EXHIBIT D

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

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

Submitted by:
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September 1981

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This evaluation was conducted by Ernest H. Short and Associates, Inc. under contract with the California Judicial Council and the Administrative Office of the Courts. The study was supported by funds from the Law Enforcement Assistance Administration of the U.S. Department of Justice. The points of view and opinions in this report are those of the author and do not necessarily represent the position or policies of the California Judicial Council, the Administrative Office of the Courts or the U.S. Department of Justice.

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Ernest H. Short and Associates, Inc. gratefully acknowledge the assistance of the Administrative Office for the Courts, the Chief Justice's Special Committee on the Courts and the Media, and the Judicial Council in this evaluation. Appreciation also is extended to the numerous individuals in the media who assisted the evaluation by providing information on extended media coverage events.

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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.

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

[2] Film 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.

[3] The 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.

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

[5] Estes 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 *cause 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 harrassment, 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 harrassment, 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

[6] Estes v. Texas, 381 U.S. 533 (1965).

and 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:

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[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 harrassment 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).

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 proble
Witness Effects	Reluctance to testify Nervousness/guardedness in testimony Untruthfulness in testimony	Less evidence Less evidence, distort evidence Incorrect evidence, damage to litigants
Jury Effects	As decision-maker: Undesired influence Distraction, making decision process more difficult As courtroom manager: Difficulty maintaining control Difficulty in conducting an expeditious proceeding	Injustice to litigants due to decision bias Injustice to litigant due to capability deficiency Reduction in decor Court delay
Attorney Effects *Party Effects	Presentational ability diminished Grandstanding to media for personal gain Exploitation of media Party as proceeding participant: Exploitation of media: in act of violence or disruption	Advocacy impairment Advocacy impairment Potential danger to ticipants, reductio decorum, and efficie loss
Public Effect	As prospective participant: Reluctance to participate	Reduction of effect ness 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 "receive of justice with media exposure is in the mode of a dependent variable whil 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

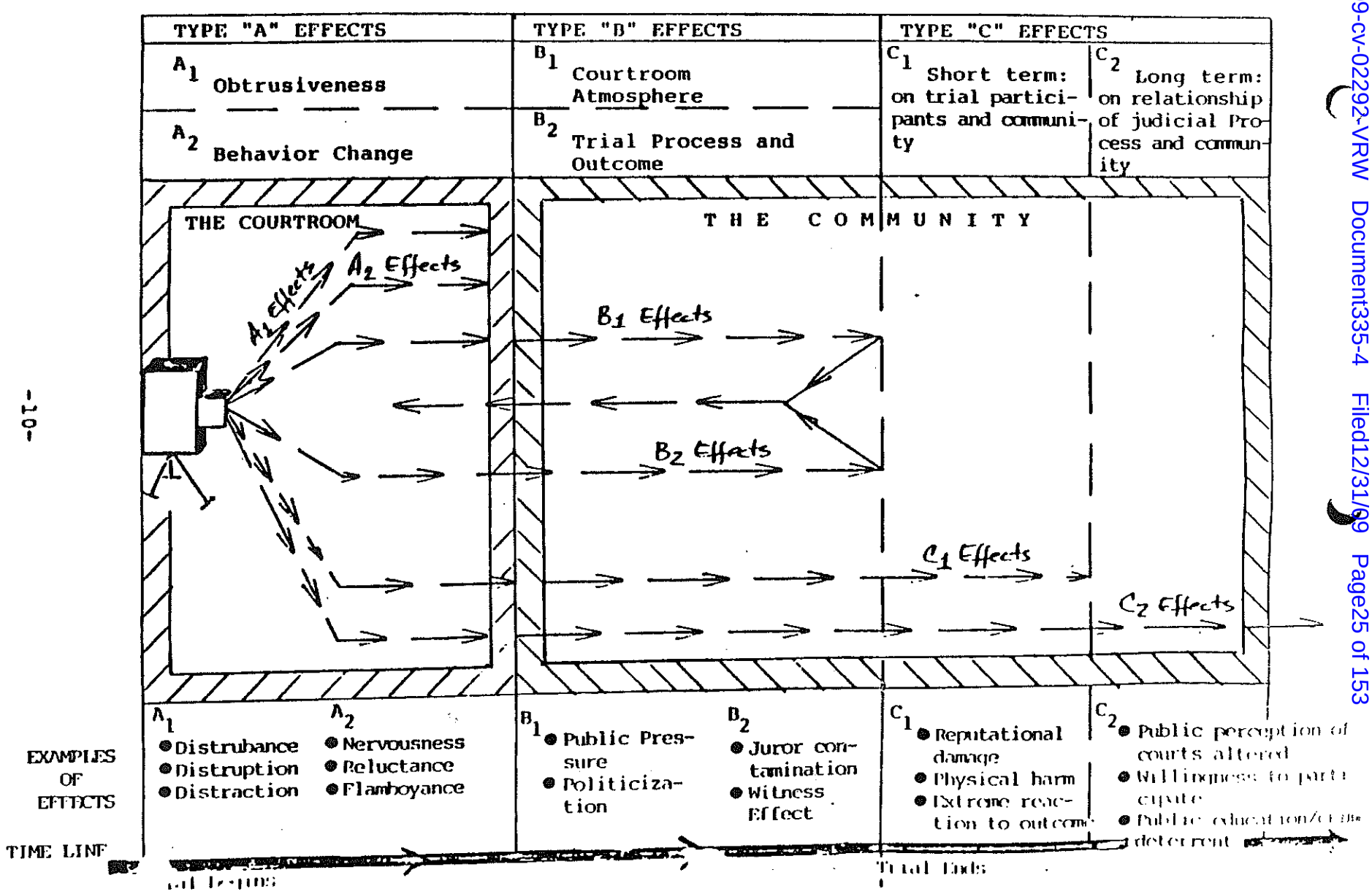
Since state courts have begun opening their doors to television cameras, still cameras, and radio, research efforts of varying

[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-

[11] The 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.

[12] From 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

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[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.

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

[15] James 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

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[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.

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[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

[19] As 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.

[20] Noel 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 admissability 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 cameras[21]) 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.

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[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

coverage, 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, partieis, 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 FMC during interviews; these participant types were not asked to complete an attitudinal survey.

**For some cases for which no case-specific data were sought, judges provided some information when responding to the 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 statewide 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

which these behaviors occurred. During the course of an EMC proceeding, a member (or members) of the evaluation team would observe the event and for time increments of 10 to 30 minutes, make ratings on specific behavioral and environmental attributes. "Global judgments"[22] were made for each participant type and for the courtroom environment as a whole for the following attributes:

JUDGE:	Attentiveness Effective Control Effective Communication
ATTORNEY (Plaintiff's, Prosecutor, or Defense Attorney):	Effective Communication
JUROR:	Attentiveness
WITNESS:	Effective Communication
COURTROOM (Environment as a whole):	Calm

[22]Global judgments are derived from the perceptions of an expert observer, who, over time, assesses the degree to which a particular attribute or state is present in a person or in an environment. Typically, several features, behaviors, or indicators group together or constitute these globally judged attributes. Members of a research team observe a particular target and, after a period of time has elapsed, the observer decides the degree to which the attribute under examination is present. For instance, if one were observing a group of children in an attempt to determine the degree of cooperative play which was displayed, the observer would watch the children at play, take note of the various factors included in cooperative play, then assess at the end of a time period the degree to which (high to low) cooperative play existed. These kinds of data are based on the professional judgment of the observer and are "global" due to their multi-factor definition.

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.

Case Name | Type of Proceeding | Date | Time

Judge Name | Context | Rater

Judge — Attent.

Judge — Eff.Cont.

Judge — Eff.Comm.

.5 .5

1 2 3 4 5 6

Juror #, sex — Attent.

Juror #,sex — Attent.

Atty pl/pr/def — Eff.Comm.

Atty pl/pr/def — Eff.Comm.

.5 .5

1 2 3 4 5 6

Witness Name — Eff.Comm.

Witness Name — Eff.Comm.

Courtroom — Calm

Courtroom Environment

Audience Size

Audience (+) (-)

Distractions

Noise Sources/Movement

Other

Media Presence

___TV Camera ___Still Camera

___Radio Equip ___Reporter w/ pads

___Sketch Art. ___Other

Total Number Media

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 interrelationships 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 courts) 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 decisi

___Strongly Agree ___Agree ___No Opinion ___Disagree ___Strongly Disagree

8. EMC of courtroom proceedings will affect voting at the next election of elected offic represented at the proceeding.

___Strongly Agree ___Agree ___No Opinion ___Disagree ___Strongly Disagree

9. Jurors' decision making will be influenced by their friends' and acquaintances' attit 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

___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 li

___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 negoti 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 Disag

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

Civil Proceedings ___Strongly Agree ___Agree ___No Opinion ___Disagree ___Strongly

Criminal Proceedings ___Strongly Agree ___Agree ___No Opinion ___Disagree ___Strongly

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 95

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

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 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

2. 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

3. 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

4. Allowing televison 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

Form

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 Questtionaires (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 atempted 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 Inexpereienced 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)
1st QUARTER:				
Civil	46	40	4	2
Criminal	52	6	43	3
Total	98	46	47	5
2nd QUARTER:				
Civil	14	10	2	2
Criminal	15	5	10	0
Total	19	15	12	2
3rd QUARTER:				
Civil	16	12	2	2
Criminal	89	59	21	9
Total	105	71	23	11
4th QUARTER:				
Civil	9	5	1	3
Criminal	96	62	19	15
Total	105	67	20	18
YEAR:				
Civil	85	67	9	9
Criminal	252	132	93	27
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 98 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 parallelled 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]

[23]To 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. Occassionally, 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					
	Motion	Trial	CIVIL TOTAL	Arraign.	Motion	Prelim. Hearing	Trial	Sent.	TOTAL CRIMINAL
Abs. Freq.	17	15	32	12	15	6	27	9	69
Pct:	53%	47%	100%	17%	22%	9%	39%	13%	100%

2. What type of EMC (television, still [illegible]) 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 [illegible]

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

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

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" story-line 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

