

THIRTEENTH JUDICIAL DISTRICT
STATE OF COLORADO
ADMINISTRATIVE ORDER 15-02

CHIEF JUDGE POLICY CONCERNING POSSESSION OF CELL PHONES,
COMPUTER DEVICES, AND CAMERA EQUIPMENT IN THE THIRTEENTH
JUDICIAL DISTRICT

THE THIRTEENTH JUDICIAL DISTRICT RECOGNIZES:

1. A majority of adults in our nation have access to cell phones. These devices are not only helpful, but can be an essential means of communication for some users. They are also utilized for a variety of useful internet-based applications.
2. Computer technology has advanced to the degree that very small computer devices are available in sizes which allows them to be carried easily, and to operate without the use of cables or wires. Thus, these devices can be carried into courthouses with as much ease as a book.
3. Cameras and other audio and/or video recording and/or broadcasting devices are also easily available at low cost, and can be transported as easily as cell phones and computer tablets.
4. Many persons desire to carry cell phones, computer devices, and/or cameras, as described in ¶3, above, (hereinafter, “electronic technology devices” or ETD) into courthouses for a variety of purposes. There may often be appropriate justifications for doing so.
5. Nevertheless, the use of electronic technology devices in courthouses can pose problems. For example, even in this District, cell phone cameras have been

utilized to photograph jurors and/or witnesses, resulting in intimidation of such individuals.

6. Legal requirements may call for the restriction of cameras or other recording equipment in courtrooms. For example, while under both the United States and Colorado Constitutions an accused is guaranteed the right to a public trial, prejudicial publicity can result in unfair trials for Defendants. Further, under limited circumstances, some proceedings may be closed to the public for security reasons, or to protect the identities of persons such as juveniles. *See, e.g.*, §16-10-403 (criminal proceedings may be closed to receive evidence concerning child victims); §19-1-106(2) (juvenile court hearings may be closed to general public when in best interests of child or community). The use of cameras may likewise be restricted.
7. Accordingly, restrictions on the use of electronic technology devices are proper, for a variety of other reasons. For example, the use of electronic technology devices is restricted by means of court orders during jury trials in order to prevent jurors from improperly “researching” the facts or law concerning a case. *See* Colo. Jury Instructions-Civil 1:5 (2015); COLJI-Criminal B:06 (2014).
8. Court security can be affected by the presence and improper use of ETD. For example, cell phones and computer devices, can be used to further the purposes of a criminal conspiracy which could endanger court staff or participants.

9. Inappropriate use or inadvertent activation of ETD during court proceedings can result in annoyance or distraction of court participants, and interfere with the preparation of an accurate record of court proceedings.
10. On the other hand, courts do not have authority, without more, to direct other public officials to permit or restrict electronic technology devices within their own offices.
11. For a number of years, Sheriffs throughout the District have informally implemented policies restricting the presence and/or use of electronic technology devices. While these policies have undoubtedly resulted in some inconvenience to the public, they have benefitted the public, in turn, by improving court security, enhancing the fairness of trials, and reducing the annoyance and disruption of electronic devices in the courtroom.
12. Further, each courthouse in this District is occupied not only by court facilities, but has other offices within the building, such as offices of elected county officials or the District Attorney. In such instances, jurisdiction to permit or restrict the use of ETD in portions of the facility occupied by other offices rests with the local sheriff, board of county commissioners, or the District Attorney, rather than courts.
13. It is appropriate, therefore, to balance the convenience of court users with the rights of others who may be adversely affected by the use of ETD, and with the security concerns presented by the unrestricted use of ETD.
14. In terms of restrictions to be placed upon users of technology devices within court facilities, it is appropriate to distinguish between discrete users of court

facilities, in that some users have been subjected to background checks or other means of investigation by which they have been deemed not to pose an unwarranted threat to public safety, and/or are present under circumstances which inherently reduce the risks that might result from misuse of technology devices. *See, e.g., McKay v. Federspiel*, 2014 WL 7013574 (E.D.Mich.2014) (slip opinion) (upholding constitutionality of “ban” on electronic devices in court facilities—citing *Chandler v. Florida*, 449 U.S. 560 (1981)).

15. In this context, “members of the public,” include those who are not:

- a) employees of the Colorado State Courts; b) authorized contractors of the State Court system; or c) law enforcement officers present within court facilities in connection with their official duties.

