

October 30, 2008

**Preliminary Report**

**Update on Court Reporter Issues**

Conducted for Pierce County Council and  
Pierce County Performance Audit Committee

by

Matt Temmel, Performance Audit Coordinator  
William Vetter, Research Analyst



# Pierce County

## Performance Audits

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October 30, 2008

To: Performance Audit Committee and Pierce County Council

From: Matt Temmel, Performance Audit Coordinator *MT*  
William Vetter, Research Analyst *WV*

Re: **Preliminary Report: Update on Court Reporter Issues**

This study was undertaken at the request of the County Council and has three objectives:

1. Examine the need for court reporters versus electronic recording in various types of judicial proceedings.
2. Develop data on courtroom use and staffing in Pierce County Superior Court.
3. Update data from other jurisdictions on court reporters and courtroom staffing.

This is a preliminary report. Two months ago, the County Council requested the Performance Audit Office, as a supplement to its regular work program, to analyze court reporter issues. After two weeks of project planning, we commenced the study on September 12 with a letter to the Superior Court presiding judge requesting data needed to start the project. There was no response for over a month (response received October 15), and much of the requested data was not available.

While we have completed the research on court reporters in other jurisdictions, and present the results in this paper, more time is needed to analyze data on the Pierce County Superior Court, particularly in areas such as daily judicial use of courtrooms, court reporter arrangements, and other Pierce County issues. The materials provided by Superior Court have been in hand for two weeks, and that is insufficient to permit a complete analysis. The report can be finalized at a later time.

### **A. Background**

Pierce County Superior Court employs 22 official court reporters, one for each judge. In 2008, the salary of a court reporter is approximately \$66,000, or \$76,000 for the Managing Court Reporter. The total annual payroll for all 22 reporters, including benefits, is almost \$2.1 million. These amounts do not include transcript fees earned by court reporters for producing transcripts of court proceedings that are needed for appeals.



In addition, Pierce County spends substantial amounts on *pro tem* court reporters, higher than any other superior court in Washington. By translating those expenditures into full-time-equivalent (FTE) terms, we estimate that the court in recent years has had an additional two to three FTE court reporters in terms of the hours of service.

Pierce County has recently built seven new courtrooms for Superior Court judges and another courtroom for a commissioner. The four new judges' courtrooms on the third and fourth floors were opened in summer 2007 and are equipped for electronic recording, but the equipment has not been "turned on" and court reporters continue to work at proceedings held there. The three new criminal division (CD) courts on the second floor, scheduled to open on November 10, are also equipped for electronic recording, and the court has announced it will use the equipment but continue for a time to use court reporters there. The cost of the new courtrooms and office space for Superior Court was approximately \$14.7 million.

This memo is the fourth report since 2006 on court reporter issues in Pierce County. The three prior reports were:

1. Superior Court's "Feasibility Plan" on court reporter and electronic recording issues, presented to the County Council in March 2006.<sup>1</sup>
2. Performance audit report, November 2006.<sup>2</sup> The recommendation requested a report from Superior Court on three topics:
  - a. How the court proposes to reorganize court reporting services to increase utilization of staff court reporters and reduce the use of pro tem reporters;
  - b. Which specific types of proceedings should have a live court reporter; and
  - c. Which new courtrooms and current courtrooms should be wired or outfitted with electronic recording equipment.
3. Superior Court's response, April 2007, reprinted below in full as Attachment A. The court's response can be summarized as follows:
  - a. There is no need to reorganize the court reporters, but the court will work to improve efficiencies by increased oversight.

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<sup>1</sup> Feasibility Plan for implementation opportunities for the use of electronic/video reporting in courtrooms . . . presented to Pierce County Council by Pierce County Superior Court, March 14, 2006, prepared by Judge Stephanie A. Arend, Presiding Judge, Pierce County Superior Court. This report included nine pages of text on court reporters and electronic recording, plus 26 appendices. It is available from Superior Court or the Performance Audit Office.

<sup>2</sup> Planning Study, Court Reporter Issues, Pierce County Superior Court, Conducted for the Pierce County Performance Audit Committee by Matt Temmel, Performance Audit Coordinator, November 2, 2006, available at [www.piercecountywa.org/performance-audit](http://www.piercecountywa.org/performance-audit).

