

kept confidential by the Clerk.

The above plan for efficient utilization of court reporters is hereby adopted and shall become effective Sept. 21, 1982.

DATED: Sept. 21, 1982

FOR THE COURT:

Philip C. Wilkins
CHIEF U.S. DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SEP 21 1982

CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY _____ DEPUTY CLERK

RE: PLAN FOR EFFECTIVE)
UTILIZATION OF COURT REPORTERS) GENERAL ORDER NO. 113A
_____)

The attached plan for the efficient utilization of court reporters is approved and adopted by the Court as of September 21, 1982. (See last page of Plan)

The plan, as submitted to the Ninth Circuit, was approved by the Judicial Council on October 22, 1982.

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF CALIFORNIA

PLAN FOR THE EFFECTIVE UTILIZATION
OF
COURT REPORTERS

1. STATEMENT OF ADOPTION OF PLAN BY COURT

The Plan for Effective Utilization of Court Reporters in the United States District Court for the Eastern District of California has been approved and adopted by the Court subject to approval of the Ninth Circuit Judicial Council.

2. SUPERVISION OF COURT REPORTERS

The Clerk is hereby designated as the "Court Reporter Monitor" and shall be responsible for the day-to-day management and supervision of an efficient reporting service within the Court. The Court Reporter Monitor will act as the central agent for all communications between the Court of Appeals and this Court as to all reporters, regular and temporary. The Chief Judge in Sacramento and the Resident Active Judge in Fresno shall act upon the enforcement of general policy matters concerning court reporters as set forth in this plan.

3. ASSIGNMENT OF REPORTERS

(a) In order to insure an even distribution of case work

and coverage of the needs of the entire court for reportorial services, it is the policy of this District that court reporters are not employed by or permanently assigned to individual judges. They are employed by and temporarily assigned by the Court en banc. It is the policy of this Court that a reporter shall continue to retain employment at the will of the Court en banc, regardless of the death, resignation, or retirement of an individual judge. In the period between such an occurrence and the appointment of a new judge, reporters shall continue to serve other active judges, senior judges and magistrates. If the volume of work, in the long run, does not justify retention of the full complement of reporters, a reduction shall be accomplished through relocation, attrition, or by giving a reasonable notice for termination of the appointment of not less than 60 days nor more than 90 days.

(b) Due to the distance involved between Sacramento and Fresno, each of those places holding court shall be treated independently from the other but in a uniform manner.

(c) A practical approach shall be taken to the assignment of reporters with the Clerk giving due regard to prolonged proceedings and the advisability of allowing continuity of reporters. Reporters will normally be assigned to one judge; however, the Clerk shall have authority to reassign reporters based on the needs of the Court. The Clerk shall endeavor to allow a reporter to remain with an assignment until conclusion.

(d) The Clerk shall insure that all assignments are accomplished on an equitable basis in order to facilitate

efficient reportorial and transcription services to the Court and bar.

4. HOURS

In order to allow for emergency scheduling, regular hours shall be maintained by all court reporters. The office hours have been established as 9:00 a.m. to 5:00 p.m., Monday through Friday. It is not necessary that the reporter be in the courthouse during these periods of time when not reporting; however, telephone availability will be maintained with the Clerk's Office to insure that if an emergency scheduling arises the court reporter can be in the office within 30 minutes. The Clerk shall have knowledge of the whereabouts of all reporters at all times.

5. OTHER ASSIGNMENTS

(a) Magistrates are directed to utilize electronic sound recording where the same is authorized. However, care should be taken to comply with the provisions of Title 23, United States Code, Section 753(b), especially in the case of criminal proceedings being heard by the Magistrate by reference from a judge of this Court. In regard to civil cases, Magistrates should proceed pursuant to Title 28, United States Code, Section 636(c)(7).

(b) Should a Magistrate feel that it is necessary that the services of a court reporter be utilized in a particular case, a request to provide a reporter shall be directed to the Clerk as soon as the need becomes known. The Clerk will

endeavor to assign an official court reporter to the Magistrate in order to alleviate the necessity for requiring the services of a contract reporter. If an official reporter is not available, the Clerk will notify the Magistrate's staff which shall have the responsibility of securing the contract reporter.

6. UTILIZATION OF CONTRACT REPORTERS TO REPLACE OFFICIAL REPORTERS

Contract reporters shall not be utilized to relieve an official reporter for purposes of alleviating a transcript backlog. Official reporters shall be required to arrange for, and compensate, courtroom substitutes while they prepare overdue transcripts.

Official reporters shall have an on-going responsibility for transcript production of any substitutes they hire, including requests for extensions of time.

The Court Reporter Monitor shall file with the Chief Judge and the Circuit Court of Appeals a monthly report of the transcript backlog of each reporter.

