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StarTribune

March 24, 1989

Cynthia Johnson
Supreme Court Commission
Supreme Court of Minnesota
State Capitol
St. Paul, MN 55101

OFFICE OF
APPELLATE COURTS

MAR 24 1989

FILED


Re: Supreme Court File No. C7-81-300

Dear Ms. Johnson:

Pursuant to the Court's Order, I enclose 10 copies of written comments in support of the Petition to Modify Canon 3A(7) of the Minnesota Code of Judicial Conduct.

I do not wish to make a formal presentation at the hearing on the matter but would like to reserve the right to speak in rebuttal if that appears to be appropriate.

Sincerely,



Patricia Hirl Longstaff

PHL:cje
Enclosures

cc: Paul Hannah

STATE OF MINNESOTA

IN SUPREME COURT

C7-81-300

In Re Modification of Canon 3A(7)
of the Minnesota Code of Judicial
Conduct to Allow Audio and Video
Coverage of Certain Trial Court
Proceedings

OFFICE OF
CLERK OF SUPREME AND
DISTRICT COURTS

MAR 24 1989

FILED

COMMENTS OF STAR TRIBUNE

Respectfully submitted,

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STATE OF MINNESOTA

IN SUPREME COURT

C7-81-300

In Re Modification of Canon 3A(7)
of the Minnesota Code of Judicial
Conduct to Allow Audio and Video
Coverage of Certain Trial Court
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COMMENTS OF
STAR TRIBUNE

INTRODUCTION

The Star Tribune makes these comments in support of the Petition to Modify Canon 3A(7). These written comments will be the only presentation made by this newspaper and no oral argument is requested.

An outline of the Star Tribune's attempts to use expanded coverage under the experimental rules will be submitted as part of the comments of the Joint Media Committee.

In an attempt not to duplicate material submitted by other parties supporting the petition, these comments will be restricted to the issue of the experience of other states with rules similar to those proposed by the Petitioners.

COMMENTS

A number of studies have been done on the issues presented in this petition. These include: disruption, distraction, the effect on trial

participants, and administrative burdens placed on the trial courts. The results of these studies is outlined in a memorandum prepared by the National Center for State Courts (NCSC) and attached here as Exhibit A.

This review notes that all of the studies and reports of on-going experiments are generally favorable in their evaluation of experience with expanded coverage of trial courts. A particularly thorough study was done for the California Supreme Court in 1981. This 18-month study revealed that if the rules for extended coverage are adhered to, there were no significant adverse consequences from the coverage. The conclusions and recommendations of this study are also included in Exhibit A.

The memorandum of the NCSC notes that one study with negative reaction was published by the State Bar of Michigan. This was a national study of 600 attorneys. The survey found antipathy for expanded coverage was highest where this coverage was not used.

Subsequent to the publication of the Michigan study, the Supreme Court of Michigan began a one-year experiment on February 1, 1988. This experiment was similar to the one initiated in Minnesota (consent required from all parties). In June of 1988, the Michigan Court modified the rules for five counties providing for consent of the trial judge only. On January 13, 1989, the Michigan courts made permanent and statewide rules similar to those in effect in the five counties. That Court's rules as well as its "press kit" are attached as Exhibit B.

In Michigan, as in the overwhelming majority of other states, the states highest court evaluated carefully the burden on trial judges as well as the effect on participants. They were, undoubtedly, also influenced by the modifications to Canon 3A(7) which were approved the the American Bar Association's (ABA) House of Delegates on August 11, 1982. The new rule reads as follows:

- (7) A judge should prohibit broadcasting, televising, recording or photographing in courtrooms and areas immediately adjacent thereto during sessions of court, or recesses between sessions, except that under rules prescribed by a supervising appellate court or other appropriate authority, a judge may authorize broadcasting, televising, recording and photographing of judicial proceedings in courtrooms and areas immediately adjacent thereto consistent with the right of the parties to a fair trial and subject to express conditions, limitations, and guidelines which allow such coverage in a manner that will be unobtrusive, will not distract the trial participants, and will not otherwise interfere with the administration of justice.

This rule clearly indicated a new view by the ABA in regard to expanded coverage. It acknowledges the fact that courts can, in fact, draft rules that protect the administration of justice. In New York, this is being done by the legislature. A proposal to make the experimental period authorized by the legislature is currently being debated. See Exhibit C.

There is no reason to believe that the experience of so many other states will be different in Minnesota. Indeed, in the few cases where expanded coverage was used here, the results have been favorable according to the parties involved. None of the dire consequences predicted by opponents of this petition have occurred.

Indeed, if one separates out the arguments that appear to be based on assumptions that the media (1) are evil and/or (2) have no business in trial courts anyway, the only argument that remains to be addressed is that of scarce judicial resources. It is undeniable that the first time a trial judge deals with this procedure it will take more time. He or she will have to read the rules and meet with a media representative. However, in other states this has proven to become routine and less time consuming as the practice continues.

For example, the Arizona study (at page 29) found that:

1. 82% of the attorneys responding said the presence of the media and its equipment did not obstruct or delay the orderly conduct of the court's business.
2. 90% of the judges responding said they did not have to reschedule any hearings as a result of the media problem.
3. 95% of the court personnel responding said that the presence of the media did not delay the orderly conduct of the court's business.
4. 83% of the judges and attorneys responding said that media coverage requests were made within an appropriate amount of time.
5. 91% of the judges responding said that there was proper advance notification by the media to allow appropriate time for the presence of the media in the courtroom, prior to the convening of the trial.
6. 72% of the attorneys responding said the amount of people involved with coverage of the proceedings from the media stationed outside the courtroom did not cause the attorneys to be concerned.
7. 55% of the judges and attorneys responding said that objections to the media were raised during the proceedings.

Similarly, the California study found that in 75% of trials where expanded media coverage was used, the judge reported little or no increase in their

supervisory responsibility. (See page 221 of California study.) The study concludes that there will be times when the administrative support system will be burdened when major cases are covered by cameras and microphones. It also concludes that judges will occasionally feel burdened in their decision-making role. (See page 227.)

It is undeniable that these burdens on Minnesota's trial courts will occur as well. However, the long history of cooperation between the media and the courts is likely to resolve these problems faster than they have been resolved in many other states. It is very possible that Minnesota, in spite of its late entry into this area, will become a model for expanded trial coverage.

Should this Court deny the petition, we hope it will state specific facts about Minnesota's trial courts that make them different from so many of their counterparts. This will enable Petitioners to consider addressing the Court's concerns in whatever forum is appropriate before bringing the petition again.

Dated: March 22, 1989

Respectfully submitted,



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National Center for State Courts

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Exhibit A
Edward B. McConnell
President

February 3, 1988

MEMORANDUM

REF. NO. IS 88.002

BY: Michael A. Haas

RE: TV in the Courts, Evaluation of Experiments

The Information Service was asked to provide information about states that have conducted experiments with television in the court and have evaluated such experiments.

In November, 1979, the Florida Judicial Planning Coordination Unit of the Office of the State Courts Administrator completed A Sample Survey of The Attitudes of Individuals Associated with Trials Involving Electronic Media and Still Photography Coverage in Selected Florida Courts Between July 5, 1977 and June 30, 1978. Copies of the tables of generally favorable responses from attorneys, witnesses, court personnel and jurors (pp 22 through 25) and Appendix A, showing the number of responses, are enclosed. On April 12, 1979 the Supreme Court of Florida made permanent its permission for the coverage and reporting of judicial proceedings by electronic media, in accordance with adopted standards and subject to the authority of the presiding judge.

In 1978, Cameras in the Courtroom--A Two-Year Review in The State of Washington was released by the Washington State Superior Court Judges' Association Committee on Courts and Community. This generally favorable report has some negative comments which might have been obviated if the number of cameras permitted in the courtroom had been reduced.

Nevada experimented with cameras in the courtroom for twelve months beginning in April 1980. The enclosed final report from The Advisory Commission on Cameras in the Courtroom, which was submitted to the Nevada Supreme Court on May 7, 1981, contains generally favorable questionnaire evaluations and comments.

The report of an 18-month study, Evaluation of California's Experiment With Extended Media Coverage of Courts, was submitted to the Administrative Office of the Courts by Ernest H. Short and Associates, Inc. in September 1981. The conclusions and recommendations section is enclosed. The report states that with strict adherence to the rules under which the experiment was conducted, there were no significant adverse consequences from the extended media coverage in the courtroom.

The report also emphasizes the pivotal role played by the presiding judge in controlling the media coverage. A permanent rule permitting electronic media coverage of court proceedings was adopted by the California Judicial Council effective July 1, 1984.

Arizona's 1983 report on its 1982-83 experiment is in Cameras and Recorders in Arizona's Trial Courts, An Evaluation of the Experiment by Rob Raker. The generally favorable response to the experiment led to the rules being made permanent in 1983. A summary of the evaluation is enclosed.

The report of the Minnesota Advisory Commission on Cameras in the Courtroom to the Minnesota Supreme Court of January 11, 1982, is also enclosed. This favorable report recommended that the Supreme Court permit video coverage of court proceedings on an experimental basis.

Also enclosed is the Report on Pilot Project on the Presence of Cameras and Electronic Equipment in the Courtroom compiled by Judge Guy E. Humphries, Jr., Division B, Ninth Judicial District Court, Parish of Rapides, State of Louisiana. Again, the evaluation favored the use of cameras, noting that the fears often expressed about the presence of cameras were unfounded and that no loss of dignity or decorum was apparent.

In addition to state evaluations, recent articles have tended to favor use of video equipment. Enclosed are:

1. "Cameras in Court" (1985 Report to the Governor and Legislature, Judicial Council of California, pp. 23-27). This report prints the text of the California Rule allowing video coverage and points to minor problems such as elimination of shutter noise caused by still cameras and close range photographs of jurors.
2. "Digest (Iowa)" (State Court Journal, volume 8, November 4, p. 34). After four years of experiments with cameras in the courtroom of 190 trials, no serious problems were reported, with jury exit polls showing media coverage had little effect on trial participants.
3. "Florida Survey Concludes Electronic Coverage Doesn't Interfere with Justice" (Court News, Newsletter of the Alabama Judicial System, Volume 2, Number 11, 1978, p. 14). This survey of more than 2000 jurors, witnesses and court employees reported that televising courtroom proceedings did not disrupt trials or interfere with judicial administration.

A negative reaction to courtroom cameras can be found in "'No' on Courtroom Cameras" (State Bar of Michigan Newsbriefs, Volume V, Number 8, September, 1982), which is also enclosed. While this was a national survey of 600 attorneys, disapproval of cameras was greatest where used least and among older lawyers.

MAH:caw
Encl.

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A SAMPLE SURVEY OF THE ATTITUDES OF
INDIVIDUALS ASSOCIATED WITH TRIALS INVOLVING
ELECTRONIC MEDIA AND STILL PHOTOGRAPHY COVERAGE
IN SELECTED FLORIDA COURTS BETWEEN
JULY 5, 1977 AND JUNE 30, 1978

RECEIVED
NOV 1 1978
CLERK SUPREME COURT

PREPARED BY:

THE JUDICIAL PLANNING COORDINATION UNIT
OFFICE OF THE STATE COURTS ADMINISTRATOR

Attorney - BIOGRAPHICAL DATA

In general, your feelings about your court service prior to allowing cameras in the court were:

1. Very Favorable	59.1%
2. Favorable	37.4%
3. Undecided	2.6%
4. Unfavorable	.9%
5. Very Unfavorable	0

In general, your feelings about your court service where cameras, photographers and related equipment were present were:

1. Very Favorable	39.7%
2. Favorable	28.9%
3. Undecided	10.7%
4. Unfavorable	10.7%
5. Very Unfavorable	9.9%

Sex:	1. Male	94.0%
	2. Female	6.0%

Age:	1. Under 25	.8%
	2. 25-34	70.8%
	3. 35-44	17.7%
	4. 45-54	10.0%
	5. 55 and over	.8%

Was this your first experience in a courtroom?

	1. Yes	1.0%
	2. No	99.0%

What type of cases do you normally represent?

	1. Criminal	73.8%
	2. Civil	10.0%
	3. Both	16.2%

Witness - BIOGRAPHICAL DATA

In general, your feelings about your court service prior to allowing cameras in the court were:

1. Very Favorable	32.0%
2. Favorable	53.4%
3. Undecided	8.6%
4. Unfavorable	3.2%
5. Very Unfavorable	2.8%

In general, your feelings about your court service where cameras, photographers and related equipment were present were:

1. Very Favorable	24.8%
2. Favorable	41.7%
3. Undecided	13.6%
4. Unfavorable	14.9%
5. Very Unfavorable	5.0%

Sex:	1. Male	79.0%
	2. Female	21.0%

Age:	1. Under 25	8.4%
	2. 25-34	35.3%
	3. 35-44	24.2%
	4. 45-54	18.6%
	5. 55 and over	13.5%

PREVIOUS COURT EXPERIENCE

Have you served as a witness prior to this time?

0.	No	19.1%
1.	Yes, 1 Time	10.9%
2.	Yes, 2 Times	4.2%
3.	Yes, 3 Times	3.8%
4.	Yes, 4 Times	1.1%
5.	Yes, 5 Times	2.4%
6.	Yes, 6 Times	58.5%

Court Personnel - BIOGRAPHICAL DATA

In general, your feelings about your court service prior to allowing cameras in the court were:

- | | |
|---------------------|-------|
| 1. Very Favorable | 55.3% |
| 2. Favorable | 30.1% |
| 3. Undecided | 6.8% |
| 4. Unfavorable | 5.8% |
| 5. Very Unfavorable | 1.9% |

In general, your feelings about your court service where cameras, photographers and related equipment were present were:

- | | |
|---------------------|-------|
| 1. Very Favorable | 40.8% |
| 2. Favorable | 24.3% |
| 3. Undecided | 10.7% |
| 4. Unfavorable | 16.3% |
| 5. Very Unfavorable | 7.8% |

- | | |
|--------------|-------|
| Sex: 1. Male | 69.0% |
| 2. Female | 31.0% |

- | | |
|------------------|-------|
| Age: 1. Under 25 | 4.6% |
| 2. 25-34 | 16.5% |
| 3. 35-44 | 18.4% |
| 4. 45-54 | 27.2% |
| 5. 55 and over | 33.0% |

Was this your first experience in a courtroom?

- | | |
|--------|-------|
| 1. Yes | 5.0% |
| 2. No | 95.0% |

What type of cases do you normally serve on?

- | | |
|-------------|-------|
| 1. Criminal | 68.0% |
| 2. Civil | 6.8% |
| 3. Both | 25.2% |

JUROR - BIOGRAPHICAL DATA

In general, your feelings about your court service prior to allowing cameras in the court were:

1.	Very Favorable	41.1%
2.	Favorable	49.4%
3.	Undecided	3.7%
4.	Unfavorable	1.2%
5.	Very Unfavorable	4.6%

In general, your feelings about your court service where cameras, photographers and related equipment were present were:

1.	Very Favorable	34.7%
2.	Favorable	43.2%
3.	Undecided	7.7%
4.	Unfavorable	9.8%
5.	Very Unfavorable	4.6%

Sex:	1.	Male	46.0%
	2.	Female	53.0%

Age:	1.	Under 25	6.5%
	2.	25-34	16.4%
	3.	35-44	15.4%
	4.	45-54	23.6%
	5.	55 and over	38.1%

PREVIOUS COURT EXPERIENCE

	0.	None	64.1%
	1.	Yes, 1 Time	21.3%
	2.	Yes, 2 Times	8.0%
	3.	Yes, 3 Times	2.9%
	4.	Yes, 4 Times	1.6%
	5.	Yes, 5 Times	2.1%

Appendix A

Response to Survey Questionnaire¹

	Number of Questionnaires Initially Mailed Out	Number of Questionnaires Returned Undeliverable by Date Deadline	Number of Questionnaires Returned by Date Deadline	Percentage ² Response
1. Witness	1,566	87	656	66%
2. Attorney	236	4	150	65%
3. Court Personnel	154	4	108	72%
4. Juror	704	29	437	65%
Combined Questionnaire Response Rate				62%

¹ Additional questionnaires were returned after the August 6th deadline. However, since they were late they were not included in the survey and classified as not returned.

² When calculating the response rate, it is accepted practice to subtract the number of undeliverable questionnaires from the initial mail out number and base the percentage response rate on the adjusted mail out number.

Appendix A

Reliability Coefficients for Individual Questionnaires

	<u>Reliability Coefficient</u>
1. Witness	.89
2. Juror	.85
3. Court Personnel	.89
4. Attorney	.93

CAMERAS IN THE COURTROOM--
A TWO-YEAR REVIEW IN THE STATE OF WASHINGTON
A Project of the Washington State Superior
Court Judges' Association Committee on
Courts and Community

On September 20, 1976, the Washington State Supreme Court authorized "broadcasting, televising, recording, and taking photographs in the courtroom during sessions of the court. . . ." (Code of Judicial Conduct 3A(7). It is noted that the authorization was granted by an amendment to the Code of Judicial Conduct not by court rule.) Since that time judges of the Washington State Superior Courts have had varied experiences with CJC 3A(7) and the news media. This report attempts to present an overview of those experiences and to recite certain relevant statistical information.

PRELIMINARY COMMENTS

All 111 Superior Court judges responded to the survey by the Washington State Superior Court Judges' Association's Committee on Courts and Community. Out of the 111 judges 41 reported experience with some form of camera or recording equipment in the courtroom during a court session. Seventy judges reported having no experience. The statistics are not clear as to how many judges refused to allow "cameras in the courtroom" when requested by the news media. There is evidence that some judges denied requests by news media for a variety of reasons. There is also evidence that judges allowed news media cameras in the courtroom, but, because of an objection pursuant to CJC 3A(7), the court restricted the news media from filming or photographing a defendant, witness or juror.

ATTACHMENT "C"

--On most such occasions, the news media people decided not to proceed with the filming or photographing.

Judges reported that generally the more sensational criminal trials attracted the news media, but also there appears to have been coverage of a variety of other court matters. Examples of matters covered include sentencings, arraignments, contested divorce action, announcing an opinion in an affirmative action case, legal arguments concerning pornography, a dispute between state penitentiary guards and Department of Social and Health Services, injunction relief, summary judgment regarding school issue, intra-political party dispute, motion calendar arguments and zoning disputes. Judges also reported there was coverage of a traffic appeal, a civil trial involving "clear cutting of timber", a civil trial involving "liability/damages of nine adjoining land owners versus an auto race track", and a variety of other situations when the news media gathered educational or background material.

At least 60 occasions of news media equipment in the court can be documented by the survey. Some judges reported TV cameras, still cameras, or recording equipment in the courtroom during a number of arraignments or preliminary matters without giving the exact count. The survey indicates at least 60 news media appearances in court and probably no more than 80 during the nearly two-year period of review.

NEGATIVE RESPONSES

Of the 41 judges reporting at least one experience with the news media equipment in the courtroom, only seven reported a negative experience.

One negative response stated the equipment was "obvious" but not noisy and that the equipment "had the effect of creating un-

realistic posturing and extended, long-winded arguments. Each counsel departed from the legal issues frequently in an attempt to upstage the opponent... recommend greater restrictions than presently in the Rule."

One comment considered negative in the statistics cited above stated that the judge had "mixed reactions" about the cameras in the courtroom on two different occasions.

A local bar association criticized one judge for allowing even limited TV camera and still camera coverage of a murder trial. Although the judge stated he did not "have any particular difficulty" he was concerned about the strong reaction by the bar association and indicated he may be slow to grant permission in the future.

A differentiation between extended hearings and brief hearings was made by one judge. He stated that during the long hearing which lasted for several days, one TV camera and tape recorder "were not disruptive" and that "all media personnel were cooperative."

On the other hand, he stated that on a brief hearing, "multiple cameras and recorders... did adversely affect the dignity of the court" and he indicated reservations on allowing media equipment in the courtroom during brief matters.

One judge commented that he believed the "movie cameras" in the courtroom during a trial (by approval of the Supreme Court before the amendment of CJ3A(7)) affected the verdict. After another experience recently with video tape recording equipment in the courtroom during a trial, the judge stated, "I have changed my mind." In addition, he commented that even if the cameras in the courtroom did affect the jury verdict, he was not sure that was inappropriate since

like judicial decisions, jury verdicts should also be held up to close public scrutiny.

Another judge stated that TV cameras had been in the courtroom for 15 minutes for "background shots". The judge expressed an opinion that "the camera could and probably would be distracting to witnesses and jurors. I also believe jurors could be intimidated in a criminal case knowing defendant's friends could identify them from showing of film."

The final negative comment was an extended report of an experience during a bizarre murder trial which occurred shortly after Canon 3 was amended. The multiple news media people were criticized for squabbling about camera position and prerogatives. The judge was of the firm belief that the news media coverage did distract and had a detrimental affect on the proceedings.

The judge stated:

"The continuous awareness of their continuous presence was observable. In the court's judgment, the conduct of counsel, jurors and witnesses were affected by the cameras in court. The court was affected and felt a continuous pressure from the newspaper reporters and TV cameras. Whether this was observable in the court's conduct has not been reported to me. I cannot define the reason for feeling the pressure. Perhaps it is derived from a fear of exposure to publicity. A judge has no script and must perform perfectly on the spot and fears humiliation from public exposure of a hasty and perhaps inappropriate ruling or comment. . .

"Whether it was real or not, at 3:30 or 4 o'clock in the afternoon of each day, when all the cameras and reporters were absent from the courtroom, it seemed as if there was a general easing and relaxation of previous tension, and a sigh of relief seemed to breathe through the crowded court."

POSITIVE RESPONSES

On the positive side, 34 judges had a good reaction to news media equipment in the courtroom. Although the degree of enthusiasm

varied, the predominant comment was "no problem".

"Very successful, educational to general public, no distraction", recited one judge after two experiences with TV camera, radio and still cameras in the courtroom during murder trials.

Another judge, commenting on a first degree murder trial with a jury, (jurors not photographed), stated: "Camera noisy but did not cause problems."

TV cameras and still cameras were used during arraignment and other preliminary proceedings before one judge and it was reported, "It hasn't presented any real problems yet."

Also frequent comments by judges praised the cooperation given the court by the news media. Judges appeared to be very appreciative for this cooperation and "sensitivity".

Perhaps the most positive comment was made by a judge who tried a first degree murder case which attracted considerable public attention. The trial lasted for four weeks and the jury was sequestered. The judge reported that TV equipment with microphones were present daily in the courtroom and, in fact, the judge permitted the microphones to be wired in place for the duration of the trial. In addition to TV cameras, there were still photographers, sketch pad artists, and a second stationary TV camera. At the conclusion of the trial, the judge had this following comment:

"Due to the length and amount of publicity this trial received, I was exposed to virtually every type of media 'onslaught' and feel that I gained a great deal of experience in this area as a result. Almost without exception, the media personnel were beyond reproach and the overall experience a very pleasant one. The few disruptions, if they can be called that, were clearly accidental and hardly worthy of mention. As a result

of this experience, I am 100% in favor of allowing the media access to the courtrooms under our current guidelines. I would suggest that any judge who anticipates having cameras in the courtroom, take the opportunity before trial to casually discuss the set-up with the camera men or reporters so that it is clear that both sides understand the other's position on that particular case. I did and found this to be very beneficial."

The succinct comment of one judge perhaps summarizes the general overall response. The judge stated: "Generally good experience--some problems."

GENERAL COMMENTS

No pattern of abuse or non-cooperation by the news media has developed and no inundation of state courtrooms by the news media has occurred.

Also, additional restrictive guidelines have not surfaced as necessary. Since the judge has the final say, open communication with the news media allows the flexibility to meet the unique needs of each situation. Judges have not reported a need for further guidelines than set forth in CJC 3 7(a) and news media people have generally preferred the freedom to deal directly with the judge on a case by case method.

To date, there has been no finding or serious claim that "cameras in the courtroom" actually prejudiced a party. A few judges have voiced the opinion, however, that such reporting has complicated the trial and caused distractions that may have prejudiced the defendant or state in a criminal trial.

Judges who have had experience with news media equipment in the court generally have less apprehension about disruption or distraction than those who have not had first hand experience. Also, most judges seem to accept the prospects of cameras and recording

equipment becoming more than a novelty in the courtroom. Judges, however, are concerned that in an arena which requires a judge to be the guardian of numerous fundamental rights of a defendant, one more distraction demanding the judge's attention increases the possibility of reversible error and unnecessarily intensifies the pressure on the judicial system.

On the one hand some judges believe it is good for the judicial image and it will help create a better public understanding of our court system. Others, however, claim the primary purpose of the courtroom is to provide each defendant with a fair trial and the education of the public or the increased news media access to the courtroom are secondary considerations.

It is this uneasy--but not necessarily unhealthy--tension between the fundamental right to a fair trial and the fundamental right of free press that causes most judges to adopt an open--wait and see--position.

CONCLUSION AND RECOMMENDATIONS

Two years have produced some initial data concerning the affect of news media equipment in Washington state courtrooms. Although it is too early to make a final judgment on the issue, the data at this point appears to support a continuation of allowing cameras in the courtroom.

The Courts and Community Committee should continue to monitor "cameras in the courtroom" activity and serve as an information gathering task force for trial courts. The committee should make periodic reports to the judges for information purposes and encourage continued consideration of this important constitutional matter.

