

Toward a More Effective Verbatim Record in the Eleventh Judicial Circuit of Florida

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# **Toward a More Effective Verbatim Record in the Eleventh Judicial Circuit of Florida**

**Amy Garcia**

## **Abstract**

The Circuit Court Criminal Division has seen an increase in complaints with the court reporting services being provided for the past few years. Some of the issues include delays in the production of transcripts, technical issues (software and support) and court reporter attendance.

In January 2012, digital court reporting technology was introduced into five Felony Courtrooms with a different software solution than the one being used in the rest of the circuit. The purpose was to incorporate a centralized and networked solution to court reporting services in the Circuit Criminal Division and eventually, the rest of the circuit. Nevertheless, due to the many technical issues and problems encountered since its inception, transitioning additional courtrooms into this system came to a halt. The remainder of the felony courtrooms, continue to use a stenographer until a more reliable solution is identified.

In the State of Florida, 90% of the circuits utilize centralized and networked court reporting technology and services. This has provided them with better control of transcript production, remote and prompt technical support, coverage and remote access between facilities and courtrooms. Only two circuits have not moved forward with this technology and the Eleventh Judicial Circuit is one of them.

The tools used to gather the data for this project include: A Court Reporting Services Survey (Appendix A); an in-house survey that was previously generated to gather a judge's overall satisfaction with their services (Appendices C and D); internal performance data gathered by the Court Reporting Manager of this circuit; the *Recommendations for the Provision of Court Reporting Services in Florida's Trial Courts, 2007* which were set forth in Supreme Court Administrative Order 10-1 (AOSC10-1) (Appendix B) and the *Court Reporting Services Circuit Profiles, 2008*.

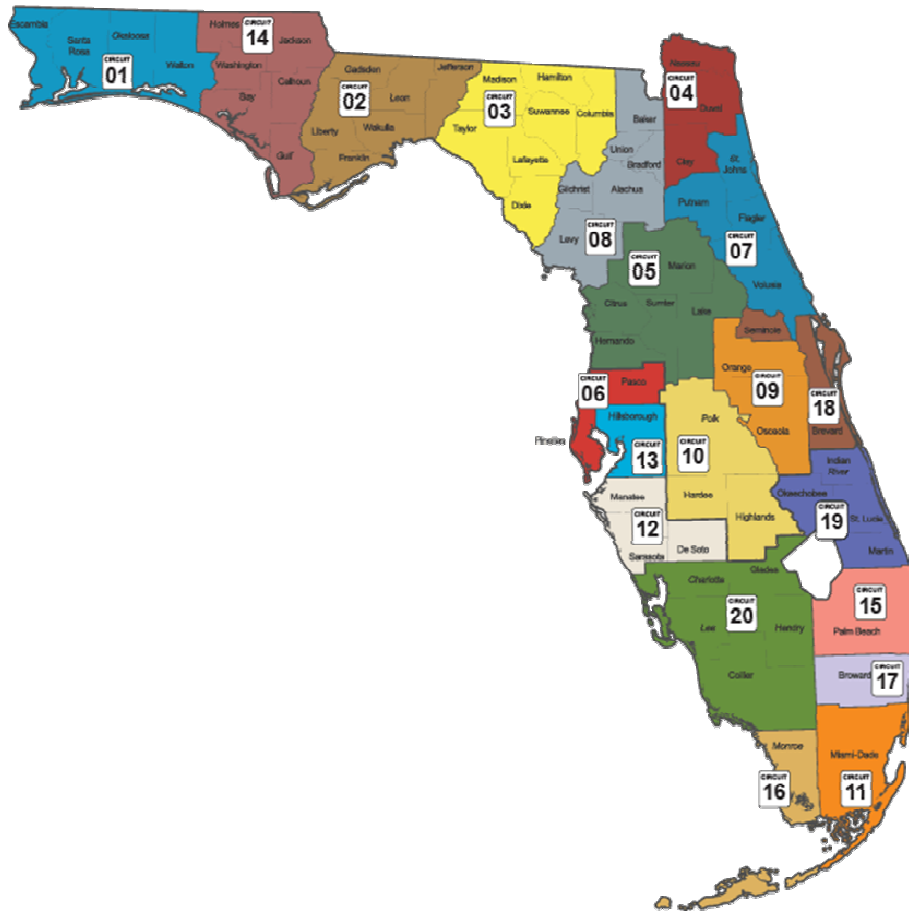
The following is a summary of the recommendations generated from the research and data collected for this project:

- Acquire a more stable and reliable software solution to complete the transition to digital court reporting in the Circuit Criminal Division. Implement the same software solution in the rest of the Circuit.
- Network all digital court reporting computers and eliminate stand-alone systems.
- Create a cost analysis report and budget request to transition to an employee-based model with centralized court reporting services.

Implementation of these initiatives will go a long way toward improving the timeliness, efficiency and effectiveness of the court reporting process in the Eleventh Circuit.

## Introduction

The Eleventh Judicial Circuit of Florida is the largest among the state's twenty circuits and the fourth largest trial court in the nation, serving a diverse population of 2.6 million people. It is one of only five single county circuits in Florida.



**Figure 1: Florida's Judicial Circuits**

There are a total of 123 Judges handling approximately 1.4 million cases a year.

These cases are heard in ten court facilities throughout the County.

Court reporting is an important component of the ability to deliver due process in the justice system. Its purpose is to provide an impartial means of capturing and preserving the spoken word so that an accurate verbatim transcript may be produced. The court reporting firms contracted in the Eleventh Circuit provide services to many other justice partners/agencies in the community as well. This makes them an essential part of this circuit. However, the current system it is not always an effective way to do this. For example, in 2012 the courts did not renew a contract with one of the court reporting firms. This firm was also providing court reporting services to one of the justice partners. The owner failed to provide transcripts for over 30 depositions, in approximately 12 trials, because payment was not being provided in a timely manner by that agency. The issue then became the court’s problem and resulted in contempt proceedings against the owner of the firm. The owner failed to appear in court several times and was almost incarcerated. While this is an extreme example, it should serve as an alert that this circuit needs to find the most appropriate business solution in its implementation of court reporting services.

Currently, court reporting services are provided in eighty-four courtrooms in five areas of court operations (see Table 1 below).

**Table 1: Court Reporting Covered Courtrooms**

<b>Court Division</b>	<b>Number of Courtrooms Requiring Court Reporting</b>
County Criminal	26
Circuit Criminal	27
Juvenile	11
Family/Domestic Violence	15
Child Support	5
<b>Total</b>	<b>84</b>

A “contract” service delivery model is primarily used, along with, an “employee” service delivery model.

The combination of both models is referred to as a “hybrid” service delivery model and applies to both staffing and services. As the name suggests, the contract service delivery model means that all court reporting services are provided by contracted court reporting firms. The contract model in this circuit is delivered by seven court reporting firms, which provide both stenographic and digital court reporting services to the court. They provide both court reporters and transcription services to several divisions of the court: Circuit Criminal (Felony Cases), County Criminal (Misdemeanor Cases), Domestic Violence, Juvenile (Delinquency and Dependency Cases), Child Support Enforcement and Family Divisions.

The employee model consists of only three in-house reporters using digital technology, who provide coverage in Termination of Parental Right cases and Unified Family cases. Stenographic services are only provided in the Circuit Criminal Division of the Court. All other divisions utilize digital court reporting. In both stenography and digital court reporting, there is one individual assigned to each courtroom. This is referred to as the monitoring ratio (1:1). The individuals that provide digital court reporting services sit in front of a computer listening to the audio being recorded through the microphones in the courtroom, while typing notes into the supported software. The notes serve as a guide and/or tagging system, to identify the different voices being recorded during court, for transcript purposes.

## **How We Got Here: The Recent History of Court Reporting in the Eleventh Circuit**

The official court reporter was created by statute and charged with the duty of preserving the court record. This was a statewide system, started in 1974 and continuing in effect until 1995. In Miami-Dade County six official court reporting firms provided the management and supervision of contract court reporters and all court reporting needs of the Circuit, and in exchange, received a state salary and benefits. This system was composed of long established firms with extensive court reporting experience, but it created near exclusive control of court reporting services by the official reporters within a circuit and it did not foster the competition necessary to stay efficient and economical. As a result, the courts instituted a number of cost-cutting measures including the introduction of audio recording in the Juvenile Division; improvement of data entry functions, and the audit of all transcripts for accuracy and conformity to invoices. In addition, new rules reducing transcript requests in certain criminal cases helped reduce court reporting expenditures.

In 1994 and pursuant to Administrative Order 94-15, the Court Reporting Review Committee was created and tasked with re-evaluating the circuit's methods of making court reporting appointments, costs, procedures and quality. The Committee's study involved a wide range of experts, representatives of state and federal courts, public hearings as well as site visits to other jurisdictions. It was the recommendation of the Court Reporting Review Committee that court reporting in the Eleventh Judicial Circuit be opened to free competition among qualified court reporters.

In 1995 the Eleventh Judicial Circuit issued a Request for Quotation (RFQ) for qualified vendors to provide cost effective and competent verbatim recording and transcription of court proceedings and depositions. The Court Reporting Committee was charged by the Chief Judge with evaluating and ranking Technical Qualification Statements based on the following criteria: Qualification of Personnel, Technical Capabilities, Record Storage and Retrieval Plan, Past Performance, Management Plan and Workforce Availability. Under this system once the Committee reviews and evaluates the Technical Qualification Statements, it forwards the results to the Chief Judge. The Chief Judge then makes the final determination as to which firms will be invited to enter into contract negotiations with the Circuit. As a result of the Circuit's new policies the number of firms increased to twelve. Under the terms of this new contract, the court system set the rates of compensation based on research results of similar jurisdictions and local market conditions.