- b. The court “reviewed each of the judicial assignments to see which, if any, would be suitable to electronic recording of proceedings,” including the CD courts, Juvenile Court, and Drug Court. The response indicated that the new CD courts will have electronic recording equipment.
- c. Apart from the new CD courts, the response did not suggest using electronic recording equipment in any other courtrooms or calendars.

The performance audit report of 2006, cited above, made some basic points that are still valid and can be repeated here. The report agreed with two fundamental points made in the court’s “Feasibility Study:”

- Transcripts created by a court reporter who uses “computer-aided transcription” to make the court’s record in “real time” are generally better than transcripts made later from a digital audio or video recording by a “transcriptionist” who was not present at the proceedings. A court reporter can let the judge or others know when someone cannot be heard or when people are talking at the same time. A clerk tending electronic recording equipment can also do that, but there are many examples when it is not done, and the resulting transcript can have many “inaudible” sections.
- It is essential to have two staff in the courtroom in many types of proceedings. In Pierce County the court reporter is now the second staff person in the courtroom, along with the judicial assistant. If electronic recording equipment is installed, it will be necessary to have a clerk run the equipment. Thus any savings by eliminating court reporters would be partially offset by adding clerks.

The County Council requested this update because it wishes to know whether court reporters can be “pooled,” as occurs in other courts, or whether it is necessary to continue the current practice in Pierce County of funding one court reporter for each Superior Court judge and also funding a large number of contract (*pro tem*) court reporters.

## **B. Court Reporters in Other Courts**

Exhibit 1, on the next pages, shows the number of judges and official (employee) court reporters in the ten largest superior courts in this state.

- Four of the ten courts have one court reporter for each judge.
- Four other courts have less than a one-to-one ratio.
- Two courts do not have court reporters and rely entirely on video and audio recordings.


The Comments in the right column show that arrangements are quite different in the various courts, even among those that have one court reporter for every judge.

Exhibit 1

Court Reporters in the Ten Largest Superior Courts in Washington State

Superior Court	Number of Judges	Number of Court Reporter Employees	Comments
[REDACTED]			
Pierce County	22	22	A court reporter is working whenever a judge is on the record. Court reporter is the judge's employee. Compared with other courts that were studied, Pierce County has little "pooling" of court reporters to cover for absences and high utilization of <i>pro tem</i> court reporters.
Kitsap County	8	8 now, 7 in 2009	After a long planning process, the court has agreed to lose one court reporter in January 2009.
Spokane County	12	12	Like Pierce County, this court has 1 to 1 ratio, but court reporters are managed very differently in Spokane so that virtually no <i>pro tem</i> court reporters are hired. Juvenile Court uses electronic recording.
Benton-Franklin	6	6	A court reporter covers all criminal proceedings, all civil trials, most civil motions, but not all divorce cases (depending on assets and other factors). Electronic recording is used in juvenile cases, except for termination cases.
[REDACTED]			
King County	52	31 total (10 in Kent and 21 in downtown Seattle)	King County and Pierce County superior courts differ greatly as to when a court reporter is used.
Snohomish County	15	13	Two judges work at Juvenile Court, which has electronic recording, thus freeing up two court reporters to cover for absences of their colleagues.
Thurston County	8	6	Since 2007, this court had 7 court reporters for 8 judges, but a short time ago lost one court reporter and will operate with 6 in the future.

Continued on next page

<i>Superior Court</i>	<i>Number of Judges</i>	<i>Number of Court Reporter Employees</i>	<i>Comments</i>
Yakima County	8 judges, 3 commissioners	1	This court used to have 6 reporters for 8 judges, and now has just one reporter. Court administration is combined. For electronic recording, the court uses 4 JAVS (audio and video) and 12 FTR (audio) systems in Superior, Juvenile, and District Court.
			
Clark County	9 judges	0	Court reporters were eliminated in 1987 because of employee issues. The court uses JAVS (video and audio) operated by the judicial assistant, who also does the logging.
Cowlitz County	4 judges	0	Court reporters were eliminated because of employee issues. Recently, the court has used JAVS (video and audio). Lawyers who want to review testimony (e.g., in preparation for cross examination) can watch or listen at a work station in the courthouse.

*Source: Pierce County Performance Audit Office, based on interviews with sources in the superior courts, September-October 2008.*

In the various courts, it may be asked: "In general, what types of proceedings have a court reporter?" Exhibit 2 shows the answers given by court administrators in interviews.

