



NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

Final Report on Use and Compensation of Court Reporters in North Carolina

[S.L. 2014-100, §18B.3]

January 1, 2015

Administrative Office of the Courts



Introduction

Section 18B.3 of Session Law 2014-100 provides as follows, amending a similar study provision in Section Session Law 2013-360 originally titled “Study Use and Compensation of Court Reporters”:

COMPENSATION OF COURT REPORTERS

SECTION 18B.3. Section 18B.21 of S.L. 2013-360 reads as rewritten:

"SECTION 18B.21. The Administrative Office of the Courts, in consultation with the National Center for State Courts, shall study the most effective and efficient deployment of court reporters to produce timely records of court proceedings and the most appropriate and effective compensation for court reporters. The Administrative Office of the Courts shall make an interim report of its findings and recommendations to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2014. February 1, 2014, and a final report of its findings and recommendations by January 1, 2015."

After contracting for and receiving the recommendations of the study by the National Center for State Courts, the North Carolina Administrative Office of the Courts (NCAOC) submitted the February 1, 2014, report pursuant to the legislative mandate. The NCSC Report detailed the NCSC’s methodology, its findings, and made the following specific recommendations:

Recommendation No. 1: Uniform, best practices should be established and implemented by designated courtroom clerks who are charged with monitoring and supervising the creation of the digital record in District Court.

Recommendation No. 2: District Courts should consider using court reporters for creating the record in Termination of Parental Rights hearings.

Recommendation No. 3: The Court Reporting Manager should collect, assemble, and analyze monthly court reporter operational data in order to make empirically based resource allocation decisions.

Recommendation No. 4: The NCAOC should establish standard rates and a centralized system for private parties to pay court reporters for transcript production.

Recommendation No. 5: The Superior Courts of North Carolina should adopt digital recording technology.

As reported to the legislature in the report of February 1, 2014, the NCAOC has undertaken further review and action on 22 further steps set forth as necessary to move forward to evaluate and act on these five overall recommendations.



Major NCAOC Actions Taken to Date

NCAOC has already undertaken three major steps toward implementing the recommendations of the NCSC, consistent with the plan of action laid out in the NCAOC report to the legislature of February 1, 2014.

- NCAOC Director Judge John Smith appointed a statewide advisory committee of judges, court reporters, administrators, and representatives of prosecutors and public defenders to receive and consider all five Recommendations of the NCSC report, and to evaluate and comment on proposed next steps. NCAOC staff from multiple divisions were represented at each meeting and conducted extensive additional research, including surveying other states' practices, for presentation to the committee. The committee met five times between May and November, spending approximately 12 hours hearing presentations and discussing the elements and implications of potential changes in North Carolina flowing from the NCSC recommendations. The committee also saw demonstrations of current digital recording and live court reporting technology used in North Carolina. The members of the committee are listed in Appendix A.
- Within the Court Services Division staff is being designated/hired to fill vacancies with the specific assignment to help clerks develop statewide standard protocols and training for digital recording as set forth in Recommendation 1. The institutional commitment of designating ongoing staff support for this process will promote a progression upward toward the best practices rather than wide local variance in practice, and the risk of losing critical knowledge with the normal turnover of clerks' staff. This activity will be tied closely to the procurement of new digital recording software and hardware, rather than developing it for 10-year-old products that soon will be replaced. Once selected and standards developed, basic and advanced training materials will be developed for the new technology.
- NCAOC initiated and is now in the advanced stages of a procurement process to select new software and hardware for digital court recording. The existing equipment is reaching the end of service life and needs to be replaced anyway, but evolving needs are also directly affected by Recommendations 1, 4, and 5. If there is centralized storage and indexing of digital recording there will also be significant new data to inform statewide management in Recommendation 3. Prices easily go from a single laptop and four microphones in a portable system suitable for a small hearing room at the low four figures, up to full permanent multi-track video and audio for tens of thousands of dollars per courtroom. Configuring up to 544 courtrooms at a basic, permanent level is itself a multimillion dollar initiative, and requires ongoing support to local court officials dependent on its reliable daily operation. The procurement process has required vendors to explain how their solutions could support central storage and retrieval, incorporation of remote video testimony, incorporation of remote interpreter services, scheduling and calendaring capabilities, training and technical support, and other considerations reflecting both the NCSC report and other in court audio-visual technology needs that share the same infrastructure.

