

EXHIBIT C

Part 1 of 4

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

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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.
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I. BACKGROUND INFORMATION
(Historical and Contextual Perspective on California's
Experiment with "Cameras in the Courts")

A. Introduction

On July 1, 1980, the California court system began an experimental year of permitting electronic and photographic media coverage of court proceedings.¹ Formally labeled "extended media coverage" and popularly referred to as "cameras in the courts", the experiment was authorized by the passage of California Rules of Court 980.2 and 980.3 by the California Judicial Council. These rules set forth the criteria and limitations under which extended coverage would be allowed for both media and educational use. For the first time on a statewide basis in California's history, videotape cameras, film cameras, still cameras, and radio audio systems were given access to cover judicial business conducted inside the courtroom.²

California's experiment was initiated in the context of a nationwide trend to permit greater access by electronic and photographic media to judicial proceedings. Presently, 15 states have a permanent provision allowing "cameras in the courts"³ and 14 others are engaged in some form of experimentation.

¹The experimental status of the authorizing rules was later extended for six months by the California Judicial Council.

²Film camera use and extended coverage for educational applications in fact have constituted an extremely small portion of the experiment. The predominant mode of extended coverage has been videotape camera, still camera, and audio systems covering the proceeding for the news media.

³The nature of the provisions in the various states is diverse. Some include restrictions on court level (e.g. appellate court access only) or case type (e.g. civil case access only). Only a few states allow cameras into criminal trial level proceedings without the consent of the parties.

The momentum of experimentation in recent years (which began in 1975 when Washington and Alabama began allowing extended coverage) marks a departure from longstanding prohibitions against cameras in the courtroom as established by the ABA Canon 3A(7),⁴ by state court rules prohibiting such coverage, and by the landmark U.S. Supreme Court rulings in Estes v. Texas.⁵

In Estes, the majority's negative conclusion on the electronic/photographic coverage issue was qualified by a recognition that advances in technology could create a new condition for consideration of the prohibition. Both Justice Harlan (for the majority) and Justice Stewart (for the minority) were careful to note that the decision was limited to the technology of the time. As breakthroughs in technology have occurred since Estes, states have been willing to experiment. Particularly important is the availability of small videotape cameras which can be operated by one person and require no additional light. Still photography also can now be done with quality using available light.

As technological improvements have made cameras less obtrusive, argument against "cameras in the courts" has become less persuasive. Yet, initial relaxations of prohibitions against cameras in the courts have taken the form of experimentation because of the need to prove that obtrusiveness is no longer a factor and because disruption and distraction are but two of many potentially harmful effects of electronic or photographic coverage of court proceedings.

⁴Initially inspired by reaction to sensational press and radio coverage of the 1937 trial of Bruno Hauptman. State v. Hauptman 115 N.J. 412, 180A.

⁵Estes v. Texas (1965) 381 U.S. 532.

In Estes, Justice Clark cited a high probability of prejudice resulting from such coverage due to psychological impacts on participants. The Justice hypothesized that jurors could feel self-conscious, view the case as a *casse celebré* (or feel pressure to conform to a perceived community viewpoint), be exposed to selected, biasing broadcast coverage, or be subject to influence from others who had seen broadcasts. Witnesses might be reluctant to testify, frightened, subjected to harassment, or somehow alter their testimony because of camera presence. Judges would have an additional supervisorial burden, be distracted, or "play to the camera". Attorneys might also "play to the camera" for personal gain, be distracted, or otherwise change or diminish their communicative abilities. Defendants, whose right to a fair trial is what must be balanced with an equally important free press constitutional guarantee, could be subjected to mental or physical harassment, prejudice, or intrusions into the attorney-client relationship and privileges. The lack of certainty that these psychological effects would not occur led Justice Clark to write for the majority, ruling against extended coverage.

Opponents of cameras in the courtroom could add to the concerns expressed in the Estes opinion, listing numerous other potential problems which they say far outweigh any benefits derived from allowing extended media coverage. The unobtrusiveness permitted by improved technology pertains to a narrow range of issues within the broad question of potential effects. The psychological negative effects cited by Justice Clark have little to do with obtrusiveness of cameras and operators and more to do with the real or perceived effects of television broadcasting and still photo publication.

A trial, as well as other proceeding stages, involves a complex set of dynamics and inter-relationships. Since the "power of

the media" is well recognized and the "power of television" often cited as particularly potent, even the single unobtrusive videotape camera is viewed with caution in its introduction into the courtroom arena. The still camera, although a different medium than television, also carries a visual image to the public which raises identification and publicity issues as does television coverage, and is similarly viewed with caution.

Thus, in authorizing its experiment, the California court system entered the domain of an issue which although not foreign to the experience of states across the nation, is nonetheless highly controversial. "Cameras in the courts" continues to highlight the strain which can exist between the courts and the media on a number of fronts: other "access issues" such as closure of hearings and "gag orders"; disclosure of sources; issues of libel, slander, and invasion of privacy; and general criticisms of the media's accuracy and balance in covering the courts. This spectrum of issues creates a climate of tension in which the extended media coverage process must operate, contributing to apprehensions and suspicions on both sides. The need to proceed cautiously, on an experimental basis, was apparent to all. The need to evaluate the experiment objectively and rigorously was no less apparent.

Despite Justice Clark's strong suspicions that televising trials would have a marked affect on the trial process, he observed, "(O)ur empirical knowledge of its (television's) full effect on the public, the jury or participants in a trial, including a judge, witnesses and lawyers, is limited"⁶ Despite the genesis of a body of knowledge based upon limited experience in states having relaxed the ban on cameras in

⁶Estes v. Texas, 381 U.S. 533 (1965).

the courts, there still exists little scientific research responding to Justice Clark's observation. When in 1981 the U.S. Supreme Court rendered its opinion in Chandler v. Florida,⁷ a case contesting television coverage on the grounds that doing so over the objection of the defendant is inherently a denial of due process, Justice Burger again pointed to the inability to draw conclusions on the subject based upon present empirical evidence:

At the moment, however, there is no unimpeachable empirical support for the thesis that the presence of the electronic media, *pro facto* interferes with trial proceedings....⁸

Nor is there empirical evidence to establish that it does not. Indeed, a central theme in the Chandler decision is the utility of experimentation. How else are we to discover what is and is not fact about the effects of electronic and photographic court coverage? The California experiment and its evaluation thereof were launched in this spirit.

B. Purpose of the Evaluation

Realizing that little systematic and rigorous evaluation of electronic and photographic coverage of court proceedings had been carried out, California, from the inception of the movement towards actualizing its experiment, sought an evaluation which would be conducted concurrently to the experiment.⁹ A subcommittee of the Chief Justice's Special Committee on the Courts and the Media prescribed the basic direction of the evaluation by constructing two major evaluation questions:

⁷ Noel Chandler and Robert Granger v. State of Florida, opinion announced January 26, 1981, No. 79-1260. See The United States Law Week, Vol. 49, No. 29.

⁸ Ibid, p. 4146.

⁹ As discussed later in this section, only two other states had conducted statewide evaluations of their experiments, both relying on after-the-fact surveys.

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, broadcast or taken for possible use on television, radio or in newspapers or magazines, change their behavior in a way that interferes with the fair and efficient administration of justice?

Clearly, the thrust of these two questions displays a sensitivity to potential negative effects of extended media coverage (EMC) on the proceeding being covered. The evaluation has been designed to search for the negative, and although that entails researching positive effects of EMC which may be balanced against the negative in a particular effect category, the primary purpose of the analysis is to measure the extent to which the above major evaluation questions must be answered affirmatively.

As a starting point for the research design, the evaluators composed a list of potential negative effects of EMC relative to the two major evaluation questions and further organized research issues on the "behavioral effects on participants" question by associating potential negative effects with each participant type. These listings appear as Figures I-1A and I-1B. The issues encompassed by the hypotheses embodied in these figures determined the content of data collection instruments and the focus of the analysis. Although in the course of the project a few other issues surfaced relevant to the two major evaluation questions, by-in-large the issues delineated in Figures 1A and 1B provided an adequate blueprint for the research.

It is not assumed that the two major research questions encompass all issues associated with cameras in the courts. The

FIGURE I-1A

EXTENDED MEDIA COVERAGE (EMC) NEGATIVE EFFECTS HYPOTHESES

1. The presence and operation of EMC equipment in a courtroom is a significant distraction for trial participants.
2. The presence and operation of EMC equipment in a courtroom disrupts proceedings so as to interfere with the administration of justice.
3. The presence and operation of EMC equipment in a courtroom impairs judicial dignity and decorum.
4. EMC causes witnesses to testify untruthfully.
5. EMC causes witnesses to be more reluctant to testify.
6. EMC causes jurors to be more reluctant to serve.
7. EMC leads to harassment or physical harm of trial participants (e.g., witnesses, jurors, defendants, etc).
8. EMC distracts jurors so as to make them less attentive to trial proceedings.
9. EMC adversely influences the decision-making of jurors because they perceive a difference between the "right" decision and the "popular" decision.
10. EMC depletes the availability of jurors because of widespread public familiarity with a particular case (especially pertinent to retrials).
11. EMC results in a large increase in sequestered juries.
12. EMC is detrimental to the presentational abilities of attorneys and therefore reduces the quality of their advocacy.
13. EMC causes attorneys to behave contrary to the interests of their client by causing them to avoid unpopular positions (including refusing to represent a client) or by causing them to "grandstand" to seek recognition for personal or political gain.
14. EMC causes judges to behave contrary to the interests of justice by causing them to avoid unpopular positions or by causing them to "grandstand" to seek recognition for personal or political gain.
15. EMC reduces efficiency in the administration of justice causing increased costs, increased case processing time, or administrative difficulties (e.g. scheduling and other matters involved in accommodating EMC requirements).

FIGURE 1-12

TRIAL PARTICIPANT BEHAVIORAL IMPACTS

BASE CATEGORY	DEFINITION/CONTENT	NEGATIVE IMPACT
Juror Effects	Distraction Decision-making influence (undesired) Difficulty in obtaining due to reluctance or contaminating media exposure	Reduction in decorum Injustice to litigants Jury management problem
Witness Effects	Reluctance to testify Nervousness/guardedness in testimony Untruthfulness in testimony	Less evidence Less evidence, distorted evidence Incorrect evidence, damage to litigants
Jury Effects	<u>As decision-maker:</u> Undesired influence Distraction, making decision process more difficult <u>As courtroom manager:</u> Difficulty maintaining control Difficulty in conducting an expeditious proceeding	Injustice to litigants due to decision bias Injustice to litigants due to capability deficiency Reduction in decorum Court delay
Attorney Effects	Presentational ability diminished Grantstanding to media for personal gain Exploitation of media	Advocacy impairment Advocacy impairment
*Party Effects	<u>Party as proceeding participant:</u> Exploitation of media: in act of violence or disruption	Potential danger to participants, reduction decorum, and efficie loss
Public Effect	<u>As prospective participant:</u> Reluctance to participate	Reduction of effectiveness and usefulness judicial system

**"Party effects" may also be construed to include impact of EMC on party's constitutional rights, reputation, and well being; however, these impacts are ultimate concerns, not behavioral effects. The role of the party as "receiver of justice with media exposure is in the mode of a dependent variable while other effects in this figure are in the mode of independent variables.

realm of issues goes beyond the scope of the two questions. For example, focusing on EMC impacts on the proceeding being covered, the questions do not address the long range effects of electronic/photographic court coverage on the judicial process and society at large.¹⁰ The focus of the two questions precluded a survey of the public at large on their reaction to extended media coverage and precluded an in-depth analysis of the product of EMC, i.e. broadcast content (television and radio) and still photo publication.

To further place the issues inherent in the two major evaluation questions, the evaluation team constructed a model of the "universe" of potential effects of EMC. This model is graphically depicted in Figure I-2. Potential effects are categorized in three types. Type A refers to immediate effects of the presence of EMC equipment and operators. Type B refers to broadcast/publication effects on the proceeding at hand, either real or perceived. Type C effects are those which are manifest after the proceeding is completed, both short-term and long-term.

To sum up the focus of this evaluation, research was directed towards all Type A and B effects, with some interview content seeking data on attitudes and mind states relevant to selected Type C effects.

C. Prior Research and Existing Literature

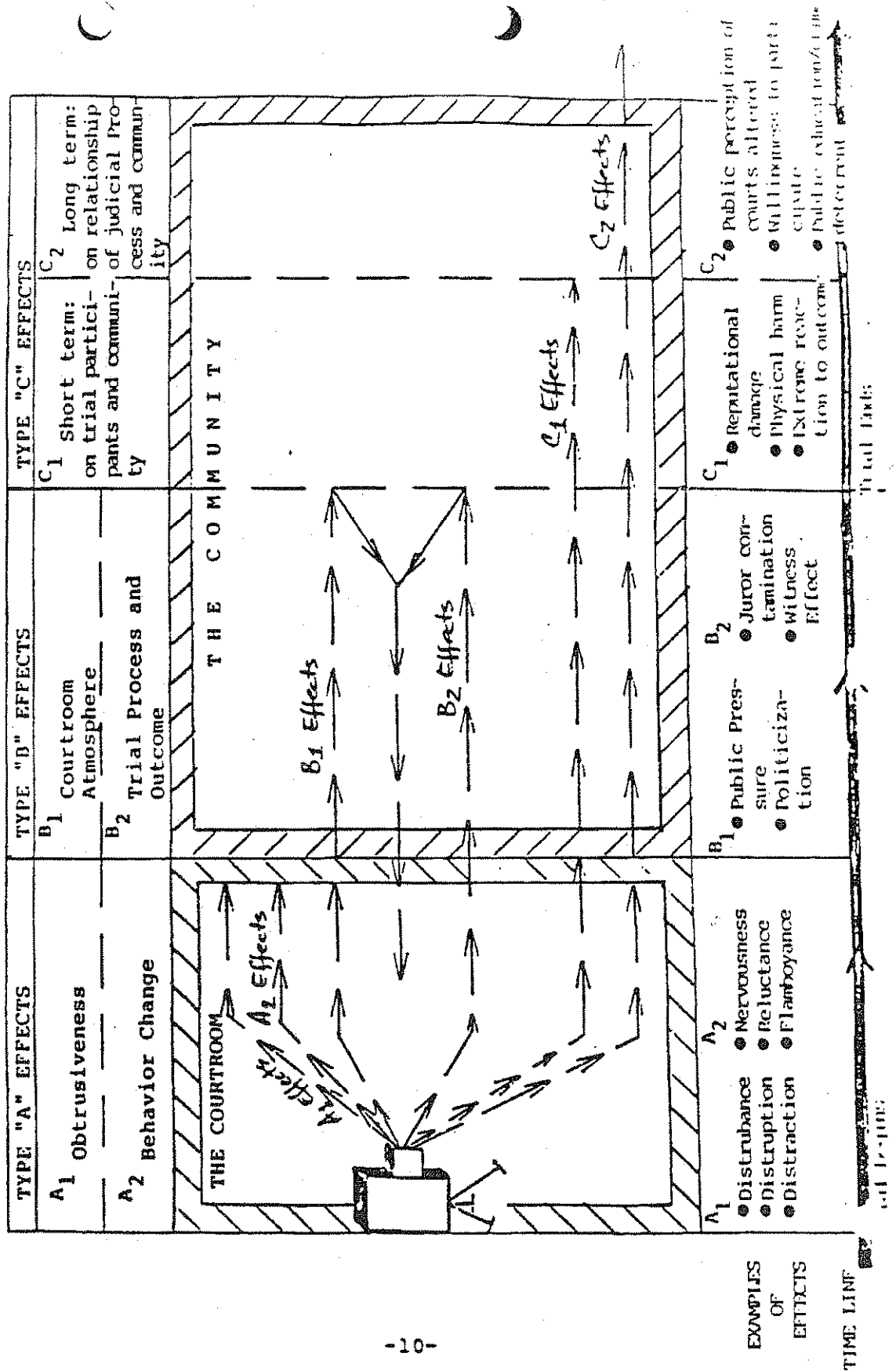
Since state courts have begun opening their doors to television cameras, still cameras, and radio, research efforts of varying

¹⁰ Obviously, an 18 month study could not effectively address long-term concerns such as possible change in the public's perception of the judicial process due to television, still camera, and radio coverage.

