

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8009

ADM10-8049

**ORDER ESTABLISHING COMMENT PERIOD
ON PROPOSED AMENDMENTS TO THE
GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS**

By order filed August 12, 2015, we authorized a pilot project that allowed audio and video coverage in certain criminal proceedings without the consent of the parties. *Order Promulgating Amendments to Minn. Gen. R. Prac.*, No. ADM09-8009, at 1-2 (Minn. filed Aug. 12, 2015). The pilot project was conducted under Rule 4.02(d) of the General Rules of Practice, and we directed the Minnesota Supreme Court Advisory Committee on the Rules of Criminal Procedure to monitor and report on that project by providing recommendations for continuation, abandonment, or modification of the pilot project, or “permanent codification” of rules to govern coverage in criminal proceedings. *Id.* at 2.

The committee has filed a report on the pilot project, recommending that the procedures for audio or video coverage of criminal proceedings be permanently codified in Rule 4 of the General Rules of Practice. The committee also recommends amendments to the rule to address issues regarding coverage that were raised during the pilot. The committee’s report with the proposed amendments to the General Rules of Practice is attached to this order.

The court will consider the committee’s recommendations and the proposed amendments to the General Rules of Practice after providing for a public comment period.

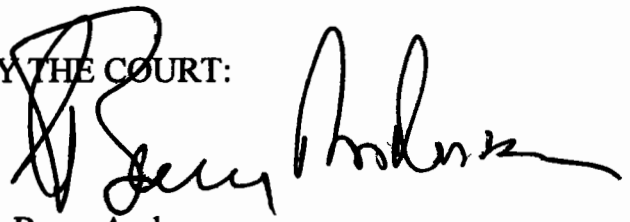
IT IS HEREBY ORDERED THAT:

1. Any person or organization wishing to provide written comments in support of or opposition to the recommended permanent codification of the pilot provisions that permit audio and video coverage in certain criminal proceedings, or the proposed amendments to the General Rules of Practice, shall file one copy of those comments with the Clerk of the Appellate Courts, using the appellate courts' electronic filing system if required to do so, *see* Minn. R. Civ. App. P. 125.01(a)(1). All comments shall be filed so as to be received on or before March 26, 2018.

2. A hearing will be held before this court to consider the recommended permanent codification of the pilot provisions and the amendments to the General Rules of Practice. The hearing will be held on April 25, 2018, in the Supreme Court Courtroom, State Capitol, Saint Paul, Minnesota at 10 a.m. Any person or organization wishing to make an oral presentation at the hearing in support of or in opposition to the committee's recommendations shall file a request to appear at the hearing, using the appellate courts' electronic filing system if required to do so, *see* Minn. R. Civ. App. P. 125(a)(1), along with one copy of the material to be presented. All such requests shall be filed so as to be received on or before March 26, 2018.

Dated: January 24, 2018

BY THE COURT:


G. Barry Anderson
Associate Justice

FILED

December 20, 2017

**REPORT AND PROPOSED AMENDMENTS TO THE
MINNESOTA RULES**

**MINNESOTA SUPREME COURT ADVISORY COMMITTEE
ON RULES OF CRIMINAL PROCEDURE**

ADM10-8049
ADM09-8009

December 20, 2017

Hon. Michelle Larkin, Chair

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Hon. Joy Bartscher	Andrew Mohring
Andrew Birrell	Julie Munkelwitz
David Brown	Virginia Murphrey
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Hon. Richard Kyle, Jr.	Greg Widseth
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Hon. David Lillehaug
Supreme Court Liaison

Karen Kampa Jaszewski
Staff Attorney

I. INTRODUCTION

In an August 12, 2015 order, the Supreme Court amended Rule 4 of the General Rules of Practice to authorize a pilot project that permitted, without the consent of the parties, limited audio and video coverage for certain criminal court proceedings. The amendment took effect on November 10, 2015. As directed by the Court in its order, the Committee worked with the State Court Administrator's Office (SCAO) to monitor the pilot and prepare this report, which summarizes the information collected, the issues the Committee discussed, and the Committee's recommendations regarding the pilot and Rule 4 of the General Rules of Practice.

II. DATA COLLECTED

During the pilot, the Committee, with the assistance of the SCAO Court Information Office (CIO) and research staff, collected and analyzed data on requests for coverage under the pilot rule, Minn. Gen. R. Prac. 4.02(d). Standard court forms and data-entry practices were developed for use during the pilot to facilitate tracking and review of media notices, victim consents to coverage, and court orders regarding coverage. Information was collected regarding the conditions under which coverage was permitted and the reasons why requests were denied. Additionally, judges, parties, victims, and other courtroom participants were surveyed regarding the impact of and reaction to the permitted coverage.

The Committee met periodically throughout the pilot. At each meeting, the Committee received an updated report from the CIO and research staff, and reviewed and discussed the data and survey responses. In total, 18 months of coverage data and survey responses were collected and analyzed. The data and survey collection concluded at the end of May 2017 to allow time for the information to be compiled and analyzed for this report. A summary analysis of the survey data is attached; confidential survey responses and other nonpublic data will be made available to the Court separately from this report.

During the 18-month data-collection period, there were 135 media coverage requests in 79 different cases. Coverage was granted and occurred in 49 cases during the data-collection period, and four pending coverage requests were granted after the end of the data-collection period. In total, coverage was granted in 53 cases. Coverage was denied in 25 cases for the following reasons: coverage was prohibited under rule (ten cases); victim safety and privacy concerns (nine cases); the media request was untimely (four cases); and the defendant's privacy concerns (one case). In one case, the reason for denial is not noted in the court record. In another case, the coverage request was neither granted nor denied because the case did not result in conviction; that case was excluded from the analysis.

