

Memo on Digital Audio Recording in Federal Court Proceedings

From: Ed Baca, U.S. Administrative Office of the Courts

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John:

In the federal courts, court reporting is governed by the Court Reporter statute and Judicial Conference policy. In the trial courts, **district judges** (approximately 750) by law must each have at least one (steno) court reporter. **Magistrate** (approximately 550) and **bankruptcy judges** (approximately 340) must use contract court reporters (not staff) or audio recording, but, for the most part, use digital audio.

District judges may elect the method by which court proceedings are recorded in their courtrooms. Title 28, United States Code, § 753 (b) states:

“Each session of court and every other proceeding designated by rule or order of the court or by one of the judges shall be recorded verbatim by shorthand, mechanical means, electronic sound recording, or any other method, subject to regulations promulgated by the Judicial Conference and subject to the discretion and approval of the Judge.”

Each district court has a court reporting supervisor who administers the court’s Court Reporting Management Plan and supervises day-to-day court reporting services within the court.

Official Court Reporters

The allocation of court reporter positions in the district courts is based upon a ratio formula of one court reporter position per on-board active district judge and the senior judge in-court hours for the previous year. Funding for contract court reporters may be allotted to address needs not otherwise met by the court’s allocation for staff court reporters.

More than half of the district judges choose to use realtime court reporters (stenotype or stenomask). Realtime court reporting is a technological enhancement that enables the reporter to produce an unedited transcript of the court proceedings almost instantaneously for review by court participants and interested parties in the courtroom. Realtime can be produced by both stenotype and stenomask reporters. **Realtime benefits are as follows:**

- Instantaneous translation of the proceedings on a computer monitor;
- The ability to scroll forward and backward, search the record for key words or phrases and mark portions of the text using viewer/annotation software;
- A realtime unedited transcript on diskette delivered during the proceedings or at the end of the day.

Electronic Court Recorder Operators

Electronic court recorder operators (ECROs) are funded for magistrate, bankruptcy and district judges who select audio recording, but the positions are assigned to the clerk’s office. An ECRO will be assigned from the clerk’s office staff, or the court may choose to use other court staff (or

sometimes the judge) to manage the recorder. With digital recording, a judge can annotate personal notes that are linked to the digital record for use after the proceeding. The transcripts of proceedings recorded by electronic sound recording equipment are produced by private transcription services approved to transcribe federal court proceedings. This method of recording court proceedings is used by approximately five percent of district judges nationwide.

Digital audio recording will continue to be the mainstay for **bankruptcy** and **magistrate judges**, but to displace stenotype reporting will require major changes before district judges select digital audio over stenotype with realtime.

The vendor used for digital audio is a decision of the district and bankruptcy courts. Among the vendors of digital audio are: Voice IQ, FTR gold, and Court Smart.

Please let us know if you have additional questions.

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