



CAMERAS IN THE COURTROOM

Considerations for victim service professionals

Rule 4 of the Minnesota General Rules of Practice governs visual¹ and audio recordings in the courtroom. Under this rule, which went into effect in 2018 after a long history of experimental pilot projects, recognized media outlets can record proceedings in a limited way after first being granted access by the trial judge. It is expected that requests to record court proceedings will become more common in the future, and advocacy organizations and criminal justice agencies need to be prepared by having protocols and procedures in place.

This brief provides background information on Rule 4, reviews its key aspects, and identifies common issues for victim service professionals to consider as they prepare for requests for visual and audio coverage in their cases.

Background

In August 2015, the Minnesota Supreme Court issued an *Order Promulgating Amendments to the Minnesota General Rules of Practice* that provided for a new process related to visual and audio recordings in the courtroom, effective November 10, 2015.² This order, which established a three-year pilot project allowing audio and video coverage of certain criminal court proceedings, came after an extensive period of examination and public comment and a two-year pilot project involving certain civil proceedings. Minnesota has allowed electronic coverage of criminal proceedings since at least 1983, but the requirement for party consent effectively prevented such coverage.

On December 20, 2017, the Advisory Committee on the Rules of Criminal Procedure submitted a report to the Minnesota Supreme Court on the three-year pilot project with their recommendations. On July 2, 2018, the Minnesota Supreme Court ordered that the rules governing the pilot project be permanently codified and promulgated the new Rule 4 of the Minnesota General Rules of Practice for the District Courts governing visual and audio recordings of court proceedings.³

Following the use of remote court participation when in-person proceedings were suspended during the COVID-19 pandemic, as well as the live coverage during the high-profile *State v. Chauvin* trial, there is great interest in reconsidering the requirements for audio and video coverage of criminal proceedings. On June 18, 2021, the Minnesota Supreme Court issued an order⁴ directing the Advisory Committee on the Rules of Criminal Procedure to review the General Rules of Practice for the District Courts that govern audio and video coverage and to consider whether those rules should be modified or expanded. The committee must complete its review and file a report with recommendations on or before July 1, 2022.

¹ Visual includes film, video, and still photography.

² The promulgating order, which amended Rule 4 of the General Rules of Practice, can be found [here](#). The General Rules of Practice can be found [here](#).

³ The promulgating order, which amended Rule 4 of the General Rules of Practice, can be found [here](#).

⁴ The order directing review of the current rule can be found [here](#).

On March 15, 2023, the Minnesota Supreme Court issued an order promulgating amendments to the General Rules of Practice for District Courts,⁵ expanding the visual and audio coverage of criminal proceedings. The new rules allow for coverage without the consent of all parties, but still prohibits photos or video of victims unless they explicitly consents.

The new rules go into effect on **January 1, 2024**. Until that time, the provisions of Rule 4 described below remain in effect.

Key aspects of Rule 4:

CIVIL CASES

For **civil cases**, here are the key restrictions that relate to victims and witnesses:

- Visual or audio coverage is not allowed in cases involving child custody, marriage dissolution, juvenile proceedings, child protection proceedings, paternity proceedings, civil commitment proceedings, petitions for orders for protection, and proceedings that are not accessible to the public.
- Visual or audio coverage is not allowed if a witness objects to being recorded before testifying.
- Visual or audio coverage of jurors during a trial is not allowed.
- Visual or audio coverage is not allowed during trial recesses, when the trial judge is not present and presiding, or for hearings that take place outside the presence of the jury.

CRIMINAL CASES

For **criminal cases**, here are the key restrictions that relate to victims and witnesses *before* a defendant has been convicted:

- Visual or audio coverage may not be permitted in any proceeding unless all parties (prosecution and defense) have given their consent.
- Visual or audio coverage is not permitted if a witness objects to being recorded before testifying.
- Visual or audio coverage of jurors during the trial is not allowed.
- Visual or audio coverage is not allowed during trial recesses, when the trial judge is not present and presiding, or for hearings that take place outside the presence of the jury.

For criminal cases *after* a defendant has been convicted, a judge must allow visual or audio coverage absent good cause. Some key restrictions, however, apply, including:

- Visual or audio coverage is not permitted in cases involving charges that come under the list of “qualified domestic violence-related offenses” (Minn. Stat. § 609.02, subd. 16).
- Visual or audio coverage is not permitted in cases involving charges of criminal sexual conduct (Minn. Stat. §§ 609.293-.352).
- Visual or audio coverage is not permitted of a victim giving a statement at a sentencing hearing or other post-conviction hearing unless they have affirmatively acknowledged and agreed to coverage in writing before their testimony.

