

State courts to videotape judges' actions on bench  
Aim is to improve trial performance

By Jonathan Saltzman, Globe Staff March 25, 2005

Massachusetts will soon begin videotaping trial court judges in action, part of an ambitious "judicial enhancement" program for jurists deemed to need help with their demeanor and other aspects of the job.

The judiciary hired a videographer -- with an annual salary of \$39,000 -- this month to record judges on the bench, so the judges can see themselves at work, said Francis J. Carney Jr., a top aide to Robert A. Mulligan, chief justice for administration and management.

Mulligan is focusing on judges who received poor marks in recent confidential evaluations by thousands of lawyers, jurors, and court employees. Like football players who review game tapes to improve their skills, the state's 370 trial judges, Mulligan hopes, will eventually have a chance to review videotapes of themselves.

"The point is to use as many tools at our disposal to help enhance judicial performance, and [videotaping] is one of them," said Carney, executive director of the Administrative Office of the Trial Court. "It has tremendous potential for self-assessment."

While some judges say they welcome the scrutiny, not everyone is cheering the idea. One judge decried the effort as an Orwellian undertaking that would stigmatize those on the bench.

"What does [the camera] say about the judge?" said the jurist, who spoke on condition of anonymity. "It says, 'This guy has been behaving so badly they've got to videotape him to get him to control himself.' "

The videotaping effort is part of a broader statewide program to boost the performance of judges. Judges who did not score well on the evaluations in areas such as writing and knowledge of the law will be required to participate in continuing-education programs.

The first round of evaluations of the 370 Massachusetts trial court judges indicated that most do their jobs well, Margaret H. Marshall, chief justice of the Supreme Judicial Court, said earlier this month at the annual conference of the Massachusetts Bar Association. A small number got "deficient" grades, said Marshall, who declined to discuss the results in detail. The state plans to conduct the reviews every few years.

Several trial judges applauded the videotaping as a way to see themselves as the rest of the courtroom does. "I think that you can learn a lot from watching yourself, if you can get over the embarrassment of it," said Superior Court Judge Margot Botsford. "Would I look forward to having somebody videotape me? I'm not so sure. I'm sure it would be good for me."

Carney said that the plan to eventually videotape all judges would prevent any individual from feeling exposed. Eight well-regarded Superior Court judges have volunteered to let the videographer shoot them, starting within weeks, to showcase exemplary courtroom practices, said Carney, who did not identify them.

"Whether an athlete, a public speaker, or a judge, viewing oneself on videotape can always be beneficial," said District Court Judge Roanne Sragow, one of four Massachusetts judges who volunteered to be taped a few years ago for a separate, one-time pilot training program.

But another trial court judge said that while the taping was a good idea for those who need the help, it would be too much to record all judges. The courts are trying to get through a backlog of cases, and requiring everyone to review a videotape of their work will only put judges further behind, said the judge, who also insisted on anonymity.

Courts in a few other states, including Minnesota and New Jersey, have videotaped judges to improve their performance, according to the nonprofit National Center for State Courts. One of the pioneers is Kevin S. Burke, the former chief judge of the Hennepin County District Court in the Minneapolis area, where video cameras have been mounted in courtrooms since 2000.

Burke initiated the effort after consulting with social scientists and psychologists whose research indicated that parties in civil and criminal cases dwell less on the outcome of court proceedings than on the way judges and other officials treat them. Much of that, he said, has to do with nonverbal communication.

Some Hennepin County judges, for example, were shown on videotape jotting notes as they were being addressed. Research suggests that people sometimes think judges who scribble are distracted. After the judges viewed themselves taking notes on tape, Burke said, some decided to explain at future proceedings that they did so to aid their memory.

"I'm an avid golfer, and I use a video camera to improve my swing," Burke said. "Why wouldn't I use it to improve my profession?"

The one apparent difference between the taping program in Minnesota and the one planned in Massachusetts is that camera-shy judges in Hennepin County can decline to participate.

The recently hired videographer, identified by court officials as Brian Peters, is a former employee of MIT Lincoln Laboratory, a federally funded research and development center in Lexington. Peters declined comment through a court spokeswoman.

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