

ACKNOWLEDGMENTS

We would like to thank the following individuals for providing pertinent information to the evaluators which assisted them in the completion of this report:

Hon. Marshall T. Ader, Administrative Judge, Traffic Division
Hon. Harvey Baxter, County Court Judge, 11th Judicial Circuit
Hon. Jack Block, County Court Judge, 11th Judicial Circuit
Mr. Craig Burger & Staff, Administrative Office of the Courts
Mr. Fred Crawford, Department of Corrections
Mr. Anthony Dawsey, Department of Corrections
Hon. Robert Deehl, County Court Judge, 11th Judicial Circuit
Hon. J. Allison Defoor, II, Monroe County Judge,
16th Judicial Circuit
Hon. J. Leonard Fleet, Circuit Court Judge,
16th Judicial Circuit
Hon. Marvin Gillman, County Court Judge, 11th Judicial Circuit
Prof. Michael Graham, University of Miami Law School
Chaplin Hernandez, Department of Corrections
Hon. Gerald Klein, County Court Judge, 11th Judicial Circuit
Hon. Calvin Mapp, County Court Judge, 11th Judicial Circuit
Dr. David McGriff, Administrative Office of the Courts
Ms. Katherine Michnay, Swan Court Reporting
Mr. Timothy Murray, Pretrial Services
Hon. Alfred Nesbitt, County Court Judge, 11th Judicial Circuit
Mr. Jim North, Clerk's Office
Ms. Denise Perrault, Administrative Office of the Courts
Hon. Morton Perry, County Court Judge, 11th Judicial Circuit
Ms. Marcie Rivera, Clerk's Office
Hon. Meek Robinette, County Court Judge, 11th Judicial Circuit
Mr. Carlos Tellez, Department of Corrections
Mr. Gary Trustee, Dade County Jail
Mr. David Weed, Public Defender's Office
Capt. Joe Zappia, Department of Corrections

TABLE OF CONTENTS

	<u>Page</u>
I. EXECUTIVE SUMMARY	3
II. RECOMMENDATIONS	10
III. METHODOLOGY	14
IV. DESCRIPTION OF THE SYSTEM	15
V. CHANGES IN ADMINISTRATIVE PROCEDURES	18
VI. EFFICIENCY ISSUES	22
A. Cost	
B. Location	
C. Security	
VII. QUESTIONNAIRE RESULTS	36
A. Inmates' Questionnaire	
B. Judges' and Attorneys' Questionnaire	
VIII. LEGAL DISCUSSION	58
IX. USE OF CCTV IN OTHER JURISDICTIONS	83
X. APPENDICES	88
1. Inmate Questionnaire	
2. Crosstabulations on Selected Questions from Inmate Questionnaire	
3. Questionnaire Given to Judges, Assistant State Attorneys, Assistant Public Defenders, Private Defense Attorneys	
4. Supplemental Questions for Judges	
5. Crosstabulations on 13 Questions by Profession of Respondent	
6. Physical Layout of the Videotape System	
7. Chapel Services Schedule	
8. Program Improvement Request (PIR) for Video Equipment	
9. Layout of Seventh Floor of Jail	

TABLES

	<u>Page</u>
1. PERSONNEL PRESENT FOR FELONY BOND HEARINGS	16
2. SALARY CHART-PERSONNEL USED IN FELONY BOND HEARINGS	26
3. EQUIPMENT USED FOR OPERATING FELONY BOND HEARINGS	28
4. ANNUAL EXPENSES FOR FELONY BOND HEARINGS FOR FY 84-85	30
5. RESPONSES TO INMATES' QUESTIONNAIRE- FREQUENCY COUNTS AND PERCENTAGES	40-41
6. CROSSTABULATION OF "TV MADE MY CASE GO FASTER" WITH "I RECEIVED EFFECTIVE LEGAL REPRESENTATION"	44

EXECUTIVE SUMMARY

I. EXECUTIVE SUMMARY

On February 19, 1985, the Criminal Division of the Eleventh Judicial Circuit of the State of Florida began using closed circuit television on a trial basis to conduct first appearance felony bond hearings. The Honorable Gerald T. Wetherington, Chief Judge of the 11th Judicial Circuit requested the Office of the Dade-Miami Criminal Justice Council to evaluate the use of closed circuit television in these proceedings. An earlier study completed in November, 1982 by the Office of the Dade-Miami Criminal Justice Council evaluated the use of video in misdemeanor first appearances. This current evaluation: 1) examines only those issues related to the use of closed circuit television in felony bond hearings; 2) analyzes the system in terms of efficiency and cost; and 3) addresses the defendants' legal rights.

Generally, "all defendants [charged with committing felony crimes] will be brought before a judicial officer within 24 to 72 hours of arrest for what is often called an initial appearance. At this preliminary hearing, the judicial officer will (i) inform a defendant of rights, (ii) appoint counsel if defendant is indigent. This hearing is non adversial and can be combined with the Gerstein hearing where required"¹ In Florida, the Gerstein hearing or initial probable cause determination after arrest is incorporated into the defendant's initial bond determination. The hearing is referred to as a "First Appearance" and

¹Criminal Procedure, Paul Marcus and Charles H. Whitebread t. 220 p. 31; Gerstein v. Pugh 95 S.Ct. 854 (1975).

is governed by The Florida Rules of Criminal Procedure 3.130, 3.131, and 3.133.

A non adversarial hearing means that no discussion of the merits of the defendant's case takes place, nor do the prosecutor or the defense present witnesses. In Dade County, if the defendant is not satisfied with the amount of bond set at this initial hearing, he can immediately appeal the decision to a circuit court judge assigned to the case.

Theoretically, it would seem that the defendants arrested on misdemeanor charges being arraigned and sentenced by the judge through closed circuit television would raise more concern over whether the defendant is receiving adequate counsel than in an initial hearing to set bond for felony defendants. Yet, to all those concerned, the relative lack of severity of misdemeanor charges deems the issue of video less important at misdemeanor arraignments than at felony bond hearings. In a felony bond hearing, the main issue of concern is whether the defendant's presence in the court has a positive effect on the judge in lowering bond. There is no empirical evidence to support this conclusion, but the legal issues it presents are discussed in Section VIII of this evaluation. Furthermore, it is extremely difficult to separate the effects of the videotape process from the individual style of the judge hearing the cases.

Several points regarding discussion of the defendant's legal rights should be made. First, no state or federal court has ruled definitively on the above issues; even when discussion is limited to defining the

scope of sixth, eighth and fourteenth amendment rights, courts are inconsistent and unclear. There are many dimensions to each of these issues which would be impossible to cover in an initial survey. Second, many of the concerns of local criminal justice system professionals have little to do with the closed circuit television (CCTV) issue, but reflect more specific frustrations with the local criminal justice system. The issue of closed circuit television brings these frustrations to the surface. In complying with the logistics of CCTV, those participating in the system are forced to confront deeper problems which heretofore went unnoticed or ignored. Throughout the study the evaluators have tried to distinguish between those issues which relate specifically to video and those which reflect broader concerns. Since the use of closed circuit television is on a trial basis, it is understood that there are present equipment limitations that shall be improved should the system become permanent.

The advantages and disadvantages of the system in terms of administrative cost and efficiency are discussed below.

ADVANTAGES TO THE SYSTEM ARE:

- (1) The use of closed circuit television in felony bond hearings is significantly beneficial to the Department of Corrections. The Main Jail's second floor holding cell now holds all inmates prior to the felony bond hearing. The defendants do not have to be moved very far to attend the court hearing. Previously, the defendants were placed on several floors.

The number of correctional officers required for bond hearings has been decreased. Correctional officers are no longer required to take inmates to the courtroom, and, therefore, their productivity is increased (relative to jail operations) since they are physically present at the Jail during the hearings.

(2) Holding cells:

Inmates no longer have to be shackled and placed in small holding cells to await bond hearings. The second floor holding cell is large, equipped with tables, telephones, and cots.

(3) Public attendance:

The courtroom, previously mandated locked as a security precaution, is now open during felony bond hearings. The public may enter and leave as desired, and seats are available for all who wish to attend. Previously, approximately 30 defendants took up seats now available to the public.

(4) Human Dignity:

An advantage to the system stated by individuals working within the criminal justice system is that the inmates are no longer being put in handcuffs, led across the bridge and placed as "captives" in small holding cells prior to felony bond hearings. This perception of violation of human dignity is perceived more by those within the criminal justice system than by the defendants.

(5) Security:

During felony bond hearings the major security violation occurs due to the confinement of mentally disturbed defendants who periodically exhibit inappropriate behavior. Although there have been no records found showing attempted out-breaks during felony bond hearings, the perception of risk is minimized for all parties involved. In the jail, the officers "feel" more secure knowing that the response time of backup correctional officers is immediate. Also, there are fewer behavioral problems and less noise in the courtroom, which allows for greater concentration by the judge.

DISADVANTAGES OF THE SYSTEM ARE:

(1) Defendant Not in Courtroom:

For some judges, this is an issue when deciding whether to order a psychological evaluation because of the judge's perception that face to face confrontation may allow for a more effective determination (See Legal Discussion, page 70).

For the private attorney, this is an issue because the attorney feels the defendant's presence in the courtroom will have a positive effect on the judge's lowering the bond. The private attorneys are generally present in trafficking cases, where the standard bond is very high (\$250,000/charge).

(2) Technical:

It is inherent in our understanding that the technical disadvantages are directly due to financial constraints resulting from the use of closed circuit television on a trial basis.

Based on the questionnaires given to the defendants (Section VII), the visual and auditory clarity of the equipment needs to be addressed. A quantifiable percentage of the defendants are unable to hear and see judges and defense attorneys clearly. The private defense attorney, standing at the podium, is unable to see his client without turning around, effectively having his back to the judge. When the family member sitting in the "audience" speaks, the defendant can neither hear nor see him. Provisions have been made to allow the family member to speak to the defendant, but he must come forward to the front of the courtroom to do so.

(3) Speed of case processing:

It is apparent that, within the session, the inmates perceive that the use of closed circuit television increases the speed with which cases are processed (Table 5). Because the defendant is removed from the courtroom, the judge sets the pace for cases being heard. This is of concern to the evaluators because sometimes a determination of probable cause, bond, and the appointment of a public defender is made before the defendant gets to the podium. Although we are concerned with efficiency, we are also concerned that the defendants perceive that they get their "day in court."

(4) Transcribing from video²:

Court reporters claim that it is more difficult to transcribe from a videotape than from a live proceeding. Although tape playback ability is available, the court reporter finds it more difficult to hear all parties involved. Transcribing from a videotape is apparently more time consuming than transcribing from notes taken of a live proceeding.

(5) Presence of court reporter:

If the judge wishes to have a court reporter read back statements made earlier in the hearing, she can do this instantaneously from the notes she has taken. Although a videotape has the replay ability to allow the judge to hear statements made earlier in the session, it is not typically used to do so.

²Comments from Swan Court Reporting, Inc.

RECOMMENDATIONS

II. RECOMMENDATIONS

The Office of the Dade-Miami Criminal Justice Council recommends that the use of closed circuit television on a trial period be terminated and be implemented on a permanent basis for felony bond hearings. We have made specific recommendations on how to upgrade this system from a temporary one to a permanent system operating on a seven day per week basis.

Technical:

The evaluators' position is that, if closed circuit television is to be used on a permanent basis, the equipment should be of sufficient quality so that all parties in the jail can see and hear clearly the individuals in the courtroom and visa versa. In other words, if the judiciary decides that the trial basis is successful and the use of closed circuit television becomes permanent, they should see that the system is improved and upgraded and not allow the cost of equipment to be a limiting factor. Specifically, the following improvements should be made:

- (a) Improve the color reception on the video screen in the jail, so that inmates will have a clearer picture of the courtroom. (See Table 5, Questions 1-4, and preceding Analysis, pages 37-38.)
- (b) Improve the sound within the chapel; at times, hearing is very difficult for those persons not standing

directly at the podium. (See Table 5 and preceding Analysis.)

- (c) Replace telephone for communication between public defender and inmate with a soundproof intercom system to alleviate their concerns that communications between them are not confidential. (See Table 5, Analysis on pp 38, 47-49, 50-55.)

- (d) Give the controls of the equipment in the chapel to the the console technician in the jury room. The console technicians are able to provide more accurate coverage of entire proceedings; this in turn would provide more comprehensive coverage to inmates. (See Analysis pp 47-49.)

Operational:

- (a) Utilize the videotapes for judicial training.

- (b) Insure that the defendant understands the nature of the proceedings. Announce to each defendant individually whether a public defender will be appointed for his case. (See Table 5, Question 12; preceding Analysis on Courtroom Demeanor.)

- (c) Insure that the defendant is standing before the podium

prior to his bond being established. Insure that the defendant has the opportunity to speak to the judge if he so desires. (See Table 6, Analysis, pp 45-49.)

- (d) Insure that the private defense attorneys have the same opportunity to communicate with their clients as do the public defenders. (See Appendices 3, 4, 5; preceding Analysis pp 50-55.)

Administrative:

Closed circuit television for first appearance hearings should be utilized on a seven day per week basis. The overriding factor for this decision is the opportunity to minimize the movement of prisoners from one location to another reducing potential for security violations. This is best effectuated by utilizing the second floor chapel for "court" as the prisoners are kept on the second floor in holding cells. To eliminate the present conflict over space availability resulting from the chapel's use for church services on Saturday and Sunday mornings two options exist: a) hold either the first appearance hearings or church services in the afternoons or weekends, allowing the second floor chapel to remain available for both purposes; or b) move the Saturday and Sunday chapel services to the seventh floor, necessitating a conversion of the seventh floor to a permanent chapel facility.

Educational:

The use of videotapes can be beneficial to the education of defendants who are confused about what takes place between arrest and the first

appearance hearing. Educating defendants as to the procedures of these hearings will help to allay their apprehension and anxiety about being arrested. A videotape could be developed to explain the entire bond hearing process to the inmates. Additionally, it could be used to explain the process of arraignment, and what the inmates should expect to encounter in their circuit court trial, their rights, the role of the Assistant Public Defender and Assistant State Attorney, etc. Based on the responses to the questionnaires provided the felony defendants (Section VII), there is a serious misunderstanding of what is occurring during bond hearing. Videotape can also be used for training judges, public defenders and assistant state attorneys.

METHODOLOGY

III. METHODOLOGY

Over a one month period, in April 1985, the evaluators conducted interviews, distributed questionnaires to collect information on technical problems, cost, security incidents, the physical facility, and legal issues associated with the use of closed circuit television for felony bond hearings.

Interviews were conducted with the following individuals/offices:

- Judges of the County Court
- Administrative Office of the Courts-Research and Systems Division
- Administrative Office of the Courts-Video Technicians
- Public Defender's Office
- State Attorney's Office
- Clerk's Office
- Pre-Trial Release Program
- Court Interpreter
- Court Reporter
- Department of Corrections and Rehabilitation
- Private Defense Bar
- Jail Chaplain and his Administrative Assistant
- Chapel Trustee
- Felony Defendants

Written questionnaires were provided to the judges, assistant public defenders, private defense attorneys, assistant state attorneys, and defendants to ascertain their perception of the system. The evaluators made no attempt to develop this evaluation with an experimental design. For example, no control group was used; no questionnaires were provided to dependents or lawyers participating in weekend bond hearings where no closed circuit television is utilized. If deemed necessary, further study could be undertaken to measure how defendants undergoing felony bond hearings in front of the judge perceive demeanor, speed of proceedings, and the other issues on the inmate questionnaire. (Section VII)

DESCRIPTION OF THE SYSTEM

IV. DESCRIPTION OF THE SYSTEM

After the booking process, the felony defendants are placed in a large holding cell on the second floor of the Dade County Jail. Generally, if they are booked prior to 4:00 a.m., they will be present for the morning bond hearing. If they are arrested and booked after 4:00 a.m., they will appear before a judge through CCTV in the afternoon bond hearing. At the present time, on Monday to Friday, the initial appearance to set bail for felons is held in the jail chapel. As a group, the inmates are brought from the holding cell into the jail chapel, which is also on the second floor of the Dade County Jail. The chapel room becomes an extension of the courtroom. A physical layout of the system can be seen in Appendix 6.