A statewide survey was conducted in 1999 regarding court reporting fees within the seven biggest circuits. The results indicated that the Eleventh Circuit's fees were below the statewide average. The Eleventh Circuit's rates were 10% below the statewide average, transcript rates were 30% below and copies were 23% below.

In 2001, the Eleventh Circuit was advised by a neighboring circuit that they had entered into a new three year contract with their court reporting firms and had to raise their rates substantially. Faced with the probability that a large number of reporters who commute between both Circuits would relocate, combined with the general court reporting shortage, the Eleventh Judicial Circuit had no choice but to match the rates as

closely as possible. The Board of County Commissioners approved the action and the new rates became effective on June 1, 2001. Although increases in fee schedules had been minimal over the five-year period from 1995 through 2000, for reasons already stated, the increases in 2001 were significant. An additional study conducted by the Administrative Office of the Courts confirmed that the shortage of court reporters claimed by our local firms was indeed a reality and would likely worsen over time. At that time, court reporting schools were closing and some current workers were relocating to other counties with more attractive salaries. Some switched to more lucrative fields such as civil reporting and others left the profession entirely. Among the study's recommendations was the expansion of electronic recording in the circuit.

By 2001, the Eleventh Circuit introduced digital court reporting technology into three Domestic Violence Courtrooms and ten Juvenile Courtrooms. The Court Administrator launched the in-house digital court reporting services program in response to serious problems in the recording and production of transcripts in termination of parental rights cases in the Juvenile Division. In the first two years of operation, this program realized the Circuit a 14% savings over the use of traditional court reporters. More importantly, transcripts were consistently produced on time and accurate in content. The in-house production and management of transcripts eliminated the need to request extensions of time for transcript submission, which would have caused further delays in bringing stability to the children involved in these cases.

By 2002, four additional branch court locations and eleven County Criminal Courtrooms were successfully transitioned to digital reporting. From the start, judges



liked the instant playback feature available to them. Judges could hear a playback from a court proceeding that occurred in the past without having to order a transcript and reschedule the case. This significantly reduced transcript requests and related court costs.

The only division presently using stenographers is the Circuit Criminal Division. Even though the Division has transitioned eight (out of 27) felony divisions to digital court reporting, the progress has been slow and technologically challenging. The Circuit Criminal Division has seen an increase in complaints with the court reporting services provided in recent years. Some of the issues include delays in the production of transcripts, technical issues (software and support) and court reporters failing to appear or being tardy. As a result of chronic delays in providing appellate transcripts the 3<sup>rd</sup> District Court of Appeals began remanding orders to the circuit court to manage the status of the transcripts.

### **The Current Problem**

Because there were so many remands in 2007, a Transcript Calendar was created by the Administrative Judge of the Circuit Criminal Division. During a ten month period in 2012 there were approximately 180 transcripts ordered and delayed. In 2013, approximately 205 transcripts were likewise addressed. As anticipated the Court has witnessed court reporting firms merging or closing. Court reporters continue to leave the state to find better paying work elsewhere. This presents the court with transcript issues and delays because some of the court reporters have left the State without

providing their notes and dictionaries to their respective firm in order to be able to transcribe them.

In January 2012, digital court reporting technology was introduced in five Felony Courtrooms with a different software solution than the one being used elsewhere in the circuit. The purpose and intention of the new software was to incorporate a centralized and networked solution to court reporting in the Criminal Division and eventually the rest of the circuit. As of January 2014, there are a total of eight (out of 27) courtrooms connected and using this software in the Circuit Criminal Division. Nevertheless, due to the many technical issues and problems encountered since its inception, transitioning additional courtrooms to this system has come to a halt. A total of 62 technical service calls were reported in these courtrooms during 2012 and 65 in 2013. The remaining felony courtrooms have a stenographer assigned until a more stable solution is identified.

In 2013, there were 35 instances reported in which a court reporter was late or did not report to the courtroom. The advantage for the eight divisions that have transitioned to digital reporting is that when this happens with a digital court reporter, the Court Reporting Manager has the ability to record the hearing from his computer.

As if to cap off this problem, the need to increase efficiency, while cutting costs, became even more urgent due to legislative actions limiting the courts' due process funds. Effective July 1<sup>st</sup>, 2012 the Legislature cut the state budget for private court appointed counsel cases by \$4 million dollars. They provided each Circuit with an allocation to pay for attorney's fees that exceed the flat fee amounts. However, any

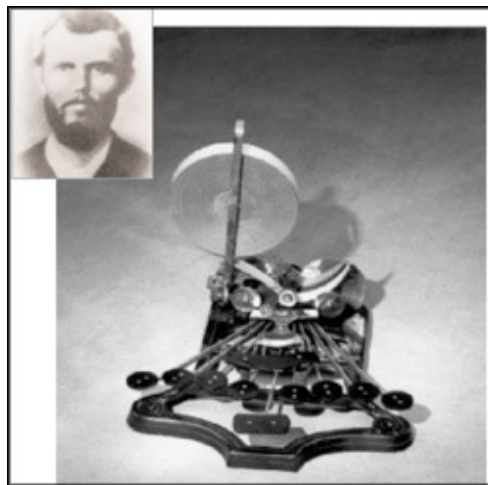
fees approved by a Judge over the amount allocated for each Circuit, would be taken from the courts due process funds. Since court reporting is a due process function the inability to provide those services was becoming a reality.

As a means of addressing these important issues, this project examines the following:(1) whether or not the Circuit Criminal Division should continue its expansion of digital court reporting, (2) whether or not a networked court reporting software solution should be implemented in this circuit as opposed to the stand-alone configuration currently used and (3) whether or not the predominantly contract service delivery model is cost effective, compared to that of the employee service delivery model, utilized throughout the rest of the State.

## Literature Review

Court reporting continues to evolve as technology changes. Up until the late 19<sup>th</sup> century court reporting was a manual process where a stenographer would use a pen. By the 19<sup>th</sup> century stenographic equipment was introduced and supplemented the pen. Miles Bartholomew invented the first short-hand machine in 1877.

Improvements were later made to the machine and patents were obtained for it in 1879 and 1884. It was manufactured by Bartholomew's company, the United States Stenograph Corporation of East St. Louis, Illinois, and was used as late as 1937 by official reporters (Stenograph, 2014).



In fact, stenograph equipment has in recent years been included in the futuristic Courtroom 21 at the College of William and Mary. But, by then so was, “Automatic video recording of proceedings using ceiling mounted cameras with voice-initiated switching” (Lederer, 1994).

Thereafter, moving into the age of electronics, computers came along and computer-aided transcription was introduced. It became very popular during the 1980s and was adopted by the federal courts largely because:

1. The growing unavailability in many jurisdictions of sufficient numbers of competent support personnel (note readers and typists)
2. The expectation that the technology will easily and rapidly provide the court reporter greater transcript productivity and easier and more efficient transcript production
3. The desire to reduce transcript costs or at least help to stabilize the rising transcript production costs usually caused by higher support personnel compensation
4. The recognition that the official court reporter must remain innovative and economically competitive with competing reporting firms (particularly in the freelance marketplace) and competing court reporting technologies (such as electronic recording); and offer clients better and expanded reporting services (particularly for the larger law firms, major corporations, and government agencies)
5. The tremendous advantages of competing in the freelance reporting market (depositions, conferences, hearings, litigation support projects, etc.)
6. The long-term frustrations and time-consuming process involved in the traditional dictation reporting method that requires an extensive amount of court reporter and typist time. According to the National Center for State Courts' CAT Analysis Project staff, for every one hour of court testimony (equivalent to approximately forty typescript pages), the official court reporter must spend two and one-half hours dictating and proofreading and a typist an additional two and one-half hours typing the document (Greenwood, 1981).

Of course, even computer assistance depended on the skill and availability of the individual court reporter. It took more than that to solve the problems listed above. As mentioned in *Digital Recording: Changing Times for Making the Record, 2009* the totally electronic solution is the next step:

The current methods of making the record have served the courts well; however, increased scrutiny, budget constraints of the current economic climate, growing needs and expectations of broader access and improved efficiency, and political pressures require courts to take the next step in the evolution of making the verbatim record. Digital recording is one of the next steps in that evolution of making the verbatim record. This technology improves the efficiency of transcript production, broadens access to the verbatim record, drives more effective management of court reporting resources, and further utilizes new technology solutions, (COSCA, 2009).

In almost all of the literature I researched for this project, there appears to be a recurring theme and three main reasons for courts continuing to go digital: Budget, Shortage of Stenographic Reporters and Transcript Delay. As stated earlier, this circuit has and continues to face budgetary constraints, shortage of reporters and untimeliness of transcripts. A national court reporting survey conducted by the National Judicial College and the University of Nevada, Reno, *The Future of Court Reporting in the United States: Results from a National Survey of Judges and Court Reporters, 2011* addresses reasons for not using stenographic court reporters:

Judges who indicated that they did not use stenographic court reporters in their courtrooms (n=263) indicated that the most common reason for not using them was budgetary considerations (30%). This finding is consistent with the qualitative interviews with the Chief Justices and State Court

Administrators. Some mentioned that cost was an issue and court reporters' costs needed to be reduced. An additional 21% indicated issues directly involving stenographic court reporters stating that there is a shortage of available reporters (13%), or that there is some concern with either timeliness or accuracy (4% each), (National Judicial College, 2011).

