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RESTRICTING NEW TECHNOLOGIES IN THE COURTROOM:
A STATE-BY-STATE ANALYSIS

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ABSTRACT

Lights! Camera! Action! From Estes v. Texas to The People of the State of California v. Orenthal James Simpson to Commonwealth v. Sandusky, the allowance of technologies within the courtroom has always been highly controversial. This controversy in particular is intriguing because it highlights two conflicting amendments in the United States Constitution. As Americans, we are guaranteed the Freedom of the Press in the First Amendment. In addition to that, we are guaranteed a right to a fair trial in the Sixth Amendment. There is a gray area between these two amendments. The Freedom of the Press Clause in the First Amendment means that the press should not be limited. However, when there is uncontrolled media access in the courtroom, it may influence the jury, thus rendering an unfair trial. As a result of this gray area, there is variance among the states when it comes to laws that restrict new technologies from the courtroom. Some states are very permissive while other states are extremely restrictive. Furthermore, there has been very little empirical research conducted to determine why this variance exists. The goal of this paper is to discover why certain states are more restrictive toward new technologies in the courtroom than others. All fifty states will be analyzed.

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Chapter 1

Introduction

The United States Constitution is the most influential document in the American legal system. Because of the Constitution, American legal system has become a well-oiled machine. Unfortunately, there are some amendments within the Constitution that cause some friction. The obvious amendment that comes to mind is the Second Amendment: the right to bear arms. Some believe that it is their American right to own a gun while others believe that guns should be either banned. The court system has not provided a clear definition of what “the right to bear arms” means, thus there is much debate over the Second Amendment. However, there are other conflicting Amendments that the Supreme Court has had to answer for. For example, the First Amendment and the Sixth Amendment sometimes clash. As Americans, we are granted the Freedom of the Press in the First Amendment as well as the right to a fair trial in the Sixth Amendment.

Right before the signing of the Declaration of Independence, Pennsylvania’s representative, John Dickinson, said “a trial by jury ... upon a fair trial and full enquiry, face to face, in open court, before ... as many of the People as chuse to attend” (Dickinson, 1774). The intention of our Founding Fathers was for the people to have access to the judicial system. In a hearing before the Subcommittee on Administrative Oversight and the Courts, the Honorable Nancy Gertner testified that, “television is the means by which most people get their news” (Gertner, 2000). When cameras in the courtroom are restricted, the American people are denied access to the news. Senator Chuck Grassley told Congress that “when our judicial system was established, trials were meant to be highly public events. Citizens were able to attend trials and

directly access the judicial process. Life today is obviously much different and broadcast coverage of trials is required” (Grassley, 2000). John Dickinson would agree.

In 1962, a Texas petitioner by the name of Billie Sol Estes was found guilty of swindling and was sentenced to eight years in jail. However, this was not an ordinary case and much controversy surrounded the trial. During the pretrial hearings, there were at least twelve cameramen and three microphones on the judge’s bench. Some of the cameras faced the jury while the others faced the judge’s bench and the attorney’s table. The trial was broadcasted live on television and on the radio. Estes appealed the court’s ruling on the grounds that the pretrial publicity deprived him of the due process granted to him by the Fourteenth Amendment of the United States Constitution.

Estes’ case was heard by the United States Supreme Court in 1965. The Supreme Court ruled in favor of Estes saying that the pretrial and trial publicity denied Estes’s right to due process as well as a fair trial. This was one of the first major cases that dealt with new technologies in the courtroom. Before *Estes v Texas*, the issue of cameras in the courtroom was never a prominent issue. At the conclusion of trial, Supreme Court Justice Thomas C. Clark said, “when the advances in these arts permit reporting by printing press by television without their present hazards to a fair trial we will have another case” (381 US 532, 540). *Estes v Texas* was the beginning of a very long debate about how the court should handle new technologies in the courtroom.

One year after Estes, the question of cameras and publicity arose in the state of Ohio. Doctor Sam Sheppard was charged with second-degree murder for the murder and death of his then pregnant wife. According to Justice Hugo Black, there was a “carnival atmosphere” surrounding the trial. The local Cleveland media repeatedly showed Sheppard’s confession

before the trial, thus biasing any juror from around the area. Sheppard appealed to the Supreme Court. By a vote of eight to one, the Supreme Court decided that the publicity interfered with the defendant's right to a fair trial. The Justices said that the trial judge should have postponed the trial or changed the venue. Justice Clark said, "While we cannot say that Sheppard was denied due process by the judge's refusal to take precautions against the influence of pretrial publicity alone, the court's later rulings must be considered against the setting in which the trial held. In light of this background, we believe that the arrangements made by the judge with the news media caused Sheppard to be deprived of that judicial serenity and calm to which was entitled" (384 US 333, 354). As a result, it seemed as if cameras would become more and more restricted across the states. However, this was not the case.

In 1981, two Miami police officers, Noel Chandler and Robert Granger, were charged with burglarizing a restaurant and subsequently found guilty as charged. They appealed their case until it reached the Supreme Court. In *Chandler v Florida*, the question before the Supreme Court dealt was whether or not the cameras and press coverage of the trial violated the defendants' rights to a fair trial guaranteed by the Sixth and Fourteenth Amendments. By a vote of eight votes in favor of Florida to zero votes against, the Supreme Court ruled that the publicity caused no constitutional violation. Although the Supreme Court never formally overruled *Estes v Texas*, they essentially did. The ruling in the *Estes* case was that media coverage infringed on the fundamental right to a fair trial. In the Chandler case, media coverage did not infringe on any rights. Chief Justice Warren Burger said, "It does not stand as an absolute ban on state experimentation with an evolving technology, which, in terms of modes of mass communication, was in its relative infancy in 1964 when *Estes* was decided, and is, even now, in a state of

continuing change” (449 US 560, 574). This case was considered a win for cameras in the courtroom.

Although there have been many Supreme Court cases about cameras in the courtroom, the Supreme Court allows each state to create their own laws regarding this matter. There has been great variance amongst the states with restricting cameras. In 1981 when the *Chandler v Florida* case was ongoing, twenty-seven states were permitting permanent or experimental courtroom coverage of trials. Currently all the states allow some form of cameras to be used in the courtroom. In 2011, South Dakota became the last state to allow cameras in the courtroom (Gilbertson, 2011).

There is disagreement about the use of cameras among the states, but there is also disagreement amongst the Justices of the Supreme Court. For instance, at a Senate Judiciary hearing in 2010, Justice Elena Kagan stated: "I have said that I think it would be a terrific thing to have cameras in the courtroom. I think it would be a great thing for the institution, and more important, I think it would be a great thing for the American people" (Gellman, 2010). On the opposite end of the spectrum, when asked about cameras in the courtroom, Justice Antonin Scalia answered, “Not a chance, because we don't want to become entertainment. I think there's something sick about making entertainment out of other people's legal problems. I don't like it in the lower courts, and I don't particularly like it in the Supreme Court" (Scalia, 2005).

New technology is also causing controversy. In recent years, the press has evolved. Although the press still uses newspapers, radio, and television, they have added a new weapon to their arsenal: Twitter, a social networking service that allows users to instantly upload statuses. Because of the instant aspect of Twitter, some courts are weary of this new technology. In 2012, The Pennsylvania State University went through its darkest time when the Jerry Sandusky

scandal erupted. During Sandusky's hearing, Twitter was banned from the courtroom by Judge John Cleland who stated, "Permitting reports from the courtroom while the court is in session did not, in my view, constitute 'broadcasting' as long as the reports did not contain simultaneous verbatim quotations" (Miller, 2012). The issues of Twitter and the use of other electronic communications are not unique to Pennsylvania. Nationwide, problems have emerged, with some courts openly allowing Twitter, and others restricting it.

