

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF CONTRA COSTA**



**GENERAL ORDER RE: USE OF  
ELECTRONIC RECORDING  
EQUIPMENT**

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Just six years ago, our Supreme Court warned that “the absence of a court reporter at trial court proceedings and the resulting lack of a verbatim record of such proceedings will frequently be fatal to a litigant’s ability to [appeal].” (*Jameson v. Desta* (2018) 5 Cal.5th 594, 608.) The Supreme Court thereby invalidated a Superior Court’s practice of requiring indigent parties to arrange and pay for a court reporter. (*Id.* at pp. 611, 623.) The *Jameson* decision was just one of many instances in which California courts have struck down or rejected laws, rules, doctrines, and policies that might “significantly chill [a] litigant’s enjoyment of the fundamental protections of the right to appeal.” (*Coleman v. Gulf Ins. Group* (1986) 41 Cal.3d 782, 797.) “The State of California is not constitutionally required to establish avenues of appellate review, ‘but it is now fundamental that, once established, these avenues must be kept free of unreasoned distinctions that can only impede open and equal access to the courts.’ [Citation.]” (*In re Arthur N.* (1974) 36 Cal.App.3d 935, 939.)

The Contra Costa Superior Court (“Court”) can no longer reliably staff its courtrooms with court-employed certified shorthand reporters (“CSRs”) because of a chronic shortage of CSRs available to be hired. Without a CSR, vast numbers of litigants are left without a verbatim transcript—or even *any* verbatim record—of what occurred in hearings that may have a profound impact on their rights and lives.

This leaves the Court little choice. To preserve the constitutional rights of litigants and to carry out the Court’s duty to process civil cases expeditiously, this General Order permits judges of the Court to authorize electronic recording (“ER”) of proceedings in which fundamental rights are at stake.

- I. Like other courts across the state, the Court faces a crisis in CSR availability that has compromised its ability to provide CSRs where needed, despite its best efforts in recruitment and retention.

Under current law, the Court is obligated to provide CSRs for felonies; juvenile justice and dependency proceedings; upon request by indigent litigants with an approved fee waiver; and in certain other proceedings.<sup>1</sup> To provide such coverage, the Court has been forced to remove CSRs from its family law, probate, and unlimited civil departments. Where its own CSRs are not available, the Court has tried to provide CSRs on an ad hoc basis—by the hour, by the day, or for a given hearing upon special request by the judicial officer. But this stopgap measure has proven inadequate, the Court cannot guarantee the ability to maintain it going forward, and there is likewise no

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<sup>1</sup> The facts set forth in this order are based on the Declaration of Court Executive Officer Kate Bieker, dated December 30, 2024.

guarantee that the available hourly or daily reporters will consistently fill the ever-increasing need for reporter coverage.

The shrinking of the number of CSRs available to be hired has been evident for years, drawing persistent warnings from judiciary and legislative leaders, as well as from access-to-justice non-profits and other similar organizations. Indeed, very recently, the Court received a demand from one local legal-aid nonprofit to immediately begin using electronic recording for all civil case types, based on the constitutional crisis identified in this order. This mirrors efforts similar agencies have made at the Legislature to amend section 69957. Presiding Judges and Court Executive Officers throughout the state encouraged the Legislature to take up bills to address this crisis, but those proposed – such as SB 662, introduced in 2023, which would have expanded the use of ER to other proceedings when no court reporter was available – did not advance. As a result, for those litigants who cannot obtain a CSR because of the shortage and whose cases do not qualify for ER under section 69957, even when their fundamental rights are at stake *no one* makes a verbatim record of all the proceedings.

The Court's experience with hiring and retention of CSRs has been no different. The Court currently employs 14 full-time and 3 part-time CSRs for up to 17 departments where statutory mandates require CSRs. The total number of CSRs is down from 33 full-time and 4 part-time reporters in 2019, a loss of over 50%. Further, the total of 17 departments excludes additional departments which, on occasion, may hear cases requiring CSRs (e.g., a civil department hearing a criminal matter, a visiting judge hearing a criminal matter). 10 of the 17 currently-employed CSRs are retirement-



eligible. While the court has 10 active per diem reporters for further additional assistance, by the very nature of their position their availability is not guaranteed.

