

CR sent  
6-2-88

# News Cameras in the Alaska Courts: Assessing the Impact

January 1988

U.S. Department of Justice  
National Institute of Justice

109451

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

Alaska Judicial Council

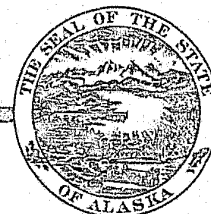
to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

109451

a

judicial council





109451

# alaska judicial council

1031 W. Fourth Avenue, Suite 301, Anchorage, Alaska 99501 (907) 279-2526

EXECUTIVE DIRECTOR  
Harold M. Brown

NON-ATTORNEY MEMBERS  
Leona Okakok  
Hilbert J. Henrickson, M.D.  
Renee Murray

ATTORNEY MEMBERS  
William T. Council  
James D. Gilmore  
Barbara L. Schuhmann

CHAIRMAN, EX OFFICIO  
Warren W. Matthews  
Chief Justice  
Supreme Court

## NEWS CAMERAS IN THE ALASKA COURTS: ASSESSING THE IMPACT

JANUARY 1988

NCJRS

MAR 4 1988

ACQUISITIONS

### PROJECT STAFF

Marla N. Greenstein, Project Director  
Teresa W. Carns, Research Associate  
Mary Scotese, Secretary  
Josefa M. Zywna, Administrative Assistant

NEWS CAMERAS IN THE ALASKA COURTS:  
ASSESSING THE IMPACT

THE ALASKA JUDICIAL COUNCIL

CHAIRMAN

Warren W. Matthews  
Chief Justice

ATTORNEY MEMBERS

William T. Council  
James D. Gilmore  
Barbara L. Schuhmann

NON-ATTORNEY MEMBERS

Hilbert J. Henrickson, M.D.  
Renee Murray  
Leona Okakok

COUNCIL STAFF

Harold M. Brown, Executive Director  
Teresa W. Carns, Senior Staff Associate  
Marla N. Greenstein, Staff Attorney  
Josefa M. Zywna, Administrative Assistant

## TABLE OF CONTENTS

EXECUTIVE SUMMARY. . . . .	I
INTRODUCTION . . . . .	1
I. HISTORY. . . . .	4
II. SURVEY OF THE FIFTY STATES . . . . .	8
III. CAMERAS IN THE ALASKA COURTS . . . . .	14
IV. THE MEDIA PLAN AND THE COURTS. . . . .	17
A. The First Judicial District. . . . .	17
B. The Second Judicial District . . . . .	21
C. The Third Judicial District. . . . .	21
D. The Fourth Judicial District . . . . .	29
E. The Appellate Courts . . . . .	31
F. Summary. . . . .	31
V. THE MEDIA PLAN AND THE MEDIA . . . . .	32
A. The Electronic Media and Court Coverage. . . . .	32
B. Media Plan and Newspaper Coverage. . . . .	42
C. The Anchorage Media Courtroom. . . . .	57
VI. ISSUES AND RECOMMENDATIONS . . . . .	59
A. Legal Issues . . . . .	59
B. Administrative Issues. . . . .	64
C. Recommendations. . . . .	65
VII. CONCLUSION . . . . .	69

TABLE OF CONTENTS  
(Continued)

FOOTNOTES. . . . .	70
APPENDIX 1 Supreme Court Order No. 647 and Related Amendments . . . . .	1.1
APPENDIX 2 Plan for Media Coverage of Judicial Proceedings - July 1985. . . . .	2.1
APPENDIX 3 Plan for Media Coverage of Judicial Proceedings - October 1982 . . . . .	3.1
APPENDIX 4 Sample Press Badge Used by Anchorage Trial Courts. . . . .	4.0
APPENDIX 5 Request for Media Coverage Form. . . . .	5.0
APPENDIX 6 Sample Newspaper Data Sheet. . . . .	6.0
APPENDIX 7 Sample Television Data Sheet . . . . .	7.0
APPENDIX 8 Survey to Rural Judicial Officers. . . . .	8.0
APPENDIX 9 Survey to Rural Media. . . . .	9.0

## LISTING OF TABLES

### (News Cameras in the Alaska Courts: Assessing the Impact)

TABLE I	Media Requests for Coverage/Third Judicial District (July 1, 1985 - April 1, 1987) . . . . .	23
TABLE II	Coverage Granted (No Restrictions)/Third Judicial District (July 1, 1985 - April 1, 1987) . . . . .	25
TABLE III	Coverage Granted with Restrictions/Third Judicial District (July 1, 1985 - April 1, 1987) . . . . .	26
TABLE IV	Coverage Denied/Third Judicial District (July 1, 1985 - April 1, 1987) . . . . .	26
TABLE V	Coverage Granted (No Restrictions) and Total/Third Judicial District (July 1, 1985 - April 1, 1987) . . . . .	33
TABLE VI	Coverage Granted with Restrictions/Third Judicial District (July 1, 1985 - April 1, 1987) . . . . .	34
TABLE VII	Coverage Denied/Third Judicial District (July 1, 1985 - April 1, 1987) . . . . .	34
TABLE VIII	TV Footage (June 1, 1984 - April 1, 1987) . . . . .	35
TABLE IX	TV Footage/Time in Minutes (June 1, 1984 - April 1, 1987) . . . . .	37
TABLE X	Newspaper Coverage/Cantwell Case (All before 7/1/87) . . . . .	44
TABLE XI	Newspaper Coverage/Yi Case (All before 7/1/87) . . . . .	45
TABLE XII	Newspaper Coverage/Lowry Case . . . . .	48
TABLE XIII	Newspaper Coverage/Faccio Case . . . . .	49
TABLE XIV	Newspaper Coverage/Burris Case (All after 7/1/85) . . . . .	50
TABLE XV	Newspaper Coverage/Open Meetings Case (All after 7/1/85) . . . . .	51
TABLE XVI	Newspaper Coverage Through May 1987/MacKay Related Cases (All after 7/1/85) . . . . .	53
TABLE XVII	Newspaper Coverage Through May 1987/Peel Case . . . . .	54
TABLE XVIII	Newspaper Coverage/All Cases (Before/After 7/1/85) . . . . .	55
FIGURE 1	Preferred Camera Placement. . . . .	41
FIGURE 2	Inappropriate Camera Placement. . . . .	41

EXECUTIVE SUMMARY

News Cameras in the Alaska Courts:  
Assessing the Impact

## I. The Study

The attached study responds to a request by the Alaska Supreme Court that the Alaska Judicial Council assess the impact of Canon 3(A)(7) of the Code of Judicial Conduct on the media and the courts. At the time that the request was made, the supreme court adopted an amendment to its rule governing cameras in the courtroom that significantly altered the rule's use and impact. Prior to July 1, 1985, a defendant's consent was required before news cameras would be allowed into criminal court. Defendants rarely gave their consent. The rule change adopted by the court in July 1985 eliminated this consent requirement.

Originally adopted for one year, the experimental court rule was ultimately extended to January 15, 1988 to allow a thorough study to be completed. This extension enabled two major murder trials occurring in 1987 to be incorporated into the study. Prior to the Mackay-related trials the Anchorage Media Courtroom had not been used nor had any significant legal issues emerged under the media rule.

Paragraph 3 of the supreme court order leading to this study reads: "...The Alaska Judicial Council shall monitor the impact of the amended canon and media coverage plan upon media coverage of judicial proceedings and upon the courts." As a result, our study attempts to examine the impact of the Media Plan on two entities, the courts and the media, by assessing differences before and after the July 1985 rule change.

The Cameras study is divided into seven parts. The first three sections set the context for an understanding of the analysis that follows. First, a brief history outlines the developing role of media in the courtroom and establishes the issues that have evolved over time. The second section takes a general overview of the current status of cameras in the courtrooms of all fifty states. Part three is a quick look at how these issues have developed in Alaska up to the recent rule change in July 1985. Part four begins the critical analysis of the impact of the rule by looking at how the rule has affected the Alaska courts in each of the four judicial districts and at the appellate level. This section uses data obtained from the "Requests for Media Coverage" that have been filed with the courts as well as incorporating interviews with judges, court personnel, attorneys, and media representatives across the state. Part five examines and interprets data on how the Media Plan has affected the media's coverage of the courts. With the aid of a



clipping service, the Judicial Council was able to monitor Anchorage television news programs on the courts from June 1984 to April of 1987 and to analyze news clippings statewide for selected cases both before and after the rule change. Part six outlines the issues, both legal and administrative, that arose under the Media Plan, and recommends specific changes that address these issues. The study ends with a brief conclusion assessing the merits of the Media Plan.

## II. Findings

### A. The Media Plan and the Courts

Generally, outside of Anchorage, requests by the media to cover cases are handled informally. Exceptions occur in particular newsworthy cases such as the Peel trial in Ketchikan and the Mackay-related trials in Fairbanks and Anchorage. Regardless of the formality of the request, judges tend to place similar restrictions on the placement of cameras in the courtroom. In addition, judges at times, though rarely, restrict the subject matter of the photos or video tapes.

The Anchorage trial courts have had the most requests for media coverage with a total of 259 requests; 189 were granted without written restrictions and only 15 were completely denied. Cameras have rarely been in use in the appellate courts.

Overall, the courts throughout the state report a good working relationship with the media. Many problems that arose during the first days of increased access to the courts have been addressed by both formal and informal arrangements between the courts and the local media.

### B. The Media Plan and the Media

For purposes of this study, the media was divided into electronic media (mostly television) and print media (largely daily newspapers). Television coverage of the courts was analyzed for the period of June 1984 through March 1987. As expected, the number of newsclips on the nightly news in Anchorage increased substantially since the rule change in July 1985. While increased quantity of coverage does not necessarily reflect increased quality of coverage, many television news directors and reporters feel that the increased access has brought with it an increased understanding of court process. In addition, the television stations

preferred the types of video they could get in court to the out-of-court "ambush" shots they got prior to courtroom access.

Several minor technical problems remain for both television cameras and still cameras in the courtroom. These concerns are noted in detail in Part V of the attached study.

Selected cases were studied to assess the impact the plan has had on newspaper coverage of the courts. The most interesting finding parallels those relating to television coverage of the courts. The number of in-court photos uniformly increased since July 1985. Also, when newspapers had in-court photos, their stories were longer.

### III. Recommendations

These recommendations address both the legal issues and the technical problems that arose during the course of the study.

1. The Plan should incorporate procedures that give the media the ability to challenge a denial of camera access.
2. Witness objections to camera coverage should be considered on a case by case basis.
3. Proceedings that indirectly include family matters may require consent of the parties for camera coverage but only for the time that those matters are discussed in the proceeding.
4. Camera coverage of sexual offenses should be treated as coverage of a criminal matter except that the victim should not be photographed without the victim's consent.
5. Sketch artists should be subject to standards established under the Media Plan.
6. Judges should have the discretion to ensure the fair administration of justice. This discretion includes the ability to consider possible

pretrial publicity generated by news cameras in severed criminal proceedings.

7. Prior to suspension of media privileges, the individuals or organizations to be disciplined should be entitled to present evidence on their behalf at a hearing before a judge.
8. Camera access to the courts in all cases except family matters should be presumed, subject to reasonable restrictions by the judge under the Media Plan. "Request for Coverage" forms should be changed to "Notice of Coverage."
9. An effort should be made to correct the technical problems that render the media courtroom in Anchorage unusable.
10. Judges and media organizations should be made aware of the Media Plan's policies and provisions.

#### IV. Conclusions

The July 1985 change in the Media Plan is viewed by a great majority of judges and virtually every member of the press as a great step forward. As mentioned above, our quantitative analysis shows a substantial increase in the coverage of the courts by both the broadcast and print media. And while it is difficult to evaluate the quality of the increased coverage, increased public awareness of the courts and their functions can only be positive.

The few problems that were identified in our study are easily corrected. Most stem from ambiguities in the Plans's provisions. Technical difficulties encountered by the Media were equally minor and could often be overcome with a combination of patience and creativity.

## INTRODUCTION

### News Cameras in the Alaska Courts: Assessing the Impact

## INTRODUCTION

This study responds to a request by the Alaska Supreme Court that the Alaska Judicial Council assess the impact of Canon 3(A)(7) of the Code of Judicial Conduct on the media and the courts.<sup>1</sup> At the time that the request was made, the supreme court adopted an amendment to its rule governing cameras in the courtroom that significantly altered the rule's use and impact. Prior to July 1, 1985, a defendant's consent was required before news cameras would be allowed into criminal court. Defendants rarely gave their consent.<sup>2</sup>

The rule change adopted by the court in July 1985 eliminated this consent requirement and opened the courtrooms to the Alaska press in a bold experiment. For the first time in Alaska history the courts were present on an almost daily basis in the newspapers, on the radio, and on the televised news.

Originally adopted for one year, the experimental court rule was ultimately extended to January 15, 1988 to allow a thorough study to be completed.<sup>3</sup> This extension enabled two major murder trials occurring in 1987 to be incorporated into the study.<sup>4</sup> Prior to the Mackay-related trials the Anchorage Media Courtroom had not been used nor had any significant legal issues emerged under the media rule.

The media rule is Canon 3(A)(7) of the Code of Judicial Conduct. Quite different from any other provision of the Code, 3(A)(7) has little to do with the conduct of judges. Canon 3(A)(7) outlines adjudicative responsibilities relating to the control of media activity in the courtroom. The Alaska Supreme Court order outlining the provisions of 3(A)(7) refers to "standards of conduct and technology."<sup>5</sup> These standards are encompassed in the court's "Plan for Media Coverage of Judicial Proceedings" or the "Media Plan." The Media Plan is a set of administrative standards that relate to Canon 3(A)(7). Specific regulations governing limitations on coverage, sound and light criteria, location of equipment and personnel movement of equipment, procedures for obtaining approval for coverage, and suspension of media coverage privileges are all a part of the Media Plan.<sup>6</sup>

Paragraph 3 of the supreme court order leading to this study reads: "...The Alaska Judicial Council shall monitor the impact of the amended canon and media coverage plan upon media coverage of judicial proceedings and upon the courts."<sup>7</sup> As a result, our study attempts to examine the impact of the Media Plan on two

entities, the courts and the media, by assessing differences before and after the July 1985 rule change.

Our study is divided into seven parts. The first three sections set the context for an understanding of the analysis that follows. First, a brief history outlines the developing role of media in the courtroom and establishes the issues that have evolved over time. The second section takes a general overview of the current status of cameras in the courtrooms in all fifty states. Part three is a quick look at how these issues have developed in Alaska up to the recent rule change in July 1985. Part four begins the critical analysis of the impact of the rule by looking at how the rule has affected the Alaska courts in each of the four judicial districts and at the appellate level. This section uses data obtained from the "Requests for Media Coverage" that have been filed with the courts, and incorporates interviews with judges, court personnel, attorneys, and media representatives across the state. Part five examines and interprets data on how the Media Plan has affected the media's coverage of the courts. With the aid of a clipping service,<sup>8</sup> the Judicial Council was able to monitor Anchorage television news programs on the courts from June 1984 to April of 1987 and to analyze news clippings statewide for selected cases both before and after the rule change. Part six outlines the issues, both legal and administrative, that arose under the Media Plan, and recommends specific changes that address these issues. The study ends with a brief conclusion assessing the merits of the Media Plan.

As with any study, certain choices and limits needed to be made. Resources were not available to allow a quantitative study of television news coverage of the courts for stations outside of Anchorage.<sup>9</sup> In addition, it was impossible to study all news clippings related to the courts.<sup>10</sup> The Judicial Council staff overcame some of these limitations through interviews with those who have had direct experience with the Media Plan. Staff did not directly assess the attitudes of jurors and witnesses. These studies had been conducted in the past in jurisdictions with similar media provisions.<sup>11</sup>

Two comprehensive surveys, one in Florida and one in California,<sup>12</sup> were undertaken in states with media plans similar to Alaska's. Both state studies included witness and juror attitudes as a significant part of their analyses. The Florida study revealed that 77.6% of juror and 57% of witnesses did not note any disruption as the result of cameras.<sup>13</sup> In that same study, 85.3% of the jurors

and 72.7% of the witnesses found no detrimental effect on the dignity of the proceeding.<sup>14</sup> The 1981 California study indicated that 80% of jurors and 76% of witnesses found extended media coverage acceptable.<sup>15</sup> Ninety-eight percent of witnesses did not fear any harm that could be attributable to extended media coverage.<sup>16</sup>

Future studies may wish to address other impacts including the effects, if any, of cameras on judicial decision making, criminal sentencing, witness testimony, and on length of court proceedings. The impact of increased coverage of the courts on public knowledge and recidivism rates would also be of interest. Unfortunately, too few cases exist to evaluate these effects at this time.

The scope of this study is limited to the Media Rule and the accompanying Media Plan. Related legal issues involving doctrines of fair trial rights and pretrial publicity are not specifically addressed in this report. However, the provisions of the Plan were designed to preserve the constitutional rights of the defendant.

The increased presence of news cameras in the courtroom has had definite measurable effects that this study does identify and explain. Overall, coverage of the courts has changed dramatically in the two years since the consent requirement was dropped from the rule as it relates to criminal cases. To the best of our knowledge, this is the first attempt to quantify the effects of camera access to the courtroom on media coverage of judicial proceedings. It is our hope that other states will benefit from Alaska's effort to make the courts more accessible to the media and, in turn, the public.

## I. HISTORY

### News Cameras in the Alaska Courts: Assessing the Impact



## I. History

The issue of news cameras in the courtroom is clearly a recent development. One of the earliest photographed trials was the "Scopes' Monkey Trial" which started on July 10, 1925. Scopes was a Kentucky school teacher who was fined for teaching Darwin's theory of evolution. His defense attorney was Clarence Darrow and William Jennings Bryan was the prosecutor. The proceedings were both radio broadcasted and photographed. Apparently, little disruption was attributable to the media's presence.<sup>17</sup> For the next decade, there was disagreement among judges about the propriety of cameras and broadcast media in the courtroom. One sensational trial decided the issue for the moment.

In 1935, Bruno Hauptmann's trial for the kidnapping and murder of Charles Lindbergh's son attracted unprecedented media coverage. Though reports differ, there was a definite circus atmosphere that surrounded that trial. It was a trial that generated great interest on the part of the public as a whole. Approximately 700 members of the media were present during the course of the trial. Though both movie and still cameras were allowed to be present, the judge presiding over the trial limited their use.<sup>18</sup> From many reports it appears that many of the courtroom disruptions came from spectators.

Regardless of the source of the atmosphere, it had a marked effect on the future of media in the courtroom. Within two years after the Hauptmann trial, the American Bar Association amended its Canons of Professional and Judicial Ethics banning photographs and broadcasts in the courtroom. The ban was ultimately extended to television cameras as well.

Despite the American Bar Association's position, a few state courts continued to allow limited use of news cameras in specific trials.<sup>19</sup> The vast majority of states continued to follow the ABA position for the next forty years.

State experiments with electronic media in the courtroom were partly curtailed in 1965 by the first United State Supreme Court decision directly addressing the issue, Estes v. Texas.<sup>20</sup> Estes claimed that extensive pretrial publicity growing out of the broadcasting of pretrial hearings and the subsequent coverage of the trial itself deprived him of his fundamental right to a fair trial.

Twelve cameras were present during the pretrial hearing and cables and wires crossed the courtroom floor. The court noted that

All of this two-day affair was highly publicized and could only have impressed those present, and also the community at large, with the notorious characters of the petitioner as well as the proceeding. The trial witnesses present at the hearing, as well as the original jury panel, were undoubtedly made aware of the peculiar public importance of the case by the press and television coverage being provided, and by the fact that they themselves were televised live and their pictures rebroadcast on the evening show.<sup>21</sup>

During the actual trial, a media booth was at the back of the courtroom and the only portions of the trial that were to be broadcast live were the opening and closing arguments. The trial footage was consequently used during regularly scheduled news programs.

The Court used this opportunity to equate the rights of the television and radio media with those of the print: "All are entitled to the same rights as the general public. The news reporter is not permitted to bring his typewriter or printing press. When the advances in these arts permit reporting by printing press or by television without their present hazards to a fair trial we will have another case."<sup>22</sup> Justice Clark, writing for the Court, identified the chief function of a judicial proceeding as ascertaining the truth and said that television did not materially contribute to this objective. Its use injects an "irrelevant factor" into court proceedings and can actually cause subtle unfairness.<sup>23</sup> Justice Clark listed potential adverse impacts on jurors, witness testimony, the judge, and the defendant. Several recent studies have refuted these concerns, however.<sup>24</sup>

Estes was decided on the basis of the pretrial publicity, noting that four of the seated jurors had seen the televised pretrial hearing. In addition, the Court believed that the trial judge was harassed based on his subsequent decision to limit media coverage of the actual trial. The Court, however, did acknowledge the possibility of change.

It is said that the ever-advancing techniques of public communication and the adjustment of the public to its presence may bring about a change in the effect of telecasting upon the fairness of criminal trials. But we are not dealing here with future developments in the field of electronics. Our judgment cannot be rested on the hypothesis of tomorrow but must take the facts as they are presented today.<sup>25</sup>

In the late 1970s states began to reexamine the question of news cameras in the courtroom and many began allowing them on an experimental basis. The ABA adjusted its position in 1982 and currently allows limited broadcasting, televising, recording and photographing of courtroom proceedings.

Most of the landmark cases involving news cameras in the courts since the late 1970s have come out of Florida. Starting with In re Petition of Post-Newsweek Stations,<sup>26</sup> establishing a permanent authorization for electronic and photographic coverage of judicial proceedings in 1979, Florida has led the national trend towards increasing media access to the courts. In its decision in Post-Newsweek the Florida Supreme Court noted that its prime motivating consideration in opening the courtroom to cameras is the state's commitment to open government.<sup>27</sup> Two years later, a case before the United States Supreme Court challenged the Florida media plan.

