

**REPORT OF THE JUDICIAL CONFERENCE**  
**COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT**  
**TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE**  
**JUDICIAL CONFERENCE OF THE UNITED STATES:**

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**CAMERAS PILOT PROJECT**

For over 50 years, Judicial Conference policy has strictly limited the use of cameras in district courts to broadcast, televise, record, or photograph civil and criminal proceedings. At its March 1962 session, the Judicial Conference adopted a resolution prohibiting “the taking of photographs in the courtroom or its environs in connection with any judicial proceedings, and consider[ed] such practices to be inconsistent with fair judicial procedure and that they ought not to be permitted in any federal court” (JCUS-MAR 62, p. 9). In March 1965, the Conference reaffirmed this policy (JCUS-MAR 65, p. 11). Additionally, Rule 53 of the Federal Rules of Criminal Procedure prohibits photographing or broadcasting proceedings in criminal cases.

Although the policy has been amended to allow the courts of appeals to decide for themselves whether to permit the taking of photographs and radio and television coverage of appellate arguments (subject to any restrictions in statutes, national and local rules, and such guidelines as the Conference may adopt) (JCUS-MAR 96, p. 17), the prohibition continues in the district courts with respect to both civil and criminal proceedings.

The Conference has periodically asked this Committee to study the issue and provide its views to the Conference. Most recently, in September 2010, the Conference approved a new pilot project aimed at evaluating the effect of cameras in district court civil proceedings. The

Conference asked this Committee to oversee implementation of the pilot and to request the FJC to study the impact of recording these proceedings, as well as the publication of the recordings. At its June 2011 meeting, this Committee endorsed the participation of 14 district courts in the pilot<sup>1</sup> and set July 18, 2011 as the starting date. For the pilot, the courts themselves recorded and edited proceedings (e.g., trials, routine motions hearings, and evidentiary hearings), with the consent of the parties involved and the approval of the presiding judge. Unless the parties objected, or the presiding judge decided not to make the recordings publicly available, the recordings were posted by the court on the judiciary's public website, [www.uscourts.gov/Multimedia/Cameras.aspx](http://www.uscourts.gov/Multimedia/Cameras.aspx). The public, as well as the media, could then view and download the recordings for free.

Throughout the four-year pilot, which ended on July 18, 2015, only 158 proceedings were recorded and posted, approximately 10 percent of the proceedings that were eligible. These included a small number of trials, routine motions hearings, and evidentiary hearings in a wide variety of case types. The number of proceedings recorded in individual pilot courts ranged from 0 to 34.

As requested, the FJC analyzed the results of the pilot and submitted a report to this Committee (the FJC Cameras Report,<sup>2</sup> included at Appendix A) in November 2015. The FJC Cameras Report includes descriptions of both the pilot and the proceedings that were recorded. It also details the procedures adopted by the individual courts for identifying eligible cases; procedures adopted by the courts for obtaining the consent of the participants to take part, and

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<sup>1</sup>The 14 pilot courts are: Alabama-Middle, California-Northern, Florida-Southern, Guam, Illinois-Northern, Iowa-Southern, Kansas, Massachusetts, Missouri-Eastern, Nebraska, Ohio-Northern, Ohio-Southern, Tennessee-Western, and Washington-Western.

<sup>2</sup>Because of its length, the appendices are not included with the FJC Cameras Report.

the reasons parties declined to consent; and the results of interviews and surveys of judges, court staff, and attorneys relating to their experience and assessment of the pilot.

At its December 2015 meeting, the Committee reviewed the FJC Cameras Report and had an extensive discussion of the FJC's findings. As a preliminary point, the Committee emphasized that district courtrooms have always been open to the public. Media representatives as well as the general public can and do view proceedings in the courtroom and make contemporaneous reports accordingly. The Committee's consideration of the pilot focused on the costs and benefits that cameras might bring to the administration of justice and the effect that the presence of cameras would have on witnesses, jurors, and other participants.

