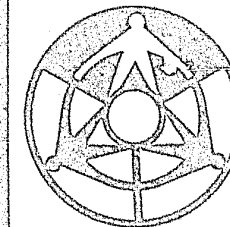


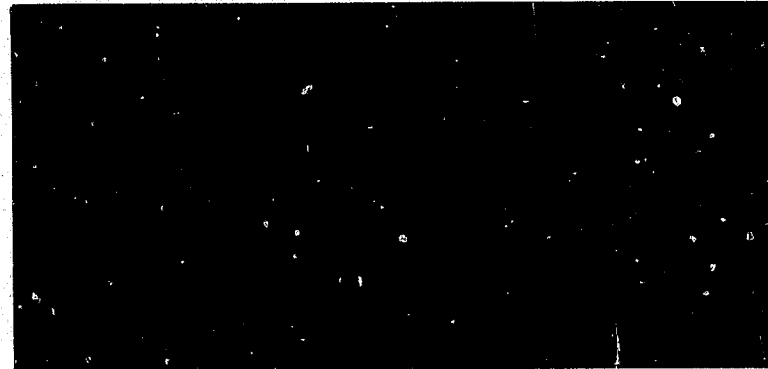
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Institute for Studies in Justice and Social Behavior
The American University Law School
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EVALUATION OF THE AUDIO
RECORDING AND TRANSCRIPTION SYSTEM
IN THE
AKRON MUNICIPAL COURT

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TABLE OF CONTENTS

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	Page
I. Introduction	1
II. Analysis of Existing Situation	3
A. Jurisdiction	3
B. Caseload and Appeal Rate	3
C. General Problems	4
D. Audio Recording System	5
E. Support Personnel	7
F. Recording and Transcription Procedures	9
III. Recommendations	13
A. Court Reporting Alternatives	13
B. Equipment Standards	16
C. Court Procedures	18
1. Judicial Control	18
2. Appellate Judges' Responsibilities	20
3. Logging and Monitoring	20
4. Central Tape Control	22
D. Transcription Procedures	23
IV. Conclusions	26
APPENDICES:	
Appendix A: Rule 8: Recording of Proceedings	27
Appendix B: Caseload and Appeal Rate Statistics	29
Appendix C: Summary of Attorney Responses to Recording Equipment Survey	31

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TABLE OF CONTENTS (continued)

	Page
Appendix D: Court Reporters Employed in Other Courts	39
Appendix E: Suggested Judge's Opening Remarks	40
Appendix F: Suggested Trial Courtroom Set-Up	41
Appendix G: Recording Log Sheet (Contested Cases)	42
Appendix H: Recording Log Sheet (High Volume Cases)	44

I. INTRODUCTION

The Akron Municipal Court, a court of limited jurisdiction, has used single-track audio recording equipment during the past three years to record and transcribe an official record of court proceedings in civil, misdemeanor, small claims, and traffic matters.

Several judges in the Municipal Court were concerned not only about the quality and capabilities of the recording system, but also about the administrative procedures associated with transcript preparation.

In addition, the 9th District Court of Appeals, the intermediate appellate court reviewing all municipal court appeals, is dissatisfied with the quality of transcripts received from the Akron Municipal Court.

Robert Mossing, Executive Officer for the Akron Municipal Court, requested assistance through the American University Technical Assistance program to examine and evaluate the current audio recording system and transcription process. The purpose of this consultancy was

- a) to review and comment on alternative approaches to improving the Akron Municipal Court reporting system
- b) to evaluate the audio recording equipment currently installed; and, if necessary, to recommend new equipment standards
- c) to review current recording, logging, storage, and transcription procedures; and, if necessary, to recommend revised administrative procedures

J. Michael Greenwood, Senior Research Associate, National Center for State Courts, and Thomas Fillebrown, Supervisor, Sound Recording for the New Jersey Courts, undertook a two-day site visit on August 9-10, 1976 to the Akron Municipal Court and the 9th District Court of Appeals, Akron, Ohio. The project team held interviews with the Akron Municipal Court Judges and referees, appellate judges on the 9th District Court of Appeals, the Akron Municipal Court executive officer, bailiffs and secretaries responsible for operating the audio recording system, the public defender, the prosecuting attorney, and members of the local bar.

In addition, the municipal courtrooms and audio recording systems were examined; sample tape recordings, log sheets and transcripts were reviewed; supplemental documentation was obtained on court workload and appeals; local bar attitudes to the Municipal Court recording system were surveyed; court reporting rules and statutes were reviewed; and a cost survey of court reporting services among the major Ohio municipal courts was obtained from Bob Mossing.

II. ANALYSIS OF EXISTING SITUATION

A. Jurisdiction

The Akron Municipal Court, composed of six municipal judges and two referees (one part-time), is a court of first instance for felony arraignments and preliminary hearings, for criminal misdemeanor and traffic violations including DWI cases, and for civil matters unders \$5,000.

The Ohio Rules of Superintendence for the Municipal Courts and County Courts authorizes under Rule 8: Recording of Proceedings (see Appendix A), the use of audio recording to obtain a record of proceedings before a municipal court. This rule became effective January 28, 1973 at which time the Akron Municipal Court began installation of single-track audio recording equipment. However, the rules specify that a typed transcript of the audio recording be prepared for appellate review. All Municipal Court proceedings in Akron except for felony arraignments and preliminary hearings are recorded on audio equipment.¹ All civil, misdemeanor and traffic appeals are reviewed by the 9th District Court of Appeals.

B. Caseload and Appeal Rate

According to the 1975 Ohio Courts Summary, published by the Ohio Office of the Administrative Director, the Akron Municipal Court was the fifth busiest municipal court in the state with 68,787 cases filed and 70,498 cases terminated.

¹Felony arraignments and preliminary hearings are taken and transcribed by a stenomask court reporter. Transcripts are submitted to the Akron Court of Common Pleas, and the quality and timeliness of these transcripts are considered excellent.

audio record, and in obtaining trial judge's notarization verifying the accuracy of the transcript.

After examining the audio recording system and reviewing present recordation and transcription procedures, the project team pinpointed the following problems in the present reporting system:

- a) Inadequate audio recording equipment installed in each Municipal Court to insure reliable and accurate recording of courtroom testimony
- b) Improperly trained court personnel (bailiffs) to adequately monitor and operate equipment, log appropriate events, and to store and retrieve audio tapes
- c) Insufficient courtroom procedures to control court decorum and to obtain necessary information for transcript preparation
- d) Unreliable and insufficient transcription process by allowing appellant lawyers to prepare transcripts employing improperly trained typists or transcribers in local law firms or transcription agencies
- e) Insufficient local and state funding allocated to adequately record and transcribe Municipal Court proceedings

D. Audio Recording System

The Akron Municipal Court purchased from a local Sony Corporation distributor during 1973-74 approximately \$11,000 worth of audio equipment, supplies and installation services - \$3,500 for equipment, \$3,000 for supplies, and \$4,500 for installation and public address systems.

