

DUKE CONFERENCE: JUDGES PANEL (REGGIE LIVE)

Gary Hengstler, Director Reynolds Center for the Courts and Media. Importance of having a judicial strategy for the media. Who makes editorial decisions now? previously, you'd give everyone access. BC of conglomeration, editorial decisions are not being made by journalists, they're being made by commercial interests. Justice is in the entertainment and media field becoming a commodity. Tools to work with the media. Protective order. If you're a journalist, they're a gag order; if you're a judge, they're a protective order. Are they doing the reverse of what they were intended to, because in the absence of having the lawyers who know about the case, you'll have the people who are speculating. To what extent is that counter-productive.

LeRoy Millette, Jr., Circuit Court, Prince William County. Presided over Bobbitt case, and John Mohammad case. One of the most important things in Mohammad trial was appointing really good lawyers. They agreed not to speak to the media. They considered the possibility that Mohammad would be tried in other jurisdictions. Incredible amount of discovery that was available—a lot of it that would not be allowed in trial. Did not put that information out for the media to have access to. Biggest problem: Malvo had confessed, that confession was suppressed in Fairfax, believe it was disgruntled law enforcement official. Main tool for a fair jury was change of venue. Gave jurors numbers, they used judges lunch room, questioned jurors to make sure they remained impartial. Want to make court room as normal as you can.

Terry Ruckriegle, Breckenridge, presided over Kobe's trial (not the poodle, but the basketball player). Information got leaked before charges were filed. Decorum order, outlining guidelines

for conduct. Approximately 20% of the filings were on the part of the media responding trying to open proceedings.

Court Reporter accidentally released portion of transcripts from closed hearings. Issued an order to delete and destroy those transcripts.

"Of course, as you heard Lucy Dalglish say earlier, that's prior restraint, which is like poking a sleeping bear with a stick." That order worked temporarily, Colorado Supreme Court upheld in 4-3 decision. Justice Breyer issued an order. Eventually released about 90% of those transcripts. Accuser's civil attorneys launched a blitz as a result of the release, eventually withdrew from suit. Possibility of prosecutors, defense attorneys, other sources, you may have another source of information being put out to the public through the public.