In 2002 the Justice Management Institute developed an assessment guide and resource manual titled *How to Conduct an Assessment of Your Courts Recording-Making Operations: A Systematic Approach, Volume I (Self-Assessment Guide) & II (Resource Manual)*. The resource manual refers to a cost benefit analysis and how it will assist in determining whether current resources are being expended in the most cost effective manner. It also provides valuable information on how to conduct one and the various components that should be reviewed. The Court Reporting Services Survey (Appendix A) includes budgetary questions and assisted in comparing services and fees throughout the state.

The argument of costs and benefits continues to rage in many quarters. California has been engaged in a debate over digital reporting for the past thirty years. In a 2009 report prepared for the California Court Reporters Association, Chris Crawford took issue with the State Legislative Analyst's (LAO) conclusion that a move to digital recording would save the courts \$13 million in the first year and up to \$111 million annually after full conversion (Crawford, 2009).

In the past three decades, the California Courts and the California Legislature have struggled more than a dozen times with the prospect of replacing court reporters with electronic or digital recording (DR) equipment in the state

trial courts based upon the belief that such a change would result in substantial costs savings. These efforts are most often triggered by state budget shortfalls and the belief that advancements in DR technology render the use of court reporters to be less cost effective. In our analysis, the cost savings assumptions attributed to DR are not true, as they have been proven to be untrue in the preceding dozen or more efforts in California, and as the federal courts and other state trial courts have learned the hard way (p. 2).

The report asserts that contrary to the LAO analysis, a move to all electronic or digital recording would result in a net loss the first year and create a substantial productivity loss among judges, attorneys and parties because the written word is 3 to 5 times faster to use than an audio record. Ultimately, no savings would accrue because staff is still required, transcription costs will rise, offsetting user fees would be lost, private party transcript production will be “off-shored” and the state would have to bear ongoing technology upgrade costs.

The Court Reporters Association weighed in on the subject as recently as February, 2013, by suggesting a “perfect public-private partnership”. In such an arrangement,

Courts avoid having to pay large sums of overtime by “outsourcing” transcript production to official reporter employees.

This public/private partnership preserves the accuracy and integrity of the official court record, ensures fairness to all litigants, and maintains the appropriate level of confidentiality for each proceeding – at a minimal cost to the court (COCRA, 2013).



The report claimed that by having the court reporter absorb the overhead costs accompanying the technology, the court could avoid some \$25,197 in overtime and equipment costs per year (p. 3). The text cites a litany of digital recording malfunctions across the nation including Kentucky, Colorado, Virginia, Oregon, New York, the U.S. District Court, Texas, and Iowa where, “Ten of the 18 members of the Digital Audio/Visual Recording Technology Committee signed a letter saying they don’t think [digital audio recording technology] should replace live court reporters”(p. 7).

In the State of Florida a Commission on Trial Court Performance and Accountability (TCP&A) was established in 2002, by the Supreme Court. The purpose of this commission is to propose policies and procedures relating to the efficiency and effectiveness of the Florida trial courts, and as directed by the Supreme Court’s Administrative Order 12-25. This commission created the *Court Reporting Services Circuit Profiles, 2008* along with the Office of the State Court Administrator, which not only assists court reporting managers statewide, but also assisted in determining the type of court reporting data needed for this project. This publication provided a strong foundation for the creation of the Court Reporting Services Survey (Appendix A) and in determining whether or not our current service delivery model was efficient and effective. This publication includes staffing and service delivery models, workload and rates and expenditures for all 20 Circuits in the State of Florida. An updated version of this publication has not been created, therefore, for the purposes of this project, it was only to show current information as provided from the Court Reporting Services Survey (Appendix A) and the *Uniform Data Reporting, Court Reporting, FY 12-13*, which is prepared by the Office of the State Court Administrator and reported by each Circuit.

In addition to the aforementioned publications, the TCP&A commission submitted to the Supreme Court, *Recommendations for the Provision of Court Reporting Services in Florida's Trial Courts, 2007* which were set forth in Supreme Court Administrative Order 10-1 (AOSC10-1) (Appendix B). These recommendations include standards of operation and best practices for court reporting services, which are defined in AOSC10-1 as follows:

A "standard of operation" is defined as a mandatory practice and a "best practice" is defined as a suggested practice to improve operations but, due to the possibility of local conditions beyond the court's control, is not required. The attached standards of operation and best practices, which were proposed by the Commission in the above mentioned reports, are hereby adopted as a means to ensure the effective, efficient, timely, and uniform provision of court reporting Services in Florida's Trial Courts.

The Supreme Court of Florida adopted the Commission's recommendations in hopes of creating uniformity within the state and in effort to ensure effective, efficient and timely court reporting services. They created recommendations which include seventeen sections containing standards of operation and best practices. These recommendations include the following sections:

- Court Reporter Qualifications
- Oversight
- Use of Clerk of Court Staff
- Assigning Coverage
- Eliminating Analog Recording
- Service Delivery Models

- Monitoring Ratios
- Participant Responsibilities
- Preventing the Recording of Confidential Communications
- Operating Digital Recording Equipment
- Tagging the Digital Recording
- Ownership of the Official Record
- Storage
- Transcript Production
- Producing Copies of Recordings and Cost Sharing

This project includes an analysis of the current court reporting services provided in this circuit to these standards of operation and best practices.

## **Methods**

The data gathering for this project required two surveys, one statewide and the other internal to the Eleventh Circuit, as well as collection of internal performance data regarding the court reporting function. First, the statewide Court Reporting Services Survey (Appendix A) was developed in July, 2013. The *Court Reporting Services Circuit Profiles, 2008* publication assisted in identifying the type of court reporting information to collect and include in the survey. This publication includes staffing and service delivery models, workload and rates and expenditures for all 20 Circuits in the State of Florida.

### **Court Reporting Services Survey Content**

The Court Reporting Services Survey includes five sections, with the following information:

1. Circuit Information: The Court Reporting Manager's contact information, Number of Filings, Courtrooms and Facilities.
2. Court Reporting Services: Questions regarding their current court reporting services and model, employees, salaries and rates.
3. Transcription Services: Questions regarding the number of transcript request's received, rates and expenditures.
4. Centralized Court Reporting Services: Included questions regarding whether or not they were using this type of technology in their circuit already and/or plans for

future implementation. This section contains additional questions concerning employees, salaries, transcripts and fees for this type of model.

5. Satisfaction: Questions regarding their overall satisfaction with their current court reporting model (strength and weaknesses) and whether they keep track of complaints and issues.

### **Survey Pre-Test**

A pretest of the Court Reporting Services Survey (Appendix A) was conducted and provided to the 17<sup>th</sup> Circuit, Judges and the Court Reporting Manager of the Eleventh Circuit. Additionally, input was provided by the National Center of State Courts. All of the constructive feedback assisted with the necessary modifications and the survey was finalized in September, 2013. Data collection for this survey began September 6, 2013 and closed October 24, 2013. Because the intention of this survey was to gather information from every Circuit in the State of Florida, as an attempt to update version of the *Court Reporting Services Circuit Profiles, 2008*, this information will assist in comparing current and future court reporting systems throughout the State.

### **Survey Responses**

The Court Reporting Services Survey (Appendix A) was sent electronically to all 19 Court Reporting Managers throughout the State. Twelve out of the twenty circuits responded, for a 60% response rate. Responses were reviewed for completeness. The responding circuit was contacted, if necessary, for any further clarification. This required telephone interviews with six of the twelve court reporting managers that

responded to the survey. This project had the additional benefit of creating new business relationships across the State and served to open the lines of communication and support within the court reporting segment of the courts.

### **In-House Court Reporting Survey**

The second was an in-house court reporting survey (Appendix C and D). These sets of questions had been previously created in order to gather a judge’s overall satisfaction with their current court reporting firm assignment and court reporter’s performance (stenography versus digital court reporting services), in their respective courtroom. In the Circuit Criminal Division, eight out of the 27 division judges are outfitted with digital court reporting and nineteen with stenographers.

### **Survey Responses**

The in-house survey questions were provided to all eight judges who have digital court reporting services and five responded for a 63% response rate. Out of the nineteen judges with stenography services, eight responded for a 42% response rate.

**Table 2: Survey Response Rates**

<b>Participants</b>	<b>Number of Surveys Sent</b>	<b>Number of Surveys Received</b>	<b>Percentage of Responses Received</b>
Court Reporting Managers	20	12	60%
Judges (with Stenography Services)	19	8	42%
Judges (with Digital Court Reporting Services)	8	5	63%

## Internal Performance Data

Additionally, the Court Reporting Manager of this Circuit collected internal performance data reflective of the many issues the felony division has encountered since the inception of the new court reporting software. This data will allow decision makers to have a better picture regarding the timeliness, cost and quality of court reporting in this division. The data captured includes the following:

- **Transcript Calendar Data:** This data includes the court reporter and contracting firm being summoned to court regarding a pending appellate transcript. It includes the contracting firm name, number of transcripts and court reporter responsible for the transcript production.
- **Technical Calls Data:** This data captures all technical calls received and/or reported to the IT Department and Court Reporting Manager involving the court reporting software and/or hardware from each courtroom.
- **Court Reporter Attendance:** This data set includes reported instances in which a court reporter is either late or does not report to court.
- **Transcript Production Tracking:** This data includes the date in which a transcript was ordered, date when it was received, the number of days it took to produce the transcript, the number of days it was past due or not and the number of transcript pages, if available.
- Additionally, a comparison of the *Recommendations for the Provision of Court Reporting Services in Florida's Trial Courts, 2007* set forth in Supreme Court

Administrative Order 10-1 (AOSC10-1) (Appendix B), standards of operation and best practices to the current court reporting services being provided in this circuit was developed.