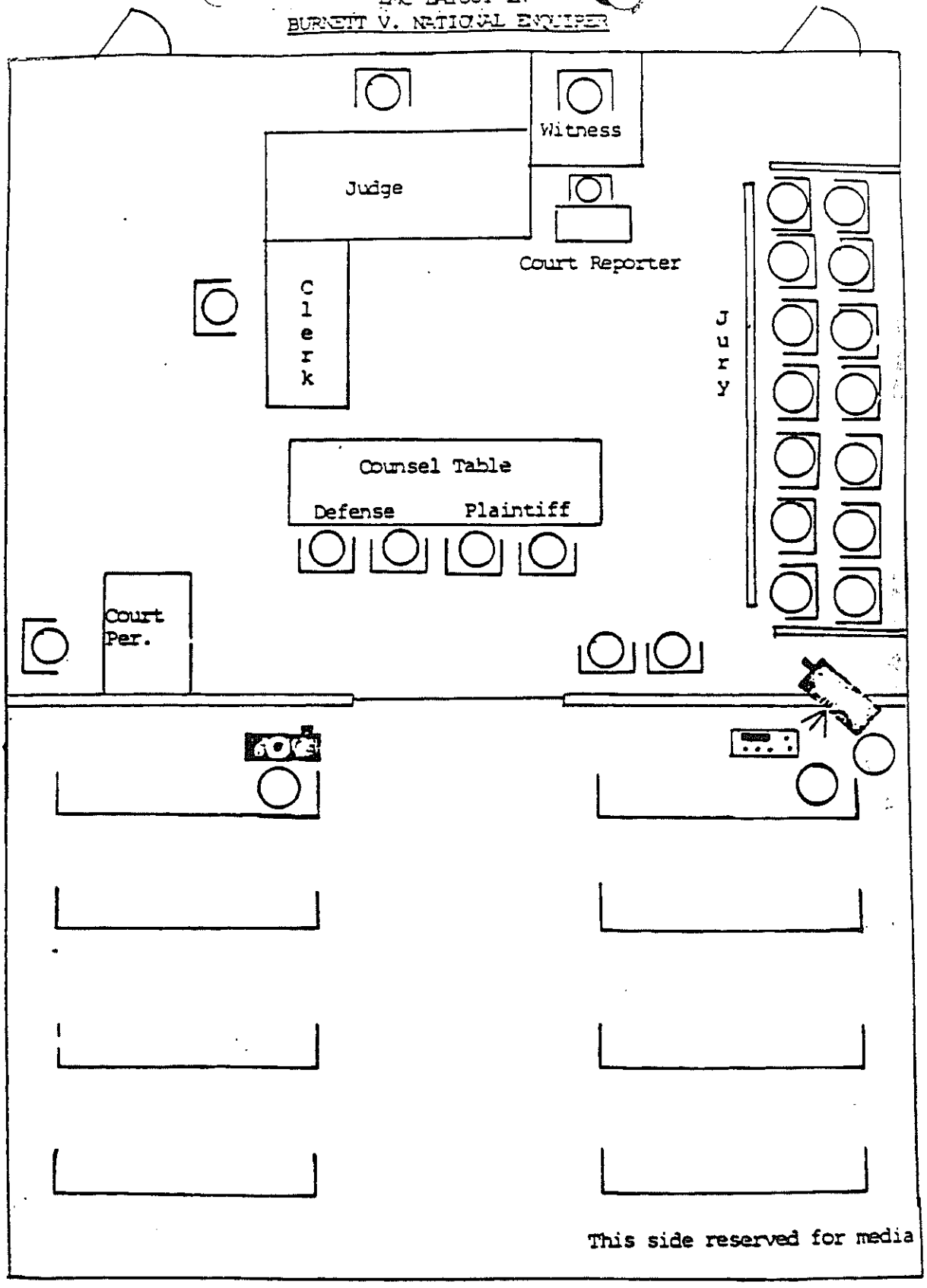
To achieve a smoothly executed EMC event, planning and preparation are critical, particularly in major EMC cases. Coordination with the media, primarily through the media representative, served to avoid logistical

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.

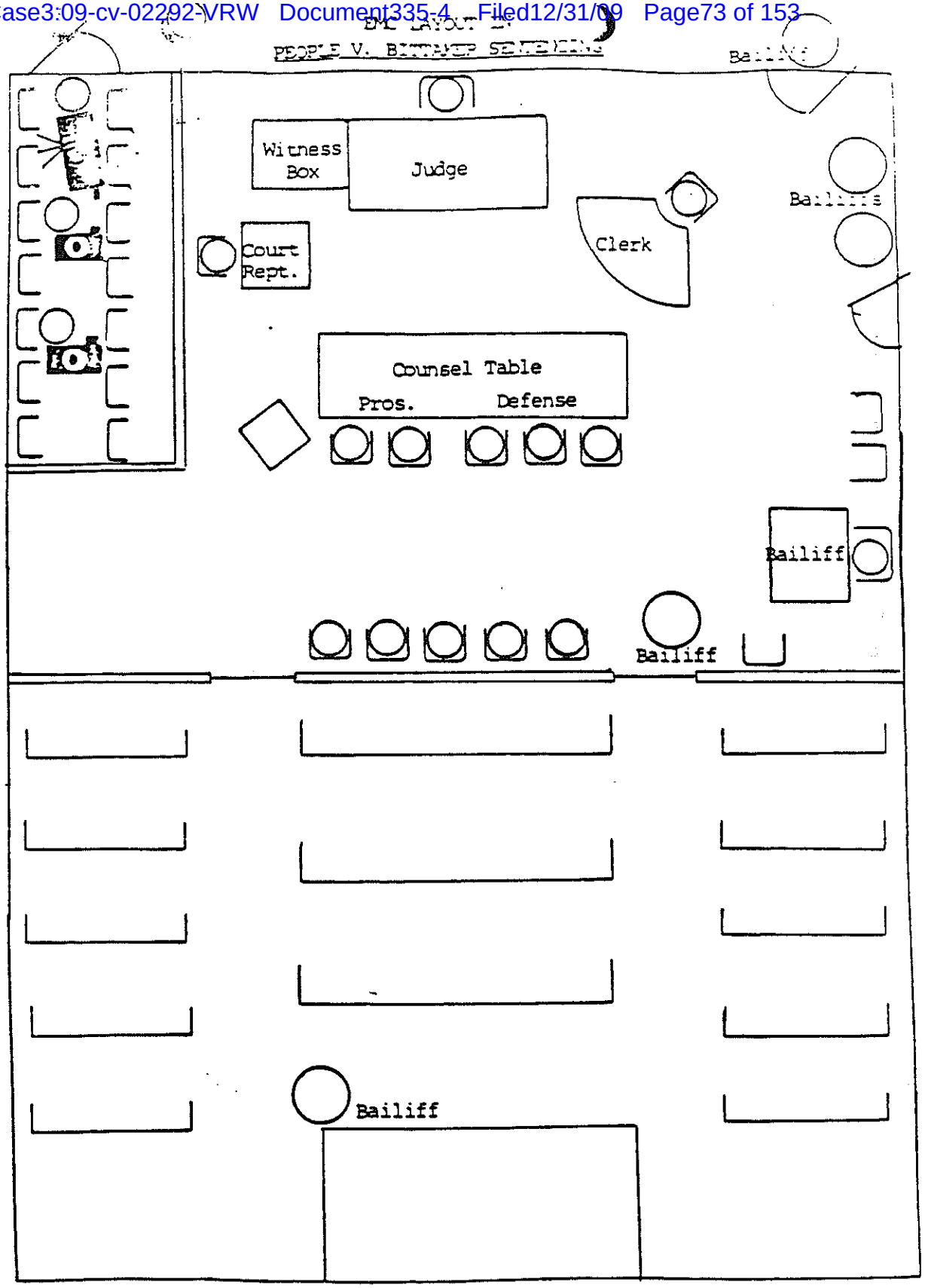
In-court equipment placement generally was easily accommodated. Several typical configurations were used, the most common of which was the placement of a TV camera "over the shoulder" of the jury and placement of a still camera in the front row of the audience. Figures III-8A-III-8G show some of the 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.

