

# **BACKGROUND PAPER FOR The Court Reporters Board**

**Joint Sunset Review Oversight Hearing, March 12, 2024  
Assembly Committee on Business and Professions and the  
Senate Committee on Business, Professions, and Economic Development**

## **IDENTIFIED ISSUES, BACKGROUND, AND RECOMMENDATIONS**

### **BRIEF OVERVIEW OF THE COURT REPORTERS BOARD**

The Court Reporters Board of California (CRB or Board) is the state entity responsible for licensing and regulating shorthand reporting professionals in the state. The practice of shorthand reporting consists of making a verbatim record of a court hearing, deposition, or other litigation-related proceeding where an accurate transcript is essential. Traditional stenographic shorthand reporting is performed by composing written symbols or abbreviations in shorthand or machine writing; however, the practice has recently been expanded to include voice writing, wherein the verbatim record is created through use of a closed microphone voice dictation silencer, steno mask, or similar device using oral shorthand and voice notes. The CRB also approves court reporting schools and oversees the Transcript Reimbursement Fund (TRF).

Licensees of the CRB are referred to as “certified shorthand reporters,” or CSRs. As of December 2023, approximately 4,752 CSRs hold an active certificate from the Board. This number has steadily decreased in recent years; the number of active CSRs has dropped more than 19 percent since the CRB’s last sunset review. Meanwhile the number of CSRs identified as practicing outside of California has steadily grown, with an increase of more than 22 percent over the past four years. This shift has coincided with a debate over the role of out-of-state corporations that offer reporting services in California, with 213 firms registered with the CRB since its registration program was implemented in mid-2023.

While statistics indicate that the shorthand reporting profession is declining in terms of the number of certificate holders, its importance remains vital. The creation and preservation of an accurate record is considered essential to the principles of justice and fairness in the judicial system. Shorthand reporters working as official reporters in a courtroom are officers of the court and the transcripts they are trusted to impartially and accurately produce are foundational to the right of appeal. Freelance reporters, who typically provide services in other litigation-related proceedings such as depositions, are equally important, particularly when recording statements given under penalty of perjury.

Discussions about the future of the shorthand reporting profession remain ongoing. As concerns grow about the capacity of a dwindling workforce to meet the requirements of the judicial system, new technologies and business models will continue to be considered as solutions. However, any proposal must preserve the CRB’s dual priorities: “protection of the public” and “protection of all litigants whose rights to personal freedom and property are affected by the competency of shorthand reporter.”

## History of Shorthand Reporting Regulation in California

It has been suggested that the earliest history of shorthand reporting could be traced back to Ancient Rome, when Marcus Tullius Tiro invented a form of shorthand using thousands of symbols known as Tironian notes—some of which are still used by stenographers today. English physician Timothie Bright would later invent what has been called modern shorthand in the 1500s, followed by the introduction of numerous other systems over the next several hundred years. By the twentieth century, the invention of stenotype machines transformed shorthand reporting into primarily a machine-based profession, with persistent technological advancement leading to the modern day.<sup>1</sup>

The earliest forebear to the CRB was created in 1951 as the State Board of Examiners of Shorthand Reporters, which was established as a five-member entity within the Department of Professional and Vocational Standards (precursor to the Department of Consumer Affairs, or DCA). Senate Bill 783 was authored by Senator Earl Desmond, Chair of the Senate Committee on Business and Professions, along with other coauthors including the Chair of the Senate Committee on the Judiciary, Senator Jack Tenney.<sup>2</sup> The stated purpose of Senate Bill 783 was “to encourage proficiency in the practice of shorthand reporting as a profession; to promote efficiency in court and general reporting; and to extend to the courts and to the public the protection afforded by a standardized profession by establishing a standard of competency for those engaged in it.”<sup>3</sup> The provisions of Senate Bill 783 were subsequently codified in 1953 through Senate Bill 552 (Desmond),<sup>4</sup> and the Board’s name was soon changed to the Certified Shorthand Reporters Board.<sup>5</sup>

Prior to the creation of the Board, the Government Code provided that “no person shall be appointed to the position of official reporter of any court unless there is satisfactory evidence of his good moral character, and unless he has been first examined as to his competency by at least three members of the bar practicing in the court and designated by the judge or judges of the court.” Senate Bill 783 established a uniform mechanism of confirming the competence of a reporter, and provided that “no person shall practice the art of shorthand reporting ... unless such person be the holder of a certificate in full force and effect from the board.” However, two exemptions were included. First, Senate Bill 783 exempted public employees working as hearing reporters for a district attorney or any state department or agency. This exemption would later be narrowed to only hearing reporters employed by the state.<sup>6</sup>

Second, the bill included the following significant exemption: “Nothing in this act shall be construed to prohibit the employment of any person not holding a certificate until a certified shorthand reporter is available.” This second exemption broadly allowed courts to utilize the services of any person they considered sufficiently competent to serve as official reporter, regardless of whether they held a certificate from the Board, if they determined that a CSR was not readily available. In 1961, Assembly Bill 2420 (Sumner) was enacted to clarify in the Government Code that to be an official reporter of any court, an individual must either be examined by three designated attorneys *or* hold a certificate as a shorthand reporter from the Board.<sup>7</sup>

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<sup>1</sup> McCay, Kelly Minot. “All the World Writes Short Hand: The Phenomenon of Shorthand in Seventeenth-Century England.” *Book History* 24, 2021.

<sup>2</sup> Senator Tenney’s first wife, whom he abandoned in 1920 to become a musician and bandleader, was a stenographer.

<sup>3</sup> Chapter 1679, Statutes of 1951.

<sup>4</sup> Chapter 191, Statutes of 1953.

<sup>5</sup> Chapter 453, Statutes of 1955.

<sup>6</sup> Chapter 983, Statutes of 1999.

<sup>7</sup> Chapter 2062, Statutes of 1961.

The courts' putatively limited authority to use noncertified reporters was presumably provided by SB 783 in consideration of the fact that the Board was newly established and that a significant population of certificate holders would likely not be immediately available throughout the state. However, the exemption remained in statute until the early 1980s, decades after the Board was established. Senate Bill 1699 (Petrus), signed into law in 1982, enacted various reforms to the Board and removed the exemption for the courts to employ a noncertified shorthand reporter when a CSR is deemed unavailable, effective February 1, 1984. The bill provided that noncertified persons employed as hearing officers prior to January 1, 1983 would remain exempted.<sup>8</sup> Subsequent legislation would update the Government Code to reflect the requirement that all official court reporters must hold a license from the Board.<sup>9</sup>

Numerous other legislative measures have been proposed and considered over the years since the Board was established. One significant measure was Assembly Bill 1017 (Alatorre), which was enacted in 1980 to require the Board to establish a Transcript Reimbursement Fund (TRF) for the purpose of reimbursing indigent and low-income persons for shorthand reporter transcript costs. In doing so, the bill expanded the Board's mission to include "extend[ing] court and general reporting services to the public otherwise unable to afford such services."<sup>10</sup> This legislation was part of a compromise with freelance reporters, whose chargeable rates would no longer be prescribed in statute. Fees collected by the Board from certificate holders continue to be the dedicated, though arguably at times unreliable, source of funds for the state's transcript reimbursement program. This program was expanded in 2011 to additionally allow pro se litigants to apply for transcript reimbursement.<sup>11</sup>

One long debated issue is the role of the Board in overseeing corporations engaged in providing shorthand reporting services. In 1972, Assembly Bill 970 (Foran) was enacted to allow for corporations to practice shorthand reporting. This bill authorized the Board to issue a certificate of registration to a corporation pursuant to the Moscone-Knox Professional Corporation Act upon satisfactory completion of various requirements, including the reporting of information to the Board regarding its officers and employees.<sup>12</sup> However, this authority was repealed in 1992 by Assembly Bill 2743 (Frazee), reportedly because it was deemed duplicative of the Secretary of State's filing requirements and laws generally governing professional corporations.<sup>13</sup>

In subsequent years, a debate persisted around how the Board should oversee entities incorporated outside California that are not owned or operated by CSRs. In 2011, the CRB sought to confirm its authority to issue a citation and fine to U.S. Legal, an out-of-state firm accused of violating gift-giving provisions. In an unpublished opinion, the court ruled that even if U.S. Legal was rendering court reporting services in California and was in violation of gift-giving regulations, the CRB is not empowered to impose citations or fines against U.S. Legal because U.S. Legal was not a "professional corporation" but was instead a "foreign professional corporation." A related private attorney general suit was subsequently dismissed for lack of standing. After several years of discussion, the Legislature enacted Senate Bill 241 (Umberg) in 2021, which established a requirement that all firms seeking to provide shorthand reporting services in California, including foreign corporations, register with the Board and designate a reporter-in-charge to oversee compliance with California requirements.<sup>14</sup>

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<sup>8</sup> Chapter 1265, Statutes of 1982.

