

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of: )  
 )  
ESTABLISHMENT OF THE ) Administrative Order  
COMMITTEE ON KEEPING ) No. 2003- 104  
THE RECORD )  
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\_\_\_\_\_ )

Making and preserving an accurate record of court proceedings is a fundamental, core function of the Arizona court system. The availability of an accurate record helps promote public trust in the system by ensuring the public knows what happens in court proceedings and, on appeal, can make the difference in winning or losing your property, your family or even your life.

Over the past decade, courts in Arizona have embraced innovations to expedite cases and to improve efficiency and cost effectiveness of the Judicial Branch, without compromising the provision of swift, fair justice. Some of these innovations have involved the utilization of technology in and out of court rooms across the state to make and preserve the record in court proceedings. There are new technologies available to enhance the record taking by a court reporter, to aid deputy clerks in preparing minute entries, as well as electronic systems in some instances able to accurately record proceedings.

This infusion of evolving technology into the courtroom as a means of capturing and preserving a verbatim record of court proceedings has generated a number of new policy issues to consider and resolve. Additionally, long standing statutory or rule requirements may no longer be adequate to accommodate the current state of technology or practices or the lack of certified court reporters in some jurisdictions. Finally, certified court reporters are highly trained, valuable professional members of the justice system. Their skills are important to the provision of justice and, like all resources, are limited in their availability. The court system needs to ensure these resources are utilized efficiently and not wasted by using a court reporter to make a record in proceedings where a record is unlikely to be needed. Rules and statutes may need to be modernized to ensure that certified court reporter resources are utilized effectively, efficiently and appropriately.

It is in the best interest of justice and an effective and efficient justice system that the many questions now surfacing regarding how best to capture and preserve the record of court proceedings in this state for the different business and legal reasons be addressed and answered.

In accordance with Arizona Code of Judicial Administration § 1-104, the Chief Justice may establish advisory committees to the Arizona Judicial Council to assist the Council in carrying out its responsibilities.

Now, therefore, pursuant to Article VI, Section 3 of the Arizona Constitution,

IT IS ORDERED that the Committee on Keeping the Record is established as follows:

1. **PURPOSE:** The Committee shall review current methods used for keeping the record of judicial proceedings and shall conduct a comprehensive review of relevant state statutes, court rules and administrative code sections. The Committee will develop recommendations for changes to statutes, rules or code sections necessary to permit courts to utilize the most appropriate methods for capturing and preserving a verbatim record of a judicial proceeding. In its deliberations and in developing its recommendations, the Committee shall give highest regard to ensuring the integrity, completeness and accuracy of the record made.

The Committee shall issue a report and make recommendations addressing, at a minimum, the following questions:

- What are the best practices in use in Arizona and elsewhere for creating, storing, and retaining the record of the various types of court proceedings?
  - Are any rules, code provisions or statutes an obstacle to using the best and most appropriate method of keeping the record?
  - What standards are needed to safeguard the on-going availability and integrity of the record of judicial proceedings?
  - Clerks are asked to record and document orders and judgments of the court announced during court proceedings. Many clerks of the superior court use electronic recording technology for this purpose. Is an electronic record created for this purpose a public record subject to Rule 123, Rules of the Supreme Court? Should it be made available to parties and counsel to the case? May this electronic recording be transcribed and used in another judicial proceeding? If a court reporter was also present during the proceeding, which record of the proceeding is the official record?
  - Should record storage and retention standards for paperless court reporter notes and electronic recording be established?
  - For which proceedings and under what circumstances should electronic recording technology be authorized as the official means of recording a judicial proceeding?
  - There is growing use of a variety of technologies in the court room for making a record. What should be the role of the court reporter in managing these technologies and the production of the ultimate record regardless of the technology employed?
  - Should the Court reconsider its decision not to adopt Alternatives A or C of the changes proposed in Case No. R-02-0007 pertaining to videotaped depositions?
2. **MEMBERSHIP:** The membership of the Committee is attached to this Order as an Appendix. The Chief Justice may appoint additional members as may be necessary.
  3. **MEETINGS:** Meetings shall be scheduled at the discretion of the Committee Chair. All meetings shall comply with the public meeting policy of the Arizona Judicial Branch.
  4. **REPORTS:** The Committee shall submit a report of its findings and recommendations to the Arizona Judicial Council in December 2004.
  5. **STAFF:** The Administrative Office of the Courts shall provide staff for the Committee and, as feasible, may conduct or coordinate research as requested by the Committee.

IT IS FURTHER ORDERED that the individuals designated in the Appendix to this Order are appointed to serve as members of the Committee until completion of the Committee's work.

IT IS FURTHER ORDERED that Justice Michael D. Ryan is appointed to serve as the Committee Chairperson.

Dated this 26th day of November, 2003.

/s/\_\_\_\_\_

CHARLES E. JONES  
Chief Justice