EMC LAYOUT IN
BURNETT V. NATIONAL ENQUIRER



Los Angeles Superior Court

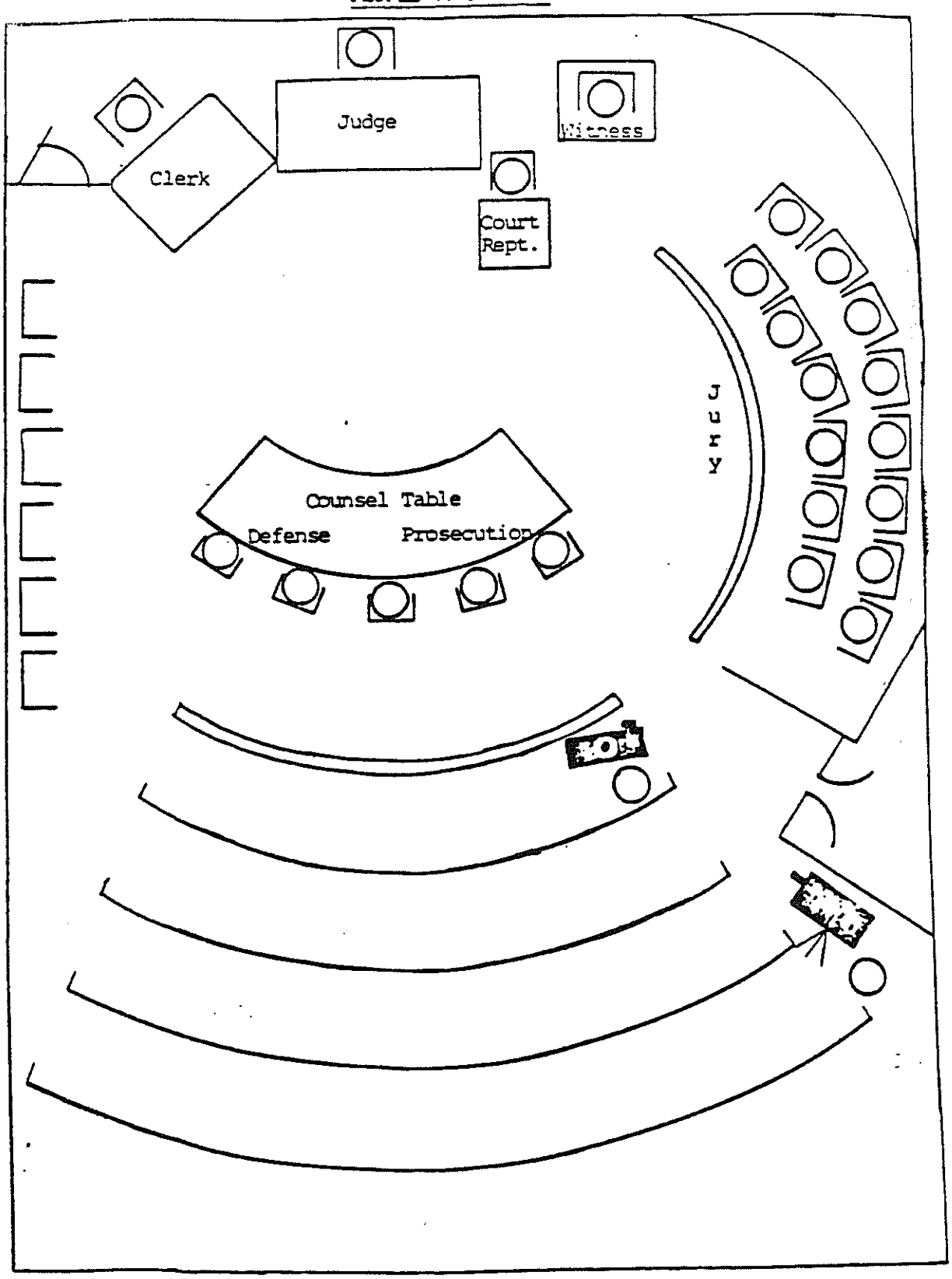
-57-



Los Angeles Superior Court
Torrance Branch
-58-

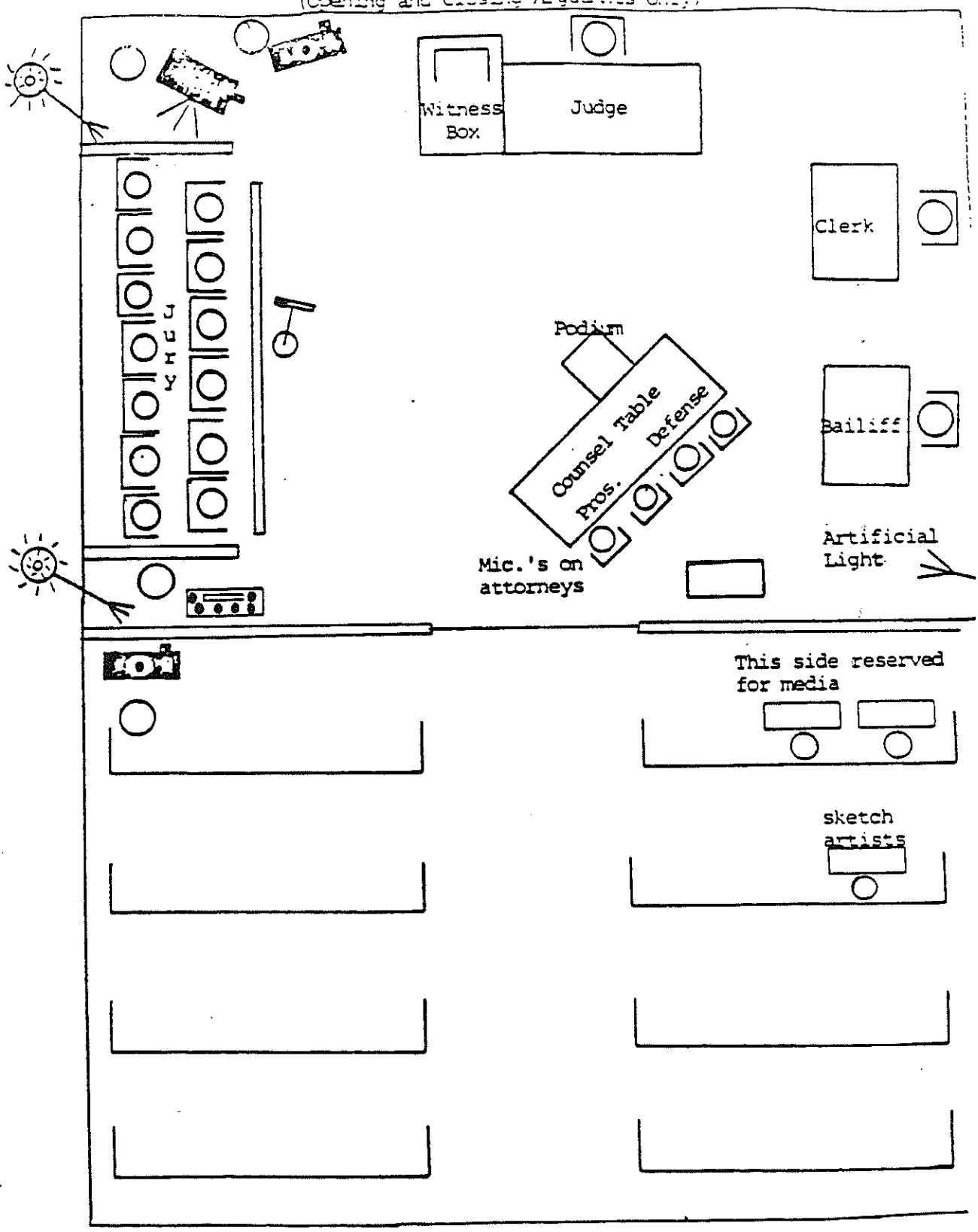
TABLE III-8C

EMC LAYOUT IN
PEOPLE V. PARTIDA



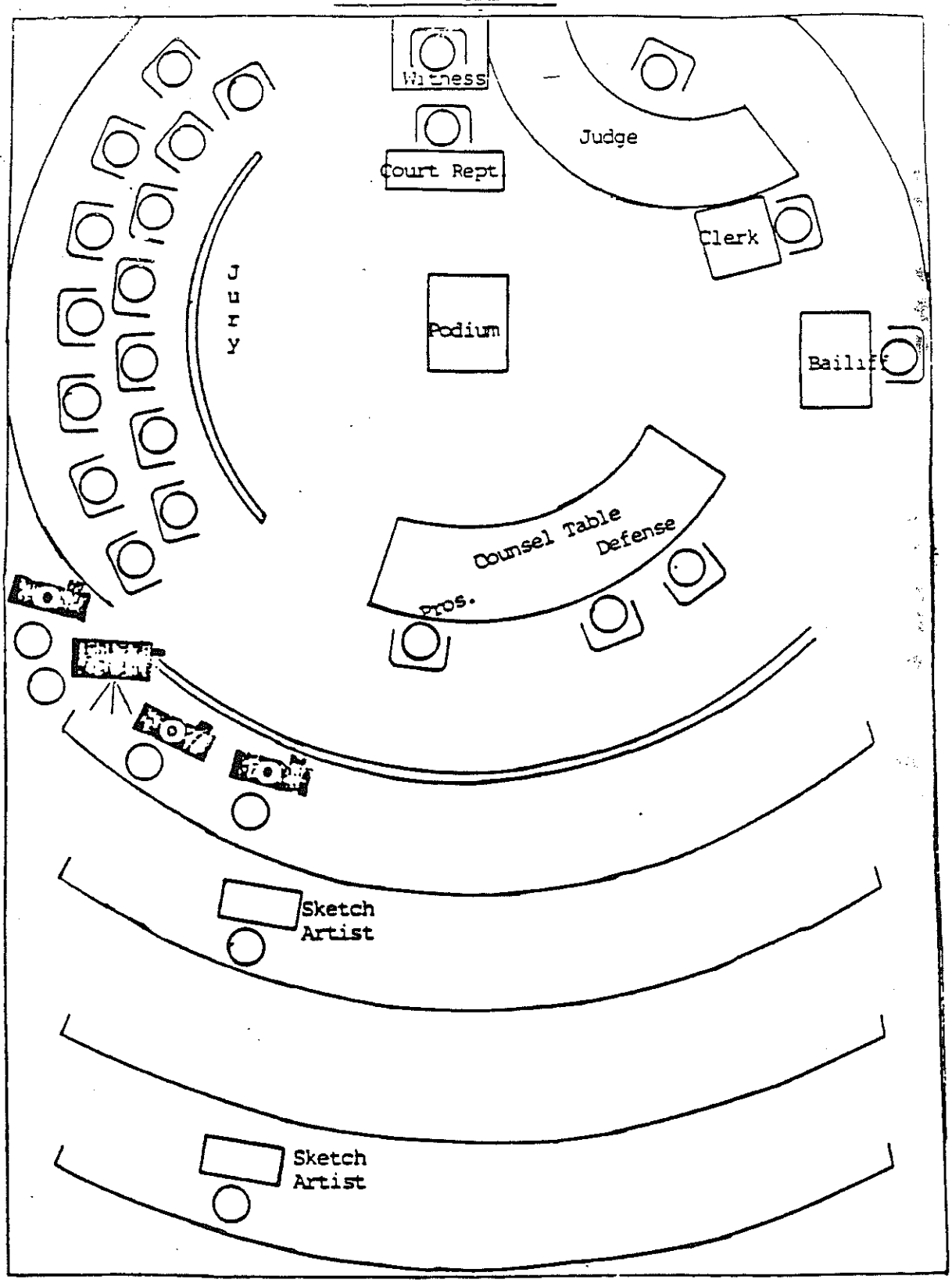
Alameda County Superior Court
Hayward Branch

EXHIBIT
PEOPLE V. POE
(Opening and Closing Arguments Only)