<sup>9</sup> Chapter 1316, Statutes of 2002.

<sup>10</sup> Chapter 1350, Statutes of 1980.

<sup>11</sup> Chapter 518, Statutes of 2010.

<sup>12</sup> Chapter 1306, Statutes of 1972.

<sup>13</sup> Chapter 2743, Statutes of 1992.

<sup>14</sup> Chapter 214, Statutes of 2021.

Other measures enacted in the years following the Board's establishment include additional legislation in 1972 providing the Board with the responsibility of recognizing and approving court reporting schools and programs. Subsequent legislation was enacted in 1988 to prohibit the Board from approving correspondence programs.<sup>15</sup> In 2002, this authority was expanded to include the ability to issue citations and fines to court reporting schools.<sup>16</sup>

In the early 1990s, several pieces of legislation were proposed to existentially reconsider the structure and placement of the Board. During this time, the Board had reported that its special fund was running a deficit and that a 25 percent fee increase was needed to remain solvent. Assembly Bill 585 (Knight) in 1993 proposed to abolish the Board and create instead a Shorthand Reporters Program within the DCA. In 1994, Senate Bill 2037 (McCorquodale) proposed to transfer the Board to the Judicial Council as part of the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions proposed reorganization of entities under the DCA. These bills failed to pass out of committee, as did Assembly Bill 1869 (Anderson) in 2008, which proposed to abolish the CRB along with virtually every other DCA entity.

In 1994, AB 1807 (Bronshvag) changed the Board's name to the Court Reporters Board, as it is known today.<sup>17</sup>

## **Mission Statement**

According to the CRB's most recent Strategic Plan, its mission statement is as follows:

***"To protect the public by ensuring the integrity of the judicial record and maintaining the standard of competency through oversight of the court reporting profession."***

## **Board Membership**

The CRB consists of five members. Three members are public members and two members are required to have been actively certified as CSRs for the preceding five years.<sup>18</sup> The Governor is responsible for appointing one public member as well as the two certified members; the Speaker of the Assembly and the Senate Committee on Rules each appoint one additional public member. Members of the Board may be removed from office by their appointing authority. Board members serve four-year terms and may not serve more than two consecutive terms; however, members may serve up to one additional year pending the appointment of their successor.<sup>19</sup>

All members of the Board receive customary per diem compensation.<sup>20</sup> The Board is required to elect a chair and vice chair at its first meeting of each new fiscal year. The Board is required to keep a complete record of all its proceedings and all certificates issued, renewed, or revoked, together with a detailed statement of receipts and disbursements.<sup>21</sup>

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<sup>15</sup> Chapter 1327, Statutes of 1988.

<sup>16</sup> Chapter 615, Statutes of 2001.

<sup>17</sup> Chapter 26, Statutes of 1994.

<sup>18</sup> Bus. & Prof. Code, § 8000

<sup>19</sup> Bus. & Prof. Code, § 8001

<sup>20</sup> Bus. & Prof. Code, § 8002

<sup>21</sup> Bus. & Prof. Code, § 8003

The current composition of the Board is as follows:

Name and Bio	Appointment	Expiration of Current Term	Appointing Authority
<p style="text-align: center;"><b>Denise Tugade (<i>Chair</i>)</b> <b>Public Member</b></p> <p>Ms. Tugade is a Government Relations Advocate for SEIU United Health Workers (UHW) West. She previously served as staff in the California State Assembly from 2017 to 2020, most recently as Legislative Director for California State Assemblymember Christy Smith (D-Santa Clarita). She was the Assembly Democrats Volunteer and Mail Tree Program Coordinator for the Christy Smith for State Assembly Campaign in 2018. Tugade was a Legislative Aide for Assemblymember Lorena Gonzalez (D-San Diego) and was Communications Director and a Legislative Assistant for then-California State Assemblymember Monique Limón. She was a Senior Associate, AGILE and Human Centered Designed Lead, and Social Media Manager at Cambria Solutions, Inc. from 2015 to 2017. Tugade was a District Coordinator for the Tubeho Neza (Live Well) program at DelAgua Health Ltd. Rwanda in 2014. She is a graduate of the California Asian Pacific Islander Staff Academy. She is the immediate past president of the Feminist Democrats (Fem Dems) of Sacramento, and serves on the executive boards of the Young Asian American Pacific Islander Sacramento Democrats, New Leaders Council Sacramento, and Barkada Sacramento.</p>	05/05/2021	06/01/2024	Governor
<p style="text-align: center;"><b>Robin Sunkees (<i>Vice Chair</i>)</b> <b>Professional Member</b></p> <p>Ms. Sunkees of Carlsbad is a freelance reporter focusing on pro tem work for the court. She was an official court reporter for the San Diego County Superior Court from 1991 to 2022, and an official court reporter for the Maricopa County Superior Court from 1986 to 1991. She was a court reporter for M.L. Spicer Reporting from 1985 to 1986. Ms. Sunkees is a member of the San Diego Superior Court Reporters Association, California Court Reporters Association, and the National Court Reporters Association.</p>	11/20/2019	06/01/2025	Governor
<p style="text-align: center;"><b>Laura P. Brewer</b> <b>Professional Member</b></p> <p>Ms. Brewer, of Nevada City, has been a court reporter since 1981, working as a freelance deposition reporter and a conference reporter. She has worked as a Communication Access Realtime Translation (CART) captioner and as a realtime reporter since 1992. She is a member of the National Court Reporters Association (NCRA), the Deposition Reporters Association of California, and Intersteno. She has been recognized as a Fellow of the Academy of Professional Reporters (NCRA) and holds the highest levels of certification available. She has served on committees and in other volunteer roles for all three organizations and has successfully competed in steno competitions sponsored by each association.</p>	11/20/2021	06/01/2025	Governor

<p style="text-align: center;"><b>Mike Dodge-Nam</b> <b>Public Member</b></p> <p>Mike Dodge-Nam of Los Angeles was appointed in 2023 to the Court reporters Board by the Speaker of the Assembly. Mr. Dodge-Nam currently serves as the Chief Business Officer of Roar Social. With over two decades of success, he has a track record of building and growing companies at the intersection of media and technology. Prior to Roar Social, he was Chief Operating Officer of Care Solace, where he focused on improving mental healthcare for school systems and their families. He has served in C-level roles at a wide variety of media and technology ventures and online publishing giants and has also held executive and management positions at Fortune 500 companies. He holds a BA in political science from the University of Chicago and an MBA from the Harvard Business School.</p>	06/28/2023	06/01/2027	Assembly Speaker
<p style="text-align: center;"><b>Arteen Mnayan</b> <b>Public Member</b></p> <p>Mr. Mnayan of Los Angeles is an attorney in the Land Use and Public Policy, Regulatory &amp; Political Law practice of Mayer Brown LLP's Los Angeles office. He primarily represents investors and developers in all aspects of the real estate entitlement and development process, focusing on land use entitlement matters, helping developers navigate state and local regulations and authorities, government outreach, and California Environmental Quality Act compliance. As an active member of the policy and land use community, he serves on the Los Angeles Business Council's Legislative Affairs Committee and the Valley Industry and Commerce Association's Land Use Committee and serves on the boards and committees of several non-profit organizations. During law school, he externed for the Central District of California Bankruptcy Court for the Honorable Victoria S. Kaufman. He earned his law degree from Loyola Law School, Los Angeles, and his undergraduate degree from the University of Southern California.</p>	06/14/2022	06/01/2027	Senate Rules

## Staff

Statute authorizes the CRB to appoint an Executive Officer. The CRB's current Executive Officer is Yvonne Fenner, who has served in that role since 2009 after previously working as a licensee and serving as a board member and then staff analyst. In addition to an Executive Officer, statute authorizes the CRB to employ "other employees as may be necessary, subject to civil service and other law."<sup>22</sup> As of June 1, 2023, the Board had 4.5 total authorized positions as well as one blanket position. These positions are divided between Enforcement; Licensing and Exams; and Administrative, Board and Enforcement Committee Outreach, School Compliance, and Transcript Reimbursement Fund programs.

The CRB reports that it lost its half-time analyst assigned to TRF workload during the COVID-19 pandemic. This resulted in a temporary application processing backlog. This position was subsequently increased to full-time in July of 2023, which has reduced the backlog.