FIGURE I-2

CONCEPTUAL MODEL:

POTENTIAL EFFECTS OF CAMERAS IN THE COURTROOMS



degrees of methodological soundness and generalizability have emerged. A number of case studies have been conducted during the experimental phase of several state's experience with cameras in the courtroom, two statewide surveys conducted after the experiments have been conducted (Florida and Wisconsin), and a few studies have been done on specific issues associated with the EMC phenomenon (e.g. witness testimony and effects of publicity).

When Washington permitted television coverage of a second degree manslaughter trial as an experiment,¹¹ the trial judge interviewed the witnesses, jurors, and lawyers and found no significant problems in the participants' reactions. A similar polling of an experimental "cameras in the courtroom" case in Ohio, done by a social scientist, yielded no evidence of negative camera effects. However, at least one case example from Florida produced reports of serious incidents probably related to camera coverage--a witness refusing to testify for fear of her life and the receiving by the Court of numerous bomb threats.¹² Other Florida cases, the celebrated Ronny Zamora and Theodore Bundy trials for example, are often cited as demonstrating that camera coverage can be conducted with no seriously adverse effects.

The case study approach has obvious limitations in generalizability. A representative sample of cases within an experimental period must be studied before general conclusions may be drawn. The Florida and Wisconsin surveys, both administered on a statewide basis, have contributed to the improvement of empir-

¹¹The news stories from the television coverage were not telecast; rather, they were submitted to the Washington Supreme Court for evaluation of the camera's effects.

¹²From a murder trial in West Palm Beach Florida presided over by Judge Thomas Sholts.

ical evidence on the subject. Florida surveyed witnesses, jurors, lawyers, and court officers who had participated in televised trials and documented its conclusions.¹³ One researcher, in reviewing results from studies to date commented:

The results suggest that few effects have been felt by trial participants as a result of television cameras, although attorneys showed greater reservations about televising than others did. Although the study suffered from methodological flaws, including extreme simplicity in instrumentation and the rush which the Florida's court deadline imposed on the researchers, the study found few reasons to bar cameras from courtrooms.¹⁴

Wisconsin sampled trials rather than participants and concluded that given appropriate rules for media conduct, little harm would result from allowing camera coverage. Both Florida and Wisconsin subsequently adopted permanent rules and, until joined recently by California, are the only states to permit camera coverage with a judge-only consent requirement for criminal cases.

There are two published studies which focus on specific issues of the cameras in the courtroom debate and employ a more rigorous methodology than the case study or statewide survey approached discussed above. James Hoyt tested the effect on a witness's testimony of his knowledge that he was being filmed,¹⁵ and Kermit Netteburg surveyed the viewing public to

¹³"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", prepared by the Judicial Planning Coordination Unit, Office of the State Courts Administrator, Florida Supreme Court.

¹⁴Kermit Netteburg: "Does Research Support the Estes Ban on Cameras in the Courtroom?" 63 Judicature 466 (May 1980), p.472.

¹⁵James L. Hoyt, "Courtroom Coverage: The Effects of Being Televised," 21 Journal of Broadcasting 487 (1977).

test the notions of "community incitement" due to televised coverage, "misperception" as to guilt or innocence due to publicity and "depletion of the prospective juror pool" for re-trials of cases in which the first trial was televised.¹⁶ Hoyt found support for the theory that testimony improves under the televised condition, and Netteburg's findings cannot be classified as alarming.¹⁷

By mid-1980, not enough research had been published to formulate comprehensive conclusions on this subject to obviate the need for California to experiment before considering permanently permitting courtroom access by electronic and photographic media. There does exist ample literature debating the issue and reviewing recent developments--the California evaluation was aided by these materials as well as by prior research in constructing the evaluation design. The arguments for and against are well articulated and highly enthusiastic on both sides. The literature and research available certainly have clarified the issues and provided valuable experience in developing methods to research them.

D. California's Experiment: Rules and Procedures

Before documenting the research design and presenting the findings of the evaluation in Sections II-VI, the balance of this section briefly reviews the rules governing California's experiment.

The California Judicial Council, which is empowered with rule-making authority, sought the guidance of a special committee

¹⁶ Supra, n. 11.

¹⁷ Netteburg found that large numbers of respondents were not aware of the defendant's name or case outcome despite the television coverage, and other indicators of "community incitement" were not found. The issue of perception of an acquitted defendant's status was found to warrant further study because of some misperception held by respondents as to the disposition of the defendant's charges.

in constructing the rules governing the experiment. The Chief Justice's Special Committee on the Courts and the Media is comprised of 28 members representing the courts, attorneys, the media and selected special interest groups.¹⁸ The Committee was assisted by staff of the Administrative Office of the Courts and developed as a primary objective of its work a recommended set of rules to govern the experiment with extended media coverage (EMC) of court proceedings. A subcommittee of the special committee directed its attention to the structuring of and provision for the evaluation of the experiment.

The rules' contents address a broad range of concerns associated with EMC of court proceedings (see Appendix A for a complete text of the rules as presently constituted). Logistical concerns are addressed in some detail:

- request procedures;
- consent requirements;
- restrictions on extended coverage;
- equipment and personnel restrictions;
- sound and light criteria;
- position and movement considerations; and
- pooling requirements.

Request procedures. A request for EMC must be made in writing and submitted "a reasonable time in advance" of the proceeding. A request form was developed by the Administrative Office of the Courts and distributed throughout the state. The form (see Appendix B) contained a section wherein the media requestor certifies that compliance with the rules will be maintained and that the evaluation team was notified of the request by both telephone and mail.

¹⁸ The California League of Women Voters, the California Teachers' Association, and the California Freedom of Information Committee were represented on the committee along with television, newspaper and radio representatives, defense attorneys, prosecutors, and judges.

Consent requirements raise perhaps the singly most controversial question of cameras in the courts logistics: should the consent of the parties be required before EMC is allowed? Requiring consent of parties in criminal trial level proceedings (i.e. defendant and prosecutor) results in very limited EMC in criminal cases--precisely the case type that draws the most media attention.¹⁹ California was about to proceed with a no party consent rule when the U.S. Supreme Court granted *certiorari* to Chandler et al vs. Florida,²⁰ a case appealed on the very issue of camera coverage over the objection of the defendant. Uncertainty as to the impact of the forthcoming ruling in Chandler (e.g. the possibility of the need to retry numerous cases receiving EMC over the objection of the defendant) led the Judicial Council to exercise caution in the consent question. Party consent for criminal trial level proceedings was the rule in the California experiment until after the U.S. Supreme Court rendered its opinion in Chandler. Camera coverage over the objection of the defendant was held not to be an automatic denial of due process and the right to a fair trial; the states became free to experiment without a constitutional cloud lurking to obfuscate the process. Immediately thereafter, the party consent provision was removed from California's rules, revitalizing the ability of the media to cover criminal case proceedings by electronic and photographic means.

Restrictions on extended coverage were delineated in six areas:

- 1) no EMC of closed proceedings, 2) no EMC of *voir dire*,
- 3) no closeup or "zoom" shots of jurors, 4) no audio coverage

¹⁹As documented in Section III of this report, the volume level of EMC of criminal cases is decidedly less under a party consent rule than under a no party consent rule.

²⁰Noel Chandler and Robert Granger vs. State of Florida, opinion announced January 26, 1981, No. 79-1260, see The United States Law Week, Vol. 49, No. 29 p. 4141 January 27, 1981.

of attorney/client conferences, between co-counsel, or between counsel and judge at the bench, 5) no EMC of in-chambers conferences, and 6) to preclude EMC of matters presented to the court in the absence of the jury which are for purposes of admissibility of evidence, the judge may conduct a hearing in chambers.

Equipment and personnel guidelines are central to the experiment. Restrictions on the number of cameras (one videotape camera and one still photographer with two cameras²¹) and restrictions on audio systems (existing audio systems must be used if possible and if not, one system may be used) are set forth in the rules. No insignias or identifications of individual media or networks are permitted.

Sound and light criteria. Minimizing distraction in noise and lighting is the primary purpose of this portion of the rules. A schedule of equipment (covering film cameras, videotape electronic cameras, videotape recorders, and still cameras) is incorporated into the rules to set a standard for sound and light: equipment must produce no greater sound or light than the models in the schedule. No additional lighting to the courtroom may be used except to increase the wattage of existing courtroom lights. Operating lights or sounds on equipment (which signal that the equipment is on) may not be visible or audible to proceeding participants.

Position and movement. Salient provisions of the rules in this area are that operators of EMC equipment must assume a fixed position during the proceedings and that equipment may only be set up or dismantled before or after the proceeding or during recess.

²¹ A second television camera and second still photographer may be permitted at the discretion of the judge, the former for live coverage.

Pooling, or arrangements for sharing the output of the limited number of cameras and audio systems permitted access, is the responsibility of the media. When multiple media representatives request EMC, the media is charged with designating one representative as a liaison to the court. A court may likewise designate a judge or court representative to coordinate with the media.

Rule 980.3 addresses extended coverage for educational purposes and sets forth slightly different guidelines. Specific criteria for logistical considerations are not the rule; rather, there is a general provision that "the means of recording will not distract participants or impair the dignity of the proceedings"--980.3(b)(1)). Furthermore, the consent of all trial participants being depicted is required.

Judge discretion is built into the rules in several respects. His or her consent is required in all cases; the judge may refuse, limit or terminate extended coverage if a party objects to it or may do the same for coverage of any witness if the witness objects to it. A general clause is contained in the rules which states that nothing in the rules shall be interpreted to limit or restrict the power of the judge to control the conduct of the proceedings. Particularly since the party consent requirement for criminal trial level proceedings was removed seven months into the experiment (February 1, 1981) the judge is a pivotal figure in the decision process regarding extended coverage matters.

E. Report Organization

The remainder of this report is organized into five sections. Section II documents the evaluation research design. Section III presents a summary of pertinent factual information about the experiment -- the volume of activity, the types of cases

covered, and other characteristics of EMC activity. The analysis of evaluation data is contained in two sections. Section IV presents interview and observational data from specific EMC and baseline cases while Section V analyzes general attitudinal surveys of judges, attorneys, and jurors. Finally, Section VI summarizes the findings and conclusions documented in Sections IV and V followed by recommendations for rules changes and comments on issues related to the evaluation.

II. RESEARCH DESIGN

A. Overview

This evaluation reports upon a full year of extended media coverage in California courts. Unlike prior evaluations of state experiments, the research was conducted concurrently with the experimental year--the project actually began three months prior to the start of the experiment. This approach permitted the evaluation team to obtain data from actual observation of EMC events. Observational data, along with in-depth interviews of proceeding participants and general attitudinal surveys of judges, attorneys and jurors comprise the data on which this evaluation is based. A summary of data types, sources, and instruments appears in Figure II-1.

The collection of various kinds of data sets has a distinct advantage over a more singular approach. The effects of extended media coverage are argued to be subtle and elusive in many of their manifestations. The perceptions of individuals who participated in an EMC proceeding, as captured by an interview, provide useful data, but are often in conflict with one another. To some extent, observational data can provide a conciliatory check on the perceptions of individuals.

Attitudinal data were obtained from statewide populations of judges, attorneys, and jurors and from members of these groups who had direct experience with extended coverage. These data capture attitudes about EMC generally (supplementing perceptions regarding a single event from "direct experience" and "no experience" groups) allowing comparison of the groups. The

FIGURE II-1

OVERVIEW OF EVALUATION DATA COLLECTION

DATA TYPE	DATA SOURCE	DATA COLLECTION INSTRUMENT TYPE
Factual information about specific case proceedings	Judges, attorneys, jurors, witnesses*, parties*	Event log, request form, case records
General attitude and opinions about extended media coverage	Evaluator observation, judge, attorneys, media	Attitudinal Survey Interview questions
Perceptual and explanatory data from trial participants regarding specific case proceedings	Judge, attorneys, jurors, witnesses, parties, court personnel	Interview questions, attitudinal questionnaire**
Behavioral indices of participants from specific case proceedings	Evaluator observation	Observation coding instruments

*witnesses and parties were asked about their general attitudes towards EMC during interviews; these participant types were not asked to complete an attitudinal survey.

**FC- some cases for which no case-specific data were sought, judges provided some information when requested to
tl July 1981 statewide general attitudinal survey.

surveys also allowed "direct experience" individuals to register their opinion above and beyond reporting on the one experience in which they participated. Furthermore, a state-wide population of judges, attorneys, and jurors was surveyed at the beginning and end of the experimental year, permitting measurement of attitudinal shifts over time.

Proponents of EMC often argue that the introduction of a camera or microphone in the courtroom of a highly publicized trial is a minor, even negligible phenomenon in the context of everything else surrounding such events. The courtroom is commonly packed with reporters and public spectators in these cases and a sketch artist, who may or may not be present if a camera is present, is equally noticeable to the participants--so goes the argument. If one is to determine the impacts of electronic/photographic coverage, one must isolate the marginal difference between it and coverage of a conventional nature. What added impact does EMC have or, if cameras are replacing sketch artists, what is the difference in impact?

