

**Letter from**  
**Gerald Olson, Certified Court Reporter and Member of the**  
**Digital Audio Recording Technology Committee**  
**To Members of the Committee**  
**May 21, 2009**

May 21, 2009

Members of the Council:

First, I want to thank the council for the opportunity to give some input on behalf of the Official Court Reporters of this fine state.

I retired from the State as a court reporter October 2004 after 32 years of service. Since that time I have been solo freelance reporting and enjoying it very much. I proudly display in my office from my State employment, along with my other certificates, a certificate from the Supreme Court of Iowa which states, "...for over thirty years of public service and their acknowledgement of my exemplary dedication to the administration of justice in this state, signed by Louis A. Lavorato, Chief Justice." It saddens me to see what will become of the integrity of the judicial system and record no matter what vendor tells you how great their product is. It takes much more than a machine recording anything in its path to create a fine English transcript good enough to hold up on appeal.

In 1972 when I began my career, we reported only with a manual writer. Then, all the officials were typing from their shorthand notes that sat upright on a note holder and we were able to generate about 10 typed transcript pages per hour. Reporters performed an endless amount of time preparing orders, rulings, jury instructions, letters, all then, of course, by an IBM Selectric typewriter. We thought they were great **and they were workhorses**. A reporter working along with one judge makes it

more accurate, safer, and quicker for the reporter and judge, oftentimes with the judge never having to read a prepared order before signing it.

In the 1970's, some reporters in this area began the use of typists to produce a transcript from dictated notes onto tape. We were able to dictate our notes for reproduction much faster than the proceedings took place in the courtroom. For the typist there was no downtime on the tape while the reporter marked an exhibit, waiting for counsel to walk to the witness with an exhibit, the witnesses reading over the document before any further record took place. I can **only imagine** being a transcriber from a digital recording wanting to fast forward to some live speech, which could only result in skipped record. The quality of a reporter's dictation for our typists was easily set forth, they only hearing the spoken word (not as we hear the record with slurred speech, over-speaking of counsel and the witness, background noise of a door closing, people coughing, and numerous other things **ONLY** the court reporter ever notices.)

In the early '80s, electric stenotype writers came on the market which had a short stroke and a very spoon-in-the butter feeling. Our arms and wrists felt less stressed at the end of the day.

In 1987, I began using my first computer-aided transcription software and **again** a new writer and have never looked back. I thought the software then was as great as anything I could ever imagine. It was only the tip of the iceberg. This particular software was ultimately purchased by another company, some features looked at and used and then shelved. Many reporters were disgruntled. Since that time new Windows versions of software with realtime capability, overnight e-mail delivery of dirty ASCIIs to counsel for their preparation for the next day came on the scene. Stenotype writers with built-in screens with instant English translation also evolved. The switch to writing for the computer

was not an easy chore and is not in today's reporting schools. At first I had over 350 English conflicts (meat, meet, mete; knot, naught, not.) You name it, the English language has it. We are now writing and analyzing in our mind the sentence as the words come in. This you will see how well it can work watching closed captioning on live TV like CNN and numerous other channels. These reporters are completely dedicated to what they do, having constantly to visit the Internet before the news hits the screen, to capture names and endless information for their computer dictionary to translate, some of which they don't even know the meaning of. It is amazing what they can do, and their equipment is a step or two above what we use in the courtroom. During 9-11, most captioners were pulled off their regular programs and brought into various unfamiliar channels to cover the disaster. One Iowa reporter's captioning that day appeared live at the outside of Times Square. They sat for endless hours reporting the loss of life and devastation with tears running down their faces.

As you well know, reporters in Iowa have to be certified. I doubt you will find a profession where below 95 percent on a state exam is failing. **Ours can't be.** Our additional certifications have a 97 percent requirement.

Official reporters in Iowa provide at their own cost all equipment to preserve the record. Most of the 180 officials, for at least their first time around, have invested close to \$2 million in equipment to preserve the record. We store our own computer-generated disks. I kept a copy at work and a backup copy at my home office. Only our paper shorthand notes go to the Clerk's office, and with the use of paperless writers now on the market, the Clerk some day would not have to be concerned about storage in any fashion. We pay for all of our own maintenance contracts, yearly software updates and support line help, all the transcript paper, covers, and the list goes on. When we purchase a new software, we take vacation to attend classes on how to perform the

functions, plus endless evening and weekend hours learning the system and preparing transcripts. We constantly build our own dictionary of steno with matching English words. I presently have approximately 100,000 entries for translation. In 37 years I have never held up court proceedings because of slow delivery of transcripts or failed equipment. Most every reporter has a backup writer in their office or the trunk of their automobile, or we borrow a writer from another reporter who is not in court or may be on vacation. When I took vacation, my equipment was sent in for yearly maintenance and was back in my office upon return to work. Also, the use of real-time reporting, reporters in Iowa are able to assist the deaf and hard-of-hearing courtroom participants by allowing them to read the realtime translation during the court proceeding. Realtime reporting can save the State money by obviating the need for interpreters/signers for the deaf and hard-of-hearing.