Efforts the Court has undertaken to encourage applications and retention have not resulted in an increase in CSR staff. The Court has paid percentage-of-salary retention bonuses in this fiscal year and the two previous:

- 10% of six months' salary in FY 2022-2023, ranging from \$4,794.78 through \$5,993.48 per CSR;
- 5% of six month's salary in FY 2023-2024, \$2,379.39 through 2,996.74 per CSR; and
- 5% of annual salary in FY 2024-2025, ranging from \$2,911.12 through \$6,113.35 per CSR.

Additionally, in Fiscal Year 2022-2023, the Court paid a one-time retention bonus of \$10,000 to all CSRs. The Court's staff have attended job fairs, advertised in CSR-related media, and taken out billboards and other advertising to recruit new CSRs. And finally, the Court will shortly open a CSR internship program, with three applicants so far, though this will only impact the Court's overall shortage if applicants complete the program, become licensed, and ultimately work for the Court as opposed to another employer.

In sum, after all the efforts at recruitment and retention, the Court's current CSR staffing between 2019 and now shows a **net loss** of 20 reporters. The solution to this immediate crisis cannot be found exclusively in further recruitment efforts. And the practical result of this shortage is that many hearings proceed without a CSR, and without a verbatim record. Between January 1, 2023, and November 22, 2024, the

Court has held **81,480** hearings without a CSR in its Civil, Family, and Probate departments.

- II. Permitting ER in misdemeanors, infractions, and similar cases, while denying it for felonies, juvenile proceedings, and other matters involving fundamental rights and liberty interests, violates the United States and California constitutions.

The Legislature permits courts to use ER to create a verbatim record of proceedings in misdemeanor, infraction, and limited civil cases but has prohibited ER in any other case type. (Gov. Code, § 69957.) The Court regularly uses ER recording, or transcripts obtained from those recordings, as the record for appellate review in its Appellate Division. The Court heard 77 appeals in 2023 and 76 in 2024 to-date. The vast majority of these relied on ER recordings or transcripts of ER recordings without negative impact on the ability of the Division to render decisions on the appeals. Additionally, the Court has outfitted all of its courtrooms with updated electronic recording and audio technology to ensure that each department can produce usable, accurate audio recordings.

But in cases where section 69957 does not permit ER, and where no CSR is reasonably available due to the CSR shortage, litigants are unable to obtain a more reliable verbatim transcript. Instead, the statute operates to effectively deny them any verbatim transcript at all, which “will frequently be fatal to a litigant’s ability to [appeal].” (*Jameson, supra*, 5 Cal.5th at p. 608.)

There is no constitutionally sufficient justification to permitting ER in the cases identified in section 69957 but not in other cases where a verbatim record would not

otherwise be available without ER. Indeed, the Court of Appeal has struck down such a distinction in the past, holding that where verbatim transcription is provided to felony defendants, “statutes, which permit the municipal court to deny defendants of misdemeanor criminal actions the availability of a phonographic reporter, or an electronic recording device, or some equivalent means of reasonably assuring an accurate verbatim account of the courtroom proceedings, fail to comport with constitutional principles of *due process* and *equal protection of the laws*.” (See *In re Armstrong* (1981) 126 Cal.App.3d 565, 572-574, original italics [finding the denial violated both the U.S. Constitution and Article 1, section 7 of the California constitution].) Permitting ER in certain proceedings but forbidding it in others, especially where those other proceedings implicate constitutionally protected fundamental rights and liberty interests of the litigants, violates the constitutions of the United States and the State of California.