Judge James A. Noe
9/11/78

APPENDIX

SURVEY SUMMARY TABLE OF CAMERAS IN THE COURTROOM

1. Number of Superior Court Judges Surveyed and Responses Received (100%)	111
2. Number of Judges Reporting No Experience	70
3. Number of Judges Reporting at Least One Experience	41
4. Number of Positive Responses (included in #3 above)	34
5. Number of Negative Responses (included in #3 above)	7
6. Number of Total Experiences Reported	60 - 80

WASHINGTON STATE SUPERIOR COURT JUDGES REPORTING AT LEAST ONE EXPERIENCE WITH NEWS MEDIA EQUIPMENT IN THE COURTROOM DURING A COURT SESSION:

1. Judge Gerry Alexander, Thurston-Mason County
2. Judge Frank Baker, Thurston-Mason County
3. Judge Dennis J. Britt, Snohomish County
4. Judge William L. Brown, Jr., Pierce County
5. Judge Robert J. Bryan, Kitsap County
6. Judge Warren Chan, King County
7. Judge Harold D. Clarke, Spokane County
8. Judge Carolyn R. Dimmick, King County
9. Judge James J. Dore, King County
10. Judge Barbara Durham, King County
11. Judge Marshall Forrest, Whatcom County
12. Judge Harry Follman, Skagit County
13. Judge William C. Goodloe, King County
14. Judge Bruce P. Hanson, Yakima County
15. Judge Alan Hallowell, Cowlitz County
16. Judge Hewitt A. Henry, Thurston-Mason County
17. Judge Howard Hettinger, Yakima County
18. Judge Nancy Ann Holman, King County
19. Judge Erle Horwill (deceased), King County
20. Judge Daniel T. Kershner, Snohomish County
21. Judge Bill Kohls, Okanogan-Ferry County
22. Judge Thomas Lodge, Clark County
23. Judge James I. Maddock, Kitsap County
24. Judge Jim Mitchell, Walla Walla County
25. Judge J. Dean Morgan, Clark County
26. Judge James A. Noe, King County
27. Judge Donald N. Olson, Spokane County
28. Judge Howard A. Patrick, Island-San Juan County
29. Judge Richard G. Patrick, Benton-Franklin County
30. Judge Norman W. Quinn, King County
31. Judge George M. Revelle, King County
32. Judge Jack Scholfield, King County
33. Judge Gerard Shellan, King County
34. Judge John Skimas, Clark County
35. Judge Horton Smith, King County
36. Judge Stanley C. Soderland, King County
37. Judge Fred Staples, Benton-Franklin County
38. Judge Waldo F. Stone, Pierce County
39. Judge David W. Soukup, King County
40. Judge Robert Winsor, King County
41. Judge Albert J. Yencopal, Benton-Franklin County

SUMMARY OF JUDICIAL DISTRICTS AND NUMBER OF JUDGES WITH EXPERIENCE:

Benton-Franklin	3
Clark	3
Cowlitz	1
Island-San Juan	1
King	16
Kitsap	2
Okanogan-Ferry	1
Pierce	2
Skagit	1
Snohomish	2
Spokane	2
Thurston-Mason	3
Walla Walla	1
Whatcom	1
Yakima	2
Total	41

FINAL STATISTICAL REPORT
CAMERAS IN THE COURTROOM IN NEVADA

I. INTRODUCTION

In April of 1980, the Supreme Court of Nevada established an experimental rule governing cameras in the courtroom. The rule is referred to as ADKT 26 - Standards of Conduct and Technology Governing Electronic Media and Still Photo Coverage of Judicial Proceedings (See Attachment A). It has been in effect for a one-year period: April 1980 to April 1981.

A set of questionnaires was developed to evaluate the rule's effectiveness (See Attachments B, C, D, and E). The recommendations of the Commission were decided upon at its final meeting, held May 1, 1981 (See Attachment J). This final report from the Advisory Commission on Cameras in the Courtroom is to respectfully submitted to the Nevada Supreme Court on May 7, 1981.

II. METHODOLOGY

Evaluation questionnaires were sent to every court in Nevada. Courts were instructed to return forms after every proceeding that involved photographic or radio coverage. Four groups were surveyed: judges, attorneys, media representatives and witnesses. Twenty-five judges, 17 attorneys, 27 media representatives and 31 witnesses responded. In addition to evaluation forms, reports were received from the Second and Eighth Judicial Districts, the Washoe district attorney and the Reno Evening Gazette (See Attachments F, G, H and I).

III. SUMMARY OF RESULTS

Result A. The majority of judges and attorneys surveyed support the experimental rule.

As a group, judges are the most supportive of the rule, with 75 percent completely in favor and 11 percent slightly in favor. Seventy percent of the attorneys completely favor or slightly favor the rule (IV Results, Section A. Table 1).

Result B: Witnesses are least likely of the groups surveyed, to support the experimental rule.

Twenty-six percent of the witnesses have no opinion on allowing media coverage and 45 percent are slightly or completely opposed to media coverage (IV Results, Section A, Table 1).

Result C: According to the media, the rule is fair and easy to understand.

One-hundred percent of the media said the rule was very or extremely fair. Eighty-six percent said the steps to obtain permission were extremely or very easy to understand (Results IV, Section D, Tables 1 and 2).

Result D: The presence of the electronic media appeared to have minimal effects, positive or negative, on the quality of the proceedings on trial.

Twenty-eight percent of the judges said the presence of operators and equipment slightly increased the dignity of the proceedings. Fifty-six percent of the judges, 76 percent of attorneys, 89 percent of the media and 77 percent of witnesses reported no effect (IV Results, Section A, Table 2). In addition, 56 percent of the judges, 76 percent of attorneys and 84 percent of the media reported that operators and equipment did not at all disrupt proceedings. Twenty-eight percent of the judges reported a slight disruption in proceedings and 85 percent of the media reported a moderate disruption (IV Results, Section A, Table 3).

The majority of judges, 88 percent, reported that the presence of the media did not make the attorneys better prepared (IV Results, Section B, Table 3). The majority of attorneys 88 percent, also report that the presence of the media did not make them prepare their cases better (IV Results, Section C, Table 1).

Result E: The presence of cameras and the media did not make the majority of judges, attorneys or witnesses nervous or self-conscious.

Statistics indicate that 76 percent of judges, 83 percent of attorneys and 81 percent of witnesses did not feel or only slightly felt self-conscious (IV Results, Section A, Table 7).

Result F: Judges reported a strong tendency of witnesses to become distracted by operators of equipment.

Although 44 percent of judges reported that witnesses were not at all distracted by equipment and operators, 48 percent of judges reported that witnesses were extremely distracted (IV Results, Section B, Table 9).

Result G: Almost half of the judges reported that a party or witness objected to the media's presence in the courtroom.

Forty-four percent of the judges reported objections (IV Results, Section B, Table 3).

Result H: Witnesses definitely did not want to see or hear themselves in the media.

According to the data, 71 percent of witnesses did not want to see or hear themselves in the media (IV Results, Section A, Table 12).

Result I: Knowing that the proceedings or trial might be televised did not affect the majority of witnesses' desire to participate in the trial or their respect for the courts.

For the majority of witnesses, 81 percent, knowing the proceeding might be televised, did not affect their desire to participate (IV Results, Section E, Table 5).

Eighty one percent report that the presence of the media had no affect on their respect for the courts (IV Results, Section E, Table 4).

IV. RESULTS

A. Comparison Questions

Table 1

Overall, would you favor or oppose allowing television, photographic or radio coverage in the courtroom?

	<u>Judges</u>	<u>Attorneys</u>	<u>Witnesses</u>
Completely in Favor	75%	29%	16%
Slightly in Favor	11%	41%	13%
No Opinion	7%	6%	26%
Slightly Opposed	3%	6%	19%
Completely Opposed	0	18%	26%
No Response	<u>4%</u>	<u>0</u>	<u>0</u>
Total	100%	100%	100%

Table 2

To what extent did the presence of operators and equipment in the courtroom affect the dignity of the proceedings?

	<u>Judges</u>	<u>Attorneys</u>	<u>Media</u>	<u>Witnesses</u>
Greatly Increased	0	0	0	3%
Slightly Increased	28%	6%	4%	10%
No Effect	56%	76%	89%	77%
Slightly Decreased	8%	6%	0	0
Greatly Decreased	0	12%	0	0
No Response	<u>8%</u>	<u>0</u>	<u>7%</u>	<u>0</u>
Total	100%	100%	100%	100%

Table 3

To what extent did the presence of operators and equipment in the courtroom disrupt the trial?

	<u>Judges</u>	<u>Attorneys</u>	<u>Media</u>	<u>Witnesses</u>
Not at All	56%	76%	0	84%
Slightly	28%	12%	4%	10%
Moderately	0	6%	85%	0
Very	0	0	0	0
Extremely	0	6%	0	3%
No Response	<u>16%</u>	<u>0</u>	<u>11</u>	<u>3%</u>
Total	100%	100%	100%	100%

Table 4

To what extent were you aware of the presence of operators and equipment during the trial?

	<u>Judges</u>	<u>Attorneys</u>	<u>Witnesses</u>
Not at All	0	6%	26%
Slightly	68%	35%	42%
Moderately	8%	18%	13%
Very	16%	29%	3%
Extremely	0	12%	16%
No Response	<u>8%</u>	<u>0</u>	<u>0</u>
Total	100%	100%	100%

Table 5

To what extent did the presence of operators and equipment affect your concentration on the testimony?

	<u>Judges</u>	<u>Attorneys</u>
Not at All	44%	53%
Slightly	36%	35%
Moderately	0	0
Very	0	6%
Extremely	0	6%
No Response	<u>20%</u>	<u>0</u>
Total	100%	100%

Table 6

To what extent did the presence of operators and equipment in the courtroom make you self-conscious?

	<u>Judges</u>	<u>Attorneys</u>	<u>Witnesses</u>
Not at All	56%	24%	65%
Slightly	20%	59%	16%
Moderately	0	6%	0
Very	0	0	3%
Extremely	0	12%	13%
No Response	<u>24%</u>	<u>0</u>	<u>3%</u>
Total	100%	101%	100%

Table 7

To what extent did the presence of operators and equipment in the courtroom make you nervous?

	<u>Judges</u>	<u>Attorneys</u>	<u>Witnesses</u>
Not at All	52%	71%	71%
Slightly	12%	24%	13%
Moderately	36%	0	0
Very	0	6%	0
Extremely	<u>0</u>	<u>0</u>	<u>3%</u>
Total	100%	101%	100%

Table 8

To what extent did the presence of operators and equipment in the courtroom make witnesses act flamboyant?

	<u>Judges</u>	<u>Attorneys</u>
Not at All	52%	82%
Slightly	0	0
Moderately	0	0
Very	0	0
Extremely	0	0
No Response	<u>48%</u>	<u>18%</u>
Total	100%	100%

Table 9

To what extent did the presence of operators and equipment in the courtroom distract the witnesses?

	<u>Judges</u>	<u>Attorneys</u>
Not at All	44%	47%
Slightly	8%	29%
Moderately	0	6%
Very	0	0
Extremely	48%	0
No Response	0	18%
Total	100%	100%

Table 10

To what extent did the presence of operators and equipment in the courtroom affect your ability to judge the truthfulness of the witnesses?

	<u>Judges</u>	<u>Attorneys</u>
Greatly Helped	0	0
Slightly Helped	0	0
No Effect	52%	82%
Slightly Hindered	0	0
Greatly Hindered	0	0
No Response	48%	18%
Total	100%	100%

Table 11

To what extent did the presence of operators and equipment and the courtroom make the attorneys flamboyant?

	<u>Judges</u>	<u>Media</u>
Not at All	36%	59%
Slightly	36%	26%
Moderately	20%	0
Very	0	0
Extremely	0	0
No Response	8%	11%
Total	100%	100%

Table 12

During the trial, to what extent did you want to see or hear yourself in the media?

	<u>Judges</u>	<u>Witnesses</u>
Not at all	47%	71%
Slightly	35%	16%
Moderately	12%	10%
Very	0	0
Extremely	0	0
No Response	<u>6%</u>	<u>3%</u>
Total	100%	100%

B. Judge Only: Questions and Comments

Table 1

<u>Type of Case</u>	<u>Judge</u>
Preliminary Hearing	34%
Criminal Arraignment	21%
Non-jury Criminal Murder	8%
Non-jury Criminal Murder Arson	8%
Hearing, Criminal Arguments and Decision on Writ of Habeas Corpus	8%
Motion for Discovery	16%
Other Motions	<u>5%</u>
Total	100%

Table 2

Was permission for coverage refused?

	<u>Judge</u>
No	100%
Yes	<u>0</u>
Total	100%

Table 3

Did any party or witness object?

	<u>Judge</u>
No	56%
Yes	<u>44%</u>
Total	100%

Table 4

Basis of Objection

1. Too much pretrial publicity.
2. Defense attorney felt coverage would hurt client's right to a fair trial.
3. Writ filed in district court.
4. Prejudicial to defendant, trial jurors may be tainted.
5. A still photographer took pictures of defendant in the courtroom prior to start of proceedings without permission.

Table 5

Ruling of Court

1. Overruled--The rule change of several years ago divested the court of control over courthouse hallways. It was more orderly and improved security to have cameras in the courtroom rather than the hall.
2. Another judge allowed limited media coverage and I honored that allowance at the preliminary hearing.
3. Petition for Writ denied.
4. Motion denied.
5. Further coverage may be refused.

Table 6

Were you aware of any disputes as to pooling of coverage?

	<u>Judge</u>
No	100%
Yes	<u>0</u>
Total	100%

Table 7

Was any extra lighting organized?

	<u>Judge</u>
No	64%
Yes	16%
No Response	<u>20%</u>
Total	100%

Table 8

What type of media participated in the coverage?

	<u>Judge</u>
Radio	15%
Television	58%
Newspapers	<u>27%</u>
Total	100%

Table 9

How much of the trial or proceeding was covered?

	<u>Judge</u>
All	76%
Testimony of a few key witnesses	8%
Closing Argument	8%
No Response	<u>8%</u>
Total	100%

Table 10

If a jury trial, were the jurors instructed in any way concerning the coverage?

	<u>Judge</u>
Not Applicable	<u>100%</u>
Total	100%

Table 11

To what extent did the presence of operators and equipment in the courtroom make the attorneys better prepared?

	<u>Judge</u>
Not at All	88%
Slightly	0
Moderately	0
Very	0
Extremely	0
No Response	<u>12%</u>
Total	100%

Table 12

To what extent did the presence of the media impose a greater administrative or practical burden on you as a judge?

	<u>Judge</u>
Not at All	12%
Slightly	64%
Moderately	12%
Very	0
Extremely	0
No Response	<u>12%</u>
Total	100%

Table 13

How many cases have you participated in where broadcast or newspaper coverage under the experimental rule was permitted?

	<u>Judge</u>
1	12%
2-3	16%
3-4	8%
5	16%
No Response	<u>48%</u>
Total	100%

Table 14

Years of service on the Bench?

	<u>Judge</u>
0-5	56%
6-10	28%
11 or more	0
No Response	<u>16%</u>
Total	100%

TABLE 15

Comments by Judges

1. Some attorneys and clients object to television coverage in the courtroom. Generally, I feel not inclined to allow coverage over strong objections.
2. All comments taken together in this matter would show this reaction is favorable.
3. The main reason I am opposed is that as a practical matter once cameras are allowed in for cases where there is no critical problem, the court cannot effectively keep them out when their presence may interfere with a fair trial.
4. The media conducted itself in what I considered to be a responsible manner. Utilization of a media "pool" coordinator was the big ingredient. Any questions of the court or of the media were referred to and resolved by the coordinator without any argument. The day before the first day of the preliminary hearing I held a session to discuss the general ground rules for the hearing. I invited representatives of all media. The ensuing discussion resolved all the questions about the conduct of the media during the hearing.
5. I feel that the presence of TV cameras is felt by everyone. There is the tendency to "perform" for the TV. It might be because of the newness of the media. The performance, however, is there from the judge to the attorneys.
6. After comparing one newspaper article, in particular, to what I observed on the TV coverage, I almost wished the entire proceeding had been televised.
7. This experience was better; however, the defendant was not present. There seems to be more spectators as the case progresses with each appearance.
8. Multiple wires running around one's desk is very hazardous, disconcerting and inconvenient.
9. I firmly believe that the media regrets the unfortunate incident with the still photographer which seriously detracted from the dignity of the proceedings prior to convening of court. The court's displeasure with the media's inability to police itself has been made known and it is not expected that there will be repetitions in other cases. The incident, however, by the nature of the type of case and defendant, may not be appropriate for further television coverage. This matter will be determined at the time that it arises and a further response will be submitted.

C. Attorney Only: Questions and Comments

Table 1

To what extent did the presence of television, photographic or radio coverage in the courtroom make you better prepared?

Not at all	88%
Slightly	69%
Moderately	69%
Very	0
Extremely	<u>0</u>
Total	100%

Table 2

To what extent did the presence of television, photographic or radio coverage in the courtroom distract the opposing attorney?

Not at all	53%
Slightly	12%
Moderately	0
Very	0
Extremely	0
No response	<u>35%</u>
	100%

Table 3

To what extent did you feel the presence of television, photographic or radio coverage in the courtroom during the testimony of witnesses made the testimony more important?

Not at all	65%
Slightly	18%
Moderately	6%
Very	0
Extremely	0
No response	<u>12%</u>

Total 101% (Over 100% due to rounding of figures)

Table 4

To what extent did the presence of television, photographic or radio coverage in the courtroom make the witnesses more cooperative?

Not at all	76%
Slightly	0
Moderately	6%
Very	0
Extremely	0
No response	<u>18%</u>
Total	100%

Table 5

To what extent did the presence of television, photographic or radio coverage in the courtroom inhibit the witness?

Not at all	35%
Slightly	47%
Moderately	0
Very	0
Extremely	0
No response	<u>18%</u>
Total	100%

Table 6

Comments by Attorneys

1. The media coverage in the courtroom was professional and, insofar as I was able to determine, in all respects adhered to the order of the judge.

While as a defense attorney, prior to actual experience with cameras in the courtroom, I was against such because I felt that such would restrict or inhibit the likelihood of a fair trial. After having participated in more than one capacity to a limited extent with cameras in the courtroom, and experiencing the highly professional manner in which the media have performed their function and strictly adhered to the orders of the court, I am wholeheartedly in favor of cameras in the courtroom. They should continue to be only allowed in the courtroom on a case by case basis, with the judge in each case being required to review the situation and place such conditions and restrictions as are necessary to insure a fair and orderly proceeding.

2. I am strongly opposed to media coverage such as television and radio in the courtroom for the following reasons:
 - a. Negative effect on participants, judge, myself and witness.
 - b. The resulting coverage and grossly distorted and thereby extremely misleading information to anyone not present at the hearing.
3. The methodology and locating of media representatives is more important to concern rules with than the approval or disapproval of their access. Great care must be taken in keeping the media presence as subtle as possible.

4. The presence of the media, and in particular the television personnel, created a circus atmosphere and in addition many persons in the courtroom who were about to be arraigned were intimidated, embarrassed, and generally disgusted with the entire atmosphere of the proceedings because of the filming processes which were ongoing.
5. It is my belief that such coverage only affects witnesses adversely, if at all. Witnesses have a tendency to be paranoid anyway, believing that the accused or his friends are out to get them.

D. Media Only: Questions and Comments

Table 1

To what extent were procedures fair to obtain permission for coverage?

Not at all	0
Slightly	0
Moderately	0
Very	48%
Extremely	<u>52%</u>
Total	100%

Table 2

To what extent were the procedural steps to obtain permission easy to understand?

Not at all	0
Slightly	0
Moderately	15%
Very	56%
Extremely	<u>30%</u>
Total	101% (Over 100% due to rounding of figures)

Table 3

To what extent do you understand the experimental rule standards of conduct and technology of ADKT 26?

Not at all	0
Slightly	0
Moderately	15%
Very	59%
Extremely	<u>26%</u>
Total	100%

Table 4

Were there any disputes as to pooling arrangements?

Yes	4%
No	<u>96%</u>
Total	100%

Table 5

Was the judge ever contacted to mediate disputes?

Yes	4%
No	<u>96%</u>
Total	100%

Table 6

To what extent was the placement of operators and equipment adequate for the coverage you desired?

Not at all	0
Slightly	0
Moderately	33%
Very	56%
Extremely	<u>11%</u>
Total	100%

Table 7

Did you have an adequate amount of time to demonstrate your equipment to the judge?

Yes	96%
No	<u>4%</u>
Total	100%

Table 8

Did you have an adequate amount of time to set up your equipment?

Yes	93%
No	0
No response or n/a	<u>7%</u>
Total	100%

Table 9

To what extent were court personnel courteous and cooperative?

Not at all	0
Slightly	0
Moderately	4%
Very	48%
Extremely	41%
No response	<u>7%</u>
Total	100%

Table 10

Are there any changes you would recommend with regard to the experimental rule as current procedures?

1. The pool coordination is an excellent idea as long as the station network selected is cooperative with the rest of the media, especially radio stations.
2. Rewrite several sections, including pool arrangement, time requirements and simply tighten up several other areas.
3. Streamlining the rules.
4. I would like to see the method of obtaining permission made a little more clear.
5. We need to work out a standard procedure for justice court.
6. Only with regard to physical arrangement of courtroom.
7. Be certain that new judges are provided with copies of rules and understand meaning and intent of regulations.
8. Better audio setup.

Table 11

Comments by Media Representatives

1. Photo coverage has been limited to three serious cases. One involved felony manslaughter and two involved murder. We do not photograph the witnesses but do photograph the attorneys, the judge and the defendant. Photographs are taken from an area of the courtroom which is always screened from the jury and then the jury is not aware photos have been taken. The most often heard comment is that no one is aware photos are being taken.
2. It is good for the public to see workings of the court.
3. From what I could tell, everything went very smooth. I think having a meeting with the media one day prior to the preliminary was an excellent idea. I want to add that it should be a requirement that the reporters covering the story should attend the above-mentioned meeting with the judge and that a specific area be designated for the media to work and that it be in an orderly fashion.
4. With few exceptions, both judges and court personnel have been extremely understanding regarding television cameras in the courtroom. For the most part, the news media has handled their new responsibility well. I believe because of the size of our population, the cooperation between the courts and the media and our experience over the past year, Nevada can have one of the best working arrangements between courts and the media in the nation.
5. Believe it to be beneficial.
6. I found the rule to work very well.
7. Believe it has been of service to the public, letting it see the courts in action, especially controversial cases.
8. Toward the latter part of the experimental period the courts were allowing two still photographers to operate in the courtrooms. (One for black and white and one for color) I would like to encourage this practice. I do not feel that two photographers cause any extra problems and the problems of pooling photographs are greatly simplified.
9. Please make it possible to hook microphones into witness stands or total sound system. Our sound quality was not as good as it could be. Other than than, all was perfect.
10. Newspaper representatives need to get their act together.
11. I believe in most cases media is attempting to present coverage in as objective a fashion as possible.

12. Believe it to be beneficial.

13. Believe coverage is beneficial, gives public proper perspective on court procedure.

E. Witness Only: Questions and Comments

Table 1

To what extent did you feel the presence of television, photographic or radio coverage in the courtroom during the trial made the case more important?

Not at all	65%
Slightly	13%
Moderately	16%
Very	6%
Extremely	<u>0</u>
Total	100%

Table 3

To what extent were you concerned that people would know you were a witness in a particular trial and try to influence your testimony as a result of the newspaper, television, radio and photographic coverage of the trial?

Not at all	84%
Slightly	6%
Moderately	6%
Very	0
Extremely	<u>3%</u>
Total	99% (Less than 100% due to rounding of figures)

Table 4

During the trial, how did the presence of television, photographic or radio coverage in the courtroom affect your respect for the courts?

Greatly increased	3%
Slightly increased	0
No effect	81%
Slightly decreased	6%
Greatly decreased	<u>10%</u>
Total	100%

Table 5

To what extent did knowing that the proceeding may be televised or on radio, in newspapers or photographed, affect your desire to participate in the trial?

Not at all	81%
Slightly	0
Moderately	6%
Very	3%
Extremely	<u>10%</u>
Total	100%

Table 6

Comments by Witnesses

1. I have made several hundred courtroom appearances as an official witness. While I do not personally find the presence of the media distracting, I feel that it could be very distracting and detrimental to the witness who appears for the first time. Such a person is already in unfamiliar surroundings, participating in a procedure he does not completely understand. The one-time witness tends to be nervous and apprehensive. Nothing is done to help him in this respect. The presence of bright lights and cameras can only be distracting and disturbing.
2. I strongly object to any witness being subjected to photos, T.V., etc. in any criminal case. Considering the nature of this particular hearing and crime, it made me very angry when I learned it was to be televised. Especially after identifying "Gus", who apparently has been free to roam the streets, not to mention the fact that teenagers in my car were asked by the defense to be named. I feel that the judicial system will lose if these methods were employed, as many people will neglect their responsibilities as citizens in favor of being silent and therefore, safe from exposure. I might add that even though I am not pleased at being televised, had I known from the beginning, I still would have gone forward as a voluntary witness.
3. At one point in my testimony, I had to take a drink of water. While I drank, I wondered if the camera was still on me.
4. It is my opinion that since the trial is open to the public anyway, I see no reason to restrict it to only the small handful of people who can jam into the courtroom itself. Instead, I feel that the people of Clark County and this county deserve to see how the judicial system works for both the plaintiff and the defense.

