

SEVENTH JUDICIAL DISTRICT
POLICY FOR NEWS MEDIA RELATIONS

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PREFACE

The mission of the court is to seek the truth and do justice. Although this directive seems simple, it involves countless personal and often public issues and concerns. The Court recognizes that at times litigants have privacy interests in their actions while at the same time society has an interest in the process, facts, and results.

Statutes, rules, and ethical considerations affect and limit how courts disseminate information about matters brought before them. This includes rules governing public comment about pending litigation. The Court recognizes that public information about the courts in this community is important for the benefit of the citizens and the proper functioning of our government. Accuracy and openness are core values in the ongoing obligation of both the judicial branch and the news media to disseminate this information. Public business should be open and available to the public at all times, except as limited by the law.

The purpose of this policy is to promote better understanding and better access between the news media and the Judiciary of the Seventh Judicial District of Iowa. Attachment A is a summary of District's professional positions.

INFORMATION AVAILABLE FROM JUDGES

The policy of the District is to provide all news media with all information available, subject to legal restrictions imposed on judges and the courts. The District will not discriminate among media outlets or types in the provision of information available by law. The District will endeavor to provide timely information by the most efficient means possible, subject to budgetary limitations. Information will generally be available from 8:00 a.m. to 4:30 p.m. on weekdays, which are normal business hours for the Courts.

Ethical restrictions may prohibit judges from making certain public comments. The Iowa Code of Judicial Conduct contains the restriction in Canon 3(A) (6):

A judge should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to the judge's direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

Under this restriction, judges can make statements for public dissemination “in the course of” the judge’s official duties. This means that judges may submit to the media written copies of their reasons for entering a criminal sentence, since those reasons are required by law to be stated on the record in open court at sentencing. Also, judges can provide copies of written opinions or rulings filed in cases where no statute makes such documents confidential.

Judges may also explain court procedures for public information. At times, the distinction between court procedures and court actions or rulings seems to be misunderstood. When requested, the District Court will try to make these clear in each case so that the news media is informed of the reasons for any inability of a judge to comment.

The rules of judicial ethics require judges to insist on similar abstentions from comment by court personnel under the judge’s direction and control. This means that the official court reporters, court attendants and law clerks cannot comment on pending cases.

When the media has interest in a case, the District will endeavor to advise all media representatives of the filing of such rulings and provide the opportunity for all media to obtain copies on a non-discriminatory basis. Requests for rulings may be made of the District Court Administrator. The Administrator’s office will endeavor to e-mail copies of opinions to news media as soon as they are filed, and the media are urged to provide their e-mail addresses to the District Court Administrator.

Inquiry regarding court procedures may be made to the Chief Judge or the Chief Judge’s designee.

Additional resources are also available to aid the media and public in understanding the court’s mission. The Iowa State Bar Association is available to assist in informing the public about the law and the role of judges and lawyers. The Iowa State Bar Association’s web site is www.iowabar.org. The President of the Iowa Bar Association is available to respond to inquiries.

The Scott County Bar Association, through its President, Executive Council or designee, is also available to respond to inquiries when rules of ethics allow. The Scott County Bar Association has a web site at www.scottcountybar.org. This web site includes, among other things, the District Court daily schedule in Scott County. The County Bar Associations in each county of this District also are available to respond to inquiries when rules of ethics allow.

Lawyers have a special responsibility to assure the fairness of trials. The Iowa Rules of Professional Conduct establish the ethical rules of conduct for Iowa lawyers. Rule 32:3.6 recognizes that a goal of our legal system is that each party shall have their case heard by an impartial judge or jury. Out-of-court statements made by a lawyer may improperly affect the rights of the parties.

Rule 32:3.6 sets forth in detail the limitations upon lawyers in making out-of-court statements. Rule 32:3.8 sets out in detail the special responsibilities of prosecutors. These rules and the commentary on them are set out in Attachment B to this policy.

Certain statutes close hearings in some court cases. Other statutes allow hearings to be closed on the request of a party or witness. These statutes are collected in Attachment C to this Policy. When such hearings are closed, the judge can explain the reasons for closure.