Table 1 is an outline of the individuals who are present in the jail and in the courtroom:

TABLE 1

Personnel Present for Felony Bond Hearings

<u>In The Jail</u>	<u>In The Courtroom</u>
Defendant	Judge
Correctional Officers	Assistant State Attorney
Interpreter	Assistant Public Defender
Programs, PTR,	Private Defense Lawyer
CHIC, etc.	Court Clerk
Paralegal from	Pretrial Services staff member
P.D.'s office	Video technicians in jury room
	Public/family
	Court Reporter*

*Will be removed if and when closed circuit television is used on a permanent basis.

Through the use of a series of cables and electronic equipment, the image and voice of the defendant is portrayed into the courtroom through two video monitors - one viewed by the judge and attorneys and one for viewing by the public. The defendant stands at a podium and faces the front of the "chapel". He views the judge through a 45" screen. To the right of the screen a color video camera focuses on the defendant and may be manipulated by the correctional officer to provide a view of the entire courtroom.

There are two cameras in the courtroom which allow the defendant to view the judge, attorneys, and public. The jury room of courtroom 2-4 had been converted into the video control room when the court began using closed circuit television to conduct misdemeanor arraignments. The video control room houses the video technician who controls the audio visual equipment during the proceedings.

All the individuals involved in the process have access to microphones which enable them to speak and to be heard in open court. The assistant public defender has an open telephone line with the paralegal (bond hearing unit member) and/or defendant to allow for private conversations. The assistant public defender and assistant state attorney each have a small monitor in front of them to be able to view the defendant easily.

The control room operator (videotechnician) maintains constant communication with a correctional officer and the court clerk through the use of a headphone - intercom system. The videotechnician monitors the events on three monitors, and on a fourth monitor records the proceedings and case disposition for the court's records. A special effects generator allows the images from the camera in the jail and the camera in the courtroom to be combined on a split screen for the tape which becomes the permanent court record. Additionally a court reporter is recording the cases during this trial period to insure proper maintenance of records in the event that closed circuit television is not approved for future and permanent use.

CHANGES IN ADMINISTRATIVE PROCEDURES

V. CHANGES IN ADMINISTRATIVE PROCEDURES

Although in October 1982, the misdemeanor first appearance hearings were placed on closed circuit television and defendants arraigned on misdemeanor charges remained in the jail, the defendants held on felony charges continued to be brought to the courtroom for their initial first appearance bond determination. The additional use of closed circuit television for conducting first appearance felony bond hearings brought the following changes:

Operational changes:

- 1) An advantage to the system stated by individuals working within the criminal justice system is that the inmates are no longer being put in handcuffs, led across the bridge and placed as "animals" in small holding cells prior to felony bond hearings. This perception of violation of human dignity is perceived more by those within the criminal justice system than by the defendants.

- 2) No inmates are brought to courtroom 2-4 for hearings. This allows the holding cells on the bridge to be used for prisoners awaiting other circuit court hearings.

Administrative Changes:

- 3) The number of correctional officers required to do misdemeanor arraignments and felony bond hearings has been reduced.

Before the utilization of closed circuit television for both types of hearings, five correctional officers were needed for county court and five correctional officers were needed for bond hearings. Now the Department of Corrections can utilize six correctional officers for both hearings. A "saving" of four men occurs. These men are now assigned to circuit court hearings.

- 4) The video technicians work more hours due to felony bond hearings being held on closed circuit television.
- 5) Pretrial Services must have two staff members involved in the process: one who works at the judge's side informing him of the program's decision on a defendant and another individual who sits in the chapel writing down the judge's final decision as to pretrial release and amount of bond. Pretrial Services views this as a positive change, helping to the reduce time it takes to release inmates bonded to PTS' supervision.

- 6) The flow of paperwork had to be modified slightly. Now, the Court Records Specialist I (Court Clerk) must bring the "notice of arraignment" form from the courthouse to the jail for the defendants' signature before the hearing begins. When CCTV was not being used, the court clerk could get the defendant's signatures during the hearing while the defendant was in court. Also, a court clerk takes the bond hearing calendar to the jail for use by the correctional officers, the bond hearing unit staff from the Public Defender's Office, the court interpreter, and staff from the different pretrial release programs attending the hearing.

The probation violation forms come to the Clerk's Office before court and the Clerk carries the original to the jail.

- 7) One judge has been assigned to hear misdemeanor and felony first appearance hearings, Monday through Friday. This provides for continuity and should improve the potential for increased efficiency.

Technical Changes:

- 8) The assistant public defender in the courtroom has a telephone link with the defendant and/or bond hearing unit member in the jail chapel. The assistant public defender has a monitor to view his client. The assistant state attorney has a monitor to view the defendant.

- 9) Additional microphone outlets were installed for the correctional officer(s) in the jail courtroom.

- 10) The 46" monitor in the court (which the judge originally had used to view the defendants in the jail chapel) and the monitor in the chapel (which the defendants had used to view the judge in the courtroom) have been replaced with upgraded models. The monitor which the judge previously used is now used by the public in the court to view the entire proceedings.

- 11) An additional camera was placed in the courtroom to view the assistant state attorney and assistant public defender. The recording camera's view remains on the judge.

- 12) A camera lens with a greater f-stop was placed on the camera in the jail to allow for lower light conditions.

EFFICIENCY ISSUES

VI. EFFICIENCY ISSUES

A. COST:

Three aspects of cost have been analyzed in order to adequately determine expenses associated with the use of closed circuit television in felony bond hearings: 1) cost of personnel which could increase or decrease with the use of closed circuit television in felony bond hearings; 2) operating expenses due to using CCTV in felony bond hearings; and 3) the cost of equipment used in conducting felony bond hearings by closed circuit television.

Personnel:

To determine personnel costs, we made several assumptions: (a) the cost for utilizing video operators for felony bond hearings is 50% of the entire cost incurred for the morning and afternoon sessions utilizing closed circuit television; (b) The Judicial Support Administrator I (video operations supervisor) spends 75% of his time on the video process for misdemeanor arraignments and felony bond hearings; 50% of that time can be accrued to the felony bond hearings; (c) The two part time video operators (classified as bailiffs) are the equivalent of one full time position; (d) The presence of a court reporter would not be necessary at felony bond hearings because the CCTV system allows for a transcript of the proceeding; (e) The bond hearing unit member (paralegal) from the Public Defender's Office stationed in the jail with the defendant would be necessary even if the defendant was in the courtroom with the defense attorney; (f) The use of two individuals

from Pretrial Services benefits the overall program and would be maintained independent of the use of closed circuit television. The Pretrial Services' staff member stationed in the jail during the proceedings records the bond determination for each defendant as it is made. Following the session, Pretrial Services can immediately begin steps related to releasing the defendant from jail. Previously, the release process was delayed due to the time it took to physically transfer the records from the courtroom to the jail; and (g) all costs are based on the use of CCTV for a five day week (M-F). Should the system be implemented on a seven day per week basis, as the Office of the Dade-Miami Criminal Justice Council is recommending, the following cost analysis would have to be recalculated. A rough approximation is that expenses would increase by 40%.

Video Technicians:

The video technician is classified as a bailiff for Dade County pay classification. The equivalent of one full time bailiff is necessary to operate the video equipment. His salary is \$574.72 bi-weekly or \$7.184/hour. It is estimated that felony bond hearings consume 50% of the video operators daily schedule. The formula for estimating the cost to the CCTV system of using a video technician in felony bond hearings is:

\$14.942.72/year x 50%	=	\$7471.36
FICA at 7.05%	=	526.73
Total	=	\$7998.09

Video Operations Supervisor:

The video operations supervisor is classified as a Judicial Support Administrator I for Dade County pay classification. It is estimated that 75% of his time is spent on misdemeanor arraignments and felony bond hearings for cost purposes. It is further estimated that 50% of that time is allocated to felony bond hearings. The formula for estimating the cost of the video operations supervisor is:

$$\$19,764.42 \times 37.5\% = \$7411.66$$

Court Reporter:

A court reporter costs \$40.00 a session and attends two felony bond sessions a day, Monday through Friday. The formula for estimating the cost of employing a court reporter is: [\$40/session x 2 sessions/day x 5 days/week x 52 weeks] - [\$80/day x 11 holidays/year] = \$19,920

The average cost of transcribing from a video tape is \$3.00 a page plus a \$40.00 appearance fee. (Transcripts average one page long.)

The average number of transcription requests/year is 12 to 15.

An estimated annual expense for transcription is:

$$\$43/\text{request} \times 15 \text{ requests} = \$645$$

Correctional Officers:

The Department of Corrections has reduced the number of officers required for misdemeanor arraignments and felony bond hearings from ten to six. This occurs since both hearings are maintained in the jail and the felony defendants do not have to be walked to the courtroom under supervision.

Previously, five correctional officers were assigned to County court misdemeanor arraignments and five were assigned to felony bond hearings. Now, six men can take care of both sessions. The morning hearings are handled by the "jail crew" and the afternoon hearings are handled by the "court crew", each supervised by different individuals (i.e. a different team of correctional officers handles each shift).

The "surplus" of four correctional officers is considered a cost savings for the Department of Corrections. These men are now used to provide security in circuit court hearings, thereby increasing the number of officers in circuit court hearings from one to two.

The Correctional Officer I, Step 5 entry level, makes \$735.61 bi-weekly or \$19,125.86/year.

TABLE 2

Salary Chart; Personnel Used in Felony Bond Hearings

<u>Position</u>	<u>Increase or (Decrease) in Annual Expense</u>
Bailiff (video technician)	\$7998.09
Judicial Support Administrator I (video operations supervisor)	\$7411.66
Court Reporter, reporting fee transcription cost	[\$19,920.00] \$ 645.00
Correctional Officer I	[\$19,125.86]
Fringe Benefits (estimated at 25% of full time staff's salary .25 [\$7411.66 - (\$19,125.86 x 4)])	[\$17,272.95]
Total Personnel, Savings	<u>[\$97,641.64]</u>

Operating Expenses:

The operating expense (i.e. electricity, supplies, etc.), for court room 2-4 and the video control room are immersed into the overall budget for the Administrative Office of the Court. The operating expenses for courtroom 2-4 are not separately itemized, and the evaluators were unable to determine them. Only the cost of the videotape could be estimated and this is estimated as follows:

$$\text{two } \frac{1}{2} \text{'' videotapes/day} \times 249 \text{ days/year} \times \$10 \text{ /tape} = \$4980.00$$

Equipment:

To estimate the cost of equipment necessary to operate the system in its present form, the equipment now being utilized and an associated quantity and cost is provided in the following table:

TABLE 3

Present Equipment Used For Operating Felony Bond Hearings by CCTV

Description	Quantity	Cost
SEG	1	\$ 1801.70
VDA	7	1815.00
VCR	2	2978.20
Camera	3	4889.10
Lens	3	4800.00
P/T Control	3	735.30
P/T Unit	3	1277.10
Microphones	7	1655.25
Microphone Mixer	2	2244.65
Time/Date Generator	1	408.50
Headsets	4	784.24
Camera Control Units	2	756.00
Microphones Power Supply	1	217.50
Camera Power Supply	1	141.90
Monitor	10	15759.81
TOTAL		\$40,264.25

The Administrative Office of the Courts does not maintain separate accounting records for equipment purchases associated with the court procedures occurring in courtroom 2-4. Therefore, the estimate of \$40,264.25 is not a record of expenses, but a record of estimated cost if the equipment were purchased today. To determine annual expenses, the equipment is depreciated using straight line depreciation, with an estimated three year life.

A second estimate of equipment costs is provided utilizing the budget request (PIR, Appendix 8) from the Administrative Office of the Courts. The estimate for replacing necessary equipment and improving the system to permit it to function adequately is \$149,474.29. This amount is depreciated over a three year life, using straight line depreciation to approximate an annual expense.

Summary:

It must be remembered that these expense calculations are only estimates and are dependant upon the evaluators' cost assumptions defined earlier in this section. As much as possible, we have attempted to separate the expenses associated with felony bond hearings from those associated with misdemeanor first appearance hearings. In the case of equipment, this cannot be done because the same equipment is utilized throughout both court sessions.

TABLE 4

**ANNUAL EXPENSES FOR FELONY BOND HEARINGS FOR FY 84-85
EXPENSES (SAVINGS)**

	With Present Equipment	With Equipment Itemized in PIR (Appendix 9)
Personnel	[\$97,641.64]	[\$97,641.64]
Operating Expense	4,980.00	4,980.00
Capital Equipment, depreciation expense	<u>13,421.42</u>	<u>49,824.76</u>
Total Savings	[79,240.22]	[\$42,836.88]

B. LOCATION:

The issue of whether the misdemeanor arraignments and felony bond hearings should continue to be held on the second floor in the jail chapel has been an issue of concern to the jail chaplain and the religious community. In an effort to address these concerns, the Department of Corrections has proposed that the hearings be moved from the jail chapel on the second floor to the seventh floor of the jail where administrative offices are presently located. Plans have been made to renovate the 7th floor to make it more conducive to the proceedings if the change is approved. At the present time, the chapel is allocated for use as a courtroom from 8 a.m. - 4 p.m., Monday to Friday. To objectively address this concern, the evaluators have analyzed the religious concerns of the affected individuals, the necessity of using video seven days a week or five days a week, and how the logistical changes would affect the correctional officers responsible for the bond hearings and arraignments in order to determine whether the proposed change is possible.

Pressure to move the hearings to the seventh floor comes mainly from the chaplain and the religious community. Chaplain Hernandez has been employed by Dade County, working for the Dade County Jail for 3½ years. The chaplain feels that a jail chapel should be a room used only for religious purposes, providing inmates the privacy to worship as they so desire: when the jail chapel is used as a courtroom, the religious atmosphere is destroyed, and the prisoners view the room only as an instrument of the State courtroom

where prisoners will either be arraigned (misdemeanants) or bond will be established (felons).³ Additionally, according to the chaplain, the use of the room for court causes a disruption to the daily schedule of religious activities (Appendix 7 provides the Chapel Services Schedule).

The chaplain is generally concerned that the inmates have no attitude of worship during the court proceedings, although they are sitting within his chapel. Interestingly, his concerns are directed more toward the misdemeanants than the felons. The behavior exhibited by selected groups of the misdemeanants is behavior that he believes should not occur in a place of religious worship. This sentiment was further supported by the chapel trustee. The trustee was especially concerned with the behavior of some inmates (smoking, foul language, ability to cause unrest among other inmates) and how this behavior destroys the atmosphere of the church within which other inmates have chosen to worship.

The concern over "religious freedom" is valid only if using the chapel for first appearance hearings prevents religious worship by the inmates. A review of the religious class schedules held Monday - Friday (Appendix 7) reveals that the majority of

³This statement reflects only sentiments expressed by the chaplain: The evaluators did not test whether defendants actually felt this way and interviews with the defendants did not indicate they were concerned with the problem.

classes are held in the evening. On Thursday, a spiritual encounter and on Friday, Spanish Bible study are held in the morning. The major conflict appears to be due to the use of the chapel on Saturday and Sunday by 80-90 inmates for regular church services. At the present time, all religious services scheduled Monday-Friday, 8:30 a.m. - 4:30 p.m., are held on the seventh floor.

Therefore, the first question that one must answer is whether the felony bond hearings should be held on closed circuit television daily, Monday through Friday, or held on CCTV seven days per week. For the following reasons, evaluators recommend that felony bond hearings be extended to operate on a seven day per week schedule, Monday-Sunday, held in the second floor chapel: (a) the felony inmates are always maintained on the second floor and only have to be moved from the jail holding cell to the chapel which is approximately 150 yards; (b) the inmates all remain in the same room for "court" allowing them to view the entire judicial process, a closer simulation to an actual courtroom; on the seventh floor inmates would be held in three different rooms (Appendix 9); (c) maintaining bond hearings on the second floor increases the speed of the process; moving inmates further to the seventh floor would require putting them in an elevator in shifts, demanding more security and time.

