

**Report**

**NCJRS**

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**ACQUISITIONS**

TRANSCRIPTS BY CONNECTICUT

COURT REPORTERS

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**National Center for State Courts**

Northeastern Regional Office

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TRANSCRIPTS BY CONNECTICUT COURT REPORTERS

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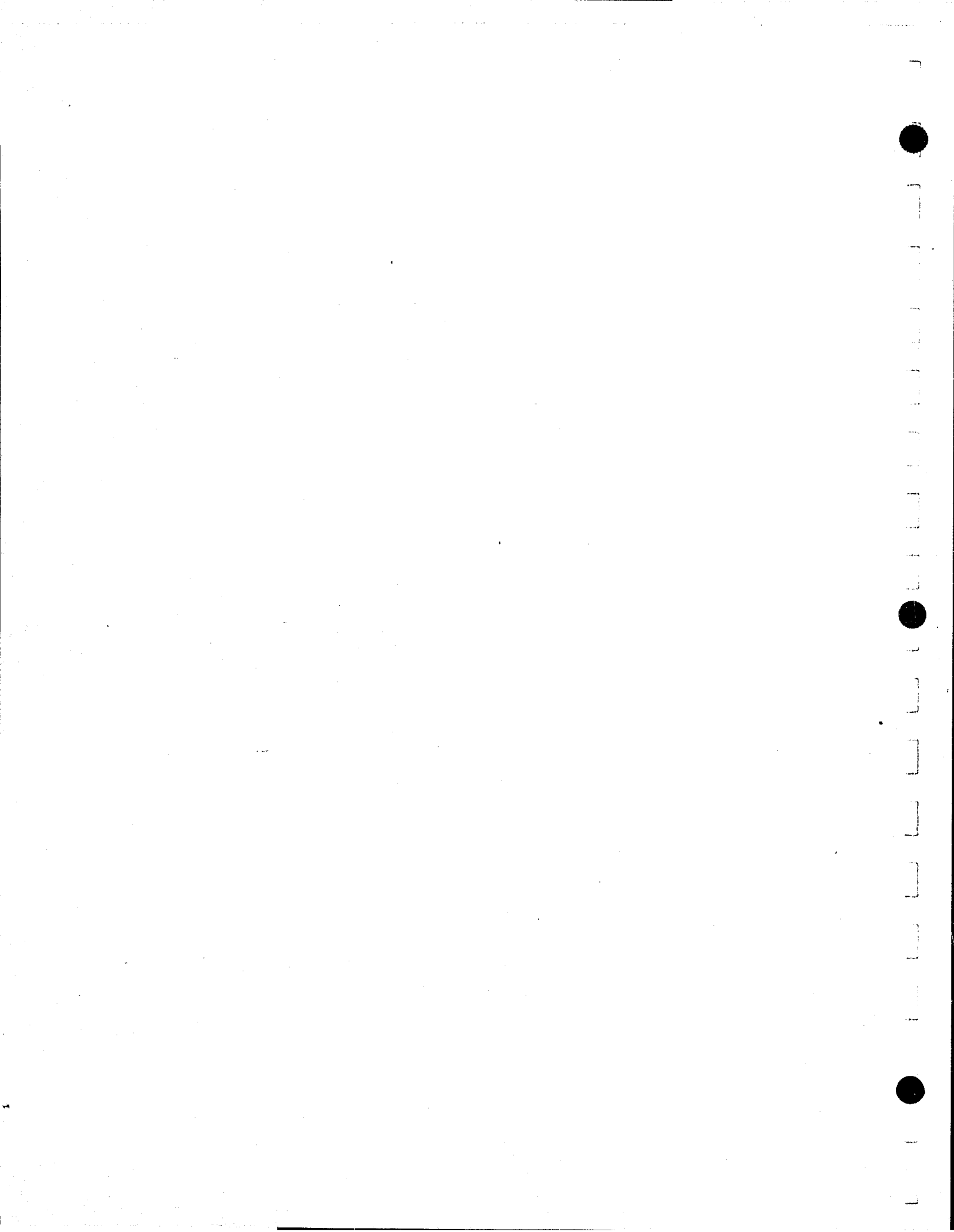


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INTRODUCTION  
AND  
SUMMARY OF RECOMMENDATIONS



## INTRODUCTION

In early 1977 the Executive Secretary of the Connecticut Judicial Department requested that the National Center for State Courts conduct a study of selected facets of the provision of court reporting services in Connecticut. As part of a comprehensive study of the management of reporting services, the present report concentrates on issues related to the preparation of transcripts. There are several questions posed by the Executive Secretary that this report seeks to answer. Does delay exist in the preparation of transcripts? What is a reasonable time within which transcript delivery can be expected? How can management of transcript preparation be improved? Should special transcript rates be authorized when daily copy is requested? Should Connecticut continue its practice of including transcript fees in calculation of retirement allowances for reporters?

The Connecticut courts are a system in transition. In 1961 various local minor courts were replaced by a single level of Circuit Court, with appeals to the appellate division of the Court of Common Pleas.<sup>1</sup> Effective December 31, 1974, the Circuit Court was abolished and their jurisdiction transferred to the Court of Common Pleas, with appeals to a newly-created appellate division of the Superior Court.<sup>2</sup> Effective July 1,

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<sup>1</sup>Connecticut General Statutes Annotated (hereinafter, C.G.S.A.), §51-248, repealed by 1974, P.A. 74-183.

<sup>2</sup>1974, P.A. 74-183.

1978, all Common Pleas trial jurisdiction will be transferred to Superior Court, making it the only trial court.<sup>3</sup> Appeals will be to its appellate division and to the Supreme Court.

As of the date of this report, judges of Superior Court are authorized by statute to appoint an official court reporter, with as many assistant court reporters as the judges consider necessary, for each county, as well as at Waterbury and Stamford.<sup>4</sup> Each official court reporter's responsibility is to assure that accurate records are kept of all proceedings in Superior Court.<sup>5</sup> The judges of the Court of Common Pleas are authorized to appoint as many official court reporters and assistant court reporters as business requires.<sup>6</sup> According to the Judicial Department's roster of court reporters, at the beginning of this study there were 17 official court reporters and 88 assistant court reporters employed as full-time, salaried court employees.

Work on this project was begun by National Center staff in February, 1977. It was determined that the project be divided into two phases: a first phase to document existing practices in the areas identified for attention, and a second phase to evaluate those practices and consider alternatives. This report represents the completion of both phases.

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<sup>3</sup>1976, P.A. 76.436.

<sup>4</sup>C.G.S.A. §51-60 and 51-61.

<sup>5</sup>C.G.S.A. §51-61.

<sup>6</sup>C.G.S.A. §51-692, repealed (eff. July 1, 1978) by 1976, P.A. 76-436.

In Phase I of the project, the staff of the National Center for State Courts relied heavily on documents and correspondence made available by the Office of the Executive Secretary. Discussions were held with the Executive Secretary and members of his staff. All available notices of transcript order and delivery for calendar years 1975 and 1976 were reviewed and the results tabulated. A sample of transcripts prepared for cases appealed from the Court of Common Pleas and from the Superior Court was reviewed for compliance with Connecticut Judicial Department regulations for transcript format. Finally, interviews with court reporters were held. Reporters from high and low volume courts were selected, from both northern and southern areas of the state. Because of limitations in time and funding, no rigorous effort was undertaken to make the reporter interview results fully representative of all reporters in the state.

The second phase of the project involved an evaluation of transcription from two perspectives. First, statutes, rules, regulations and practices relating to Connecticut reporters were compared with those in other jurisdictions. Second, the data collected during the project were subjected to a detailed analysis. Alternate approaches for improvement in the areas under study were then reviewed by National Center staff and discussed with the Executive Secretary as part of the production of this report.

The overriding approach taken in the conduct of this study and preparation of this report has been to evaluate findings with regard to transcripts by Connecticut court reporters in light of the basic task of the courts--the determination of cases justly, promptly, and economically<sup>7</sup>--and in view of the principal objective with specific regard to reporting services:

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American Bar Association, Standards Relating to Court Organization, \$1.00 (1974).

To provide for the recording of all court proceedings where required by law, rule, or sound policy, without delaying the proceeding, and to assure the production of an accurate transcript or reproduction of that record, if required, within the shortest feasible time limits and at the lowest reasonable cost.<sup>8</sup>

Simply stated, findings in regard to transcripts by Connecticut court reporters have been measured here by whether they serve or hinder the above statements. It is realized that practices and results at variance with these general principles may be the consequence of other forces or of historically developed operational constraints within the Connecticut court system. When such a situation occurs, an effort has been made to weigh the different principles and constraints involved, in order to arrive at proposals most suitable for the Connecticut courts.

In December 1977, the Executive Secretary requested the revision of Judicial Department regulations in keeping with the recommendations in this study. The interested reader is referred to Connecticut Court Reporting Services: Proposed Regulations, which has been prepared to accompany this report.

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<sup>8</sup>National Center for State Courts, Management of Court Reporting Services, (hereinafter, NCSC, Comparative Study) p.2 (1976).



SUMMARY OF RECOMMENDATIONS

Page

1. The Connecticut Judicial Department should promulgate a time standard for transcript preparation. All transcripts should be delivered within thirty days after the date of the transcript order.

There should be no automatic extensions of the time allowed for preparing any given transcript. Reporters should be required to justify in writing any extension requests to the Executive Secretary, whose grant or denial of extensions should be made on stated grounds and be based on guidelines set by the Judicial Department.

Circumstances under which an extension would be granted may include, but need not be limited to, the following:

(a) Reporter's illness for one or more consecutive weeks before the date a transcript is due.

(b) Death or serious illness in the reporter's immediate family within two weeks of the date a transcript is due.

(c) A three-week vacation during the delivery period and already scheduled by the reporter when the transcript order was received.

(d) Attorney actions after transcript order that have prevented the reporter from starting transcription until 15 days or less before the scheduled transcript delivery date.

Extensions should not be granted for longer than 15 days at a time. Except in extraordinary circumstances, no transcript should take longer than 60 days from order to delivery. . . . .

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2. The Judicial Department should adopt the following measures to manage transcript preparation problems resulting from attorney actions:

(a) Attorney requests to delay transcription should not be honored by reporters unless made the subject of a court order.

(b) If a partial transcript has been ordered by one party and additional parts are subsequently ordered, the reporter should be required to submit a supplementary transcript notice immediately upon determination of what is to be transcribed in total so that the date of the supplementary notice can be considered by the Executive Secretary in determining whether an extension of time for delivery should be granted.

(c) Reporters should be required to notify the chief court administrator in writing immediately when a transcript order has been withdrawn, with a copy to the clerk of the trial or appellate court.

(d) If a reporter cannot begin transcription because of attorney failure to comply with relevant practice rules, the reporter should be required to notify the attorney immediately in writing, with concurrent copies to the trial or appellate court, adversary parties, and the chief court administrator, that the transcript order cannot be honored. . . . . 16

3. With the active involvement of official court reporters, the Judicial Department should compare different methods for estimating transcript pages, adopt the method found most effective, and employ means to encourage accurate page estimates by reporters, including review of transcript notification forms by official court reporters. . . . . 22

4. Standards for transcript productivity should be promulgated by the Judicial Department. More specifically, standards like the following should be adopted:

<u>Description</u>	<u>Standard</u>	
Dictation	Not less than 20 pages/hour	
Typing Alone	Not less than 10 pages/hour	
Dictation and Typing Combined	Not less than 12 pages/hour..	30

5. Each court reporter should be prohibited from accepting outside deposition work during any part of a court work-day, unless there are no other assignments or pending transcripts on appeal. The official court reporter should be required to verify in writing that an assistant reporter released for deposition work has no other work. . . . . 41

6. When any court reporter has failed to deliver an ordered transcript on the approved date, he or she should immediately be removed from assignment to record court or other proceedings and prohibited from accepting deposition work during regular court work hours. He or she should be required to pay the cost for hiring a substitute per diem reporter, unless excused for good cause shown by the office of the Executive Secretary.

When any court reporter has an extraordinary number of transcript pages for cases on appeal to be delivered on a single date or on closely proximate dates, he or she should be allowed to request release by the office of the Executive Secretary from assignment to record courtroom or other proceedings, with the cost of hiring a substitute per diem reporter to be borne by the State. Before granting such a release, the office of the Executive Secretary should consider each of the following:

- The number of pages to be transcribed and the transcription method employed by the reporter;
- Feasibility of other course of action for assuring both full reporter coverage of proceedings and timely transcript delivery;
- The court location's recording workload and the availability of people to substitute for the requesting reporter; and
- Evidence of the requesting reporter's compliance, or good faith efforts to comply, with productivity standards.

Furthermore, any grant of such a release should be subject to the following conditions:

- That the requesting reporter be prohibited from accepting any outside employment while so released; and
- That the cost of hiring a substitute per diem reporter after the approved transcript delivery date(s) be borne by the requesting reporter if he or she fails to make timely delivery of the transcripts involved, unless the requesting reporter is excused from this obligation by the office of the executive secretary for good cause shown. . . . . 47

7. In any lengthy proceeding, the assigned reporter should be withdrawn by the official court reporter and re-assigned to record other matters, unless:
  - (a) The proceeding is likely to be concluded on the sixth day; or
  - (b) Daily copy has been ordered. . . . . 56
8. No special fee should be charged for provision of daily copy services, and C.G.S.A. §51-63 should be amended to clarify this issue. Judicial Department regulations should define "daily copy." . . . . . 67
9. Reference in C.G.S.A. §51-63 to transcript "folios" should be dropped, and rates for transcript fees should be expressed in relation to pages. . . . . 71
10. The practice of having transcript fees paid by the State included in calculations for pension benefits should be discontinued. . . . . 72
11. Connecticut Judicial Department transcript format regulations should be made binding on reporters. They should be amended to provide that answers to questions should begin on a new line. They should also be amended to provide that transcripts be prepared on paper with line numbers 1-27 preprinted on the left-hand margin.

Format regulations should be periodically reviewed by reporters, with the official reporters seeking to assure that reporters understand and comply with format regulations.

Transcripts should be periodically screened by official court reporters for compliance with regulations. Reporters found to have produced transcripts at substantial variance from regulations should be required to refund overcharges and be subject to disciplinary measures if variance has resulted in unnecessarily longer transcripts. . . . .

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12. The Judicial Department should take a systemic management approach to management of transcript production and reduction of transcript delay, without limiting its attention solely to specific court locations or individual reporters. . . . . 98

13. The Connecticut Judicial Department should develop a broader and more structured information system for management of transcript production, as part of its system for management control of the appellate process. 102

14. Judicial Department regulations should set forth in greater detail the responsibilities of official court reporters in management and supervision of reporter activities. In regard to transcript activities, official reporters should be made explicitly responsible to the Judicial Department and the office of the Executive Secretary for the performance of assistant reporters under their supervision. Specifically, official reporters should be responsible for assuring that all reporters they supervise

- (1) Make timely submission of properly completed transcript notices to the office of the Executive Secretary;
- (2) Comply with transcript format regulations;
- (3) Charge fees in compliance with statutory provision; and
- (4) Make timely delivery of transcripts in compliance with Judicial Department standards.

The official court reporter should additionally be responsible for performance of duties shared with assistant court reporters.

The official reporter's responsibilities under the regulations should serve as the basis for periodic performance evaluation. . . . .

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15. Judicial Department regulations should set forth in greater detail the responsibilities of assistant court reporters and court recording monitors. In regard to transcript activities each reporter and monitor should be made explicitly responsible to the Judicial Depart-

ment, the Executive Secretary and the official court reporter or monitor supervisor who supervises her or him. Specifically, all reporters and monitors should be responsible to

- (1) Make timely submission of properly completed transcript notices to the office of the Executive Secretary;
- (2) Comply with transcript format regulations;
- (3) Charge fees in compliance with statutory provisions; and
- (4) Make timely delivery of transcripts, in compliance with Judicial Department standards.

Regulations setting forth assistant reporter and monitor responsibilities should serve as the basis for periodic performance evaluation.

To aid reporters and monitors in performing their duties, the Judicial Department should include them in its education program. . . . . 112

16. The Judicial Department should apply a broader and more flexible range of rewards and sanctions to assure effective transcript preparation. . . . . 115

17. The Judicial Department should continue its experimentation with alternate forms of court recording technology. . . . . 120

18. The Judicial Department should determine whether more court reporters, court recording monitors, or administrative personnel to aid court reporting services are needed as a result of (a) recommendations made here, (b) increased transcript workloads, and (c) the forthcoming transfer of all trial court jurisdiction to Superior Court. . . . . 122

19. The examinations now administered only to candidates for appointment as court reporters should also be administered to prospective court recording monitors. The makeup of the Board of Examiners should be modified to include at least one court recording monitor.

The content of the examinations as now administered should be modified.

The existing entry-level examination, as modified in keeping with this Recommendation, should be administered to court recording monitors.

A new entry-level reporter examination (Classification I) should call for candidates to take dictation at rates now set for the advanced reporter examination (Classification II). In a new Classification II reporter examination, candidates should be given dictation of simulated trial testimony at 225 words per minute for 10 minutes and dictation of a jury charge at

200 words per minute for 5 minutes. Dictation of 5 minutes of simulated medical testimony should be considered for Classification II, at 175 or 185 words per minute.

All candidates should be graded on their transcription time in accordance with productivity standards recommended in this report.

Although current salaried reporters and monitors need not be required to take the new examinations recommended here in order to keep their positions, they should be so required in order to qualify for promotion to a higher classification. . . . . 125

20. Judicial Department regulations for court reporters and court recording monitors should be revised, recompiled, and reissued to reflect (a) those recommendations made here that have been approved by the Department, and (b) other policies concerning reporters and monitors that have been developed since the last issuance of regulations. . . . . 130

I. TIMELY TRANSCRIPT PRODUCTION





## I. TIMELY TRANSCRIPT PRODUCTION

When ordered by the court or when requested by parties, reporters are to produce transcripts of their notes of proceedings in the Superior Court or in the Court of Common Pleas.<sup>9</sup> Such transcripts are to be delivered by reporters "within a reasonable time" after a transcript order has been filed.<sup>10</sup> Transcript preparation is a major element in completing the trial record for review by the Connecticut Supreme Court or the Superior Court Appellate Division, so that transcribing efforts by reporters have a direct bearing on the speed with which issues can be resolved on appeal.

Despite the improvements in transcript management resulting from the 1969 introduction of the transcript notification form, the Executive Secretary has recognized that problems persist in the timely preparation of transcripts, and that steps must be taken to remedy these problems. A major purpose for this study, then, was to determine the precise extent of transcript delay and to suggest specific remedial measures.

\* \* \* \* \*

### A. Extent of Transcript Delay

An absolute measure of transcript "delay" is the time elapsed from order to delivery. If this elapsed time increases for transcripts on appeal, the appellate process takes more time.

<sup>9</sup>C.G.S.A. §51-61, §51-702, regarding Common Pleas reporters, is repealed effective July 1, 1978, when all trial jurisdiction is transferred to Superior Court (1976, P.A. 76-436, §75).

<sup>10</sup>C.G.S.A. §51-61.

Connecticut Practice Rules 558 and 608A<sup>11</sup> set the time, in relation to the filing of an appeal, when a transcript must be ordered from a court reporter. After the order is received the reporter must then give written notice of the order to the Office of the Executive Secretary to the Judicial Department (OES) stating the estimated delivery date and number of transcript pages. Later the reporter must give written notice to OES of the actual delivery date and number of pages. Both the initial notice of estimated pages and delivery date and the notice of actual pages and delivery date are submitted on a standard Judicial Department form (Form JDSR-1120). From these notice forms, it is possible to determine transcript lengths and delivery times. For the purposes of this report, notices of orders for transcripts delivered in calendar years 1975 and 1976 were inspected in detail.

This inspection yielded the following overall averages for (a) time from the placing of an order for a transcript to its delivery, and (b) transcript length in pages:

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<sup>11</sup>Connecticut Practice Book (Revision of 1963), Sections 558 (governing transcripts for appeals from the Court of Common Pleas to the Appellate Division of the Superior Court) and 608A (appeals from Superior Court to Supreme Court) (1974 Supp.).

Figure 1. Average Delivery Time and Length 1975, and 1976 Transcripts

Court Level Where Prepared and Case Type:	1975			1976		
	Number	Days	Pages	Number	Days	Pages
<u>Superior Court</u>						
Criminal	28	87.8	471.9	20	171.6	560.8
Civil	87	54.0	203.4	77	71.2	258.3
Court Subtotal	115	62.2	268.8	97	91.9	322.0
<u>Common Pleas</u>						
Criminal	21	42.1	92.3	19	68.6	225.3
Civil	18	45.6	109.7	34	42.7	98.0
Court Subtotal	39	43.7	100.3	53	52.0	143.6
<u>Summary, Both Courts</u>						
Criminal Subtotal	49	68.2	309.2	39	121.4	397.3
Civil Subtotal	105	52.6	187.4	111	62.5	208.3
Total	154	57.6	226.1	150	77.8	254.7

Since it is important that transcripts be completed as quickly as possible in order to speed the appellate process, these figures show a significant development. For all transcripts delivered in 1976, the average delivery time of 77.8 days was 35% longer than the delivery time (57.6 days) in 1975.

To a certain extent, this increased delivery time may be attributable to an increase in the average number of pages per transcript. From 1975 to 1976, the average number of pages in a Superior court transcript increased by 20%, while the average number of pages in a Common Pleas transcript increased 43%.

The relation between transcript pages and transcript delivery times is borne out in statistics compiled by OES for time periods before those addressed in this study. In September

1969, the Connecticut Practice Book was amended by addition of Rules 558 and 608A, which require that reporters notify OES each time there is an order for a transcript on appeal, and again when each transcript is delivered. For OES management purposes, statistics were gathered for three time periods from September 1969 to September 1971, from January 1972 through August 1972, and from September 1972 through March 1975. In Figure 2 below, these statistics are shown for comparison with the summary figures from Figure 1. Note that average days delivery time increased or decreased in rough correlation to increase or decrease in average pages per transcript:

Figure 2. Average Transcripts per Year, Delivery Times, and Page Lengths, 1969 to 1976

Time Period	Months in Period	Number of Transcripts	Average Number per Twelve Months	Average Delivery Days	Average Pages
9/69-9/71	24	202	101	47.1	Not Available
1/72-8/72	8	81	122	50.9	254.3
9/72-3/75	30	225	90	61.9	288.9
1/75-12/75	12	154	154	57.6	226.1
1/76-12/76	12	150	150	77.8	254.7

As Figure 2 shows, the average delivery time shown has jumped significantly since 1969-1971. This may in part be due to the fact that transcript figures before 1975 are somewhat inaccurate because not all court reporters were notifying OES of the order and delivery of transcripts as required by Rules 558 and 608A.<sup>12</sup>

<sup>12</sup>In April 1975, OES discovered that some reporters were not giving notice of transcript order and delivery and took steps to assure compliance with the rules.

But Figure 2 shows a much more significant reason for increased delivery times: a much heavier transcript workload. In 1975 and 1976, almost half again as many transcripts per year were produced as in previous years, but the number of the reporters did not increase proportionally.

The 1969 creation of Rules 558 and 608A provided the Judicial Department with an important tool for management of transcript preparation, in the forms for notification of transcript order and delivery. Such standard forms have been recommended in national studies as a necessary element of improved transcript management.<sup>13</sup> Yet, as the statistics presented above indicate, further steps are needed to gain management control of the transcript production process.

\* \* \* \* \*

#### B. Time Standards for Transcript Production

Figure 2 above shows that there has been a general increase in transcript delivery times since 1969, and in that sense an increased "delay" between transcript order and transcript delivery. But this information alone is insufficient to indicate where there is "delay" in the sense of an unacceptable time lapse between order and delivery. Section 51-61 of the Connecticut General Statutes states simply that transcripts must be prepared "with a reasonable time," but there is no statutory or case law to define what time is "reasonable."

Under Connecticut Judicial Department Regulations for Court Reporters (hereinafter, Regulations), paragraph V (c), "a reasonable period of time" is left to the case-by-case de-

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<sup>13</sup> See NCSC, Comparative Study, pp. 4-5.

termination of the Executive Secretary, in consultation with the trial judge. When a reporter gives written notice to the Executive Secretary that a transcript has been ordered, the notice is inspected to determine, among other things, the reporter's estimation of time needed to prepare the transcript. Acceptance of an estimated delivery date can be seen, in effect, as a determination that the estimated preparation time is "reasonable" within statutory requirements, since the Executive Secretary may notify a reporter that the estimated delivery date is unreasonable and require that the date be changed.

A comparison of estimated and actual delivery dates for transcripts delivered in 1975 and 1976 shows the extent to which delivery dates were later than estimated.<sup>14</sup>

As Figure 3 shows, the average estimated delivery times for all criminal transcripts increased from 55.2 days for 1975 deliveries to 85.6 days for 1976 deliveries, and the actual delivery days increased from 64.7 to 123.9. Moreover, the extent by which actual delivery times exceeded estimated delivery times increased from 17.3% to 50.6%. While figures for transcripts in civil cases did not undergo so sharp a change, the trend was the same: both estimated and actual delivery times increased, and the extent to which actual times exceeded estimates increased from 13.7% to 21.0%.

Figure 3, of course, reiterates the demonstration in Figures 1 and 2 that transcript delivery times have, as a rule, increased for both civil and criminal cases. But more importantly,

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<sup>14</sup>For 304 transcripts delivered in 1975 and 1976 (analyzed above in Figure 1) 28 written notices to OES did not give estimated delivery dates, so that only 278 transcripts are represented here in Figure 3.



Figure 3. Percent by which Actual Transcript Delivery Times Exceeded Estimated Times in 1975 and 1976.

Ct. Level Where Prepared and Case Type	Transcripts Delivered in 1975				Transcripts Delivered in 1976			
	No. Transcripts	Avg. Est. Days	Avg. Actual Days	Pct. Difference	No. Transcripts	Avg. Est. Days	Avg. Actual Days	Pct. Difference
Superior Court								
Criminal	26	69.4	79.0	+13.7	18	114.1	185.5	+62.6
Civil	<u>81</u>	<u>48.6</u>	<u>55.2</u>	<u>+13.6</u>	<u>69</u>	<u>60.1</u>	<u>75.4</u>	<u>+23.9</u>
Court Subtotal	107	53.6	61.0	+13.7	87	70.9	98.2	+36.6
Common Pleas								
Criminal	19	35.7	45.3	+26.7	18	57.1	72.2	+26.6
Civil	<u>16</u>	<u>43.4</u>	<u>49.4</u>	<u>+13.8</u>	<u>31</u>	<u>40.9</u>	<u>45.5</u>	<u>+11.3</u>
Court Subtotal	35	39.3	47.2	+20.2	49	46.8	55.3	+18.1
Summary, Both Courts								
Criminal Subtotal	45	55.2	64.7	+17.3	36	85.6	128.9	+50.6
Civil Subtotal	<u>97</u>	<u>47.7</u>	<u>54.2</u>	<u>+13.7</u>	<u>100</u>	<u>54.7</u>	<u>66.2</u>	<u>+21.0</u>
Total*	192	50.1	57.6	+14.9	136	62.9	82.8	+31.6

\*The total number of transcripts in this chart (142 for 1975 and 136 for 1976) is less than the totals shown in Figures 1 and 2 (154 for 1975 and 150 for 1976) because not all transcript notification forms showed both estimated and actual delivery dates.



it shows the weakness of relying on each court reporter's own estimate of transcript delivery time for the Executive Secretary's case-by-case determination whether the expected delivery will be within a "reasonable time." The court reporter is perhaps the only person who knows all of the matters that may compete for his or her time during the period when any transcript is to be prepared. But the Executive Secretary may have insufficient criteria by which to measure the reasonableness of the estimated delivery date for any transcript if he must rely solely on his own experience and very limited information about each case being appealed.

#### RECOMMENDATION 1

THE CONNECTICUT JUDICIAL DEPARTMENT SHOULD PROMULGATE A TIME STANDARD FOR TRANSCRIPT PREPARATION. ALL TRANSCRIPTS SHOULD BE DELIVERED WITHIN THIRTY DAYS AFTER THE DATE OF THE TRANSCRIPT ORDER.