The basic audio recording system installed in each courtroom consisted of:

- a Sony TC-105 7 inch reel-to-reel single-track recorder
- a Sony TC-110 cassette recording unit (a single-track machine to make a simultaneous cassette copy of the proceeding if requested by counsel prior to the trial or proceeding)
- Sony ECM-21 microphones (there were usually five microphones installed in each courtroom located at judges' bench, witness box, attorney's tables (2), and the jury box)
- a mic-mixer to connect the microphones and feed into the single-track recording on the Sony TC-105 recorder
- ancillary equipment and supplies (recording tapes, wiring, microphone stands, demagnetizer, etc.)

The cost of the basic recording equipment was about \$750 per courtroom and the average total system cost was \$1,800 per courtroom.

Unfortunately, this audio recording system insufficiently meets the basic recording capabilities and equipment specifications required for recording courtroom proceedings. The Sony recorders were not constructed for courtroom recording and fail to meet minimal standards.

The Sony system lacks the following capabilities and fail-safe devices:

- a) prevention of accidental erasure or improper tampering
- b) separation of voices when simultaneous speech occurs during courtroom testimony
- c) audio or visual signal devices when: machine malfunctions, broken tape, end of tape, or over-recording on previously recorded testimony
- d) monitoring of recording from the tape rather than incoming audio signal from microphones

- e) non-condensor microphones (the ECM-21 microphones are condensor microphones which require batteries that frequently require replacement or otherwise the microphone goes "dead").

While the basic audio fidelity of the Sony system is adequate, this audio recording system provides for courtroom recording needs only 75 to 85 percent of the time; but, an acceptable audio system for recording courtroom testimony must operate sufficiently 99-100 percent of the time (no court reporting system including shorthand reporters is always 100 percent accurate). The Sony recording systems' failures or weaknesses have been the primary cause for missing portions of testimony, extraneous noises, inaudible and unintelligible statements, and difficulty in separating or identifying speaker voices. While there are other fundamental problems with the present reporting process, without adequate equipment other reforms can only marginally improve the system.

E. Support Personnel

A bailiff is permanently assigned to each judge. The bailiff has the primary responsibility--with the exception of one trial judge--to operate and maintain the audio recording equipment and tapes, to sufficiently monitor the electronic recording to insure an audio record, to prepare an index log for identifying court cases and testimony, and to store, index, and retrieve appropriate audio tapes upon request.

Since only the bailiff is assigned to a courtroom and judge's office, the bailiff must handle additional job duties assigned by

the judge such as answering phones, completing and submitting appropriate statistical and administrative forms, handling and filing court papers. The bailiff's overall workload does not appear to be too strenuous or demanding.

Unfortunately, the bailiff's work performance related to the audio reporting system is extremely varied. While one or two bailiffs are both conscientious and knowledgeable about the proper operation of equipment and related administrative recording procedures, the majority of bailiffs improperly operate or monitor the equipment, insufficiently log and index tapes and information sheets, and rarely monitor the audio recordings. Most bailiffs spend substantially less than five percent (5%) of their time on handling audio recording duties while they should be spending approximately one-fourth (25%) of their work time especially during courtroom proceedings.

The Akron Municipal Court has allowed each bailiff to establish and operate the audio court recording system as they deem adequate.

The bailiffs have:

- no specified job duties concerning the audio system
- no formal training program or official manual provided by the Sony representative or the court
- no formal procedures or "check-out" tests to insure the quality of the audio recording
- no established logging, indexing, or storage procedures

No audio recording system can operate better than the personnel assigned to properly operate it.

F. Recording and Transcription Procedures

The following section is a summation of the procedural steps involved and problems identified in the recording and transcript preparation of the Akron Municipal Court audio re-recording system.

1. Normally, the TC-105 tape recorder is turned on before the court proceedings begin; however, in several courtrooms, the audio recorder was installed outside the courtroom. In such instances, neither the judge nor participants can be assured that the audio machine is functioning and that an audio tape is recording the proceeding. After turning on the machine, most bailiffs leave the recording system unattended for several hours or until the proceedings are completed.

2. Courtroom facilities and acoustics are good; courtrooms are modern, containing low acoustically-tiled ceilings and sealed windows reducing outside street noises. Since the courtrooms are not carpeted, particularly the front portion of the courtroom, extraneous walking and scuffling noises are often recorded and sometimes obliterate courtroom testimony.

3. Bailiffs are responsible for preparing an index log for each audio tape to assist appellants in quickly locating appropriate cases and audio testimony needed for the preparation of transcripts. However, most bailiffs provide only cursory information (date, digital index number at the beginning of the day's proceedings, and sometimes case number and case name), insufficient for easy retrieval, and playback, and duplication of recorded testimony.

4. Each 3,600 foot reel (recording at 1 7/8 inches per second (ips)) can record six continuous hours of testimony; and the recording device has a mechanical switch which permits re-recording on the same audio tape four times (twenty-four hours of total recording). This reduces magnetic audio tape costs; however, this procedure has often caused the over-recording on previous courtroom testimony since it is easy to incorrectly switch channels.

5. While a TC-1110 Sony cassette recorder is available, few lawyers request a duplicate audio cassette recording prior to courtroom testimony.

6. The bailiff is responsible for storing and preserving the audio tapes. Each tape usually contains several weeks of courtroom proceedings, and is usually stored in the original carton container in the bailiff's office.

7. An appellant in criminal matters has thirty days from conviction to file notice of appeal, and an additional forty days to perfect the appeal including necessary transcript of court proceedings. In civil matters, the time limits are fourteen days after judgment to file notice of appeal and an additional 40-45 days to perfect the appeal.

8. It is the appellant's responsibility and expense to prepare the typed transcript of the court proceeding. The appellant requests the municipal court to locate and duplicate the original audio recording onto a cassette tape. The bailiff

provides the appropriate audio tapes to the presiding judge's secretary. The secretary is responsible for locating the appropriate portions of testimony on the original reel tapes, and for duplicating the recording onto cassettes.

A substantial amount of time is required to prepare cassette copies. In addition to bailiffs' time to locate original audio recordings (this sometimes takes several hours or days depending on the adequacy of the bailiff's indexing system), the secretary requires nearly 3 1/2 hours (45 minutes to locate tapes on original recording, 2 1/4 hours to set-up, monitor, and complete cassette recording, and additional 35 minutes for related administrative duties involved in request) for each case requested. With an appropriate indexing and duplicating system, this process should be taking 15-25 minutes.

9. Each lawyer is permitted to use whatever transcription personnel or service is personally deemed acceptable. There are no standards for transcribers or transcription procedures nor do most counsel have experienced and professional transcribers familiar with courtroom nomenclature, and properly trained to transcribe from audio recordings.