5. The positioning of the cameras in this instance was excellent. It was out of the peripheral vision of the witness and not distracting. You were only aware of the camera when initially taking the stand. The only suggestion I have is that once the rule is invoked, there should be a remote room for the witnesses, not in the hall where the portable T.V. equipment is located.
6. In regard to having media coverage of the trial, I personally feel it is against my constitutional rights, due to the fact that the defendant, and possibly the entire nation, may view his accuser while the entire city of Las Vegas may not. Just the fact of having the equipment in the courtroom made me nervous, and I feel that the defense lawyer, knowing he was on T.V., and the fact that I was nervous could have gotten me confused in my statements and made me look bad on local television. This makes me think that I'm being tried and not the subject (the defendant that started this mess). The media coverage also takes away most of my concentration to answer the questions properly and I feel anything that disrupts a testimony is not beneficial to either the plaintiff or the defendant or for the court system. Just for your information, I thought the other witnesses were not allowed to hear each other's testimony, but with the media monitoring the courtroom, you could hear everything that was being said from outside of the courtroom. If I hadn't said anything to the assistant district attorney, who moved us from the monitoring area, and if the defense lawyer had found out about this, he might have gotten his client off on a technicality.
7. The witness exclusion rule was more or less nullified by monitors in the hall.
8. I have used the system in court for coroner's inquest and it possibly has limited, if any, effect upon either myself or the proceedings.
9. I believe the news media should not photograph officers who testify.
10. I was already nervous enough. The broadcasting, photographing, televising or newspaper coverage only added to my nervousness. I had to watch what I said during the trial for fear it might go public. I would rather none of the media be present to protect myself as a witness.

11. I feel the presence of camera equipment in the courtroom over dramatizes the trial, adding far too much sensationalism. By picking and choosing excerpts to be reported and/or televised, the public is not informed of the total picture. The result is bias. This procedure also tends to intimidate some lay witnesses.
12. As for media coverage, I think televising a trial certainly helps the state, but as far as a witness is concerned, I personally feel this type of coverage is very painful and unnecessary. A witness is very nervous and scared to begin with, for them not to have any rights when they are helping the state is disgusting to me. I feel each witness should be asked whether they would like to be photographed or not. Personally, this has left me with the feeling that as a resident of this state for 29 years, having always been a law abiding citizen, I will never help out or get involved in any case ever again or as long as my rights are totally ignored. Needless to say, I am very disappointed and have lost a vast amount of respect for our court system.
13. Following the trial, I did not like being shown on T.V.

V. CONCLUSION AND RECOMMENDATIONS

A. Major Conclusion

A review of the date and evaluation comments indicates an overall positive reaction to ADKT 26.

B. Advisory Commission on Cameras in the Courtroom Recommendations

1. The Commission recommends there should be a yearly evaluation of Cameras in the Courtroom with a standing committee studying and improving the rules and procedures. The standing committee should report to the Supreme Court.
2. The Commission recommends that the Supreme Court appoint a justice of the peace from Clark County to the Commission.

C. Advisory Commission on Cameras in the Courtroom Suggested Amendments to ADKT 26

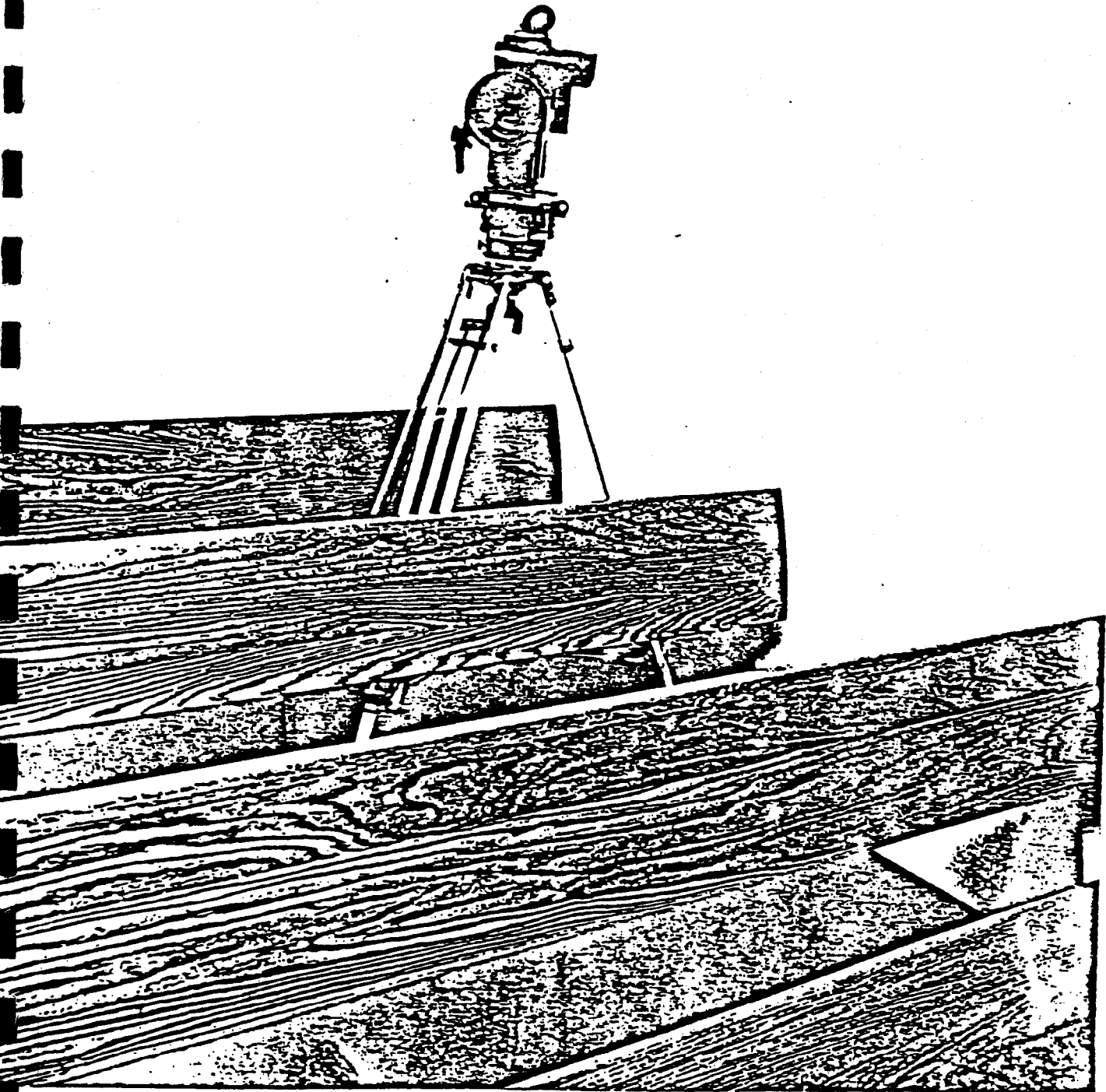
1. The Commission recommends ADKT 26 be amended on page 1, Rule 2, as follows: after "commences", add "or any time thereafter."
2. The Commission recommends ADKT 26 be amended on page 2, Rule 4A, as follows: after "guidelines.", add "All participants shall be notified."

3. The Commission recommends ADKT 26 be amended on page 3, Rule 7, as follows: remove "Unobtrusive tape recorders located on or near the reporter may be allowed. It will be understood that these recorders will be used only for accurate transcriptions of the Court proceedings, and are not to be used for broadcast." This language will begin Rule 18, with the additional language "Notwithstanding the provisions of Rule 2, tape recorders may be used, provided the bailiff is notified prior to recording."
4. The Commission recommends ADKT 26 be amended as follows: page 5, Rule 15, delete "For the one-year experimental period."
5. The Commission recommends the addition of the following language as Rule 19: "If no request for permission to broadcast is made, or such a request is denied, the media shall not deliberately photograph the jury or individual jurors in the hallways or immediate areas of courtrooms."
6. The Commission recommends ADKT 26 be amended on page 5, Rule 17, as follows: after "designee.", add "It shall be the responsibility of attorneys to notify their witnesses."

CAMERAS and RECORDERS

in

ARIZONA'S TRIAL COURTS



An EVALUATION of the EXPERIMENT

SUMMARY OF EVALUATION

Mailing:

From the case summary reports a total of 440 questionnaires were mailed out through the evaluation period. (3/1//82 - 3/1/83).

327 to Jurors or Witnesses

47 to Court Personnel

66 to Judges or Attorneys

Response:

Three-hundred twenty-four questionnaires were completed and returned prior to the cutoff date, of which

230 were completed by Jurors or Witnesses

39 were completed by Court Personnel

55 were completed by Judges or Attorneys

Eight completed questionnaires were returned after the cutoff date.

Percentage of respondents by group were

70% from Jurors and Witnesses

83% from Court Personnel

83% from Judges and Attorneys

Overall the evaluation drew a 75% response from the participants who were questioned.

SUMMARY OF RESPONSES

The response data was classified into five basic areas of concern regarding media coverage in the trial setting, namely:

1. Physical Disruption
2. Prejudicial Publicity
3. Selective Coverage
4. Psychological Impact
5. Procedural Delay

Attitudes of respondents were requested in a manner seeking to evaluate their impressions before, during, and after their experience in these areas of concern.

Listed below each classification heading on pages 20,22,24,26,29 is the definition used by the evaluation for that area of concern, and in my opinion, a summary of the significant response data that was collected, expressed in a percentage statement. A complete summary of the response data that was collected for each question posed on each questionnaire can be found beginning on page 31.

CLASSIFICATION SUMMARY

PHYSICAL DISRUPTION

In its order, filed December 23, 1981, the Supreme Court of Arizona provided in the guidelines that all persons engaged in coverage conduct their behavior in a manner that was not distracting to the participants or the dignity of the proceedings. Furthermore, the Court set forth in the guidelines that television or still cameras which were distracting shall not be permitted. In response to the questionnaire in this regard, the following findings were achieved:

1. 93% of the jurors/witnesses responding said during the trial the presence of the media equipment did not distract them.
2. 82% of jurors/witnesses responding said the amount of media equipment would not affect the dignity of the proceedings.
3. 92% of the jurors/witnesses responding said that the amount of media equipment they saw did not cause them any inconvenience.
4. 81% of the Court personnel responding said the equipment and the operator present in the courtroom did not distract them during the trial.
5. 72% of the Court personnel responding said the presence of the media equipment would not effect the dignity of the trial.

6. 91% of responding judges said the amount of media equipment did not affect the dignity of the proceedings.

7. 91% of the judges questioned said the presence of the media in the courtroom did not affect the conduct of business.

8. 84% of the attorneys responding said that during the trial the presence of the media and its equipment was not distracting.

9. 64% of the responding attorneys said the presence of media personnel and their equipment did not affect the dignity of the proceedings.

10. 77% of the attorneys responding said the presence of the media and the equipment did not obstruct or delay the orderly conduct of the Court's business.

11. 80% of the attorneys responding said the amount of equipment in the courtroom was what they envisioned.

12. 67% of the Court personnel responding said the amount of the equipment that they saw in the courtroom is what they thought they would see.

13. 100% of the judges responding said the amount of equipment outside of the courtroom has not caused them any inconvenience or concern.

14. 72% of the attorneys responding said the amount of media personnel or media equipment outside the courtroom did not cause them to be concerned.

PREJUDICIAL PUBLICITY

According to the evaluation the classification (prejudicial publicity) consisted of information received that often resulted in premature judgment or unwarranted opinion directly affecting the behavior of participants. The significant responses regarding this classification that were found during the study were:

1. 92% of the jurors/witnesses responding said that when they learned that television or newspaper coverage was to take place it did not change their attitude about the work of the court.

2. 63% of the jurors/witnesses responding said that the presence of the media did not make them feel that the case was more important.

3. 59% of the judges and attorneys responding said that there were no exclusions of jurors as the result of pretrial publicity.

4. 70% of the judges and attorneys responding said that during trial the media's presence in the courtroom did not make jurors more sensitive to public opinion.

5. 62% of the judges and attorneys responding said before the initial hearings were conducted that they felt that the parties should not be bothered by the media coverage.

6. 58% of the judges and attorneys responding said objections were raised during the proceedings regarding media coverage.

7. 75% of the judges and attorneys responding said that there were pre-hearings regarding camera coverage.

8. 59% of the attorneys responding said that during the proceedings objections were raised regarding the presence of the cameras in the courtroom.

9. 81% of the attorneys responding said that after the proceedings they made special attempt to see, hear, or read what had been reported.

10. 82% of the jurors or witnesses responding said they have heard or read media accounts of the proceedings in which they participated after their conclusion.

11. 57% of the court personnel said after the proceedings that they had made a special effort to review what the media had reported.

SELECTIVE COVERAGE

According to the evaluation, the classification (selective coverage) consisted of restricting the choice of court proceedings covered and the content of the coverage provided. The significant findings in this classification were:

1. 92% of the jurors and witnesses who responded said that once they learned that media coverage was taking place that it did not change their attitude about the work of the court.

2. 63% of the jurors and witnesses responding said that the presence of the media did not make them feel as though the case was more important

3. 82% of the responding judges said that in their opinion jurors were not more sensitive to public opinion due to the presence of the media.

4. 74% of the court personnel responding said the presence of the media signaled to them that the case was more important.

5. 84% of the attorneys responding said that during and after the proceedings they were recognized by others as a result of the coverage.

6. 58% of the court personnel responding said that during the proceedings they were recognized by others as participants in the trial.

7. 77% of the court personnel responding said they were recognized by others after the conclusion of the trial as a result of the media coverage.

PSYCHOLOGICAL IMPACT

The evaluation reviewed the classification (psychological impact) as a condition affecting the behavior of participants that directly limits their participation. Regarding the classification of psychological impact the following findings were considered significant.

1. 88% of the jurors or witnesses responding said knowing that cameras would be present in the courtroom did not make them more nervous before the proceedings.

2. 63% of the jurors or witnesses responding said that the presence of the media did not make them feel as though the case was more important.

3. 75% of the jurors and witnesses responded that the equipment seen in the courtroom was about what they had expected.

4. 92% of the responding jurors or witnesses said that once they learned television and newspaper coverage was taking place, it did not change their attitude about the court.

5. 69% of the jurors or witnesses responding said that during the proceedings the presence of the media did not make them nervous.

6. taken as a group, jurors and witnesses who responded qualified their experience with cameras in the courtroom as:

55% favorable

8% unfavorable

11% undecided

25% no opinion

7. 92% of the jurors or witnesses responding said they would be willing to serve again if they were put in the same situation, serving in the same capacity, with the cameras present.

8. 82% of the judges and attorneys responding said that in their opinion jurors were not more sensitive to public opinion due to the presence of the media.

9. 80% of the responding judges and attorneys said that the anticipated presence of the media equipment in the courtroom did not make them more nervous.

10. 82% of the attorneys responding said the amount of equipment in the courtroom was what they envisioned.

11. 85% of the judges and attorneys said during the trial the presence of the equipment did not make them more nervous.

12. 47% of the attorneys concluded their experience with cameras in the courtroom was favorable.

13. 82% of the judges and attorneys questioned said the amount of equipment in the courtroom was about what they had expected.

14. 85% of the judges and attorneys responding said that during the trial proceeding the equipment or the operator in the courtroom did not make them nervous.

15. 40% of the judges responding said that the presence of the equipment and its operator in the courtroom made them more attentive.

16. 68% of the court personnel responding said that the anticipated coverage did not make them more nervous.

17. 81% of the responding court personnel said during the proceedings the presence of the cameras in the courtroom did not make them nervous.

18. 26% of the court personnel said that the presence of the media equipment in the courtroom and its operator made them more attentive.

19. 21% of the jurors/witnesses responding said during the proceedings they were recognized by others through the media. Additionally, 21% of the jurors or witnesses said after the proceedings they were recognized as the result of the media coverage.

21. 26% of the attorneys responding classified their experience with cameras in the courtroom as unfavorable. (This group was predominantly comprised of defense attorneys).

22. 29% of the responding court personnel said during the trial, the presence of the media and the equipment in the courtroom makes participants act out of character.

PROCEDURAL DELAY

According to the evaluation, the classification (procedural delay) examined events resulting from the presence of the media that altered the processing of cases in a manner other than the norm. The following response data was considered significant regarding the classification of procedural problems:

1. 82% of the attorneys responding said the presence of the media and its equipment did not obstruct or delay the orderly conduct of the court's business.

2. 90% of the judges responding said they did not have to reschedule any hearings as a result of the media problem.

3. 95% of the court personnel responding said that the presence of the media did not delay the orderly conduct of the court's business.

4. 83% of the judges and attorneys responding said that media coverage requests were made within an appropriate amount of time.

5. 91% of the judges responding said that there was proper advance notification by the media to allow appropriate time for the presence of the media in the courtroom, prior to the convening of the trial.

6. 72% of the attorneys responding said the amount of people involved with coverage of the proceedings from the media stationed outside the courtroom did not cause the attorneys to be concerned.

7. 55% of the judges and attorneys responding said that objections to the media were raised during the proceedings.

Participants Conclusions


Each participant who was sent a questionnaire was asked to respond to the following two questions; the results of which are listed below:

1. If cameras/recorders are permitted to continue to cover trial court proceedings do you think it is beneficial?

	Yes	No	Possibly
judges	64%	18%	18%
attorneys	50%	33%	17%
juror/witness	50%	30%	20%
<u>ct. personnel</u>	<u>69%</u>	<u>23%</u>	<u>8%</u>
Overall	58%	26%	16%

2. How would you classify your experience with cameras and recorders in the courtroom?

	<u>Favorable</u>	<u>Undecided</u>	<u>Unfavorable</u>	<u>No Opinion</u>
judges	82%	0%	18%	0%
attorneys	47%	23%	26%	4%
jurors/witn.	55%	11%	8%	25%
<u>ct. persn.</u>	<u>53%</u>	<u>13%</u>	<u>21%</u>	<u>13%</u>
Overall	59%	12%	18%	11%



EVALUATION OF CALIFORNIA'S EXPERIMENT
WITH EXTENDED MEDIA COVERAGE OF COURTS

Submitted to:

The Administrative Office for the Courts
The Chief Justice's Special Committee
on the Courts and the Media
and
The California Judicial Council

Submitted by:

Ernest H. Short and Associates, Inc.
September 1981

VI. CONCLUSIONS AND RECOMMENDATIONS

A. Summary of Analysis and Findings

California's experiment with extended media coverage (EMC) of court proceedings was evaluated by an 18 month study during which data were collected for over one year. A multi-faceted data collection approach was employed, relying upon interviews with court proceeding participants, evaluator observations of EMC events, and general attitudinal surveys to judges, attorneys, and jurors. For baseline comparative purposes, observational data were collected from conventional-only media coverage court proceedings. Attitudinal data were collected before, during, and after the one year period to measure shifts in attitude over time, and survey respondents were grouped into direct EMC experienced and no EMC experience groups to determine the effects of experience on attitude.

The research focused on two major evaluation questions. The first question asked whether or not the "physical presence" of EMC equipment and operators caused distraction, disruption, or impairment to dignity and decorum in the courtroom. The second question centered on participant behavior--was that behavior altered by EMC presence in a manner which threatened the fair administration of justice? The evaluators formulated a comprehensive list of potential negative EMC effects related to the two major evaluation questions and determined the content of data collection instruments accordingly.

The research is documented in the previous five sections of this report with data analysis occurring in Sections III and IV. Section I provides an historical and contextual perspective for California's experiment with EMC of court proceedings. The basic purpose of the evaluation of the experiment is set forth along with a review of prior research on the "cameras in the courtroom" issue. A summary of the Rules of Court governing California's experiment (980.2 and 980.3) completes Section I. Section II documents in some detail the evaluation research design. Sections III, IV, and V are summarized below.

1. Factual Summary of the Experimental Year

Section III of this report presents factual information about the one year experimental period (July 1, 1980-June 30, 1981). Request record data and descriptive analysis from evaluation data (interviews and observations) produced this body of factual knowledge.

The requirement that the media notify the evaluators of EMC requests provided a means of measuring the volume and characteristics of EMC activity for the one year time period. The following statements summarize the pertinent findings emerging from the factual analysis.

- About 350 requests were submitted to the courts and just over 200 of these subsequently resulted in an EMC event.
- The requirement in the first seven months of the experiment that party consent to EMC in criminal trial level proceedings be obtained resulted in little criminal case EMC activity. The removal of the party consent requirement resulted in a sharp increase in EMC criminal case activity.

- The media's predominant interest is in criminal cases. Civil cases attract less than half the interest of criminal cases and very few requests are submitted for appellate level or juvenile cases.
- EMC events took place twice as often in Superior Court as in lower courts.
- Electronic and photographic media covered all proceeding stages of litigation (evenly distributed) from arraignments to motions to trials.
- Television camera presence at court proceedings was somewhat more frequent than still camera presence and both were considerably more common than radio.
- The predominant purpose of EMC was for daily news stories on the particular case being covered. Relatively few "feature stories" or purely educational applications of EMC occurred.
- In over a dozen cases, judges exercised their discretion in EMC decision-making by restricting coverage beyond the criteria in the California Rules of Court governing the experiment.
- In several cases, "violations" or relaxations of the rules occurred but in no instance was EMC so obtrusive as to disrupt or seriously disturb the proceeding.
- The experimental year was highlighted by about a half dozen extremely high media events having "cameras in the courts". These events include sensational crime cases, public figure trials (politicians), a social issue case, and a libel suit between a celebrity and a newspaper.

In all it was an active and interesting experimental year. At this writing, the experiment continues and even more experience with EMC of court proceedings is being accumulated. In early September, 1981, cameras (one television camera and one still camera) were permitted for the first time in California's history to cover oral arguments at the Supreme Court. Its active experiment places California

- In three-fourths of all EMC events during the year, judges reported little or no increase in their supervisory responsibility. Ten percent (10%) of judge respondents reported definite or extreme increase to their supervisory responsibility.
- Observational data confirm interview data in the conclusion that EMC generally was not distracting to participants. These data show that courtrooms were "calm" environments with both EMC and conventional-only media presence.
- Observational data indicate that potential sources of distraction other than EMC (conventional media, court personnel, trial participants, audience, and external noises) were approximately equal to EMC in causing distraction and disruption. All these factors generally cause little problem inside the courtroom.
- The ability of judges, attorneys, and witnesses to "effectively communicate" generally was not impaired by EMC.
- Large majorities of attorney and juror interviewees perceived no change in judge behavior due to EMC although some defense attorneys and jurors (26% and 14% respectively) perceived a negative change.
- Judges, opposing counsel, and jurors generally saw no change in attorney behavior due to EMC although a few in each group (10-15%) perceived a negative change.
- Judges, attorneys, and jurors generally saw no change in witness behavior due to EMC although some (12%, 22%, and 16% respectively) perceived negative changes due to EMC.
- Judges overwhelmingly saw no effect of EMC on juror behavior but 18% of attorney respondents saw negative effects.
- There is a distinct trend in interview response data which may be labeled: Transference of Responsibility. That is, a particular participant group tended to see greater negative effect on other participant groups than on their own group.

at the forefront of the "cameras in the courts" issue. In authorizing a rigorous evaluation of the experiment, the findings of which are summarized below, California has contributed to the acquisition of greater knowledge about the ramifications and consequences of permitting extended media in the courtroom.

2. Summary of Case Specific Data Analysis

Participant interview and evaluator observation data contributed greatly to the formulation of findings and conclusions about both major research questions. Section IV contains 28 tables summarizing the responses of interviewees and results of observational data analysis. The following series of statements further distill the findings and conclusions in that portion of the report.

- Generally speaking, the response patterns of attorneys are more negatively disposed towards EMC than other participant types. Among attorneys, defense attorneys clearly are the most negative toward EMC. Judges' and witnesses' response patterns are generally more positive towards EMC than other participant types. Jurors' response patterns are more positive towards EMC than attorneys and more negative towards EMC than judges or witnesses.
- The presence of EMC equipment and operators generally was not distracting to proceeding participants. Only 10% of participants interviewed said that EMC was either somewhat, definitely, or extremely distracting.
- Over 80% of interviewed judges and attorneys perceived no impairment to "dignity and decorum" because of EMC. About 10% of respondents detected slight impairment and 10% detected more than slight impairment due to EMC.

- Judges were evenly divided in characterizing their experience with EMC as positive or neutral. Only a few respondents (7%) reported that their experience was negative. Attorneys show a similar split although a greater percentage (27%) reported having a negative experience.
- In terms of personal preference, about one-fifth to one-fourth of all judge, witness, and juror respondents said they would have preferred EMC not be present. Over one-third (38%) of all attorney respondents so indicated.
- Half of all judge respondents concluded that EMC had virtually no effect on the proceeding. One-fifth said it had a positive effect, another fifth said it had mixed positive and negative effects, and a few (8%) said it had a negative overall effect. Jurors were more negative in their assessment of overall impact: 21% perceived a negative effect from electronic or photographic media presence.

The above summary statements are based upon interview and observational data, which together establish clear patterns regarding the effects of EMC. Throughout the interview data (and to a lesser extent the observational data) there exists a reservoir of skepticism or reported negativity about EMC. In gross terms, this reservoir can be said to hover around the 10% level.

The discussion in Section IV attempts to describe the specific substance of the negativity found in interview and observational data. In the opinion of the evaluators, EMC never was responsible for a "travesty of justice". In only a few instances did experienced attorneys present a specific theory that EMC did or very well could have altered case outcome or otherwise impeded the fair administration of justice. In several other interviews, a more general speculation about negative EMC impacts was offered, without arguing that these negative effects occurred in the case in question.

Clearly, the number of "uneventful" EMC proceedings far outnumber those having some obvious or perceived problem. The frequency and nature of these problems have been identified in this evaluation as input to the forthcoming decision on continuation of EMC. The evaluation uncovers the rate at which these problems occur and provides a basis for determining the probability of more serious problems occurring.

3. Summary of Attitudinal Data

Attitudinal data, presented in Section V and summarized below, present a considerably more skeptical though mixed picture than event specific data. However, shifts in attitude due to time and experience are almost always in a direction more favorable towards EMC.