In addition, some trial court administrators are already moving appropriate superior court proceedings into existing digital-recording-equipped courtrooms, with the consent of the presiding judge and parties to avoid cancelling court for lack of a live court reporter attributable to factors that will be discussed later in this report.



Advisory Committee Discussions

In its five meetings, the Advisory Committee has engaged broadly and deeply with the issues surrounding the responses and strategies set forth in the report from the National Center for State Courts and in our preliminary report. The committee both sought and received new information about other states' practices beyond that provided by NCSC, and engaged in lengthy and thoughtful discussion of needs and concerns of the variety of court officials present. Additional compensation and recording practices data was obtained from southeastern states and localities. The director had hoped that through study and discussion a consensus would emerge that would provide a plan that could be presented to the general assembly. In the end, it is clear that any dramatic change in the status quo will require a substantial financial investment with little evidence of commensurate assured benefits.

Consistent with the outline presented in the original report, what follows is a summary of the discussions of the topics by the committee. It should be noted that each generalization is fraught with collateral problems and that some stakeholders raised serious and substantial concerns. While some of those concerns are noted in the discussion, the director emphasizes that there was no full consensus on the fundamental questions that must be answered to support a significant change in the current practice and procedures for maintaining the court record and compensating court reporters. The director appreciates the time and thought invested by the participants, who served without compensation. Their commitment to public service and to the people of our great state was evident in the discussions. Out of deference to these experienced participants, the director wishes to make clear that this report may not reflect the views of the individual committee members. Each understood that the final report would be that of the director as mandated by the statute, but there is no question that this report is informed by and benefited from the observations of each of the members.

The following paragraphs summarize in italics are the results of the Advisory Committee's discussion of the NCSC recommendations and additional research compiled by staff in NCAOC's Human Resources, Court Services, Technology Services, and Research and Planning divisions. Each NCSC recommendation will be addressed separately following the sequence in the previous reports. *The italicized text constitutes the committee facilitators' and the director's perceptions of the majority views of the committee members.* **The non-italicized bold text constitutes the directors observations and independent conclusions after receiving the advice of the committee.**

On Recommendation 1: implementing digital recording best practices in District Court:

Other states and federal courts who rely on digital recording for the production of transcribed court proceedings utilize regular training and standard protocols for daily verification of technology readiness, and often assign additional courtroom staffing for continuous monitoring and annotation of the record. As the NCSC reported, in a very large courthouse monitoring of multiple courtrooms can be accomplished in a properly equipped central control room, but more often it is a second clerk or other staff working as a court recording monitor in the courtroom. Without adequate staffing and procedures the risk of recording failures rises, and a poorly annotated record provides little useful information for locating testimony to be reviewed or transcribed, or capture correct name and place spellings or technical terms and references.

North Carolina already uses digital court recording in the high volume district courts for domestic and other civil matters. Clerks of superior court as probate judges also use the recording technology for

hearings whether held in courtrooms, or other rooms using mobile equipment. In North Carolina the technology vendor and the NCAOC provided initial training to clerks' offices when the current generation of equipment was deployed 10 years ago, but no ongoing or statewide standard training or usage protocols were developed. The result has been a wide variety of local standards and practices by clerks, and occasional failure to capture an adequate recording of the proceeding.

The current configuration of equipment and software was selected through a competitive low-bid process a decade ago. Statewide there are 544 total courtrooms in regular use, and digital recording software for 433 courtroom and portable hardware sets is currently licensed. Of the equipped courtrooms, most are for district court but 77 are in dedicated superior courts or dual use superior and district court courtrooms.

The technology currently used runs through a PC in the courtroom, without any network backup. The approach is "one size fits all," with audio hardware representing a single compromise for varied court environments rather than choosing hardware appropriate to specific environments (large, small, carpeted, hard surfaces, and so on). At least one state has added audio engineering staff to support quality digital recording after years of unacceptable performance. In North Carolina audio proceedings are copied onto disks at the PC for the file, and at the request of parties for transcription. Disks are requested from each county's clerk of superior court. This was a repetition of the earlier protocol when recordings were on cassette tapes. Many other jurisdictions relying on digital technology have changed to remote redundant storage or backup capabilities, and some manage transcript requests from a central location and audio archive. Some offer the ability to review audio files online as well.

