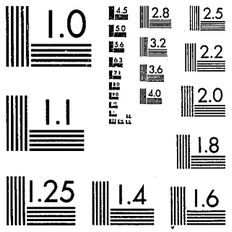

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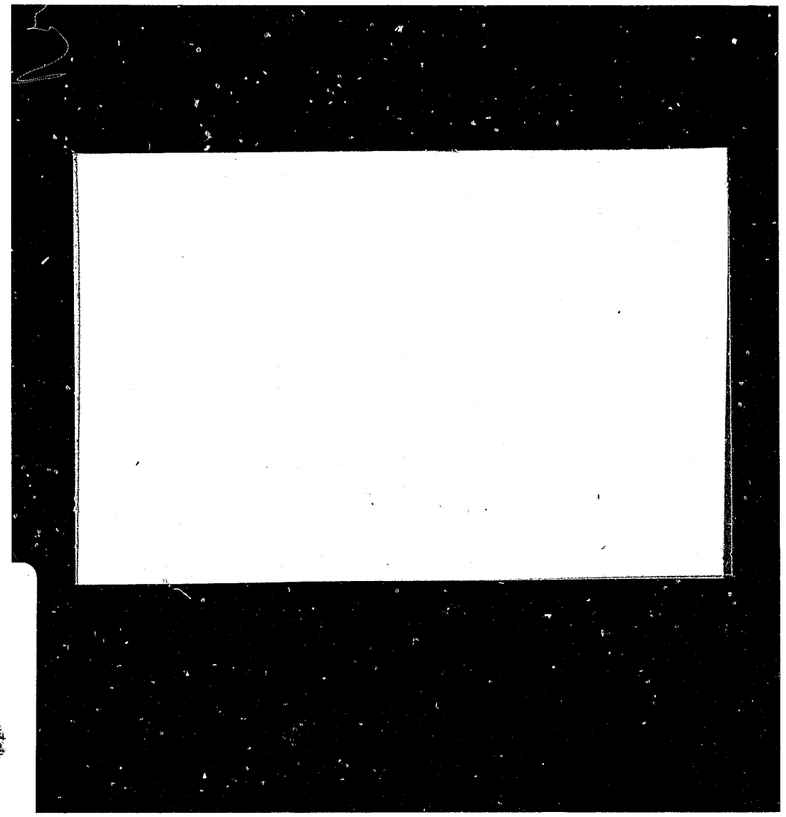
Northeastern Regional Office



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National Center for State Courts

Northeastern Regional Office

THE APPELLATE SYSTEM IN NEW HAMPSHIRE

Technical Assistance Report No. 4
in the Appellate Justice Improvement Project

Regional Director: Samuel D. Conti

Project Director: Michael J. Hudson

Technical Assistance Staff
and Co-Authors: Michael J. Hudson
Cynthia L. Easterling
David C. Steelman

National Center for State Courts
Osgood Hill
723 Osgood St.
North Andover, Massachusetts 01845

National Center for State Courts
NORTHEASTERN REGIONAL OFFICE
Osgood Hill
723 Osgood Street
North Andover, Massachusetts 01845
(617) 687-0111

Edward B. McConnell
Director

Samuel D. Conti
Regional Director

December 30, 1980

Mr. Nicholas L. Demos
LEAA - Adjudication Division
Office of Crime Justice Programs
633 Indiana Avenue, N.W.
Washington, D C. 20531

Dear Mr. Demos:

Enclosed for your information is a copy of a technical assistance report prepared for the New Hampshire Supreme Court by Michael J. Hudson, Cynthia L. Easterling and David C. Steelman. This and other reports in the technical assistance series are aimed at providing a diagnosis and analysis of the individual appellate systems. It is our intention to distribute this report as a research product of the National Appellate Project. The opportunity to produce such reports is a tribute to the continuing support and confidence shown in the Center by the Law Enforcement Assistance Administration and by the Charles E. Culpeper Foundation.

If we may provide any further information on this report or its preparation, please call upon us.

Very truly yours,

Samuel Domenic Conti

SDC:bjs
Attachment

Preface

This volume is one of a series of technical assistance reports prepared as part of the National Center for State Courts' Appellate Justice Improvement Project. The National Center is grateful for the continuing support and encouragement of the Law Enforcement Assistance Administration and the Charles E. Culpeper Foundation which have made these reports possible.

THE APPELLATE SYSTEM IN NEW HAMPSHIRE

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THE APPELLATE SYSTEM IN NEW HAMPSHIRE

Part One: General Observations

Introduction

At the request of the court, Ms. Cynthia Easterling and I conferred with Justice Douglas, Justice King, and support personnel in August, and agreed to provide you with our principal observations and recommendations resulting from that visit.

In reports of this type, we have usually adopted the procedure of devoting several pages of text to describing in detail the existing appellate system before turning to our conclusions and recommendations. We have found that this serves, among other aims, to reassure the individual courts that we are not resorting to boilerplate but are focusing on the specific courts individually. In this report we shall depart somewhat from this procedure in order to better provide useful assistance. The court has recently adopted a complete revision of its appellate rules. A detailed discussion of the new procedure would be redundant. Instead, we will concentrate on several specific areas.

As the following discussion will show, we find that the court is presently operating very efficiently and effectively. Our comments are therefore of two kinds. First, we offer some suggestions for improving the system still further. Second, we offer detailed analysis and suggestions regarding two areas which as of this writing we suspect may be "soft spots" in the New Hampshire appellate system: transcript preparation and the operation of the clerk's office. While these areas are not presenting great difficulties at present -- a least no difficulties on the scale observed in other jurisdictions -- it is possible that an increase in filings, a change in personnel, or any one of a large number of possible alterations in the present environment could result in increasing the pressure on these two components of the system, and we suspect that as they are presently set up they would have considerable difficulty in coping adequately with such changes.

This memorandum will discuss those areas which may be improved but which at present offer no real threat to the appellate system. Ms. Easterling will prepare a separate memorandum on the procedures and on the potential and extant problems in the clerk's office. Mr. David Steelman will conduct a separate site visit to your court later this month and will then prepare a memorandum on court

reporting and transcript preparation procedures. These three memoranda should be read as a whole. We will arrange to meet with the court in early October to review all the findings and recommendations.

Current Operations

The court is operating quite smoothly as we compare it with other jurisdictions we have observed. The most striking development has been the adoption of the new appellate rules. These rules accomplish the single most important aim in appellate case management: they take active control over the entire appellate process, from judgment below to issuance of mandate. The important thing now is to insure that the court exercises the control these rules provide.

The court has also adopted a procedure by which it may decline at the outset to consider an appeal if all five justices deem that action to be appropriate. This also is quite valuable in deploying the court's resources and insuring that the court devotes its attention to those cases which are of substantial merit.

There are, however, two areas which we suspect may be "soft spots" in the appellate process at present. One is the area of court reporting and the other is the area of clerk's office operations.

Court reporting and transcript preparation generally is an area of critical importance to the appellate process. It is far too common to observe an appellate system in which the entire process is at the mercy of those who are responsible for preparing the transcripts, and who in turn are operating inefficiently and under considerable strain. Of all the components of the appellate process, that of transcript preparation is probably the most difficult to straighten out once it has become mired in confusion and beset with chronic delay, since it involves the greatest number of actors and transactions, as well as some technological complications. I have asked Mr. Steelman to examine the court reporting and transcript preparation system in some detail.

The smooth operating of the clerk's office is likewise crucial to the effective operation of an appellate system. At present, the clerk's office is coping adequately and admirably with the pressures of the rules change and the increase in filings. However, there are severe dangers present which threaten this operation. One of them is a simple problem of visibility. The work which is currently being performed by the personnel in the clerk's office is not well understood by the justices. This poses a threat to the continued efficient operation of the office, the continuity of that operation, and the morale of the personnel involved. Ms. Easterling will address these and other issues in detail. I will only volunteer my observation that this, like the court reporting and transcript preparation function, is an area of importance to the appellate

system that cannot be overemphasized. If this office for any reason ceases to function smoothly, the damage to the overall appellate system can be immense. We have observed rapid deterioration and confusion in several other appellate systems due to built-in systemic flaws.

Attorneys' Handbook

During our August site visit, we provided Justice Douglas, Justice King, and Deputy Clerk Belmain with copies of an appellate attorneys' handbook currently in use in the Missouri Court of Appeals, Eastern District (St. Louis). Three additional copies are appended with this report for the other three justices of the Supreme Court. We recommend that the court produce such a document for its own appellate bar.

This document is a plain English, not-for-citation, practical guide which serves a variety of purposes that are not satisfied by the appellate rules or more formal manuals. First, it answers those questions which the staff in the clerk's office spend an inordinate portion of each day answering. The handbook will not eliminate all such calls and questions, but it can be counted on to eliminate a majority of them. Second, it serves to refer attorneys to the statutes and rules which otherwise chronically go ignored. Third, it serves also as a document format guide for the attorneys' secretaries, who make a lot of the telephone calls to the clerk's office. Fourth, it collects in one place a variety of information not otherwise centralized: filing deadlines, statutory references, rule references, addresses for mailing, filing fees, and so forth. Finally, it can be produced cheaply, and therefore can be changed readily as procedures change: the court need only update the handbook by word processor, incorporating and explaining the changes, and print the new edition with a different color cover. The handbook should be made available at the clerk's office and, more important, in all the trial court clerks' offices. Ms. Belmain has indicated that she can see that copies are made available to legal secretaries through their official organizations.

Please note the following points concerning such a handbook. (a) It should be inexpensive to produce so that it can be widely distributed, free of charge, and readily amended. (b) It should be freely and frequently amended, so that it is absolutely current. The primary purpose of the document is to reduce the inordinate amount of time each day which is spent by clerk's office personnel, trial court personnel, and Supreme Court justices in answering the same elementary questions over and over. Any substantial change in procedure should result in a new handbook with a recognizably different cover; otherwise, the telephone calls will increase again. (c) It should be explicitly not for citation. The handbook is not a legal authority; it is a courtesy. (d) It should be written primarily not for lawyers but for secretaries and laymen. It reviews appellate basics for lawyers and then refers them to

the statutes and rules.

Justices' Handbook

In a state appellate system such as New Hampshire's which contains only five appellate judges, turnover represents a substantial problem. Whenever a justice leaves and a new justice takes his place, it represents a 20% turnover. If more than one leave in a short space of time the dislocation to the system, both in terms of opinion production and of administrative continuity, is very great. Some of this can be handled through training seminars (such as the Senior Appellate Judges' Seminar managed by the Institute for Judicial Administration in New York) and some standard publications; but the aspects of the job which pertain particularly to the New Hampshire Supreme Court must be dealt with otherwise.

The court should produce a loose leaf, in-house, confidential manual for new justices along the general informal lines of the appellate attorneys' handbook, but for reference by the justices of the Supreme Court only. The aim of such a document is twofold: (1) To preserve those procedures which the court wants preserved, so that any changes are by conscious decision and not inadvertently by turnover of judicial personnel. (2) To answer those questions which new justices ask which can be adequately dealt with in print. These topics can range from how one selects law clerks, to how long the average opinion should be, to what standard expenses are reimbursed. The handbook should be written by justices for justices, to minimize the dislocation which accompanies a change in personnel and to enable new justices to begin work as quickly and smoothly as possible.

Disability, Illness, and Retirement

During our site visit we were assured that there are not at present any serious problems with the provisions in effect regarding disability, illness, and retirement. We have no reason to doubt this; nevertheless, we urge the court now to review very carefully all statutory provisions relevant to these areas. The only time a court can so examine these policies and provisions is at a time such as now when all members of the court are fit and able. As soon as any member becomes ill, disabled or for any reason unable to fulfill his responsibilities fully, the subject is closed and no changes are possible until some time after that justice has left.

Without referring to any specific court, we offer the following observation. Nothing can cripple an appellate court of this size like the illness and unproductivity of a member who for some reason refuses to leave. We have actually observed courts in which members would remain, despite pain and embarrassment, in order to increase the survivor benefits for their spouses; they suspected -- in some cases knew -- that they were suffering from terminal illnesses. In such a situation, a court usually rallies around the afflicted member and "covers" -- which not only means that the other members

carry a greater burden, but that a large number of administrative issues are not dealt with because no one has enough time.

There are at present provisions in New Hampshire for removing a justice when necessary. Such provisions should, of course, not be easily amenable to the trends of politics. Still, we recommend that the court examine these provisions carefully now, while everyone is healthy, to see if there is any loophole which could result in someone in the court becoming marginally competent and the rest of the court being compelled by the rigidity of the statutory procedures to choose between either employing inordinately public measures for removal or "carrying" the ailing colleague. The court should also exercise its imagination now, while such a situation is entirely hypothetical, to eliminate any possibility of a conflict arising whereby a justice might be tempted, despite illness or otherwise reduced productivity, to remain for any reason such as survivor benefits, health benefits, or retirement benefits.

Transcripts

We defer any substantial comments on the subject of full versus partial transcripts to Mr. Steelman's forthcoming memorandum. We do, however, offer the following observation: it appears that the system as presently established and functioning promotes the production of full transcripts regardless of their necessity for the appeals.

One general comment is in order. We agree with the general consensus among people in court reform that opposing attorneys cannot be counted upon to discipline each other sufficiently to insure the smooth and prompt progression of cases through the courts. It appears that in New Hampshire at the present time the Supreme Court is relying on just such discipline to reduce the size of transcripts ordered. If so, the court should change the procedures so that it grasps control of the mechanism and exercises affirmative control over such decisions to the fullest extent possible. This might be done through screening procedures, by advice or admonishment in the attorneys' handbook, or by rule. One rule proposed by Judge Gerald M. Smith (of the St. Louis court which produced the sample handbook for attorneys) would provide that:

> "Costs shall be assessed against the losing party, except that the costs for any portion of a transcript which is clearly unnecessary, and which clearly could have been seen to be unnecessary at the time of ordering the transcript, shall be assessed against the party requiring its inclusion, or their counsel."

"Or their counsel"; those words are the most important. If the only issues on appeal involve damages, and the attorney orders all the

transcript including all the liability testimony, it is only fair he pay for it regardless of whether or not he wins, since by ordering it he has clogged up the system. As Judge Smith commented, you only have to assess costs in accordance with this rule about once every five years. Word will get around.

The Settlement Conference

At present, the conferences conducted by Justice Lampron serve two separate and distinct purposes: to introduce the idea of settlement, and to examine how the appeal may be expedited, or in extreme cases, aborted. These two functions begin after a short distance to work against each other. An attorney cannot be perfectly frank in discussing the possible weaknesses of his appeal with a judge, however much that might advance the opportunity for settlement, if that judge has the authority to recommend that the appeal be thrown out for lack of merit.

As part of the Appellate Justice Improvement Project, we have installed appellate settlement conferences in the supreme courts of Rhode Island and Connecticut and the intermediate appellate court of Pennsylvania in such a way as to allow them to be scientifically evaluated. In each, cases are assigned randomly to "experimental" and "control" groups, with only the former receiving the benefit of the settlement conferences. As a result of observing these procedures for over a year now, we are in a position to make some observations as to what makes them work.

One important factor in the success of an appellate settlement conference is follow-up. The seeds of a settlement may be planted during the initial conference, but attorneys often become sidetracked soon after and lose the thread of settlement. The judges with whom we have worked have stated that it is important to follow up after the initial conference, to cultivate the openings that have been suggested, and to remind the attorneys of the avenues which they explored. This produces more settlements.

Since Justice Lampron is responsible for identifying appeals unsuitable for oral argument, possibly (as we recommend) unsuitable for full transcript, or even unsuitable for hearing at all, we recommend that you provide him with someone who can sit in on the conferences, keep notes, and in those cases in which it appears appropriate, follow up with telephone calls and letters to pursue the possibility of settlement. This person could also note and work to preserve agreements to abbreviate transcripts, briefs, or oral arguments. We recommend that the clerk of court assume this function. It should not interfere unduly with his other duties, since such conferences are at present heard on the average not more freqently than twice a month.