## Findings

The findings of this project are based on data gathered from the following: *Court Reporting Services Circuit Profiles, 2008*, the Court Reporting Services Survey (Appendix A) provided to the circuits, the in-house survey questions of the judge's overall satisfaction (Appendix C and D) and the internal performance data that has been collected thus far. Additionally, a section comparing whether or not this circuit meets the standards of operation and best practices, as defined in Supreme Court Order 10-1 (Appendix B) will also be evaluated.

As reported in the *Court Reporting Services Circuit Profiles, 2008* 15 out of the 20 circuits across the State utilize the same centralized court reporting software. During the telephone interviews conducted with eight court reporting managers across the state, all expressed their satisfaction with the court reporting software being used in their circuit. In the Eleventh Circuit, there were over 113 technical issues reported since the inception of the current software program in the 8 felony courtrooms. The purpose and intention of the new software was to incorporate a centralized and networked solution to court reporting in the Criminal Division and eventually the rest of the circuit. Nevertheless, due to the many technical issues and problems encountered, transitioning additional courtrooms to this system came to a halt.

Having stand-alone systems in each courtroom and not having them networked in the rest of the circuit, does not allow the audio to be recorded from the courtrooms remotely when a court reporter is absent from court. It also does not allow the court to have a secondary form of back up or accessible technical assistance. In the State of

Florida, 90% of the court systems utilize a centralized court reporting services model. This means that their court proceedings are recorded from a central environment and provided to a networked server system. This system allows for any user to access, review and download the audio from any computer on the network. It allows the court IT staff to work on technical issues remotely and back up the court record automatically on a daily basis. The circuits that have centralized court reporting services stated the following comments on the survey:

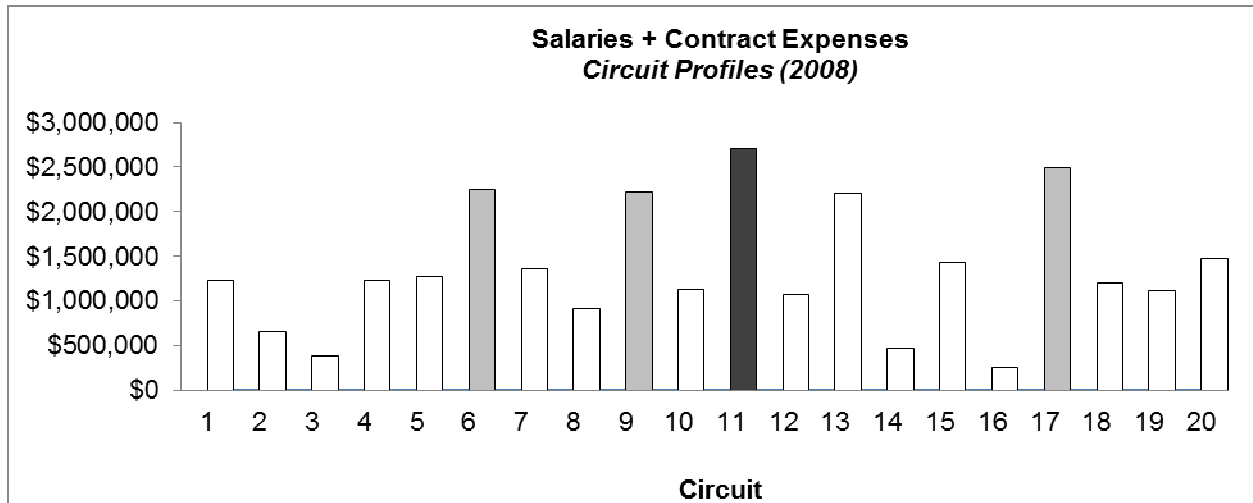
*“Our IT staff works on technical issues, no costs or maintenance fees.”*

*“Quickly locate a hearing and provide audio cd, remote access between all facilities/can cover if short staffed, if any.”*

*“Services on site and judges are able to do emergency hearings on short notice.”*

*“Ability to monitor more court proceedings at once”*

The *Court Reporting Services Circuit Profiles, 2008* documented the amount each circuit expended in salaries, benefits and contracts for FY 2007-2008. As is evident in Figure 2 below, the Eleventh Circuit has the highest expense reported, at \$2.7 million dollars.



**Figure 2: Salaries and Contract Expenditures by Circuit**

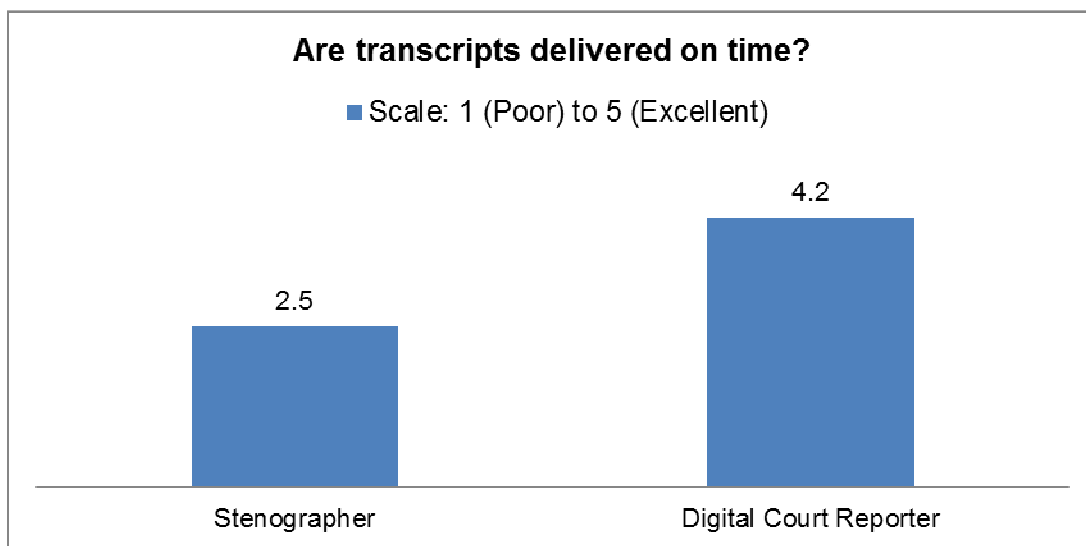
Even though this is the largest circuit in the State and should expend the most, three other comparable circuits (6<sup>th</sup>, 9<sup>th</sup> and 17<sup>th</sup>) reported expenses equaling far less, by utilizing an in-house employee model (30-45 employees).

As reported in the *Court Reporting Services Circuit Profiles, 2008* 15 out of the 20 circuits' employ between 12 to 45 employees, equaling 75% of the circuits utilizing an employee-based model throughout the State. The court reporting services survey reported 100% satisfaction from the circuits that utilize an employee-based model in the categories very and mostly satisfied. The percentage is representative of those circuits that employ more than 15 employees. They also stated the following in the survey:

*"Staff makes sure that all court is tagged by the end of the day. They are team players and help each other to ensure all court work is done by end of day."*

*"Court owns the record, notes and dictionaries kept if employee leaves."*

In July of 2013, the Court Reporting Manager began to document the number of days it is taking court reporters to produce transcripts. As he audits the invoices, he documents the date in which the transcript is needed by, compared to the date it is received. As of January, 2014 (a 6 month period), the data reflects that transcripts in which a stenographer is assigned are on time 17% of the time, compared to the transcripts produced by a digital court reporter at 39%. The in-house survey of the judge's overall satisfaction (Appendix C and D) also reflects a timeliness issue with transcripts where a stenographer is assigned. See Figure 3 below:



**Figure 3: Timeliness of Delivery: In-House Survey**

The amount of transcripts ordered where a stenographer is assigned is about 82% of the total transcripts. Therefore, the courtrooms with digital court reporting are not generating many transcripts. Transitioning the rest of the felony division to digital court reporting will improve the timeliness issues we are currently experiencing with stenographers. Additionally, implementing an employee-based model will also

contribute to the improvement of the timeliness issues because the court would rely on their own employees to complete transcripts timely, instead of contracted court reporting firms.

Lastly, as defined in the *Recommendations for the Provision of Court Reporting Services in Florida's Trial Courts, 2007* and set forth in the Supreme Court Administrative Order 10-1 (AOSC10-1) (Appendix B), standards of operation and best practices for court reporting services have been established in the State of Florida.

Table 4 below illustrates how this circuit measures up to some of the applicable standards of operation and best practices:

**Table 3: Standards of Operation and Best Practices for Court Reporting Services**

**Analysis**

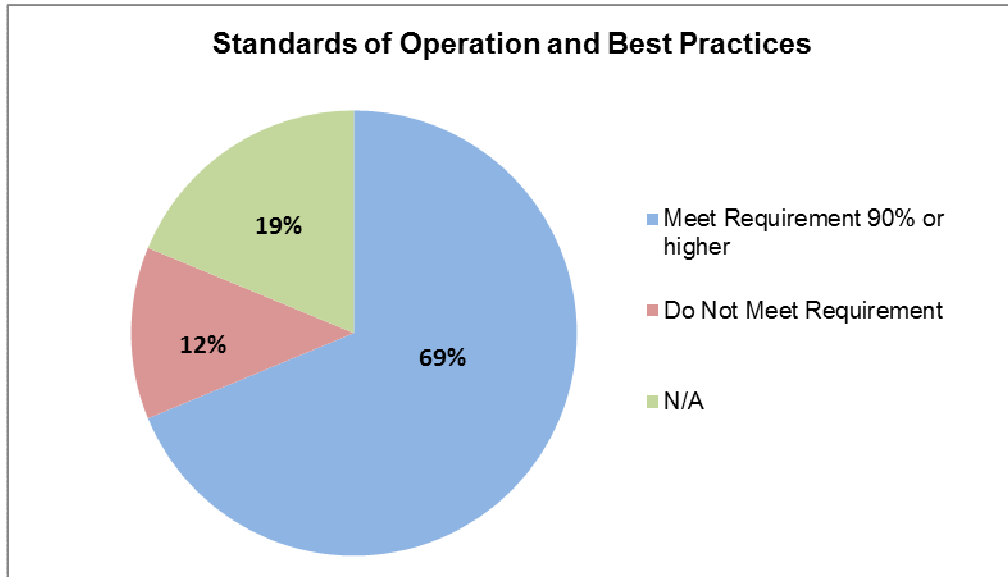
Standards of Operation and Best Practice	Current Operation	Notes
Eliminating Use of Clerk Staff - Circuits shall not engage clerk staff to provide court reporting services, other than those services or responsibilities established by Florida Statute, court rule, and the State Courts System.	Meet this Standard of Operation	
Cross-training - Circuits shall explore cross-training initiatives with their court reporting employees for the provision of court reporting services.	N/A	
Eliminating Analog Recording	Meet this Best Practice	
Service Delivery Models - Circuits shall implement procedures for assigning court reporting coverage of proceedings recorded at public expense as follows:		
DCR alone should be used for county criminal, DV inj, delinquency, dep, Baker Act, Marchman Act, guardianship, Jimmy Ryce, and GM/HO proceedings.	Meet 90% of this Best Practice	Jimmy Ryce proceedings are covered by stenographers only. All other proceedings listed are digitally recorded.