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<sup>22</sup> Bus. & Prof. Code, § 8005

## Fiscal and Fund Analysis

As with other entities under the DCA, the CRB is special funded and receives the majority of its funding from fees charged to the individuals and entities it oversees. Fees are deposited into the Court Reporters' Fund. Money in that fund is available to the CRB only upon appropriation by the Legislature.<sup>23</sup> Statute generally prohibits DCA entities from having more than 24 months of funding in reserve.<sup>24</sup>

The CRB also administers the TRF. Per statute, fee revenue in excess of funds needed to support the Board's operating budget for the fiscal year are transferred to the TRF to reimburse indigent and low-income persons, as well as pro se litigants, for shorthand reporter transcript costs. When there is sufficient revenue to sustain the CRB's operations for at least six months of its operating budget, statute provides that up to \$300,000 is transferred to the TRF each year in \$100,000 increments.<sup>25</sup> While the CRB is the only dedicated revenue source for the TRF, there was a one-time transfer of \$500,000 from the General Fund to the TRF in 2021. In Fiscal Year (FY) 2022-23, 94 requests for reimbursement were approved, totaling \$120,816 in disbursed funds.

As of December 2023, the CRB had 10.6 months in reserve, which generally represents a healthy fund condition. However, the Board notes that it has seen cost savings from remote meetings and testing implemented during the COVID-19 pandemic, and that these savings are likely to become reduced. The CRB takes care to avoid falling below a six month reserve so that the TRF may remain funded.

Approximately 93 percent of the CRB's revenue is derived from CSR certificate renewal fees. The Board last increased its fees through regulation from \$125 to \$225 beginning in 2019. This increase allowed the TRF to continue to be administered. The statutory cap on the CRB's license and renewal fees is \$250. The fee charged for firm registration is set in regulation at \$500 annually. The CRB has indicated that it will likely need to increase its fees to their statutory caps in the near future to ensure that it maintains at least six months in reserve beyond FY 2026-27.

Court Reporters' Fund Condition							
<i>(Dollars in Thousands)</i>	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24 <i>(estimated)</i>	FY 2024-25 <i>(estimated)</i>
<b>Beginning Balance</b>	\$435	\$349	\$606	\$818	\$1,068	\$1,225	\$1,212
<b>Total Revenue</b>	\$1,073	\$1,447	\$1,391	\$1,362	\$1,401	\$1,326	\$1,327
<b>Revenue Transfer to Transcript Reimbursement Fund</b>	\$0	\$0	<i>(-\$200)</i>	\$0	\$0	\$0	<i>(-\$100)</i>
<b>Total Revenues and Transfers</b>	\$1,073	\$1,447	\$1,191	\$1,323	\$1,401	\$1,326	\$1,227
<b>Budget Authority</b>	\$1,129	\$1,160	\$1,152	\$1,224	\$1,242	\$1,244	\$1,281
<b>Expenditures</b>	\$1,143	\$1,185	\$1,027	\$1,073	\$1,244	\$1,339	\$1,376
<b>Fund Balance</b>	\$365	\$611	\$770	\$1,068	\$1,225	\$1,212	\$1,063
<b>Months in Reserve</b>	3.7	7.1	8.6	10.3	11.0	10.6	9.2

<sup>23</sup> Bus. & Prof. Code, § 8030

<sup>24</sup> Bus. & Prof. Code, § 128.5

<sup>25</sup> Bus. & Prof. Code, § 8030.2

As indicated below, the CRB's expenditures have remained relatively consistent over the past several years. Enforcement expenditures have varied slightly based on costs incurred from the Attorney General's representation of the Board, and there were some cost savings relating to examination during the COVID-19 pandemic. Administration costs—which include costs for executive staff, administrative support, and fiscal services—have remained the largest share of the CRB's expenditures.

<b>Expenditures by Program Component</b>										
<i>(Dollars in Thousands)</i>	FY 2018-19		FY 2019-20		FY 2020-21		FY 2021-22		FY 2022-23	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	\$150	\$86	\$150	\$108	\$129	\$79	\$140	\$71	\$161	\$62
Examination	\$120	\$103	\$120	\$133	\$103	\$127	\$112	\$78	\$129	\$186
Licensing	\$120	\$29	\$120	\$30	\$103	\$16	\$112	\$26	\$129	\$18
Administration	\$250	\$40	\$254	\$38	\$227	\$21	\$251	\$32	\$281	\$23
DCA Pro Rata	\$0	\$152	\$0	\$144	\$0	\$142	\$0	\$155	\$0	\$155
<b>TOTALS</b>	\$640	\$410	\$644	\$453	\$562	\$385	\$615	\$362	\$700	\$444

## Licensing

The number of applications to the CRB for new certificates was 68 in FY 2022-23, with 5,516 certificates renewed during that time. The number of applicants for new certificates has remained consistently low each year since the Board's last review. Meanwhile, the total number of CSRs has decreased each year.

<b>Licensing Data by Type</b>		
	Application Type	Received
FY 2018-19	(Exam)	54
	(License)	32
	(Renewal)	6306
FY 2019-20	(Exam)	60
	(License)	66
	(Renewal)	6019
FY 2020-21	(Exam)	55
	(License)	39
	(Renewal)	5815
FY 2021-22	(Exam)	77
	(License)	35
	(Renewal)	5668
FY 2022-23	(Exam)	107
	(License)	68
	(Renewal)	5516

As of July 1, 2023, there are 6,562 licensed CSRs in California, of which 5,584 licensees are active and in good standing. Beginning in 2022, the CRB began registering firms offering reporting services in the state. The CRB reports that it has registered 213 firms, of which 26 are out-of-state. It is rare that an application for licensure is denied by the Board, with only six total denials since FY 2018-19.



CSR Population						
		FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
	Active	5686	5441	5169	4937	4752
	Out of State	640	634	675	755	821
	Out of Country	12	10	10	11	11
	Delinquent/Expired	1167	1156	1142	1097	970

Generally, the CRB's application processing timelines have been consistently prompt since its last sunset review. Most applications are processed within two to five business days. The CRB reports that it does not have a backlog of applications due to these swift processing timelines.

## Education

There are multiple pathways to licensure as a CSR. A majority of applicants qualify to take the CSR examination through completion of a training program from a recognized court reporting school.<sup>26</sup> If an applicant graduates from a program outside of California, to qualify to take the CSR examination they must possess a certificate from the National Court Reporters Association or from the National Verbatim Reporters Association demonstrating proficiency in machine shorthand reporting or voice writing.

Statute provides the CRB with responsibility for approving court reporting schools in California. To be eligible for approval by the CRB, a school must either be a California public school, a school accredited by the Western Association of Schools and Colleges, or a private school approved by the Bureau for Private Postsecondary Education (BPPE).<sup>27</sup> Schools are required to notify the CRB of their intent to offer a program in court reporting and to provide a copy of their curriculum for approval. Once approved, schools receive provisional recognition. They must then operate for at least three years and graduate at least one student before being granted full recognition. Additionally, schools must notify the CRB when they intend to discontinue a program.

Each year, court reporting schools must provide the CRB with an up-to-date school catalog that includes its course offerings and staff. The CRB may remove recognition of a school that does not meet the minimum requirements. The CRB is authorized to discipline schools for violations of the law, including through the issuance of citations and fines.<sup>28</sup> The CRB maintains a roster of approved court reporting schools. Currently, there are eight schools recognized by the CRB in California:

- College of Marin/Indian Valley Campus – *Novato, Public School*
- Cypress College Court Reporting – *Cypress, Public School*
- Downey Adult School – *Downey, Public School*
- Humphreys University – *Stockton, Private School*
- South Coast College – *Orange, Private School*
- Taft College Court Reporting – *Shafter, Public School*
- Tri Community Adult Education – *Covina, Public School*
- West Valley Community College – *Saratoga, Public School*

<sup>26</sup> Bus. & Prof. Code, § 8020

<sup>27</sup> Bus. & Prof. Code, § 8027

<sup>28</sup> Bus. & Prof. Code, § 8027.5

## Continuing Education

The CRB does not require CSRs to take continuing education as a condition of license renewal. Legislation to require CSRs to meet continuing education requirements has previously been considered, with the CRB's support. To date, none of these proposals have been successful, with several measures vetoed by previous governors. However, the Judicial Council does require continuing education for court employees, which includes those employed as court reporters.

## Examination

Applicants for licensure as a CSR must pass a three-part examination. First, the applicant must pass a written portion on Professional Practice, which consists of 100 multiple choice questions testing the applicant's knowledge of medical and legal terminology, ethics, and code requirements. A second written portion is English, which is another 100-item multiple choice examination which tests minimum competency in grammar, spelling, and punctuation. Both written portions are administered via a computer-based testing vendor.

The third part of the CSR examination is a practical or skills portion, which consists of a 15-minute exercise on dictation and transcription. This test has recently been offered online through a third-party vendor using live proctors. A courtroom or deposition situation is replicated via pre-recorded video, averaging a speed of 200 words per minute. Examinees report the dictation on a shorthand machine or using voice writing equipment. The examinees are given two hours to transcribe ten minutes of their notes and are graded on their transcription. Successful candidates must achieve 97.5% accuracy.

