

**PROPOSED CODE OF RULES TO FACILITATE RELAXATION OF
JUDICIAL CANON 3(A) (7) RELATING TO THE
BROADCASTING, TELEVISION, RECORDING OR TAKING
PHOTOGRAPHS IN THE COURTROOM**

The purpose of these Rules is to enhance the awareness of the public to judicial proceedings, expand the rights of a free press while maintaining the right of a fair trial and allow the administration of justice with due regard to the precepts of a free society.

Rule 1. Proceedings of the Minnesota trial courts may be broadcast by television or radio, and may be photographed, if in compliance with these Rules, with the following exceptions:

- a) In hearings or appeals of Juvenile Court proceedings;
- b) In hearings or appeals of termination of parental rights proceedings;
- c) In hearings or appeals involving mental or inebriety commitment proceedings;
- d) In hearings or appeals involving suppression of evidence. hearings.

Rule 2. (a) News gathering organizations desiring to broadcast, record, or photograph a trial must file with the Clerk of Court a written notice at least ten (10) days prior to a trial whenever possible, but not less than one (1) day prior to trial, specifying the case to be covered, with copies of said notice served upon principal counsel for each side of the case. No notice is required for other proceedings except notice to the Court.

b) Should any counsel for any party have a good-faith objection to the broadcasting, recording, or photographing of the trial, counsel shall so notify the Clerk of the Court, in writing, not less than one day before trial or more than three (3) business days after receipt of the request, whichever is earlier.

c) If no such objection is received by the Clerk within said time period, and for all proceedings allowed by these Rules other than trial, consent shall be presumed.

d) If such objection is received, the Clerk shall notify the news-gathering organization that permission is denied.

e) If any witness has a good-faith objection to the broadcasting, recording or photographing of his testimony, such broadcasting, recording or photographing shall be prohibited.

Rule 3. All broadcast photographic coverage shall be on a pool basis, the arrangement for which must be made by the pooling parties in advance of the hearing. Not more than one (1) ENG camera producing a single video pooling feed shall be permitted in the courtroom. Not more than two (2) still-photographic cameras shall be permitted in the courtroom at any one time. Motor-driven still cameras shall not be used.

Rule 4. Any pooling arrangements among the media required by the limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the court to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment and personnel issues, the court may exclude all contesting media personnel from a proceeding.

Rule 5. Cameramen, technicians and photographers covering a proceeding will avoid activity which might distract participants or impair the dignity of the proceedings, will remain seated within the restricted areas designated by the court, will observe the customs of the court, will conduct themselves in keeping

with courtroom decorum, and their dress shall not set them apart unduly from the participants in the proceeding.

Rule 6. Exact locations for all camera equipment within the courtroom shall be determined by the court. All equipment shall be in place and tested 15 minutes in advance of the time the court is called to order and shall be unobtrusive or hidden. All wiring shall be safely and securely taped to the floor along the walls.

Rule 7. Existing courtroom lighting shall prevail. Other lighting devices are prohibited.

Rule 8. Camera operators shall occupy only the area authorized by the trial judge and shall not move about the courtroom for picture-taking purposes during the court proceeding. Equipment authorized by these rules may not be moved during the proceeding.

Rule 9. Audio pickup, broadcast or recording of a conference in a court facility between an attorney and client, co-counsel, or attorneys and the trial judge held at the bench is not permitted.

Rule 10. Individual jurors shall not be photographed, except in instances in which a juror or jurors consent. In courtrooms where photography is impossible without including the jury as part of the unavoidable background, such is permitted, but closeups which clearly identify individual jurors are prohibited. Trial judges shall enforce this Rule for the purpose of providing maximum protection for jury anonymity.

Rule 11. Audio or visual equipment authorized by these Rules must not be operated during a recess in a court proceeding.

Rule 12. Notwithstanding any film, videotape, photography or audio reproduction made in a court proceeding as a result of these Rules, the official court record of the proceeding is the transcript of the original notes of the court reporter made in open court or pursuant to an order of the court.

Rule 13. The privileges granted by these Rules to photograph televise and record court proceedings may be exercised only by persons or organizations which are part of the news media. Film, video-tape, photography and audio reproductions may not be used for unrelated advertising purposes.

Rule 14. These rules do not limit or restrict the power, authority or responsibility otherwise vested in the trial judge to control the conduct of proceedings before the judge. ~~The authority of the trial judge over the inclusion of the press or the public at particular proceedings or during the testimony of particular witnesses is applicable to any person engaging in any activity authorized by these Rules.~~ The trial court may exclude the news media from any proceeding from which the public may lawfully be excluded. In the interest of justice, a trial judge may prohibit coverage by TV, radio or still-photography of the testimony of a particular witness or witnesses in a trial even though consent to coverage has been presumed under Rule 2(c).

The term, "trial judge" includes any judicial officer who conducts a public proceeding.

Rule 15. The Minnesota Chapter of the Radio-Television News Directors Association (RTNDA), acting on behalf of the media and the public, shall designate for each administrative district a coordinator who shall work with the chief judge of the administrative district and the trial judge in a court proceeding in implementing these Rules. Geographically large administrative districts shall be subdivided by agreement between the RTNDA Chapter and the chief judge with a coordinator designated for each subdistrict.

EXHIBIT 27

TRANSCRIPTS
OF
JUROR INTERROGATIONS
BY
JUDGE HYAM SEGELL
BETWEEN
MARCH 23, 1978
AND
MARCH 25, 1980

1 Christoffersen v. Department of Military Affairs, March 25,
2 1980, Cameras in Courts.

3
4 THE COURT: If you don't have any
5 questions, there is something I would like to talk to you
6 about just briefly and like to visit with you a little bit,
7 and that is the matter of cameras in the courts.

8 At the Bar Association convention in
9 June, we are going to have on the floor of that convention a
10 proposal for an experimental program of having television
11 cameras and still cameras in the courtroom. They will be
12 in the back of the courtroom, and they will take down a por-
13 tion of the proceedings for the purpose of broadcasting them
14 on the news broadcasts at 6:00 o'clock and 10:00 o'clock at
15 night, and I am curious as to how jurors feel about having
16 cameras in the courts, and I would be glad to hear your views
17 on this subject if you would be willing to convey them to me.

18 A JUROR: My first reaction is it
19 would be a hindrance.

20 THE COURT: Do you have any reason for
21 feeling that way?

22 A JUROR: I just think it would inter-
23 fere with the actions, would be distracting.

24 THE COURT: M-hm.

25 A JUROR: I don't think it would

1 affect the jury, but I think it might affect the people who
2 are testifying, or, you know, people who feel they are on
3 camera, because the jury kind of sits back and we don't do
4 anything but listen, so I don't know if the jury --

5 Do you people feel it would bother us
6 as a juror?

7 THE COURT: Well, would you want to be
8 on camera as a juror? Would you want to be viewed --

9 A JUROR: Uh-uh.

10 THE COURT: -- at 10:00 o'clock at
11 night?

12 A JUROR: No, I guess not.

13 A JUROR: No.

14 A JUROR: I wouldn't want to be.

15 A JUROR: I wouldn't, either.

16 A JUROR: And I think a lot of people
17 would -- it would be good for people that don't have the oppor-
18 tunity to come in and see how the courts are run.

19 THE COURT: M-hm.

20 A JUROR: That's the only chance they
21 have.

22 A JUROR: All they have to do, if they
23 want to know what's going on in court, is come and observe,
24 don't they?

25 THE COURT: That's right. It is a

1 public courtroom. I keep my door open to try and invite
2 people in here because it is public.

3 A JUROR: You say that there would be
4 still cameras or --

5 THE COURT: Yes.

6 A JUROR: Would there be a lot of
7 lights?

8 THE COURT: Of course you would hear
9 a clicking of the still camera.

10 A JUROR: You would have a lot of
11 lights?

12 THE COURT: No, there would be no
13 lights. They apparently have developed the state of the
14 art where they don't need artificial light for television
15 cameras and apparently they can do the same thing with still
16 cameras by using high-speed film. So, they don't need any
17 artificial light, and there wouldn't be any bulbs, but the
18 cameras would be there, you would see them, because we have
19 no way of concealing them.

20 A JUROR: I think it would be harder
21 if you were on a criminal case as a juror, if you were having
22 to be one of the group of people to decide if someone was
23 guilty or innocent, and I wouldn't want to be filmed in that
24 situation.

25 THE COURT: Anybody else?

1 A JUROR: I think it might cause some
2 attorneys to perform --

3 THE COURT: Do some show --

4 A JUROR: -- more than they do.

5 THE COURT: More than they do?

6 A JUROR: Right.

7 THE COURT: Do a little showboating?

8 A JUROR: That's right, and maybe some
9 judges, too.

10 THE COURT: And some judges, too. We
11 all are performers, you know, all the world is a stage.

12 A JUROR: Also the plaintiffs would
13 perform.

14 THE COURT: Yes, the litigants might
15 perform a little more, too, and that to me would be the
16 worst part of it, is any exaggeration in testimony, anything
17 that would either diminish the testimony or would exaggerate
18 it in some way would seem to me to be detrimental in either a
19 civil or a criminal case.

20 A JUROR: Along with that, I suppose
21 there would be a problem, that if they were going to show it
22 on the news, and they would only show a segment of it, what
23 they would pick out may not reflect what actually went on,
24 and people might get a misunderstanding of what it was really
25 all about.

1 THE COURT: This all concerns us --

2 A JUROR: Out of context.

3 THE COURT: -- is it out of context,
4 of showing something that takes place and giving the public
5 a completely different view of what is transpiring in that
6 particular case as opposed to, you know, what is really going
7 on.

8 A JUROR: What is the reason for
9 their wanting to have the cameras in the court?

10 THE COURT: Well, they say we should
11 be brought into the twentieth century just like everybody
12 else and they are educating the public. That is the argument
13 of the media, that they will be educating the public.

14 A JUROR: Well, children do learn a
15 lot nowadays by watching television, that's for sure.

16 THE COURT: M-hm.

17 A JUROR: They don't need to watch the
18 news. They can teach them in school.

19 THE COURT: Do you share my view that
20 probably the best way for the public to become educated about
21 the judicial system is to sit on a jury?

22 A JUROR: Definitely.

23 THE COURT: That you learn more that
24 way --

25 A JUROR: Definitely.

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THE COURT: -- than you learn in any other way about how the system functions?

A JUROR: Yeah.

A JUROR: Definitely.

A JUROR: Yes.

THE COURT: I have had that feeling right along, that that is probably the best educational tool we have, is to have jurors come in and sit through a trial, deliberate, and reach the result based on what they hear.

A JUROR: I have a question.

THE COURT: Yes.

A JUROR: Has it always been the case that a jury on a civil case was six people?

THE COURT: No . . .

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THE COURT: Anything else?

(No response.)

THE COURT: Well, thank you very much . . .

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1 Goodrich v. Dube, March 19, 1980, CAMERAS IN COURTS.

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3 THE COURT: I would like to ask you a
4 question, if I may visit with you a little bit, about a mat-
5 ter. The bar association at its convention in June in
6 Rochester is going to take up the question of whether we
7 should have television cameras in the courtroom for the pur-
8 pose of broadcasting excerpts of trials, say, at 6:00 o'clock
9 and 10:00 o'clock in the evening, and I just wondered how
10 you, having served on a jury, would feel about that or if
11 you were litigants or witnesses in a case how you would
12 feel about it. I would be interested in your views.

13 Yes?

14 A JUROR: Is that all cases, your
15 Honor?

16 THE COURT: No. I suppose they would
17 select those cases that they wanted to come in on. I expect
18 they would, anyway. I would anticipate that they would be
19 primarily interested in criminal cases, I think.

20 A JUROR: I would be against it.

21 THE COURT: Do you want to tell me
22 why?

23 A JUROR: Well, I think that the pro-
24 ceedings in a court are something that is confidential to
25 the people, to the jury, counsel. I feel it's private.

1 THE COURT: Anybody else care to
2 comment?

3 Yes?

4 A JUROR: I guess I would tend to feel
5 that I would not like to see them in the courtroom. People
6 would tend to react differently and maybe try to be inter-
7 preted by many little Perry Masons or something.

8 A JUROR: Am I correct in assuming
9 that these are public -- anybody can come in and watch what
10 goes on?

11 THE COURT: Yes. This is a public
12 courtroom.

13 A JUROR: Okay. I guess in that case,
14 then, what would bother me about it, or what would need to be
15 resolved in some manner, is how are we going to pick which
16 ones it is and what are we going to do with the cameras, be-
17 cause there are so many different ways that pictures and films
18 can give a certain impression, that two people could film the
19 same thing and you could come up with a whole different sort
20 of conclusion, or idea, about what it is really that is going
21 on.

22 Now, if all the networks and all the
23 investigators can do like at a press conference -- I think
24 they have like one camera and they have agreed where that
25 camera is going to be, you know, it's set up there all the

1 time -- they can take a close-up and go on there, that
2 there's only certain things they can do, if they can agree
3 on that part of it, so in some way that it's fairly depicted
4 by their agreement, then I would think it would be all right.

5 THE COURT: Mr. Moe, you wanted to
6 comment?

7 JUROR MOE: I would think your person
8 is pretty nervous sitting in that chair the way it is with-
9 out lights and a camera pointing at you.

10 THE COURT: Well, as I understand it,
11 there would be no lights, but the cameras would be visible
12 and you would see the cameramen sitting in the back of the
13 courtroom somewhere.

14 It would be a pooled arrangement that
15 you are talking about, Mr. Funk, that they use at the press
16 conferences. It would be a television station and a single
17 camera of some kind.

18 A JUROR: In my mind, I think it is
19 probably for society as a whole, I think that's one of the
20 most -- probably the more far-reaching effect, probably one
21 of the best benefits we can get out of the television right
22 now is the cable network where we have many, many channels,
23 and, in fact, right now I think the City Council proceedings
24 of Fridley are broadcast to the people who have cable on one
25 of those channels, and I really feel these are important

1 things that -- well, Perry Mason might be, too, but I think
2 these are really things that are really, really important to
3 us.

4 THE COURT: Anybody else care to comment?

5 (No response.)

6 THE COURT: Well, I thank you very much . . .

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Eugene A. Kruger v. Twins Motor Inn - Panel of six jurors
File No. 430753

March 7, 1980

After a verdict was rendered in the above-entitled case, Judge Segell held a short discussion with the jury panel:

THE COURT: I'd like to ask you a question, if you're willing to answer it, and that relates to the question of whether we should have cameras in our courtrooms. There is a movement afoot to bring in television cameras and still cameras in the courtroom for the purpose of having news broadcasts at 6:00 and 10:00 at night on commercial television stations. What I'm talking about is not public service but commercial television stations, and I wonder how you would feel serving as a juror or having a case, if you were a witness or a litigant?

MR. DAVIS: My offhand feeling is that I think there may be some jurors that would be a little concerned about it, not from the standpoint of evaluating the case, but at least having their friends and neighbors see them as part of a jury. There might be some concern--more concern to get jurors than there is today.

THE COURT: You think that you wouldn't want to be second guessed as to what you were doing?

MR. DAVIS: I'm sure there would be much more of that.

THE COURT: Anybody else care to comment?

MRS. PERRY: I feel that it might possibly sway some of the decisions of the jurors, knowing all the entire public,

friends, neighbors, whatever. Their guilty--not guilty feeling but, you know.

THE COURT: You feel you might be a little intimidated by the fact there was a camera out there with its eye on you? Anybody else? Thank you very much.

1 Elert v. City of St. Paul, February 1, 1980, CAMERAS IN
2 COURTS.

3 THE COURT: Well, I want to thank you
4 very much, members of the jury, for your service in this
5 matter.

6 I wonder if you would mind visiting
7 with me about a matter that interests me, and that is the
8 matter of whether we should be having television cameras and
9 still cameras in our courts. This would be for the purpose
10 of news broadcasts at, say, 6:00 or 10:00 o'clock in the
11 evening to show excerpts of trials, either civil or criminal,
12 and I am just wondering how you would feel about that either
13 as jurors or if you were litigating or were testifying in
14 the case.

15 Any of you have any ideas about that?

16 The cameras would be in the back of
17 the courtroom, of course, and they would not use any extra
18 lights.

19 A JUROR: I guess I wouldn't like to
20 have it, your Honor.

21 THE COURT: M-hm.

22 A JUROR: Would this be just as a
23 matter of public interest for people that --

24 THE COURT: Yes, to see something
25 about what goes on in the courtroom on the news.

1 A JUROR: I don't think it would be
2 good.

3 A JUROR: I think, if people are that
4 interested, they can come down here.

5 A JUROR: Yes.

6 A JUROR: Anybody can come and sit
7 if they want to, can't they?

8 THE COURT: Yes; it is a public
9 courtroom.

10 A JUROR: No, I don't, either.

11 A JUROR: It would just put every-
12 thing, I feel, on display.

13 THE COURT: Well, there is some move-
14 ment afoot in Minnesota, it has not been too active, but they
15 have done this in other states. They started out in Colorado
16 many, many years ago doing this, televising court proceedings,
17 and the news media would like to do it here, of course.

18 A JUROR: Oh, sure.

19 A JUROR: Are there quite a few
20 states that are doing this?

21 THE COURT: There are about twenty
22 states now where they are either conducting an experiment or
23 they are actually doing it by rule, by Supreme Court rule.

24 A JUROR: What are the results, the
25 judges' feelings, or whatever? Are there a lot of articles

1 written about it?

2 THE COURT: Oh, there have been in bar
3 journals and things of that kind, yes.

4 A JUROR: And what were the feelings
5 of -- are they critical of this?

6 THE COURT: The bar has generally been
7 opposed to it, and I think courts generally have been opposed
8 to it, but I have been kind of interested in how the public
9 would feel about it, because, if we ever get down to the
10 point where we are going to have a hearing on whether they
11 should do it in Minnesota, I would like to be able to send
12 up to the Supreme Court the views of people who have served
13 on juries.

14 A JUROR: I would think we see enough
15 of this on the news, and they have the drawings, the court
16 drawings, and often, when there are big cases, you get a
17 television picture of the person walking to and from, and
18 I think what goes -- like a person pointed out, that a person
19 can come in here and listen, but I would think for the general
20 public to do it, they're not that interested, and I would
21 think that those kind of things probably are -- they're open
22 to the public, but they're more private, a private matter for
23 those that are strictly interested rather than open to the
24 large general public.

25 THE COURT: The public as a whole,

1 yes.

2 A JUROR: If you hear a part of a
3 case, even here, if you came in for an hour, you wouldn't get
4 it at all, the message, you know, just hearing parts of some
5 things, I can see here, no way -- I mean, you have really
6 got to have it all to be fair.

7 THE COURT: And you don't think it
8 would be of educational value, then, if it were out of con-
9 text, shown out of context?

10 A JUROR: No way.

11 A JUROR: No.

12 THE COURT: Well, thank you very
13 much . . .

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1 Zuckman v. Herman, January 29, 1980, CAMERAS IN COURTS.

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3 THE COURT: I want to thank you very
4 much, members of the jury, for your service. Mrs. Huber
5 knows I like to visit with juries, and I would like to visit
6 with you about something that is of interest to me and inter-
7 est to the courts, and that is the question of whether we
8 should have television cameras or still cameras in our court-
9 rooms to record proceedings for the purpose of broadcasting
10 them either at 6:00 o'clock or 10:00 o'clock as news items.
11 I am interested in the views of jurors on that subject, and
12 I would be glad to hear from you if you have any thoughts on
13 that subject.

14 A JUROR: I don't see any reason why
15 they shouldn't be allowed in as long as they don't interfere
16 with the proceedings at all, running around with cameras and
17 lights, and different things, that they have everything set
18 up beforehand.

19 A JUROR: As long as you don't make it
20 a showcase and running the court system.

21 THE COURT: Pardon?

22 A JUROR: The networks or television
23 running the courtroom, because the legal system has to con-
24 tinue.

25 THE COURT: Anybody else care to

1 comment?

2 A JUROR: I don't see how they can
3 put anything in the news, oh, until after the trial is over
4 with.

5 THE COURT: Well, the idea would be
6 that they would be in the courtroom during the trial and
7 take brief excerpts, you know, of the trial and put it in
8 while the case is being tried. It has been done that way in
9 other states, and they are interested in doing it in Minne-
10 sota.

11 A JUROR: How would you keep a jury
12 from seeing that if the case has not been given to the jury
13 yet.

14 THE COURT: Well, normally, if we were
15 trying a criminal case, for example, we would tell the jury,
16 besides not talking to each other, they shouldn't read any-
17 thing that appears in the paper, and, of course, if there
18 were television cameras, we would have to say you couldn't
19 do that, you couldn't watch television that related to the
20 case. It is very difficult not to sometimes, though.

21 A JUROR: M-hm.

22 THE COURT: Okay. Well, I guess you
23 are in your second week . . .

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1 McNamara v. Krug, January 23, 1980, CAMERAS IN COURTS.

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3 THE COURT: If you wouldn't mind, I
4 would like to visit with you about something else that is of
5 interest to me and perhaps is of interest to you. There is
6 some movement afoot to bring cameras into the courtroom -
7 that is, bring television cameras and still cameras into the
8 courtroom - so that cases such as the one we have just tried
9 or criminal cases or any kind of case could be recorded for
10 the purpose of showing some brief excerpts at 6:00 o'clock or
11 10:00 o'clock on the news, and I am just curious as to how
12 jurors feel about things like that. If you would want to
13 express yourself, I would like to know about it.

14 A JUROR: ~~Your Honor, I mentioned~~
15 ~~down below, down on the eighth floor, I said that is the first~~
16 ~~thing we should have, a television when we sit there on the~~
17 ~~eighth floor.~~

18 THE COURT: For entertainment.

19 A JUROR: Yeah.

20 THE COURT: Well, that is one thing,
21 but the question is whether you want a camera in here taking
22 it down.

23 A JUROR: I don't. I think it takes
24 away a lot from the defendant or actually the plaintiff, what-
25 ever. It's too personal sometimes.

1 THE COURT: M-hm.

2 A JUROR: I don't think that everybody
3 should know what's going on in the private suits; not just
4 yet. For education purposes maybe, but I don't think for
5 personal purposes.

6 THE COURT: M-hm.

7 A JUROR: Some people just seek this,
8 looking for whatever happens.

9 THE COURT: Right.

10 A JUROR: That's my opinion.

11 THE COURT: All right.

12 A JUROR: I think it is a dicretionary
13 thing to use. I can't see exploiting the general case over
14 the 10:00 o'clock news. That I couldn't go for.

15 A JUROR: I think that, if you are a
16 little nervous, the way it is, and, then, if you are thinking
17 about you on the camera, you are more shaky.

18 THE COURT: I think that is the
19 general tendency if you were a witness, for example. Sit-
20 ting as a juror is a little different, but, if you were a
21 witness and you were looking out at the camera, you might
22 find it to be a little different and distracting. I think
23 everybody who testifies is nervous to start with, and it may
24 increase that nervousness.

25 Anybody else care to comment?

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(No response.)

THE COURT: Well, thank you very

much . . .

1 State v. Wimes, January 17, 1980, CAMERAS IN COURTS.

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3 THE COURT: I appreciate the work you
4 have done and the time you have spent in this case, and I
5 wonder if you would mind visiting with me a little bit on a
6 matter that is of interest to me and to the rest of the
7 courts, and that is the question of whether we should have
8 television cameras and still cameras in our courtrooms during
9 trials such as the one you have just been through for the
10 purpose of reporting at, say, 6:00 o'clock or, say, 10:00 o'
11 clock on the news.

12 How do you feel about that? Anybody
13 want to comment about that at all?

14 A JUROR: Your Honor, what would be
15 the advantage and disadvantage of these reports? What is
16 the purpose, real purpose, of it?

17 THE COURT: Well, I can't tell you
18 what the media would think about the advantage or disadvantage.
19 I suppose they expect to sell more advertising if they are
20 able to show what is going on in the courts.

21 A JUROR: Do you think it would be
22 fair to drag the people into it and have their faces plas-
23 tered all over the country on something like that?

24 THE COURT: Well, I am asking you what
25 you think.

1 A JUROR: I don't think it would be.
2 I don't think so.

3 THE COURT: I am interested in your
4 views.

5 A JUROR: I don't think so.

6 THE COURT: I know what my views are.

7 A JUROR: I don't think it would be.

8 A JUROR: I'm all for freedom and
9 freedom of news and media coverage, but I think it has a
10 place, and if they want to see it, they can come and listen
11 like anybody else, and the job is hard enough and difficult
12 enough and, you know, I wouldn't think people would need that,
13 too, to contend with.

14 THE COURT: Would you feel uncomfort-
15 able, doctor, if there were a camera in the back and you
16 were a juror?

17 A JUROR: I think I would.

18 A JUROR: I think it would add to the
19 distraction, concentration, so forth.

20 THE COURT: Anybody else care to
21 comment?

22 (No response.)

23 THE COURT: Well, I thank you for
24 your views . . .

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1 State v. Edwards, January 9, 1980, CAMERAS IN COURTS.

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3 THE COURT: Members of the jury, I
4 would ask if you wouldn't mind staying for a minute, because
5 I would like to talk to you about a matter that is of interest
6 to me and I would hope would be of interest to you.

7 There has been some discussion over
8 the years as to whether we should have cameras in the court-
9 room - that is, have either still cameras for pictures to
10 appear in the paper or television cameras where we would have
11 one camera, a silent camera, in the back of the courtroom
12 so that some portions of the trial could be televised at, oh,
13 say, 6:00 o'clock or 10:00 o'clock in the evening, on the
14 evening news - and I am wondering how you would feel about
15 that if you were serving as jurors, or how you would feel
16 about it if you were witnesses or litigants in the case.

17 Anybody want to express themselves
18 on that?

19 Yes?

20 A JUROR: I'd vote no against TV.

21 THE COURT: Pardon?

22 A JUROR: I'd vote no against the
23 cameras.

24 A JUROR: I wouldn't care for it.

25 THE COURT: Miss Trainer?

1 A JUROR: It wouldn't bother me a bit.

2 THE COURT: Pardon?

3 A JUROR: It wouldn't bother me a bit;
4 in fact, I think that somehow I feel like people have a right
5 to know what's going on.

6 THE COURT: M-hm. Anybody else care
7 to comment about it?

8 A JUROR: I have mixed feelings about
9 it.

10 THE COURT: Yes, Miss Hudello.

11 A JUROR: If only it could be used
12 for educational purposes; otherwise I would say no.

13 THE COURT: In other words, you
14 wouldn't mind it if it were, say, a whole trial on Channel 2
15 or something of that kind or used in the school?

16 A JUROR: Yes, I think something like
17 that might be beneficial.

18 THE COURT: To be broadcast in the
19 school possibly.

20 A JUROR: Yes, m-hm.

21 A JUROR: I agree with Miss Hudello,
22 for educational purposes, because it would give people more
23 of a chance to see what view -- they would be more prepared
24 for what a court actually does.

25 THE COURT: M-hm.

1 A JUROR: I think it would be bene-
2 ficial. I know that it's been quite educational for me, and
3 I came in not really prepared to make -- to stand in judgment,
4 as such. The full realization doesn't hit, and if it could
5 be used as an educational process and as not just a 30-second
6 blurb on the TV, but in more of an educational manner, then
7 it would serve a definite purpose.

8 THE COURT: Essentially, what they
9 are talking about at the moment, and what they have done in
10 some states, is for the purpose of news broadcast, which would
11 be the 30- or 40-second blurb that you would see, you know, at
12 10:00 o'clock at night or at 6:00 o'clock in the evening.

13 A JUROR: I would say --

14 A JUROR: May I interrupt?

15 A JUROR: Sure.

16 A JUROR: The only trouble with that,
17 they kind of get into a rut and they try to pick out the most
18 sensational parts and then show it. They have done that down
19 in Florida, which I know of.

20 A JUROR: If we are not supposed to
21 do any talking about it, why would you want it open to the
22 public that way? That would throw it wide open.

23 A JUROR: That's right.

24 A JUROR: And TV is getting paid --

25 THE COURT: You have to prohibit

1 jurors, of course, from watching TV.

2 A JUROR: Yeah.

3 THE COURT: Just as I indicated to
4 you, if there were anything in the newspaper, you would not be
5 allowed to read about this case.

6 I know in Florida, when they conducted
7 the experiments for the year that they did it, in one of the
8 major murder trials, the jurors asked the judge if they could
9 watch themselves on TV. Of course, they couldn't, but they
10 asked that.

