

By Brian D. Sheridan

Hearing at the Hearing

Using Assistive Listening Technology in the Courtroom

Trial was two weeks away. Depositions needed to be reviewed, witnesses re-contacted, questions outlined. The case had been pending for some time, and I had been involved with it from the inception. I was the only one in the firm who could take it to trial.

This scenario is nothing new to those of us in the litigation end of the law business, but there was a twist: being totally deaf, I would need to rely completely on technology to be able to understand anything that was said in the courtroom.

Part of the technology was, literally, inside my head. A cochlear implant had rescued me from a life of silence. It did not provide "sound" or "hearing" as those terms are normally understood, but it did produce electrical signals in my inner ear which my brain had, over the years since the 1997 operation, learned to interpret as speech.

The other part of the technology, however, had to come from the courthouse itself. Those who have a hearing impairment (and they are legion) know that the acoustics of many courtrooms do not lend themselves to an easy understanding of what is being said. With my cochlear implant, I can hear one-on-one conversations quite well, and can converse easily on the telephone with a device that "patches" the phone into my implant speech processor. The particular courtroom¹ that I would be in, however, was very large and its sound qualities were not the best. I needed to be able to hear, and hear easily and at all times, the judge, the witness, and the two opposing attorneys.

The Americans with Disabilities Act requires every state courthouse, as a public facility, to be accessible to the deaf and hard of hearing.² I have found that the problem those of us with hearing impairments face is not so much resistance to the idea of accommodations, but rather ignorance on the facility's part (and sometimes that of the hearing impaired person) as to what technology is available, and how to use it. With the system in place at my local courthouse, I was able to participate fully in the trial. This article describes that system and offers some suggestions for use in your courtroom.

The first requirement of any assistive listening system is that the input must come from each speaker individually. In a typical bench trial setting (such as I experienced), that means that the judge, the witness, and all opposing counsel (two, in my case) must speak into a microphone that is part of the assistive listening system. The judge and the witnesses are in fixed positions, where a standard microphone will work very well. The attorneys, however, must be able to move freely when they examine a witness, present exhibits, and so on. Fixed microphones at counsel table will not meet these needs. Therefore, counsel need to be provided with portable

wireless microphones that they can clip on to their tie or suit jacket. Those microphones broadcast to an FM receiver and, along with the input from the microphones at the judge's bench and the witness stand, are channeled into an amplifier that combines all of the signals and sends them to loudspeakers placed around the courtroom. This means that all of the people in the courtroom, including the court reporter and spectators, will derive a benefit from the system.

After my trial, the court purchased two additional wireless microphones, and has used them in trials where no participant has identified himself or herself as hearing impaired. The advantage, as stated by the judge and the court reporter, is that it is much easier for everyone to understand what is being said, particularly during voir dire where the prospective jurors are sitting in the back of the courtroom. The court reporter added that she is "absolutely delighted" by the system, and has noticed that jurors seem much more alert during trials, and more relaxed at the end of each day, than they did previously.

For persons with a mild hearing loss, the amplification provided by the loudspeakers alone may be sufficient to enable them to follow the dialog of the trial. For those with significant losses, more aggressive measures are needed. In my case, the input from the

two fixed and two portable microphones was also channeled into an infrared transmitter, which was placed in front of the clerk's desk. This unit transmits an invisible beam of light that is picked up by a portable receiver worn by the hearing impaired person. That person has several options with this unit: he or she can connect it to earphones or ear buds, use a neckloop (if they use a hearing aid equipped with a "T-coil," a very effective and vastly underused technology), or (as in my case) connect it directly to the speech processor of a cochlear implant.³

Here are some practical suggestions:

FIRST, as you may suspect, this marvelously sophisticated system did not simply materialize in the courthouse, ready for me to use. I have worked with our circuit judges and courthouse staff over the years, trying out different options. Unfortunately, you cannot just walk into any courthouse in the state and expect to find a system like this, or, often, any assistive listening system at all. Each courthouse is owned and operated by the county in which it sits, and you may have to approach the county board, rather than the judge or the court administrator, to request installation of an assistive listening system.

SECOND, you need to test the system well in advance of your trial or hearing. I set up a time with the courthouse maintenance personnel in advance to try out each microphone and the receiver itself. I had them sit in the judge's chair and the witness stand, and walk around with the portable microphones, while I had the infrared receiver hooked into my speech processor to make sure that I could hear all of the dialog. Many of these systems are purchased and installed by outside vendors who are nowhere to be found once the county accepts the equipment. Be sure that the courthouse personnel know how to set it up and how to fix it if it stops working.