THERE SHOULD BE NO AUTOMATIC EXTENSIONS OF THE TIME ALLOWED FOR PREPARING ANY GIVEN TRANSCRIPT. REPORTERS SHOULD BE REQUIRED TO JUSTIFY IN WRITING ANY EXTENSION REQUESTS TO THE EXECUTIVE SECRETARY, WHOSE GRANT OR DENIAL OF EXTENSIONS SHOULD BE MADE ON STATED GROUNDS AND BE BASED ON GUIDELINES SET BY THE JUDICIAL DEPARTMENT.

CIRCUMSTANCES UNDER WHICH AN EXTENSION WOULD BE GRANTED MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

(A) REPORTER'S ILLNESS FOR ONE OR MORE CONSECUTIVE WEEKS BEFORE THE DATE A TRANSCRIPT IS DUE.

(B) DEATH OR SERIOUS ILLNESS IN THE REPORTER'S IMMEDIATE FAMILY WITHIN TWO WEEKS OF THE DATE A TRANSCRIPT IS DUE.

(C) A THREE-WEEK VACATION DURING THE DELIVERY PERIOD AND ALREADY SCHEDULED BY THE REPORTER WHEN THE TRANSCRIPT ORDER WAS RECEIVED.

(D) ATTORNEY ACTIONS AFTER TRANSCRIPT ORDER THAT HAVE PREVENTED THE REPORTER FROM STARTING TRANSCRIPTION UNTIL 15 DAYS OR LESS BEFORE THE SCHEDULED TRANSCRIPT DELIVERY DATE.

EXTENSIONS SHOULD NOT BE GRANTED FOR LONGER THAN 15 DAYS AT A TIME. EXCEPT IN EXTRAORDINARY CIRCUMSTANCES, NO TRANSCRIPT SHOULD TAKE LONGER THAN 60 DAYS FROM ORDER TO DELIVERY.

The adoption of a general standard for appellate transcript delivery times would not only aid management of all appellate cases but would also provide a specific beginning point for the Executive Secretary in assessing reasonableness of estimates.

Other jurisdictions have adopted a time limit for transcript delivery. New Jersey reporters are required to deliver transcripts within four weeks,<sup>15</sup> and Massachusetts reporters have 30 days.<sup>16</sup> A 30-day time limit for transcript preparation has been recommended by the American Bar Association and the National Advisory Committee on Criminal Justice Standards and Goals,<sup>17</sup> and 30-day standard has been suggested for New Hampshire and

<sup>15</sup> State of New Jersey, Administrative Office of the Courts, Administrative Regulations Governing Reporters in the New Jersey Courts, (hereinafter, N.J. Reporter Regulations) p. 16 (1972).

<sup>16</sup> Commonwealth of Massachusetts, Superior Court, Regulations Governing Court Reporters, Regulation 23 (1973).

<sup>17</sup> ABA, Standards Relating to Appellate Courts, §3.52 (Tentative Draft, 1976); NAC, Courts, Standard 6.4 (1974).

and South Dakota.<sup>18</sup> Under federal appellate rules, the record on appeal (including transcript) is to be delivered within 40 days from notice of appeal and may not be extended beyond 90 days.<sup>19</sup> Rhode Island and Puerto Rico appellate rules require delivery within 60 days, and not beyond 90 days if extensions are granted.<sup>20</sup>

The fixed standard proposed here would have to be applied with considerable discretion by OES. At first, it might be seen as working a drastic departure from prior practice and experience. Figure 4 below, showing the relation between transcript page-length and delivery times in 1975-76, is instructive: Figure 4. Delivery Times for Transcripts Delivered in 1975-1976, by Page Length

Number of Pages	Number of Transcripts, by Delivery Time in Days							Totals*
	1-30	31-60	61-90	91-120	121-150	151-180	180+	
1-125	75	38	6	4	1	2	2	128
126-250	21	27	13	8	2	-	4	75
251-375	8	10	8	6	4	2	4	42
376-500	-	5	3	1	2	1	2	14
501-1000	-	6	9	4	2	4	2	27
1001 +	-	1	-	1	-	2	4	8
Totals*	104	87	39	24	11	11	18	294

\*The total number of transcripts shown here (294) is less than the total in Figures 1 and 2 (304) because not all transcript notification forms reported both pages and order-delivery dates.

<sup>18</sup>National Center for State Courts, New Hampshire Court System Standards and Goals, Standard 11.8 (1977); National Center for State Courts, Court Reporting Services in South Dakota, (hereinafter, NCSC, South Dakota Study), p. 35 (September 1977).

<sup>19</sup>Federal Rules of Appellate Procedure, Rule 11 (as amended through July 1, 1972). Kansas is another jurisdiction with a 40-day time limit. Kans. Stats. Ann. §60-2701a, Rules of the Supreme Court, Rule. 3.03.

<sup>20</sup>R.I. Gen. Laws, Rules of Appellate Procedure, Rule 11 (1972). 4 Laws of Puerto Rico App. II-A, Rules of Administration for the Court of First Instance of the Commonwealth, Rule 13.

As Figure 4 indicates, only 104 (or 35.4%) of the transcripts delivered in 1975-76 would have satisfied the time standard recommended here. But note that most (203 of 294, or 69.0%) of the transcripts were 250 pages or less, and even under prior practice 161 (or 79.3%) of these were delivered within the 60-day outside limit suggested in Recommendation 1. Indeed, 191 transcripts (64.9% of the 294 transcripts considered), regardless of size, were delivered within the 60-day limit.

But effective application of the 30-day rule assumes implementation of transcript management techniques such as those recommended below in this report--e.g., transcript productivity standards, removal from assignment for reporters with a critical transcript backlog, the five-day rule for protracted cases, and restriction of outside employment. Until these techniques are fully implemented, there may be many reporters carrying large pending transcript workloads or having outside transcripts in preparation for which a delivery time exceeding 30 days has already been approved by OES.

As Figure 4 shows, 78.2% of the transcripts delivered in 1975-76 (230 of 294) were delivered within 90 days. Thus, before full implementation of the 30-day standard and associated transcript management techniques, an interim submission schedule might be used for transcripts:

<u>Number of Pages in Transcript</u>	<u>Delivery in Not More Than</u>
1-125	30 Days
126-500	60 Days
500+	90 Days

Once reporter backlogs have been brought down and the five-day withdrawal rule is fully in effect, the Judicial Department should be able to move immediately to implementation of the thirty-day standard.

Once the thirty-day standard is introduced, care should be exercised to avoid any tendency for 30 days to become the minimum time expected for transcript delivery. Rather, 30 days should be the maximum time for delivery of most transcripts. A guide for estimating delivery dates based on estimated transcript pages and on productivity standards like those suggested in Recommendation 4 below (and detailed further in Figure 10) might be the following:

<u>Number of Pages in Transcript</u>	<u>Delivery in Not More Than</u>
1-125	10 Days
126-500	20 Days
500+	30 Days

Furthermore, there may be special treatment categories, such as daily copy or the transcript of a suppression hearing, that might take priority over transcripts prepared for appeals.

Approval of requests for extension of time for transcript delivery must be granted only under unusual circumstances in order for the time standard to be meaningful. The circumstances under which extensions are granted should be limited to instances like those recommended here.<sup>21</sup> In view of the Judicial Department's obligation to render speedy justice by processing all appellate cases as expeditiously as possible,

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<sup>21</sup>See National Center for State Courts, Court Reporting Services in Maryland (hereinafter, NCSC, Maryland Study), p. 40 (1976), for further discussion of circumstances for allowing extensions. See Recommendation 2 for discussion of attorney actions that might delay transcription.

consent of adverse parties to any particular extension request should not be automatic grounds for extension, although OES may consider it.<sup>22</sup>

A requirement that extension applications and decisions state grounds in writing should serve at least two purposes. First, that level of formality should help to limit extensions by discouraging applications based on weak justification. Second, the written matter will provide documentation on which to base subsequent transcript management and extension policy decisions. For a suggested extension request form, see below, Exhibit 1.<sup>23</sup>

\* \* \* \* \*

C. Preparation Problems Resulting from Attorney Actions

Any efforts to improve the timeliness of transcript preparation can begin by identifying the areas of greatest difficulty. A preliminary question, then, is the extent to which delay is attributable to reporters or to the party requesting the transcription.

A review of 339 notices for transcripts to be delivered in 1975 and 1976 shows that 33 orders (or 9.7% of the total) were withdrawn before the transcripts were completed and delivered. In only four other cases was it clear from OES records that an attorney's action occurring after the placing of a transcript order affected the delivery date:

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<sup>22</sup> This thought is expressed in Kans. Stats. Ann. §60-2701a, Rules of the Supreme Court, Rule 5.02.

<sup>23</sup> See NCSC, South Dakota Study, p. 44, for the form on which Exhibit 1 is based.

Date:

To: Chief Court Administrator  
c/o Executive Secretary, Judicial Dept.

Request is hereby made to extend, from \_\_\_\_\_, 19\_\_\_\_, to \_\_\_\_\_

\_\_\_\_\_, 19\_\_\_\_, the date set for delivering the transcript of the following  
case, an appeal to the Appellate Division of Superior Supreme Court:

No. \_\_\_\_\_

vs. \_\_\_\_\_

As of this date, \_\_\_\_\_ pages of this transcript have been completed, and an  
estimated \_\_\_\_\_ pages remain untranscribed.

During the past thirty days, I have completed \_\_\_\_\_ pages of transcript. As  
of this date, I have the following transcripts pending completion:

<u>Case Number and Name</u>	<u>Pages Completed</u>	<u>Pages Pending</u>	<u>Ordered</u>	<u>Est. Date of Completion</u>
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Justification for this request:

\_\_\_\_\_  
Court Reporter Monitor

I have reviewed this request, and I recommend  
Comments:

\_\_\_\_\_  
Official Court Reporter Monitor Supervisor

The request for extension of time to deliver the transcript for the above case is  
denied approved to \_\_\_\_\_, 19\_\_\_\_. Reasons:

\_\_\_\_\_  
Office of Executive Secretary

- in a 1975 Superior Court criminal case, there was uncertainty about the parts of trial to transcribe;
- in a 1975 Superior Court civil case, motions caused revision of the estimated delivery date;
- in another 1975 Superior Court civil case, the number of transcript pages ordered was substantially reduced; and
- in a 1976 Common Pleas civil case, the attorney ordering the transcript requested that its delivery be delayed.

Thus, there were 37 situations found (or 10.9% of all 339 notices) in which attorney action either aborted transcript production or impeded timely delivery. No instance was found where the number of pages in the order was increased after the initial order was placed.

Although OES records may not reflect every situation in which attorney action had a bearing on timely transcript delivery, the conclusions to be drawn from the above information are clear. The great majority of transcript delay problems (perhaps as much as 90%) are not the result of attorney actions. Yet, transcript preparation cannot be viewed in a vacuum, separate and distinct from its place in the context of the appellate process. And the number of situations found in which attorney action affected timely transcript delivery in 1975-76, though small, is certainly large enough to merit separate attention.<sup>24</sup>

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<sup>24</sup> The date of transcript order is the only reliable, documented date from which to measure time (and the effect of transcript length). However, intervention by counsel--requests for delay, filing of additional motions, withdrawal of the order, or abandonment of the appeal--are either not noted, or not readily correlated with the transcript order, for the adjustment of time or work effort by reporters. Consequently, only the date of transcript order has been used as the computation basis in this study. In any event, any statistics presented here as to estimated



The effect of the appellate bar on transcript preparation is probably considerable, even though attorneys may not often be the direct cause of transcript delay. For particular kinds of cases, or for particular attorneys, a reporter's experience may lead him or her not to begin transcription immediately after receipt of an order. Rather, he or she may wait until more certain that the transcript as ordered will have to be delivered and that settlement or other post-trial developments will not alter or abort the order. Perhaps because practice rules make no mention of the subject, reporters sometimes do not notify OES that an order has been withdrawn, so that OES finds out only after an inquiry some time later. This was the case for 11 of 33 withdrawn orders in 1975-76.

Payment of fees when orders are withdrawn is sometimes a problem. Although reporters bill attorneys for pages already prepared if an order is withdrawn, reporters who have dictated their notes but not yet given them to a typist have a much more difficult time assessing the amount owed them.

RECOMMENDATION 2.

THE JUDICIAL DEPARTMENT SHOULD ADOPT THE FOLLOWING MEASURES TO MANAGE TRANSCRIPT PREPARATION PROBLEMS RESULTING FROM ATTORNEY ACTIONS:

(A) ATTORNEY REQUESTS TO DELAY TRANSCRIPTION SHOULD NOT BE HONORED BY REPORTERS UNLESS MADE THE SUBJECT OF A COURT ORDER.

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and actual dates or pages do not include withdrawn orders because there have been no "actual" pages or delivery dates in such situations.

(B) IF A PARTIAL TRANSCRIPT HAS BEEN ORDERED BY ONE PARTY AND ADDITIONAL PARTS ARE SUBSEQUENTLY ORDERED, THE REPORTER SHOULD BE REQUIRED TO SUBMIT A SUPPLEMENTARY TRANSCRIPT NOTICE IMMEDIATELY UPON DETERMINATION OF WHAT IS TO BE TRANSCRIBED IN TOTAL SO THAT THE DATE OF THE SUPPLEMENTARY NOTICE CAN BE CONSIDERED BY THE EXECUTIVE SECRETARY IN DETERMINING WHETHER AN EXTENSION OF TIME FOR DELIVERY SHOULD BE GRANTED.

(C) REPORTERS SHOULD BE REQUIRED TO NOTIFY THE CHIEF COURT ADMINISTRATOR IN WRITING IMMEDIATELY WHEN A TRANSCRIPT ORDER HAS BEEN WITHDRAWN, WITH A COPY TO THE CLERK OF THE TRIAL OR APPELLATE COURT.

(D) IF A REPORTER CANNOT BEGIN TRANSCRIPTION BECAUSE OF ATTORNEY FAILURE TO COMPLY WITH RELEVANT PRACTICE RULES, THE REPORTER SHOULD BE REQUIRED TO NOTIFY THE ATTORNEY IMMEDIATELY IN WRITING, WITH CONCURRENT COPIES TO THE TRIAL OR APPELLATE COURT, ADVERSARY PARTIES, AND THE CHIEF COURT ADMINISTRATOR, THAT THE TRANSCRIPT ORDER CANNOT BE HONORED.

The issue of attorney actions affecting transcript preparation is only one of the more obvious contexts in which there is overlap between management of transcript activities and management of the appellate process. A separate National Center project for OES, to assist in improving the appellate process, is now underway. Consequently, no proposal is made here for revision of appellate rules as they involve the reporters. It is suggested, rather, that those now involved in

the rules-revision process give consideration to matters treated in this report, to determine whether any changes adopted should be implemented through rule changes.

To deal with attorney failure to comply with relevant rules that causes a reporter to be unable to begin transcription, New Jersey has recently introduced an administrative requirement that reporters give written notice as recommended above.<sup>25</sup> The form promulgated for this purpose in New Jersey is closely related to New Jersey practices technically dissimilar to those in Connecticut courts; the form itself is thus of little value for Connecticut. Yet the concept, if adopted in Connecticut, is one that should aid management of transcript preparation.

\* \* \* \* \*

D. Transcript Page Estimates

An obvious factor affecting the length of time necessary to prepare a transcript is the number of pages to be transcribed. In the written notice a reporter must give OES when a transcript has been ordered, Practice Rules 558 and 608A require that the reporter estimate the number of pages to be transcribed.

While one could not realistically expect all page estimates to be exact and precise, it does seem fair to think that an experienced reporter would be capable of reasonably accurate estimates. Page estimates are required so that the Executive Secretary can test the reasonableness of delivery-time estimates. Therefore, the degree of accuracy in reporter page estimates controls the Executive Secretary's assessment of time estimates.

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<sup>25</sup>See State of New Jersey, Administrative Office of the Courts, Memorandum #16-76 (September 9, 1977, effective October 1, 1977); reported in 100 N.J.L.J. 845 (September 22, 1977)

A review of notices for transcripts delivered in 1975 and 1976 shows that reporters had a tendency to overestimate the number of pages to be transcribed. This can be shown in two ways:

Figure 5. Reporter Estimates of Pages to be Transcribed, 1975 and 1976

	Court		Superior				Common Pleas				Totals*
	Case Type	Year	Criminal		Civil		Criminal		Civil		
			1975	1976	1975	1976	1975	1976	1975	1976	
a. Transcripts as Delivered											
(Number of Transcripts)											
(1) More Pages than Estimated	8	7	32	28	7	4	4	8	98		
(2) Fewer Pages than Estimated	15	10	45	34	8	10	10	18	150		
(3) Pages Equal to Estimate	1	0	1	2	2	0	1	0	7		
(4) Total in Sample*	24	17	78	64	17	14	15	26	255		

	Court		Superior				Common Pleas				Totals*
	Case Type	Year	Criminal		Civil		Criminal		Civil		
			1975	1976	1975	1976	1975	1976	1975	1976	
b. Net Error in Page Estimates											
(1) Average Estimated Pages	579.1	751.2	226.4	297.6	132.0	199.6	145.0	114.8	288.5		
(2) Average Actual Pages	504.3	604.3	210.4	288.3	100.0	159.6	127.7	106.0	258.2		
(3) Average Net Error (in Pages)	74.8	146.9	16.0	9.3	32.0	40.0	17.3	8.8	30.3		
(4) Percent Net Error**	14.8	24.3	7.6	3.2	32.0	25.1	13.5	8.3	11.7		
(5) Transcripts in Sample*	24	17	78	64	17	14	15	26	255		

\* The total of transcripts reflected here does not equal totals elsewhere because some transcript orders were withdrawn and some transcript notices did not have entries for estimated or actual pages.

\*\* Percent net error (line b(4)) shown here is the product of dividing net pages error by actual pages.

As part a of Figure 5 shows here, reporters overestimated pages for almost 60 percent of the transcripts (150 of 255). In

both courts, in criminal and civil cases for both years, overestimates outnumbered underestimates. Similarly, as part b shows, average estimated pages consistently exceeded average actual pages. And in 1976, Superior Court reporters overestimated criminal pages by an average of almost 150 pages per transcript.<sup>26</sup>

While the above figures show the general tendency of reporters to overestimate pages, they do not show the overall extent of error in reporter estimates -- that is, the combined error of both overestimates and underestimates, which tend to cancel each other out in any computation of net error. Inspection of overall error in reporter page estimates for 1975 and 1976 transcript deliveries produced these results:

Figure 6. Gross Error in Reporter Page Estimates, 1975 and 1976

Court	Superior				Common Pleas				Totals*
	Criminal		Civil		Criminal		Civil		
	1975	1976	1975	1976	1975	1976	1975	1976	
(1) Average Estimated Pages	579.1	751.2	226.4	297.6	132.0	199.6	145.0	114.8	288.5
(2) Average Gross Error (in Pages)	118.5	199.4	66.0	51.1	35.4	56.9	29.9	24.8	66.4
(3) Percent Gross Error**	20.5	26.5	22.2	22.6	26.8	28.5	20.6	21.6	23.0
(4) Transcripts in Sample*	24	17	78	64	17	14	15	26	255

\* The total of transcripts reflected here does not equal totals elsewhere because some transcript orders were withdrawn and some transcript notices did not have entries for estimated or actual pages.

\*\* Percent gross error (line (3) above) is the product of dividing gross pages error by estimated pages.

<sup>26</sup>One factor not shown by these figures is the number of cases in which there was a reduction in the number of pages transcribed. But only one such situation (a Superior Court civil transcript delivered in 1975) was found among OES records of transcript notices.

As these numbers show, reporters' page estimates were inaccurate (either over or under the actual pages) by an average of over 66 pages for each transcript. Moreover, the degree of error was about the same for both courts in both years, regardless of the case type--consistently more than twenty percent of the pages estimated.

This suggests that error in page estimates is a system-wide problem and not one limited to a few individual reporters. To test the accuracy of this supposition, all court reporters were compared for gross page-estimate error in 1975 and 1976. Following is a summary of that comparison:

Figure 7. Distribution of Individual Reporters for Gross Page Estimate Error, 1975 and 1976

	Percent Gross Error					
	0-10%	11-20%	21-30%	31-40%	41-50%	51+%
(a) Number of Superior Court Reporters	3	22	15	7	1	1
(b) Number of Common Pleas Reporters	8	11	5	7	1	1

As Figure 7 shows, only four reporters had estimation error rates exceeding 40% (and these four produced only six transcripts among them). The eleven reporters with an error rate less than 10% averaged only one transcript per year. The great majority of the reporters had error rates that clustered around the two-year average of 23%. This confirms the supposition advanced above, and it supports the conclusion that error in page estimates is a systemic problem rather than one that can be solved by focusing on just a few reporters.

RECOMMENDATION 3.

WITH THE ACTIVE INVOLVEMENT OF OFFICIAL COURT REPORTERS, THE JUDICIAL DEPARTMENT SHOULD COMPARE DIFFERENT METHODS FOR ESTIMATING TRANSCRIPT PAGES, ADOPT THE METHOD FOUND MOST EFFECTIVE, AND EMPLOY MEANS TO ENCOURAGE ACCURATE PAGE ESTIMATES BY REPORTERS, INCLUDING REVIEW OF TRANSCRIPT NOTIFICATION FORMS BY OFFICIAL COURT REPORTERS.

The purpose of requiring reporters to include page estimates in transcript notices is to help OES measure the reasonableness of estimated times needed for transcript delivery. But the requirement is effective for that purpose only to the extent that reporter page estimates are fairly accurate. When reporter's page estimates are either too high or too low by an average of over 20%, the Executive Secretary's ability to judge reasonableness of time estimates is crippled.

Court reporters are not constrained to make accurate forecasts of transcript length because OES exerts little pressure to be more accurate. Possible ways to project pages include (a) the time length of the proceedings recorded and (b) the amount of notes or tape used to record proceedings. Reporters in California have indicated that one hour of court or deposition testimony produces an average of 30 pages of transcript.<sup>27</sup> In Rhode Island, transcript page estimates are based on the amount of reporter notes used to record proceedings.<sup>28</sup>

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<sup>27</sup>See National Center for State Courts, Compensation and Utilization of Court Reporters in Ventura County, Appendix A (1974).

<sup>28</sup>Interview with John Hogan, Court Administrator, Rhode Island Superior Court, April 1977, by Michael Hudson.

It has been confirmed in interviews with court reporters in Connecticut that they now measure the length of their notes or tapes in order to estimate transcript pages. Because of time restrictions, OES does not "follow up" on the accuracy of individual reporter page estimates.

It is therefore suggested that greater scrutiny be made of reporter page estimates before they submit notification of transcript forms to OES. This is best done by the official court reporter supervising the reporter submitting the notification. A modification of the transcript notification form, to include an indication that the official reporter has reviewed the form and to give him responsibility for the accuracy and thoroughness of its contents, is suggested. See below, Exhibit 2.

It is further suggested that OES distribute quarterly reports among the reporters, listing by each reporter's name the estimated and actual pages for transcripts he or she has prepared in the preceding three months. By collecting this information, OES can inform reporters how well they are doing in comparison to their colleagues. Reporters are proud of the technical quality of the transcripts they prepare, and their pride may also cause them to improve any shortcomings they are shown in the accuracy of their page estimates. (See below, Information System for Transcript Production, for further discussion of periodic statistical evaluation by OES of transcript preparation.)



OFFICE OF THE COURT REPORTER  
SUPERIOR COURT OF COMMON PLEAS  
, Connecticut

Date:

To: Chief Court Administrator  
c/o Executive Secretary, Judicial Department  
P.O. Drawer N, Station A  
Hartford, Connecticut 06106

Hon. \_\_\_\_\_  
Judge, Superior Court of Common Pleas  
, Connecticut

\_\_\_\_\_ of \_\_\_\_\_, Connecticut,  
placed an order on \_\_\_\_\_, 19 \_\_\_\_\_, for a transcript  
to be used in the following case, an appeal to the  
Appellate Division of the Superior Supreme Court:

No. \_\_\_\_\_

vs.

Superior Court of Common Pleas  
County of \_\_\_\_\_  
At \_\_\_\_\_

I estimate that delivery of the transcript  
will be made on \_\_\_\_\_, 19 \_\_\_\_\_, and that it will  
consist of \_\_\_\_\_ pages.

When this transcript order was placed, I had an  
estimated \_\_\_\_\_ pages of other transcripts to prepare.

The delivery date was extended to \_\_\_\_\_, 19 \_\_\_\_\_.

Delivery was made on \_\_\_\_\_, 19 \_\_\_\_\_, and the  
transcript consisted of \_\_\_\_\_ pages.

\_\_\_\_\_  
Court Reporter Monitor

I have reviewed this notice.

\_\_\_\_\_  
Official Court Reporter

Greater accuracy in reporter page estimates is likely to result in reduction of transcript delay. Reporters tend generally to overestimate transcript page lengths. It is noted, however, that in 1975 and 1976 this "hedge" did not seem to work: while average page lengths were shorter than estimated, delivery times were longer. In fact, as the following numbers show, there is a clear correlation between error in page estimates and error in time estimates, though the correlation is not as decisive as one might expect:

Figure 8. Comparison of Transcripts for Time Estimate Accuracy and Page Estimate Accuracy, 1975 and 1976

<u>Actual Time</u>	<u>Actual Pages</u>			<u>Total</u>
	<u>More than Estimate</u>	<u>Less than Estimate</u>	<u>Equal to Estimate</u>	
Longer than Estimate	62	65	0	127
Equal to or less than Estimate	36	85	7	128
Total Transcripts	98	150	7	255

Thus, an underestimate of pages meant a longer delivery time than estimated, by almost a two-to-one margin. And when actual pages were less than the reporter's estimate, delivery tended to be made within the estimated time, but only by about a four-to-three margin. But transcripts taking longer than estimated to deliver were more likely than not to have fewer pages than estimated. When the reporter could make a precise estimate, however, delivery was always made on time.

\* \* \* \* \*

E.. Transcript Productivity Standards

While transcript length in pages is one obvious factor that may affect transcript delivery time, another consideration is the rate of speed at which each individual reporter can prepare

a transcript from his record of a trial or other proceeding. In September<sup>v</sup> of 1972, after eight months' experience with transcript notification forms requiring under amended Rules 558 and 608A that reporters enter estimated and actual transcript pages, OES officials calculated reporter page production per day. It was found, for 81 transcripts sampled for the period from January through August 1972, that transcripts averaged 254.3 pages in length and took an average of 50.9 days from order to delivery. From this, OES determined as a rough "rule of thumb" for measuring reasonable delivery times that reporters could be expected to produce five pages of transcript per day.

But as OES developed more effective control of the transcript notification process and as the number of transcripts to be prepared increased after 1972, the five-pages-per-day rule of thumb seems to have become steadily less applicable to actual reporter performance. A review of pages-per-day transcript production from January 1972 through calendar-year 1976 results in the following:

Figure 9. Transcript Pages Per Day, as Found in Four Time Periods from 1972 through 1976

Time Period	No. Transcripts	Avg. No. Pages	Avg. Days Delivery	Avg. Pages Per Day
1/72-8/72	81	254.3	50.9	5.00
9/72-3/75	225	288.9	61.7	4.68
1975	154	226.1	57.6	3.93
1976	150	254.7	77.8	3.27

From Figure 9 a reader might infer that actual past performance of reporters may have questionable effectiveness as an indicator

of what can reasonably be expected for transcript productivity. The actual performance of reporters declined steadily from 1972 to 1976, and unless the Judicial Department decides to hire more and more reporters each year at a regularly decreasing productivity rate, some other measure of expectations may be necessary.

The average per-day production shown above is especially perplexing in view of what is characteristically expected of court reporters. While some court reporting in Connecticut is done by court recording monitors who operate electronic devices to record courtroom or other proceedings, all people now employed as salaried court employees in Connecticut with the title "court reporter" use the "stenotype" machine shorthand technique to record proceedings. The National Shorthand Reporters Association (NSRA) recommends that schools training court reporters in manual or machine shorthand train their students, among other things, to be able to type at least 60 words a minute.<sup>29</sup> At such a typing rate, graduates of NSRA-approved schools can be expected to be able to type 14.4 pages (of 250 words each) in 60 minutes, or 100 pages in a seven-hour day. Assuming that Connecticut court reporters or the typists assisting them can approach the NSRA-suggested typing rate, it seems clear from Figure 9 that court reporters have spent an average of far less than an hour a day preparing any given transcript.