11 Miss Kramer?

12 A JUROR: What would be the benefit
13 of such a short piece of film?

14 THE COURT: Well, it sells advertsing.

15 A JUROR: Well, that's it; that's it.

16 THE COURT: Just like everything else.

17 A JUROR: People are getting paid --
18 I mean, are paid for their advertisement, and they're showing
19 something here that I think they shouldn't televise, period.

20 THE COURT: See, the news broadcast is
21 a means of a television station selling advertising, and if
22 they can show something that would be of more interest to the
23 public and attract more viewers, they can command more revenue
24 from their advertising. Usually that is the situation.

25 Anybody else care to comment about it?

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(No response.)

THE COURT: Well, I thank you very
much . . .

1 Metropolitan Waste Control Commission v. Protection Mutual
2 Insurance, December 12, 1989, CAMERAS IN COURTS.

3 THE COURT: I would like to visit
4 with you just a little bit on another matter that is of inter-
5 est to me, and that is the question of using television or
6 still cameras in the courtroom. There is a lot of discussion
7 around the country today about that, and there is some con-
8 sideration given to that being done here — in fact, there is
9 a bar committee that is studying that at the present time —
10 and I have after each case the last year and a half or so
11 talked to jurors about how they would feel about having a
12 camera sitting in the back of the courtroom, either a still
13 camera or a television camera. A television camera, as far as
14 I know, today is silent, but you would still see it in the
15 courtroom.

16 How would you feel about that? Any-
17 body care to express their ideas about that?

18 Yes?

19 A JUROR: I feel the news media in-
20 trudes so much already upon this whole process that it would
21 be just another way of, oh, too much publicity on a case, and
22 I think that I, as a juror, would feel rather uncomfortable
23 sitting here being --

24 THE COURT: Knowing that the camera
25 was possibly taking your picture?

1 A JUROR: Knowing this was going on.
2 I, myself, would feel much more comfortable if we were in a
3 situation as we are right now.

4 THE COURT: The public has a right, of
5 course, to come in, and they do come in --

6 A JUROR: Right.

7 THE COURT: -- and you see them here --

8 A JUROR: But that takes some effort
9 on the part of the public.

10 THE COURT: -- but you expect that.

11 A JUROR: I mean, it takes some
12 effort, so you are not going to fill, for the most part, a
13 courtroom unless it is a spectacular and unusual case.

14 THE COURT: No; it is rare when we
15 have all of the seats in the back of the courtroom filled,
16 really.

17 Anybody else care to comment?

18 A JUROR: I agree with that point:
19 if a person comes here to partake in the proceedings, it takes
20 an effort on his part; whereas, on TV, it would come sort of
21 like entertainment, flick the TV on and see what's going on.

22 Personally, I wouldn't object to tak-
23 ing still pictures within reason, but, if live proceedings
24 were telecast on the normal trials, I would think that would
25 detract from the judiciary process and lead to maybe some

1 attorneys maybe trying to play not only to the jury but to the
2 outside world and, in so doing, exert pressure on the de-
3 cisions of the deliberations of the jury and affect a verdict.

4 THE COURT: Anybody else?

5 A JUROR: I guess I wouldn't have any
6 objection if it's going to be still.

7 THE COURT: See a picture in the news-
8 paper, as an example?

9 A JUROR: Yeah, and that I have no
10 objection -- I guess the reason is because I'm on TV, so TV
11 doesn't bother me, but --

12 THE COURT: You are in the public eye,
13 anyway.

14 A JUROR: Yeah, in the public eye all
15 the time, so it doesn't bother me, anyway, but I would not
16 like to see the judicial system exposed to ridicule and that
17 kind of thing, because, you know, I think it is very serious
18 business.

19 A JUROR: I would think that TV would
20 tend to produce the spectacular and you wouldn't get a well-
21 rounded picture of the judicial, anyway.

22 THE COURT: That is very likely, I
23 expect, because what they would be broadcasting is maybe
24 thirty or forty-five seconds of some trial on the 6:00 o'clock
25 or 10:00 o'clock news, you know, and what you are saying is

1 true, it probably would be the spectacular rather than the
2 ordinary and the common.

3 Anybody else care to comment on it?

4 A JUROR: I agree with it whole-
5 heartedly, I don't think it belongs in the courtroom. Someone
6 can take the initiative to come down --

7 THE COURT: And watch the trial.

8 A JUROR: And watch the trial. The
9 students are invited to come and --

10 THE COURT: Oh, yes, and we have a lot
11 of them.

12 A JUROR: Yes. I noticed downstairs
13 today, but I think it would do a lot more harm than good in
14 the long run.

15 THE COURT: Well, I want to thank you
16 very much for your service . . .

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1 Stauffer v. Shafer Contracting Co., December 7, 1979,
2 CAMERAS IN COURTS.

3 THE COURT: I wonder if you would mind
4 visiting with me a little bit about something that is of inter-
5 est to me and might be of interest to you, and that is the
6 question of whether we should have television cameras in the
7 courtroom to record the proceedings and then broadcast it on
8 the news at, say, 6:00 or 10:00 o'clock in the evening.

9 Would you care to comment?

10 A JUROR: I think they shouldn't.
11 Really, I think what a man has done, whatever he has done,
12 should be in private, if it is between him and the State or
13 another person.

14 A JUROR: If it's important enough to
15 get to the papers, they will broadcast it.

16 THE COURT: In other words, you think
17 it should be confined to being in the newspaper?

18 A JUROR: Yes.

19 A JUROR: Yes, because there are so
20 many little petty cases, and a thing like this, why put that
21 on TV?

22 THE COURT: I don't think we would
23 see them in a case like this.

24 A JUROR: I don't, either.

25 THE COURT: Yes?

1 A JUROR: I feel they could use the
2 cameras as a reference to the trial, in itself, maybe not
3 for the news media but documentation for a later date for re-
4 trial or anything else of this nature. I think it would be
5 good in that aspect.

6 THE COURT: In other words, you are
7 thinking of gavel-to-gavel coverage, where you would have the
8 whole trial --

9 A JUROR: Right.

10 THE COURT: -- and have the whole pro-
11 ceeding recorded.

12 A JUROR: Right. Maybe after the
13 trial, maybe they could put out excerpts if they felt it was
14 necessary.

15 THE COURT: You don't think it should
16 be done during the trial, though.

17 A JUROR: It would be distracting.

18 A JUROR: Not for news, no, but just
19 for documentation, you know.

20 THE COURT: Yes?

21 A JUROR: Your Honor, I, myself, per-
22 sonally feel that it wouldn't be good for either news or for
23 documentation as such, because I feel that in some cases it
24 may draw out the deliberations as such or it may make people
25 just want to keep on getting references back and forth, and

1 sometimes it's hard enough to make a decision without making
2 it too complicated, too.

3 A JUROR: Like I say, I have five
4 children, and every day I come home they say, "Is it going to
5 be on TV?" and I say, "No," and they say, "What is it about?"
6 If it was on TV, more people, your friends, would call you and
7 ask you, "What do you think?" and I think it would make it
8 awfully hard on the jury, and people will do that. I think
9 we all know that everybody is curious, like if our names --
10 if they had seen us on the jury, our friends would probably
11 have called us and asked us questions, you know, "What do you
12 think?" and you're not supposed to talk to anybody, and it
13 would make it hard on the jury.

14 THE COURT: And if they didn't agree
15 with what you said --

16 A JUROR: They'd probably call the
17 court house and say, "I don't think he's right."

18 It was very hard to make a decision
19 here because there were so many loose ends. This is why it
20 took us so long, and a lot of things we didn't understand. It
21 seems it's always like that, where the loose ends are hanging
22 there, and that's what you have to decide, what the loose ends
23 are. This is right, isn't it? I figure that's what --

24 THE COURT: The jurors don't get a
25 chance to ask questions when they have these loose ends,

1 either.

2 A JUROR: You say, "Why didn't this
3 guy come? He would have solved the case." But, if he would
4 have come, there would have been no case, and that's --

5 THE COURT: Anybody else want to com-
6 ment on the subject of cameras?

7 A JUROR: Sometimes, too, I think with
8 cameras, I think, is the possibility, when you look back at a
9 certain part of the trial, you may take things out of context;
10 you know, you may see something that happened and yet in your
11 own mind, frame of mind, if you just saw part of a film of the
12 trial, you may be placing that before or after some other
13 part.

14 THE COURT: Out of context.

15 A JUROR: Out of context, as such.

16 THE COURT: Yes?

17 A JUROR: Your Honor, would you have
18 to get the permission of both plaintiff and defendant to bring
19 cameras in?

20 THE COURT: Well, some states that
21 have allowed this have required consent of all parties, includ-
22 ing the judge. Other states can do it without consent and
23 leave it to the judge to decide, that if in the case of a par-
24 ticular witness that testimony should not be recorded, that he
25 could refuse to have it recorded; but, as I say, I think about

1 half the states require consent of at least some portion. It
2 is the jurors who have to consent to it, and in some cases
3 it is parties or witnesses, in some cases it is everybody:
4 lawyers, judge, parties, witnesses, and jurors.

5 A JUROR: And is this just to give the
6 public more insight into a courtroom?

7 THE COURT: Well, if it were that, I
8 guess we wouldn't mind so much, but we think it is just a
9 matter of seeing TV advertising.

10 A JUROR: I kind of think so, too.

11 A JUROR: Yes, and not only that, the
12 juror has enough to think about without cameras. You are sit-
13 ting here, and you do not know what to think and --

14 THE COURT: They say the cameras are
15 silent and you don't need lights.

16 A JUROR: You still know they are
17 there.

18 A JUROR: You're aware of them.

19 A JUROR: Yes, you're aware of them.

20 You're wondering what they are saying and what the cameras
21 are doing. They would distract you, really.

22 A JUROR: You feel like you are on a
23 show.

24 A JUROR: That would be the end of
25 watching expressions on the peoples' faces.

1 A JUROR: You probably won't do that,
2 but some of us talked about that. We looked at the expression
3 on Mr. and Mrs. Stauffer's face and on Mr. Mattson's and ex-
4 pressions of their lawyers' faces, changes at certain times,
5 when certain questions were asked. Some of us watched, and
6 some of us didn't, and I don't think I would have probably
7 looked at any of them if I --

8 THE COURT: If you thought a camera
9 was back there?

10 A JUROR: -- if I thought there was a
11 camera, because I probably would have looked right at that.

12 THE COURT: Again, I want to say thank
13 you very much for your service in this matter . . .

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1 State v. Immil, November 27, 1988, 79 CAMERAS IN COURTS.

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3 THE COURT: If you don't mind, I would
4 like to visit with you about some other matter.

5 Defendant can be taken back.

6 THE BAILIFF: Yes, sir.

7 THE COURT: I am interested in knowing
8 how jurors would feel about having cameras in the courtroom.
9 I am talking about television cameras that might be located in
10 the back of the courtroom, that would take down what trans-
11 pires in the courtroom and broadcast briefly at, let's say,
12 6:00 o'clock or 10:00 o'clock on the news some of the things
13 that go on in the courtroom.

14 I am just curious as to how you, the
15 jurors, would feel about that, either as jurors or if you were
16 witnesses or parties in a lawsuit.

17 Anybody care to comment about that?

18 A JUROR: I think it would be distract-
19 ing.

20 A JUROR: I agree with that, I think
21 it would be too much of a distraction in the courtroom.

22 THE COURT: Would it bother you if
23 the camera were focused on you as jurors, do you think?

24 A JUROR: I don't know if it would
25 bother me so much as a juror, but I think it could be a dis-

1 traction from what the witness could be saying or questions
2 that are being asked.

3 THE COURT: Anybody else care to com-
4 ment about it?

5 A JUROR: It's hard enough sitting
6 here, listening and not committed to say anything, but when
7 you are sitting up there and you are nervous anyway, just
8 because you are in a different set of circumstances, I think
9 it would be -- it would make you definitely nervous, you
10 wouldn't say what you would want to say.

11 THE COURT: As a witness, you think,
12 or as a party?

13 A JUROR: That's right, or someone
14 that's in the lawsuit.

15 A JUROR: I guess I feel, if it's a
16 case that has some broader community interest, for example,
17 the case that we just witnessed, that it would be a tendency
18 for witnesses to play to the community as opposed to the jury,
19 in the sense that future appeals might be based on some -- a
20 point of law, but, you know, the community support would be
21 engendered some time in the future for the benefit or the
22 detriment of the defendant or plaintiff or whatever.

23 A JUROR: I'm not sure how I feel
24 about stationary cameras. I have kind of mixed feelings, but
25 I do know that I would be opposed to allowing the TV stations

1 the option of zeroing in, focusing in on a witness or the
2 defendant or the attorneys or whatever. I think, if they were
3 set up in the courtroom, they should just be there at fixed
4 focus.

5 THE COURT: In other words, you
6 wouldn't have as much objection to a still camera, is what
7 you are saying.

8 A JUROR: Well, I have mixed feelings
9 about that. I'm not sure how I feel about that, but I cer-
10 tainly don't believe that they should be given the option of
11 focusing in on individual participants.

12 THE COURT: Anybody else?

13 (No response.)

14 THE COURT: Well, thank you very much,
15 because we like to have that little visit with jurors and
16 find out their views on those things. This is a matter of
17 some interest in Minnesota, because they are doing it in
18 Wisconsin now. They had an experimental rule over there, and
19 I think they still have the experimental rule. Our Supreme
20 Court has given some thought to it. I am not so sure how per-
21 suaded they are at this point that it is a good idea, because
22 they have had some experiments in the Supreme Court and some
23 of the justices haven't been too happy with the kind of
24 things that have been taken down, but it is still a matter of
25 interest, and there is an increasing number of states that

1 have done it, so I am kind of interested in it myself to see
2 what the people of the community feel about it.

3 Well, thank you very much for your
4 service in this matter, and you are excused at this time.

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1 State v. Hutchinson, November 20, 1979, CAMERAS IN COURTS.

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3 THE COURT: Well, I want to thank you
4 very much, members of the jury, for your service in this
5 matter. The defendant will be discharged and the probation
6 officer is free to leave. The reason we were delayed is
7 because we were taking a plea on another matter, and that is
8 why I had to keep you up there for a few minutes.

9 If you wouldn't mind, I would like
10 to visit with you about a couple things. While you were
11 being interrogated relative to your qualifications . . .

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15 THE COURT: One other thing I have
16 been interested in over the last couple of years and that is
17 whether we should have television cameras in the courts, and
18 I wonder if you would care to comment on how you would feel
19 about having television cameras in the back of the courtroom,
20 so that some part, a small part, of the trial might be re-
ported on the 6:00 o'clock or 10:00 o'clock news.

21

22 Mr. McFadden, you are a newspaperman,
and you probably want to comment about it.

23

24 JUROR MC FADDEN: I would favor that
as long as it is not intrusive, and mechanically, you know, or
25 electronically can be done now without upsetting anything,

1 and I think it would be, as this has been for all of us
2 I'm sure, educational, as well as -- you know, it's not just
3 idle curiosity or interest or something. I think that we have
4 all learned more about the court, I'm sure, than we ever knew
5 before.

6 THE COURT: Mr. Koenig, you wanted to
7 comment about it?

8 JUROR KOENIG: I don't believe they
9 should have cameras. I feel that this type of trial and case
10 should be kept as private as possible, and it's nobody else's
11 business but as it has been performed in this instance. I
12 don't feel that the outside world should be totally made aware
13 of a person's personal situations and problems of that nature,
14 and it's a court-related thing, and it should be kept in that
15 respect.

16 I just feel as a juror, though, if I
17 could comment --

18 THE COURT: Yes.

19 JUROR KOENIG: -- that the case as
20 presented left us no decision aside from what we decided be-
21 cause of the way the facts were presented, and there were a
22 lot of unanswered questions, but in order to obey the law as
23 you had explained it to us, we had no choice but to come up
24 with the decision that we did come up with because of the way
25 we were instructed to interpret the law. We had no other

1 choice.

2 THE COURT: You don't have to apolo-
3 gize for your verdict.

4 JUROR KOENIG: But as far as TV --

5 THE COURT: There is a note of
6 apology in there, and you don't have to apologize.

7 JUROR KOENIG: Well, keep the TVs out,
8 because I think the trauma of it all for the people who are
9 witnesses and jurors and yourself and the attorneys, and
10 what have you, I feel it should be kept like it is. Advertis-
11 ing things such as this isn't proper by having TV cameras
12 blaring away and upsetting people.

13 THE COURT: Anybody else care to
14 comment?

15 Yes, Mrs. Peterson.

16 JUROR PETERSON: I think it would be
17 very helpful if we could have available transcripts of the
18 court. When you listen to four days of proceedings, at the
19 beginning you don't know what facts are going to turn out to
20 be significant and you can never really replay through the
21 whole thing. There were many instances, aside from the one
22 we did ask, where --

23 THE COURT: That is why jurors have
24 to be attentive.

25 A JUROR: Uh-huh.

1 add that, of course, I think most of us are aware of the
2 desirability of open court proceedings, and that's not done
3 for the benefit of the newspapers or for the TV, it's for the
4 benefit of the defendant, and, so, it wouldn't be -- it is to
5 his benefit to have the cameras. It's another way of people
6 attending a court session. Instead of, as he said, having a
7 camera pointed at you, I was trying to indicate that you don't
8 even have to see anything but a peephole in the back here or
9 someplace, you know.

10 THE COURT: You are right that open
11 court is for the benefit of the defendant.

12 Suppose that the defendant did not
13 want to have it open to the camera.

14 JUROR MC FADDEN: That's a good ques-
15 tion. This is a new area, and I believe that his feelings
16 should be taken into consideration, now, at this point; I
17 do.

18 THE COURT: Anybody else care to com-
19 ment?

20 (No response.)

21 THE COURT: Okay. Well, thank you
22 very much again for your service . . .

23 * * *

1 add that, of course, I think most of us are aware of the
2 desirability of open court proceedings, and that's not done
3 for the benefit of the newspapers or for the TV, it's for the
4 benefit of the defendant, and, so, it wouldn't be -- it is to
5 his benefit to have the cameras. It's another way of people
6 attending a court session. Instead of, as he said, having a
7 camera pointed at you, I was trying to indicate that you don't
8 even have to see anything but a peephole in the back here or
9 someplace, you know.

10 THE COURT: You are right that open
11 court is for the benefit of the defendant.

12 Suppose that the defendant did not
13 want to have it open to the camera.

14 JUROR MC FADDEN: That's a good ques-
15 tion. This is a new area, and I believe that his feelings
16 should be taken into consideration, now, at this point; I
17 do.

18 THE COURT: Anybody else care to com-
19 ment?

20 (No response.)

21 THE COURT: Okay. Well, thank you
22 very much again for your service . . .

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1 LaFavor v. Gibbons, September 26, 1979, CAMERAS IN COURTS.

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THE COURT: If you don't mind, I would like to visit with you about something that has nothing to do with this case but which I am interested in, and I am trying to interest other people in, and that is the question of whether we should have television cameras in the courts.

We have a camera sitting in the back of the room so it will televise the proceedings and then perhaps have some brief news broadcast at 6:00 o'clock or 10:00 o'clock on the news, and I am trying to get the reaction of people who have sat on juries to find out what they think about that.

Does anybody have any ideas or anybody care to comment about how you would feel about having cameras in the court, either as jurors or as witnesses or litigants?

Yes?

A JUROR: I would like to comment on it, your Honor. I think it would be very distracting, and I think some people would be more concerned about the television rather than what's going on in court.

THE COURT: Anybody else --

A JUROR: I think that --

THE COURT: You don't have to get up.

A JUROR: Okay. I think I'd probably

1 feel about the same way; you would be more or less worried
2 about what your answer is going to be because everybody is
3 sitting out there watching you. Like you get somebody on the
4 witness stand, they're not going to look at the jury and they're
5 not going to look at the attorneys, they're going to be looking
6 at the camera, and they might not be thinking of what they're
7 saying, because they're going to be worried about what every-
8 body else is out there.

9 A JUROR: I would find it interesting
10 to watch from home, though.

11 A JUROR: Yes.

12 THE COURT: Like to see yourself?

13 A JUROR: Not me, no, but, you know --

14 THE COURT: Anybody else?

15 A JUROR: I wonder if it would be a
16 good idea to let everybody know what actually goes on in the
17 courtroom. I don't know if that would be a good idea or not,
18 though.

19 THE COURT: Do you think you would
20 get any kind of an idea by just seeing little brief spots on
21 television?

22 A JUROR: Briefly, yes -- well,
23 probably not as much as you get sitting in here during the
24 whole case --

25 THE COURT: M-hm.

1 A JUROR: -- but, if they do televise,
2 would it just be briefly or would it be a whole trial?

3 THE COURT: I would just assume that
4 on the basis of what I have heard they want to do, it would
5 just be little news broadcasts, you know, a 30- or 40-second
6 spot, you know, such as you see today --

7 A JUROR: With the artist's painting?

8 THE COURT: With the sketching, yes.

9 A JUROR: Yeah.

10 THE COURT: A little news broadcast
11 instead of the sketches. You would have some television
12 film, videotapes, you know.

13 Yes?

14 A JUROR: Would you be invading some-
15 one's privacy by doing that?

16 THE COURT: Well, the courtroom is a
17 public place, of course.

18 A JUROR: I realize that, but not
19 everybody in your neighborhood comes down to see you.--

20 THE COURT: That's right.

21 A JUROR: -- if you're in court.--

22 THE COURT: I have heard that --

23 A JUROR: -- and, in fact, you could
24 keep it quiet and nobody would know, but if it's on Channel 5,
25 you know --

1 THE COURT: You wouldn't keep it too
2 quiet.

3 A JUROR: Right.

4 THE COURT: Well, that is true, and
5 people have expressed that idea, that if they have got a
6 case in court, they think there is some kind of an element of
7 privacy --

8 A JUROR: Yeah.

9 THE COURT: -- and we do, I think,
10 want to educate the public more as to what courts do. One
11 of the best ways of doing that is to sit on a jury, of
12 course.

13 A JUROR: M-hm.

14 THE COURT: I think that is your best
15 prospect for learning how the court actually functions, you
16 know --

17 A JUROR: M-hm.

18 THE COURT: -- because then you see
19 it all, you see the whole case from beginning to end, and
20 unless you participate in that, you never really know how the
21 court functions. It certainly doesn't function the way you
22 see it functioning on television, anyway --

23 A JUROR: No.

24 A JUROR: No, it doesn't.

25 THE COURT: -- in the shows like

1 Perry Mason, it certainly doesn't function that way as you
2 know --

3 A JUROR: No.

4 THE COURT: -- once you have experi-
5 enced the jury service.

6 Well, I just wanted to visit with you
7 a little bit and get some of your ideas on this subject. I
8 am interested in this.

9 Do you find that jury service -- you
10 can go off the record, Steve.

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1 Grier v. North St. Paul-Maplewood School District 622, etc.
2 September 17, 1979, CAMERAS IN COURTS.

3 THE COURT: I wonder if you would
4 mind staying a minute and let me ask you a question about some
5 thing that is of interest to me and I have been inquiring of
6 jurors on for the last year or so in regard to this?

7 I am interesting in finding out how
8 jurors would feel about having television cameras in the
9 courts, whether they are interested in having a television
10 camera in the back of the courtroom recording the proceedings
11 in either civil or criminal cases and then having little news
12 spots, you know, 6:00 o'clock and 10:00 o'clock in the evening
13 as a result of that.

14 Does anybody have any idea on that,
15 how you would feel about that, having that done here, as
16 jurors or as witnesses or as parties to a lawsuit?

17 A JUROR: I, myself, really wouldn't
18 care. I would rather be out of the public eye; you know what
19 I mean.

20 THE COURT: M-hm.

21 A JUROR: I seen that one they had in
22 Miami, I think, with that boy, and I thought it was kind of
23 a show, or circus, where they just played it up because it
24 was one of the first ones or what, but --

25 THE COURT: They have a rule in

1 Florida now, it is a permanent rule now, that was just at the
2 experimental stage at that point, but the rule has become
3 permanent, where they can do that regularly.

4 Anybody else care to comment?

5 A JUROR: As a juror, I wouldn't mind,
6 but if I was up on the witness stand --

7 A JUROR: Yeah.

8 A JUROR: -- I wouldn't want to be on
9 television.

10 THE COURT: I think that is the way
11 most people feel --

12 A JUROR: Yeah.

13 THE COURT: -- because I think you
14 have that tendency when you are on the witness stand, anyway,
15 testifying --

16 A JUROR: Right.

17 THE COURT: -- and when you are sit-
18 ting in the jury box, it is a little different.

19 A JUROR: Right. It's great to be
20 home in your living room watching it, but being there is some-
21 thing different. You never know when it might be you up there,
22 too.

23 THE COURT: Right. Anybody else?

24 A JUROR: I don't think it would be
25 any different than having strangers sitting and listening to

1 it. Isn't it that anybody can come in?

2 THE COURT: Oh, yes, the courtrooms
3 are open to the public.

4 A JUROR: So, I don't think it would
5 be any different than having a stranger sitting back and listen-
6 ing to it.

7 A JUROR: It would make you more ner-
8 vous with lights shining on you, though.

9 THE COURT: No, there wouldn't be any
10 lights. That is one thing they have been apparently able to
11 eliminate is the lights. It would be just the same lighting
12 that we have in the courtroom now.

13 Yes?

14 A JUROR: My only comment is I wonder
15 what it would -- if it would change the judicial system, as
16 to how people look at it, if they saw it on TV all the time,
17 because it would become possibly -- really much more a-taken-
18 for-granted thing, or possibly if they saw certain sorts of
19 suits being tried and the verdicts reached, it would give
20 more people ideas.

21 THE COURT: Good or bad?

22 A JUROR: Either way, I suppose.

23 A JUROR: Can I ask you --

24 THE COURT: Yes.

25 A JUROR: -- how you would feel about

1 having your phone ringing all the time, of people calling in
2 and asking, "Judge, what are you going to do about this?"

3 THE COURT: Well, this is a poss-
4 ibility, don't you think?

5 A JUROR: Yeah.--

6 A JUROR: Yeah.

7 A JUROR: -- because your name would
8 be voiced strongly.

9 THE COURT: I would not like to have
10 that phone ring any more than it rings right now.

11 A JUROR: Well, I am wondering if it
12 would cut down on crime for the person that's doing the
13 vicious things if they thought they were going to be on TV
14 and everybody knows they are the one that did it. I don't
15 know. It's so common, people just don't pay attention to
16 that stuff. It's happening in Florida, California, but if it
17 cut down at lot of stuff, if people thought everybody in the
18 world was watching them --

19 THE COURT: My observation is there
20 are very few things that can cut crime.

21 A JUROR: Yes, if they're that type
22 of person to begin with, it --

23 THE COURT: It wouldn't probably make
24 much difference.

25 A JUROR: Right; not like the average

1 person.

2 THE COURT: Well, I want to thank you very
3 much for your service, and I want to thank you for staying
4 around and visting with me about my cameras-in-the-court
5 thing.

6 Thank you very much, and you are excused
7 at this time.

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1 (Discussion with Jury re Cameras in Courts in State vs.
2 McDonough on June 14, 1979)

3 THE COURT: I want to thank you, members
4 of the jury, for your service in this matter, and I wonder if you
5 would mind indulging me just a little bit. I would like to visit
6 with you about a matter that I am interested in and that has
7 become of some interest in the courts lately, and that is the
8 matter of whether we should have television cameras in the courts
9 during the course of trials for the purpose of having news broad-
10 casts showing what has gone on in the courtroom in either civil
11 or criminal cases.

12 I would be interested in your views on
13 this matter if you would care to share them with me, how you
14 would feel about having a television camera which would be lo-
15 cated in the rear of the courtroom or have a tape recording that
16 might go on the radio during the course of the news broadcast
17 at some later time during the day, how you would feel as jurors
18 or how you would feel as witnesses or as litigants in cases of
19 that kind.

20 Does anybody have any ideas along that
21 line?

22 JUROR KRASKY: Yes.

23 THE COURT: Mr. Krasky?

24 JUROR KRASKY: I think I would be opposed
25 for several reasons, I guess. First of all, the courtroom is

1 open at the present time, anybody can come in and see the proceed-
2 ings if they would like, and the press is allowed into the court-
3 room to report on after the fact. I don't feel that justice is
4 being delayed by making somebody put together a conglomeration of
5 the facts, not as it's occurring but as we get a full summation
6 of the facts, that they can present a better view to the public
7 rather than just one specific person.