Exhibit 2

**Court Reporter Utilization**

<i>Superior Court</i>	<i>In general, what types of proceedings have a court reporter?</i>
<b>Courts with 1:1 ratio of judges and staff court reporters</b>	
Pierce	When any judge is working on the record.
Kitsap	When a judge is working on the record, but not in most juvenile cases starting in 2009. However, parental terminations will continue to have a court reporter.
Spokane	When a judge (excluding pro tems) is working on the record, with certain exceptions depending on court reporter availability, and not in Juvenile Court.
Benton-Franklin	A court reporter covers all criminal proceedings, all civil trials, most civil motions, but not all divorce cases (depending on assets and other factors). Juvenile cases are electronically recorded, except termination cases have a court reporter.
<b>Courts with court reporter budget less than 1:1</b>	
King County	Criminal trials. Not in most civil motions and trials, and not in most family law and juvenile cases.
Snohomish County	When a judge is on the record, with exceptions depending on court reporter availability, and not in Juvenile Court.
Thurston County	When the judge is on the record, except for juvenile and family proceedings (but use court reporter for trials).
Yakima	The one court reporter works mostly on major felony cases.
<b>Courts with no court reporters</b>	
Clark	No court reporters
Cowlitz	No court reporters
<i>Source: Performance Audit staff interviews with sources in superior courts</i>	

As shown in the previous exhibit, Pierce County Superior Court is the only court among those studied that utilizes a court reporter for all proceedings, including those in Juvenile Court that are handled by a judge.

Pierce County is also somewhat unusual in continuing to use a court reporter in drug courts. Exhibit 3 summarizes what was found for the various drug courts.

Exhibit 3

**Drug Courts**

<i>Superior Court</i>	<i>Does drug court have a court reporter or electronic recording?</i>
<b>Courts with 1:1 ratio of judges and staff court reporters</b>	
Pierce	There are two drug courts (adult and family), and a court reporter is present and working for each calendar.
Kitsap	The two adult drug courts are now electronically recorded (ER). The two juvenile drug courts now have court reporters but will switch to ER in 2009.
Spokane	Drug court has a court reporter, who is borrowed when needed to provide coverage elsewhere, and the drug court switches to ER.
Benton-Franklin	Adult and juvenile drug courts have electronic recording.
<b>Courts with one reporter, but not 1:1</b>	
King County	Electronically recorded.
Snohomish County	Three drug courts (adult, juvenile offender, and at-risk youth) are electronically recorded. The family law drug court has a court reporter.
Thurston County	The court recently decided to stop using a court reporter in drug court and switch to electronic recording.
Yakima	Electronically recorded.
<b>Courts with no court reporters</b>	
Clark	No court reporters
Cowlitz	No court reporters
<i>Source: Performance Audit staff interviews with sources in superior courts</i>	

Pierce County Superior Court appears to be the only court among those studied that utilizes a court reporter when a judge is hearing a “RALJ” case (Rules of Appeal from Court of Limited Jurisdiction). A RALJ is an appeal to Superior Court of a decision made in the District Court or a Municipal Court; the Superior Court reviews a transcript of the lower court trial for errors of law and then makes a ruling affirming or reversing the lower court decision. A RALJ proceeding consists of a review of the verbatim record of the lower court, and it does not involve new evidence or testimony. Any further appeals to a higher court would use the trial transcript from the lower court and not a transcript of the Superior Court proceedings. Thus it appears superfluous to have a court reporter working at RALJ proceedings.<sup>3</sup>

### **C. Courtrooms and Court Reporters in Pierce County**

Pierce County Superior Court, including Juvenile Court, has 22 judges and 25 courtrooms used by judges. One objective of this report, based directly on the Council’s request for information, is to develop data on courtroom use and staffing. The reason for the request is that all 22 judges are not on the bench each day that the courts are in session. The Council wants to know how often judges are on the bench and whether 22 court reporters are needed to cover those proceedings.

It is a good question – and hard to answer based on the available records.

We requested data on “daily courtroom use in Superior Court, January-August 31, 2008: by room, by judge, and by court reporter.” The court’s response, received a month later, indicated that available court records do not directly address the topic.

The court did provide “status lists,” that is, schedules for the 22 departments of cases to be heard each day. The status lists indicate nothing about the court reporter (such as the name, which would indicate whether it is the regular reporter or a *pro tem*) because the report was not designed for that purpose. It can be assumed that a court reporter was present and working whenever a judge was “on the record.” The status lists show the daily business for each judge, but they do not indicate how long the court was in session.