Tailored Fast Track

Our observations in a variety of appellate courts around the country have revealed that those innovations which are most likely to succeed are those which are so designed that the practicing bar "buys in" to them. This is true of appellate settlement conferences, dismissal dockets, oral decision dockets, fast track procedures, etc. Therefore, we recommend that New Hampshire develop a procedure by which the attorneys may express their own opinions as to just what steps are necessary -- always providing that the court must retain the final say in the matter.

Such a procedure might operate along the following general lines. An attorney would indicate in his notice of appeal whether he would prefer his appeal to be accelerated, and why: for example, an appeal might involve only a small amount of money, or an immediate decision might be desirable because one of the litigants is aged or ill. The attorney would not be allowed to determine finally whether or not his case would go on the accelerated docket -- that decision would always remain with the court -- but he would be allowed to state his preference. The attorney would indicate on the notice of appeal just what measures he would be willing to take to receive an expedited decision: abbreviated transcript or statement of facts in lieu of transcript, letter brief rather than full brief, or waiver of oral argument. Opposing counsel would, of course, be permitted to express a preference in these matters. The court would decide whether or not, in view of the reasons stated in the notice of appeal, it would grant the request. The attorney would be permitted to change his mind -- for example, halfway through the letter brief he might realize that more thorough and lengthy briefing was necessary -- but if he did not, and if the court at no time abrogated the decision on its own, the case would be heard in accordance with the stated abbreviated schedule and the court would then endeavor as its part of the bargain to produce an appropriately short opinion in a particularly short period of time. Allowing for statutory requirements of precedence, such cases would move to the "front of the line".

This procedure would have to be developed by members of the court in close cooperation with the members of the appellate bar. The aim of such a procedure would be to eliminate steps in the appellate process when they can be seen for good reason to be unnecessary at the very start of an appeal and when the court does not need them in order to decide the appeal correctly. For example, if an appeal involves only a question of prejudicial comment, it is unlikely to require oral argument. It may be a difficult appeal to decide, but oral argument will rarely make it easier. Similarly, an attorney may be willing to trim his arguments to letter brief format (however the court may define that) in return for receiving a short, quick opinion if his client is in his 90's and infirm. If the question is not one requiring lengthy analysis, the court should accede to the attorney's wishes and provide such a decision. This

process would allow either side to change their minds and would allow the responding party to state a preference (with reasons); it would result in the elimination of unnecessary steps and thereby reduce the court's overall workload.

Computerized Legal Research

We were informed that the court is considering the installation of a computerized legal research system such as LEXIS or WESTLAW. We strongly recommend that the court adopt such a procedure. While it may have variable utility in private practice, it is very useful in an appellate court -- provided each judge becomes well trained in its use and therefore understands when it is most efficient to delegate such research. It is in this process of delegation that such a system is most productive in an appellate court. A judge may review a case and recall that a precedent exists. His memory rarely takes the form of "Smith vs. Jones, 1973"; rather it tends to be of the nature of "an opinion by Judge Brown involving a red motorcycle." The writing judge could spend many valuable hours tracking down Smith vs. Jones. However, using a computerized legal research system, he could assign the task to his law clerk, who would code into the computer the concepts "1970 to 1975", "Brown", "red", and "motorcycle", and come up with a short list of cases including Smith vs. Jones. This procedure has been observed to work efficiently in this fashion, freeing judges from searching for elusive precedents and allowing them to concentrate on deciding the issues and the appeals.

Conclusion

The above comments are suggestions for making a good system better. The memoranda to follow from Ms. Easterling and Mr. Steelman will address ways in which the present system may perhaps be improved and flaws eliminated that could in time produce substantial problems for the court and its constituency. In all of this review and analysis, it is important that each justice understand that he must personally take an active concern in the processing of cases from the point of judgment below, or even before, to the point of final disposition by the Supreme Court. Only the justices themselves can provide the stability necessary to make changes work, including convincing the attorneys that the changes are good and necessary. If the justices of the Supreme Court neglect their own reforms, they can count on everyone else neglecting them; you must each work to hold the ground the court has gained.

THE APPELLATE SYSTEM IN NEW HAMPSHIRE

Part Two: Clerk's Office

Introduction

This memorandum is one of a series of three technical assistance reports to the New Hampshire Supreme Court; its recommendations should be considered in conjunction with the two previous submissions. I have based discussion of the clerk's office on interviews with the clerk, deputy clerk, court assistant, and the legal stenographer in charge of opinions.

Description of Clerk's Office

The New Hampshire Supreme Court Clerk's Office consists of a clerk, a deputy clerk, a court assistant and three legal stenographers. A line of formal authority runs from the clerk to the deputy clerk who delegates supervision of the legal stenographers to the court assistant (see Figure 1, Formal Organization of the Clerk's Office). Work assignments reflect a somewhat different reporting structure (see Figure 2, Assignment of Work in the Clerk's Office). Office staff receive work requests directly from justices. The court assistant states that she only supervises one legal stenographer while the deputy clerk retains authority over the other two. The office is small enough to allow it to work productively within this flexible assignment structure.

Although the clerk retains overall authority, the deputy clerk manages routine office functions including hiring new personnel, assigning responsibilities, and supervising case processing. With the exception of the clerk, each employee also serves as a justice's secretary and is termed clerk-secretary in this report.

In addition to formally supervising his office, the clerk aids in screening notices of appeal and editing opinions. He also conducts settlement conferences when the settlement judge experiences an overload. Since he assumed office in May 1980, the clerk has left the majority of office management to his deputy while

FIGURE 1

NEW HAMPSHIRE SUPREME COURT
FORMAL ORGANIZATION OF THE CLERK'S OFFICE

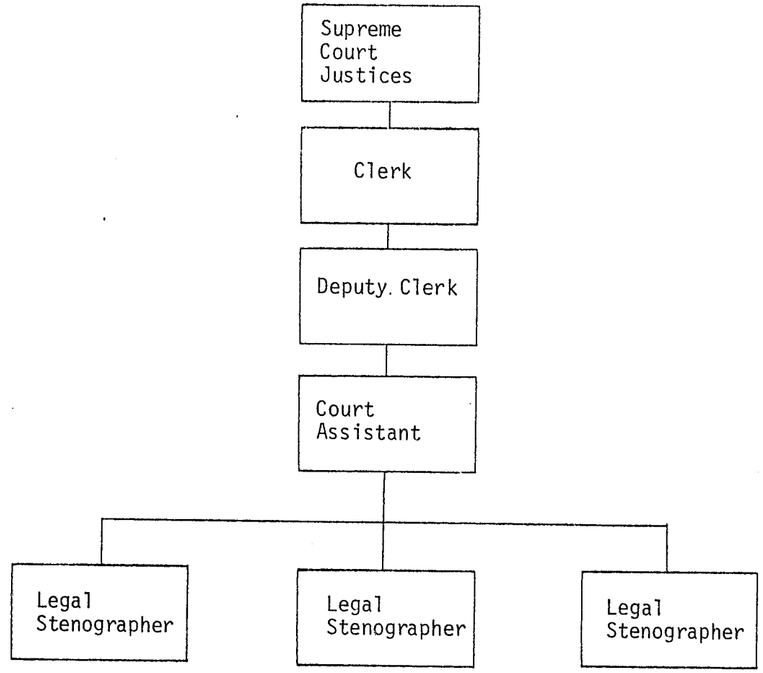
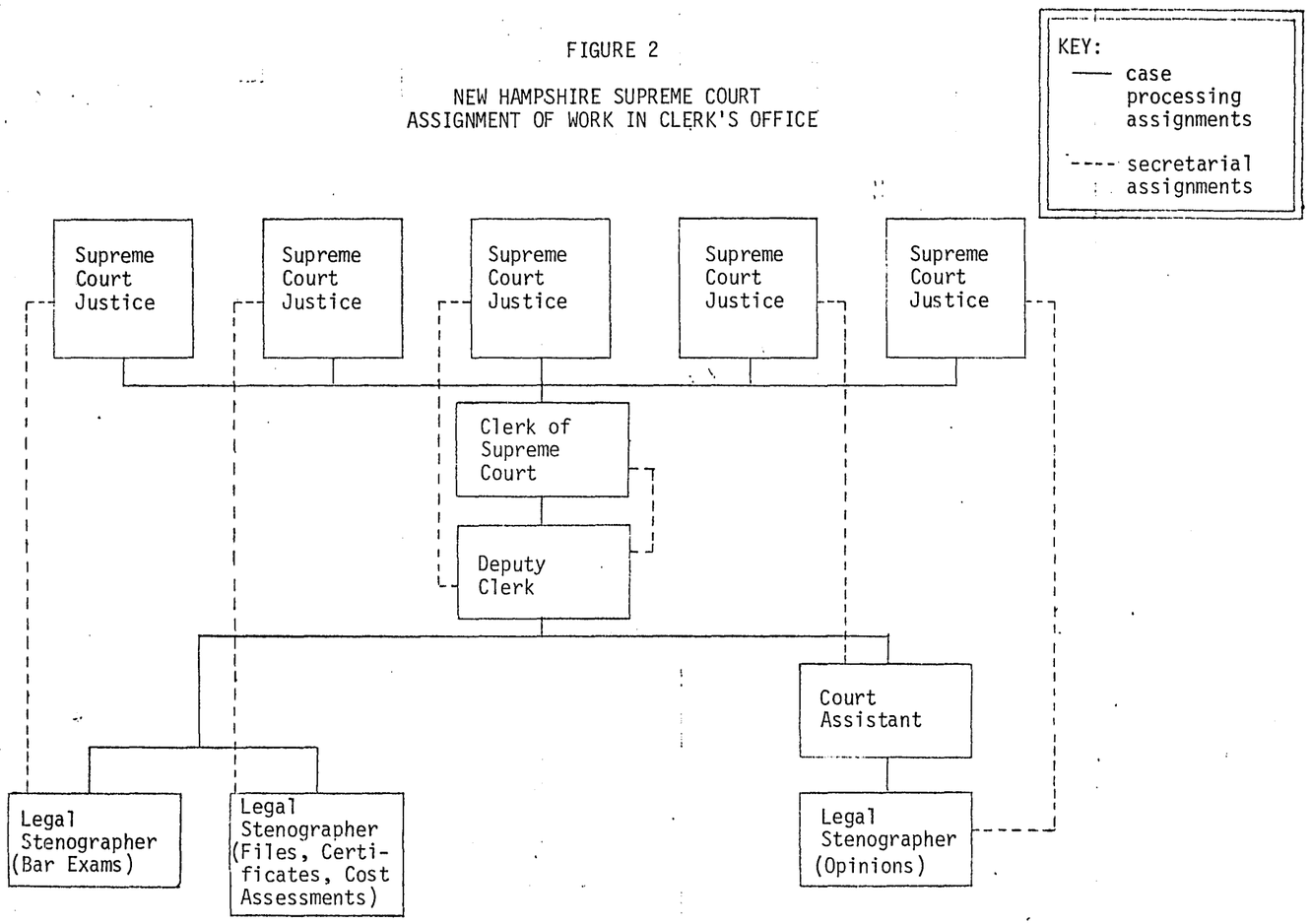


FIGURE 2

NEW HAMPSHIRE SUPREME COURT
ASSIGNMENT OF WORK IN CLERK'S OFFICE



he gains experience in these other duties.

The deputy clerk supervises a staff of four. She personally inspects incoming notices of appeal to insure completeness, then routes them to the screening committee. The deputy lists oral arguments and settlement conferences, and acts on other screening committee recommendations. Other duties include issuing transcript requisition forms, drafting quarterly statistical reports on caseload and settlement conferences, coordinating opinion publishing, and responding to inquiries from attorneys, litigants, and the public. The deputy also serves as secretary to the chief justice, the settlement judge, and the clerk. In addition to her routine responsibilities, she conducts special projects such as drafting and updating a clerk's manual and presenting seminars on rule changes for legal secretarial organizations.

The court assistant's major responsibilities involve document tracking. She logs transcript orders, sends payment requests to attorneys, monitors transcript timeliness, and works with court reporters, their manager, and occasionally the administrative justice when delay occurs (see David Steelman's memorandum of September 17, 1980 for a more detailed description). The court assistant also monitors opinion production, supervises the "opinion clerk-secretary" and types a small number of opinions herself, as well as proofing and handing down copies to court officials, attorneys, the printers and the press; she maintains an opinion index by subject and coordinates updating with West Publishing Company, Franklin-Pierce Law School, libraries and other subscribers. In addition, the court assistant drafts court conference and clerks' conference agenda and statistical reports for the New Hampshire Crime Commission. She also serves as secretary to one justice and to the Judicial Conduct Committee for whom she screens initial complaints.

The office contains three legal stenographer positions. One recently resigned, however, and another is on medical leave. The deputy clerk and her two remaining subordinates have assumed the additional responsibilities which include maintaining bar examination records, assessing tax costs, and filing records. The third legal stenographer types 75% of the court's opinions by using a word processor. She also stamps and files transcripts and exhibits, certifies cases to the United States District Court, makes appointments for courthouse conference rooms, collects case files before oral arguments and drafts fee receipt reports. When fully staffed, each legal stenographer is assigned to serve as secretary to one justice.

The clerk-secretaries work in a room with doorways to both the lobby and the private hallway that leads to the justices' chambers and to the clerk's private office. Although this room has been

enlarged by a closet into an alcove to house the main word processor, the clerk-secretaries feel this is too small a facility for five employees who must each respond to telephone and walk-in inquiries.

The clerk-secretaries have experimented enthusiastically with increasingly complex word processors and currently use them for opinion production and updating dockets and logs. Since the installation of the Wang 6560 Word Processor, the opinion clerk-secretary has increased her typing capacity from 45% to 75% of opinion production. The employees are looking forward to automating as much document production as possible in an effort to achieve a "paperless court".

The court recently adopted a color-coded flat filing system which has increased accuracy and productivity. When the office is fully staffed, one clerk-secretary routinely culls closed files, insures completeness, routes transcripts to the library and trial court, and routes records to be bound and permanently stored. The deputy clerk predicts that closed file storage capacity will become insufficient within a year but plans to enlist the services of the local historical archive society.

Current Problems

The clerk's office is seriously understaffed. At full employment, the proportion of clerks and secretaries to caseload is 47% lower than the New England average. At the current staffing level, the proportionate workload is 120% heavier than the regional average (see Table 1, Regional Comparison of Clerk's Office and Secretarial Staff to Caseload).

Two factors contribute to the office's remarkable ability to cope so far: (1) technological improvements such as word processing or coded filing, and (2) a well trained, productive, and highly motivated staff. It is questionable how long these factors can continue to suffice in the face of an excessive workload. Technological innovations are limited in their potential saving of human resources. Staff turnover, additional absenteeism, or deterioration in office morale could each threaten to destroy the court's case processing capability.

The deputy clerk has recently been able to recruit an acceptable applicant to fill the vacant legal stenographer position. The state personnel office had no suitable listings, so the court advertised in the local newspaper. As of this writing, however, most interviewees who passed a skills test and met with staff approval became disinterested when informed of the pay rate. The inability to hire competent personnel increases the vulnerability of the overworked office.

TABLE 1

REGIONAL COMPARISON OF CLERK'S OFFICE
AND SECRETARIAL STAFF TO CASELOAD

State	Clerk's Office Staff[a]	Clerks: Filings[b]	Justices' Secretarial Staff	Clerks and Secretaries	Clerks and Secretaries: Filings
Vermont	18	1:20	0[c]	18	1:20
Maine	3	1:109	8[d]	11	1:30
Massachusetts	5	1:85	7[e]	12	1:35
Rhode Island	5	1:72	5[f]*	10	1:36
Connecticut	11	1:57	4[g]* **	15	1:42
New Hampshire	6	1:53	0[h]	6	1:53
Average	8	1:66	4	12	1:36

* Does not include settlement judge secretary.

