
REPORT TO THE JUDICIAL COUNCIL

For business meeting on: November 16–17, 2017

Title	Agenda Item Type
Appellate Procedure: Format for Reporters’ Transcripts Delivered in Electronic Form	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rules 8.124, 8.130, 8.144, 8.336, 8.409, 8.416, 8.613, 8.619, 8.622, 8.625, 8.834, 8.838, 8.866, 8.919	January 1, 2018
Recommended by	Date of Report
Appellate Advisory Committee	November 3, 2017
Hon. Louis R. Mauro, Chair	Contact
	Christy Simons, Attorney, 415-865-7694 christy.simons@jud.ca.gov

Executive Summary

To implement recent legislation, the Appellate Advisory Committee recommends amending the rule that governs the format of reporters’ transcripts to incorporate requirements for transcripts that are delivered in electronic form and to reorganize the provisions so that the formatting requirements applicable to all transcripts including those in paper form are easier to find. The committee also recommends amending several other rules to conform to the new legislation and to correct cross-references in the rules.

Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Amend California Rules of Court, rule 8.144 to:
 - a. Add a new subdivision addressing requirements for reporters’ transcripts in delivered in electronic form, including that the transcript:
 - Be in a full-text searchable PDF or other searchable format approved by the court;
 - Include an electronic bookmark to each heading, subheading, and specified components of the transcript; and
 - Permit users to copy and paste, keeping the original formatting.

- b. Consolidate the current subdivisions that establish general formatting requirements for reporters' and clerks' transcripts into new subdivision (b);
 - c. Consolidate the current provisions that specifically relate to transcripts that are in paper form in a new subdivision (c); and
 - d. Make other nonsubstantive changes.
2. Amend California Rules of Court, rules 8.124, 8.130, 8.336, 8.409, 8.416, 8.613, 8.619, 8.622, 8.625, 8.834, 8.838, 8.866 and 8.919 to:
 - a. Delete language that is inconsistent with newly amended Code of Civil Procedure section 271.
 - b. Change references to transcripts in computer-readable form to instead refer to transcripts delivered in electronic form, to be consistent with newly amended Code of Civil Procedure section 271.
 - c. Correct cross-references to the proposed, amended version of rule 8.144.

The amended rules are attached at pages 8–22.

Previous Council Action

The Judicial Council adopted the predecessor to rule 8.144, rule 9, as part of the Rules on Appeal effective July 1, 1943. This rule has been amended and renumbered many times since its adoption. Most recently, as part of a proposal to modernize the appellate rules and forms, the Judicial Council, effective January 1, 2017, amended rule 8.144 to add a provision requiring that computer-readable copies of a reporter's transcript be in a text-searchable format approved by the reviewing court.

Rationale for Recommendation

Amended rule 8.144

Current Code of Civil Procedure section 271 (section 271) authorizes courts and parties to receive, on request, copies of reporters' transcripts in "computer-readable form." Subdivision (b) of this statute establishes default standards for the format of such transcripts, but provides that these defaults apply "[e]xcept as modified by standards adopted by the Judicial Council." Subdivision (a) of the statute requires that "an original transcript shall be on paper."

Recent legislation, Assembly Bill 1450, repealing and replacing section 271, was signed into law on October 6, 2017, and takes effect January 1, 2018. New section 271 eliminates the default formatting provisions and instead requires compliance with formatting requirements established by the California Rules of Court. The new section also requires that the reporter's transcript be delivered in electronic form unless any of the specified exceptions apply. One of these

exceptions is if, prior to January 1, 2023, the court reporter lacks the technical ability to deliver an electronic transcript that meets the rule requirements.

Rule 8.144 generally addresses the format of the record on appeal, including the format of reporters' transcripts. Currently, this rule contains only the following provision regarding the format of computer-readable reporters' transcripts:

A computer-readable copy of a reporter's transcript must be in a text-searchable format approved by the reviewing court while maintaining original document formatting.

(Cal. Rules of Court, rule 8.144(a)(4).)

To implement the amendments to section 271, the committee recommends amending rule 8.144 to provide additional guidance regarding the format for reporters' transcripts delivered in electronic form. To make the overall rule clearer, the committee is also proposing reorganizing some of the existing provisions. The main amendments include:

- Adding a new subdivision (a) that references section 271.
- Consolidating current subdivisions (a), (b), and (c), which establish general formatting requirements for reporters' and clerks' transcripts, into a single subdivision (b), titled *Format*. This should make it easier for rule users to find all of the general formatting requirements. To make this longer subdivision easier to follow, each paragraph would be given a heading. In addition, a new requirement that each index begin on a separate page would be placed here, as having each index begin on a separate page would be helpful in all transcripts, whether in paper or electronic form.
- Gathering together the current provisions in rule 8.144 that specifically relate to transcripts that are in paper form into a new subdivision (c). This reorganization should make finding these specific formatting requirements easier.
- Adding a new subdivision (d) to address the specific requirements for reporters' transcripts in electronic form, including that the transcript:
 - Be in a full-text searchable PDF or other searchable format approved by the court;
 - Include an electronic bookmark to each heading, subheading, and other specified components of the transcript; and
 - Permit users to copy and paste, keeping the original formatting.

This new subdivision would include separate paragraphs for both general requirements and special requirements for multireporter or multivolume transcripts that are in electronic

format. As with proposed subdivisions (b) and (c), this structure should make it easier for rule users to find all of the requirements relating to reporters' transcripts delivered in electronic form in one place.

The committee is also recommending other nonsubstantive changes to the rule.

Amended rules 8.124, 8.130, 8.336, 8.409, 8.416, 8.613, 8.619, 8.622, 8.625, 8.834, 8.838, 8.866, and 8.919

A number of current rules contain language that is no longer consistent with the amended version of section 271 or cross-references to subdivisions of rule 8.144 that will no longer be consistent with the amended version of rule 8.144. The committee is recommending nonsubstantive, technical amendments to these rules to bring them into conformity with the amended statute and rule.

Current rules 8.130, 8.336, 8.409, 8.416, 8.834, 8.866, and 8.919 provide that on request, and unless a court orders otherwise, the reporter must provide a copy of the reporter's transcript in computer-readable format, and that the copy must comply with the requirements of rule 8.144(a)(4). This language is inconsistent with newly amended Code of Civil Procedure section 271, which, as noted above, provides that the reporter's transcript will be delivered in electronic form unless any of the specified exceptions apply. The committee recommends deleting this outdated language from all of these rules.

Current rules 8.613, 8.619, 8.622, and 8.625 refer to reporters' transcripts in computer-readable form. However, the amended version of section 271 no longer refers to computer-readable transcripts. Instead, the statute now refers to transcripts delivered in electronic form. The committee therefore recommends replacing the references to computer-readable transcripts in all of these rules with references to transcripts delivered in electronic form.

Current rules 8.124, 8.613, 8.619, 8.625, and 8.838 contain cross-references to rule 8.144(a)–(c). However, the committee is recommending that rule 8.144 be reorganized, and these subdivisions would be changed. Moreover, in most cases, the references to specific subdivisions of rule 8.144 are not necessary. The committee recommends amending all of these rules to either refer simply to the applicable requirements of rule 8.144 or to correct these cross-references to refer to the appropriate subdivisions.

Comments, Alternatives Considered, and Policy Implications

External comments

This proposal was circulated for public comment from February 27 to April 28, 2017, as part of the regular spring comment cycle. Thirteen individuals or organizations submitted comments on this proposal. Four commentators agreed with the proposed changes, four agreed with the proposed changes if modified, two did not indicate a position on the proposed changes but provided comments, and three did not agree with the proposed changes. A chart with the full text of the comments received and the committee's responses is attached at pages 23–42.

Court reporters' ability to comply with new requirements

Court reporters raised a number of concerns about their ability to comply with the new format requirements or the cost of compliance. However, newly amended section 271 provides a five-year grace period, until January 1, 2023, for court reporters to comply with the electronic transcript formatting requirements. Moreover, section 271 explicitly states that no particular vendor or product is required. The committee understands that computer-aided transcription (CAT) software vendors are aware that enhanced functionality will be required, and plan to upgrade their products accordingly. The committee will seek feedback from court reporters and their representatives over the next several years regarding upgrades in CAT software and other developments that impact the court reporters' ability to meet the rule's requirements.

Several court reporters and their representatives expressed specific concerns about meeting some of the new requirements for electronic transcripts, including bookmarking, merging, and paginating. Based on these comments, the committee made several changes to simplify and clarify the requirements for electronic transcripts, such as specifying the components of the transcript that require bookmarks, deleting hyperlinks as a requirement, and deleting the requirement that multiple transcripts be merged into a single document. The committee concluded that the remaining functionality required by the rule is necessary for courts and attorneys to obtain the full benefit of the electronic format.

