



Cell Phones in the Courthouse: An Access to Justice Perspective

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State Policy Overview

Detailed Policy Analysis Sample

Virginia Model Policy

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

Massachusetts Trial Court restrictions on the Possession & Use of Cameras & Personal Electronic Devices

Map of Massachusetts Trial Court restrictions on the Possession & Use of Cameras & Personal Electronic Devices

Introduction

The Massachusetts Trial Court has a general policy outlining the possession and use of cameras and personal electronic devices (referred to as PEDs) within the courts,¹ but district courts are given the option to adapt the policy at the discretion of their own leadership.² While the official policy does not prohibit the entry of PEDs into courthouses, currently there are 56 Trial Court facilities across the Commonwealth with active cell phone bans.³ It is the opinion of Massachusetts Appleseed, through our own observation and the insight of our colleagues, that these bans are unduly burdensome to litigants — especially those without representation — and have a harmful effect on access to justice in Massachusetts.

There appears to be a building consensus that the restriction of cell phones in the Massachusetts courthouses places an additional burden on those who are already at a disadvantage in the justice system. Attorneys and court employees are permitted to bring phones into courthouses, and attorneys are often able to take in their clients' phones as well. However, pro se litigants, who often store personal and legal information on their phones, are unable to access this information under the phone bans. Self-represented litigants without cell phones are not able to access legal precedents that may be referenced by opposing counsel in court. If there are no storage facilities in the courthouse for phones, individuals accessing courthouses by public transportation are not able to leave their phone in a car, and often there is no one with whom they can entrust their phone during their time in court. In addition to the issue of pro se litigants accessing evidence and information, anyone utilizing childcare, location maps for travel assistance, or who may need additional physical, mental, or medical support at short notice are among those most severely affected by this policy. The concern is that, while intended to protect the integrity of the justice system, these bans are in fact preventing Massachusetts from realizing its 100% access to justice goal.

¹ Trial Court Policy on Possession & Use of Cameras & Personal Electronic Devices (2018), Commonwealth of Massachusetts

² Jessica Drew, Attorney, South Coastal Counties Legal Services (2/9/2018).

³ Trial Court restrictions on the possession of cellular telephones and personal electronic devices (2018), Commonwealth of Massachusetts

Project Scope

OBJECTIVE

To understand the origins of court cell phone bans in Massachusetts and the consequences of such bans both within the court system and across the broader access to justice landscape.

QUESTIONS

What unintended consequences do these bans have for court users—and in particular, for self-represented litigants?

What are the nature of the concerns the bans are meant to address, and do these concerns justify the bans?

How did these policies come into place and who has the authority to change them?

How do other states manage the possession and use of cameras and PEDs? Are there other ways to mitigate risks?

What differences can be observed between courts with and without this type of policy?

To answer these questions, we employed several lines of inquiry. We conducted internet-based research into policies in Massachusetts and around the country. We contacted court personnel locally and nationally to solicit their perspectives on both the need for bans and the impacts that such bans have. We also conducted phone interviews with stakeholders in Massachusetts who work with affected populations, along with individuals involved with the courts in other states to understand their experiences with alternative policies. And perhaps most importantly, we gathered stories and opinions from the same court users forced to leave their phones or turn around when they arrive for a day in court. We have also made efforts to connect with judges and security staff who enforce the cell phone policies in their courthouses, but unfortunately they have been reluctant to speak with us about this issue.

Cell Phones in the Courthouse

There are numerous ways in which cell phones are used in the courthouse. Through interviews with stakeholders, we developed an outline of the most common uses for cell phones by non-barred individuals in the court setting. These uses can be broken down into four main categories: Evidence, Communication & Logistics, Language Access & Accessibility, and Info Gathering & Legal Research. Below are descriptions of each of these uses and instances in which they most commonly occur.

