the cost of individually printing and binding the transcript.</p> <p>Particular consideration needs to be given to the cost of personnel to monitor the printing process. This is so because governmental entities, such as the Courts of Appeal and the Attorney General’s Office, will have to hire additional public employees; whereas court reporters undoubtedly are able to use private independent contractors at market rates.</p> <p>For these reasons, we strongly advocate that, prior to the adoption of any program establishing transmittal of the appellate record solely by electronic means, a thorough examination must be made of the cost-effectiveness of transferring the financial burden of producing paper copies of reporters’ transcripts to the Courts of Appeal and other users of the appellate record.</p> <p>We fully recognize the benefits of having digital copies of the reporters’ transcripts. But if a decision is made to require delivery of reporters’ transcripts in electronic form only, and thus to impose upon users the cost of producing paper copies, the budget of the Courts of Appeal must be supplemented to cover this added fiscal burden.</p> <p>Also, if electronic delivery is not cost-effective with respect to the appointed counsel program, the budget for that program must be supplemented.</p> <p>Thank you for consideration of these comments.</p>	
10.	Court of Appeal, Fourth Appellate District Hon. Judith	Not stated	<p>In some respects the report failed to address the disadvantages of electronic reporter’s transcripts.</p> <p>Necessity of Paper Transcripts pp. 11-12.</p>	See response “ability to print transcripts” to comment 6. The task force considered both the advantages and disadvantages of electronic transcripts. If these recommendations

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	<p>McConnell Hon. David G. Sills Hon. Manuel A. Ramirez</p>	<ul style="list-style-type: none"> ▪ Because a monitor is in a fixed position, an on-screen reporter’s transcript is not as comfortable to read as a paper version, which can be moved to accommodate a larger variety of reading positions. ▪ The advantage of a variety of reading positions is felt most when reading the transcript through, required in the majority of cases at one point or another, as opposed to reading discrete passages. ▪ Also, flipping back and forth between different passages in the same volume, and especially in different volumes, flows more easily in paper volumes than on the screen. ▪ The screen is already occupied primarily with the draft and secondarily with legal research—adding a reporter’s transcript crowds an already busy screen. ▪ Because of the necessity of paper transcripts, exclusively electronic transmission by reporters will shift the cost of printing and binding paper transcripts to the courts, requiring additional supplies, equipment, and personnel. ▪ Accordingly, we recommend that for now the original record filed with the court and the copy of any criminal record given to an appellant be in paper. <p>Accessibility p. 12.</p> <ul style="list-style-type: none"> ▪ An overarching standard for the use of electronic transcripts must be accessibility. ▪ Every user should be able to easily obtain and download the transcript at his or her computer. ▪ The electronic transcript should be word searchable in a fashion similar to legal database searches and facilitate copying of passages or the entire transcript to a Word document. If downloaded, it should also permit margin notation and highlighting. <p>Security p. 12.</p> <ul style="list-style-type: none"> ▪ We query whether security at the level necessary to responsibly insure against unauthorized disclosure of a confidential informant’s name in a “sealed” transcript is attainable on a website. ▪ Appendix 1 clarifies that sealed or confidential transcripts would be 	<p>are approved, the comments will be referred to the AOC staff that will implement these recommendations.</p>
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		<p>forwarded to “a separate databank.” (P. 45.) However, if the separate databank is on the website, can security be gained? Even if physically located on a different computer, cannot any database connected to the Internet be invaded?</p> <ul style="list-style-type: none"> ▪ The most thoroughly protected websites and computer systems, such as the CIA and Department of Defense, have been “hacked.” ▪ If other states have experience using a website like the one proposed for their confidential informant hearing transcripts, their views on and experience with security problems would be helpful. ▪ In situations in which disclosure would not threaten someone’s life, sealed and unsealed reporter’s transcripts could responsibly be put on a website. ▪ Encryption of documents on the website, in addition to the restriction of access to the website by password, should be sufficient for sealed transcripts from Marsden hearings to dependency proceedings. ▪ When security is a life-or-death matter, exclusively paper, sealed reporter’s transcripts may still be necessary. ▪ E-mailing reporter’s transcripts to the superior court clerk appellate divisions has the relative advantages of simplicity (no website to maintain) and lessened exposure to hackers. <p>Timeliness p. 12.</p> <ul style="list-style-type: none"> ▪ One of the overarching standards must be compliance with the timeliness requirements of the California Rules of Court. ▪ The transportation or transmission of reporter’s transcripts is not a key element of the timely filing of reporter’s transcripts—it will save at most a week when we need to save months. ▪ The Task Force should first note that “timely” in criminal cases is 20 days after the notice of appeal is filed (Cal. Rules of Court, rule 32(d)(3)), and in civil cases means within 30 days after the reporter is notified (Cal. Rules of Court, rule 4(f)(1)). ▪ From April through June 2004, the statewide median for filing a record in a criminal case was 55 days, and for filing a record in a civil case was 97 days. ▪ This statistic means that half of the records filed in criminal appeals were over a month late, and half of the records filed in civil appeals were over two 	
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			<p>months late!</p> <ul style="list-style-type: none"> ▪ The reason for the delay is not preparation of the clerk’s transcript, but reporters’ extensions. ▪ The primary reason reporters regularly exceed these limits is that they are in the courtroom when they should be preparing transcripts. ▪ Unless superior court judges are willing to pool their reporters, and the reporters are willing to be pooled, so the only reporters in courtrooms recording oral proceedings are reporters who have completed their transcripts within 20 or 30 days, we will never even notice the small improvement made by electronic transmission. <p>Transcript Management p. 12.</p> <ul style="list-style-type: none"> ▪ We have little experience with long-term electronic storage of documents. At least two kinds of difficulties can cause a loss of data. ▪ First, the hardware for retrieving the document from the storage medium may not be available ten years after the initial storage. ▪ Second, the medium itself may become defective over time. ▪ Duplicate storage, rerecording the information periodically, and transferring to newly developed media may manage these difficulties. ▪ The Task Force should study the viability of electronic storage media and recommend the particular media and policies to insure the permanent accessibility of the stored transcripts. 	
11.	<p>Los Angeles County Court Reporters Association (LACCRA)</p> <p>Therese Claussen, President</p>	<p>Agree with Draft Reporter only if modified</p>	<p>In reviewing the Web Screen 2 example for online registration and certification, it does not allow for more than one box to be checked as applicable. A single transcript could include “Transcript for one day’s proceedings,” “Transcript with redacted information,” and a “Sealed or confidential transcript.”</p> <p>The draft report does not reference who will be responsible for separating out sealed/confidential portions of transcripts once filed on the Web-based system. Our concern is that there is major room for error by the reporter in not appropriately designating sealed portion(s) that are downloaded as part of a large transcript. Though infrequent, this does occur now with paper transcripts. A non-reporter will likely have insufficient expertise to recognize and handle sealed proceedings. Appropriate safeguards must be in place to manage these sensitive</p>	<p>These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p>

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			<p>transcripts. In addition, for multi-volume transcripts, several sealed proceedings could occur in one day and there is no way of independently identifying those portions. This will be problematic especially when one or more parties are not allowed to be privy to the contents of various sealed transcripts.</p>	
12.	Official Court Reporters of the Superior Court of Stanislaus County	Agree with Draft Report only if modified	<p>The official reporters of Stanislaus County support the concept of electronic filing transmission and storage of the court reporter’s stenographic notes as proven, reliable and cost effective.</p> <p>Electronic notes storage is currently available and should be implemented with funding to the local courts.</p> <p>We also support the concept of electronic transcript filing and storage, however, we believe it is in its infancy and should be explored further before any specific guidelines related thereto are adopted.</p> <p>Specific guidelines and procedures are premature.</p> <p>Appropriate pilot projects should be undertaken and examined before the recommendations and guidelines are established and implemented, and we would appreciate further opportunity to comment at that time.</p> <p>Offers undisclosed difficulties for users of the record, i.e., pro per litigants, in-custody pro per defendants, those without computer access, knowledge or familiarity. These litigants’ rights and limitations must be recognized and addressed as users of the record and court reporting services, not simply the courts themselves.</p> <p>Web-based technology has fallen short of expectations, with periods of inaccessibility, and may prove a difficult and unreliable manner of transcript filing and meeting the stringent transcript filing deadline requirements.</p> <p>Programs capable of maintaining record security and integrity as well as format through email transmission are proprietary and may not prove cost effective when more closely examined.</p>	<p>These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p>

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			<p>Recommendation III, B, refers to accessibility of authorized persons. It is unclear who would be considered an “authorized person” to access and manipulate the transcript. Authorizing others besides official reporters to do so severely compromises the accuracy and integrity of the record itself.</p> <p>Additional services would be required of other court employees, including clerical and technology units, unaccustomed to handling secure reporter transcripts. Additional services and equipment would be required to meet the demand for filing and deadlines. Substantial implementation and auxiliary and maintenance costs would result.</p>	
13.	The State Bar of California, Committee on Appellate Courts	Not stated	<p>The Committee supports Recommendations 1, 2, and 3 in principle, subject to the following comments.</p> <p>Overall, the recommendations are a positive first step in the direction of a more efficient and accessible Web-based system for delivering, storing and maintaining electronic reporter’s transcripts. Searchable and electronically transmittable transcripts will be more efficient and less cumbersome than a solely paper-based system. A Web-based system would also help alleviate issues surrounding access to transcripts by making them available – at any time after preparation – to the parties, amici, the media and any other interested persons.</p> <p>The transition to a Web-based system, however, raises concerns involving the ability of individuals without access to computers or the Internet to retrieve the electronic record. The recommendations are also very general in nature and offer no concrete details involving security, cost-effectiveness, tracking, backup, cataloguing, search capabilities, instantaneous transmission, permanent archival, and protocols for retrieval, access, and destruction. Nor do the recommendations discuss who would be responsible for funding and maintaining the Web-based system and who would have access to the online transcripts. Finally, the recommendation for the pilot project does not specify either its scope or duration. Until those details are worked out, the Committee can only offer a tentative approval – approving the concept – but cannot offer a final view.</p>	See response “security of documents” to comment 7. These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.
14.	Superior Court of San Diego County	Agree with Draft Report if	Establishing and adopting overarching standards for the delivery, maintenance, and storage of the “electronic” and paper media transcript, master index, and reporter’s notes is definitely a step in the right direction toward paperless	These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-

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	Stephen V. Love, Executive Officer, and Court Managers	clarified	<p>operations. The electronic delivery, maintenance, and storage system provides a platform for instantaneous delivery and accessibility available to authorized persons twenty-four hours each and every day. By ensuring that the standards for electronic transmission, maintenance, and storage of court reporter products include security, accessibility only to authorized persons, and cost-effectiveness; numerous goals have been identified and will be met.</p> <p>The establishment of a secure Web-based repository to receive, maintain, and store the electronic court reporter products would provide a comprehensive electronic tracking system with search capabilities as well as offsite backup. In addition, it would be beneficial if a separate folder could be created for court reporter transcripts that would be tied into the case management system.</p> <p>In an undertaking of this magnitude, it is essential that a pilot project be conducted for the delivery, maintenance, and storage of the electronic transcript, master index, and reporter’s notes. However, the “security” of sensitive or sealed transcripts and notes may prove particularly daunting. Consideration should be given to delaying the integration of any sealed sessions into the system during (or even beyond) the pilot project. This would provide additional time to test and possibly enhance the repository’s security.</p>	based system.
15.	Superior Court of Santa Clara County Kiri S. Torre, Executive Officer	Not stated	<p>We strongly support the establishment of statewide specifications for the mode of delivery of transcripts, master index and reporter's notes, and for the maintenance and storage of those notes. The advantage is an efficient uniformed ability to store, maintain and transmit transcripts.</p> <p>Delivery, Maintenance and Storage : Agree with the recommendations, but would recommend mandates as opposed to guidelines. Establishing mandated specifications necessary for the electronic storage of notes will provide a smoother transition from old record storage to the new electronic version. Storing the notes electronically will save costs associated with:</p> <ul style="list-style-type: none"> ▪ Storage space (both in the cramped court reporters' offices and in limited warehouse space) ▪ Transporting, retrieval, maintenance and destruction of notes ▪ Creates a more expeditious process for production of transcripts 	These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.

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			Appendix: We recommend establishing a comprehensive electronic method to produce, distribute, track and compensate for transcripts. Automation of the payment functions to the court reporter would afford consistency, accountability and efficiency.	
16.	Jill Langley, Official Court Reporter, Superior Court of San Bernardino County	Not stated	<p>I understand the courts’ desire to retain ownership of the transcripts and sell copies. I understand that the courts are anxious to eliminate the costs of copy fees paid to court reporters. My main concern is with the electronic filing of the record and maintaining the integrity once the transcript has been filed. Anyone with the ability to purchase the software programs will be able to alter the record. Many software companies offer software editing and stations at reduced rates for the convenience of their customers that do not have the ability to translate but perform other functions. Certification will be a major concern.</p> <p>There are numerous problems with the proposal as written. While I agree that there is a need to change the system as it exists currently, I hope that you take careful consideration and come to a fair and equitable solutions for all involved.</p>	See response “security of documents” to comment 7.
17.	Dana Ann Parks, Sr. Judicial Attorney IV, Court of Appeal, Second Appellate District, Division Two	Do not agree with Draft Report	<p>[The following comment was submitted through the report’s online comment process.]</p> <p>I am vehemently opposed to any proposal to do away with hard copies of the Reporter's Transcripts. Putting transcripts on the computer will destroy my ability to do my job. My extremely poor eyesight of 20/850 makes me legally blind, without correction. I do almost no legal research online due to my limited vision. I will be unable to read Reporter's Transcripts online.</p> <p>Furthermore, attempting to discern lettering on the computer gives me headaches and compromises my health. An ADA accommodation will be necessary if the Judicial Council proceeds with its ill-advised proposal to do away with the printed Reporter's Transcript.</p> <p>[The following comment was submitted through an e-mail sent to Mr. William C. Vickrey, Administrative Director of the Courts, Administrative Office of the Courts, dated October 19, 2004]</p>	See response “ability to print transcripts” to comment 6.

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		<p>Dear Mr. Vickrey:</p> <p>I am a senior judicial research attorney in Los Angeles. I work for Roger Boren, the APJ of the Second District. It has just come to my attention that a Judicial Council Task Force is proposing important changes to the creation of appellate records. Apparently, there is a move afoot to eliminate the hardbound, printed Reporter's Transcript. Everyone I have spoken to in the Second District, justices and attorneys alike, is opposed to eliminating the printed Reporter's Transcript.</p> <p>My concern is that any proposal to eliminate the printed Reporter's Transcript is coming in "under the radar." Justice Boren did not even receive a copy of the draft proposal, and was surprised when I brought it to his attention. If, in fact, there is any plan to eliminate the printed appellate record, it is essential that such a proposal receive the fullest possible airing before the people who are the most affected; i.e., those of us who read tens of thousands of pages of transcripts every year. I hope that we can count on you to protect our eyesight and our interests by ensuring that the affected appellate justices and attorneys are individually notified and asked for comment before any plan to eliminate printed transcripts is implemented.</p> <p>Thank you for your consideration. Dana Parks</p> <p>[The following comment was submitted through a follow-up e-mail sent to Mr. Kenneth Kann, Supervising Attorney, Office of the General Counsel, Administrative Office of the Courts, dated October 21, 2004]</p> <p>Dear Ken: I'm glad to see that someone at the AOC is looking into this. The draft proposal is extremely vague and ambiguous. The only hint of where they are headed is on page 42 of the draft, which states that the task force "has developed an overarching recommendation that all court RTs be electronic and transmitted electronically . . ." There has been a vigorous discussion in the Second District regarding this recommendation, and there is not a single person here who supports the elimination of a printed reporter's transcript. The overall consensus is that (1) a printed RT for the appellate record is a necessity; (2) it</p>	
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			<p>would be nice to have a disk or electronic version IN ADDITION to the printed copy to facilitate word and topic searches in large records.</p> <p>We are hoping to head off the task force's "overarching recommendation" to eliminate the printed transcript. It would, quite simply, prevent us from doing our jobs. If the AOC can weigh in to the debate by forcefully presenting our opinion on the topic, that may help prevent future problems. Hope to hear from you soon. Dana</p>	
18.	Corrine Pochop, Asst. Clerk/ Administrator, Court of Appeal, Sixth Appellate District	Agree with Draft Report only if modified	<p>Regarding Appendix 1 (Web Screens 2-4): Assuming the information that is added to this screen is later searchable, it would be helpful to have the trial court judge's name listed. Since a reporter will have to complete this form for stenographic notes and again for each day's transcript, will there be a button option for the reporter to go back to the form to submit additional material for the same case after the first information has been confirmed and submitted? (The system would "remember" the county, caption, etc., leaving the date of the proceeding, page number, etc. blank.)</p> <p>(Web Screen 3): Please include standardized redaction certification language.</p>	These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.
19.	Mel Toomer, Deputy Court Executive Officer, Superior Court of San Mateo County	Not stated	<p>It is unclear whether the reporter's notes referred to are the raw daily notes or those associated specifically with a transcript that is e-filed. The notes should be electronically stored separate from any transcripts which are e-filed.</p> <p>WEB SCREEN 2 – Stenographic notes. This is not clear, as previously noted in comments regarding Section III.</p> <p>WEB SCREEN 4 – If a word count is implemented the confirmation program will need to include a word count confirmation.</p>	<p>In the context of the task force report, the term “reporter’s notes” refers to the court reporter’s stenographic notes that have not been translated into English text. The task force agrees that these notes should be transmitted and stored separately from electronic transcripts. Regarding a separate screen for notes, this issue will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p> <p>The task force proposes that a confirmation of the word count be contained in the electronic receipt that would be received by reporters once</p>

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20.	David J. Gonzalez, Official Court Reporter, Superior Court of San Diego County	Agree with Draft Report only if modified	<p>As an official court reporter, I am generally in agreement with the philosophy of moving toward a paperless system of document storage. With it, however, comes a need, as I see it, to more clearly articulate the responsibilities and liabilities vis a vis the reporter, which I am sure will be addressed in the implementation phase of this transition.</p> <p>Will the duties of the court reporter per 69955 be augmented by specific protections upon successful filing of the electronic medium, or will the reporter still be required to maintain a backup? Subsection (b) states notes "may be kept in any form," and directs they "shall be stored in" the appropriate environment. Where does a reporter's duty stop on maintaining a "backup" of their files?</p> <p>There is a line of thought that if, in the future, the court sets up a central repository for electronic filing of reporters' notes/transcripts, etc., that should there be a failure of the court-owned system, or in some way the court-maintained system is contaminated, the reporter will be held harmless if those electronic filings are adversely compromised. The current code does not articulate that presumption, and, as a reporter, I want some assurance that I would not be responsible for backup not otherwise specified. Will 69955 (b) apply to the court custodian of the electronic notes once transmitted to the court storage?</p>	<p>they have transmitted a document.</p> <p>This issue will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p>
21.	Kathleen E. O'Leary, Associate Justice, Court of Appeal, Fourth Appellate District, Division Three	Agree with Draft Report	<p>First, I would like to thank the members of the task force and those who assisted the task force for the time and energy they put into this report. Their efforts resulted in comprehensive and well reasoned recommendations.</p> <p>I agree with all of the recommendations, but would like to comment on the following specific recommendations.</p> <p>Recommendations 1 and 2</p> <p>Electronic availability of documents will increase the effectiveness of the appellate courts and result in significant cost savings. Many of us on the appellate court frequently find ourselves away from our courts attending various committee and task force meetings. To the best of our ability we attempt to lug</p>	No response necessary.

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		<p>cumbersome and heavy documents with us so as to utilize our downtime. We hope that the documents we have lugged with us are the documents we will need. Having documents available electronically means we are in close proximity to what we need to do our job as long as we have a laptop with us or have access to a computer.</p> <p>It is not uncommon for the outcome of an appeal to rest on a few words or phrases within a record. If counsel has not provided adequate record cites for what it is we need to locate, justices and staff attorneys spend precious time visually scanning paper transcripts in the hope of either locating evidence or conclusively determining that such evidence does not exist within the record. The value of the ability to electronically scan the record cannot be overstated.</p> <p>Storage for my court has become problematic and expensive. Because paper records are so voluminous we have exceeded the state's capacity for records retention. We now must contract with private services to transport, store and retrieve our excess records. The time and cost associated with compiling, packaging, indexing, transporting, storing, and retrieving the appellate record is high now and continues to increase. Maintenance and storage of an electronic record will not only be more efficient, it will be far less costly.</p> <p>I realize that there are those who are more comfortable with paper than a computer screen. I expect that just as we have those who now prefer using books instead of computers to do their research, there will be those who will have reservations about using electronic records. But the beauty of the task force's recommendations is the painless method provided for paper on demand. Those who prefer paper can simply press the print button or have a judicial assistant do it. Those of us who find an electronic record beneficial can for the most part avoid dealing with all the paper.</p> <p>Some have said that the recommendations of the task force will result in the shifting of printing costs to the courts, but no one should expect that there would be extensive printing of complete records. I am confident that the significant cost savings that will result from enhanced use of technology will greatly outweigh any printing costs.</p>	
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			<p>In conclusion, the recommendations of the task force appear to be consistent with all of the Judicial Council goals. Certainly these positive steps into the electronic world represent the judicial branch's commitment to modernization (Goal III) and technology (Goal VI). I also believe electronic availability of court documents will increase access (Goal I), will improve service to the public (Goal IV), and will serve as a public education tool (Goal V). In these days of fiscal challenges our efforts to operate more efficiently will demonstrate our willingness to be accountable for the public funds entrusted to us (Goal II).</p> <p>I respectfully urge the council to adopt and implement the recommendations of the task force.</p>	
22.	Charlotte Freeman, Official Court Reporter, Superior Court of Orange County	Agree with Draft Report only if modified	<p>1. Regarding Section “III. DELIVERY, MAINTENANCE, AND STORAGE” when compared with Section “V. UNIFORMITY OF THE TRANSCRIPT”:</p> <p>I see a conflict or possible confusion as under Section "III" the recommendations are for transcript, master index, and reporter's notes to be transmitted electronically in contrast to Section "V" which references the parenthetical "(Exhibit index will not be required for the electronic record.)"</p> <p>2. Regarding “APPENDIX 1”:</p> <p>A. I do not see a reference to the electronic format when parties are lodging "Original" Bound transcripts or lodging "Certified" Bound transcripts. Perhaps your wording is referencing the present practice without requiring an electronic submission. Are parties going to be required to also request and pay for an electronic format of any transcripts they order in contemplation of a future appeal? Therefore they could "lodge" an electronic transcript?</p> <p>B. I do not understand how a "user" who is not the actual reporter who is responsible for a specific transcript would be allowed to submit a reporter's transcript and that "user" then would be qualified to "attest" that the document is "verbatim, accurate and complete."</p> <p>C. Am I reading your language too narrowly? Does your language imply that</p>	<p>1. A <i>master index volume</i> will be required with an electronic transcript, but an <i>exhibit</i> index will not.</p> <p>2.A. These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p> <p>2.B. The word “user” refers to those persons who would be responsible for submitting an electronic transcript. These persons include reporters, transcribers, and other authorized individuals.</p> <p>2.C. Yes, the user would be responsible</p>

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			<p>the "user" is attesting that the entire document submitted is "verbatim, accurate and complete," as possibly set forth in the included reporters' certificates? Perhaps some adjustment to your language would be helpful and more accurate. I think I am suggesting that any "attestation" language for the electronic submission should be carefully worded.</p>	<p>for attesting that the entire document is verbatim, accurate, and complete. The actual attestation language will be addressed during the pilot project.</p>
23.	Teresa Jo Fletcher, Superior Court of Orange County	Not stated	<p>As far as online registration onto a secure Web-based system to deposit transcripts, our county does NOT allow its own official court reporter employees <u>access to the internet or intranet</u>. Those of us in outer courts do not even have access to an A: drive on the County computers in our office to load the transcript on.</p> <p>On Web screen 4 (confirmation), there is no "word count" confirmation. Since we'll be going to a word count remuneration to reporters, there should be a confirmation.</p>	<p>Internet access will be determined during the feasibility studies, development, and implementation stages of the Web-based system.</p> <p>See response to comment 19.</p>
24.	Terry Weiss, Manager Court Reporter Services, Superior Court of Los Angeles County	Not stated	<p>Will this system be managed by each county? It also appears from the proposed changes in Rules 4 and 9 that a paper transcript will still be required at the DCA. Who will have responsibility for preparing that paper copy? If it is the Court, this would be a major undertaking and would need an entire department to do so.</p>	<p>It has not been determined if the Web-based system will be managed locally or centrally. The manner in which transcripts will be filed with the appellate courts will be addressed during the feasibility studies, development, and implementation stages of the Web-based system. The proposed amendments to rules 4 and 9 refer to paper transcripts because the rules currently deal with situations in which a litigant wishes to file a <i>paper</i> transcript that has already been purchased.</p>
25.	Kim Greve, Court District Manager, Juvenile Court & Appeals, Superior Court of San	Agree with Draft Report only if modified	<p>Web base system – Perhaps if the court is to become responsible for the transcripts, parties could be allowed to purchase using a credit card?</p> <p>Also - access to Juvenile transcripts should be blocked and only accessible for those that have authority to access. Juvenile records are confidential pursuant to WI 827 & WI 828 and I did not see this information covered in the task force report.</p>	<p>These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p> <p>See response “security of documents” to comment 7.</p>

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	Bernardino County			
26.	Margie Raymond, Court Reporter/ Interpreter, Coordinator Superior Court of Placer County	Not stated	<p>The draft concerns itself with setting up a web-based transcription program. I am concerned with the transition to such a program. It would require heavy IT involvement and sounds similar to JBSIS insofar as certification and confirmation processes (see page 13). Would definitely stress individual courts’ budgets to provide additional IT support.</p> <p>The greatest benefit to the court will be a paperless transcription process. The transcripts can be posted on the website and accessible by the court, the Court of appeals and counsel (all of whom can print it if they want it). It will also eliminate the need to STORE paper notes, which as this court well knows, is burdensome at best. All notes and transcripts would be stored electronically, drastically cutting down on file and storage space needs.</p>	These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.
27.	Mary Ann Lutz, President, Lutz & Company, Inc	Agree with Draft Report only if modified	<p>This section is generally well thought out. The standards and services are well expressed. It is recommended that the Pilot Project include input and discussion from the electronic court reporting industry.</p> <p>Appendix 1: There is no language or acknowledgment regarding the method of reporting utilized in the certification or on the transcript. This is applauded. It is recommended however, that the certification include room for the court reporter as well as transcriber's names to allow for all methods of court reporting.</p>	These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.
28.	Susan T Standish, Official Court Reporter, Superior Court of Sonoma County	Agree with Draft Report only if modified	I would like to see more caution taken to separate a sealed or confidential transcript from other transcripts. Just checking a box doesn’t seem enough. A different entry code to reach a separate “confidential” area would leave less room for error. At the least in Appendix 1, Web Screen 4, the last line of text could be something like “Are you submitting a transcript or master index for a sealed or confidential transcript?” Another reminder before the reporter logs off.	These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.
29.	Barbara Medrano, Official Court Reporter, Superior Court of San	Not stated	Regarding electronic filing: That within itself is a security concern. We will be asked to put our Certification on a document that we have no control over once it is submitted. We have seen time and time again where court personnel have altered documents or created minutes in favor of family members and so forth for money and personal gain, whereas we as court reporters are unbiased entities. Why would we be or should we be expected to certify that a transcript is	See response “security of documents” to comment 7. These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.