Now, when a trial goes to appeal, the official reporter will have lived with that case basically **four times** before the transcript is delivered. With any hearing or trial of any magnitude, **number one**, reporters read the court file, take down spelling of names, review police reports, maybe discuss the case with their judge; **two**, they then sit through the entire trial digesting everything that is said and write for the record and keep a list of unfamiliar names and terms; **three**, we then do a computer transcribe and a long, copious edit of the transcript and; **four**, we then conduct a very, very careful final proofing from start to finish of the entire transcript. We live with a case from start to finish. Reporters spend 2 hours to every 1 hour of live testimony to prepare a transcript. And if anyone thinks a reporter's transcript load is taken care of during State hours, bet again. Without a home office and **dedication**, you will not be doing this kind of work.

In the last few years, a change, not for the good, has entered our society and the reporting of trials. Two months ago I had a

deposition of a young man of 20 years who was addicted to Oxycontin and morphine. He could barely keep his eyes open, oftentimes resting his head on the table. His speech was quiet and slurred and counsel and myself had to have him repeat testimony numerous times to understand him. He had critical testimony in a first degree murder case and, therefore, his deposition had to be taken. I have had witnesses who were either on meth or coming off of it who couldn't sit still and speak normal, witnesses and lawyers who were under the influence of alcohol, young men and women who have no respect for anyone, unfortunately police officers who are not as professional as 30 years ago, witnesses who chew gum, and in almost all cases, witnesses with cotton mouth from nerves. I once had a witness remove her gum, and when doing so, I noticed she also had a ring in her tongue. I once had a witness try repeating a word to me (she said **daa** three times) and finally I looked up at Judge Van Metre and he lipped quietly to me "dark." Upon hearing that word, about 4 or 5 jurors said "DARK!" The jurors didn't have a clue either. My inquiry helped everyone in the situation. When things get tough, reporters are there to control the situation. It's amazing when the reporter puts his or her hands in the air and says, "Excuse me, counsel, our record is failing here," how quiet things instantly become. They all forget we're there. A good trial lawyer keeps an eye on us and our record keeping. I have had professional witnesses from the DCI and elsewhere who would look at the reporter to see if we're on key, and also have had professional witnesses leave their business card with me upon completion of their testimony. They know what we are dealing with is difficult and we may have to call them on something we have never run across before. But remove the human element and put only a **machine** in charge, they will **never remember it exists**.

**I on one long, tedious day took an approximate computer count of how many keys I set off after reporting from one witness and attorney, who had similar personalities -- neither**

**wanting to give an inch. It was like a day-long ping pong match. In that one day, I set in play close to a fifth of a million keys.**

When I was an official with long hours in the courtroom, typing long rulings from a judge or jury instructions has caused me, along with other reporters and transcribers, wrist and elbow problems. The problem with today's computer world is we can type on endlessly, never having to stop to erase errors from those carbon copies or hitting carriage return on our typewriters. All those old added functions of the past, however, let our wrists and arms change position temporarily letting our tendons and muscles breathe. Editing a computer-aided transcript now allows reporters to move around on the keyboard doing the many added features for punctuation and editing with one stroke of genius performed by these programs. We are now able to edit at least 30-40 pages an hour versus the typing of 10 pages in the past, or maybe less for today's transcriptionist from a courtroom digital recording because of delays in waiting for the next spoken word. Nothing could ever replace our Cat systems of today and the human element operating them. When reporters report a witness or lawyer, we oftentimes stare them in the face and watch for lip placement in pronunciation. If we are watching the speaker, we can tell whether they said Exhibit **P** or **T** by their facial expressions. **But not always.** We, in every trial, always write notes to ourselves within our record to check certain areas of testimony.

The ability to create a transcript from a digital recording today is replete with today's upcoming generation who spend their time texting each other with symbols and shortcut spellings and playing computer or phone games rather than reading or writing. We would be stepping back in time 30-40 years by implementing straight typing from CD's. Those professionals you will be looking for to fill the gap to provide transcripts for you versus the present professionally trained, **English loving official reporters**, will be

far and few. Also, retaining people who would do straight typing from frustrated recordings with the wear and tear on their wrists and arms will not be easy.

