



**Photographing, Recording, and
Broadcasting in the Courtroom
Guidelines for Judicial Officers**

Judicial Council of California
1997

Photographing, Recording, and Broadcasting in the Courtroom

Guidelines for Judicial Officers

Produced by the
Judicial Council of California
Task Force on Photographing, Recording,
and Broadcasting in the Courtroom

1997

Judicial Council of California
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February 1997

I am pleased to provide you with this booklet on California Rules of Court, rule 980, "Photographing, Recording, and Broadcasting in the Courtroom: Guidelines for Judicial Officers," produced by the Judicial Council's Task Force on Photographing, Recording, and Broadcasting in the Courtroom. Since the new amendments to rule 980 and its corresponding forms became effective on January 1, 1997, I hope you will find this material a useful guide to understanding and implementing the latest measures governing media presence in the courtroom.

The task force devoted extensive time to studying the effect of rule 980 on state courts. As a result of the task force's work, the Judicial Council approved revisions to the rule that will have significant impact on the use of electronic media in courts. While the courts have a fundamental duty to protect the fair and equal administration of justice, the public's understanding of the justice system depends in large part on information provided by the media. There are times when the rights to fair trial and free press are at odds with each other. The ultimate duty of our judges is to balance these competing interests and find the best solution for all concerned. Please take the time to review this excellent resource and share it with others in your court.

Sincerely,

Ronald M. George
Chief Justice of California
Chair, Judicial Council of California

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Section A

A Brief History of California Rules of Court, Rule 980

The Judicial Council first adopted rule 980 on November 9, 1965, under the leadership of Chief Justice Roger Traynor. Several years of study had led the council to conclude that media coverage of court proceedings interfered with the individual's right to a fair trial, so the original rule 980 prohibited photographing, recording, and broadcasting in the courtroom during session or recesses. Exceptions were made for media coverage during ceremonial proceedings and coverage before and after daily court sessions.

In 1966, at the request of the Assembly Interim Committee on Fair Trial and Free Press, the council adopted temporary rule 981, which permitted a limited number of experiments in courtroom photography for use in connection with the committee's studies. These experiments were held from June 1 to December 31, 1966, with the permission of all trial participants. The photographs taken during the experiments could not be used for general broadcast or commercial purposes.

The issue of cameras in courtrooms resurfaced in 1979, when Chief Justice Rose Elizabeth Bird appointed the Special Committee on the Courts and the Media to consider the question of media coverage of court proceedings. The council adopted an experimental rule specifying a trial period of film and electronic coverage beginning on July 1, 1980, after which the effects of film and electronic media coverage were evaluated. This study culminated in the adoption of a new California Rules of Court, rule 980, which allowed film and electronic media coverage of criminal and civil courtroom proceedings at the trial and appellate levels. The new rule took effect on July 1, 1984.

In October 1995, rule 980 again came under examination by the Judicial Council when a 13-member task force was appointed by Chief Justice Malcolm M. Lucas and charged with evaluating:

- whether rule 980 should be amended;
- if criteria to be applied by the court in determining whether to allow film and electronic equipment in courtrooms should be revised;
- whether film and electronic media coverage should be prohibited in all state court proceedings, in certain types of proceedings, or in certain portions of proceedings;
- whether there should be an expansion of the circumstances under which film and electronic media coverage of state court proceedings is now permitted; and
- the criteria for the operation of cameras and other electronic recording equipment, including pool cameras, in courtrooms.

The 13-member task force, chaired by Associate Justice Richard D. Huffman of the Court of Appeal, Fourth Appellate District, Division One (San Diego), consisted of judges, attorneys, and court administrators who had extensive experience with high-profile cases covered by the media. The final report of the task force was issued in May 1996.

After considering the final report and recommendations of the task force, the Judicial Council on May 17, 1996, voted to retain judicial discretion over the use of cameras in state courts. Rule 980, which specifies the conditions under which electronic media coverage is permitted in state courtrooms, was amended, effective January 1, 1997. The amended rule:

- retains judges' discretion over the use of cameras in all areas, including all pretrial hearings in criminal cases;
- prohibits camera coverage of jury selection, jurors, or spectators in the courtroom; and
- lists 19 factors a judge must consider in ruling on a request for camera coverage, including the importance of maintaining public access to the courtroom, the privacy rights of the participants in the proceedings, and the effect on the parties' ability to select an unbiased jury.

Cameras will continue to be banned from proceedings held in chambers or closed to the public; conferences between an attorney and a client, a witness, or an aide or between attorneys; and conferences between counsel and the judge at the bench.

Section B

Text of Rule 980

Rule 980. Photographing, recording, and broadcasting in the court [Amendments effective January 1, 1997.]

