

CONTACT
Jim Cudahy
703-556-6272, x122
jcudahy@ncrahq.org

FOR IMMEDIATE RELEASE

National Court Reporters Association takes association of court administrators to task for white paper that recommends a reckless approach to making the court record, which will endanger the integrity of the legal system.

January 25, 2010; Vienna, VA – In a letter to Steven C. Hollon, president of the Conference of State Court Administrators (COSCA), NCRA President SueLynn Morgan, RPR, today criticized COSCA for the process it used in the development of a [white paper](#) that suggests court systems move to audio recording as the principal form of the court record. Morgan said it is troubling that COSCA not only neglected to involve stenographic court reporters in their discussions, but also “other groups representing judges, jurists, attorneys, parties, or the public in their process, groups whose perspectives and knowledge as the primary users of the court record must be part of any serious discussion on the topic.”

“We do not claim to have a monopoly on all wisdom related to making the court record,” said Morgan in the letter, “but it simply is inconceivable that COSCA would consider our experiences, data, research, and perspectives to be entirely irrelevant in an intellectually honest discussion of a subject on which court reporters indisputably are subject matter experts.”

While NCRA takes exception to the closed process that COSCA employed in development of its white paper, it is nothing compared with the poor quality of the paper, which was the result of that closed process. “Such an opaque, insular, and exclusive process predictably led to seriously flawed conclusions,” said Morgan. “Even more serious than the shortcomings of the conclusions of the paper itself is the complete absence of empirical data or any sort of corroborating evidence to support those conclusions. Statements of opinion are given an illusion of factual basis through liberal use of citations to studies commissioned by other organizations—including by NCRA and the National Court Reporters Foundation—where the specific findings of those studies do nothing to support the paper’s stated theses.”

Court systems—like all governmental institutions—are under serious pressures to cut expenses in the current economic environment, but making wholesale changes to the method with which courts create and preserve the legal record on the basis of short-term savings, without serious consideration of the impact such changes would have on the integrity of the judicial system, is reckless. “Our concern is that in an economic environment where even the *appearance* of savings will get the attention of court officials and legislators, people will overlook the fact that COSCA’s paper does *nothing* to quantify the alleged savings that courts would realize in migrating to digital audio recording,” said NCRA executive director and CEO, Mark Golden, CAE. “Substantially worse, however, is that COSCA’s paper recommends such fundamental changes to the judicial system with no corroborating evidence of any variety—either quantitative or qualitative in nature—to support the conclusion that using digital audio in courtrooms will not result in a degradation of quality in making the court record.”

For decades, stenographic reporters have had to contend with the challenges of audio recording in the courtroom and all too often have found that courts can make important decisions that compromise the integrity of the judicial process based on misinformation about the capabilities of audio recording and its unsubstantiated potential for cost savings. Even though the COSCA white paper neglects to use any data or evidence to support its contention that digital audio can save courts money, NCRA fears that it

nonetheless could be used to justify such changes. “The paper and its conclusions grossly oversimplify or entirely ignore the practical limitations of the ‘audio only’ record that it recommends serve as the de facto official record of all proceedings,” said Morgan in the letter to COSCA. “The costs (in real dollars as well as time) incurred by the parties and superior courts, if there is cause for another court or panel to review a lower court’s actions, are ignored. Issues of ensuring the privacy and security of confidential information within audio records are entirely unaddressed.”

NCRA also finds it irresponsible for the COSCA white paper to completely ignore the fact that it was stenographic court reporters who introduced technology to the courtroom. Beginning with computer-aided transcription more than two decades ago, followed by realtime reporting systems that allow full and instantaneous access to court proceedings for those with hearing-related disabilities, court reporters have been pioneers in this regard.

Indeed, despite the fact that COSCA suggests throughout the paper that digital audio is an acceptable method for creating the court record, on a number of occasions it indicates that in cases involving capital crimes or in complex civil cases, a realtime, stenographic reporter should be utilized. In acknowledging the superiority of stenographic reporters in these types of cases, COSCA undermines its own conclusion that audio recording is generally acceptable for all court proceedings by acknowledging that it is not for the most important or complex cases. NCRA believes strongly that it would be a miscarriage of justice and a dangerous precedent for court administrators or anyone within the judicial system to begin arbitrarily assigning degrees of importance to various court cases. Where might such assessments lead?

Within its white paper, COSCA references as a resource a study by the Judicial Management Institute that was funded by the National Court Reporters Foundation entitled “How to Conduct an Assessment of Your Court’s Record-Making Operations.” NCRA finds it perplexing that COSCA would feel the need to construct a paper that so one-sidedly recommends courts move to digital audio recording while acknowledging a resource courts have at their disposal to assess their needs for making the official record, analyze costs of various methods, and then draw their own conclusions.

“NCRA recognizes that audio and video recording have made their way into the judicial process,” said Morgan. “In fact, it was the National Court Reporters Foundation that funded a study by the Judicial Management Institute that you cite in your paper, which provides courts with assessment tools for evaluating its record-making needs in an objective and practical manner. We likewise acknowledge that there are competing demands on all members of the judicial system and numerous conflicting perspectives over the best solutions. We are prepared to present and defend our own perspectives in a constructive and open fashion. It is the entirely one-sided nature of the COSCA white paper to which we object and that does an injustice to those courts honestly struggling with these serious matters.”

About NCRA

The National Court Reporters Association (NCRA) is a 21,000-member professional association that promotes excellence among those who capture and convert the spoken word to text and is committed to supporting every member in achieving the highest level of professional expertise. NCRA is internationally recognized as being the premier educational and informational resource for its members and the public. NCRA members, who include official and freelance court reporters, broadcast captioners, CART (Communication Access Realtime Translation) providers, and Webcasters, are recognized by both the public and private sectors as ethical, well educated, highly respected, and technologically advanced professionals. For more information, visit www.ncraonline.org.