

JAVS PERSPECTIVES SERIES:

EFFECTIVE USE OF DIGITAL RECORDING  
TECHNOLOGY IN THE LEGAL SYSTEM



# SAVINGS AND SATISFACTION:

## Making the Video Court Record in Kentucky

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“Since 1985, courts in the Commonwealth of Kentucky, USA, have been using audio video recording as the official record of court proceedings. The use of audio video recording has been one of the most successful uses of technology in our modern courtrooms.”

**Hon. William L. Knopf**

(Retired Kentucky Trial Court and Court of Appeals Judge)<sup>2</sup>

## EXECUTIVE SUMMARY

Like court systems everywhere, the Kentucky Court of Justice struggled in the early 1980s with the usual suspects--“growing caseloads, excessive delays, tight budgets, and increasing costs for litigants.”<sup>3</sup> Driven by economic need and the large backlog of getting court records made into written transcripts, the state judicial Administrative Office of the Courts (AOC) reached out to local technology experts Justice AV Solutions (known at that time as Jefferson Audio Video Systems, Inc.) for a better way. The solution came in the form of an automated audio video courtroom recording system designed jointly by the AOC and JAVS “that would automatically switch the microphones and the cameras to the person speaking and would not require an operator, except to turn the system on and off.”<sup>4</sup>

Taking care to lay the necessary groundwork with the state legislature for funding, court leaders launched a pilot project with the new automated A/V courtroom recording system in 1985. Soon after, by saving the salaries and benefits needed for court reporters and using the automatic A/V systems instead, Kentucky created 25 video trial

courtrooms at a total investment of \$1.5 million. The courts recouped the cost in the first three years.<sup>5</sup> The project was so successful that thirty years later the Kentucky Court of Justice exclusively uses audio video recordings as the official trial record for courts at every level.

In 2015, Kentucky State Supreme Court Justice Michelle M. Keller was asked about the state switching from written transcripts to audio video court records. The justice concluded that, “In the long run... this has been economically, and from a best practice standpoint, the right thing to do.”<sup>6</sup>

### **The Need for Innovation in the Court Record**

In the early 1980s, Kentucky court reporters were extremely behind in the preparation of trial court proceeding transcripts, causing years-long delays in hearing appeals. Because court reporters kept the notes in their possession, some court transcripts could never be completed due to the loss of the records.<sup>7</sup>

Judge James S. Chenault had the largest one-judge workload in Kentucky in his general jurisdiction trial court. Instead of using a court reporter, he requested funding for an audio video system from the state judicial Administrative Office of the Courts (AOC). In 1982, Judge Chenault began using a video system in his courtroom that required an operator to activate the cameras and monitor the system. While litigants had immediate access to court records in the form of videotapes at low cost (\$15 per tape versus a written transcript for \$750 and up), the need to dedicate an operator in the courtroom resulted in little to no savings for the Commonwealth at that time.

In 1984, Chief Circuit Judge Laurence Higgins in Louisville, Kentucky,

was in search of a video system that did not require an operator. The AOC requested such a system from major manufacturers of recording equipment across the country, but all concluded that the project “couldn’t be done.”<sup>8</sup>

### **Public-Private Partnership**

Fortunately, David Green, the founder of the Louisville, Kentucky-based company Jefferson Audio Video Systems (now Justice AV Solutions), joined with a core group of court administrators and judges in a collaborative effort to design a courtroom system without a dedicated operator; one “that would automatically switch the microphones and the cameras to the person speaking.”<sup>9</sup>

In 1985, JAVS installed the first voice-activated video system in Judge Higgins’ courtroom. It proved to be a game-changer. Judge Higgins later declared that the automatic court recording system “is the greatest improvement in the trial of lawsuits which has occurred in my more than thirty years at the bar and the bench.”<sup>10</sup>

A study by the National Center for State Courts (NCSC) on the early years of the voice-activated video system found that it was “the most advantageous means of court reporting both in terms of benefits and cost efficiency.”<sup>11</sup> The advantages were:

- **Recording accuracy (complete verbatim recording)**
- **Reliability of equipment**
- **Timeliness (available for immediate playback)**
- **Unobtrusiveness (cameras are wall-mounted)**
- **Suitability for education (recordings can be used to educate public)**

