

Directive #10-03

TO: ASSIGNMENT JUDGES

FROM: RICHARD J. WILLIAMS

SUBJ: **REVISED GUIDELINES ON CAMERAS IN THE COURTS**

DATE: OCTOBER 8, 2003

At its October 7, 2003 Administrative Conference the Supreme Court adopted the attached set of revised Guidelines on Cameras in the Courts (formally entitled "Supreme Court Guidelines for Still and Television and Audio Coverage of Proceedings in the Courts of New Jersey"), as prepared and recommended by the Judicial Council. These revised Guidelines are effective immediately and supersede all earlier-issued versions. Please share them with the judges and staff in your respective Vicinages (including the Municipal Courts).

The revised Guidelines will be posted on the Internet and InfoNet. We also shortly will be disseminating the Guidelines in brochure format.

R.J.W.

Attachment (Guidelines)
/msg

cc: Chief Justice Deborah T. Poritz
Hon. Sylvia B. Pressler
Hon. Joseph C. Small
Theodore J. Fetter, Deputy Administrative Director
Winnie Comfort, Director
AOC Directors and Assistant Directors
Clerks of Court
Trial Court Administrators
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

SUPREME COURT GUIDELINES for Still and Television Camera and Audio Coverage of Proceedings in the Courts of New Jersey

[Approved October 2003]

PURPOSE

Canon 3A(9) of the Code of Judicial Conduct, adopted by the Supreme Court effective September 1994, presumes open access for bona fide media to broadcast, televise, electronically record, or photograph proceedings in the courts. The purpose of these revised guidelines is to establish the procedures that are to be followed to effectuate the Canon.

Code of Judicial Conduct Canon 3A(9)

“A judge should permit broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions only in accordance with the guidelines promulgated by the Supreme Court and subject to the restrictions contained therein.”

GOALS

The goals of these revised *Supreme Court Guidelines* are as follows:

- to provide access to the courts while ensuring fairness;
- to avoid delay or interference in court proceedings;
- to maintain appropriate courtroom decorum;
- to provide clear and unambiguous procedural requirements;
- to maintain appropriate security, in accordance with local court or county security plans;
- to provide general applicability that will avoid the need to revise these guidelines frequently.

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GUIDELINE 1. GENERAL CONSIDERATIONS AND DEFINITIONS

(a) Fair Administration of Justice. It is incumbent upon the court and trial judge in supervising media coverage to ensure the fair administration of justice and to issue such orders as are required to ensure that this goal is met.

(b) The Court. These guidelines apply to proceedings in the Supreme Court, Appellate Division, Superior Court, Tax Court, and Municipal Court. Whenever these guidelines refer to a decision to be made by "the court," such decisions shall be made by the Chief Justice or the Supreme Court Clerk for matters in the Supreme Court; by the Presiding Judge for Administration or the Appellate Division Clerk for matters in the Appellate Division; by the Assignment Judge for the vicinage where the court facility is located or by a judge designated by the Assignment Judge for matters in Superior Court; by the Presiding Judge of the Tax Court for matters in the Tax Court; and by the Presiding Judge or a judge designated by the Presiding Judge for Municipal Court matters.

(c) Persons Authorized.

(1) Only media representatives with bona fide press credentials or with identification issued by a bona fide media outlet, with those credentials or identification including a photograph of the operator, are permitted to photograph, provide live broadcasts and/or electronically record for future broadcast, using audio and/or video equipment, at court proceedings.

"Bona fide press credentials" are defined as those issued by the New Jersey Press Association, in association with the New Jersey Broadcasters Association and the New Jersey Cable Association and authorized through the New Jersey State Police and the Office of the Attorney General.

"Bona fide media outlet" is defined as an organization that reports the news and whose news reports are made available to the general public by being published or broadcast on a regular schedule by television, radio, retail sales, or by subscription where there is no membership or dues requirement to subscribe.

(2) Print media representatives, with bona fide press credentials as described above or with identification issued by a bona fide media outlet showing a photograph of the journalist, may tape-record proceedings as an additional reportorial tool, with the following conditions:

(a) The recording device shall be unobtrusive, limited to the size category commonly known as hand-held, mini-cassette, micro-cassette or standard portable cassette.

- (b) The recording device shall be placed in an appropriate position and may not be moved in any way as to attract attention.
- (c) The recording device shall not produce distracting sound, either from the equipment or its operation. The tape may not be rewound or played back while court is in session.
- (d) The court may order that tape recording cease if at any time it determines that the equipment or its operator is interfering with the proceedings.
- (e) The recording may not be used in any court proceeding and may not be used to contest the accuracy of the official court record.
- (f) The recording may not be represented as an official transcript in any manner and for any purpose.
- (g) The recording may not be broadcast or offered for broadcast.

(d) Consent of Parties Not Required. Permission for media representatives, as defined in these guidelines, to electronically record and/or broadcast public court proceedings using audio and/or video equipment shall not be conditioned on obtaining consent of any party, any party's attorney, or any witness or participant in a proceeding.

