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Op-Ed:

Cameras: The Portal to Our Justice System

by Gary Craig

In 1990, RNNews (now YNN) broadcast live and gavel-to-gavel the three-month trial of serial killer Arthur Shawcross.

It would be tough to find a more ghastly defendant than Shawcross, who murdered 11 women. And, if any case could lead to the knee-jerk criticism of defense lawyers that is popular in some circles, the Shawcross case was it.

Instead, the thousands who watched portions of the televised trial came away with respect for the zealous defense provided for Shawcross by David Murante and the late Tom Cocuzzi, as well as the prosecution by now federal judge Charles Siragusa and the courtroom management of now-retired state Supreme Court Justice Donald Wisner.

In short, the public had a rare portal into the criminal justice system, and saw that, yes, it can work effectively.

In 1997, the New York Legislature - namely the Assembly - allowed the state’s 10-year experiment with cameras in the courtroom to expire, even though most states do allowing filming in the courtroom.

Last week I was part of a panel that discussed media access to the courts. The discussion showed how the media has evolved; not only did we discuss cameras but also Twitter. But whether the focus is on cameras or the latest social media du jour, the constitutional tension remains the same: a defendant’s right to a fair trial vs. the public’s and media’s right to access to the courts.

The panel consisted of judges, prosecutors, defense lawyers and members of the media. (Here, let me thank its organizers: Ontario County Court Judge Craig Doran, the Seventh Judicial District’s administrative judge; state Supreme Court Justice Thomas Moran; and WHAM-TV reporter Sean Carroll.)
And, while the media landscape has changed since cameras were allowed to film court proceedings in New York, one basic fact has not: Nowhere is there evidence, other than the occasional anecdotal instance, that justice has been derailed by cameras in the courts (or Twitter, for that matter).

Court of Appeals Chief Judge Jonathan Lippman recently urged the legislature to return cameras to the courts. "As far as I'm concerned, every trial in the State of New York should be constantly streaming," he said.

With Judge Lippman at the helm, the Court of Appeals has shown an increased willingness to hear criminal appeals, so no one can argue that the chief judge is not concerned with the rights of a defendant. Perhaps his encouragement can move this issue forward with the legislature. (Let's acknowledge that the New York Legislature could have a conflict with this issue, given how many of its lawmakers may be facing criminal trials.)

Now, in Monroe County, the media coverage of trials is a patchwork, depending to a degree on the whims of a judge. Some judges allow Twitter coverage, for instance; others do not. (I've always found some disconnect here: With change of venue requests, judges almost universally say they can control how a jury will be impacted by past and present media coverage. Yet the same judges then claim that a few Tweets will completely turn the courtroom proceedings on their ear.)

In 2001 local attorney A. Vincent Buzard headed a state Bar Association committee that, after ample research, recommended a return of cameras to the courts.

Allowing camera access "would relieve judges of the necessity to make potentially arbitrary and inconsistent decisions," a Bar Association committee wrote. "Conferring unfettered discretion to judges only serves to undermine our firm commitment to open proceedings by diminishing predictability and consistency."

Among those interviewed by the committee was Siragusa, who prosecuted several televised trials, including the case against Shawcross.

"Too often I believe that the public thinks this whole system of justice is something that's shrouded in secrecy," he said. "... I'm proud of the way that the justice system works in my community, and I think that anything that opens it up to the public is a good thing."

Those who watched the Shawcross trial - and the many others that were televised - saw the justice system, warts and all. Perhaps the day will come when they can do so again.