

DISTRICT COURT DOUGLAS COUNTY DISTRICT COURT 4000 JUSTICE WAY CASTLE ROCK, CO 80109	DATE FILED: May 14, 2019
Plaintiff(s): THE PEOPLE OF THE STATE OF COLORADO v. Defendant(s): DEVON MICHAEL ERICKSON	▲ COURT USE ONLY ▲
	Case No. 2019CR451 Division: 1
STANDING ORDER REGARDING DECORUM AND EXPANDED MEDIA COVERAGE C-2	

THIS MATTER comes before the Court on the request of numerous media outlets (hereinafter “Media”) for Expanded Media Coverage (“EMC”) and because of the intense public interest in the proceedings before this Court.

The current and pending requests of the Media seek EMC in this case for the Filing of Charges Hearing set on May 10, 2019, which was subsequently reset to May 15, 2019. Based upon the number of pending requests, and the number of requests filed for the Defendant’s initial advisement, the Court anticipates a significant number of filings relating to EMC. The Court is concerned that without a standing order, the EMC requests will distract from pleadings relating to the merits of this case and unnecessarily consume the attention of court personnel and counsel.

The rights of the Defendant to a fair trial are the highest priority of the Court: “No right ranks higher than the right of the accused to a fair trial.” *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501, 508 (1984). The Court must also take great care to grant public access to criminal proceedings and provide a forum for named victims or their representatives to “be heard when relevant, informed, and present at all critical stages of the criminal justice process.” Colo. Const. Art. 2, § 16a. Therefore, the Court, in the exercise of its inherent power to provide for the orderly

disposition of this case, hereby enters the following Order pertaining to EMC. In issuing this Order, it is the Court's intent to preserve the processes by which a fair trial may be conducted. Any inappropriate attempts to disrupt the process may result in exclusion from further proceedings and/or other legal sanctions, including contempt of court. The Media shall at all times relating to the above captioned proceedings be subject to this Order to the extent that it is not inconsistent with any other specific Court Order. This Order shall apply to all proceedings and other scheduled matters in this case until further order of this Court. "Proceeding" means any trial, hearing, or other matter held in open court that the public is entitled to attend. As used in this Order, "courtroom" extends to the proceedings in Division 1 as well as any over-flow room/courtroom where these proceedings may be viewed within DCJC.

Introduction

The Robert A. Christiansen Justice Center building houses several agencies and offices¹ in addition to the Courthouse a/k/a the Douglas County Justice Center ("DCJC"). Division 1 is the first Courtroom on the third floor of the building, which is the floor directly above the public entrance to the building. There are seven other courtrooms on the same floor as Division 1, and there are eight other courtrooms and the Clerk of Court on the floor below Division 1 that must also conduct business.

On any given day of a normal business week, jury trials are conducted in eight of the sixteen courtrooms. Almost directly below Division 1 is the Jury Commissioner's Office and Jury Assembly Room where jurors report for service.

Division 1 has seating capacity for approximately 100 people. At the initial advisement, the gallery of Division 1 was at capacity and several members of the public were standing in the back of the courtroom.

This Court is aware of some press conferences held in the hallway near the stairs by the public entrance, live coverage that was conducted just inside the public entrance, and media interviews

¹ For example, the Douglas County Coroner, the Douglas County Sheriff, the 18th Judicial District Attorney, and the 18th Judicial District Probation Department all have offices within the Robert A. Christiansen Justice Center.

with people leaving Division 1 in the hallways directly outside of the Courtroom. Some of these activities limited the movement of people attempting to conduct court business.

At all times, access to and movement within the DCJC must remain available for the conduct of the normal business of the Court. There will be clear passage to and from the Clerk's Office, Jury Commissioner's office, all courtrooms, hallways, and elevators and stairways within DCJC.

Analysis

The rights of the press to access a criminal proceeding are “no greater than those of any other member of the public.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 609, 98 S.Ct. 1306, 55 L.Ed.2d 570 (1978) (quoting *Estes v. Texas*, 381 U.S. 532, 589, 85 S.Ct. 1628, 14 L.Ed.2d 543 (1965) (Harlan, J., concurring)). There is no constitutional right to the use of cameras or audio-transmitting devices. *See, e.g. United States v. Edmonds*, 785 F.2d 1293 (5th Cir. 1986). As such, DCJC is governed by CJO 14-21 and CJO 19-04 (“The CJOs”), which are attached to this Order as ‘A’ and ‘B’ respectively. These CJOs continue to apply to this case; this Order does not amend or otherwise revoke the CJOs and any exceptions to the CJOs that this Order grants are limited to the above captioned case.

