# Video Recording Courtroom Proceedings in United States District Courts: Report on a Pilot Project

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## Executive Summary

Below are key findings from this study of the federal district courts' pilot project on video recording courtroom proceedings.

1. Fourteen federal district courts volunteered to be sites for a pilot project testing the use of court-operated video cameras to record courtroom proceedings in civil cases. Recording was limited to proceedings in which the judge and all other participants consented. Over the four-year project, 64 active and senior judges participated—i.e., notified parties of the opportunity to record—and 33 judges had proceedings that were recorded, for a total of 158 proceedings recorded and posted at www.uscourts.gov.

2. At the time the pilot project began, a few pilot courts already had video recording equipment in one or more courtrooms. The Administrative Office of the U.S. Courts provided other pilot courts with equipment for a limited number of courtrooms, for equipment costs of nearly $460,000. Labor costs for the Administrative Office (but not the courts) were just over $435,000, and video hosting services costs were close to $96,000.

3. In a pilot project that required consent from all participants, including the presiding judge and the parties, it was possible to obtain consents and to record proceedings, though not in large numbers.

4. More proceedings were video recorded in courts where parties in every scheduled courtroom proceeding were notified of the opportunity to record or where at least one judge had a particular interest in video recording and encouraged parties to use it relative to the number of cases pending in the pilot courts.

5. Although video recording occurred only with full consent, leaving open the possibility that only certain types of proceedings might be video recorded, a wide variety of proceedings were in fact recorded, including trials, hearings on dispositive motions, hearings on routine motions, and evidentiary hearings. Likewise, a wide variety of case types were recorded, including contracts, personal injury, and civil rights cases, which are among those most frequently filed in the federal courts, but recordings were also made in less commonly filed case types, such as patent/copyright/trademark, immigration, and bankruptcy cases.

6. The wish to maintain confidentiality (e.g., of proprietary business or personal medical information) and the desire to avoid publicity are the most commonly reported reasons parties gave for declining to video record, though in

many cases parties declined without giving a reason. Few parties voiced concerns about traditional arguments for prohibiting cameras in courtrooms, such as the risk of making participants anxious or distracting them or the risk of disrupting the decorum and dignity of the courtroom.

7. The study asked pilot court judges and participating attorneys to describe their views on a number of hypothesized effects of video recording by marking categories on a questionnaire. The categories reflected the degree to which an effect was perceived to be present (to no extent, to a small extent, to a moderate extent, to a great extent). Categories may be grouped in different ways; depending on the research question of interest, the choice will reveal different aspects of the data. This report makes all respondents' data available in tables, but, for the discussion, this report groups the two lowest categories (to no and to a small extent) and the two highest (to a moderate and to a great extent). Tables summarizing judges' responses under four different grouping arrangements appear in Appendix D.

8. It is important to note that judges and attorneys participating in the pilot project did so voluntarily. On average, they are likely to be favorable in their views of video recording. Further, their views do not necessarily represent the views of judges and attorneys nationwide.

9. The majority of judges in the pilot courts think most hypothesized effects of video recording occur to little or no extent, whether the impact is on witnesses, jurors, attorneys, or judges, and whether the effect is positive or negative. A majority of those who expressed an opinion think video recording has a moderate to great effect only with regard to increasing public access to the federal courts and educating the public about courtroom procedures and legal issues. Judges' views are evenly split on the extent to which video recording causes attorneys to be more theatrical and increases public confidence in the federal courts. Around a third of pilot judges think three hypothesized effects occur to a moderate or great extent: distracts witnesses, motivates attorneys to come to court better prepared, and prompts attorneys to be more courteous.

10. Very few judges who participated in video recorded proceedings experienced negative operational or administrative problems, except with regard to operation of the video equipment, which half the judges think, to at least some extent, took too much time.

11. More than three-quarters of the attorneys who participated in a video recorded proceeding did so because they had no inherent objection to video recording.

12. Like judges, attorneys who participated in a recorded proceeding think most of the hypothesized effects of video recording occur to no extent or to a small extent, with most responses falling in the "no extent" category. Also like the judges, the only effects a majority of attorneys think occur to a moderate or great extent are positive effects on the public. At most, about a third of the attorneys see any other effects as occurring to a moderate or great degree (e.g., motivates attorneys to come to court better prepared).

13. In their overall views of video recording during courtroom proceedings, more pilot court judges favor than oppose it. Very many more judges who participated in the pilot project favored video recording than judges who did not participate. While the majority of judges in the pilot courts would permit video recording if authorized for future proceedings, more judges who participated in the pilot would permit it than judges who did not participate.

14. When the 32 judges we interviewed were asked about changes they would make to the conditions of the pilot project if video recording were to be continued or expanded, one-third of judges with recording experience under the pilot project suggested modifying the party consent requirement (either by making it an "opt-out" rather than "opt-in" process or doing away with the requirement), and more than a quarter suggested allowing video recording of certain criminal proceedings.

15. Almost three-quarters of attorneys who participated in the pilot project favor video recording of courtroom proceedings, whether their experience is limited to the federal court video recording pilot or includes experience with cameras in state and other courtrooms. Three-quarters of attorneys would participate in video recording if authorized for future proceedings.

16. A majority of both judges in the pilot courts and attorneys who participated in a case recorded under the pilot project think video recording, to a moderate or great extent, educates the public about courtroom proceedings, educates the public about the legal issues in court cases, and increases public access to the federal courts.

17. The best indicator of the public's exposure to the video recordings comes from the number of times—21,530—viewers accessed a video recording at www.uscourts.gov during calendar year 2014. The 258 viewers who completed a "pop-up" survey after accessing a recording were primarily students, educators/librarians, members of the general public, and lawyers or other law firm employees. They accessed the videos primarily because of a general interest in viewing federal court proceedings or because they had an educational reason to do so. Few of those who completed the survey were members of the media.

18. Administering the pilot project required staff resources on both the administrative side and the technical side. The administrative demands were apparently lower in courts that had more standardized notice and consent procedures, except where court procedures called on staff to make personal contact with nonresponding attorneys to determine whether they consented to or declined video recording.

19. Demands on information technology (IT) staff for technical aspects of the project were quite significant in some courts, typically more significant than the administrative demands of the project. Demands varied in part by the type of equipment used, with greater demand when portable equipment was used and had to be set up for each proceeding. Demands on IT and other staff were also significant in courts where a staff person was present in the courtroom throughout the entire proceeding, operating the equipment and/or ensuring that the recording process went smoothly. This was more likely to occur in courtrooms where the judge preferred to show the public a single image, which required a camera operator, as opposed to courtrooms where fixed cameras recorded the judge, witness stand, attorney podium, and evidence table and presented a screen split into four images. It was also more likely to occur where a court placed emphasis on quality control during the proceeding rather than through post-proceeding review and editing.

20. The greatest operational demand on judges appears to have been the process of notifying parties and obtaining consents. Participation by some judges was modest or minimal because they did not have time to seek consents. Courts with court-wide and systematic approaches to notice and consent seemed to have largely removed this burden from their judges.

21. The pilot project enabled 14 district courts to test the use of video recording courtroom proceedings. The courts' varied experiences, as reflected in the data, suggest that decisions courts make about notice and consent procedures and video recording procedures can have a significant administrative and operational impact on judges and court staff.

## Introduction

This report presents findings from the Federal Judicial Center's (Center) evaluation of the Digital Video Recording Pilot Project, more commonly known as the Cameras in the Courtroom Pilot Project (pilot project). We briefly describe the origins and requirements of the pilot project; report the number of judges who participated and the procedures the pilot courts developed to identify eligible proceedings; discuss the number and types of proceedings recorded and the reasons why some parties declined to be recorded; discuss the assessments of judges, lawyers, and court staff; and report information from a survey of viewers. Several attachments provide information about implementation guidance to the pilot courts; the costs of, and a description of, the video recording equipment; and the Center's data-collection instruments.

## Origin and Design of the Cameras Pilot Project

At the request of the Judicial Conference of the United States, the Court Administration and Case Management Committee (CACM Committee) developed a pilot project that permitted use of cameras in federal district courtrooms during court proceedings in civil cases. The purpose of the pilot project was to test a particular approach to using cameras to record district court proceedings; it was undertaken as part of a review of federal court policy prohibiting the use of cameras during courtroom proceedings in the district courts.[1] The CACM Committee designed a pilot project that was authorized initially to run for three years, but was eventually extended to a fourth year to permit more experience with cameras. The pilot project began on July 18, 2011, and ended on July 17, 2015.[2] From the outset, the CACM Committee planned to include an evaluation of the pilot project and asked the Federal Judicial Center, the federal judiciary's research and education agency, to conduct the evaluation.

The CACM Committee designed the pilot project to be voluntary in all respects. Thus, in February 2011, the chair of the CACM Committee and the director of the Center sent an invitation to all 94 district courts inviting them to apply to be pilot courts. Fourteen district courts expressed a willingness to serve and became the pilot sites. Within each court, the judges who participated were also volunteers. Further,

1. See *Guide to Judiciary Policy*, Ch. 4, § 410.10, for the current policy.

2. Data collection ended on July 17, 2015, but the pilot courts are permitted to continue recording proceedings until the Judicial Conference decides, at its March 2016 meeting, whether to suspend the use of cameras or authorize them for all district courts. *Source:* Memorandum from Judge Wm. Terrell Hodges, chair of the CACM Committee, to the chief judges of the 14 pilot districts, dated February 19, 2015.

cameras recorded a courtroom proceeding only with consent of both the judge assigned to the case and all parties who were involved in the proceeding.

Beyond its voluntary nature, the pilot project had several additional requirements. First, use of cameras was permitted only in civil cases and only in cases presided over by active or senior district judges (i.e., not bankruptcy or magistrate judges). Also, at no time were cameras to record jurors. Further, although the CACM Committee issued general guidelines for the pilot project (see Appendix A), each court was permitted to develop its own criteria for selecting proceedings and its own procedures for notifying parties and for seeking consent for camera coverage.

The pilot courts operated the cameras themselves, a significant departure from the cameras in the courtroom model prevalent in state courts, where media outlets bring cameras into courtrooms to cover proceedings. The Administrative Office of the U.S. Courts provided equipment to set up a limited number of courtrooms in each district with recording systems and, in some locations, a portable camera system that could be moved from courtroom to courtroom (see Appendix B for a description of the technical aspects and costs of the pilot project). The costs to the Administrative Office totaled close to $990,000—nearly $460,000 for equipment, just over $434,000 for labor, and close to $96,000 for video hosting services. Costs to the courts included primarily staff time to support the project. Several courts also purchased equipment but often did so as part of an ongoing effort to upgrade audiovisual systems in the courtrooms.

Each video recording system included four cameras—technically, digital video recorders—one that could be used to record the attorney's podium and the others to record the judge's bench, the witness stand, and the evidence display. At the close of a courtroom proceeding, the court was responsible for ensuring that the video recording was free of any inappropriate footage (e.g., inadvertent footage of a juror) and for determining whether the quality was sufficient for public viewing. The court then submitted the video recording to the Administrative Office for posting to the federal courts' public website,[3] typically within 24 hours.[4]

To collect data for the pilot project evaluation—for example, the number of proceedings in which the parties received notice of the opportunity to record, the number of parties who consented, and the reasons for declination—the Center developed forms for the courts to use in administering the pilot project. Whether the courts did so depended to a considerable extent on the procedures they used to notify parties and to receive consents (as we explain further, below). In addition to collecting information via forms, we designed questionnaires to obtain the assessment of judges in

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3. *See* www.uscourts.gov/about-federal-courts/cameras-courts.

4. For more information about the video recording equipment and court procedures for recording proceedings, see *infra*, Court Staff Experience with Video Recording, page 45, and Appendix B.

the pilot courts and of attorneys in proceedings that were video recorded. And we interviewed all but one judge who presided over a video recorded proceeding, as well as court staff who supported the pilot project.[5]

## Limitations of the Pilot Project and Evaluation

As noted above, the pilot project was voluntary on all levels. Pilot courts volunteered to participate, as did the individual judges taking part in the project. Courtroom proceedings were recorded only if the court had consent from all parties. Parties could also make requests to exclude the testimony of certain witnesses or portions of a proceeding.

From a research standpoint, such a design limits the conclusions that can be drawn about the impact of video recording in the courts. First, the courts self-selected into the pilot project and are not necessarily representative of all 94 U.S. district courts; likewise, the views of the judges in non-pilot courts are not included in the study. Second, because recordings were made only with consent of the participants, we might expect that the views of participating judges and attorneys would, on average, be more favorable than the views of judges and attorneys who would not agree to video recording. Further, it is impossible to measure the *actual* effects of video recording, which would require comparison of proceedings that were video recorded with otherwise similar proceedings that were not video recorded.

We can, and did, however, look at the *perceived* effects of video recording, as reported by judges in the pilot courts and attorneys who experienced recording under the pilot project. We are also able to provide a thorough description of how the pilot project was implemented; the levels of judge participation and number of consents to record; the types of proceedings and cases that were recorded; judge, attorney, and court staff reports of their experience with and views of video recording; and the reasons why those who accessed the recordings did so. Thus, while we cannot draw causal conclusions and must view the survey and interview data in light of the voluntary nature of the pilot, we do have a good deal of information to report. Further, most of the subjective reports about the pilot project come from participants who have actual experience with video recording.

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5. We are very grateful to the 32 judges and 38 staff members we interviewed. Among the staff we interviewed were 13 people who served as liaisons between their courts and the Center's research team and to whom we owe a special debt of gratitude. We list their names on the acknowledgments page.

## Judge Participation in the Pilot Project

Ten of the 14 pilot courts implemented the project in 2011, six of them on the pilot project's official start date of July 18, 2011. Three courts implemented the pilot project in 2012, and the remaining court did so in 2013.[6] Table 1, below, lists the 14 volunteer courts along with their implementation dates, the number of judges who participated in the pilot project over the four-year project, and the number of judges the court thought might participate at the time the court submitted its application to be a pilot court.

As Table 1 shows, the number of participating judges—i.e., those who notified the parties in at least one proceeding of the opportunity to video record (column 3)—varied considerably from court to court. In some courts—for example, the Southern District of Iowa, the District of Massachusetts, the District of Nebraska, and the Western District of Washington—all or nearly all of the judges volunteered to participate in the pilot project (column 5), and many, though not all who volunteered, did participate (column 3). In other courts, such as the Northern District of California, the Southern District of Florida, and the Northern District of Illinois, a subset of the judges volunteered to participate, and a smaller set of those volunteers participated. And in several districts—for example, the Northern District of Ohio—only a small number of the court's judges volunteered to participate.

In the end, in most, but not all, pilot courts only a small number of the judges who volunteered had video recordings posted to the federal courts' website (column 4). In the District of Massachusetts, for example, four of the 12 judges who initially indicated an interest in participating recorded and posted a proceeding, and in the Eastern District of Missouri one of the eight interested judges recorded and posted a proceeding. In these and many other districts, however, considerably more judges attempted to record proceedings—for example, nine of the 12 judges who volunteered in the District of Massachusetts and three of the eight judges who volunteered in the Eastern District of Missouri. Overall, 64 judges, or 63% of those who were initially interested in participating in the pilot project, actually participated—i.e., notified parties of an opportunity to record a proceeding. And 33 judges, or a third of those who were initially interested, had a proceeding recorded and posted.

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6. By "implementation" we mean that the court had worked out the procedures to notify parties of the opportunity to record courtroom proceedings and to receive party consents and declinations; had adopted a local rule or general order authorizing video recording; and had sufficient equipment to record proceedings and post them at www.uscourts.gov.

Table 1: Implementation of Cameras Pilot Project, by District

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| District | Date Pilot Project Was Implemented[a] | Number of Active and Senior Judges Who Participated in the Pilot Project[b] | Number of Judges Who Recorded at Least One Proceeding[c] | Number of Judges the Court Thought Might Participate When Applying for the Pilot Project[d] |
| AL-M | 2.1.13 | 2 (of 5) | 1 | 3 (of 5) |
| CA-N | 10.3.11 | 6 (of 26) | 2 | 13 (of 18) |
| FL-S | 1.20.12 | 6 (of 25) | 3 | 9 (of 22) |
| GU | 7.18.11 | 1 (only judge on this court) | 1 | 1 |
| IL-N | 7.18.11 | 9 (of 42) | 2 | 18 (of 33) |
| IA-S | 8.29.11 | 6 (of 7) | 4 | 7 (of 7) |
| KS | 11.7.11 | 4 (of 10) | 4 | 5 (of 10) |
| MA | 10.17.11 | 9 (of 19) | 4 | 12 (of 14) |
| MO-E | 8.20.12 | 3 (of 12) | 1 | 8 (of 9) |
| NE | 7.18.11 | 3 (of 5) | 2 | 5 (of 5) |
| OH-N | 7.18.11 | 4 (of 14) | 2 | 3 (of 14) |
| OH-S | 7.18.11 | 2 (of 10 in the Columbus division) | 0 | 3 (of 15) |
| TN-W | 7.18.11 | 2 (of 8) | 2 | 4 (of 6) |
| WA-W | 3.15.12[e] | 7 (of 10 in the Seattle division) | 5 | 10 (of 10) |
| Total | NA | 64 | 33 | 101 |

a. This is the date the court began the pilot project. If there was not a precise start date and the court adopted a local rule, the start date is the date of local rule adoption or July 18, 2011 (the official start of the pilot project), if the local rule was adopted before that date.

b. The number of participating judges is the number who notified the parties, in at least one proceeding, of the opportunity to video record the proceeding. Some judges may not have received consent in any proceeding. The data are from records kept by the pilot courts. The total number of judges for each court is the count of all Article III judges on the court over the four-year pilot project.

c. The data are from records kept by the pilot courts and a count of the recordings posted at www.uscourts.gov.

d. This information is from the courts' applications to participate in the pilot project. The number in parentheses reflects the number of active and senior district judges on the court (or the participating division) at the time of the application.

e. The court received a request for video recording on this date, but full implementation of its pilot project awaited the arrival of recording equipment in October 2012.

A point that is clear from the information presented in Table 1 but bears emphasizing is that more judges participated in the video recording project—i.e., notified parties of the opportunity to record—than had a proceeding in which both parties consented to recording. This point is buttressed by data from our survey of all judges in the 14 pilot courts, shown in Table 2, below. Of the 110 judges who answered the survey, 65 judges (or 59%) wanted to participate, but only 27 (or 25%) had received party consent and recorded a proceeding that was posted to the website. In contrast, 29 judges (or 26%) said they did not want to, and did not, participate in the pilot project. The 15 "other" judges comprise those who, for example, were appointed to the court well after the pilot project began, who said no appropriate case had come along, or who said no one had asked to record a proceeding.

Table 2: Number of Judges Who Did and Did Not Participate in the Pilot Project (N=109)[a]

| Type of Participation | Number of Judges[b] |
|---|---|
| (A) Wanted to participate but had no proceedings recorded because parties did not consent | 37 |
| (B) Had at least one proceeding recorded and one or more posted to the website | 27 |
| (C) Had at least one proceeding recorded but none posted to website | 1 |
| (D) Did not wish to participate and did not participate | 29 |
| (E) Other | 15[c] |

a. The total number of respondents to the survey was 110 judges—61% of those who received the questionnaire (see page 24 for a discussion of the survey results). Here and in other tables reporting information from the judge survey, numbers may not total to 110 because of non-responses to a particular question or because portions of the questionnaire were presented only to judges who classified themselves as participants (rows A–C). Sixty-five judges were ultimately classified as participants, including seven judges who answered "Other" but could be recoded into the row A or B groups. The seven recoded judges did not answer survey questions that respondents to the row A–C options were routed to. Thus some tables are based on 57 respondents—i.e., those who selected options A–C when answering the survey.

b. The numbers in this table do not match comparable numbers in Table 1 because some judges in the pilot courts did not respond to the survey.

c. We could not recode more of the "other" judges into rows A–C because their responses did not provide enough information to know whether they intended to be participants in the pilot project.

The survey asked participating judges—and this includes those who wanted to video record a proceeding but had no consents—what prompted them to participate in the

pilot project, presenting them with several possible reasons. The most common reason for participation (see Table 3, below), selected by 39 judges (or 68%), was a sense of responsibility because their court had volunteered to be a pilot court. Twenty-four judges (or 42%) said they wanted to have a voice in policy decisions based on experience. Smaller numbers said they thought participation would be interesting (17 judges, or 30%), were curious about the technology (10 judges, or 17%), or were encouraged by someone else to participate (6 judges, or 11%). Other reasons given by judges included having had prior experience with cameras in state courts; having had a request to record in a particular case; and having a strong belief in making federal court proceedings accessible to the public.

Table 3: Reasons Judges Participated in the Cameras Pilot Project (N=57)*

| Reason for Participation | Number of Judges |
|---|---|
| Felt a responsibility to participate because the court volunteered to be a pilot court | 39 |
| Wanted a voice in policy decisions based on experience | 24 |
| Thought it would be interesting | 17 |
| Curious about the technology | 10 |
| A colleague or member of chambers staff encouraged the judge to try video recording | 6 |
| Other | 8 |

* Only judges who participated in the pilot project were routed to this question (see note a to Table 2). The numbers do not add to 57 because respondents could check more than one response.

## Notice, Consent, and Declination Procedures

The judges who participated in the pilot project did so under conditions that differed from court to court. Two procedures were central to executing the pilot project: (1) a procedure for notifying parties of the opportunity to video record a courtroom proceeding and (2) a procedure for obtaining party consents and declinations. Understanding the different approaches taken by the courts is important for understanding their experience with the pilot project and, especially, for understanding the data available for our evaluation.

As the pilot project was being launched, the CACM Committee sent implementation guidance to the pilot courts but gave them considerable discretion to design their own procedures for notifying parties of the opportunity to video record proceedings and for obtaining consent to record. Consequently, the courts' procedures

varied greatly, from those that had no formal procedures and left matters in the hands of participating judges to a court that presumed all courtroom proceedings would be recorded unless the parties affirmatively declined.

Below we describe the notice and consent procedures used in each pilot court. Our descriptions are based on interviews with judges who had recorded proceedings, staff who supported the pilot project, and court documents (e.g., local rules, websites, and data-collection forms submitted by the courts). Because use of the forms was not systematic in most courts, we almost surely do not know the full scope of judge efforts to notify parties of the video recording opportunity.[7]

*Middle District of Alabama*

The court set up a committee to implement the pilot project. Once the equipment was in place in late November 2012, the judge who chaired that committee sent a letter to every attorney with an active civil matter in the court, explaining that the court was part of the pilot project and asking the attorneys to identify proceedings in which they were involved and might consider recording under the pilot project. The letter noted that full implementation of the pilot would begin on February 1, 2013. Although no recordings occurred as a result of that initial outreach, two judges docketed orders in a small number of cases telling the attorneys to indicate whether they consented to the recording of all proceedings in those cases. Responses were to be sent to the court staff member who was also the liaison to the Center. In certain cases, in off-the-record discussions with attorneys before or after a regularly scheduled meeting, one of the two judges also mentioned the prospect of video recording. The court kept little formal documentation regarding notices and consents/declinations. The presiding judge and participating counsel were provided with a copy of the video recording within ten days of a recorded proceeding and had thirty days to review the recording and notify the court in writing of any desire to withdraw consent for posting the recording.

*Northern District of California*

The court implemented the pilot project on October 3, 2011. The court did not limit case eligibility for recording but expected to record primarily cases of public interest. Generally, the participating judges waited for a party or other entity—for example, the media—to file a request to video record a specific proceeding, although in at least

7. In May 2012, the chair of the CACM Committee sent a memo to the pilot courts suggesting that courts adopt a systematic approach to notification and consent to facilitate collection of comprehensive and more uniform data across the courts. The Committee did not require such procedures, however, because of its commitment to a pilot project that was fully voluntary.

one instance a presiding judge initiated the process. The court's website provided information on how to request that a proceeding be video recorded and was considered one of the methods for noticing parties, the public, and others of the opportunity to video record courtroom proceedings. The court adopted a uniform process for acting on requests to record, giving the clerk's office responsibility for notifying parties and managing consents and declinations. When a request was received, clerk's office staff notified all parties of the request and received the written consents and declinations. If a declination was received, the consent process was over and no further effort was made to obtain responses. The court's liaison sent the Center the completed notice and consent forms for proceedings in which there was a written request to video record a proceeding.

*Southern District of Florida*

The court implemented the pilot project on January 20, 2012. The court did not limit case eligibility, instead leaving it to each judge to determine which case types and proceedings might be appropriate for video recording. Participating judges typically spoke about the pilot project with attorneys on a case-by-case basis and received party responses orally. Two exceptions were a judge who, at the initial scheduling conference, gave written notice of the opportunity to record proceedings and a judge who, through the trial scheduling notice, notified all parties scheduled for trial that recording was possible. If the judges did not hear back from the parties, they assumed there was not consent to video record. The court's liaison sent the written notices for specific proceedings and party consent forms to the Center.

*District of Guam*

The court implemented the pilot project on July 18, 2011. The one judge in the District of Guam selected cases and proceedings in which she thought there would be substantial public interest. In those cases, a Notification of Request for Video Recording was docketed, and parties were asked to file their responses on a form provided by the court, although in some cases the parties declined verbally, without filing the form. The court's liaison kept a list of all notified cases and provided the corresponding documentation to the Center.

*Northern District of Illinois*

The court implemented the pilot project on July 18, 2011. The court did not limit case eligibility and left it to each judge to select proceedings appropriate to video record and to notify parties and receive consent forms. It appears that only a few judges developed standard procedures in their chambers for handling notifications and responses. One judge, for example, orally mentioned recording to attorneys in cases with an upcoming jury trial or substantial hearing and had her courtroom deputy follow up

with the attorneys by e-mail, providing them with consent/declination forms. Another judge entered a minute entry on the docket notifying attorneys in selected trials of the request to video record and asked them to indicate their consent/declination in their proposed pretrial orders. A third judge included a paragraph in her standard form for the parties' report of their Rule 26(f) planning meeting in which they were to indicate any expected evidentiary hearings and to certify that they had consulted the court's policy on cameras in the courtroom and would submit the Response to Recording Request when appropriate. This approach was used occasionally by a handful of other judges. Because no court-wide approach was adopted, it is possible that other judges may have informally discussed the prospect of recording with parties in a way not reflected in the docket and not resulting in recording.

*Southern District of Iowa*

The court implemented the pilot project on August 29, 2011. It adopted standardized procedures for notifying parties of proceedings eligible for recording and for obtaining consents and declinations. Parties received a notice when an initial scheduling order was docketed with a date set for trial; they then received additional notices as other proceedings were scheduled. Written consent or declination responses were required from parties seven days before the scheduled proceeding. If parties failed to respond within the time frame (a frequent occurrence), clerk's office staff made contact to determine whether a proceeding might be recorded. In such instances, no written consent or declination was available. Staff, however, recorded notice and consent information on each case in a spreadsheet designed for internal use, which they provided the Center. Case-type eligibility was not limited, although judges refrained from recording hearings involving prisoners and conducted by videoconference.

*District of Kansas*

The court implemented the pilot project on November 7, 2011. Approximately a year into the pilot project, the court changed its procedure from opt-in to opt-out—i.e., the court presumed that the parties in any scheduled courtroom proceeding consented to video recording unless a party affirmatively declined. A page on the court's website described the pilot project, including the presumption that all courtroom proceedings would be video recorded. When the court sent a notice (via CM/ECF) setting a proceeding date, the court simultaneously notified the parties that the proceeding would be recorded. Within this framework, the court left it to each judge to decide how much to encourage parties to consent and to determine the timing of declinations. The court requested that declinations be submitted in writing in advance of the proceeding but in practice also accepted written declinations made by parties who came to a proceeding and had forgotten to submit declinations earlier. The court's liaison sent the Center the written declinations on a periodic basis.

*District of Massachusetts*

The court implemented the pilot project on October 17, 2011. The court did not limit case eligibility and left it to each judge to determine which proceedings were appropriate for video recording. The participating judges were assisted by the court's study liaison, who helped identify proceedings and managed the notice and consent process. Formal notice of the request to record a proceeding was sent to parties via the court's CM/ECF system, and written party responses were received by the liaison. If a declination was received, the consent process was over and no further effort was made to obtain responses. The liaison kept a spreadsheet with information on each proceeding, which she periodically sent to the Center.

*Eastern District of Missouri*

The court implemented the pilot project on August 20, 2012. The court did not limit case eligibility and left it to each judge to determine proceedings appropriate for recording. Staff in the clerk's office—primarily the staff member who was also the liaison to the Center—helped identify suitable proceedings for some judges. If the judge agreed, a letter was sent to counsel from the clerk's office asking them to indicate whether they consented. The judge also sometimes discussed the matter in a pretrial conference, and not all responses were formally recorded. At least one judge mentioned a presumption of recording in every civil case-management order for a period of time, telling parties the case was eligible for the pilot project and that they needed to send a notice of nonparticipation if they chose not to consent.

*District of Nebraska*

The court implemented the pilot project on July 18, 2011. The court adopted standardized procedures for notifying parties of eligibility for recording and for obtaining consents and declinations. Whenever a trial was scheduled in a civil case, the courtroom deputy for the judge would docket a Notification of Request for Video Recording, giving the parties a deadline for responding, normally two weeks before the scheduled proceeding. Judges also occasionally identified additional hearings for video recording, and parties in those proceedings received notification. The court set up its CM/ECF system to also notify the Center of each notification that was sent out. As the date of the hearing approached, the courtroom deputy for the presiding judge sent a reminder regarding consent to parties who had not yet responded. The Center was automatically notified of all docket activity involving party consents or declinations.

*Northern District of Ohio*

The court implemented the pilot project on July 18, 2011. Individual judges determined which proceedings were appropriate for video recording, but in practice the judges focused on upcoming trials. The judges also determined the timing and procedure used to provide notice and gain consent. A court staff member systematically e-mailed notice and consent forms to parties on behalf of two participating judges; if there was no response, non-consent was assumed. This practice was in effect for almost half of the project's duration, but it ended upon the staff member's retirement, at which point notice and consent for the two judges became less formalized. Throughout the project, two other judges used informal procedures, discussing the project with parties and asking for consent (usually oral and undocumented) either at the final settlement conference or at the start of trial. Court liaisons sent the Center forms that were generated by the notice and consent procedures and provided information on some additional proceedings in a spreadsheet kept for internal use.

*Southern District of Ohio*

The court implemented the pilot project on July 18, 2011, adopting a standardized procedure for notifying parties of eligibility to record proceedings and automating much of the procedure for obtaining consent/declination. In cases assigned to three participating judges for which there was a trial request, the court sent written notice of the opportunity to video record; cases not on a trial track were ineligible for recording. Notices were automated through CM/ECF with a link to a general consent form for counsel to indicate whether they agreed to consider video recording future proceedings. Counsel were not required to act on the notice and rarely did so; failure to respond was treated as non-consent. Chambers staff were alerted to the few cases where consent to consider recording was obtained; they were then responsible to ask parties with upcoming proceedings whether they would consent to record the proceeding. The court's liaison sent forms to the Center for cases in which there was an affirmative consent or declination.

*Western District of Tennessee*

The court implemented the pilot project on July 18, 2011. The court did not limit case eligibility and left it to each judge to select proceedings appropriate for the pilot project. When a judge identified an appropriate proceeding, the court sent a formal notice to the parties via the CM/ECF system, along with the order scheduling the proceeding. The parties notified chambers directly whether they consented or declined. The court's liaison provided the Center with a CM/ECF-generated list of the proceedings that received notice and the proceedings that were video recorded.

### *Western District of Washington*

The court received a request for video recording in March 2012, but full implementation of its pilot project awaited the arrival of recording equipment in October 2012. By then, the district had adopted a standardized procedure for notifying parties about the opportunity to record proceedings and was also able to automate procedures for obtaining consent/declination. Counsel were required to state in the court's early joint status report whether they agreed to consider video recording of future proceedings. Where counsel agreed, the court sent a written request, each time there was a proceeding, to determine the parties' willingness to video record. Failure by a party to respond to the request before, typically, five days in advance of the proceeding was deemed non-consent. Court staff provided the Center with a spreadsheet showing summary information on notice and consent for each case and proceeding. Except for prisoner cases and civil commitments, the court did not limit case-type eligibility.

As these descriptions make clear, the pilot courts varied considerably in their implementation of video recording and in the information they recorded about notices and consents. In the next section, we describe the courts' experiences with the pilot project in terms of the number of proceedings the courts noticed, the number of consents received, and the number of recordings made in each district, based on the records kept by the courts.

## The Pilot Project in Numbers

In this section we report quantitative information about the number and types of proceedings noticed and recorded, the sources of notices or requests to record, and parties' reasons for not consenting to record. The information comes from forms generated or collected by the pilot courts, reviews of docket activity in courts that reflected pilot activity on the docket, survey responses from judges and attorneys, and interviews with court staff and judges who had recorded a proceeding.

### *Number of Video Recordings Posted*

The first video recording of the pilot project was made on July 21, 2011, three days after the project officially began, when the Western District of Tennessee recorded a preliminary injunction hearing filed by a television news anchor alleging a website had misused her face in pictures it posted on the site. The Northern District of Ohio followed two weeks later when it recorded a trial, held between August 2 and 11, in a breach of contract case between a hospital and a supplier of anesthesia equipment. Subsequently, all but one district posted at least one proceeding to the federal courts' website, for a total of 158 proceedings recorded and posted over the four-year pilot project, as shown in Table 4.

Several districts posted notably more proceedings than others—Kansas, Iowa Southern, Massachusetts, and Tennessee Western—which invites the question, "Why?" Is something common to these districts and not characteristic of others that might explain the higher number of recordings? We think there are two primary explanations.

First, some—but not all—of the districts with higher numbers of consents and recordings have a process that either notifies all eligible proceedings of the opportunity to video record or presumes that all proceedings will be recorded unless the parties affirmatively opt out (Iowa Southern and the District of Kansas typify each of the two approaches).

These approaches are not essential, however, as we see relatively high numbers of consents and recordings in some courts that do not use such methods.[8] A second reason, and the one that explains the relatively high number of recordings in such courts, is the level of judicial interest in using video recording and, in most instances, the expansiveness of the judge's view about the types of proceedings that were appropriate. In four of the pilot courts (Florida Southern, Massachusetts, Ohio Northern, and Tennessee Western), many, and in two of these courts nearly all, of the recordings were made before a single judge. And in three of these four courts, the judge video recorded a wide range of proceedings, including hearings on routine motions. For a fifth pilot court (Iowa Southern), which had the highest number of recorded proceedings, both explanations apply: the court automatically notified large numbers of cases of the opportunity to record, and a single judge accounted for a large number of the recorded proceedings.

8. The number of consents in one pilot district may be high relative to another pilot district, but all numbers are low relative to the total number of civil cases pending in the 14 pilot courts. Across the four years of the study, the average annual pending caseload ranged from a low of 174 in Guam to a high of 12,712 in Illinois Northern, with a mean across all courts of 4,448 pending cases (*Source:* http://jnet.ao.dcn/resources/statistics/fed-court-statistics/fcms-june-2015-district-courts).

Table 4: Number of Video Recorded Courtroom Proceedings Posted for Public Viewing at www.uscourts.gov, by District, as of July 18, 2015

| District | Number of Proceedings Posted at Website |
|---|---|
| AL-M | 1 |
| CA-N | 3 |
| FL-S | 10 |
| GU | 3 |
| IL-N | 2 |
| IA-S | 34 |
| KS | 26 |
| MA | 26 |
| MO-E | 2 |
| NE | 6 |
| OH-N | 11 |
| OH-S | 0 |
| TN-W | 22 |
| WA-W | 12 |
| Total | 158 |

Our interviews with judges who had recorded at least one proceeding suggest that some judges in courts with low levels of recording were reluctant to promote video recording of proceedings. As one judge, who sat in a court where requests for consent were left to judges, explained, "I didn't push [recording] at all. I didn't want to send a message that they'd be 'disappointing the judge' if they didn't consent." Another judge, in describing her court's practice of having the notification letter sent out from the clerk's office, said, "As judges, we weren't trying to put pressure on people."

Other judges pointed out that requesting video recording was not necessarily on their minds, because multiple other aspects of a scheduled proceeding competed for their attention. One judge said, "Sometimes informing the parties was just overlooked. Cases come off the calendar; hearings are rescheduled; things just happen. I probably didn't take advantage of the opportunity to broach the project as much as I could have." Another judge, from a court in which relatively few judges participated, said, "I think some of the other judges were not thrilled to have to undertake another

task. I believe many of them just did not think about the pilot project; it wasn't routine." A third judge said, "I have a lot on my plate, so haven't pursued the parties. I suppose if we asked, we could get more (consents)."

Thus, part of the variation in numbers of recorded proceedings could result from different views about the role of the judge and the types of proceedings appropriate for recording, as well as different views about the priority placed on notifying parties and encouraging them to record.

*Number of Proceedings Notified of a Request to Record and Ultimately Recorded*

As part of the project data collection, we asked the pilot courts to keep records of proceedings notified of the opportunity to video record and whether the parties consented or declined the opportunity to video record the proceeding. As we described in the preceding section, however, the courts' notice and consent procedures varied so widely that we have quite divergent data on notices and consents. We present the data in Table 5, below.

Column 1 in Table 5 shows the number of proceedings (not cases) that were notified of the opportunity to video record. Column 2 shows the subset of notified proceedings in which all parties consented to record. The numbers presented in these two columns reflect the proceedings for which there is evidence of notification and consent in either court records or in forms that were developed for the project. Courts found it difficult to track instances in which a judge spoke informally with attorneys about recording a proceeding or received only an oral declination during a discussion. In courts where such overtures were frequent, the notification numbers of column 1 could be a substantial undercount.

Columns 3 through 5 in Table 5 show what happened to proceedings in which there was consent to record. Column 3 reports the number of consented proceedings actually held, which sets a threshold for how many proceedings could actually be video recorded. Column 4 reports the number of proceedings that ultimately were video recorded, and column 5 shows the number that were posted for the public to view.

Documented notice was given to parties in 1,512 proceedings. Parties in many proceedings declined video recording, doing so by affirmatively turning down the opportunity to video record or by *not* responding if responses were not required. Parties in 228 proceedings, or 15% of those noticed, did, however, consent to video recording. Of the consented proceedings, 192 (84%) were actually held, and of those, 186 proceedings, or 97% of those that were held, were recorded. For reasons not in the record, six were not. Most of the recorded proceedings were posted on the federal courts' public website—158 altogether, or 85% of those that were recorded, but 28 of those recorded were not posted. Again, court records do not show the reasons, although judges and staff noted some reasons in questionnaires and interviews, as discussed on page 18.

Table 5: Number of Courtroom Proceedings Noticed, Consented, Held, Recorded, and Posted, as of July 18, 2015

| District | 1<br>Number of Proceedings Notified of Opportunity To Record | 2<br>Number of Proceedings with Consent To Record | 3<br>Number of Consented Proceedings Where Proceeding Was Held | 4<br>Number of Proceedings Video Recorded | 5<br>Number of Proceedings Posted at www.uscourts.gov |
|---|---|---|---|---|---|
| AL-M | 1[a] | 1 | 1 | 1 | 1 |
| CA-N | 12 | 4 | 3 | 3 | 3 |
| FL-S | 52 | 18 | 10 | 10 | 10 |
| GU | 10 | 3 | 3 | 3 | 3 |
| IA-S | 418[b] | 67 | 48 | 37 | 34 |
| IL-N | 22[c] | 4 | 3 | 3 | 2 |
| KS | 52[d] | 27 | 27 | 27 | 26 |
| MA | 240 | 42 | 41 | 47 | 26 |
| MO-E | 10 | 2 | 2 | 2 | 2 |
| NE | 285 | 6 | 6 | 6 | 6 |
| OH-N | 38 | 16 | 13 | 13 | 11 |
| OH-S | 313 | 0–5 estimated (precise figure not known) | 0–5 estimated (precise figure not known) | 0 | 0 |
| TN-W | 32 | 24 | 23 | 22 | 22 |
| WA-W | 27[e] | 14 | 12 | 12 | 12 |
| Total | 1,512 | 228 | 192 | 186 | 158 |

a. We learned after our analyses were completed that two additional cases in AL-M had been noticed and recorded during the pilot. Neither was posted, however, likely because this district permitted attorneys to withdraw consent for posting within 30 days after a recorded proceeding.

b. This number is an undercount of proceedings that were provided notice of the opportunity to record. It does not include, for example, every case that terminated short of the date set for trial in the initial scheduling order and for which no party consent or declination was received.

c. This number does not include 138 cases in which the Rule 26(f) planning meeting report filed by the parties at the direction of the judge acknowledged the pilot project, noted upcoming proceedings that could potentially be eligible for recording, and indicated that parties should file appropriate forms to request recording.

d. This number reflects the proceedings for which the court had forms submitted by the parties. It almost surely does not represent the number of proceedings that were scheduled for the courtrooms and that were consequently subject to the presumption that they would be video recorded.

e. This number reflects only proceedings scheduled under one of two circumstances: cases where parties had indicated through prescreening their willingness to consider video recording and the relatively small number of cases receiving notification outside of the court's standardized procedures. It does not reflect the number of cases in which parties learned of the pilot project through the order on the joint status report, which then required them to state whether they would consider a future request to video record a scheduled proceeding. According to court records, parties in 1,161 cases were apprised of the project by September 18, 2015, and 306 (26%) agreed to consider a future request. Of these 306 cases, 218 (71%) closed without a proceeding eligible to be recorded.

Note the steep decline between the number of noticed proceedings and the number of proceedings with consent to record (columns 1 and 2). The decline is not wholly a reflection of parties' or judges' reluctance to record. As noted in the discussion of procedures for notification and consent, proceedings in which parties were notified of an opportunity to record were linked in two courts (Iowa Southern and Nebraska) to the scheduling of a trial that was often set a year or more in the future. Party responses were not due until close to the trial date, and most cases terminated short of trial, with therefore no decision made by parties to consent or not. A similar effect occurred on a lesser scale with other types of proceedings in these and several other courts.