Court records are presumptively open to the public. Certain statutes make all or parts of court records confidential. These statutes are collected in Attachment D to this Policy.

Media coverage of trials has a long history in American jurisprudence. Today the electronic media can transmit these proceedings quickly throughout our community and country. Broadcasting, televising, electronic recording, and photographing judicial proceedings are allowed under Canon 3 of the Iowa Code of Judicial Conduct. See Attachment E to this Policy.

INFORMATION AVAILABLE FROM COURT ADMINISTRATOR

The Court Administrator for the Seventh Judicial District can provide information to the news media on case load statistics, daily schedules of hearings, and the district budget. The District Court Administrator will maintain public information copies of up-to-date resumes of district court judges and district associate judges. The District Court Administrator also will have information concerning personnel changes and honors and awards received by court staff.

INFORMATION AVAILABLE FROM CLERKS OF COURT

The district's policy is to make available to the public full access to non-confidential public records in court files. Clerks will endeavor to have a public terminal available so that news media and members of the public may search the dockets to determine the status of recent filings. The district will provide copies of public records at the cost of reproducing those copies.

Access to ICIS (Iowa Court Information System) public docket material is now available on the Internet at the Iowa Judicial Branch web site, www.judicial.state.us. ICIS access is also available on the public terminal in the clerk's office.

This district will not discriminate between competing media outlets regarding access to public records.

ANNUAL CONFERENCE WITH NEWS MEDIA

The Seventh Judicial District will host an annual conference with the news media. At this conference, topics of interest to both the news media and judges will be discussed. The district will endeavor to have available for informal discussions as many of the judges of the district as possible. The main purpose of this annual conference is to promote understanding between the news media and judicial officers concerning the functions, the work, and the restrictions on all involved.

ATTACHMENT A

ORGANIZATION OF THE JUDICIAL DISTRICT

1. Geographic area. The Seventh Judicial District of Iowa encompasses the counties of Cedar, Clinton, Jackson, Muscatine and Scott.

2. The chief administrative officer of the District is the Chief Judge of the District. The Chief Judge is appointed to that position by the Chief Justice of the Supreme Court of Iowa, subject to approval of the supreme court. Iowa Code Section 602.1210. The present Chief Judge is Judge Bobbi M. Alpers.

3. There are twelve District Court Judges in the Seventh District. They are, in order of seniority: Judge Charles H. Pelton, Judge James E. Kelley, Judge David H. Sivright, Judge Bobbi M. Alpers, Judge Patrick J. Madden, Judge J. Hobart Darbyshire, Judge Mark J. Smith, Judge Mark D. Cleve, Judge Nancy S. Tabor, Judge Gary D. McKenrick, Judge Mary E. Howes and Judge Marlita A. Greve. Judicial resumes of each judge may be obtained from the District Court Administrator's Office, Third Floor, Scott County Courthouse, 400 W. 4th Street, Davenport, IA 52801. They are also online at http://www.judicial.state.ia.us/District_Courts/District_Seven/Judges_and_Magistrates/.

District Court Judges have the authority to hear and decide all types of cases brought under Iowa law and those types of federal law cases triable in state courts. Constitution of Iowa, Article V, Section 6. In general, they hear felony and misdemeanor criminal cases, civil cases, family law cases, juvenile cases, probate matters (estates of decedents and guardianships), adoptions and mental health cases. Trials in the District Court are either jury trials or trials to a judge alone.

District Court Judges are nominated by a local District Nominating Commission composed of laypersons and lawyers, and chaired by the senior District Judge. The commission selects two nominees for any opening and forwards the two names to the Governor, who then has thirty days to interview and appoint one to the open position. After appointment, each Judge stands for retention every six years at the general election. Iowa Constitution, Article V, Sections 16-17.

4. The District may also be served by one or more Senior Judges. Senior Judges are those who elect to continue to serve the public after their retirement. A Senior Judge is required to serve at least 13 weeks per year. Judge John A. Nahra is the current Senior Judge serving the Seventh Judicial District.