The following summary statements about the attitudes of judges, attorneys, and jurors should be viewed in combination with the comparative perspective offered earlier by the event-specific data. When considered together, these data provide a more definitive answer to the evaluation questions posed than provided by either data group viewed in isolation.

- As of July, 1981 judges (61%), prosecutors (79%), and defenders (90%), all strongly disagree with the removal of the party consent requirement as a condition for EMC of criminal proceedings.
- As of July, 1981 judges (69%) and prosecutors (70%) approve of EMC for appellate proceedings. Only 30% of defenders approve of appellate EMC.
- As of July 1981, 58% of judges, 43% of prosecutors, and 20% of defenders approve of EMC for civil proceedings.

- As of July, 1981, 54% of judges, 47% of prosecutors and 13% of defenders approve of EMC for criminal proceedings.
- The attitude measures revealed that judges, attorneys, and jurors possess a complex multi-factor set of attitudes toward EMC. Factor analysis yielded four reliable indices on which measures of judges and attorneys attitudes toward EMC can be conceptualized.
- Overall, the aggregate attitude measures are negative to neutral for judges and attorneys. Defense attorneys are considerably more negative than either judges or prosecutors in their attitudes toward EMC.
- Judges and prosecutors developed a more positive set of attitudes toward EMC in the course of the experimental year. Defenders remained strongly negative in their attitudes.
- Transference of responsibility, a phenomenon in which one group sees other groups but not their own group as being affected negatively by EMC, persisted in posttesting.
- Factor analysis yielded five reliable indices on which measures of jurors' attitudes toward EMC can be conceptualized.
- Overall, the aggregate attitude measures are neutral to positive for jurors.
- Large numbers of jurors, especially the inexperienced, felt that even the presence of conventional reporters and sketch artist (as well as EMC) creates the potential for disruption, distraction, and participant apprehension.
- Experience with EMC left jurors with positive attitudes toward EMC.

Defenders, to a great extent, and judges and prosecutors to a lesser extent, seem to display one set of attitudes when measured by the Survey and another set when interviewed after an EMC event. In puzzling over the possible explanations for this apparent discrepancy, the evaluators postulated several options.

It is possible that when measured in an attitude survey, apprehension, concern or negativity is a global and general perception, one which is not necessarily borne out by actual, specific experience. In courtrooms the evaluators observed little apprehension, little disruption and, in general, found little evidence for anyone to have a very negative set of attitudes about EMC--on an event-specific basis. A judge might feel or believe that witnesses will be apprehensive while the actual event over which he presided did not verify his prior held attitude.

It is also possible that defenders, for instance, whose anti-EMC position remained unchanged throughout the experimental year, may actually have had relatively positive experiences at EMC proceedings, but reported them to be negative because they hold a negative set of attitudes about EMC in general. As such, their general attitude overrides the specific event experience.

Finally, it is possible that respondents retain long-held fears about general EMC effects, despite the lack of negative experiences in specific events. The time span during which EMC has been tried experimentally in California is short. Knowledge and information about its effects are not widely known. Individual respondents may even doubt the validity of their own experience (especially if it was a single, brief event) and yield to the longer-held, easily tapped general attitude.

Jurors showed a different picture. Though a reservoir of 10 to 30 percent of all jurors are skeptical of EMC

(and other media as well), the majority showed positive attitudes. Experienced jurors, especially, felt little damage would ensue from EMC presence. Their attitudes match closely their observed behavior and data obtained in interviews. The discrepancies mentioned above for judges, prosecutors and defenders are not present for jurors.

Integration of Research Findings

The evaluation research pinpointed several issues which will continue to be of major concern. The party consent question will remain a controversial issue, as will concern about potential impacts on civilian participants in court proceedings, and the potential influence of EMC on decision-making will continue to be a primary issue. Balancing EMC access to courts with the need to protect courts from outside influence will likely be the central question on which the fate of EMC rests. The evaluation yielded other conclusions with predictive value. Among them are:

- The generally negative attitude toward EMC will be slow to change.
- Defenders will persist in their negative attitude. If EMC continues in its present form, the defenders will continue to pressure judges to invoke their discretion in denying or restricting EMC.
- As more experience is accumulated, prosecutors, judges, and the general public (jurors) will continue to reduce their apprehension toward EMC, unless an uncontrolled, high disturbance event occurs.
- At a process level, the administrative support system of the courts occasionally will be burdened by major cameras in the courts events. There will be times when a court will not be staffed or equipped sufficiently to deal with an EMC event. Physical remodeling or other logistical accommodations may eventuate.
- Judges are going to feel burdened occasionally in their decision-maker role. They will at times be "put on the spot", since the rules, as presently structured, position them as the key decision-maker.

The issues involved in the decision to allow EMC, and the conditions under which to do so, are complex indeed. The jury needs to be protected from exposure and influence. Judges need to remain as independent as possible and free from unnecessary burdensome management responsibilities. Witnesses should not be subject to unnecessary pressure or embarrassment. Parties to the proceedings should not find their case judged by the television-watching public before judged by the jury.

Does EMC add significantly enough to the existing court environment problems caused by conventional media coverage to warrant its exclusion? The answer is plainly no. With minor problems, most of which are solvable through rules revision, standardized enforcement of rules and increased experience, EMC does not add significantly to existing disturbance-distracton-dignity-decorum problems.

Does EMC cause trial participants and prospective trial participants to change their behavior in a way that interferes with the fair and efficient administration of justice more than those changes caused by conventional media coverage to warrant its exclusion? The answer is a qualified no. While the observations showed little behavioral impact due to EMC, interview data showed that some individuals felt apprehension and other concerns. Few reported actual changes in their own behavior. Many did not like EMC, just as many did not like conventional media representatives present. Attitude measures and the relationship between attitude and behavior are what remain unanswered. To the extent that attitude and behavior are linked, there remains some qualification in the answer to this question. Taken globally, there is little evidence in this evaluation to suggest that EMC causes significantly more changes in behavior than does conventional media coverage.

FLORIDA SURVEY CONCLUDES ELECTRONIC COVERAGE DOESN'T INTERFERE WITH JUSTICE

JURORS, WITNESSES, ATTORNEYS ANSWERED QUESTIONS IN SURVEY

The conclusion of the Florida Survey of the Attitudes of Individuals Associated with Trials involving televised proceedings on an experimental basis for the past year is that televising of courtroom proceedings does not disrupt trials or interfere with the administering of justice.

Prepared by the Florida Judicial Planning Unit and available from the National Center for State Courts, the survey shows that more than 2000 jurors, witnesses, and court employees responded favorably to television, photographic, and radio coverage in the courtroom. The survey asked questions relating to fundamental issues of fair trials, psychological effects of the coverage, disruption and distraction caused by the presence of television people and equipment, overall effect on the judge and the administration of justice.

For example, more than 77 percent of jurors responded that presence in the courtroom of media does "not at all" disrupt the trial; 78 percent of the attorneys stated that the coverage had "no effect" on

their ability to judge the truthfulness of the witness; and 65 percent of the court employees responded that it did "not at all" make them nervous.

The National Center for State Courts was designated as the clearinghouse for information on broadcasting courtroom proceedings earlier this year by the conference of the nation's chief justices.

EIGHTY DWI INSTRUCTORS

RE-QUALIFIED AT SEMINAR

A DWI Court Referral Seminar, conducted by the Alabama Judicial College at the University of Alabama in Tuscaloosa, was held November 15-16. Eighty DWI instructors attended and were re-qualified to instruct for 1979.

The DWI program is a statewide effort to deal with the drunk driver and is approved by the Administrative Office of Courts. Chief Justice Torbert has also encouraged its use. The AOC has asked program managers to contact those judges who do not refer cases and again explain the advantages not only to those attending but to all citizens of Alabama.



COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

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SEP 27 1982

"NO" ON COURTROOM CAMERAS -- That's opinion of most lawyers according to recent national survey which questioned 600 attorneys. But study found idea gaining wider acceptance since 1979 survey.

Nearly half of respondents said cameras are permitted in their states, with highest in West (77%), lowest in Southwest (31%). Only 7% questioned have been in televised trial.

Disapproval of cameras was greatest where used least; more approval where cameras used most. Opposition strongest among older lawyers, litigation specialists, higher income attorneys.

Those approving believe decision should rest with judges (93%), prior permission of judge (70%), consent of all counsel (58%). Also, respondents feel cameras distract witnesses (73%), emphasize sensationalism (66%), encourage attorney/judge grandstanding (57%). Acceptance greatest among attorneys who have practiced before cameras, though majority of these agree with distraction, sensationalism claims.

JURY GAME -- Jurors in San Jose, Calif., courts have new game to play to relieve tension of their deliberations -- "Pacman".

Court administrator Charles Ramey installed video game after jurors complained of boring magazines, puzzles in jury waiting rooms. 25-cent-per-game cost helps underwrite food prices in court cafeteria.

(continued overleaf)

Michigan Newsbriefs

B. Implications of Research Findings for Rules Content

A primary objective of the Rules of Court 980.2 and 980.3 is to set guidelines for the physical presence of electronic and photographic media such that obtrusiveness is minimized. By all indications of this research, this objective was accomplished quite satisfactorily. In virtually no instance did EMC cause a major disruption of the proceeding being covered. Except in the minds of the most sensitive and negatively predisposed individuals, EMC never created a "circus-like" atmosphere.

Despite the fact that the rules were functional throughout the experimental year in controlling obtrusiveness, the year's experience does suggest certain refinements in this regard as well as other respects. The areas needing refinement are addressed below by a brief description of the problem or issue accompanied by alternative approaches to its resolution.

The areas addressed in recommending possible rule changes are:

- still camera shutter noise;
- juror anonymity;
- notice procedures; and
- equipment and operator criteria .

Additionally, the recommendation is made to leave the rules regarding consent requirements as presently configured.

1. Still Camera Shutter Noise

Observational and interview data both reveal a distraction problem with the shutter noise of still cameras. While this problem does not occur in a majority of cases, it does occur frequently enough to warrant action. The cameras causing the problem are among those in the list of approved makes and models attached to the Rules. The control of still camera obtrusiveness is the only area in which the rules are not "tough" enough.

Rarely did the evaluators observe or receive reports of the use of a blimping device which completely mutes the noise of still cameras. In the People v. Robbins trial, a sheath was used to mute still camera noise, but even this did not completely eliminate the problem. The use of a blimping device represents an additional cost or convenience factor which evidently the media generally prefers to avoid, particularly since the rules do not require their use so long as an approved camera is used.

The Judicial Council has available alternative approaches to dealing with the still camera noise problem should it decide to do so. It may refine the list of approved cameras to include only those with relatively quiet shutter clicks (such as the Leica model). Or, it may require the use of a blimping or sheathing device on all still cameras having shutter click noise louder than the quietest models. Or, it may leave the rules as is and rely upon the discretion of an informed judge to control the problem.

Recommendation. Rule of Court 980.2 should be amended to strengthen its control over still camera shutter noise. Blimping devices should be mandatory on all but the quietest cameras presently on the approved cameras list.

2. Juror Anonymity

The rules presently prohibit "close-up" coverage of jurors. In only a few instances was this rule violated by the media but in several other instances an unavoidable "gray area" was broached. The most common TV camera placement is "over the shoulder" of the jury, a placement which makes any shot of the jury a close up of at least the most proximate jurors. This fact, coupled with the fact that jurors generally desire complete anonymity in the performance of their duty, suggests a possible revision of the rules.

In some trials, the judge invoked a complete ban on juror coverage. This restriction occurred in "sensational crime" type EMC events, the type of case in which the media has great and constant interest. In the opinion of the evaluators, these instances of restrictions on juror coverage were appropriately invoked and well received by the jurors in the case. A rule amendment creating a total ban on extended coverage of jurors is worth considering. Jurors would be assured that the justice system had taken every precaution to preserve their anonymity and safety.

The evaluation interviews show jurors to be an outspoken group, and although the range of opinions is wide, jurors appear to be moderately skeptical about the effects of EMC of court proceedings. As a group,

jurors are more negative towards EMC than judges and witnesses (although less negative than attorneys). Attitude data show them to be suspicious of media coverage of court proceedings by both conventional and electronic/photographic means. Jurors are somewhat more skeptical towards EMC than conventional media coverage although their apprehension diminishes after an experience with EMC. Many jurors support the introduction of cameras in the court room, but just as many predict negative impacts of EMC on the case or on themselves. A total ban on EMC of jurors would go far to alleviate the apprehension of some without compromising the ability of the media to thoroughly cover the story.

Recommendation. Rule 980.2 should be amended to prohibit extended coverage of jurors. Emphasis should be placed on prohibiting side or front face shots of any juror.

3. Notice Procedures

The rules require submission of written requests for EMC a reasonable time in advance of the proceeding for which it is being requested. Throughout the experimental year, the requirement that the request be written proved to be an effective means of instilling structure into a request process which could easily become informal and "loose". As it was, some judges disregarded or never were cognizant of this aspect of the rule and permitted cameras without a written request. The "reasonable time in advance" requirement also proved successful; the absence of a specific time period permitted a measure of flexibility in the negotiations and arrangements between courts and the media. What constituted a reasonable time in advance varied greatly with the nature of the

proceeding and the number of media organizations seeking to participate in the extended coverage. The several "major case" events required several days or a few weeks advanced notice to allow enough time for arrangements and coordination to take place. The large number of more minor EMC events often required no more than a few hours advanced notice.

The question legitimately is raised whether or not use of a request form ought to be required if EMC is allowed on a permanent basis. Naturally, the preference of the media is to dispense with this paperwork, particularly since the electronic and photographic media generally feel that they should have the same access as the print media to court proceedings. Although the research indicates that generally EMC has little or no effect on the proceeding, there remains the reservoir of negativity in the reports of those having experienced EMC, reports which include a few bitter experiences and more than a few strong preferences against EMC presence. Requests for extended coverage should be reviewed in every instance by the judge for determination of possible negative impacts, some of which may be logically predicted or even likely. Covering the testimony of, for example, a rape victim is obviously unwise. A written request process provides a checkpoint for making these screening decisions.

Recommendation. To facilitate the screening and decision process of the judge, written request for EMC (i.e. use of the AOC Request Form) should continue to be required.

Another argument for a written request is persuasive. The rules require that an objection of an attorney for

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Another argument for a written request is persuasive. The rules require that an objection of an attorney for

a party shall be made part of the record. As a matter of openness and fairness and for the purpose of aiding judges in the consent decision process, the practice of hearing arguments for and against EMC from the parties to the action and the media should be encouraged. A written request facilitates the process of notifying attorneys and litigants that EMC of the proceeding is under consideration. The presence of cameras and microphones in the courtroom should never come as a complete surprise to attorneys and litigants. This occurred in at least one case during the experimental year³⁶ and the reaction of the defense attorney and his client was understandably negative. An effective control for this potential problem would be to require the Court to notify attorneys and litigants of a pending EMC request sufficiently in advance to permit their input.

4. Party Consent

One of the most fundamental and important issues associated with "cameras in the courts" is the question of party consent. The California experiment operated under both a party consent required and no party consent required condition for criminal trial level proceedings. A basic finding of the research on this point is that a party consent requirement in criminal cases results in very little extended media coverage. Generally, defendants and their attorneys reject EMC requests if empowered to do so, and the media predominantly is interested in criminal cases.

If the Judicial Council decides to allow electronic and photographic coverage of court proceedings on a

³⁶People v. Roemer in Ventura County.

permanent basis, it is the opinion of the evaluators that it should do so without a criminal case party consent requirement. The result of such a requirement would be to stifle the extended media process to the extent that it may as well not be allowed at all. Since the evaluation has not produced evidence to indicate the necessity of reverting to a complete prohibition of extended coverage, it is recommended that the rules continue with no party consent required, given that the trial judge has the ultimate authority to allow or disallow EMC.

Recommendation. Rule of Court 980.2 should remain as presently formulated in requiring only the consent of the judge before EMC may take place.

5. Equipment and Operator Criteria

In Section III of this report, it was noted that several instances of rule "relaxations" occurred. (Rule relaxations are sanctioned occurrences which are contrary to the letter of the rules.) Most prominent among these instances were the use of artificial lights and the admission of three or more cameras. These rule relaxations were permitted at the discretion of the judge and occurred under controlled conditions. None of them resulted in chaos, a "circus-like" atmosphere, or obvious disruption or distraction.

To the extent that these relaxations of the rules occur, there exists an inconsistency in rule requirements and actual EMC practice. It is not suggested that any of the equipment and operator criteria be specifically repealed. However, the addition of a clause to the

rules which permits artificial lights or some other relaxation of the rules at the discretion of the judge might be advisable. The occasional relaxation of the standards for equipment and operator presence would then not be a technical violation of the rules.

Recommendation. Rule 980.2 should be amended to permit at the discretion of the judge a relaxation of the restrictions on EMC equipment and operator presence. The reasons for any rule relaxation in this regard should be articulated on the record.

C. Related Issues

This report has documented the process of applying rigorous evaluation techniques to the study of California's experiment with extended media coverage of courtroom proceedings. The evaluation has focused on specific inquiries which encompass many but not all of the issues involved. Among the issues not addressed, the research process has identified three key concerns which warrant direct comment.

1. Cameras in the Courthouse

It has not been the purpose of this study to analyze media coverage of courtroom proceedings generally, except in the observation of in-court conventional media presence for comparison with extended media presence. Left unaddressed is the issue of hallway/courthouse media coverage practices. In the course of attending highly publicized courtroom proceedings and interviewing participants, the opinion was offered several times that "hallway pandemonium" and media aggressiveness outside the courtroom (yet inside the courthouse) was much more of a problem than in-court coverage, particularly with respect to the issue of media obtrusiveness.

Media coverage of judicial proceedings has always entailed the presence of reporters, cameras, microphones, and equipment operators in the hallway outside courtrooms and in and around the courthouse generally. The bigger the story, the larger the size of this press corps, and in the high publicity cases, this gathering can include a dozen TV cameras, numerous still cameras, and dozens of reporters. When considering the issue of media obtrusiveness in covering judicial proceedings, the presence and behavior of media in the corridors and courthouse generally stands out as a much greater problem than in-court presence and behavior.

In several EMC events, judges and attorneys offered unsolicited information to the evaluators regarding the corridor/courthouse issue. Among the concerns are:

- intimidation or harrassment of witnesses or defendants as they circulate in the courthouse;
- influence on jurors who are cognizant of the media "commotion" in the corridor, inadvertent exposure to biasing input from media in the courthouse, and harrassment of jurors after the trial by media aggressively seeking interviews;
- disturbance of surrounding courtrooms by media hallway commotion; and
- improper conduct in obtaining camera shots through the courtroom door.

In one major trial (People v. Robbins) the conduct of the press outside the courtroom was a serious problem in the opinion of the judge. Harrassment of the defendant in seeking camera coverage and interview responses became an issue before the court and in at least one

instance the melee of media behavior in the courthouse created a concern for safety. The judge emerged from the experience recommending that the California Rules of Court govern the behavior of media, particularly television cameramen, within the courthouse, on the courthouse grounds, and in juror parking areas as well as in the courtroom. Additionally, the judge observed that the issue of media coverage consumed over two days of discussion in chambers before the start of jury selection. This is the only instance in which the issue of efficiency impairment due to media coverage was raised by an interviewee.

A serious incident involving cameras in the courts during the experimental year occurred as a result of a television camera peering through the courtroom door. A still camera was inside the courtroom, having duly obtained consent, but the television station had not completed the request and consent process. A witness, who was later characterized by the judge as "unstable to begin with" was testifying without obvious problem until she saw the television camera operating through the courtroom door. At this point she became hysterical. The television crew was reprimanded and in deference to the witness, the still camera was removed from the courtroom for the remainder of her testimony. This anecdote reinforces the need to control actively extended coverage of court proceedings. Certainly, obtaining camera shots through courtroom door windows is contrary to the intent of EMC guidelines and restrictions.

Granting courtroom access to the media's cameras and microphones gives the California court system an oppor-

tunity to negotiate with the media on certain practices and behaviors in the corridors and courthouse generally. Whether additional governance of media in this regard is embodied in rules or achieved by presiding judges at specific events, the opportunity to make progress towards a mutually agreeable set of ground rules for covering the courts outside the courtroom should not be ignored.

The results of this evaluation offer some assurance that, under the guidance of specific rules, the courts and the media were able to negotiate relatively satisfactory agreements which minimized obtrusiveness and other potential problems posed by the presence of EMC inside courtrooms. If courthouse and courtroom EMC issues can be linked and if, in the negotiation process of granting such coverage, greater restraints on or control of obtrusiveness and other problems outside the courtroom can be achieved, then the courts and the media together will have made rational headway in resolving some of the real sources of occasional media obtrusiveness and subsequent ill-feelings.

2. "Type C" Effects

A model depicting the "universe" of potential effects of electronic/photographic court coverage is presented in Section I.B. (p.10). In placing this study in the context of that model, it was stated that few issues within the "Type C" Effects could be addressed. Type C Effects are those effects of broadcast and publication of EMC products which occur after the completion of the proceeding being covered, of both a short-term and long-term nature.

This evaluation inquired as to "fear of harm" to jurors witnesses, and defendants, but no follow-up has been possible to determine if any harm actually ensued (physical, psychological, reputational, or financial). Only a few jurors, witnesses, and defendants expressed any sense of "fear of harm" due to EMC and some of these responses referred as much to a general opinion that EMC could facilitate harm as much as any specifically defined fear. Defendants raised the only specific "fear of harm" opinion. A few feared retribution from prison inmates for the type of crime they committed (e.g. rape) and two politician defendants sensed possible damage to their reputations. Otherwise, the "fear of harm " issue did not seem significant.

Another unaddressed area warranting further study is that of community reaction to televised trials and published photographs of trials. What is the immediate result of EMC on the public? Do they feel better informed on the case than they would have with conventional-only coverage? Does the broadcast of trials cumulatively serve to educate the public on the judicial process?

The answers to these questions are related to the question, how does the media present stories from EMC trials? Clearly, this issue was of concern to interviewees among all participant types. Although the evaluators did not formally research opinions on the quality of the broadcast product, the interviewees offered opinions and reactions on this subject quite frequently. These comments may be categorized in three broad groups.

The first group is a vocal minority of persons, particularly judges and attorneys, who were skeptical about the media's ability or inclination to cover the courts fairly and accurately. These individuals point to the commercial aspect of the media and assert that sensationalism and a desire to "sell soap" dominates the coverage. In the recent camera coverage of oral arguments at the Supreme Court (an historic first) one Justice expressed disappointment that the Court had "bowed to the persistence of an entertainment medium."

The second group is a substantial number of individuals who applauded the introduction of electronic and photographic media in the courtroom as contributing to public revelation on how the system works--its failings and its strengths. These persons viewed the media more as an essential component in the workings of democracy than as a commercial industry.

The largest group of interviewees offering an opinion on this issue had a totally different attitude. They recognized that the time constraints for a news story are such that only small portions of the courtroom proceeding can be used. Therefore, say these persons, little opportunity exists either to educate or bias the public. Generally, these individuals felt that on balance the TV news reporters "did a good job" in covering the story accurately and fairly. What stands out to many of these persons (and to the evaluators) is how little in-court material actually is used in the story. Much of the in-court footage that is used is "dubbed over" by a reporter's summary of events, relegating the camera coverage to visual background. Sound and visual images combined constitute a small portion of the story and the story is at best only a few minutes long.³⁷

³⁷As documented in Section III, the overwhelming number of EMC applications are for news stories. Very few "gavel to gavel" broadcasts of trials occurred.

The critics of "cameras in the courts" point to this very fact, the brevity of television news reports, as an argument against allowing cameras coverage in judicial proceedings. Some even suggest that the media should be forced to show "all of it or none at all". Public education in light of this highly selective editing cannot possibly take place, say these critics.

This evaluation was not required to offer an opinion on the quality of television news coverage of judicial proceedings. Suffice it to say that highly selective editing does occur and that this necessary practice is one of the most controversial issues associated with cameras in the courts. Little scientific inquiry has been done to contribute knowledge to the debate. This issue and other long range effects on society at large represent the main frontier of "cameras in the courts" research.

3. Inexperienced Jurors

Prior to their service in an EMC event, some jurors evidence concern about their own abilities to remain free of EMC influence. These prospective jurors believe that their own functioning and that of the judicial system in general may be somewhat impaired with the presence of EMC. Experience with EMC changes this perception. If EMC becomes a permanent fixture in the courts, the California judiciary may want to consider how jurors who are assigned to EMC trials could come to enter the experience with their confidence high, rather than low. Jurors should be assured that their ability, role and functioning, that of other trial participants and of the system itself will not be diminished by the presence of EMC.

Methods exist today to orient and instruct jury pools in the phenomena and issues associated with EMC. Video tape programs could be developed and shown to prospective jurors. These tapes would present factual information relevant to the role a.

function of jurors and demonstrate that past experience and present safeguards minimize the likelihood of EMC-related problems. This EMC-orientation could be accomplished in a neutral fashion without advocating and promoting EMC as inherently good or bad. The EMC phenomenon when it occurs can and should be treated as simply one more aspect of court life about which jurors need and should have briefing prior to service.

D. Conclusion

One of the most intriguing aspects to this evaluation has been the perspective gained from in-court observation. The evaluators were able to see for themselves if witnesses were nervous, if prosecutors "played up to the camera", if jurors were distracted, and if judges were unable to keep order. In general, none of the postulated disturbance-distraction-decorum effects occurred. There seemed little reason, in event and after event, to have many fears about the presence of EMC equipment and personnel inside the courtroom, under the controlled experimental conditions.