** One secretary serves the state court administrator as well.

a. Wilfred J. Kramer, Comparative Outline of Basic Appellate Court Structure and Procedures in the United States (1978), West Publishing Company (1978).

b. Ibid.

c. Mr. Mike Krell, State Court Administrator, Vermont.

d. Needs Assessment interview with Mr. James Chute, Clerk of the Law Court, Maine.

e. Payroll office, Supreme Judicial Court, Massachusetts.

f. Chief Justice's office, Rhode Island.

g. Chief Justice's secretary, Connecticut.

h. Deputy Clerk, Supreme Court of New Hampshire.

The clerical-secretarial compensation is not competitive with other local salaries. Office personnel frequently receive offers of other positions with substantially higher rates of pay. The clerk-secretaries currently feel that their court jobs' interests and responsibilities are more attractive than seeking higher compensation. However, any deterioration in job satisfaction may prompt some or all of them to resign. Low compensation therefore is a serious threat as it may result in both the loss of current staff and an inability to recruit satisfactory replacements.

The staff have little opportunity for career progression. The office depends on a deputy clerk and a court assistant who have strong administrative skills and exceptional motivation. These qualities usually are accompanied by a desire for increasing responsibility and career growth. However, education requirements block these employees from further promotion. They therefore would seek other employment if they desired to "run their own shop". The office may have difficulty in retaining the interest of high calibre personnel.

The clerk-secretaries work effectively and remain loyal because they are proud of their work, yet they perceive that they have very low status within the court system. The staff accept their low salaries as a fact of state employment, but are concerned that court officials do not appreciate their work and therefore do not acknowledge their achievements in some non-economic manner. One employee stated that she had not received a merit increase in several years due to earning the top of her job grade rate, and she wished the court at least had some non-monetary method for giving an official "pat on the back". Staff resent their crowded office, especially while experiencing the inconveniences of other courthouse expansion projects. The supervisory employees function in the dual roles of caseflow managers and secretaries to other court officials. This dichotomy in status is worst for the deputy clerk; she manages all routine office functions yet serves as secretary instead of colleague to the clerk. The combined impact of these status problems diminishes staff pride and initiative which are critical to maintaining productivity.

While the clerk-secretaries are amazingly productive, inefficiencies exist in work assignments. All employees answer telephone and walk-in inquiries. Each clerk-secretary is assigned secretarial reponsibilities for one or more justices. Receptionist and secretarial tasks are difficult to schedule and usually require immediate action; they therefore interrupt case processing and decrease office efficiency.

The primary function of the currently vacant position is the processing of bar examination records. It is questionable as to the appropriateness of this task and the amount of staff time allocated.

The clerk's office was functioning at 66% of its personnel allotment during our on-site visit. Any further resignation or leave of absence would have reduced the clerical-secretarial staff by 33% and would have critically disrupted case processing. Hiring new employees has proven to be difficult; training is a lengthy "on the job" process. The court therefore depended on the longevity of three employees who continually received attractive offers from other offices.

Finally, the clerk's office has several facilities problems that affect both work efficiency and employee morale. There is not sufficient space to house five desks, five telephones, and several word processors and typewriters as well as to accommodate in-person inquiries. The office environment distracts staff concentration and does not provide dignified reception for litigants and attorneys who meet in the justices' chambers. As the courthouse has no intercom system, approximately 50%[1] of one cumulative staff position is involved in locating officials to inform them of telephone calls. The courthouse has only one (heavily used) copying machine. Approximately 15 times daily,[1] clerk-secretaries collect documents and copy them in an upstairs office.

Assessments

The clerk's office is current in the majority of its workload. The clerk-secretaries perform at peak productivity and exhibit high morale and loyalty. The office, however, faces the following administrative challenges:

1. recruiting and maintaining highly qualified employees,
2. maintaining productivity by protecting employee morale, and
3. building adaptability to change.

Some clerk-secretaries suggest that if one member of the close knit staff resigns, others may leave as well. This action could shut down the case processing functions and cripple the office's ability adequately to train new personnel. Efforts to retain current employees and to staff suitably the vacant position must be high priorities.

The clerk-secretaries are excited by their contribution to implementing new procedures and by gaining word processing skills. Once this novelty diminishes, however, the staff may become frustrated with their workload and status. Productivity may drop, creating a backlog. Maintaining morale and reducing workload through more efficient assignments must therefore be major considerations.

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[1]Based on Deputy Clerk Carol Belmain's estimates.

The clerk's office is working beyond normal capacity and would have serious difficulties in adapting to change. Any caseload increase would result in backlog. It is unlikely that staff could "break stride" to institute new case processing techniques or alternative disposition dockets.

In summary, the clerk's office is performing at peak productivity. However, it remains extremely vulnerable to caseload or staff changes. Successful case processing is dependent on maintaining the high morale and loyalty of overworked, underpaid, overcrowded employees who are segregated by career options and status from other court officials.

RECOMMENDATIONS

1. Increase Office Efficiency.

a. Draft and distribute an attorney handbook.

An attorney handbook is described in Michael Hudson's memorandum of September 5, 1980 and therefore will not be discussed here. Its value to the clerk's office in reducing workflow interruptions should be considered a strong argument for its adoption.

b. Consolidate reception and secretarial functions.

As an equivalent of 80% of one position is devoted to secretarial functions, all secretarial duties should be assigned to one employee who would also answer or refer walk-in and telephone inquiries. This reassignment would allow the other clerks to devote their full attention to case processing and increase their productivity. The quality of secretarial service would also improve when consolidated; for example, coordination of justices' appointment calendars would be done more effectively by one person.

c. Streamline case processing tasks.

Each case processing step should be analyzed for possible increases in efficiency. Procedural changes can be instituted which have the double benefits of reducing demand on employees' time and improving case management. For example, the court assistant can save time and centralize contol by contacting the supervisor of court reporters instead of the individual stenographers when monitoring transcript delay.[2] The deputy clerk has exhibited an ability to document tasks in drafting a clerk's manual. This streamlining effort would be an additional step in updating the manual that would be based upon discussions of beneficial task changes with both subordinates and superiors.

d. Reduce equipment and facility inefficiencies.

The absence of a courthouse paging system is costing the court approximately $6,234[3] per year, not including fringe benefits or

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[2]See David Steelman's memorandum of September 17, 1980 for a more detailed discussion of changing the court assistant's transcript monitoring role.

[3]Based on 50% of average clerk-secretary's salary (source: Carol Belmain, Deputy Clerk).

other more intangible costs of work interruption. The court should consider investing in an intercom system; this would free up valuable employee time and offer the public quicker telephone response. Similar cost estimates and benefit analysis should be made for the purchase or rental of an office copying machine.

The work environment of the clerk-secretaries' office should be improved. In order to avoid inquirers' confusion and employee distraction, a receptionist's desk should be placed by the lobby door. While complex questions may be referred to office supervisors, their desks should be placed where they will not be interrupted by routine inquiries.

Long-term planning should be made to reduce employee crowding. Although cost and construction concerns may limit the physical enlargement of the current office, consideration should be given to housing some staff in other courthouse areas. In several other courts, for example, the clerk and deputy clerk share a semi-private office. Increased office flexibility is an important factor in determining the feasibility of additional personnel.

2. Reduce Court Vulnerability to Staff Turnover.

a. Make positions more attractive to applicants.

Salaries should be raised immediately to make them competitive with other local offices. Although potential employees may accept somewhat lower salaries because of good benefits and job security, it will be difficult to recruit and retain high calibre personnel when offering substantially lower wages.

Noneconomic advantages should also be emphasized. Interviewers should stress employees' pride in job content and responsibilities. Improved facilities, as discussed above, would represent another attraction. A clearly defined opportunity for career progression to the level of office management, with an associated increase in status, is the office's potentially most valuable noneconomic attraction to high calibre applicants who seek growing responsibilities.

b. Consider a staff increase.

At the current staffing level, employees must work at peak productivity to avoid backlog. When a vacancy or absenteeism occurs, some tasks are left undone. While streamlining functions and cross-training personnel may improve the office's ability to cope, an additional position would substantially reduce interruption of processing tasks during turnover or medical leave. Another staff

member would also give the office more assignment flexibility when adjusting to procedural changes or caseload increase. Most importantly, an additional position would relieve the current staff's exceptionally heavy workload.

c. Increase cross-training.

While cross-training in some functions is occurring, it should be conducted on a much wider scope. Both the clerk and the court assistant should be able to perform the deputy clerk's functions in her absence. The deputy clerk and, to some extent, the legal stenographers should be able to assume the court assistant's responsibilities. The court assistant and all of her subordinates should be able to conduct any legal stenographer tasks. Extensive cross-training will reduce the danger of losing office knowledge of key functions if more than one resignation should occur in a short period of time.

3. Reduce Threats to Employee Morale.

a. Raise clerk-secretary status.

By assigning the secretarial function to one employee, the remaining "clerks" would be placed on a less subservient standing to the clerk of court and the justices. As a further recognition of the clerks' importance in the court system, court officials should recognize their case processing expertise by enlisting their aid in solving related problems. The clerk of court is currently segregated by status and office from his subordinates; he and the deputy clerk should schedule regular collegial meetings to discuss office operations. The entire staff should meet routinely to consider potential improvements, as well as court changes that may affect case processing. For example, meetings could be held to discuss new uses for the word processors or coordination of records management aid from the archive society.

b. Institute annual performance evaluations.

Performance evaluations offer an opportunity to recognize individual achievement whether or not merit increases are also available. Evaluations may also be an important tool in directing employees with excellent case processing abilities toward gaining case management skills. The procedure should be used as well in formal criticism of any employees who are not producing at the peak quality and productivity which the office's work content and workload demand.

c. Offer tuition reimbursements.

Tuition reimbursements for job-related courses are mutually beneficial longevity incentives. As the office recruits stenographers who may progress to case managers, it would be an advantage to the court for employees to acquire appropriate education for their growing responsibilities. A tuition plan would build employee interest and investment in case processing. As a side benefit, it would represent a good recruiting tool for new staff.

d. Consider upgrading positions.

The scope and responsibilities of the clerk-secretaries' functions are not fully reflected in their job descriptions. While the work environment is critical to retaining valuable employees, the office must reflect its staff's importance by accurately described positions and appropriate salaries to insure maintenance of excellent work and high productivity.

THE APPELLATE SYSTEM IN NEW HAMPSHIRE

Part Three: Transcript Preparation

Introduction

In a memorandum to the Justices dated September 5, 1980, Mr. Michael Hudson has presented his observations about the operation of the appellate process in the New Hampshire Supreme Court. His memorandum defers extensive comment, however, on transcript preparation. New Hampshire's system for assuring prompt preparation of transcripts when they are needed for proper appellate review is the subject of this memorandum.

To gather information on which to base the observations offered here, I discussed transcript preparation with several different people. At the Supreme Court, I interviewed Justice Douglas and Mr. Jeffrey Leidinger, as well as Ms. Carol Belmain (telephone discussion) and Ms. Donna Craig of the Clerk's Office. I conferred with Chief Justice Dunfey and his administrative assistant, Ms. Lorraine Vangjel, for a Superior Court perspective. From Robert Tilton, Esq. (Belknap County) and Ms. Gertrude Ruf (Hillsborough County), I obtained information about the role of trial court clerks in the transcription process. Finally, I visited Ms. Dorothy Ruf in Nashua and spoke by telephone to Mr. Paul Sheehan of Exeter in order to learn the viewpoints of court stenographers.

The transcript preparation process in New Hampshire has operated well since the rules of appellate procedure were revised. For 103 transcripts delivered as of September 9, 1980, the average preparation time was 45.8 days.[1] Since the new appellate rules went into effect, 82.5% of the transcripts ordered for the Supreme Court were delivered within 60 days. The distribution of preparation times was as follows:[2]

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[1]See Appendix I.C. below.

[2]Source: Supreme Court Clerk's Office. These numbers are current as of September 9, 1980. For purposes of this chart, preparation or delivery time is the time elapsed between acknowledgment of payment for a transcript and the date of transcript receipt, as entered in the monitoring records of the Supreme Court Clerk's Office.

TABLE 1 TRANSCRIPT PREPARATION TIMES UNDER NEW SUPREME COURT RULE 15

Time Range (Days)	Number (Percent) of Transcripts
15 or less	18 (17.5%)
16 - 30	28 (27.2%)
31 - 45	21 (20.4%)
46 - 60	18 (17.5%)
61 - 75	5 (4.9%)
76 - 90	1 (1.0%)
91 - 105	1 (1.0%)
106 - 120	1 (1.0%)
121 or more	10 (9.7%)

Almost half the transcripts, as one can see, were delivered between 16 and 45 days.

The success of the transcription system to date can be ascribed to several very positive features. The Supreme Court's new appellate rules allow the court to exercise active control over transcription. The Justices of the Supreme and Superior Courts have obviously worked hard and well together in the development of practices to promote compliance with the new rules. Ms. Donna Craig has served the Supreme Court well in her efforts to monitor transcription and develop rapport with the court stenographers and sound recording machine operators. Ms. Lorraine Vangjel has done a superlative job helping court stenographers balance their courtroom assignments with typing to meet transcript deadlines. And the court stenographers have been exceptionally cooperative, meeting the courts' efforts to be reasonable and flexible with performance showing a firm sense of responsibility and commitment.

Notwithstanding such success to date, the figures above show that a small but significant portion of the transcripts--17.5%--have taken more than 60 days to prepare. Moreover, a close look at the transcript preparation process indicates potential for serious problems to arise in the system. This memorandum will summarize the details of the current transcription process, then offer suggestions for treatment of potential problem areas.

Supreme Court Transcript Monitoring Under Rule 15

Effective July 1979, Supreme Court rules of procedure were amended. Under new Rule 15(4), a trial court reporter must produce a completed transcript within 60 days after receiving the scheduling order for the case on appeal. The new 60-day rule has the effect of superseding Superior Court Administrative Rule 3-5, which provides that "Court stenographers shall make every reasonable effort to complete appeal transcripts within 90 days after receiving an order therefor."

In its implementation of the new appellate rules, the Supreme Court has assigned responsibility to Justice Douglas to review and screen appeal cases

upon the Court's receipt of notices of appeal. Retired Justice Lampron holds prehearing conferences for some cases to explore alternatives for expediting the progress of appeals to conclusion. Transcripts are not ordered for appeal cases until one or both of these justices have decided they are necessary for proper appellate review. While one of the functions of the efforts by Justices Lampron and Douglas can be to decide whether full or only partial transcripts should be ordered, it appears that a process for making such decisions has not yet been introduced.

Of the more than 500 notices of appeal filed each year, Justice Douglas estimates that counsel have filed stipulations or agreed statements of facts in about 40 or 50 to limit or avoid transcripts. Otherwise, counsel tend to desire full transcripts.[3] At least three factors contribute to this result. Counsel on appeal are often not the same as trial counsel, so they use the whole transcript to develop a sense for the "texture" of the case below and to identify matters bearing on legal issues appealed. The full transcript in an appeal case also serves as a "security blanket" seen to protect against being outmaneuvered by opposing counsel or being vulnerable to malpractice claims. Finally, as Miss Dorothy Ruf of Nashua has observed, court stenographers consider it easier (and more profitable) to type a transcript straight from their notes rather than "wasting time" searching for portions of the record to transcribe.

Once the Court has determined that proper appellate consideration of a case requires oral argument, a scheduling order is issued to govern further progress of the case. Staff of the Supreme Court Clerk's Office have day-to-day responsibility for monitoring progress and compliance with the scheduling order for each case.[4] Court assistant Donna Rae Craig monitors the progress of transcript preparation, a function to which she allocates about 15% of her time.