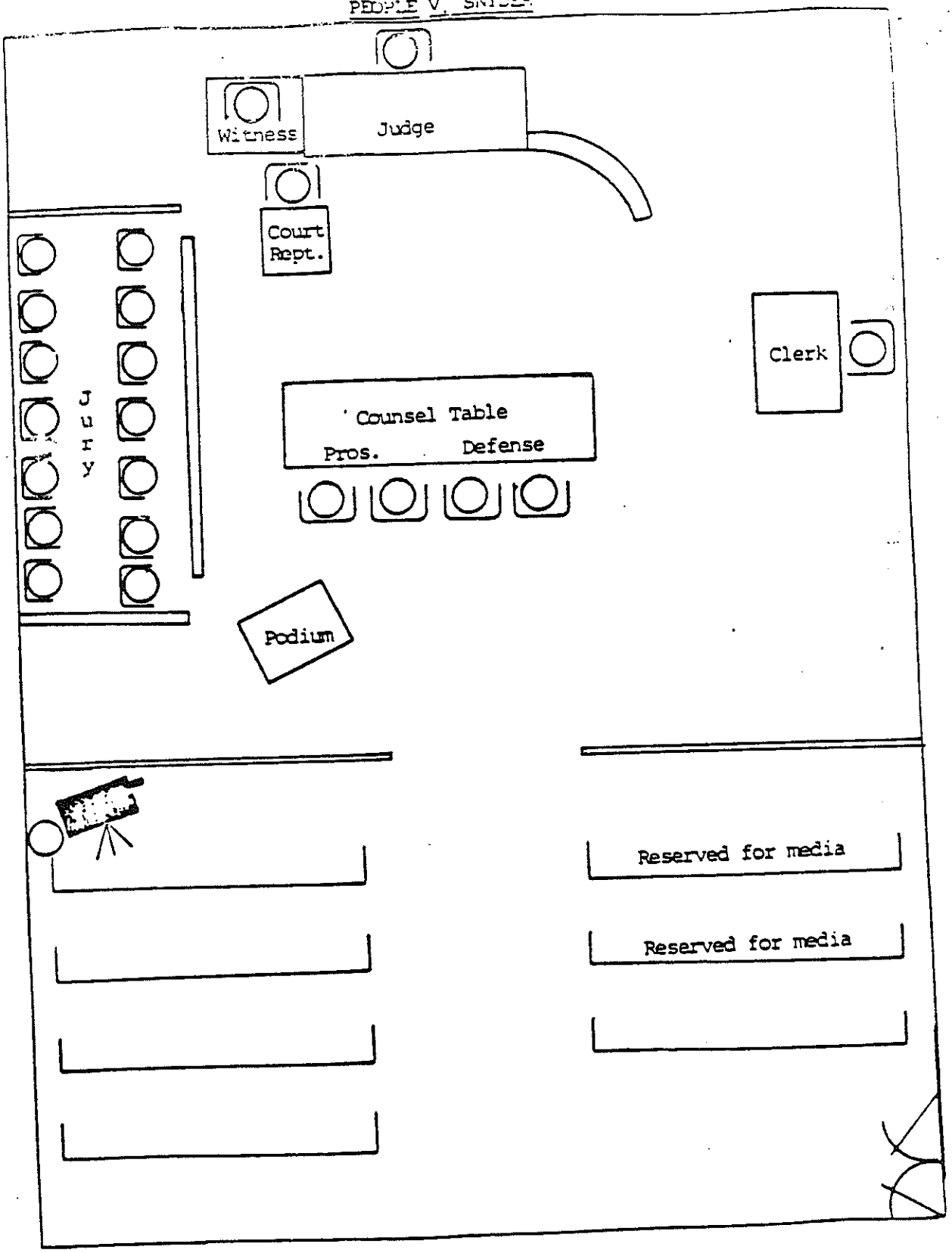
Sacramento Superior Court

EMC LAYOUT IN
PEOPLE V. McDERMID



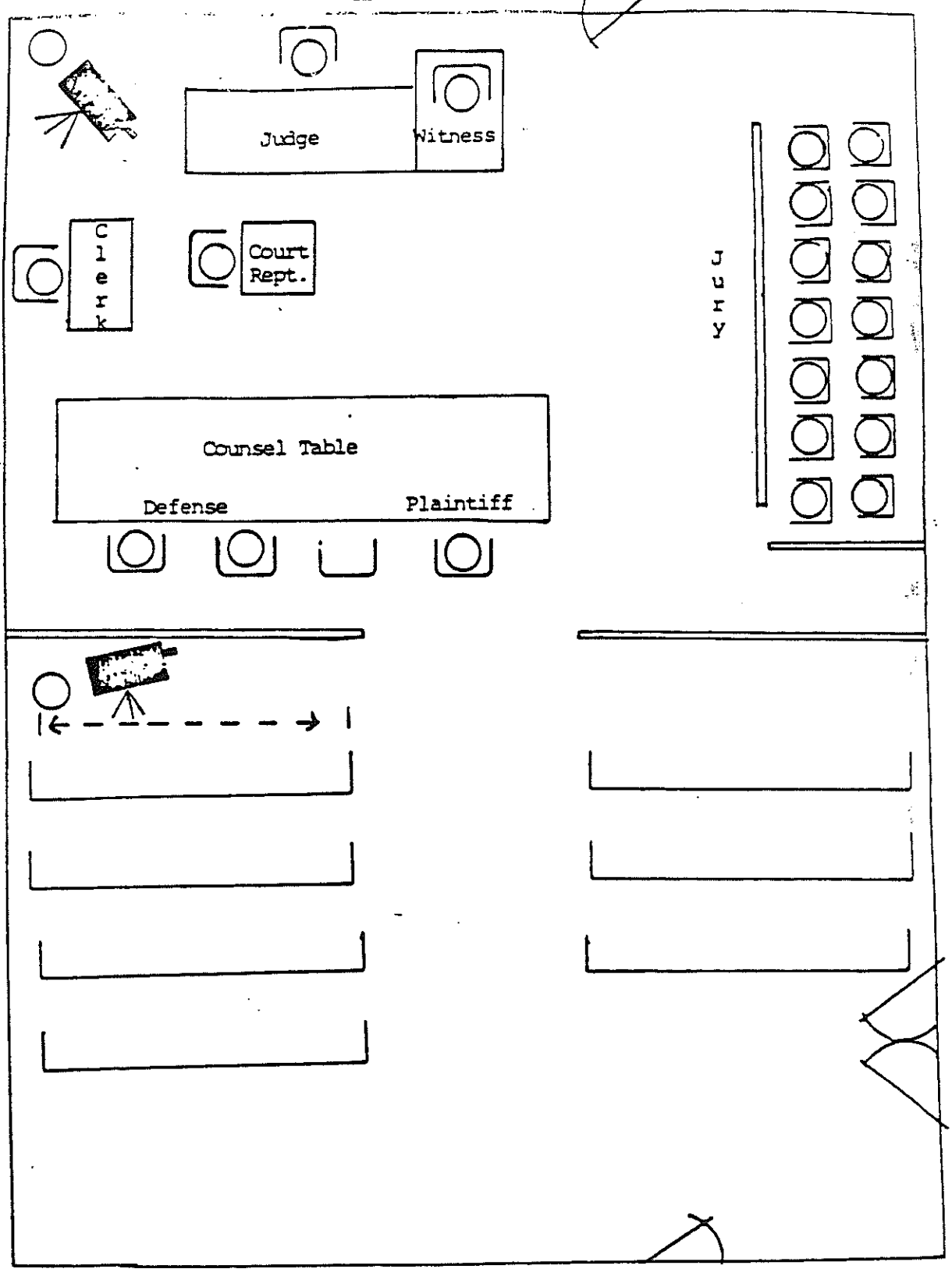
Marin County Superior Court

EMC LAYOUT IN
PEOPLE V. SNYDER



Los Angeles Municipal Court

EMC 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 victime 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 closed 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.

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 acquited. 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 distinquish 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	
			Plaint.		Pros.		Def.		Attorney Total		Exper.		Inexp.		Witness Total			
	F*	P*	F	P	F	P	F	P	F	P	F	P	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%	11	
Little	73	73%	9	75%	13	100%	12	52%	34	71%	23	88%	19	63%	42	75%	32	57%	106	
Moderate	16	16%	3	25%	0	0%	7	31%	10	21%	1	4%	3	10%	4	7%	11	20%	41	
High	11	11%	0	0%	0	0%	2	9%	2	4%	1	4%	2	7%	3	5%	9	16%	26	10%
Very High	0	0%	0	0%	0	0%	1	4%	1	2%	0	0%	0	0%	0	0%	1	2%	3	

*F = Absolute Frequency

*P= Percentage

pant 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-1B 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 gleened from one judge response: "The photographer was very distracting as he awkardly 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		Attorneys								Witnesses						Jurors		Combined Total	
			Plaint		Pros		Def		Attorney Total		Exper		Inexp		Witness Total					
	F*	P*	F	P	F	P	F	P	F	P	F	P	F	P	F	P	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.

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[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.	Abs. Freq.	Pct.	Freq.	Pct.
No Effect	84	85%	9	75%	11	85%	16	72%	120	83%
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.

Aggregate Ratings Analysis

The analysis considered most reliable for these observational data is the comparison of the means of the experimental observations with the means of the baseline observations for each attribute. These means are computed from the aggregated observations, experimental or baseline, for each attribute. The results of this process are depicted in Table IV-6. The means emerge from a scale of 1.0 - 6.0 with 2.0 being defined as the "normally good" standard for nearly all of the attributes under scrutiny. The 1.0 - 6.0 scale may be interpreted summarily as:

1.0 - 1.4	Excellent
1.5 - 1.9	Very Good
2.0 - 2.4	Good
2.5 - 2.9	Average
3.0+	Below Average

Table IV-6 clearly shows that, for the attributes measured, participants perform as well in EMC proceedings as they do in conventional media coverage proceedings. Judges are on the average just as attentive with cameras present as when they are not; judges appear to exercise marginally better control of the courtroom with EMC present than with conventional-only media present. Jurors are quite attentive in both EMC and conventional circumstances, exhibiting slightly greater attentiveness when cameras are present. For the evaluators' judgment of courtroom "calm", the global judgment measuring disturbance and disruption, EMC conditions proved to be just as calm as conventional-only media conditions.

TABLE IV-6

Means of Observational Ratings on Courtroom Environment Issues (Disturbance, Distraction, Dignity and Decorum)

	EMC Ratings Means	Baseline Ratings Means
Judge Attentiveness	1.75[1]	1.71[5]
Judge Control	1.75[2]	1.94[6]
Juror Attentiveness	1.49[3]	1.59[7]
Courtroom Calm	1.66[4]	1.92[8]

[1]Based upon 357 observations in 19 cases.

[2]Based upon 358 observations in 19 cases.

[3]Based upon 523 observations in 11 cases.

[4]Based upon 353 observations in 19 cases.

[5]Based upon 262 observations in 16 cases.

[6]Based upon 260 observations in 16 cases.

[7]Based upon 395 observations in 12 cases.

[8]Based upon 258 observations in 16 cases.

This methododical process of rating behavior and environment confirms the predominant theme of interview responses that the introduction of EMC equipment and operators into a courtroom does little or no harm to the participants' ability to concentrate on the business at hand. In fact, in high publicity cases, participants appear to do quite well in the areas measured, and courtrooms appear to be more than adequately "calm", whether or not cameras are present.

The differences in the ratings averages in all of the four attributes are so slight that one cannot conclusively say that participants are "better" or "worse" with cameras present. One can legitimately conclude that there generally is an absence of effect of EMC presence with respect to distraction, disturbance, or impairment to dignity and decorum.

More detailed data on the above discussed attributes appear in Appendix G, which presents a dispersal of means by case for each attribute using five ranges: excellent (1.0-1.4), very good (1.5-1.9), good (2.0-2.4), average (2.5-3.0) and below average (3.0+).[32] This dispersal is shown for EMC and baseline cases in a side by side comparison.

Directly Comparable Case Means Analysis

As documented in Section II, baseline observations came from court proceedings receiving conventional-only coverage and from proceedings in which cameras were present

[32] The distributions in Appendix G show means by case. Each case mean is based upon a variable number of observations. Therefore, one cannot compute the overall means for each attribute from the appendix tables. This would be "averaging averages" and is statistically unsound. The true means, using individual ratings as the unit of measurement are presented in Table IV-6 above.

TABLE IV-7

"Directly Comparable" Observational Data for Distraction/Disturbance Issues (Means)

Criminal Cases	Judge Attentiveness	Judge Control	Juror Attentiveness	Courtroom Calm
Peo. vs. Robbins (experimental	2.3	1.8	1.4	1.5
Peo. vs. Robbins (baseline)	2.1	1.9	1.8	1.7
Peo. vs. McDermand (experimental)	1.7	1.8	2.0	1.9
Peo. vs. McDermand (baseline)	2.2	2.0	2.0	1.3
Peo. vs. Nickel (experimental)	1.0	2.0	1.1	1.1
Peo. vs. Nickel (intermittent baseline)	1.4	2.0	1.1	1.3
Peo. vs. Nickel	2.3	2.0	2.1	1.9

TABLE IV-7 cont.

Criminal Cases	Judge Attentiveness	Judge Control	Juror Attentiveness	Courtroom Calm
Peo. vs. Cassazza et al (experimental)	1.9	1.9	1.8	2.1
Peo. vs. Cassazza et al (baseline)	1.9	2.0	1.6	2.3
Civil Cases				
Smith vs. Gayle et al (experimental)	1.3	2.0	1.2	1.6
Smith vs. Gayle et al (baseline re-trial)	1.2	1.7	1.1	1.2

only part of the time. One might suggest that even with the large sample of cases and observations which were ultimately collapsed into respective experimental and baseline cells, comparison of the means of each attribute is inappropriate because the participants and courtroom environment are not completely matched in the experimental and baseline cells. Therefore, as a supplementary analysis, it is fitting to look at the experimental (EMC present) and baseline (conventional-only media present) data in which the participants and courtroom environment are the same. This occurs in two modes: 1) experimental and baseline data taken from a proceeding in which cameras were present intermittently; and 2) baseline data taken from a trial which was subsequently re-tried with cameras present (or *vice-versa*). Table IV-7 shows the means by case for proceedings which yielded data of direct comparability in this fashion. There exists no pattern showing that EMC presence negatively affects the attributes measured; nor is there a pattern showing the reverse. Judges are shown to be marginally more attentive when cameras are present in three of the five cases. Judge control is the same regardless of EMC presence. Jurors appear to be highly attentive under both circumstances and courtrooms can be said to be very calm with both extended and conventional-only media presence.

Analysis of Potential Distraction Sources

In collecting observational data, the evaluators monitored a number of additional factors which are potential sources of disturbance and distraction and could be compared to the factor of EMC presence. Judgments were made regarding the disturbance/distraction level of:

- other media presence--visual and auditory;
- the audience--visual and auditory;
- frequency of audience change;
- courtroom personnel--visual and auditory;
- trial participants--visual and auditory; and
- auditory distraction from external sources.