5. There are five District Associate Judges in the District, three in Scott County, and one each in Clinton and Muscatine Counties. The three having chambers in Scott County are Judge John G. Mullen, Judge Douglas C. McDonald, and Judge Christine Dalton. The District Associate Judge in Clinton is Judge Arlen J. Van Zee, and the District Associate Judge in Muscatine is Judge Gary D. Strausser.

District Associate Judges have the power to hear certain criminal cases, including misdemeanors and Operating While Intoxicated cases, all initial appearances in criminal cases, civil cases where the amount in controversy does not exceed \$10,000.00, mental health and substance abuse commitment proceedings, and, by assignment from the Chief Judge of the District, juvenile law matters. Judges Van Zee, Mullen, Dalton and Strausser are assigned to hear juvenile cases. Iowa Code Section 602.6306.

District Associate Judges are nominated by the county magistrate appointing commission, and then are appointed by majority vote of the District Court Judges. After appointment, they also stand for retention election every four years. The judicial resumes of the District Associate Judges may be obtained from the Court Administrator's Office, and are also available on the Judicial Branch website.

6. Judicial Magistrates are practicing attorneys appointed by a county magistrate appointing commission composed of laypersons and lawyers. The Judicial Magistrates have power to hear civil small-claims cases, simple misdemeanor criminal cases, cases of violations of municipal ordinances, traffic ticket cases and initial appearances in criminal cases. They serve for a term of four years and may be reappointed by the commission.

The Judicial Magistrates in Scott County are: G. David Binegar; J.E. Tobey, III; R. Douglas Wells, Cynthia Z. Taylor, Eugene F. Dwyer, Dennis D. Jasper and Kyle D. Williamson.

The Judicial Magistrates in Clinton County are: Michael M. Judge and Bert Watson.

The Judicial Magistrates in Muscatine County are: Neva Rettig Baker and David W. Newell.

The Judicial Magistrates in Cedar County are: Stuart P. Werling and Bradley L. Norton.

The Judicial Magistrates in Jackson County are: Ronald J. Besch and Corliss Baty.

7. Part-time Associate Juvenile Judges are practicing attorneys appointed by the Chief Judge of the District to act as juvenile court judge in the absence of any designated juvenile court judge. They are subject to the supervision of the Chief Judge.

There are no Associate Juvenile Judges in the District at the present time due to budget restrictions.

8. The District Court Judges hire two Law Clerks each year for a one-year term. The Law Clerks are recent law school graduates who provide legal research support to all the Judges in the District. They are supervised by the Judges. Four present District Court Judges served as Law Clerks in this District early in their legal careers.

9. General day-to-day administration of the non-judicial staff of the District is supervised by the District Court Administrator, Howard Thomas. Reporting directly to him are the District's financial officer and assistant, three case coordinators, and a jury administrator. The District Court Administrator has general supervision of the personnel functions for the District. The administrator works closely with the Chief Judge of the District, and reports statistical information to the State Court

Administrator in Des Moines. The District Court Administrator is also responsible for preparing and administering the annual budget of the District.

10. The Clerk of Court in each county is appointed by majority vote of the District Court Judges. The Clerk is responsible for the functions of the Clerk's office, and those duties imposed by Section 601.8102 of the Code. In general, they include the retention and management of the court records of that county and the direct supervision of the employees of the clerk's office.

11. Court attendants are assigned generally to each court. The legal function of the court attendant is to keep order in the courtrooms during trials. In addition, they give information to attorneys and litigants regarding court schedules and generally aid the Judges in managing their busy schedules.

12. Juvenile Court Officers in the District are supervised by the Chief Juvenile Court Officer for the District. The Chief Juvenile Court Officer is appointed by the Chief Judge of the District and is subject to the supervision and direction of the Chief Judge of the District. See, Section 602.1217 of the Code.

The Chief Juvenile Court Officer of the District is Patricia Hendrickson.