In Chandler v. Florida,<sup>28</sup> two criminal defendants challenged their convictions on the basis that the televising of portions of their trial, over their objections, denied them a fair and impartial trial. The Supreme Court affirmed their convictions and, in so doing, established that absent a showing of prejudice to the defendants, media coverage of judicial proceedings, subject to guidelines like those in Florida, does not violate the U.S. Constitution. In its decision, the Court read its previous holding in Estes v. Texas<sup>29</sup> as limited to the particular facts of that case. The Court concluded "that Estes is not to be read as announcing a constitutional rule barring still photographic, radio, and television coverage in all cases and under all circumstances. It does not stand as an absolute ban on state experimentation with an evolving technology, which, in terms of modes of mass communication, was in its relative infancy in 1964, and is, even now, in a state of continuing change."<sup>30</sup>

Noting that any criminal case of great public interest presents some risk that accompanying publicity may compromise the right of the defendant to a fair trial, the Supreme Court did not view the possibility of prejudice as warranting a ban on electronic media coverage.

The risk of juror prejudice in some cases does not justify an absolute ban on news coverage of trials by the printed media; so also the risk of such prejudice does not warrant an absolute constitutional ban on all broadcast coverage. A case attracts a high level of public attention because of its intrinsic interest to the public and the manner of reporting

the event. The risk of juror prejudice is present in any publication of a trial, but the appropriate safeguard against such prejudice is the defendant's right to demonstrate that the media's coverage of his case--be it printed or broadcast--compromised the ability of the particular jury that heard the case to adjudicate fairly.<sup>31</sup>

Many factors were essential to the Court's decision. Attorneys General of seventeen states, including Alaska, filed Amici Curiae briefs in support of continuing experimentation with broadcast media in the courts. The Court acknowledged the substantial changes in television technology since 1962 (the year of the Estes trial) and that significant safeguards have been built into the experimental program in state courts. In addition, there was a lack of empirical data establishing that the mere presence of cameras has an adverse effect on the trial process.

Since the Chandler decision, the technology and presence of cameras in the courts have continued to evolve. As court systems continue to adopt experimental programs allowing news cameras in their courtrooms, they consistently follow Florida's example by establishing guidelines that ensure proper decorum and the preservation of defendants' fair trial rights. In all states, judges retain the authority to control proceedings and ensure the fair administration of justice.

## II. SURVEY OF THE FIFTY STATES

### News Cameras in the Alaska Courts: Assessing the Impact

## II. Survey of the Fifty States<sup>32</sup>

Since 1974 states have been experimenting with news cameras in the courts to varying degrees. A major breakthrough occurred in 1982 when the American Bar Association amended Canon 3(A)(7) of the Code of Judicial Conduct to allow cameras in the courtroom. Forty-four states allow some form of electronic media in some or all of their courts, but there is great variation as to the type and extent of coverage allowed. As of November 1, 1987, thirty-two states allowed some form of camera coverage in their trial and appellate courts. Pennsylvania allows cameras only in the trial courts. Eleven states allow electronic media in only their appellate courts.<sup>33</sup> Texas only allows audio tapes of its proceedings in appellate courts<sup>34</sup> and Utah permits still photos but no other electronic equipment in its trial court proceedings.<sup>35</sup> None of the states with coverage only in their appellate courts distinguish between civil and criminal cases. Of those states that allow coverage in trial courts, two do not allow cameras in criminal proceedings.<sup>36</sup> Federal courts continue to disallow cameras in the courts with the single exception of naturalization proceedings in some districts.

As a general rule, limitations on camera coverage are most concerned with protecting the fair trial rights of criminal defendants and the privacy rights of other participants in the courtroom. Particular types of proceedings that exclude coverage include: adoptions, child custody hearings, divorce, juvenile proceedings, sex offenses, in camera proceedings, voir dire, and hearings on admissibility of evidence.<sup>37</sup> Common restrictions concerning the content include prohibitions against photographing jurors, child witnesses and victim-witnesses in sexual offense cases. In many states, consent of the parties to the case is required before cameras are allowed into the courtroom.<sup>38</sup> And in every jurisdiction, judges maintain some discretion to limit or exclude media coverage in specific circumstances. Twenty-six states require permission by the court prior to coverage, ten states require that the courts receive notice, and twelve states have no consent or notice requirements.<sup>39</sup>

A number of the states that allow cameras in their courtrooms are still experimenting with their provisions.<sup>40</sup> Experimentation is clearly a favored method for expanding the access of news cameras to the courts. Several of the experiments resulted in accompanying evaluations that resulted in permanent rules allowing cameras in the courts.

Distinguishing characteristics of the various state plans include:

- Alabama: Trial judge may permit coverage if all parties and attorneys provide written consent.
- Arizona: Judge has authority to permit coverage; prohibits photographing of jurors.
- Arkansas: Timely objection by a party will preclude coverage.
- California: Coverage is permitted only by written court order. Photographing of jurors is prohibited.
- Colorado: No coverage of voir dire or in camera hearings. No consent requirement but the judge may prohibit, limit or terminate coverage on specified grounds.
- Connecticut: Subject to court approval, no coverage of family matters, trade secrets, sexual offenses or cases closed to the public. Criminal sentencings can be covered only if the trial was covered.
- Delaware: Allowed in appellate proceedings.
- District of Columbia: No cameras.
- Florida: Exclusion of electronic media is permitted only after showing that proceedings would be adversely affected due to a qualitative difference between electronic and other media.
- Georgia: Written consent by parties and counsel not required for supreme court but required for trial courts.

Hawaii: Consent by judge is required for trials but not for appellate proceedings. Judge needs good cause to prohibit coverage. Good cause is presumed when determining the admissibility of evidence, victim's testimony in sexual offenses, trade secrets, or if a witness would be put in substantial jeopardy of bodily harm.

Idaho: Coverage allowed only in appellate courts.

Illinois: Allowed only in appellate courts.

Indiana: No cameras.

Iowa: Consent needed to cover victims/witness testimony in sexual offenses, juvenile matters, family matters and trade secrets.

Kansas: Consent of participants not required though juvenile witnesses and victims/witnesses and certain others may request no cameras.

Kentucky: Consent of parties not required.

Louisiana: Appellate coverage only.

Maine: Appellate coverage only.

Maryland: Coverage in appellate courts and civil trials.

Massachusetts: Consent of parties not required.

Michigan: Consent of parties and victim required. Judge has discretion to limit or waive rules.

Minnesota: Judge and all parties must consent to coverage of trials; no coverage of jurors or hearings outside the jury's presence.



Mississippi: No cameras.

Missouri: No cameras.

Montana: Permits coverage in both trial and appellate courts.

Nebraska: Cameras allowed only in supreme court proceedings.

Nevada: Allowed in both trial and appellate courts; no consent requirement.

New Hampshire: Subject to objection of any party, attorney, or testifying witness in trial court. Subject to the court's consent in supreme court cases.

New Jersey: Cameras not allowed in domestic disputes, rape cases, family matters and trade secret cases.

New Mexico: Filming of jury prohibited. Judge may limit or exclude coverage of certain witnesses.

New York: Pending legislation would allow cameras but prohibit coverage of victims of sexual offenses.

North Carolina: No consent requirement. Coverage of family matters and trade secrets is prohibited. Coverage of certain witnesses is also prohibited.

North Dakota: Allowed in investigative or ceremonial proceedings and in all hearings before the supreme court.

Ohio: Coverage of jurors and objecting victims and witnesses is prohibited.

Oklahoma: No coverage of objecting witnesses, jurors, or parties and defendant consent is required for coverage of a criminal trial.

Oregon: Appellate proceedings only.

Pennsylvania: Allowed in non-jury civil trials except family matters.

Rhode Island: No coverage of hearings outside the jury's presence, photos of jury only after their consent.

South Carolina: No cameras.

South Dakota: No cameras.

Tennessee: Defendant consent required in criminal cases. Witnesses and jurors may object to coverage of themselves. Objections by a party will suspend all coverage.

Texas: Allowed in appellate proceedings subject to consent of court.

Utah: Allowed in supreme court proceedings; still cameras only are allowed in other court proceedings.

Vermont: No cameras.

Virginia: Experiment in selected trial courts and all appellate courts. No coverage of jurors, certain witnesses, family matters, sexual offenses, motions to suppress evidence, trade secrets and in camera proceedings.

Washington: No coverage of witnesses, jurors or parties objecting to cameras.

West Virginia: Court given discretion to decide whether coverage should be allowed in any given case.

Wisconsin: Objections to coverage by victims of crimes, juveniles, certain witnesses, parties in divorces, trade secrets are presumed valid. Consent of jury required for their photos.

Wyoming: Only in supreme court.

### III. CAMERAS IN THE ALASKA COURTS

#### News Cameras in the Alaska Courts: Assessing the Impact

### III. Cameras in the Alaska Courts

In August 1978, the Alaska Supreme Court authorized its first experiment with cameras in the courts. The experiment authorized coverage of the supreme court, superior courts and district courts in Anchorage.<sup>41</sup> One year later, the Alaska Supreme Court adopted its first permanent Electronic Media Rule by amending Canon 3(A)(7)(c) of the Code of Judicial Conduct.<sup>42</sup> This original Media Plan required the prior permission "from counsel for all parties and the judge presiding at the proceeding" for all trial court proceedings.<sup>43</sup> Appellate proceedings in the supreme court required only the supreme court's permission. In addition, in any proceeding that media coverage was approved "the court may on the motion of either party or on its own motion order media coverage or photography to cease as to any portions of the proceeding when the interest of justice require."<sup>44</sup> In trials with media coverage the Plan provided: "no witness, party, or juror who expresses to the judge a prior objection shall be photographed by still or moving camera, nor shall the testimony of such a witness, juror, or party be broadcast or telecast."<sup>45</sup>

In January 1982, the supreme court modified several of the Media Plan's provisions. The newly created court of appeals was covered by the Plan. The attorneys no longer needed to consent to coverage but the defendant in a criminal proceeding did have to grant permission for coverage. Additionally, in sexual offense cases, the victim's consent for coverage was required.<sup>46</sup>

Three years later, Dean Gottehrer, an Associate Professor of Journalism and Broadcasting at the University of Alaska-Fairbanks, wrote to the chief justice suggesting a rule change to increase access of cameras to the courts.<sup>47</sup> His letter outlines several compelling reasons for broadening media coverage in the Alaska courts.

From March 1982 until June 1984, approximately ten requests for media coverage were granted statewide. Six of the requests were granted in the Third Judicial District out of a total of 22 filed in that district.<sup>48</sup> It is clear that few defendants consented to news cameras in the courtroom. The proposed change to the rule, eliminating the defendant's consent as a prerequisite to the presence of cameras and presuming news camera access, was written to allow increased access for the media.

From the court's perspective, it makes more information available to the public about what takes place in the courts. As noted earlier, while extended media coverage of the courts has increased since the first rules were adopted in Alaska in 1979, the amount taking place is still minimal. Adopting a presumption that allows extended media coverage will stimulate increased coverage from the electronic and still photographic media...The revised Canon continues the responsibility for controlling the courtroom with the judge, while at the same time maintaining the admonitions against distractions, impaired dignity, and interference with fair and impartial hearings or trials. The procedure for access is simplified if access is presumed.

From the media's perspective, the revised Canon offers the prospect of increased extended media coverage of the courts in a streamlined manner because access would now be presumed, rather than the product of consent of the judge in a civil matter and the judge and a defendant in a criminal matter.<sup>49</sup>

The rule suggested to the supreme court was based on Florida's revised Canon 3A(7) that presumes media access. In other words, advance approval would not be required. There were several restrictions that limited this presumption, including: (1) the judge's authority to control the conduct of proceedings before the court, (2) judge's authority to ensure decorum and prevent distractions, (3) judge's authority to ensure the fair administration of justice in the pending cause, (4) judge may exclude electronic media and still photography coverage of a particular participant upon finding a substantial effect that is qualitatively different from the effect on the public in general and from coverage by other types of media. Any limitations on coverage were to be the "least restrictive means necessary to remedy the anticipated harm" and the reasons were to be articulated on the record.<sup>50</sup>

On March 20, 1985, the supreme court tentatively approved some changes to the Media Plan. Though not as sweeping as those suggested by Professor Gottehrer, it did allow coverage of proceedings other than family matters and sexual offenses with only the judge's consent. Essentially, these changes eliminated the existing barrier to electronic media coverage of criminal proceedings by eliminating the need for the defendant's consent. The changes did not go as far as presuming electronic media access to the courtroom, however, by maintaining the requirement of the judge's consent in all proceedings. Commentary relating to the 1985 changes noted: "Although the proposed plan does not presumptively open all proceedings to coverage, it requires careful consideration of reasons to deny coverage and articulation of these reasons."<sup>51</sup>

This version of Canon 3(A)(7) became effective on July 1, 1985 and remains in effect, with minor changes, today. It is this version of Canon 3(A)(7) and the accompanying Media Plan that is the subject of our study.

IV. THE MEDIA PLAN AND THE COURTS

News Cameras in the Alaska Courts:  
Assessing the Impact



#### IV. The Media Plan and the Courts

Perhaps more than any other state, Alaska is faced with geographical and cultural diversity. That diversity will be reflected in our analysis of the courts and the media as we look at the impact of the media plan by judicial district. This study examines the impact of the plan in three of the four judicial districts. Due to its rural nature, the Second Judicial District has received no requests for media coverage of court proceedings.

##### A. The First Judicial District

Encompassing several communities in Southeast Alaska connected only by air or ferry, a majority of the court activity for this judicial district occurs in the state capital, Juneau. The courts in Juneau occasionally handle political cases with statewide impact. When they do, media coverage of those court proceedings extends statewide.

Juneau has two Superior Court judges and one District Court judge. The Superior Court handles 5.5% (1167) of the state's Superior Court total cases and the District Court handles 5.8% (7,942) of the state's total District Court caseload.<sup>52</sup>

According to the judges and court personnel in Juneau, requests for media coverage are often handled informally. Since formal request forms are not required for all media representatives present in court, it is difficult to assess how frequently the media are present. There have been still cameras present in District Court for arraignments and initial appearances.<sup>53</sup> There have been no requests by the media for continuing coverage of District Court proceedings and no requests for television cameras.<sup>54</sup> Television cameras have been present during a few trials and hearings in the Juneau Superior Court.

The Juneau judges differ somewhat in their restrictions on cameras. While the District Court judge prefers to allow the media to suggest camera placement within the courtroom, one Superior Court judge prefers to assign placement.<sup>55</sup> Largely growing out of a concern with preserving the attention of a jury during trial proceedings, most of the restrictions placed by the Superior Court judges on cameras occur in jury trials. One of the Superior Court judges was so concerned

with the possible distraction or discomfort that camera presence could create for a jury that he has not allowed cameras while the trial is going on. The media are getting their photos of the parties and counsel in that judge's courtroom outside the presence of the jury.<sup>56</sup>

As mentioned above, the administration of the Media Plan in Juneau has been fairly informal. Request forms, when they are used, are approved by the judge who will be presiding over the proceeding and then filed with the clerk. All filed request forms are periodically sent to the Area Court Administrator's office in Ketchikan.

Ketchikan is the second busiest court in the First Judicial District handling 3.4% (714) of the state's Superior Court caseload and 2.9% (3,922) of the total District Court cases.<sup>57</sup> Ketchikan has one Superior Court judge and one District Court judge. For the past few years the office of the Area Court Administrator for the First Judicial District has been located in Ketchikan.

This southernmost court site in Alaska provided the most interesting circumstances for studying the impact of the Media Plan. An unlikely spot for swarming reporters, Ketchikan was faced with that real possibility when a multiple murder case arose in that court's jurisdiction. John Kenneth Peel was charged with the killing of eight people on board a fishing vessel in Craig, Alaska. From the fall of 1984 to the fall of 1986 the murder trial and its collateral proceedings dominated headlines statewide. The operation of the Ketchikan courts was adjusted to accommodate the media's interest.

Shortly after the court in Ketchikan knew that they were to host a major murder trial, the Area Court Administrator and the Superior Court Judge arranged to meet with every media organization who would be attending any part of the trial. The meeting, held in November 1984, set out all procedures for coverage of the case. Anticipating extensive coverage by television stations as far away as Anchorage and Seattle, the court set up additional facilities to accommodate the press. A room in the courthouse was set aside as a "press room" with telephones and copy machine access. Media members were given the key to the room to interview and photograph trial participants. The press was encouraged to use this room for interviews to avoid holding interviews and taking photos in the fairly small lobby of the Ketchikan Courthouse.

All public papers that were filed with the court in the course of the Peel trial were filed with an extra copy for use by the press. An entire duplicate file was created for the press to copy from without disturbing the court's access to its file. Other court concerns included: (a) that photographers not block public access to the building and (b) that the court have some ability to control the numbers of media representatives present and preserve access to seating for the public in the courtroom. The existence of a press room addressed the fear that photographers would block the elevators and crowd the lobby. Media representatives, both reporters and camera operators, were issued press identification badges and seating in the courtroom was suggested to them. The press identification badges were designed to let the jurors and witnesses know who the members of the press were.

During the trial, television cameras were to be set up and dismantled during breaks in the proceedings. The cameras were placed on the jury side of the courtroom and were not moved during proceedings. If there was a request to use more than two television cameras, pooling arrangements were to be made between the competing television stations.

Since all of the arrangements were made prior to the rule change eliminating the defendant's consent to media coverage, the consent of John Peel through his attorney was a necessary prerequisite. The consent was complicated by the particular issues central to Peel's defense. These questions were whether John Peel was the person who purchased gasoline used to set fire to the fishing boat and whether he was the person seen leaving the boat at the time of the fire. Both questions were issues of identification and required in-court identification by witnesses on the stand whose credibility would be determined by the jury. The resulting consent agreement was essentially, a compromise agreement between Peel's defense attorney and the Ketchikan paper.

Subject to the court's approval, the Ketchikan Daily News agreed, in essence, to limitations on the use of pictures or sketches of the defendant taken outside the courthouse, but only for so long as other media refrained from such use. By giving up its right to take photos of the defendant outside of the court, the Ketchikan Daily News gained camera access to the trial proceedings. The restrictions ended when final arguments began.

Although this agreement was between the Ketchikan Daily News and John Peel, the Superior Court Judge, Thomas Schulz extended the prohibition on photographing Peel during the trial to all media covering the proceedings after the rule change. Judge Schulz emphasized the issue of the defendant's identification when restricting the media's camera use. Noting that pictures tend to reinforce prior identifications, Judge Schulz stated that he would have placed the same restrictions on coverage of the case if it had begun after the rule change that eliminated the need for a defendant's consent.<sup>58</sup>

Photographs published during the course of the Peel trial included high school photos of John Peel, John Peel appearing in court wearing a ski mask,<sup>59</sup> various in-court pictures of counsel and witnesses, and pictures of the jury both in court and at the crime scene. Prior to the recent rule amendment that prohibits photographing of jurors, all of the jurors at the Peel trial gave their consent to media photographs.<sup>60</sup> Apparently, near the end of the trial, at least one juror had second thoughts about consenting to the coverage. The blanket prohibition against filming jurors contained in Supreme Court Order No. 783, amending the Canon and the Media Plan, should adequately address this concern.

Subsequent to the agreement for the Peel trial, the Ketchikan court's experience with the Ketchikan Daily News and its workable agreement led to the development of a long term agreement for coverage of court proceedings in Ketchikan. The agreement is between the Ketchikan Daily News and the Court System and basically grants "blanket permission for the still camera photographer of the News to cover all public courtroom proceedings except when specifically requested not to do so by the judge."<sup>61</sup> Other provisions in the agreement require that: (a) the Ketchikan Daily News abide by the provisions of the Media Plan, (b) that they use the quietest camera available while in the courtroom, (c) photographers and reporters may sit in the jury box during non-jury proceedings, and (d) when in the jury box members of the News cannot leave until a recess. The agreement goes on to state that it "is not intended to apply to specific cases where media coverage will be extended or unique." In those unique cases, "the Court reserves the option to determine specific provisions which will necessarily apply." Finally, the agreement notes that it is "subject to revocation at any time if violations occur."<sup>62</sup>

The agreement was a product of a meeting that included Judge Schulz as presiding judge for the judicial district, Kristen Carlisle, the Area Court Administrator, Judge Thomas Jahnke, a Superior Court judge in Wrangell who often

sits in Ketchikan, Magistrate Susan Thomsen and the attorney for the Ketchikan Daily News as well as the News's publisher, its editor, and its court reporter. It was clearly a product of the cooperative effort of those who would be routinely affected by the media plan. The benefits of this effort for the court would include having a predictable working relationship with the local press, avoiding the administrative burden of dealing with forms requesting media coverage, and maintaining uniformity in proceedings involving press coverage.

Perhaps this type of blanket agreement works best in a small cooperative community. But, as will become evident as we look at the court and the media throughout the state, agreements like the one in Ketchikan exist de facto in one form or another regardless of court size or location.

#### B. The Second Judicial District

As mentioned briefly above, the Second Judicial District has had no experience with the Media Plan to date. A written survey mailed to all court locations and news directors and editors in rural Alaska confirmed this lack of experience. All the court personnel who responded were familiar with the provisions of the Plan while very few of the news directors and editors were aware of the Plan's provisions.<sup>63</sup> Part of the lack of photographic coverage of the rural courts could be due to this lack of awareness. A more likely reason, however, is the general lack of personnel resources on rural news staffs. Few, if any, can maintain a staff photographer.

#### C. The Third Judicial District

When looking at the Third Judicial District, it is most helpful to distinguish Anchorage from the rural areas of Southcentral Alaska. While many of the courts outside of Anchorage are high volume courts, they only have one or two judges for each court site as compared to Anchorage's twelve Superior Court and nine District Court judges. In addition, the other Third Judicial District sites are in small communities with a single newspaper and often no local television station.