(a) [Introduction] The judiciary is responsible for ensuring the fair and equal administration of justice. The judiciary adjudicates controversies, both civil and criminal, in accordance with established legal procedures in the calmness and solemnity of the courtroom. Photographing, recording, and broadcasting of courtroom proceedings may be permitted as circumscribed in this rule if executed in a manner that ensures that the fairness and dignity of the proceedings are not adversely affected. This rule does not create a presumption for or against granting permission to photograph, record, or broadcast court proceedings. [Adopted effective Jan. 1, 1997.]

(b) [Definitions] For the purposes of this rule,

(1) “Media coverage” means any photographing, recording, or broadcasting of court proceedings by the media using television, radio, photographic, or recording equipment;

(2) “Media” or “media agency” means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, in-house publication, professional journal, or other news-reporting or news-gathering agency;

(3) “Court” means the courtroom at issue, the courthouse, and its entrances and exits;

(4) “Judge” means the judicial officer or officers assigned to or presiding at the proceeding, except as provided in subdivision (e)(1) if no judge has been assigned. [Amended and relettered effective Jan. 1, 1997.]

(c) [Photographing, recording, and broadcasting prohibited] Except as provided in this rule, court proceedings shall not be photographed, recorded, or broadcast. This rule does not prohibit courts from photographing or videotaping sessions for judicial education or publications and is not intended to apply to closed-circuit television broadcasts solely within the courthouse or between court facilities if the broadcasts are controlled by the court and court personnel. [Adopted effective Jan. 1, 1997.]

(d) [Personal recording devices] The judge may permit inconspicuous personal recording devices to be used by persons in a courtroom to make sound recordings as personal notes of the proceedings. A person proposing to use a recording device shall obtain permission from the judge in

advance. The recordings shall not be used for any purpose other than as personal notes. [Amended and relettered effective Jan. 1, 1997.]

(e) [Media coverage] Media coverage shall be permitted only on written order of the judge as provided in this subdivision. The judge in his or her discretion may permit, refuse, limit, or terminate media coverage. This rule does not otherwise limit or restrict the right of the media to cover and report court proceedings.

(1) (Request for order) The media may request an order permitting media coverage on a form approved by the Judicial Council. The form shall be filed at least five court days before the portion of the proceeding to be covered unless good cause is shown. A completed, proposed order on a form approved by the Judicial Council shall be filed with the request. The judge assigned to the proceeding shall rule upon the request. If no judge has been assigned, the request shall be submitted to the judge supervising the calendar department, and thereafter be ruled upon by the judge assigned to the proceeding. The clerk shall promptly notify the parties that a request has been filed.

(2) (Hearing) The judge may hold a hearing on the request or rule on the request without a hearing.

(3) (Factors to be considered by the judge) In ruling on the request, the judge shall consider the following factors:

- (i) Importance of maintaining public trust and confidence in the judicial system;
- (ii) Importance of promoting public access to the judicial system;
- (iii) Parties' support of or opposition to the request;
- (iv) Nature of the case;
- (v) Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims;
- (vi) Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding;
- (vii) Effect on the parties' ability to select a fair and unbiased jury;
- (viii) Effect on any ongoing law enforcement activity in the case;
- (ix) Effect on any unresolved identification issues;
- (x) Effect on any subsequent proceedings in the case;
- (xi) Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness;
- (xii) Effect on excluded witnesses who would have access to the televised testimony of prior witnesses;
- (xiii) Scope of the coverage and whether partial coverage might unfairly influence or distract the jury;
- (xiv) Difficulty of jury selection if a mistrial is declared;

- (xv) Security and dignity of the court;
- (xvi) Undue administrative or financial burden to the court or participants;
- (xvii) Interference with neighboring courtrooms;
- (xviii) Maintaining orderly conduct of the proceeding;
- (xix) Any other factor the judge deems relevant.

(4) (Order permitting media coverage) The judge ruling on the request to permit media coverage is not required to make findings or a statement of decision. The order may incorporate any local rule or order of the presiding or supervising judge regulating media activity outside of the courtroom. The judge may condition the order permitting media coverage on the media agency's agreement to pay any increased court-incurred costs resulting from the permitted media coverage (for example, for additional court security or utility service). Each media agency shall be responsible for ensuring that all its media personnel who cover the court proceeding know and follow the provisions of the court order and this rule.

(5) (Modified order) The order permitting media coverage may be modified or terminated on the judge's own motion or upon application to the judge without the necessity of a prior hearing or written findings. Notice of the application and any modification or termination ordered pursuant to the application shall be given to the parties and each media agency permitted by the previous order to cover the proceeding.

(6) (Prohibited coverage) The judge shall not permit media coverage of the following:

- (i) Proceedings held in chambers;
- (ii) Proceedings closed to the public;
- (iii) Jury selection;
- (iv) Jurors or spectators; and

(v) Conferences between an attorney and a client, witness, or aide, between attorneys, or between counsel and the judge at the bench.