One of the major concerns expressed by the clerks from their experience with digital recording in district court is that the burden of monitoring and maintaining digital equipment must not be shifted to the clerks' offices without a commensurate and adequate increase in courtroom staff. The director absolutely agrees with that position and is of the opinion that shifting the responsibility in superior court from the trained professionals currently responsible (our court reporters) has the potential to be chaotic, time consuming, impractical, and ultimately not cost-effective. Everyone, including the NCSC, agreed that the duties required to maintain the digital record would require additional separate staffing and cannot be added as an additional duty of the existing courtroom clerks. Since lead time for training will be required, any transition in superior court would need to be gradual, since training clerical personnel for that purpose would require absences from the courtroom, and shutting down courts to accomplish that would be absolutely impractical. Overall, the costs of assuring coverage by employees other than our existing court reporters for all of our superior court courtrooms would be substantial, and the plan for accomplishing it will require recruitment, training, and scheduling. Our current court reporters cannot be expected to remain on staff in sufficient numbers for our courts to operate during any transition period once this strategic plan is announced. Overall, we conclude that relying on courtroom clerks without a substantial investment in additional personnel and training would not be feasible.

On Recommendation 2: consider returning live court reporters to all Termination of Parental Rights proceedings:

Discussion led by lawyers and district court judges on the committee, who work regularly in Termination of Parental Rights proceedings, revealed a preference to keep live court reporting optional in these bench trials. In many cases issues appealed turn on questions of service of process and the absence of parties rather than the transcript of live testimony. Sometimes the proceedings are relatively brief and are held at



the end of a calendar, other times one case may span multiple court days depending on available court, witness and attorney schedules. Therefore a blanket requirement for a live court reporter in many cases would lead to delays and a waste of resources even when there is an appeal. Highly contentious cases with extensive testimony are usually heard as a special setting and the parties and court have ample time in advance to consider and determine the desirability of a live court reporter to produce a transcript for appeal. The availability of live court reporters at the court's discretion can be the subject of further education of the bench and bar.

One of the motivations for this study was to find cost-savings. Ironically, the National Center for State Courts had concerns about relying only on electronic recordings for these serious cases currently heard in district court, which has no live court reporters. While it is clear that best practices would demand either an improvement in the quality of the equipment or providing additional resources so that live court reporters could be assigned, in the priority of needs of the judicial branch this need falls far down the priority list. Far more urgent are upgrades in our overall technology, efilng, pay equity, and personnel for other purposes. Therefore, the director recognizes the need to address this issue, but cannot recommend that the need be given the priority it might otherwise deserve but for our more pressing needs.

On Recommendation 3: utilize better data to improve assignment of live court reporters:

*Regardless of whether the current practice is retained or a move to more digital recording is supported, efficiency will require greater operational knowledge by the state court reporting manager of the docket in each county, not just the session occurring. Many agreed that digital recording could be used for certain administrative calendar full days, pleas, or motion full days. Still there was no consensus on this due to reservations about recording quality or fast-changing docket needs from one day to the next. Though the discussions of the stakeholder group revealed a higher prioritization for the assignment of a court reporter to certain proceedings (e.g. all superior court trials, civil and criminal), there are limitations to full implementation due to some districts having sessions that mix administrative and trial proceedings. Mondays are the time of greatest conflicting demands for court reporters, so using digital recording as a normal practice rather than as an emergency alternative can provide relief for shortages. **To the extent that the manager can facilitate the availability of digital courtrooms, both judges and court reporters can be more conveniently and effectively assigned. Since judges rotate, having this clearinghouse of information about options can only improve operational efficiency.***

Tools exist today that help track the weekly assignment and daily availability of court reporters, but development of new electronic tools will be contingent on the availability of funds for development of new applications, ranked against a backlog of multiple other unfunded IT needs across the Judicial Branch. The initial focus of increased use of digital recording in superior court will be in high volume counties, where trial court administrators have better knowledge of daily needs and full days of appropriate types of proceedings are more common.

The director has met with and conferred with the court reporting manager and his direct supervisor, and the manager is committed to implementing a number of measures to improve the efficiency of managing court reporters. We have already identified several deficiencies for which remedial measures have been implemented, including maintaining and monitoring the records and reports from court reporters. We will continue to study and address the particulars of the NCSC recommendations on this topic, with which we completely agree.