This legislative discrimination is not narrowly tailored to meet a compelling state interest as required by a constitutionally mandated strict scrutiny analysis. (*In re Arthur N.* (1974) 36 Cal.App.3d 935, 939 [“In cases touching upon fundamental interests of the individual, the state bears the burden of establishing not only that it has a *compelling* interest which justifies the suspect classification, but also that the distinctions drawn by the regulation are *necessary* to further its purpose.”].) Indeed, the Court seriously doubts that there is *any* valid justification for depriving litigants of a verbatim transcript when a technological means for providing one is readily available, especially where that means is authorized and used in other case types.



- III. Proceedings in which litigants cannot obtain a record implicate their fundamental rights, and therefore raise constitutional concerns when a verbatim record is unavailable.

“It has long been the law that courts have inherent authority to determine whether statutes enacted by the Legislature transcend the limits imposed by either federal or state Constitutions... It is the duty of courts to maintain supremacy of the Constitution.” (*Byers v. Board of Supervisors* (1968) 262 Cal.App.2d 148, 157, citing *Marbury v. Madison*, 1 Cranch (U.S.) 137.) Accordingly, judicial officers may conclude that, on the facts of the case before them, they have a duty to not to enforce statutory provisions, such as section 69957, where doing so would constitute a constitutional violation. Each of the case types to which this order applies implicates the fundamental rights of the litigants involved:

- A juvenile’s right to appeal “deeply involves the minor’s fundamental interests.” (*In re Arthur N.*, *supra*, 36 Cal.App.3d, at 939.)
- The Family Code, the Probate Code, and the Code of Civil Procedure provide separate statutory rights to appeal. (See Cal. Code Civ. Proc. §902; §904(a)(1), (10), (14). Where such appeal rights are provided, they must be kept free on unreasoned distinctions that impeded equal access to the courts. (*In re Arthur N.*, *supra*, at 939.)
- Non-criminal restraining order cases heard in both the Civil and Family Law departments can result in orders that materially impact a party’s fundamental rights, such as freedom of speech, freedom of movement, the right to possess firearms, and the right to free association.

- Finally, orders to show cause for civil and family contempt for willful violation of a court orders also implicate fundamental rights in that they expose individuals to criminal penalties: fines up to \$1,000 and incarceration for up to 5 days. (See Code Civ. Proc. § 1218.)

In each of these case types, where a CSR is not available, a judicial officer faces the conflict between the prohibition of ER under section 69957 and the litigant's fundamental constitutional rights to preservation of a record for appeal.

IV. Alternatives to ER are insufficient to provide the required constitutional safeguards to litigants.

At present, no reasonable alternatives other than ER exist for litigants whose matters are not reported. Those that do exist are alternatively unrealistic, constitutionally infirm, or both.

First, a litigant could try to retain a private CSR. But this is often prohibitively expensive for all but the wealthiest of litigants. Hinging the availability of a record on a litigant's relative ability to pay violates a litigant's due process and equal protection rights.

A litigant could also continue a matter until a CSR is available. But this can prejudicially delay the administration of justice, an especially dangerous problem in cases where immediate court action is essential – such as restraining orders, child custody decisions, and creation or elimination of conservatorships upon vulnerable adults. The Court has a duty to expeditiously process its civil cases. (*Jameson, supra*, 179 Cal.App.4th 672, 684; see *Apollo v. Gyaami* (2008) 167 Cal.App.4th 1468, 1487.) Continuing urgent cases when ER is available to provide a verbatim record does not



satisfy that duty. And, finally, the question arises: continue to when? With an ever-decreasing availability of CSRs, there is simply no guarantee that a continuance would result in a court reporter being available for the rescheduled hearing, magnifying the due process problem of using continuances in this fashion.