Of the non-Anchorage Third Judicial District courts, Palmer has had the most frequent experience with cameras in its courtrooms. Superior Court Judge Cutler handled thirteen requests or five percent of the total requests filed in the Third

Judicial District (see Table I, p. 23). All of the requests were for still photos by newspapers from Palmer (Frontiersman) and Anchorage (Daily News and Times). Restrictions placed on the photographers in the Palmer courtrooms included: (1) staying behind the rail, (2) no photos if not seated in audience, and (3) no photos of jurors or victims' families without their consent. These types of restrictions are common in the Anchorage courtrooms as well.

Kenai and Homer may have had more requests than the following tables indicate. Since the courts in these smaller communities tend to act less formally, it is also possible that cameras were present without approved request forms. The following tables should be viewed as accurately representative of requests for media coverage in Anchorage and Palmer, recognizing that these trends may differ in other parts of the Third Judicial District.

Copies of request forms filed in the Third Judicial District were sent to the Judicial Council for the entire 21 months that this study spans. During that time, 259 requests were filed by media agencies (see Table I, p. 23). A number of those 259 requests were single request forms filed for the duration of a case before a single judge or single forms asking for permission for more than one pretrial proceeding before a single judge. Rather than file the identical form for each day of a lengthy trial, media representatives will often get one form approved by the judge for the entire trial. Judges, the Clerk of Court, and members of the media all prefer to avoid the duplicate paperwork that would be involved if daily request forms were to be required.

TABLE I  
(News Cameras in the Alaska Courts: Assessing the Impact)

MEDIA REQUESTS FOR COVERAGE  
THIRD JUDICIAL DISTRICT  
(JULY 1, 1985 - APRIL 1, 1987)

<u>JUDGE</u>	<u>TOTAL REQUESTS</u>	<u>% OF TOTAL REQUESTS</u>
G. C. Anderson	4	( 1.5%)
M. Beckwith	10	( 3.9%)
S. Buckalew	35	( 13.5%)
E. Burke	2	( .8%)
A. Bryner	4	( 1.5%)
V. Carlson	42	( 16.2%)
A. Creasey (Deputy Mag.) (Homer)	1	( .3%)
B. Cutler (Palmer)	13	( 5.0%)
N. Finn	3	( 1.2%)
W. Fuld	5	( 1.9%)
R. Gonzalez	4	( 1.5%)
M. Greene	31	( 12.0%)
J. Hanson	1	( .3%)
J. Hornaday (Homer)	1	( .3%)
K. Hunt	10	( 3.9%)
K. Johnstone	21	( 8.1%)
J. Katz	2	( .8%)
J. D. Mason	3	( 1.2%)
P. Michalski	7	( 2.7%)
J. Ripley	1	( .3%)
M. Rowland	13	( 5.0%)
D. Serdahely	6	( 2.3%)
B. Shortell	6	( 2.3%)
J. Singleton	3	( 1.2%)
R. Stemp	2	( .8%)
D. Stewart	7	( 2.7%)
T. B. Stewart	2	( .8%)
M. White	12	( 4.6%)
R. Williams (Comm. Mag.)	1	( .3%)
M. Wolverton	<u>7</u>	<u>( 2.7%)</u>
TOTAL	259	(100.0%)

Of the 259 total requests, 186 or 71.8% were granted without any written restrictions by the judge (see Table II, p. 25). An additional 58 or 22.4% were granted with some written restrictions on the cameras (see Table III, p. 26) and only 15 or 5.8% of the requests were denied (see Table IV, p. 26). Four judges handled half of the total requests among them (Buckalew, Carlson, Greene and Johnstone). With the exception of Judge Greene who is a Fourth Judicial District Superior Court Judge who temporarily sat in Anchorage, the judges who handle the bulk of the media requests place no written restrictions on cameras in their courtrooms (see Table II, p. 25). Most of these requests are to cover arraignments, bail hearings or sentencing hearings. The judges who handle these hearings tend to develop a daily working relationship with the press that develops into a predictable routine. Because these are non-jury proceedings, many of the concerns about cameras in court do not apply. The judge does not have to be as concerned with the degree of distraction that cameras may cause or what types of pictures the cameras are taking. There is a greater interest expressed by the press for pretrial coverage since it allows them to set their cameras in the jury box, giving a head-on camera shot of the defendant that can be used throughout their coverage of the trial. Sentencing hearings often provide the media with the same physical flexibility and provide a human interest aspect to the proceeding's conclusion.

Although Table III indicates the request forms with written restrictions, many of the placement restrictions found on these forms are given verbally and are understood to be constant requirements in the courtrooms of those judges mentioned above. Time, place, and manner restrictions on these forms include:

- (1) set up cameras before court convenes
- (2) media personnel to stay clear of doors
- (3) minimize noise
- (4) stay in back or side of courtroom
- (5) photographer not to move around but may reposition at recess
- (6) no flash or tally lights
- (7) no clicking of shutter while participants are speaking
- (8) no camera equipment dismantled or removed until hearing is concluded
- (9) not to be used during closing arguments and jury instructions



TABLE II  
(News Cameras in the Alaska Courts: Assessing the Impact)

COVERAGE GRANTED (NO RESTRICTIONS)  
 THIRD JUDICIAL DISTRICT  
 (JULY 1, 1985 - APRIL 1, 1987)

<u>JUDGE</u>	<u>NUMBER OF REQUESTS</u>	<u>NUMBER OF CASES</u>
M. Beckwith	1	1
S. Buckalew	35 (18.8%)	7
A. Bryner	4	1
V. Carlson	42 (22.6%)	7
A. Creasey (Deputy Mag.) (Homer)	1	1
B. Cutler (Palmer)	7	4
W. Fuld	2	1
R. Gonzalez	2	2
M. Greene	5 ( 2.7%)	3
J. Hanson	1	1
J. Hornaday (Homer)	1	1
K. Hunt	10	5
K. Johnstone	21 (11.3%)	7
J. Katz	2	2
J. D. Mason	1	1
P. Michalski	6	4
M. Rowland	10	3
D. Serdahely	6	1
B. Shortell	6	2
J. Singleton	3	1
R. Stemp	1	1
D. Stewart	7	5
T. B. Stewart	2	1
M. White	7	4
M. Wolverton	3	1
 TOTAL	 186 (71.8%)	 67

TABLE III  
(News Cameras in the Alaska Courts: Assessing the Impact)

COVERAGE GRANTED WITH RESTRICTIONS

THIRD JUDICIAL DISTRICT  
(JULY 1, 1985 - APRIL 1, 1987)

<u>JUDGE</u>	<u>NUMBER OF REQUESTS</u>	<u>NUMBER OF CASES</u>
G. C. Anderson	4	1
M. Beckwith	9 (15.5%)	5
E. Burke	2	1
B. Cutler	6	4
N. Finn	3	2
W. Fuld	3	3
M. Greene	15 (25.9%)	5
J. D. Mason	2	2
P. Michalski	1	1
M. Rowland	3	1
R. Stemp	1	1
M. White	5	4
M. Wolverton	<u>4</u>	<u>1</u>
TOTAL	58 (22.4%)	31

TABLE IV  
(News Cameras in the Alaska Courts: Assessing the Impact)

COVERAGE DENIED

THIRD JUDICIAL DISTRICT  
(JULY 1, 1985 - APRIL 1, 1987)

<u>JUDGE</u>	<u>NUMBER OF REQUESTS</u>	<u>NUMBER OF CASES</u>
R. Gonzalez	2 (13.3%)	(1)
M. Greene	11 (73.3%)	3
J. Ripley	1 (6.7%)	1
R. Williams	<u>1</u> (6.7%)	<u>1</u>
TOTAL	15 (5.8%)	5

Unusual or exceptional restrictions on subject matter of the photos or video include:

- (1) no photos of defendant due to pending immunity decisions
- (2) no photos of defendant in handcuffs due to prejudicial effect
- (3) no photos during jury selection
- (4) no pictures of jurors without court's permission (prior to the rule change prohibiting photos of jurors)
- (5) no photos of victim's family without their consent
- (6) no pictures on TV of witnesses other than defendant, police and experts since many witnesses are members of the homosexual community who may be reluctant to testify if there is publicity
- (7) no photos of audience except as background
- (8) no pictures of defendant pursuant to Canon 3(A) (7) (F)

While many of the time, place and manner restrictions are incorporated into the provisions of the Media Plan, those dealing with shutter noise are not. At least three judges have decided to deal with noisy shutters on still cameras by restricting the time that the cameras can be used. For example, cameras have been restricted to the first hour of the proceeding, to six or seven "clicks", not while participants are speaking (effectively barring action photos), or not during crucial times in the trial (e.g. jury instructions).

The subject matter restrictions present different issues. Often reflecting the jurisprudential philosophy of the individual judge, limits on the subject matter of media photos have prompted the only legal disputes involving the Media Plan. Discussed in further detail below, subject matter restrictions and bans on cameras during court proceedings are areas where judicial discretion often meets First Amendment challenge.

Table IV shows that coverage has been denied in only five Third Judicial District cases. Three of those cases were the Mackay-related proceedings heard by Judge Greene; two of the requests were denied by Judge Gonzalez in Judge Greene's absence. The other two denials were requests for inappropriate coverage under the Media Plan, including one request for coverage in an in camera proceeding. The judge in that case allowed cameras to take photos of the parties leaving the chambers.

Judge Greene's denials in the Mackay-related cases were based on several grounds. Neil Mackay was accused of arranging a contract murder. The reasons for a ban on camera coverage was to limit prejudice to defendants in cases to be tried successively but arising out of the same murder. Reasons stated on the request form included:

1. The evidence to be presented is similar to evidence in three other scheduled trials. It (the ban) is therefore necessary to preserve the fair trial rights of other defendants.
2. Two witnesses are in the Federal Witness Protection program.
3. Denied for purposes of jury selection based on privacy concerns and management of proceedings given the size of the panel.
4. Denied for bail hearing given the sensitive nature of the materials and information that will be presented and that are not admissible at trial. This denial is based on concern for the fair administration of justice.

Many of these reasons for denial of camera coverage are unique to multiple defendant serial trials and will be discussed in greater detail in Part VI, "Issues and Recommendations."

In general, the administration of the Media Plan has worked smoothly even in the busy Anchorage courts. Much of the credit for maintaining an efficient system for processing the request forms in Anchorage goes to the then-Chief Deputy Clerk of Court, LeEllen Baker. While 259 requests over 21 months averages one request every two days, often requests would cluster around key trial proceedings. For the more notorious crimes, five or six requests could be filed. And, on occasion, more than one proceeding of media interest will take place in a single day.

The key to the administrative success of the Plan seems to be directly related to a willingness to be flexible with the Plan's procedures. It is clear, for example, that the requirement that request forms be filed 24 hours in advance is unworkable for most arraignments.<sup>64</sup> It is not uncommon to have arraignments take place with just a few hours notice to the public and the media. Both the judges and

the court clerks realize this limitation and have required request forms to be filed within a reasonable time prior to the arraignment, usually one hour ahead of time. Problems still exist for coverage of weekend arraignments, however. If the media has notice prior to the arraignment, the court may be able to process the requests and deal with the logistics of the number of cameras, their setup and location. Where the media had not contacted the court in advance of a weekend arraignment, however, the Anchorage court did not have the personnel to adequately handle the court business and the media at the same time.<sup>65</sup> All the television news stations in Anchorage have been notified by the court that at least a 24-hour notice for weekend hearings is preferred.<sup>66</sup>

The only disciplinary actions that have been taken by the court have been informal letters to the Anchorage media clarifying the Plan's provisions. One incident involved a television camera taping in a hallway without permission. The camera was there apparently without the station's news director's knowledge and had been denied access to the courtroom. A second situation involved a sketch artist who failed to file a request form. After the court realized that sketch artists were omitted from the Plan and should, therefore, not have been listed on the request forms, the matter was resolved. A third involved television cameras that showed up two hours prior to a Sunday arraignment. To date, there have been no formal sanctions against the media for violations of Media Plan provisions.

#### D. The Fourth Judicial District

Our survey of the courts indicated that Fairbanks was the only Fourth Judicial District court site to have had any experience with the Media Plan. Handling about one-quarter the caseload of the Anchorage courts, Fairbanks is the second largest court site in the state with almost 18,000 case filings annually.<sup>67</sup> Unlike the First Judicial District, most requests for camera coverage in Fairbanks are formal. Press badges are required only for cameras.

Although forms are required for each proceeding, there is some confusion over where those forms should be filed. According to the Media Plan, request forms are to be filed with the area court administrator after they are signed by the judge.<sup>68</sup> In Fairbanks, some forms were filed with the area court administrator but more often, they were filed in the court clerk's office and placed in a case file. Still others would stay with the judge, in the judge's set of files. This

confusion made it difficult to assess the number and types of requests that have been filed in Fairbanks cases.

It is clear that the number of still photos taken during arraignments has severely dropped since Fairbanks started using video arraignments.<sup>69</sup> Where arraignments are in court, photographers have a prime opportunity to get head-on photos of the defendant from the jury box. Since video arraignments have been instituted, still photos must be taken off of the television screen. These are usually poor quality photos and therefore are not often used, resulting in fewer photos used by the Fairbanks Daily News-Miner prior to trial.

Judges in the Fourth Judicial District often meet with the reporter from the Fairbanks newspaper and those from the two Fairbanks television stations prior to court proceedings. At that time, the judge's expectations for placement of cameras and noise and movement restrictions are expressed to the media. The restrictions placed on the manner of camera use in the Fairbanks courts are identical to those used in the First and Third Judicial Districts.

The trials of Neil Mackay and related codefendants presided over by Judge Greene raised the only unusual restrictions. As mentioned above, the Mackay-related cases raised several issues not specifically addressed by the Media Plan. The series of cases had great public interest in Anchorage. Due in great part to the extensive publicity and interest in Anchorage the last two trials were changed to Fairbanks. Viewed from the beginning by the Fairbanks press as an Anchorage case, the trial of Neil Mackay still drew extensive media attention.

Cameras were denied access to the first trial in Fairbanks, State v. Bright. Judge Greene reasoned:

This is one of three remaining cases with closely-related facts and evidence. Given that defendant Mackay has moved for a change of venue and the need to preserve Fairbanks as a possible site for that trial, it is necessary to take any action consistent with the constitution to achieve that end.<sup>70</sup>

Consistent with this philosophy Judge Greene allowed camera coverage in State v. Betts (the last Mackay-related trial to take place in Anchorage) when it became clear that the subsequent Bright case would be changed to Fairbanks.<sup>71</sup> So

too, Judge Greene allowed cameras in the trial of Neil Mackay as there was no subsequent trial to prejudice. The legal issues raised by these cases will be discussed in detail in Part VI, "Issues and Recommendations".

Cameras were present on most days of the Mackay trial and worked relatively well. Judge Greene limited the press to one television camera so pooling arrangements were often necessary. Although this arrangement worked well for the court, it presented minor difficulties for the television reporters involved.<sup>72</sup>

Overall, the media in Fairbanks has developed a good working relationship with the court. Some judges and magistrates are more comfortable with news cameras than others, similar to all other court sites, but all have worked with the press to provide adequate access to newsworthy proceedings.

#### E. The Appellate Courts

Briefly, cameras have rarely been used in the court of appeals or supreme court since the 1985 rule change. When they have been used, television cameras have presented no problems but still cameras were removed in at least one proceeding. The still camera that was removed was reportedly distracting to the justices in the proceeding.<sup>73</sup> The lack of camera coverage in the appellate courts seems to be due to a lack of interest on the part of the press to date.<sup>74</sup> It is possible that appellate cases in the future may draw more media interest and attention.

#### F. Summary

There are certain common restrictions that are routinely placed on cameras in the courtroom and that should be identified in the Media Plan. Overall, the court has found the Plan to be extremely workable and to require very little administrative effort. Requests for coverage are often granted informally, especially in smaller courts and blanket agreements for coverage have, at times, taken their place. Where there are blanket agreements, judges and the court administrators reserve the right to adjust the agreement to conform to unusual cases or differing circumstances. The ultimate goal for the court appears to be a long-term working relationship with the local press that fosters mutual respect and understanding.

V. THE MEDIA PLAN AND THE MEDIA

News Cameras in the Alaska Courts:  
Assessing the Impact



## V. The Media Plan and the Media

Generally, the media falls into two distinguishable forms: print and electronic broadcast. Most of the requests for coverage have come from the broadcast media, and, more specifically, television news media. Of the 259 requests filed in the Third Judicial District from July 1, 1985 to April 1, 1987, 159 were submitted by the broadcast media while 100 were filed by the print media (see Table V, p. 33). In other words, for every still camera request there were 1.6 requests for video cameras.

To quantify the amount of television coverage that actually took place we monitored television coverage of court cases by the three Anchorage television news stations both before and after the July 1, 1985 rule change. In addition, we studied print coverage of selected cases statewide both before and after the rule changes.

### A. The Electronic Media and Court Coverage

Anchorage stations filed 157 requests for coverage of the courts during the 21 months of our study (see Table V, p. 33). Seventy-seven or 49% of those requests were filed by KTUU-Channel 2 news. KTVA television with KBYR radio filed 45 requests or 29% of the broadcast requests and KIMO television followed with 35 requests or 22% of the total broadcast requests.

The requests that were denied initially appear somewhat disproportionate to the totals. KTUU was denied only three requests, while KTVA with a little over half the total requests of KTUU had almost twice the denials (see Table VII, p. 34). However, when examined more closely, all of the KTUU denials and four of the KTVA denials were for the Mackay-related trials that were closed to cameras.

We analyzed Anchorage television coverage of the courts for the period of June 1984 through March 1987.<sup>75</sup> The numbers prior to July 1, 1985 therefore represent thirteen months of coverage as compared to twenty-one months of coverage after July 1, 1985. The column labeled "per month average" gives comparable numbers for the periods before and after the July 1985 rule change in Table VIII (p. 35). News "clips" were those portions of a news broadcast with accompanying video footage relating to a court story. Looking at these numbers, several interesting trends appear.

TABLE V  
(News Cameras in the Alaska Courts: Assessing the Impact)

COVERAGE GRANTED (NO RESTRICTIONS) AND TOTAL

THIRD JUDICIAL DISTRICT  
(JULY 1, 1985 - APRIL 1, 1987)

<u>MEDIA ORGANIZATION</u>	<u>NO. REQUESTS GRANTED WITH NO RESTRICTIONS</u>	<u>TOTAL NO. REQUESTS</u>
KTUU TV	56	77 ( 29.7%)
KIMO TV	30	35 ( 13.5%)
KTVA TV/KBYR Radio	26*	45 ( 17.4%)
<u>Anchorage Times</u>	36	48 ( 18.5%)
<u>Anchorage Daily News</u>	25	36 ( 13.9%)
<u>Frontiersman</u>	6	10 ( 3.9%)
<u>Homer News</u>	2	2 ( .8%)
<u>Clarion</u>	2	2 ( .8%)
KENI Radio	2	2 ( .8%)
<u>Kodiak Daily Mirror</u>	<u>1</u>	<u>2 ( .8%)</u>
TOTAL	186 (71.8%)	259 (100.1%)**

\* Of the 26 requests, 23 were filed for KTVA-TV and 3 for KBYR Radio. However, the radio often used audio from the KTVA video tape.

\*\* The total is greater than 100% due to rounding to the nearest tenth of a percent.

TABLE VI  
(News Cameras in the Alaska Courts: Assessing the Impact)

COVERAGE GRANTED WITH RESTRICTIONS

THIRD JUDICIAL DISTRICT  
(JULY 1, 1985 - APRIL 1, 1987)

<u>MEDIA ORGANIZATION</u>	<u>NO. REQUESTS</u>
KTUU TV	18 ( 31.0%)
KIMO TV	3 ( 5.2%)
KTVA TV/KBYR Radio	14 ( 24.1%)
<u>Anchorage Times</u>	9 ( 15.5%)
<u>Anchorage Daily News</u>	9 ( 15.5%)
<u>Frontiersman</u>	4 ( 6.9%)
<u>Kodiak Daily Mirror</u>	1 ( 1.8%)
TOTAL	58 (100.0%)

TABLE VII  
(News Cameras in the Alaska Courts: Assessing the Impact)

COVERAGE DENIED

THIRD JUDICIAL DISTRICT  
(JULY 1, 1985 - APRIL 1, 1987)

<u>MEDIA ORGANIZATION</u>	<u>NO. REQUESTS</u>
KTUU TV	3
KIMO TV	2
KTVA TV/KBYR Radio	5
<u>Anchorage Times</u>	3
<u>Anchorage Daily News</u>	2
TOTAL	15

TABLE VIII  
(News Cameras in the Alaska Courts: Assessing the Impact)

TV FOOTAGE  
(June 1, 1984 - April 1, 1987)

	<u>Out of Court</u>			<u>In Court - Alaska</u>			<u>In Court - Out of State</u>			<u>Total Court Clips</u>	
	<u>Total</u> <u>No. of</u> <u>Clips</u>	<u>Per Month</u> <u>Average</u>	<u>Total</u> <u>Time</u> <u>(Minutes)</u>	<u>No. of</u> <u>Clips</u>	<u>Per Month</u> <u>Average</u>	<u>Time</u> <u>(Minutes)</u>	<u>No. of</u> <u>Clips</u>	<u>Per Month</u> <u>Average</u>	<u>Time</u> <u>(Minutes)</u>	<u>No. of</u> <u>Clips</u>	<u>Per Month</u> <u>Average</u>
<u>Channel 2 (KTUU)</u>											
Before 7/1/85	100	7.7	140	15	1.2	22	5	.4	13	120	9.2
After 7/1/85	248	11.8	259	174	8.3	217	27	1.3	24	449	21.4
% Change	+148%	+53.2%			+591.7%					+274.2%	+132.6%
<u>Channel 11 (KTVA)</u>											
Before 7/1/85	56	4.3	70	27	2.1	59	—		—	83	6.4
After 7/1/85	86	4.1	95	128	6.1	141	13	.6	20	227	10.8
% Change	+53.6%	-4.7%			+190.5%					+173.5%	+68.8%
<u>Channel 13 (KIMO)</u>											
Before 7/1/85	193	14.8	289	31	2.4	52	—		—	224	17.2
After 7/1/85	163	7.8	177	174	8.3	222	29	1.4	22	366	17.4
% Change	-15.5%	-47.3%			+245.8%					+63.4%	+1.2%

For two of the Anchorage stations, Channel 11 (KTVA) and Channel 13 (KIMO), use of out-of-court video footage has declined while use of in-court footage has roughly tripled. Although use of out-of-court footage by Channel 2 (KTUU) has increased by 53%, their use of in-court footage has increased by over 590%. The last column on the right shows that overall, court coverage by the three Anchorage stations has increased dramatically. All three stations increased their number of stories substantially after July 1, 1985. Channel 13 (which had about twice as many court stories during the year prior to the media plan as the other stations) increased its coverage by 63%. Channel 11 increased court stories by 173% and Channel 2 increased court coverage by 274%. The average number of court stories per month has increased for each of the three Anchorage stations ranging from a minimal increase of .2 clips for Channel 13 to a substantial increase of 12.2 clips per month for Channel 2. Channel 11 showed a moderate increase of 4.4 clips per month.

