

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF NEW YORK



Pilot Media Plan

United States v. Payton Gendron
22-CR-109V

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

PILOT MEDIA PLAN

1. Purpose

The Western District of New York recognizes the important and constitutionally-protected role that the media plays in informing the public of government activity, including operation of the legal system. The purpose of the Media Plan is to facilitate the media's fulfillment of that role consistent with the court's obligation to provide a civil and secure setting for the fair and impartial administration of justice.

2. Applicability

This plan applies to all members of the media and to all facilities and grounds under the jurisdiction of the United States District Court for the Western District of New York or the United States Bankruptcy Court for the Western District of New York. This includes the Robert H. Jackson United States Courthouse and the courthouse at the Kenneth B. Keating Federal Building. It also includes any other location at which a court proceeding is held in special session.

Nothing in this plan is intended to or does create any actionable right, benefit, or cause of action.

3. Default Plan

This is a default plan. It governs in the absence of a superseding court order or rule. Any judge may depart from this plan in any individual case as the facts and circumstances may require. Case-specific orders may be issued, for example, to (1) control the conduct of proceedings, (2) maintain decorum and prevent disruptions, (3) protect individual and public safety, or (4) ensure the fair and impartial administration of justice. If a court order or rule conflicts with this plan, the court order or rule governs.

4. Definitions

The following terms have the following definitions, whether used in the singular or plural.

- 4.1 Courthouse.** “Courthouse” means either or both of the Robert H. Jackson United States Courthouse in Buffalo and the courthouse at the Kenneth B. Keating Federal Building in Rochester.
- 4.2 Court security personnel.** “Court security personnel” means the United States Marshals Service, Court Security Officers (CSOs), the Federal Protective Service, and any other agency or contractor that provides security services to the court.
- 4.3 Court’s website.** “Court’s website” means the court’s public website—www.nywd.uscourts.gov.
- 4.4 Credentialed Media.** “Credentialed Media” means an individual who has been issued a WDNY Media Card.
- 4.5 Electronic device.** “Electronic device” means any device, no matter how the device is powered or operated, that is capable of creating, receiving, capturing, storing, retrieving, sending, or broadcasting any text, sound, image, video, or signal. Such devices include, but are not limited to, cameras, cellular telephones, computers, and wearable computing and communications devices (*e.g.*, smart watches, smart glasses).
- 4.6 High-profile case.** “High-profile case” means any matter in which the Chief Judge or the Chief Judge’s designee determines that (1) 10 or more members of the media will likely attend court proceedings, or (2) the demand for public seating will exceed available seating in the courtroom.
- 4.7 Jackson courthouse.** “Jackson courthouse” means the Robert H. Jackson United States Courthouse, 2 Niagara Square, Buffalo, NY 14202.
- 4.8 Juror.** “Juror” means any prospective juror, grand juror, or trial juror.

- 4.9 Live broadcasting.** “Live broadcasting” means on-camera live reporting by a member of the media, whether aired or streamed in real time or recorded (sometimes called a “stand up”).
- 4.10 Keating courthouse.** “Keating courthouse” means the United States Courthouse at the Kenneth B. Keating Federal Building, 100 State Street, Rochester, NY 14614.
- 4.11 Media organization.** “Media organization” means an entity or individual that regularly gathers and reports original news to the public, that disseminates reporting through publicly accessible media (*e.g.*, print, television, radio, electronic), and that has operated continuously for the two years immediately preceding the Credentialed Media application date.
- 4.12 Media room.** “Media room” means any room or area in the courthouse designated for exclusive use by Credentialed Media.
- 4.13 Pool reporter.** “Pool reporter” means a member of the media designated to gather information and to share it with other members of the media when space limitations restrict access to a court proceeding.
- 4.14 Professional journalist.** “Professional journalist” means an individual whose primary employment is the regular reporting of original news to the public.
- 4.15 WDNY Media Card.** “WDNY Media Card” means the physical credential issued by the court to Credentialed Media.

5. Courthouse Information

The United States District Court for the Western District of New York serves the 17 westernmost counties of the State of New York. It operates two courthouses: the Jackson courthouse in Buffalo and the Keating courthouse in Rochester.

5.1 Address and Telephone Number.

- A. Jackson Courthouse.** The Jackson courthouse is located at 2 Niagara Square, Buffalo, NY 14202. The Clerk’s Office telephone number is 716-551-1700.