To eliminate the space conflict with the chapel there are two options to consider: 1) Either the weekend church services could be held in the afternoon, or misdemeanor and felony bond hearings could be held in the afternoon. The evaluators would prefer that bond hearings remain scheduled for the morning as the amount of times these defendants are

held in jail is minimized, and the judiciary is less inconvenienced; or
2) move the church services to the seventh floor on a permanent, seven
day per week, basis. The seventh floor would need to be converted to
look like a chapel, providing the warmth necessary for devotion and
worship. Further, at a much greater expense, closed circuit television
could be placed on all floors to extend the coverage of the religious
services to those prisoners unwilling or unable to be transported to the
seventh floor.

C. SECURITY:

The evaluators spoke with the correctional officers responsible for
both misdemeanor hearings and felony bond hearings to research past
security violations. The correctional officers who work the morning
shift are supervised by one individual; those who work the afternoon
shift are supervised by a different individual. After speaking with
both groups and looking through special incident reports for the
last three years, the evaluators could find no formal written
records documenting an occurrence of a security risk which has
occurred due to the felony defendants being taken to the courthouse
for their first appearance hearing. Although the Public Defender's
Office states that "the first 24 hours following arrest are the
most stressful for the defendant", this anxiety does not appear to
manifest itself through escape behavior.

However, all individuals within the criminal justice system perceive
that the movement of defendants from the jail to the court does
involve a security risk. Keeping the defendants in jail certainly

makes the job easier for the correctional officers. The response time of the officer to the defendant's engaging in inappropriate behavior is faster and corrective actions distracting to the overall proceedings are lessened. Correctional Officers have more control over the demeanor of individual defendants and can better monitor the defendants as a group.

QUESTIONNAIRE RESULTS

VII QUESTIONNAIRE RESULTS

A. Inmates' Questionnaire

Methodology:

The Inmates' Questionnaire was designed in order to assess inmates' reactions to and perceptions of the video system. The questionnaire contained seventeen straightforward multiple choice questions and provided space for additional comments. Both a Spanish and an English version of the questionnaire were drafted to assure participation among non-English speaking inmates. As can be seen upon reviewing the questionnaire itself (Appendix 1), each question was intended to obtain information related to one of the following three categories: (1) Physical Aspects - Questions in this category aimed to determine whether the system allows inmates to see, hear, and communicate with other parties; (2) Behavioral Changes - Questions in this category aimed to determine whether inmates believe the video system caused changes in either their own behavior or in the judge's behavior; and (3) Courtroom Demeanor - These questions sought to determine whether inmates felt like they were in a courtroom setting.

Over a two-day period, the questionnaire was distributed to all inmates participating in morning and afternoon felony bond hearings. Of the 110 inmates asked to complete the questionnaire, 68 English-speaking inmates and 12 Spanish-speaking inmates did so. Twenty-three English-speaking and seven Spanish-speaking inmates either refused to participate or filled out the questionnaire incorrectly.

It should be noted that no comparison is being made to attitudes of defendants participating in bond hearings where CCTV is not used (i.e. Saturday, Sunday). A further study could be done to address the potential differences between responses of the two groups of defendants to questions in the three informational categories (physical aspects, behavior, and courtroom demeanor).

Frequencies:

In Table 5, responses to the Inmates' Questionnaire are presented in the form of frequency counts and percentages. Using question #1 as an example, an explanation of how the table is read is as follows: Sixty three inmate respondents, or 78.7%, agreed with question #1; 11% had a neutral opinion on question #1; four inmates, or 5%, disagreed with question #1; and 2 inmate respondents, or 2.5% of the inmate respondents, did not respond to the first question. It should be pointed out that questions #18 and #19 are not part of the questionnaire, but instead report data that was collected for purposes of analysis.

Physical Aspects:

Some of the frequency results found in Table 5 demand further discussion. First, it should be emphasized that those questions dealing with the system's physical aspects (questions #1 through #5) are very important; this is because, in order for the video system to survive, it must provide for quality auditory, visual, and oral communication between the parties in the courtroom and the defendant in the jail. It is seen that 78.7% of the defendants stated they could see the judge clearly, while only 57.5% said they could see the public defender clearly. Regarding auditory communication, 65% of the defendants could

hear the judge clearly, and 56.5% could hear the public defender clearly. These results indicate that communication between the judge and the defendant was better than communication between the defendant and the public defender. Furthermore, and perhaps of greater concern, is the fact that defendants did not feel they could speak confidentially with their defense attorney. (Only 35% of defendants felt they could speak to their defense attorney without others hearing.)

Behavioral Changes:

Within the category of behavioral changes, it is noteworthy that 56.3% of the defendants agreed they would have asked more questions had they been in the courtroom. Consistent with this belief is the fact that 62.5% of the defendants agreed t.v. increased the speed of their cases. However, it is somewhat inconsistent -- but certainly reassuring -- that only 32.5% of respondents did not believe they had enough time in front of the judge. It is also reassuring that only 28.7% felt television affected the judge's bond decision and that only 23.7% believed their bond would have been lower had they been in the courtroom.

Courtroom Demeanor:

One of the most critical questions on the questionnaire fell under the category of "courtroom demeanor". This question asked inmates whether they thought they had effective legal representation with video. Only 31.3% of the inmates responded that they did have effective legal representation with video. This is an important finding, as it supports the earlier finding that communication between the defendant and the public defender/private attorney could be improved.

Also under the category of courtroom demeanor, it was found that a large percentage of inmates (43.8%) felt like they were in court during the hearing. Regarding other inmates and the judge, nearly 50% said other inmates took the court session seriously, and 69% agreed that the judge had control of the court.

TABLE 5

Responses to Inmates' Questionnaire
Frequency Counts and Percentages

<u>Question</u>	<u>Response</u>			
	<u>Agree</u>	<u>Neutral</u>	<u>Disagree</u>	<u>No Response</u>
<u>Physical Aspects</u> <u>(Questions 1-5)</u>				
1. I could see the judge clearly at all times	63 (78.7%)	11 (13.7%)	4 (5%)	2 (2.5%)
2. I could hear the judge clearly at all times.	52 (65%)	15 (18.8%)	12 (15%)	1 (1.2%)
3. I could see the public defender clearly.	46 (57.5%)	17 (21.2%)	15 (18.8%)	2 (2.5%)
4. I could hear the public defender clearly.	45 (56.3%)	15 (18.8%)	17 (21.2%)	3 (3.7%)
5. I could speak with my defense attorney without others hearing our conversation.	28 (35%)	18 (22.5%)	23 (28.7%)	11 (13.7%)
<u>Behavioral Changes</u>				
6. The use of t.v. made my case go faster.	50 (62.5%)	16 (20%)	10 (12.5%)	4 (5%)
7. The use of t.v. made me nervous.	26 (32.5%)	20 (25%)	30 (37.5%)	4 (5%)
8. I would have asked more questions if I was in the courtroom.	45 (56.3%)	14 (17.5%)	17 (21.2%)	4 (5%)
9. I feel like I had enough time in front of the judge.	34 (42.5%)	17 (21.2%)	26 (32.5%)	3 (3.7%)
10. I think that using t.v. affected the judge's decision in setting my bond.	23 (28.7%)	22 (27.5%)	31 (38.7%)	4 (5%)

Responses to Inmates' Questionnaire
Frequency Counts and Percentages

	<u>AGREE</u>	<u>NEUTRAL</u>	<u>DISAGREE</u>	<u>NO RESPONSE</u>
11. My bond would have been lower if I had been in the courtroom.	19 (23.7%)	22 (27.5%)	34 (42.5%)	5 (6.3%)
<u>Courtroom Demeanor</u>				
12. I felt like I was in court.	35 (43.8%)	14 (17.5%)	15 (18.8%)	16 (20%)
13. I would have taken the procedure more seriously had I been in the courtroom.	24 (30%)	18 (22.5%)	21 (26.2%)	17 (21.2%)
14. The other defendants took this court session seriously.	39 (48.7%)	19 (23.7%)	13 (16.2%)	9 (11.2%)
15. The judge had "control" of the court.	55 (68.8%)	11 (13.7%)	5 (6.3%)	9 (11.2%)
16. I was treated fairly by the correctional officers.	52 (65%)	12 (15%)	4 (5%)	12 (15%)
17. I had effective legal representation with video.	25 (31.3%)	24 (30%)	18 (22.5%)	13 (16.2%)
	<u>Granted Bond</u>	<u>Not Granted Bond</u>	<u>Granted PTS</u>	<u>Missing Data</u>
18. Judge's Bond Decision	34 (42.5%)	2 (2.5%)	37 (46.2%)	7 (8.7%)
	<u>Under 10,000</u>	<u>10,000 or Over</u>	<u>No Bond Granted</u>	<u>Missing Data</u>
19. Amount of Bond	61 (76.2%)	9 (11.2%)	3 (3.7%)	7 (8.7%)

Summary of Frequencies:

The frequency results just discussed help to define inmates' reactions to and perceptions of the CCTV system. The results indicate that inmates had certain outstanding concerns with the video system. The first concern, falling within the category of physical aspects, is that many defendants were dissatisfied with the quality of visual, oral, and auditory communication between the jail and the courtroom. Two prominent concerns are within the category of behavioral changes: a majority of defendants felt CCTV increased the speed of their cases, and a majority felt they would have asked more questions in the courtroom. The last concern, is that many defendants felt they were not able to receive effective legal representation with video. In the following section, these inmate concerns are further analyzed through the use of crosstabulations.

Crosstabulations:

"A crosstabulation is a joint frequency distribution of cases as defined by the categories of two or more variables."⁴ Crosstabulations were used in our analysis in an effort to determine the causes of and relationships between outstanding inmate concerns discussed in the previous section. For example, through crosstabulations we looked at whether defendants who felt CCTV made their cases go faster also felt they did not receive effective legal representation. (Table 6, page 44)

⁴William Klecka, Norman Nie, and C. Hull, SPSS Primer, p. 70.

The crosstabulations presented in the table show that 9 inmates, or 14.1% of the inmates, felt this way about CCTV and legal representation. Quite interestingly, 32.8% of inmates agreed both that CCTV made their cases go faster and that they had effective legal representation.

Before discussing other crosstabulations, the two statistics printed at the bottom of Table 6 should be explained briefly. First, Chi Square is a test of statistical significance. Along with its significance level, it helps to determine whether a statistically significant relationship or an independent relationship exists between two questions. The Chi Square in Table 6 is 12.43 and its significance is .0144; this tells us that, if the two questions are independent, the probability of obtaining a Chi Square of 12.43 or greater is less than .0144. Therefore, it is likely that the two questions are statistically related. The second statistic, Cramer's V, measures the strength of the relationship between the two questions. Cramer's V is 0 when no relationship exists and 1 when a perfect relationship exists. Thus, the higher this statistic is, the stronger the relationship is between the variables.

Table 6

TV Made My Case Go Faster (faster)
 Crosstabulated with
 I Received Effective Legal Representation With Video (legalrep)

		<u>LEGAL REPRESENTATION</u>								
		<u>COUNT</u>								
		TOTAL	PCT	AGREE	NEUTRAL	DISAGREE	ROW			
			I	1.I	2.I	3.I				
			I	I	I	I				
CCTV MADE MY CASE GO FASTER	AGREE	1.	I	21	I	12	I	9	I	42
			I		I		I		I	65.6
			I		I		I		I	
			I	32.8	I	18.8	I	14.1	I	
NEUTRAL	2.	I	1	I	9	I	4	I	14	
		I		I		I		I	21.9	
		I		I		I		I		
		I	1.6	I	14.1	I	6.3	I		
DISAGREE	3.	I	1	I	3	I	4	I	8	
		I		I		I		I	12.5	
		I		I		I		I		
		I	1.6	I	4.7	I	6.3	I		
	COLUMN		23		24		17		64	
	TOTAL		35.9		37.5		26.6		100.0	

Chi Square = 12.42784 Significance = .0144
 Cramer's V = .31160

Crosstabulations related to inmate concern about speed of cases:

Because we wanted to determine why the majority of defendants (62.5%) felt CCTV made their cases go faster, this question of case speed was crosstabulated with two additional questions: "I would have asked more questions had I been in the courtroom"; and "I had enough time in front of the judge" (see Appendix 2 for crosstabulation results). It was discovered that 41.9% of defendants said both that CCTV made their hearings go faster and that they would have asked more questions in the courtroom. This could mean that 41.9% of defendants felt their hearings were conducted so fast that they were not given the opportunity to ask questions.⁵ On the other hand, only 16% of defendants felt that t.v. made their cases go faster and that they did not have enough time in front of the judge. Quite curiously, it was found that 38.7% of inmates felt that CCTV increased case speed and that they did have enough time in front of the judge.

Crosstabulations related to inmate concern about effective legal representation and physical aspects:

To determine why physical aspects of the video system were unsatisfactory to many defendants and to determine why many defendants stated they did not have effective legal representation with video, the following crosstabulations were performed:

⁵The results of the Chi Square test are that there is a .0692 probability that a Chi Square this high or higher would have been gotten if the two questions are not statistically related.

1. "The use of CCTV made my case go faster" crosstabulated with "I had effective legal representation with video";
2. "Judge's bond decision" crosstabulated with "I had effective legal representation with video";
3. "I could see the public defender clearly" crosstabulated with "I had effective legal representation with video";
4. "I could hear the public defender clearly" crosstabulated with "I had effective legal representation with video"; and
5. "I could speak with my defense attorney" crosstabulated with "I had effective legal representation with video".

The results of the first crosstabulation listed were presented and discussed as an example in the beginning of this section (page_44). The results of crosstabulations #2 through #5 are presented in Appendix 2 (in the form of crosstabulation tables) and discussed at length in the next few paragraphs.

We performed crosstabulation #2 in an attempt to see if a judge's bond decision (bond was granted, pre-trial release was granted, or no bond was granted) had a bearing on whether an inmate felt he was provided effective legal representation. According to the statistics produced by this crosstabulation (Chi Square significance level = .44, and Cramer's V = .17), there is no clear significant relationship between a judge's bond decision and an inmate's perception about his legal representation.

It should be pointed out that this finding is contrary to an earlier finding made by Florida International University's Department of Criminal Justice.⁶

Crosstabulations #3 through #5 were conducted because we wanted to determine whether an inmate's perception of the system's physical aspects affected his/her belief about being provided effective legal representation. We were specifically interested in learning if inmates who stated they could not see, hear, or communicate with the public defender/defense attorney also stated they did not receive effective representation. Crosstabulation results reveal that there is a statistically significant relationship between the question of seeing the public defender and the question of legal representation. Results also show that inmates who could not see the public defender were most likely to say they did not receive effective legal representation, while inmates who could see the public defender were most likely to say they did receive effective representation. It was also discovered that inmates who could not hear the public defender were most likely to say they did not receive effective representation, while inmates who could hear the public defender were most likely to say they did have effective representation.

⁶W. Clinton Terry and Ray Surette, "Video in the Misdemeanor Court: The Florida Experience," Department of Criminal Justice, Florida International University, September, 1984.

Crosstabulation #5 also renders that there is a statistically significant relationship between the question of speaking privately with one's defense attorney and the question of effective legal representation. This crosstabulation also shows that inmates who could not speak privately with their defense attorneys were 12 times more likely to say they did not receive effective representation than to say they did. Additionally, inmates who stated they could speak privately with their defense attorneys were over 5 times more likely to agree they had effective legal representation than to disagree.

Summary of Crosstabulation Results:

Crosstabulations were performed on various questions in order to further analyze those outstanding inmate concerns which became apparent in our frequencies analysis. The crosstabulations revealed statistically significant relationships between the defendant's perception of whether he received effective legal representation and the defendant's assessment of the following physical aspects of the video system: ability to hear the public defender; ability to see the public defender; and ability to communicate privately with the public defender/defense attorney. Crosstabulations also revealed that nearly half of defendants felt that CCTV made their cases go faster and that they would have asked more questions in the courtroom.

It is difficult to define how inmate concerns and relationships between concerns should be interpreted and addressed. This is especially true because, to a large degree, the questionnaire deals with perceptions rather than actuality. However, it must be reemphasized that, in order

to survive, the video system (both equipment and procedures employed in its use) must provide a high quality of communication between all parties.