10. Many lawyers recognize that the present recording and transcribing procedures are inadequate (see Appendix C for a summary of an attorney survey on the Akron Municipal Court Recording System) although a surprisingly high percentage (50%) are generally satisfied with the transcripts prepared from the audio recordings. Whether due to inadequate recording equipment,

insufficient logs, untrained transcribers, or a combination of these factors, the principal transcription problems (listed in descending order of importance by the bar) are: poor audio quality cassette duplicates, inability to properly identify speakers, difficulty in separating statements when two speakers are talking, background noises, missing or unintelligible statements, and difficulty or failure to obtain appropriate audio record of the proceeding.

11. For most counsel, the cost of transcript preparation is uncertain. Those few lawyers who use an outside court reporter transcription service pay the normally commercial rate of approximately \$1.85 for original and 1 copy plus \$.80 for additional copies. Most lawyers express willingness to pay an increase in court cost or fees or the present commercial transcript rates to improve reporting services and allow court personnel to prepare the transcripts.

12. The appellant counsel must receive the appropriate notarization from the trial judge and opposing counsel before the transcript can be submitted to the appellate court. Often several weeks or months are required to obtain such approval.

13. The lawyer survey indicates that the Akron Bar has two preferences for improving the present court reporting system:

- a) hire full-time court reporters in each court, or
- b) the court should provide its own expert transcribers to prepare accurate typed transcripts from the audio tapes with appellants reimbursing the court for transcription expenses

III. RECOMMENDATIONS

A. Court Reporting Alternatives

The Akron Municipal Court has two alternatives for improving the present inadequate recording and transcription system.

1. Hire additional full-time court reporters (machine shorthand or stenomask) at an additional estimated cost of \$100,000 to \$150,000 annually.

2. Up-grade the existing audio recording system and institute improved administrative procedures to obtain better audio recordings and acceptable transcripts at an additional estimated cost of \$7,500 to \$12,000 annually.*

Option 1 - A survey of existing court reporting services among the major Ohio municipal courts was completed in 1975 (see Appendix D). At this date, the Akron Municipal Court remains nearly the only major municipal court not employing full-time or contractual court reporters for all municipal judges. Assuming that the appeal rate among the Ohio municipal courts is equivalent to Akron's appeals rate, (ten to twelve appeals per judge or referee) most municipal courts are providing a subsidy of \$1,800 to \$2,300 per transcript request. This figure does not even include the additional transcript page fee paid to the court reporter.

*This cost estimate includes purchasing new audio equipment totaling approximately \$25,000, but amortized over the 5-7 year useful lifespan of the equipment.

While this technical assistance project is not a comprehensive assessment of the municipal court reporting systems in the other major jurisdictions in Ohio, it appears that these jurisdictions have excessive expenditures for recording municipal proceedings, particularly, traffic, misdemeanor and civil cases.

If these municipalities were to install high quality audio recording systems along with appropriate court and administrative procedures and with competent transcribers, these municipal courts would be able to reduce court reporting expenditures by 25 to 75 percent in each municipality and we would estimate a statewide savings exceeding \$500,000.*

While many lawyers and judges prefer full-time court reporters as the ideal court reporting system, such a system appears inappropriate for the type of litigation, length of trials, and appeal rate within the municipal courts.

Option 2 - The present audio reporting and transcription system utilized in the Akron Municipal Court does not provide acceptable quality audio recordings and transcripts. On the proceeding pages of this report, we shall describe a comprehensive series of reforms to upgrade the existing system at a moderate cost. We recognize the difficulty in obtaining additional funding from local and state sources. Many recommendations will not require any additional financial expenditures (such as implementing new court procedures and transcription procedures) by the court;

*A comparative cost evaluation of court reporting approaches completed by the Administrative Office of the New Jersey Courts shows that in the New Jersey courts, an official court reporter cost per day averages \$74.00 compared to an audio recording system cost per day averaging \$8.00.

and a Law Enforcement Assistance Administration grant may be available to provide financial support for new recording equipment.

Considering the court's caseload and demand for transcripts, a multi-track audio recording system is the most feasible and acceptable court reporting system to implement in the Akron Municipal Court.

B. Equipment Standards

To insure an accurate audio record of court proceedings, several equipment features should be provided within the recording system to properly notify court personnel of equipment or tape malfunctions and to provide a high quality recording easy to transcribe.

Each audio recording system installed in the Akron Municipal Court should have the following minimum features and capabilities (Those criteria preceded by asterisks should be mandatory features on any new audio recording and transcribing equipment purchased):

- a)* Four-channel (track) recording and playback heads in order that participant voices from each of four separate microphones can be separately recorded and played back from the audio tape recording
- b)* Separate playback head following the recording head in order that the output record can be monitored by listening to the audio tape record a few moments after recording rather than just to the input signal from the microphones
- c)* No erase device in recorder to avoid accidental tape erasure or improper tampering
- d)* Signal presence warning device either as visual or preferably audio indicator to notify operator or court that 1) tape or equipment malfunction, 2) end of tape 3) prevents accidental over-recording on previously recorded testimony
- e)* A mechanical or electronic index counter (at least a four-digit counter)
- f) Three hours of continuous recording without court personnel required to change audio tape
- g) Tape recording speed of 1 7/8 ips for reel recorders or 15/16 ips for cassette recorders

- h)* Visual indicators (VU-meters or blinking lights) for each audio channel
- i) Recording system weight not to exceed 45-50 lbs.
- j) Low impedance balanced-to-ground audio inputs with both manual and automatic (either Automatic Gain Control or Limiter Control) audio control for each of the four channels
- k)* Recording unit uses standard 7" reels or standard audio cassette tapes
- l) Foot pedal control on recording unit in order to utilize recording machine as a transcribing unit. Transcribing unit must contain forward, stop, and reverse gears
- m) Electronic specifications
 - Signal to Noise: less than 40db
 - Distortion: less than 3%
 - Frequency Response: 500 to 5000 HZ+2.5db
 - Wow & Flutter (unweighted): less than 1%
 - Crosstalk: less than 35db
 - Speaker Output: greater than 6 watts
- n) Tape standard: Reel: 1 mil-1800 foot reel
Cassette: C-60 (1/2 mil) cassettes

Presently, the following audio manufacturers have produced audio equipment most suitable for courtroom recording and transcription:

<u>Company</u>	<u>Model</u>
Baird-Atomic Inc. c/o Don Murphy 125 Middlesex Turnpike Bedford, MA 01730	MR-600-4 Reel-to-Reel Recorder
Odetics-GYYR Products Inc. c/o Robert McKenzie 1845 South Manchester Avenue Anaheim, CA 92802	ACR-4 Cassette Recorder
Sound-Arts Inc. c/o Charles Gspan 5 Cindy Lane Oakhurst, New Jersey 07712	CRS-4 Reel-to-Reel Recorder

Company

Model

TEAC Inc.
c/o David Oren
7733 Telegraph Road
Montebello, CA 90640

TEAC 33-4 Reel-to-Reel
Recorder

The Akron Municipal Court's present audio supplier, Sony Corporation, does not presently produce any audio recording machine which contains the recommended features and safeguards (this includes the new Sony Confo-reader BM-144).

