



DIRECTOR MARK BOLTON

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LOUISVILLE METRO CORRECTONS CELL PHONE USE POLICY FOR LICENSED ATTORNEYS AND THEIR NON-LAWYER ASSISTANTS

In recognition of the evolving technology used in the practice of law and the value of using cell phones in connection with their professional services while in a detention facility, pursuant to KRS Chapter 441 and this policy¹, attorneys² may use a cell phone inside the secure perimeter of the Louisville Metro Department of Corrections (LMDC) subject to the following:

1. Any cell phone brought into the secure perimeter, as with any other object brought into the jail, may be subject to visual inspection at any time. Such visual inspection does not provide a basis for a search or seizure of the digital contents of such cell phone, except as otherwise provided by law;
2. Any cell phone brought into the secure perimeter shall not be used in violation of applicable laws or the Kentucky Supreme Court Rules of Professional Conduct;
3. Any cell phone brought into the secure perimeter shall at all times remain in the possession, custody and control of the attorney and shall be utilized exclusively by the attorney. It shall not be physically handled by the client/inmate nor shall it be used by the attorney at the direction of the client/inmate (e.g., the attorney acting as an intermediary between the client/inmate and any third-party by asking questions, providing responses, etc. at the direction of or on behalf of the client/inmate). It shall not be used to allow the client/inmate to contact any third party, either directly or indirectly, via call, text or through social media or to access the internet in any fashion;
4. No attorney shall display to the client/inmate any pornographic material on his/her cell phone unless such material is (or is reasonably calculated to be) evidence in the client/inmate's case or is otherwise materially relevant to the client/inmate's case. In such case, the attorney shall utilize common sense and discretion. Such cases would include, but not be limited to, instances where such material has been provided by the Commonwealth in discovery;
5. Nothing in this policy prohibits an attorney from using a cell phone brought into the secure perimeter to call, text or otherwise communicate with third parties such as non-attorney assistants, co-workers, other attorneys, court clerks, judges, etc. for any work related purpose (e.g., responding to a text inquiring why attorney is not in court, etc.). Further, nothing in this policy prohibits an attorney from using a cell phone brought into the secure perimeter to access the internet for work related purposes, including, but not limited to, accessing Courtnet, Westlaw and other law or work related websites. If not in the company of a client/inmate (e.g., waiting for a client to be brought down, etc.), an attorney may initiate and accept personal communications and access the internet so long as it is not otherwise illegal or in violation of the Kentucky Supreme Court Rules of Professional Conduct;
6. For security reasons cell phones shall not be used to record any sound or image inside the detention facility without the express written consent of Metro Corrections Director or his Designee;

¹ As modified by the 2018 GA - See HB 207 <http://www.lrc.ky.gov/recorddocuments/bill/18RS/HB207/bill.pdf>

² The term "attorney" includes, unless otherwise noted, investigators, paralegals, social workers and such other non-attorney assistants who may, in the ordinary course, be operating at the direction of and under the supervision of a licensed attorney.



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7. Acceptance of these terms and conditions for cell phone use by attorneys does not operate as a waiver of the attorney-client or work-product privileges relative to any examination of the digital contents of any cell phone utilized by a lawyer inside the detention facility.

Because the jail environment is fast-paced and security decisions may impact the scope of this use policy, any decision by LMDC to limit the use or deny the use of a cell phone in a particular situation shall be followed accordingly. Any dispute between the attorney and LMDC personnel regarding the appropriate use of a cell phone may be resolved by allowing the attorney to remove the cell phone from the jail. Any individual impacted by such a decision may address any issues or disputes, in writing, with the Metro Corrections Director or his Designee.

Failure To Abide By Policy May Cause LMDC To Limit Or Prohibit Future Use.