Either stenography or DCR may be used for circuit criminal proceedings (unless DCR is otherwise unavailable), TPRs, crossover cases (Unified Family Court cases), and proceedings taking place outside normal business hours).	Meet this Best Practice	
Stenography alone should be used for capital cases and circuit criminal trials. Specifically, real-time or CAT should be prioritized for capital case trials and post conviction proceedings.	Meet 90% of this Best Practice	Unable to meet requirement of Real-time or CAT with current funding allocation for contract providers.
Monitoring Ratios - Circuits shall implement procedures for assigning the monitoring of proceedings recorded at public expense using the following ratios of the number of proceedings vs. court reporters.		
Circuit criminal trials, capital cases, county criminal trials, Jimmy Ryce trials and TPR proceedings should be monitored at a 1:1 ratio.	Meet this Best Practice	
Delinquency and dependency proceedings should be monitored at a 2:1 ratio. All other circuit and county proceedings and DV injunction proceedings should be monitored at a 3:1 ratio.	Do not meet this Best Practice	Currently use a 1:1 ratio. No plans for implementation in 2013 - 2014 fiscal year.
Baker Act, Marchman Act, guardianship, and Jimmy Ryce proceedings should be monitored at a ratio of 4:1. However, this ratio may be lowered to 1:1 if these proceedings are held offsite and/or the presiding judicial officer is using a portable digital device.	Meet 90% of this Best Practice	Jimmy Ryce proceedings are monitored at a ratio of 1:1 using stenography only. Marchman Act, Baker Act and guardianship hearings are monitored by presiding magistrate at a ratio of 1:1.
GM/HO proceedings should be monitored at a ratio of 4:1, if monitored by a digital court reporter as opposed to the presiding magistrate or hearing officer.	Meet this Best Practice	Monitored by presiding magistrate or hearing officer
Tagging the Digital Recording - Circuits shall ensure appropriate tagging of digital recordings is performed for proceedings in which there is a significant likelihood that transcripts will be requested.	Meet this Standard of Operation	
Transcripts Produced Only by Approved Court Reporters and Transcriptionists - Transcripts may only be produced by employee or contract court reporters and transcriptionists approved by the court in accordance with rule 2.535, Florida Rules of Judicial Administration.	Meet this Standard of Operation	

<p>Providing Transcripts Only for: Appellate Review, if Deemed a Necessity by the Court, or if Audio/Video File is Unavailable - When requested, circuits may provide a transcript for appellate review, other purposes in which a transcript is considered a necessity by the court in the best interest of justice, or if an audio/video file is unavailable. A copy of the audio/video file, if available, shall be provided for all other purposes to the extent allowable under court rule.</p>	<p>Meet this Best Practice</p>	<p>Responsibility of contracted service providers</p>
<p>Producing Copies of Recordings - Copies of audio/video recordings may be made available to attorneys, parties to a case, the media, and the public at large, after review to ensure that matters protected from disclosure are kept confidential in accordance with court rule and Florida statute.</p>	<p>Do not meet this Standard of Operation</p>	<p>Redacting confidential information is not done with digital recordings. Redacting is only done on hard copy transcripts.</p>
<p>Operating Under Cost Sharing Arrangement - Circuits using state funded employees to provide transcription services for PD, SA, and CAC shall operate under the cost sharing arrangement.</p>	<p>N/A</p>	
<p>Providing Transcripts Under Cost Sharing Arrangement - When requested, circuits operating under the cost sharing arrangement may provide transcripts to the SA, PD, and CAC for: appellate review, other purposes in which a transcript is considered a necessity by the court, or if audio/video file is unavailable. A copy of the audio file, if available, should be provided to these entities for all other purposes allowable under court rule.</p>	<p>N/A</p>	

Figure 4 below illustrates that the Eleventh Circuit meets about 69% of the above mentioned standards of operation and best practices with a minimum of 90% compliance. The two that are not met are due to budgetary reasons and the fact that this circuit does not have a centralized solution.

**Figure 4: Standards of Operation and Best Practices**



Should the court eventually establish the remote courthouse connection that it currently does not have, additional costs will be incurred. A cost projection was created listing the approximate cost for the circuit’s seven locations:

**Table 4: Remote Courthouse Connection (Cost Projection)**

Courthouse Facility	Courtroom Count	Cost
North Dade Justice Center	9	\$108,000.00
South Dade Justice Center	6	\$72,000.00
Coral Gables	3	\$36,000.00
Hialeah	2	\$24,000.00
Overtown South	5	\$60,000.00
Miami Beach	1	\$12,000.00
Lawson E. Thomas	5	\$60,000.00
<b>Total</b>	<b>31</b>	<b>\$372,000.00</b>

Installing the system in 31 additional courtrooms, thereby giving the circuit complete remote access would require a one-time expenditure of \$372,000.00.



## **Conclusion and Recommendations**

This research has produced the following conclusions and recommendations that will assist in realizing a more cost effective and efficient court reporting solution for the Circuit Criminal Division, and also, the rest of the Circuit in Miami-Dade County.

**Conclusion Number 1: The current court reporting software being utilized in the Circuit Criminal Division is not efficient or reliable because there are too many technical problems.**

Over 113 technical issues have been reported since the inception of the current software program, in the 8 felony courtrooms, thus far. Transitioning the rest of the division to digital court reporting was postponed until a more reliable software solution is identified. During the time this transition continues to be postponed, the court will continue to deal with transcript delays as demonstrated in the internal data performance numbers.

**Recommendation Number 1: Acquire a more reliable and stable digital court reporting software solution to continue the digital court reporting expansion to the rest of the Circuit Criminal Division.**

Since the rollout of digital court reporting to the rest of the felony division came to a halt, the first recommendation is to replace the current software with a more stable and reliable one. As mentioned earlier, the rest of the circuit uses a different digital court reporting software. This same software could be used in the felony division, until an improved software solution with centralized and networked capabilities is identified. Additionally, 75% of the State uses the same court reporting software that offers a

centralized and networked solution. This software might be a good choice and should be considered for this circuit as well. Utilizing the same software solution as the majority of the State can possibly even allow interconnectivity between circuits in the future. Since 82% of the transcripts ordered are from courtrooms with stenography, continuing the expansion to digital will assist with the timeliness issues. This recommendation can also result in the elimination of the transcript calendar, which will save both time and money for the court (judge and staff) as well as the court reporting firms, appellate lawyers and individual court reporters.

**Conclusion Number 2: Not being able to effectively cover or provide support to any other division and/or location because the digital court reporting computers are not networked.**

Digital court reporting services in this circuit is provided by a digital court reporter positioned in each courtroom. This is referred to as a stand-alone system because the computers are not networked to a central server or provided from a remote location. Therefore, the court record (audio) is stored in each individual computer, with the exception of the 8 felony divisions. The court reporting firms assigned to the rest of the courtrooms must download a copy of the day's audio recording onto a CD. Additionally, having a stand-alone system does not allow the Court Reporting Manager to record from a remote location, if necessary. It does not allow the courts to have a secondary backup solution for these recordings. It also does not allow for technical support to be provided remotely.

**Recommendation Number 2: Connect all digital court reporting courtrooms to a central network in the Criminal Division.**

Acquiring a new court reporting software solution, as recommended above, will facilitate the completion of this recommendation because it would include a network element. This technology will not only provide redundancy, but also allow the Court to retain custody of the official court record as a back-up, to the record already stored by contracted court reporting firms on a CD. Networking the digital court recording system will also provide the ability to support the equipment faster and easier from any computer on the network by technical repair staff. It will also assist in providing coverage to these courtrooms when a digital court reporter does not report to court.

**Recommendation Number 2(A): Connect all remote courthouse locations to a centralized station (Criminal Courthouse) and outfit every courtroom with the necessary equipment.**

This will benefit the six remote courthouse locations listed in Table 5, as follows:

- Ability to provide coverage from a remote location.
- Allow remote access to the court record for review and/or download.
- Allow for a secondary back up system of the court record (audio).
- Allow remote access to technical staff for support.
- Implementing this recommendation will also allow this circuit to meet two additional standards of operation and best practices as illustrated in Table 6 below in the shaded grey boxes.