Finally, litigants could attempt to use the settled statement process. (See Cal. Rules of Ct., rule 8.137.) But courts have recognized the inherent problems that exist with settled statements – problems which can become due process violations when those statements become the only available option. Not all issues are appropriate for settled statements because the parties cannot necessarily predict all issues that may arise. (See *Jameson, supra*, 5 Cal.5th at p. 622, fn. 20 [“There is, however, generally no way to determine in advance what issues may arise or whether such an issue can be raised and decided on appeal absent a verbatim record of the trial court proceedings.”].) And this presumes the parties could agree on the statement. If they do not, settling a statement then requires a post hoc reconstruction of the record based on the memories of proceedings occurring weeks or months prior, which are of ever-decreasing reliability. (See *Armstrong, supra*, 126 Cal.App.3d at p. 573.) While settled statements are useful where the parties *agree* to the *option* of their use, forcing them on parties to avoid a problem much more easily resolvable by ER is an unjustified and unnecessary invitation for infringement of a litigant’s constitutional protections.

#### V. Finding of Fact and Conclusions of Law

Based on the foregoing, the Court **FINDS** as follows:

1. California provides a statutory right of appeal in family law, probate, and civil proceedings.

2. Family law, probate, and civil litigants have fundamental due process interests in court proceedings involving the status of their marriage, the parentage and custody of their children, certain conservatorship and guardianship matters, their rights under restraining orders, and civil and family contempt proceedings.
3. The absence of a verbatim record will frequently be fatal to litigants' ability to appeal from adverse decisions in such proceedings.
4. The Court is unable to reliably supply a court-employed CSR to its family law, probate, or civil departments given the Court's shortage of court-employed CSRs and its legal obligation to provide court-employed CSRs in other matters.
5. The Court has undertaken reasonable steps to attempt to retain and hire more CSRs, but those attempts have been unsuccessful and are likely to remain unsuccessful. There is no basis to believe that, either in the short or long term, the Court will be able to hire sufficient CSRs to reliably staff its family law, probate, and civil departments. At present, they do not exist to be hired.
6. Government Code section 69957 permits ER for infraction, criminal misdemeanor, and limited civil matters for the purpose of creating a verbatim record of proceedings. This is a reasonable alternative for the creation of a verbatim record of proceedings via ER technology in the absence of an available CSR.

7. The Court's Appellate Division successfully reviewed and decided appeals when ER was used to create a record of infraction, criminal misdemeanor, and limited civil matters for the purpose of creating a verbatim transcript.
8. In contrast to how it permits litigants to protect their appellate rights in infraction, criminal misdemeanor, and limited civil matters, section 69957 prohibits electronic recording of family law, probate, and civil matters, even those involving constitutionally protected fundamental rights and liberty interests.
9. Because of the shortage of court-employed CSRs and the prohibition of section 69957, the Court held 81,480 hearings in its Family, Civil, and Probate departments between January 1, 2023, and November 22, 2024, for which no verbatim record of proceedings could be made. More such hearings will likewise occur each year. As a result, the court reporter shortage has become an emergency and a crisis in appellate and, ultimately, constitutional rights.
10. Attempts to persuade the California Legislature to amend the law to ameliorate this crisis have proven unsuccessful.
11. As matters stand, when judicial officers of the Court enforce section 69957—such that there is no transcript available to vast numbers of family law, probate, and civil litigants when a court employed CSR is not available for assignment to a family law, probate, and civil departments in matters implicating constitutionally protected rights and liberty interests—they do so even though ER technology is in place which could create a verbatim record.



12. The distinction section 69957 draws among classes of litigants can result in family law, probate, and civil litigants suffering actual and serious constitutional harms on account of this legislative discrimination. This discrimination is not narrowly tailored to meet a compelling government interest, as would be required under the strict scrutiny analysis applicable to regulations which implicate the fundamental constitutional rights of litigants to due process and equal protection. There is no compelling government interest in permitting electronic recording for certain cases but not for others, especially when the class of cases where recording is not permitted implicate fundamental rights and interests. Nor is section 69957 narrowly tailored, because it forbids recording in classes of cases even where a CSR is unavailable; minimally, it could allow for electronic recording in those circumstances.
13. Instead of needlessly restricting the appellate rights of litigants in matters touching upon fundamental constitutional rights and liberty interests, the Court has a reasonable alternative method of permitting the creation of a verbatim transcript of proceedings via electronic recording technology. In the absence of a reasonably available CSR which will ameliorate or eliminate the constitutional violations, the judges of the Court should have the option to preserve and protect constitutional rights rather than limit and impinge upon them.

