

## Court Reporting: Inside Baseball

Scheduling a reporter can sometimes be a difficult process in the state of California, largely because of the ongoing shortage of licensed CSRs in the state. Per the June 2024 fact sheet from the Judicial Council of California, there are a total of 4,752 California-licensed court reporters, which would even out to about 82 reporters per county. That seems like a large number, but the total number of reporters available varies greatly by county, with places like Los Angeles, Orange County, and San Diego maintaining the greatest number of CSRs. Additionally, that total number of reporters includes retired reporters who are maintaining their license as well as reporters who work directly for the state, who are not able to take freelance work and thus unavailable to agencies like our own. The average age of a reporter is 55, and over half of active licenses were given out at least 30 years ago. Many of the reporters that are still working are nearing retirement age. In particular, half of reporters who work for the state are eligible for retirement as of 2023. So on top of a regular shortage of reporters, there is a possibility of an even greater disparity in available court reporters.

In San Luis Obispo County, there are roughly 10 reporters who are still freelancing and available. Several of these reporters get booked out months in advance, even longer than we get booked out as an agency, and are therefore hard to get onto our own calendar. Of these 10 reporters, only half will do court, and out of all 10 reporters, only one specifically prefers to do in person work instead of remote work. The preference for remote work is very prevalent with reporters. I have seen surveys from larger statewide agencies that point to a majority of reporters preferring remote work, with 30% polled stating that they would retire instead of going back to all in person. Even many of the reporters that will willingly do in person would prefer a remote job in its place.

But remote work is merely one preference that reporters may have. There are some reporters who will never take a job with a videographer, and others that prefer it. Many will also not take work with an interpreter, or do hybrid, or do court. If it exists in the world of depositions or court, there will be a reporter who does not want to do it. However, reporters are fully entitled to any and all preferences, as when a reporter takes a job with an agency, it is done as a business to business transaction because they are independent contractors, and not employees that can be definitively told what to do. AB5, which took effect in 2020, further solidified this standard, and many reporters have their own rates that they give agencies, and not the other way around.

Given the shortage, attempts have been made to supplement court reporters with “digital reporters.” Make no mistake, this title is misleading and can cause absolute chaos for your case. A depo that features a “digital reporter” means that there is someone who merely records the proceedings and sends it out to be transcribed, sometimes by multiple people. These “reporters” have no state-approved training, certification, or licensing. Testimony taken down in this fashion may not stand up to scrutiny in court, and could be tossed out entirely if the transcription is of poor quality, which it often turns out to be. Going down this path is effectively giving your client’s potentially sensitive information to some button-pushing stranger who cannot even be kicked out of their profession, as even if they are fired for incompetence, fraud, or unethical conduct they can legally work for another agency. Furthermore, audio files themselves

can be manipulated in post production, and it would be extremely difficult to tell because this method has very limited accountability compared to regular reporting.

Although touted as a miracle solution to just about everything, AI recordings are not going to be a silver bullet either. In addition to the reasons stated above, the companies that are developing this software are spending millions if not billions of dollars and would never recuperate their budgets merely by going into the legal field. When a musician records music, they go to a specifically designed room, typically with a technician, in order to get the best quality sound. But are regular conference rooms or courtrooms made with the recording of testimony in mind? Would anyone even be willing to make total overhauls in order to record quality audio that the testimony, and the people, deserve? The answer is no. Any recording of testimony will be influenced by outside noise, cross talk, and heavy accents, all of which can be traversed by a qualified reporter, not AI, and certainly not a mere button pusher.

The real hope for the future of the industry is the emergence of voice writing. Previously reserved for use in the U.S. Navy, voice writers as of 2023 are able to qualify for and take the California CSR test, the same as any other reporter, and get their own CSR license. To clarify terms, a "court reporter" is someone who is legally authorized to take down testimony in California. Reporters who use the steno machine, and reporters who use advanced speech to text, called "voice writers," are totally equal in the eyes of the law and can be used interchangeably. Someone can become a voice writer in as little as 6-8 months, whereas that same student would likely take at least two years in stenography school. Voice writer schools also have a graduation rate closer to 80% instead of the 20% we typically see from court reporting schools. With this new ease of access, we can expect positive developments in the industry not merely in the indeterminate future, but within one or two years. A brighter future, indeed.

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# Fact Sheet: Shortage of Certified Shorthand Reporters in California

June 2024



## Background

The California Supreme Court, in a 2018 opinion, stated that “the absence of a verbatim record of trial court proceedings will often have a devastating effect” on a litigant’s ability to have an appeal decided on the merits.<sup>1</sup> The verbatim record is captured and transcribed exclusively by certified shorthand reporters (court reporters) in case types where a court reporter is required<sup>2</sup> and electronic recording is not authorized.<sup>3</sup> Parties may arrange for the services of a court reporter in other case types.<sup>4</sup> However, a declining number of court reporters threatens access to justice for court users, especially Californians who can’t afford to pay for their own court reporter.