The number of cases in which coverage was requested represents less than .2% of all cases that resulted in felony convictions during the 18-month data-collection period. The percentage is much lower when cases with a coverage request are compared to all felony and non-felony cases that resulted in a conviction during the data-collection period. Thus, the data set collected, analyzed, and presented in this report regarding cases in which coverage was requested is not statistically significant. Nonetheless, the Committee notes that almost half of the 79 cases in which coverage was requested, and half of the 53 cases in which coverage was granted, were murder cases. The remaining cases involved a variety of felony and non-felony offenses. Again, based on the small number of cases in which coverage was requested, the data, including data regarding each defendant's race, are not statistically significant. Nonetheless, the racial breakdown shows no disproportionate minority representation either in the cases in which coverage was requested, or in the cases in which coverage was granted or denied.

During the pilot, 229 survey responses were received. The attached summary of the survey data shows how respondents as a whole answered each question regarding the effect of the presence of a camera on the proceedings, as well as how the following seven groups responded: court administration/court reporters, defendants, defense attorneys, judges, the media, prosecutors, and victims. The survey data reveal that a majority of the respondents reported that the cameras had no effect on the proceeding, and that holds true for the responders as a whole, as well as for each of the seven groups. To the extent there was concern about the potential negative effects cameras could have on criminal proceedings, the data indicate that the majority of those surveyed did not perceive a negative effect.

III. ISSUES DISCUSSED

A. Logistics. Throughout the pilot, the CIO worked with the media and media coordinators statewide to facilitate coverage. The following issues were identified early in the pilot: the potential for disruption to other cases on the calendar; the lack of notice to parties and participants in other cases that cameras would be present in their courtroom, even if not in use; the need to coordinate with courthouse security to prepare for the media presence, including security screening; the benefit of signage indicating when proceedings are being recorded and when the cameras are off; the need to plan for camera placement, especially in smaller courtrooms; and the critical role judges play in managing the courtroom and explaining the order permitting coverage and the judge's expectations. Having identified these issues early in the pilot, the CIO was able to work effectively with the media, court staff, and judges to minimize disruptions. The Committee discussed whether any rule changes are needed to address these issues but ultimately agreed that most of the issues can effectively be addressed through planning and education. In fact, the 2016 Annual Conference of Judges included a training session regarding the pilot and how to effectively manage cameras in the courtroom. The only recommended rule change is to clarify that the judge's authority under Rule 4.04 to

regulate any aspect of the proceedings includes the ability to limit coverage of non-parties who are present in the courtroom.

B. Victim-Related Issues. Early in the pilot, a question was raised regarding a provision in the pilot rule that prohibits coverage “in cases involving charges of family or ‘domestic’ violence as defined in Minnesota Statutes section 609.02, subdivision 16.” The question is whether the rule prohibits coverage only of domestic-violence cases or whether the rule prohibits coverage of any case that includes one of the offenses listed in Minn. Stat. § 609.02, subd. 16:

a violation of or an attempt to violate sections 518B.01, subdivision 14 (violation of domestic abuse order for protection); 609.185 (first-degree murder); 609.19 (second-degree murder); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.2245 (female genital mutilation); 609.2247 (domestic assault by strangulation); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.377 (malicious punishment of a child); 609.713 (terroristic threats); 609.748, subdivision 6 (violation of harassment restraining order); 609.749 (stalking); 609.78, subdivision 2 (interference with an emergency call); 617.261 (nonconsensual dissemination of private sexual images); and 629.75 (violation of domestic abuse no contact order); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

Because the statutory definition of “domestic” violence does not limit the included offenses to those that are domestic-violence related, Rule 4 arguably prohibits coverage of cases that do not involve domestic violence. Based on the assumption that the rule is intended to prohibit coverage of only domestic-violence cases, the Committee recommends an amendment to Rule 4, clarifying that coverage is prohibited only in those cases in which the “victim is a family or household member as defined in Minn. Stat. § 518B.01, subd. 2(b).”

As part of its discussion of this issue, the Committee also considered whether the prohibition of domestic-violence coverage should apply in cases in which the victim is deceased. The Committee recognizes that domestic-violence cases involve sensitive and complicated issues. However, the Committee believes that the victim concerns that underlie the prohibition of domestic-violence coverage are not as significant when the victim is deceased. Thus, the Committee recommends an amendment to prohibit coverage of domestic-violence related offenses listed in Minn. Stat. § 609.02, subd. 16, except murder.

The Committee also recommends adding Minn. Stat. § 609.185(a)(2) (causing the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence) to the provision prohibiting coverage in cases involving charges under Minn. Stat. §§ 609.293-.352. These cases typically involve the most egregious and salacious facts, which are usually described at the sentencing hearing. Coverage of such circumstances does not further the goals of audio and visual coverage of criminal proceedings.

Finally, the Committee recommends eliminating the word “testifying” from the victim-coverage provision, Rule 4.02(d)(iv), in order to preclude coverage of victims who do not testify at sentencing, but who provide a victim impact statement under Minn. Stat. § 611A.038. The Committee also recommends amending the rule to state that any person providing an impact statement as the victim’s proxy must also consent to coverage.

C. Reasons for Denying Coverage. The Committee notes that one order denying coverage cited the defendant’s objection as the only reason even though under the rule coverage is to be presumptively granted regardless of the agreement of the parties. The Committee recommends that the rule be amended to clearly state that the lack of consent by the parties is not good cause to deny coverage.

The Committee also notes that some orders denying coverage cited as a basis to deny coverage the fact that the guilty plea had not yet been accepted, even though the guilty plea would likely be accepted at the sentencing hearing. To avoid automatic denials of coverage requests in cases in which a judge delays acceptance of the guilty plea until the sentencing hearing, the Committee recommends an amendment stating that the fact that guilt will not be adjudicated until the sentencing hearing is not a basis to deny coverage of the sentencing.

D. Miscellaneous Issues. During the pilot, the media occasionally requested permission for still photography rather than video coverage and it was not clear what process or standards should apply. The Committee recommends that the same rules that apply to requests for video coverage should apply to requests for still photography. The Committee acknowledges that it was tasked with addressing only the pilot provisions related to criminal proceedings. However, for the sake of consistency, the Committee recommends additional amendments to standardize all of the provisions of Rule 4 so they will apply to all types of visual and audio coverage, rather than having provisions specific to photography and provisions specific to videography.