- B. Keating Courthouse.** The Keating courthouse is located at 100 State Street, Rochester, NY 14614. The Clerk’s Office telephone number is 585-613-4000.
- 5.2 Hours of Operation.** The courthouses are open to the public from 7:30 a.m. to 5:00 p.m., and for any extension of those hours necessary to accommodate court proceedings.
- 5.3 Parking.** Parking, including for media trucks, is prohibited on courthouse grounds. Parking in proximity to each courthouse is available in municipal and private parking lots, as well as on the street.
- 5.4 Websites.** The court’s public website—www.nywd.uscourts.gov—contains a wealth of information about the court, including judges’ daily calendars; court opinions; Clerk’s Office forms; and copies of local rules, standing orders, and court plans. In addition, historical information about the court is available at <https://library.ca2.uscourts.gov/wdny-125/>.
- 5.5 Court Documents.** Nearly all court documents are filed electronically on the court’s Case Management/Electronic Case Files (CM/ECF) system. Access to those documents is available through the Public Access to Court Electronic Records (PACER) service at www.pacer.gov. PACER documents can also be accessed at no cost from public terminals located in the Clerk’s Office. Copies of court documents may be obtained for a fee by submitting a Copy Request Form to the Clerk’s Office. The Copy Request Form is available on the court’s website.
- 5.6 Transcript Requests.** Requests for transcripts of stenographically recorded proceedings must be submitted to the presiding judge’s official court reporter. Requests for transcripts of electronically recorded proceedings must be submitted to the Transcript Coordinator. Additional information is available on the court’s website.
- 5.7 Media Inquiries.** All media inquiries must be submitted in writing to the Clerk of Court at media@nywd.uscourts.gov. Individual judges and chambers staff must not be contacted directly.

6. Live Broadcasting

6.1 Live Broadcasting Prohibited. Live broadcasting is prohibited in the courthouse from anywhere inside the security checkpoint.

6.2 Live Broadcasting Permitted. Live broadcasting may be permitted outside the security checkpoint and on courthouse grounds, subject to the direction of court security personnel and the General Services Administration, and subject to the requirements below.

A. Broadcasting of Security Checkpoint Prohibited. Photographing, recording, broadcasting, transmitting, or disseminating depictions of any courthouse security checkpoint is prohibited. Live broadcasting must be tailored to avoid depicting the security checkpoint in any manner.

B. Obstruction of Access Prohibited. Live broadcasting must not interfere with or obstruct public access to the courthouse or the security checkpoint.

7. Courthouse Entry and Access

Federal courts are public institutions, where a presumption of open and public access applies. Access is permitted during regular business hours and any extension of those hours necessary to accommodate court proceedings. The court reserves the right to limit any permissible access that disturbs, disrupts, impedes, or otherwise restricts any court proceeding or public access to the courthouse or any courtroom.

7.1 Entry.

A. Identification and Security Screening. All visitors, including members of the media, are asked to produce photo identification and must pass screening at the security checkpoint to enter the courthouse.

- B. Electronic Devices Prohibited.** Electronic devices are generally prohibited. Members of the media who do not have Credentialed Media status are not permitted to bring electronic devices into the courthouse. Members of the media with Credentialed Media status are exempt from this prohibition. The process for obtaining Credentialed Media status is set forth in section 8 of this plan.

7.2 Access.

- A. Public Access.** Access is generally permitted to any public space in the courthouse, including the public gallery of any open court proceeding. Unless otherwise ordered by the presiding judge, all courtroom seating is unreserved.
- B. No Access.**
- (1) Closed Courtroom.** No access is permitted to a closed courtroom. A courtroom is closed when required by law or by court order. Closure is required, for example, to preserve the secrecy of grand jury proceedings or classified information, to safeguard business and trade secrets, to protect witnesses, or when the court determines that a compelling interest overrides the presumption of openness.
 - (2) Well of the Courtroom.** No access is permitted to the well of the courtroom without the express permission of the presiding judge or court staff. The well is the area between the short wooden rail and the bench.
 - (3) Attorney Conference Room.** No access is permitted to the attorney conference room outside of the courtroom.
 - (4) Juror Areas.** No access is permitted in public spaces near jurors. This includes any area where a juror is or may be traveling or is present in any capacity, including near the jury assembly and grand jury rooms.

- (5) **Secure Space.** No access is permitted to any area that requires use of a court-issued Facility Access Card to gain entry, unless expressly permitted by any judge or the Clerk of Court.
- (6) **Media Room.** No access is permitted to any media room without Credentialed Media status.
- (7) **Jackson Courthouse Attorney Lounge.** No access is permitted to the Jackson Courthouse Attorney Lounge.

