

Judicial Conference Committee on Court Administration and Case Management Guidelines for the Cameras Pilot Project in the District Courts

In September 2010, the Judicial Conference authorized a three-year pilot project to evaluate the effect of cameras in district court courtrooms, video recordings of proceedings therein, and publication of such video recordings by making them available through www.uscourts.gov, as well as participating courts' websites, if so desired. (JCUS-SEP 10, pp. 3-4). The pilot is national in scope, consisting of up to 150 individual judges from districts chosen to participate by the Federal Judicial Center (FJC), in consultation with the Court Administration and Case Management Committee (CACM).

At the Conference's direction, the CACM Committee promulgated these guidelines under which the pilot program must proceed. The Conference also authorized this Committee to periodically amend the guidelines, as necessary, to assist the pilot participants.

The Conference also directed the CACM Committee to request that the FJC conduct a study of the pilot, and the FJC will prepare interim reports after the first and second years of the pilot.

1. General Provisions

- a. Participating courts must abide by these guidelines as a condition for participating in this pilot program. These guidelines will remain in effect for the duration of the pilot, unless changed by the Conference or the CACM Committee acting on its behalf.
- b. Only courts participating in the pilot program may record court proceedings for the purpose of public release.
- c. The pilot is limited to civil proceedings in which the parties have consented to recording.
- d. Courts participating in the pilot must amend their local rules (providing adequate public notice and opportunity to comment) to provide an exception to the Judicial Conference ban on recording for judges participating in the pilot consistent with the guidelines.
- e. It is not intended that a grant or denial of a request to record a proceeding be subject to appellate review insofar as it pertains to and arises under these guidelines, except as otherwise provided by law.

- f. Courts participating in the pilot will record or control the recording of proceedings. Recordings by other entities or persons, unless hired by or under the control of the court, are not allowed.
- g. Courts participating in the pilot program will be expected to cooperate with the FJC and the CACM Committee in collecting study-specific data needed by the FJC to evaluate the pilot project on behalf of the CACM Committee.

2. Selection of Cases for Video Recording

- a. The presiding judge will select cases for participation in the pilot, although parties to a case or the media may request video recording of the proceedings. Participating judges should consider recording different types of proceedings (e.g., trial and non-trial proceedings; a variety of case types; proceedings of varying sizes such as hearings, large cases, and multidistrict litigation; and proceedings with varying levels of expressed public interest).
- b. Under any circumstances, proceedings may not be recorded without the approval of the presiding judge.
- c. Parties must provide consent to the recording of each proceeding in a case. Consent to the recording of one proceeding in a case will not be construed as consent to any other proceeding in a case.
- d. The court may
 - (1) establish a procedure for obtaining party consent to the recording of a proceeding selected for the pilot, including a time frame by which consent must be given; and
 - (2) in its discretion, hold a hearing to address objections by parties, witnesses, or others to the recording or posting of a recording for public access. Such hearings should not be recorded.
- e. Using forms provided by the FJC, courts should gather data on and report to the FJC on the consent process, including which parties did not provide consent and the reasons why they did not consent.

3. Cameras and Equipment

- a. Judges participating in the pilot should use the following equipment configuration for recording proceedings:
 - (1) Optimally, there should be at least three but no more than four cameras with microphones to record the proceedings in the courtroom. The cameras should be inconspicuous and fixed on the judge, the witness, the lawyers' podium, and/or counsel tables.
 - (2) The security cameras in the courtroom should not be used to record the proceedings for the pilot.
 - (3) There should also be a feed from the electronic evidence presentation system.
 - (4) The recording equipment should transmit the camera inputs to a switcher that incorporates them onto one screen. The recording equipment also should include an encoder to record the file for posting.
 - (5) The presiding judge should have a switch or be able to direct staff to stop a recording if the judge deems it necessary. The pilot recordings are not simulcast; thus, the judge can choose not to post the video for public view.
- b. The Administrative Office will develop technical guidelines for the digital video recording equipment and will provide those guidelines to the courts selected to participate in the pilot.
- c. The Administrative Office is authorized to provide limited funding for equipment as well as technical support to courts participating in the pilot. Participating courts are discouraged from purchasing new equipment. A participating court is encouraged to use its existing recording equipment so long as the equipment meets the requirements of the pilot. The court should contact the Administrative Office's Court Administration Policy Staff to request assistance and/or online/distance training for court personnel to use new or pre-existing equipment.