To isolate the effects of EMC vs. conventional coverage, the evaluation collected data on highly publicized court proceedings under conventional conditions. Observational data collection on behavior and environment precisely matched EMC observational data. These data provided a needed baseline for control and comparison.

The evaluation applied the full range of data collection techniques to a selected number of EMC and conventional coverage proceedings (about 35) encompassing all the EMC "major events" in California throughout the experimental year. For numerous other EMC events (about 80) many of which were relatively minor EMC experiences, an interview with the judge was conducted. The judge interviews identified any unusual or interesting

aspects of extended coverage in the case. Judges are purposefully represented in the interviews in greater numbers than other participant types, since the judge is a central figure and decision-maker in the courtroom and in the judicial process generally.

B. Detailed Discussion of Research Design

1. Observational Data

In conducting this evaluation it was deemed essential to gather observational data in the courtroom. For both major areas under scrutiny--obtrusiveness (disruption, distraction) and participant behavioral change--direct observation plays a key role. Additionally, "being there" gave the evaluators familiarity with the case at hand, the nature of the proceeding, and characteristics of the individuals involved.

The physical layout of the courtroom and the placement of EMC equipment and operators is an important factor in assessing EMC effects. While on site, these and other facts were noted by the evaluators and considered in the context of the "tone" and content of the proceeding. Types and numbers of equipment, numbers of media and non-media spectators, and other environmental aspects such as external noise sources and movement also were noted. An attempt was made to learn from EMC experiences what logistical approaches were least and most successful in conducting non-disruptive, non-obtrusive extended media coverage.

Structured observational data collection focused on the behaviors of trial participants and the environment within

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These attributes were chosen for study because they best describe what hypothetically would be altered due to the presence of electronic/photographic coverage.

Each attribute was rated on a scale of 1.0 to 6.0 (See the observational rating form, Figure II-2). Detailed criteria for the rating process were developed by delineating behavioral indicators for all six cells of each attribute's continuum. These criteria are reproduced at Appendix C.

As a general rule, the level of 2.0 was established as a standard for "normally good" behavior in each attribute. For example, attorneys are expected to be effective communicators because this is an important component of their professional skills. The norm for attorney Effective Communication on a scale of 1.0 to 6.0 is 2.0. Similarly, jurors are expected to be attentive because attentiveness is a necessary condition for effective information receiving and intelligent decision-making.

The results of pre-testing the observational rating process yielded a salient fact. Most of the ratings were appropriately falling into the 2.0 cell although there seemed to be subtle differences in the behavior rated with this "normally good" category. For this reason, the instrument was refined by adding a 1.5 and 2.5 rating. Corresponding definitions for these levels were developed and integrated into the rating criteria.

The reliability of observational measures rests upon consistency in rating among observers. Three individuals participated in the rating data collection; inter-observer testing was done among the three to assess consistency.

bal Observational Rating Scale

Case Name	Type of Proceeding	Date	Time
Judge Name	Context	Rater	
Judge	Attent.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Judge	Eff.Cont.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Judge	Eff.Comm.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
		.5 .5 1 2 3 4 5 6	
Juror #, sex	Attent.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Juror #, sex	Attent.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Atty pl/pr/def	Eff.Comm.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Atty pl/pr/def	Eff.Comm.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
		.5 .5 1 2 3 4 5 6	
Witness Name	Eff.Comm.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Witness Name	Eff.Comm.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Courtroom	Calm	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

Courtroom Environment	Media Presence
Audience Size _____	TV Camera _____ Still Camera _____
Audience (+) (-) _____	Radio Equip _____ Reporter w/ pads _____
Distractions _____	Sketch Art. _____ Other _____
Noise Sources/Movement _____	Total Number Media _____
Other _____	Other notes about Media _____
Miscellaneous Notes and Observations _____	

An interjudge reliability quotient of over .90 was attained as a result of internal training on application of the rating measures.

The observational data forms are a type of log of EMC and conventional coverage events attended by the evaluators. Numerous other data elements were captured on each form including narrative descriptions of interesting occurrences in and around the proceeding, occurrences of potential value to the evaluation.

The ultimate purpose of the observational data was to provide a structured description of EMC events (behavior and environment) and to produce comparative data on EMC vs. conventional coverage. This comparison was carried out in two primary ways. First, EMC observational data from all cases for a given attribute were totalled and divided by the number of ratings taken. This yields a cumulative EMC mean (average) for that attribute. This average then was compared to a similar average for all conventional coverage ratings. Secondly, EMC vs. conventional rating averages was compared from a single case if:

- extended media were present for only a portion of the proceedings (intermittent EMC); or
- a case receiving EMC ended in a mistrial and was retried without EMC (or vice versa).

Comparing EMC to conventional ratings within a single case eliminated the problem of the data containing numerous different participants, the individual characteristics of which even when aggregated could account for differences in the cumulative average. Although the assumption is that these differences will even themselves out by their balanced presence within the EMC and conventional groups,

that assumption is open to question. The single case comparison method offered a check on the results of the total population comparison.

Given this structure for observational data collection, comparisons were made by inspecting the array of observational averages and assigning significance to those values which, in the judgment of the evaluation team, logically separated qualitatively different behaviors. The behavioral measures also were used to describe the in-court phenomena in quantifiable terms. Frequency distributions were constructed and examined as a way to portray what happened, behaviorally, during an EMC or conventional media coverage event. Cross-tabulations were computed between behavioral indices and other salient observed or interview-obtained data. These cross-tabulated frequencies were examined for their descriptive power in lending understanding to observed and self-reported differences in events and subjects.

2. Interview Data

Of obvious importance to the evaluation were the perceptions of individuals participating in extended coverage court proceedings. Interviews were obtained in three modes: in-person, telephone, and mail. For the "major cases" (i.e. those trials receiving a great amount of publicity and having extended media presence throughout the proceeding) interviews were conducted in-person whenever possible. This format yielded rich data on the structured agenda of the questionnaire and other issues as well. Some interviews were obtained by telephone which, although producing more information than the mail format (paper/pencil mode), were generally of less length than in-person interviews. Mail questionnaires were used for a large group of cases for which no observational

data were taken. The mail questionnaire format also was used for many jurors even in the major case events, since logistical considerations often made it difficult to interview jurors in person.

The interview design used an open-ended as well as close-ended question format. This approach was taken so as not to confine interviewees to a pre-determined set of responses for questions which invite considerable explanation. Subsequently, responses were categorized carefully and coded for analysis and presentation.

Interview questions sought participant responses on:

- level of awareness of EMC equipment and operators;
- the extent to which awareness became distraction;
- perceptions on EMC impairment to dignity and decorum;
- perceptions of own behavioral change;
- perceptions of behavioral change of other participants;
- feelings of "preference" as to EMC presence;
- feelings of willingness to participate again in an EMC event or feelings of regret at having consented to EMC; and
- demographic data.

The contents of the specific questionnaires varied among participant types. Some questions were asked of all participant types while other questions were directed toward a particular group. The questionnaires are reproduced at Appendix D.

For analysis, after coding all interview data into a systematic and quantifiable form, the response information was constructed into frequency distributions and percentages of response categories were computed. The distributions and percentages were examined for trends and salient groupings for purposes of describing in aggregate form the information gained from interviews. Cross-tabulations were computed between two sets of interview data and/or between interview and observational data. These cross-tabulations were examined to identify inter-relationships between logically linked information.

3. General Attitudinal Surveys

The third major component of the evaluation data base was General Attitudinal Surveys. These Surveys contained firmly stated hypotheses (regarding a negative or positive EMC effect) with which the respondent agreed or disagreed. A Likert scale (continuum of five responses from "strongly agree" to "strongly disagree") was used in the survey design. The judge and attorney Survey is shown in Figure II-3.

Attitudinal surveys were used to research a) the profile of attitudes of occupational or participant groups (judges, attorneys, jurors); b) shifts in attitudes over time even if the respondent had no direct experience with EMC; and c) shifts in attitudes as a result of direct experience with EMC. A statewide application of the survey was conducted in July 1980 and July 1981 to measure changes occurring during an one-year experimental period. "Direct experience" survey data were obtained by mailing a survey form to judges and jurors along with a post-event question-

1. Extended media coverage (EMC, popularly referred to as "cameras in the court") of courtroom proceedings will not detract from the decorum of the judicial process.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
2. EMC of courtroom proceedings will make it more difficult to find jurors who have not been exposed to prejudicial publicity about a case.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
3. EMC of courtroom proceedings will increase citizens' willingness to become involved in the judicial process.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
4. EMC of courtroom proceedings will improve the quality of courtroom advocacy.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
5. EMC will cause witnesses to be overly guarded in their testimony.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
6. The physical presence and operation of additional media equipment will itself lead to greater disruption of courtroom proceedings.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
7. EMC of courtroom proceedings will cause judges to avoid unpopular positions or decisions.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
8. EMC of courtroom proceedings will affect voting at the next election of elected officials represented at the proceeding.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
9. Jurors' decision making will be influenced by their friends' and acquaintances' attitudes about the case because of EMC of the trial.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
10. EMC of courtroom proceedings will not affect a judge's ability to maintain courtroom decorum.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
11. EMC of courtroom proceedings will lead to increased distraction of the participants.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
12. EMC of noncriminal proceedings will result in unfair damage to the reputation of the legal system.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
13. EMC of courtroom proceedings will result in less effective client representation.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
14. The possibility of EMC of courtroom proceedings will be a factor in attorney negotiations in a case.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
15. EMC of bail proceedings will improperly influence a judge in setting bail.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree

16. EMC of courtroom proceedings will increase jurors' attentiveness to testimony.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
17. EMC of criminal proceedings should be allowed only with the consent of the parties.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
18. EMC of courtroom proceedings will cause prosecutors to "play up" to the media to enhance the re-election prospects of the District Attorney.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
19. EMC will make witnesses more reluctant to testify.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
20. EMC of noncriminal proceedings will not discourage citizens from filing suit.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
21. EMC of criminal proceedings will not result in unfair damage to the reputation of participants.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
22. EMC of courtroom proceedings will make people more apprehensive about participating in legal processes.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
23. EMC of courtroom proceedings will adversely affect the truthfulness of witness testimony.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
24. EMC of sentencing proceedings will improperly influence a judge in the sentencing decision.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
25. EMC of noncriminal proceedings should be allowed only with the consent of the parties.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
26. EMC should be allowed in the following proceedings:
 Appellate Proceedings ☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
 Civil Proceedings ☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
 Criminal Proceedings ☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
27. EMC will diminish the diligence of the defense attorney in defending his client.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree

Your name: _____ Your court or organization: _____

Return to: Ernest H. Short and Associates, 2709 Marconi Avenue, Sacramento, California 95831

naire. A question on amount of EMC experience was included in the July 1981 statewide survey to further identify those having had direct EMC experience.

The Survey was administered to judges, prosecutors, defense attorneys, and jurors. For judges, it was decided that the entire population of Superior Court judges would be surveyed (approximately 600 judges) since this court level would receive the majority of requests for EMC. (Additionally, Municipal and Justice Court judges having direct EMC experience were surveyed.) For attorneys, a sample of approximately 250 prosecutors and 250 defense attorneys was mailed surveys.

The EMC juror Survey, reproduced as Figure II-4, contained fewer data items than the judge/attorney survey because the evaluation advisory committee wished to minimize the response time burden imposed on individuals "outside" the judicial system. The juror survey, in one sense, may be considered as a survey of the public-at-large, particularly with respect to the public's role as prospective jurors.

As a means of obtaining baseline, or control data for the prospective juror's (public-at-large) attitude toward media coverage of trials, a survey was constructed with items paralleling the EMC survey but referring to "news reporters and sketch artists (conventional media coverage)". This survey (reproduced as Figure II-5) was administered to approximately 400 persons in juror pools prior to July 1, 1980.

The EMC prospective juror survey with "radio, television, and still cameras" items was administered to approximately 1,100 individuals in juror pools between July 1, 1980 and July 1, 1981.

FIGURE II-4

Juror Attitudinal Questionnaire
EMC

Name/No.	Court	Date
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BACKGROUND INFORMATION

- Have you ever served on a jury? ☐ Yes ☐ No
If yes, what type of case? _____
- What amount of media coverage did the case receive?
☐ Don't know ☐ None ☐ Some ☐ Extensive
- What media (television, radio, newspapers) do you remember as covering that proceeding? _____
- You sex: ☐ Male ☐ Female
- Your age: ☐ under 25 ☐ 25-34 ☐ 35-44 ☐ 45-54 ☐ 55/over
- Education: No formal schooling _____
Elementary School: 1 2 3 4 5 6 7 8
High School: 9 10 11 12
College Degree: 13 14 15 16
Graduate Degree: _____
(please specify) _____
(Circle highest grade completed)
- Your Occupation: _____

QUESTIONNAIRE

- The presence and operation of television cameras, still cameras, and radio equipment will lead to disruption of courtroom proceedings.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
- Juror's decision-making will be influenced by their friends' and acquaintances attitudes about the case because of television, radio, and still camera coverage of the trial.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
- Allowing television cameras, still cameras, and radio equipment in the courtroom will make people more apprehensive about participating in legal processes.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
- Allowing television cameras, still cameras, and radio equipment in the courtroom will motivate witnesses to be truthful in their testimony.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree

5. Allowing television cameras, still cameras, and radio equipment in the courtroom will increase jurors' attentiveness to testimony.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
6. Allowing television cameras, still cameras, and radio equipment in the courtroom will affect sentencing decisions.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
7. Allowing television cameras, still cameras, and radio equipment in the courtroom will cause judges to avoid unpopular positions or decisions.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
8. Allowing television cameras, still cameras, and radio equipment in the courtroom will lead to increased distraction of participants.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
9. Allowing television cameras, still cameras, and radio equipment in the courtroom will affect my willingness to serve as a juror.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
10. Allowing television cameras, still cameras, and radio equipment in the courtroom will not affect my ability to judge wisely the merits of the case.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
11. Allowing television cameras, still cameras, and radio equipment in the courtroom will affect the outcome of trials.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
12. Allowing television cameras, still cameras, and radio equipment in the courtroom will cause me to have to defend my actions as a juror.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
13. Allowing television cameras, still cameras, and radio in the courtroom will not affect a judge's ability to maintain courtroom order.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree
14. Allowing television cameras, still cameras, and radio in the courtroom will cause witnesses to be overly guarded in their testimony.
☐ Strongly Agree ☐ Agree ☐ No Opinion ☐ Disagree ☐ Strongly Disagree