Global judgments for these items were made for both EMC and conventional-only media proceedings.

Table IV-8A shows the distribution of evaluator judgments from Very Low to Very High on the visual and auditory distraction of EMC equipment and personnel compared to "other media". Because conventional (i.e. "other") media are present at EMC as well as conventional coverage proceedings, two categories of "other media" comparisons may be made.

For visual distraction, a large majority of proceedings were rated Very Low and Low with regard to EMC presence with similarly large majorities in these ranges for both "other media" ratings. The auditory distraction rating reveals a different result. EMC presence was rated as a Medium distraction level in 44% of the proceedings, a stark contrast to the auditory distraction rating for other media. This is attributable directly to the noise created by shutter clicks of still cameras. The in-court observations of the evaluators confirm what is reported by proceeding participants, that still camera shutter noise is the singly most distracting element of extended media coverage.

In high publicity cases, there is often a large audience, media presence in the hallway, and other factors which

TABLE IV-8A

VISUAL DISTRACTION OF EMC EQUIPMENT AND PERSONNEL VS. OTHER MEDIA

	EMC Cases		Other Media In EMC Cases		Media in Baseline Cases	
	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.
Very Low	2	11%	5	28%	10	63%
Low	13	72%	9	50%	5	31%
Medium	2	11%	2	11%	1	6%
High	1	6%	2	11%	0	0%
Very High	0	0%	0	0%	0	0%

Table IV-8A Cont'd.

AUDITORY DISTRACTION OF EMC EQUIPMENT AND PERSONNEL VS OTHER MEDIA

	EMC Cases		Other Media In EMC Cases		Media in Baseline Cases	
	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.
Very Low	5	28%	4	22%	10	63%
Low	5	28%	11	61%	5	31%
Medium	8	44%	2	11%	1	6%
High	0	0%	1	6%	0	0%
Very High	0	0%	0	0%	0	0%

may be a source of visual or auditory distraction. One may postulate that the "circus like" atmosphere, which opponents of EMC commonly predict, is attributable to phenomena other than or in addition to camera presence, such as the audience, court personnel, the trial participants themselves, or external noise sources such as media presence in the hallway. Therefore, global judgments on these factors were made during on-site observation.

The data in Tables IV-8B, through IV-8F indicate that these factors account for Low to Moderate levels of distraction and that their occurrence is roughly the same under EMC and conventional-only media presence.

Visual and auditory audience distraction (see Table IV-8B) does not appear to be a serious problem although in 33% of the EMC proceedings observed, a Medium visual audience rating was made. Audience change (people moving in and out) probably accounts for the Medium audience visual distraction rating. In Table IV-7C, which measures frequency of audience change, about one-third of the proceedings were rated at Medium or High levels. Baseline cases show generally Low levels of disturbance due to audience-visual, audience-auditory, or audience change frequency.

Visual and auditory distraction from court personnel is somewhat less than from the audience with a large majority of proceedings rated in the Low range for both EMC and conventional media only conditions (see Table IV-8D). Trial participants show the same distribution as court personnel in their disturbance level with almost all cases being rated in the Very Low and Low ranges (see Table IV-7E).

EVALUATOR RATING OF AUDIENCE DISTRACTION

VISUAL DISTRACTION OF AUDIENCE

	EMC CASES			BASELINE CASES	
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
Very Low	4	22%	Very Low	5	31%
Low	8	45%	Low	11	69%
Medium	6	33%	Medium	0	0%
High	0	0%	High	0	0%
Very High	0	0%	Very High	0	0%

AUDITORY DISTRACTION OF AUDIENCE

	EMC CASES			BASELINE CASES	
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
Very Low	3	17%	Very Low	7	44%
Low	11	61%	Low	6	37%
Medium	4	22%	Medium	3	19%
High	0	0%	High	0	0%
Very High	0	0%	Very High	0	0%

TABLE IV-8C

EVALUATOR RATING OF AUDIENCE CHANGE FREQUENCY

EMC CASES[1]			BASELINE CASES[2]		
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
Very Low	6	32%	Very Low	8	50%
Low	6	32%	Low	6	38%
Medium	5	26%	Medium	2	12%
High	2	10%	High	0	0%
Very High	0	0%	Very High	0	0%

External noises are rated at a Medium level of distraction in three of the 18 EMC cases observed (17%) with one case at both the High and Very High ranges. This is somewhat similar to the conventional-only ratings on external noises. In all the cases of Medium to Very High distraction on this factor, the cause was documented as either media presence in the hallway or construction noise inside or outside the building.

The extent of distraction attributable to factors other than EMC presence is about the same as EMC--generally Low with occasional incidences of High distraction. This conclusion, drawn from observational data on other

TABLE IV-8D

EVALUTOR RATINGS OF DISTRACTION FROM COURT PERSONNEL

VISUAL DISTRACTION OF COURT PERSONNEL

EMC CASES			BASELINE CASES		
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
Very Low	3	17%	Very Low	6	38%
Low	12	67%	Low	10	62%
Medium	2	11%	Medium	0	0%
High	1	5%	High	0	0%
Very High	0	0%	Very High	0	0%

AUDITORY DISTRACTION OF COURT PERSONNEL

EMC CASES			BASELINE CASES		
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
Very Low	3	17%	Very Low	4	25%
Low	13	72%	Low	12	75%
Medium	2	11%	Medium	0	0%
High	0	0%	High	0	0%
Very High	0	0%	Very High	0	0%

EVALUATOR RATINGS OF DISTRACTION FROM TRIAL PARTICIPANTS

VISUAL DISTRACTION OF TRIAL PARTICIPANTS

	EMC CASES			BASELINE CASES	
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
Very Low	5	28%	Very Low	2	13%
Low	12	67%	Low	11	69%
Medium	1	5%	Medium	2	12%
High	0	0%	High	0	0%
Very High	0	0%	Very High	1	6%

AUDITORY DISTRACTION OF TRIAL PARTICIPANTS

	EMC CASES			BASELINE CASES	
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
Very Low	5	28%	Very Low	4	25%
Low	12	67%	Low	10	63%
Medium	1	5%	Medium	1	6%
High	0	0%	High	0	0%
Very High	0	0%	Very High	1	6%

TABLE IV-8F

EVALUATOR RATINGS OF AUDITIORY DISTRACTION FROM EXTERNAL SOURCES

EMC CASES			BASELINE CASES		
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
Very Low	3	17%	Very Low	5	31%
Low	10	54%	Low	8	50%
Medium	3	17%	Medium	1	6%
High	1	6%	High	1	6%
Very High	1	6%	Very High	1	6%

factors, is consistent with observational data on participant behavior and interview data. Courtrooms generally are dignified, formalized environments and while sometimes the tone in courtrooms is "relaxed" or "warm", the business conducted follows highly structured procedures. Protocol is at a premium and judges have recognized authority to control the courtroom environment and sanction the behavior of participants and attendants (media and public). This fundamental ordering of roles and relationships is not altered by the introduction of electronic or photographic media.

While on-site, the evaluators made note of the size of the total press corps. One may theorize that proceeding participants in registering any distraction to EMC are being influenced in their response by a large press corps presence which happens also to include cameras and micro-

phones. Alternatively, one may theorize that camera presence not accompanied by a large press corps in the courtroom would be more distracting because the cameras cannot "blend in" with a large press corps. A cross tabulation of Judge Distraction responses with Size of Total Press Corps provides a clue to which theory is more credible.

Table IV-9 which produces this cross tabulation suggests that the latter theory is more viable than the former. Most of the Definitely and Extremely Distracting responses appear in the lowest Press Corps Size cells, although the predominance of EMC events having six or less total media persons present makes it difficult to be conclusive. It is in itself interesting that so few events attract a large press corps. Camera presence generally occurs with few other reporters present and is just as likely to be distracting in this circumstance as in the circumstance of a large press corps. (The likelihood of distraction in both instances is low).

B. Participant Behavior

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?

This second major evaluation question requires an assessment of the behavior of all participant types under experimental (EMC present) and baseline (conventional-only media present) conditions. Participants at EMC proceedings were asked questions relating to their own behavior and to the behavior of others at the proceeding. Observational data were collected

TABLE IV-9

JUDGE DISTRACTION LEVEL VS. TOTAL PRESS CORPS

	TOTAL PRESS CORP					
LEVEL OF DISTRACTION	0-3	4-6	7-10	11-20	21+	Totals
Not at All	61	7	1	0	1	70 67%
At First	16	0	1	0	1	18 17%
Slightly	5	1	0	1	0	7 7%
Somewhat	3	1	0	0	1	4 4%
Definitely Distracting	4	0	0	0	1	5 5%
Extremely	1	0	0	0	0	1 1%
TOTAL:	89 85%	9 9%	2 2%	1 1%	4 4%	105 100%

on a specific behavioral attribute, Effective Communication, an attribute considered primary in the performance of the roles of judges, attorneys, and witnesses.[33]

1. Interview Data

Judge Behavior

Attorneys and jurors were asked to assess the behavior of the judge in EMC proceedings with respect to any effects of camera presence. Table IV-10 displays the responses. A majority of all types of attorneys and a majority of jurors thought there were no effects whatsoever. The minority of respondents who felt there were some effects were spilt between viewing them as positive or negative.

Although judges were not formally asked to assess their own behavior beyond the dimension of awareness and distraction, the interviews often evoked such a self-assessment. Most judges reported no effects on their own behavior from EMC presence. Those that did generally noted a minor effect such as, "it made me a little more careful".

Attorney Behavior

Attorney behavioral reaction to EMC was assessed by judges, opposing counsel, and jurors. Table IV-11 displays the responses. Judges generally perceived no

[33] Other attributes measured by observations (Attentiveness, Supervisory Responsibility) are in a broad sense types of "behaviors". However, these measures are, for purposes of discussion, presented under the previous section on distraction due to EMC. The above section more narrowly defines "behavior" in the form of an active attribute--Effective Communication.

TABLE IV-10

JUDGE BEHAVIOR CHANGE DUE TO EMC

	Plaint. Att. Response		Pros. Att. Response		Def. Att. Response		Juror Response	
	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.
None	8	67%	12	92%	14	61%	40	72%
Yes, Some Positive	4	33%	0	0%	2	9%	3	5%
Yes, Some Negative	0	0%	0	0%	6	26%	8	14%
No Opinion	0	0%	1	8%	1	4%	5	9%

TABLE IV-11

ATTORNEY BEHAVIOR CHANGE DUE TO EMC

	Judge Response		Attorney Response (Re: Other Counsel)		Juror Response	
	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.
None	71	72%	38	79%	39	70%
Yes, Some Positive	11	11%	0	0%	3	5%
Yes, Some Negative	10	10%	7	15%	9	16%
No Opinion	7	7%	3	6%	5	9%

TABLE IV-12

ATTORNEY SELF ASSESSMENT REGARDING BEHAVIOR CHANGE DUE TO EMC

STRATEGY CHANGE			PRESENTATIONAL QUALITY		
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
Yes, Affected	5	10%	Yes, Affected (Negatively)	1	2%
			Yes, Affected (Positively)	1	2%
No, Not Affected	43	90%	No, Not Affected	46	96%

effects (72%) with 11% noting positive effects and 10% noting negative effects. Attorneys also generally perceived no effects on opposing counsel, but of those who did, all viewed the effects as negative. Jurors' responses are similar to those of judges and attorneys--most perceived no effects (70%), a few saw positive effects (5%) and a few more saw negative effects (16%).