Questions also arose during the pilot regarding whether the media notices of coverage should be filed and, if so, whether they should be e-filed. The Committee recognizes the benefits of e-filing, which ensure the notice is attached to the case and provided to the judge and parties in a timely, efficient manner. However, the Committee

learned through the pilot that having the media utilize eFS, the district court e-filing system, can be problematic. Thus, the Committee does not recommend requiring that notices be filed or e-filed. Instead, the Committee recommends that the rule require the media to provide notice to the district court judge and court administrator, who shall promptly provide a copy of the notice to all counsel of record, as well as any parties appearing without counsel. The Committee recognizes that requiring court administration to provide notice to the parties imposes a new responsibility on court administration. However, based on information shared during the pilot it is clear that court administration is in a better position than the media to identify the parties and provide notice to them. Moreover, having court administration notify the parties may actually require less time and effort than court administration spends answering media inquiries about the parties' identification and contact information. Again, the Committee acknowledges that it was tasked with addressing only criminal proceedings, but the Committee recommends this notice process for all media coverage requests for the sake of consistency.

The Committee notes that Rule 4.03(b) seems quite clear that the media is not a party, but nonetheless recommends that a statement be added specifically stating that the media is not a party to avoid any confusion or unnecessary litigation regarding this issue. The Committee recommends eliminating the Rule 4.03(e)(ii) requirement that media coordinators notify the CIO of all requests for coverage as the media is already required to do so under Rule 4.03(a). The Committee also recommends that Rule 4.02(d)(ii) be amended to be consistent with recent Judicial Branch policy amendments referring to problem-solving courts as treatment courts.

Finally, the Committee recommends a slight restructuring of Rule 4.02. It became clear during the pilot that there was some confusion caused by having different provisions in Rule 4 that apply at different stages of criminal proceedings. Although this recommendation goes beyond the pilot provisions in Rule 4.02(d), the Committee respectfully recommends that Rule 4.02(c) be amended to apply only to non-criminal proceedings, that Rule 4.02(d) be amended to apply only to criminal proceedings in the pre-guilt phase, and that a new Rule 4.02(e) be added to house the provisions that apply to criminal proceedings in the post-guilt phase.

IV. RECOMMENDATION REGARDING ABANDONMENT, EXTENSION, OR MODIFICATION OF THE PILOT, OR PERMANENT CODIFICATION OF RULES

As directed by the Court, in addition to monitoring the pilot and discussing and approving proposed rule amendments to address issues that arose during the pilot, the Committee also voted on the ultimate issue of whether to recommend abandonment, modification, extension, or permanent codification of the pilot. As discussed above, the Committee collected and analyzed 18 months of coverage and survey data. The

Committee members also had the opportunity to view over 60 news clips from various media outlets that covered the 49 cases in which coverage was granted. At the outset, a majority of the Committee agreed there is no basis to recommend extending or modifying the pilot. Given the low number of coverage requests, extending the pilot likely would not provide additional helpful information or coverage in enough cases to provide statistically significant data. The Committee did not consider expanding coverage beyond post-guilt proceedings. Instead, the Committee's discussions and decisions were based on the limited coverage of post-guilt proceedings authorized under the pilot rule.

The Committee voted 11 to 6 to recommend permanent codification of the rule, with the amendments recommended in this report. The vote was not consistent within constituent groups: some judges, prosecutors, and defense attorneys voted against permanent codification, and some judges, prosecutors, and defense attorneys voted for permanent codification.

Members who oppose permanent codification note that coverage under the rule is unfair to defendants because they do not have the same right to deny coverage as victims do; the presence of cameras distorts the process in that people may behave differently due to the presence of cameras; and brief coverage of sentencing hearings sheds no real light on what happens in the course of a criminal case, provides no real public educational value, and creates more work for all involved. Opponents also note that at the outset, the Committee expected more requests for media coverage, but during the 18-month data-collection period, very few requests for coverage were made and even fewer were granted. Opponents argue that the significant resources invested in proposing the pilot, implementing the pilot, and recommending permanent codification fail to demonstrate an increase in public access or increase in public confidence. Finally, members opposed are concerned that permanent codification of the cameras in the courtroom pilot rule may lead to a "slippery slope" expansion of coverage.

Members who support permanent codification note that because the scope of permissible coverage is very limited, disruption to criminal proceedings overall is minimal; the coverage that has occurred has not been inappropriate; audio and visual coverage provides greater public exposure to criminal proceedings, which increases the appearance of transparency; and, according to survey data, the overall impact on the proceedings was neutral to positive, with at least one victim responding that coverage had a positive impact. For these reasons, a majority of the Committee recommends permanent codification of the pilot rule, with the amendments to Minn. Gen. R. Prac. 4 recommended herein.