Once counsel for the moving party in an appeal case receives a scheduling order from the Supreme Court, he or she has ten days to complete a transcript requisition form. Within 10 days after receiving the requisition, the court reporter must complete a form acknowledging receipt. The acknowledgment must include a statement of the number of trial days, along with estimated pages, cost and completion date. Once the Supreme Court Clerk's Office has received the court reporter's written acknowledgment, counsel for the moving party has 15 days to pay the full estimated transcript cost to the trial court clerk. The clerk is then to notify the reporter that payment has been received, with a copy of the notice sent to the Supreme Court Clerk's Office. Calculating from the date she has received a copy at the Supreme Court of the notice of payment, Ms. Craig assigns a due date for the transcript to be received.

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[3]Ms. Carol Belmain of the Supreme Court Clerk's Office estimates that only about ten cases a year have only partial transcripts.

[4]Ms. Belmain, who has principal responsibility for case monitoring, is dissatisfied with her ability to do that along with other responsibilities. She hopes that automation will save time and help make monitoring more effective.

Instead of being required to prepare a transcript within 60 days after receipt of the scheduling order, court reporters are thus actually required, under the Supreme Court's transcript monitoring schedule, to prepare the transcript within 85 days from receipt of a requisition (up to 95 days from the scheduling order). The actual operation of the monitoring schedule permits the process to take even longer than 85 days.

In fact, less than half (49.1%) of the transcripts since the effective date of the new rule have been received by the Supreme Court within 60 days after the scheduling order. The average elapsed time from entry of a case in transcript monitoring records (the approximate date of the transcript requisition) to transcript receipt is 79.3 days. More than one-fourth (27.8%) of the transcripts have taken longer than the 85 days contemplated in the monitoring schedule.

As a practical matter, there are many reasons why the process has been attenuated in any given case. Counsel sometimes were slow in completing the transcript requisition; the reporter's acknowledgment was occasionally delayed for various reasons. More frequently, extra time elapsed while the moving party arranged to pay the estimated transcript cost. For a time after the effective date of the new rules, trial court clerks were slow in giving notice of payment to court reporters; this problem seems to have been resolved. Meanwhile, circumstances would change from those existing at the time of the reporter's initial estimate of transcript preparation time. For about three-fifths (60.6%) of the transcripts, the time ultimately allowed for transcript preparation by the Supreme Court Clerk's Office was different (and usually longer) than the preparation time initially estimated by the court reporter. And the actual time to transcript delivery was, on the average, longer still.[5]

Ms. Craig has been very accommodating with attorneys and court reporters in her efforts to promote compliance with deadlines. She has sought to build rapport with the various participants in the process. Because of her other work commitments, she must often allow two or three days to pass before she can follow up on a due date that has been missed. First, she telephones an attorney or reporter to request compliance. Failing that, she writes a letter. If that does not produce results with a court reporter, she seeks the aid of the Administrative Assistant to the Superior Court Chief Justice. Finally, she calls the matter to the attention of Justice Douglas.

Extensions of time for preparation of transcripts are granted through an informal process as well as through a formal written process. When Ms. Craig telephones a court reporter to inquire about a transcript for which the due date has passed, the reporter may offer various explanations for the delay.

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[5]See Appendix I.C.

Two common reasons are that there were practical difficulties with payment for the transcript, or that the reporter's workload has changed substantially since the time of the initial estimate of preparation time. If the reporter promises to have the transcript prepared within a short time, Ms. Craig simply enters a different due date. The formal extension process occurs much less frequently. If a court reporter communicates with the Supreme Court to request an extension before the transcript due date has arrived, an extension letter is drafted for the signature of the Supreme Court Clerk. It appears that an extension request is seldom, if ever, denied. The extension period seems always to be granted for 15 days, the maximum time under Rule 15(4).

Because Ms. Craig seeks to be accommodating and, every bit as importantly, because the court reporters themselves seem to show a genuine sense of commitment to their court system responsibilities, there seldom is cause to invoke the authority of a Supreme Court justice. But the court reporters say that the new 60-day rule places them under a great deal of pressure, and they have expressed their preference for a return to the old 90-day transcription rule. The difficulties faced by the court reporters arise from their competing work commitments in Superior Court.

Superior Court Supervision of Reporters

The Superior Court as a body appoints and sets salaries for as many official court stenographers, within the scope of its budget, as its justices consider necessary. RSA 519:26. These stenographers must record proceedings and transcribe their notes as directed by the court. Id.; RSA 519:28. Fees for preparation of transcripts are set by the court. RSA 519:30; see Superior Court Administrative Rule 3-7. The Superior Court has broad administrative authority over the work of court stenographers and may take appropriate steps to assure efficient use of court stenographers' time. LeClair v. New England Telephone & Telegraph Co., 112 N.H. 187, 294 A.2d 698 (1972).

Since the end of World War II, the number of official court stenographers employed by the Superior Court has increased from six to eighteen. In the late 1940's, machine technology entered court reporting activities, when Mr. Paul Sheehan became the first official court stenographer operating a shorthand machine. Today, only two manual shorthand stenographers remain. What is more, the trend toward use of technology has continued, since stenographers operating shorthand machines have been joined in reporting court proceedings by court personnel operating electronic sound recording machines. The counties now employ seven people who operate sound recorders on a more or less full-time basis, and other county employees of the court system do so on a part-time basis.

The Superior Court proceedings to be recorded have become considerably more numerous and complex. Various legal and social developments in the last two decades have resulted in more motions and more hearings, for both criminal and civil matters. To respond to such pressures, the Superior Court has added judgeships, so that there are now 15 justice positions, with a budget request now pending for legislative authorization of at least one more such position. Moreover, the court has made effective use of masters, such as in its Marital Masters Program. The operators of sound recording machines are assigned to record only proceedings before masters. Shorthand stenographers and stenographers operating shorthand machines record proceedings before the justices along with those before masters.

Official court stenographers are state employees under the day-to-day supervision of Ms. Lorraine Vangjel, the Administrative Assistant to Superior Court Chief Justice Dunfey. After the Superior Court justices have agreed as a body to their assignments to preside over proceedings in all the counties for a forthcoming year, the court stenographers as a body do likewise. With 15 stenographers assigned to report matters before the justices, the court has three "spares" who can cover hearings before masters and fill in on a temporary basis for those regularly assigned.

Ms. Vangjel is responsible for arranging adjustments in stenographer recording assignments. When a stenographer is sick or on vacation, she arranges for another stenographer to record proceedings. Stenographers have traditionally been able to take vacations in the summer, when court proceedings have

slowed down. While half the stenographers are on vacation in July or August, the remainder make adjustments with Ms. Vangjel to meet court assignments. But Chief Justice Dunfey is finding it necessary to keep the courts in operation more and more during the summer, and a full-time year-round court operation seems likely in the near future.

With more intense and continuous demands for the services of stenographers, the Superior Court finds itself straining the limits of assignment flexibility. Stenographers' vacation time is becoming more restricted. The court has begun to use the services of such private reporting firms as Jordan & Bragan more frequently in order to meet the demands of short-term adjustments in stenographer assignments.

Added to the strain created by recording assignments is that resulting from orders for the preparation of transcripts. When the Supreme Court determines that proper consideration of an appeal case requires a transcript of the trial record, of course, the stenographer must prepare the transcript in keeping with the terms of Supreme Court Rule 15. His or her time must be allocated between courtroom recording assignments and transcript preparation.

But courtroom assignments are not the only demands that compete with appeal transcripts for the stenographer's time. There are a number of other matters that the stenographers must transcribe. Under Superior Court Administrative Rule 3-3, all guilty pleas, sentencing proceedings, violation-of-probation hearings, and hearings involving habitual offenders must, without exception, be transcribed. The requirement that all such proceedings be transcribed appears to be based on three considerations: (1) the trial justices place great value in these transcripts as aids to case dispositions; (2) there is some likelihood that the record of such proceedings will be needed for later court review; and (3) since one stenographer cannot usually transcribe another stenographer's notes, protection of the first two considerations requires prompt transcription by the stenographer who made the record.

Under Administrative Rule 3-2, the Superior Court has set priorities for the typing to be done by the stenographers. First priority is assigned to judge's findings and decrees. See RSA 519:26. Criminal appeal transcription has lower priority than such findings and decrees, as well as not-guilty pleas for which a transcript is required and pretrial orders. While guilty pleas and sentencing hearings have lower priority than criminal appeals, they have higher priority than civil and equity appeals.

Under the intensity of work pressures, court stenographers in 1980 allowed delays to develop for transcripts of plea and sentencing hearings. When Superior Court justices began to complain, however, it was necessary for Chief Justice Dunfey to meet in August 1980 with the stenographers. One suggestion made by a stenographer to help stimulate transcript productivity was that the per-page fee authorized for transcription be increased.

Under Superior Court Administrative Rule 3-7, stenographers are to be compensated at a rate of $1.00 per page for the original of a transcript,

50¢ per page for each of the next two copies, and 20¢ per page for each copy thereafter. Since an original and two copies are usually produced of a transcript, the total fee generally amounts to $2.00 per page.

The fee set forth in Rule 3-7 was apparently set during the tenure of Chief Justice Leahy. Since then (a decade or more), inflation has cut the value of the dollar in half, and the purchasing power of the fees received by stenographers in addition to their salaries has been correspondingly reduced.

But the burden of inflation has not fallen only on the shoulders of stenographers. It should also be remembered that the counties (under Superior Court Administrative Rule 1-1) bear the expenses of all stenographer supplies. Aside from depreciation of equipment and other tax-deductible expenses, the fees received by New Hampshire stenographers in addition to their salaries amount to pure profit. Unlike New Hampshire stenographers, court reporters in many other states must pay for transcription supplies themselves; and few New Hampshire stenographers dictate their notes to be typed by someone else whom they must pay, as is often the case elsewhere.[6]

As mentioned above, the implementation of new appellate rules has reduced the time for transcript preparation from 90 to 85 days. In order to meet the new requirements, stenographers have been exceedingly cooperative with court leaders. In return, Chief Justic Dunfey has directed that court stenographers be relieved of their courtroom recording assignments, if possible, whenever their workload of pending transcription exceeds 500 pages.

Court stenographers must report each month to Ms. Vangjel how many pages of transcript they have typed, how many pages they estimate to be remaining, and the date of the oldest pending transcript that each has. These reports form the basis for Ms. Vangjel's efforts with the stenographers to make short-term assignment adjustments. Because she has made a concerted effort to develop rapport with the stenographers, they appear much more inclined to keep her informed of their status than they were before she became Administrative Assistant.

Chief Justice Dunfey has recently decided to make two changes to improve the capacity of his staff to monitor reporter workload and adjust assignments. Sound recording machine operators are now to make monthly workload reports to Ms. Vangjel like those made by court stenographers. Following a recommendation made by stenographer Paul Sheehan, he has directed stenographers to indicate the status of their plea and sentencing transcripts as an addition to their monthly reports to Ms. Vangjel.

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[6]See, for example, National Center for State Courts, Transcripts by Connecticut Court Reporters (1978), and Court Reporting Services in New Jersey (1978).

While the new 60-day rule has caused reporting personnel to feel more pressure in their transcript work, the screening procedures under the new rules have reduced the amount of appellate transcription to be done. As Table 2 below illustrates, the average monthly transcript workload reported by stenographers to the Chief Justice's Administrative Assistant increased substantially from 1972 to 1978. While each stenographer was averaging more transcript pages typed each month, the number of transcript pages remaining to be typed increased at an even faster rate. As a result, the average total transcript workload (pages typed plus pages remaining) per month for each stenographer was 63.2% higher in 1978 (1034.8 pages) than in 1972 (634.1 pages). Since the introduction of the new Supreme Court rules, however, the average workload has dropped sharply, so that it is now below 1975 levels.

Of course, the amount of transcription to be done can vary sharply from month to month, as it can from one reporter to another. But as charts II.A (1979-80), II.C (1978), II.E (1975), and II.G (1972) in the Appendix illustrate, the sharp oscillations and high peaks of pending monthly transcript work reached by 1978 appear to have been moderated substantially by the effect of appellate screening under the new rules. Moreover, as Appendix tables II.B (1979-80), II.D (1978), II.F (1975), and II.H (1972) show, individual stenographers are much less likely to experience unusually heavy transcript workloads in a given month. Individual court stenographers were almost twice as likely in 1979-80 to have 100 pages or less of transcripts pending in a month than in 1978. The incidence of large pending transcript workloads (more than 1,000 pages) was almost three times greater in 1978 than in 1979-80.

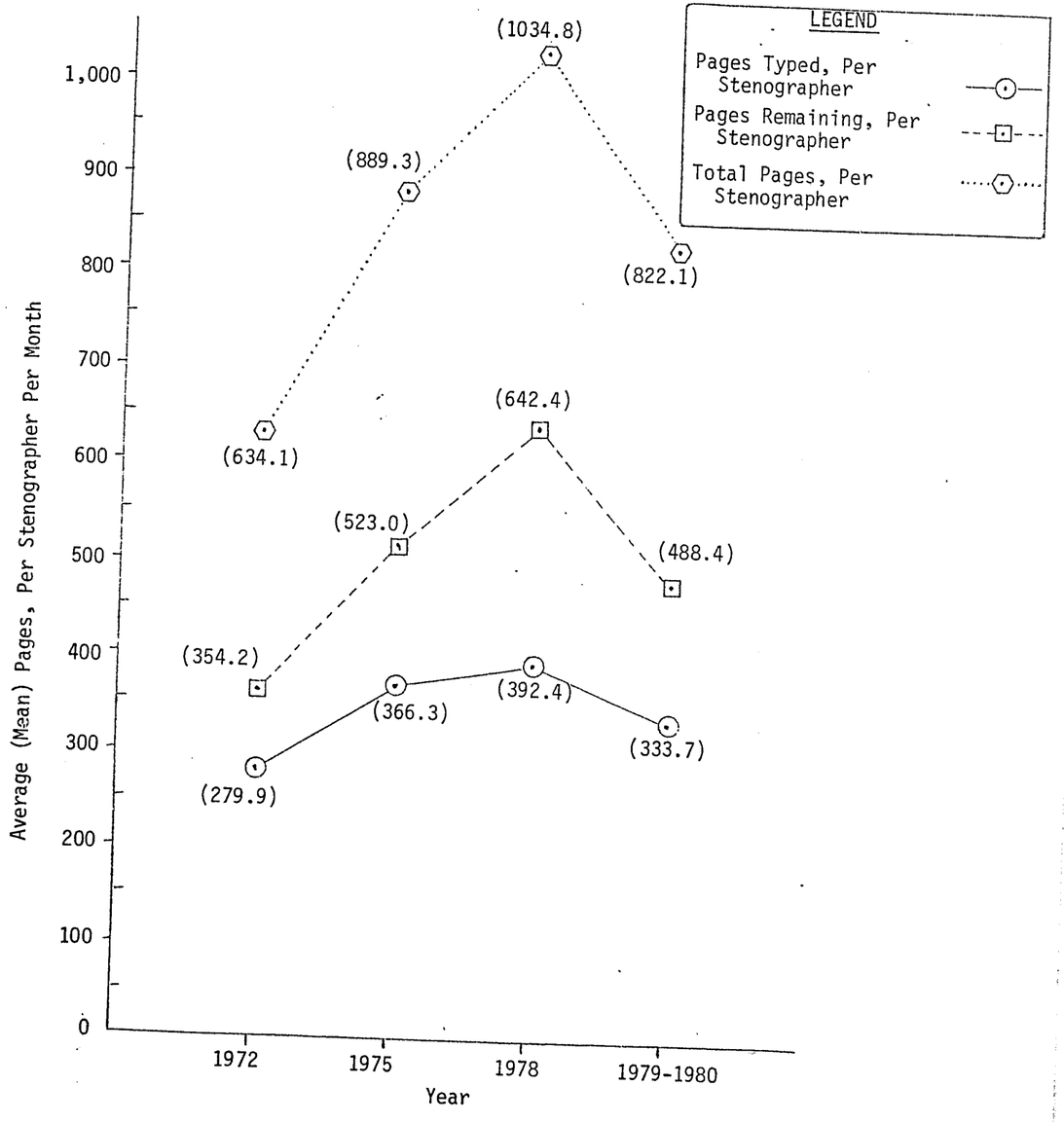
Smaller transcript workloads have an economic impact on court stenographers. If the average stenographer had a monthly transcript workload of 1034.8 pages in 1978, he or she had $2,069.60 worth of transcript fees a month ($24,835.20 per year) at fee rates of $2.00 per page. Since the introduction of new rules, the monthly workload average decrease (to 822.1 pages) means a reduction to $1,644.20 per month (or $19,730.40 per year). Assuming an average salary of $20,000 per year, the new appellate rules have reduced average stenographer annual income from around $45,000 per year to about $40,000 per year.