On Recommendation 4: establish standard page rates for all transcripts and create a centralized statewide system for managing transcript requests and payment:

The committee received information on other states' standard and expedited page rates. The members broke into separate groups to independently consider standard page rates that might be imposed uniformly by NCAOC for all public and private transcript purchasers.

The committee did not arrive at a consensus on an administrative structure or process to centralize payment of court reporters for transcript production. States such as Utah that do this use a radically different technology platform to facilitate the process, transferring the daily audio of all courtrooms in the state to a single data center. Utah's court reporting system is under a single management structure where all court staff are hired and supervised by its state administrative office. North Carolina is not a comparable environment with its 100 independently elected clerks as the legal custodian of records, court reporters under different hiring and supervision structures and practices, and with a population and daily legal activity more widely disbursed across a much larger state. Further consideration of this was referred to the procurement process for selecting the next generation of digital court recording software and hardware.

This issue of standardized per page rates is intertwined with the overall compensation issue which NCAOC was specifically directed to address by the legislative amendment adopted during the short session. That amendment was adopted as the committee was beginning its work under the previous similar provision. Since the amendment focused on compensation specifically, that topic will be discussed here under this provision.

Compensation of Court Reporters

Comparing live court reporters to digital recording and transcription from audio recording implicates changes to a bundle of services. Each live court reporter in North Carolina is responsible for:

- *Bringing own technology to court in working order*
- *Maintaining own training proficiency level*
- *Attendance at all sessions assigned, in multiple counties*
- *Administration of transcript requests and deadlines*
- *Transcription and delivery*
- *Payment administration*
- *End-to-end quality control*

Use of digital recording divides these duties among many other individuals and offices:

- *State IT staff to install and maintain fixed equipment, often dependent on county sound wiring*
- *Courtroom clerk to operate equipment, make disk copies for files, works in home county only*
- *Same or other clerk to handle transcript requests and deadlines, copy and send disks*
- *State court reporter manager to assign disks to transcriptionists statewide*
- *Distant court reporter to handle payment administration*
- *No single person responsible for end-to-end quality control*

The unbundling of these services performed by live court reporters presents both opportunities and risks. Opportunities can come from moving digital files instantly as needed to speed production, but more risks from interdependence across organizational boundaries. While live court reporters can earn higher compensation than courtroom clerks or contract transcriptionists, for example, neither of those is



responsible for the full bundle of skills and services necessary to reliably produce court transcripts. Common criticisms of the live court reporting model include delays in production of transcripts and dependence on a single holder of the primary record. There is almost never a failure to produce a transcript. Criticisms of reliance on digital audio recording and transcription are high fixed costs to maintain equipment in all courtrooms whether in use or not, and uneven execution in monitoring and annotating courtroom recording activity by courtroom clerks with too many other duties and possibly inadequate training or standards. Partial or total failures are more common.

Compensation concerns need to be viewed within these realities: court reporter salaries are not “saved” by increasing digital recording. Those salaries first must be re-allocated to other affected cost centers, and not until the overall reliability of producing a complete record is equaled can there be any potential cost savings. North Carolina is not uniformly at that point with our current technology and practices. The advisory committee discussion showed many participants continue to have more faith in live court reporters and have doubts about digital recording, fueled by stories of poor quality recordings or outright failures to make a record. Clerks particularly are sensitive that dependence on digital recording adds to the workload of already busy courtroom clerks. Although other states found additional staff support necessary for successful audio recording – a fact mentioned in the NCSC report – clerks are pessimistic that any funding will be provided. Those who had satisfactory digital recording experiences credited that to strong local commitment to improving quality and reliability, including replacing NCAOC equipment at local expense to address specific audio needs.

As indicated in the NCAOC February 1, 2014, report, a review of court reporter compensation and transcript rates in surrounding states was undertaken, and the results shared with the Advisory Committee. The following is a chart summarizing the results of that review and research.