(7) (Equipment and personnel) The judge may require media agencies to demonstrate that proposed personnel and equipment comply with this rule. The judge may specify the placement of media personnel and equipment to permit reasonable media coverage without disruption of the proceedings.

Unless the judge in his or her discretion and for good cause orders otherwise, the following rules shall apply:

(i) One television camera and one still photographer shall be permitted.

(ii) The equipment used shall not produce distracting sound or light. Signal lights or devices to show when equipment is operating shall not be visible.

(iii) An order permitting or requiring modification of existing sound or lighting systems is deemed to require that the modifications be installed, maintained, and removed without public expense or disruption of proceedings. Microphones and wiring shall be unobtrusively located in places approved by the judge and shall be operated by one person.

(iv) Operators shall not move equipment or enter or leave the courtroom while the court is in session, or otherwise cause a distraction.

(v) Equipment or clothing shall not bear the insignia or marking of a media agency.

(8) (Media pooling) If two or more media agencies of the same type request media coverage of a proceeding, they shall file a statement of agreed arrangements. If they are unable to agree, the judge may deny media coverage by that type of media agency.

(f) [Sanctions] Any violation of this rule or an order made under this rule is an unlawful interference with the proceedings of the court and may be the basis for an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions as provided by law. [Amended and relettered effective Jan. 1, 1997.]

Section C

Overview of Rule 980

1. COMMONLY ASKED QUESTIONS

Addition/
modification to
rule 980?

Refer to rule
980 section:

See the follow-
ing section(s)
in this booklet:

<p>What is the scope of rule 980? Rule 980 covers photographing, recording, and broadcasting in the courtroom using any television, radio, photographic, or recording equipment. Such equipment can include: personal recording devices, microphones, still cameras, and television cameras.</p>	No	N/A	N/A
<p>Substantively, how does the current version of rule 980 differ from its predecessors? In general, the new, amended version continues judicial discretion to make media coverage rulings. The revised rule also gives judges more detailed guidelines for ruling on requests.</p>	Yes	N/A	N/A
<p>Does the revised rule contain any new terminology? Yes, the revised rule employs new definitions for the following terminology:</p> <ul style="list-style-type: none"> • “Media coverage”; • “Court”; and • “Judge.” 	Yes	980(b)(1) 980(b)(3) 980(b)(4)	N/A
<p>Does rule 980 create a presumption for or against media coverage? No, the introduction to the rule specifically states that the rule does not create a presumption either way.</p>	Yes	980(a)	E.2.
<p>When is media coverage allowed or not allowed? The rule specifically forbids media coverage of the following:</p>	Yes	980(e)(6)	N/A

	Addition/ modification to rule 980?	Refer to rule 980 section:	See the follow- ing section(s) in this booklet:
<ul style="list-style-type: none"> • Proceedings held in chambers; • Jury selection; • Jurors or spectators; • A conference between attorneys; • A conference between counsel and the judge at the bench (“sidebars”); • Conferences between an attorney and a client, a witness, or an aide; and • All other proceedings closed to the public. <p>Judges are to use their discretion over the use of media coverage in other areas, including all pretrial hearings in criminal cases.</p>			
<p>What constitutes a “conference” between an attorney and a client or an attorney and an aide?</p> <p>Rule 980 does not define the term “conference.” Judges are encouraged to use their discretion.</p>	No	N/A	N/A
<p>Are there any exceptions to rule 980?</p> <p>Yes, there are two exceptions:</p> <ul style="list-style-type: none"> • Courts may photograph or videotape sessions for judicial education or publication. • The rule does not apply to closed-circuit television broadcasts solely within the courthouse or between court facilities if the broadcasts are controlled by the court and court personnel. 	Yes	980(c)	N/A
<p>What about the use of personal recording devices?</p> <p>Use of personal tape recorders, for note-taking purposes only, may be permitted by the judge. The judge’s permis-</p>	Yes	980(d)	N/A

	Addition/ modification to rule 980?	Refer to rule 980 section:	See the follow- ing section(s) in this booklet:
<p>sion must be obtained in advance. Previously, it was required that the person inform the court in advance.</p>			
<p>How does the court establish jurisdiction over all requesting media agencies? Judges may utilize the order on the media request to establish such jurisdiction.</p>	N/A	N/A	N/A
<p>What are the media’s general responsibilities to the court?</p> <ul style="list-style-type: none"> • To initiate the process to gain access by completing and filing Forms MC-500 and MC-510 with the court; • To ensure that all of their personnel who cover the proceeding know and follow the provisions of the 980 order and rule 980. According to the new rule, the media has the burden to make sure whoever represents them knows the rules; • To preserve the dignity of the courtroom by abiding by personnel and equipment limitations; and • To pay increased court-incurred costs, if assessed. 	Yes	980(e)(7)	D., E.4., and E.5.
<p>Where can I find information on:</p> <ul style="list-style-type: none"> • establishing rapport with the media; • planning for media coverage; • suggested strategies for dealing with media access to documents, exhibits, and transcripts; • shielding the jury from the media; and • accommodating the special needs of television cameras in the courtroom? <p>See this booklet’s bibliography for helpful sources.</p>	N/A	N/A	F.