If the question is how many of the 22 judges, on average, are working at the courthouse, the answer can be estimated from what is known about judicial recesses, conferences, medical leave, and other kinds of leave. On average, we estimate that 17¾ of the 22

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<sup>3</sup> We recognize this is a minor matter because the number of RALJ proceedings in Pierce County is small – 75 in 2007 and less in previous years. *Source:* SCOMIS annual caseload reports.

judges are available to work in court.<sup>4</sup> The number would be a little higher if *pro tem* judges were factored into the estimate.

The estimate does not indicate how much time the average judge actually spends holding trials or conducting other kinds of proceedings. Thus even if we know the average number of judges per day, the estimate is not very useful for determining how many court reporters are needed.

To provide coverage, the Superior Court has 22 court reporter employees, plus contract (*pro tem*) court reporters who add, in terms of hours of service, the equivalent of two to three more positions. Thus the ratio of court reporters to judges is actually more than one-to-one in Pierce County.

King County is the only other court, among those that were studied, that hires many *pro tem* judges. Most of those judges in King County hear cases or proceedings that are electronically recorded, and the court does not hire many *pro tem* court reporters. Comparing the Pierce and King County superior courts, days of service by *pro tem* court reporters have been much higher in Pierce County since at least 2004, even though King County has had more *pro tem* judges in some years.<sup>5</sup> This illustrates that the number of *pro tem* court reporters is not necessarily dictated by the number of *pro tem* judges but is influenced more by local policy choices and practices.

In this report, we intended to analyze the use of *pro tem* court reporters in Pierce County and the related issue of how much “in-house” coverage is provided by regular court reporters, as was done in the November 2006 performance audit report. The analysis can be completed after all materials have been received.<sup>6</sup>

<sup>4</sup> The estimate was calculated as follows:

<i>Item</i>	<i>Days</i>	<i>Comments</i>
Judicial recess	30	Per statute
Personal holidays	2	Per Pierce County practice
Judicial conferences (spring and fall)	4.4	Based on 16 judges away at each conference for three days. $16 \times 6 = 96 / 22 = 4.4$
Other leave (medical, other conferences, public appearances, etc.)	12	Based on data from Jan. – Aug. 31, 2008, projected to full year.
TOTAL	48.4	
Court Days	250	251 in leap year, 250 most years
Estimated days off	-48.4	
Estimated days available in court per judge	201.6	
Average judges available per day	17.74	$201.6 / 250 = .8064 (22) = 17.74$

<sup>5</sup> The data are available in the work papers of this project.

<sup>6</sup> Most importantly, we need to review the Managing Court Reporter’s quarterly report for July-September 2008, which has not been completed.

#### **D. Number of Staff in the Courtroom**

Superior Court maintains that it is essential to have two staff in the courtroom. Evidence collected from other courts strongly supports that opinion. Exhibit 4 presents the courtroom staffing in the courts that were studied.

#### Exhibit 4

#### **How many employees are in the courtroom to support the judge?**

<i>Superior Court</i>	<i>Staff in Courtroom</i>	<i>Comments</i>
Pierce County	2	Judicial assistant and court reporter.
Benton-Franklin County	2 or 3	Three for trials (clerk, court reporter, and bailiff). Two for proceedings with electronic recording (clerk and bailiff).
Clark County	1 to 3	Clerk is always there. Bailiff is there for jury trials. JA is in judge's chambers operating the video electronic recording equipment, and can come into courtroom as needed.
Cowlitz County	1 or 2	For criminal docket, a clerk does the files and a court operations staff person runs the equipment. For a criminal trial, bailiff takes care of jury and clerk runs the electronic equipment and takes notes. For a civil bench trial, just a clerk is present.
King County	1 to 3	Clerk is always there. The judge's bailiff is there for trials, and usually at other times. Court reporter may or may not be there, depending on proceeding type.
Kitsap County	2 or 3	Normally a court reporter and clerk are in the courtroom, plus a bailiff for jury trials. (Bailiffs are extra-hire staff called to work for jury trials.)
Snohomish County	2 or 3	Clerk, court reporter, and sometimes a law clerk
Spokane County	Normally 2, one with <i>pro tem</i> judge	Court reporter and clerk are there in most cases. For a <i>pro tem</i> judge in a non-criminal case, just a clerk is there.
Thurston County	2 or 3	Court reporter and clerk, plus bailiff at jury trials. (Bailiff is temporary employee.)
<i>Note: The chart includes Superior Court or Clerk employees, and excludes correctional officers and attorneys.</i>		
<i>Source: Performance audit interviews with superior court staff, Sept-Oct 2008. Similar information was presented in Appendix N of the court's 2006 "Feasibility Study."</i>		