B. Judges' and Attorneys' Questionnaire:

Methodology:

The Judges' and Attorneys' Questionnaire was designed in order to assess judges', assistant state attorneys', assistant public defenders', and private defense attorneys' reactions to and perceptions of the video system. The questionnaire contained thirteen multiple choice questions and provided space for additional comments regarding the video system. (See copy of questionnaire in Appendix 3.) Like the Inmates' Questionnaire, each question was intended to obtain information related to one of the following three categories: (1) Physical Aspects of the video system; (2) Behavioral changes resulting from the use of closed circuit television; and (3) Courtroom demeanor under the video system. The judges were asked additional narrative questions relating to how they made their bond decision. (Appendix 4)

The questionnaire was distributed in a different manner to each of the four groups of professionals. It was hand delivered to the nine judges who had used the video system to conduct felony bond hearings; eight of these nine judges completed the questionnaire. Administrative staff from the State Attorney's and Public Defender's Offices distributed the questionnaire to assistant state attorneys and assistant public

defenders who had taken part in video felony bond hearings; eight assistant state attorneys, eight assistant public defenders, and two bond hearing unit members (from the Public Defender's Office) completed the questionnaire.

To obtain responses from private defense attorneys, we mailed questionnaires to fourteen defense attorneys; seven of these attorneys completed the questionnaire.

Again, it should be pointed out to the reader that this study was not an experimental or quasi-experimental design. There is no comparison made on questionnaire responses to a control group of judges or attorneys who participated in felony bond hearings in front of the judge where CCTV was not utilized. Further study could be undertaken to assess how the judiciary and attorneys, participating in weekend bond hearings in the "traditional" courtroom, assess the physical aspects of the court, behavioral issues of concern, and the courtroom demeanor.

Crosstabulations:

We studied and analyzed questionnaire responses of judges and attorneys by crosstabulating each of the questionnaire's 13 questions with each of the four professions. Thus, we performed 13 crosstabulations which produced: first, a frequency count breaking down how each group of professionals responded to each question; and second, statistics defining whether a relationship exists between the profession of the respondent and his/her response to a particular question. All

crosstabulations can be found in Appendix 5. A discussion of the crosstabulation results makes up the remainder of this section.

Physical Aspects:

As emphasized when discussing the Inmates' Questionnaire, the video system's viability depends greatly on whether its physical aspects allow for effective communication between all parties. When the three questions under the category of physical aspects were crosstabulated with the respondents' profession, two statistically significant relationships were found. First, we found a statistically significant relationship between respondents' profession and respondents' assessment of their ability to clearly hear other parties. And second, there were significant differences in how the four professional groups assessed their ability to communicate effectively with parties in the jail.

Therefore, it is seen that respondent assessment of the physical aspects of the video system varied from profession to profession. The majority of judges and assistant state attorneys responded that they could hear and communicate effectively with the parties in the chapel. However, the defense attorneys (public and private) find the auditory and visual aspects of the system problematic.

When we examined the relationship between respondent profession and respondent belief (question 9 in the category Behavioral Changes) about whether the defendant communicated adequately with the judge, the results indicate that profession and belief about defendant-judge communication are statistically related. (Please refer to Table I,

Appendix 5). Furthermore, results show that 62.5% of both judges and assistant state attorneys agreed that the defendant communicates adequately with the judge; yet, 80% of assistant public defenders and 71.4% of private attorneys expressed disagreement with this statement.

Behavioral Changes:

Five issues fell within the category of behavioral changes: case speed, defense attorney's ability to act as an effective advocate, defendant receives effective representation, judge's ability to evaluate defendants, and whether video affects the amount of bond. First, we crosstabulated respondents' profession with whether respondents thought video increased case speed. The results of this crosstabulation showed the following:

1. Judges - Judges were equally likely to disagree as to agree with the statement that video increased case speed.
2. Assistant State Attorneys - None of the assistant state attorneys disagreed with the statement on speed. This group was three times more likely to agree with the statement than to respond neutrally to it.
3. Assistant Public Defenders - Only one assistant public defender disagreed, while the remaining assistant public defenders were more likely to agree than to respond neutrally.
4. Private Attorneys - Only one private attorney disagreed with the statement. The remaining ones all agreed that video increased case speed.

These responses demonstrate that, with the exception of judges, the general feeling of each group was that video increased case speed. What we do not know - and what might differ among professional groups - is whether increased case speed is viewed as a positive or negative change. Variables, other than the use of video, which may affect case speed are (a) the judge presiding; and (b) whether a private defense attorney is present.

Actual timing of cases, comparing speed with video to that without, was not attempted. The results reported are only the perceptions of individuals involved.

The next two crosstabulations within this category relate to the issue of effective legal representation: respondents' profession was cross-tabulated with whether respondents believed the defense attorney's ability to act as an effective advocate was diminished with video; and respondents' profession was cross-tabulated with whether respondents believed the defendants received effective legal representation with video. Statistics provided by crosstabulations proved that both relationships are statistically significant. In other words, cross-tabulation statistics show that respondents' assessment of effective legal representation varies from profession to profession. It is also interesting to note that none of the assistant public defenders or private attorneys disagreed with the statement that there was a diminished ability to effectively advocate. At the same time, none of the assistant state attorneys disagreed with the statement that the defendant receives effective representation with video.

Next, we crosstabulated the respondents' profession with the following statements: "the judge is able to evaluate the defendants for bond"; and "video does not affect the amount of bond established". These two crosstabulations did not produce statistically significant results. However, it is noteworthy that judges were most likely to agree with both of these statements, while private attorneys were least likely to agree with these statements.

Courtroom Demeanor:

When we crosstabulated respondent profession with respondent belief about whether video is an improvement on the previous system, we discovered a statistically significant relationship (Table M, Appendix 5). Judges were most likely to agree that video is an improvement, while private attorneys were least likely to agree that video is an improvement.

Regarding the relationship between respondent profession and respondent assessment of whether inmates took the court procedure seriously, it is interesting to look at the majority response within each professional group: the vast majority (75%) of judges thought inmates took the procedure seriously; the majority (57%) of private attorneys disagreed with the statement that inmates took the procedure seriously; the majority (62.5%) of assistant state attorneys responded "neutral" to

this question on inmate seriousness; and an even 50% of assistant public defenders also responded "neutral" to this question.

Finally, we found independent relationships (relationships that were not statistically significant) when we crosstabulated respondent profession with the following two statements: "the judge is able to control the court"; and "correctional officers maintain a professional attitude toward court on video". (Please refer to Tables J and L in Appendix 5.) It is interesting to note that, within each professional group, a majority agreed that the judge is able to control the court. Also, a majority of total respondents agreed that correctional officers maintain a professional attitude.

Summary of Crosstabulations:

To recapitulate, this section reviewed the crosstabulations of each of the 13 questions with each of the four professional groups.

Within the category of physical aspects, there was a statistically significant relationship between the following: respondents' profession and respondents' belief about ability to clearly hear other parties; and respondents' profession and respondents' ability to communicate

effectively with parties in the jail. This can be taken to mean that certain professional groups had some concerns about the video system's physical aspects; yet, certain other professional groups did not share these concerns about the system's physical aspects. It should be remembered that the inmates additionally expressed concerns about the system's physical aspects.

Within the category of behavioral changes, there was a statistically significant relationship between the following: respondents' profession and respondents' belief about the defense attorney's ability to act as an effective advocate for the defendant with video; respondents' profession and respondents' belief about the defendant receiving effective legal representation with video; and respondents' profession and respondents' belief about the defendant communicating adequately with the judge. Interestingly enough, the concerns that the defense attorneys communicated were basically the same as those that inmates communicated, i.e. inmates were concerned about effective legal representation with video and about whether they would have asked more questions in the courtroom.

Within the category of courtroom demeanor, there was a statistically significant relationship between the following: respondents' profession and respondent's belief about whether the video system is an improvement on the previous system. This is an especially informative finding, as statistically significant findings we have discussed previously have only pertained to assessments of various aspects of the video system. This relationship, however, pertains to an overall assessment of all aspects of the video system.

LEGAL DISCUSSION

VIII LEGAL DISCUSSION

This section discusses the legal issues raised by the use of closed circuit television. In July, 1982, Judge Wetherington, Chief Judge of the Eleventh Judicial Circuit signed an administrative order directing the use of television equipment to conduct first appearance misdemeanor arraignments. Effective January 1, 1985, Florida Rules of Criminal Procedure (herein after "R.Cr.P.") 3.130 directs that

- (a) Prompt First Appearance Except when he has been previously released in a lawful manner, every arrested person either in person or by electronic audio device in the discretion of the court shall be taken before a judicial officer within twenty-four (24) hours of his arrest. (Emphasis added)

In February, 1985, pursuant to R.Cr.P. 3.130(a) Judge Wetherington signed an administrative order directing the use of the television equipment to conduct first appearance felony bond hearings in Dade County. Both the 1982 and the 1985 orders were signed in accordance with Fla. R. Jud. Admin. 2.050(c) which authorizes the chief judge to enter administrative orders for "efficient and proper administration within his circuit." Whether individual rights have been usurped by technology which promotes efficient judicial administration is the subject of much concern and the focus of this discussion.

The orders signed by Judge Wetherington authorizing the use of CCTV in criminal proceedings constitute an exercise by Judge Wetherington of his supervisory powers over judicial administration granted him by the Florida Rules of Judicial Administration and the Florida Rules of Criminal Procedure. The United States Supreme Court has said that it

has no supervisory jurisdiction over state courts and will confine a review of a state court supervisory judgement to evaluating it in relation to the Federal Constitution.⁷

Under Chandler vs. Florida, the federal constitution provides the appropriate basis of review for determining the legal propriety of using closed circuit television in felony bond hearings. Specifically raised are the issues of whether CCTV interferes with the administration of the Sixth, Eighth, and Fourteenth Amendment rights relevant to felony bond hearings. These issues addressed below are: whether CCTV violates the Eighth Amendment by preventing the defendant from being granted reasonable bond prior to trial; whether CCTV violates the Sixth Amendment by preventing the defendant from receiving effective assistance of counsel; and whether CCTV denies the defendant a right to be present before the judge in violation of Fourteenth Amendment dictates of due process.

Legal analysis reveals that the use of CCTV in felony bond hearing does not prevent these rights from being exercised. First, CCTV does not interfere with the judges' ability to obtain information relevant to a reasonable bond determination and does not prevent a reasonable bond determination from being made. Second, CCTV should not prevent the defendant from receiving effective assistance of counsel if the system

⁷Chandler vs. Florida 101 S.Ct. 802 (1981) (discussing the propriety of the Florida Supreme Court actions in adopting Canon 3A(7) which allows electronic media coverage of criminal trials).

provides for effective communication between the parties. A first appearance hearing is a nonadversarial procedure which addresses only the issue of pretrial custody. No discussion of the merits of the defendant's case takes place. The role of counsel is significantly limited at a first appearance hearing, and CCTV does not prevent the defense attorney from rendering or the defendant from receiving legal assistance which adequately safeguards the defendants' rights at this stage of the proceedings.

Third, the use of CCTV in bond hearing should not deprive the defendant due process because the defendant still is present at the proceeding, as long as the defendant is able to see, hear, and talk to the judge and to the attorneys, who could see, hear, and talk to him. The proceeding is "live" in that the transmission of the parties' image and voice over camera and monitors is instantaneous. The hearing remains procedurally the same as it was when the defendants were brought to court. The hearings are conducted in open court, and the public can view the defendant in the chapel via a 25" retractable screen at the side of the courtroom.

A. Right to Reasonable Bond:

The Eighth Amendment of the United States Constitution provides that "Excessive bail shall not be required." Stack v. Boyle 72 S.Ct.1 (1951), the principle case interpreting the Eighth Amendment, instructed that "the right to release before trial is conditioned upon the accused's giving adequate assurance that he will stand and submit to sentence if found guilty,". The Court explained "[l]ike the ancient

practice of security the oaths of responsible persons to stand as sureties for the accused, the modern practice of requiring a bail bond or the deposit of a sum of money subject to forfeiture serves as additional assurance of the presence of an accused. Bail set at a figure higher than an amount reasonably calculated to fulfill this purpose is 'excessive' under the Eighth Amendment." 72 S.Ct. at 4; Schilb v. Keubel 92 S.Ct.479 (1972).

Stack emphasized that setting an amount of bail which properly serves the purpose of balancing the defendant's right to freedom pending trial against the risk to society of that he may flee or hide himself once released requires the judge to look at the individual facts of each case. The traditional factors to be examined which were recognized by the court in Stack are the nature and circumstances of the offense charged, the weight of the evidence against the defendant, the financial ability of the defendant to gain bail, and the character of the defendant. Id 72 S.Ct. at 4. Character of the defendant is not defined; but in Bandy v. United States 81 S.Ct. 197 (1960) Justice Douglas suggested that a court additionally consider the defendants residence in a locality and his ties to friends and family.

R.Cr.P. 3.131 (b) (3) is consistent with Stack and Bandy, providing a detailed list of factors which the judge may consider in determining whether to release a defendant. In addition to those factors discussed in Stack and Bandy the Florida Rules allow the judge to consider the defendant's employment history, mental condition, past and present conduct, including any record of convictions, previous flight to avoid

prosecution or failure to appear at court proceedings, the nature and probability of danger which the defendant's release poses to the community, whether the defendant is already on release pending resolution of another criminal proceeding, or on probation, parole, or other release pending completion of sentence. [R.Cr.P. 3.131 (b) (3)]

Florida Rules give the judge discretion to consider a number of factors beyond those which are required by the federal constitution. The propriety of using closed circuit television in accordance with the Eighth Amendment is determinative upon whether the use of closed circuit television interferes with the judge's ability to obtain this information.

1. Factors Used by Dade County Judges in Reasonable Bond Determination:

The judges interviewed in the evaluation uniformly rely first on the defendant's arrest form to determine the nature and severity of the charges against him and then on the defendant's prior record if he had one. Comments by LaFavre and Israel, Criminal Procedure Hornbook, West Publishing (1984) suggest that emphasis placed by the judge on the defendant's prior record and the nature and circumstance of his present charge conforms to well accepted practices in most bond hearings.

Id pp. 535, 536.

The arrest form, prior record and standard bond schedule are provided to the judge, the prosecuting attorney, and the defense attorney prior to the hearing. Both attorneys are present in court with the judge during the hearing to comment, if necessary, on the sufficiency of the complaint and defendants prior record. The judge's evaluation of this information plays a primary role in the determination of bond, and the use of closed circuit television has no impact on this part of the judge's determination.

Next, all of the judges interviewed for this evaluation considered in their bail determination information about the defendant's ties to the community and employment history. A judge may obtain this information either by personally interviewing the defendant over closed circuit television during the hearing or by relying on information supplied to him by Pretrial Services which conducts individual interviews with each defendant before the bond hearing. The information obtained from this interview is reduced to written form and is part of the public record. It is provided to the attorneys before the hearing begins.

Third, all judges rely to some extent on the standard bond schedule for determining bail, but are prevented by law from using the schedule as the sole factor in their decision. Bandy v. United States, 81 S.Ct. 197 (1960). Pugh v. Rainwater, relying on Bandy v. United States, held

constitutionally invalid on equal protection grounds a Florida Rule of Criminal Procedure which caused the imprisonment of an indigent prior to trial solely because he could not afford to pay money bail. 557F 2d 1189, 1190, (1977)

R.Cr.P. 3.131 (b)(1) is consistent with Pugh v. Rainwater and creates a "presumption in favor of release on non monetary conditions for any person who is granted pretrial release." Pretrial Services elicits information from the defendant which enables the judge to address the issue of the defendant's financial ability to pay and enables the judge to comply with Pugh v. Rainwater in that it provides alternative forms of release that do not impose a financial burden on the defendant.⁸ The use of closed circuit television does not interfere with this process.

Finally, all of the judges said that "attitude and demeanor" of the defendant played a part in their determination. Most stated that at some time during the hearing they looked at the defendant and used this observation in reaching a decision, although none could say how heavily those observations counted in their final determination. The defense attorneys argue that the defendant stands a better chance of being granted lower bail if the judge can see the defendant in person, how he

⁸ Pretrial Services recommends to the judge that the PTS program accept the responsibility of supervising the defendant's release from custody pending trial for any defendant who is not charged with a capital or life felony, who is not charged with committing a crime while on bail or released on parole, or who does not have other felony charges pending.

is dressed and the way he carries himself. The impression that a judge will reach a decision more favorable to the defendant if the judge can better "size him up" by face to face confrontation with him seems to be the major reason why the attorneys oppose the video system on Eighth Amendment grounds. But for several reasons, this impression is not accurate.