The amount of time on an average court work day that a court reporter has available to devote to transcription is, obviously, another consideration affecting daily productivity. During any

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<sup>29</sup>See NSRA, "Shorthand Reporting as a Career" (hereinafter, NSRA Brochure), p. 12 (1973).

given court work day, a reporter may (a) be called upon to record court proceedings, (b) have one or more transcripts to prepare, or (c) be released to take depositions.

Under Judicial Department regulations, reporters are expected to take all testimony at court proceedings and hearings before judges, referees, committees and other persons designated by rule or order of court, including Grievance Committees during regular business days. Reporters assigned to attend sessions at places where there has been no provision for secretarial services for the judges must do stenographic and typing work in connection with any official business of the judges holding court at those places.<sup>30</sup>

Each Superior Court reporter is usually assigned to one courtroom for a three-month term. Though the same judge may be holding sessions in that courtroom, the reporter is not assigned to an individual judge. Trial proceedings are not generally scheduled for Mondays, although criminal grand jury proceedings and civil cases before referees are often held on that day and must be recorded. In locations where electronic recording devices are employed, court recording monitors are commonly assigned to referee proceedings. Thus, work in the Superior Court is apparently considered a four-day week for many reporters, even though they are required to be present at court for assignment on Monday mornings.

In contrast to Superior Court, the Court of Common Pleas schedule is such that reporters must be available to record court pro-

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<sup>30</sup>Regulations paragraphs VI(a) and VI(f).

ceedings five days a week.

Interviews disclosed that a reporter recording trial or other proceedings has approximately five hours a day consumed by that activity, leaving perhaps two hours of the court work day available for transcript preparation if one assumes an hour for lunch. Thus a court reporter may often have two hours a day potentially available for transcription even when assigned to record proceedings, while Superior Court reporters may also have all of Monday potentially available for that purpose.

Another consideration affecting productivity rates is the process by which transcripts are prepared. In Connecticut, the options include the following:

(a) Since stenotype notes are often illegible except to the person preparing them, one process is for the reporter to type the transcript himself by reading his own notes;

(b) many stenotype reporters dictate their notes on a tape recorder, to be typed by someone else, hired at reporter expense or employed by the court; <sup>31</sup>

(c) court recording monitors or anyone else can type transcripts directly from tapes of electronic recording devices. Thus, the transcription process involves one or two steps (typing alone or dictation and typing) after the actual proceeding is recorded, depending upon the recording techniques employed and the skills of available people.

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<sup>31</sup>There are "note readers" in Connecticut, skilled in reading stenotype notes typed by someone else, but they are apparently few in number and are not considered for the purposes of this report.

RECOMMENDATION 4.

STANDARDS FOR TRANSCRIPT PRODUCTIVITY SHOULD BE PROMULGATED BY THE JUDICIAL DEPARTMENT. MORE SPECIFICALLY, STANDARDS LIKE THE FOLLOWING SHOULD BE ADOPTED:

<u>DESCRIPTION</u>	<u>STANDARD</u>
DICTATION ALONE	NOT LESS THAN 20 PAGES/HOUR
TYPING ALONE	NOT LESS THAN 10 PAGES/HOUR
DICTATION AND TYPING COMBINED	NOT LESS THAN 12 PAGES/HOUR

The standard proposed here, if adopted, would call for a court reporter or a court recording monitor to produce no fewer than ten transcript pages per hour if typing directly from notes or tapes of proceedings. He or she would be expected to dictate at least twenty pages per hour if reporter notes were being read for typing by a different person, and the expected productivity of a reporter and typist working together would be no fewer than twelve pages per hour.

On a day when a reporter or monitor spends five hours recording, he or she might be expected to have at least two hours for transcribing during the court work day, and could be expected to produce at least twenty pages if typing from notes or tapes or twenty-four pages if working with a typist. On a day when he or she is unassigned and has seven hours during the court work day for transcription, at least seventy pages would be expected if typing directly from notes or tapes and no less than eighty-four pages if dictating for a typist.

Translated into weekly standards, the recommendation calls for a reporter or monitor assigned all five days of a week for five hours of court each day to produce at least 100 pages per week if typing himself and at least 120 pages per week if dictating. And a reporter who is unassigned for one whole day or its equivalent per week would be expected to produce at least 170 pages per week if typing himself and at least 204 pages per week if dictating.

Moving one step further, monthly standards can be derived from Recommendation 4. Using the common measure of a month as consisting of four and a third weeks, a reporter assigned each day of the month should produce no less than 433 pages per month if typing himself and at least 520 pages per month if dictating. With one day or its equivalent per week unassigned, the monthly standard is 737 pages for a reporter or monitor doing his own typing and 884 pages for one who dictates.

Finally, of course, annual productivity standards can be generated from this recommendation. With adjustments for weekends, holidays, vacations and sick time, a work year consists of about 220 or 230 days. Assuming five-hour court assignments every day of a 220-day year, a reporter or monitor typing his own transcripts should produce at least 4,400 pages per year; if dictating, he should produce over 5,280 pages per year. If unassigned one day or its equivalent each week, the reporter or monitor's production capacity should be at least 7,480 pages per year if typing himself and should exceed 8,976 pages per year.



Figure 10. Table of Proposed Transcript Productivity Standards

Productivity Standard	Transcription Method					
	Typing Direct from Notes or Tapes		Dictating with a Typist <sup>a</sup>		Dictation <sup>a</sup> Alone	
Minimum Pages per Hour	10		12		20	
Minimum Pages per Day:						
Assigned 5 Hours in Court	20		24		40	
Unassigned	70		84		140	
Minimum Pages per Week <sup>b</sup>	100	170	120	204	200	300
Minimum Pages per Month <sup>b,c</sup>	433	737	520	884	867	1,300
Minimum Pages (Capacity) per Year <sup>b,d</sup>	4,400	7,480	5,280	8,976	8,800	13,200

- a. While a transcript cannot be produced without typing, the "dictation alone" standard gives a rate at which the reporter can be expected to have notes available for typing.
- b. These figures assume two options: (1) full assignment to court five hours a day for five days a week; and (2) unassigned status one day per week, or unassigned time amounting to an average of seven hours per week in addition to after-court hours.
- c. A month of four and one-third weeks is assumed.
- d. A 220-day work year is assumed; the standard is entered as "capacity" because the number far exceeds the pages likely to be ordered from any reporter or monitor in a year.

For purposes of simplicity, it is suggested that the weekly, monthly and yearly standards be set at the higher levels presented above (e.g., that a reporter produce 204 pages per week dictating with a typist). Even if a reporter or monitor is not unassigned one day a week, transcript fees are income over and above salary. In effect, they are overtime pay, and work at night or on weekends is thus not unreasonable to expect. (See below, Figure 14.)

The numbers in Figure 10 for minimum weekly, monthly or yearly productivity allow for the possibility that a reporter or monitor might be assigned to a full day in court or other hearing every

work day of the year. But it is expected that a close inspection of attendance record reports (required to be submitted each week to OES by reporters under Reporter Regulations, paragraph IX (b) and by monitors under Monitor Regulations, paragraph IV (b)) would show few reporters assigned to court 100% of their work days. Reporters and monitors might, even during work hours, produce transcription at a rate nearer the higher amounts shown in Figure 10.

The standards proposed here present much greater expectations for transcript productivity than has been the case in Connecticut. But they should not be considered unreasonably burdensome, for they have been developed after a comparison of several measures developed in other jurisdictions.

One measure of transcript production rates can be derived from optimal dictation and typing rates demonstrated during the National Bureau of Standards study of court reporting systems.<sup>32</sup> In that study, it was found that 4,500 words took 27 minutes to dictate and 67 minutes to type. The study found that when reporters producing their transcripts by dictation for typing overlapped the dictating and typing, 4,500 words took 77 minutes elapsed time to produce, the corresponding production time if there were no overlap being 94 minutes (the sum of the dictation and typing times). When this information is transformed into pages and words per hour (assuming that one page equals 250 words), the following results are achieved:

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<sup>32</sup>National Bureau of Standards, A Study of Court Reporting Systems. Volume 1, Decision Factors, p. 19 (December 1971).

<u>Activity</u>	<u>Optimal Rate</u>	<u>(Pages and Words)</u>
Dictation	40 pages/hour	(10,000 words/hour)
Typing	16 pages/hour	(4,030 words/hour)
Dictation + Typing		
--overlapped	14 pages/hour	(3,500 words/hour)
-- not overlapped	11.5 pages/hour	(2,870 words/hour)

Another indication of what reasonable transcript production rates might be is the set of standards for reporter dictation rates, unofficially proposed by the National Shorthand Reporters Association (NSRA):<sup>33</sup>

<u>Description</u>	<u>Rate</u>
Dictation after court hours	30 pages/day
Dictation when not in court	150 pages/day
Dictation on weekends	30 pages/day

If one assumes a 7.5 hour work day, these standards call for dictation at the rate of 20 pages per hour.

Transcript production criteria suggested by the National Center for State Courts for a comparative analysis of court reporting techniques indicate that, under good conditions and without interruption, more than twelve pages should optimally be produced each hour. An adequate production rate would range from six to twelve pages per hour, while fewer than six pages per hour would be deemed least desirable.<sup>34</sup>

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<sup>33</sup>Cited in J. Ebersole, Improving Court Reporting Services, p. 19 (Federal Judicial Center, 1972).

<sup>34</sup>NCSC, Comparative Study, p. 41.

A productivity measurement standard included in a recent study of South Dakota court reporting indicates that

"A properly-qualified and trained reporter should be able to transcribe personally from eight to ten pages of testimony per hour. Those reporters who dictate their notes on an audio tape and then give the dictation to a typist to prepare the initial type transcript should be able to dictate from fifteen to twenty pages per hour." <sup>35</sup>

One can see that the dictation rate cited here from the South Dakota study correlates with the NSRA recommendation. The number of pages that can be typed per hour can be calculated by assuming a 250-word page and a typing rate of 50 words per minute for 40-50 minutes of each hour:

$$\text{Pages per hour} = \frac{(50 \text{ wds/min}) (40-50 \text{ min/hr})}{250 \text{ wds/pg}} = \frac{2000-2500 \text{ wds/hr}}{250 \text{ wds/pg}} = 8-10$$

For purposes of comparison and analysis on an hourly or daily basis, the different productivity measures may be graphically represented as shown here in Figure 11:

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<sup>35</sup>NCSC, South Dakota Study, pp. 35-36. See also, NCSC, Maryland Study, pp. 64, 69.

Figure 11. Comparison of Transcript Production Criteria

a. Pages Per Hour	Production Method			
	Dictation Alone	Typing Alone	Dictation and Typing Combined	
			Overlap	No Overlap
<u>Source of Criteria</u>				
Nat. Bureau Standards	40	16	14	11.5
NSRA	20	14.4		
NCSC (Comparative Study)				
Optimal			more than 12	
Adequate			from six to 12	
Least Desirable			less than 6	
NCSC (S.D. and Md. Studies)	15-20	8-10		

b. Pages Per Seven-Hour Day	Production Method			
	Dictation Alone	Typing Alone	Dictation and Typing Combined	
			Overlap	No Overlap
<u>Source of Criteria</u>				
Nat. Bureau Standards	280	112	98	80.5
NSRA	140	100.8		
NCSC (Comparative Study)				
Optimal			more than 84	
Adequate			from 42 to 84	
Least Desirable			less than 42	
NCSC (S.D. and Md. Studies)	105-140	56-70		

From Figures 10 and 11, one can see that the standards suggested in Recommendation 4 represent an effort to require steady and conscientious performance while recognizing that conditions are often far from perfect. The proposed standards are intended to be within the reach of all reporters and monitors, rather than a measure they might not reasonably be expected to meet or a minimum level that all but the poorest can easily surpass. Thus, they are not as stringent as the National Bureau of Standards criteria; but they also indicate that Connecticut reporters should reasonably be expected to perform at a high level, even if conditions may not always be perfect.

Performance at the level suggested here should enable reporters and monitors to comply with ease, in many circumstances, with the thirty-day time standard set forth above in Recommendation 1. This is borne out when one inspects the page-length of most transcripts delivered in 1975 and 1976, as shown by Figure 4 above. Of the 294 transcripts considered there, 245 (or 83.3%) had 375 or fewer pages. As Figure 10 indicates, a reporter or monitor following Recommendation 4 can produce at least 433 in a month, even if assigned to court every day and without the aid of a typist, and without working evenings or weekends.

Furthermore, the total number of transcript pages to be delivered in a year for appellate cases is very low when compared with the productive capacity recommended here. It is

obvious that the total number of pages a reporter or monitor delivers in a year for cases on appeal may only be part of his or her full transcription workload, since it would not include transcripts for which an order was withdrawn, or transcripts other than for appeal. But it is likely that a reasonably accurate picture of transcript workload can be derived from the total of appellate transcripts delivered. And if one looks at the total appellate transcript pages delivered by each reporter and monitor in 1975 and 1976, it is clear that workloads fall far short of productivity levels recommended here. Figure 12 below compares reporters and monitors who delivered transcripts for appealed cases in 1975 and 1976. It shows, for example, the number of reporters who delivered 2,001 or more pages of transcription in 1975 or 1976, as well as the average number of pages delivered per year by those receiving transcript orders.

Figure 12. Range of Transcript Pages Delivered, 1975 and 1976

Total Transcript Pages Delivered per Year (Page Range)	Number of Reporters				Number of Monitors	
	Superior Court		Common Pleas			
	1975	1976	1975	1976	1975	1976
1-250	8	8	17	10	0	5
251-500	9	12	2	8	2	3
501-1,000	11	6	2	1	0	1
1,000-2,000	7	4	0	1	0	2
2,000+	3	4	0	0	0	0
Additional Data (in pages)						
Avg. Total per Person*	783.1	756.0	175.1	279.5	288.5	528.1
Most Total Pages by One Person	2,723	3,498	807	1,373	314	1,662
Largest Transcript Delivered	2,226	1,438	302	1,373	314	823
Largest Transcript Order Withdrawn**	1,000	4,500	300	300	200	1,110

\*These averages are determined by dividing total pages delivered by total people making deliveries.

\*\*Pages estimated by reporter or monitor.



No reporter was called upon in 1975 or 1976 to deliver more transcript pages than could be produced if Recommendation 4's standards were met. Indeed, if one assumes that the average Superior Court reporter was unassigned one day (Monday) each week, and dictated from notes for a typist, productivity at the recommended rate would enable a reporter to transcribe more pages in one month (884) than the average pages delivered in a year by Superior Court reporters in 1975 and 1976. Similarly, where a Common Pleas reporter was usually assigned five days a week and might often have had to type his or her own transcripts, the annual average of pages delivered by those from whom transcripts were ordered was less than the 433 pages that could be typed in a month at the recommended rate. As for monitors, who also typed their own transcripts, for the most part, but who were not always assigned five days a week, the same is true: by meeting the recommended productivity rate (737 pages per month), the monitor could easily exceed in one month the 1975 or 1976 annual average of pages delivered by those with any appellate transcription work.

\* \* \* \* \*

F. Release for Outside Employment.

Application of the productivity standards set forth above assumes a full eight-hour work day, minus an hour for lunch, with in-court assignments averaging five hours per day and no less than two hours per day being available for transcription. Reporters are not always present and working at the courthouse,

however, since regulations recognize and sanction reporters' acceptance of outside employment to record depositions.

Superior court reporters may have fewer proceedings to record on Mondays than on other days of the week and a significant part of their deposition work is done on Mondays. Subject to the prior approval by the official court reporter, and only if they are otherwise unassigned and delivering transcripts in a "reasonable time," assistant court reporters in either Superior Court or the Court of Common Pleas may accept outside employment for deposition work after 2 p.m. on any work day.<sup>36</sup> But OES and official reporters are not now able to measure whether transcript production has been done within a "reasonable time."

While it is difficult to document the impact of outside deposition work on the timeliness of transcript production, two facts are clear: (1) reporters can be released to take depositions during the regular work week, and they have deposition earnings; and (2) there is transcript delay.

RECOMMENDATION 5.

EACH COURT REPORTER SHOULD BE PROHIBITED FROM ACCEPTING OUTSIDE DEPOSITION WORK DURING ANY PART OF A COURT WORK-DAY, UNLESS THERE ARE NO OTHER ASSIGNMENTS OR PENDING TRANSCRIPTS ON APPEAL. THE OFFICIAL COURT REPORTER SHOULD BE REQUIRED TO VERIFY IN WRITING THAT AN ASSISTANT REPORTER RELEASED FOR DEPOSITION WORK HAS NO OTHER WORK.

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<sup>36</sup>Regulations, paragraph VI(c).

Under Regulations, paragraph IV (a), all salaried reporters are considered full-time employees, to be available for assignment Monday through Friday, with the exception of vacations and holidays. To the extent that transcript backlogs exist, and reporters are released to take depositions during regular work hours, those reporters are receiving salaries while their transcript responsibilities remain unmet. Reporters interviewed during the course of this study were reluctant to give precise answers to questions about the amount of deposition work they do, and all asserted that their deposition work does not compete with transcript preparation for their time. Although the annual income reports that reporters must make to OES are kept confidential,<sup>37</sup> it is clear that depositions provide additional income for reporters. Since the official salaries of most reporters do not exceed \$15-18,000 per year, it is fair to assume that deposition work does, in fact, affect the way reporters allocate time available to expedite transcript preparation.

It is recommended here that the official court reporter at each location be required to verify in writing that any reporter released for outside work is current in all work on transcripts for appeal. Once a reporter has received an order for a transcript on appeal, he would be required under this recommendation to work on that transcript to the exclusion of any outside employment during court work hours. It would be the official court reporter's duty to prohibit outside employment during court work hours for any reporter who had outstanding transcripts on appeal. As a means to implement the written-veri-

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<sup>37</sup>See Regulations, paragraph IX(a).

ification element of this recommendation, it is suggested that official reporters be required to submit a weekly report to OES indicating whether any reporters (including the official court reporter) had been released for outside employment. Exhibit 3 below is a proposed form for such a report. OES can compare these reports with its records of pending transcripts to determine if any reporters have been improperly released.

Implementation of this recommendation will result in savings in at least two ways for the court system. First, transcript delay will be reduced so that time will be saved. Second, the expense involved in hiring per diem reporters will be reduced, because salaried reporters will be available for more time during regular work days.

\* \* \* \* \*

G. Unassigned Status for Reporters with Transcript Backlog

The timeliness of transcription by court reporters should be improved dramatically through effective implementation of Recommendations 4 and 5 above, especially since over two-thirds of all transcripts are likely to be shorter than 250 pages (see Figure 4) and since the average annual transcript workload of reporters amounts to about one good month's productivity (see Figures 10 and 12). But problems can arise when a long transcript is ordered, when more than one transcript is ordered at the same time, or when more than one transcript is due at the same time.

Judicial Department regulations make no provision for removing a reporter from recording assignment if he or she

Exhibit 3. Suggested Release for Outside  
Employment Form

Release for Outside Employment  
Form JDSR-

OFFICE OF THE COURT REPORTER

SUPERIOR COURT

, Connecticut

Date: .

Chief Court Administrator  
c/o Executive Secretary, Judicial Department  
P.O. Drawer N, Station A  
Hartford, Connecticut 06106

During the week from \_\_\_\_\_ to \_\_\_\_\_, 19 \_\_, no/ the follow-  
ing court reporters were released from the requirement to be present for  
assignment at this court location and were allowed to accept outside employ-  
ment.

Name

Date(s) Released

I verify that no reporter listed above had any undelivered transcripts on  
appeal or any other assignments on the date(s) he or she was allowed to accept  
outside employment.

\_\_\_\_\_  
Official Court Reporter

has several transcripts to prepare or is delayed in delivering one or more transcripts. When a court reporter receives a transcript order, he or she may already be in the process of preparing other transcripts and still have orders pending. Inspection of transcript notices for 1975 and 1976 deliveries shows that several reporters were from time to time faced with substantial transcript-preparation workloads.

Figure 13. Individual Reporter Pending Transcript Workloads, 1975-1976

Reporters		Number of Pages Outstanding*					Total Reporters
		1-125	126-500	501-1000	1001-2000	2001+	
Superior	(1975)	3	12	15	7	4	46
	(1976)	5	19	9	6	5	44
Com. Pleas	(1975)	12	8	1	-	-	21
	(1976)	5	15	1	1	-	22

\* This number represents the most transcript pages any individual reporter had outstanding at any time during a year. Thus, if reporter X had three transcripts totalling 435 pages outstanding on April 1, 1975, and two totalling 675 as of October 10, 1975, she or he would be entered in the 501-1000 page column for 1975. Calculation of the number of pages was based on actual pages delivered, except that for 33 transcript orders withdrawn (9.7% of the total), the reporter's estimate was used. It is believed that inaccuracies of reporter estimates discussed above does not alter the character of this chart.

A review of the average delivery times in 1975 and 1976 for different transcript page quantities shows the significance of these figures. Overall, it took Superior Court and Common Pleas reporters an average of 57.0 days to deliver 500 or fewer pages of transcript; it took them an average of 137.7 days to deliver 501 or more pages, and 254.3 days to deliver 1001 or more pages.

Given this information, one can see one of the reasons for transcript delay in 1975 and 1976: many reporters, and particularly Superior Court reporters, had heavy transcript loads along with

their daily recording responsibilities. There were 63 reporters or monitors who received more than one order for a transcript on appeal in either 1975 or 1976. During 1975 and 1976, more than half the Superior Court reporters with any transcript work for appealed cases had transcripts outstanding at some time exceeding a cumulative total of 501 pages--137.7 days, or over four months work at 1975-78 productivity rates. Among these were persons (almost one-fourth of the Superior Court reporters with transcript work for appealed cases) with over 11,000 pages--an average of 254.3 days, or over eight months of transcription at 1975-76 productivity rates. Some reporters had over 2,000 pages pending concurrently, and even by productivity standards proposed in Recommendation 4, such a workload might take three months to complete, if all transcripts were ordered at the same time and the reporter were typing himself directly from notes, with no days unassigned, working nights and weekends seven hours per week.

In most instances, as one might expect, transcript orders were placed at different times during the year, so that reporters or monitors who received orders for cases on appeal in 1975 and 1976 did not find themselves having to transcribe everything at once. In a review of OES records for transcripts delivered in 1975 and 1976, it was found that for 251 transcripts (82.6% of the transcripts reviewed) there was no other simultaneous transcript order placed with the same reporter, and no other transcript scheduled to be delivered simultan-

eously.<sup>38</sup>

There were, however, 27 occasions in 1975 and 1976 (involving 55 transcripts) when reporters or monitors did in fact have such simultaneous transcript orders or scheduled deliveries. Most of these "simultaneous" occasions, in turn, occurred in the high-volume Superior Court locations at Bridgeport, Hartford, and New Haven. The most dramatic of them occurred December 1975, when a Superior Court reporter at New Haven received two transcript orders on the same day, for one estimated to be 2,300 pages long and for one estimated at 800 pages. Preparation was not completed until over a year later--at the end of January 1977--when transcripts of 2,862 and 1,500 pages were delivered.

RECOMMENDATION 6.

WHEN ANY COURT REPORTER HAS FAILED TO DELIVER AN ORDERED TRANSCRIPT ON THE APPROVED DATE, HE OR SHE SHOULD IMMEDIATELY BE REMOVED FROM ASSIGNMENT TO RECORD COURT OR OTHER PROCEEDINGS AND PROHIBITED FROM ACCEPTING DEPOSITION WORK DURING REGULAR COURT WORK HOURS. HE OR SHE SHOULD BE REQUIRED TO PAY THE COST FOR HIRING A SUBSTITUTE PER DIEM REPORTER, UNLESS EXCUSED FOR GOOD CAUSE SHOWN BY THE OFFICE OF THE EXECUTIVE SECRETARY.

WHEN ANY COURT REPORTER HAS AN EXTRAORDINARY NUMBER OF TRANSCRIPT PAGES FOR CASES ON APPEAL TO BE DELIVERED ON A SINGLE DATE OR ON CLOSELY PROXIMATE DATES, HE OR SHE SHOULD BE

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<sup>38</sup> "Simultaneous" and "simultaneously" are defined here to mean two or more transcript orders placed on the same day or within five days of one another, or two or more transcripts scheduled for delivery on the same day or within five days of one another.



ALLOWED TO REQUEST RELEASE BY THE OFFICE OF THE EXECUTIVE SECRETARY FROM ASSIGNMENT TO RECORD COURTROOM OR OTHER PROCEEDINGS, WITH THE COST OF HIRING A SUBSTITUTE PER DIEM REPORTER TO BE BORNE BY THE STATE. BEFORE GRANTING SUCH A RELEASE, THE OFFICE OF THE EXECUTIVE SECRETARY SHOULD CONSIDER EACH OF THE FOLLOWING:

- THE NUMBER OF PAGES TO BE TRANSCRIBED AND THE TRANSCRIPTION METHOD EMPLOYED BY THE REPORTER;
- FEASIBILITY OF OTHER COURSE OF ACTION FOR ASSURING BOTH FULL REPORTER COVERAGE OF PROCEEDINGS AND TIMELY TRANSCRIPT DELIVERY;
- THE COURT LOCATION'S RECORDING WORKLOAD AND THE AVAILABILITY OF PEOPLE TO SUBSTITUTE FOR THE REQUESTING REPORTER; AND
- EVIDENCE OF THE REQUESTING REPORTER'S COMPLIANCE, OR GOOD FAITH EFFORTS TO COMPLY, WITH PRODUCTIVITY STANDARDS.

FURTHERMORE, ANY GRANT OF SUCH A RELEASE SHOULD BE SUBJECT TO THE FOLLOWING CONDITIONS:

- THAT THE REQUESTING REPORTER BE PROHIBITED FROM ACCEPTING ANY OUTSIDE EMPLOYMENT WHILE SO RELEASED; AND
- THAT THE COST OF HIRING A SUBSTITUTE PER DIEM REPORTER AFTER THE APPROVED TRANSCRIPT DELIVERY DATE(S) BE BORNE BY THE REQUESTING REPORTER IF HE OR SHE FAILS TO MAKE TIMELY DELIVERY OF THE TRANSCRIPTS INVOLVED, UNLESS THE REQUESTING REPORTER IS EXCUSED FROM THIS OBLIGATION BY THE OFFICE OF THE EXECUTIVE SECRETARY FOR GOOD CAUSE SHOWN.

One of the states requiring reporters to eschew courtroom recording until all transcripts are completed is California, where a statute provides that until a reporter "has fully completed and filed all transcriptions of his notes in any case on appeal which he is required by law to transcribe, he is not competent to [record proceedings] in any court."<sup>39</sup> Similarly, a court reporter in Rhode Island Superior Court is removed from courtroom responsibilities when his or her backlog becomes excessive.<sup>40</sup> New Jersey and Massachusetts also have provisions for limiting any reporter's backlog, providing that a reporter be removed from the courtroom whenever a transcript is not completed within the prescribed time limit and be required to pay the cost of a replacement.<sup>41</sup> When any New Jersey reporter's pending transcript workload exceeds 600 pages, he or she may request to be excused from the courtroom in order to meet the 30-day deadline and avoid having to pay for a replacement reporter.<sup>42</sup>

The recommendation presented here is based ultimately on the major premise that the cost to the court system, the public, and the litigants of allowing transcript delays is both (a) unacceptably high and (b) avoidable. A second premise is that the cost of transcript delay should be borne by the reporter, whose statutory responsibility is to make an accurate record

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<sup>39</sup>Cal. Gov. Code §69944.

<sup>40</sup>Interview with John J. Hogan, Court Administrator, Rhode Island Superior Court, April 1977, by Michael Hudson.

<sup>41</sup>Commonwealth of Massachusetts, Superior Court, Regulations Governing Court Reporters, Regulation 23(c) (1973); N.J. Regulations, p. 23, and telephone interview with Robert W. McIntosh, Chief Reporting Services, Administrative Office of the New Jersey Courts, October 1977, by David Steelman.

<sup>42</sup>N.J. Regulations, p. 23.

of court proceedings and, when necessary, to transcribe the record within a reasonable time,<sup>43</sup> unless there are factors beyond the reporter's control preventing timely transcription. As presented in this recommendation, the conclusion from these premises is that once any reporter's backlog of undelivered transcript work beyond a critical point in time or page volume, transcript preparation must take priority in the allocation of that reporter's time in order for the court system's goal of timely case disposition to be met.