The Desgagne Matter

In June and July 1980, the New Hampshire system for monitoring appellate transcript preparation experienced what may be the most difficult incident since the effective date of the new rules. Justices Douglas and Dunfey were drawn into matters to help resolve the serious delay being experienced in transcript preparation by Ms. Karen Desgagne. Ms. Desgagne, the daughter of Hillsborough County Deputy Clerk of Court Gertrude Ruf, operates one of the electronic sound recording machines at the Manchester courthouse. A furor developed over the transcripts she was to prepare when a number became delinquent by over 100 days beyond the 60-day time limit in Rule 15.

TABLE 2

NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOAD TRENDS,
MONTHLY AVERAGES, ALL STENOGRAPHERS,
1972 - 1980



As is the case with all other sound recording machine operators in New Hampshire, Ms. Desgagne is a county employee under the supervision of the clerk of court in the county, rather than of the Administrative Assistant to the Chief Justice of the Superior Court. When she is not recording cases, she can theoretically be assigned to perform other clerk's office duties even if she has transcripts to prepare. But while sound recording machine operators in other counties may perform other clerk's office duties, the volume of recording to be done in Manchester is such that Ms. Desgagne must work virtually full time at it. Sound recording machine operators like Ms. Desgagne lack the training of higher-salaried certified stenographers who operate shorthand machines. Unlike stenographers, she and other sound machine operators are paid transcript fees only for typing done after regular working hours.

Transcription of the record made by the operator of a sound recording device should be distinguished from that of the record made by the operator of a shorthand machine. The process of typing from a magnetic tape is slower than typing from a machine shorthand tape, because the typist must adjust to the differences among speakers' volume and cadence. In most circumstances, only the person who has taken the record by machine shorthand can transcribe that record, because of idiosyncracies the person has developed in encoding information. The introduction of computer-aided transcription--CAT--has modified this to some degree, because machine shorthand operators must make their symbols "CAT-compatible" so that the computer can print out legible symbols (words) in place of machine shorthand symbols.

In contrast, the record encoded by the operator of an electronic sound recording machine can be typed by anyone. Among the transcripts to be prepared by Ms. Desgagne were those of proceedings she did not record. The court system might have had "her" transcripts prepared within the 60-day time limit, since Ms. Desgagne was not the only person who could transcribe the record from the audio tapes.

While the operator of a sound recording machine is important for transcript preparation to interpret unclear expressions and to certify the accuracy of the transcribed record, the court system is not a slave to the idiosyncratic symbols of a particular person, as is the case with manual shorthand or the technology of machine shorthand. Any person can transcribe an audio tape, and any person can verify the accuracy of the transcript by comparing it with the original sound recording on which it is based.

Ms. Desgagne was to prepare certain transcripts of proceedings recorded before the effective date of Rule 15, so that these were subject to a 90-day deadline. Notwithstanding that Rule 15 had gone into effect, she was allowed 90 days to prepare transcripts governed by its terms. Supreme Court Clerk's Office records indicate that she had more transcripts to prepare in 1979-80 than any other court reporter. See Appendix I.A. Some court stenographers with more pages ordered during the same time period had large orders cancelled. It appears that all of the transcription for which she was responsible has

now been virtually completed. While Ms. Desgagne's transcripts were far and away the most delinquent of those prepared for the Supreme Court, perusal of Appendix I.A shows that she is not the only person with delay problems. One court stenographer appears not to have made a single delivery on time, although this fact alone may not be cause for blame. Moreover, Appendix I.A shows that court reporting personnel as a whole had more deliveries late than on time under Rule 15 up to September 9, 1980.

Steps are underway in Superior Court to prevent a recurrence of problems like that described here. As mentioned above, sound recording machine operators will be required to submit monthly transcript reports to the Administrative Assistant to the Chief Justice so that Ms. Vangjel can monitor their workloads as well as those of court stenographers. As a further step, Chief Justice Dunfey is now making arrangements to engage a highly-qualified person on a part-time basis to work with sound machine operators. Justice Dunfey has expressed the hope that this person can train operators to assure improved fidelity of audio tapes in addition to helping with transcript typing.

Recommendations

There can be no doubt that the new rules of the New Hampshire Supreme Court have worked wholesale improvements in the timeliness of the appellate process. Early scrutiny enables the court to provide prompt and fair decisions, with cases proceeding to oral argument under the court's control. As part of the revised appellate process, transcript preparation and delivery have been streamlined.

But as discussion above indicates, there are matters associated with transcription that might cause severe problems. Court stenographers and sound recording machine operators often have great difficulty with conflicts between their trial court obligations and their appeal transcription responsibilities. With eighteen stenographers to shuffle among fifteen regular assignments, assignments to masters, and transcription, the Superior Court is at or near the limits of its flexibility with stenographer assignments. Day-to-day monitoring of transcript preparation is assigned to a member of the Supreme Court Clerk's Office staff who has neither the time, status, nor authority to enforce stricter compliance with deadlines. Notwithstanding the improvements that have been wrought by the new rules, there are delays and costs that can be reduced.

Before the present results with transcript preparation become less satisfactory, the Supreme Court should attend to the structural defects described here. To assist that effort, the following recommendations are offered.

* * * * * *

1. The Supreme Court should modify its rules and practices governing transcript preparation. More specifically, the following changes should be made:

   a. The transcript requisition process (including preparation of the requisition form by counsel, acknowledgment by the reporter, and payment of the transcript fee) should be completed on or before issuance of the Supreme Court scheduling order.

   b. Rule 15 should provide that transcripts be delivered within 60 days from the date of the Supreme Court scheduling order.

The Supreme Court does not now require in practice that there be compliance with the terms of Rule 15(4), that "the trial court reporter shall produce a completed original and two copies of a transcript as early as possible within 60 days after the reporter receives the scheduling order." Instead, the court's transcript monitoring schedule allows 10 days from receipt for counsel to prepare a requisition, 10 days from receipt of the requisition for the reporter to acknowledge, and then 15 days from counsel's receipt of the acknowledgment to pay the estimated fee. Only after the reporter is notified of payment must

transcript preparation begin. Thus, 35 days to 50 days (with mailing or other notification time included) can elapse outside the contemplation of Rule 15 before transcript preparation must begin.

Requiring completion of these transcript requisition details before issuance of the scheduling order offers several advantages. The first of these is that it forces the parties in each case to consider the economics of appellate litigation at an earlier point in the process, before expenditure of court resources (judicial and clerical time and use of document storage space) has become extensive. If a case merits briefs and oral argument based on a transcript of proceeding below, parties to the case must eventually address the matter of paying for the transcript. If they need not face that cost until 60 or 90 days after the notice of appeal, they can explore a negotiated resolution different from the trial result without incurring extensive costs. Meanwhile, however, the resources of the Supreme Court have been engaged at public expense.

Instead, it is recommended here that payment for transcription be made at the very beginning of the process. This can be done in an administratively simple manner, sidestepping the 35-50 days now allowed for transcript requisition. Estimates by New Hampshire court reporting personnel between July 1, 1979 and September 9, 1980 indicate that a half day or less of trial proceedings almost never produces more than 100 pages of transcription, and that a full day of trial usually results in not more than 175 pages of transcription. (See Appendix III.) If appellate counsel are required, then, to deposit $200 (100 pages at $2.00 per page) for a half day or less of trial transcript, or $350 (175 pages at $2.00 per page) for each trial day to be transcribed, the advance payment will be sufficient in most cases to meet transcript fees.

The Supreme Court should require counsel to submit a copy of the transcript requisition when filing the notice of appeal. Knowing the number of trial days they wish transcribed, they can be required to pay for transcription upon filing the notice of appeal. An alternative approach would be to require payment after the court has ruled on the amount of transcript to be ordered (see Recommendation 6 below), on or before issuance of the scheduling order. In either case, the Supreme Court should require evidence that payment has been made to the Administrative Assistant to the Superior Court Chief Justice (see Recommendation 3).

This suggests another advantage of requiring early completion of the requisition process: it can be undertaken in the context of considering whether partial transcription is desirable. Appellate counsel now inclined to order full transcripts will be encouraged to consider the matter more carefully, not only by the Supreme Court's efforts under Recommendation 6, but also under pressure from parties who do not want to pay any more than necessary.

The third attraction for this approach is that it brings the problems in the requisition process under control of court leaders. At present, delays can occur at the mercy of appellate counsel (who prepare requisitions), the

reporter (who must acknowledge requisitions), a party (who pays for the transcript), the trial court clerk (who receives payment and must then notify the reporter), and the post office (since each step is contingent on receipt of a document that may have been mailed). All of these actors can attenuate the transcription process in an unpredictable fashion after the court has carefully screened the case and sought to control its progress.

The final advantage from part (a) of the recommendation is removal of uncertainty for both the court and the court reporter. As the transcription process is now managed, court reporters are vulnerable to being unfairly held responsible by the court for vagaries beyond their control. If requisition problems are resolved before the scheduling order, it is obvious that they cannot subsequently undermine compliance with its deadlines.

With such uncertainties resolved, it should be less difficult for court reporters to comply with the 60-day rule. Reporters have called for amendment of Rule 15 to return to the 90-day deadline under Superior Court Administrative Rule 3-5. But reporters to date have been able to comply generally with the new 60-day requirement: as this memorandum shows above, 82.5% of their transcripts were delivered within 60 days after acknowledgment of payment. (And most of those taking longer than 60 days were Desgagne transcripts that could have been typed within 60 days by another person.) Rather than giving reporters more time, the court system should take such steps as those in Recommendation 5 to promote prompt preparation.

* * * * *

2. Treatment of transcript extension requests should be revised. First extension requests, if they are for 15 days or less, should be addressed by court reporters to the Administrative Assistant to the Chief Justice of the Superior Court. The Administrative Assistant's decision on such requests should be made under the supervision of the Chief Justice of the Superior Court, and it should be communicated to the person in the Supreme Court Clerk's Office who is responsible for monitoring transcription.

   If there is a second extension request, or if there is a first extension request for 16-30 days, it should be addressed by the Administrative Assistant to the Clerk of the Supreme Court for decision.

   Any further request for extension, or any request for an extension of 31 days or more, should be addressed by the Chief Justice of the Superior Court to the Chief Justice of the Supreme Court, who may wish to delegate responsibility for deciding the matter to the Administrative Justice or to the Administrative Director.

Although Supreme Court Rule 15(4) states that enlargement of time prescribed in the rules is not favored, formal and informal transcript extensions seem to be granted as a matter of course. This recommendation is intended to modify current practice by substituting more authoritative court leaders in place of the transcript monitor in the Supreme Court Clerk's Office.

In the Supreme Court Clerk's Office, Ms. Donna Craig devotes only 15% of her time to transcript monitoring. She lacks the information, time, status and authority to do anything more than make passive accommodations with court reporters with past due transcripts. Together with Recommendation 3, this recommendation should free time for her to perform other tasks more thoroughly.

It should also place responsibility for deciding on initial extension requests with a person more able to exercise that responsibility. As Administrative Assistant to Chief Justice Dunfey, Ms. Lorraine Vangjel is supervisor of court stenographers. She has worked with them for years and has their respect and trust. She knows their assignment status and transcript workloads, and can rely on the guidance and supervision of the Chief Justice in making any decisions on extension requests. She is thus in a far better position than Ms. Craig to respond to the short-term extension requests that court reporters are often forced to make because of circumstances beyond their control.

Second requests, or somewhat more lengthy requests, are infrequent and should remain so. Because they should ordinarily be discouraged unless they reflect unusual circumstances, they should involve a more formal decision process involving court administrative personnel with more visible authority than Ms. Craig. The procedure suggested here for such requests should serve to alert both the Supreme Court Clerk and the Administrative Assistant to circumstances that may merit closer scrutiny.

The final level of decision-making on extension requests should not be reached in anything but extraordinary circumstances. Avoidance of this step should operate as a motivating force for identifying and addressing transcription problems before they become critical. The structure proposed here should also make it possible to alert court leaders to such potential problems as the Desgagne matter before undue time has elapsed.

* * * * *

3. Day-to-day responsibility for receipt of transcript fee payments and for enforcement of compliance with transcript preparation deadlines should be transferred to the Administrative Assistant to the Chief Justice of the Superior Court. The transcript monitor in the Supreme Court Clerk's Office should prepare weekly notices to the Administrative Assistant of forthcoming transcript due dates. Copies of these notices should be sent on a weekly basis to the Supreme Court Administrative Justice and the Supreme Court Chief Justice and provided on a biweekly basis for the Supreme Court justices' conference.

This recommendation and Recommendation 2 would remove the burden from Ms. Donna Craig of having to make telephone calls to all of the court reporters, to hound, cajole and accommodate with them. Instead, she would have to communicate with only one person--Ms. Lorraine Vangjel. Instead of having to bypass the Superior Court Chief Justice to assure compliance with Rule 15 by Superior Court employees, the Supreme Court Clerk's Office can look to one person--the supervisor of court reporters--to account for their performance.

Payment of transcript fees to Ms. Vangjel will centralize responsibility for monitoring what has to date been a low-visibility source of significant delay in the transcript preparation process. It will provide her with information, early in the preparation process for each transcript order, on which to rely in dealing with courtroom assignments and extension requests. There is no suggestion in this recommendation that the different clerks of court have in any way mishandled transcript fee payments. It is instead premised on the fact that they have no necessary responsibility or concern for the appellate transcription process, while Ms. Vangjel is charged with the duty to oversee court stenographers.

Ms. Vangjel is in regular communication with the court stenographers, since she must arrange adjustments in their assignments. She receives monthly reports of their transcript workload, which will soon include details of plea and sentencing transcripts prepared for the Superior Court justices. She thus is in an appropriate position to assure timely transcription.

As the "employer" of the court reporters, Chief Justice Dunfey is ultimately responsible for their transcript performance. Transfer of responsibility to him through his Administrative Assistant is consistent with this responsibility and enables him to meet it more effectively. This reassignment of responsibilities does not diminish transcript information to be provided to the Supreme Court. As a result, it does not reduce the court's capacity to monitor transcription.

The notices of transcript due dates can be prepared in the Supreme Court Clerk's Office by word processors. Revision of information can easily be made. Copies of the weekly notices to Justices Douglas and Dunfey will keep them abreast of transcript preparation issues and give them information if a need arises for either of them to intervene in the day-to-day monitoring of transcription. Copies of the notices for the Supreme Court justices in their biweekly conferences can serve as another means for the justices to be involved in administrative considerations.

* * * * *

4. Superior Court Chief Justice Dunfey should carry out his plans for more active supervision of sound recording machine operators.

In response to the Desgagne affair, Chief Justice Dunfey has taken two steps to assure that such problems are avoided in the future. Henceforth, all operators of sound recording machines must make monthly transcript reports to Ms. Vangjel, like those now made by court stenographers. This will enable her to oversee their transcript activities and carry out the functions suggested above in Recommendations 2 and 3.

What is more, the Chief Justice has made tentative plans to engage the part-time services of a former court stenographer who has also operated sound machines. If the person supervising sound machine operators is someone other than Ms. Vangjel, he or she should be responsible to Ms. Vangjel. This will enable her to carry out comprehensive management of all court reporting activities.

