



COURT OF KING'S BENCH FOR
SASKATCHEWAN

GENERAL APPLICATION PRACTICE DIRECTIVE #10

AUDIO/VIDEO RECORDING OR BROADCASTING **COURT PROCEEDINGS**

REFERENCE: GA-PD #10

Effective: August 1, 2021

Revised: November 1, 2023

Authorization required

1. Except as authorized, the audio/video recording or broadcasting of court proceedings, portions thereof or ceremonies within courtrooms or of people or events within court houses is prohibited. For the purpose of this practice directive, audio/video recording includes still photography.

Scope

2. This practice directive describes the general process by which a media organization may seek authorization from the Court to audio/video record and/or broadcast any court proceeding or ceremony occurring in a courtroom, by any device, machine or system including cameras and audio/video recording equipment.
3. This practice directive is subject to any specific order or direction to the contrary by the judge presiding over the court proceeding or the ceremony.
4. Nothing in this practice directive is intended to modify, grant or extend the scope of public access to proceedings that, by law or rules, are required or determined to be confidential.
5. While the Court recognizes the importance of media access to court proceedings, the fairness and integrity of those proceedings is always a significant consideration. Typically, the following proceedings will not be considered for broadcast:

- a) any proceeding in which a party to the proceeding is under the age of 18 years, or was under the age of 18 years at the time of the event that gave rise to the proceedings;
- b) family law and child protection proceedings;
- c) bail and detention reviews;
- d) proceedings relating to sexual offences;
- e) proceedings involving trade secrets or business information of a confidential nature;
- f) matters that would identify or tend to identify a confidential informant, undercover police officer, police investigative technique, police intelligence or other sensitive information;
- g) applications for challenges to a jury panel, jury selection and proceedings in jury trials conducted in the absence of the jury, including all pre-trial applications in relation to jury trials;
- h) proceedings in which the public has been excluded by order under the *Criminal Code*;
- i) proceedings where the safety of a participant may be jeopardized by broadcast;
- j) pre-hearing conferences; and
- k) applications for publication bans and applications for broadcast.

Twitter and texting from courtrooms

6. In accordance with the Saskatchewan Law Courts protocol, “Twitter and Other Text-Based Forms of Media Communication from Saskatchewan Courtrooms”, and subject to the direction or order of the presiding judge, authorized media displaying card identification may use, in silent mode, a mobile phone, small laptop or other similar piece of equipment to perform live text-based communications from court.

Audio/video recording by media

7. In accordance with Saskatchewan Law Courts policy, “Electronic and Wireless Devices Policy”, and subject to the direction or order of the

presiding judge, authorized media displaying card identification may audio record court proceedings for the sole purpose of accurate reporting provided the recording is not broadcast or transmitted by any means.

Ceremonies

8. A ceremony occurring in a courtroom may not be recorded by any means except with the permission of the presiding judge. Media organizations may apply for authorization from the Court to audio/video record and/or broadcast a ceremony occurring in a courtroom by filing a written request with the local registrar at least two days before the scheduled ceremony.

Application procedure

9. An application for authorization to audio/video record or broadcast a court proceeding may be made by or on behalf of a media organization [applicant] and must be made by Notice of Application in Form A accompanied by supporting documentation.
10. The supporting documentation must include:
 - a) the affidavit evidence that supports the application;
 - b) a blank Form B [Response to Application for Authorization to Audio/Video Record and/or Broadcast Court Proceedings];
 - c) draft order;
 - d) any other material intended to be relied upon to support the application;
 - e) a written argument addressing the impact of the authorization sought on:
 - i) fair trial rights;
 - ii) privacy interests;
 - iii) witnesses in the proceeding; and
 - iv) the court and the administration of justice;
 - f) proof of service.
11. Unless the Court otherwise orders, the Notice of Application and supporting documentation must be served on all parties and filed with the Court not less than 90 days prior to the start of the scheduled court proceeding sought to be

audio/video recorded or broadcast.