The findings discussed above in connection with Figure 13 suggest that the transcript delay claimed by this report to exist in Connecticut is due in part to the fact that some reporters at times had more pages of transcription pending than they were expected to be able to prepare under prevailing practices for transcript productivity in 1975 and 1976. This in turn was a function of two further considerations (a) from time to time, reporters received orders for single transcripts with a large number of pages or received more than one transcript order almost simultaneously; and (b) there was little or no risk that a reporter would lose salary or fee income when timely transcript delivery conflicted with either courtroom recording assignments or opportunities to accept outside employment that would generate additional income for the reporter.

As the numbers cited above indicate, simultaneous transcript orders or scheduled deliveries were not a frequent event in 1975 and 1976, occurring for less than 20% of the tran-

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<sup>43</sup>C.G.S.A. §51-61.

scripts delivered. And even for the 27 simultaneous orders or deliveries that were found, the average transcription amount ordered or to be delivered simultaneously was only 787.4 pages-- the equivalent of one month's work under productivity standards set forth in Recommendation 4 and detailed in Figure 10. In fact, there were only six times when more than 1,000 pages of transcription resulted from simultaneous orders or scheduled deliveries. Thus, except for very unusual situations, high transcript workloads shown in Figure 13 above were more the result of low transcript productivity than of simultaneous orders or delivery dates for large transcripts. In other words, it seems just as accurate to say that tardy transcript preparation creates an accumulation of transcript "backlog" as it is to say that delays in transcript delivery are caused by large or overlapping transcript orders.

A hypothetical example should serve to illustrate this point. If a reporter receives an order on April 1 for a 500-page transcript and has no other transcripts pending, he should be able to make delivery by April 20 if he complies with productivity standards in Figure 10 for a reporter who dictates to a typist and has one day a week unassigned. But performing according to reporter average delivery times in 1975 and 1976, he would not make delivery until May 27. If he received another 500-page transcript order on April 21, he would have 1,000 pages of pending transcription under 1975-1976 delivery rates; but he would have only half that amount were he meeting the productivity standards of Recommendation 4.

The first part of Recommendation 6, by proposing that a reporter be penalized for failure to make timely transcript delivery, thus would provide an incentive for compliance with productivity standards such as those set forth in Recommendation 4. It would enable a reporter, by having the cost of a replacement per diem reporter deducted by OES from his or her salary, to experience personally and directly the costs occasioned by failure of timely delivery. If the delay beyond the expected delivery date were justifiable or excusable, then it is suggested that the reporter not be assessed the cost of a replacement. But to avoid the appearance of favoritism, the recommendation suggests that there be "good cause shown" when an exception is made by OES to the general rule.

The second part of the recommendation is intended to provide an opportunity for a reporter to avoid having to bear the expense of a replacement per diem reporter if faced with an unusually heavy transcript backlog arising from factors beyond the reporter's control. But release from courtroom assignment for transcription with a replacement at State expense is presented as an option to be pursued only after careful consideration by OES, in view of the basic presumption that reporters should normally be able to make timely delivery of transcripts (for which they receive fees over and above their salaries) without receiving special consideration.

Note that Exhibit 2 above, presenting proposed modifications to the transcript notification form, also includes a new line for the reporter to enter the number of other pages of

transcription the reporter has in addition to the transcript about which he is notifying OES. This should aid OES and official court reporters in keeping track of the transcript workloads of individual reporters or monitors, and alert them to possible delivery problems.

What constitutes an "extraordinary" number of pages to be transcribed should be determined by OES on a case-by-case basis, depending on whether the reporter transcribes by typing himself from notes or by dictating for a typist. One might infer from the standards suggested in Figure 10 above that a reporter who types his or her own transcripts and is always assigned five days a week might be hard pressed working nights and weekends to complete 1,000-pages of transcript within 30 days. But a reporter dictating for a typist and working in a court location where he is unassigned two days a week might easily complete the same number of pages within 30 days.

From such alternative scenarios as these, one can see that OES might consider other options before granting a release from assignment. The reporter normally typing his own transcripts might be provided temporarily with dictation equipment. Another salaried reporter or monitor might be temporarily reassigned, or schedules might be rearranged to allow fewer court assignments for the requesting reporter without requiring additional personnel. Even if the reporter who normally dictates received a 1,500-page order, he could be instructed to complete

all dictation within 25 or 30 days, with OES allowing a short extension if necessary to allow for typing that lagged behind dictation. Because of the availability of such options as these, a release for transcription at State expense might be avoidable in most circumstances for any pending transcription of less than 1,500 pages. What is more, some reporters would regularly be able to exceed the standards under Recommendation 4, and even 2,000 pages might not be too difficult in 30 days if they made a concentrated effort.

The time that a request was made for release, in relation to the expected delivery date, might bear on whether OES should grant approval. If the reporter made the request 25 days before the due date, OES might properly suggest that he or she make a concerted effort to meet the deadline without being released. On the other hand, a last-minute request, without any prior notice to OES of a pending problem, might also be properly rejected. In any event, the reporter should demonstrate that the anticipated inability to meet the delivery deadline has not resulted from an unjustifiable or inexcusable failure to meet or exceed transcript productivity standards. The reporter should not be able to benefit from low productivity or from allocating time to depositions rather than to transcripts, simply by seeking a last-minute release from assignment to concentrate on transcription.

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#### H. Five-Day Rule for Lengthy Proceedings

One way to avoid the likelihood of having a single reporter faced with a crushing burden of transcription is to reduce the number of times an individual reporter must prepare a transcript with a large number of pages. It has been noted above that one reporter received orders the same day in December 1975 for transcripts that were estimated at 2,300 and 800 pages respectively and when finally delivered in January 1977 totalled 2,862 and 1,500 pages. Another reporter delivered a 2,226-page transcript in 1975, and in 1975-76 there were eight transcripts delivered that contained more than 1,000 pages.

It should be noted that, as Figure 13 shows, there were 67 reporters or monitors with pending transcription in 1975, and 66 such reporters and monitors in 1976. Since Connecticut had more than 100 full-time, salaried reporters during these years, over one-third of the reporters and monitors had no transcript work at all for cases on appeal. In interviews, official reporters said they tend to assign their "better" reporters to the "tougher" cases. While this may have assured better recording in those cases, it has resulted in an uneven distribution of reporter workloads.

Except under very unusual circumstances (such as an illness preventing a reporter from completing a proceeding he or she has begun), a Connecticut reporter now records in its totality any proceeding to which he or she is assigned. According to reporters who were interviewed, trial judges prefer to have the same



reporter throughout a case because that reporter will then become familiar with the case, the spelling of certain words need only be asked once, and transcript page numbers will be consistent. But if a reporter has several long trials in succession and must cover other proceedings as well, the reporter may fall far behind in transcribing before being able to catch up. This type of situation surely contributed to transcript delay in 1975 and 1976.

RECOMMENDATION 7.

IN ANY LENGTHY PROCEEDING, THE ASSIGNED REPORTER SHOULD BE WITHDRAWN BY THE OFFICIAL COURT REPORTER AND RE-ASSIGNED TO RECORD OTHER MATTERS, UNLESS:

- (A) THE PROCEEDING IS LIKELY TO BE CONCLUDED  
ON THE SIXTH DAY; OR
- (B) DAILY COPY HAS BEEN ORDERED.

The purpose of this recommendation is to provide a way to keep any individual reporter's pending transcript workload from becoming overwhelming because of a single lengthy proceeding. It should result in more evenly distributed workloads among reporters. As text above shows, transcript workloads were often substantial for those reporters and monitors who had any transcription work to do, while many reporters or monitors did no transcription at all for cases on appeal.

The recommendation suggests that there be only two exceptions to the proposed five-day rule. In the event that a trial or other proceeding is likely to be concluded shortly after the fifth day, rotating the assigned reporter to another proceeding would mean the introduction of another reporter not familiar

with the proceeding in its sixth day, to record only the final stages of the matter. It would thus be preferable to allow the official court reporter to exercise his or her discretion in regard to waiving the five-day rule.

The second suggested exception involves proceedings for which "daily copy"--transcripts ordered by the court or counsel to be delivered the same day as ordered or before the opening of court the following morning-- is involved. In such a situation there is no need to apply the five-day rule, since transcripts are to be delivered immediately by the daily copy team and the possibility of a later accumulation of transcription is avoided.

The "five-day withdrawal" rule recommended here is now employed in New Jersey Courts.<sup>44</sup> For South Dakota, a "three-day" withdrawal rule has been recommended;<sup>45</sup> One advantage of the longer period, obviously, is that it creates less turnover of reporters in a courtroom. It is also based on certain assumptions. One day of trial testimony, lasting about five hours, can produce up to 150 pages of transcript.<sup>46</sup> Five days of trial thus can create up to 750 pages of transcription. That number of pages approximates the mid-range of monthly transcript productivity suggested in Figure 10 above, so that the five-day rule

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<sup>44</sup> N.J. Reporter Regulations, p. 2.

<sup>45</sup> NCSC, South Dakota Study, p. 13.

<sup>46</sup> In a study of court reporting in Ventura County, California, National Center staff were given estimates by Superior Court reporters that each hour of trial testimony results in an average of 30 pages of transcript. See NCSC, Compensation and Utilization of Court Reporters in Ventura County, Appendix A (1974).

would enable a reporter to avoid having more pages to transcribe than he might be expected to produce within the 30-day time limit set out in Recommendation 1.

Official court reporters should arrange to have clerks or their assistant reporters give them advance notice of trial that may go beyond five days, so that a substitute reporter can be scheduled for replacement. For a trial likely to go beyond ten days, the official reporter will need to be notified in order to schedule two substitute reporters, unless it is desired to have the first reporter return to the case after the five-day rotation period.<sup>47</sup>

When the reporter starting a case is relieved by a substitute, it may be desirable for the two reporters to consult about the case to address any peculiarities (such as the spelling of certain words). The first reporter should be responsible for coordinating transcription, and this should assure conformity in such matters as pagination.

Statements by official reporters in interviews may support the inference that the use of more than one reporter in a protracted proceeding will result in uneven quality of reporter coverage. If this is actually a problem, it should be met by developing higher qualification standards, and by developing in-service training programs, rather than being allowed to hinder effective reporter management. (See below, Chapter III.)

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<sup>47</sup>See N.J. Reporter Regulations, p.2.

One might conceive of situations in which a protracted proceeding might involve no likelihood of a transcript, so that there would be no need to rotate reporters. But lengthy proceedings usually involve some combinations of (a) complicated subject matter; (b) numerous witnesses and (c) a substantial criminal penalty or civil damage claim. Thus they are the very cases most likely to be appealed and, as a result, involve transcripts. The recommendation here consequently suggests adoption of a single rule, calling for rotation in any case exceeding five days (with the two qualifications noted above), allowing no exceptions for cases where no transcript is expected.



II. TRANSCRIPT FEES AND FORMAT



## II. TRANSCRIPT FEES AND FORMAT

For transcribing his or her record of a court or workmen's compensation proceeding, a court reporter is entitled by statute to receive fees over and above any other compensation.<sup>48</sup> The statute sets fees at fifty cents for each original "folio" of 100 words and sixteen cents for each folio copy. Since a page is considered to consist of 2 1/2 folios, this amounts to a fee of \$1.25 for each original page and forty cents for each copy page. Fees for transcripts provided to state or local government are forty cents for each original folio (\$1.00 per page) and ten cents per folio copy (25¢).

A court reporter in Connecticut usually prepares an original and two copies of the court transcript. At the current statutory rate, a reporter may thus charge between \$1.50 and \$2.05 per page, (\$1.00 or \$1.25 for the original and \$.25 or \$.40 for each of two copies), depending on whether transcripts are provided for the State or private parties. In most circumstances, court reporters are provided at State expense with all supplies and facilities necessary for transcript preparation.<sup>49</sup>

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### A. Evaluation of Statutory Fee Rates <sup>50</sup>

With the relatively recent increase in transcript fee

<sup>48</sup>C.G.S.A. §51-63.

<sup>49</sup>Included are tapes, paper, ribbons, use of typewriters, maintenance of stenotype machines, etc. No statutory authority was found for the provision of these resources, costs of which should be borne in mind in considering fee calculations throughout this report.

<sup>50</sup>The method used here for analysis of fees is that employed in NCSC, Maryland Study, pp. 28-33.



rates for Connecticut reporters, fees in the state are higher than those in most other jurisdictions.<sup>51</sup> To determine whether the statutory fee structure provides a reasonable rate of return for Connecticut reporters, it is possible to make a financial assessment of the statutory rates. To do this, certain assumptions must be made:

(1) A salary of \$15,750 per year for Superior Court reporters, \$10,900 per year for Common Pleas reporters, and \$6,550 per year for monitors.<sup>52</sup>

(2) A work year of 220 days, taking into account weekends and holidays, and approximating vacation, sick and personal leave days.<sup>53</sup>

(3) A court work day of eight hours, including one hour for lunch, with an average of five hours recording proceedings.<sup>54</sup>

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<sup>51</sup>See below, Appendix A, for a comparison of transcript fees in the United States as of summer 1977. Of the 47 jurisdictions treated there, only five have fixed fees higher than those provided for Connecticut reporters, while the fees allowed in eight others might in some cases be higher than the Connecticut rate.

<sup>52</sup>Salaries of individual reporters and monitors are kept confidential by OES, which provided figures from which to calculate these amounts constituting average salaries for 1975 and 1976.

<sup>53</sup>A work year is commonly calculated by this method to consist of 220 or 230 days. To make calculations favorable to reporters, a 220-day work year was employed above in text at Recommendation 4 and Figure 10. Here, a 220-day work year, disregarding the possibility of unassigned status on Mondays, is again considered more favorable to reporters.

<sup>54</sup>In interviews with reporters and other court personnel, it was said that court proceedings commonly begin at 10:00 A.M., recess for lunch from 12 noon to 1:00 P.M., and then resume until 4:00 P.M. This assumption regarding hours per day disregards the release-time provisions of Regulations, paragraphs IV(b) and IV(c), again rendering these calculations more favorable to reporters.

(4) Typist costs of 50 cents per page for free-lance typists (reporters incur no costs for typists who are court employees).

(5) A reporter typing his or her own transcripts (without dictation) can prepare at least 10 pages per hour.<sup>55</sup>

(6) A reporter dictating notes for a typist can dictate at least 20 pages per hour.<sup>56</sup>

(7) Supplies and other incidental costs for transcript production cost 10-20 cents per page,<sup>57</sup> but these costs are not borne by the reporter.

(8) In one distribution option, a reporter receives a fee of \$1.50 per page, if the original (at \$1.00 per page) and both copies (each at 25 cents per page) are all delivered to a state official or agency.<sup>58</sup>

Based on these assumptions, an evaluation of Connecticut's present transcript fee rates shows a reporter's or monitor's rate of hourly return for transcription in comparison to his

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<sup>55</sup> See above, Recommendation 4.

<sup>56</sup> Ibid., While the productivity rate for reporter and typist together would be lower, the lower figure is not used here because the calculations here are for an hour of the reporter's time alone, not for an hour of both reporter and typist.

<sup>57</sup> When working in their official capacity as court reporters, though not necessarily when taking depositions, reporters have virtually all supplies and facilities provided at State expense by the Judicial Department. The cost estimate provided here is that used in NCSC, Maryland Study, since actual per-page costs were not available in Connecticut.

<sup>58</sup> This, of course, is the lowest fee a reporter or monitor receives for an original and two copies. If the original and both copies were all delivered to private parties, the total fee income per page would be \$2.05.

or her hourly income:

Figure 14. Hourly Transcript and Reporting Income

<u>Hourly transcript income</u>			
	<u>Reporter Does Own Typing</u>	<u>Reporter Dictates for Reporter Pays Typist</u>	<u>Typist State Pays Typist</u>
Income per page (original and two copies)	\$ 1.50	\$ 1.50	\$ 1.50
Costs per page	--	.50	--
Amount available to cover reporter's time	1.50	.90	1.50
Average pages per hour	10	20	20
Income per hour	<u>\$15.00</u>	<u>\$18.00</u>	<u>\$30.00</u>
 <u>Hourly reporting income</u>			
(Superior Court reporter)			
$\$15,750 \div 220 \text{ work days} \div 8 \text{ hours} = \$8.95 \text{ per hour}$			
(Common Pleas reporter)			
$\$10,900 \div 220 \text{ work days} \div 8 \text{ hours} = \$6.19 \text{ per hour}$			
(Monitor)			
$\$6,550 \div 220 \text{ work days} \div 8 \text{ hours} = \$3.72 \text{ per hour}$			

As these calculations illustrate, the rate of return on an hour spent in transcription is very favorable when compared to a reporter's or monitor's hourly salary rate. This is the case even when the lowest possible fees are charged for an original and two copies.

An alternate way to analyze the transcript rate is to include the reporter's or monitor's time as part of his or her cost (since an hour spent in transcription is one that cannot

be spent recording court proceedings or taking depositions). Using \$8.95 (Superior Court), \$6.19 (Common Pleas), and \$3.72 (monitors) as values for salaried time, the following calculations can be made:

Figure 15. Reporter Income per Transcript Page

	Reporter Does Own Typing	Reporter Dictates Reporter Pays Typist	for Typist State Pays Typist
Gross income per page:	\$1.50	\$1.50	\$1.50
Costs per page, Superior Court reporter:			
Reporter's time*	.89	.45	.45
Typist	--	.50	--
Supplies and incidental expenses	--	--	--
Net income per page, Superior Court reporter:	\$0.61	\$0.55	\$1.05
Costs per page, Common Pleas reporter:			
Reporter's time*	.62	.31	.31
Typist	--	.50	--
Supplies, incidental expenses	--	--	--
Net income per page, Common Pleas reporter:	\$0.88	\$0.69	\$1.19
Costs per page, court monitor:			
Monitor's time*	.37	.19	.19
Typist	--	.50	--
Supplies, incidental expenses	--	--	--
Net income per page, monitor: **	\$1.13	\$0.81	\$1.31

\* This figure is derived by dividing the average hourly salary by the average number of pages that can be produced per hour by typing (40) or by dictation (20).

\*\* The income per page for monitors as calculated here suffers from comparison with like income for Common Pleas and Superior Court reporters. Net income per page for monitors appears higher because monitors have a lower hourly salary. Yet the skills of stenotypists that may merit higher salaries are skills in recording, not transcribing.

The figures demonstrate that there is a substantial amount of pure profit for reporters and monitors in the preparation of transcripts. This is largely because of government subsidy, in the form of state provided supplies, facilities and (to some extent) typing services.<sup>59</sup>

Some studies of court reporting services have recommended the abolition of transcript fees, with court reporters compensated solely by salaries and reimbursement of necessary expenses.<sup>60</sup> Such a change is advocated as a means to gain greater management control of reporter activities, by eliminating the dual court employee/private contractor status of reporters. But there has been little movement in American jurisdictions to abolish transcript fee structures, and there seems to be little impetus in Connecticut for such a move.

Yet transcript fee rates, if retained, should not be solely the result of political considerations, devoid of any economic analysis. The State and its citizens can properly expect a reasonable relationship between transcript fees and the costs of transcript preparation. For this reason, any proposals for change in the fee rate should be capable of withstanding an economic analysis similar to (or more refined than) that employed here.

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<sup>59</sup> Left unexamined at this time is the question whether the State should be charged at all for transcripts produced by salaried court employees, with support of State-provided supplies, facilities and services.

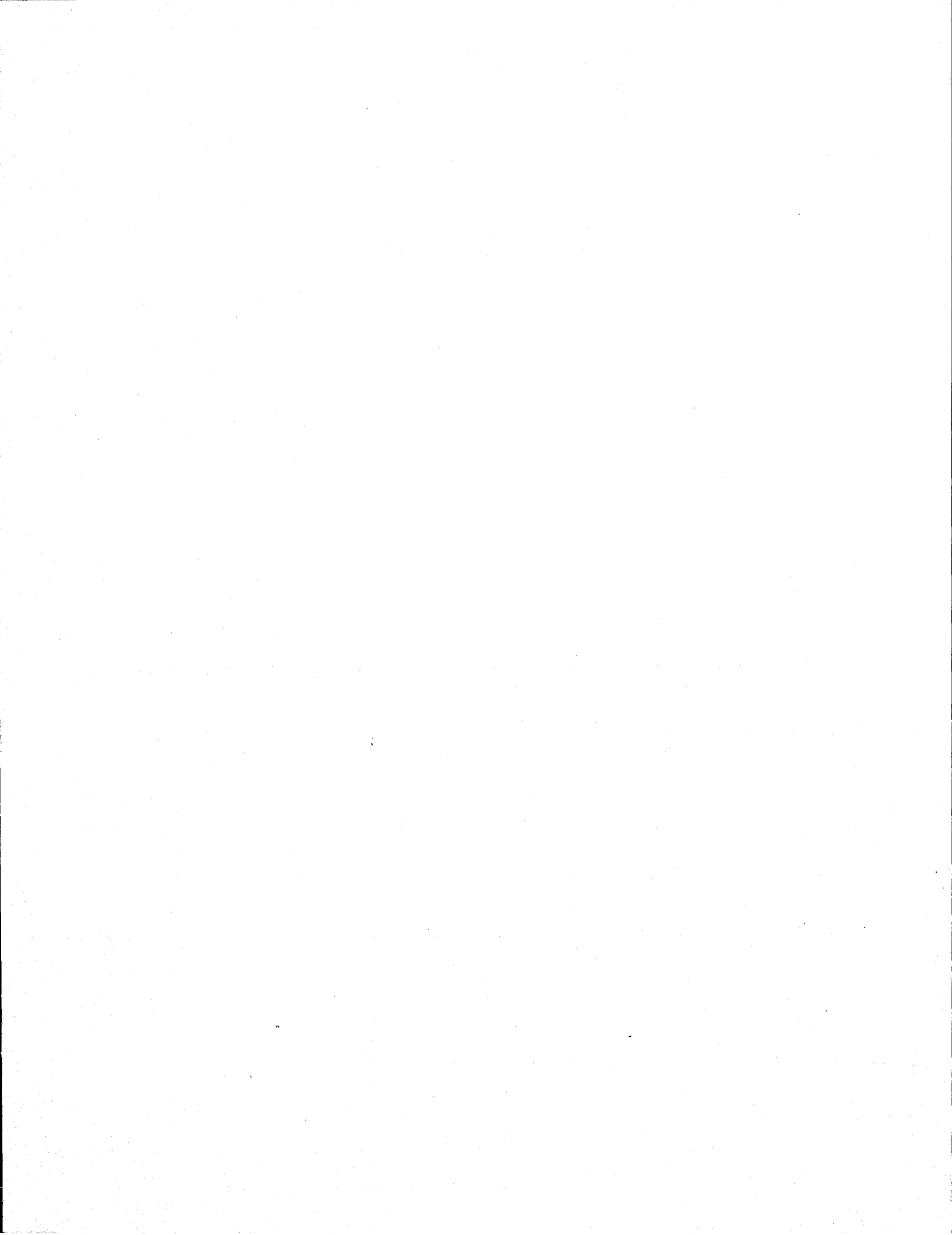
<sup>60</sup> See, for example, National Center for State Courts, Administration of Court Reporting in the State Courts, pp. 21-22 (1973), and Comparative Study, pp. 9-11.

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B. Proposed Rate for Daily Copy

From time to time in criminal or civil cases, the court or parties may desire "daily copy," that is, that the record of each day's proceedings be transcribed and available for review before the beginning of trial the following court day. The Connecticut statute (C.G.S.A. §51-63) setting transcript fee rates, however, makes no reference to daily transcript service. Since the preparation of daily transcripts calls for special arrangements to be made by reporters, with more than one reporter assigned to courtroom proceedings, reporters have maintained that a higher-than-usual rate is appropriate. But in the absence of an express statutory provision, the Executive Committee of the Superior Court has construed the statute to require no special fee for daily copy, and the Office of the Executive Secretary has felt constrained to pay no more than the regular statutory rate.

Connecticut's statute is not unique in its failure to provide for daily transcript service: in the course of this project, only two states (of 47 listed below in Appendix A) were found that made explicit statutory provision for daily copy. These are California (Government Code §69951) and Hawaii (Revised Statutes §606-13), both of whose statutes allow a reporter to charge an additional fifty percent over the usual rate for preparation of daily copy. In the Virgin Islands, an order of the chief judge (pursuant to V.I. Code App. V, Rule 9) sets ordinary transcript rates at \$1.00 per original page and forty cents per



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copy page, and it sets daily transcript rates at \$2.00 per original page and fifty cents per copy page. Thus, the Virgin Islands daily transcript rate for an original and two copies is \$3.00, or 67% (\$1.20) higher than the ordinary rate (\$1.80) for an original and two copies. In New Jersey, administrative regulations provide that reporters may charge twice the statutory rate (\$1.00 per original page and 25¢ per copy page) for daily copy.<sup>61</sup>

RECOMMENDATION 8.

NO SPECIAL FEE SHOULD BE CHARGED FOR PROVISION OF DAILY COPY SERVICES, AND C.G.S.A. §51-63 SHOULD BE AMENDED TO CLARIFY THIS ISSUE. JUDICIAL DEPARTMENT REGULATIONS SHOULD DEFINE "DAILY COPY."

To determine whether it would be appropriate for Connecticut reporters to charge a special rate for daily copy service, the methods used above to evaluate the State's current ordinary transcript rate can be applied. For purposes of discussion here, all of the assumptions made for that evaluation will be employed, along with four further assumptions:

(1) Orders for daily copy occur primarily in Superior Court, since demands for daily transcription are most likely in felony prosecutions and civil actions involving high damage claims.

(2) Preparation of daily copy involves teams of two reporters, with each reporter spending one hour recording court proceedings and the next hour dictating

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<sup>61</sup> See N.J. Reporter Regulations, p. 18.

his or her own notes.<sup>62</sup>

(3) Trial proceedings take five hours per day.<sup>63</sup>

(4) Each hour of trial testimony results in an average of 30 pages of transcript, so that a typical trial day results in the generation of up to 150 pages of transcript.<sup>64</sup>

Based on these assumptions, one can calculate the amount of time it will take the two-reporter team to dictate the day's proceedings. If each hour of trial testimony generates thirty pages of transcription, and each reporter spends one hour in the courtroom and one hour dictating from his or her notes at a rate of 20 pages per hour, the two reporters together after five hours of trial would have dictated 100 of the day's 150 pages of testimony.

They would complete dictation of the remaining 50 pages within two and a half hours after trial. Thus, it would take two reporters just 7 1/2 hours--the approximate equivalent of a normal work day, depending on how much time they take for lunch during the eight-hour day. Since a two-person team can produce daily copy in just a regular work day, while receiving full salary for working during court hours to generate transcript-fee income, it seems unnecessary to provide special daily copy rates.

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<sup>62</sup>Whether two reporters or three are involved in preparing daily copy depends on several considerations. Triple coverage of one trial may require the hiring of two temporary replacement reporters paid at a per diem rate or assignment of reporters from other courts, to record the proceedings for which members of the daily copy team would otherwise be available.

<sup>63</sup>See above, note 54.

<sup>64</sup>See above, note 46.

That daily copy can be dictated by a two-person team in just 7 1/2 hours should dispose of any dispute or uncertainty as to whether an order for daily copy calls for delivery in too short a time to come within the scope of the phrase "within a reasonable time" for transcript delivery in C.G.S.A. §51-61. It seems desirable to define the term "daily copy" in Judicial Department regulations so that this is clear. To this end, "daily copy" might be defined in the following fashion:

Daily Copy. Transcripts ordered by the court or counsel to be delivered the same day as ordered or before the opening of court the following day. If such transcripts are prepared by a two-person daily copy team, such delivery shall be considered to be within a reasonable time.

(See this report's companion volume, Proposed Regulations for Reporters and Monitors, regulation 3e.)

Suggested wording for the amendment of C.G.S.A. §51-63 to implement this recommendation is provided below at Exhibit 4. While the courts might officially construe C.G.S.A. §51-63 as it now reads to accomplish this same end, a later statutory amendment might be introduced to specifically provide for higher fees, and the Judicial Department would be in a reactive posture in efforts to oppose the amendment. It seems preferable for the Judicial Department, if it is persuaded by the reasoning set forth in this report, to take the initiative and propose an amendment like that suggested here.

Exhibit 4.