8 Also, you might have a problem with some
9 types of showmanship, either with a juror possibly or a witness
10 or someone might be trying to put on a show for the camera type.

11 THE COURT: Or a law student who is work-
12 ing as a clerk?

13 JUROR KRASKY: Yes, sir.

14 THE COURT: Anybody else have any ideas
15 on the subject?

16 Yes, Mr. Schwartz.

17 JUROR SCHWARTZ: I would be in favor of
18 it because I think it would be a good educational tool for the
19 public and all citizens. I think most citizens don't have the
20 opportunity of knowing and seeing firsthand what goes on, but I
21 think it would be something worthwhile.

22 THE COURT: Mr. Robinson?

23 JUROR ROBINSON: I agree with what he
24 said (indicating).

25 A JUROR: I guess I'm against it. First,

1 I feel that there's a possibility of grandstanding, but I also
2 feel that there's a possibility of people clamming up. It's kind
3 of frightening to know, you know. It's bad enough just being
4 here in the courtroom, going through this, but when you realize
5 there is a television camera on you, it might have a reverse
6 effect.

7 THE COURT: Anybody else care to comment
8 about it?

9 I am trying to get the views of jurors
10 about this subject, because one of these days I think we are going
11 to get down to the point of time where our court or the Supreme
12 Court will have to make some kind of decision about whether we are
13 going to allow cameras in the courts or not.

14 (No response.)

15 THE COURT: Okay. Well, I know it has
16 been a long day and a long night, and I am sorry that you had to
17 stay overnight . . .

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1 (Discussion with jury on Cameras in Courts in case of
2 State v. Gunderson on May 31, 1979):

3 THE COURT: If you wouldn't mind, I
4 would like to visit with you on a matter that I have some inter-
5 est in, and that is the subject of whether we should have tele-
6 vision cameras or other electronic devices in our courtrooms for
7 the purpose of recording proceedings by news media which would
8 be shown on the, say, 10:00 o'clock news or 6:00 o'clock news
9 or something of that kind.

10 I am interested in whether jurors would
11 see some purpose in this, how they would feel as jurors, how
12 they would feel if they were litigants in a case, or how they
13 would feel if they were witnesses in a case, and I wondered if
14 you would be willing to share your views, if you have any on
15 that subject, with me.

16 Anybody want to comment about that?

17 Yes?

18 A JUROR: Your Honor, I don't think it
19 is advisable to have the television cameras in the courtroom.
20 Having testified a number of times myself, I think that it prob-
21 ably would cause the witnesses, for instance, and maybe even the
22 jurors listening in, oh, some concern with respect to having
23 their pictures shown on TV at the discretion of the news media,
24 the types of pictures, or the parts of it, maybe some of it
25 would be taken out of context or something like that, and, so,

1 I personally don't think it's necessary to do that.

2 THE COURT: Anybody else? Yes?

3 A JUROR: I feel partly that the system
4 is enough theatrics as need be, and I guess I would, being a
5 juror, resent the fact that someone could see something and hear
6 something visually, whereas, the jurors would have to, instead
7 of getting an instant replay, go through the court reporter again
8 for testimony that was questioned, and, so, I guess I would feel
9 uncomfortable with it.

10 THE COURT: Anybody else?

11 A JUROR: I would feel uncomfortable
12 with it also as a juror.

13 THE COURT: Anybody else care to comment?

14 A JUROR: I think it would be distracting.

15 THE COURT: Well, assuming that there
16 were no lights, do you think it would still be distracting?

17 A JUROR: I think so.

18 THE COURT: Well, I appreciate your
19 views on the subject. I didn't want to keep you here at this
20 hour of the night, but I have a deep interest in this subject,
21 and I have been interrogating jurors --

22 Yes, Mr. Moore?

23 JUROR MOORE: Could we ask your view-
24 point on it?

25 THE COURT: Pardon?

1 A JUROR: Could we ask your viewpoint on
2 it?

3 THE COURT: Yes, you can. I am totally
4 opposed to it, and I have expressed myself so many times that
5 the paper is beginning to call me the rabid judge, Hyam Segell,
6 even though I don't have rabies.

7 Well, thank you very much, members of
8 the jury . . .

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1 (Transcript of jury poll on Cameras in Courtroom on May 17, 1978,
2 in re: Gryc v. Dayton-Hudson)

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4 THE COURT: I wonder if you would mind if
5 I made some inquiries on something of you that is unrelated to
6 this case. I will keep you just a few minutes longer.

7 At the Bar Convention, the State Bar
8 Convention, in Duluth in June we are going to take up the question
9 of use of television cameras and recording devices in the trial
10 court, and I would be interested if you would tell me what your
11 views would be about having such devices in the trial court, if
12 you would.

13 Yes?

14 A JUROR: I agree with your broadcast on
15 WCCO.

16 THE COURT: Oh, you heard that?

17 A JUROR: Yes. ~~I think it would make the~~
18 ~~jurors' job harder. I think there's enough pressure on the jury~~
19 ~~the way it is without having cameras in here. I really feel~~
20 ~~that.~~

21 THE COURT: You were the foreman in this
22 jury, Mr. Brown?

23 A JUROR: Yes, m-hm.

24 THE COURT: And you feel that, if the camera
25 had been focused on you at some point in time, that would be a

1 problem?

2 A JUROR: I think the television camera
3 would definitely make you feel more uneasy. You are uneasy sit-
4 ting here the way it is, trying to simulate all the testimony.

5 THE COURT: M-hm. Anybody else have any
6 ideas about it? Yes, Miss Clark.

7 A JUROR: I think we have to make an effort
8 to keep the procedure of the court from becoming a performance.

9 THE COURT: M-hm.

10 A JUROR: I think that putting a television
11 camera in here puts it in the area of a performance.

12 THE COURT: M-hm. You think witnesses would
13 be bothered just as you would be bothered if you were sitting up
14 on the witness stand? You think that would be troublesome?

15 A JUROR: Yes.

16 THE COURT: Well, I am taking my poll be-
17 cause I am going to take it to the Bar Convention, and I would
18 ask if you would raise your hand if you are in favor of cameras
19 in the courtroom.

20 You are? Okay.

21 A JUROR: I think that a camera would defi-
22 nitely have an influence on the testimony presented by the wit-
23 ness.

24 THE COURT: You think it would bring out
25 the truth better?

1 A JUROR: No, no. I think things are hard
2 enough to admit in front of a small group like this, in this
3 city and nation, you know.

4 THE COURT: Anybody else have any thoughts
5 on it before we take a poll, because I am going to report this to
6 the Bar in June. There will be a resolution on the floor at that
7 time, and they will be debating it, and, in fact, we are going
8 to have a couple hours of a continuing legal education program,
9 which involves cameras in the court.

10 Yes?

11 A JUROR: If there were cameras in here, I
12 would ask to be off the jury.

13 THE COURT: You would?

14 A JUROR: I would feel that bad about this.

15 THE COURT: Anybody in favor of cameras in
16 the court?

17 (No response.)

18 THE COURT: Those opposed raise your hand.
19 Six against. All right. Well, thank you
20 very much.

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1 (Discussion with jury on Cameras in Courts in case of
2 Finch vs. Jacobsen on May 15, 1979):

3 THE COURT: If you wouldn't mind visiting
4 with me about a subject that I am interested in, I would like to
5 talk to you about how you feel about the possibility of having
6 television cameras or radio recordings in the court. These
7 would be cameras that would be brought in by commercial stations
8 to televise the proceedings that go on in either a civil or a
9 criminal case, and I just wonder how you as jurors would feel
10 about that, or if you were litigants or witnesses in the case
11 how you would feel about having a camera in the back of the court-
12 room to record your proceedings.

13 Does anybody want to comment about that?

14 Yes, Mr. Olson.

15 JUROR OLSON: I would feel there would
16 be nothing objectionable to it as long as you, as the judge,
17 would be in a position to act in some position as a -- I hate
18 to use the term -- censor, but could select certain parts of the
19 films that might be taken and exclude them from public showing.
20 No objections to showing the record, but I think that there are
21 some things that could take place in a courtroom that I do not
22 believe I would like to see projected in my home in the evening,
23 for example, when they might be replayed over the television
24 set.

25 THE COURT: We would not have the duty

1 of editing, I am afraid.

2 JUROR OLSON: M-hm. That's the problem,
3 of course, is the media might be tempted, I am afraid, to use the
4 extremes rather than the mid-range of cases that come into a
5 courtroom, and I believe that most of the things that a court
6 hears are rather mundane, with a few specific cases that may be
7 somewhat exciting and so forth to the public, but --

8 THE COURT: Well, we get the sensational
9 murder case or the sensational rape case --

10 JUROR OLSON: M-hm.

11 THE COURT: -- and I suppose that would
12 be the kind of thing that television would be interested in. I
13 can't imagine that they would come in on the case that we have
14 just heard and record that for evening viewing at 10:00 o'clock.

15 JUROR OLSON: Yes, and it would be the
16 judgment of the television station management, then, as to what
17 was actually reproduced on the air --

18 THE COURT: Exactly.

19 JUROR OLSON: -- and I don't know that
20 such an activity is really necessary. I have no personal objec-
21 tion to it, but I don't know whether the public is interested in
22 being that informed; although from a point of view of education
23 of the public, I think it's an ideal thing that could happen and
24 bring it out over the television screen, because I think most
25 people that are considering court cases and so forth don't

1 realize how much of the ordinary, you might say, comes into a
2 courtroom, and I don't mean to downgrade the cases that a court
3 hears, but there are many lawsuits that are brought to court
4 that do not represent the exciting and the flamboyant in a
5 courtroom that is, I'm afraid, in the minds of many people, that
6 they expect to get.

7 THE COURT: That's right. Anybody else
8 want to comment about how they would feel about being televised?

9 A JUROR: I'd be awfully nervous.

10 A JUROR: I think it would be very edu-
11 cational.

12 A JUROR: Actually, in a criminal case,
13 I would be awfully nervous.

14 A JUROR: I would prefer not to have them
15 in. I think the proceedings should be confined to the courtroom,
16 except perhaps with a -- well, a sensational case or something,
17 that's a murder case or something.

18 A JUROR: It would be awfully interesting,
19 I think.

20 THE COURT: Would you get enough out of
21 it if you saw just a very brief portion of the case at 10:00 o'
22 clock at night on the news?

23 A JUROR: Well, they'd show me the ver-
24 dict, so I know what would happen in the end. I would want to
25 know what the verdict would have been, you know, on a case, even

1 though they can't televise it; you know, they write their re-
2 ports and talk about what they have heard in the courtroom --

3 THE COURT: Yes, they can.

4 A JUROR: -- so, I don't know that they're
5 really doing that much different, except for showing the actual
6 goings-on, or their interpretations.

7 A JUROR: There could be repercussions
8 on somebody forced to testify and could be easily recognized,
9 and I have had my boy intimidated where it scared him, whereas he
10 didn't testify. This is what I'm thinking of in the back of my
11 mind. I wouldn't want it to happen to any of my family, and I
12 don't think anybody else would want it to happen to them.

13 A JUROR: Would a person have a right to
14 say, "Well, I don't prefer that," you know, "I don't want to be
15 on," whether he is a witness or juror?

16 THE COURT: No rule has been formulated
17 in Minnesota yet, but there are states that allow television, and
18 one of the considerations is that all of the parties and the
19 judge and the lawyers consent to it, and if they refuse to consent
20 to it, then there is no television allowed in the courtroom, and
21 that would mean everybody, everybody who was participating in
22 the lawsuit.

23 A JUROR: M-hm.

24 THE COURT: Yes, Mr. Olson.

25 JUROR OLSON: I would opt for the permit-

1 ting of the press - that is, the printed media - to use cameras
2 in the courtroom, particularly now when it's possible to use
3 films that are fast enough so flashbulbs are not necessary. I
4 have thought for many years that cameras should be permitted,
5 rather than require artists' drawings and so forth to be used,
6 representing individuals in a court case.

7 THE COURT: M-hm.

8 JUROR OLSON: I see nothing wrong with
9 a camera, so long as they don't use flashbulbs in order to
10 achieve their pictures.

11 THE COURT: Still cameras to take pic-
12 tures?

13 JUROR OLSON: M-hm.

14 THE COURT: Well, have we exhausted this
15 subject yet?

16 (No response.)

17 THE COURT: Again, I thank you for your
18 service . . .

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1 (Inquiry of jury on Cameras in Courts in re: City of St.
2 Paul v. Rein Recreation, Inc., on May 10, 1979):

3 THE COURT: Some of you who have been
4 here before know that I have a deep interest in the question of
5 whether we should be broadcasting our proceedings on television
6 stations and on radio, and I would like to ask those of you
7 who are new if you would care to tell me what your views are
8 as to whether we should have television cameras in the courts
9 or whether we should have radio transcriptions made of proceed-
10 ings in courts.

11 Does anybody want to comment about that?

12 These would be broadcasts that would be
13 made as news broadcasts, either on radio or on TV.

14 A JUROR: I think it would be nice. I
15 think it would be beneficial to the public; people that have
16 never, you know, attended a trial, or observed, it would give
17 them a little bit to go on if they were called as a juror.

18 THE COURT: How do you feel or would you
19 feel as a juror if you were televised?

20 A JUROR: I don't think I'd mind it.

21 THE COURT: Wouldn't you?

22 A JUROR: No, I wouldn't.

23 THE COURT: Okay.

24 A JUROR: I'd be against it. There
25 would be too many opinions all around public, trying to put

1 ideas into jurors' minds.

2 THE COURT: M-hm.

3 A JUROR: It's just no good. This way
4 you're thinking for yourself.

5 THE COURT: Anybody else?

6 A JUROR: That's only television, now.

7 A JUROR: I wouldn't want to see the
8 proceedings televised.

9 THE COURT: Do you think there is any
10 benefit to the public in televising as far as news broadcasts
11 are concerned?

12 A JUROR: I feel that, if you televise
13 it to the public, then suddenly everybody becomes an expert in
14 law, and I think just reading it in a newspaper, if a person is
15 really interested, you know, they can dig and find out what the
16 proceedings are.

17 THE COURT: Yes, and courts are open, of
18 course, all the time.

19 A JUROR: I think that was something I
20 didn't realize before, that we've had the privilege all of these
21 years of availing ourselves of the courtroom procedure and, if
22 we were interested enough, we could come and see what goes on.

23 THE COURT: You think that we have been
24 somewhat remiss in not letting the public know that our courts
25 are open?

1 A JUROR: Maybe.

2 A JUROR: Yeah, that I could say.

3 A JUROR: I'm sure it's recorded some-
4 where that we could find out that courts are open, but maybe
5 that just needs to be reiterated to the public.

6 THE COURT: M-hm. I never thought about
7 that. We assume the courts are open, we all know they are
8 open --

9 A JUROR: But there are a lot of people
10 that aren't aware.

11 THE COURT: -- but -- I don't know --
12 maybe the public isn't aware of that.

13 Anybody else want to comment on that?

14 A JUROR: Well, first I thought it was
15 all right, but I agree that I don't think that I would want to
16 have it televised, because, like you said, everybody would
17 have their opinions and try to influence you and they'll try to
18 talk to you, whether you -- if they know you're on the jury.

19 THE COURT: You think that you might be
20 harassed by people because they are second-guessing your judg-
21 ment, that kind of thing?

22 A JUROR: I think that's possible.

23 A JUROR: I would have found it much
24 harder to pay attention if there had been a television camera
25 in this room, to pay attention to what was going on. That just

1 would have been my response.

2 THE COURT: And this is the kind of case
3 where you have to pay attention.

4 A JUROR: It sure is.

5 A JUROR: That's right. Yes.

6 THE COURT: Tell me -- we will get off
7 this cameras-in-the-court thing -- I am curious about your
8 reaction to my permitting you to take notes. Was that helpful?

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1 Re: Cameras in Courtroom - Jury in Flugstad v. Fine
2 Associates, Inc., May 1, 1979:

3 THE COURT: If you don't mind, I would
4 like to visit with you for a couple of minutes about something
5 that I am interested in, and that is the question of whether
6 we should have television news cameras in the courtroom to
7 record trials, civil and criminal trials. There is some talk
8 about the possibility of doing that in cases, probably more in
9 criminal cases than civil cases, but there is talk about allow-
10 ing television newsmen in to televise trials, and I just won-
11 dered what you would think about that.

12 Anybody have any ideas about that?

13 A JUROR: Well, it may be a good idea,
14 but I think it would be a lot of distraction at first, when
15 they started out. It would probably be a distraction for every
16 case, because I would think it would cause some distraction.

17 THE COURT: As a juror, do you think you
18 would be distracted by it?

19 A JUROR: Not as a juror, but I would
20 think maybe the defendants and the witnesses who would get up
21 there would be more distracted.

22 A JUROR: I agree.

23 THE COURT: Anybody else want to comment?

24 A JUROR: I think it would give the whole
25 thing more the aspect of a drama, which it is, but it's more of

1 a personal drama than public drama. I think --

2 A JUROR: It would be a -- TV is a show,
3 and I realize that news is a big part of our television, and
4 the media has leeway covering it, but I really think that each
5 and every trial is a personal thing to the people involved in
6 it.

7 THE COURT: M-hm.

8 A JUROR: The same way we are as jurors,
9 we're requested to confine our conversations about it and our
10 thoughts, and I think you are opening it to the public and I
11 think it takes away a lot of it.

12 THE COURT: You understand, of course,
13 that the courtrooms are open to anybody what wants to come in.

14 A JUROR: Right, but a lot of people
15 don't take advantage of that, obviously --

16 THE COURT: That is true.

17 A JUROR: -- unless it is something that
18 has already made the newspapers.

19 THE COURT: M-hm. Anybody else want to
20 comment about it?

21 A JUROR: I -- of course, I shouldn't be
22 concerned about the lawyers, but I think some of your younger
23 lawyers would be more frustrated, too, if they're trying cases
24 with cameras around. I think it would be harder for them.

25 THE COURT: M-hm. Anybody else?

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(No response.)

THE COURT: Well, thank you very much.

I didn't mean to take any extra time . . .

1 Re: Cameras in Courtroom - Jury in State v. Johnson,
2 April 10, 1979:

3 THE COURT: I like to visit with jurors
4 from time to time on a subject which I am interested in, and I
5 would hope that you would indulge me for a couple of minutes.
6 I am very much interested in how jurors feel about the prospect
7 of having television cameras in the courtroom, and I am inter-
8 ested in getting their views on that subject. I have been talk-
9 ing to jurors in the last year or so on that subject.

10 I am interested in whether you would
11 want to serve on a jury in which there are TV cameras in the
12 courtroom or whether you would want to be involved in a lawsuit
13 either as witnesses or litigants in which cameras were in the
14 courtroom, and I would be interested in your observations, if
15 you have any, on that subject.

16 Perhaps you are so worn out you don't
17 have any interest in any subjects.

18 A JUROR: Do we look that worn out?

19 THE COURT: Pardon?

20 A JUROR: Do we look that worn out?

21 THE COURT: Well, I know that jurors that
22 stay overnight, you know, feel a little grubby and not too happy
23 with their accommodations and the food they eat and one thing
24 or another.

25 Yes, Mr. Harmon.

1 JUROR HARMON: Before I came in, maybe
2 I would have permitted it, but after going through the whole
3 thing and the pressures on people to be as fair and impartial
4 as they can and objective, I believe the cameras would have been
5 too much for some people. It would have just added that much
6 pressure to be fair and honest about the whole thing.

7 THE COURT: Yes, Mrs. McPhillips.

8 JUROR MC PHILLIPS: I might consent to
9 it if they were like hidden cameras, with nobody behind them,
10 like directing them in a television studio, if they were put
11 in in such a way where there would be no distractions to the
12 jurors or anybody. I might go along with that, but, as far as
13 manning a television camera, I might get a little distracted,
14 it might just upset me knowing that, that I'm going to be on
15 TV, and that way visualize too much.

16 THE COURT: Yes, Mr. Sibben.

17 JUROR SIBBEN: I feel we shouldn't be
18 distracted in any way, and people even coming in and out is a
19 distraction, and we might become too concerned with what we
20 might look like so that our real job cannot be fulfilled.

21 THE COURT: Yes?

22 A JUROR: Well, I guess I'm the one
23 that feels that the press or the news media is possibly the
24 best spotlight to be placed on anything in open court, open
25 to people to be able to see the process of the law, because I

1 think that up to the time that I became a juror I had a lot
2 of misconstructions (sic) of the law, how it operated, what
3 you could do, and what you could not do, and I think that, if
4 the public were able to see a well presented television -- I'm
5 not saying show, where it would be a circus, but where they're
6 allowed to see -- perhaps like he said, hidden, or such a fact
7 that it wouldn't distract, but where the public is allowed to
8 see the process of the law and able to see what's going on, I
9 think that your best protection for a democratic society is a
10 free press, a free news media.

11 THE COURT: What do you think about the
12 prospect of having just excerpts of it on television at 10:00
13 o'clock at night or 6:00 o'clock at night? Do you think that
14 would give the public --

15 A JUROR: Excerpts can be sometimes mis-
16 leading, because they are taken out of context.

17 THE COURT: Well, that is essentially
18 what we are talking about. What you are talking about is a
19 fully televised trial.

20 A JUROR: If it is deemed possible or
21 probable by the judge or the Supreme Court or -- and, also, I
22 would think it would have to be agreed to by both defense and
23 prosecuting attorney, that they would be willing to do it, and
24 even the defendant, too. You know, you would almost have to
25 have everyone around saying yes.

1 THE COURT: All right.

2 A JUROR: But I think that programs --
3 there's too much been made about being distracted or how you're
4 going to look on it. I just think that people should be aware
5 of the process of law, how the judge works, how the defendant --
6 how the defense attorney works, because people have an awful --
7 they misconstrue an awful lot of things.

8 A JUROR: I think, if it is a question of
9 educating the public, I would like to see it done at a lower
10 level, in the junior highs and senior highs. I would like to
11 see it mandatory, like my son would have to spend so many hours
12 in a courtroom, seeing how the laws really work, not the tele-
13 vision laws, and see for themselves. I think it's a -- it would
14 be great for a young person. They need awakening --

15 THE COURT: About the system?

16 A JUROR: -- at any age.

17 THE COURT: Yes, Mrs. Sibben.

18 JUROR SIBBEN: One thing I do want to
19 add is, had this been on television before here, it would be
20 extremely difficult for the prosecutor and defense to go on,
21 and things that go on in the courtroom being exposed to so many
22 might become difficult, and excerpts on the 10:00 o'clock news,
23 it might be very difficult to find a fair and unbiased jury.

24 THE COURT: You mean, if it had been tele-
25 vised, some of the proceedings had been televised ahead of time,

1 before we selected the jury?

2 JUROR SIBBEN: Right. You have no --
3 you had no idea what was going to happen here, and some process
4 still has to be done, and had any of this beforehand been on
5 the 10:00 o'clock news, any part of our trial would have come
6 before a great deal of people, probably to form opinions with-
7 out everything being -- all the facts being known.

8 THE COURT: Yes?

9 A JUROR: I think I agree to the fact
10 that now, after serving, I do not want the television camera.
11 I think it would be too much pressure. It's nerve-racking
12 enough as it is.

13 THE COURT: Anybody else want to comment?

14 (No response.)

15 THE COURT: Well, thank you very much.
16 I guess you are finished . . .

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1 (Discussion with jurors in case of Krebs v. Cushing &
2 Driscoll on January 23, 1979):

3 THE COURT: Members of the jury, after you
4 left last night, I had counsel in chambers, and we had some dis-
5 cussion, and as a result of that discussion, the plaintiffs have
6 dismissed their case, so your services are no longer needed in
7 this case.

8 If you don't mind, though, I would like to
9 visit with you a little bit about something that I am interested
10 in, and that has to do with cameras in the courts.

11 There is some discussion by the Supreme
12 Court and some consideration by the bar association as to whether
13 there should be televised proceedings in trial courts, and I
14 would be interested in learning what you think about that poss-
15 ibility.

16 Now, you have been sitting here as a jury
17 for half a day. How would you feel about sitting in a case,
18 either a civil or a criminal case, where there were television
19 cameras in the back of the courtroom?

20 Does anybody want to express themselves
21 on that subject?

22 Yes?

23 A JUROR: Judge, I had a camera in my purse,
24 but I didn't want to leave it in the car. That's the only rea-
25 son I had it, but I hid it at home today.

1 THE COURT: Well, I am not thinking about
2 that kind of camera.

3 A JUROR: Oh!

4 THE COURT: I am thinking about the tele-
5 vision camera.

6 A JUROR: Yeah, I know, but I had one in my
7 purse yesterday.

8 THE COURT: You weren't thinking of using
9 it, though.

10 A JUROR: No.

11 A JUROR: What would be the purpose of
12 this?

13 THE COURT: Well, it would be for the pur-
14 pose of news broadcasts, say, at 6:00 o'clock or 10:00 o'clock,
15 to show bits of a trial.

16 Yes?

17 A JUROR: I don't think I would really like
18 it if I was in a criminal case.

19 THE COURT: If you were sitting as a juror?

20 A JUROR: M-hm.

21 THE COURT: Anybody else?

22 Yes?

23 JUROR DI MARTINO: I think it would tend
24 to -- you know, as much as you tried, I think it would kind of
25 get out of hand and kind of disrupt or take away from, you know,

1 everybody's concentration, what they're doing.

2 THE COURT: M-hm.

3 JUROR DI MARTINO: However, I don't see
4 that there would be that much of a need for it; you know, you've
5 got the reporter and that and whether he's sketching or whatever,
6 and I don't know whether TV coverage of it would help that much.
7 I think it would be more a hindrance --

8 THE COURT: Would it help you as a member of
9 the public in any way?

10 JUROR DI MARTINO: Not really, as long as
11 you're giving the information and that, and a picture can't give
12 you anymore information, I don't think.

13 THE COURT: And how about if you heard some
14 of the testimony on television?

15 JUROR DI MARTINO: Unless you heard all of
16 the testimony, I don't know that it would do much good, either,
17 because, you know, it would be biased. It's like taking some-
18 thing out of context.

19 THE COURT: M-hm. Anybody else have any
20 thoughts about it?

21 (No response.)

22 THE COURT: Otherwise you will be excused,
23 and if you will return to the Eighth Floor, you may be back up
24 here later; who knows.

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1 (Cameras in Court - November 30, 1978 - Jury in case
2 of State vs. Brown)

3 THE COURT: Make sure that he gets back
4 in court on the 18th. All right. The defendant may be excused,
5 then, and counsel.

6 Members of the jury, if you wouldn't mind,
7 I would like to visit with you on a matter that is of interest
8 to me, and that is the question of cameras in the court.

9 Our Supreme Court is considering the
10 possibility of promulgating a rule which would allow television
11 cameras and other camera equipment and recording equipment, such
12 as a radio station might have, for the purpose of having news
13 broadcasts, and I am trying to get the views of jurors who have
14 sat in both criminal and civil cases, and if you wouldn't mind,
15 I would like to ask you what your thoughts would be on this
16 subject, if you have any.

17 Anybody have any ideas about whether they
18 would want to have cameras in the back of the courtroom which
19 would record the proceedings, including pictures of jurors,
20 witnesses, lawyers, the judge, et cetera? Anybody have any
21 thoughts about that?

22 A JUROR: Would it be for educational pur-
23 poses or just for the news media?

24 THE COURT: Primarily for the news media.

25 A JUROR: My preference would be not to

1 allow them if it's just for news, but if it's for educational
2 purposes, for lawyers or whatever, possibly.

3 THE COURT: Our present rule provides that
4 television cameras can be brought into the courts to record for
5 the purpose of education, and none of that would be shown until
6 after a case was completed and possibly the appellate process
7 had gone through also, you know, so it wouldn't prejudice any-
8 body's rights. That is the way the rule reads now, and, of
9 course, we never see anybody, because nobody is interested in
10 recording a trial for educational purposes.

11 The news media is rather anxious to do this,
12 and they have managed to persuade some other states to do it.
13 Our neighboring state of Wisconsin is doing it just on a test
14 basis at the moment.

15 A JUROR: As far as the paper goes, it
16 isn't going over too well. In the St. Paul Dispatch, it was in
17 there the other day. It isn't -- at the state house in Madison
18 you are talking about?