EVIDENCE^{4, 5}

Description	Examples
Instances in which litigants need to use their cell phone to display evidence, most often in the form of pictures, texts, emails, and voicemails	Proof of payment
	Proof of communication
	Proof of agreement
	Proof of damage or injury

COMMUNICATION & LOGISTICS⁶

Description	Examples
Instances in which litigants need to use their cell phone to communicate with individuals outside of the courthouse ⁷	Coordinating childcare ⁸
	Coordinating transportation
	Communicating with an employer

⁴ Stacey Marz, Director of Self-Help Services, Alaska Court System (11/21/2017)

⁵ CCPP Legal Aid Attorney Responses, Massachusetts Appleseed Center for Law and Justice, February 2018

⁶ *Ibid.*

⁷ Pay phones are no longer in service at the majority of MA courthouses, leaving pro se litigants with no reasonable alternatives for making phone calls

⁸ Cell Phone Ban Survey, Chelsea District Court (9/15/2017).

	Communicating with attorney on time/location changes
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LANGUAGE ACCESS & ACCESSIBILITY⁹

Description	Examples
Instances in which litigants need to use their cell phone to communicate with individuals inside of the courthouse	Using translation services
	Using hearing assistance apps

INFO GATHERING & LEGAL RESEARCH¹⁰

Description	Examples
Instances in which litigants need their cell phone to gather information that would allow them to enter or continue a court session on fair ground	Gathering phone-based evidence ¹¹
	Verifying information before settling an agreement ¹²
	Reading online legal aid materials and conducting legal research ¹³
	Filling out and storing legal forms ¹⁴

Cell phone use in the courthouse is common and varied. A litigant could need their cell phone for several of the reasons outlined in a single session, or perhaps just one. Sometimes a cell phone provides a barely noted convenience; and sometimes it will make a major substantive difference in a case. This list is not meant to be exhaustive, as the uses of cell phones are myriad and constantly expanding.

⁹ CCPP Legal Aid Attorney Responses, Massachusetts Appleseed Center for Law and Justice, February 2018

¹⁰ *Ibid.*

¹¹ "Forms in Your Pocket: Mobile Solutions are Nearly Ready to Scale (News 2016)", Self-Represented Litigation Network.

¹² CCPP Legal Aid Attorney Responses, Massachusetts Appleseed Center for Law and Justice, February 2018

¹³ "Forms in Your Pocket: Mobile Solutions are Nearly Ready to Scale (News 2016)", Self-Represented Litigation Network; Pro se litigant, Leominster Housing Court (3/22/2018).

¹⁴ *Ibid.*

CELL PHONE ASSOCIATED RISKS AND COMPLICATIONS

There are some very important security concerns at stake with regard to cell phone use in the courthouse. While this report does not focus extensively on these issues, we do acknowledge their importance. Reasons commonly referenced for banning cell phones hinge on disruption, privacy, and witness intimidation issues. The presence of camera-equipped smartphones in courthouses does create a real risk of individuals inappropriately capturing photographs of witnesses.¹⁵ The threat of witness intimidation is increased by the ability of smartphone users to instantly post pictures and video to social media websites. In addition to witnesses, individuals with cell phones could potentially photograph or record jurors and prosecutors involved in trials or hearings.

Argument Type	Specific Concerns
Arguments from court stakeholders as to why the policy should remain in place	Individuals may use their phones to record (photo, video and/or audio) victims, witnesses, jurors or court employees to threaten or intimidate them ¹⁶ , or even to transmit/broadcast the court proceedings to outside parties. The privacy concerns are significant since smartphones make it so easy to post pictures or videos on social media.
	Cell phones could be a source of disruption during a trial or a hearing. Cell phones distract litigant attention from judges, attorneys, and the proceedings.
	Cell phone bans may help prevent witnesses from informing one another about testimony when other witnesses have been sequestered and increase clients' attention to courtroom proceedings and attorney/client conversations while in court. ¹⁷
Arguments from court stakeholders as to why	Cell phone lockers can be used to store contraband. Also, phones could be used to trigger an explosive device.

¹⁵ "Witness Harassment Has Gone Digital, and the Justice System is Playing Catch-Up", ABA Journal, August 2013.

¹⁶ "Witness Harassment Has Gone Digital, and the Justice System is Playing Catch-Up", ABA Journal, August 2013.