It is also recommended that the front section in each courtroom excluding the jury area should be carpeted to reduce extraneous noises.

C. Court Procedures

1. Judicial Control: The quality of the audio recording is primarily dependent upon effective judicial control of the courtroom proceedings. The trial judge* now has the added responsibility of maintaining strict discipline and decorum to assure that a good record is made. It must be remembered that courtroom discipline is not lodged with the clerk or bailiff, but is enforced by the trial judge.

Trial Judges' Responsibilities

- a) Announce at start of court session, all proceedings sound recorded. See Appendix E for sample opening statement
- b) Call case by name and docket number
- c) Have defendant(s), witnesses, and attorneys identify (spell last name) themselves and whom the attorney represents. Address attorneys by name, not "Counselor."

*When the title "Judge" is used in this report, it also includes Referees.

- d) Remind all persons to speak clearly and near a microphone, and to refrain from interrupting
- e) Do not handle the microphones
- f) Announce on tape if side bar conference is to be recorded. If so, make provisions for speaking into a microphone
- g) Assure that the bailiff/operator is thoroughly versed in operation of the recorder, and in maintenance of an accurate log sheet. Insist that the operator monitor the recorder periodically

If courtroom procedures are so rushed or disorganized as not to afford the modicum of order that is necessary to produce an accurate record of the proceedings, courtroom procedures will have to be revised. No system for preserving testimony should have to be adaptable to an undisciplined courtroom.² Tape recorders should be permanently installed within the courtroom, and the bailiff should be seated near the recording machine to properly monitor and prepare log information sheets.

It is inescapable that courts and lawyers must adapt to the use of more modern technological techniques, especially when they bring with them substantial savings of time and money.³

It is further recommended that the "stand up" trial at the bench be discontinued. All proceedings should be conducted courtroom style, with defendant (and his attorney) and the plaintiff/prosecutor each behind their respective counsel tables. See Appendix F for suggested set-up. Witnesses in contested matters must be required to use the witness stand. This procedure

²Report on Preservation of Testimony in Proceedings in the District Courts of Massachusetts, Vol. I, 11/3 /73

³Ibid.

not only improves the recording, but greatly enhances the decorum by emphasizing the fact that each party has his rightful place, and day in court.

By replacing the traditional blackboard on the wall, with a paper flip chart, the drawing of diagrams can be done near an existing microphone. The voice will be more clearly recorded, and the paper diagram can be saved and forwarded with the transcript to the appellate court in the event of an appeal.

2. Appellate Judges' Responsibilities:

- a) If a transcript is unsatisfactory, require the Trial Court Judge to supply a statement in lieu of transcript or a corrected transcript. Copy of all correspondence on this should go to the Presiding Judge and the Court Executive Officer so that the necessary steps can be taken to improve the recordings and avoid repeat of the same problem
- b) All judges should be familiar with the rules and regulations governing audio recording in the Akron Municipal Court.

3. Logging and Monitoring: Logging is needed to make an electronic record conveniently usable. The log is the written chronological narrative of each phase of the proceeding, keyed to a digital counter. (See Appendix G and H for sample logs). The equipment operator must be trained in uniform logging procedures throughout the various parts of the court. This will aid the transcriber in understanding the log regardless of who recorded the proceedings.

The bailiff should operate the recording equipment and keep the log sheet. To accomplish this will require not only

organized training, but a reassessment and assignment of duties. The present procedure of making cassette copies of the tape and leaving it up to the appellant to make a transcript is the major cause of inadequate transcripts, and is costly in terms of time.

The production of typewritten transcripts should be a court responsibility and be under court control. Studies and interviews show that very little use is made of the cassette tapes for listening, they are primarily used to type transcripts. A second or third generation copy of the original tape, with no log sheet or supporting information is almost useless to produce an accurate transcript. We recommend that this practice be discontinued. This will now relieve the court secretary of many hours of looking for a case on the tape and then making the copy(s).

The telephone calls now taken by the bailiffs could all then be handled by the secretary, who could also be responsible for central storage of tapes and logs, and for processing the requests for transcripts.

To further relieve the bailiff of "out of courtroom duties" a mobile cashier should be assigned to the courtroom office where traffic and other matters are being heard resulting in payment of fines. Too much valuable time is being spent by bailiffs escorting defendants to a cashier two floors away.

These changes will now permit the bailiff to spend most of his time in the courtroom. The following are the basic minimum duties to be performed by the bailiff:

- a) Test the recording system each day before the start of court
- b) Label the tape reel as well as the box (include tape I.D., presiding judge and bailiff, date(s) of recording)
- c) Periodically monitor--at least once every 15 minutes and for each witness--the recording with the headset, the VU meter or pilot light only indicates a signal being picked up; the headset will indicate if the voice can be heard. (This procedure requires new audio recording equipment to be installed)
- d) Maintain an accurate log sheet. A standard form should be developed, subject to the type of hearing (See Appendix G and H)
- e) Get correct spelling of all names of attorneys, witnesses and places
- f) Remind parties to speak clearly and stay near a microphone; advise the judge immediately if recorder does not function
- g) Identify exhibits on tape and on log, and assure proper retention
- h) Note on log sheet the time trial commenced, jury out, jury return, trial concluded, etc.
- i) Deliver recorded tapes and log sheets, properly identified to central storage
- j) See that the recording equipment is periodically serviced and is kept clean and in good working order
- k) Complete a formal training program and be certified by vendor to competency of operating audio system

4. Central Tape Control: There should be established a centralized tape storage and retrieval system. Bailiffs should submit all completed audio tapes and log sheets on a weekly or bi-weekly basis to the court secretary. The court secretary

should serve as quality controller by reviewing log sheets and randomly listening to the original audio recordings. If inadequate log indexing or inadequate audio recordings are found, the appropriate judge or bailiff, and court executive officer should be notified. This will enable the court secretary to locate any case to be transcribed with no loss of time. A tape retention schedule should be established, no less than six (6) months, nor more than one (1) year. The tapes can then be bulk erased and reused. This will save purchase costs and storage space.

Based on information obtained by the consultants on the centralized recording system used in certain provinces of Canada, this system is not recommended for the Akron Municipal court.

D. Transcription Procedures: Transcripts should be typed only from the original court tape to get the best results. Any system of audio duplication loses some quality. There are two alternate methods proposed although Option 1 is preferred because of direct court control, minimal additional expense to courts and better quality transcripts. In each option, the court maintains the supervisory control.