All three portions of the CSR examination must be passed within three years unless the CRB's executive officer has granted a one-year extension. The examination is offered three times per year, and each portion may be taken up to three times per year. If an applicant fails one portion of the examination, they are only required to retake that one portion within the three years. All examinations are in English.

The following chart contains passage rates for each of the three portions of the CSR examination, both by first time candidates and overall. While there have at times been relatively low passage rates for the written portions of the examination, the passage rates for the practical portion are inarguably very low. In FY 2022-23, 73.8 percent of all candidates failed this portion of the examination, and that number has been as high as 94.5 percent in FY 2018-19. Across all portions, first time candidate passage rates are substantially better than the overall number that includes repeat takers, which is typical for professional examinations.

CSR Examination Passage Rates				
		Dictation/Skills	English	Professional Practice
FY 2018-19	Number of 1 <sup>st</sup> Time Candidates	46	50	48
	Pass %	19.6%	62.0%	64.6%
	Fail %	80.4%	38.0%	35.4%
	Number of Overall Candidates	329	102	76
	Overall Pass %	5.5%	50.0%	63.2%
	Overall Fail %	94.5%	50.0%	36.8%

FY 2019-20	Number of 1 <sup>st</sup> Time Candidates	56	42	44
	Pass %	66.1%	61.9%	63.6%
	Fail %	33.9%	38.1%	36.4%
	Number of Overall Candidates	288	88	71
	Overall Pass %	27.1%	47.7%	63.4%
	Overall Fail %	72.9%	52.3%	36.6%
FY 2020-21	Number of 1 <sup>st</sup> Time Candidates	58	70	66
	Pass %	55.2%	77.1%	68.2%
	Fail %	44.8%	22.9%	31.8%
	Number of Overall Candidates	214	107	98
	Overall Pass %	21.5%	63.6%	64.3%
	Overall Fail %	78.5%	36.4%	35.7%
FY 2021-22	Number of 1 <sup>st</sup> Time Candidates	43	51	51
	Pass %	55.8%	66.7%	70.6%
	Fail %	44.2%	33.3%	29.4%
	Number of Overall Candidates	177	89	85
	Overall Pass %	20.9	55.1%	64.7%
	Overall Fail %	79.1	44.9%	35.3%
FY 2022-23	Number of 1 <sup>st</sup> Time Candidates	84	94	97
	Pass %	57.1%	76.6%	80.4%
	Fail %	42.9%	23.4%	19.6%
	Number of Overall Candidates	244	160	142
	Overall Pass %	26.2%	63.1%	69.7%
	Overall Fail %	73.8%	36.9%	30.3%

The CRB conducted an occupational analysis in 2021 through the DCA's Office of Professional Examination Services (OPES). This analysis was intended to ensure that the CSR examination was sufficiently testing candidates on the skills and knowledge needed to enter the court reporting profession. The results of the OPES analysis provide the basis for the license examinations. The CRB typically conducts an occupational analysis every five to seven years.

## Enforcement

According to the CRB, approximately 120 complaints are filed with the Board each year, with a majority of complaints involving a question of untimeliness of transcript delivery or the accuracy of a transcript of legal proceedings. The CRB now also receives complaints about registered firms. One full-time analyst performs all enforcement-related activities within the CRB. Staff works to resolve cases through informal mediation when possible, and the Board states that most licensees are cooperative.

The CRB's target for complaint intake is five days, which is being met. The CRB has a target of 60 days for intake to investigation; the average intake and investigation time during the period since the last sunset review is 146 days, with about half of investigations meeting the 60-day goal. The CRB's target for formal discipline is 540 days; the average number of days for formal discipline is 331.

<b>Enforcement Statistics</b>						
	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	
<b>COMPLAINTS</b>	CSR	CSR	CSR	CSR	CSR	CRF
Received	122	115	105	111	113	41
Source of Complaint						
Public	61	68	82	90	86	13
Licensee/Professional Groups	27	25	9	18	9	26
Governmental Agencies	29	14	5	3	15	0
Internal	8	8	9	0	2	2
<b>INVESTIGATION</b>	CSR	CSR	CSR	CSR	CSR	CRF
Opened	125	116	105	111	113	41
Closed	100	91	184	101	116	38
Average days for all investigation outcomes (from start investigation to investigation closure or referral for prosecution)	67	82	347	35	49	45
Average days for investigation closures (from start investigation to investigation closure)	86	83	348	36	50	46
Average days for investigation when referring for prosecution (from start investigation to referral for prosecution)	131	76	204	43	37	0
Average days from receipt of complaint to investigation closure	86	83	348	36	50	46
Pending (close of FY)	54	88	8	18	17	3
Citations Issued	17	18	11	16	9	0
Average Days to Complete (from complaint receipt / inspection conducted to citation issued)	75	18	130	37	82	0
Amount of Fines Assessed	\$ 22,250	\$ 15,550	\$ 14,000	\$ 23,750	\$9,000	\$ 0
Amount of Fines Reduced, Withdrawn, Dismissed	\$ 2,500	\$ 950	\$ 1,950	\$ 3,500	\$ 500	\$ 0
Amount Collected	\$ 10,700	\$ 12,650	\$ 6,800	\$ 13,083	\$ 3,567	\$ 0
Accusations Filed	4	4	4	3	2	0
Average Days from Referral to Accusations Filed (from AG referral to Accusation filed)	55	90	125	62	85	0
<b>DISCIPLINE</b>	CSR	CSR	CSR	CSR	CSR	CRF
AG Cases Initiated (cases referred to the AG in that year)	4	8	6	3	2	0
<b>DISCIPLINARY OUTCOMES</b>	CSR	CSR	CSR	CSR	CSR	CRF
Revocation	3	3	3	1	1	0
Surrender	1	0	1	1	0	0
Probation only	4	1	2	0	0	0
Public Reprimand / Public Reprimand / Public Letter of Reprimand	0	1	1	0	0	0
<b>DISCIPLINARY ACTIONS</b>	CSR	CSR	CSR	CSR	CSR	CRF
Proposed Decision	2	0	2	0	0	0
Default Decision	1	3	2	1	1	0
Stipulations	5	2	3	1	0	0
Average Days to Complete After Accusation (from Accusation filed to imposing formal discipline)	152	174	184	143	105	0
Average Days from Closure of Investigation to Imposing Formal Discipline	283	243	237	237	163	0
Average Days to Impose Discipline (from complaint receipt to imposing formal discipline)	337	298	328	415	180	0

## **Public Information Policies**

The CRB regularly utilizes its internet website to provide information to licensees, applicants, and the public. The CRB works with the DCA's Office of Public Affairs (OPA) to webcast its meetings when sufficient internet services are available at the meeting location and OPA has staff available. The CRB also uses an e-mail subscription service to alert interested parties regarding its activities. The CRB states that it continually seeks to develop other outreach methods, including renewal form inserts and webinars.

## **COVID-19 Pandemic Response**

On March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency as a result of the impacts of the COVID-19 public health crisis. Legislation was passed to waive the requirement for the court reporter to be in the physical presence of a party witness; this waiver was ultimately made permanent. The CRB states that it was a challenge to transition the in-person skills portion of the license exam to an online platform, but that this was able to be achieved through an existing contract with a third-party vendor. The CRB believes that this transition has been a success, resulting in cost savings for both applicants and the Board.

## **PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS**

The CRB last underwent sunset review in 2019. During the prior sunset review, committee staff raised a number of issues and provided recommendations. Below is a summary of actions which have been taken since that time to address these issues. Previous issues that were not completely addressed or are otherwise still of concern are further discussed under “Current Sunset Review Issues.”

**Prior Issue #1: What is the status of the Transcript Reimbursement Fund?** The sunset review background paper asked the CRB to report on the most recent revenue and expenditure projections for the Court Reporters’ Fund and when transfers to the TRF would resume. The CRB responded at the time that an approved increase in license fees would allow the Board to better predict when a transfer to the TRF could be made, and that the goal was to transfer \$100,000 as soon as possible. Subsequently, the CRB reopened the TRF in November of 2020 with an initial transfer of \$100,000 from the Court Reporters’ Fund. The CRB contacted pro bono firms and the courts statewide to notify as many users as possible. Additionally, the Board notified stakeholders via its website and social media accounts and informed the state trade associations. Since reopening the TRF, the CRB has processed 765 applications, approving \$377,682.

**Prior Issue #2: Should certified shorthand reporters be allowed to use “voice writing” systems?** The background paper suggested updating statute to clarify that voice writing is authorized as a method of shorthand reporting. The CRB supported this change, stating that it believed voice writing and steno writing to be the same skill but using differing technologies to capture the shorthand. The CRB originally proposed testing current licensees who want to switch from steno writing to voice writing but determined it does not have legislative authority to do so. Language to formally license voice writers was proposed for the CRB’s sunset bill in 2019 but was not ultimately included in the final version of the bill; however, subsequent trailer bill language enacted in 2022 resulted in the CRB’s implementation of voice writing licensure since November of 2022.