Although this increased attention to the courts could be due in part to an increased awareness of the courts and widespread increased attention in crime, our research indicates that the increased coverage is related to the more open camera access to the courts. Rather than merely sending a reporter over to the courts to flip through log notes and calendars, many television stations and newspapers now routinely show up in court with cameras. Where there has been a request to cover a case, reporters are more likely to sit through the proceedings if their cameras have gained access. In short, the press has become more comfortable being in a courtroom and more familiar with court procedures as well.

This increased coverage of the courts is especially true for television. The nature of television requires visual presentation of a story. It is only reasonable that a visual medium, such as TV news, would take more time and interest in a subject when it has accompanying video. Not only has there been an increased use of court story clips but the stories themselves continue to be slightly longer if the video is in-court footage (see Table IX, p. 37).

Table IX shows the average time devoted to court stories for each of the three Anchorage stations both before and after the July rule change. While the number of clips devoted to court stories has increased dramatically since July 1985, the amount of air time devoted per clip has dropped uniformly. This holds true for both in-court and out-of-court footage and therefore seems to reflect an overall trend in the television industry towards shorter news stories.

TABLE IX  
(News Cameras in the Alaska Courts: Assessing the Impact)

TV FOOTAGE  
(June 1, 1984 - April 1, 1987)  
(Time in Minutes)

	Out of Court <u>Average</u>	In Court - Alaska <u>Average</u>	No. of <u>Clips</u>	<u>Total</u> Time (Minutes)	Per Month Average (Minutes)
<u>Channel 2 (KTUU)</u>					
Before 7/1/85	1.4	1.47	120	175	13.5
After 7/1/85	<u>1.0</u>	<u>1.23</u>	<u>449</u>	<u>500</u>	<u>23.8</u>
% Change	-28.6%	-16.3%			+76.3%
<u>Channel 11 (KTVA)</u>					
Before 7/1/85	1.25	2.18	83	129	9.9
After 7/1/85	<u>1.10</u>	<u>1.10</u>	<u>227</u>	<u>256</u>	<u>12.2</u>
% Change	-12.0%	-49.5%			+23.2%
<u>Channel 13 (KIMO)</u>					
Before 7/1/85	1.50	1.68	224	341	26.2
After 7/1/85	<u>1.08</u>	<u>1.28</u>	<u>366</u>	<u>421</u>	<u>20.0</u>
% Change	-28.0%	-23.8%			-23.7%

Prior to the rule change, on the rare occasions that the television stations had in-court footage, they uniformly devoted more time to in-court footage (see Table IX). While Channel 2 (KTUU) devoted only .07 minutes more to in-court coverage, Channel 11 (KTVA) devoted .93 minutes more, and Channel 13 (KIMO) devoted .18 minutes more to in-court footage. After the rule change, not only were more in-court clips used, but those clips, overall, were longer than any out-of-court clips that were used to cover the courts. Looking once again to Table IX, Channel 2 (KTUU) now devotes .23 more minutes to its court stories when it has in-court footage than when the footage is out of court. The time per out-of-court story declined by 29% after July 1, 1985 but the number of stories per month increased by 53% (Table VIII). For in-court stories, the time per story dropped by a lesser percentage (16.3%), but the number of stories increased by over 590% (Table VIII, from 1.2 stories per month to 8.3 stories per month, or about 2 stories per week). The net effect was an average 21.4 court stories per month on Channel 2, or about 5 per week after the media plan, largely due to the greatly increased number of in-court stories.

Since the rule change, Channel 11 devotes the same amount of time to a court story regardless of whether the footage is in or out of court and Channel 13 (KIMO) devotes .20 minutes more to a court story if it has in-court footage. Channel 13 showed a 28% drop in the time devoted to out-of-court stories and a 47% drop in the number of out-of-court stories after July 1, 1985. The time per in-court story also dropped, by 24%, but the number of in-court stories increased by 246% (Table VIII). The net effect for Channel 13 was that the number of court-related stories per month remained virtually unchanged by the media plan (Table VIII, 17.2 stories/month before; 17.4 stories/month after), and the amount of time per month actually dropped by 24% (Table IX). For two of the three Anchorage stations, Channel 2 and Channel 11, the combined increased number of in-court clips and longer air time for in-court footage has meant more total air time devoted to court stories.

A comparison of the three television stations shows that while all of the stations responded to the media plan by making very substantial increases in the amount of in-court coverage, the net effect on court coverage was not quite as straight forward. All of the stations cut the time per story, apparently in response to a trend towards shorter news stories. Channel 11 kept its out-of-court number of stories about the same, but increased its in-court coverage substantially. Channel 13 cut out-of-court stories in half, but more than tripled

the number of in-court stories. However, the net effect was virtually no change in the number of court stories per month and an actual decline in the amount of time per month spent on these stories. Channel 2 showed the largest net increases in both stories per month and time per month devoted to court coverage. Channel 2 was also the only station to increase out-of-court coverage as well as in-court coverage. As a result, Channel 2 became the leader in court coverage after the media plan. The per month average time devoted to court stories increased by 10.3 minutes for Channel 2 (KTUU) and by 2.3 minutes for KTVA (Table IX). While the time Channel 13 (KIMO) devotes per month to court stories has dropped since July 1985, that station still devotes a substantial amount of time to court stories at about 20 minutes per month.

While increased quantity of coverage does not necessarily reflect increased quality of coverage, as mentioned above, many of the television news directors and reporters feel that the increased access to the courts has brought with it an increased understanding of court process. In addition, overall, the television stations preferred the types of video they could get in court to the out-of-court "ambush" shots they got prior to courtroom access. The overwhelming amount of court news is criminal.<sup>76</sup> Prior to access to the courtroom, television news cameras were getting their footage by taping criminal defendants being led into the courthouse. Those clips showed the defendant in handcuffs and led by a police officer. Today, in-court clips of the defendant show a well-dressed individual accompanied by an attorney facing a judge and his accusers. The television press feels that this portrayal is a more accurate and human view of the criminal justice system.

Television stations in Alaska are uniformly satisfied with the administration of the Media Plan since July 1985. The only improvement they would suggest is that request forms become unnecessary as the court and the press become better acquainted with the provisions of the Plan. Ultimately, the broadcast media would prefer filing "notices of intent" to cover proceedings rather than the current judge-approved request forms.

The overwhelming technical problem for the television stations statewide was the ability to deal with pooling arrangements. Under the provisions of the Media Plan, a judge may restrict the media to not more than two television cameras in a courtroom.<sup>77</sup> Only one television camera was allowed in the Mackay trial in



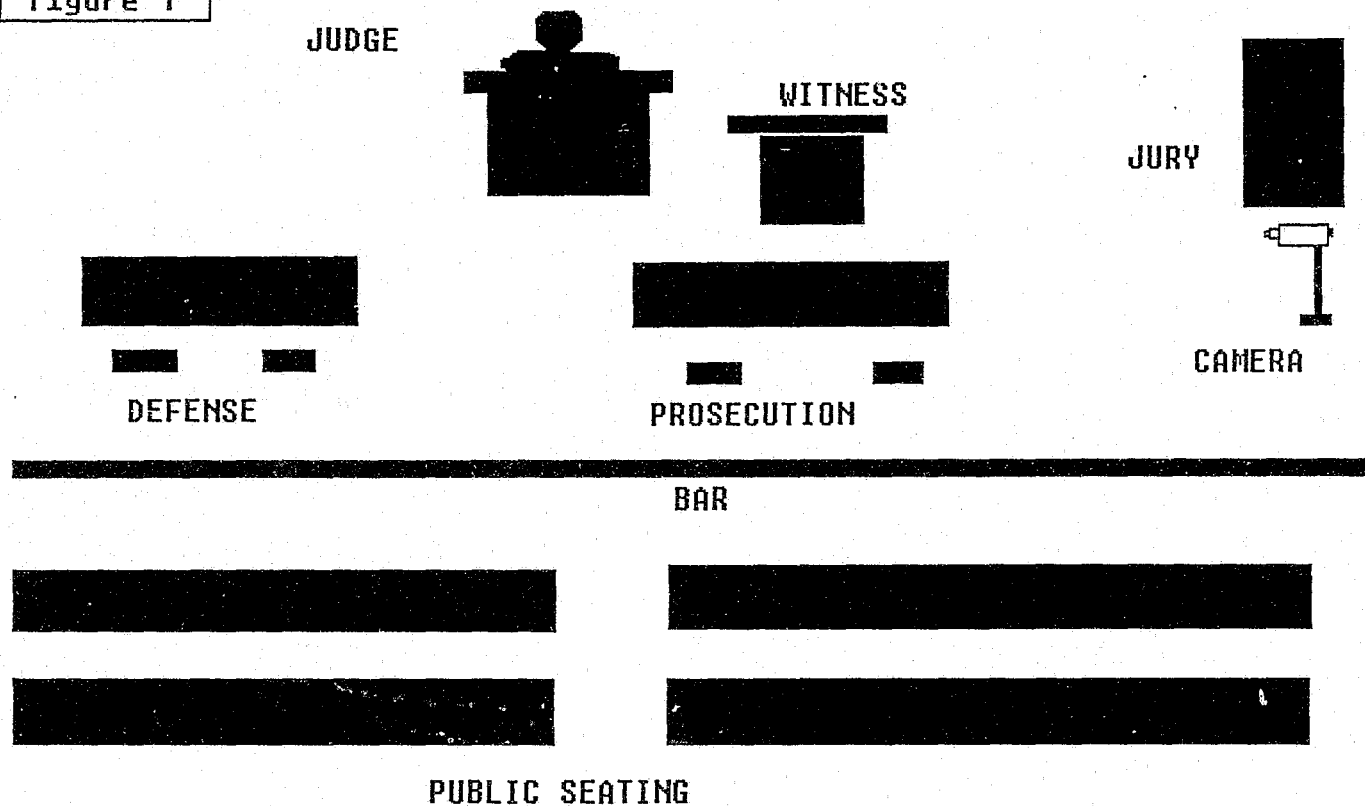
Fairbanks, creating an almost constant need for a pooling arrangement. The most difficult factor in arranging a television pool seems to center around the quality of the agreed-upon video. Television video equipment quality varies greatly from one station to another. While this has not been a big concern in Anchorage, it has been a very real concern in Fairbanks and in Ketchikan during the Peel trial. One Fairbanks station uses 1/2 inch videotape rather than the industry standard of 3/4 inch, making sharing of video tape very difficult. The Media Plan places the burden of pooling on the media and out of the courts' hands. While many of the television stations are dissatisfied with the absence of standards or guidance for establishing pooling arrangements, they agree that this should not be dealt with by the court.

A second concern related to pooling arrangements is the availability of the pooled tape to the non-pooling stations. Although delay in sharing tape is sometimes attributable to technical duplicating problems, often delay is due to a misunderstanding between the stations as to their mutual responsibilities and expectations. Once again, the stations do not expect the court to become directly involved but it is an area where responsibilities need to be defined.

Other technical problems concern the differing courtroom layouts. Often, the only electrical outlets in a courtroom are located in the back, behind the judge's bench. When television cameras are required to stand at the far end of the courtroom, cables must be run the length of the courtroom, often interfering with the trial process. Other courtrooms may be long and narrow, difficult for cameras to get workable camera angles. Problems can also occur when cameras are placed between the jury and the judge, in constant view by the jury (see fig. 1 and 2, p. 41). Whenever possible, existing courtrooms should be designed to accommodate the media's needs. Judges should be aware of these needs when hearing newsworthy cases.

Little use of the Media Plan has been made by radio. Radio stations with television affiliates have made the most use of the increased access by using the audio off the television video tape. Radio stations that have attempted to use their own audio have encountered two problems. First, if they feed their audio off the existing court audio system, they get so much background noise that the tape is virtually worthless (television stations attempting to use the court sound system have experienced the identical problem). Second, if a judge allows the broadcast media to place their own microphones in the courtroom, it is rare that more than one

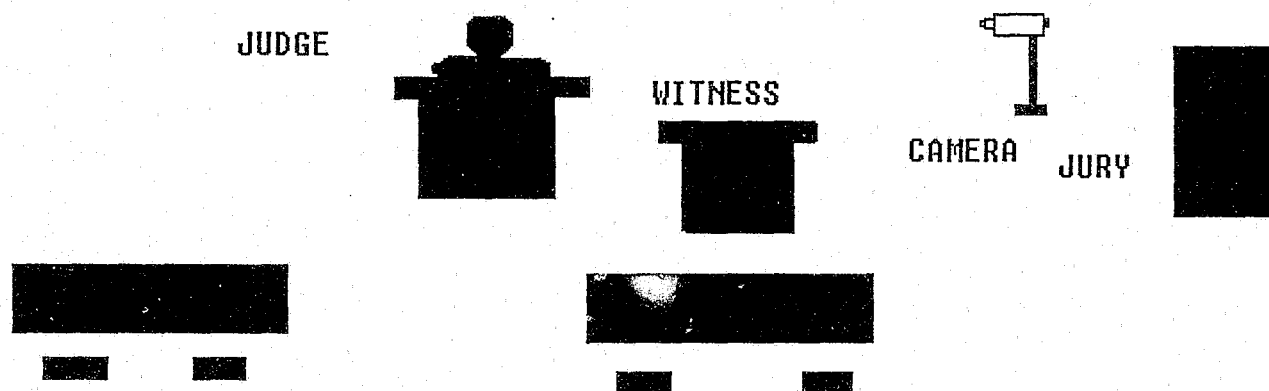
figure 1



## PREFERRED CAMERA PLACEMENT

figure 2

## INAPPROPRIATE PLACEMENT



set of microphones will be allowed. Preference is most often given to the television microphones. Apparently, all the existing microphones in the courtroom are always on during the proceeding, allowing sounds from all areas of the room to be picked up simultaneously. Judges have recognized the problem and have allowed the media to place a reasonable number of their own microphones in the court. The only restriction is that the media organization cannot leave its station "flag", identifying the station, on the microphone.

Television cameras in the courtroom have had virtually no effect on courtroom behavior of participants. Judges have noted that there is no grandstanding by attorneys, and, if anything, the realization that they may appear on the evening news has improved attorneys' behavior. Most often participants forget that the cameras are there after the first few moments and instead concentrate on the reason that they are all in the courtroom.

#### B. Media Plan and Newspaper Coverage

The initial ban on cameras in court was a ban on the newspaper still cameras of another era. Images of flashes going off in all directions while photographers climb over spectators in the court for a better view still haunt many of the nation's courts. However, those cameras were clearly from another era. Today high speed film and fast lenses make even a dimly-lit courtroom photographable without a flash. Telephoto lenses are used routinely to allow the close-ups of a defendant's face to be taken from across the courtroom and many cameras have quiet shutters that are barely audible.

To compensate for the lack of camera access to the courts, newspapers employed sketch artists to get pictures of court proceedings. Today, sketch artists are often unnecessary but are used on those rare occasions when cameras are denied access to the courtroom.

Assessing the impact of the July 1985 rule change on the print media required selecting roughly comparable cases that attracted newspaper coverage. Since newspapers contain numerous court stories daily, often reprinting stories from other papers or wire services, several choices had to be made. For each case selected:

1. only bylined original stories were included unless a photo was involved;

2. only original bylined wire service stories are included; and
3. non-bylined wire service stories were included if accompanied by a photo.

Where measurements are involved, stories are measured to the nearest half inch.

Two of the cases chosen, "Cantwell" and "Yi," took place entirely before the July 1985 rule change. Two additional cases, "Lowry" and "Faccio," spanned before and after the rule change. Three cases were post-rule-change cases: "Burris," "Open Meetings," and "Mackay." In addition, the Peel case was studied as a post-rule-change case that operated under the consent requirement that existed before the rule change.

The murder of a 63 year-old women in Cantwell by three teenagers occurred in August 1982. All three were tried as adults in early 1983. Since consent of the defendants was required for in-court pictures, none were taken. There were only three out-of-court pictures all taken outside the courthouse, showing the defendant accompanied by a state trooper. The Anchorage Times ran over 50% more articles on the case than the Daily News but the articles that the Daily News ran were longer than those run by the Times. Story lengths in the Daily News exceeded those run by the Times both without pictures and when accompanied by pictures (see last column, Table X, p. 44). Both papers ran longer stories if there were accompanying pictures.

Table XI (p. 45) analyzes another pre-rule-change case. As with the Cantwell case, the Yi case shows that the Times runs more articles on a court story than the Daily News (87 as compared to 73) but the Daily News ran longer stories than the Times. Both papers, once again, ran longer stories if they had accompanying pictures. The in-court pictures in this murder-for-hire case included photos of the prosecutor, defense attorney, defendant, and the judge. Two other defendants apparently did not consent to camera coverage and were photographed entering the courthouse with state troopers. The Yi stories ran from February of 1983 through January of 1984.

TABLE X  
(News Cameras in the Alaska Courts: Assessing the Impact)

NEWSPAPER COVERAGE  
 (All before 7/1/85)

CANTWELL CASE

<u>Newspaper</u>	<u>Articles Without Pictures</u>	<u>Articles With Pictures in Court</u>	<u>Articles With Pictures Out of Court</u>	<u>Total Column Length of Articles (In.)</u>		<u>Average Column Length</u>	
				<u>Without Pictures</u>	<u>With Pictures</u>	<u>Without Pictures</u>	<u>With Pictures</u>
<u>Anchorage Daily News</u>	16	—	1	222	18	13.9	18.0
<u>Anchorage Times</u>	25	—	2	264	24	10.6	12.0
<b>TOTAL</b>	41	0	3	486	42	11.8	14.0

TABLE XI  
(News Cameras in the Alaska Courts: Assessing the Impact)

NEWSPAPER COVERAGE  
 (All before 7/1/85)

VI CASE

<u>Newspaper</u>	<u>Articles Without Pictures</u>	<u>Articles With Pictures in Court (Sq. In.)</u>	<u>Articles With Pictures Out of Court</u>	<u>Total Column Length of Articles (In.)</u>		<u>Average Column Length</u>	
				<u>Without Pictures</u>	<u>With Pictures</u>	<u>Without Pictures</u>	<u>With Pictures</u>
<u>Anchorage Daily News</u>	66	2 (223)	5	881	133	13.3	19.0
<u>Anchorage Times</u>	78	3 ( 37)	6	867	168	11.1	18.7
<b>TOTAL</b>	144	5 (260)	11	1748	301	12.1	18.8

Tables XII and XIII (pp. 48-49) look at two cases that were affected by the rule change while in progress. The Lowry murder case illustrates the effect of eliminating the need for defendant's consent for cameras. Prior to July 1, 1985, there were no in-court pictures in either of the Anchorage papers but out-of-court pictures appeared in each. After the rule change, both papers published in-court pictures and out-of-court pictures became unnecessary. The Daily News continued to run fewer but longer articles than the Times. However, the trend that articles are longer with pictures than without did not hold true for the Daily News in this case. Once again, out-of-court pictures showed the defendant outside the courthouse, accompanied by state troopers.

Similar to the Cantwell murder, the Faccio case in Table XIII (p. 49), was a murder by teenagers ultimately tried as adults. In-court pictures did appear for the trial of the one defendant who did not plead guilty and for the sentencing of both defendants. The Anchorage Daily News did not publish any pictures prior to the rule change, while the Times published two out-of-court pictures. The Times and Daily News published a comparable number of articles but the Daily News articles continued to be longer. Overall, articles accompanying photos continue to be longer than those without pictures. Out-of-court pictures in this case included photos of the victims' family. Once again, no in-court pictures were taken prior to the July 1, 1985 rule change.

A series of three very different cases was studied as exemplary cases that took place entirely after the rule change allowing cameras in court without the defendant's consent. Table XIV (p. 50) looks at the Burris trial, another youth tried as an adult for the murder of a cab driver. Neither Anchorage paper devoted extensive coverage to this case; both devoting an equivalent number of articles. The Daily News devoted more space to its stories than did the Times, but the Times was the only paper to use any pictures and both of those photos were in court.

The second post-rule-change case was a civil suit challenging legislative decisions made behind closed doors. Of statewide interest, this Juneau case attracted both television and print media interest. The Anchorage Daily News and Juneau Empire clearly ran the most articles on this story (see Table XV, first column, p. 51), and were the only papers to run photos with their stories. The Daily News included out-of-court as well as in-court photos. Once again, the

Daily News' articles were longer than either the Times or the Juneau Empire and the Daily News continues to print longer stories if accompanied by a photo.