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	Bernardino County		accurate, since we will no longer have control over it? We can only certify that the Original is accurate before it gets submitted, but there is no clear security assurance it will not be and cannot be tampered with. I cannot certify that the copy an attorney is receiving from the court will be accurate if the proposal is implemented, and neither can the court. In this day and age of computer breaches, viruses, encryption decoding, system shutdowns and mere personnel breaches, this seems highly ineffective and very unreliable. It should then be implemented that the court should create its own certification because court reporters will be forced to re-write their certification page indicating authenticity and accuracy based upon the electronic filing.	
30.	Colleen Southwick, Official Court Reporter, Superior Court of San Bernardino County	Not stated	I also foresee problems in protecting the record and ensuring that proceedings that are sealed or otherwise confidential remain sealed and confidential. I have some serious doubts about the ability to maintain that with electronically filled transcripts.	See response “security of documents” to comment 7.
31.	Laura Sanders, Certified Shorthand Reporter [An affiliation was not provided]	Not stated	What would constitute an electronic transcript and how exactly would this process work? One could make many assumptions. Does this only apply to criminal and juvenile matters or also to civil matters? What about expedited or daily transcripts? I would like to say I am against the Web-based system in its entirety.	In the context of the task force report, the term “electronic transcript” means a document that is produced on a computer and capable of being transmitted, used, and maintained through a computer-operated system.
32.	Sandra Silva, Associate Court Executive Officer, Superior Court of Fresno County	Agree with Draft Report	We believe that having a secure web-based system for the storage of electronic transcripts, master indexes and reporters’ notes is an excellent idea. It will make retrievability of the record more efficient and reduce storage costs. We have questions regarding the establishment of a web-based system: 1. Is this system envisioned to be a statewide system or will each local jurisdiction be responsible for their own system? 2. How will the quality of the notes be assured and who will be responsible for security of the electronically stored data?	It has not been determined if the Web-based system will be managed locally or centrally. See response “security of documents” to comment 7.
33.	Leisha G.	Not stated	What exactly would constitute an “electronic transcript”? Does it apply to all	See response to comment 31 for

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<p>Hendrix, Certified Shorthand Reporter</p> <p>[An affiliation was not provided]</p>	<p>transcripts or just transcripts on appeal? Would all transcripts be ordered by a “party,” delivered to the Web-based system, then the ordering party would pay the required fee to access the transcript, then the Court Reporter would be paid for the agreed-upon word rate? The “Rough Draft” was very vague in addressing that. Would a “party” also include a defendant in a criminal action?</p> <p>Would transmittal to the Web-based repository system automatically generate the billing to the AOC in order for the Court Reporter to be reimbursed, or would the Court Reporter have to submit a separate billing to some other department?</p> <p>The “Rough Draft” does not indicate whether the proposed changes would apply to transcripts produced after the implementation of the suggested changes in the current legislation, or whether it would also apply retroactively to untranslated, unedited proceedings that may be produced after the legislative changes are enacted.</p> <p>On page thirteen of the “Rough Draft” it refers to a “pilot project” to “...transition to a Web-based system, Courts will assume greater responsibility for the electronic documents.” If the Courts expect the Court Reporters to prepare transcripts and upload them to a Web-based repository system, the Courts should take full responsibility once the upload has been achieved. I can’t understand how a Court Reporter could ethically recertify any document after it has been uploaded to a Web-based repository system, downloaded by a party, printed by a party, potentially change the context of the transcript, send the transcript to the Appeals Clerk as if it were what the Court Reporter originally certified as a “...full, true, and correct transcription from my said shorthand notes...,” and then have the Appeals Clerk send the “transcript” to the original Court Reporter to bind and certify the appeal transcript. As described it would place the onus on the Court Reporter to verify the content of the previously delivered transcripts to ensure that the transcript has not been altered thus creating extensive outpouring of time and energy on the part of the Court Reporter, yet again, at no additional remuneration to the Court Reporter. When a pilot program is implemented, how will it be decided which courts in which counties will be selected to be involved in the program? I feel that it would be difficult for the reporters in my county to tackle such an endeavor.</p>	<p>information regarding “electronic transcripts.” The other comments will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p>
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			<p>Please don't infer this question as my volunteering me or my fellow Court Reporters in this county to be participants in the pilot program.</p> <p>If all transcripts are to be uploaded to the Web-based repository system, why would there be a need to bind the transcript? If only appeal transcripts are to be uploaded to the Web-based repository system, I can see the need for the recommended format specifications for binding on page sixteen of the "Rough Draft." That also brings up the question of which types of transcripts are to be posted to the Web-based repository system. Would every transcript ordered and prepared be deposited to the Web-based repository system? The "Rough Draft" was very vague in the discussion of the posting of transcripts to the Web-based repository system.</p>	
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SECTION IV: STENOGRAPHIC COURT REPORTING SYSTEMS

<i>No.</i>	<i>Commentator, Title, and Organization</i>	<i>Position on Report</i>	<i>Comment</i>	<i>Task Force Response</i>
34.	California Official Court Reporters Association (COCRA) Paige Moser, Vice President	Do not agree with Draft Report	There are court reporters who would be forced to buy new systems—computers, software—in order to comply with these recommendations. Incurring costs for upgrades and training would place a financial hardship on reporters with little or no transcript income. The amount of time it would take a court reporter to upgrade/train, following the court's upgrade schedule, will cause a reduction/slowdown in the reporter's capacity to produce transcript, forcing disruption and delays in transcript delivery. Many courts do not provide intra/internet services to reporters. Without knowing more about the needs of the court at this time, it is impossible to comment further.	It is unlikely that most court reporters will need to purchase new systems because many of them have access to the Internet now. However, this issue cannot be fully addressed until the feasibility studies, development, and implementation stages take place.
35.	Official Court Reporters of the Superior Court of Stanislaus County	Agree with Draft Report only if modified	All reporters in Stanislaus County courts currently utilize software that meets these standards.	No response necessary.
36.	Superior Court of San Diego County	Agree with Draft Report if clarified	These recommendations raised certain unanswered questions. If court reporters are going to be required to use equipment and software that produce electronic transcripts and notes and are compatible with the interim and final transcript format recommendations:	Regarding compensation for new equipment or software, this issue will be addressed during the feasibility studies, development, and

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	Stephen V. Love, Executive Officer, and Court Managers		<ul style="list-style-type: none"> ▪ How long will the court reporters have to comply? ▪ Will court reporters be compensated if new equipment or software is purchased in order to comply? 	<p>implementation stages.</p> <p>Timing for compliance with transcript format recommendations will be addressed during the implementation stage.</p>
37.	Superior Court of Santa Clara County Kiri S. Torre, Executive Officer	Not stated	Compliance with Transcript Format Recommendations: Requiring court reporters to purchase software/hardware that is compatible with the statewide Web-based system could be a stumbling block to this process. The AOC may want to consider providing the software/hardware to make the two operating systems compatible. Or, in the alternative, RFP the hardware and software to gain a better price point to assist the reporters in this purchase.	See response to comment 34.
38.	Charlotte Freeman, Official Court Reporter, Superior Court of Orange County	Agree with Draft Report only if modified	Under "Background," I would prefer and recommend that the language be revised to read ... "individual reporter's proprietary dictionary."	No response necessary.
39.	Terry Weiss, Manager, Court Reporter Services, Superior Court of Los Angeles County	Not stated	Question: Will there be a provision for currently hired reporters who are not computer compatible in the methodology of producing transcripts? In other words, will they be grandfathered in as exceptions?	This issue will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.
40.	Mary Ann Lutz, President, Lutz & Company, Inc	Agree with Draft Report only if modified	<p>If it were a fact that the only court reporting method currently used in California courts was stenographic then yes, this would be fine. But again this Task Force failed to review, discuss and even acknowledge that there are other statutorily approved methods of court reporting, namely electronic court reporting. Thus, this section is incomplete.</p> <p>It is recommended that this section be revised and evaluated by the electronic court reporting association (AAERT) to ensure that court reporting systems are</p>	This issue will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.

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			in fact standardized and the electronic reporting equipment, and software comply.	
41.	Barbara Medrano, Official Court Reporter, Superior Court of San Bernardino County	Not stated	Equipment to be updated to comply with the recommendations by Task Force: Currently we are able to sufficiently and accurately complete our jobs with the equipment we currently use and if we are forced to "update" those systems, it should not be at the reporter's expense since this implementation is taking place subsequent to our employment and is being forced upon us. We will have a need to be provided reporting equipment, software and computers. Courtroom clerks are not expected to use their own personal equipment to produce minutes, nor should we be expected to use our own personal equipment to produce electronic transcripts.	See responses to comments 34 and 36.
42.	Colleen Southwick, Official Court Reporter, Superior Court of San Bernardino County	Not stated	My first concern is regarding the purchase and maintenance of court reporting software capable of producing electronic transcripts. I personally have invested over \$15,000 in software, software upgrades, writer, several laptops, etc. If my current software is not compatible with what the AOC decides to implement, who is responsible for compensating me for those expenditures if they are now obsolete? Who will be responsible to continue upgrading and repairing all the equipment necessary for the preparation of the record?	See responses to comments 34 and 36.
43.	Debra A. Godinez, Official Court Reporter, Superior Court of San Bernardino County	Not stated	<p>I've reviewed your recommendations. Now, let me get this straight. The fact is, based on the fact that I'm considered an independent contractor in terms of transcripts, I provide my own computer system. The job presently gets done on an X-Scribe system, which I purchased in 1989. Obviously, it's been paid in full. Now you're telling me that because you're changing the rules regarding how transcripts must be filed, I have to buy a new computer system and writer at a cost of approximately \$15,000 or more, yet I will be getting paid less (per word)?</p> <p>If you want to change the way transcripts are provided, i.e., paperless, which requires different computers, the courts perhaps should provide the new writer, computer, tech support and software which will become necessary to do the job I now do with my present equipment, especially since they will own the originals and will receive income from the copies. This seems like an equitable solution to everybody, in addition to having everyone on the same system which will be, compatible with whatever the courts' desires are.</p>	See responses to comments 34 and 36.

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			<p>This concern pertains to all the reporters because where does it end? If our equipment becomes obsolete for your purposes, not ours, we're then required to pay more money out of our pockets to produce something to your new specifications, yet get paid less than we were paid in 1989 for the same work product.</p> <p>Could this ultimately be your roundabout way of trying to get ER into the courtrooms within California by forcing reporters to buy, buy, buy with little compensation or else leave? This seems like an unfair business practice, and my question is this: Are you going to hold the ER-prepared transcribers to the same standards and timelines as official reporters? I seriously doubt it.</p>	
44.	Cathy Willis Bell, Official Court Reporter, Superior Court of San Diego County	Agree with Draft Reporter only if modified	<p>It seems that for new reporters, this makes sense, but when someone has been reporting and has so much money (their own) invested in equipment, to require the reporter to go out and change their equipment at their own expense without compensation for it is unreasonable and unfair. Most of the systems would probably be able to ease into a program like this, but to have everyone onboard by a certain date may be a logistical nightmare.</p>	<p>See responses to comments 34 and 36. The other comments will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p>
45.	Jill Langley, Official Court Reporter, Superior Court of San Bernardino County	Not stated	<p>I have recently reviewed your memorandum regarding court reporters and transcripts in the courts of the State of California. I have some concerns regarding the future of court reporting and the integrity of the record.</p> <p>My main concern is regarding the requirement that the AOC will be imposing on many of the officials in the state to purchase and maintain software and equipment capable of producing electronic transcripts. Many reporters were hired before computer technology was as up-to-date as it is currently. Some reporters in our county haven't the ability to produce electronic transcripts. These are people who have been employed for many years. Can you fire them if they refuse? Can you force them to purchase the software? Is that a violation of their rights? These were not requirements of their employment when they were hired.</p> <p>The requirement that we purchase and maintain all our own equipment has not been an issue in the past because we were considered independent contractors for</p>	<p>See responses to comments 36 and 37. The other comments will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p>

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			<p>purposes of transcript preparation. Independent contractors are in the business of making money. In civil cases it takes me and other reporters I have spoken with an average of then hours to edit and proofread a 100-page transcript. Currently to handle the heavy work load, many reporters employ the outside services of scopists and proofreaders. If you go to a word count -- which is fair -- the amount of compensation needs to be such that it will still make it not only compensable but also profitable for court reporters to continue to invest their time during evenings and weekends in transcript preparation. By eliminating any profit margin, you eliminate the use of these services, which in turn reduces the profit margin, you eliminate the use of these services, which in turn reduces the productivity level. If your word rate is not an amount that will compensate reporters for their long hours, yet is a requirement of our jobs, I think you run into labor issues.</p> <p>To my knowledge, we are the only state employees required to pay for all of our licensing, certification, continuing education, software, software updates, maintenance, computers, etc. If we will no longer be considered independent contractors, ten the courts should be required to compensate us an hourly rate for our time in preparing transcripts outside of court, at overtime rates, in addition to paying for the necessary equipment to produce those transcripts. The majority of court reporters in our county are ever-aware of the changes and updates in software and make purchases of updates to stay at the top of the field. Many of us write realtime for judges who request it, without compensation or consideration. It is a service we are willing to provide for them as a courtesy and convenience.</p>	
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SECTION V: UNIFORMITY OF THE TRANSCRIPT

Task Force Response to All Comments Received on Section V, “Uniformity of the Transcript”

The task force dedicated the largest proportion of its deliberations to considering the need for and developing the detailed recommendations in section V, “Uniformity of the Transcript.” Additionally, court reporter members did a great deal of work outside the meetings and contributed significantly to the task force’s consideration of transcript uniformity, which included many of the preferences expressed by the commentators. In fact, the task force notes that the very number of comments received reflect the inconsistent practices that it was charged to address. With the unification of the trial courts in the state, consistency has become more important than ever as the transcript users and litigants need to be able to rely on receiving the same basic transcript that is provided from one county court system to another.

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Commentators expressed both agreement and disagreement with the various transcript elements recommended. Rather than having the task force respond to the very large number of specific and detailed comments regarding the intricacies of binding, borders/boxes, capitalization, characters, cover page, font, headers and footers, identification of common events, indexes, introductory information, line spacing, margins, pagination, and structuring of volumes, these will be shared with the AOC staff responsible for developing the associated rules of court.

The task force acknowledges that the task force’s uniformity recommendations will require a shift in the present culture of court reporting and will necessitate change for the court, court employees, reporters, and other transcript users. Nevertheless, making transcripts more uniform will benefit all producers and users of the transcript and provide the consistency needed throughout the state.

<i>No.</i>	<i>Commentator, Title, and Organization</i>	<i>Position on Report</i>	<i>Comment</i>
46.	Appellate Court Clerks, California Courts of Appeal	Not stated	<p><u>Capitalization</u>: It is not clear why it is preferred that the text be in upper and lower case.</p> <p><u>Cover page</u>: It may be preferred that the cover include the appellate court case number but it should not be mandatory. There are many instances when the number has not yet been assigned and/or may be difficult for the reporter to determine. It is not currently required and should not be mandatory.</p> <p><u>Identification of Common Events</u>:</p> <ul style="list-style-type: none"> ▪ While identification may be short, it must still include adequate information to be useful. ▪ Why is leaving out the time of an adjournment preferred? ▪ What is the advantage of leaving out all references to time preferred? ▪ Why is removing information about what was read back preferred? ▪ What advantage is there to leave out all references to marking exhibits? <p><u>Indexes</u>:</p> <ul style="list-style-type: none"> ▪ The index should include a description of the exhibit along with the designation. ▪ The index should identify the date of the proceeding in the event a Master Index must be compiled. ▪ The requirements currently in Rule 9(b)(2) and (3) should be retained. <p><u>Appendix 2 (sample cover page)</u>: Would like the option for the reporter to include the type of proceeding (change of plea, sentencing, voir dire, first day of jury trial, etc.) on a line below the date.</p>
47.	California Court Reporters Association (CCRA)	Agree with Draft Report	<p><u>Comments</u>: On page 19 of the Draft Report, under “Identification of Common Events” it indicates that marking exhibits is not appropriate to identify. Marking of exhibits should be indicated in the Reporter’s Transcript.</p> <p><u>Rationale</u>: Reporters who use software that does automatic indexing need the marking of exhibits to be identified on the</p>

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			<p>record for it to be included in the index. It is too time consuming to prepare the index by hand.</p> <p><u>Comments:</u> On page 23 of the Draft Report clarification is needed under “Pagination/Volume. Many times there are two reporters on one day.</p> <p><u>Rationale:</u> An example would be when one reporter has a doctor’s appointment. Does the reporter break the day up into volume 1 and 1-A?</p>
48.	California Official Court Reporters Association (COCRA)	Do not agree with Draft Report	<p><u>Binding:</u> COCRA supports the premise that transcripts should be bound securely. However, COCRA opposes the requirement of specified cover materials on all transcripts. The requirement of acetate covers on top of paper stock covers is especially impractical on felony pleas, sentencings, probation modifications, and preliminary hearings where said transcripts are often physically inserted into file dockets and find their way to the Appellate Court bundled with the Clerk’s record. This requirement is an excessive and wasteful use of resources because the Clerk’s office would have to remove and discard these superfluous covers to file and store the transcripts.</p> <p><u>Capitalization:</u> The reporting community is split on this issue. However, universal compliance with this recommendation will slow transcript production which could increase costs for users of the transcript.</p> <p><u>Identification of Common/Uncommon Events:</u> This recommendation would require a profound shift in the present culture of trial procedure and would necessitate extensive and uniform retraining of the bench and bar, as well as court reporters and other court staff.</p> <p><u>Sample Transcript Illustration:</u> Does not appear to conform to the format recommendations in this section.</p>
49.	Court of Appeal, Fourth Appellate District Hon. Judith McConnell Hon. David G. Sills Hon. Manuel A. Ramirez	Not stated	<p><u>Limiting Volumes to Proceedings on One Date p. 16:</u></p> <ul style="list-style-type: none"> ▪ Including all of one day’s proceedings, and only that day’s proceedings, in a separately paginated volume is unacceptable. ▪ Creates multiple small volumes. ▪ Makes finding and making record references difficult. ▪ Consumes more clerical time reviewing, stamping, and filing. <p><u>Capitalization p. 17:</u></p> <ul style="list-style-type: none"> ▪ The use of all capitals makes a reporter’s transcript harder to read. ▪ “ALL CAPS” makes reading harder because proper names, usually the key words a sentence is about, are more difficult to recognize and find. ▪ The beginnings of sentences do not stand out as clearly. ▪ The practice of using all capital letters should be ended as soon as possible, which should be sooner than five years.

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			<p><u>Indices p. 21:</u></p> <ul style="list-style-type: none"> ▪ An appearance index, in which is listed the beginning page of the proceedings for each new date, should be added. ▪ Helps find the beginning of the day’s proceedings to read for context when a portion of the proceedings is referenced in a brief. ▪ Helps find the end or beginning of proceedings of a particular date. ▪ In Division Two of the Fourth Appellate District, reporters have been providing an appearance index in return for permission to use acetate volume covers. <p><u>Eliminating Consecutive Pagination p. 23:</u></p> <ul style="list-style-type: none"> ▪ Also unacceptable is the Task Force’s recommendation that each volume begin with page 1, thereby eliminating consecutive pagination for the reporter’s transcript as a whole (Cal. Rules of Court, rule 9(a)(1)(D)). ▪ Consecutive pagination allows counsel and the court to refer to a statement in the transcript by one number—the consecutive page number. Under the proposal, any reporter’s transcript reference would require the date and a number. The date consists of three numbers—day, month, and year. Instead of “1005” counsel and judicial users must now refer to “11-4-04 237.” ▪ Each reference will take longer to figure out because counsel and judicial users will have to refer not only to the bottom of the page, but also to the cover of the volume. Each reference will take longer to write, longer to cite check, and longer to read. And making a mistake with each reference will be more likely. ▪ Numbering, instead of dating, the volumes will help only somewhat—there will still be twice as many numbers involved in each reference. The result is to inconvenience multiple users in dealing with multiple references, thereby making the legal and appellate process less efficient. <p>In conclusion, we again thank and praise the report and the Task Force for its boldness and innovation, and request your kind consideration of our comments.</p>
50.	Deposition Reporters Association (DRA)	Do not agree with Draft Report	[See DRA’s comments regarding the standardized transcript format below in section VI.]
51.	Los Angeles County Court Reporters Association (LACCRA)	Agree with Draft Report only if modified	<p><u>Identification of Common Events:</u> While we agree with the elimination of unnecessary blurbs or parentheticals in transcripts, we have the following concerns.</p> <p>Often the record is silent as to events occurring in the courtroom. The expanded use of blurbs by court reporters has resulted from a necessity to make the record make sense for the reader. Bench officers many times do not explicitly orally state for the record various aspects of the proceedings and the record is therefore silent but for the blurb describing</p>

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		<p>the action inserted by the court reporter in the transcript. Examples include a nod of the head to direct the reporter to go on or off the record, a nod of the head directing the reporter and/or the parties to approach the bench (a conference which may be on or off the record, or a combination thereof), a nod of the head directing the jury to be brought into the courtroom after a discussion outside their presence, or the lack of any statement regarding marking exhibits for identification or receiving them in evidence.</p> <p>We understand it is the responsibility of the bench officer to clarify the record, but this often does not occur verbally and will be impossible to recreate at a later time if there is a question about the sequence of events.</p> <p>The record is often silent when a witness nods or shakes their head in response to a question or request. The court reporter notes the nonverbal response in some fashion such as (No audible response) or (No verbal response). Complete elimination of this type of blurb will leave the record silent with seemingly run-on sentences by the questioner and therefore not correctly reflect the proceedings.</p> <p>Page 2 of the sample transcript in Appendix 2 shows a blurb -- “(witness sworn)” -- that seems unnecessary as it describes the event immediately preceding it. Perhaps this blurb is included solely for the purpose of later electronic search by a user. If not, this blurb seems to be inconsistent with the intent to eliminate unnecessary blurbs.</p> <p>More importantly, however, deletion of the normal witness set-up after being sworn in by the clerk eliminates several matters that may not be verbally indicated by the bench officer or included in the clerk’s minutes such as indicating an interpreter assisted the witness, that the witness was recalled, that the witness was examined under Code of Civil Procedure §776, that the witness was accompanied by an attorney.</p> <p><u>Indexes</u>: No sample index was provided in the appendix, but the description indicates the index will be simplified. We agree.</p> <p>However, its simplification, coupled with the elimination of the use of blurbs, will frustrate the use of a feature in CAT software that allows the court reporter to perform automatic indexing. The software must be set up to identify certain events by the use of blurbs, thus eliminating the time consuming creation of the index by hand and typing it from scratch. Eliminating the ability to utilize the automatic indexing feature is a step backward from the efficient use of computer software. We suggest a short blurb be used for the identification and receipt of exhibits in order to facilitate automatic indexing.</p> <p>In the reference to death penalty cases on page 21, it is not clear if putting “Names of all parties present” in the index replaces or supplements the introductory information appearing on the first page of the text. It would seem more properly</p>
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			<p>stated that the index for a transcript of sealed proceedings should include a statement of all persons present. This should apply to all sealed transcripts, not just those in death penalty cases.</p> <p>It is unclear what procedure is to be followed when an attorney appearance changes during a day of proceedings, whether a blurb is used to so indicate or whether all names of attorneys are included in the dateline at the start of the day. If the latter is correct, it may not clearly reflect who was present at what time.</p> <p>It is not clear whether time stamping will be desired, permitted or prohibited. If allowed, it is not clear where would it be positioned and whether the time stamping would count within the definition of a “word” for purposes of the word rate. If allowed, there should be a specification of its margin position and how many times the time stamp should appear, i.e. every line, every ten lines, every minute, every five minutes, etc.</p> <p>Penal Code §190.8(c) related to correction of the record in death penalty cases was not referenced in the report. Because court reporters will eventually be mandated to use upper and lower case letters, this section should be maintained to avoid correction of inconsequential “immaterial typographical errors that cannot conceivably cause confusion.”</p> <p>In the one day/one volume system, the procedure is unclear if there is more than one court reporter in one day of proceedings.</p> <p>The sample cover does not provide for a volume number as required in Rule 9(c).</p> <p>Government Code §68086 should remain in place for use in those proceedings outlined in the February 6, 2004 “Agreement” when a litigant desires to hire a freelance court reporter to make the official record. For consistency of the court’s record, when acting as an official pro tempore, it would seem appropriate that the freelance court reporter follow the court-mandated transcript format. There is no reference to what the freelance court reporter acting as an official pro tempore is required to do with the court’s record after reporting the proceedings.</p>
52.	Official Court Reporters of the Superior Court of Stanislaus County	Agree with Draft Report only if modified	<p>We agree that a standardized transcript format is necessary and warranted and support the efforts of the RRTF in this regard.</p> <p>Standardized transcript guidelines should be adopted; however, transcripts not meeting specific guidelines or minor infractions should not be rejected by the court.</p> <p>Additional utilization of outside/freelance reporters will require latitude in this regard and will necessitate that the courts accept for filing transcripts that fall within the minimum transcript format standards.</p>