In the portion of the rule addressing multivolume or multireporter transcripts delivered in electronic form, the committee originally proposed language regarding a master index for a merged transcript. The committee deleted this provision from the proposed rule, however, because separate provisions regarding indexes for multivolume or multireporter electronic transcripts are unnecessary and would be confusing. Indexes are addressed in subdivision (b)(5), which applies to transcripts in both paper and electronic form. The subdivision (b)(5) provisions contemplate master indexes since they require that the first volume of a reporter's transcript contain an index or indexes that list the volume, where applicable, and page of specified content. These provisions addressing indexes are contained in current rule 8.144: they have not substantively changed, other than the addition of a requirement that each index begin on a separate page. The committee intends that the indexes generated for electronic transcripts be the same as those generated for paper transcripts.

Several commenters also expressed concern that the new requirements will create more work for court reporters without additional compensation. Once CAT software capabilities are upgraded and court reporters gain experience with producing transcripts in electronic form with the functionality required by the rule, the committee anticipates that any increase in workload will abate. In addition, deleting the requirement that the original transcript must be in paper form will save time, effort, and money.

Exception for electronic transcript or court reporter unavailability

The committee received two comments regarding the requirement that an electronic transcript must be generated electronically and must not be created from a scanned document. The commenters suggested adding an exception to allow for creating a transcript in electronic form from a scanned document when the electronic transcript is no longer available. The committee agreed with adding the exception, based on its understanding that the unavailability of a court reporter is an issue for courts and that the electronic functionality required by the rule can be incorporated into scanned transcripts.

Electronic or digital signatures

In the invitation to comment, the committee sought feedback on whether to require electronic signatures or digital signatures, or both. Six individuals or organizations submitted responses, with four supporting electronic signatures only, one supporting digital signatures only, and one recommending electronic signatures for individual reporters and digital signatures for primary reporters submitting merged transcripts containing volumes generated by multiple reporters.¹ The committee determined that, based on current technology and the different purposes served by digital and electronic signatures, requiring both digital and electronic signatures would best meet the needs of courts, litigants, and court reporters. This provision includes an exception for court reporters who lack the technical ability to provide a digital signature; then, only an electronic signature is required.

Consistency with other rules

When the committee was reviewing the proposal after the public comment period, one of the comments raised the issue of ensuring that the proposed amendments to rule 8.144 were not inconsistent with other rules governing reporters' transcripts, including rule 8.130. The committee realized that rule 8.130(f)(4) is inconsistent with new section 271, and that it was not necessary in light of the proposed amendments to rule 8.144. Further inquiry revealed a number of rules requiring amendment in light of the amendments to rule 8.144. Because the need for these amendments came to light after the public comment period, they did not circulate for public comment with the rest of the proposal. However, the amendments to rules 8.124, 8.130, 8.336, 8.409, 8.416, 8.613, 8.619, 8.622, 8.625, 8.834, 8.838, 8.866, and 8.919—to delete the outdated text or correct cross-references—are technical amendments and need not be circulated. (See Cal. Rules of Court, rule 10.22(d)(2).)

Alternatives

In addition to the alternatives considered in connection with the comments received, which are discussed above, the committee considered not proposing amendments to rule 8.144. The committee concluded, however, that providing more guidance on the format of reporters' transcripts in electronic form would be helpful. The committee therefore concluded that it was appropriate to recommend these amendments for adoption.

¹ As noted above, the committee has deleted from the proposed amendments a requirement that primary reporters submit merged transcripts.

Implementation Requirements, Costs, and Operational Impacts

The committee expects that implementation of this proposal will require training for court reporters and court staff, but this could be done in conjunction with communication and/or training regarding new Code of Civil Procedure section 271. Because section 271 provides both courts and court reporters with a five-year grace period to fully comply with the rule amendments, no other appreciable implementation requirements, costs, or operational impacts are anticipated.

Relevant Strategic Plan Goals and Operational Plan Objectives

These proposed rule revisions support Judicial Council Operational Plan Objective 5 to develop and implement effective trial and appellate case management practices.

Attachments and Links

1. Amended rules 8.124, 8.130, 8.144, 8.336, 8.409, 8.416, 8.613, 8.619, 8.622, 8.625, 8.834, 8.838, 8.866, and 8.919, at pages 8–22
2. Chart of comments, at pages 23–42

Rules 8.124, 8.130, 8.144, 8.336, 8.409, 8.416, 8.613, 8.619, 8.622, 8.625, 8.834, 8.838, 8.866, and 8.919 of the California Rules of Court are amended, effective January 1, 2018, to read:

1 **Title 8. Appellate Rules**

2
3 **Division 1. Rules Relating to the Supreme Court and Courts of Appeal**

4
5 **Chapter 2. Civil Appeals**

6
7 **Article 2. Record on Appeal**

8
9 **Rule 8.124. Appendixes**

10
11 **(a)–(c) * * ***

12
13 **(d) Form of appendix**

14
15 (1) An appendix must comply with the requirements of rule 8.144~~(a)–(e)~~ for a
16 clerk’s transcript.

17
18 **(2)–(3) * * ***

19
20 **(e)–(g) * * ***

21
22 **Advisory Committee Comment**

23
24 **Subdivision (a) * * ***

25
26 **Subdivision (b).** Under subdivision (b)(1)(A), a joint appendix or an appellant’s appendix must
27 contain any register of actions that the clerk sent to the parties under subdivision (a)(2). This
28 provision is intended to assist the reviewing court in determining the accuracy of the appendix.
29 The provision is derived from rule 30-1.3(a)(ii) of the United States Circuit Rules (9th Cir.).

30
31 In support of or opposition to pleadings or motions, the parties may have filed a number of
32 lengthy documents in the proceedings in superior court, including, for example, declarations,
33 memorandums, trial briefs, documentary exhibits (e.g., insurance policies, contracts, deeds), and
34 photocopies of judicial opinions or other publications. Subdivision (b)(3)(A) prohibits the
35 inclusion of such documents in an appendix when they are not necessary for proper consideration
36 of the issues raised in the appeal. Even if a document is otherwise includable in an appendix, the
37 rule prohibits the inclusion of any substantial *portion* of the document that is not necessary for
38 proper consideration of the issues raised in the appeal. The prohibition is intended to simplify and
39 therefore expedite the preparation of the appendix, to reduce its cost to the parties, and to relieve
40 the courts of the burden of reviewing a record containing redundant, irrelevant, or immaterial

1 documents. The provision is adapted from rule 30-1.4 of the United States Circuit Rules (9th
2 Cir.).

3
4 Subdivision (b)(3)(B) prohibits the inclusion in an appendix of transcripts of oral proceedings that
5 may be made part of a reporter's transcript. (Compare rule 8.130(e)(3) [the reporter must not
6 copy into the reporter's transcript any document includable in the clerk's transcript under rule
7 8.122].) The prohibition is intended to prevent a party filing an appendix from evading the
8 requirements and safeguards imposed by rule 8.130 on the process of designating and preparing a
9 reporter's transcript, or the requirements imposed by rule 8.144(d)(e) on the use of daily or other
10 transcripts instead of a reporter's transcript (i.e., renumbered pages, required indexes). In
11 addition, if an appellant were to include in its appendix a transcript of less than all the
12 proceedings, the respondent would not learn of any need to designate additional proceedings
13 (under rule 8.130(a)(3)) until the appellant had served its appendix with its brief, when it would
14 be too late to designate them. Note also that a party may file a certified transcript of designated
15 proceedings instead of a deposit for the reporter's fee (rule 8.130(b)(3)).

16
17 **Subdivision (d)–(g) * * ***

18
19 **Rule 8.130. Reporter's transcript**

20
21 **(a)–(e) * * ***

22
23 **(f) Filing the transcript; copies; payment**

24
25 (1)–(3) * * *

26
27 ~~(4) On request, and unless the superior court orders otherwise, the reporter must~~
28 ~~provide the Court of Appeal or any party with a copy of the reporter's~~
29 ~~transcript in computer-readable format. Each computer-readable copy must~~
30 ~~comply with the requirements of rule 8.144(a)(4).~~

31
32 **(g)–(h) * * ***

33
34 **Advisory Committee Comment**

35
36 **Subdivision (a)–(e) * * ***

37
38 **Subdivision (f).** Subdivision (f)(1) requires the reporter to prepare and file additional copies of
39 the record "if multiple appellants equally share the cost of preparing the record. . . ." The reason
40 for the requirement is explained in the comment to rule 8.147(a)(2).