TABLE XII  
(News Cameras in the Alaska Courts: Assessing the Impact)

NEWSPAPER COVERAGE

LOWRY CASE

<u>Newspaper</u>	<u>Articles Without Pictures</u>	<u>Articles With Pictures in Court</u>	<u>Articles With Pictures Out of Court</u>	<u>Total Column Length of Articles (In.)</u>		<u>Average Column Length</u>	
				<u>Without Pictures</u>	<u>With Pictures</u>	<u>Without Pictures</u>	<u>With Pictures</u>
<u>Anchorage Daily News</u>							
Before 7/1/85	13	—	2	225	34	17.3	17.0
After 7/1/85	<u>4</u>	<u>1</u>	<u>—</u>	<u>82</u>	<u>15</u>	<u>20.5</u>	<u>15.0</u>
Total	17	1	2	307	49	18.0	16.3
<u>Anchorage Times</u>							
Before 7/1/85	14	—	2	148	22	10.6	11.0
After 7/1/85	<u>9</u>	<u>2</u>	<u>—</u>	<u>85</u>	<u>20</u>	<u>9.4</u>	<u>10.0</u>
Total	23	2	2	233	42	10.1	10.5

TABLE XIII  
(News Cameras in the Alaska Courts: Assessing the Impact)

NEWSPAPER COVERAGE

FACCTO CASE

<u>Newspaper</u>	<u>Articles Without Pictures</u>	<u>Articles With Pictures in Court</u>	<u>Articles With Pictures Out of Court</u>	<u>Total Column Length of Articles (In.)</u>		<u>Average Column Length</u>	
				<u>Without Pictures</u>	<u>With Pictures</u>	<u>Without Pictures</u>	<u>With Pictures</u>
<u>Anchorage Daily News</u>							
Before 7/1/85	4	---	---	72	---	18.0	---
After 7/1/85	<u>12</u>	<u>3</u>	<u>3</u>	<u>176</u>	<u>156</u>	<u>14.7</u>	<u>26.0</u>
Subtotal	16	3	3	248	156	15.5	26.0
<u>Anchorage Times</u>							
Before 7/1/85	3	---	2	54	25	18.0	12.5
After 7/1/85	<u>17</u>	<u>1</u>	<u>---</u>	<u>218</u>	<u>20</u>	<u>12.8</u>	<u>20.0</u>
Subtotal	20	1	2	272	45	13.6	15.0
<b>TOTAL</b>	<b>36</b>	<b>4</b>	<b>5</b>	<b>520</b>	<b>201</b>	<b>14.4</b>	<b>22.3</b>

TABLE XIV  
(News Cameras in the Alaska Courts: Assessing the Impact)

NEWSPAPER COVERAGE  
 (All after 7/1/85)

BURRIS CASE

<u>Newspaper</u>	<u>Articles Without Pictures</u>	<u>Articles With Pictures in Court</u>	<u>Articles With Pictures Out of Court</u>	<u>Total Column Length of Articles (In.)</u>		<u>Average Column Length</u>	
				<u>Without Pictures</u>	<u>With Pictures</u>	<u>Without Pictures</u>	<u>With Pictures</u>
<u>Anchorage Daily News</u>	6	—	—	92	—	15.3	—
<u>Anchorage Times</u>	3	2	—	40	28	13.3	14.0
<b>TOTAL</b>	9	2		132	28	14.7	14.0

TABLE XV  
(News Cameras in the Alaska Courts: Assessing the Impact)

NEWSPAPER COVERAGE  
 (All after 7/1/85)

OPEN MEETINGS CASE

<u>Newspaper</u>	<u>Articles Without Pictures</u>	<u>Articles With Pictures in Court</u>	<u>Articles With Pictures Out of Court</u>	<u>Total Column Length of Articles (In.)</u>		<u>Average Column Length</u>	
				<u>Without Pictures</u>	<u>With Pictures</u>	<u>Without Pictures</u>	<u>With Pictures</u>
<u>All-Alaska Weekly</u>	1	—	—	10	—	10.0	—
<u>Anchorage Daily News</u>	14	3	2	238	108	17.0	21.6
<u>Anchorage Times</u>	9	—	—	141	—	15.7	—
<u>Fairbanks Daily News-Miner</u>	3	—	—	38	—	12.7	—
<u>Frontiersman</u>	1	—	—	7	—	7.0	—
<u>Homer News</u>	1	—	—	12	—	12.0	—
<u>Juneau Empire</u>	12	1	—	172	10	14.4	10.0
<u>Ketchikan Daily News</u>	3	—	—	58	—	19.3	—
<u>Peninsula Clarion</u>	1	—	—	19	—	19.0	—
<u>Sitka Sentinel</u>	1	—	—	12	—	12.0	—
<u>Southwest Journal</u>	1	—	—	10	—	10.0	—
<u>Valdez Vanguard</u>	2	—	—	28	—	14.0	—
<u>Valley Sun</u>	1	—	—	12	—	12.0	—
<u>Wrangell Sentinel</u>	4	—	—	53	—	13.2	—
<b>TOTAL</b>	<b>54</b>	<b>4</b>	<b>2</b>	<b>810</b>	<b>118</b>	<b>15.0</b>	<b>19.7</b>

The final set of post-rule-change cases were the Mackay murder-for-hire cases. Half of these proceedings took place in Anchorage before a change of venue to Fairbanks for the remaining defendants, including Neil Mackay. Neil Mackay's arrest took place in Hawaii and many of the out-of-state pictures listed in Table XVI, p. 53, were pictures taken in the Hawaii courtroom in connection with extradition proceedings. Four newspapers ran stories with in-court pictures: the Anchorage Daily News, Anchorage Times, Fairbanks Daily News-Miner, and Juneau Empire. Each of these papers ran longer stories with pictures than without pictures. The Anchorage Daily News and Anchorage Times ran a comparable number of articles on these cases but, once again, the Anchorage Daily News's stories exceeded the length of the Times's stories.

We conducted the same type of analysis for the Peel case (see Table XVII, p. 54) but have treated it separately since it is a pre-rule-change case requiring the defendant's consent where that consent was conditionally given. Three papers extensively covered the Peel trial: the Anchorage Daily News, Anchorage Times, and Ketchikan Daily News. The Ketchikan Daily News covered the proceedings almost daily, running a total of 260 articles. Almost all the papers devoted more column space to articles with pictures than those without. The one notable exception is the Juneau Empire. While the Empire devoted over eighteen column inches on average to its four articles without pictures, it devoted an average of under ten column inches to the ten articles that were accompanied by pictures. Overall, the Ketchikan Daily News devoted the most space to the Peel trial.

Our final comparison looks at the overall coverage by the two Anchorage papers both pre and post-rule change. Table XVIII, p. 55, illustrates the aggregate data for the cases discussed above. The top portion of the table is a comparison of the data for all eight cases that were examined. The second part of the table shows the data for the two pre-rule-change cases plus the pre-change data for the two cases that spanned over the rule change. The bottom portion shows the post-change data for the two cases that spanned the change plus the three post-rule-change cases but does not include the Peel case. The Peel case has been included in the top portion of the table, showing the aggregate numbers for all cases, but has not been categorized as either a pre- or post-rule-change case because of the unique circumstances that required Peel's consent to coverage.

TABLE XVI  
(News Cameras in the Alaska Courts: Assessing the Impact)

NEWSPAPER COVERAGE THROUGH MAY 1987  
(ALL AFTER 7/1/85)

MACKAY RELATED CASES

<u>Newspaper</u>	<u>Articles Without Pictures</u>	<u>Articles With Pictures In Court</u>		<u>Articles With Pictures Out of Court</u>	<u>Total Column Length of Articles (In.)</u>		<u>Average Column Length</u>	
		<u>Alaska</u>	<u>Out of State</u>		<u>Without Pictures</u>	<u>With Pictures</u>	<u>Without Pictures</u>	<u>With Pictures</u>
<u>All-Alaska Weekly</u>	3	--	--	--	71	--	23.6	--
<u>Anchorage Daily News</u>	104	27	4	18	1627	1272	15.6	26.0
<u>Anchorage Times</u>	105	11	2	14	1528	613	14.6	22.7
<u>Fairbanks Daily News-Miner</u>	24	14	1	1	306	256	12.8	16.0
<u>Juneau Empire</u>	1	1	--	--	12	18	12.0	18.0
<u>Ketchikan Daily News</u>	2	--	--	--	43	--	21.5	--
<u>Nome Nugget</u>	1	--	--	--	3	--	3.0	--
<b>TOTAL</b>	240	53	7	33	3590	2159	15.0	23.2

TABLE XVII  
(News Cameras in the Alaska Courts: Assessing the Impact)

NEWSPAPER COVERAGE THROUGH MAY 1987

PEEL CASE

<u>Newspaper</u>	<u>Articles Without Pictures</u>	<u>Articles With Pictures in Court</u>	<u>Articles With Pictures Out of Court</u>	<u>Total Column Length of Articles (In.)</u>		<u>Average Column Length</u>	
				<u>Without Pictures</u>	<u>With Pictures</u>	<u>Without Pictures</u>	<u>With Pictures</u>
<u>All-Alaska Weekly</u>	3	--	--	29	--	9.7	--
<u>Anchorage Daily News</u>	38	11	1	569	274	15.0	22.8
<u>Anchorage Times</u>	26	6	6	426	203	16.4	16.9
<u>Fairbanks Daily News Miner</u>	--	7	1	--	66	--	8.3
<u>Island News</u>	5	--	1	70	12	14.0	12.0
<u>Juneau Empire</u>	4	9	1	73	97	18.2	9.7
<u>Ketchikan Daily News</u>	209	42	9	4152	1164	19.9	22.8
<u>Southeastern Log</u>	--	<u>1</u>	--	--	<u>20</u>	--	<u>20.0</u>
<b>TOTAL</b>	<b>285</b>	<b>76</b>	<b>19</b>	<b>5319</b>	<b>1836</b>	<b>18.7</b>	<b>19.3</b>

TABLE XVIII  
(News Cameras in the Alaska Courts: Assessing the Impact)

NEWSPAPER COVERAGE

ALL CASES (8)\*

<u>Newspaper</u>	<u>Articles Without Pictures</u>	<u>Articles With Pictures in Court</u>	<u>Articles With Pictures Out of Court</u>	<u>Total Column Length of Articles (In.)</u>		<u>Average Column Length</u>	
				<u>Without Pictures</u>	<u>With Pictures</u>	<u>Without Pictures</u>	<u>With Pictures</u>
<u>Anchorage Daily News</u>	277	51	32	4184	2010	15.1	24.2
<u>Anchorage Times</u>	289	27	32	3771	1123	13.0	19.0

COVERAGE BEFORE 7/1/85 (4 CASES)

<u>Anchorage Daily News</u>	99	2	8	1400	185	14.1	18.5
<u>Anchorage Times</u>	120	3	12	1333	239	11.1	15.9

COVERAGE AFTER 7/1/85 (5 CASES)\*\*

<u>Anchorage Daily News</u>	140	38	23	2215	1551	15.8	25.4
<u>Anchorage Times</u>	143	18	14	2012	681	14.1	21.3

\* Two of the eight cases started before 7/1/85 and continued after 7/1/85

\*\* Excludes Peel case.



Many of the characteristics that were examined on a case-by-case basis above are more clearly evident in Table XVIII. For example, the top portion of the table shows that the Anchorage Times runs more articles without pictures than the Daily News, the Daily News uses more in-court pictures, and both papers run longer stories with pictures. Overall, the Daily News runs longer stories than the Times. Prior to July 1, 1985, the Times ran more articles than the Daily News, but shorter articles. When pictures were available, articles that accompanied them were significantly longer. Since the opportunities to obtain in-court pictures were rare, neither paper ran very many (see Table XIII, p. 55, second column).

After July 1985, the Daily News began to run more court stories than the Times, using more pictures both in and out of court while continuing to run longer stories. It appears that the rule change allowing greater use of cameras in the courtrooms, led to increased use of pictures and increased attention to the courts by the press. Story lengths for both newspapers increased significantly after the rule change. The length of a story without a picture increased from 14 inches to almost 16 inches for the Daily News and from 11 inches to 14 inches for the Times. With pictures, the Daily News articles increased by seven inches a story (from 18.5 to 25.4) and the Times increased their articles from 15.9 inches before the rule change to 21.3 inches after.

While changes in editorial policy and the nature of the papers studied could account for some of this change, it appears that increased access of cameras to the court had a large impact on the papers' increased coverage of court cases. The cases chosen before, during, and after the rule change were all chosen for their notoriety and comparability. Clearly, the Mackay cases and the Peel trial were media events; however, the Yi and Cantwell cases provided many of the same elements. The numbers tell us that increased camera access has not detracted from the written story that appears in the paper. If there was a fear that newspapers would become photo tabloids, that fear has not been realized. There are neither fewer articles on the courts nor are court articles shorter with the use of photos. Use of photos may have also affected the placement of the story. While many of the editors interviewed were not willing to say that photos make stories "front page" stories, many agree that an interesting story would likely get front page placement with a good photo.

Newspaper photographers have had few administrative difficulties with courtroom access. Those that were requested to stop using their cameras, were using

single lens reflex cameras with relatively loud shutters. These were often quiet proceedings or exceptionally tense moments in proceedings where the same camera was allowed later in the hearing. Photographers with quiet shutters have had fewer problems taking photos during court proceedings.<sup>78</sup> Often, photographers are asked to restrict their movement in the courtroom and to avoid changing lenses and film prior to a court recess. Photographers restricted in this way may bring several cameras with them into the courtroom.

Sketch artists have been used by the newspapers on some occasions when their cameras have not been allowed into the courtroom. Judges agreed that sketch artists create the largest distraction in the courtroom. While television cameras are quiet and unobtrusive and still cameras may project minor clicking sounds, sketch artists fumble loudly through cases of pens and pencils, flipping large pages of sketch pads while attracting a crowd looking over their shoulders. Many judges believe that sketch artists should be subject to the same standards as still photographers in their courtroom.

Overall, newspaper reporters and photographers are appreciative of their new camera access to the courtroom. They are concerned with accurately portraying court behavior while not interfering with the operation of the court.

### C. The Anchorage Media Courtroom

In anticipation of the increased use of news cameras in the courts, the Anchorage court set aside a courtroom especially designed to accommodate the media. The courtroom was designed with three built-in video cameras and a glass-enclosed media booth, complete with audio controls, telephone, and video monitors, built in the back of the room. Unfortunately, due to several design defects, the media finds this courtroom virtually unusable.

The video cameras built into the walls are set back into the walls in a stationary position with a fixed lens, allowing for no variation in the picture angle. Of the three video cameras, none faces the defense table, making pictures of the defendant using the court cameras virtually impossible. In addition, the quality of the video may not be considered "air quality" by many of the news stations' standards.

Apparently, no consideration was given to the use of still cameras in the media courtroom. All photographers reported that the worst lighting conditions in a courtroom were in the media courtroom. The only place that still cameras can set up unobtrusively is in the glass booth which is fronted by smoked glass, reducing the available light even further.

Judges do not seem to use the courtroom for their own reasons. Often they are unaware ahead of time that a proceeding might draw considerable media attention. Judges are also more comfortable in their own courtroom and confusion can result from a last-minute change in courtrooms. Judges in Anchorage on a temporary basis tend to be the ones to use the courtroom.

All participants agree that the media courtroom could easily and fairly inexpensively be improved. Additional lighting is needed with an additional camera facing the defense table and a separate area for still cameras to set up. By removing the three existing video cameras from behind the wall and by allowing them to rotate and adjust lens angles, they would become usable tools as well.

VI. ISSUES AND RECOMMENDATIONS

News Cameras in the Alaska Courts:  
Assessing the Impact

## VI. Issues and Recommendations

A variety of legal issues arose during the course of this study. While the Media Plan attempted to outline procedures and address concerns of both the court and the media, several ambiguities remain. Our recommendations focus on clarifying the remaining ambiguities and defining the Media Plan's underlying policy considerations.

### A. Legal Issues

The most significant legal dispute arose during the Mackay-related proceedings before Judge Greene. Various defense attorneys filed motions objecting to the presence of news cameras during their clients' proceedings. In their motion, the attorneys for Neil Mackay argued that a prohibition on electronic media and still photography was "necessary to ensure decorum and prevent distractions of the participants and jurors...to ensure the fair administration of justice, and to prevent interference with the achievement of fair and impartial hearings and trial...."<sup>79</sup> Among their allegations was that coverage would "unduly invade the privacy of the jurors and distract them in their considerations of the evidence."<sup>80</sup> The motion asserted that extended coverage would create "a substantial likelihood that the testimony and demeanor of witnesses will be unduly influenced, thereby prejudicing the jury's assessment of the veracity and credibility of the witness."<sup>81</sup> Finally, they argued that the prosecution's evidence would relate to matters of child custody to such an extent that media coverage would not be permitted under the current court rule. The memorandum in support of the motion argued that the existing pretrial publicity was severe enough to "sensationalize the controversy and shock the reader" through the additional publicity that cameras would add.<sup>82</sup>

On the day that the motion was filed, John McKay, an attorney for the Anchorage Daily News and several other local media organizations, delivered a letter to the court requesting "reasonable notice and opportunity to be heard before any restrictions are imposed on coverage by print or electronic media in this case."<sup>83</sup> The State's response to the defense motion to prohibit cameras agreed that electronic media equipment should be prohibited from the courtroom prior to the trial and that the question of electronic media at trial could be addressed closer to the trial date after venue of the trial had been established. It appears that

while the defense was concerned about interference with defendant Mackay's fair trial rights, the prosecution was equally concerned with preserving Anchorage as the venue for the trial. Many of these same concerns were voiced by prosecutors and defense attorneys in the course of this study.

Codefendant Robert Betts filed a response and joinder to the motion to prohibit electronic and photographic media several days later.<sup>84</sup> The Betts motion added that since "an offer of witness protection, immunity, and a new identity had been offered the defendant Robert Betts," and remained an issue to be determined, photographs revealing Mr. Betts's face to the general public would defeat the agreement.<sup>85</sup>

On January 31, 1986, ten days after the defense motion to ban cameras was filed, the various media organizations filed a motion to intervene. On that same day, a lengthy memorandum in opposition to the motion to prohibit electronic media and still photography coverage was filed by the intervenors. The press argued that the extensive coverage given to the case up until that date severely lessened any additional impact of media coverage in the subsequent cases. Noting that the TV stations already had file footage of the trial participants, the media argued that "Defendant Mackay cannot show a substantial effect resulting from audio and camera coverage of the trial that is substantially and prejudicially [sic] different and separable."<sup>86</sup> After reviewing the history and development of rules restricting camera use in the courts and outlining improvements in electronic technology during that period, the media asserted their procedural rights in the proceedings.<sup>87</sup>

Arguing that the affected media are entitled to procedural due process, the memorandum notes:

...Notice of a hearing must be adequate to allow for a meaningful response and preparation. If some restrictions are being considered, the news media should have substantive notice of what they are, and an opportunity for an evidentiary hearing to determine what less restrictive means are available, if any restrictions may be justified....Copies of affidavits or documentary evidence upon which Defendant intends to rely should be provided in advance to allow meaningful cross-examination.

At any hearing to restrict media access, the moving party carries the burden of proving that any restrictions at all

are justified, and that no less restrictive means are available.<sup>88</sup>

The current Media Plan does not outline a procedure for the press to participate in the decision-making process. The media's memorandum illustrates an attempt to apply existing procedures to situations arising under the Media Plan. While an appropriate mechanism, developing procedures as the situations present themselves may ultimately be unfair to the media. The media in this case were fortunate to have had an attorney. Often media organizations cannot afford an attorney or the case in dispute is not worth the financial investment of hiring an attorney to defend their access rights.

With the aid of counsel during the Mackay pretrial proceedings, the media's interests were brought before the court. However, even with counsel, the media's efforts to maintain involvement in the Mackay proceedings were often frustrating. Attorney for the media, John McKay, was compelled to file a motion "to require due process for news media concerning attempts to restrict access to or coverage of trial,"<sup>89</sup> after failing to receive copies of filed pleadings. Keeping the media informed was clearly a low priority for the parties.

Unfortunately, many of these issues were not decided by written opinion. Ultimately Judge Greene prohibited cameras from all proceedings except the final trials held in Anchorage and Fairbanks respectively, on grounds that photo coverage of the codefendants' trials would have a prejudicial effect on the subsequent related trial. Whether all serial trials of codefendants in related cases will be denied camera coverage remains unanswered. The Media Plan as it is currently written, does not carve out an exception for coverage in related trials but does allow the judge to prohibit coverage to "ensure the fair administration of justice in the pending cause" (emphasis added).<sup>90</sup> A denial of camera coverage to ensure fair trials in future proceedings may be an implied judicial power but it is not explicitly granted by the current court rule.

The Mackay cases raised several additional issues such as:

- (1) If a witness is anticipating protection in the Federal Witness Protection program, should the media be denied coverage?

- (2) Where child custody issues may be brought into the context of a criminal trial is consent of the parties required?
- (3) Do child witnesses deserve special protection from cameras in the courtroom?
- (4) Should a sketch artist be treated as a note pad reporter or as a photographer under the Media Plan?

None of these issues is currently addressed by the Media Plan.

