KyCRA

Kentucky Court Reporters Assn.

NCRA
The Association for
Court Reporters and Captioners

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The Kentucky Court Reporters Association (KyCRA), in conjunction with the National Court Reporters Association (NCRA), would like to urge caution in regard to potential Continuing Legal Education (CLE) opportunities on the use of Artificial Intelligence (AI) in legal proceedings. We would like to share some validated concerns we have regarding the issue that might protect our colleagues in the legal profession, especially attorneys.

NCRA is the professional association for stenographic court reporters who make the official record in legal proceedings. NCRA has been the certifying experts in the record-making business for almost a century, and our members take great pride in capturing the record for attorneys. The speed and accuracy of capturing the record by our members are unmatched. Our members understand that the transcript you rely on for your important work needs to be done in an unbiased and exact manner because every word matters. While we cannot speak to how AI can improve tasks like checking out at a grocery store, ordering food through your phone, or even the research you do for background information for your proceedings, we can speak about the dangers of relying on it for capturing the record. That is our expertise.

Understanding that some attorneys may be curious about vendors offering their products as the next greatest thing, we would like to offer some words of caution when it comes to the dangers of AI in legal proceedings. The stenographic court reporter captures what was actually said, gestures, and even puts in correct punctuation to testimony, which brings in the witness's actual meaning to their words. That cannot be said for AI speech recognition.

Below are just some bullet points of the known shortcomings and dangers of using AI speech recognition in legal proceedings:

- Bias and Fairness: AI systems can inherit biases present in the data on which they are trained. In legal contexts, this can lead to biased decisions, unfairly impacting certain groups or individuals.

- Lack of Accountability: When AI systems make mistakes or biased decisions, it can be challenging to assign accountability. This can lead to legal and ethical dilemmas regarding who is responsible for AI-driven errors. Also, there is no human to track the information back to for ultimate accountability or clarification.

- Explainability: How was an AI/ASR built? There are many ways it can be accomplished, and without getting too technical here, it is important that professionals are knowledgeable about the design. Depending on the design, a model can be less or more accurate, less, or more secure, and the data used to build it can be safe or unsafe. Without an explanation of the build, it is a

huge risk to the results, both in accuracy of transcriptions, security of information, and even security of information used to build the engine.

- Privacy Concerns: AI may involve the processing of sensitive and private information, raising concerns about data security and the potential for misuse or breaches of confidentiality.

- Inaccuracies and Reliability: AI systems are fallible and can produce inaccurate results. In legal proceedings, errors can have significant consequences, affecting verdicts, sentences, or other legal outcomes affecting the life and liberties of people.

- Transparency and Interpretability: Many AI algorithms are complex and not easily interpretable. This lack of transparency can make it difficult for lawyers, judges, and other stakeholders to understand and challenge AI-generated recommendations or decisions.

- Legal Challenges: The legal system may not be adequately prepared to handle disputes or challenges related to AI evidence, standards, and methodologies, leading to legal uncertainty.

- Ethical Concerns: The use of AI in legal proceedings raises ethical questions about the role of human judgment, fairness, and the potential for dehumanizing the legal process.

- Overreliance: There is a risk that legal professionals may become overly reliant on AI tools, potentially diminishing their critical thinking and decision-making skills.

- Costs and Access: Developing and implementing AI systems in the legal field can be expensive, potentially creating disparities in access to justice based on the financial resources available to different parties and populations.

- Unintended Consequences: The use of AI can have unintended consequences, such as creating new legal issues or exacerbating existing ones.

- Security Risks: AI systems can be vulnerable to hacking or manipulation, which could compromise the integrity of legal proceedings.

- Traceability Concerns: If a transcript is processed by an AI/ASR system today, three years from now an appeal process may question the accuracy of that transcript. It is important for the appeals court to confirm accuracy on the when, where, and what AI/ASR engine was used and who is responsible for certifying the accuracy of the AI output.

- Ethical Assurance: Having a stenographic court reporter capturing the record in legal proceedings is not only the gold standard for ensuring you have an accurate, timely, and professional transcript prepared but also that the record being created is watermarked with stenographic notes to preserve the integrity, security, and chain of custody of it as well.
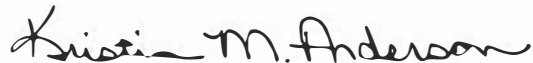
Ultimately, ethical considerations and the protection of individual rights and privacy should be at

the forefront when even considering AI in legal proceedings. An attorney's job is hard enough without these additional concerns about the record-making process. For further proof of the dangers of AI, simply look to the news where there are daily examples of dangerous and fake AI-generated stories, songs, and media reports.

The National Court Reporters Association would like to be a resource to you and your colleagues on how we can help you provide the best record possible for your clients. With all the noise and flash around AI, we believe it is our job to help you do your job.

Responsibility in making the record cannot be shifted to AI or an algorithm. It should be placed with responsible individuals, certified stenographers. While AI might be acceptable in some areas of society, the high stakes, accuracy, and accountability of legal proceedings should be above reproach. We offer this information as a fact check to those offering a cure-all solution (in the form of CLEs or webinars) of AI for your proceedings.

Sincerely,

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2023-2024 NCRA President

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