Why are certain states more restrictive toward new technologies in the courtrooms while others are more permissive? Twenty years ago, the concept of Twitter was unimaginable. In twenty years from now, a new technology could exist that is restricted in the courtroom. Through this research, hopefully a common thread between states that restrict new technologies and states that allow them will be discovered. The results from this research will be applicable to new technologies that have yet to be invented.

First, we will explore the literature on the subject. This includes a more detailed history on cameras in the courtroom and the perceived effects of camera in the courtroom. After that, the hypotheses will be presented. Within this section, there will be literature on the independent variables that are to be tested, how each independent variable will be operationalized, and finally the hypothesis for each variable. Following the hypothesis section will be the data analysis section. Within this section, the creation and operationalization of the dependent variable will be explained. Additionally, a thorough description will be provided for each bivariate analysis as well as the multivariate analysis. Finally, the conclusion will reiterate the findings from this research. It will also include a discussion about the limitations of this research, and it will offer suggestions for future research on this subject.

Chapter 2

Literature Review

After the Supreme Court decided *Sheppard v Florida*, many states began to allow cameras into the courtroom. States were passing experimental rules for cameras in trial, appellate, and supreme courts. For the first time, a majority of the American people was invited to view the legal system hard at work.

However, this progress was short-lived. In 1994, an NFL running back by the name of Orenthal James Simpson was charged with the murder of his wife, Nicole Brown, and her friend, Ronald Goldman. This was deemed “Trial of the Century” and was televised. America became glued to television sets, lawyers became celebrities and the entire case became a circus. When the final verdict was announced, outrage ensued and many people blamed the openness of the media. Attorney Gerry Spence said that “cameras have turned the search for justice into a spectator sport for the amusement of the drooling coach potatoes” (NY Times, 1995).

The presiding judge in *The People of the State of California v Orenthal James Simpson* was Judge Lance Ito. Due to Judge Ito’s inability to control the media, many judges began to fear the allowance of cameras in the courtroom. According to Jeffrey Toobin, “fear of being embarrassed is not a legitimate reason to ban cameras from the courtroom” (Thompson, 2004). Nevertheless, countless judges across the country shied away from those cameras. There are two sides to every story and in 2004 Judge Ted Poe said, “I’m a big advocate for cameras in the courtroom because of the Simpson case. Cameras only showed the truth of what was really going on in the courtroom. Judge Ito lost control of the trial. The cameras just showed that. Unfortunately people gauge the criminal justice system on that one trial” (Thompson, 2004).

After the OJ Simpson trial, states became much more restrictive toward allowing cameras in the courtroom. In “Proposed Reforms to the Criminal Justice System as a Reaction to the Simpson Trial”, author Eric C. Johnson describes three states that made, or tried to make, changes. In Connecticut, a bill that would have allowed media access to executions was shut down. In Philadelphia, Pennsylvania, cameras were no longer allowed inside City Hall. In California, where the OJ Simpson trial took place, former Governor Pete Wilson initiated a campaign to ban cameras in all trial level courts. According to media attorney Kathleen Kirby, “Before OJ there was terrific momentum on both state and federal level. Then we had the OJ trial and things went back to square one” (Thompson, 2004).

After a long period of regression, states began to finally show headway. The biggest win for the media since the OJ trial was when, in 2000, the Supreme Court allowed the audiotapes from the *Bush v Gore* case to be released publicly on the same day as the arguments. This was the first time the Supreme Court allowed this to happen. Barbara Cochran, president of the Radio Television Digital News Association, said, “This was a case in which every American had a stake in the outcome. It was so significant that the Supreme Court needed to have the public understand that everything was fair and above-board and the only way they could do this was to allow some kind of taping that the American public could hear for itself.”

In 2001, Mississippi and South Dakota were the last two states to allow cameras within the courtroom. In 2002, New Hampshire took a major step forward for media access when legislators passed a bill saying, “Fear of jurors being exposed to potentially prejudicial information or of witnesses being exposed to the testimony of the other witnesses generally will not be a valid basis for denying electronic coverage” (148 NH 644, 651).

Still, the Constitutional issue between Freedom of the Press and a right to a fair trial is underlying. In 2004, the *People of the State of California v Scott Peterson* trial began. Mr. Peterson was convicted of murdering his wife, Laci Peterson, and their unborn son. There was a media craze surrounding this trial but presiding Judge Alfred Delucchi handled the situation much differently than Judge Ito. He refused access to cameras in the courtroom and rationalized his decision by claiming that he needed to protect Mr. Peterson's right to a fair trial.

Politicians have discussed whether or not cameras should be allowed in the courtroom, but what do the judges think? The *Feerick Committee Survey*, conducted in 1997, asked roughly 350 New York judges questions pertaining to cameras in the courtroom. They could either answer strongly agree, somewhat agree, somewhat disagree, strongly disagree, or no opinion. New York is one of the most restrictive states toward cameras. When asked, "Do cameras in the courtroom serve as a deterrent against injustice?", 68% of the judges disagreed. 60% of the judges answered that cameras should be allowed in criminal trials while 59% of the New York judges believed that cameras should be allowed in civil trials.

The judges in the *Feerick Committee Survey* were not fond of how the media uses the footage from the courtroom. When given the statement, "In the majority of cases, televised gavel-to-gavel coverage of court proceedings accurately represent what actually takes place in New York courtrooms", 63% of the judges agreed. However, the majority of footage is not used for gavel-to-gavel coverage. In response to, "In the majority of cases, televised coverage of court proceedings in news feature programs (such as *Prime Time Justice* or *American Justice*) accurately represents what actually takes place in New York courtrooms", only 20% of the judges agreed with that statement. Probably the most alarming answer was that 80% of the

judges are concerned about the commercial exploitation of judicial proceedings by the television industry.

In “How Television News Media Use Courtroom Footage”, Wendy Pogorzelski conducted a case study to see how the media uses the footage taken from inside the courtroom. She wanted to conduct this experiment to see how much of the local news is dedicated to court cases. She measured this by examining five stations in the Albany area. With these five stations, she recorded how long video from the courtroom was played and how long audio clips from the courtroom were played. Additionally, she measured how long each part of the trial was shown. She concluded that the majority of the coverage was on the closing statement and the prosecution. This is not a very accurate depiction of the entire judicial process. This could be a reason why states are skeptical about allowing cameras in the courtroom.

Regardless of how the judges feel about the media, when it comes down to brass tax, the role of our courts is to give free and fair trials to the people of America. The real issue is whether or not the cameras affect the jurors or not. According to the *Feerick Committee Survey*, thirty-five percent of the judges disagreed with the statement “jurors were more attentive in cases in which TV cameras were presents”. Only 17% of the judges believed that in cases in which TV cameras were present, jurors were more likely to communicate with people who have seen coverage of the case. In response to the statement, “In cases in which TV cameras were present, trial participants were sensitive to how the day’s events would play on the evening news and tended to shape their actions accordingly”. Thirty-four percent of the New York judges agreed with it.

Although the opinions of judges are very useful, they are not psychologists. The objective of Eugene Borgida, Kenneth DeBono, and Lee Buckman’s article, “Cameras in the Courtroom:

The Effects of Media Coverage on Witness Testimony and Juror Perceptions”, was to determine whether or not cameras and journalists in the courtroom had an effect on the nervousness of the witnesses and whether or not it impaired the witnesses’ ability to accurately recall the details of the crime. There were three conditions in this experiment: no media in the courtroom, only journalists in the courtroom, and cameras in the courtroom. The first dependent variable was the witnesses. The authors measured their nervousness and ability to recall the crime. The second dependent variable was the jurors. They measured the jurors’ perception of nervousness of the witnesses and their perception of the quality of witness testimony. The study concluded that when cameras are present, witnesses are more nervous. However, the witnesses are able to accurately recall the crime. This proves that the psychological effects from cameras in the courtroom do not play a major impact on the trial. There must be other reasons why certain states are restrictive toward cameras in the courtroom.