¹⁷ Kristen Graves, District Court Staff Attorney, CPCS, Public Defender Division (12/11/2017).

suggested alternatives to the ban are not feasible	The Trial Court may not be able to afford to pay for additional security personnel to oversee storage lockers.
	Using a locker system would be difficult because courts are already short-staffed with respect to security officers.

While these arguments are based in valid concerns and legitimate cautionary measures, Massachusetts Applesseed believes that court policies concerning electronic devices can be designed in a way that addresses these concerns while still promoting access to justice in the courthouse.

Ban Consequences

It's horrible, I can't believe it. I was going to use it to show the original traffic violation. There's nothing on the notice saying cell phones aren't allowed and there should be. It's also going to make people late to their court appointments!

—Anonymous Litigant, Boston Municipal Court¹⁸

While the tables in the previous section highlight instances in which cell phones are commonly needed in the courthouse, they do not show the full complexities that often arise as a direct result of these bans. [Confidentiality](#) can become an issue if a litigant who is hard of hearing has to communicate with their attorney at a shouting volume.¹⁹ [Settling an agreement](#) may be rushed, and consequently unfair, if a litigant in Housing Court is not able to call their family to verify move-out dates.²⁰ [Providing a witness](#) can be very difficult if the witness needs to be on-call for their occupation (an attorney can arrange for this to be allowed;²¹ a self-representing litigant is essentially forced to testify without the witness). [Proving a payment](#) can be impossible if a litigant

¹⁸ Interview with litigant (Anonymous), South Boston Division, Boston Municipal Court (11/21/2017).

¹⁹ Jessica Drew, Attorney, South Coastal Counties Legal Services (2/9/2018).

²⁰ Liliana Ibara, Attorney, Greater Boston Legal Services (2/21/2018).

²¹ Susan Hegel, Attorney, Greater Boston Legal Services (2/26/2018).

needs to call their bank to do so.²² Obtaining emergency relief could be impeded if a victim of domestic violence seeking an order of protection or a tenant illegally locked out of an apartment arrives at the court seeking relief and is denied entry into the courthouse with their cell phone.²³

The lack of cell phones for pro se litigants is an enormous information disadvantage for them. They have no way to check what opposing counsel is telling them.

—Liliana Ibara, Greater Boston Legal Services²⁴

Being without a cell phone can also put pro se litigants at an even more profound strategic disadvantage in the courtroom. Cell phones are no longer just phones; they are personal computers and provide access to a wide array of resources. One pro se Housing Court litigant recounted their experience of doing extensive research prior to trial only to have the opposing attorney look up past cases and Massachusetts laws on the spot on their own phone, leaving the litigant unable to respond because they could access no new information, nor could they consult the cases being referenced.²⁵ Evidence is often stored on cell phones and many litigants arrive for a trial or hearing without having transferred that evidence to a different format. This presents problems in many types of cases, from showing photographs of damaged property to text messages documenting custody disputes. Multiple stakeholders emphasized the importance of cell phones in domestic cases, where threats are often received via text message.²⁶ In one interview, a litigant at the South Boston Division, Boston Municipal Court was unaware of the no-cell phone policy and stated that she was going to use her phone to show a traffic violation.²⁷

While the bans are designed as a response to security concerns, they can also bring their own security issues. Conversations with domestic violence advocates brought to our attention some of the ways in which this population can be adversely affected by prohibitive policies. One concern at

²² Jade Brown, Attorney, Greater Boston Legal Services (2/21/2018).

²³ Susan Hegel, Attorney, Greater Boston Legal Services, (3/14/2018)

²⁴ Liliana Ibara, Attorney, Greater Boston Legal Services (2/21/2018).

²⁵ Tracey Tobin, Litigant, Leominster Housing Court (3/22/2018).

²⁶ Sarah Singleton, Judge Pro Tem, First Judicial District Court, New Mexico (11/27/2017). Christina Paradiso, Senior Supervising Attorney, Family Law Unit, Community Legal Aid (2/29/2018). Sheriece Perry, Senior Manager of Support Services, Office of Court Management (10/11/2017).

