

JAVS PERSPECTIVES SERIES:

EFFECTIVE USE OF DIGITAL RECORDING
TECHNOLOGY IN THE LEGAL SYSTEM

COST SAVINGS REALIZED FROM ADOPTING A DIGITAL COURT RECORD

BY JULIE A. HELLING, JD

This white paper is provided courtesy of JAVS, a company dedicated to capturing and protecting the court record for over 35 years.

COPYRIGHT 2015



1) Introduction

According to the Bureau of Labor Statistics, there were 18,330 court reporters in the United States in May 2014. The BLS reported that the mean annual wage for court reporters as of May 2014 was \$55,000 and the top 10 percent earned more than \$94,140.² This does not include the additional benefits such as health insurance that court employees may earn. Thus, though the physical presence of a court reporter in a courtroom may feel familiar to some, it comes with substantial, continuing costs.

This white paper demonstrates that the digital recording methods now available are “a cost-effective means to obtain the [court] record.”³ Not only is there cost-savings with digital recording, but the Conference of State Court Administrators determined in 2009 that digital recording:

1. Enhances accuracy and completeness of the record by preserving language translations,
2. Creates an opportunity to establish, whether by statute or court rule, that all records of judicial proceedings belong to the courts, and
3. Allows a court to integrate the recording system with other digital applications, including case management and calendaring systems.⁴

In short, with the recent state of A/V technology and its lower cost, it makes excellent sense for a court to move to digital recording to capture and preserve the official court record.