Chapter 38, Rule 3 of the Colorado Supreme Court Rules provides the standard for authorizing EMC. While this Court has the *discretionary authority* to allow EMC, there is no *presumption* in favor of EMC.

Pursuant to Rule 3 of Chapter 38 (hereinafter “Rule 3”), the Court may permit “the audio recording of proceedings,” as well as “all recording or broadcasting of visual images” of such proceedings “by means of still photographs, videotape, television broadcasts, motion pictures, or otherwise.” In deciding whether to permit EMC, the Court must consider the following three factors:

- (A) Whether there is a reasonable likelihood that EMC would interfere with the rights of the parties to a fair trial;

(B) Whether there is a reasonable likelihood that EMC would unduly detract from the solemnity, decorum and dignity of the court, and

(C) Whether EMC would create adverse effects which would be greater than those caused by traditional media coverage.

This Court must balance the impact of such coverage not only against those important rights held by a criminal defendant, but also must consider security issues in any given case, how the coverage impacts or improves the decorum and dignity of the Court's proceedings, not only related to this case, but every other case assigned to DCJC. The Court must consider the impact of the EMC request on the efficient performance of all judicial functions, the impact the EMC has on the dignity, independence, and integrity of the courts in general, and to make the lawful actions of the courts effective. The Court must ensure the safe and orderly use of the facilities of the DCJC, including the free flow of pedestrian traffic, and provide a secure environment for all who enter the Courthouse grounds.

After consideration of the above, this Court believes that EMC should be permitted, with some limitations.

In reaching this conclusion, the Court considered first and foremost the impact EMC has on the parties and their right to a fair trial. The District Attorney argued that the EMC should be denied until the investigation is complete because the Defendant's identity may be in question. However, prior to the Defendant's first appearance in court, media outlets inundated the public with information relating to the events alleged in the probable cause statement. The Defendant's identity was known to the public shortly after his arrest and his picture was published by some of these media outlets. The impact of EMC in these proceedings to the rights of the parties is but a scintilla in comparison to the coverage afforded to this event. The Defendant argued his concern about his ability to have a fair trial should he proceed to jury trial with the EMC in place. Again, EMC is a minor addition to the already significant media coverage. The concern that a jury pool would be tainted by media coverage is an issue that will need to be addressed regardless of the Court's decision related to EMC.

The benefits of EMC include providing members of the public who are interested in this case access to the proceedings in locations other than the DCJC, therefore, preserving room in Division 1 for Court Security, counsel and their necessary support staff, the named victims and their representatives, and family of the Defendant. This Order should also provide the greatest access to this case, without the security risk associated with people physically standing in courtroom doorways and hallways in order to observe or hear the proceedings. This Order should lessen the impact of these proceedings on the security entrance, the need for additional court security personnel, and allow those who have other business at DCJC to enter, move freely, and exit the DCJC in a safe and orderly fashion.

Granting EMC allows for transparency in these proceedings, thus preserving the dignity, independence, and integrity of the courts in general, and to make the lawful actions of the courts effective.

However, in order to meet these goals, this Court will require strict adherence to the parameters outlined below:

Conditions for and Limitations of Coverage: Expanded media coverage shall be conducted only under the following conditions, and the Court reserves the right to alter or amend these conditions:

Absolutely no:

1. Audio recording or “zoom” closeup photography or videography of bench conferences;
2. Audio recording or “zoom” closeup photography or videography of communications between counsel and client or co-counsel;
3. Coverage of in-camera hearings;
4. Photography or videography of members of any juror or jury reporting or serving at DCJC.

Equipment Limitations:

1. Video and Audio: The media shall be given access to the courtroom, in a location designated by the Court. Only one person shall be permitted to operate the one video, television, or motion picture camera. The camera operator may use a tripod but shall not change location while Court

is in session. Audio is permitted so long as it is captured simultaneously with video. All microphones and related wiring shall be unobtrusive and shall not interfere with the movement of those in the courtroom. No additional equipment (extended microphones, remote microphones, independent recording machines, etc.) for audio recording is permitted. The Court record continues to be the only official recording of the proceedings, regardless of the recording decisions of the Media.

2. Still Cameras. Only one photographer with one still camera shall be permitted in the courtroom. The still photographer may use a tripod but shall not change location while Court is in session.
3. Lighting. No movie lights, flash attachments, or sudden lighting changes shall be permitted. No modification or addition of lighting equipment shall be allowed.
4. Operating Signals. No visible or audible light or signal (tally light) shall be used on any equipment.