2. No Right to In-Depth Hearing At This Stage of Criminal Proceedings:

First, the impression suggests a defendant is entitled to a more lengthy hearing and seems to be based upon a misconception about what a first appearance hearing for felony defendants in Florida entails. A first appearance for felony defendants under Florida law and practice is not an adversarial hearing; there is no discussion of the defendant's guilt or innocence. Gerstein v. Pugh 955 S.Ct. 862 (1975). [Fla. R.Cr.P. 3.130(a) and (d)]. In fact, formal charges have not yet been filed [R.Cr.P. 3.132]. A county court judge sits in the capacity of a circuit court judge only for the purpose of making this initial determination and has no jurisdiction to hear evidence on or decide upon the merits of the defendant's case.

Also, Florida Rules provide the defendant with the opportunity to appeal this initial bond determination which quickly is modified by the trial judge if considered inappropriate [R.Cr.P. 3.131 (d)]. Under the rule, the defense attorney can make an application to the trial judge for reduction or modification of bail when the defendant is charged with committing an offense other than a capital crime. The decision of the

trial judge to modify or reduce bail is made within a few days after the first appearance bond hearing. A defendant who is charged with a capital or life felony and initially is denied bail pursuant to R.Cr.P. 3.131(a) is entitled to a more formal hearing on the issue of bail within a reasonable time after that initial bail determination, State v. Arthur 390 So.2d 717 (1980).

In Florida, in-depth examination of the defendant's background is not considered necessary to an appropriate initial determination of bail. The priority in felony first appearance hearings is given to processing the defendants quickly and efficiently. An average of sixty felony defendants have been processed daily through bond hearings for the past several years. The sessions last approximately one hour; the average time spent with each defendant is approximately one minute. Although the use of closed circuit television enables the judge to set the pace of each interview, it has no impact on the substance of that interview. That is simply a function of the personal preference of the judge presiding over the hearing. Some judges prefer to spend more time personally interviewing the defendants, while some judges spend less time with each defendant relying heavily on the recommendations of Pretrial Services.

3. No Absolute Right To Bail:

Second, the impression is inaccurate because it suggests that a defendant has an absolute right to bail regardless of the circumstances. While courts agree that some kind of right to bail is fundamental to our criminal justice system, see Schilb v. Keubel, infra, there has been no definitive ruling on the extent to which this right reaches. United States v. Abraham 575 F.2d 3 (1st Cir 1978) discussed the issue of whether a defendant has an absolute right to bail and held that it is possible for there to be circumstances where no amount of bail will suffice to insure the defendant's appearance at the proceedings against him. In Bell v. Wolfish 99 S.Ct. 1861 (1981), the Supreme Court rejected the argument that there is a constitutional "presumption of innocence" which entitles all defendants to pretrial release.

The judges interviewed disagreed with the defense attorneys' impression that face to face confrontation would cause them to make a bail determination more favorable to the defendant. In fact, most of the judges felt that a determination based on the defendant's clothing, personal appearance, and ability to articulate himself may be just as constitutionally objectionable as the situation discussed in Pugh v. Rainwater. The judges' comments also suggest that they may be less susceptible to the "emotional" pleas of the attorney or his client in first appearance bail hearings than what the attorneys believe.

4. Role Of The Pretrial Services Program:

R.Cr.P. 3.131 (b) (3) allows the judge to consider the defendant's mental condition in determining the conditions of release. The defendant's mental condition is considered relevant to determining the risk of the defendant causing physical harm to himself or to other persons. See Coleman v. Alabama 90 S.Ct. 1999 (1970). A judge's assessment of the defendant's mental condition is ultimately influenced by results of a psychological evaluation conducted on the defendant after the initial bond hearing. The attorneys feel that the judges can better determine the need for a psychological evaluation with a face to face confrontation with the defendant than by observing the defendant over closed circuit television. The third reason why the impressions about face to face confrontation in first appearance bond hearings is inaccurate has to do with the role that Pretrial Services program plays in the process.

Pretrial Services (or "PTS") is a local bail project, run by the State Department of Corrections and authorized by Florida Statutes 903.03 (2)(a). The functions of the Pretrial Services program are threefold: to bring relevant facts about the client's background to the judge's attention, to present alternative plans for pretrial release, and to involve available community resources for this project.

Sometime after the defendant's arrest and before his first appearance hearing, PTS interviews the defendant to obtain information relevant to the defendant's suitability for pretrial release. This information

includes certain facts related to the defendant's family background and community ties listed in F.S.903 and R.Cr.P. 3.131(d). Specifically, the interviewer will question the defendant on his immigration status, length of residence in the area, marital status, employment history, substance abuse, and whether the defendant understands why he has been arrested. From this information, PTS evaluates the need for a psychological evaluation and whether the defendant is an appropriate candidate for its program. At the first appearance hearing, PTS gives its recommendation to the judge, supplying copies to the attorneys before the hearing. PTS monitors the defendant's actions until trial. Less than 3% of the defendants released to the charge of PTS fail to appear for trial.

Pretrial Services' overall success at maintaining a less than 3% no-show rate is proof of the program's accountability. Pretrial Services spends more time with the defendant than does the judge; the eight minute interview that PTS conducts is inherently more reliable than the judge's sixty second assessment. In evaluating the need for a psychological evaluation (or alternative forms of release) the judge may rely additionally on input from the prosecutor, the defense attorney and the defendant's family or friends. Correctional Officers can apprise the judge of any subtle nuances in the defendant's behavior which the judge may fail to notice. Also, most judges stated that they rely primarily on the circumstances of the present charges against the defendant and

his prior record to determine the appropriateness of ordering psychological evaluation.

5. Summary:

Responses to the questionnaire on the issue of reasonable bond suggest that the perceptions of attorneys and judges surveyed are consistent with what the law says is proper and what is being done in practice. 39.4% of the judges and attorneys questioned disagreed with the statement that "the judge is able to evaluate the defendant". But only 15.2% of the judges and attorneys questioned disagreed with the statement that "video does not affect the amount of bond". (Appendix 5) When viewed in relation to one another the responses to these questions can be interpreted to mean that while the respondents felt that the judge may not be able to make an adequate physical assessment of the defendant over closed circuit television, the judge actually relied on objective factors other than a subjective evaluation of the defendant's physical appearance in making the initial bond determination.

Only one judge felt that he could make a better decision by viewing the defendant in person, and there has been only one instance where a judge requested that a defendant be brought to court from the jail for that reason. Face to face confrontation did not change that judge's initial determination. It is reasonable to conclude that the use of closed circuit television does not infringe upon the defendant's Eighth Amendment right to bond.

B. Right to Effective Assistance of Counsel:

The issue which has caused the most concern over the use of closed circuit television in felony first appearance hearings is whether the use of closed circuit television prevents the defendant from receiving effective assistance of counsel at the hearing. Since there is no evidence that CCTV prevents the judge from making a reasonable determination of bond, the attorneys' objections may be based on two more misconceptions about closed circuit television, namely that the defense attorney's role in felony bond hearings is not as significant as the attorneys perceive it to be and that the defense attorney is no less effective in ensuring that a reasonable bond determination is made when CCTV is used than when CCTV is not used.

Moreover, although the Florida Rules of Criminal Procedure provide the defendant with the right of counsel at first appearance bond hearings (R.Cr.P. 3.1301 (b)), the United States Supreme Court has not ruled definitively on whether the Sixth Amendment actually requires assistance of counsel at these hearings. See Coleman v. Alabama 90 Sct 1999 (1970). In fact, the court's holding in Gerstein v. Pugh 95 Sct 854 (1975) suggests that if a right does attach at the first appearance hearing, it is limited by the nonadversarial nature of the proceeding. Even where the right to counsel is afforded, the standard for determining whether effective assistance occurred is not whether counsel

was a "sham and mockery", but whether counsel was reasonably likely to render and did render reasonably effective counsel based on the totality of the circumstances. Meeks v. State 382 So. 2d (Fla. 1980)

In the totality of the circumstances, it is unlikely that the use of closed circuit television prevents the defense attorney from rendering effective assistance of counsel. This is because, first, the courts have narrowly defined what effective assistance would require at an initial bond determination.

1. Constitutional Perimeters of Right To Counsel At Felony First Appearance:

In Coleman v. Alabama 90 Sct 1999 (1970) the Supreme Court held a preliminary hearing is a critical stage of the prosecution so as to require the furnishing of counsel because among other things, "counsel can be influential...in making effective arguments for the accused on such matters as the necessity for an early psychiatric evaluation or bail". But Gerstein v. Pugh 95 S.Ct. 854 (1975) held that although the Fourth Amendment requires a judicial determination of probable cause as a prerequisite to an extended restraint on liberty following arrest, a probable cause determination is not a "critical stage" in the proceedings requiring appointed counsel. In Florida, a probable cause determination at the suspect's first appearance is incorporated into the procedure for setting bail.

The court in Gerstein distinguished the first appearance probable cause determination at issue there from the preliminary hearing in Coleman v. Alabama:

"[U]nder Alabama law the function of the preliminary hearing was to determine whether the evidence justified charging the suspect with an offense. A finding of no probable cause could mean that he would not be tried at all." 95 S.Ct. at 867.

In the Alabama hearing, "the standard of proof approach[es] a prima facie case of guilt" so that the determination of probable cause "must be accompanied by the full panoply of adversary safeguards - counsel, confrontation, cross exam, and compulsory process for witness". Id.

The Gerstein court held that the first appearance bond hearing addresses only the issue of pretrial custody and is not a "pretrial procedure that would impair a defense on the merits if the accused is required to proceed without counsel." Gerstein v. Pugh 95 S.Ct. at 854. See also United States v. Hooker 418 F. Supp 476 (M.D.PA 1976). Since the prosecution does not produce witnesses at a first appearance hearing, the role of counsel is limited because there is no chance that "the suspect's defense on the merits could be compromised if he had no legal assistance for exploring or preserving the witnesses' testimony". LaFave and Israel suggest that attorneys can influence a judge's bond determination by bringing relevant facts about the client's background to the judge's attention. Criminal Procedure Hornbook, supra at page

536. The use of closed circuit television does not prevent the attorney from doing so. A private attorney can make arrangements to meet with his client before the hearing [R.Cr.P. 3.130 (c) (2)]. The assistant public defender is not appointed until the hearing so, technically, it would be improper for the assistant public defender to meet before the hearing. [R.Cr.P.3.130 (c) (2)] Also, the assistant public defender or the private defense attorney can talk to his client during the hearing when the defendant's case is before the judge. The judge is obligated to take information provided by the attorney into consideration. In practice, Pre-trial Services obtains most of the relevant information. But the attorneys neither are prevented from getting the information from the defendant personally before or during the hearing nor are prevented from getting the information from Pretrial Services at any time before or during the proceedings.

2. Administrative Procedures Shaping Role of Defense Attorney:

A second reason why closed circuit television does not prevent the right to effective counsel from being represented at the hearing is because of informal administrative decisions made by the Public Defender's Office. The Public Defender's Office has limited the role of the assistant public defender at the first appearance hearing out of practical necessity. A limited number of assistant public defenders prevents the Office from permitting its attorneys the luxury of providing comprehensive representation to indigent defendants at the first appearance hearing. An arraignment date for many defendants routinely is set fourteen days after the first appearance hearing. At this time,

the prosecutor must have filed an information formally charging the defendant with committing a crime [R.Cr.P.3.160 (a) and 3.140.] The assistant public defender does not meet with the defendant until the arraignment date for the practical reason that the public defender cannot be sure what the defendant will be charged with until the information is filed.

[R.Cr.P.3.140 (2)]. Shortages in manpower have caused the Public Defender's Office to have a bond hearing unit member interview the defendant before the arraignment. The bond hearing unit member is also present in the jail with the defendant during the first appearance hearing. Before CCTV, a bond hearing unit member was present in court during the hearing, and before CCTV was used, the bond hearing unit member was usually the only representative from the Public Defender's Office present at the hearings.

The physical separation of the defendant from the prosecutor and the judge led the public defender to place an assistant public defender in the court with the prosecutor and judge during the hearings conducted by CCTV. One assistant public defender criticized the use of closed circuit television for reducing the role of the defense attorney at first appearance hearings to that of a "watchdog" over the prosecutor and the judge. Her observation about the limited role of the defense attorney is valid, but her complaint that CCTV is responsible for it being that way is not. The assistant public defender's role, as pointed out repeatedly throughout this section, had been well established before closed circuit television was used in conducting felony bond hearings.

3. The Defense's Perception of Lack of Confidentiality:

The argument that CCTV violates the Sixth Amendment because it creates a situation where conversations between the defense attorney in the court and the defendant in jail may be overheard by third parties - particularly the Correctional Officers, - stands on weak legal grounds. Although the Florida Evidence Code preserves the attorney-client privilege in this state [F.E.C. 90.502], the United States Supreme Court has refused to hold that conversations between the defendant and his counsel which have been overheard by third parties create a per se violation of the Sixth Amendment. Weatherford v. Bursey 97 S. Ct. 837 (1977). The Court said:

" . . . [W]hen conversations with counsel have been overheard, the constitutionality of the conviction depends upon whether the overheard conversations have produced directly or indirectly, any of the evidence offered at trial."

97 S.Ct at 842

The CCTV system makes it technically possible for the assistant public defender in court to conduct discussions with his client in the jail chapel which are no less private than conversations which took place when both parties were in court. The assistant public defender has an open telephone line to the telephone in the jail chapel which sits on the podium where the bond hearing unit person stands with the defendant. The assistant public defender may communicate with them at any time during the proceeding. The assistant public defender also has a small

color television monitor in front of him so that he can watch the defendant during the proceeding and can see the defendant over the monitor as he talks to the defendant on the phone. The attorney can remove his microphone when talking to the bond hearing unit member or the defendant so that the audio portion of the conversation cannot be overheard or recorded. Visual coverage is not recorded on the videotape which records the court proceedings for future use.

The correctional officers in the chapel who operate the camera sit approximately six to eight feet away from the podium where the defendant stands. This makes it unlikely that they will be able to overhear audible portions of the conversations between the defense attorney and the defendant. The likelihood that relevant, audible portions of the conversation will be overheard is reduced even more by the swiftness of the proceeding where the total time spent on each defendant is approximately one to three minutes and the nature of the discussion is limited to such matters as family ties and work history.

Also, any argument that the possibility of unsecured communications violates the Sixth Amendment is premature. The use of CCTV in bond hearings has been ongoing for three months and in misdemeanor arraignments for three years. There are no indications that the prosecutors have solicited information from the correctional officers regarding these private conversations, nor is it known whether any parts of the conversation have been used as evidence in trial against the defendant.

4. Summary:

Although CCTV conforms to the legal requirements of the Sixth Amendment right to counsel, problems with the physical aspect of the system cause the inmates and defense attorneys to perceive that the right is not being met. The Questionnaire results (see Section VII, Tables 5, and analysis pp 37-38, 47-49, 50-55) show that the inmates and the defense attorneys feel they cannot adequately communicate with one another. There is a statistically significant relationship between the defendant's perception of whether he receives effective legal representation and his assessment of the physical aspects of CCTV: whether he could see, hear or speak confidentially to his attorney.

Exercise of the right to effective counsel is obviously thwarted when the parties perceive that the CCTV prevents them from communicating with one another. As pointed out repeatedly through the evaluation and emphasized in this legal discussion, the problems associated with the audio and visual aspects of CCTV which prevent the defense attorneys and the inmates from feeling that they can adequately communicate with each other must be resolved if the system is to operate successfully on a permanent basis.