Option 1 - Transcripts typed by court employee(s)

The court would hire one typist, preferably one with legal secretarial experience. She (he) would be trained in proper format, citations and terminology. This requires a private office or enclosed area to avoid distractions, and a transcribing machine. The person requesting the transcript would pay the prescribed fee per page to the City of Akron Municipal Court which will

defray most if not all the cost of the transcriber. (Based on an estimated 70 to 80 transcripts per year averaging 100 to 150 pages, the court can anticipate approximately \$200 per case totaling \$14,000 per year income with transcriber salary in \$7,500 to \$9,000 range) The study determined that the present volume of transcript requests from the several parts of this court could be handled by one transcriber. As the system develops, the transcriber(s) could be back-up recorder-operator/bailiff and vice versa.

The primary advantage of this procedure is that the judges and bailiffs are readily available if there is any question on a word or phrase. In addition, the transcriber can provide direct feed-back to bailiffs and judges when improper logging or recording malfunctions are noted. If the recording and log are properly done, this system should produce letter perfect transcripts within the required time limits.

Option 2 - Transcripts typed by a professional transcript firm

The court secretary upon receipt of an order for a transcript would retrieve the proper tape and log sheet from the file, determine which part(s) should be transcribed, the number of copies, and the time for completion. The original tape, log and instructions would be delivered to the transcriber. When completed, the court will pay the transcriber and collect the prescribed fee from the party ordering the transcript.

The advantage of this procedure is that no space, court employee(s), or transcribing equipment are required of the court.

The disadvantages are that the court personnel are not as readily available to answer questions and an elaborate selection process needs to be established to insure qualified transcription organization (based on the quality of transcripts presently prepared by local transcription firms, the court should be extremely cautious about proceeding with this option). The transcripts may be accurate and completion will be timely if good quality tapes and logs are provided.

IV. CONCLUSIONS

The present audio recording system used in the Akron Municipal Court does not provide an adequate and reliable record of proceeding. It is recommended that the Akron Municipal Court:

1. Install new multi-track audio recording equipment in each courtroom containing appropriate fail-safe features and equipment specifications appropriate for audio recording of court proceedings.
2. Encourage judges to properly control proceedings for recording purposes.
3. Establish standards for operation, monitoring, logging, indexing, storage, and retrieval of the recorded proceedings.
4. Establish job descriptions and duties of court bailiffs, secretaries and transcribers. This should include a salary range, promotional and fringe benefits commensurate with work record and responsibility.
5. Develop a manual of audio recorder operation for judges, recorder operators and transcribers. This will be used in conjunction with an in-service training program as well as training for new personnel including new judges. Training should commence immediately, and be updated as new equipment is installed and periodically thereafter.

The manuals developed by Alaska and New Jersey on audio recording are excellent references from which to work. Maine has developed an excellent manual for transcribers.

6. Assume full quality control and responsibility of transcript preparation.

APPENDICES

- Appendix A: Rule 8: Recording of Proceedings
- Appendix B: Caseload and Appeal Rate Statistics
- Appendix C: Summary of Attorney Responses to Recording Equipment Survey
- Appendix D: Court Reporters Employed in Other Courts
- Appendix E: Suggested Judge's Opening Remarks
- Appendix F: Suggested Trial Courtroom Set-Up
- Appendix G: Recording Log (Contested Cases)
- Appendix H: Recording Log (High Volume Cases)

APPENDIX A

RULE 8

RECORDING OF PROCEEDINGS

A. Recording devices.

Proceedings before any court and discovery proceedings may be recorded by stenographic means, by phonogramic means, by photographic means, by the use of audio electronic recording devices, or by the use of video recording systems. The administrative judge may order the use of any method of recording authorized by this rule.

B. Appeal.

A videotape recording constitutes the transcript of proceedings as defined in Appellate Rule 9(A) and such transcript need not be transcribed into written form for the purposes of appeal. Transcripts of proceedings in media other than videotape must be transcribed into written form in their entirety. When the transcript of proceedings is in the videotape medium, counsel shall type or print those portions of the transcript necessary for the court to determine the questions presented and append such portions of the transcript to their briefs. A party need not attach a typewritten copy of the entire transcript of proceedings where it is alleged that the judgment appealed from is against the manifest weight of the evidence.

C. Custody.

Electronically recorded transcripts of proceedings shall be filed with the clerk of the trial court at the conclusion of

the trial. Electronically recorded transcripts of proceedings shall be maintained in the trial court in the manner directed by the trial court until the case is finally terminated.

D. Inspection of electronically recorded transcripts of proceedings.

In lieu of requesting a copy of an electronically recorded transcript of proceedings, or a portion thereof, a party may view or hear the transcript of proceedings on file with the clerk of the court.

E. Reference to electronically recorded transcripts of proceedings.

Reference to a particular portion of an electronically recorded transcript of proceedings shall be to the event, the number of the reel of tape on which it was recorded and the elapsed time counter reading.

F. Expense of electronically recorded transcripts of proceedings.

The expense of copies of electronically recorded transcripts of proceedings or such portions as are deemed necessary by a party shall be borne by the requesting party or as provided by law. The expense of viewing or hearing, under subdivision (D), an electronically recorded transcript of proceedings shall be borne by the requesting party. All other expenses of electronically recorded transcripts of proceedings shall be costs in the action.

ROBERT A. MOSSING
EXECUTIVE OFFICER
AKRON MUNICIPAL COURT
932 CITY-COUNTY SAFETY BUILDING
AKRON, OHIO 44308

(216) 375-2120

August 17, 1976

Dr. Michael Greenwood
And
Mr. Thomas Fillebrown

Gentlemen:

As per your request I am forwarding a breakdown of the case filings and terminations for the first six months of 1976.

13 Criminal Misdemeanor Cases Appealed
10 Traffic Cases (including DWI cases)
14 Civil Cases Appealed
37 Total Cases Appealed from Akron Municipal Court

191 total cases appealed from Summit County courts in the first six months of 1976. Akron Municipal Court cases represent 19% of the cases appealed from Summit County to the 9th District Court of Appeals.

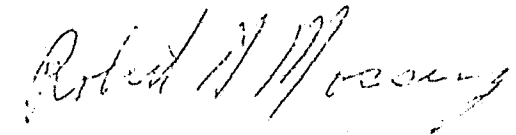
During this same period the Akron Municipal Court Judges and Referees terminated the following number of cases:

BY:	MISD.	DWI	OTHER TRAFFIC	CIVIL	TOTAL ¹
Jury Trial	23	21	4	2	50
Court Trial	639	38	609	5,996 ²	7,282
Pretrial	62	55	12	3	132
Pleas to Orig. Charge	590	152	142	153	1,037
Please to Reduced Chg.	17	39	16	0	72
Referee	0	221	9,055	513	9,789
Dismissals	546	22	356	3,616	4,540
Total	1,877	548	10,194	10,283	22,902
Total Cases Filed	3,522	532	23,490	7,392	34,936
Individual Assigned Cases	1,295	372	410	932	3,009

Note: 1) Does not include felony cases, or cases disposed of by the violations bureau or bench warrants.