**Prior Issue #3: Should the Board require certified shorthand reporters to meet new continuing education requirements?** Committee staff requested that the CRB report on what information it believed should be included in a continuing education requirement, who would provide such continuing education, at what cost to certified shorthand reporters, and whether there are any other means available to the Board to assist certified shorthand reporters in keeping apprised of changes in law or regulation. In its response, the CRB recommended 30 hours of continuing education over a three-year period. However, this recommendation has not been effectuated and there remains no continuing education requirements under the CRB.

**Prior Issue #4: What is the Board’s plan for implementing an online skills examination?** The prior sunset background paper recommended that the CRB report to the Committees on its efforts to implement online testing, including the time frame for implementation, projected costs/cost savings, the procedures that would be used to ensure that the online test is secure, and protections that would be used to prevent fraudulent test taking. The CRB responded that it was finalizing its contract to implement online skills testing and planned to begin to offer an online option in July 2019. The Board successfully moved to online testing of the skills portion of the exam in July of 2020. The initial plan was to offer both online and in-person testing, but the COVID-19 pandemic necessitated that the testing be offered only via a remote platform.

**Prior Issue #5: Does the new test for determining employment status, as prescribed in the court decision *Dynamex Operations West Inc. v. Superior Court*, have any potential implications for licensees working in the shorthand reporting profession as independent contractors?** The Committees raised the question of whether recent changes in the law relating to independent contractors impacted the CRB. The Board responded that any implications to the industry were outside the CRB's scope. The CRB maintains that it does not have jurisdiction over whether a court reporting firm decides to hire shorthand reporters as employees or independent contractors.

**Prior Issue #6: Is the Board able to enforce court reporting statutes against foreign court reporting corporations?** The CRB's prior sunset review background paper discussed the longstanding issue of foreign court reporting corporations and efforts to hold them accountable under California law. The CRB acknowledged that it was not able to enforce the entirety of court reporting statutes against foreign court reporting corporations, though recent legislation had enabled them to bring a civil action against firms in certain instances. Language originally proposed in the CRB's sunset bill in 2019 was ultimately included in legislation enacted in 2021 that allowed the Board to begin registration of all court reporting firms. Registration began in 2022, and the CRB reports that it believes the new program to be a huge benefit to the consumers of California.

**Prior Issue #7: What is the status of BreEZe implementation by the Board?** The sunset review background paper asked the CRB to update the Committees on the current status of its Organization Change Management Process and the most recent timelines for replacing its existing information technology system. The CRB provided an update about its plan to move through the Project Approval Lifecycle process for its upgrade to its business processes. Ultimately, the CRB decided not to use the BreEZe platform, and it instead used off-the-shelf license management software currently utilized by other boards under the DCA. In June of 2022, contracts were executed to launch the project execution phase and work began with the system implementation team to develop software functionality that supports the scope documents and the Board's processes. The project is scheduled for completion on June 30, 2024.

**Prior Issue #8: Necessary technical changes to Chapter 13 of the Business and Professions Code (Section 8000 et seq.)** The Committees suggested several technical changes to the CRB's Act, which were subsequently implemented with the CRB's support.

**Prior Issue #9: Should the licensing and regulation of shorthand reporters be continued and be regulated by the Board?** The CRB's sunset date was extended by four years, and then subsequently extended one additional year.

# CURRENT SUNSET REVIEW ISSUES FOR THE COURT REPORTERS BOARD

## ADMINISTRATIVE ISSUES

**ISSUE #1:** *Board Membership Composition. Does the CRB’s current membership provide for adequate professional expertise in balance with independent representation of the public?*

**Background:** Statute currently provides that the CRB “consists of five members, three of whom shall be public members and two of whom shall be holders of certificates issued [by the Board] who have been actively engaged as shorthand reporters within this state for at least five years immediately preceding their appointment.” When there are no vacancies on the Board, this typically results in the public members representing a slight majority of the CRB’s composition. This public member majority presumably safeguards the CRB from any risks implicated by the Supreme Court’s 2015 decision in *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, which ruled that a state regulatory board featuring a majority share of active market participants may not be subject to *Parker* antitrust litigation immunity.

While current law now allows for CSRs to practice either through stenographic shorthand or machine writing or through voice writing, there is no requirement that either category of professional be represented on the CRB. It is likely that the interests of both traditional shorthand reporters and voice writers are effectively identical, given that they are both afforded the same scope and both practice as licensed CSRs. However, it may still be worth considering whether the viewpoints of CSRs with each respective type of training would be of value on the Board.

**Staff Recommendation:** *The Board should provide the Committees with any perspective it may have on whether its current board composition provides the maximum amount of expertise.*

## FISCAL ISSUES

**ISSUE #2:** *Fiscal Solvency. Does the potential need for future revenue increases warrant an adjustment of the statutory cap on fees currently charged by the CRB to its licensees?*

**Background:** As previously discussed, approximately 93 percent of the CRB’s revenue is derived from CSR certificate renewal fees, which were last increased through regulation from \$125 to \$225 beginning in 2019. The current statutory cap on the CRB’s license and renewal fees is \$250, while the fee charged for firm registration is set in regulation as \$500 annually. In its report to the Committees, the CRB indicated that it believes its statutory fee caps should be increased so that it would have flexibility in the future to adjust its fees through regulation to an extent that allows it to maintain at least six months in reserve. Because this fee income funds not only the CRB’s operations but also the funding of the TRF, it is important that revenue remain sufficient to meet future projected needs. However, because the TRF’s funding mechanism results in the CRB’s fees being treated as taxes under California law, any proposed increase to the caps should be carefully considered and negotiated with stakeholders.

**Staff Recommendation:** *The Board should make recommendations to the Committees regarding what amounts it believes are appropriate for its statutory fee caps and work with the Legislature and stakeholders to negotiate any changes it believes are necessary.*



**ISSUE #3: *Transcript Reimbursement Fund. Is the current mechanism for providing funding from the CRB to assist indigent litigants with transcript costs both appropriate and effective?***

**Background:** As previously discussed, the CRB oversees the TRF, a special fund fully financed by a portion of the revenue from fees charged to CSRs and registered firms. Per statute, fee revenue in excess of funds needed to support the Board's operating budget for the fiscal year is transferred to the TRF to reimburse indigent and low-income persons, as well as pro se litigants, for shorthand reporter transcript costs. When there is sufficient revenue to sustain the CRB's operations for at least six months of its operating budget, statute provides that \$300,000 be transferred to the TRF each year in \$100,000 increments.

The TRF consists of a Pro Bono program (used to reimburse costs incurred by attorneys representing litigants at no cost to the litigant) and a Pro Per Program (used to reimburse costs for pro se litigants representing themselves), both of which ensure all litigants have access to court reporting transcripts for civil cases. Historically, the TRF was underutilized by indigent and low-income litigants represented by pro bono attorneys or qualified non-profit entities. The Pro Per Program was subsequently created in order to maximize the benefits of the TRF and expand access to justice for those most in need.

In 2021, language enacted in the Budget increased the maximum amount of funding allowable per case from \$1,500 to \$2,500 for pro se applicants and from \$20,000 to \$30,000 for pro bono applicants, and the annual limit of \$75,000 for pro per cases was eliminated. That Budget Act also allowed for funding from sources other than licensing fees, without impacting the \$300,000 annual transfer limit from the Court Reporters' Fund to the TRF. Another budget vehicle subsequently made a one-time appropriation of \$500,000 from the General Fund to the TRF.

The CRB's sunset bill in 2019 included language that required the CRB to report information to the Legislature for purposes of determining the feasibility of funding the TRF through a distinct assessment collected separately from certificate fees. The CRB subsequently submitted a report in July of 2022 that provided data about the number of reimbursement requests it had received, approved, and denied, as well as data relating to the amount of funds disbursed. The report indicated that a total of 5,893 certificates were either issued or renewed in FY 2020-21, and that a combined \$104,464 was disbursed for pro bono and pro se litigants, with approximately \$14,000 in overhead costs. Rudimentary (and likely insufficiently comprehensive) calculations would suggest that each licensee therefore paid approximately \$20 that fiscal year to fund disbursements made from the TRF.

While the CRB's report provided valuable information about the status of the TRF program, it did not include any specific recommendations about how its funding mechanism could be transitioned to a separate fee assessment. It is probable that any attempt to roughly approximate the dollar value of individual licensee contributions to the TRF program's activities based on the reported data would not produce a reliably accurate number. Nevertheless, as the CRB goes through another sunset review, it is still worth discussing whether such a change could be successfully effected to provide for a more stable funding mechanism for the TRF.

