

EIGHTH JUDICIAL DISTRICT

SECURITY RECORDING PROTOCOL
Order 21

The Judges of the Eighth Judicial District have reviewed the current use of video and audio security monitoring throughout the district. No current district policy addresses issues raised by this monitoring. The Minnesota Supreme Court has recently promulgated rules that have a bearing on this issue as well.

BACKGROUND

- 1. Cameras and microphones capable of video and audio monitoring and recording are currently located in District Courtrooms;
2. The purpose of these cameras and microphones is to perform courtroom security functions for the judiciary and individuals using the courtrooms for their intended purpose;
3. The actual data that is recorded is the sole property of the District Court;
4. The cameras and microphones are monitored by personnel from a separate agency, usually the local county Sheriff's office;
5. Recordings, both video and audio, are made of the courtroom proceedings, including during hearings and during recesses, by the monitoring agency;
6. The microphones feeding data to the recordings may include on the record statements and conversations, as well as statements and conversations intended to be off the record or private;
7. Section 3A (11) of the Code of Judicial Conduct prohibits a Judge from authorizing the use of cameras and microphones in the courtroom unless a specific exception applies;
8. Courtroom security is a legitimate exception to the prohibition, however there can be no use of the recordings unless specifically authorized by the Court on an individual basis to ensure that the use of the recordings is lawful;

9. Rule 4, Subd. 3 (a) of the Rules of Public Access promulgated by the Minnesota Supreme Court specifically states that “recordings of proceedings in district court may only be used as authorized in this or other applicable rules or orders promulgated by the Supreme Court;
10. Rule 4, Subd. 3 (b) of the Rules of Public Access states that “(A)ny spoken words in the courtroom that are not part of a proceeding, hearing or trial ... are not intended to be recorded. Recordings of such words may not be listened to or used in any way other than by authorized operators of the recording equipment to orient themselves on recording content.”;
11. Rule 4, Subd. 3(c) authorizes the use of the recording only during the proceeding, for use in preparing the official transcript or record or at the direction of the Court, for use of the Court;
12. The use or viewing of the recordings by persons other than those specifically authorized by the District Court would violate Minn. Stat. 13.03 Subd. 4, which provides that the same data classification that the Court places on its recordings shall follow with the recordings;

It is ORDERED:

1. Definitions: As used in this Order:
 - a. “Security Recording” applies to any audio or visual data provided by cameras or microphones installed in a Courtroom for the purpose of security monitoring, both in real time, and as preserved as data in any form (including physical and/or electronic.) “Security Recording” does not include data recorded in any fashion by a Court Reporter or employee of the Court Administrator’s office who are specifically assigned the responsibility to prepare the official record of a proceeding.
 - b. “Custodian” includes any person involved in monitoring in real time, assisting in the recording of, or is responsible for the storage of, a Security Recording.
 - c. “Courtroom” includes the actual courtroom, court administrator’s offices, and judicial chambers. It does not include the public hallways or other public areas of a courthouse.
2. The Custodian of any Security Recording of a judicial proceeding or courtroom shall take all necessary steps to ensure that any Security Recording of a judicial proceeding or of a courtroom shall not be made available for viewing or copying to any person, or agency, for any reason, without a specific Court Order signed by either:
 - a. The Judge before whom the proceeding was held;

- b. The District Court Judge normally assigned to the Courtroom;
- c. A District Court Judge whose chambers are located in the affected County; or
- d. The Chief Judge or Assistant Chief Judge of the Eighth Judicial District.

The Judge may only execute such order for lawful purposes.

- 3. No Security Recording shall be preserved for a period longer than 72 hours, excluding Saturday, Sunday or holidays, without a specific signed judicial order. In the event that a security recording system cannot comply with this requirement, the agency and District Court shall execute an agency specific exception agreement that shall call for the erasure of the Security Recording as soon as the system shall allow.
- 4. No copy may be made (recording) of a Security Recording without express permission granted pursuant to paragraph 2 above. No Security Recording shall be transmitted by any means to any person or entity without express permission granted pursuant to paragraph 2.
- 5. Every agency responsible for providing courtroom security shall nominate the specific persons to act as the Custodians of the Security Recordings to the District Court Judge(s) chambered (or if no judge is chambered, assigned to regularly provide services) in an individual County. Said District Court Judge(s) shall, in their sole discretion, indicate their approval or disapproval. No person shall act as a Custodian without said written approval.
- 6. It is specifically ordered that the prohibitions in this protocol also apply to releasing the Security Recordings to individuals within the Custodian's own office, department or agency or other related department or agency, who are not directly involved in the making or preservation of the Security Recordings.
- 7. The Custodians shall be responsible for ensuring that no person other than a Custodian or as specifically authorized by the District Court shall monitor the security recordings, including during real time or during any playback. This prohibition applies to non-custodian colleagues, fellow employees and supervisors of the Custodian.
- 8. Each agency responsible for providing courtroom security shall ensure that any Security Recording is stored in such secure fashion that only a Custodian shall have access to it. If data is stored electronically, the storage shall be password protected. If data is stored on tape, disc or other fashion, they shall be securely locked with only a Custodian allowed access as provided herein.
- 9. Once a Security Recording is stored (either electronically or on tape, disc, or other fashion), a Custodian may only have access to it pursuant to written order as stated in Paragraph 2 herein.

10. The Custodians shall not inform any non custodian person or entity, without specific order of the Court as stated in Paragraph 2 herein, of the contents of any conversation or statement made by any person that is heard, or picked up by microphones and recorded, in a District Courtroom. This does not apply to any statement or testimony made and specifically included as part of the official record as prepared by the Court Reporter.
11. Violation of this order by any person or entity shall constitute contempt of court.

This order is effective on the 7th day of March, 2008.

This Order was approved by the District Court Judges of the Eighth Judicial District on the 1st day of February, 2008.

A handwritten signature in black ink that reads "Paul A. Nelson". The signature is written in a cursive style with a horizontal line underneath the name.

Hon. Paul A. Nelson
Chief Judge
Eighth Judicial District