

23-107. Broadcasting, televising, photographing and recording of court proceedings; guidelines.

Statute text

The broadcasting, televising, photographing and recording of court proceedings in the Supreme Court, Court of Appeals, district and metropolitan courts of the State of New Mexico are hereby authorized in accordance with the guidelines promulgated herewith which contain safeguards to ensure that this type of media coverage shall not detract from the dignity of the court proceedings or otherwise interfere with the achievement of a fair and impartial hearing.

GUIDELINES:

A. **Discretion of judges.** Live coverage of proceedings shall not be limited by the objection of counsel or parties, except that the court reserves to the individual courts the right to limit or deny coverage for good cause.

(1) Media coverage in the courts is subject at all times to the authority of the judge or judges to: (a) control the conduct of the proceedings before the court; (b) ensure decorum and prevent distractions; and (c) ensure fair administration of justice in the pending cause.

(2) The presiding district judge has sole and plenary discretion to exclude coverage of certain witnesses, including but not limited to the victims of sex crimes and their families, police informants, undercover agents, relocated witnesses and juveniles.

(3) Neither the jury nor any member of the jury may be filmed in or near the courtroom, nor shall the jury selection process be filmed.

(4) The judge has discretionary power to forbid coverage whenever the judge is satisfied that coverage may have a deleterious effect on the paramount right of the defendant to a fair trial.

(5) Audio pickup, broadcast or recording of a tender of evidence offered by a party for the purpose of determining admissibility made before the judge out of the hearing of the jury is not permitted.

(6) Audio pickup, broadcast, photography, televising or recording of a conference in the courtroom between members of the court, court and counsel, co-counsel or counsel and client is not permitted.

B. **Notice.** The broadcasters, photographers and recorders shall notify the clerk of the particular court at least twenty-four (24) hours in advance of coverage of their desire to cover the trial. Each trial judge may, in the judge's discretion, lengthen or shorten the time for advance notice for coverage of a particular trial.

C. **Decorum.** The decorum and dignity of the court, the courtroom and the proceedings must be maintained at all times. Court customs must be followed, including appropriate attire. Movement in the courtroom shall be limited, except during breaks or recess. The changing of tapes, film magazines, film and similar actions during the proceedings shall be avoided.

D. **Standards.** The media shall maintain high journalistic standards regarding the fairness, objectivity and quality of the coverage allowed under these guidelines.

E. **Equipment and personnel.** Unless otherwise agreed upon by the court, equipment and personnel within the courtroom or hearing room shall be limited as follows:

(1) All equipment shall be operated behind the rail.

(2) Not more than one portable television camera operated by not more than one camera person shall be permitted. Only natural lighting shall be used. Cameras shall be quiet and shall be

placed and operated as unobtrusively as possible within the courtroom at a location approved by the court. The cameras shall be in place at least fifteen (15) minutes before the proceedings begin.

(3) Not more than two audio systems shall be permitted. All running wires shall be securely taped to the floor. Multiple radio feeds shall be provided by a junction box.

(4) Not more than two still photographers, utilizing not more than one still camera each, shall be permitted. The cameras must not produce any distracting sounds. Only natural lighting shall be used. Still photographers shall remain in one place during the proceedings, but they may shift positions during breaks or recess.

(5) Tape recorders may be used by members of the media, so long as they do not constitute a distraction during the proceedings.

(6) Any pooling arrangements necessary shall be the sole responsibility of the media and must be concluded prior to coverage without calling upon the court to mediate any dispute regarding appropriate media and personnel.

F. **Inapplicability to individuals.** The privileges granted by these rules may be exercised only by persons or organizations that are part of the news media.

G. **Objections limited.**

(1) An appellate court shall not exercise its appellate or supervisory jurisdiction to review at the request of any news media persons or organization seeking to exercise a privilege conferred upon them by these rules, any order or ruling of any judge under these rules.

(2) Any party may request, or object to, cameras in the courtroom by written motion, which may be supported by affidavits, which motion shall be filed not later than fifteen (15) days prior to trial. No other evidence shall be presented.

The trial court shall consider the motion and grant or deny the same. The trial judge shall state the judge's reasons for the judge's ruling on the record.

H. **Impermissible use of media material.** None of the film, videotape, still photographs or audio reproductions developed during or by virtue of coverage of a judicial proceeding shall be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent or collateral thereto, or upon any retrial or appeal of such proceeding.

I. **Other courts.** The broadcasting, televising, photographing and recording of court proceedings in courts other than the appellate, district and metropolitan courts of New Mexico is prohibited.

History

[As amended, effective September 1, 1989; August 17, 1999.]

Annotations

COMPILER'S ANNOTATIONS

The 1999 amendment, effective August 17, 1999, made gender neutral changes throughout the rule.

The news media had standing in the supreme court to intervene in a criminal case to question the validity of a lower court order impairing its ability to report the news. The proper approach lies in a separate action for declaratory judgment, mandamus or prohibition. *State ex rel. New Mexico Press Ass'n v. Kaufman*, 1982-NMSC-060, 98 N.M. 261, 648 P.2d 300.

Showing of prejudice required to bar media coverage. — The tendency of television cameras in the courtroom to make a defendant nervous or rattled is certainly a likely effect to be considered, but if defendant has failed to present any evidence in support of his assertion that televising portions of the proceedings would prejudice the presentation of his testimony, he will be overruled on this challenge. *State v. Hovey*,