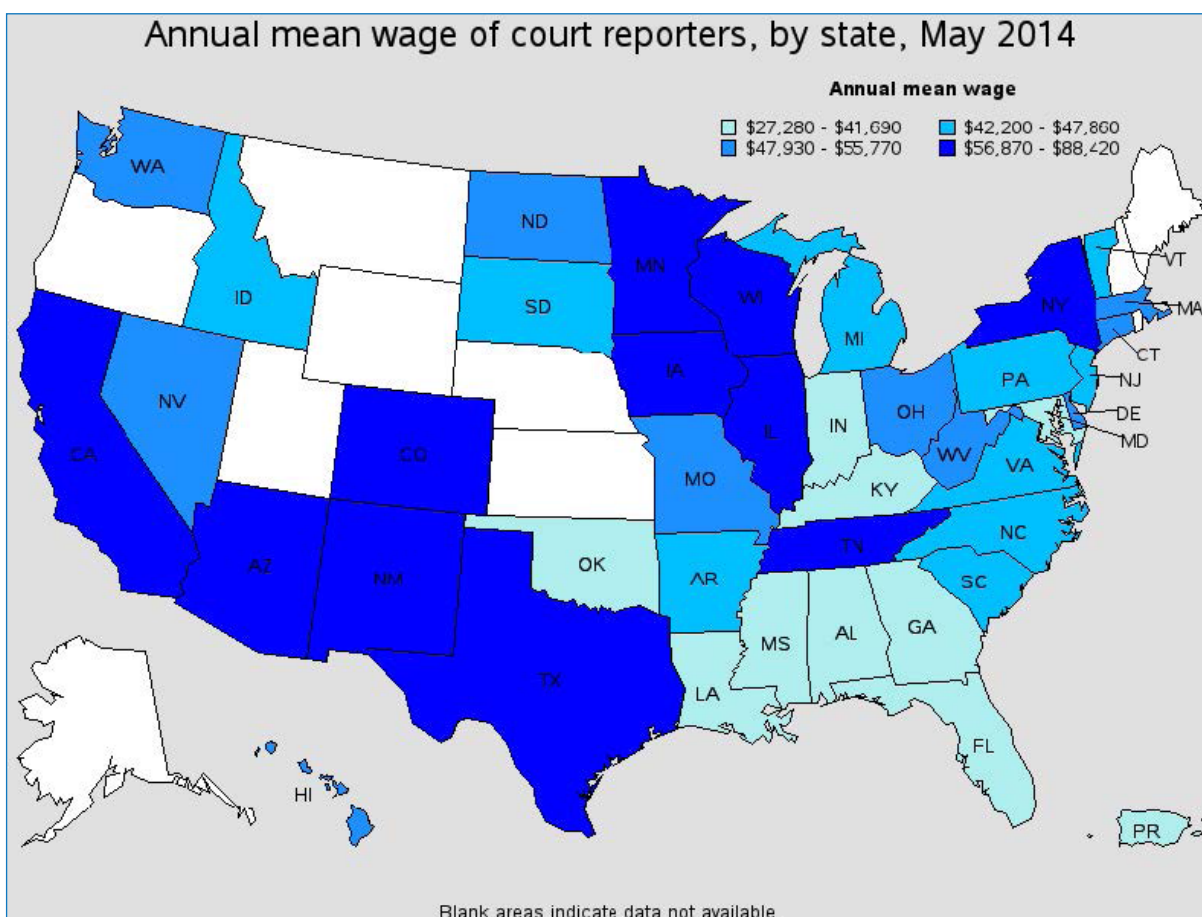
2) The Cost of Court Reporters

While the tide is turning, some states continue to rely on court reporters as the creators of the main court record. This can be an expensive proposition, particularly depending on what part of the country in which the court is located. Location makes a difference: the top paying states were New York, with an annual mean wage of \$88,420, California (\$84,430), Colorado (\$74,950), Iowa (\$64,430) and Texas (\$61,950).⁵ While the lowest ten percent of court reporters made an annual wage of \$26,670 in the U.S. as calculated by the Bureau of Labor Statistics in May 2014, the highest ten percent made an annual wage of \$94,140. The BLS reported that the mean annual wage for court reporters as of May 2014 was \$55,000 across the United States (this does not include benefits paid by employers).

Major Metropolitan Areas: Annual Mean Wage⁶

San Francisco, CA	
Fort Worth, TX	\$101,680
Buffalo, NY	\$83,010
Fort Lauderdale, FL	\$80,120
(Pompano Beach & Deerfield Beach)	\$40,090
Gary, IN	\$33,360

Source: Bureau of Labor Statistics, May 2014



(This map is taken directly from the Bureau of Labor Statistics website on November 29, 2015.)

Source: Bureau of Labor Statistics, U.S. Department of Labor, Occupational Employment and Wages, May 2014 (23-2091 Court Reporters), <http://www.bls.gov/oes/current/oes232091.htm>

In contrast to using court reporters exclusively to make the court record, one Superior Court Administrator who was interviewed estimated that if a court reporter cost at least \$60,000 in salary plus \$30,000 in benefits, going with digital recording saved hundreds of thousands of dollars over the lifetime of the system.⁷ Despite seeing a clear cost savings by using digital recording, this Superior Court Administrator—whose trial court used A/V recording for everything but death penalty cases — declined to be quoted by name out of fear of being viewed as “anti-court reporter.” This concern—which the author encountered in a number of the interviews with court administrators is — because it is a delicate time in the court system. The judicial system is in the middle of a transition to digital technology that will, if applied correctly, have a great potential to increase judicial efficiency and cost-savings. In addition, providing a record in ALL courts and in ALL cases through A/V technology (not just cases where the parties can afford to hire a court reporter), better supports and promotes justice.



Yet there is resistance to this change, which is understandable. Traditionally, judges and court reporters were often a close-knit team, one court reporter per judge typically, and court reporters have often served the court for many years. It is hard to contemplate cutting jobs where people have worked faithfully and well. One Court Administrator of a District Court in a major metropolitan area who was interviewed handled this dilemma by promising not to cut any current court reporter jobs. Instead, the court is transitioning to digital recording technology by simply not replacing the court reporters as they retire.⁸

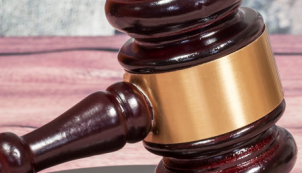
It is clear that judicial preferences are key drivers in the transitioning of courts to digital recording. Every courtroom—and judge—may have a unique set of needs. Nevada Court Administrator Karen Powell stressed in her interview that it is necessary to approach each judge individually to find out what the particular judge wants in the courtroom before making any transition to A/V recording.