**Table 5: Standards of Operation and Best Practices Compliance**

	Meet Requirement 90% or higher	Do Not Meet Requirement	N/A
Eliminate Use of Clerk Staff	x		
Cross-Training			x
Eliminate Analog Recording	x		
Service Delivery Models: A.	x		
Service Delivery Models: B.	x		
Service Delivery Models: C.	x		
Monitoring Ratios: A.	x		
Monitoring Ratios: B.		x	
Monitoring Ratios: C.	x		
Monitoring Ratios: D.	x		
Tagging Digital Recording	x		
Transcripts Produced Only by Approved Court Reporters and Transcriptionists	x		
Providing Transcripts Only for: Appellate Review, if Deemed a Necessity by the Court, or if Audio/Video File is Unavailable	x		
Producing Copies of Recordings		x	
Operating Under Cost Sharing Arrangement			x
Providing Transcripts Under Cost Sharing Arrangement			x
	11	2	3

Making these changes will increase the percentage of standards the court meets (assuming a minimum 90% compliance rate), to 81%, up from 69% as illustrated in Figure 4, a 12% improvement.

**Conclusion Number 3: Having an employee-based court reporting services model seems to be more effective and even, cost efficient.**

The *Court Reporting Services Circuit Profiles, 2008* illustrates how this Circuit spends the most money in court reporting services. Three comparable circuits spend almost

half a million dollars less operating with an employee model. They employ between 30 to 45 in-house digital court reporters and stenographers, not only to make the record, but also, to transcribe it. As one of the Court Reporting Manager's stated on their survey: *"We have better control of transcript production, less extensions and equal workload per reporter."* Not one of these circuits needs or has a Transcript Calendar because they have control of the record, notes, dictionaries and transcript production. The staff makes sure that the court records are properly tagged at the end of the day and provide support to each other if necessary. They are also able to cover emergency hearings on short notice, since they are on-site. The *Court Reporting Services Circuit Profiles, 2008* illustrates that 15 out of the 20 circuits (75%) have centralized and networked court reporting technology and services using an employee-based model. Additionally, the future of this circuit's movement towards meeting all standards of operation and possibly more of the best practices recommended is contingent upon the resources it is allocated by the legislature. This includes costs such as equipment, staff and any necessary modifications needed to accommodate a centralized solution with an employee based model.

**Recommendation Number 3: Develop a budget request to consider transitioning to an employee-based model with Centralized Services.**

Once recommendations 1, 2 and 2(A) are completed, switching over to an employee model should be seamless because the technical infrastructure will be in place. Operationally, court reporting services will be provided differently and for example, in the following manner:

- Instead of having a court reporter in the courtroom, they will be located in a central station and possibly remotely.
- One court reporter will be able to cover more than one courtroom, as recommended in Supreme Court Administrative Order 10-1 (AOSC10-1) (Appendix B), section VIII.A.1 (b) (c) (d).
- The court will own the record, notes and dictionaries.
- The court will have control over transcript production and possibly eliminate the need of a Transcript Calendar.

This recommendation will require an updated budget request due to the possible lapse in time it may take to complete the previously mentioned recommendations.

The research gathered and analyzed for this project along with the recommendations will bring this circuit up to par with the court reporting practices being utilized nationwide and as reported in *“Making the Record Utilizing Electronic Recording, 2013.”* This paper mentions that many states have implemented digital recording and also the following:

Of the other states using digital recording to make the record in their general jurisdiction courts, New Jersey uses digital recording in approximately 90% of its court sessions, Massachusetts in approximately 40% of its courts, and Minnesota in approximately 25% of its general jurisdiction courtrooms. Kentucky uses video recording technology in approximately 60% of its general jurisdiction courtrooms. Many other state and local jurisdictions use digital recording in their limited jurisdiction courts and in some of their general jurisdiction courts (Suskin & McMillan, 2013).

Transitioning and bringing this circuit up to par is the first step. The next step would be envisioning what court reporting services will entail in the future and as reported above, Kentucky seems to be heading in that direction. They use video recording technology in

more than half of their general jurisdiction courtrooms. In this circuit I envision not only a video recording component in the future, but also voice-activated features.

### **Speculation about the Future**

The eventual solution for the people versus electronic debate, if driven largely by budgetary concerns and a shrinking pool of qualified court reporters, will probably favor technology. If so, it is possible to envision automatic transcript production from the push of a button and only for appellate review. It is also possible to envision voice-activated commands for the judges when a playback of the audio is needed. The future may also include an I.D. scan and check in for all parties addressing the court to have their information logged in and annotated into the court reporting system prior to court commencing. These systems would automatically transfer an audio transcript of the record to the Clerk's Office to be included in the electronic court file. Irrespective of what the future may hold, it is reasonable to assume that the recommendations included in this report will be attainable for the Eleventh Judicial Circuit.





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## Appendix A: Court Reporting Services Survey

Please help us improve our Court Reporting Services by taking some time to fill out this survey. Your feedback is important and will assist us in determining a more cost effective and efficient Court Reporting System for our Circuit. Please submit your responses by October 4, 2013.

<b>Circuit Information</b>	
Circuit Responding: 12 circuits	Contact Name:
Email Address:	Position Title:
Phone Number:	Fax Number:
Total # of Filings (Circuit-wide)	
Total # of Courtrooms (Circuit-wide)	Range: 10 to 85
Total # of Facilities (Circuit-wide)	Range: 3 to 10
<b>Court Reporting Services</b>	
What is your current staffing model: ___9___ Hybrid (FTE and Contractual)    ___2___ Employee Only    ___1___ Contractual Only	
How long has your current system been in place?	Range: 4 to 17
How many FTE's do you have on staff?	<u>Primary Assignment</u> Stenographer: 2 to 15 Digital Court Reporter: 3 to 23 Transcriptionist: 3 to 8 Scopist: 1 to 4 Total Number of FTE's: ___3 to 40_____
FTE Salary of the following:	Stenographer: \$47,569 to \$56, 606 Digital Court Reporter: \$31,665 to \$34,106 Transcriptionist: \$26,700 Scopist: \$34,559 to \$35,124
Do your Court Reporters transcribe?	Stenographer: ___7___ Yes    ___1___ No Digital Court Reporter: ___8___ Yes    ___3___ No

<b>Contract Model</b>	
How many court reporting firms do you contract with?	Range: 1 to 7
Attendance/Appearance Fee (Steno)?	\$50 to \$150 (reported by hour or session)
Attendance/Appearance Fee (Digital)?	\$12.86 to \$75.00 (reported by or session)
Total # of Media (CD or Audio) provided to all entities (SAO, PDO, Regional Counsel, etc.) during FY 2012-2013?	Range: 149 to 2174
Do you store and archive recorded Audio CD's?	<input type="checkbox"/> 8 Yes <input type="checkbox"/> 4 No
How much do you (the court) charge per Audio CD?	Range: \$0.00 to \$35.00
<b>Transcription Services</b>	
Transcript Fee per page (Original, 2 copies & 1 Certified Copy)?	Standard: \$3.00 to \$5.25 Expedited: \$6.00 to \$8.00 Overnight: \$7.50 to \$10.50 Appeal: \$4.00 to \$5.50
Number of pages produced by court reporters for the following Circuit entities during FY 2012-2013?	Courts: 144 to 6,425 State Attorney's Office: 323 to 9,441 Public Defender Office: 11,507 to 104,000 Private Attorney's: 426 to 13,310 JAC: 973 to 30,898
Total Number of Recording Hours during FY 2012-2013?	Range: 3,818 to 83,000
Transcript expenses during FY 2012-2013?	Range: \$3,046 to \$59,988
<b>Centralized Court Reporting Services</b>	
Do you have centralized/remote court reporting services?	<input type="checkbox"/> 10 Yes <input type="checkbox"/> 2 No
If No, are you planning on implementing this system in the future?	<input type="checkbox"/> 1 Yes <input type="checkbox"/> 1 No

If Yes, which type of model are you using?	<input type="checkbox"/> 3 Hybrid (FTE and Contractual) <input checked="" type="checkbox"/> 6 Employee Only <input type="checkbox"/> Contractual Only
How many FTE's do you have on staff?	Digital Court Reporter: 4 to 30 Transcriptionist: 0 to 8 Scopist: 0 to 1 Total Number of FTE's: <input type="text"/> 0 to 30 <input type="text"/>
FTE Salary of the following:	Digital Court Reporter: \$31,665 to \$34,106 Transcriptionist: \$26,700 Scopist: \$34,559 to \$35,124
<b>Contract Model</b> How many court reporting firms do you contract with?	Range: 3 to 5
Attendance/Appearance Fee (Centralized)?	\$50.00
Transcript Fee per page (Original, 2 copies & 1 Certified Copy)?	Standard: \$3.00 to \$5.25 Expedited: \$6.00 to \$8.00 Overnight: \$7.50 to \$10.50 Appeal: \$4.00 to \$5.50

## Overall Satisfaction

### Current Court Reporting Services and Model

General staff satisfaction with your current court reporting model:	<input checked="" type="checkbox"/> 3 Very satisfied <input type="checkbox"/> 5 Mostly satisfied <input type="checkbox"/> 2 Somewhat satisfied <input type="checkbox"/> Not satisfied
Judge's general satisfaction with the current court reporting model:	<input checked="" type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 6 Mostly satisfied <input type="checkbox"/> 1 Somewhat satisfied <input type="checkbox"/> Not satisfied