In such instances, we often cannot know whether parties would or would not have declined the recording of the proceeding, had it taken place. The normal progression of cases through the courts produces attrition that affects the opportunity for a recording to take place. Just over a third of all proceedings notified of the opportunity to record (34%), for example, were not actually held.[9]

Data from interviews, discussions with liaisons, and our survey of pilot court judges give us some information about recordings that were made but not posted. Interviews and discussion with court staff revealed that the quality of a recording was sometimes not good enough to post a recording online or that judges sometimes held back a recording if a party expressed post-recording reservations. In the judge survey, three judges told us they held back a recording for reasons of poor quality, and another judge indicated that a recording was not posted because it offered no content of public interest. No judge who responded to the survey selected three other possible reasons for not posting a recording: content not compliant with pilot guidelines, a party request not to post, or the recording was made for another purpose.

Interviews with judges revealed some additional reasons for not posting a recorded proceeding. One judge, for example, indicated that he decided not to post a proceeding in which a witness had testified at length about why another individual was lying. The judge did not think the information given by the witness was false, but believed the testimony was overly personal and therefore not suitable for posting. He went on to say, "A judge needs to think about the benefits gained by posting an inflammatory or personal recording because it becomes part of the permanent record. This is an area where judges need more guidance." Another judge described a situation in which an exhibits camera recorded confidential evidence that should not have been captured. Although the judge originally instructed IT staff to edit out the confidential information, that task proved to be too burdensome and time consuming, so the judge de-

9. The percentage of the study's noticed proceedings that were actually held is derived from data we coded from PACER (Public Access to Court Electronic Records) or that were furnished by the pilot courts. The data do not appear in the tables of the report, but are available on request.

cided that the recordings from the exhibits camera would not be uploaded. And another judge decided not to post a recorded proceeding because it was made in a hearing held by videoconference, and the fact that everyone was not in the same location made it "awkward" in terms of recording.

We also know from interviews that at least two judges had proceedings recorded (with party consent) for a purpose other than posting online: one for his own use in reviewing complex patent evidence and the other for use in teaching law school classes. A third judge recorded (with a camcorder) a hearing held at an outdoor site visit, but did not post that recording, as she made the recording primarily to help capture what was said for her later review. In addition, several pilot courts at least occasionally used the video equipment for purposes other than recording a case proceeding, such as for investitures, naturalization or other ceremonies, moot court proceedings, and streaming video to an overflow courtroom (without recording).

### *Types of Proceedings Noticed and Recorded*

Table 6, below, presents the wide range of proceeding types that the pilot courts video recorded. Trials are very likely the expected choice for video recording, and they were certainly the most frequently notified of the opportunity to record—973 notices (or 64% of all notified proceedings)[10]—but the most common type of proceeding actually video recorded and posted was a hearing—110 altogether (or 70% of all posted recordings). Among the types of hearings recorded and posted, hearings on dispositive motions were the most numerous (24, or 22% of posted hearings), but evidentiary hearings appear prominently as well (19, or 17% of posted hearings). Jury trials were the least likely proceeding to be consented, recorded, and posted (31, or 4% of jury trials notified), but this is largely because trials in general, and jury trials in particular, were the least likely noticed proceeding type to be held (13% for jury trials, compared to non-trial proceedings, of which between 79% and 100% were held, depending on type).[11]

10. This large number is partly an artifact of the Iowa Southern and Nebraska practices of noticing all cases at the time a trial date was set.

11. *See* note 9, *supra*.

Table 6: Number of Proceedings Noticed, Consented, Held, and Posted, by Type of Proceeding

| Type of Proceeding | Number of Proceedings Notified of Opportunity To Record | Number of Proceedings with Consent To Record | Number of Consented Proceedings Where Proceeding Was Held | Number of Recordings Posted to www.uscourts.gov |
|---|---|---|---|---|
| Conference | 48 | 14 | 11 | 8 |
| Hearing, dispositive motion | 119 | 34 | 33 | 24 |
| Hearing, evidentiary (including *Markman* & *Daubert*) | 58 | 22 | 22 | 19 |
| Hearing, settlement/fairness | 9 | 2 | 2 | 1 |
| Hearing, TRO/ preliminary injunction | 19 | 8 | 7 | 7 |
| Hearing, other | 286 | 84 | 74 | 59 |
| Trial, jury | 827 | 48 | 33 | 31 |
| Trial, non-jury | 130 | 11 | 7 | 7 |
| Trial, unspecified | 16 | 5 | 3 | 2 |
| Total | 1,512 | 228 | 192 | 158 |

### *Types of Cases Noticed and Recorded*

Table 7, below, reports the number of proceedings video recorded by type of case. Case types that received the largest number of notices of the opportunity to record were civil rights, contracts, and personal injury/product liability cases, along with cases classified under the "other statutes" category. Not surprisingly, these are among the most common case types filed in federal courts. Two other common types of cases, prisoner and Social Security cases, were noticed far less often, reflecting the policy or practice in many courts of excluding these case types from the pilot project.

Of the most frequently notified case types (i.e., at least 100 noticed cases), the case types most likely to consent were those classified as patent/copyright/trademark, other statutes, and labor (37%, 17%, and 15%, respectively). Patent/copyright/trademark cases were the most likely to be recorded and posted: 26% of those notified resulted in a recording posted online.

Table 7: Number of Proceedings Noticed, Consented, Held, and Posted, by Type of Case

| Type of Case (NOS Code) | Number of Proceedings Notified of Opportunity To Record | Number of Proceedings with Consent To Record | Number of Consented Proceedings Where Proceeding Was Held | Number of Recordings Posted to www.uscourts.gov |
|---|---|---|---|---|
| Civil Rights | 428 | 56 | 47 | 40 |
| Contracts | 327 | 39 | 35 | 27 |
| Torts: Personal Injury/Product Liability | 173 | 14 | 12 | 11 |
| Labor | 144 | 22 | 17 | 13 |
| Patent/Copyright/ Trademark | 107 | 40 | 31 | 28 |
| Prisoner Petitions | 46 | 12 | 11 | 8 |
| Real Property | 40 | 4 | 4 | 3 |
| Torts: Personal Property | 38 | 7 | 6 | 4 |
| Federal Tax Suits | 15 | 0 | 0 | 0 |
| Forfeiture/Penalty | 15 | 0 | 0 | 0 |
| Bankruptcy | 6 | 1 | 1 | 1 |
| Social Security | 4 | 3 | 2 | 1 |
| Immigration | 2 | 1 | 1 | 1 |
| Other Statutes | 167 | 29 | 25 | 21 |
| Total | 1,512 | 228 | 192 | 158 |

*Sources of Requests or Suggestions to Record*

From information provided by the courts, we know who initiated the notice to parties of the opportunity to have their proceeding video recorded. As Table 8, below, shows, and as we would expect from the procedures used by the courts, the most common source of the request to video record was the automatic notice sent by several pilot courts. Of the 1,512 proceedings that were notified of the opportunity to video record, 1,374 received notification because it was the court's practice to send such notices. In 110 instances, the judge suggested that the proceeding be recorded. In many fewer proceedings, the source of the request to video record was the media, a party, or the public.

Table 8: Source of the Request, or the Suggestion, to Video Record a Proceeding

| Source of the Request or Suggestion | Number of Proceedings Subject to That Type of Source |
|---|---|
| Court notice | 1,374 |
| Judge | 110 |
| Media | 18 |
| Party | 6 |
| Public | 3 |
| Unknown | 1 |
| Total | 1,512 |

*Party Reasons for Non-Consent to Video Recording*

From records kept by the courts, we know, to some extent, the reasons parties declined to video record a proceeding. We have this information only for parties who submitted forms on which they stated reasons. For some proceedings, no parties submitted forms, which some courts, depending on their procedures, interpreted as a declination. For other proceedings, parties submitted forms declining to record, but did not (or could not, if the court used a form that did not provide a place for the information) state a reason. Some courts affirmatively called or e-mailed parties that had not responded, but if one party to the case declined to record, attempts to reach all parties would usually be halted, since responses by additional parties would make no difference in the outcome. Accordingly, the information we present about the reasons given for declining the opportunity to video record is illustrative but not complete.

Table 9, below, describes the reasons submitted for parties' decisions to decline to video record their proceedings. Parties most often declined for reasons of confidentiality—177 instances altogether, including confidentiality of proprietary or business information, personal or medical information, and information covered by a protective order. Closely related, parties in 39 instances were concerned about exposure of a non-public figure, and in 18 instances parties were concerned about publicity. In 45 instances, parties simply stated that they did not want their proceedings video recorded.

Table 9: Reasons Parties Gave for Declining the Opportunity to Video Record a Proceeding

| Reason for Declining to Video Record | Number of Proceedings for Which at Least One Party Gave this Reason* |
|---|---|
| Protect confidential proprietary or business information | 51 |
| Protect confidential medical, psychological, or other personal information | 44 |
| Protect confidential financial information | 43 |
| Protect other, unspecified confidential information | 29 |
| Protect information in a protective order or confidential settlement agreement | 10 |
| Party does not wish to be recorded or have proceeding recorded | 45 |
| Party wants to prevent exposure of a non-public figure | 39 |
| Party does not want publicity, further publicity, or adverse publicity | 18 |
| Party does not want case tried in the media | 2 |
| Recording will make participants anxious or will distract them | 15 |
| Video recording would be disruptive, would undermine courtroom dignity and decorum | 3 |
| A party has fears for personal safety | 3 |
| Logistical complications, insufficient time to arrange consent | 3 |
| Video recording will prejudice some or all participants | 1 |
| Video recording would violate DOJ or other government agency policy | 1 |
| Other | 47 |

* Parties could give more than one reason for declining. We counted each reason separately, but counted a reason only once for each proceeding—i.e., if two parties gave the same reason for a given proceeding, we counted that reason once.

Few parties voiced concern about some of the traditional arguments for prohibiting cameras in courtrooms. Parties in 15 proceedings declined because of concerns that video recording would make participants anxious or distract them. In three proceedings, there were concerns that video recording would disrupt the decorum and dignity of the courtroom, and in two proceedings parties declined because they did not want their case tried to the media. The "other" category of declinations includes a great variety of reasons that do not fall into the categories above, including statements that the type of proceeding was inappropriate, the testimony would be graphic,

the issues had no value for the general public, a recording offered no benefit beyond what a transcript provides, and recording would not be in the party's best interests. Again, keep in mind that the numbers are not a comprehensive count of the reasons for declining to video record, though we have no reason to doubt that their relative size is indicative of the frequency of parties' reasons.

## Pilot Court Judges' Views of Video Recording Courtroom Proceedings

At the close of the pilot project, we sent an online questionnaire to all judges in the pilot courts, whether they had participated in video recording or not. Of the 180 judges who received the questionnaire, 61% (110) responded (see Appendix C for the questionnaire). The respondents included both participants and non-participants in the pilot project—29 judges and 65 judges, respectively.[12] We also interviewed 33 judges—i.e., every judge who had presided over a video recorded proceeding, including judges who had only one such proceeding (see Appendix C for the interview protocol).

### *Pilot Court Judges' Perceptions of Effects of Video Recording on Participants and the Public*

Over the years during which the use of cameras in courtrooms has been debated, judges, attorneys, researchers, and others have suggested a wide range of possible positive and negative effects from the use of cameras in courtrooms. Although the video recording cameras operated by the courts in the pilot project may differ significantly from the presence of media cameras in the courtroom, the effects we examined mirror those examined by previous research (including ours[13]), in large part for continuity in the type of data collected.

In Table 10, below, we report the pilot court judges' views of the impact of video recording on participants in courtroom proceedings. The numbers come from our online questionnaire and include both judges who did and did not participate in the pilot project. Recall that we are reporting the judges' perceptions about the effects of video recording and not actual measured effects. Also recall that the views of judges in the volunteer pilot courts may not reflect the views of district judges generally. We did not survey witnesses or jurors because most of them have little or no courtroom experience on which to assess whether they are, for example, nervous because of the

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12. Note that not all judges who participated in the pilot project responded to the survey, so the numbers of judges who recorded proceedings does not match the number of participants who completed the questionnaire. Note also that 16 survey respondents did not provide a response that permitted classification as "participant" or "non-participant."

13. Molly Treadway Johnson & Carol Krafka, Electronic Media Coverage of Federal Civil Proceedings: An Evaluation of the Pilot Program in Six District Courts and Two Courts of Appeals, Report of the Federal Judicial Center to the Committee on Court Administration and Case Management of the Judicial Conference (Federal Judicial Center 1993).

presence of video recording or because being in a courtroom proceeding itself makes them nervous. Thus we rely on more experienced participants—judges and attorneys—for their perceptions of the effects on witnesses and jurors.

The online questionnaire asked judges to assess the degree to which video recording has a variety of effects, using a response scale that ranged from "no extent" to "a great extent" or, in the alternative, marking "no opinion." The question about effects, by design, produced a large volume of information. To facilitate analysis and discussion, we condensed the categories into fewer than five, recognizing there are multiple ways this could be done.

Different ways of grouping the categories on the response scale can emphasize different points. One option would be to group the "small," "moderate," and "great" effect responses into a single category. This approach reveals the percentage of respondents who perceive any effect at all, regardless of the magnitude of the effect. Another option would be to let the "great extent" category stand on its own, while grouping the three lower effect categories into a single group. This choice highlights the percentage of respondents who see the greatest impact compared to those who see lesser impacts (again, regardless of magnitude). How to handle "no opinion" responses is a separate question. The percentages that describe judges' perceptions about effects will be different, depending on whether "no opinion" responses are considered as data—i.e., percentages will be larger for all measures of perceived effects when "no opinion" responses are removed.

In the discussion below, we group the "no extent" and "small extent" responses and the "moderate extent" and "great extent" measures. The percentages we show in Table 10 are computed with "no opinion" responses retained, but we also provide a summary of the findings in text, with "no opinion" removed.[14] All the data are presented in the table, which will permit readers to group the data differently if they want to make different comparisons. We cannot determine from the survey what lies behind a judge's choice of the "no opinion" response. Judges may select the option because they have not formed a view on the extent to which a particular effect exists, or they may not feel they have enough experience to offer an informed view on the effect.

For most of the effects of video recording listed in Table 10, the pilot judges' responses fall disproportionately in columns 1 and 2—i.e., the presence of video recording affects participants to no extent or to a small extent. The responses apply to claims for camera coverage that are balanced between purported positive and negative effects (e.g., "motivates attorneys to come to court better prepared" versus "causes attorneys to be more theatrical in their presentation"). If we use as our cut-

14. Tables showing alternative groupings of the judge survey data are shown in Appendix D.

off the "majority" of judges (i.e., 55 or more of the 110 total respondents to the questionnaire, some of whom provided no opinion), we find that the majority of judges think that nearly every effect occurs to little or no extent, whether the impact is on witnesses, jurors, attorneys, or judges.

Table 10: Extent to Which Pilot Court Judges Think the Presence of Video Recording Has the Listed Effects (N=110)

| | 1<br>To No Extent | 2<br>To a Small Extent | 3<br>To a Moderate Extent | 4<br>To a Great Extent | 5<br>No Opinion | 6<br>Total |
|---|---|---|---|---|---|---|
| Motivates witnesses to be truthful | 55 (51%) | 17 (16%) | 11 (10%) | 0 (0%) | 24 (22%) | 107 |
| Distracts witnesses | 29 (27%) | 27 (25%) | 17 (16%) | 19 (18%) | 14 (13%) | 106 |
| Makes witnesses more nervous than they otherwise would be | 26 (25%) | 32 (31%) | 12 (12%) | 22 (21%) | 11 (11%) | 103 |
| Increases juror attentiveness | 52 (49%) | 20 (19%) | 11 (10%) | 4 (4%) | 18 (17%) | 105 |
| Signals to jurors that a witness or argument is particularly important | 54 (50%) | 16 (15%) | 10 (9%) | 8 (7%) | 19 (18%) | 107 |
| Increases jurors' sense of responsibility for their verdict | 49 (47%) | 22 (21%) | 10 (9%) | 4 (4%) | 20 (19%) | 105 |
| Prompts people who see coverage to try to influence juror-friends | 44 (41%) | 13 (12%) | 14 (13%) | 6 (6%) | 29 (27%) | 106 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 60 (57%) | 16 (15%) | 8 (8%) | 2 (2%) | 20 (19%) | 106 |
| Motivates attorneys to come to court better prepared | 25 (24%) | 33 (31%) | 30 (28%) | 9 (8%) | 9 (8%) | 106 |
| Causes attorneys to be more theatrical in their presentation | 28 (26%) | 20 (19%) | 20 (19%) | 28 (26%) | 10 (9%) | 106 |
| Prompts attorneys to be more courteous | 29 (28%) | 33 (31%) | 25 (24%) | 7 (7%) | 11 (10%) | 105 |

*continued on next page*

Table 10 (continued)

| | 1<br>To No Extent | 2<br>To a Small Extent | 3<br>To a Moderate Extent | 4<br>To a Great Extent | 5<br>No Opinion | 6<br>Total |
|---|---|---|---|---|---|---|
| Increases judge attentiveness | 52 (50%) | 25 (24%) | 12 (11%) | 6 (6%) | 9 (9%) | 104 |
| Causes judges to avoid unpopular decisions or positions | 75 (71%) | 11 (10%) | 4 (4%) | 2 (2%) | 14 (13%) | 106 |
| Causes judges to be more theatrical in conducting the proceeding | 53 (50%) | 29 (27%) | 5 (5%) | 3 (3%) | 16 (15%) | 106 |
| Prompts judges to be more courteous | 41 (39%) | 34 (32%) | 16 (15%) | 4 (4%) | 11 (10%) | 106 |
| Disrupts courtroom proceedings | 47 (45%) | 25 (24%) | 11 (11%) | 11 (11%) | 10 (10%) | 104 |
| Educates the public about courtroom procedure | 6 (6%) | 25 (24%) | 37 (36%) | 26 (25%) | 9 (9%) | 103 |
| Educates the public about the legal issues in court cases | 9 (8%) | 33 (31%) | 33 (31%) | 22 (21%) | 9 (8%) | 106 |
| Increases public access to the federal courts | 11 (10%) | 21 (20%) | 29 (27%) | 33 (31%) | 12 (11%) | 106 |
| Decreases public confidence in the federal courts | 72 (68%) | 11 (10%) | 5 (5%) | 1 (1%) | 17 (16%) | 106 |
| Increases public confidence in the federal courts | 25 (24%) | 19 (18%) | 20 (19%) | 23 (22%) | 19 (18%) | 106 |

* The total number of questionnaire respondents was 110 judges. Here and in other tables reporting information from all respondents to the survey, numbers may not total to 110 because of non-responses to a question.

While the pilot judges think video recording mainly affects participants to no or a small extent, they are especially likely to think so regarding effects on judges and jurors. Regarding judges, close to three-quarters or more of the respondents think video recording has little or no effect in the following ways: causes judges to avoid unpopular decisions or positions (86 judges, or 81%); causes judges to be more theatrical (82, or 77%); increases judges' attentiveness (77, or 74%); or prompts judges to be more courteous (75, or 71%). Regarding jurors, two-thirds of the judges think video recording has no effect or a small effect in increasing jurors' attentiveness (72,

or 69%); increasing jurors' sense of responsibility for their verdict (71, or 68%); or signaling to jurors that a witness or argument is particularly important (70, or 65%).

In considering judges' opinions regarding the effects of video recording on judges, it is worth noting that several pilot court judges chose not to have themselves shown during a recorded proceeding. Similarly, with respect to jurors, some judges did not mention to jurors that a trial in which they were serving was being video recorded. In these situations, the perceived likelihood of video recording affecting those participants would presumably be diminished.

Singling out the perceived effects video recording may have on witnesses, two-thirds of the judges think it has no effect or a small effect in motivating witnesses to be truthful (72 judges, or 67%), and half think it has no effect or a small effect in distracting them (56, or 53%) or making them nervous (58, or 56%). With regard to attorneys, nearly three-quarters of the judges think video recording of court proceedings has no effect or a small effect in causing them to urge their clients to consent to please the judge (76, or 72%), while somewhat more than half the judges think it has no effect or a small effect on motivating them to come to court better prepared (58, or 55%) or prompting them to be more courteous (62, or 59%). More than two-thirds of the pilot judges also think video recording has no effect or a small effect in disrupting courtroom proceedings (72, or 69%).

Regarding the effect of video recording on the public, most pilot judges think it has no effect or a small effect on decreasing public confidence in the federal courts (83 judges, or 78%), but their views are evenly balanced on whether it increases public confidence in the federal courts (44, or 42%, saying no effect or a small effect and 43, or 41%, saying a moderate or great effect). Somewhat more than half the judges think video recording has a moderate or great effect on increasing public access to the federal courts (62, or 58%) and educating the public about courtroom procedure (63, or 61%). Half (55, or 52%) think it educates the public about legal issues in court cases.

These effects on the public are the only effects where a majority of the pilot judges think the effect occurs to a moderate or great extent. To find any sizable number of judges who think an effect occurs to a moderate or great extent, we have to extend our definition of "sizable" to include a third or more of the responding judges. Using that cut-off, the following additional effects of video recording are reported as moderate or great: causes attorneys to be more theatrical in their presentation (48 judges, or 45%); motivates attorneys to come to court better prepared (39, or 37%); and distracts witnesses (36, or 34%).

A sizable minority of pilot judges—though still a minority—reported having no opinion on some of the listed effects of video recording. Twenty or more judges did not offer a view on the following effects: prompts people who see coverage to try to influence friends serving as jurors (29 judges, or 27%); motivates witnesses to be truthful

(24, or 22%); increases jurors' sense of responsibility for their verdict (20, or 19%); and causes attorneys to urge their clients to consent to please the judge (20, or 19%).

If we remove judges who indicated they had no opinion from each analysis of a perceived potential effect, the percentages in each of the remaining categories (to no extent, to a small extent, to a moderate extent, and to a great extent) are necessarily higher. Using that analysis, the percentage of pilot judges who thought the presence of video recording moderately or greatly causes attorneys to be more theatrical in their presentation rises to 50%. The percentages who thought recording moderately or greatly distracts witnesses or makes witnesses more nervous than they otherwise would be rises to 39% and 37%, respectively. One-third or fewer of judges who provided an opinion believed any other potentially negative effects occurred to a moderate or great extent. In terms of positive potential effects, two-thirds of judges who expressed an opinion thought video recording moderately or greatly increases public access to the federal courts and educates the public about courtroom procedure (66% and 67%, respectively).[15]

Following these questions about effects, two open-ended questions gave pilot judges an opportunity to comment on any other benefits or harms produced by video recording of court proceedings.[16] The benefits mentioned most frequently by the 35 judges who responded (about a third of whom had recording experience in the pilot) were increasing public access to, confidence in, and understanding of the federal courts. Example comments include:

> . . . Anything that improves public access to and awareness of what we do in court is good in so many ways. It affirms our special tradition of open and public proceedings, the peaceful resolution of conflicts, the rule of law and impartial justice, the separation of powers, the role of the Constitution, and more.
> *[from a judge who wanted to participate but did not have the opportunity]*

> I have advocated cameras in the courtroom for years, as I believe it is consistent with our mission to educate the public about what we do, and because I believe that complete transparency can only enhance overall confidence in the courts.
> *[from a judge who recorded more than one proceeding]*

Other potential benefits cited included the following: improving attorney performance through use of the video recordings in training; assisting the presiding judge or a reviewing court by having a video record of the proceeding; prompting attorneys

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15. Appendix D, Tables 5.a and 5.b, provides an additional analysis that looks at the differences between participating and non-participating judges' views of video recordings' effects.

16. All judge and attorney responses to open-ended questions on the questionnaires can be found in Appendix F.

to be more courteous and better prepared; and making media reports of a court proceeding more accurate. Three judges, in response to the question about benefits, said they did not see any benefits of video recording or that potential harms outweighed any benefit.

With respect to potential harms from video recording, among the 31 pilot judges who commented (12 of whom had recording experience in the pilot), the most commonly cited potential harms had to do with influencing the behavior of or putting stress on attorneys, witnesses, and jurors. Illustrative comments include:

> I continue to think that, on the whole, the risk of increased lawyer, and sometimes judge, theatrics, as well as increased anxiety and pressure on witnesses, jurors, staff, and judges far outweighs any benefit flowing from video recording.
> *[from a judge who wanted to participate but did not have the opportunity]*

> The only real harm is the decorum of the court and the stress on the participants. I think trials are already stressful enough for the lawyers that the added pressures of having to think about how what they say and do looks like on TV is potentially an unnecessary burden for them to bear. The parties are rightfully more concerned about their case and what's at stake than about educating the public.
> *[from a judge who did not want to participate]*

Other potential harms noted include the following: jurors potentially watching proceedings or having others comment about proceedings to a juror; the risk of equipment problems; and distracting the participants, each of which was mentioned by one or two respondents. Ten judges who responded to this question, nine of whom had recording experience under the program, indicated that they did not believe video recording causes harms or that any potential harms can be controlled by the judge, for example:

> My experience tells me that no meaningful harm is presented by the presence of cameras in the courtroom. There are sufficient protective steps available to the trial judge to handle most if not all potential harm.
> *[from a judge who participated but did not have a recorded proceeding]*

In our interviews with judges who had recorded at least one proceeding during the pilot, we also asked them the following question: "Based on your observations, do you believe the fact that a proceeding is being video recorded affects any of the participants—yourself, attorneys, witnesses, jurors—in a significant way, either positively or negatively?" Of the 29 judges who responded to this question, 23 reported that they did not think there were any effects. Six judges said they had noticed effects, including the following: better preparation by attorneys (2 judges); attorneys being slightly more vociferous or theatrical (2 judges); attorney presentations being more

formalized (1 judge); attorneys and the judge being more attentive (1 judge); attorneys acting better towards each other (1 judge); and one attorney acting more nervous (1 judge), although that judge was not certain if the increased nervousness was attributable to the recording.

None of the judges responding to this interview question mentioned any effects on jurors or witnesses. As one judge said, "The jurors didn't seem particularly interested [in the fact the proceeding was being recorded]. They didn't seem to notice."

*Pilot Court Judges' Views on the Operational and Administrative Effects of Video Recording*

A number of negative operational and administrative effects of video recording had also been suggested prior to the pilot project. Table 11, below, reports the extent to which these possible effects were realized, as assessed by the 25 questionnaire respondents who had presided over a video recorded proceeding. Again, judges assessed these effects on a scale that ranged from "no extent" to "a great extent." And, as with the questions about video recordings' effects, we condense the information in the table for the discussion below. For most effects shown in Table 11, we report the responses in two groups, the first one combining the "no extent" and "little extent" responses and the second one the "moderate extent" and "great extent" responses. As we discussed on page 25, the categories could be grouped differently, which would provide other comparisons.

As is readily apparent from the table, few of the judges who presided over a video recorded proceeding experienced the hypothesized operational or administrative effects to a moderate or great extent. One judge of the 25 respondents said that ruling on applications for and objections to video recording took too much time "to a great extent." Twelve judges, however, said that operating the video recording equipment took too much judge or court staff time with some frequency—to a small extent in the view of nine judges and to a moderate or great extent in the view of three judges. We will see this assessment echoed below in our discussion of the experience of pilot court staff.

Table 11: Extent to Which Judges Who Presided Over a Courtroom Proceeding That Was Video Recorded Felt Their Operational and Administrative Concerns Were Realized (N=25*)

| | To No Extent | To a Small Extent | To a Moderate Extent | To a Great Extent | No Opinion | Total |
|---|---|---|---|---|---|---|
| Ruling on applications for and objections to video recording took too much time | 22 | 2 | 0 | 1 | 0 | 25 |
| Operating the video equipment took too much of judge or court staff time | 13 | 9 | 2 | 1 | 0 | 25 |
| The presence of cameras disrupted courtroom proceedings | 23 | 2 | 0 | 0 | 0 | 25 |
| Someone or something that was not appropriate to record (e.g., a juror) was recorded and disseminated | 21 | 2 | 0 | 0 | 1 | 24 |
| The judge said or did something embarrassing that was recorded and disseminated | 22 | 1 | 0 | 0 | 1 | 24 |
| A recording was altered in a way that was unfavorable to the judge or one of the proceeding participants | 23 | 1 | 0 | 0 | 0 | 24 |
| The judge's safety was compromised by having recordings of proceedings disseminated | 24 | 0 | 0 | 0 | 0 | 24 |

* Only judges who indicated that they had presided over a video recorded proceeding were directed to this question.

For all other operational and administrative effects—disruption of courtroom proceedings, recording and dissemination of inappropriate activity, recording and dissemination of something embarrassing said or done by the judge, alteration of a

recording in a way unfavorable to the judge or other participants, and dissemination of recordings that would threaten the judge's safety—no judge who experienced video recording reported that any had occurred to a moderate or great extent. One or two judges found that some of these effects—disruption of courtroom proceedings (2 judges), recording and dissemination of inappropriate activity (2 judges), recording and dissemination of something embarrassing said or done by the judge (1 judge), and alteration of a recording in a way unfavorable to the judge or other participants (1 judge)—occurred to a small extent. By far the greatest number of judges with experience, however, found that most of these operational and administrative effects had not occurred.

When asked in a follow-up question about any other operational or administrative concerns, two respondents mentioned the need to train court staff to handle the video recording, one mentioned technical glitches with the recordings, and one reported problems related to uploading videos to the Administrative Office for posting on the public website. In response to a separate question, three judges said they had found it necessary to edit out a portion of a proceeding before posting it. Each judge gave a different reason: deletion of exhibits that had not been properly redacted; deletion of footage of a juror who was briefly and inadvertently recorded; and limited editing of a recording to remove background noise caused by the recording equipment and to remove pre- and post-hearing activity that was not part of the proceeding.

*Pilot Court Judges' Overall Views on Video Recording Proceedings*

In Table 12, below, we report the pilot court judges' overall view of video recording courtroom proceedings and making the recordings publicly available. Considering all of these judges together, at the conclusion of the pilot project more judges somewhat or greatly favor video recording than somewhat or greatly oppose it—53 judges versus 40, or 49% versus 37% of all respondents.

These overall numbers, however, obscure substantial differences in the views of judges who did and did not participate in the pilot project (the second and third rows, respectively). A large majority of judges who participated somewhat or greatly favor video recording (46 judges, or 72%, compared to 2 judges, or 7%, of those who did not participate). Conversely, a large majority of those who did not participate somewhat or greatly oppose video recording (23 judges, or 79%, compared to 10 judges, or 16%, of those who participated). (The percent who expressed no opinion is similar in the two groups—13% of participants and 14% of non-participants, respectively.)

Table 12: Pilot Court Judges' Opinions About Video Recording Courtroom Proceedings and Making the Recordings Publicly Available*

| | Greatly in Favor | Somewhat in Favor | Somewhat Opposed | Greatly Opposed | No Opinion | Total |
|---|---|---|---|---|---|---|
| All judges, 2015 survey | 36 (33%) | 17 (16%) | 26 (24%) | 14 (13%) | 15 (14%) | 108 |
| Judges who participated in the pilot project** | 33 (52%) | 13 (20%) | 9 (14%) | 1 (2%) | 8 (13%) | 64 |
| Judges who did not participate in the pilot project | 2 (7%) | 0 (0%) | 12 (41%) | 11 (38%) | 4 (14%) | 29 |
| All judges, 2011 pre-pilot survey | 20 (17%) | 29 (25%) | 31 (27%) | 21 (18%) | 14 (12%) | 115 |

* Judges who participated are those who wished to participate but had no consents, those who had at least one consent but posted no recordings, and those who had consents and posted recordings. Judges who did not participate are those who did not send notices to parties or seek consents. Those who indicated some "other" role vis-à-vis the pilot project are not included in the second and third rows of the table. (See note *a* to Table 2.)

** This row does not include 65 judges because one participating judge did not answer this question.

As we have before, we must add a caution here about the need to consider this information in context. First, all of the participating courts and participating judges were volunteers. It is not, therefore, surprising to find that a substantial portion of the judges favor video recording proceedings. Nor is it surprising to find that there are judges who oppose video recording and who chose not to participate. Second, we cannot assume that the views of the judges responding to our survey are representative of the views of judges throughout the federal courts.

The last row in Table 12 reports the overall views on video recording obtained from a pre-pilot survey we sent to all pilot court judges in 2011 just as the pilot project was beginning (response rate for the 2011 survey was 67%). Judges responding at that time to an identical question about their views were almost evenly split between those who somewhat or greatly favored video recording and those who somewhat or greatly opposed it—49 versus 52 judges, or 43% and 45% of all respondents. Comparing the views of the pilot court judges over time shows a slight increase in the number of judges who favor video recording, from 43% four years ago to 49% today, and a slight decrease in the number of judges who oppose video recording, from 45% to 37%. The number of judges who expressed no opinion is similar in 2011 and 2015—12% and 14%, respectively.

These modest changes in numbers are not sufficient to support a finding that judges' views may have changed over time or that they may have changed as a result of exposure to the pilot project. If there has been a change, it could simply be the result of a change in the courts' composition, as some judges have left the bench and new judges have been appointed.[17] Our data do show, however, that six of 74 judges who responded to both the 2011 and 2015 surveys switched from initial opposition to video recording to favoring it, while one judge did the reverse.

Judges were given the opportunity to provide comments after this question, and 18 of them did so. The most frequent comment topic, raised by three judges, had to do with the restrictive conditions of the pilot, particularly the requirement of party consent, and whether the costs outweighed the benefits given those restrictions, for example:

> Philosophically, I support cameras in the courtroom as it provides the modern opportunity for the public to see what really happens in court. However, given the quality of the product, the infrequency of parties consenting, and the general public lack of interest in most run of the mill civil cases in federal court . . . , is it worth the costs in time and equipment for the infrequent times it would be very useful to the public, given all the other responsibilities of a court?

Two judges commented that video recording increases the transparency and accessibility of the courts, two suggested that recording can negatively impact attorney behavior, and two commented that criminal proceedings should also be recorded and broadcast.

### *Pilot Court Judges' Views on Whether They Would Participate in Video Recording in the Future*

The findings reported in Table 13, below, show that if the Judicial Conference were to permit the use of video recording in district courts in the future, close to two-thirds of the judges (68 judges, or 63%) in the pilot courts would permit video recording of their courtroom proceedings under the conditions of the pilot project and 22% more (24 judges) might permit it—or 85% of the pilot court judges altogether. A small number (16 judges, or 15%) would not permit it. Although half the judges (15) who did not participate in the pilot project state that they would not do so in the future either, the other half (14) say they would or might permit video recording in their courtrooms. And all judges who were participants in the pilot project say they would or might permit

17. Although the change from 2011 to 2015 is modest, we examined two variables that might be related to the change in views—age of the judge and years of experience as a judge—and found no statistically significant relationship.

video recording in their courtrooms in the future, with the greatest number—57 of the 64 judges (or 89%)—affirmatively saying they would.

Table 13: Number of Judges Who Would Permit Video Recording if the Judicial Conference Were to Authorize Video Recording of Civil Proceedings Under the Conditions of the Pilot Project*

| | Would Permit | Would Not Permit | Might Permit | Total |
|---|---|---|---|---|
| All judges | 68 (63%) | 16 (15%) | 24 (22%) | 108 |
| Judges who participated in the pilot project** | 57 (89%) | 0 (0%) | 7 (11%) | 64 |
| Judges who did not participate in the pilot project | 4 (14%) | 15 (52%) | 10 (34%) | 29 |

* Judges who participated are those who wished to participate but had no consents, those who had at least one consent but posted no recordings, and those who had consents and posted recordings. Judges who did not participate are those who did not send notices to parties or seek consents. Those who indicated some "other" role vis-à-vis the pilot project are not included in the last two rows of the table. (See note *a* to Table 2.)

** This row does not include 65 judges because one participating judge did not answer this question.

In our interviews with judges who had recorded at least one proceeding, we asked if there were any aspects of the pilot project they would change if authority to video record courtroom proceedings were continued or expanded. The most frequently mentioned change, suggested by eight judges, was to use an "implied consent" procedure, such as that used in the District of Kansas during the pilot project, under which a noticed proceeding would presumptively be recorded unless the attorneys affirmatively opted out. Four additional judges suggested doing away with the consent requirement and leaving it to the presiding judge whether to record (with part of that consideration including whether parties objected); one noted that, under the consent requirement of the pilot, "you had to have a perfect storm to get anything recorded." On the other hand, five judges affirmatively mentioned that they would preserve the consent requirement, with one explaining that "obtaining the parties' consent [is] paramount. That was a non-negotiable factor."

The second most frequently mentioned change, supported by seven judges, was to expand recording to certain criminal proceedings. Specific types of proceedings mentioned in this context were sentencing hearings, changes of plea, and suppression hearings. Other changes suggested by more than one judge included making recordings available in a more timely manner (4 judges); allowing the media to do the recording (2 judges); and making recording equipment available in more courtrooms (2 judges).

## Attorneys' Views of Video Recording Courtroom Proceedings

In addition to pilot judges' views about video recording courtroom proceedings in federal district courts, we sought the views of attorneys who participated in the proceedings video recorded during the pilot project. At the close of the project we sent an online questionnaire to the 373 attorneys who, according to our records, had an active courtroom role in the 158 proceedings posted to www.uscourts.gov (see Appendix C for the questionnaire). Forty-nine percent (or 181 attorneys) completed the questionnaire.[18]

### *Attorneys' Perceptions of Effects of Video Recording on Participants and the Public*

We asked the attorneys for their views of the effects of video recording on participants in the courtroom, presenting the attorneys with the same list of effects we provided to judges. Table 14, below, shows the results.[19] As was the case when reviewing the judge responses, keep in mind that the attorneys are reporting their perceptions—these findings are not the result of actual measures of effects. As with the judge responses, for the discussion below we group the attorney responses into a "no extent" and "small extent" group and a "moderate extent" and "great extent" group (see the discussion at page 25). The table, however, displays all the data so readers can group the categories as wished to make other comparisons.

Like the judges, attorneys think that most of the hypothesized effects of video recording occur to no extent or to a small extent (see columns 1 and 2), with responses falling primarily in the "no extent" category. The one exception to this general finding is the attorney response to the effects on the public, which are the only effects that a majority of attorneys (i.e., 90 attorneys or more) said occur to a moderate or great extent. These effects, however, are positive—for example, increase public access to the federal courts (125 attorneys, or 69%) and educate the public about courtroom procedure (111 attorneys, or 63%). The next highest number of attorneys to see effects occurring to a moderate or great extent are the 54 attorneys (30%) who think video recording motivates attorneys to be better prepared. These percentages are similar even when attorneys who expressed no opinion are removed from the analysis, because almost all attorneys expressed an opinion on these potential effects. For all other effects, 20% or fewer of the attorneys think they occur to a moderate or great extent.

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18. Twenty additional attorneys returned the questionnaire but had not participated in the recorded proceeding and thus did not complete the full questionnaire. The response rate for this survey was unusually high for a survey of attorneys. We attribute this to the fact that the chief judge in most of the pilot courts agreed to have the cover letter for the survey sent out over their name and signature. We are very grateful to them for their help.

19. Appendix E provides detailed tables for the attorney responses, with four alternative groupings of the attorney data.

Although attorneys feel that most of the 21 effects listed in Table 14 occur to no extent or a small extent, they are especially likely (more than 70% of attorneys) to say video recording has the following effects to no extent or a small extent: causes judges to avoid unpopular decisions or positions (132 attorneys, or 74%); prompts attorneys to be more courteous (137, or 76%); prompts judges to be more courteous (139, or 77%); causes judges to be more theatrical in conducting the proceeding (141, or 78%); decreases public confidence in the federal courts (145, or 81%); causes attorneys to be more theatrical in their presentation (151, or 83%); and disrupts courtroom proceedings (162, or 92%).

Table 14: Extent to Which Attorneys Who Participated in Video Recorded Proceedings Think the Presence of Video Recording Has the Listed Effects (N=181)

| | 1<br>To No Extent | 2<br>To a Small Extent | 3<br>To a Moderate Extent | 4<br>To a Great Extent | 5<br>No Opinion | 6<br>Total |
|---|---|---|---|---|---|---|
| Motivates witnesses to be truthful | 71 (40%) | 18 (10%) | 19 (11%) | 7 (4%) | 63 (35%) | 178 |
| Distracts witnesses | 79 (45%) | 40 (23%) | 7 (4%) | 4 (2%) | 47 (27%) | 177 |
| Makes witnesses more nervous than they otherwise would be | 70 (39%) | 45 (25%) | 9 (5%) | 7 (4%) | 49 (27%) | 180 |
| Increases juror attentiveness | 48 (27%) | 23 (13%) | 12 (7%) | 5 (3%) | 90 (51%) | 178 |
| Signals to jurors that a witness or argument is particularly important | 62 (35%) | 16 (9%) | 16 (9%) | 1 (1%) | 84 (47%) | 179 |
| Increases jurors' sense of responsibility for their verdict | 52 (29%) | 24 (14%) | 12 (7%) | 3 (2%) | 85 (48%) | 176 |
| Prompts people who see coverage to try to influence juror-friends | 60 (33%) | 11 (6%) | 5 (3%) | 1 (1%) | 102 (57%) | 179 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 94 (52%) | 30 (17%) | 19 (11%) | 12 (7%) | 24 (13%) | 179 |

*continued on next page*

Table 14 (continued)

| | 1<br>To No Extent | 2<br>To a Small Extent | 3<br>To a Moderate Extent | 4<br>To a Great Extent | 5<br>No Opinion | 6<br>Total |
|---|---|---|---|---|---|---|
| Motivates attorneys to come to court better prepared | 67 (37%) | 56 (31%) | 45 (25%) | 9 (5%) | 4 (2%) | 181 |
| Causes attorneys to be more theatrical in their presentation | 103 (57%) | 48 (26%) | 14 (8%) | 3 (2%) | 13 (7%) | 181 |
| Prompts attorneys to be more courteous | 82 (45%) | 55 (30%) | 31 (17%) | 6 (3%) | 7 (4%) | 181 |
| Increases judge attentiveness | 79 (44%) | 35 (20%) | 21 (12%) | 2 (1%) | 41 (23%) | 178 |
| Causes judges to avoid unpopular decisions or positions | 124 (69%) | 8 (4%) | 8 (4%) | 0 (0%) | 39 (22%) | 179 |
| Causes judges to be more theatrical in conducting the proceeding | 119 (66%) | 22 (12%) | 7 (4%) | 3 (2%) | 29 (16%) | 180 |
| Prompts judges to be more courteous | 83 (46%) | 56 (31%) | 15 (8%) | 3 (2%) | 23 (13%) | 180 |
| Disrupts courtroom proceedings | 147 (83%) | 15 (8%) | 12 (7%) | 2 (1%) | 1 (1%) | 177 |
| Educates the public about courtroom procedure | 13 (7%) | 32 (18%) | 43 (24%) | 68 (38%) | 21 (12%) | 177 |
| Educates the public about the legal issues in court cases | 16 (9%) | 37 (21%) | 46 (26%) | 59 (33%) | 20 (11%) | 178 |
| Increases public access to the federal courts | 10 (6%) | 34 (19%) | 50 (28%) | 75 (42%) | 11 (6%) | 180 |
| Decreases public confidence in the federal courts | 139 (78%) | 6 (3%) | 3 (2%) | 2 (1%) | 28 (16%) | 178 |
| Increases public confidence in the federal courts | 23 (13%) | 38 (21%) | 38 (21%) | 47 (26%) | 34 (19%) | 180 |

Compared to the number of attorneys who made assessments regarding video recordings' effects on witnesses, attorneys, judges, and the public, fewer attorneys assessed the impact on jurors. On all four effects listed in the table regarding jurors, nearly half or more of the attorneys said they had no opinion regarding the extent to which video recording has an effect. This is likely due, at least in part, to the fact that 17% of the proceedings recorded under the pilot project were jury trials (33 of them), so many of the responding attorneys would not have participated in a recorded case

with a jury. Among those who did have an opinion regarding potential effects on jurors, less than 20% of attorneys thought the two positive and two negative effects occurred to a moderate or great extent.