2) 4440 of these cases are civil contract cases, unassigned, disposed of in particular court sessions indicating that there were default judgments granted by the court upon request of the plaintiff.

Sincerely,



Robert A. Mossing
Executive Officer
Akron Municipal Court

RAM:pab

cc: Judge Roulhac
Presiding

SUMMARY OF ATTORNEY RESPONSES TO RECORDING EQUIPMENT SURVEY

August 6, 1976

- 52 out of 100 attorneys surveyed responded -

Question # 1 - Have you experienced serious problems in your experience with the court's mechanical recording system?

Responses :	# Answering Yes	# Answering No	# Not Answering
	22	23	7

Comments: Not serious problems, but frequent ones.
Not serious problems, but still problems.

Question # 2a - Identified one of their problems with the system as poor quality of the cassette copy of the proceedings.

Responses:	# Answering Yes	# Answering No	# Not Answering
	23	30	

Question # 2b - Identified one of their problems with the systems as a delay in locating the tapes of the proceedings.

Responses:	# Answering Yes	# Answering No	# Not Answering
	13	39	

Question # 2c - Identified one of their problems with the system as unable to locate the tape of the proceedings.

Responses:	# Answering Yes	# Answering No	# Not Answering
	5	47	

Question # 2d - Identified one of their problems with the system as unable to identify the speakers.

Responses:	# Answering Yes	# Answering No	# Not Answering
	21	31	

Question # 2e Identified one of their problems with the system as unable to determine where one portion of the trial stops and another begins.

Responses:	# Answering Yes	# Answering No	# Not Answering
	11	41	

Question # 2f1 - Identified one of their problems with the system as the volume being too high.

Responses:	# Answering Yes	# Answering No	# Not Answering
	3	49	

Question # 2f2 - Identified one of their problems with the system as the volume being too low.

Responses:	# Answering Yes	# Answering No	# Not Answering
	6	46	

Question # 2f3 - Identified one of their problems with the system as too many voices being recorded at one time.

Responses:	# Answering Yes	# Answering No	# Not Answering
	18	34	

Question # 2f4 - Identified one of their problems with the system as too much background noise.

Responses:	# Answering Yes	# Answering No	# Not Answering
	17	35	

Question # 2f5 - Other

Responses: Parts left out when tape ran out.

The statements of counsel and the judges at the sidebar are difficult because the microphone is usually not in close proximity.

No problem.

Speakers not near microphone....at board...or attorneys walking about courtroom as they question witnesses.

Tape broke.

Getting transcript typed.

Part of the transcript was not able to be transcribed.

Many of the conversations are garbled.

Had a much harder time hearing what prosecutor and attorney for defendant were saying.

Bailiff pressed wrong buttons - result was no record at all.

Question # 3a - Do you usually make up your mind that either a cassette copy or a written copy of the proceedings will be necessary for your case before trial?

Responses:	# Answering Yes	# Answering No	# Not Answering
	22	30	

Question # 3b - Do you usually make up your mind that either a cassette copy or a written copy of the proceedings will be necessary for your case during trial?

Responses:	# Answering Yes	# Answering No	# Not Answering
	5	47	

Question # 3c - Do you usually make up your mind that either a cassette copy or a written copy of the proceedings will be necessary for your case after trial?

Responses:	# Answering Yes	# Answering No	# Not Answering
	25	27	

Question # 4 - Have you had the occasion of listening to a cassette copy of the proceedings and deciding at that point that a written transcript would not be necessary?

Responses:	# Answering Yes	# Answering No	# Not Answering
	7	41	4

Question # 5a - Does your secretary prepare the written record form from the cassette tapes that are provided?

Responses:	# Answering Yes	# Answering No	# Not Answering
	31	21	

Question # 5b - Do you send the cassettes to a stenographic pool to prepare the written record form from the cassette tapes that are provided?

Responses:	# Answering Yes	# Answering No	# Not Answering
	7	45	

Question # 5c - Do you send the cassettes to a professional court reporter or firm to be prepared in a written record form?

Responses:	# Answering Yes	# Answering No	# Not Answering
	13	39	

Question # 5d- Do you do all of the above on different occasions?

Responses:	# Answering Yes	# Answering No	# Not Answering
	7	45	

Question # 6 - Have you generally been satisfied with the final preparation of the record (resulting from the mechanical recording devices in our court) on appeal?

Responses:	# Answering Yes	# Answering No	# Not Answering
	24	23	5

Question # 7 - Are you sure that, in most cases, the final written transcript reflects a true and accurate account of the proceedings as they occurred?

Responses:	# Answering Yes	# Answering No	# Not Answering
	28	20	4

Question # 8 - What other problems have you observed in the preparation of an accurate court recording and the providing of an accurate written transcript?

Responses: Very costly to transcribe. Last one \$450.00

A problem occurs when the trial is not continuous. It is difficult locating the tapes that are needed.

Locating primarily.

Arraignment tapes often are not included in a transcript.

Difficulty in obtaining tape or copy from bailiffs. It is also quite time consuming obtaining the tapes.

Lapse in tape. Testimony omitted by tape running out and not being changed.

The court was reluctant to approve the transcript from the recording and too busy to verify.

Difficult for a person that was not present (as a court reporter would be) to follow the proceedings and pick up all the conversation.

The person transcribing the record always has difficulty.

I appealed one case. In the case you could not determine who was talking or what was said. We had no transcript.

Responses to Question # 8 Continued -

Cost and time spent transcribing and then certifying to Court of Appeals is too often prohibitive for reasonable and valid appeal. Big difficulty in obtaining prosecutor's (and other opposing counsel's) trial court certificates.

Doesn't provide for exhibits.

The only thing I can say is that it is good as a protective device; O.K. for cases you don't anticipate appealing.

Large gaps in the proceedings due to tape recorder not being turned on or running out of tape.

Difficulty in getting someone to type the cassettes.

Some judges turn off the equipment when making statements that may amount to error. At least one judge does this. I didn't think the Court of Appeals was even using the cassettes and wanted transcriptions.

Parts of testimony are not transcribed. Pauses, gesticulations, tones of voices, crying, demonstrations, etc... are not reflected in the written transcription. Defense attorneys select small portions of testimony for submission to Appeals Court - not entire record. Appeals Court fails to receive complete transcript or even if complete, it is not certified by trial judge.

In one case an arraignment was missing in court but others were there and all tickets showed arraignments but mine.

Tape not on at all times. Judge can control stopping of tape. Very difficult to proffer objections and reasons therefore during jury trial. Usually results in scramble to have tapes transcribed.

It is almost always much more expensive to obtain a final written transcript of proceedings by this method and the transcript is usually difficult to understand. Hire some good court reporters and send the electronic equipment back to Japan.

Time.