Although there is no express provision in the Media Plan protecting witnesses from camera coverage in criminal proceedings, with the exception of those involving sexual offenses, judges have requested the press not to photograph witnesses on the few occasions when they have been reluctant to testify with cameras present. Rather than ban cameras from the entire proceeding, judges have requested the media to not photograph the objecting witness and the press has complied with those requests.<sup>91</sup>

In the early Mackay related trials cameras were not allowed, in part, because witnesses were in the Federal Witness Protection program. Witnesses in the federal program are often relocated out-of-state with new identities. There is some concern that photographing protected witnesses might make the federal program less effective. However, attorneys did not object to cameras when one of the protected witnesses testified in the trial of Neil Mackay and photos of Gilbert Paoule appeared in several newspapers. Apparently, there is no existing federal regulation that addresses this particular issue.

The prosecution in the Mackay trial brought in evidence relating to a child custody battle that Neil Mackay and his wife had been involved in. Mackay's attorneys initially asserted that the parties' consent was necessary under the Media Plan's provision addressing matters involving child custody. Read in its entirety, Canon 3(A) (7) (c) appears to restrict coverage in child custody proceedings:

(c) Extended media coverage provisions set forth in (7) (a) shall not apply to matters involving juveniles, divorce, dissolution of marriage, domestic violence, child support, child custody and visitation, adoption, paternity and other family matters. Media coverage for these proceedings is prohibited, except that it may be allowed on a case-by-case



basis only upon approval of the judge or master presiding and the consent of all parties, including any guardians ad litem...<sup>92</sup>

The issue briefly arose again at the time Neil Mackay's son was to testify in court. Concern was orally expressed as to whether a juvenile witness could be photographed in court. A written order by Judge Greer deferred decision on these specific items until they came up in the course of the trial noting that "depending on the nature of the information presented, the court may preclude electronic media coverage of the matters involving child custody and visitation to the extent that such issues are introduced...."<sup>93</sup> Ultimately, photos of the child testifying appeared on the front pages of several newspapers.

Finally, the last major issue arising in the course of the Mackay trial involved the court's ability to restrict a sketch artist. The original request forms used by the courts since July 1985 contained a space for sketch artists to request access. Sketch artists, however, are not covered by the provisions of the Plan. After confusion over the need for sketch artists to request permission to cover a trial resulted in formal court action against a sketch artist, the court realized its error and issued a memorandum correcting the request forms (i.e. deleting the words "sketch artist"). The more substantive issue is whether sketch artists should be covered by the provisions of the Media Plan, including the requirements of filing formal requests. Most judges agree that sketch artists are the most distracting members of the media in the courtroom and feel that if identification of certain individuals is an issue, sketches of those people could be just as damaging as photos or video footage. Since sketch artists are most often used in jurisdictions that do not allow courtroom cameras, no other state has attempted to regulate sketch artists within the framework of a media rule.

Although formal disciplinary action has not been necessary during the time that the Media Plan has been in effect, its disciplinary provisions deserve a closer look. Paragraph 11 of the Media Plan outlines the following procedures for Suspension of Media Coverage Privileges.

If the judge presiding at a proceeding determines that an individual or organization has violated any provision of the media plan, the judge may recommend to the administrative director that the individual's or organization's media coverage privileges be suspended for a period of up to one year. The judge shall notify the individual or organization by certified mail of the recommendation and the reasons which support it. The individual or organization shall have five

working days from receipt of the notice to respond in writing to the administrative director. The director shall send notice to the judge and the individual or organization of the director's decision within five working days.<sup>94</sup>

While it is clear that the court needs authority over the media in the courtroom to ensure the fair administration of justice, a provision that allows the administrative director to suspend media privileges for up to one year is a severe penalty. Suspension of media privileges is suspension of a First Amendment right that requires due process of law.<sup>95</sup> Under the existing suspension provision, the media organization does not have a hearing of any kind before the right to cover the courts can be revoked.

#### B. Administrative Issues

Administrative procedures under the Media Plan are fairly simple and routine. A media organization wanting camera access to a courtroom first fills out a "Request for Coverage", gets the judge's signature, picks up a press badge and enters the courtroom with a camera. The overall simplicity of the process is what makes it so workable.

Media suggestions for improving the administration of the Plan reflect a sensitivity to the subtle restrictions placed by the Plan's provisions. Ideally, media representatives would prefer to file a "Notice of Coverage" in place of the existing "Request." In addition, some concern has been expressed by notepad reporters who have been required to wear press badges since the July 1985 Media Plan was adopted. The requirement that grew out of the court's concern that witnesses and jurors know who the media are, is viewed by some media representatives as an infringement on their ability to freely enter the court. The head of security for the Anchorage courts believes that much of the formal paperwork required two years ago, is no longer necessary and, in fact, is burdensome. The media and the court personnel have developed a working relationship that no longer requires daily monitoring.<sup>96</sup>

Technical problems in the courtroom concern the media as well. Television crews do not like cables leading across the length of the courtroom any more than the judges do. Both television and radio must get permission to place their own microphones in the courtroom to obtain "air quality" audio, and extension cords need to be made available where the only outlet is behind the judge's bench.

Each of the technical problems is acknowledged to be minor. What is of major concern to the judges and the media alike is the general lack of knowledge of the Media Plan's provisions. Administration of the Plan can only be effective if those charged with implementing the Plan are intimately aware of its provisions. Both judges and members of the media need to be made aware of the most recent provisions of the Plan.

C. Recommendations

1. THE PLAN SHOULD INCORPORATE PROCEDURES THAT GIVE THE MEDIA THE ABILITY TO CHALLENGE A DENIAL OF CAMERA ACCESS.

Currently, the media organizations must hire a lawyer to challenge a ruling that bars them from the courtroom. Denials of access are rare, but when they do occur, if erroneous, may have the effect of barring meaningful coverage of a court proceeding. The ability to challenge the denial should also be speedy. Often once the proceeding has taken place, there is no comparable opportunity to obtain pictures. Once media access to the courtroom has come into question, the media should receive adequate notice and a meaningful opportunity to address the possible closing of the proceedings to cameras. The court system should consider defining the extent and content of the notice to the media (see p. 61).

2. WITNESS OBJECTIONS TO CAMERA COVERAGE SHOULD BE CONSIDERED ON A CASE BY CASE BASIS.

The sensitive nature of some cases may require that a judge exercise discretion when a witness expresses reservations about the presence of news cameras in the courtroom. This recommendation merely states that the existing practice should be expressly articulated in the Media Plan (see pp. 27 & 62).

3. PROCEEDINGS THAT INDIRECTLY INCLUDE FAMILY MATTERS MAY REQUIRE CONSENT OF THE PARTIES FOR CAMERA COVERAGE BUT ONLY FOR THE TIME THAT THOSE MATTERS ARE DISCUSSED IN THE PROCEEDING.

This recommendation reflects a desire that where parts of a proceeding should be excluded from camera coverage, cameras should not be banned from the entire proceeding (see pp. 62-63).

4. CAMERA COVERAGE OF SEXUAL OFFENSES SHOULD BE TREATED AS COVERAGE OF A CRIMINAL MATTER EXCEPT THAT THE VICTIM SHOULD NOT BE PHOTOGRAPHED WITHOUT THE VICTIM'S CONSENT.

A complete ban on cameras in sexual offense cases seems unwarranted if the central goal is to protect the victim. The victim could be protected from publicity while the defendant would come into the public view through newspaper photographs and television coverage (see p. 15).

5. SKETCH ARTISTS SHOULD BE SUBJECT TO STANDARDS ESTABLISHED UNDER THE MEDIA PLAN.

Chiefly because of the distractions that they cause in the courtroom, sketch artists should be required to fill out a form in the same manner as a photographer and be subject to standards of noise level and movement. In addition, sketch artists could be subject to the same treatment as cameras in proceedings (see pp. 57 & 63).

6. JUDGES SHOULD HAVE THE DISCRETION TO ENSURE THE FAIR ADMINISTRATION OF JUSTICE. THIS DISCRETION INCLUDES THE ABILITY TO CONSIDER POSSIBLE PRETRIAL PUBLICITY GENERATED BY NEWS CAMERAS IN SEVERED CRIMINAL PROCEEDINGS.

The language in Canon 3(A)(7) and the Media Plan that limits a judge's discretion to the fair administration of justice in the "pending cause" should be reworded. By removing the phrase "pending cause", judges will, for example, have the discretion to determine whether camera presence will enhance the effect that a news report will have on the public's view of subsequent defendants' guilt or innocence in severed criminal proceedings (see pp. 28 & 61). Other provisions relating to the judge's discretion should contain parallel language, consistent with this recommendation.

7. PRIOR TO SUSPENSION OF MEDIA PRIVILEGES, THE INDIVIDUALS OR ORGANIZATIONS TO BE DISCIPLINED SHOULD BE ENTITLED TO PRESENT EVIDENCE ON THEIR BEHALF AT A HEARING BEFORE A JUDGE.

Suspension of media privileges is a serious and significant measure that affects the basic rights and livelihood of the media members involved. A hearing before a judge should ensure that the disciplined media organization or individual receives its due process rights under the constitutions of the United States and the State of Alaska (see p. 64).

8. CAMERA ACCESS TO THE COURTS IN ALL CASES EXCEPT FAMILY MATTERS SHOULD BE PRESUMED, SUBJECT TO REASONABLE RESTRICTIONS BY THE JUDGE UNDER THE MEDIA PLAN. "REQUEST FOR COVERAGE" FORMS SHOULD BE CHANGED TO "NOTICE OF COVERAGE".

Request forms have, in practice, become notices to the judge that cameras will be present in court. A formal acknowledgment of the presumption of camera access to most proceedings should encourage a uniform approach by judges to the presence of news cameras. Many of the differences among judges' treatment of cameras are attributable to differing philosophies as to camera access. An express statement that access is presumed should give judges needed guidance. The presumption of camera access remains rebuttable under the other provisions of the Media Plan (see pp. 39 & 64).

9. AN EFFORT SHOULD BE MADE TO CORRECT THE TECHNICAL PROBLEMS THAT RENDER THE MEDIA COURTROOM IN ANCHORAGE UNUSABLE.

Simple adjustments to the existing video cameras and the addition of one camera could transform the unusable media equipment into a workable media courtroom. Any anticipated changes that are planned to alter the Media Courtroom would benefit from participation by members of the media. Future courtrooms that are built in the state should also anticipate use by the media and provide the necessary technical support (see pp. 57-58).

10. JUDGES AND MEDIA ORGANIZATIONS SHOULD BE MADE AWARE OF THE MEDIA PLAN'S POLICIES AND PROVISIONS.

The Alaska Court System may want to consider printing a short explanatory brochure outlining the Media Plan's provisions for use by the media. One of the major reasons for the lack of knowledge of the Media Plan and the media's obligations is the constant turnover of media personnel. This turnover seems especially marked in the television industry. A simple publication could go a long way in helping to bridge the knowledge gap for new reporters. Judges should also be educated as to the provisions of the Plan and encouraged to become comfortable with cameras in their courtrooms. The Alaska Court System could also annotate this publication with judicial decisions relating to the Media Plan providing a useful commentary interpreting the various provisions.

VII. CONCLUSION

News Cameras in the Alaska Courts:  
Assessing the Impact

## VII. Conclusion

The July 1985 change in the Media Plan is viewed by a great majority of judges and virtually every member of the press as a great step forward. Many of the judges interviewed in the course of this study originally had grave reservations about the presence of cameras in their courts. Paradoxically, these were the same judges who were placed in situations where they had to face cameras in their courts on a daily basis and the result was most surprising to them. Overall, judges have found the media to be extremely cooperative and unobtrusive. Likewise, the members of the media have come to know judges and clerks and have gained a new level of awareness of court procedures.

Our quantitative analysis shows that this new-found understanding and cooperation has led to increased coverage of the courts by both the broadcast and print media. And, while it is difficult to evaluate the quality of the increased coverage, increased public awareness of the courts and their functions can only be positive. The few problems that were identified in our study are easily corrected. Most stem from ambiguities in the Plan's provisions. Technical difficulties encountered by the media were equally minor and could often be overcome with a combination of patience and creativity.

Perhaps the surest sign of the success of the Media Plan is the ease with which judges, attorneys, court personnel and the public have accepted the changes. News cameras have become a daily presence in the court buildings and the courtrooms. Trial proceedings frequently appear on the television news and similar photos are in the daily newspapers. Far from creating a courtroom spectacle, cameras in the courtrooms have become accepted tools for bringing elements of our justice system into the everyday lives of the public.



FOOTNOTES

News Cameras in the Alaska Courts:  
Assessing the Impact

## INTRODUCTION

1. Order Relating to Canon 3(A)(7), Code of Judicial Conduct, and Plan for the Media Coverage of Judicial Proceedings, No. 647 (Alaska June 6, 1985). Infra appendix 1.1.
2. See letter from Professor Dean M. Gottehrer to Chief Justice Jay A. Rabinowitz (February 27, 1985) (suggesting a supreme court rule change).
3. Extending Supreme Court Order 647 concerning the media plan until January 15, 1988, No. 831 (Alaska April 1987). Infra appendix 1.4.
4. The trials of State v. John Kenneth Peel (Superior Court, Ketchikan) and State v. Neil Mackay (and related trials) (Superior Court, Anchorage later changed to Superior Court, Fairbanks). Both cases are currently being retried. The retrials, expected to conclude in mid-1988, are not included in this study.
5. Order Relating to Canon 3(A)(7), No. 647 (Alaska June 6, 1985). Infra appendix 1.1.
6. Plan for Media Coverage of Judicial Proceedings, Administrative Office Alaska Court System (July 1985). Infra appendix 2.1.
7. Order Relating to Canon 3(A)(7), No. 647 (Alaska June 6, 1985). Infra appendix 1.1.
8. Alaska Broadcast Monitors/The Morgue, Anchorage, Alaska.
9. The only complete news tape library available for the period of our study did not include stations outside of Anchorage.
10. Over 1000 articles are included in our study sample.
11. For a good summary of the research literature and findings see BARBER, NEWS CAMERAS IN THE COURTROOM: A FREE PRESS--FAIR TRIAL DEBATE (Norwood, N.J. 1987) [hereinafter cited as BARBER].

12. The Florida survey was conducted in 1978 by the Florida State Courts Administrator. The California study was conducted in 1981 by Ernest H. Short and Associates for the Administrative Office for the Courts, the Chief Justice's Special Committee on the Courts and the Media, and the California Judicial Council.
13. 1978 FLORIDA SURVEY RESULTS 3.
14. Id. at 2.
15. SHORT, EVALUATION OF CALIFORNIA'S EXPERIMENT WITH EXTENDED MEDIA COVERAGE OF COURTS 120 (September 1981).
16. Id. at 123.

#### I. History

17. BARBER, supra note 11, at 2.
18. Id. at 3.
19. Id. at 10.
20. *Estes v. Texas*, 381 U.S. 532, 14 L. Ed. 2d 543 (1965).
21. Id. at 536-37.
22. Id. at 540.
23. Id. at 544.
24. See BARBER, supra note 11, at 69-74.
25. *Estes*, 381 U.S. at 551-52.
26. *In re* Petition of Post-Newsweek Stations, 370 So. 2d 764 (Fla. 1979).

27. Id.
28. Chandler v. Florida, 449 U.S. 560, 66 L. Ed. 2d 740 (1981).
29. Estes, 381 U.S. 532.
30. Chandler, 449 U.S. at 573-74.
31. Id. at 574-75.

## II. Survey

32. This section is based on the Radio-Television News Directors Association's NEWS MEDIA COVERAGE OF JUDICIAL PROCEEDINGS WITH CAMERAS AND MICROPHONES: A SURVEY OF THE STATES (as of April 1, 1987) [hereinafter cited as RINDA SURVEY] and supplemented by a telephone update in November 1987.
33. RINDA SURVEY, supra note 27 at B-3.
34. Id. at A-78.
35. Id. at A-79.
36. Id. at B-6, B-7 (Maryland and Pennsylvania).
37. Id. at A-5 to A-88.
38. Id. at B-10 to B-13.
39. Id. at B-8, B-9.
40. Id. at B-5.

### III. Alaska Courts

41. Establishing a One-Year Pilot Program Governing Media Coverage of Proceedings in the Supreme Court and in the Anchorage Trial Courts, Order No. 324 (Alaska August 24, 1978).
42. Orders relating to Canon 3(A)(7), Order 386 and Order No. 387 (Alaska September 27, 1979).
43. Id.
44. Id.
45. Id.
46. Order relating to Canon 3(A)(7), Order No. 502 (Alaska January 11, 1982).
47. Letter from Professor Dean M. Gottehrer to Chief Justice Jay A. Rabinowitz (February 27, 1985).
48. Id.
49. Id.
50. Id.
51. Memorandum from Karla L. Forsythe, Alaska Court System General Counsel, to various state court administrators (May 8, 1985) (regarding revised media plan).

### IV. Media Plan and the Courts

52. ALASKA COURT SYSTEM 1986 ANNUAL REPORT 57.
53. Interview with District Judge Linn Asper (March 18, 1987).

54. Id.
55. Interview with Superior Judge Rodger Pegues (March 18, 1987).
56. Id.
57. Supra note 46.
58. Interview with Superior Judge Thomas Schulz (May 5, 1987).
59. These photos were originally taken during pretrial hearings in Bellingham, Washington.
60. Supra note 52.
61. Letter from Kristen Carlisle, Area Court Administrator, to Geoffrey Currall, Attorney for the Ketchikan Daily News (December 23, 1986). A formal agreement adopting these provisions was signed on July 20, 1987. The formal agreement has an additional trial provision allowing the Ketchikan Daily News to take photographs in a limited area of the Court Building's 4th floor hallway.
62. Id.
63. See appendix 8, for survey form.
64. Media Plan Provision 8(d).
65. Letter from Albert H. Szal, Area Court Administrator, to various news directors for Anchorage television stations (May 5, 1987).
66. Id.
67. Supra note 46.
68. Media Plan Provision 8(a).
69. Interview with Fairbanks Television News Directors (April 23-24, 1987).

70. Request for Media Coverage, Case No. 3AN-S85-7620 (September 25, 1986).
71. Order 3AN-S85-7649 (Sup. Ct. Third Judicial District August 26, 1986).
72. Supra note 63.
73. Interview with David Lampen, Clerk of Appellate Court (April 1987).
74. Prior to the 1985 rule change, especially in the late 1970's when camera access was restricted in the trial courts, a few notable Alaska Supreme Court cases were video-taped and broadcast for both educational and news purposes.

#### V. Media Plan and the Media

75. A complete library of television news video was not available for the period prior to June 1984.
76. Based on the numbers of Requests for Media Coverage and interviews with television news directors in Juneau, Fairbanks, and Anchorage.
77. Media Plan Provision 1(f).
78. Interviews with photographer for the Fairbanks Daily News-Miner (April 23, 1987) and photo editor for the Anchorage Daily News (July 16, 1987).

#### VI. Issues and Recommendations

79. Motion to Prohibit Electronic Media and Still Photography Coverage, State of Alaska v. Neil S. Mackay (No. 3AN-85-7630 January 21, 1986).
80. Id.
81. Id.
82. Id.

83. Letter from D. John McKay to Judge Karl S. Johnstone (January 21, 1986).
84. Response and Joinder of Defendant Betts in Codefendant McKay's [sic] Motion to Prohibit Electronic and Photographic Media at the Trials (January 29, 1986).
85. Id.
86. Memorandum of News Media Intervenor in Opposition to Defendant's Motion to Prohibit Electronic Media and Still Photography Coverage 3 (Case No. 3AN-85-7630 January 31, 1986).
87. Id.
88. Id. at 21-22.
89. Motion to Require Due Process for News Media Regarding Attempts to Restrict Access to or Coverage of Trial (Case No. 3AN-85-7630 February 11, 1986).
90. Media Plan Provision 1(c)(iii).
91. Many of these restrictions are placed on the request forms.
92. Order Relating to Canon 3(A)(7), No. 647 (Alaska June 6, 1985). Infra appendix 1.1.
93. Order re: Media Coverage 3 (Case No. 3ANS-85-7630 December 23, 1986).
94. Media Plan Provision 11.
95. See e.g. *Richmond Newspapers v. Commonwealth of Virginia*, 448 U.S. 555, 100 S. Ct. 2814, 65 L. Ed. 2d 973 (1980) and *Globe Newspapers v. Superior Court*, 457 U.S. 596, 102 S. Ct. 2613, 73 L. Ed. 2d 248 (1982).
96. Conversation with Frank Garfield, Chief of Security for Anchorage Courts (August 31, 1987).



APPENDIX 1  
SUPREME COURT ORDER NO. 647 AND RELATED AMENDMENTS

News Cameras in the Alaska Courts:  
Assessing the Impact

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 647

Three-part Order Relating  
to Canon 3(A)(7), Code of  
Judicial Conduct, and Plan  
for the Media Coverage of  
Judicial Proceedings

IT IS ORDERED:

1. Canon 3(A)(7), Code of Judicial Conduct, is repealed and reenacted, to read:

CODE OF JUDICIAL CONDUCT

Canon 3(A)(7) Adjudicative Responsibilities

(7)(a) Subject at all times to the authority of a judge to (i) control the conduct of proceedings before the court, (ii) ensure decorum and prevent distractions, and (iii) ensure the fair administration of justice in the pending cause, and upon consent of the judge who would be presiding at the proceeding, electronic media and still photography coverage of public judicial proceedings in the trial and appellate courts of this state shall be allowed in accordance with standards of conduct and technology promulgated by the Supreme Court of Alaska.

(b) Standards for conduct and technology shall include provisions governing the numbers and types of camera and broadcast equipment to be allowed, numbers of camera and equipment operators, location of cameras and equipment and media personnel, movement of personnel and equipment, lighting augmentation if any to be allowed, forms, designation of courtrooms approved for extended media coverage, and other details as may be necessary to regulate media activity in accordance with this subsection.