VI. Order

Accordingly, the Presiding Judge hereby **ORDERS** the Clerk of Court to direct Deputy Clerks, beginning on January 6, 2025, to operate the electronic recording equipment in family law, probate and civil departments as directed by the judicial officer presiding in such department when that judicial officer finds that: (1) the proceeding concerns matters that implicate fundamental rights or liberty rights as described herein; (2) one or more parties wishes to have the possibility of creating a verbatim transcript of the proceedings; (3) no official court-employed CSR is reasonably available to report the proceeding; (4) the party so requesting has been unable to secure the presence of a private CSR to report the proceeding because such CSR was not reasonably available or on account of that party's reasonable inability to pay; (5) the proceeding involves significant legal and/or factual issues such that a verbatim record is likely necessary to create a record of sufficient completeness; and (6) the proceeding should not, in the interests of justice, be further delayed.

This order **shall not** apply to proceedings under the Lanterman-Petris-Short Act or to any proceeding where electronic recording is permitted by statute.

This Order will remain in effect until otherwise ordered by the Presiding Judge.

Dated: December 30, 2024



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HON. EDWARD G. WEIL  
Presiding Judge of the Superior Court  
Contra Costa County

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF CONTRA COSTA**

**DECLARATION OF COURT EXECUTIVE  
OFFICER KATE BIEKER**

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I, Kate Bieker, declare:

1. I am the Executive Officer, Clerk of Court, and Jury Commissioner for the Contra Costa Superior Court (the Court). I have held this position since May 14, 2018. I have personal knowledge of the facts contained in this declaration and would testify to them if called upon to do so.

2. Prior to joining the Contra Costa Superior Court, I worked for Deloitte & Touche, Shell Oil and Nextel. I have worked for the Court in positions including Human Resources, Court Finance, Court Operations, as Deputy Executive Officer, and now Court Executive Officer for 6 years. I am currently a member of the Judicial Council of California serving under the direction and supervision of the Chief Justice of California. I also serve on several statewide committees. I am the current co-chair of the Court Executive Association Committee. I am a graduate of Sonoma State University where I received my baccalaureate degree in Political Science. I have worked



in court administration and court operations at Contra Costa Superior Court for 18 years.

3. The Court is one of 58 superior courts in California. Its 38 judges and 4 commissioners operate in 6 courthouses supported by 304 full-time employees. The Court's judicial officers hear every type of case under California law – criminal, civil, family law, juvenile dependency and justice, probate, and mental health.

4. The Court can no longer continuously and reliably support its trial departments with court-employed certified shorthand reporters ("CSRs") due to a chronic shortage in CSRs to be hired. For several years, I and other executive officers throughout the state, as well as presiding judges and other judicial leaders, have spoken about the ever-decreasing pool of CSRs available and the oncoming crisis it represented. Numerous court executive officers also released a statement on November 2, 2022, identifying the facts supporting the existence of the CSR shortage, describing why such a shortage would not be solved simply with more funding, and identifying the problems occasioned by the limitations on electronic recording set forth in Government Code section 66959. A copy of this statement, which I co-signed, is attached as **Exhibit A**.

5. Under current law, the Court is obligated to provide CSRs for felonies; juvenile justice and dependency proceedings; upon request by indigent litigants with an approved fee waiver (see *Jameson v. Desta* (2018) 5 Cal.5th 594, 599); and in certain other proceedings. To provide such coverage, the Court has been forced to remove CSRs from its family law, probate, and unlimited civil departments. Where its own CSRs are not available, the Court has tried to provide CSRs on an ad hoc basis—by the

hour, by the day, or for a given hearing upon special request by the judicial officer.