The new supervisor should be given responsibility to train present and prospective sound machine operators, not only in the technical operation of the machines, but also in developing awareness of situations that can arise in a court proceeding that might result in a poor audio recording. Court stenographers are very sensitive to the fact that inaudible speech, simultaneous speech, or external noises (such as automobile traffic outside the courtroom) can hinder accurate recording. The operators of sound machines should be similarly attuned to the consequences of such problems. Indeed, trial justices, masters, and attorneys who have their proceedings electronically recorded should also be sensitive to such matters, and should work with sound machine operators (as they do with stenographers operating shorthand machines) to protect the record of their proceedings.

The person engaged by Justice Dunfey should also be alert to difficulties that sound machine operators might run into meeting transcript preparation deadlines. The record made by a sound recording device can be transcribed by anyone. The Chief Justice should authorize the new sound recording supervisor, at the direction of Ms. Vangjel, to arrange for transcripts to be typed by someone other than the operator making the record if the transcript would otherwise be delayed.

* * * * *

5. With the assistance and cooperation of the Supreme Court, if necessary, the Superior Court should explore alternative uses of court reporting resources to promote preparation of appeal transcripts. More specifically, consideration should be given to:

   a. Modification of requirements and priorities for non-appeal transcripts.

   b. Use of computer-aided transcription (CAT) in selected circumstances.

   c. Broader deployment of sound recording machine operators.

   d. Application of the rule requiring two or more stenographers to record lengthy trials.

As mentioned earlier in this memorandum, Superior Court Administrative Rule 3-3 provides that the record of all guilty pleas, sentencing proceedings, hearings on violation of probation, and hearings on habitual offenders must be transcribed. But the Superior Court might find on closer inspection that some subcategories of each of these kinds of hearings are almost never subjected to subsequent review. For example, a guilty plea resulting in a county jail penalty will not be eligible for sentence review. The matters addressed at plea or sentencing will be valuable to consideration by a trial judge if a defendant is subsequently convicted of a different offense. But a substantial number of criminal defendants are not repeat offenders, and do not have their convictions subsequently reviewed for any reason. To the extent the courts convict such persons, a rule requiring all plea and sentencing hearings to be transcribed wastes public money and creates a needless conflict with appeal transcripts for the use of a court reporter's time.

The rule requiring that all such proceedings be transcribed is ultimately premised on a fear that the person who originally recorded a hearing will be unavailable when a transcript is needed. This fear is based on reality only to the extent that such proceedings are recorded by persons whose methods of encoding the record cannot be understood and transcribed by anyone else. This is the case when the record is made by a stenographer using manual shorthand or operating a shorthand machine. But when the court reporter is the operator of a sound recording machine, the court system is not held hostage to the reporter's idiosyncratic code. The record can be transcribed by anyone.

Court stenographers now serving the New Hampshire court system have developed a high level of skill in their calling, and they have served the courts well. It would be callous and inequitable for the courts to summarily replace them with court reporters operating sound recording machines. But the good and faithful service rendered by individual stenographers to the courts does not mandate that the courts perpetuate their reliance on what is becoming an obsolete technology. The New Hampshire courts have replaced manual shorthand reporters only by attrition with reporters using the technology of shorthand machines. Similarly, it seems that fairness requires that competent operators of shorthand machines be replaced only gradually and by attrition with reporters operating sound recording devices.

Lacking the training of machine shorthand reporters, sound machine reporters must be more closely supervised by the court, as Recommendation 4 suggests. What is more, transcribing an audio record takes more time than transcribing a machine shorthand record. But since the audio record can be transcribed by anyone, the court can arrange to have transcripts prepared by typists held to high standards of speed and accuracy.

In place of stenograph machine operators, sound machine operators can be used effectively to reduce court reporting costs for the court system. For example, they might be used in the northern counties to record many proceedings. Court stenographers must now be paid travel expenses to the northern counties, since most or all live in southern New Hampshire. If more sound machine operators are available to issue to court and proceedings before masters, Ms. Vangjel will have more flexibility to adjust court stenographer assignments to accommodate transcript workloads, shared recording of lengthy trials, illnesses and vacations.

Since machine shorthand reporters will surely remain in extensive use by the courts in the immediate future, an alternative to expedite transcript preparation is to rely on computer technology. Experiments with CAT have been undertaken across the country, and a sizeable body of early experience is developing with its use. It appears that Jordan & Bragan, a private reporting firm in Manchester, is about to begin use of CAT. The initial expense of a CAT system is still high, even though costs have been reduced sharply. But the Superior Court might make more limited use of CAT, at lower immediate expense, by arranging for a small number of court stenographers to retrain and become CAT-compatible and by entering into an agreement to rent computer time for transcription.

Notwithstanding its initial costs, CAT compares very favorably with traditional machine shorthand reporting. In recent cost-benefit comparisons of various court reporting alternatives, CAT was ranked far above more traditional techniques. The only court reporting approach judged to be more cost-effective was the system-wide use of sound recording machine operators.[7]

Superior Court Administrative Rule 3-13 provides that, in lengthy trials, recording responsibilities should be shared by two or more court stenographers. But this rule is seldom, if ever, applied. The most obvious reason, of course, is that lengthy trials are very infrequent. As Appendix III.B suggests, the great majority of trials last a day or less, and few last longer than three days. Even when it is foreseeable that a trial will take more than a week, however, application of Rule 3-13 is constrained by the fact that there are only a limited number of court stenographers. Furthermore, trial judges usually prefer to have the same reporter throughout a trial. Finally, shared recording of a long trial would mean that stenographers would have to split a large transcription fee.

But Appendix III.B shows transcript orders for a 15-day trial (5,000 transcript pages estimated) and a 17-day trial (4,000 pages estimated). For the 15-day trial, the stenographer estimated she would need to be out of court for 100 days to complete transcription. (On appeal, the case was settled.) For the 17-day trial, the stenographer estimated that 80 days or more were needed for transcription. From the date payment of the fee was acknowledged, it took him 143 days. (From the date the transcript order was entered in Supreme Court Clerk's Office records, it took 159 days.) In addition to the delay caused by such long transcript orders, a strain is placed on the stenographers responsible for them and on the Superior Court's capacity to accommodate administratively by removing them from courtroom assignment.

These delays and strains were foreseeable, and they could have been avoided. Mr. Paul Sheehan, the court stenographer from Exeter, has recommended shared recording of longer trials. More extensive application of Rule 3-13 would create

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[7] See National Center for State Courts, Court Reporting Services in New Jersey (1978), and Alternate Court Reporting Techniques for Connecticut (1979).

a need for increased resources--appointment of more court stenographers, more frequent resort to per-diem use of private stenographers, or (by far the most cost-effective alternative) broader assignment of sound recording machine operators.

* * * * *

6. The Supreme Court should make affirmative efforts to encourage partial transcript orders by appellate counsel. More specifically, the Supreme Court should consider such alternatives as the following:

   a. In notices of appeal, counsel should be required to justify orders for full transcripts.

   b. Through attorney handbooks and other such means, attorneys should be led to consider partial transcripts preferable appellate practice.

   c. The Supreme Court justice screening notices of appeal and the justice conducting prehearing conferences should require counsel to give serious consideration to the need for full transcripts.

   d. After oral argument in each case, the Supreme Court should review whether a full transcript was needed. In appropriate circumstances, the court should criticize or sanction counsel for indefensible transcript orders.

For many reasons, full transcripts are ordered far more often than may be necessary. Excessive transcript pages impose unfair costs on litigants (on taxpayers where litigants proceed in forma pauperis), and they impose unnecessary burdens on the courts because judges must read them and facilities space is needed to store them. While lengthy transcripts generate fee income for reporters, heavy transcript workloads create administrative strains on the Superior Court and delay for the Supreme Court.

Earlier discussion in this memorandum has addressed the reasons why appellate counsel are reluctant to order partial transcripts. By suggesting that full payment of transcript fees be required earlier in the appellate process, Recommendation 1 seeks to overcome part of that reluctance. This recommendation offers further means for the court to implement Rule 15(1), which expresses the court's policy against unnecessary transcript orders. It is not the purpose of this recommendation to urge partial transcripts when the ends of justice require otherwise. The only purpose here is to suggest specific ways to prevent full transcript orders that impose cost burdens on public and private resources without serving the ends of justice.

In addition to taking such steps as those suggested here to reduce transcription costs by encouraging partial transcription, the New Hampshire court system could achieve economies in other ways. Brief scrutiny of transcripts shows that transcript format requirements could be altered as a way to reduce transcript pages. For example, court-counsel colloquy or arguments of counsel seem always to be indented halfway across the transcript page, so that typing is done on only half the page. A simple adjustment of transcript format requirements would save litigants and the courts thousands of dollars each year in transcript fees and storage costs. If each of New Hampshire's 18 court stenographers averaged $1,644.20 per month in transcript fee income in 1979-1980 (see p. 9 and Appendix II.A), format changes shortening transcripts by 10% would reduce transcript costs by over $35,000 each year.

Another way to save public and private transcript costs would be to replace carbon copies of transcripts with photocopies. Instead of paying a court reporter 50¢ a page for a copy, the court or a litigant could pay to have the page photocopied for no more than 10¢. Elimination of carbon copies would also promote faster transcription. Correcting errors when carbon copies are being typed takes considerably longer than when only an original is involved, especially if a "self-correcting" typewriter is being used.[8] If each of New Hampshire's 18 court stenographers averaged $1,644.20 per month in 1979-1980 transcript fee income, reduction of charges from 50¢ to 10¢ a copy page (reducing usual total per-page costs from $2.00 to $1.25) would save over $97,000 a year in transcript costs. If the Supreme Court were to require counsel to make payment for transcripts at the beginning of the appellate process, as suggested in Recommendation 1 above and discussed there, the required deposit for a half-day transcript could be reduced from $200 to $150, and that for a shorter transcript from $350 per trial day to $250 per trial day.

[8]See IBM Product Test No. 38-1003, cited in National Center for State Courts, Court Reporting Services in New Jersey, p. 143 (1978).

APPENDICES

I. NEW HAMPSHIRE TRANSCRIPT PRODUCTION UNDER NEW RULE 15

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

III. TRANSCRIPT PAGES PER TRIAL DAY

I. NEW HAMPSHIRE TRANSCRIPT PRODUCTION UNDER NEW RULE 15

A. INDIVIDUAL STENOGRAPHERS OR OPERATORS[a]

Name	Total T'scripts Ordered	Avg. Est. Pages Per T'script	Avg. Est. Days to Delivery	Transcripts Delivered		Not Yet Delivered		Order Cancelled
				On Time[b]	Late[b]	Not Due	Past Due	
S. Bailey	10	268.3	17.0	0	7	2	0	1
D. Bonilla	1	300.0	30.0	0	0	0	0	1
E. Bouchard	2	92.5	5.0	2	0	0	0	0
D. Boudreau	5	227.8	14.8	0	3	1	0	1
M. Brown	1	120.0	60.0	1	0	0	0	0
V. Brown	11	119.8	30.2	5	4	1	1	0
K. Desgagne	15	162.6	90.0	3	7	0	4	1
F. Doherty	9	177.5	25.5	3	1	4	0	1
R. Dore	8	320.0	15.2	4	2	1	0	1
H. Duchnowski	9	809.4	21.0	3	3	1	0	2
E. Dutra	4	211.3	37.5	1	2	0	1	0
L. Lee	1	-	-	0	0	1	0	0
H. Mabry	1	180.0	40.0	1	0	0	0	0
S. McAllister	1	125.0	14.0	0	0	1	0	0
T. McDonough	12	329.8	13.8	3	2	4	1	2
B. Moore	3	76.7	18.0	2	1	0	0	0
A. Morrissey	1	230.0	60.0	1	0	0	0	0
J. Murray	12	187.5	32.8	3	4	3	1	1
R. Murtagh	11	158.6	45.3	10	0	0	0	1
R. Noridge	12	165.5	53.2	4	2	4	0	2
R. Perry	10	352.4	40.4	1	3	3	2	1
D. Robinson	6	333.3	13.0	1	3	2	0	0
D. Ruf	2	50.0	15.0	0	2	0	0	0
M. Saari	1	70.0	30.0	1	0	0	0	0
D. Sacco	1	110.0	30.0	1	0	0	0	0
Saren Rptg. Svc.	1	120.0	21.0	0	1	0	0	0
P. Sheehan	6	366.3	28.0	2	3	0	0	1
R. White	10	1,135.6	24.1	2	6	1	0	1
W. Wojtkowski	5	45.0	20.0	1	0	3	1	0
TOTALS	171	289.9[c]	34.0[d]	55	56	32	11	17

Footnotes continued on next page.

I. NEW HAMPSHIRE TRANSCRIPT PRODUCTION UNDER NEW RULE 15

A. INDIVIDUAL STENOGRAPHERS OR OPERATORS[a]
(continued)

NOTES

[a]Source: Supreme Court Clerk's Office. The new rule became effective July 1979, and figures here are as of September 9, 1980.

[b]A transcript is here considered "on time" if the date of transcript receipt (as entered by the transcript monitor in the Supreme Court Clerk's Office) is on or before the due date (also as entered in the records of the Supreme Court transcript monitor). A "late" delivery is one received after the initial due date.

[c]This average (mean) is for 148 transcripts, as estimated by stenographers or operators on receipt of transcript requisitions. Estimates were not available for 23 transcripts.

[d]This average (mean) is for 147 transcripts, as estimated by stenographers or operators upon receipt of transcript requisitions. Estimates were not available for 24 transcripts.

I. NEW HAMPSHIRE TRANSCRIPT PRODUCTION UNDER NEW RULE 15

B. PREPARATION TIMES, BY ESTIMATED PAGE LENGTH[a]

Est. Pages[b]	Tran-scripts	Estimated Days to Prepare[b]						Deliv'd Late[c]	Not Yet Deliv'd	Order Cancelled
		5 or Less	6-15	16-30	31-45	46-60	61 or More			
50 or Less	32	15	6	5		4	2	13	18	
51-100	26	6	7	6		6	1	8	5	
101-200	44	7	9	9	1	11	7	20	7	
201-300	10		1	1		5	3	1	3	2
301-400	8	1	4	1		2		1	5	
401-500	6		2			4		2	2	1
501-600	5		1		2	1	1	3	2	
601-700	2			1		1		1	1	
701-800	1			1					1	
801-900	1		1							1
901-1000	2		1	1				1		1
1,100	1				1			1		
1,175	1			1						
1,325	2					2			2	
4,000	1						1	1		
5,000	1						1			1
TOTALS	143	29	32	26	4	36	16	52	46	6

[a]Source: Supreme Court Clerk's Office. The new rule became effective July 1979, and figures here are as of September 9, 1980.

[b]Estimates of page length and preparation time are those made by court stenographers and recording machine operators in response to transcript requisitions issued under Supreme Court rules.

[c]A transcript is here considered to have been "delivered late" if the transcript receipt date (entered in the records of the transcript monitor in the Supreme Court Clerk's Office) is later than the initial due date for the transcript (also as entered in the records of the transcript monitor).

I. NEW HAMPSHIRE TRANSCRIPT PRODUCTION UNDER NEW RULE 15

C. TRANSCRIPT PREPARATION TIME: INITIAL AND ADJUSTED ESTIMATES COMPARED WITH ACTUAL TIME TO DELIVERY[a]

Days to Prepare, Initial Estimate[b]	Number of T'scripts	T'scripts With Estimate Changed	Days to Prepare, Adjusted Estimate[c]	T'scripts Actually Delivered	Average Actual Days to Deliver[d]
5 or Less	30	28	18.7	24	21.9
6-10	21	16	27.9	17	36.8
14-15	9	6	25.8	7	31.3
20	4	2	19.3	4	12.5
21	4	4	21.8	4	33.5
30	14	2	30.2	12	45.5
40	1	1	60.0	1	24.0
42	2	1	41.0	2	77.5
50	1	0	50.0	1	52.0
60	26	6	57.5	20	41.0
80	1	1	90.0	1	142.0
90	14	4	92.0	10	142.5

Average preparation time, initial estimate (127 transcripts): 31.7 days

Average preparation time, adjusted estimate (123 transcripts): 39.6 days

Average preparation time, transcripts actually delivered (103 transcripts): 45.8 days

[a]Source: Supreme Court Clerk's Office. The new rule became effective July 1979, and figures here are as of September 9, 1980.

