



OFFICE OF THE HENNEPIN COUNTY ATTORNEY
2000 GOVERNMENT CENTER
MINNEAPOLIS, MINNESOTA 55487

March 24, 1989

OFFICE OF
APPELLATE COURTS

MAR 24 1989

Fred Grittner
Clerk of Appellate Court
230 State Capitol
St. Paul, Minnesota 55155

FILED

Dear Mr. Grittner:

I respectfully submit the enclosed position paper expressing the opinion of the staff of the Hennepin County Attorney's Victim Witness Assistance program on the issue of television coverage of courtroom activity in criminal matters.

Please contact me if you need any additional information or if the Court would like to hear public testimony on this issue.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Mykelene Cook".

Mykelene Cook
Director
Hennepin County Attorney Victim Witness Assistance Program
348-4053

MC/sf

MAR 21 1989

FILED

STATEMENT TO THE SUPREME COURT OF MINNESOTA
CONCERNING TELEVISION COVERAGE OF CRIMINAL
AND JUVENILE COURT CASES

Prepared by the staff of the Victim Witness Assistance Program
Of the Hennepin County Attorney's Office

March 20, 1989

The staff of the Victim Witness Assistance Program of the Hennepin County Attorney's Office is convinced that uncontrolled TV coverage within the criminal courtroom would result in a number of highly negative effects on both public safety as well as the rights of crime victims and witnesses.

Crime victims and witnesses obviously have a large stake in the criminal justice process. Historically, there has been little acknowledgement of the importance of their role. Successful prosecution is dependant upon their willingness to cooperate. The impact of being a victim or a witness of a crime can and very often does dramatically alter an individual's perception of self and safety. Being a victim or a witness of a crime also means that they may now become participants within the criminal justice system. However televised coverage of courtroom activities could have a profound effect on their decision to report a crime to the police. Already the overall rate of crime reported to police is only 37%.¹ A recent U.S. Department of Justice study shows, "the most frequent specific reason given by victims for not reporting violent crimes to the police was that the event was a private or personal matter".² Unwelcome publicity will lower this rate even further. Likewise, witnesses who might otherwise step forward to offer testimony will be hesitant and unlikely to do so. Receiving a subpoena and testifying in court further

1. US Department of Justice, Bureau of Justice Statistics, Criminal Victimization in the United States, 1986, 10 (1988)

2. Id.

disrupts victim's and witnesses' lives. Most victims and witnesses are not familiar with the legal process, so testifying in court is a fearful experience.

We believe that if TV cameras were allowed into the courtroom at the discretion of the media, victims and witnesses would be further traumatized by their experience with the criminal justice system.

Vulnerable victims of sexual assault, domestic violence and child abuse have historically been reluctant to participate in the criminal justice process principally because they did not want to be put in the public eye. These cases in particular almost always require the victim to testify as to private, personal and embarrassing facts. Victims of sexual assault have incredible reservations about making the humiliating, degrading details of their rape public in a courtroom. Battered women, encouraged to recite painful accounts of their victimization at the hands of their partners are already silenced by their shame for airing "family matters" in public. Children, probably the most vulnerable of victims, recoil at the prospect of public disclosure in a courtroom where strangers abound in a formal and unfriendly arena of fear.

All of these victims fear retaliation on the part of the defendant. Most are reluctant to testify. Those who work with them agree that these issues would become magnified immensely should all or portions of a trial be publicly broadcasted. Innocent victims of these crimes who are brave enough to come forward deserve the protection of their privacy and their safety by the courts.

To assess victims and witnesses reactions to the prospect of having TV cameras in the courtroom, sixty-five (65) victims and witnesses were selected from a cross-section of felony cases that had been scheduled for trial during the period of September 1988 through February 1989 in Hennepin County.³ These individuals received a letter (See Appendix A) advising them that a public hearing was scheduled in April to consider the issue of allowing TV cameras in the courtroom, as well as a questionnaire (See Appendix B) seeking information about their perspective on this issue.

The following information is a summary of the responses that we received to our survey.

Three (3) letters were undeliverable and returned to sender
Thirty (30) questionnaires were completed and returned with the following results:

Question #4: . . . did you have to testify?
Yes-22 No-8

Question #5: . . . should TV cameras be allowed in the courtroom?
Yes-7 N-21 Undecided-2

Question #6: . . . willingness to testify if cameras were allowed.
Just as willing -15
Less willing -11
Chosen not to testify -04

To summarize, the response by victims and witness was three to one opposing courtroom TV cameras. More importantly, 50% of those surveyed indicated that they would be less willing to

3. Excluded from the study were cases involving child abuse, sexual assault and domestic violence.

testify at trial or would choose not to testify at all with cameras present.

