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The Hidden Lives of Court Reporters

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Popular television series have portrayed the courtroom as a theatrical setting in which attorneys feud, witnesses make compelling confessions on stand, and judges bang their gavel to restore order. While these actions are part of some trials, there remains a silent, but important character in the courtroom: the court reporter. Court reporters rarely have a major impact in television dramas, and the camera will pan past this person from the judge to the witness, then possibly to the jury, treating this character with the indifference of furniture.

Court reporters diligently record all that is spoken, preserving every word uttered, yelled, or whispered. Court reporters are depicted in the media as silent actors who remain emotionless and distant from the tense environment. Many individuals involved with the legal system see a somewhat different picture of the roles of court reporters.

We reviewed the scant literature and in a preliminary inquiry interviewed two court reporters about their personal experiences, as well as talked with attorneys who have worked alongside court reporters. The court reporters were asked open-ended questions about personal experiences regarding their work

and attitudes towards their role. Similarly, the attorneys were asked about their experiences with working with court reporters, to allow a wide breadth of responses.

Court reporters undergo two years of training before they are licensed and able to practice. They also have their own professional society (National Court Reporter Association^[1]), and a journal that publishes articles on impartiality, technical issues related to court reporting, and employment advice. Court reporters work in settings inside and outside the courtroom. Thus, there is the potential for court reporters to form different kinds of working relationships with attorneys and judges. For example, some court reporters are independently contracted to transcribe depositions, motion hearings, and witness interviews. In these situations, the reporter may be hired for a series of events in the same case or may be retained for a single occurrence. Other court reporters are employed exclusively by the court, work for a specific judge, and only transcribe for criminal trials or only for civil cases. Still other court reporters may work in a specific courthouse, for a number of judges, transcribing for both criminal and civil trials.

In the federal system, each federal court has general responsibility to administer court reporting duties^[2]. More specifically, the Court Reporters Act provides the statutory authority outlining the duties of federal official court reporters (28 U.S.C. § 753). The Court Reporters Act requires that every session of a federal court be recorded verbatim by a court reporter if an electronic sound recording or mechanical recording is not utilized (28 U.S.C. § 753(b)). Many states have similar court reporter acts. For example, the States of Illinois and Washington have both enacted legislation that outlines the duties of court reporters in state level proceedings^[3]. These acts provide a similar statutory framework to the Court Reporters Act guiding the court reporting practice at the state level.

Little is known about court reporters and their emotional involvement with cases. Because court reporters sometimes work closely with one judge, they also may encounter the same attorneys on a regular basis. This is especially true in jurisdictions with a small number of criminal prosecutors, civil trial attorneys, and defense attorneys. As a result of these ongoing engagements, court reporters tend to create allegiances with certain legal decision makers. These allegiances can lead to special treatment of the transcriptions of various courtroom participants. Reciprocity in ongoing relationships between court reporters and lawyers was described by interviewed attorneys. One attorney observed that attorneys frequently ask court reporters for their opinions on juror perceptions as well as their opinions on the likely outcome of the trials.

In one study, twenty reporting firms were contacted via telephone in the Washington Metropolitan Area and approximately 100 court reporters participated. The second survey was nationwide and participants were contacted through the mail. The court reporters admitted to polishing judges' and lawyers' grammatical usage approximately 82% of the time. In contrast, expert witnesses' grammar was usually corrected 36% of the time and lay witnesses' grammar was corrected 18% of the time (Walker, 1990). Court reporters have a tendency to refrain from doctoring the testimony of sworn speakers because it is considered primary evidence (Walker, 1990). The difference between prevalence of the editing of expert witness versus lay witness transcriptions supports this position. Lay witness are usually called to provide first hand knowledge related to some aspect of the case. Expert witnesses are predominantly called for opinion testimony. The National Shorthand Reporters Association (NSRA) suggests that because judges are associated with education and culture, it is unfair to include crude speech. Therefore, court reporters are advised to protect this positive appearance by polishing the language of judges (Budlong, 1983; Walker, 1990).

In addition to polishing transcripts, in the Walker study court reporters admitted to being emotionally affected by certain cases. We were interested in understanding how court reporters perceived their profession, their level of emotional attachment, and their ability to remain impartial when transcribing cases. In this pilot work, we asked 2 court reporters four questions:

1. Are you emotionally affected by some cases?
2. Do you believe this emotional response affects your ability to transcribe cases?
3. What parts of your job are stressful?
4. What do you think is important for researchers to ask court reporters?