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			<p><u>Binding:</u> We agree all transcripts should be securely bound.</p> <p>Regarding all transcripts being bound with acetate covers and/or card stock, the courts of Stanislaus County find these to be cumbersome and take up too much room in files. They prefer two-hole punch and stapled or binding material at the top with page numbers at the bottom for ease of containment in the file folders and accessibility without removing transcripts from the file for viewing.</p> <p>The local court would prefer to have the discretion to choose how the transcripts they utilize would be handled and bound (ie, file copies of preliminary hearings, pleas, sentencing, and usually short hearings).</p> <p>Appeal transcripts and transcripts sent to other courts would be bound in accordance with the standardized binding guidelines.</p> <p>Additionally, the local users of the record, Offices of the District Attorney, Public Defender and conflict defense firms, should have the discretion to determine how they wish to receive their transcripts bound.</p> <p>The cost of acetate covers is prohibitive on the massive number of transcripts produced in this regard. Cardstock may not be accepted by all computer/printer systems and may cause undue wear and tear on equipment.</p> <p>For appeal transcripts and other lengthy proceedings, however, the acetate covers are preferred and utilized in our jurisdiction.</p> <p>The required cardstock covers may not be accepted by printers and may cause undue wear and tear on equipment.</p> <p><u>Box/Border:</u> Although we prefer the utilization of the transcript box, this recommendation is acceptable, but should be left to the discretion of the local court, as it does not make any difference with regard to other format guidelines. However, a transcript without the familiar transcript box has long been recognized in our jurisdiction as a rough draft transcript.</p> <p><u>Capitalization:</u> Acceptable. All official reporters in Stanislaus County currently use appropriate capitalization methods in accordance with the recommendations.</p> <p><u>Characters Per Line:</u> Our courts currently utilize 60 characters per line, which makes for an easily readable line. However, the 62-character-line standard suggested is easily accommodated in the proscribed font and readable. We do not object.</p>
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		<p><u>Cover Page</u>: The information contained within this proposal is too generic and does not afford those utilizing the transcripts the appropriate and significant information necessary, i.e., the type of proceedings contained therein; the judge’s name; appearances of counsel; day of trial, etc.; and contains no volume number.</p> <p>It is an acceptable format for appellate transcripts which include an index of proceedings, but not short proceedings transcribed at the trial court level. Additional information is necessary.</p> <p>It is acceptable and not opposed to combine cover and title pages.</p> <p><u>Font Style and Size</u>: Acceptable as most readable font and size, but others should not be precluded or rejected for filing.</p> <p><u>Headers and Footers</u>: The individual reporter’s name as a footer is considered essential, especially when more than one reporter is involved in a volume. Many times, more than one reporter is involved in proceedings in one day. Footers identify which reporter produced the transcript pages. If footers are not utilized, there would need to be a change in certificates in our jurisdiction to clarify this information.</p> <p>Headers are beneficial to readers of the transcript when utilized for identification of witnesses or events, motions heard within a proceeding occurring on the page marked with a header. This is solely an information service available, but not utilized, in the format guidelines.</p> <p>One can only assume that the purpose for eliminating this added service is due to the word-fee basis of compensation.</p> <p><u>Identification of Common Events</u>: It is acceptable to shorten the text of many of the “events”; however, the sample descriptions are inappropriately vague and contain no indications of time. We suggest these be shortened but some discretion allowed to the reporter to make the appropriate indications within the record so that it may convey the actual meaning of the event.</p> <p>We feel strongly that it is essential to have a witness setup when a witness is sworn, indicating the witness’s name, which party is calling that witness, and it is necessary for ease of indexing due to software requirements and searching and information retrieval options. It should be an event that stands out within the transcript.</p> <p>Such “witness setup” format requires fewer words than the reporting of the oath and setup indicated in the sample transcript and is more recognizable to those utilizing the transcript.</p>
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		<p>Although we agree that it is the responsibility of the court/judicial officer to call cases and put appropriate information on the record during the proceedings, the actuality is that this does not occur. It will require retraining of judicial staff who have opposed such suggestions in the past.</p> <p>If it does not occur, then the record is lacking sufficient information.</p> <p>The insertion of events such as marking of exhibits is highly relevant, and sometimes no verbal action is taken by the clerk. If the reporter is expected to index exhibits, it is necessary that some indication appear in the record for software to auto search and index.</p> <p>It is also highly relevant at times to show that a discussion occurred off the record, at times it may be unrelated, but it frequently is between the defendant and his counsel to clarify issues which later are called into question.</p> <p>Not every judge indicates exactly when to go off and on the record. After working with these judges, their reporters know their style and will question if something sounds as if the court would want that on their record. Unless every judge in every county in every court is going to be retrained on these matters, this discretion should remain in the competent hands of the reporters.</p> <p>Although it may be the ultimate responsibility of the judges, these events described by the reporter make for a complete record, and the reporter should have the authorization to insert short comments to clarify.</p> <p>A complete record is not all verbal. Reporters frequently assume the responsibility to make the most accurate and easily understandable record of the proceedings in a number of different courts. Each judge has a different manner of calling the cases and moving calendars forward. In the regular course of business, many courts often forget that it is their job to make and protect the record. We feel it is the duty and responsibility of the reporter, if the court neglects to do so, “to clarify on the record nonverbal conduct or events” and to insert information apparent to the reporter that makes the record accurate and usable.</p> <p>Therefore, we vehemently object to the proposal that all nonverbal conduct and events be clarified only by the court and that the record does not contain information inserted by the reporter.</p> <p><u>Identification of Speakers</u>: Acceptable and status quo in Stanislaus County.</p> <p><u>Indentation/Placement</u>: Acceptable and status quo in Stanislaus County.</p>
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			<p><u>Introductory Information</u>: The information contained in the introductory information suggested is too vague as to be usable. The appearances are improperly stated and it should be expanded to include the name of the attorney’s firm or office. It should also include interpreters, probation officers, or others who might be present.</p> <p><u>Master Index Volume</u>: This index should be prepared by the lead reporter and each reporter should generate and provide to lead reporter their daily index for inclusion.</p> <p><u>Pagination/Volume</u>: The idea of beginning each volume with page one makes preparation of a multi-volume appeal much easier; however, for further use of transcripts, it will be more difficult to cite to these transcripts and may become confusing for reviewing courts.</p> <p>We do, however, support the concept of one-day/one-volume transcripts, but suggest volume numbers, in addition.</p> <p>Users of the record should be aware that many volumes may be only one-page or very few pages for a continuance, time waiver, or other short proceedings.</p> <p><u>Indexes, Justification, Line Numbers, Line Spacing, Lines Per Page, Margins: Left, Margins: Right, Margins: Top and Bottom</u> – All acceptable and substantially conform to the format currently used in Stanislaus County.</p> <p><u>Paper Size, Vertical Line, Death Penalty Transcripts</u>: Acceptable.</p>
53.	Orange County Bar Association (OCBA)	Not stated	Some of the requirements seem unnecessarily detailed, such as how to record events, abbreviations, etc.
54.	The State Bar of California, Committee on Appellate Courts	Not stated	<p>Recommendation 6 proposes establishing a uniform format for reporter’s transcripts. The recommendation includes specifications ranging from guidelines for binding the transcripts, to rules regarding margin size, number of characters per line and lines per page, font size, format for the cover page, indexes, and virtually all other formatting questions.</p> <p>The Committee agrees with the general goal of establishing a uniform format for transcripts. As the Task Force notes, “lack of uniformity in the transcript’s format poses numerous difficulties in reading, transmitting, converting, and storing the record, and maintaining consistency of transcript fees.” (Draft Report, p. 16.) “[A] standardized transcript would result in increased readability, efficiencies, and integration with the courts’ electronic systems.” (Ibid.)</p> <p>The Committee also generally agrees with the Draft Report’s specific formatting recommendations, subject to the following comments regarding a few of the recommendations.</p>

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		<p><u>Capitalization</u>: Today, many transcripts use only capital letters. The recommendation is to make use of upper and lower case preferred and, beginning five years after the uniform format is established, required. The five-year grace period is apparently to give court reporters time to change their methods to permit use of both upper and lower case.</p> <p>The Committee committee supports this recommendation because using both upper and lower case is far better than using only capital letters. Transcripts will be more readable because that is what everyone is used to reading. Less paper will likely be consumed because capital letters require more space. It will also be unnecessary for attorneys to make judgment calls regarding capitalization when quoting from the record.</p> <p><u>Font Style and Size</u>: The recommendation is to require transcript text to be in 14-point Arial font. Rule 14(b)(4) of the California Rules of Court provides for the use of at least 13-point font in appellate briefs. Use of 14-point font may result in larger transcripts and consume more paper, and some cCommittee members believe that 14-point type is actually less “readable” than 13-point type because of the fewer number of words per page.</p> <p><u>Headers and Footers</u>: Currently, some reporter’s transcripts include a “header” that identifies (a) the witness who is testifying;, (b) whether the testimony is “direct,” “cross,” “redirect,” “recross” or “voir dire examination,”; and (c) the name of the attorney questioning the witness. (For the cross-examination of witness Jones by attorney Smith, for example, the transcript would include a header such as “Jones - Cross / Smith.”) Where a transcript volume includes testimony from multiple witnesses, a header makes the transcript more useable, allowing a specific witness’s testimony to be located easily without repeatedly having to refer back to the index.</p> <p>Nonetheless, the recommendation is to forbid transcripts from including “headers and footers, except for page numbering.” The Committee recognizes the laudable goal of transcript uniformity, but believes that rather than precluding transcript headers, the headers of the type described above should be standard for all transcripts. If there is a technological limitation for some reporters, then a five-year grace period, such as that recommended for capitalization, could be used.</p> <p><u>Identification of Common Events</u>: The Committee generally supports the standardization of descriptions used for common events that occur at trial. However, it disagrees with the recommendation to eliminate the inclusion of “time-stamp” references for events at trial, such as the start or adjournment of proceedings. On occasion, time references may be important on appeal, – e.g., where there is a question regarding how long the jury deliberated, the length of a particular witness’s testimony, or when necessary to determine whether proceedings have taken a half or full day (for determining the statutory cost of a transcript). While similar information may sometimes be included in the clerk’s minutes, the reporter is in a better position to accurately record when trial events have occurred. The cCommittee recommends that time-stamp information continue to be included in reporter’s transcripts.</p>
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		<p><u>Identification of Speakers</u>: The Committee supports uniform terms for identifying speakers at trial. In the bullet point list of common speakers, however, the report should clarify that attorneys and witnesses should be identified by name, – for example, “Attorney (by name).”</p> <p><u>Indexes</u>: The Committee agrees with this recommendation, which addresses the requirements for indexes in each volume of transcript. However, in paragraph 8 below, the Committee notes a concern about the recommendation for a master index volume (Draft Report, p. 23).</p> <p><u>Line Numbers</u>: Currently, reporters’s transcripts ordinarily include line numbers to designate the lines of text, and the recommendation is to continue using that format. The Committee wonders whether technology exists that would allow the line numbers to appear but in a non-searchable format. The line numbers create problems when transcripts are searched electronically. For example, where line numbers are not differentiated from ordinary text, a search for references to exhibits 1 through 28 in the transcript will be difficult because the line numbers appear as “hits.”</p> <p>Alternatively, exhibit numbers cited in the transcript could include a special character, such as a “#” sign, to facilitate electronic searches for references to exhibit numbers, – for example, “Exhibit #21,” would permit a search for “#21” that would not result in hits for the “21” line number on each page.</p> <p><u>Master Index Volume</u>: The recommendation is that reporters must provide a separate master index volume for multi-volume transcripts. The Committee committee agrees that a master index volume is needed and agrees with the recommended contents. However, the recommendation does not specify, or provide guidance for determining, which reporter(s) will be responsible for preparing the master volume index for multi-volume transcripts prepared by multiple reporters. To avoid confusion, the recommendation should address this situation.</p> <p><u>Pagination/Volume</u>: Currently, a transcript of trial is typically paginated sequentially from the beginning to the end, with each volume continuing where the previous one left off. The Draft Report recommends requiring that each date have its own volume and each volume begin with page one. Thus, as the report explains, “Each day would begin with pPage 1, which would be the cover page, and each day would be a volume. The volume designation would be the date of the proceedings.” (Draft Report, app. 2, p. 5.)</p> <p>The Committee is concerned that this recommendation would result in very bulky record citations. Currently, with sequential pagination, the citations can be very short, for example: (RT 863). If each volume were given a volume number (apparently not contemplated in the recommendation), the citation would be only slightly longer, for example: (2 RT 164). But if every volume starts with page one and is designated only by date, the citation would necessarily be much</p>
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			<p>longer: (11/26/05 RT 105).</p> <p>In a fact-intensive case, a conscientious brief might contain dozens, perhaps even hundreds, or more, of record citations. Accordingly, brevity in citation format is a desirable goal. We understand that problems can arise with sequential pagination when more than one reporter prepares the transcripts, and that there may be other valid practical reasons for the recommendations. But the recommendation will result in bulkier record citations, which will have its own substantial practical cost.</p> <p>The task force should consider at least permitting, and perhaps expressing a preference for, sequential pagination when it is feasible to do so. If sequential pagination is not possible, at least the volumes might be given sequential volume numbers.</p>
55.	<p>Superior Court of San Diego County</p> <p>Stephen V. Love, Executive Officer, and Court Managers</p>	Agree with Draft Report only if clarified	<p>The detailed specifications for a standardized transcript are extremely helpful. The identification of common events is clear and succinct – although giving the reporter the discretion to insert whether you are on or off the record when there is no other indication and to provide a time frame for an event can some times be beneficial for the reader.</p> <p>When you are providing left, right, top, and bottom margins, as well as indentations, spacing, lines per page, and font sizes and types; you are essentially defining a page. A page rate is the standard throughout the court reporter industry and is utilized for payment purposes for official and freelance court reporters across the country. A folio or word rate is archaic. Freelance reporter rates in San Diego are established by the page - as are court reporter scopist and proofreader rates.</p>
56.	<p>Superior Court of Santa Clara County</p> <p>Kiri S. Torre, Executive Officer</p>	Not stated	<p>We agree with this recommendation. This lays the foundation for other recommendations of this taskforce, e.g., word-rate standardization and transcript cost consistency. Statewide uniformity will provide litigants with the ability to project cost and the courts to promote consistency in process without regard for case venue.</p>
57.	<p>Karen R. Kronquest Official Court Reporter, Superior Court of Napa County</p>	Agree with Draft Report only if modified	<p><u>Transcript Element</u>: “It is the responsibility of the court to clarify on the record nonverbal conduct or event.” Historically this hasn’t been consistently done. Should reporters omit, even if not clarified?</p>
58.	<p>Judi Bloom Of Counsel Clark & Trevithick</p>	Agree with Draft Report	<p><u>Binding</u>: Strongly oppose use of velobinding technology. Velobinding guarantees that one cannot open a transcript flat on a desk. Other forms of binding such as comb binding, spiral, 3-ring, all permit the transcript to lay open on a desk.</p>

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	P.C.		<p><u>Capitalization</u>: Strongly agree on use of upper/lower case as in standard printing. The use of all caps as in deposition transcripts is hard to read.</p> <p><u>Lines per page</u>: Strongly agree on 28-line pages. Deposition transcripts use 25-line pages only to increase the price which is determined by the number of pages.</p> <p><u>Justification</u>: Strongly agree on left justification only. Full justification is hard to read.</p> <p><u>Pagination</u>: Suggest adding a standard numbering protocol when there are numerous reporters. At present, each reporter skips a hundred pages or so leaving one to wonder if this is just because there is a new reporter on a new day or if something is really missing.</p>
59.	Corrine Pochop, Asst. Clerk/ Administrator, Court of Appeal, Sixth Appellate District	Agree with Draft Report only if modified	<p><u>Binding</u>: Presently rule 9(c)(1) CRC requires that volumes not exceed 300 pages. Larger volumes are difficult to handle and tend to come apart. I have a concern if a day's proceedings were to exceed 300 pages since the specification calls for "volumes consisting of not more than one date."</p> <p>The report doesn't specify that it is the reporter's responsibility to print and bind the original and copies of the transcript in the case of an appeal.</p> <p><u>Cover page</u>: The proposed cover page only lists the date of the proceeding, not the type. Sometimes it is very helpful to list the type of proceeding on the cover page, such as change of plea, sentencing, first day of jury trial, jury selection, 1538.5 motion, in limine motions, etc. Could there be an option for the reporter to list what the proceedings are below the date line? (It is especially helpful when a record on appeal is augmented with material that was left out of the RT already prepared for that date (such as jury voir dire).)</p> <p><u>Indexes</u>: The specification doesn't require that the indexes list volume numbers (volume numbers required by rule 9(b)(2)&(3)). It would be difficult to locate witnesses & exhibits on the Master Index Volume if the volume number is not listed on the index since all volumes will start with number 1. It would also be difficult for the primary reporter to place the duplicate indexes in chronological order without the volume number specified.</p> <p><u>Pagination/Volume</u>: Page 5 of the transcript sample states "The volume designation would be the date of the proceedings." If the volumes aren't actually numbered, then will the volumes be identified by date in the Master Index? The specification for Indexes in Recommendation V does not require a volume designation.</p>
60.	Richard Power, Attorney/ Columnist,	Do not agree with Draft	<p><u>Binding</u>: There should be no paper transcript at all. With current technology it is totally unnecessary. Putting only the material from one date in each paper volume as the task force recommends will result – in some cases – in a huge expansion of the number of volumes and a corresponding increase in the size and weight of the final paper transcript,</p>

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	Appeals Unlimited	Report	<p>resulting in increased and totally unnecessary shipping and storage expenses. Electronic transcripts can be hundreds or even thousands of pages long and weigh only ounces on CD-ROM or DVD disks.</p> <p><u>Capitalization</u>: This should all be in standard format now, not 5 years from now. There is no excuse for this. It can be done right now.</p> <p><u>Cover Page</u>: There is no need in this electronic age for multiple cover pages unless some standard data changes during the course of the case. And the necessary data can be compressed into a few lines, entered once at the beginning, and integrated into the first page, unless some item changes. Again, there should be no paper transcripts.</p> <p><u>Font Style and Size</u>: One of the few things that made sense in the recommendations. Arial 14.</p> <p><u>Headers and Footers</u>: Page numbering should be electronic and only visible in a Print Layout view. Properly done, the page numbers will appear in the electronic document’s status bar even in a Normal view and will be completely sequential.</p> <p><u>Identification of Speakers</u>: If a different syntax is used than what the task force came up with, it would be possible for transcribers to invoke quick auto-complete macros that are possible with modern word processing programs. To do this, the speaker identification must start with a unique word, not words such as “defendant” in a multi defendant case. Automatic Q. & A. technology is available, but also not mentioned in this report. I realize from reading this report that much of this technology is beyond the knowledge of the members of the task force. That is a tragedy, particularly when they will not accept help.</p> <p><u>Indexes</u>: Indexes could be electronic and hyperlinked but I see no mention of that. I was able to quickly create sample software that does the job. A comprehensive index for a 1,000 page transcript can be created in seconds.</p> <p><u>Introductory Information</u>: The recommendation displays a fundamental lack of knowledge about how computers can search. Format for a date and time should be like the following: 200410190846. Such entries are searchable and chronological.</p> <p><u>Line Spacing</u>: This is one of the worst recommendations found in the report. We must remember we are in the computer age, not the paper age. Single spacing in electronic documents would allow full display of a page in a Normal view, is common in the vast majority of business applications that use computers, and would allow electronic page turning of full pages for rapid reading/scanning with the eye. The task force refused an offer of a demonstration.</p>
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			<p><u>Margins</u>: Again, this is all based on paper and is absurd in this electronic age.</p> <p><u>Master Index Volume</u>: This is another throwback to the 1950’s. Indexes can be totally electronic and included at the beginning of a file that can be thousands of pages long, storable on a single CD-ROM or DVD. Indexes should contain hyperlinks, a standard possibility with modern word processors. I realize from listening to a session of the task force that such technology knowledge is well beyond the knowledge of members of the task force but that is no excuse when help is available and has been offered to the task force.</p> <p><u>Pagination/Volume</u>: Again, as previously noted, this is based on paper-bound thinking. The only “volume” (actually it should be an electronic file) that should begin with Page 1 is the first one. Standard length criminal trials can be contained all in one file with an electronic index and totally sequential page numbering. Extremely long trials might best be recorded in more than one file, but the page numbering for each file should pick up right where it left off in the prior file. There is absolutely no excuse for not numbering all pages of oral transcript proceedings sequentially. Using proper technology, even oral proceedings transcripts produced from different courtrooms on the same date can be numbered sequentially. I realize the technological explanation of how this can be done quickly and simply is beyond the technological expertise of the members of the task force but that is no excuse because they have refused offers of help. Litigants, lawyers and other users of the transcripts deserve better.</p> <p><u>Paper Size</u>: Electronic “pages” only! No paper.</p>
61.	Mel Toomer, Deputy Court Executive Officer, Superior Court of San Mateo County	Not stated.	<p><u>Appendix 2</u>: The sample transcript format only has 54 characters per line of text and the font used is 14. While that is irrelevant if a word count is used, until the time an electronic filing is implemented, this large type, 54 characters per line, and lines between parenthetical will require reporters to use more paper and more printer cartridges, this adding to the cost of reporter production of the transcripts.</p>
62.	David J. Gonzalez, Official Court Reporter, Superior Court of San Diego County	Agree with Draft Report only if modified	<p>The proposed new format is not reader friendly, in my view. It leaves many of the visual cues out of the page that one comes to rely on while navigating through a transcript.</p> <p><u>Identification of Common Events</u>: Swearing the witness. Reducing this benchmark to a two-word blurb only makes it more difficult to locate specific examinations when looking through a transcript, unless the index is constantly referred to. The separation of parentheticals with a blank line above and below is blatant padding, in my view, and is ugly. Setting off DIRECT EXAMINATION, CROSS-EXAMINATION, etc., with one blank line before, however, is a useful benchmark that helps the reader work through the transcript.</p> <p><u>Appearances</u>: Appearances of counsel on the cover should remain. Leave all the necessary information one needs to identify who, what, when, where on the cover. Having to flip to inside pages is not practical.</p>

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			<p><u>Indentation</u>: The single-indent paragraph, as in page 5 of the draft example format, line 5, appears awkward and ugly (unless this is a misprint). Clearly, good grammar should not be devoid of good form.</p> <p><u>One Day/One Volume</u>: One Day/One Volume is a welcome suggestion. Practically speaking, this would greatly simplify, in my view, the front-end organization of the appeal record. In conjunction with the courtroom clerk's contemporaneous chronological log of proceedings, this proposed change would enable the reporter to access the necessary information to begin organizing the appeal record upon the guilty verdict, thus facilitating that much-needed head start on appeals. For those who do have a chance to utilize provisions of 269(c), timely preparation of appeal transcripts will be further enhanced.</p>
63.	Charlotte Freeman, Official Court Reporter, Superior Court of Orange County	Agree with Draft Report only if modified	<p><u>Identification of Common Events</u>: I object to the blank line before and after any parenthetical blurb.</p> <p><u>Capitalization</u>: I support and encourage the use of upper and lower case in transcripts and not the use of all caps. I did a small survey in my own courtroom with attorneys and showed them a transcript done in upper and lower case and the same transcript done in all caps. The preference was for upper and lower case as easier to read. I find in technical cases and cases with chemical formulas, that it is absolutely essential to use upper and lower case and not to use the style of all caps.</p> <p><u>Font Style and Size</u>: I like Arial 14-point and have been using it for several years. I think it makes for easier reading for the user. The Report does not address Font Style specifically with regards to Bolding and Italicizing. I find Bolding and Italicizing not only helpful in ease of reading but also the Italicizing is a correct use from a grammatical point when the language references case citations. I would like to see the report reference the use of special font characteristics as being acceptable when used in accordance with the standard and currently accepted English language grammar rules and that such special font use may be used at the discretion of the court reporter.</p>
64.	Lawrence Hayes, Court Supervisor II, Superior Court of San Francisco County, Criminal Division	Agree with Draft Report	<p>The followings comments are offered about various elements of this recommendation:</p> <p><u>Binding</u>: Plastic/spiral spine binding is not feasible. The spines create extra bulk to the transcript, making it difficult to stack transcripts and requiring more space to hold them. The binding needs to be removed when the transcript is image-scanned for storage; plastic/spiral spine binding would require more staff resources, in terms of time and effort, to remove.</p> <p><u>Staples</u>: Staples are preferable for ease of handling, storing, imaging and easier to remove/replace. Staples provide secure binding for transcripts up to 60 pages in length.</p> <p><u>Covers</u>: Acetate covers are not necessary to protect a transcript; modern Xerox/laser-weight paper adequately stands up</p>

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			<p>to handling. Acetate covers are especially unfeasible for sentencings, pleas, and prelims, which are usually under 60 pages in length and must have two holes punched into the top of the acetate pages. In particular, sentencings and pleas are inserted into the docket and the acetate covers have to be removed and discarded to do this. Removing the acetate covers would require a great expenditure of staff resources, in terms of time and effort. The removed acetate covers, which then are discarded, are non-recyclable. Any transcript which is inserted into a docket needs to have two holes punched into the top of each page, a process which would be hampered by an acetate cover. Once inside the docket, acetate covers make the docket bulkier and more difficult to store and handle, and the covers would interfere with viewing the transcript and skimming through the file.</p> <p><u>One-day One-Volume Transcripts</u>: This means more and smaller transcripts to handle. This would exacerbate the Binding and Covers problems discussed herein. It would also mean more opportunities to use staples, which are easiest to handle, remove and discard.</p>
65.	Kim Greve, Court District Manager, Juvenile Court & Appeals, Superior Court of San Bernardino County	Agree with Draft Report only if modified	<p><u>Binding</u>: On those cases where a transcript is ordered for more than one day or after a trial, I think it would be better to have the dates bound in one transcript, not to exceed 300 pages. For continuity, if the transcripts for the day end prior to the 300 pages that day should be started in a new volume.</p>
66.	Teresa Jo Fletcher, Superior Court of Orange County	Not stated	<p><u>Binding</u>: Regarding binding of transcript, our local DCA has requested no clear plastic cover because it's too labor intensive to lift up and stamp the transcript, so this would definitely be a deviation.</p> <p><u>Capitalization</u>: Personally, I prefer transcripts in all CAPS. I do bold my speakers. It makes for easier reading.</p> <p><u>Font style and size</u>: Arial 14 is an interesting choice for font.</p> <p><u>Page numbering</u>: Page number at the bottom right is also an interesting choice.</p> <p><u>Identification of common events</u>: No periods inside any of the parenthetical blurbs? I agree with short and sweet blurbs.</p> <p><u>Speaker identification</u>: As noted above, I bold all of my speakers. Much easier to read.</p> <p><u>Line numbers</u>: Why 28 lines?</p> <p><u>Left margin</u>: The actual sample transcript within the report of left line numbering margin at 1.3 inches and the left text</p>

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			<p>margin supposedly at 1.8 inches is not what I came up with when I was working with the new format.</p> <p><u>One day/one volume</u>: I thank you for the one day/one volume. Makes it much easier to coordinate with several reporters. I do not like the page number down on the lower right.</p> <p><u>Page numbering</u>: I also don't particularly care for numbering the cover page. What's the purpose?</p> <p><u>Indexes</u>: Are the witness index and exhibit index numbered completely separate from the transcript? I'm a little confused here.</p> <p><u>Page numbering</u>: What page number does the actual text (testimony, trial, hearing) start on? I'm assuming page 2. However, if there is only one volume and the indices are inserted between cover and text, are the indices numbered and, therefore, the text starts with whatever consecutive number it may be? Most indices are done AFTER the transcript has been edited and printed.</p> <p>I am NOT in favor of a "party" actually preparing a master index and photocopying a reporter's or reporters' certificates. How can we, as reporters, be guaranteed that our certified transcript has not been altered when a "party" prepares and puts everything together to be sent off to the appellate department? Maybe I'm missing something here.</p> <p>Where a "party" delivers partial transcripts and wants the entire transcript prepared, who pays for the reporter to repaginate, coordinate with other reporters, and prepare all the new indices? I would hope that the "party" deposits money to cover the preparation of the newly requested transcripts.</p> <p>On the sample transcript page 2, are we to assume (in the presence of the jury:)? The sample transcript took you (outside the presence of the jury:) on page 3.</p>
67.	<p>Lisa De Ruiter, Official Court Reporter, Superior Court of Stanislaus County</p> <p>Leeann L. McGee, Court Reporter, Superior Court of Stanislaus County</p>	<p>Agree with Draft Report only if modified</p>	<p><u>Binding</u>: Regarding all transcripts being bound with acetate covers and/or cardstock, the Courts of Stanislaus County find these to be cumbersome and take up too much room in their files. They prefer two-hole punch at the top for ease of containment in the file folders.</p> <p><u>Covers</u>: For appeal transcripts, however, the acetate covers are preferred.</p> <p><u>Box/Border</u>: Acceptable</p> <p><u>Capitalization</u>: Acceptable</p>