41
42 ~~Subdivision (f)(4) is intended to implement Code of Civil Procedure section 271, which allows~~
43 ~~any court, party, or other person entitled to a reporter's transcript to request that it be delivered in~~

1 computer-readable format (except that an original transcript must be on paper) and requires the
2 reporter to provide the transcript in that format upon request if the proceedings were produced
3 utilizing computer-aided transcription equipment. This subdivision establishes procedures
4 relating to such requests and procedures for court reporters to apply to the superior court for relief
5 from this requirement if the proceedings were not produced utilizing computer-aided transcription
6 equipment. Government Code section 69954 establishes the fees for reporter's transcripts in
7 computer-readable format.

8
9 **Rule 8.144. Form of the record**

10
11 (a) The provisions of this rule must be applied in a manner consistent with Code of
12 Civil Procedure section 271.

13
14 **(a)(b) Paper and Format**

15
16 (1) Application to electronic and paper clerks' and reporters' transcripts
17 The requirements for clerks' and reporters' transcripts in this subdivision
18 apply to clerks' and reporters' transcripts delivered in electronic form and in
19 paper form.

20
21 (2) General

22 In the clerk's and reporter's transcripts:

23
24 (A) All documents filed must have a page size of 8½ by 11 inches. ~~If filed~~
25 ~~in paper form, the paper must be white or unbleached and of at least 20-~~
26 ~~pound weight;~~

27
28 (B) The text must be reproduced as legibly as printed matter;

29
30 (C) The contents must be arranged chronologically;

31
32 (D) The pages must be consecutively numbered, except as provided in
33 (e)(f), beginning with volume one's cover as page 1 and continuing
34 throughout the transcript, including the indexes, certificates, and cover
35 pages for subsequent volumes, and using only Arabic numerals (i.e., 1,
36 2, 3); and

37
38 (E) The margin must be at least 1¼ inches from the left edge.

39
40 (2) ~~If filed in paper form, in the clerk's transcript only one side of the paper may~~
41 ~~be used; in the reporter's transcript both sides may be used, but the margins~~
42 ~~must then be 1¼ inches on each edge.~~

1 (3) Line numbering

2 In the reporter's transcript the lines on each page must be consecutively
3 numbered and must be double-spaced or one-and-a-half-spaced; double-
4 spaced means three lines to a vertical inch.

5
6 ~~(4) — A computer readable copy of a reporter's transcript must be in a text-~~
7 ~~searchable format approved by the reviewing court while maintaining~~
8 ~~original document formatting.~~

9
10 ~~(5)~~(4) Sealed and confidential records

11 The clerk's and reporter's transcripts must comply with rules 8.45–8.47
12 relating to sealed and confidential records.

13
14 ~~(b)~~(5) Indexes

15 Except as provided in rule 8.45, ~~at the beginning of the first volume of each:~~

16
17 ~~(1)~~(A) The clerk's transcript must contain, at the beginning of the first
18 volume, alphabetical and chronological indexes listing each document
19 and the volume, where applicable, and page where it first appears;

20
21 ~~(2)~~(B) The reporter's transcript must contain:

22
23 (i) Alphabetical and chronological indexes listing the volume,
24 where applicable, and page where each witness's direct, cross,
25 and any other examination, begins; and

26
27 ~~(3)~~(ii) ~~The reporter's transcript must contain a~~An index listing the
28 volume, where applicable, and page where any exhibit is marked
29 for identification and where it is admitted or refused. The index
30 must identify each exhibit by number or letter and a brief
31 description of the exhibit.

32
33 ~~(D)~~(C) Each index prepared under this paragraph must begin on a separate
34 page.

35
36 (6) Volumes

37 Clerks' and reporters' transcripts must be produced in volumes of no more
38 than 300 ~~sheets~~ pages.

39
40 ~~(e)~~(5) (7) Binding and Cover

41
42 ~~(1) — If filed in paper form, clerk's and reporter's transcripts must be bound on the~~
43 ~~left margin in volumes of no more than 300 sheets.~~

1 ~~(1) If filed in paper form, clerk's and reporter's transcripts must be bound on the~~
2 ~~left margin in volumes of no more than 300 sheets.~~

3
4 ~~(2)(A) The cover of each volume of the clerk's and reporter's transcripts~~
5 ~~Each volume's cover~~ must state the title and trial court number of the
6 case, the names of the trial court and each participating trial judge, the
7 names and addresses of appellate counsel for each party, the volume
8 number, the total number of volumes in the transcript, and the inclusive
9 page numbers of that volume.

10
11 ~~(3)(B) In reporters' transcripts, in addition to the information required by~~
12 ~~(2)(A), the cover of each volume of the reporter's transcript~~ must state
13 the dates of the proceedings reported in that volume.
14

15 **(c) Additional requirements for record in paper form**

16
17 In addition to complying with (b), if the clerk's or reporter's transcript is filed in
18 paper form:

- 19
20 (1) The paper must be white or unbleached and of at least 20-pound weight;
21
22 (2) In the clerk's transcript only one side of the paper may be used; in the
23 reporter's transcript both sides may be used, but the margins must then be 1¼
24 inches on each edge; and
25
26 (3) Clerks' and reporters' transcripts must be bound on the left margin.
27

28 **(d) Additional requirements for reporter's transcript delivered in electronic form**

29
30 (1) General

31
32 In addition to complying with (b), a reporter's transcript delivered in
33 electronic format must:

- 34
35 (A) Be generated electronically; it must not be created from a scanned
36 document unless ordered by the court.
37
38 (B) Be in full text-searchable PDF (portable document format) or other
39 searchable format approved by the court.
40
41 (C) Ensure that the electronic page counter in the PDF file viewer matches
42 the transcript page numbering.
43

1 (D) Include an electronic bookmark to each heading and subheading; all
2 sessions or hearings (date lines); all witness examinations where each
3 witness's direct, cross, and any other examination begins; all indexes;
4 and all exhibits where any exhibit is marked for identification and
5 where it is admitted or refused. All bookmarks, when clicked, must
6 retain the user's currently selected zoom settings.

7
8 (E) Be digitally and electronically signed by the court reporter, unless the
9 court reporter lacks the technical ability to provide a digital signature,
10 in which case only an electronic signature is required.

11
12 (F) Permit users to copy and paste, keeping the original formatting, but
13 with headers, footers, line numbers, and page numbers excluded.

14
15 (G) Permit courts to electronically add filed/received stamps.

16
17 (2) Multivolume or multireporter transcripts

18
19 In addition to the requirements in (1), for multivolume or multireporter
20 transcripts delivered in electronic format, each individual reporter must
21 provide a digitally and electronically signed certificate with his or her
22 respective portion of the transcript. If the court reporter lacks the technical
23 ability to provide a digital signature, then only an electronic signature is
24 required.

25
26 (3) Additional functionality or enhancements

27
28 Nothing in this rule prohibits courts from accepting additional functionality
29 or enhancements in reporters' transcripts delivered in electronic form.

30
31 ~~(d)~~(e) * * *

32
33 ~~(e)~~(f) **Pagination in multiple reporter cases**

34
35 (1) In a multiple reporter case, each reporter must estimate the number of pages
36 in each segment reported and inform the designated primary reporter of the
37 estimate. The primary reporter must then assign beginning and ending page
38 numbers for each segment.

39
40 (2) If a segment exceeds the assigned number of pages, the reporter must number
41 the additional pages with the ending page number, a hyphen, and a new
42 number, starting with 1 and continuing consecutively.
43

1 (3) If a segment has fewer than the assigned number of pages, on the last page of
2 the segment, before the certificate page, the reporter must add a hyphen to the
3 last page number used, followed by the segment's assigned ending page
4 number, and state in parentheses "(next volume and page number is _____)."
5 state in parentheses "(next volume and page number is _____)," and on the
6 certificate page, the reporter must add a hyphen to the last page number used,
7 followed by the segment's assigned ending page number.
8

9 ~~(f)~~(g) * * *

10
11 **Advisory Committee Comment**
12

13 Subdivisions (a) and (b). Paragraph (1) of subdivision (b) clarifies that the format requirements
14 for reporters' transcripts, including the requirements for indexes, volumes, and covers, which
15 previously applied to transcripts delivered in paper form now apply to transcripts delivered in
16 both paper and electronic form.
17

18 ~~Subdivision (a)(4) is adopted under Code of Civil Procedure section 271(b), which allows the~~
19 ~~Judicial Council to adopt format requirements for computer readable copies of a reporter's~~
20 ~~transcript. Subdivisions (a)(5) Paragraphs (4) and (b)(5) of subdivision (a)(b) refer to special~~
21 ~~requirements concerning sealed and confidential records established by rules 8.45–8.47. Rule~~
22 ~~8.45(c)(2) and (3) establishes special requirements regarding references to sealed and confidential~~
23 ~~records in the alphabetical and chronological indexes to clerks' and reporters' transcripts.~~
24