Additional space was provided on the questionnaire for victims and witnesses to add written comments about the issue of TV cameras in the courtroom. A few of their pertinent comments are as follows:

"I don't want the world to know all the details of my personal life!"
"I would have been uncomfortable. I was upset enough without TV cameras."
"It's a very trying experience anyway, so this would be added stress for the witness."
'It's threatening enough testifying in a criminal case- presence of TV cameras would increase fear and uncertainty, decrease witness willingness to testify and likely violate some basic rights of confidentiality."

A poll of Hennepin County prosecutors in the Criminal and Juvenile divisions drew a four to one response against TV coverage. (See Appendix C) Prosecutors expressed a variety of concerns regarding TV coverage, including distortion of the process as presented to the public, possible grandstanding on the part of some courtroom participants, and decreased cooperation on the part of victims and witnesses. The following is a summary of the response to our poll:

1. Do you think TV cameras should be allowed in the courtroom?

Yes	-3
Yes, with the ability for veto	-3
No	-24

2. If cameras were allowed, do you think victims and witnesses would be more or less likely to testify?

More likely to testify	- 0
Depends	- 1
Less likely to testify	-25
No change	- 3
No reply	- 1

The successful prosecution of criminal cases relies heavily upon the cooperation of crime victims and witnesses. Most victims and witnesses are fearful of testifying under the best of circumstances. When gang involvement is a factor, or the defense seems likely to impugn the motives or character of a victim or witness, cooperation with the prosecution becomes a fragile alliance. Television coverage under these circumstances could tip the balance against cooperation in these cases. The cost to society, in terms of crimes not reported and defendants not convicted is too great and outweighs any probative value of TV coverage in the courtroom.

The personal cost to crime victims of TV coverage is very high. The increase in publicity may set these individuals up for re-victimization in numerous ways. Retaliation by the defendant's family and friends becomes more possible when the victim's name and face are televised. According to one survey, 26% of victims and witnesses have received some type of threat.⁴ Other problems resulting from the increased visibility may include being targeted for harassment by bizarre and perverse individuals.

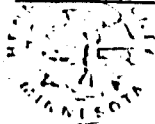
Additionally, TV courtroom coverage represents a massive invasion of a crime victims's rights to privacy. The attendant loss of dignity when an intensely personal pain becomes public diminishes the crime victim, court participants, and the spirit of justice. The long term effects are not yet known, but if the

4. Connick and R. Davis, Examining the problem of witness intimidation, 66, *Judicature*, 439, 439 (1983).

TV limelight prolongs the pain or slows the healing for even a few crime victims, the cost is too high.

The staff of the Victim Witness Assistance Program of the Hennepin County Attorney's Office strongly recommends that the court maintain all of the veto powers entrusted to attorneys, judges and other trial participants in Canon 3A(7) of the Minnesota Code of Judicial Ethics prior to the experiment. Crime Victims and witnesses should not be photographed or filmed without their prior written consent under any circumstances. This is vitally needed to safeguard the rights of crime victims and ensure maximum possible cooperation with prosecution.

In conclusion, media journalist already have free access to most court hearings and documents. The flow of information to the public is in no way impaired through the prohibition of intrusive TV coverage from within the courtroom. By contrast, the rate of unreported crime and unconvicted criminals due to noncooperation with prosecution would likely rise. The potential cost to crime victims in terms of retaliation, re-victimization and the loss of privacy is unconscionable. The interest of media journalists cannot overcome the heavy burden of these additional costs to those suffering as the result of crime.



OFFICE OF THE HENNEPIN COUNTY ATTORNEY

2000 GOVERNMENT CENTER
MINNEAPOLIS, MINNESOTA 55487

February 21, 1989

Dear

You have been chosen to receive this letter and questionnaire because recently you were scheduled to testify in a felony case set for trial. A public hearing is scheduled before the Minnesota Supreme Court on April 13, 1989, to consider the issue of allowing TV cameras in the courtroom during trials. Therefore we at the Hennepin County Attorney's Office, Victim Witness Assistance Program would appreciate your input on this issue, so that we can present the opinions of victims and witnesses at this public hearing. Your cooperation in completing the attached questionnaire would be helpful in verifying the position we present at the hearing. Participation in this survey has nothing to do with the processing of your case. Completion of this survey should be done anonymously.