8. Credentialed Media Status

The Western District of New York recognizes that access to information and the ability to timely report are fundamental to the media's function and purpose. To accommodate the media's professional needs, individual members of the media may apply for Credentialed Media status. Credentialed Media have broader latitude to possess and use electronic devices in the courthouse, may have access to dedicated workspace, and may receive priority courtroom seating in high-profile cases.

- 8.1 Credentialed Media Status Not Required.** No member of the media is required to obtain Credentialed Media status. The designation is offered solely to accommodate members of the media who wish to avail themselves of the expanded allowances set forth in section 8.6 of this plan.
- 8.2 Eligibility.** An individual who fulfills any one of the following requirements is eligible for Credentialed Media status: (1) the individual is a professional journalist; (2) the individual is employed by a media organization; or (3) the individual operates a media organization.
- 8.3 Application Process.** The Clerk's Office processes applications for Credentialed Media status. The content or quality of an applicant's work is not assessed and has no bearing on the application process. Applications may be mailed to the Clerk's Office, emailed to the Clerk's Office at media@nywd.uscourts.gov, or submitted in person during regular business hours. Applications will be processed as soon as practicable after receipt. Applicants must complete a written application and supply documentation, as set forth below.

- A. **Written Application.** Applicants must complete and submit the “Credentialed Media Application,” which is available on the court’s website.
- B. **Documentation.** Applicants must submit documentation demonstrating status as either a professional journalist, an employee of a media organization, or an operator of a media organization.
 - (1) **Professional Journalist.** An applicant will be found to be a professional journalist upon submission of documentation from an employer (*e.g.*, letter on business letterhead) demonstrating that the applicant is employed by the employer as a professional journalist, as defined in this plan.
 - (2) **Employed by a Media Organization.** An applicant will be found to be employed by a media organization upon submission of documentation from an employer (*e.g.*, letter on business letterhead) demonstrating that the applicant is employed by the employer and that the employer is a media organization, as defined in this plan.
 - (3) **Operates a Media Organization.** An applicant will be found to operate a media organization upon submission of six or more publications or segments published within the two years immediately preceding the application date.

8.4 Application Determination. The Clerk’s Office will notify the applicant once the application is processed. Applicants should refrain from contacting the Clerk’s Office to inquire about the status of an application, unless 21 days have passed since the application date.

- A. **Application Granted.** If the application is granted, the Clerk’s Office will contact the applicant to schedule final processing. The applicant must appear in person, present government-issued photo identification, and pose for a photograph. The Clerk’s Office will then create and issue a WDNY Media Card. There is no fee.

- B. Application Denied.** If the application is denied, the applicant will receive a letter explaining the reason for denial. Upon request within 30 days, denials are reviewable by the Chief Judge or the Chief Judge's designee, whose decision is final.

8.5 WDNY Media Card

The WDNY Media Card is issued to Credentialed Media. It represents a privilege intended to facilitate the media's work in the courthouse.

- A. Not an Endorsement.** The court's issuance of a WDNY Media Card is not an endorsement of any individual, media organization, or viewpoint, and it must not be regarded, represented, or used as such.
- B. Non-transferable.** The WDNY Media Card is issued on an individual basis. It cannot be possessed or used by anyone other than the individual to whom it was issued. Sharing or transferring a WDNY Media Card is strictly prohibited and is cause for revocation.
- C. Requirement to Display.** Because Credentialed Media are entitled to expanded allowances, the WDNY Media Card must be displayed at all times in the courthouse and on courthouse grounds. Individuals who do not display a WDNY Media Card, whether granted Credentialed Media status or not, will not be afforded expanded allowances.
- D. Use as Identification.** The WDNY Media Card may be used as identification at the security checkpoint.
- E. Expiration.** The WDNY Media Card expires three years after issuance. There is no renewal process. Individuals must re-apply for Credentialed Media status upon expiration of the 3-year term.
- F. Loss of Eligibility.** An individual who loses eligibility for Credentialed Media status for any reason during the 3-year term (*e.g.*, employment loss or change) must forfeit the WDNY Media Card to the Clerk's Office within 30 days of losing eligibility.

- G. Revocation.** The court reserves the right to revoke and recover the WDNY Media Card of any individual for any content-neutral reason the court deems appropriate, including for any violation of this plan or abuse of the expanded allowances provided. Upon request within 30 days, revocations are reviewable by the Chief Judge or the Chief Judge's designee, whose decision is final.