(c) Extended media coverage provisions set forth in (7)(a) shall not apply to matters involving juveniles, divorce, dissolution of marriage, domestic violence, child support, child custody and visitation, adoption, paternity and other family matters. Media coverage for these proceedings is prohibited, except that it may be allowed on a case-by-case basis only upon approval of the judge presiding and the consent of all parties, including any guardians ad litem. For media coverage of proceedings which deal with sexual offenses, the permission of the victim and the judge shall be required.

(d) For matters other than those listed in paragraph (c) a judge may exclude electronic media and still photography coverage of a particular participant in a proceeding for which the judge has allowed media coverage only upon that participant's request and only upon a finding that such coverage will have a substantial effect upon the particular individual that would be

qualitatively different from the effect on members of the public in general and such effect will be qualitatively different from coverage by other types of media.

(e) Any judge limiting electronic media and still photography coverage shall (1) use the least restrictive means necessary to remedy the anticipated harm, and in all cases (2) limit or exclude electronic media or still photography coverage only for specific reasons, articulated on the record.

(f) Each judge will ensure that media activity will not distract the participants, impair the dignity of the proceedings, or interfere with the achievement of a fair and impartial hearing or trial.

(g) Participating members of the media shall agree to abide by the provisions of this subsection and any standards of conduct and technology promulgated by the Supreme Court of Alaska.

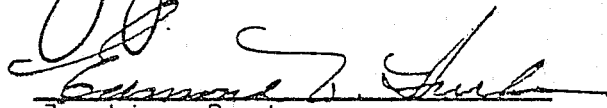
2. The Plan for Media Coverage of Judicial Proceedings is amended as set forth in the pages attached to this order.

3. This order is effective until July 1, 1986. The Alaska Judicial Council shall monitor the impact of the amended canon and media coverage plan upon media coverage of judicial proceedings and upon the courts. No later than June 1, 1986, the Council shall provide the Supreme Court with a written report assessing the impact.

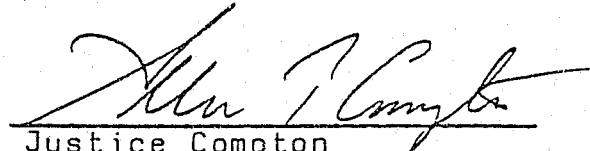
DATED: June 6, 1985

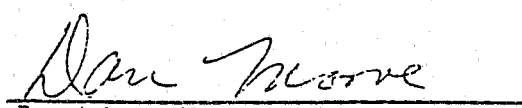
\*   
Chief Justice Rabinowitz

EFFECTIVE DATE: July 1, 1985

  
Justice Burke

\*   
Justice Matthews

  
Justice Compton

  
Justice Moore

\*Chief Justice Rabinowitz and Justice Matthews dissent from those portions of this order which eliminate the requirement of the consent of the defendant in criminal cases.

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 783

Amending the Media Plan and  
Judicial Canon 3(A)(7)(c)  
to prohibit photographing or  
otherwise identifying jurors.

IT IS ORDERED:

1. Canon 3(A)(7)(c) of the Code of Judicial Conduct is amended to provide:

(c) Extended media coverage provisions set forth in (7)(a) shall not apply to matters involving juveniles, divorce, dissolution of marriage, domestic violence, child support, child custody and visitation, adoption, paternity and other family matters. Media coverage for these proceedings is prohibited, except that it may be allowed on a case-by-case basis only upon approval of the judge presiding and the consent of all parties, including any guardian ad litem. For media coverage of proceedings which deal with sexual offenses, the permission of the victim and the judge shall be required. Media coverage may not include photographing, filming or videotaping jurors in any proceeding.

2. A new paragraph 1(I) is added to the media plan to provide:

(I) Identification of Jurors. Jurors may not be photographed, filmed or videotaped in any proceeding.

DATED: December 4, 1986

EFFECTIVE DATE: December 4, 1986

Joe A. Rabinowitz  
Chief Justice Rabinowitz

Edmond S. Burke  
Justice Burke

Warren W. Matthews  
Justice Matthews

Justice Compton

Daniel A. Moore Jr.  
Justice Moore

*Any proceeding open to the public should be open to media representation, subject only to disruption and danger to person or persons. Thus I dissent.*

*Allen T. Compton*

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 831


Extending Supreme Court Order 647  
concerning the media plan until  
January 15, 1988

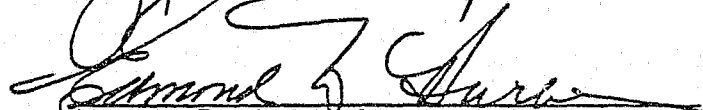
IT IS ORDERED:

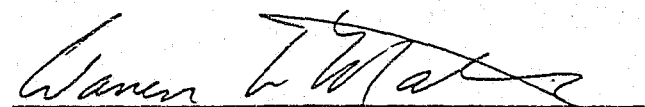
Supreme Court Order 647 is effective until January 15, 1988.

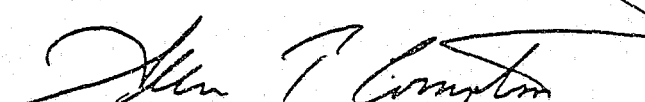
DATED: \_\_\_\_\_

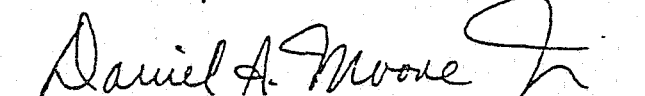
EFFECTIVE DATE: \_\_\_\_\_

  
Chief Justice Rabinowitz

  
Justice Burke

  
Justice Matthews

  
Justice Compton

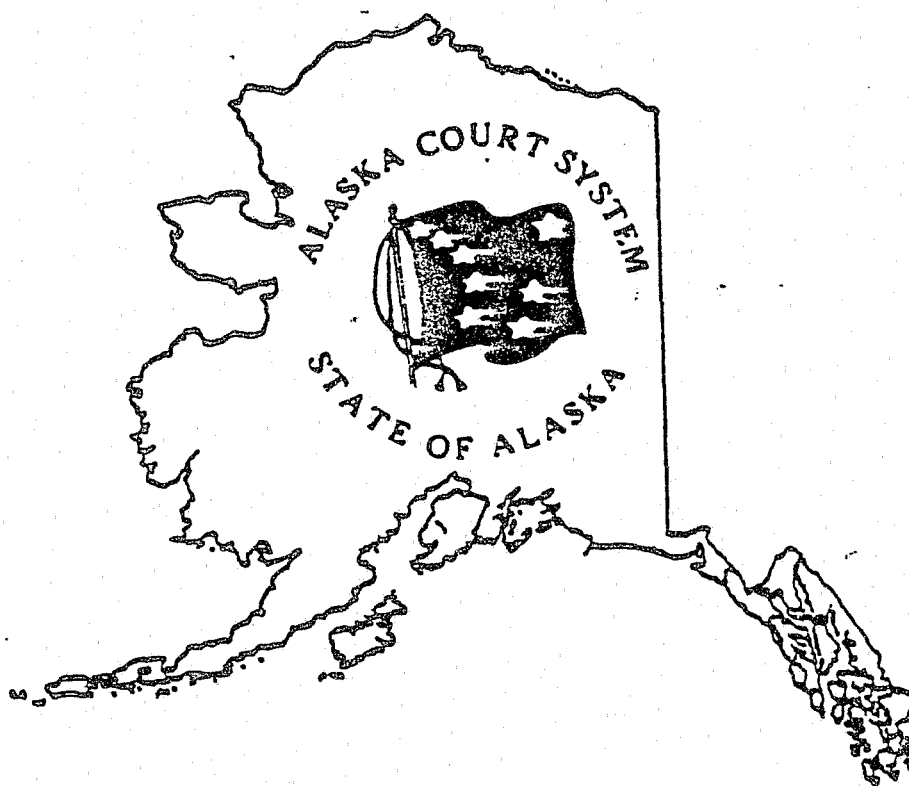
  
Justice Moore

APPENDIX 2  
PLAN FOR MEDIA COVERAGE OF JUDICIAL PROCEEDINGS  
JULY 1985

News Cameras in the Alaska Courts:  
Assessing the Impact

# **PLAN FOR MEDIA COVERAGE OF JUDICIAL PROCEEDINGS**

**Including Canon 3 (A)(7)  
Code of Judicial Conduct**



**Administrative Office  
Alaska Court System  
JULY 1985**

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 647

Three-part Order Relating  
to Canon 3(A)(7), Code of  
Judicial Conduct, and Plan  
for the Media Coverage of  
Judicial Proceedings

IT IS ORDERED:

1. Canon 3(A)(7), Code of Judicial Conduct, is repealed and reenacted, to read:

CODE OF JUDICIAL CONDUCT

Canon 3(A)(7) Adjudicative Responsibilities

(7)(a) Subject at all times to the authority of a judge to (i) control the conduct of proceedings before the court, (ii) ensure decorum and prevent distractions, and (iii) ensure the fair administration of justice in the pending cause, and upon consent of the judge who would be presiding at the proceeding, electronic media and still photography coverage of public judicial proceedings in the trial and appellate courts of this state shall be allowed in accordance with standards of conduct and technology promulgated by the Supreme Court of Alaska.

(b) Standards for conduct and technology shall include provisions governing the numbers and types of camera and broadcast equipment to be allowed, numbers of camera and equipment operators, location of cameras and equipment and media personnel, movement of personnel and equipment, lighting augmentation if any to be allowed, forms, designation of courtrooms approved for extended media coverage, and other details as may be necessary to regulate media activity in accordance with this subsection.

(c) Extended media coverage provisions set forth in (7)(a) shall not apply to matters involving juveniles, divorce, dissolution of marriage, domestic violence, child support, child custody and visitation, adoption, paternity and other family matters. Media coverage for these proceedings is prohibited, except that it may be allowed on a case-by-case basis only upon approval of the judge presiding and the consent of all parties, including any guardians ad litem. For media coverage of proceedings which deal with sexual offenses, the permission of the victim and the judge shall be required.

(d) For matters other than those listed in paragraph (c) a judge may exclude electronic media and still photography coverage of a particular participant in a proceeding for which the judge has allowed media coverage only upon that participant's request and only upon a finding that such coverage will have a substantial effect upon the particular individual that would be



qualitatively different from the effect on members of the public in general and such effect will be qualitatively different from coverage by other types of media.

(e) Any judge limiting electronic media and still photography coverage shall (1) use the least restrictive means necessary to remedy the anticipated harm, and in all cases (2) limit or exclude electronic media or still photography coverage only for specific reasons, articulated on the record.

(f) Each judge will ensure that media activity will not distract the participants, impair the dignity of the proceedings, or interfere with the achievement of a fair and impartial hearing or trial.

(g) Participating members of the media shall agree to abide by the provisions of this subsection and any standards of conduct and technology promulgated by the Supreme Court of Alaska.

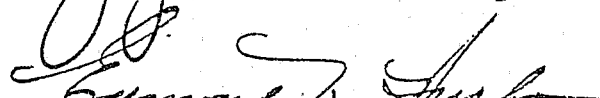
2. The Plan for Media Coverage of Judicial Proceedings is amended as set forth in the pages attached to this order.

3. This order is effective until July 1, 1986. The Alaska Judicial Council shall monitor the impact of the amended canon and media coverage plan upon media coverage of judicial proceedings and upon the courts. No later than June 1, 1986, the Council shall provide the Supreme Court with a written report assessing the impact.

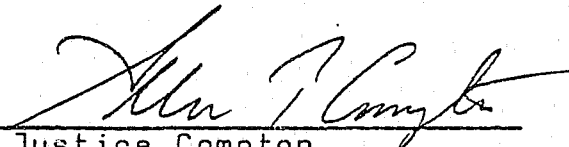
DATED: June 6, 1985

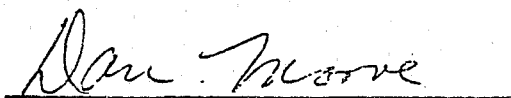
\*   
Chief Justice Rabinowitz

EFFECTIVE DATE: July 1, 1985

  
Justice Burke

\*   
Justice Matthews

  
Justice Compton

  
Justice Moore

\*Chief Justice Rabinowitz and Justice Matthews dissent from those portions of this order which eliminate the requirement of the consent of the defendant in criminal cases.

## PLAN FOR MEDIA COVERAGE OF JUDICIAL PROCEEDINGS

This plan for media coverage of judicial proceedings applies to all live and delayed broadcasting and televising, and to still photography of proceedings conducted by the Supreme Court, Court of Appeals, Superior Courts, and District Courts in Alaska.

### 1. Limitations on Coverage.

(a) Open Coverage Area. The presiding judge for each judicial district and the area court administrator shall designate for each court location a public area in which media coverage may take place without obtaining prior approval.

(b) Vacant Courtrooms. No coverage shall be allowed in a courtroom in which court is not in session or in adjacent areas unless prior approval is obtained pursuant to procedures set forth in paragraph 8.

(c) Judicial Proceedings. No television, radio or still camera equipment shall be allowed in a courtroom or adjacent areas during a proceeding before a court or during recesses in the proceeding unless prior permission has been obtained from the judge presiding at the proceeding. Coverage may be prohibited only for specific reasons articulated on the record or in writing which relate to the judge's ability to (i) control the conduct of proceedings before the court, (ii) ensure decorum and prevent distractions, and (iii) ensure the fair administration of justice in the pending cause.

A judge may exclude electronic media coverage of a particular participant in a proceeding for which the judge has allowed media coverage only upon the participant's request and only upon a finding that such coverage will have a substantial effect upon the particular individual which would be qualitatively different from the effect on members of the public in general and such effect will be qualitatively different from coverage by other types of media.

(d) Proceedings Involving Sexual Offenses. For media coverage of proceedings which involve sexual offenses, the

permission of the victim and the judge presiding at the proceeding shall be required.

(e) Family Matters. Television, radio, or still camera equipment shall not be allowed in proceedings involving juveniles, divorce, dissolution of marriage, domestic violence, child support, child custody and visitation, adoption, paternity, and other family matters, except on a case-by-case basis with the approval of the judge presiding and the consent of all parties, including any guardians ad litem.

(f) Number of Cameras. Not more than two portable television cameras (or 16mm sound or film cameras), operated by not more than one camera operator each, shall be permitted in a courtroom or adjacent areas in any trial court proceeding or during recesses in the proceeding. A judge in any court location presiding at a proceeding may permit not more than one such camera operated by one camera operator if the judge determines that the courtroom size warrants this limitation. In Anchorage, not more than one such camera operated by one camera operator shall be permitted in the hearing room adjacent to the traffic courtroom on the first floor of the "old" court building and in Courtrooms "B", "D", "H", and "K" in the "new" court building unless the judge presiding at a proceeding held in one of these rooms specifically authorizes an additional camera and operator. Not more than two television cameras (or 16mm sound or film cameras), operated by not more than one camera operator each, shall be permitted in a courtroom or adjacent areas in any courtroom or adjacent areas in any court of appeals or supreme court proceeding or during recesses in the proceeding. These provisions do not apply to a courtroom which the administrative director has designated as a media courtroom.

(g) Number of Photographers. Not more than two photographers operating not more than two still cameras each shall be permitted in a courtroom or adjacent areas in any judicial proceeding or during recesses in the proceeding. These provisions do not apply to a courtroom which the administrative director has designated as a media courtroom.

(h) Number of audio systems for radio broadcast. Not more than two audio systems for radio broadcast purposes shall be permitted in a courtroom or adjacent areas in any proceeding or during recesses in the proceeding in a trial court, the court of appeals, or the supreme court. These provisions do not apply to a courtroom which the administrative director has designated as a media courtroom.

(i) Audio Pickup. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court facility. The court will provide audio connections for the media at microphone level output.

(j) Pooling. "Pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the court or court personnel to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of media agreement on disputed equipment or personnel issues, the court shall exclude all contesting media from a proceeding.

(k) Audio Recording. Audio recording of court proceedings shall be permitted in all court proceedings open to the public, unless the judge presiding at the proceeding determines that the equipment produces a distracting sound or is otherwise obtrusive.

## 2. Sound and Light Criteria.

(a) Type of Television and Audio Equipment Allowed. Only television and audio equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. If the judge presiding at a proceeding determines on motion of the parties or on the judge's own motion that the equipment produces distracting sound or light, the judge shall order coverage to cease until the distraction has been eliminated. No artificial lighting device of any kind shall be employed in connection with a television camera, and no camera shall give any indication of whether it is or is not operating, such as by use of a red light to note operational status.

(b) Type of Photography Equipment Allowed. Electronic flash or flash cubes, as well as motorized cameras, are prohibited from use in any proceeding.

3. Location of Equipment and Personnel.

(a) Television Equipment. Television camera equipment shall be positioned in such location or locations in the courtroom or adjacent areas as shall be designated by the judge presiding at the proceeding or the judge's designee.

(b) Still Photography. A still camera photographer shall position himself or herself in a location in the courtroom or adjacent areas as shall be designated by the judge presiding at the proceeding or the judge's designee, and shall take photographs only from that location. The photographer's movements while taking pictures should be unobtrusive, and he or she should not, for example, assume body positions which would be inappropriate for other spectators.

(c) Radio Broadcast Audio Equipment. Radio broadcast audio equipment shall be positioned in such location or locations in the courtroom or adjacent areas as shall be designated by the judge presiding at the proceeding or the judge's designee.

4. Movement of Equipment During Proceedings.

Television and audio equipment and tripod-mounted still cameras shall not be placed in or removed from the courtroom except prior to commencement or after adjournment of proceedings each day, or during a recess.

5. Conference of Counsel.

To protect the attorney-client privilege and the effective right to counsel, there shall be no broadcast of conferences which occur in the courtroom or the court facility between attorneys and their clients, between co-counsel of a client, or between counsel and the judge held at the bench. As a further precaution, due to the sensitivity of courtroom recording equipment the judge presiding at the proceeding may inform counsel at the outset of the proceeding that the court will entertain requests from counsel to go off record for attorney-client conferences.

6. Behavior and Dress.

Media representatives will be expected to present a neat appearance in keeping with the dignity of the proceedings and will be expected to be sufficiently familiar with court proceedings to conduct themselves so as not to interfere with the dignity of the proceedings, or to distract counsel or the court.

7. Credentials.

Media coverage under this plan shall be allowed only by members of the working press and other media representatives. Media representatives shall present their credentials upon request. Before coverage will be allowed, media representatives shall obtain identification from the area court administrator for the judicial district or the clerk of court in which the proceeding occurs after presenting such credentials as may be requested. Identification shall be worn at all times when covering judicial proceedings.

8. Procedures for Obtaining Approval.

(a) Request to Cover a Trial Court Proceeding. Media personnel desiring to cover a proceeding before a trial court shall submit a request to the judge presiding at the proceeding on a form provided by the area court administrator's office. The judge shall forward a copy of the request and the judge's decision whether to permit coverage to the area court administrator, the administrative director and the Alaska Judicial Council. If no judge has been assigned to the proceeding the request shall be submitted to the area court administrator and shall be forwarded to the judge immediately after assignment is made. Once a judge has approved a coverage request, the proceeding will be open for coverage by all media within the limits set forth in this plan.

(b) Request to Cover Proceedings Involving Sexual Offenses or Family Matters. When media personnel request permission to cover a proceeding involving a sexual offense, the judge shall contact the prosecutor to determine whether the victim consents to coverage. When media personnel request permission to cover a matter involving juveniles, divorce, dissolution of marriage, domestic violence, child support, child

custody and visitation, adoption, paternity, or other family matters, the judge shall contact counsel to determine whether the parties consent to coverage.

(c) Request to Cover Appellate Procedures. Media personnel desiring to cover a supreme court or court of appeals proceeding shall submit a request to the court through the office of the clerk of the appellate courts on a form to be provided by the appellate clerk's office.

(d) Required Contact with Court Staff. Television and radio media personnel shall contact the clerk of the court where the proceeding will take place at least one day in advance of proposed coverage to insure that coverage will be in accordance with this plan. This provision shall be waived only by the administrative director or the judge who would preside at the proceeding.

9. Cessation of Coverage.

In any judicial proceeding for which media coverage has been approved, the court may on the motion of either party or on its own motion order media coverage or photography to cease as to any portions of the proceeding when the interest of justice requires. If approval to cover a proceeding has been granted, the court may place limitations on media coverage of activity in the courtroom or areas adjacent to the courtroom during recesses in the proceeding or at any other time.

10. Liaison.

The area court administrator shall maintain communication and liaison with media representatives with respect to coverage of trial court proceedings to insure smooth working relationships. The clerk of the appellate court shall provide such liaison with respect to coverage of supreme court or court of appeals proceedings.

11. Suspension of Media Coverage Privileges.

If the judge presiding at a proceeding determines that an individual or organization has violated any provision of the media plan, the judge may recommend to the administrative director that the individual's or organization's media coverage

privileges be suspended for a period of up to one year. The judge shall notify the individual or organization by certified mail of the recommendation and the reasons which support it. The individual or organization shall have five working days from receipt of the notice to respond in writing to the administrative director. The director shall send notice to the judge and the individual or organization of the director's decision within five working days.

