



Managing High-Profile Cases

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A high-profile case can push a court's staff and resources to their limits and beyond. The Managing High-Profile Cases in the 21st Century website provides the resources a court needs to meet the challenge.

A high-profile case can land in any jurisdiction at any time. A rough definition of a high-profile case is a case that attracts enough media or public attention that the court must or should make significant alterations to ordinary court procedures to manage it. The case may be the result of a celebrity or pro athlete being arrested, a particularly egregious crime, or some other reason. However, the additional pressure on the court system caused by the presence of the media or the public that the case attracts can be a significant challenge, even for a jurisdiction that has previously experienced a high-profile case and is well prepared. For other jurisdictions, it can be a nightmare. In worst-case scenarios, the fairness of the adjudicative process may be compromised. It is, therefore, important to know what tools are available to courts when a high-profile case has been filed in their jurisdiction.

In 1992 the National Center for State Courts (NCSC) published *Managing Notorious Trials*. It was the first significant work dedicated to help trial judges, court managers, and other court personnel plan for and litigate cases that would receive significant public scrutiny. The book was updated and republished in 1998 to add some additional information and refine the existing information. However, nearly 20 years have passed since the publication of the updated work. During that time, the Internet, social media, and cell phones were developed and are used by almost the entire population. The way information moves among members of the public has fundamentally changed, and these changes have created new challenges for the court community. As a result, the publication needed to be updated.



NCSC partnered with the Conference of Court Public Information Officers and the National Judicial College to update the book. The project was generously funded by the State Justice Institute. In the fall of 2015, a panel of judges, court administrators, jury managers, reporters, and others convened in Reno, Nevada. Each member of the panel had experience with at least one high-profile case; some had experience with several. The purpose of the meeting was to discuss substantive alterations to the content to make it more meaningful and useful. The group

also determined that a Web-based resource would be accessible to a wider audience and it would be available immediately, while in the past the books were shipped without cost but would take several days to arrive via common carrier. It was also determined the title of the new resource would be changed to *Managing High-Profile Cases in the 21st Century* and would be available exclusively on the Web.

The *Managing High-Profile Cases in the 21st Century* website is located at www.ncsc.org/hpc. This resource takes the approach that there is no single best solution to managing a high-profile case; rather, the court must address an array of known considerations, and the website provides suggestions for

possible solutions. Therefore, a court facing a high-profile case can consider the unique characteristics of the case, their courthouse facility, and the other resources they may have access to within their jurisdiction or state to develop a plan to manage the case. One key suggestion is taking a team approach to managing a high-profile case, with the trial judge being the team leader. The reason for this approach is to relieve the trial judge of as much of the administrative responsibility as possible to give the judge more time to focus on the litigation of the case. Trial judges who have successfully managed a high-profile case generally agree that this approach is beneficial.

The website describes the approach to building a high-profile-case team. It suggests that courts should refer to a “continuity of operations plan,” which they created to manage court operations in the event of a disaster, as a starting point for creating the high-profile-case team. In some ways, a high-profile case can have a similar impact on the courts as a natural disaster. However, the website identifies the recommended membership of the high-profile-case team by role, rather than by job title. This was done deliberately because of the wide variance in job titles among the courts nationally. Also, in some very rural jurisdictions, it is possible that a single person may fill more than one role. The core roles are the trial judge, an administrative (chief or president) judge, court manager, media relations, court security, jury management, information technology, and other trial support functions. This list can certainly be expanded based on the needs of the jurisdiction. However, it is suggested that as soon as it becomes known that a high-profile case has been filed in the jurisdiction, or a preexisting garden-variety case has become high-profile, the membership of the high-profile-case team should be identified and should meet to begin the planning process.

The website lists the responsibilities of each role. For many of the roles, there is detailed information from actual cases, which describes how particular considerations were managed. There are also checklists to help ensure that all the possible issues that may develop in a high-profile case are identified and can, therefore, be properly addressed. Additionally, there are several orders used in actual cases that trial judges may find useful as templates in crafting orders for their own high-profile cases, such as decorum orders, limiting orders, security orders, etc.

To give a sense of the breadth of the available information, the website contains a list of the “critical constitutional caselaw” that judges should be aware of when handling a high-profile case. Each case also has a squib, which briefly describes the facts and the holding of the case. Although this page is not a substitute for detailed legal research, it provides a starting point and can quickly let a judge know if a proposed action is likely to create litigation and possibly an appellate issue. For example, the resource describes the six U.S. Supreme Court opinions that address the constitutional presumption that criminal cases will be open to the public and the limits of that presumption. Additionally, the page identifies the three state supreme court opinions, and one from the D.C. Court of Appeals, that address situations wherein a trial judge promised jurors that case-specific juror questionnaires would remain confidential. A brief review of those cases suggests that trial judges should refrain from promising jurors confidentiality in those questionnaires.

The website also provides information on media relations. The media have a right to access proceedings, but that right is not unlimited. The website describes techniques for getting the media to use “media pools” and effectively share video and audio feeds. It discusses the use of overflow rooms, which the media often prefer to use. In an overflow room, the media can not only see and hear the proceedings via closed-circuit television but also use computers and telephones, talk among themselves, etc., without disrupting the proceedings. Additionally, there is a discussion about strategies to get media outlets to pay for any infrastructure improvements that the media may want for the high-profile case.

Although it is not possible in an article to fully describe the Managing High-Profile Cases in the 21st Century website, it is hoped that the above description gives enough detail that the reader will remember and use it in a high-profile case. It may even be prudent to briefly familiarize oneself with the resource now. It is important to remember that a high-profile case can become a reality to any court at any time.



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