In Frances Stokes Berry and William D. Berry’s 1990 article, “State Lottery Adoptions as Policy Innovations: An Event History Analysis”, the authors look at different explanations that have been proposed to explain why states adopt certain policies. There are two main theories: internal determinants theory and regional diffusion theory. Internal determinants models “posit that the factors causing a state government to innovate are political, economic, and social characteristics of a state” while regional diffusion models “point toward the role of policy adoptions by neighboring states in prompting a state to adopt” (Berry 395, 1990). Berry and Berry believe that each theory alone has weaknesses. A weakness of the internal determinant theory is that it has no role for the regional influence of other states. A weakness of the region diffusion theory is that it does not account for internal state characteristics. They created a unified theory of state innovation that incorporated internal and regional influences. Because of

Berry and Berry's new theory to explain state innovation, both internal and regional influences will be tested.

Although there is an abundance of literature on the history of new technologies in the courtroom, there has been little scholarly work on policy innovation regarding new technologies in the courtroom. This paper will attempt to bridge the gap within the literature on policy innovation.

This literature review covered a modern history of new technologies being restricted in the courtroom, what judges believe should be done, and if cameras actually have an effect on the judicial process. In the next section, a thorough explanation will be given as to why each hypothesis was created in order to determine why certain states are more restrictive toward new technologies in the courtroom.

Chapter 3

Data and Hypotheses

To test the theory on why certain states are more restrictive toward new technologies in the courtroom, these are the eight hypotheses that will be tested:

Hypothesis #1

Allowing a new technology within the courtroom requires an acceptance of a new innovation. If a state's population is consistently creating new innovations, they may be more tolerant to let one of those new them (i.e. cameras, cell phones, webcasts) within the courtroom. In order to measure how innovative a state is, a brand new independent variable was created, the patent-per-population ratio. This variable is coded by taking the number of patents published by state and dividing by the state's population. For example, citizens from Connecticut were awarded 2,108 patents. The population of Connecticut is 3,590,347. After the calculation, the patent-per-state ratio for Connecticut is .000587. By creating this independent variable, how innovative a state is will be quantified. For this hypothesis, the data was collected from the Statistical Abstract of the United States and the United States Patent and Trademark Office.

H1: *States with a higher patent-per-population ratio will be less restrictive toward the allowance of new technologies within the courtroom.*

Hypothesis #2

When the United States of America was created, our Founding Fathers wanted everyone to be able to view our legal system in action. Courtrooms were built in town centers so everyone had easy access to them. As people migrated away from cities, they had less access to the court system. Based on this knowledge, it is hypothesized that the higher the rural population percentage of a state is, the less restrictive the state will be. Allowing cameras or webcasts in the

courtroom would enable rural residents to view the proceedings that occur within the courtroom while being hundreds of miles away. In order create this variable, the rural population data and state population data from the Statistical Abstract of the United States were divided. For instance, in West Virginia, the rural population is 976,000 while the total population is 1,855,413. Accordingly, the percentage of West Virginia’s population classed as living in a rural area is roughly 53%. For this hypothesis, the data was collected from the *Statistical Abstract of the United States*.

H2: *States with a higher rural population percentage will be less restrictive toward the allowance of new technologies from within the courtroom.*

Hypothesis #3

People want to know what is happening within our court system. This hypothesis is based on the work of Roger Davidson, Walter Oleszek, and Frances Lee. In their book *Congress and Its Members*, they conclude: “representatives feel great electoral pressure to respond to dominant economic and political interests in their constituencies” (Davidson 292, 2008). If citizens of a state can directly affect state government and push for more transparency, it is hypothesized that it will have a positive effect on allowing new technologies in the courtroom.

For this hypothesis, a state score created by a study done Citizens in Charge’s “Of the People, By the People, For the People” will be used. Each state was coded according to these requirements:

Table 3-1:

State allows citizens to propose a constitutional amendment.	State receives THREE points.
State allows citizens to propose a statutory initiative.	State receives THREE points.
State allows citizens to propose a local initiative.	State receives THREE points.

State allows citizens to propose a referendum.	State receives TWO points.
State has a residency requirement.	ONE point is deducted.
State has a pay-per-signature ban.	ONE point is deducted.
State has a distribution requirement.	½ point is deducted.
State has insufficient circulation requirement.	½ point is deducted.

H3: *The higher the ability of citizens to affect the state government, the less restrictive the state will be toward new technologies within the courtroom.*

Hypothesis #4

In the article, “Professionals or Politicians: The Uncertain Empirical Case for an Elected Rather than Appointed Judiciary”, Stephen Choi researched the difference between appointed and elected judges. He concluded: “Elected judges try to decide a lot of cases because productivity is observable, whereas appointed judges write better opinions because they care more about their long-term reputation among professionals (the incentives/multitasking argument)” (Choi 2008, 238). Similarly, Isaac Unah concludes: “justices vote primarily based on their attitudes regardless of the information provided by the solicitor general or interest groups” (Unah 2006, 314). In the article “The Effect of Judicial Institutions on Uncertainty and the Rate of Litigation: the Election vs. Appointment of State Judges”, Andrew Hannsen concluded that “appointed judges are more independent than elected judges” (Hannsen 1999, 205). Choi, Unah, and Hannsen’s articles are very helpful because it gives me insight into how judges act. Based on the scholarly literature, it is evident that appointed judges are more independent and therefore, it is hypothesized that states that appoint their judges will be less restrictive toward technologies.

In the United States there are four ways in which a judge can be put into office: partisan election, non-partisan election, merit based, or gubernatorial appointment. Because it is being tested whether or not being appointed makes a difference, all of states that appoint their judges, this includes the merit plan, will be coded with a one and all other states with a zero. For this hypothesis, the data was collected from *American Courts: Process and Policy* by Lawrence Baum.

H4: *Supreme Court judges that are appointed will be more likely to be less restrictive toward new technologies within the courtroom.*

Hypothesis #5

An important scholarly article pertaining to this hypothesis was written by Benjamin Highton. He wrote, “Revisiting the Relationship between Educational Attainment and Political Sophistication”. This article was helpful, because it provided valuable information about educational attainment, the independent variable being tested. Highton concluded that “College educational attainment is therefore a proxy for other causes of political sophistication that are already in place by the age of 18” (Highton 2009, 1573). As a result, it is hypothesized that the educational attainment of a state will have a minuscule, yet someone positive effect on a state’s permissiveness. In order to measure the educational attainment of a state, the percentage of a state’s population that received a bachelor’s degree or high was used. The data was collected from the *Statistical Abstract of the United States*.

H5: *The higher the level of education attained in state, the less restrictive a state will be toward new technologies with the courtroom.*

Hypothesis #6

In Keith Krehbiel's 1993 article, "Where's the Party?", Krehbiel claims that the electoral operations will become less partisan and hence more personal. "Eventually, electorally grounded non-partisanship invades the legislation" (Krehbiel 259, 1993). According to Krehbiel, "party leaders in the legislation lose their command over votes on important substantive issues" (Krehbiel 261, 1993). From this statement, it seems that Cox and Krehbiel somewhat agree with each other.

Not all scholars agree with Krehbiel. In Roger Davidson, Walter Oleszek, and Frances Lee's book "Congress and Its Members", the authors state that "party affiliation is the strongest single correlate of members' voting decisions, and in recent years it has reached surprisingly high levels" (Davidson 284, 2008). Based on the literature, there is a split between certain scholars on the subject of whether or not partisanship matters. It is hypothesized that the ideology score will have somewhat of an impact on the restrictiveness of a state toward cameras within the courtroom. The more liberal a state is, the more likely it will allow new technologies within the courtroom. For this variable, data will be used from William D. Berry, Evan J. Ringquist, Richard C. Fording, Russell L. Hanson's "Measuring Citizen and Government Ideology Data".