Pooling Arrangements:

The media shall be solely responsible for designating one media representative to conduct each of the categories of expanded media coverage listed above, and for arranging an open and impartial distribution scheme with a distribution point located outside of the Courthouse. If no agreement can be reached on these matters, there shall be no expanded media coverage of that type. Judges and other Court personnel shall not be called upon to resolve any disputes concerning pooling arrangements.

Conduct of Media Representatives:

Persons conducting expanded media coverage shall handle themselves in a manner consistent with the decorum and dignity of the courtroom. The following practices shall apply:

1. Equipment employed to provide expanded media coverage shall be positioned and operated so as to minimize any distraction.

2. Identifying marks, call letters, logos, symbols, and legends shall be concealed on all equipment. Persons operating such equipment shall not wear clothing bearing any such identifying information.
3. No equipment used to provide expanded media coverage shall be placed in, or removed from, the courtroom while Court is in session. No film, videotape, or lens shall be changed in the courtroom while Court is in session.
4. Media shall NOT film or approach court personnel for the purposes of conducting an interview or seeking “off the record” opinions or information. This provision does not restrict any member of the public or the Media from making inquiries of court personnel regarding the scheduling of proceedings, the filing of papers, or requesting any other information in the public record concerning this case.
5. Media shall not conduct or attempt to conduct any interviews in the courtroom.
6. The Court will designate an area or room of DCJC for those members of the Media who have recording devices and are not the pool cameras. Recording, photographing, and videography will be permitted in these areas.
7. Except for the pool camera and the specific areas designated by the Court in #6 above, there shall be no recording of any kind inside DCJC related to this case. Media may use recording devices outside DCJC pursuant to CJO 14-21 and 19-04.
8. The use of electronic devices in the courtroom is strictly prohibited. While CJO 14-21 allows for the use of laptops for note taking purposes only, it is within the Court’s discretion to prohibit the use of laptops and through this order does so. Any member of the media or public found to be using an electronic device in the courtroom for note taking or transmission will be subject to removal from the courtroom by the Douglas County Sheriff and may face contempt charges.

Nothing in this Order is intended to limit other agencies that are housed at the Robert A. Christiansen Justice Center, such as the Sheriff and the District Attorney.

This Order applies only to Media and the public for the above captioned case. This Order does not limit any judge in a different proceeding from granting permission or access to areas in conflict with this order as it applies to their particular case.

These provisions are necessary and are intended to ensure the dignity and decorum of the judicial process, to minimize distractions to this courtroom and other courtrooms, to minimize the disruption to these proceedings, to allow for access to these proceedings, and to ensure access to other courtrooms that are conducting business.

Thus, this Order only authorizes expanded media coverage so long as there is full compliance with all applicable restrictions.

The Court may restrict or limit expanded media coverage as may be necessary to preserve the dignity of the court or to protect the parties, witnesses, or jurors. The Court may terminate or suspend expanded media coverage at any time.

Conclusion

For the reasons articulated in this Order, EMC shall be permitted subject to the boundaries set forth in this Order.

This Order is not subject to the current Suppression Order.

Done this 14th day of May 2019.



THERESA M. SLADE
DISTRICT COURT JUDGE

EIGHTEENTH JUDICIAL DISTRICT:
ARAPAHOE, DOUGLAS, ELBERT and
LINCOLN COUNTIES, COLORADO

Arapahoe County Justice Center
7325 South Potomac Street
Centennial, Colorado 80112

Arapahoe County Courthouse
1790 West Littleton Boulevard
Littleton, Colorado 80120

Douglas County Justice Center
4000 Justice Way, #2009
Castle Rock, Colorado 80109

Elbert County Courthouse
PO Box 232, 751 Ute Street
Kiowa, Colorado 80117

Lincoln County Courthouse
PO Box 128, 103 Third Avenue
Hugo, Colorado 80821

▲ COURT USE ONLY ▲

CJO 14-21
Revised November 21,
2017

**AMENDED CHIEF JUDGE ORDER CONCERNING ELECTRONIC
DEVICES IN JUDICIAL BUILDINGS**

Pursuant to authority granted to chief judges of the judicial districts of the State of Colorado by Chief Justice Directive 95-01, "Authority and Responsibility of Chief Judges," the following order is hereby entered:

In all courtrooms: All electronic devices shall be turned off or set to vibrate and silent ring settings. Laptop computers may be used for note-taking so long as such use is not disruptive of court proceedings and the computer is muted. Laptop computers may be used for other purposes only by court personnel, sheriff deputies, and attorneys and their staff. On a case-by-case basis, a judicial officer presiding over a proceeding may exercise his or her discretion in allowing parties to use laptop computers for other purposes. Except as otherwise provided for in this Order, no person except court personnel, law enforcement officers, and attorneys and their staff may use an electronic device to transmit information from

the courtroom. However, no person, except court personnel, may make a sound or photographic recording (still or video, including by laptop computer, phone, or any other electronic device) of any proceeding or person, including, but not limited to, jurors, witnesses, or parties. Official transcripts of proceedings may be ordered through the office of the Clerk of the Court. A judicial officer retains the discretion to further restrict use and possession of electronic devices in a courtroom.

In all hallways and public areas of the courthouse buildings (other than in courtrooms): Electronic devices may be used so long as such use is not disruptive of court proceedings. Cell phones must be set to vibrate and silent ring settings and may not be used to capture images (except of court documents), videos, or sound recordings. Use of any type of audio- or video-recording device, including, but not limited to, cell phones, in the clerk's office, clerk's window, conference rooms or offices used by family court facilitators, jury assembly room, or other areas of the courthouse where jurors are located is strictly prohibited without the express consent of the Court. The Chief Judge retains the discretion to further restrict use and possession of electronic devices in hallways and public areas of the courthouse buildings (other than courtrooms).

Media: Members of the media desiring access to the courthouse with cameras or other recording devices shall be required to present a valid media credential or other valid photo identification and business card at the security checkpoint. For those with a valid media credential, or government-issued photo identification and a business card from a news media organization, cameras shall be permitted and may be used in the hallways and public areas of the courthouse buildings. The use of cameras may be limited to designated areas in the courthouse buildings. Public Access to Records and Information Court Rule 3, Chapter 38, governing Expanded Media Coverage applies, as cameras and other video and audio recording devices are not allowed in courtrooms without the express consent of the presiding judicial officer.

Exceptions: Exceptions to these rules may be granted by a judicial officer only with the prior approval of the Chief Judge.

Violations: Anyone found to be in violation of this Order may be subject to contempt proceedings. Sanctions for contempt of Court may be remedial, punitive, or both, including a fine and/or a jail sentence. All judicial officers, court security personnel, and law enforcement officers are authorized to prohibit any electronic item when they have probable cause to believe that such item is being used in violation of this order. If a law enforcement officer has probable cause to believe that any phone, camera, or other electronic device was used or is being used in a courtroom, a hallway, or a public area of a courthouse building in violation of this

Order, he or she may immediately confiscate such item. Law enforcement officers shall have the discretion to temporarily secure—in the courthouse involved—any item confiscated for purposes of conducting an investigation of a violation of this Order.

The item confiscated may be searched with the consent of the owner of the item. In the alternative, if consent is refused or cannot be obtained, a law enforcement officer may apply for a search warrant. A law enforcement officer may conduct a warrantless search of the item without the owner's consent and without a search warrant only when an exception to the warrant rule applies or when otherwise authorized by law. Any application for a search warrant must be prepared and submitted to the on-duty judicial officer as soon as practicable and without undue or unnecessary delay. An application for a search warrant shall be reviewed by the on-duty judicial officer as soon as practicable and without undue or unnecessary delay. If the search of an electronic device reveals that it contains potential evidence that may be material to an allegation of indirect contempt, a law enforcement officer may request that the judicial officer presiding in the courtroom involved (or, in the case of a violation occurring outside a courtroom, the Chief Judge) issue a citation for contempt. In the event of alleged direct contempt, the judicial officer presiding in the courtroom involved shall decide whether to commence contempt proceedings. If a citation for contempt issues or if a judicial officer initiates direct contempt proceedings, the electronic device in question may be impounded by law enforcement pending resolution of the citation for contempt. The judicial officer assigned to the courtroom (or, in the case of a violation occurring outside a courtroom, the Chief Judge) may hold a contempt hearing and determine what sanctions, if any, to impose.

This CJO 14-21 rescinds and replaces all previous CJOs in the Eighteenth Judicial District addressing electronic devices in judicial buildings. That includes all previous versions of this CJO 14-21 Order.

Entered this 21st day of November of 2017.