The experiment was highly structured, heavily monitored and tightly controlled. Media representatives were asked to conform to strict rules and procedures, request in writing to cover a news event, wait for approval, and then gather their news under controlled conditions. As the experiment developed, it would have been quite unexpected and shocking if grossly disruptive or wildly distracting episodes had occurred. The rules and resultant structure virtually eliminated all possibility of extreme immediate impact. In response, the evaluators developed increasingly refined discriminations to analyze behavior attributes and verbal comments from interviews. The "ordinariness" of EMC at court proceedings, is, of course, a major finding. The lack of extremes in behavioral and environmental impacts is important.

The results and recommendations in this evaluation are related to and predicated on the rules of the experiment. The evaluation findings and conclusions only apply in the context of the rules; any weakening of these rules would tend to invalidate the applicability of the research results. The generally high marks for the experiment thus far should not be taken as license to grant *carte blanche* access by extended media or to ignore the guidelines in the rules.

California's experiment thus far with cameras in the courts has not been tainted by an Estes or a Hauptman. The safeguards against turning the judicial arena into a circus arena are working. Indeed, no "circus-like" atmosphere, to send a clear signal that justice is threatened, may occur under present controls. The threat to a fair trial in the present era of cameras in the courts is a more subtle one. It would take a mixing of subtle elements to create real problems, and the wrong combination of elements could result in injustice. For example, cameras in the courts in the context of an overly aggressive media, a susceptible judge, a vulnerable witness, and a volatile community issue could do irreparable harm to justice in the case.

The structure of California's rules on extended media coverage place the judge in a pivotal position. It is up to the judge to recognize when the wrong combination of elements is present and to take steps to diffuse the danger. Because the judge's role is so central, it should be protected from compromise. The media should not assume an absolute right to access with their cameras and microphones. The burden to obtain consent should remain with the media; no burden should be placed on the judge to justify to the satisfaction of the media that denial of access is appropriate.

The judicial system plays a special role in that it is a forum of last resort where justice ultimately is rendered or occasionally forfeited. Our system of government to some extent insulates the judiciary from the strong forces, political and economic, which operate in our society. Courts preserve delicate and precious rights. Indeed, this is at the root of why cameras have been denied access to courtrooms for so long. If access finally is to be granted to extended media, it should be done carefully.

STATE OF MINNESOTA
IN SUPREME COURT

In Re Modification of Canon 3A(7)
of the Minnesota Code of Judicial
Conduct.

FILE NO. 81-300

WCCO Radio, Inc.; WCCO Television,
Inc.; WCCO FM, Inc.; WTCN Television,
Inc.; United Television, Inc.-KMSP-TV;
KTTC Television, Inc.; Hubbard Broad-
casting, Inc.; Northwest Publications,
Inc.; Minneapolis Star and Tribune
Company; Minnesota Public Radio,
Inc.; Twin Cities Public Television,
Inc.; Minnesota Broadcasters Associ-
ation; Minnesota Newspaper Association;
Radio and Television News Directors
Association, Minnesota Chapter; and
Sigma Delta Chi/Society of Professional
Journalists, Minnesota Chapter,

REPORT OF THE MINNESOTA
ADVISORY COMMISSION ON
CAMERAS IN THE COURTROOM
TO THE SUPREME COURT

[Jan. 11, 1992]

Petitioners.

Pursuant to an Order made by the Supreme Court of the State of
Minnesota, on August 10, 1981, this Commission, designated "The Minnesota
Advisory Commission on Cameras in the Courtroom" was named. Rosemary M.
Ahmann, Sidney E. Kaner and John S. Pillsbury, Jr. were appointed as
Commissioners and rules governing the proceedings of the Commission were
established.

The Commission convened for its first meeting on August 21, 1981.
After electing Commissioner Pillsbury as Chairperson, it directed him, in
compliance with Commission Rule 4.01, to cause notice to file "proposed
agendas and witness lists" to be sent to Counsel for the Petitioners and
the following named persons or organizations as Interested Parties: the
Honorable Hyam Segell (at the request of former Chief Justice Sheran); the

Minnesota State Bar Association; the Minnesota District Judges Association; the Municipal Judges Association; the Minnesota County Judges Association; the Minnesota Trial Lawyers Association; the Minnesota County Attorneys Association; the County Attorneys Council; the American Civil Liberties Union; the Defense Attorneys Association; and the Joint Bar, Press, Radio and TV Committee of the Minnesota State Bar Association.

Said notice, dated August 25, 1981, and duly mailed on said date, set September 10, 1981, as the date by which such agendas and witness lists must be filed. A press release containing such notice was also distributed on August 28, 1981.

Pursuant to further notice duly given to those parties who responded to the notice of August 25, a conference of the Commission and representatives of such parties was held on September 21, 1981. At such conference an agenda and witness list was adopted. A few individuals who had not received and therefore not responded to the notice of August 25 were nevertheless permitted to file statements and/or appear as witnesses by consent of the Commission without objection from Petitioners or Interested Parties.

With the consent of the Commission and pursuant to a request filed by Petitioners with the Supreme Court, video and audio coverage of the Commission's proceedings was authorized.

Hearings were held before said Commission on October 5, 6, 12, 13 and 20, 1981. The hearing on October 5 was held in Room 1321 of the Ramsey County Courthouse, and the hearing on October 6 was held in Room 1753 of the Hennepin County Government Center for the purpose of giving

the Commission first-hand experience with video and audio coverage in different courtroom settings. The Commission also visited, but did not hold hearings in, Ramsey County District Courtroom 1409 in order to see first-hand a smaller courtroom with darker decor and a lower level of lighting. The remaining hearings were held in Senate Hearing Room 15 in the State Capitol.

Petitioners were represented by Paul R. Hannah and Catherine A. Cella of the law firm of Oppenheimer, Wolff, Foster, Shepard and Donnelly. There were no formal appearances in opposition, but Judge Hyam Segell appeared as an Interested Party informally in that capacity on behalf of the Minnesota District Judges Association.

At the aforesaid hearings, the following witnesses testified:

Curtis Beckmann, News Director, WCCO Radio, Minneapolis, outlining the four-year history of efforts of the media to secure permission of cameras in the courtrooms

Kent Kobersteen, Minneapolis Tribune photographer, demonstrating still photo equipment

Ron Handberg, General Manager, WCCO-TV, representing Midwest Radio TV, Inc., discussing the good reputation of the local media and requesting the opportunity to demonstrate it

Stan Turner, reporter and anchorman, KSTP-TV, demonstrating video equipment

Wayne Ludkey, News Director, KTTC-TV, Rochester, explaining the experience in Wisconsin and describing anticipated court coverage by the metropolitan television stations

Bob Jordan, News Director, KSTP-TV, St. Paul, discussing the Florida experience and anticipated court coverage by the metropolitan television stations

Chuck Biechlin, News Director, WTCN-TV, Minneapolis, describing the experience in Oregon and California

Joyce Holm Strootman, News Director, KWLM-AM, Willmar, describing the anticipated court coverage by rural radio stations

Nancy Reid, reporter, KDLH-TV, Duluth, describing use of the cameras in courts in Superior, Wisconsin

Reid Johnson, News Director, WCCO-TV, describing TV coverage in the metropolitan area

Mark Durenberger, Minneapolis and St. Paul, audio consultant, describing the available audio equipment

John Finnegan, Executive Editor, St. Paul Dispatch and Pioneer Press, speaking of the responsibility of editors of the metropolitan papers

Chuck Bailey, Editor, Minneapolis Tribune, speaking of the procedure and responsibility of newspaper editors

Clinton A. Schroeder, President, Minnesota State Bar Association, giving the history of the Association's opposition to cameras in the courtroom, describing the Association's concern about the possible impact of cameras on witnesses and jurors and setting forth his opinion that cameras be permitted as they now are in the Supreme Court but not in the trial courts

Justice Jack G. Day, Court of Appeals, Eighth Circuit, Cleveland, Ohio, testifying as to his experience in opposition to the allowance of cameras in the courtroom

Rick Lewis, Station Manager, KSJN, a public broadcasting station, describing the function of radio broadcast of trial proceedings

Irving Fang, Professor, University of Minnesota, School of Journalism and Mass Communication, describing the training given by the University to journalism students, especially those specializing in broadcasting

Dr. James L. Hoyt, Professor, University of Wisconsin, School of Journalism and Mass Communication, testifying as to experiments with mock trial situations in favor of the allowance of cameras in the courtroom

William Kobin, President, Twin Cities Public Broadcasting, KTCA, Channel 2, emphasizing that cameras in the courtroom would educate the public

Judge Edward D. Cowart, Associate Dean, National College of the Judiciary, Reno, Nevada, formerly Chief Judge of the Circuit Court of Dade County, Florida, testifying by telephone interview about the background of the experiment in Florida in favor of allowing cameras in the courtroom

Charles Hvass, Jr., President, Minnesota Trial Lawyers Association, testifying in opposition to cameras in the courtroom, describing his concern about possible effect on litigants, witnesses and jurors

Carol Grant, Representative of the Criminal Bar, testifying against cameras in the courtroom, especially her concern about its possible effect on victims of assault, rape, etc.

Joel Hirschhorn, Attorney, Miami, Florida, who represented Chandler both in the trial court and on the appeal, testifying in detail as to his opposition to cameras in the courtroom

Judge Thomas E. Sholts, Circuit Judge, Fifteenth Judicial Circuit, West Palm Beach, Florida, testifying in opposition to cameras in the courtroom, describing his experience in the courts in Florida

Judge Noah S. Rosenbloom, Judge of Brown County, testifying in opposition to cameras in the courtroom

Harold LeVander, former Governor of the State of Minnesota, testifying as to his experience with the media, and expressing his opposition to cameras in the courtroom

Marjorie Burton, counselor for Sexual Offense Services of Ramsey County, testifying in opposition to cameras in the courtroom, describing her concern about its possible effect on rape victims

Judge Hyam Segell, District Court, Ramsey County, testifying in opposition to cameras in the courtroom

Judge Otis H. Godfrey, Jr., District Court, Ramsey County, testifying in opposition to cameras in the courtroom

Judge Thomas H. Barland, Circuit Judge, Branch 1, Eau Claire County, Wisconsin, testifying as to his experience in Wisconsin courts in favor of allowance of cameras in the courtroom

In addition to the foregoing testimony, exhibits were received and marked as Exhibits 1 through 33. A list of exhibits is attached to this report. Briefs were filed by the Petitioners and by Judge Otis H. Godfrey, Jr. in opposition to the Petition. Judge Hyam Segell filed a letter together with the items referred to therein as a supplement to Judge Godfrey's brief.

Commission Rule 3.03 provides that a majority of the Commission shall be sufficient to determine those questions which may come before it. The Findings, Conclusions, Recommendations and Memoranda of the Commission which follow are concurred in by Commissioners Ahmann and Pillsbury.

Commissioner Kaner dissents from the recommendation of the Commission and has prepared separate Findings, Recommendations and a Memorandum which are filed herewith.

FINDINGS

Upon all the files, records and proceedings herein, the evidence received and the briefs submitted and upon due consideration of the foregoing, the Commission makes the following findings:

1. The technology of video recording equipment has advanced to the extent that the only part of the equipment which must be in the courtroom is a camera. The camera is no longer large and ungainly but is now small, compact, relatively unobtrusive, can be stationary, is completely silent and does not, in most courtroom settings, require enhanced lighting. In courtrooms which have an unusually dark decor (which apparently is a relatively small number), marginal and possibly useable images can be obtained, but satisfactory lighting can be accomplished in most situations by merely upgrading the existing lighting to a higher wattage. Only one person is required in the courtroom to operate the equipment. The video recording equipment other than the camera, including such items as a monitoring screen and a video tape distribution unit, can be located outside the courtroom, in many courtroom situations in an adjoining room so as not to be observable by persons outside the room. If it must be in

the corridor or some public area, arrangements can be made where necessary so that the monitoring screen cannot be viewed except by those handling the equipment.

2. Still cameras are available for news photographers for courtroom use which are either inherently quiet or can be silenced by a blimping device. While this can reduce the noise to a very minimum level, it cannot totally mute the click of the camera shutter. Such cameras do not require flash bulbs or any lighting greater than required for video camera equipment.

3. Audio coverage of courtroom proceedings can, in most relatively new courtrooms, be provided by tapping into existing systems with which the rooms are equipped. In courtrooms which do not have audio systems, the necessary wiring can be installed unobtrusively, and an ever-developing technology is producing microphones which, while already not disturbing to courtroom decorum, are increasingly unobtrusive.

4. Video cameras, still cameras and audio equipment can easily be positioned on the one hand so as to provide adequately for the needs of the media and, on the other hand, so as not to be a significant distraction from the court proceedings. Limits on the number and location of the courtroom equipment and on the number and movement of the operators of the equipment in the courtroom plus self-policing pooling arrangements agreed to among the media as a pre-condition to courtroom coverage, can accomplish these objectives with a minimum burden on the presiding judge. The Commission was presented with evidence, in the form of rules and standards and in the form of testimony of witnesses from jurisdictions which permit cameras and audio equipment in the courtroom, that this can

be effective.

5. Court rules or standards in jurisdictions which permit cameras and audio equipment in the courtroom normally prohibit audio pick-up or audio broadcasting of conferences that occur in the courtroom between attorneys and their clients, co-counsel of a client, opposing counsel or counsel and the presiding judge held at the bench. The implementation of such prohibition appears to be accomplished either by the judge, court reporter or counsel by turning off a switch or by placing trust in the media for self-compliance. Considering the possibility that these persons may be preoccupied with the conduct of the trial and may inadvertently overlook the problem, there does not appear to be any absolutely fail-safe method of enforcing such a prohibition, although there was no evidence that this has actually been a serious problem.

6. The possibility of lip reading, obtaining video images of work papers or gaining an impression of the tenor of conferences by viewing broadcasts of the video coverage, while recognized, does not seem to have been generally prohibited or restricted.

7. An experiment has been performed in Wisconsin (see Exhibit 17) and studies have been performed in jurisdictions other than Minnesota, notably Florida and Wisconsin, endeavoring to find out what impact the mere presence of cameras and audio equipment might have on litigants, witnesses, jurors, counsel and judges. The experiment was based on simulated, as opposed to real, trial situations while the studies are based largely on the perceptions of the persons involved which, in some cases at least, appear to reflect preconceived notions or personal prejudices.

8. The Commissioners, petitioners and the opponents of video and audio coverage of trial court proceedings who appeared before the Commission as "Interested Parties" all accept the fact that, where a likelihood exists of a conflict between the rights of a litigant to a fair and public trial and the desire of the media for video and audio coverage of the proceedings, the former must prevail. They also accept the fact that, on the one hand, the litigants in trial court proceedings do not, per se, have a constitutional right to oppose video or audio coverage of trial court proceedings, and on the other hand, that the media does not have a constitutional right to be admitted into a trial court with video and audio equipment to provide such coverage.

9. The petitioners believe that there have been benefits and other positive reasons in favor of permitting video and audio coverage of trial court proceedings which outweigh any legitimate objections to providing such coverage. They assert that such coverage will not adversely affect the fairness of court proceedings, the behavioral pattern of the participants or the general decorum of the courtroom. In support of this position they point to the following:

- A. The ability to obtain more accurate coverage than is possible when media representatives merely take notes and make sketches of trial court proceedings.
- B. The opportunity and desirability of informing and educating the general public as to what actually occurs in a trial courtroom.
- C. The fact, which was not disputed, that a large majority of the general public regard television as their prime source

for reports of important news events. The media claims an obligation to fulfill the public's expectations in this regard.

10. Commercial video and audio coverage has generally been confined to a very few minutes or even seconds on regularly scheduled news programs. The video coverage may include some direct audio reporting of the proceedings, but there is still some summarization, and at times editorialization by media newscasters which is usually necessary because of the format and time constraints of current normal news reporting. The portions of the proceedings televised and the portion given direct audio coverage are, of course, selected solely by the media. Coverage of the Commission's own proceedings as viewed by the Commission members substantiates these findings. So-called "gavel to gavel" coverage of trial court proceedings has been provided in a few situations over public (as opposed to commercial) television.

11. Opponents of video and audio coverage of trial court proceedings testified that, unlike judges and attorneys who operate within legal constraints and under canons of legal conduct, the media operates under the protective umbrella of the First Amendment, and in respect to constraints only within the laws of libel and slander and the media's own concept of what is newsworthy, in good taste, or not likely to unduly affect the sensibilities of individuals. They believe that the media, in deciding what to cover, is much more concerned with the sensational, the frequently prurient interests of the public and with what will perhaps improve the ratings of one television station or radio station as compared to its competitors.

12. The representatives of the media who testified before the Commission spoke very positively and with every appearance of sincerity about their sense of public responsibility and the conduct that can be expected of them in connection with courtroom proceedings. They asserted that they have grown in "maturity" since earlier trials such as the Hauptmann, Sheppard and Estes cases and that they are for the most part responsible people. They appear to recognize an obligation of self-discipline and assert that rules and guidelines such as those proposed by the Petitioners would give the presiding judge adequate authority to prevent excesses, maintain proper decorum and provide adequate protection to the participants in the courtroom proceedings. Nevertheless, rather strong evidence of real lapses in good taste and in concern for the sensibilities of individuals was brought to the attention of the Commission including specific evidence of rather poor taste directed against the presiding judge when rulings adverse to the media were made by him.

13. Opponents of television and audio coverage of trial court proceedings including those who filed statements with the Commission, those who appeared in person as "Interested Parties" and witnesses invited by such interested parties expressed sincere and earnest concern that the presence of television and audio equipment in the courtroom and the knowledge that the proceedings may be or were being broadcast are bound to have an impact on the demeanor, behavior, emotional stability and veracity of witnesses, litigants, jurors, attorneys and judges. They believe that this raises a real but perhaps unmeasurable risk of affecting the results of any court proceeding.

14. If trial court proceedings are subject to video and audio coverage

the difficulty in impaneling a jury is increased for a variety of obvious reasons. These include the inherent timidity of some people about being on television or their concern about being viewed by the general public (including acquaintances) outside the courtroom as participants in a publicized legal controversy. There is also a more frequent necessity for sequestering jurors, which can markedly increase the personal inconvenience for the jurors, the administrative burdens on court personnel and the expense of the proceedings.

15. Minn. Stat. § 631.04 was cited to the Commission by one of the witnesses speaking in opposition to video and audio coverage of trial court proceedings. It provides as follows:

No person under the age of 17 years, not a party to, witness in, or directly interested in a criminal prosecution or trial being heard before any district, municipal, police, or justice court, shall attend or be present at such trial; and every police officer, constable, sheriff, or other officer in charge of any such court and attending upon the trial of any such criminal case in any such court, shall exclude from the room in which such trial is being had every such minor, except when he is permitted to attend by order of the court before which the trial shall be had; and every police officer, constable, sheriff, or deputy sheriff who shall knowingly neglect or refuse to carry out the provisions of this section shall be guilty of a misdemeanor and punished by a fine of not less than \$10 nor more than \$25.

It was pointed out that telecasting part or all of criminal proceedings would permit them to be viewed outside of the courtroom by persons within the purview of the statute.

16. As of August 6, 1981, thirty-three states permitted some kind of television and audio coverage. Most of these states require some kind of consent or approval. Six of these states, including Minnesota, permit coverage only at the appellate level. Of these thirty-three states, twenty

have adopted rules permitting some form of permanent coverage, while the remaining states permit coverage so far only on an experimental basis. No evidence was presented to the Commission that any states which had adopted rules on an experimental basis had revoked such rules,¹ while there was evidence that some states which started on experimental bases have now made their rules and guidelines permanent. Among the thirty-three states permitting some kind of coverage, there are diverse regulations and guidelines limiting coverage in respect to civil, criminal, jury and non-jury cases and also a variety of regulations and guidelines in respect to requirements of consent by some or all of the following: witnesses, attorneys, litigants, individual jurors and judges.

Only eleven states allow video or audio coverage without a requirement for consent by or permission from any participants in the courtroom proceedings. The request to provide coverage is initiated by application to the court. It is only these few states that have rules and guidelines generally comparable to those proposed by Petitioners herein for Minnesota trial courts.

17. Some states have special rules or guidelines prohibiting or restricting video and audio coverage in particular types of cases which deal with what might be broadly described as sensitive matters. These are catalogued in Exhibit 24, pages B-12 to B-16. The Commission heard specific testimony in respect to one of such types--sexual assault cases--from an official of the Sexual Offense Services of Ramsey County. This

¹ The Commission is aware that some states, e.g. Iowa and Ohio, adopted rules which were later made more restrictive.

witness was very firm in asserting that coverage of victims in these types of cases must be absolutely protected from video and audio coverage and that it was not sufficient for the matter to be left up to the discretion of the presiding judge.

18. The Minnesota District Judges Association, the Minnesota State Bar Association and the Minnesota Trial Lawyers Association have all taken official action opposing television or audio reporting of trial court proceedings in Minnesota. Testimony, in the form of statements filed with the Commission, was presented, however, by some district judges in Minnesota indicating that the position of the Minnesota District Judges Association is not unanimous. In addition, testimony was received from a lawyer and judges from states which now permit video and audio coverage of trial courts indicating their continuing opposition to the relaxation of the guidelines which had occurred in their states, but there was also testimony to the contrary from a judge located in such a jurisdiction.

19. No television or audio coverage is permitted in federal trial courts.

CONCLUSIONS

In stating its conclusions and making its recommendations, the Commission wishes to call attention, at the outset, to the fact that it is the Petitioners who are seeking a modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct by the adoption of an amended Canon 3A(7) and proposed Standards of Conduct and Technology. They seek this change not as a matter of right--constitutional or otherwise--but as a

grant of a privilege now denied to them. This, in the view of the Commission, places an affirmative burden on the Petitioners to show that the change is necessary or desirable and places no obligation on those who appeared as "Interested Parties" in opposition to the Petitioners to show that Petitioners have not sustained that burden.

The Commission, having weighed the evidence and considered the briefs of the parties in this context, makes its Conclusions as follows:

1. The technical aspects of providing video and audio coverage of courtroom proceedings can be adequately controlled so as to maintain courtroom decorum, not adversely affect the fairness of the trial and still adequately satisfy the needs of the media by the implementation of guidelines generally comparable to the Standards of Conduct and Technology attached to the Petitioners' Petition as Exhibit B. Accordingly, the Commission is satisfied that this matter, taken by itself, should not be a deterrent in considering whether Canon 3A(7) of the Minnesota Code of Judicial Conduct should be amended so as to permit video and audio coverage of trial courtroom proceedings.

2. If video or audio coverage of trial court proceedings is to be permitted in Minnesota, any rules or guidelines adopted by the Supreme Court should not only protect conferences in the courtroom between attorneys and their clients, co-counsel of client, opposing counsel or counsel and the presiding judge held at the bench from audio coverage as provided in the proposal of Petitioners, but should also protect such conferences from video coverage, and such protection should extend to work papers of those persons.

3. The results of the experiments and studies which have been

conducted for the purpose of exploring what impact the mere presence of video and audio equipment in the courtroom might have on participants have serious shortcomings in providing reliable evidence, either in favor of or opposed to, video or audio coverage. While interesting and obviously of some value, such results, when taken together with the testimony of trial lawyers and judges from Minnesota and from other jurisdictions which permit such coverage, lead to the conclusion by the Commission that while there is a great deal of sincere, sometimes emotional opinion and behavioral theory both in support of and opposed to video and audio coverage of trial court proceedings, there is almost no solid empirical evidence to support either position.

4. While the benefits and desirability of video and audio coverage of trial court proceedings asserted by the Petitioners cannot be entirely denied, they are not as broad as claimed by them in that:

- A. There was no evidence of any general public demand for, or interest in, video or audio coverage of trial court proceedings.
- B. There was no evidence that commercial video or audio coverage is balanced or comprehensive either in respect to a specific trial or in respect to the types of trials covered. It is significant that according to Chief Justice Burger in Chandler v. Florida, 101 S.Ct. 802 (1981), the television coverage in that case was only two minutes fifty-five seconds in length and depicted only the prosecution's side.
- C. Aside from acknowledgement of the fact that any video or

audio coverage, regardless of its nature, is bound to lead to some educational and informational benefits, there was no evidence of any meaningful educational and informational value to the public from the limited and unbalanced coverage that is characteristic of presenting video and audio coverage under current commercial television news formats for such coverage.

- D. There was no evidence tendered nor were there any special arguments made by Petitioners that they regard any of the foregoing considerations expressed in this Paragraph 4 as determinative of, or of any specific significance in respect to, their request for a change in Canon 3A(7).

5. The media derives broad protection from the First Amendment. For its own protection, it must also have due regard for the laws of libel and slander. However, aside from that consideration, and aside from rules or guidelines prescribing the conditions under which video and audio equipment can be brought into the courtroom and limitations on what can be covered, the media has very broad discretion in the selection of the portions of the proceedings to be broadcast and what commentary it can make thereon.

6. Rules and guidelines regulating video and audio coverage of trial courts and adequate authority vested in the trial judge are essential to establish constraints so as to assure courtroom decorum, fair treatment of courtroom participants and a fair and open trial of the litigants. Reliance on self-discipline by the media is not adequate. Appellate courts appear to accept this fact, or at least to expect that the primary duty to

maintain constraints on the media rests with the trial judge and within the judicial system.

7. The evidence received in respect to whether or not or how video and audio coverage impacts on the participants in the courtroom (aside from the technical aspects discussed in Paragraph 1) is inconclusive and has the inherent weakness of being largely based on opinion, behavioral theories, unprovable suppositions and personal prejudices. It is very deficient in solid empirical data and could as easily support a recommendation that Canon 3A(7) not be amended as that it be amended to permit video and audio coverage of trial courts. While the Commission does not question the sincerity of witnesses after reviewing all such testimony it has difficulty finding any empirical support for the fact that the alleged impact on the courtroom participants (when coverage is provided under guidelines placing reasonable limitations on the conduct of the media in the courtroom) has affected the outcome of any litigation in those jurisdictions which permit video or audio coverage of trial courts or will affect such proceedings if Minnesota were to permit such coverage.