H6: *States with more liberal ideology score will be less restrictive toward new technologies within the courtroom.*

Hypothesis #7

Media markets vary across the states. Some states such as California make up 11.46% of the United States media market share. On the other hand, other states make up a very small portion. For example, Delaware takes up .168% of the media market share. It is hypothesized

that states with a greater media market share will be more permissive toward new technologies in the courtroom, such as cameras, due to the greater access to the technology by the state's citizens. For this variable, data was collected from Nielsen's Local Television Market Universe Estimates dataset. It includes 210 American cities. Each city was organized by state. Then the US market share percentage from each city was added together.

H7: *States with a greater media market will be less restrictive toward new technologies within the courtroom.*

Hypothesis #8

In 2001, the New York State Bar Association created a special committee on cameras in the courtroom. They collected a myriad of information on how New Yorkers view cameras in the courtroom. When asked whether or not cameras in the court room is a good idea, the majority of those 65 and over believe that it is a bad idea. For everyone under 65, a greater percentage favored cameras in the courtroom. Accordingly, it is hypothesized that states with an older population will be more restrictive toward the allowance of new technologies with the courtroom. For this hypothesis, the data was collected from the *Statistical Abstract of the United States*.

H8: *States that have a high percentage of its population over the age of 65 will be more restrictive toward new technologies in the courtroom.*

In summary, eight hypotheses will be tested in an attempt to discover why certain states are more restrictive than others when it comes to issue of allowing new technologies within the courtroom.

They are:

H1: *States with a higher patent-per-population ratio will be less restrictive toward the allowance of new technologies within the courtroom.*

H2: *States with a higher rural population percentage will be less restrictive toward the allowance of new technologies from within the courtroom.*

H3: *The higher the ability of citizens to affect the state government, the less restrictive the state will be toward new technologies within the courtroom.*

H4: *Supreme Court judges that are appointed will be more likely to be less restrictive toward new technologies within the courtroom.*

H5: *The higher the level of education attained in state, the less restrictive a state will be toward new technologies with the courtroom.*

H6: *States with more liberal ideology score will be less restrictive toward new technologies within the courtroom.*

H7: *States with a greater media market will be less restrictive toward new technologies within the courtroom.*

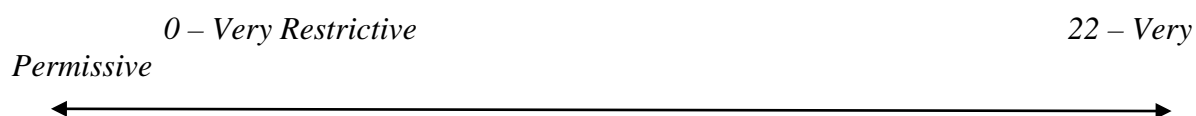
H8: *States that have a high percentage of its population over the age of 65 will be more restrictive toward new technologies in the courtroom.*

In the next section of the research paper, a thorough explanation of the dependent variable will be provided. In order to test the eight hypotheses, each independent variable will be run against the dependent variable. Additionally, a multivariate analysis will be performed. For each bivariate analysis and multivariate analysis, the findings will be explained in great detail.

Chapter 4

Data Analysis

The goal of this research paper is to discover why certain states are more permissive toward the allowance of new technologies within the courtroom than others. The units of analysis are states seeing that this research paper is a state-by-state analysis. Accordingly, the data was collected from every single state. This means that the case selection is the universe of cases. In order to measure a state's tolerance toward the new technologies, a dependent variable was created. It is an additive scale ranging from zero to twenty-two. Zero means that the state is very restrictive toward new technologies in the courtroom while a score of twenty-two means that the state is extremely of new technologies in the courtroom.



In order to create the independent variable, a lot of research was conducted. All fifty state's laws pertaining to the allowance of media in the courtroom was analyzed. After reviewing all of the laws, there were seven points of interest that were mentioned consistently throughout each state's laws. The dependent variable is composed of those seven different components. The table below displays how each state receives points toward its tolerance score:

Table 4-1:

State Allows Audio/Video Webcasts.	State receives THREE points.
State Allows Cameras in Trial Courts.	State receives SIX points.
State Allows Cameras in Appellate Courts.	State receives FOUR points.

State Don't Require Parties to Consent in Order to Have Cameras in the Court.	State receives THREE points.
State Allows More Than One Camera in the Court.	State receives TWO points.
States Does Not Prohibit Cameras from Filming Certain Court Cases	State receives THREE points.
Days Media Needs to Give the Court in Order to Film. 0 Days Notice 1-7 Days Notice 7 + Days Notice	State receives ONE point. State receives ZERO points. States is deducted ONE point.

If a state does not meet these standards, they will receive ZERO points. To see how this independent variable is used, we will examine a very restrictive state and a very permissive state.

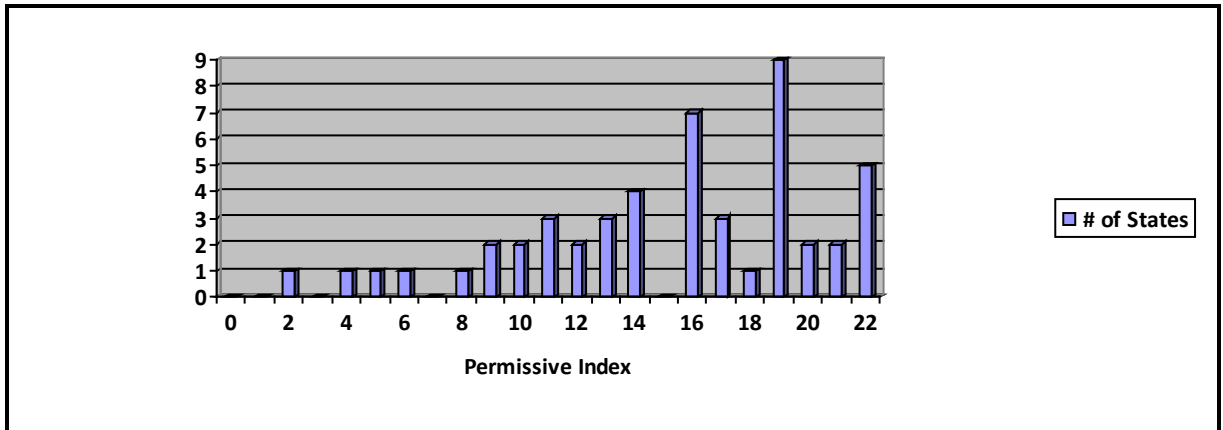
First, let us examine South Dakota. Based on South Dakota's laws, it receives THREE points for allowing audio/video webcasts, ZERO points for not allowing cameras in trial courts, ZERO points for not allowing cameras in appellate courts, ZERO points for requiring parties to consent in order to have cameras in the courtroom, ZERO points for not allowing more than one camera in the courtroom, ZERO points for prohibiting certain cases for being filmed, and ONE point is deducted for requiring the media to give the court 10 days notice. When it is all calculated, South Dakota receives a score of TWO. This is a very restrictive state.

Now let us examine Vermont. Based on Vermont's laws, it receives THREE points for allowing audio/video webcasts, SIX points for allowing cameras in trial courts, FOUR points for allowing cameras in appellate courts, THREE points for not requiring parties to consent, TWO points for allowing more than one camera in the courtroom, THREE points for not prohibiting cameras from filming certain cases, and ONE point for not requiring the media to give notice to the court before filming. Vermont receives a score of 22. This is a very permissive state.

After collecting the data to create the State Restrictiveness Dependent Variable, there appeared to be a wide variance among the fifty states. The most permissive states were Florida,

New Hampshire, North Dakota, Vermont, and Wisconsin. They all had an index score of 22. The most restrictive state was South Dakota with an index score of 2. The mode index score was 19 and the mean was 15.18.

Figure A: Dependent Variable across the States



First, let us examine how policy diffusion may affect states adopting laws regarding technologies in the courtroom. It may not explain why certain states are more restrictive than others, but it is still interesting.