The judges' and attorneys' views about video recording's effects are similar in many ways, most of all in the general finding that they both see the effects, on the whole, as limited. Among the few noteworthy differences are their perceptions on whether video recording causes theatrical behavior by judges and attorneys. The judges are more likely than the attorneys to say video recording causes theatrical behavior in attorneys to a moderate or great extent (45% of the judges compared to 9% of the attorneys). Neither is very likely to say video recording causes theatrical behavior on the part of judges to a moderate or great extent (8% of judges and 6% of attorneys). More attorneys than judges, however, say video recording, to a moderate or great extent, causes attorneys to urge their clients to consent to recording to please the judge (17% of attorneys compared to 9% of judges)—though neither is especially high.

After answering these questions about effects, attorneys had an opportunity to comment on any additional harms or benefits they thought video recording provided; 65 attorneys answered this open-ended question. Overall, 23 comments cited benefits, eight noted harms, one noted both a harm and a benefit, 19 were neutral (e.g., mentioning that the cameras were not noticeable), and 13 simply explained something about the attorney's previous questionnaire responses (e.g., that an attorney had not answered the questions about effects on jurors because they had not participated in a proceeding with a jury). Other categories of responses were mentioned by only one or two attorneys.

One of the most frequent comments, although not really in the nature of a benefit or harm, had to do with video recording being very unobtrusive and not noticeable during the proceeding. This was noted by 16 attorneys who answered the question. Illustrative comments include:

> "The video recording equipment was surprisingly unobtrusive. I barely knew it was there, which is a good thing."
>
> "At first, I thought cameras/recording would be distracting, but I found the cameras to be unobtrusive."
>
> "The cameras were all but invisible to me."
>
> "The cameras were hidden/minimized to the extent they were not even thought of."
>
> "Once the proceedings began, the camera was not noticeable."
>
> "I really never even noticed that this was being recorded, aside from the Court's informing us."

The attorneys' comments reflect those made by judges and staff in our interviews. Many described the near invisibility of the cameras, particularly in courts that were

able to simply add the recording capability to their existing audiovisual systems. One judge noted that, because he did not manage the notice and consent process, he did not even know when the cameras were on. This invisibility was very important to some judges; one who was generally in favor of video recording, for example, said he would oppose it if cameras were visible, adding that he thought their visibility could impact proceedings. Some of the portable systems were more visible; as one staff member in a court with portable cameras said, "The cameras are very visible, as is the person running them." A staff member in another court with a portable system offered an interesting viewpoint about visibility, noting that even though their portable cameras were small and out of the way, "they were visible; we don't want anyone to think we're not open about what we're doing."

A second frequently mentioned benefit was allowing the public to see what went on in the courts, which was mentioned by 16 respondents. Seven attorneys noted that they thought the recordings had served as or could be a useful educational tool for themselves and other lawyers. As one lawyer said, "Personally, I thought the cameras were very helpful and allowed me to go back and see how I presented the case and what I could do to become a better attorney."

It is worth noting that a number of judges, in survey comments and interviews, mentioned the educational and training value of the video recordings, in addition to the 33 lawyers who said they would use the video recorded proceeding for training. One judge, for example, described his practice of using the video recordings to educate his law clerks: "I sometimes review recorded proceedings with my law clerks and I ask them, 'How could that question have been asked better? What objection should have been raised right here?'" Another judge referred to recording as "a remarkable teaching tool."

As for harms, four attorneys said they thought recording was or could be embarrassing to some of the participants, particularly in a proceeding with sensitive information. Three noted that the recording was or could be disruptive or distracting, and two mentioned increased stress on participants.

Overall, the survey responses suggest that attorneys who had exposure to video recording in federal courtroom proceedings think most of the potential effects of video recording occur to no extent or a small extent—except several positive effects on public perceptions and knowledge of federal courts. The attorneys' written comments generally support those findings.

### *Attorneys' Views on the Voluntariness of Consent*

Because the cameras project required party consent, we wanted to know why the attorneys who agreed to video recording a courtroom proceeding did so. Of the 181 respondents who completed the questionnaire, 155—or 86%—said they readily agreed to video record their proceeding. Another four attorneys—or 2%—-said they

were reluctant at first but agreed to video recording after discussion with the judge (22 selected "other"). (No table is shown for these findings.)

Table 15, below, provides the reasons the attorneys consented. By far the greatest number—155, or 86%—said they had no inherent objection to video recording of proceedings. Another sizable group of attorneys—59, or 33%—said they thought video recordings would help educate the public about the courts. Additional notable groups said they did not want to disappoint the judge (39 attorneys, or 22%),[20] or they wanted to use the video recording for training or case preparation (33 attorneys, or 18%). A small number of attorneys said either they or their client wanted the exposure that would come from having the proceedings video recorded (12 attorneys in each group, or 7%). Twenty attorneys, or their clients, had another reason for consenting to video recording, including preserving the proceedings in an important case for others to see in the future; taking an opportunity to try something new; and, in the case of clients who were public officials, their agency wanting the proceedings to be as public as possible.

Table 15: Reasons Attorneys Consented to Video Recording a Courtroom Proceeding (N=181)*

| Reason for Consent to Video Recording a Courtroom Proceeding | Number of Attorneys |
|---|---|
| No inherent objection to video recording of proceedings | 155 |
| Thought it would help with public education about the courts | 59 |
| Didn't want to disappoint the judge | 39 |
| Wanted to use the recording for training or case preparation | 33 |
| Client wanted the exposure that would come from having the proceeding video recorded | 12 |
| Attorney or firm wanted exposure that would come from having the proceeding video recorded | 12 |
| Other | 20 |

* Responses total to more than 181 because respondents could check more than one reason.

20. This response—did not want to disappoint the judge—was selected as the sole reason for consenting by eight attorneys who indicated, in response to a question about pressure to consent, that they or their clients had felt pressure to consent (see discussion in next paragraph). Five of these attorneys were in courts with judge-initiated notification, while three were in courts with automatic notification.

In a separate question, we asked attorneys whether they or their client had actually felt pressured to consent to video record their proceeding. Eight percent—or 14 attorneys—said they or their client had felt pressured. A review of these attorneys' written comments suggest that the fact of being asked to consent, in itself—and, in a few instances, a judge's enthusiasm for the pilot project—was felt by attorneys to carry a risk that non-consent would prompt disapproval on the part of the judge or be interpreted adversely by an opponent. For three judges, we found more than one instance of an attorney who appeared before them saying they felt pressured to consent to recording. Two of the judges were from courts that relied on judge selection of proceedings rather than automatic noticing. One of them accounted for five attorney reports of feeling pressured. In two other situations, attorney comments revealed that the pressure they or their clients felt to consent did not come from the judge, or at least not exclusively. In one situation, the clients felt they should consent because they were public officials; in the other, the attorneys had become aware of a media request for information relating to their consent/declination decision and assumed the media would report on them negatively if they did not consent.

*Attorneys' Overall Views on Video Recording Courtroom Proceedings*

As in the survey of judges, we asked attorneys whether they favor or oppose the use of video recording in courtroom proceedings under the conditions of the pilot project, where all parties must consent and recordings are publicly available. We present the findings in Table 16, below, distinguishing attorneys who had prior experience with cameras in the courtroom and attorneys whose experience was limited to participation in the federal court pilot project. Attorneys with experience are those who answered "yes," and attorneys with no experience are those who answered "no" to the question "Prior to your experience in federal court, did you participate in any other courtroom proceedings in either state, federal, or other courts that were recorded by cameras?"

As before, we have grouped responses into a "very much favor" and "somewhat favor" set and a "very much oppose" and "somewhat oppose" set, with all data presented in the table to permit other comparisons. By far the greatest number of attorneys somewhat or very much favor video recording of courtroom proceedings—75% of all attorneys, 81% of attorneys with prior experience with cameras in the courtroom, and, only slightly less, 71% of attorneys without prior experience. Small percentages somewhat or very much oppose video recording—12% of all attorneys, 13% of attorneys with prior experience with cameras in the courtroom, and 11% of attorneys with no prior experience.

Table 16: Attorneys' Opinions About Video Recording Courtroom Proceedings and Making the Recordings Publicly Available (N=181)

| | Very Much in Favor | Somewhat in Favor | Somewhat Opposed | Very Much Opposed | No Opinion | Total |
|---|---|---|---|---|---|---|
| All attorneys | 71 (39%) | 64 (35%) | 17 (9%) | 4 (2%) | 25 (14%) | 181 |
| Attorneys with experience with cameras in the courtroom prior to the pilot court proceeding* | 30 (48%) | 21 (33%) | 6 (10%) | 2 (3%) | 4 (6%) | 63 |
| Attorneys with no courtroom cameras experience other than the pilot court proceeding | 41 (35%) | 43 (36%) | 11 (9%) | 2 (2%) | 21 (18%) | 118 |

* Attorneys with experience are those who answered "yes" and attorneys with no experience are those who answered "no" to the question "Prior to your experience in federal court, did you participate in any other courtroom proceedings in either state, federal, or other courts that were recorded by cameras?"

An important point to keep in mind is that all attorneys who answered the questionnaire had at least one experience with video recording of courtroom proceedings—their participation in the pilot project ensured a threshold level of experience and put them in the recipient group for our questionnaire. Additionally, with the possible exception of a few who felt pressured, attorneys voluntarily consented to have a recording made of their civil case proceeding. These conditions may explain the high percentage of this group of attorneys who favor video recording of courtroom proceedings.

*Attorneys' Views on Whether They Would Participate in Video Recording in the Future*

As shown in Table 17, below, a large majority of attorneys who participated in the pilot project said they would continue to participate in video recording under the conditions of the pilot project if the Judicial Conference authorizes it for future proceedings—76% of all attorneys, 78% of attorneys with prior experience, and 75% of attorneys without prior experience. A very small percentage of attorneys would not participate, including both attorneys with prior experience (2%) and attorneys without prior experience (3%).

Table 17: Number of Attorneys Who Would Participate in Video Recording If the Judicial Conference Were to Authorize Video Recording of Civil Proceedings Under the Conditions of the Pilot Project (N=181)

| | Would Participate | Would Not Participate | Might Participate | Total |
|---|---|---|---|---|
| All attorneys | 138 (76%) | 5 (3%) | 38 (21%) | 181 |
| Attorneys with experience with cameras in the courtroom prior to the pilot court proceeding* | 49 (78%) | 1 (2%) | 13 (21%) | 63 |
| Attorneys with no courtroom cameras experience other than the pilot court proceeding | 89 (75%) | 4 (3%) | 25 (21%) | 118 |

* Attorneys with experience are those who answered "yes" and attorneys with no experience are those who answered "no" to the question "Prior to your experience in federal court, did you participate in any other courtroom proceedings in either state, federal, or other courts that were recorded by cameras?"

We caution, as we did before, that all attorneys responding to this question about future participation in video recording of proceedings had already given consent to have a specific past proceeding recorded and made publicly available. They have, therefore, at least a minimum level of actual experience with video recorded courtroom proceedings. Any comparison of attorneys' and judges' stated willingness to participate in a future project like the one under review must therefore recognize the differences between the two populations. If video recording is authorized for future proceedings, 97% of attorneys responding to the survey say they would or might participate, whereas 85% of judges in the pilot courts say the same. All of the attorneys, but only some of the judges, experienced a video recording; among judges, those with no experience are the least likely to say they would or might participate if the Judicial Conference authorizes future video recording (Table 13). Moreover, attorneys and judges may have different reasons for choosing to participate. Attorneys who agreed to video recording did so largely because they had no inherent objection to it (Table 15). Judges, on the other hand, most often said they participated in the pilot project because they felt a responsibility to participate given that their court had volunteered to be a pilot court (Table 3).

## Court Staff Experience with Video Recording

Staff in the pilot courts were involved with the project in a number of ways, depending on the court. Tasks required of staff included the following: helping the court initially in drafting a local rule and procedures for implementing the pilot project;

docketing or sending parties notifications of requests to video record; recording responses and following up with those who did not respond; installing (in some courts), setting up, and operating the video recording equipment; preparing the video files for uploading to the "Cameras in Courts" webpage at the Administrative Office of the U.S. Courts; and serving as liaison to Center staff conducting the evaluation, which included answering questions about the court's implementation of the project and providing documentation of activity related to video recording (e.g., notifications and consent forms).[21] Sometimes these tasks were spread among a number of different people, and sometimes one or two staff members handled most of the responsibilities. In most courts, chambers staff and clerk's office staff played a role.

At the conclusion of the pilot project, we interviewed staff in each court who had been involved in administering the pilot project in one way or another, for a total of 38 interviewees.[22] Those we interviewed included most of the liaisons to our study, as well as IT staff who had installed and operated the video recording equipment.[23] We asked them what their specific responsibilities were, how much of their time was devoted to the pilot project, whether they thought the time commitment was reasonable, and whether they had encountered any problems related to the pilot project. Judges we interviewed also frequently commented on the time commitment and responsibilities of staff, and those comments are noted in this section as well.

### *Staff Tasks Related to Notifying Parties and Tracking Responses*

On the administrative side, the amount of staff time spent seemed to vary somewhat depending on two factors: how standardized the court's notification procedures were and whether a non-response to a notification was taken as a declination. Some courts put in a good deal of time at the beginning of the project conducting meetings to determine procedures for automatic notification, but once those were in place, the time commitment for sending notifications was minimal. For courts that designated certain types of proceedings to be notified, a courtroom deputy generally flagged the case and sent out the notice at the time a proceeding was scheduled, taking only minutes per proceeding. If, however, a court's procedure included following up with parties to get responses not received by a given deadline, the demand on staff time increased substantially, in proportion to the volume of outreach needed to obtain a decision.

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21. Each pilot court had a liaison at the Center to turn to if they had questions about data collection and other research aspects of the pilot project.

22. The interview protocol for court staff is in Appendix C.

23. To determine whom to interview, we relied on the courts to identify staff persons who had been involved in significant aspects of the pilot project. The liaisons to the study were included.

In courts with non-standardized notification procedures—i.e., where judges selected specific proceedings for notification—staff reported spending more time on administrative matters. Once a proceeding was selected for recording, a staff member—usually a courtroom deputy or chief deputy—added the notice to a case-management order, prepared and sent a notice, or made a docket entry to notify parties of the request to video record; the staff person then followed up with those who did not respond. Most staff members in those courts estimated spending roughly 10–20 minutes to do these tasks for each proceeding, with the highest estimate being 1–3 hours.

For the most part, staff members who carried out these administrative tasks reported that the time required was reasonable. For example, a staff member in a court with an automated notification system referred to the staff time spent as a "minimal administrative burden." A different point of view was offered, however, by staff from a court that noticed hundreds of proceedings and required an explicit decision from parties on whether to record. There, we were told, administration involved "a lot of work, and [staff] weren't sure of the value in the end." The staff member making this comment added that administering the pilot project would have been easier if it had been set up as an "opt-out" process by parties, rather than an "opt-in" process. This court notwithstanding, staff in most courts reported that the administrative side of the project was less demanding than the technical side, which we discuss in the next section.

It is worth noting that some of the administrative tasks undertaken by the courts were related to the evaluation of the pilot project. We developed forms, for example, for parties to use when declining the opportunity to video record. Collection of these forms could be more or less burdensome for staff, depending on how extensively they pursued the non-consent forms—some stopped the effort after receiving one declination, others sought more—and the nature of internal records they kept of notices, consents, and declinations.

### *Staff Tasks Related to Video Recording and to Video Recording Technology*

Information technology (IT) staff in each pilot court played a major role in ensuring the smooth operation of the pilot project. Their responsibilities, which varied somewhat across courts, included the following: installing recording equipment; training court staff in the operation of the equipment; setting up and troubleshooting equipment prior to any recorded proceeding; operating the cameras and recording equipment during a proceeding (although this was assigned to courtroom deputies or other staff in some courts); editing the recordings as necessary; and uploading recordings to the Administrative Office for posting on the "Cameras in Courts" webpage.

The recording equipment varied among pilot courts, and the type of tasks required of IT staff consequently varied as well. Some courts were able to use existing cameras and recording equipment, some had to modify existing equipment, and others used portable equipment that could be moved to different courtrooms. For those

who installed new equipment, initial installation time generally took two to four hours per device, and most staff did not consider that time excessive.

IT staff in the pilot courts spent additional time preparing for each proceeding that was to be recorded, especially in courts that used portable equipment. The reported time needed to set up or test out equipment for a specific hearing ranged from 45 minutes to more than a day. In addition, several IT staff members we interviewed noted the need to retrain courtroom deputies or other staff members who operated the cameras when each proceeding occurred. As one interviewee said, "the low number of recordings meant that the process of setting up, recording, etc. never became fully routinized; we had to review the steps each time."

Although some courts were set up in a way that allowed the courtroom deputy or case manager to operate the recording equipment from the courtroom audiovisual (AV) panel during a proceeding, many pilot courts had an IT staff person in the courtroom throughout a recorded proceeding, monitoring the recording and operating the equipment. Having someone actively operate the cameras was especially necessary in situations where the judge wanted a single-screen view (i.e., showing only one participant at a time, such as the attorney or witness), which required activating the camera focused on the speaker, rather than a split screen showing four fixed camera angles at once (generally focused on the judge, the attorney, the witness box, and the evidence).

Operation of the cameras was seen as the most burdensome aspect of the pilot in terms of staff time. As one clerk of court indicated, "That was not cheap; it's something that's not budgeted. It was too much of a demand because we don't have staff that would normally do that, and I pulled them from other tasks just to sit there." An IT manager in another court said the court would need to have a full-time person for courtroom recording if the number of consents went up. In contrast, the cost in staff time was far less—primarily just turning the cameras on and off (and remembering to do so when there was a break in proceedings)—in the courts that used a split screen image and were able to build camera management into the AV system. In these courts, IT staff time was typically needed after the proceeding to review recordings for quality and to delete inappropriate footage, as discussed in the next paragraph. In the future, several staff noted, improvements in voice-activated cameras and other technology could reduce or eliminate the need for court staff to operate cameras and review and edit video recordings.

Once a recording was completed, it was generally the responsibility of IT staff to edit the recording, if appropriate, before sending it to the Administrative Office. Most staff members we interviewed did not report this as a substantial time commitment; normally they simply cut the beginning and end of the recording, which generally covered several minutes of non-proceeding time, or they removed, for example, portions where the cameras had inadvertently been left on during a break. In most courts, staff did not review the entire recording for editing, but had instead made notes

throughout the proceeding of portions that might need to be edited; they then removed those sections.

Another technical duty that took a fair amount of staff time was uploading the videos to the Administrative Office, since the video files were very large. This task could take hours for a very long proceeding, and even though a staff person did not have to monitor that process constantly, the computer on which the uploading was done did need to be checked periodically (or "babysat," as some put it) to make sure the files were transmitting properly.

In one district (Guam), the time difference between the court and the Administrative Office in Washington, D.C., meant that the Administrative Office could not process the video recordings for uploading to the public website in time for local media interested in the proceedings. To solve this problem, the district put the recordings on DVD and offered them to the media and others at a price ($30) based on the federal judiciary's miscellaneous fee schedule.

## Use of the Video Recordings

When the pilot project began, the Administrative Office contracted with a video hosting and content delivery provider. The company also tracked the number of times viewers accessed the video recordings. While it would have been ideal to collect additional data—for example, how long a viewer watched a video—this proved to be elusive for several reasons. During the course of the pilot, an increasing number of users accessed pilot videos over mobile devices and tablets, as opposed to PCs. This shift in viewership habits brought into question the ability and reliability of collecting accurate analytics from different sources.

In an effort to address this challenge, the vendor used three different tracking systems seriatim over the four-year pilot project, introducing improvements and nonuniformity in tracking accuracy with each new system. The system in place during calendar year 2014, which we believe collected the most reliable data, found that the 707 video files[24] posted by the pilot courts from the beginning of the pilot through the end of calendar year 2014 were accessed 21,530 times. It is difficult to know, of course, whether this is a significant number or not, since there is no benchmark to look to for guidance. When the pilot project concluded on July 17, 2015, a total of 757 videos were posted, covering 158 individual proceedings.[25]

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24. The 158 proceedings recorded during the pilot project required 757 separate video files because long hearings and trials required more than one video file.

25. Access can be as brief as clicking a video recording open and as lengthy as watching the entire recording. The tracking system did not measure how long any given viewer spent with a video recording or whether the same or different viewers accessed them.

In a separate attempt to learn how the video recordings were used, we attached a pop-up questionnaire to the videos themselves in late 2013. Since then, a random selection of viewers who have accessed a pilot video recording have been presented with a short "pop-up" questionnaire on their screen. The viewer can dispose of the questionnaire with a quick click or can respond to it. Of the thousands of viewers who accessed pilot video recordings, 258 of the unknown number who have been presented with the pop-up questionnaire answered it as of the close of data collection on July 17, 2015. Although this is a small percentage of all viewers, we are pleased to have at least some information about who the viewers were and why they accessed the recordings.

In Table 18, below, we see the reasons viewers visited the cameras website.[26] The principal reason, marked by 113 (or 44%) of the viewers, was a general interest in observing federal court proceedings. Nearly as many viewers (103, or 40%) said they accessed the cameras site because they were interested in viewing material relevant to education-related objectives. Less frequently, viewers were interested in observing a specific case (45 viewers, or 17%) or in observing specific persons (23 viewers, or 9%). The viewers who had come to the cameras website for some other reason did so for a wide variety of reasons: to search for employment (several); to search for information that would be helpful in setting up video recording in the courts in India; to prepare, as a party, for a federal trial (several); to assess prospects for filming proceedings for a documentary; to examine the issue of cameras in courtrooms (several); and "because I like watching trials."

Table 18: Reasons Viewers Gave for Visiting the Cameras Website (N=258)

| Reason for Visiting Cameras Website | Number of Viewers* |
|---|---|
| General interest in observing federal court proceedings | 113 (44%) |
| Interested in viewing material that is relevant to education-related objectives | 103 (40%) |
| Interested in observing a specific case | 45 (17%) |
| Interested in observing specific persons (e.g., judge, attorney, witness) | 23 (9%) |
| Other reason | 43 (17%) |

* The number totals to more than 258 because viewers could mark more than one reason.

26. The online page for the federal courts' pilot project, which was at www.uscourts.gov, was titled "Cameras in Courts."

Many of the viewers who accessed the cameras website identified their occupation or position as related to education or libraries (see Table 19, below). The greatest number of viewers (85 viewers, or 33%) said they were students; an additional 41 viewers (or 16%) said they were educators, librarians, or trainers. The general public made up another large group (69 viewers, or 27%), as did lawyers and other employees of law firms (47 viewers, or 18%).

Table 19: Occupation/Position of Website Visitors (N=258)

| Occupation/Position of Website Visitor | Number of Viewers* |
|---|---|
| Student | 85 (33%) |
| Educator, librarian, or trainer | 41 (16%) |
| Member of the general U.S.-based public | 69 (27%) |
| Non-governmental lawyer or employee of a law firm | 47 (18%) |
| Government employee (including judges and lawyers) | 23 (9%) |
| Member of the media or a communications organization | 15 (6%) |
| Member of the international community | 7 (3%) |
| Other | 13 (5%) |

* The number totals to more than 258 because viewers could mark more than one occupation/position.

Government employees, including perhaps judges and employees of the pilot courts, were a smaller portion of the viewers (23, or 9%), as were members of the media (15, or 6%) and members of the international community (7, or 3%). Those who identified their occupation or position as something other than those listed said they were, among a wide range of occupations, a stenographer, a court interpreter, a filmmaker, a pensioner, a Boston resident who believes people have the right to see the "Boston bombing" trial, and "a mother looking for justice for her son."

Those who identified themselves as educators, librarians, and trainers worked primarily in law schools, as shown in Table 20, below; 24, or 60% of the education and library affiliated viewers worked in that setting. Many fewer worked at the college (6 viewers, or 15%) or high school (4 viewers, or 10%) level. The viewers who identified their educational setting as "other" said they were, for example, an instructor in a court reporting school and a special education teacher.

Table 20: Type of Education Setting of Respondents Who Were Educators, Librarians, and Trainers (N=40)

| Type of Education Setting of Educators, Librarians, and Trainers | Number of Viewers |
|---|---|
| Law school or graduate school | 24 (60%) |
| College | 6 (15%) |
| High school | 4 (10%) |
| Other | 6 (15%) |

The students who accessed the cameras website were mostly college students—45 of the 85 students, or 53%—as shown below in Table 21. Law school or graduate school students made up the next largest group—32 students, or 38%. Very few (7, or 8%) of the student viewers who accessed the cameras pilot site were high school students. The one viewer who marked "other" said he or she was an "independent study" student.

Table 21: Level in School of Respondents Who Were Students (N=85)

| Level in School of Respondents Who Were Students | Number of Viewers |
|---|---|
| College | 45 (53%) |
| Law school or graduate school | 32 (38%) |
| High school | 7 (8%) |
| Other ("independent study") | 1 (1%) |

Of the 23 website visitors who were employed in government, the greatest portion (14 viewers, or 61%) were employed by the federal government, split evenly between the federal courts and a non-court entity of the federal government (see Table 22, below). The nine remaining government-employed visitors to the website worked for state or local courts or in other state or local government settings.

Table 22: Place of Employment of Respondents Who Were Employed in Government (N=23)

| Place of Employment | Number of Viewers |
|---|---|
| Federal court | 7 (30%) |
| Federal government, non-court setting | 7 (30%) |
| State or local court | 5 (22%) |
| State or local government, non-court setting | 4 (17%) |

If the viewer data permit a general conclusion—and keep in mind that the respondents are not, in any way we can hypothesize or confirm, a random sample of viewers—it is that the primary reason for visiting the cameras website was related to education or work. Of the 258 website visitors who completed the pop-up survey, 196 identified themselves as students, educators, librarians, trainers, lawyers or other law firm employees, or government employees.

## Conclusion

The pilot project was designed to test a particular method for making a visual recording of courtroom proceedings and posting the recording for public viewing—i.e., court-operated video recording cameras. Further, recording was limited to civil proceedings where the judge and all other participants agreed that the proceeding could be recorded.

The number of recorded proceedings is small relative to the number of proceedings held in federal courtrooms—158 recorded proceedings in 14 volunteer district courts over the four-year pilot project. This level of recording, however, and the attendant procedures for notifying parties, getting consents or declinations, and operating the equipment, has provided a fair amount of information about providing visual recordings of courtroom procedures through court-operated cameras.

The pilot courts were given substantial leeway over how to implement the pilot project, and they adopted widely varying procedures, from courts that left complete discretion to individual judges for notifying parties and obtaining consents to courts that adopted more uniform procedures across judges for notification and consents. In each pilot court, a subset of judges participated. Because of the consent requirement, a smaller subset of these judges actually recorded proceedings. Altogether, 64 active and senior judges participated (i.e., notified parties of the opportunity to record) and 33 judges had proceedings that were recorded.

In some circumstances the notice and consent process could be time-consuming for judges and staff, but in other circumstances it made little demand on their time. The process was more time-consuming where judges selected cases or proceedings and talked with counsel about video recording, as compared to procedures that either automatically notified all eligible proceedings of the opportunity to record or presumed proceedings would be recorded unless the parties affirmatively opted out. The process was also more time-consuming in courts where staff made more effort to get consent and declination forms from the parties as compared to courts that considered non-response or a single declination sufficient to resolve the question of consent. Judges' views vary on the consent requirement, with some judges feeling it is essential and others recommending that the requirement be eliminated if the use of video recording is approved for all courts.

Parties declined to video record for a large variety of reasons, but by far the greatest number wanted to preserve confidentiality—for example, over business information or personal information—or wanted to avoid publicity. Seldom did parties decline because of concerns that judges or attorneys would "grandstand," that the cameras would be disruptive, or that the parties would become anxious or distracted because of the cameras.

Operation of the video recording equipment was time-consuming, particularly for IT staff. This was especially the case when a judge preferred that the video recording available to the public focus on a single speaker at a time, which required a camera operator, as compared to judges who were satisfied with a recording with four images in the frame, which was produced by four fixed cameras, a set up that, at its simplest, could be operated with the flip of a switch on the courtroom's AV panel. Operation of equipment could also be time-consuming when staff had to edit the video recording, which required more time from those who did not monitor the equipment while the proceeding was underway and thus had to review the entire video recording later, as compared to those who monitored the recording while it was underway (e.g., camera operators). Either way—whether staff committed time in the courtroom or later in editing recordings—court-operated video recording makes demands on staff time. Video recording made another type of demand when it occurred less frequently. Some staff noted the steep learning curve each time they recorded a proceeding, the result of infrequent opportunities to use the equipment.

A wide range of proceeding types and a wide range of case types were video recorded. The recordings include trials; motions hearings, including routine and dispositive motions; scheduling conferences; and evidentiary hearings. Some of the most commonly filed case types in the federal courts—civil rights, personal injury, and contracts cases—are the most frequent case types found in the recordings, but other less-commonly filed case types, such as patent/copyright/trademark and immigration cases, are also represented.

Judges and attorneys, for the most part, view video recording as having limited effects on jurors, witnesses, attorneys, and judges, whether the effect is negative or positive. The largest percentage of judges and attorneys who reported effects said they think video recording can have a substantial positive effect on the public, including public access to and education about the courts. Around a third of pilot judges, however, think three hypothesized effects occur to a moderate or great extent: distracts witnesses, motivates attorneys to come to court better prepared, and prompts attorneys to be more courteous. Judges' views are evenly split on the extent to which video recording causes attorneys to be more theatrical and increases public confidence in the federal courts. At most, about a third of the attorneys see any effects, other than effects on the public, as occurring to a moderate or great degree (e.g., motivates attorneys to come to court better prepared). (As explained more fully at page 25 above, responses to the "effects" questions may be grouped in several ways. This discussion is based on grouping responses into two sets: "no effect" with "little effect" and "moderate effect" with "great effect."

Over 70% of judges and attorneys who participated in video recording of a proceeding greatly or somewhat favor video recording of courtroom proceedings. Of judges who did not participate, 79% greatly or somewhat oppose video recording. It is important to note that participants in the pilot project took part voluntarily. From the pre-pilot survey we sent in 2011, we know that judges who participated were on average more favorable toward cameras than judges who did not participate. Participants' views do not necessarily represent the views of judges and attorneys nationwide.

The best indicator of public use of the video recordings suggests that viewers accessed a recording 21,530 times in calendar year 2014. A "pop-up" survey of viewers, which was answered by 258 respondents between late 2013 and the end of the pilot project on July 17, 2015, shows that the majority of those respondents accessed the recordings for educational or work-related reasons. The viewers were primarily educators, students, librarians, lawyers and other law firm employees, and the public.

The pilot project enabled 14 district courts to test the use of video recording courtroom proceedings. The courts' varied experiences, as reflected in the data, suggest that decisions courts make about notice and consent procedures and video recording procedures can have a significant administrative and operational impact on judges and court staff.

# Appendix A

## Guidance from the CACM Committee

# United States District Courts
# Digital Video Recording ("Cameras") Pilot Project

## Implementation Guidance
## Court Administration and Case Management Committee
## August 22, 2011

# Digital Video Recording ("Cameras") Pilot Project Implementation Guidance

Pilot districts that have started to develop procedures for video recording of courtroom proceedings have raised some questions about procedural matters in discussions with Federal Judicial Center (FJC) research staff. Having been alerted to the questions, most of which relate to selecting proceedings to record and to receiving necessary consents, the Court Administration and Case Management Committee (Committee) has prepared this document to provide the courts with implementation guidance that offers specific, concrete suggestions about procedures the districts might adopt to identify proceedings and obtain consents. Of course, under the Guidelines, decisions about whether and what to record are always at the discretion of the presiding judge.

Our guidance is presented in four parts.

Part 1: Implementation Questions and Answers.

Part 1 of this document presents a set of questions the pilot districts have asked about how to implement the pilot project. The document offers some possible answers to the questions, which the pilot districts and judge may use or adapt as it suits their circumstances and preferences. Because courts and judges vary in their practices, we expect that the answers to these questions will vary as well when ultimately adopted by each district.

Part 2: Example General Orders.

The implementation questions and answers are intended to help courts work through key procedural questions, but pilot courts have also asked their FJC liaisons for practical assistance with the request and consent process. The second part of this document responds by providing Example General Orders that show in concrete terms how the pilot project might be implemented in a district court. The orders are examples only, provided solely to help pilot courts envision how procedures might work.

The first example of a general order gives the district judge primary responsibility for notifying parties of the opportunity to record and for handling the consent process. The second example locates these responsibilities in the clerk's office. In both approaches, others (e.g., a party, the media) may also indicate their interest in having a particular proceeding recorded.

Part 3: Data Collection Forms.

At the request of the Judicial Conference, the FJC will collect data and report to this Committee on the courts' experience with the pilot project. The third

part of this document shows the forms the FJC will use to track request and consent activity. The Committee asks the courts to use these forms, which the FJC will provide in a fillable format:

- REASONS FOR JUDGE'S SELECTION OF CASE OR PROCEEDING FOR VIDEO RECORDING (Form A);
- REQUEST FOR VIDEO RECORDING (Form B);
- REASONS FOR JUDGE'S DECISION NOT TO PERMIT VIDEO RECORDING OF PROCEEDING THAT WOULD OTHERWISE BE ELIGIBLE OR FOR WHICH A REQUEST FOR RECORDING WAS MADE (Form C);
- NOTIFICATION OF REQUEST FOR VIDEO RECORDING (Form D);
- PARTY RESPONSE TO REQUEST FOR VIDEO RECORDING (Form E);
- REQUEST TO EXEMPT WITNESS FROM VIDEO RECORDING (Form F); and
- REASONS FOR JUDGE'S DECISION NOT TO MAKE PUBLICLY AVAILABLE ALL OR PORTIONS OF A VIDEO RECORDING THAT WAS MADE (Form G).

We reference the various data collection forms where they are relevant in the discussion of implementation matters at Part 1.

Part 4: Draft Language for Circumstances Arising from Being a Pilot Court.

The final part of this document provides material that courts may find useful in responding to circumstances that arise from being involved in the pilot project. The media have contacted several pilot districts asking for information, and Part 4 provides tools for making such information available on-line. Included in Part 4 are a "Notice to the Public" and some suggested language that may serve as a model for posting "Frequently Asked Questions" on your court's website. Listed also is a link to a Cameras in Courts landing page that the Office of Public Affairs of the Administrative Office is drafting for the uscourts.gov web site. In addition to information explaining the pilot project, Part 4 provides draft jury instructions for use in jury trials that are recorded and draft instructions to make those who are present during a recorded proceeding aware of certain matters.

We ask the pilot districts to keep in mind several key features of earlier guidance provided by the Committee (Guidelines for the Cameras Pilot Project in the District Courts, sent May 9, 2011; hereafter Program Guidelines): recordings may be made in civil cases only and only when the parties consent; proceedings may not be recorded without approval of the presiding judge; the cameras must be oper-

ated by the court, not the media; a local rule must be adopted to authorize recording in the courtrooms[1]; and only district judges may participate in the pilot project. Further, only courtroom proceedings may be recorded, not proceedings held in chambers or other locations.

In addition to this document, the Office of Public Affairs at the AO will shortly be sending a memo to IT staff in the pilot courts regarding the technical and web site aspects of the pilot project.

If at any time a pilot district has questions about the Committee's Program Guidelines or Implementation Guidance, please do not hesitate to call the chair of the Committee, Judge Julie Robinson; the Court Administration Policy Staff at the Administrative Office; or the district's FJC liaison for the pilot project. Throughout the pilot project both the FJC and AO will routinely be in contact with the pilot districts, the FJC through the designated liaisons and the AO through Cary Casola and the Office of Public Affairs.

1. The Committee's Program Guidelines require that each pilot district authorize the pilot project through a local rule amendment (see the guidelines sent May 9, 2011). Some pilot courts are authorizing the pilot project by general order while amendment of the local rule is in process, which permits participation in the pilot project from the July 18, 2011, start date. If you wish to proceed initially under a general order, you may. Note, too, that 28 U.S.C. Sec. 2071(e) provides courts some discretion in adopting rules on an emergency basis without need for prior public notice and comment, as long as the rules process (which may take some time) is begun "promptly" after.

# Part 1
# Implementation Questions and Answers

The guidance offered in Part 1 applies to all district judges, both senior and active, who participate in the pilot project, including those who enter the project supporting video recording of court proceedings and those who enter it skeptical about video recording.

Phrases such as "presiding judge" and "assigned judge" refer to district judges who are participating in the pilot project.

## Identifying Courtroom Proceedings That Might Be Video Recorded

1. Who may initiate a request or suggestion to record courtroom proceedings—the assigned judge, a party to the case, the clerk's office on behalf of the court, the media?

   Any of the entities named above may initiate a request or suggestion to record. The Committee's Program Guidelines state, "The presiding judge will select cases for participation in the pilot, although parties to a case or the media may request video recording of the proceedings" (p. 2). The pilot districts need not wait for a request to record from the parties or an outside entity and are, in fact, encouraged to initiate requests to parties to record proceedings.

   Part 2 of this document provides Example General Orders for two approaches for requesting that a proceeding be recorded—a request initiated by the presiding judge and a request initiated by the clerk's office. If the presiding judge is the one who initiates the question of recording, he or she should consider asking the parties to record most courtroom proceedings held in civil cases—at minimum, all trials and evidentiary hearings. If a court plans to have the clerk's office notify parties of the opportunity to record, the court should consider giving the clerk's office authority to send a notice for most civil proceedings—again, at minimum, for all trials and evidentiary hearings. A good test of recording courtroom proceedings requires not only a large number of recordings but also recordings across a range of case types and matters.

   When the Committee reports on the pilot project, it will include in the report information about the selection of proceedings to record. Part 3 of this package includes two data collection forms relevant to this inquiry (Form A, "REASONS FOR JUDGE'S SELECTION OF CASE OR PROCEEDING FOR VIDEO RECORDING", and C, "REASONS FOR JUDGE'S DECISION NOT TO PERMIT VIDEO RECORDING OF PROCEEDING THAT WOULD OTHERWISE BE ELIGIBLE OR FOR WHICH A REQUEST FOR RECORDING WAS MADE").

2. When the assigned judge or clerk's office initiates, should they *request* that the proceeding be recorded or merely *suggest* that it be recorded?

   This question asks how active the pilot districts should be in encouraging participation in the pilot project. We expect that the more active the courts are the more proceedings will be recorded. We also recognize that some districts

or some individual judges will not, however, be wholly at ease with a proactive approach, and thus we describe several options for identifying suitable proceedings and getting party consent. The language in Form D, "NOTIFICATION OF REQUEST FOR VIDEO RECORDING", tells the parties that the judge requests their consent to record. Alternative language is offered for courts or judges who are not comfortable with this wording and might instead prefer to simply bring the opportunity to record to the parties' attention. Similarly, if a judge raises the question of video recording in a conference with the parties, the judge can use language that is more, or less, directive, depending on the judge's preferences. The first example below is the most directive, the third is the least.

- This district is participating in a pilot project that permits video recording of courtroom proceedings. The recordings will be publicly available on the district's website. I plan to record all courtroom proceedings in the civil cases assigned to me, unless I hear otherwise from the parties. Please complete this form [i.e., Form E, the consent form, discussed at Point 4, Page 12] and return it to me.
- This district is participating in a pilot project that permits video recording of courtroom proceedings. The recordings will be publicly available on the district's website. I ask that you consider giving consent to record the upcoming proceeding in your case. Please complete this form [i.e., Form E, the consent form, discussed at Point 4, Page 12] and return it to me.
- This district is participating in a pilot project that permits video recording of courtroom proceedings. The recordings will be publicly available on the district's website. If you wish, your upcoming proceeding can be recorded. Please complete this form [i.e., Form E, the consent form, discussed at Point 4, Page 12] and return it to me.

The Committee firmly does not encourage pilot districts or judges to be or appear to be coercive, but a respectful request to record, whether in conversation between judge and parties or by written notice from chambers or clerk's office, would likely create greater awareness of the opportunity to record, more experience with recording for both parties and judges, and more data for the FJC's assessment of the pilot project.

