Nov. 28, 2018

Chief Justice Judith K. Nakamura
New Mexico Supreme Court
Post Office Box 848
Santa Fe, NM 87501

Submitted via upload to Supreme Court Website

Re: Proposal 2018-031 Cameras/recording/broadcasting in Magistrate Court (Rules 23-107, 2-114, and 6-116 NMRA)

Dear Chief Justice Nakamura:

The New Mexico Foundation for Open Government writes in support of the proposed changes to Rules 23-107, 2-114 and 6-116 NMRA as set forth in Proposal 2018-031 that would authorize the broadcasting, televising, photographing and recording of proceedings in Magistrate Courts.

NMFOG is a nonpartisan, nonprofit organization dedicated to transparency in government and to promoting the exercise of First Amendment rights. It is from this perspective that NMFOG supports this proposal and observes that Magistrate Courts have operated at a different level of transparency and public scrutiny than the rest of our court system for far too long.

The Magistrate Courts play an important role in the judicial system, taking actions on a daily basis that affect the rights of New Mexicans. The proposal under consideration would simply bring Magistrate Court proceedings in line with the procedures and conditions that currently govern the Appeals, District and Metropolitan courts in New Mexico. This is especially important given that some of the cases around the state with the highest level of public interest initially are heard in Magistrate Court. This creates confusion for members of the public who over the years have grown accustomed to the openness in our District Courts and who are justifiably puzzled and concerned by the fact these high-interest proceedings in Magistrate Court are not available to them through photography or broadcasting.

Transparency enhances confidence in the system and, in fact, there is no sound public policy reason to make a distinction between Magistrate Courts and the rest of the court system. The camera "blackout" in Magistrate Court can only give rise to speculation that something is amiss.

This Court has permitted live broadcasting of its own proceedings, including high-profile matters such as the same-sex marriage case. The public response to these broadcasts has been overwhelmingly positive. What we have been able to see is a competent and professional system of justice on display. This helps to dispel the cynicism and to deflate the conspiracy theorists who thrive on secrecy.

There is a long tradition of open access to court proceedings in New Mexico and the state Supreme Court was a leader nationally in opening up first District and then Metropolitan Court proceedings for cameras and broadcasting, thereby permitting access for citizens who are not able to attend the proceedings in person.
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In doing so, the court also wisely crafted rules that, in addition to allowing the public to see the workings of the justice system, also set forth rules and procedures to safeguard the integrity of the process. Of course, these safeguards would be in effect for photography and broadcasting in Magistrate Court.

The rules that allow photography and broadcasting in our District and Metropolitan Courts help to ensure fairness and inspire confidence in our judicial system. NMFOG believes the time has come to extend these procedures to our Magistrate Courts and strongly endorses this proposed rule change.

Very Truly Yours,

[Signature]

Melanie J. Majors
Executive Director, New Mexico Foundation for Open Government