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<p>Heidi Scott, Official Court Reporter, Superior Court of Stanislaus County</p> <p>(The reporters listed above individually submitted comments that are identical.)</p>	<p><u>Characters per line</u>: Our courts now require 60 characters, which, I feel, makes for an easily readable line.</p> <p><u>Cover page</u>: I feel this proposal is too generic and does not afford those utilizing them the appropriate and significant information necessary, i.e., the type of proceedings contained therein; the judge's name; appearances of counsel, etc.; and no volume number. It is Acceptable to combine cover and title pages.</p> <p><u>Death penalty transcripts</u>: Status quo.</p> <p><u>Font style and size</u>: Acceptable (most readable).</p> <p><u>Headers and footers</u>: I feel that the individual reporter's name as a footer is essential, especially when more than one reporter is involved in a volume. Therefore, there would need to be a change in certificates as well.</p> <p><u>Identification of common events</u>: It is acceptable to shorten the text of many of the "events." However, I believe it is essential to have a witness setup when a witness was sworn, indicating the witness's name, which party is calling them especially for ease of indexing and searching options. Also, in the sample transcript in the RRTF draft, it's indicated on page two that the reporter should report the oath, usually not reported, which actually takes up more space than my original witness setup.</p> <p>One of the most absurd specifications is with regard to the last portion in this section. I, as a reporter, feel that I am responsible to make the most accurate and easily understandable record of the proceedings in the various courts I service. I feel it is my responsibility, if the court neglects to do so, "to clarify on the record nonverbal conduct or events."</p> <p>It is ludicrous to believe that the judge will catch every nod of the head, shrug of the shoulder or significant pause in the proceedings. THAT IS MY JOB!</p> <p>Also, going on and off the record, not every judge indicates exactly when to go back on. After working with these judges, their reporters know their style and will question if something sounds as if the court would want that on their record. Unless every judge in every county in every court is going to be retrained on these matters, I feel this remains in the competent hands of their reporters.</p> <p>This specification indicates it is the court's responsibility to clarify these events. The big question: And what if they don't?</p> <p><u>Identification of speakers, indentation/placement, indexes, introductory information, justification, line numbers, line</u></p>
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			<p><u>spacing, lines per page, margins: left, margins: right, margins: top and bottom, paper size, and vertical line:</u> All acceptable</p> <p><u>Master index volume:</u> This index should be prepared by the lead reporter and each reporter should generate and give to lead reporter their daily index.</p> <p><u>Pagination/volume:</u> The idea of beginning each volume with page one makes preparation of a multi-volume appeal much easier, however, I believe that for further use of transcripts, it will be more difficult to cite to these transcripts and may become confusing for reviewing courts.</p>
68.	Linda M. Harris, Certified Shorthand Reporter, ACOCRA, COCRA, CCRA	Agree with Draft Report only if modified	<p><u>Binding:</u> "When using bond paper for the cover page, the page must be covered with a protective material such as clear acetate," there are transcripts produced by court reporters in criminal calendar courts where felony pleas, preliminary examinations, change of plea transcripts, etc. are filed and the original transcript is placed directly in the court file. If needed on appeal, they are copied as part of the Clerk's Transcript on Appeal. Acetate covers are not flexible and to place them in a file would make it difficult to access the transcript. It is not practical and should not be part of the binding requirement set forth in this recommendation.</p>
69.	Terry Weiss, Manager Court Reporter Services, Superior Court of Los Angeles County	Not stated	<p><u>Identification of common events:</u> The format allows less clarity of the record; e.g., no times for when proceedings begin and end (often an issue); no description of exhibits on index (often reporters are asked to further describe exhibits); no description of readback (often an issue on appeal).</p> <p><u>Pagination/volume:</u> Our DCA has expressed in the past that they did not want any volume less than 25 pages. This provision will mean 1-page volumes.</p>
70.	Leslie M. Stine, Court Reporter, Superior Court of Stanislaus County	Do not agree with Draft Report	The new format proposal is generally acceptable and still has issues which do not meet judicial needs and put into question the integrity of the record.
71.	Mary Ann Lutz, President Lutz & Company, Inc	Agree with Draft Report only if modified	<p>This is an idea that is long overdue and is welcomed by all methods of court reporting as well as the users of transcripts. There are several positive attributes in these recommendations such as consistency in format; one volume equals one day, title page and index format, clarification master index and simplicity of appearances and identifications.</p> <p>Since this Task Force did not include any other method of court reporting in their discussions nobody asked if these formats would work for electronic court reporters/transcribers. There are concerns of compatibility and the following subjects need to be addressed:</p> <p><u>Characters per line, margins, and line spacing:</u> Electronic court reporters and transcribers primarily use WordPerfect or</p>

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			<p>Word (word processing software) to produce transcripts. The recommended line spacing, font size, characters for line, lines per page and margins are not practical. The software will not comply with this exact format.</p> <p>Recommendation: Change the line spacing to 1.5 and do not designate a minimum characters per line. Based on the recommendation by this report to pay based on a word rate the number of characters per line becomes a nonissue. Once this is accomplished word processing software will be consistent and will comply with the formats.</p>
72.	Susan T. Standish, Official Court Reporter, Superior Court of Sonoma County	Agree with Draft Report only if modified	<ol style="list-style-type: none"> 1. <u>Pagination/volume</u>: One day per volume in an appeal transcript may create a many-volumned transcript with several volumes consisting of only a few pages. Might it be more efficient to have pre-trial and post-trial volumes that could include several days? Change of pleas, various motions, and sentencings often consist of 1-10 pages. Separate binding takes reading time to go from volume to volume and adds to the cost of binding materials. 2. <u>Pagination/volume</u>: There is often more than one reporter per day. Should each reporter submit a separate volume beginning with page 1? Electronically how would each reporter submit his or her portion of the same volume? 3. <u>Indentation/Placement</u>: If new paragraphs within a speaker are indented only one tab, if the line above is full, no paragraph will show. This could lead to a full page losing all visible paragraphing, as in the judge reading jury instructions. Two tabs to start a paragraph within a speaker would be clearer. 4. Why double-indent jury instructions? It wouldn't be quoted material, which needs the double indent. It is the judge instructing the jury, and he or she does so by reading material, some of which may come from a book. It is not quoted, and it would be a waste of paper to indent it. 5. You recommend the blurb (Record read). Doesn't it matter what was read before a jury? It seems better to say (The pending question was read) or (The last question and answer was read), etc. 6. You recommend (Bailiff sworn), but then in your sample in Appendix 2, page 2, you have the oath written out and then also a blurb. Which is it? Write the oath out only for a witness? 7. You recommend no blurb for exhibits, but my software's automatic indexing feature will not index unless there is a blurb. 8. You recommend not noting nodding or shaking of head. What if that is the only response to a question?

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			<p>9. You recommend no blurb for on/off the record. Won't the transcript be deficient with no (Discussion off the record) if there is a conversation, then a discussion held off the record, and then further proceedings? If an appellate attorney argues something happened in an off-the-record discussion, does the appellate court not care where it might have happened? With at-bench conferences should the blurb (Conference held at the bench; not reported) also be eliminated?</p> <p>10. What is the purpose of the blank line before and after the blurbs describing common events? Seems like a waste of paper.</p> <p>The margins and tabs you list are not what are shown in your Appendix 2 sample. Which do you want?</p>
73.	Connie Parchman, Negotiations Chair, Alameda County Official Court Reporters Association	Agree with Draft Report only if modified	<p><u>Cover Page:</u> "When using bond paper for the cover page, the page must be covered with a protective material such as clear acetate," there are transcripts produced by court reporters in criminal calendar courts where felony pleas, preliminary examinations, change of plea transcripts, etc. are filed and the original transcript is placed directly in the court file. If needed on appeal, they are copied as part of the Clerk's Transcript on Appeal. Acetate covers are not flexible and to place them in a file would make it difficult to access the transcript. It is not practical, an added cost, and should not be part of the binding requirement set forth in this recommendation.</p>
74.	Cathy Willis Bell, Official Court Reporter, Superior Court of San Diego County	Agree with Draft Reporter only if modified	<p>I agree there needs to be uniformity in formatting of transcripts. Looking at your sample transcript, I do not think it reads well when a speaker is asking a question and the question mark follows the speaker's name instead of having the "By Mr. Smith:" and coming back on the next line with the question symbol that is in line with the answer symbol. It is harder to read that way.</p>
75.	Donald H. Lundy, Court Administrator, Superior Court of Stanislaus County	Not stated	<p><u>Binding:</u> Many courts direct their reporters to submit short transcripts (change of plea, brief law and motion, etc.) two hole punched and stapled at the top of the page. Requiring all transcripts to be bound on the left margin will reduce their usability when these are placed in the case file. Courts should be allowed the option to use other formats by local rule.</p> <p>Requiring the use of a protective material when bond paper is used for the cover sheet is not always necessary. Courts should be allowed to adopt local rules specifying under what circumstances protective materials are to be used.</p>
76.	Phillip J. Livoni, Official Court Reporter, Superior Court of San Bernardino County	Not stated	<p><u>Attorney references:</u> The heading at the top of the page does not note if the attorneys are private counsel, deputy public defenders, or conflict-panel attorneys. Is that no longer relevant?</p> <p><u>Indexes:</u> Indexes are very time-consuming. A page rate or word rate does not in any way fairly compensate reporters commensurately for the time required. Creating an index is not a function of reporting the record, which reporters are highly skilled at. (Though some software programs have the ability to do an "automatic index," it is very complicated, and I don't know a single reporter who does not do it manually.) If the courts see no value in indexing exhibits, we</p>

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			<p>should also drop Witness indexes. Both indexes are the primary forms of evidence for the trier of fact.</p> <p><u>Cover page</u>: The suggested new page cover does not include the appearances for that volume. Also, it neither includes a volume number nor the total number of pages for that particular volume. It would seem to me that the consumer could greatly benefit by knowing which volume they have in their hand, as well as the number of pages in that particular volume.</p>
77.	Leisha G. Hendrix, Certified Shorthand Reporter	Not stated	<p>How does the AOC expect to address the issue when a party orders a partial transcript of one or more days proceedings when it comes time for the transcript to be prepared for appeal? A “partial transcript” to me means, for example, the testimony of John Doe who testified after Sue Smith but before Harry Wilson on a particular day. How is the AOC defining a “partial transcript”? Under the proposed one volume/one day it indicates that “Each volume must begin with page 1.” If a partial transcript has already been prepared and has page numbers (for example, pages one through ninety-six), the previously excluded portion would have to be transcribed and paginated consecutively, thus creating the necessity to incorporate the previously transcribed partial transcript into the appeal transcript. If I understand the theory behind the change to a one day/one volume, it is due to the fact the attorneys don’t want to have to pay for the transcript on appeal if they have already had a transcript previously prepared. I don’t believe the issue of partial transcripts has been addressed in the “Rough Draft.” This should be addressed so as to have no confusion later among the interested parties as to what actually would constitute a “partial” transcript.</p>

SECTION VI: WORD RATES AND RESPONSIBILITY FOR TRANSCRIPTS

<i>No.</i>	<i>Commentator, Title, and Organization</i>	<i>Position on Report</i>	<i>Comment</i>	<i>Task Force Response</i>
78.	<p>California Court Reporters Association (CCRA)</p> <p>Yvonne Fenner, President</p>	Agree with Draft Report	<p><u>1. Comments</u>: CCRA would endorse a page rate. The page rate should be cost neutral to court reporters and the courts. The page rate needs to be negotiated with the courts, unions, and court reporting associations.</p> <p><u>Rationale</u>: First, using a standardized format ensures the consumer is adequately protected. Second, there is much disparity in word counts, depending on which software system is being utilized. WordPerfect, Word, and a court reporter’s personal software will all come up with a different word count on the same transcript. This would be a major issue in a “word count” philosophy. Who would be financially and physically responsible for counting words? hird, a page rate is easily understood by consumers, courts and reporters.</p> <p><u>2. Comment</u>: Consideration should be given to death penalty cases and</p>	<p>1. Word rate v. page rate – Current law provides for a word rate. Government Code section 69950 sets forth a word rate of 85 cents for a folio (100 words) in an original transcript. Prior to the use of computers, the courts created the administrative concept of “folio multipliers” to address the difficulty in counting words manually. Folio multipliers are the number of folios—units of 100 words—that are attributed per page. Technological advances have now made it possible to precisely and</p>

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		<p>expedited transcripts in determining the rate of compensation for the transcript.</p> <p><u>Rationale:</u> Death penalty cases are unique. Death penalty cases and expedited transcripts involve much more work to produce the transcripts than the normal transcript, and are a tremendous added workload to the reporter. A reporter is entitled to fair compensation commensurate with the added workload and stress of expedited and death penalty transcripts.</p> <p><u>3. Comment:</u> Where an official reporter is unavailable, an attorney or litigant may desire to hire a freelance reporter to make the official record. These freelance reporters must be able to charge a per diem and transcript fee that is agreed to between the reporter and the attorney/litigant. There must be adequate notice given to the attorney/litigant of a trial date in a civil proceeding so they may retain the services of a reporter if they so desire.</p> <p><u>Rationale:</u> Freelance reporters are independent contractors and should not be bound by the fees set forth when courts are purchasing transcripts. Freelance reporters who are contracted by litigants should retain the ability to charge for copies of appellate transcripts. The notice provision would give the attorney/litigants the opportunity to procure the services of a freelance reporter to report their hearing or trial.</p> <p><u>4. Comment:</u> Deposition transcripts that are lodged and/or filed with the court are not addressed in the Draft Report. These deposition transcripts should remain under the control and responsibility of the freelance reporter who produced them.</p> <p><u>Rationale:</u> Freelance reporters are independent contractors who are reimbursed by attorneys who hire them to take depositions.</p> <p><u>5. Comment:</u> Reporters must have the ability to negotiate concerning alternative products and services with the court or party who ordered the additional services.</p> <p><u>Rationale:</u> When attorneys or the court request additional services, such as rough transcripts, ASCII files, and realtime services, the reporter must have the ability to provide these services, and be compensated.</p>	<p>quickly count the number of words in an electronic document. These new and emerging technologies have obviated the need for a page rate or folio multiplier. Also, the ability to electronically count words addresses the concerns expressed by the bar and attorney representatives on the task force regarding the difficulty in explaining the concept of folio multipliers and divergent transcript costs to their clients. For example, see comment 84.</p> <p>2. Transcripts for death penalty cases and expedited transcripts – If appropriate, the word rates for different types of cases will be addressed during the determination of the word rates.</p> <p>3. Fees for transcripts not purchased by the courts – The task force assumes that this comment is in reference to fees for transcripts of court proceedings that are <i>not</i> purchased by the courts. A standardized word rate for these transcripts will result in more uniform transcript fees and the greater ability to verify transcript invoices. The task force's intent was to provide all users a fair and consistent fee for transcripts of court proceedings. On average, civil litigants pay higher rates than those paid for transcripts of criminal proceedings. Based on the collective knowledge and</p>
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			<p><u>6. Comment:</u> Reimbursement when transcripts must be re-prepared has not been addressed in the Draft Report.</p> <p><u>Rationale:</u> Oftentimes reporters are asked to re-prepare transcripts that have become lost or no longer available. There should be fair and reasonable compensation for such circumstances.</p>	<p>experience of the members, the task force estimated that an 18% fee differential (for transcripts not purchased by the courts) would be reasonable.</p> <p>4. Deposition transcripts – The task force did not address deposition transcripts, but did conclude that all transcripts of court proceedings, once filed with the court, would then be under the responsibility and control of the courts.</p> <p>5. Alternative products and services – If appropriate, the word rates for different types of cases will be addressed during the determination of the word rates.</p> <p>6. Re-preparation of transcripts – If appropriate, the word rates for different types of cases will be addressed during the determination of the word rates.</p>
79.	<p>California Official Court Reporters Association (COCRA)</p> <p>Paige Moser, Vice President</p>	Do not agree with Draft Report	<p>7A – COCRA disagrees with the RRTF recommendation to establish a single standard word rate and instead encourages a full transition to a page rate. The courts have already established “folio multipliers” to calculate payment for transcripts. As explained in the RRTF report, “Folio multipliers are the number of folios – units of one hundred words – that are attributed per page.” The RRTF report goes on to state the “folio multiplier” was created because of the impossibility of counting words. In other words, the current folio-multiplier-per-page system has evolved as a pragmatic solution to the unwieldy method of calculating transcript costs by the word.</p> <p>A page rate is also preferable because of the ease of calculation of transcript cost</p>	<p>See response “word rate v. page rate” to comment 78.</p> <p>Word counting software – This issue will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p>

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		<p>by all parties - courts, attorneys, reporters, and the public. Pages already are plainly numbered in paper transcripts, and the RRTF recommends that page numbering continue to be used in the future for digital transcripts.</p> <p>In contrast, the RRTF admits, a word rate would require the installation of a statewide computer system and software program capable of being accessed by all of the above parties. This on-line system would involve additional costs, as yet undetermined, where a page rate could be implemented at no cost.</p> <p>The RRTF report claims that there is “widespread disparity in the cost of the transcript within and among courts throughout the state.” This disparity is caused by a wide variety of recognized folio multipliers, which is further exacerbated by an even greater, often imperceptible, number of transcript formats in use. Still worse, some local courts do not recognize/require any particular transcript format.</p> <p>The most straightforward, uniform way to determine the cost of a transcript is based on a standard cost per page tied to a standard transcript page format.</p> <p>7B – COCRA agrees, except that the word rate should be a page rate, as stated above.</p> <p>7C – COCRA is against revenue and expenditure neutrality. As stated in the “Executive Summary” on page 10 of this report, “The Judicial Council charged the RRTF with evaluating the provision of court reporting services.” That evaluation should have, but did not, adequately address the valuation of those services, including compensation for transcripts. Reporters have not had an increase in transcript pay for 15 years. To have the RRTF not only ignore this inequity, but to suggest that any reporter not be given an increase, or worse, be given a rate cut, is unacceptable. If such overarching recommendations for changes and improvements in court reporting services can be considered, so equally must the fairness and sufficiency in remuneration for those services.</p> <p>7D – COCRA agrees, except that the word rate should be a page rate, as stated above.</p>	<p>Responsibility for and control of the transcript – Upon payment to a reporter, courts will assume control of and responsibility for the transcript to provide consistent maintenance of and public access to court records.</p>
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			<p>8 – COCRA points out that a page rate would eliminate the need for a statewide software program to count words. The cost alone of installing a system statewide and making that system accessible to all stakeholders, as charged in the report, versus establishing a page rate, which would not cost anything to implement, is reason enough to support a page rate as opposed to a word rate. A page rate could be implemented at the same time as the uniform transcript format and would bear no cost at all. This recommendation contradicts the Judicial Council’s overall goal of simplification and expanded access, because it adds an extra, unnecessary step and cost to all parties. A page rate is simple and easy to understand.</p> <p>9 – COCRA’s goal is for reporters to be fairly compensated for their work, which includes a long overdue raise for both originals and copies. COCRA objects to any recommendation that the court assume control of copies. This discussion is at least premature, transcripts and copies are still pervasively delivered on paper, and most probably, unnecessary. COCRA sees no problem with proceeding to digital transcripts without the court assuming a proprietary interest in the copies. The court’s general obligation to maintain public records, in both paper and digital form, does not override a court reporter’s specific statutory right to be compensated for copies.</p>	
80.	<p>Deposition Reporters Association (DRA)</p> <p>Rosalie A. Kramm, President</p>	<p>Do not agree with Draft Report</p>	<p>DRA would like to voice comment and summarize the position/reaction of DRA's Board of Directors to the RRTF's proposed draft language regarding the establishment of transcript format standards and pricing for transcripts of civil court proceedings, which may, indeed, affect deposition/freelance reporters when called upon by private attorneys to report court proceedings where no official reporter is provided by the Court. I think our Board's reaction to the proposed language falls into essentially three categories.</p> <p>First, I think it's safe to say that our Board understands the Judicial Council's desire to standardize transcript formats throughout the State and the benefits this consistency would provide the Court, and we would have no objection to following the guidelines established as long as we are allowed the freedom to establish our pricing accordingly.</p>	<p>See response “fees for transcripts not purchased by the courts” to comment 78.</p> <p>The task force recommendations do not impact the per diem rates negotiated between private attorneys and freelance reporters.</p>

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			<p>Secondly, it seems that when the Court elects to employ fewer official reporters than are needed, either on a full-time or per-diem basis, and requires attorneys in civil proceedings to hire freelance reporters, that the Court should then not have jurisdiction over the transcript charges of those freelance reporters. Those costs are borne by the private attorneys, not the Court, and the Court may or may not have authority over the prices charged for those transcripts anymore than they would be able to set the pricing for any other outside vendor who is hired by a private attorney to perform services for that attorney in court. This issue may be resolved by keeping the standard page rate set by the RRTF, but the freelancer may charge a per diem that is agreed upon between the attorneys and the freelance reporter.</p> <p>Thirdly, from a practical standpoint, if the Court establishes a transcript format, one which may require a higher density than freelancers are presently required to meet by the CRBC’s transcript guidelines, and then sets a price for that transcript that is below, perhaps significantly below, what freelancers normally charge in the deposition market, it may become extremely difficult, if not impossible, for private attorneys to find deposition reporters willing to report court proceedings.</p> <p>I would also mention that DRA's Board has not discussed in any way the specifics of the transcript minimums, layout, format or word-count issues proposed currently by the RRTF and most likely would defer to and support COCRA's position in responding to those proposals.</p> <p>I hope this summarization is sufficiently clear and concise for the Task Force's consideration.</p>	
81.	<p>Los Angeles County Court Reporters Association (LACCRA)</p> <p>Therese Claussen, President</p>	<p>Agree with Draft Reporter only if modified</p>	<p>There has not been a folio rate increase since January 1991. The matter of future increases in the word rate must be the subject of future negotiations.</p> <p>There is no mention of daily or expedited transcripts in the draft report. Death penalty cases, high profile media cases and cases lasting over two weeks often require the production of a daily transcript. The court and counsel for a variety of reasons often request daily or expedited transcripts. The provision of these services makes the judicial system run more efficiently. There must be financial incentive for court reporters to provide the faster service demanded by bench</p>	<p>See responses “word rate v. page rate,” “transcripts for death penalty cases and expedited transcripts,” and “deposition transcripts” to comment 78.</p>

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			<p>officers and counsel. These enhanced services require more work on the part of the court reporter and often necessitate the hiring of support staff. Court reporters should be allowed the ability to negotiate remuneration for alternative products and services with the court or the party who orders them. In the alternative, and in keeping with the tenor of the draft report, a negotiated agreement should be reached whereby reporters charge a certain additional percentage of the regular word rate charge for provision of the enhanced services.</p> <p>The issue of payment for transcripts that must be re-prepared was not addressed in the draft report. Although this scenario is less likely once electronic filing is in place, it is now fairly common for smaller transcripts to be lost or misplaced and the court reporter is required to provide another transcript.</p> <p>The issue of filing and/or lodging with the court of deposition transcripts was not, and should be, addressed as related to custody and control.</p> <p>Government Code §68086 should remain in place for use in those proceedings outlined in the February 6, 2004 “Agreement” when a litigant desires to hire a freelance court reporter to make the official record. As independent contractors, freelance court reporters must be able to charge a per diem for the appearance and a transcript fee that is agreed upon between the reporter/agency and the attorney/litigant.</p>	
82.	Official Court Reporters of the Superior Court of Stanislaus County	Agree with Draft Report only if modified	<p>Recommendation 7: When the primary goal, task or charge of the task force has been to devise a standardized format for all transcripts produced from court proceedings, one must wonder why the RRTF did not make the logical leap to page-based fees. This is a more simplified and universally understood fee basis.</p> <ul style="list-style-type: none"> ▪ We support page-rate and oppose continued word-rate compensation. ▪ Page-rate compensation is inherently more understandable to the consumer and easier to monitor, audit and enforce by the courts and the California Court Reporters Board. ▪ The process of folio-based fees is not only outdated and archaic, but is the most misunderstood and disputed area relating to court reporter charges. ▪ Word-rate fee basis ignores the needs of users choosing paper transcripts and 	See responses “word rate v. page rate” to comment 78 and “responsibility for and control of the transcript” to comment 79.

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		<p>is verifiable only in electronic transcript format.</p> <ul style="list-style-type: none"> ▪ Nothing can be completely neutral revenue to the reporters and the courts. This is a matter to be further negotiated by reporter representatives as to folio multipliers and an established, widely recognized, standard page rate. ▪ We support the standardization of uniform and statewide rate for all transcripts not purchased by the court to protect the public and other users of the record and ensure rates for court transcripts are a known factor in litigation. ▪ The issue of non-standard pricing by outside reporters has become an issue within our court as well as with civil litigants. ▪ Frequently staff reporters produce transcripts in the same cases as outside/freelance reporters. It is inherently unfair to allow outside reporters to charge unregulated fees and to require staff reporters to adhere to a set fee standard under these circumstances <p>Recommendation 8: Statewide software program to count the number of words would not be necessary if a page-based fee system were instituted.</p> <ul style="list-style-type: none"> ▪ We oppose the word-count software for reasons as stated in our comments regarding page-based fees. ▪ Word-count software is limited to electronic transcripts and ignores needs of users choosing to utilize traditional paper transcripts, most frequently our public customers. ▪ Once a standard page is established it is simple to state a specific charge per page. This is also the standard in the private sector. <p>Recommendation 9: The concept of court-owned transcripts was rejected by the California State Legislature in the 2003 session.</p> <ul style="list-style-type: none"> ▪ Fair compensation: The primary issue here is fair compensation to court reporters. Further discussions with reporters and labor representatives are needed to determine what exactly the court's intentions are with regard to delivery of originals and/or copies, future copy sales, and the necessary adjustment to transcript rates to accommodate resultant loss of reporter compensation due to loss of copies. 	
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			<ul style="list-style-type: none"> ▪ Any change in the manner of compensation for transcripts is also a labor issue and must be discussed/negotiated with our union representatives, instead of unilateral vote. ▪ Full revenue neutrality seems to be without any basis in reality. ▪ Reporters will suffer a business interference and economic loss of income due to such a transition and possibly unfair business practices, yet to be litigated. ▪ Electronic filing and storage does not require ownership of the transcripts by the courts. Reporters should be allowed access to electronically filed transcripts for distribution, as necessary, to requesting parties. ▪ Payment for electronically filed record may still be made to the reporter easily through an accessible software system. ▪ Reporters should be allowed to maintain control of their record to ensure the integrity and security of the record. ▪ The cost for reporter’s transcripts has remained constant for the past 15 years while the fees for a copy of other court records has dramatically risen. ▪ Our court currently charges to 75 cents per page for copies of documents from the court file. Additionally, the courts charge \$6.60 as a certification fee over and above the actual copy fees, 1/3 to ½ more than the reporter rate proscribed by the Government Code. Our court would actually be required to charge less than they are now for copies of court records. ▪ Lack of Job Incentives: As additional copy compensation to the reporters is eliminated, labor incentives disappear and the retention and recruitment of qualified reporters becomes difficult. Production levels decrease. Reporters previously exempt from overtime pay may become necessarily eligible. 	
83.	<p>Orange County Bar Association (OCBA)</p> <p>Kim R. Hubbard, President</p>	Not stated	<p>While our committee agrees with the concept of providing for single standard word rate to be used for the cost of all transcripts, we disagree that all civil transcripts (other than those paid for by the Courts) should be charge at a rate 18% higher than the standard rate. No justification can be presented for charging one rate for court-paid transcripts, criminal transcripts, and juvenile transcripts while charging 18% higher for “all other” transcripts. Civil transcripts are no different than others and dealing with “civil litigators” is no different than dealing with other attorneys or court personnel. The surcharge proposed for civil transcripts will unduly burden civil clients, including family dissolution matters and child custody issues, with higher proportionate costs not justified under these</p>	<p>See response “fees for transcripts not purchased by the courts” to comment 78.</p> <p>Software – This issue will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p>