2. PROCEDURAL STEPS FOR RULE 980Refer to rule
980 section:See the follow-
ing section(s)
in this booklet:

Step 1. Media agency decides that it would like access to court proceedings.	N/A	N/A
Step 2. Media agency files Forms MC-500 and MC-510 with the court.	N/A	D. and E.
Step 3. Clerk of the court promptly notifies the parties to the proceeding that a request has been filed.	980(e)(1)	N/A
Step 4. Determination made regarding authority to make the order.	980(e)(1)	E.1.
Step 5. Notice to parties regarding hearing on the request. Trial judges do not have to give a prescribed form of notice within a specific number of days; however, by requiring that parties are informed of the request and making their views a factor in the exercise of discretion, rule 980 clearly contemplates they will be informed of any hearing and have a reasonable opportunity to participate.	980(e)(3)	N/A
Step 6. Judge may hold a hearing on the request, though a hearing is not required.	980(e)(2)	E.6.
Step 7. Judge issues ruling: <ul style="list-style-type: none"> • Considers 19 factors laid out by rule 980; • Findings or statement of decision not required; • May incorporate local rules. 	980(e)(3) 980(e)(4) 980(e)(4)	E.6. E.6. E.6.
Step 8. Media agencies file statement of pooling arrangements with the court.	980(e)(8)	D.5.
Step 9. Modification or termination of the order.	980(e)(5)	E.7.

Section D

Form MC-500, Media Request to Photograph, Record, or Broadcast

1. GENERAL USE OF FORM MC-500

This form is purposefully flexible and should be used by courts to obtain as much advance information about the requesting agency and its plans as possible. Court clerks can and should ask for additional identifying information from media agencies. Such information may include:

- frequency designation (such as KTLA or KMTC);
- whether they are TV, radio, print, on-line, or another medium;
- whether they are local, nonlocal, or national; and
- whether they plan to broadcast live or tape their coverage.

2. THE FIVE-DAY NOTICE RULE

The request for electronic coverage of a proceeding must be filed five court days in advance of the proceeding unless good cause is shown. Previously, the request was to be filed a reasonable time before the portion of the proceeding to be covered. The following excerpt from the *Final Task Force Report* of May 9, 1996, explains the reasoning behind the rule:

Several commenters were concerned that the five-day requirement is impractical and imposes an undue burden on the media, particularly for civil pretrial proceedings. The task force reconsidered this provision and proposes to add a good cause exception to be exercised by the trial judge. Some task force members expressed concern that some media outlets might be dilatory and request a good cause exception in circumstances where they could have or should have known about a proceeding at least five days prior. The trial judge, however, will also know when a date was set and available as information to media outlets and can exercise discretion accordingly. (*Final Task Force Report* (May 9, 1996), p. 21.)

MEDIA AGENCY (name): CHANNEL/FREQUENCY NO.: PERSON SUBMITTING REQUEST (name): ADDRESS: TELEPHONE NO.:	FOR COURT USE ONLY
Insert name of court and name of judicial district and branch court, if any:	
TITLE OF CASE:	
NAME OF JUDGE:	
MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST	CASE NUMBER:

1. PORTION OF THE PROCEEDINGS TO BE COVERED (e.g., particular witnesses at trial, the sentencing hearing, etc.):

2. DATE OF PROPOSED COVERAGE (specify): _____ (File this form at least five court days before the proposed coverage date. If not feasible, explain good cause for noncompliance):

3. TYPE OF COVERAGE:

a. TV camera and recorder d. Audio

b. Still camera e. Other (specify): _____

c. Motion picture camera

4. SPECIAL REQUESTS OR ANTICIPATED PROBLEMS (specify): _____

5. INCREASED COSTS: This agency acknowledges that it will be responsible for increased court-incurred costs, if any, resulting from this media coverage (estimate): \$ _____
 Amount unknown

6. PROPOSED ORDER: A completed, proposed order on Judicial Council form MC-510 is attached (required by Cal. Rules of Court, rule 980(e)).

CERTIFICATION

I certify that if the court permits media coverage in this case, all participating personnel in this media agency will be informed of and will abide by the provisions of California Rules of Court, rule 980, the provisions of the court order, and any additional restrictions imposed by the court.

Date: _____

..... (TYPE OR PRINT NAME) (SIGNATURE)

Telephone No.: _____ (SUPERVISORY POSITION IN MEDIA AGENCY)

NOTICE OF HEARING (A hearing is optional.)