SUGGESTED AMENDMENT OF C.G.S.A. §51-63

Each official court reporter of the superior court, and as many assistant reporters as the judges of the superior court may consider necessary, shall receive a salary, and each other assistant reporter shall receive such per diem rate as may be fixed by said judges, to be paid as court expenses, but official court reporters shall not employ assistant reporters to attend any session of the court unless such employment is authorized by the judge holding such session. Official court reporters shall be allowed such clerical assistance in each county as may be determined by the judges of the superior court as necessary at such compensation as may be fixed by said judges. Official and assistant reporters shall be entitled, in addition to the compensation hereinbefore provided for, to fifty cents one dollar and twenty-five cents for each ~~folio~~ page and sixteen forty cents for each copy of each ~~folio~~ page of one hundred words page when transcribed from the original record as provided by law, provided the charge to any official of the state, or any of its agencies, boards or commissions or of any municipality of the state, acting in his official capacity, shall be ~~forty cents~~ one dollar for each ~~folio~~ page and ~~ten cents~~ twenty-five cents for each copy of each ~~folio~~ page; provided further, that for special daily transcription service reporters may charge no higher fee. The fee for a transcript of such record, when made for the court or for the state's attorney when acting in his official capacity, and for one copy each to the plaintiff and the defendant, shall, upon the certificate of the presiding judge having so ordered such transcript, be paid as other court expenses and, in all other cases, by the party ordering the same, and such copies shall be furnished within a reasonable time. Official and assistant stenographers in the offices of the workmen's compensation commissioners shall be entitled, in addition to the compensation otherwise provided for, to the same fees for preparing transcripts as are provided for reporters in the superior court.

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C. Transcript Folios

As a traditional term to denote a certain number of words in a legal document, a "folio" throughout the United States consists of 100 words. While measuring fees in units of folios theoretically allows for charges to be reduced for partial pages of transcript, folios are largely ignored as a practical matter in Connecticut. Instead reference is usually made to per-page charges. Reporters refer to estimated and actual pages when they notify OES of transcript orders, and bills for transcripts simply charge by the page.

RECOMMENDATION 9.

REFERENCE IN C.G.S.A. §51-63 TO TRANSCRIPT "FOLIOS" SHOULD BE DROPPED, AND RATES FOR TRANSCRIPT FEES SHOULD BE EXPRESSED IN RELATION TO PAGES.

Though the statutes in at least 22 states still express transcript fees in terms of "each folio" or "each 100 words," almost as many refer simply to pages, and the national trend is to drop reference to folios.<sup>65</sup>

Acceptance of this suggestion should reduce confusion and make the statute consistent with actual practice in Connecticut. Exhibit 4 above, Suggested Amendment of C.G.S.A. §51-63, expresses fees only in terms of pages.

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<sup>65</sup>See NCSC, Comparative Study, p. 7.

D. Transcript Fees Reflected in Retirement Allowances

In the past few years, retirement programs for public employees have expanded spectacularly; payments by public employee pension systems have grown from about \$300 million in 1950 to \$6.25 billion in 1974, according to figures compiled by a U.S. Congressional task force.<sup>66</sup> In Connecticut, transcript fees received by regular court reporters can be included in calculating retirement benefits. The potential financial burden of this practice on the State's retirement system has caused the Judicial Department to reconsider the practice.

Salaried court reporters in Connecticut are state employees coming under the terms of the State Employees Retirement Act.<sup>67</sup> Each employee contributes a percentage of his or her salary to the retirement fund, to which the State contributes by annual legislative appropriations.<sup>68</sup> Retirement income calculations are based on an employee's three highest salary years.<sup>69</sup>

An unusual feature of the Connecticut retirement system is that a court reporter's "salary" for purposes of computing

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<sup>66</sup>U.S. 94th Congress, 2d Session, House Committee on Education and Labor, Subcommittee on Labor Standards, Pension Task Force, Interim Report on Activities, p. 10 (1976).

<sup>67</sup>C.G.S.A. §5-152 et seq.

<sup>68</sup>C.G.S.A. §5-161. Under §5-156a, the State is making the transition from funding the retirement system by a cash disbursement plan to funding it on an actuarial reserve basis: by 1980, the system is scheduled to be 100% funded by the actuarial plan. Though it involves the risk of mismanaged or poorly invested funds, the actuarial method is generally considered highly preferable to funding on a cash basis. See P. Bartholomew, Public Administration, pp. 96-97 (1972).

<sup>69</sup>C.G.S.A., §§5-162, 5-163.

retirement benefits includes:

fees received from the state in whole or in part in lieu of or in addition to [regular wages, longevity payments, and payments for accrued vacation, made from a payroll] and established to the satisfaction of the retirement commission, to the extent that the employee has made retirement contributions on such fees.<sup>70</sup>

In a sampling of retirement statutes in seventeen other jurisdictions (including the five other New England states as well as New York, New Jersey, and Pennsylvania), National Center staff found only one other jurisdiction -- California<sup>71</sup> -- with a statute allowing transcript fees to be included in retirement calculations. Nor was any case law found that included transcript fees in a definition of salary or wages for retirement purposes.<sup>72</sup>

To evaluate the effect of allowing transcript fees to be included in reporter retirement allowances, it is necessary to measure the likely cost of those allowances with and without the influence of fees. The amount of money that the State of Connecticut must appropriate and invest at a given rate of interest in order to provide for regular payment of a retirement allowance during the recipient's life expectancy at retirement

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<sup>70</sup>§5-154(h)(3).

<sup>71</sup>Cal. Govt. Code §69991.

<sup>72</sup>See Annotation, "What constitutes 'salary,' 'wages,' 'pay,' or the like, within pension law basing benefits thereon," 14 A.L.R.2d 634 (1950) and later case supplements.

is the "present worth" of that retirement allowance.<sup>73</sup> The total sum of money that the State can expect it will have paid out in retirement allowances to a former reporter during his or her life expectancy following retirement is another way to look at the cost of including transcript fees in retirement calculations.<sup>74</sup> Both of these measures--present worth and accumulated cost of payments--will be used here for evaluation.

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<sup>73</sup> See E.L. Grant and W. G. Ireson, Principles of Engineering Economy (hereinafter, Grant & Ireson), p. 40 (4th ed., 1964). For a more detailed discussion of "present worth," see chapter 7 of that book, pp. 96-113.

Once the retirement allowance has been determined, the formula for determining present worth is as follows:

$$P = R \times \frac{(1+i)^n - 1}{i(1+i)^n}$$

Where: R = given retirement allowance to be paid in a uniform series continuing for n periods  
 i = an interest rate per interest period  
 n = a number of interest periods (e.g., the life expectancy in years of a retiree)  
 P = present sum of money needed at i interest rate to assure payment of a retirement allowance of R amount for n interest periods. Ibid., p. 43.

Present worth calculations made here do not reflect the influence of cost-of-living adjustments that the Connecticut legislature may make in the future. Connecticut does not now have a cost-of-living provision automatically affecting retirement allowances (see C.G.S.A. §5-162b, which provided a one-time adjustment for those retired before July 1, 1967, and §5-162d, which makes those retiring after July 1, 1967, eligible for any subsequent adjustments; but see also §§5-162c and 5-162e, adjustment provisions repealed by P.A. 75-421, §4, effective July 1, 1975).

<sup>74</sup> Once present worth has been determined, the formula for calculating the sum of such payments is:

$$S = P(1+i)^n$$

Where P, i and n are the same as in note 73 above and S represents a sum of money at the end of n periods from the date payments are begun that is equivalent to P with interest i. Grant & Ireson, p. 43.



Between August 1973 and March 1977, ten court reporters in Connecticut retired and submitted applications for retirement benefits.<sup>75</sup> Of these, eight are now receiving retirement allowances, since two whose time in service qualified for vested retirement rights but will not be eligible until they reach 55 years of age. The average age of the eight at retirement was slightly over 54 years, so that their average life expectancy at retirement was 20 years.<sup>76</sup>

Retirement costs for all reporters now in State service can be estimated by application of the methods presented above to figures for recent State expenditures for reporter income. For such an estimate, certain assumptions must be made:

- (a) The average retirement age will be 54 years, as with recent retirees, so that life expectancy at retirement will be 20 years.
- (b) Total salaries and longevity payments calculated for retirement purposes will equal the annual average of total State payments to full- and part-time regular, salaried court reporters in FY 1974-75 and FY 1975-76. In FY 1974-75, the state paid regular reporters \$1,381,902 in salaries and longevity payments; in FY 1975-76, it paid \$1,479,993.

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<sup>75</sup>The figures that follow are based on information made available by the Office of the Executive Secretary. The retirement allowance (and annual income before retirement) of each individual has been kept confidential.

<sup>76</sup>This is the life expectancy for a 54-year-old white male, according to actuarial tables prepared by the U.S. Department of Health, Education and Welfare in 1967.

The annual average of total state payments for these years is \$1,430,948.<sup>77</sup>

- (c) Similarly, total transcript fees included in calculation of reporter income for retirement purposes will equal the annual average of total Judicial Department, Public Defender, and Division of Criminal Justice payments to full- and part-time regular, salaried court reporters in FY 1974-75 and FY 1975-76. In FY 1974-75, regular reporters received approximately \$98,220 in transcript payments from these three sources; in FY 1975-76, they received about \$114,270. The annual average of total payments from these sources for the two years is \$106,245.<sup>78</sup>

<sup>77</sup>It is impossible to determine beforehand what will be the actual annual incomes for retirement purposes for all reporters now in regular State service, since many future considerations will affect those figures. But it is not unreasonable to assume that actual State expenditures, as reported in the "Judicial Department Expenditure Statement" prepared by the Department's Accounting Division for the most recent fiscal years, provide an approximation sufficient for developing the estimates presented here. For computation of any individual's retirement allowance, the State makes adjustments for such things as accrued vacation and sick leave. Those adjustments are not made here, since they involve relatively small amounts.

<sup>78</sup>As expressed in note 77 above, it is considered that recent total transcript payments as reported in the Judicial Department Accounting Division's official "Expenditure Statement" for the two recent fiscal years, represent a suitable basis for estimating the impact of future fee payments on retirement costs. The figures reported in the official expenditure statements have been adjusted downward here to remove approximate fee payments by the State to temporary reporters. Because they are negligible, payments for transcripts by State agencies other than the Judicial Department, Division of Criminal Justice and Public Defender are not included in the figures used here. Finally, it is assumed that reporters make retirement contributions on all transcript fees received from the State (see C.G.S.A. §5-154(h)(3)).

- (d) When all regular reporters now in State service retire, the total of retirement allowances paid annually by the State will bear the same percentage relation to the annual average of total reporter income as the percentage of annual income received as annual retirement allowances by the eight most recent retired retirees, the average annual retirement allowance turned out to be 46.15% of the average of their three highest income years.<sup>79</sup>
- (e) State investments to provide for retirement payments will yield a certain interest rate (7% is used here).

Based on these assumptions, retirement costs to the State for all present regular reporters will be as follows:

Figure 16 . State Costs, Retirement Benefits for All Reporters

	<u>Total Annual Income for Retirement</u>	<u>Total of Annual Re- tirement Allowance</u>	<u>Present Worth of Total Re- tirement Allowances</u>	<u>Accumulated Cost of Retirement Payments by State</u>
With Fees	\$1,537,193	\$709,457	\$7,515,989	\$29,084,195
Without Fees	\$1,430,948	\$660,422	\$6,996,512	\$27,074,005

<sup>79</sup> Retirement allowances are determined primarily by length of service and type of retirement (whether voluntary, because of disability, because retirement rights have vested, or because 25 years' service has been reached or passed). The annual retirement allowance for one recent retiree was about 25% of the average of three highest income years, while that for another was over 60%. It is assumed that the average percent used here will reflect the usual effect of different factors.

By this projection, the State will need to invest about \$7.5 million in order to cover likely retirement costs, or five hundred thousand dollars more than would be necessary were transcript fees not included in retirement calculations. In all, it may eventually cost Connecticut \$2 million more as a result of transcript fees, over seven percent in excess of retirement costs without fees.

RECOMMENDATION 10.

THE PRACTICE OF HAVING TRANSCRIPT FEES PAID BY THE STATE INCLUDED IN CALCULATIONS FOR PENSION BENEFITS SHOULD BE DISCONTINUED.

State concern over the cost of its retirement program means that ways should be found to reduce, or at least control, expenditures for retirement allowances. Since most other states apparently do not include reporters' income from transcript fees in retirement calculations, the practice of allowing such fees to be considered should be scrutinized in the search for areas in which to economize.

But why should transcript fees be singled out for possible action, when other payments additional to regular salaries, such as longevity payments and bonuses, might also be considered? Longevity payments and bonuses surely increased the income for retirement purposes of Connecticut's most recent retired reporters. Furthermore, if reporters now in State service were to retire under circumstances like the most recent retirees, with like longevity and bonus payments included in retirement calculations, those extra payments would eventually cost the State

the accumulated amount of over one million dollars in retirement allowances. Elimination of these payments from retirement calculations would also result in sizeable State savings.

But longevity payments and bonuses are distinguishable from transcript fees on grounds that are relevant to Connecticut's public policy regarding retirement benefits. Longevity payments are part of a program for all State employees, while few categories of State employees other than reporters receive substantial fee amounts counting toward retirement. Longevity amounts relate in a predictable way to length of service, while fee receipts for any reporter are relatively unpredictable and their amount cannot be controlled or forecast except in broad terms. In fact, transcript fees reflected in retirement allowances constitute a hidden, uncontrollable cost to the State of any litigant's exercise of the appeal right.

While no evidence of impropriety was found in this study, the practice of having transcript fees reflected in retirement calculations can lend itself to abuses of the pension system. To the extent that court assignments can be controlled and manipulated, certain reporters can be put in a position to record cases having a higher likelihood of appeal (and transcript orders), so that income figures for calculating retirement benefits can be inflated. Conversely, other reporters may be "frozen out" of cases with such transcription potential, regardless of their competence. Still other reporters may have less opportunity for enhanced retirement allowances because they work in smaller courts

with lower caseloads and fewer appealed cases offering opportunities for transcript fees.<sup>80</sup>

It was probably the possibilities of abuse and of unequal distribution of transcribing opportunities that led California to enact the following statutory provision:

...for the purposes of retirement, the compensation of each reporter shall be deemed to be the total of all per diem and transcription fees paid by the county to all the reporters of the superior court for all phonographic reporting services, divided by the number of superior court [regular, salaried] reporters, plus his salary.<sup>81</sup>

If Connecticut deems it unnecessary or unfeasible to implement Recommendation 10 above, the State may wish to consider a statutory provision like that in force in California.

Any efforts to reduce pension benefits must proceed with great care. There are landmark decisions by the U.S. Supreme Court underlying the view that public employee retirement benefits are "gratuities" that the government is free to confer, modify or deny as it pleases, as long as its action is not arbitrary or capricious.<sup>82</sup> While a majority of state courts still hold that view, that number is shrinking.<sup>83</sup> Several states view public pensions as a contractual obligation between the government and its employees, and some of these foreclose the government from reducing the benefits of current or former

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<sup>80</sup>Figure 16 above shows that about one-third of Connecticut reporters had no transcript work in 1975-76.

<sup>81</sup>Cal. Govt. Code §69991.

<sup>82</sup>See Richardson v. Belcher, 404 U.S. 78 (1971); Fleming v. Nestor, 363 U.S. 603 (1960); and Pennie v. Reis, 132 U.S. 464 (1899).

<sup>83</sup>See Annotation, "Vested Right of Pensioner to Pension," 52 A.L.R.2d 437 (1957), and later case supplements.

employees.<sup>84</sup> In view of recent criticisms of the "gratuity" view of pensions benefits,<sup>85</sup> it might be unwise to tamper with the pension benefits that current court reporters may have come to view as something they can legitimately rely on receiving upon their retirement.<sup>86</sup> A better approach is to have any reduction in benefits apply only to new reporters--for example those hired on or after July 1, 1978, the date set for merging all trial jurisdiction into the Superior Court.

\* \* \* \* \*

#### E. Transcript Format Regulations

The Connecticut Judicial Department regulations that have served as non-binding guidelines for the format of transcripts have been in effect since May 1969. (See below, Figure 16.) During interviews with National Center staff, court reporters indicated that some of the regulations for transcript format are not closely followed. In light of the discussion in the paragraphs above, departure from format regulations can be costly, both for the justice system and for participants, to the extent that departures are not an improvement on the regulations.

<sup>84</sup> States holding the contract view of public employee pension plans include Alaska, Arizona, California, Colorado, Georgia, Illinois, Massachusetts, Michigan, New York, Pennsylvania, and Washington. . Note, "Public Employee Pensions in Times of Fiscal Stress," 90 Harv. L. Rev. 992, at 993n.8 (1977).

<sup>85</sup> See Goldberg v. Kelly, 397 U.S. 254, at 262n.8 (1970), and Reich, "The New Property," 73 Yale L.J. 733 (1964).

<sup>86</sup> See the discussion of this problem in the article cited in footnote 84 above.

## Inspection of Transcripts

To determine the extent to which there are variations from format regulations (both as means to test the quality of the regulations and to determine the impact of variations), it was decided to review a selection of records produced for appealed cases. A number of transcripts prepared since 1975 was inspected for compliance with the regulations.

National Center staff looked at sixteen transcripts on file in Hartford at the Supreme Court and the Appellate Session of Superior Court. A variety was sought, in order that the transcripts sampled be fairly representative of overall transcript production in the state. Thus, transcripts of civil and criminal cases appealed from the Court of Common Pleas and Superior Court were selected. Transcripts prepared by sixteen different reporters, from fifteen different court locations, were inspected. The following matrix shows the general character of the transcripts sampled:

Figure 17. . . Transcripts Sampled for Compliance with Regulations

Court <sup>a</sup>	Case Type	Number Sampled by Year <sup>b</sup>			Totals
		1975	1976	1977	
Common Pleas	Civil	2	2(1) <sup>c</sup>	1	5
	Criminal	0	3(1) <sup>c</sup>	0	3
	Sub-totals	2	5(2) <sup>c</sup>	1	8
Superior	Civil	1	3(1) <sup>c</sup>	0	4
	Criminal	2	2	0	4
	Sub-totals	3	5(1) <sup>c</sup>		8
	Totals	5	10(3) <sup>c</sup>	1	16

- a. The courts indicated are those in which the transcripts were requested.
- b. The years shown are those in which the transcripts were delivered.
- c. The numbers in parentheses show how many transcripts were prepared by monitors.



## Inspection Results

The overall appearance of each transcript inspected was neat and free of misspelled words. In none of the transcripts was any typeface used but the ten characters per inch required by regulation. Only one of the sixteen was not on margin-ruled paper (since it was a photostat of what may have been a copy of other than the original of the transcript, it may not have been in violation of the regulations, which require margin-ruled paper for only the "original" of the transcript). None of the transcripts was difficult to read.

Yet there was no transcript that complied with every one of the regulations: each violated at least one regulation, and all but four transcripts had two or more such violations. Appendix B below shows the aspects in which each of the transcripts varied from the regulations.

The sub-set of regulations found most frequently ignored was the group (Regulations 6, 7, and 8) providing that, with certain exceptions, each answer should begin on the same line as the end of the question to which it responds. Twelve of the transcripts recorded examination of witnesses. None of these transcripts followed this general rule; instead, each answer begins on a new line in every circumstance. Reporters interviewed for the project admitted that it is a universal practice to ignore the regulations on this point. They say that attorneys prefer the common practice to that prescribed by regulations.

The regulations provide that the letters "Q" and "A" identifying questions and answers should be at typewriter carriage number 18 when answers start on a new line,<sup>87</sup> and that in these instances the question or answer itself should start at number 22. This allows for 58 character spaces per line. But only six of these transcripts complied with the regulations; the others had greater indentation that shortened each line. In five transcripts (one by a court monitor), "Q" and "A" were at number 20 and the text at number 25. This shortened each line by three characters, or 5.1% of the character spaces provided by the regulations. One transcript had questions and answers starting at numbers 21 and 27, making each line 8.5% shorter than the regulations prescribe.

The effect of this is clear: to the extent that less can be typed on any line, a total transcript will be longer and cost more. If the above transcripts consisted totally of trial testimony, the Q and A lines would be 5.1% and 8.5% longer, respectively, than regulations provide. For each page of trial testimony, transcript recipients were, in effect, overcharged by some percentage arising from this error.

In the twelve transcripts that presented examination of witnesses, colloquy between court and counsel was reported. Regulations provide that the first line of colloquy for each speaker start at space number 27 (allowing 53 character spaces),

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<sup>87</sup>This is the number of character spaces from the left-hand edge of the paper. The regulations provide that basic margins be set at numbers 15 and 80, providing a maximum of 65 character spaces.

and that the second and subsequent lines start at number 22 (allowing 58 character spaces). Only four transcripts complied with the regulations. In the other eight transcripts, first lines were indented to start at numbers 30, 32, 33 or 34, shortening these lines from 5.5 to 12.7 percent. Second and subsequent lines, since they started at numbers 25 or 27, were either 5.2 or 8.6 percent shorter than the regulation length. The second and subsequent lines of colloquy in one transcript started at number 15, making them 14.6% longer than the regulation length.

Finally, there were nine transcripts that included jury charges or arguments of counsel, for which paragraphs are supposed to start at number 22 and second or subsequent lines at number 15. Only two transcripts complied with the regulations. The rest had first lines of paragraphs indented to numbers 27, 30 and 34, so that they were from 8.6 to 20.7 percent shorter than the regulations require. Second and subsequent lines starting at numbers 22 or 25 were short by 10.8 and 15.4 percent.

In summary, twelve of the sixteen transcripts sampled were not in substantial compliance with the regulations -- that is, there were only four that violated only one of the regulations. All four of the transcripts with only one violation were prepared by official court reporters, while only one of the other twelve was prepared by an official court reporter. This suggests that assistant reporters are not as familiar with the regulations as they might be, or that they do not follow them as rigorously as they should. The responsibility for this situation does not rest solely with assistant reporters, however.

It is the official reporters who should assure that assistants are thoroughly acquainted with the format regulations. And the official reporters should also make sure that the regulations are actually followed. (See below, Chapter III, GENERAL MANAGEMENT OF TRANSCRIPT ACTIVITIES, Recommendation 14.)

The evidence from the transcripts is clear: in all but three instances, the consequence of departure from regulations was the production of longer transcripts. A conservative estimate of the percent by which departures from regulation lengthened each of the transcripts sampled produces these results.

Figure 18. Enlargement of Transcripts by Departure from Regulations

Superior Court		Common Pleas Court	
Case No. <sup>a</sup>	% Additional Length <sup>b</sup>	Case No. <sup>a</sup>	% Additional Length <sup>b</sup>
1	9%	9	0% <sup>c</sup>
2	0% <sup>c</sup>	10	8%
3	19%	11	0% <sup>c</sup>
4	9%	12	8%
5	16%	13	1%
6	1%	14	5%
7	8%	15	16%
8	5%	16	14%

- a. Case numbers here relate directly to those in Appendix B. Thus Case No. 1 here is the same case as No. 1 in Appendix B, and the 9% estimate for Case No. 1 above is based on variations from the regulations listed there for Case No. 1.
- b. The percentage estimates presented here are the cumulation of the variations from regulations shown below in Appendix B, computed as percentages. For example, a transcript with only 25 lines per page is 2/27, or 7.4% longer than one with the 27 lines per page prescribed by regulation.
- c. Here, variations have minimal impact on page length.

If all of the above are averaged together, one finds that the transcripts inspected for this study were about seven percent longer than they would be if Judicial Department format regulations were precisely followed.

RECOMMENDATION 11.

CONNECTICUT JUDICIAL DEPARTMENT TRANSCRIPT FORMAT REGULATIONS SHOULD BE MADE BINDING ON REPORTERS. THEY SHOULD BE AMENDED TO PROVIDE THAT ANSWERS TO QUESTIONS SHOULD BEGIN ON A NEW LINE. THEY SHOULD ALSO BE AMENDED TO PROVIDE THAT TRANSCRIPTS BE PREPARED ON PAPER WITH LINE NUMBERS 1-27 PRE-PRINTED ON THE LEFT-HAND MARGIN.

FORMAT REGULATIONS SHOULD BE PERIODICALLY REVIEWED BY REPORTERS, WITH THE OFFICIAL REPORTERS SEEKING TO ASSURE THAT REPORTERS UNDERSTAND AND COMPLY WITH FORMAT REGULATIONS.

TRANSCRIPTS SHOULD BE PERIODICALLY SCREENED BY OFFICIAL COURT REPORTERS FOR COMPLIANCE WITH REGULATIONS. REPORTERS FOUND TO HAVE PRODUCED TRANSCRIPTS AT SUBSTANTIAL VARIANCE FROM REGULATIONS SHOULD BE REQUIRED TO REFUND OVERCHARGES AND BE SUBJECT TO DISCIPLINARY MEASURES IF VARIANCE HAS RESULTED IN UNNECESSARILY LONGER TRANSCRIPTS.

Recommended changes to implement this recommendation are shown in Exhibit 5. Note that "shall" has been substituted for "should" to indicate the binding nature of the regulation.

Transcript format regulations serve at least two

purposes. They prescribe a transcript layout that maximizes the clarity and readability of the trial record. For example, the Connecticut regulation prescribing a typeface of ten characters to the inch, as opposed to twelve characters per inch, results in a text that is easier to read. And the requirement that colloquy between court and counsel be specially indented helps set such interchanges apart from examination of witnesses.

But format regulations also serve economy in the production of transcripts. Consistent with their purpose to support clarity and readability, they should provide means for presenting as much information as possible on each page of the record. Thus, the Connecticut regulations call for 27 lines of text per page; and, except for such brief exchanges as colloquy, they provide that lines of text begin near the left-hand margin. If followed, they serve to protect parties to appellate litigation by reducing the pages (and cost) of transcripts. The addition of pre-printed line numbers will aid in transcript production monitoring, and it should facilitate references to the text in appellate review.

The most recent nationwide study by the National Center for State Courts of court reporting services has found that many states have no standards whatsoever relating to transcript format,<sup>88</sup> so that Connecticut is among the more progressive jurisdictions with the regulations it has had for many years. Furthermore, the Connecticut regulations are basically consis-

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<sup>88</sup>NCSC, Comparative Study, p. 7.

tent with latest trends among jurisdictions having standards. As the chart below shows, the format regulations regarding indentation of answers are not only inconsistent with the apparent preference of practicing Connecticut attorneys, but they are contrary to national trends.

Figure 19. Trends and Standards for Transcript Format Features <sup>89</sup>

<u>Characteristic</u>	<u>Examples in Various Jurisdictions</u>	<u>Trend or Recommended National Standard</u>
Type size	pica or elite	elite
Letters per inch	8, 10, 12	12 per inch
Paper size	8½" x 11" (standard) 8½" x 14" (legal)	8½" x 11"
Lines per page	21, 23, 25, 28	25
Margins (left)	1½", 2", 2½"	1½"
(right)	1", 1½", 2"	½"
(top)	1", 1½", 2"	1"
Use of capital letters	upper case only; upper and lower case	upper and lower case
Indentation: (Q.&A.)	none, 1½", 6"	none (Q.&A. to begin at left margin); or not more than five spaces for Q. & A. and no other indentations
Rates (original)	Per page, per folio (100 words)	per page (with a fixed number of lines per page)

Given the Connecticut findings presented above for the inspection of transcripts for this study, it seems that parties requesting transcripts are being charged more than appropriate under the format regulations. The consistency with which reporters have ignored format requirements suggests that they either (a) are not as familiar with them as they should be or (b) do not feel a

<sup>89</sup>Ibid. Compare with Exhibit 5.

need for closer compliance. Each of these possible reasons for non-compliance can be addressed by greater Judicial Department effort in seeing that reporters understand the format regulations, the reasons why compliance is desirable, and that compliance will be monitored. (See below, Chapter III, GENERAL MANAGEMENT OF TRANSCRIPT ACTIVITIES.)



Exhibit 5

RECOMMENDED CHANGES IN  
TRANSCRIPT FORMAT REGULATIONS

1. All transcripts ~~should~~ shall be prepared on typewriters which produce ten characters to the horizontal inch and six lines to the vertical inch.

2. The first or original copy of each page of transcript ~~should~~ shall be prepared on the margin ruled paper supplied by the Judicial Department, with line numbers 1-27 preprinted in the left-hand margin, or on paper similarly ruled and numbered.

3. Each page of transcript, other than title page, index page, certification page, or the final page of the testimony of any particular witness, ~~should~~ shall contain 27 lines. This On paper without line numbers 1-27 preprinted in the left-hand margin, (t)his is best accomplished by placing the page number two double spaces from the very top of the paper, and starting the text on the fourth double space from the top of the paper (not from the ruled line). The 27th line will then be the next line below the bottom punched hole.