Attorneys were asked to assess their own behavior in reaction to EMC. The question of "strategy change" was posed to attorneys along with an inquiry as to effects on presentational quality. As Table IV-12 shows, 90% of respondents reported no strategy change and 96% felt there was no effect on their presentational quality. The few instances in which attorneys reported some effect on strategy (10%) were perceived not to be of major significance to the course of the case. For example, prospective jurors were sometimes asked in *voir dire* whether or not the presence of cameras in the courtroom would influence them or bother them. EMC presence in this example had an influence on attorney "strategy" for selecting jurors.

Witness Behavior

Witness behavior change due to EMC presence was evaluated by judges, attorneys, and jurors during interviews. Large majorities in all three groups perceived no effects, as displayed in Figure IV-13. Those who did see behavioral change in witnesses tended to view that change as negative--12% of judges, 22% of attorneys, and 16% of jurors. Only a few individuals concluded that EMC had a positive effect on witnesses.

TABLE IV-13

Witness Behavior Change Due to EMC

	Judge Response		Attorney Response		Juror Response	
	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.
None	44	86%	25	78%	34	61%
Yes, Some Positive	1	2%	0	0%	2	4%
Yes, Some Negative	6	12%	7	22%	9	16%
No Opinion	0	0%	0	0%	11	19%

TABLE IV-14

WITNESS SELF ASSESSMENT REGARDING TESTIMONY CHANGE DUE TO EMC

	Abs. Freq.	Pct.
No	55	98%
Yes	1	2%

In assessing themselves, witnesses overwhelmingly reported no effects due to EMC presence (see Table IV-14). Only one of 56 witness respondents thought EMC had an effect on the content or delivery of testimony.

Juror Behavior

Perceptions of juror behavior follow the general pattern of other perceptions of participant behavior. Most respondents (judges and attorneys) detected no effects with a few judges and some attorneys perceiving negative effects on jurors (see Table IV-15).

Besides reporting on their "awareness" and "distraction" due to EMC, jurors assessed themselves by rating EMC "influence on deliberations." Table IV-16 clearly shows that jurors did not feel that EMC influenced deliberations. Only one juror perceived a direct influence on the case due to EMC; two jurors responded to the question by saying that the media generally had an influence on the deliberation process.

2. Observational Data

Aggregate Ratings Analysis

To supplement the self-report data on participant behavior, the evaluators measured the attribute of Effective Communication of judges, attorneys, and witnesses under both experimental (EMC present) and baseline (conventional-only media present) conditions. The mean rating for all observations in both cells is contained in Table IV-17.

TABLE IV-15

JUROR BEHAVIOR CHANGE DUE TO EMC

JUDGE RESPONSES			ATTORNEY RESPONSES		
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
None	31	94%	None	22	79%
Yes, Some Positive	0	0%	Yes, Some Positive	1	3%
Yes, Some Negative	2	6%	Yes, Some Negative	5	18%
No Opinion	0	0%	No Opinion	0	0%

TABLE IV-16

JURY DELIBERATION INFLUENCE

	Abs. Freq.	Pct.
None	48	94%
Yes, Influence of EMC	1	2%
Yes, Influence of Media Generally	2	4%

TABLE IV-17

Means of Observational Ratings
on Participant Behavior Issues
(Effecitve Communication)

	EMC Ratings Means	Baseline Ratings Means
Judge Effective Communication	1.83[1]	1.98[5]
Plaint. Att./ Prosecutor Effective Communication	1.88[2]	1.79[6]
Defense Attorney Effective Communication	1.85[3]	1.99[7]
Witness Effective Communication	1.85[4]	1.95[8]

[1]Based upon 330 observations in 18 cases.

[2]Based upon 264 observations in 18 cases.

[3]Based upon 233 observations in 18 cases.

[4]Based upon 226 observations in 12 cases.

[5]Based upon 256 observations in 16 cases.

[6]Based upon 189 observations in 16 cases.

[7]Based upon 160 observations in 16 cases.

[8]Based upon 218 observations in 12 cases.

Again, a 1.0 - 6.0 scale is used and may be summarized as:

1.0 - 1.4	Excellent
1.5 - 1.9	Very Good
2.0 - 2.4	Good
2.5 - 2.9	Average
3.0+	Below Average

As with observational rating means for disturbance/distraction measures (discussed earlier), the fundamental conclusion of the data is that participants perform well on the rated attribute under both EMC and conventional-media conditions. With three of the four participant types, the mean is slightly lower with EMC present than with conventional-only media present, although given the degree of difference, one must conclude that the experimental and baseline scores are virtually the same with all participant types. The ability of judges, attorneys, and witnesses to communicate generally is not impaired by the presence of extended media or conventional media.

In Appendix H, the dispersal of behavioral ratings by case mean is presented. This presentation of the data groups the average Effective Communication rating of each case into five categories--Excellent to Below Average.

Directly Comparable Case Means Analysis

As was done with observational data on the distraction/disturbance issue, a comparative analytical approach may be taken with the behavioral issue by comparing the means of rating scores or participants on an individual

TABLE IV-18

Directly Comparable Observational Data for Participant Behavior Issues

	Judge Effective Communication	Prosecutor/ Plaint. Att. Effective Communication	Defense Att. Effective Communication	Witness Effective Communication
People vs Robbins (experimental)	2.1	2.2	1.1	---
People vs Robbins (baseline)	1.9	1.8	1.9	2.8
People vs. McDermand (experimental)	1.4	1.9	2.0	1.4
People vs McDermand (baseline)	1.5	2.0	1.8	1.7
People vs. Nickell (experimental)	2.0	1.0	1.8	1.8
People vs. Nickell (intermittent baseline)	2.0	1.2	1.5	1.9
People vs. Nickell (re-trial baseline)	2.0	2.3	1.8	---
People vs. Cassazza et al (experimental)	2.0	2.2	2.3	2.0
People vs. Cassazza et al (baseline)	2.0	2.1	2.2	1.7

TABLE IV-18 cont.

Civil Case	Judge Effective Communication	Prosecutor/ Plaint. Att. Effective Communication	Defense Att. Effective Communication	Witness Effective Communication
Smith vs. Gayle et al (experimental)	2.0	1.3	1.3	---
Smith vs. Gayle et al (baseline)	1.8	1.5	1.2	1.3

case basis. In this approach, the experimental and baseline scores are from the same participants within the same courtroom environment. Table IV-18 presents these data.

Clearly, EMC presence had no discernable negative impact on the communicative abilities of judges, attorneys, or witnesses in these "directly comparable" cases. Nearly all scores hover around the "normally good" point of the rating scale--2.0. This confirms what is suggested by the aggregated mean scores for EMC vs. baseline ratings, that generally participants in media coverage proceedings communicate well whether or not extended media is present.

3. Summary Discussion of Participant Behavioral Effects

In exploring communicative ability, the evaluators were looking for effects of divergent types. Communication ability might be impaired by excessive nervouseness or communication behavior might subtley change as attorneys or judges "play to the camera" and "exploit the media".

One might logically theorize that jurors and witness, to whom courtrooms generally are unfamiliar environments, are particularly prone to nervousness in front of the TV cameras, still cameras, and microphones. In fact, many witnesses were cognizant of nervousness particularly before they began testifying. The source of the nervousness commonly was reported to be a combination of factors, only one of which was EMC presence. A major factor was apprehension about the proceeding itself--being cross examined or generally being subjected to a trying experience. Some witnesses were in fact the defendants in the proceeding and were generally nervous about case outcome. Upon reflection, many witnesses were surprised at

how focused they were on the proceeding itself, often becoming oblivious to the media once they took the stand. Jurors, whose role is more passive than witnesses, were rarely nervous about EMC except in the sense that many desired complete anonymity in the media coverage.

According to the interviews, attorneys and judges experienced the same feeling as witnesses in becoming surprisingly unaware of EMC presence once the proceeding began. Attorneys are perhaps the most active of all participants and although occasional signs of nervousness were apparent to evaluation observers, they were never alarming. Often, attorneys later evaluated any apparent nervousness as "natural" and due to numerous factors besides EMC. No attorney or judge admitted to "playing to the camera" for personal or political gain and in no instance did evaluators observe an obvious display of such behavior.

As with the issues of distraction and disruption, it is fitting to elaborate upon the small minority of instances in which behavior reportedly was altered by EMC.

One veteran attorney, representing an industrial plant being sued for dumping industrial waste, was certain that the judge ruled on a motion largely to create a favorable impression in the media. The attorney, who has experience in politics, perceived classic signs of "playing to the camera". The judge reported that camera presence did not alter his behavior at all.

In a major civil case, the plaintiff's attorney felt that the defense attorney damaged his case by "playing to the camera and not to the jury". The defense attorney reported no sense of this nor did the judge or evaluators perceive

this as occurring. In another major criminal trial, the defense attorney thought the judge "played to the cameras for political gain".

In the Segraves vs. State of California trial, the presence of the media took on a significance of somewhat unusual dimensions. The creationist movement, represented by the Segraves, seeks publicity and public support as does any other movement, and the evolutionist/creationist legal "showdown" was not isolated from media coverage--extended or conventional. The behavior of many participants throughout the trial was influenced by perceptions of how the "debate" would be publicized by the media. The judge, and many of the participants, viewed this as a healthy airing of a public interest issue and an appropriate role for the media.

Throughout the experimental year, a few witnesses, and fewer attorneys expressed a decided uncomfortableness with cameras in the courtroom. One person said "I constantly felt that I was on camera--it hindered my concentration, I was concerned about the impact my testimony was having." Others did not like the presence of cameras but did not feel that the cameras hindered their concentration or affected their testimony.

Interview data show concerns about EMC which do not pertain to immediate behavioral change. For example, the possibility of prejudicial pre-trial publicity was a concern to some lawyers. In the People vs. Carpenter case (the "hillside killer" case), the prosecution feared that cameras in the courtroom for first appearance would threaten the integrity of the impending "line-up" identification by certain witnesses, an event which was to take place shortly after first appearances. Therefore, arrange-

ments were made to complete the line up immediately after the first appearance, before the defendant's picture could be widely broadcast and published.

The defense attorneys in Carpenter share with many other defense attorneys severe reservations about EMC at any stage of the proceeding. Pre-trial publicity, juror contamination and witness intimidation are high on their list of concerns. A portion of all participant types expressed reservations about the capabilities of television news to accurately or adequately present a story about the courtroom experience. On the other hand, a portion of all participant types warmly welcomed EMC as exposing the public to the realities of the judicial process and educating them on court systems and procedures.

Few concrete manifestations of EMC opponents' apprehension about EMC effects occurred during the experimental year. Although the data do not address many of the concerns beyond immediate behavioral and environmental effects, they do identify the extent of perceived problems in an immediate behavioral and environmental sense. Given the exercise of judge discretion in restricting EMC from situations with an obvious potential for creating problems (e.g. testimony of a rape victim), EMC rarely changes the behavior of proceeding participants in a significantly detrimental fashion.