3. How will others be made aware that they may ask to have a proceeding recorded?

   Although the Committee anticipates that the assigned judge and/or clerk's office will initiate the request to record courtroom proceedings, the pilot districts should provide a method for others, such as parties or media, to express an interest in recording a particular proceeding. To inform these entities of the opportunity to record proceedings, the pilot districts might want to provide public information about the pilot project and the opportunity to request that proceedings be recorded. Information should be provided, at minimum, on the district's website. Other avenues courts might consider using are legal publications, forums with the bar, and notice from the court's information officer to members of the media.

   Part 3 of this package includes a form, "REQUEST FOR VIDEO RECORDING" (Form B), which should be posted at the court's website. Parties and entities outside the court should use this form to request a recording. Part 4 of this package includes a draft document titled "Notice to the Public: Cameras Pilot Project" that may be adapted by the court and posted at its website to inform the media and others about the pilot project. Part 4 likewise includes a "Frequently Asked Questions" document that, among other things, tells parties and the media how to request that a proceeding be recorded.

4. For which proceedings may the request to record be made?

   When establishing the pilot project, the Judicial Conference placed few restrictions on the types of civil cases or the types of proceedings that may be recorded. The Committee's Program Guidelines state, "Participating judges should consider recording different types of proceedings (e.g., trial and non-trial proceedings; a variety of case types; proceedings of varying sizes such as hearings, large cases, and multidistrict litigation; and proceedings with varying levels of expressed public interest)" (p. 2). The only type of proceeding we ask the pilot districts not to record is civil commitments.

   The proceedings that seem most likely to be recorded are trials and evidentiary hearings. Pilot judges and districts should not, however, limit recording to trials only or even to proceedings that are considered "significant". The best test of the pilot is to record all types of proceedings, including those that are routine. To obtain a wide variety of recorded events, we ask the pilot districts to consider

raising the question of recording with the parties each time a courtroom proceeding is scheduled.[2] (If a party firmly refuses, the judge may wish to refrain from asking further so as not to appear to be pressuring the parties to consent.)

5. When a party or other entity requests that a proceeding be recorded and the judge declines to record the proceeding, does the judge have an obligation to report his/her declination?

   Yes, the pilot project asks judges to report their reasons for deciding not to record a proceeding. This information will be directly responsive to judiciary policy makers' interest in how often and under what circumstances judges decide that a proceeding should not be recorded. A form for reporting such an occurrence, "REASONS FOR JUDGE'S DECISION NOT TO PERMIT VIDEO RECORDING OF PROCEEDING THAT WOULD OTHERWISE BE ELIGIBLE OR FOR WHICH A REQUEST FOR RECORDING WAS MADE" (Form C), is provided in Part 3 of this package.

## Obtaining Consent to Record

1. May parties give blanket consent for recording all proceedings held in a case, or must consent be obtained for each proceeding?

   The Committee's Program Guidelines state, "Consent to the recording of one proceeding in a case will not be construed as consent to any other proceeding in a case" (p. 2). Consent must be obtained for each proceeding. Although this requirement may be administratively more demanding, it provides greater protection for the parties and better data for the study. Some proceedings, such as trials, span multiple days; for such proceedings, consent may be obtained only once. If a party who has consented changes its mind during a proceeding, the judge can hear arguments and discontinue recording if appropriate. (See also the discussion at Point 4, Page 12.)

2. What process should be used for obtaining consent?

   The process for obtaining consent will very likely look different from court to court because of the courts' differences in managing cases. Although the Committee's Program Guidelines provide some suggestions about how to obtain consent, the Guidelines leave development of these procedures for the most part to the discretion of the court: "The court may (1) establish a procedure

2. The Committee recognizes that this practice may result in more consents than the court has the capacity to satisfy. We ask courts not to refrain from requesting consent, but rather to track the number of consenting cases which cannot be recorded due to limitations on available equipment.

for obtaining party consent to the recording of a proceeding selected for the pilot, including a time frame by which consent must be given; and (2) in its discretion, hold a hearing to address objections by parties, witnesses, or others to the proceeding or posting of a recording for public access. Such hearings should not be recorded" (p. 2).

The Committee is aware of two general approaches that might be taken to obtaining consent. The details of each would depend on the judge and/or court. The first approach is to place the consent process in the hands of the presiding judge; the second is to delegate it to the clerk's office. Part 2 provides two Example General Orders illustrating the two approaches.

If the presiding judge is the one who suggests to parties that a proceeding be recorded, the judge will need to develop a process for raising the question, securing a completed consent/declination form from parties, and placing the form in the hands of the court's liaison to the FJC. Pilot judges may want to raise the question each time a courtroom proceeding is scheduled, by sending a "NOTIFICATION OF REQUEST FOR VIDEO RECORDING" (Form D) or through an in-person or telephonic discussion with the parties. The advantage of having the judge raise the issue of recording is that, if necessary, the judge can discuss, and perhaps ease, any concerns the parties may have about recording their proceeding. Example General Order #1 in Part 2 illustrates this approach.

A court could take a different approach and ask its clerk's office to handle the request and consent process. The clerk's office could send the parties a request to record each time a notice setting a courtroom date is issued—again, using Form D. The parties could then return a consent/declination form to the clerk's office. This practice could have several benefits: (1) to standardize the process of notification and consent and thus obtain better pilot project data; (2) to ensure that notice is given for every eligible proceeding; and (3) to remove any possibility that a party's non-consent could influence the judge's view of that party or its case. Example General Order #2 in Part 2 illustrates this approach.

In addition to using one of the two approaches above, courts may certainly allow parties, media, and other outside entities to initiate a request for recording, but such requests should not supplant the court's general obligation to initiate the process, either by having the judge make the request or by having the clerk's office do so.

Whatever process a judge or court adopts, the process should be set out in writing so litigants and others know how the judge or court proceeds. And pilot judges should keep in mind the guidance initially set out by the Committee in its May guidelines: Any hearing held to determine whether to record a proceeding should not itself be video recorded; the hearing should, however, be held on the record.

3. Who should give consent? Must non-party witnesses give consent? If they do not, may a proceeding be recorded?

   The Committee's Program Guidelines state, "Parties must provide consent to the recording of each proceeding in a case" (p. 2). This means that each party to a case must give consent for a proceeding to be recorded. If the parties give their consent, neither the attorneys for the parties nor witnesses who appear on behalf of the parties may prevent recording of the proceeding—i.e., the pilot courts need not ask non-party witnesses whether they consent. It is the parties' obligation to discuss the matter with their witnesses and to give or withhold consent based on the parties' best judgment. Parties can indicate on Form E or Form F that consent is extended for some, but not all, witnesses; recording equipment should then be turned off when those witnesses testify. (Forms E and F are discussed below at Point 4.)

   If parties appear reluctant to give consent out of concern for their witnesses, judges should talk with the parties about these concerns. Judges should assure the parties that party consent is sufficient to permit recording and that the judge has authority to turn off the cameras when a reluctant non-party witness testifies.[3] If parties are aware of this option, it is likely that some proceedings may be recorded that otherwise would not be. (The Example General Orders reinforce this approach; see Clause 4.)

   In instances where some witnesses are recorded and others are not, the jury should not be aware of which ones are recorded and which ones are not.

4. How should parties submit their consent or declination to the court?

   When parties or, if represented, their attorneys receive notification of the opportunity to record a proceeding, they should also receive a form for giving or

3. If a non-party witness's camera is turned off, the witness's voice may nonetheless be picked up by the microphone. The court should determine whether that witness wants to avoid only being seen or also being heard and then turn off the relevant equipment.

declining consent. Notification is discussed at Point 2, above. The form for consenting or declining, "PARTY RESPONSE TO REQUEST FOR VIDEO RECORDING" (Form E), is provided at Part 3. This form is one of the key data collection forms for the study of the pilot project. Attorneys (or pro se litigants) should use it to tell the court whether the parties consent or, if they do not, why they decline. This form also permits parties to indicate whether particular non-party witnesses should not be recorded.

On occasion the court may encounter a case where the parties have consented to record a proceeding but at the last minute a non-party witness is reluctant to be recorded. To assist the study of the pilot, the Committee would like to know how often a witness asks not to be recorded. See Part 3 for the form titled "REQUEST TO EXEMPT WITNESS FROM VIDEO RECORDING" (Form F). This form may also be used when a consenting party changes its mind after a proceeding has begun (see Point 1, Page 10).

5. If all parties who are present for a proceeding give consent, may recording go forward if a party who does not want to be recorded is not present?

   If a party will not give consent for any proceedings in the case to be recorded, then no proceedings should be recorded. But if a party who does not want to be recorded is willing to let recording go forward for proceedings where that party is absent, then consent by the parties who will be present at the proceeding is sufficient to permit recording of that proceeding.

6. Should the consent/declination forms be docketed?

   Party consents should be recorded on the docket, but declinations should not be recorded on the docket. In any instance, the consent/declination form itself should not become part of the public record.

## Other Matters

1. Should the court notify those present at a recorded proceeding that the event is being recorded?

   The Committee's Program Guidelines state, "The court should remind all persons present in the courtroom that a recording is taking place, so as to limit noise, side conversation, and other disturbances" (p. 4). Part 4 provides text the pilot courts can adapt for use in their courtrooms.

2. May a judge decide not to release a recording that has already been made, even when the parties have consented to recording the proceeding?

   The Committee's Program Guidelines state, "In the event that the presiding judge decides not to make the recording publicly available, the judge must document, using the forms provided by the FJC, the reasons for the decision and send that information to the FJC" (p. 6). See Part 3 for the form, "REASONS FOR JUDGE'S DECISION NOT TO MAKE PUBLICLY AVAILABLE ALL OR PORTIONS OF A VIDEO RECORDING THAT WAS MADE" (Form G).

   There may be a number of reasons not to release all or part of a recording. A hearing may involve, for example, photos of autopsies, surgeries, or nudity. A judge may decide not to release a recording with such evidence. Alternatively, when a judge (or a party) deems certain evidence not suitable for public distribution, he or she can simply turn off the evidence camera during that portion of the hearing. The consent/declination form (Form E) gives parties an opportunity to designate beforehand the portions of a proceeding they do not want to record.

# Part 2

# Example General Orders

EXAMPLE GENERAL ORDER #1:

THE JUDGE INITIATES THE REQUEST AND CONSENT PROCESS

UNITED STATES DISTRICT COURT
_____ DISTRICT OF _____

GENERAL ORDER RE: VIDEO RECORDING OF COURT PROCEEDINGS UNDER THE CAMERAS PILOT PROJECT

This General Order supplements the Judicial Conference Committee on Court Administration and Case Management Guidelines for the Cameras Pilot Project in the District Courts ("the Guidelines"; available at [insert link]). All recordings of court proceedings must comply with both this General Order and the Guidelines; where they are believed to conflict, the Guidelines will prevail.

1. Participating judges. Video recording will occur only in proceedings presided over by District Judges who have chosen to participate in the Pilot Project. All further references to "Judge" or "presiding Judge" in this Order include only participating District Judges. A list of participating Judges can be found on the court's website at: [insert link].
2. Proceedings eligible for recording. A Judge who is presiding over a civil case proceeding that is held in open court, other than those excluded under the Guidelines, will determine whether to request that the proceeding be recorded. In general, trials and evidentiary hearings will be recorded unless a party does not give consent [*Alt. language*: In general, trials and evidentiary hearings will be considered eligible for recording.] [Courts should add here any other proceedings considered to be "default" proceedings eligible for recording in their court.]
3. Notification of parties. Unless otherwise ordered by the Judge, at least __ days prior to each civil case proceeding that the Judge has identified as eligible for recording, the Judge will send each party, or the party's attorney if represented by counsel, a notice ("NOTIFICATION OF REQUEST FOR VIDEO RECORDING") that he or she is requesting that the proceeding be recorded under the pilot project. Alternatively, the Judge may provide such notice at a conference with counsel or with parties proceeding without counsel.

4. Consent of parties. Along with notification, each party will receive a form ("PARTY RESPONSE TO REQUEST FOR VIDEO RECORDING") on which to indicate whether that party consents to the recording of all, part, or none of the proceeding. Parties may indicate as well that they wish to have no recording of specified witnesses. Counsel for each party, or the party itself if proceeding pro se, will return the form on behalf of all persons who will appear for that party at the proceeding to be recorded. For data collection purposes, parties who do not consent to recording will be asked to describe their reasons. Unless otherwise ordered by the Judge, the form should be returned to the Judge's chambers at least ___ days prior to the proceeding.
5. Hearing on consent. If some or all parties do not consent to recording a proceeding that the Judge has identified as eligible for recording, the Judge may, in his or her discretion, hold a hearing to discuss the parties' concerns and determine if there are conditions under which the party(ies) would agree to recording some or all of the proceeding. The hearing will be held on the record.
6. Requests for recording from parties or outside entities. Parties, members of the media, or other outside entities may submit a request that a proceeding be recorded. A request should be submitted to the presiding Judge at least ___ days before the date of the proceeding. For proceedings that arise with little notice, the request should be made as soon as practicable. The request should be made using the "REQUEST FOR VIDEO RECORDING OF COURT PROCEEDING" form (available at [insert link]). The presiding Judge will determine whether to deny the request or to seek consent from the parties under the procedures outlined above. The person or entity making the request will be advised of the outcome of the request at least ___ days prior to the proceeding, unless otherwise ordered by the presiding Judge.
7. Data collection. The completed "PARTY RESPONSE TO REQUEST FOR VIDEO RECORDING" forms and "REQUEST FOR VIDEO RECORDING OF COURT PROCEEDING" forms will be made available to researchers at the Federal Judicial Center who are conducting an evaluation of the Cameras Pilot Project on behalf of the Judicial Conference Committee on Court Administration and Case Management.

EXAMPLE GENERAL ORDER #2:

THE CLERK'S OFFICE INITIATES THE REQUEST AND CONSENT PROCESS

UNITED STATES DISTRICT COURT
_____ DISTRICT OF _____

GENERAL ORDER RE: VIDEO RECORDING OF COURT PROCEEDINGS UNDER THE CAMERAS PILOT PROJECT

This General Order supplements the Judicial Conference Committee on Court Administration and Case Management Guidelines for the Cameras Pilot Project in the District Courts ("the Guidelines"; available at [insert link]). All recordings of court proceedings must comply with both this General Order and the Guidelines; where they are believed to conflict, the Guidelines will prevail.

1. Participating judges. Video recording will occur only in proceedings presided over by District Judges who have chosen to participate in the Pilot Project. All further references to "Judge" or "presiding Judge" in this Order include only participating District Judges. A list of participating Judges can be found on the court's website at: [insert link].
2. Proceedings eligible for recording. Every civil case proceeding presided over by a Judge participating in the Cameras Pilot Project and held in open court, other than those excluded under the Guidelines, is eligible for recording.
3. Notification of parties. At least ___ days prior to each civil case proceeding that is eligible for recording, the Clerk's Office will send each party, or the party's attorney if represented by counsel, a notice that the proceeding is eligible for recording under the pilot project. Where a proceeding arises with insufficient time to provide such notice, the Clerk's Office will notify parties of eligibility as soon as is practicable.
4. Consent of parties. Along with notification, each party will receive a form ("PARTY RESPONSE TO REQUEST FOR VIDEO RECORDING") on which to indicate whether that party consents to the recording of all, part, or none of the

proceeding. Parties may indicate as well that they wish to have no recording of specified witnesses. Counsel for each party, or the party itself if proceeding pro se, will return the form on behalf of all persons who will appear for that party at the proceeding to be recorded. For data collection purposes, parties who do not consent to recording will be asked to describe their reasons. The form should be returned to the Clerk's Office at least ___ days prior to the proceeding, except as otherwise ordered by the court. The presiding Judge will be advised as to whether all parties consented to recording; however, if not all parties consented, the Judge will not be made aware of which party(ies) did not consent or of their reasons for not giving consent.

5. Hearing on consent. A presiding Judge who is notified that some or all parties have not consented to recording a proceeding may, in his or her discretion, hold a hearing to discuss the parties' concerns and determine if there are conditions under which the party(ies) would agree to recording.
6. Judge discretion. Regardless of party consent, the presiding Judge has full discretion to determine that a case proceeding, either in full or in part, should not be recorded.
7. Requests for recording from outside entities. Parties, members of the media, or other outside entities need not submit a request for a proceeding to be recorded because the Clerk's Office will seek consent for recording every eligible proceeding. Individuals interested in knowing which proceedings will be recorded should consult [Name and contact information of the liaison or other designated court staff member] or check the court's website at [insert link].
8. Data collection. The completed "PARTY RESPONSE TO REQUEST FOR VIDEO RECORDING" forms will be made available to researchers at the Federal Judicial Center who are conducting an evaluation of the Cameras Pilot Project on behalf of the Judicial Conference Committee on Court Administration and Case Management.

[Note: See the next page for several alternative clauses.]

The alternative clauses below are variations in procedure that can be substituted for corresponding clauses in Example General Order #2 (The Clerk's Office Initiates the Request and Consent Process). Alternative clauses 1, 2, and 6 would be used together.

Alternative for Clause 1: For use if the court leaves the selection of proceedings to the judge but wants notification to go out from the Clerk's Office.

> Proceedings eligible for recording. Every civil case proceeding presided over by a Judge participating in the Cameras Pilot Project and held in open court, other than those excluded under the Guidelines, is eligible for recording. The presiding Judge will determine whether to request that the proceeding be recorded.

Alternative for Clause 2: For use if the court leaves the selection of the proceedings to the judge.

> Notification of parties. At least ___ days prior to each civil case proceeding that is eligible for recording, the Clerk's Office will send each party, or the party's attorney if represented by counsel, a notice that the presiding Judge has selected the proceeding for recording under the pilot project and seeks consent of the parties.

Alternative Final Sentence in Clause 3: For use if the court does not wish to shield the judge from knowledge about who did and did not consent.

> The "PARTY RESPONSE TO REQUEST FOR VIDEO RECORDING" form will then be transmitted to the presiding Judge to notify the Judge whether the parties have given consent to record.

Alternative for Clause 6: For use if the court leaves the selection of the proceedings to the judge.

> Requests for recording from parties or outside entities. If the presiding Judge has not selected an eligible proceeding for recording, a party, members of the media, or other outside entities may submit a request that a proceeding be recorded, using the "REQUEST FOR VIDEO RECORDING OF COURT PROCEEDING" form (available at [insert link]). The presiding Judge will determine whether to deny the request or to seek consent from the parties under the procedures outlined above. Such requests should be submitted at least ___ days before the date of the proceeding. For proceedings that arise with little notice, the request should be made as soon as practicable. The person or entity making the request will be advised of the outcome of the request at least ___ days prior to the proceeding, unless otherwise ordered by the Judge.

# Part 3

## Data Collection Forms

The forms that follow can be printed and used for proceedings that arise at the beginning of the Pilot Project. FJC staff anticipates making fillable PDF documents or on-line databases available for some of these forms for pilot court use.

Form A

THE FEDERAL JUDICIAL CENTER
CAMERAS IN THE COURTROOM PILOT PROJECT

REASONS FOR JUDGE'S SELECTION OF PROCEEDING
FOR VIDEO RECORDING

Case Name: _____

Docket Number: _____

Presiding Judge: _____

Please describe the proceeding to be recorded:

_____
_____
_____

Date of scheduled proceeding: ___/___/___

Did you select the proceeding described above for recording because it is of a type that your court has identified as presumptively eligible for recording?

[ ] Yes

[ ] No → Please describe, in as much detail as possible, why you [the presiding judge] have identified this case or proceeding as one that would be appropriate for inclusion in the Cameras in the Courtroom Pilot Project:

_____
_____
_____

Name of Person Completing this Form: _____

Title: _____

On behalf of (if applicable): _____

Date: ___/___/___

Please give the completed form to _____, the Cameras Pilot Project liaison in your district.

Form B

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF _____

REQUEST FOR VIDEO RECORDING

The undersigned request(s) that the court allow video recording of the proceeding described below, under the Judicial Conference Committee on Court Administration and Case Management Guidelines for the Cameras Pilot Project in the District Courts (available at [insert link]).

Case Name: _____

Docket Number: _____

Presiding Judge: _____

Proceeding (describe): _____

Date of scheduled proceeding (if known): ___/___/___

Date of Request: ___/___/___

Reason(s) for Request:

_____
_____
_____

_____
Signature

_____
Name (please print)

_____
Organization(s) represented

All requests should be submitted to: [Clerk of Court/designated media liaison/judges' chambers], [ADDRESS], [FAX NUMBER].

Form C

THE FEDERAL JUDICIAL CENTER
CAMERAS IN THE COURTROOM PILOT PROJECT

REASONS FOR JUDGE'S DECISION NOT TO PERMIT VIDEO RECORDING OF PROCEEDING THAT WOULD OTHERWISE BE ELIGIBLE OR FOR WHICH A REQUEST FOR RECORDING WAS MADE

Case Name: _____

Docket Number: _____

Presiding Judge: _____

Please describe the proceeding(s) that would be eligible for recording or for which recording was requested:

_____
_____
_____

Date of scheduled proceeding: ___/___/___

Name of Person or Organization Making Request (if applicable):
_____

Please describe, in as much detail as possible, why you [the presiding judge] decided not to permit recording of the case or proceeding listed above:

_____
_____
_____

Name of Person Completing this Form: _____

Title: _____

On behalf of (if applicable):_____

Date: ___/___/___

Please give the completed form to _____, the Cameras Pilot Project liaison in your district.

Form D

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF _____

| | | |
|---|---|---|
| [NAME], Plaintiff | ) | Case No: |
| v. | ) | |
| [NAME], Defendant | ) | |

NOTIFICATION OF REQUEST FOR VIDEO RECORDING

The parties in this case are hereby notified that the following proceeding is eligible for video recording under the Judicial Conference Committee on Court Administration and Case Management Pilot Project on Cameras (see [insert link]), and the Judge requests the parties' consent to recording. [*Alt. language for when the notification comes from the Clerk's Office:* The parties in this case are hereby notified that the following proceeding is eligible for video recording under the Judicial Conference Committee on Court Administration and Case Management Pilot Project on Cameras (see [insert link]), and the court requests the parties' consent to recording.] [*Alt. language for when an outside entity has requested the recording*: The parties in this case are hereby notified that a request has been made to video record the following proceeding in this case under the Judicial Conference Committee on Court Administration and Case Management Pilot Project on Cameras (see [insert link].]

_____

_____

(Describe proceeding.)

Date of scheduled proceeding: ___/___/___

Parties should complete the attached form, PARTY RESPONSE TO REQUEST FOR VIDEO RECORDING, and return it to the court by [DATE].

___/___/___ _____
[DATE] [JUDGE OR CLERK OF COURT]

Form E

IN THE UNITED STATES DISTRICT COURT

FOR THE _____ DISTRICT OF _____

| | | |
|---|---|---|
| [NAME], Plaintiff | ) | Case No: |
| v. | ) | |
| [NAME], Defendant | ) | |

PARTY RESPONSE TO REQUEST FOR VIDEO RECORDING

The presiding Judge has requested that the following proceeding be video recorded, under the Judicial Conference Committee on Court Administration and Case Management Guidelines for the Cameras Pilot Project in the District Courts (available at [insert link]). [*Alt. Language 1, for when notice is sent by Clerk's Office*: The following proceeding in this case is eligible for video recording under the Judicial Conference Committee on Court Administration and Case Management Guidelines for the Cameras Pilot Project in the District Courts (available at [insert link]); *Alt Language 2, for when an outside entity has requested recording:* A request has been made for the following proceeding to be video recorded, under the Judicial Conference Committee on Court Administration and Case Management Guidelines for the Cameras Pilot Project in the District Courts (available at [insert link]).]

_____

_____

(Describe proceeding.)

Date of scheduled proceeding: ___/___/___

Check the appropriate box(es) below and on the next page to indicate whether you consent to the recording of some or all of this proceeding:

[ ] I consent to the recording of this entire proceeding.

[ ] I consent to the recording of some, but not all, of this proceeding.
➔ Explain the specific parts of the proceeding for which you do not consent to recording, and your reasons:

| Part of Proceeding | Reason Not to Video Record |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

[ ] I consent to the recording of this proceeding. The following witnesses have expressed a preference not to be recorded, for the reasons indicated.
➔ Name the specific witnesses for whom you do not consent to recording, and explain your reasons:

| Witness Name | Reason Not to Video Record |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

[ ] I do not consent to the recording of any of this proceeding.
➔ Explain your reasons for not consenting:

_____
_____
_____

I submit and sign this form on behalf of the party I represent and the witnesses I may call.

_____
Signature

_____
Name (please print)

_____
Position (e.g., attorney of record)

___/___/___
Date

Form F

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF _____

| | | |
|---|---|---|
| [NAME], Plaintiff | ) | Case No: |
| v. | ) | |
| [NAME], Defendant | ) | |

REQUEST TO EXEMPT WITNESS(ES) FROM VIDEO RECORDING

The proceeding described below has been approved by the parties and the presiding Judge for video recording under the Judicial Conference Committee on Court Administration and Case Management Guidelines for the Cameras Pilot Project and the Court's General Order Implementing the Pilot Project.

_____

_____

(Describe proceeding.)

Date of scheduled proceeding: ___/___/___

I hereby request that the testimony of the following witness(es) not be recorded during this proceeding:

| Witness Name | Reason Not to Video Record |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

I submit and sign this form on behalf of the party I represent and the witnesses I may call.

_____
Signature

_____
Name (please print)

_____
Position (e.g., attorney of record)

___/___/___
Date

Form G

THE FEDERAL JUDICIAL CENTER
CAMERAS IN THE COURTROOM PILOT PROJECT

REASONS FOR JUDGE'S DECISION NOT TO MAKE PUBLICLY AVAILABLE ALL OR PORTIONS OF A VIDEO RECORDING THAT WAS MADE

Case Name: _____

Docket Number: _____

Presiding Judge: _____

Please describe the proceeding that was recorded:

_____

_____

Date of proceeding: ___/___/___

Please describe, in as much detail as possible, why you [the presiding judge] decided not to make publicly available all or portions of the video recordings of the proceeding described above:

_____
_____
_____
_____

Name of Person Completing this Form: _____

Title: _____

On behalf of (if applicable): _____

Date: ___/___/___

Please give the completed form to _____, the Cameras Pilot Project liaison in your district.

# Part 4

## Sample Language for Circumstances Arising from Being a "Cameras" Pilot Court

Sample FAQs

Cameras in Courts on uscourts.gov

Sample Courtroom Statement

Sample Instructions to Jurors re Cameras

# Sample FAQs

The questions and answers below may be adapted by pilot districts for use as a Frequently Asked Questions document to be made available at the district's web site and other appropriate locations.

* * * * *

The _____ District is a pilot court in the federal judiciary's Cameras in the Courtroom Pilot Project. Information about the Pilot Project is provided here for the benefit of parties in a civil case, witnesses, the media, and the general public. Additional information can be found in the Judicial Conference Committee on Court Administration and Case Management Guidelines for the Cameras Pilot Project in the District Courts ("Guidelines"; found at [insert link]) and the Court's General Order regarding the Project (found at [insert link]).

1. What does the Pilot Project involve?

   Fourteen federal district courts, including this District Court, are taking part in the federal judiciary's Cameras in the Courtroom Pilot Project. This project allows judges to video record proceedings in civil cases and to make the recordings available to viewers on line. Judges will record only civil proceedings and only if parties give consent. The court will operate the recording equipment.

2. When does the Pilot Project begin?

   Pilot courts were authorized to make recordings as of July 18, 2011. This District will have equipment and procedures in place to begin recording on _____. [*Alt. language*: This District began its program on ____.] Eligible civil proceedings for which the parties have consented to recording may be video recorded from that day forward. The Pilot Project ends after three years.

3. What proceedings may and may not be recorded?

   Civil case proceedings held in open court and presided over by a district judge who has elected to participate in the Pilot Project are eligible for recording, subject to any limitations set forth in the Guidelines, the Court's General Order re: the Cameras Pilot Project, and decisions of the presiding judge. Before a recording of a proceeding can take place, the parties involved in the case must have given consent. Even with party consent, the presiding judge has discretion over whether a proceeding, or any part of a proceeding, will be recorded.

   The Pilot Project does not allow video recording of civil commitment or criminal matters.

4. May jurors be recorded?

   Jurors, prospective jurors, and alternate jurors cannot be recorded in the courtroom or any other part of the courthouse.

5. What happens if a non-party witness does not wish to be video recorded?

   If a witness prefers not to be recorded, the party can bring this fact to the attention of the judge. A party that is inclined to consent to recording has an obligation to discuss recording with non-party witnesses.

6. Which of the court's judges are participating?

   The Guidelines limit the pilot project to district judges. The participating judges from this court are: [list].

7. How can the public find out which proceedings the court expects to record?

   [*If applicable:* Go to [insert link] to find upcoming proceedings that will be recorded. [*Alt. Language*: Contact [Name/Clerk's Office] for information about upcoming proceedings that will be recorded.]

8. How can the public request that the court record a proceeding?

   If you wish to request that a proceeding be recorded, you can use the "REQUEST FOR VIDEO RECORDING" form, found at [insert link]. [*Alt. language for courts in which the judge requests recording*: The presiding judge will ask parties in appropriate civil proceedings whether they consent to video recording the proceeding. If you wish to request that a certain proceeding be recorded, you can use the "REQUEST FOR VIDEO RECORDING" form, found at [insert link].] [*If applicable, given deadlines for submitting the request form*: Participating judges' calendars can be found at [insert link].]

9. Will proceedings be simulcast?

   Under the Guidelines, the presiding judge has discretion to determine that some or all of a recorded proceeding will not be made publicly available. To ensure that discretion, proceedings will not be simulcast.

10. How—and when—can the public view a recording?

    Recordings will be stored on a national server maintained by the federal judiciary and can be accessed through this link: [insert link]. [*If applicable*: The court will also make recordings available on its public website, at [insert link]]. Recordings will be posted as soon as practicable.

11. Who has oversight and evaluation responsibility for this Pilot Project?

    The Judicial Conference Committee on Court Administration and Case Management has oversight responsibility for the pilot project. At the request of the Judicial Conference and the Committee, the Federal Judicial Center, the judiciary's research and education agency, is conducting an evaluation of the pilot courts' experience under the project.

12. Who do I contact with questions about how the Pilot Project operates in this district?

    If questions about the Pilot Project in this Court are not answered in this FAQ or other publicly-available documents, please contact [Name/ number/email of court contact person].

# Cameras in Courts on uscourts.gov

http://www.uscourts.gov/Multimedia/cameras.aspx

## CAMERAS IN COURTS

Fourteen federal trial courts are taking part in the federal Judiciary's digital video pilot, which started July 18, 2011, and will evaluate the effect of cameras in courtrooms. All 14 courts volunteered to participate in the three-year experiment.

**Participating Courts:**

- Middle District of Alabama
- Northern District of California
- Southern District of Florida
- District of Guam
- Northern District of Illinois
- Southern District of Iowa
- District of Kansas
- District of Massachusetts
- Eastern District of Missouri
- District of Nebraska
- Northern District of Ohio
- Southern District of Ohio
- Western District of Tennessee
- Western District of Washington

### Overview of Pilot

No proceedings may be recorded without the approval of the presiding judge, and parties must consent to the recording of each proceeding in a case. The recordings will be made publicly available on uscourts.gov and may also be on local participating court websites at the court's discretion.

The participating courts were selected by the Committee on Court Administration and Case Management (CACM) of the Judicial Conference of the United States in consultation with the Federal Judicial Center, the Judiciary's research arm.

Only the federal district courts participating in the pilot study are permitted to record and provide videos of court proceedings to the public. Districts volunteering for the pilot must follow guidelines adopted by CACM. The pilot is limited to civil proceedings in which the parties have consented to recording. Photographing in the courtroom during criminal proceedings is prohibited by Rule 53 of the Federal Rules of Criminal Procedure. Proceedings in federal bankruptcy courts are not included in the pilot.

A presiding judge can choose to stop a recording if it is necessary, for example, to protect the rights of the parties and witnesses, preserve the dignity of the court, or choose not to post the video for public view. Coverage of the prospective jury during voir dire is prohibited, as is coverage of jurors or alternate jurors.

- Pilot guidelines (pdf)

**No Videos Currently Available**

At this time, no videos are available as part of the Cameras in Courts pilot. The pilot is limited to civil proceedings in which the parties have consented to recording. For more information, please review the pilot guidelines (pdf). Video will be posted to this website when it is available.

**Related Links**

- Guidelines for Cameras in Courts Pilot (pdf)
- Rule 53 of the Federal Rules of Criminal Procedure
- History of Cameras in the Federal Courts

**Related News Releases**

- Courts Selected for Federal Cameras in Court Pilot Study (June 8, 2011)
- Judiciary Approves Pilot Project for Cameras in District Courts (Sept. 14, 2010)

## Sample Courtroom Statement

The statement below may be adapted by pilot districts for use at the start of a proceeding that will be video recorded.

* * * * *

This proceeding will be video recorded, and the video may be posted on the web site for the federal court system [and this court's web site]. The parties to the case have agreed to allow cameras operated by court personnel to record the proceedings. Please limit noise, side conversations, and other disturbances.

## Sample Instructions to Jurors re Cameras

The instructions below may be adapted by pilot districts for instructing jurors at the start of a proceeding that will be video recorded.

* * * * *

The proceedings in which you may be participating as a juror will be video recorded and the video may be posted on the web site for the federal court system [and this court's web site.] The parties to the case have agreed to allow cameras operated by court personnel to record the proceedings. You should not draw any inferences or conclusions from the fact that this particular proceeding is being video recorded.

You as jurors, however, will not be included in the video recordings at any time and the cameras are arranged so jurors will not be captured on video. In addition, the court will not allow any cameras to be used during the jury selection process.

The court is permitting the recording of these proceedings pursuant to a pilot program for civil cases in federal courts adopted by the Judicial Conference of the United States. This court is one of fourteen volunteer pilot program courts. The recordings are made under the control of the court and, as the presiding judge, I have the discretion to allow or permit the posting of all or some of the proceedings on court websites within twenty-four hours of the recording. No live broadcasting of the proceedings is permitted under the pilot program.

As jurors, you must not watch any of the videos of the proceedings until your service has been completed. Failure to follow this instruction may result in sanctions from this court.

# Appendix B

## Video Recording Technology for the "Cameras" Pilot Project
## July 2011–July 2015

Administrative Office Expenditures

Number of Views of Recordings Posted at www.uscourts.gov

Description of Equipment Used in Each Pilot Court

# U.S. District Courts
# Video Recording Technology for "Cameras" Pilot Project
# July 2011–July 2015

## Administrative Office Expenditures

Below is a brief account of Administrative Office equipment and personnel costs for the pilot project. This account was prepared by pilot project staff at the Administrative Office.

Total Costs: $989,526.44

- Equipment Costs (JITF) $458.586.80
  - 5 Portable Video Production Systems, $287,541.00
  - 38 Digital Video Recorders/Encoders & Tech Support, $158,904.00
  - 2 Videoconferencing System Upgrades, $9,964.00
  - 14 Video Editing Software Licenses, $2,177.80
- Labor Costs (PACER) 2011 to 2015, $435,236.52
  - OPA contractor staff provided technical support for equipment operations, video editing, training, web publishing, database management, and web analytics.
- Video Hosting (JITF) 2011 to 2015, $95,703.12
  - Recordings were published on www.uscourts.gov, and hosted by a third party video hosting service.

## Number of Views of Video Recordings Posted at www.uscourts.gov

Below is a count of the number of times a video recording was viewed. The information was provided by the Administrative Office.

When the pilot project began, the Administrative Office contracted with a video hosting and content delivery provider. The company also tracked the number of times viewers accessed the video recordings. While it would have been ideal to collect additional data, this proved to be elusive for several reasons.

During the course of the pilot, an increasing number of users accessed pilot videos over mobile devices and tablets, as opposed to PCs. This shift in viewership habits brought into question the ability and reliability to accurately collect analytics from different sources.

In an effort to address this challenge, the vendor used three different tracking systems seriatim over the four-year pilot project, introducing improvements and inconsistency in tracking accuracy with each new system. The system in place during calendar 2014, which we believe collected the most reliable data, found that the videos posted by the pilot courts were accessed 21,530 times between January 1 and December 31, 2014. It is difficult to know, of course, whether this is a significant number or not, since there is no benchmark to look to for guidance.

## Descriptions of Video Recording Equipment Installed and Used in the Pilot Districts

Below are descriptions of the equipment used and video recording procedures followed by each pilot court. Project staff from the Federal Judicial Center prepared the descriptions, using information obtained through interviews with the courts. Court staff reviewed the descriptions.

### *Middle District of Alabama*

The district had three video cameras and recording equipment provided by the Administrative Office, and the equipment was portable from one courtroom to another. When a proceeding was to be recorded, it took IT staff roughly two hours to set up the equipment. IT staff operated the equipment during proceedings.

### *Northern District of California*

The court has a system it bought and wired into a single courtroom in a new courthouse. The system has three stationary cameras, which are focused on the judge's bench, the witness stand, and the attorney lectern. These three views, along with information about the case, make up the four quadrants seen on screen by a viewer. The cameras record onto a laptop, which can be easily uploaded to the Administrative Office. The court also has a portable system for use in its old courthouse. This system also has three cameras, focused on the judge's bench, witness stand, and attorney lectern, and can be set up in any courtroom. IT staff remain in the courtroom for the duration of a proceeding to monitor the video recording; they later upload the recordings to the Administrative Office.

### *Southern District of Florida*

At the beginning of the project, the Administrative Office provided the Southern District of Florida with three encoder boxes. The court used existing video conferencing equipment and an encoder it already possessed to record proceedings in three courthouses. A law clerk would typically start and stop a recording from within the courtroom, although cameras could also be turned on and off remotely. Feed from up to three cameras were processed through a multiplexer to provide recordings showing multiple views (e.g., the bench, the witness stand, the podium).

### *District of Guam*

The court used its existing video conferencing system for recording cases under the pilot. The equipment consists of three cameras built into wells in the courtroom walls. The Niagara Viewcast encoder provided by the Administrative Office was used for recording the hearings and was connected directly to the video conferencing system. An IT staff member used a touch screen at the courtroom deputy's bench to control the cameras during a recorded proceeding. The cameras could be trained on the judge, witness, or podium/counsel tables. During the course of the pilot, the court purchased an additional Niagara Viewcast encoder/recorder for use as a spare and also for use in the court's magistrate courtroom.

### *Northern District of Illinois*

The Administrative Office provided the court with a portable video recording unit that included three cameras and a director's station. The director's station was operated during a recorded proceeding by a systems department staff person, who could sit at the station and initiate the recording, control the cameras independently by setting predetermined camera shots and angles (presets), connect evidence presentation outputs to the director's station, and stop the recording when the proceeding was concluded or on break. The equipment was stored in four portable cases that could be moved to different courtrooms depending on which judge was recording a proceeding. Setting up the equipment and testing for a particular recording took approximately three hours.

### *Southern District of Iowa*

At the beginning of the project, the Administrative Office provided the Southern District of Iowa with two encoder boxes, which the court used with existing polycom video conferencing equipment to record proceedings. This made video recording possible in every courtroom, although it required the court to share (and transport) two systems among three courthouses until a third encoder was later acquired. Court staff operated the recording equipment from within the courtroom. Staff could use one camera to focus on the bench and/or witness box and another camera to focus on the tables for counsel and client or the podium.

### *District of Kansas*

The Administrative Office provided the DVR recording equipment for two courtrooms, and the court bought a third system so it could equip a courtroom in each of its three courthouses. The court provided the cameras and the installation and

wiring of each courtroom. The court's IT staff integrated the control of the video equipment into the court's existing AMX based audio visual system to allow the courtroom deputies to operate the equipment. Later the court acquired and built in a fourth system. The cameras focused on the judge's bench, the witness stand, and the attorney's podium. The fourth video feed in each courtroom comes directly from the media input used by the attorney and can accept footage from the document camera, connected media device, tablet, or laptop. The courtroom deputies can toggle back and forth between these cameras to provide a single view on screen. The default view is a quad split screen incorporating all four views in one image, which is used to reduce management time of the courtroom deputies. IT staff provide post recording editing when necessary and upload the video files to the AO. The court tested a portable system but found that set-up was time-consuming when compared to the integrated system.

*District of Massachusetts*

When the pilot project began, the court had one courtroom wired with capability to video record, and it set up the pilot project in that courtroom with cameras from the Administrative Office. Because judges preferred to stay in their own courtroom, the court also purchased a single camera portable system that could record and stream and could be used if the multi-camera system was in use. Currently, the court has three courtrooms where proceedings can be video recorded and is about halfway through a project to upgrade all district judge courtrooms with wired-in video recording capability. The judges prefer a single screen image, and therefore an IT staff member is present throughout a proceeding to operate the cameras. IT staff also edit and upload the recordings afterward.

*Eastern District of Missouri*

The district had two courtrooms set up for recording, both of which already had cameras integrated into them. Each courtroom had three cameras, in addition to a feed for evidence or a document camera. The Administrative Office provided an encoder, which gave the court the ability to record four streams at once (judge, attorney, witness, and evidence/document camera). The cameras were turned on and off by IT staff before and after the proceedings and during breaks. While the proceeding was occurring, they recorded continuously. If the judge did not want portions of the proceeding broadcast, he or she would make a note during the proceeding, and afterward IT staff would edit out that part of the proceeding before uploading to the AO.

### *District of Nebraska*

The district had two courtrooms set up for recording, one in Omaha and one in Lincoln. Each of the courtrooms had three cameras and one recorder. The equipment was provided by the Administrative Office. When a proceeding was scheduled to be recorded, IT staff would test the equipment beforehand and set up camera angles. The cameras focused on the judge, the witness stand, and counsel tables/podium. The courtroom deputy operated the equipment during a proceeding.

### *Northern District of Ohio*

The Administrative Office provided the court with three encoder boxes that the court used with existing video conferencing equipment to record trials in two courthouses. Non-IT court staff operated equipment from within the courtroom, choosing one of four monitors to provide a view of the judge, witness, attorney podium, or evidence display. Operators were responsible for uploading recordings to the AO at the end of each trial day.