A HEARING will be held as follows:

Date:	Time:	Dept./Div.:	Room:
Address of the court:			

Clerk, by _____, Deputy

Form Adopted by the Judicial Council of California MC-500 (Rev. January 1, 1997) **MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST** Cal. Rules of Court, rule 980(e)(1)

Q: What if the media wish to submit a request, but the case has not yet been assigned?

A: The request may then be submitted to the judge supervising the calendar department, but it will still be ruled upon by the judge assigned to the proceeding. (See rule 980(e)(1).)

Q: What else should a judge be aware of when preparing to rule on a media request?

A: A five-day notice is required, but the judge need not wait five days to make a decision. The media will want the judge's ruling as soon as possible.

3. "GOOD CAUSE" REQUIRED TO ABROGATE THE FIVE-DAY NOTICE RULE

Q: What constitutes good cause?

A: Rule 980 is silent on this issue, so judicial discretion is to be exercised to determine whether good cause has been established. Since the trial judge will know when a date was set for trial and can compare that date to the date of the media request, the task force felt that most judges will be in a position to exercise discretion appropriately.

- Example of good cause: Good cause can be shown when a pooling arrangement fails and the initial requesting media agency pulls out, leaving the remaining agencies to make their own requests to the court.

4. MEDIA PAYMENT OF COURT-INCURRED COSTS

Q: Must the media pay increased court-incurred costs?

A: No, but the judge may condition the order permitting media coverage on the media agency's agreement to pay any increased court-incurred costs resulting from the permitted media coverage. (See rule 980(e)(4).)

Q: What does "court-incurred costs" mean?

A: Court-incurred costs are those costs incurred as a result of permitting media coverage. They:

- do not include costs of jury sequestering; and
- can include payment for certain county services, such as increased electricity usage or additional court security.

Q: May a deposit from the requesting agency be required?

A: Yes. This deposit may be noted under 4(b)(8) “Other” on Form MC-510. In addition, courts may adopt local rules specifically authorizing a deposit.

5. MEDIA POOLING ARRANGEMENTS

Q: Are media pooling agreements required?

A: If two or more media agencies of the same type request media coverage of a proceeding, they shall file a statement of agreed arrangements. If they are unable to agree, the judge may deny media coverage by that type of media agency. (Rule 980(e)(8).) Though the court is not responsible for making pooling arrangements, these agreements are advantageous from the court’s perspective since they:

- allow the media to coordinate use of equipment and operations;
- give notice of media coverage to other media agencies;
- raise media awareness of court rules; and
- serve a trouble-shooting function by limiting multiple operations on court premises.

Section E

Form MC-510, Order on Media Request to Permit Coverage

1. AUTHORITY TO MAKE THE ORDER

Q: Who has the authority to make the order?

A: The judge assigned to the proceeding shall rule upon the request. If no judge has been assigned, the request shall be submitted to the judge supervising the calendar department and thereafter be ruled upon by the judge assigned to the proceeding.

2. PRESUMPTION FOR OR AGAINST COVERAGE

Q: Is there a presumption for or against allowing coverage?

A: No, the rule does not create any such presumption. (Rule 980(a).)

The task force has ... considered whether the rule should contain a presumption that one side or the other should be required to overcome. We continue to believe the rule should express its neutrality as to the proper exercise of discretion. The draft rule contains a listing of factors for consideration by judicial officers and an expression that findings and statements of decision are not required in ruling on applications for coverage. All of that material is designed to guide the courts in their decision making, but, in the last analysis, leaves the decision to the sound discretion of the judicial officer making the ruling. We continue to recommend the rule expressly declare the absence of a presumption on the issue of coverage. (*Final Task Force Report* (May 9, 1996), p. 19.)

MEDIA AGENCY (name): CHANNEL/FREQUENCY NO.: PERSON SUBMITTING REQUEST (name): ADDRESS: TELEPHONE NO.:	FOR COURT USE ONLY
Insert name of court and name of judicial district and branch court, if any:	
TITLE OF CASE:	
NAME OF JUDGE:	
ORDER ON MEDIA REQUEST TO PERMIT COVERAGE	CASE NUMBER:

AGENCY MAKING REQUEST (name):

1. a. No hearing was held.
 b. Date of hearing: _____ Time: _____ Dept./Div. _____ Room: _____

2. The court considered all the relevant factors listed in subdivision (e)(3) of California Rules of Court, rule 980 (see reverse).

3. **THE COURT FINDS** (findings or a statement of decision are optional) Attached As follows:

THE COURT ORDERS

4. The request to photograph, record, or broadcast is

a. **denied.**

b. **granted** subject to the conditions in rule 980 of California Rules of Court, **AND** the following:

(1) The local rules of this court regulate media activity outside the courtroom (copy attached).

(2) The order of the presiding or supervising judge regulating media activity outside the courtroom (copy attached).

(3) Payment to the clerk of the court for incurred costs of (specify): \$ _____ to be determined.