C. Right to be Present at the Proceedings:

1. Constitutional Directives:

R.Cr.P. 3.180 provides that a defendant is entitled to be present at his first appearance hearing. However, while the Due Process Clause of the Fourteenth Amendment of the United States' Constitution guarantees the presence of a criminal defendant at the trial proceedings against him, the presence of a defendant as a condition of due process extends only to the point where his absence would prevent him from receiving a fair and just hearing. Snyder v. Commonwealth of Massachusetts. 54 S.Ct. 330 (1934).⁹

Kansas City v. McCoy 525 S.W. 2d 336 (MO. 1975) upheld the examination of an expert witness by closed circuit television in a prosecution for violations of a municipal ordinance. Although decided on Sixth Amendment grounds, the court's holding in Kansas City v. McCoy provides sufficient grounds for finding that the use of CCTV in first appearance hearings does not prevent the defendant from receiving a fair and just

⁹ Snyder suggested that the right to be present also had its roots in the Sixth Amendment guarantee of confrontation. Discussion of the Sixth Amendment right of confrontation is not relevant to this analysis since the prosecution does not present witnesses against the defendant at these proceedings. The issue is relevant and must be addressed when analyzing whether future uses of video (pretrial depositions held through the use of CCTV or examination of child victim witnesses in sexual abuse cases) conform to constitutional mandates. See Mlyniec and Dally, "Presence, Compulsory Process and Pro Se Representation; Constitutional Ramifications upon Evidentiary Innovation in Sex Abuse Cases (1985); Fleet, Judge J. Leonard, "Television Technology and Videotapes - Escape Hatch for the Sinking Ship of the Criminal Justice System," (1985).

hearing as required by the Fourteenth Amendment due process guarantee.

The court said:

Today we have means of communication not available a few years ago. We can by electronic means protect the image and voice of a man clearly and distinctly at the speed of light and control that means and insure its integrity by closed circuit television and monitors. While Dr. Yoong was not physically present in the courtroom, his image and his voice were there; they were there for the purpose of examination and cross examination as such so as if they were there in person.

(Emphasis added) 525 S.W. 2d Ct. 339.

The right to be present at first appearance hearings is preserved by the use of closed circuit television in that the defendant is present in the chapel and can participate in a live proceeding where both the judge and he can see each other, hear each other, and converse with each other simultaneously.¹⁰ The proceeding is live and there is no opportunity to filter or edit the testimony as it occurs.

¹⁰The communication problems between the defendant and his attorney which both parties experience in these hearings are discussed in the previous sections under the issue of effective representation.

2. Current Stance:

R.Cr.P. 3.130(b) provides that the judge presiding over first appearance hearings:

Shall immediately inform [the defendant] of the charge and provide him with a copy of the complaint.

R. Cr.P.3 130 (b) provides further that the defendant is entitled to be advised:

- (1) That he is not required to say anything, and that anything he says may be used against him.
- (2) If he is as yet unrepresented, that he has a right to counsel, and, if he is financially unable to afford counsel, that counsel forthwith will be appointed.
- (3) That he has a right to communicate with his counsel, his family or friends, and that, if necessary, reasonable means will be provided to enable him to do so.

Observations of the CCTV system reveal that the defendant is not advised of the charges against him, nor is he advised that he is not required to

say anything and that what he does say may be used against him. It is not known whether CCTV is the motivating factor behind the reasons for which a judge may not exercise due care in conforming to R.Cr.P.

3.130(b), but the technical aspects of CCTV do not prevent the judge from doing so. It is advisable that judges conducting the hearings do follow the dictates of R.Cr.P.3.130(b) as carefully as possible so that the CCTV system is not inappropriately blamed for causing these rights to be violated.

Moreover, it is advisable that a judge not sacrifice the appearance of giving the defendant his "day in court" for the sake of speeding up the proceedings. A total of 56.3% of the inmates questioned agreed they would have asked more questions had they been in court, and the crosstabulations showing the relationship between CCTV making the hearing go faster and the inmates asking more questions had they been in court could be interpreted to mean that over 40% of the defendants felt that the hearings were conducted so fast that they were not given an opportunity to participate in the proceedings. (See Table 6)

D. Conclusion:

All constitutional rights relevant to first appearance hearings should be able to be represented at a first appearance hearing conducted by closed circuit television. Special care should be taken to remedy problems with the physical aspects of the system and with the judge's handling of the proceeding which cause inmates and defense attorneys to perceive that the defendants' rights are not being met.

USE OF CCTV IN OTHER JURISDICTIONS

IX. Use of Closed Circuit Television In Other Jurisdictions

Evaluators contacted jurisdictions throughout the country that have also used or have contemplated use of CCTV for criminal pretrial proceedings. Information gotten from these jurisdictions, along with contact persons from each jurisdiction, is presented below in outline form.

- A) Suffolk County, Massachusetts
Contact: Marian Walsh, Chief Legal Administrative Officer
Phone: (617) 725-8600

At one time (at least two years ago), Suffolk County considered using a closed circuit tv system (between the city jail and the main court) to conduct felony arraignments. However, the county decided against implementing such a system. This decision was based upon cost considerations: the cost of implementing the system was very high, while the existing transportation cost was low (the court is located only one-fourth mile from the city jail).

Ms. Walsh stated that the travel distance between the district courts (not main court) and the jail has presented a growing problem. To resolve this problem, she said there is some talk of implementing a CCTV system for the district courts. If implemented, the system would initially be used for misdemeanor arraignments.

Regarding legal issues surrounding the use of CCTV, the state Supreme Court has ruled there is no constitutional conflict as long as defendants are able to have a complete and full hearing.

- B) Phoenix
Court Administrator's Office
Contact Persons: Pete Anderson
Rob Raker
Phone: (606) 262-3204

For a period of six years, Phoenix used CCTV to conduct felony arraignments (approximately 50/day). However, this usage of CCTV was phased out because it was determined to be too costly. There was no formal study on which the decision to eliminate the CCTV system was based.

When the CCTV system was in use, the system equipment was leased from the telephone company. System equipment included a hard cable buried under the street and a voice-activated switching mechanism.

C) Philadelphia

Contact: Richard Carroll, District Attorney's Office
Phone: (215) 875-6000
Contact: Chief Inspector Thomas
Nestel, Police Department
Phone: (215) 686-3138

Philadelphia is divided into eight police divisions; each of these eight divisions is equipped with its own jail. In four of the eight divisions, a CCTV system (from the division jail to Central Arraignment Court) is used to conduct all types of arraignments; these four divisions handle approximately 38 inmates a day. The remaining four police divisions transport defendants by wagon to Central Arraignment Court for arraignment; these four divisions handle approximately 87 inmates a day. Those divisions utilizing the CCTV arraignment system are located farther from Central Arraignment Court than those divisions transporting defendants to their arraignments.

The CCTV system (a dedicated phone line and screen system) has been in use for at least eight years. The CCTV equipment is owned by the police department, and all operating expenses for the system come out of the police department budget. Problems with the system include: equipment breakdowns (equipment is very old); and the number of police officers that are pulled off the street to operate the system (two police officers are needed for each of the three shifts).

Because of the above-mentioned problems, the police department is presently conducting a study that should determine the future fate of the CCTV system. It is expected that the study will conclude either that the system should be phased out or that new, state-of-the-art CCTV equipment should be purchased.

Neither the Philadelphia Police Department nor the District Attorneys' Office knew of any statute or ruling regarding the legality/constitutionality of CCTV usage for criminal pretrial proceedings. It was mentioned that the voluntary defenders officers initially opposed the CCTV system; however, they have come to accept the system.

D) Baton Rouge

Contact: Milton Skyring
Clerk of Courts
Phone: (505) 389-5279

Baton Rouge's Municipal Court (a misdemeanor court) uses a microwave CCTV system to conduct probable cause hearings and, on occasion, to conduct sentencing appearances. The system was implemented two years ago in response to security problems which arose when transporting defendants the one-mile distance from jail to court. According to the Clerk of the Courts, everyone (police, judges, and courts) "lives by" the system, and no system disadvantages have been encountered. However, no formal evaluation or study of the CCTV system has been conducted.

The CCTV equipment was purchased for \$27,000 by the courts. The equipment includes: dishes at each end; 2 monitors at each end; 1 camera at each end; and 1 microphone at each end. The courts regularly contract out for equipment service/repair, but no real problems with breakdown have yet occurred.

Manpower requirements to run the system are small: at the court's end, one judge and one clerk are required; and at the jail's end, two officers are required. On Monday's, an average of 15-20 people are processed by the system, and on Tuesdays through Fridays, an average of six people are processed. The average number of people processed has not changed since the system was implemented.

At the time the Baton Rouge Municipal Court decided to adopt its CCTV system, there was no legal authority allowing the use of CCTV to conduct criminal pretrial proceedings. Baton Rouge got around this problem by asking the Louisiana Supreme Court for permission to set up their CCTV system as a model program. The Supreme Court granted Baton Rouge permission to do this. Four to five months ago, the Supreme Court appointed a nine-member commission to study and evaluate Baton Rouge's CCTV system. (The commission produced no formal report.) The commission recently voted 7-2 in favor of legalizing the use of CCTV in criminal pretrial proceedings; thus, the way seems to be cleared for other Louisiana jurisdictions to establish their own CCTV systems.

E) Boise, Idaho
Contact: Grant Yee
Court Administrator
Phone: (208) 383-1234

Since 1979, Boise has used CCTV to conduct misdemeanor arraignments and sentencing hearings. Between 1979 and 1982, during which time the courthouse was located five miles away from the jail, a microwave CCTV system was used. Starting in 1982, when a new court facility adjacent to the jail opened, Boise began using a cable CCTV system.

The original system (microwave) equipment was paid for with LEAA monies, while the new system (cable) equipment was paid for by the courts. Vandalism and bad weather were serious problems encountered when the microwave system was in operation. No serious problems have been encountered under the operation of the cable system.

The cable equipment includes: a receiver transmitter, monitors, cameras, and a tape recorder. The sheriff's office is in charge of maintaining and servicing all of this equipment.

Approximately ten inmates are processed daily by the present system. During the CCTV hearings, the judge, the prosecutor, and a court clerk are located in the courtroom. (The system also requires a bailiff to check the courtroom equipment before hearings begin.) Located at the jail end are the defense attorney, the defendant, and a marshal.

A 1979 Idaho Supreme Court ruling established the constitutionality of CCTV usage to conduct criminal proceedings. According to the Court Administrator, all parties (including defendants) are supportive of the CCTV system Boise set up shortly after this Supreme Court ruling. However, no evaluation or post-implementation study of the system has been done.

F) Las Vegas

Contact: Marsha Danes

Las Vegas Municipal Court Administrator

Phone: (702) 386-6509

Since 1979, the Las Vegas Municipal Court has used a microwave CCTV system to conduct misdemeanor arraignments and probable cause hearings. This system allows an estimated 50 inmates to be processed daily.

Through a state grant, the courts purchased the original CCTV equipment for approximately \$36,000. This original equipment is still being used but has been upgraded to some extent. The courts have a contract with Motorola for equipment service/repair. The equipment includes: 2 microwave radios; antennae, waveguides, and auxiliary microwave equipment; 2 cameras; 2 video screens; video cables and accessory booster equipment; and microphones, speakers, camera mounts, and miscellaneous TV cables and connectors.

Under the operation of the CCTV arraignment system, two correctional officers are required at the misdemeanor jail facility (located two miles from the courts). The assistant public defender and the judge are both located in the courtroom. Each offender consults privately with the assistant public defender (on CCTV) before the judge begins pretrial proceedings.

No recent study or evaluation of the system has been conducted. However, cost effectiveness analyses were conducted during the first six months the system was in use. It was stated that occasional breakdowns do occur (2 to 3 times a year), but since these breakdowns are usually caused by weather conditions, they are a problem that cannot be eliminated.

Before the CCTV system was implemented, the chief municipal judge requested legal opinions on the usage of CCTV to conduct arraignments. Neither the Las Vegas City Attorney nor the Clark County District Attorney perceived any problems with CCTV. To date, their opinions have been correct, as Las Vegas has not had any legal problems with its system.

- G) Suffolk County (New York) District Court
Contact: Russell Carter
Suffolk County Telecommunications
Phone: (516) 348-4122

From 1981-83, Suffolk County used a microwave CCTV system to conduct nearly one-third of their misdemeanor arraignments. (About 500 inmates per month were processed by the system.) In hopes that cost savings would be realized, the system was implemented on a trial basis in two of Suffolk's six police precincts. The State Legislature provided enabling legislation for the two-year trial-run period.

Even though Suffolk County made a large investment in system equipment (paid for with county, state, and federal dollars), it was determined in 1983 that the volume of traffic handled by the system did not warrant the expense of the system. To date, an alternative use for the microwave equipment has not been found.

H) Other Jurisidictions.

The jurisdictions we contacted informed us of additional communities/jurisidictions that are using or contemplating using CCTV for criminal pretrial proceedings. These additional jurisdictions are listed below:

- 1) Las Vegas District Court (Felony Court)
Anna Peterson
(702) 386-4011
- 2) Las Vegas J.P. Court
(Re: Felony Arraignments)
Russ Eaton
(702) 386-4011
- 3) Omaha, District Court
(In the process of implementing a CCTV system)
Darwin Severson
District Court Administrator
(402) 444-7004
- 4) Baton Rouge District Courts
(Considering a CCTV system)
- 5) Reno, Nevada
- 6) Suffolk County
Massachusetts District Courts
- 7) Tucson, Arizona
Presiding Judge Thomas Meehan
(602) 792-8486

APPENDICES

APPENDIX 1

Inmates' Questionnaire
(Spanish and English Forms)

FELONY BOND HEARINGS

INMATES' QUESTIONNAIRE

Physical Aspects:

- | | | | |
|---|-------|---------|----------|
| (1) I could <u>see</u> the judge clearly at all times. | AGREE | NEUTRAL | DISAGREE |
| (2) I could <u>hear</u> the judge clearly at all times. | AGREE | NEUTRAL | DISAGREE |
| (3) I could <u>see</u> the public defender clearly. | AGREE | NEUTRAL | DISAGREE |
| (4) I could <u>hear</u> the public defender clearly. | AGREE | NEUTRAL | DISAGREE |
| (5) I could speak with my defense attorney without others hearing our conversation. | AGREE | NEUTRAL | DISAGREE |

Behavioral Changes

- | | | | |
|--|-------|---------|----------|
| (6) The use of tv made my case go faster. | AGREE | NEUTRAL | DISAGREE |
| (7) The use of tv made me nervous. | AGREE | NEUTRAL | DISAGREE |
| (8) I would have asked more questions if I was in the courtroom. | AGREE | NEUTRAL | DISAGREE |
| (9) I feel like I had enough time in front of the judge. | AGREE | NEUTRAL | DISAGREE |
| (10) I think that using tv affected the judge's decision in setting my bond. | AGREE | NEUTRAL | DISAGREE |
| (11) My bond would have been lower if I had been in the courtroom. | AGREE | NEUTRAL | DISAGREE |

Courtroom Demeanor

- | | | | |
|--|-------|---------|----------|
| (12) I felt like I was in court. Explain | AGREE | NEUTRAL | DISAGREE |
|--|-------|---------|----------|

- | | | | |
|---|-------|---------|----------|
| (13) I would have taken the procedure more seriously had I been in the courtroom. Explain | AGREE | NEUTRAL | DISAGREE |
|---|-------|---------|----------|

- | | | | |
|--|-------|---------|----------|
| (14) The other defendants took this court session seriously. | AGREE | NEUTRAL | DISAGREE |
| (15) The judge had "control" of the court. | AGREE | NEUTRAL | DISAGREE |
| (16) I was treated fairly by the correctional officers. | AGREE | NEUTRAL | DISAGREE |
| (17) I had effective legal representation with video. | AGREE | NEUTRAL | DISAGREE |
| (18) I have been through bond hearings before in the courtroom with the judge. | AGREE | NEUTRAL | DISAGREE |

How many times _____

Comments:

AUDIENCIA DE FIANZAS DE DELITOS MAYORES (FELONIAS)

CUESTIONARIO PARA PRESOS

Aspecto Físico:

ESTOY DE ACUERDO

NEUTRAL

ESTOY EN DESACUERDO

- (1) Yo podía ver al juez claramente todo el tiempo.
- (2) Yo podía oir al juez claramente todo el tiempo.
- (3) Yo podía ver al defensor federal público (abogado de oficio) claramente.
- (4) Yo podía oir al defensor federal público (abogado de oficio) claramente.
- (5) Yo podía hablar con mi abogado sin que otros pudieran oír la conversación.