19 THE COURT: In Madison -- well, in Wisconsin
20 generally --

21 A JUROR: Yeah.

22 THE COURT: -- they are doing it.

23 A JUROR: I don't believe on criminal cases
24 the jurors should be exposed to cameras. That in my book isn't
25 sensible.

1 THE COURT: M-hm.

2 A JUROR: I agree also.

3 A JUROR: So do I.

4 THE COURT: Yes?

5 A JUROR: Your Honor, one of the things we
6 discussed in the other room, we were trying to recall parts of
7 the testimony, and I think anything at all in the courtroom that
8 could serve to distract would only make it more difficult to
9 remember in detail the testimony of the witnesses.

10 THE COURT: It is hard, I suppose, to
11 keep your concentration. It is hard for me to keep mine --

12 A JUROR: Sure.

13 A JUROR: And you're nervous.

14 THE COURT: -- and listen to everything.

15 A JUROR: Just having the normal people
16 around, but also the fact that, say, it was shown nationally,
17 that would scare the witnesses and everyone else. Certain people
18 I'm sure are afraid to be on television, and I don't think it
19 would be fair to defendants. ~~Knowing that they're accused~~ is one
20 thing, and having a diagram of them is another, but showing actual
21 movies, no.

22 THE COURT: M-hm.

23 A JUROR: It could have an influence on the
24 jury verdict.

25 THE COURT: Anybody else want to express

1 themselves on this subject?

2 I am trying to get some ideas and pass
3 these around to a committee that I am the chairman of, so that
4 they will also know what jurors think.

5 A JUROR: Would they be permitted in a
6 closed court, say, where the public wasn't permitted in the court-
7 room at a trial hearing?

8 THE COURT: There is no hearing or trial to
9 which the public cannot attend. We occasionally, in a rape case,
10 will keep out young people, say, under the age of sixteen or
11 under the age of fifteen, but the public is entitled to be in
12 any courtroom anywhere in the country, because a person is en-
13 titled to a public trial in a criminal case. We can't keep the
14 public out, but for the sake of young people, I think from time
15 to time in a bad rape case or something, we have excluded children
16 from that kind of a case.

17 A JUROR: I just can't see of what necessity
18 there would be of a picture to a newspaper, you know, in the
19 event it's free and open. The idea of my looking at a newspaper
20 is not to look at the picture as much as to read the article
21 under the picture. It's superfluous as far as I'm concerned,
22 and the fact is, whose interested in looking at something that to
23 me is routine, in the sense that it consists of jurors and the
24 judge and the stand and benches and bailiff. What do they feel
25 they gain by being able to picture the people?

1 THE COURT: Do you think that most people
2 have some idea of what goes on in the courtroom?

3 A JUROR: Well, if they don't, they're free
4 to come in and look.

5 THE COURT: Yes, they are.

6 A JUROR: That's why I cant see the signifi-
7 cance of being able to -- the news media to be able to come in and
8 take a picture of it. My son is -- my children have been -- my
9 interest is that they should know what goes on, and they have
10 been in, and they know they're free to come in.

11 THE COURT: Yes, we have a lot of students
12 who --

13 A JUROR: If they want to make a statement --
14 if you want to know what it looks like, come and see it, rather
15 than taking a picture of it. I don't think the newspaper needs
16 that much to -- I mean, I just can't see what it would be of any
17 interest to me to see anybody or any picture taken in a jury
18 room.

19 THE COURT: Well, it wouldn't be in the jury
20 room, itself. It would be in the courtroom. No, I don't think
21 they would go that far --

22 A JUROR: I mean, in the courtroom.

23 THE COURT: -- to try to get in the jury
24 room.

25 A JUROR: I'm sorry; I meant the courtroom.

1 A JUROR: But TV, I imagine they would
2 try it, the coverage, enough as it is.

3 THE COURT: Well, they probably would want
4 to get you walking out of the courtroom and into the jury room
5 at least.

6 A JUROR: I think ~~society has gotten so~~
7 ~~hostile about so many things that I wouldn't want my picture any-~~
8 ~~where if I was serving on a jury in a case like today, the~~
9 ~~first time back, the guilty verdict, and then have to walk out~~
10 ~~that door after having my picture flashed on television. I~~
11 ~~wouldn't feel at all comfortable. I wouldn't -- I would find~~
12 ~~every reason in the world why I didn't have to serve as a juror~~
13 ~~again.~~

14 A JUROR: Yeah, I feel, too, that you would
15 turn the public off to being --

16 THE COURT: To being jurors --

17 A JUROR: Yeah, to being jurors.

18 THE COURT: -- because you would have the
19 public second-guessing you if they saw you --

20 A JUROR: Yeah.

21 THE COURT: -- on the street afterwards.

22 They might think --

23 A JUROR: Why did you do that?

24 THE COURT: -- why did you do this or that,
25 one way or the other, and --

1 A JUROR: It would follow me forever,
2 how come you arrived at that decision, you had no right to, or
3 you did have a right to. I just don't want that.

4 A JUROR: It seems to be enough responsi-
5 bility and pressure as it is without outside pressure.

6 THE COURT: That is an impression that I
7 have heard expressed a number of times, that the responsibility
8 is such that you don't want anything to distract you from it,
9 and that you do have a lot of pressure and responsibility, and
10 that you just don't want anything to interfere with that. I
11 have heard that expressed before.

12 Anybody else want to volunteer anything?
13 Otherwise you are free to go back to the
14 eighth floor. I don't know if there is anything going out this
15 afternoon but --

16 THE CLERK: Yes, your Honor, she is --

17 THE COURT: Oh, she does want them back . . .

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1 [Cameras in Court inquiry of jury in the matter of
2 Arenz v. City on November 15, 1978]

3 THE COURT: Thank you very much, members of
4 the jury, for your service in this matter.

5 I wonder if you would mind staying for just
6 a couple minutes. I would like to visit with you about another
7 matter.

8 The State District Judges Association has a
9 committee which is known as The News Media and Courtroom Committee,
10 and that committee is interested in finding out what the reaction
11 of jurors and people from the community feel about having cameras
12 in the courtroom, either still cameras or television cameras,
13 which would broadcast in brief spots on the news events that take
14 place in the courtroom.

15 How would you feel? I am not trying to force
16 you to answer this, but if any of you want to volunteer as to how
17 you might feel about this, I would be interested.

18 Yes?

19 A JUROR: My immediate reaction is that's
20 too much of a distraction in any court case or goings-on. As a
21 juror, I would be paying too much attention, I think, to any
22 activity.

23 THE COURT: I think I should tell you, the
24 way it is done today, the camera would be in the courtroom but
25 there would be no lights, you know, it is done without lighting.

1 Do you still feel it would be a distraction?

2 A JUROR: Perhaps a limited one in that
3 case.

4 THE COURT: M-hm. Anybody else care to com-
5 ment on it?

6 A JUROR: I feel that it is -- you know, in
7 a civil matter, it might not be as bad as in a criminal case.
8 In a criminal case, I wouldn't want it at all. I think anytime
9 that somebody could go to jail, or something on this order, that
10 there shouldn't be any distraction of any kind.

11 THE COURT: Actually, that is the law at the
12 present time. There is a case where the United States Supreme
13 Court decided -- in Estes vs. Texas -- and held that violated the
14 defendant's rights, to have a camera in the courtroom --

15 A JUROR: I feel that way.

16 THE COURT: -- but there are some states
17 that are doing it now, and our Supreme Court has had a couple of
18 occasions where they have had cameras in the Supreme Court, and
19 you have probably seen that.

20 Mr. Houck?

21 JUROR HOUCK: ~~I think I agree with my~~
22 ~~colleagues, and I would be unhappy about reporters and the~~
23 ~~general public not having access to courtroom proceedings and~~
24 ~~being permitted to write and report what went on in the court-~~
25 ~~room, but I agree, there's not much added to the public's~~

1 knowledge -- not much essentially added to the public's know-
2 ledge by pictures in the courtroom.

3 THE COURT: Or by showing brief bits of
4 what goes on on a news spot at 10:00 o'clock or 6:00 o'clock?

5 JUROR HOUCK: Right.

6 THE COURT: You don't think you would get
7 enough out of that?

8 JUROR HOUCK: ~~I don't think the educational~~
9 value of learning about courtroom procedure would outweigh the
10 possible distraction and invasion of the privacy of the indi-
11 viduals involved. I think we could educate the public in other
12 ways about courtroom proceedings.

13 A JUROR: Put them on jury duty.

14 THE COURT: Put them on jury duty.

15 A JUROR: That's a good education.

16 THE COURT: Well, that is an educational
17 process, isn't it?

18 A JUROR: Very much different from what
19 most of us imagined.

20 A JUROR: Much more responsibility than I
21 had ever thought.

22 A JUROR: Yes.

23 THE COURT: And you couldn't learn about
24 that --

25 A JUROR: No, you couldn't.

1 THE COURT: -- via television?

2 A JUROR: Uh-uh.

3 A JUROR: No.

4 THE COURT: Do you think you could learn
5 about courtroom procedure if you came to court as a member of
6 the public?

7 A JUROR: Quite a bit.

8 A JUROR: M-hm; more.

9 A JUROR: Yes.

10 A JUROR: Quite a bit; yet, when the six
11 of us had to go off in a little room and had the decision to
12 answer those questions, we took it very seriously. At first we
13 made jokes about being locked up and other things, and when we
14 realized that we had three peoples' futures in our hands, it
15 was a very serious undertaking, and this is really minor compared
16 to a lot of trials, I'm sure, before you.

17 THE COURT: M-hm.

18 A JUROR: I think this has been a very, very
19 good experience and --

20 THE COURT: How would you feel if you were a
21 witness in the case if the camera were focused on you?

22 A JUROR: I wouldn't care for that.

23 A JUROR: No, I wouldn't care for that at
24 all.

25 A JUROR: I wouldn't like it at all.

1 A JUROR: I think that would be against my
2 rights. They have a right to privacy..

3 A JUROR: I think I would be so mentally
4 obvious of the fact that I had a camera on me that I wouldn't
5 have my total conscious mind -- I mean, my total conscious mind
6 would not be with what was going on in the courtroom.

7 THE COURT: You think it might inhibit your
8 testimony --

9 A JUROR: Yes.

10 THE COURT: -- to some extent?

11 A JUROR: I do.

12 A JUROR: It would with me.

13 A JUROR: With me also. It looked like,
14 in just observing and remembering the witnesses that were here,
15 as if, if you want to call it as minor a case as this is in
16 comparison with others, that they were nervous enough without
17 being under the scrutiny of the camera.

18 THE COURT: Yes, you do see that, don't you?

19 A JUROR: Oh, yes.

20 A JUROR: Yes.

21 A JUROR: Definitely, you can see it,
22 especially sitting right here.

23 THE COURT: That's right.

24 A JUROR: The wringing of -- how tightly
25 they are clenched or --

1 THE COURT: Yes. M-hm. Anybody else
2 want to volunteer anything before you go back downstairs?

3 A JUROR: Can I ask a question about our
4 decision or is that --

5 THE COURT: I really --

6 A JUROR: You can't answer that?

7 THE COURT: -- can't comment on your de-
8 cision, because I may have to rule on it on some kind of a
9 motion in regard to it at some future time. So, I can't really
10 comment on that.

11 A JUROR: It was a very -- for me a very
12 enlightening experience, and especially since I'm trying to
13 finish a fifteen-year-old education in political science.

14 THE COURT: Oh!

15 A JUROR: A very enlightening experience.
16 I had no idea at all what was involved.

17 THE COURT: M-hm. Well, I am glad you
18 enjoyed it.

19 A JUROR: I did.

20 THE COURT: Okay. Well, thanks very much.

21 A JUROR: Thank you.

22 THE COURT: And thanks for your comments.

23 Back to the eighth floor.

24 A JUROR: We do have to go back to the eighth
25 floor?

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THE COURT: Right.

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A JUROR: All right.

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THE COURT: We will be in recess.

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1 [Cameras in Court inquiry of jury in the matter of
2 Masanz vs. Roberts & Porter]

3 THE COURT: Well, I want to thank you
4 very much, members of the jury, for your service in this matter.
5 It went beyond the call of duty, because we are now calling
6 jurors for a week at a time, but I suppose you knew that you
7 could be involved for a couple weeks, sometimes five.

8 A JUROR: In fact, I thought it was two
9 weeks. It just changed recently, didn't it?

10 THE COURT: Yes, it did. We just started
11 to do that this fall for the first time.

12 If you wouldn't mind staying for a couple
13 of minutes, I would like to talk to you about something else.

14 I head a committee of the State Judges
15 Association that is involved in whether we should have electronic
16 media in the courtrooms, in other words, have television cameras
17 and things of that kind, radio recording devices, so that pro-
18 ceedings of trial would appear on either television on the news
19 or on radio on the news, and I am kind of interested in the
20 views of jurors and people like yourselves in the community who
21 are serving as jurors. I wonder how you would feel about serv-
22 ing as jurors if there was a camera in the back of the courtroom
23 and you knew that at least a portion of the proceedings during
24 the day would be televised in the evening on the news, or what
25 your views would be if you were a witness or a party in a law-

1 suit, how you would feel about cameras in the courts under those
2 circumstances. I am trying to get the views of jurors about
3 that subject.

4 Does anybody want to volunteer?

5 A JUROR: I would think that it would kind
6 of distract jurors, you know, listening, and would make you a
7 little bit more nervous sitting up there with a camera (indi-
8 cating) --

9 THE COURT: As a witness?

10 A JUROR: As a witness.

11 A JUROR: M-hm, I think even a plaintiff or
12 defendant. I think -- I would rather not have it.

13 A JUROR: I think this is a private --

14 THE COURT: You realize, of course, that
15 the courtrooms are open and that people can come in --

16 A JUROR: Right, but I think that's differ-
17 ent than showing it on television.

18 THE COURT: You think the public should be
19 limited, then, to its views of a trial by coming into the court-
20 room?

21 A JUROR: No, not by coming in and filling
22 the whole benches, but, as far as cameras, I think it would be
23 disturbing to me. It would be.

24 THE COURT: M-hm. Well, you would like to
25 have it confined, then, just to the public coming in and sitting

1 down --

2 A JUROR: Yes. Right.

3 THE COURT: -- and watching the trial if
4 they want to do so?

5 A JUROR: Yes, if they are interested in it.

6 A JUROR: Yes.

7 THE COURT: I think some students were in
8 here either last week or the week before --

9 A JUROR: Yeah, there was quite a few of
10 them.

11 THE COURT: -- and they, of course, come in
12 from time to time. Sometimes we take them back into chambers
13 if we have time and talk to them about the procedures.

14 A JUROR: I think there's too much coverage
15 like this of tagedy or situations in which a person is fighting
16 for something, that I think there's too much of that already.

17 THE COURT: M-hm.

18 A JUROR: They wouldn't do that on criminal
19 cases, would they?

20 THE COURT: Do what?

21 A JUROR: Put TV in there.

22 THE COURT: Well, our Supreme Court has con-
23 ducted an experiment, and you may have seen it on television.
24 They had some arguments in the Supreme Court that were televised --

25 A JUROR: M-hm.

1 THE COURT: -- and they have -- I shouldn't
2 say they have under consideration at this time, but they may have
3 under consideration at some future time the possibility of doing
4 this in the trial courts.

5 So far the Supreme Court Chief Justice has
6 not allowed it, and I think only one or two judges in the state
7 have requested that they be allowed to televise, and they have
8 been turned down so far because it is still -- well, I think it
9 is still the law of the land myself that it can't be done in a
10 criminal case under *Estes vs. Texas*.

11 I notice that Billie Sol Estes was just
12 involved again in something down in Texas, but the case in which
13 he was originally involved, *Estes vs. Texas*, is the definitive
14 case in the United States Supreme Court that says that you cannot
15 televise, it is too distracting, and they gave, oh, perhaps a
16 dozen reasons why it shouldn't be done. So, that really still is
17 the law in a criminal case.

18 A JUROR: It's still up -- well, according
19 to each state, though, right, if they want them?

20 THE COURT: Yes. They conducted an experi-
21 ment in the Florida trial courts, and, of course, one of those
22 trials appeared on our Public Television here, the *Zamora* case,
23 and --

24 A JUROR: Wouldn't everybody give you their
25 opinions, then, and they wouldn't hear the whole case?

1 THE COURT: What is that?

2 A JUROR: Everybody wouldn't hear and
3 they would have their own opinions, too, they wouldn't --

4 A JUROR: Another thing, if a man is sitting
5 there and he's not guilty and his picture appears all the time,
6 wouldn't that kind of make him look like a criminal when he's
7 walking back down the street?

8 THE COURT: That is one of the -- I am
9 glad you mentioned that, because I think that is one of the
10 worst possible things that could happen, is a person who is
11 found not guilty and has to go out and face his peers in the
12 community --

13 A JUROR: I know.

14 THE COURT: -- and goodness knows what will
15 happen at that point.

16 A JUROR: That's right, they don't remember
17 that --

18 THE COURT: They are still going to point
19 the finger at him.

20 A JUROR: Yeah, and say, "We saw him in
21 court," whether he was guilty or not.

22 A JUROR: And he might be thinking the
23 other way, that he's not guilty and is acquitted.

24 THE COURT: That's right.

25 A JUROR: A person's individual rights

1 should not be subjected to that kind of a thing, I don't think,
2 whether it be guilty or innocent, he shouldn't be subjected to
3 that kind of public display.

4 THE COURT: I think that is one of the
5 things that I have learned by conducting these interviews, is
6 that people think that their affairs in court are private and
7 that they don't want them the subject of public display or pub-
8 lic education or whatever the TV people would call it. I think
9 that is a view that is largely the views of the community as a
10 whole. I have heard that expressed many, many times, that it is
11 a private matter when you come into court, and while you do have
12 a right to a public trial, that means people can come in if they
13 want to, but you can see how rare it is for anybody to come
14 in outside of students. The only time people do come is if we
15 are conducting a notorious trial that has been the subject of a
16 lot of notoriety and a lot of publicity which is developed by the
17 news media.

18 A JUROR: That's right.

19 THE COURT: The notoriety is developed that
20 way.

21 A JUROR: They just had this one that de-
22 clared a mistrial yesterday.

23 THE COURT: Yes, with that very problem.

24 A JUROR: Nothing is private anymore.

25 THE COURT: No.

1 A JUROR: You see so much with the tele-
2 vision, too, if someone is killed or drowned or something, how
3 they zero right in. This is what made -- right in on the face
4 and show every emotion. I really think your emotions at that time
5 are private and not for everyone to see.

6 THE COURT: That is what was quite evident,
7 too, in the Zamora trial, they were zooming in on the mother --

8 A JUROR: Yeah.

9 THE COURT: -- of the boy and they were
10 zooming in on the witnesses who were very emotionally upset when
11 they were testifying, and a lot of that appeared in that little
12 hour program on television.

13 A JUROR: And with the jury you are in-
14 structed not to let things like that effect you, and like the
15 people who are watching it on television, they aren't getting
16 the instruction, and they're going to decide whether that person
17 is guilty or not. You see this poor mother of the boy up there,
18 how it affected her --

19 THE COURT: M-hm.

20 A JUROR: -- and it's hard not to let emotion
21 come into, you know, how you feel about it, but you have to re-
22 member not to.

23 THE COURT: One of the other things that
24 has been expressed, too, is, if people in the community generally
25 see what is going on in the courtroom, or see snatches of it,

1 they may come out with a different view from the jurors and the
2 jurors are going to be harassed by the people in the community
3 who think that the case should have been decided differently.

4 A JUROR: The other way, right.

5 THE COURT: And they are only seeing, you
6 know, just brief glimpses of the trial, where you, as jurors, are
7 going to sit through the whole thing --

8 A JUROR: Everything.

9 THE COURT: -- but I think they would still
10 harangue you --

11 A JUROR: Oh, sure.

12 THE COURT: -- if the public, in general,
13 thought you decision should have been different, you know.

14 A JUROR: Because when you see something
15 like that, they only show you -- I mean, you pick out the most
16 notorious parts and not everything.

17 A JUROR: The highlights.

18 THE COURT: You would only see the high-
19 lights --

20 A JUROR: Right.

21 THE COURT: -- in very brief glimpses,
22 because this would just be a matter of news forecasting.

23 A JUROR: Well, I'm against it.

24 THE COURT: Well, I am glad to get the
25 benefit of your views. Again, I thank you . . .

1 [Cameras in Court inquiry of jury in the matter of
2 State v. Discher on November 7, 1978]:

3 THE COURT: I want to thank you, members of
4 the jury, for your service in this matter, and I appreciate that
5 you may not have all wanted to go to the hotel last night, it is
6 not the most comfortable place, but, on the other hand, the
7 Radisson is not the most uncomfortable place, either. I hope
8 that didn't prove to be too much of a burden for you.

9 What I would like to talk to you about, if
10 you can spare me a few minutes, is a subject which has received
11 a lot of attention lately, and that is the question of whether
12 we should have cameras in the courtroom during criminal trials
13 or civil trials. I am interested in the views of jurors from
14 the standpoint of how they would feel about having television
15 cameras and still cameras in the courtroom or electronic devices
16 which would record this for use on radio, in news broadcasts, or
17 for use in television, in news broadcasts.

18 Do any of you have any ideas how you would
19 feel about that, sitting as jurors in a criminal case, or how
20 you would feel if you were a witness or a party in a civil or a
21 criminal case?

22 Mr. Bathke?

23 JUROR BATHKE: Sir, I don't think that should
24 be allowed. I think it would put additional strain on everyone.

25 THE COURT: You feel there is a lot of strain

1 sitting as a juror?

2 JUROR BATHKE: Yes, sir, I do.

3 THE COURT: Do you think that is more true
4 in a criminal case than in a civil case, or do you think there
5 is a strain generally?

6 JUROR BATHKE: I think so; I think more in
7 a criminal case personally, sir.

8 THE COURT: M-hm. Anybody else have any
9 idea?

10 JUROR MC HALE: Well, I think --

11 A JUROR: I agree with John, plus the fact,
12 that if it was on the radio or television, that there would be
13 too many people outside to get involved and talked to when we
14 were off in the afternoon, moreso than if it wasn't.

15 THE COURT: Miss McHale, you wanted to say
16 something?

17 JUROR MC HALE: Yes. I guess I would feel
18 very strongly against having an intrusion. I think there's enough
19 things going on without an added elaboration in the form of a
20 photographer or cameras going on. I think that would be a source
21 of distraction for the jurors.

22 THE COURT: Anybody else want to comment?

23 (No response.)

24 THE COURT: Well, you are through with your
25 service and I certainly want to thank you . . .

1 (Poll of jurors in Wolens v. Litton matter on April 24, 1978):

2
3 THE COURT: Well, I want to thank you very
4 much for your service in this matter. It was a short case, you
5 spent some time with it, I can see that, and I appreciate it.

6 I wonder if you would mind sitting a couple
7 of minutes and visiting a little bit on some other subject. I
8 am particularly interested to ask you about this, Mr. McDermott.

9 The Bar Association is going to be debating
10 the issue of whether there should be television cameras and still
11 cameras in the courtroom in June at our Convention, and I would
12 be interested in your views on this subject, if you wouldn't mind
13 telling me how you feel about it, either as jurors or if you were
14 litigants in a lawsuit or as witnesses, how you would feel if we
15 had a camera without lights focused on you during the course of
16 the trial.

17 Mrs. Zender, you were the forelady. How
18 do you feel about that?

19 JUROR ZENDER: I would think it would be
20 easiest to handle as a jury; I mean, they wouldn't be focused
21 on us, I don't imagine, but I would think as a witness it would
22 probably even make you stop and think what you are saying; I
23 mean, you know --

24 THE COURT: Anybody else have any ideas on
25 that subject?

1 JUROR MC DERMOTT: I think generally people
2 in the television industry, especially public television, would
3 be very happy to have such a thing happen, and the state of the
4 art in terms of equipment is such now that cameras can be, in a
5 very unobtrusive manner, placed in the courtroom with minimal
6 lighting, and I think it would be a wonderful way to show the
7 American public just how the whole jurisprudence system operates.
8 I think the legislatures as well as courtrooms should have access
9 to the cameras.

10 THE COURT: The present canons of judicial
11 ethics permit the kind of thing you are talking about for edu-
12 cational purposes. In other words, a trial can be televised or
13 photographed, but it is not to be used until after the appeal is
14 over. That is the present state of the canons, but it cannot be
15 used for news purposes at the present time.

16 Are you talking about using it for educational
17 purposes or are you talking about using it for news purposes, Mr.
18 McDermott?

19 JUROR MC DERMOTT: I was thinking of both.
20 Now that you mention it, it would probably be very difficult to
21 use it for news purposes, much moreso than covering a legislative
22 hearing.

23 THE COURT: M-hm.

24 JUROR MC DERMOTT: One of the problems in
25 it, I think, would be there's always a certain loose fringe of

1 society who sometimes is very influenced by what they see on
2 television, and there might eventually be some kind of harass-
3 ment. If you were ever thinking of televising live cases, in a
4 life manner on television, and seen by people at home, it might
5 subject people to some kind of harassment at some time.

6 THE COURT: Some jurors have suggested they
7 wouldn't feel comfortable being second-guessed by the public.
8 How do you feel about that?

9 A JUROR: That crossed my mind when you
10 first brought it up, is the fact that someone else would be watch-
11 ing exactly what you watched, assuming they might see the whole
12 thing --

13 JUROR MC DERMOTT: It might sharpen juries.
14 Everybody would be on their toes a little bit more.

15 THE COURT: The thing is, of course, that
16 if it is used for news purposes, you are probably only going to
17 see brief excerpts, so that the public is not going to witness
18 or hear what you are hearing and seeing, but just a small fraction
19 of that.

20 JUROR MC DERMOTT: That might be dangerous;
21 that might be unfair.

22 THE COURT: But isn't that what is going to
23 happen, don't you think.--

24 JUROR MC DERMOTT: Probably.

25 THE COURT: -- if it is used for news pur-

1 poses?

2 JUROR MC DERMOTT: Certainly. In legis-
3 lative hearings this happens very often. In terms of judicial
4 hearings I am not sure whether that wouldn't give a really -- a
5 wrong focus on the whole thing.

6 THE COURT: M-hm.

7 JUROR MC DERMOTT: It's really a tricky
8 question, I think.

9 THE COURT: Do you think your station would
10 be interested in it for educational purposes? Do you think you
11 would want to televise a whole trial some time?

12 JUROR MC DERMOTT: I would think once
13 Channel 17, which now is of minimum power -- unless you live near
14 the Shoreview antennas you literally can't get Channel 17 -- if
15 this were put to maximum power, the channel could be used for a
16 purpose like this.

17 ~~I don't think we could afford to alienate~~
18 ~~the viewership we have with the constant things that are happen-~~
19 ~~ing every day, to, say, block it out for a week.~~ I think we
20 would be in a public relationship problem there, but, certainly,
21 with Channel 17, if it is ever activated to full power, we hope
22 to do that in the next year, and it might be an idea use for
23 other channels occasionally.

24 Where is this meeting going to be, your
25 Honor?

1 THE COURT: This will be the Minnesota
2 State Bar Association Convention, and it will be held on June
3 21, 22, and 23, and it will be at the Radisson Hotel across the
4 street.

5 JUROR MC DERMOTT: I see.

6 THE COURT: It is going to be an interesting
7 debate.

8 Anybody else have any views?

9 (No response.)

10 Well, I have been taking a poll to see how
11 many people would favor that or not favor it. Would you want
12 to raise your hands if you favor the use of television cameras
13 or still cameras in the courtroom? You would, Mr. McDermott.

14 Four of you?

15 Okay. And those against?

16 A JUROR: I guess the thing that would
17 bother me is if you have never been in a courtroom before either
18 as a juror or as a witness, it's kind of a scary process, or
19 thing --

20 THE COURT: M-hm.

21 A JUROR: -- and to have a -- I mean, de-
22 pending on how the TV cameras were placed and how it was handled,
23 I think it might intimidate or frighten someone more than what
24 the whole process of going into court does.

25 If it was handled in a very inconspicuous

1 way, like a bank TV camera sits and they have for security,
2 then I'd be in favor, but if there was any amount of movement
3 or bright lights or anything like that, I think it would intimi-
4 date jurors and witnesses to the point where I think it would
5 hinder more than help.