12. The Court or presiding judge may require that the Notice of Application and supporting material be served on other persons or entities in order to provide them the opportunity to participate in the application.
13. In a civil law proceeding, the parties or other persons or entities as may be ordered by the Court or presiding judge may be served at their address for service in accordance with Part 12 of *The King's Bench Rules*. In a criminal proceeding or any other proceeding where a party has not provided an address for service, the application must be personally served on the party or their lawyer of record unless the party agrees to accept service by other means and provides a signed acknowledgment of service in accordance with Form 12-3 of *The King's Bench Rules*.

Draft order and standard conditions

14. The applicant's draft order should include the standard conditions set out in Schedule 1 to this practice directive unless the applicant in its application provides reasons why the standard conditions should not apply in the circumstances.

Notice to witnesses

15. Parties or their counsel shall inform any witnesses they intend to call to testify in the court proceeding, of the application as soon as possible after initiating or receiving the Notice of Application, and provide them with a copy of the Notice of Application and supporting documentation.

Notice of objection or consent by party or witness

16. A party, witness or other person or entity who has received notice of this application may file with the Court a completed Form B within 30 days of receiving the Notice of Application and supporting material in which they state whether they:
 - a) object to the application;
 - b) consent to the application in accordance with the draft order that was attached to the Notice of Application; or
 - c) consent to the application upon certain terms and conditions set forth in Form B.

Hearing

17. Unless the presiding judge directs that the application be set down to be heard, the application will be decided upon the material filed in support of or in opposition to the application. Should the presiding judge direct that the application be set down to be heard, the local registrar will notify the applicant, the parties and any other person or entity that have filed a response to the application in Form B, of the date and time when the matter will be heard.

Pooling agreement

18. A media organization permitted to use a camera or other audio/video recording device in a courtroom must, if requested to do so, make arrangements to contemporaneously share the resulting recording or data with any other media organization which agrees to abide by the terms and conditions imposed by the presiding judge respecting the audio/video recording or broadcasting of court proceedings. The Court will not adjudicate disputes as to compliance with this aspect of this policy; however, an instance of non-compliance may, if brought to the Court's attention, result in the summary suspension or revocation of leave to use a camera or other audio/video recording device in a courtroom.

Compliance with publication bans and other applicable legislation

19. The authorization to audio/video record or broadcast a court proceeding does not relieve anyone from an obligation to comply with the legal requirements of a statutory or court-ordered publication ban in effect with respect to a proceeding. Further, any order granted does not affect any rights and obligations under *The Privacy Act*, RSS 1978, c P-24.

Physical criteria for recording equipment and personnel

20. Unless the Court otherwise orders, the following criteria apply to the use of audio/video recording equipment in the courtroom by authorized audio/video media:
 - a) no more than one audiovisual recording device [Recording Device] is allowed in the courtroom;
 - b) the Recording Device and operating personnel must be in place and ready to proceed in an area designated by the Court at least 10 minutes prior to the scheduled commencement of the hearing;

- c) operating personnel in the courtroom must be suitably attired in business dress, and must conduct themselves in a manner in keeping with judicial proceedings;
- d) the Recording Device and operating personnel must remain in place while the court is in session;
- e) the Recording Device must be turned off when court is not in session (e.g., during breaks);
- f) the Recording Device must be unobtrusive; and
- g) all other equipment must be left outside the courtroom and must not impede public access to a courtroom or circulation within the court house.

Specific restrictions on recording

21. The following restrictions and prohibitions apply in all proceedings where authorization to record or broadcast has been granted:
- a) there must be no video recording or broadcasting of:
 - i) members of the jury at any time;
 - ii) members of the public in attendance in the courtroom;
 - iii) materials on counsel tables, or in counsel's possession, or of any materials used in the examination of a witness that have not been admitted into evidence;
 - iv) any conversations between counsel or between counsel and their clients, witnesses or anyone else at any time; or
 - v) subject to the Court's order, any witness, counsel or other participant in the proceedings who objects to being video recorded.
 - b) the video recorded or broadcast image of a person must be tightly framed and must not show less than the person's head and shoulders.