Figure B: States with Laws Pertaining to Cameras in the Courtroom in the 1950s

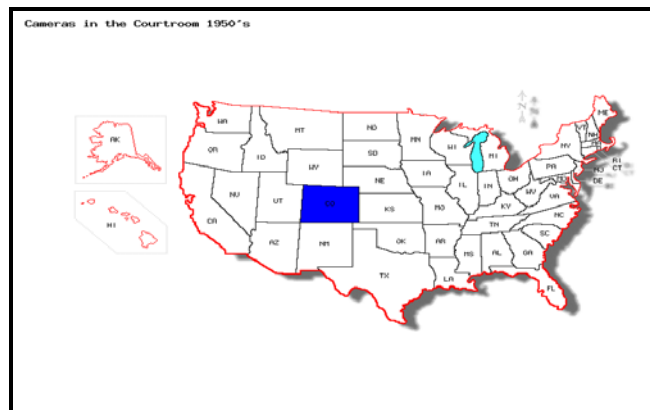


Figure C: States with Laws Pertaining to Cameras in the Courtroom in the 1970s

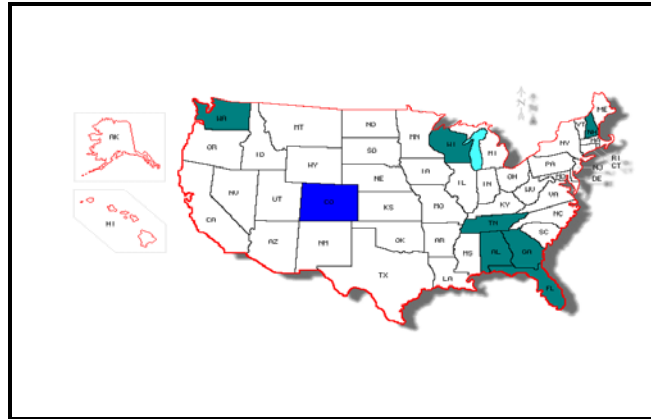


Figure D: States with Laws Pertaining to Cameras in the Courtroom in the 1980s

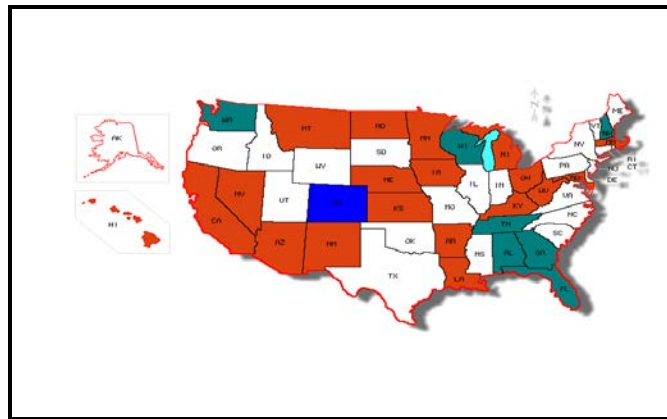


Figure E: States with Laws Pertaining to Cameras in the Courtroom in the 1990s

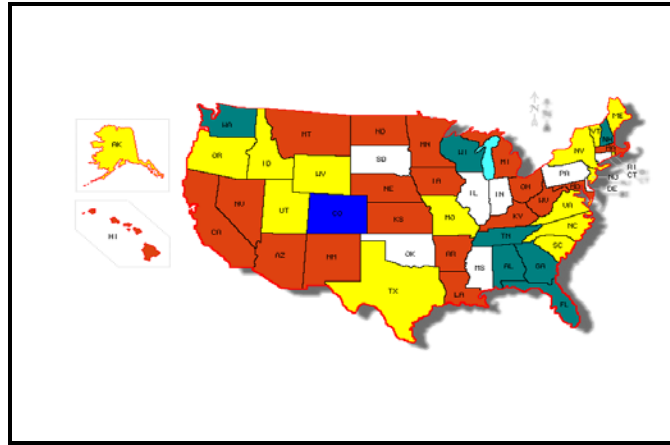


Figure F: States with Laws Pertaining to Cameras in the Courtroom in the 2000s

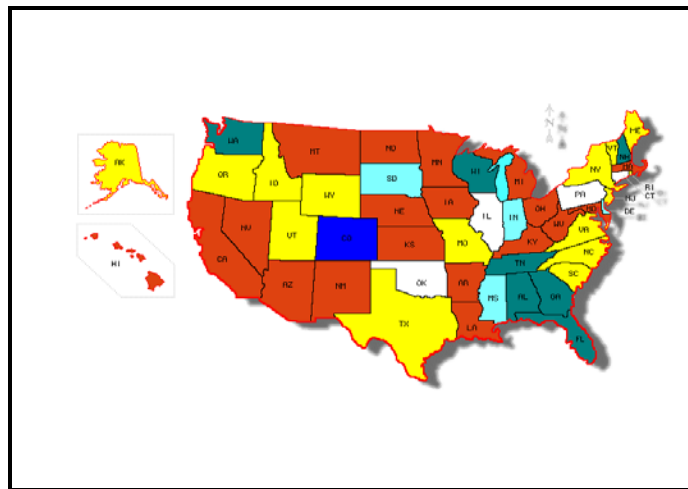
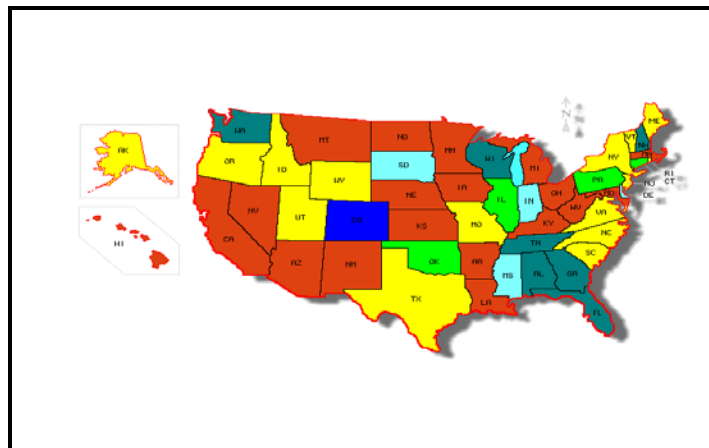


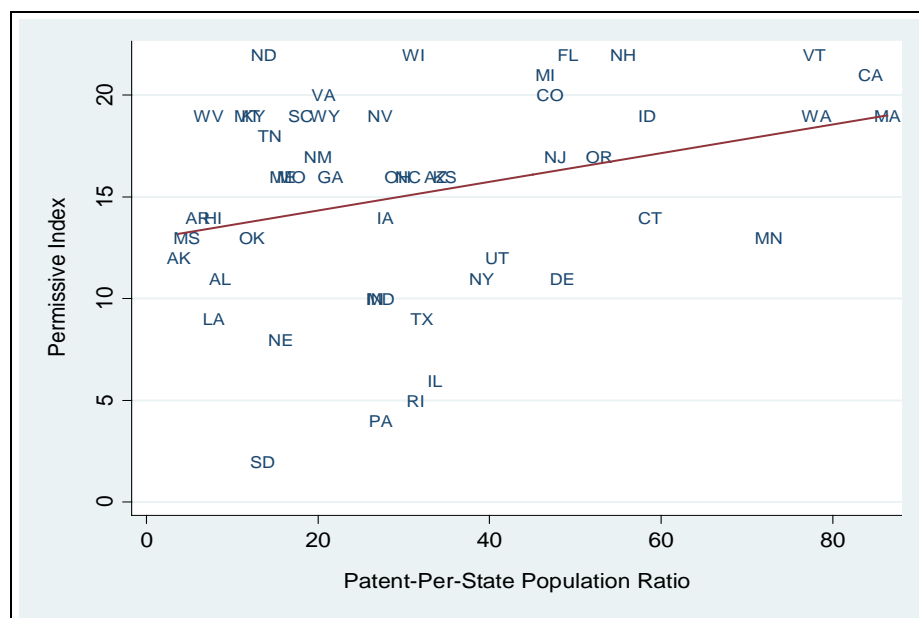
Figure G: States with Laws Pertaining to Cameras in the Courtroom in the 2010s



For this research project, a bivariate analysis was performed for each of the eight independent variables. This was done by running the independent variable against the created dependent variable, which ranged from two, being very restrictive, to twenty two, being very permissive. All of the bivariate regressions will be discussed.