If the Council wishes to reduce the number of court reporters, it is essential to provide the court with funding to hire an appropriate number of other staff to operate the electronic recording equipment and do other work in the courtroom. Thus the savings by reducing reporter positions would be partially offset by the added staff.

The replacement position would probably be a Legal Assistant 2, which is the job classification for the position that staffs the commissioner courtrooms. The 2009 cost difference (salary and benefits) between one Court Reporter and one Legal Assistant 2, lowest step, is estimated at \$40,073.<sup>7</sup>

In our opinion, the cost differential is fairly small and perhaps not worthwhile in the short term, but the savings would be significant in the long run. In some possible scenarios, there would also be additional equipment costs.

It is unclear whether clerks would have to replace court reporters on a one-to-one basis, because Superior Court does not maintain good information on judicial bench activity. Clerks would be needed only when the judge is working in the courtroom. It may be possible to pool the clerks to some extent, just as it seems clear that more could be done to pool the court reporters.

#### **E. How Good is CourtSmart?**

According to the court's "Feasibility Study," CourtSmart was tried in Juvenile Court in 2003, and then abandoned after experiencing operational problems and receiving many complaints about the poor quality of transcripts. As a result of that experience, and occasional problems with CourtSmart operations in Pierce County District Court, some local lawyers appear to be convinced that electronic recording in general is "bad news" to be resisted by all means possible. That opinion tends to reinforce the Superior Court's belief that every judge should employ a court reporter.

Little can be reported here about the quality of CourtSmart operations because more research is needed. We would be most interested to obtain consumer reviews of CourtSmart, which may be available by contacting the National Center for State Courts and by discussing the system with the Superior Court commissioners and the District Court judges who use CourtSmart on a daily basis. It is possible that the local complaints that have been leveled against CourtSmart could reflect problems with the equipment, installation, microphones, staff, or improper training rather than deficiencies in the system itself.

Two points can be made here. First, Pierce County is the only superior court in the state of Washington to have CourtSmart. (Pierce County District Court and Gig Harbor Municipal Court have CourtSmart.) The most common other systems in the state are For the Record (FTR) and Jefferson Audio Visual System (JAVS).

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<sup>7</sup> Details are available in the work papers of this project.

Second, if CourtSmart is not a good system, it is unclear why Pierce County Superior Court installed CourtSmart in the three new CD courts that are scheduled to open in November. According to Facilities Management, the cost of the equipment and installation came to \$120,000. We assume the court must be satisfied with the quality of CourtSmart to have authorized such an expenditure.

## **F. Appeals**

Appeals to a higher court are the main reason why a transcript is needed, and most parties agree that transcripts are better when done by a court reporter. Exhibit 5 (next page) shows the number of appeals by case type from Pierce County Superior Court to either the Court of Appeals or the state Supreme Court since 2004.

Criminal cases are the majority of the appeals. However, the main issue is the likelihood that a case will be appealed. The figures on the number of appeals, by themselves, do not answer that question. If, for example, the number of criminal case appeals is a high percentage of the criminal jury trials that year, it would be reasonable to conclude that criminal jury trials should have a court reporter. If, on the other hand, appeals of a certain case type are a low percentage of the cases of that type, a court might decide to use electronic recording in such cases.

In reviewing a sample of civil cases that are appealed, we noticed that approximately 40% of the appeals did not have a transcript. This may be explained by the fact that the appealing party in a civil case pays for the transcript, whereas the state pays for the transcript in a criminal appeal when the defendant is indigent. This finding raises the issue of whether it is essential to provide a court reporter in all civil cases.

Further analysis is needed on likelihood of appeals, and the results may be reported later in the final report. However, the work is more properly the business of the Superior Court. That was the reason we recommended in the 2006 report that the court should review the types of proceedings at which it is essential to have a court reporter. The court's response (Attachment A below) did not discuss any of the specifics.