(e) Protection of Conference with Counsel. To protect the attorney-client privilege and effective right to counsel, there shall be no video images recorded or broadcast or audio pickup recorded or broadcast of conferences that occur in a court facility between attorneys and their clients, between co-counsel of a client, or between counsel and the trial judge held at the bench.

(f) Jury Sequestration. In any case where a jury has been impaneled, the jury shall not be sequestered solely because of any activity authorized by these guidelines. The right of the trial judge to order sequestration for other lawful reason is preserved.

(g) No Photographing or Recording of Jurors. For jury trials, there shall be no photographic or electronic images or audio recordings of the jury or of any individual juror that would permit recognition of any juror. This proscription shall continue throughout the entire proceeding.

(h) Order to Exclude or Vary Coverage. Subject to law, during the conduct of any hearing or trial, cameras and broadcast sound recording equipment may be ordered excluded by the judge. The Assignment Judge, either upon recommendation by the trial court judge or on the Assignment Judge's own motion, may terminate, limit, or otherwise vary the conditions of coverage previously permitted in any case or proceeding.

(i) Fair Proceeding. Television, audio, or still photography coverage may be excluded in any proceeding where such coverage would cause a substantial increase in the threat of or the potential for harm to a participant in the case or would otherwise interfere with the achievement of a fair proceeding.

(j) Appellate Review. Any party or media representative aggrieved by any decision concerning coverage may move for leave to appeal the decision to the Appellate Division where the decision was by a trial court or to the Supreme Court where the decision was by the Appellate Division. Such motions shall be made promptly after any such decision and, if possible, no more than one day thereafter. Such motions shall be granted only where the moving papers clearly demonstrate manifest abuse of discretion by the court.

GUIDELINE 2. REQUESTING PERMISSION TO PHOTOGRAPH, ELECTRONICALLY RECORD OR BROADCAST

(a) Permission Required. Media representatives with bona fide press credentials as defined in these guidelines may, with reasonable advance notice, ask the court for permission to photograph, electronically record and/or broadcast specific court proceedings. Any such requests to cover proceedings shall be in writing unless because of time constraints an oral request is necessary.

(b) Proceeding in Progress. Applications to cover a proceeding already in progress may be considered at the discretion of the court.

(c) Certain Proceedings Excluded. Not every court proceeding is open to photographers or electronic media for recording and/or broadcasting.

(1) Television, audio or still photography coverage is prohibited at the following: matters involving trade secrets; juvenile proceedings, even under those circumstances where reporters are permitted to be in attendance; termination of parental rights proceedings; child abuse/neglect proceedings; proceedings involving custody of children; proceedings under the Prevention of Domestic Violence Act; proceedings involving charges of sexual contact or charges of sexual penetration or attempts thereof when the victim is alive. When the victim in a matter involving charges of sexual contact or charges of sexual penetration or attempts thereof is deceased, the court may deny permission for coverage in consideration of the victim's survivors or analogous concerns.

(2) Television, audio or still photography coverage of victims of crime under 18 years of age at the time of trial and of witnesses under 14 years of age at the time of trial shall be allowed only at the discretion of the trial judge.

(3) While television, audio or still photography coverage is prohibited at juvenile proceedings, coverage of defendants 17 years of age who are charged with motor vehicle violations is permissible.

(d) Pretrial Conference. The court may, at its discretion, require the media to attend a pretrial conference prior to making a decision on a request for coverage. The purpose of such pretrial conference is limited to decisions on camera and audio coverage and not to substantive matters unrelated to these guidelines. Any such required pretrial conference should include the court, the attorneys, media personnel assigned to cover the proceedings, and any others as identified by the court, with all matters discussed to be consistent with these guidelines.

(1) At such pretrial conference, the judge shall review with all present the provisions of these guidelines. Any objections to electronic video/audio recording or still photography media coverage in the particular matter shall be considered at this conference. The judge shall consult with representatives of the news media before imposing any special limitations or restrictions on electronic video/audio recording or still photography.

(2) No formal pretrial order is required. However, the court, subsequent to the pretrial conference, must reduce to writing or establish a stenographic record of the decisions reached at the pretrial conference, including setting forth any and all conditions imposed on the media representatives covering the proceedings.

GUIDELINE 3. GENERAL MEDIA REQUIREMENTS AND RESPONSIBILITIES

(a) Video Cameras and Operators. Not more than two portable electronic video television cameras, each operated by one person, shall be permitted at any proceeding in any court, except that the judge will have discretion to allow additional cameras and/or personnel upon application and for good cause shown. Any reporter seeking to use any other technology to record images shall make a specific application to the court in advance for permission to do so.

(b) Still Cameras and Operators. Not more than two still cameras, with no more than two lenses and related equipment for print purposes, each operated by one photographer, shall be permitted at any proceeding in any court, except that the judge will have discretion to allow additional cameras and/or personnel upon application and for good cause shown. Any reporter seeking to use any other technology to record images shall make a specific application to the court in advance for permission to do so.