Respectfully Submitted,

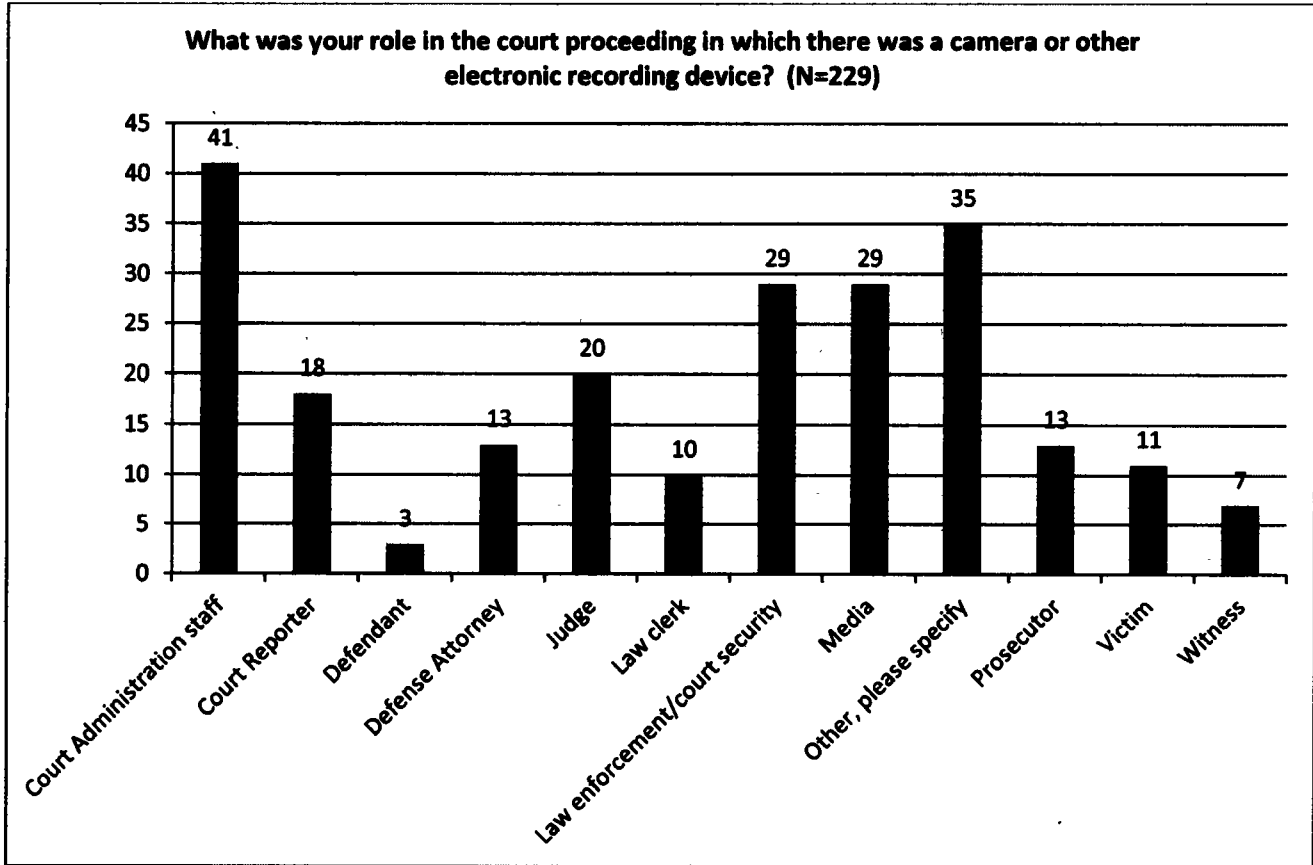
ADVISORY COMMITTEE ON
RULES OF CRIMINAL PROCEDURE