First, the Committee noted that only 158 of the 1,512 proceedings where the parties were notified of the opportunity to record a proceeding actually resulted in a recording being posted to the [uscourts.gov](http://uscourts.gov) website.<sup>3</sup> In addition, the best estimate of the number of times viewers accessed a video recording on the [uscourts.gov](http://uscourts.gov) website was relatively small—21,530 during calendar year 2014. Likewise, the Committee thought it significant that a relatively small number of judges, 62 of the 198 judges in the pilot courts, actually volunteered to participate in the pilot, and even fewer judges actually recorded at least one proceeding (32)—as opposed to the total number of judges in the pilot courts (198). These figures suggested to the Committee that there was a fairly low level of interest in recording proceedings, both from the parties themselves and the judges.

Second, the Committee noted that while the FJC's report detailed a number of positive reactions from participants to the pilot—which is not surprising, given the fact that participation was voluntary both for the judges and the parties—it also set forth a number of significant

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<sup>3</sup>In fact, as detailed in the footnotes accompanying Table 5 on page 17 of the FJC Cameras Report, the number of proceedings where parties were notified of the opportunity to record a proceeding was significantly underreported in four participating districts.

concerns. These concerns were particularly troubling to the Committee given the fact that the judiciary's most important responsibility is to ensure the availability of a fair trial.

In that regard, it is worthy of note that the "most commonly cited potential harms" raised by judges regarding cameras "had to do with influencing the behavior of or putting stress on attorneys, witnesses, and jurors." FJC Cameras Report, p. 30. No less than 59 percent of the pilot courts judges opined that video recording distracted witnesses at least to some extent, while 64 percent found that cameras, at least to some extent, made "witnesses more nervous than they otherwise would be." FJC Cameras Report, p. 26.<sup>4</sup> The Committee was of the view that when a substantial majority of the responding judges, many of whom were favorable to cameras, believed that video recording caused witnesses to be distracted or more nervous, this was a very serious concern. District court proceedings are already stressful situations for all of the participants. The Committee was concerned that any proposed change to the cameras policy likely would increase that stress and affect in a negative manner witnesses' behavior in many instances.

Finally, the Committee also considered the costs associated with the pilot. As set out in Appendix B of the FJC's report, the total cost of the relatively small cameras pilot (with only 14 courts participating and 158 recordings) was nearly \$1 million (\$989,526). Equipment costs alone totaled \$458,586, while labor costs were \$435,236 and video hosting costs were \$95,703. It is important to note that these costs did not include the court staff personnel time and effort associated with the pilot, which was extensive.<sup>5</sup> In fact, some courts reported pulling staff away

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<sup>4</sup>Thirty-one percent of judges found this to be the case "to a small extent," 12 percent found this to be the case "to a moderate extent," and 21 percent found this to be the case "to a great extent."

<sup>5</sup>The FJC reported that "[s]taff in the pilot courts were involved with the project in a number of ways," including (1) communicating with the parties to notify them of the opportunity to record a proceeding, (2) tracking party consent to record a proceeding, (3) installing, setting up, operating, and troubleshooting video recording

from their usual assigned duties to assist with the pilot. *See* FJC Cameras Report, p. 48. One court noted that it “would need to have a full-time [staff] person for courtroom recording if the number of consents went up.” *Id.* A policy that authorized the use of cameras in all 94 district courts would dramatically increase these costs, as well as the time courts spend on providing this type of access. The Committee agreed that these substantial costs, when weighed against negligible public interest in viewing the proceedings online and significant impacts on the trial itself were not justified, especially when resources are limited.

Ultimately, the Committee concluded that the cameras pilot project did not produce sufficient or persuasive evidence of a benefit to the judiciary to justify the negative effect upon witnesses and/or the significant equipment and personnel costs associated with video recordings of district court civil proceedings. Therefore, the Committee agreed not to recommend any change to the Judicial Conference’s policy regarding cameras at this time.

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equipment, (4) editing recordings, and (5) uploading recordings to the Administrative Office for posting on the uscourts.gov site. *See* FJC Cameras Report, pp. 45-49.