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			<p>circumstances.</p> <p>If the Council desires to raise more funds then it should authorize higher “expedited transcript costs” for parties desiring transcripts under some expedited delivery system. The proposed draft appears to not authorize any form of “expedited transcript delivery and preparation costs.</p> <p>The standardization of procedures should not lock in any proprietary software statewide (p. 27), which would stifle innovation or require attorneys to purchase special software for simple things like text, word counts, etc.</p>	
84.	The State Bar of California, Committee on Appellate Courts	Not stated	<p>The Committee supports the efforts of the Task Force to address the current disparity in costs of reporter’s transcripts and to establish a uniform method by which the number of words in a transcript can be easily determined and verified. However, Recommendation 7 of the Draft Report fails to provide certain specific details and leaves many unanswered questions. Without additional information, the Committee is unable to formulate an ultimate view of the proposals, but is able to comment on the concepts only.</p> <p>Recommendation 7A proposes the establishment of a single standard word for court-paid transcripts. Recommendation 7B proposes that this same word rate be charged for transcripts of juvenile and criminal proceedings. Recommendation 7C proposes that the single word rate should result in “overall net revenue neutrality” for reporters and “overall net expenditure neutrality” for the courts.</p> <p>The Committee supports the establishment of a consistent rate for transcripts throughout the state. However, the Draft Report does not explain how the single standard word rate is to be established or what it would be. Without this information, the Committee is unable to compare the proposed standard word rate to the current system of “folio multipliers” and cannot evaluate the potential impact of the resulting cost of the proposed new word rate. The Committee is therefore not in a position to support or oppose the specific standard word rate that would be established. The Committee would have more confidence in the desirability of the single word rate if it knew how the rate would be established and what it would be. In any event, the Committee believes that actual setting of the single standard word rate should take into consideration, as a factor, the</p>	<p>Revenue neutrality and expenditure neutrality – By the phrase “revenue neutrality and expenditure neutrality,” the task force means (1) reporters throughout the state would receive the same revenue on an aggregate, statewide basis for the equivalent work product; and (2) the courts would expend the same amount on transcripts on an aggregate, statewide basis for the equivalent work product.</p> <p>See response “fees for transcripts not purchased by the courts” to comment 78.</p> <p>Regarding the standard statewide software program, this issue will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p>

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		<p>potential impact of the resulting cost on litigants’ access to the appellate courts.</p> <p>It is not clear to the Committee what the Draft Report means by its goals of “overall net revenue neutrality” for reporters and “overall net expenditure neutrality” for the courts. Since (as the Draft Report notes at page 25) current effective per-word rates vary considerably around the state, it does not appear that a single word rate can result in revenue neutrality for most reporters or expenditure neutrality for most courts. If “overall” neutrality means neutrality on an aggregate, statewide basis, then the goal is achievable but may not be desired by many courts and many reporters. The manner in which this issue will be resolved is not spelled out in the Draft Report.</p> <p>Finally, the Committee believes it would be helpful if the Task Force clarified its designation of “juvenile” proceedings in Recommendation 7B, and specified whether juvenile dependency proceedings are included within this designation.</p> <p>Recommendation 7D proposes the establishment of a word rate for civil transcripts that is 18% greater than the standard single word rate for court-paid transcripts and for criminal and juvenile transcripts. Here, as above, because the word rate for court-paid, criminal, and juvenile transcripts is not established in the Draft Report, the Committee is not in a position to evaluate the potential impact of a rate that is 18% greater than the word rate established for such transcripts. The Committee recognizes that a higher word rate for civil transcripts may be necessary as part of the overall set of recommendations in the Draft Report, and has no inherent objection to the word rate charged for civil transcripts being different from that charged for court-paid transcripts. The Committee does, however, question the basis of the 18% surcharge.</p> <p>The Committee believes that any surcharge for civil transcripts should consider the impact of the greater word rate on civil litigants, particularly those with low or moderate incomes. If a party loses in the court below, it is virtually impossible to prosecute an appeal without a complete, verbatim transcript, and any increase in the cost of reporter’s transcripts could be a significant factor. While it is true that there are wealthy litigants that can easily absorb the cost of the court transcript – including an 18% surcharge – in the majority of cases, this may not</p>	
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		<p>be true. The Committee believes the potential impact on access to the appellate courts is a factor that should be considered.</p> <p>The Committee feels that the Draft Report does not adequately explain how the Task Force arrived at the recommended 18% surcharge for civil transcripts, as opposed to some other percentage. The Committee was not persuaded that the following factors, offered on page 27 of the Draft Report, justify a word rate for civil transcripts that is 18% greater than the standard single word rate for court-paid transcripts and for criminal and juvenile transcripts.</p> <ol style="list-style-type: none"> 1. Research Efforts <p>The Committee could find no substantial justification for an increase based on “research efforts.” With our collective experience, we were unable to define what research, of a significant nature, a court reporter might do in a civil case that the same court reporter might not do in a criminal case.</p> <ol style="list-style-type: none"> 2. Varied And More Complex Computer Dictionaries <p>Again, the Committee’s collective experience was unable to identify, or quantify, the basis for this statement. Some criminal cases, such as capital cases, can be as complex as, or more complex than, many standard civil cases. For example, forensic evidence concerning a murder is at least as complicated and complex as evidence in a civil medical malpractice case. Even in a non-capital, criminal case, the evidence can be quite technical and complex. In addition, over a relatively short period of time, practically all court reporters build up substantial complex computer dictionaries for virtually all such issues.</p> <ol style="list-style-type: none"> 3. Time Spent Reviewing Stenotype Notes To Provide Estimates And Waivers <p>With the advent of computerized word counting programs, the time spent reviewing stenotype notes to provide estimates appears to be minimal. “Waivers” are handwritten or preprinted documents that take only a few seconds to prepare. The Committee does not believe this factor justifies an 18% surcharge for civil transcripts.</p>	
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		<p>4. Time And Cost To Communicate With Litigants, Lawyers, And Others</p> <p>The Committee was unable to identify a substantial difference in the amount of time that a court reporter spends in communicating with a criminal attorney versus a civil attorney. For example, when an attorney wishes a transcript for appeal, the current rules require the attorney to present an exact inventory of the transcripts to be prepared by the court reporter, describing the date and time. If a request is properly drafted, questions are few and far between.</p> <p>5. Interaction With Other Court Employees When Acting As The Primary Reporter</p> <p>In preparing the transcript, the primary court reporter in a civil case must coordinate with a secondary court reporter who only transcribes part of the proceedings. But this is no different than in a criminal trial. In the criminal arena, often there are several court reporters involved and, as in civil cases, the primary reporter must communicate with secondary reporters. The Committee does not believe this factor justifies an 18% surcharge for civil transcripts.</p> <p>6. Delivery Expenses</p> <p>It appears that delivery expenses do not justify the higher costs for civil transcripts in that the Draft Report apparently contemplates that transcripts will be Web-based – which would result in no increased “delivery” expense in civil cases. Even under the current system, when a court reporter has finished a transcript, the court reporter often advises the attorney, who sends a messenger to the court to pick up the transcript. In any event, the Committee does not believe the cost of shipping a transcript to the attorney justifies an 18% surcharge across the board in all civil cases, regardless of the length of a trial. To the extent there are additional expenses, they could be obviated by requiring the parties to absorb the delivery charge.</p> <p>Recommendation 8 is that the Judicial Council adopt a standard, statewide software program for counting words in transcripts. We concur in the</p>	
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			<p>recommendation. Although all end-users will have to bear the cost of purchasing the software, we believe this cost is far outweighed by the benefits of word-count uniformity and verification.</p> <p>Recommendation 9: The Committee supports the adoption of procedures through which the court would assume control of and responsibility for transcripts.</p>	
85.	<p>Superior Court of San Diego County</p> <p>Stephen V. Love, Executive Officer, and Court Managers</p>	Agree with Draft Report if clarified	<p>If a page rather than a word rate were adopted for “court-paid transcripts,” actions concerning word rates would become unnecessary. Freelance rates in San Diego are established by the page and include low, medium, and high density of words as well as technical or average terminology. An 18 percent increase per page for those court-paid transcripts containing high density of words or technical terminology might be considered for all transcripts – even those containing criminal (i.e. death penalty) and juvenile proceedings.</p> <p>For example, if words are defined as a series of letters or numbers that begin and end with a blank space, the reporters producing high density or technical terminology would be paid less for a transcript than a reporter producing a transcript filled with short questions and “yes” or “no” answers.</p> <p>The establishment of a uniform statewide page or word rate for all transcripts not purchased by the court would create a consistent transcript fees schedule for the public. A rate 18 percent greater than that established for “standard” court-paid transcripts seems appropriate.</p>	See responses “word rate v. page rate” and “fees for transcripts not purchased by the courts” to comment 78.
86.	Karen R. Kronquest, Official Court Reporter, Superior Court of Napa County	Agree with Draft Report only if modified	A set fee for transcripts once in control of the courts should be set, not to exceed reporters compensation. Should not be a money-making venture.	No response necessary.
87.	Richard Power, Attorney/ Columnist, Appeals Unlimited	Do not agree with Draft Report	Copies. Extra copies should cost nothing more than a small fee to make an electronic duplicate. The taxpayers are being hugely gouged by being charged exorbitant amounts for things that can be produced for virtually nothing. An additional copy of a 5,000 page electronic transcript of oral proceedings should cost less than \$10, and that includes transmission cost, instead of thousands of dollars, as has been the case.	These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.

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			<p>Word Counting. As for word counting, Microsoft Word, available in any computer store, can instantly count the number of words in a huge file. All of the complex talk on that subject can be reduced to that single sentence. Other word processors can do the same thing.</p> <p>Cost. The cost of the original transcript should be at a level consistent with what is now possible with modern electronics and that is far less than current cost. Artificially elevating the word rate for the original to compensate reporters for time unnecessarily spent in courtrooms is an insult to taxpayers and litigants. There is no need with current technology to have a court reporter physically present in the courtroom. Multi-track electronic tapes can be transcribed by persons outside the courtroom. This is being done in the federal courts and other states. Clerks can monitor the recording. Transcribers can be vastly more productive by spending all their time transcribing instead of sitting in a courtroom.</p> <p>Responsibility For And Control Of The Transcript. This is a long overdue change. Chief Justice Lucas recommended a change years ago. The ridiculous present situation was lobbied into law in 1992, costing transcript users a mint since then. Proper management of transcripts would allow electronic transcripts of oral proceedings, with all pages being sequentially numbered, but the task force has failed to grasp this point.</p>	
88.	Mel Toomer, Deputy Court Executive Officer, Superior Court of San Mateo County	Not stated	<p>If a statewide standard format is required and adhered to, there will be no need for a word count, as every transcript can be billed according to a page rate, thus obviating the need for the extra step and costs incurred in a pilot project and work-count program.</p> <p>According to the report, the reporter will e-file the transcript and the court will then become responsible for any copies. There is no reason for a reporter to certify each copy of the transcript as only one original will be e-filed.</p>	<p>See response “word rate v. page rate” to comment 78.</p> <p>Certification – In the proposed Web-based system, a reporter would transmit only one electronic document, which he or she would certify as the original. The courts would use this original to transmit or produce any copies for authorized users.</p>
89.	David J. Gonzalez,	Agree with Draft	As regards the word rate vs. page rate issue, unless there is an upward valuation of a word, based on the prevailing folio formula, per code, I am not in favor of	See response “word rate v. page rate” to comment 78. What is counted as a word

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	Official Court Reporter, Superior Court of San Diego County	Report only if modified	<p>recalculating the transcript payment scheme. The leveling of the playing field, as it were, regarding how we receive compensation will be the Uniformity of the Transcript component of the draft, not in reinventing the wheel and coming to a meeting of the minds on "when is a word a word." Is a word 1 letter/character? Is it 5 letters/characters? Having individual reporter compliance, i.e., adjusting their software format to yield a reasonable and customary quantity of text, is doable. (Given the 28-line page, 10 words per line, for example, seems reasonable, given all other proposed formatting parameters suggested.) That would be the most cost-neutral way to address this issue. As folio rates differ from county to county, I would rather see efforts to settle on a reasonable page rate versus a word rate that necessitates a computerized method to verify word content.</p> <p>The 18% overage for non court-paid transcripts is not practical. Criminal matters often involve any number of experts in countless disciplines, as do civil, and distinguishing one from the other would not be fair. If there were a low/medium/high density designation, that might be appropriate, as is done in many deposition reporting firms. An across-the-board premium for civil seems discriminatory, to me.</p>	<p>will be addressed with the selection of the word-counting software.</p> <p>See response "fees for transcripts not purchased by the courts" to comment 78.</p>
90.	Charlotte Freeman, Official Court Reporter, Superior Court of Orange County	Agree with Draft Report only if modified	<p>My question is who is responsible for purchasing the word-count software program. Will each court be responsible for budgeting for such software and providing it to its court-reporter employees? Will the individual court reporter be responsible for purchasing the word-count software an individual apart from one's employment with the courts?</p>	<p>These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.</p>
91.	Kathy E. Sellers, Official Court Reporter, California Court Reporters Association	Agree with Draft Report only if modified	<p>Establish a higher word rate than discussed for EXPEDITED transcripts. It is not beneficial for reporters to work into the late hours on transcripts that court or counsel need the next day unless there is some monetary incentive to do so. I currently make an agreement with counsel during civil trials when expedited transcripts are necessary that they pay an expedited rate.</p> <p>How will the single standard word rate apply to preparing a master index? While there aren't many words contained in an index, the compilation of said index is very time consuming and tedious. The word rate should be higher for indexing.</p>	<p>See response "transcripts for death penalty cases and expedited transcripts" to comment 78.</p> <p>Word rate for indexes – If appropriate, the word rates for different types of transcripts will be addressed during the determination of the word rates.</p>

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92.	Linda M. Harris, Certified Shorthand Reporter, ACOCRA, COCRA, CCRA	Agree with Draft Report only if modified	Regarding Recommendation 7A, since a uniform transcript format is required, each transcript can be paid by the page. Regarding Recommendation 9, I am opposed to the court assuming control of and responsibility for providing access to the transcript without further payment to the reporter beyond the initial payment.	See responses “word rate v. page rate” to comment 78 and “responsibility for and control of the transcript” to comment 79.
93.	Pamela Katros, Certified Shorthand Reporter, Superior Court of Placer County	Agree with Draft Report only if modified	I believe a page rate would be better than the current folio or proposed word rate. I think if we are all using the same page formats it should be uniform throughout the state. I also hope since the court will be gaining ownership of the transcripts, we will get an increase in the page rate to compensate for the fact of losing our copies. Also, the concern is, before we switch to electronic filing, is the court going to make copies for the attorneys? Our court clerks are already understaffed and wouldn't have time to make copies of all our transcripts.	See response “word rate v. page rate” to comment 78. Copies for attorneys – The courts would only provide electronic transcripts to attorneys <i>after</i> the transition to an electronic system.
94.	Terry Weiss, Manager, Court Reporter Services, Superior Court of Los Angeles County	Not stated	Is timestamping allowed on transcripts? If so, how often on page? If so, is it counted as words? Death penalty cases are usually original and 5 copies. Are they included? Will there be a provision for payment for dailies and/or expedites at a higher rate? Do line numbers and page numbers count as words?	Time-stamping, line numbers, and page numbers – These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system. See response “transcripts for death penalty cases and expedited transcripts” to comment 78.
95.	Teresa Jo Fletcher, Superior Court of Orange County	Not stated	Regarding the statewide software program to count the number of words in electronic transcripts, who is going to pay for this? I am NOT in favor of relinquishing control and responsibility of the transcript over to the courts with no further payment once the transcript is online. Quite frankly, no amount of extra compensation for relinquishing control is going to preserve the integrity of the record. If, indeed, control and responsibility is relinquished to the courts, I assume the courts will indemnify reporters for any possible tampering with transcripts.	Payment for the word-counting software – This issue will be addressed during the feasibility studies, development, and implementation stages of the Web-based system. See response “responsibility for and control of the transcript” to comment 79.
96.	Kim Greve, Court District	Agree with Draft	There are some reporters that charge original fees each time a transcript is prepared, regardless of whether or not it was prepared previously for a different	This particular issue is not within the scope of the task force’s charge. There

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	Manager, Juvenile Court & Appeals, Superior Court of San Bernardino County	Report only if modified	party or the court. GC69950 should include this information.	is a regulatory board to address issues of misconduct.
97.	Renee Lawson, Official Court Reporter, Superior Court of Ventura County	Not stated	I am opposed to the recommendations of the task force, with the exception of the word counting and formatting issues, just mostly concerning the issue of ownership of the record. I don't see this as a way for the public to have easy access to the courts or judicial system. I see this as a way for the courts to take money out of our pockets and put it into their own pockets for work that we, the court reporters, have produced, not anyone else. I just purchased new software at \$5,000, I'm the one that stays up all hours of the night editing these transcripts, paying the proofreader, printing, paper, etc. It would be like me buying a book from Barnes & Noble and then thinking I have the right to copy it and sell it to whomever I choose and keeping the profits. That book is someone else's work product, not mine. And as far as noncriminal transcripts, I don't feel we should be limited to how much we can charge for those. Not only does the degree of difficulty vary so much, but also, sometimes attorneys want these things the very same day or next morning. And I feel we should be able to charge accordingly, not just a flat extra 18 percent over criminal/juvenile rates. If I'm going to have to cancel my dinner, my kids' homework, and stay up all night, I want to be compensated for it.	See responses “responsibility for and control of the transcript” to comment 79 and “fees for transcripts not purchased by the courts” to comment 78.
98.	Margie Raymond, Court Reporter/ Interpreter Coordinator, Superior Court of Placer County	Not stated	I am in favor of most of the standardizing recommendations, specifically page 28: “...courts should assume control of and responsibility for the transcript consistent with that for other public records. Reporters would not receive any additional reimbursements for copies...beyond what they are initially paid.” Also, I really like the uniform statewide word rate – no more 2.8 folios per page, etc. which currently varies from county to county. This benefits the public and stays within statute. However, it will require the use of word –counting software which could be quite an expense for some of the senior reporters. (See page 27)	See response “payment for the word-counting software” to comment 95.
99.	Lesia Mervin, Official CSR,	Agree with Draft	I am concerned about the word count. I have not had an increase in transcript rates in 14 years! I'm concerned that you're now going to be taking a significant	See responses “word rate v. page rate” to comment 78 and “responsibility for

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	RMR, CRR Superior Court of Tulare County	Report only if modified	<p>amount of income away.</p> <p>A page rate is the industry standard and we should go to a page rate.</p> <p>I'm concerned about ownership of the record and losing income. We will lose many good reporters to the freelance field if they are not able to make a good enough income, thereby creating a second class reporter system in the judicial system. Let's keep the best in the judicial system!</p>	and control of the transcript” to comment 79.
100.	Shelley Watkins, Official Court Reporter, Superior Court of Ventura County	Not stated	<p>I am very concerned about the proposals in the RRTF. The major concern being transcript ownership. If only the original transcript can be sold to the courts, I would have to produce over 2000 pages per year to break even with my expenses.</p> <p>We have been billing out the same page rate for transcripts since at least 1991. In the meantime, our expenses have increased. Computers must be replaced periodically. Software must be updated. This year I have spent \$4,000 on computer and software updates alone. That doesn't even include all the other expenses we have: proofreaders, paper, ink, steno machines, steno machine maintenance, computer maintenance, printers, etc. Many of us must attend seminars for our continuing education which can be quite costly.</p> <p>My transcripts are MY professional work product. I am the one responsible for storing my steno notes for years. The courts should not be supplementing their income off of my work product. I earn every cent billed out for originals and copies alike, not the courts. For them to be taking the money I've earned would be nothing short of stealing my hard-earned income. I work many lunch hours and evenings to complete my transcripts in a timely manner.</p> <p>If the courts want to have ownership and control of my transcripts, well, then they should have full ownership and let me work my eight-hour day and use only that time to work on transcripts as part of my hourly wage, thus having a normal life, without working nights and weekends for minimum wage.</p> <p>Also, as far as producing indexes for appeals only and billing at a word rate, this is not cost effective, either, as indexes take a lot of time to prepare.</p>	<p>See responses “responsibility for and control of the transcript” to comment 79 and “word rate for master indexes” to comment 91.</p> <p>See response “revenue neutrality and expenditure neutrality” to comment 84.</p> <p>Indexes – If appropriate, this issue will be addressed during the determination of the word rates.</p>

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101.	Joan Kiddie, Official Court Reporter, Superior Court of Ventura County	Not stated	<p>I am an official for the County of Ventura and am extremely concerned about the proposals in the RRTF. Transcript ownership is, of course, the major concern.</p> <p>I feel my transcripts are my work product and should not be controlled or owned by anyone other than the reporter. Reporters are responsible for the safe storing of stenographic notes and/or diskettes in the event of an appeal or ordering of transcripts. To allow the courts to take possession of these notes would constitute a drastic reduction in our income and would lead to many official reporters' early retirement from the courts and into the deposition arena where the reporters are still entitled to their work product.</p> <p>Also, the courts would be obligated to enable the reporters to produce transcripts within the time allotted at work, 8 to 5, and would have to hire additional reporters to cover courtrooms so we could produce transcripts in a timely manner, or would we still be required to work evenings and weekends at this decreased rate?</p> <p>In addition, who would bear the tax burden of our transcripts? Also, are you going to purchase our equipment and supplies, which run for me personally around \$7,000 yearly?</p> <p>Thank you for your attention to these matters.</p>	<p>See response “responsibility for and control of the transcript” to comment 79.</p> <p>Stenographic notes – The task force’s recommendation regarding transmission of stenographic notes proposes no change to the current statutory responsibility for these documents.</p> <p>Tax issue – The task force’s recommendations propose no change in this regard.</p>
102.	Mary Ann Lutz. President, Lutz & Company, Inc	Agree with Draft Report only if modified	<p>With regard to the statewide word rate.</p> <ul style="list-style-type: none"> ▪ It is recommended that when the Judicial Council reviews “over all net revenue neutrality” they should include the revenue aspects of electronic reporters/transcribers. For example, electronic reporters/transcribers are not provided an office, telephone, et cetera to work at the court houses. Therefore their “revenue neutrality” computation must include the expenses (office rental, shipping/delivery costs, telephone, et cetera) that are unique to them. ▪ The “Agreement” suggests that non-stenographic transcription services will be contracted separately. It is recommended that language to that effect be input into this section of the final report. 	<p>Electronic reporter and transcriber expenses – See response “revenue neutrality and expenditure neutrality” to comment 84.</p> <p>Proposed fees for transcripts – The final report will be revised to clarify this recommendation. The task force proposes two word rates be established. The first rate (hereafter “basic word rate”) for (1) all electronic transcripts purchased by the court and (2) all electronic transcripts of criminal and</p>

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			<ul style="list-style-type: none"> ▪ Recommendation 7(a) states, “For payment purposes, establish a single standard word rate for all court paid transcripts.” But in the body of the section on page 25 it states, “...the task force recommends the development of a statewide word rate for court-paid transcripts and that same word rate for criminal and juvenile transcripts, irrespective of the purchaser.” Later it is recommended establishing a uniform statewide word rate for all transcripts not purchased by the Court to create more consistency in fees for the public. It is strongly recommended that if a private party (anyone other than the court) orders any transcript (including criminal and juvenile transcripts) that the rate should fall under the later recommendation. <p>It was recommended that transcripts not purchased by the court be 18 percent greater than the single standard word rate for court-paid transcripts. The 18 percent figure was not arrived at by any scientific calculation, formula, or clear evaluation of factual costs, time, delivery or other facts. Rather, the Task Force just tested the temperature among themselves of how everyone “felt” and therefore it is recommended that the figure of 18 percent be thrown out and a new calculation based on real data, scientific calculation and formulas of actual costs and expenses be completed.</p>	<p>juvenile proceedings, irrespective of purchaser. The second is an adjusted word rate (hereafter “adjusted word rate”) that is 18 percent above the basic word rate for all electronic transcripts other than those compensated at the basic word rate.</p> <p>See response “fees for transcripts not purchased by the courts” to comment 78.</p>
103.	Sharon L. Lewis, Official Court Reporter, Superior Court of Ventura County	Do not agree with Draft Report	I do not agree that the state should take control of transcript copies. This is the sole and exclusive property of the Reporter, who used her own steno writer, computer and paper to produce the transcript. Selling out on this portion of a Reporter's responsibility will severely penalize reporters.	See response “responsibility for and control of the transcript” to comment 79.
104.	Lisa DeRuiter, Official Court Reporter, Superior Court of Stanislaus County	Do not agree with Draft Report	<p>The concept of court-owned transcripts was rejected by the California State Legislature in the 2003 session.</p> <ul style="list-style-type: none"> ▪ Fair compensation: The primary issue here is fair compensation to court reporters. Further discussions with reporters and labor representatives are needed to determine what exactly the court’s intentions are with regard to delivery of originals and/or copies, future copy sales, and whether an transcript rates would be necessarily adjusted to accommodate reporter loss 	See responses “word rate v. page rate” to comment 78 and “responsibility for and control of the transcript” to comment 79.

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			<p>of copies.</p> <ul style="list-style-type: none"> ▪ Any change in the manner of compensation for transcripts is also labor issue and must be discussed/negotiated with our union representatives, instead of unilateral vote. ▪ Revenue neutrality seems to be without basis in reality. ▪ Reporters will suffer a business interference and economic loss of income due to this transition and possibly unfair business practice, yet to be litigated. ▪ Electronic filing and storage does not require ownership of the transcripts by the courts. Reporters should be allowed access to electronically filed transcripts for distribution, as necessary, to requesting parties. ▪ Payment for electronically filed record may still be made to the reporter. ▪ Reporters should be allowed to maintain control of their record to ensure the integrity and security of the record. ▪ The cost for reporter’s transcripts has remained constant for the past 15 years while the fees for a copy of other court records has dramatically risen. ▪ An average copy of one page of transcript set by the Government Code and purchased from the court reporter is .20 per folio or .15 cents for a copy of a transcript previously provided to the court. (This translates in a manner that is more universally understood to 50 cents per page or as low as 37.5 cents for an additional copy.) ▪ Conversely, during our court current charges to 75 cents per page for copies of documents from the court file. Additionally, the courts charge \$6.60 as a certification fee over and above the actual copy fees. Our court would actually be required to charge less than they are now. ▪ Lack of Job Incentives: As additional copy compensation to the reporters is eliminated, labor incentives disappear and the retention and recruitment of qualified reporters becomes impossible. Production levels decrease. Reporters previously exempt from overtime pay may become necessarily eligible. 	
105.	Susan T. Standish, Official Court Reporter, Superior Court of Sonoma	Agree with Draft Report only if modified	<p>Why not just establish a page rate and eliminate all the counting requirements? The less than full final page could be balanced out by no charge for cover page. Civil transcripts still deserve the 18% increase.</p> <p>Every new reader of a transcript creates a new risk of challenge to the certification, with the accompanying research, discussion, and possible</p>	See response “word rate v. page rate” to comment 78.

