

ADMINISTRATIVE MANUAL

VOLUME I

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1. Authority

This policy is issued at the direction of the Judicial Conference of the United States. It was previously published as Canon 3A(7) in the Code of Conduct for United States Judges.

2. Scope

This policy is applicable to all United States district and appellate courts.

3. Policy

A judge may authorize broadcasting, televising, recording, or taking photographs in the courtroom and in adjacent areas during investitive, naturalization, or other ceremonial proceedings. A judge may authorize such activities in the courtroom or adjacent areas during other proceedings, or recesses between such other proceedings, only:

- (a) for the presentation of evidence;
- (b) for the perpetuation of the record of the proceedings;
- (c) for security purposes;
- (d) for other purposes of judicial administration; or
- (e) for the photographing, recording, or broadcasting of appellate arguments.

When broadcasting, televising, recording, or photographing in the courtroom or adjacent areas is permitted, a judge should

ensure that it is done in a manner that will be consistent with the rights of the parties, will not unduly distract participants in the proceeding, and will not otherwise interfere with the administration of justice.

4. Commentary

Technology that permits the reproduction of sound and visual images provides our courts with a valuable resource to assist in their efforts to improve the administration of justice. That resource should be utilized, however, for purposes and in a manner consistent with the nature and objective of the judicial process.

The general policy of the Conference recognizes a distinction between ceremonial and non-ceremonial proceedings. Cameras and electronic reproduction equipment may be used in the courtroom during ceremonial proceedings for any purpose. During non-ceremonial proceedings, they may be utilized only for the limited purposes specified in the policy statement: presentation of evidence, perpetuation of the record, security, other purposes of judicial administration, and the photographing, recording, or broadcasting of appellate arguments.

During non-ceremonial proceedings, audio and audio-visual recording equipment may be utilized to make the official record of the proceedings. The authority to use such equipment for the perpetuation of the record does not include the authority to make a record of the proceedings for any other purpose.

Presentation of evidence through electronic means can take many forms. Closed circuit television, for example, can be used to present the testimony of witnesses who are available at a remote location such as a hospital or correctional facility, but who cannot conveniently attend the trial. A further example is provided by a long, complex case in which the judge authorized videotaping of the evidence so that the trial would not have to be interrupted in the event a juror or lawyer became ill or was otherwise required to be absent for a short period of time; the evidence taken during such absences was thus available on videotape to be presented to the juror or lawyer on his or her return.

The use of electronic means for purposes of courtroom security is illustrated by a closed circuit video system that allows a marshal to maintain a security surveillance of one or more trials from a remote location.

The policy statement also authorizes a trial judge to make use of electronic means for other purposes of judicial administration. This is intended to provide the necessary flexibility for experimentation with new uses of technology so long as

those uses directly assist the judge and other judicial personnel in the performance of their official responsibilities. This "judicial administration" authorization, for example, would permit closed circuit television linking the courtroom with a special room where a disruptive defendant is being held.

Except with respect to ceremonial proceedings and appellate proceedings, the Conference policy does not authorize the contemporaneous photographing, recording, or broadcasting of proceedings from the courtroom to the public beyond the courthouse walls. The Judicial Conference remains of the view that it would not be appropriate to require all non-ceremonial proceedings to be subject to media broadcasting. Following a three-year experiment with cameras in the courtroom, the Judicial Conference concluded that the intimidating effect of cameras on some witnesses and jurors was cause for concern. Accordingly, the Judicial Conference policy does not permit the taking of photographs and radio and television coverage of court proceedings in the United States district courts. In March 1996 the Judicial Conference authorized each court of appeals to decide locally whether or not to permit cameras in the appellate courtrooms, subject to any restrictions in statutes, national and local rules, and such guidelines as the Judicial Conference may adopt.

Except in connection with the enumerated exceptions, the Conference policy does not authorize audio or video taping in the courtroom for the purpose of subsequent public dissemination. Where an audio or video taping is used to perpetuate the official record, that record will be available to the public and the media to the same extent that an official transcript record is currently available to them.

The Conference has assigned a supervisory role to the circuit councils. Circuit councils are urged to adopt orders pursuant to 28 U.S.C. § 332 (d)(1), reflecting the September 1994 decision of the Judicial Conference not to permit the taking of photographs and radio and television coverage of court proceedings in the United States district courts, and to abrogate any local rules of court that conflict with this decision, pursuant to 28 U.S.C. § 2071 (c)(1). A circuit council may elect to establish guidelines, or require pre-clearance, for such permitted uses of cameras and other electronic means in the courts of its circuit. Even in the absence of an applicable pre-clearance requirement, judges should consult their circuit council when such a proposed use

of cameras or other electronic means will make a significant demand on judicial resources or will require coordination with other elements of the judiciary. For example, since the equipment necessary to review a video record of a trial is not currently available to all courts of appeals, it is contemplated that trial judges will authorize the use of video tape to perpetuate a record only with circuit council approval. However, in the absence of such special considerations or an applicable circuit preclearance requirement, and subject to any relevant circuit guidelines, judges will determine if, when, and how cameras and other electronic means will be utilized in their courtrooms.