6 THE COURT: M-hm. You made the statement,
7 something about jurors being a little bit nervous. Are jurors
8 nervous about their service? Seriously, I have wondered about
9 that. Do you feel uncomfortable the first time you walk into a
10 courtroom as a juror, do you think?

11 A JUROR: Especially the first day.

12 A JUROR: The first day.

13 A JUROR: Like in my case I didn't even
14 know where the Court House was when I got the card summoning me.
15 I had to look up the address, the floor, you know. It's an
16 entirely different thing.

17 Like I was glad I wasn't the first juror on
18 one case called up, to have questions asked about your cre-
19 dentials for being a juror, because, I mean, I was just nervous
20 sitting in back watching the first one up there and thinking,
21 boy, am I glad I'm not the first one.

22 THE COURT: This was in a criminal case or
23 something?

24 A JUROR: M-hm.

25 JUROR MC DERMOTT: I think that's the point

1 of greatest nervousness, when you're asked the personal things
2 about yourself, moreso than the actual proceedings.

3 THE COURT: I see.

4 JUROR MC DERMOTT: From talking to jurors
5 downstairs, I think that was the point that unhinged everybody
6 to some degree, when personal questions were necessary, were
7 asked by counsel of prospective jurors.

8 THE COURT: In a criminal case you are talk-
9 ing about?

10 JUROR MC DERMOTT: Yes.

11 THE COURT: Does it bother you that I ask
12 the personal questions about your background in a civil case?

13 JUROR MC DERMOTT: No. I'm curious about
14 this sometimes.

15 THE COURT: Do you feel very nervous about
16 that?

17 JUROR MC DERMOTT: Uh-uh. I have been
18 curious about the great weight -- always I was asked, "Are you
19 married or not?" and it was always an interesting question to me,
20 as to what bearing it necessarily had on cases.

21 THE COURT: It doesn't have any bearing on
22 the case, but I guess that lawyers from time immemorial have felt
23 there is a certain stability in marriage and that, if people are
24 married, they might have more stability than a person who is not.
25 Now, I don't know that there is any validity to that --

1 JUROR MC DERMOTT: M-hm.

2 THE COURT: -- but I think there has been
3 that feeling over a period of time, and, so, we have always
4 asked that question, and if I didn't ask it, I am sure counsel
5 would want me to. So, we have always done that, and I think it
6 is just something that lawyers have kind of grown up with, feel-
7 ing that there is an element of stability among people who are
8 married and have families and so forth, and I don't know that
9 that has the validity that it did twenty or thirty years ago
10 when I started to practice.

11 I started to practice about thirty years
12 ago and just about everybody was married. That was the life-
13 style of the times. Today it is not, and so maybe, you know, it
14 doesn't have that significance today that it had then. We
15 still ask the question because we are creatures of habit.

16 Well, you are all through here . . .

17

18 * * *

19

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25

1 Jury in re: Merles Construction vs. Menne, on April 20,
2 1978:

3
4 THE COURT: Well, thank you very much,
5 members of the jury for your service in this matter.

6 If you wouldn't mind visiting a little bit,
7 I have a matter that I would like to inquire about. The Bar
8 Association at its meeting in June is going to take up the
9 question of whether there should be experiments concerng tele-
10 vision cameras in the courtroom. We have had a couple of experi-
11 ments in the Supreme Court so far. You may have noticed them.

12 I just wonder what your reaction, if you
13 don't mind telling me, would be to having news cameras, both
14 still cameras and television cameras, in the courtroom. How
15 would you feel about that, either as jurors or as litigants or
16 as witnesses in the witness box? Anybody got any ideas about
17 that?

18 A JUROR: I would think it would tend to
19 make a person a little more nervous.

20 THE COURT: If you were a witness or as a
21 juror?

22 A JUROR: Either way.

23 THE COURT: Either way.

24 A JUROR: I agree. ~~I think it would be~~
25 ~~distracting with the carrying on of the case.~~

1 A JUROR: I believe so, it would be dis-
2 tracting.

3 THE COURT: M-hm.

4 A JUROR: I think anybody interested could
5 come to court.

6 THE COURT: Well, the courtrooms are open.

7 A JUROR: I would say the same, they would
8 be distracting.

9 THE COURT: M-hm.

10 A JUROR: I think it would be distracting,
11 too.

12 THE COURT: Would you favor or not favor an
13 experiment in which cameras might be put in the courts, just on
14 an experimental basis?

15 A JUROR: What type of cases? All or --

16 THE COURT: Any kind of case.

17 A JUROR: Any kind?

18 A JUROR: I would favor it. I could see
19 where cameras would be important in cases involving public
20 officials.

21 THE COURT: Cases involving public
22 officials? M-hm. Would you limit it to that kind of case,
23 then?

24 A JUROR: I think so.

25 THE COURT: If you had a personal injury

1 case or some other kind of litigation, would you want a
2 camera --

3 A JUROR: No, I wouldn't.

4 THE COURT: -- viewing your case?

5 A JUROR: No. I think it's personal.

6 If someone is interested in my case, they can come to the court-
7 room and watch the proceedings.

8 THE COURT: M-hm.

9 A JUROR: I feel the same way, your
10 Honor.

11 THE COURT: Well, I am interested in
12 your views, because we are going to have a lot of debate, and
13 I think we may even have a couple-hour program at the Bar Conven-
14 tion in June, and we are also going to take up this matter at
15 our District Judges' meeting in June, because I think there are
16 a lot of people who are concerned about the movement toward hav-
17 ing cameras in the courtroom. They have got cameras in Congress
18 now, and they have got cameras up in the Legislature, and those
19 people who are involved in that media are concerned about getting
20 them into the courtroom, and they are making a big push for it.

21 A JUROR: Your Honor, I think some wit-
22 nesses are already quite self-conscious when they testify, and I
23 think it would make it more difficult for them to testify, and
24 it would not make it good.

25 THE COURT: I am satisfied that that is

1 correct. I think, when you serve as jurors, you very often see
2 people who are so thoroughly nervous they can't get the first few
3 words out of their mouth when interrogated.

4 A JUROR: I think it would be a terrible
5 pressure on the judge, too, to have cameras.

6 THE COURT: Especially one who isn't photo-
7 genic like me.

8 A JUROR: I really would feel that it would
9 be an awful pressure all the way around.

10 THE COURT: M-hm. Pressure on everybody
11 who is involved in the litigation --

12 A JUROR: Everybody involved.

13 THE COURT: -- whether they are jurors --

14 A JUROR: Yes.

15 THE COURT: -- or litigants or witnesses.

16 A JUROR: That's right.

17 THE COURT: Do you think it would result
18 in any grandstanding by either lawyers or judges or witnesses
19 who are on the witness stand?

20 A JUROR: It could. It could.

21 A JUROR: It might also serve as a control,
22 in that attorneys who are not as well qualified to be in the
23 courtroom would maybe have a tendency not to come into the court-
24 room so often if they knew they were going to be on camera.

25 THE COURT: M-hm. Well, I have got another

1 jury out in the hall. We are just about to start another case,
2 so I can't spend too much time with this, but can I run my
3 little poll?

4 How many of you would favor cameras in the
5 courtroom? Would you raise your hand? And if you don't, raise
6 your hands to that, if you would not.

7 A JUROR: If you would not?

8 THE COURT: If you would not favor them.

9 (Whereupon, no juror raised his or her hand.)

10 THE COURT: Okay. Well, you are unanimous,
11 and it isn't even a criminal case.

12 Okay. Well, thank you very much for your
13 service; I appreciate it.

14 * * *

1 (JURY POLL IN RE: Elias v. Crawthorne on April 13, 1978):

2
3 THE COURT: I am kind of interested in an
4 issue that is going to be raised at our Bar Convention in June,
5 which is the subject of television cameras and still cameras in
6 the courtroom, and I wonder if you would mind telling me what
7 your reaction to television cameras in the courtroom would be,
8 where the product of what they would do would go on the news,
9 say, at 6:00 o'clock or 10:00 o'clock in the evening, televising
10 either civil or criminal trials.

11 Does anybody have any thought about it?

12 A JUROR: Our opinion?

13 THE COURT: Yes. I would like to know what
14 you think of it.

15 A JUROR: As far as I was concerned, I had
16 thought about that, and I watched it, and I would not object to
17 having a certain amount, providing they're kept far enough back
18 so that they don't disturb the trial, itself --

19 THE COURT: M-hm.

20 A JUROR: -- but how much distraction there
21 would be, that would be another thing.

22 A JUROR: I don't think it would be good --

23 A JUROR: I don't, either.

24 A JUROR: -- because I think --

25 THE COURT: Do you have some reason?

1 A JUROR: Yes, because I think oftentimes
2 it seems that lawyers are grandstanding a little bit anyway, or
3 going for effect, and can you imagine, you know, just -- why,
4 everybody would think they were Clarence Darrow on television,
5 and it would be just dreadful. --

6 THE COURT: Right.

7 A JUROR: -- and, you know, for only that
8 reason. I know when I watch the news and there's something about
9 a law -- a case, I wish that I could see the live pictures of it.

10 THE COURT: Do you?

11 A JUROR: Yes, I do, and, yet, at the same
12 time, I can understand why they don't have it, and I think it
13 should stay this way.

14 A JUROR: Would that eliminate --

15 THE COURT: That has been limited --

16 A JUROR: -- pardon me.

17 THE COURT: -- up until now, and, as you
18 know, there have been two experiments in our Supreme Court, and
19 they are talking about experiments in the trial court.

20 A JUROR: M-hm.

21 A JUROR: And that would eliminate all the
22 artists and so forth from drawing their sketches --

23 THE COURT: Right, you wouldn't see --

24 A JUROR: -- because sometimes that's
25 rather confusing, because they all look the same to me.

1 A JUROR: I think it would be difficult,
2 because I think it would be hard to ignore the fact that the tele-
3 vision camera was there, you know, for the people on the jury
4 and --

5 THE COURT: How would you feel as a witness,
6 if you were sitting in court as a witness or as a party, you
7 know, where you had to take the stand?

8 A JUROR: I think that would scare you a
9 little bit.

10 A JUROR: I think so, too.

11 A JUROR: Anyway, for the average person.

12 A JUROR: M-hm.

13 THE COURT: You see, in sitting on the
14 stand, very often I notice people are terrified to start with
15 and --

16 A JUROR: M-hm.

17 A JUROR: Nervous, yeah.

18 A JUROR: And then to have all that atten-
19 tion focused upon you and have to speak in front of people is
20 very difficult, if you are able, and then to have a television
21 camera --

22 THE COURT: How would you feel if a tele-
23 vision camera were concealed? We have a jury room right behind
24 there (indicating), just behind that wall, and I suppose it would
25 be possible to conceal a camera there. How would you feel about

1 that, if the camera were concealed?

2 A JUROR: That would be something else.

3 A JUROR: That would be better, I would
4 think. You wouldn't be aware of it and it might not affect
5 your thinking or your --

6 THE COURT: The way they are talking about
7 it now, at least so far, they are talking about bringing the
8 camera into the courtroom. None of us have got any notion that
9 the county is going to tear out the walls, you know, to accomo-
10 date television cameras, so the camera would be somewhere along
11 probably the back row of the courtroom.

12 A JUROR: Well, they would only do this in
13 cases that serve the general public interest.

14 THE COURT: I would think so.

15 A JUROR: Well, I think that that case up
16 in Brainerd is probably going to be a circus anyway. They
17 certainly don't need anything else.

18 THE COURT: Most cases that are notorious
19 for one reason or another usually have a lot of people in the
20 courtroom, and, of course, maybe the camera would be more con-
21 cealed under those circumstances -- I don't know -- but you
22 usually have a pretty good audience, you know, when you try a
23 murder case of the consequence of the Condon matter.

24 A JUROR: Can't you see them all waving
25 (indicating) to get on the screen?

1 THE COURT: Anybody else have any notion
2 about it and like to express themselves?

3 I am trying to develop some material,
4 because I want to make a speech at that convention in June.

5 A JUROR: How do you feel about it?

6 THE COURT: I am vehemently opposed to it.

7 A JUROR: I would be, too.

8 A JUROR: I am, too.

9 THE COURT: I have spent my whole life in
10 the courtroom, and there are so many distractions as it is to
11 me --

12 A JUROR: That's right.

13 A JUROR: Yes.

14 THE COURT: -- that I just can't visualize
15 it happening.

16 A JUROR: That's what I thought in the
17 first place. I might not object to the camera, itself, but how
18 much distraction would you get from it?

19 THE COURT: Well, that is the --

20 A JUROR: That's the whole thing.

21 THE COURT: -- only concern that a judge
22 has --

23 A JUROR: M-hm.

24 THE COURT: -- how it is going to affect
25 the fairness of the trial.

1 A JUROR: That's right.

2 A JUROR: And I think it would be detri-
3 mental.

4 THE COURT: That is the only thing we are
5 concerned about.

6 Well, can we run a poll and see how you
7 vote?

8 A JUROR: Sure.

9 THE COURT: Mr. Mullen, you are in favor
10 of it?

11 A JUROR: I would be in favor of it to the
12 extent that I mentioned.

13 THE COURT: Anybody else opposed?

14 A JUROR: I'm opposed.

15 THE COURT: Would you raise your hands if
16 you are opposed?

17 Okay. We got six to one.

18 Well, I thank you very much.

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1 (Jury proceedings in re: State of Minnesota v. Guy A.
2 Capocasa, March 24, 1978):

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4 THE COURT: Some of the jurors who were on
5 my jury yesterday already know that the State Bar Associ-
6 ation is going to debate the question of cameras - that
7 is, both still cameras and television cameras - in the
8 courtroom, and I am kind of interested in this matter
9 myself -- I think a lot of judges, trial judges, are --
10 and I would be interested in your views on this subject,
11 as to whether you as jurors would want to have television
12 cameras or still cameras in the courtroom, or if you were
13 litigants in a lawsuit and were witnesses in a lawsuit
14 whether you would feel comfortable having television and
15 still cameras in the courtroom.

16 I am kind of conducting a survey, is what
17 I am doing, as three of the jurors who were on my jury
18 yesterday know, and I can't spend as much time as I did
19 yesterday because we are hearing some appeals in Judge
20 Marsden's courtroom this afternoon, but I would like to
21 hear an expression of your views if you want to state
22 them.

23 Yes, sir?

24 A JUROR: I think it would -- I think
25 cameras in a courtroom in a criminal case would be a

1 mistake, because I think it takes away the rights of the
2 accused.

3 THE COURT: How do you think it takes away
4 the rights of the accused? In what way?

5 A JUROR: Well, in this case here, even
6 though he was found not guilty, a lot of people, if they
7 were watching this on television, would -- of course,
8 they would be playing judge or jurists, too --

9 THE COURT: Right.

10 A JUROR: -- and they may find him guilty,
11 and he's got to go out into society. I just don't think
12 it would be fair to that person whether he was found
13 guilty or not guilty, and it just doesn't -- it seems
14 like you are infringing on his rights.

15 If people want to observe what's going on
16 in a courtroom, they can come and sit in a courtroom.

17 A JUROR: I agree with that.

18 THE COURT: Something along the idea that
19 was expressed yesterday, wasn't it?

20 Anybody else have any thoughts on this?
21 Yes, sir.

22 A JUROR: If, say, the TV cameras were,
23 say, filming part of the session, do they broadcast that
24 on the ten o'clock news?

25 THE COURT: Yes, this is the idea.

1 A JUROR: Well, the jurors might, say, you
2 know, unless they were sequestered, go home and watch
3 the news, and, then, you know, that particular bit of
4 testimony would be reinforced, and you know that the
5 stations are only going to broadcast like thirty seconds,
6 say, out of a whole day's testimony, so I think it's
7 unfair.

8 I'd have an awful time trying to separate
9 what I might have seen on the ten o'clock news from what
10 I heard all day.

11 THE COURT: I suppose, if we were trying a
12 notorious case, we would instruct you not to watch the
13 news forecast, but it is difficult --

14 A JUROR: Right.

15 THE COURT: -- because you can see things
16 inadvertently sometimes when you really have no intention
17 of seeing them.

18 A JUROR: Yeah, that's all --

19 THE COURT: As you say, that might reinforce
20 certain testimony you hadn't seen or heard in the court-
21 room.

22 Anybody else? Yes, sir.

23 A JUROR: On the other hand, I think you
24 could solve that particular problem by filming it as a
25 documentary but not allowing the film to be shown till

1 after the case was decided.

2 THE COURT: That is the present rule of
3 ethics, judicial ethics, or that is a present canon of
4 judicial ethics, is that anything that is recorded in a
5 courtroom, either by way of a recording device or by way
6 of a camera, some kind of a camera, cannot be utilized
7 by any television station or by any news media until
8 after the case is over, and I think even after it goes --
9 I think it has to go through the appellate process --
10 either it must be ascertained whether it is going into
11 appeal or not, and if it does go into appeal, you can't
12 use it, but at least the case has to have some finality
13 to it before it can be used on any kind of a program,
14 even for educational purposes.

15 A JUROR: Well, is this what they want
16 changed, then?

17 THE COURT: Pardon?

18 A JUROR: Is this what would be changed?

19 THE COURT: This seems to be the thinking.
20 There have been a few states, as you probably read --
21 Florida is one of them, and Wisconsin recently adopted a
22 rule in which television cameras and still cameras are
23 going to be used in the courtroom, and --

24 A JUROR: At all times?

25 THE COURT: At all times, at any time, and

1 I think the Supreme Court is not presently considering
2 that, but they may be within the next year, and that is
3 why we are going to debate it at the Bar Association
4 convention in June.

5 A JUROR: Right now this is at a state
6 level?

7 THE COURT: There was an experiment, you
8 know, or you may have seen that there was an experiment
9 in our Supreme Court in February, in which cameras were
10 allowed in the courtroom; in fact, the proceedings were
11 recorded and they were on television briefly. I think it
12 was on February 21st, and it involved an argument in the
13 Reserve Mining case before our Supreme Court.

14 They have an experimental rule right now
15 for the Supreme Court but not for any trial court.

16 A JUROR: Oh!

17 THE COURT: It is still prohibited in the
18 trial courts.

19 Yes, Mr. Nowicki.

20 A JUROR: For what reason would they really
21 want to have the cameras in the court?

22 THE COURT: Well, I suppose for whatever
23 news value they can get out of it. I can't imagine that
24 they would do it in the usual case. They certainly
25 wouldn't do it in a case like this -- I can't imagine

1 they would -- but, if you get a case like the Piper
2 kidnapping or the Gene Thompson murder trial, which I
3 was involved in many years ago, that was a case where
4 all we saw were cameras, but they weren't in the courtroom,
5 you know.

6 Well, could I take my poll, and then I will
7 go back to Judge Marsden's courtroom.

8 How many of you would be in favor of allow-
9 ing television and still cameras in the courtroom? Would
10 you raise your hand if you would be interested in allowing
11 that in the courtroom?

12 (Whereupon, no hands were raised.)

13 THE COURT: How many of you would oppose
14 that?

15 (Whereupon, twelve jurors raised their hands.)

16 THE COURT: It looks like twelve.

17 A JUROR: We stick together.

18 THE COURT: Well, you know, in a criminal
19 case you have to be unanimous.

20 Well, I want to thank all of you for
21 your service in this matter . . .

1 (Jury proceedings in re: State of Minnesota v. Dennis
2 E. Handt, March 23, 1978):
3

4 A JUROR: I don't feel that the general
5 public would have any business -- for instance, in this
6 particular case, just being here, I don't think that the
7 general public should have to know or see what went on
8 in something like this.

9 THE COURT: You don't think they have any
10 particular right to know this?

11 A JUROR: No, I don't feel --

12 THE COURT: You think it is more of a
13 private thing --

14 A JUROR: That's right.

15 THE COURT: -- and it should be conducted --
16 you understand, of course, the courtrooms are open to the
17 public?

18 A JUROR: Yes -- well, if someone wants to
19 come down --

20 THE COURT: Yes.

21 A JUROR: -- but I don't believe in putting
22 it on TV for everyone to see.

23 A JUROR: I would think, if there is a
24 murder charge, and you got all these different organi-
25 zations and all these fanatics out there, and the jury

1 found the person guilty and that's a friend of theirs,
2 there would be retaliation. This way he has a chance to
3 look over who the faces are and who the people are, and
4 there would be too much trouble after.

5 THE COURT: Yes?

6 A JUROR: I think it might cause something
7 like the case to become a spectacle, like the Super Bowl
8 or something like that, if it was televised.

9 THE COURT: Mr. Hollenhorst, do you have
10 any views on it?

11 A JUROR: My views are very similar. I
12 think it would inhibit the proceedings.

13 THE COURT: Pardon?

14 A JUROR: I think it would inhibit the
15 proceedings. I agree, I think things would become some-
16 what of a spectacle. I agree, there might be some retali-
17 ation. I just feel, as long as we continue to think
18 that our courts are fair, that there's no need to have
19 that type of publicity.

20 THE COURT: M-hm. Well, I am definitely
21 interested in your views. Does anybody else have any-
22 thing they would like to say?

23 A JUROR: I think it might stop a lot of
24 this stuff. If a person knows he was coming into court
25 and have his picture all over, there would be a lot

1 maybe that -- for instance, it would kind of make him
2 stop to think before he goes into a lot of the small
3 stuff -- not the big murders and that, but a lot of this
4 other stuff might cease if you knew that everybody was
5 going to see you, your friends that live on the other
6 side of town or not. It might make you stop to think
7 twice.

8 THE COURT: Yes?

9 A JUROR: It could sort of work the other
10 way, too, because, if the guy, or the person, who is
11 being on trial is a show-off, he might want to have his
12 picture in front of the cameras.

13 THE COURT: M-hm.

14 A JUROR: Every time the camera goes
15 around, he might do something like this (indicating),
16 and it's a lot of distraction.

17 THE COURT: Well, I get the impression that
18 there is one in favor. Would you raise your hand if you
19 do not believe that they should be allowed in the court-
20 room?

21 (Whereupon, eleven jurors raised their hands)

22 THE COURT: I guess it is eleven to one.

23 MR. HOLLIHAN: There isn't any requirement
24 that the verdict be unanimous on this.

25 THE COURT: Not at all, not in this

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situation.

A JUROR: Back to the hotel.

THE COURT: Back to the hotel, right.

Let me ask you a question on another subject. I have been curious about these kits that we give the jurors.

This is off the record, Steve.

THE POSITION OF THE MINNESOTA
DISTRICT JUDGES ASSOCIATION
ON
THE USE OF CAMERAS AND ELECTRONIC
DEVICES IN TRIAL COURTROOMS

At its annual meeting in June, 1978, the Minnesota District Judges Association, by nearly unanimous vote, adopted the following resolution:

"WHEREAS, the vast majority of state courts in this country and also the federal courts recognize the impropriety of cameras and recording devices in a trial court, and

"WHEREAS, trial lawyers and judges are fully aware that the use of such devices may impair constitutional and other rights accorded to all citizens and may cause irreparable harm to litigants,

"Now, therefore, BE IT RESOLVED that the Minnesota District Judges Association, in convention assembled, declares its overwhelming opposition to the use of cameras and recording equipment in all trial courts of this state."

In his State of the Judiciary Message to the Minnesota State Bar Association Convention in June, 1978, Chief Justice Robert J. Sheran stated: "[E]ach court must consider the merits of direct recording of its proceedings in light of the necessity for preserving a fundamentally fair forum for its litigants." This paper is in response to the request of Chief Justice Sheran that the District Judges formulate a position paper on the issue of electronic media coverage in the courts [Minutes of Chief Judges Conference, July 28, 1978].

As viewed by this committee, no rules should be adopted by which cameras or electronic devices would be permitted in the trial courtroom on an experimental basis. There are three fundamental principles which compel the conclusion that there should be no departure from the present Standards of Judicial Responsibility:

1. Whether cameras and electronic media should be in the courtroom and whether their presence will deny a fair trial is the primary responsibility of the trial bench, subject to the appellate process on a case-by-case basis.

2. The use of cameras and electronic devices in a trial courtroom deprives defendants in criminal cases of their constitutional right to a fair trial. [Estes v. Texas, 381 U.S. 532]

3. The use of cameras and electronic devices in a trial courtroom has sufficient adverse impact upon jurors and witnesses to detract from the full presentation and careful evaluation of evidence in both civil and criminal cases.

The attached Appendices are a part of this paper.

Respectfully submitted,

News Media and the Courtroom Committee,
Minnesota District Judges Association

HYAM SEGELL, Chairman

APPENDIX A

HISTORICAL BASIS FOR EXCLUSION OF CAMERAS

Following the broadcast trial and conviction of Bruno Hauptmann for the kidnapping and murder of the Charles Lindbergh baby, the legal profession, reacting vigorously through the American Bar Association, adopted Canon 35 of Judicial Ethics:

"Proceedings in court should be conducted with fitting dignity and decorum. The taking of photographs in the court room, during sessions of the court or recesses between sessions, and the broadcasting or televising of court proceedings detract from the essential dignity of the proceedings, distract participants and witnesses in giving testimony, and create misconceptions with respect thereto in the mind of the public and should not be permitted. . . ."

On August 16, 1972, the Code of Judicial Conduct was adopted by the American Bar Association, and Canon 3A.[7] essentially reiterated the prohibition against broadcasting, televising, and recording of courtroom proceedings found in Canon 35, except that it did authorize a judge to permit

". . . [c] the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:

"[i] the means of recording will not distract participants or impair the dignity of the proceedings;

"[ii] the parties have consented, and the consent to being depicted or recorded has been obtained from each witness appearing in the recording and production;

"[iii] the reproduction will not be exhibited until after the proceeding has been concluded and all direct appeals have been exhausted; and

[iv] the reproduction will be exhibited only for instructional purposes in educational institutions."

On March 29, 1972, the Minnesota Supreme Court adopted Standards of Judicial Responsibility, and Standard No. II.A.6 is in accord with the prohibition contained in the American Bar Association's Canon 3A.[7].

APPENDIX B

Estes v. Texas, 381 U.S. 532 [1965]

Estes had been convicted of swindling by a Texas jury, and the Texas Court of Criminal Appeals affirmed. He contended on appeal that he had been deprived of his rights to due process under the Fourteenth Amendment by the televising and broadcasting of his trial.

Publicity, both local and national, attended the case in all its stages. Trial was removed from the county in which the grand jury indicted Estes to one 500 miles distant.

The circumstances surrounding the case at trial are summarized by Mr. Justice Clark, 381 U.S. 535-536:

". . . Massive pretrial publicity totaling 11 volumes of press clippings . . . had given it national notoriety. All available seats in the courtroom were taken and some 30 persons stood in the aisles. However, at that time a defense motion to prevent telecasting, broadcasting by radio and news photography and a defense motion for continuance were presented, and after a two-day hearing the former was denied and the latter granted.

"These initial hearings were carried live by both radio and television, and news photography was permitted throughout. The video tapes of those hearings clearly illustrate that the picture presented was not one of that judicial serenity and calm to which petitioner was entitled. . . ."

During the two-day pretrial hearing, at least 12 cameramen were present in the courtroom taking motion and still pictures and televising the proceedings. By the time of trial, use of cameras and microphones had been altered. A booth had been constructed at the rear of the courtroom and painted to blend with the permanent structure of the room. All television and newsreel photographers' recording, filming, and broadcasting activities were confined to the booth.

Objections to televising, photographing, and broadcasting the proceedings were made, with the following consequences summarized by Justice Clark, 381 U.S. at 537:

". . . [L]ive telecasting was prohibited during a great portion of the actual trial. Only the opening and closing arguments of the State, the return of the jury's verdict and its receipt by the trial judge were carried live with sound. Although the order allowed videotapes of the entire proceeding without sound, the cameras operated only intermittently, recording various portions of the trial for broadcast on regularly scheduled newscasts later in the day and evening. At the request of the petitioner [Estes], the trial judge prohibited coverage of any kind, still or television, of the defense counsel during their summations to the jury. . . ."

The principal contentions of the state were [1] that the televising of portions of a criminal trial did not constitute a denial of due process, [2] that because no prejudice had been shown by Estes as resulting from the televising, it was permissible, [3] that claims of distractions during the trial due to the physical presence of television were wholly unfounded, [4] that psychological considerations were for psychologists because they were purely hypothetical, [5] that the public had a right to know what goes on in the courts, [6] that the court had no power to suppress or edit events which transpire before it, and [7] that the televising of criminal trials would be enlightening to the public and would promote greater respect for the courts.