C. Additional and Summary Interview Data

Some of the interview questions put to EMC proceeding participants were not focused narrowly on the two major evaluation questions. Rather, these questions sought perceptions and feelings which supplement or place in perspective their re-

sponses about disturbance/distraction or behavioral change, or which sought summary judgments on the experience of participating in an EMC event. The topics of the questions are:

- general experience characterization (positive, neutral, negative);
- surprises or problems encountered;
- reluctance to participate again in an EMC event;
- preference regarding EMC presence;
- fear of harm due to EMC; and
- main impression as to EMC effects.

Experience Characterization

Judges and attorneys were asked to characterize their experience with "cameras in the courts" as positive, neutral, or negative. The responses presented in Table IV-19 show interesting distributions. Judges are evenly split between "positive" and "neutral" (48% and 45% respectively) and only 7% said "negative". Attorneys are less positive than judges: 33% said "positive", 40% "neutral", and 27% "negative". One of every four attorneys reported their experience with EMC to be negative.

TABLE IV-19

CHARACTERIZATION OF EMC EXPERIENCE

GENERAL

Judges Response			Attorneys Response		
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
Positive	44	48%	Positive	16	33%
Neutral	41	45%	Neutral	19	40%
Negative	6	7%	Negative	13	27%

In an attempt to explain the negative responses, a test was made to determine whether major EMC events are more likely to result in a negative experience as characterized by the judge. A cross tabulation of the variables Judge Experience Characterization and Evaluator Importance Rating (based upon "amount" of EMC as earlier defined) reveals that all four judges at the "most important" EMC events viewed the experience as Positive (see Table IV-20). The Negative responses were predominantly at the Low to Moderate "importance" EMC events. There is no evidence to suggest that more EMC presence (in terms of continuousness and size of the pool) is more likely to result in a negative experience (as characterized by the judge).

Surprises or Problems

Judges and attorneys also were asked if they perceived any "problems or surprises" during their EMC experience (see Table IV-21). Again, attorneys are more negative towards EMC--half did perceive "problems or surprises" and half did not. Judges reported fewer problems and surprises--21% said there were some and 79% said there were none.

Regrets

Throughout the experimental year, judge consent was required before extended media were permitted access to courtrooms. When asked after an EMC experience if he or she had any regrets over consenting, nearly all judges (95%) had none (see Table IV-22).

Reluctance to Participate Again

All participant types were asked if they would be reluctant to participate again in a court proceeding covered by electronic

TABLE IV-20

JUDGE EXPERIENCE CHARACTERIZATION VS. IMPORTANCE RATING

	JUDGE EXPERIENCE CHARACTERIZATION				
Importance Rating	Positive	Neutral	Negative	No Answer	Total
Low Import 1	3	6	0	2	11 11%
2	4	10	0	1	15 15%
3	7	12	5	4	28 28%
4	11	4	0	1	16 16%
5	6	4	0	0	10 16%
6	5	3	0	0	8 8%
7	2	1	1	0	4 4%
8	2	1	0	0	3 3%
9 High Import	4	0	0	0	0 0%
Totals	44 45%	41 41%	6 6%	8 8%	99 100.0%

TABLE IV-21

SURPRISES/PROBLEMS

Judges Response			Attorneys Response		
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
Yes	19	21%	Yes	25	52%
No	72	79%	No	23	48%

TABLE IV-22

REGRETS ABOUT CONSENTING (Judges)

	Abs. Freq.	Pct.
None	89	95%
Yes, Has Regrets	5	5%

and photographic media. Although this question is primarily another way of characterizing the EMC event just experienced by the participant, it also speaks to the hypotheses that jurors and witnesses will be reluctant to serve because of apprehension about the effects of extended coverage. The data in Table IV-23 indicate that neither the "civilian participants" (jurors and witnesses) nor other participants (judges and attorneys) show significant reluctance to participate again in an EMC proceeding. Defendants show the most reluctance, but large majorities of all participant types reported no reluctance.

TABLE IV-23

RELUCTANCE TO PARTICIPATE AGAIN IN AN EMC COURT PROCEEDING

	Judge Response		Attorney Response		Witness Response		Juror Response	
	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.
No Reluctance to Participate Again	85	89%	39	81%	25	86%	47	87%
Has Reluctance to Participate Again	0	0%	7	15%	2	7%	6	11%
Would Depend on the Case	10	11%	2	4%	2	7%	1	2%

Preference

All participant types were asked if they would have preferred cameras not be present. The notion of preference is distinguished from a perception of effects; presumably one could perceive no effects yet still prefer cameras not be present. Table IV-24 contains the distribution of responses for the preference question.

A somewhat greater percentage of individuals said they would prefer cameras not be present than indicated either reluctance to participate again or a negative overall feeling about EMC presence. Among judges, 28% preferred cameras not be present, 38% of attorneys so indicated, 24% of witnesses, and 20% of jurors preferred no cameras. About equal percentages among each participant type registered no preference one way or the other. Judges were the most positive of all types in saying EMC presence is acceptable (i.e. does not prefer cameras not be present--60%) and attorneys were the most negative (25% indicated camera presence acceptable). Witnesses and jurors show a similarity in their response patterns: one-half accepting EMC presence, one-fourth preferring they not be present, and one fourth having no preference.

Judge response patterns to the questions of experience characterization and preference are somewhat different. It is therefore interesting to cross tabulate these responses as is done in Table IV-25. As expected, judges who characterized their EMC experience as positive tended to say that EMC presence was acceptable (did not prefer EMC not be present). Those who viewed it as a neutral experience tended to say either they had no preference or that they preferred cameras not be present. The negative judges tended to prefer cameras not be present, but two registered no preference and one said EMC presence was acceptable despite the negative experience. Three judges who said their experience was positive also said that they prefer EMC not be present.

TABLE IV-24

PREFERENCE REGARDING EMC PRESENCE

	Judges Response		Attorneys Response		Witnesses Response		Juror Response		Total	
	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.
Prefer EMC Not Present	21	23%	18	38%	7	24%	11	20%	57	25%
EMC Presence Acceptable	44	47%	12	24%	14	48%	27	49%	97	43%
No Preference	28	30%	18	38%	8	28%	17	31%	71	32%

TABLE IV-25

PREFERENCE

EXPERIENCE CHARACTERIZATION	Prefer EMC Not Present	EMC Presence Acceptable	No Preference	No Opinion	Total
Positive	3	33	8	0	44 42%
Neutral	13	9	18	6	46 44%
Negative	3	1	2	0	6 6%
No Opinion	2	1	0	6	9 9%
TOTALS	21 20%	44 42%	28 27%	12 11%	105 100%

Fear of Harm

Witnesses, jurors, and defendants were asked if they feared any harm attributable to electronic/photographic media coverage of the proceeding: physical, psychological, financial, or reputational. Very few in any group responded in the affirmative. One witness (2%) seven jurors (16%) and two defendants (29%) reported a fear of harm (see Table IV-26).

Main Impression Regarding Effects of EMC

Judges and jurors, the "decision-makers" in court proceedings, were asked specifically to describe their main impression of the effects of EMC on the proceeding. Table IV-27 records

the answers. Half of all judges said there were no effects; equal minorities characterized the effects as positive or mixed positive/negative (18% and 20% respectively) and a few judges (8%) had the main impression that EMC effects were negative.

Jurors show a more dispersed distribution. Thirty percent (30%) reported no effects, 32% said positive effects occurred, 16% said mixed positive/negative, and 21% said the effects were negative.

TABLE IV-26

"FEARFUL OF HARM" DUE TO EMC

	Witness Response*		Juror Response*		Defendant Response*	
	Abs. Freq.	Pct.	Abs. Freq.	Pct.	Abs. Freq.	Pct.
Not Fearful	55	98%	38	84%	5	71%
Fearful	1	2%	7	16%	2	29%

*Four witnesses and one juror indicated general apprehension about cameras but had no fears in the instant case.

TABLE IV-27

MAIN IMPRESSION REGARDING EMC IMPACT

JUDGES			JURORS		
	Abs. Freq.	Pct.		Abs. Freq.	Pct.
None	53	54%	None	17	30%
Positive	18	18%	Positive	18	33%
Mixed, Positive & Negative	20	20%	Mixed Positive & Negative	9	16%
Negative	8	8%	Negative	12	21%

To test whether the high "importance" EMC events are more or less likely to exhibit negative effects in the view of the judge, an analysis was conducted by cross tabulating judge response on General Added Effects with Evaluator Importance rating (see Table IV-28). The four "highest importance" EMC events are distributed evenly across None, Positive, Mixed, and Negative. The Negative responses overall are distributed across Importance Rating in about the same pattern as other Added Effects judge responses in the table. No pattern exists to support the theory that the more major EMC events are more likely to have negative effects.

TABLE IV-2K

Importance Rating vs. Added Effects

IMPORTANCE RATING	JUDGE ADDED EFFECTS JUDGMENT					
	No, None	Yes, Some Positive	Yes, Mixed	Yes, Some Negative	No Opinion	Total
Low Import 1	4	2	0	0	5	11 11%
2	4	6	2	0	3	15 15%
3	12	2	5	3	6	28 28%
4	7	3	2	1	3	16 16%
5	1	2	5	0	2	10 10%
6	1	2	2	1	2	8 8%
7	1	0	1	2	0	4 4%
8	1	0	2	0	0	3 3%
9 High Import	1	1	1	1	0	4 4%
TOTALS	32 32%	18 18%	20 20%	8 8%	21 21%	99 100%

The analysis of interview and observational data presented in this section documents a record of experience during California's experiment which is generally favorable towards EMC. Negative effects of EMC, either reported or observed, are consistently low across all measures. The attitudinal survey data discussed in the next section (V) is not so positively disposed towards EMC. The relationship of case specific findings and attitudinal analysis results subsequently is addressed in Section VI.

V. ATTITUDINAL SURVEYS DATA ANALYSIS

This report section analyzes the general attitudinal data collected from judges, attorneys and jurors. The first part of the section presents analysis from judge and attorney surveys. Attorneys are divided into prosecutor and defense groups and both judges and attorneys ultimately were categorized as experienced or inexperienced with EMC. The second part of the section analyzes juror attitudinal data and also compares the responses of experienced and inexperienced groups.

For discussion purposes throughout this section, the General Attitudinal Survey: Judges and Attorneys will be referred to as General Attitudinal Survey, or simply Survey as distinguished from the Juror Attitudinal Questionnaire, or simply Questionnaire.

A. General Attitudinal Survey: Judges and Attorneys

1. Results Overview

While there is not one overall measure of the attitude of judges, prosecutors and defenders toward EMC, there is, nonetheless an obvious aggregate range of attitudes: it is from quite negative to neutral. It cannot be said that among these three groups there is a positive overall attitude toward cameras in the courts.

Of course, the EMC issues and the attitude dynamics are complex, as the divisions in this section which follow

will demonstrate. But even after sorting through the complicating effects of experience and the passage of time on these groups, the most significant attitude changes move some groups only to a midpoint of neutrality, while others remain firmly negative.

To illustrate the general attitudes of these three occupational groups, Tables V-1A, V-1B, and V-1C summarize the frequency distribution of respondents' answers, pretest[34] and posttest,[35] to Items 26a, b, and c on the Survey: Should EMC be allowed in Appellate, Civil and Criminal proceedings? Tables similar to these for all remaining items on the survey are found in Appendix

These frequency distributions show that, in general, the three groups are more favorable (or less negative) toward EMC in appellate proceedings than in civil or criminal proceedings. On the posttest, 69% of the judges and 70% of the prosecutors approve (combined Agree and Strongly Agree percentages) of EMC in appellate proceedings, while only 30% of the defenders approve.

