

AI Notetakers & Summation Bots

COPE: Guidance for Stenographic Court Reporters & Captioners

A practical framework for navigating the usage of AI tools by counsel or participants while maintaining neutrality, confidentiality, and transcript integrity.



SCOPE & PURPOSE

This guidance is designed for stenographic reporters and captioners operating in depositions and related proceedings. It is informational only and does not constitute legal advice. Applicable laws, court rules, and agency policies must always be followed. Remote proceedings may implicate multi-state recording consent statutes, including one-party and all-party consent laws. Undisclosed AI audio capture may trigger statutory violations independent of deposition rules, particularly when participants are situated in different jurisdictions.

* Any reference to "AI tool(s)" means any and all automated notetakers, ASR translations, or other bots utilized by any attendee.

CORE PRINCIPLE

Your role is not to control AI.

Your role is to protect the record.

You: Observe | Disclose | Clarify | Preserve

You do not: Authorize | Investigate | Advise | Enforce

- Trade secret and proprietary information
- Attorney work product conversations or information
- Possible capture of off-the-record discussions

Personal Data & Identity Risks:

Personal Identifying Information (PII)

- PII exposure, including facial recognition and voiceprint data
- Stenographic reporter's own PII rights and ability to object to capture

Unauthorized Recording:

- AI notetaker apps that join meetings may record and analyze private conversations without proper consent even if the platform's microphone is muted, creating legal challenges and possibly violating wiretap laws, e.g., *brewer vs otter.ai*, [jacksonlewis.com](https://www.jacksonlewis.com).

Data Control & Unknowns:

- Data storage, retention, and third-party access
<https://www.secure-iss.com/newsroom/australian-court-files-exposed-in-deliberate-breach-of-data-sovereignty>

NO EXPECTATION OF PRIVACY

When AI systems are capturing or processing audio or data, traditional expectations of confidentiality may not apply. *United States v. Heppner*, No. 25-cr-503 (JSR), 2026 WL 436479 (S.D. N.Y. Feb. 17, 2026)

AI Notetakers

1) Initial Prophylactic Statement

At the outset of any proceeding, the stenographic reporter or captioner should place a clear disclosure on the record that any use of artificial intelligence, AI notetakers, recording tools, or automated summarization systems should be disclosed by all participants.

2) If AI Notetaker or Bot Is Identified

If an AI tool, bot, or automated assistant is identified – whether disclosed or observed – the stenographic reporter should:

- State the presence of the AI tool on the record
- Clarify that the certified transcript is the sole official record
- Note that the stenographic reporter does not control or manage third-party AI systems
- Avoid characterizing, endorsing, or validating the AI tool

- Prompt counsel to clarify either an agreement or objection to proceeding
- Maintain neutrality and defer all disputes to counsel

3) Stenographic Reporter Educational Concerns (Key Focus Areas)

The stenographic reporter's role is not to provide legal advice nor to be an advocate, but to ensure parties are aware of procedural risks and possible compromise to the integrity of the record.

When providing neutral awareness, the stenographic reporter may highlight the following risks introduced by the use of AI/ASR technologies and large language models (LLMs):

Confidentiality & Legal Exposure by possible disclosure of:

- Confidential information
- HIPAA protected health information
- Personal Identifying Information (PII)
- Identifying information related to minors
- Financial disclosures
- Protected government or regulated data

FINAL NOTES

When in doubt, return to the core principle: **You are not advocating for or against the technology. You are protecting the integrity of the record.**

Sample Scripts

Disclosure Script:

"For clarity of the record, if any AI, recording, or automated summarization tools are being used in connection with this proceeding, parties should disclose that now. The certified transcript prepared by the stenographic reporter is the only certified official record."

Undisclosed AI Script:

"Let the record reflect that an artificial intelligence tool has been identified in this proceeding. The use, function, and data handling of this tool have not been disclosed or agreed upon by all parties. As the stenographic reporter responsible for the official record, I must raise concerns regarding confidentiality, accuracy, and compliance with applicable rules. Counsel, please clarify the nature of this tool and whether there is agreement to proceed."

Summation Bots

Summations & Deposition Summary Products

Deposition summaries are common and legitimate litigation tools. However, they are traditionally considered attorney work product or litigation support functions, not the role of the stenographic reporter. A stenographic reporter's duty is to provide a verbatim, impartial record. The transcript reflects what was said – nothing more, nothing less.

Mechanical vs. Interpretive Functions:

If a function is purely mechanical – such as generating a PDF, applying formatting, or producing an index – there is no neutrality concern. If a summation requires selection, omission, emphasis, or interpretation such as with the use of prompts and/or keywords, these are subjective judgments and fall outside verbatim capture.

The stenographic reporter is the custodian of the record, not an interpreter of testimony. If a stenographic reporter actively facilitates a summary beyond mere mechanical implementation, the role shifts from neutral officer to participant in litigation strategy. Any use of prompts or instructions – such as identifying inconsistencies, highlighting strengths or weaknesses, or framing testimony for a party – introduces bias and compromises neutrality.

Third-Party Vendor & AI Risk:

If a third-party vendor is used to generate a summary, core risks re-emerge: confidentiality exposure, attorney work product concerns, loss of control over sensitive data. A third-party vendor introduces complications to include verified security controls, access controls, and data handling practices. Use of generative AI or LLMs may result in data being stored or reused outside client control, exposure of confidential or protected information, or lack of transparency in processing. Many statutes are being enacted holding the user of third-party vendors responsible for those risks and this would potentially fall on the stenographic reporter and ultimately the attorney.

Hallucination & Liability Risk:

AI-generated summaries may include hallucinations – fabricated or inaccurate representations of testimony. Legal professionals relying on such summaries may misinterpret testimony or make flawed strategic decisions. This creates downstream liability that may extend back to the stenographic reporter as the source of the summary.

Prompts, Discoverability & Work Product:

Stenographic reporters do not have attorney work product privilege. If a stenographic reporter participates in summarization, those materials may need to be disclosed to all parties. Any summaries, prompts, or inputs may be discoverable, including keywords, instructions, draft summaries, metadata, or system logs.

Appeal Risk:

If a summary influences litigation strategy or argument, a non-neutral actor has participated in shaping interpretation of sworn testimony.

Best Practices:

- Maintain strict adherence to the verbatim, impartial role
- Do not create or facilitate deposition summaries
- Do not input prompts or analytical instructions into AI tools
- Provide only the certified transcript as the official record
- Avoid third-party summarization services tied to the transcript
- Reinforce that summaries are not part of the official record

Practical Boundary Statement:

"My role is limited to preparing the verbatim, certified transcript. Summaries or analyses fall outside that role."