ATTACHMENT B

IOWA RULES OF PROFESSIONAL CONDUCT

RULE 32:3.6: TRIAL PUBLICITY

(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

(b) Notwithstanding paragraph (a), a lawyer may state:

(1) the claim, offense, or defense involved and, except when prohibited by law, the identity of the persons involved;

(2) information contained in a public record;

(3) that an investigation of a matter is in progress;

(4) the scheduling or result of any step in litigation;

(5) a request for assistance in obtaining evidence and information necessary thereto;

(6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and

(7) in a criminal case, in addition to subparagraphs (1) through (6):

(i) the identity, residence, occupation, and family status of the accused;

(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;

(iii) the fact, time, and place of arrest; and

(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.

(c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.

(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).

(e) Any communication made under paragraph (b) that includes information that a defendant will be or has been charged with a crime must also include a statement explaining that a criminal charge is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

Comment

[1] It is difficult to strike a balance between protecting the right to a fair trial and safeguarding the right of free expression. Preserving the right to a fair trial necessarily entails some curtailment of the information that may be disseminated about a party prior to trial, particularly where trial by jury is involved. If there were no such limits, the result would be the practical nullification of the protective effect of the rules of forensic decorum and the exclusionary rules of evidence. On the other hand, there are vital social interests served by the free dissemination of information about events having legal consequences and about legal proceedings themselves. The public has a right to know about threats to its safety and measures aimed at ensuring its security. It also has a legitimate interest in the conduct of judicial proceedings, particularly in matters of general public concern. Furthermore, the subject matter of legal proceedings is often of direct significance in debate and deliberation over questions of public policy.

[2] Special rules of confidentiality may validly govern proceedings in juvenile, domestic relations, and mental disability proceedings, and perhaps other types of litigation. Rule 32:3.4(c) requires compliance with such rules.

[3] The rule sets forth a basic general prohibition against a lawyer's making statements that the lawyer knows or should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding. Recognizing that the public value of informed commentary is great and the likelihood of prejudice to a proceeding by the commentary of a lawyer who is not involved in the proceeding is small, the rule applies only to lawyers who are, or who have been involved in the investigation or litigation of a case, and their associates.

[4] Paragraph (b) identifies specific matters about which a lawyer's statements would not ordinarily be considered to present a substantial likelihood of material prejudice, and should not in any event be considered prohibited by the general prohibition of paragraph (a). Paragraph (b) is not intended to be an exhaustive listing of the subjects upon which a lawyer may make a statement, but statements on other matters may be subject to paragraph (a).

[5] There are, on the other hand, certain subjects that are more likely than not to have a material prejudicial effect on a proceeding, particularly when they refer to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration. These subjects relate to:

(1) the character, credibility, reputation, or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;

(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of

any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;

(3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;

(5) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial; or

(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

[6] Another relevant factor in determining prejudice is the nature of the proceeding involved. Criminal jury trials will be most sensitive to extrajudicial speech. Civil trials may be less sensitive. Non-jury hearings and arbitration proceedings may be even less affected. The rule will still place limitations on prejudicial comments in these cases, but the likelihood of prejudice may be different depending on the type of proceeding.

[7] Finally, extrajudicial statements that might otherwise raise a question under this rule may be permissible when they are made in response to statements made publicly by another party, another party's lawyer, or third persons, where a reasonable lawyer would believe a public response is required in order to avoid prejudice to the lawyer's client. When prejudicial statements have been publicly made by others, responsive statements may have the salutary effect of lessening any resulting adverse impact on the adjudicative proceeding. Such responsive statements should be limited to contain only such information as is necessary to mitigate undue prejudice created by the statements made by others.

[8] See rule 32:3.8(f) for additional duties of prosecutors in connection with extrajudicial statements about criminal proceedings.

RULE 32:3.8: SPECIAL RESPONSIBILITIES OF A PROSECUTOR

The prosecutor in a criminal case shall:

(a) refrain from prosecuting a charge that the prosecutor knows or reasonably should know is not supported by probable cause;

(b) make reasonable efforts to ensure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;

(c) not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;

(d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;

(e) not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes:

(1) the information sought is not protected from disclosure by any applicable privilege;

(2) the evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and

(3) there is no other feasible alternative to obtain the information; and

(f) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees, or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under rule 32:3.6 or this rule.