	Base Compensation	Page Rate	Notes
North Carolina State employees	\$38,840-\$65,158+ Depending on equipment certification; reporter provides own equipment	\$1.25/page for government, unregulated for private parties	\$1.25 rate set by legislative special provision (cutting prior \$2.50 rate); separate pay for transcript work so long as not in court
South Carolina State employees	\$34,115-\$43,305+, additional pay for certification and longevity; reporter provides own equipment	\$3.35/page for all parties; free copy for judge if requested	Private transcription up to 50 pages allowed during work hours; other work takes priority during work hours
West Virginia State employees	\$42,204-\$56,412+; reporter provides own equipment; lower pay for Electronic Recording Operators (digital)	\$2.85/page	Private transcription during work hours allowed in discretion of supervising judge
Georgia Contractors	Most counties use contractors, daily rate; trend in urban areas	\$3.78/page, \$5.70-\$7.58 expedited 48-24 hours	Permitted to transcribe criminal cases in work hours



and county employees	is to hire employees for guaranteed availability		for per page fee; some variance locally
Tennessee Contractors and state employees	\$34,500-\$43,608; some transition from employee reporters who provide own equipment to contract recorders/ transcriptionists using state equipment	\$3.50/page for government, unregulated for private parties	Employees may work on any per page transcripts during work week when not in court
Virginia Contractors	Bids awarded by Circuit, RFP based on hourly court rate and per page transcript rates	Unknown, vary by circuit award of RFP	Billed separately
Kentucky All digital audio and video	State budgets for \$2.5 million annually for equipment upgrade and replacement	Parties obtain digital audio or video file only	Kentucky is the only appellate system in the country that relies on video and audio records, no transcripts at all
Maryland State employees	Mostly digital, with court reporters converted to recording monitors; remaining reporters \$36,261-\$70,000	\$3/page	Employees may work on any per page transcripts during work week when not in court

Based on this review of surrounding states' compensation, North Carolina's model of salaried court reporters who are paid separately by the page for transcript preparation, when not assigned to court, is well within the mainstream. Entry salaries are comparable to these states while top of pay is somewhat higher. Earning top salary here is contingent on having the highest skill level and providing the best technology for real time reporting. This is a small handful of the overall group of state court reporters and they are among the best in the country.

Per page transcription rates, however, are the absolute lowest at \$1.25 per page and were also lowest prior to the legislative cut, when set by NCAOC at \$2.50 per page. North Carolina's ability to recruit and retain qualified court reporters has been severely hurt by this sudden change. A shortage of available court reporters for superior court is affecting real trials and real people in the state. As an employer, North Carolina has been sending the signal since last year that court reporters are not valued and have no future here for a career. At the same time, no provision has been made to properly staff digital recording courtrooms with appropriate monitors as provided in West Virginia and Maryland. Nor is there a commitment to funding top of the line recording technology commensurate with Kentucky's \$2.5 million annual commitment. Instead, court technology funding has been cut year after year. To assure the integrity of our existing district court digital recording systems, we would need more than 60 new employees to monitor the quality of digital recording in district court alone, applying the recommendations of the National Center for State Courts.

The issue of compensation is the most controversial issue the committee addressed. There was a recognition that the general assembly had already expressed disapproval of the payment plan and rates that had been in place for many years. Here is the director's conclusion and recommendation:

The system of hiring salaried professionals to preserve the record and supplementing the salary with a contractual per-page rate for transcript preparation evolved historically for legitimate reasons. Court reporters are trained professionals with great responsibility for preserving a permanent record critical to the operations of the court. That record is a protection for the rights of all who seek access to justice. On the other hand, preparation of transcripts is a tedious and time consuming clerical duty requiring a legal background encompassing legal language and procedures. Separately compensating for the transcript preparation serves the important purpose of providing an incentive to produce a timely transcript without distracting from the obligation to preserve the record of the court proceedings during the regular business day. This hybrid approach combining a status as an employee with that of a private contractor (sometimes erroneously denigrated as “double dipping” by critics) is used in other states and has served NC well for many years.

The effect of reducing the per-page rate has been detrimental. North Carolina now has a reputation for having the lowest per-page transcript rate in the country. While anecdotally court reporters have reported that the reduced rate is financially unsustainable for them, the director is more concerned about two consequential issues.

First, it is clear that high-quality real-time court reporters can no longer be recruited and retained. Indeed, we have had an unprecedented number of resignations as existing experienced court reporters resign to take jobs in other states or the private sector. The attrition rate for 2012-2014 is the highest of any group within the judicial branch and more than double the state average. In the last posted position filled, no qualified real-time reporter would accept employment despite national advertising. The director has had to rescind his earlier instructions that only real-time qualified reporters be hired. We currently have 11 vacant positions as of January 1, 2015. As this report was being finalized, another experienced real time court reporter in District 15A resigned to accept a position with the federal government, which pays \$5.00 per page. We cannot effectively fill vacancies despite active recruitment by the manager. The average number of days vacant for those positions is now 258 days although current vacancies are allowed to be posted as soon as the vacancies occur. The previous per-page rate provided an incentive that attracted quality applicants. This change in recruitment dynamics will have long-term consequences if not addressed.