Rules and guidelines of states which permit video and audio coverage of trial court proceedings are in most cases of very recent origin and, in a large number of those states, still on an experimental basis. Colorado, in 1956, was by a considerable margin the first state to permit broadcasting and photography by express judicial rule, since most other states did not adopt any rules or guidelines in this regard until the middle or late 1970's. This relatively short experience with video and audio coverage of trial court proceedings is a major limiting factor on the availability of empirical data bearing on this question.

8. If trial court proceedings are to be subject to video and audio coverage, the judicial system must be willing to accept the fact that there will be more frequent need for sequestering jurors with the attendant additional inconvenience to the jurors, the additional burdens on court personnel and the attendant additional expense. Only an experimental program can provide data to assist in determining the magnitude of this problem.

9. Minn. Stat. § 631.04, prohibiting, subject to certain exceptions the attendance at criminal trials of persons under the age of 17 years, has been part of the Minnesota statutes since 1891. The Commission can find no legal precedents which give it any assistance in determining whether that statute should be regarded as any limitation on video or audio coverage of trial court proceedings. The Commission believes that this is more appropriately left for decision by the Supreme Court and therefore makes its recommendations herein without regard to that statute.

10. Minnesota is one of twenty-three states which, by reason of a prohibition such as contained in present Canon 3A(7), totally prohibits video and audio coverage of trial court proceedings.

11. The evidence received expressing concern about leaving the question of video and audio coverage of witnesses and parties in sexual assault cases to the discretion of the presiding judge has merit, and the considerations involved are applicable as well to the other special types of cases catalogued in Exhibit 24, pages B-12 to B-16. Accordingly if any video or audio coverage of trial courts is to be permitted, there should be an absolute prohibition of such coverage as to participants in such situations on timely objection made by them to the court.

12. The Petitioners have failed to sustain the burden of showing that they are entitled to the relief requested in their Petition.

RECOMMENDATION

The Commission, despite its conclusion that Petitioners are not entitled to the relief which they have requested, nevertheless recommends that the Supreme Court give consideration to amending Canon 3A(7) and adopting Standards of Conduct and Technology so as to permit video and audio coverage of trial court proceedings on an experimental basis for a reasonable period of time. A Memorandum supporting this conclusion is attached hereto and hereby incorporated herein.

Specifically, the Commission recommends that the Supreme Court should give consideration to amending Canon 3A(7) and adopting Standards of Conduct and Technology substantially like those proposed by Petitioners as Exhibits A and B to their Petition, subject to the following qualifications and modifications:

1. That such expanded coverage be permitted on an experimental basis for two years.
2. Petitioners, on page 29 of their post-hearing brief, request an amendment to their proposed guidelines in Paragraph 1(b) to permit two still photographers instead of one. Aside from their assertion that their experience in the Minnesota Supreme Court and in these proceedings indicates that this change is desirable, there is no evidence to support it. Accordingly--at least in an experimental period--this change seems unnecessary.
3. Paragraph 6 of the proposed Standards of Conduct and Technology

covering "Conferences of Counsel" should be amended to read as follows:

To protect the attorney-client privilege and the effective right to counsel, there shall be no video or audio pickup or broadcast of conferences which occur in a court between attorneys and their client, co-counsel of a client, opposing counsel, or between counsel and the presiding judge held at the bench. In addition, there shall be no video pickup or broadcast of work papers of such persons.

4. Coverage of parties or witnesses in cases involving child custody, divorce, juvenile proceedings, motions to suppress evidence, police informants, relocated witnesses, sex crimes, trade secrets and undercover agents should either be categorically prohibited or prohibited on objection by the parties.


5. It is recognized that the categories mentioned in Paragraph 4 may overlook other situations requiring special consideration by the presiding judge. In any such situations and in any rulings of the presiding judge adverse to the media in respect to their video or audio coverage of a particular proceedings, any rules or guidelines adopted should provide for a strong presumption of validity in favor of the judge's ruling.

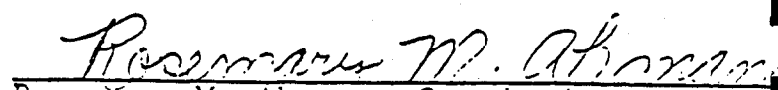
6. Trial judges and lawyers, in trial court proceedings where there is visual and audio coverage, should be encouraged--or perhaps directed--during the experimental period to report to the Supreme Court any difficulties or excesses which create special burdens for the presiding judge and special problems in respect to counsel, witnesses, litigants or jurors. Such reports would be valuable for a review process at the end of the experimental period before making a final determination as to whether the rules and guidelines here recommended should be made permanent, modified or revoked.

As previously stated, Commissioner Kaner dissents from these Recommendations and recommends that the Petition be dismissed on the merits.

and that there be no modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct.

DATED: January 11, 1982.


John S. Pillsbury, Jr., Chairperson
Minnesota Advisory Commission on
Cameras in the Courtroom, established
by Order of the Supreme Court dated
August 10, 1981


Rosemary M. Ahmann, Commissioner
Minnesota Advisory Commission on
Cameras in the Courtroom, established
by Order of the Supreme Court dated
August 10, 1981

NINTH JUDICIAL DISTRICT COURT

PARISE OF RAPIDES

STATE OF LOUISIANA

TO: The Chief Justice and Associate Justices of the Louisiana Supreme Court

FROM: Guy E. Humphries, Jr., District Judge, Division B, Ninth Judicial District Court

REPORT ON PILOT PROJECT ON THE PRESENCE OF CAMERAS AND
ELECTRONIC EQUIPMENT IN THE COURTROOM

This is a report pursuant to Paragraph 11 "Duration and Evaluation" of the Order of the Louisiana Supreme Court of February 23, 1978.

Subsequent to the order, Judge Humphries attempted to obtain permission for camera and electronic coverage of every proceeding of every case that came up in his court.

Judge Humphries met with very limited success in obtaining permission for camera and electronic coverage.

The first matter wherein permission was obtained was State of Louisiana v. Henry H. Reid, Sheriff of Calcasieu Parish. Judge Humphries was assigned by the Louisiana Supreme Court to sit on the aforesaid trial. During the course of the trial the jury was taken out to where the Sheriff lived to view the property that he owned that was commonly referred to during the course of the trial as the "Sheriff's farm". The cameras accompanied the court personnel, the jury and a number of spectators to the property. Quite a bit of TV filming and still pictures were made at the "farm". The TV station had a special showing of approximately 5 minutes of the film it had made. In addition to this permission was obtained from the parties and the attorneys for live TV and radio coverage and still photography of the rendition of the verdict by the jury. The cameras filmed the jury returning to the courtroom, after it had reached a verdict, and the colloquy between the judge and the jury pertaining to the

finding of a verdict and the passage of the verdict sheet to the judge and then to the clerk and the reading of the verdict. As soon as this was done the film was rushed to the TV station and put on the air. The television station had previously informed its listeners that the verdict was to be recorded by the TV camera and any program underway would be interrupted for the showing of the rendition of the verdict.

After the jury had rendered its verdict the Court asked the jurors if they were in anywise affected by the camera or the fact that they knew before their deliberation, that they were going to render their verdict on TV camera and they all replied in the negative. Each juror was polled and stated that they had no feeling one way or the other about the cameras and electronic equipment. The attorneys were asked if they felt any distraction or disruption or were anyway affected by the presence of the camera and the electronic equipment and they all replied in the negative. The Judge had no feeling one way or the other about the presence of the cameras and the electronic equipment. Once the court came back into session, after its recess during the jury deliberation, the presence of the camera just slipped one's mind. There was no more awareness of the TV camera than there was of people in the courtroom.

This experiment indicated to the writer that many, many of the fears expressed in the past about the presence of cameras and electronic equipment in the courtroom were totally unfounded. This will be developed further in the report.

The only other success in obtaining camera and electronic coverage took place in Rapides Parish in the criminal trial of State v. James Williams. There was present in the courtroom one TV camera, a news photographer with a still camera, a news reporter with a small cassette tape recorder and microphones from the radio station. The cameras and operators and newsmen were spotted in the courtroom at the direction of the trial judge and there they remained until the trial was over.

There was a little more coverage in this trial than there was in the Reid trial. There was coverage of the closing arguments of the district attorney and defense counsel and the charge to the jury on the law by the judge, and the rendition of the verdict by the jury.

All of the equipment used was in accordance with the guideline laid down by the Louisiana Supreme Court. The TV camera was out on the opposite side of the bar in one of the side aisles and was not moved ever.

The experiment went quite well, there was no interruption or distractions. The people coming in and out of the courtroom were much more noticeable than the cameras and newsmen. The radio station carried the entire matter live from the courtroom. Surprisingly enough the majority of the comments were from radio listeners. People were not even aware that it was going to come on but when it did they were aware that it was a court proceeding and many just stayed by the radio to listen, even though it was approximately two hours. This matter was carried by the radio station live to the radio audience without any interruptions, except for the station identification required by FCC.

The jury was aware that the filming would be done. After the finding of the verdict the jurors were polled as to their reaction to the camera and they all stated that they had no reactions to it. They stated they were not affected one way or the other by the presence of the TV camera. They were specifically asked if they thought that the fact that this matter was being covered by the television placed any greater importance on the case than they would ordinarily have and they all stated in the negative.

The judge had a discussion with the attorneys and the assistant district attorneys and the defense attorneys all stated that they were not at all affected by the cameras.

The charge to the jury was somewhat lengthy in that it was the serious crime of armed robbery. The Court was not aware of the presence of the cameras or the radio microphones during the time of the charge to the jury. Movement of spectators in and out of the courtroom is far more noticeable, subconsciously than was the presence of the TV camera and its operator. One has a subconscious awareness of the cameras in the courtroom equal to one's awareness of the people in the courtroom.

EVALUATION

It is the writer's opinion that this limited pilot project was very successful. The writer is of the opinion that cameras should be permitted in the courtroom at the discretion of the trial judge.

The Court determined that the many fears that are expressed about the presence of the TV camera are unfounded.

There was no loss of dignity or decorum in the courtroom whatever.

Neither the attorneys nor the judge tended to act or "ham it up" because of the presence of the cameras...

The cameras were not distracting in anyway. The lawyers argued to the jury and did not argue to the camera. The Court in giving the charge to the jury addressed the jury and not the camera.

The television is a part of the modern way of life. The writer sees the entrance of television cameras into the courtroom for the benefit of the viewing public as well as for the benefit of the court.

In both instances the parts of the trial that were broadcast were very objective. I feel that the news media can be more objective about reporting court proceedings if permitted to use cameras and electronic equipment.

We are presently using audio/vidio depositions in court. Most courts are going to electronic recording equipment in lieu of court reporters using shorthand or stenotype. At times photographs are made of a chalk board that is being used in the courtroom in order that the appellate court would have the benefit of drawings and diagrams put on chalk boards by witnesses.

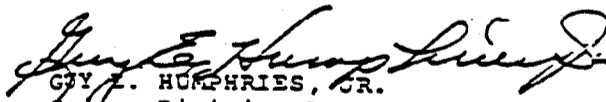
This writer recommends another pilot project similar to the one that was authorized on February 23, 1978 with certain changes. The writer would like to have permission to conduct this pilot project again but without the requirement of obtaining the consent of the attorneys or the parties or the victim. This writer also recommends that Paragraph 8 of the order be amended so that the film, vidio tape and still photographs or audio reproductions could be used for any purpose. If the Court is not willing to grant permission for a pilot project solely at the discretion of the trial judge, but is of the opinion that consent should continue to be obtained, the writer would still like permission to continue the pilot project.

It is felt that there was not sufficient coverage to do a ~~full~~ evaluation that the writer would like to do.

This writer is of the opinion that TV cameras can be placed in the courtrooms on wall mounts and that very few people would be aware of their presence. There are presently two courtrooms in the Rapides Parish Courthouse that have two surveillance cameras that are functioning at all times. These surveillance cameras are monitored in the Sheriff's Office as well as in the office of the jailer.

The writer does request permission to continue this pilot project as above recommended or under such other restrictions as the Court may impose.

Respectfully submitted,


GUY L. HUMPHRIES, JR.
Judge, Division B
Ninth Judicial District Court

Chapter 7

CAMERAS IN COURT

I. INTRODUCTION

A permanent rule permitting film and electronic media coverage of court proceedings was adopted by the Judicial Council effective July 1, 1984. The council's action was taken following an experimental period of film and electronic media coverage which began July 1, 1980. During that period, the council received many comments and a consultant's report that assessed the results of the first year of the experiment.¹

New rule 980 of the California Rules of Court replaces former rules 980 through 980.3 and incorporates the following provisions of the prior experimental rules:

(1) Courtroom photography and recording is permitted, subject to the consent of the judge and any restrictions the court might impose in order to protect the rights of the litigants, preserve the dignity of the court, and prevent disruption of the proceedings.

(2) Unauthorized use of photographs, recordings

or transmissions is an unlawful interference with the proceedings of the court.

(3) Coverage is prohibited of chambers proceedings; jury selection; closeups of jury members; conversations between attorney and client, witness, or aide; conversations between attorneys; and conferences at the bench.

(4) All restrictions found in the prior rules apply.

The new rule also incorporates the existing authorization for personal tape recorders in court used solely for note-taking purposes (old rule 980(f), now rule 980(c)).

The permanent rule continues the requirement that application for the judge's consent be on a form approved by the Judicial Council. A new form, which simplifies the old form and includes an order, was adopted by the council at the same time as it adopted the permanent rule.

II. ONE-YEAR EXPERIMENT APPROVED

The council's action culminated a five and a half year process during which the question of film and electronic media coverage of court proceedings was considered by a special committee, an experimental rule was adopted, and the effect of film and electronic media coverage was reviewed.

The process began on December 2, 1978, when the council, acting on the recommendation of its Appellate Court Committee, adopted the following resolution:

That the Judicial Council approve a one-year experimental program to permit broadcasting and photographing of court proceedings in selected courts with the consent of the judge and the parties and without cost to the Judicial Council or the courts. To this end it is recommended that an advisory committee of judges, lawyers, media representatives and citizens be appointed to develop a proposed program, together with a draft of necessary rules and suggested evaluation procedures, for presentation to the Judicial Council for its consideration. Among other matters, the advisory committee should consider whether the consent of witnesses, jurors, or counsel for criminal defendants should be required.²

The Chief Justice, pursuant to this resolution, appointed a 28-member Special Committee on the

Courts and the Media. The committee, appointed in January, 1979, included representatives of television, radio, photographic, and newspaper journalism; judges; prosecution, defense, and other attorneys; and the public.³

Following a number of meetings, the committee recommended a statewide experiment permitting film and electronic media coverage of courtroom proceedings under specified conditions and upon consent of the judge and the parties.⁴ The council, after circulating the draft rules for comment, adopted a one-year experiment contingent upon the consent of the judge and, in criminal cases, the parties.⁵

The council originally had decided to dispense with the requirement of party consent in all cases. However, on April 21, 1980, the United States Supreme Court noted probable jurisdiction in *Chandler v. Florida*⁶ on the subject of whether television coverage of a criminal trial over the objection of the defendant violated the defendant's rights of due process and fair trial.

Effective January 31, 1981, after the decision in *Chandler* that party consent to television coverage is not necessarily required in criminal cases,⁷ rule 980.2 was amended to permit coverage of criminal cases without the consent of the parties.⁸

III. EXPERIMENT EVALUATION: THE SHORT REPORT

The council, also following recommendations of the Special Committee, entered into a contract with Ernest H. Short and Associates, Inc., to evaluate and monitor the experiment. California was the first state to conduct a concurrent statewide evaluation of such an experiment. There were two major questions considered by the evaluation:

1. Will the presence and operation of broadcast, recording, or photographic equipment in a courtroom be a significant distraction for trial participants, disrupt proceedings, or impair judicial dignity and decorum?
2. Will trial participants or prospective trial participants, knowing that their words or pictures will be or are being recorded or broadcast for possible use on television and radio, or in newspapers and magazines, change their behavior in a way that interferes with the fair and efficient administration of justice?⁹

The council subsequently extended the expiration date of rules 980.2 and 980.3 to December 31, 1981, to permit review of the consultant's report prior to consideration of adopting the rules as permanent.¹⁰

The consultant's final report recommended keeping in effect the then current provisions for film and electronic media coverage with minimal changes, including:

1. Strengthening the restrictions on still camera noise.¹¹
2. A total ban on close-range photographs of jurors, particularly side and front face shots.¹²
3. Retaining the requirement of a written request for permission to use film or recording equipment in courtroom media coverage.¹³
4. Retaining the requirement of the judge's sole consent.¹⁴
5. Permitting relaxation of certain rules in the discretion of the court with reasons stated on the record.¹⁵

During the period of the report approximately 100 requests for "extended" media coverage were made each calendar quarter; about two-thirds of the requests were granted.¹⁶ The study cases were predominantly criminal.¹⁷ Two-thirds of the total cases were in superior court. The bulk of municipal court matters involved felony arraignments or preliminary examinations.¹⁸

In civil cases, 75 percent of the coverage was of motion proceedings and 25 percent was of trials. In criminal cases the coverage was: 20 percent arraignments, 5 percent motions, 24 percent preliminary examinations, 29 percent trials, and 22 percent sentencing hearings.¹⁹

The consultant surveyed and observed participants to determine the effect of extended media coverage on the courtroom environment.²⁰ According to the report, there was little awareness of, or distraction caused by, media presence. Three-quarters of

those surveyed were either unaware or "a little aware" of the coverage, while 15 percent were moderately aware, 10 percent were highly aware, and 1 percent were very highly aware.²¹

Four-fifths of the participants surveyed were either not distracted by the extended media coverage or were distracted only at first. Nine percent were slightly distracted, three percent were somewhat distracted, four percent were definitely distracted, and two percent were extremely distracted.²² Most of those who were definitely or extremely distracted reported distraction due to "clicks" by still cameras. The distraction caused by noise from still cameras was confirmed by the consultant's courtroom observers.²³

Ninety percent of the judges and attorneys surveyed said the presence of cameras interfered only slightly or not at all with courtroom dignity and decorum while 10 percent said the interference ranged from "somewhat" to extreme.²⁴

Twenty-five percent of the jurors stated there was a negative impact on the courtroom environment and 14 percent said there was a negative impact on the flow of the proceedings.²⁵

Increased judicial supervisory responsibility was reported by judges in 60 percent of the cases.²⁶ This occurred most often in courts that did not have an administrative officer.²⁷

The consultant observed judges, attorneys and jurors to determine how they were affected and surveyed them to determine how they believed they and others were affected. Most judges, attorneys and jurors said the media coverage did not affect behavior of the various participants.

One-third of the plaintiffs' and prosecuting attorneys, 10 percent of the defense attorneys and 5 percent of the jurors said the coverage had a positive effect on a judge's behavior while 25 percent of the defense attorneys and 14 percent of the jurors said it had a negative effect.²⁸ The consultant's courtroom observers reported that the judge's attentiveness, control of the proceedings and effective communication did not appear to be influenced by the presence of cameras.²⁹

Twelve percent of the judges, 22 percent of the attorneys and 16 percent of the jurors said the media coverage had a negative impact on witnesses.³⁰ One witness reported a change in testimony because of the coverage.³¹

Six percent of the judges and 18 percent of the attorneys said the coverage had a negative impact on juror behavior.³² Two percent of the jurors reported the presence of cameras affected their behavior and another four percent reported a general media influence on their behavior.³³ Observation showed a statistically insignificant improvement in juror attentiveness in proceedings covered by the film and electronic media.³⁴

The report also surveyed participant attitudes toward audio-visual media coverage. Judges, witnesses and jurors found the presence of cameras and audio equipment acceptable by approximately two to one, while attorneys were approximately three to two in opposition.³⁵ The latter figure must be viewed

against the general negative to neutral attitude toward permitting cameras in the courtroom.³⁶

The report ended by cautioning against granting unrestricted courtroom access to the media because the study experience took place in a highly structured and tightly controlled environment.³⁷

IV. EXPERIMENTAL RULE ADOPTED

The special committee met on October 15, 1981, to consider the consultant's report. After discussing the consultant's findings and recommendations, the committee voted to recommend, with two members dissenting, that the Judicial Council repeal rule 980, effective January 1, 1982, and substitute in its place the wording of rule 980.2 with the changes noted below. The committee also recommended, with one member dissenting and one member abstaining, that the consultant's report be "accepted as responding to the inquiry of the Judicial Council."

The committee also recommended that the Judicial Council:

1. Eliminate the shutter noise problem by requiring the use of "blimps" on all still cameras except Leica M42 Rangefinder cameras (one member dissented).

2. Prohibit any close-range photographs of jurors, particularly front or side face shots (three members dissented).

3. Continue the requirement of a written request for permission to conduct film or electronic media coverage (one member dissented).

4. Retain the requirement that audio-visual media coverage be permitted only on the consent of the judge (two members dissented).

5. Reject the consultant's suggestion that relaxation of certain of the rules be permitted in the discretion of the court with reasons stated on the record.

At the November 14, 1981 Judicial Council meeting, the council directed staff to (1) seek comment

on the desirability of amending the rules to permit coverage of court proceedings by the film and electronic media after the experiment ends, and on the form and content of the rules under which a permanent system should function, and (2) explore ways of expanding the consultant's data on the effect of cameras on witnesses and jurors, and report to the spring, 1982, meeting of the council.³⁸ The council also extended the expiration date of the experimental rules to December 31, 1982.

At the May 15, 1982 meeting, a status report on witness and juror information was presented to the council.³⁹ At that time it was reported that staff would send a letter to each attorney appearing in a media-covered case asking whether there were any problems with witnesses or jurors because of media presence. The letters were subsequently sent and the responses summarized and presented to the council at its November 20, 1982, meeting.

At the same time, the council was informed of a study being planned by the State Bar on the effect of film and electronic media coverage on witnesses and jurors. The State Bar Committee on Administration of Justice was discussing what action, if any, should be recommended to the Board of Governors.⁴⁰ Largely to await the results of that study, and to allow further evaluation of comments received, the council extended the expiration date of the experiment to December 31, 1983. The State Bar was unable to find funding for the study.

V. PERMANENT RULE ADOPTED

At its November 19, 1983 meeting, the council authorized the circulation for comment of the text of a draft permanent rule permitting film and electronic media coverage of courtroom proceedings. The expiration date of the experimental rules was extended to June 30, 1984, to allow time for comment on the draft permanent rule.⁴¹

The text and a summary of the draft permanent rule were widely distributed and comments were invited.

The Judicial Council adopted the permanent rule on June 1, 1984. The text of the rule, which took effect one month later, follows:

Rule 980. Photographing, recording, and broadcasting in the courtroom

(a) [Definitions]

(1) "Film or electronic media coverage" means any recording or broadcasting of court proceedings by the media using television, radio, photographic, or recording equipment.

(2) "Media" or "media agency" means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, in-house publication, professional journal, or other news reporting or news gathering agency.

(b) [Media coverage] Film or electronic media coverage is permitted only on written order of the court. The court may refuse, limit or terminate film or electronic media coverage in the interests of justice to protect the rights of the parties and the dignity of the court, or to assure the orderly conduct of the proceedings. This rule does not otherwise limit or

restrict the right of the media to cover and report court proceedings.

(1) [Request for order] A request for an order shall be made on a form approved by the Judicial Council, filed a reasonable time before the portion of the proceeding to be covered. The clerk shall promptly inform the parties of the request. Unless the order states otherwise, it does not apply to proceedings that are continued except for normal recesses, weekends, and holidays.

(2) [Prohibited coverage] Proceedings held in chambers, proceedings closed to the public, and jury selection shall not be photographed, recorded, or broadcast. Conferences between an attorney and client, witness or aide, between attorneys, or between counsel and the court at the bench shall not be recorded or received by sound equipment. Closeup photography of jurors is prohibited.

(3) [Equipment and personnel] The court may require media personnel to demonstrate that proposed equipment complies with this rule. The court may specify the placement of media personnel and equipment to permit reasonable coverage without disruption of the proceedings.

Unless the court in its discretion and for good cause orders otherwise, the following rules apply:

(i) One television camera and one still photographer, with not more than two cameras and four lenses, are permitted.

(ii) Equipment shall not produce distracting sound or light. Signal lights or devices to show when equipment is operating shall not be visible. Motorized drives, moving lights, flash attachments, or sudden lighting changes shall not be used.

(iii) Existing courtroom sound and lighting systems shall be used without modification. An order granting permission to modify existing systems is deemed to require that the modifications be installed, maintained, and removed without public expense. Microphones and wiring shall be unobtrusively located in places approved by the court and shall be operated by one person.

(iv) Operators shall not move equipment or enter or leave the courtroom while the court is in session, or otherwise cause a distraction.

(v) Equipment or clothing shall not bear the insignia or marking of a media agency.

(4) [Pooling] If more than one media agency of one type wish to cover a proceeding, they shall file a statement of agreed arrangements. If they are unable to agree, the court may deny film or electronic media coverage by that type of media agency.

(c) [Personal recording devices] Unless otherwise ordered for cause, inconspicuous personal recording devices may be used by persons in a courtroom to make sound recordings as personal notes of the proceedings. A person proposing to use a recording device shall inform the court in advance. The recordings shall not be used for any purpose other than as personal notes.