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	County		correction. The reporter has until now been paid for the extra risk by the copy fee. This recommendation would put reporter at more risk without any additional remuneration.	
106.	Connie Parchman, Negotiations Chair, Alameda County Official Court Reporters Association	Agree with Draft Report only if modified	Regarding Recommendation 7A, since a uniform transcript format is required, each transcript can be compensated by a page rate rather than a word count. Regarding Recommendation 9, we are opposed to the court assuming control of and responsibility for providing access to the transcript without further payment to the reporter beyond the initial payment.	See responses “word rate v. page rate” to comment 78 and “responsibility for and control of the transcript” to comment 79.
107.	Barbara Medrano, Official Court Reporter, Superior Court of San Bernardino County	Not stated	"Word" rates are another concern because of the time put into producing, a transcript requires working well into the night and weekends, yet the proposed pay rate would not sufficiently compensate for that time, or to pay for the equipment used to prepare said transcript. Most employers do not expect their employees to work well into the evening or on weekends without having to compensate appropriately.	See response “word rate v. page rate” to comment 78.
108.	Colleen Southwick, Official Court Reporter, Superior Court of San Bernardino County	Not stated	Currently we are considered independent contractors when it comes to preparation of transcripts. If you go to a word count, how will you compensate for the hours and hours that it takes to locate, edit, proofread and produce a final transcript? What about proofreaders, and scopists? Who will be responsible for those expenses? As a professional, the quality of my work product is very important, but where is the incentive to stay up all hours of the night, come in early, work through lunch and late into the evening to produce an accurate, verbatim record if the monetary compensation is taken away?	See response “word rate v. page rate” to comment 78.
109.	Cathy Willis Bell, Official Court Reporter, Superior Court of San Diego	Agree with Draft Reporter only if modified	It would be much easier, less time-consuming and even more efficient economically if you went to a flat page rate, got rid of folios and didn't even attempt the "word rate" idea. I see so many problems with different programs being accurate and deciding how many strokes would be considered a word. You obviously cannot consider the word "the" to be equal to a DNA term such as "deoxyribonucleic acid."	See responses “word rate v. page rate” to comment 78, “responsibility for and control of the transcript” to comment 79, and “fees for transcripts not purchased by the courts” to comment 78.

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	County		<p>I also take issue that the word rate should be greater for civil transcripts or anything other than criminal when I know that in my murder cases I have words such as the DNA word above and many gang terms and witnesses that I am forced to do just as much research as a civil reporter, especially when coroners and medical examiners are spewing off medical terms at a high rate of speed.</p> <p>Why should the court assume control and responsibility when the ultimate responsibility lies with the reporter whose signature is on the certificate? Why not let the reporter retrieve the electronic file or make the copies still and provide it? We pay for all our own printing supplies and printers anyway. This is supposed to be where our compensation comes from for all the time for the preparation and the cost of our equipment. If a reporter is unavailable to produce the transcript in a timely manner (a good tool to hold over their heads) then there could be a stipulation that if it cannot be done by the reporter in a certain number of days, then the courts could take that responsibility and collect on the charges.</p> <p>These are the main issues I have with the report. I do believe it is time for reform, such as common formatting and keeping some reporters for overcharging on transcripts. I even feel the electronic filing and paperless idea is where the future is taking us. I still believe though that the reporter is the best one to be in control of the transcript regardless of the means by which it is prepared.</p>	
110.	Laura Sanders, Certified Shorthand Reporter	Not stated	<p>Could you please tell me in plain English what the phrase "Ensure that a single standard word rate results in overall net revenue neutrality for reporters and overall net expenditure neutrality for courts;..." on page twenty-four, recommendation 7C means?</p> <p>On page twenty-six it says that "...establishment of a word rate will require negotiations." Exactly who will be negotiating this?</p> <p>I don't feel the Court Reporter's transcript should be treated as a public record. I feel that the recommendations in this Draft Report are just a way to use Court Reporters as a revenue making endeavor.</p>	<p>See response "word rate v. page rate" to comment 78.</p> <p>See response "revenue neutrality and expenditure neutrality" to comment 84.</p>

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			Not only have I gone to school to become a professional Court Reporter, but also did continuing education to receive an AA in Court Reporting. After taking the State exam, passing it and receiving my license, I also had to spend approximately \$10,000 for all the equipment that is required to begin working. I feel if the AOC or the courts want to start making the money for the certified copies of our transcripts, maybe they should start reimbursing Court Reporters for some of that equipment which helps to produce the verbatim record. I also feel that it would be an injustice to all parties ordering transcripts to have to pay the AOC or the courts for a transcript that would cost less if they had gone directly to the Court Reporter. I feel there are other avenues the AOC or the courts could pursue to generate more revenue than using Court Reporters.	
111.	Sandra Silva, Associate Court Executive Officer, Superior Court of Fresno County	Agree with Draft Report	Having control over and the responsibility for providing access to the transcript will allow us to ensure that the public record is easily accessible to everyone, however additional staff will be needed to prepare copies of transcripts and requests for specific testimony. The court does not currently have employees available to transcribe or review steno notes. Court staff will need to be trained to perform these new duties.	This issue will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.
112.	Leisha G. Hendrix, Certified Shorthand Reporter	Not stated	<p>The “Rough Draft” does not address Court Reporter’s reimbursement rates for expedited transcripts or daily transcripts. Many times in civil matters I am requested to prepare expedited and daily transcripts. The production of those types of transcripts necessitates having to put aside other obligations in order to accommodate the request. Many times the Court Reporter must stay late at work, do extensive time management and scheduling of other requested transcripts, cancel family activities, forego vacations and countless other responsibilities in order to accommodate a party’s request for an expedited or daily transcript. If the Court Reporter would not be entitled to charge an additional fee for expedited and/or daily transcripts, the requesting party should not be allowed to request those types of special services. How does the AOC plan to address that issue?</p> <p>On page twenty-six there is discussion regarding word rates: “...establishment of a word rate will require negotiations.” Who would the “negotiations” be with? Would it be each labor union, each court reporting association, each court reporter? Also, it is not addressed in the “Rough Draft” whether there would be periodic increases to the proposed word-rate compensation, and, if so, how often</p>	<p>See response “transcripts for death penalty cases and expedited transcripts” to comment 78.</p> <p>See response “word rate v. page rate” to comment 78.</p> <p>Effective date of the word rate – This issue will be addressed when the word rates are established.</p> <p>Compensation for indexes, title pages, and certification pages – If appropriate, these issues will be addressed during the determination of the word rates.</p> <p>See response “responsibility for and</p>

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		<p>and at what rate would they be expected. Would that be something that would have to be renegotiated at pre-established intervals, i.e., every two years, every three years? Would the word rate be in effect from a certain date forward or would it apply retroactively? How could a Court Reporter who wrote proceedings in stenotype prior to the date of the effective date of the institution of word-rate compensation be forced to bill for a transcript that may be produced after the institution of the word-rate compensation and then have the AOC or the court generate revenue for that transcript without remuneration to the Court Reporter? That does not seem to be fair to the Court Reporter who expected to be paid a folio-per-page rate by the individual parties, not the AOC or the court.</p> <p>Also in regard to the proposed word-rate compensation for preparation of the transcript, in civil cases on appeal I will receive a “Notice to Reporter for Estimate of Costs” from our appeals division. Once I receive that, I will review the requested dates that were designated and then prepare an estimate of costs. With the proposed word-rate versus folio-per-page-rate compensation it would require me to have to completely prepare the transcript in a very limited time frame in order to get an accurate word count for the estimate of cost. This could be a potential for creating a serious problem for the Court Reporter who may already have a large number of previous transcript deadlines to meet. Would consideration be given to filing deadlines for the “Notice to Reporter for Estimate of Costs” and all previously ordered transcripts?</p> <p>It currently takes an act of God to get reimbursed on transcripts that are being prepared using the current folio-per-page-rate compensation. Lately it has been taking months to get paid on transcripts. Would there be some mechanism in which to amend the previously filed “Notice to Reporter for Estimate of Costs” to ensure that the Court Reporter is justly and fairly compensated?</p> <p>Would the Court Reporter be compensated (as we are now) for the title page, indexes, Court Reporter certification page? The “Rough Draft” did not address that issue. There is reference to a template for title pages, however, no mention of compensation for title page, indexes, and certification pages. For most Court Reporters indexing is the most tedious part of preparing the transcript. It is very labor intensive to the Court Reporter, and as such, should be compensated.</p>	<p>control of the transcript” to comment 79.</p>
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			<p>Page twenty-eight addresses the “Responsibility for and Control of the Transcript.” It indicates, “With the transition to online delivery, maintenance, and storage of transcripts, the courts should assume control of and responsibility for the transcript consistent with that for other public records.” Recently the Ohio Supreme Court ruled that a statute requiring litigants to pay fees to Court Reporters to obtain copies of transcripts of trial proceedings takes precedence over the state’s public records law. Why does the AOC feel that the Court Reporter’s transcript should be treated as a public record? Perhaps the California Supreme Court should address that issue prior to any further action by the AOC.</p> <p>Apparently the AOC feels that Court Reporters charge too much for transcripts and that the AOC should reap some of the “reward.” The “Rough Draft” does not specify what the proposed word rate would entail. Would it constitute what we currently charge for an original transcript only? Would it constitute what we currently charge for an original transcript plus one copy? Would it constitute what we currently charge for an original and two copies? I could understand the AOC wanting more uniformity with the cost to a party when ordering a transcript. I would not be opposed to changing from the current folio-per-page rate to a word-rate compensation in the future as long as the Court Reporter are adequately compensated and had control over the delivery, maintenance, and storage of the transcripts. There are several Web-based repository systems on the market that would allow a party to purchase the transcript from the Court Reporter after payment to the Court Reporter for the transcript. I don’t feel it is beneficial to the Court Reporter, the litigants, or the parties ordering a transcript to have to ultimately have to pay the AOC (or the courts) for a transcript that would cost them less if they purchased it directly from the Court Reporter. This is a despicable attempt by the AOC to generate revenue from the hard work of the Court Reporter.</p>	
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SECTION VII: ALTERNATIVE METHODS OF PRODUCING THE TRANSCRIPT

<i>No.</i>	<i>Commentator, Title, and Organization</i>	<i>Position on Report</i>	<i>Comment</i>	<i>Task Force Response</i>
113.	American	Do not	While AFSCME appreciates the opportunity to respond to the Reporting of the	In examining court reporting services

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	<p>Federation of State, County and Municipal Employees (AFSCME)</p> <p>Willie L. Pelote, Sr., Political and Legislative Director</p>	<p>agree with Draft Report</p>	<p>Record Task Force Draft Recommendations, we believe the recommendations and findings of the task force are necessarily nullified by the failure to include labor representatives in these negotiations.</p> <p>The issues with regard to expansion of electronic recording and court-ownership of reporter transcripts has been extensively negotiated between AFSCME and AOC/JC representatives during the two most recent legislative sessions, and we have been assured that these issues were resolved in good faith. The Legislature again rejected attempts to implement these concepts and bolstered the continued usage of court reporters through new legislation agreed to by the AOC and union representatives in each session.</p> <p>AFSCME views the actions, continued negotiations and resultant recommendations of the RRTF at the direction of the Judicial Council to be highly inappropriate in light of the recent resolutions reached this legislative session.</p> <p>Further, AFSCME objects to any negotiations which occurred regarding the rights and working conditions of our represented members without the opportunity to participate. Electronic Recording in any form threatens the jobs of our official court reporter members.</p> <p>Court ownership of transcripts reduces the income of our reporter members and interferes with the fair business practices of court reporters and the MOUs currently in place in individual local courts. As labor incentives disappear, the retention of our long-term experienced employee members diminishes and the recruitment of qualified employees becomes more difficult.</p> <p>The manipulation, storage, maintenance, retrieval and processing of transcripts necessarily flowing from the assumption of any transcript ownership and control by the courts requires new and additional duties to be assumed by our other represented employees.</p> <p>Other recommendations relating to transcription of electronically recorded tapes is insulting to our members as well as drastically altering the job description and</p>	<p>from a ground-up perspective, the task force was responsible for analyzing the issues surrounding its charge and developing broad policy recommendations. Where the implementation of these policy recommendations would require discussions with the unions and professional organizations, the AOC will take the steps necessary to include their representatives.</p>
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			<p>working conditions of our represented employees, both reporters and non-reporters.</p> <p>Further recommendations related to the proliferation of usage of freelance reporters in civil matters becomes necessary only due to understaffing or staff reductions, even under the guise of budget constraints, and is a blatant outsourcing of our members’ jobs.</p> <p>We have previously stated our objections to the “Agreement – Use of Nonstenographic Methods of Reporting of the Record, February 6, 2004” (euphemistically referred to as the “Court Reporter Protection Act”). The actions of the RRTF to adopt the recommendations encompassed therein is a further act against the professional and labor interests of our reporter members. We strongly object to this unilateral agreement of one misguided organization with the AOC.</p> <p>AFSCME takes a strong stance against replacement of our reporter members by any electronic means, outsourcing or utilizing contract labor in lieu of employees, changes to reporter compensation methods, and any additional duties affecting our other court employee members.</p>	
114.	<p>California Court Reporters Association (CCRA)</p> <p>Yvonne Fenner, President</p>	Agree with Draft Report	<p><u>Comments:</u> CCRA supports and endorses this agreement.</p> <p><u>Rationale:</u> CCRA participated in the negotiations for this agreement. Further negotiations concerning proposed changes to conditions of employment will be necessary, with the participation of all stakeholders.</p>	No response necessary.
115.	<p>California Official Court Reporters Association (COCRA)</p> <p>Paige Moser, Vice President</p>	Do not agree with Draft Report	<p>COCRA has opposed and continues to oppose any and all parts of the document entitled, “Agreement – Use of Non-stenographic Methods for Reporting of the Record, February 6, 2004.”</p> <p>Additionally, COCRA disagrees with the claim that CCRA “represents the majority of California official reporters.” Official reporters are represented by unions, and those unions were not invited to take part in the negotiations that resulted in the “Agreement” and they were not invited to participate in the RRTF.</p>	<p>Representation – As a professional organization, the California Court Reporters Association (CCRA) represents the majority of California official reporters in articulating their views concerning policy issues affecting the profession.</p> <p>Validity of signed petitions – While</p>

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			<p>CCRA also claims that petitions were circulated, including a copy of the “Agreement,” to official court reporters. It is important to note CCRA did not circulate the Agreement in its original form. Instead, CCRA circulated the agreement with a modified title, “Court Reporter Protection Act,” which misconstrued the nature of the agreement, as told by many reporters who received the agreement. Other reporters say that they were handed a petition to sign bearing the title “Court Reporter Protection Act” by a trusted colleague and asked for their signature with the assurance “this will protect your job for the next ten years.” Still other reporters have complained of being asked to sign the petition bearing the modified title without being given an explanation of the agreement at all. None of the reporters from whom COCRA has received this feedback took the time to read and develop an independent position on the agreement, and many have expressed regret at signing the petition. Therefore, COCRA concludes the petitions were used as a signature gathering exercise, rather than an analytical tool to measure reporter support for the substance of the original “Agreement – Use of Non-stenographic Methods for Reporting of the Record.” This tactic nullifies the conclusion that the signatures gathered by CCRA are a reflection of reporter support for the agreement</p> <p>COCRA is opposed to any non-stenographic method for reporting the record other than that which is already allowed by statute, pointing out that the Legislature, when faced with electronic recording (ER) proposals both last budget fiscal year and the year before, overwhelmingly rejected any expansion of ER at all. In fact, two years ago, the Legislature imposed a fee for reporting services in civil matters under an hour (Government Code Section 68086(a)(4)), generating an estimated \$30 million per year in revenue. This year, not only did the Legislature refuse to expand the use of ER, but it reinforced its commitment to limiting the use of ER by prohibiting courts from spending money on ER equipment unless it was specifically to be used in proceedings authorized by Government Code Section 69957.</p> <p>The Legislature has made itself clear on this issue over and over again. It is time that people listen.</p>	<p>CCRA used a modified title in circulating the agreement among its membership, the text of the agreement was accurate and complete. In addition to circulating petitions to determine levels of support, CCRA invited county level court reporter associations to a series of meetings and made the agreement accessible on its Web site. To date, no members are known to have advised CCRA that they signed a petition in error.</p>
116.	CourtSmart	Do not	After reading your Draft Report dated September 27 there are a number of	See response to comment 1.

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<p>Digital Systems, Inc.</p> <p>Jeff Nadler, Senior Sales Executive</p>	<p>agree with the Draft Report</p>	<p>concerns that are raised by the content of the report and representatives of the task force that drafted the report. While I am sure that the intent was to provide an unbiased and accurate evaluation and analysis of court reporting services the result is totally biased toward court reporters and certainly not in the best interests of either the court or the tax payers of California.</p> <p>I am struck by the overwhelming number of court reporters or representatives of court reporters that are on the Task Force, 5 court reporters and a representative of the Court Reporters Board of California, also a court reporter. There are no representatives of electronics whatsoever. The recommendations of the task force clearly reflect this biased composition.</p> <p>The recommendations of this task force virtually preclude the reasonable adoption of alternative record taking technologies, and force the state to protect a specific profession, court reporters, from “losing his or her job” to non-stenographic means for a virtually unlimited period of time. Not only does this smack of bias toward one government job over another, it virtually negates the prime reason for alternative methods, significant cost savings. Job protection is an onerous proposition where better, more cost effective technologies exist and does not belong in the purview of the government to legislate.</p> <p>Use of non-stenographic reporting has been virtually eliminated by unreasonably restricting the types of proceedings that are eligible. Moreover, the transcript business whether stenographic or not amounts to a legislated monopoly. Guaranteeing that official court reporters have the first right of refusal for transcript preparation is tantamount to stifling free enterprise or the ability for the court or litigants to maximize value.</p> <p>It is interesting to note that there is even a proposed moratorium barring either the Judicial Counsel or the CCRA, why they would ever want a change is very obscure, from proposing any changes for a period of 10 years. I realize that a third party would not be stopped from proposing such changes but the question raised is why would you adopt such a moratorium to begin with except to further protect one job classification over all others? Let me pose this question, does the task force honestly believe that transcripts are going to be manually produced in</p>	
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		<p>10 years?</p> <p>Within the next few years technology will make this obsolete and within a few more years the “verbatim” record will likely be transported to Courts of Appeal as an electronic file attached to and integrated with the appeal filings that as we speak are going through such a change. Does the State want to preclude utilizing such technologies for a period of 10 years? Why would the State of California, arguably the largest single court system in our nation, want to put itself in the position of being behind every other state in the adoption and utilization of cost saving technology?</p> <p>In summary what has been proposed has to be viewed as a protectionism strategy for court reporters without regard for what may be in the best interests of the courts as a whole. Without even a single representative from the non-stenographic industry there is no objective basis for the conclusions of the task force. The task force ignores any standards for certification of official court reporters, and intends to promote a state supported training program for a profession that can no longer attract interest and support itself through existing training programs.</p> <p>I would propose that the task force focus on an objective and unbiased view of the record and what advantages exist for the courts and California to adopting technological alternatives. I further propose adopting a testing or pilot project in a substantial jurisdiction that would evaluate and determine the actual cost savings and advantages to the state by using these alternative methods. State such as Florida and Illinois have successfully implemented non-stenographic methods for capturing the record for years with substantial savings, significantly reduced turnaround time for transcripts, and the ability to integrate the record with other e-systems such as case management and e-filing. Court reporters in these states have adapted to the changes and now have a more lucrative profession through technology.</p> <p>As a last point, CourtSmart has been devoted to technology and the application of that technology to the verbatim record for nearly a decade. I offer myself and anyone on the staff to participate on this task force and offer a presentation on</p>	
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			<p>the technology that exists today that can dramatically impact the efficiency and economy of the record.</p> <p>Thank you for your consideration.</p>	
117.	<p>Los Angeles County Court Reporters Association (LACCRA)</p> <p>Therese Claussen, President</p>	<p>Agree with Draft Report only if modified</p>	<p>#10: LACCRA representatives participated in the negotiations resulting in the February 6, 2004 “Agreement” and we support it. Further negotiations will be required with the unions representing court reporters based on proposed changes to working conditions, conditions of employment and remuneration.</p> <p>Implementation of the “Agreement” should include the requirement for use of electronic recording monitors to ensure accurate capturing and transcription of the record.</p> <p>Government Code §68086 should remain in place for use in those proceedings outlined in the February 6, 2004 “Agreement” when a litigant desires to hire a freelance court reporter to make the official record. Adequate notice should be given of the unavailability of an official reporter so the attorney/litigant may retain the services of a freelance court reporter.</p> <p>#11: Implementation of the “Agreement” should include the requirement for use of electronic recording monitors to ensure accurate capturing and transcription of the record.</p>	<p>If the agreement’s provisions are later enacted into law, these issues will be referred to the AOC staff implementing the provisions.</p>
118.	<p>Official Court Reporters of the Superior Court of Stanislaus County</p>	<p>Agree with Draft Report only if modified</p>	<p>The perceived shortage of qualified court reporters must be examined from an objective standpoint. The numbers reported by the courts are widely disputed due to the manner of calculation of reporting need and vacancies left unfilled due to budget constraints.</p> <p>The failure of the courts to retain or recruit qualified court reporters in adequate numbers to service the courts is the real problem here. The removal of employment incentives and decreasing transcription directly affects the retention of long-term reporters and the attraction/recruitment of possible new employees.</p> <ul style="list-style-type: none"> ▪ The RRTF claim that such shortage of qualified court reporters forces the examination of alternative means is disingenuous statistical manipulation. ▪ Our local court has a 10% overall vacancy rate, one unfilled reporter 	<p>At times and for a variety of reasons, the trial courts report that the pool of reporters is not sufficient to meet their needs.</p>

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			<p>position, one of a staff of 15 reporters serving 22 bench officers. We are far below the AOC staffing standards. Additional positions have never been approved. Both of our family law courts go completely without a record, two additional unrecognized vacant positions.</p> <p>As our courts realign calendars to utilize the fewest number of reporters possible (implementation of direct calendar method, effective Jan. 2005), staff reporter positions are sacrificed/outsourced to outside/freelance reporters. The reporters of Stanislaus County object to this practice which removes opportunity and transcript income from the staff reporters and limits the flexibility of court assignments.</p> <p>Opposition to CRPA:</p> <ul style="list-style-type: none"> ▪ The official reporters of the Superior Court of Stanislaus County have previously objected to, and continue to vehemently object to, all aspects contained within the “Agreement – Use of Non-stenographic Methods for Reporting of the Record, February 6, 2004,” (CRPA). <p>We further question the statistics given in the report with regard to the claimed reporter support, and the manner in which signatures were gathered remains in dispute, as no evidence has been produced to support this claim.</p> <p>Further, guidelines regarding usage of inaudible and unintelligible speech in transcripts has never been necessary in a record prepared by a professional court reporter.</p>	
119.	Orange County Bar Association (OCBA) Kim R. Hubbard, President	Not stated	This proposal seems to capitulate progress and the real concerns to the concerns of the court reporters’ union. For example, on page 31, a condition of any changes is that no court reporter jobs will be lost; there is a 10-year legislative moratorium, and court reporters are required for all proceedings in certain large market courts (p. 33). The emphasis is protecting the court reporter positions, even it means delaying improvements or progress, and that is not appropriate.	The agreement reached by the AOC and CCRA involved compromise on the part of both parties.
120.	The State Bar of California,	Not stated	Recommendations 10, 11 and 12 suggest favorably acting on the February 6, 2004 agreement between California Court Reporters Association and the	If the agreement’s provisions are later enacted into law, these issues will be

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	Committee on Appellate Courts	<p>Administrative Office of the Courts, and creating rules of court to identify inaudible and unintelligible speech in transcripts produced by nonstenographic reporting methods and to ensure compliance with the recommendations in the Draft Report.</p> <p>The Committee generally endorses these recommendations, subject to further comment on the specific language of the new implementing rules. The Committee has two specific concerns that it believes should be addressed in the rules.</p> <p>First, the rules should clarify when a court reporter shall be used. Paragraph 3A of the February 6, 2004 agreement requires court reporters in several categories of cases, including “[a]ll juvenile proceedings presided over by a judge.” A great many juvenile proceedings are held before commissioners, referees or magistrates. These proceedings can result in findings that a juvenile has committed a serious offense and should be confined, or that parents are unfit and their relationship with their children should be terminated. The rules should specify whether court reporters will be required in these proceedings and, if not, how the participants can obtain accurate records of what occurs.</p> <p>Another category of cases in which reporters are required under Paragraph 3A is “all unlimited civil proceedings in large courts” The Committee is unsure whether this provision is intended to refer to the trial in one of these cases or whether it also embraces pre-trial proceedings. If it includes pre-trial proceedings, does it mean that reporters would be required for matters that may be innocuous, such as uncontested hearings or routine case management conferences?</p> <p>At the same time, there are pre-trial proceedings at which a reporter should be present. For example, although the courts normally decide motions in civil cases based on declarations, the court has discretion to take testimony. Cal. Rules of Ct., rule 323(a). Preliminary injunction hearings, in particular, may require testimony. In family law cases, pre-trial motions – for support, custody orders, and so forth – often require long-cause hearings with testimony. Even where testimony is not taken, a reporter or other form of verbatim record might be</p>	referred to the AOC staff implementing the provisions.
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			<p>necessary to capture any number of potentially significant matters at hearings, including, for example, stipulations by counsel and oral orders. A verbatim record may also be necessary in connection with later claims such as waiver, estoppel or consent, or to show significant admissions or concessions.</p> <p>As with the provision for juvenile proceedings before a judge, to the extent that the provision for unlimited proceedings in large courts is not intended to require reporters at pre-trial proceedings, the implementing rules should provide how parties may obtain accurate records of what occurs in these proceedings.</p> <p>Finally, and related to the first two concerns, the implementing rules should clarify when litigants may use nonstenographic transcripts. In the Committee's experience, even now, litigants do not always have access to transcripts of tape-recorded proceedings. The rules should allow such access.</p>	
121.	<p>Superior Court of San Diego County</p> <p>Stephen V. Love, Executive Officer, and Court Managers</p>	Agree with Draft Report if clarified	It is essential to create rules that provide for a consistent standard for all transcripts that are produced from either stenographic or nonstenographic reporting methods and are transmitted to the courts.	No response necessary.
122.	<p>Superior Court of Santa Clara County</p> <p>Kiri S. Torre, Executive Officer</p>	Not stated	We agree that this new electronic recording format will be state of the art and will be a great improvement over electronic equipment currently in use as prescribed by law.	No response necessary.
123.	<p>Karen R. Kronquest, Official Court Reporter, Superior Court</p>	Agree with Draft Report only if modified	#3A4 [of the "Agreement – Use of Non-stenographic Methods for Reporting of the Record"]: Unfair. Reporters shall be used in all unlimited civil proceedings in ALL courts.	The agreement reached by the AOC and CCRA involved compromise on the part of both parties.

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	of Napa County			
124.	Donald H. Lundy, Court Administrator, Superior Court of Stanislaus County	Not stated	The February 6, 2004 agreement for use of non stenographic methods should be adopted and implemented. The scarcity of reporters is best addressed by the limited extension of electronic reporting in the areas outlined in the report.	No response necessary.
125.	Richard Power, Attorney/Columnist, Appeals Unlimited	Do not agree with Draft Report	<p>The only reason for a shortage of people to prepare transcripts of oral proceedings is lobbying by court reporters forcing a legal mandate to use resources that do not exist instead of using more modern, more efficient, and widely available resources. There is no shortage of resources to quickly produce extremely accurate, easy-to-use electronic records of oral proceedings. However, the use of such methods has been barred by lobbied legislation stretching back to 1992 lobbying which was implemented into law in 1993, and stretching forward to the recently enacted Court Reporter Protection Act, signed into law August 16, 2004, as Section 62 of Senate Bill 1102. If the court systems lacking sufficient reporting resources were allowed to utilize current technology, the “shortage” would be over almost instantly.</p> <p>I watched a meeting during which representatives from Calaveras County pleaded with the task force for help because they were required by laws lobbied into existence by court reporters themselves to use court reporters but couldn't find enough of them. I and another person offered to help them with a modern system that would cost them far less and do a far better job if they could get around the laws with some exception such as a pilot project. We could have solved their problem within days if allowed to help. But the lobbied laws prevented that.</p> <p>The whole reason for this task force, all the lobbying, all of the clashing between laws and modern solutions is political lobbying for job protection for a job that is an anachronism. It is akin to requiring government officials to commute on horses to satisfy a horse breeders' lobby. The essence of the reason why California is so far behind in producing modern court records is to be found in this section of the task force's report. It's all about job protection against</p>	The agreement reached by the AOC and CCRA involved compromise on the part of both parties.