The Second concern has just begun to materialize, but the director is confident that if there is no financial incentive to produce the final transcript the number of delayed transcripts will increase. There has always been a tension between time in court and time for preparing transcripts, and without some motivation to complete the transcriptions, all of which cannot be done during the normal workday, we will most likely have to take the court reporter out of court so that the transcript can be produced. This poses a risk to both court coverage and the timely appeals of cases litigated. The previous per-page rate provided an incentive now lacking that allowed the two tasks to be balanced effectively.

Finally, separating the “employee” side of the job from the “independent contractor” side of the job facilitated management and compliance with federal wage and hour regulations. The per-page exception to the wage and hour requirements was adopted as a part of the Fair Labor Standards Act specifically to address the special circumstances of compensation packages for court reporters. The more the NCAOC attempts to manage and regulate the contractor side, the more likely it will be that we will confuse a distinction validated by the wage and hour laws. Attempting to micromanage the time during which transcripts are to be prepared risks blurring the distinctions between the dual roles the court reporters serve. Legally and practically, there should be a bright line if the per-page contractor

side of their duties is to be legitimately preserved. Failing to maintain this clear distinction could result in potential wage and hour issues from which we have been immune. Any gains achieved by more monitoring and regulation of transcript production during the workday would pale if the distinction and benefits of this separate compensation plan were lost.

This bifurcation was recognized as a legitimate compensation approach and the two roles have remained distinct and separately compensated in North Carolina for many years and reflects the approach to compensation adopted as a standard practice in a number of states. The bifurcated plan simplifies supervision and has collateral benefits that promote the public interest, the main one being incentivizing the efficient production of transcripts. Maintaining a bright line for compensation policies for these two separate roles has worked well and should be retained, with appropriate compensation levels for each of the two distinct vital duties. A reasonable page rate combined with an appropriate separate salary has served North Carolina well. The page rate should be set at a level that is fair, provides adequate compensation for the task, and is sufficient to provide the incentive that rewards going the extra mile to produce transcripts quickly and accurately without sacrificing in-court time to get the job done. This is especially important for our metropolitan court reporters whose presence is routinely required for court reporting during the workweeks. Therefore, the director recommends restoring the per-page rate and retaining the bifurcated salaried employee/per-page contractor distinction with separate compensation plans for each.

On Recommendation 5: increase use of digital recording in superior court:

Some discussion participants agreed that digital recording technology can be expanded to include many superior court bench proceedings, especially for matters that are not likely to be appealed on a transcript of testimonial evidence and argument before a court and jury. This may include civil motions, many types of criminal pleas, and most administrative calendars. Testimonial proceedings, especially those with many witnesses with varying vocal styles and accents, and those involving technical terminology, present significant challenges to producing accurate and timely transcripts. The consequences of failure can be high, including needing to retry cases.

Other discussion participants think that the volume of transcript requests for these hearings, which may be unrelated to appeals, justifies having the court reporter present in person for the most accurate transcription. Without the court reporter, significantly more transcript request work would be added to clerk responsibilities.

The greatest volume of cases in superior courts is criminal. Criminal case management is run by district attorneys, and are often characterized by quickly evolving courtroom negotiations whether to plead guilty or proceed to trial with subpoenaed or law enforcement witnesses present awaiting the decision. The North Carolina Conference of District Attorneys reported that most of its members did not consider it feasible or desirable to commit to not holding jury trials at the outset of sessions of criminal superior court, when these negotiations occur and the week's actual trial docket is taking shape. In certain high case volume counties where multiple sessions of criminal superior court happen simultaneously this would be more practical.

High case volume counties appear to be the logical place to add to superior court recording capabilities. While 77 of these courtrooms already have the equipment, several high case volume counties have none today. Outreach to clerks of court, judges, and district attorneys will need to be done to ensure the staff



readiness for such a step. This can proceed in short order and the court reporting manager can begin assigning appropriate sessions to digital recording superior courtrooms. Once new technology is chosen priority can be given to equip additional Superior Court courtrooms in high case volume counties.