4. Margins ~~should~~ shall be set at 15 and 80, with tabular stops at 18, 22, and 27.\* Paper should shall be inserted so that 15 on the scale will be either the first or second space to the right of the left marginal ruling.

5. Each question ~~should~~ shall begin with a new line, with the Q at 18 and the question starting at 22. The second and each subsequent line of the question would then begin at 15. New paragraphs within a question ~~should~~ shall start at 22 and subsequent lines at 15. In no case shall the Q be followed by a period.

6. Each answer ~~should follow on the same line that the question ends, except as indicated in Paragraph 8, below. The question should be followed by 3 spaces, the letter A, and 3 more spaces, and then the answer. Second paragraphs of an answer should start at 22, with subsequent lines starting at 15.~~ shall begin on a new line, with the A at 18 and the answer and the answer starting at 22. The second and each subsequent line of the answer shall start at 15. New paragraphs within an answer shall start at 22, with subsequent lines starting at 15. In no case shall the A be followed by a period.

7. ~~In certain cases, the answer should start on a separate line. In these cases, the letter A should be at 18, the answer~~

starting at 22, with subsequent lines starting at 15. New paragraphs within an answer should start at 22, with subsequent lines starting at 15.

8. Answers should be on separate lines in the following cases:

a. If there is not sufficient room at the end of the question for 3 spaces, A, 3 spaces, and the first word of the answer.

b. If there is only room at the end of the question for 3 spaces, A, 3 spaces, and the first word of the answer, and that first word is either the article "A" or the pronoun "I".

c. If the reporter, in transcribing, can see that the answer, if started on the line following the question, would continue on the next line, but is short enough so that it could be typed completely as a separate answer on the following line. (Illustration: The answer, "no, sir," if typed as a separate answer on the following line, would be much more readable than putting the "No," at the end of the line, following the question, and the "sir," at the beginning of the following line.)

d. Any answer following a question which contains more than one paragraph.

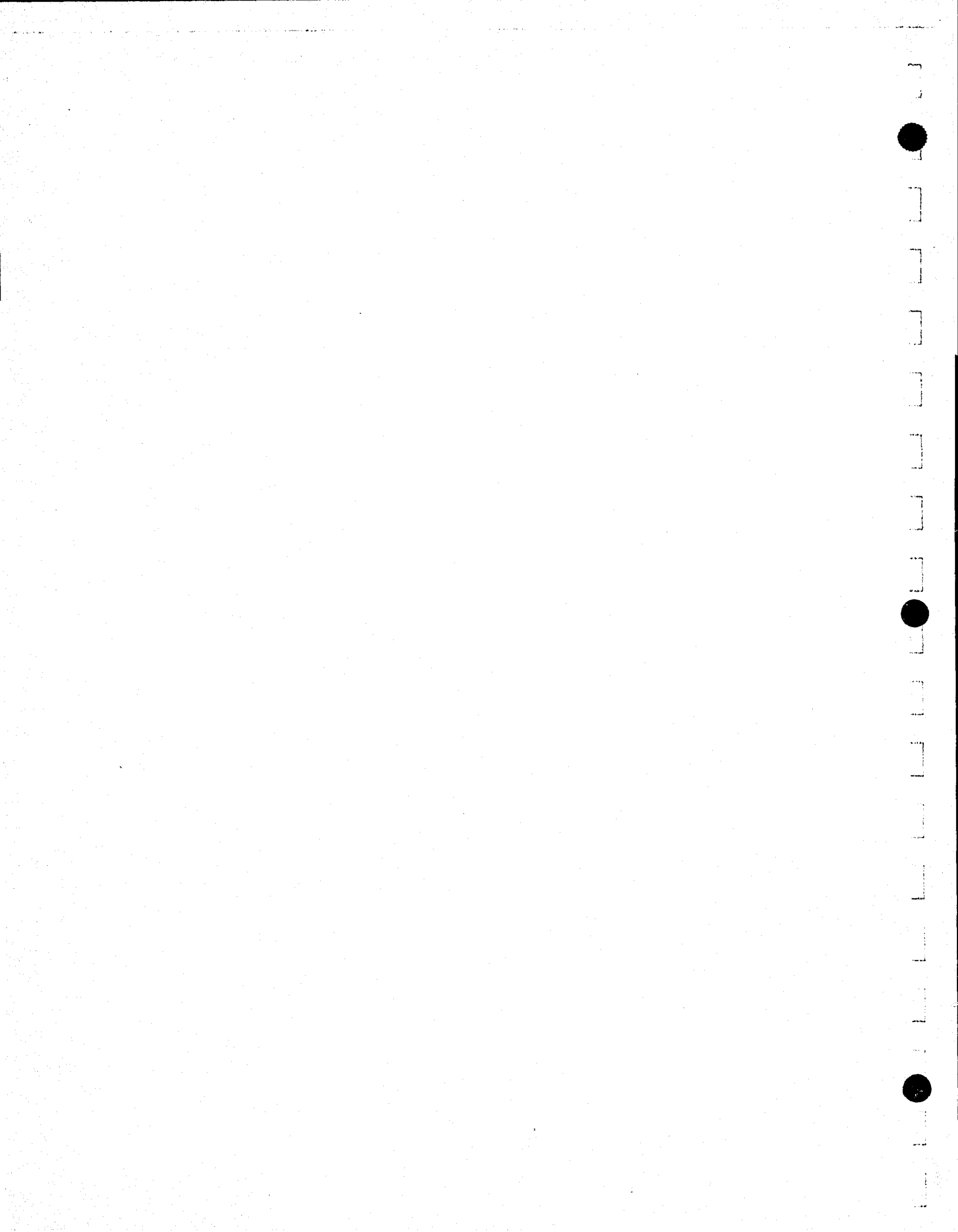
9. In no case should the Q or A be followed by a period.

10. 7. Colloquy and parenthetical explanatory notes should shall begin at 27, with second and subsequent lines beginning at 22. Subsequent paragraphs in colloquy and parenthetical notes should shall be indented to 27, with subsequent lines starting at 22.

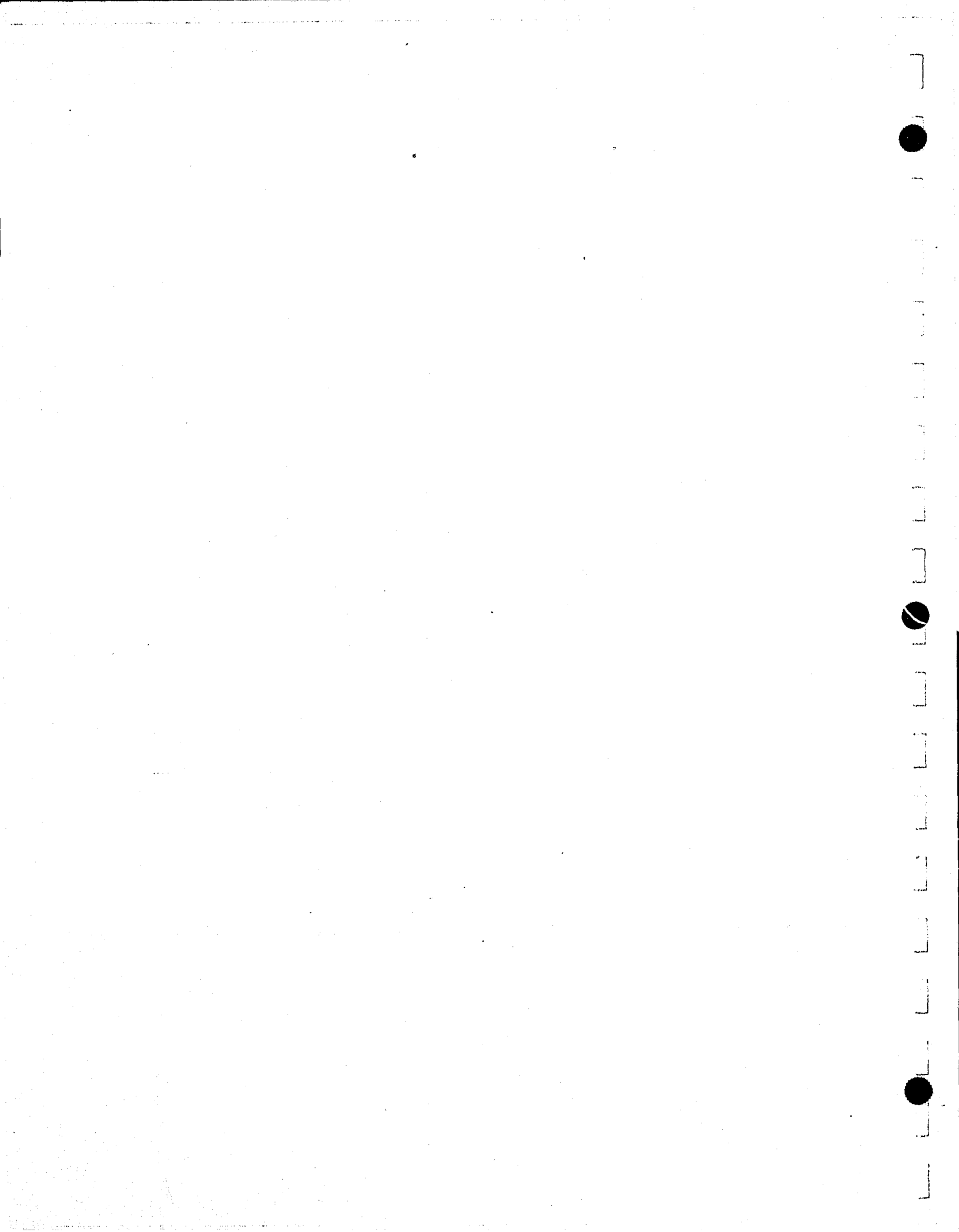
11. 8. The testimony of each witness sworn or recalled should shall begin on a new page.

12. 9. Transcripts which do not contain testimony, but only argument of counsel or jury charges, should shall contain 27 lines per page. Each paragraph of such transcript should shall begin at 22, with subsequent lines beginning at 15.

\* The numbers (#15, 18, 22 & 27) and the right-hand margin (#80) all refer to character spacing on the carriage.



III. GENERAL MANAGEMENT OF TRANSCRIPT ACTIVITIES



### III. GENERAL MANAGEMENT OF TRANSCRIPT ACTIVITIES

In the two foregoing chapters, there has been discussion of specific problems in Connecticut transcript production. Consequently, recommendations to this point have made suggestions directly related either to transcript delay, transcript fees or transcript format.

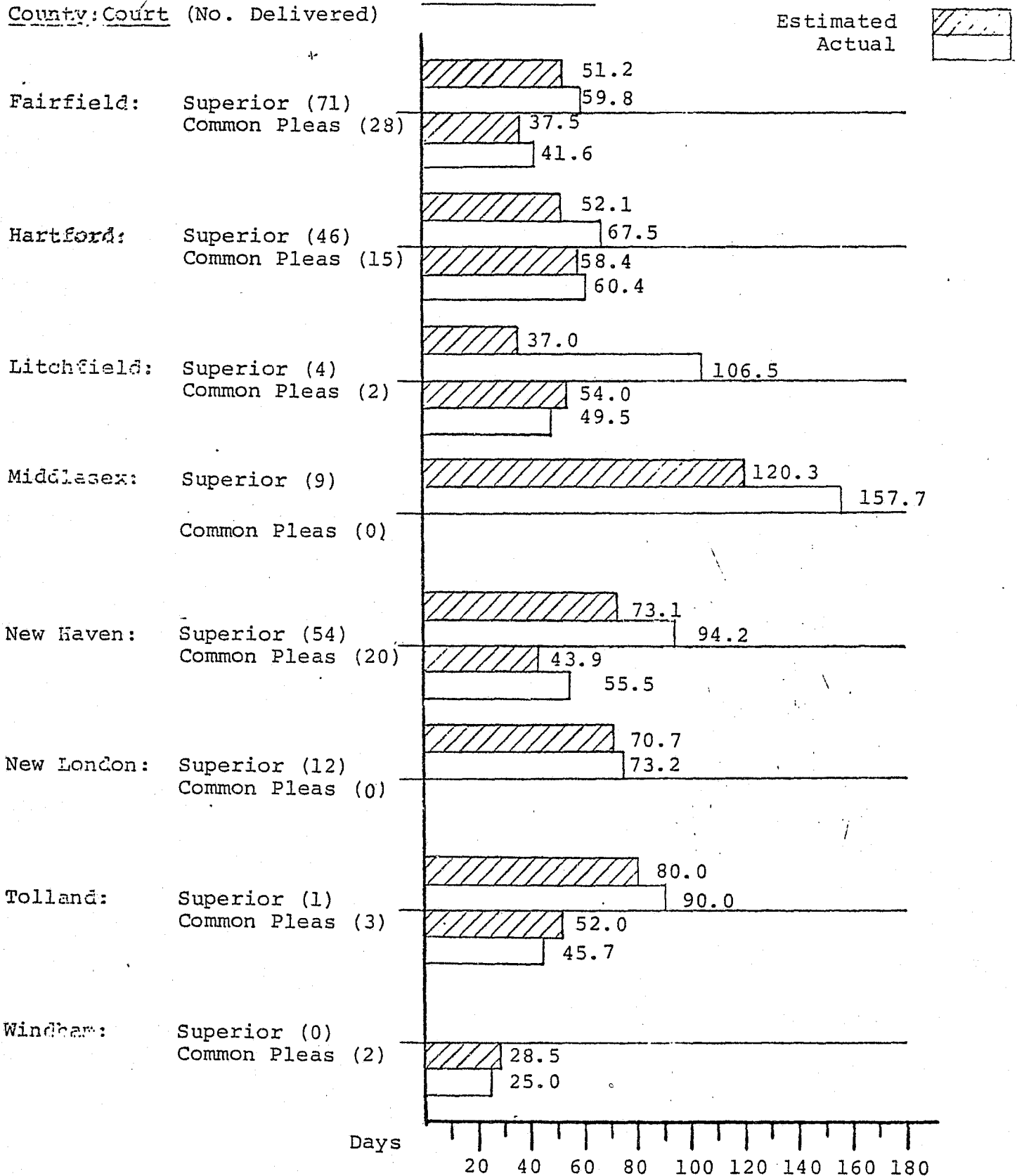
But the effectiveness of implementing these recommendations may be undermined without there being attention paid to more general considerations involving reporters or monitors and the transcription process. These considerations involve the Judicial Department's overall approach to its court reporting services. They also suggest some of the ways in which management of these services relates to other areas of court administration, such as management of the appellate process.

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#### A. Systemic Approach to Managing Transcription Process

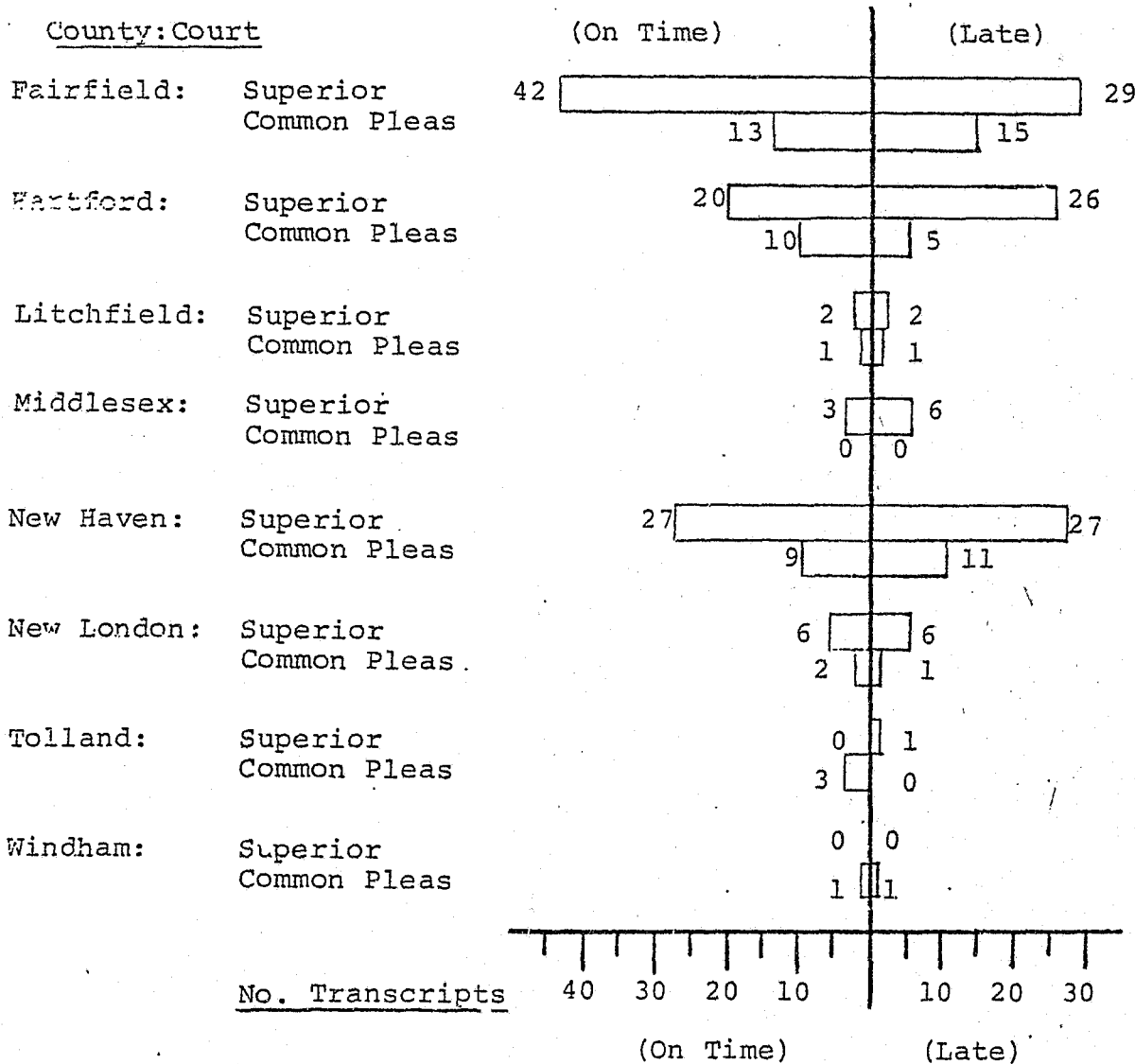
One possible reason for overall transcript production problems discussed earlier in this report could be that reporters in one or two locations are experiencing inordinate delay problems, thereby making the overall averages look worse than they might otherwise be. To test this possibility, performance figures for 1975 and 1976 were compared by county, with these results:

Figure 20. Average Days from Transcript Order to Delivery, by County  
1975 and 1976



Another comparison among counties can be made in the number of transcripts delivered on or before the estimated delivery date versus the number delivered after that date:

Figure 21. On-Time Deliveries vs. Late Deliveries, by County, 1975 and 1976





Figures 20 and 21 do little to demonstrate that 1975-76 statewide average transcript delivery times have been sharply influenced by poor performance in a single court location. Figure 20 does illustrate that two Superior Court locations had unusually long transcript delivery times. In Middlesex County, the estimated and actual delivery times for none 1975-76 Superior Court transcripts were much longer than in any other court location. In Litchfield County, actual delivery times for four 1975-76 Superior Court transcripts averaged 69.5 days longer than estimated. But these two locations had low transcript volume, and two other high-volume locations (Hartford and New Haven Superior Court locations) had average actual delivery times substantially above estimates. And the three court locations in Figure 20 that had average actual delivery times shorter than estimated delivered a total of only seven transcripts in two years. Figure 21 shows that only three court locations had more on-time deliveries than late deliveries, and the locations with the most late deliveries--Fairfield, Hartford and New Haven--were the high volume locations that also had more on-time deliveries than other counties. Thus, while some counties fared worse than others, Figures 20 and 21 demonstrate that transcript delay is a system-wide problem; and transcript delay cannot be solved by concentrating on the ineffectiveness of just a few court locations.<sup>90</sup>

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<sup>90</sup>This is not to say, however, that the overall performance of reporters at each court location should be ignored in measuring the effectiveness of official court reporters who supervise reporters at each location. The official court reporters may often set the tone in their offices, and the overall timeliness of reporters they supervise should be considered in performance evaluations of official reporters. (See below, Recommendation 14.)

If the delay demonstrated above is not the result of peculiar problems limited to courts in certain counties, one may wonder if certain individual reporters are particularly at fault and are skewing the overall averages. A comparison of individual reporters' delivery times shows that this is not the case:

Figure 22. Comparison of Individual Reporter Transcript Delay, 1975 and 1976

a. Percent of Transcripts Delayed		Number of Reporters	
		Common Pleas	Superior
(Reporters with less than half of transcripts delayed)	0%	13	4
	1-25%	0	3
	25-49%	3	6
(Reporters with half or more of transcripts delayed)	50%	3	9
	51-75%	2	6
	76-99%	1	3
	100%	9	14

b. Average Variation from Time Estimate (Percent of Estimate)		Number of Reporters	
		Common Pleas	Superior
(Reporters with average delivery time within estimated delivery time)	-26% or more	5	6
	-1 to -25%	10	9
	0%	1	5
(Reporters whose average delivery time exceeded estimated delivery time)	+1 to 25%	9	12
	+26 to 50%	5	7
	+51 to 75%	-	7
	+76 to 99%	1	1
	+100% or more	1	7

Figure 22 shows that 23 reporters (almost one-third of those sampled) took longer than estimated to deliver every one of their transcripts; and 47 of the reporters (over 60% of the total) were late in delivering at least half their transcripts. Furthermore, the number of reporters whose average delivery times were more than they had estimated constituted almost sixty percent of the reporters. With such a large percentage of the reporters having transcript delivery problems, it cannot be said that just a few reporters are at fault.

RECOMMENDATION 12.

THE JUDICIAL DEPARTMENT SHOULD TAKE A SYSTEMIC MANAGEMENT APPROACH TO MANAGEMENT OF TRANSCRIPT PRODUCTION AND REDUCTION OF TRANSCRIPT DELAY, WITHOUT LIMITING ITS ATTENTION SOLELY TO SPECIFIC COURT LOCATIONS OR INDIVIDUAL REPORTERS.

While specific court locations or individual reporters with the poorest delivery time might be singled out for special attention, Figures 20, 21 and 22 show that delay problems are much broader than the inefficiency of just an isolated handful of reporters. While each individual court reporter must be held accountable for preparing transcripts in timely fashion, the Judicial Department must develop and exercise statewide management routines that minimize the possibility of transcript delays and identify potential problem areas before

delays occur, rather than simply assigning blame after delays have become intolerable. The recommendations included in this report are intended to embody a more systemic approach to transcript management.

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B. Improved Information System for Monitoring Transcript Production

Since 1969, the Connecticut Judicial Department has required reporters to give written notice to the Chief Court Administrator and others whenever a transcript has been ordered, and in so doing it has taken a major step toward standardizing and controlling transcript production procedures.<sup>91</sup> By the use of Form JDSP-1120, the form for giving written notice, the Chief Court Administrator and the Executive Secretary have information with which to monitor preparation of each transcript and to gain an overall management view of transcript production throughout the court system.

Rules 558 and 608A call for reporters to give notice "forthwith" that a transcript order has been placed, giving the estimated transcript pages and estimated delivery date. Upon delivery, a similar notice must be given of the actual pages and actual delivery date. When notice is not given "forthwith," or when all entries called for are not made, the effectiveness of the notice form as a management tool is sharply reduced.

Sometimes a transcript delivery must be so soon after the order date that notice of order and delivery are practically

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<sup>91</sup>See NCSC, Comparative Study, pp. 3-5.

simultaneous events. In such a situation, it seems excusable for a reporter to give formal notice only at delivery. When transcript notices for deliveries made in 1975 and 1976 were inspected, 27 cases were found in which notice was made only upon delivery. Yet only fifteen of these involved "short turn-around" cases (defined here as those in which delivery was to be within two weeks of the order). For the remaining twelve cases, reporters may have forgotten to give notice when the orders were placed or may not have considered timely notice important.

A much more prevalent problem is that reporters do not always give all the information called for in Form JDSR-1120. Review of notices for 1975 and 1976 deliveries shows:

Figure 23. Incomplete Transcript Notices, 1975 and 1976

	<u>Number of Notices</u>
1. Notices in which reporter did not give, and OES did inquire about, transcript order date:	2
2. Notices in which reporter did not enter, and OES was not able to obtain by telephone inquiry, estimated delivery date:	20
3. Notices in which reporter did not enter, and OES was not able to obtain by telephone inquiry, estimated transcript pages:	45
4. Notices in which reporter did not enter, and OES was not able to obtain by telephone inquiry, actual transcript pages:	3

	<u>Number of Notices</u>
5. Cases for which notice of delivery or of withdrawal of transcript order was not given until after OES inquiry:	22
6. Total number of notices never completed, or for which notice of delivery or of withdrawal of order was not given until after OES inquiry:	70

For a significant number of transcript notices, entries were made by OES after telephone inquiries to individual reporters. But even with these adjustments, OES was not informed or was not able to obtain the estimated delivery date for twenty (of 339) 1975 and 1976 transcript notices it received, so that for 5.9% of the notices there was no control of transcript delay. In 45 notices (13.2% of the total), the Executive Secretary had no page estimates by which to assess the reasonableness of estimated delivery dates. In all, at least 20% of the notices were defective.

Insofar as transcript notices are timely and complete, they allow the Executive Secretary to test the reasonableness of estimated delivery times and to assert some influence on the timeliness of delivery. For 25 cases, he sent letters ("dunning" letters in OES parlance) to reporters reminding them that they had transcripts for which the delivery dates had lapsed. (For some of these cases, multiple correspondence was necessary. Excluded from this total are cases where the reporter was ill or the attorneys had requested delay.) The average delay in these cases was 104 days, from the estimated delivery date to the date delivery was ultimately made.

RECOMMENDATION 13.

THE CONNECTICUT JUDICIAL DEPARTMENT SHOULD DEVELOP A BROADER AND MORE STRUCTURED INFORMATION SYSTEM FOR MANAGEMENT OF TRANSCRIPT PRODUCTION, AS PART OF ITS SYSTEM FOR MANAGEMENT CONTROL OF THE APPELLATE PROCESS.

TO ASSIST THE EXECUTIVE SECRETARY IN THE MANAGEMENT AND MONITORING OF TRANSCRIPT PRODUCTION, A PERSON RESPONSIBLE FOR COURT REPORTING SERVICES SHOULD BE DESIGNATED.

REPORTERS SHOULD UNDERSTAND THE IMPORTANCE OF TIMELY AND COMPLETE NOTICE TO THE EXECUTIVE SECRETARY FOR MANAGEMENT OF THE APPELLATE PROCESS. CONTINUED NONCOMPLIANCE WITH THESE REQUIREMENTS SHOULD BE A GROUND FOR CENSURE OR OTHER APPROPRIATE ACTION.

The transcripts, other than "short turn-around" cases, for which notice was not given until after delivery constituted no more than three or four percent of all 1975 and 1976 deliveries. OES may have the means to monitor cases for which appeals are filed with clerks of courts and which are to be docketed in the Supreme Court or the Appellate Division of the Superior Court at Hartford. With no great expenditure of time or other resources, it may be possible for OES to obtain regular notice from the clerks when appealed cases involve transcripts.<sup>92</sup> This information can then be matched with transcript notices from reporters to

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<sup>92</sup> Pursuant to a National Center for State Courts project to aid improvement of management control of Connecticut's appellate process, an appeal form to be forwarded by clerks to OES is under consideration. It requires parties to check off whether a transcript has been ordered.

identify cases for which a transcript notice has not been submitted.

The capacity of the Executive Secretary to monitor individual transcript preparation is severely hampered if one transcript notice in five is deficient. To improve that capacity, OES can enlist the aid of official court reporters. Exhibit 2, above, Proposed Modification of Transcript Notification Form, includes a line for the official reporter in each court to indicate that he has reviewed each transcript notice. Since the official reporter is responsible for the performance of assistant reporters assigned to his or her court, it is not improper to call for the official reporter to review each transcript notice. The official reporter should see that all notices are complete and forwarded to OES in timely fashion. (See below, Official Court Reporter Duties and Responsibility.)

