



The Provincial Court of Saskatchewan

PRACTICE DIRECTIVE XIII

Audio / Visual Recording or Broadcasting Court Proceedings

Authorization required

1. Except as authorized, the audio/video recording or broadcasting, in whole or in part of Court proceedings, 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, is required or determined to be confidential.
5. While this 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 at the time of the event that gave rise to the proceedings;
 - b) Family law and child protection proceedings;
 - c) Show cause hearings;
 - 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) Preliminary inquiries;
- 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/case management 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 Communications 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 recording by media

7. In accordance with Saskatchewan Law Courts policy *Electronic and Wireless Devices*, 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 Court. 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 court manager 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 [the “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.

Draft order and standard conditions

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

Notice to witnesses

14. 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

15. A party, witness or other person or entity who has received notice of this application shall 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 consent order that was attached to the Notice of Application; or
 - c) consent to the application upon certain terms and conditions provided in Form B.

Hearing

16. Unless the presiding judge directs that the application be scheduled for a hearing, the application will be decided upon the material filed in support or in opposition to the application. Should the presiding judge direct that the application be set down to be heard, the court manager will notify the applicant, the parties and any other person or entity that has filed a response to the application in Form B, of the date and time when the matter will be heard.

Pooling agreement

17. A media organization that is 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 that 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

18. 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

19. 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 the authorized number of audiovisual recording devices [Recording Device] will be 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

20. 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 public in attendance in the courtroom;
 - ii) 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;

- iii) any conversations between counsel or between counsel and their clients, witnesses or anyone else at any time; or
 - iv) 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

21. 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

22. 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

23. 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].
24. During the Retention Period, the authorized media organization must make the video recording(s) available to the Court upon the direction of the Chief Judge or her/his designate.

Notice to public gallery

25. The court manager will place a notice on the exterior of the door of the courtroom to notify the public that the proceeding is subject to being recorded or transmitted.

Costs

26. A member of the media 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 s. 17 of this policy.

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) images of the accused except when providing testimony or otherwise speaking on the invitation of the presiding judge;
 - d) images of the public gallery that can identify members of the public in attendance in the courtroom;
 - e) images of the courtroom when Court is not in session, including short breaks;
 - f) 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 must 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.

Form A

Information # _____

PROVINCIAL COURT OF SASKATCHEWAN at _____, Saskatchewan

IN THE MATTER OF

PARTY/RESPONDENT _____, *versus*
Name of Plaintiff/Applicant or Her Majesty the Crown

PARTY/RESPONDENT _____
Name of Defendant/Respondent or Accused

AND

APPLICANT (media)

RESPONDENT(s) _____
Other persons or entities to which notice is given

NOTICE OF APPLICATION FOR AUTHORIZATION TO AUDIO/VIDEO RECORD AND/OR BROADCAST COURT PROCEEDINGS

I, _____, am a representative of _____,
(name of person making the application) (media organization)

hereby make application for an order authorizing the audio/video recording and/or broadcasting of the within Court proceeding, at a date and time to be fixed by the local manager.

As a party in this action and/or as a respondent in this application, you and any witness you intend to call to testify have the right to state your position on this application before the Court.

(Read the Notice at the end of this document to see what you can and must do and when you must do it.)

Remedy claimed or sought:

1. The Applicant seeks an order to:

- audio record
- video record
- both audio and video record
- broadcast

a) The following proceeding: *(describe the type of proceeding, the date it is scheduled to commence and if it is intended that the entire proceeding or a portion/s of it be recorded);*

b) By the following means: *(describe the recording device and broadcast medium)*

- c) For the following purpose: *(describe the uses the recording will be put such as for a television newscast, documentary, podcast etc.)*

in accordance with the draft order attached to this Notice of Application.

Material or evidence to be relied on:

- 2. The Applicant intends to rely upon and file with the Court the following supporting documentation:
 - a) the affidavit evidence that supports the application;
 - b) draft order;
 - c) any other material intended to be relied upon to support the application;
 - d) 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.
 - e) proof of service.
- 3. This application is subject to Provincial Court Practice Directive XIII – *Audio/Visual Recording or Broadcasting of Court Proceedings*. *(The Provincial Court Practice Directives are available on the Courts’ website at www.sasklawcourts.ca)*

Applicable Acts and regulations:

- 4. *The Privacy Act*, RSS 1978, c P-24.
(include any other Acts or Regulations the Applicant considers applicable)

DATED at _____, Saskatchewan, this _____ day of _____, 20____.

(signature)

NOTICE

Provide a copy of this Notice of Application (Form A) and Response (Form B) (attach Form B to this Application) to any witness you have subpoenaed or intend to call as a witness in the proceeding.

You, a witness or your respective lawyers, may object or consent to the Application in whole or in part by completing the Response (Form B) and filing it with the Court within 30 days of your receipt of this notice. A copy of the completed Form B and any other material you intend to file should be provided to the applicant at their address below.

If the presiding judge directs that the application is to be set down to be heard, the court manager will contact you (at the contact information you have provided in Form B), to notify you of the location date and time of the hearing. At that time you may request to appear on the application by phone.

If you do not file a Response and do not come to Court either in person, by phone or by your lawyer, the Court may give the applicant(s) what they are seeking in your absence. You will be bound by any order that the Court makes.

CONTACT INFORMATION AND ADDRESS FOR SERVICE OF APPLICANT

Lawyer for the Applicant:

Name of firm: _____

Name of lawyer in charge of file: _____

Address of legal firms: _____
(set out the street address)

Telephone number: _____

Fax number *(if any)*: _____

E-mail address *(if any)*: _____

Form B

Information # _____

PROVINCIAL COURT OF SASKATCHEWAN at _____, Saskatchewan

IN THE MATTER OF

PARTY/RESPONDENT _____, *versus*
Name of Plaintiff/Applicant or Her Majesty the Crown

PARTY/RESPONDENT _____
Name of Defendant/Respondent or Accused

AND

APPLICANT (media)

RESPONDENT(s) _____
Other persons or entities to which notice is given

RESPONSE TO APPLICATION FOR AUTHORIZATION TO AUDIO/VIDEO RECORD AND/OR BROADCAST COURT PROCEEDINGS

I, _____, am:

- a party in this action;
- a witness who has been asked or subpoenaed to testify on behalf of a party in this action;
- a lawyer for _____ who is _____ (*party/witness in this action*).

1. I hereby:

- object to the application.
- consent to the application in accordance with the draft consent order attached to the application.
- consent to the application upon the condition that the terms of the order as set out in the draft order are varied as follows: (*describe any additional terms or variation of terms sought.*)

2. My reasons for objecting to the application or for seeking alteration of the conditions set out in the draft order are as follows: (*Reasons may alternatively be set out in an attached affidavit or brief of argument.*)

3. In support of my response I intend to rely upon the following documents: *(describe any affidavits or documents to be filed in support. If no additional documents are intended to be filed this paragraph may be deleted.)*

DATED at _____, Saskatchewan, this _____ day of _____, 2_____.

(signature)

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If prepared by a lawyer for the party/witness:

Name of firm: _____

Name of lawyer in charge of file: _____

Address of legal firms: _____
(set out the street address)

Telephone number: _____

Fax number *(if any)*: _____

E-mail address *(if any)*: _____

or

If the party/witness is not represented:

Name of party: _____

Address for service: _____
(set out the street address)

Telephone number: _____

Fax number *(if any)*: _____

E-mail address *(if any)*: _____