25 **Chapter 3. Criminal Appeals**
26

27 **Article 2. Record on Appeal**
28

29 **Rule 8.336. Preparing, certifying, and sending the record**
30

31 ~~(a)–(c)~~ * * *

32
33 **(d) Reporter's transcript**
34

35 (1) * * *

36
37 (2) The reporter must prepare an original and the same number of copies of the
38 reporter's transcript as (c) requires of the clerk's transcript, and must certify
39 each as correct. ~~On request, and unless the trial court orders otherwise, the~~
40 ~~reporter must provide the Court of Appeal and any party with a copy of the~~
41 ~~reporter's transcript in computer readable format. Each computer readable~~
42 ~~copy must comply with the requirements of rule 8.144(a)(4).~~
43

1 (3)–(5) * * *

2

3 (e)–(h) * * *

4

5 **Advisory Committee Comment**

6

7 **Subdivision (a)** * * *

8

9 ~~**Subdivision (d).** This subdivision is intended to implement Code of Civil Procedure section 271,~~
10 ~~which allows any court, party, or other person entitled to a reporter’s transcript to request that it~~
11 ~~be delivered in computer-readable format (except that an original transcript must be on paper) and~~
12 ~~requires the reporter to provide the transcript in that format upon request if the proceedings were~~
13 ~~produced using computer-aided transcription equipment. This subdivision establishes procedures~~
14 ~~relating to such requests and procedures for court reporters to apply to the superior court for relief~~
15 ~~from this requirement if the proceedings were not produced using computer-aided transcription~~
16 ~~equipment. Government Code section 69954 establishes the fees for reporter’s transcripts in~~
17 ~~computer-readable format.~~

18

19 **Subdivision (f)–(g)** * * *

20

21 **Chapter 5. Juvenile Appeals and Writs**

22

23 **Article 2. Appeals**

24

25 **Rule 8.409. Preparing and sending the record**

26

27 **(a)–(b)** * * *

28

29 **(c) Preparing and certifying the transcripts**

30

31 Within 20 days after the notice of appeal is filed:

32

33 (1) * * *

34

35 (2) The reporter must prepare, certify as correct, and deliver to the clerk an
36 original of the reporter’s transcript and the same number of copies as (1)
37 requires of the clerk’s transcript. ~~On request, and unless the trial court orders~~
38 ~~otherwise, the reporter must provide the Court of Appeal and any party with a~~
39 ~~copy of the reporter’s transcript in computer-readable format. Each~~
40 ~~computer-readable copy must comply with the requirements of rule~~
41 ~~8.144(a)(4).~~

42

1 (d)–(e) * * *

2
3 **Advisory Committee Comment**
4

5 **Subdivision (a)–(b) * * ***
6

7 **Subdivision (c)(2).** This subdivision is intended to implement Code of Civil Procedure section
8 271, which allows any court, party, or other person entitled to a reporter’s transcript to request
9 that it be delivered in computer-readable format (except that an original transcript must be on
10 paper) and requires the reporter to provide the transcript in that format upon request if the
11 proceedings were produced using computer-aided transcription equipment. This subdivision
12 establishes procedures relating to such requests and procedures for court reporters to apply to the
13 superior court for relief from this requirement if the proceedings were not produced using
14 computer-aided transcription equipment. Government Code section 69954 establishes the fees for
15 reporters’ transcripts in computer-readable format.
16

17 **Subdivision (e) * * ***
18

19 **Rule 8.416. Appeals from all terminations of parental rights; dependency appeals in**
20 **Orange, Imperial, and San Diego Counties and in other counties by local rule**
21

22 **(a)–(b) * * ***
23

24 **(c) Preparing, certifying, and sending the record**
25

26 (1) Within 20 days after the notice of appeal is filed:
27

28 (A) * * *
29

30 (B) The reporter must prepare, certify as correct, and deliver to the clerk an
31 original of the reporter’s transcript and the same number of copies as
32 (A) requires of the clerk’s transcript. ~~On request, and unless the trial~~
33 ~~court orders otherwise, the reporter must provide the Court of Appeal~~
34 ~~and any party with a copy of the reporter’s transcript in computer-~~
35 ~~readable format. Each computer-readable copy must comply with the~~
36 ~~requirements of rule 8.144(a)(4).~~
37

38 (2)–(3) * * *
39

40 **(d)–(h) * * ***
41
42

1 Chapter 10. Appeals From Judgments of Death

2
3 Article 2. Record on Appeal

4
5 Rule 8.613. Preparing and certifying the record of preliminary proceedings

6
7 (a)–(h) * * *

8
9 (i) ~~Computer-readable copies~~ Transcript delivered in electronic form

10
11 (1) When the record of the preliminary proceedings is certified as complete and
12 accurate, the clerk must promptly notify the reporter to prepare five
13 ~~computer-readable~~ copies of the transcript in electronic form and two
14 additional ~~computer-readable~~ copies in electronic form for each codefendant
15 against whom the death penalty is sought.

16
17 (2) Each ~~computer-readable copy~~ transcript delivered in electronic form must
18 comply with the applicable requirements of rule 8.144(a)(4) and any
19 additional requirements prescribed by the Supreme Court, and must be
20 further labeled to show the date it was made.

21
22 (3) A ~~computer-readable~~ copy of a sealed transcript delivered in electronic form
23 must be placed on a separate disk and clearly labeled as confidential.

24
25 (4) The reporter is to be compensated for ~~computer-readable~~ copies delivered in
26 electronic form as provided in Government Code section 69954(b).

27
28 (5) Within 20 days after the clerk notifies the reporter under (1), the reporter
29 must deliver the ~~computer-readable~~ copies in electronic form to the clerk.

30
31 (j) **Delivery to the superior court**

32
33 Within five days after the reporter delivers the ~~computer-readable~~ copies in
34 electronic form, the clerk must deliver to the responsible judge, for inclusion in the
35 record:

36
37 (1) The certified original reporter’s transcript of the preliminary proceedings and
38 the copies that have not been distributed to counsel, including the ~~computer-~~
39 ~~readable~~ copies in electronic form; and

40
41 (2) * * *

1
2 (k)-(l) * * *

3
4 **Rule 8.619. Certifying the trial record for completeness**

5
6 (a)-(d) * * *

7
8 (e) ~~Computer-readable copies~~ **Transcript delivered in electronic form**

- 9
10 (1) When the record is certified as complete, the clerk must promptly notify the
11 reporter to prepare five ~~computer-readable~~ copies of the transcript in
12 electronic form and two additional ~~computer-readable~~ copies in electronic
13 form for each codefendant sentenced to death.
14
15 (2) Each ~~computer-readable~~ copy delivered in electronic form must comply with
16 the applicable requirements of rule 8.144(a)(4) and any additional
17 requirements prescribed by the Supreme Court, and must be further labeled to
18 show the date it was made.
19
20 (3) A ~~computer-readable~~ copy of a sealed transcript delivered in electronic form
21 must be placed on a separate disk and clearly labeled as confidential.
22
23 (4) The reporter is to be compensated for ~~computer-readable~~ copies delivered in
24 electronic form as provided in Government Code section 69954(b).
25
26 (5) Within 10 days after the clerk notifies the reporter under (1), the reporter
27 must deliver the ~~computer-readable~~ copies in electronic form to the clerk.
28

29 (f) * * *

30
31 (g) **Sending the certified record**

32
33 When the record is certified as complete, the clerk must promptly send:

- 34
35 (1) To each defendant's appellate counsel and each defendant's habeas corpus
36 counsel: one paper copy of the entire record and one ~~computer-readable~~ copy
37 of the reporter's transcript in electronic form. If either counsel has not been
38 retained or appointed, the clerk must keep that counsel's copies until counsel
39 is retained or appointed.
40
41 (2) To the Attorney General, the Habeas Corpus Resource Center, and the
42 California Appellate Project in San Francisco: one paper copy of the clerk's

1 transcript and one ~~computer-readable~~ copy of the reporter's transcript in
2 electronic form.

3
4 (h) * * *

5
6 **Rule 8.622. Certifying the trial record for accuracy**

7
8 (a)–(b) * * *

9
10 (c) **Computer-readable copies**

- 11
12 (1) When the record is certified as accurate, the clerk must promptly notify the
13 reporter to prepare six ~~computer-readable~~ copies of the reporter's transcript in
14 electronic form and two additional ~~computer-readable~~ copies in electronic
15 form for each codefendant sentenced to death.
16
17 (2) In preparing the ~~computer-readable~~ copies, the procedures and time limits of
18 rule 8.619(e)(2)–(5) must be followed.