Question # 9a - Identified a more sophisticated recording equipment to be the best and most practical solution to the problems noted.

Responses:	# Answering Yes	# Answering No	# Not Answering
	7	45	

Question # 9b - Identified improving the existing procedures for the operation of the equipment to be the best and most practical solution to the problems noted.

Responses:	# Answering Yes	# Answering No	# Not Answering
	14	38	

Question # 9c - Identified providing additional personnel in each courtroom to operate the equipment to be the best and most practical solution to the problems noted.

Responses:	# Answering Yes	# Answering No	# Not Answering
	1	51	

Question # 9d - Identified providing for a court reporter in each courtroom to be the best and most practical solution to the problems noted.

Responses:	# Answering Yes	# Answering No	# Not Answering
	23	29	

Question # 9e - Identified having the court provide its own stenographic pool of expert typists to prepare an accurate written record of its proceedings from the mechanical recording devices as being the best and most practical solution to the problems noted.

Responses:	# Answering Yes	# Answering No	# Not Answering
	21	31	

Question # 10 - In your opinion, have there been occasions that, due to the problems of the mechanical recording devices and procedures that a substantial injustice in the outcome of the case has resulted?

Responses:	# Answering Yes	# Answering No	# Not Answering
	16	29	7

Question # 11 - Would you be willing to pay an increase in court cost or fees that may be necessary for the substantial improvement of this area?

Responses:	# Answering Yes	# Answering No	# Not Answering
	29	13	10

Question # 12a - Have you been in courts other than the Akron Municipal Court which utilize mechanical recording systems?

Responses:	# Answering Yes	# Answering No	# Not Answering
	21	3	28

Question # 12c - Results of recording systems in other courts were:

Responses:	Satisfactory	Unsatisfactory	Not Answered
	12	7	33

Question # 13 - Further comments concerning the Akron Municipal Court's system of recording.

Responses: Utilization of Court Reporters would solve the problems.

Too often you cannot hear counsel or the tape is switched off.

Much better and much less expensive than the old way. One should be able to recognize in advance which cases will need a record. Attorneys should be asked in advance to say whether or not a record will be required.

No question that a Court Reporter would be better, but in my situation, chances are maybe 1 in 10 that I might request a transcript of the tape.

I think qualified stenographic Court Reporters would be the ideal answer.

The tape system is adequate for 80% of the proceedings. If Court Reporters were available through the court for the remaining 20% the system would be efficient yet economical.

It is better than nothing, but it is not as good as it should be for trials of complex issues with multiple witnesses and active adversarial counsel.

Suggest Court Reporters be available upon request - cost to party requesting it.

Between a bailiff and a judge the probabilities of error in the recording procedure are extremely great. There are few (if any) safeguards that the testimony is even being recorded, or whether the volume, etc, is working properly during the time the testimony is given.

The cost too great. I think the use of Court Reporters is far and away the superior method.

A visible sign should be seen from in front of the bench to know when the recording is not being done, turned off, and a rule of court that defense may demand that it be used on any matter in front of the bench.

Recording of a trial should not have interruptions of appearances, sentencing of other cases on that same tape.

A cassette should be made along with the reel which would safeguard against accidental erasure and make available a cassette copy without later patching.

All courts should provide a system for an attorney to have his own cassettes recorded at the same time that the trial is being conducted. Most of the courts do this.

Provide a pool of Court Reporters for trial use. We would only need one or two more.

Referring to -
Qucs. # 9d&c

Solution somewhere inbetween in criminal cases especially. Perhaps Court could have 2 or 3 reporters on standby with general minimal pool for transcribing.

(Figures do not include Office Space, or Equipment & Material)

Principal Ct.	Date of Service	# Of Judges	# Of Staff Rptrs.	Approx. Annual Salaries	Estimated ¹ Fringe	Amount of Contractual Services	Total Expenditures	Per Judge Cost
Albino	9/5/73	6	5 ²	78,015	11,702	- 0 -	89,717	14,953
Alameda	4/1/75	12	11	152,331	22,857	- 0 -	175,238	14,603
Albino	2/10/75	5	5	60,000	9,000	- 0 -	69,000	13,800
Albino	12/74	2	2	17,784	2,667	- 0 -	20,451	10,225
Albino	10/17/75	13	5	62,000	9,300	6,000 ³	77,300	5,946
Albino	10/2/75	13	0	0	0	331,848 ⁴	331,848	25,527
Total		51	28	370,180	55,526	337,848	763,554	14,171
Albino	10/21/75	5	1				29,506	5,901

From Income from Court Reporter Fees: For 1973 - 10,124
For 1974 - 14,976

Fringe Benefits estimated at 15% of salary cost.

Plans to hire a 6th Reporter this year, and an additional reporter next year.

Use Contractual Reporter Services in Civil Cases.

1976 Contract

Prepared by:

