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Cameras in Camera

By **DICK WOLF** and **BILL GUTTENTAG**

"Sunshine is the best disinfectant." These words, spoken 75 years ago by Justice Louis Brandeis, crystallize why we believe it is imperative that all the nation's courts become open to cameras.

The Supreme Court has steadfastly refused to broadcast its proceedings, and on Sunday on ABC, Justices Sandra Day O'Connor and Stephen Breyer were unenthusiastic about the prospect. Yet with every high-profile trial, the issue of cameras in courtrooms is rekindled. Often those who champion openness in other areas of government favor restricting the electronic media's access to the courtroom.

As producers of a documentary television series focusing on deputy district attorneys and their cases, we have spent the past two and a half years making arguments to judges, prosecutors and defense attorneys as to why our series should be allowed to film inside the courtroom. The judges' decisions have largely been in our favor, but there is still considerable resistance to what we believe is in the best interests of the country and the First Amendment.

The founders of the republic clearly valued an open government. Congress has always been accessible to spectators and journalists; state and municipal legislatures are equally available to public view; and, crucially, the courts have always been open. Any person -- any print reporter -- can walk into any public courtroom in this country. Yet those same rights are often denied the electronic media.

There has been progress: Two states presumptively allow cameras in the courtroom, and 37 others permit cameras in some criminal trials. But many states, including New York, and the entire federal system, still ban cameras. During the Bush-Gore election hearings, the Supreme Court made an exception and allowed audio recordings of its proceedings. They set a precedent that should be expanded upon. How can it be logically argued that the ears should hear what the eyes can't see?

On the local level, those looking for our exclusion regularly make statements to the effect of, "they are selling detergent on the back of my client" and "the program will be interrupted by advertisements, which will diminish the dignity of this court." This view ignores the fact that every newspaper in the country runs ads near or around its stories. Another common argument is that television subsequently edits its footage and thus

distorts the proceedings. Editing is integral to all reporting. Unless a newspaper reprints an entire trial transcript, we all are doing the same thing.

Cameras in the courtroom maintain public accountability of the judicial system and assure the rights of the accused. When a lawyer is asleep at counsel table, or slow to make a crucial objection, cameras capture the scene as no pencil can. The public has a visual record of miscarriages of justice. Televised trials also give the public a greater understanding and respect for the system. This is an area that needs improvement: Jury absenteeism is rampant; a common view of public defenders and prosecutors is the misconception that they are working dozens of cases, none of them effectively; and a number of high-profile cases have left the public profoundly cynical about the entire judicial system. Courtroom cameras contribute to creating a more educated populace, and this can only be beneficial for a system that relies upon jurors making informed decisions.

The bottom line is: Can a court case be televised while ensuring the right of the defendant to a fair trial? Based on our experiences, the answer is unequivocal. Yes. A trial that has been covered with cameras is one with greater public scrutiny and accountability, and thus is a fairer trial. The brighter the sunshine, the better it is for all of us.

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