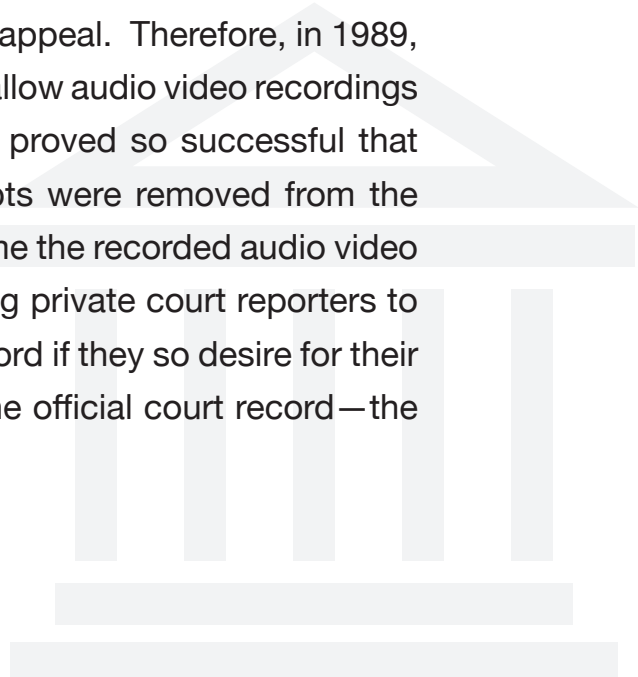
It is not surprising that in 1989, a joint Ford Foundation/Harvard University John F. Kennedy School of Government program gave Kentucky's courtroom video recording system its "Innovation in State Government" award.

### **Necessary Groundwork for A/V Recording as Official Court Record**

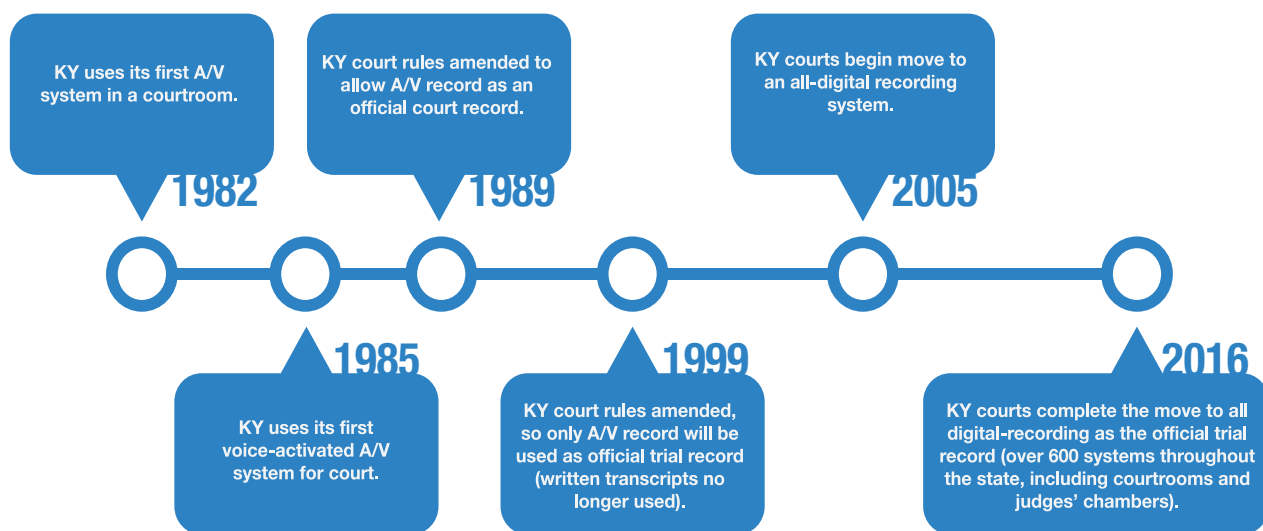
The change from written transcript to an audio video court record did not happen overnight or without important groundwork. From the beginning, judges wanted quality recording equipment. A retired judge recalled Judge Chenault specifying that he wanted "not a \$29.95 handheld recorder, but a state of the art system."<sup>12</sup>

Thus, Kentucky State Supreme Court Chief Justice Robert F. Stephens made a point to inform key legislators from the start that the estimated cost of a courtroom recording system was "roughly equivalent to two years of a court reporter's salary and benefits." Senator Mike Moloney, Chairman of the Senate Appropriations and Revenue Committee confirmed, "They cleared it with us ahead of time and signed us onto the process. That was very important."<sup>13</sup>

Even if parties (and the public) could get easy access to recordings of Kentucky court proceedings, it would still be cost prohibitive for many if written transcripts were needed to file an appeal. Therefore, in 1989, the Kentucky court rules were amended to allow audio video recordings as an official medium for appealing. This proved so successful that in 1999, all references to printed transcripts were removed from the court rules, and the official transcript became the recorded audio video only. Parties are not precluded from getting private court reporters to make written transcripts from the video record if they so desire for their own use. But all parties have access to the official court record—the video—at a nominal fee.