### *Southern District of Ohio*

The Administrative Office provided the court with two encoder boxes intended for use with existing video conferencing equipment. Two out of three courtrooms of the three participating judges were covered by the equipment. If the third judge had received consent to record a proceeding, he would have moved to an equipped courtroom. The court expected a courtroom deputy to operate the equipment from within the courtroom, but the court made no recordings because it had no consented cases.

### *Western District of Tennessee*

The court was upgrading its courtroom audio visual systems at the time the pilot project began and subsequently has completed installation in all the district judge courtrooms. Although initially given a single portable system by the Administrative Office, the court has relied on its own equipment and returned the Administrative Office equipment. The cameras—one each for the judge, witness stand, attorney podium, and evidence cart—are high definition and wired to a central mixer with pan and tilt. This feeds a digital recorder which archives the recording to a server. The court has a single recorder in each of its two courthouses and therefore can record in only one courtroom at a time. Because the judge who is the primary user of video recording prefers a single image on screen and it is too time-consuming for courtroom staff to manage the cameras, IT staff are present

throughout a proceeding to do so. Upon completion of a proceeding, IT staff edit the recording, if necessary, guided by notes kept while in the courtroom, and upload it to the Administrative Office.

*Western District of Washington*

The Western District of Washington used AO-provided video recording equipment. Recordings were made using up to three high-definition (HD) Panasonic cameras and a Panasonic camera control unit that was moved between courtrooms on a cart as needed. Four inputs on the control unit permitted court staff to switch between coverage of the bench and witness box, the podium, tables for counsel and client, and to also capture an output image from the evidence display. The typical setup for recording involved just two cameras, covering two camera angles. Court staff operated the recording equipment from within the courtroom.

# Appendix C

## Federal Judicial Center Questionnaires and Interview Protocols

Questionnaires

Judges Pre-Pilot

Judges Post-Pilot

Attorneys Post-Pilot

Post-Pilot Interview Protocols

Judges Who Recorded a Proceeding (and Completed the Questionnaire)

Judges Who Recorded a Proceeding (and Did Not Complete the Questionnaire)

Court Staff

Online Viewer Survey

# EARLY IMPLEMENTATION SURVEY OF ALL DISTRICT JUDGES IN "CAMERAS" PILOT COURTS

As you are aware, the Judicial Conference has authorized the Committee on Court Administration and Case Management ("the Committee") to conduct a pilot project to evaluate "the effect of cameras in district court courtrooms, video recordings of proceedings therein, and publication of such video recordings." The Committee asked the Federal Judicial Center (FJC) to evaluate the pilot project.

As part of this evaluation, the FJC is surveying all district judges in the pilot courts, both active and senior judges and both participating and non-participating judges. The questionnaire asks about judges' expectations and concerns about video recording in district courtrooms.

Please assume for the purposes of this survey that video recording will conform to guidelines that have been established for the pilot program (http://www.uscourts.gov/uscourts/News/2011/docs/CamerasGuidelines.pdf). Key among the guideline provisions are the following:

- video recording will be limited to civil proceedings in which all parties consent;
- the presiding judge will decide whether, and what portions of, a proceeding will be recorded;
- court personnel will operate the recording equipment;
- jurors will not be recorded; and
- cameras will be small and unobtrusive, but participants will know when a proceeding is being recorded.

Responses to this survey will be reported in the aggregate only, and no individual judges will be identified.

Please complete the survey by September 12. If you have technical problems completing the survey, please contact Meghan Dunn (mdunn@fjc.gov; 805-226-7497). If you have any questions about the substance of the survey, please contact Molly Johnson (mjohnson@fjc.gov; 315-824-4945), Carol Krafka (ckrafka@fjc.gov; 202-502-4068), or Donna Stienstra (dstienst@fjc.gov; 202-502-4081).

## Part I: Expectations About Video Recording of Civil Proceedings

The following questions relate to the potential effects of or concerns regarding video recording of civil proceedings, compared to what you would expect in the absence of video recording. For each potential effect, please mark the circle in the column that best reflects your view.

1) Compared to the absence of video recording, to what extent, if at all, do you expect the presence of video recording during civil proceedings to:

| | To no extent | To a small extent | To a moderate extent | To a great extent | No opinion |
|---|---|---|---|---|---|
| Motivate witnesses to be truthful? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Violate witnesses' privacy? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Make witnesses less willing to appear in court? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Distract witnesses? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Make witnesses more nervous than they otherwise would be? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increase juror attentiveness? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Signal to jurors that a witness or argument is particularly important? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increase jurors' sense of responsibility for their verdict? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Prompt people who see the coverage to try to influence juror-friends? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Cause attorneys to urge their clients to consent to recording in order to please the judge? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Motivate attorneys to come to court better prepared? | ❍ | ❍ | ❍ | ❍ | ❍ |

| | To no extent | To a small extent | To a moderate extent | To a great extent | No opinion |
|---|---|---|---|---|---|
| Cause attorneys to be more theatrical in their presentation? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Prompt attorneys to be more courteous? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increase judge attentiveness? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Cause judges to avoid unpopular decisions or positions? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Cause judges to be more theatrical in conducting the proceeding? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Prompt judges to be more courteous? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Disrupt courtroom proceedings? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Educate the public about courtroom procedure? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Educate the public about the legal issues in court cases? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Decrease public confidence in the courts? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increase public confidence in the courts? | ❍ | ❍ | ❍ | ❍ | ❍ |

2) If you have other expectations, either positive or negative, about the effects of video recording in civil proceedings, please describe them here:

3) Below is a list of concerns some judges have expressed about video recording of proceedings in their courtrooms. Keeping in mind the conditions under which recordings can occur under the pilot project, for each concern, please indicate the extent to which you agree with it by marking the circle in the appropriate column.

| | To no extent | To a small extent | To a moderate extent | To a great extent | No opinion |
|---|---|---|---|---|---|
| Ruling on applications for and objections to video recording will (would) take too much of my time. | ❍ | ❍ | ❍ | ❍ | ❍ |
| Operating the video equipment will (would) take too much of my time or court staff's time. | ❍ | ❍ | ❍ | ❍ | ❍ |
| Someone or something that is not appropriate to record (e.g., a juror) will (would) be recorded and disseminated. | ❍ | ❍ | ❍ | ❍ | ❍ |
| I or my staff will not (would not) operate the recording equipment properly for some or all of a proceeding. | ❍ | ❍ | ❍ | ❍ | ❍ |
| I will (would) do or say something embarrassing that is recorded and disseminated. | ❍ | ❍ | ❍ | ❍ | ❍ |
| A recording will (would) be altered in a way that is unfavorable to me or one of the participants. | ❍ | ❍ | ❍ | ❍ | ❍ |
| My safety will (would) be compromised by having recordings of my proceedings disseminated. | ❍ | ❍ | ❍ | ❍ | ❍ |

4) If you have other concerns about video recording of civil proceedings, please describe them here:

## Part II: Your Overall Views About Video Recording of District Court Proceedings

5) Which of the following statements best reflects your overall opinion about video recording civil proceedings and making the recordings publicly available? Please check one.

- ❍ I am greatly in favor.
- ❍ I am somewhat in favor.
- ❍ I have no opinion.
- ❍ I am somewhat opposed.
- ❍ I am greatly opposed.

6) Please explain your response:

7) Which of the following statements best describes your plans regarding participation in the Judicial Conference-approved pilot project allowing video recording of civil proceedings? Please check one.

- ❍ I plan to participate in the pilot project from the beginning.
- ❍ I do not plan to participate in the pilot project at the outset, but have not ruled out participation later on.
- ❍ I do not plan to participate in the pilot project at any point.

## Part III: Judge Information

8) Have you had any prior experience with video recordings of court proceedings, either as a litigator, a state court judge, or as a participant in the earlier federal pilot program involving electronic media coverage of civil proceedings? Please check all that apply.

- ❑ No
- ❑ Yes, as a litigator
- ❑ Yes, as a state court judge
- ❑ Yes, as a district judge or magistrate judge participant in the federal pilot program on "cameras" in the early 1990's.

9) Please describe your experiences with video recording and your impressions of its effects.

10) When were you appointed to the federal bench? Please select the appropriate answer from the drop-down menu below.

11) Which of the following is your home district? Please select the appropriate answer from the drop-down menu below.

- ❍ Alabama - Middle
- ❍ California - Northern
- ❍ Florida - Southern
- ❍ Guam
- ❍ Illinois - Northern
- ❍ Iowa - Southern
- ❍ Kansas
- ❍ Massachusetts
- ❍ Missouri - Eastern
- ❍ Nebraska
- ❍ Ohio - Northern
- ❍ Ohio - Southern
- ❍ Tennessee - Western
- ❍ Washington – Western

12) If you have any additional comments about video recording of civil proceedings in general, or the pilot program in particular, please provide them here.

Thank you for completing the survey. Please click the Submit Survey button below to submit your responses. Or, if you prefer, use the Previous Page and Next Page buttons to review your responses and then return to the last page to submit your responses. A successful submission will result in immediate confirmation.

# CAMERAS IN THE COURTROOM FOLLOW-UP POST-PILOT QUESTIONNAIRE FOR JUDGES

On July 18, 2015, the "Cameras in the Courtroom" pilot project formally ended, although participating courts may continue to video record until the Judicial Conference considers policy recommendations, possibly as early as the Conference's March 2016 session. The Judicial Conference Committee on Court Administration and Case Management asked the Federal Judicial Center to evaluate the pilot project, and as part of the evaluation, we surveyed judges in the pilot courts when the project was first being implemented. Now we're conducting a follow-up survey, asking for your help with the evaluation by completing this questionnaire, which asks for your thoughts about video recording of civil proceedings.

The following guidelines applied to the pilot project:

- video recording was limited to civil proceedings in which all parties consented and the presiding judge agreed to record;
- court personnel operated the recording equipment;
- jurors were not to be recorded; and
- cameras were small and unobtrusive.

You should need no more than ten minutes to complete the survey. A response by August 26, 2015 will be greatly appreciated. The Federal Judicial Center will report responses only in the aggregate, and no individual judges will be identified. If you have technical problems with the survey, please contact Meghan Dunn (mdunn@fjc.gov; 805-226-7497). For questions about the survey content, please email FJC_Directors_Office@fjc.gov or phone Carol Krafka (202-502-4068).

Judgments Regarding the Potential Effects of Video Recording Civil Proceedings

The following questions relate to possible effects of, or concerns regarding, video recording civil proceedings. For each possible effect or concern, please mark the circle in the column that best reflects your view.

1. Compared to courtroom proceedings where cameras are absent, to what extent, if at all, do you think the presence of video recording during civil proceedings:

| | To no extent | To a small extent | To a moderate extent | To a great extent | No opinion |
|---|---|---|---|---|---|
| Motivates witnesses to be truthful? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Distracts witnesses? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Makes witnesses more nervous than they otherwise would be? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increases juror attentiveness? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Signals to jurors that a witness or argument is particularly important? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increases jurors' sense of responsibility for their verdict? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Prompts people who see the coverage to try to influence juror-friends? | ❍ | ❍ | ❍ | ❍ | ❍ |

| | | | | | |
|---|---|---|---|---|---|
| Causes attorneys to urge their clients to consent to recording in order to please the judge? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Motivates attorneys to come to court better prepared? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Causes attorneys to be more theatrical in their presentation? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Prompts attorneys to be more courteous? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increases judge attentiveness? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Causes judges to avoid unpopular decisions or positions? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Causes judges to be more theatrical in conducting the proceeding? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Prompts judges to be more courteous? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Disrupts courtroom proceedings? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Educates the public about courtroom procedure? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Educates the public about the legal issues in court cases? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increases public access to the federal courts? | ❍ | ❍ | ❍ | ❍ | ❍ |

| | | | | | |
|---|---|---|---|---|---|
| Decreases public confidence in the federal courts? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increases public confidence in the federal courts? | ❍ | ❍ | ❍ | ❍ | ❍ |

2. If you have additional thoughts about benefits that result from video recording civil proceedings, please describe them here:

3. If you have additional thoughts about harms that result from video recording civil proceedings, please describe them here:

Judge Participation in the Pilot Project

4. Which of the following statements best describes your participation in the pilot project? Please select one.

   ❍ I did not wish to participate in the pilot project and did not do so. → Skip to Question #11
   ❍ I wanted to participate, but had no proceedings recorded because parties did not consent.
   ❍ I had at least one proceeding recorded. No recordings in my cases were, however, posted on the public website.
   ❍ I had at least one proceeding recorded. One or more recordings in my cases were posted on the public website.
   ❍ Other. Please describe: _____ --> Skip to Question #11

Reasons for Participation

[answered only by judges who marked the 2nd through 4th options at Question 4 ]

5. Which of the following statements describes your reasons for choosing to participate? Please select all that apply.

    - ❑ I felt a responsibility to participate because my court volunteered to be a pilot court.
    - ❑ A colleague or my staff encouraged me to give recording a try.
    - ❑ I wanted a voice in policy decisions that was based on experience.
    - ❑ I was curious about the technology.
    - ❑ I thought it would be interesting.
    - ❑ Other. Please describe: _____

Judgments Regarding Operational and Administrative Measures

[answered only by judges who marked the 3rd or 4th options at Question 4 ]

6. Below is a short list of operational and administrative concerns that some judges had expressed about video recording before the pilot project began. We are interested in your thoughts about the extent to which each concern was realized. When responding, please put aside minor, and expected, complications that arise when new equipment and procedures are introduced. Please indicate the extent to which you would say each concern was realized by marking a circle in the appropriate column.

| | To no extent | To a small extent | To a moderate extent | To a great extent | No opinion |
|---|---|---|---|---|---|
| Ruling on applications for and objections to video recording took too much of my time. | ❍ | ❍ | ❍ | ❍ | ❍ |
| Operating the video equipment took too much of my time or court staff time. | ❍ | ❍ | ❍ | ❍ | ❍ |
| The presence of cameras disrupted my courtroom proceedings. | ❍ | ❍ | ❍ | ❍ | ❍ |
| Someone or something that was not appropriate to record (e.g., a juror) was recorded and disseminated. | ❍ | ❍ | ❍ | ❍ | ❍ |
| I said or did something embarrassing that was recorded and disseminated. | ❍ | ❍ | ❍ | ❍ | ❍ |
| A recording was altered in a way that was unfavorable to me or one of the proceeding participants. | ❍ | ❍ | ❍ | ❍ | ❍ |
| My safety was compromised by having recordings of my proceedings disseminated. | ❍ | ❍ | ❍ | ❍ | ❍ |

If you have other operational or administrative concerns about video recording, please describe them here:

Information on Post-Recording Matters

[answered only by judges who marked the 3rd or 4th options at Question 4 ]

The questions on this page and the next ask for information on what occurred after the recording of a proceeding.

7. Were all of the proceedings you video recorded in your courtroom posted on-line? (not answered by those who marked option #3 at Question 4)

- ❍ Yes
- ❍ No

8. How many of your proceedings were recorded but not posted on-line?

- ❍ One recording
- ❍ Two recordings
- ❍ Three or more recordings

9. Please indicate why recordings were not posted. Select all that apply.

- ❑ A recording was not suitable for posting because it was incomplete.
- ❑ A recording was not suitable for posting because of poor quality.
- ❑ A recording was not suitable for posting because it was noncompliant with pilot project guidelines.
- ❑ A participant in a proceeding asked me not to post a recording.
- ❑ A recording was made for a purpose other than posting it on-line. → What was the purpose?
- ❑ Other → Please explain.

10. Did you ever feel it necessary to edit out any part of a proceeding before allowing it to be posted?

- ❍ Yes → Please describe the situation.
- ❍ No

Overall Views of Video Recording Civil Proceedings [answered by all judges]

11. Which of the following statements best reflects your overall opinion about video recording civil proceedings and making the recordings publicly available? Please select one.

    ❍ I am greatly in favor.
    ❍ I am somewhat in favor.
    ❍ I have no opinion.
    ❍ I am somewhat opposed.
    ❍ I am greatly opposed.

    If you wish to provide comment, you may do so below.

12. If the Judicial Conference were to authorize future video recording of civil proceedings under the conditions of the pilot project, would you permit recording in your courtroom? Assume the proceedings are appropriate to record and parties have consented.

    ❍ Yes
    ❍ No
    ❍ Maybe

    Please explain, if you wish.

13. If you have any additional comments about video recording of civil proceedings in general, or the pilot program in particular, please provide them here:

Thank you for responding to the survey. You may use the Back or Next buttons to review or edit your responses, or simply click the "SUBMIT SURVEY" button below to submit your responses now.

# VIDEO RECORDING PILOT PROJECT
# POST-PILOT QUESTIONNAIRE FOR ATTORNEYS

Last month the "Cameras in the Courtroom" pilot project in federal district courts formally ended, as planned. The Judicial Conference, the federal judiciary's policy making body, will use the findings from the pilot project to help determine whether to change the current policy that prohibits use of cameras in federal courtrooms.

The pilot project used video cameras operated by the court, applied to civil cases only, and required that all parties, witnesses, and the judge agree to the recording of a proceeding. The Judicial Conference asked the Federal Judicial Center to evaluate the pilot project and, as part of the evaluation, we are surveying all lawyers who participated in proceedings that were video recorded during the pilot project. The questionnaire that follows asks for your thoughts about video recording of civil proceedings in federal district courtrooms.

Please be assured that your responses will be confidential and reported only in the aggregate; no individual respondents will be identified. You should need no more than ten minutes to complete the questionnaire.

Our records indicate that you appeared in the following video recorded federal district court proceeding.

Case Name _____
Case Number _____
Date of Recorded _____
Name of Presiding Judge _____

1. Please check one of the responses below to indicate your role in that proceeding.

   ❍ I spoke in court on behalf of my client (e.g., presented evidence, made an argument to the court).
   ❍ I attended the proceeding but did not speak on behalf of my client.
   ❍ I don't recall the proceeding.
   ❍ I did not attend the proceeding.

[Only attorneys who marked the first option in the preceding question were directed to the rest of the questionnaire. Those who marked the remaining options received the following message:]

Thank you for your consideration. Because you cannot comment from direct experience with video recording in the federal court pilot project, we do not need any more of your time. Please click the SUBMIT SURVEY button to remove your name from our list (and any future reminders). Thank you.

Judgments Regarding Potential Effects of Video Recording Civil Proceedings

The following questions relate to possible effects of, or concerns regarding, video recording of civil proceedings. For each possible effect or concern, please mark the circle in the column that best reflects your view.

2. Compared to courtroom proceedings where cameras are absent, to what extent, if at all, do you think the presence of video recording during civil proceedings:

| | To no extent | To a small extent | To a moderate extent | To a great extent | No opinion |
|---|---|---|---|---|---|
| Motivates witnesses to be truthful? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Distracts witnesses? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Makes witnesses more nervous than they otherwise would be? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increases juror attentiveness? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Signals to jurors that a witness or argument is particularly important? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increases jurors' sense of responsibility for their verdict? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Prompts people who see the coverage to try to influence juror-friends? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Causes attorneys to urge their clients to consent to recording in order to please the judge? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Motivates attorneys to come to court better prepared? | ❍ | ❍ | ❍ | ❍ | ❍ |

| | | | | | |
|---|---|---|---|---|---|
| Causes attorneys to be more theatrical in their presentation? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Prompts attorneys to be more courteous? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increases judge attentiveness? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Causes judges to avoid unpopular decisions or positions? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Causes judges to be more theatrical in conducting the proceeding? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Prompts judges to be more courteous? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Disrupts courtroom proceedings? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Educates the public about courtroom procedure? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Educates the public about the legal issues in court cases? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increases public access to the federal courts? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Decreases public confidence in the federal courts? | ❍ | ❍ | ❍ | ❍ | ❍ |
| Increases public confidence in the federal courts? | ❍ | ❍ | ❍ | ❍ | ❍ |

3. If you have any comments on other benefits or harms from video recording, please use the space below.

Consent Process for Video Recording Proceedings in District Court

The pilot project permitted video recording only with consent of all parties and witnesses. The questions below ask about your and your client's decision to consent to video recording.

4. Which of the following statements best characterizes the reaction of you and your client to the request to video record the proceeding? Please select one.

   ❍ My client(s) and I readily agreed to the video recording at the initial request.
   ❍ My client(s) and I were reluctant at first, but agreed to video recording after further discussion with the judge.
   ❍ Other→Please specify.

5. Did you or your client(s) feel pressured to consent to video recording of this proceeding?

   ❍ Yes → Please explain.
   ❍ No

6. Why did you consent to video recording of this proceeding? Please select all that apply.

   ❑ I have no inherent objection to video recording of proceedings.
   ❑ My client wanted the exposure that would come from having the proceeding video recorded.
   ❑ I -- or my firm -- wanted the exposure that would come from having the proceeding video recorded.
   ❑ I thought it could help with public education about the courts.
   ❑ I wanted to use the recording for training or case preparation.
   ❑ I didn't want to disappoint the judge.
   ❑ Other → Please explain.

Your Experience With and Views About Video Recording

7. Prior to your video recording experience in federal court, did you participate in any other courtroom proceedings in either state, federal, or other courts that were recorded by cameras? Please check one.

   ❍ Yes
   ❍ No→ Skip to Question #9.

8. Approximately how many video recorded proceedings had you participated in prior to this one? Please check one.

   ❍ One
   ❍ 2 to 5
   ❍ 6 to 10
   ❍ More than 10

9. Have you used video recordings from federal district court proceedings, either from your case or others, for your own purposes? Please check one.

   ❍ No, I have not used (or have not yet used) any video recordings for any purpose. → Skip to Question #11
   ❍ Yes, I have used one or more of the federal court video recordings.

10. For what purposes have you used the video recordings? Please check all that apply.

   ❑ I used my own proceeding to promote my litigation practice.
   ❑ I used my own proceeding to review my courtroom performance.
   ❑ I used video recordings to review another attorney's courtroom performance.
   ❑ I used video recordings to review litigation strategies to enhance my preparation or performance.
   ❑ I used video recordings to educate other attorney(s) about courtroom procedure or presentation style.
   ❑ Other → Please specify.

11. To what extent do you favor or oppose video recording of federal district court civil cases? Please select one.

    ❍ I am very much in favor.
    ❍ I am somewhat in favor.
    ❍ I am somewhat opposed.
    ❍ I am very much opposed.
    ❍ I do not have an opinion.

If you wish to comment, please do so below.

12. If the Judicial Conference were to authorize future video recording of civil proceedings under the conditions of the pilot project -- civil cases only; consent of all parties, witnesses, and the judge; cameras operated by the court -- would you likely participate in video recording of your cases?

    ❍ Yes
    ❍ No
    ❍ Maybe

Please explain, if you wish.

General Comments

13. If you have any additional comments about video recording of civil proceedings in general, or the pilot program in particular, please provide them here:

Thank you for responding to the survey. You may use the Back or Next buttons to review or edit your responses, or simply click the "SUBMIT SURVEY" button below to submit your responses now.

# INTERVIEW PROTOCOL FOR JUDGES WHO RECORDED A PROCEEDING AND COMPLETED THE ONLINE QUESTIONNAIRE

Cameras in the Courtroom Pilot Project

September 2015

## A. INTRODUCTION

I'm calling to ask you a few questions about your experience with the pilot program that authorized video recording of civil proceedings. As you know, the Federal Judicial Center is evaluating the pilot project on behalf of the Judicial Conference. As part of this evaluation we're interviewing the judges who have had experience with video recording under the project.

I have a specific set of questions to ask you, but please feel free to volunteer any additional thoughts you might have as the interview goes along. For the sake of consistency, we're asking the same questions of all judges with experience under the pilot project, so just let me know if a particular question doesn't apply to you or your court.

I'm not asking some questions that may seem obvious, but that's because we asked them in our online questionnaire.

I should note that we'll report aggregate responses only from our interviews, and no answers or comments will be attributed to particular individuals.

I have two sets of questions:

(1) a few about your participation in the pilot project, including selection of cases and the effects of video recording on participants, and

(2) a few about your overall views of video recording.

## B. YOUR PARTICIPATION IN THE PILOT PROGRAM, CASE SELECTION, VIDEO RECORDING EFFECTS

The list below is only to help the interviewer see what's covered in this portion of the interview.

- Deciding to participate
- Defining eligibility and selecting cases
- Party consents
- Instructing jurors
- Effects on participants

1. Did the court, or did you for your own caseload, define what types of cases or proceedings would be "eligible" for video recording?
2. What was the process for notifying cases or proceedings of the opportunity to video record – e.g., did the court notify all eligible cases of the opportunity to record, or did you identify appropriate cases, or did you leave it to someone else (parties, media) to raise it, or what?
3. If you raised the opportunity to record with the parties, how did you raise the issue? Did you raise it in every case with a courtroom proceeding scheduled?
4. How did attorneys and parties provide their responses to the notice of the opportunity to record [Or: to your/others' suggestion that they record] the proceeding? About what percentage were willing to be recorded?
5. Did you video record any jury trials? [If yes:] Did you instruct the jurors about the presence of video recorders? If so, what information did you include in your instructions?
6. Based on your observations, do you believe that the fact a proceeding is being video recorded affects any of the participants—yourself, attorneys, witnesses, jurors—in a significant way, either positively or negatively? If so, please describe.

## C. PARTICIPANT VIEWS ABOUT VIDEO RECORDING OF PROCEEDINGS

7. In your district [As appropriate: quite a few judges, only a few judges, only you] participated in the pilot project. Do you have any thoughts about why this occurred?
8. Do you think the video recording program should be continued or expanded to other district courts? Why or why not? If yes, for what purpose? Would you continue to participate?
9. Are there any aspects of the pilot program you would change if authority to video record courtroom proceedings were continued or expanded?
10. Based on your experience with video recording, is there anything I haven't asked that you think the policy makers should know about the use and effects of video recording?

# INTERVIEW PROTOCOL FOR JUDGES WHO RECORDED A PROCEEDING AND DID NOT COMPLETE THE ONLINE QUESTIONNAIRE

Cameras in the Courtroom Pilot Project

September 2015

## A. INTRODUCTION

I'm calling to ask you a few questions about your experience with the pilot program that authorized video recording of civil proceedings. As you know, the Federal Judicial Center is evaluating the pilot project on behalf of the Judicial Conference. As part of this evaluation we're interviewing the judges who have had experience with video recording under the project.

I have a specific set of questions to ask you, but please feel free to volunteer any additional thoughts you might have as the interview goes along. For the sake of consistency, we're asking the same questions of all judges with experience under the pilot project, so just let me know if a particular question doesn't apply to you or your court.

I should note that we'll report aggregate responses only from our interviews, and no answers or comments will be attributed to particular individuals.

I have three sets of questions:

(1) a few about your participation in the pilot project, including selection of cases and the effects of video recording on participants;
(2) one about the administrative and technological aspects of video recordings; and
(3) a few about your overall views of video recording.

## B. YOUR PARTICIPATION IN THE PILOT PROGRAM, CASE SELECTION, VIDEO RECORDING EFFECTS

The list below is only to help the interviewer see what's covered in this portion of the interview.

- Deciding to participate
- Defining eligibility and selecting cases
- Party consents
- Instructing jurors
- Purpose for recording and posting recordings
- Effects on participants

1. When the pilot program first began in your court, why did you decide to participate?
2. Did the court, or did you for your own caseload, define what types of cases or proceedings would be "eligible" for video recording?
3. What was the process for notifying cases or proceedings of the opportunity to video record – e.g., did the court notify all eligible cases of the opportunity to record, or did you identify appropriate cases, or did you leave it to someone else (parties, media) to raise it, or what?
4. If you raised the opportunity to record with the parties, how did you raise the issue? Did you raise it in every case with a courtroom proceeding scheduled?
5. How did attorneys and parties provide their responses to the notice of the opportunity to record [Or: to your/others' suggestion that they record] the proceeding? About what percentage were willing to be recorded?
6. Did you video record any jury trials? [If yes:] Did you instruct the jurors about the presence of video recorders? If so, what information did you include in your instructions?
7. Based on your observations, do you believe that the fact a proceeding is being video recorded affects any of the participants—yourself, attorneys, witnesses, jurors—in a significant way, either positively or negatively? If so, please describe.
8. Did you record any proceedings that weren't posted? [If yes:] Why weren't they posted? Did you record any proceedings for purposes other than posting online? [If yes:] For what purpose?

## C. ADMINISTRATIVE AND TECHNOLOGICAL ISSUES RELATED TO RECORDING

9. From your standpoint, did any administrative or technological problems come up related to video recording proceedings? What were they and how were they resolved?

## D. PARTICIPANT VIEWS ABOUT VIDEO RECORDING OF PROCEEDINGS

10. In your district [As appropriate: quite a few judges, only a few judges, only you] participated in the pilot project. Do you have any thoughts about why this occurred?
11. Do you think the video recording program should be continued or expanded to other district courts? Why or why not? If yes, for what purpose? Would you continue to participate?
12. Are there any aspects of the pilot program you would change if authority to video record courtroom proceedings were continued or expanded?
13. What is your overall opinion of video recording civil proceedings and making the recordings publicly available? Would you say you greatly favor it, favor it, oppose it, greatly oppose it, or have no opinion?
14. Based on your experience with video recording, is there anything I haven't asked that you think the policy makers should know about the use and effects of video recording?

# COURT STAFF INTERVIEW PROTOCOL

Cameras in the Courtroom Pilot Project

September 2015

I'm calling to ask you a few questions about your experience with the pilot program that authorized video recording of civil proceedings. As you know, the Federal Judicial Center is evaluating the pilot program on behalf of the Judicial Conference. As part of this evaluation we're interviewing court staff who played a role in the pilot project—for example, the staff who served as liaisons to the Center and the staff who installed or operated the recording equipment.

I have a specific set of questions to ask you, but please feel free to volunteer any additional thoughts you might have as the interview goes along. I should note that we'll report aggregate responses only from our interviews, and no answers or comments will be attributed to particular individuals.

My questions focus on the administration and operation of the pilot program. Some questions will apply to only one [or some] of you, and I'll rely on you to determine who should answer each question.

1. What has your role been in the cameras pilot project—e.g.,

   (a) on the administrative side such tasks as: developing procedures for the pilot project; handling the process of notifying parties and getting consents; keeping data for the Center's study?

   (b) on the operational and technical sides such tasks as: setting up a web page; purchasing and installing the video recording equipment; setting up equipment for proceedings; operating the equipment during proceedings; reviewing and posting recordings?

   Please describe what you did.

2. I'm going to name some tasks that are involved in administering the pilot project in each court. For each task I name, could you indicate approximately how many hours you spent on that task?

   (a) installing equipment and establishing procedures for notifying parties when the project was first being set up

   (b) identifying appropriate cases and communicating with parties

   (c) handling the recorded proceedings, including time before, during, and after

   (d) any other tasks you undertook in administering the program in your court

   Did this seem like a reasonable amount of time, or was the demand too great?

3. Did any technical problems come up during any of the recorded proceedings? If so, please describe what they were and how you handled them.

4. How many video cameras does the court have? Are they fixed in courtrooms or portable on carts? Did judges have to share them? How did that work out?

5. Has the equipment been used for other purposes—to broadcast to an overflow courtroom or to record an investiture or naturalization ceremony?

6. Were any other court staff members involved in some way with the pilot project, and what did they do? [Get names/positions of any we might want to interview.]

7. Is there anything else you think it's important for the judiciary's policy makers to know about the administrative, operational, or technological aspects of the cameras pilot project in your court?

# "POP-UP" SURVEY OF VIEWERS WHO ACCESSED VIDEO RECORDINGS AT THE "CAMERAS IN COURTS" PAGE AT WWW.USCOURTS.GOV

Please help evaluate the Cameras in Courts project by answering a few questions about your visit to this web page. You are welcome to answer this survey more than once if you are a repeat visitor.

**What prompts your visit to the Cameras in Courts pages of the uscourts.gov website? Please check all that apply.**

- ❑ I have a general interest in observing U.S. federal court case proceedings.
- ❑ I am interested in observing a specific case.
- ❑ I am interested in observing specific persons (i.e., judge, attorney, witness).
- ❑ I am interested in viewing material that is relevant to an education-related objective. (Select this option if, for example, you are developing class material, completing a class assignment, providing CLE training, etc.)
- ❑ I had another reason for visiting this website (please explain).

  _____

**In what capacity did you visit this website? Please check all that apply.**

- ❑ I am an educator, librarian, or a trainer.
- ❑ I am a student.
- ❑ I am a government employee (includes judges and government lawyers).
- ❑ I am a lawyer or an employee of a law firm, or of another legal unit (not governmental).
- ❑ I am a member of a media or communications organization (e.g., reporter, blogger, producer, analyst).
- ❑ I am a member of the international community.
- ❑ I am a member of the general U.S.-based public.
- ❑ Other (please explain). _____

Answer If Respondent Selected "In what capacity did you visit this website?... I am an educator, librarian, or a trainer."

**What level of educator, librarian or trainer are you?**

- ❍ high school
- ❍ secondary (i.e., college)
- ❍ post-secondary (i.e, law school, graduate school)
- ❍ other (please explain) _____

Answer If Respondent Selected "In what capacity did you visit this website?... I am a student."

**What level of student are you?**

- ❍ high school
- ❍ secondary (i.e., college)
- ❍ post-secondary (i.e., law school, graduate school)
- ❍ other (please specify) _____

Answer If Respondent Selected "In what capacity did you visit this website?... I am a government employee (including judge and government lawyers)."

**In which setting are you employed?**

- ❍ federal court
- ❍ state or local court system
- ❍ federal government, non-court setting
- ❍ state or local government, non-court setting
- ❍ other (please explain) _____

**Have you visited this site before?**

- ❍ No
- ❍ Yes

Answer If Respondent Selected "Have you visited this site before? Yes"

**How many times?**

- ❍ 1-3 times
- ❍ 4-10 times
- ❍ more than 10 times

**Have you answered this survey before?**

- ❍ Yes
- ❍ No

Thank you for taking the time to complete this survey!

# Appendix D

## 2015 Judge Survey Responses
## Grouped in Various Ways, Both With and Without the Inclusion of No Opinion Responses

## Appendix D, Table 1.a

### Extent to Which Pilot Court Judges Think the Presence of Video Recording Has the Following Listed Effects (N=110)

### Number and Percent of Pilot Judges Responses, by Original Response Categories, No Opinion Included

| | To No Extent | To a Small Extent | To a Moderate Extent | To a Great Extent | No Opinion | Total* |
|---|---|---|---|---|---|---|
| Motivates witnesses to be truthful | 55<br>51% | 17<br>16% | 11<br>10% | 0<br>0% | 24<br>22% | 107 |
| Distracts witnesses | 29<br>27% | 27<br>25% | 17<br>16% | 19<br>18% | 14<br>13% | 106 |
| Makes witnesses more nervous than they otherwise would be | 26<br>25% | 32<br>31% | 12<br>12% | 22<br>21% | 11<br>11% | 103 |
| Increases juror attentiveness | 52<br>50% | 20<br>19% | 11<br>10% | 4<br>4% | 18<br>17% | 105 |
| Signals to jurors that a witness or argument is particularly important | 54<br>50% | 16<br>15% | 10<br>9% | 8<br>7% | 19<br>18% | 107 |
| Increases jurors' sense of responsibility for their verdict | 49<br>47% | 22<br>21% | 10<br>10% | 4<br>4% | 20<br>19% | 105 |
| Prompts people who see coverage to try to influence juror-friends | 44<br>42% | 13<br>12% | 14<br>13% | 6<br>6% | 29<br>27% | 106 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 60<br>57% | 16<br>15% | 8<br>8% | 2<br>2% | 20<br>19% | 106 |
| Motivates attorneys to come to court better prepared | 25<br>24% | 33<br>31% | 30<br>28% | 9<br>8% | 9<br>8% | 106 |
| Causes attorneys to be more theatrical in their presentation | 28<br>26% | 20<br>19% | 20<br>19% | 28<br>26% | 10<br>9% | 106 |
| Prompts attorneys to be more courteous | 29<br>28% | 33<br>31% | 25<br>24% | 7<br>7% | 11<br>10% | 105 |
| Increases judge attentiveness | 52<br>50% | 25<br>24% | 12<br>12% | 6<br>6% | 9<br>9% | 104 |

| | To No Extent | To a Small Extent | To a Moderate Extent | To a Great Extent | No Opinion | Total* |
|---|---|---|---|---|---|---|
| Causes judges to avoid unpopular decisions or positions | 75<br>71% | 11<br>10% | 4<br>4% | 2<br>2% | 14<br>13% | 106 |
| Causes judges to be more theatrical in conducting the proceeding | 53<br>50% | 29<br>27% | 5<br>5% | 3<br>3% | 16<br>15% | 106 |
| Prompts judges to be more courteous | 41<br>39% | 34<br>32% | 16<br>15% | 4<br>4% | 11<br>10% | 106 |
| Disrupts courtroom proceedings | 47<br>45% | 25<br>24% | 11<br>11% | 11<br>11% | 10<br>10% | 104 |
| Educates the public about courtroom procedure | 6<br>6% | 25<br>24% | 37<br>36% | 26<br>25% | 9<br>9% | 103 |
| Educates the public about the legal issues in court cases | 9<br>8% | 33<br>31% | 33<br>31% | 22<br>21% | 9<br>8% | 106 |
| Increases public access to the federal courts | 11<br>10% | 21<br>20% | 29<br>27% | 33<br>31% | 12<br>11% | 106 |
| Decreases public confidence in the federal courts | 72<br>68% | 11<br>10% | 5<br>5% | 1<br>1% | 17<br>16% | 106 |
| Increases public confidence in the federal courts | 25<br>24% | 19<br>18% | 20<br>19% | 23<br>22% | 19<br>18% | 106 |

* The total number of questionnaire respondents was 110 pilot court judges. Here and in other tables reporting information from all respondents to the questionnaire, numbers may not total to 110 because of non-responses to a question.

Appendix D, Table 1.b

Extent to Which Pilot Court Judges Think the Presence of Video Recording Has the Following Listed Effects (N=110)

Number and Percent of Pilot Judges Responses, by Original Response Categories, No Opinion Excluded

| | To No Extent | To a Small Extent | To a Moderate Extent | To a Great Extent | Total* (No Opinion responses excluded) |
|---|---|---|---|---|---|
| Motivates witnesses to be truthful | 55<br>66% | 17<br>20% | 11<br>13% | 0<br>0% | 83 |
| Distracts witnesses | 29<br>32% | 27<br>29% | 17<br>18% | 19<br>21% | 92 |
| Makes witnesses more nervous than they otherwise would be | 26<br>28% | 32<br>35% | 12<br>13% | 22<br>24% | 92 |
| Increases juror attentiveness | 52<br>60% | 20<br>23% | 11<br>13% | 4<br>5% | 87 |
| Signals to jurors that a witness or argument is particularly important | 54<br>61% | 16<br>18% | 10<br>11% | 8<br>9% | 88 |
| Increases jurors' sense of responsibility for their verdict | 49<br>58% | 22<br>26% | 10<br>12% | 4<br>5% | 85 |
| Prompts people who see coverage to try to influence juror-friends | 44<br>57% | 13<br>17% | 14<br>18% | 6<br>8% | 77 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 60<br>70% | 16<br>19% | 8<br>9% | 2<br>2% | 86 |
| Motivates attorneys to come to court better prepared | 25<br>26% | 33<br>34% | 30<br>31% | 9<br>9% | 97 |
| Causes attorneys to be more theatrical in their presentation | 28<br>29% | 20<br>21% | 20<br>21% | 28<br>29% | 96 |
| Prompts attorneys to be more courteous | 29<br>31% | 33<br>35% | 25<br>27% | 7<br>7% | 94 |
| Increases judge attentiveness | 52<br>55% | 25<br>26% | 12<br>13% | 6<br>6% | 95 |
| Causes judges to avoid unpopular decisions or positions | 75<br>82% | 11<br>12% | 4<br>4% | 2<br>2% | 92 |

| | To No Extent | To a Small Extent | To a Moderate Extent | To a Great Extent | Total* (No Opinion responses excluded) |
|---|---|---|---|---|---|
| Causes judges to be more theatrical in conducting the proceeding | 53<br>59% | 29<br>32% | 5<br>6% | 3<br>3% | 90 |
| Prompts judges to be more courteous | 41<br>43% | 34<br>36% | 16<br>17% | 4<br>4% | 95 |
| Disrupts courtroom proceedings | 47<br>50% | 25<br>27% | 11<br>12% | 11<br>12% | 94 |
| Educates the public about courtroom procedure | 6<br>6% | 25<br>27% | 37<br>39% | 26<br>28% | 94 |
| Educates the public about the legal issues in court cases | 9<br>9% | 33<br>34% | 33<br>34% | 22<br>23% | 97 |
| Increases public access to the federal courts | 11<br>12% | 21<br>22% | 29<br>31% | 33<br>35% | 94 |
| Decreases public confidence in the federal courts | 72<br>81% | 11<br>12% | 5<br>6% | 1<br>1% | 89 |
| Increases public confidence in the federal courts | 25<br>29% | 19<br>22% | 20<br>23% | 23<br>26% | 87 |

* The total number of questionnaire respondents was 110 pilot court judges. Here and in other tables reporting information where the No Opinion responses to the questionnaire have been omitted, numbers will not total to 110.