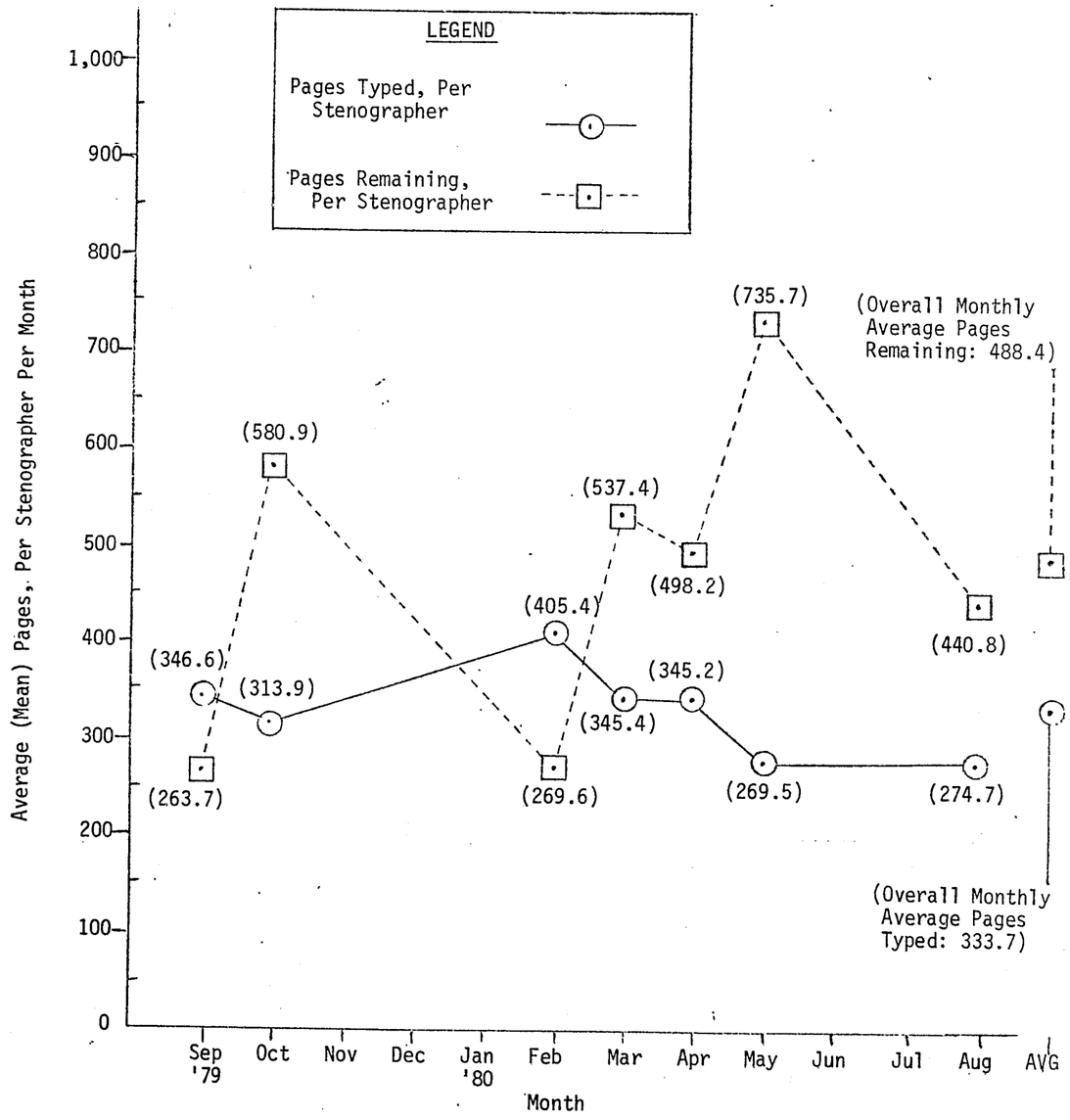
[b]This is the estimate of preparation time made by the stenographer or recording machine operator when acknowledging receipt of a transcript requisition.

[c]This is the elapsed time between the date that payment for a transcript order is acknowledged and the due date recorded by the transcript monitor in the Supreme Court Clerk's Office.

[d]This is the elapsed time between the date that payment for a transcript order is acknowledged and the date of transcript receipt recorded by the transcript monitor in the Supreme Court Clerk's Office.

II. NEW HAMPSHIRE COURT STENOGRAPHERS TRANSCRIPT WORKLOADS

A. MONTHLY AVERAGES, ALL STENOGRAPHERS, SEPTEMBER 1979 - AUGUST 1980*



*Source: Administrative Assistant to Superior Court Chief Justice

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

B. MONTHLY WORKLOAD DISTRIBUTION, INDIVIDUAL STENOGRAPHERS, SEPTEMBER 1979 - AUGUST 1980[a]

Month[b]	Pages	Pages Per Month, Number of Stenographers With[c]									
		100 or Less	101-200	201-300	301-400	401-500	501-750	751-1000	1001-1500	1501-2500	2501 or More
SEP '79	Typed	1	3	2	3	1	2	1			
	Remaining	3	3	2	1	1	1	1			
OCT	Typed	2	2	5		4	1	1			
	Remaining	7	1	1	1	2	2	1			1
NOV	Typed										
	Remaining										
DEC	Typed										
	Remaining										
JAN '80	Typed										
	Remaining										
FEB	Typed	1	1	3	5	3	3	1			
	Remaining	7	2	2	1	1	3	1			
MAR	Typed	3		2	5	4	2	1			
	Remaining	5	2	3	1	1	3	1		1	1
APR	Typed	1	2	3	4	4	2				
	Remaining	9	3				1		2		1
MAY	Typed	2	2	5	5	3					
	Remaining	5		2	1		3	2	1	1	1
JUN	Typed										
	Remaining										
JUL	Typed										
	Remaining										
AUG	Typed	3	2	2	1	2	2				
	Remaining	6		1		1	2			1	1
TOTAL[d]	Typed	13	12	22	23	21	12	4			
	Remaining	42	11	13	5	6	15	6	3	3	5

Footnotes continued on next page.

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

B. MONTHLY WORKLOAD DISTRIBUTION, INDIVIDUAL STENOGRAPHERS, SEPTEMBER 1979 - AUGUST 1980[a]
(continued)

NOTES

[a]Source: Administrative Assistant to the Chief Justice of the Superior Court. Information here is based on reports by individual court stenographers to the Administrative Assistant. The period shown here was chosen because is shows experience to date with the effects of the new Supreme Court Rule 15 (effective July 1979).

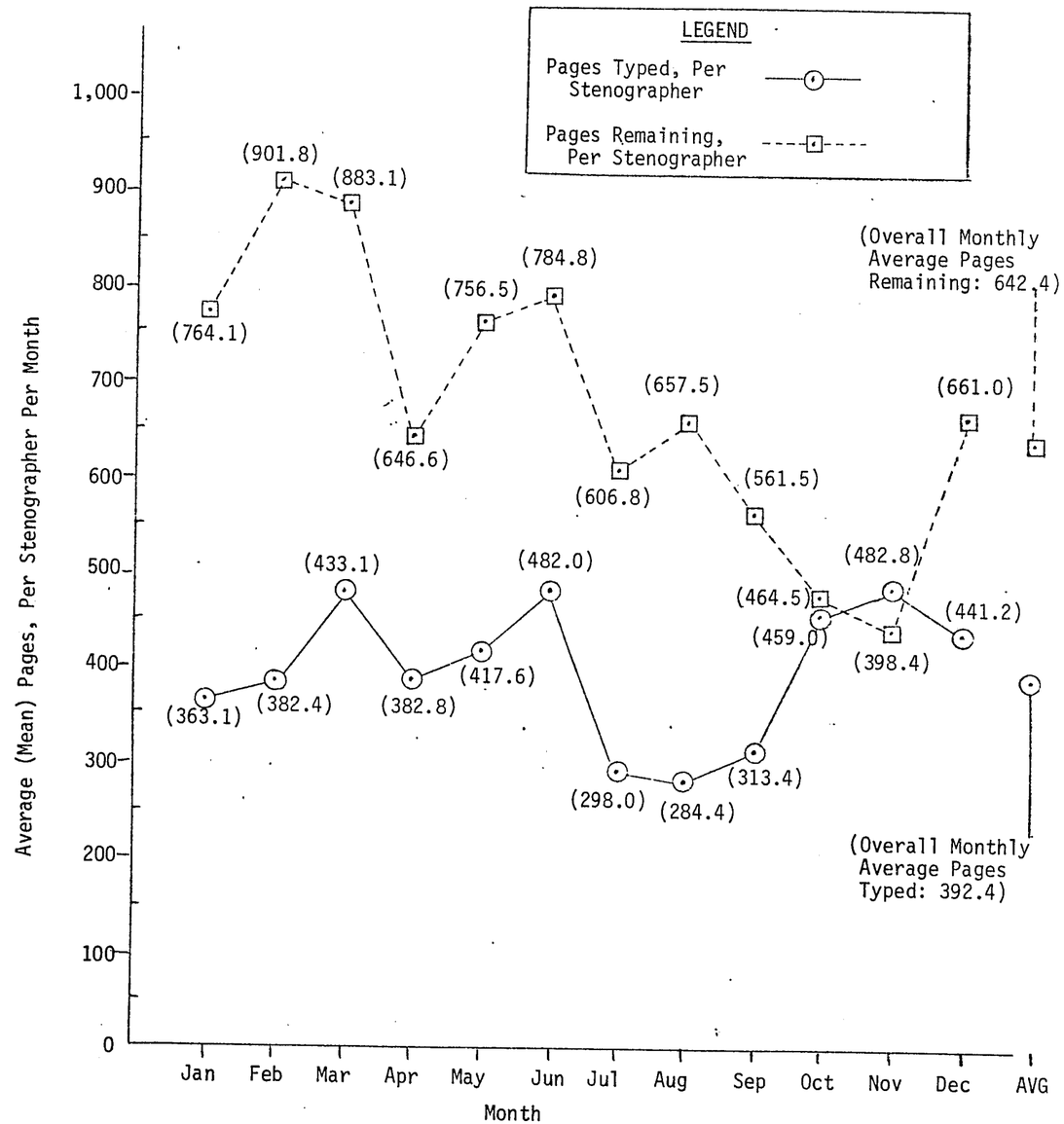
[b]Figures are shown here for only seven months because summaries of stenographer reports were not readily available when the technical assistance team member interviewed the Administrative Assistant at the Belknap County Courthouse in Laconia, NH, on September 10, 1980.

[c]Pages per month are those reported by stenographers themselves. Pages of appeal and non-appeal transcription are not distinguished. The numbers entered under each of the page ranges are the number of stenographers with so many pages typed or pending that month. (E.g., there was one stenographer who typed 100 pages or less in September 1979, while there were three stenographers that month who reported 100 pages or less remaining to be transcribed.)

[d]The "total" numbers entered are the result of adding the number of stenographers who had so many pages of transcripts typed or remaining each month. They might be called "total stenographer-months", and in the aggregate they show how workloads tended to be distributed per month over the entire year.

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

C. MONTHLY AVERAGES, ALL STENOGRAPHERS, 1978*



*Source: Administrative Assistant to Superior Court Chief Justice

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

D. MONTHLY WORKLOAD DISTRIBUTION, INDIVIDUAL STENOGRAPHERS, 1978[a]

Month	Pages	Pages Per Month, Number of Stenographers With[b]									
		100 or Less	101-200	201-300	301-400	401-500	501-750	751-1000	1001-1500	1501-2500	2501 or More
JAN	Typed		3	3	1	4	2				
	Remaining	4	1	2				2	1	1	2
FEB	Typed	1	2		2	5	2				
	Remaining	1	1	1	2			3	1	1	2
MAR	Typed	1		2	3	6	3				
	Remaining	4			1		2	2	2	3	1
APR	Typed	2		2	3	3	3				
	Remaining	3				1	5	1		2	2
MAY	Typed	1		3	3	5	2	1			
	Remaining	2		1	2	3	2		2	1	1
JUN	Typed			3	4	1	5				
	Remaining	2			2	2	1	2	2	2	1
JUL	Typed	2	3		2	4	1				
	Remaining	1		2	2	3	1		1	1	1
AUG	Typed	4		2	2	3		1			
	Remaining	3		1		1	1	3		2	1
SEP	Typed	2	3	2	2	1	3				
	Remaining	5	2	1	1		1			2	1
OCT	Typed		3	1	4	2	2	1			
	Remaining	3		1	2	1	2	1	1	2	
NOV	Typed	1	1	2	3	3	3				
	Remaining	3	2	1		1	1	2	2	1	
DEC	Typed	1	1	3	3		2	1			
	Remaining	3		1		2		2	1	2	
TOTAL[c]	Typed	15	16	23	32	37	28	3			
	Remaining	34	6	11	12	14	16	18	13	20	12

Footnotes continued on next page.

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

D. MONTHLY WORKLOAD DISTRIBUTION, INDIVIDUAL STENOGRAPHERS, 1978[a]
(continued)

NOTES

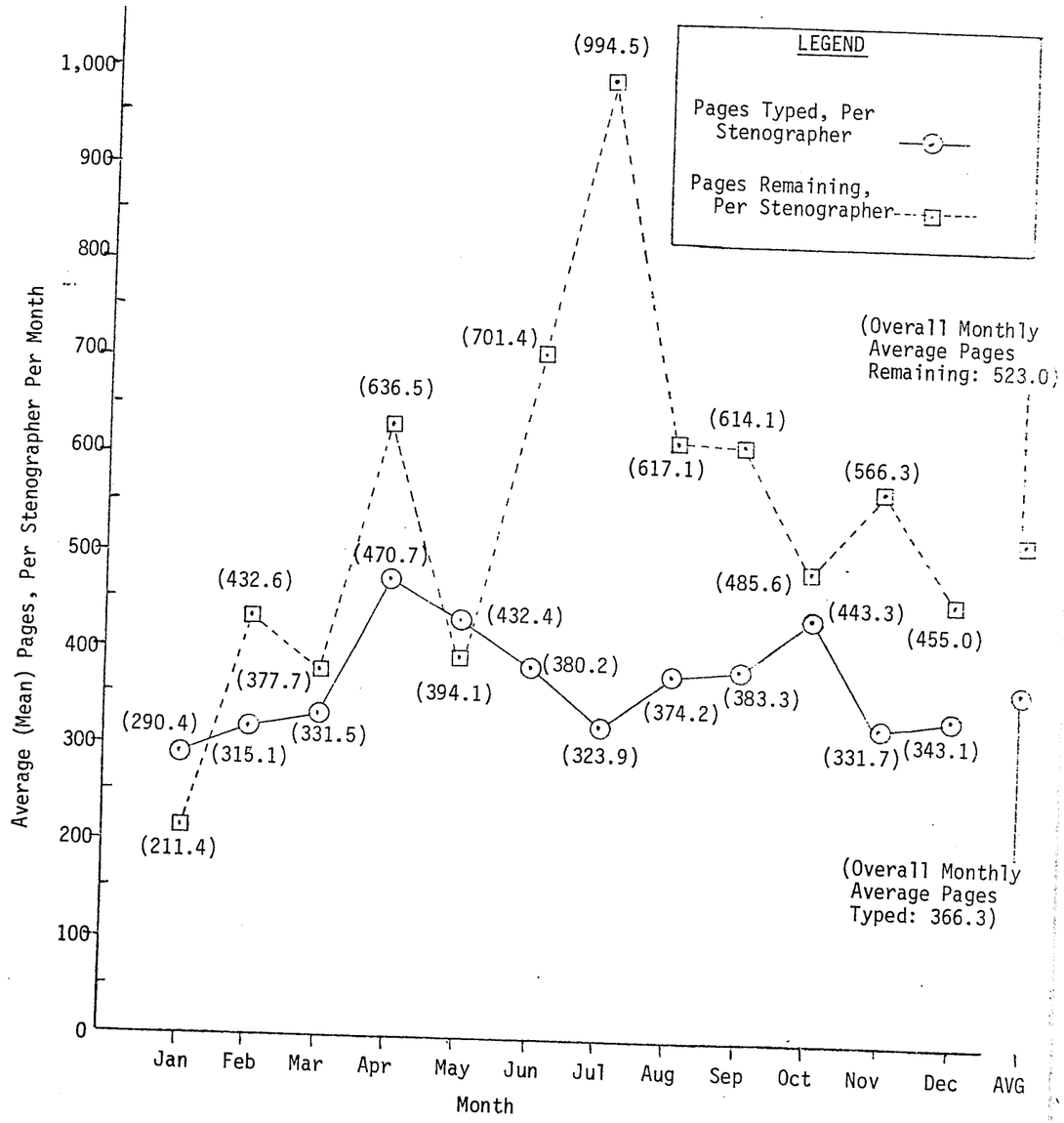
[a]Source: Administrative Assistant to the Chief Justice of the Superior Court. Information here is based on reports by individual court stenographers to the Administrative Assistant.