Additionally, if you would be interested in speaking at this public hearing, please contact the Legal Services Specialist you worked with during the case or contact Mike Schumacher at 348-2566. Likewise if you have any questions about this issue please contact the Legal Services Specialist or myself.

Sincerely,

Handwritten signature of Michael D. Schumacher in cursive script.

Michael D. Schumacher
Legal Services Specialist

MC/gs

HENNEPIN COUNTY IS AN AFFIRMATIVE ACTION EMPLOYER

Please indicate by marking the answer that best pertains to the case that you were recently scheduled to testify in, or expresses your opinion about the issue of having TV cameras in the courtroom during trials. Thank you for your cooperation.

THIS QUESTIONNAIRE IS ANONYMOUS, SO PLEASE DO NOT PUT YOUR NAME ON IT.

1. On the case that you were recently scheduled to testify you were a:

<input type="checkbox"/> Victim	<input type="checkbox"/> Witness
<input type="checkbox"/> Police Officer	<input type="checkbox"/> Other Professional (ie. Medical Staff, etc)

2. The case involved a charge of:

<input type="checkbox"/> Property Theft	<input type="checkbox"/> Domestic Assault
<input type="checkbox"/> Auto Theft	<input type="checkbox"/> Assault (nondomestic)
<input type="checkbox"/> Burglary	<input type="checkbox"/> Criminal Sexual Conduct
<input type="checkbox"/> Forgery	<input type="checkbox"/> Homicide
<input type="checkbox"/> Drugs (Sales/Poss)	<input type="checkbox"/> Aggravated Robbery
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other (Please specify)

3. How did the case get resolved in court?

<input type="checkbox"/> Plea Negotiation	<input type="checkbox"/> Trial
<input type="checkbox"/> Case Dismissed	<input type="checkbox"/> Case still Pending
<input type="checkbox"/> Case was continued	<input type="checkbox"/> Unknown

4. If the case was resolved by a trial, did you have to testify?

Yes No

5. Do you think TV cameras should be allowed in the courtroom?

Yes No Don't Know

6. If TV cameras were allowed in the courtroom on the case that you were recently scheduled to testify in, would you have:

been just as willing to testify

been less willing to testify

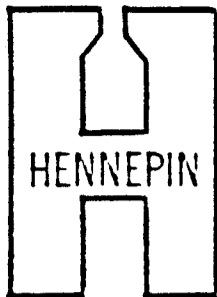
chosen not to testify

7. Please indicate in what age group you are:

<input type="checkbox"/> under 16 year old	<input type="checkbox"/> 41 - 50 years old
<input type="checkbox"/> 17 - 20 years old	<input type="checkbox"/> 51 - 60 years old
<input type="checkbox"/> 21 - 30 years old	<input type="checkbox"/> 61 - 70 years old
<input type="checkbox"/> 31 - 40 years old	<input type="checkbox"/> over 71 years old

8. Please add any additional comments you have regarding the issue of TV cameras in the courtroom during trials.

Please return questionnaire by March 1, in the enclosed envelope.



DATE: 2/9/89
TO: Attorneys
FROM: Victim/Witness
SUBJECT: Cameras in the courtroom

A public hearing is scheduled before the Minnesota Supreme Court on April 13, 1989 to consider the issue of allowing TV cameras in the courtroom during trials. We in victim/witness would appreciate your input on this issue.

- Do you think TV cameras should be allowed in the courtroom?

Yes No

- If cameras were allowed, do you think victims and witnesses would be more or less likely to testify?

Comments:

Please return to Kathy Woxland in Victim/Witness by March 1, 1989

ENCLOSURE 1

POLICY OF:

NATIONAL ORGANIZATION OF VICTIM ASSISTANCE

RESOLVED: NOVA believes that states which do not allow television and still cameras in courthouses should not change the policies because not enough is known about the immediate impact of their presence on victims and witnesses, nor about the long term effects on victims and witnesses from the publicity that results from having their photographs broadcast or printed

NOVA believes that states which have allowed television and still cameras in courtrooms should examine the guidelines which govern photographic coverage, and should be sure that such guidelines protect victims' and witnesses' right to dignity and privacy, and give to victims and witnesses the right to refuse to be televised or photographed, and to be informed of this right.

Adopted by the Board of Directors, September 1982