

To tell the truth

Court experiments with testimony via cable TV

On Feb. 12, a clerk in the Oakland County Probate Court in Pontiac asked Dr. Freda A. Dunnam if she swore to tell the truth, the whole truth and nothing but the truth.

From two miles away, the doctor said "I do," becoming the first psychiatrist in Michigan to testify during a live hearing over a two-way cable television hookup.

For the next 90 days, Dr. Dunnam and her fellow psychiatrists at the Clinton Valley Center would participate in an experimental program allowing the psychiatrists to testify from the hospital during probate hearings involving mentally ill persons.

Dr. Dunnam's testimony was seen and heard over three black and white television monitors in Probate Judge Norman R. Barnard's courtroom.

Two other Oakland County probate judges also are participating in the experiment. If it's a success, it could be continued in Oakland and expanded to other probate courtrooms around the state.



Dr. E. Missavage Jr., clinical director at Clinton Valley Center, shows how psychiatrists are testifying over two-way cable television.

rooms in the state are long distances from hospitals, and underground cabling might be difficult. Baldwin said it is possible to beam the signals by microwave and other communication technologies, but the costs are higher.

In fact, says Baldwin, the courts could tie in with commercial cable operations, although it might mean extending cables out to less populated areas which usually aren't served by commercial cable but are often the location of mental facilities.

Although probate hearings are open, that doesn't mean the random cable television viewer would be able to tune in. The message could be scrambled at one end and unscrambled at the other.

The State Bar of Michigan's Committee on the Mentally Disabled worked closely with Baldwin and the mental health department in developing the experimental program and winning the approval of the Michigan Supreme Court.

The court granted the project an exemption to Canon 9 of the Code of Judicial Conduct, which bans cameras in the courtroom.

Some of the best support came from Judge Barnard. "It worked out very well, excellent, better than my expectations," said Barnard. His main concern was that all the participants would be able to see and hear each other and that his court re-

porter would be able to understand the televised testimony.

His support was echoed by John C. Brennan, the court-appointed attorney who represented the first client. "I was concerned that the TV screen might not show the demeanor of the doctor or the personal expression on her face, but it did," said Brennan.

"I think a judge needs to see that to determine the credibility of the witness," For Brennan, who just started practicing in December, this was his first probate hearing.

The project has not received unanimous support.

Probate Judge Barry M. Grant has declined to participate. He told a reporter he thought the television experiment was demeaning and said it took away the patient's basic right to face his accuser.

"They are face to face, even though they're not in the same room," said Barnard when he heard Grant's comments. "And no objections were raised."

The attorneys appearing in Barnard's courtroom were notified that the psychiatrist would be testifying over a two-way cable, but they were not given the option of requesting the testimony live.

The lawyers were each asked to evaluate the program, however, and their reactions will have a great deal to do with the decision whether to continue it.

MSU ASSOCIATE Professor Daniel A. Bronstein, who now serves as chairman of the bar committee, said he is not troubled by the fact that the lawyers are not given a choice.

"I can think of many more restrictive things that the judge can do where the lawyer gets no say in the matter," he said. "And those things have a lot more influence over the outcome of a case."

Paul M. Tarr, legal and legislative affairs director for the state mental health department, was on hand for the testimony along with Baldwin and Bronstein. Tarr has been involved in the project since 1974, and all along he has been interested in including the patients, allowing them to remain in the hospital during the hearing.

But before the project could be expanded to include patients, it would have to be carefully considered by the legal profession.

ONE PROBLEM did surface the first day of testimony. The court reporter, unable to see a psychiatrist's hands, asked if he were reading from notes. Under Rule 612 of the Michigan Rules of Evidence, attorneys are able to look at the psychiatrist's notes if he

refers to them during the testimony or reads from them.

Baldwin said that problem can be resolved easily by installing another camera and monitor to show the notes. An improved camera angle now shows a longer view of the testifying psychiatrist.

The psychiatrists, who would like to see the program continued, appear to be comfortable answering questions to a lawyer on a television screen. "When I first started testifying, I used to get nervous, but it's second nature to me now," said Dr. Dunnam. "It didn't bother me at all."



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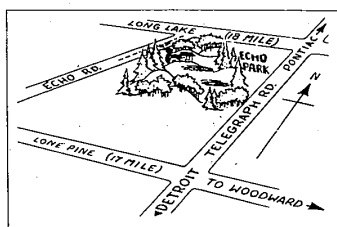


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