

Trial Court Policy on Possession & Use of Cameras & Personal Electronic Devices

Describes court policy on bringing cell phones, cameras and other electronic devices to court.

Definitions

News Media

Personnel who fall under the provisions of the Massachusetts SJC Rule 1:19: “Electronic Access to the Courts” and are accredited pursuant to that Rule.

Camera

Device capable only of recording images.

Personal Electronic Device (PED)

Any device capable of communicating, transmitting, receiving, or recording messages, images, sounds, data, or other information by any means including but not limited to a computer, tablet, cell phone, or blue-tooth device.

Presiding Judge

Judge presiding over the session.

Scope

This policy supersedes the memorandum titled “Policy on Clothing, Cameras and Cellular Telephones,” dated January 9, 2006, issued by the Chief Justice for Administration and Management, and should be read consistent with SJC Rule 1:19. Where there is a conflict, SJC Rule 1:19 shall control. This policy is intended to ensure a safe and secure environment for court staff and the public and to ensure that court business is conducted in an orderly and efficient manner. Courthouse policies prohibiting the possession and use of PEDs shall be administered by the Security Department.

The possession and use of cameras and PEDs in the courts can pose a security risk to court staff, counsel, witnesses and the public, as well as permit the improper audio/video recording of proceedings contrary to Massachusetts law. See G.L. c. 272, § 99(C)(1). Some examples include using cellular communications for the purpose of intimidating or inciting retribution against trial participants, taking photographs of jurors, witnesses, counsel or undercover agents to intimidate or cause harm to these individuals or jurors.

In general, a presiding judge will work with a Chief Court Officer to address issues that arise in a courtroom or courthouse regarding the use of cameras or PEDs. Unusual requests or circumstances may require consultation with a First Justice or Regional Administrative Justice, the Director of Security, or the SJC Public Information Officer, depending on the nature of the situation and whether it is a single occurrence or ongoing issue.

Requests for approval of photographic or video recording must be coordinated with Security to avoid the unintentional compromise of security systems, practices or designs as well as the confidentiality and decorum associated with judicial proceedings.

Employee Use of PEDs

1. With the exception of circumstances described in Section II, paragraph 3, below, during court business hours, Trial Court employees are subject to the policies and conditions regarding the use of PEDs and cameras established by their respective department heads.
2. The possession and use of PEDs by Court Officers is governed by *Director of Security Memorandum, Subject: Cellular Telephone and Other Personal Electronic Device Use by Court Security Personnel dated June 3, 2014.*

Public Use of PEDs & Cameras

1. All members of the general public entering the Trial Court in possession of PEDs or cameras will be instructed in passing through the entry security screening station to turn off the device or to set the device on silent mode prior to entering a courtroom.
2. Individuals may utilize PEDs outside of the courtroom in the public access areas of a courthouse, as long as the activity does not disrupt or disturb court business or proceedings.

No PED or camera may be used to take photographic images within the public access areas of a courthouse or to take video recordings in a courthouse or courtroom (unless permitted under SJC Rule 1:19 without the prior approval of the Chief Court Officer in consultation with the First Justice/Regional Administrative Justice. Exceptions may be granted for photography associated with court-sponsored ceremonies and events, such as adoption ceremonies when photos are authorized by the presiding judge.

Any photographing/recording of court documents will be allowed only with the permission of the department head [Clerk, Register, Recorder, CPO.], or his/her designee. There shall be no copying of any documents that are impounded.

3. All PEDs and cameras must be turned off or set to silent mode and stowed away prior to entering a courtroom. See SJC Rule 1:19(1). PEDs and cameras shall not be used in a courtroom except as follows:
 - News Media registered under the provisions of the Massachusetts SJC Rule 1:19: “Electronic Access to the Courts” who shall be subject to the terms of that rule.
 - Counsel, court staff, and others conducting business before the court may utilize cellular telephones and PEDs in a courtroom with the consent and within guidelines set by the presiding justice. The presiding justice shall be guided by whether the PED or camera can be operated so that it:
 - does not interfere with courtroom decorum, is not inconsistent with the court functions, and does not otherwise impede the administration of justice
 - does not interfere with the court sound system, recording system, or other technology, or with a court reporter’s function
 - does not generate sound or require speaking into a device
 - does not photograph proceedings or record video images
 - does not record audio or digitally transcribe the proceedings except as permitted by this policy

4. The wearing of Bluetooth earpieces and/or other similar extended communication devices and accessories is prohibited in the courtroom at all times with the following exception:
 - Persons with disabilities, as defined by the Americans with Disabilities Act, whose disabilities necessitate the use of an electronic device to communicate.
5. When a Court Officer observes an individual using a PED without permission inside a courtroom, the Court Officer shall advise the individual that using the PED in a courtroom violates Trial Court policy. The Court Officer shall further inform the individual that, if he or she does not comply with the policy, either the PED will be confiscated and returned upon departure from the courthouse for the day, or the individual must leave the courtroom.
6. Jury Pool members may possess PEDs in the Jury Pool area. The possession of PEDs or cameras by a juror in the courtroom or jury deliberation room is at the discretion of the presiding judge.

Further Restrictions or Prohibitions

1. In the event that a First Justice / Regional Administrative Justice determines, following consultation with the Director of Trial Court Security, that special security or privacy concerns exist, the First Justice / Regional Administrative Justice may notify the respective Departmental Chief Justice or Deputy Court Administrator that the possession or use of PEDs and cameras will be further restricted or prohibited. Exemptions to the restriction on the possession of PEDs in a courthouse will be limited to employees, attorneys, law enforcement officers and jurors.
2. Where more than one Trial Court Department is located in the courthouse, the decision to further restrict the possession or use of PEDs and cameras will be made jointly by the individuals in each department as identified above. Any differences among judicial leaders and the Director of Trial Court Security concerning the need for PED restrictions will be referred to the Court Administrator and the Chief Justice of the Trial Court for resolution.
3. Individual courthouse restrictions instituted prior to the effective date of this policy will remain in place. They will be subject to annual review and discussion with the Director of Security to determine whether the initial concerns that warranted the restrictions continue to exist.

Penalties

1. Court Officers have the primary responsibility for enforcing protocols for the proper use of PEDs and cameras within the Trial Court as defined by this policy. Violations of this policy may result in the following actions:
 - Confiscation of the PED or camera used in the violation of this policy by Court Officers until the individual is leaving the courthouse for the day.
 - Removal of the individual by Court Officers from the courtroom or the courthouse. No individual shall be removed by a Court Officer for using a PED unless the individual has received and failed to heed an oral warning from a Court Officer to stop recording or to surrender the PED until he or she leaves the courthouse.
 - A Court Officer cannot arrest an individual for non-compliance with this policy. A judge may order than an individual be held in contempt of court for violation of a judge's order to comply with the policy.
2. If a PED or camera is confiscated, it will be returned to the individual upon completion of his or her business with the court. No liability shall accrue to security personnel or any other court official or employee for any loss or misplacement of or damage to a confiscated device. See G.L. c. 258, § 10(d). Court Officers may retain devices as evidence of a criminal violation, if authorized by the First Justice / Regional Administrative Justice or presiding justice. Court Officers cannot search a confiscated PED for any reason without a search warrant or the expressed written consent of the owner.

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