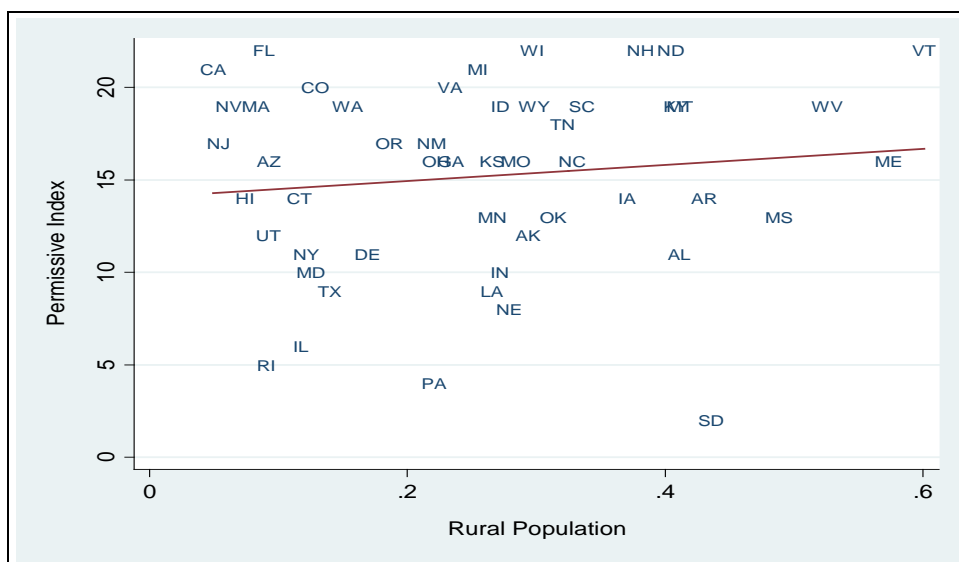
The first variable that was tested was the patent-per-state population ratio. It was hypothesized that the higher the patent-per-state population ratio, the more permissive a state would be toward technologies within the courtroom. After running the bivariate analysis, this variable proved to be statistically significant with a p-value of 0.031. If the patent-per-state population ratio went up by one increment, then the permissive index would increase by .07. For example, currently, Louisiana was a permissive index of 9 and a patent-per-state population ratio of 7.91. If Louisiana's patent-per-state population ratio increased to 21.9, the permissive index would increase to about 10.

Figure H: Patent-Per-State Population x Permissive Index



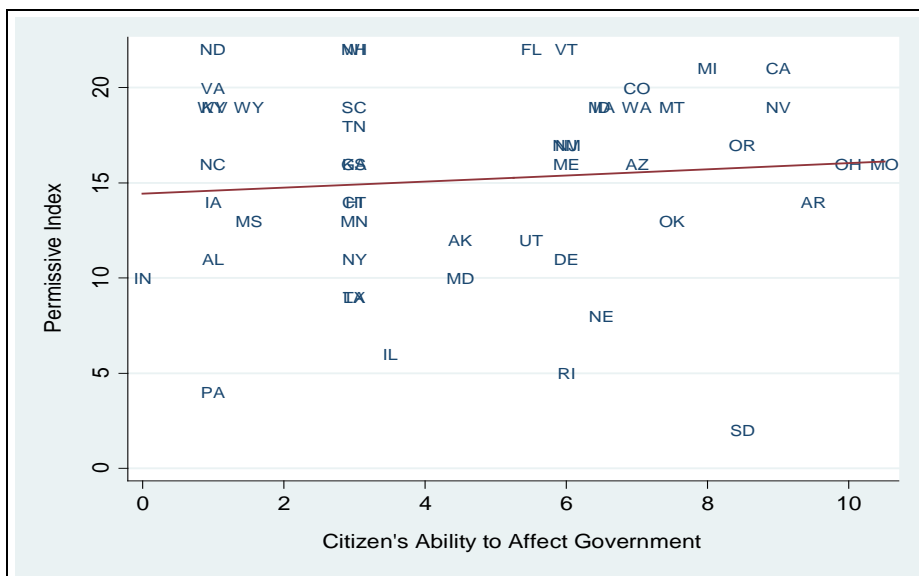
The second variable that was tested was the rural population of a state. It was hypothesized that the higher the rural population in a state is, the more permissive the state would be toward technologies in the courtroom. After running the bivariate analysis, this variable was statistically insignificant. It had a p-value of .399. If the rural population was increased by one increment, the dependent variable would increase by 4.3.

Figure I: Rural Population x Permissive Index



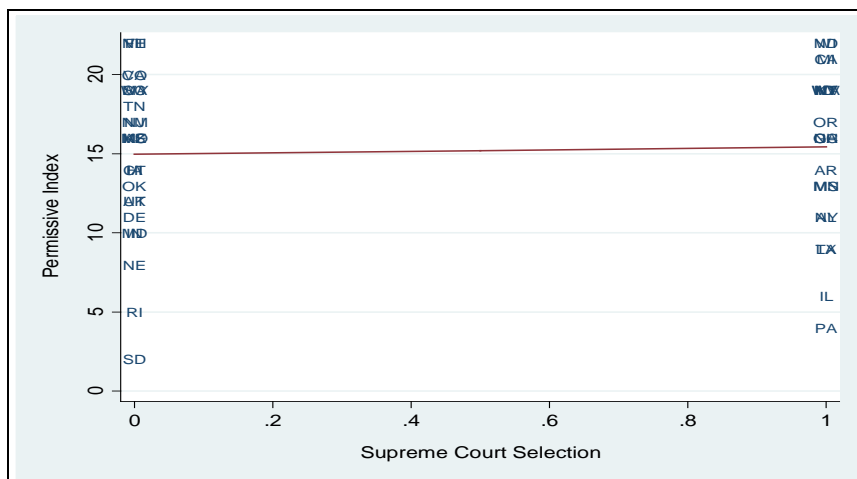
The third variable that was tested was the ability of the citizens to affect the government. It was hypothesized that the higher the citizen's ability to affect government, the more permissive the state would be toward allowing technology use in the courtroom. After running the bivariate analysis, this independent variable proved to be statistically insignificant. Its p-value was .534. If the independent variable was increased by one increment, the permissive index would increase by .159.

Figure J: Citizen's Ability to Affect Government x Permissive Index



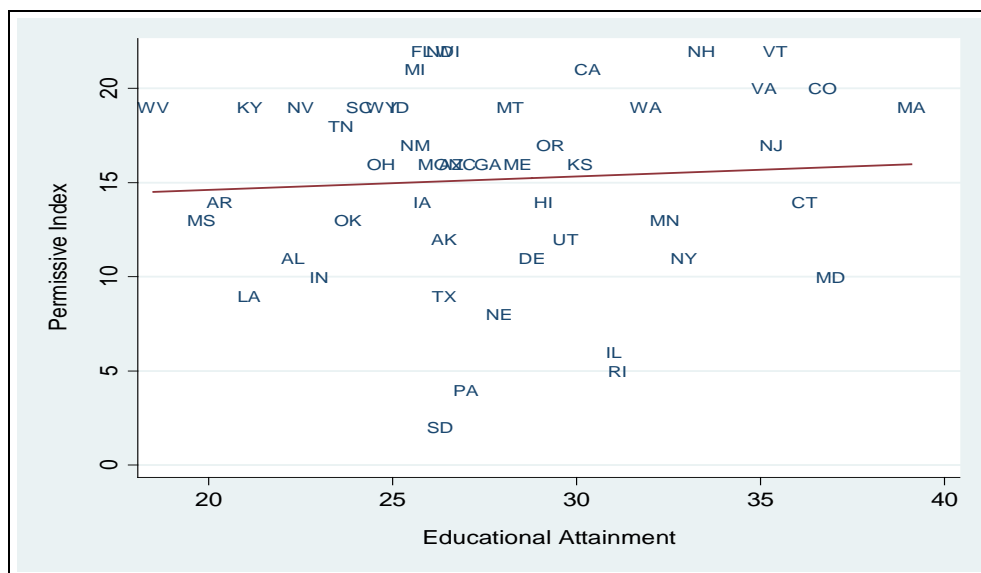
The fourth bivariate analysis was run for the state's selection of Supreme Court judges. Based on the literature, it was hypothesized that states that appoint their judges would be less restrictive toward technologies in the courtroom. Because this is one of the few variables that directly correlate with the courtroom, it was hypothesized that this may be the main factor causing the variance, but after running the bivariate analysis, this variable was completely statistically insignificant. This variable had a p-value of .747 and the coefficient is .471.