## Exhibit 5

### Appeals by Case Type since 2004

Case Type	2004	2005	2006	2007	2008 (to Sept 16)	Total
1 Criminal	211	207	252	200	178	1,048
2 Civil	145	139	139	128	88	639
3 Domestic	21	24	33	27	21	126
4 Probate/Guardianship	5	6	4	10	4	29
5 Paternity/Adoption	4	3	4	4	4	19
6 Western State	4	4	3	4	2	17
7 Juvenile Civil (note a)	24	12	15	30	12	93
8 Juvenile Criminal	5	3	16	12	5	41
Grand Total	419	398	466	415	314	2,012

(a) Juvenile civil cases are parental terminations and dependencies. According to Juvenile Court, of the the 57 appeals from 2006 to Sept 2008, 30 were parental terminations and 27 were dependencies.

Source: Pierce County Clerk of Superior Court and Juvenile Court

### **G. Preliminary Conclusions**

Based on information collected from the ten largest superior courts in the State of Washington, it appears that Pierce County Superior Court is the only one in which court reporters cover all proceedings when a judge is working on the record. Among the ten courts, Pierce County Superior Court is unique in having a court reporter cover all juvenile proceedings before a judge. The court is also unusual but not unique in utilizing court reporters in drug court.

Under state law (RCW 2.32.180), Pierce County Superior Court is required to have a minimum of 15 court reporters. Because this is a preliminary report, no recommendations can be made about how many court reporters are needed for effective and efficient court operations.

If the County Council wishes to pursue changes in the court's current staffing, we believe it is essential to discuss the issues in advance with the court, ideally in open meetings and with good information at hand. We also believe it would be essential to provide funding for clerks if there is any reduction in court reporter positions. Alternatively, the court could be provided with funding for bailiffs to serve as the second person in the courtroom. At this time, it is unknown whether "one for one" replacement is needed, because the court has not provided information on how often judges are on the bench. However, it is clear that any new clerks or bailiffs should be placed under the court administration, so the new staff can be pooled rather than serve as the personal employee of a judge.

Finally, we would like to mention a judicial bench activity report. In a companion measure to the 2008 Pierce County budget, the County Council requested such a report from the Superior Court,<sup>8</sup> but the court declined to implement the provision. In our opinion, a judicial bench activity report is essential to documenting and understanding two things:

- Judicial workload, to provide a basis for knowing when another judge should be authorized and/or when funding for *pro tem* judges should be provided.
- The amount of judicial staff support that is needed, including court reporters and other staff.

Without the baseline information that can be gained from a judicial bench activity report, little can be known about judicial workload, judicial accountability, and judicial staff support.

#### Attachments

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<sup>8</sup> Ordinance No. 2007-104s, section 18.

**SUPERIOR COURT  
OF THE  
STATE OF WASHINGTON  
FOR PIERCE COUNTY**

THOMAS P. LARKIN, JUDGE  
Julie Ratley, *Judicial Assistant*  
DEPARTMENT 3  
(253) 798-7576

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Councilmember Dick Muri  
Chair, Pierce County Performance Audit Committee  
930 Tacoma Avenue South, Room 1046  
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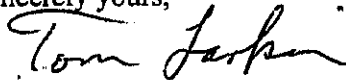
Dear Councilmember Muri:

Enclosed is the Superior Court's response to the issues raised by the Performance Audit Committee as required in the 2006 budget proviso.

I have also enclosed a copy of the Feasibility Plan that was submitted in March of 2006 for your convenience. I have referred to the Feasibility Plan in our response.

On behalf of the Superior Court, I want to thank you for your support in the past. I look forward to working with you in the future in order that we may provide efficient, effective and excellent service to the citizens of Pierce County.

Sincerely yours,



Tom Larkin, Presiding Judge

**SUPERIOR COURT  
OF THE  
STATE OF WASHINGTON  
FOR PIERCE COUNTY**

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April 30, 2007

**MEMO**

**SUPERIOR COURT'S RESPONSE TO ISSUES RAISED BY THE  
PERFORMANCE AUDIT COMMITTEE CONCERNING COURT REPORTERS**

**Background**

A proviso in the 2006 budget requested a Feasibility Plan from the Superior Court concerning the use of Court Reporters. The Plan, dated March 14, 2006, was prepared by the Presiding Judge Stephanie Arend. The Plan included a careful and detailed history and analysis of court reporter related matters. Subsequent to the Plan being presented to the Pierce County Council, the Performance Audit Committee prepared a Planning Study in which the Superior Court was asked to respond to four questions. The Court agreed to consider the request and report back by April 30, 2007.