Appendix D, Table 2.a

Extent to Which Pilot Court Judges Think the Presence of Video Recording Has the Following Listed Effects (N=110)

Number and Percent of Pilot Judges Responses, Response Categories Grouped into Two Sets: No Extent/Small Extent and Moderate Extent/Great Extent; No Opinion Included

| | To No Extent or to a Small Extent | To a Moderate Extent or to a Great Extent | No Opinion | Total* |
|---|---|---|---|---|
| Motivates witnesses to be truthful | 72<br>67% | 11<br>10% | 24<br>22% | 107 |
| Distracts witnesses | 56<br>53% | 36<br>34% | 14<br>13% | 106 |
| Makes witnesses more nervous than they otherwise would be | 58<br>56% | 34<br>33% | 11<br>11% | 103 |
| Increases juror attentiveness | 72<br>69% | 15<br>14% | 18<br>17% | 105 |
| Signals to jurors that a witness or argument is particularly important | 70<br>65% | 18<br>17% | 19<br>18% | 107 |
| Increases jurors' sense of responsibility for their verdict | 71<br>68% | 14<br>13% | 20<br>19% | 105 |
| Prompts people who see coverage to try to influence juror-friends | 57<br>54% | 20<br>19% | 29<br>27% | 106 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 76<br>72% | 10<br>9% | 20<br>19% | 106 |
| Motivates attorneys to come to court better prepared | 58<br>55% | 39<br>37% | 9<br>8% | 106 |
| Causes attorneys to be more theatrical in their presentation | 48<br>45% | 48<br>45% | 10<br>9% | 106 |
| Prompts attorneys to be more courteous | 62<br>59% | 32<br>30% | 11<br>10% | 105 |
| Increases judge attentiveness | 77<br>74% | 18<br>17% | 9<br>9% | 104 |

| | To No Extent or to a Small Extent | To a Moderate Extent or to a Great Extent | No Opinion | Total* |
|---|---|---|---|---|
| Causes judges to avoid unpopular decisions or positions | 86<br>81% | 6<br>6% | 14<br>13% | 106 |
| Causes judges to be more theatrical in conducting the proceeding | 82<br>77% | 8<br>8% | 16<br>15% | 106 |
| Prompts judges to be more courteous | 75<br>71% | 20<br>19% | 11<br>10% | 106 |
| Disrupts courtroom proceedings | 72<br>69% | 22<br>21% | 10<br>10% | 104 |
| Educates the public about courtroom procedure | 31<br>30% | 63<br>61% | 9<br>9% | 103 |
| Educates the public about the legal issues in court cases | 42<br>40% | 55<br>52% | 9<br>8% | 106 |
| Increases public access to the federal courts | 32<br>30% | 62<br>58% | 12<br>11% | 106 |
| Decreases public confidence in the federal courts | 83<br>78% | 6<br>6% | 17<br>16% | 106 |
| Increases public confidence in the federal courts | 44<br>42% | 43<br>41% | 19<br>18% | 106 |

* The total number of questionnaire respondents was 110 pilot court judges. Here and in other tables reporting information from all respondents to the questionnaire, numbers may not total to 110 because of non-responses to a question.

Appendix D, Table 2.b

Extent to Which Pilot Court Judges Think the Presence of Video Recording Has the Following Listed Effects (N=110)

Number and Percent of Pilot Judges Responses, Response Categories Grouped into Two Sets: No Extent/Small Extent and Moderate Extent/Great Extent; No Opinion Excluded

| | To No Extent or to a Small Extent | To a Moderate Extent or to a Great Extent | Total* (No Opinion responses excluded) |
|---|---|---|---|
| Motivates witnesses to be truthful | 72<br>87% | 11<br>13% | 83 |
| Distracts witnesses | 56<br>61% | 36<br>39% | 92 |
| Makes witnesses more nervous than they otherwise would be | 58<br>63% | 34<br>37% | 92 |
| Increases juror attentiveness | 72<br>83% | 15<br>17% | 87 |
| Signals to jurors that a witness or argument is particularly important | 70<br>80% | 18<br>20% | 88 |
| Increases jurors' sense of responsibility for their verdict | 71<br>84% | 14<br>16% | 85 |
| Prompts people who see coverage to try to influence juror-friends | 57<br>74% | 20<br>26% | 77 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 76<br>88% | 10<br>12% | 86 |
| Motivates attorneys to come to court better prepared | 58<br>60% | 39<br>40% | 97 |
| Causes attorneys to be more theatrical in their presentation | 48<br>50% | 48<br>50% | 96 |
| Prompts attorneys to be more courteous | 62<br>66% | 32<br>34% | 94 |
| Increases judge attentiveness | 77<br>81% | 18<br>19% | 95 |
| Causes judges to avoid unpopular decisions or positions | 86<br>93% | 6<br>7% | 92 |
| Causes judges to be more theatrical in conducting the proceeding | 82<br>91% | 8<br>9% | 90 |

| | To No Extent or to a Small Extent | To a Moderate Extent or to a Great Extent | Total* (No Opinion responses excluded) |
|---|---|---|---|
| Prompts judges to be more courteous | 75<br>79% | 20<br>21% | 95 |
| Disrupts courtroom proceedings | 72<br>77% | 22<br>23% | 94 |
| Educates the public about courtroom procedure | 31<br>33% | 63<br>67% | 94 |
| Educates the public about the legal issues in court cases | 42<br>43% | 55<br>57% | 97 |
| Increases public access to the federal courts | 32<br>34% | 62<br>66% | 94 |
| Decreases public confidence in the federal courts | 83<br>93% | 6<br>7% | 89 |
| Increases public confidence in the federal courts | 44<br>51% | 43<br>49% | 87 |

* The total number of questionnaire respondents was 110 pilot court judges. Here and in other tables reporting information where the No Opinion responses to the questionnaire have been omitted, numbers will not total to 110.

Appendix D, Table 3.a

Extent to Which Pilot Court Judges Think the Presence of Video Recording Has the Following Listed Effects (N=110)

Number and Percent of Pilot Judges Responses, Response Categories Grouped into Two Sets: No Extent and Small Extent/Moderate Extent/ Great Extent; No Opinion Included

| | To No Extent | To a Small Extent, to a Moderate Extent, or to a Great Extent | No Opinion | Total* |
|---|---|---|---|---|
| Motivates witnesses to be truthful | 55<br>51% | 28<br>26% | 24<br>22% | 107 |
| Distracts witnesses | 29<br>27% | 63<br>59% | 14<br>13% | 106 |
| Makes witnesses more nervous than they otherwise would be | 26<br>25% | 66<br>64% | 11<br>11% | 103 |
| Increases juror attentiveness | 52<br>50% | 35<br>33% | 18<br>17% | 105 |
| Signals to jurors that a witness or argument is particularly important | 54<br>50% | 34<br>32% | 19<br>18% | 107 |
| Increases jurors' sense of responsibility for their verdict | 49<br>47% | 36<br>34% | 20<br>19% | 105 |
| Prompts people who see coverage to try to influence juror-friends | 44<br>42% | 33<br>31% | 29<br>27% | 106 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 60<br>57% | 26<br>25% | 20<br>19% | 106 |
| Motivates attorneys to come to court better prepared | 25<br>24% | 72<br>68% | 9<br>8% | 106 |
| Causes attorneys to be more theatrical in their presentation | 28<br>26% | 68<br>64% | 10<br>9% | 106 |
| Prompts attorneys to be more courteous | 29<br>28% | 65<br>62% | 11<br>10% | 105 |
| Increases judge attentiveness | 52<br>50% | 43<br>41% | 9<br>9% | 104 |
| Causes judges to avoid unpopular decisions or positions | 75<br>71% | 17<br>16% | 14<br>13% | 106 |
| Causes judges to be more theatrical in conducting the proceeding | 53<br>50% | 37<br>35% | 16<br>15% | 106 |

| | To No Extent | To a Small Extent, to a Moderate Extent, or to a Great Extent | No Opinion | Total* |
|---|---|---|---|---|
| Prompts judges to be more courteous | 41<br>39% | 54<br>51% | 11<br>10% | 106 |
| Disrupts courtroom proceedings | 47<br>45% | 47<br>45% | 10<br>10% | 104 |
| Educates the public about courtroom procedure | 6<br>6% | 88<br>85% | 9<br>9% | 103 |
| Educates the public about the legal issues in court cases | 9<br>8% | 88<br>83% | 9<br>8% | 106 |
| Increases public access to the federal courts | 11<br>10% | 83<br>78% | 12<br>11% | 106 |
| Decreases public confidence in the federal courts | 72<br>68% | 17<br>16% | 17<br>16% | 106 |
| Increases public confidence in the federal courts | 25<br>24% | 62<br>58% | 19<br>18% | 106 |

* The total number of questionnaire respondents was 110 pilot court judges. Here and in other tables reporting information from all respondents to the questionnaire, numbers may not total to 110 because of non-responses to a question.

## Appendix D, Table 3.b

### Extent to Which Pilot Court Judges Think the Presence of Video Recording Has the Following Listed Effects (N=110)

### Number and Percent of Pilot Judges Responses, Response Categories Grouped into Two Sets: No Extent and Small Extent/Moderate Extent/ Great Extent; No Opinion Excluded

| | To No Extent | To a Small Extent, to a Moderate Extent, or to a Great Extent | Total* (No Opinion responses excluded) |
|---|---|---|---|
| Motivates witnesses to be truthful | 55<br>66% | 28<br>34% | 83 |
| Distracts witnesses | 29<br>32% | 63<br>68% | 92 |
| Makes witnesses more nervous than they otherwise would be | 26<br>28% | 66<br>72% | 92 |
| Increases juror attentiveness | 52<br>60% | 35<br>40% | 87 |
| Signals to jurors that a witness or argument is particularly important | 54<br>61% | 34<br>39% | 88 |
| Increases jurors' sense of responsibility for their verdict | 49<br>58% | 36<br>42% | 85 |
| Prompts people who see coverage to try to influence juror-friends | 44<br>57% | 33<br>43% | 77 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 60<br>70% | 26<br>30% | 86 |
| Motivates attorneys to come to court better prepared | 25<br>26% | 72<br>74% | 97 |
| Causes attorneys to be more theatrical in their presentation | 28<br>29% | 68<br>71% | 96 |
| Prompts attorneys to be more courteous | 29<br>31% | 65<br>69% | 94 |
| Increases judge attentiveness | 52<br>55% | 43<br>45% | 95 |
| Causes judges to avoid unpopular decisions or positions | 75<br>82% | 17<br>18% | 92 |
| Causes judges to be more theatrical in conducting the proceeding | 53<br>59% | 37<br>41% | 90 |

| | To No Extent | To a Small Extent, to a Moderate Extent, or to a Great Extent | Total* (No Opinion responses excluded) |
|---|---|---|---|
| Prompts judges to be more courteous | 41<br>43% | 54<br>57% | 95 |
| Disrupts courtroom proceedings | 47<br>50% | 47<br>50% | 94 |
| Educates the public about courtroom procedure | 6<br>6% | 88<br>94% | 94 |
| Educates the public about the legal issues in court cases | 9<br>9% | 88<br>91% | 97 |
| Increases public access to the federal courts | 11<br>12% | 83<br>88% | 94 |
| Decreases public confidence in the federal courts | 72<br>81% | 17<br>19% | 89 |
| Increases public confidence in the federal courts | 25<br>29% | 62<br>71% | 87 |

* The total number of questionnaire respondents was 110 pilot court judges. Here and in other tables reporting information where the No Opinion responses to the survey have been omitted, numbers will not total to 110.

Appendix D, Table 4.a

Extent to Which Pilot Court Judges Think the Presence of Video Recording Has the Following Listed Effects (N=110)

Number and Percent of Pilot Judges Responses, Response Categories Grouped into Two Sets: No Extent/Small Extent/Moderate Extent and Great Extent; No Opinion Included

| | To No Extent or to a Small Extent or to a Moderate Extent | To a Great Extent | No Opinion | Total* |
|---|---|---|---|---|
| Motivates witnesses to be truthful | 83<br>78% | 0<br>0% | 24<br>22% | 107 |
| Distracts witnesses | 73<br>69% | 19<br>18% | 14<br>13% | 106 |
| Makes witnesses more nervous than they otherwise would be | 70<br>68% | 22<br>21% | 11<br>11% | 103 |
| Increases juror attentiveness | 83<br>79% | 4<br>4% | 18<br>17% | 105 |
| Signals to jurors that a witness or argument is particularly important | 80<br>75% | 8<br>7% | 19<br>18% | 107 |
| Increases jurors' sense of responsibility for their verdict | 81<br>77% | 4<br>4% | 20<br>19% | 105 |
| Prompts people who see coverage to try to influence juror-friends | 71<br>67% | 6<br>6% | 29<br>27% | 106 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 84<br>79% | 2<br>2% | 20<br>19% | 106 |
| Motivates attorneys to come to court better prepared | 88<br>83% | 9<br>8% | 9<br>8% | 106 |
| Causes attorneys to be more theatrical in their presentation | 68<br>64% | 28<br>26% | 10<br>9% | 106 |
| Prompts attorneys to be more courteous | 87<br>83% | 7<br>7% | 11<br>10% | 105 |

| | To No Extent or to a Small Extent or to a Moderate Extent | To a Great Extent | No Opinion | Total* |
|---|---|---|---|---|
| Increases judge attentiveness | 89<br>86% | 6<br>6% | 9<br>9% | 104 |
| Causes judges to avoid unpopular decisions or positions | 90<br>85% | 2<br>2% | 14<br>13% | 106 |
| Causes judges to be more theatrical in conducting the proceeding | 87<br>82% | 3<br>3% | 16<br>15% | 106 |
| Prompts judges to be more courteous | 91<br>86% | 4<br>4% | 11<br>10% | 106 |
| Disrupts courtroom proceedings | 83<br>80% | 11<br>11% | 10<br>10% | 104 |
| Educates the public about courtroom procedure | 68<br>66% | 26<br>25% | 9<br>9% | 103 |
| Educates the public about the legal issues in court cases | 75<br>71% | 22<br>21% | 9<br>8% | 106 |
| Increases public access to the federal courts | 61<br>58% | 33<br>31% | 12<br>11% | 106 |
| Decreases public confidence in the federal courts | 88<br>83% | 1<br>1% | 17<br>16% | 106 |
| Increases public confidence in the federal courts | 64<br>60% | 23<br>22% | 19<br>18% | 106 |

* The total number of questionnaire respondents was 110 pilot court judges. Here and in other tables reporting information from all respondents to the questionnaire, numbers may not total to 110 because of non-responses to that question.

## Appendix D, Table 4.b

### Extent to Which Pilot Court Judges Think the Presence of Video Recording Has the Following Listed Effects (N=110)

### Number and Percent of Pilot Judges Responses, Response Categories Grouped into Two Sets: No Extent/Small Extent/Moderate Extent and Great Extent; No Opinion Excluded

| | To No Extent or to a Small Extent or to a Moderate Extent | To a Great Extent | Total* (No Opinion responses excluded) |
|---|---|---|---|
| Motivates witnesses to be truthful | 83<br>100% | 0<br>0% | 83 |
| Distracts witnesses | 73<br>79% | 19<br>21% | 92 |
| Makes witnesses more nervous than they otherwise would be | 70<br>76% | 22<br>24% | 92 |
| Increases juror attentiveness | 83<br>95% | 4<br>5% | 87 |
| Signals to jurors that a witness or argument is particularly important | 80<br>91% | 8<br>9% | 88 |
| Increases jurors' sense of responsibility for their verdict | 81<br>95% | 4<br>5% | 85 |
| Prompts people who see coverage to try to influence juror-friends | 71<br>92% | 6<br>8% | 77 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 84<br>98% | 2<br>2% | 86 |
| Motivates attorneys to come to court better prepared | 88<br>91% | 9<br>9% | 97 |
| Causes attorneys to be more theatrical in their presentation | 68<br>71% | 28<br>29% | 96 |
| Prompts attorneys to be more courteous | 87<br>93% | 7<br>7% | 94 |
| Increases judge attentiveness | 89<br>94% | 6<br>6% | 95 |
| Causes judges to avoid unpopular decisions or positions | 90<br>98% | 2<br>2% | 92 |
| Causes judges to be more theatrical in conducting the proceeding | 87<br>97% | 3<br>3% | 90 |

| | To No Extent or to a Small Extent or to a Moderate Extent | To a Great Extent | Total* (No Opinion responses excluded) |
|---|---|---|---|
| Prompts judges to be more courteous | 91<br>96% | 4<br>4% | 95 |
| Disrupts courtroom proceedings | 83<br>88% | 11<br>12% | 94 |
| Educates the public about courtroom procedure | 68<br>72% | 26<br>28% | 162 |
| Educates the public about the legal issues in court cases | 75<br>77% | 22<br>23% | 97 |
| Increases public access to the federal courts | 61<br>65% | 33<br>35% | 94 |
| Decreases public confidence in the federal courts | 88<br>99% | 1<br>1% | 89 |
| Increases public confidence in the federal courts | 64<br>74% | 23<br>26% | 87 |

* The total number of questionnaire respondents was 110 pilot court judges. Here and in other tables reporting information where the No Opinion responses to the questionnaire have been omitted, numbers will not total to 110.

## Appendix D, Table 5.a

## Extent to Which Judges Who Did and Did Not Participate in the Pilot Project Think the Presence of Video Recording Has the Listed Effects

| | To No Extent | | To a Small Extent | | To a Moderate Extent | | To a Great Extent | | No Opinion | | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Effect and Judge Type | n | % | n | % | n | % | n | % | n | % | |
| Motivates witnesses to be truthful | | | | | | | | | | | |
| Participant | 29 | 47% | 10 | 16% | 7 | 11% | 0 | 0% | 16 | 26% | 62 |
| Nonparticipant | 19 | 66% | 3 | 10% | 4 | 14% | 3 | 10% | 0 | 0% | 29 |
| Distracts witnesses | | | | | | | | | | | |
| Participant | 25 | 40% | 18 | 29% | 7 | 11% | 3 | 5% | 9 | 15% | 62 |
| Nonparticipant | 1 | 4% | 4 | 14% | 8 | 29% | 14 | 50% | 1 | 4% | 28 |
| Makes witnesses more nervous than they otherwise would be | | | | | | | | | | | |
| Participant | 23 | 38% | 21 | 35% | 3 | 5% | 5 | 8% | 8 | 13% | 60 |
| Nonparticipant | 1 | 4% | 6 | 21% | 7 | 25% | 14 | 50% | 0 | 0% | 28 |
| Increases juror attentiveness | | | | | | | | | | | |
| Participant | 27 | 45% | 13 | 22% | 5 | 8% | 2 | 3% | 13 | 22% | 60 |
| Nonparticipant | 18 | 62% | 4 | 14% | 6 | 21% | 1 | 3% | 0 | 0% | 29 |
| Signals to jurors that a witness or argument is particularly important | | | | | | | | | | | |
| Participant | 27 | 44% | 13 | 21% | 5 | 8% | 4 | 7% | 13 | 21% | 62 |
| Nonparticipant | 17 | 59% | 3 | 10% | 5 | 17% | 4 | 14% | 0 | 0% | 29 |
| Increases jurors' sense of responsibility for their verdict | | | | | | | | | | | |
| Participant | 28 | 46% | 12 | 20% | 5 | 8% | 2 | 3% | 14 | 23% | 61 |
| Nonparticipant | 14 | 50% | 5 | 18% | 5 | 18% | 1 | 4% | 3 | 11% | 28 |
| Prompts people who see the coverage to try to influence juror-friends | | | | | | | | | | | |
| Participant | 31 | 51% | 7 | 12% | 6 | 10% | 0 | 0% | 17 | 28% | 61 |
| Nonparticipant | 7 | 24% | 4 | 14% | 7 | 24% | 4 | 14% | 7 | 24% | 29 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | | | | | | | | | | | |
| Participant | 38 | 62% | 7 | 12% | 3 | 5% | 0 | 0% | 13 | 21% | 61 |
| Nonparticipant | 16 | 55% | 6 | 21% | 3 | 10% | 2 | 7% | 2 | 7% | 29 |
| Motivates attorneys to come to court better prepared | | | | | | | | | | | |
| Participant | 14 | 23% | 21 | 34% | 16 | 26% | 5 | 8% | 5 | 8% | 61 |
| Nonparticipant | 8 | 28% | 5 | 17% | 13 | 45% | 2 | 7% | 1 | 3% | 29 |

| Effect and Judge Type | To No Extent n | % | To a Small Extent n | % | To a Moderate Extent n | % | To a Great Extent n | % | No Opinion n | % | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Causes attorneys to be more theatrical in their presentation | | | | | | | | | | | |
| Participant | 26 | 43% | 12 | 20% | 10 | 16% | 8 | 13% | 5 | 8% | 61 |
| Nonparticipant | 0 | 0% | 4 | 14% | 6 | 21% | 17 | 59% | 2 | 7% | 29 |
| Prompts attorneys to be more courteous | | | | | | | | | | | |
| Participant | 17 | 28% | 18 | 30% | 15 | 25% | 4 | 7% | 6 | 10% | 60 |
| Nonparticipant | 7 | 24% | 9 | 31% | 9 | 31% | 2 | 7% | 2 | 7% | 29 |
| Increases judge attentiveness | | | | | | | | | | | |
| Participant | 30 | 49% | 15 | 25% | 7 | 12% | 4 | 7% | 5 | 8% | 61 |
| Nonparticipant | 14 | 50% | 8 | 29% | 4 | 14% | 1 | 4% | 1 | 4% | 28 |
| Causes judges to avoid unpopular decisions or positions | | | | | | | | | | | |
| Participant | 47 | 77% | 5 | 8% | 0 | 0% | 0 | 0% | 9 | 15% | 61 |
| Nonparticipant | 16 | 55% | 6 | 21% | 4 | 14% | 2 | 7% | 1 | 3% | 29 |
| Causes judges to be more theatrical in conducting the proceeding | | | | | | | | | | | |
| Participant | 39 | 64% | 10 | 16% | 1 | 2% | 0 | 0% | 11 | 18% | 61 |
| Nonparticipant | 6 | 21% | 15 | 52% | 4 | 14% | 3 | 10% | 1 | 3% | 29 |
| Prompts judges to be more courteous | | | | | | | | | | | |
| Participant | 24 | 39% | 18 | 30% | 10 | 16% | 3 | 5% | 6 | 10% | 61 |
| Nonparticipant | 11 | 38% | 10 | 35% | 6 | 21% | 1 | 3% | 1 | 3% | 29 |
| Disrupts courtroom proceedings | | | | | | | | | | | |
| Participant | 38 | 63% | 12 | 20% | 3 | 5% | 1 | 2% | 6 | 10% | 60 |
| Nonparticipant | 1 | 4% | 10 | 36% | 8 | 29% | 8 | 29% | 1 | 4% | 28 |
| Educates the public about courtroom procedure | | | | | | | | | | | |
| Participant | 3 | 5% | 13 | 22% | 17 | 29% | 21 | 36% | 5 | 9% | 59 |
| Nonparticipant | 3 | 11% | 9 | 32% | 11 | 39% | 4 | 14% | 1 | 4% | 28 |
| Educates the public about the legal issues in court cases | | | | | | | | | | | |
| Participant | 4 | 7% | 17 | 28% | 15 | 25% | 20 | 33% | 5 | 8% | 61 |
| Nonparticipant | 5 | 17% | 10 | 35% | 12 | 41% | 1 | 3% | 1 | 3% | 29 |
| Increases public access to the federal courts | | | | | | | | | | | |
| Participant | 4 | 7% | 12 | 20% | 12 | 20% | 25 | 41% | 8 | 13% | 61 |
| Nonparticipant | 7 | 24% | 7 | 24% | 9 | 31% | 5 | 17% | 1 | 3% | 29 |
| Decreases public confidence in the federal courts | | | | | | | | | | | |
| Participant | 44 | 72% | 5 | 8% | 1 | 2% | 1 | 2% | 10 | 16% | 61 |
| Nonparticipant | 19 | 66% | 4 | 14% | 4 | 14% | 0 | 0% | 2 | 7% | 29 |

| Effect and Judge Type | To No Extent n | % | To a Small Extent n | % | To a Moderate Extent n | % | To a Great Extent n | % | No Opinion n | % | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Increases public confidence in the federal courts | | | | | | | | | | | |
| Participant | 9 | 15% | 10 | 16% | 10 | 16% | 20 | 33% | 12 | 20% | 61 |
| Nonparticipant | 12 | 41% | 4 | 14% | 9 | 31% | 2 | 7% | 2 | 7% | 29 |

## Appendix D, Table 5.b

### Extent to Which Judges Who Did and Did Not Participate in the Pilot Project Think the Presence of Video Recording Has the Listed Effects (Data Grouped in the Manner Consistently Used Throughout the Main Report)

| | To No/Small Extent | | To a Moderate/ Great Extent | | No Opinion | | Total |
|---|---|---|---|---|---|---|---|
| Effect and Judge Type | n | % | n | % | n | % | |
| Motivates witnesses to be truthful | | | | | | | |
| Participant | 39 | 63% | 7 | 11% | 16 | 26% | 62 |
| Nonparticipant | 22 | 76% | 7 | 24% | 0 | 0% | 29 |
| Distracts witnesses | | | | | | | |
| Participant | 43 | 69% | 10 | 16% | 9 | 15% | 62 |
| Nonparticipant | 5 | 18% | 22 | 79% | 1 | 4% | 28 |
| Makes witnesses more nervous than they otherwise would be | | | | | | | |
| Participant | 44 | 73% | 8 | 13% | 8 | 13% | 60 |
| Nonparticipant | 7 | 25% | 21 | 75% | 0 | 0% | 28 |
| Increases juror attentiveness | | | | | | | |
| Participant | 40 | 67% | 7 | 12% | 13 | 22% | 60 |
| Nonparticipant | 22 | 76% | 7 | 24% | 0 | 0% | 29 |
| Signals to jurors that a witness or argument is particularly important | | | | | | | |
| Participant | 40 | 65% | 9 | 15% | 13 | 21% | 62 |
| Nonparticipant | 20 | 69% | 9 | 31% | 0 | 0% | 29 |
| Increases jurors' sense of responsibility for their verdict | | | | | | | |
| Participant | 40 | 66% | 7 | 12% | 14 | 23% | 61 |
| Nonparticipant | 19 | 68% | 6 | 22% | 3 | 11% | 28 |
| Prompts people who see the coverage to try to influence juror-friends | | | | | | | |
| Participant | 38 | 62% | 6 | 10% | 17 | 28% | 61 |
| Nonparticipant | 11 | 38% | 11 | 38% | 7 | 24% | 29 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | | | | | | | |
| Participant | 45 | 74% | 3 | 5% | 13 | 21% | 61 |
| Nonparticipant | 22 | 76% | 5 | 17% | 2 | 7% | 29 |

| Effect and Judge Type | To No/Small Extent n | % | To a Moderate/ Great Extent n | % | No Opinion n | % | Total |
|---|---|---|---|---|---|---|---|
| Motivates attorneys to come to court better prepared | | | | | | | |
| Participant | 35 | 57% | 21 | 34% | 5 | 8% | 61 |
| Nonparticipant | 13 | 45% | 15 | 52% | 1 | 3% | 29 |
| Causes attorneys to be more theatrical in their presentation | | | | | | | |
| Participant | 38 | 62% | 18 | 30% | 5 | 8% | 61 |
| Nonparticipant | 4 | 14% | 23 | 79% | 2 | 7% | 29 |
| Prompts attorneys to be more courteous | | | | | | | |
| Participant | 35 | 58% | 19 | 32% | 6 | 10% | 60 |
| Nonparticipant | 16 | 55% | 11 | 38% | 2 | 7% | 29 |
| Increases judge attentiveness | | | | | | | |
| Participant | 45 | 74% | 11 | 18% | 5 | 8% | 61 |
| Nonparticipant | 22 | 79% | 5 | 18% | 1 | 4% | 28 |
| Causes judges to avoid unpopular decisions or positions | | | | | | | |
| Participant | 52 | 85% | 0 | 0% | 9 | 15% | 61 |
| Nonparticipant | 22 | 76% | 6 | 21% | 1 | 3% | 29 |
| Causes judges to be more theatrical in conducting the proceeding | | | | | | | |
| Participant | 49 | 80% | 1 | 2% | 11 | 18% | 61 |
| Nonparticipant | 21 | 72% | 7 | 24% | 1 | 3% | 29 |
| Prompts judges to be more courteous | | | | | | | |
| Participant | 42 | 69% | 13 | 21% | 6 | 10% | 61 |
| Nonparticipant | 21 | 72% | 7 | 24% | 1 | 3% | 29 |
| Disrupts courtroom proceedings | | | | | | | |
| Participant | 50 | 83% | 4 | 7% | 6 | 10% | 60 |
| Nonparticipant | 11 | 39% | 16 | 57% | 1 | 4% | 28 |
| Educates the public about courtroom procedure | | | | | | | |
| Participant | 16 | 27% | 38 | 64% | 5 | 9% | 59 |
| Nonparticipant | 12 | 43% | 15 | 54% | 1 | 4% | 28 |
| Educates the public about the legal issues in court cases | | | | | | | |
| Participant | 21 | 34% | 35 | 57% | 5 | 8% | 61 |
| Nonparticipant | 15 | 52% | 13 | 45% | 1 | 3% | 29 |

| Effect and Judge Type | To No/Small Extent n | To No/Small Extent % | To a Moderate/ Great Extent n | To a Moderate/ Great Extent % | No Opinion n | No Opinion % | Total |
|---|---|---|---|---|---|---|---|
| Increases public access to the federal courts | | | | | | | |
| Participant | 16 | 26% | 37 | 61% | 8 | 13% | 61 |
| Nonparticipant | 14 | 48% | 14 | 48% | 1 | 3% | 29 |
| Decreases public confidence in the federal courts | | | | | | | |
| Participant | 49 | 80% | 2 | 3% | 10 | 16% | 61 |
| Nonparticipant | 23 | 79% | 4 | 14% | 2 | 7% | 29 |
| Increases public confidence in the federal courts | | | | | | | |
| Participant | 19 | 31% | 30 | 49% | 12 | 20% | 61 |
| Nonparticipant | 16 | 55% | 11 | 38% | 2 | 7% | 29 |

# Appendix E

## Attorney Survey Responses
## Grouped in Various Ways, Both With and Without the Inclusion of No Opinion Responses

## Appendix E, Table1.a

## Extent to Which Attorneys Who Participated in Video Recorded Proceedings Think the Presence of Video Recording Has the Following Listed Effects (N=181)

## Number and Percent of Participating Attorney Responses, by Original Response Categories, No Opinion Included

| | To No Extent | To a Small Extent | To a Moderate Extent | To a Great Extent | No Opinion | Total* |
|---|---|---|---|---|---|---|
| Motivates witnesses to be truthful | 71<br>40% | 18<br>10% | 19<br>11% | 7<br>4% | 63<br>35% | 178 |
| Distracts witnesses | 79<br>45% | 40<br>23% | 7<br>4% | 4<br>2% | 47<br>27% | 177 |
| Makes witnesses more nervous than they otherwise would be | 70<br>39% | 45<br>25% | 9<br>5% | 7<br>4% | 49<br>27% | 180 |
| Increases juror attentiveness | 48<br>27% | 23<br>13% | 12<br>7% | 5<br>3% | 90<br>51% | 178 |
| Signals to jurors that a witness or argument is particularly important | 62<br>35% | 16<br>9% | 16<br>9% | 1<br>1% | 84<br>47% | 179 |
| Increases jurors' sense of responsibility for their verdict | 52<br>30% | 24<br>14% | 12<br>7% | 3<br>2% | 85<br>48% | 176 |
| Prompts people who see coverage to try to influence juror-friends | 60<br>34% | 11<br>6% | 5<br>3% | 1<br>1% | 102<br>57% | 179 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 94<br>53% | 30<br>17% | 19<br>11% | 12<br>7% | 24<br>13% | 179 |
| Motivates attorneys to come to court better prepared | 67<br>37% | 56<br>31% | 45<br>25% | 9<br>5% | 4<br>2% | 181 |
| Causes attorneys to be more theatrical in their presentation | 103<br>57% | 48<br>27% | 14<br>8% | 3<br>2% | 13<br>7% | 181 |
| Prompts attorneys to be more courteous | 82<br>45% | 55<br>30% | 31<br>17% | 6<br>3% | 7<br>4% | 181 |
| Increases judge attentiveness | 79<br>44% | 35<br>20% | 21<br>12% | 2<br>1% | 41<br>23% | 178 |
| Causes judges to avoid unpopular decisions or positions | 124<br>69% | 8<br>4% | 8<br>4% | 0<br>0% | 39<br>22% | 179 |
| Causes judges to be more theatrical in conducting the proceeding | 119<br>66% | 22<br>12% | 7<br>4% | 3<br>2% | 29<br>16% | 180 |

| | To No Extent | To a Small Extent | To a Moderate Extent | To a Great Extent | No Opinion | Total* |
|---|---|---|---|---|---|---|
| Prompts judges to be more courteous | 83<br>46% | 56<br>31% | 15<br>8% | 3<br>2% | 23<br>13% | 180 |
| Disrupts courtroom proceedings | 147<br>83% | 15<br>8% | 12<br>7% | 2<br>1% | 1<br>1% | 177 |
| Educates the public about courtroom procedure | 13<br>7% | 32<br>18% | 43<br>24% | 68<br>38% | 21<br>12% | 177 |
| Educates the public about the legal issues in court cases | 16<br>9% | 37<br>21% | 46<br>26% | 59<br>33% | 20<br>11% | 178 |
| Increases public access to the federal courts | 10<br>6% | 34<br>19% | 50<br>28% | 75<br>42% | 11<br>6% | 180 |
| Decreases public confidence in the federal courts | 139<br>78% | 6<br>3% | 3<br>2% | 2<br>1% | 28<br>16% | 178 |
| Increases public confidence in the federal courts | 23<br>13% | 38<br>21% | 38<br>21% | 47<br>26% | 34<br>19% | 180 |

* The total number of questionnaire respondents was 181 attorneys. Here and in other tables reporting information from all respondents to the questionnaire, numbers may not total to 181 because of non-responses to a question.

## Appendix E, Table 1.b

### Extent to Which Attorneys Who Participated in Video Recorded Proceedings Think the Presence of Video Recording Has the Following Listed Effects (N=181)

### Number and Percent of Participating Attorney Responses, by Original Response Categories, No Opinion Excluded

| | To No Extent | To a Small Extent | To a Moderate Extent | To a Great Extent | Total * (No Opinion responses excluded) |
|---|---|---|---|---|---|
| Motivates witnesses to be truthful | 71<br>62% | 18<br>16% | 19<br>17% | 7<br>6% | 115 |
| Distracts witnesses | 79<br>61% | 40<br>31% | 7<br>5% | 4<br>3% | 130 |
| Makes witnesses more nervous than they otherwise would be | 70<br>53% | 45<br>34% | 9<br>7% | 7<br>5% | 131 |
| Increases juror attentiveness | 48<br>55% | 23<br>26% | 12<br>14% | 5<br>6% | 88 |
| Signals to jurors that a witness or argument is particularly important | 62<br>65% | 16<br>17% | 16<br>17% | 1<br>1% | 95 |
| Increases jurors' sense of responsibility for their verdict | 52<br>57% | 24<br>26% | 12<br>13% | 3<br>3% | 91 |
| Prompts people who see coverage to try to influence juror-friends | 60<br>78% | 11<br>14% | 5<br>6% | 1<br>1% | 77 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 94<br>61% | 30<br>19% | 19<br>12% | 12<br>8% | 155 |
| Motivates attorneys to come to court better prepared | 67<br>38% | 56<br>32% | 45<br>25% | 9<br>5% | 177 |
| Causes attorneys to be more theatrical in their presentation | 103<br>61% | 48<br>29% | 14<br>8% | 3<br>2% | 168 |
| Prompts attorneys to be more courteous | 82<br>47% | 55<br>32% | 31<br>18% | 6<br>3% | 174 |
| Increases judge attentiveness | 79<br>58% | 35<br>26% | 21<br>15% | 2<br>1% | 137 |
| Causes judges to avoid unpopular decisions or positions | 124<br>89% | 8<br>6% | 8<br>6% | 0<br>0% | 140 |
| Causes judges to be more theatrical in conducting the proceeding | 119<br>79% | 22<br>15% | 7<br>5% | 3<br>2% | 151 |
| Prompts judges to be more courteous | 83<br>53% | 56<br>36% | 15<br>10% | 3<br>2% | 157 |

| | To No Extent | To a Small Extent | To a Moderate Extent | To a Great Extent | Total * (No Opinion responses excluded) |
|---|---|---|---|---|---|
| Disrupts courtroom proceedings | 147<br>84% | 15<br>9% | 12<br>7% | 2<br>1% | 176 |
| Educates the public about courtroom procedure | 13<br>8% | 32<br>21% | 43<br>28% | 68<br>44% | 156 |
| Educates the public about the legal issues in court cases | 16<br>10% | 37<br>23% | 46<br>29% | 59<br>37% | 158 |
| Increases public access to the federal courts | 10<br>6% | 34<br>20% | 50<br>30% | 75<br>44% | 169 |
| Decreases public confidence in the federal courts | 139<br>93% | 6<br>4% | 3<br>2% | 2<br>1% | 150 |
| Increases public confidence in the federal courts | 23<br>16% | 38<br>26% | 38<br>26% | 47<br>32% | 146 |

* The total number of questionnaire respondents was 181 attorneys. Here and in other tables reporting information where the No Opinion responses to the questionnaire have been omitted, numbers will not total to 181.

## Appendix E, Table 2.a

### Extent to Which Attorneys Who Participated in Video Recorded Proceedings Think the Presence of Video Recording Has the Following Listed Effects (N=181)

### Number and Percent of Participating Attorney Responses, Response Categories Grouped into Two Sets: No Extent/Small Extent and Moderate Extent/Great Extent, No Opinion Included

| | To No Extent or to a Small Extent | To a Moderate Extent or to a Great Extent | No Opinion | Total * |
|---|---|---|---|---|
| Motivates witnesses to be truthful | 89<br>50% | 26<br>15% | 63<br>35% | 178 |
| Distracts witnesses | 119<br>67% | 11<br>6% | 47<br>27% | 177 |
| Makes witnesses more nervous than they otherwise would be | 115<br>64% | 16<br>9% | 49<br>27% | 180 |
| Increases juror attentiveness | 71<br>40% | 17<br>10% | 90<br>51% | 178 |
| Signals to jurors that a witness or argument is particularly important | 78<br>44% | 17<br>9% | 84<br>47% | 179 |
| Increases jurors' sense of responsibility for their verdict | 76<br>43% | 15<br>9% | 85<br>48% | 176 |
| Prompts people who see coverage to try to influence juror-friends | 71<br>40% | 6<br>3% | 102<br>57% | 179 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 124<br>69% | 31<br>17% | 24<br>13% | 179 |
| Motivates attorneys to come to court better prepared | 123<br>68% | 54<br>30% | 4<br>2% | 181 |
| Causes attorneys to be more theatrical in their presentation | 151<br>83% | 17<br>9% | 13<br>7% | 181 |
| Prompts attorneys to be more courteous | 137<br>76% | 37<br>20% | 7<br>4% | 181 |
| Increases judge attentiveness | 114<br>64% | 23<br>13% | 41<br>23% | 178 |
| Causes judges to avoid unpopular decisions or positions | 132<br>74% | 8<br>4% | 39<br>22% | 179 |
| Causes judges to be more theatrical in conducting the proceeding | 141<br>78% | 10<br>6% | 29<br>16% | 180 |
| Prompts judges to be more courteous | 139<br>77% | 18<br>10% | 23<br>13% | 180 |

| | To No Extent or to a Small Extent | To a Moderate Extent or to a Great Extent | No Opinion | Total * |
|---|---|---|---|---|
| Disrupts courtroom proceedings | 162<br>92% | 14<br>8% | 1<br>1% | 177 |
| Educates the public about courtroom procedure | 45<br>25% | 111<br>63% | 21<br>12% | 177 |
| Educates the public about the legal issues in court cases | 53<br>30% | 105<br>59% | 20<br>11% | 178 |
| Increases public access to the federal courts | 44<br>24% | 125<br>69% | 11<br>6% | 180 |
| Decreases public confidence in the federal courts | 145<br>81% | 5<br>3% | 28<br>16% | 178 |
| Increases public confidence in the federal courts | 61<br>34% | 85<br>47% | 34<br>19% | 180 |

* The total number of questionnaire respondents was 181 attorneys. Here and in other tables reporting information from all respondents to the questionnaire, numbers may not total to 181 because of non-responses to a question.

## Appendix E, Table 2.b

### Extent to Which Attorneys Who Participated in Video Recorded Proceedings Think the Presence of Video Recording Has the Following Listed Effects (N=181)

### Number and Percent of Participating Attorney Responses, Response Categories Grouped into Two Sets: No Extent/Small Extent and Moderate Extent/Great Extent, No Opinion Excluded

| | To No Extent or to a Small Extent | To a Moderate Extent or to a Great Extent | Total * (No Opinion responses excluded) |
|---|---|---|---|
| Motivates witnesses to be truthful | 89<br>77% | 26<br>23% | 115 |
| Distracts witnesses | 119<br>92% | 11<br>8% | 130 |
| Makes witnesses more nervous than they otherwise would be | 115<br>88% | 16<br>12% | 131 |
| Increases juror attentiveness | 71<br>81% | 17<br>19% | 88 |
| Signals to jurors that a witness or argument is particularly important | 78<br>82% | 17<br>18% | 95 |
| Increases jurors' sense of responsibility for their verdict | 76<br>84% | 15<br>16% | 91 |
| Prompts people who see coverage to try to influence juror-friends | 71<br>92% | 6<br>8% | 77 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 124<br>80% | 31<br>20% | 155 |
| Motivates attorneys to come to court better prepared | 123<br>69% | 54<br>31% | 177 |
| Causes attorneys to be more theatrical in their presentation | 151<br>90% | 17<br>10% | 168 |
| Prompts attorneys to be more courteous | 137<br>79% | 37<br>21% | 174 |
| Increases judge attentiveness | 114<br>83% | 23<br>17% | 137 |
| Causes judges to avoid unpopular decisions or positions | 132<br>94% | 8<br>6% | 140 |
| Causes judges to be more theatrical in conducting the proceeding | 141<br>93% | 10<br>7% | 151 |
| Prompts judges to be more courteous | 139<br>89% | 18<br>11% | 157 |

| | To No Extent or to a Small Extent | To a Moderate Extent or to a Great Extent | Total * (No Opinion responses excluded) |
|---|---|---|---|
| Disrupts courtroom proceedings | 162<br>92% | 14<br>8% | 176 |
| Educates the public about courtroom procedure | 45<br>29% | 111<br>71% | 156 |
| Educates the public about the legal issues in court cases | 53<br>34% | 105<br>66% | 158 |
| Increases public access to the federal courts | 44<br>26% | 125<br>74% | 169 |
| Decreases public confidence in the federal courts | 145<br>97% | 5<br>3% | 150 |
| Increases public confidence in the federal courts | 61<br>42% | 85<br>58% | 146 |

* The total number of questionnaire respondents was 181 attorneys. Here and in other tables reporting information where the No Opinion responses to the questionnaire have been omitted, numbers will not total to 181.