<p>Attorney's general satisfaction with the current court reporting model:</p>	<p><input type="checkbox"/> 2 Very satisfied  <input type="checkbox"/> 6 Mostly satisfied  <input type="checkbox"/> Somewhat satisfied  <input type="checkbox"/> Not satisfied</p>
<p>Please describe briefly the strengths and weakness of the model that lead you to the answers above?</p>	<p>Strengths:</p>    <p>Weaknesses:</p>
<p>Do you keep track of complaints by:</p>	<p><input type="checkbox"/> 3 Judges  <input type="checkbox"/> 2 Attorneys  <input type="checkbox"/> 4 Court Reporters  <input type="checkbox"/> 3 Court Staff  Other: _____</p>
<p>Do you keep track of transcripts not being delivered on time as requested by the court?</p>	<p><input type="checkbox"/> 8 Yes      <input type="checkbox"/> 1 No</p>
<p>Do you have a cost sharing agreement with:</p>	<p><input type="checkbox"/> 9 State Attorney's Office  <input type="checkbox"/> 8 Public Defender's Office  <input type="checkbox"/> 4 Regional Counsel's Office  Other: _____</p>

# Supreme Court of Florida

AOSC10-1

IN RE: COURT REPORTING SERVICES IN FLORIDA'S TRIAL  
COURTS

## ADMINISTRATIVE ORDER

In July 2002, the Commission on Trial Court Performance and Accountability was established by the Supreme Court for the purpose of proposing policies and procedures on matters related to the efficient and effective resource management, performance measurement, and accountability of Florida's trial courts. In In Re: Commission on Trial Court Performance and Accountability, No. AOSC06-54 (Fla. Sept. 19, 2006), the Commission was directed to make recommendations on the effective and efficient management of due process services with a focus on clarifying the legal and operational issues arising from the use of digital technology and with developing operational standards and best practices for providing court reporting services. Further, in In Re: Commission on Trial Court Performance and Accountability, No. AOSC08-32 (Fla. Aug. 15,

2008), the Commission was directed to continue with the development and implementation of standards of operation and best practices for the major elements of Florida's trial courts.

To address these directives, the Commission formed a court reporting workgroup which included judges, trial court administrators, general counsel, court technology officers, and court reporting managers representative of the various courts across the state. In October 2007, after an extensive interactive review process with the trial courts, the Commission submitted a report to the Supreme Court entitled, *Recommendations for the Provision of Court Reporting Services in Florida's Trial Courts, 2007*. The Commission also submitted a supplemental report to the Supreme Court under the same title in November 2009. Both reports focus on recommended standards of operation and best practices for court reporting services. A "standard of operation" is defined as a *mandatory* practice and a "best practice" is defined as a *suggested* practice to improve operations but, due to the possibility of local conditions beyond the court's control, is not required.

The attached standards of operation and best practices, which were proposed by the Commission in the above mentioned reports, are hereby



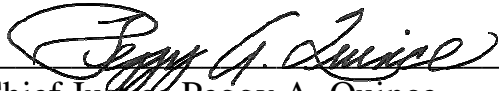
adopted as a means to ensure the effective, efficient, timely, and uniform *Provision of Court Reporting Services in Florida's Trial Courts, 2007*. The entities responsible for compliance with specific standards of operation and best practices are identified on the attachment.

The Office of the State Courts Administrator is charged, time and resources permitting, with assisting the trial courts in implementing the standards and best practices including: establishing performance goals, developing or revising data collection systems to monitor performance, providing educational opportunities and resource materials, and providing other technical assistance as needed.


The Trial Court Budget Commission is charged with monitoring court reporting budgets to ensure, to the extent possible given the fiscal environment, that all trial courts have the appropriate level of resources to implement and maintain adherence to the standards of operation and best practices.

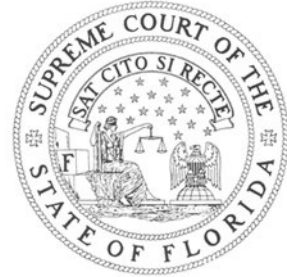
The attached standards of operation and best practices are incorporated herein by reference and shall be effective upon the signing of this order.

DONE AND ORDERED at Tallahassee, Florida, on January 7, 2010.

  
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Chief Justice Peggy A. Quince

ATTEST:

  
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Thomas D. Hall  
Clerk, Supreme Court



# Standards of Operation and Best Practices for Court Reporting Services in Florida's Trial Courts

*[Entities responsible for implementation of the standards and practices are identified in brackets]*

## I. Court Reporter Qualifications

### A. Standard of Operation

1. Court reporting employees and contract service providers shall meet all professional standards and training requirements established by Florida statute, court rule, the State Courts System, and the chief judge of the circuit. *[All trial courts and all court reporting employees and contractors]*

### B. Best Practices

1. Court employees or contractors providing stenographic services for the State Courts System will achieve and maintain the designation of Registered Professional Reporter (RPR) as defined by the National Court Reporters Association. *[Stenographic employees and contractors]*
2. Court employees or contractors providing digital court reporting or transcript services for the State Courts System will achieve and maintain certification with the American Association of Electronic Reporters and Transcribers (AAERT). *[Digital court reporting employees and contractors]*
3. Court employees or contractors providing voice-writing services for the State Courts System will achieve and maintain certification with the National Verbatim Reporters Association (NVRA). *[Voice-writing employees and contractors]*
4. Judicial circuits shall ensure availability to real-time stenographic services, either through the use of court employees or contract service providers. *[All trial courts]*

## II. Oversight

### A. Standards of Operation

1. Court reporting program employees and contract service providers are officers of the court and must comply with all applicable Florida statutes, court rules, and other requirements as established by the State Courts

System and the chief judge of the circuit. *[All court reporting employees and contractors]*

2. Judicial circuits shall comply with court reporting contracting requirements as established by the State Courts System. *[All trial courts]*

### **III. Use of Clerk of Court Staff**

#### **A. Standard of Operation**

1. Judicial circuits shall not engage clerk of court staff to provide court reporting services, other than those services or responsibilities established by Florida statute, court rule, and the State Courts System. *[All trial courts]*

### **IV. Cross-training**

#### **A. Best Practice**

1. Judicial circuits shall explore cross-training initiatives with their court reporting employees for the provision of court reporting services.

*[All trial courts]*

### **V. Assigning Coverage**

#### **A. Best Practice**

1. Court staff responsible for scheduling hearings and preparing dockets will provide dockets to the court reporting manager or other designated court administration professional or contract service provider as far in advance as possible to ensure adequate time to assign appropriate court reporting coverage of proceedings. *[All court staff responsible for scheduling hearings and preparing dockets]*

### **VI. Eliminating Analog Recording**

#### **A. Best Practice**

1. Judicial circuits shall refrain from utilizing analog audio recording and should attempt, where practical, to replace analog with digital recording capability. *[All trial courts]*

## VII. Service Delivery Models

### A. Best Practice

1. Judicial circuits shall implement procedures for assigning court reporting coverage of proceedings recorded at public expense as follows:
  - a. Digital court reporting alone should be used for county criminal, domestic violence injunction, delinquency, dependency, Baker Act, Marchman Act, guardianship, Jimmy Ryce, and general magistrate/hearing officer proceedings.
  - b. Either stenography or digital court reporting may be used for circuit criminal proceedings (unless digital court reporting is otherwise unavailable), termination of parental rights proceedings, crossover cases (Unified Family Court cases), and proceedings taking place outside of the regular business hours of the court.
  - c. Stenography alone should be used for capital cases and circuit criminal trials. Specifically, real-time or CAT stenography should be prioritized for capital case trials and post conviction proceedings. *[All trial courts]*

## VIII. Monitoring Ratios

### A. Best Practice

1. Judicial circuits shall implement procedures for assigning the monitoring of proceedings recorded at public expense using the following ratios of the number of proceedings vs. court reporters.
  - a. Circuit criminal trials, capital cases, county criminal trials, Jimmy Ryce trials, and termination of parental rights proceedings should be monitored at a 1:1 ratio.
  - b. Delinquency and dependency proceedings should be monitored at a 2:1 ratio. All other circuit and county criminal proceedings and domestic violence injunction proceedings should be monitored at a 3:1 ratio.
  - c. Baker Act, Marchman Act, guardianship, and Jimmy Ryce proceedings should be monitored at a ratio of 4:1. However, this ratio may be lowered to 1:1 if these proceedings are held offsite and/or the presiding judicial officer is using a portable digital device.
  - d. General magistrate/hearing officer proceedings should also be monitored at a ratio of 4:1, if monitored by a digital court reporter as opposed to the presiding magistrate or hearing officer. *[All trial courts]*

## **IX. Participant Responsibilities**

### **A. Standard of Operation**

1. Judicial circuits shall codify the responsibilities of all participants during a proceeding to ensure the quality of the official record. ***[All trial courts]***

### **B. Best Practices**

1. Judges, general magistrates, and hearing officers shall: notify participants of the method of recording being utilized, remind participants to speak into the microphone at a sufficient volume and answer verbally; ask participants to identify themselves and spell their names for the record; notify court administration, the clerk, or contract service provider if equipment has been tampered with or is not functioning; remind participants to protect the equipment; signify when it is appropriate for attorneys to utilize mute buttons; and recess periodically during lengthy proceedings so that court reporters may remain alert and effective. ***[Judges, general magistrates, and hearing officers]***
2. Attorneys shall inform their clients of the method of recording being utilized and take necessary precautions to protect disclosure of confidential communications during the proceeding. ***[Attorneys]***
3. Court reporters shall monitor equipment during a proceeding to ensure adequate operation and immediately notify the presiding judicial officer of problems with the equipment. ***[Court reporters]***
4. Bailiffs shall ensure that all participants refrain from tampering with equipment including the inappropriate use of microphone mute buttons or the unauthorized removal of microphones from their original location. ***[Bailiffs]***

## **X. Preventing the Recording of Confidential Communications**

### **A. Standard of Operation**

1. Judicial circuits shall post signs inside and outside of all rooms in which proceedings are recorded using audio technology. The signs shall provide notice to all who enter that any conversations occurring in the room may be recorded. ***[All trial courts]***

