

Court Reporters Work Measurement Study

Frequently Asked Questions

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1. What is Work Measurement (WM) and why are Court Reporters (CRs) being studied?

WM is a general term that encompasses the systematic collection and statistical analysis of workforces and the work they perform for the purposes of empirically deriving a formula that accurately and equitably measures staffing requirements.

In March 2012, the Executive Committee asked the Committee on Judicial Resources (JRC) to review the method used to allocate court reporter funding to the courts with a view toward ensuring more efficient use of court reporter resources. The JRC received a report in December 2013 that contained a series of options. After due consideration of the materials, the JRC requested additional information and analysis. The JRC has requested that the study include information about the time that CRs spend in and out of the courtroom completing required work, and that the resulting options take into account both differences in size and the inherent complications imposed by geography and service in remote locations. The JRC asked the Administrative Office of the U.S. Courts (AO) to present the results of the work measurement study at its June 2017 meeting.

In other words, the judiciary is studying court reporters as part of a comprehensive effort to align scarce staffing resources with required workload. The initiative will assess all non-chambers staffing through an equitable and statistically viable process. Court reporters are among the very last judiciary resources to go through the process.

2. Are there court reporters and district clerks involved in this study?

Yes. The members of the Court Reporter Advisory Group (CRAG) are participating in this project. They are available to answer questions about this study.

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3. Will the WM study result in a new way of allocating CRs?

Not necessarily. Historically, the allocation of CRs has rested upon a very simple formula: one CR per active Article III district judge and senior judges certified as performing work equivalent to an active senior district judge, plus additional support for non-certified senior judges. The allocation by fiscal year is available for review on the JNet in the section devoted to District Clerks' Offices in the staffing subsection.

The results of this study will be presented along with the current formula. The JRC could recommend a continuation of the current process (described above). Several options will be developed and analyzed by AO staff working with the various project groups, advisory groups and other stakeholders. The CRs listed above will be integral to the analysis and development of staffing formula options.

4. I looked at the CR allocations posted on the JNet. It appears that the number of positions allocated exceeds the number of CRs in my district. Is that possible? What are the implications of having fewer CRs onboard than are allocated?

It is quite common for the number of onboard CRs to be less than the number allocated for a given district and in aggregate. One of the potential outcomes of this initiative is a change in the allocation court reporter resources that results in no change to the actual onboard number of court reporters.

5. Will the compensation of CRs be changed as a result of this study?

No. Considering alternate methods of compensation for CRs is outside the scope of this study.

6. Will the method of court reporting used be evaluated?

No. This is not a study to evaluate the relative merits of different methods of court reporting. This study is also not considering the relative merits of electronic sound recording.

7. What data will be used to develop the WM formula options?

The primary data source for CRs is the AO 40A entitled "Attendance and Transcripts for United States Court Reporters" (hereafter AO 40A) extracted from the Automated Court Reporter Application (ACRA). AO staff will analyze AO 40A data for calendar year 2016 in conjunction with judge activity data, district clerks' offices expenditures on contract court reporters (budget object class 2531) and data from AO 40B entitled "Statement of Earnings for United States Court Reporters" (hereafter AO 40B) data to develop formula options for JRC consideration. Inclusion of contract court reporter costs and expenses associated with producing transcripts borne by court reporters will allow the JRC to consider the full cost of reporting requirements. This study will also include a questionnaire that each court reporter will have an opportunity to complete. Similarly, clerks of district courts will have an opportunity to complete a separate, but related, questionnaire. The data collection process will not include time spent on private reporting activities. There should be no confusion, however, regarding the reference to "private" reporting. **The data collection process does not exclude activities required as part of support to the court, even if the reporter produces transcripts for which the reporter can receive compensation in addition to court salary and benefits.**

8. The AO 40A and its accompanying instructions were changed to support the WM study. What was changed and why?

Minor changes clarify the completion process for the form. The goal is to ensure the documentation of all required work.