FIGURE II-5

Juror Attitudinal Questionnaire
Conventional

Name/No.	Court	Date
----------	-------	------

BACKGROUND INFORMATION

1. Have you ever served on a jury? Yes No
If yes, what type of case? _____
2. What amount of media coverage did the case receive?
Don't know None Some Extensive
3. What media (television, radio, newspapers) do you remember as covering that proceeding? _____
4. You sex: Male Female
5. Your age: under 25 25-34 35-44 45-54 55+over
6. Education: No formal schooling _____
Elementary School: 1 2 3 4 5 6 7 8
High School: 9 10 11 12
College Degree: 13 14 15 16
Graduate Degree: _____
(please specify) _____
(Circle highest grade completed)
7. Your Occupation: _____

QUESTIONNAIRE

1. The presence of reporters and sketch artists will lead to disruption of courtroom proceedings.
Strongly Agree Agree No Opinion Disagree Strongly Disagree
2. Juror's decision-making will be influenced by their friends' and acquaintances attitudes about the case because of reporters and sketch artists coverage of the trial.
Strongly Agree Agree No Opinion Disagree Strongly Disagree
3. Allowing reporters and sketch artists in the courtroom will make people more apprehensive about participating in legal processes.
Strongly Agree Agree No Opinion Disagree Strongly Disagree
4. Allowing reporters and sketch artists in the courtroom will motivate witnesses to be truthful in their testimony.
Strongly Agree Agree No Opinion Disagree Strongly Disagree

5. Allowing reporters and sketch artists in the courtroom will increase jurors' attentiveness to testimony.
 ___ Strongly Agree ___ Agree ___ No Opinion ___ Disagree ___ Strongly Disagree
6. Allowing reporters and sketch artists in the courtroom will affect sentencing decisions.
 ___ Strongly Agree ___ Agree ___ No Opinion ___ Disagree ___ Strongly Disagree
7. Allowing reporters and sketch artists in the courtroom will cause judges to avoid unpopular positions or decisions.
 ___ Strongly Agree ___ Agree ___ No Opinion ___ Disagree ___ Strongly Disagree
8. Allowing reporters and sketch artists in the courtroom will lead to increased distraction of participants.
 ___ Strongly Agree ___ Agree ___ No Opinion ___ Disagree ___ Strongly Disagree
9. Allowing reporters and sketch artists in the courtroom will affect my willingness to serve as a juror.
 ___ Strongly Agree ___ Agree ___ No Opinion ___ Disagree ___ Strongly Disagree
10. Allowing reporters and sketch artists in the courtroom will not affect my ability to judge wisely the merits of the case.
 ___ Strongly Agree ___ Agree ___ No Opinion ___ Disagree ___ Strongly Disagree
11. Allowing reporters and sketch artists in the courtroom will affect the outcome of trials.
 ___ Strongly Agree ___ Agree ___ No Opinion ___ Disagree ___ Strongly Disagree
12. Allowing reporters and sketch artists in the courtroom will cause me to have defend my actions as a juror.
 ___ Strongly Agree ___ Agree ___ No Opinion ___ Disagree ___ Strongly Disagree
13. Allowing reporters and sketch artists in the courtroom will not affect a judge's ability to maintain courtroom order.
 ___ Strongly Agree ___ Agree ___ No Opinion ___ Disagree ___ Strongly Disagree
14. Allowing reporters and sketch artists in the courtroom will cause witnesses to be overly guarded in their testimony.
 ___ Strongly Agree ___ Agree ___ No Opinion ___ Disagree ___ Strongly Disagree

Both the General Attitudinal Survey (judges, prosecutors, and defenders) and the General Attitudinal Questionnaires (jurors) were designed to be subjected to a number of analytic procedures. It was suspected that the attitudes toward EMC by the various groups tested would be multi-factor in nature. The cornerstone of the analysis procedure was Factor Analysis, a process which reduced the number of variables (the items on the instruments) by summarizing the interrelationships among items on the instrument and grouping those which are highly correlated with one another. A small number of factors resulted, which by virtue of their small number was an aid in understanding what the attitude measures mean, since the information could then be presented parsimoniously.

The attitude factors derived from the General Attitudinal Survey were then ready for further analyses. Rates of change in pre to post scores between and within the professional occupational groups were examined for descriptive and inferential purposes. Amounts of change and significance of the changed amounts of attitude measures within occupational groups were identified. Changes as a result of the passage of time and changes as a result of experience with or inexperience with EMC events were assessed using factor scores. Predictions were attempted using response patterns on the survey to classify respondents into occupational groups as a test of group homogeneity in attitudes.

Although the General Attitudinal Questionnaire (jurors) was designed primarily as descriptive instrument since no pre to post testing was possible on the same subjects, the Factor Analysis procedure was applied to these instruments as well to reduce the number of variables. The

attitude factors for the EMC groups were further analyzed; experienced and inexperienced jurors were compared using the grouped factor means.

In addition, frequency distributions of patterns of response among the items for the subgroups in the juror sample were computed and examined for their descriptive power. Cross-tabulations between demographic variables and Questionnaire items were computed and examined to identify interrelationships between logically linked information. Individual item frequency distributions were computed so that the response patterns between EMC Experienced and Inexperienced groups could be compared for descriptive purposes and, possibly, for inferential purposes.

C. Summary

This evaluation project conceived an integrated research design to assess the effects of EMC on trial participants and the California justice system.

Attitudes toward EMC provided the emotional arena or field within which the technical "cameras in the courtroom" experiment would be held. Thus, it was critical to tap the fundamental elements of attitudes toward EMC held by three groups of key players in the system: Judges, Attorneys, and Jurors. Little would be gained in understanding the meaning of the study of specific EMC events without knowing the attitudinal dimensions of the "field" in which the events occurred.

The EMC events and the participants themselves were the focus of the evaluation. Events were attended by project staff and direct observations were taken on specific behavioral and environmental phenomena while the EMC event was in process. After the event was over, personal interviews were

conducted with key actors of the event to ascertain their perceptions and to listen to their report on their own experience. The evaluator observations and the participant reports were cross-checked against each other and viewed in the context of the attitudinal field.

The emerging three-dimensional picture provided a relatively complete view of the extended media coverage experiment in the California courts. The analysis encompassed general attitudinal background and a series of specific events, seen on the one hand from the expert observer viewpoint and on the other hand from the participant viewpoint. A complete picture developed by combining all the events together, contrasting event data with attitude changes, and identifying the realistic interplay among the salient forces at work in the EMC phenomenon.

III. FACTUAL SUMMARY OF THE EXPERIMENTAL YEAR

A. Introduction

Before presenting an analysis of evaluation data (surveys, interviews, and observations), this section offers a brief summary of pertinent factual information about the California experiment so that a contextual framework is developed for presentation of the data analyses. The time period discussed is one year, from July 1, 1980, through June 30, 1981.

Descriptive data are presented for:

- EMC total requests and "actual events" activity volume (including consent rates and reasons for denials); and
- distribution of EMC requests and "actual events" by proceeding stage, type of media present, court level, geography (county), and "amount" of media coverage.

Subsequently, facts and observations about certain aspects of the experimental year are reported: logistical considerations in implementing extended coverage; instances of "violations" or relaxations of the rules for EMC, and instances of restriction imposed on extended media beyond those set forth in the Rules of Court. Finally, a brief description of the cases receiving EMC from which evaluation data were collected is presented with emphasis on the "major cases" as defined by the evaluation.

Data indicative of the volume and nature of EMC activity throughout the year come from two sources: 1) Request Activity Records (copies of request forms submitted to the court and

telephone notification forms generated by the evaluation team), and 2) descriptive analysis of the EMC cases on which evaluation data were collected.

B. Total Requests and "Actual Events" Activity Volume

The rules governing the experiment required that a request for extended coverage be in writing. A form subsequently designed by the Administrative Office of the Courts included a certification section of requestor notification of the evaluators by telephone and by forwarding to them a copy of the request form. Although compliance with this notification requirement did not occur with every request, indications are that the preponderance of requests were made known to the evaluation team, perhaps in the neighborhood of 80% of all requests. The evaluators followed up on these known requests by determining whether or not an actual EMC event would or had transpired and by extracting observational and/or interview data from the case.

As shown in Figure III-1, a grand total of 344 requests were lodged with the courts during the one year period with just over 200 of these resulting in actual EMC events. Of this number, evaluation data (i.e. observations and interviews) were collected on 102 cases (50%). Analysis of these two data sets (request records and descriptive evaluation data) yields an informative description of EMC activity volume and characteristics.

Figure III-1 shows request volume, actual events, denials, and an "other" category for each of the year's four quarters. The quarterly breakdown is essential to understanding the flow of activity volume because the removal of the party consent requirement for criminal cases midway through the year radically changed the EMC request volume level of the experiment

Experimental Year
EMC Request Volume and Dispositions

	Total Requests	Consent/ EMC Events	Denials	Other* (Dropped/ Dismissal)
<u>1st QUARTER:</u>				
Civil	46	40	4	2
Criminal	<u>52</u>	<u>6</u>	<u>43</u>	<u>3</u>
Total	98	46	47	5
<u>2nd QUARTER:</u>				
Civil	14	10	2	2
Criminal	<u>15</u>	<u>5</u>	<u>10</u>	<u>0</u>
Total	19	15	12	2
<u>3rd QUARTER:</u>				
Civil	16	12	2	2
Criminal	<u>89</u>	<u>59</u>	<u>21</u>	<u>9</u>
Total	105	71	23	11
<u>4th QUARTER:</u>				
Civil	9	5	1	3
Criminal	<u>96</u>	<u>62</u>	<u>19</u>	<u>15</u>
Total	105	67	20	18
<u>YEAR:</u>				
Civil	85	67	9	9
Criminal	<u>252</u>	<u>132</u>	<u>93</u>	<u>27</u>
Total	337	199	102	36
Appellate	4	2	2	0
Juvenile	3	2	1	0
GRAND TOTAL:	344	203	105	36

*Case was settled or dismissed, or media lost interest in EMC of case.

In the first quarter, there were 58 requests, evenly split between civil and criminal case events. The party consent requirement presented an effective barrier in criminal cases--almost all the requests were denied. Civil case requests fared well--judges gave consent in almost all cases (40 of 46). Much of the first quarter activity volume, however, is attributable to the "novelty effect" whereby the new found media opportunity for courtroom access generated many requests in which the story being pursued was "cameras in the courtroom" itself.

In the second quarter, activity volume slowed to a snail's pace. Interest in civil cases diminished substantially (14), with ten of these resulting in actual events. Criminal case requests paralleled civil activity (15), with five of these resulting in a cameras in the courtroom experience. Evidently, the media tired of failing to gain access in criminal case events and virtually gave up trying.

On February 1, 1981, one month into the third quarter, the party consent requirement for criminal cases was removed. January had witnessed a dearth of request activity and virtually all of the upsurge in the third quarter volume occurred in February and March, 1981. The media's interest focused on criminal cases; 89 requests were made and in 59 of these an actual EMC event subsequently took place. This "success rate" of 66% is vastly greater than the rate under the party consent rule although not quite as high as the "success rate" for civil cases as measured by the year's total (67 actual events out of 85 requests--79%). Evidently, judges tend to exercise more caution in criminal cases than in civil cases in granting EMC.²³

²³To compute a "consent rate" as opposed to a "success rate" one would eliminate the "other" category and figure consents as a percentage of consents plus denials. The results of this computation support the notion that the civil case consent rate is higher than the criminal case consent rate even under a no party consent rule.

In the fourth quarter, activity volume remained strong, showing the same total requests as in the third quarter. The shifting of media interest to criminal cases is even more pronounced--96 criminal and 9 civil case requests. The criminal case "success rate" remained stable (65%).

Although some of the third quarter activity is attributable to a "novelty effect" associated with new found access to criminal cases, one may safely assume that EMC activity in the third and fourth quarters is indicative of a level of activity which may be expected at least for the near future, so long as a no party consent rule prevails. About 100 requests per quarter may be expected with about two-thirds of these resulting in EMC events. These will be predominantly criminal case EMC events.

Surprisingly, very little interest was shown by the media in EMC of appellate court proceedings. Two of four requests were granted, both in the Court of Appeals in Los Angeles. Two requests to the Supreme Court were made; both were denied.²⁴ Not surprisingly, little interest was demonstrated for EMC of juvenile case proceedings (wherein caution and sensitivity by the court prevail) although two of three requests submitted were granted. Both were for a feature story and not a story on the particular case covered.

The Consent Decision Process

Under the rules of the experiment, electronic and photographic media were required to obtain consent for EMC; *carte blanche* access to courtroom proceedings, as is afforded news reporters and sketch artists, was not the rule. In the first seven months of the experiment, during which a party consent rule prevailed, a consent form had to be signed by the prosecutor

²⁴ The Supreme Court subsequently permitted extended coverage of oral arguments in September 1981.

and defendant, and the most common form of "denial" was inability to get the parties to sign the form. The need for a judge ruling on the request was at that point obviated. After party consent was removed, the consent burden in criminal cases shifted to the judge.

The rules state that judge "consent shall be in writing, filed in the record of the proceedings, and recorded in the minutes of the court"--980.2(f)(1). This recording took the form of a written order, minute record, or memorandum made part of the record. Orders granting EMC were usually brief, unless certain restrictions restating or going beyond the rules were incorporated.

Reasons for denying EMC were sometimes articulated in a denial order. In a few cases, hearings on the request issue were held for which a record was made of argument from requesting media and objecting attorneys. Occasionally, briefs from objecting attorneys were filed advocating denial. (Examples of EMC orders, EMC related minutes, and EMC hearings on the record are found in Appendix E).

Reasons for judge denial range from the general to the specific:

- a sensitivity apparent in that particular case (probable witness intimidation or embarrassment or concern for identification of witnesses or defendants from EMC);
- process problems (e.g. request not submitted a reasonable time in advance);
- deference to objecting attorneys or parties;²⁵ or
- general opposition to "cameras in the courts" for all or a certain class of cases (e.g. criminal case exclusion only).

²⁵ There also were several instances in which a judge granted EMC over strong objection of counsel.

In summary, the California experiment in its first year generated a substantial amount of EMC, reflecting both a party consent and no party consent status (seven months and five months, respectively). Clearly, a criminal case party consent requirement results in little overall EMC activity--the media appears much more interested in criminal than civil cases. The bifurcation of the experimental year by party consent requirement permits a conclusion on the basic and perhaps obvious assertion that criminal defendants and their attorneys generally do not want EMC of their court proceedings. Because party consent in criminal cases was removed, EMC ultimately occurred in over 200 proceedings, an experience base large enough to produce meaningful evaluation results.

C. Characteristics of EMC Events

What are the characteristics of extended media coverage activity? Prior discussion of activity volume revealed the civil/criminal breakout of EMC events; other characteristics of the EMC requests and actual events are discussed below.