## Number of Court-Employed Reporters Falls Short of Need

To meet minimum requirements,<sup>5</sup> the most recent report from the Legislative Analyst’s Office estimates that California courts need an additional 691 full-time court reporters.<sup>6</sup> In addition to court reporters employed by the courts, courts also contract with pro tempore<sup>7</sup> reporters to help meet the need.

California trial courts reported in recent surveys that between January 1, 2023 and March 31, 2024:

- 46 of the 58 courts have actively recruited for court reporters;
- 118.6 (FTE) court reporters were hired, 30.0 (FTE) of whom came from other courts (25.3% of all hires) and 11.8 (FTE) of whom are voice writers (9.9%); and
- 145.7 (FTE) court reporters have left employment at the courts, for a net loss of 27.1 (FTE) reporters.<sup>8</sup>

## Recruitment and Retention Challenges

California courts are challenged to recruit and retain court reporters to meet the needs of court users and legal requirements. These challenges include an ever-decreasing number of California-licensed court reporters and difficulty competing with private employers in the labor market.

## Declining availability of California-licensed court reporters

There were 4,752 California-licensed court reporters residing in the state as of July 1, 2023.<sup>9</sup> However, according to the California Department of Consumer Affairs, between FY 2013–14 and FY 2021–22 the total number of licensees declined 19.2% and the number of new license applications declined 70.1%.<sup>10</sup> Potential indicators that the decline will continue include:

- *Challenging pathway to licensure:* Sixty-eight new licenses were issued statewide in 2022–23.<sup>11,12</sup> Of the 326 individuals who applied to take the skills (dictation) portion of the past three California certified shorthand reporter exams (held Jul. 2023, Nov. 2023, and Mar. 2024), 42.6% passed. The November 2022 exam was the first to include voice writing; a total of 45 individuals have since passed the skills exam as voice writers.<sup>13</sup>

<sup>1</sup> *Jameson v. Desta* (2018) 5 Cal.5th 594, 622.

<sup>2</sup> Felony and juvenile cases.

<sup>3</sup> Electronic recording is not authorized except in limited civil, misdemeanor, and infraction proceedings when a court reporter is unavailable (Gov. Code, § 69957(a)).

<sup>4</sup> Courts must also provide an official court reporter in civil cases when a party with a fee waiver requests one, and the proceeding cannot otherwise be electronically recorded.

<sup>5</sup> Covering all case types where a court reporter is required or electronic recording is not authorized.

<sup>6</sup> Legislative Analyst’s Office: March 5, 2024, [lao.ca.gov/letters/2024/Letter-Umberg-Court-Reporters-030524.pdf](http://lao.ca.gov/letters/2024/Letter-Umberg-Court-Reporters-030524.pdf).

<sup>7</sup> Refers to an individual who is retained by the court on an intermittent or contractual basis.

<sup>8</sup> Court Reporter Recruitment, Retention, and Attrition dashboard, [www.courts.ca.gov/76328.htm](http://www.courts.ca.gov/76328.htm).

<sup>9</sup> Court Reporters Board: April 4, 2024, Board Meeting Packet, [www.courtreportersboard.ca.gov/about-us/20240404\\_packet.pdf](http://www.courtreportersboard.ca.gov/about-us/20240404_packet.pdf).

<sup>10</sup> Department of Consumer Affairs data portal, [www.dca.ca.gov/data/annual\\_license\\_stats.shtml](http://www.dca.ca.gov/data/annual_license_stats.shtml).

<sup>11</sup> Court Reporters Board: April 4, 2024, Board Meeting Packet, [www.courtreportersboard.ca.gov/about-us/20240404\\_packet.pdf](http://www.courtreportersboard.ca.gov/about-us/20240404_packet.pdf).

<sup>12</sup> Only eight court reporting programs recognized by the state remain open (down from 17 schools in 2010), [www.courtreportersboard.ca.gov/applicants/school\\_info.shtml](http://www.courtreportersboard.ca.gov/applicants/school_info.shtml). However, students may also qualify for California’s Certified Shorthand Reporter exam by obtaining national certification demonstrating proficiency in machine shorthand reporting or voice writing.

<sup>13</sup> Court Reporters Board, School Examination Statistics, [www.courtreportersboard.ca.gov/applicants/examstats.shtml](http://www.courtreportersboard.ca.gov/applicants/examstats.shtml).