4. Managing the Recording

- a. A presiding judge may refuse, limit, or terminate the recording of an entire case, portions thereof, or testimony of particular witnesses: in the interests of justice; to protect the rights of the parties, and witnesses, and the dignity of the court; to assure the orderly conduct of proceedings; or for any reason considered necessary or appropriate by the presiding judge.
- b. The following must not be recorded:
 - (1) Privileged communications between the parties and their attorneys, non-public discussions between attorneys, and sidebar conversations between attorneys and the presiding judge, without the express permission of the judge.
 - (2) Jurors or alternate jurors while in the jury box, the courtroom, the jury deliberation room, or during recess, or while going to or from the deliberation room at any time. Coverage of the prospective jury during *voir dire* is also prohibited.
- c. The court should remind all persons present in the courtroom that a recording is taking place, so as to limit noise, side conversation, and other disturbances.
- d. Nothing in these guidelines will prevent a court from placing additional restrictions, or prohibiting recording or broadcasting in designated areas of the courthouse.
- e. The court should help ensure that personal information covered by Fed. R. Civ. P. 5.2 and the Judicial Conference privacy policy not be uploaded for public view, including providing warnings to attorneys, parties, witnesses, and jurors about disclosing confidential and personal information.
- f. If security concerns arise, the judge might consider consulting with the United States Marshals Service regarding the video recording of the judge.

5. Operating the Equipment

- a. A court employee, such as a courtroom deputy, or a private contractor controlled by the court, must control the recording equipment. The Administrative Office will provide online/distance training to existing court personnel on operating the recording equipment and handling the digital

files. Courts are also encouraged to seek the assistance of court personnel from other districts who have experience with the recording equipment.

- b. In order to control the costs of the cameras pilot program, courts are discouraged from contracting with a private vendor for purchasing, installing, and operating the necessary equipment. If a court finds it necessary to contract with a private vendor, such a vendor must be under the authority and control of the court, including any recording activity, any files created, and the posting of recordings for public access. Moreover, the court should contact the Administrative Office's Court Administration Policy Staff for assistance in locating and contracting with the vendor.
- c. The media or its representatives will **not** be permitted to create recordings of courtroom proceedings.

6. Storage and Access to Recordings

- a. It is preferable that recordings of proceedings should be broken down into one- to four-hour increments (shorter time-frames are preferable due to the size of these digital files), but only as resources and equipment permit. Unless the presiding judge deems otherwise, recordings of court proceedings should be made publicly available within a few hours. Recordings should be made according to the following procedures:
 - (1) Recordings of court proceedings will be stored on a national server (www.uscourts.gov) to prevent burdening the operations of local court automation systems and to provide data to the FJC for the required study. Courts may also maintain a link to their recordings on their public website. Regardless of how the link is accessed, all access will be tracked on the judiciary's video hosting service.
 - (2) The judiciary's video hosting service will provide a unique, stable URL for use on www.uscourts.gov and on a court's own website.
- b. The Administrative Office will prepare an educational instructional video to assist the courtroom deputy and court staff regarding publishing the file.
- c. The court should be mindful of protecting sensitive and private information and of Judicial Conference requirements regarding transcripts in civil

proceedings. The court may wish to consider creating a procedure by which the parties may request that the recording, or a portion thereof, not be made publicly accessible due to privacy concerns.

- d. In the event that the presiding judge decides not to make the recording publicly available, the judge must document, using the forms provided by the FJC, the reasons for the decision and send that information to the FJC.
- e. The decision to upload the recording is final, and the recording will automatically be made available to the public through a national server (www.uscourts.gov) and, at the court's discretion, through a link on its public website.
- f. The digital recordings emanating from the pilot (as well as any transcripts made from the recordings) are not the official record of the proceedings, and should not be used as exhibits or part of any court filing.
- g. The court may wish to designate certain court personnel to coordinate media questions, and confer with the Administrative Office's Office of Public Affairs in handling those requests.