Report – Advisory Committee on Rules of Criminal Procedure
December 2017

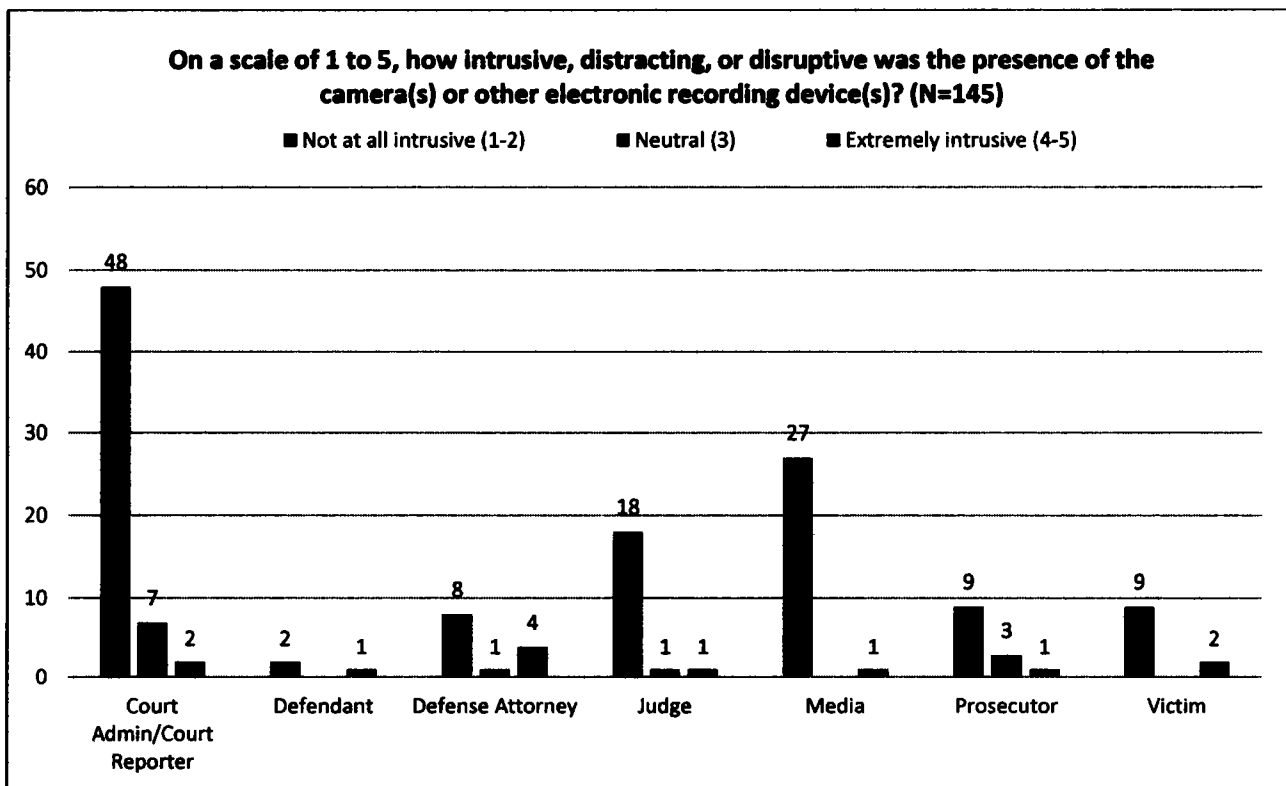
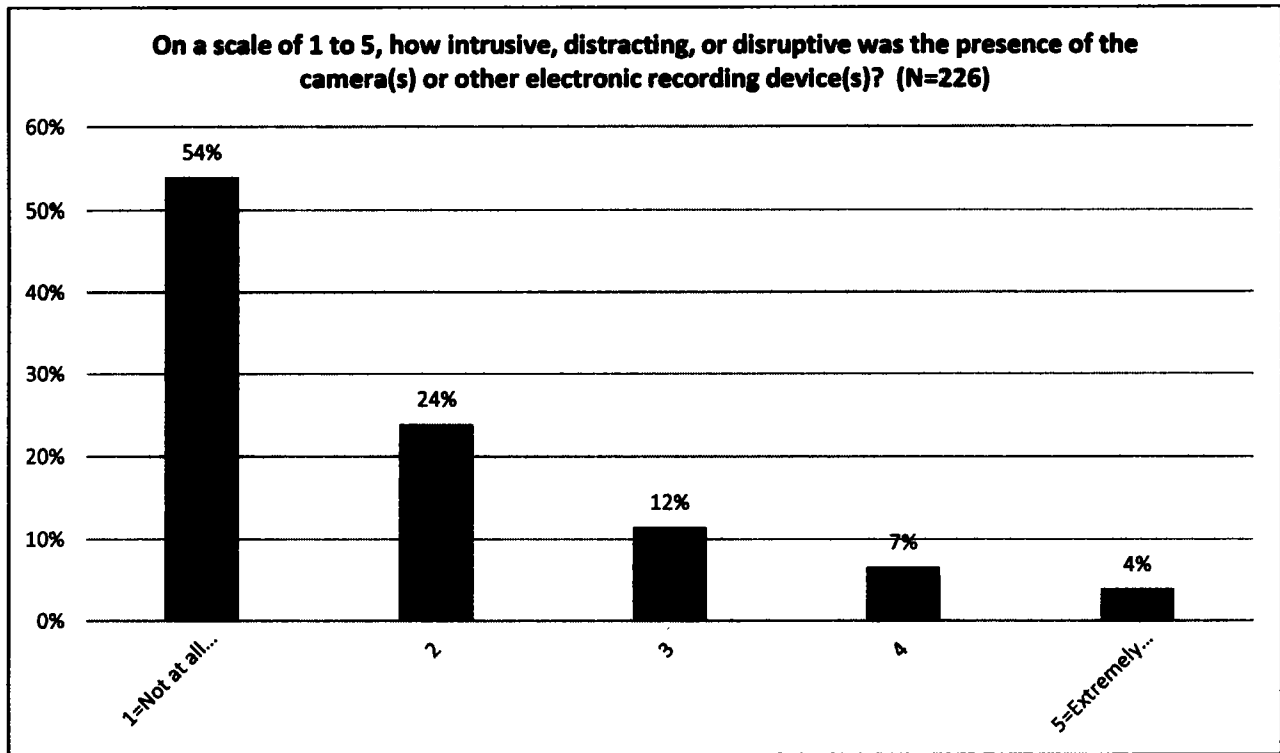
Audio/Video Coverage of Criminal Cases Pilot Project