Comment

[1] A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence. See *generally* ABA Standards of Criminal Justice Relating to the Prosecution Function. Applicable law may require other measures by the prosecutor, and knowing disregard of those obligations or a systematic abuse of prosecutorial discretion could constitute a violation of rule 32:8.4.

[2] A defendant may waive a preliminary hearing and thereby lose a valuable opportunity to challenge probable cause. Accordingly, prosecutors should not seek to obtain waivers of preliminary hearings or other important pretrial rights from unrepresented accused persons. Paragraph (c) does not apply, however, to an accused appearing *pro se* with the approval of the tribunal. Nor does it forbid the lawful questioning of an uncharged suspect who has knowingly waived the rights to counsel and silence. In addition, paragraph (c) does not apply to a defendant charged

with a simple misdemeanor for which the prosecutor reasonably believes the defendant will not be incarcerated.

[3] The exception in paragraph (d) recognizes that a prosecutor may seek an appropriate protective order from the tribunal if disclosure of information to the defense could result in substantial harm to an individual or to the public interest. For purposes of paragraph (d), evidence tending to negate the guilt of the accused includes evidence that tends to impeach a witness for the State.

[4] Paragraph (e) is intended to limit the issuance of lawyer subpoenas in grand jury and other criminal proceedings to those situations in which there is a genuine need to intrude into the client-lawyer relationship.

[5] Paragraph (f) supplements rule 32:3.6, which prohibits extrajudicial statements that have a substantial likelihood of prejudicing an adjudicatory proceeding. In the context of a criminal prosecution, a prosecutor's extrajudicial statement can create the additional problem of increasing public condemnation of the accused. Although the announcement of an indictment, for example, will necessarily have severe consequences for the accused, a prosecutor can, and should, avoid comments which have no legitimate law enforcement purpose and have a substantial likelihood of increasing public opprobrium of the accused. Nothing in this comment is intended to restrict the statements which a prosecutor may make which comply with rule 32:3.6(b) or 32:3.6(c) and with rule 32:3.6(e).

[6] Like other lawyers, prosecutors are subject to rules 32:5.1 and 32:5.3, which relate to responsibilities regarding lawyers and nonlawyers who work for or are associated with the lawyer's office. Paragraph (f) reminds the prosecutor of the importance of these obligations in connection with the unique dangers of improper extrajudicial statements in a criminal case. In addition, paragraph (f) requires a prosecutor to exercise reasonable care to prevent persons assisting or associated with the prosecutor from making improper extrajudicial statements, even when such persons are not under the direct supervision of the prosecutor. Ordinarily, the reasonable care standard will be satisfied if the prosecutor issues the appropriate cautions to law-enforcement personnel and other relevant individuals.

ATTACHMENT C

PUBLIC ACCESS TO COURT HEARINGS AND PROCEEDINGS

1. Statutes which allow, but do not require, closure to the public (the following is not exhaustive but concerns those matters most commonly discussed):

a. Dissolution of marriage cases - Iowa Code Section 598.8(1). "The court may in its discretion close the hearing. Hearings held for the purpose of determining child custody may be limited in attendance by the court."

b. Juvenile court delinquency proceedings - Iowa Code Section 232.39. Hearings can be closed if the court finds ". . . that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing."

c. Juvenile court child in need of assistance proceedings - Iowa Code Section 232.92. Hearings can be closed for the same reasons as in delinquency proceedings.

d. Criminal cases, partial closure to protect a child witness, by closed circuit T.V. - Iowa Code Section 915.38. Upon a specific finding by the court that testifying in the presence of the defendant would cause trauma to a child witness and impair the minor's ability to communicate, the court can order procedures to allow the child to testify by closed circuit T.V. The court may also allow a child's testimony to be taken by video recorded deposition.

2. Statutes and Rule of Procedure requiring closure to the public:

a. Mental Health commitment proceedings, and appeals from those proceedings - Iowa Code Section 229.12(2).

b. Involuntary substance abuse commitment hearings - Iowa Code Section 125.82(2).

c. Abortion notification of parents hearing - Iowa Code Section 135L.3(3)(c).

d. Grand jury proceedings – Iowa Rule of Criminal Procedure 2.3(4)(d).