The court reporters interviewed by one of the authors (CEM) varied in the settings they worked and the types and number of clients they assisted. One respondent was an official court reporter working for a single judge specializing in criminal cases. She was also an officer in the Court Reporter's state organization. The interview was informal, and the questions were open-ended. The interview took place for approximately two hours.

To assess whether or not the court reporter was affected emotionally by certain cases, she was asked if it was a problem to listen to trials involving victimization. The court reporter replied that it was difficult to listen to cases involving childhood sexual abuse. She stated that it was particularly stressful to watch children testify in front of their abusers. She felt a desire to help the child but recognized her profession did not provide her with a proper outlet to do so.

She said that these types of cases are difficult for many court reporters, especially reporters who have been personally victimized. She stated that cases involving robberies might trigger an emotional response for court reporters who had been involved in similar events. This court reporter also shared with us published research related to vicarious trauma in legal professionals. Her notes in the margins of the article indicated that the portrayal of court reporters as detached conduits of words is inaccurate.

We found indications that the personal relationships of the court reporters outside their professional lives shaped their experience. For example, when probed about what future questions would be helpful to our inquiries, the first court reporter mentioned asking other court reporters about their spouses' occupations. She also provided us with a list of questions that she believed we should ask future court reporters. They were inquiries into whether the person was an official versus freelance court reporter, commute time, amount of time spent in courtroom, estimate of the number of cases reported/transcribed, civil vs. criminal cases, and how many hours of additional work were required outside the office. When we further questioned this reporter on why she believed it was important to ask about the spouse's occupation, she said her husband was a police officer and that it was beneficial that he appreciated the nature of her work, as well as good for their relationship, that both of them understood legal jargon and had an interest in criminal cases.

We interviewed a second court reporter who independently

contracts and transcribes for depositions in civil and criminal cases. She reported that being interested in the details of a case could affect her work. In order to avoid being distracted by the subject matter of the case, she explained that she does not listen for content. If she did, she said she would lose her place while transcribing. When not distracted by the details, she said she could not repeat back what occurred in many of the cases because she was focusing on recording the case. However, she described a divorce proceeding that she transcribed in a small town where everyone knew one another. At one point in this trial, a witness admitted that she had an affair with the defendant and began to cry. During this heightened emotional display in the courtroom, the court reporter paid more attention to the details of the testimony, and lost track of her task while transcribing the statement.

Both of the interviewed court reporters stressed the importance of familial support in coping with the stress in their profession. Each of their spouses supported their work in various ways, which enabled them to better handle the stress. For example, one court reporter's husband often drove her to trials some hours away. She said he drove her so she could complete work from other cases while on route.

When asked about the stresses associated with her profession, this court reporter described a case in which the attorneys requested expedited transcripts. She had asked the attorneys

several times if they were certain that they wanted expedited transcripts because they would cost more. The attorneys assured her that they did. In order to accommodate them, the court reporter missed spending time with her family over the Thanksgiving holiday to prepare these transcripts expeditiously. However, the attorneys later decided that they no longer needed expedited transcripts. Adding to the frustration of the wasted effort, the court reporter did not receive the expected compensation for her efforts when the attorneys no longer needed the product. She explained that this was frustrating but part of the job.

Throughout these two interviews, the interviewed court reporters said that they were at times emotionally affected by cases. However, they were enthusiastic about their work and confident in their ability to produce verbatim transcripts. In these interviews, although court reporters are emotionally affected by cases and their relationships with other legal decision makers, they retain a strong commitment to their field and maintaining impartiality. Future research might benefit court reporters by allowing them to implement practices in their training that would help them cope with emotional cases. Furthermore, additional research would also allow attorneys and the judiciary to understand better the stresses of many legal proceedings experienced by these important parties. Court reporters may be often overlooked but substantial research may shed new light on the inner thoughts and emotions of the court reporter. ●

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[1] <http://www.ncra.org/index.cfm>. Retrieved May 18, 2016.

[2] Guide to Judiciary Policy, Vol. 6: Court Reporting, Ch.1: Overview § 110 Overview, *Last revised (Transmittal 06-009) February 18, 2015* available at www.uscourts.gov/file/guidevol06pdf

[3] 705 ILCS 75, Court Reporter Transcript Act; Chapter 18.145 RCW, Court Reporting Practice Act