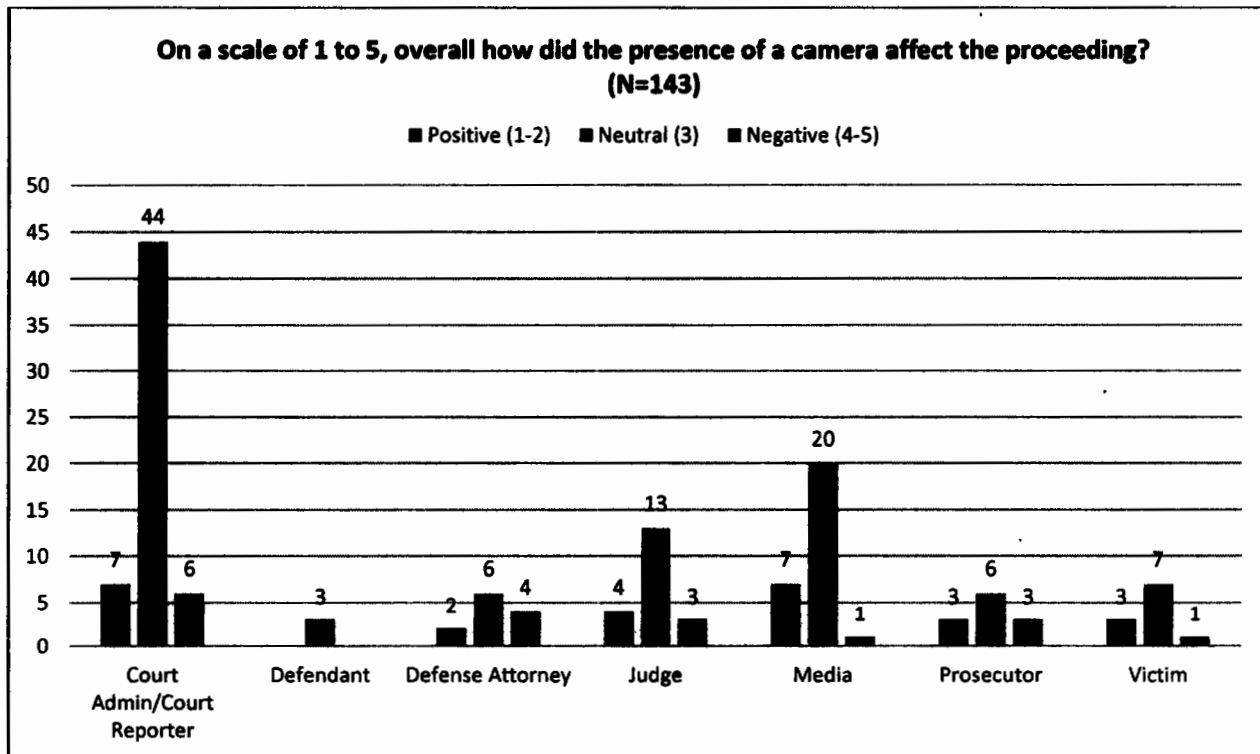
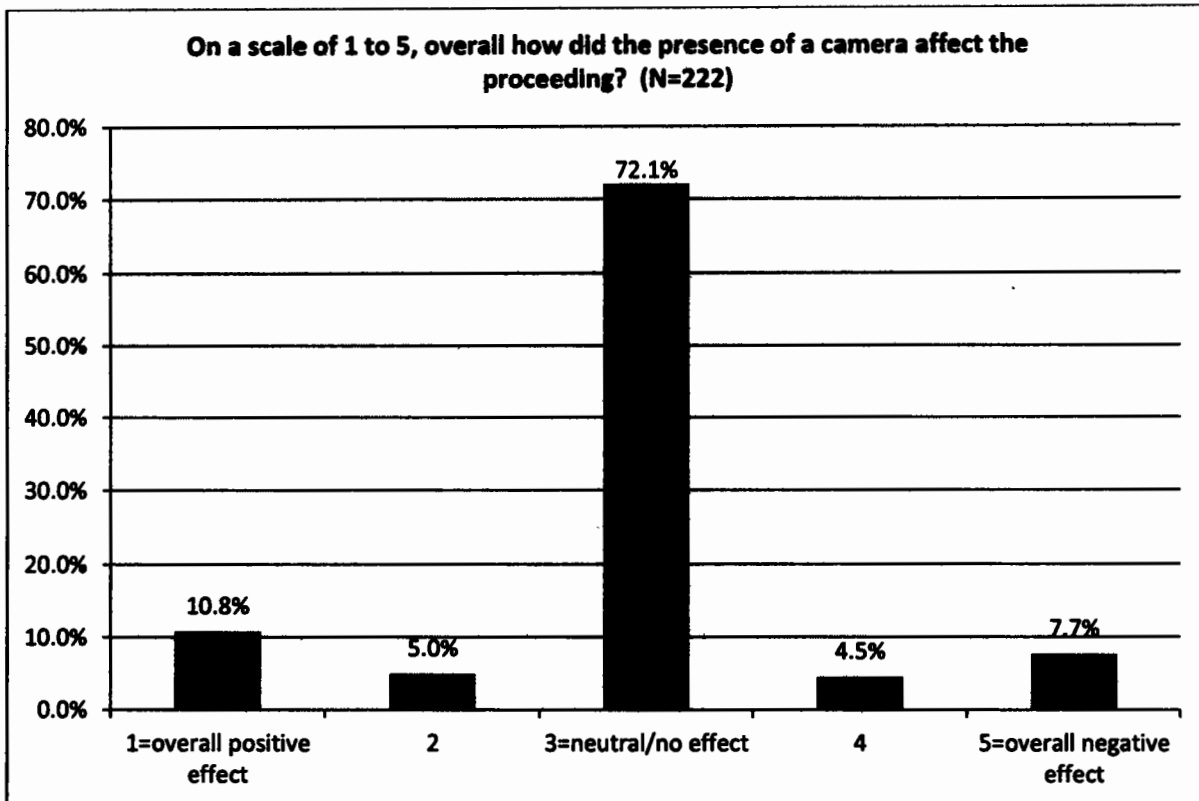
Survey Results

Surveys were distributed to participants in criminal proceedings where audio/video coverage was allowed. A total of 229 participants in 33 cases completed the survey. Participation in the survey was voluntary. The total number of responses for each question varies slightly because survey respondents were not required to answer all questions.



Victim Advocate/Support (10)
Did not specify (4)
Family (4)
Family/friend of defendant (3)
Observer/Spectator (9)
Probation (3)
Social Services (1)
Tech Support (1)





PROPOSED AMENDMENTS TO THE GENERAL RULES OF PRACTICE

The Supreme Court Advisory Committee on Rules of Criminal Procedure recommends that the following amendments be made in the Minnesota General Rules of Practice. In the proposed amendments, deletions are indicated by a line drawn through the words and additions by a line drawn under the words.

1. Amend Minn. Gen. R. Prac. 4 as follows:

RULE 4. ~~PICTURES AND VOICE~~VISUAL AND AUDIO RECORDINGS

Rule 4.01. General Rule

Except as set forth in this rule, no ~~pictures or voice~~visual or audio recordings, except the recording made as the official court record, shall be taken in any courtroom, area of a courthouse where courtrooms are located, or other area designated by order of the chief judge made available in the office of the court administrator in the county, during a trial or hearing of any case or special proceeding incident to a trial or hearing, or in connection with any grand jury proceedings. Visual coverage or recording includes film, video, and still photography.

This rule may be superseded by specific rules of the Minnesota Supreme Court relating to use of cameras in the courtroom for courtroom security purposes, for use of ~~video~~taped or audio recording of proceedings to create the official recording of the case, or for interactive video hearings pursuant to rule or order of the supreme court. This Rule 4 does not supersede the provisions of the Minnesota Rules of Public Access to Records of the Judicial Branch.

Rule 4.02 Exceptions

(a) A judge may authorize the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record or for other purposes of judicial administration.

(b) A judge may authorize the broadcasting, televising, recording or photographing of investitive, ceremonial or naturalization proceedings.

(c) ~~In civil proceedings, a~~ judge may authorize, ~~with the consent of all parties in writing or made on the record prior to the commencement of the trial in criminal proceedings, and~~ without the consent of all parties ~~in civil proceedings~~, the visual or audio~~photographic or electronic~~ recording and reproduction of appropriate court proceedings under the following conditions:

(i) There shall be no visual or audio~~or video~~ coverage of jurors at any time during the trial, including *voir dire*.