(c) Audio Systems. Not more than one audio system for broadcast purposes shall be permitted at any proceeding in any court. Audio pickup for all broadcasts shall be accomplished from existing audio systems present in the court facility. If no

technologically suitable audio system exists in the particular court facility, 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 court. Any reporter seeking to use any other technology to record sound for broadcast shall make a specific application to the court in advance for permission to do so.

(d) Pooling Capability Requirements. Any media representative who obtains permission from the court to cover proceedings shall provide pooling capabilities so that other media representatives may share in the coverage. For electronic media, pooling requires, at a minimum, that the pooling supplier have available capabilities to pool by providing multiple electronic connections for other media representatives desiring participation by the use of their own recording equipment or by direct-line hook-up. Any media representative who has obtained court permission to cover proceedings shall pool its video/audio signals or photographs at the request of other media representatives without requiring said other representatives to obtain further court approval.

(e) Pooling Arrangements. Participating members of the electronic media and participating still photographers are to make their own pooling arrangements, including the establishment of necessary procedures, the provision of appropriate pooling equipment as described in these guidelines, and selection of a pool representative without calling upon the court to mediate any dispute as to the appropriate media representative, costs or equipment authorized for a particular proceeding.

GUIDELINE 4. EQUIPMENT, SOUND AND LIGHT CRITERIA

(a) Sound or Light Distractions. No electronic video television cameras, still photographic cameras, or audio broadcast equipment that produces distracting sound or light either from the equipment itself or from its operation shall be used to cover judicial proceedings. The court may, at its discretion, require proof that equipment meets these guidelines before approving the equipment for use at a particular proceeding. Further, the court may order operation of any equipment to cease if that equipment does not meet these guidelines.

(b) Temporary Artificial Light. Absent prior approval from the court, no temporary artificial lighting device of any kind shall be employed in connection with any electronic video television camera or still photographic cameras.

(c) Adding Light Sources. With the approval of the court and the concurrence of the owner of the building in which a court facility is situated, modifications and additions may be made to light sources existing in the facility, provided that any such modifications or additions are installed and maintained at media expense.

GUIDELINE 5. PLACEMENT OF EQUIPMENT AND OPERATORS

(a) Placing/Removing Equipment. Photographic equipment and electronic equipment, including still cameras, microphones, and audio/video recording equipment for print, broadcast and television coverage, shall be placed in or removed from the courtroom facility only prior to commencement or after adjournment of proceedings each day, or during a recess in the proceedings.

(b) Courtroom Placement. Still photographers and camera equipment, electronic video television camera equipment, and operators and broadcast audio equipment shall be positioned only in areas designated by the court. Video recording equipment that is not a component part of the television camera shall be located in an area remote from the courtroom. The areas designated shall provide reasonable access to coverage.

(c) Placement in Other Areas. When the need arises, the court may provide additional rooms or areas where media representatives may view the proceedings. The media may, at their own expense and with their own equipment, make the necessary pooling arrangements to bring an electronic signal into such additional rooms or areas for viewing and for video/audio recording of the proceedings. All television camera and audio equipment not designated by the court to be in the courtroom shall be positioned only in such rooms or areas.

(d) Fixed Locations for Operators and Equipment. Operators of still cameras, microphones, and audio/video recording equipment shall assume fixed positions within the designated location in the courtroom and, once positioned, shall not move or be moved about the courtroom in any way in order to photograph or record court proceedings. Noncompliance with this provision may be cause for the court to order the operator and equipment out of the courtroom.

GUIDELINE 6. PHOTOGRAPHING AND AUDIO/VIDEO RECORDING OUTSIDE THE COURTROOM

(a) Courthouse Corridors. No photographs may be taken or electronic audio/video recording made in the corridor immediately outside a courtroom, or on the floor on which a courtroom is located, without express advance authorization by the court and the appropriate facility security authorities.

(b) Courthouse Grounds and Environs. Except as otherwise provided in these guidelines, the court will place no limitations on photographing or electronic audio/video recording on the courthouse grounds or environs. However, media representatives are cautioned to seek appropriate approval from facility security authorities and the owner of such facility before doing so.

(c) Clear Entrance and Exit. In cooperation with appropriate facility security authorities, the court will take appropriate measures to ensure that the entrances and exits

to the courthouse are kept clear in order that all participants in the proceedings may enter and leave the courthouse safely and without harassment.

(d) Events Not Court-Related. Media representatives must seek approval from the appropriate non-Judiciary authorities to photograph or electronically record persons, places, or events in any building where a courtroom is located where those persons, places, or events have no relation to the courts, a courtroom or to a court proceeding.

GUIDELINE 7. CEREMONIAL PROCEEDINGS

Permission for all still photography, electronic video television cameras, and audio coverage of ceremonial proceedings involving the Judiciary must first be obtained from the court, but will be granted routinely, subject to compliance with the foregoing guidelines where applicable.