Robert A. Mossing
Court Executive Officer

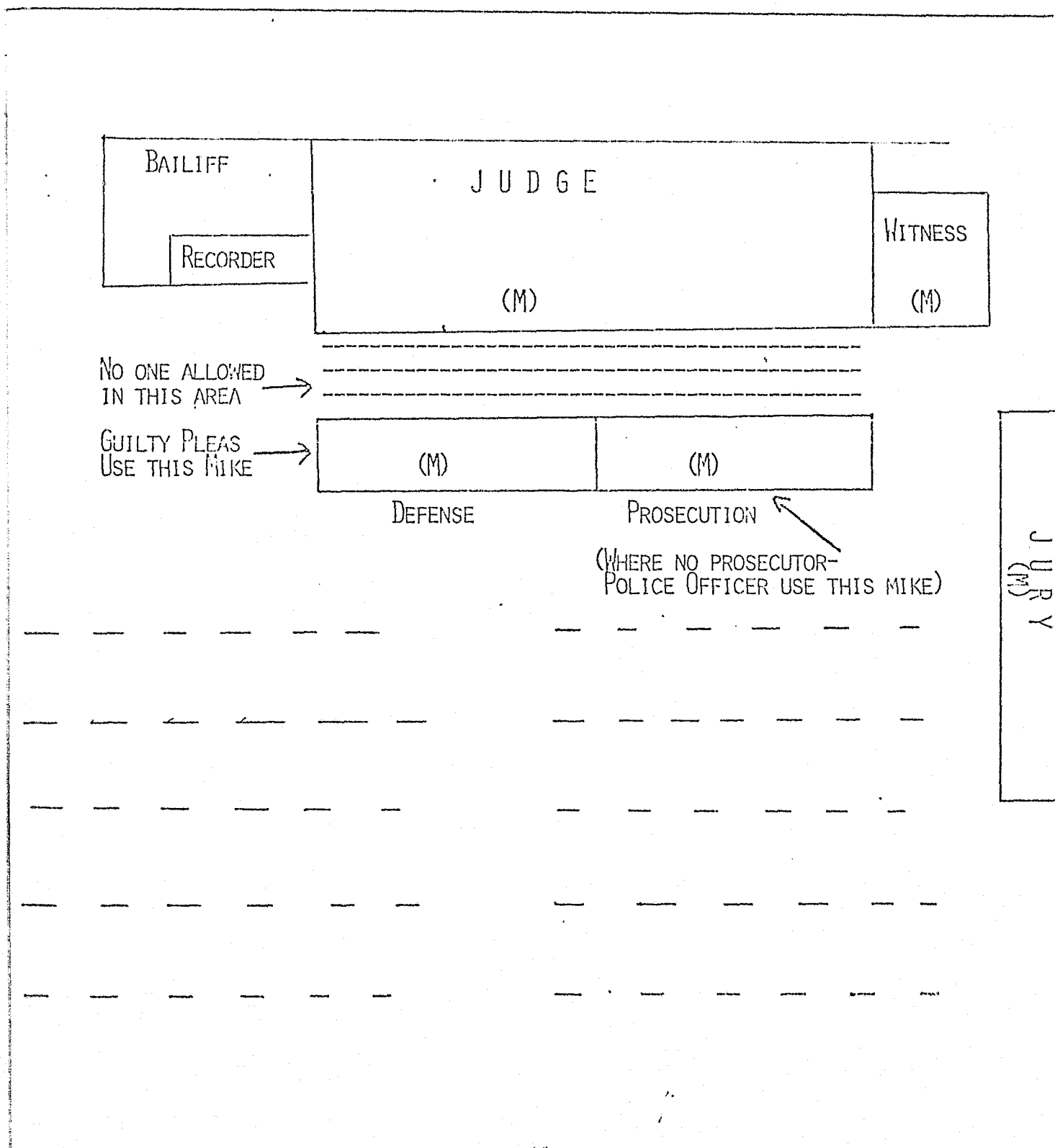
SUGGESTED JUDGE'S OPENING REMARKS

THE FOLLOWING IS A SUGGESTED FORM FOR USE BY THE JUDGE IN HIS OPENING REMARKS. YOU ARE ESPECIALLY REQUESTED TO SEE THAT ANY ACTING JUDGES ARE SUPPLIED WITH THIS. THE FIRST SENTENCE MAY BE OMITTED IF THE BAILIFF HAS MADE THIS STATEMENT.

"This is the Municipal Court of _____, Judge _____ presiding. All proceedings in this Court are being recorded by an electronic recording device pursuant to the Rules of Superintendence for Municipal and County Courts of Ohio. All appeals from this Court will be heard from a typewritten transcript made from the recording. An accurate recording will aid in the protection of the rights of the litigants. All persons speaking will please speak directly in front of a microphone, and speak one at a time. The Bailiff will remind anyone who is not being recorded properly to speak more clearly or closer to the microphone. The attorneys are requested to identify themselves and whom they represent at the start of each case, and to conduct their examinations in front of a microphone. There must be quiet in the room, and everyone is asked to be as quiet as possible when entering or leaving the courtroom."

APPENDIX F

SUGGESTED TRIAL COURTROOM SET-UP



Recording Log

(Contested cases)

COURT Middlesex

Tape No. 14 Log Page No. 1 Court Convened at 9:30 A.M. M.

Date Oct. 8, 1976

Room No.

PRESENT: Judge Robert Ready

Recorded by Allan Park, Bailiff

LOCATION OF MICROPHONES: 1.Judge 2.Witness 3.Pros.(Pltf) 4.Defendant

LEGEND: J - Judge

D - Defendant

WJ - Witness #1,#2,etc.

P - Plaintiff

DA- Def's Atty

DEX- Direct Exam

C - Clerk

PA- Pl's Atty

XEX- Cross Exam

TYPE OF RECORDER

SPEED

Time	Index #	Speaker, Phase of Case or Other Identification
9:30 AM	050	Bailiff calls case IDENTIFY CASE ON TAPE
	051	Judge W HAVE ATTY. IDENTIFY SELF & CLIENT
	052	PA open
	054	W for State sworn Thos.K.Jones, GET FULL NAME ON TAPE
	055	DEX by PA Q & A NEED NOT BE LOGGED UNTIL
	070	XEX by DA INTERRUPTION
	078	Objection by PA NOTE INTERRUPTION & BY WHOM
		J rules on objection
	080	XEX cont'd
	092	W for State sworn Geo.T.Smith
		DEX by PA
	098	SEX by DA
	110	W for D sworn John D. Hostile
		DEX by DA
	131	XEX by PA NOTE WHO DEX & XEX ARE BY & WHOSE
	147	Motion to discuss by DA WITNESS
		J denies
	156	Sum. by PA
	166	J finds G - \$50 & 10, 3 mos. susp.
		Sentence
	179	End ALWAYS PUT LAST # ON LOG.

Recording Log

COURT Akron Municipal

Tape No. 2 Log Page No. 1 Court Convened at 9:00 A.M. M.

Date 8/9/76 Room No. 901

PRESENT: Judge Roulhac Recorded by Allan Park, Bailiff

LOCATION OF MICROPHONES: 1.Judge 2.Witness 3.Pros.(Pltf) 4.Defendant

LEGEND: J - Judge D - Defendant WI - Witness #1, #2, etc.
 P - Plaintiff DA- Def's Atty DEX- Direct Exam
 C - Clerk PA- Pl's Atty XEX- Cross Exam

TYPE OF RECORDER _____ SPEED 1-7/8 Calendar - Criminal

[illegible]

Recorder Log (High Volume Cases)

(High Volume Cases)

COURT _____ X _____
Tape No. _____ X _____ Log Page No. _____ X _____ Court Convened at _____ X _____ M.
Date _____ X _____ Room No. _____
PRESENT: Judge _____ Recorded by _____ X _____

LOCATION OF MICROPHONES: 1.Judge 2.Witness 3.Pros.(Pltf) 4.Defendant

LEGEND: J - Judge D - Defendant WI - Witness #1,#2,etc.
 P - Plaintiff DA- Def's Atty DEX- Direct Exam
 C - Clerk PA- Pl's Atty XEX- Cross Exam

TYPE OF RECORDER SPEED

Time	Index #	Speaker, Phase of Case or Other Identification
9:30 AM	008	Court opens-Judges remarks-calls calendar
	021	State v. Jones-G plea, Atty. Robt. Young for D
		Officer John Doe testified
	036	J - 15.00 & 10.00 30 days susp. sent -
		Guilty pleas - Traffic
	042	Johnson
	044	Jenkins
	049	Bush
	051	Xavier
	055	State v. Daniels-request for adj.-set for 11/5/71
	061	State v. Smith
		Wit for State-Sgt. Wm. Johnson sworn
	065	DEX for Pros.
	081	XEX for DA - Joseph Williams
	093	D sworn
		DEX by DA
	106	XEX by PA
	109	J - N.G.
	111	State v. Moore