

The legality and constitutionality of cameras in courtrooms

[Law](#)



As Hernandez (1996) reports, proponents of the practice maintain that the televising of courtroom proceedings does not just give the public access to the workings of their judicial system but allows them to oversee the government, as it is their right to do. Opponents, however, quite rightly maintain that the practice, however, conflicts with both the defendant's right to privacy and his/her expectations of a fair trial (Hernandez, 1996).

The argument in favor of cameras in courtrooms is predicated on the Constitution, the First Amendment, and the theoretical function of the media as a watchdog. Both the Freedom of Information Act and the First Amendment clearly explicate the public's right to know, implying, as N. Hentoff (2000) argues, the constitutionality of live coverage of court trials. According to this perspective, the constitutionality of cameras in the courtrooms stems from the fact that the U. S. constitutional and legal frameworks emphasize, not just the importance of transparency but the necessity of it, as a strategy for allowing the public, through the media, to oversee the workings of the government and to access whatever public information they may determine as relevant or valuable to them.

The argument in favor of cameras in the courtroom, however, is effectively undermined and negated by the fact that it is a violation of a defendant's right to privacy and a fair trial. Thompson (2004) maintains that the U. S. Constitution holds an accused to be innocent until such a time when he/she is proven guilty beyond any shadow of reasonable doubt. The implication here is that until such a time when he is proven guilty or innocent, the accused has a right to privacy. His/her privacy rights can only be constitutionally set aside when guilt is proven. Furthermore, and as

Thompson (2004) adds, defendants have a right to a fair trial and the transformation of courtrooms into media circuses invariably undermine objectivity and jeopardize access to this particular right (Thompson, 2004). In other words, cameras in courtrooms effectively lay the defendant open to judgment by the entirety of society, with media speculations on guilt and innocents often precluding, and sometimes influencing, a jury's deliberations and determinations (Thompson, 2004). The ramifications of the aforementioned are intolerable insofar as the very notion of justice and the right to a fair trial are concerned. Quite simply stated, cameras in the courtroom severely limit, if they do not altogether undermine, the defendant's right to a fair trial.

In the final analysis, one may safely assert that despite the Freedom of Information Act and irrespective of the media's status as a watchdog over official, including legal, proceedings, cameras should be banned from courtrooms. Judge Harlan once proclaimed that cameras in courtrooms and the televising of trials may "disparage the judicial process" (Cohen and Dow, 2002, p. 3). He was right. Considering that few Americans, if any would want to resign their right to a fair trial, the televising of trials and court proceedings has to be banned.