1. What proceeding stages of adjudication received EMC?

Tables III-2A and III-2B contain a frequency distribution of EMC by proceeding stage from request activity data and from EMC evaluation data. The two tables show a similar pattern. In civil cases, motion hearings attract substantial coverage, often because a "social issue" story is being sought. "Social issue" suits, slander/libel cases, and numerous other types of civil cases are among the civil trials receiving EMC. In criminal cases, an even distribution among proceeding stages is evident. Arraignments, preliminary hearings, motions hearings, trials, and sentencings all received a sizeable portion of total EMC activity.

TABLE III-2A
EMC Requests Proceeding Type Analysis From Request Record Data*

CIVIL				CRIMINAL					
Quarter	Motion	Civil Trial	CIVIL TOTAL	Arraign.	Motion	Prelim. Hearing	Trial	Sent.	CRIM. TOTAL
1	33	10	43	6	2	14	19	4	45
2	6	2	8	4	-0-	5	4	1	14
3	6	3	9	19	5	25	21	18	88
4	2	1	3	14	5	18	18	24	79
YEAR:	47	16	63	43	12	52	62	47	216
PCT:	75%	25%	100%	20%	5%	24%	29%	22%	100%

*Data available for 279 out of 337 requests.

FIGURE III-2B

Distribution of Cases by Proceeding Stage:
Cases on Which Evaluation Data Were Collected
(Civil vs. Criminal)

C I V I L				C R I M I N A L					
Abs. Freq.	Motion	Trial	CIVIL TOTAL	Arraign.	Motion	Prelim. Hearing	Trial	Sent.	TOTAL CRIMINAL
	Pct:								
	17	15	32	12	15	6	27	9	69
	53%	47%	100%	17%	22%	9%	39%	13%	100%

2. What type of EMC (television, still camera, radio) was applied to the proceedings?

Data for this characteristic are not exact. However, the pattern apparent in the evaluation data is clear (see Table III-3). Television is the most common presence at EMC events (TV only or in combination with still cameras, radio), although still camera presence (alone or in combination), is substantial (about half as frequent as television cameras). A large number of events have multiple EMC types present (TV and still cameras or TV, still cameras and radio)²⁶. Only a few "radio only" requests were submitted (approximately 7).

TABLE III-3

EMC Type Analysis
(From Evaluation Data)

	Abs. Freq.	Pct.
TV Camera Only	29	29%
Still Camera Only	14	13%
TV & Still Camera	39	38%
TV Camera, Radio, & Still Camera	19	19%

²⁶ One difficulty in determining EMC type distribution involved the participation of radio, since radio coverage involves no camera presence to signal its presence.

3. What is the distribution of EMC events by court level?

Table III-4 shows that EMC in Superior Court is about twice as frequent as in a lower court (only two appellate court EMC events took place). First appearances and preliminary hearings for felonies in Municipal Court (cases which later were bound over to Superior Court) are a sizeable number of the lower court EMC events. Thus, it appears that the media are interested primarily in felonies at both the lower court and Superior Court levels and in major civil cases (those which are heard at the Superior Court).

TABLE III-4

EMC Court Level Analysis
(From Evaluation Data)

	Civil Cases	Criminal Cases	Total
Lower Court	5	32	37
Superior Court	27	37	64
TOTAL	32	68	101

4. What is the geographic distribution of EMC activity?

Figure III-5 lists EMC requests by county. EMC occurred statewide with pockets of high volume apparent. Fresno

TABLE III-3

EMC Geographic Distribution (From Request Records)

*County	Superior Court	Municipal Court	Justice Court	Total	Percentage
Alameda	10	11	1	22	6.7%
Amador	1	—	—	1	.3%
Butte	6	5	1	12	3.7%
Contra Costa	2	3	—	5	1.5%
El Dorado	2	—	—	2	.6%
Fresno	25	16	1	42	12.8%
Glenn	1	—	—	1	.3%
Humboldt	5	—	—	5	1.5%
Imperial	2	1	—	3	.9%
Kern	6	2	—	8	2.4%
Los Angeles	55	27	—	82	25.1%
Madera	2	—	1	3	.9%
Marin	4	2	—	6	2.1%
Monterey	1	1	—	2	.6%
Nevada	2	—	—	2	.6%
Orange	11	1	—	12	3.7%
Riverside	10	—	—	10	3.1%
Sacramento	10	2	—	12	3.7%
San Bernardino	1	1	—	2	.6%
San Diego	3	2	—	5	1.5%
San Francisco	9	6	—	15	4.6%
San Joaquin	2	7	—	9	2.8%
San Luis Obispo	1	1	—	2	.6%
San Mateo	4	—	—	4	1.2%
Santa Barbara	4	4	—	8	2.4%
Santa Clara	9	2	—	11	3.4%
Santa Cruz	—	5	—	5	1.5%
Shasta	3	2	—	5	1.5%
Solano	2	—	—	2	.6%
Sonoma	1	2	—	3	.9%
Stanislaus	3	2	—	5	1.5%
Tehama	3	—	—	3	.9%
Trinity	1	—	1	2	.6%
Tulare	—	1	—	1	.3%
Tuolumne	1	—	—	1	.3%
Ventura	5	2	—	7	2.1%
Yolo	5	—	—	5	1.5%
Yuba	2	—	—	2	.6%
TOTAL:	214	108	5	327	100%
Information Not Available:	5				

*The following counties are not listed because, to the knowledge of the evaluation team, no EMC events occurred there: Alpine, Calaveras, Colusa, Del Norte, Inyo, Kings, Lake, Lassen, Mariposa, Mendocino, Merced, Modoc, Mono, Napa, Placer, Plumas, San Benito, Sierra, Siskiyou and Sutter.

was notably active and expectedly, Los Angeles accounts for a great many requests (25%). San Francisco and San Diego volume seems disproportionately low, but this is explained partially by the fact that evaluator notification compliance was worse in these areas than in some other parts of the state.²⁷

5. What is the variance in "amount" of EMC afforded each proceeding?

"Amount" of EMC refers to a) continuousness of coverage, and b) numbers of media organizations participating in an EMC pooling arrangement. Substantial variance in "amount" of EMC took place. Most "major" events lasted several days or weeks and received continuous EMC. Other events of similar duration received intermittent EMC, and many events were short proceedings (less than one-half day) in which extended media were present throughout.

In the group of EMC cases on which observational and interview data were taken (102), there were 33 intermittent EMC events and 67 events with continuous coverage, of both short and long duration. In a few cases, EMC was a "once only" application.

Another indicator of the "amount" of EMC is the "importance rating" assigned to each case by the evaluators. This rating, established for use in analyzing subsets of cases, was based upon several factors, two of which were the continuousness of the extended coverage and the number of media organizations participating in pool

²⁷ This fact surfaced through discussions with judges and media representatives in these areas.

coverage (i.e. "amount" of EMC). (Other factors included the proceeding stage--e.g. trials weighted heavier than arraignments--and the duration of the proceeding). "Importance rating" distribution, shown in Table III-6 is evenly varied.

TABLE III-6

"Importance" Rating of EMC Events

		<u>Abs. Freq.</u>	<u>Pct.</u>
Low Import	1	12	12%
	2	16	16%
	3	28	27%
	4	16	16%
	5	11	10%
	6	8	8%
	7	4	4%
	8	3	3%
High Import	9	4	4%

In summary, EMC does not occur in a singular manner. Rather, the "amount" of coverage occurs across a broad range, from a single still camera present once during a proceeding to a pool of TV cameras, still cameras, and radio presence covering the proceeding continuously for 25-30 media organizations.

6. What uses were made of EMC output (videotape and photographs)?

Extended coverage encompasses both media and educational applications. To the evaluators' knowledge, only one extended coverage event of a purely educational nature took place. In Yolo County, a wrongful death civil suit was videotaped in its entirety for the University of California at Davis Law School. All other EMC requests were from media organizations or independent journalists.

Far and away the predominant use of TV EMC was for the daily news story on a specific case of interest. In about fifteen cases, the EMC was for a feature story (excluding a group of requests at the outset of the year due to the novelty effect, i.e. a story on "cameras in the courts".) Rarely was a court proceeding videotaped and aired in its entirety. The Cable News Network did so for a few of the most major (high publicity) events.

The evaluation employed a newspaper clipping service to monitor print media coverage of the experimental year. A total of 485 articles were identified and grouped into three categories: 1) a story about "cameras in the courts", the experimental year, or an editorial on the subject (not case specific); 2) a story about a particular case but having the "cameras in the courts" storyline as a primary or secondary aspect (usually accompanied by in-court photograph); and 3) a completely case-specific story using an in-court photograph (no "cameras in the courts" storyline). The frequencies and percentages for each of these categories are:

	Abs. <u>Freq.</u>	<u>Pct.</u>
"Cameras in courts" story only	147	29%
Mixed case specific/ cameras story	329	69%
Case specific only	9	2%
Total	<u>485</u>	<u>100%</u>

Clearly, the phenomenon of cameras in the courts--TV and still camera--captured the attention of the print media for much of the experimental year. As directed, no content analyses were conducted of television EMC, but it was apparent that the "cameras in the courts" storyline was of major interest there as well. The "novelty effect" was indeed strong; much attention was focused by the media on the EMC phenomenon itself.

D. Process Observation

Since a primary feature of the research design was for evaluators to be on site observing "cameras in the courts" events, much information was accumulated on the process of implementing extended coverage. Therefore, some factual reporting and observations emerging from cumulative experience may be made. Three subject areas warrant comment: logistical considerations, instances of limited or terminated EMC, and instances of rule "violations" or relaxations.

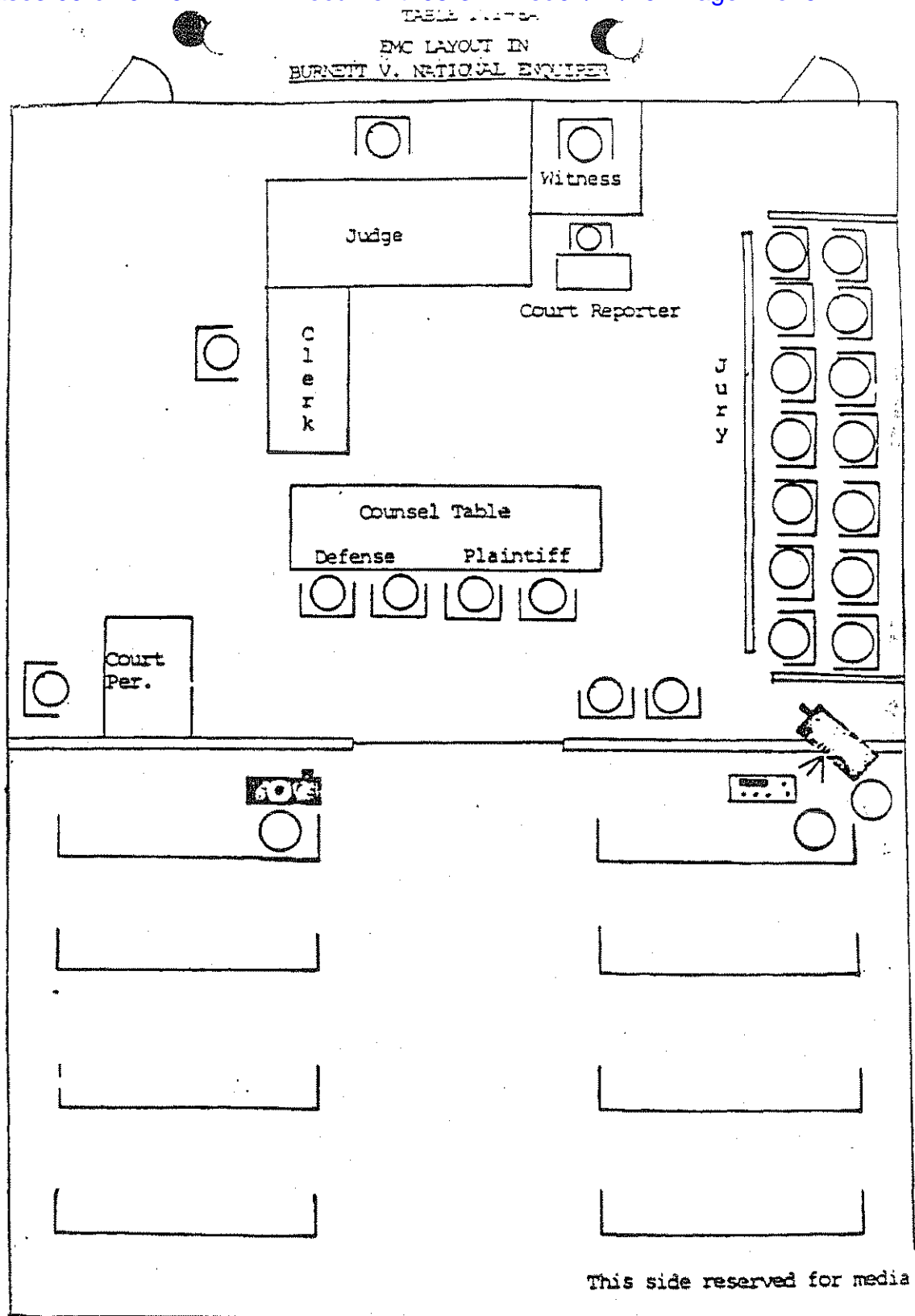
1. Logistical Considerations

To achieve a smoothly executed EMC event, planning and preparation are critical, particularly in major EMC cases. Coordination with the media, primarily through the media representative, served to avoid logistical

problems or surprises. In some cases, this consumed judge time, but more commonly, the time of court personnel (court administrator/courtroom staff) was devoted to the task. Fielding media inquiries, facilities arrangements, courtroom seating arrangements, and equipment placement are among the items which must be handled in an organized fashion. Instructions to the media regarding governing rules and restrictions were not required of the court, but often turned out to be a wise investment of time and effort.