(4) The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 980 and any local rule or order.

(5) Personnel and equipment shall be placed as directed as indicated in the attachment as follows (specify): _____

(6) (i) The attached statement of agreed pooling arrangements is approved.
 (ii) The statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins.

(7) This order
 (i) shall not apply to allow coverage of proceedings that are continued.
 (ii) shall apply to allow coverage of proceedings that are continued.

(8) Other (specify): _____

5. Coverage granted in item 4b is permitted in the following proceedings:

a. All proceedings, except those prohibited by California Rules of Court, rule 980, and those proceedings prohibited by further court order.

b. Only the following proceedings (specify type or date or both): _____

6. The order made on (date): _____ is terminated modified as follows (specify): _____

7. Number of pages attached: _____

Date: _____

(See reverse for additional information) _____ JUDGE

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

Form Adopted by the Judicial Council of California MC-510 [New January 1, 1997] Cal. Rules of Court, rule 980(e)(4)

CASE NAME:	CASE NUMBER:
------------	--------------

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 980(e)(3))

- | | |
|--|--|
| 1. Importance of maintaining public trust and confidence in the judicial system | 11. Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness |
| 2. Importance of promoting public access to the judicial system | 12. Effect on excluded witnesses who would have access to the televised testimony of prior witnesses |
| 3. Parties' support of or opposition to the request | 13. Scope of the coverage and whether partial coverage might unfairly influence or distract the jury |
| 4. Nature of the case | 14. Difficulty of jury selection if a mistrial is declared |
| 5. Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims | 15. Security and dignity of the court |
| 6. Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding | 16. Undue administrative or financial burden to the court or participants |
| 7. Effect on the parties' ability to select a fair and unbiased jury | 17. Interference with neighborhood schools |
| 8. Effect on any ongoing law enforcement activity in the case | 18. Maintaining orderly conduct of the proceeding |
| 9. Effect on any unresolved identification issues | 19. Any other factor for the judge deems relevant |
| 10. Effect on any subsequent proceedings in the case | |

PROHIBITED COVERAGE (Rule 980(e)(6))

- This order does *not* permit photographing, recording, or broadcasting the following in the court:
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|--|--|
| 1. The jury or the spectators | 5. A conference between counsel and the judge at the |
| 2. Jury selection | 6. A proceeding closed to the public |
| 3. A conference between an attorney and a lay witness, or aide | 7. A proceeding held in chambers |
| 4. A conference between attorneys | |

MEDIA PERSONNEL AND EQUIPMENT (Rule 980(e)(7))

- NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.
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|--|--|
| 1. No more than one television camera | 6. No distracting sounds or lights |
| 2. No more than one still photographer | 7. No visible signal light or device that shows when equipment is operating |
| 3. No more than one microphone operator and no obtrusive microphones or wiring | 8. No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems |
| 4. No operator entry or exit or other distraction when the court is in session | 9. No media agency insignia or marking on equipment or clothing |
| 5. No moving equipment when the court is in session | |

SANCTIONS FOR VIOLATING THIS ORDER (Rule 980(f))

Any violation of this order or rule 980 is an unlawful interference with the proceedings of the court. The violation may result in an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions.

3. BANS ON COVERAGE

Q: May a complete ban on all coverage be imposed?

A: After considering all the factors listed in the rule, a judge may impose a complete ban on media coverage of a particular proceeding. Judges should be aware that such a ban may actually increase the workload of court staff, since the media may attempt to use the court staff as an alternate source of information. The task force offered the following opinions on complete and limited bans:

The task force believes balancing the competing policy interests compels a conclusion that a total ban on cameras in the courtroom would be inappropriate. The task force also believes that society's interest in an informed public, recognized in the planning and mission of the Judicial Council, is an important objective for the judiciary, which would be severely restricted by a total ban. Today's citizen relies too heavily on the electronic media for information; yet actual physical attendance at court proceedings is too difficult for the courts to countenance a total removal of the public's principal news source. (*Invitation to Comment—Proposals for Changes to California Rules of Court, Rule 980 on Photographing, Recording, and Broadcasting in the Courtroom* (Feb. 26, 1996), p. 10; Judicial Council meeting materials (Feb. 23, 1996), tab 6, p. 10.)

Related to the issue of whether to recommend a complete ban on media coverage, the task force also unanimously voted not to ban live, contemporaneous electronic photographing, broadcasting, and recording from California courtrooms. It was suggested to the task force that delaying broadcast would work to reduce the commercialization and frenzy surrounding live media coverage. Task force members, however, also believed that a rule to delay broadcast would eliminate from the courtroom those media agencies offering the more responsible, educational, gavel-to-gavel coverage, leaving the public only with "snippets" and "sound bites" on the evening news. (*Id.*, at pp. 10–11.)

4. FREE SPEECH CONCERNS

Q: What are the attendant implications for free speech rights?