Cambios de Comportamiento:

- (6) El uso de televisión hizo durar más a mi caso.
- (7) El uso de televisión me puso nervioso.
- (8) Yo hubiese hecho más preguntas si hubiera estado en la sala de tribunal.
- (9) Yo creo haber tenido suficiente tiempo ante el juez.
- (10) Yo creo que el haber usado televisión afectó la decisión del juez con respecto a mi fianza.
- (11) Mi fianza hubiese sido más baja si yo hubiera estado en la sala de tribunal.

Comportamiento en la sala de tribunal:

(12) Yo me sentí como que estaba en una sala de tribunal. Explique.

(13) Yo hubiese tomado el procedimiento más en serio si hubiera estado en la sala de tribunal. Explique.

	<u>ESTOY DE ACUERDO</u>	<u>NEUTRAL</u>	<u>ESTOY EN DESACUERDO</u>
(14) Los otros acusados tomaron esta sesión de la corte en serio.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(15) El juez mantuvo "el control" de la corte.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(16) Los oficiales correccionales me trataron con justicia.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(17) Tuve representación legal efectiva con equipo de video.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(18) Yo creo que mi abogado me debería de acompañar en la capilla.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appendix 2

Crosstabulations on Selected Inmates' Questions

TABLE A

The use of tv made my case go faster (FASTER)
 crosstabulated with
 I would have asked more questions if
 I was in the courtroom (MOREQUES)

		MOREQUES			
COUNT		I	I	I	ROW
		IAGREE	NEUTRAL	DISAGREE	TOTAL
TOT PCT		I	1.I	2.I	3.I
FASTER	1.	31	6	12	49
		41.9	8.1	16.2	
					66.2
AGREE	2.	7	7	2	16
		9.5	9.5	2.7	
					21.6
NEUTRAL	3.	5	1	3	9
		6.8	1.4	4.1	
					12.2
COLUMN		43	14	17	74
TOTAL		58.1	18.9	23.0	100.0

Chi Square = 8.69

Cramer's V = .24237

Significance = .0692

TABLE B

The use of tv made my case go faster (FASTER)
 crosstabulated with
 I feel like I had enough time in front of the judge (ENUFTIME)

		ENUFTIME			ROW TOTAL
COUNT		AGREE	NEUTRAL	DISAGREE	
TOT PCT		1.1	2.1	3.1	
FASTER	1.	29	8	12	49
	AGREE				65.3
		38.7	10.7	16.0	
	2.	1	9	6	16
NEUTRAL					21.3
		1.3	12.0	8.0	
	3.	3	0	7	10
DISAGREE					13.3
		4.0	.0	9.3	
	COLUMN TOTAL	33	17	25	75
	TOTAL	44.0	22.7	33.3	100.0

Chi Square = 24.55811

Cramer's V = .40462

Significance = .0001

TABLE C

Judge's bond decision (BOND)
 crosstabulated with
 I had effective legal representation with video (LEGALREP)

BOND	COUNT	LEGALREP			ROW TOTAL
		I AGREE	NEUTRAL	DISAGREE	
		TOT PCT	1.1	2.1	
GRANTED BOND	1.	13	10	7	30
					47.6
		20.6	15.9	11.1	
NOT GRANTED BOND	2.	0	0	1	1
					1.6
		.0	.0	1.6	
GRANTED PTS	3.	10	13	9	32
					50.8
		15.9	20.6	14.3	
COLUMN TOTAL		23	23	17	63
		36.5	36.5	27.0	100.0

Chi Square = 3.72602

Cramer's V = .17196

Significance = .4444

TABLE D

I could see the public defender clearly (SEEPD)
 crosstabulated with
 I had effective legal representation with video (LEGALREP)

		SEEPD			
		AGREE	NEUTRAL	DISAG	
LEGALREP	COUNT				
	TOT PCT	1.1	2.1		
AGREE	1.	19	3	2	
		29.2	4.6	3.1	
NEUTRAL	2.	12	9	2	
		18.5	13.8	3.1	
DISAGREE	3.	7	2	9	27
		10.8	3.1	13.8	
COLUMN TOTAL		38	14	13	65
		58.5	21.5	20.0	100.0

Chi Square = 19.42163

Significance = .0006

Cramer's V = .38652

TABLE E

I could hear the public defender clearly (HEARPD)
 crosstabulated with
 I had effective legal representation with video (LEGALREP)

		HEARPD				ROW TOTAL
COUNT		I AGREE	NEUTRAL	DISAGREE		
TOT PCT		1.1	2.1	3.1		
LEGALREP	1.	20	2	2	24	
					36.9	
		30.8	3.1	3.1		
	2.	14	7	2	23	
NEUTRAL					35.4	
		21.5	10.8	3.1		
	3.	5	3	10	18	
					27.7	
DISAGREE		7.7	4.6	15.4		
	COLUMN	39	12	14	65	
	TOTAL	60.0	18.5	21.5	100.0	

Chi Square = 21.82137

Cramer's V = .40970

Significance = .0002

TABLE F

I could speak with my defense attorney (SPEAKDA)
 crosstabulated with
 I had effective legal representation with video (LEGALREP)

		SPEAKDA			ROW TOTAL
COUNT		AGREE	NEUTRAL	DISAGREE	
TDT PCT		1.1	2.1	3.1	
LEGALREP	1.	16	3	3	22
					36.7
		26.7	5.0	5.0	
	2.	6	11	4	21
NEUTRAL					35.0
		10.0	18.3	6.7	
	3.	1	4	12	17
					28.3
DISAGREE					
		1.7	6.7	20.0	
	COLUMN	25	18	19	60
	TOTAL	38.3	30.0	31.7	100.0

Chi Square = 29.13558
 Cramer's V = .49274

Significance = .0000

Appendix 3

Judges' and Attorneys' Questionnaire

Judge _____

Assistant State Attorney _____

Assistant Public Defender _____

Private Defense Attorney _____

FELONY BOND HEARING QUESTIONNAIRE

Physical Aspects

- | | | | |
|---|-------|---------|----------|
| (1) There is less disruption with video. | AGREE | NEUTRAL | DISAGREE |
| (2) I can hear the other parties (i.e. judge, police department, State Attorney's Office, defendant, family, etc.) clearly. | AGREE | NEUTRAL | DISAGREE |
| (3) I am able to communicate with the individuals stationed on the other side (jail, chapel or courtroom) effectively. | AGREE | NEUTRAL | DISAGREE |

Behavioral Changes

- | | | | |
|---|-------|---------|----------|
| (4) The use of video increases the speed with which cases are processed. | AGREE | NEUTRAL | DISAGREE |
| (5) The defense attorney's ability to act as an effective advocate for the defendant has been diminished. | AGREE | NEUTRAL | DISAGREE |
| (6) The defendant receives effective legal representation with video. | AGREE | NEUTRAL | DISAGREE |
| (7) The judge is able to evaluate the defendants for bond. | AGREE | NEUTRAL | DISAGREE |
| (8) Video does not affect the amount of bond established. | AGREE | NEUTRAL | DISAGREE |
| (9) The defendant communicates adequately with the judge. | AGREE | NEUTRAL | DISAGREE |

Courtroom Demeanor

- | | | | |
|---|-------|---------|----------|
| (10) The judge is able to control the court. | AGREE | NEUTRAL | DISAGREE |
| (11) The inmates take the courtroom by videotape seriously. | AGREE | NEUTRAL | DISAGREE |
| (12) The correctional officers maintain a professional attitude/behavior toward court on video. | AGREE | NEUTRAL | DISAGREE |
| (13) Video is an improvement on the previous system. | AGREE | NEUTRAL | DISAGREE |

(14) What are your complaints with the system?

(15) What do you see as advantages to the system?

(16) How would you change the system?

(17) What further uses do you see for video in the courtroom?

Appendix 4

Supplemental Questions for Judges

SUPPLEMENTAL QUESTIONS
FOR
JUDGES QUESTIONNAIRE

1. What information do you need to determine what kind of bond to set?

2. What do you look for in ordering psych evaluation?

3. Does physical appearance of defendant affect your decision?

4. When do you first see defendant (after how long has he been in jail) ?

5. What do you see as the judge's role in felony bond hearings?

6. What statutory guidelines do you follow?

7. How do you arrive at decision? (What factors do you consider most important)?

8. How does the Assistant State Attorney, the Assistant Public Defender, or Pretrial Services affect your decision?

9. How much of your decision is based on seeing the defendant?

Appendix 5

Crosstabulations on Judges' and Attorneys' Questions

TABLE A

There is less disruption with video (LESSDIS)
 crosstabulated with
 Profession of respondent (PROF)

	COUNT	PROF					ROW TOTAL
		JUDGE	ASST STA TE ATTOR	ASST LIC	PUB	PRIVATE ATTORNEY	
LESSDIS	TOT PCT	1.1	2.1	3.1	4.1		
1. AGREE	17	5	6	4	2	17	
		15.2	18.2	12.1	6.1	51.5	
2. NEUTRAL	13	1	2	4	3	13	
		3.0	6.1	12.1	9.1	30.3	
3. DISAGREE	18	2	0	2	2	18	
		6.1	.0	6.1	6.1	18.2	
COLUMN TOTAL		8	8	10	7	33	
		24.2	24.2	30.3	21.2	100.0	

Chi Square = 5.69481

Cramer's V = .29374

Significance = .4582

TABLE C

I am able to communicate with the individuals
stationed on the other side effectively (COMM)
crosstabulated with
Profession of Respondent (PROF)

	COUNT	PROF				ROW TOTAL
		JUDGE	ASST TE ATTOR	STA LIC	ASST PUB ATTORNEY	
COMM	TOT PCT	1.1	2.1	3.1	4.1	
1. AGREE	5	3	1	1	1	10
	15.2	9.1	3.0	3.0		30.3
2. NEUTRAL	2	4	0	0		6
	6.1	12.1	.0	.0		18.2
3. DISAGREE	1	1	9	6		17
	3.0	3.0	27.3	18.2		51.5
COLUMN TOTAL	3	8	10	7		33
	24.2	24.2	30.3	21.2		100.0

Chi Square = 21.76845

Significance = .0013

Cramer's V = .57430

TABLE D

The use of video increases the speed with which cases are processed (INSPEED) crosstabulated with Profession of Respondent (PROF)

	COUNT	PROF					ROW TOTAL
		JUDGE	ASST STA TE ATTOR	ASST LIC	PUB	PRIVATE ATTORNEY	
INSPEED	TOT PCT	1.1	2.1	3.1	4.1		
AGREE	1.	4	6	5	5	61	
		12.1	18.2	15.2	15.2		
NEUTRAL	2.	0	2	4	0	18	
		.0	6.1	12.1	.0		
DISAGREE	3.	4	0	1	1	18	
		12.1	.0	3.0	3.0		
	9.	0	0	0	1	3.	
		.0	.0	.0	3.0		
COLUMN TOTAL		8	8	10	7	100.	
		24.2	24.2	30.3	21.2		

Chi Square = 16.34286

Significance = .0601

Cramer's V = .40630

TABLE E

The defense attorney's ability to act as an effective advocate for the defendant has been diminished (DAEFF) crosstabulated with Profession of Respondent (PROF)

		PROF				
		COUNT				ROW
ROW	PCT	JUDGE	ASST STA	ASST PUB	PRIVATE	TOTAL
COL	PCT	TE	ATTOR	LIC	ATTORNEY	
TOT	PCT	1.I	2.I	3.I	4.I	
DAEFF	1.	3	1	7	7	18
		16.7	5.6	38.9	38.9	54.5
AGREE		37.5	12.5	70.0	100.0	
		9.1	3.0	21.2	21.2	
	2.	2	4	3	0	9
		22.2	44.4	33.3	.0	37.3
NEUTRAL		25.0	50.0	30.0	.0	
		6.1	12.1	9.1	.0	
	3.	3	3	0	0	6
		50.0	50.0	.0	.0	18.2
DISAGREE		37.5	37.5	.0	.0	
		9.1	9.1	.0	.0	
	COLUMN	8	8	10	7	33
	TOTAL	24.2	24.2	30.3	21.2	100.0

Chi Square = 15.95

Cramer's V = .49160

Significance = .0140

TABLE F

The defendant receives effective legal representation with video (EFFLEGAL) crosstabulated with Profession of Respondent (PROF)

	COUNT	PROF					ROW TOTAL
		JUDGE	ASST STA TE ATTOR	ASST LIC	PUB ATTORNEY	PRIVATE ATTORNEY	
	TOT PCT	1.1	2.1	3.1	4.1		
EFFLEGAL	1.	4	2	2	1	9	
AGREE		12.1	6.1	6.1	3.0	27.3	
NEUTRAL	2.	2	6	1	3	12	
		6.1	18.2	3.0	9.1	36.4	
DISAGREE	3.	2	0	7	3	12	
		6.1	.0	21.2	9.1	36.4	
COLUMN TOTAL		8	9	10	7	33	
	TOTAL	24.2	24.2	30.3	21.2	100.0	

Chi Square = 14.10357

Significance = .0285

Cramer's V = .46227

TABLE C

The judge is able to evaluate the
defendants for bond (JUDGEEV)
crosstabulated with
Profession of Respondent (PROF)

	COUNT	PROF				ROW TOTAL
		JUDGE	ASST STA TE ATTOR	ASST PUB LIC	PRIVATE ATTORNEY	
		1.1	2.1	3.1	4.1	
JUDGEEV	1.	6	4	3	1	14
AGREE		18.2	12.1	9.1	3.0	42.4
NEUTRAL	2.	0	2	1	3	6
DISAGREE	3.	2	2	6	3	13
COLUMN TOTAL		8	8	10	7	33
		24.2	24.2	30.3	21.2	100.0

Chi Square = 10.09168

Significance = .1208

Cramer's V = .39103

TABLE H

Video does not affect the amount of
bond established (AMTBOND)
crosstabulated with
Profession of Respondent (PROF)

AMTBOND	COUNT	PROF					ROW TOTAL
		JUDGE	ASST STA TE ATTOR	ASST LIC	PUB ATTORNEY	PRIVATE	
TOT PCT		1.1	2.1	3.1	4.1		
AGREE	1.	6	5	3	1	15	
		18.2	15.2	9.1	3.0	45.5	
NEUTRAL	2.	1	3	5	4	13	
		3.0	9.1	15.2	12.1	39.4	
DISAGREE	3.	1	0	2	2	5	
		3.0	.0	6.1	6.1	15.2	
COLUMN TOTAL		9	8	10	7	33	
		24.2	24.2	30.3	21.2	100.0	

Chi Square = 8.62714

Cramer's V = .36154

Significance = .1957

TABLE I

The defendant communicates adequately
with the judge (DEFCONJU)
crosstabulated with
Profession of Respondent (PROF)

	COUNT	PROF				ROW TOTAL				
		JUDGE	ASST TE ATTOR	STA ATTOR	ASST LIC		PUB LIC	PRIVATE ATTORNEY		
DEFCONJU	TOT	PCT	1.1	2.1	3.1	4.1				
1. AGREE	5	15.2	5	15.2	1	3.0	2	6.1	13	39.4
2. NEUTRAL	1	3.0	2	6.1	1	3.0	0	.0	4	12.1
3. DISAGREE	2	6.1	1	3.0	8	24.2	5	15.2	16	48.5
COLUMN TOTAL			8	8	10	7	33			
			24.2	24.2	30.3	21.2	100.0			

Chi Square = 12.40616

Cramer's V = .43356

Significance = .0535

TABLE J

The judge is able to control the court (JCONTROL)
 crosstabulated with
 Profession of Respondent (PROF)

	JCONTROL	PROF					ROW TOTAL
		JUDGE	ASST STA TE ATTOR	ASST LIC	PUB	PRIVATE ATTORNEY	
		TOT PCT	1.1	2.1	3.1	4.1	
1.	AGREE	5	8	7	4	24	
		15.2	24.2	21.2	12.1	72.7	
2.	NEUTRAL	2	0	3	3	24	
		6.1	.0	9.1	9.1		
3.	DISAGREE	1	0	0	0	3	
		3.0	.0	.0	.0		
	COLUMN TOTAL	8	8	10	7	33	
		24.2	24.2	30.3	21.2	100.0	