19
20 (d) * * *

21
22 (e) **Sending the certified record**

23
24 When the record is certified as accurate, the clerk must promptly send:

- 25
26 (1) To the Supreme Court: the corrected original record, including the judge's
27 certificate of accuracy, and a ~~computer-readable~~ copy of the reporter's
28 transcript in electronic form.
29
30 (2) To each defendant's appellate counsel, each defendant's habeas corpus
31 counsel, the Attorney General, the Habeas Corpus Resource Center, and the
32 California Appellate Project in San Francisco: a copy of the order certifying
33 the record and a ~~computer-readable~~ copy of the reporter's transcript in
34 electronic form.
35
36 (3) * * *

37
38 **Rule 8.625. Certifying the record in pre-1997 trials**

39
40 (a) * * *

41
42 (b) **Sending the transcripts to counsel for review**

43

1 (1) * * *

2

3 (2) The copies of the reporter’s transcript sent to the California Appellate Project
4 and the Habeas Corpus Resource Center must be ~~computer-readable copies~~
5 delivered in electronic form complying with the applicable requirements of
6 rule 8.144(a)(4) and any additional requirements prescribed by the Supreme
7 Court, and must be further labeled to show the date it was made.

8

9 (3) * * *

10

11 (c)–(e) * * *

12

13 **Division 2. Rules Relating to the Superior Court Appellate Division**

14

15 **Chapter 2. Appeals and Records in Limited Civil Cases**

16

17 **Article 2. Record in Civil Appeals**

18

19 **Rule 8.834. Reporter’s transcript**

20

21 (a)–(c) * * *

22

23 (d) **Filing the reporter’s transcript; copies; payment**

24

25 (1)–(3) * * *

26

27 (4) ~~On request, and unless the trial court orders otherwise, the reporter must~~
28 ~~provide the reviewing court or any party with a copy of the reporter’s~~
29 ~~transcript in computer-readable format. Each computer-readable copy must~~
30 ~~comply with the requirements of rule 8.144(a)(4).~~

31

32 (e)–(f) * * *

33

34 **Advisory Committee Comment**

35

36 ~~**Subdivision (d)(4).** This subdivision is intended to implement Code of Civil Procedure section~~
37 ~~271, which allows any court, party, or other person entitled to a reporter’s transcript to request~~
38 ~~that it be delivered in computer-readable format (except that an original transcript must be on~~
39 ~~paper) and requires the reporter to provide the transcript in that format upon request if the~~
40 ~~proceedings were produced utilizing computer-aided transcription equipment. This subdivision~~
41 ~~establishes procedures relating to such requests and procedures for court reporters to apply to the~~
42 ~~superior court for relief from this requirement if the proceedings were not produced utilizing~~

1 ~~computer-aided transcription equipment. Government Code section 69954 establishes the fees for~~
2 ~~reporter's transcripts in computer-readable format.~~

3
4 **Rule 8.838. Form of the record**

5
6 **(a) Paper and format**

7
8 Except as otherwise provided in this rule, clerk's and reporter's transcripts must
9 comply with the ~~paper and format~~ requirements of rule 8.144(a)(b)(1)–(4), (c), and
10 (d).

11
12 **(b)–(c) * * ***

13
14 **Chapter 3. Appeals and Records in Misdemeanor Cases**

15
16 **Article 2. Record in Misdemeanor Appeals**

17
18 **Rule 8.866. Preparation of reporter's transcript**

19
20 **(a)–(c) * * ***

21
22 **(d) When preparation must be completed**

23
24 (1)—The reporter must deliver the original and all copies to the trial court clerk as
25 soon as they are certified but no later than 20 days after the reporter is
26 required to begin preparing the transcript under (a). Only the presiding judge
27 of the appellate division or his or her designee may extend the time to prepare
28 the reporter's transcript (see rule 8.810).

29
30 ~~(2)—On request, and unless the trial court orders otherwise, the reporter must~~
31 ~~provide the reviewing court or any party with a copy of the reporter's~~
32 ~~transcript in computer-readable format. Each computer-readable copy must~~
33 ~~comply with the requirements of rule 8.144(a)(4).~~

34
35 **(e)–(f) * * ***

36
37 **Chapter 5. Appeals in Infraction Cases**

38
39 **Article 2. Record in Infraction Appeals**

40
41 **Rule 8.919. Preparation of reporter's transcript**

1 (a)–(c) * * *

2
3 (d) **When preparation must be completed**

4
5 (1) The reporter must deliver the original and all copies to the trial court clerk as
6 soon as they are certified but no later than 20 days after the reporter is
7 required to begin preparing the transcript under (a). Only the presiding judge
8 of the appellate division or his or her designee may extend the time to prepare
9 the reporter’s transcript (see rule 8.810).

10
11 ~~(2) On request, and unless the trial court orders otherwise, the reporter must~~
12 ~~provide the reviewing court or any party with a copy of the reporter’s~~
13 ~~transcript in computer-readable format. Each computer-readable copy must~~
14 ~~comply with the requirements of rule 8.144(a)(4).~~

15
16 (e)–(f) * * *

17

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	Commentator	Position	Comment	DRAFT Committee Response
1.	Dana Belloli Official Court Reporter Turlock Ca	N	Having been a working reporter for the past 30 years, both freelance and official, I believe this proposal is bad law. It will require additional costs to working reporters to be paid to software company(s), with no benefit to the public. Court reporters can already provide the services presently required, and the only benefit will be to these people/company(s) who court reporters will be required to pay a monthly fee to. It will especially adversely effect those reporters who work part-time yet still must pay the month fee as required by these software company(s). Thank you.	The committee appreciates the commenter's concerns. The proposed rule amendments are intended to implement the recent amendments to Code of Civil Procedure (CCP) section 271 which generally provide for delivery of reporters' transcripts in electronic form in compliance with the Rules of Court. The requirements for reporters' transcripts delivered in electronic form in subdivision (d) are intended to ensure that courts and attorneys can fully utilize the benefits of electronic transcripts. The rule does not require court reporters to use a particular vendor, and newly amended CCP section 271 provides a period of five years for compliance.
2.	California Appellate Court Clerks Association (CACCA) by Daniel P. Potter, President San Jose, CA	A	The Clerks Association agrees with amending of rule 8.144 as proposed with one addition. That the rule requires that transcripts submitted by court reporters not be password protected. To the advisory committee's questions: <i>Is it necessary for the rule to require the court reporter to both digitally and electronically sign a transcript that is delivered in electronic form? If only one requirement were included, which would be preferable?</i> It doesn't seem necessary to require both. Digital signatures obviously offer more protection for the court reporters, but depending on the digital certificates being used for the digital signature and the encryption level, it might make things more difficult for the court in terms of electronically filing, flattening and	The committee thanks the commenter, and notes the CACCA's support for the proposal. The committee declines to add a prohibition on password protecting transcripts at this time, but would consider it in the future if it appears to be needed. The committee appreciates the commenter's input on this question. At this time, the committee has decided to require both electronic and digital signatures, unless the court reporter lacks the technical ability to provide the latter. The committee will reconsider this in the future if the needs of courts, litigants, and court reporters

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			<p>encrypting (in the case of sealed electronic documents) than if those documents had just been electronically signed. It seems like requiring electronic signatures might be the least cumbersome option for the courts.</p> <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes.</p>	<p>change.</p> <p>No response required.</p>
3.	<p>California Court Reporters Association (CCRA) By Brooke Ryan and Erin Spence</p>	AM	<p>On behalf of California's court reporters, the California Court Reporters Association ("CCRA") wishes to thank the Judicial Council and the Appellate Advisory Committee for proposing these important amendments to California Rules of Court, rule 8.144. CCRA endorses the use of electronic transcripts and agrees with the forward-looking concept of proposed Rule 8.144. We believe that the proposed rule will be improved with some minor changes.</p> <p>We believe the requirements of subdivisions (a)(1)(D) and (c)(1)(C), concerning page numbering, should be harmonized. The former provides only that transcripts should contain pages which are consecutively numbered. However, the latter provides more detail, but fails to state the pages must be numbered consecutively. CCRA proposes that the requirements of these two subdivisions be merged into a single paragraph, which would be contained in subdivision (a) and thus be</p>	<p>The committee thanks the CCRA for its comments and notes its support for the proposal if modified.</p> <p>The committee agrees with the commenter that the more detailed pagination requirements should be placed in subdivision (b) and has made that change to the proposal.</p>