Appendix E, Table 3.a

Extent to Which Attorneys Who Participated in Video Recorded Proceedings Think the Presence of Video Recording Has the Following Listed Effects (N=181)

Number and Percent of Participating Attorney Responses, Response Categories Grouped into Two Sets: No Extent and Small Extent/Moderate Extent/Great Extent, No Opinion Included

| | To No Extent | To a Small Extent, to a Moderate Extent, or to a Great Extent | No Opinion | Total * |
|---|---|---|---|---|
| Motivates witnesses to be truthful | 71<br>40% | 44<br>25% | 63<br>35% | 178 |
| Distracts witnesses | 79<br>45% | 51<br>29% | 47<br>27% | 177 |
| Makes witnesses more nervous than they otherwise would be | 70<br>39% | 61<br>34% | 49<br>27% | 180 |
| Increases juror attentiveness | 48<br>27% | 40<br>22% | 90<br>51% | 178 |
| Signals to jurors that a witness or argument is particularly important | 62<br>35% | 33<br>18% | 84<br>47% | 179 |
| Increases jurors' sense of responsibility for their verdict | 52<br>30% | 39<br>22% | 85<br>48% | 176 |
| Prompts people who see coverage to try to influence juror-friends | 60<br>34% | 17<br>9% | 102<br>57% | 179 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 94<br>53% | 61<br>34% | 24<br>13% | 179 |
| Motivates attorneys to come to court better prepared | 67<br>37% | 110<br>61% | 4<br>2% | 181 |
| Causes attorneys to be more theatrical in their presentation | 103<br>57% | 65<br>36% | 13<br>7% | 181 |
| Prompts attorneys to be more courteous | 82<br>45% | 92<br>51% | 7<br>4% | 181 |
| Increases judge attentiveness | 79<br>44% | 58<br>33% | 41<br>23% | 178 |
| Causes judges to avoid unpopular decisions or positions | 124<br>69% | 16<br>9% | 39<br>22% | 179 |
| Causes judges to be more theatrical in conducting the proceeding | 119<br>66% | 32<br>18% | 29<br>16% | 180 |

| | To No Extent | To a Small Extent, to a Moderate Extent, or to a Great Extent | No Opinion | Total * |
|---|---|---|---|---|
| Prompts judges to be more courteous | 83<br>46% | 74<br>41% | 23<br>13% | 180 |
| Disrupts courtroom proceedings | 147<br>83% | 29<br>16% | 1<br>1% | 177 |
| Educates the public about courtroom procedure | 13<br>7% | 143<br>81% | 21<br>12% | 177 |
| Educates the public about the legal issues in court cases | 16<br>9% | 142<br>80% | 20<br>11% | 178 |
| Increases public access to the federal courts | 10<br>6% | 159<br>88% | 11<br>6% | 180 |
| Decreases public confidence in the federal courts | 139<br>78% | 11<br>6% | 28<br>16% | 178 |
| Increases public confidence in the federal courts | 23<br>13% | 123<br>68% | 34<br>19% | 180 |

* The total number of questionnaire respondents was 181 attorneys. Here and in other tables reporting information from all respondents to the questionnaire, numbers may not total to 181 because of non-responses to a question.

Appendix E, Table 3.b

Extent to Which Attorneys Who Participated in Video Recorded Proceedings Think the Presence of Video Recording Has the Following Listed Effects (N=181)

Number and Percent of Participating Attorney Responses, Response Categories Grouped into Two Sets: No Extent and Small Extent/Moderate Extent/Great Extent, No Opinion Excluded

| | To No Extent | To a Small Extent, to a Moderate Extent, or to a Great Extent | Total * (No Opinion responses excluded) |
|---|---|---|---|
| Motivates witnesses to be truthful | 71<br>62% | 44<br>38% | 115 |
| Distracts witnesses | 79<br>61% | 51<br>39% | 130 |
| Makes witnesses more nervous than they otherwise would be | 70<br>53% | 61<br>47% | 131 |
| Increases juror attentiveness | 48<br>55% | 40<br>45% | 88 |
| Signals to jurors that a witness or argument is particularly important | 62<br>65% | 33<br>35% | 95 |
| Increases jurors' sense of responsibility for their verdict | 52<br>57% | 39<br>43% | 91 |
| Prompts people who see coverage to try to influence juror-friends | 60<br>78% | 17<br>22% | 77 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 94<br>61% | 61<br>39% | 155 |
| Motivates attorneys to come to court better prepared | 67<br>38% | 110<br>62% | 177 |
| Causes attorneys to be more theatrical in their presentation | 103<br>61% | 65<br>39% | 168 |
| Prompts attorneys to be more courteous | 82<br>47% | 92<br>53% | 174 |
| Increases judge attentiveness | 79<br>58% | 58<br>42% | 137 |
| Causes judges to avoid unpopular decisions or positions | 124<br>89% | 16<br>11% | 140 |

| | To No Extent | To a Small Extent, to a Moderate Extent, or to a Great Extent | Total * (No Opinion responses excluded) |
|---|---|---|---|
| Causes judges to be more theatrical in conducting the proceeding | 119<br>79% | 32<br>21% | 151 |
| Prompts judges to be more courteous | 83<br>53% | 74<br>47% | 157 |
| Disrupts courtroom proceedings | 147<br>84% | 29<br>16% | 176 |
| Educates the public about courtroom procedure | 13<br>8% | 143<br>92% | 156 |
| Educates the public about the legal issues in court cases | 16<br>10% | 142<br>90% | 158 |
| Increases public access to the federal courts | 10<br>6% | 159<br>94% | 169 |
| Decreases public confidence in the federal courts | 139<br>93% | 11<br>7% | 150 |
| Increases public confidence in the federal courts | 23<br>16% | 123<br>84% | 146 |

* The total number of questionnaire respondents was 181 attorneys. Here and in other tables reporting information where the No Opinion responses to the questionnaire have been omitted, numbers will not total to 181.

Appendix E, Table 4.a

Extent to Which Attorneys Who Participated in Video Recorded Proceedings Think the Presence of Video Recording Has the Following Listed Effects (N=181)

Number and Percent of Participating Attorney Responses, Response Categories Grouped into Two Sets: No Extent/Small Extent/Moderate Extent and Great Extent, No Opinion Included

| | To No Extent, to a Small Extent, or to a Moderate Extent | To a Great Extent | No Opinion | Total * |
|---|---|---|---|---|
| Motivates witnesses to be truthful | 108<br>61% | 7<br>4% | 63<br>35% | 178 |
| Distracts witnesses | 126<br>71% | 4<br>2% | 47<br>27% | 177 |
| Makes witnesses more nervous than they otherwise would be | 124<br>69% | 7<br>4% | 49<br>27% | 180 |
| Increases juror attentiveness | 83<br>47% | 5<br>3% | 90<br>51% | 178 |
| Signals to jurors that a witness or argument is particularly important | 94<br>53% | 1<br>1% | 84<br>47% | 179 |
| Increases jurors' sense of responsibility for their verdict | 88<br>50% | 3<br>2% | 85<br>48% | 176 |
| Prompts people who see coverage to try to influence juror-friends | 76<br>42% | 1<br>1% | 102<br>57% | 179 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 143<br>80% | 12<br>7% | 24<br>13% | 179 |
| Motivates attorneys to come to court better prepared | 168<br>93% | 9<br>5% | 4<br>2% | 181 |
| Causes attorneys to be more theatrical in their presentation | 165<br>91% | 3<br>2% | 13<br>7% | 181 |
| Prompts attorneys to be more courteous | 168<br>93% | 6<br>3% | 7<br>4% | 181 |
| Increases judge attentiveness | 135<br>76% | 2<br>1% | 41<br>23% | 178 |
| Causes judges to avoid unpopular decisions or positions | 140<br>78% | 0<br>0% | 39<br>22% | 179 |
| Causes judges to be more theatrical in conducting the proceeding | 148<br>82% | 3<br>2% | 29<br>16% | 180 |

| | To No Extent, to a Small Extent, or to a Moderate Extent | To a Great Extent | No Opinion | Total * |
|---|---|---|---|---|
| Prompts judges to be more courteous | 154<br>86% | 3<br>2% | 23<br>13% | 180 |
| Disrupts courtroom proceedings | 174<br>98% | 2<br>1% | 1<br>1% | 177 |
| Educates the public about courtroom procedure | 88<br>50% | 68<br>38% | 21<br>12% | 177 |
| Educates the public about the legal issues in court cases | 99<br>56% | 59<br>33% | 20<br>11% | 178 |
| Increases public access to the federal courts | 94<br>52% | 75<br>42% | 11<br>6% | 180 |
| Decreases public confidence in the federal courts | 148<br>83% | 2<br>1% | 28<br>16% | 178 |
| Increases public confidence in the federal courts | 99<br>55% | 47<br>26% | 34<br>19% | 180 |

* The total number of questionnaire respondents was 181 attorneys. Here and in other tables reporting information from all respondents to the questionnaire, numbers may not total to 181 because of non-responses to a question.

Appendix E, Table 4.b

Extent to Which Attorneys Who Participated in Video Recorded Proceedings Think the Presence of Video Recording Has the Following Listed Effects (N=181)

Number and Percent of Participating Attorney Responses, Response Categories Grouped into Two Sets: No Extent/Small Extent/Moderate Extent and Great Extent, No Opinion Excluded

| | To No Extent, to a Small Extent, or to a Moderate Extent | To a Great Extent | Total * (No Opinion responses excluded) |
|---|---|---|---|
| Motivates witnesses to be truthful | 108<br>94% | 7<br>6% | 115 |
| Distracts witnesses | 126<br>97% | 4<br>3% | 130 |
| Makes witnesses more nervous than they otherwise would be | 124<br>95% | 7<br>5% | 131 |
| Increases juror attentiveness | 83<br>94% | 5<br>6% | 88 |
| Signals to jurors that a witness or argument is particularly important | 94<br>99% | 1<br>1% | 95 |
| Increases jurors' sense of responsibility for their verdict | 88<br>97% | 3<br>3% | 91 |
| Prompts people who see coverage to try to influence juror-friends | 76<br>99% | 1<br>1% | 77 |
| Causes attorneys to urge their clients to consent to recording in order to please the judge | 143<br>92% | 12<br>8% | 155 |
| Motivates attorneys to come to court better prepared | 168<br>95% | 9<br>5% | 177 |
| Causes attorneys to be more theatrical in their presentation | 165<br>98% | 3<br>2% | 168 |
| Prompts attorneys to be more courteous | 168<br>97% | 6<br>3% | 174 |
| Increases judge attentiveness | 135<br>99% | 2<br>1% | 137 |
| Causes judges to avoid unpopular decisions or positions | 140<br>100% | 0<br>0% | 140 |

| | To No Extent, to a Small Extent, or to a Moderate Extent | To a Great Extent | Total * (No Opinion responses excluded) |
|---|---|---|---|
| Causes judges to be more theatrical in conducting the proceeding | 148<br>98% | 3<br>2% | 151 |
| Prompts judges to be more courteous | 154<br>98% | 3<br>2% | 157 |
| Disrupts courtroom proceedings | 174<br>99% | 2<br>1% | 176 |
| Educates the public about courtroom procedure | 88<br>56% | 68<br>44% | 156 |
| Educates the public about the legal issues in court cases | 99<br>63% | 59<br>37% | 158 |
| Increases public access to the federal courts | 94<br>56% | 75<br>44% | 169 |
| Decreases public confidence in the federal courts | 148<br>99% | 2<br>1% | 150 |
| Increases public confidence in the federal courts | 99<br>68% | 47<br>32% | 146 |

* The total number of questionnaire respondents was 181 attorneys. Here and in other tables reporting information where the No Opinion responses to the questionnaire have been omitted, numbers will not total to 181.

# Appendix F

## Judge and Attorney Questionnaire Comments

# JUDGE QUESTIONNAIRE COMMENTS

If you have additional thoughts about benefits that result from video recording civil proceedings, please describe them here.

1 Demonstrates to the public that the courthouse is open to people who are interested in watching, which is good because transparency is always good.

2 Despite my best efforts AND prompting, I could not get civil lawyers to agree to have any trials recorded by video. In [name of district], the experiment was an unmitigated failure. Of course, I came from a state system that DID allow cameras in the courtroom . . . and the results have been very successful.

3 I see no benefits worth the disruptive effects.

4 The primary benefit is public education, and hopefully, it promotes greater courtesy.

5 The way in which our cameras were set up for the pilot project was not visible to the public; therefore, it was not intrusive. It was as if the cameras were not there. I could detect no noticeable difference in courtroom decorum and the demeanor of the parties and the lawyers. I think where there are important issues before the court in civil proceedings and the cameras in the courtroom were positioned in such a way that was not distracting, the cameras should be allowed. This would clearly engender more transparency.

6 There can be no excuse for a public institution to make itself unavailable to the public in this day and age.

7 Unfortunately, I was only able to have two proceedings recorded . . . As a result, I did not have sufficient experience with cameras in the courtroom to be able to formulate any opinion on any of the inquiries. Any responses that I would give would be based on my gut feelings and not based on my actual experience.

8 This video recording is a very good tool for law firm training of their lawyers. I have heard that from a few law firms across the country. Increase the public credibility of our proceedings.

9 Like jurors, the public can better understand how the federal courts work and how seriously everyone involved takes the endeavor towards equal justice under law. There are some cases, such as patent cases, that would be useful to televise, not for the public at large, but for the technical folks and other IP

lawyers. Those cases rarely go to juries, however. *Markman* hearings, however, would be a good possibility. Appellate arguments, especially SCOTUS, should be videotaped and then televised.

10 It does permit a large number of the bar and law students to observe trial proceedings, especially high profile proceedings, which has an educational benefit for the bar.

11 If cameras were allowed, it should be up to the discretion of each individual judge.

12 The recording generated is more accurate than the transcript. Video recording also increases the public's access to court proceeding.

13 In some cases, a video recording may be of assistance to a reviewing court.

14 I see very little if any benefit to video recording.

15 Unfortunately, I have nothing to offer in this survey. I have only been on the bench a little over a year, and this issue has not arisen during that time.

16 I do believe the video recording of civil proceedings is a positive approach. I conducted 2 or 3 trial utilizing video recordings and did not detect any effect it had on witnesses, jurors, the court or the outcome of the case. It may have motivated counsel to be more theatrical but only minimally if at all. I believe it promotes transparency for the federal judiciary and can be a useful tool in helping educate the public on the scope and day to day operations of the federal court system. I'm very curious to see to what extent the public is aware of and will actually view recordings of civil proceedings in the federal system. At this point, I'm a strong advocate for expanding and implementing video recording of civil proceedings in all federal district courts.

17 I have never used cameras in my courtroom so I have no informed opinions on the subject

18 I answered "to no extent" to all questions because I am certain that no one—including me—is conscious that recordings occurring. So far as I am aware, no one has asked to see a recording. (By hindsight, I now believe I should have been reminding the attorneys that the recordings are available for post trial self-critique). Because no one is aware of the recording, recording civil trials has no impact on anyone—witnesses, lawyers, jurors, me, or the public. Never likely to because civil trials are so infrequent, and, even when they occur, almost never involve anything of interest to anyone but the parties and their lawyers.

19 The more the public sees about the federal courts the more confidence the people will have in the federal courts and our justice system.

20 I am overseeing a consent decree…. We video and post all proceedings. The press reports are better. The parties try harder and are more reasonable. The letters to the editor and posted comments are of better quality; more accurate; and display a greater understanding of the process. Everyone is a winner.

21 I am not a fan of video recording. The general public is not accessing the videos. If our goal is to educate the public about our justice system and how it really works, our time and money is better spent in outreach education to students and adults and courthouse tours where the public has personal contact with judges and courthouse personnel. Most civil cases are not that captivating—people would rather watch a fictional courtroom drama or comedy, even with its distortions. Why is it everyone knows Judge Judy and not real judges or courtroom behavior? Because she is rude entertainment (and highly paid at that). So I ask what is it we are trying to achieve? Unlike an oral argument which requires little time investment, a trial, to get the complete picture, requires days of time investment. Give me an audience once a month for 1–2 hours when I can explain our judicial system—including the importance of trials—that will not only educate but also hopefully inspire confidence and pride in our civil justice system.

22 To be honest, I cannot cite a single example in which cameras have produced a tangible, known benefit. (On the other side, I cannot cite a single negative result of cameras in the courtroom.) In the end, I think it comes down to our values as an institution. If transparency is one of our values, and we have no evidence of actual negative consequences, we may need to go where the evidence (or lack thereof) leads us.

23 Benefits are purely educational and then of course depend upon what is done with the recording. Most proceedings will never be watched by anyone other than the small group of people interested in that particular litigation. High profile matters that would generate a lot of interest are rarely ever going to result in the consent of both sides.

24 Putting aside the occasional case where witness and/or juror safety is an issue, my experience with the presence of press in the courtroom is that it enhances all participants' sense of the importance of what they are doing and thus has a beneficial effect.

25 In three years I can only recall two cases in which both parties agreed to have the case video recorded. In our Court, this option is presented at the initial

pretrial conference. I recall no proceeding in my courtroom being video recorded as the cases in which such recording was approved by counsel generally settle and go out on summary judgment. During my tenure as a member of the [name] County [state] Court, the news media were permitted to record both civil and criminal proceedings. News media resources and focus of coverage tended to effect a reduction in the number of cases that actually made the news. Typically, aggravated murder cases in which the death penalty was in play tended to be the cases followed by local media.

26 I've had a few recorded proceedings, and it seems to me that everyone promptly forgets the recording is happening, and we proceed normally. They have not been in any way even slightly disruptive.

27 I don't see a benefit.

28 Whatever benefit there is, it is not worth the negatives of everyone in the courtroom being susceptible to "playing to the camera".

29 I conducted no video recording of civil proceedings so I cannot answer any of the questions.

30 No proceedings were recorded in our court. We decided to allow the attorneys to opt in and no one did.

31 I have tried non-jury cases to judgment, motions to rulings, and enjoyed having video available. It enhanced attorney preparation and was not distracting. I could later review the presentations on video to be sure my notes were accurate.

32 As I anticipated [at the outset of the project], the provision giving the parties the right to decline to have a proceeding recorded greatly diminished, if not eliminated, the potential value of the pilot. I continue to believe, based in meaningful measure on the experience in state courts, that recording and broadcast of civil proceedings particularly can be done without disrupting the proceedings and would cause there to be greater confidence in the federal courts, which the polls show has been eroding.

33 I do not know how much traffic there actually has been in viewing the recordings, but just giving persons that opportunity is a major step forward. Video recording in my court has been a total non-event—I do not believe it has impacted any aspect of our proceedings. One benefit that may be overlooked is that lawyers have an opportunity to become better at what they do by reviewing the recordings, particularly with a mentor or more experienced lawyer. In a spirit of complete disclosure, I have advocated for cameras in the courtrooms for years, as I believe it is consistent with our mission to educate the public

about what we do, and because I believe that complete transparency can only enhance overall confidence in the courts.

34 As you know, public trials and court proceedings are a hallmark of the American judiciary. Anything that improves public access to and awareness of what we do in court is good in so many ways. It affirms our special tradition of open and public proceedings, the peaceful resolution of conflicts, the rule of law and impartial justice, the separation of powers, the role of the Constitution and more. It used to be that trials were a major forum for public engagement and participation with the judiciary—they were often the best show in town. We can get some of that benefit back by making trials accessible through 21st century technology. I'm all for it.

35 Transparency.

If you have additional thoughts about harms that result from video recording civil proceedings, please describe them here.

1 Cannot think of a negative.

2 Just one more equipment failure problem to manage.

3 The two interesting unexpected consequences of my experience with cameras in the courtroom (in addition to the lack of manpower to monitor the camera to make sure it was not only functioning but capturing the witness and or counsel) were: (1) an unsuccessful plaintiff who consented in an employment dispute, later sought to require the court to remove his videoed testimony, as it was being viewed by potential employers and interfering with his ability to get a new job. (The video showed why the jury did not find him credible.). (2) in a case involving a . . . plaintiff who prevailed at trial, the defendant demanded that the court provide a new trial or a video copy of the proceedings [for use in supporting his] appeal. It was only discovered after the trial that the cameras weren't functioning.

4 I suppose if you allow media outlets to bring their own cameras into our courts, this would be a totally different environment. The Ninth Circuit Court of Appeals have been able to address this issue by designating one outlet to be the official media outlet with the provision that this outlet share the recordings with other outlets in a timely fashion.

5 There are no harms.

6 The only cases that will be televised are the ones with popular appeal—Michael Jordan's trademark case, for example. Televising it turns it into a reality TV show. What good comes of it?

7 Video recording of the trial, only, tends to present a distorted view of the proceedings. Many proceedings and rulings lead up to the trial, of which the attorneys and their parties are aware, but about which others are unadvised. Discussions with jurors following the trial confirm that they have many questions about what is presented, and what is not presented. These questions can be answered for the jurors following the trial, but are never answered for those who simply view the trial and, in the media, are fodder for rank speculation.

8 Video cameras can be very intimidating to witnesses and even jurors. I saw this first hand when I served as a judge in state court.

9 In civil proceedings there appears to be little harm from use of a discrete video recording system. There is some risk of grandstanding but that can be controlled by 3rd party and/or judicial review of video before posting it to a website.

10 Video recording negatively affects the way attorneys present themselves and their case.

11 Unfortunately, I have nothing to offer in this survey. I have only been on the bench a little over a year, and this issue has not arisen during that time.

12 None whatsoever.

13 One weaker attorney sometimes carries on a bit more. Otherwise, none.

14 Puts the judicial process at risk for unfair assessment and criticism.

15 I saw in state court how cameras affected the way some people act or react—causing them to play to the camera—distorting the presentation of evidence. Of course the less intrusive, the less risk. And there will always be some witnesses who provide drama—my experience has been that jurors usually know who is acting and who is telling the truth. Why add any more risk? I am not a fan of video recording. The general public is not accessing the videos. If our goal is to educate the public about our justice system and how it really works, our time and money is better spent in outreach education to students and adults and courthouse tours where the public has personal contact with judges and courthouse personnel. Most civil cases are not that captivating—people would rather watch a fictional courtroom drama or comedy, even with its distortions. Why is it everyone knows Judge Judy and not real judges or courtroom behavior? Because she is rude entertainment (and highly paid at that). So I ask what is it we are trying to achieve? Unlike an oral argument which requires little time investment, a trial, to get the complete picture, requires days of time investment. Give me an audience once a month for 1–2 hours when I can explain our judicial system—including the importance of trials—

that will not only educate but also hopefully inspire confidence and pride in our civil justice system.

16 This entire controversy is like Y2K for the garden variety trial. High profile cases are a different issue, but that is true even without cameras in the courtroom.

17 The only real harm is the decorum of the court and the stress on the participants. I think trials are already stressful enough for the lawyers that the added pressures of having to think about how what they say and do looks like on TV is potentially an unnecessary burden for them to bear. The parties are rightfully more concerned about their case and what's at stake than about educating the public.

18 In my opinion, and based upon my experience as a judge and a former litigator in both the state and federal systems, cameras in a federal courtroom will undermine the administration of justice.

19 Certain cases with issues of witness or juror or party safety should probably not be recorded. These harms can be avoided by judicial engagement with the trial participants so that any concerns about safety surface before trial and can be addressed. Other potential harms, such as lawyer theatricality, should be controllable by the presiding judge. Any audience—such as a jury—can provoke some lawyers to bad behavior, and in my experience, the judge can control the problem.

20 I continue to think that, on the whole, the risk of increased lawyer, and sometimes judge, theatrics, as well as increased anxiety and pressure on witnesses, jurors, staff, and judges far outweighs any benefit flowing from video recording.

21 I have presided over trials in state court where cameras in the courtroom was permitted. It has in my opinion a negative effect. It causes the attorneys to showboat, the Judge to be tempted to grandstand, the witnesses to be intimidated, and the jurors to think they are part of a Court TV show. I am opposed to Cameras in the Courtroom.

22 In the retrial of a remanded case, counsel utilized the recording for the testimony of an unavailable witness. Despite direction from the Court that the video must show only the witness and no one else in the courtroom, at the end of the testimony the image on the video was allowed to go to a wide shot of the courtroom showing all of the people sitting at the counsel tables in the same positions as the current trial. This prompted a motion for mistrial that, while denied, created an unnecessary complication in the record.

23 My experience tells me that no meaningful harm is presented by the presence of cameras in the courtroom. There are sufficient protective steps available to the trial judge to handle most if not all potential harm.

24 The resources could be better directed.

25 Assuring that justice is done in the courtroom is not enhanced by the presence of cameras.

26 I have significant concerns about the effects of cameras in the courtroom on jurors, in cases where there are concerns re: juror safety particularly. I am also principally concerned about the interaction of members of the public who know jurors and watch the trial; there is a significant increase in the risk that those viewers would attempt to communicate with the jurors about the trial. I am also concerned that jurors will want to view broadcasts of the trial, in part or in whole, to see what is shown, whether they are ever on camera, and perhaps also to review critical testimony. This could adversely affect deliberations (it is the equivalent of allowing an individual juror in deliberations to review a transcript of a particular piece of testimony) and increase the risk that jurors rely on information from external sources about the trial.

27 Distracting.

28 Because the video proceedings were consented to pre- trial or hearing, no one was surprised or baffled. It is win-win.

29 I do not see any downside at all.

30 Concerned that in high profile cases witness behavior will be influenced and all parties will be concerned about appearing politically correct.

31 It is possible that attorneys could engage in theatrics, or that the media could try to take material out of context, but that was not our experience.

Which of the following statements best describes your participation in the pilot project? Responses for the Other-Please describe option.

1 I had state court experience with recording and cameras in court with no negative results.

2 No interest, but not hostile.

3 Did not participate because I had many trials in State Court covered by camera and wanted to give others a chance to experience recorded trials.

4 I had two jury trials recorded and many other proceedings, motion practice, etc. Very much enjoyed the "experiment" and wished it were permanent.

5 Not aware of it.

6 None of the above.

7 There were a number of recordings and most were posted.

8 Never came up.

9 I am in the [Division 1] courthouse which was not technically equipped in order to participate—only [Division 2] courtrooms were.

10 I was not on the bench at the time the project started, and I did not participate.

11 Because other judges had volunteered in my district, my participation in the pilot program was not needed.

12 I had no cases in which the parties expressed interest in video recording.

13 No appropriate trials occurred during the pilot project period.

14 The issue has not arisen.

15 I was not aware of the presence of technology I could use to record proceedings.

16 No jury trials in 2014.

17 There have been no requests for coverage.

18 Two cases in which the parties agreed at the outset that were resolved prior to trial.

19 Only participation was as counsel in a case, before I was appointed to this position.

20 I did not want to participate in the pilot program because I am a relatively new judge and am still working through my own standard trial procedures.

21 I wanted to participate and have had a number of proceedings recorded and posted on the public website.

22 No one asked me to record proceedings, so I had no occasion to analyze the situation.

Which of the following statements describes your reasons for choosing to participate? Responses for the Other-Please describe option.

1 Way to see if different than state court experience. It wasn't.

2 When in private practice in the early '80's, I worked on promoting cameras in the courtroom in [state].

3 Received request to have proceeding recorded.

4 I think it is the court's obligation to the public.

5 I believe strongly that all federal proceedings should be recorded and the recordings should be readily and promptly available to the public, including the broadcast media.

6 I believe the more the public understands what we do, the better they will understand that we strive to be fair and just.

7 I also used courtroom cameras in [name of state] State Court proceedings.

8 I believe strongly that federal judicial proceedings should be as transparent and accessible as reasonably possible. Recording and broadcasting will enhance both, without injuring the integrity of the proceedings.

If you have other operational or administrative concerns about video recording, please describe them here.

1 Not necessarily too much staff time, but someone else (e.g., from the Clerk's Office) must be trained in how to monitor the video (that is a separate person not connected with the judge). So that's a consideration.

2 Our case load was such that we did not have the luxury of having anyone who could sit in the courtroom and monitor the cameras. We simply had our tech folks turn the cameras on, we'd adjust the angle to capture the counsel and witness and we left the rest up to our tech folks to do whatever needed to be done with whatever was captured.

3 We needed to train someone to handle the actual operations. IT said it was no big deal and the actual operators loved it. Said it made them feel like they were recruited to do Monday Night Football.

4 We have had many technical difficulties, with audio etc., and some problems uploading the video though I am not conversant as to those issues.

If you wish to provide comment, you may do so below. (After question on overall opinion about video recording civil proceedings and making the recordings publicly available.)

1 . . . based on my long time experience in the [name of state] state court system, where cameras in the courtroom are allowed (with appropriate guidelines).

2 I do not think that we should condition recording on the parties' consent.

3 Philosophically, I support cameras in the courtroom as it provides the modern opportunity for the public to see what really happens in court. However, given the quality of the product, the infrequency of parties consenting, and the general public lack of interest in most run of the mill civil cases in federal court (or most courts for that matter) is it worth the costs in time and equipment for the infrequent times it would be very useful to the public given all of the other responsibilities of a court?

4 I am greatly in favor so long as we have the necessary resources.

5 Because so few lawyers consented, our district's experience was very limited. I only had one partial bench trial recorded—we stopped because there were logistical problems involving another trial, not because of the technology. So my opinions here should probably be discounted.

6 Just as digital audio is available to the public now in all my civil and criminal cases, video will greatly enhance judicial transparency and thus greater public confidence in the federal trial courts. I can think of no more important task.

7 Although I have no experience with this, I would be concerned that the video recording would do more harm than good.

8 It is difficult to get both sides to consent.

9 I believe the recording of criminal cases would have a much greater impact on educating the public and providing access to the federal courts. I do not believe the public is generally interested in civil cases. I question the benefits of recording civil cases other than as an aid to relatively inexperienced lawyers.

10 Candidly, recording civil proceedings doesn't matter a whole lot, if at all. My views remain entirely unchanged as a result of my participation in the pilot project, but my fear abides that the Judicial Conference will persist obdurately in the wrong-headed view that criminal proceedings should not be recorded and thereby available for broadcasting. Most states allow it; so it's been tested and proven. If any of the ill-effects the opponents of moving into the Twentieth, much less the Twenty-First, were anything but chimerical, no doubt that would be well validated, well publicized, and well known. Video access to criminal proceedings in federal court matters for one simple but compelling reason: the public is utterly unaware of the sentences we impose. The print media pays infrequent, and even then, but passing attention on behalf of its steadily diminishing readership. Broadcast media does not care and even turns away because we slam the door in its face. As a result, the eighty-five percent of the public that's gets "informed" solely via TV or the internet remains utterly ignorant of the most important thing we do. For me, the main purpose

of a sentence is individual and public deterrence. Very, very few of the hundreds of thousands of federal inmates had any idea about the severity of the sentence they would receive if they committed a drug offense or downloaded and shared child pornography. I firmly believe that had a fair number of those inmates known the consequences of being convicted in federal court, they might have refrained from the acts that have cost them their liberty. So, I have a couple of suggestions, and, if they fall on inattentive ears, a request. My suggestion: let individual trial judges have discretion to record or not record criminal proceedings in whole or part. Run a pilot project while doing so. Get some real data about real issues in the cases in which, unlike most civil cases, those issues and problems, if any, will arise. If the Conference won't go that far, AT THE VERY LEAST AUTHORIZE VIDEO RECORDING OF SENTENCINGS. The Federal Judiciary has inflicted, continues to inflict, and will keep on inflicting a self-inflicted and unnecessary wound on itself, its standing, and on public understanding and respect for what we do. The present "policy" is, at its core, undemocratic and unworthy. Thank you for your consideration of these views.

11 I have had both high profile and run of the mill cases with consents. The positive impact in high profile cases is profound. In the smaller cases, it has had limited value to the public but was of importance to the parties.

12 I feel that something is lost when a live courtroom proceeding is translated into video. Somehow, the participants seem less like real people than characters. I know so little about video recording, having had no experience with it myself. If I knew more about the pros and cons, I might have a favorable opinion of it. It is also possible that my opposition to it would increase.

13 It can affect attorneys' behavior during trial in a negative way and distract the jurors by their flamboyant actions, leaving the judge to try to 'unring the bell'.

14 In my preliminary view ("preliminary" because I would want to consider other data before formulating a final opinion), one of the attorneys did act more theatrically than the attorney would have had there not been a video recording, and one of the attorneys acted more nervously. That is a substantial downside to video recording. Moreover, live streaming of video would, I believe, exacerbate theatricality and undermine the solemnity of the proceedings. One other downside is that courts and lawyers should not rely on video recordings in lieu of a court-reported transcript, because it is only a court reporter who can reliably ask for unintelligible statements to be repeated. Having said all that, I do recognize that video recording for later viewing (not live streaming) does have some educational purposes.

15 The only benefit I see to allowing cameras in federal courts would be to show a skeptical person what actually goes on in a trial. I have fortunately never witnessed any of the theatrics suggested by the earlier questions in the survey.

16 I see no benefit and think recording would be another of the myriad obligations, given the limited resources of the court; any funds and human resources employed in this effort, could be better directed.

17 As I wrote previously, I believe that making recordings publicly available increases the transparency and accessibility of the courts. Like the requirement of public access to courtrooms, such recordings also enhance the accountability of the court and the government, which is desirable in a democracy. As the polls indicate, the people who know the most about the operation of the federal courts have the most confidence in them and therefore making recordings of proceedings of public interest is not only right, but in the enlightened self-interest of the federal judiciary.

18 Please see my earlier comments. I am a proponent of cameras in the courtrooms.

Please explain, if you wish. (Following closed-ended responses to "If the Judicial Conference were to authorize future video recording of civil proceedings under the conditions of the pilot project, would you permit recording in your courtroom? Assume the proceedings are appropriate to record and parties have consented.")

1 Of course, under our supervision, our civil proceedings ought to be available on video. The one exception I can see is for jury trials. I'm not confident we can fashion instructions to prevent people from commenting to jurors on social media "I caught your trial on TV, YouTube, etc., and I think . . . "

2 . . . the primary problem is getting parties to consent, and I would be happy to listen to/offer suggestions.

3 It would depend on whether participation is required (or not) by the Conference.

4 It would depend on the nature of the case.

5 Please note that the consent requirement reduced the number of recordings.

6 In my limited experience, I did not see any negative aspect to having the cameras in the courtroom.

7 I would be willing to give it a try. Perhaps I could be persuaded otherwise.

8 Generally public proceedings should be available by video recording both for the education of the public and to enhance public confidence in the civil justice system.

9 Under limited circumstances on the right case with very good lawyers it could be a good thing.

10 If the parties felt strongly, I would allow it.

11 I believe that the restrictions imposed by the pilot make the project pretty much worthless.

12 I would need to know more about the process and I would have to decide whether it would be a distraction or too cumbersome to use.

13 Disrupts the flow of the case.

14 I think that the likelihood of obtaining consent to video recording of a civil proceeding is remote.

15 As I explained above, I would want more data before making a final opinion on recording, so I would be willing to authorize additional recordings to add to my experience.

16 I'm skeptical but willing to consider the possibility.

17 I believe that no disruption to proceedings results from video recording hearings either criminal or civil because I worked for 7 plus years in the busiest trial court in [state], where the recording of events by the news media was available.

18 It would depend on the case. Many factors would influence my decision.

If you have any additional comments about video recording of civil proceedings in general, or the pilot program in particular, please provide them here.

1 As designed, this program was far, far too cumbersome and intricate. As one of my colleagues presciently said "This program was designed to fail and in that alone will it succeed." The one unalloyed success is that we now have—or should have—a number of videos of judges doing what judges do. This is of enormous educational value . . .

2 My comments are contained (previously) herein. But I think the video recording experiment should be authorized to continue.

3 I do not think we should condition recording on the parties' consent.

4 As a state judge, I had a very bad experience with a televised criminal trial (as state rules allowed). That experience has shaped my views in a negative way.

5 I completely agree with the pilot project to see how everyone feels about the experience. Let the chips fall where they may.

6 I am a new judge and didn't take the bench until the project was well under way. My views on this issue might reflect my relative inexperience as a judge and my more extensive experience as a litigant.

7 See earlier comments about the limited participation.

8 The burden of proof as to why we should NOT record ALL events is on those who believe it is somehow disruptive. We are doing the public's business therefore absent some kind of security concerns all of what we do should be able to be observed by the public.

9 I strongly support the use of video recording in all proceedings both civil and criminal. Indeed, I would not require the consent of the parties.

10 I see no persuasive reason not to generally permit cameras in the courtroom whenever the press is interested in civil litigation subject to restrictions placed by the judge (i.e. to protect privacy of a witness on medical issues).

11 As a state general jurisdiction judge, I earlier presided over criminal cases that had video segments recorded for news coverage. It created no major problems but sometimes made the attorneys more theatrical and sometimes seemed to distract jurors to minor degrees.

12 The pilot program isn't even a baby step in the right direction. At best it's a timid toe in the water. The judiciary of which I am a long-serving and proud member, and which is the best judicial system created by mankind, should be proud of what it does, instead of fearful of public view.

13 Let's expand the program!

# ATTORNEY QUESTIONNAIRE COMMENTS

If you have any comments on other benefits or harms from video recording, please use the space below.

1 This case was a bench trial. The camera was focused on the witness. My recollection was that the testimony was difficult to hear if the tape was viewed. The trial went on for 3 weeks so the cameras became one more piece of furniture. The nature of the claim and the testimony had to do with a ... construction project. 20 or more witnesses, multiple experts, 1000's of pages of exhibits. Unless a person is a [ ] expert, or enjoys watching paint dry, it had no value as a tool for lawyers, judges or the public. I did not watch the tape.

2 It was non-descript; frankly as I sit here, I don't recall any adverse effects or positive effects for that matter.

3 The cameras are so unobtrusive you forget they are even there. It makes for a very helpful teaching tool.

4 At first, I thought cameras/recording would be distracting, but I found the cameras to be unobtrusive. While I appreciate the concerns I have heard expressed regarding "playing to the camera," etc., I did not find that to be the case. I think that having open access to hearings via cameras (like they are set up in the federal courtrooms—not news cameras) and the internet is a way to increase the public's confidence in our judicial system by providing direct access to the proceedings for those who would not otherwise be able to observe. It did not appear to me that the attorneys or the Judge in our case were affected by the recording. Opposing counsel is well-prepared regardless of whether there is a recording, and I did not do anything different because of the cameras. Having been in front of our Judge with and without cameras, I can say that his demeanor and rulings are not affected by the presence of the cameras. His professionalism and good judicial demeanor is present whether the cameras are on or off.

5 This matter involved neither jurors nor witnesses. The experience was positive. However, the video made available was of poor technical quality (fuzzy low resolution images), making it of limited use to the media.

6 Personally, I thought the cameras were very helpful and allowed me to go back and see how I presented the case and what I could do to become a better attorney. There was absolutely no distraction, and no difference to a case that I have presented with no cameras.

7 This was argument on a motion in a civil case. There were no witnesses or jurors so I did not answer those questions. If, for some reason, you just want my opinion, I can provide it.

8 Once the proceedings began the camera was not noticeable.

9 It disrupted proceedings a number of times.

10 One concern I have is that the use of cameras allows sensitive, personal information of parties to be disseminated widely, and that may not be appropriate. If embarrassing issues are raised in open court, it is bad enough that such matters are made known to persons present; it is worse if any person anywhere can gain access to such information by watching a video of the proceedings. It is also hard to gauge exactly how any particular participants will be more theatrical or honest/dishonest in order to please whoever they perceive to be watching. For instance, a witness who knows s/he will look bad on camera by telling the truth (e.g., "yes, I lied previously" or "yes, I am a drug addict") will undoubtedly be more motivated not to tell the truth in front of a camera. That is not an insignificant concern in certain circumstances, and especially in criminal cases. If witnesses know that their personal exposure and scrutiny of their actions is limited to those who are actually in the courtroom, then I would think they would tend to be more honest in their answers.

11 Except for being aware that set-up of cameras was being performed before court began, the cameras were all but invisible to me. Lawyers are accustomed now to having video cameras in depositions, so having them in the courtroom wasn't a big change for me. And I don't recall an instance when a deposition witness remarked that the presence of a video camera made him/her more nervous, theatrical or courteous.

12 As a younger practitioner, it was beneficial for me to be able to critique my own performance in the courtroom. Plus, the client could see the quality of the advocacy it was paying for. Finally, I was able to distribute the video to my supervising attorneys so they could confirm the strength of my skills as a practitioner. I am 100% in favor of continuing the use of cameras in federal courts.

13 My hearing was procedural, hence no witnesses or jury involved.

14 The recorded hearing was a summary judgment argument. My views on the influence on witnesses and jurors is purely opinion, not experience.

15 I don't think there are any negatives to having cameras in the courtroom. I also think it is the best way to educate the public about what really goes on in the courtroom and about our legal system.

16 I think it would be disruptive; there is enough going on now with the [electronic] courtroom.

17 My case involved an extended oral argument, so my views about the effect on witnesses and jurors are purely speculation...

18 Some of the recordings were used by third party websites and blogs to publically ridicule the attorneys who participated. Although that is unavoidable, it has an extremely negative impact on agreeing to future participation. An unfortunate byproduct of our times, those who cry for public openness are the same people who misuse it and create an aversion to public openness.

19 My experience involved oral argument on a motion for summary judgment, so I have no first-hand experience of the effect on witnesses or juries or on the interactions of judges/attorneys with witnesses or juries. All in all, I do not believe video recording is helpful or beneficial.

20 The video recording equipment was surprisingly unobtrusive. I barely knew it was there, which is a good thing.

21 My experience with the video recording was positive. The cameras were hidden/minimized to the extent they were not even thought of. Due to their fixed positions, it required me to stay at a podium, which was not my preferred method of presenting evidence, questioning witnesses or engaging the jury. I prefer to be able to move around; so if the cameras could accommodate movement that would be a positive change. The fact that the proceedings were broadcast was also a benefit to the public, clients and interested persons. I would support more usage of cameras in the courtroom.