(ii) There shall be no visual or audio~~or video~~ coverage of any witness who objects thereto in writing or on the record before testifying.

(iii) Visual or audio~~Audio or video~~ coverage of judicial proceedings shall be limited to proceedings conducted within the courtroom, and shall not extend to activities or events substantially related to judicial proceedings that occur in other areas of the court building.

(iv) There shall be no visual or audio~~or video~~ coverage within the courtroom during recesses or at any other time the trial judge is not present and presiding.

~~(v) Preceding or during~~ During or preceding a jury trial, there shall be no visual or audio or video coverage of hearings that take place outside the presence of the jury. Without limiting the generality of the foregoing sentence, such hearings in criminal proceedings would include those to determine the admissibility of evidence, and those to determine various motions, such as motions to suppress evidence, for judgment of acquittal, *in limine* and to dismiss. This provision does not prohibit visual or audio or video coverage of appropriate pretrial hearings in civil proceedings, such as hearings on dispositive motions.

(vi) There shall be no visual or audio or video coverage in cases involving child custody, marriage dissolution, juvenile proceedings, child protection proceedings, paternity proceedings, civil commitment proceedings, petitions for orders for protection, motions to suppress evidence, police informants, relocated witnesses, sex crimes, trade secrets, undercover agents, and proceedings that are not accessible to the public.

(d) In criminal proceedings occurring before a guilty plea has been accepted or a guilty verdict has been returned, a judge may authorize, with the consent of all parties in writing or made on the record prior to the commencement of the trial, the visual or audio recording and reproduction of appropriate court proceedings. Coverage under this paragraph is subject to the following limitations:

(i) There shall be no visual or audio coverage of jurors at any time during the trial, including *voir dire*.

(ii) There shall be no visual or audio coverage of any witness who objects thereto in writing or on the record before testifying.

(iii) Visual or audio coverage of judicial proceedings shall be limited to proceedings conducted within the courtroom, and shall not extend to activities or events substantially related to judicial proceedings that occur in other areas of the court building.

(iv) There shall be no visual or audio coverage within the courtroom during recesses or at any other time the trial judge is not present and presiding.

(v) Preceding or during a jury trial, there shall be no visual or audio coverage of hearings that take place outside the presence of the jury. Without limiting the generality of the foregoing sentence, such hearings would include those to determine the admissibility of evidence, and those to determine various motions, such as motions to suppress evidence, for judgment of acquittal, *in limine* and to dismiss.

~~(e)(d) Criminal proceedings: pilot project. Notwithstanding the lack of consent by the parties, for purposes of the pilot project authorized by order of the supreme court, upon In criminal proceedings occurring after a guilty plea has been accepted or a guilty verdict has been returned, a judge must, absent good cause, allow visual or audio coverage receipt of notice from the media pursuant to Rule 4.03(a), a judge must, absent good cause, allow audio or video coverage of a criminal proceeding occurring after a guilty plea has been accepted or a guilty verdict has been returned. The fact that a guilty plea will be accepted or a guilty verdict returned at the same hearing when sentencing will occur is not a basis to deny coverage of a sentencing proceeding. The consent of the parties is not required for coverage under this paragraph and lack of consent is not good cause to deny coverage. To determine whether there is good cause to prohibit coverage of the proceeding, or any part of it, the judge must consider (1) the privacy, safety, and well-being of the participants or~~

other interested persons; (2) the likelihood that coverage will detract from the dignity of the proceeding; (3) the physical facilities of the court; and, (4) the fair administration of justice. Coverage under this paragraph is subject to the following limitations:

(i) No visual or audio-or-video coverage is permitted when a jury is present, including for hearings to determine whether there are aggravating factors that would support an upward departure under the sentencing guidelines, or new pretrial and trial proceedings after a reversal on appeal or an order for a new trial.

(ii) No coverage is permitted at any proceeding held in a problem-solving treatment court, including drug courts, mental health courts, veterans courts, and DWI courts.

(iii) No coverage is permitted in cases involving charges of criminal sexual conduct brought pursuant to Minn. Stat. §§ 609.293-.352 or 609.185(a)(2), or in any case in which a victim is a family or household member as defined in Minn. Stat. § 518B.01, subd. 2(b), and the charges include an offense listed ~~deases involving charges of family or “domestic” violence as defined in Minnesota Statutes section~~ Minn. Stat. § 609.02, subd. ~~ivision~~ 16, other than murder.

(iv) No visual or audio-or-video coverage is permitted of a testifying-victim, as defined in Minn. Stat. § 611A.01(b), or a person giving a statement on behalf of the victim as the victim’s proxy, unless that person the victim, and when applicable the victim’s proxy, affirmatively acknowledges and agrees in writing before ~~testifying~~ to the proposed coverage.

(v) Visual or audio ~~Audio-or-video~~ coverage must be limited to proceedings conducted within the courtroom, and shall not extend to activities or events substantially related to judicial proceedings that occur in other areas of the court building.

(vi) No visual or audio-or-video coverage within the courtroom is permitted during recesses or at any other time the trial judge is not present and presiding.

Rule 4.03. Procedures Relating to Requests for Visual and Audio-or-Video Coverage of Authorized District Court Proceedings

The following procedures apply to visual and audio-and-video coverage of ~~civil~~-district court proceedings where authorized under Rule 4.02(e), ~~or in criminal proceedings subject to the pilot project authorized by supreme court order and Rule 4.02(d):~~

(a) **Notice.** Unless notice is waived by the trial judge, as far in advance as practicable, and at least 10 days before the commencement of the hearing or trial, the media shall provide written notice of their intent to cover authorized district court proceedings by either visual or audio-or-video means to the trial judge, and to the court administrator, who shall promptly provide a copy of the notice to all counsel of record, and any parties appearing without counsel as far in advance as practicable, and at least 10 days before the commencement of the hearing or trial. ~~The media shall also provide a~~ A copy of the written notice ~~shall also be provided~~ to the State Court Administrator’s Court Information Office. The media shall also notify their respective media coordinator, identified as provided under part (e) of this rule, of the request to cover proceedings in advance of submitting the request to the trial judge, if possible, or as soon thereafter as possible.