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			<p>applicable to electronic transcripts through the introductory sentence of subdivision (c)(1) [“In addition to complying with (a) ...”].</p> <p>CCRA suggests that an additional section, (3)(A), possibly entitled Page Numbering, be added with respect to transcript page numbering for both paper and electronic transcriptions. CCRA proposes that transcripts of confidential proceedings (e.g., Marsden hearings) be consecutively numbered within the context of the entire transcript (as opposed to being set out in a separately numbered transcript). CCRA believes this amendment will provide needed guidance to court reporters and uniformity of practice throughout the state. To that end, CCRA proposes this language be included within the rule as adopted: “The reporter’s sealed and confidential transcripts must be redacted from the main transcript while maintaining consecutive page numbers using only Arabic numerals (e.g. 1, 2, 3) throughout the document, including indices and certificates, and must be filed under separate cover.”</p> <p>On Page 2, line 39, a section (a)(6) could be added to list the order of the transcript, such as Appellate Cover, Superior Court Cover, Indices Sessions, Witnesses, Exhibits. CCRA believes that it is important that all transcripts be filed in a consistent order, especially since reporters will be filing a one-volume reporters’ transcript on appeal.</p>	<p>The suggested additional language would be a substantive addition to the proposal. Under California Rules of Court, rule 10.22, substantive changes to the rules need to circulate for public comment before being recommended for adoption by the Judicial Council. The committee will retain the suggestion for consideration in conjunction with its project to develop rules for the handling of sealed or confidential materials that are submitted electronically.</p> <p>This suggestion would also constitute a substantive change to the proposal, which would have to be circulated for public comment. The committee will retain it for future consideration.</p>

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			<p>Under current law [(a)(3)], confidential and sealed transcripts are delivered in a secure envelope. CCRA proposes that the amended rule provide electronic transcripts be delivered securely by encrypted transmission. Encryption technology is readily available and widely used in numerous industries and applications. This technology would allow the courts to control who has access to the confidential transcripts by furnishing a password to those authorized persons. Sealed and confidential electronically filed transcripts should be required to follow the guidelines currently set for paper transcripts.</p> <p>CCRA believes that (5)(1) relating to 300 sheets needs to remain because the ability to bind more than 300 pages is unwieldy. We also believe that that section should be specifically excluded if filing electronically. Suggest it is added to (c)(2)(B).</p> <p>CCRA suggests that the reference to “the cover page required by (a)(3)” in proposed subdivision (c)(2)(A) should refer to subdivision (a)(5).</p> <p>An additional correction for consideration is Page 3, line 29 – (D) is inconsistent with page 2, line 5 “(4) Indexes.” In (4), reporters filing paper transcripts must have an index for witnesses and exhibits. In (D) reporters must have a separate index for sessions, witnesses and exhibits. CCRA suggests that indexing, whether on paper or electronic, should be</p>	<p>Please see the response above to the suggestion regarding pagination of sealed and confidential transcripts.</p> <p>The provision specifying volumes of no more than 300 sheets has been moved from subdivision (c)(3) to subdivision (b)(6), clarifying that this requirement applies to both electronic and paper forms of the transcripts.</p> <p>The committee thanks the commenter for pointing out this typographical error. It has been corrected.</p> <p>The committee agrees that indexing should be identical for transcripts in paper form and electronic form, and has modified the text of proposed (b)(5)(C) to clarify that it does not create a new requirement for separate indexes for witness testimony and exhibits. The other requirements regarding indexes in (b)(5) are unchanged from the current rule, with the addition</p>

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			<p>identical, especially since reporters are having to print transcripts that are currently being filed electronically on appeal to the appellate lawyers.</p> <p>Also, CCRA recommends that the last phrase of proposed subdivision (c)(2)(A) be modified to read, (A) Each individual reporter must include the cover page required by (a)(5), the indexes required by (a)(4), and an electronically signed certificate in their respective portion of the transcript.” This change is necessary because in those instances in which several reporters contribute to a transcript, each will sign a certificate as to his or her portion. The proposed rule establishes the practice as to each reporter’s portion of the entire transcript. We also suggest adding a section (D) “The primary reporter must digitally sign the single electronic document.” CCRA believes that the above changes are necessary for clarity to the reporters preparing the electronic transcripts. The need to have digital and electronic signatures separate is the fact that once a transcript is digitally signed it cannot have any changes made to it, such as merging volumes together to make one electronic document, making a master index from all volumes. Each reporter still needs to electronically sign their respective certificate page in their transcript.</p> <p>In reference to (c)(1)(A) regarding scanned documents, CCRA would suggest an additional sentence such as “except as ordered by the</p>	<p>of a requirement that each index must begin on a separate page.</p> <p>The committee appreciates the commenter’s input on this question. At this time, the committee has decided to require both digital and electronic signatures, unless the court reporter lacks the technical ability to provide the latter. The committee will reconsider this in the future if the needs of courts, litigants, and court reporters change.</p>

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			<p>court.” There are certain instances (death of a reporter, computer crashes) where a scanned copy of a previously prepared transcript is the only way to add it to an appeal.</p> <p>Thank you for the opportunity to offer these suggestions. CCRA remains available to lend its technical experience as the proposed rule takes final form.</p>	<p>The committee agrees and has made this change.</p>
4.	<p>Court Reporter's Office, Superior Court of Orange County By Sean E. Lillywhite</p>	A	<p>The Court Reporters Office in Orange County recommends the committee consider requiring only one signature type, not both; and recommends the rule require an electronic signature.</p> <p>This court is not currently e-filing court reporter transcripts. However, this court recently launched a pilot project for e-filing of court reporter transcripts on civil and probate appeals with the DCA. Adding an e-signature component and formatting requirements would not appreciably increase cost or implementation.</p> <p>Since our court is not currently e-filing court reporter transcripts, we will have sufficient time to work the new requirements into our implementation.</p>	<p>The committee thanks the commenter for its feedback on the questions asked in the invitation to comment. Based on this and other comments, the committee has modified the proposal to require both an electronic and a digital signature unless the court reporter lacks the technical ability to provide the latter.</p>
5.	<p>Albert De La Isla Principal Administrative Analyst IMPACT Team – Criminal Operations Superior Court of Orange County</p>	NI	<p>The amendment has to do with addressing specific requirements when a court reporter’s transcript is delivered in electronic form. The proposed amendment to the rule would make the formatting requirements easier to follow.</p>	<p>The committee thanks the commenter for responding to the specific questions raised in the invitation to comment and for the input on how implementing the rule amendments would impact the court.</p>

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			<p>This would have more impact to CRIS than Operations. I believe CRIS is at the moment still preparing hard copy transcripts for Criminal Appeals but there have been recent talks about changing this as they have already implemented electronic transcripts with Civil.</p> <p>If electronic transcripts are implemented in felony appeals, then the Felony Appellate procedures would have to be modified and an interface developed to be able to receive electronically and file stamp electronically.</p> <p><i>What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</i></p> <p>Response: Minimal if we are just receiving the document electronically by an electronic means. However, if we choose to build an interface so that they are loaded in the CMS and electronically filed stamped, the requirements are unknown.</p> <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i></p> <p>Response: Operationally, yes if we do not build an interface.</p>	
6.	Jennifer Hicks	NI	In response to the suggested proposal, a	The committee thanks the commenter for

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	Commentator	Position	Comment	DRAFT Committee Response
			<p>majority of court reporters, at the present moment, are capable of providing full text-searchable PDF (portable document format) at no additional cost to the court or to the court reporter. What hinders the court reporters from going forward in providing such productivity is the following:</p> <p>1. Bookmarking and hyperlinks EXPLANATION: Bookmarking and hyperlinks – The proposed code section obligates the reporter to interpret or assume what the court or end user wants by bookmarking and attaching hyperlinks. The Court Reporter’s position is to preserve the integrity of the record. By a Court Reporter taking on the role and deciding what should be hyperlinked or bookmarked for the end user assumes or could be perceived as being biased. Though it may seem minute of a task to do, it is disingenuous in asking the reporter to produce said product to prevent the Court Reporter from being in violation with the Court Reporters Board’s Tenet of Ethics and/or Professional Conduct.</p> <p>In regards to exhibits being hyperlinked, this would be a very tedious task. There are some cases where counsel and the court make a clean record of marking and receiving exhibits. But there are more times, than not, that exhibits are marked and never used; they are marked in one section and then used several days later; they are misidentified, relabeled, portions redacted,</p>	<p>providing input on this proposal.</p> <p>To avoid any confusion about whether the proposed language of subdivision (d)(1)(D) requires the court reporter to interpret or make assumptions about what bookmarks should be included, the committee has modified the text of the proposed rule to eliminate any implication that the list of items to be bookmarked is non-exclusive and subject to interpretation. In addition, the language of this subdivision has been modified to mirror that of subdivision (b)(5), the index requirements for witness examinations and exhibits. These requirements already exist in the rule, and court reporters are already required to include these items in an index.</p> <p>The committee has deleted the requirement for hyperlinks.</p>