An early concern was that it would take too long to find a specific place in the video record. Recording technology has come a long way since the first automatic A/V system. As Kentucky State Supreme Court Justice Michelle M. Keller stated, “If the attorneys properly cite to the record...there really shouldn’t be a problem for the appellate bench.”<sup>14</sup> Video records have the timeline visible on the screen, making it easy to direct a viewer to the very second of the relevant proceeding in court briefs.



## A/V Court Recording by the Numbers

The original automated audio video system in Kentucky cost \$30,000 per courtroom on average, with an additional \$4,000 per judicial chamber.<sup>15</sup> In 1984, Kentucky court reporters earned \$20-22,000 per year, while the average annual maintenance cost for the video equipment was \$1,200. By saving the salaries and benefits needed for court reporters, Kentucky initially created 25 video courtrooms at a total investment of \$1.5 million, recouping the cost in the first three years.<sup>16</sup>

In 1984, Kentucky was spending \$2 million annually on court reporters. Today, all 283 judges and justices in the Commonwealth use digital recording as the official trial record. Thus, Kentucky spent zero dollars on court reporters for its 470 courts in 2014. Given that current salaries for court reporters in other states are around \$55,000 (plus money for benefits)<sup>17</sup>, it has been estimated that A/V recording has provided an annual savings in Kentucky of \$19.4 million dollars.<sup>18</sup>



## About Justice AV Solutions

For more than 35 years, JAVS has specialized in using A/V technology to accurately create, store, and publish the official verbatim record of the court. Integrated into over 6,000 courtrooms throughout the U.S. and across four continents, JAVS promotes accuracy and efficiency through A/V recording solutions, guaranteeing the preservation of the record for tomorrow's justice system. Call us at 1-800-354-JAVS or visit [www.javs.com](http://www.javs.com) to learn how your court system can use A/V recording technology to your best advantage.

1. Author Julie A. Helling is a graduate of the University of Michigan Law School. She served as a prosecutor before becoming a college professor.
2. Judge William L. Knopf served as a judge of the Kentucky Court of Justice for 27 years, including as a trial judge on the District and Circuit Courts, and an appellate judge on the Kentucky Court of Appeals. These remarks are from his presentation at the 7th IACA Conference in Sydney, Australia in 2014 titled "The Use of Audio Video and Digital Technology in the Courts: A Judge's Personal Perspective."
3. Chief Justice Robert F. Stephens, "Video Court Reporting" from A Decade of Progress for Kentucky's Courts (p. 26) (1985-1986).
4. Remarks by Judge Knopf (2014).
5. Allison, Graham. "Reviving the Call to Public Service." The Boston Globe, December 5, 1988.
6. Phone interview with Kentucky Supreme Court Justice Michelle M. Keller on October 26, 2015.
7. Remarks by Judge Knopf (2014).
8. Graham Allison piece (1988).
9. Remarks by Judge Knopf (2014).
10. A Decade of Progress for Kentucky's Courts (p.28) (1985-1986).
11. "Video Court Reporting," Kentucky Court of Justice, Annual Report, 1984-1985 (p. 44).
12. Judge Knopf remarks (2014).
13. A Decade of Progress for Kentucky's Courts (p. 27) (1985-1986).
14. Interview with Kentucky Supreme Court Justice Michelle M. Keller (2015).
15. A Decade of Progress for Kentucky's Courts (p. 27) (1985-1986).
16. Graham Allison piece (1988).
17. Bureau of Labor Statistics – <http://www.bls.gov/oes/current/oes232091.htm#st>.
18. For the 2014-2016 upgrades in Kentucky, \$25.8 million (\$55,000 court reporter salary x 470 courts per year)- 6.4 million (upgrade, personnel and maintenance costs on average per year) = about \$19.4 million in savings annually.