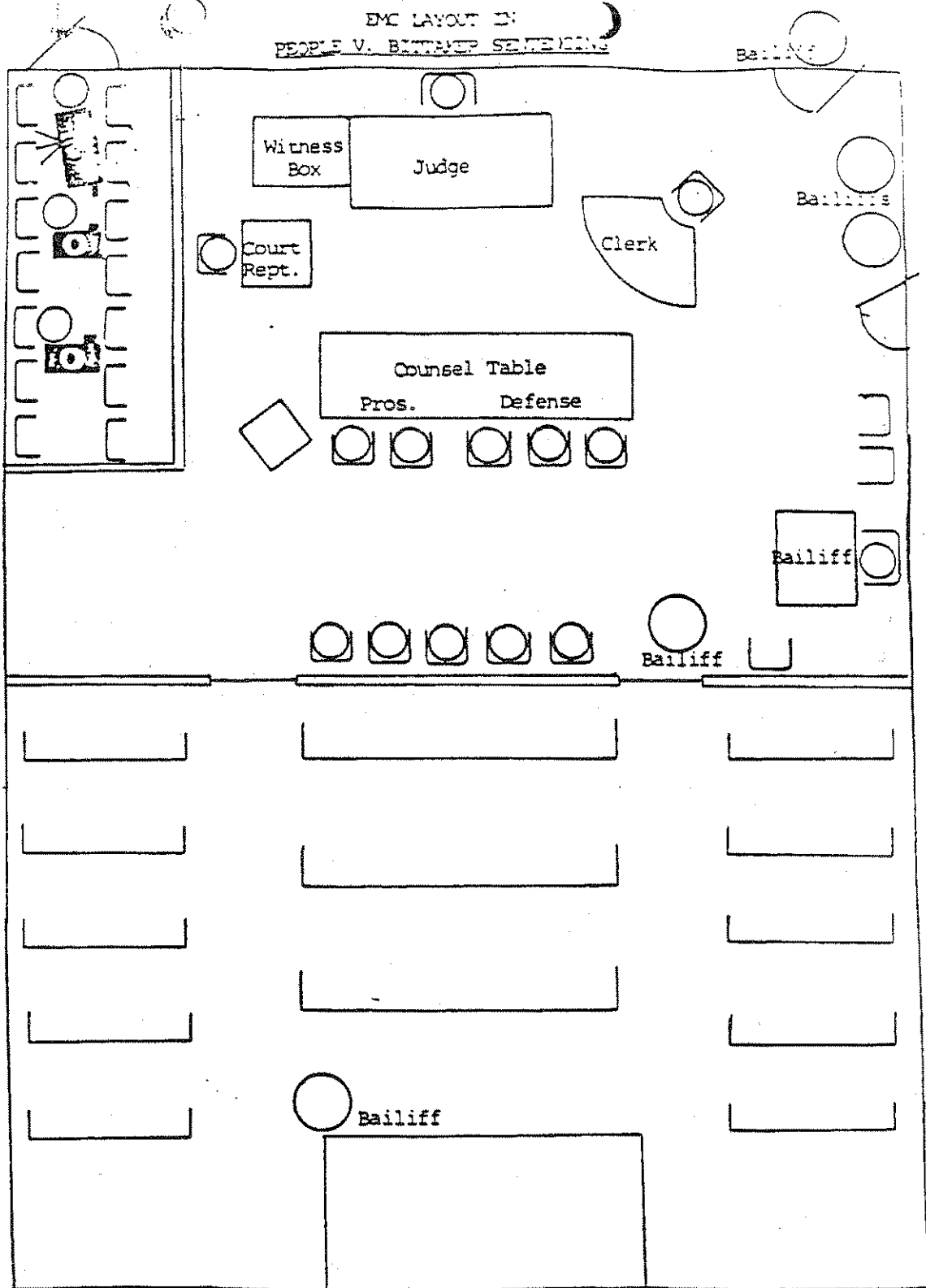
In some of the major EMC events a separate room was used for the media participating in pool coverage. This practice tended to diminish in-court equipment needs and alleviated hallway equipment clutter and confusion. In one major case, tried in a courtroom where in-court public seating was limited, the use of an extra room for the public in which they could view a monitor proved to be a good idea.

In-court equipment placement generally was easily accommodated. Several typical configurations were used, the most common of which was the placement of a TV camera "over the shoulder" of the jury and placement of a still camera in the front row of the audience. Figures III-8A-III-8G show some of the configurations used in the major EMC events. Microphone use was sometimes an issue requiring negotiation, especially when the media wished to use a clip-on microphone for attorneys. Placement of a microphone on the counsel table sometimes raised concerns about the attorney/client communication privilege. In some instances, this concern was eliminated by use of a microphone with an on/off switch.