Figure K: Supreme Court Selection x Permissive Index



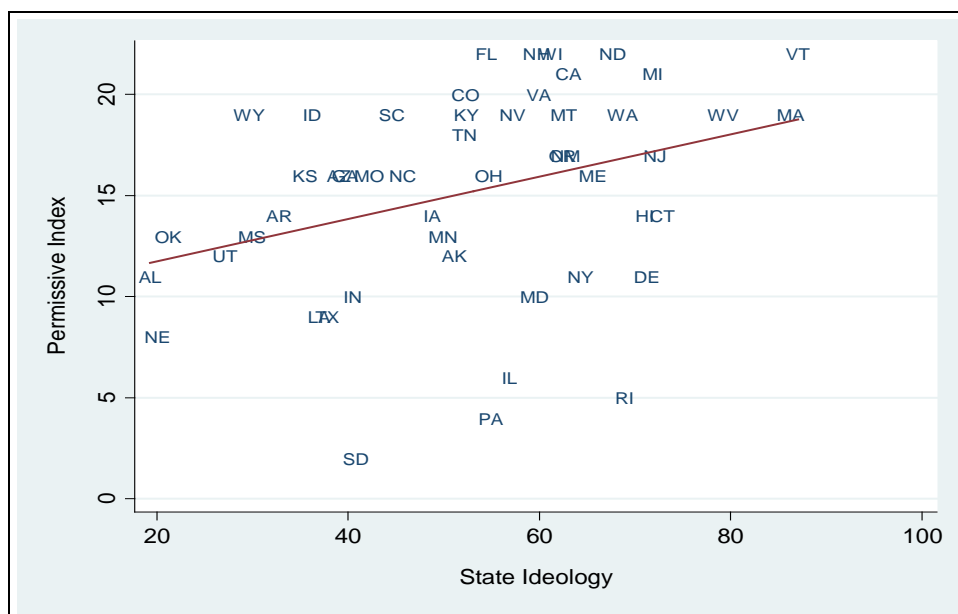
The fifth independent variable that was tested was level of educational attainment of a state. It was hypothesized that the higher the level of educational attainment was, the more permissive a state would be toward the use of new technologies in the courtroom. After running the data, the level of educational attainment proved to impact a state's permissiveness. Its p-value was .639 and if the independent variable was increased by one increment, the dependent variable would increase by .071

Figure L: Educational Attainment x Permissive Index



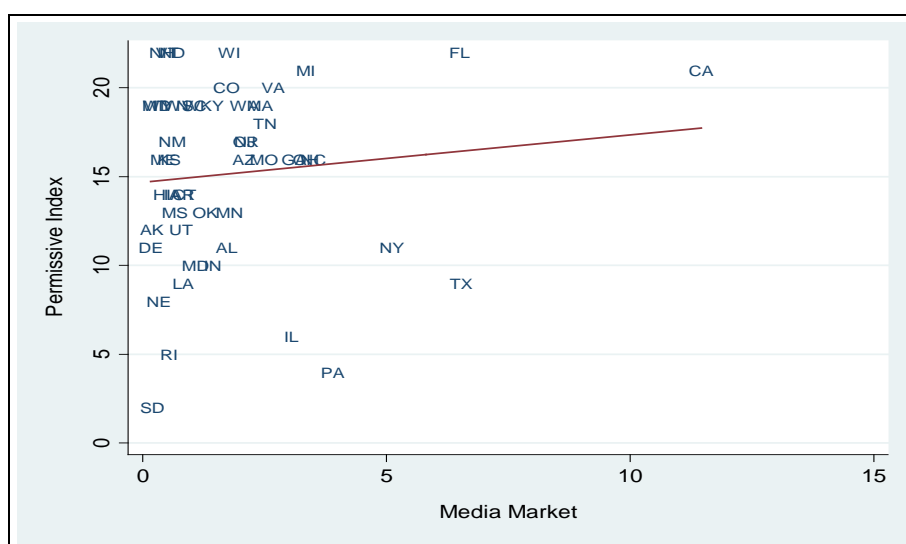
The sixth variable that was tested in this research design was the state ideology collected from William D. Berry, et al. (2010). It was hypothesized that the higher the ideology score of a state, the more permissive a state would be toward allowing new technologies in the courtroom. After running the data, this variable was statistically significant with a p-value of .014. If the independent variable increased by one increment, the permissive index would increase by .10. For example, Texas has an ideology score of 37.82 and a permissive index of 9. If Texas's ideology score was increased to 47.82, it would have a new permissive index of 10.

Figure M: State Ideology x Permissive Index



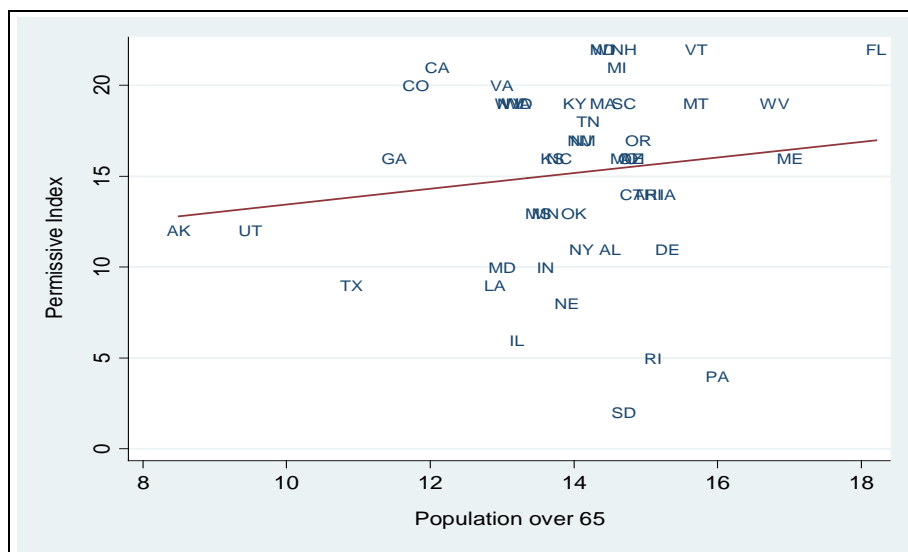
The seventh independent variable that was tested was the media market of the state. It was hypothesized that the greater the media market of a state, the more permissive it would be toward to new technologies in the courtroom. It had a p-value of .455, so this variable is insignificant. Its coefficient was .267.

Figure N: Media Market x Permissive Index



The eighth and final independent variable that had a bivariate analysis performed on it was the percentage of the state's population that is over 65 years of age. Based on a study done by the New York State Bar Association, it was hypothesized that the older a state's population is, the more restrictive it would be toward allowing technologies inside a courtroom. After running the data, it can be concluded that the state's population's age has no impact on whether or not the court allows technologies within it. This variable had a p-value of .320 and its coefficient was .432.