Powell oversees eight rural courts (that could be up to two hours away from each other), so she works in effect with “eight chief judges.” She has no doubt that the use of digital recording in the courts helped things financially. In 2006, there was only digital recording equipment in one court. Over time the judges started to see the benefit, and today seven of the eight courts have digital recording technology installed. Powell stated, “my courts’ [digital recording equipment] has been paid for by savings down the line.”⁹

In this time of transition in court record keeping, the wishes of a particular judge may drive the decision of if or when to use digital recording. This can lead to “mixed courts,” courts where some of the judges still rely on court reporters while other courtrooms are equipped with digital recording technology. For example, one Ohio Court Administrator who was interviewed noted that video conferencing and audio recording are available in one of the Courts of Common Pleas. Some judges there continue with a court reporter at times anyway, while one courtroom has “not had a court reporter for five years.”¹⁰

Actual cost savings depends on several factors, of course, including both the going rate for court reporters in that part of the country as well as the physical state of the courthouse and infrastructure. Rural areas may need greater broadband capability, while placing microphones and cameras in an historic courthouse without damaging the structure may require greater planning and effort.

Besides the expense, other issues may plague the use of court reporters, from finding the required staffing for courts when a court reporter is required, to the potential of a long waiting period to receive a transcript. In addition, one Court Administrator noted that even recruiting and replacing court reporters had become an issue in his state.¹¹ Court reporters do not capture the target language during proceedings requiring language interpretation; only the English translation is placed in the written court transcript.



3) Making the Move to Digital Recording

According to the National Center for State Courts (NCSC), the following states and territories have made the transition to at least audio digital recording in their courts (and some have included video recording as well): Alaska, Colorado, Connecticut, Delaware, Kentucky, Maine, Indiana, Maryland, Massachusetts, New Hampshire, New Jersey, Oregon, Tennessee, Vermont, Guam, Northern Mariana Islands, and Puerto Rico. In addition, Florida uses digital recording in its general-jurisdiction trial courts in 66 of its 67 counties. NCSC determined that in Florida, “cost savings vary depending on the logistical configurations of each courthouse, but may reach \$20,000 per courtroom per year” due to the use of digital recording technology.¹²

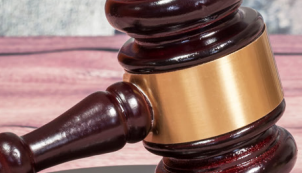
A/V technology means that video arraignments can be conducted, providing costs savings and increased safety as accused persons remain at the jail rather than being brought to court, yet the defendants still receive a full court appearance.

Court Administrators who were interviewed noted the many benefits of digital recording. According to Court Administrator Keith Wills in Washington State, a significant advantage to the audio recording system in the trial court is that public defenders and prosecutors can listen to the audio record right from their offices without even having to request it from the court. The system archives the audio files automatically, saving staff time. And the ability to broadcast a court appearance live can be useful in high profile cases.

Wills also noted that space in a courthouse is often an issue. The court used to have a whole room for recordings of cassettes but with the advancements in digital recording technology, that room is now available for other uses. As he explained, “A server can hold a hundred years of records or a building can hold a hundred years of records—which would you prefer to purchase?”¹³

Another significant benefit of digital recording is that it is quicker and easier to get a copy of the A/V record than waiting for a transcript from a court reporter present in the courtroom. This can be true even when a transcript comes from a system of transcribers who make a transcript from an A/V record. When the Utah Judiciary moved to a Web-based transcript management system, where transcribers of the recorded hearings (many of whom were former court reporters) could easily access the audio file when requested to do so, the transcripts for cases on appeal are now being completed within 22 days as opposed to the pre-digital recording days where it was within 138 days to receive a transcript.¹⁴