ACCORDINGLY, the following policies will be in effect as to electronic technology devices in facilities occupied by the Thirteenth Judicial District Courts and Probation:

1. It is presumed that members of the public will be permitted to carry or possess, electronic technology devices within facilities occupied or operated by the Thirteenth Judicial District, subject to the restrictions and/or exceptions discussed below. However, no activation or use of ETDs is permitted, except as provided herein.
2. Except as provided in ¶7, below, no persons, apart from law enforcement officers and judicial officers, may activate or utilize cell phones, recording devices, or cameras in a courtroom or hearing room for any purpose whatsoever without permission of the presiding judicial officer. In any event,

all cell phones should be set to “silent,” “vibrate,” or “airplane” mode while in the courtroom. All computer or tablet speakers shall be set to “silent” in order to avoid unnecessary sounds such as those accompanying e-mail alerts.

3. A judicial officer may permit specific members of the public to possess, activate, and/or use electronic technology devices within specific areas of a courthouse, for cause, when such persons may be required to use such devices to communicate in order to respond to urgent or emergent situations, or to further the purposes of a court proceeding.
4. A judicial officer may permit specific members of the public to possess and use electronic technology devices within specific areas of a courthouse to record or photograph events or celebrations such as weddings or adoptions. No other photography, audio or visual recording, or data collection by means of ETD will be permitted in any interior area of the courthouse without express permission of a judicial officer.
5. A judicial officer may permit jurors to have access to cell phones within the courthouse, but only outside the courtroom or jury deliberation room, under supervision of the bailiffs, for the limited purpose of contacting family members or employers in order to report on their status as jurors, estimated length of service, to make arrangements for child care or elder care, to respond to emergencies, or like purposes. Regardless, jurors must surrender ETDs to bailiffs prior to entering their assigned jury deliberation room.
6. A probation supervisor may permit specific members of the public to possess and use electronic technology devices within areas occupied by the Probation

Department for any purposes consistent with the duties of the Probation Department.

7. Licensed Colorado attorneys, employees of the Colorado State Public Defender, and employees of the Office of the District Attorney for the Thirteenth Judicial District who are engaged in matters before the Court may utilize e-mail, text, instant message, or similar capabilities of their ETDs in order to communicate with their offices, co-counsel, investigators, witnesses, or staff, located outside the courtroom, for the limited purpose of advancing the progress of cases in which they are engaged while in court. They may also utilize their ETDs to gain access to, and process pleadings, orders, exhibits, and the like, for “e-filed” cases in which they are then engaged in court, or which are docketed for the particular date during which they are appearing.
8. In order to obtain permission to utilize ETD in accordance with ¶¶2-5, a party, witness, juror, or other interested person may either file a timely motion with the Court, or may contact the Clerk of Court or the clerk or judicial assistant assigned to the particular proceeding, who, in turn will discuss the issue with the presiding judicial officer. In his or her sound discretion, the judicial officer may address the request summarily, or may seek input from other interested parties to the action prior to addressing the request.
9. In any given case, a judicial officer also has authority and unfettered discretion to restrict the possession or use of ETDs in response to security or like concerns brought to the attention of the judicial officer. Such action may be taken summarily, with no advance notice being necessary.

10. This Order does not affect the authority or discretion of other public officials, such as Sheriffs, County Commissioners, or the District Attorney, to restrict or permit the use of electronic technology devices within other portions of courthouses occupied or directly controlled by such officials. Further, the authority of the Sheriff to restrict ETD as related to security concerns is unaffected by this Order.
11. This Order does not affect the privilege of members of the news media to seek approval for expanded media coverage under the terms of Public Access to Records and Information, Rule 2, as amended.
12. The District Administrator, the Chief Probation Officer, and any Clerk of Court may also further restrict the use of ETD by staff members they supervise.
13. All persons entering the secured areas of courthouses are subject to search or inspection of their persons or effects in order to ensure that this Order is observed. Any willful violation of this Order may result in confiscation of the offending ETD, removal of its possessor from the courthouse, and/or imposition of penalties for contempt of court.

SO ORDERED, THIS 25th day of August, 2015, at Sterling, Colorado, effective September 1, 2015.



MICHAEL K. SINGER, CHIEF JUDGE
THIRTEENTH JUDICIAL DISTRICT