A: The Task Force on Photographing, Recording, and Broadcasting in the Courtroom has offered the following guidance regarding free speech issues:

This ... rule with the restrictions it contains would not close any proceeding now open to the public and to the news media. Reporters from every form of news media will remain free to attend such proceedings and to report their observations to whatever extent they deem appropriate. Hence, the debate on the proposed restrictions is not one of access by the entire media, rather it deals with the use of film and electronic equipment as a tool in reporting that which the reporters can observe. Such characterization is not meant to denigrate the importance of electronic and film media as a method of news distribution. Rather, it is an effort to dispel notions the proposed rule somehow closes important proceedings or denies access by members of certain media organizations to the courts. (*Final Task Force Report, supra*, at pp. 16–17.)

5. LIMITING CONDUCT OUTSIDE THE COURTROOM

Q: How far can I go in limiting conduct outside the courtroom?

A: The media order may encompass the courtroom, the courthouse, and the courthouse's entrances and exits. Also, the order may incorporate any local rule or order of the presiding or supervising judge regulating media activity outside of the courtroom. (See rule 980(e)(4).)

6. MAKING THE COVERAGE DECISION

Q: Is a hearing required?

A: No. (See rule 980(e)(2).) The task force anticipated the media's objections to this section of the rule and offered the following comment:

[M]edia agencies expressed frustration that coverage decisions are now made summarily, without offering guidance that would allow the media to make better

or more appropriate requests. Although the proposed amended rule does not require a hearing on the request, by specifying a list of factors, media agencies wishing to cover court proceedings are put on notice as to the kind of information the judge will take into consideration in making the coverage decision. (*Id.*, at p. 22.)

Q: Are all the factors to be considered in making the decision (listed on the reverse side of Form MC-510) weighed equally?

A: The rule offers no guidance on how to weigh the factors. This is intended to be a matter within the trial judge's discretion.

Q: Are findings or a statement of decision required?

A: No. The task force felt that requiring a statement of decision would take time and energy away from the trial at hand. Such a requirement would also ultimately increase the burden on appellate courts. (Rule 980(e)(4).)

Q: May the order incorporate local rules?

A: Yes, as permitted by rule 980(e)(4), a judge may incorporate into the 980 order any local rule or order regulating media activity *outside* the courtroom issued by the supervising and/or presiding judge. The previous version of rule 980 made no reference to the use of local rules. It is anticipated that requesting agencies may object to lack of notice regarding changes in local rules. Responding to this concern, the task force points out that such changes are publicized independently by local courts. As an assurance of notice, Form MC-510 also requires attachment of a copy of the applicable local rule to the order.

7. MODIFYING OR TERMINATING THE ORDER

Q: What procedures are required to modify or terminate the order?

A: The following procedures are required to modify or terminate the order:

- A motion to modify or terminate is made by the judge or upon application to the judge. No prior hearing or written findings are required.
- If the motion is by application, notice is given to the parties (by the clerk).
- When ruling on a modification, the judge may use a new Form MC-510 to make the order.
- Once modification or termination has been ordered, notice is given to the parties and each media agency permitted by the previous order to cover the proceeding.

8. IMPOSING SANCTIONS FOR VIOLATING THE ORDER

Q: What sanctions may be imposed for violations of the order?

A: The following sanctions are listed in section (f) of rule 980:

- Order terminating media coverage;
- A citation for contempt of court;
- An order imposing monetary sanctions; or
- Other sanctions as provided by law.

9. ASSISTANCE FROM THE ADMINISTRATIVE OFFICE OF THE COURTS

Q: How can I continue to find out about how this new rule is operating?

A: Copies of Forms MC-500 and MC-510, and any subsequent orders (modification orders, termination orders, orders regarding payment of court costs, orders imposing sanctions, and so forth) are mailed each month to:

Judicial Council of California
Administrative Office of the Courts
Office of Court Technology and Information
Attn: Ms. Cecilia Ignacio
303 Second Street, South Tower
San Francisco, CA 94107

Copies of these forms will be used for data collection purposes, and information will be analyzed by the Research and Planning Unit and shared with judges, court administrators, and media agencies. Please call the Research and Planning Unit at 415-396-9139 for additional assistance, or contact our Web site at <http://www.courtinfo.ca.gov/>.

Section F

Bibliography

FOR GENERAL INFORMATION ON RULE 980

Administrative Office of the Courts, *Cameras in California Courtrooms* (1995).

This document, prepared by the AOC's Public Information Office, answers commonly asked questions about rule 980. Contact: Judicial Council of California, Administrative Office of the Courts, Public Information Office, 303 Second Street, South Tower, San Francisco, CA 94107; phone: 415-396-9123; fax: 415-396-9388.

Judicial Council of California, *Cameras in Court: Report to the Governor and the Legislature* (1985).