9. Is private reporting time included in this study?

No, it is not. Private reporting is excluded from this study. Chapter 6, Volume 4 §430.10(a) of the Court Reporter Manual defines private reporting. This section reads:

"Activities not related to recording court sessions and preparing official transcript for court sessions are considered private reporting. These include grand jury reporting, taking of depositions, transcribing recordings for private parties, and any other reporting activities not related to salaried or statutory duties."

Please refer to the entirety of §430 for additional clarification about private reporting.

10. Who will be reviewing the formula options?

Prior to presentation to the JRC, the Workforce Analysis Branch will consult as needed with a wide array of experts, including: specialists in the Court Services Office, DCAG, CRAG, and a project steering group made up of judges, CRs and clerks of Court.

11. I am a CR. I am confused about the changes to the AO 40A and the instructions and need help filling out my form. To whom should I refer my questions?

Julie Neville, Court Reporter Program Administrator, in the Court Services Office at the AO will answer your program- and form-related questions. If you have questions about the WM study, contact Carolyn Peake. Ms. Neville can be reached at 202-502-3414 or via Lotus Notes email or julie_neville@ao.uscourts.gov. Ms. Peake can be reached at 202-502-1308 or via Lotus Notes email or carolyn_peake@ao.uscourts.gov. Additionally, the members of the CRAG (named in question 2 above) can answer questions about the form, the form instructions, and the WM study.

12. What types of proceedings are included in each of the categories for items 7d and 7e?

“Judges” includes Active, Senior, and Visiting Article III Judges. “Magistrate Judges” includes CVB proceedings. “Other” includes reporting of Magistrate Judge proceedings initially recorded electronically (report time spent preparing the transcript in 9a), reporting for Special Masters, investitures, or other special ceremonies at the court.

13. Where do I document the time I spend preparing to write realtime and setting up the courtroom to do realtime reporting?

Include that time in the appropriate category for items 7d and 7e.

14. I arrived at the courtroom as required and set up to report on the proceedings, and the parties settled. Where do I document this time?

Include that time in the appropriate category for items 7d and 7e. If circumstances require a court reporter to prepare to report on a proceeding, cancellation of the proceeding for whatever reason does not negate the need to include the preparation time as required work.

15. I have reviewed the revised AO 40A and noticed that items 8 and 9 have been split into fields a and b. How should I document my time in each field?

Items 8 and 9 have each been split into two fields. Each field is a separate category of time relevant to the WM study. Fields 8a and 8b are still for the recording of administrative time. Fields 9a and 9b are still for the recording of transcript preparation hours.

In field 8a, as a condition of employment, official, temporary, and combined position reporters are required to perform administrative duties related to their work. Administrative duties include:

- billing for official transcripts ordered and prepared, including binding,
- administering travel, including arrangements, vouchers and the like,
- delivering and/or mailing of transcripts,
- docketing transcripts,
- keeping financial and other records,
- preparing and filing of all required local and AO reports,
- answering telephone calls from other court personnel, attorneys, and litigants,
- responding to correspondence,
- training, research and other skills development/maintenance activities (including practicing and activities performed to maintain certifications),
- buying and maintaining equipment and software,
- purchasing supplies,
- providing cost estimates,
- making backups of steno notes on external storage devices,
- backing up audio, if any,
- getting judges to sign CJA-24 transcript order forms or transcript requests,
- calendaring courtroom proceedings for future reference,
- answering prisoner mail,
- supervising other court reporters, and
- supervising scopists or other contractors hired by court reporters to support transcript production duties.

In field 8b, include any other duties required by the court or the clerk's office not included in 8a.

For both fields 9a and 9b, exclude time spent on private reporting.

Field 9a: List the number of hours you spent transcribing official proceedings as required by rule or order of the court for which you received compensation outside of your judiciary salary. This includes all time you personally spent typing, dictating, scoping, proofreading, checking and verifying case citations, medical and technical terms, and all other aspects of transcribing proceedings. Include all time spent on these activities during and outside of your regular tour of duty. You may include the hours of transcribers, note readers, scopists or other supporting personnel employed by you. Include time spent preparing rough drafts.