One state—Kentucky—has even made A/V the actual, complete court record in place of written transcripts, with appellate briefs pointing judges quickly and accurately to relevant places in the trial court’s digital record. In 1981, there was manual audio recording in only one Kentucky courtroom. In 1985, automated recordings began in Kentucky trial courts. At that time Kentucky spent \$1.97 million on court reporters annually. In 1999, the official record for Kentucky courts became the recorded video and now no money is spent on court reporters at all.



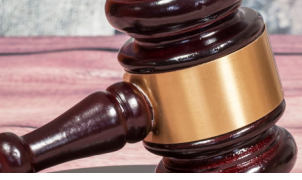
While the Administrative Office of the Courts for Kentucky declined to provide an estimate for the savings due to digital recording over time, it noted that today all 283 judges at the trial and appellate levels use digital recording, with an estimate of \$1.1 million annually state-wide for equipment maintenance. Compared to the \$1.97 million that was spent on court reporting in 1985, a maintenance cost of \$1.1 million suggests a savings of at least \$960,000 per year.¹⁵ Or as Justice Michelle M. Keller of the Kentucky Supreme Court concluded succinctly, “On balance, an audio/video record is the way to go.”¹⁶

Ultimately, technology experts Jim McMillan and Lee Suskin of the National Center for State Courts determined that state and local courts “are pleased with the results [of digital recordings]: an accurate record is being made; accurate transcripts are being timely produced; judges continue to conduct orderly courtroom proceedings; and digital recording is proving to be a cost-effective means of making the record.”¹⁷

About JAVS

At JAVS, we believe that everyone has a basic human right to an open, transparent society and that the only way to safeguard that right is through an accessible audio/video record of due process. For more than 30 years, JAVS has specialized in using A/V technology to accurately create, store and publish the official verbatim record of the court. Integrated into over 6,000 courtrooms throughout the U.S. and across 3 continents, JAVS promotes accuracy and efficiency through A/V recording solutions, guaranteeing the preservation of the record for tomorrow’s court system.

Call us at 1-800-354-JAVS or visit www.javs.com to learn how your court system can use digital recording technology to your court’s best advantage.



1. Author Julie A. Helling is a graduate of the University of Michigan Law School. She served as a prosecutor before becoming a college professor.
2. U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment and Wages, May 2014, Court Reporters, on the Internet at <http://www.bls.gov/oes/current/oes232091.htm> (visited 11-28-2015).
3. National Center for State Courts, Trends in State Courts 2015, "Digital Court Recording Makes the Record Effectively," Jim McMillan and Lee Suskind, 45.
4. Conference of State Court Administrators (COSCA) policy paper, "Digital Recording: Changing Times for Making the Record," December 2009.
5. Bureau of Labor Statistics, May 2014.
6. Id.
7. Phone interview with Court Administrator on November 17, 2015.
8. District Court administrator preferred not to be identified by name (November 2015).
9. Phone interview with Karen Powell, Rural Court Administrator, Clark County, Nevada on November 20, 2015.
10. Phone interview with EJ Griffith, Court Administrator, Greene County Court of Common Pleas, Ohio on November 17, 2015.
11. Interview on file with author (November 2015).
12. "Makes the Record Effectively," National Center for State Courts, 2015 at 45.
13. Phone interview with Keith Wills, District Court Administrator, Clallam County, Washington State on November 20, 2015.
14. "Digital Court Recording Makes the Record Effectively," National Center for State Courts, 2015 at 45.
15. Memo from the Kentucky Administrative Office of the Courts on file with author (received November 2015).
16. Phone interview with Justice Michelle M. Keller, Kentucky Supreme Court, on October 26, 2015.
17. "Digital Court Recording Makes the Record Effectively," National Center for State Courts at 47.