(d) [Other photographing, recording, or broadcasting] Any other photographing, recording, or broadcasting of court proceedings is prohibited unless specifically authorized by the court.

(e) [Unauthorized use] Any unauthorized use of photographs, recordings, or transmissions made under this rule is an unlawful interference with the proceedings of the court.

¹ 1983 Judicial Council Annual Report, p. 75.

² Report of the Special Committee on the Courts and the Media dated Oct. 1, 1979, Appendix A, at p. 22.

³ A list of the members of the committee is attached as Appendix A.

⁴ Report of the Special Committee at p. 2.

⁵ Rules 980.2 and 980.3, adopted effective July 1, 1980. Minutes of Judicial Council meeting of May 10, 1980, at pp. 2-3.

⁶ *Chandler v. Florida*, probable jurisdiction noted 446 U.S. 907.

⁷ *Chandler v. Florida* (1981) 449 U.S. 560.

⁸ Action taken by circulating order dated January 31, 1981.

⁹ Ernest H. Short and Associates, Inc., *Evaluation of California's Experiment with Extended Media Coverage of Courts* (hereafter Short Report), p. 6.

¹⁰ Minutes of meeting of May 16, 1981, p. 3.

¹¹ Short Report at p. 231.

¹² *Id.*, at p. 231.

¹³ *Id.*, at p. 233.

¹⁴ *Id.*, at p. 235.

¹⁵ *Id.*, at p. 236.

¹⁶ The number of requests granted in criminal cases increased dramatically with the repeal of the party consent requirement.

¹⁷ *Id.*, at p. 44.

¹⁸ *Id.*, at p. 50.

¹⁹ *Id.*, at p. 47.

²⁰ *Id.*, at pp. 72-97.

²¹ *Id.*, at pp. 73-75.

²² *Id.*, at pp. 75-77.

²³ *Id.*, at p. 89.

²⁴ *Id.*, at pp. 78-80.

²⁵ *Id.*, at p. 81.

²⁶ Slightly—38 percent; somewhat—12 percent; definitely—8 percent; extremely—2 percent.

²⁷ *Id.*, at pp. 81-82.

²⁸ *Id.*, at p. 101.

²⁹ *Id.*, at pp. 84, 107.

³⁰ *Id.*, at p. 104. Two percent of the judges and four percent of the jurors said extended media coverage had a positive effect.

³¹ *Id.*, at p. 104.

³² *Id.*, at p. 106. Three percent of attorneys said extended media coverage had a positive impact.

³³ *Id.*, at p. 106.

³⁴ *Id.*, at p. 84.

²⁵ *Id.*, at p. 121.

²⁶ *Id.*, at pp. 129-131, 158.

²⁷ *Id.*, at p. 244.

²⁸ Minutes of November 14, 1981, meeting at p. 2.

²⁹ Materials for May 1, 1982, Judicial Council committee meetings, Tab 4.

³⁰ Materials for the November 6, 1982, Judicial Council committee meetings, Tab 27, pp. 2-3.

³¹ Minutes of meeting of November 19, 1983, at p. 1.

Digest

ALABAMA

"Birmingham Criminal Division Goes to Individual Calendar," *Court News* 3 (October 1983). The Birmingham Criminal Division has changed from a master to an individual calendaring system that features computerized judicial assignments. Under the new system, criminal case files are sent from the clerk's office to the court administrator for entry into the computer system. The computer then randomly assigns cases to the judges. Case-setting information is entered into the computer at the earliest opportunity to resolve attorney conflicts weeks before pre-trial and trial. Firm time standards have not been established, but Presiding Judge Joe Jasper notes that the new system will help limit the filing-to-disposition time to 60-90 days.

FLORIDA

"Supreme Court Adopts Sentencing Guidelines Rule," *7 Judicial Forum* 11 (September/October 1983). Proposed Supreme Court Rule 3.701, "Sentencing Guidelines," was adopted by the court on September 7, 1983, following changes in response to testimony on the rule before the Sentencing Guidelines Commission. The rule implements the sentencing guidelines legislation enacted during the 1983 legislature and became effective October 1, 1983.

"OSCA Prepares for Witness Coordination," *7 Judicial Forum* 7 (September/October 1983). The state of Florida began witness fee reimbursements to its counties on January 1, 1984, from a \$2-million appropriation by the legislature for fiscal year 1983-84. The appropriation resulted from an effort begun in 1982 to provide state assumption of costs associated with the appearance of witnesses at trial. Counties seeking reimbursement for witness fee expenditures must provide matching funds or must commit other resources to the establishment of witness coordination offices (WCOs). These offices must perform four services before counties can

obtain reimbursement: (1) coordinate court appearances for all witnesses subpoenaed in criminal cases, (2) contact witnesses and place them on on-call status, (3) advise witnesses, when necessary, not to report to court, (4) confirm with witness's employer that the employee has been subpoenaed to appear in court. For further information on these developments in Florida, call or write Robert Wesley at the Office of the State Courts Administrator, (904) 488-8621.

IOWA

"Four Years of Cameras in the Courtrooms," *3 Iowa's Third Branch* 4 (November 1983). In January 1980, the Iowa Supreme Court began an experiment with camera coverage of trial procedures. This move followed a two-year study by the court's advisory committee. Four years and 190 trials later, no serious problems have resulted from expanded media coverage. Exit polls of jurors in six civil and nineteen criminal trials held in the initial two-year "trial" period indicated that media coverage had little effect on trial participants. Of the jurors questioned, 96 percent believed that camera coverage did not affect judges; 87.6 percent, that coverage did not affect witnesses; and 83.7 percent, that expanded coverage did not jeopardize a fair trial.

NEW JERSEY

"Judicial Performance Pilot Begins," *3 Courtworks* 4 (Fall 1983). Associate Justice Alan B. Handler, chairman of the Supreme Court's Committee on Judicial Performance, has announced pilot testing of a judicial performance questionnaire program. Questionnaires will be distributed to attorneys appearing in major proceedings in the civil and criminal courts in Monmouth County, in the civil courts of Middlesex County, and in the courts of a county to be named. Other questionnaires will be distributed to members of the Supreme Court and the Appellate Division to obtain performance information based on appellate re-

view of trial court cases. Access to questionnaire data will be limited to the Committee on Judicial Performance and to individual judge under review for their personal information. The questionnaires focus on judges' comportment, management skills, and legal ability. The pilot program is one of the first undertaken at a state level.

PENNSYLVANIA

"Delaware County—A Leader in Public Relations Efforts," *6 Pennsylvania Judiciary News* 1 (July/October 1983). The Legal Audio Visual Department in the Delaware County Court of Common Pleas has made significant strides in overcoming the gap in public understanding of the judicial system. Initially funded by LEAA, the unit has completed ten years of service to the court. The multi-track audio-recording system has produced transcripts for attorneys of taped preliminary hearings from nine district justice courts. More than 245 witnesses were videotaped in 1982 for playback in court. The department developed a sound/slide program for groups touring prison facilities.

The department has provided programs in juvenile court that demonstrate effective operation of Youth Aid Panels to community leaders. A juror orientation sound/slide program has been developed to help jurors understand courtroom procedure. Two sound/slide programs on Delaware County's criminal justice system and a presentation on the prison system have been produced for high school seniors. Several schools have used the presentations in their criminal justice or social studies classes. The Audio Visual Department works in cooperation with the Court-Community Relations Office, which was established in 1975.

VIRGINIA

"Automation Marches On," *Court Commentaries* 3 (October 1983). After months of development, the Financial Management System
continued on page

News

Chief Justice
Dorothy Comstock RileyAssociate Justices
Charles L. Levin
James H. Brickley
Michael F. Cavanagh
Patricia J. Boyle
Dennis W. Archer
Robert P. GriffinFOR IMMEDIATE RELEASE
January 13, 1989CONTACT: Tom Farrell
517/373-0129MICHIGAN SUPREME COURT APPROVES WIDER MEDIA ACCESS TO ALL STATE COURTS

LANSING---The Michigan Supreme Court today adopted an order that will allow journalists to use cameras and tape recorders in all Michigan courts on a permanent basis.

The state's highest court voted unanimously to adopt guidelines similar to those under which cameras and tape recorders have been permitted in nearly all of the state's trial and appellate courts on an experimental basis.

The Administrative Order, entered today, which will be effective March 1, provides for uniform rules for 241 trial courts in all 83 counties.

When the one-year experiment began on Feb. 1, 1988, either party in civil and criminal cases could deny coverage by filing an objection with the judge. In June of 1988, the Michigan Supreme Court modified the rules for courts in five counties---Grand Traverse, Ingham, Marquette, Oakland and Wexford---so that only the judge could deny or limit coverage by cameras and tape recorders.

The Michigan Supreme Court adopted a recommendation by its Cameras in the Courtroom Committee which voted on Nov. 22 to ask the Court to make permanent in all courts the experiment that has been underway in the five counties since last June.

The rule adopted today applies only to state courts. Federal courts, where cameras and tape recorders are prohibited, are not covered by court rules adopted by the Michigan Supreme Court.

Cameras have been permitted in all Michigan trial courts except for the Juvenile Division of Probate Courts during the one-year experimental program that began last Feb. 1. The Michigan Supreme Court adopted a second order today rescinding effective March 1 a Probate Court rule prohibiting the use of cameras and tape recorders in Juvenile Courts.

The Michigan Supreme Court took up the issue of cameras in the courtroom in 1987 after it received a recommendation from the Citizens' Commission to Improve Michigan Courts urging approval of a pilot program to permit cameras in the courtroom. Earlier, the State Bar Representative Assembly recommended a one-year experiment of electronic coverage of trial courts and TV coverage of appellate courts.

In May of 1987, the Supreme Court published for comment a proposed order permitting electronic coverage of proceedings in state courts on a one-year experimental basis.

(OVER)

After reviewing the comments made by television and radio stations, judges, attorneys, court administrators and the general public, the Court approved an order on Aug. 26, 1987, to permit cameras and recorders in courtrooms on a one-year trial basis.

The guidelines approved today are similar to those in effect for the past year. They prohibit coverage of the jury selection process and leave to the discretion of the trial judge any decision to "terminate, suspend, limit or exclude" coverage of a court proceeding.

Also contained in the guideline are rules with regard to media equipment, lights, number of media personnel, types of cameras, position of equipment operators and movement within the courtroom.

A request to use electronic equipment to cover a trial must be made in writing by the news media at least three days before the trial starts.

-0-

Editors: The text of the camera in the courtroom order is attached.

-MSC-

Order

Entered: January 13, 1989

Michigan Supreme Court
Lansing, Michigan

Dorothy Comstock Riley
Chief Justice

Charles L. Levin
James H. Brickley
Michael F. Cavanagh
Patricia I. Bovie
Dennis W. Archer
Robert P. Grim
Associate Justices

87-61

ADMINISTRATIVE ORDER 1989-1

FILM OR ELECTRONIC MEDIA COVERAGE OF COURT PROCEEDINGS

On order of the Court, the report of the Cameras in the Courtroom Committee having been received and considered, the following exception to the Michigan Code of Judicial Conduct, Canon 3A(7) is adopted to permit film or electronic media coverage in all Michigan Courts effective March 1, 1989:

The following guidelines shall apply to film or electronic media coverage of proceedings in Michigan courts:

1. Definitions.

- (a) "Film or electronic media coverage" means any recording or broadcasting of court proceedings by the media using television, radio, photographic or recording equipment.
- (b) "Media" or "media agency" means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, professional journal, or other news reporting or news gathering agency.
- (c) "Judge" means the judge presiding over a proceeding in the trial court, the presiding judge of a panel in the Court of Appeals, or the Chief Justice of the Supreme Court.

2. Limitations.

- (a) Film or electronic media coverage shall be allowed upon request in all court proceedings. Requests by representatives of media agencies for such coverage must be made in writing to the clerk of the particular court not less than three business days before the proceeding is scheduled to begin. A judge has the discretion to honor a request that does not comply with the requirements of this subsection. The court shall provide that the parties be notified of a request for film or electronic media coverage.

- (b) A judge may terminate, suspend, limit, or exclude film or electronic media coverage at any time upon a finding, made and articulated on the record in the exercise of discretion, that the fair administration of justice requires such action, or that rules established under this order or additional rules imposed by the judge have been violated. The judge has sole discretion to exclude coverage of certain witnesses, including but not limited to the victims of sex crimes and their families, police informants, undercover agents, and relocated witnesses.
 - (c) Film or electronic media coverage of the jurors or the jury selection process shall not be permitted.
 - (d) A trial judge's decision to terminate, suspend, limit, or exclude film or electronic media coverage is not appealable, by right or by leave.
3. Judicial Authority. Nothing in these guidelines shall be construed as altering the authority of the Chief Justice, the Chief Judge of the Court of Appeals, trial court chief judges, or trial judges to control proceedings in their courtrooms, and to ensure decorum and prevent distractions and to ensure the fair administration of justice in the pending cause.
4. Equipment and Personnel. Unless the judge orders otherwise, the following rules apply:
- (a) Not more than two videotape or television cameras, operated by not more than one person each, shall be permitted in any courtroom.
 - (b) Not more than two still photographers, utilizing not more than two still cameras each with not more than two lenses for each camera, and related necessary equipment, shall be permitted in any courtroom.
 - (c) Not more than one audio system for radio and/or television recording purposes shall be permitted in any courtroom. If such an audio system is permanently in place in the courtroom, pickup shall be made from that system; if it is not, microphones and wires shall be placed as unobtrusively as possible.

- (d) Media agency representatives shall make their own pooling arrangements without calling upon the court to mediate any dispute relating to those arrangements. In the absence of media agency agreement on procedures, personnel, and equipment, the judge shall not permit the use of film or electronic media coverage.

5. Sound and Light Criteria.

- (a) Only television, photographic, and audio equipment which does not produce distracting sound or light shall be utilized to cover judicial proceedings. Courtroom lighting shall be supplemented only if the judge grants permission.
- (b) Only still camera equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. No artificial lighting device of any kind shall be employed with a still camera.
- (c) Media agency personnel must demonstrate in advance, to the satisfaction of the judge, that the equipment proposed for utilization will not detract from the proceedings.

6. Location of Equipment and Personnel.

- (a) Television camera equipment and attendant personnel shall be positioned in such locations in the courtroom as shall be designated by the judge. Audio and video tape recording and amplification equipment which is not a component of a camera or microphone shall be located in a designated area remote from the courtroom.
- (b) Still camera photographers shall be positioned in such locations in the courtroom as shall be designated by the judge. Still camera photographers shall assume fixed positions within the designated areas and shall not move about in any way that would detract from the proceedings.
- (c) Photographic or audio equipment may be placed in, moved about in, or removed from, the courtroom only during a recess. Camera film and lenses may be changed in the courtroom only during a recess.
- (d) Representatives of the media agencies are invited to submit suggested equipment positions to the judge for consideration.

7. Conferences. There shall be no audio pickup, broadcast or video closeup of conferences between an attorney and client, between co-counsel, between counsel and the judge held at the bench at trial, or between judges in an appellate proceeding.
8. Conduct of Media Agency Personnel. Persons assigned by media agencies to operate within the courtroom shall dress and deport themselves in ways that will not detract from the proceedings.
9. Nonexclusivity. These guidelines shall not preclude coverage of any judicial proceeding by news reporters or other persons who are employing more traditional means, such as taking notes or drawing pictures.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of Court.

January 13, 1989

Corbin R. Davis

Michigan Courts In The News

KALAMAZOO, MI
GAZETTE
NOV-23-88

Court cameras get committee's vote

JUDY DAUBENMIER
ASSOCIATED PRESS WRITER

LANSING — Courtrooms in all 83 Michigan counties should be opened to journalists' cameras and tape recorders, a committee of the Michigan Supreme Court recommends.

The Cameras in the Courtroom Committee voted 9-1 Tuesday to ask the high court to make permanent an experiment that has operated in five Michigan counties since June.

"The public has a right to know and the public's right to know is fulfilled only in part by the newspapers. ... We feel that this would open the coverage of court matters to the general public," said Michigan Court of Appeals Judge Joseph B. Sullivan, chairman of the committee.

Sullivan said that when the experiment began some feared courtrooms would be disrupted.

"Actually, in the workings of it things have gone rather calmly and smoothly," he said.

The high court began its experiment statewide on Feb. 1 but permitted defense attorneys, prosecutors or judges to block the use of cameras or tape recorders if they didn't want

them.

Only 63 of the 174 requests for the expanded media coverage were approved under those guidelines, according to a report presented to the committee.

On June 20, the court changed the guidelines in five counties, making access to courtrooms automatic unless a judge determined that such coverage would make the trial or court proceeding unfair.

Of the 144 requests received in Grand Traverse, Ingham, Marquette, Oakland and Wexford counties, 138 were approved, the report said.

Sullivan said comments from judges involved in those cases turned up few problems.

The lone dissenter on the committee was Detroit Recorders' Court Judge Vera Massey Jones, who argued that the use of cameras and tape recorders should remain an experiment for another year but be expanded statewide.

Jones said the five-county experiment did not provide enough experience with the type of violent felony cases heard in Detroit Recorders' Court.

"It's the kind of thing most papers want to

get a hold of and sell papers," she said.

But Sullivan said ample evidence existed in other states that cameras in the courtrooms don't disrupt proceedings in those types of cases. He said that only six states don't allow any type of expanded media coverage.

During the five-county experiment, news organizations wanting to use television or still cameras or tape recorders had to request permission from the judge three days in advance, but the judge could approve a request that came in later.

A judge's decision to terminate, suspend or ban the coverage could not be appealed under the experiment.

The committee recommended those guidelines be continued, but suggested the guidelines spell out that judges are free to exclude coverage of certain witnesses, such as victims of sex crimes and their families, police informants, undercover agents and relocated witnesses.

Coverage of jurors already was excluded. Supreme Court spokesman Tom Farrell said the high court would take up the recommendation early in 1989.

MT. CLEMENS, MI
MACOMB DAILY
NOV-23-88

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Panel backs cameras in courtrooms

LANSING (UPI) — Recommendations to open all courtrooms in the state to cameras and recording equipment, but grant judges wide discretion to limit or deny coverage, were adopted Tuesday by a special committee.

The 14-member committee's recommendations follow a five-month pilot study in five counties that allowed broadcast media greater access to courtroom proceedings.

The Michigan Supreme Court, which must approve the recommendations before they become official court guidelines, appointed the committee to consider the state's long-standing ban on cameras and recording equipment in courtrooms.

Under the proposed guidelines, judges could permit broadcast reporters and news photographers

to record proceedings, given three days written notice. However, a judge could waive that notice requirement if necessary.

A judge also could allow coverage of a trial generally while banning cameras during certain sensitive portions of the proceedings.

For example, filming and taping could be curtailed in cases involving sex offenses, child offenders, parental rights, undercover officers, relocated witnesses and others, at the discretion of a judge.

Filming or taping of jurors and jury would be flatly prohibited under the guidelines.

A judge's decision to limit or deny access could not be appealed by the media, although parties to the case would be allowed to challenge the decision, under the proposals. The fear was that media

would frequently become part of the court case when a request for access to courtrooms was denied.

"I don't want to see the media as a possible litigant in every single lawsuit," said Detroit Recorders' Court Judge Vera Jones, a member of the committee.

Committee members, ranging from judges and attorneys to a Michigan State University journalism professor, expressed concerns over balancing the rights of defendants, victims and witnesses with the public's right to know. It was decided, by and large, to leave most authority in the hands of the judge rather than mandating certain actions.

"All of this hinges on the discretion of the judge," said Michigan Appeals Court Judge Joseph Sullivan, chairman of the committee. "The judge must control the courtroom properly."

On June 20, the Supreme Court decided to set up the pilot project in Ingham, Marquette, Oakland, Grand Traverse and Wexford counties. Over the following five months, circuit, district and probate courts received at least 144 requests to allow cameras or recorders in the courtrooms.

NOV-23-88

'Open courts to cameras'

LANSING (UPI) — Recommendations to open all courtrooms in the state to cameras and recording equipment, but grant judges wide discretion to limit or deny coverage, were adopted Tuesday by a special committee.

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TV kicked out of arraignment

NOV-23-88

Fine points surface, camera issue flares in E.L. court

BY SHARON SCHLIEF
Staff Writer

A policy concerning cameras in the courts has been clarified in the wake of a confrontation between a local district court judge and a television news crew.

A WILX Channel 10 photographer was ordered to stop filming Nov. 7 as he attempted to record the arraignment of MSU track star Derrick Coleman, who was charged with selling cocaine.

Judge Jules Hanslovsky said he was not informed of the station's intention to bring a camera into the 54-B District Court building and took exception to the attempt to photograph the defendant's arraignment in Magistrate Joe Sebenick's small office.

Sources differ as what actually happened during the confrontation, and many of those directly involved in the incident simply aren't talking. Hanslovsky said everyone was very polite and that he "wasn't anxious to have the matter" discussed. But other sources said there was at least one verbal confrontation loud enough to be heard by a large number of people on the second-floor court quarters.

Channel 10 reporter Brad Good agreed there was "a little confrontation" but said it was office policy to turn all comment over to management. News Director Dan Tambellini agreed there was a confrontation, but declined to discuss the specifics.

"The judge and I have spoken about this whole matter. I made my personal point of view and the point of view of this news department quite clear to him," Tambellini said.

"I WAS SATISFIED WITH his responses and I consider the whole matter closed," Tambellini said.

Although there was a rumor in East Lansing that a lawsuit



Judge Jules Hanslovsky

would be filed over the incident, Tambellini said the TV station has dropped any plans for action.

"Having talked it over with the judge, and having received an apology from him, I was satisfied the matter didn't need to be taken further.

"As the judge explained it, it was a misunderstanding on his part. I completely agree and left it at that," Tambellini said.

Sebenick could not comment about the issue. "I've been ordered not to say anything about it," he explained.

Jose Zurita, Coleman's attorney, refused comment, citing attorney-client confidentiality rules.

Hanslovsky stated that the court had done everything it was supposed to for compliance with its part in the state's pilot program on cameras in the court. Ingham County is one of five counties in a test program that allows cameras in the court with only the judge having the authority to deny access.

Ingham, Grand Traverse, Marquette, Oakland and Wexford counties are

vance pilot program. The rest of the state is in an earlier stage of the experiment which still allows defense attorneys or prosecutors to reject cameras.

Hanslovsky said he wasn't required to come up with a blanket policy because "every case is somewhat different." He stated it was always understood verbally that camera requests would have to go through his office.

In the wake of the incident over the Coleman arraignment, Hanslovsky has issued a written procedure that all camera requests must be checked through his court recorder Sandy Bolton. Nothing is new, Hanslovsky said, it's just in writing.

IN THE COLEMAN ARRAIGNMENT, media did not go through channels, Hanslovsky explained.

"I think they went in and, appropriately they did ask orally, which I didn't know about and the magistrate in trying to be kind to them, y'know, didn't want to offend the press," Hanslovsky said.

"The problem is that when they went into action they were not in the courtroom (but in an eight-by-ten room (the magistrates office), and they were blocking the doorway," he added.

"It's not like a trial," Hanslovsky said of the arraignment, "so there's no benefit to the press from that point of view. Difficulties would arise to the defendant..." Besides, Hanslovsky added, "the defense attorney had objected."

Hanslovsky said he happened to be passing by on a break from another criminal matter when he saw the photographer in the doorway shooting the arraignment.

The judge said he approached the photographer said "it

wouldn't be appropriate for him to continue to take their pictures."

"He (the photographer) was quite surprised I asked him to stop in the middle of it... He stepped back and we talked it over. He said he was there with permission which I was not aware of, but I discussed it with him when he stepped back."

Hanslovsky characterized the whole meeting as polite and said the media were quite cooperative. Asked if they showed any resistance to leaving, Hanslovsky replied "not to my recollection."

Other reports of the incident were anything but tame. Three separate sources who asked not to be named for fear of retribution said Hanslovsky was irate and demanded the cameraman's

film. Sources said the photographer and reporter remained calm, but refused to surrender the film.

THESE SOURCES SAID THE confrontation was tense and loud and claimed that a closed-door meeting with staff a short time later generated enough "screaming and yelling" that it could be easily heard outside the office.

Kevin Bowling, with the Supreme Court Administrator's office, said he was unable to comment on the events at district court that day, but stated the judge was within his rights to control camera access.

Photographers requested and were approved access to Coleman's preliminary exam in 54-B; ironically, the exam was waived by the defense.



MICHIGAN PRESS
READING SERVICE

126 S. Putman, Williamston, Mich. 48895

USA TODAY
DAILY - 500,000

NOV-23-88

MICHIGAN

LANSING — Cameras in the Courtroom Committee voted to ask state Supreme Court to allow journalists to use cameras, tape recorders in all 83 counties in state. Cameras have been used in 5 counties since June. ... DETROIT — State hunters must bag 400,000 deer to ensure others survive winter, Natural Resources Dept. said. 16-day season ends Nov. 30. ... EXCHANGE: Wyle E. Groves High School, Birmingham.

FLINT, MI

FLINT JOURNAL
€ 111,000 - S 108,500

NOV-23-88

Panel urges opening all courts to cameras, tape recorders

LANSING (AP) — Courtrooms in all 83 Michigan counties should be opened to journalists' cameras and tape recorders, a committee of the Michigan Supreme Court recommends.

The Cameras in the Courtroom Committee voted 9-1 Tuesday to ask the high court to make permanent an experiment that has operated in five Michigan counties since June.

"The public has a right to know and the public's right to know is fulfilled only in part by the newspapers. ... We feel that this would open the coverage of court matters to the general public," said Michigan

Court of Appeals Judge Joseph B. Sullivan, chairman of the committee.