ATTACHMENT D

PUBLIC ACCESS TO COURT RECORDS

1. Civil case files statutory access limitations:
 - a. Juvenile case files are covered by Iowa Code Sections 232.147 through 232.151. In general, case files other than delinquency files are confidential. Delinquency case files may be sealed under Section 232.150 after a hearing, if the court finds that two years have elapsed since final discharge or since the last official action in the case, and the person the subject of the complaint has not subsequently been convicted of an aggravated misdemeanor or a felony in either adult or juvenile court, and with no such charges pending. Pre-dispositional reports are generally not open to the public under Code Sections 232.48(4) and 232.147(6).
 - b. Involuntary hospitalization records for mental health treatment are confidential. Iowa Code Section 229.24. Information in such files may be released only upon the written authorization of the person subject to the proceeding, or by a court order "for good cause shown."
 - c. Records of involuntary commitments for substance abuse treatment are confidential. Iowa Code Section 125.93.
 - d. Dissolution of marriage files are confidential until after the filing of a Decree. Iowa Code Section 598.26. The court may order portions of the file, other than court orders, decrees and judgment entries, sealed at the request of any party for good cause shown.
 - e. In domestic abuse cases, files may be sealed by order of the court to protect the privacy interests or safety of any person. Any orders for support shall remain public with address and location information redacted. Iowa Code Section 236.10.
 - f. Abortion notification of parents of a minor case files are strictly confidential. Iowa Code Section 135L.3.
2. For good cause, the court has power to seal all or any part of any civil case file. Hearings to determine good cause likewise may be closed to the public.
3. Criminal case file records are public documents, except for certain portions defined by law.
 - a. Child victim information is confidential. Iowa Code Chapter 915.

b. Minutes of testimony filed with the trial information are confidential and not public documents. Iowa Rule of Criminal Procedure 2.4(6)(b).

c. Presentence investigation reports in criminal files are confidential by statute. Iowa Code Section 901.4.

Attachment E

RULES FOR EXPANDED MEDIA COVERAGE

Iowa Court Rule 25.1. DEFINITIONS

As used in this chapter:

"Expanded media coverage" includes broadcasting, televising, electronic recording, or photographing of judicial proceedings for the purpose of gathering and disseminating news to the public.

"Good cause" for purposes of exclusion under this chapter means that coverage will have a substantial effect upon the objector which would be qualitatively different from the effect on members of the public in general and that such effect will be qualitatively different from coverage by other types of media.

"Judge" means the magistrate, district associate judge, or district judge presiding in a trial court proceeding, or the presiding judge or justice in an appellate proceeding.

"Judicial proceedings" or "proceedings" shall include all public trials, hearings, or other proceedings in a trial or appellate court, for which expanded media is requested, except those specifically excluded by this chapter.

"Media coordinator" shall include media coordinating councils as well as the designees of such coordinators or councils.

Rule 25.2. General

Broadcasting, televising, recording, and photographing will be permitted in the courtroom and adjacent areas during sessions of the court, including recesses between sessions, under the following conditions:

25.2(1) Permission first shall have been granted expressly by the judge, who may prescribe such conditions of coverage as provided for in this chapter.

25.2(2) Expanded media coverage of a proceeding shall be permitted, unless the judge concludes, for reasons stated on the record, that under the circumstances of the particular proceeding such coverage would materially interfere with the rights of the parties to a fair trial.

25.2(3) Expanded media coverage of a witness also may be refused by the judge upon objection and showing of good cause by the witness. In prosecutions for sexual abuse, or for charges in which sexual abuse is an included offense or an essential element of the charge, there shall be no expanded media coverage of the testimony of a victim/witness unless such witness consents. Further, an objection to coverage by a victim/witness in any other forcible felony prosecution, and by police informants, undercover agents, and relocated witnesses, shall enjoy a rebuttable presumption of validity. The presumption is rebutted by a showing that expanded media coverage will not have a substantial effect upon the particular individual objecting to such coverage which would be qualitatively different from the effect on members of the public in general and that such effect will not be qualitatively different from coverage by other types of media.