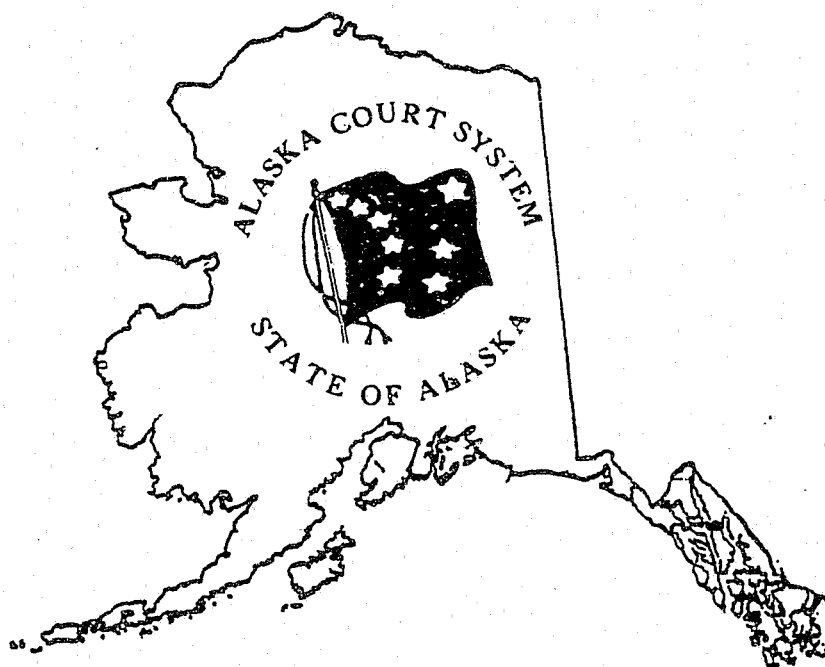


APPENDIX 3  
PLAN FOR MEDIA COVERAGE OF JUDICIAL PROCEEDINGS  
OCTOBER 1982

News Cameras in the Alaska Courts:  
Assessing the Impact

# **PLAN FOR MEDIA COVERAGE OF JUDICIAL PROCEEDINGS**

**Including Canon 3 (A)(7)  
Code of Judicial Conduct**



**Administrative Office  
Alaska Court System  
October 1982**

#### INFORMATIONAL NOTE

The Media Plan was adopted in Supreme Court Order No. 386, dated September 27, 1979, and subsequently amended in Supreme Court Orders No. 501, dated January 11, 1982, No. 533, dated August 18, 1982, and No. 545, dated October 4, 1982.

Canon 3(A)(7) of the Code of Judicial Conduct was adopted in Supreme Court Order No. 170, dated September 17, 1973, and amended by Supreme Court Order 502, dated January 11, 1982.

## PLAN FOR MEDIA COVERAGE OF JUDICIAL PROCEEDINGS

This plan for media coverage of judicial proceedings applies to broadcasting, televising, recording, or taking still photographs of proceedings conducted by the Supreme Court, Court of Appeals, Superior Courts, and District Courts in Alaska.

### 1. Limitations on Coverage.

(a) The presiding judge and area court administrator for each district shall designate for each court location a public area in which media coverage may take place without obtaining prior approval.

(b) No coverage shall be allowed in a courtroom in which court is not in session or in adjacent areas unless prior approval is obtained pursuant to procedures set forth in paragraph 8.

(c) No television, radio, or still camera equipment shall be allowed in a courtroom or adjacent areas during a civil proceeding before a trial court or during recesses in the proceeding unless prior permission has been obtained from the judge presiding at the proceeding.

(d) No television, radio or still camera equipment shall be allowed in a courtroom or adjacent areas during a criminal proceeding before a trial court or during recesses in the proceeding unless prior permission has been obtained from the defendant and the judge presiding at the proceeding.

(e) No television, radio, or still camera equipment shall be allowed in a courtroom or adjacent areas during an appellate proceeding in the supreme court or court of appeals or during recesses in the proceeding unless prior permission has been obtained from the court.

(f) No television, radio, or still camera equipment shall be allowed in proceedings involving juveniles, divorce, dissolution of marriage, domestic violence, child support, child custody and visitation, adoption, paternity, and other family matters. For media coverage of proceedings which deal with sexual offenses, the permission of the victim, the defendant and the judge shall be required.

(g) Not more than two portable television cameras (or 16mm sound or film cameras), operated by not more than one camera operator each, shall be permitted in a courtroom or adjacent areas in any trial court proceeding or during recesses in the proceeding. In Anchorage, not more than one such camera operated by one camera operator shall be permitted in the hearing room adjacent to the traffic courtroom on the first floor of the "old" court building and in Courtrooms "B", "D", "H", and "K" in the "new" court building unless the judge presiding at a proceeding held in one of these rooms specifically authorizes an additional camera and operator. Not more than two television cameras (or 16mm sound or film cameras), operated by not more than one camera operator each, shall be permitted in a courtroom or adjacent areas in any court of appeals or supreme court proceeding or during recesses in the proceeding.

(h) Not more than two photographers operating not more than two still cameras each shall be permitted in a courtroom or adjacent areas in any trial court proceeding or during recesses in the proceeding. Not more than two photographers operating not more than two still cameras each shall be permitted in a courtroom or adjacent areas in any court of appeals or supreme court proceeding or during recesses in the proceeding.

(i) Not more than two audio systems for radio broadcast purposes shall be permitted in a courtroom or adjacent areas in any proceeding or during recesses in the proceeding in a trial court, the court of appeals, or the supreme court.

(j) Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court facility. The court will provide audio connections for the media at microphone level output and limited in trial court proceedings to the microphones located at the witness chair and the jury box, unless otherwise authorized by the judge and counsel for the parties.

(k) "Pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the court or

court personnel to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of media agreement on disputed equipment or personnel issues, the court shall exclude all contesting media from a proceeding.

2. Sound and Light Criteria.

(a) Only television and audio equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. Specifically, such television and audio equipment shall produce no greater sound or light than the equipment designated in Appendix A attached hereto when the same is in good working order. No artificial lighting device of any kind shall be employed in connection with a television camera, and no camera shall give any indication of whether it is or is not operating, such as by use of a red light to note operational status.

(b) Electronic flash or flash cubes, as well as motorized cameras, are prohibited from use in any proceeding. Photographers must use either 35mm single lens reflex or rangefinder cameras with shutters no louder than the normal shutter release for a 35mm single lens reflex camera.

3. Location of Equipment and Personnel.

(a) Television camera equipment shall be positioned in such location or locations in the courtroom or adjacent areas as shall be designated by the court or a representative of the court.

(b) A still camera photographer shall position himself or herself in a location in the courtroom or adjacent areas as shall be designated by the court or a representative of the court, and shall take photographs only from that location. The photographer's movements while taking pictures should be unobtrusive, and he or she should not, for example, assume body positions which would be inappropriate for other spectators.

(c) Radio broadcast audio equipment shall be positioned in such location or locations in the courtroom or adjacent areas as shall be designated by the court or a representative of the court.

4. Movement of Equipment During Proceedings.

Television and audio equipment and tripod-mounted still cameras shall not be placed in or removed from the courtroom except prior to commencement or after adjournment of proceedings each day, or during a recess. Neither television film magazines or still camera film or lenses shall be changed in the courtroom except during a recess in the proceeding.

5. Conference of Counsel.

To protect the attorney-client privilege and the effective right to counsel, there shall be no audio pickup or broadcast of conferences which occur in the courtroom or the court facility between attorneys and their clients, between co-counsel of a client, or between counsel and the judge held at the bench.

6. Behavior and Dress.

Media representatives will be expected to present a neat appearance in keeping with the dignity of the proceedings and will be expected to be sufficiently familiar with court proceedings to conduct themselves so as not to interfere with the dignity of the proceedings, or to distract counsel or the court.

7. Credentials.

Media coverage under this plan shall be allowed only by members of the working press and other media representatives as approved by the Administrative Director. Before coverage will be allowed, media representatives shall obtain identification from the Administrative Director after presenting such credentials as may be specified by him. Identification shall be worn at all times when covering judicial proceedings.

8. Procedures for Obtaining Approval.

(a) Media personnel desiring to cover a civil proceeding before a trial court shall submit a request to the Area Court Administrator on a form provided by the Area Court Administrator's Office. The Area Court Administrator shall immediately forward the request to the judge assigned to the proceeding. If no judge has been assigned to the proceeding at the time the request is submitted, the request shall be forwarded immediately after assignment is made.

(b) Media personnel desiring to cover a criminal proceeding before a trial court shall submit a request to the Area Court Administrator on a form provided by the Area Court Administrator's Office. The Area Court Administrator shall immediately forward the request to the judge assigned to the proceeding. If no judge has been assigned to the proceeding at the time the request is submitted, the request shall be forwarded immediately after assignment is made. It shall be the responsibility of media personnel to obtain written consent from the defendant and to submit such consent as part of the request form.

(c) Media personnel desiring to cover a supreme court or court of appeals proceeding shall submit a request to the court through the office of the clerk of the appellate courts on a form to be provided by the appellate clerk's office.

(d) Television and radio media personnel shall contact the Audio-Visual staff in the Administrative Director's Office at least one day in advance of proposed coverage to insure that all equipment will be set up in accordance with this plan and will meet the sound and light criteria set forth herein. This provision shall be waived only by the Administrative Director or Presiding Judge.

#### 9. Cessation of Coverage.

In any judicial proceeding for which media coverage has been approved, the court may on the motion of either party or on its own motion order media coverage or photography to cease as to any portions of the proceeding when the interest of justice requires. In trial court proceedings, no witness, party, or juror who expresses to the judge a prior objection shall be photographed by still or moving camera, nor shall the testimony of such a witness, juror, or party be broadcast or telecast. If approval to cover a proceeding has been granted, the court may place limitations on media coverage of activity in the courtroom or areas adjacent to the courtroom during recesses in the proceeding or at any other time.



10. Liaison.

The Area Court Administrator shall maintain communication and liaison with media representatives with respect to coverage of trial court proceedings to insure smooth working relationships. The Administrative Director shall provide such liaison with respect to coverage of supreme court or court of appeals proceedings.

11. Suspension of Media Coverage Privileges.

If an individual or organization violates any provision of the media plan, the administrative director may suspend that individual's or organization's media coverage privileges for up to 30 days.

12. Agreement of Media Representatives.

All persons who request and are granted permission to cover a judicial proceeding are subject to this plan and agree to abide by its provisions.

## APPENDIX A

### FILM CAMERAS - 16mm Sound on Film (self blimped)

1. CINEMA PRODUCTS	CP-16A-R	Sound Camera
2. ARRIFLEX	16mm-16BL Model	Sound Camera
3. FREZZOLINI	16mm (LW16)	Sound on Film Camera
4. AURICON	"Cini-Voice"	Sound Camera
5. AURICON	"Pro-600"	Sound Camera
6. GENERAL CAMERA	SS III	Sound Camera
7. ECLAIR	Model ACL	Sound Camera
8. GENERAL CAMERA	DGX	Sound Camera
9. WILCAM REFLEX	16mm	Sound Camera

### VIDEOTAPE ELECTRONIC CAMERAS

1. Ikegami	HL-77 HL-33 HL-35 HL-34 HL-51
2. RCA	TK 76
3. Sony	DXC-1600 Trinicon
3a. ASACA	ACC-2006
4. Hitachi	SK 80 SK 90
5. Hitachi	FP-3030
6. Philips	LDK-25
7. Sony BVP-200	ENG Camera
8. Fernseh	Video Camera
9. JVC-8800u	ENG Camera
10. AKAI	CVC-150 VTS-150
11. Panasonic	WV-3085 NV-3085
12. JVC	GC-4800u

### VIDEOTAPE RECORDERS/used with video cameras

1. Ikegami	3800
2. Sony	3800
3. Sony	BVU-100
4. Ampex	Video Recorder

- |              |                       |
|--------------|-----------------------|
| 5. Panasonic | 1 inch Video Recorder |
| 6. JVC       | 4400                  |
| 7. Sony      | 3800H                 |

CODE OF JUDICIAL CONDUCT

Canon 3 (A) (7)

Adjudicative Responsibilities

(7) A judge should prohibit broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during the sessions of court or recesses between sessions, except that a judge may authorize:

(a) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record, or for other purposes of judicial administration;

(b) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings;

(c) the broadcasting, televising, recording, and the taking of photographs in the courtroom and areas immediately adjacent thereto during a judicial proceeding open to the public or during recesses between such sessions of court, provided:

(i) that a plan for media coverage has been approved by the supreme court. A plan for media coverage shall contain safeguards to ensure compliance with (ii) through (iv) of this subsection and shall include provisions governing the numbers and types of camera and broadcast equipment to be allowed, numbers of camera and equipment operators, location of cameras and equipment and media personnel, movement of personnel and equipment, lighting augmentation if any to allowed, forms, designation of courtrooms approved for coverage, and other details as may be necessary to regulate the media activity in accordance with this subsection;

(ii) that in civil proceedings other than those listed in subparagraph (iii) permission shall have been expressly granted by the judge, and that in criminal proceedings other than those listed in subparagraph (iii) permission shall have been expressly granted by the judge and the defendant. For media coverage of Supreme Court and Court of Appeals proceedings only the permission of the Court shall be required;

(iii) that the media coverage provisions set forth in subparagraph (ii) shall not apply to matters involving juveniles, divorce, dissolution of marriage, domestic violence, child support, child custody and

visitation, adoption, paternity and other family matters. Media coverage for these proceedings is prohibited. For media coverage of proceedings which deal with sexual offenses, the permission of the victim, the defendant, and the judge shall be required;

(iv) that the media activity will not distract the participants, impair the dignity of the proceedings, or interfere with the achievement of a fair and impartial hearing or trial;

(v) that in trial court proceedings, no witness, juror, or party who expresses to the judge any prior objection shall be photographed by any camera, nor shall the testimony of such a witness, juror or party be broadcast or telecast;

(vi) that participating members of the media shall agree to abide by the provisions of this subsection and any approved plan for media coverage; and

(vii) that each judge shall provide the administrative director on request information concerning any media coverage of proceedings before that judge, including written reasons for any denial by the judge of permission for media coverage.

APPENDIX 4  
SAMPLE PRESS BADGE USED BY ANCHORAGE TRIAL COURTS

News Cameras in the Alaska Courts:  
Assessing the Impact

NEWS CAMERAS IN THE ALASKA COURTS:  
ASSESSING THE IMPACT

SAMPLE PRESS BADGE USED BY ANCHORAGE TRIAL COURTS  
WITH THE NAME OF THE INDIVIDUAL PHOTOGRAPHER

<b>PRESS</b>	
CASE #	_____
DATE	_____

APPENDIX 5  
REQUEST FOR MEDIA COVERAGE FORM

News Cameras in the Alaska Courts:  
Assessing the Impact



REQUEST FOR MEDIA COVERAGE  
Trial Court Proceeding

CASE NAME: \_\_\_\_\_ NUMBER: \_\_\_\_\_

REQUESTING ORGANIZATION: \_\_\_\_\_

LIST ALL MEDIA REPRESENTATIVES WHO MAY ATTEND THE TRIAL

TYPE OF COVERAGE:

☐ TELEVISION      ☐ STILL CAMERA      ☐ RADIO  
☐ SKETCH ARTIST      ☐ AUDIO      ☐ \_\_\_\_\_

INCLUSIVE DATES FOR WHICH COVERAGE IS REQUESTED: \_\_\_\_\_

Permission is hereby requested to cover the above proceedings under the Plan for Media Coverage of Judicial Proceedings as approved by the Alaska Supreme Court. I understand and agree to abide by the provisions of that plan.

\_\_\_\_\_  
Signature of media authorizing official      date

\_\_\_\_\_  
(Print name and title)      office phone No.

\_\_\_\_\_  
CONSENT FOR MEDIA COVERAGE\*

Permission for media coverage in the above entitled proceeding is hereby      ☐ GRANTED      ☐ DENIED.

Reason for denial or special limitations imposed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
JUDGE/MAGISTRATE

\_\_\_\_\_  
DATE

\*If consent is required of other persons it will be attached on a separate document.

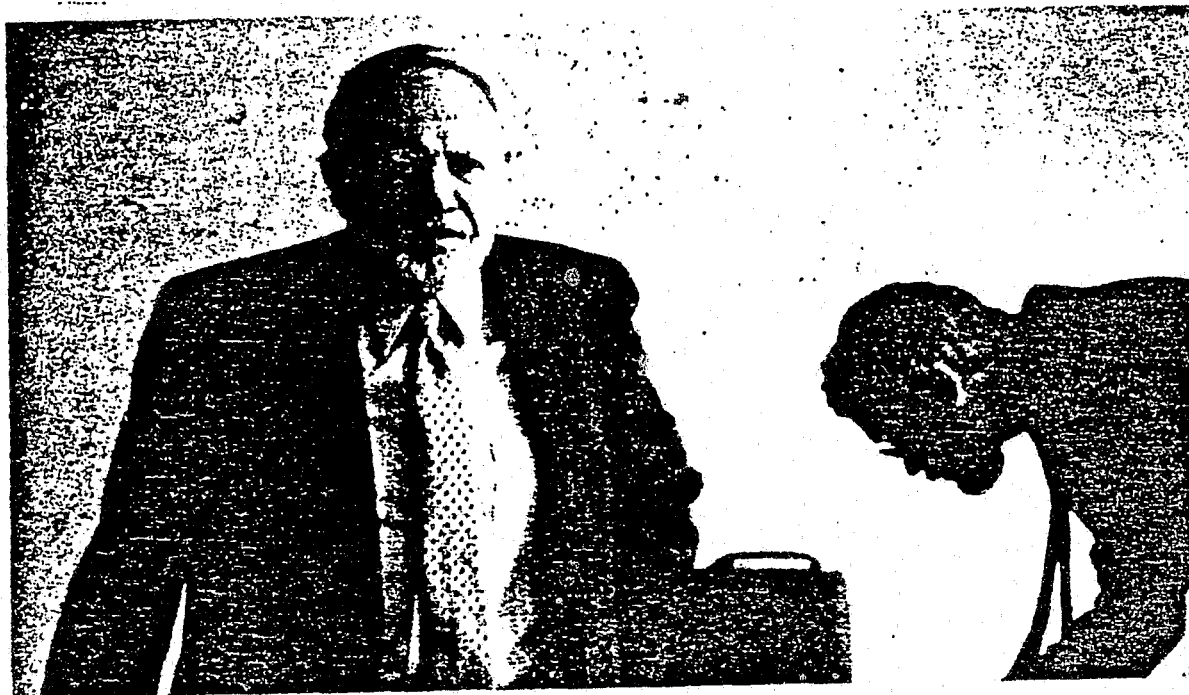
cc: Administrative Director  
Judicial Council  
Media Agency  
File

10/85

APPENDIX 6  
SAMPLE NEWSPAPER DATA SHEET

News Cameras in the Alaska Courts:  
Assessing the Impact

Date April 10, 1987 Topic Pfeil killing  
Newspaper Fairbanks Daily News Miner  
Story Length 4" Type of hearing Mackay trial  
People pictured Mackay, Atty Size 6 1/2" x 3 1/2" = 22



**TRIAL CONTINUES** — Neil Mackay stretches his legs during a break in his first-degree murder trial, as James McComas, one of his attorneys, studies some paperwork.  
*Charles Mason/News-Miner*

## Prosecutors end case in Mackay trial

Prosecutors in the Neil Mackay murder trial ended their case Thursday, after examining 58 witnesses over a period of more than two months. Defense attorneys immediately began calling their own witnesses. The defense case is expected to take about two weeks.

APPENDIX 7  
SAMPLE TELEVISION DATA SHEET

News Cameras in the Alaska Courts:  
Assessing the Impact

DATE 9-23-84 CH 2-E STORY POSITION 1st

TOPIC Peel murder case TYPE OF STORY News

TYPE HEARING Grand jury true bill returned for murders

REPORTER Julie Kirtz

TYPE FOOTAGE File

PEOPLE IN FOOTAGE Peel in ski mask, Peel school photo, non-identified people in court

STORY LENGTH 2 minutes

DATE July 13, 1984 CH 11 E STORY POSITION 7th

TOPIC Lawsuit filed by prisoners on jail overcrowding

TYPE HEARING Superior Court hearing on lawsuit

REPORTER Pat Lynn/ Mary Fondahn

TYPE FOOTAGE footage in courtroom of attorneys for both sides; judge and: corrections commissioner Roger Endell testimony; spectators

PEOPLE IN FOOTAGE Roger Endell; attorneys; judge; spectators

STORY LENGTH 2 mins.

APPENDIX 8  
SURVEY TO RURAL JUDICIAL OFFICERS

News Cameras in the Alaska Courts:  
Assessing the Impact

ALASKA JUDICIAL COUNCIL'S EVALUATION  
OF SUPREME COURT MEDIA PLAN

QUESTIONNAIRE FOR JUDICIAL OFFICERS

Name	Affiliation/Organization
1.	Have you used the attached media request form? If yes, how often? Please provide copies of those forms, if possible.
2.	Are you familiar with the provisions of the 1985 Media Plan, allowing greater access to the courts?
3.	Have cameras (TV or still) been present in your courtrooms? a) How often? b) For what kinds of cases? c) Please describe any restrictions placed on the use of cameras in court.
4.	Have any problems resulted from the use of cameras in your courts?
5.	What have been the positive effects of the new media provisions?
6.	Do you have any suggestions for improving the procedures relating to media in the courtroom?

APPENDIX 9  
SURVEY TO RURAL MEDIA

News Cameras in the Alaska Courts:  
Assessing the Impact



ALASKA JUDICIAL COUNCIL'S EVALUATION  
OF SUPREME COURT MEDIA PLAN

QUESTIONNAIRE FOR MEDIA

- | Name | Affiliation/Organization  |
|------|---|
| 1.   | Are you familiar with the provisions of the 1985 Media Plan allowing greater access to the courts?  |
| 2.   | Have you used cameras in the court?<br>a) How often?<br>b) For what kinds of cases?<br>c) Please describe any restriction placed on the use of cameras by the court.    |
| 3.   | Has the presence of cameras in the court been treated uniformly?  |
| 4.   | Have you (or your organization) been involved in a legal dispute challenging the application of the Media Plan's provisions? If yes, what were the details and outcome? |
| 5.   | Have attorneys changed their behavior as a result of greater media presence in the court? If yes, in what ways?   |
| 6.   | Has the media changed their coverage of the courts as a result of the Plan? If yes, in what ways? If no, why not?   |
| 7.   | Have judges and/or magistrates changed their behavior as a result of the Plan? If yes, in what ways?  |