**Staff Recommendation:** *The Board should inform the Committees of any discussions it has had about the potential to change the mechanism by which the TRF is funded by imposing an assessment with a fixed dollar amount on each certificate fee rather than making \$100,000 lump sum transfers to the fund only when fiscal conditions allow.*

## LICENSING ISSUES

### **ISSUE #4: Voice Writers. Has implementation legislation authorizing the CRB to license voice writers been successful thus far?**

**Background:** When the CRB last underwent sunset review in 2019, statute only recognized the authority of CSRs in California to practice through a traditional shorthand or machine shorthand writing system to create a stenographic record. However, new technologies had since become available that allowed CSRs to practice using a “voice writing” system. When voice writing, a reporter speaks into a stenomask or closed microphone voice dictation silencer using oral shorthand and voice notes, which a computer then runs a type of voice recognition software to create a record of the proceedings.

At the time, voice writing had never been used in California courts or depositions (though it was sometimes used in the military judicial system). Advocates for voice writing argued that the system was significantly faster and easier to become proficient in voice writing than traditional stenography. As discussed in the CRB’s 2019 sunset background paper, it usually took two to four years of training to become a traditional stenographer, with completion rates as low as 10 percent for students enrolled in a program. It was suggested that this was due to the technical difficulty of recording spoken conversation at the 200 words per minute standard that is required for certification in California. Meanwhile, voice writing was believed to typically require approximately 9 to 18 months of training, with a completion rate could be as high as 90 percent. These statistics indicated that a much higher percent of the general population can be trained to transcribe a conversation using voice writing methods than can be trained using traditional stenography.

In February of 2019, the CRB announced that it had decided to recognize voice writing as a permissible form of shorthand reporting in California. The Board voted to allow applicants to use voice writing technology when taking their license examination, effectively allowing voice writers to become licensed as CSRs. While it was unclear how many potential applicants would immediately seek to obtain licensure through voice writing, given the relative nascence of educational curricula in voice writing at recognized court reporting schools, the CRB argued that recognizing voice writers would help meet the state’s ongoing need for more professional reporters to meet the demands of the judicial system.

Concerns were raised during the CRB’s 2019 sunset review that the Board may have exceeded its statutory authority by acting to recognize voice writers without legislation or regulation. The Committees also argued that the CRB’s proposed approach potentially would not provide sufficient protection to the public, as it did not include a mechanism to require CSRs to only utilize the technology that they had demonstrated competence with through the practical examination. The background paper suggested that if voice writing were to be allowed, there should be some form of endorsement or notation on a CSR’s certificate indicating which methods of reporting they had demonstrated competence in through examination, with their practice limited to those methods.

Assembly Bill 1520 (Low), the Board’s sunset extension vehicle in 2019, was subsequently amended to provide express authority to the CRB to recognize voice writing and to establish necessary safeguards. Language was included in early iterations of the bill to add the term “voice recognition technology” to the statutory definition of shorthand reporting. The bill further required the CRB to indicate on each certificate whether the licensee had met the Board’s examination requirements through the use of stenography, voice writing, or both.

However, concerns were subsequently raised that the term “voice recognition technology” was overbroad in its potential application, and that additional language was needed to ensure equitable treatment of CSRs employed by the courts. As a result, the Assembly Bill 1520 sunset bill was amended again to remove the language that would have recognized voice writing and to instead explicitly prohibit the Board from issuing a certificate by means of voice writing or voice recognition technology. Further language was included in the bill expressing the intent of the Legislature to address the issue of appropriate regulation of shorthand reporting by means of voice writing in the future.

Several years later, discussions about how voice writing could be formally incorporated into the practice of shorthand reporting took place again through the Budget Act of 2022. Following a series of discussions with professional stakeholders, Assembly Bill 156 (Committee on Budget) was amended to repeal the prohibition against licensing voice writers and to enact language defining “voice writing” and authorizing the CRB to allow applicants to pass the license examination through voice writing. The bill required the Board to indicate on each certificate which qualifying methodology the certificate holder had used to pass their examination requirements. The bill also prohibited both the CRB and employers from differentiating among certificate holders based on the method of qualification.

The CRB began licensing voice writers in November of 2022. In its report submitted to the Committees in December of 2023, the CRB stated that it had issued 16 licenses to voice writers, and that four of the recognized court reporting programs had added voice writing to their curricula. The CRB indicates that enrollment is increasing, and that because voice writing requires a shorter period of training, it anticipates more applicants applying to become CSRs through voice writing systems, which may partly alleviate the state’s workforce shortage. Meanwhile, the CRB indicates that it has a pending regulations package that was submitted to the Office of Administrative Law on November 1, 2023 to update its curriculum requirements to include voice writing.

The updates provided by the CRB in late 2023 regarding the licensure of voice writings are promising. It would be useful to receive further updates about the program, particularly given the role that voice writers could potentially play in addressing workforce shortages in California. If there are ways that the Legislature could further assist in the implementation of voice writing licensure, this could also be considered as part of the CRB’s sunset review.

**Staff Recommendation:** *The Board should provide the Committees with additional updates about its implementation of voice writing licensure.*

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**ISSUE #5:** *Digital Monitors. Should the CRB’s oversight jurisdiction be extended to include digital monitors?*

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**Background:** According to the CRB’s report to the Committees, there are firms that are currently using digital recorders to cover deposition proceedings. Digital monitors record the proceedings electronically and are trained to make notes of the proceedings—for instance, to obtain spellings of names or terms of art, as well as to stop speakers from overlapping. The recording is then transcribed by someone else. The CRB states that this type of recording is currently not regulated or overseen by the Board. The CRB also suggests that attorneys often do not know that this form of recording is taking place until the end of the proceeding (if at all) and may be under the assumption that a CSR is handling the reporting and transcribing of the proceeding. The CRB has attempted to address this concern by engaging in a public information campaign called “Five Reasons to Use a Licensed Court Reporter,” which was distributed to the State Bar and distributed through the Board’s website and social media accounts.

In its report to the Committees, the CRB suggests that the Legislature consider requiring the Board to oversee the practice of digital monitors and set standards for digital monitoring. The CRB also recommends the enactment of legislation requiring a court reporter to state their name and license number on the record before beginning to report a proceeding, which the Board believes would serve to further protect consumers from unlicensed activity. It would be beneficial to hear more from the CRB about issues concerning digital monitoring and its proposals to increase oversight of this practice.

**Staff Recommendation:** *The Board should provide the Committees with more information about the potential need for oversight and regulation of digital monitors and provide any language that it recommends be included on this topic in its sunset bill.*

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**ISSUE #6:** *Captioning Professionals. Should the CRB additionally enforce requirements and standards for instantaneous transcription services for the hearing impaired?*

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**Background:** Another issue raised by the CRB in its report to the Committees relates to captioning. According to the CRB, court reporters who provide instantaneous translation of a proceeding for the hearing impaired are referred to as captioners. These professionals are frequently utilized in educational settings, as well as in a variety of social and professional settings such as conferences and church services. Currently, there is national certification that can be obtained on a voluntary basis, but the CRB reports that there is no regulation or oversight in California. The CRB argues that this lack of standards leaves the consumer vulnerable to poorly skilled practitioners and recommends that the Legislature consider requiring the Board to set standards and oversee the practice of captioning in California.

**Staff Recommendation:** *The Board should inform the Committees of what, if any, legislative action it believes is necessary to ensure a proper level of regulation of captioners in the state.*

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**ISSUE #7:** *Provisional Licensing. Should the CRB be authorized to grant provisional certificates for specified periods of time?*

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**Background:** As discussed throughout this background paper, there is a recognized shortage of CSRs in California, and the state has struggled to grow its workforce to meet the demands of the judicial system. In 2023, the Legislature considered Senate Bill 662 (Rubio), which was sponsored by the Family Violence Appellate Project and the Legal Aid Association of California. The bill would have authorized the CRB to issue a provisional certificate, valid up to three years, to an individual who has not passed the California examination for licensure but is eligible to take the examination, or who has passed the Registered Professional Reporter examination administered by the National Court Reporters Association. The author of this bill argued that a provisional licensing program would significantly expand the pool of CSRs who would be available to work in California courts.

When Senate Bill 662 was considered by the Senate Committee on Business, Professions, and Economic Development, that committee identified several potential issues with its provisional licensing proposal. The committee analysis noted that individuals practicing under a provisional certificate would not be required to meet the same level of requirements that a current CSR must meet in order to practice, arguably establishing a two-tiered system of practitioners. Concerns were also raised about the CRB's ability to monitor a provisional certificate holder's employment status and what enforcement mechanisms would exist.

In light of the issues raised in the bill analysis, Senate Bill 662 was amended in committee to remove references to provisional licensing, and language was added to instead require the CRB to evaluate the appropriateness and necessity of existing examination requirements. The CRB would then be expected during its sunset review to inform the Committees about whether the examination should remain in place and what incentives and other efforts could be undertaken to increase CSR workforce capacity. Subsequently, the bill, which proposed several other controversial changes to the law, was held on the Senate Committee on Appropriations suspense file, and that language was not enacted. Nevertheless, it would be beneficial to hear from the CRB about the potential of provisional licensing or whether existing examination requirements are necessary for all CSRs practicing in the state for any length of time.