We have heard news of certain reporters reading books and magazines when things are slow at work. I have since found out that the cases of the book-reading reporter was a day she was working for a senior judge. Senior judges usually do the least possible work and that is understandable. They are retired and not as perky as when they were a full-time judge. Unfortunately, we are as busy as the situation calls for. I truly believe cases are not set deep enough through court administration so more cases are heard timely. Some judges on court day will wait towards the end of the day until he or she dictates orders. In those situations, we hope we brought some work with or something worthy of reading for our job. But I, along with other reporters, have thrown away at various outer counties women's magazines sitting on the reporter's desk or in drawers. This is very much unprofessional being that there are never-ending reference books and magazines to better ourselves. There is no subject that a reporter can fully be prepared for in the courtroom. We never know what subject matter will be thrown at us. However, the only thing I (red) read at work, time permitting, while working for the State (outside of my many reference books) was the Des Moines Register. Reporters need to read and read. If you have seen a word or heard it before, you will be able to write that word more fluently because your brain is familiar with it. However, the books I have as part of my reference materials were our JCR reporter's magazine, The Pill Book, Proper Noun Speller, Webster's Guide to Abbreviations, the Dictionary of Slang and Euphemism, Legal Terminology, Realtime Writing, Glossaries of Countless Terms, The Words You Should Know, Cochran's Law Lexicon, A Psychiatric Glossary, The Bartender's Bible, 2000 Sound Alikes and Look Alikes, the Dictionary of Cliches, Dorland's Medical Speller, the Gregg Reference Manual, Gray's Anatomy, Medical Phrase Index,

Roget's International Thesaurus, Stedman's Medical Dictionary, Style and Sense, the PDR and many others.

At the reporters state convention every June there have been comments made by attendees from our National Court Reporters Association in Vienna, Virginia, who are amazed versus what they see in many other states of the turnout of reporters, how professionally run our convention is, and the exhibitors who display the latest reporting technology on the market. I would hate to see the judicial system nosedive to transcripts being created overseas (as I have heard) by people who **we can't understand when "they" speak**, nor can **they understand us when "we" speak**. Just in Iowa alone there is becoming more and more unqualified English speaking people. Any possible initial savings that has been calculated for replacement of official reporters, and the complete elimination of a highly-trained profession this state needs, will be overtaken by added costs, creation of jobs of the unskilled, lower tax paying employees, maintenance contracts, and no doubt an added division of state government to monitor all of this equipment.

If there are reporters who are **not** performing their job up to par by not filing transcripts timely, working around ways not having to help out another reporter's absence when needed, judges who will not let their reporter report for anyone else, deal with them and the judges. There are large cases where we have to ask for extensions on appeal because it is not humanly possible to meet that deadline, reporter or transcriptionist. Every profession in this world has the good and the bad. Some judges will not help out in cases where that is not their assignment. In District 1, court administration do not bother asking certain judges because they know the answer is no and they feel intimidated by them. If there are slackers, let's do something about it.

Some states have gone to digital recording in lower courts with little transcript load, if any. Any court of higher jurisdiction would be and is hampered with digital recording. Many states are rehiring reporters because prepared transcripts are full of the word (inaudible). We all have read of failed digital recordings from some states that have caused new trials in, for example, murder cases because of inadequate transcripts.

Reporters of this state are willing to work with the system to cut costs wherever they may be. I also believe they have offered to have a cut in pay to keep the system working well in the bad times we are going through. Why is only \$40 going to be taxed for a reporter's **full day in court** when \$40 will also be taxed for a **ten-minute guilty plea**? Does a plumber charge that way? A full day in court should be much higher than that. That would help tremendously and maybe "bail us all out." Do any of us here today believe that our world economy will turn around? I do. I don't believe we would have this issue if it wasn't for the budget or maybe **I am wrong on that**. **If** totaling eliminating reporters, along with any other branch of government, would totally eliminate that cost and not produce another, yes, we would be helping the budget. **I seriously doubt** that will happen if this is carried forward.

As of now, with **your** countless duties to handle, I would guess (barring wintertime illnesses) very seldom has court administration in the districts, State Court Administration, or the Supreme Court ever gone to work in the morning (**except lately with your wheels spinning**) wondering if the recording method for that day for our 99 counties (**barring a few deadbeat reporters**) is being fulfilled and will function properly. **It functions very well**. Replacing 540 positions is not the answer.

I again thank you for listening to comments from someone who loves the profession, no matter how difficult it is, and has seen

the system work. A reporter's stress in the courtroom is compared to that of an air traffic controller in a busy airport. Anyone who enters school and sticks it out to completion and state certification is dedicated to this profession. AIB is known as probably the finest court reporting program in the United States, with countless of its students staying in Iowa after completion. With today's constantly changing reporter computer-aided software, the retaining of reporters will only improve the future of record-keeping.

Gerald (Jerry) W. Olson, CSR, RPR  
Olson Court Reporting Services  
422 Longview Street  
Denver, Iowa 50622  
(319) 984-6360 (319) 239-4802  
olson422@q.com