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			<p>competition from vastly better methods. Court reporters could switch to being court transcribers and we could move forward with a system that would stun the nation with its efficiency.</p> <p>Much of what appears to be a concession to the inevitability of electronic recording and transcription by part (2) of the “Agreement” (and incidentally, the taxpayers didn’t have any say in this agreement) is taken away by the provisions of the Court Reporter Protection Act and other parts of the “Agreement”. The vast majority of transcripts involved are for criminal trials and the Court Reporter Protection Act protects that arena from invasion by competition. It also protects major civil trials and keeps them the exclusive domain of court reporters. Only the crumbs are left over for modern methods. This “agreement” lets others eat the crumbs.</p> <p>And even then, court reporters are given first pickings among the crumbs under (2)(C). The Court Reporter Protection Act mirrors what is found in (3)(A) of the agreement. Section (4) is an outrageous job protection provision directly contrary to the interests of taxpayers and (5) is nothing more than an agreement to gouge the taxpayers for 10 years. Administrative agencies which should be acting in the public interest are agreeing to not propose any more modernization for 10 years! That could cost the taxpayers of this state at least a billion dollars.</p>	
126.	Mel Toomer, Deputy Court Executive Officer, Superior Court of San Mateo County	Agree with the Draft Report only if modified	<p>The February 6, 2004 Agreement should not be a part of this report as it was drafted outside of the RRTF. COCRA and DRA did not participate in these negotiations, taking the position that any such negotiations required the involvement of the Unions, that Associations no longer have the power to negotiate employment issues.</p> <p>Ultimately, during later negotiations as Agreement was reached between the AOC and the Unions, making this February 6, 2004 Agreement null and void, which is not reflected in this draft report.</p> <p>COCRA and SMCOCRA (San Mateo County Court Reporters Association) opposed this February 6, 2004 Agreement. Among the reasons for this opposition are the following:</p>	<p>The agreement reached by the AOC and CCRA involved compromise on the part of both parties.</p> <p>See response to comment 113.</p>

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			<ul style="list-style-type: none"> • There is no real protection for Official Court Reporters, in that the AOC can simply cut the reporters' budget, thus requiring the use of ER (Electronic Reporting). • How would a reporter be able to prove they were being replaced by ER? • The Agreement only refers to protections of Official Pro Tem Reporters, guaranteeing them the same amount of work, not more. Most Pro Tem Reporters are not Officials, so this "protection" does not apply to them. • The AOC did not allow the effect of the new court reporter fees to be determined before trying to implement this Agreement. 	
127.	David J. Gonzalez, Official Court Reporter, Superior Court of San Diego County	Agree with Draft Report only if modified	I am in favor of inclusion of the February 6, 2004 "Agreement" as referenced in the draft report, pages 31 through 34. Court reporters who transcribe taped proceedings are more able to decipher multivoice overspeak than the typical transcriptionist and would best be left to determine what is unintelligible or inaudible and include such notations, as necessary, when appropriate. Appreciating, again, this is a prelude to change, overall, it is timely and appropriate, and I look forward to commenting on future reports.	No response necessary.
128.	Heidi Scott, Official Court Reporter, Superior Court of Stanislaus County	Do not agree with Draft Report	The "Agreement - Use of Nonstenographic Methods for Reporting of the Record, February 6, 2004," is the same language that was defeated in the legislature in 2003. I was opposed to it then, and am opposed to it now. As with most professions, the ones knowledgeable as to the procedures, costs, and amount of work involved are the ones who perform the duties. If the courts take over ownership of the transcripts, they will be overwhelmed with responsibilities they know little about, and long-term employees will find it impossible to remain. Many states have learned this lesson the hard way. I urge the California courts not to follow this path.	The agreement reached by the AOC and CCRA involved compromise on the part of both parties.
129.	Linda M. Harris, Certified Shorthand Reporter, ACOCRA, COCRA, CCRA	Agree with Draft Report only if modified	Regarding Recommendation 10, the agreement of February 6, 2004 titled "Agreement--Use of Nonstenographic Methods for Reporting of the Record" should not be part of this report. This agreement was negotiated by representatives of CCRA, one of the three statewide court reporter associations. I am a member of all three statewide associations, but I am represented by a union, not CCRA, not any statewide association, and CCRA had no authority to negotiate on my behalf. This is the case for the majority of official court reporters working in our California courts. When the unions later met with the AOC, they reached their own agreement, whereby they revised one statute and added a new statute and made the 2/6/04 Agreement null and void. Again, the	See response to comment 113.

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			2/6/04 Agreement should not be included in this report. Regarding Recommendation 11 and 12, I would oppose any additional use of nonstenographic methods for reporting of the record other than what is presently allowed.	
130.	Pamela Katros, Certified Shorthand Reporter, Superior Court of Placer County	Agree with Draft Report only if modified	I am hesitantly in favor of this. Although, I believe the best record to be made is by a court reporter, I do understand some courts could use an electronic or other means. However, I don't understand the rationale behind 4A where only those courts would require a court reporter in civil proceedings. In our courts now, civil attorneys have to bring their own reporter, sometimes charging \$400 to \$500 a day. My feeling is we should be allowed to report those trials. It could be a money making venture for the courts as the official reporters do not make anywhere near that amount of money even with their benefits. Several times attorneys have had to scramble to find freelance reporters that are willing and able to come to court and do a trial for them, usually at the last minute. While the officials may be sitting in their offices doing nothing but being there in case they are needed in another department that has to have a reporter. Those are my main concerns. Thank you for allowing comment. Everyone did a really good job on this project and I appreciate the effort.	The agreement reached by the AOC and CCRA involved compromise on the part of both parties.
131.	Terry Weiss, Manager Court Reporter Services, Superior Court of Los Angeles County	Not stated	<ol style="list-style-type: none"> 1. If ER is utilized, will there be ER monitors staffing the courtrooms? Will there be restrictions in such regard? 2. Will court ordered transcripts from Electronic Recording be subject to filing on the server and subject to the word count and format? 3. [Regarding] No. 4. Use of nonstenographic recording, Section A: Question: Is this contrary to case law in Copley Press versus Superior Court? 	<ol style="list-style-type: none"> 1. If the agreement's provisions are later enacted into law, these issues will be referred to the AOC staff implementing the provisions. 2. Under this recommendation, transcripts prepared from electronic recordings would be required to comply with the same formatting and Web-based system requirements as those prepared by stenographic reporting. 3. The provisions concerning nonstenographic reporting would not violate the principle enunciated in <i>Copley Press v. Superior Court</i> (2004)

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				122 Cal.App.4th 489. To the extent that the nonstenographic reporting provisions of the agreement were adopted by the Legislature, the amendment adopted would represent a more recent and more specific legislative mandate regarding nonstenographic reporting than any law that was at issue in <i>Copley Press</i> .
132.	Margie Raymond, Court Reporter/ Interpreter Coordinator, Superior Court of Placer County	Not stated	Finally, this report addresses the use of non-stenographic methods of reporting and clarifies some of the statutes governing the use of the electronic recorders. (Pages 31-34) Does not change existing statutes except to require an annual report to the Judicial Council of all non-stenographic recording equipment purchases, to include the type and number of courtrooms in which it is utilized. This is to ensure that reporters or per diems are not replaced by electronic recorders pursuant to “Section 1- Job Protections” of the agreement.	No response necessary.
133.	Mary Ann Lutz, President, Lutz & Company, Inc	Agree with Draft Report only if modified	As stated in the overall comments, this charge is incomplete. I support the “Agreement” in that it will offer, although limited, alternative methods of court reporting that will assist the courts in providing accurate, cost-effective services to citizens. However, there are specific points that need to be reviewed. <ul style="list-style-type: none"> ▪ The Agreement does not mention the use of electronic court reporters/monitors in the state courts. This needs to be addressed. I along with The American Association of Electronic Reporters and Transcribers (AAERT) do not recommend an unmonitored recording system. ▪ Section 2(c) of the “Agreement” states that stenographic reporters shall have the first right of refusal for all transcripts stemming from non-stenographic recording of proceedings. This is a very dangerous proposition. Stenographic reporters do not have the appropriate skills, technology, training and equipment to transcribe non-stenographic recordings. It is strongly recommended that only stenographic court reporting professionals transcribe stenographic proceedings and only non-stenographic court reporting professionals transcribe non-stenographic proceedings. 	The agreement reached by the AOC and CCRA involved compromise on the part of both parties. If the agreement’s provisions are later enacted into law, these issues will be referred to the AOC staff implementing the provisions.

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			<ul style="list-style-type: none"> ▪ Section 2(e) of the “Agreement” outlines provisions regarding “unintelligible” or “inaudible.” As noted in the overall comments this issue was never completely discussed and, therefore, it is recommended that this entire section be revised only after clear in-depth research and discussion that includes members of the electronic court reporting industry. ▪ Section 3(a) indicates which courts and proceedings may use non-stenographic reporting. At no occasion did the Task Force discuss electronic court reporting, the technology, the method, the day-to-day functions, and preparation of transcripts. The facts regarding superior reporting, cost savings, and accuracy of transcripts, training and certification of electronic reporters and transcribers were never discussed. At no time did this Task Force discuss the fact that all courtroom proceedings (criminal and civil) can be successfully, and accurately recorded and transcription provided by non-stenographic methods, such as in the Federal Court system and dozens of state courts such as Florida, Alaska, North Dakota, New Jersey, and Nevada. There were no demonstrations of electronic court reporting; it’s technology, attributes and high accuracy rates. This Task Force did not have all the facts regarding non-stenographic methods necessary to evaluate which courtrooms or proceedings would benefit by verbatim non-stenographic reporting. It is therefore recommended that this entire section be revised only after clear in-depth research, demonstrations, and discussion that include members of the electronic court reporting industry. 	
134.	Leslie M. Stine, Court Reporter, Superior Court of Stanislaus County	Do not agree with Draft Report	In general I object to no union representation during or after the document preparation and feel that there are major issues with regard to interference of fair business practices standards in the industry of court reporters. The report promotes "outsourcing" jobs by using electronic recording and failing to hire or understaffing court reporter units currently in place. Also, this report does not promote good faith by "renegotiating" issues previously legislated and resolved. Lastly and most importantly for me, the report adopts an agreement labeled as the court reporter's protection act which I feel is in direct conflict with professional & labor interests of court reporters. I initially objected to its proposals and continue to strongly object to this document being incorporated.	See response to 113. The agreement reached by the AOC and CCRA involved compromise on the part of both parties.
135.	Renee Lawson, Official Court	Not Stated	I do have a question though. Ventura is not one of the nine larger counties that would have a reporter for civil cases. Do we have any job security? If they use	The agreement reached by the AOC and CCRA involved compromise on the

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	Reporter, Superior Court of Ventura County		E.R. in those courtrooms, creating an overage of reporters in our office, am I looking at being let go, or am I guaranteed as an official reporter to keep my job? I'm not quite clear on that. We have five civil trial courtrooms here and am I am fifth reporter from the bottom here in seniority. I have to be a little concerned about my job security. Thank you for your time.	part of both parties.
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SECTION VIII: STATEWIDE TRAINING FOR COURT REPORTERS

<i>No.</i>	<i>Commentator, Title, and Organization</i>	<i>Position on Report</i>	<i>Comment</i>	<i>Task Force Response</i>
136.	American Association of Electronic Reporters and Transcribers, Inc. (AAERT) Janet B. Harris, President	Do not agree with Draft Report	Funding for training individuals responsible for alternative methods of reporting also needs to be included as part of the Task Force's recommendations to ensure a successful implementation. Without funding for training users of new technology, we believe the Task Force leans heavily towards protecting and preserving the stenographic method of reporting only, rather than Leading Justice Into the Future and exploring alternative methods which will efficiently produce a verifiable verbatim Record for all users. The Draft Report only provides funding for training of stenographic reporters -- and again, we believe this limited view is not in the best interests of California's courts as they move into the future.	Training for transcribers – This part of the task force charge relates to training for court reporters who are employed by the courts.
137.	California Official Court Reporters Association (COCRA) Paige Moser, Vice President	Do not agree with Draft Report	Court Reporter training is the key to standardization of court reporting services in the courts. A successful training program must offer a uniform curriculum which is customized for both producers and users of the record – that is court reporters, court reporter managers, court administrators, the bench, bar and public users of court services.	Training for others – The AOC Education Division/CJER will evaluate training requirements relating to court reporting issues.
138.	Official Court Reporters of the Superior Court of Stanislaus County	Agree with Draft Report only if modified	Statewide training for official court reporters working within the judicial system is necessary and warranted, and we will be happy to work with the AOC in creating an appropriate curriculum for training. Our reporters support all efforts to move the technology of our courts forward and recognize that court reporters are a vital element to courtroom technology and speeding the administration of justice.	No response necessary.
139.	Superior Court	Agree	We are in agreement with and would be willing to participate in the creation of a	No response necessary.

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	of San Diego County Stephen V. Love, Executive Officer, and Court Managers	with Draft Report if clarified	consistent, statewide training program for court reporters that would be developed and administered by the Administrative Office of the Court's Education Division.	
140.	Superior Court of Santa Clara County Kiri S. Torre, Executive Officer	Not stated	We agree with this recommendation. Further would recommend that the training be provided by the AOC to ensure consistency in the curriculum and requirements as set forth in the guidelines established by this task force.	The AOC Education Division/CJER, which is responsible for the court reporter training curriculum, will assist courts with providing training for their employees.
141.	Mel Toomer, Deputy Court Executive Officer, Superior Court of San Mateo County	Not stated	There is no discussion of training for the Bar or Judiciary in making a record. It is necessary to train court reporters, but what about those who have the ultimate control over the record? The new format rules will have "inaudible response" parenthetical, which the judges and attorneys will be responsible for clearing up. They need training also in clarity of the record.	See response to comment 137.
142.	Mary Ann Lutz, President, Lutz & Company, Inc	Agree with Draft Report only if modified	The California courts have statutorily approved methods of court reporting in addition to stenographic court reporters. These methods were never discussed during the Task Force meetings, and as a result also neglected was the issue of training and certification. Therefore, this section is incomplete. It is recommended that entire section be revised only after clear in-depth research, and discussion that includes members of the electronic court reporting industry (AAERT) to include all methods of statutorily approved court reporting.	See response to comment 136.
143.	Sandra Silva, Associate Court Executive Officer, Superior Court	Do agree with Draft Report	We think that providing a statewide training for Court Reporters is an excellent idea, but we are concerned about the impact of implementing training. Specifically: 1. How can we offer training to court reporters, both new and current	These issues will be referred to the AOC Education Division/CJER for implementation.

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	of Fresno County		<p>employees, logistically given that the reporters are generally needed in courtrooms daily?</p> <p>2. Will the AOC assistance in developing the training be comprehensive similar to the curriculum provided for mandated subjects like diversity and ethics or will it be general? How long will the training sessions be?</p> <p>3. What will the qualifications be for a trainer?</p>	
144.	Richard Power, Attorney/Columnist, Appeals Unlimited	Do not agree with Draft Report	We do not need to train more court reporters. We need to use modern electronic methods. Training should be for electronic transcribers.	No response necessary.
SECTION IX: APPELLATE TRANSCRIPT				
<i>No.</i>	<i>Commentator, Title, and Organization</i>	<i>Position on Report</i>	<i>Comment</i>	<i>Task Force Response</i>
145.	Appellate Court Clerks, California Courts of Appeal	Not stated	<p><u>Master index</u>: Section (3)(A) requires the parties to provide a master index for a partial record when they do not have the ability to include in the master index the information yet to be transcribed. Is it meant that they are to include a master index only for those volumes they are presenting? And if so, then is it expected that the primary reporter will prepare one true master index and that the partial master index provided by the party is solely for reference for use by the primary reporter when preparing the complete master index</p> <p><u>Numbering volumes</u>: We support removing the requirement to have the pages consecutively paginated. But do not support removing the requirement to have the volumes numbered. Relying on the date to identify a volume is lengthy, clumsy and prone to mistakes. It also precludes a reporter who may be preparing multiple dates to include these in one volume when many of the individual days may be as short as two pages. Keeping the numbering of volumes has many advantages that far outweigh any disadvantages.</p>	Clarification of “master index volume” – Currently, reporters prepare one “master index” for all transcripts in a proceeding. In conjunction with its recommendation that each day’s transcript be prepared in one volume (commonly known as “one day/one volume”), the task force also recommends that reporters prepare an index for <i>each</i> daily volume of transcript and no longer produce master indexes. Essentially, each transcript volume would contain its own index and reporters would no longer be required to produce a master index. Under the proposed rule revisions, when a party designates two or more transcript volumes that are not yet prepared, a “master index <i>volume</i> ”

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				<p>would need to be assembled. The party would be responsible for providing a cover page, as well as copies of the indexes and reporter certificates for the transcripts already prepared. The superior court clerk would then be responsible for forwarding these documents to the primary reporter or court designee. The primary reporter or court designee would be responsible for completing the master index <i>volume</i> by assembling copies of all the cover pages, indexes, and reporter certificates. (See proposed rule 4(d)(3).)</p> <p>Where all the designated transcript volumes have been prepared, the party would be responsible for preparing the master index <i>volume</i>. (See proposed rule 4(d)(2).)</p> <p>Dating v. Numbering Volumes –The task force considered designating volumes by number, but concluded that designating them by the date of the proceeding would be more consistent with the transition to one day/one volume.</p>
146.	Los Angeles County Court Reporters Association (LACCRA)	Agree with Draft Reporter only if modified	1. The suggested language for Rule 4(d) is confusing and does not seem to simplify the process, especially if more than one designated volume of transcript has not been prepared. It is not clear who prepares the duplicate of the volume as noted in Rule 4(d)(3)(A). Delivery by the reporter to the party, from the party to the clerk, from the clerk to the primary reporter, and then back to the clerk would seem rife with possibilities for lost transcript volumes.	1. Under proposed rule 4(d)(3)(A), the party would be responsible for providing a copy of the prepared transcript volumes and the corresponding certificates. Lost transcripts – The delivery of the index copies, certificate copies, and transcript volumes, as described by the

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			<p>2. There is no indication of what person is responsible for placing the volume numbers on the volumes as required in Rule 9(c).</p> <p>3. There is no indication of when, how or by whom these transcripts are placed on the court's electronic database.</p> <p>4. It is unclear whether the party will be filing a combination of transcripts in paper and electronic format.</p>	<p>commentator, would be improved by the proposed rule revisions. Currently, the superior court clerk delivers the designated transcripts (that are already prepared) to the reporter. The reporter must utilize and temporarily store these transcripts so that he or she can create a master index. Under the proposed revisions, the clerk could temporarily store these already prepared transcript volumes and cease forwarding them to the primary reporter or court designee because reporters will no longer need them to prepare the master index volume. Because it would no longer be necessary to deliver the transcript volumes between the clerk's office and primary reporter, fewer transcript volumes should be lost.</p> <p>2. Under recommendation 6 (cover page), the reporter must include the date of the proceeding on the cover page. Under recommendation 6 (pagination/volume), transcript volumes must be designated by the date of the proceedings and not by a volume number.</p> <p>3. The superior court clerk would still be responsible for collecting, processing, forwarding, and tracking these transcripts.</p> <p>4. Purpose of proposed revisions – The</p>
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				<p>proposed revisions to rule 4 are meant to address litigants’ current need to designate <i>paper</i> transcripts for filing to the appellate court. The task force recommends that the proposed rule revisions take effect as soon as possible to respond to this existing need. While the task force has addressed this matter concerning paper transcripts, its overarching recommendation is that the courts transition to electronic transcripts and a Web-based system. The task force also drafted this language with the intent that it has dual application in the current paper process and the future electronic system. When the courts transition to electronic delivery and the Web-based system, these rules will be reviewed again for consistency with the new system. Because it is possible that some litigants will possess paper transcripts after the courts have transitioned to an electronic system, the AOC staff responsible for implementing electronic transcripts will need to determine how courts will post both electronic and paper transcript volumes to the online system.</p>
147.	The State Bar of California, Committee on Appellate Courts	Not stated	In keeping with its belief that paper transcripts ought to remain available even as we move to a Web-based system, the Committee supports Recommendation 14’s amendment allowing continued use of certified transcripts.	See response “purpose of proposed revisions” to comment 146.
148.	Superior Court of San Diego County	Agree with Draft Report if	There are much-needed definitions of responsibility in the proposed Rule 4 changes for transcript volumes as a substitute for deposit. Since all volumes will begin with Page 1 (See Pagination/Volume on Page 23), all references to	In accordance with the Judicial Council’s rule amendment process, the staff of the council’s Rules and Projects

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	Stephen V. Love, Executive Officer, and Court Managers	clarified	consecutive pagination from volume to volume should be eliminated from Rule 9 (e).	Committee will review the task force's suggested language and determine if additional rule amendments are needed.
149.	Superior Court of Santa Clara County Kiri S. Torre, Executive Officer	Not stated	[Regarding recommendation 14.B.], delete "B" and keep section "A ". Allow a designated court employee to certify the copies, and compensate the reporter for the original transcript once the original has been certified by the reporter.	<i>Today</i> , reporters sell two types of transcripts: (1) original transcripts that are stamped "original" and include a certificate; and (2) transcript copies that are stamped "copy." Although the litigant often purchases an original and one copy, reporters frequently store the "original" or provide it to the judge, and forward only the "copy" to the litigant. If the case goes on appeal, the litigant may not use the "copy" as part of the appellate record because it does not comply with rules of court. To conform to rules of court, reporters must repaginate all designated transcripts so that they are consecutively paginated, create a master index, and provide an appellate cover. Because repagination alters the transcripts, they are no longer "copies" of the original and are, instead, considered entirely new transcripts. Reporters, therefore, may charge the litigant for another "original" transcript, even though the "copy" he or she previously purchased is almost identical to the new "original" (except for page numbering, cover page, and lack of a certificate). <i>In the future</i> , under proposed

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				<p>recommendations 14.A. and B., reporters would be required to certify all transcripts that they sell as <i>originals</i> or <i>accurate duplicates</i> of the original. With the current use of computers and printers to produce transcripts, the concept of a “copy” has become antiquated. Now, there is no “copy” as transcripts are printed from computer printers and are identical to each other. Carbon paper and copy machines, which once distinguished copies from an original, are no longer used. Accordingly, the task force recommends the words “accurate duplicate” be used to describe additional printouts of a transcript. With recommendation 14 A.–C., litigants could use the transcript volume that they purchased, which the reporter would have been required to certify as an <i>original</i> or <i>accurate duplicate</i> of the original prior to selling it. In short, litigants would be able to purchase from the reporter two types of <i>certified</i> transcript volumes: (1) an original transcript volume with a reporter’s certificate attesting it is the original; and (2) a printout with a reporter’s certificate attesting that it is an “accurate duplicate” of the original. Because the task force has also recommended that transcripts be organized by one day/one volume and that the appellate record no longer be</p>
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				consecutively paginated, litigants would be able to designate certified transcript volumes already in their possession (whether the “original” or “accurate duplicate”) for filing to the appellate court. By being able to designate such transcript volumes, the costs of litigation will be reduced for appellants.
150.	Mel Toomer, Deputy Court Executive Officer, Superior Court of San Mateo County	Not stated	<p>1. As the reporter will be e-filing and the court will then assume responsibility, it will not be incumbent on the reporter to certify a copy. The reporter's responsibility ends with the filing of the original.</p> <p>2. The proposed changes to Rule 4 are very confusing. As our representative present at the discussion understood that the requirement if a master index which fell to a party filing previously prepared transcripts is perhaps overwhelming. Further, the confusion created by having the reporter prepare an index when some of the volumes have not yet been transcribed, as outlined on page 42, will create havoc in a system that presently runs rather well.</p> <p>3. When parties do not comply with the new rules, it will be incumbent, it is assumed, on the appellate clerical staff to ensure that appeal transcripts are forwarded to the Court of Appeal in proper and complete form.</p> <p>4. When e-filing transcripts, what happens with these paper transcripts that parties already have? Will they be accepted for filing as part of the record on appeal, or will they be converted to e-transcripts?</p>	<p>1. See responses “purpose of proposed revisions” to comment 146 and the response to comment 149.</p> <p>2. See response “clarification of ‘master index volume’” to comment 145.</p> <p>3. Noncompliance – It would be the superior court clerk’s responsibility to reject any documents submitted by a party that are not in compliance with the new rules.</p> <p>4. See response “purpose of proposed revisions” to comment 146.</p>
151.	Charlotte Freeman, Official Court Reporter, Superior Court of Orange County	Agree with Draft Report only if modified	<p>1. [Regarding recommendation 14.A. and 14.B.:</p> <ul style="list-style-type: none"> • I see a need to clarify the language and perhaps list it as "certified original or certified copy" as opposed to presently it reads "certified as an accurate duplicate of the original." I interpret this language to mean a "duplicate original" has been produced and therefore the reporter is entitled to be paid "original" fees instead of a "copy" fee. • I see a need to clarify the language in Section 14.A. AND 14.B. • The reference is presently stated as "certified as an accurate duplicate of the original" which leads me to interpret this as meaning that a "Duplicate 	<p>1. See response to comment 149.</p>

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			<p>Original" has been prepared and that the court reporter would be entitled to be paid an "Original" fee as opposed to a "Copy" fee.</p> <ul style="list-style-type: none"> • Perhaps the language in Section 14.A. would be better put as "... or a copy that has been certified as an accurate copy of the original." • And the language in 14.B would be better put as "... transcript as an accurate copy of the original." • Sorry if I "duplicated" my comments regarding these sections. <p>2. [Regarding] Rule 4. (d)(3):</p> <ul style="list-style-type: none"> • I like the proposed changes. There is a definite line of accountability. • I think it might be necessary to address some language changes in some of the Government Code that reference delinquent transcripts and a reporter's being labeled incompetent to work upon being determined to be delinquent in filing an appellate transcript if the responsibility for completing the appellate transcript process now is going to be impacted by the actions and responsibilities of others involved in the process. • I think language changes need to be considered regarding late filing of appellate transcripts when the responsible party is a clerk or an attorney or a participating party as defined under your proposals. 	<p>2. Reporters will not be held responsible for the action or inaction of others. See response "noncompliance" to comment 150.</p>
152.	Kathy E. Sellers, Official Court Reporter	Agree with Draft Report only if modified	<p>1. How are we to verify that transcripts submitted by a "party" are truly authentic and no changes have been made? I feel uncomfortable certifying any transcript that has been out of my control.</p> <p>2. Are criminal defendants going to be allowed to submit transcripts that have been under their control as appeal transcripts? Bad idea.</p> <p>3. How are partial transcripts to be integrated into the final, full and complete transcript? Often times parties order only partials during trial. How will this be utilized under the revision to rule 9(d) re volumes of one day's proceedings?</p>	<p>1. Certification – Reporters will not be required to certify transcripts that are not in their control. Instead, when a reporter sells a transcript volume, he or she will be required to certify the transcript volume as either an "original" or an "accurate duplicate" of the original. Later, when a party submits a copy of one of these transcript volumes for filing to the appellate court, he or she will include a copy of the certificate previously issued by the reporter. If, for any other reason, the superior court clerk forwards the transcript volume to the reporter, the reporter will not be responsible for reviewing the transcript</p>