25.2(4) Expanded media coverage is prohibited of any court proceeding which, under Iowa law, is required to be held in private. In any event, no coverage shall be permitted in any juvenile, dissolution, adoption, child custody, or trade secret cases unless consent on the record is obtained from all parties (including a parent or guardian of a minor child).

25.2(5) Expanded media coverage of jury selection is prohibited. Expanded media coverage of the return of the jury's verdict shall be permitted. In all other circumstances, however, expanded media coverage of jurors is prohibited except to the extent it is unavoidable in the coverage of other trial participants or courtroom proceedings. The policy of the rules in this chapter is to prevent unnecessary or prolonged photographic or video coverage of individual jurors.

25.2(6) There shall be no audio pickup or broadcast of conferences in a court proceeding between attorneys and their clients, between co-counsel, between counsel and the presiding judge held at the bench or in chambers, or between judges in an appellate proceeding.

25.2(7) The quantity and types of equipment permitted in the courtroom shall be subject to the discretion of the judge within the guidelines set out in this chapter.

25.2(8) Notwithstanding the provisions of any of the procedural or technical rules in this chapter, the presiding judge, upon application of the media coordinator, may permit the use of equipment or techniques at variance therewith, provided the application for variance is included in the advance notice of coverage provided for in rule 25.3(2). Objections, if any, shall be made as provided by rule 25.3(3). Ruling upon such a variance application shall be in the sole discretion of the presiding judge. Such variances may be allowed by the presiding judge without advance application or notice if all counsel and parties consent to it.

25.2(9) The judge may, as to any or all media participants, limit or terminate photographic or electronic media coverage at any time during the proceedings in the event the judge finds that rules established under this chapter, or additional rules imposed by the presiding judge, have been violated or that substantial rights of individual participants or rights to a fair trial will be prejudiced by such manner of coverage if it is allowed to continue.

25.2(10) The rights of photographic and electronic coverage provided for herein may be exercised only by persons or organizations which are part of the news media.

25.2(11) A judge may authorize expanded media coverage of investitive or ceremonial proceedings at variance with the procedural and technical rules of this chapter as the judge sees fit.

Rule 25:3. Procedural

25.3(1) *Media coordinator and coordinating councils.* Media coordinators shall be appointed by the supreme court from a list of nominees provided by a representative of the media designated by the supreme court. The judge and all interested members of the media shall work, whenever possible, with and through the appropriate media coordinator regarding all arrangements for expanded media coverage. The supreme court shall designate the jurisdiction of each media coordinator. In the event a media coordinator has not been nominated or is not available for a particular proceeding, the judge may deny expanded media coverage or may appoint an individual from among local working representatives of the media to serve as the coordinator for the proceeding.

25.3(2) *Advance notice of coverage.*

a. All requests by representatives of the news media to use photographic equipment, television cameras, or electronic sound recording equipment in the courtroom shall be made to the media coordinator. The media coordinator, in turn, shall inform counsel for all parties and the presiding judge at least 14 days in advance of the time the proceeding is scheduled to begin, but these times may be extended or reduced by court order. When the proceeding is not scheduled at least

14 days in advance, however, the media coordinator or media coordinating council shall give notice of the request as soon as practicable after the proceeding is scheduled.

b. Notice shall be in writing, filed in the appropriate clerk's office. A copy of the notice shall be sent by ordinary mail to the last known address of all counsel of record, parties appearing without counsel, the appropriate court administrator, and the judge expected to preside at the proceeding for which expanded media coverage is being requested.

c. The notice form in rule 25.5 is illustrative and not mandatory.

25.3(3) Objections. A party to a proceeding objecting to expanded media coverage under rule 25.2(2) shall file a written objection, stating the grounds therefor, at least three days before commencement of the proceeding. All witnesses shall be advised by counsel proposing to introduce their testimony of their right to object to expanded media coverage, and all objections by witnesses under rule 25.2(3) shall be filed prior to commencement of the proceeding. The objection forms in rule 25.5 are illustrative and not mandatory. All objections shall be heard and determined by the judge prior to the commencement of the proceedings. The judge may rule on the basis of the written objection alone. In addition, the objecting party or witness, and all other parties, may be afforded an opportunity to present additional evidence by affidavit or by such other means as the judge directs. The judge in absolute discretion may permit presentation of such evidence by the media coordinator in the same manner. Time for filing of objections may be extended or reduced in the discretion of the judge, who also, in appropriate circumstances, may extend the right of objection to persons not specifically provided for in this chapter.

