

RULES OF THE CIRCUIT COURT OF THE STATE OF NEW HAMPSHIRE -- DISTRICT DIVISION

GENERAL RULES

Rule 1.4. Photographing, Recording and Broadcasting

(a) Except as otherwise provided by this rule or by other provisions of law, any person, whether or not a member of an established media organization, shall be permitted to photograph, record and broadcast all court proceedings that are open to the public, provided that such person provides advance notice to the presiding justice in accordance with section (c) of this rule that he or she intends to do so. No person shall photograph, record or broadcast any court proceeding without providing advance notice to the presiding justice that he or she intends to do so. In addition to giving any parties in interest an opportunity to object, the purpose of the notice requirement is to allow the presiding justice to ensure that the photographing, recording or broadcasting will not be disruptive to the proceedings and will not be conducted in such a manner or using such equipment as to violate the provisions of this rule.

(b) Official court reporters, court monitors and other persons employed or engaged by the court to make the official record of any court proceeding may record such proceeding by video and/or audio means without compliance with the notice provisions of section (a) of this rule.

(c) Any person desiring to photograph, record or broadcast any court proceeding, or to bring equipment intended to be used for these purposes into a courtroom, shall submit a written request to the clerk of the court or his or her designee, who, in turn, shall deliver the request to the presiding justice before commencement of the proceeding, or, if the proceeding has already commenced, at the first reasonable opportunity during the proceeding, so the justice before commencement of the proceeding, or at an appropriate time during the proceeding, may give all interested parties a reasonable opportunity to be heard on the request.

(d) Any party to a court proceeding or other interested person who has reason to believe that a request to photograph, record or broadcast a court proceeding will be made and who desires to place limitations beyond that specified by this rule upon these activities may file a written motion seeking such relief. The motion shall be filed as far in advance of the proceeding as is practicable. Upon the filing of such a motion, the court may schedule a hearing as expeditiously as possible before the commencement of the proceeding and, if a hearing is scheduled, the court shall provide as much notice of the hearing as is reasonably possible to all interested parties and to the Associated Press, which shall disseminate the notice to its members.

(e) No court or justice shall establish notice rules, requirements or procedures that are different than those established by this rule.

(f) At any hearing conducted pursuant to subsections (c) or (d) of this rule, the party or person seeking to prohibit or impose restrictions beyond the terms of this rule on the photographing, recording or broadcasting of a court proceeding that is open to the public shall bear the burden of demonstrating: (1) that the relief sought advances an overriding public interest that is likely to be prejudiced if the relief is not granted; (2) that the relief sought is no broader than necessary to protect that interest; and (3) that no reasonable less restrictive alternatives are available to protect the interest. Any order prohibiting or imposing restrictions beyond the terms of this rule upon the photographing, recording or broadcasting of a court proceeding that is open to the public shall be supported by particularized findings of fact that demonstrate the necessity of the court's action.

(g) The presiding justice retains discretion to limit the number of cameras, recording devices and related equipment allowed in the courtroom at one time. In imposing such limitations, the presiding justice may give preference to requests to photograph, record or broadcast made by a representative of an established media organization that disseminates information concerning court proceedings to the public. The presiding justice also may require representatives of the media to arrange pool coverage.

(h) It is the responsibility of representatives of media organizations desiring to photograph, record or broadcast a court proceeding to contact the clerk of court in advance of a proceeding to ascertain if pool coverage will be required. If the presiding justice has determined that pool coverage will be required, it is the sole responsibility of such media representatives, with assistance as needed from the clerk or his or her designee, to determine which media organization will provide the coverage feed. Disputes about pool coverage will not ordinarily be resolved by the court, and the court may deny media organizations' requests to photograph, record or broadcast a proceeding if pool agreements cannot be reached. It also is the responsibility of said person to make arrangements with the clerk of court or his or her designee sufficiently in advance of the proceeding so that the set up of any needed equipment in the courtroom, including equipment for pool coverage, can be completed without delaying the proceeding. The court shall allow reasonable time prior to a proceeding for the set up of such equipment.

(i) The court shall make all documents and exhibits filed with the court, and not sealed, available for inspection by members of the public in a reasonably timely fashion, it being recognized that the court's need to make use of documents and exhibits for official purposes must take precedence over their availability for public inspection. The court may elect to make one "public" copy of an exhibit available in the clerk's office.

(j) The exact location of all recording, photographing and broadcasting equipment within the courtroom shall be determined by the presiding justice. Once established, movement of such equipment within the courtroom is prohibited without the express prior approval of the presiding justice. The court may prohibit the use of any equipment which requires the laying of cords or wires that pose a safety hazard or impair easy ingress and egress from the courtroom. All equipment used must operate with minimal noise so as not to disrupt the proceedings.

(k) Unless otherwise ordered by the presiding justice, the following standing orders shall apply to all recording, photographing or broadcasting of proceedings within any courtroom:

- (1) No flash or other artificial lighting devices shall be used.
- (2) Set up and dismantling of equipment in a disruptive manner while court is in session is prohibited.
- (3) No recording, photographing or broadcasting equipment may be moved into, out of, or within the courtroom while court is in session.
- (4) Recording, photographing or broadcasting equipment must remain a reasonable distance from the parties, counsel tables, alleged victims and their families and witnesses, unless such person(s) voluntarily approach the position where such equipment is located. No such equipment shall be used or set up in a location that creates a risk of picking up confidential communications between lawyer and client or conferences held at the bench among the presiding justice and counsel or the parties.
- (5) All persons using recording, photographing or broadcasting equipment must abide by the directions of court officers at all times.
- (6) Interviews within the courtroom are not permitted before or after a proceeding.
- (7) A person who has been granted permission to record, photograph or broadcast a court proceeding shall not engage in any activity that distracts the participants or impairs the dignity of the proceedings.

Comment

With respect to subsection (c) of this rule, it is contemplated that such requests will be deemed timely if they are filed enough in advance of the proceeding that the presiding justice has an opportunity to read and consider the request, to orally notify all interested parties of its existence, and to conduct a brief hearing in the event that any interested party objects to the request. Given the strong presumption under New Hampshire law that photographing, recording and/or broadcasting court proceedings that are open to the public is allowable, this subsection is not intended to impose lengthy or onerous advance notice requirements; instead, it recognizes that frequently such requests will be filed only shortly before the proceeding in question is to begin.