Furthermore, it is inappropriate for reporters to ignore the terms of Practice Rules 556 and 608A. They should understand that transcript notices are not simply an "historical" record of transcript orders with no further significance, but that these notices are the basis for transcript management by the Chief Court Administrator and the Executive Secretary. To the extent that reporters continually fail to comply with Rules 556 or 608A, their work performance should be considered unacceptable. (See below, Assistant Court Reporter and Court Recording Monitor.)

Virtually all of the statistical data presented in this chapter was developed from Connecticut's notices of transcript.



If the Connecticut Judicial Department deems such data relevant to management of transcript preparation, the means should be developed to have it available to decision makers on a regular and timely basis.

In a recent project considering issues relating to the establishment of an appellate management control system in the Connecticut courts, the National Center for State Courts aided the Judicial Department in assessing different systems for gathering and processing information regarding appellate cases. Among the options addressed in that assessment were:

- manual tracking of appellate cases by clerical personnel without computing equipment;
- central board/hand-held calculator;
- minicomputer;
- as an adjunct to the civil computer system now operated by the Judicial Department.

The first of these options is now used by OES, at a fairly low level of personnel time, in management of transcript production.

In a broader and more structured information system, the tasks to be undertaken might include:

- (1) assuring timely and complete submission of transcript notices by reporters;
- (2) monitoring delivery-time estimates by reporters, with those appearing "unreasonable" brought to the Executive Secretary's attention for adjustment;

(3) with official court reporters, monitoring individual reporter transcript workloads, to identify those reporters whose workload has exceeded a critical level (see above, Recommendation 6 and associated discussion), and who might be excused from courtroom work to concentrate on transcription;<sup>93</sup>

(4) monitor the timeliness of reporter transcript deliveries;<sup>94</sup>

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<sup>93</sup>The Judicial Department might conduct a study to evaluate the feasibility of introducing the District of Columbia Automated Transcript Status Report System, or a modification of that system. The District of Columbia Superior Court, under the supervision of the Honorable Harold H. Greene, has developed a transcript status report produced by automatic data processing. (The Department may be able to obtain information about the software program from Mrs. Shirley R. Shepard, Director of the Court Reporter Division, District of Columbia Courts.) In that jurisdiction, a bi-weekly report, listing all pending and completed transcripts is prepared by the court system's data processing unit and sent to the Superior Court Clerk. A case is listed at time of notification of appeal and deleted when the entire case file is received by the appellate court. Any pending case is listed on each report, even when there is no new activity. The clerk of court is responsible upon receipt of the bi-weekly report to review, verify and up-date the listing, and to take any necessary corrective action.

In Connecticut, copies of a bi-weekly or monthly report can be sent to both official court reporters and trial court clerks, as well as being provided for review by the Executive Secretary. Official reporters can then check their own records of pending transcript work, adding any new transcript orders and deleting deliveries. While the District of Columbia system is automated, Connecticut might do it under any of the four options listed above. See National Center for State Courts, Puerto Rico Court Reporting Study (Phase I), pp. 45-50 (1975).

<sup>94</sup>The transcript status report system described in footnote 93 might be used as one tool in this effort; OES staff and official reporters might also maintain "tickler" files for this purpose. See Recommendation 6 above, regarding the removal of reporters from courtroom assignment to concentrate on transcript preparation.

- (5) prepare a quarterly statistical evaluation of transcript production, including assessments in areas such as those addressed in this report, to serve as a basis for evaluating the effectiveness of management control efforts; and
- (6) associated with the above activities, prepare monthly or quarterly reports listing each reporter's transcript performance during the preceding period, and distribute them to each court to use as an inducement to improve page and time estimates and transcript delivery times. OES and official court reporters can use them in making reporter performance evaluations. (See Recommendations 14, 15 .)

These tasks might all be performed manually by Judicial Department personnel, but it is likely that at least four to five times the number of hours now devoted to transcript monitoring might be needed. Moreover, the quarterly statistical evaluation suggested here calls for some degree of competence in the handling of statistics, and would be a very burdensome task without the assistance of at least a hand-held calculator. A magnetic board for displaying the status of pending transcripts might be used by a member of the Executive Secretary's staff. With a hand-held calculator of the sort now widely available, that staff member could perform many of the tasks enumerated above in 20-30 work hours per week. With a mini-computer

of a sort also commercially available at relatively low cost,<sup>95</sup> he or she could perform all of the tasks, providing very helpful and sophisticated information, in even fewer hours. The cost of performing the tasks by use of the civil computer system is likely to be far in excess of the other three options.

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C. Official Court Reporter Duties and Responsibilities

Under Connecticut statutes, official court reporters are appointed by the judges to assure that accurate records are kept of court proceedings,<sup>96</sup> preparing transcripts when requested.<sup>97</sup> Under Judicial Department regulations for court reporters, each official reporter has the following responsibilities:

(1) exercise general responsibility for the reporters' office, and supervise assistant reporters and clerical assistants (Regulations, paragraph V(b));

(2) assign assistant reporters, communicating with OES if the availability of reporters is insufficient to meet all responsibilities (paragraphs IV(b) and (c));

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<sup>95</sup>For a non-technical discussion of current developments in the computer field, see A. Kay, "Microelectronics and the Personal Computer," Scientific American (September 1977), 241-243, where the author indicates that increased capacity and decreased costs of miniaturized electronic devices, along with increased attention to ways that persons other than computer experts can program and use computers, may produce remarkable changes. Within the next decade, he suggests, notebook-sized computers with the capacity of today's large computers may be available at low cost for a wide variety of purposes.

<sup>96</sup>C.G.S.A. §§51-61, 51-62, 51-69a and 51-70a.

<sup>97</sup>C.G.S.A. §51-63.

(3) decide whether assistant reporters may be released to accept outside deposition employment (IV(b) and (c));

(4) suspend privileges to accept outside deposition employment for reporters not furnishing transcripts within a reasonable time (paragraph V(c));

(5) schedule reporter vacations, subject to OES approval; (paragraph X(b));

(6) serve, if requested, on Board of Examiners of Reporters (paragraph I(a)); and

(7) perform the same duties required of assistant court reporters, except that official reporters in the busiest courts cannot be assigned away from their official stations.

While statutes and regulations now generally provide that official court reporters are to have general supervisory responsibility for court reporting services at their respective court locations, the scope of such a responsibility is not clearly defined. Furthermore, there appear to be no means of "leverage" by which official court reporters can be induced to exercise affirmative supervision of reporters at their locations.

It is true that they must be reappointed each year by the judges,<sup>98</sup> so that there is a risk that an official reporter will be removed from that position for poor performance. But few instances have been found when an official reporter was

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<sup>98</sup>C.G.S.A. §51-60.

not reappointed, and most official reporters, once first appointed, hold that position until retirement.

It appears that there are no explicit criteria for determining what qualities or skills (other than simply being a good court reporter) an official court reporter should have. Nor are there specifications, beyond those set forth above, about what activities constitute the exercise of general supervision of the reporter's office. And finally, there seem to be no means to measure what is good or bad performance by an official court reporter.

RECOMMENDATION 14.

JUDICIAL DEPARTMENT REGULATIONS SHOULD SET FORTH IN GREATER DETAIL THE RESPONSIBILITIES OF OFFICIAL COURT REPORTERS IN MANAGEMENT AND SUPERVISION OF REPORTER ACTIVITIES. IN REGARD TO TRANSCRIPT ACTIVITIES, OFFICIAL REPORTERS SHOULD BE MADE EXPLICITLY RESPONSIBLE TO THE JUDICIAL DEPARTMENT AND THE OFFICE OF THE EXECUTIVE SECRETARY FOR THE PERFORMANCE OF ASSISTANT REPORTERS UNDER THEIR SUPERVISION. SPECIFICALLY, OFFICIAL REPORTERS SHOULD BE RESPONSIBLE FOR ASSURING THAT ALL REPORTERS THEY SUPERVISE

- (1) MAKE TIMELY SUBMISSION OF PROPERLY COMPLETED TRANSCRIPT NOTICES TO THE OFFICE OF THE EXECUTIVE SECRETARY;
- (2) COMPLY WITH TRANSCRIPT FORMAT REGULATIONS;
- (3) CHARGE FEES IN COMPLIANCE WITH STATUTORY PROVISION; AND
- (4) MAKE TIMELY DELIVERY OF TRANSCRIPTS IN COMPLIANCE WITH JUDICIAL DEPARTMENT STANDARDS.

THE OFFICIAL COURT REPORTER SHOULD ADDITIONALLY BE RESPONSIBLE

FOR PERFORMANCE OF DUTIES SHARED WITH ASSISTANT COURT REPORTERS.

THE OFFICIAL REPORTER'S RESPONSIBILITIES UNDER THE REGULATIONS SHOULD SERVE AS THE BASIS FOR PERIODIC PERFORMANCE EVALUATION.

Although official reporters are now charged with supervisory responsibility for their respective offices, it does not appear that their specific responsibilities for transcript production by reporters in their charge are enumerated in sufficient detail. To remedy this problem, the following specific practices are recommended.

First, official reporters should review and countersign all transcript notices submitted to OES by assistant reporters. They should review page and delivery date estimates for accuracy. They should also keep a running tally of each reporter's total of pending transcript pages, with an eye toward withholding permission for deposition work, and evaluating requests that OES excuse from courtroom assignment any reporter whose pending transcript workload has become extraordinary. From the transcript notices, the official reporters can copy expected delivery dates, for entry in their own "tickler" files. When a delivery date approaches but a reporter has not given notice of delivery, the official reporter can review the status of the transcript with the reporter, advising that the reporter will be required to pay for a replacement if transcript delivery is not timely.

In communication with OES, the official reporter can contribute to the maintenance and accuracy of the transcript information system (see above, Recommendation 13). In addition to supervising

the timely submission of accurate and complete transcript notices, the official reporter can update transcript status reports on a periodic basis.

Finally, the official reporter can screen transcripts before delivery to parties, to assure compliance with statutes and regulations.

For suggested changes to implement this regulation, see the volume on proposed regulations governing reporters and monitors that has been prepared to accompany this report.

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D. Assistant Court Reporter and Court Recording Monitor

Assistant court reporters, who are to be available for assignment five days a week unless excused or released to take depositions (Regulations, paragraphs IV(a), (b) and (c)), have the following responsibilities under the regulations:

(1) take testimony in proceedings as assigned, whether at their official stations, at other locations, or at other court levels (paragraphs VI(a), (d) and (e));

(2) furnish transcripts within a reasonable time, complying with practice rules and OES requests regarding notification of orders and deliveries, and charging fees in compliance with statutory requirements (paragraphs V(c), VIII(d), and IX(c));

(3) at locations where no special provision for secretarial services has been made, perform stenographic and secretarial work connected with judges' official business (paragraph VI(f)); and

(4) make timely submission of income and attendance record reports (paragraphs V(d), IX(a) and IX(b)).



The regulations now in existence concerning court recording monitors are separate from those relating to court reporters. But in terms of duties and responsibilities, their provisions are virtually identical to those in the preceding paragraph.

RECOMMENDATION 15.

JUDICIAL DEPARTMENT REGULATIONS SHOULD SET FORTH IN GREATER DETAIL THE RESPONSIBILITIES OF ASSISTANT COURT REPORTERS AND COURT RECORDING MONITORS. IN REGARD TO TRANSCRIPT ACTIVITIES EACH REPORTER AND MONITOR SHOULD BE MADE EXPLICITLY RESPONSIBLE TO THE JUDICIAL DEPARTMENT, THE EXECUTIVE SECRETARY AND THE OFFICIAL COURT REPORTER OR MONITOR SUPERVISOR WHO SUPERVISES HER OR HIM. SPECIFICALLY, ALL REPORTERS AND MONITORS SHOULD BE RESPONSIBLE TO

- (1) MAKE TIMELY SUBMISSION OF PROPERLY COMPLETED TRANSCRIPT NOTICES TO THE OFFICE OF THE EXECUTIVE SECRETARY;
- (2) COMPLY WITH TRANSCRIPT FORMAT REGULATIONS;
- (3) CHARGE FEES IN COMPLIANCE WITH STATUTORY PROVISIONS; AND
- (4) MAKE TIMELY DELIVERY OF TRANSCRIPTS, IN COMPLIANCE WITH JUDICIAL DEPARTMENT STANDARDS.

REGULATIONS SETTING FORTH ASSISTANT REPORTER AND MONITOR RESPONSIBILITIES SHOULD SERVE AS THE BASIS FOR PERIODIC PERFORMANCE EVALUATION.

TO AID REPORTERS AND MONITORS IN PERFORMING THEIR DUTIES, THE JUDICIAL DEPARTMENT SHOULD INCLUDE THEM IN ITS EDUCATION PROGRAM.

Reporters are provided with general information upon application for a Connecticut position (see forms JDSR 25 and 27), and regulations and OES communications are available for guidance. For this purpose, more detailed regulations can provide the basis for a fuller understanding of their duties and the

criteria by which their performance will be measured. Brief orientation and refresher courses may contribute to further understanding. In-service training, to improve the skills of reporters when needed, is essential to the effectiveness of transcript management. Unless reporters and monitors can transcribe cases efficiently, they may be unable to meet recommended standards for timely delivery. (See above, Recommendation 7.) And without reporters or monitors of consistent quality rotation of reporters in protracted cases is not practical. (See above, Recommendation 7). Furthermore, it is likely that a court reporting manual, setting out procedures and regulations, will be a helpful education and management tool.<sup>99</sup> Using such a manual, official court reporters might conduct orientation sessions for new reporters and regularly scheduled refresher sessions for more experienced salaried reporters.

See the companion volume to this report for proposed regulations governing reporters and monitors, incorporating this recommendation and others made in this report.

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E. Rewards and Sanctions Relating to Transcript Production

The regulations provide (paragraph V(a)) that OES is to exercise general supervision of official and assistant court reporters, with the duty to enforce the above reporter responsibilities. For this purpose, certain sanctions are made available when reporters fail to comply with the regulations. If

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<sup>99</sup>Jurisdictions with court reporting manuals include Alaska, California (Los Angeles Superior Court), District of Columbia, Indiana, Nebraska, New Jersey, and Tennessee. See NCSC, Comparative Study, p. 47.

transcript deliveries are not made "within a reasonable period of time" after being ordered, OES may suspend a reporter's privilege to take depositions during normal work hours; also, a committee of Superior Court or the Court of Common Pleas may order a forced leave of absence without pay (paragraph V(c)). For failure to comply with Practice Rules 558 or 608A regarding transcript notices, or with OES requests regarding those notices, a reporter may be denied an annual incremental pay increase or be temporarily suspended without pay.

The sanctions listed above have been imposed only intermittently. One reason is the "vicious cycle" regarding reporter time estimates. OES effectiveness in evaluating and controlling the reasonableness of reporter delivery-time estimates is hampered by the fact that reporter page estimates are inaccurate by an average of over 20% (see Figure 6 .) But reporters have no incentive to improve their page estimates, because of time constraints, and OES has not always followed up with reporters about the magnitude of their error or the value of more accurate estimates. The regulations state that sanctions may be applied if a reporter fails to make timely delivery of transcripts or timely submission of reports or notices. But the regulations do not suggest whether sanctions are applicable for each individual failure to comply, or only for continued failure. And sanctions seem appropriate only for continued or egregious noncompliance. Furthermore, authority to apply sanctions is left unclear. Under paragraphs

V(c) and (d) of the regulations, who is authorized to initiate proceedings before a court committee to suspend a reporter without pay? Under paragraph V(d), who has authority to deny a reporter's annual incremental pay increase?

RECOMMENDATION 16.

THE JUDICIAL DEPARTMENT SHOULD APPLY A BROADER AND MORE FLEXIBLE RANGE OF REWARDS AND SANCTIONS TO ASSURE EFFECTIVE TRANSCRIPT PREPARATION.

In some of the correspondence between the Executive Secretary and individual reporters, he has threatened a denial of reporters' annual incremental pay increase. But it is not clear from reporter regulations whether the Executive Secretary has authority to take that action himself. The only sanction clearly available to the Executive Secretary is authority to suspend the privilege to accept outside deposition work during regular court hours. Whether that privilege ought to be retained is discussed earlier. But if it is, authorization for its exercise should be retained by the Executive Secretary, and the following additional authority should be given serious consideration by the Judicial Department:

(1) on request by any reporter, excusing from courtroom responsibilities any reporter with an extraordinary pending transcript workload and requiring that reporter to reduce his or her backlog;

(2) commending reporters to the Chief Court Administrator when their performance during a year has been especially praiseworthy;

(3) supervising performance evaluations for reporters and recommending only those performing competently in the preceding year to the Chief Court Administrator for annual incremental pay increases;

(4) ordering that suspension of up to one day's pay at any time a reporter submits a transcript notice that is unduly delayed or incomplete;

(5) ordering that a reporter failing to make timely transcript delivery be relieved from courtroom assignment until completion of the transcript, barring deposition work during that time, and subtracting the cost of a replacement per-diem reporter from the delinquent reporter's salary;

(6) ordering the refund of any transcript overcharge, upon party complaint or when discovered under audit;

(7) recommending suspension without pay to the Executive Committee of the Superior Court of any reporter continually failing to comply with regulations; and

(8) recommending dismissal under egregious circumstances. The addition of these rewards and sanctions should give the Executive Secretary added leverage in assuring timely transcript preparation.

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F. Alternative Court Reporting Technologies

Since 1971 the Judicial Department has employed electronic recording devices operated by "monitors" in a limited number of locations as an alternative or supplement to reporting by "steno-type" reporters. OES has a generally positive opinion of the

work done by these monitors, both in recording proceedings and in transcribing the record. But at least some of the stenotype reporters do not have a high opinion of monitor performance. Given the problems of transcript delay described above, one is moved to inquire whether monitors have aggravated these problems by being slower in transcript preparation than "regular" reporters. A comparison of transcript preparation times shows that monitors' average performance in 1975 and 1976 was close to that by Superior Court and Common Pleas stenotype reporters:

Figure 24. Comparison of Delivery Times and Delay for Court Recording Monitors and Stenotype Reporters, 1975 and 1976

Category	Number Transcribed	Average Pages	Average Estimated Days	Average Actual Days	Percent Difference	Number of Transcripts Delayed	Percent Delayed
Stenotypists	248	265.2	56.5	69.3	+22.5	117	48.8
Monitors	30	203.6	60.7	73.6	+21.1	14	46.7

As these figures show, recording-device monitors had somewhat lower percentage than stenotype reporters. But the monitors took more time to do transcripts that usually were shorter in page length. While stenotype reporters averaged 3.83 pages per day, monitors averaged only 2.77 pages per day.

100 A "monitor" is a person who operates a courtroom audio recording device and maintains a log of speakers and events to facilitate transcription.

Comparisons from other perspectives all tend to show the close similarity in transcript performance among stenotype reporters and monitors. For example, a comparison of individual stenotypists and monitors indicates why there was a lower percentage delay for monitors as a group:

Figure 25. Comparison of Individual Stenotypists and Monitors for Transcript Delay, 1975 and 1976

a. Percent of Transcripts Delayed		Number of Persons Stenotypists    Monitors	
(Persons with less than half of transcripts delayed)	0%	13	4
	1-25%	3	0
	25-49%	8	1
(Persons with half or more of transcripts delayed)	50%	9	3
	51-75%	7	1
	76-99%	3	1
	100%	23	0

b. Average Variation from Time Estimate (As Percent of Estimate)		Number of Persons Stenotypists    Monitors	
(Persons with average delivery time within estimate)	-26% or more	11	0
	- 1 to 25%	15	4
	0	6	0
(Persons whose average delivery time exceeded estimate)	+ 1 to 25%	17	4
	+26 to 50%	11	1
	+51 to 75%	6	1
	+76 to 99%	2	0
	+100% or more	8	0

As the numbers in Figure 25 illustrate, a substantial number of stenotypists were delayed in delivery of all their transcripts, while no monitors had so extensive a delay. Similarly, there

were ten stenotypists whose average delivery times were 76% or more longer than estimated, while no monitors experienced so great a problem.

As for gross error in page estimates, according to entries in transcript notices for 1975 and 1976 deliveries, stenotypists and monitors compare as follows:

Figure 26. Comparison of Stenotypists and Monitors for Gross Error in Page Estimates, 1975 and 1976

a. Group Comparison

	<u>Group</u>	
	<u>Stenotypists</u>	<u>Monitors</u>
Average Estimated Pages	298.4	211.7
Average Gross Error, in Pages	67.8	55.3
Gross Error as Percent of Estimate	22.7%	26.1%
Transcripts in Sample	226	29

b. Distribution of Individuals for Percent Gross Error

<u>Individuals</u>	<u>Percent Gross Error</u>					
	<u>0-10%</u>	<u>11-20%</u>	<u>21-30%</u>	<u>31-40%</u>	<u>41-50%</u>	<u>51+%</u>
<u>Stenotypists</u>	11	29	17	11	2	2
<u>Monitors</u>	0	4	3	3	0	0

As these comparisons show, monitors tended to err by a greater percentage than stenotypists in their page estimates. The distribution of the gross error by monitors tended, like that of the stenotypists, to cluster around the overall average of 23.0% error (see Figure 6 above). Monitors, however, had none of their numbers at either extreme of the distribution: while no monitors erred by less than 10%, neither did any err by more than 40%.



The transcript performance by monitors was, overall, very little better or worse than that by stenotypists. It is likely that monitor performance was affected by the same influences existing in the court system that have affected transcript preparation by stenotypists.

RECOMMENDATION 17.

THE JUDICIAL DEPARTMENT SHOULD CONTINUE ITS EXPERIMENTATION WITH ALTERNATE FORMS OF COURT RECORDING TECHNOLOGY.

The above findings indicate that there is little to distinguish between the transcript performance of stenotypists and court recording monitors. The cost involved in purchasing and maintaining new means of recording technology may be outweighed by two important considerations associated with transcription. First, court recording monitors can be hired at a much lower salary than stenotypists can command. Second, the person who took the initial record of proceedings need not be the one preparing the transcript. Comparing the accuracy of recording by stenotype with that by other means, the Judicial Department should test the feasibility and cost-effectiveness of new technologies.<sup>101</sup> More specifically, for example, the Department may want to examine the present or future feasibility of computer-aided transcription.<sup>102</sup>

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<sup>101</sup> For a comparison of the advantages and disadvantages of manual shorthand, stenotype, stenomask, audio multi-track recording, computer-aided transcription, Gimelli voice-writing, and video recording, see NCSC, Comparative Study, pp. 27-32.

<sup>102</sup> See National Center for State Courts, Users' Guidebook to Computer-Aided Transcription (1977).

A comparison of present and possible reporting techniques should look at both the costs involved--such as personnel salaries and fringe benefits, equipment purchase, installation and maintenance, supplies, and facilities--and the benefits to be expected--for example, accuracy of record, speed of transcription, personnel training time, and court control of the process. In a national study of reporting methods, multi-track audio recording was rated superior to stenotype in both costs and benefits.<sup>103</sup> But whether this general comparison is applicable to Connecticut's specific circumstances and reporting needs should be carefully studied, especially since the general comparison was not intended to assign relative "weights" to the different costs and benefits it measured.

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G. Staffing Requirements for Court Reporting Services

By statute, the judges are to appoint as many reporters at each court location as they consider necessary. Many recommendations presented here are intended to enhance the timeliness of reporter transcript delivery and to help the Judicial Department make more efficient utilization of court reporting personnel time. But as the statistics in this report show (see above, Figure 2 ), increased delay in transcript delivery times since 1969 has in part been due to increased

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<sup>103</sup>NCSC, Comparative Study, p. 39.

numbers of transcripts to be delivered. And the reorganization of trial courts under P.A. 76-436, effective July 1, 1978, may have unpredicted consequences for the Judicial Department's number of reporters and monitors--both statewide and at specific court locations.

RECOMMENDATION 18.

THE JUDICIAL DEPARTMENT SHOULD DETERMINE WHETHER MORE COURT REPORTERS, COURT RECORDING MONITORS, OR ADMINISTRATIVE PERSONNEL TO AID COURT REPORTING SERVICES ARE NEEDED AS A RESULT OF (A) RECOMMENDATIONS MADE HERE, (B) INCREASED TRANSCRIPT WORKLOADS, AND (C) THE FORTHCOMING TRANSFER OF ALL TRIAL COURT JURISDICTION TO SUPERIOR COURT.

Of particular significance, in terms of personnel needs, among recommendations made here are those calling for a thirty-day delivery standard, setting productivity standards, and suggesting removal from recording assignment or rotation to avoid excessive transcript backlog or delay. Whether increased productivity per reporter or monitor, or improved personnel utilization due to trial court reorganization, can offset pressures for speedier transcription should be reviewed within a year after implementation of these recommendations and of P.A. 76-436.

It should be clear that this report calls in general for a broader and more active management role to be played by official court reporters. In order to fulfill the more detailed responsibilities set forth here, the official court reporters may assert that they need increased staff assistance.

\* \* \* \* \*

H. Qualification of Reporters and Monitors

In view of the preceding recommendations, it may be appropriate for the Connecticut Judicial Department to re-examine the skills it expects that court-reporter applicants be able to demonstrate. Re-examination of reporter qualifications may also be appropriate in contemplation of the Department's plans to revise the appellate process and to implement P.A. 76-436.

By statute,<sup>104</sup> court reporters are officially appointed by the judges of Superior Court. Appointments are made from a list of persons whom the Board of Examiners of Court Reporters has certified as possessing all necessary qualifications.<sup>105</sup>

Those seeking to qualify as court reporters must apply in writing to the Board of Examiners, and applications are solicited only when it is determined that there is a need for a new list of qualified persons.<sup>106</sup> Each applicant for examination must provide character references and possess a high school diploma or its equivalent. In addition, applicants for the Classification II examination must have had at least two years prior experience.

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<sup>104</sup>C.G.S.A. §51-60.

<sup>105</sup>See Connecticut Judicial Department Forms JDSR 24, Regulations for Court Reporter Classification I, and JDSR 26, Regulations for Court Reporter Classification II.

<sup>106</sup>As a consequence, examinations for court reporters are not held regularly. It appears that the last examination for Common Pleas or Superior Court reporters was in 1973.

Applicants for the entry-level position of court reporter take the Classification I examination, which is less difficult than the Classification II examination. (See Exhibit 6, below.) Despite differences in difficulty, the two examinations are identical in format. Applicants are asked to transcribe their record of a simulated trial, and their performance is graded for accuracy and speed, as well as for spelling, punctuation and general style. They are also asked to read back portions of a simulated jury charge, which a reporter might be required to do in an actual trial. In order to achieve a passing grade, each applicant must achieve at least 95% accuracy in transcription and oral reading of his or her notes.

The examination process described above applies only to court reporter applicants employing manual shorthand or stenotype as a recording technique. The Board of Examiners is composed of judges, stenotype reporters, the Executive Secretary, and representatives of the Judicial Department. As this report has indicated, there are court recording monitors and typists also involved in the transcription process. It appears that these personnel, however, are not required to pass any qualifying examination.

RECOMMENDATION 19.

THE EXAMINATIONS NOW ADMINISTERED ONLY TO CANDIDATES FOR APPOINTMENT AS COURT REPORTERS SHOULD ALSO BE ADMINISTERED TO PROSPECTIVE COURT RECORDING MONITORS. THE MAKEUP OF THE BOARD OF EXAMINERS SHOULD BE MODIFIED TO INCLUDE AT LEAST ONE COURT RECORDING MONITOR.

THE CONTENT OF THE EXAMINATIONS AS NOW ADMINISTERED SHOULD BE MODIFIED.

THE EXISTING ENTRY-LEVEL EXAMINATION, AS MODIFIED IN KEEPING WITH THIS RECOMMENDATION, SHOULD BE ADMINISTERED TO COURT RECORDING MONITORS.

A NEW ENTRY-LEVEL REPORTER EXAMINATION (CLASSIFICATION I) SHOULD CALL FOR CANDIDATES TO TAKE DICTATION AT RATES NOW SET FOR THE ADVANCED REPORTER EXAMINATION (CLASSIFICATION II). IN A NEW CLASSIFICATION II REPORTER EXAMINATION, CANDIDATES SHOULD BE GIVEN DICTATION OF SIMULATED TRIAL TESTIMONY AT 225 WORDS PER MINUTE FOR 10 MINUTES AND DICTATION OF A JURY CHARGE AT 200 WORDS PER MINUTE FOR 5 MINUTES. DICTATION OF 5 MINUTES OF SIMULATED MEDICAL TESTIMONY SHOULD BE CONSIDERED FOR CLASSIFICATION II, AT 175 OR 185 WORDS PER MINUTE.