²⁷ CCPP Litigant Responses, Massachusetts Appleseed Center for Law and Justice, September-November 2017

courthouses where litigants check their phones with a third party (such as a donut shop or Western Union) is that you could easily be leading domestic violence victims into an uncontrolled environment where their aggressor will be present at the same time. Similar risks could apply to litigants in other sensitive situations with parties in their cases, risking anything from revictimization to witness intimidation.²⁸

Two scenarios observed serve as contrasting case studies in efficiency. In the first scenario, at a courthouse with no cell phone ban, a woman called her father during her Court Service Center appointment to attain a missing detail about his social security claim.²⁹ The second scenario took place at a courthouse with an active cell phone ban, where a litigant meeting with a Court Service Center Manager did not have necessary information on hand about her landlord, which was stored on her phone, and the Manager had to spend approximately 15 minutes looking online for the information.³⁰ The simple act of gathering information is polarized by these two anecdotes; easy and time-efficient for one litigant and CSC Manager but difficult and time-consuming for the others.

Because many litigants are unaware of this policy until their arrival at the courthouse, they are often forced to make quick, irrational decisions concerning what to do with their cell phones. Many litigants, so as not to be late to their session, hide their phones in bushes around the courthouse.³¹ Three self-represented litigants once stashed their phones in a stranger's bike bag outside of the courthouse.³² One litigant left their phone with a cab driver.³³ Several stakeholders described vendors near the courthouses that hold cell phones for varying rates; some litigants utilize these vendors, but many cannot afford it.³⁴ In an informal survey, several litigants expressed acute frustration with having to store their phones at these nearby vendors for a fee and with the

²⁸ Stephen Russo, Domestic and Sexual Violence Council Meeting (4/11/2018).

²⁹ Springfield Court Service Center (7/26/2017).

³⁰ Worcester Court Service Center (7/20/2017).

³¹ For example, see "Chaos in the Courthouse, with no Place to Stash Smartphones", Chicago Tribune, April 6, 2016.

³² Jade Brown, Attorney, Greater Boston Legal Services (2/21/2018).

³³ *Ibid.*

³⁴ CCPP Legal Aid Attorney Responses, Massachusetts Appleseed Center for Law and Justice, February 2018

cell phone ban in general—noting how problematic the ban would be in the case of an emergency.³⁵

The most severe effect of this policy, however, may be the common inclination to avoid entering the courthouse at all, or to avoid returning.

For clients with limited English proficiency, they may not come to court unless a friend or relative is able to come with them to translate. However, if they were able to bring their cell phones, they may feel more comfortable coming to court, because they would be able to get clarification by calling a friend or using a language service or application on their phone.

—Jade Brown, Greater Boston Legal Services³⁶

This dissuasive effect can occur for a number of reasons, such as the litigant’s inability to reach someone to change an appointment or the litigant’s inability to access the information they need.³⁷ Many times this effect occurs because the litigant does not feel comfortable hiding their phone and cannot afford to pay for it to be stored. In many instances, individuals are without transportation home because they had to use their bus or subway fare to store their phone.³⁸ Moreover, the litigant feels that leaving their cell phone means leaving their personal life at the door, and they may not enter the courthouse because of it.

Policy Responses

Understanding the inherent risks of allowing cell phones into courthouses, there are various solutions that would allow individuals to bring their phones while still minimizing disruption. Many courthouses around the country supply lockers which are available for phone storage, sometimes charging individuals a fee of a few dollars for the service. (Such a charge, however, raises its own complications). Still other courts, such as the Superior Court of California San Bernardino or the

³⁵ CCPP Litigant Responses, Massachusetts Appleseed Center for Law and Justice, September-November 2017

³⁶ Jade Brown, Attorney, Greater Boston Legal Services (2/21/2018).

³⁷ Dina Afek, Volunteer Attorney Program Director, New Mexico Legal Aid (11/28/2017).

³⁸ Nina Darby, Court Collaborative Manager, Rosie’s Place (11/28/2017).

Arizona Supreme Court, permit camera phones so long as no photographs, broadcastings, or recordings are made without prior approval.³⁹ At the Kansas Supreme Court cell phones are permitted and, with permission from the presiding judge or justice, pro se litigants are allowed to use their devices in the courtroom.⁴⁰ Violating these rules may result in confiscation of the phone with citations or monetary sanctions.