Delay in broadcasting

22. Unless the presiding judge or registrar otherwise orders, there must be a delay of at least two (2) hours between the conclusion of the morning or the afternoon court session at which the audio/video recording was made and the

time of broadcasting.

Application to vary

23. An audio/video recording of a court proceeding may only be used for the purpose(s) authorized and only during the time period specified in the authorization. An application to vary the terms of the authorization (e.g., use or broadcast the recording for any other purpose, amend a condition) must be the subject of a separate application. Further, the Court may revoke, suspend or vary any order granted at any time during the proceedings should the presiding judge deem it necessary to do so.

Storage

24. The authorized media organization must retain and securely store any recordings of the proceedings for a period of at least three years from the conclusion of the proceeding of which the recordings were made [Retention Period].
25. During the Retention Period, the authorized media organization must make the video recording(s) available to the Court upon the direction of the Chief Justice or his or her designate.

Notice to public gallery

26. The local registrar will place a notice on the exterior of the door of the courtroom to notify the public that the proceeding therein is subject to being recorded or transmitted.

Costs

27. A member of the media who has been authorized to use a camera in a courtroom will bear all costs associated with that use, subject to any arrangements the member may make with other members of the media in furtherance of the pooling agreement referred to in section 18 of this practice directive.

Chief Justice M.D. Popescul
Court of King's Bench for Saskatchewan

Schedule 1**STANDARD CONDITIONS**

1. Cameras or other recording or transmitting devices shall not be used to record or transmit:
 - a) any document or other record, whether hardcopy or electronic, that is located or visible on the dais, the clerk's desk or a counsel table in any way that might allow the text thereof to be magnified, read, understood or discerned by anyone;
 - b) private dialogue between or among legal counsel or between or among legal counsel and their clients in any way that might allow the content of the dialogue to be understood or deciphered by anyone;
 - c) any images of members of the jury or the jury panel;
 - d) images of the accused except when providing testimony or otherwise speaking on the invitation of the presiding judge;
 - e) images of the public gallery that can identify members of the public in attendance in the courtroom;
 - f) images of the courtroom when court is not in session, including short breaks;
 - g) in the case of a jury trial, court proceedings when the jury is absent from the courtroom notwithstanding that court is in session; and
 - h) images of any exhibit that is or contains an intimate image of any person living or dead and any images of a corpse.
2. There shall be no more than ___ camera(s) in the courtroom that remain in the space within the courtroom designated by the Court.
3. The camera shall be fixed in place and ready to operate before the opening of court and shall be maintained in good working order and operate without distraction.
4. No lighting equipment may be brought in or used in the courtroom.
5. The camera operator and other media personnel:

- a) must not move about the courtroom when the court is in session, and otherwise remain unobtrusive;
 - b) must be suitably attired in business dress; and
 - c) must conduct themselves in a manner in keeping with judicial proceedings.
6. The photograph(s) or recording:
 - a) may only be broadcast for the purpose of informing the public of the court proceedings; and
 - b) may not be altered or edited in such a way as to mislead the public or to mock or denigrate the judicial system or any of the participants in the proceeding.
 7. A copy of the recording must be provided to the Court upon request of the Court.
 8. There must be a delay of at least two hours between the conclusion of the morning or the afternoon court session at which the video recording was made and the time of broadcast.
 9. The Court may at any time before a recording is broadcast order that the record or portion of the record not be broadcast. The Court may further order that a record that has not been broadcast be destroyed.
 10. No person shall create a written transcript of the court proceeding except with leave of the Court.
 11. The terms of this order apply to all persons who are authorized to share in or use the recorded images.