(b) **Objections.** If a party opposes visual or audio-or-video coverage, the party shall provide written notice of the party’s objections to the presiding judge, the other parties, and the

media requesting coverage as soon as practicable, and at least 3 days before the commencement of the hearing or trial in cases where the media have given at least 10 days' notice of their intent to cover the proceedings. The media is not a party and is not entitled to file a written response to any objections. The judge shall rule on any objections and make a decision on visual or audio-or-video coverage before the commencement of the hearing or trial. However, the judge has the discretion to limit, terminate, or temporarily suspend visual or audio-or-video coverage of an entire case or portions of a case at any time.

(c) **Witness Information and Objection to Coverage.** At or before the commencement of the hearing or trial in cases with visual or audio-or-video coverage, each party shall inform all witnesses the party plans to call that their testimony will be subject to visual or audio-or-video recording unless the witness objects in writing or on the record before testifying. The provision does not apply to victims giving a statement at a sentencing hearing, which is governed by Rule 4.02(e)(iv).

(d) **Appeals.** No ruling of the trial judge relating to the implementation or management of visual or audio-or-video coverage under this rule shall be appealable until the underlying matter becomes appealable, and then only by a party.

(e) **Media Coordinators.** Media coordinators for various areas of the state shall be identified on the main state court web site. The media coordinators shall facilitate interaction between the courts and the ~~electronic~~-media regarding visual or audio-or-video coverage of authorized district court proceedings. Responsibilities of the media coordinators include:

(i) Compiling basic information (e.g., case identifiers, judge, parties, attorneys, dates and coverage duration) on all requests for use of visual or audio-and-video coverage of authorized trial court proceedings for their respective court location(s) as identified on the main state court web site, and making aggregate forms of the information publicly available;

~~(ii) Notifying the Minnesota Court Information Office of all requests for audio and video coverage of trial court proceedings for their respective court location(s) as identified on the main state court web site;~~

~~(iii) Explaining to persons requesting ~~videovisual~~ or audio coverage of trial court proceedings for their respective court location(s) the local practices, procedures, and logistical details of the court related to visual and audio-and-video coverage;~~

~~(iv)~~~~(iii)~~ Resolving all issues related to pooling of cameras and microphones related to ~~videovisual~~ or audio coverage of trial court proceedings for their respective court location(s).

Rule 4.04. Technical Standards for ~~Photography, Electronic~~Visual, Audio, and Broadcast Coverage of Judicial Proceedings

The trial court may regulate any aspect of the proceedings to ensure that the means of recording will not distract participants or impair the dignity of the proceedings, including limiting coverage of non-parties present in the courtroom. In the absence of a specific order imposing additional or different conditions, the following provisions apply to all proceedings.

(a) Equipment and personnel.

(1) Not more than one portable television or movie camera, operated by not more than one person, shall be permitted in any trial court proceeding.

(2) Not more than one still photographer, utilizing not more than two still cameras with not more than two lenses for each camera and related equipment for print purposes, shall be permitted in any proceeding in any trial court.

(3) Not more than one audio system for radio broadcast purposes shall be permitted in any proceeding in any trial court. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court. If no technically suitable audio system exists in the court, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the trial judge.

(4) Any "pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the trial judge to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the trial judge shall exclude from a proceeding all media personnel who have contested the pooling arrangement.

(b) Sound and light.

(1) Only television camera and audio equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. Excepting modifications and additions made pursuant to Paragraph (e) below, no artificial, mobile lighting device of any kind shall be employed with the television equipment.

(2) Only still camera equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings.

(3) Media personnel must demonstrate to the trial judge adequately in advance of any proceeding that the equipment sought to be utilized meets the sound and light requirements of this rule. A failure to demonstrate that these criteria have been met for specific equipment shall preclude its use in any proceeding.

(c) Location of equipment and personnel.

(1) Television camera equipment shall be positioned in such location in the court as shall be designated by the trial judge. The area designated shall provide reasonable access to coverage. When areas that permit reasonable access to coverage are provided, all television camera and audio equipment must be located in an area remote from the court.

(2) A still camera photographer shall position himself or herself in such location in the court as shall be designated by the trial judge. The area designated shall provide reasonable access to coverage. Still camera photographers shall assume a fixed position within the designated area and, once a photographer has established himself or herself in a shooting position, he or she shall act so as not to attract attention by distracting movement. Still camera photographers shall not be permitted to move about in order to obtain photographs of court proceedings.

(3) Broadcast media representatives shall not move about the court facility while proceedings are in session.

(d) Movement of equipment during proceedings. News media photographic or audio equipment shall not be placed in, or removed from, the court except before commencement or after adjournment of proceedings each day, or during a recess. Microphones or ~~taping~~recording equipment, once positioned as required by (a)(3) above, may not be moved from their position during the pendency of the proceeding. Neither television film magazines nor still camera film or lenses may be changed within a court except during a recess in the proceedings.

(e) Courtroom light sources. When necessary to allow news coverage to proceed, modifications and additions may be made in light sources existing in the facility, provided such modifications or additions do not produce distracting light and are installed and maintained without public expense. Such modifications or additions are to be presented to the trial judge for review prior to their implementation.

(f) Conferences of counsel. To protect the attorney-client privilege and the effective right to counsel, there shall be no video or audio pickup or broadcast of the conferences which occur in a court between attorneys and their client, co-counsel of a client, opposing counsel, or between counsel and the trial judge held at the bench. In addition, there shall be no video pickup or broadcast of work ~~papers~~documents of such persons.

(g) 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 proceedings.