



Nebraska Court Coverage Guidelines for Judges, Attorneys, and Journalists

For Disclosure & Reporting of Information Relating to Imminent or Pending Criminal Litigation

The Nebraska Court Coverage Guidelines for Judges, Attorneys, and Journalists are designed to ensure the First Amendment rights of the media and the public's right to know, while protecting the right of an accused to a fair trial. From a media perspective, it is important to note that these guidelines are voluntary, but should be used as a filter to determine how a court story is covered and reported.

The guidelines should be considered when preparing material for all platforms, including social media, and should be used in conjunction with an organization's own code of ethics. They are not intended to replace or overrule the standards set by each news organization. It is impossible for this document to address every issue that may arise during the coverage of judicial proceedings. Attorneys and judges should be aware of the guidelines when working with the media to support consistent access to, and dissemination of, information to the public and the media.

These guidelines are a cooperative effort involving the judiciary, court staff, news media, and lawyers. In that spirit, all parties are encouraged to communicate with one another when issues, disagreements, or questions arise. The original guidelines were created in 1970 by a group of judges, journalists, and attorneys. This 2020 revision has the same objectives but addresses changes in newsgathering techniques and media platforms not available 50 years ago.

Information Generally Appropriate for Disclosure or Reporting

Generally, it is appropriate to disclose and report the following information:

1. The arrested person's name, age, residence, employment, marital status and similar biographical information.
2. The charge, its text, any amendments thereto, and, if applicable, the identity of the complainant.
3. The amount and conditions of bail.
4. The identity of and biographical information concerning the complaining party and victim, and, if a death is involved, the apparent cause of death.
5. The identity of the investigating and arresting agencies and the length of the investigation.
6. The circumstances of arrest, including time, place, resistance, pursuit, possession of and all weapons used, and a description of the items seized at the time of arrest. It is appropriate to disclose and report at the time of seizure the description of physical evidence subsequently seized other than a confession, admission or statement.

7. It is appropriate to disclose and report the subsequent finding of weapons, bodies, contraband, stolen property, and similar physical items if, in view of the time and other circumstances, such disclosure and reporting are not likely to interfere with a fair trial.
8. Information disclosed by the public records, including all testimony and other evidence adduced at the trial.

Information Generally Not Appropriate for Disclosure or Reporting

Generally, it is not appropriate to disclose or report the following information because of the risk of prejudice to the right of an accused to a fair trial:

1. The existence or contents of any confession, admission or statement given by the accused, except it may be stated that the accused denies the charges or establishes a defense such as: a homicide was in self-defense or an alleged sexual assault was consensual sex. This paragraph is not intended to apply to statements made by the accused to representatives of the news media or to the public.
2. Opinions concerning the guilt, the innocence, or the character of the accused.
3. Statements predicting or influencing the outcome of the trial.
4. Results of any examination or tests or the accused's refusal or failure to submit to an examination or test except as provided by law.
5. Statements or opinions concerning the credibility or anticipated testimony of prospective witnesses.
6. Statements made in pretrial proceedings outside the presence of the jury relating to confessions or other matters which, if reported, would likely interfere with a fair trial.
7. Pretrial rulings that exclude proposed testimony or items of evidence before trial. Reporting this kind of information, particularly close to trial, generally should be avoided because potential jurors may see or be exposed to it, making it more difficult for a jury to be chosen and for the accused or the prosecution to get a fair trial.
8. Re-reporting of results of previous trials concerning the same facts and parties particularly close to a retrial. This includes trials that resulted in a mistrial, trials that are the result of an appellate court decision requiring a new trial, and the conviction or acquittal of a co-defendant charged with the same or similar offenses arising from the same fact pattern. Re-reporting this kind of information, particularly close to trial, generally should be avoided because potential jurors may see or be exposed to it, making it more difficult for a jury to be chosen and for the accused or the prosecution to get a fair trial.

Prior Criminal Records

Lawyers and law enforcement personnel should not volunteer the prior criminal records of an accused except to aid in apprehension or to warn the public of pending danger. The news media can obtain prior criminal records from the public records of the courts, police agencies, and other governmental agencies and from their own files. The news media acknowledge, however, that publication or broadcast of an individual's criminal record can be prejudicial, and its publication or broadcast should be considered carefully. Reporting this kind of information, particularly close to trial, generally should be avoided because potential jurors may see or be exposed to it, making it more difficult for a jury to be chosen and for the accused or the prosecution to get a fair trial.

Photographs

1. It is not appropriate for law enforcement personnel to deliberately pose an accused for photographs or videos by representatives of the news media.
2. Unposed photographs and videos of an accused outside the courtroom are generally appropriate, and law enforcement personnel should not interfere with such photographs and videos except in compliance with an order of the court or unless such photographs and videos would interfere with their official duties.
3. It is appropriate for law enforcement personnel to release to representatives of the news media photographs of a suspect or an accused. Before publication of any such photographs, the news media should eliminate any portions of the photographs that would indicate a prior criminal offense or police record.

Continuing Committee for Cooperation

Judges, lawyers, and the news media recognize the desirability of continued joint efforts in attempting to resolve any areas of differences that may arise in their mutual objective of assuring to all Americans both the correlative constitutional rights to freedom of speech and media and to a fair trial. Judges, lawyers, and the news media have determined to establish a permanent committee to revise these guidelines whenever this appears necessary or appropriate, to issue opinions as to their application to specific situations, to receive, evaluate and make recommendations with respect to complaints and to seek to effect through educational and other voluntary means a proper accommodation of the constitutional correlative rights of free speech, free press, and fair trial.

...written by a committee of journalists, judges and attorneys in June 1970, revised April 2020.