**Staff Recommendation:** *The Board should inform the Committees of any positions it has taken on the topic of provisional licensure.*

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**ISSUE #8:** *Fair Chance Licensing Act. What is the status of the Board's implementation of Assembly Bill 2138?*

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**Background:** In 2018, Assembly Bill 2138 (Chiu/Low) was signed into law, substantially reforming the license application process for individuals with criminal histories. Under this legislation, an application may only be denied on the basis of prior misconduct if the applicant was formally convicted of a substantially related crime or was subjected to formal discipline by another licensing board. Further, prior convictions and disciplinary histories are ineligible for consideration after seven years, with the exceptions of serious, violent, and registerable felonies, as well as financial crimes for certain boards.

Because Assembly Bill 2138 significantly modified current practice for boards in their review of applications for licensure, it was presumed that its implementation would require changes to existing regulations for every board impacted by the bill. The CRB reports that it completed its regulations in 2021, and the CRB may have input on the effect that Assembly Bill 2138 has had on its ability to protect the public. However, the CRB has reported that since its last sunset review in 2019, there have been no denials for license or registration based on criminal history since the last sunset review. Therefore, it is likely that the prior legislation has not had any meaningful impact on the CRB's functions.

**Staff Recommendation:** *The Board should provide the Committees with an update on its implementation of Assembly Bill 2138 and whether it has had any impact on its licensing activities.*

### **EDUCATION AND EXAMINATION ISSUES**

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**ISSUE #9:** *Examination Passage Rates. Could the Board assist applicants in passing the required CSR examination, given historically low passage rates?*

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**Background:** As previously discussed, the CSR licensing examination has seen significantly low overall passage in recent years, particularly for the skilled portion of the examination, where the failure rate for all candidates has averaged 70 percent to 80 percent each year and was as high as 94.5 percent in FY 2018-19. The CRB uses first-time passage rates to evaluate its examinations, which tend to be markedly higher than overall rates, and the Board points out in its report to the Committees that it has no way of knowing how intensively repeat failing applicants practice for the exam. Nevertheless, it has historically been argued that this low passage rate has further exacerbated the ongoing workforce issues within the shorthand reporting profession.

In September of 2023, the Judicial Council of California sent a letter to the CRB to request “support in addressing California’s court reporter shortage.” The Judicial Council suggested that the CRB “consider leveraging its expertise to improve pass rates,” pointing to its own success with increasing pass rates for the Bilingual Interpreting Examination by contracting with a vendor to provide a free instructor-led education program for individuals who it identified as “near passers” who only narrowly failed the exam. The CRB may consider instituting a program similar to the Judicial Council’s as a way of improving passage rates and making further effort to address persistent workforce issues.

**Staff Recommendation:** *The Board should provide its perspective on whether it could implement a program for assisting near-passers of the CSR examination.*

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**ISSUE #10: Continuing Education. Should continuing education be required for CSRs?**

**Background:** The question of whether CSRs should be required to take continuing education has been debated numerous times in the past. Legislation was proposed in 2008 through Assembly Bill 2189 (Karnette), which the CRB supported. This bill was vetoed by Governor Arnold Schwarzenegger, who argued that the requirements “impose an additional burden on the regulated profession without justifying a compelling need.” This proposal was attempted again in 2011 through Senate Bill 671 (Price), which was again vetoed, this time by Governor Jerry Brown, who stated that “the whole idea of legally mandated ‘continuing education’ is suspect in my mind” and called the requirements of the bill “an unwarranted burden.” A third bill was attempted in 2015—Assembly Bill 804 (Hernández)—and was again vetoed by Governor Brown, who simply stated in his message that he had not changed his mind.

Whether CSRs should be required to take continuing education was raised in the CRB’s 2019 sunset background paper, which acknowledged that the Board believed the lack of continuing education “may result in shorthand reporters no longer being aware of current requirements on the profession.” No requirement was subsequently included in the Board’s sunset bill, and there is no significant likelihood that one would be included during the current session. However, given historic interest in the topic, the CRB may wish to inform the committees if it still recommends requiring continuing education.

**Staff Recommendation:** *The Board should inform the Committees of whether it continues to recommend imposing continuing education requirements on CSRs.*

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**ENFORCEMENT ISSUES**

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**ISSUE #11: Court Reporting Firms. Have new registration requirements on court reporting corporations successfully provided for enhanced oversight?**

**Background:** During the CRB’s 2015 sunset review, it was noted that there was a substantial amount of unlicensed activity relating to foreign corporations who offered court reporting services in California without authorization from the CRB. Previously in 2007, in response to complaints about unethical gift-giving and violations of minimum transcript format standards, a task force was appointed by the CRB to study the issue of firm oversight. The task force determined that a legislative fix was necessary to address this issue, which led to several years of attempted legislation to provide for meaningful oversight of unlicensed out-of-state firms by the CRB. Assembly Bill 1461 (Ruskin) was first introduced in 2009 to clarify that business entities providing or arranging for shorthand reporting services in the state were required to comply with California law; however, the bill failed to pass.

In 2010, the CRB received a complaint that a Texas-based corporation was violating gift-giving provisions, and after investigation, the CRB issued a citation and fine. The corporation denied the CRB's jurisdiction to issue the citation, and the CRB brought suit in April of 2011 for declaratory relief (*Court Reporters Board v. U.S. Legal*). After a hearing, the Court ruled in an unpublished opinion that even if the corporation was rendering court reporting services in California and was in violation of gift-giving regulations, the CRB was not authorized to take action against it, as it was not a "professional corporation" but instead a "foreign professional corporation" as defined under the Corporations Code.

Legislation was again unsuccessfully attempted to bring foreign court reporting firms under the jurisdiction of the CRB, including Senate Bill 270 (Mendoza) in 2015 and Assembly Bill 1660 (Kalra) in 2017. In his veto of Assembly Bill 1660, Governor Brown alluded to "matters that are currently under review by an appellate court" and stated a preference for waiting for the outcome of litigation. This message was understood to be in reference to a case similar to the CRB's litigation involving a private attorney general suit brought under California's Unfair Competition Law. Ultimately, this litigation resulted in a ruling for the plaintiff, but it was determined that the plaintiff did not have standing to sue, resulting in no greater clarity of how out-of-state firms may be regulated within California.

During the CRB's 2019 sunset review, the background paper analyzed the issue of out-of-state firms and concluded: "Given the recent court ruling, the Committees may wish to consider whether it would be appropriate to revisit the issue of requiring out-of-state firms to register with the Board if they are engaged in arranging for shorthand reporting services." Provisions were then amended into the CRB's sunset bill, Assembly Bill 1520 (Low) to provide for a firm registration program. That language was then removed from the bill in the Senate Committee on Appropriations. In 2020, Assembly Bill 1469 (Low) was amended to include those same provisions; however, the bill was similarly held under submission on the suspense file of the Senate Committee on Appropriations.

Legislation to create a regulatory framework for out-of-state firms to provide shorthand reporting services within California by registering with the CRB was finally enacted as part of Senate Bill 241 (Umberg) in 2021. The provisions in the bill, which were substantially similar to language proposed during the CRB's 2019 sunset review, give the CRB clear statutory oversight over firms outside of California by requiring all court reporting firms to designate a licensed representative who is accountable to the CRB. This is accomplished through a concept referred to as the "reporter-in-charge" mechanism.

Under the CRB's new registration program, every firm owned by a nonlicensee seeking to provide services within California must register with the Board and designate one professional who holds a certificate issued by the CRB who is responsible for ensuring compliance with California law. This enables the CRB to utilize its existing authority to regulate firms that would otherwise be considered outside its jurisdiction. While not every employee of the firm must be certificated, an accountable representative of the firm would be entirely subject to existing CRB regulation. Every registered firm, through its reporter-in-charge, is therefore responsible for complying with all laws and regulations relating to shorthand reporting in California, and firm registrations may be revoked, suspended, denied, restricted, or subjected to other disciplinary action as the Board deems fit for violations of law.

Registration of court reporting firms began in July of 2022, and as of July 1, 2023, there were 213 firms registered with the CRB. In its report to the Committees, the CRB refers to the registration program as "a huge benefit to the consumers of California" and states that the Board is now able to investigate and act when there are violations of California law. As the CRB undergoes its first sunset review since the enactment of firm registration requirements, it should provide additional updates to the Committees about its implementation of the program and recommendations to ensure that it remains successful.

