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Yes, justice is blind. Her ears? Also shaky

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If you can decipher the sentence above, you're in select company.

It's shorthand produced by court reporter Kim Neeson on a "computer-aided transcription" machine, which converts her curiously arranged symbols into English.

Using just 14 keys on a device no bigger than a car battery, Neeson, who types in excess of 300 words a minute, captures all the action at everything from arbitrations to major criminal cases. She was the Ontario Court of Appeal's choice to transcribe proceedings at Steven Truscott's historic murder conviction review in 2007 – hardly a surprise, given not just Neeson's skill, but also the fact she's trained in "real-time" technology that allows her to produce virtually instantaneous transcripts for lawyers and the court.

"It's the best available model for court reporting," says Frank Addario, president of the province's Criminal Lawyers' Association. Fast and accurate transcripts help lawyers and judges move through cases more efficiently and reduce waiting time for appeals, he added.

The provincial government, however, wants to take court reporting in a different direction. According to the Ontario Public Service Employees Union, which represents some 500 court reporters, plans are underway to replace the existing system with the use of digital audio recorders and "voice-writing" technology.

Court reporters would still be required in the courtroom to monitor the recording devices or capture everything that's said by speaking into a mask connected to voice-recognition software.

But the computer discs holding the information would be sent out to typing pools and turned into transcripts by people who weren't present in court and, most likely, are unfamiliar with the cases.

The change would mean court reporters, who are now paid between \$3.20 and

\$3.75 a page for the transcripts they produce, usually at night and on weekends, would lose approximately half their incomes. (When not churning out transcripts at home, court reporters are paid between \$22 and \$28 an hour for time in court and guaranteed 1,000 hours of work a year).

The proposal also raises questions about whether the accuracy of the court record will be maintained.

Fifteen years ago, the province considered replacing court reporters with tape recorders and undertook a pilot project in London, North Bay and Picton. The results showed errors in 15 out of every 100 pages of transcript prepared by typists who weren't in court and relied on audio tapes.

A transcript from a preliminary hearing in Sturgeon Falls contained two references to the "Sprinkler of Canada" (presumably the Supreme Court, where justice surely rains).

In other cases, there was a reference to the Rules of Frivol – not Civil – Procedure and erroneous transcriptions of licence-plate numbers, dates and sections of the Criminal Code.

Lawyers are concerned. Addario's group wrote to Attorney General Chris Bentley last week.

"Miscarriages due to inaccurate transcribing are unavoidable, (and) we think that any changes that increase the possibility are unjustifiable," Addario told the *Star*.

A court reporter's familiarity with the case, gained from being in court, gives them a contextual foundation that helps ensure accuracy, he said.

"A lot of (the ministry of the attorney general's) plan in our opinion is doomed to failure because they simply don't understand how we do our jobs," says Helen Haggith, a court reporter and local OPSEU president in Windsor.

Haggith uses a digital tape recorder that will automatically play back courtroom testimony if she types a search term into a computer.

The ministry already uses digital recorders in 14 locations, but Haggith and other reporters still prepare the transcripts.

A ministry spokesperson told the *Star* he couldn't discuss the proposed reforms because they were the subject of recent collective bargaining talks with the union.

While a tentative agreement was reached (and is scheduled for a vote at month's end), there was no resolution of the court reporting issue. It remains a subject for future discussions between both sides, the spokesperson said.

Haggith thinks the proposal is payback for a grievance the union filed after some

court managers refused to allow reporters to type transcripts on ministry time, at the courthouse, if a case took an extended recess.

An arbitrator ruled in 2006 that transcript preparation is part of a court reporter's job, which makes them ministry employees – not independent contractors – when preparing the court record. That could potentially mean their income from transcripts is not just subject to union dues, but counts when calculating government pensions.

South of the border, digital recording is used in several states, particularly at the federal court level, said James Bowen, treasurer of the American Association of Electronic Reporters and Transcribers. His organization's website says "e-reporting" offers several advantages over traditional stenography, including the ability to capture both languages used by court translators, and the ability to keep courts running for longer stretches.

That's correct up to a point, said Neeson.

"The digital taping may be able to record 100 languages, (but) it still must be typed by a person somewhere, somehow," she said.

"And yes, it's sadly true – machines do not need to eat or go to the bathroom."

Translated into English, Kim Neeson's shorthand says: Justice is blind, and her listening devices may not measure up either if Ontario court reporters lose their jobs. That's a play on "Justice may be blind, but she has very sophisticated listening devices," a popular quote attributed Edgar Argo. Thanks, Edgar.