### **B. Best Practices**

1. Judicial circuits shall post signs at attorney tables within rooms in which audio technology is used to record proceedings. The signs shall caution attorneys and their clients that their conversations may be recorded. ***[All trial courts]***

2. Judicial circuits shall install microphones with “hold-to-mute” capability for those microphones used by attorneys or presiding judicial officers in proceedings recorded using non-portable digital technology. *[All trial courts]*
3. Judicial circuits shall conduct periodic training for stakeholders commonly coming into contact with the use of audio recording technology. The training shall include a description of how the technology is operated and tips for effective courtroom behavior specific to the stakeholder. *[All trial courts]*
4. Judicial Circuits shall distribute and/or make readily available audio recording resource materials (i.e., pamphlets, guide books, operator manuals, etc.) for stakeholders to assist with ensuring the quality of the official record. *[All trial courts]*

## **XI. Operating Digital Recording Equipment**

### **A. Standards of Operation**

1. Digital recording systems shall comply with all statewide standards for digital court recording as established by the Florida Courts Technology Commission. *[All trial courts]*
2. Judicial circuits shall implement procedures for regular testing of digital court recording systems to ensure proper operation. *[All trial courts]*

## **XII. Tagging the Digital Recording**

### **A. Standards of Operation**

1. Judicial circuits shall ensure appropriate tagging of digital recordings is performed for proceedings in which there is a significant likelihood that transcripts will be requested. *[All trial courts]*
2. Judicial circuits shall establish standardized “tags” and produce a reference document of same to be distributed to all circuit court reporting staff, contract service providers, and approved transcriptionists. *[All trial courts]*

### **XIII. Ownership of the Official Record**

#### **A. Standard of Operation**

1. The court shall retain ownership and control over the official record whether it is in paper or electronic format. The court shall also reserve the right to full and complete access to any unedited notes, paper tapes, electronic files, and audio or video recordings used to create the official record. *[All trial courts]*

### **XIV. Storage**

#### **A. Standards of Operation**

1. Judicial circuits, contract service providers, and vendors of digital technology shall comply with all storage and retrieval standards for digital court recording as established by the Florida Courts Technology Commission and otherwise established by the State Courts System and the chief judge of the circuit. *[All trial courts, court reporting contractors, and court reporting technology vendors]*
2. Judicial circuits shall codify record retention protocols to be applied to stenographic paper tape/notes, unedited CAT/real-time text, analog and digital recordings in accordance with rule 2.430, Florida Rules of Judicial Administration. *[All trial courts]*
3. Judicial circuits shall implement storage and retrieval procedures to ensure timely and secure access to transcripts, analog or digital recordings, and any supporting materials related to the production of the official record. *[All trial courts]*

#### **B. Best Practices**

1. Judicial circuits shall examine the provision of secure and direct access to a network of electronic files and digital recordings related to the official record for certain internal stakeholders of the court such as court reporting employees, judges, general magistrates, and hearing officers. Circuits shall also examine the feasibility of providing limited and secure access to other stakeholders such as state attorneys, public defenders, and court-appointed counsel. *[All trial courts]*
2. Judicial circuits shall not disclose back-up recordings of proceedings to persons not employed or contracted by the court. *[All trial courts]*



## **XV. Transcript Production**

### **A. Standards of Operation**

1. Transcripts may only be produced by employee or contract court reporters and transcriptionists approved by the court in accordance with rule 2.535, Florida Rules of Judicial Administration. ***[All trial courts]***
2. All persons approved by the court to perform court reporting transcription services shall comply with all applicable court rules and standards established by the State Courts System and the chief judge of the circuit. ***[Court approved transcriptionists]***
3. All judicial circuits shall codify protocols for transcript production in accordance with court rule and standards established by the State Courts System. These protocols shall include, but are not limited to: procedures preventing transcription of off-the-record discussions, sidebar conferences, attorney-client conversations; and other confidential information; the court's process for approving transcription services; and certification of the transcript for correctness. ***[All trial courts]***
4. Judicial circuits shall enter an administrative order developing and implementing a circuit-wide plan for court reporting in all trials in which the state seeks the death penalty and in capital postconviction proceedings in accordance with rule 2.535, Florida Rules of Judicial Administration. ***[All trial courts]***
5. All persons approved by the court to perform court reporting transcription services shall give priority to capital cases in the production of transcripts. ***[Court approved transcriptionists]***
6. Judicial circuits shall prohibit the "loaning out" of stenographic notes in capital cases to ensure the court reporter has immediate access to the notes for production of the transcript. ***[All trial courts]***
7. Judges shall give immediate instruction to the court reporter to begin transcription upon the return of the verdict in capital cases and immediately initiate an order approving the production of the transcript (if applicable). ***[Judges]***
8. Judicial circuits shall incorporate requirements related to expedited transcript requests in court reporting service contracts. ***[All trial courts]***
9. Judicial circuits shall specify consequences for contractors who fail to meet expedited transcript requirements in court reporting service contracts. ***[All trial courts]***

## **B. Best Practices**

1. Judicial circuits shall encourage collegiality between all persons involved in expediting transcripts for capital cases. *[All trial courts]*
2. Judicial circuits shall collaborate with appellate courts regarding the oversight and management of the court reporting process, with particular emphasis on the production of transcripts for capital, dependency, and termination of parental rights cases. *[All trial and appellate courts]*
3. When requested, judicial circuits may provide a transcript for: appellate review, other purposes in which a transcript is considered a necessity by the court in the best interest of justice, or if an audio/video file is unavailable. A copy of the audio/video file, if available, shall be provided for all other purposes to the extent allowable under court rule. *[All trial courts]*

## **XVI. Producing Copies of Recordings**

### **A. Standards of Operation**

1. Copies of audio/video recordings may be made available to attorneys, parties to a case, the media, and the public at large, after review to ensure that matters protected from disclosure are kept confidential in accordance with court rule and Florida statute. *[All trial courts]*
2. All judicial circuits shall codify protocols for producing copies of audio/video recordings in accordance with court rule and standards established by the State Courts System. These protocols shall include, but are not limited to: procedures preventing the release of off-the-record discussions, sidebar conferences, and attorney-client conversations; and other confidential information; the court's process for ensuring the accuracy of the recording; and certification of the recording for correctness. *[All trial courts]*

## **XVII. Cost Sharing**

### **A. Best Practices**

1. Judicial circuits using state funded court employees to provide transcription services for public defenders, state attorneys, and court-appointed counsel shall operate under the cost sharing arrangement. *[All trial courts]*

2. When requested, judicial circuits operating under the cost sharing arrangement may provide transcripts to the state attorneys, public defenders, and court appointed counsel for: appellate review, other purposes in which a transcript is considered a necessity by the court in the best interest of justice, or if an audio/video file is unavailable. A copy of the audio file, if available, shall be provided to these entities for all other purposes to the extent allowable under court rule. ***[All trial courts]***
  
3. Judicial circuits operating under the cost sharing arrangement are required to provide a “statement of services provided” to local state attorneys, public defenders, the Justice Administrative Commission, and the Office of the State Courts Administrator. The “statement of services provided” shall include those services that will or will not be provided by state-funded court employees versus those services that may be purchased independently from contractors. This documentation shall also include services provided or not provided by division of court, proceeding type, and any variation that exists by county and/or courthouse. The “statement of services provided” shall include a corresponding time period in which these terms are in effect and shall be no less than one fiscal year (July 1 – June 30). ***[All trial courts]***

## Appendix C: Stenographer Court Reporter/Firm Survey Questions and Response Averages

Name/Division:

Courtroom #:

Date of Survey:

Firm & Reporters Name:

Scale: 1 (Poor) to 5 (Excellent)

1. Overall satisfaction rating with the Court Reporter: **Average – 4.2**
2. Overall satisfaction rating with the Court Reporting firm: **Average – 4**
3. If applicable is (are) the reporter(s) on time for their appointments?  
**Average – 4.5**
4. Overall communication between the Court Reporter and your office?  
**Average – 3.7**
5. Amount of complaints filed or mentioned about the Court Reporter?  
**Average – 2.8**
6. What kind of down time have you experienced because of reporter/firm unavailability? **Average – 3.5**
7. In times where a reporter was not available, was a backup reporter provided in time? **Average – 3**
8. Are transcripts delivered on time? **Average – 2.6**
9. Would you consider changing the Court Reporter assigned to your division? **Average – No**
10. Would you consider changing the Court Reporting firm assigned to your division? **Average – No**
11. Would you like your courtroom to become a digital in the future?  
**Average – No**
12. Additional Comments:

## Appendix D: Digital Court Reporter/Firm Survey Questions and Response Averages

Name/Division:

Courtroom #:

Date of Survey:

Firm & Reporters Name:

Scale: 1 (Poor) to 5 (Excellent)

1. Overall satisfaction rating with the Digital Court Reporter: **Average – 3.6**
2. Overall satisfaction rating with the Court Reporting firm: **Average – 3**
3. If applicable is (are) the reporter(s) on time for their appointments?  
**Average – 4.2**
4. Overall communication between the Digital Court Reporter and your office? **Average – 3.2**
5. Amount of complaints filed or mentioned about the Digital Court Reporter? **Average – 4.2**
6. What kind of down time have you experienced because of reporter/firm unavailability? **Average – 4**
7. In times where a reporter was not available, was a backup reporter provided in time? **Average – 4**
8. Are transcripts delivered on time? **Average – 4.4**
9. Would you consider changing the Digital Court Reporter assigned to your division? **Average – No**
10. Would you consider changing the Digital Court Reporting firm assigned to your division? **Average – No**
11. Additional Comments: