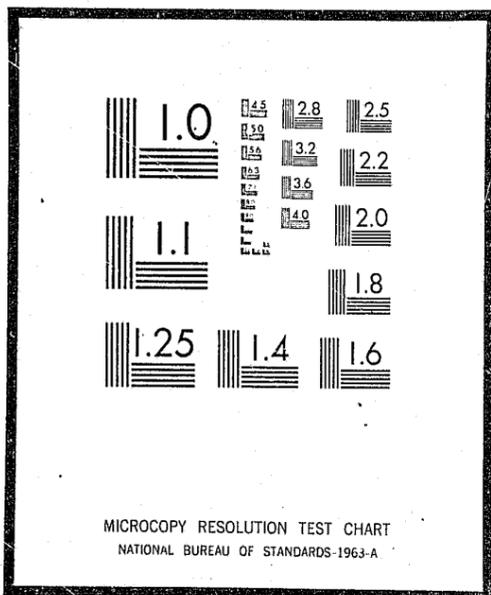


NCJRS

This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U.S. Department of Justice.

U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
WASHINGTON, D.C. 20531

Date filmed

2/20/76

29270

NATIONAL CENTER FOR STATE COURTS

Publication Number: NCSC R0008, February, 1974

VIDEO SUPPORT IN THE CRIMINAL COURTS

VOLUME III

List of Case and Reference Material Abstracts

Prepared by the National Center for State Courts

R. Grant Brady

James E. Gregory

This project was supported by Grant Number 72 NI 99-0033-G awarded by the National Institute of Law Enforcement and Criminal Justice of the Law Enforcement Assistance Administration, U. S. Department of Justice, under the Omnibus Crime Control and Safe Streets Act of 1968. Points of view reflected in this document do not necessarily represent the position of the U.S. Department of Justice.

ABSTRACT

This is the third of a four volume work entitled Video Support in the Criminal Courts. The material presented in this volume is intended to give the interested reader a quick and comprehensive background of relevant activity around the nation concerning the use of video technology in courts. This volume consists of abstracts of cases and reference material relating to video usage in courts. It is divided into two parts, the first of which contains case abstracts, and the second of which contains reference material abstracts. Existing court rules relating to use of video technology are contained in the reference material section of abstracts.

PREFACE

The material presented here is the result of a project entitled Video Support in the Criminal Courts, a project designed to extend the technical analysis of the feasibility of using video technology in criminal courts, and to clarify legal and procedural issues which affect its use. This work is comprised of four volumes as follows:

Volume I: Project Summary describes project results, identifies relevant legal and procedural issues associated with court-related video applications, evaluates impacts, and offers recommendations for its use.

Volume II: Users Guide to Performance Standards and Equipment Costs presents the court user with a summary of video system configurations for specific legal applications, and recommends video system performance requirements and equipment features.

Volume III: List of Case and Reference Material Abstracts presents for the interested reader a summary of case and reference material relevant to the uses of video technology in courts.

Volume IV: Equipment Technical Analysis and User Experience presents a detailed and comprehensive technical discussion of the operation and features of video system components, analyzes available equipment models for major components, and discusses the design and uses of single camera and multi-camera video systems.

CONTENTS

INTRODUCTION

PART A--CASE ABSTRACTS A-2

PART B--ARTICLE AND REFERENCE ABSTRACTS B-1

INTRODUCTION

This volume contains an abstracted list of video recording related cases and reference material. The cases and reference material were collected during the Video Demonstration Project. The information herein includes: cases which pertain to video technology; articles and other references from legal publications, newspapers, and magazines on video or related electronic technologies; and case and article material from video recording applications done during the Video Demonstration Project. These extracts have been developed for the interested reader to use in familiarizing himself with nationwide, criminal court related video activity to date. It is also designed to be used as a comprehensive reference guide which shows where to look for more detailed information.

Part A contains cases which have used video recording or which have established authority for the use of video and other electronic recording technologies in criminal (and civil) courts. Cases are listed alphabetically.

Part B contains a list of extracts for articles and other reference material which deal with video and other electronic recording in criminal (and civil) courts. Articles and other references are alphabetically listed, by author.

PART A
CASE ABSTRACTS

Avery v. State, 292 A. 2d 728 (1972).

In a sex offense crime, evidence was obtained by audio and video surveillance. Finding against the defendant, the appellate court ruled that such surveillance, in this particular circumstance, was not an invasion of the accused's right to privacy.

Barber v. Page, 88 S. Ct. 1318 (1968).

A written deposition of a witness incarcerated in a Texas Federal Prison was accepted in the criminal trial as the principal evidence against the accused. Finding for the accused, the appellate court ruled that the defendant had been deprived of his right to confrontation because the state had failed to exercise a "good faith" effort to insure the witness' presence at the trial.

Belfield v. Coop, 8 ILL. 2d 293, 134 N. E. 2d 249 (1955).

In a will contest the testator's mental competence was ruled incompetent. Testimony included a wire recording attempting to establish the testator's mental competence. The decision held that the devisee was not a competent witness in her own behalf under the Evidence Act and, therefore, such a recording was also incompetent. Nevertheless, the appellate court found error in the failure to admit the electronic evidence, ruling that sound recordings are admissible if a proper foundation of authenticity and reliability has been laid.

Berger v. California, 89 S. Ct. 540 (1969).

The transcript of testimony at the preliminary hearing of a victim of robbery and kidnapping was introduced at trial as evidence against the accused. Deciding that the decision in Barber v. Page was applicable retroactively, the appellate court ruled that unless the state had made a "good faith" effort to secure the witness' presence, the absence of the witness from the area of jurisdiction did not justify use of preliminary hearing testimony because the defendant had no opportunity to cross-examine the person who testified against him. Whereas the State, in the opinion of the appellate court, had not done so, the justices ruled in favor of the defendant.

Boyne City, G. & A. R. Co. v. Anderson, 146 Mich. 328, 109 N. W. 429 (1906).

In a land condemnation case for a railroad right-of-way, a phonograph record was accepted into evidence for the first time in the United States.

The record reproduced sounds claimed to have been made by the operation of trains in the proximity of the defendant's hotel. The appellate court ruled it was not error to admit such innovative evidence if it was substantiated that the recording was an accurate and trustworthy reproduction of the sounds purported to have occurred.

Carpenter v. State, 169 Tex. Crim. 282, 333 S. W. 2d 391 (1960).

In a murder case the defendant, allegedly driving his car while intoxicated, struck and killed a pedestrian. Motion pictures taken of the defendant at the

time he was overtaken on the road and charged with being intoxicated were admitted as evidence over the objection of the accused that their introduction was tantamount to forcing the defendant to give evidence against himself. The appellate court found against the accused and ruled that films of a person charged with drunkenness are admissible.

Carson v. Burlington Northern, Inc., 52 F. R. D. 492 (1971).

In a personal injury action, the defendant railroad moved to take a stenographic and videotape deposition of the plaintiff at the scene of the accident, a blacksmith shop in the defendant's diesel yard. Over the objection of the plaintiff that the requested procedure would produce an unnatural re-creation of the events, thereby giving the railroad an undue advantage in claiming contributory negligence, the appellate court ruled that the deposition be taken by stenographic means and be recorded on videotape at the blacksmith shop under certain guidelines. Those included the necessity of administering an oath to the cameraman and soundman, and the requirement that the plaintiff, rather than actually hand operate the machine, use only a pointer or some other agreed method to aid in this description of the manner in which he operated the machine on the day of the accident.

City of Piqua v. Hinger, 13 Ohio St. 116, 238 N.E. 2d 766 (1968).

Films taken of an individual which showed him taking a breathalyzer and coordination tests before he was advised of his constitutional rights were admitted as evidence at trial. The State Supreme Court, finding

against the defendant, ruled that the physical tests and films or testimony of them, were real or physical evidence of the kind designated in Schmerber as unprotected by the Constitution. Therefore, the testimony of the accused as presented on the film was not protected by the constitutional privilege against self-incrimination. Also, the evidence was ruled admissible regardless of whether or not Miranda warnings were given.

Colorado v. Martinez, Case No. 68010, District Court, City and County of Denver (3/12-19/73).

The videotaped deposition of John H. Folks, the victim of a shooting, was taken because he was unable to leave his hospital bed and respirator device. It was the first time videotape had been utilized to record pre-trial testimony and subsequently admitted in criminal trial in Colorado. (See Volume I of this report.)

Commonwealth v. Clark, 123 Pa. Super. 277, 187 A. 237 (1936).

A conversation between a State Senator, the State's Attorney General, and his secretary was secretly recorded on a "speak-o-phone". In the recorded conversation, the Senator allegedly made a bribe offer to both the Attorney General and his secretary. The record was admitted as evidence, over the defense's objection, in the Senator's trial for attempted extortion and bribery. The appellate court ruled that the introduction of the recorded evidence was proper if it is found to be accurate and reliable. The court also ruled that, although the identification of the participants in the record

was not designated at the time of the recording, the subsequent identification by the Attorney General, who personally knew the voices of the participants, was sufficient to substantiate who was present and who spoke at particular times on the record.

Commonwealth v. Harold Roller, 100 Pa. Super. Ct. 125 (1930).

In a trial for larceny, it was disclosed that the defendant's confession to the robberies after his arrest were captured on sound motion picture film. Over the defendant's objection, the recorded film was admitted into evidence with testimony of the reliable method of the film's production and the accuracy of the events depicted. In finding against the accused, the appellate court ruled that a film is competent evidence if the trial judge is satisfied that the actions recorded are authentic. In the case in question, the appellate court felt that the film was sufficiently authenticated to allow its admittance as evidence.

Cox v. Florida, 219 S. 2d. 762 (1969).

The defendant, accused of breaking and entering, grand larceny, and robbery, was videotaped while being booked at jail. The tape was subsequently shown to the victim, who identified the accused as the guilty party. In neither instance was the defendant allowed to have his counsel present. Asked for a point of clarification, the appellate court, finding in the defendant's favor, ruled that the accused did not have an absolute right to counsel at the time the videotape identification pictures were taken.

However, if the accused had exercised his rights to counsel at the time of his arrest, he would have been entitled to have counsel present when the videotape of himself was shown to the victim, or other witnesses, as a substitute for a lineup or other confrontation.

Department of Public Works v. Oberlander, 92 Ill. App. 2d 174, 235 N. E. 2d 3 (1969).

In a trial for the determination of the value of a sand quarry in an eminent domain proceedings, a motion picture depicting construction activities of Interstate 80 at the quarry site was shown, over the State's objection. The superintendent of the Interstate 80 construction project testified to the authenticity of the events in the film. The appellate court ruled that motion pictures are admissible on the same grounds as photographs, the principal question being one of relevancy. Since one of the main issues was the nature, character and conditions of the sand deposits, the motion picture had probative value on this issue.

Eizerman v. Behn, 79 Ill. App. 2d 263, 132 N. E. 2d 788 (1956).

During an action for injuries sustained by a customer while examining secondhand laundry equipment, the trial court refused to admit into evidence defendant's motion picture. The motion alleged to show that a washing machine identical to the one involved in the accident could be run by a hand brake. Defense contended that the customer started the machine in that manner showing negligence on his part.

The appellate court ruled that the admittance of the film was a matter within the discretion of the trial judge. They added that a film showing an identical machine was irrelevant, since the issue was how the machine in question operated on the day of the accident. Therefore, the film would be of no value for clarification or demonstrative purposes. Judgment of \$70,000 was awarded to plaintiff.

Estes v. Texas, 381 U. S. 532 (1965).

After the defendant had been indicted by a Texas grand jury for swindling, his case had gained national notoriety through massive pre-trial publicity by the media. A motion by the defendant to bar telecasting, radio broadcasting, and news photography was denied by the court. The courtroom was packed with newsmen, although T. V. cameramen and their equipment were limited to a booth built in the back of the courtroom. A certain portion of the trial was televised live. Videotapes without sound were allowed to record all of the trial. Filmclips were regularly shown on T. V. news programs.

After his conviction, the defendant appealed on the grounds that the televising and broadcasting of his trial denied him due process in violation of the 14th Amendment. The Supreme Court of the United States, in finding for the defendant, ruled that the televising of the criminal proceedings over the defendant's objections infringed his right to a fair trial guaranteed by the "due process" clause of the 14th Amendment.

Florida v. Hutchins Trial, Case Trial No. 72-4966, Circuit Court of Eleventh Judicial Circuit, Dade County (12/8/72).

Videotape was used to pre-record trial testimony of an expert witness, Police Criminalist Melvin Brewer, who was unavailable for trial (charge of heroin). Appealed to Third District Court of Appeals of Florida on the issue of the use of video to record trial testimony. Court of Appeals affirmed trial court judgment on November 6, 1973; currently pending in Florida Supreme Court on same issue (see Volume I of this report).

Florida v. Hutchins, Pre-Trial Order for Case No. 72-4966, Circuit Court of Eleventh Judicial Circuit, Dade County (12/6/72).

A pre-trial order by the court stating that the deposition of Police Criminalist Melvin Brewer will be taken by videotape establishes some procedural and equipment guidelines to be followed in the recording of the pre-trial testimony.

Frontier Airlines v. Scheibe, C-72-1348 LHB, N. D. California (1973).

This moving paper by the court, ordering the deposition of a dying man to be videotaped, establishes simple procedural guidelines for the recording and filing of the deposition.

Georgia v. Brockway, Case No. A-16354, Fulton County Superior Court, City of Atlanta (4/17/73).

Videotape used to record trial proceedings in a case of aggravated

assault with intent to rape. The video record supplemented the court reporter's official record. The tapes were utilized by the trial judge to review and evaluate his own courtroom procedure. No appeal was taken (see Volume I of this report).

Georgia v. Goughf, Case Nos. A-16412, 16054, 16055, Fulton County Superior Court, City of Atlanta (4/18/73).

Videotape used to record trial proceedings in a case of burglary, automobile theft, and armed robbery. The video record was made as a supplement to the official record made by the court reporter. Appealed to and pending before the Georgia Supreme Court, which may elect to view and comment on the parallel video record as to its legal acceptability (see Volume I of this report).

Georgia v. James Hamilton, Case No. A-15664, Fulton County Superior Court, City of Atlanta (5/9-10/73).

Videotape used to record the trial proceedings; recorded as a supplement to the official record in a case concerning a charge of rape. Appealed to Georgia Court of Appeals; pending. (See Georgia v. Goughf.)

Georgia v. John Hamilton, Case Nos. A-15406, A-15407, Fulton County Superior Court, City of Atlanta (2/12/73).

Videotape used to record the trial proceedings; recorded as a supplement to the official record in case involving a charge of involuntary manslaughter case. Defendant was acquitted (see Volume I of this report).

Georgia v. Harrell, Case No. A-16101, Fulton County Superior Court,
City of Atlanta (4/16-23/73).

Videotape was used to record trial proceedings; recorded as a supplement to the official record in a robbery case. The case may be appealed, thereby the appellate court may view and comment on the acceptability and procedural guidelines for using videotape as the official record, or as a supplement to a written transcript.

Georgia v. Hart, Case No. A-16492, Fulton County Superior Court, City of Atlanta (5/7-8/73).

Videotape used to record trial proceedings; recorded as a supplement to the official record in an involuntary manslaughter case. Motion for new trial overruled; no appeal to date. (See Georgia v. Goughf.)

Georgia v. Latham, Case No. A-16172, Fulton County Superior Court,
City of Atlanta (5/16-17/73).

Videotape used to record trial proceedings; recorded as a supplement to the official record in an involuntary manslaughter case to explore the feasibility of videotape as the official record. Not appealed (see Volume I of this report).

Georgia v. Laudermilk, Case No. A-13496, Fulton County Superior Court,
City of Atlanta (3/19/73).

Videotape was used to record trial proceedings; recorded as a supplement to the official record in a burglary case (see Georgia v. Latham).

Georgia v. Reynolds, Case Nos. A-15759, A-15760, Fulton County Superior Court, City of Atlanta (5/14-16/73).

Videotape used to record trial proceedings; recorded as a supplement to the official record in a case involving a charge of armed robbery. The case was appealed to the Georgia Supreme Court, but the video record did not accompany the written transcript and was not used as a parallel record in the appeal (see Volume I of this report).

Georgia v. Sturgis, Case Nos. A-9673, A-9681, Fulton County Superior Court, City of Atlanta (4/9/73).

Videotape used to record trial proceedings; recorded as a supplement to the official record in a drug case. The defendant was acquitted on one charge and the other was dead docketed. The video tape can be recycled for reuse (see Georgia v. Latham).

Georgia v. Webb-Roe, Case No. A-17193, Fulton County Superior Court,
City of Atlanta (7/23-24/73).

Videotape used to record as evidence a lineup of George Webb-Roe, a defendant in a case involving charges of 17 counts of rape, armed robbery, burglary, and aggravated assault. Although not used at trial, this case marks the first Atlanta Police technology for pre-recording evidence (see Volume I of this report).

Hendricks v. Swenson, 456 F. 2d 503 (1972).

A voluntary confession in a murder case was videotaped by police.

officers after they had advised accused of his constitutional rights, explained that his statement would be recorded, and it could be used against him in court. The videotape operator also explained the function of the video recorder before taking his statement. At the trial the tape was admitted into evidence, over the defense's objections, and shown to the jury. A divided appellate court, finding against the defendant, ruled that the defendant's constitutional rights were not violated by showing the tape, because the confession had been freely given, and that the proper foundation of accuracy had been laid. In fact, the court deemed such a process an advancement in the field of criminal procedure, a protection of the defendant's rights, and encouraged that all statements of defendants should be so preserved.

Housewright v. State, 154 Tex. Crim. 101, 225 S. W. 2d 417 (1949).

While being booked for driving while intoxicated, the defendant was filmed. Over the defense's objection, the film was admitted into evidence at the trial and shown to the jury. Finding against the defendant, the appellate court ruled that since the film was admissible the proper foundation of accuracy and authenticity had been laid. They maintained that even though the defendant did not give his consent to the filming, he was not compelled to give testimony against himself in violation of his constitutional rights. The court reasoned that the film presented clear account of what the witnesses to the scene observed.

Johnson v. Circuit Court of Milwaukee County, Court Order issued by the Wisconsin Supreme Court; Madison, Wisconsin; (1971).

The appellant was involved in a damage suit in which she took the depositions of two physicians by means of videotape. As it appeared her two expert witnesses would not be available to testify at her trial, the appellant moved to have the videotaped depositions admitted in place of their testimony. She was denied on the grounds that no statute covered such an admittance. The Supreme Court of Wisconsin, finding for the appellant, issued an order prohibiting the lower court's prohibition of the videotaped deposition. They asserted that, while they were not prepared to lay down permanent guidelines, it was within the trial court's discretion to utilize the taped depositions as long as the evidence was competent, material, and relevant to the issues in question.

Kallen v. Nexus Corporation, 54 F.R.D. 610 (1972).

In an antitrust action suit, the plaintiff moved to take discovery by other than stenographic means, in accordance with the new Federal Rule of Civil Procedure 30(b) (4). The District Court ordered the motion to be granted subject to specified guidelines.

Kentucky v. Null, Case No. 7605, Franklin County Circuit Court, City of Frankfort (6/27/73).

Videotape used to pre-record trial testimony of the victim in a case concerning a charge of auto theft. The video testimony established ownership of the stolen automobile and related the circumstances of its recovery.

The defendant was acquitted. This marks the first utilization of videotape to pre-record lay testimony in a criminal trial in Kentucky (see Volume I of this report).

Kentucky v. Null, Case No. 7605, Franklin County Circuit Court, City of Frankfort (6/27/73).

Videotape used to record trial proceedings; recorded as a supplement to the official record in an auto theft case. This represented a second application of video technology to the same case (see above). It was the first use of video technology to record the proceedings of a criminal trial in the state of Kentucky.

Lanford v. People, 159 Colo. 36, 409 P. 2d 829 (1966).

The defendant was arrested for driving while intoxicated and taken to the police station for booking and coordination tests. When the accused discovered a film was being taken of his actions, he refused to take the tests. Over the defense's objection the film, including the sound portion, was admitted into evidence even though the court had earlier agreed at a trial conference to delete the audio portion, since the accused had objected that it violated his constitutional right against self-incrimination. Finding against the defendant, the appellate court ruled that moving pictures were admissible evidence as long as they were relevant and properly authenticated.

They added that regardless of defendant's refusal to take the sobriety and coordination tests, the films which showed accused's demeanor and condition were admissible, but that at request of the defendant, the court

must caution the jury as to the limited purpose of the evidence and give such limiting instruction in general charge. However, since the defendant did not make such a request for limiting instruction during the trial, he can not, for the first time on appeal, claim a violation of his rights against self-incrimination.

Liggon v. Hanisko, Case No. 637-707, Superior Court, City and County of San Francisco, California (9/17-19/73).

Videotape used to pre-record all trial testimony and evidence; used in lieu of a court reporter in a civil damage suit. Done by stipulation of both counsel. Presented at jury trial, it marks the first use in California of video technology to pre-record testimony and evidence for an entire trial. Jury finding was for the defendant; no appeal (see Volume I of this report).

McGoorty v. Benhart, 27 N. E. 2d 289 (1940).

In an action for injuries sustained in an auto accident, the plaintiff maintained that, as a result of said accident, he could not exercise without a brace and could not stoop lower than his knees. He objected to the court's admitting a motion picture which showed him engaged in a variety of physical and athletic activities without his brace. His objections were based on contentions that: the film could not impeach contrary live testimony; that the film did not show a continuity of action; and that he was not allowed to show that the lady in the film with him was an employee of the defendant.

who, at the defendant's direction, solicited the plaintiff to engage in the activities pictured. Finding against the defendant, the appellate court ruled that the film was admissible since the accuracy of the events was corroborated by the man hired to take the film. The court added that the film offered evidence which refuted the plaintiff's claim that he was badly injured and was therefore relevant. Since the operator of the camera explained in detail how he took the pictures, the appellate court felt there was no substantiation to the plaintiff's contention that the jury was misled by the lack of continuity of action. Finally, the court decided that the lower court's refusal to admit evidence that the girl in the film was in the employ of the defendant on the grounds of immateriality was correct.

Mikus v. United States, 433 F. 2d 719 (1970).

In a case of armed robbery, over the defense's objection, a motion picture of the theft was introduced as evidence, along with the corroborating testimony of a bank teller who activated the camera at the time of the crime. Finding against the defendant, the appellate court ruled that the bank teller's testimony was sufficient corroboration of the accuracy of the events depicted. They rejected the defendant's contention that it was necessary to have the technical film expert responsible for the installation and maintenance of the camera testify as to the integrity of the particular operating technique of the camera. The court maintained that the issue was that the events be accurately depicted on the film, and that the bank teller's corroborating testimony had adequately served this purpose.

Missouri v. Eley, Case Nos. C-40294, Circuit Court, City of Kansas City (4/11/74).

Videotape used to record part of a trial proceeding involving a charge of rape. Recorded as a supplement to the court reporter's official record until discontinued by order of the judge, in response to objections by the victim and victim's mother (see Georgia V. Latham).

Missouri v. Henderson, Case No. C-43795, Circuit Court Division 6, City of Kansas City (6/26/73).

Videotape used to record as evidence the statement of a suspect in a killing; defendant later plead guilty to a charge of manslaughter. This case represents the first Kansas City Police use of video technology to record evidence for possible later trial use (see Volume I of this report).

Missouri v. Moore, Case No. C-43993, Jackson County Circuit Court (4/16/73).

Videotape used to record trial proceedings; recorded as a supplement to the official record in a rape case. The case was dismissed after the jury failed to return a verdict (see Georgia v. Latham).

Missouri v. Walker, Case No. C-43234, Jackson County Circuit Court (4/18/73).

Videotape used to record trial proceedings; recorded as a supplement to the official record in a case of theft by misrepresentation (con game).

Appealed to the Missouri Court of Appeals, the appeal is still pending.

The appellate court may view and comment on the acceptability and procedures for using videotape as the official record (see Volume I of this report).

New York v. Hill, Indictment No. 3394/73, Supreme Court, City of New York (trial pending).

Videotape used to record as evidence five lineups of a rape suspect. Two positive identifications resulted, and trial is pending. The video tape can be used to establish the fairness of the identification process utilized by the District Attorney's Office (see Volume I of this report).

New York v. Kalamis, County Court, Nassau County New York (trial pending).

Videotape used to record as evidence two lineups of a robbery suspect; two positive identifications resulted (see New York v. Hill).

New York v. Johnson, Supreme Court, City of New York (trial pending).

Videotape used to record as evidence five lineups of a robbery suspect; three positive identifications resulted (see New York v. Hill).

Paramore v. State of Florida, 229 So. 2d 855 (1969)

In a murder trial in which the video taped confession of the defendant was admitted into evidence, the defense objected on the grounds that the confession had been obtained through inducement by the police officer

that it would be of benefit to the accused. The defendant also objected on the grounds that the state did not prove continuity of possession of the "easily alterable tapes". Finding against the defendant, the appellate court ruled that the claim of inducement to confess was unfounded and that the confession was freely given. Also the court ruled that it was not necessary to prove continuity of possession, but only that the introduced film be an accurate reproduction of the events. In so doing, the appellate court applied the rules of evidence governing photographs with equal force to motion pictures and videotapes.

People v. Ardella, 49 Ill. 2d 517, 276 N. E. 2d 302 (1971).

In a case of driving while intoxicated, the defense objected to the admittance of a videotape recording of the accused taking coordination tests at the police station. The objections were predicated on the defense's contention that the accused's Fourth and Fifth Amendment rights were violated, since he did not consent to being taped nor was he warned the tape might be used against him. The defendant further maintained that the use of the tape violated the Illinois eavesdropping statute. Finding against the defendant, the appellate court ruled that, since the defendant had been given his rights under Miranda and warned that anything he said could be used against him before he was taped, there was no violation of his Fourth Amendment rights. As to his Fifth Amendment rights, the film showed the defendant stating that he was aware of his rights and would participate in the tests. Such action constituted a waiver, in the court's opinion

of his privilege against self-incrimination. Since the cameras and microphones were clearly in the defendant's view, and he could see he was being taped, the court felt that his making no objection constituted "consent", and was therefore not in violation of the Illinois eavesdropping statute.

People v. Bowley, 31 Cal. Rptr. 471, 382 P. 2d 591 (1963).

In a case in which the defendant allegedly committed a sex offense, the appellate court ruled it was error to admit a motion picture purporting to represent said acts since the only corroboration for the film was the prosecution's witness Joan, who was an accomplice.

People v. Hayes, 21 Ca. App. 2d 320, 71 P 2d 321 (1937).

In a manslaughter case, the appellate court ruled that it was not error for the trial judge to admit as evidence the filmed confession of the defendant.

The court reasoned that a confession may be received if it is voluntarily made. Therefore, a sound motion picture of the freely given confession may be received if it accurately reproduces the events. The court encouraged the utilization of such a practice as of inestimable value to triers of fact in reaching accurate conclusions.

People v. Heading, 197 N. W. 2d 325 (1972).

In a case of armed robbery and kidnapping, the appellate court ruled it was not error to admit a videotape of an identification lineup where proper foundation was laid. Proper foundation included the victim testifying at the trial and being thoroughly cross-examined on his identification of

the defendants. It also included the police officer present at the lineup testifying to the accuracy of the events on the tape. The court ruled that the admittance of the tape did not violate the accused's privilege against self-incrimination, because mere reproduction of a lineup did not involve the defendants' testimony or communication.

People v. Mines, 270 N. E. 2d 265 (1971).

In a case of reckless conduct, the appellate court ruled it was not error for the trial court to admit a videotape of the area where an alleged rock throwing incident took place. The court found against the defense's contention that a skilled photographer must record the tapes, ruling instead that the only necessity for proper foundation is that the pictures clearly and accurately portray what they are purported to represent.

Rideau v. Louisiana, 373 U. S. 723 (1963).

In an armed robbery, kidnapping and murder case, defendant's confession was recorded on film by a local T. V. station and played locally for several days before the trial. The Supreme Court reversed the conviction, ruling it was a denial of due process to refuse the accused's request for a change of venue. They held that when the general public in a particular area of jurisdiction is repeatedly exposed in depth to an individual personally confessing to the crimes to which he was later to be charged, a change of venue should be granted to insure a fair trial.

Rubino v. G. D. Searle & Co., 340 NYS 2d 574 (1973).

In a proceeding on a pretrial motion to allow the defendant to record a videotape deposition of a witness on the grounds that the witness had suffered a severe heart attack and his testimony must be preserved, the appellate court ruled that the pretrial testimony could be recorded by videotape. They added that a stenographic transcription would also have to be made. The court did not rule on whether the videotape deposition would be admissible at the trial, but maintained that proper foundation would have to be laid at that time.

State v. Hunt, 193 N. W. 2d 858 (1972).

In a murder case, the appellate court ruled that it was not error for the trial judge to permit the jury to see two videotapes of the defendant's third confession, notwithstanding the claim of over-emphasis and cumulative evidence, since one of the recordings gave a better view of the facial expressions of the defendant. The court also ruled it was not error to allow the jury to hear the defendant's audio taped confession twice, since the machine on which it was played the first time was defective and the sound was virtually inaudible.

State v. Lewis, 35 Ohio App 2d, pp 218-220 (July 24, 1973).

Appellate court overruled defense motion for an order requiring that the transcript of proceedings be transcribed from video recording for an indigent defendant in a criminal case.

State v. Lusk, 452 S. W. 2d 219 (1970).

In a case of murder, a videotape of the defendant's confession was admitted as evidence. The appellate court ruled that the admittance of the tape under the proper foundation of accuracy, which was attested to by the officer before whom the tape was recorded, did not violate the accused's Fifth Amendment right against self-incrimination, where the issue of voluntariness has already been decided by the trial court.

State v. Newman, 484 P. 2d 473 (1971).

In a case of robbery, the appellate court ruled it was not error for the trial court to admit a videotape of a lineup. It is only necessary that a competent witness, not the photographer, attest to the circumstances of the recordings. Further, the recordings must accurately depict the incident at question. In this case, the court ruled that since the detective present at the taping testified to the authenticity and accuracy of the recording, it was admissible. However, they added that, in the future, it would be better for the opposing party and the court to preview the tapes in the absence of the jury.

State v. O'Brien, 232 S. 2d 484 (1970).

In a narcotics case, the appellate court ruled it was not error to admit a motion picture taken by the police. The film showed the defendant, over a period of several days, engaged in activities which clearly established that he was living at the house in question at the time of the search and

seizure; therefore, it proved he had constructive possession of the morphine tablets seized in the raid which formed the basis of the charge against him. The film also served to rebut the defendant's contention that he was merely a casual visitor on the day of the raid.

State v. Perkins, 198 S. W. 2d 704 (1956).

In a rape case which involved the death penalty, the appellate court ruled it was not error for the trial court to admit the defendant's confession recorded on a phonographic record, because the proper foundation of authenticity and accuracy had been laid at trial.

State v. Strickland, 173 S. E. 2d 129 (1970).

In a case of driving while intoxicated, the appellate court ruled it would not be error to admit a motion picture of the accused undergoing coordination tests upon showing, or voir dire examination, that the defendant's admission was voluntarily and understandingly made after he was advised of his right to counsel and right to remain silent. Such a procedure would not violate the accused's privilege against self-incrimination. However, in this case, a new trial was ordered because no voir dire examination was held.

State v. Thurman, 498 P. 2d 697 (1972).

In a burglary case, the appellate court ruled it was harmless error for the trial court to admit the videotape of what appeared to be blood which

led from the scene of the crime to the residence of the defendant's father. With the proper foundation of authenticity and accuracy, the videotape connected the defendant, who had suffered a gunshot wound at the same time a burglary was committed, with the burglary. It was an error because the trail could not be proved to be blood. However, since the defendant testified that he was the individual shot by the officers and had fled in the direction shown by the trail, such error was rectified and cannot be deemed prejudicial.

State v. Zimmerman, 501 P. 2d (1972).

In a case of driving while intoxicated, the appellate court ruled it was error for the trial judge to fail to instruct the jury to disregard the distorted portions of a videotape allegedly showing the defendant undergoing coordination tests. Since the state's witness, who laid the foundation by which the tape was admitted, testified that the distorted portion did not accurately reflect or portray the defendant on the night in question, the court's failure to instruct the jury to disregard the distorted portion of the tape prevented the accused from having a fair trial, and the case was therefore reversed and remanded.

United States v. Ahearn, CR 72-398-SW N. D. Calif. (1972).

This stipulation and order by the court, in a murder case designating the deposition of the expert medical witness who performed the autopsy on the victim to be videotaped.

U. S. v. Singleton, 460 F 2d 1148 (1972).

In a narcotics case, the appellate court ruled it was not error for the trial court to admit a deposition of a government informer, recorded in the presence of the defendant and his counsel who was allowed to cross-examine the informer, and where the witness was unavailable for the trial, and his absence was not attributable to negligent government action.

Such action was deemed constitutionally permissible because the use of the deposition was predicated on Assistant Attorney General Peterson's certification that the proceeding was against an individual believed to be involved in organized criminal activity. The court added that in the future, the deposition need not be in any specific technical form, although it should preferably be in writing.

U. S. v. Talbott, (1/22/73).

Summary of District Judge Thomas Lambros' decision to deny an indigent defendant's motion to permit the videotaping of an expert witness' testimony because the witness demanded a fee in excess of the \$300 maximum he would be paid if he were to testify in court. Lambros observed that there would be an overall savings if the testimony were videotaped, but the procedure can be utilized only if the witness is unavailable for the trial and if the defendant seeks authorization for the fee increase.

Vermont v. Leigh, Case No. 322-73, District Court, City of St. Johnsbury (3/1/73).

Videotape was used to record trial proceedings as the official record.

in a case concerning a charge of possession of marijuana. Appealed to the Vermont Court on the basis of the use of videotape for the official record, the appeal was dropped by stipulation in September, 1973. This case constituted the first Vermont use of video technology to record proceedings in a criminal case (see Volume I of this report):

Vermont v. Moffitt, Case No. 322-73, District Court Unit One, Bennington Circuit (6/20/73).

Videotape was used to pre-record all testimony and evidence in a criminal case involving a charge of drunken driving. Presented at jury trial; the jury returned a verdict of guilty. The case was appealed to the Supreme Court of Vermont on the issue of the use of videotape to pre-record the trial testimony and evidence, and is pending before the court. This constitutes the first Vermont use of video technology to pre-record a criminal trial (see Volume I of this report).

Wescott v. Neeman, 55 F. R. D. 257 (1972).

In a court order on a motion by the plaintiff for the taking of a deposition by other than stenographic means, specifically by means of an audio tape recording, the District Court adopted definitions relating to "original" and "duplicate" tapes and established general guidelines for the taking of a deposition by means of tape recording.

Wilfong v. Penn Central Company, Civil Action No. 68-1179 (1971).

This is a court memorandum ordering the deposition of plaintiff's physician to be taken by means of videotape, due to the unavailability of the doctor for professional reasons at the scheduled time for the trial.

Williams v. State, 461 S. W. 2d 614 (1970).

In a case of robbery with assault, the appellate court ruled that a color movie which recorded the actual holdup of the store was properly admitted. It predicated its opinion on the fact that an eyewitness attested to the accurate representation of the robbery events.

Woodhouse, Drake & Carey, Limited v. Seltzer, Civil Action No. 69-1129 (1972).

This is a court memorandum ordering that, due to the mental disability of the defendant, attested to by his physician, the testimony of the defendant should be taken by means of videotape, to be later presented at the trial.

Zollman v. Symington Wayne Corporation, 438 F. 2d 28 (1971).

In a case involving diversity action, the plaintiffs presented videotapes of tests of a car hoist similar to the one in question. The tapes were accepted into evidence by the trial court without objection and the issue of the manner of recording was not contested on appeal.

PART B

ARTICLE AND REFERENCE ABSTRACTS

"Akron Juries See Trials On Edited Video Tapes", The New York Times, August 14, 1972.

This newspaper story describes two of the first videotaped trials in the United States. Played for the juries in the Summit County, Ohio courtroom of Judge James Barbuto, the story details the procedures used in the two electronically recorded civil and criminal trials, with general reactions to the videotaped trials from Judge Barbuto, a defense attorney, and some of the jury members.

Alkire, Jack, "Police T. V. Camera Pays Off in Convictions"; Lafayette Journal & Courier, June 28, 1972.

This newspaper account briefly describes the Lafayette Police Force's utilization of modern scientific crime equipment, the most significant being their use of the television camera and videotape. It discusses specifically the increase in drunken driving convictions as a result of the recent implementation of videotape and gives a few narrative examples of its use.

The American Bar Association, Code of Professional Responsibility And Canons of Judicial Ethics, Martindale-Hubbell, Inc., 1970.

This is the Code, adopted by the ABA and consisting of three parts, which establishes the level of professional conduct expected from member attorneys. The first part is the Canons of professional conduct, which are statements of norms expected of lawyers in their dealings with the public, the legal system, and their profession. The second is the section

on Ethical consideration, which suggests the moral objectives for which every attorney should strive. The final section consists of the Disciplinary Rules, which are minimum levels of conduct for an attorney without reprimand from the ABA.

Anderson, Marvin, Proposal For Grant For The National Center For Television and The Law, December 1, 1972.

This is a package containing a grant proposal requesting the development of a National Center for Television and the Law, sponsored by Hastings College of the Law. As its objective, the Center would try to implement and transfer video technology to the courts, law schools, and legal profession in general, mainly by emphasizing research and study and in effect becoming a promulgator of information. Included in the package is a structural breakdown of the different divisions of the College with time goals and budget summaries.

Andrzejewski, Thomas, "U. S. Court Here Blazes Trail With All Testimony Videotaped", Cleveland Plain Dealer, p. 8, January 21, 1972.

This newspaper story tells of the plans by Judge T. D. Lambros of an Ohio Federal District Court to videotape all the testimony for two complete trials. The article also relates some historical background on other federal courts which used videotape for evidentiary and pre-trial testimony purposes.

Appellate Judges' Conference, Report of the Special Committee on Increasing Administrative Efficiency Through Technology, 1972.

This report concentrates on examining some methods of reducing the case delay created between the time periods of the filing of the notice of appeal and the receipt of the official record, and the period between the appellate hearing and the filing of the opinion. It did not suggest the implementation of any specific system, but served more to describe those available to the courts. The report examines systems to record the official proceedings; these are the court reporter, audio, computerized transcription, and audio/video tape systems. After a comparison of systems, they encouraged the implementation of whichever system produces the record most efficiently, regardless of whether it was a mechanical, manual, or electronic system.

The conference also examined systems of legal research which would facilitate the discovery of precedent upon which opinions would be predicated.

The systems examined were microstorage and computer systems, with a brief description of systems currently in operation. Also discussed was the utilization of automatic typewriters to expedite the composition time of the written opinion.

Asperk, Tiina, "Introducing Videotape to the Courts", Judicature, Vol. 56, No. 9, pp. 363-367, April, 1973.

This magazine article presents its view of the uses and potential of videotape in the courts. It discusses the costs, potential court uses, case precedents, current utilization of electronic recording, especially in Alaska, and refutes some arguments against videotape implementation.

Ball, Patti, "Video Tape Report - Columbus, Ohio", The Circuit Rider, February, 1973.

In this magazine account, a court reporter relates her difficulties in producing a transcript from the plaintiff's and two physicians' videotaped testimony in the case of Johnson v. Penn Central Transportation Company. Despite her difficulties, she says that she produced an excellent final transcript from the videotape.

Bandy, Don, "Summit Jury Pioneers Trial by Television", Akron Beacon Journal, August 2, 1972.

This newspaper story tells of one of the first trials completely recorded on videotape for presentation to the jury. It took place in the Summit County, Ohio courtroom of Judge James Barbuto. The author, a newspaper man who was selected for the jury, gives a narrative description of the civil case they viewed and the different jurors' and counselors' opinions on the medium.

Bandy, Don, "Will T. V. Tapes Empty The Courtroom?" The Philadelphia Inquirer, August 3, 1972.

This newspaper account gives an account of one of the first videotaped trials in the U. S. that was presented in the Summit County, Ohio courtroom of Judge James Barbuto. The author, a reporter who happened to be selected for the jury, relates his impressions of the case and his view of the overall effectiveness of this particular use of videotape.

"Barbuto: 'Potential for TV In Courtroom Unlimited'", Akron Beacon Journal, pp. A 12, August 2, 1972.

This newspaper account describes two of the first trials entirely recorded on videotape for presentation to the jury. The two trials, one civil and one criminal, were recorded under the supervision of Judge James Barbuto and presented to the jury in his Summit County, Ohio courtroom. The story gives a brief description of the trials and the general reactions of Judge Barbuto to the experiment.

Barney, A. W., Some Comments On Video-Tape Adjudication, unpublished paper, October, 1972.

In his speech delivered at the Video Tape Advisory Committee Meeting of the National Center for State Courts on October 14, 1972, Justice Barney of the Vermont Supreme Court discussed the possible advantage of the utilization of videotape in trials. These included the possibility of less cost and reducing case backlog. He asserted that experimentation to determine the most advisable taping system should begin immediately.

Battelle Laboratories, unpublished letter, pamphlets, papers, 1973.

These are a series of Battelle Laboratories' pamphlets, papers, and diagrams describing videotape equipment systems and various approaches for which they have been utilized. Of primary importance are sketches showing courtroom videotape equipment setups which would maximize the recorded area.

Blews, William F. and Patterson, William A., "On Trial Videotape", The Florida Bar Journal, Vol. 46, No. 3, March, 1972

This article consists of evaluations of the first videotape deposition used in a Florida trial. The brief analyses are those of the St. Petersburg presiding trial judge, William Patterson, and that of the counsel for the plaintiff, William Blews.

As advantages to the videotaped deposition, Blews cited the time saved by avoiding continuances until his expert witness was available and the ability of the jury to see the witness rather than being limited to hearing his testimony read. In a brief article of his own, Patterson agreed and said he saw no legal impediments to a thorough use of videotape in the courts.

Blumberg, Samuel, "Test Survey Of Electrical Recording In Alaska", The National Shorthand Reporter, pp. 12-26, March, 1970.

This is a survey of the audio recording system used in Alaska. The survey was conducted in Anchorage on September 29, 30, and October 1, 1969 by Samuel Blumberg, the Vice President of the United States Court Reporters Association, and indicates some drawbacks in the effective use of audio tape, such as the existence of inadequate acoustics in court facilities.

Boyko, Edgar Paul, "The Case Against Electronic Courtroom Reporting", American Bar Association Journal, Vol. 57 pp. 1008-1011, October, 1971.

In this magazine article, Boyko, a former Attorney General for Alaska

in 1967 and 1968, and an active lawyer, evaluates the Alaska electronic court reporting system. Boyko indicates that drawbacks to using audio system include the inability of the machine to use human judgment, costly repairs, expensive breakdowns in terms of money and testimony unknowingly lost, and transcription dependent on an accurate log/index. He maintains that electronic recording systems should be carefully examined before the courts begin a full scale implementation of such procedures.

Brennan, Thomas E., "Videotape - The Michigan Experience", Hastings Law Journal, November, 1972.

This article analyzes the progress of videotape experimentation in Michigan, centering on goals and probable obstacles to implementation. There is an examination of the Wayne County experiment in videotaping expert witnesses' testimony. Also included is a summary of the Mason Project, an educational program designed to give Michigan University law students a first-hand look at actual cases by means of a videotape camera in a Washtenaw County courtroom. There is also a discussion of project T. A. P. E., a program designed to video record all the personal injury cases on a single judge's docket for utilization as the trial testimony to be presented to a jury.

Campbell, Ross W., Videotape Presentations in Trials, unpublished speech, 1971.

The judge's speech, given at the Michigan Judges Conference in 1971,

dealt with an empirical project designed to test the feasibility of videotape—specifically, a deposition to be admitted in a murder case. Input was sought from the defense, prosecution, jurors, and presiding judge about the desirability of such a presentation, compared to the more normal written medium.

Canon Three, Code of Judicial Conduct, American Bar Association's Recommended Standards, Approved August, 1972.

This Canon Three allows electronic recording devices for: presentation of evidence; perpetuation of a record; purposes of judicial administration; and instructional purposes in educational institutions. Public broadcast, as under old Canon 35, is still prohibited.

Clough, John E., "Rx For Defense - Aggressive Use of the Amended Federal Rules of Civil Procedure", Insurance Counsel Journal, pp. 354-362, July, 1971.

This magazine article is about the application and defense against the utilization of the recently amended rules of Federal Procedure. It contains a brief discussion of Rule 30(b) (4), which allows depositions to be taken by other than stenographic means.

"Committee On Electrical Recording", National Shorthand Reporters Association 1972 Convention Newsletter, pg. 5, August, 1972.

This newsletter includes a brief report on current governmental and private projects dealing with experimental video tape reporting methods.

It also summarizes the NSRA's stand on the implementation of electronic court recording systems.

"Court Okays Recordings", Anderson Bulletin, Anderson, Indiana, May 26, 1972.

This newspaper account details the Indiana Supreme Court decision in the case of Ralph Lamar, which established guidelines for the admittance of tape recordings as evidence on the same basis as photographs.

"Court Replaces Stenographers With Cameras", St. Louis Post Dispatch, pg. 22-A, April 8, 1973.

This brief newspaper article reports on the decision by the Pennsylvania Supreme Court to allow oral depositions to be recorded by videotape rather than a court stenographer. It adds that stenographers will still be used to record the deposition during the trial for the official record.

"Courtroom Of The Future?", The Recorder, Vol. 93, No. 82, pp. 1.

This newspaper article discusses the McGeorge School of Law, a facility under construction at the University of the Pacific. It includes a summary of the electronic educational systems which will be used, such as experimental courtrooms designed to test the feasibility of T. V. trials.

Darnieder, R. A., unpublished report on the case of Johnson v. Tomaro Contractors, Inc., et al., February 25, 1973.

This is a detailed evaluation of the admittance of four videotaped depositions

by the Supreme Court of Wisconsin and a description of their subsequent use at trial.

Dillin, Hugh S., "Mass Pre-Arraignment By Film", Res Gestae, March, 1973.

This is a magazine article advocating the production of a videotape or film which contained a "rights lecture" to be delivered to defendants on the docket for a given day before their arraignment. The author asserts that such a procedure more suitably insures that defendants are aware of their rights and serves as an expediting process by removing the task from the arraignment magistrate, who would have to deliver the speech to each defendant individually.

Douglas, Justice, "The Public Trial And The Free Press", Rocky Mountain Law Review, Vol. 33, pp. 1-10, 1960.

This law review article by the noted Associate Justice of the Supreme Court relates his objections to the implementation of radio, T. V., or the printed media into the courtroom for purposes of broadcasting trials to the general public.

Ewgen, Bob, "Jurors See Video Tape Of Youth In Respirator", The Denver Post, March 14, 1973.

This newspaper article tells of the admittance of the first videotaped deposition in a criminal action in a Colorado court. The deposition was taken from the shooting victim in the hospital, where he was confined to an artificial respirator (see Colorado v. Martinez in cases).

Faulkner, Alex, "T. V. Lets Jury Try Case Without Being in Court", The Daily Telegraph, London, England, No. 36467, pg. 15, August 15, 1972.

This newspaper article is a report of two of the first trials to be entirely videotaped. The trials--one civil and one criminal--were recorded in the Summit County, Ohio Courtroom of Judge James Barbuto.

"First Taped Testimony Use Set For Full Federal Trials", The Blade, Toledo, Ohio, January 21, 1972.

This newspaper article discusses the initiation of plans in the U. S. District Court of Judge Thomas Lambros in Cleveland to videotape all testimony for a trial. It includes remarks from Lambros on the efficiency of videotape and the procedures to be used in recording the testimony. The article also contains a brief, sketchy history of videotape uses in other state court systems.

Focht, Carolyn, "Videotaped Trials Set For County", Columbus Dispatch, Columbus, Ohio, p. 20B, November 30, 1972.

This newspaper account details plans to initiate the use of a videotaped court recording system in Franklin County, Ohio.

Furhmeister, Chris, "New Set Of Eyes Tested In District Court", The Caledonia Record, St. Johnsbury, Vermont, March 2, 1973.

This newspaper article reports on a videotape experiment, recorded in Judge Springer's St. Johnsbury, Vermont courtroom and produced

by the National Center for State Courts. The experiment was designed to use a videotape record of court proceedings in addition to the one by a court reporter.

Greenwood, J. Michael, Short, E., and Elkind, N., Multi-Track Voice-Writing, National Center for State Courts, No. NCSC R0007, December, 1973.

This report documents the results of a project designed to test and evaluate a new court reporting technique by training court reporters in the use of voice-writing.

Griffin, Ellen, "Televised Trials May End Courtroom Backlog", Northeastern Today Boston, Massachusetts, Vol. 3, No. 8, pp. 1, January 26, 1973.

This student newspaper article reports on the organization Tele-Trial, formed by two Northeastern University students and designed to record all the trial testimony for presentation to the jury. This account briefly discusses the organization and advantages of videotaping trials.

Gunther, Max, "Is Television The Answer For Our Crowded Courts", T. V. Guide, pp. 6-12, March 25, 1972.

This feature magazine article reports on the first videotaped trial in the U. S., conducted in Judge James McCrystal's Sandusky, Ohio courtroom. The article highlights reactions from the defense, prosecution, jurors, videomen who recorded the case, and Judge McCrystal.

Haley, Dan, "Trial Testimony Taped At Scene of Accident", Sandusky Register, p. 9, January 24, 1972.

This newspaper article reports on the second videotaped trial in the U. S., conducted in Judge James McCrystal's Sandusky, Ohio courtroom. It includes a brief summary of the case, Swain v. Norfolk and Western Railway Company, with McCrystal's reactions.

Hamersmith, Phillip, "Video-witness in Criminal Court", The Miami News, p. 8-A, December 8, 1972.

This newspaper article reports on the use of a videotape of an expert witness in a criminal case in the Florida courtroom of Judge Murray Goodman. It includes a brief summary of the case, a narcotics violation, with a description of the procedure used in taking the deposition. The taping process was supervised by a video team from the National Center for State Courts. It also includes the procedure to be used by the jury in viewing the recorded deposition.

Hatfield, Joe S., "The President's Message", Res Gestae, p. 5; July, 1972.

This column briefly describes a meeting of the Ohio State Bar Association at which a seminar on a videotaped trial was presented. The article includes a brief description of the seminar and a summary of advantages that the panel felt would result with the implementation of videotape to record trials for presentation to juries.

"Hell's Angels: Testimony From A Dead Witness", San Francisco Chronicle, March 6, 1973.

This is a newspaper article which describes the case of a Hell's Angel, William Moran, being tried for murder. It describes the use of a videotaped deposition of a dead witness which, for the first time in California, was admitted over the defense's objection.

Houston, Windrey D.; Holland, Fount; Beck, Wesley W., Jr.; "Instant Replay for Appellate Courts", American Bar Association Journal, Volume 59, pp. 153-156, February, 1973.

This magazine article examines the use of electronic recorders or court reporters to record court proceedings. It examines briefly the advantages of electronic recording, which is used as an additional tool within the present court framework, but deals primarily with closed circuit television and videotape, suggesting their use as supplements rather than replacements for the reporter.

Keen, Harold, "U. S. Judge Orders Videotaped Depositions in Smuggling Case", Los Angeles Times, Sec. J, p. 3; August 13, 1972.

This newspaper article reports on U. S. Judge Harry McCue's decision to release ten Mexican aliens, held as witnesses in a smuggling case, only if they agreed to have their depositions taken on videotape. The article includes remarks by McCue on the legality of the procedure, predicated on a ruling by the Ninth Circuit Court of Appeals, and the value of videotape in the court system in general.

Kennelly, John J., "The Practical Uses of Trialvision and Depovision", Trial Lawyer's Guide, Callaghan and Co., pp. 183-208, Summer, 1972.

This magazine article gives a detailed explanation of the use of "Depovision", which is a means of electronically recording depositions, with an example of typical testimony derived from such a medium. The author also includes a section on legal precedent for the use of the electronic medium in the discovery process.

Kezziar, William, "Jurors Give Split Verdict On Success Of TV Trials", Akron Beacon Journal, August 3, 1972.

This newspaper article is a follow-up report on the two videotaped trials presented to juries in Judge Barbuto's Summit County, Ohio, courthouse. The article contains brief descriptions of the civil and criminal cases with Barbuto's explanation of the videotaping procedure. It also includes reactions from jurors about the videotape products presented to them.

Kornblum, Guy O., "Videotape in Civil Cases", Hastings Law Journal, November, 1972.

This magazine article promotes the utilization of videotape in civil trials, and encourages experimentation in regard to other possible uses of videotape in the court systems. The author thinks the legal community is too reluctant to experiment with videotape and encourages them to adopt court rules designed to aid in the implementation of videotape in the court system.

Kornblum, Guy O., and Rush, Paul E., Video Technology Serves The Legal Profession. (unpublished)

This paper explores the possibilities of video technology in the judicial process and in legal education. It includes a general discussion of court uses of videotape in taking depositions and recording trial testimony for presentation to a jury. Examples of current developments in the utilization of videotape in the educational field are also cited. There is also a brief analysis of standard equipment available for use by the courts.

Kronholz, June, "Experiment in Courtroom Sends Youth, 18, to Jail", The Miami Herald, p. 2-B, December 9, 1972.

This newspaper article reports on the use of a videotape deposition in a criminal case in Judge Murray Goodman's Florida courtroom. It includes a brief description of the case and the procedure used in videotaping the expert witness' testimony (see Florida v. Hutchins in cases).

Lorenz, Donna, "Courtroom Here Goes On Video", The Atlanta Journal And Constitution, p. 10-C, April 8, 1973.

This newspaper article reports on the experimental project established by the National Center for State Courts to study the possible uses of videotape in state court systems. It includes comments by Francis J. Taillefer on the goals of the experiment and discussion of various field applications already attempted.

"Los Angeles Superior Court Allows Use of Video-Taped Testimony in Current Trial", Metropolitan News, Vol. 51, No. 111, pp. 1 and 12, July 6, 1973.

This newspaper article reports on the admission of a videotape deposition of a medical expert in the California case of Crook v. Glendora Community Hospital, et al. Also included is a description of the factors which led to the decision to videotape the deposition, with a brief historical background of two other cases in which depositions were videotaped in California.

There is also a summary of videotape utilization in the Ohio courts.

McCrystal, James L., "Videotape Trials", The Ohio Bar, Vol. XLIV, No. 21, May 24, 1971.

This brief magazine article presents a summary of the author's views on videotaping trials for presentation to a jury. It encourages the initiation of experimentation into the area of videotape use in the courts.

McCrystal, James L., "Videotape Trials: Relief For Our Congested Courts", Denver Law Journal, Vol. 49, pp. 463-488, 1973.

This article is a specific summary of potential benefits from the utilization of videotape in lieu of presenting live testimony at a trial. It also contains a general discussion of advantages to be gained in implementing wider use of videotape in the judicial process as a whole.

Mackoff, Benjamin S., unpublished letter, July 21, 1972.

This letter describes in detail the intentions of the City of Chicago to place a picturephone in each of 26 Police Precinct Houses. The city intends to connect similar devices in Bond Courts, to facilitate the setting of bond. There is an analysis of the decision, with a procedural description of the system's proposed operation.

Madden, William M., "Illinois Pioneers Videotaping of Trials", American Bar Association Journal, Vol. 55, pp. 457-460, May, 1969.

This article details Illinois' recent experiments using videotape rather than court reporters to record court proceedings. It includes an evaluation of problem areas, necessary equipment, and comments, both pro and con, from judges involved in the experiment.

Madden, William M., Interim Report to the Supreme Court of Illinois On Experimental Videotaping of Courtroom Proceedings, Administrative Office of the Illinois Courts, November, 1968.

This is a study conducted to examine the feasibility of implementing a videotape recording system to record proceedings in the state's courts. It recommends the temporary installation of experimental applications in several courts, with the ultimate goal of establishing them permanently. It also requests the aid of equipment manufacturers to solve technical problems encountered in the implementation process.

Marshall, James; Marquis, Kent H.; and OsKamp, Stuart, "Effects of Kind of Question and Atmosphere of Interrogation on Accuracy and Completeness of Testimony", Harvard Law Review, Vol. 84, pp. 1620-1643, 1971.

This is a study in which tape recorders and films were experimentally used to determine the effect of the style of a question and tone of an interrogator; comparison was made to the accuracy and completeness of testimony obtained from a witness.

Michigan Supreme Court Order GCR 1963, 315, Supreme Court of Michigan, October 24, 1972.

This court order establishes guidelines for the admittance of videotape depositions in Michigan, effective December, 1972.

Merlo, Michael J., and Sorenson, Howard C.; "Video Tape: The Coming Courtroom Tool", Trial, pp. 55-57, November/December, 1971.

This magazine article advocates the use of videotape in recording pre-trial testimony and as an educational tool. It includes a summary of court guidelines, equipment and procedural steps for the taking of depositions.

Minkoff, Richard M., unpublished memorandum, July 13, 1971.

This is a recommendation for an LEAA grant to fund an experiment to establish a videotape recording system for criminal proceedings in Alaska's Anchorage Superior Court.

Moran, Thomas T., Video Usage In Criminal Courts, unpublished paper, October 14, 1972.

This is a discussion outline which analyzes the legal and procedural issues involved in the use of videotape to record court proceedings, depositions, trial testimony, evidentiary material, educational matter, security problems, interrogations of real-time witnesses, counsel motions, and judges' charges to the jury.

National Bureau of Standards, An Audio/Video System for Recording Trials.

This is a description of a videotape equipment system to record court proceedings for use as the official record. It includes recommended installation procedures.

"No Damage Awarded In \$205 Million Lawsuit", Chronicle, p. 10, March 21, 1973.

This newspaper article briefly reports on the use in a civil case of a videotaped deposition by the Ventura Superior Court. It included a detailed description of the lawsuit for personal injury and a brief mention of the use of videotaped pre-trial testimony.

Ohio Superintendence Rule 15

This rule establishes procedural, legal, and equipment guidelines for taking, filing and utilizing videotapes in the Ohio Courts.

Pennsylvania Supreme Court Order adopting Rule of Civil Procedure No. 401.1, Supreme Court of Pennsylvania, March 28, 1973.

An order amending the rules of Civil procedure of Pennsylvania to include the guidelines for the use of videotaped depositions.

Project T. A. P. E., The State Bar of Michigan, 1972.

This is a program design of Michigan's project T. A. P. E., an acronym for total application of pre-recorded evidence, which is supposed to determine the desirability and feasibility of presenting civil jury trials in their entirety via the medium of videotape. It includes not only the program description but the current Michigan Court Rules regarding the utilization of videotape along with a supplement of suggested alternative rules. This report also includes a series of articles and remarks on videotape utilization in court systems by noted authorities in the field.

Purver, Jonathan M., "Annotation Permitting Documents Or Tape Recordings Containing Confessions Of Guilt Or Incriminating Admissions To Be Taken Into Jury Room In Criminal Case", 37 ALR.3d 238.

This is an extensive case annotation of decisions to consider the effect of court decisions to allow or refuse documented or taped confessions or incriminating statements to be taken by the jury into the jury room for deliberation in criminal cases.

Recording and Transcription of Los Angeles Superior Court Proceedings, September, 1972, Administrative Office of the Los Angeles Superior Court.

This report is a study of the Los Angeles Superior Courts' reporting system. The study is designed to determine the most efficient court reporting and transcription system, contains an estimation that electronic reporting is feasible in only 5% of the courts and concludes that present methods of court reporting are effective. It asserts that implementation of computer-aided transcription systems could result in a substantial reduction of the time required to produce the transcript. Also included is a report from the Court Reporter's Association about the testing systems utilized by the study group.

"Recording in Courts Help Out", Anchorage Daily Times, June 7, 1972.

This newspaper article reports on the findings of a survey conducted by Delmar Karlen, Vice President of the Institute for Judicial Administration; the survey addresses the use of electronic court recording in Alaska, and includes general benefits to be derived by the implementation of similar systems elsewhere.

Reynolds, Robert H., A Review and Evaluation of Alaska's Ten Years Of Electronic Recording, 1970.

This is a review of Alaska's electronic tape recording court reporting system. It includes a narrative on the establishment of the audio technique, an efficiency comparison between electronic recording and court reporters, and a summary of the present equipment and operational procedures.

Rogers, John G., "Run A Red Light And You'll Be On Instant Replay",
Parade, October 17, 1971.

This is a brief magazine article on a videotape camera utilization by traffic policemen in a St. Louis suburb. It describes operational procedures and gives examples of the effect of the video utilization.

Rogers, L. S., "Annotation Use of Motion Pictures as Evidence", American Law Reports, Annotated, 62 ALR 2d 686.

This annotation is a collection of the cases in which motion pictures have been offered as evidence.

Ruthberg, Miles N., and Short, Ernest H., Administration of Court Reporting In The State Courts, National Center for State Courts, No. NCSC W0001, February, 1973.

This is a management study detailing inefficiencies existent in the administration of court reporters. The problem areas were drawn from a state by state data table included in the report. A list of recommendations to improve the systems were drawn and explained.

Ryan, Joseph M. F., Jr., "Expert Medical Testimony - A Look to the Future With Television", D. C. Bar Journal, pp. 73-75, January-June, 1971.

This article suggests inclusion of a closed circuit television system designed to tape expert medical testimony in an electronically modern courthouse being built in the District of Columbia. There is discussion of proposed operational procedures and an analysis of long run cost advantages.

Short, Ernest H. and Leight, Walter G., A Study Of Court Reporting Systems - Executive Summary, National Bureau of Standards Report No. 10656, December, 1971. Also published in Jurimetrics Journal, Vol. 12, No. 4, June, 1972.

Also published by the National Institute of Law Enforcement and Criminal Justice, LEAA.

This is the Executive Summary of the National Bureau of Standards' study of court reporting systems. The document summarizes potential benefits in using audio/video taping as the official record of court proceedings.

Short, Ernest H. and Ruthberg, Miles, A Study Of Court Reporting Systems, Volume I, Decision Factors, National Bureau of Standards Report No. 10641, December, 1971.

Volume one of a four volume report on the National Bureau of Standards' study of court reporting systems, this study is mainly concerned with the technical feasibility of computer-aided transcription of stenotype notes. However, a section of the report provides a comparison of different court recording systems, to include audio/video taping.

Short, E. H.; Taillefer, F. J.; Greenwood, J. M.; Arnold, J. E.; Harris, J. I.; and Messick, M. J., Selection Of A Court Recording Method For The District Courts Of Oregon, National Center for State Courts, No. NCSC R0003, May, 1973.

This report documents an examination of the Oregon District Courts for purposes of selecting the most feasible and reliable court reporting

system available. It recommends the implementation of an electronic reporting system for these courts.

Shutkin, John A., "Videotape Trials: Legal and Practical Implications", Columbia Journal of Law and Social Problems, Vol. 9, pp. 363-394, 1973.

This article analyzes the effect of videotape trials in producing a balance between efficiency in the courtroom and insuring justice in the judicial process, and assesses if the results make the electronic trial procedure desirable. It examines administrative benefits as well as legal and pragmatic problem areas.

"Sick Addict Needed Surgery, MD Says", Globe & Mail, January 16, 1973.

This newspaper article reports on a coroner's inquest in Canada in which the jury watched a videotape of an operation, unsuccessfully performed by a surgeon, to prevent a kidney collapse. The article mentions the utilization of videotape, but is devoted mostly to a description of the case and the surgery.

Stone, Laurence B., "Use Of Videotape In The Legal Profession", The Ohio Bar, Vol. XLV, No. 34, pp. 1213-1220, August 21, 1972.

This article presents background material on the capabilities of videotape and its possible applications in the legal profession. It includes explanations of equipment available, operational procedures, and a brief history of its court related use.

The Video Tape Deposition: Cross Examining A Medical Witness, Minnesota State Bar Association, 1972.

This paper is a brief study which served as a supplement to a mock deposition of a medical witness. It describes the use and purposes of depositions, and videotape depositions specifically. It outlines some of the advantages and disadvantages of using videotape and briefly discusses the legal questions pertaining to this electronic medium in Federal and State courts.

"The Video Tape Jury Trial", For The Defense, Vol. 13, No. 3, pp. 1 and 26, March, 1972.

This article descriptively reports on the first video-taped trial. It includes a case description, procedural operations, and jurors' and witnesses' reactions to the process.

Treacy, James W., "Video Tape - New Help For Old Legal Problems", Res Gestae, pp. 8-12, March, 1973.

This magazine article discusses some of the possible applications of videotape, including taking and presenting depositions, recording testimony of an entire trial, and uses in criminal and investigative work. It also analyzes the legal authority for the use of videotape in some of the applications.

Turner, Wallace, "Jail Terms Deplete Ranks of Hell's Angels", The New York Times, March 17, 1973.

This newspaper account reports on jail sentences being given Hell's

Angels leaders for various criminal offenses. It includes a section on the videotaped deposition of Hell's Angels member "Whispering Bill" Pifer, subsequently who died before he could testify at trial; this video tape was used as his testimony at a preliminary hearing in a murder case involving another gang member.

"T.V. Goes To Court", Time, Vol. 98, p. 42, December 27, 1971.

This magazine article briefly reports on the first trial in which all the testimony was presented to the jury on videotape. It gives a brief description of the civil case conducted in the Sandusky, Ohio courtroom of Judge James McCrystal and includes comments by the magistrate on the value of videotape in reducing case backlog.

Valentino, Vincent, "Nebraska Faces Videotape: The New Video Technology In Perspective", Creighton Law Review, Vol. 6, pp. 214-234, 1972.

This article reports on the current developments of videotape in the legal field. It discusses the use of this particular electronic recording medium in taking depositions, ex parte statements, live testimony at trial for the purpose of the official record, and all testimony of a trial for presentation to the trier of fact. It also briefly analyzes standard equipment and costs.

Video Tape Interview Outline, St. Louis Police Department.

This is a procedural outline for policemen in St. Louis to follow before, during, and after videotaping a suspect.

Weintraub, Larry, "A Photo Phone Will Link Police and Bond Court", Chicago Sun-Times, August 9, 1972.

This newspaper article reports on the establishment of a picturephone system linked between the Chicago police stations and the Bond Courts. The story describes the procedural operation and time saved in setting bond by the use of the system.

Weis, Joseph F., Jr., Video Technology: How It Can Serve The Lawyer, unpublished speech, August 15, 1972.

This speech describes the author's first-hand experience in presiding over cases in which videotape depositions were admitted. It includes an evaluation of the advantages and disadvantages to videotaped depositions, with an assurance that problem areas can be reduced.

Williams, Frederick T., Quiet Please! You Are On T. V., unpublished speech, June 6, 1973.

This lecture gives a brief description of the first criminal trial, State of Ohio v. McMillion, whose sole record was made by videotape transcription. There is an analysis of operational procedures and equipment utilized, with some brief historical background pertaining to earlier videotaped Ohio trials.

Wong, William, "More States Allow The Use of Videotapes in Court As Substitute for Live Appearances by Witnesses", The Wall Street Journal, p. 28, September 5, 1972.

This newspaper article reports on a brief history of videotape in the courts. It includes examples of applications with remarks by authorities about the future of this electronic medium in the judicial system.

END