Chi Square = 7.3808

Cramer's V = .33441

Significance = .2871

TABLE K

The inmates take the courtroom by videotape seriously (INSER)
 crosstabulated with
 Profession of Respondent (PROF)

	COUNT	PROF					ROW TOTAL
		I JUDGE	ASST STA TE ATTOR	ASST LIC	PUB	PRIVATE ATTORNEY	
		1.1	2.1	3.1	4.1		
INSER	TOT PCT	1.1	2.1	3.1	4.1		
	1.	6	2	1	1	10	
AGREE						30.3	
		18.2	6.1	3.0	3.0		
	2.	1	5	5	2	13	
NEUTRAL						29.4	
		3.0	15.2	15.2	6.1		
	3.	1	1	3	4	9	
DISAGREE						27.3	
		3.0	3.0	9.1	12.1		
	9.	0	0	1	0	1	
						3.0	
		.0	.0	3.0	.0		
COLUMN TOTAL		8	9	10	7	33	
		24.2	24.2	30.3	21.2	100.0	

Chi Square = 16.24575

Cramer's V = .40509

Significance = .0619

TABLE L

The correctional officers maintain a professional attitude/behavior toward court on video (CORROFF) crosstabulated with Profession of Respondent (PROF)

	COUNT	PROF					ROW TOTAL
		JUDGE	ASST TE	STA ATTOR	ASST LIC	PUB PRIVATE ATTORNEY	
	TOT	PCT					
CORROFF AGREE			1.1	2.1	3.1	4.1	
	1.	7	6	3	3	19	
							57.6
		21.2	18.2	9.1	9.1		
NEUTRAL	2.	1	2	5	3	11	
							33.3
		3.0	6.1	15.2	9.1		
	3.	0	0	2	1	3	
DISAGREE							9.1
		.0	.0	6.1	3.0		
	COLUMN TOTAL	8	8	10	7	33	100.0

Chi Square = 8.45376

Cramer's V = .35789

Significance = .2067

TABLE M

Video is an improvement on the previous system (VIDIMP)
 crosstabulated with
 Profession of Respondent (PROF)

	COUNT	PROF					ROW TOTAL
		JUDGE	ASST STA TE ATTOR	ASST LIC	PUB	PRIVATE ATTORNEY	
VIDIMP	TOT PCT	1.1	2.1	3.1	4.1		
1. AGREE	5	4	2	1		12	
						36.4	
		15.2	12.1	6.1	3.0		
2. NEUTRAL	1	4	2	1		9	
						24.2	
		3.0	12.1	6.1	3.0		
3. DISAGREE	2	0	6	5		13	
						39.4	
		6.1	.0	18.2	15.2		
COLUMN TOTAL		8	8	10	7	33	
		24.2	24.2	30.3	21.2	100.0	

Chi Square = 13.06514

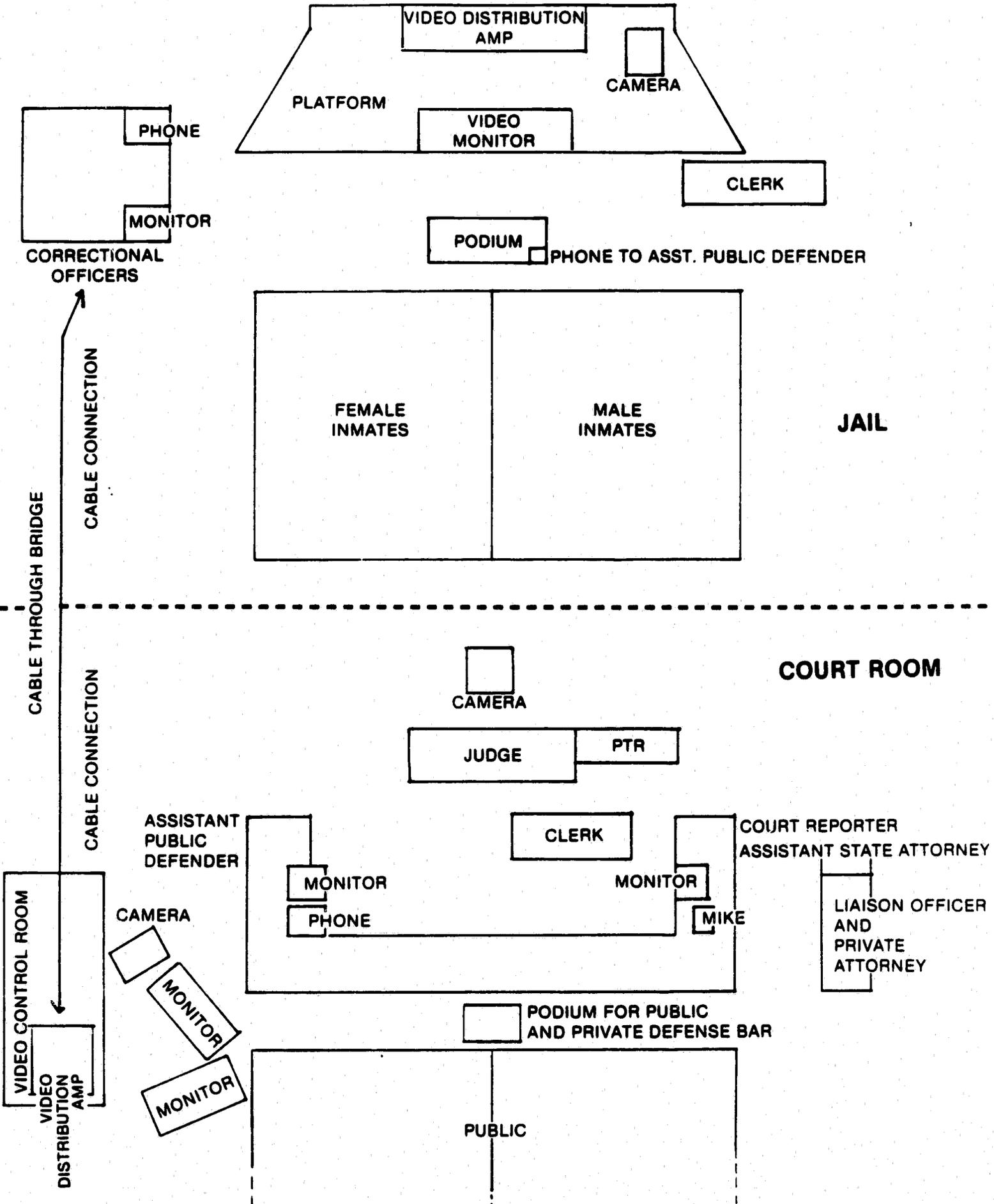
Cramer's V = .44492

Significance = .0420

Appendix 6

Physical Layout of Closed Circuit Television System

PHYSICAL LAYOUT OF CLOSED CIRCUIT TELEVISION SYSTEM



Appendix 7

Chapel Services Schedule

TO: Capt. Joseph Zappia
Supervisor
Pre-trial Detention Center

FROM: Rev. Jose E. Hernandez
Chaplain

DATE: 03/22/85

SUBJECT: Revision of Chapel Services

First Sunday

Key Biscayne Presbyterian Church 8:30 am to 9:30 am
Bros. Meyers and Clingingpeel

Christian Science Church 9:30 am to 10:30 am

Second Sunday

First Alliance Church 8:30 am to 9:30 am
Dr. Dwight Porter

Betnei Apostolic Temple 9:30 am to 10:30 am
Rev. Akin-Sister Spain

Third Sunday

Granada Presbyterian Church 8:30 am to 9:30 am
Rev. Dan Levy

Apostolic Revival Center 9:30 am to 10:30 am
Minister Jones

Fourth Sunday

Church of God and Prophecy 8:30 am to 9:30 am
Brother Thomas

New Mt. Moriah Baptist Church 9:30 am to 10:30 am
Rev. Strange-Brother Joseph

Fifth Sunday

English Service 8:30 am to 9:30 am
Chaplain Hernandez

Spanish Service 9:30 am to 10:30 am
Chaplain Hernandez

Monday

Christian Classes 8:30 pm to 10:00 pm

Monday (cont.)

Basic Bible
Christian Character
General Bible

Gordon Brooker
Allan Hallard
(S.P.) Dave Hall

Tuesday

Youth Service
Minister De Merritt

6:30 pm to 8:00 pm

Bible Study
Officer Morris

8:00 pm to 10:00 pm

Wednesday

Every other Wednesday is English Family Service: inmates and family will worship together. On alternate Wednesdays, services will be in Spanish. These services will be facilitated by assigned pastors from the community.

Thursday

Spiritual Encounter *
Rev. Weatherspoon

10:00 am to 11:30 am

Friday

Spanish Bible Study

10:00 am to 11:15 am

Saturday

Bible Study
Gordon Brooker

8:30 am to 9:30 am

Catholic Services
Father Santos

9:30 am to 11:30 am

Spiritual Encounter Class
Rev. Weatherspoon

12:00 pm to 2:00 pm

Choir Practice *
Brian Kroenberger

2:30 pm to 4:00 pm

Transitions Meeting
Facilitated by Ruby Palmer

4:00 pm to 6:00 pm

All religious services scheduled Monday through Friday 8:30 am to 4:30 pm will be held on the 7th floor.

* asterisk denotes activities/services limited to selected individuals.

cc: Mr. Russ Buckhalt
Mr. Don Manning
Lt. R. Escalante
Sgt. Sheila Siddiqui

Appendix 8

Program Improvement Request for Video Equipment
from Administrative Offices of the Courts

These costs are estimates and may be significantly lower in some areas depending on the package bid process. We also could live with cutbacks in certain areas. Either Craig Burger or myself are available for questions, presentations, etc.

Narrative for Video Bond Hearing System

If it is decided that the video bond hearing system is a viable one, it will need to be in operation seven days a week/five to six hours a day. Any system with this much "up-time" must be reliable and dependable. Currently, the equipment in use is nearing three years old. Some replacement must take place soon. The "replaced" equipment can be utilized for future courtroom proceedings or to permanently equip the two-way video room currently used for child interviews.

Items #1, 2, and 10 (\$80,000):

These four camera outfits will enable us to replace the two cameras in the courtroom and replace the one and add one in the jail. This will give us the ability to control the jail equipment from the courtroom side for the first time.

Item #6, (\$10,681.64):

These four VCRs will be used to replace the two currently in use and add two more. We could then duplicate tapes during normal work hours rather than waiting for periods when court is not in operation. We constantly get requests from the State, Public Defender, and private bar for copies of tapes.

Item #5 (\$7,292.65):

This item concerns the purchase of eleven small monitors. Four 10 inch color monitors, with built-in audio, will be for the principal participants in the courtroom. Experience has taught us that the Judge, State, P.D., and public need to conveniently see the activity in the jail. The one full-screen monitor is not enough.

The seven remaining monitors are for the control room. One will monitor the camera signals. Two will monitor the VCRs while dubbing. The four others reflect the images being recorded for the court record and the images being sent from the jail to the courtroom and vice versa.

Item #7 (\$5,000):

The audio equipment includes ten additional microphones. This will provide a level of security for all phases of operation--basically, no down time. We are currently using microphones not meant for this application. An additional microphone/mixer is needed since all our current channels are filled. This will enable us to do courtroom broadcasts without dismantling the system.

Item #4 (\$8,000):

This will replace the current communication system between the jail and courtroom. We will be able to provide secure communication between attorneys and clients without the phone currently in use.

Item #3 (\$10,000):

This is the equipment necessary to distribute both audio and video signals to the multiple locations required for broadcast. It includes distribution amplifiers and audio and video processors, necessary to compensate for signal loss due to the cable distance.

Item #9 (\$5,500):

This equipment is missing from the current operation. In order to test and maintain the system, this waveform monitor, vector scope, and signal generator are badly needed.

Item #8 (\$7,000):

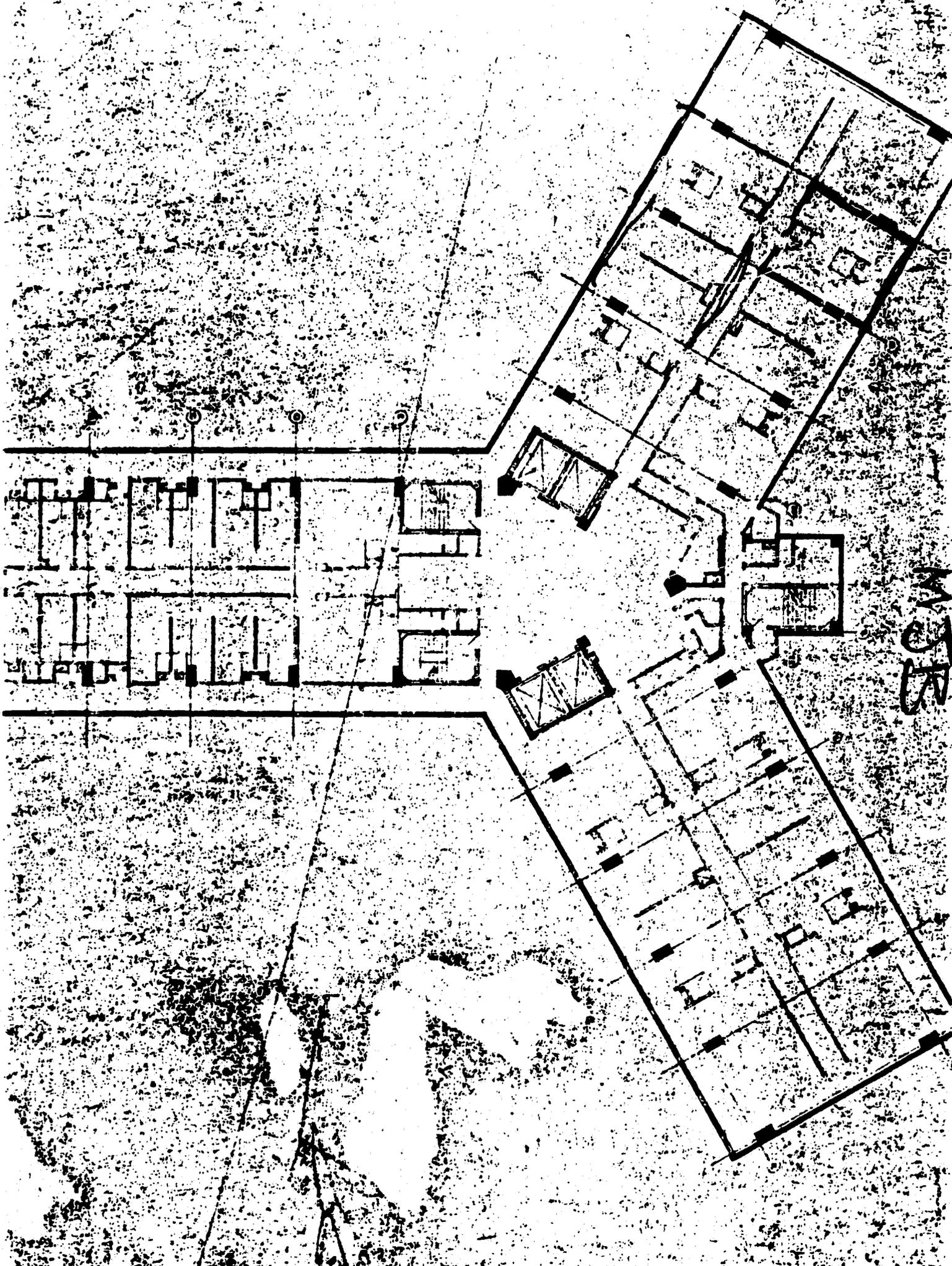
These are racks specifically made to house and protect the current and new equipment.

Item #11 (\$16,000):

We may not have to pay for some or all of this item. The jail may incur the costs of shifting from the second floor chapel to the seventh floor. It will be necessary to lay new cable for this adjustment, however.

Appendix 9

Layout of Seventh Floor of Jail



MSR