BY THE COURT:



Carlos A. Samour, Jr.
Chief Judge
Eighteenth Judicial District

**2019CR451
COURT ATTACHMENT
'B'**

**EIGHTEENTH JUDICIAL DISTRICT:
ARAPAHOE, DOUGLAS, ELBERT and
LINCOLN COUNTIES, COLORADO**

**Arapahoe County Justice Center
7325 South Potomac Street
Centennial, Colorado 80112**

**Arapahoe County Courthouse
1790 West Littleton Boulevard
Littleton, Colorado 80120**

**Douglas County Courthouse
4000 Justice Way, #2009
Castle Rock, Colorado 80109**

**Elbert County Courthouse
PO Box 232, 751 Ute Street
Kiowa, Colorado 80117**

**Lincoln County Courthouse
PO Box 128, 103 Third Avenue
Hugo, Colorado 80821**

▲ COURT USE ONLY ▲

CJO 19-04

Division 201

**CHIEF JUDGE ORDER REGARDING CERTAIN PROHIBITED
ACTIVITIES AT THE DOUGLAS COUNTY JUSTICE CENTER**

Pursuant to the authority granted to chief judges of the judicial districts of the State of Colorado by Chief Justice Directive 95-01, "Authority and Responsibility of Chief Judges," this Order applies to the Douglas County Justice Center. This Order replaces CJO 15-09, which was issued July 1, 2015.

The Court has the responsibility and authority to ensure the efficient performance of judicial functions, to protect the dignity, independence, and integrity of the courts, and to make the lawful actions of the courts effective. Specifically, the Court must ensure the safe and orderly use of the facilities of the Douglas County Justice Center, including the free flow of pedestrian traffic.

Those having business at the Douglas County Justice Center must be able to enter and exit Courthouse facilities and grounds freely, in a safe and orderly fashion, and unhindered by threats, intimidation interference, or harassment. The Court also must provide a secure environment for all who enter the Courthouse grounds, and the Court further must minimize activities that unreasonably disrupt or interfere with the orderly and peaceful conduct of court business. It is imperative that the Court provide for the fair and orderly conduct of court proceedings and maintain proper judicial decorum by ensuring a neutral forum free of actual or perceived partiality, bias, prejudice, or favoritism. Accordingly, the Court finds that it is reasonable, necessary, and appropriate to impose certain restrictions on expressive activity at the Courthouse without regard to the content or viewpoint of any particular message, idea, or form of speech.

Prohibited Activities: The Court hereby prohibits the following activities from taking place in the interior areas of the Douglas County Justice Center other than courtrooms. The Court also prohibits the following activities from taking place within the lined area on the attached map of the Courthouse grounds. This Order does not limit the authority of judicial officers to issue necessary and reasonable orders governing conduct and decorum in their courtrooms or in matters pending before them. The prohibition on the following activities shall be enforced inside the building at all times. The prohibition on the following activities shall be enforced on Courthouse grounds Monday-Friday from 6:30 am to 6:30 pm.

- **Picketing; displaying signs or banners; protesting; parading; writing or drawing with chalk; holding vigils or religious services; proselytizing; preaching; distributing literature or other materials; gathering signatures; petitioning; or engaging in similar conduct that interferes with the ability of any person to move about the Courthouse grounds or freely enter and exit the Courthouse.**
- **Soliciting; selling goods or services, requesting donations, or engaging in any commercial activity except to the extent that solicitation or commercial activity is directed to the Judicial Branch or Douglas County.**

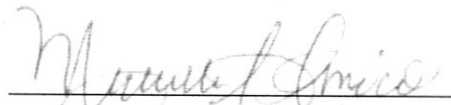
- **Encumbering any location with personal property (tents, chairs, tables, podiums, etc.).**
- **Obstructing the clear passage of law enforcement, emergency vehicles and personnel, courthouse personnel, or other persons.**
- **Using sound amplification equipment in a manner that is audible inside courtrooms or offices or that otherwise violates county ordinances.**

This Order shall not operate to preclude law enforcement or security staff from taking additional appropriate steps to ensure the orderly and peaceful conduct of court business at the Douglas County Justice Center. This Order shall be enforced by the Douglas County Sheriff's Department and courthouse security staff as necessary. Further, all persons on the Courthouse grounds shall comply with the lawful requests, directions, and orders of any law enforcement officers and security staff in the performance of their official duties at all times.

This Order shall be posted at each public entrance at the Douglas County Justice Center. It shall also be posted at such other places as will reasonably assist in providing notice of this Order.

Entered this 8th day of March of 2019.

BY THE COURT:



Michelle A. Amico

Chief Judge

Eighteenth Judicial District