⁵ The promulgating order amending Rule 4 of the General Rules of Practice can be found [here](#).

- Visual or audio coverage is not permitted of a person giving a statement on behalf of a victim—their “proxy”—unless the “proxy” has affirmatively acknowledged and agreed to coverage in writing before their testimony.
- Visual or audio coverage is not permitted when a jury is present, during trial recesses, or when the trial judge is not present and presiding.
- Visual or audio coverage is not permitted in any proceeding held in a treatment court, including drug courts, mental health courts, veterans’ courts, and DWI courts.

Notice of intent to cover authorized court proceedings

Unless waived by the judge, the media must provide written notice of the intent to cover authorized district court proceedings by audio or visual means at least seven days before the commencement of the hearing or trial. Objections from parties must be made and presented to the presiding judge, the other parties, and the media requesting the coverage at least three days before the hearing if the media has submitted the request according to its timeline. The judge must rule on any objections and make a decision about the visual or audio coverage before the commencement of the hearing or trial, but has the discretion to limit, terminate, or temporarily suspend such coverage of a case at any time.

Coverage of victims and witnesses in authorized court proceedings

If the judge grants the media’s request to cover an authorized proceeding, each party is required to inform all witnesses the party plans to call at or before the proceeding’s commencement that their testimony will be subject to visual or audio recording unless they object in writing or on the record before testifying. As noted above, victims or their designees giving a statement at the sentencing or any other hearing cannot be recorded unless they have affirmatively acknowledged and agreed in writing to the proposed coverage. A victim is defined as a person who suffers loss or harm as a result of a crime and includes the family members, guardian, or custodian of a minor, incompetent, incapacitated, or deceased victim. (Minn. Stat. § 611A.01(b)).

For proceedings in civil court or for proceedings taking place in criminal court before a defendant has been convicted, a witness (victim) who objects in writing or on the record before testifying cannot be the subject of visual or audio coverage.

After a criminal conviction, the judge must have good cause to deny visual or audio coverage of an authorized proceeding with the exception related to a victim’s statement at sentencing noted above. Lack of consent of the parties in all other situations is not considered good cause to deny coverage. Instead, to determine whether there is good cause to prohibit coverage, the judge must consider: (1) the privacy, safety, and well-being of the participants or any other interested persons; (2) the likelihood that coverage will detract from the dignity of the proceedings; (3) the physical facilities of the court; and (4) the fair administration of justice.

It is important to recognize that the presence of cameras may have a chilling effect on victims and make it difficult for them to fully participate in the legal process and exercise their rights. Even if the victim chooses not to be filmed, visual or audio coverage of the court proceeding may still impact them, for example, through widespread media coverage of the criminal case, dissemination of private information

about them, and filming of victims and supporters in the gallery. Parties may consider bringing motions to object to coverage if it impacts the privacy, safety, and well-being of the victim.

Planning in advance

To protect the interests of victims and witnesses, it is important for prosecutors' offices to plan in advance for media requests. Prosecutors should have in place standard forms and motions for either their consent or non-consent to visual or audio coverage of a pre-conviction criminal proceeding. Similarly, prosecutors should have in place standard forms and motions and good cause arguments for raising their objections to visual or audio coverage of a post-conviction proceeding. Other considerations to keep in mind are the need to:

- Communicate with victims and witnesses regarding the coverage request,
- Ensure that any victim or witness objections are properly noted, and
- Obtain written authorization in those cases where the victim agrees to being recorded in a post-conviction proceeding.

Ideally, prosecutors' offices, the bench, the defense bar, and court administration in each jurisdiction should confer about the process to communicate about media requests, submit standard authorization forms, and determine the placement of cameras and recording devices in the courtroom.

Next steps

This overview of Rule 4 identifies the issues to consider when reacting to media requests for visual and audio coverage of court proceedings. We encourage those working in prosecutors' offices and advocacy organizations to establish policies and protocols to protect the interests of crime victims and witnesses when a media request for visual or audio coverage is made.

OJP will distribute any information about future trainings on cameras in the courtroom for prosecutors' offices and victim service professionals.

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