All of these claims were rejected in the Opinions of Justice Clark and Chief Justice Warren.

Mr. Justice Clark's Opinion

Justice Clark pointed out that in most cases involving due process claims, the Supreme Court required a showing of identifiable prejudice to the accused; however, the court "has found instances in which a showing of actual prejudice is not a prerequisite to reversal. This is such a case."

Clark pointed out that "the chief function of our judicial machinery is to ascertain the truth. The use of television, however, cannot be said to contribute materially to this objective. Rather its use amounts to the injection of an irrelevant factor into court proceedings. In addition experience teaches that there are numerous situations in which it might cause actual unfairness — some so subtle as to defy detection by the accused or controlled by the judge. . . ." [p. 545]

Clark then proceeded to list the areas of unfairness as follows:

1. Jurors. Because jurors are the "nerve center of the fact-finding process," the potential impact upon them was perhaps of greatest significance. Clark was persuaded that while the conscious or unconscious effect that broadcasting a trial might have on a juror's judgment could not be evaluated, it was highly probable that such a broadcast would have a direct bearing on the juror's vote as to guilt or innocence, because "jurors cannot help but feel the pressures of knowing that friends and neighbors have their eyes upon them.

Clark was not so much concerned with the physical distraction of the television camera, since ". . . we know that distractions are not caused solely by the physical presence of the camera and its telltale red lights. It is the awareness of the fact of telecasting that is felt by the juror throughout the trial. We are all self-conscious and uneasy when being televised. Human nature being what it is, not only will a juror's eyes be fixed on the camera, but also his mind will be preoccupied with the telecasting rather than with the testimony . . ."

Of equal concern was the fact that new trials would be jeopardized, since potential jurors will often have seen and heard the original trial when it was telecast.

2. Witnesses. "The quality of the testimony in criminal trials will often be impaired. The impact upon a witness of the knowledge that he is being viewed by a vast audience is simply incalculable. Some may be demoralized and frightened, some cocky and given to overstatement, memories may falter, as with anyone speaking publicly, and accuracy of statement may be severely undermined. . . ."

Clark was also concerned that potential witnesses could view and hear the testimony of preceding witnesses and thus shape their own testimony so as to make its impact crucial. Moreover, televising a trial might render witnesses reluctant to appear and thereby impede the trial as well as the discovery of the truth.

3. Judges. One of the serious aspects of the problem was the additional responsibilities placed on the trial judge. Clark was concerned that telecasting of a trial might become a political weapon in those states where judges are elected and that the judge's attention might be diverted from the task at hand, which is the fair trial of the accused.

4. The defendant. The final area of unfairness was the impact of courtroom television on the defendant. The Court viewed it as a form of mental — if not physical — harassment "resembling a police lineup or the third degree.

The inevitable close-ups of his gestures and expressions during the ordeal of his trial might well transgress his personal sensibilities, his dignity, and his ability to concentrate on the proceedings before him . . . dispassionately, freely and without the distraction of wide public surveillance."

Mr. Chief Justice Warren's Concurring Opinion

Warren enunciated three specific reasons why allowing criminal trials to be televised would violate the Sixth Amendment for federal courts and the Fourteenth Amendment for state courts. Those reasons were:

1. Televising trials would divert the trial from its proper purpose, in that it would have an inevitable impact on all the trial participants;

2. Televising trials would give the public the wrong impression about the purpose of trials, thus detracting from the dignity of court proceedings and lessening the reliability of trials; and

3. Televising trials singles out certain defendants and subjects them to trials under prejudicial conditions not experienced by others.

Warren then recited the behavioral changes that might be anticipated when a trial is televised.

". . . Whether they do so consciously or subconsciously, all trial participants act differently in the presence of television cameras. And, even if all participants make a conscientious and studied effort to be unaffected by the presence of television, this effort in itself prevents them from giving their full attention to their proper functions at trial. Thus the evil of televised trials, as demonstrated by this case, lies not in the noise and appearance of the cameras, but in the trial participants' awareness that they are

being televised. To the extent that television has such an inevitable impact it undercuts the reliability of the trial process."

Warren dispelled the idea that television would educate the public with these words:

"It is argued that television not only entertains but educates the public. But the function of a trial is not to provide an educational experience; and there is a serious danger that any attempt to use a trial as an educational tool will both divert it from its proper purpose and lead to suspicions concerning the integrity of the trial process."

Finally, Warren pointed out the subtlety of the prejudice of television and the virtual impossibility of a defendant to prove such prejudice with these words:

". . . How is the defendant to prove that the prosecutor acted differently than he ordinarily would have, that defense counsel was more concerned with impressing prospective clients than with the interests of the defendant, that a juror was so concerned with how he appeared on television that his mind continually wandered from the proceedings, that an important defense witness made a bad impression on the jury because he was 'playing' to the television audience, or that the judge was a little more lenient or a little more strict than he usually might be? . . ."

Warren concluded that prohibiting the televising of criminal trials did not conflict with the constitutional guarantee of a public trial, nor did it in any way impinge upon the freedoms of speech and press. The television industry, of course, has a proper area of activities, and Warren stated that the area did not extend into an American courtroom.

Mr. Justice Harlan's Concurring Opinion

Harlan agreed with the majority in concluding that Estes' fundamental rights to a fair trial which were assured by the Due Process Clause of the Fourteenth Amendment were infringed even though he found as a fact that the physical presence of television cameras used during

the course of the trial was relatively unobtrusive. He pointed out that the right of a "public trial" is a right that belongs not to the public but to the accused.

Harlan also joined the majority in his concern for the impact that television might have on all of the participants in the trial, because he felt that courtroom television introduced into a criminal trial the element of "professional showmanship," which was an extraneous influence whose subtle capacities for serious mischief in a case such as *Estes* could not be underestimated by anyone experienced in the imponderables of the trial arena. These kinds of influences could carry "grave potentialities for distorting the integrity of the judicial process bearing on the determination of the guilt or innocence of an accused and could cast doubt on the reliability of the fact-finding process carried on under such conditions."

Harlan rejected the idea that specific prejudice must be shown for the Due Process Clause to apply, his view being that the Fourteenth Amendment must afford protection against the intrusion of "collateral and wholly irrelevant influences" in the courtroom. The Court had previously condemned such practices even though there had been no positive showing of isolatable prejudice.

To meet the argument that televised trials would cause witnesses to be more truthful and jurors, judges, and lawyers to be more diligent Harlan said:

". . . [I]t is impossible to believe that the reliability of a trial as a method of finding facts and determining guilt or innocence increases in relation to the size of the crowd which is watching it."

Mr. Justice Stewart's Dissenting Opinion

Although Stewart did not agree with his colleagues in the majority that the circumstances of the trial led to a denial of Estes' constitutional rights, he did say:

"I think that the introduction of television into a courtroom is, at least in the present state of the art, an extremely unwise policy. It invites many constitutional risks, and it detracts from the inherent dignity of a courtroom."

APPENDIX C

LITIGANTS, WITNESSES AND JURORS

I. Litigants and Witnesses

The judicial system is designed to provide to persons and entities a procedure whereby disputes in which they are involved may be resolved peaceably and justly.

In the administration of justice in the trial courts, decisions reached depend directly on the evaluation of the testimony of litigants and their witnesses. Jurors may consider such factors as the appearance of the witnesses on the witness stand, their demeanor, their attitude, their frankness or lack of frankness, and such other characteristics as are deemed meaningful in determining the value of their testimony. It is therefore essential that witnesses have an opportunity to testify with the least intimidation and most spontaneity reasonably possible. The judicial process must protect the litigants and their witnesses against unnecessary intrusion by procedures which tend to increase intimidation or reduce spontaneity.

Litigants and witnesses to the events involved in a dispute can never be predetermined, but rather become involved as the result of unforeseeable and unpredictable circumstances. They are rarely persons whose training or experience assist them in surmounting the effect public appearance has on a human being.

The exposure of such witnesses to public scrutiny through television will impose tension on them which will unfairly influence their testimony. Human beings have difficulty acting naturally when in the public eye. The greater the exposure, the greater is the emotional impact on the

individual. A witness' knowledge that his testimony is being televised will produce an emotional reaction that will seriously jeopardize the ability of the witness to testify. Justice should not be influenced by the ability or inability of either litigants or witnesses to present a reasonably accurate demeanor under the exposure of a television camera.

Many disputes involve personal affairs, i.e., matters which litigants and witnesses would prefer to have publicized as little as possible. With the expanded publicity of television, litigants and witnesses will be forced to weigh the impact of television coverage on their appearance in the courtroom and the testimony to be presented.

Persons involved in disputes should be given every encouragement to seek and use the judicial process. Television coverage will discourage that use. Persons who would otherwise initiate legal action may not do so. Litigants who would otherwise proceed to trial may avoid it. Witnesses to an event who would otherwise have made their identity known may refuse to come forward. Faced with the serious personal consequences of television coverage, known witnesses may avoid subpoenas.

It is important to the success of the judicial process that any innovation in trial proceedings which will deter persons from resorting to the legal process, or which will discourage witnesses from being available to litigants, be kept out of the system. Since television coverage of trial court proceedings will adversely affect the testimony of litigants and their witnesses, as well as to minimize their willingness to be involved in the trial process, it should not be permitted.

II. Jurors

During voir dire it is necessary to ask personal questions. The

extent of inquiry into personal history, experience, family background, contact or acquaintance with specified persons, present status, and similar matters, of course, varies with each case. It is also frequently necessary to probe into personal habits, convictions, beliefs, or philosophy. The disclosure of such information is important in order that litigants obtain jury members who are as objective and impartial as possible. A setting conducive to a frank and honest exchange during voir dire must be available. Television coverage will multiply almost infinitely the publicity given to the personal affairs of prospective jurors. It is reasonable to conclude, that jurors, realizing the extent to which information is made available by television coverage, will find some means of either evading the questions entirely, temporizing the impact of their answers, or falsifying them. The screening process whereby jurors are selected will thus be adversely affected.

The present policy of providing coverage by having representatives of the news media personally present in the courtroom substantially reduces the publicity given to voir dire responses. Personal matters disclosed during voir dire are of doubtful news value, and in virtually all cases, there is no publicity of such personal data by the news media.

Televising trials will cause jurors to lose much of the anonymity which exists today. In cases of notoriety, where a community is emotionally involved, or in which controversial subject matter is to be determined, the present anonymity of jurors permits them to reach decisions without the threat of personal harassment or community censure.

If that anonymity is lost, jurors will undoubtedly make an affirmative effort to avoid jury service. This can be readily accomplished. By answering preliminary questions in a manner that displays actual bias

or prejudice, the prospective juror is assured of being excused from the case. Even in our present system, although it is done rarely, we suspect there are times when a prospective juror uses this technique. Televising trials may make it a regular practice. The other side of that coin is that persons anxious to serve because the trial is to be televised may conceal their bias or prejudice.

STATE OF MINNESOTA
DISTRICT COURT OF MINNESOTA
FOURTH JUDICIAL DISTRICT



CHAMBERS OF
JUDGE BRUCE C. STONE
COURT HOUSE
MINNEAPOLIS, MINN. 55415

PARTIAL CONCURRING
AND
MINORITY REPORT

I must respectfully dissent from that portion of the report that purports to confirm that televising a trial is inherently invalid for all time. I do agree that Estes v. Texas prohibits such television until the state of the art can assure its use will not interfere with the probability of fairness any more than its non-use. As of now, the proponents of television have not established to my satisfaction that its use would not have an undue impact upon jurors and witnesses, as Judge Mann has pointed out in his splendid article.

My concern is principally with the emphasis of the report rather than its content. It seems to me that we should be trying to find ways that would make the television of trials acceptable to constitutional guarantees in our endeavor to "promote the general welfare" rather than freezing the tenets of the VI Amendment into immutable rules never contemplated by its authors.

A limited and supervised use of still-cameras in the court and of voice broadcasting would seem to me to pose no rational threat to a fair trial or to the concentration of conscientious jurors or to the testimony of honest witnesses. Accordingly, I would recommend the Supreme Court adopt a limited rule in this respect. As it is, we record the audio testimony in many cases; I fail to perceive any sound reason to preclude its broadcast. Presumably all stations could collaborate so that only one set of wires be utilized.

Still-cameras pose no problem in themselves when used during recess or before or after court, provided jurors and witnesses are not nagged, bullied, or intimidated by over eager camera persons. There is no reason to suppose the news media would not cooperate in this respect and comply with prescribed standards of deportment. Failure to do so could be the subject of sanction upon the individual violator and his employer rather than the imposition of an industry wide ban on those who eagerly comport with the standards.

At very least we could attempt to establish a state wide rule concerning the limited use of still-cameras and radio.

A handwritten signature in cursive script that reads "Bruce C. Stone".

Bruce C. Stone
Judge of District Court

MINORITY OPINION

Joseph P. Summers
Judge of District Court
Second Judicial District

Radio and still photography ought to have the same right of access to court proceedings as does the written press, subject to the right of the trial court to maintain due decorum.

Television ought to have the same right of access, except for criminal trials and hearings, where the protection of witnesses and constitutional considerations should preclude coverage unless all parties and witnesses consent.

In any event, these matters should be left up to the trial courts. The Supreme Court should not deal with them as a legislative rule-making matter, but as a matter of common law as problems arise on appeal. The restrictive canon should be repealed.

MINORITY REPORT OF
HONORABLE RICHARD J. KANTOROWICZ
OF THE SPECIAL COMMITTEE ON THE
USE OF CAMERAS AND ELECTRONIC
DEVICES IN TRIAL COURTROOMS

HISTORY OF CANON 35 (3A (7))

From the founding of our republic until 1937, there was no prohibition against photography or broadcasting of trials. In 1937, in response to an incredible and outrageous coverage of the Lindberg Kidnaping Trial, the ABA adopted Canon 35. In 1952, Canon 35 was extended to cover television. A vast majority of states adopted Canon 35 or a substantially similar rule. The current form of Canon 35 has been renumbered as Canon 3A (7), but is essentially the same as the original Canon 35. Since that time the ABA has taken a stand reaffirming Canon 35. On August 2, 1978, the Conference of Chief Justices by a vote of 44 to 1 voted a resolution urging the modification of Canon 35 to allow radio, television and photographic coverage of trials pursuant to stated guide lines.

As of today a number of states permit coverage on a permanent basis: Alabama, Colorado, Florida, Georgia, New Hampshire, Texas and Washington. Experimental coverage of the courts is permitted in California, Idaho, Louisiana, Minnesota, Montana, North Dakota, Oklahoma, Tennessee,

West Virginia and Wisconsin.

WHY SHOULD WE CHANGE CANON 35?

1. Complete openness is part of a democratic society. It is inconceivable that a major branch of government operates in an arena of self-imposed secrecy. It is this secrecy that has caused the courts and lawyers to incur the suspicion of the public. Our system of justice is the best in the world, and we should be proud to put it on display. It is important not only to do justice, but that the public perceive the courts as doing justice. Such an impression promotes respect and compliance with our laws.

2. Canon 35, was adopted by the legal profession without the consent of the public. In a democracy such a fundamental change should have the broadest consent. Our self-proclaimed right to determine what is a fair trial must remind many of the disastrous claim by the president that, he alone, was to determine what is or what was not a matter of national security.

3. T.V. has replaced newspapers as the public source of news. It is no answer that interested citizens can attend a court trial because it is open. In our complex society a citizen must depend on the news media, as it is impossible for many to attend all of the sessions of Congress, Legislature, City Councils, County Boards, Administrative Boards and Court Trials. In fact, my courtroom seats but

34 people in a county of almost 1,000,000 population. A truly informed citizen is completely and totally dependent on the news media. Perhaps, at one time it was sufficient for newspaper coverage of trials, but with the emergence of T.V., we must recognize new realities caused by technological advancements.

4. Under our present system abuses are occurring threatening the fairness of the judicial process and we have placed ourselves in a position where we are powerless to correct them. T.V. reporters now characterize witnesses testimony and even assess its impact on the jury and comment on the trial tactics and strategies of the attorneys in prominent cases. I have personally seen anchormen characterize testimony as "important", "devastating", and "surprising." Such behavior can and does shape public opinion in major cases. By complete and open access, the need for reporters' opinions would be diminished, as the viewers could make the judgments for themselves.

5. With proper guide lines the decorum of the courtroom can be maintained and, in fact, the circus atmosphere around major trials can be reduced; perhaps, even completely eliminated. The television coverage of the President's Impeachment Committee was handled with taste and great reverence. The court process is fair and dignified and should be shown. Presently, T.V. can only show the hustle and bustle of attorneys and participants coming and leaving the courtroom. Anyone who has seen the gauntlet of T.V. cameras before which defendants

must now pass has to be revolted by the running, shouting and hiding that people are subject to during a major trial.

CONSTITUTIONALITY

It would indeed be hard to imagine that 44 of the 50 Chief Justices of the United States would support an unconstitutional proposition and so my discussion of the constitutionality could indeed now end without further analysis.

The touchstone of the majority report is the argument that to permit T.V. in the courtroom would be unconstitutional; that conclusion rests entirely under their interpretation of Estes V. Texas, 381 US 532 (1965). It would probably be somewhat crass to point out that Estes was a 5-4 decision; that of the five in the majority, none sit on our present U.S. Supreme Court; that three of the four minority still sit on the court.

In Estes V. Texas the court dealt with the much publicized Billy Sol Estes tried on charges of swindling. Being a confidant to Lyndon Johnson, Billy Sol Estes' troubles generated pretrial publicity totaling 11 volumes of press clippings from all over the United States. The first day of a pretrial hearing was covered by massive T.V. coverage, including T.V. cameras inside the bars and still photographers on the Judge's bench trying to get an angle shot of the courtroom.

Cables were strewn over the floor of the entire courtroom. The reason for this was that Texas never adopted Canon 35. Each day of the pretrial hearing the Judge promulgated rules moving the camera back. The final court order had the cameras housed in a specially built booth with a slit for lenses.

Justice Clark, writing for the plurality concluded the opinion of the court by saying:

"It is said that the ever-advancing techniques of public communication and the adjustment of the public to its presence may bring about a change in the effect of telecasting upon the fairness of criminal trials; but we are not dealing here with future developments in the field of electronics. Our judgment cannot be rested on the hypothesis of tomorrow but must take the facts as they are presented today."

Justice Brennan, writing a dissent emphasized that only 4 of the 5 majority believed that televised criminal trials are constitutionally infirmed. In decisions subsequent to Estes the United States Supreme Court in Nebraska Press Association V. Stuart, 427 U.S. 539 (1976), the court said that in Estes the volume of trial publicity, the judges failure to control the proceedings and the telecast of a hearing and trial itself combined to deny defendant due process. In Murphy V Florida, 421 U.S. 794 (1975), Justice Marshall clarifies Estes in these words:

"The proceedings in these cases were entirely lacking in the solemnity and sobriety to which a defendant is entitled in a system that subscribes to any notion of fairness and rejects the verdict of a mob. They cannot be made to stand for the proposition that juror exposure to information about a state defendant's prior convictions or to news accounts of the crime with which he is charged alone presumptively deprives the defendant of due process."

Whatever Estes means, it does not mean T.V. and radio are barred forever; even Justice Clark's majority opinion says a day will come when it will be possible. Many states and the vast majorities of Chief Justices believe that day has arrived, when T.V. and radio will not affect the fairness of the trial.

OBJECTIONS

DOES T.V. DISRUPT THE COURTROOM?

Most of our present courtrooms have many microphones already in place so microphones do not in themselves disturb the proceedings. The pooling of T.V. can reduce the cameras to a minimum and T.V. cameras could even be operated by remote control. That they are noticeable only to a keen observer and operate with virtually no sound.

Still photographers can be reduced to one actual photographer and noiseless cameras are available. Changing of film or lenses during a trial can be forbidden if they disrupt the proceedings.

IMPACT ON LAWYERS

Will lawyers grandstand or play to the cameras?

The courts that have cameras could find no significant difference. The lawyer knows that the final test of his ability is to convince the jury. The Florida survey found 61.8% of the attorneys said their colleagues did not play to T.V.; 77.3% said they did not play to still cameras. If our present system filtered out the grandstanding perhaps an argument could be made that this element was relevant. However, even under our present system attorneys are interviewed on the courthouse steps. Press conferences are called and private interviews with reporters are given. There is no way that you can keep the attorneys in sensational cases from becoming television stars.

IMPACT ON WITNESSES

First let's review our present system. The witnesses can be compelled to come. The witness is put on the spotlight; we call it the solemnity of the proceedings. We try to impress the witness with the seriousness of telling the truth. As a matter of fact, the entire setting in the courtroom is constructed to intimidate the witness. It is this intimidation that is supposed to guaranty that the witness will not lie.

The oath, the law of perjury, the witness chair is the focus point of the trial, all create stress, making it most difficult for a person to lie. Certainly T.V. helps, not hinders the truth finding process.

Does the honest witness have a right to privacy? Under our present system their names can be published; they can be photographed; their privacy destroyed. In most cases the person did not want to be a witness, but chance has thrust him into that situation.

In our present system young people's names are not published and with T.V. the court can prohibit the camera on the witness or other protections can be instituted if there is a need for such measures. There's no reason to believe that T.V. will be less responsible than newspapers who have exercised discretion in these delicate matters.

IMPACT ON JURY

No doubt this is the most serious question. If jurors verdicts will be affected then justice will be denied. This aspect of T.V. has troubled me the most. Unfortunately, all arguments of T.V.'s impact on a jury assume that our present system is perfect. It is assumed that jurors are presently not affected by media. If that were the case, then I believe the case against T.V. would be compelling.

But is this assumption true?

If you have tried a major case you know that the courtroom is packed. Some courts have issued tickets in celebrated cases.

Newsmen are conspicuously writing in notebooks, artists are drawing pictures of the jury, witnesses, attorneys, and of course, the Judge. Somehow the attorneys sift through one hundred or more venireman and find twelve who know nothing about the case. Without doubt, the jury would have to be seriously retarded if they did not know something major was happening. We instruct them not to discuss, read or watch the news of this trial; if they follow that instruction, and there is no reason to believe that they will not, the fairness of the trial will be preserved.

Under our present system jurors' names are published. Enterprising reporters even give brief descriptions of each juror selected. The T.V. and still cameras in the courtroom will not add to the jury burden. In fact, it may even help. In the past in Hennepin County we have had jurors photographed going to dinner, even chased by photographers when they objected to photos. The circus atmosphere outside of the courthouse will be lessened because the actual trial can be broadcast.

THE JUDGE

No doubt the burden of the Judge will increase. No one is kidding anyone that the media is interested in trials; they are interested in stories, so only a few trials will be covered. However, under our present system only a few trials are covered. But, Judges are public officials in Minnesota and every Judge is elected to the office he holds; it is required by our

constitutional process. The only answer to this is that televised cases will be few and far between. Every district has a number of Judges, and I believe there will be volunteers to take the publicized cases. Even if there are no volunteers, a vast majority of Judges will probably have no more than one or two such cases in a life time. A small price to pay for a democratic and open process.

STATE OF MINNESOTA

IN SUPREME COURT

FILE NO. 81-300

In Re Modification of Canon 3A(7) of
the Minnesota Code of Judicial Conduct.

RESOLUTION
OF
RAMSEY COUNTY DISTRICT JUDGES

WCCO Radio, Inc., et al,

Petitioners

* * *

WHEREAS, on January 26, 1981, in its decision in *Chandler v. Florida* the United States Supreme Court determined that because it has no supervisory authority over state courts, it could not prohibit in all cases experiments involving electronic media, and,

WHEREAS, there is no comprehensive empirical data from which to determine whether the subtle psychological distractions resulting from the presence of cameras and other electronic devices have an adverse impact upon jurors and witnesses, and,


WHEREAS, the concurring opinion of Justice White in *Chandler v. Florida* recognizes that there are real risks in televising criminal trials over a defendant's objections and that all trial courts should be free to avoid this hazard by not permitting televised trials, and,

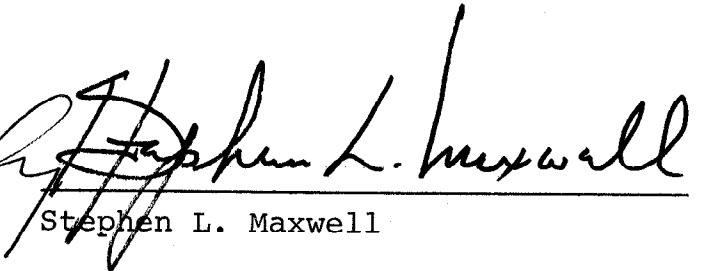
WHEREAS, although television technology has advanced since the decision in *Estes v. Texas* and the physical distractions of cameras have been lessened by state-of-the-art improvements, the "subtle capacities for serious mischief," which may be caused by the extraneous influence of television cameras, have in no way been diminished, and,

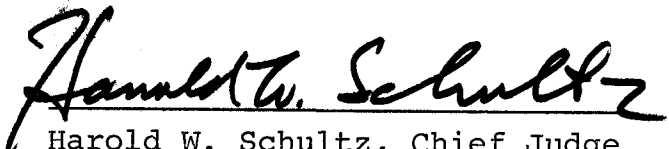
WHEREAS, all of the federal courts of this country and the vast majority of state trial courts continue to recognize the serious problems which may result from the use of cameras and other recording devices in a trial court,

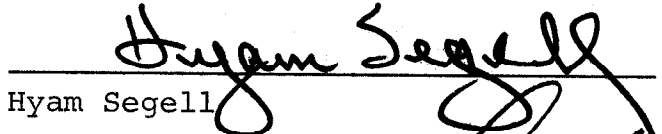
Now, therefore, BE IT RESOLVED that the undersigned Ramsey County District Judges declare their continuing opposition to the use of cameras and recording equipment in their courtrooms and to any change in Canon 3(A)7 of the Code of Judicial Conduct.

Dated: September 23, 1981.


Edward D. Mulally

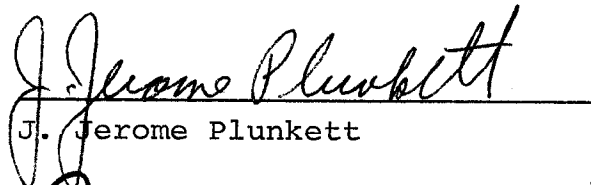

Stephen L. Maxwell

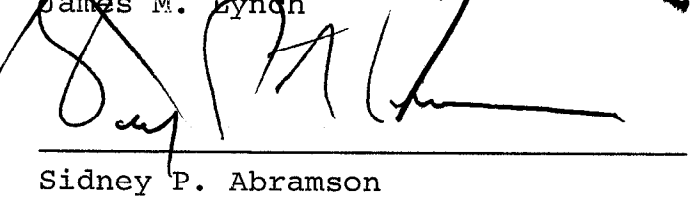

Harold W. Schultz, Chief Judge


Hyam Segell


David E. Marsden


James M. Lynch


J. Jerome Plunkett


Sidney P. Abramson


Otis H. Godfrey, Jr.


E. Thomas Brennan

STATE OF MINNESOTA
IN SUPREME COURT
FILE NO. 81-300

In Re Modification of Canon 3A(7) of
the Minnesota Code of Judicial Conduct.

WCCO Radio, Inc., et al,

Petitioners.

RESOLUTION
OF
RAMSEY COUNTY MUNICIPAL
COURT JUDGES

* * *

WHEREAS, on January 26, 1981, in its decision in *Chandler v. Florida* the United States Supreme Court determined that because it has no supervisory authority over state courts, it could not prohibit in all cases experiments involving electronic media, and,


WHEREAS, there is not comprehensive empirical data from which to determine whether the subtle psychological distractions resulting from the presence of cameras and other electronic devices have an adverse impact upon jurors and witnesses, and,

WHEREAS, the concurring opinion of Justice White in *Chandler v. Florida* recognizes that there are real risks in televising criminal trials over a defendant's objections and that all trial courts should be free to avoid this hazard by not permitting televised trials, and,

WHEREAS, although television technology has advanced since the decision in *Estes v. Texas* and the physical distractions of cameras have been lessened by state-of-the-art improvements, the "subtle capacities for serious mischief", which may be caused by the extraneous influence of television cameras, have in no way been diminished, and,

WHEREAS, all of the federal courts of this country and the vast majority of state trial courts continue to recognize the serious problems which may result from the use of cameras and other recording devices in a trial court,

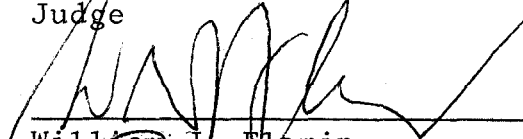
Now, therefore, BE IT RESOLVED that the undersigned Ramsey County Municipal Court Judges declare their continuing opposition to the use of cameras and recording equipment in their courtrooms and to any change in Canon 3A(7) of the Code of Judicial Conduct.