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			<p>and so on, to have to go through and hyperlink all these areas is difficult. This, again, requires the reporter to interpret what the court and counsel's intentions are or were during the proceedings which violates the neutrality of the Court Reporter's position.</p> <p>Preparing any type of transcript, whether it's lengthy or short, is time consuming and oftentimes is filed on the due date, depending on a reporter's workload. Requiring a reporter to now bookmark and hyperlink a transcript, especially with the above-mentioned scenario, is quite cumbersome that reporters will not be able to meet their deadlines and file for extensions which would prolong the appeal process. This is not only a detriment to the reporter, because it's frowned upon, but also to the court.</p> <p>The Court Reporters are capable of processing and accommodating the following procedure as proposed but request clarification.</p> <ol style="list-style-type: none"> 1. Conflicting codes. 2. To volume or not to volume 3. Block numbering/larger pagination 4. Cost <ol style="list-style-type: none"> a. Digital signature/electronic signature b. program <p>EXPLANATION: When the reporter is mandated or ordered to prepare a transcript he/she would follow several codes which work together to come up with the end result of a transcript. By changing only one</p>	<p>It is the committee's understanding that currently available software facilitates the process. As these new requirements are adopted, the committee anticipates that any court-reporting software that does not currently include this functionality will likely be updated to make bookmarking easier.</p>

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			<p>of the codes, the reporter falls in detriment of not following codes properly because the reporter will have mixed information in the process of preparing a transcript which would result in a transcript that's useless to the end user.</p> <p>1. Conflicting Code(s) - An official reporter meets those obligations without ever having to interpret what the court needs are. There is a clear understanding of what is expected of an official reporter. By implementing the suggested code section would counter existing rules and codes that reporters follow in preparing transcripts that indicate the term "Paper" or "Printed Copy." Further inquiry with the Court Reporters Board and legislation need to be made to ensure all existing rules be changed so there is a consistency and that there is no confusion amongst the reporters as to which rule they must follow and will the rules coincide with one another as intended. i.e. 69950(a), 271(a) and (b), CCP 2025, 8.130(f)4) and Government Code 69954(b). If Section 8.144 is allowed to be changed as proposed, a Court Reporter could be in violation of the above code sections and putting their license in jeopardy.</p> <p>2. To Volume or not to volume – The language on this particular procedure needs to be clarified or redefined. Due to one's own</p>	<p>The committee appreciates the commenter's raising this issue and citing specific rules and statutes that pertain to court reporters and reporters' transcripts.</p> <p>CCP section 271 has just been revised to provide that the default format for reporters' transcripts is electronic form, with specified exceptions. The proposed rule amendments are intended to implement this legislation. Subdivision (d) of section 271 expressly states that nothing in the section is intended to change any requirement set forth in sections 69950 or 69954 of the Government Code, regardless of whether a transcript is delivered in electronic or paper form. Code of Civil Procedure sections 2025.510-2025.570 regarding transcripts or recordings of oral depositions, are not inconsistent with rule 8.144. Several rules that are inconsistent with newly amended CCP section 271, use language from the old version of CCP section 271, or contain cross-references to rule 8.144 will be amended.</p> <p>The provision specifying volumes of no more than 300 sheets has been moved from the subdivision regarding requirements for the record in paper</p>

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			<p>interpretation this may not be seen as intended and there could be some confusion.</p> <p>Under the new subsection (a)(5) Cover, (A) “Each volume’s cover,” originally under this section “Binding” it defined what a volume consisted of, 300 pages. (We are assuming this remains the same.) But the suggested proposal’s language has been stricken and there is no definition of what a volume consist of for electronic format. A volume is defined as 300 pages only if the transcript remains in paper form. We cannot assume that is what is wanted for electronic format.</p> <p>The rule needs to specify that volumes will continue to consist of 300 pages and will be merged together as a whole (1 file) upon submission.</p> <p>3. Block numbering/larger pagination – Is or could this section be optional? Some court reporters stride to paginate their pages (transcripts) consecutively so it’s one smooth flowing transcript. Easy for the end user. If it’s wished that the reporters use block numbering, this would create large page numbering and more volumes than if the pages of the transcript were done consecutively. For the end user it may feel choppy rather than flowing like a book.</p> <p>This procedure is more of a detriment to the primary reporters because they are focusing their attention on coordinating and setting block</p>	<p>form to the subdivision regarding general requirements that apply to both paper and electronic forms of the transcripts.</p> <p>The rule contains pre-existing requirements for block numbering in multiple reporter cases. The only change to the existing requirements is moving the hyphenated page number (hyphen added to the last number used, followed by the segment’s assigned ending page number) to the certificate page to accommodate computer aided transcription software. Any modification to make block numbering optional would be a substantive change that would need to circulate for public comment. The committee will retain this suggestion for future consideration.</p>

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			<p>numbers rather than directing their attention to preparing the transcript at hand or other obligations they may have.</p> <p>Where on the other hand, if paginated consecutively, the primary reporter will be notified as each reporter finishes their portion and provide a page number to the next court reporter in the segment and collaborates indexes instead of multiple pages of witness lists and exhibit pages.</p> <p>When block numbering is utilized there will be occasions when blurbs are used because all designated pages were not filled with text. When the transcript is uploaded into a program, any program, the pagination will not correspond respectively because it cannot read that “Pages 485-600 were intentionally left blank.” This will violate the proposed language under (c)(1)(C) indicating, “The electronic page counter in a PDF file viewer must match the transcript page numbering.”</p> <p>The end result is that the transcript is assembled in a book-style format so the end user is able to navigate throughout the pages with ease.</p> <p>4. Cost</p> <p>a. Digital signature/electronic signature – It is preferred to have a digital signature. There is an ongoing cost to the Court Reporter, during the reporter’s career as well as in their retirement to continue to meet their obligations.</p> <p>b. Program – As indicated, the</p>	<p>The committee recognizes this issue, and has added language to the rule, following the rule number and title, to make explicit that the provisions of the rule will be applied in a manner consistent with CCP section 271. This includes the five-year grace period for non-compliance due to technical limitations.</p> <p>As described above, the committee has decided to require both electronic and digital signatures unless the court reporter lacks the technical ability to provide the latter.</p> <p>These rule amendments are intended to implement</p>

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			<p>introduction of these rules were suggested by a reporter's association who endorses a program that will provide all the suggested changes in 8.144. Regardless if that specific plan is used or not, there is a cost to the reporter to use a program to meet the need of bookmarking and hyperlinking should that language remain in. JCC is informed it's at no cost to them or the courts because the burden is on the court reporters.</p> <p>If this rule is implemented, it will force reporters to use a program to meet the guidelines, not only during their career, but also for ten years after they retire. Without going into details, this is a detriment to the reporters financially during their career as well as into retirement.</p> <p>Court Reporters can produce and accommodate the transcripts right now -- at no cost to the court and no additional cost to the court reporter -- by uploading the transcripts in PDF format. With the elimination of bookmarking and hyperlinking requirements and with making all court reporter codes consistent with computer-readable format language, this will eliminate the court reporter interpreting what the end user wants and protect the court reporter from violating codes and Tenets of Ethics and focus on preserving the integrity of the record.</p> <p>Specific comments: Implementation requirements for the court:</p>	<p>the recent statutory amendments to CCP section 271. The statute provides a grace period for court reporters in light of potential costs. The committee is mindful that there may be costs to upgrade equipment or software, but this is necessary to maximize the capabilities of the electronic format. The legislation specifically provides that reporters shall not be required to use a specific vendor, technology, or software to comply with the statute.</p> <p>The committee appreciates this input on</p>

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			<p>Training and preparation will be needed to ensure staff understands the protocol thoroughly, i.e., uploading, processing, digitally file stamping, notifying parties. This applies to both the clerks and the reporters.</p> <p>From the reporter's standpoint, not all reporters are tech savvy, and so this might be challenging for some. This will be another task that the court reporter supervisor/manager will have to monitor to ensure no delays in the process.</p> <p>It's foreseen that the transcripts will have more typographical errors and/or format errors on them because those are usually caught when the court reporter prints out the final copies to submit. Some even rely on their supervisor to catch the errors during processing of the transcript. That process will be eliminated.</p>	<p>implementation requirements for the court and agrees that training and preparation will be required.</p> <p>If transcripts contain more errors, proofreading training should be pursued.</p>
7.	Jeannette Jessup Official Reporter Monterey, CA	N	<p>We are a very small county and do not use lead reporters. Some of our software also does not have the ability to bookmark.</p> <p>So the change for bookmarking by a lead reporter and merging all volumes in one document will be difficult if not impossible.</p>	<p>The committee appreciates the commenter's input. The separate requirements at subdivision (d)(2)(B) and (C) for merging volumes and different indexes for transcripts in electronic format have been deleted. The existing requirements for preparing indexes now in 8.144(b) are retained and will apply to reporters' transcripts in both electronic and paper format [see proposed 8.144(b)(5) in the amended rule].</p> <p>Upgrading equipment and software to comply with the rule's requirements may include costs, but CCP section 271 includes a grace period until January 1, 2023.</p>