[b]Pages per month are those reported by stenographers themselves. Pages of appeal and non-appeal transcription are not distinguished. The numbers entered under each of the page ranges are the number of stenographers with so many pages typed or pending that month. (E.g., there were three stenographers who typed from 101 to 200 pages in January 1978, while there was one stenographer that month who reported from 101 to 200 pages remaining to be typed.)

[c]The "total" numbers entered are the result of adding the number of reporters who had so many pages of transcripts typed or remaining each month. The numbers entered at "total" might be called "total stenographer-months", and in the aggregate they show how workloads tended to be distributed per month over the entire year.

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

E. MONTHLY AVERAGES, ALL STENOGRAPHERS, 1975*



*Source: Administrative Assistant to Superior Court Chief Justice

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

F. MONTHLY WORKLOAD DISTRIBUTION, INDIVIDUAL STENOGRAPHERS, 1975[a]

Month	Pages	Pages Per Month, Number of Stenographers With[b]									
		100 or Less	101-200	201-300	301-400	401-500	501-750	751-1000	1001-1500	1501-2500	2501 or More
JAN	Typed	2	3	4	1	2	2				
	Remaining	8		2		2		2		1	
FEB	Typed	2	5	1	6		2				
	Remaining	4	1	3	1	2	1	3	1		
MAR	Typed	3		1	3	3	2				
	Remaining	3	3		2	1		2	1		
APR	Typed			1	3	2	4				
	Remaining	2	2	1	1		1	2	1	1	
MAY	Typed		2	3	3	3	1		1		
	Remaining	6	1	1	1	1		1	1	1	
JUN	Typed	1	2	1	3	2	3				
	Remaining	2		3		1	2	3			2
JUL	Typed	1	2	3	2		2				
	Remaining	4				1	1	1		1	2
AUG	Typed	2	1	2	3		1		1		
	Remaining	5				1	2			1	1
SEP	Typed	2	2	4	4	1	1	1			
	Remaining	5	2	2	1		2	1		1	1
OCT	Typed	1	3	1	2	3	2	3			
	Remaining	5	5	1				3			1
NOV	Typed	1	3	4	4	1	1				
	Remaining	4	3		1		2			2	
DEC	Typed	1	3	3	4		1	1			
	Remaining	2	4		3	1	1		1	1	
TOTAL[c]	Typed	16	26	28	38	17	22	5	1		
	Remaining	50	21	13	10	10	12	18	6	9	7

Footnotes continued on next page.

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

F. MONTHLY WORKLOAD DISTRIBUTION, INDIVIDUAL STENOGRAPHERS, 1975[a]
(continued)

NOTES

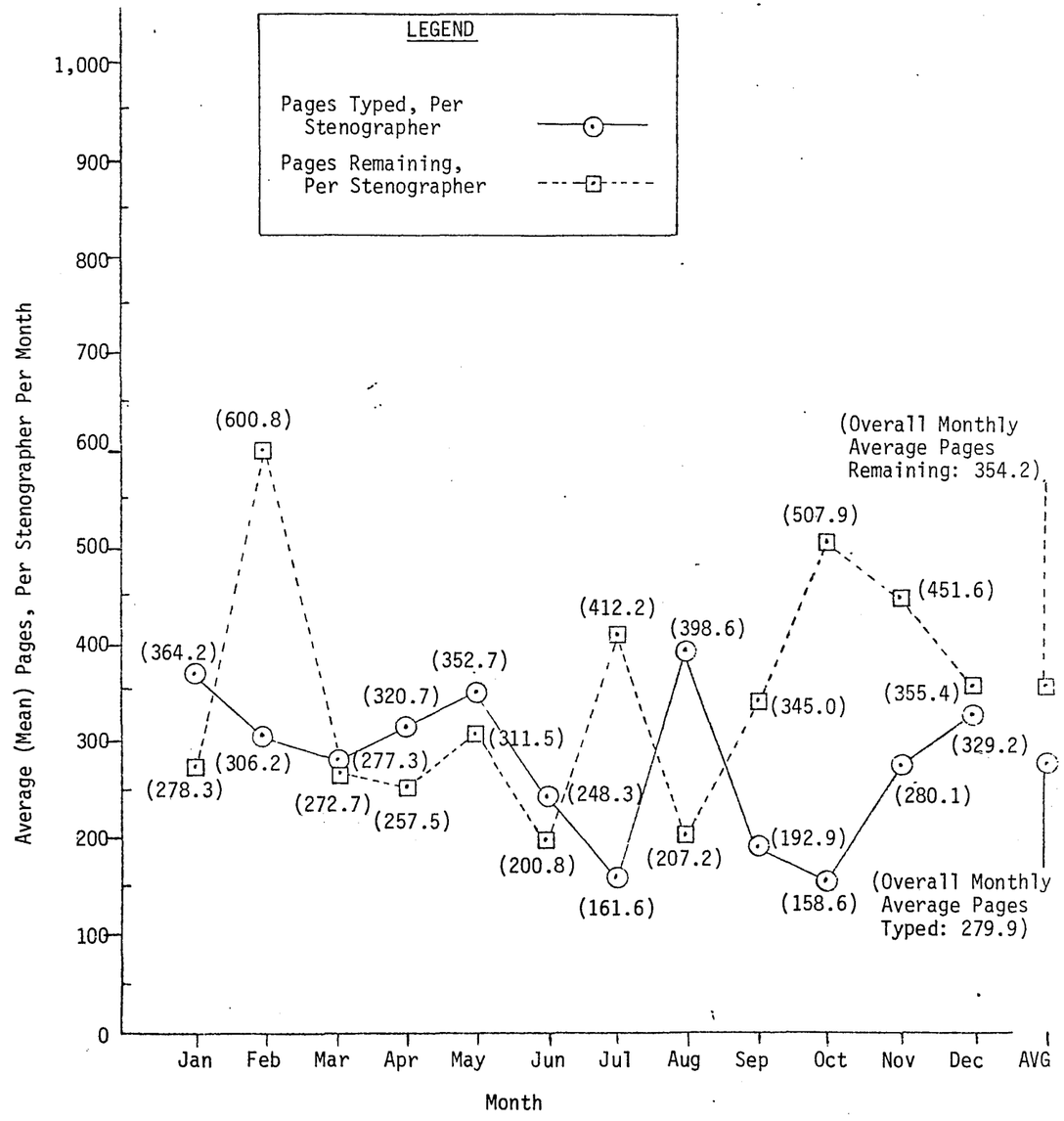
[a]Source: Administrative Assistant to the Chief Justice of the Superior Court. Information here is based on reports by individual court stenographers to the Administrative Assistant.

[b]Pages per month are those reported by stenographers themselves. Pages of appeal and non-appeal transcription are not distinguished. The numbers entered under each of the page ranges are the number of stenographers with so many pages typed or pending that month. (E.g., there were two stenographers who typed 100 or fewer pages in January 1975, while there were eight stenographers that month who reported 100 or fewer pages remaining to be typed.)

[c]The "total" numbers entered are the result of adding the number of reporters who had so many pages of transcripts typed or remaining each month. The numbers entered at "total" might be called "total stenographer-months", and in the aggregate they show how workloads tended to be distributed per month over the entire year.

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

G. MONTHLY AVERAGES, ALL STENOGRAPHERS, 1972*



*Source: Administrative Assistant to Superior Court Chief Justice

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

H. MONTHLY WORKLOAD DISTRIBUTION, INDIVIDUAL STENOGRAPHERS, 1972[a]

Month	Pages	Pages Per Month, Number of Stenographers With[b]									
		100 or Less	101-200	201-300	301-400	401-500	501-750	751-1000	1001-1500	1501-2500	2501 or More
JAN	Typed		2	5	3			2			
	Remaining	3	2	3	3			1			
FEB	Typed	1	2	2	5	1	1				
	Remaining	2	1	1	2	1	2	2			1
MAR	Typed	1	4		4	3					
	Remaining	4	2	1		2	3				
APR	Typed	3	2	3	1	3	1				
	Remaining	3	4	3	1		2				
MAY	Typed		2	4	5	1	3				
	Remaining	7	2	1	1	1	1	1		1	
JUN	Typed	2	1	7	2	1					
	Remaining	6		1	3	1	1				
JUL	Typed	5	2	4		1					
	Remaining	5	3		1			2		1	
AUG	Typed	2	2		1	2		2			
	Remaining	4	2	1	1		1				
SEP	Typed	5	3	2	3						
	Remaining	5	3		2	1	1			1	
OCT	Typed	5	4	2	3						
	Remaining	4		2	1	2	2	1	1	1	
NOV	Typed	2	2	3	2	2	1				
	Remaining	1	3	2	2	2	1			1	
DEC	Typed	1	1	3	5	2	1				
	Remaining	5	2	1	2				1	1	
TOTAL[c]	Typed	27	26	35	34	16	7	4			
	Remaining	49	24	16	19	10	14	7	2	6	1

Footnotes continued on next page.

II. NEW HAMPSHIRE COURT STENOGRAPHER TRANSCRIPT WORKLOADS

H. MONTHLY WORKLOAD DISTRIBUTION, INDIVIDUAL STENOGRAPHERS, 1972[a]

NOTES

[a]Source: Administrative Assistant to the Chief Justice of the Superior Court. Information here is based on reports by individual court stenographers to the Administrative Assistant.

[b]Pages per month are those reported by stenographers themselves. Pages of appeal and non-appeal transcription are not distinguished. The numbers entered under each of the page ranges are the number of stenographers with so many pages typed or pending that month. (E.g., there were two stenographers who typed from 101 to 200 pages in January 1972, while there were two stenographers that month who reported having 101 to 200 pages remaining to be typed.)

[c]The "total" numbers entered are the result of adding the number of reporters who had so many pages of transcripts typed or remaining each month. The numbers entered at "total" might be called "total stenographer-months", and in the aggregate they show how workloads tended to be distributed per month over the entire year.

III. TRANSCRIPT PAGES PER TRIAL DAY

A. INDIVIDUAL STENOGRAPHERS OR OPERATORS[a]

Name	T'scripts[b]	Total Trial Days[c]	Total Est. Pages[d]	Est. Pages Per Trial Day
S. Bailey	9	15	2,415	161.0
D. Bonilla	1	2	300	150.0
E. Bouchard	2	1.5	185	123.3
D. Boudreau	3	5.5	836	152.0
M. Brown	1	1	120	120.0
V. Brown	10	14	1,198	85.6
K. Desgagne	14	17	2,276	133.9
F. Doherty	8	18	1,420	78.9
R. Dore	5	16	1,820	113.8
H. Duchnowski	8	24.5	7,285	297.3
E. Dutra	4	7	845	120.7
L. Lee	-	-	-	-
H. Mabry	1	1	180	180.0
S. McAllister	1	1	125	125.0
T. McDonough	10	21	3,290	156.7
B. Moore	3	1.4	270	192.9
A. Morrissey	1	1	230	230.0
J. Murray	8	15.2	1,500	98.7
R. Murtagh	11	25.2	1,745	69.2
R. Noridge	11	13	1,820	140.0
R. Perry	7	16	2,467	154.2
D. Robinson	5	16	1,800	112.5
D. Ruf	2	1.5	100	66.7
M. Saari	1	1	70	70.0
Saren Rptg. Svc.	1	1	120	120.0
P. Sheehan	3	10	1,375	137.5
R. White	8	29.03	6,220	214.2
W. Wojtkowski	4	1.85	180	97.3
TOTALS	142	276.68	40,192	145.3

Footnotes continued on next page.

III. TRANSCRIPT PAGES PER TRIAL DAY

A. INDIVIDUAL STENOGRAPHERS OR OPERATORS[a]

NOTES

[a]Source: Supreme Court Clerk's Office. Figures here are as of September 9, 1980.

[b]The number of transcripts counted for purposes of this chart is the number for which reporters gave both trial days and estimated pages in their written acknowledgments of transcript requisitions. Since some acknowledgments did not include either or both of these items, the number of transcripts here for a particular person does not necessarily agree with the total in Appendix I.A.

[c]For each transcript requisition, the reporter must state in his or her acknowledgment how many trial days were involved. "Total Trial Days" is the sum for each reporter. Most reporters indicated trial days in whole numbers. But for 17 transcript orders, reporters entered partial days, hours, or (in one order) minutes. It is assumed here that an average trial day is five hours, so that half an hour is considered to be 0.1 trial day, and ten minutes is 0.033 trial day (1/30th of a trial day).

[d]"Total Est. Pages" is the sum of each reporter's estimates of page length for particular transcript orders, as entered in acknowledgments of transcript requisitions.

III. TRANSCRIPT PAGES PER TRIAL DAY

B. DISTRIBUTION OF TRIAL DAYS[a]

Trial Days	Transcripts	(Percent)
Half or Less	16	(11.3%)
1	78	(54.9%)
2	17[b]	(12.0%)
3	13	(9.2%)
4	3	(2.1%)
5	6	(4.2%)
6	3	(2.1%)
7	3	(2.1%)
8	1	(0.7%)
15	1	(0.7%)
17	1	(0.7%)
TOTAL	142	(100.0%)

[a]Source: Supreme Court Clerk's Office. These figures are for transcripts ordered from July 1, 1979 to September 9, 1980.

[b]This figure includes one proceeding that took "2+" days, according to the reporter's acknowledgment of the transcript requisition.

III. TRANSCRIPT PAGES PER TRIAL DAY

C. DISTRIBUTION OF ESTIMATED PAGES PER TRIAL DAY (WHERE REQUISITION WAS FOR TRIAL OF ONE DAY OR MORE)[a,b]

Estimated Pages Per Day	Number of Transcript Requisitions	(Percent)
25 or less	9	(7.1%)
26-50	14	(11.1%)
51-75	21	(16.7%)
76-100	11	(8.7%)
101-125	15	(11.9%)
126-150	20	(15.9%)
151-175	11	(8.7%)
176-200	13	(10.3%)
201-250	9	(7.1%)
251 or more	3	(2.4%)
TOTAL	126	(99.9%)[c]

[a]Source: Supreme Court Clerk's Office. Figures here are for transcripts ordered from JUly 1, 1979 to September 9, 1980.

[b]There were 16 transcript requisitions for proceedings of half a day or less. Of these, 15 were for transcripts estimated at 100 pages or less; the 16th was for a transcript estimated at 101 pages.

[c]The total is less than 100% because of rounding.

END