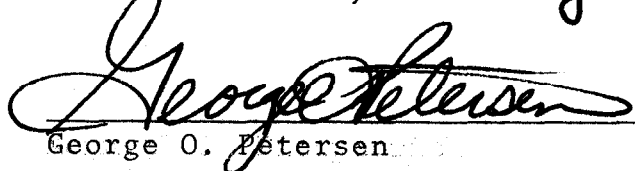
Donald E. Gross, Asst. Chief
Judge



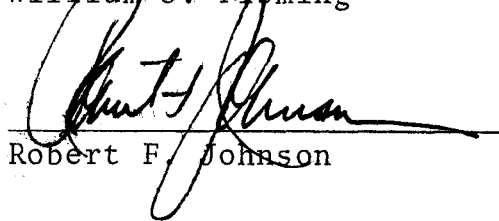
Bertrand Poritsky



William J. Fleming




George O. Petersen



Robert F. Johnson



Joseph E. Salland



Allan R. Markert

DATED: October 8, 1981.

Media 'zoo' bulging at Harris murder trial

St. Paul

Dispatch

2/24/80

By Eileen Putman

WHITE PLAINS, N.Y. (AP) — All the drawing cards are here: sex, money, power, death and scandal. And draw they do, bringing in several hundred reporters, some as famous as the subjects they write about.

"She brings out the best cliches in everybody," Duncan Spencer, a Washington Star reporter, said of the woman at the center of it all, Jean Harris.

The 57-year-old former girls' school headmistress with the classy clothes and society background, who is charged with the murder of Scarsdale diet developer Dr. Herman Tarnower, is the center of what reporters call a media "zoo."

When the reporters who were to become the Harris trial regulars assembled in October for pre-trial hearings, among them were Shana Alexander, former "60 Minutes" commentator; Diana Trilling, writer and critic, and Lally Weymouth, free-lancer and daughter of Washington Post publisher Katharine Graham. All three were said to be writing books about the case.

The press corps toniness was established almost immediately when Mrs. Trilling and Mrs. Alexander greeted each other with hugs and kisses.

"I saw you in the Times crossword puzzle last week," Mrs. Trilling said. "You were No. 5 across."

No stranger to crosswords herself, Trilling acknowledged Mrs. Alexander's reminder that she was once "No. 23 down" in another puzzle.

But the trial quickly lost its glamour in the tedious waiting during the many conferences the attorneys conducted behind closed doors. Even Mrs. Harris' occasional off-the-cuff remarks to a courtroom artist not to sketch her wrinkles so deep lost their appeal as juicy tidbits to be included in reporters' stories.

But the tedium ended abruptly Jan. 27 when the frail blonde defendant stepped into the witness box in a mauve Chanel-style suit and pearls. For eight days, she captivated the courtroom with a tale of depression, failed suicide, Tarnower's casual sexual liaisons and her scorn of the other woman in Tarnower's life, Lynne Tryforos.

"I thought she denigrated Hi," Mrs. Harris testified, using the nickname for the millionaire. Pencils busily recorded the defendant's accompanying look of distaste.

When Assistant District Attor-

ney George Bolen read Mrs. Harris' last letter to Tarnower, in which she called her rival a "thieving slut" and a "psychotic whore," reporters could not get to the telephones fast enough with the news.

But trial testimony ended in an anticlimax of several pathologists' analyses of Tarnower's palm tissue.

Mrs. Harris, used to seeing the two dozen reporters who covered the trial regularly, seemed stunned at the hundreds of reporters who appeared on the scene last week when the case went to the jury.

She found herself riding up a courthouse escalator with cameras, microphones and notebooks thrust in her face.

"How do you feel, Mrs. Harris?" they all screamed, at which the dazed defendant replied only, "Fine, thank you."

Reporters didn't necessarily enjoy the chase.

"I resent it — the crush, the hordes, the chase, the quarry, the prey. I think it's kind of demeaning for everybody, for the defendant and the press," said Joyce Dopkeen, a New York Times photographer.

FROM ST. PAUL SUNDAY
PIONEER PRESS

OCTOBER 11, 1981

Foreman's most famous case was the Mossler murder trial in 1966. Candy Mossler, 46, a Marilyn Monroe manque, and her lover, Melvin Powers, 26, a grammar-school dropout with a juvenile record, were accused of murdering her millionaire husband, Jacques, 69.

The public went wild. The case had everything: Money (\$33 million), sex (incest, no less; Powers was Candy's nephew, her sister's son), and violence (39 stab wounds and a crushed skull).

THE PRESS went crazy. There were more than 100 reporters from all over the world working overtime to chronicle Candy and Mel's affair.

In typical style, Foreman attacked Jacques Mossler, portraying him as a sex fiend with an insatiable appetite for high school boys. "The evidence will show that, except for the shoe fetish, he had 'em all — transvestism, homosexuality, voyeurism, masochism, sadism . . ." A man sorely in need of killing.

On the other hand, Powers was referred to as "that innocent boy" and Candy as "that sweet little woman." For the trial, Candy dressed in pastels and pearls and a neck brace.

Foreman's summation lasted 5½ hours. It began with a compliment to the DA: "The people of Dade County are fortunate to have so courageous a district attorney . . . not another DA in the country would have had the guts to sit on a case where the evidence is almost entirely absent . . ." and ended with a biblical reference to the adulterous woman whom Christ forgave with the words "Go and sin no more." Foreman loves to quote the Bible, but he once got that particular phrase wrong and reversed the verbs.

The jury — perfect from Foreman's point of view: all male — "Man's inhumanity to man is only surpassed by woman's inhumanity to woman" — with three blacks and two Jews, deliberated for three days before they returned a not-guilty verdict.

STATEMENT OF PAUL HANNAH BEFORE THE
MINNESOTA ADVISORY COMMISSION ON CAMERAS IN THE COURT
GIVEN OCTOBER 5, 1981

Introduction

Mr. Pillsbury, Judge Kaner, Ms Ahmann, I'm Paul Hannah, and I represent petitioners before you today. In March of this year, WCCO Radio, TV & FM and 12 other press organizations filed a petition with the Minnesota Supreme Court seeking an amendment to Canon 3A(7) of the Minnesota Code of Judicial Conduct. The Canon now prohibits the use of still cameras and broadcast equipment in Minnesota trial courts.

We petitioned the Supreme Court to change this Canon to allow us to cover activity of our courts. To show you how important this is to us, I only have to point out that petitioners include such typically feuding organizations as newspapers and broadcast media, radio and television stations, commercial and public stations, and, WCCO and KSTP - I'd like to think it was counsel who brought these groups together, but it wasn't.

What brought these organizations together was a common concern for the quality of coverage of court matters they now provide to the public. Because they can't show the public what goes on in courtrooms, the press is forced to use artificial means to set the backdrop of the court's action - courtroom artists, corridor interviews with participants, the all too familiar stand-up summary by a reporter standing half frozen on the steps of the courthouse. The problem is: if anything, these artificial settings may overdramatize the event.

So, a petition to gain access to courtrooms was filed. You were appointed by the Court to study the question. We're here to give it our best shot.

My job is to describe the state of the law, which should be easy. I'm also supposed to discuss the guidelines to courtroom coverage we propose. Since you have copies, that shouldn't take long.

The difficult task will be to convince you that we are serious, responsible and professional, and that our coverage of courts will reflect those qualities.

Everyone, including each of you, has preconceived notions of the press. Skepticism is probably high, and a good many judgments are unfavorable. The press even looks at itself with some self-doubt. Recently, CBS and ABC aired programs which included criticisms of their news organizations. The Washington Post scandal prompted thoughtful articles and an editorial in yesterday's Dispatch/Pioneer Press Focus section.

I'm going to be blunt with you. I can't expect you to put aside your preconceptions as you listen to our presentation. So I'm going to ask a favor of you. Test those theories of yours. We will present several editors, news directors and reporters whose job will be to decide what is covered and what goes on the air if we can cover the courts with cameras and microphones. I believe Minnesota news staffs are the best in the country.

Your preconceptions may come from an isolated instance of coverage you didn't like, or from someone else's experience. There aren't many professions where your mistakes are seen in every living room,

or at every breakfast table. But remember, there is a difference between whether you like the coverage and whether you believe it is fair and accurate. That's why we have the First Amendment. If you decide we can't cover courtrooms because you don't like what we do, the First Amendment guarantees of a free press are gone.

So, the challenge will be to set aside the preconceptions, to remember that the First Amendment protects the content of what the public sees and hears, and to decide whether there will be a net gain to Minnesota if cameras and broadcast equipment are allowed in its courts. We think there would be.

The Law

There are really only three cases which directly affect the question. The first isn't even a court decision. I'm referring to the case of State v. Bruno Hauptman, convicted of the kidnap-murder of the son of Charles Lindberg. Because of the intense coverage of the trial by the press, the American Bar Association adopted Canon 35 of the Canons of Judicial Ethics, which banned the taking of photographs in the courtroom and broadcasting of proceedings. In 1952 the Canon was amended to include a ban on televising courtroom proceedings.

The second case is Estes v. Texas. Texas had not adopted the Judicial Ethics. Estes, a political and financial figure, was convicted of swindling in a state court in Texas. It was a sensational trial, and was taped for re-broadcast by both radio and television. A circus atmosphere prevailed, as you will see in some demonstrations we have planned.

Estes argued that he was deprived of his right to due process because of the broadcasting of his trial. The U.S. Supreme Court agreed. Four members of the Court felt the broadcasting of criminal trials was inherently a denial of due process. The deciding, and therefore governing opinion, was that only Estes was deprived of a fair trial, because of the peculiar circumstances of the trial of his case. That was the only message of Estes.

A lot of people gave that case a broader meaning, until the case of Chandler v. ^{Florida} ~~Texas~~ was decided by the U.S. Supreme Court in January of this year.

In 1975, State of Florida began a limited experiment on media coverage of trial courts. In 1977, the experiment was expanded to allow full coverage of all proceedings in trial courts. In 1979, the experimental coverage was made permanent.

During the experiment, two Miami Beach policemen, Noel Chandler and Robert Granger, were convicted of breaking and entering a well-known Miami Beach restaurant. Portions of the trial were taped and three minutes were actually broadcast. The defendants appealed, claiming that the media had denied them a fair trial. The Supreme Court found that the U.S. Constitution does not prohibit photographic and broadcast coverage of trial courts.

The Guidelines

Shortly after the Chandler decision, we filed our petition with the Minnesota Supreme Court. Because the United States Supreme Court specifically found that the Florida experiment was constitutional, we patterned our guidelines after the Florida guidelines. They are fairly conservative. A few of the highlights:

1) Only one television camera and audio system can be used. In most cases, the courtroom audio system is to be used.

2) The proposed guidelines provide for only one still photographer, using not more than two cameras. However, we understand that the Supreme Court presently allows two photographers in its court. During the course of these hearings we will be using two still photographers, and, if all goes well, will amend the proposed guidelines accordingly.

3) The guidelines call for a pooling of coverage. Mr. Curtis Beckmann of WCCO AM will discuss this in greater detail.

4) The location of equipment is meant to provide "reasonable access to coverage."

5) Some modification of existing light sources is allowed when it is necessary to allow coverage to proceed. However, the modifications cannot produce distracting light and they must not be installed and maintained at public expense.

6) Finally, the Canon itself contains standards to insure decorum and the fair administration of justice. Should disputes occur, a quick and inexpensive appeal route is available.

In sum, the guidelines are conservatively drafted, and are meant to provide the maximum coverage consistent with maintaining the proper atmosphere in Minnesota courtrooms.

Statement before the Minnesota Advisory Commission

On Cameras in the Courtroom

by Chuck Biechlin, News Director WTCN-TV

October 5, 1981

I want to join my colleagues in thanking the Commission for taking the time to study the question of admitting cameras to the courtroom. It is a distinct honor and privilege to have the opportunity to appear before you.

As a television news manager, I'm a relatively recent convert to the idea that it is important to have camera access to the courts. However, I have tried to temper the fanaticism of the convert with some reasoned consideration of the responsibilities we will shoulder when we gain equality with our colleagues in the print media.

As recently as five years ago I regarded camera coverage of the courts as being of no particular concern to me. As a pragmatist who has had to work with limited resources throughout my career, I couldn't see any practical benefit in tying up photographers and reporters for days at a time inside a courtroom. That would obviously mean forsaking coverage in other areas or, at the very least, giving it short shrift.

Until that time I had not encountered a circumstance where I felt camera coverage would add or detract from the quality of information we were presenting. My opinion began to change with the capture and trial of Patricia Hearst. Worldwide attention was focused on her trial with the central question being was she responsible for her actions in participating in a San Francisco bank robbery or was she under such duress after being kidnapped and held by terrorists for months that she could not be held accountable.

A few days before the trial was to begin the San Francisco Federal Building was swarming with hundreds of photographers, reporters and artists. The trial was to be held in one of the smaller courtrooms. There was no room

for all the artists and reporters who wanted to cover the trial. We had to work out an elaborate pooling system on a rotating basis to insure fair access to it.

One idea that was advanced at the time was that a camera be placed in the courtroom to allow for a closed circuit feed of the trial proceedings to the press room a few floors away. This would reduce much of the congestion on the court floor and much of the jockeying for position in the courtroom itself. It was understood that those pictures could not be re-broadcast. Their purpose would be, basically, to enlarge the courtroom itself. The idea was rejected without consideration by the United States Attorney General. As a consequence, the trial was conducted with hundreds of people milling about in the hallways and lobbies of the Federal Building. Some misinformation and incomplete information slipped out of that courtroom as journalists tried to get a story to meet broadcast and publication deadlines. Certainly the trial would have been covered much more thoroughly and fairly if the guidelines we are offering for your consideration were in effect at that time.

Some of the best reporters in the world covered that trial. But, they had to work under deadline pressure to file stories from notes during court recesses. That will, inevitably, lead to misunderstandings and misinterpretations.

The proposed internal closed-circuit feed within the Federal Building would have done much to insure accuracy. As the person responsible for arranging the coverage for my own station, I felt we did as good a job as possible under the circumstances. But, the stilted drawings and the hastily prepared copy certainly did not do justice to many nuances of that case. The whole world was watching the U.S. Judicial System during the Patricia Hearst trial. I'm not suggesting that it was found to be wanting. But, the judicial process would have been enhanced by controlled camera coverage under the guide-

lines we are proposing. As I recall, there were charges in the Eastern European press that Patricia Hearst did not receive a fair trial. Their arguments would have been neutralized if we had been able to show, as well as tell, how that trial was conducted.

The Patricia Hearst trial was a coverage nightmare that I had not quite recovered from when I left San Francisco a few months later to go to work in Portland, Oregon. Cameras in the courtroom was at the top of the agenda in one of the first professional association meetings I attended there. At the time, Washington State had just had its courtroom camera experiment which proved to be very successful. A Bar/Press/Broadcasters committee was studying it in Oregon. In a panel discussion, Washington State Supreme Court Chief Justice Charles Stafford was eloquently enthusiastic about the success of the experiment in his State.

The Oregon Supreme Court Chief Justice, Arno Doenecke, was indifferent to it. He began his remarks by saying, "I'm wearing the black hat here." He went on to tell the assembled news directors that he realized that this was an important question to them, but that it was of practically no concern to he and the other Justices of the Oregon Supreme Court. I don't think we did much to change his mind that day. Soon afterwards I was asked to serve on the Bar/Press/Broadcasters cameras in the courtroom committee. Over the next three-and-a-half years, I went to countless meetings where virtually no progress was made, but the key questions in the free press-fair trial conundrum were debated endlessly. Through those discussions my conversion became complete as I applied the theory, mentally at least, to what was happening in the news. I must add as well that Justice Doenecke has changed his opinion and is now supportive of camera access.

Until 1979 we didn't have a celebrated case such as Patricia Hearst in Oregon. But then one surfaced. It was the Rideout marital rape trial. I

had a sense of deja-vu thinking back to San Francisco days. Many of the circumstances were similar. The trial was held in the State Capital, Salem, Oregon. That small, sleepy agricultural town was not ready for the national press that showed up. The small court room and courthouse was not subject to the same kind of security provisions that could be applied in a big city federal building. There was mayhem in the hallways. At one point, the District Attorney complained bitterly that the jury had been tainted by over-hearing questions from reporters in the corridor directed at a trial participant following one of the sessions.

As I recall, no one complained that the trial coverage was inaccurate or unfair. But, judicial decorum suffered from the sideshow outside the courtroom. Again, if the cameras had been in the courtroom under the guidelines being offered here, there would have been no need for all that activity in the hallway.

In much of the news coverage on television we have two ways to present it. We either show what happened or we talk about what happened and try to explain it. The strength and uniqueness of the medium lies in being able to show what happened. It is always our first choice. In the case of the Rideout trial, that was not possible because cameras were barred from the courtroom. So, reporters taking the second option tried to get as close to the first option as possible by talking to the participants right outside the courtroom. I can state categorically, without fear of contradiction, that if actual courtroom testimony had been available, that would have been used instead of the hallway interviews. It would have also been reasonable to clear the hallways of journalists immediately before, during, and immediately after the trial sessions.

Perhaps, to some of my colleagues, it may seem heretical to suggest that journalists should be restricted in their activities. I can make that

suggestion because all of our activities are directed to one purpose: the gathering of information for our viewers. With cameras and microphones in the courtroom that purpose is achieved. Those who might wish to have follow-up interviews following a courtroom appearance by a witness can get them somewhere else. Those interviews don't have to be conducted in the hallway.

In any discussion regarding press access, there is sometimes confusion regarding the need for it. It does sometimes appear that we are seeking privileges solely for the sake of having them. That is not the case. The only reason for privilege is the public's right to know what is going on. Restrictions on the press are, more generally, restrictions placed upon the society as a whole. An informed citizenry is the cornerstone of our democratic society.

In relating personal experiences about the Hearst and Rideout trials, I've been discussing two cases that were highly celebrated, even notorious in nature. One dealt with some aspects of mind control. The other dealt directly with the most intimate relationships of marriage. Both confronted the judicial system with a demand for decisions on contemporary issues. Both were highly titillating and sensational.

There is no question that the so-called sensational cases are the ones that will be getting the bulk of local news coverage. That, whether we like it or not, is news. After a career of almost 20 years in news broadcasting, I'm still searching for the perfect definition of news. The most accurate one I've been able to find is the one that says "News is change that is interesting". For the purposes of this discussion the sensational case is always interesting. And, because there is widespread interest, there will be coverage.

I think it is safe to add, however, that the aura of mystery surrounding the legal process adds to the titillation and sensationalism

of some cases. Those drawings we use, in and of themselves, tend to remove a sense of reality in discussing a trial. Features are frozen as if all the participants were locked in a fixed stare throughout the day. Frequently, the most dramatic moment is the one that is captured by the artist's pen. That is a distortion in depicting the process. Regardless of how accurately the artist can draw, those moments usually happen in the blink of an eye-lash.

The point is that our desire is not to sensationalize, but rather to depict, as accurately as possible, what actually happened. Quoting Confucious, "One picture is worth a thousand words". Sometimes it seems to take that many words to explain an artist's rendering of a courtroom scene. Those drawings do not begin to relate what happened the way a still photograph or television picture can do the job. It occurs to me that while our journalistic traditions go back to the invention of movable type by Johannes Guttenberg in the 15th century, our means of graphic representation of courtrooms goes all the way back to the beginnings of history and cave drawings. To be honest, some of the cave drawings make more sense than what we're forced to put on the air in the way of showing what happens in a Minnesota courtroom.

We are living in an era when we have the ability to show, in word and sound, what realistically happens in the courts. Regardless of what is covered, and no matter how sensational it may appear to be, there is a public interest in the disposition of those cases and there is a real need for reassurance that the judicial system works.

The fact is that most of us rarely see the inside of a courtroom. But, we rely on the orderly functioning of the judicial system to keep order in our communities. We need to know that it is working. More importantly, we need to know how it works. I think it is safe to say that most people think the pyrotechnics of the last minute dramatic confessions in the Perry Mason show are what it is all about. The way we've been covering the courts

in the television news era has not done much to change that perception.

It has already been demonstrated here today that television news cameras need not detract from the decorum of the courtroom proceedings. I would like to suggest that the decorum of the courtroom can be enhanced by television coverage. This is no more true than in the sensational case. Such cases usually stem from an act of mayhem or chaos somewhere in the community. It was an act that received widespread notoriety. The questions raised by that act, however, will ultimately be disposed of in an atmosphere of calm, controlled, and usually, unemotional judicial proceedings. When the judicial machinery begins working much of the sensation is ground out of most cases as the facts are rationally and calmly explored.

I want to touch on another case in Oregon that was sensational by any definition. It involved charges that a high school teacher molested a number of his teen-age female students. Twelve of them to be exact. That trial was covered by the local newspapers, television and radio. Yet, neither the names nor the pictures of the girls who brought the charges were ever revealed in the media. There had been no prior discussion with the media to establish guidelines, and there was no discussion between media representatives prior to or during the trial about how to handle that sensitive question. Later, however, one opponent to cameras in the courtroom cited that case as a potential example of misuse of cameras. The fact is the trial was open to all the devices currently available to us for coverage. No drawings were made, no names were used. The trial was conducted fairly and the defendant was convicted. On the part of the community, there was a need to know what happened. That need was served without compromising the privacy of the girls involved, and most importantly, it was done without prior restraint on the part of the courts.

When courtroom doors are opened to us for camera coverage, we will be covering trials on about the same basis that we cover them now. The sensational cases will get attention. Most trial activity will get none at all, largely because it interests ^{one} no other than the direct participants. For us, I'm sure there will be considerable coverage of the civil courts. Many issues are decided in civil court that affect our day-to-day lives. Presently, we rely on the wire services to cover those cases because we cannot show what is happening and the follow-up interview is not that compelling or interesting.

Again, I think a more elaborate detailing of the procedures in civil court will enhance respect for the court and thereby enhance the procedure itself.

For me, it still all boils down to a matter of allocation of resources. What kind of bang for the buck will I get when I spend it on courtroom coverage. I will only get an acceptable return when the story reported is interesting and relevant to the lives of the viewers who watch our programs.

Those viewers are the basis on which we compete. It is my job to attract as many of them as possible to our station. You don't have to answer viewer calls very long to know that they frown on sensationalized news coverage. I would provide ~~that~~ that at my personal peril. So personally, I'm looking forward to the challenges offered by access to the courtroom for photographic coverage. It is a responsibility I believe we are ready to accept.

Thank you.

testimony

of

John R. Finnegan

Executive editor

St. Paul Dispatch and Pioneer Press

October 6, 1981

Minnesota Advisory

Commission on

Cameras in the Courtroom

It is time Minnesota opens its trial courts to cameras, both television and still.

It is time the media be allowed to use all of its reporting tools fully in covering the criminal justice system in this state.

Other states have made the move to accept electronic journalism and still photographers in their courtrooms. I find it hard to understand why Minnesota has been unwilling to follow suit.

Let me list a few reasons why I strongly support opening the courts:

1. There is strong evidence both in the nation and in Minnesota that the courts' system is not held in very high esteem by the public. Part of the problem, I submit, is that the public is not adequately informed on the legal system. Yankelevich survey made several years ago showed that of 15 major institutions in this country, the state and local courts

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ranked only 11th in public confidence, just behind labor unions and just ahead of Congress. In a similar survey made by my newspapers several months ago, the state courts came out a little better---in ninth place. That was still lower than the media.

I do not argue that putting cameras in courtrooms will eliminate the problem but certainly broader exposure of the public to what is going on in the legal system should improve understanding and, eventually, raise the image of the courts.

There still is a cloak of mystery over our courts. Lifting a corner of that cloak through improved television and radio coverage could help eliminate some of the mystery; wipe out some of the harmful myths and misconceptions about the legal process.

Justice Otto Moore of Colorado said once that "There is no field of government activity concerning which people are as poorly informed as the field occupied by the judiciary."

We must correct that situation. To better inform and educate the public, we cannot assume it has access to observe the system today. It is not practical for all members of the public to attend public trials. We should not expect them to. The print medium tries to provide daily coverage and explanation and I think we do a creditable job. But it is clear that to reach the broadest and most complete cross section of our communities, other media must be involved. The electronic media have become a significant factor in disseminating news and information in our society. I believe that currently it is hamstrung in reporting on the courts.

2. The reporter's tools today are much more sophisticated than they were just a decade ago. I will not go into a discussion of the quiet cameras, the high speed cameras, the remote feeds for radio and television. The fact is advanced technology has made physical coverage of the courts unobtrusive.

3. The print media will use the additional access as well. Still photos can provide readers a much better look at the courtroom environment and of the people involved in the system. It will add another dimension of coverage we do not now have. It will not materially change our coverage. The opportunity for reporters to use tape recorders, however, will enhance our reports by insuring greater accuracy in note taking. Reporters will be able to concentrate more on the significance of what is being said rather than on the words. That will be a gain.

In short, trial coverage can be improved.

There is a fear, I know, that media people will get out of hand, violate court rules and protocol, run roughshod over a defendant's right to a fair trial. That is a risk.

But judges are not being asked to relinquish control of their courtrooms. Guidelines would be written to protect a defendant's right to a fair trial while opening the courts to greater public access.

Earlier this year I wrote a column in which I suggested that Minnesota could come out of the dark ages of trial court coverage if it followed the light provided by the United States Supreme Court in its decision on the Florida

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television case last winter. The high court said states can open trials to broadcasters and can set standards for broadcast coverage.

It is not inherently unconstitutional for the states to do so.

Now that the constitutional ban is out of the way, let's find a way to open the courts rather than strive to find ways to keep them veiled.

Testimony of Charles W. Bailey, Editor, Minneapolis Tribune.
Oct. 6, 1981.

I have been Editor of the Minneapolis Tribune for the last nine years. Before that I worked as a reporter in Minnesota and in Washington, ~~DC~~, for 22 years. Along the way I spent a good deal of time covering court proceedings -- both criminal and civil, and at both trial and appellate levels. I have served in various capacities in professional journalistic organizations; I am currently a member of the board of directors of the American Society of Newspaper Editors, and for two years served as chairman of its Freedom of Information Committee.

I am happy to join my friend -- and friendly rival -- John Finnegan today to urge the adoption of the proposed new standards of conduct on the use of ~~still~~ photography, electronic and broadcast coverage of judicial proceedings in Minnesota.

I hope the committee will recommend adoption of the proposed standards. You have heard or will hear from broadcasters and from photographers and others who are learned in the technical end of this matter. I would like to offer some brief comments from the point of view of newspapers, and I would be glad to try to answer any questions you may have.

Under present rules, a trial judge in Minnesota is prohibited

from allowing still photographic or television coverage of a trial. To put it simply, I believe that rule is too broad, arbitrary and unnecessary. I think my belief is in line with the opinion of the U.S. Supreme Court in Chandler v. Florida, in which the court said that the earlier Estes holding could not be read as an absolute ban on state experimentation with "an advancing technology", and that no absolute ban could be justified merely because there is a danger that in some cases broadcast accounts of trial events might impair the ability of jurors to reach a verdict uninfluenced by extraneous matter.

But even if a judge has the right to allow photography in his courtroom, is it wise to do so? That is really the issue here, and I think the answer in the great majority of cases must be yes. Photographic coverage is one of the essential aspects of newspaper coverage of news. That is as true inside a courtroom as it is at a baseball game or a political convention.

The judge is in charge of his courtroom. There ought to be no disagreement about that. The proposed rules would give trial judges ample discretion to forestall prejudicial conduct by photojournalists and to regulate what may be photographed or recorded. The committee, I am sure, is familiar with the landmark U.S. Supreme Court decision in the Sam Sheppard case (Sheppard vs. Maxwell); that opinion is more critical of the trial judge's failure to use his authority to control the behavior of the press than it is of the content of what that press published.