**Staff Recommendation:** *The Board should provide the Committees with an update regarding its implementation of Senate Bill 241 and whether it believes firm registration continues to be a success.*

**ISSUE #12:** *Additional Title Protection. Should the term “voice writer” be reserved for use only by individuals in possession of an applicable certificate from the CRB?*

**Background:** Statute has long prohibited any person other than a CSR from using the title “certified shorthand reporter,” or the abbreviation “C.S.R.,” or any other words or symbols indicating or tending to indicate that they are certified by the CRB. In 2022, Assembly Bill 156 (Committee on Budget) expanded this list of protected titles and terms to additionally protect the phrases “stenographer,” “reporter,” “court reporter,” “deposition reporter,” or “digital reporter,” in combination with words or phrases related to the practice of shorthand reporting that indicate certification. However, while that bill also expanded the practice of a CSR to include voice writing, it did not reserve the term “voice writer” for use by CSRs. Doing so may be advisable to recognize new terms associated with privileged practice.

**Staff Recommendation:** *The Board should inform the Committees of whether it believes the term “voice writer” should be reserved for use only by CSRs.*

### **PRACTICE ISSUES**

**ISSUE #13:** *Artificial Intelligence (AI). Have recent technological developments in AI impacted the practice of shorthand reporting to an extent where the CRB should be tasked with imposing safeguards?*

**Background:** In its report to the Committees, the CRB highlighted several challenges posed to the court reporting industry by the advent of new innovative AI technologies. Specifically, the CRB explains that certain features like auto-captioning in remote meeting platforms are becoming increasingly common, wherein automatic speech recognition can be used to produce accurate captions and transcripts when people are speaking clearly and slowly. The CRB is concerned that this may lead to a perception that AI could one day replace court reporters, making it even more difficult to encourage new entrants into the shorthand reporting profession.

Furthermore, the CRB points out in its report that automatic speech recognition features are being added to court reporting software, with AI making suggestions to the reporter as to what words it believes are being heard, which the reporter may then choose to either accept or reject. This technology could potentially result in up to 100 percent of translation being performed by AI, which has serious implications for consumers who expect a transcript to be produced by an objective, unbiased professional who is responsible for the record. While the CRB has not recommended any specific legislative action to address its concerns about the use of AI in shorthand reporting, it acknowledges the importance of remaining abreast of changes in technology and updates to court reporting software involving these technologies.

**Staff Recommendation:** *The Board should provide the Committees with additional information about how AI is impacting the profession and assist with the development of any future legislative proposals to address potential concerns.*



**ISSUE #14: Remote Reporting. *How has the rapidly growing practice of reporting remotely impacted the ability of shorthand reporters to reliably provide an accurate record of a proceeding?***

**Background:** Throughout the COVID-19 pandemic, courts and legal professionals increasingly used remote technology to conduct the business of the judicial system. In February 23, 2021, the Senate and Assembly Judiciary committees held a joint informational hearing: *COVID and the Courts: Assessing the Impact on Access to Justice, Identifying Best Practices, and Plotting the Path Forward*. During this hearing, the committees discussed how remote court appearances had become standard practice as a way of complying with state and local orders to stay at home and socially distance. The hearing background paper reported that at that time, 38 courts permitted remote appearances in all case types, whereas only one court had permitted such appearances prior to the pandemic.

Legislation was subsequently enacted and extended to codify the authority of the courts to utilize remote technology in specified legal processes and proceedings, even after the declared emergency was terminated. However, within these discussions a concern has been voiced that remote technology can impact the ability of a court reporter to accurately prepare a transcript of the proceeding. In an opposition letter to Senate Bill 241 (Umberg), which established a statutory framework for remotely conducting court proceedings in civil cases, representatives of labor organizations representing court reporters and court personnel explained that “court reporters have experienced any manner of faulty technology from dropped calls, to unintelligible speech, to people talking over one another, to facilitators not recognizing those who wish to speak, throughout the pandemic.”

The CRB recognized these issues in its report to the Committees, stating that while some licensees have reported lengthy trials remotely without problems, others have reported being unable to hear to produce a record and unable to communicate with the parties. The CRB states that remote proceedings can be comparable to in-person proceedings when minimum technical standards are met; however, if only one of these parameters is not met or fails, even momentarily, capturing the record in remote proceedings becomes problematic and at times impossible for the court reporter. Trailer bill language that extended the authority for civil courts to use remote technology required the Judicial Council to adopt minimum standards by April 1, 2024, including mandating reliable high-speed internet connections in the courtroom so that court reporters and other officials can appropriately see and hear remote participants. As the state progresses in its use of remote technology, the CRB should remain actively engaged.

**Staff Recommendation:** *The Board should update the Committees on steps are being taken in California to resolve concerns from CSRs about their ability to transcribe remote proceedings.*

**WORKFORCE ISSUES**

**ISSUE #15: Workforce Shortage. *How can the CRB act to address the increasing challenges in sustaining and growing the supply of shorthand reporters?***

**Background:** The longstanding and persistent issues relating to workforce insufficiencies in the shorthand reporting profession have been discussed repeatedly in this background paper, as they are interrelated to numerous practice concerns, regulatory challenges, and controversial proposals. While for a number of years courts were allowed to employ unlicensed individuals as reporters when a CSR was unavailable, this language has long since been repealed. Modern efforts to restore such flexibility for the courts have been indisputably unsuccessful.

Any proposal to allow courts to employ lesser-trained professionals, or to utilize technologies that undermine the role of a licensed reporter, have been subjected to cogent arguments about the compelling need to ensure the complete, accurate, and impartial production of a record for all court proceedings as an essential element of equal access to justice. However, the inadequate availability of CSRs in California is a problem that is both widely recognized and arguably growing. In FY 2014-15, there were 6,848 active CSRs in California; by FY 2017-18 this number had fallen to 5,886 active CSRs; this year, there was a reported 4,752 active CSRs in the state.

This consistent downward trend over the past decade reflects a more than 30 percent decrease in the CSR population, with no immediate evidence of impending reversal. The diminishing population of licensed reporters has been blamed by various parties on various factors, including an alleged “aging out” of the profession, low passage rates for the CSR examination, and the closure of court reporting schools. Regardless of whether there is any clear cause for the decreasing workforce, what remains undeniable are both the present and potential impacts on the rights and responsibilities of all parties in the judicial process.

In the Judicial Council’s September 6, 2023 letter to the CRB, it highlighted a belief that “the declining number of court reporters threatens access to justice for court users, especially Californians who cannot afford to pay for their own reporter in cases where a court reporter is not required.” As part of its request for support from the CRB, the Judicial Council asked that the Board administer a workforce survey of California’s CSR population. The letter pointed out that prior surveys have been conducted by the University of California, San Francisco in collaboration with the Board of Registered Nursing and that a similar survey could allow the CRB and CSR employers, including the courts, “to access the necessary data for addressing reporter recruitment and retention need.”

If the CRB were to engage in administering such a survey, it would be just one step within a comprehensive solution to the state’s workforce crisis. There is arguably hope that enacted proposals to grow the CSR population have already made an impact and those strategies may show greater success in the future, such as the recent implementation of licensure for CSRs utilizing voice writing. Looking ahead, the CRB is encouraged to offer any potential solutions it believes could contribute in any meaningful way to supporting the CSR workforce, particularly in cases where the Legislature could partner in developing and effectuating solutions.

**Staff Recommendation:** *The Board should inform the Committees as to whether it believes that conducting a workforce survey would be a valuable step toward addressing the declining CSR population, and the Board should provide the Committees with any additional recommendations it has for addressing ongoing workforce challenges.*

### **TECHNICAL CLEANUP**

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#### **ISSUE #16: Technical Cleanup. Is there a need for technical cleanup?**

**Background:** As the profession continues to evolve and new laws are enacted, provisions of the Business and Professions Code relating to shorthand reporting may become outmoded or superfluous.

**Staff Recommendation:** *The Board should recommend cleanup amendments for inclusion in its sunset bill.*

**CONTINUED REGULATION OF THE SHORTHAND REPORTING PROFESSION**  
**BY THE COURT REPORTERS BOARD**

**ISSUE #17:** *Continued Regulation. Should the licensing of shorthand reporters be continued and be regulated by the Board?*

**Background:** While debate will persist regarding how California should move into the future with regards to the shorthand reporting profession and how new technologies should be incorporated into the judicial system, the ongoing need for strong regulation and oversight of shorthand reporters is clear. The CRB's role in ensuring that licensed CSRs possess sufficient education and training to perform competently, as well as its responsibility for holding those licensees accountable to professional standards, remains as necessary as ever. The CRB should be continued so that its important work may continue as the Legislature engages in further discussions regarding how to balance the interests of all stakeholders in pursuit of the universally shared goals of promoting the profession and preserving access to a fair and accurate record of all court proceedings.

**Staff Recommendation:** *The Board's current regulation of shorthand reporting should be continued, with potential reforms, to be reviewed again on a future date to be determined.*