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				<p>volume to ensure that the party has not altered it.</p> <p>The task force extensively considered the possibility of unauthorized changes to the transcript and made the following conclusions: (1) it is extremely difficult to alter transcript text without causing obvious changes in other sections of the transcript (e.g., incorrectly numbered pages); (2) sufficient procedural safeguards currently exist to allow opposing counsel to challenge unauthorized changes to the transcript; and (3) the potential of criminal prosecution for tampering with a transcript is a strong deterrent.</p> <p>Also, see response to comment 149.</p> <p>2. Rules 4 and 9 apply to civil proceedings and not to criminal matters.</p> <p>3. Partial transcripts – The task force concluded that allowing partial transcripts to be designated is not consistent with its recommendation for one day/one volume. If a party purchases a partial transcript and then later wishes to use it as part of the appellate record, he or she will be required to purchase the entire day's proceeding from the reporter. Partial transcripts will not be accepted for filing to the appellate court. The report will be amended to explain this</p>
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				recommendation.
153.	Hannah Inouye, Manager Appeals Division, Superior Court of Los Angeles County	Not stated	Rule 4(b)(3) allows a party to submit a certified transcript of designated proceedings. A certified transcript is either an original transcript with an original signed certification or a certified copy of a transcript with an original signed certification. It may be more clear to change the wording in proposed Rule 4(d)(3)(A) from “a duplicate of each prepared transcript volume” to “each certified transcript volume that has been prepared.” The word “duplicate” is confusing and can be construed to mean that a “copy” of the certified transcript volume should be delivered to the clerk. A copy of a transcript is not considered certified unless the certification page contains an original signature of the reporter.	See response to comment 149.
154.	Terry Weiss, Manager Court Reporter Services, Superior Court of Los Angeles County	Not stated	<p>1. Does this provision mean that some of the transcripts will be electronic and some may be paper and that the reporter or court designee now has to do a paper or electronic or both index?</p> <p>2. With 650 reporters in 56 buildings, transporting transcripts from the clerk to the reporters becomes difficult and the chance of lost transcripts increases, thereby delaying filing and delivery of transcript if it has to be prepared again.</p> <p>3. Will it be the responsibility of the clerk to ensure that the parties have delivered all necessary documents, copies of documents? If so, this will create a slowdown in the filing line in the clerk’s office.</p> <p>4. [Regarding] (4)(3)(C), will the reporters be utilizing their supplies to prepare the master index at no cost to the Court? If it is other than the reporter, a court designee, once again, this will require an increase in staffing.</p>	<p>1. See response “clarification of ‘master index volume’” to comment 145. See response “purpose of proposed revisions” to comment 146.</p> <p>2. See response “lost transcripts” to comment 146.</p> <p>3. This is the superior court clerk’s responsibility now. See response “noncompliance” to comment 150.</p> <p>4. Under the proposed revisions for rule 4(d)(3)(C), the primary reporter or court designee would be responsible for preparing the master index volume. Specifically, the primary reporter or court designee would be responsible for assembling <i>copies</i> of each transcript volume’s index and reporter’s certificate so that they are in chronological order, and placing a cover page on top of this volume. Because this employee would only be</p>

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				responsible for <i>assembling</i> copies and not <i>making</i> new documents, he or she should not incur expenses as an independent contractor. See responses “clarification of ‘master index volume’” to comment 145.
155.	Richard Power, Attorney/Columnist, Appeals Unlimited	Do not agree with Draft Report	Again, all the references to paper transcripts are based on outdated approaches. There is no need for any paper transcripts. Most of this section of the report is thus misdirected in this electronic age. All appellate transcripts of oral proceedings for one case should have one and only one sequential set of page numbers. The great majority of cases would have only one file for oral proceedings under a modern system so there would be no problems of multiple “volumes” and even those transcripts with more than one file can pick up and continue sequential page numbering at any point in the second or subsequent files. Even if transcripts are provided from multiple sources they can still have sequential page numbering. The so-called “repagination” of transcripts can be virtually instantaneous, all accomplished with modern computer technology. This portion of the report evidences a fundamental lack of technology knowledge by the authors.	See response “purpose of proposed revisions” to comment 146.
156.	Susan T. Standish, Official Court Reporter, Superior Court of Sonoma County	Agree with Draft Report only if modified	The transcript copy is certified as bound. Once it is taken apart to be copied by a party, the reporter can’t be held to the certification. If the appeals desk sends the reporter a duplicate of a previously prepared and certified transcript, the reporter would have to compare each page to the original transcript to be sure it was a certified copy to be bound with the appeal transcript. This recommendation creates a sloppy procedure with much room for error.	See response “certification” to comment 152.
157.	Barbara Medrano, Official Court Reporter, Superior Court of San Bernardino County	Not stated	The proposals regarding appellate transcripts, again holds the same concerns as above, in that a copy of an electronically filed transcript cannot be deemed an authentic, accurate certified copy.	Disagree. See response to comment 149.
158.	Phillip J. Livoni,	Not stated	1. <u>Recommendation 14, Rule 4(d)(3)(B) and (C)</u>	1. Reporters will be responsible for

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	<p>Official Court Reporter, Superior Court of San Bernardino County</p>	<p>“(B) The clerk must forward the items received under (A) to the primary reporter or court designee; and “(C) the primary reporter or court designee must prepare a bound master index...”</p> <p>Is it up to the primary reporter to delegate the responsibility of preparing indexes? I would be happy to turn it over to someone else. At least they will be paid hourly for it and duly compensated for the time required.</p> <p>2. <u>Background, p. 40, footnote 2</u></p> <p>Does the term “party” include a criminal defendant? If it does, that underscores my point articulated directly below.</p> <p>3. <u>Intent of the Task Force, p. 41, fourth paragraph</u></p> <p>Of all the “bugs” in this draft that need to be worked out, this “solution” is the one that alarms me the most. I cannot fathom that the RRTF participants are suggesting that any party to an action could submit a copy that has been in their possession to act as the official record of the proceedings. Every participant of the RRTF must surely have extensive experience in the litigation process and knows how extremely litigious cases can be. In civil courts, one’s money is at issue; in criminal courts, one’s liberty is at issue. The stakes couldn’t be any higher. The presumption that all litigants can be trusted to not tamper with a transcript is not only a leap in faith, a shocking show of naiveté about human nature, but also an entire nullification of a reporter’s most sacred charge: to diligently and accurately keep the record with absolute neutrality. Just take a look at the staggering numbers of inmates in our state prisons to get an idea how many people have serious deficits when it comes to matters of moral turpitude. With today’s extensive computer word-processing programs and incredible copying technology, all it would be the addition of a short word like “not” to entirely change the court record. I cannot possibly “certify” the accuracy of the record weeks or months after it left my possession. My certification is a guarantee that the transcript is accurate. Nobody can warrant a product that has been out of his or her control for any length of time. I won’t even touch on the</p>	<p>preparing an index for each transcript volume. See response “clarification of “master index volume” to comment 145.</p> <p>2. Rules 4 and 9 apply to civil proceedings and not to criminal matters.</p> <p>3. See response “certification” to comment 152.</p>
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		<p>notion that court computers are subject to hacking. I believe allowing this change would undermine the integrity of the entire judicial system.</p> <p>4. <u>Intent of the Task Force, p. 42, second paragraph</u></p> <p>Unless I missed it, the subject of partial transcripts is not addressed. I do partial trial transcripts frequently. There seems to be an assumption that all previously prepared transcripts are for the complete day, which would make it clean and easy for future appellate transcripts. However, attorneys don’t order trial transcripts by the day; they order them by the witness; e.g., “I need the direct examination of Doctor so-and-so.” Please address partial transcripts, my most common type of transcript, so they are not left in a “gray” area.</p>	<p>4. See response “partial transcripts” to comment 152.</p>
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GENERAL COMMENTS REGARDING THE DRAFT REPORT

<i>No.</i>	<i>Commentator, Title, and Organization</i>	<i>Position on Report</i>	<i>Comment</i>	<i>Task Force Response</i>
159.	<p>California Official Court Reporters Association (COCRA)</p> <p>Paige Moser, Vice President</p>	Do not agree with Draft Report	<p>The California Official Court Reporters Association (COCRA) appreciates the opportunity to comment on the Draft Report of the Reporting of the Record Task Force. COCRA cannot endorse this Draft Report as the overall embodiment of a course of policy. COCRA respectfully offers the attached comments to illustrate its position. At the same time, COCRA remains committed working with others for a fair, efficient, accessible court system, and will strive to promote the highest level of court reporting services to our courts and the public.</p>	No response necessary.
160.	<p>Court of Appeal, Fourth Appellate District</p> <p>Hon. Judith McConnell Hon. David G. Sills Hon. Manuel A. Ramirez</p>	Not stated	<p>We write to express our collective views and concerns regarding the Draft Report of the Reporting on the Record Task Force. We first thank the members and supporting staff of the Task Force for their creative and diligent work and cooperation in producing the Draft Report. We especially acknowledge the Task Force Chair, the Honorable James A. Ardaiz, Administrative Presiding Justice of the Court of Appeal, Fifth Appellate District, for his leadership, dedication and hard work in this worthwhile project. In this spirit, we submit the following comments:</p> <p>First, the compelling aspects of the report:</p>	<p>Where the implementation of the task force’s broad policy recommendations would require discussions with judicial users, AOC staff will seek to obtain the suggested input so that the best possible outcomes are achieved.</p>

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		<p>The Task Force has provided a great service to the appellate judiciary in its initial draft report and past two-years of effort. It has taken the first step toward raising the issues and attempting the solutions that will lead the California Supreme Court and Court of Appeal into the 21st Century. This century will see the completion of the information processing revolution in moving from paper to electronics for transmission, processing, and storage, and the Task Force in taking the long view prompts us to take the next steps. In particular we note the following aspects of the report:</p> <ul style="list-style-type: none"> ▪ The recommendation to move toward electronic transmission and storage of reporter's transcripts will save taxpayer dollars by improving accessibility and reducing storage costs. (Section III, p. 11.) ▪ The proposed transfer of ownership of reporter's transcripts from reporters to courts permits unhindered and cost-free information flow after fairly paying the reporters for their work product. (Section VI, p. 28.) ▪ The recognition that nonstenographic recording must be allowed to go forward wherever court reporters, whose numbers are shrinking, are not available to stenographically record proceedings further promotes modernization and insures litigants' rights to records of their oral proceedings. (Section VII.) ▪ The upgrading of stenographic reporting systems, the agreement on quality standards and format, and the standardization of pay rates and word counting procedures are positive steps. (Sections IV, V, VI.) <p>Second, constructive evaluation of the report:</p> <p>We reiterate our overall evaluation of the Task Force's work and report as an admirable step in the right direction. The comments that follow are organized under the relevant section heading of the report, but they by and large highlight a central theme. That theme is the need for further input from the judicial users of reporter's transcripts, including associate justices, their court attorneys, and their judicial assistants. Given that the various Appellate Districts do things differently, we believe that getting their input through individual meet-and-confers would enable more information to be obtained than by this process of</p>	
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			public review and comment. The absence of that input has prompted these comments.	
161.	Los Angeles County Court Reporters Association (LACCRA) Therese Claussen, President	Agree with Draft Report only if modified	<p>The Los Angeles County Court Reporters Association (LACCRA) recognizes the hard work that resulted in the task force recommendations. We also express our thanks to the chief justice for appointing a LACCRA member to the task force.</p> <p>However, there is much work ahead. We have many questions that we assume will be answered once the concepts in the recommendations are fleshed out. In addition, the sweeping proposed changes to working conditions and conditions of employment would necessitate further negotiations with unions representing court reporters.</p> <p>It is our hope that discussions will continue in an atmosphere of mutual trust and respect. With the AOC recognizing the technological innovations and services provided daily by court reporters in California, we are also hopeful that these discussions will ultimately result in fair reforms that will create efficiencies for our justice system.</p>	In examining court reporting services from a ground-up perspective, the task force was responsible for analyzing the issues surrounding its charge and developing broad policy recommendations. Where the implementation of these policy recommendations would require discussions with the unions and professional organizations, the AOC will take the steps necessary to include their representatives.
162.	Official Court Reporters of the Superior Court of Stanislaus County	Agree with Draft Report only if modified	<p>The official court reporters of the Superior Court, Stanislaus County, individually submit the following comments to the RRTF Draft Report Recommendations. These comments and views are separate and apart from those which may be expressed by the administration or judicial officers of our court.</p> <p>Court reporters of the Superior Court, Stanislaus County, work as part of an integrated court operations team. We are 15 reporters serving 22 bench officers. Our current staffing level of .68 reporters per judicial officer falls far below the recommended AOC standards.</p> <p>We fully support a standardized statewide format.</p> <p>The official court reporters support all efforts toward advancing technology and many of the concepts within this report; however, we respectfully offer the following specific concerns, suggestions and comments. [See input provided by the group under various sections of this chart.]</p>	No response necessary.
163.	Service	Do not	The Service Employees International Union appreciates the opportunity to	In examining court reporting services

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	<p>Employees International Union (SEIU)</p> <p>Michelle A. Castro, Government Relations Advocate, California State Council</p>	<p>agree with Draft Report</p>	<p>comment on the draft report of the Reporting of the Record Task Force. Approximately 85-90% of the official court reporters in California are unionized employees. This means they have selected an exclusive bargaining agent to represent their interests on matters relating to wages, hours and other terms and conditions of employment. Unfortunately, when this task force was convened not a single labor organization representing court reporters was invited to participate. Thus, the draft document does not reflect any input from a single labor organization in California. This is despite the fact that court reporters are highly unionized and despite the long history the Judicial Council and Administrative Offices of the Courts has had in working with organized labor on policy matters affecting employees. Yet, the draft document makes several recommendations that would affect wages, hours and working conditions of court reporters.</p> <p>The Service Employees International Union objects to any and all recommendations that propose to alter court reporter wages and/or any other terms or conditions of their employment.</p>	<p>from a ground-up perspective, the task force was responsible for analyzing the issues surrounding its charge and developing broad policy recommendations. Where the implementation of these policy recommendations would require discussions with the unions and professional organizations, the AOC will take the steps necessary to include their representatives.</p>
<p>164.</p>	<p>The State Bar of California, Committee on Appellate Courts</p>	<p>Not stated</p>	<p>The State Bar of California’s Committee on Appellate Courts (the “Committee”) has reviewed and analyzed the September 27, 2004 Draft Report of the Reporting of the Record Task Force, and appreciates the opportunity to submit these comments. By way of background, the Committee consists of attorneys with expertise in civil and criminal appeals, and includes private practitioners (solo, small firm, and large firm), government practitioners, and court attorneys.</p> <p>The Committee commends the Task Force for its excellent work on a significant and comprehensive set of recommendations that would reform and modernize the court reporting system, including the methods of producing, maintaining, delivering, storing, and calculating the rate for reporter’s transcripts. In general, the Committee endorses the recommendations contained in the Draft Report as a positive step forward.</p> <p><u>Disclaimer</u> This position is only that of the State Bar of California’s Committee on Appellate Courts. This position has not been adopted by the State Bar’s Board of Governors or overall membership, and is not to be construed as representing the position of the State Bar of California. Committee activities relating to this</p>	<p>No response necessary.</p>

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			position are funded from voluntary sources.	
165.	Judi Bloom, Of Counsel, Clark & Trevithick P.C.	Agree with Draft Report	Suggest adding a requirement that if a court reporter loses the notes, tapes, disk or other primary source of the transcript, he or she must notify the court and all counsel of record within 48 hours. I recently had a case with a lengthy trial and numerous reporters. It was not until I finally received the 17 volumes of transcript that I found in the reporter's declaration her statement that the tapes had been stolen from her car. That meant months later we had to make a settled statement for that day's events.	These issues were not within the scope of the task force's charge.
166.	Lee Pliscou, Directing Attorney (Marysville Office), California Rural Legal Assistance, Inc.	Not stated	<p>I have a just a couple comments on the Draft Report, with respect to self-represented litigants.</p> <p>First, this was good reading, especially Appendix 2. My hat to the drafters.</p> <p>1. I appreciate the Task Force's interest in creating greater access through the recommendations in the Draft Report. Access for self-represented litigants is important. One of the primary advantages of a verbatim transcript arises when a litigant desires to attack a proceeding. In general, the rules and procedures for direct or collateral attacks make it almost a requirement that a lawyer handle the attack, and one may ask how the work of the Task Force could increase access for pro per litigants. One answer, however, is that there are other advantages to a litigant to have a court reporter at a proceeding, including the fact that what happens at the proceeding may be altered by the fact that a reporter is present. In addition, if there is error at a proceeding, a self-represented litigant is much more likely to be able to secure the services of an attorney if there is a verbatim record, than if there is no such record.</p> <p>I agree with the Task Force that standardization of procedures and costs could benefit self-represented litigants. A web-based repository may help some self-represented litigants. There are still many Californian's without access to the internet, however. I recommend that the Task Force consider means by which a self-represented litigant can a) get contact information of the reporter of a given proceeding; b) order a transcript without a credit card.</p> <p>2. I realize this is outside the charge of the Task Force, but self-represented litigants could benefit from information (e.g., on The California Courts Self-</p>	<p>1. Under the task force recommendations, self-represented litigants will be able to work with the court in obtaining a copy of the certified transcript that reporters would be submitting to the proposed Web-based system.</p> <p>2. The suggestion to make information concerning court reporter services</p>

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			<p>Help Center website) which identifies proceedings where a reporter is mandated, and those where there will be no reporter unless a party requests a reporter; how to arrange for a court reporter; costs of doing so; advantages of having a court reporter at a proceeding.</p> <p>And I have one other comment:</p> <p>3. Assuming the Task Force considered how its recommendations might integrate with procedures involving deposition transcripts, I think it would be nice to say something about that in the report. And if not, the report should probably say something about whether a dual reporting system (one for court; another for out-of-court reporting) is viable.</p> <p>Thank you for the opportunity to comment.</p>	<p>available to self-represented litigants is important, but this matter extends beyond the scope of the task force's charge.</p> <p>3. The task was charged with addressing transcripts of court proceedings and not transcripts of depositions taken out of court.</p>
167.	Richard Power, Attorney/Columnist, Appeals Unlimited	Do not agree with Draft Report	<p>I have read the report of the Reporting Of The Record Task Force and must say that only in California, with its past and current climate of political lobbying and catering to special interests, could many of the recommendations of such a report and its recommendations be taken seriously and even enacted into law. The California courts have, at least theoretically, access to some of the best technology in the world. Intel is in our back yard. Silicon Valley is here. We could do an incredible job for far less money than is currently being spent. People willing and able to help with technology are here. But so are lobbying and politics.</p> <p>We could save immense amounts of money in our courts while producing vastly better records than we currently have. As an appellate attorney (and software designer and technology columnist), I have worked with hundreds of trial records at the appellate level so I have a good perspective of the current state of affairs and what could be done. I also have the computer technology knowledge to help and have many contacts with others who could help in complimentary ways but our lack of political pull has kept us out of the process, although I have certainly offered to help as have others. We have been shut out of the process, much to the detriment of the taxpayers and litigants who are still being forced to expend vast amounts of money for items that could be produced far cheaper, much quicker, and more accurately with modern methods. The taxpayers and</p>	No response necessary.

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		<p>litigants of this state deserve far better than what this task force has to offer in the way of recommendations.</p> <p>Other states and the federal courts have gotten way ahead of us and will probably continue to stay ahead unless we cut off the political lobbying, stop catering to special interests who have a large financial stake in keeping trial court records in ancient form, and start using modern technology in the best interests of those who are footing the bill. Court reporters could become electronic transcribers under a new system, continuing to work for the courts but in a slightly different manner. We could cut costs dramatically. But progress has been stymied by lobbying.</p> <p>A prime example of such lobbying is to be found in Section 62 of Senate Bill 1102, dubbed The Court Reporter Protection Act by the court reporters themselves, and signed into law by the governor on August 16, 2004. It was lobbied quietly into law while this task force was meeting over the last 2 years. This pork barrel “job protection” legislation is a testament to the corruption and lobbying machinery in California which makes all other such processes in this country pale by comparison. Modern technology has made the job of court reporter not only unnecessary but incredibly inefficient by comparison to current technology solutions. Only with lobbied protection and no input from the taxpayers who must foot the bill for the results of this anti-competitive legislation could the current court reporting system survive in California. Court reporters are being laid off elsewhere in favor of vastly more efficient and accurate approaches using modern technology. Reporters have become electronic transcribers producing more work than before. We could do even better than any of the other systems in place if we would let competitive approaches compete.</p> <p>I observed one meeting of the task force. It was a tragicomedy in progress. Members of the committee posed technical questions to each other that none could answer. I and others in the audience could have answered every single technical question, even providing hands-on examples on a laptop computer I had with me. The task force was not interested in getting the questions answered and rejected offers of help. Taxpayers should be outraged because they are going</p>	
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			<p>to be asked to foot the bill for unnecessary expenditures of tax dollars. The task force was a political creation and had a political purpose. That is a shame.</p> <p>As to the shortcomings of the task force report and its recommendations, there are so many, spanning such a wide array of items, it is hard to know where to begin. Thus, I will simply go through the report chronologically and note the most glaring problems. The most pervasive problem underlying the entire report is the assumption that we should have court reporters at all, instead of using modern digital multi-track recording plus transcription to a modern, inexpensive, easy-to-use electronic format. Court reporters should be phased out and replaced by modern technology.</p> <p>Many portions of this task force report evidence a fundamental lack of knowledge about modern computers and their capabilities. What is being contemplated by this task force is the cementing into law for an extended period of time of approaches that are already outdated and not in the best interests of taxpayers, lawyers, judges, clerks, or litigants. The process of switching to modern electronic methods is proposed to be delayed at the behest of a special interest group that could adapt in other ways and better serve the public interest but refuses to do so.</p> <p>The Web registration system for electronic transcripts sounds interesting but as to whether or not it would be secure enough against dedicated hacker attack is doubtful. Ask the FBI, whose Web site was hijacked and defaced. Think it would be secure enough for actual storage of confidential or sealed transcripts? Put some samples on the Web site, invite the hacker community to have a go at them, give them a week and offer a \$10,000 prize for the first one to hack the files. The biggest problem might be sorting among all the claimants who each claim to be first.</p>	
168.	Teresa Jo Fletcher, Superior Court of Orange County	Not stated	Last comment. If this RRTF is implemented, what about Local rules? Different districts do things their own way. Which one is to prevail? I am all for standardization.	This issue will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.
169.	Deborah Kalla,	Not stated	I am an official reporter for the County of Ventura. I support COCRA's voting	No response necessary.

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	Official Court Reporter, Superior Court of Ventura County		record and official response on the RRTF draft.	
170.	Dorothea Weiss, Official Court Reporter, Superior Court of Ventura County	Not stated	I have been an official CR of Ventura since 1979. We work tremendously hard and are entitled to be compensated reasonably for our hard work and long hours. I support the position of COCRA fully re: the RRTF draft.	No response necessary.
171.	Kathy De La O, Official Court Reporter, Superior Court of Ventura County	Not stated	As an official reporter, I concur with COCRA's official response on the RRTF draft.	No response necessary.
172.	Denise Moreno, Pro Tem Reporter, Superior Court of Ventura County	Not stated	I am a pro tem reporter for the County of Ventura. I support COCRA's voting record and official response on the RRTF draft.	No response necessary.
173.	Donald H. Lundy, Court Administrator, Superior Court of Stanislaus County	Not stated	The Task Force is to be commended for its thorough treatment of the many issues surrounding reporting of the record. The courts and litigants needing verbatim transcripts benefit from standardizing format, expanded use of electronic storage and establishing a uniform cost structure.	No response necessary.
174.	Sandra Silva, Associate Court Executive Officer, Superior Court of Fresno	Agree with Draft Report	Our major concern is that the court will need to hire and train employees to comply with the directives in the Reporting of the Record Task Force.	This issue will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.

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	County			
175.	Phillip J. Livoni, Official Court Reporter, Superior Court of San Bernardino County	Not stated	Dailies: I have a quick comment about lengthy daily trails. I didn’t see this topic addressed. I have the suspicion that the courts hope to “cash in” on the copy rates of dailies, especially those with high publicity. I hope the courts are aware of the incredibly enormous amount of work and overwhelming time commitment that is involved. I don’t know of any other court employee who is willing to give up their home life, week in, week out, throughout the duration of the trail without adequate compensation. Reporters will simply not be willing to do it. Please address this and come up with a workable solution.	Expedited transcripts or “dailies” – If appropriate, the word rates for different types of transcripts will be addressed during the determination of the word rates.
176.	Leisha G. Hendrix, Certified Shorthand Reporter	Not stated	<p>I would like to say that I don’t agree to many of the recommendations in the “Rough Draft.” Every Court Reporter that I know works very hard to create an accurate, verbatim record. Court Reporters are required to attend a specialized court reporting training program in order to ever be allowed the opportunity to apply for their California state license. Not only does it require technical knowledge of the mechanics of learning stenotype, applying stenotype to a stenotype machine, learning specialized computer-aided transcription software, etc., etc., but Court Reporters are required to have extensive knowledge of many subjects including, but not limited to, all aspects of medicine, the construction industry in its many facets, criminal law, criminal conduct, psychology, psychiatry, business law, civil law, family law, juvenile law, etc. The list could go on and on, but I think you get the gist.</p> <p>By the AOC working extremely hard towards using Court Reporters as a revenue-generating entity it seems to suggest that the AOC does not recognize Court Reporters as the highly-educated employees that we are. Many of us are not only certified in California, but we are also certified as national court reporters. This requires additional commitment on our part to undertake to continue our education so that we are able to provide the services that not only the public but the judiciary demands and expects. This requires extensive time and expense outside of our “regular” employment in order to meet these requirements. I personally have challenged myself to continue to improve professionally so that the parties involved in litigation receive what they expect: A verbatim record of all oral proceedings prepared completely, accurately, within the time the party has requested, and at a fair cost to them. I cannot see how implementing the AOC’s proposed “Rough Draft” will continue to provide</p>	The task force acknowledges the important contributions court reporters make to the administration of justice. Nevertheless, the task force was charged with examining court reporting services from a ground-up perspective, analyzing the issues surrounding its charge, and developing broad policy recommendations to enhance court reporting services in the state.

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			the parties with the services that they expect. In the end the “party” will actually end up paying more for the transcript than had they dealt directly with the Court Reporter.	
177.	Regina Vega Reporter Pro Tempore, Superior Court of San Bernardino County		<p>I have been a Reporter Pro Tempore in the County of San Bernardino for over two years. In reading your memorandum concerning court reporters and transcripts in the courts of the State of California, I have some concerns that I would like to voice:</p> <p>First, as a Reporter Pro Tempore in San Bernardino, I am not an employee. My concern is that since the courts will own our transcripts, would I be paid for the time took to prepare transcripts for the court?</p> <p>Second, in requiring software equipment to comply with the statewide transcript format, will the State be providing the software and the equipment necessary for transcript preparation?</p> <p>Lastly, court reporters, as independent contractors, pay for our education; continuing education; licensing fees; equipment -- writer, computer, software; yearly insurance, yearly maintenance, and yearly updates of above-mentioned equipment. Will the State be purchasing or compensating court reporters for these costs?</p> <p>I appreciate the time and consideration of the task force in coming to a fair solution for both the State and the reporters in this state.</p>	These issues will be addressed during the feasibility studies, development, and implementation stages of the Web-based system.