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- *Court reporters likely nearing retirement:* In California, approximately 46.1% of all active licenses were issued at least 30 years ago<sup>14</sup> and an estimated 50.0% of court-employed reporters were eligible to retire as of December 1, 2023.<sup>15</sup>

## Compensation

Court reporters in California courts are paid, on average, 51% more than other nonmanager court positions. At the same time, the declining number of court reporters in California has created a tight and competitive labor market, exacerbating compensation pressures. According to the FY 2023–24 Schedule 7A, court-employed reporters' median total salary plus benefits is estimated to be \$193,232.<sup>16</sup> This is significantly lower than the cost to hire a court reporter through a private company: \$2,580/day for a deposition and \$3,300/day for a trial, on average.<sup>17</sup> Additionally, transcripts must be purchased from court reporters. In 2021, the Legislature increased the statutory transcript fees by approximately 30%.<sup>18</sup> In FY 2022–23, California courts spent \$22.6 million on transcripts.<sup>19</sup>

## Current Recruitment and Retention Efforts

Trial courts are implementing a variety of incentives to recruit and retain court reporters. Between January 1 and March 31, 2024, approximately 82.9% of trial courts that are actively recruiting utilized at least one incentive to recruit and retain court reporters. These incentives included signing bonuses (75.6% of actively recruiting courts offered signing bonuses), retention and longevity bonuses (56.1%), finder's fees (48.8%), increased salary ranges (21.9%), and more.<sup>20</sup> For example, the Los Angeles court is offering a \$50,000 signing bonus, a \$15,000 student loan and equipment allowance, and a \$25,000 finder's fee for court employees who refer a court reporter; Riverside offers up to \$32,500 in retention payments over three years, and Contra Costa provides a \$50,000 tuition reimbursement fund for existing court employees to use toward pursuing court reporter certification. Additionally, San Francisco has hired five paid interns for their first-in-the-nation court reporter internship program and Los Angeles offers a program to its employees that includes a full court reporting tuition scholarship (including all fees and equipment costs), the ability to attend classes during work hours, and guaranteed employment as a court reporter upon licensing.

## Importance of the Verbatim Record

Between October 1, 2023 and March 31, 2024, of 664,700 reported family, probate, and unlimited civil hearings in California, an estimated 483,500 hearings had no verbatim record (72.7%).<sup>21</sup> The lack of a verbatim record will "frequently be fatal" to a litigant's ability to have an appeal decided on the merits.<sup>22</sup> For example, victims seeking protective orders, such as victims of domestic violence or elder abuse, may have difficulty appealing the denial of a protective order because they don't have a record. In civil matters, an appellate court may be unable to review a party's claim of error in the trial court. In criminal proceedings, the lack of a sufficient record may impact a defendant's constitutional rights of due process and equal protection.<sup>23</sup> California appellate courts have also ordered new criminal proceedings where a reporter's notes were destroyed or lost, there were substantial issues on appeal, and there was no adequate substitute for the notes.<sup>24</sup>

<sup>14</sup> Department of Consumer Affairs, Licensee List (as of Jun. 2024), [www.dca.ca.gov/consumers/public\\_info/index.shtml](http://www.dca.ca.gov/consumers/public_info/index.shtml).

<sup>15</sup> Estimation based on data collected in a December 2023 survey of California Trial Courts.

<sup>16</sup> Median value of estimated salary and benefit costs statewide by the filled court reporter FTEs.

<sup>17</sup> Data provided by a survey of 49 private consumer attorneys. It is unknown how much of the court reporter rate charged by companies is provided to the reporter in the form of compensation and how much is kept by the company.

<sup>18</sup> [Sen. Bill 170 \(Stats. 2021, ch. 240\)](#).

<sup>19</sup> 2022–23 Schedule 7A total court statewide transcript expenditures, excluding Electronic Recording.

<sup>20</sup> Court Reporter Recruitment, Retention, and Attrition dashboard, [www.courts.ca.gov/76328.htm](http://www.courts.ca.gov/76328.htm).

<sup>21</sup> Courts were asked to provide the number of hearings without a verbatim record and the number of total hearings for each of these case types or in the aggregate. Where a court provided the number of hearings without a verbatim record for a case type but not the corresponding total hearings (or vice versa), that case type data was removed from the data set.

<sup>22</sup> *Jameson, supra*, 5 Cal.5th at 608, fn. 1.

<sup>23</sup> *In re Armstrong* (1981) 126 Cal.App.3d 565; *March v. Municipal Court* (1972) 7 Cal.3d 422.

<sup>24</sup> *People v. Jones* (1981) 125 Cal.App.3d 298; *People v. Apalatequi* (1978) 82 Cal.App.3d 970; see Pen. Code, § 1181(9).