Field 9b: List the number of hours you spent transcribing official proceedings as required by rule or order of the court for which you DID NOT receive compensation outside of your judiciary salary. This includes all time you personally spent typing, dictating, scoping, proofreading, checking and verifying case citations, medical and technical terms, and all other aspects of transcribing proceedings. Include all time spent on these activities during and outside of your regular tour-of-duty. Include the hours of transcribers, note readers, scopists or other supporting personnel employed by you provided the work performed would have been compensated by your salary had you performed it. Include time spent preparing rough drafts.

16. Can you provide some additional examples of reporting the time spent on transcripts for the AO 40A?

Here are some additional transcript ordering scenarios to help distinguish between fields 9a and 9b on the AO 40A.

1. If a party orders a transcript from the court reporter who took the record, then production of the transcript is a statutorily required duty (28 USC § 753(b)) for which compensation outside of the judiciary salary is received. The court reporter must produce the transcript, and is paid by the ordering party on a per page basis, subject to the judicial conference maximums. **You should report this time in 9a.**
2. If a judge orders a transcript from the staff court reporter who took the record, then production of the transcript is a statutorily required duty (28 USC § 753(b)) that is covered by the judiciary salary. The court reporter must produce the transcript at no charge. **You should report this time in 9b.** Include any time of transcribers, note readers, scopists or other supporting personnel employed by you *if this work would have been covered by your salary if you performed it.*
3. If a transcript is ordered from an electronic sound recording of an event which the court reporter did not attend and record, such as from a magistrate court proceeding, then “[w]ith approval from the court, an official staff, temporary, or combined-position court reporter may agree to produce transcripts from audio recordings of court proceedings which the reporter did not attend. The reporter is considered a transcriber and may be paid no more than the rates established by the Judicial Conference,” see Guide, Volume 6, § 510.40.20(f). **The actual transcript preparation time would be reported in 9a.** See also FAQ 17 below.
4. If a transcript is ordered by a non-party to the case (e.g., private citizen or organization), is it considered an official transcript for the purposes of this study. **You should report this time in 9a.**

17. I am a CR and I docket my own transcripts. How should I log the time I spend doing that?

Docketing of your own transcripts is considered CR work, not work performed to support the general activities of the clerk's office. Docketing time for your transcripts goes in field 8a.

18. I am a CR and I routinely provide assistance in the clerk's office. Where do I log my time on the AO 40A?

Time spent doing general clerk's office work, e.g., helping cover the intake counter, docketing events other than a transcript for one of your cases, or completing other case management functions, should be logged in field 8b.

19. Where do I log time spent preparing transcripts that I get paid additional money (not just my official court salary) to produce?

Report this time in 9a.

20. I am a CR who produces transcripts from electronic sound recordings of events that I did not attend and write. How should I report the time spent on this task?

We understand that creating a transcript from an electronic sound recording is really a two-part process and it should be recorded as such. Time spent converting audio recordings to text in preparation for transcript production should be recorded in item 7d "Other". Report the actual transcript preparation time in 9a.

21. The time reported in the ACRA form AO 40A is cumulative time spent in each category over the course of a quarter. How should I record my daily time that I will add to get to the data for the ACRA form?

Each CR is responsible for tracking her/his time and providing it to the AO on a quarterly basis. Generally, the more precise the data is, the more accurate the quarterly reports will be. When filling out the electronic ACRA form, as a feature of the electronic form the data entered rounds to the whole number increment. CRs filling out the AO 40A manually should follow the same rule.

Daily time logs should be kept as specifically as possible, in no larger than quarter-hour increments. Again, for completion of the AO 40A through ACRA, the total number of hours reported for the quarter in each category should be computed and then rounded to the nearest whole hour. See also Guide to Judiciary Policy, Vol. 6, Ch. 2, §290.4.60 (b)(3) which states:

Reporters may not round hours on a daily basis; however total quarterly hours should be rounded up to the next whole number and entered on Form AO 40A.