Rule 25.4. Technical

25.4(1) Equipment specifications. Equipment to be used by the media in courtrooms during judicial proceedings must be unobtrusive and must not produce distracting sound. In addition, such equipment must satisfy the following criteria, where applicable:

a. *Still cameras.* Still cameras and lenses must be unobtrusive, without distracting light or sound.

b. *Television cameras and related equipment.* Television cameras are to be electronic and, together with any related equipment to be located in the courtroom, must be unobtrusive in both size and appearance, without distracting sound or light. Television cameras are to be designed or modified so that participants in the judicial proceedings being covered are unable to determine when recording is occurring.

c. *Audio equipment.* Microphones, wiring, and audio recording equipment shall be unobtrusive and shall be of adequate technical quality to prevent interference with the judicial proceeding being covered. Any changes in existing audio systems must be approved by the presiding judge. No modifications of existing systems shall be made at public expense. Microphones for use of counsel and judges shall be equipped with off/on switches to facilitate compliance with rule 25.2(6) .

d. *Advance approval.* It shall be the duty of media personnel to demonstrate to the presiding judge reasonably in advance of the proceeding that the equipment sought to be utilized meets the criteria set forth in this rule. Failure to obtain advance judicial approval for equipment may preclude its use in the proceeding. All media equipment and personnel shall be in place at least fifteen minutes prior to the scheduled time of commencement of the proceeding.

25.4(2) Lighting. Other than light sources already existing in the courtroom, no flashbulbs or other artificial light device of any kind shall be employed in the courtroom. With the concurrence of the presiding judge, however, modifications may be made in light sources existing in the courtroom (e.g., higher wattage light bulbs), provided such modifications are installed and maintained without public expense.

25.4(3) *Equipment and pooling.* The following limitations on the amount of equipment and number of photographic and broadcast media personnel in the courtroom shall apply:

a. *Still photography.* Not more than two still photographers, each using not more than two camera bodies and two lenses, shall be permitted in the courtroom during a judicial proceeding at any one time.

b. *Television.* Not more than two television cameras, each operated by not more than one camera person, shall be permitted in the courtroom during a judicial proceeding. Where possible, recording and broadcasting equipment which is not a component part of a television camera shall be located outside of the courtroom.

c. *Audio.* Not more than one audio system shall be set up in the courtroom for broadcast coverage of a judicial proceeding. Audio pickup for broadcast coverage shall be accomplished from any existing audio system present in the courtroom, if such pickup would be technically suitable for broadcast. Where possible, electronic audio recording equipment and any operating personnel shall be located outside of the courtroom.

d. *Pooling.* Where the above limitations on equipment and personnel make it necessary, the media shall be required to pool equipment and personnel. Pooling arrangements shall be the sole responsibility of the media coordinator, and the presiding judge shall not be called upon to mediate any dispute as to the appropriate media representatives authorized to cover a particular judicial proceeding.

25.4(4) *Location of equipment and personnel.* Equipment and operating personnel shall be located in, and coverage of the proceedings shall take place from, an area or areas within the courtroom designated by the presiding judge. The area or areas designated shall provide reasonable access to the proceeding to be covered.

25.4(5) *Movement during proceedings.* Television cameras and audio equipment may be installed in or removed from the courtroom only when the court is not in session. In addition, such equipment shall at all times be operated from a fixed position. Still photographers and broadcast media personnel shall not move about the courtroom while proceedings are in session, nor shall they engage in any movement which attracts undue attention. Still photographers shall not assume body positions inappropriate for spectators.

25.4(6) *Decorum.* All still photographers and broadcast media personnel shall be properly attired and shall maintain proper courtroom decorum at all times while covering a judicial proceeding.