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Bring back the court reporters



By Steve Duin, The Oregonian

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Correction appended

It's the rare legislative bill that touches on equity and the death penalty, state budgets, the value of a human being in this internet age, and the endangered species that is court reporters.

But that's what we're dealing with in Senate Bill 409, which argues that aggravated murder cases in Oregon just might be important enough to have a certified stenographer in the room.

In one of those classic penny-wise-pound-foolish moves, the state largely did away with court reporters in 2002 during a glorious budget crunch in which, for six months or so, courts closed on Fridays and judges stopped hearing landlord-tenant cases.

Nine years later, there are a grand total of five court reporters still at work in Lane and Marion Counties. Thus, when Bruce and Joshua Turnidge were sentenced in the Woodburn bombing case, court reporter Mary Fagan transcribed every word of the three-month trial.

When Randy Guzek was sentenced to death (for the fourth time) last June in Deschutes County, however, the proceedings were recorded. The transcript for that three-week trial, essential for the automatic Supreme Court review, won't be ready until May, at the earliest.

"The Turnidge case is our poster child of how the system works well," said Carol Studenmund of the Oregon Court Reporters Association. "The Guzek case is an example of how it works poorly."

Without a dime's worth of differences, I'd wager. The poor soul transcribing the Guzek trial isn't working for free. Her bill is simply being paid by the state public defenders' office, rather than the Justice Department.

The need for court reporters is one of the rare issues in which prosecutors and defense attorneys are of similar mind.

"In a perfect world, we'd love to have one," said Clatsop County DA Josh Marquis. "We grew up trying our major cases before court reporters. Part of the culture of learning law was to get yelled at by court reporters. I have a tendency to talk too fast. The jury wouldn't be rude enough to tell you to slow down, but the court

reporter would."

"Let me speak very selfishly: As a defense attorney, I absolutely can not do the job without getting a rough transcript every day," said Steve Krasik, the Salem-based attorney who defended Christian Longo, Angela McNulty and the Joshua Turnidge. "Instead of slavishly taking notes, I can listen to the witness.

"As a practical matter," Krasik adds, "99 percent of these agg murder cases are going to result in a conviction and appeal. You might as well have the transcript done right up front."

The alternative? An audio recording that is good for posterity and little else. A CD-ROM that is unsearchable and, all too often, unintelligible. "The audio in the Longo case," Krasik notes, "was a disaster."

According to the Oregon Justice Department, the states of Texas, New Mexico and Nevada have seen the wisdom of bringing certified stenographers back into the courtroom.

The fiscal impact of doing so in Oregon for aggravated murder cases?

At most, \$275,000 through the 2013-15 biennium.

The Oregon Legislature, of course, is not obligated to provide funding for SB 409, even if agrees with the concept. "If 409 passes and the Legislature doesn't give us new money, we'll do what everyone else does, which is patch something together," said Phil Lemman, a Justice Department spokesman. The stenographers from Eugene and Salem may be forced to report trials in Portland or Bend.

But the practical impact of business as usual is onerous. When the death penalty is in play, the quality of representation -- and the interminable wait for the transcript -- should not depend on whether the case goes to trial in Lane County or Deschutes County, or whether Justice or the public defenders' office picks up the tab.

Krasik is appropriately blunt: "For really important things, there ought to be statewide standards."

For the worst murder cases, there needs to be a certified stenographer, deliberately tracking every word that's said. The truth of that seems so obvious that I'm stunned we need take it to a vote.

--Steve Duin

Correction published April 13, 2011: Phil Lemman is a spokesman for the Oregon Judicial Department. The department was misidentified in that and other references in Steve Duin's Sunday column.

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