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8.	Orange County Bar Association By Michael L. Baroni	A	No specific comment	The committee appreciates the comment and notes the support for the proposal.
9.	Service Employees International Union by Kimberly Rosenberger California Labor Federation by Caitlin Vega IFPTE 21 by Shane Gusman Laborers International Union of North America, by Liberty Sanchez America, Locals 777 & 792 Orange County Employees Association by Patrick Moran American Federation of State County and Municipal Employees by Joshua Golka	N	<p>We the undersigned organizations representing trial court employees write in opposition to the proposed amendment to the California Rules of Court, rule 8.144.</p> <p>We strongly urge the Appellate Advisory Committee to abandon proposals to change the rule of court, as they are too restrictive, inhibit technological advancements, and impose an unfair and expensive burden on court reporters. The majority of Computer-Aided Transcription (CAT) software is unable to comply with the requirements proposed, specifically the proposals found in sections (c)(1)(C), (c)(1)(D), (2)(B) and (2)(C).</p> <p>The transition to modern technology has been costly and often unsuccessful in the public sector and especially in the judicial branch. However, the most successful use of technology in the judicial branch has been that of the court reporters. Advancements have allowed for real time captioning, electronic transcripts, and so much more. This is directly due to the reporters being the owners, as well as the operators of the technology they use. The proposed amendments to the rule of court take away that autonomy and monopolize the CAT software field. The proposed rules impose requirements that only one vendor at this time provides.</p>	<p>The committee thanks the commenters and notes their opposition to the proposal.</p> <p>The proposed rule amendments are intended to implement the recent amendments to CCP section 271 which generally provide for delivery of reporters' transcripts in electronic form in compliance with the Rules of Court. The committee is mindful that there may be costs to upgrade equipment or software, but this is necessary to maximize the capabilities of the electronic format for courts and attorneys. The statute provides a grace period for court reporters until January 1, 2023. The committee expects that, during the grace period, there will be advances in the software and equipment used to produce electronic transcripts in order to meet the rule requirements. Moreover, the legislation specifically provides that reporters shall not be required to use a specific vendor, technology, or software to comply with the statute.</p>

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			<p>Court reporters are in a unique position where they not only are the target demographic for use of the technology, but they are also the customer. This has given the reporters purchasing power that has allowed them to directly influence the field. Court reporters have continued to evolve in the technology they use, investing in CAT software that improves the access and availability to transcripts for the courts and the public. This technology comes directly out of the pocket of the reporters, despite their rates having stagnated for over a quarter of a century.</p> <p>Additionally, section 2(B) requires multiple volumes to be merged into a single electronic document. Currently this is performed by court clerks in the Internal Appeals Division and accounts for a large bulk of their work. The division is responsible for collecting transcripts, tracking deadlines, and merging the total document as one unit for the Court of Appeals. To shift this work entirely on to court reporters is problematic for a number of reasons. The additional workload proposed not only creates an untenable amount of work for the reporter, but it would also result in a merging of job classifications without meeting or notifying the unions that represent these workers. Furthermore, it greatly increases the workload of reporters without any compensation. This proposal will likely result in increased backlog and delayed access to justice, as the deadlines will remain the same despite requiring new</p>	<p>The requirement that multi-volume or multi-reporter transcripts must be merged into a single electronic document has been deleted.</p>

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			<p>technology and new duties.</p> <p>The proposed rules place a costly onus on court reporters and also create a monopoly in the industry that discourages innovation and competition. Court reporters are supportive of efforts to shift to electronic transcripts, despite the cost and additional work placed on them. However, the proposed changes approach evolving technology in the wrong way. We oppose the proposed Rule of Courts changes, and instead urge the committee to consider language that allows for the advancement of technology rather than burdensome limitations.</p>	
10.	Superior Court of Los Angeles County	AM	<p>Suggested modification: Rule 8.144 (c) (1) (E) - It would not be necessary to have both an electronic and digital signature on electronically transmitted transcripts. Once the mechanism is in place, digital signatures are fairly easy to handle or maintain. The court's concern would be validity and authentication. If the transcripts are submitted via an electronic portal or by email, there is a high certainty that it actually came from the court reporter. Electronic signature would be easier and cheaper.</p> <p><i>What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case</i></p>	<p>The committee thanks the commenter and notes its support for the proposal if modified. Based on this and other comments, the committee has modified the proposal to require both an electronic and a digital signature unless the court reporter lacks the technical ability to provide the latter.</p>

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			<p><i>management systems?</i></p> <ul style="list-style-type: none"> • Staff training and communication <ul style="list-style-type: none"> ○ Transcript Auditors (6) 4-6 hours ○ Court Reporters (450+) 4 hours • Update Court Reporter Manual 16 hours • Update Court website information re transcript formatting, including examples 16 hours <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes, three months is sufficient for implementation.</p>	<p>The committee appreciates these responses to the questions presented in the invitation to comment.</p> <p>No response required.</p>
11.	Superior Court of Riverside County By Susan D. Ryan	AM	<p>Only copies can be in electronic format. At this time, the original must be a hard copy. Recommend the following additions: Page 6 line 10. (c) Add the words “copies of the” after the word for. (c) Additional requirements for copies of the reporter’s transcript delivered in electronic form Page 7 line 3 under the heading (2) Multivolume or multi-reporter transcripts In addition to the requirements in (1), copies of multivolume or multi-reporter transcripts delivered in electronic format must comply with the following requirements:</p>	<p>The committee thanks the commenter for this input and notes the agreement with the proposal if modified. Recent amendments to CCP section 271 include removing the requirement that the original reporter’s transcript be on paper and providing instead that, except as specified, an electronic transcript is deemed to be an original transcript. In light of these amendments to CCP section 271, the committee declines to make the suggested changes.</p>
12.	Superior Court of San Diego County By Mike Roddy	A	<p><i>In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the whether it is necessary for the rule to require the court reporter to both</i></p>	<p>The committee appreciates the responses to its questions and notes the commenter’s agreement with the proposal.</p>

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			<p><i>digitally and electronically sign a transcript that is delivered in electronic form? If only one requirement were included, which would be preferable?</i> No comment.</p> <p><i>What would the implementation requirements be for courts?</i> No impact on appeals clerks.</p> <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes, as far as appeals clerks are concerned.</p>	
13.	Superior Court of Ventura County by Nan L Richardson	AM	<p>Digital vs. Electronic signature:</p> <ul style="list-style-type: none"> • Electronic – indicates a person’s intent to sign a record and is legally binding • Digital – encrypts a data associated with a document. Does not legally bind a signature to a document <p>Preference: All reporter transcripts be electronically signed</p> <p>Implementation:</p> <ul style="list-style-type: none"> • Training official court reporters – 3 to 4 hours per official reporter; 2 hours per contract reporter <p>Three months for implementation sufficient?</p> <ul style="list-style-type: none"> • Six months preferred 	<p>The committee thanks the commenter for the responses to questions asked in the invitation to comment, and notes the commenter’s agreement with the proposal if modified.</p> <p>Based on this and other comments, the committee has modified the proposal to require both an electronic and a digital signature unless the court reporter lacks the technical ability to provide the latter.</p> <p>The committee appreciates this feedback.</p> <p>The amendments to CPP section 271 take effect on January 1, 2018. Thus, the amendments to rule 8.144, which implement these changes, must also be effective as of January 1, 2018.</p>

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			<p>Title 8. Appellate Rules: Rule 8.144. Form of the Record</p> <p>(c)(1)(A) “Be generated electronically; it must not be created from a scanned document.”</p> <ul style="list-style-type: none"> • Court reporters may need to scan a transcript if the paper transcript is available and has been previously prepared, but the electronic transcript is no longer available due to reporter unavailability or technological issues that prevent access to the electronic transcript <ul style="list-style-type: none"> ○ Suggested change: “Be generated electronically; it may be scanned if electronic generation unavailable.” • (2)(A) “Each individual reporter must include the cover page required by (a)(3)” ... should read (a)(5) 	<p>The committee agrees and has added an exception if ordered by the court. See response to California Court Reporters Association (CCRA), above.</p> <p>The committee thanks the commenter for pointing out this typographical error. It has been corrected.</p>