7. PRODUCTION OF DAILY TRANSCRIPT

Production of daily or hourly transcript is not to be subsidized by the Court. Consequently, if extra reporters are required to provide such transcript, the cost of such reporters shall be paid out of the earnings derived from the higher transcript rates as established by the Judicial Conference. This provision does not, however, prohibit other

official reporters from assisting in producing such transcripts if there are no other official proceedings to record, including those of magistrates and when no substantial transcript backlog will result.

8. FEES FOR TRANSCRIPTS OF OFFICIAL PROCEEDINGS

(a) No court reporter, either official or contract, shall charge fees for transcripts of official proceedings which exceed those recommended by the Judicial Conference of the United States and adopted by the Court.

(b) The Clerk shall post a copy of the allowable fee schedule on the official bulletin board in both Sacramento and Fresno and shall make a general mailing to all counsel as the order may be amended.

(c) Each reporter will furnish to the Clerk a copy of each billing for official transcript which is produced. "Official Transcript" in this instance shall be deemed to be a transcript of any proceeding had before a judge or magistrate of this Court, whether in chambers or in open Court, no matter for what reason the transcript may be produced. It is not felt that this Court or the Judicial Conference has any control over transcripts which may be produced as a result of "free-lance" work.

(d) For transcript of a case on appeal not delivered within 30 days of the date ordered and payment received therefor, or within such other time as may be prescribed by the circuit council, the reporter may charge only 90 percent of the prescribed fee; that for a transcript not delivered within 60

days of the date ordered and, payment received therefor, or within such other time as may be prescribed by the circuit council, the reporter may charge only 80 percent of the prescribed fee. No fee may be charged which would be higher than the fee corresponding to the actual delivery time. In the case of a transcript which is subject to F.R.A.P. Rule 11(b), the reduction in fee may be waived by the clerk of the court of appeals for good cause shown. Nothing contained herein should be construed as sanctioning untimely delivery, nor should this provision be considered the only penalty that could be imposed by the court or circuit council on habitual offenders.

(e) The reporters shall produce all transcripts in the format required by the Judicial Conference.

9. CJA TRANSCRIPTS

(a) All transcripts produced for and on behalf of CJA defendants shall be billed on the CJA Form 24. Copies of this form and instructions for its completion have been furnished to the court reporters by the Clerk.

(b) The respective reporter is responsible for assisting the ordering party in the proper preparation of the CJA Form 24.

(c) CJA trial transcripts shall not include opening or closing statement of counsel, jury voir dire, or jury instructions unless specifically authorized by the trial judge.

(d) The Clerk of this Court in conjunction with the Federal Defender is hereby designated to verify receipt of CJA transcripts and shall ascertain the propriety of each voucher

before submitting the same to the appropriate Judicial officer for approval. Payment shall be made by the Clerk upon approval of the Judge or Magistrate as may be appropriate.

10. TIME LIMITS FOR DELIVERY OF TRANSCRIPT

All transcripts of official proceedings produced by the court reporters for this District, whether for purposes of appeal or otherwise, shall be delivered to the ordering party and/or filed with the Clerk of this Court within the time prescribed by the Ninth Circuit Court of Appeals in case of appeal transcripts. This schedule shall not be deviated from unless an extension has been obtained from the appropriate Clerk of Court, i.e., Clerk of Appeals Court in cases involving appeal transcripts and Clerk of this Court in all other cases.

11. FILING OF SHORTHAND NOTES AND ELECTRONIC RECORDINGS

(a) Each official and contract court reporter shall within a reasonable time after the conclusion of a proceeding certify and file the shorthand notes of such proceeding with the Clerk of Court. Such notes may be checked out from the Clerk as needed for transcription purposes.

(b) Pursuant to the provisions of Title 28, United States Code, Section 753, reporters must transcribe and certify all arraignments, pleas and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording and such recordings

have been certified and filed with the Clerk. Consequently, official and contract reporters shall file with the Clerk transcripts of such proceedings within thirty (30) days of their occurrence unless an electronic recording device was utilized, in which event the electronic recording, as certified by using a "Certificate of Official Reporter," shall be filed as soon as the recording, cassette, reel, etc., has been used to capacity.

12. REPORTS TO BE FILED WITH FINANCIAL MANAGEMENT DIVISION OF THE ADMINISTRATIVE OFFICE, UNITED STATES COURTS

The following reports are to be filed by each official court reporter:

(a) The Report of Attendance and Transcripts of United States Court Reporters shall be submitted quarterly during each calendar year of official reporting. A report for each calendar quarter is to be mailed to the Financial Management Division, Administrative Office of the United States Court, Washington, D.C. 20544, so that it reaches that office within twenty (20) days after the end of the quarter, a copy of which will be directed to the Clerk of this Court.

(b) The Statement of Earnings of United States Court Reporters shall be submitted annually by all official court reporters. The report shall be mailed to the Financial Management Division, Administrative Office of the United States Court, Washington, D.C. 20544, within sixty (60) days after the end of the calendar year, a copy of which will be directed to the Clerk of this Court. This report shall be