Existing rules already give judges the means of insulating jurors from exposure to the results of photographic coverage -- just as as they can now be insulated from the results of pencil-and-paper coverage by writers.

We are not talking here merely about trials involving murder or sexual misconduct or other so-called ``sensational`` subjects. Matters of great importance to society come before our trial courts. The ability of newspapers to publish photographs of those proceedings will increase our ability to focus public attention on these issues; it will also help the public understand the issues and the people involved in adjusting them. Examples of such cases might include those involving civil rights, environmental quality, political issues such as reapportionment, and the like.

Finally, I would respectfully suggest that photography can also serve a ~~valuable~~ ^{valuable} part in helping the press fulfil its responsibility to monitor the operation of the courts -- to serve as the eyes, as well as the ears, of those citizens who for one reason or another, including simple limitations of space, cannot personally monitor the performance of the courts. It is easy for editors to put too much emphasis on this aspect of the newspaper's function; we are, after all, primarily in the business of collecting news and offering it for sale at a profit. But the oversight function is also a key role for the press; indeed, it is that function which justifies the special protections afforded the press in law and in the constitution. Cameras can help us perform that function more accurately and

more completely. And the ability to record proceedings electronically -- to use tape recorders -- can help us perform the monitoring function more accurately.

I hope the committee will see fit to recommend adoption of the proposed guidelines. They may require some amendment in one aspect or another, although it appears to me that they vest ample discretion in the trial judge to deal with any imaginable circumstance. They will not guarantee flawless performance by the press in covering trials -- but neither does the present absolute prohibition of any photographic coverage.

I would be glad to try to respond to any questions you may have. I understand that there were questions yesterday about the editorial decision-making process, and I would be happy to respond on that subject if committee members have specific questions.

Thank you.

The question has been asked: to what extent does the University of Minnesota School of Journalism and Mass Communication prepare journalism students for courtroom coverage?

All students, both graduate and undergraduate, in the news-editorial, broadcasting and photographic sequences are required to take a course in mass communications law and a course in public affairs reporting which heavily emphasizes courtroom reporting. News-editorial students may also take courses in interpretive reporting and precision journalism, either of which may involve students in matters concerning the courts. A basic political science course is required of all students. Broadcast journalism students receive a brief history of the use of microphones and cameras in the courtroom. As it happens, the textbooks used in these classes and at quite a number of other universities throughout the United States were written by professors teaching courses in the University of Minnesota School of Journalism, so their own concerns about courtroom coverage, which are likely to be reflected in their lectures, are documented.

Testimony to the breadth and depth of our interest in questions having to do with the judicial branch of our government is the fact that an unusually large proportion of our graduates are deflected from journalism into the law schools of the Twin Cities and the nation. A number of articles which have appeared in law reviews were written by our graduate degree holders. Those faculty members who are charged with training people in these areas have for many years had close relationships with members of the bench and bar. I refer specifically to Emeritus Professor J. Edward Gerald, Emeritus Professor Cameron Sim, and to Professors Donald Gillmor, Arnold Ismach and Everett Dennis.

I would like to submit for your records the textbook on public affairs reporting, my own textbook on broadcast journalism, plus some syllabuses and a couple of handouts which students receive. I would also like to note briefly a bit of what is written in them.

Professor Donald Gillmor's syllabus in mass communication law begins with these two sentences: "Only journalists possessing some knowledge of mass communication law can thoughtfully assert their rights and avoid needless infractions of the law. This course is designed to make journalists expert in recognizing their legal rights to gather, prepare and disseminate news and public information, and to suggest guidelines for ethical practice." The syllabus also refers to, "judicial orders restricting publication, attendance of press and public at judicial proceedings, and the availability of judicial records and documents, the judge's contempt power, cameras and broadcast equipment in the courtroom." Professor Gillmor has also placed on library reserve and urges student reading of the Lyle Denniston book, The Reporter and the Law: Techniques of Covering the Courts.

Professor Arnold Ismach is one of four authors, all present or former faculty members of our school, of the textbook New Strategies for Public Affairs Reporting. A principal chapter is titled, "Covering the Legal Process." Of the four appendix sections, the first three are titled, "The Newsmen's Guide to Legalese," "Federal and State Court Structure," and "Criminal Justice and Criminal Trial Process." The course in which it is

used, required of all journalism students, assigns beats to each student, including three weeks covering either a police beat, the county district court, the U.S. District Court or the Minnesota Supreme Court. The students cover the beats in teams.

In my own textbook, Television News, Radio News, there is one chapter entitled "The Law" and another entitled "Mike and Camera in the Courtroom." The latter chapter reviews the checkered history of broadcast coverage of trials and pays some attention to criticism.

While the chapter places the heaviest weight of argument on the side of permitting broadcast coverage, I do argue as forcefully as I can that "Reporters and photographers should dress and comport themselves with as much dignity and respect for the court as attorneys do. It is a shame that this needs to be said, but it does." The book is required reading for all broadcast journalism students at the University.

SUPREME COURT COMMISSION ON CAMERAS/MICROPHONES
IN THE COURTROOM

RICK LEWIS
MANAGER/NEWS & INFORMATION
MINNESOTA PUBLIC RADIO, INC.
OCTOBER 6, 1981

MINNESOTA PUBLIC RADIO IS GRATEFUL FOR THE OPPORTUNITY TO CONTRIBUTE TO THE PROCEEDINGS OF THIS COMMISSION. LET ME BEGIN, BY WAY OF INTRODUCTION, WITH A BRIEF DESCRIPTION OF OUR ORGANIZATION.

MPR IS A NON-PROFIT, PUBLICLY-SUPPORTED COMMUNITY CORPORATION WHICH PROVIDES A NONCOMMERCIAL RADIO SERVICE TO THE PEOPLE OF MINNESOTA THROUGH A STATEWIDE NETWORK OF SEVEN INTERCONNECTED STATIONS. SIX OF THOSE ARE FULL-POWER FM STATIONS, AND PROVIDE A SERVICE DEVOTED PRIMARILY TO FINE ARTS AND PERFORMANCE PROGRAMMING, BUT ALSO RECOGNIZED FOR A COMMITMENT TO SUPERIOR NEWS AND PUBLIC AFFAIRS COVERAGE. THAT RECOGNITION IS EVIDENCED BY THE FACT THAT MPR IN ITS FIFTEEN YEARS HAS RECEIVED EVERY MAJOR AWARD FOR BROADCAST JOURNALISM, MOST OF THEM

SEVERAL TIMES. THE NETWORK'S NEWEST SERVICE, KSJN-AM, PROVIDES NEWS AND INFORMATION PROGRAMMING TO THE TWIN CITIES METROPOLITAN AREA.

MORE THAN 95% OF THE POPULATION OF MINNESOTA IS WITHIN RANGE OF AN MPR SIGNAL, AS WELL AS SIGNIFICANT PORTIONS OF FOUR ADJACENT STATES. IN ADDITION WE ARE ENGAGED IN THE PRODUCTION OF NATIONAL PROGRAMMING BY SATELLITE, AND FREQUENTLY CONTRIBUTE NEWS MATERIAL FOR USE BY THE NATIONAL PUBLIC RADIO NETWORK.

OUR COMMITMENT TO THOUGHTFUL AND COMPREHENSIVE COVERAGE OF IMPORTANT PUBLIC ISSUES AND EVENTS IS A SERIOUS ONE. OUR NEWS DEPARTMENT IN SAINT PAUL HAS A STAFF OF 21 FULLTIME PROFESSIONALS. WE MAINTAIN A FULLTIME BUREAU IN CITY HALL IN MINNEAPOLIS, AND ARE THE ONLY BROADCAST ORGANIZATION WITH A FULLTIME BUREAU AT THE STATE CAPITOL.

EACH OF THE MEDIA REPRESENTED HERE HAS A UNIQUE ADVANTAGE. FOR NEWSPAPERS, IT IS PHOTOGRAPHS. FOR TELEVISION, IT IS FILM. AND FOR RADIO, IT IS SOUND. ALL OF US SHARE A DEVOTION TO GOOD WRITING, TO SOUND EDITORIAL JUDGEMENT, AND TO FAIRNESS AND ACCURACY. BUT OUR SOUND AND OUR PICTURES ARE OUR STRENGTHS. THEY CONVEY REALITY--AND THEREFORE ACCURACY--RATHER THAN RELEGATING THE SUBSTANCE OF IMPORTANT EVENTS TO INADEQUATE DESCRIPTION. THE SPECIAL STRENGTH OF EACH MEDIUM IS NOT

ORNAMENTAL IN FUNCTION; IT IS A METHOD OF ENHANCING COMMUNICATION AND IMPROVING UNDERSTANDING.

AT MPR, SIGNIFICANT STORIES ARE ROUTINELY GIVEN SPECIAL TREATMENT, AND IN A VARIETY OF WAYS. WE SPEND FIVE OR SIX MINUTES PROBING THE MEANING OF AN ISSUE OR EVENT, WHEN FORTY OR FIFTY SECONDS IS MORE COMMON ELSEWHERE. WE REPORT ON THE STORY, THEN EXPLORE THE MOTIVATIONS BEHIND IT, AND INVESTIGATE ITS POSSIBLE EFFECTS. IT IS WORTH NOTING HERE THAT WHILE WE REPORT THE OCCURANCE OF AN EVENT AND PLACE IT IN ITS PROPER CONTEXT, WE DO NOT PRESUME TO DECIDE WHETHER ONE SIDE OR ANOTHER IN AN ISSUE IS RIGHT OR WRONG. WE DO SEEK A WIDE AND BALANCED RANGE OF OPINON FROM OTHERS, BUT WE DO NOT TAKE AN EDITORIAL POSITION OURSELVES. PUBLIC BROADCASTERS ARE FORBIDDEN BY LAW TO DO SO.

WE BELIEVE THAT OUR COVERAGE IS FAIR AND THOROUGH, THAT IT MAKES THE BEST POSSIBLE USE OF OUR MEDIUM, AND THAT IT CAUSES CITIZENS TO THINK ABOUT AND UNDERSTAND ISSUES THAT AFFECT THEIR LIVES.

BUT BEYOND THOROUGH REPORTING, WE BELIEVE THAT WE HAVE A FURTHER RESPONSIBILITY--AND AN OPPORTUNITY--TO PROVIDE THE LISTENER WITH ACCESS TO LIVE EVENTS, IN THEIR

ENTIRETY, AS A "PRIMARY SOURCE" OF IMPORTANT INFORMATION.

PUBLIC RADIO, SINCE IT BEGAN, HAS DEVOTED THOUSANDS OF HOURS TO THIS KIND OF COVERAGE. UNLESS YOU COUNT SPORTS PLAY-BY-PLAY, WE ARE MORE EXPERIENCED AT IT THAN ANYONE ELSE.

IN THE EXECUTIVE BRANCH, THE BROADCAST OF NEWS CONFERENCES, ADDRESSES AND THE PROCEEDINGS OF GOVERNMENT AGENCIES PROVIDES DIRECT COMMUNICATION BETWEEN ELECTED LEADERS AND THOSE WHO ELECT THEM. IN THE LEGISLATIVE BRANCH, WE OFFER LIVE COVERAGE OF IMPORTANT DEBATES IN THE STATE LEGISLATURE, LIVE CONGRESSIONAL HEARINGS, AND IN 1978 BROADCAST THE ENTIRE DEBATE IN THE U.S. SENATE ON THE PANAMA CANAL TREATIES. TENS OF MILLIONS OF AMERICANS HAD THE OPPORTUNITY TO WEIGH THE ARGUMENTS, TO EVALUATE THE PERFORMANCE OF THEIR ELECTED REPRESENTATIVES, TO UNDERSTAND THE LEGISLATIVE PROCESS, AND TO FORMULATE THEIR OWN OPINIONS ON A VOLATILE NATIONAL ISSUE.

ONE OF THE REASONS FOR THIS HISTORIC FIRST BROADCAST FROM THE SENATE BY RADIO WAS THE FACT THAT THE TECHNOLOGY OF THE MEDIUM IS SIMPLE; WHILE SERVING AS AN

EFFECTIVE MEANS OF COMMUNICATION, RADIO WAS ABSOLUTELY UNOBTRUSIVE ON THE FLOOR OF THE SENATE. THE PRESENCE OF MICROPHONES, ESPECIALLY WHERE MICROPHONES WERE PRESENT ALREADY, DID NOT INTRUDE ON THE PRESENTATION OF IDEAS.

OUR OWN BROADCAST OF LIVE EVENTS, FROM BOTH LOCAL AND NATIONAL SOURCES, IS A CONTINUING ENTERPRISE. IN THE LAST THREE WEEKS, WE HAVE BROADCAST SENATE ARMED SERVICES AND SENATE FOREIGN RELATIONS COMMITTEE HEARINGS ON THE SALE OF MILITARY EQUIPMENT TO SAUDI ARABIA, CONFIRMATION HEARINGS ON THE NOMINATION OF JUDGE SANDRA DAY O'CONNOR TO THE SUPREME COURT, A PRESIDENTIAL NEWS CONFERENCE AND TWO PRESIDENTIAL ADDRESSES, HOUSE COMMITTEE HEARINGS ON THE FEDERAL BUDGET, AN ADDRESS FROM MINNEAPOLIS BY NEVILLE MARRINER, AND MANY OTHERS. IF AN AGREEABLE SET OF GUIDELINES CAN BE APPROVED, WE ANTICIPATE OFFERING THE SAME SORT OF LIVE, COMPLETE COVERAGE OF SIGNIFICANT PROCEEDINGS IN THE COURTROOMS OF THE STATE OF MINNESOTA.

THE WORD "SIGNIFICANT" IS IMPORTANT HERE. I WILL NOT SECOND-GUESS THE EDITORIAL JUDGMENT OF OUR NEWS DEPARTMENT ON WHETHER OR NOT TO BROADCAST SOME FUTURE TRIAL,

BUT I CAN OFFER SOME GUIDELINES UNDER WHICH THOSE JUDGMENTS WOULD BE MADE. THEY ARE THE SAME GUIDELINES WE USE EVERY DAY IN DECIDING WHICH STORIES TO COVER AT ALL.

A RECENT SENSATIONAL MURDER TRIAL WAS MENTIONED IN OUR NEWSCASTS, BUT A REPORTER WAS NEVER ASSIGNED TO COVER IT. IT WAS SENSATIONAL AND IT WAS A PUBLIC TRIAL, BUT IT WAS NOT SIGNIFICANT IN OUR VIEW. EXHAUSTIVE COVERAGE BY MPR WOULD HAVE ADDED NOTHING IN PARTICULAR TO THAT AVAILABLE FROM OTHER MEDIA. A SERIES OF LEGAL BATTLES OVER USE OF THE BOUNDARY WATERS CANOE AREA, ON THE OTHER HAND, HAS BEEN COVERED AT LENGTH BY US OVER THE YEARS, BECAUSE IT AFFECTS A LARGE AREA IMPORTANT TO MANY CITIZENS OF THE STATE--REGARDLESS OF HOW THE QUESTION MAY EVENTUALLY BE DECIDED--AND IT EXPLORES THE ISSUE OF STATES' RIGHTS VERSUS FEDERAL RIGHTS. WE WOULD BE LIKELY TO COVER OR BROADCAST A TRIAL THAT SEEMED LIKELY TO SET LEGAL PRECEDENT, OR REVERSE ONE, OR TO SETTLE A CONSTITUTIONAL QUESTION, OR A TRIAL WHOSE OUTCOME SEEMED LIKELY TO AFFECT THE LIVES OF A SIGNIFICANT PORTION OF THE POPULATION. WE WOULD BE VERY UNLIKELY TO BROADCAST A TRIAL WHOSE OUTCOME WOULD AFFECT ONLY THE DEFENDANT, OR A HEARING WHICH HAD ONLY COURTROOM DRAMA TO RECOMMEND IT.

WE DO NOT COVER ROUTINE TRAFFIC ACCIDENTS, UNLESS THEY BEGIN TO INDICATE SOMETHING THAT MIGHT AFFECT THE WELFARE OF THE LARGER POPULATION--SUCH AS A DANGEROUSLY-DESIGNED HIGHWAY. WE DO NOT NORMALLY COVER FIRES, BUT WE ARE CONCERNED ABOUT ARSON AND FIRE SAFETY IN GENERAL. WE WOULD NOT BROADCAST A TRIAL FOR ITS MELODRAMATIC VALUE, BUT WE WOULD CARRY A PROCEEDING WHOSE EFFECT WOULD BE FELT LONG AFTER THE BROADCAST HAD ENDED. AS I MENTIONED, HOWEVER, WE MIGHT COVER A LESS MOMENTOUS TRIAL--EVEN BRIEFLY--IN A NEWSCAST. WE DO OFFER NEWSCASTS AS A PART OF OUR SERVICE, AND INTEND THEM TO SERVE AS A HEADLINE INDEX--A SORT OF "TABLE OF CONTENTS" TO THE MORE DETAILED REPORTING ELSEWHERE IN THE BROADCAST SCHEDULE. JUST BECAUSE A STORY IS SHORT, IT IS NOT NECESSARILY UNFAIR OR INACCURATE. ANY JOURNALIST WILL AGREE IT IS A FAR GREATER TASK TO WRITE "SHORT" THAN TO WRITE "LONG." TO CAPTURE THE ESSENCE OF A STORY, IN A LIMITED AMOUNT OF TIME, WHILE MAINTAINING BALANCE AND ACCURACY, IS THE MOST CHALLENGING KIND OF WRITING. BUT WE DO IT EVERY DAY, AND WE DO IT WELL.

BEYOND NEWSCASTS, REPORTS AND LIVE EVENTS, THERE ARE MANY OTHER WAYS IN WHICH PUBLIC ISSUES CAN BE TREATED BY RADIO. THEY INCLUDE INTERVIEWS, CALL-IN PROGRAMS WITH EXPERT GUESTS, PANEL DISCUSSIONS, PUBLIC MEETINGS WHICH WE HAVE OCCASIONALLY ORGANIZED AND BROADCAST, AND DOCUMENTARIES. LIKE DIRECT COVERAGE OF EVENTS IN THE COURTS, ALL THESE METHODS OF PRESENTATION CAN COMBINE TO IMPROVE PUBLIC UNDERSTANDING OF PUBLIC ISSUES.

DIFFERENT MEDIA WILL CHOOSE DIFFERENT STORIES, AND WOULD PROBABLY CHOOSE DIFFERENT TRIALS TO COVER IN MANY CASES. NO TWO NEWSPAPERS COVER EVERY STORY IN THE SAME WAY. NO TWO BROADCAST ORGANIZATIONS NECESSARILY AGREE ON WHICH STORY SHOULD LEAD A NEWSCAST. THAT DOESN'T MEAN ANYONE IS WRONG. THE PROCESS OF EDITORIAL DECISION-MAKING IS INFORMED BUT SUBJECTIVE. WE ARE HERE TO DEFEND THE RIGHT OF THE MEDIA TO MAKE THOSE DECISIONS, WHILE RECOGNIZING OUR OBLIGATION TO BE RESPONSIBLE FOR THEM.

THE PROPOSED STANDARDS OF CONDUCT AND TECHNOLOGY FOR COVERAGE OF JUDICIAL PROCEEDINGS ARE SIMPLE, STRAIGHT-FORWARD AND EASILY ENFORCED. THEY PROVIDE FOR REASONABLE ACCESS WITHOUT DISRUPTING THE DECORUM OF THE COURT

OR THE RIGHTS OF THE ACCUSED. IN OUR OWN CASE, A RADIO MICROPHONE IS NO DIFFERENT FROM THE MICROPHONE ALREADY USED TO RECORD COURTROOM TESTIMONY. IN FACT, UNDER THE PROPOSED RULES, IT IS THE SAME MICROPHONE.

IN WASHINGTON, WHERE I LAST WORKED, THE RULES FOR THE CONDUCT OF JOURNALISTS THROUGHOUT THE CITY ARE IN MANY CASES MORE DEMANDING THAN THOSE UNDER DISCUSSION HERE, AND OFTEN DEVELOPED AND ENFORCED BY THE MEDIA THEMSELVES. A BROADCAST REPORTER CANNOT "PLUG IN" TO A POOL FEED OF AN EVENT ONCE THE EVENT HAS BEGUN, AND CAN NOT BE DISCONNECTED FROM THE FEED UNTIL THE EVENT IS OVER. TELEVISION CORRESPONDENTS VIDEO TAPING REPORTS OUTSIDE THE CAPITOL CAN STAND ONLY IN A VERY FEW DESIGNATED SPOTS. STATION OR NETWORK EMBLEMS ARE GENERALLY NOT ALLOWED ON MICROPHONES AT A NEWS CONFERENCE. POOL FEEDS ARE HANDLED BY THE NETWORKS ON A ROTATING BASIS IN AN EFFICIENT AND SELF-GOVERNED SYSTEM. ALL THESE GUIDELINES ARE INTENDED TO GUARANTEE EQUAL AND EFFECTIVE ACCESS TO IMPORTANT EVENTS WITHOUT DISRUPTION, AND THEY WORK.

IF WE ARE ABLE TO ACCEPT THE NOTION THAT THE PRESENCE OF THE MEDIA IN THE COURTS, UNDER THE PROPOSED RULES, WILL BE NEITHER DISRUPTIVE NOR INFLUENTIAL IN THE OUTCOME OF A PROCEEDING, THAT LEAVES THE QUESTION OF FAIR-

NESS AND ACCURACY.

THE COMMONALITY OF OPINION AMONG THE MEDIA REPRESENTED BEFORE THIS COMMISSION DOES NOT REFLECT A UNANIMOUS DESIRE FOR INACCURACY IN REPORTING. WE DO NOT SEEK LICENSE TO BE IRRESPONSIBLE. TO BE PERFECTLY FRANK, ALL IF US HAVE THE ABILITY, WHOSE DANGER WE RECOGNIZE, TO DISTORT, TO MISLEAD, TO TWIST THE FACTS, TO COVER THE ARGUMENTS IN AN ISSUE SELECTIVELY--EVEN TO LIE. IT HAS NOTHING TO DO WITH WHETHER OR NOT OUR CAMERAS AND MICROPHONES ARE IN THE COURTROOM. IT HAS EVERYTHING TO DO WITH PEOPLE AND THEIR PRINCIPLES, AND THE FACT THAT NO ONE IN THIS BUSINESS WHO MAKES A PRACTICE OF DECEPTION CAN LONG SURVIVE.

LACK OF ACCESS TO THE COURTS WILL DIMINISH THE ABILITY OF WELL-INTENTIONED JOURNALISTS TO REPORT FAIRLY AND ACCURATELY. IT WILL DO NOTHING TO DISCOURAGE THOSE FEW WHO MIGHT DO OTHERWISE. FOR THEM, THERE ARE SUFFICIENT REMEDIES AVAILABLE TO PLAINTIFFS AND DEFENDANTS, AND TO THE COURTS THEMSELVES, TO OBTAIN THE NEED FOR ANY KIND OF RESTRAINT ON THE COVERAGE OF JUDICIAL PROCEEDINGS.

OUR PURPOSE IS TO IMPROVE COMMUNICATION BETWEEN CITIZENS

AND THEIR GOVERNMENT, TO PRESENT FACTS AND EVENTS IN A MANNER WHOSE ACCURACY IS BEYOND QUESTION, AND TO ENHANCE UNDERSTANDING OF THE JUDICIAL PROCESS, WITHOUT PREJUDICE TO THE RIGHTS OF THOSE WHOSE CASES ARE ARGUED IN THE COURTS.

STATE OF MINNESOTA

IN SUPREME COURT

FILE NO. 81-300

In Re:

Modification of Canon 3A(7) of the
Minnesota Code of Judicial Conduct.

WCCO Radio, Inc., et al,

Petitioners.

Statement of

Otis H. Godfrey, Jr.
Judge of District Court
Second Judicial District

It might be well for all of us to pause a moment and consider the basic issue before this special commission created by the Minnesota Supreme Court. I would suggest that the ultimate question is:

Will the presence of cameras in the courtroom

enhance the right of all parties to a fair trial?

Under our Constitution, particularly Article VI of the Bill of Rights, which states that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial," the role of the judiciary is to secure a steady and impartial administration of the laws. It was not always thus.

In our history books we read of the Star Chamber, where the British kings conducted secret trials designed to give the accused little chance of avoiding the royal executioner. A legend of the West, Judge Roy Bean, expressed it another way, "We're going to have a fair and square trial, and then we're going to string this man up."

Perhaps we can all agree that every person coming before our courts must have a fair trial as guaranteed by our laws and Constitution. In criminal cases that means an impartial jury, a specific accusation, a trial in the locale of the crime, the right to be confronted with the witnesses against the accused, and assistance of counsel.

sensationalize a few notorious cases. During the recent trial of Ming Shiue in Federal Court on kidnaping charges, the government introduced video tapes of the victims of that bizarre crime in order to convince the jury of the defendant's guilt. Within days of the verdict two of our leading television stations requested copies of all the tapes. One might legitimately ask if their purpose was to educate the public or to enhance their news ratings in the never-ending battle to be #1.

It may be argued, of course, that televised trials would give a more accurate portrayal than our present T.V. and movie fare. This would be partly so, but only those cases having dramatic appeal would be picked and edited for the viewers' and advertisers' enjoyment. From the arenas of the Roman empire to this very day, show trials have been much sought-after entertainment. In the early days of this country, people would gather from miles around to hear great lawyers perform. It was a secondary matter whether they won or lost the case, so long as the pleading was loud and lengthy. The Scopes trial in the 1920s matching Clarence Darrow against William Jennings Bryan is perhaps a classic example of such an event.

The struggle to remove trials from the public arena has paralleled the fight against secret proceedings such as the Star Chamber. Arbitrary power wants no public witness to its private deliberations, but at the same time needs all the publicity it can get to legitimize its fraudulent actions. Thus we saw a massive television trial in China, after 30 years of the utmost secrecy, to justify the punishment sure to be meted out to the Gang of Four.

The trial of a lawsuit is a deliberative process, and the entertainment of the public and specific rights of a defendant have never mixed well. The jury box must not become a sporting arena. As a result of years of abuses, culminating in the celebrated trial of

of all people to have proper access to a dignified courtroom, as we conduct the deliberative process of resolving serious legal issues.

Trials should reflect the integrity and moderation of the judicial process. Considerate men ought to prize whatever will tend to fortify that temper in the courts, and to reject whatever would threaten this unique and yet vulnerable institution. In the course of some 200 years, American courts have built a foundation of public and private confidence in the fairness of the system. The judiciary is nevertheless in continued jeopardy of being overpowered, awed or unduly influenced by other branches of government, and even by the Fourth Estate itself, but it may still be justly regarded as the citadel of public justice and the security of individual rights.

Let us for the moment consider the possible plight of a defendant in a sensational, televised murder trial. The public is exposed to days of testimony setting out the grisly details of rape, torture and murder of a lovely young girl. Several eye witnesses testify that the defendant resembles the man who was seen with the victim shortly before her disappearance, and the police even present some physical evidence consistent with the defendant's guilt.

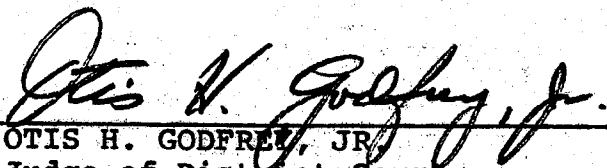
Suppose further, however, that five of the defendant's family and close friends give positive testimony that he was not in the vicinity at the time of the crime.

Finally, let us suppose that the jury finds the defendant not guilty, that is to say that the charge against him has not been proven beyond a reasonable doubt. Do you believe for a moment that the defendant can walk out of the courtroom, return to his neighborhood, go to church on Sunday, return to his job at General Mills, and live a normal life?

I would submit that television coverage of the courts would

not enhance fairness, protect individual freedom nor increase public understanding of the judicial process. Open trials must continue to protect the legal and constitutional rights of our citizens, but the courtroom should not be subverted in order to entertain or even educate the viewing audience.

We live in a complex society where each of us brings our own particular talents to our roles, all acting, we would hope, for the common good. Some are teachers, others perform miracles of open heart surgery; some sell life insurance, others perform great symphonies; some write and present the news, some try lawsuits. Each of us are important in our own way. Let us enjoy our differences, and our freedom to differ, but let not one segment of society infringe upon the rights of another.


OTIS H. GODFREY, JR.
Judge of District Court

DATED: October 13, 1981.