22 Please make the video more accessible. Some of the positive goals listed above might better be achieved if the public were aware of the availability of the video and were able to access it. Each time I attempted to access the video, I received a message that it was not available. I waited the appropriate time for it to be posted before trying to access it.

23 The video recording of our proceeding has been of great help in educating law students and new lawyers. The opportunity to watch a trial from beginning to end gives a kind of insight into the federal courts that is of great import. The cameras caused zero disruption during the proceedings and I am a big fan of the program. A few suggestions—At times it is difficult to see or hear the proceedings in the videos so camera placement might need to be adjusted. More

important, the videos are not captioned … I would strongly encourage the Federal Judicial Center to look at ways to ensure these valuable videos are accessible to all. We … appreciate the recordings greatly for their educational value.

24 I didn't feel competent to comment on witnesses and jurors since I haven't been present for either of those. So far I've only been present for motion hearings.

25 The video-recorded proceeding in which I attended and addressed the court was a hearing on the parties' joint motion to approve a settlement agreement in a complex case. The proceeding involved neither jurors nor witnesses, and therefore, it provided no basis upon which I could comment on the impact of video recording on jurors and witnesses. Having appeared with opposing counsel before the judge on multiple prior occasions without video recording, I discerned no difference in the manner that that judge and counsel attended to their duties with the cameras running.

26 I'm not sure how much people actually know that these recordings are available. For instance, I was not aware that they were easily found upon a Google search involving my name until recently. So, I think until it is more generally known that such proceedings are available, it will be difficult to assess how they impact the public's view (or the participant's reaction to the public's view).

27 My exposure was in an argument on a point of law in a pretrial motion, so no jury was involved and I had no opportunity to observe any impact on jurors. I did not find the process intrusive in any way, believe it did not impact anyone's demeanor, etc.

28 The cameras were hidden and I'm not sure that anyone even realized (unless they were made aware) that the proceedings were being videotaped. I know I didn't tell witnesses. This is the first time I've tried a case with my judge so I have no idea if it made an impact on his rulings or courtroom management.

29 This was the first and last time that I agree to participate in this project. Participating in the project caused the trial to last longer than anticipated. It affected the plaintiff's performance on the stand because of the added stress of having the proceeding video-taped, in addition to the significant pressure added to an already difficult situation. The Plaintiff regrets having agreed to participate in the project and to this day continues to stress over his performance. While it is a good idea to offer the public at large access to real trial proceedings, the negative impact it had on a layperson is not worth the effort.

30 Openness is a good thing. There is no benefit to keeping cameras out of the courtroom.

31 The video was useful to me personally as a way to critique my own work, not only the content of the argument but things like posture, body language, etc. The taped parts of our case were long oral argument on very complex motions. I think that no one was aware of the cameras once things got started.

32 When recorded in a routine, unobtrusive manner, recording courtroom proceedings greatly increases public access and transparency in courtroom proceedings without noticeably detracting from the integrity of those proceedings. My views are colored by the fact that the [state] State Supreme Court has recorded and played back on public access TV all of its arguments for years. Grandstanding for the cameras simply does not occur, I believe because the audience of every advocate remains the bench. Much of the concern over cameras in the courtroom is based on the model in which cameras are the exception, brought in for one case particularly followed by the press. But the concerns for grandstanding all but disappear when the proceeding is recorded as a matter of routine, in an unobtrusive way as is done at the [state] high court and was done under this pilot project. Lawyers and judges in the courtroom are judged by jurors drawn from the public and direct their behavior accordingly. That they may be judged by the same public—and at all times, not just when a jury is present—should be expected to, and in my opinion does, lead to the same professionalism that is necessary to succeed in a jury case.

33 I thought the process was well handled and good for the judicial system.

34 The camera did not change or affect the nature of my advocacy in any way that I am aware of, in part, because cameras are frequently used in state court where I also practice. I believe that the public access to the courtroom videos, especially in summary judgment proceeding, is enhanced because rarely are there non participants present. I am happy that Mr. [name]'s case was one of those chosen for this pilot project..

35 Regarding public confidence: whether it increases or decreases public confidence would depend on what happens in the proceedings; i.e., how did the lawyers and judge behave; what were the arguments; did it appear that the court was acting in a nonobjective manner; were the lawyers prepared; did any of the attorneys grandstand in such a way that members of the public would be disheartened by the proceedings.

36 I had oral argument only so I have left the jury/witnesses as no opinion since my opinion is no more informed that the non-camera participatory litigator. Also, while I am a big proponent of cameras in the courtroom, I do not believe

it has a net effect on public confidence one way or another. The public that does not like a ruling will lose confidence and vice versa and the cameras will simply add to that general effect.

37 Unfortunately the video occurred so long ago, I don't have much of an independent recollection. I don't recall whether the video occurred during a jury trial, or only oral argument on motions.

38 It is not the videotaping itself that affects attorneys' or witnesses' conduct or the public's perception; it is how those videotapes are released and used. Is the trial being streamed live on the Internet? Are snippets being edited into a package on CNN? Are the highlights being shown on C-SPAN? The knowledge that a trial is being taped will not affect either courtroom conduct or public perception. It is how the tapes are used and to whom they are released. I am generally in favor of videotaping trials and other court proceedings, and release of those tapes to the news media and public.

39 This was a hearing on a motion for summary judgment. All of the attorneys had practiced in the Federal court system previously. If anything I think it may have caused the attorneys to be more succinct, and to stay on point. The Judge was very courteous to all and appreciated our agreeing to the recording. I would do it any time it was requested.

40 I believe the primary benefit of the camera project is to give easier public access to the courts and court proceedings. It did not disrupt or change the hearing at all.

41 As long as the equipment and videographer do not interfere with the proceedings, I am not sure it makes much of a difference. It is similar to a deposition and a witness is under oath, so I am not sure it has an impact on truthfulness. My experience with this video recording happened so long ago that I really have no recollection of what I thought about it at the time. I would suggest these surveys take place immediately after the event that is videotaped.

42 I don't personally perceive any substantive harm from video recording. Any such harm that could be theorized would seem to be outweighed by the benefits to the public of transparency. I am a supporter of enhanced use of recording.

43 I think cameras should be allowed in federal court for all proceedings under written guidelines.

44 This was a summary judgment motion hearing. No jury or witness was involved. Really never even noticed that this was being recorded aside from the Court's informing us.

45 Court proceedings are a public matter. The more public the better. Personally, I don't think I gave a thought to the cameras. But if they were routine, I think I would become more attuned to their presence. I doubt any but the more notorious criminal cases would get any substantial audience. But those cases would probably be heavily viewed, at least the rebroadcast of more sensational moments, and have a great positive impact on the public. I would assume that anything out of the hearing of the jury would be broadcast as well. Even now many such matters are discussed in open court with the jury in the jury room. So, why not bench conferences, too? (On the other hand, in a state court where judges are elected, one shudders to contemplate the impact cameras would have. All the more reason to get rid of any judicial elections, even under a Missouri plan.)

46 I believe courtroom cameras benefit the public and do not change the actions of the lawyers and judges in a non-evidentiary hearing.

47 I did feel pressure to consent to this program at my trial—in fact, I was presented with a form just minutes before the trial started, with no opportunity to decline to participate indicated on the form. I have concerns about this type of program being used for an improper purpose—to embarrass attorneys, witnesses, judges, or other participants in the trial process, for entertainment value. I think that's the frequent result from similar programs, such as in state courts, where this material is routinely available. On the other hand, these are public proceedings, and the public has the right to know what is going on in their courts. To the extent that this program increases public knowledge about court proceedings, I view that as a benefit. I can say that the presence of cameras and the knowledge that the trial was being recorded did not alter my behavior during trial in the slightest. My work was directed at influencing the only people who had a say in the outcome—and that does not include anyone watching the recording.

48 The hearing I was involved with did not involve a jury, and so I do not know the extent to which it may have an impact on a jury.

49 The placement of the camera in my case (which was only oral argument on a motion for summary judgment, not an evidentiary hearing or trial, so my answers concerning effects on jurors and witnesses are just personal opinion, not observations or experience) was very unobtrusiveness. But for Judge [name] explaining where the camera was located, I do not think I would have noticed. My primary impression was that cameras similarly placed in the courtroom will have little effect, and no negative effect, on the conduct of business in the Court, but will make access to the public business of the Court more meaningful for those who wish to take advantage of it.

50 In my case, there was an oral argument on a motion for summary judgment so there were no witnesses or jurors involved. Therefore, the initial questions regarding jurors and witnesses were not applicable to my case.

51 I did not have an evidentiary proceeding recorded, therefore I don't have an experience based opinion on the effect video recording may have on . . . evidentiary proceedings, and some of my opinions on the remaining questions are based on speculation as I don't have significant experience with effect of video recording on hearings. I hold the unequivocal opinion that video recording of non-evidentiary hearings and making those recordings available to the public would have a positive effect on federal proceedings and be of great benefit to the public, the bar and the judiciary. I don't have an opinion as to the effect video recording would have on evidentiary hearings and/or trials, I see potential benefits but also am mindful of the possibility for some of the problems that are anticipated in the questions above.

52 Based on my limited, short experience, I didn't think that the camera(s) impacted the proceedings, as I didn't think that they were intrusive or noticed.

53 I would probably not recommend to a client that they agree to video recording again. Witnesses and parties are nervous enough about testifying without the addition of a video camera to preserve their testimony (and any possible gaffes) for posterity.

54 In our case, the system was brand new and had lots of glitches. So everyone was well aware of it. To my mind, though, I don't think it changed anyone. No one pays any attention. It's great for educating the public. I'm very supportive.

55 The redaction of private information was distracting and limiting to the case. In this law enforcement case, much of the private information pertaining to the plaintiff was relevant in the sense that it demonstrated the officers were not being random in their treatment of the plaintiff.

56 I found the cameras to be essentially invisible in this non-jury trial. While I was motivated to make sure I was particularly well-prepared and courteous to maintain my reputation in the event someone elected to watch, I do not believe it had a strong impact on my presentation style or the Judge's behavior. I feel that large changes to your presentation style are more likely to detract from your overall presentation and effectiveness than to make you look better on camera. This "invisibility" of the cameras may not hold in every case. I, along with opposing counsel, elected to decline participation in another case where there was the possibility that sensitive security- and/or business operations-related information would be discussed at trial. While the parties understood that the cameras could be turned off during discussion of that type of

information, it seemed that keeping track of when the cameras should be turned on or off (especially if testimony unexpectedly veered into a sensitive topic) would add an unnecessary layer of distraction and work. I am, however, generally skeptical that the general public has any special interest in viewing the tapes except under rare circumstances (i.e., high-profile cases).

57 I believe it is particularly beneficial for appellate purposes.

58 I believe the recordings are an educational tool on several levels for both attorneys and parties.

59 Appellate arguments in the Ninth Circuit and the [state] Supreme Court have been recorded by video for years with no apparent disruption. Litigants quickly forget the existence of cameras. I have also participated in [name] County Superior Court trials that were recorded on video with no disruption. The technology is very unobtrusive at this point. The benefits from administering justice in an open fashion are important for public confidence and education.

60 The video recordings have the potential to be a good educational tool for attorneys and the public.

61 We did not have a jury, so I have no opinion how the camera might have affected a jury. I did not get the impression the camera had any effect on any of the participants. I felt everyone involved would have acted exactly the same way had there not been a camera. After the first ten minutes, the fact that there is a camera recording everything does not even pop into your head. You just do what you are there to do.

62 The proceeding I participated in as part of the pilot program was a hearing on a motion to dismiss, which is very different from an entire trial. Concerns applicable to televised or recorded trials will be largely inapplicable to hearings.

63 It is difficult to speak with generality about these issues. Although the case at issue never went to trial, I had significant concerns about video recording and internet dissemination of financial and other sensitive personal information about the witnesses and victims, and their willingness to cooperate.

64 I appreciated Judge [name]'s decision to video record the proceedings in this case. I would add to the questions above that I think video recordings are a good learning tool for lawyers who can watch the proceedings in other cases before the same judge. This is especially helpful to lawyers from out of town.

65 Sorry. I have no recollection of the hearing being recorded (There were no witnesses, which explains my first set of answers.) If it was recorded, I was not aware of it. Therefore, it couldn't have affected my actions.

If you wish to provide comment, you may do so below. (After question on overall opinion about video recording civil proceedings and making the recordings publicly available.)

1 This case was a bench trial. The camera was focused on the witness. My recollection was that the testimony was difficult to hear if the tape was viewed. The trial went on for 3 weeks so the cameras became one more piece of furniture. The nature of the claim and the testimony had to do with a . . . construction project. 20 or more witnesses, multiple experts, 1000's of pages of exhibits. Unless a person is a [ ] expert, or enjoys watching paint dry, it had no value as a tool for lawyers, judges or the public. I did not watch the tape.

2 It was non-descript; frankly as I sit here, I don't recall any adverse effects or positive effects for that matter.

3 The cameras are so unobtrusive you forget they are even there. It makes for a very helpful teaching tool.

4 At first, I thought cameras/recording would be distracting, but I found the cameras to be unobtrusive. While I appreciate the concerns I have heard expressed regarding "playing to the camera," etc., I did not find that to be the case. I think that having open access to hearings via cameras (like they are set up in the federal courtrooms—not news cameras) and the internet is a way to increase the public's confidence in our judicial system by providing direct access to the proceedings for those who would not otherwise be able to observe. It did not appear to me that the attorneys or the Judge in our case were affected by the recording. Opposing counsel is well-prepared regardless of whether there is a recording, and I did not do anything different because of the cameras. Having been in front of our Judge with and without cameras, I can say that his demeanor and rulings are not affected by the presence of the cameras. His professionalism and good judicial demeanor is present whether the cameras are on or off.

5 This matter involved neither jurors nor witnesses. The experience was positive. However, the video made available was of poor technical quality (fuzzy low resolution images), making it of limited use to the media.

6 Personally, I thought the cameras were very helpful and allowed me to go back and see how I presented the case and what I could do to become a better attorney. There was absolutely no distraction, and no difference to a case that I have presented with no cameras.

7 This was argument on a motion in a civil case. There were no witnesses or jurors so I did not answer those questions. If, for some reason, you just want my opinion, I can provide it.

8 Once the proceedings began the camera was not noticeable.

9 It disrupted proceedings a number of times.

10 One concern I have is that the use of cameras allows sensitive, personal information of parties to be disseminated widely, and that may not be appropriate. If embarrassing issues are raised in open court, it is bad enough that such matters are made known to persons present; it is worse if any person anywhere can gain access to such information by watching a video of the proceedings. It is also hard to gauge exactly how any particular participants will be more theatrical or honest/dishonest in order to please whoever they perceive to be watching. For instance, a witness who knows s/he will look bad on camera by telling the truth (e.g., "yes, I lied previously" or "yes, I am a drug addict") will undoubtedly be more motivated not to tell the truth in front of a camera. That is not an insignificant concern in certain circumstances, and especially in criminal cases. If witnesses know that their personal exposure and scrutiny of their actions is limited to those who are actually in the courtroom, then I would think they would tend to be more honest in their answers.

11 Except for being aware that set-up of cameras was being performed before court began, the cameras were all but invisible to me. Lawyers are accustomed now to having video cameras in depositions, so having them in the courtroom wasn't a big change for me. And I don't recall an instance when a deposition witness remarked that the presence of a video camera made him/her more nervous, theatrical or courteous.

12 As a younger practitioner, it was beneficial for me to be able to critique my own performance in the courtroom. Plus, the client could see the quality of the advocacy it was paying for. Finally, I was able to distribute the video to my supervising attorneys so they could confirm the strength of my skills as a practitioner. I am 100% in favor of continuing the use of cameras in federal courts.

13 My hearing was procedural, hence no witnesses or jury involved.

14 The recorded hearing was a summary judgment argument. My views on the influence on witnesses and jurors is purely opinion, not experience.

15 I don't think there are any negatives to having cameras in the courtroom. I also think it is the best way to educate the public about what really goes on in the courtroom and about our legal system.

16 I think it would be disruptive; there is enough going on now with the [electronic] courtroom.

17 My case involved an extended oral argument, so my views about the effect on witnesses and jurors are purely speculation...

18 Some of the recordings were used by third party websites and blogs to publically ridicule the attorneys who participated. Although that is unavoidable, it has an extremely negative impact on agreeing to future participation. An unfortunate byproduct of our times, those who cry for public openness are the same people who misuse it and create an aversion to public openness.

19 My experience involved oral argument on a motion for summary judgment, so I have no first-hand experience of the effect on witnesses or juries or on the interactions of judges/attorneys with witnesses or juries. All in all, I do not believe video recording is helpful or beneficial.

20 The video recording equipment was surprisingly unobtrusive. I barely knew it was there, which is a good thing.

21 My experience with the video recording was positive. The cameras were hidden/minimized to the extent they were not even thought of. Due to their fixed positions, it required me to stay at a podium, which was not my preferred method of presenting evidence, questioning witnesses or engaging the jury. I prefer to be able to move around; so if the cameras could accommodate movement that would be a positive change. The fact that the proceedings were broadcast was also a benefit to the public, clients and interested persons. I would support more usage of cameras in the courtroom.

22 Please make the video more accessible. Some of the positive goals listed above might better be achieved if the public were aware of the availability of the video and were able to access it. Each time I attempted to access the video, I received a message that it was not available. I waited the appropriate time for it to be posted before trying to access it.

23 The video recording of our proceeding has been of great help in educating law students and new lawyers. The opportunity to watch a trial from beginning to end gives a kind of insight into the federal courts that is of great import. The cameras caused zero disruption during the proceedings and I am a big fan of the program. A few suggestions—At times it is difficult to see or hear the proceedings in the videos so camera placement might need to be adjusted. More important, the videos are not captioned … I would strongly encourage the Federal Judicial Center to look at ways to ensure these valuable videos are accessible to all. We … appreciate the recordings greatly for their educational value.

24 I didn't feel competent to comment on witnesses and jurors since I haven't been present for either of those. So far I've only been present for motion hearings.

25 The video-recorded proceeding in which I attended and addressed the court was a hearing on the parties' joint motion to approve a settlement agreement in a complex case. The proceeding involved neither jurors nor witnesses, and therefore, it provided no basis upon which I could comment on the impact of video recording on jurors and witnesses. Having appeared with opposing counsel before the judge on multiple prior occasions without video recording, I discerned no difference in the manner that that judge and counsel attended to their duties with the cameras running.

26 I'm not sure how much people actually know that these recordings are available. For instance, I was not aware that they were easily found upon a Google search involving my name until recently. So, I think until it is more generally known that such proceedings are available, it will be difficult to assess how they impact the public's view (or the participant's reaction to the public's view).

27 My exposure was in an argument on a point of law in a pretrial motion, so no jury was involved and I had no opportunity to observe any impact on jurors. I did not find the process intrusive in any way, believe it did not impact anyone's demeanor, etc.

28 The cameras were hidden and I'm not sure that anyone even realized (unless they were made aware) that the proceedings were being videotaped. I know I didn't tell witnesses. This is the first time I've tried a case with my judge so I have no idea if it made an impact on his rulings or courtroom management.

29 This was the first and last time that I agree to participate in this project. Participating in the project caused the trial to last longer than anticipated. It affected the plaintiff's performance on the stand because of the added stress of having the proceeding video-taped, in addition to the significant pressure added to an already difficult situation. The Plaintiff regrets having agreed to participate in the project and to this day continues to stress over his performance. While it is a good idea to offer the public at large access to real trial proceedings, the negative impact it had on a layperson is not worth the effort.

30 Openness is a good thing. There is no benefit to keeping cameras out of the courtroom.

31 The video was useful to me personally as a way to critique my own work, not only the content of the argument but things like posture, body language, etc. The taped parts of our case were long oral argument on very complex motions. I think that no one was aware of the cameras once things got started.

32 When recorded in a routine, unobtrusive manner, recording courtroom proceedings greatly increases public access and transparency in courtroom proceedings without noticeably detracting from the integrity of those proceedings. My views are colored by the fact that the [state] State Supreme Court has recorded and played back on public access TV all of its arguments for years. Grandstanding for the cameras simply does not occur, I believe because the audience of every advocate remains the bench. Much of the concern over cameras in the courtroom is based on the model in which cameras are the exception, brought in for one case particularly followed by the press. But the concerns for grandstanding all but disappear when the proceeding is recorded as a matter of routine, in an unobtrusive way as is done at the [state] high court and was done under this pilot project. Lawyers and judges in the courtroom are judged by jurors drawn from the public and direct their behavior accordingly. That they may be judged by the same public—and at all times, not just when a jury is present—should be expected to, and in my opinion does, lead to the same professionalism that is necessary to succeed in a jury case.

33 I thought the process was well handled and good for the judicial system.

34 The camera did not change or affect the nature of my advocacy in any way that I am aware of, in part, because cameras are frequently used in state court where I also practice. I believe that the public access to the courtroom videos, especially in summary judgment proceeding, is enhanced because rarely are there non participants present. I am happy that Mr. [name]'s case was one of those chosen for this pilot project..

35 Regarding public confidence: whether it increases or decreases public confidence would depend on what happens in the proceedings; i.e., how did the lawyers and judge behave; what were the arguments; did it appear that the court was acting in a nonobjective manner; were the lawyers prepared; did any of the attorneys grandstand in such a way that members of the public would be disheartened by the proceedings.

36 I had oral argument only so I have left the jury/witnesses as no opinion since my opinion is no more informed that the non-camera participatory litigator. Also, while I am a big proponent of cameras in the courtroom, I do not believe it has a net effect on public confidence one way or another. The public that does not like a ruling will lose confidence and vice versa and the cameras will simply add to that general effect.

37 Unfortunately the video occurred so long ago, I don't have much of an independent recollection. I don't recall whether the video occurred during a jury trial, or only oral argument on motions.

38 It is not the videotaping itself that affects attorneys' or witnesses' conduct or the public's perception; it is how those videotapes are released and used. Is the trial being streamed live on the Internet? Are snippets being edited into a package on CNN? Are the highlights being shown on C-SPAN? The knowledge that a trial is being taped will not affect either courtroom conduct or public perception. It is how the tapes are used and to whom they are released. I am generally in favor of videotaping trials and other court proceedings, and release of those tapes to the news media and public.

39 This was a hearing on a motion for summary judgment. All of the attorneys had practiced in the Federal court system previously. If anything I think it may have caused the attorneys to be more succinct, and to stay on point. The Judge was very courteous to all and appreciated our agreeing to the recording. I would do it any time it was requested.

40 I believe the primary benefit of the camera project is to give easier public access to the courts and court proceedings. It did not disrupt or change the hearing at all.

41 As long as the equipment and videographer do not interfere with the proceedings, I am not sure it makes much of a difference. It is similar to a deposition and a witness is under oath, so I am not sure it has an impact on truthfulness. My experience with this video recording happened so long ago that I really have no recollection of what I thought about it at the time. I would suggest these surveys take place immediately after the event that is videotaped.

42 I don't personally perceive any substantive harm from video recording. Any such harm that could be theorized would seem to be outweighed by the benefits to the public of transparency. I am a supporter of enhanced use of recording.

43 I think cameras should be allowed in federal court for all proceedings under written guidelines.

44 This was a summary judgment motion hearing. No jury or witness was involved. Really never even noticed that this was being recorded aside from the Court's informing us.

45 Court proceedings are a public matter. The more public the better. Personally, I don't think I gave a thought to the cameras. But if they were routine, I think I would become more attuned to their presence. I doubt any but the more notorious criminal cases would get any substantial audience. But those cases would probably be heavily viewed, at least the rebroadcast of more sensational moments, and have a great positive impact on the public. I would assume that anything out of the hearing of the jury would be broadcast as well. Even now

many such matters are discussed in open court with the jury in the jury room. So, why not bench conferences, too? (On the other hand, in a state court where judges are elected, one shudders to contemplate the impact cameras would have. All the more reason to get rid of any judicial elections, even under a Missouri plan.)

46 I believe courtroom cameras benefit the public and do not change the actions of the lawyers and judges in a non-evidentiary hearing.

47 I did feel pressure to consent to this program at my trial—in fact, I was presented with a form just minutes before the trial started, with no opportunity to decline to participate indicated on the form. I have concerns about this type of program being used for an improper purpose—to embarrass attorneys, witnesses, judges, or other participants in the trial process, for entertainment value. I think that's the frequent result from similar programs, such as in state courts, where this material is routinely available. On the other hand, these are public proceedings, and the public has the right to know what is going on in their courts. To the extent that this program increases public knowledge about court proceedings, I view that as a benefit. I can say that the presence of cameras and the knowledge that the trial was being recorded did not alter my behavior during trial in the slightest. My work was directed at influencing the only people who had a say in the outcome—and that does not include anyone watching the recording.

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49 The placement of the camera in my case (which was only oral argument on a motion for summary judgment, not an evidentiary hearing or trial, so my answers concerning effects on jurors and witnesses are just personal opinion, not observations or experience) was very unobtrusive[]. But for Judge [name] explaining where the camera was located, I do not think I would have noticed. My primary impression was that cameras similarly placed in the courtroom will have little effect, and no negative effect, on the conduct of business in the Court, but will make access to the public business of the Court more meaningful for those who wish to take advantage of it.

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52 Based on my limited, short experience, I didn't think that the camera(s) impacted the proceedings, as I didn't think that they were intrusive or noticed.

53 I would probably not recommend to a client that they agree to video recording again. Witnesses and parties are nervous enough about testifying without the addition of a video camera to preserve their testimony (and any possible gaffes) for posterity.

54 In our case, the system was brand new and had lots of glitches. So everyone was well aware of it. To my mind, though, I don't think it changed anyone. No one pays any attention. It's great for educating the public. I'm very supportive.

55 The redaction of private information was distracting and limiting to the case. In this law enforcement case, much of the private information pertaining to the plaintiff was relevant in the sense that it demonstrated the officers were not being random in their treatment of the plaintiff.

56 I found the cameras to be essentially invisible in this non-jury trial. While I was motivated to make sure I was particularly well-prepared and courteous to maintain my reputation in the event someone elected to watch, I do not believe it had a strong impact on my presentation style or the Judge's behavior. I feel that large changes to your presentation style are more likely to detract from your overall presentation and effectiveness than to make you look better on camera. This "invisibility" of the cameras may not hold in every case. I, along with opposing counsel, elected to decline participation in another case where there was the possibility that sensitive security- and/or business operations-related information would be discussed at trial. While the parties understood that the cameras could be turned off during discussion of that type of information, it seemed that keeping track of when the cameras should be turned on or off (especially if testimony unexpectedly veered into a sensitive topic) would add an unnecessary layer of distraction and work. I am, however, generally skeptical that the general public has any special interest in viewing the tapes except under rare circumstances (i.e., high-profile cases).

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59 Appellate arguments in the Ninth Circuit and the [state] Supreme Court have been recorded by video for years with no apparent disruption. Litigants quickly forget the existence of cameras. I have also participated in [name] County Superior Court trials that were recorded on video with no disruption. The technology is very unobtrusive at this point. The benefits from administering justice in an open fashion are important for public confidence and education.

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61 We did not have a jury, so I have no opinion how the camera might have affected a jury. I did not get the impression the camera had any effect on any of the participants. I felt everyone involved would have acted exactly the same way had there not been a camera. After the first ten minutes, the fact that there is a camera recording everything does not even pop into your head. You just do what you are there to do.

62 The proceeding I participated in as part of the pilot program was a hearing on a motion to dismiss, which is very different from an entire trial. Concerns applicable to televised or recorded trials will be largely inapplicable to hearings.

63 It is difficult to speak with generality about these issues. Although the case at issue never went to trial, I had significant concerns about video recording and internet dissemination of financial and other sensitive personal information about the witnesses and victims, and their willingness to cooperate.

64 I appreciated Judge [name]'s decision to video record the proceedings in this case. I would add to the questions above that I think video recordings are a good learning tool for lawyers who can watch the proceedings in other cases before the same judge. This is especially helpful to lawyers from out of town.

65 Sorry. I have no recollection of the hearing being recorded (There were no witnesses, which explains my first set of answers.) If it was recorded, I was not aware of it. Therefore, it couldn't have affected my actions.

Which of the following statements best characterizes the reaction of you and your client to the request to video record the proceeding? Other–Please Specify.

1 We did not feel that we had a real choice.

2 We did not readily or promptly agree, but considered our options, while knowing that it was the judge who had made the request.

3 The granting of oral argument (which is rare) seemed connected to the Court's desire for a video recording.

4 My clients and I were reluctant but felt we had to consent. We did not discuss with the judge.

5 My client and I agreed to the video recording at the initial request.

6 We were initially reluctant to agree to a video recording but decided that it would not be harmful for that hearing.

7 We agreed after further discussion amongst ourselves.

8 Neither. It didn't bother me. My client was not present.

9 We were reluctant but eventually agreed as it seems the court wanted us to participate in the program. We did not speak to the judge about it that I recall. We may have spoken with his assistant about it.

10 I was reluctant to agree but felt that I should.

11 I don't remember the agreement regarding video. This was a motion calendar.

12 My attempt to decline consent was ignored, but I did not regard the issue as important enough to merit bringing it up.

13 I readily agreed but my client was reluctant at first, but agreed after further thought.

14 [Comment redacted due to identifying information].

15 I was only recorded making ... arguments, so my client was not on the stand. Nor was the client at counsel table.

16 We did not fully understand initially that we had agreed to video record the trial. When we did understand it, we did not make an effort to rescind that approval.

17 My client and I were reluctant, but agreed without consulting the judge.

18 I did not believe that this particular hearing warranted any objection, but we would have had more reservations for trial.

19 I don't recall my reaction.

Please explain. (Asked only of those who answered yes to the question "Did you or your client(s) feel pressured to consent to video recording of this proceeding?")

1 It was clear the Judge was interested in participating in the program.

2 The way it was presented we felt we had no real option to refuse.

3 We were requested by the court and wanted to accommodate the judge.

4 I do not think my client felt any pressure to agree. Although the Judge I was before made very clear we should feel no pressure to participate, I felt pressure to participate because I was concerned a negative perception could be drawn by the court, the opposing counsel or my client if we were to refuse.

5 The form I was presented with did not clearly offer the option to decline, and my handwritten note declining to consent was ignored.

6 My client was concerned that declining to consent to video recording would rock the boat and curry disfavor with the judge. That is not to say that my client would not have consented to video recording anyway—but there was an element of pressure present.

7 Because I was representing governmental officials in the hearing on the plaintiff's motion for a temporary injunction, there was pressure to consent to the video recording of the proceeding by virtue of the request.

8 I believe we received a public records request from the [name of newspaper] for all correspondence relating to internal discussions as to whether to agree to video recording, which suggested a negative article might be forthcoming were we not to agree.

9 We believed the judge would want us to consent; even if the impact from declining was very tiny, we did not want even the tiniest impact.

10 Although the Judge stated very clearly that there would be no adverse consequence to refusing to consent, he was so enthusiastic about the project that we felt we could not risk refusing to participate.

11 Because it was an "opt out" process, my client did not want to appear as though he had something to hide. Further my client did not want to be perceived as interfering with the pilot project.

Why did you consent to video recording of this proceeding? Other–Please Explain.

1 Allowed my client to view the proceeding and get a first-hand view of an important argument in their case.

2 I think the process was flawed to the extent that it added an unnecessary complicating factor to the case.

3 To clarify, I wanted the exposure for the benefits it would produce for our case, not for me personally. In addition, I thought recording would be useful to hold all parties (including the government) accountable to the statements made in court.

4 My clients are public officials. While they were not seeking publicity, they were proud of what they had accomplished, and they had no objection to video recording that could serve to educate the public about the matter before the court.

5 [Name of case] was a constitutional challenge to a City ordinance and a piece of local civil rights history. Both I and my clients thought it would be irresponsible of us not to consent to future generations being able to see what happened when it happened.

6 I work for the [state] AGO and the office consented because the AGO believes it helps with public education about the courts.

7 "Disappoint" is probably the wrong word, re: the judge. I did not want to press the issue of my lack of consent, because it was ancillary to the proceeding in the first place.

8 I had no reason not to consent.

9 Because my clients were public officials, we did not have any choice but to consent to recording the proceeding once it was made.

10 I'm a strong believer in public access and education, and I think there's no harm. One extra benefit, though it didn't apply to my case, is that I have tried cases where the judge's tone and facial expressions carried a bias. That, of course, never comes out in a written transcript. I'd think that a camera might help improve that situation.

11 An opportunity to try something new.

12 While I believe it may be inappropriate to record all court proceedings, I did not have any inherent objection to the video recording of my proceeding.

13 I am not at liberty to disclose our thinking.

14 I have no recollection.

For what purposes have you used the video recordings? Other–Please specify.

1 To share my performance with my family.

2 As a public interest lawyer, we have used the proceedings to educate the public about the status of our cases, most of which have a powerful public interest component. We have also used the proceedings to help educate the public about the court system...I feel strongly that bringing the court system and the actual hearing footage...[to the public] help[s] anchor it in current and ongoing events rather than having it seem like something more abstract.

3 For use with my students at [name of law school].

4 I referred an expert witness to a video recording where the transcript of the proceeding was not available.

If you wish to comment, please do so below. (Following the question "To what extent do you favor or oppose video recording of federal district court civil cases?")

1 I don't see any harm in video recording proceedings. It gives those with interest an opportunity to view a trial. I can also see where it could be useful in preparing an appeal.

2 Should be case by case. BIG difference between hearings and trials—distorting influences primarily limited to trials, especially jury trials.

3 I believe cameras in courtrooms can be a helpful public service—mostly for purposes of educating the public—and should be available in select cases.

4 The benefits far outweigh the potential drawbacks.

5 If recordings were made available to public they would be healthy education. I answered no opinion on related questions on first page because I am not aware of whether the public is likely to see these videos.

6 I have no objection as to my own participation or how it may be affected. The concern is the impact upon the other participants. Except for that concern, I would be very much in favor. Any indication the camera affects the integrity of the proceeding should end the practice of video recording.

7 This case presents a very concrete example of the tangible benefits of video recording in allowing the public access to court proceedings. Numerous people told me that they watched the video of the proceeding in this case, both because of their general interest in the issue involved, and because their clients were likely to be directly affected by the outcome of the proceeding.

8 Putting recordings on the internet is always a bad idea. I have counseled all of my children against it. I had hoped that a Court proceeding would be uninteresting enough not to attract the attention of poor intentioned individuals but I was mistaken. The video materials have been improperly misused.

9 I favor video recording of civil proceedings in federal district court unless the downsides, as shown in actual practice, outweigh the benefits of greater public accessibility.

10 Video recording would increase public access to the courts. My main concern is whether recording negatively alters the behavior of attorneys or witnesses to be more theatrical, although recording may make them more courteous if they know a video record is being made.

11 My opinion is affected by my inability to access the video and see the quality of the visual video and hear the quality of the audio recording. I understand that the camera was mounted in a fixed position. I do not know whether it showed a single continuous wide shot of the courtroom or whether it was directed toward the person speaking.

12 I believe that public courts are part of a functioning government acting under rule of law. The more we can engage the public in what the courts actually do, the more they understand how their country works and that's a good thing. Courts should not be cloistered places that can only be seen and understood by those with the resources to actually attend in person (very hard for people with daytime jobs, kids, other responsibilities). It breeds suspicion of them which I think is often unfounded. It also makes them seem unnecessarily scary and may deter some people from standing up for their rights.

13 There is a serious risk of witness intimidation.

14 I like the possibility of using the video on appeal or in response to an appeal but have yet to do so.

15 After my experience in this case, I am opposed to video recording in civil cases. Trials are difficult for laypersons and the video adds a significant stressor to the person at the worst possible moment. Preparing a client to testify in front of a jury is difficult enough without having to worry about the potential negative impact the cameras would have on a client's testimony.

17 Transparency is one of the bedrocks of American justice. The third branch of government belongs to the people as much as the other two. Particularly if the judges and lawyers who participate in the third branch wish to keep (win?) the confidence of the American people, they should be doing everything they can to help educate the people about the goings on in court, help them become

familiar with how their rights are protected in court, and help them see that justice is fairly administered. Using digital means to make this more accessible to more of the people seems to me to promise extraordinary benefit at very little cost.

18 I do not believe that video should be automatic; there are cases where it would be problematic, and there are attorneys (or their clients) who might be intimidated or camera-shy. Hence, while I believe that the option should be present, there should be an ability for any of the participants to veto the video recording, without any actual or implied consequences to that choice.

19 It delayed our proceedings a little bit at times. On the recording, you could not hear anyone not sitting directly in front of a microphone which made the trial hard to follow as a viewer.

20 It may increase expense. Also, I did not receive a copy of the video.

21 There are some civil cases [in which] I think theatrics might become involved. I do primarily defense litigation and I do not know if it could influence a juror's perception.

22 I think they may be useful show to clients later (especially those who are unable to attend). Sometimes the paper transcript doesn't tell the entire story. I usually videotape depositions for the same reason.

23 The more open the courts are the better.

Please explain. (Following the question: "If the Judicial Conference were to authorize future video recording of civil proceedings under the conditions of the pilot project—civil cases only; consent of all parties, witnesses, and the judge; cameras operated by the court—would you likely participate in video recording of your cases?")

1 If the Court seemed to want us to agree, I would encourage the client to agree.

2 Depends on the type of case and how comfortable my client is with a video record of the hearing.

3 Under appropriate guidelines, the presence of cameras in the courtroom isn't [indecipherable].

4 My objection is the subsequent misuse by others, not the video recording by the Court. Videos have been used to ridicule, not to educate.

5 I would not participate by choice.

6 I am counsel for a [name of state] state agency. While I have no personal objection to video recording cases, I must defer to the preferences of my clients. Thus, my answer is a definitive "maybe."

7 It would depend on the nature of the case.

8 Again, it would depend on the case and client. My default position would be yes, but it would need to be reviewed as we go along.

9 If the client was out of state and wanted to review the proceedings without attending, it could benefit my client by eliminating the need for travel to attend the proceedings and would allow them to watch only those portions of the trial they wanted to see.

10 I think it makes the case be more streamlined and makes the attorneys and court more prepared. In rare instances, there could be an advantage to having it for appellate purposes.

11 Why not.

12 I work for the [state] AGO who believes in increasing public access and education about all court proceedings.

13 There should be a system in place that would allow a party to object to a particular proceeding being recorded by video without the presiding Judge learning of the identity of that party,

14 Participation would be determined, as now, on a case-by-case basis in light of the individual client's interests and the subject(s) likely to be discussed at trial.

15 I definitely believe that there are some cases where recording the proceedings and making them publicly available would be a benefit. I support this project as long as there is an option to object given the circumstances of any particular case.

16 It depends on the case and whether there is likely to be witness intimidation.

17 It would depend on the nature of the case, the parties involved, the attorneys involved and whether or not I could convince my client that the interests of justice, and the advancement of his/her cause, would benefit from such use.

If you have any additional comments about video recording of civil proceedings in general, or the pilot program in particular, please provide them here.

1 If video recording is to be used in the courtroom, the quality of the audio and video recording needs to be improved.

2 …[The] judge kept warning us to tell our clients /witness they were not to watch the video until after they testified. So we warned them—whether they complied with the warning I don't know.

3 Think it is a wise choice for reasons stated.

4 I'm not sure that the technology has caught up with the project. I found the depiction of exhibits to be a bit crude and slow. I think the ideal would be to have a split screen showing both the advocate and the exhibit simultaneously.

5 I think the strongest benefit is allowing clients who would not normally attend a hearing, such as the one I had, to see the proceedings directly rather than a summary from counsel.

6 There is no reason not to allow the public to see what goes on in the courtroom by video. And cameras are less distracting than a live audience.

7 The video recording is good for public access and teaching lawyers and law students.

8 It is a good idea on paper but not in practice.

9 Overall, I am not in favor of video recording in the federal courts. I would have no objection to audio recording, but believe the mere existence of the camera changes the dynamic for all participants. Thank you.

10 I have no objection to video recordings, but I do have questions about cost (for court and litigants) and about whether the videos will be posted on Pacer as a regular practice, or available only by special order.

11 It was mentioned at Federal Practice Seminars and the [name] Circuit Conferences before it was implemented, so I felt comfortable consenting to it.

12 Would the videos be available to appellate courts as well in deciding appeals? What an enormous can of worms that would be.

13 I watched the video. There was a screen projector (or some type of device) near the podium. I am not sure where the camera was but at times, I "disappeared" behind the projector.

14 Good idea.

15 I believe the records assist not only the attorneys that appear before this Court, but also the parties as it gives insight into what can be expected and likely works to counter unrealistic expectations. I say keep it and expand it.

16 I would urge the Court to video important civil proceedings and eliminate the consent requirements.

17 The videos are good tools for preparation for other cases and for other proceedings in the same case. It's especially helpful to recall the court's concerns about the case, as expressed through questions. It's also helpful to go back and see how opposing counsel responded to questions.

18 No good reason not to include criminal cases.

19 Great program.

20 These are my personal opinions based on my experience and not the opinions of the [government office].

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**About the Federal Judicial Center**

The Federal Judicial Center is the research and education agency of the federal judicial system. It was established by Congress in 1967 (28 U.S.C. §§ 620–629), on the recommendation of the Judicial Conference of the United States.

By statute, the Chief Justice of the United States chairs the Center's Board, which also includes the director of the Administrative Office of the U.S. Courts and seven judges elected by the Judicial Conference.

The organization of the Center reflects its primary statutory mandates. The Education Division plans and produces education and training for judges and court staff, including in-person programs, video programs, publications, curriculum packages for in-district training, and Web-based programs and resources. The Research Division examines and evaluates current and alternative federal court practices and policies. This research assists Judicial Conference committees, who request most Center research, in developing policy recommendations. The Center's research also contributes substantially to its educational programs. The Federal Judicial History Office helps courts and others study and preserve federal judicial history. The International Judicial Relations Office provides information to judicial and legal officials from foreign countries and informs federal judicial personnel of developments in international law and other court systems that may affect their work. Two units of the Director's Office—the Information Technology Office and the Editorial & Information Services Office—support Center missions through technology, editorial and design assistance, and organization and dissemination of Center resources.