Los Angeles Superior Court

-57-

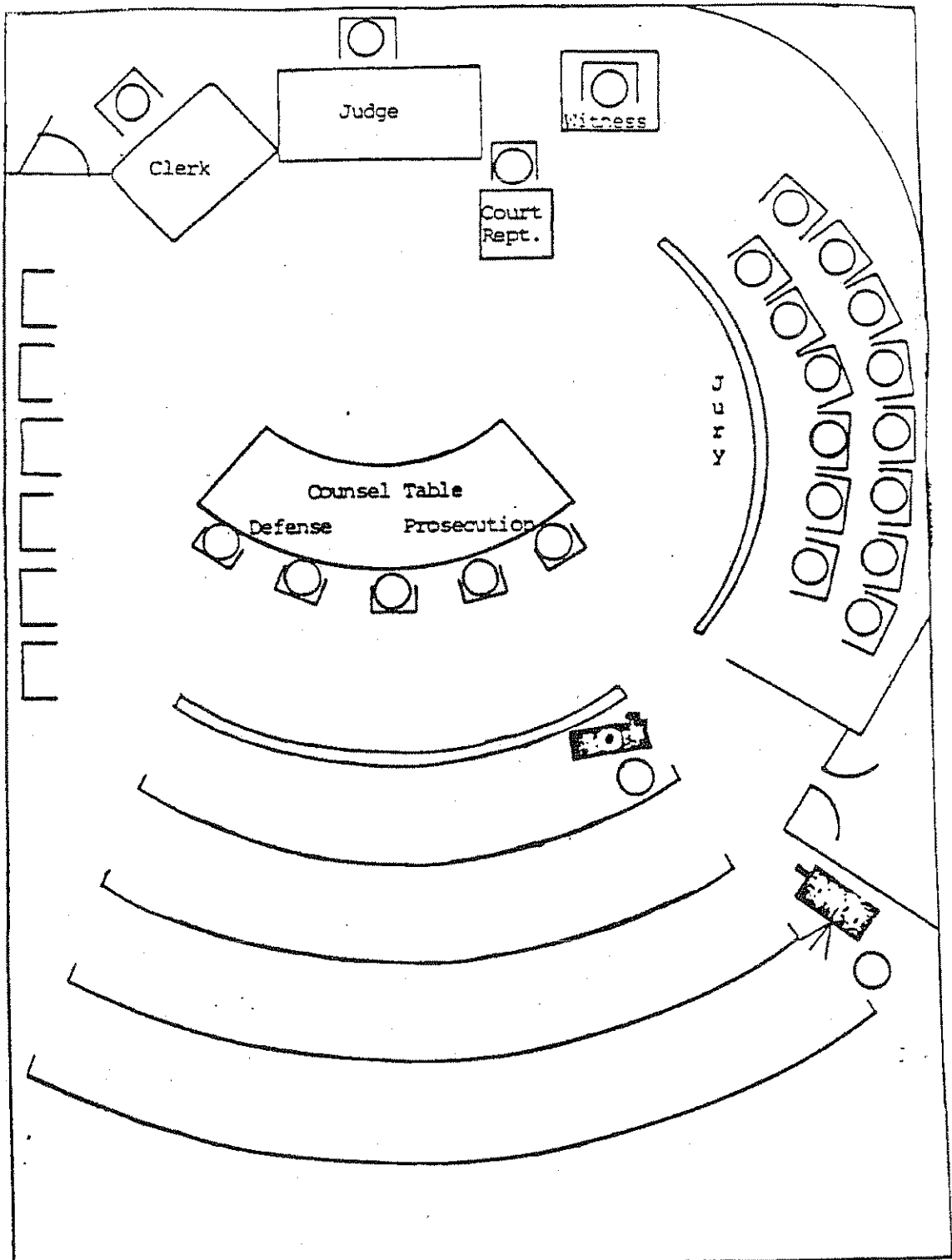


Los Angeles Superior Court
Torrance Branch

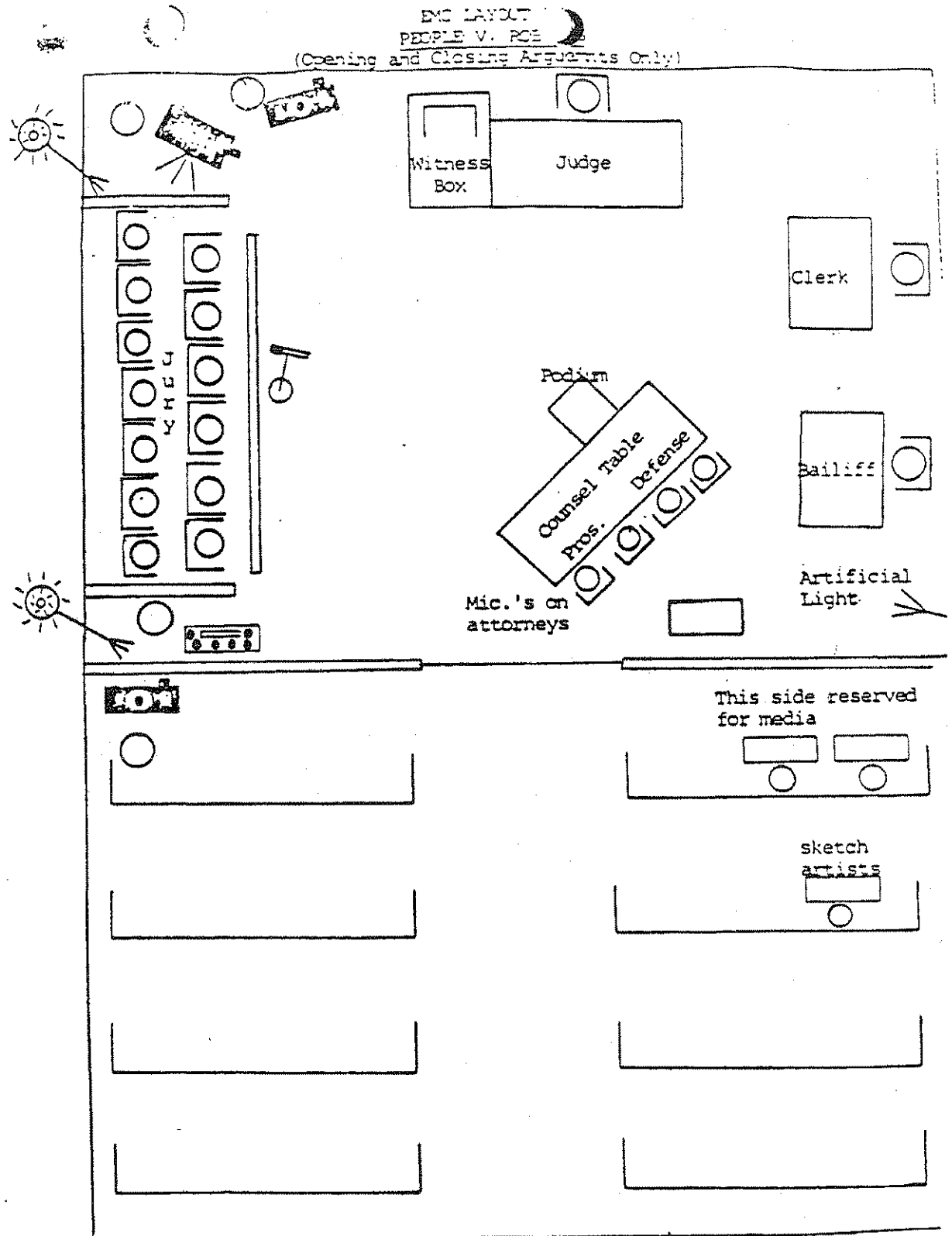
-58-

TABLE III-8C

EMC LAYOUT IN
PEOPLE V. PATRICK



Alameda County Superior Court
Hayward Branch



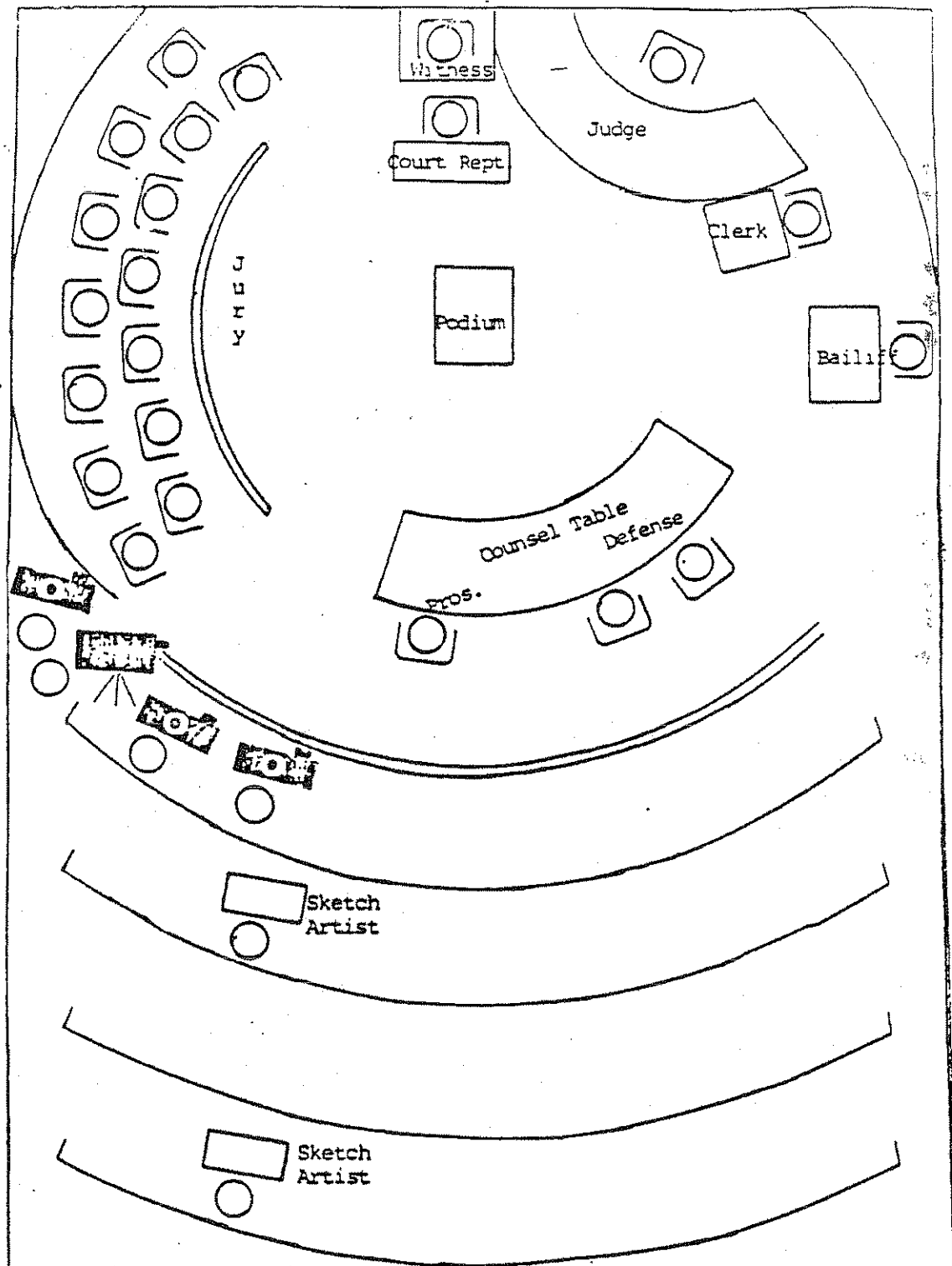
Sacramento Superior Court

-60-

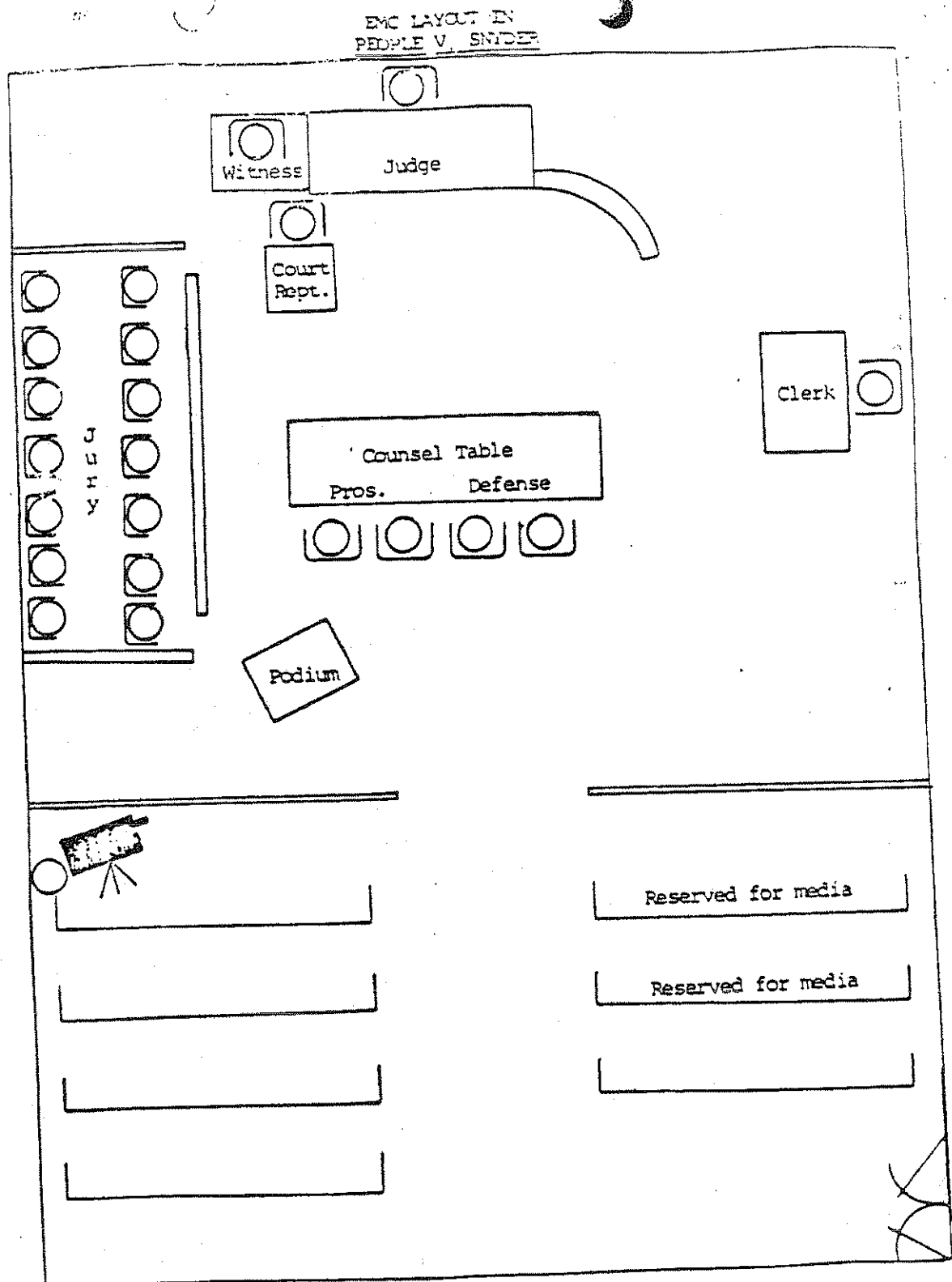
351

TABLE 111-82

EMC LAYOUT IN
PEOPLE V. McDERMID



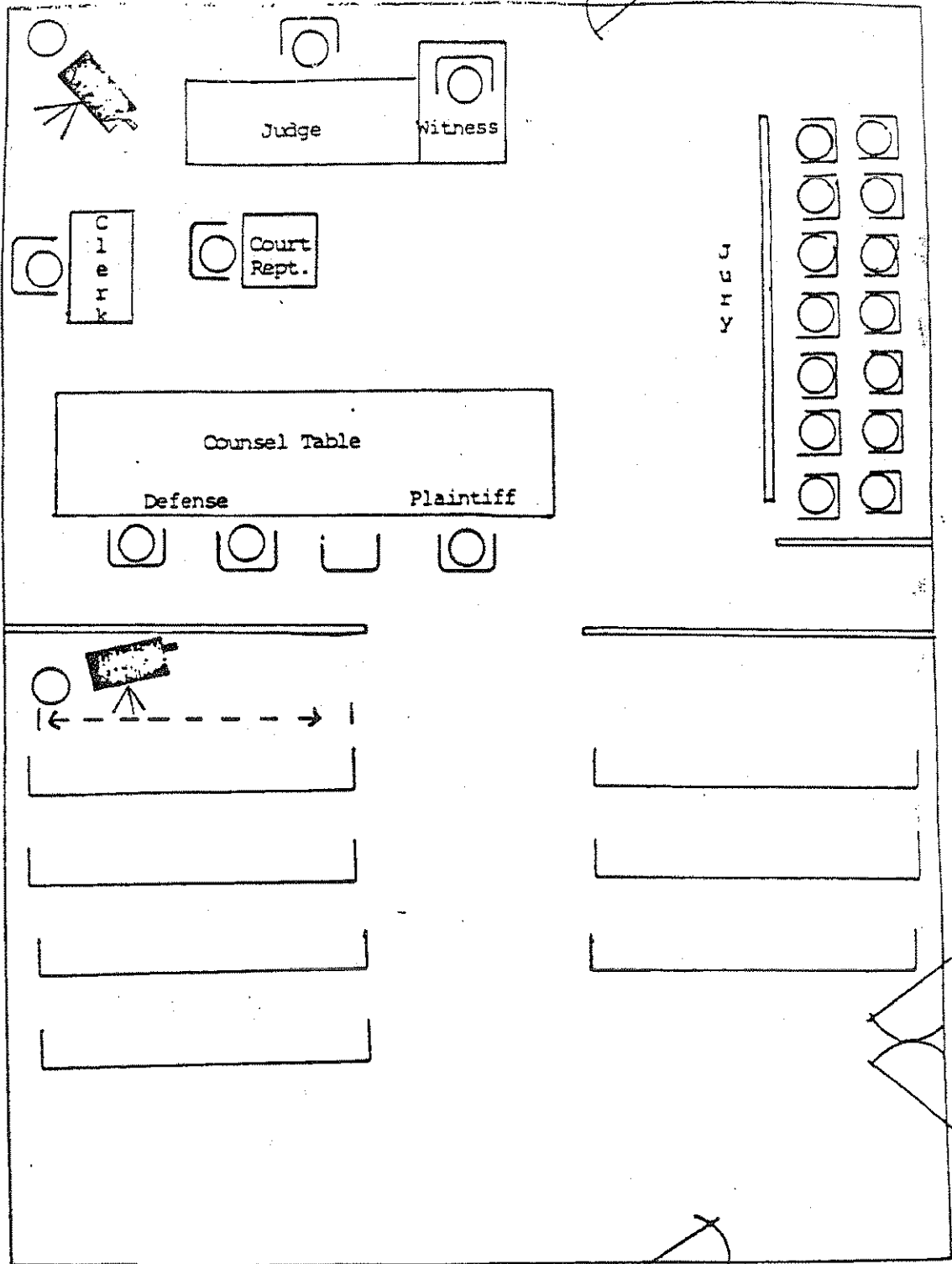
Marin County Superior Court



Los Angeles Municipal Court

TABLE III-8C

EXC LAYOUT IN
MICHEL V. DILLARD



Yolo County Superior Court

Although equipment placement rarely raised a problem, it is evident that existing courtrooms are not designed to accommodate cameras and microphones. Obtrusiveness, an issue discussed at length later in this report, could be almost entirely eliminated if courtroom design reflected planning for EMC equipment and operators--perhaps by embedding cameras in the walls and providing a glass enclosed viewing booth for operators. If electronic/ photographic coverage becomes a regular phenomenon in California's judicial system, courtroom design would do well to incorporate accommodating features.

2. Instances of Restricted Coverage

The governing rules for the experiment set forth numerous guidelines and restrictions for extended coverage (discussed in detail in Section I). In some instances, however, judges went beyond the rules and imposed additional restrictions on EMC, as is their prerogative. These restrictions often reflected the negotiation process between media and courts which can occur in the decision of consent. Ten notable instances of restricted coverage came to the attention of the evaluation team, as described below.

People v. Cassazza et al. Cameras were excluded for a motions hearing held outside the presence of the jury. The judge wanted to guard against contamination of the jury by inadvertent exposure to coverage of the hearing.

People v. Miranda. The media agreed not to televise or photograph witness faces. Fear of reprisals was the reason.

People v. Miller. The media agreed to televise or photograph only the back of the defendant's head. Identification of defendant issues led the defense to assert that EMC presence would jeopardize a right to a fair trial.

People v. Miller. The defendant was permitted to wear a mask over his head during an EMC proceeding to avoid identification.

People v. Bittaker. No televising or photographing of the jury was permitted.

People v. Young. No televising or photographing of the jury was permitted and the judge stated that objections to EMC from a witness would result in no EMC of that witness. No witness objections subsequently were raised. For a portion of the proceeding, the defendant objected to EMC of himself and the judge invoked that restriction. The defendant later changed his mind and EMC of him was permitted.

People v. Allen. The judge restricted EMC of certain witnesses.

People v. Edelbacher. The testimony of a rape victim was restricted from EMC.

People v. Smith. Still camera photographs were permitted only during the swearing in of a witness at the beginning of a proceeding.

People v. Robbins. The judge excluded EMC of the jury and of all testimony. EMC of young women testifying about explicit sexual matters was deemed to be inappropriate because of likely embarrassment of the young women and because the content of testimony was deemed unsuitable for public airing.

There were no instances in which EMC was terminated after access was granted. No restrictions beyond those set by the rules were imposed on any civil case EMC event.

3. "Violations" or Relaxations of EMC Rules

Although it was not the function of evaluation team observers to enforce the rules governing the experiment, instances in which the rules were violated by the media or relaxed by the judge were noted in the course of collecting observational data. It cannot be said that such

instances were excessive. Of the 102 cases for which observational and/or interview data were collected, violation or relaxations occurred in about 10 cases. In no instance did the violation or relaxation disrupt the proceeding to an obvious extent. Some examples of the violations and relaxations follow.

- In one civil motions hearing, three still photographers were allowed in, all of whom moved freely about the courtroom.
- Artificial lights were permitted in two major EMC events, both in Sacramento where the courtroom lighting is particularly dim.
- Hand held tape recorders were used in at least three different cases.
- The judge in one case complained of the distraction caused by the excessive movement of the still photographer.
- In one criminal case, three still photographers and a radio tape recorder were permitted.
- In a civil family law hearing, several mini-cams were allowed in the courtroom. (The courtroom is particularly large.)

As may be gleaned from the above, the instances of violations or relaxations occurred at times with the permission of the judge. At other times, the judge was simply unaware of the full content of the rules.

The number and severity of rule violations is not alarming. The year's experience demonstrates that the rules are sufficiently strict in controlling the presence and behavior of extended media. In no case did the evaluators receive complaints that the rules are not strict enough or are incomplete. The one exception to this is with

the models of still cameras allowed. As will be addressed later in this report, still camera shutter noise was distinctly noticeable in numerous proceedings. Otherwise, the rules were more than adequate in controlling obtrusiveness and distraction of EMC.

E. Summary Description of EMC Cases

The cases receiving extended media requests and subsequent coverage have been described in the aggregate by case type, proceeding stage, and a number of other characteristics. This evaluation necessarily considers its subject in the aggregate, but when addressing the judicial process, one must not lose sight of the individuality of each case. To the participants in a court proceeding, the case at hand is unique, and for many litigants, witnesses, and jurors, it may be their only courtroom experience.

Although this evaluation is not a series of case studies, the evaluators attempted to look at each EMC experience in the context of that individual case. It is neither feasible nor necessary to report on the facts and issues of all the cases studied, but it is worthwhile to make summary observations about the content of the EMC cases during the experimental year. As indicated in the following narrative, the experiment succeeded in encompassing the full range of court proceedings which are of interest to the public and the media.

In criminal cases, the sensational or heinous crime case type constituted a large portion of the proceedings receiving EMC. Foremost among these was People v. Bittaker, in Los Angeles County, a case involving the murder, torture, and rape of five teenage girls. The jury trial began several weeks before the party consent rule was removed and origin-

ally consent was denied. After party consent removal, the judge permitted EMC, which captured much of the defendant's testimony, closing arguments, and later on, the sentencing. The facts of the case were particularly gruesome and the issue of media restraint in presenting overly sensational coverage of the case was tested. When interviewed, the defendant raised concerns about personal safety while in prison due to identification through EMC exposure. (Bittaker was convicted on all counts.)

Another major "sensational crime" case was People v. Parnell, tried in Alameda County but involving the kidnapping of a child in Mendocino County. Mr. Parnell also is accused of kidnapping a young boy from Merced County who then lived with him for seven years. Extended media was present throughout this jury trial and publicity was generated statewide. (Parnell was convicted in the Mendocino case; the Merced case is still pending.)

There were many EMC events involving a murder charge which were of high local interest only.