The high court began its experiment statewide on Feb. 1 but permitted defense attorneys, prosecutors or judges to block the use of cameras or tape recorders if they didn't want them.

Only 63 of the 174 requests for the expanded media coverage were approved under those guidelines, according to a report presented to the committee.

On June 20, the court changed the guidelines in five counties, making access to courtrooms automatic unless a judge determined that such coverage would

make the trial or court proceeding unfair.

Of the 144 requests received in Grand Traverse, Ingham, Marquette, Oakland and Wexford counties, 138 were approved, the report said.

Sullivan said comments from judges involved in those cases turned up few problems.

During the five-county experiment, news organizations wanting to use television or still cameras or tape recorders had to request permission from the judge three days in advance, but the judge could approve a request that came in later.

A judge's decision to terminate, sus-

pend or ban the coverage could not be appealed, under the experiment.

The committee recommended those guidelines be continued, but suggested the guidelines spell out that judges are free to exclude coverage of certain witnesses, such as victims of sex crimes and their families, police informants, undercover agents and relocated witnesses.

Coverage of jurors already was excluded.

Supreme Court spokesman Tom Farrell said the high court would take up the recommendation early in 1989.

Committee urging open courtrooms

By JUDY DAUBENMIER
THE ASSOCIATED PRESS

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Jones said the five-county experiment did not provide enough experience with the type of violent felony cases heard in Detroit Record-ers' Court.

But Sullivan said ample evidence existed in other states that cameras in the courtrooms don't disrupt proceedings in those types of cases. He said that only six states don't allow any type of expanded media coverage.

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A judge's decision to terminate, suspend or ban the coverage could not be appealed, under the experiment.

SAGINAW, MI
NEWS
F-54,513; S-57,549

NOV-23-88

News cameras in the courtroom

Panel wants 5-county experiment expanded statewide in all courts

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Sullivan said comments from judges involved in those cases turned up few problems.

The lone dissenter on the committee was Detroit Record-ers' Court Judge Vera Massey Jones, who argued that the Supreme Court should expand the experiment statewide for a year.

Jones said the five-county experiment did not provide enough experience with the type of violent felony cases heard in Detroit Record-ers' Court.

"It's the kind of thing most papers want to get a hold of and sell papers," she said.

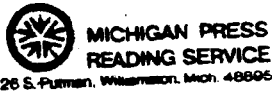
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The committee recommended continuation of those rules and suggested the guidelines spell out that judges are free to exclude coverage of certain witnesses, such as victims of sex crimes and their families, police informants, undercover agents and relocated witnesses.

Coverage of jurors already was excluded. Supreme Court spokesman Tom Farrell said the high court would take up the recommendation early in 1989.



MICHIGAN PRESS
READING SERVICE
126 S. Putman, Williamston, Mich. 48895

ROYAL OAK, MI
DAILY TRIBUNE
E-52,730

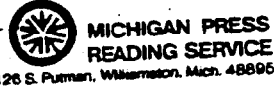
NOV-23-88

State

COURTROOMS in all 83 Michigan counties should be opened to journalists' cameras and tape recorders, a committee of the Michigan Supreme Court recommends.

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MICHIGAN PRESS
READING SERVICE
126 S. Putman, Williamston, Mich. 48895

MUSKOGON, MI
CHRONICLE
E-44,986; S-46,697

NOV-23-88

State Supreme Court proposes opening courtrooms to cameras

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MICHIGAN PRESS
READING SERVICE
126 S. Putman, Williamston, Mich. 48895

YPSILANTI, MI
PRESS
E-28,500

NOV-23-88

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"The public has a right to know and the public's right to know is fulfilled only in part by the newspapers. ... We feel that this would open the coverage of court matters to the general public," said Michigan Court of Appeals Judge Joseph B. Sullivan, chairman of the committee.

Sullivan noted that when the experiment began some feared courtrooms would be disrupted. "Actually, in the workings of it things have gone rather calmly and smoothly," he said.



MICHIGAN PRESS
READING SERVICE
126 S. Putman, Williamston, Mich. 48895

BATTLE CREEK, MI
ENQUIRER & NEWS
E-34,120; S-40,546

NOV-23-88

Panel seeks camera expansion

The Associated Press

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The high court began its experiment statewide on Feb. 1 but permitted defense attorneys, prosecutors or judges to block the use of cameras or tape recorders if they didn't want them.

Only 63 of the 174 requests for the expanded media coverage reportedly were approved under those guidelines.

On June 20, the court changed the guidelines in five counties, making access to courtrooms automatic unless a judge determined that such coverage would make the trial or court proceeding unfair.

DETROIT, MI

DETROIT NEWS
633.708 - 5 826.111

NOV-23-88

Wider media access to courts proposed

Journalists should be allowed to use cameras and tape recorders in the courtrooms of all 83 Michigan counties, a committee of the Michigan Supreme Court recommended Tuesday.

The Cameras in the Courtroom Committee voted 9-1 to ask the high court to make permanent an experiment that has been operating in five Michigan counties since June. "The public has a right to know and the public's right to know is fulfilled only in part by the newspapers. We feel that this would open the coverage of court matters to the general public," said Court of Appeals Judge Joseph B. Sullivan, committee chairman.

The lone dissenter on the committee was Detroit Records' Judge Vers Massey Jones, who argued that the use of cameras and tape recorders should remain an experiment for another year but be expanded statewide. Jones said the five-county experiment did not provide enough experience with the type of violent felony cases heard in Detroit Records' Court.

Chief Justice
Dorothy Comstock Riley

Associate Justices
Charles L. Levin
James H. Brickley
Michael F. Cavanagh
Patricia J. Boyle
Dennis W. Archer
Robert P. Griffin

Memorandum

TO: Editors/City Editors & Metro Editors

February 15, 1989

FROM: Tom Farrell
Public Information Officer

RE: Cameras In The Courtroom Form

We are pleased to send you a copy of the new form that may be used by the news media to request permission to film or record an arraignment, trial or sentencing in one of Michigan's 241 trial courts beginning March 1. A copy of the new rules for film and electronic media coverage of court proceedings that go into effect on March 1 also is enclosed.

The rules do not require you to use this form to make a request but it was developed by the State Court Administrative Office for the convenience of the news media and the courts. We suggest that you call the Clerk of the Court to get the information to fill out this form--- the case number, the name, bar number, and address and telephone number of the attorneys for both the plaintiffs and defendants. An original and two copies should be submitted to the Court. Keep the fourth copy for your files.

We urge you to review these rules with your photographers. We would like to call your attention to the fact that:

---Artificial lighting is prohibited.

---Still photographers and TV camera persons must remain in a fixed position when covering courtroom activities.

---TV cameras must remain in the courtroom until there is a recess or an adjournment.

It would be a good idea to meet with the District Court Judges in your area to discuss procedures for covering arraignments which must be held within 24 hours after a person's arrest. The three-day rule would have to be waived by the Judge in order for your station to cover arraignments.

If you have any questions regarding the new rules, please feel free to call us at 517/373-0129. Any comments you may have on this form will be welcome.

Order

Michigan Supreme Court
Lansing, Michigan

Dorothy Comstock Riley
Chief Justice

Charles L. Levin
James H. Brickley
Michael F. Cavanagh
Patricia J. Bovie
Dennis W. Archer
Robert P. Griffin
Associate Justices

Entered: January 13, 1989

87-61

ADMINISTRATIVE ORDER 1989-1

FILM OR ELECTRONIC MEDIA COVERAGE
OF COURT PROCEEDINGS

On order of the Court, the report of the Cameras in the Courtroom Committee having been received and considered, the following exception to the Michigan Code of Judicial Conduct, Canon 3A(7) is adopted to permit film or electronic media coverage in all Michigan Courts effective March 1, 1989:

The following guidelines shall apply to film or electronic media coverage of proceedings in Michigan courts:

1. Definitions.

- (a) "Film or electronic media coverage" means any recording or broadcasting of court proceedings by the media using television, radio, photographic or recording equipment.
- (b) "Media" or "media agency" means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, professional journal, or other news reporting or news gathering agency.
- (c) "Judge" means the judge presiding over a proceeding in the trial court, the presiding judge of a panel in the Court of Appeals, or the Chief Justice of the Supreme Court.

2. Limitations.

- (a) Film or electronic media coverage shall be allowed upon request in all court proceedings. Requests by representatives of media agencies for such coverage must be made in writing to the clerk of the particular court not less than three business days before the proceeding is scheduled to begin. A judge has the discretion to honor a request that does not comply with the requirements of this subsection. The court shall provide that the parties be notified of a request for film or electronic media coverage.

- (b) A judge may terminate, suspend, limit, or exclude film or electronic media coverage at any time upon a finding, made and articulated on the record in the exercise of discretion, that the fair administration of justice requires such action, or that rules established under this order or additional rules imposed by the judge have been violated. The judge has sole discretion to exclude coverage of certain witnesses, including but not limited to the victims of sex crimes and their families, police informants, undercover agents, and relocated witnesses.
 - (c) Film or electronic media coverage of the jurors or the jury selection process shall not be permitted.
 - (d) A trial judge's decision to terminate, suspend, limit, or exclude film or electronic media coverage is not appealable, by right or by leave.
3. Judicial Authority. Nothing in these guidelines shall be construed as altering the authority of the Chief Justice, the Chief Judge of the Court of Appeals, trial court chief judges, or trial judges to control proceedings in their courtrooms, and to ensure decorum and prevent distractions and to ensure the fair administration of justice in the pending cause.
4. Equipment and Personnel. Unless the judge orders otherwise, the following rules apply:
- (a) Not more than two videotape or television cameras, operated by not more than one person each, shall be permitted in any courtroom.
 - (b) Not more than two still photographers, utilizing not more than two still cameras each with not more than two lenses for each camera, and related necessary equipment, shall be permitted in any courtroom.
 - (c) Not more than one audio system for radio and/or television recording purposes shall be permitted in any courtroom. If such an audio system is permanently in place in the courtroom, pickup shall be made from that system; if it is not, microphones and wires shall be placed as unobtrusively as possible.

- (d) Media agency representatives shall make their own pooling arrangements without calling upon the court to mediate any dispute relating to those arrangements. In the absence of media agency agreement on procedures, personnel, and equipment, the judge shall not permit the use of film or electronic media coverage.

5. Sound and Light Criteria.

- (a) Only television, photographic, and audio equipment which does not produce distracting sound or light shall be utilized to cover judicial proceedings. Courtroom lighting shall be supplemented only if the judge grants permission.
- (b) Only still camera equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. No artificial lighting device of any kind shall be employed with a still camera.
- (c) Media agency personnel must demonstrate in advance, to the satisfaction of the judge, that the equipment proposed for utilization will not detract from the proceedings.

6. Location of Equipment and Personnel.

- (a) Television camera equipment and attendant personnel shall be positioned in such locations in the courtroom as shall be designated by the judge. Audio and video tape recording and amplification equipment which is not a component of a camera or microphone shall be located in a designated area remote from the courtroom.
- (b) Still camera photographers shall be positioned in such locations in the courtroom as shall be designated by the judge. Still camera photographers shall assume fixed positions within the designated areas and shall not move about in any way that would detract from the proceedings.
- (c) Photographic or audio equipment may be placed in, moved about in, or removed from, the courtroom only during a recess. Camera film and lenses may be changed in the courtroom only during a recess.
- (d) Representatives of the media agencies are invited to submit suggested equipment positions to the judge for consideration.

7. Conferences. There shall be no audio pickup, broadcast or video closeup of conferences between an attorney and client, between co-counsel, between counsel and the judge held at the bench at trial, or between judges in an appellate proceeding.
8. Conduct of Media Agency Personnel. Persons assigned by media agencies to operate within the courtroom shall dress and deport themselves in ways that will not detract from the proceedings.
9. Nonexclusivity. These guidelines shall not preclude coverage of any judicial proceeding by news reporters or other persons who are employing more traditional means, such as taking notes or drawing pictures.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of Court.

January 13 1989

Corbin R. Davis

Exhibit

C

Report on Amendment to Cameras in the Courtroom Statute

Enclosed is a proposed amendment to New York State's Cameras in the Courtroom statute, Judiciary Law § 218, entitled "Audio-Visual Coverage of Judicial Proceedings." The proposed bill essentially makes permanent the statute which allowed cameras in New York courtrooms on an 18-month experimental basis, effective December 1, 1987, and therefore is proposed to be effective June 1, 1989. It was drafted, and is recommended by, the Bar Association's Special Committee on Media Law.

According to the judiciary, practicing attorneys, and the public, the experiment of having cameras cover judicial proceedings during the past year has been an unqualified success. The public has seen, both live, on tape and in the print media, actual courtroom proceedings enabling it to better understand not only the role of the judiciary in our society, but also how an actual courtroom operates. Millions of New Yorkers, who could not have personally attended trials over this last year, were privileged to have seen courtroom proceedings. Furthermore, fears of the courtroom disruptions and interference with fair trial rights have proved to be unfounded. Indeed, in the many proceedings which have been open to cameras, we know of no problems which were reported.

Accordingly, the enclosed bill would ensure the public's continued opportunity to watch the judicial process in their living rooms, just as they could attend in open court. The proposed bill tracks the present experimental statute in most respects. It will continue to afford judges the opportunity to control camera access to the courtroom; judges may determine that objections to camera access should be upheld if, based on enumerated factors, they find that special circumstances exist which would make such coverage undesirable. The proposed bill makes permanent restrictions in the experimental law regarding audio-visual coverage of jurors, undercover police officers, rape victims and the like, although, in general, restrictions on coverage are to be limited to allow for the maximum amount of coverage under all the circumstances.

The proposed legislation also adopts the present restrictions relating to equipment and personnel; for example, camera access is limited to two motion picture cameras and one still photographer, each to represent broadcast and press pools. These photographers are themselves under restrictions with respect to the noise and light of their equipment, and their movement about the courtroom.

Forty-four other states now allow cameras in their courtrooms. This statute will place New York in the mainstream -- as befits the communications center of the nation. We heartily endorse passage of this legislature.

JUDICIAL PROCEEDINGS AUDIO-VISUAL COVERAGE

AN ACT to amend the judiciary law, in relation to audio visual coverage of judicial proceedings.

§ 1. Legislative Findings.

The legislature finds that an enhanced public understanding of the judicial system is important in maintaining a high level of public confidence in the judiciary. Public awareness and understanding of judicial proceedings have often been limited to the role played as a juror, witness, or party in a small claims proceeding. The average law-abiding citizen is not afforded numerous opportunities to participate in civil and criminal court proceedings, or able to attend and observe firsthand the functioning of our legal system. The vast majority of citizens, therefore, rely on reports in the news media for information about the judicial system and accounts of judicial proceedings.

The legislature further finds that, because of inadequate technology, state policy in the past has been to prohibit representatives of the news media from providing audiovisual coverage of court proceedings. It was the experience of an earlier generation that bright lights, large cameras and other noisy equipment intruded upon the dignity and decorum of the courtroom and tended to create an atmosphere unsuited to calm deliberation and impartial decisionmaking.

The legislature finds, however, that technological improvements in photography and in audio and video broadcasting have now made it possible for audio-visual coverage of judicial proceedings to be conducted in a dignified manner with little or no intrusion on the judicial process. In keeping with this new technology the legislature passed section two hundred eighteen of the judiciary law, which permitted audio-visual coverage of court proceedings on an eighteen month experimental basis. This experiment has shown that audio-visual coverage is in fact beneficial in increasing public awareness and understanding of the state judicial system. The experiment has also shown, as has the experience of forty-three other states, that audio-visual coverage need not disrupt court proceedings. Further, the experiment has shown that under proper judicial supervision audio-visual coverage does not threaten the fair and efficient administration of justice. Accordingly, this act establishes a permanent, judicially supervised system of audio-visual coverage of civil and criminal court proceedings.

§ 2. The judiciary law is amended by repealing the current section two hundred eighteen and adding a new section two hundred eighteen to read as follows:

§ 218 Audio-visual coverage of judicial proceedings.

1. Definitions. For purposes of this section:

(a) "Administrative judge" shall mean the administrative judge of each judicial district; the administrative judge of Nassau county or of Suffolk county; the administrative judge of the civil court of the city of New York or of the criminal court of the city of New York; or the presiding judge of the court of claims.

(b) "Audio-visual coverage" shall mean the electronic broadcasting or other transmission to the public of radio or television signals from the courtroom, the recording of sound or light in the courtroom for later transmission or reproduction, or the taking of still or motion pictures in the courtroom by the news media.

(c) "News agency" shall mean any news reporting or news gathering agency and any employee or agent associated with such agency, including television, radio, radio and television networks, news services, newspapers, magazines, trade papers, in-house publications, professional journals or any other news reporting or news gathering agency, the function of which is to inform the public.

(d) "Presiding judge" shall mean the justice or judge presiding over proceedings at which audio-visual coverage is authorized pursuant to this section, or, if no such justice or judge has been assigned, the person responsible for making such an assignment.

(e) "Covert or undercover capacity" shall mean law enforcement activity involving criminal investigation by peace or police officers who usually and customarily wear no uniform, badge, or other official identification in public view.

2. Authorization. Notwithstanding the provisions of section fifty-two of the civil rights law and subject to the provisions of this section, all state civil and criminal court proceedings open to the public, including but not limited to trials, pleas, arraignments, motion practice and hearings, and sentencings, shall, upon written request presented to the presiding judge, be subject to audio-visual coverage as provided for in this section.

3. Notice of Intent to provide audio-visual coverage. Any news agency planning to provide audio-visual coverage of a court proceeding or any part of a court proceeding shall give reasonable and written notice to the presiding judge of its intent to provide such coverage. The notice need not be in any particular form, but shall specify the type of coverage to be provided and identify the proceeding of which the news agency intends to provide audio-visual coverage. The presiding judge shall then inform the party or parties to the proceeding of the news agency's intent to provide coverage.

4. Objections to Audio-Visual Coverage. Once notice has been given pursuant to subdivision 3 of this section, the news agency giving notice shall have the right to commence

coverage in the time and manner described and as limited by the provisions of this section unless a party to the proceeding objects in writing and shows to the satisfaction of the presiding judge that special circumstances exist that make audio-visual coverage of the proceeding qualitatively different from other types of news coverage and that make such coverage undesirable. Any news agency intending to provide coverage shall be afforded an opportunity to be heard with respect to any such objection.

5. Factors to Consider. In determining pursuant to subdivision 4 of this section whether audio-visual coverage of a particular proceeding would be qualitatively different from other types of news coverage and undesirable, the presiding judge shall take into account the following factors:

(a) the type of case involved;

(b) whether such coverage would cause harm to any participant in the proceeding or otherwise interfere with the fair administration of justice, the advancement of a fair trial or the constitutional rights of the parties; or

(c) whether such coverage would interfere with any law enforcement investigation.

6. Limiting Restrictions. In the event that the presiding judge finds that special circumstances warranting restrictions on audio-visual coverage exist, he shall limit such restrictions so as to allow for the maximum amount of such

coverage under all the circumstances. The presiding judge's order or determination with respect to an objection to audio-visual coverage shall be in writing and shall be included in the record of the proceeding. Such order or determination shall be subject to review by the appropriate administrative judge.

7. Precoverage Conference. If the presiding judge desires, a conference shall be held prior to the commencement of audio-visual coverage of a proceeding. At such conference the presiding judge may review, with counsel and any news agency who will participate in the audio-visual coverage, the procedures to be followed and any special restrictions to be imposed. Counsel for the parties may convey to the court any concerns of prospective non-party witnesses with respect to audio-visual coverage.

8. Supervision of Audio-Visual Coverage. The presiding judge shall supervise audio-visual coverage of court proceedings and may when necessary and subject to the other provisions of this section modify or reverse any prior order or determination, particularly if he finds that the news agency providing such coverage has failed to abide by the court's directions or the provisions of this section. The presiding judge may, when circumstances warrant, direct that a particular exhibit or the features of a particular participant not be photographed in the courtroom if such still or video photography

would have an undesirable impact qualitatively different from non-audiovisual forms of news coverage.

9. Consent not required. Audio-visual coverage of judicial proceedings shall not be limited by the objection of counsel, parties, jurors or witnesses, except pursuant to an order or determination pursuant to paragraph six of this section.

10. Restrictions relating to equipment and personnel; sound and light criteria. Where audio-visual coverage of court proceedings is authorized pursuant to this section, the following restrictions shall be observed:

(a) Equipment and personnel:

(i) No more than two electronic or motion picture cameras and two camera operators shall be permitted in any proceeding.

(ii) No more than one photographer to operate two still cameras with not more than two lenses for each camera shall be permitted in any proceeding; unless additional photographers are permitted by the presiding judge.

(iii) No more than one audio system for broadcast purposes shall be permitted in any proceeding. Audio pickup for all media purposes shall be effectuated through existing audio systems in the court facility if technically suitable. If no technically suitable audio system is available, microphones and related wiring essential for media purposes shall be supplied by those persons providing audio-visual coverage. Any microphones

and sound wiring shall be unobtrusive and located in places designated by the presiding judge.

(iv) Notwithstanding the provisions of subparagraphs (i), (ii) and (iii) of this paragraph, the presiding judge may modify his original order to increase or decrease the amount of equipment that will be permitted into a courtroom on a finding of special circumstances.

(v) Notwithstanding the provisions of subparagraphs (i), (ii) and (iii) of this paragraph, the equipment authorized therein shall not be admitted into a court proceeding unless all persons interested in providing audio-visual coverage of such proceedings shall have entered into pooling arrangements for their respective groups. The pool operator for the electronic and motion picture media and a pool operator for the still photography media shall be selected, and procedures for cost sharing and dissemination of audio-visual material established. Only the pool operator must provide a written notice of intent pursuant to subdivision 3 of this section. The court shall not be called upon to mediate or resolve any dispute as to pooling arrangements. In making pooling arrangements consideration shall be given to educational users' needs for full coverage of entire proceedings.

(b) Sound and light criteria:

(i) Only electronic and motion picture cameras, audio equipment and still camera equipment which do not produce distracting sound or light shall be employed to cover judicial

proceedings. The chief administrator of the courts shall promulgate a list of acceptable equipment models, which list shall be updated from time to time.

(ii) No motorized drives shall be permitted, and no moving lights, flash attachments, or sudden lighting changes shall be permitted during judicial proceedings.

(iii) No light or signal visible or audible to trial participants shall be used on any equipment during audio-visual coverage to indicate whether it is operating.

(iv) It shall be the affirmative duty of any person desiring to use equipment other than that authorized by the chief administrator to demonstrate to the presiding judge, adequately in advance of any proceeding, that the equipment sought to be utilized meets acceptable sound and light criteria. A failure to obtain advance judicial approval for equipment shall preclude its use in any proceeding.

(v) With the concurrence of the presiding judge modifications and additions may be made to light sources existing in the facility, provided such modifications or additions are installed and maintained at the expense of the news agencies who are providing audio-visual coverage and provided they are not distracting or otherwise offensive.

(c) Location of equipment and personnel. Cameras, equipment and personnel shall be positioned in locations designated by the presiding judge.

(i) All audio-visual coverage operators shall assume their assigned, fixed position within the designated area and once established in such position, shall act in a manner so as not to call attention to their activities.

(ii) The areas so designated shall provide reasonable access to coverage with the least possible interference with court proceedings. Equipment that is not necessary for audio-visual coverage from inside the courtroom shall be located in an area outside the courtroom.

(d) Movement of equipment during proceedings. Equipment shall not be placed in, moved about or removed from the courtroom, and related personnel shall not move unreasonably about the courtroom, except prior to commencement or after adjournment of proceedings each day, or during a recess. Camera film and lenses shall be changed only during a recess in proceedings.

10. General restrictions on audio-visual coverage. Audio-visual coverage shall be restricted as follows:

(a) no audio pickup or audio broadcast of conferences which occur in a court facility between attorneys and their clients, between co-counsel of a client, or between counsel and the presiding trial judge, shall be permitted without the prior express consent of all participants in the conference;

(b) no conference in chambers shall be subject to audio-visual coverage;

(c) no audio-visual coverage of the selection of the prospective jury during voir dire shall be permitted;

(d) except for the foreman at the delivery of the verdict, no visual coverage of the jury, or of any juror or alternate juror, while in the jury box, in the courtroom, in the jury deliberation room during recess, or while going to or from the deliberation room at any time shall be permitted;

(e) no audio-visual coverage shall be permitted of a witness, who as a peace or police officer acted in a covert or undercover capacity in connection with the instant court proceeding, without the prior written consent of such witness;

(f) no audio-visual coverage shall be permitted of a witness, who as a peace or police officer is currently engaged in a covert or undercover capacity, without the prior written consent of such witness;

(g) no audio-visual coverage shall be permitted of the victim in a prosecution for rape, sodomy, sexual abuse or other sex offense under article one hundred thirty or section 255.25 of the penal law unless the victim agrees to such coverage; notwithstanding the initial approval of a request for audio-visual coverage of such a proceeding, the presiding judge shall have discretion throughout the proceeding to limit any coverage which would identify the victim;

(h) no audio-visual coverage of a participant shall be permitted if the presiding judge finds that such coverage is likely to endanger the safety of any person;

(i) no audio-visual coverage of any judicial proceedings which are by law closed to the public, or which may be lawfully closed to the public and which have been closed by the presiding judge, shall be permitted.

11. Violations. Any violation of an order or determination issued under this section shall be punishable as a contempt pursuant to article nineteen of this chapter.

12. Rules and regulations. The chief administrator shall promulgate appropriate rules and regulations for the implementation of the provisions of this section after affording all interested persons, agencies and institutions an opportunity to review and comment thereon.

§ 3. This act shall take effect June first, nineteen hundred eighty-nine.