22. I reported to the courtroom to begin reporting a trial at 9 a.m., but the judge did not arrive to begin the proceedings until 9:20 a.m. How should I record the 20 minutes that I was required to wait in the courtroom?

The process considers such time as unavoidable delay because you were unable to complete other work while you were waiting. Unavoidable delays during which you are unable to complete other work should be logged as hours spent reporting in the appropriate Item 7. If you are 'on hold' waiting for something to begin, but are able to complete other work, count that time in the appropriate category based on the other work performed.

23. If I count unavoidable delay (see above question), then the AO 40A will not match the JS 10 form.

Yes, that is true. The JS 10 is limited to bench time only. However, in order to get a complete picture of the time it takes to provide court reporting services, preparation time and unavoidable delay must be included and considered.

24. I spend a fair amount of time at a court proceeding setting up. How should I log this time?

All time that is spent setting up for a court proceeding should be included in the appropriate Item 7.

25. I am a CR, but we have several in my district. One of us will sometimes help to coordinate the other CRs or serves as the CR supervisor. Where do I log this time?

This can be a common occurrence in some districts. The time should be logged as Administrative Hours in field 8a. In addition to using AO 40A data, the WM study includes a questionnaire that all CRs will be encouraged to complete. That online form will allow for a fuller description of supervisory duties.

26. I can see that data quality and data accuracy are important. How will the AO ensure that the data are consistent from district to district?

The Workforce Analysis team will be offering several WebEx trainings to review the overall WM project and the specific changes to the AO 40A. Additionally, after the test data collection phase (October to December 2015), CSO staff and CRAG members will review the data with the Workforce Analysis team. As needed, project staff will contact individual CRs to review or clarify submitted data.

27. I am a CR and I occasionally work more than 40 hours per week. Does that count?

Yes. All required work is counted. If a CR's completion of required duties extends beyond 40 hours a week, the hours should be logged.

28. Who will review the data?

Specialists in the Court Services Office, CRAG members, and a project steering group made up of judges, CRs and Clerks of Court will be provided with detailed data files. Aggregate/masked data will be released to the general CR community.

29. I sometimes complete work outside of the courthouse. Should I include that time?

Yes, that time should be included on the AO 40A. For a WM study, the location in which the work is performed is irrelevant. All required work should be logged on the form and included in the study. ***Do not include time spent on private reporting.***

30. I sometimes work longer than my tour of duty on a given day or over the weekend. Should I include this time?

Yes, you should include all the time you spend on ***required*** duties. That includes time spent completing required work before your tour duty begins or after your tour of duty ends on a given day, and required work completed on a weekend.

31. I use the AO 38 to track my time and help me complete the AO 40A. Will the AO 38 be updated to reflect the changes on the AO 40A?

Yes. The AO 38 has been updated to reflect the changes to the AO 40A. It is available for you to use.

32. I attend trainings, meetings and conferences. Where should I report that time?

It depends on the content of the trainings, meetings or conferences. If the content is directly related to court reporter activities, then log the time in 8a. Time spent attending training, meetings or conferences should be logged in category 8b if it is not directly related to court

reporter activities. For example, Occupant Emergency Training, non-court reporter software package training, required physical or cyber security training, or similar activities are logged in 8b. This is true for all content not related to court reporter duties.

33. My district occasionally hires *contract* court reporters. Where should the time they spend taking the record be logged?

The time spent by *contract* CRs is not logged anywhere. The WM study team will get the information on contract CRs from the financial system. The expenditures for each district in that Budget Object Class will be extracted and analyzed. It is not necessary to do anything new or specific with contract CR time for this study.

34. I have some thoughts about this study and the challenges that CRs face in delivering service to the courts. To whom should I speak?

Carolyn Peake, Chief, Workforce Analysis Branch is available to answer questions or to take your suggestions about the study. She can be reached via Lotus Notes or at 202-502-1308.