6. Others have recognized the ongoing crisis as well. The Court recently received a demand from one local legal-aid nonprofit to immediately begin using electronic recording for all civil case types. This mirrors efforts similar agencies have made at the Legislature to amend section 69957. Presiding Judges and Court Executive Officers throughout the state encouraged the Legislature to take up bills to address this crisis, but those proposed – such as SB 662, introduced in 2023, which would have expanded the use of ER to other proceedings when no court reporter was available – did not advance. As a result, for those litigants who cannot obtain a CSR because of the shortage and whose cases do not qualify for ER under section 69957, even when their fundamental rights are at stake *no one* makes a verbatim record of the proceedings.

7. In my role as Executive Officer, I directly supervise the manager of our CSRs. The Court currently employs 14 full-time and 3 part-time CSRs for up to 17 departments where statutory mandates require CSRs. The total number of CSRs is down from 33 full-time and 4 part-time reporters in 2019, a loss of over 50%. Further, the total of 17 departments excludes additional departments which, on occasion, may hear cases requiring CSRs (e.g., a civil department hearing a criminal matter, a visiting judge hearing a criminal matter). While the court has 10 active per diem reporters for further additional assistance, by the very nature of their position their availability is not guaranteed.

8. Also in my role as Executive Officer, I supervise the Court's Human Resources Department. Of the 17 currently-employed CSRs, 10 are retirement-eligible.

9. Efforts the Court has undertaken to encourage applications and retention have not resulted in an increase in CSR staff. The Court has paid percentage-of-salary retention bonuses in this fiscal year and the two previous:

- 10% of six months' salary in FY 2022-2023, ranging from \$4,794.78 through \$5,993.48 per CSR;
- 5% of six month's salary in FY 2023-2024, \$2,379.39 through 2,996.74 per CSR; and
- 5% of annual salary in FY 2024-2025, ranging from \$2,911.12 through \$6,113.35 per CSR.

Additionally, in Fiscal Year 2022-2023, the Court paid a one-time retention bonus of \$10,000 to all CSRs.

10. To encourage new applications, the Court's Human Resources staff significantly increased its advertising and recruitment efforts. Staff have attended job fairs, advertised in CSR-related media, and taken out billboards and other advertising to recruit new CSRs. The Court will shortly open a CSR internship program, with three applicants so far. The direct impact of this program is to be determined based on whether applicants complete the program, become licensed, and ultimately work for the Court as opposed to another employer.

11. The CSR shortage has resulted in a substantial number of cases proceeding without verbatim records. Between January 1, 2023, and November 22, 2024, the Court has held **81,480** hearings without a CSR in its Civil, Family, and Probate departments.



12. Consistent with the commitment of our Court, its judges and staff, and the judiciary system in California generally to uphold equal access to the courts, and to support and defend both the United States and California Constitutions, I am obligated to provide sufficient CSR staffing to permit judicial officers to carry out their duties. Due to the crisis in CSR availability, I am unable to provide sufficient CSRs on a regular basis to ensure a verbatim record is captured in court proceedings.

13. In my role as Clerk of Court, I supervise the manager of the civil clerk's office and the manager supporting our Appellate Division. The Court regularly uses electronic recording ("ER"), or transcripts obtained from those recordings, as the record for appellate review in its Appellate Division. The Court heard 77 appeals in 2023 and 76 in 2024 to-date. The vast majority of these relied on ER recordings or transcripts of ER recordings without negative impact on the ability of the Division to render decisions on the appeals.

14. The Court has outfitted its courtrooms with updated electronic recording and audio technology to ensure that each department can produce usable, accurate audio recordings. The Court made specific upgrades in 27 courtrooms which included: 1) upgraded recording systems to ensure quality of ER; 2) upgraded speaker and microphone systems throughout the courtrooms; 3) installation of 65"/85" smart displays in each courtroom; 4) installation of display screens on counsel tables and witness stands; and 5) evidence presentation devices to display on the smart screens from counsel table.

15. The Court has successfully used electronic recording for appellate review in its appellate division and regularly in those cases where it is permitted under

Government Code section 66957. Based on this, it is my opinion that electronic recordings and transcripts derived from such recordings allow for appellate review of a verbatim record.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that is declaration is executed this 30<sup>th</sup> day of December, 2024.