**Context**

The Court applauds and joins in the Council's continuing quest to be good stewards of the public's money. The Court's 22 independently elected officials also recognize their need to be good managers and employers. The Court commits to continuing to be diligent in managing their Court Reporters, as well as their other staff. Finally, the Court recognizes the separate branches of government, while independent of each other, must still work cooperatively. To that end, over the years the Court has made a major concession and taken a major step to advance these goals.

Memo  
April 30, 2007  
Page Two

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First, as pointed out in the Feasibility Plan in 1981, with great reluctance, each judge agreed to reduce their staff from three employees to two. This has provided a continuing and increasing challenge as the Judges' workload and administrative duties have increased greatly over the last few years. The Judges are unanimous that less than two full-time employees would severely hamper each Judge in carrying out his or her duties and the administration of justice.

Secondly, the Court created the position of Managing Court Reporter. This has increased efficiency and provided a way to achieve cost savings. The Court's Executive Committee and the Presiding Judge exercise continuing oversight with regard to the Managing Court Reporter.

In preparation of this response to the Performance Audit Committee, all of the Judges and Court Reporters were able to give input. We reviewed each of the Judicial assignments to see which, if any, would be suitable to electronic recording of proceedings. This included the CD courts, Remann Hall and Drug Court. We also reviewed which of our proceedings were most likely to be appealed and those in which the attorneys most often request transcripts. After a complete review of the work we perform and a thorough discussion, we concluded that the Feasibility Plan explains in depth many of the considerations as well as challenges surrounding the issue of Court Reporters. We strongly encourage a thorough reading of the Plan.

### **Specific Responses to The Performance Audit Committee's Questions**

**Question #1:** How the Court proposes to reorganize court reporting services to increase the utilization of staff court reporters and reduce the use of pro tem court reporters?

**Answer:** The Court does not plan to reorganize its current format. Reorganization would inevitably result in a reduction of the Judge's staff below the necessary two full-time employees. Further, proper Judicial supervision and responsibility for a Court Reporter would be diminished if the Judge and Reporter were separated. This would decrease efficiency rather than enhance it. That said, we believe that more efficiencies and savings can be realized by increased oversight of both individual Reporters by their Judge and increased oversight of the Managing Court Reporter by the Executive Committee and the Presiding Judge. The Performance Audit Committee has been helpful in stressing the need to reduce the pro tem reporter budget. The Court will make every effort to do so.

Memo  
April 30, 2007  
Page Three

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Question #2: Which specific types of proceedings should have a live Court Reporter?

Answer: Those proceedings where the record will be reviewed by the Court of Appeals or the Supreme Court. Judges are responsible for what goes on in the court and what is reported to reviewing courts. Indeed, Judges are often evaluated by the results of appeals. For this reason, the Judges agreed that the work of Court Commissioners can be recorded electronically. This is because Court Commissioners' orders are temporary orders and these orders can be reviewed by a Superior Court Judge. The Court installed Court Smart for this purpose. We recognize that at times emergencies may arise and there may not be enough Reporters to handle every matter being heard. At those times, the Court would use electronic recording, if available, in the setting where the matter is least likely to require review by a higher court.

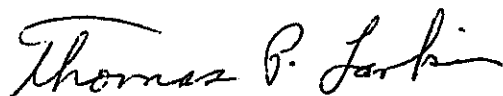
Question #3: Which new courtrooms and which current courtroom should be wired or outfitted with electronic recording equipment?

Answer: Any courtroom occupied by a Court Commissioner. Beyond that, the matter becomes one of cost/benefit. Currently, the plan is for the CD courtrooms to be wired.

Question #4: Are there any related topics the court wishes to address:

Answer: None, other than to say the Court appreciates the Council's continued willingness to partnership with the Court in many areas. For example, the Court and the Performance Audit Committee are currently involved in a joint, comprehensive review of our criminal management system. The Justice Management Institute (JMI) has been hired to lend their expertise to the process. We know that mutual respect and cooperation between the branches of government is expected by the public and currently practiced in Pierce County.

Sincerely,



Thomas P. Larkin, Presiding Judge  
Pierce County Superior Court