8.6 Expanded Allowances

- A. Entry with Electronic Device.** Credentialed Media who produce a WDNY Media Card will be permitted to bring electronic devices into the courthouse. Credentialed Media who fail to display a WDNY Media Card will not be permitted to bring electronic devices into the courthouse until such time as a WDNY Media Card is displayed.
- B. Possession of Electronic Device.** Credentialed Media may possess electronic devices in transit to the media room or to any area of the courthouse where use of electronic devices has been expressly permitted by the Chief Judge or the Chief Judge's designee. Electronic devices must be silenced at all times. Electronic devices may not be possessed in any courtroom without the express permission of the presiding judge. No electronic device may be possessed in the courtroom of the Honorable Richard J. Arcara, United States District Judge.
- C. Use of Electronic Device.** Credentialed Media are permitted to use electronic devices in the courthouse as set forth below.
- (1) Where Permissible.** Electronic devices may be used in the media room and outside the security checkpoint. Electronic devices may also be used in any area of the courthouse expressly permitted by the Chief Judge or the Chief Judge's designee. Use of an electronic device in any area not authorized in this plan is grounds for revocation of Credentialed Media status.

- (2) **Permissible Uses.** Electronic devices may be used in authorized areas for any purpose not prohibited by law or by this plan. If expressly permitted by the Chief Judge or the Chief Judge's designee, electronic devices may also be used to photograph, record, broadcast, or transmit ceremonial proceedings and court programs, such as investitures, naturalizations, and legal seminars.

Electronic devices must not be used in any manner that disrupts or interferes with any judicial proceeding.

(3) **Prohibited Uses.**

- (a) **Court Proceedings.** Use of any electronic device in any courtroom is strictly prohibited absent the express permission of the Chief Judge or the Chief Judge's designee. Use of any electronic device to photograph, record, broadcast, transmit, or disseminate any court proceeding or closed-circuit simulcast or reproduction of a court proceeding in any way is a violation of federal law and is strictly prohibited. This prohibition includes the use of electronic devices to make telephone and video calls in proximity to a closed-circuit simulcast of any court proceeding. Violation of this prohibition is grounds for immediate revocation of Credentialed Media status and could result in significant legal proceedings.
- (b) **Courthouse and Security Checkpoints.** Use of electronic devices to photograph, record, broadcast, transmit, or disseminate depictions of any area in the courthouse inside the security checkpoint or of any security checkpoint itself is strictly prohibited.
- (c) **Jurors.** Use of any electronic device to photograph, record, broadcast, transmit, or disseminate the speech, image, depiction, or activity of any juror is strictly prohibited.

(4) **Inspection.** Electronic devices are subject to inspection upon order of the Chief Judge or the Chief Judge's designee to ensure compliance with the provisions of this plan.

D. **Reserved Courtroom Seating.** When the Chief Judge or the Chief Judge's designee deems necessary, such as in high-profile cases, seating in the courtroom may be reserved for Credentialed Media. If demand exceeds the number of reserved seats, the Clerk of Court will determine seating. The need for and number of reserved seats will be determined on a case-by-case basis, with due consideration given to the need to accommodate the public, victims, family members, and other interests.

E. **Closed-Circuit Viewing and Reserved Seating.** When the Chief Judge or the Chief Judge's designee deems necessary, the court will provide live closed-circuit viewing of court proceedings to overflow areas in the courthouse, most often in an adjacent courtroom. To the extent necessary, reserved seating will be provided to Credentialed Media in the same manner as reserved seating in the courtroom, at the discretion of the Chief Judge or the Chief Judge's designee.

F. **Media Room.** When the Chief Judge or the Chief Judge's designee deems necessary, the court will designate space in the courthouse as a media room for use by Credentialed Media. Room 107 in the Jackson courthouse is a permanently designated media room. The Keating courthouse does not have a permanently designated media room.

(1) **Access.** Access to the media room is permitted only during regular business hours and any extension of those hours necessary to accommodate court proceedings. No access will be permitted without a WDNY Media Card.

- (2) **Permissible Use.** The media room is provided as an accommodation. It may be used only in ways that are consistent with the media's purpose and function. Use of the media room for any unintended purpose is grounds for revocation of Credentialed Media status.
- (3) **Shared Space.** The media room is available for use by all Credentialed Media. It may not be reserved or monopolized. It is expected that space in the media room will be shared and allocated cooperatively.
- (4) **Unsecured.** The media room is not secure space and should not be regarded or treated as such. Property cannot be left unattended or overnight. Property left unattended or overnight may be removed and discarded, at the court's discretion. Neither the court nor any federal agency is responsible or liable for any lost, damaged, or discarded property.
- (5) **Internet and Wi-Fi.** Credentialed Media must provide their own internet access and Wi-Fi. Access to the court's internet and Wi-Fi networks is strictly prohibited.
- (6) **Closure.** The Chief Judge or the Chief Judge's designee or court security personnel may close or limit access to the media room for any reason at any time and without advance notice.