ALL CANDIDATES SHOULD BE GRADED ON THEIR TRANSCRIPTION TIME IN ACCORDANCE WITH PRODUCTIVITY STANDARDS RECOMMENDED IN THIS REPORT.

ALTHOUGH CURRENT SALARIED REPORTERS AND MONITORS NEED NOT BE REQUIRED TO TAKE THE NEW EXAMINATIONS RECOMMENDED HERE IN ORDER TO KEEP THEIR POSITIONS, THEY SHOULD BE SO REQUIRED IN ORDER TO QUALIFY FOR PROMOTION TO A HIGHER CLASSIFICATION.

These recommendations can be translated into a format like that used in Exhibit 7, in order for the reader to compare them with the present qualifications set out by the Board of Examiners. (See Exhibit 7 below, which presents the changes recommended here in comparison with relevant national standards.)

Exhibit 6

COMPARISON OF CONNECTICUT EXAMINATIONS FOR COURT REPORTER  
CLASSIFICATION I AND COURT REPORTER CLASSIFICATION II\*

Classification I

1. Four-voice dictation of simulated court trial at 175 words per minute for 5 minutes.
2. Voice dictation of judge's jury charge at 165 words per minute for 5 minutes.

[Parts 1 and 2 take place between 10:00 and 10:30 AM on the day of examination.]

3. Candidates to transcribe four-voice dictation taken in #1 above.

[Part 3 takes place until 1:00 PM on the day of examination.]

4. Candidates called individually before examiners and asked to read orally parts of jury charge taken in #2 above.

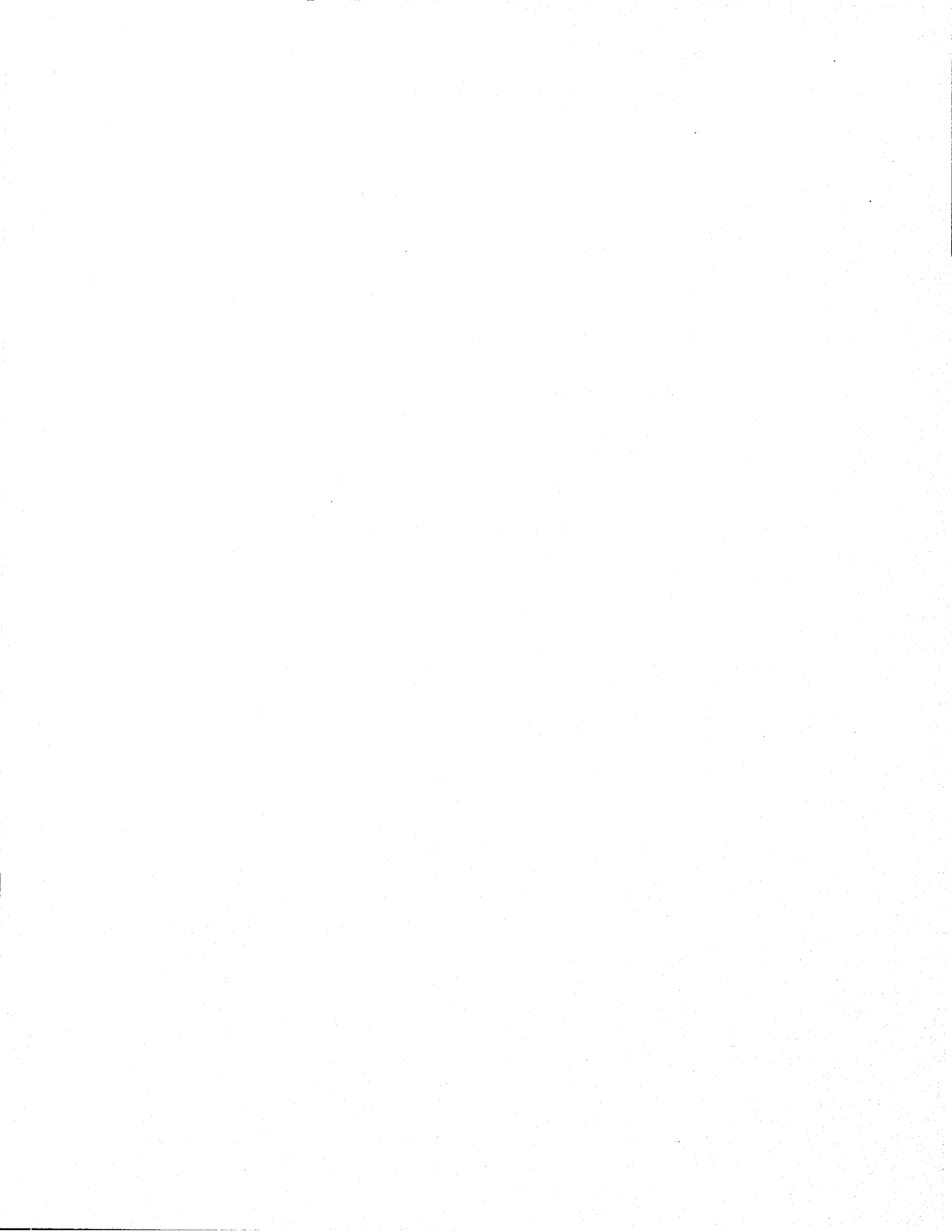
Classification II

1. Four-voice dictation of simulated court trial at 200 words per minute for 10 minutes.
2. Voice dictation of judge's jury charge at 185 words per minute for 5 minutes.

3. Candidates to transcribe four-voice dictation taken in #1 above.

4. Candidates called individually before examiners and asked to read orally parts of jury charge taken in #2 above.

\* Sources: Connecticut Judicial Department forms JDSR 24, 25, 26, and 27, and interview with Allan E. Liljehult, Secretary, Board of Examiners of Court Reporters.





**Exhibit 7. Proposed Reporter-Monitor Examinations, Compared with NCSC and NSRA Standards**

Skill or Achievement To Be Tested	Proposed Connecticut Examinations			NCSC Comparative Study	NSRA Brochure (Minimum Standards)
	Monitors	Reporters Class I	Reporters Class II		
I. Speed Recording Testimony					225 wpm
A. Q & A	175 wpm, 5 minutes	200 wpm, 10 minutes	225 wpm, 10 minutes	200-225 wpm, 5-10 minutes	
B. Jury Charge or Opening Statement	165 wpm, 5 minutes	185 wpm, 5 minutes	200 wpm, 5 minutes	200 wpm, 5-10 minutes	
C. Medical Testimony	--	--	--	175-185 wpm, 5-10 minutes	Should have an elementary knowledge of medical terms
II. Transcription Speed					
A. Q & A	Type within 30 minutes (100% score: Type in 21 minutes or less)	Type within one hour (100% score: 48 minutes or better) or dictate within 30 minutes (100% score: dictate in 24 minutes or better)	Dictate within 30 minutes (100% score: 27 minutes or better) or type within one hour (100% score: 54 minutes or better)	Transcribe each above subtest in 30-45 minutes.	Type 60 wpm (This would enable dictation at 225 wpm for 10 minutes to be typed in 37.5 minutes)
B. Medical Testimony	--	--	--		
III. Transcript Accuracy	95%	95%	95%	Q & A, 97%; Other sub-tests, 95%	--
IV. Language Skills (spelling, grammar, punctuation)	Q & A transcript graded	Q & A transcript graded	Q & A transcript graded	Should be tested	Should be demonstrated
V. Court Practices and Procedures	Q & A transcript graded	Q & A transcript graded	Q & A transcript graded	Should be tested	Should be demonstrated
VI. Ability to Locate and Read Back Testimony	Candidates individually to read back parts of opening statement	Candidates individually to read back parts of jury charge	Candidates individually to read back parts of jury charge	Should be tested	--

In a brochure for prospective shorthand reporters, the National Shorthand Reporters Association (NSRA) presents the minimum standards it has set for schools training reporters:

(a) a course in shorthand enabling student to write with accuracy at 225 words per minute;

(b) a course in typing enabling student to type at 60 words per minute;

(c) a course in English language skills;

(d) a course in law, court procedures, reporter duties and ethics;

(e) a course in elementary anatomy and physiology, including medical word study. <sup>107</sup>

The recommendation presented here thus recommends that candidates to be reporters or monitors present skills or achievements at or below the minimum standards recommended by NSRA, even though they involve an upgrading of current Connecticut examination standards.

Moreover, the recommendation advocates administration of the examination to court recording monitors as well as court reporters. This is consistent with the position taken in the recent study of court reporting services by the National Center for State Courts. This study classifies those involved in providing court reporting services into three categories: <sup>108</sup>

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<sup>107</sup> NSRA Brochure, pp. 12 and 15.

<sup>108</sup> NCSC, Comparative Study, p. 19.

(a) court reporters who must personally make a record in court on paper or magnetic tape using either fingers or voice (e.g., manual shorthand, stenotype, stenomask, Gimelli voice-writer);

(b) court reporters who primarily operate and monitor electronic recording devices (e.g., multi-track audio recording, as with monitors in Connecticut, and videotape);

(c) transcriber-typists who type the final transcript. The National Center comparative study recommends that courts should administer tests for speed and accuracy of transcription and language skills to applicants for all three of these categories; that tests for recording speed, knowledge of court practices and procedures, and ability to read back testimony be administered to applicants for categories (a) and (b) above; and that a further test for knowledge and operation of electronic recording equipment be administered to category (b) applicants.<sup>109</sup> As Exhibit 7 indicates, the National Center comparative study's standards are consistently more stringent than those recommended here.

\* \* \* \* \*

I. Regulations Governing Reporters and Monitors

The Connecticut Judicial Department has, on a periodic basis, revised its court reporting regulations to reflect policy and organizational changes. Regulations for Circuit Court reporters were prepared when that court replaced local

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<sup>109</sup> id., p. 20.

courts of limited jurisdiction, and the most recent regulations concerning reporters in Superior Court and the Court of Common Pleas went into effect in 1974. Based on these are regulations concerning court recording monitors, also dated 1974. The most recent regulations relating to transcript format date from 1959.

At present there exist three separate sets of operative Judicial Department regulations regarding court reporting: those for reporters, monitors, and transcript format. There are also certain areas, such as maintenance and storage of reporter notes and reporter employment during vacations, guided not by regulations but by policy expressions contained in memoranda or "speed letters." The matter of note storage and maintenance is apparently still controlled by a 1976 speed letter from the chief clerk of the now-defunct Circuit Court; and no policy statements were found relating to maintenance and storage of monitor tapes.

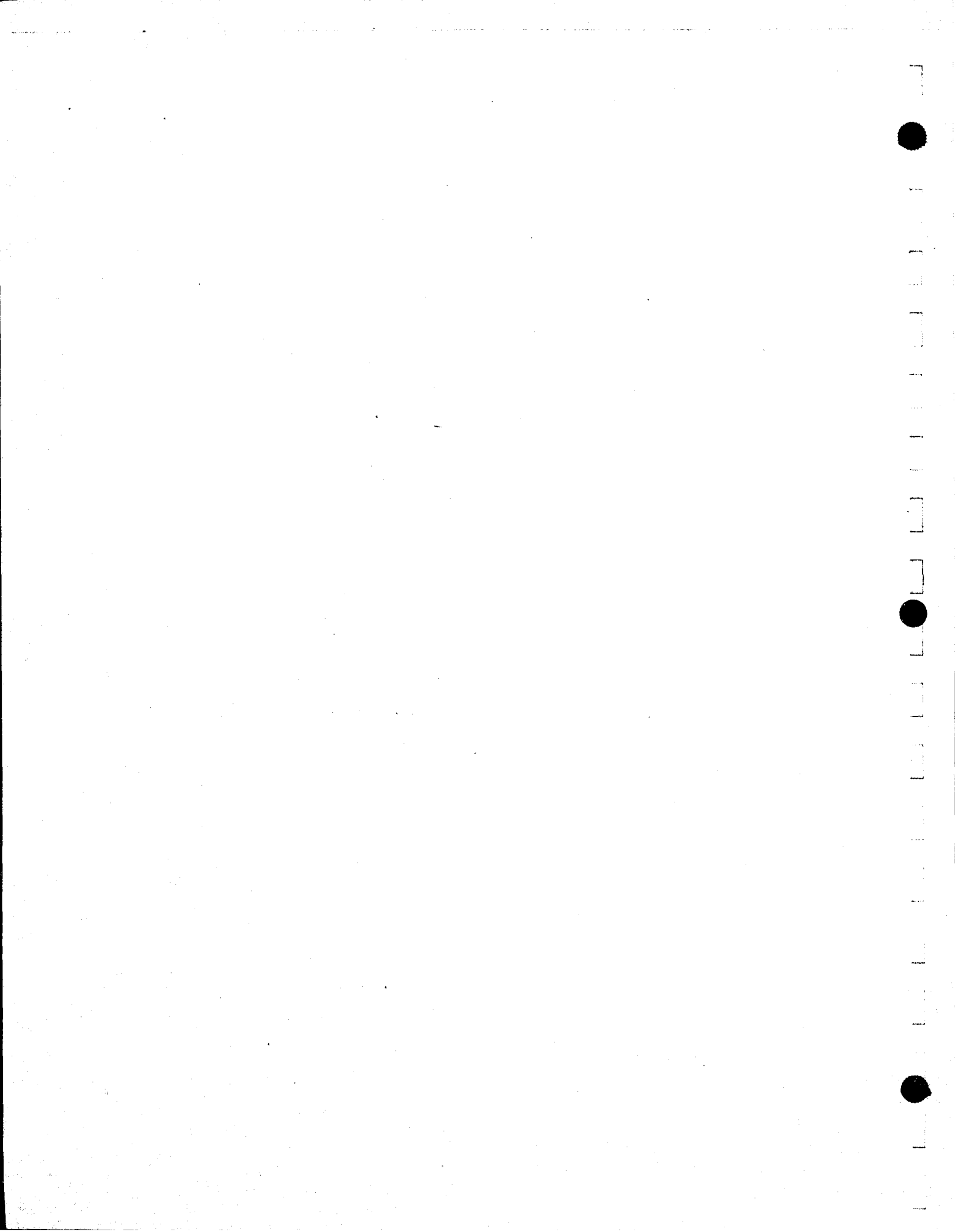
RECOMMENDATION 20.

JUDICIAL DEPARTMENT REGULATIONS FOR COURT REPORTERS AND COURT RECORDING MONITORS SHOULD BE REVISED, RECOMPILED, AND REISSUED TO REFLECT (A) THOSE RECOMMENDATIONS MADE HERE THAT HAVE BEEN APPROVED BY THE DEPARTMENT, AND (B) OTHER POLICIES CONCERNING REPORTERS AND MONITORS THAT HAVE BEEN DEVELOPED SINCE THE LAST ISSUANCE OF REGULATIONS.

In furtherance of this recommendation, a companion volume, entitled Connecticut Court Reporting Services: Proposed Regulations, has been prepared to accompany this report. The regulations suggested there reflect the various recommendations made as a result of this study. They also combine, in a unified format, the now-separate regulations for reporters, monitors and transcript format, with additional suggested regulations incorporating policy statements now contained outside regulations. Their proposed effective date is July 1, 1978, the date set for transfer of all trial jurisdiction under P.A. 76-436 to Superior Court.



APPENDICES





## Appendix A

## TRANSCRIPT FEES IN THE UNITED STATES \*

Jurisdiction	Fee Provision	Reference
Arizona	For first copy, 20¢ per folio; for each carbon ordered at same time by same party, 10¢ per folio.	Ariz. Stats. Ann. \$12-224
Arkansas	From 50¢ to \$1.00 per page for original; from 10¢ to 25¢ per page for copies.	(a)
California	For original, 45¢ per 100 words; for each copy ordered by same party at same time, 10¢ per 100 words. First copy to any other party, 20¢ per 100 words; for each additional copy ordered at same time, 10¢ per 100 words. Additional 50% for special daily copy service.	Cal. Govt. Code §§69950, 69951
Colorado	For original, 30¢ per folio; for copy, 25¢ per folio (three folios per page).	Colo. Rev. Stats. \$13-32-104
Connecticut	For original, 50¢ per folio of 100 words; 16¢ per folio for copy. If for state or local government, 40¢ per folio for original and 10¢ per folio for copy.	Conn. Gen. Stats. Ann. \$51-63
Delaware	Original and one copy: \$1.30 per page for private attorney cases and 90¢ per page for Public Defender cases.	(b)
District of Columbia	For original, \$1.00 per page; for copy, 40¢ per page.	(a)
Florida	For original, 50¢ per page; for copy, 25¢ per page.	Fla. Stats. \$29.03
Guam	For original, \$1.00 per page; for copy, 40¢ per page.	(a)
Hawaii	For original, \$1.25 per page; for copy made at same time, 50¢ per page. Additional 50% for expedited service during course of trial.	Haw. Rev. Stats. \$606-13
Idaho	For original and copies, \$1.75 per page.	Idaho Code \$1-1105.2
Illinois	Not more than 25¢ per 100 words.	37 Smith-Hurd Ill. Ann. Stats. \$655

\*As of summer 1977

Jurisdiction	Fee Provision	Reference
Indiana	For each folio of 100 words, 10¢; each county has own system.	Burns Ind. Stats. Ann. 33-15-23-6. See (a)
Iowa	For original, \$1.40 per page; for first carbon, 50¢ per page; for each additional carbon, 35¢ per page.	Code of Iowa §605.11
Kentucky	50¢ per 100 words for original, half that amount for any copies.	Ky. Rev. Stats. §§28.440, 28.450, and 28.460
Louisiana	From 75¢ to \$1.50 per page for original and from 25¢ to 50¢ per page for copy, depending on parish.	La. Stats. Ann. - Rev. Stats. 13:961ff.
Maine	30¢ per 100 words.	4 Me. Rev. Stats. Ann. §651
Maryland	\$1.50 per page for original and 25¢ per page for copy.	(b)
Massachusetts	For one copy, 35¢ per 100 words; 13¢ per 100 words for each additional copy ordered.	Mass. Gen. Laws, Ch. 221, §88
Michigan	33¢ per original folio and 10¢ for each folio copy, or \$1.00 per page and 30¢ for each page copy	Mich. Comp. Laws Ann. §600.2543(1)
Minnesota	35¢ per folio of original, 7 1/2¢ per folio of first copy, and 4¢ per folio of second copy, with three folios per page.	Minn. Stats. §486.06; see (c)
Mississippi	25¢ per 100 words.	Miss. Code §9-13-33
Missouri	75¢ per page for original and 20¢ per page for copy.	Vernon's Ann. Mo. Stats. §485.100
Montana	7 1/2¢ per folio; free to court for use in rendering decision in civil case.	Rev. Code Mont. 93-1904
Nebraska	\$1.12 per page; attorneys may prepare copies from originals.	(c)
Nevada	70¢ per folio for original and 20¢ per folio for copy to party ordering original; 20¢ per folio for copy to any other party.	Nev. Rev. Stats. §3.370.1
New Hampshire	40¢ per page.	N.H. Rev. Stats. Ann. 491:App. R. 73

Jurisdiction	Fee Provision	Reference
New Jersey	40¢ per folio for original and 25¢ per folio for copy.	N.J. Stats. Ann. §2A:11-15
New York	From 25¢ to \$1.50 per page for original; 25¢ per page for copy.	(a)
North Dakota	\$1.65 per page for original and two copies	(c)
Oklahoma	\$1.50 per page for original, with 2 free copies to ordering party if requested.	Okla. Stats. §106.4(b)
Oregon	Not more than \$1.50 per page for original, not more than 25¢ per page for first copy, and not more than 20¢ per page for each additional copy.	Ore. Rev. Stats. §21.420
Pennsylvania	Original and 5 carbon copies: approximately \$1.60 per page (2 folios = one page).	(b)
Puerto Rico	10¢ per 100 words	32 Laws P.R. §1489
Rhode Island	\$1.00 per page for original and 50¢ per page for copy.	R.I. Gen. Laws Ann. §8-5-5
South Carolina	From 5¢ to 15¢ per 100 words, depending on circuit.	Code of Laws S.C. Ann. §14-15-40
South Dakota	\$1.00 per page for original and 25¢ per page for copy.	(c)
Texas	A reasonable amount for original, in view of difficulty and technicality of material or time in which delivery is required, with copy not more than 1/3 cost of original.	Vernon's Ann. Civ. Stats. Texas, art. 2324
United States District Courts	Original and one carbon: \$2.00 per page.	(b)
Utah	50¢ per folio for original and 10¢ per folio for copy to party ordering original; 25¢ per folio for first copy to another party and 10¢ per folio for each additional copy.	Utah Code Ann. §78-56-4

Jurisdiction	Fee Provision	Reference
Vermont	50¢ per folio for original and 25¢ per folio for copy.	4 Vt. Stats. Ann. \$797
Virginia	Original and two copies: from \$1.25 to \$2.70 at free lance rates negotiated between reporter and lawyer with court approval.	(a), (b); see Code Va. \$19.2-166 and S. Ct. Rules, R. 1:3
Virgin Islands	\$1.00 per page for original and 50¢ per page for copy. Daily transcript, \$2.00 per page for original and 50¢ per page for copy. Expedited transcript fixed by agreement of parties with court approval.	5 V.I. Code App. V, R. 9
Washington	Original and one copy: \$1.50 to \$2.00	(a)
West Virginia	\$1.10 per page for original and 40¢ per page for copy.	W.Va. Code \$51-7-4
Wisconsin	For private party, 60¢ per page for original and 20¢ per page for copy; for court, state or local government, 50¢ per page for original and 15¢ per page for copy.	Wisc. Stats. 256.57
Wyoming	\$1.50 per page for original, with free copy to ordering party; 50¢ per page for each additional copy.	Wyo. Stats. \$5-82

#### Reference Notes

(a) Source: National Center for State Courts, Administration of Court Reporting in the State Courts, pp. 4-18 (February 1973).

(b) Source: National Center for State Courts, Court Reporting Services in Maryland, p. 29 (March 1976).

(c) Source: National Center for State Courts, Court Reporting Services in South Dakota, p. 54 (September 1977).

Appendix B

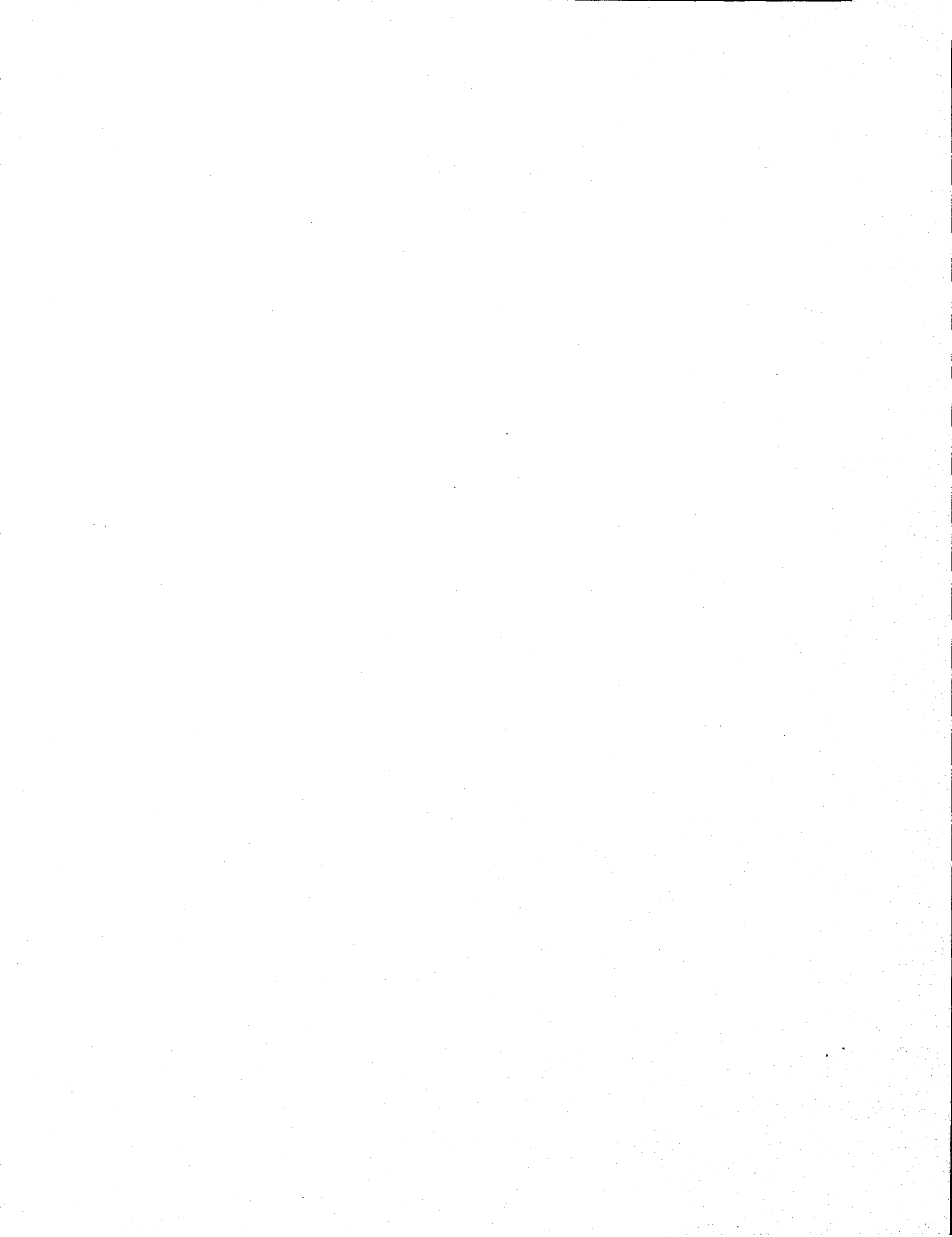
DEPARTURE OF SAMPLED TRANSCRIPTS FROM REGULATIONS

Case No. <sup>a</sup>	Case Type	Trial Court	Aspects Varying from Regulations <sup>b</sup>
1	Criminal	Superior	26 lines per page; answers always start on new line; Q and A start at numbers 20 and 25; colloquy lines begin at numbers 30 and 25; jury charge lines begin at numbers 30 and 25.
2	Civil	Superior	Answers always start on new line.
3	Civil	Superior	Not on margin-ruled paper; 24-25 lines per page; answers always start on new line; counsel argument lines begin at numbers 27 and 22.
4	Civil	Superior	26 lines per page; answers always start on new line; Q and A start at numbers 20 and 25; colloquy lines begin at numbers 30 and 25.
5	Criminal	Superior	24 lines per page; answers always start on new line; Q and A start at numbers 20 and 25; colloquy lines begin at numbers 30 and 25.
6	Criminal	Superior	Answers always start on new line.
7	Criminal	Superior	25 lines per page; answers always start on new line; first line of each paragraph in jury charge starts at number 27.
8	Civil	Superior	Answers always start on new line; Q and A start at numbers 20 and 25; colloquy lines start at numbers 30 and 25.
9	Civil	Common Pleas	Answers always start on new lines.
10	Criminal	Common Pleas	25 lines per page; answers always start on new lines; colloquy lines begin at numbers 34 and 27.
11	Criminal	Common Pleas	Answers always start on new lines; second and subsequent lines of colloquy begin at number 15; lines of jury charge begin at numbers 27 and 22.

Appendix B (continued)

12	Motor Vehicle	Common Pleas	Answers always start on new lines; Q and A begin at numbers 21 and 27; colloquy lines begin at numbers 33 and 27.
13	Civil	Common Pleas	Jury charge paragraphs begin at number 27.
14	Civil	Common Pleas	26 lines per page; answers always start at new line; colloquy lines start at numbers 32 and 27.
15	Civil	Common Pleas	24 lines per page; answers always start on new lines; Q and A begin at numbers 20 and 25; colloquy lines begin at numbers 30 and 25.
16	Civil	Common Pleas	26 lines per page; answers always start on new lines; counsel argument lines begin at numbers 27 and 22.

- a. The case title, docket number, court reporter and court location for each transcript inspected for this project and analyzed here is on file at the National Center for State Courts regional office.
- b. See Exhibit 5 for the Connecticut Judicial Department transcript format regulations. The numbers shown under "Aspects Varying from Regulations," aside from the number of lines per page, all refer to character spacing on a typewriter carriage.



**END**