THIRD, double-check with staff a couple of days before trial to ensure that they are actually setting up the system. Get there early on the day of the trial or hearing, and make sure it is working.

Fast Facts

Technology exists to allow litigators with hearing impairments to fully participate in hearings and trials.

The Americans With Disabilities Act requires every state courthouse to be accessible to the deaf and hard of hearing.

The technology is complicated and must be installed and tested in advance of your appearance in court.

FOURTH, be sure that the judge understands that the system is not a mere convenience, but is *essential* for your participation in the case. If it stops working, the proceeding must be suspended until it is fixed. In my trial, the batteries failed after the lunch break on the first day, and I interrupted the proceeding to indicate that to the judge. The trial was adjourned until the maintenance people were able to replace the batteries (a matter of 10 minutes or so).

FINALLY, be honest with yourself about what you can and cannot do. If your hearing loss is such that, even with all of today's technology in place, you cannot understand what is going on, then don't attempt to try the case.⁴ I believed, correctly as it turned out, that the equipment in the courtroom would allow me to try the case. If I had not been convinced of that, I would have found co-counsel or referred the case.

So how did all this work in practice? Very well, I am happy to report. Other than the momentary interruption for battery replacement, we had no mechanical problems. I was able to sit at counsel table with my client, take notes, and participate in the trial with no concern about missing what was going on. There were only two minor issues. The infrared receiver I wore required a direct "line of sight" with the transmitter in front of the clerk's desk, so opposing counsel had to be

THE MARQUETTE COUNTY COURTROOM EQUIPMENT

2 Sennheiser 1093 digital body pack sets [wireless microphones]

1 Sennheiser SP230
two-channel IR emitter

1 Sennheiser R1250J headset

2 Sennheiser HDI302
two-channel IR receivers

1 Sennheiser L151-10/NT charger

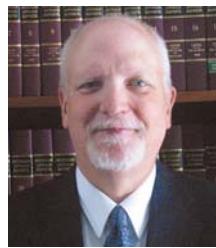
1 Sennheiser EZT1011 neck loop

The total cost of the system,
including training, was
\$4,814 in 2000.

mitters, the system would pick up their input, even if the attorney was outside the courtroom, and transmit it into the courtroom loudspeakers and the assistive listening system.

If you are about to try a case or argue a motion and you have a hearing impairment, you should insist that your local court accommodate your disability by providing a system comparable to the one in place in Marquette County. As I said in my 1995 *Michigan Bar Journal* article: "You may not find local courts, with their limited budgets, eagerly embracing these requirements, but they will comply when it is made clear that they are required to do so. The battle will not be over until each courthouse in Michigan's 83 counties contains at least one courtroom capable of serving the varied needs of the hearing impaired population."⁵ ♦

cautioned not to stand between me and the transmitter. Also, since the witness stand was behind the transmitter, I could not use the system if I approached the witness, since I was out of the line of sight of the transmitter (this could have been addressed by placing the transmitter in a different location). Each of the attorneys had to be cautioned to turn off his portable microphone when he was speaking privately to his client, or when he was not participating directly in the trial; since the microphones were using FM trans-



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since 2000. In 2002 he was selected by the State Bar of Michigan for a Profiles in Open Justice Courage award for overcoming his hearing disability and advocating for others in similar situations.

Footnotes

1. The South Courtroom of the Marquette County Courthouse in Marquette. Movie buffs would immediately recognize it as the courtroom in which *Anatomy of a Murder* was filmed in 1959. I sat in the chair occupied by George C. Scott in the film.
2. See Sheridan, "Accommodations for the Hearing Impaired in State Courts," *Michigan Bar Journal*, Vol 74, No. 5 (May 1995) and *Tennessee v Lane*, 124 S Ct 1978 (2004). The right to such accommodations also extends to litigants, jurors, and spectators. I wrote this article from the perspective of attorneys trying cases.
3. The technical specifications of the equipment used are described in the accompanying box.
4. Or consider other ways to try it. Real time reporting is one option, and if you use sign language, then a sign language interpreter is another.
5. *Accommodations for the Hearing Impaired in State Courts*, supra.