If there is one thing about which the Superior Court Judges are unanimous, it is that retaining live court reporters in Superior Court is essential. While there was some willingness to consider having digital backups, no superior court judge is on record supporting any change in that basic position. The North Carolina Conference of Superior Court Judges has unanimously communicated that position in unequivocal terms in a letter to the director that is attached as Exhibit B. Considering the costs of equipping courtrooms and transforming our calendaring practice and procedures there is little to support proceeding against the advice of our experienced superior court judges. The director cannot recommend such a course at this time. While technology to assist our court reporters in maintaining an accurate record of court proceedings will continue to improve and evolve, moving statewide to such a format at this time cannot be recommended. We have already supported the creation of some pilot digital courtrooms in superior court as backup courtrooms when court reporters are not available or not needed, and we plan to continue that course.

Respectfully Submitted,



John W. Smith

Director

Administrative Office of the Courts



APPENDIX A

Research and Advisory Committee on Court Reporters, Membership

John W. Smith, Director

Clerks of Superior Court

Steve Cogburn (Buncombe)
Sam Cooper (Chatham)
Susie Thomas (Lee)
Sonya Clodfelter (Courtroom Clerk from Wake)

Conference of District Attorneys

Peg Dorer or her designee(s)

Court Reporters

Gina Byrd – District 24
Lisa Garrison – District 27B
Pam Harris – District 22 (NCAOCR President)
P. J. Jaeger – Rover/District 18
Ricky DiMartino – District 25A
Ranae McDermott – Rover
Toni Rayburn – District 17B
Tina Stancill – District 5

Indigent Defense Services/Public Defenders

Tom Maher (designee – Staples Hughes)

Judges

Allen Cobb (SRSCJ)
J. Corpening (CDCJ)
Beth Keever (CDCJ)
Nathaniel Poovey (SCJ)
Marvin Pope (SCJ)
Sanford Steelman (COA)

Trial Court Administrator

Todd Nuccio

Administrative Office of the Courts

Cindy Bizzell, GAL (designee – Deana Fleming)
Cynthia Easterling, Court Services Division
Brad Fowler, Research and Planning
David Hoke, Assistant Director
Jeff Marecic, CIO
Pete Powell Legal
Mildred Spearman, Legislative Liaison, **Facilitator**
Jon Williams, Senior Deputy Director, **Facilitator**
McKinley Wooten, Deputy Director
Danielle Seale, Research and Planning, **Reporter**

NOTE: David Jester, court reporting manager, will be present and available to the committee as needed.



APPENDIX B



**STATE OF NORTH CAROLINA
JUDGE OF SUPERIOR COURT
CASWELL – PERSON**

POST OFFICE BOX 1777
YANCEYVILLE, NORTH CAROLINA 27379

W. OSMOND SMITH III
SENIOR RESIDENT SUPERIOR COURT JUDGE

TELEPHONE: (336) 459-4016

December 2, 2014

The Honorable John W. Smith
Director, Administrative Office of the Courts
Post Office Box 2448
Raleigh, North Carolina 27602

Re: Research and Advisory Committee on Court Reporters

Dear Judge Smith:

Please accept this letter as a statement of the position of the North Carolina Conference of Superior Court Judges regarding the issue of live court reporters versus digital recording technology as the method for making the official record of proceedings in the Superior Court. Our Conference overwhelmingly supports the practice of reporting by live court reporters as the best method of providing the official record. This position has been put forward by a prior resolution, and was re-affirmed by a unanimous vote of the members of our Conference at its recent annual meeting.

It is my request on behalf of the Conference of Superior Court Judges that this statement of our position be considered by the Research and Advisory Committee on Court Reporters and the Administrative Office of the Courts in reporting to the legislature, and that regardless of the report to the legislature, that our position be conveyed as well. I cannot over-emphasize how strongly the judges of the Superior Court feel about this issue.

I could go on in great detail as to the reasons for our position, but since I understand that the merits of live reporters versus digital recording technology have been well expressed by others, I will spare you my further arguments. However, if you or the Committee would be receptive to further input from the Superior Court bench, I will make every effort to follow-up in whatever format or forum that you would prefer.

Thanking you for your attention and consideration herein, I am

Sincerely yours,

NORTH CAROLINA CONFERENCE OF SUPERIOR COURT JUDGES

A handwritten signature in dark ink, appearing to read "W. Osmond Smith III".

W. Osmond Smith III
President