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KATE BIEKER  
Executive Officer / Clerk of Court  
Superior Court of California  
County of Contra Costa

**FOR IMMEDIATE RELEASE**

November 2, 2022



## SUPERIOR COURTS OF CALIFORNIA

### **THERE IS A COURT REPORTER SHORTAGE CRISIS IN CALIFORNIA**

Each day across California, tens of thousands of court hearings are held. Lawyers argue, witnesses testify, litigants tell their stories and judges make decisions. What many people do not appreciate is the crucial role played by a court reporter: creating and preserving a verbatim record of those exchanges. As a chronic shortage of court reporters reaches crisis levels, the statutory framework for court reporting must adjust to the new realities of the reporting profession.

**THE PROBLEM: There is a court reporter shortage in California – and across the nation – that has been long developing.**

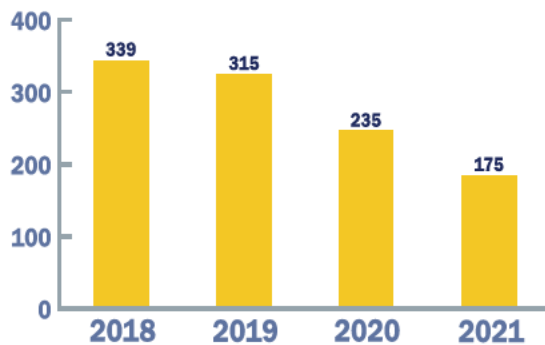
- In 2005, the Judicial Council warned that, "since the early 1990's, California's courts have experienced a steady decline in the number of available qualified shorthand reporters. [...] Additionally, the reduction of court reporting schools and curriculums in California over recent years complicates the courts' ability to attract sufficient numbers of well-trained reporters. [2005, Reporting of the Record Task Force, *Final Report*, p. 6.]
- Nationally, a 2013 study by the National Court Reporters Association projected that "Decreased enrollment and graduation rates for court reporters, combined with significant retirement rates, will create by 2018 a critical shortfall projected to represent nearly 5,500 court reporting positions." [Ducker Worldwide, *2013-2014: Court Reporting Industry Outlook Report, Executive Summary*, p. 5.]
- In 2017, the Chief Justice's *Futures Commission Final Report* warned, "National data show the number of skilled court reporters is decreasing. Certified court reporting schools have experienced smaller enrollment and graduation rates, which are declining by an annual average of 7.3 percent[...]" [*Report to the Chief Justice: Commission on the Future of California's Court System*, p. 240.]
- In 2018, the Judicial Council wrote to the Legislature that, "the state would [...] have a gap of approximately 2,750 court reporters by 2023 if forecasted



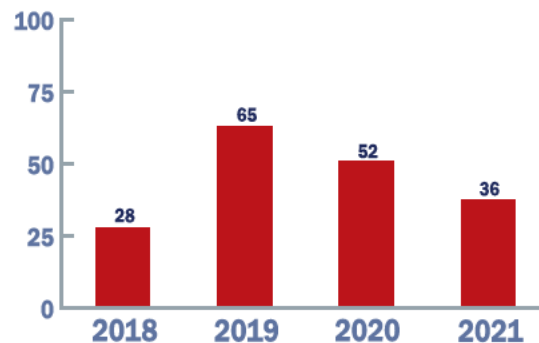
demand remains constant.” [March 29, 2018, letter from the Judicial Council to Hon. Lorena Gonzalez-Fletcher, Chair Assembly Appropriations Committee, re: Assembly Bill 2354.]

Today in California, only nine Certified Shorthand Reporter programs remain. In 2021, only 175 examinees took the licensing exam – and only 36 passed.

**GRAPH 1: Total CSR Examinees**



**GRAPH 2: CSR Examinees Who Passed**



The result is a crisis in court reporter availability that has been developing for years.

