

MEDIA COVERAGE OF JUDICIAL PROCEEDINGS

Rule 1001

ELECTRONIC AND PHOTOGRAPHIC MEDIA COVERAGE OF JUDICIAL PROCEEDINGS

(a) **Preface.**

The increasing use of various electronic devices including phones, tablets, and other wireless communication devices continually challenges a court's legitimate concerns for courtroom security, participant distraction, and decorum.

These electronic devices are redefining the news media, the informational product disseminated, and the timeliness of the content. They also result in new expectations for the court and participants for immediate access to information.

Policies developed to address the court's concerns should include enough flexibility to take into consideration that electronic devices have become a necessary tool for court observers, journalists, and participants and continue to rapidly change and evolve. The courts should champion the enhanced access and the transparency made possible by use of these devices while protecting the integrity of proceedings within the courtroom.

(b) **Applicability.** The following provisions are subject in all cases to a judicial district or court issuing specific orders, local rules, or guidelines for the use of electronic devices in judicial proceedings.

(c) **Permissible Use of Electronic Device.**

(1) During a judicial proceeding a person may possess — but not use — any of the following electronic devices unless the possession is prohibited by the presiding judge or justice:

- (A) A cell phone,
- (B) A laptop or tablet computer, with or without video or audio capabilities,
- (C) A digital or tape audio recorder,
- (D) A personal digital assistant (PDA), with or without video or audio recording capabilities,
- (E) A still or video camera, and
- (F) Any other electronic device that can broadcast, record, or take

photographs.

- (2) All cell phones must be turned off in the courtroom. During court proceedings, all electronic devices must be put away and out of sight, unless use of the devices is authorized by the presiding judge or justice under this rule. A person may use a cell phone or other electronic device in a court facility, but not in a courtroom, to make or receive phone calls, e-mails, and/or text messages only.

(d) **Prohibited Use of Electronic Device.**

- (1) A person is prohibited from using a cell phone or any other electronic device in a court facility to:
 - (A) Take pictures,
 - (B) Take videos,
 - (C) Make sound recordings,
 - (D) Broadcast sound, and
 - (E) Broadcast still or moving images (video).

- (2) Violating this rule may result in the device being confiscated.

(e) **Permission Required for Exception to Rule.** The presiding judge or justice may make an exception to this rule. The news and educational media and others — such as a publisher, editor, reporter, or other person employed by a newspaper, magazine, news wire service, television station, or radio station who gathers, receives, or processes information for communication to the public, or an online journal in the regular business of newsgathering and disseminating news or information to the public — must request specific permission in advance to use an electronic device to record and transmit public proceedings, including real-time coverage, in Kansas courts. If permission is granted, use of the permitted electronic device must be in accordance with the following applicable conditions and procedures and such other conditions and procedures as may be required by the presiding judge or justice.

- (1) The privilege to photograph, record, or provide real-time coverage of court proceedings may be exercised only by those obtaining prior permission of the court. Video, photography, audio reproductions, and other electronic communications may be used only for the purpose of education or news dissemination.
- (2) The judge must be given at least one week's notice of the request to bring cameras, recording equipment, or other electronic communication devices into the courtroom. The judge may waive this requirement for good cause.

- (3) The privilege granted by this rule does not limit or restrict the judge's power, authority, or responsibility to control the proceedings before the judge. The judge's authority to disallow possession of electronic devices at a proceeding or during the testimony of a particular witness extends to any person engaging in the privilege authorized by this rule.
- (4) Audio pickup and audio recording of a conference between an attorney and client, or among cocounsel, counsel and opposing counsel, or among attorneys and the judge are prohibited regardless of where conducted. Photographing such a conference is not prohibited.
- (5) Focusing on and/or photographing materials on counsel tables or in designated areas is prohibited.
- (6) An individual juror may not be photographed. In a courtroom in which photography is impossible without including the jury as part of the unavoidable background, photography is permitted as long as no close-ups identify individual jurors.
- (7) The trial judge must prohibit the audio recording and photographing of a participant in a court proceeding if the participant so requests and (a) the participant is a victim or witness of a crime, a police informant, an undercover agent, or a relocated witness or juvenile, or (b) the hearing is an evidentiary suppression hearing, a divorce proceeding, or a case involving trade secrets. Subject to a court directive to the contrary, the news media may record and photograph a juvenile who is being prosecuted as an adult in a criminal proceeding as authorized by K.S.A. 38-2347.
- (8) No video, photograph, audio reproduction, or other electronic communication of a court proceeding will affect the official court record of the proceeding for purposes of appeal or otherwise.
- (9) An interview for broadcast or other electronic transmission may not be recorded in a hallway immediately adjacent to a courtroom entrance if a passageway is blocked or a judicial proceeding is disturbed thereby. Photographing or other recording through a window or open door of a courtroom is prohibited. Prior to rendition of the verdict, a criminal defendant may not be photographed or otherwise recorded in restraints as the defendant is being escorted to or from a court proceeding.

- (10) The judge may ban cameras, audio recorders, and other electronic communications devices from the entire floor on which a proceeding is conducted.
- (11) The chief judge must designate a coordinator or other court personnel who will work with the chief judge, the trial judge, the media, and others making a request under this rule in district court.
- (12) A request to photograph, record, or provide live coverage of a court proceeding must be directed to the coordinator. When more than one television station, still photographer, or audio recorder desires to cover a court proceeding, the coordinator must designate the pool photographer and audio recorder. If there is a dispute as to the pool designation or the equipment to be used, no audio or visual equipment will be permitted at the proceeding. Requests for copies of audio recordings, video, or photographs must be directed to the pool representative, who will supply copies upon request to media representatives at a price not exceeding actual cost. Pool designations are not necessary for individuals providing text accounts via approved electronic devices.
- (13) The trial judge will designate the location in the courtroom for the audio, video equipment, and operators. Under the general supervision of the chief justice, the clerk of the appellate courts will supervise the location of media equipment within the Supreme Court courtroom. The presiding judge of a Court of Appeals panel will supervise the location of media equipment, and personnel using the equipment, at hearings before the Court of Appeals. Equipment and operators ordinarily should be restricted to areas open to the public. The equipment and operators, however, must not impede the view of persons seated in the public area of the courtroom. Operators must occupy only the area authorized by the judge and may not move about the courtroom for picture-taking purposes during the court proceeding.
- (14) Media equipment must not be placed within or removed from the courtroom except prior to commencement or after adjournment of proceedings each day, or during a recess. Such equipment must not be operated in any manner that disrupts proceedings.
- (15) One television camera, operated by one person, and one still photographer, using not more than two cameras, are authorized in any court proceeding. The judge may authorize additional cameras or persons at the request of the coordinator. If a still camera is not manufactured for silent operation, use of a quieting device is recommended. The court may restrict operation of cameras or electronic devices

which emit distracting sounds during court proceedings.

- (16) Only audio, visual, or electronic communications equipment that does not produce distracting light or sound may be used to cover court proceedings. An artificial lighting device may not be used in connection with any audio or visual equipment. A modification in the lighting of a district court facility may be made only with the approval of the chief judge. Approval of other authorities may be required.

[History: New rule effective September 1, 1988; Amended and restyled rule effective October 18, 2012.]