For civil proceedings, judges on the posttest approve (combined Agree and Strongly Agree percentages) at a 58% margin, prosecutors at 43% and defenders at 20%. The disapproval (combined Disagree and Strongly Disagree percentages) rate for judges is 31%, prosecutors 35% and defenders 61%. A higher frequency of No Opinion is registered by prosecutors and defenders on this item than the other two items.

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[34] Survey administered prior to the experiment.

[35] Survey administered after June 30, 1981.

TABLE V-1A

FREQUENCY DISTRIBUTIONS PRE-POST
FOR ALL THREE OCCUPATIONAL GROUPS ON
GENERAL ATTITUDINAL SURVEY ITEM 26a
"EMC should be allowed in appellate proceedings."

Response Cateogry	ALL JUDGES				ALL PROSECUTORS				ALL DEFENDERS			
	PRE		POST		PRE		POST		PRE		POST	
	FQY	%	FQY	%	FQY	%	FQY	%	FQY	%	FQY	%
Strongly Agree 1	67	18	51	23	49	28	35	32	26	15	12	11
Agree 2	130	35	102	46	59	34	42	38	40	24	20	19
No Opinion 3	77	20	29	13	19	11	11	10	21	12	15	14
Disagree 4	72	19	30	14	28	16	13	11	40	24	26	24
Strongly Disagree 5	29	8	10	4	20	11	10	9	42	25	34	32
Number of Cases	375		222		175		111		169		109	
Mean	2.64		2.31		2.49		2.29		3.19		3.47	

TABLE V-1B

FREQUENCY DISTRIBUTION PRE-POST
FOR ALL THREE OCCUPATIONAL GROUPS ON
GENERAL ATTITUDINAL SURVEY ITEM 26b
"EMC should be allowed in Civil proceedings."

	ALL JUDGES				ALL PROSECUTORS				ALL DEFENDERS			
	PRE		POST		PRE		POST		PRE		POST	
Response Category	FQY	%	FQY	%	FQY	%	FQY	%	FQY	%	FQY	%
Strongly Agree 1	33	9	27	12	7	4	11	10	7	4	2	2
Agree 2	129	34	103	46	50	29	36	33	26	15	19	18
No Opinion 3	59	16	24	11	31	18	25	23	42	25	21	2
Disagree 4	109	29	52	23	53	30	26	24	44	26	31	29
Strongly Disagree 5	44	12	18	8	33	19	12	11	50	30	34	32
Number of Cases	374		224		174		110		169		107	
Mean	3.01		2.69		3.32		2.93		3.62		3.71	

TABLE V-1C

FREQUENCEY DISTRIBUTION PRE-POST
FOR ALL THREE OCCUPATIONAL GROUPS ON
GENERAL ATTITUDINAL SURVEY ITEM 26c
"EMC should be allowed in criminal proceedings."

Response Category	ALL JUDGES				ALL PROSECUTORS				ALL DEFENDERS			
	PRE		POST		PRE		POST		PRE		POST	
	FQY	%	FQY	%	FQY	%	FQY	%	FQY	%	FQY	%
STRONGLY AGREE 1	29	8	26	12	8	5	14	13	5	3	2	2
AGREE 2	128	34	93	42	45	26	37	34	19	11	12	11
NO OPINION 3	45	12	17	8	8	5	2	2	8	5	6	6
DISAGREE 4	107	28	59	27	44	25	30	27	36	21	22	21
STRONGLY DISAGREE 5	66	18	27	12	70	40	27	24	101	60	65	61
Number of Cases	375		222		175		110		169		107	
Mean	3.14		2.86		3.70		3.17		4.24		4.27	

For EMC of criminal proceedings, few respondents had No Opinion. Fifty-four percent of the judges approve on posttest (combined Agree and Strongly Agree), 47% of the prosecutors and only 13% of the defenders. Disapproval rates for the three groups on posttest are: judges, 39%; prosecutors, 51% and defenders, 82%.

These tables also show the general trend among judges and prosecutors of movement toward a more positive attitude as indicated by changes in the mean scores pre to post and by the increasing percentages in the Agree categories pre to post.

The overall trend found in the attitudes of the three key professional groups of disapproving of, or being neutral toward, EMC in the courtroom provides the background for this entire analysis section.

2. Survey Administration

In June, 1980, the General Attitudinal Survey was administered to judges, prosecutors, and defense attorneys throughout California. In this report these surveys are referred to as the "Pretest". All 600+ Superior Court judges, 279 prosecutors (District Attorneys' Offices), and 259 public defenders and private defense attorneys received the survey. Of the total 1,140 surveys mailed out, 855 were returned (75%): 464 judges, 203 prosecutors and 188 defenders. During the course of the experimental year, the evaluation team also administered the survey immediately after an EMC event to those judges in whose court the event occurred. A total of 63 of these surveys were returned. These surveys are hereinafter referred to as the "During Posttest".

In July, 1981, the entire group of judges, prosecutors and defenders were again sent the Survey for what may be called the "After Posttest". Of the 1,140 total surveys mailed out, 225 judges, 112 prosecutors and 110 defenders returned the survey (39%). Table V-2 summarizes the numbers of surveys returned during each test administration.

TABLE V-2

Number of General Attitudinal Surveys Returned by Occupation

	Survey Administration Schedule		
	Pretest June 80	During Post-test (After EMC event)	After Post-test July 81
Judges	464	63	225
Prosecutors	203	--	112
Defenders	188	--	110

Table V-3 identifies the 10 respondent groups used in the analysis. At the time of the Pretest in June 1980, prior to the onset of the EMC experiment, none of the subjects surveyed had had EMC experience; hence, groups 1, 2, and 3 (judges, prosecutors and defenders) are labelled "EMC Inexperienced" or simply "Inexperienced."

At the time of the After Posttest in July 1981, some judges, prosecutors, and defenders had had direct EMC experience. These are groups 5, 7, and 9: "EMC-Experi-

enced: or simply "Experienced". Others in these same occupational categories still had not had direct EMC experience; hence groups 4, 6, and 8 continue to be labelled "EMC-Inexperienced" or simply "Inexperienced."

Group 10 is an "EMC-Experienced" group--those who completed the During Posttest. The attitudes of these individuals (judges only) were surveyed during the experimental year, right after an EMC event in their courtroom.

TABLE V-3

Summary of General Attitudinal Survey Administration Schedule by Groups

	Survey Administration Schedule		
Groups Surveyed	Pretest June 80	During Posttest (After EMC event)	After Posttest July 81
JUDGES			
EMC-Inexperienced	1	—	4*
EMC-Experienced	—	10	—
PROSECUTORS			
EMC-Inexperienced	2	n/a	6
EMC-Experienced	—	—	7
DEFENDERS			
EMC-Inexperienced	3	n/a	8
EMC-Experienced	—	—	9

3. Analysis Procedures

Factor Analysis

The 29 items comprising the General Attitudinal Survey were subjected to factor analysis using a varimax rotation. Factor analysis is a correlational procedure that groups items into orthogonal dimensions. The technique identifies patterns of intercorrelations among those many items which, for all intents and purposes, "measure the same thing". Specifically, a measure of the degree of generalizability found between each item and each factor is calculated and referred to as a factor loading. Items that "load" on a particular dimension of the factor structure are extracted by the analysis. Thus, the factor loadings identify items which group together in close relationship to some derived factor or dimension.

The purpose of factor analysis is to summarize the interrelationships among the items in a concise and accurate manner as an aid to conceptualization. In so doing, a maximum amount of information from the original items (or variables) is included in as few derived variables, or factors, as possible to keep the solution understandable. Factor analysis is an aid in describing data parsimoniously.

There are several important conceptual and statistical advantages associated with treating the General Attitudinal Survey responses as factors, rather than analyzing single item scores. The summed items making up a factor provide a more stable, reliable measure than single item indices, and factor scores produce a much more manageable and more easily interpreted data array. Thus, inferences concerning the nature of the construct represented by the dimension are allowed.

After determining how many factors existed and how many items loaded onto each factor, attitude scores for each factor were arrived at by summing each respondents' answers to the Survey items contained in the factor and dividing by the number of items. Thus, each respondent had an attitude measure regarding EMC for each of the factors instead of 29 measures (one for each item from the Survey).

Reliability coefficients were determined for the items on the factors. Reliability is the accuracy (consistency and stability) of measurement. Reliability information indicates how much confidence can be placed in a measurement. If high, the coefficients indicate that the items on the factor would group together again if the survey instrument were used again. In summary, the factors derived from the factor analysis became the new sets of data for the analyses which follow.

Slopes Analysis

The attitude measures (factors yielded in the factor analysis) were subjected to a number of analyses using a statistical program that generates the slopes of regression lines from Time 1 (Pretest) to Time 2 (Posttest) attitude measures. This technique permitted determination of the categories of respondents (judges, prosecutors, defenders) that changed significantly from pretest to posttest and whether there were significant differences in the rates of change from pretest to posttest for members of the three professional categories (e.g., whether or not the rate of change for judges was significantly different than the rate of change for defense attorneys or prosecutors). Finally, these slope analyses also were used to determine whether or not there were

differences in the rate of attitude change within occupational categories for those respondents who had direct experience with EMC as opposed to those respondents who had no direct experience.

Correlated T-Tests

To determine if the magnitude of changes in factor mean scores within occupational groups from pretest to posttest were significant, correlated t-tests of means were computed and significance determined. The scores are correlated because pairs of respondents pre to post are used. That is, the same respondent has both a pretest score and a posttest score on the factors.

Discriminant Function Analysis

Discriminant function analysis is a statistical procedure using occupational group scores on the factors to develop two canonical discriminant functions for each group. The functions (weighted standards) are then applied to the raw scores, resulting in new group classifications for each attitude measure. Ideally, the discriminant would classify (predict) each individual into the correct group. Such is not typically the case, however, since groups are not usually that homogeneous in the first place, and the two discriminant functions are approximations. Discriminant function gives an indication of group cohesiveness as well as the stability (or change) in the patterns of responses on an instrument.

Frequency Distribution Analysis

The frequency distributions for selected items on the survey were examined for trends and directional changes.

In particular, Items 17 and 25, the party consent questions, and Items 26a, b, and c, the attitude poll questions, were tabulated and presented in the body of the text in this section. The results of the examination of Items 26a, b, and c have already been presented in the Results Overview section above.

4. Analysis Results

Factor Analysis

Question: What patterns of intercorrelations are there between the items on the Survey such that the minimum number of factors will emerge? Which items load onto the factors and what is the reliability of the items on the factors?

Four factors emerged from the factor analysis of the General Attitudinal Survey. The factors are identified in Table V-4 along with the 18 items from the survey which comprise, or "load onto", the factors.

Factor 1, which consists of eight of the 29 items, is characterized by statements referring to various effects that EMC might have on courtroom trials and is thus labelled General Effects Factor. Factor 2 consists of six items alluding to ways in which EMC might exert a coercive or restrictive influence on behaviors of trial participants and is therefore labelled Influence Factor. The remaining two factors, each consisting of two items, have been labelled Civilian Concern and Mutual Consent.

Reliability coefficients were calculated to determine the reliability of items in each survey factor. Table V-5 summarizes the results of the reliability analysis. The computed reliability (alpha) coefficients indicate