Expert Witnesses in Michigan's Courtroom Go High-Tech

By Mikel Chavers

Two toxicologists were waiting in line in early October to give their expert testimony for one court, which is about eight hours away from their home-base state crime lab in Lansing, Mich.

Instead of driving there, waiting at the courthouse, giving their short testimony then driving the eight hours back, the expert witnesses simply waited their turn right in their office and prepared to testify in court via video conference.

And those 16 hours driving time they saved were precious. Instead of spending time away from the office where caseloads continuously pile up, the toxicologists were able to continue working right up to the time they needed to testify.

That's the beauty of the **Video Testimony Project**, which allows Michigan's forensic experts to testify in court using video conferencing technology. The project involves experts in all seven of the state's forensic labs to use the technology in partnership with more than 50 courts in the state. The project is one of eight national winners of a CSG Innovations Award.

The project started in December 2005 because courtroom testimony obligations were really taking a toll on forensic analysts' productivity. They'd make the drive to the court—often a long drive, especially if the court was in the northern peninsula of Michigan—and sit and wait to give their expert testimony. What's worse is that sometimes after the travel and the waiting, the court proceeding would get delayed or cancelled and the analyst either didn't testify or had to come back on a later date to testify, according to Greg Michaud, the project manager.

The hardest-hit for court testimonies is the state's toxicology division. That unit handles all drunken driving cases in Michigan and, on average, toxicologists from the state crime lab give expert testimony nearly 250 times a year, according to the Innovations Award application. That's quite a caseload on these forensic experts, Michaud said. He estimated on a heavy day, they handle 85 to 100 blood alcohol tests coming in the lab's front doors.

Michaud also estimates that 20 percent to 25 percent of all the drunken drivers in the state each day or night get their blood drawn—and that blood goes directly to the lab for testing.

So the more these experts are away, the more their caseload piles up. The toxicology unit typically has a four-month backlog, Michaud said.

And that is precisely the reason the program first started with the toxicology unit, Michaud said.

"This is a really heavy burdens unit when it comes to doing analysis work when you're talking about the entire state of Michigan and all the law enforcement agencies submitting their blood alcohols," he said. "They get called to court an awful lot."

A few years ago after Michigan's blood alcohol limit decreased from 0.1 to 0.08, the caseloads started to balloon. "We had to find some way to become more efficient—try to cut the costs somehow," he said.

So in January 2006, state law was amended to allow for video testimony for expert forensic witnesses. And even though the pilot phase began with just the Lansing lab and about a dozen courts, this summer all seven of the state's crime labs were outfitted with video conferencing capabilities.

A Michigan toxicologist waits to testify in court via video conference in October.

The project has been slow-going so far due in part to the time it took to test the technology as well as work out all the kinks. But the other reason for the lag is due in part to the stipulation by law that both defense and prosecuting attorneys have to agree to use the video conferencing capabilities for testimonies from state expert witnesses.

"We've got to get over that hurdle," Michaud said.

The hope is to amend the stipulations so that just one attorney can call for an expert witness video testimony.

But even with those supposed hurdles, courts in the upper peninsula of the state see the real benefits of the program.

"They can see the bigger picture," Michaud said. "What they see is a quicker turnaround time on other cases waiting back at the lab."

FAST FACTS

- Initial startup costs for the program were $28,661, including a brand new mobile plasma video conferencing system and two desktop video conferencing system for the Lansing, Mich., laboratory. Remaining equipment cost $150,000.
- The state received two grants to fund the program—one from the Office of Highway and Safety Planning and a grant for $150,000 from the National Institute of Justice Coverdell Grant program.
- So far, the program has 15 to 20 video conference testimonies under its belt, saving the state time and money.