### **THE SHORTAGE OF COURT REPORTERS IMPACTS LITIGANTS ACROSS CALIFORNIA:**

In accordance with Penal Code § 190.9 and § 869, Code of Civil Procedure § 269 and Welfare and Institution Code § 347 and § 677, California courts must provide court reporters in felony criminal and dependency and delinquency juvenile courtrooms. Court reporters are not statutorily required to be provided by the courts in civil, family law, probate, misdemeanor criminal and traffic courtrooms.

And yet, many California courts do not have enough court reporters to cover mandated criminal felony matters – let alone the wide range of areas in which litigants need a record of court proceedings.

Over 50% of the California courts have reported that they are unable to routinely cover non-mandated case types including civil, family law and probate.

### **FUNDING IS NOT THE SOLUTION: There is no one to hire.**

The Legislature provides \$30 million annually to the California courts to hire additional court reporters, with a focus on family law and civil courtrooms. However, because of the decline in court reporters, the crisis continues.

Today 71 percent of the state's 58 trial courts are actively recruiting for court reporters: Alameda; Butte; Contra Costa; Del Norte; El Dorado; Fresno; Humboldt; Imperial; Kern; Lake; Los Angeles; Madera; Marin; Merced; Monterey; Nevada; Orange; Placer; Riverside; Sacramento; San Benito; San Bernardino; San Diego; San Francisco; San Joaquin; San Luis Obispo; San Mateo; Santa Barbara; Santa Clara; Santa Cruz; Shasta; Siskiyou; Solano; Sonoma; Stanislaus; Tehama; Tulare; Tuolumne; Ventura; Yolo; and Yuba.

**THE CURRENT STATUTORY FRAMEWORK INHIBITS CREATIVE RESPONSES TO THE SHORTAGE OF COURT REPORTERS:**

With the exception of limited civil, misdemeanor and infraction cases, Government Code § 69957 prohibits the courts from providing electronic recording in civil, family law and probate courtrooms.

Government Code § 69959 and Code of Civil Procedure § 367.75(d)(2)(A) mandate court reporters to be present in the courtrooms – rather than taking advantage of emerging technologies that would allow the court to provide this service remotely to multiple courtrooms throughout the county, providing more services with existing resources while making the profession more attractive to young, potential court reporters.

Government Code § 69942 requires all court reporters who work in a court to be certified in California which restricts courts from hiring out-of-state independent firms to provide this service.

**CONCLUSION: More funding is not the solution.**

We stand with our court reporters in recognizing and appreciating their value and service to the California judicial branch but we must acknowledge that we are facing a California – and national – court reporter shortage.

This shortage will not be solved by increased funding. Without changes to the current statutory framework for court reporting, all courts will face the inevitable day, already seen by a few California courts, of not having enough court reporters to cover the mandated felony criminal and juvenile dependency and delinquency cases.

Every litigant in California should have access to the record. Ideally, this would be provided by a court reporter but when none are available, other options need to be available to the courts. We are ready, able and willing to work with all stakeholders on finding ways to ensure that all litigants who need a record have access to one.

**ADDITIONAL RESOURCES:**

- U.S. Legal Support, *Understanding the National Court Reporter Shortage and What it Means for Your Firm*, [<https://www.uslegalsupport.com/court-reporting/understanding-the-national-court-reporter-shortage-and-what-it-means-for-your-firm/>]
- Ducker Worldwide, *Court Reporting Industry Outlook Report (2013 – 2014)* [[https://www.ncra.org/docs/default-source/uploadedfiles/education/schools/2013-14\\_ncra\\_-\\_industry\\_outlook-\(ducker\)8ef018c4b8ea486e9f8638864df79109.pdf?sfvrsn=c7a531e2\\_0](https://www.ncra.org/docs/default-source/uploadedfiles/education/schools/2013-14_ncra_-_industry_outlook-(ducker)8ef018c4b8ea486e9f8638864df79109.pdf?sfvrsn=c7a531e2_0)]
- Commission on the Future of California's Court System, *Report to the Chief Justice*, 2017, [<https://www.courts.ca.gov/documents/futures-commission-final-report.pdf>]
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