The very first criminal trial receiving EMC was in Kern County in which a woman named Sandra Nickell was accused of murdering her husband. Her defense was self-defense in that the husband regularly abused her. The interesting legal and social issues associated with the case brought it high publicity, exacerbated by the fact that it was the first "cameras in the courts" criminal trial. That trial ended in a mistrial (hung jury) and Ms. Nickell was acquitted in her second trial.

the People v. Carpenter case (the "trailside killer" case) occurred late in the experimental year. First appearances were covered by extended media and interesting issues concerning pretrial prejudicial publicity were raised within the Santa Cruz judicial community.

Charges against public figures (office holders) represent another sizeable portion of cases attracting EMC. One of the first criminal trials to have extended media was People v. Snyder. Mr. Snyder, a City Councilman in Los Angeles, was tried on one count of driving while intoxicated. EMC was continuous throughout the trial. The issue of excluding EMC for a portion of the trial was raised at one point, an issue which involved judge decision-making, defendant reputation, and potential juror contamination. The case ended in a mistrial (hung jury) and the case was not re-tried.

Toward the end of the year, the People v. Robbins case was adjudicated. State Senator Alan Robbins was accused of "statutory rape" sex crimes with two teenage girls and ultimately was acquitted. The case attracted statewide publicity. EMC was restricted to opening and closing arguments. Throughout the case, many courts/media relations issues were raised, some of which involved extended media. Media/courts relations were strained for several reasons and by several incidences.

Another public figure criminal case was that of People v. Hawes in Shasta County. Mr. Hawes, a former District Attorney, was accused of misconduct in office. The case attracted much local publicity. (Mr. Hawes was convicted.)

Civil Cases

Two civil cases during the year stand out as being very high publicity cases: Burnett v. National Enquirer and Segraves v. State of California. Both received national publicity.

In Burnett (Los Angeles) the popular entertainer, Carol Burnett, sued the National Enquirer for libel. For numerous reasons, publicity was quite high. The case was an interesting legal confrontation which the public could understand because of its familiarity both with the National Enquirer and with Ms. Burnett as an entertainer. (Ms. Burnett secured a substantial award for personal and punitive damages.)

In Segraves (Sacramento), a creationist group sued the State Department of Education over its policies and practices in teaching the origin of man in public schools. The media perceived the case to be a repeat of the famous "monkey trial" (Scopes v. Arkansas) and often referred to it as "Scopes II". At the outset of the trial, the issues in the case were limited by the plaintiffs, and the creationists vs. evolutionist show-down failed to materialize as dramatically as expected. Nevertheless, the trial was an important factor in the development of the issue and continued to receive substantial publicity.

Another notable civil case in the experiment was Smith vs. Gayle in Fresno. A former district attorney sued a local media organization for slander and libel. The first trial ended in a mistrial (hung jury) and a second trial ensued.

As previously mentioned, one extended coverage event was for an educational purpose--a wrongful death civil suit in Yolo County videotaped for U.C. Davis Law School (Michel v. Dillard). Two appellate proceedings received EMC: In Re Pratt and Crawford v. Board of Education. Pratt involved a well known figure from the anti-war protest movement and Crawford dealt with the bussing issue.

The above discussion mentions the most major EMC events but is by no means an exhaustive treatment of the cases receiving EMC throughout the year. Over 200 EMC events took place and many of these could be considered "major" at least in the locality of their occurrence.

IV. COURTROOM ENVIRONMENT AND PARTICIPANT BEHAVIOR DATA ANALYSIS

Of the three major data sets generated by the evaluation interviews, observation, and attitudinal surveys, the former two emerge from specific EMC or conventional coverage court proceedings while the latter is not case specific in its nature. Interviews and observations logically may be discussed together in answering the two major research questions.

The presentation of these data is organized into subsections by the two major evaluation questions. Under each, the discussion first addresses interview responses and then observational data. Subsequently, interview data of a summary or adjunct nature is discussed.

The interview responses discussed below are from the data base described in Appendix F. Data classifications by case type, court level, proceeding type and other descriptors are contained in this appendix along with demographic data pertaining to the various participant types: sex, age, education, and experience levels.

A. Courtroom Environment (Disturbance, Distraction, Dignity, and Decorum)

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?

This major research question was explored by asking participants questions about a) their level of awareness of EMC equipment or operators, b) the extent of any distraction caused by EMC

equipment or operators, c) perceptions of impairment to dignity and decorum (judges and attorneys), d) courtroom environmental effects (jurors), and e) supervisory responsibility (judges). Observational data speak to this major evaluation question in the measurements of Judge Attentiveness, Judge Control, Juror Attentiveness, and Courtroom Calm. Attendance at EMC events also allowed the evaluators to make global judgments on other potential causes of distraction and disruption in the courtroom: other media present, audience noise and movement, court personnel, external noises, and the proceeding participants themselves.

1. Interview Data

Awareness and Distraction

All participant types were asked about their "level of awareness" of EMC equipment and operators and the "level of distraction" caused by EMC. "Awareness" and "distraction" questions were asked to distinguish in the respondents' minds the difference between being merely conscious of EMC and being somehow impaired in task performance by a strong consciousness of EMC presence. "Awareness" is presumed not to be necessarily deleterious whereas "distraction" is by definition a negative effect of EMC. Low levels of distraction may be viewed as insignificant in the fair administration of justice whereas moderate to high levels of distraction may be viewed as incompatible to the proper conduct of the judicial process.

Table IV 1-A shows the percentage distribution of responses on the "awareness" question. With all participant types, the majority of respondents (around 70%) had little awareness, with consistently even distribution among partici-

TABLE IV 1-A

Distribution of Participant "Level of Awareness" Responses

	Judges		Attorneys				Witnesses			Jurors		Total	
	F* P*		Plaint. F P	Pros. F P	Def. F P	Attorney Total F P	Exper. F P	Inexp. F P	Witness Total F P	F P		F P	
None at all	0 0%		0 0%	0 0%	1 4%	1 2%	1 4%	6 20%	7 13%	3 5%		3 5%	31 4%
Little	73 73%		9 75%	13 100%	12 52%	34 71%	23 88%	19 63%	42 75%	32 57%		32 57%	135 74%
Moderate	16 16%		3 25%	0 0%	7 31%	10 21%	1 4%	3 10%	4 7%	11 20%		11 20%	41 15%
High	11 11%		0 0%	0 0%	2 9%	2 4%	1 4%	2 7%	3 5%	9 16%		9 16%	26 10%
Very High	0 0%		0 0%	0 0%	1 4%	1 2%	0 0%	0 0%	0 0%	1 2%		1 2%	3 1%

*F = Absolute Frequency

*P= Percentage

part types of awareness at the Moderate and High levels. Among participant types, up to 25% of respondents reported Moderate awareness and only a few individuals (defense attorneys and jurors) registered Very High awareness.

The "distraction" levels shown in Table IV-18 are even more pronounced toward the Not At All side of the response scale. Among judges, 83% responded Not At All or Only At First (and then not at all). Attorneys have a slightly greater tendency to be distracted, although only defense attorneys registered any responses above Slightly. Witnesses overwhelmingly reported no distraction, even those with little or no experience as a witness.²⁸ Jurors show greater dispersal in their responses with 69% saying Not At All or Only At First, 16% saying Slightly and 14% saying Somewhat, Definitely, or Extremely. This distribution is somewhat more favorable to EMC than defense attorney responses and somewhat less favorable to EMC than judge responses.

Since the primary job of the evaluators was to search for negative effects of EMC, it is appropriate to illustrate whatever negative effects are found, even if they represent the highly atypical situation. With the issue of distraction, a few individuals (about 6% of all respondents) were Definitely or Extremely distracted by EMC. Commonly, interviewees commented that the TV camera was silent and easily forgotten yet the momentary noise of the still camera clicks was unsettling. In some instances, neglect of the rules is to blame, as gleaned from one judge response: "The photographer was very distracting as he awkwardly moved about the courtroom for various angles.

²⁸ "Little" witness experience is defined as 0-5 prior times as a witness.

TABLE IV 1B

Percentage Distribution of Participant "Level of Distraction" Responses

	Judges F* P*	Attorneys				Witnesses			Jurors		Combined Total F P
		Plaint F P	Pros F P	Def F P	Attorney Total F P	Exper F P	Inexp F P	Witness Total F P	F P		
Not at All	64 65%	7 58%	7 54%	9 39%	23 48%	22 85%	28 94%	50 89%	27 48%		170 64%
Only at First	18 18%	3 25%	5 39%	5 22%	13 27%	4 15%	0 0%	4 7%	12 21%		47 18%
Slightly	7 7%	2 17%	1 8%	5 22%	8 17%	0 0%	0 0%	0 0%	9 16%		24 9%
Somewhat	4 4%	0 0%	0 0%	3 13%	3 6%	0 0%	1 3%	1 2%	1 2%		9 3%
Definitely	5 5%	0 0%	0 0%	0 0%	0 0%	0 0%	1 3%	1 2%	4 7%		10 4%
Extremely	1 1%	0 0%	0 0%	1 4%	1 2%	0 0%	0 0%	0 0%	3 5%		6 2%

Camera clicking was also distracting. The movement of the photographer is a violation of the rules, but the shutter noise likely was from an approved camera. A number of those concluding they were distracted by EMC are referring to still camera shutter noise. Clearly evident in interview data is the fact that still camera clicks frequently were a source of distraction and annoyance to participants, particularly attorneys. Among these data are several cases in which one or more of the participants reported that the still camera clicks were distracting.²⁹

Given that EMC is infrequently distracting and that still cameras account for a substantial number of those incidences in which it is distracting, can the presence of a still camera be considered generally distracting? To answer this question, Table IV-2 presents a cross-tabulation of a distraction measure with the variable of Type EMC present.³⁰ This table indicates that all forms of EMC presence generally are not distracting. The still camera shutter noise problem accounts for most of the few responses in the Somewhat, Definitely, and Extremely Distracting categories but generally speaking, even still cameras are not distracting.

²⁹ The data indicate that still cameras were present in about 70 of the proceedings included in the research. In about 50 of these, interview responses were solicited from the judge only. Camera clicks were indicated as distracting in 9 of the 70 cases. In most of these instances, the camera make was Nikon, one which is on the approved list of still cameras in the Rules of Court. The Leica camera also listed in the Rules, is considerably quieter than the Nikon and never created a problem.

³⁰ The Judge Distraction response variable is used because the sample size of judge interviews is larger than other interview samples.

TABLE IV-2

Judge Distraction Level vs Type EMC Present

Judge Level of Distraction	TV	Still Camera	TV & Still	TV, Radio & Still	Totals
Not at All	17	9	28	9	63 64%
Only at First	6	2	7	3	18 19%
Slightly	1	2	2	2	7 7%
Somewhat	1	0	0	3	4 4%
Definitely	2	1	1	1	5 5%
Extremely	0	0	0	1	1 1%
Total	27 28%	14 14%	38 39%	19 19%	98 100%

Dignity and Decorum

"Dignity and decorum" represents a desired atmospheric state in a courtroom, one that is appropriate and necessary for conducting judicial business. Experienced judges and attorneys,³¹ who presumably know what constitutes dig-

³¹ Experience levels of judges and attorneys are documented in Appendix F.

nity and decorum, were asked whether or not the presence of cameras, microphones, or other EMC equipment (or equipment operators) diminished dignity and decorum in the courtroom. As demonstrated in Table IV-3, about three-fourths of both groups detected no impairment of dignity and decorum with virtually all of the remaining responses being in the Slightly category. A few judges (13%) and a few defense attorneys (13%) responded in the Somewhat, Definitely, or Extremely categories.

Jurors were asked about EMC effects on the courtroom environment and on the flow of proceedings. The responses, reported in Table IV-4, evoked a clear pattern. With both questions, a majority said there were no effects. The remaining respondents tended to think that EMC had a negative effect. Twenty five percent (25%) said EMC had a negative effect on courtroom environment and 14% said it had a negative effect on the flow of proceedings. In the view of jurors, EMC generally had no effect on courtroom environment or proceedings flow, although in the few instances in which it did, the effect was negative.

Supervisory Responsibility

Also among the interview data regarding the issue of distraction or other negative effects due to the physical presence of EMC is the subject of judge supervisory responsibility. When asked whether or not EMC increased their "supervisory responsibility", 40% of responding judges said Not At All, 38% Slightly, 12% Somewhat, 8% Definitely, and 2% Extremely (see Table IV-5, on page). This descending frequency in the responses suggest that additional supervisory burden usually is not a serious

TABLE IV-3
ATTORNEY PERCENTAGE DISTRIBUTION OF JUDGE AND "DIGNITY AND DECORUM IMPAIRMENT" RESPONSES

	JUDGES	ATTORNEYS						TOTALS		
		Plaint.		Pros.		Def.				
		Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.			
No Effect	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Freq.	Pct.		
	84	85%	9	75%	11	85%	16	72%	120	93%
Slightly	1	1%	3	25%	2	15%	4	18%	10	7%
Somewhat	7	8%	0	0%	0	0%	1	5%	8	6%
Definitely	5	5%	0	0%	0	0%	0	0%	5	3%
Extremely	1	1%	0	0%	0	0%	1	5%	2	1%

TABLE IV-4

Distribution of Juror Responses Regarding
Courtroom Environmental Effects and Flow of Proceedings

	Courtroom Environment		Flow of Proceedings	
	Abs. Freq.	Pct.	Abs. Freq.	Pct.
No Effects	38	67%	45	80%
Yes, Positive	2	4%	0	0%
Yes, Negative	14	25%	8	14%
No Opinion	2	4%	3	6%
Total	56	100%	56	100%

problem but that in some cases judges consider the added element of EMC to impose significant additional responsibilities.

According to the responses of the judges, the added supervisory burden is manifest both before and during the proceeding. Some judges objected to the time consuming preparation required by EMC but indicated little added burden once the proceeding was underway. Those judges in localities with court administrators or additional courtroom personnel to assist with "management" of media presence had less supervisory burden imposed upon them than those without such resources (particularly for major events).

TABLE IV-5

Distribution of Judge Responses Regarding
Supervisory Responsibility

	Abs. Freq.	Pct.
Not at All	40	40%
Slightly	37	38%
Somewhat	12	12%
Definitely	8	8%
Extremely	2	2%
Totals	99	100%

2. Observational Data

As explained in depth in Section II, evaluators spent considerable time in courtrooms observing proceedings with extended media coverage and in those receiving only conventional media coverage. In both the "experimental" and "baseline" conditions, ratings were made based upon detailed criteria for selected behavioral attributes of participants (e.g. "attentiveness") and for an overall courtroom environmental attribute (i.e. "calm"). Four of the eight attributes measured speak to the first major evaluation question that of disturbance or distraction caused by EMC.