A good, short summary of rule 980's development and history.

KFMB-TV Channel 8 et al. v. Municipal Court for the San Diego Judicial District of San Diego County (1990) 221 Cal.App.3d 1362.

The opinion offers a review of California case law on the issue of cameras in the courtroom.

FOR INFORMATION ON HOW OTHER STATES HANDLE MEDIA COVERAGE OF THE COURTS

Crasson, Report of the Chief Administrator to the New York State Legislature, the Governor, and the Chief Judge on the Effect of Audio-Visual Coverage on the Conduct of Judicial Proceedings (March 1991).

The chief administrator of New York courts explains conclusions drawn from that state's 40-month experiment with camera coverage of court proceedings.

Radio-Television News Directors Association, *News Media Coverage of Judicial Proceedings with Cameras and Microphones: A Survey of the States* (January 1995).

Provides a synopsis of each state's cameras-in-the-courtroom policy. Also ranks state policies according to the amount of courtroom coverage allowed.

Report of the Committee on Audio-Visual Coverage of Court Proceedings (May 1994).

The New York committee monitored, evaluated, and analyzed its state's cameras-in-the-courtroom program. This report was composed in preparation of the enactment of a New York statute governing the use of cameras in the courtroom.

Strickland & Moore, Cameras in State Courts: A Historical Perspective, *Judicature* 78, no. 128 (1994).

A survey of past policies from various states regarding cameras in the courtroom.

FOR INFORMATION ON INTERACTING WITH THE MEDIA AND PLANNING FOR MEDIA COVERAGE

Los Angeles Superior Court, Public Information Office, Media Relations Plan for High Profile Cases (June 1996).

A model strategy plan for dealing with high-profile cases. To obtain a copy, contact: Jerrienne Hayslett, Public Information Officer, Los Angeles Superior Court, 111 N. Hill Street, Room 107A, Los Angeles, CA 90012; phone: 213-974-5227; fax: 213-621-7642.

Murphy et al., *A Manual for Managing Notorious Cases* (National Center for State Courts 1992).

This widely used book suggests strategies to establish rapport with the media, plan for media coverage of a notorious trial, shield the jury from the media, and accommodate the special needs of television cameras in the courtroom.

Pickerell, *The Courts and the News Media*, 6th ed. (California Judges Association 1974).

This publication is an excellent resource for both court personnel and the media. It covers the following topics: California courts, federal courts, pretrial civil procedure, pretrial criminal procedure, trial procedure, legal research, access to the courts, access to juvenile court, cameras in the courtroom, access to meetings and records, invasion of privacy, subpoenas to journalists, and defamation. A copy of this resource may be obtained by contacting the California Judges Association, 301 Howard Street, Suite 1040, San Francisco, CA 94105; phone: 415-495-1999; fax: 415-974-1209.

Rozier E. Sanchez Judicial Education Center of New Mexico, Conference Materials, Media-Court-Bar Relations Seminar, Santa Fe, May 18, 1996.

Materials produced for the court-media-bar strategy seminar were designed to provoke discussion on issues concerning the access of the media to the proceedings and files of the courts, and the legal and best strategies for the bar and the courts to deal with trial publicity. The conference was conducted pursuant to State Justice Institute Grant No. SJI-95-12A-D-237. To obtain a copy, you may contact the Rozier E. Sanchez Judicial Education Center of New Mexico; phone: 505-277-5006; fax: 505-277-7064.

State Bar of California, Reporters' Directory: Legal Resources for the Media (1996).

Lists attorneys who represent the current leadership of the bar and its committees, task forces, and sections. The media are encouraged to contact these individuals for background information, answers to legal questions, and additional resources in their areas of legal expertise. To obtain a copy, contact: Anne Charles, Director of Communications, State Bar of California, 555 Franklin Street, San Francisco, CA 94102; phone: 415-561-8283; e-mail: calbaranne@aol.com.

Weider, How to Manipulate the Media, California Lawyer (February 1994): 60.

Gives 20 useful tips for dealing with the press. The article draws on commentary from legal writers, reporters, and media consultants.

FOR GENERAL INFORMATION OR STUDIES ON CAMERAS IN THE COURTROOM

14 A.L.R.4th Dig., Media Coverage of Court Proceedings, sections 1–10(b).

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Details the history of cameras in the courtroom from both federal and state perspectives. Discusses constitutional issues, the sixth amendment and due process, policy considerations, and the power of television.

National Center for State Courts, TV in the Courts, Evaluation of Experiments (Feb. 3, 1988).

A survey of various studies that measured the effects of camera presence on courtroom proceedings.

Prentice, Broadcast Cameras in the Courtroom: Window or Peephole? The Court Management & Administration Report (September 1992), pp. 1–15.

Surveys the history of media coverage of court activity and the development of court rules governing media access. Reviews traditional arguments for and against televising of trials.