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RQ-0348-JC

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Mr. John Cornyn  
Attorney General  
Opinion Committee  
P.O. Box 12548  
Austin, TX 78711-2548

OPINION COMMITTEE

I.D. # 041882

Re: Article 27.18 of the Code of Criminal Procedure

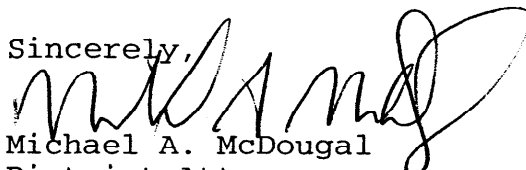
Dear Mr. Cornyn:

The District Courts in Montgomery County have an interest in effecting the provisions of article 27.18 of the Code of Criminal Procedure, which provides for the acceptance of pleas and waivers by closed circuit video teleconferencing. However, the statute requires, "A recording of the communication shall be made and preserved until all appellate proceedings have been disposed of." Tex. Code Crim. Proc. Ann. art. 27.18(c) (Vernon Supp. 2001) (emphasis added).

The question that arises is what kind of recording shall be made? For instance, would a voice recording alone, or a stenographic recording by a court reporter suffice? Or must it be a video recording of the communication?

We note that our question arises in part because article 27.18 seems in conflict with Section 52.046 of the Government Code, which requires court reporters to "preserve the[ir] notes for future reference for three years from the date on which they were taken." Tex. Gov't Code Ann., § 53.046 (Vernon 1998). Article 27.18 also seems to conflict with Tex. R. App. P. 13.6, which requires a court reporter to file the notes with the trial court clerk, and for the clerk to retain those notes for 15 years from their filing date. Is the recording required by article 27.18 in addition to a stenographic or electronic recording envisioned by Tex. R. App. P. 13? The bill analysis for article 27.18, enclosed with this letter, indicates that a written transcript is either not required, or not envisioned.

Sincerely,

  
Michael A. McDougal  
District Attorney