Figure O: Percentage of the State Population over 65 x Permissive Index



After the bivariate analyses were completed, the next step was to perform the multivariate analysis. This will be the best indicator to show what truly causes certain states to be restrictive or permissive toward technologies within the courtroom. The results from the analysis were interesting. The r-squared is the percent of variance in the dependent variable explained by all of the independent variables. In the case of this dataset, the r-squared was .268. The constant is the value the dependent variable takes on when all of the independent variables take on a value of zero. After running the bivariate analysis, the constant's coefficient was 18.04 with a p-value of .065

Table 4-2:

Variable	Coefficient	P-Value	Significance
Patent-Per-State Ratio	.097	.048	**
Rural Population	10.62	.099	*
Citizens Affect Government	.075	.767	
Supreme Court Selection	(-)1.36	.419	
Educational Attainment	(-).364	.138	
State Ideology	.118	.036	**
Media Market	.267	.526	
Population Above 65	(-).360	.469	
Standard errors are reported under the coefficients. *=p<0.10, **=p<0.50, ***=p<0.01			

After running the bivariate analyses, two variables were statistically significant: the patent-per-state ratio and the state ideology. However, when all the variables were run together against the dependent variable, an additional variable, rural population, became statistically significant.

The patent-per-state population ratio had a p-value of .048 and a coefficient of .097. That means that if the patent-per-state ratio was increased by one increment, the permissive index would increase by .097. Hypothetically, Louisiana's ratio increased from 7.91 to 30.91, its permissive index would increase from 9 to 12. This means that innovative states are more permissive toward the allowance of new technologies in the courtroom.

The percentage of the state's rural population variable had a p-value of .099 with a coefficient of 10.62. If New York's rural population increased from 12% to 13%, New York's permissive index would increase from 11 to 21.61. This means that states with a higher percentage of its people living in rural areas are more permissive toward the allowance of new technologies in the courtroom.

The last statistically significant variable was the ideology of a state. It had a p-value of .036 and a coefficient of .118. If Texas's state ideology score increased from 37.82 to 47.82, its permissive index would increase from 9 to a little more than 10.

A state with a high share of the media market was hypothesized to be more permissive toward technologies in the courtroom. One reason that it was statistically insignificant could be due to large media markets such as New York being very restrictive and very small media markets such as New Hampshire being very permissive. New York has a permissive index of 11 and makes up 5.1% of the entire media market in the United States. On the other hand, New Hampshire has a permissive index of 22 but only makes up 0.4% of the media market. Perhaps if the major outliers were taken out of the equation, this variable would have been more statistically significant.

One interesting variable that was statistically insignificant was the population above 65 variable. In the report commissioned by the New York State Bar Association, they found that an

overwhelming majority of senior citizens would not approve of cameras in the courtroom.

However, when it was tested across all of the states, the independent variable had a p-value of .469 thus rendering it insignificant.

In conclusion, after running the multivariate analysis, the patent-per-state population ratio the rural population, and the state ideology score variables were significant. In the following section, the findings will be reiterated. It will also include a discussion about the limitations of this research and will offer suggestions for future research on this subject.

Chapter 5

Conclusion

Hopefully the research conducted here has expanded our understanding of technologies in the courtroom. The research question began with “Why are certain states more restrictive toward new technologies in the courtrooms while others are more permissive?” In order to determine why this occurs, the question was analyzed empirically by performing bivariate and multivariate analyses. After running the bivariate analyses, two of the variables were proven statistically significant. They were the patent-per-state population ratio and the state ideology. However, when the multivariate analysis was performed, three variables were significant. The two that were just mentioned remained significant but this time, the rural population became a statistically significant variable.

Three of the eight hypotheses were statistically supported. However, just because the other five were not statistically significant does not mean that we cannot learn anything from these findings. A null hypothesis refers to when there is no relationship between the two measured phenomena. In the case of this research question, the findings indicate that the ability for citizens to affect government, the Supreme Court selection, the educational attainment, the media market, and the percentage of the state population’s age over 65, have no relationship with a state’s restrictiveness toward the use of new technologies within the courtroom. Of all of those hypotheses, the one that perplexed me the most was the selection of Supreme Court judges. Of all the hypotheses, this was the only one that dealt directly with the court system. There was strong literature saying that appointed judges would play a factor, but after running the data, they clearly do not.

The findings from this paper contribute toward the literature on new technologies in the courtroom. Before this experiment was conducted, little to no empirical research had been performed to discover the variance among the states. Now we can confidently say that some of the variance is due to how liberal a state is. The sixth hypothesis proffered that states with a higher state ideology score will be less restrictive toward new technologies within the courtroom, which was ultimately proven to be true.

Every research question and analysis has its limitations, and this research paper is no exception. One of the biggest limitations was creating an accurate dependent variable that measured the restrictiveness of a state toward the allowance of technologies within the courtroom. The New York State Bar Association conducted the most recent study on this topic in 2001. The group created a permissive scale of the states. The main difference between this research paper's index and the one from the New York State Bar Association was that their scale ranged from 1-3 while the scale created for this research paper spanned was 0-22. Nevertheless, if you divide the created scale into thirds, the restrictive index score aligned precisely with that of the New York State Bar Association.

Another limitation in this research is that the use of Twitter in the courtroom is a new concern to the courts and little legislation has been passed on it. That being said, problems have been arising due to Twitter. For example, a Judge Charles Burns in Cook County, Illinois banned anyone from using Twitter or social media in a trial (Erbenraut 2012). Although a decision was made in this county, the state itself has not made a ruling on the allowance of social media in the courtroom. A state-by-state analysis was performed. Rulings from local counties provided nothing to the research design at this point in time.

This research paper should be a foundation for future research done on discovering why certain states are more restrictive toward new technologies in the courtroom. As previously mentioned, the best thing to do in future studies is to wait until state laws are passed pertaining to social media in the courtroom. Another recommendation for future researchers is to conduct an event history analysis on this topic. Data should be collected from every year going back to 1959 when Colorado allowed cameras in the courtroom. It would be interesting to observe the changes and determine what caused them.

The battle between the Freedom of the Press and the Right to a Fair Trial will probably never come to an end. New technologies will continue to emerge and discrepancies between journalists, the public, and lawmakers will ensue. Although this debate will continue, it does not mean we cannot understand why states make the decisions that they do as a result of this debate. Hopefully the findings from this research combined with the findings from future research on this topic will give us a better understanding as to why there is variance among the states when it comes to restricting new technologies from the courtroom.

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Dean's List, Schreyers Honors College, 2010 – present
Hartnett Cwenser Trustee Scholarship recipient, College of Liberal Arts, 2011 – 2012
President's Freshman Award, March 2011

MEMBERSHIP: Phi Beta Kappa, Lambda of Pennsylvania, Honors Society, 2013 – present

Phi Eta Sigma, Honors Society, 2011 – present

Delta Tau Delta, Fraternity, 2010 – present

President, 2012; THON Chairperson, 2013

Men Against Violence, 2013

WORK EXPERIENCE:

DELTA TAU DELTA, State College, PA

9/10 - present

President, Tau Chapter

- Managed \$200,000 annual budget with responsibilities for 80+ active members
- Held weekly meetings with board members to address all Chapter matters
- Acted as liaison between Chapter and Alumni Association, Delta Tau Delta National Fraternity, and Penn State Interfraternity Council

THON Chairperson

- Coordinated efforts to raise \$100,000+ for children with pediatric cancer
- Orchestrated fundraising road trips, raffle of Mario Lemieux autographed hockey jersey

STEEL CACTUS, Pittsburgh, PA

5/13 – 8/13

Restaurant Head Server and Trainer

- Served and prepared food and beverages
- Supervised and trained new hires on process and procedures

GENERAL WIRE AND SPRING, McKees Rocks, PA

5/12 – 8/12

Steel Worker, United Steel Workers of America (Union 5032)

- Managed team of 5 in production of plumbing products
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