Here in Massachusetts, the Greenfield District Court has recently enacted a policy whereby cell phones are allowed, but judges have the right to prohibit the entry of phones into the courtroom for specific cases at their discretion.⁴¹ At the Barnstable District Court a trial policy was implemented in March of 2018 to allow individuals to switch off and keep their phone if they are unable to leave their phone in a vehicle or with another person outside of the courthouse.⁴² Massachusetts Federal Courthouses do not allow cell phones, but anyone entering the courthouse is able to check their device at the door where they are stored in a locked cubbyhole.⁴³

At the Springfield Court Complex in Springfield MA, one of the busiest courthouses in the state, cell phones are permitted, but must be put away or silenced when the judge is present or the session has begun. Court users can make calls, but must do so from a common area. If an individual is asked multiple times to turn off their phone the device is confiscated and brought to the security officers by the front door, where it can be retrieved upon leaving. A court officer reported only two incidents over the last two years where this was necessary, but that court officers must remind litigants to turn off their phones on a daily basis. One Springfield court staff member reported benefits to the permissive policy including keeping people occupied and calm while they are waiting, also pointing out that cell phones are "more than phones now, they are computers. It's like having your wallet."⁴⁴ A Court Service Center (CSC) staff member highlighted how problematic it is when people who do not have phones need to make phone calls, as the only place they can do so is from the personal office phones of the CSC staff.⁴⁵

³⁹ Cell Phone Policy, Superior Court of California, County of San Bernardino, 2017.

⁴⁰ <http://www.azcourts.gov/Portals/20/2013%20Aug%20Rules/R%2013%200013.pdf>

⁴¹ Mary Klaes, Court Service Center Manager, Franklin County Justice Center (03/22/2018).

⁴² "New cell phone Ban Stymies District Court Visitors", Cape Cod Times, March 19, 2017.

⁴³ <http://www.capecodtimes.com/news/20170319/new-cellphone-ban-stymies-district-court-visitors>

⁴⁴ Court Officer, Roderick Ireland Courthouse (5/9/2018)

⁴⁵ Springfield Court Service Center (5/29/2018).

Many courts across the country have grappled with this issue and the policy responses are varied. Described below are some of those responses, and a more comprehensive review of court cell phone policies from other states can be found in the Appendices of this report.

Recommendations

1. Universal Permissive Policy

The solution that seems to best facilitate access to justice for pro se litigants is the statewide adoption of a policy that allows all personal electronic devices in the courts so long as no photographs, recordings, or broadcasts are taken without prior permission. The use of devices inside the courtroom for case-related tasks would be permitted unless specifically prohibited by the judge. This would allow pro se litigants full access to any relevant personal or legal information on their phones. The Model Policy drafted by the Virginia Access to Justice Commission (see Appendix), which is based off the Fairfax County policy, is a strong example of a well thought out and balanced permissive policy. The VA Model Policy allows the entry of all cell phones and other portable electronic devices subject to screening and adherence to rules of proper use.⁴⁶

2. Cell Phone Restrictions

- a. Courtroom etiquette: Require that devices be turned off, put in airplane mode, or silenced while in courtroom unless explicitly given permission for use. In Maine and in the First Judicial court in Arkansas, cell phones must be turned off prior to entering courtroom; any usage of devices with a camera or recording may be confiscated unless authorized.⁴⁷
- b. Designated Areas: Restrict phone calls to designated calling areas, which would allow individuals to make important calls for purposes of childcare, transportation, emergencies, or other legal issues with minimal disruption. In Kansas, cell phones are permitted but they must be turned off and put away out of sight in the courtroom; unrepresented parties may use a phone during court proceeding if

⁴⁶ Virginia Access to Justice Commission Model Policy on the Use of Portable Electronic Devices in Courthouses, endorsed 12/7/2017.

⁴⁷ http://www.courts.maine.gov/rules_adminorders/adminorders/JB-05-16.html (effective 5/1/2008)

sound is off, no disruption occurs, and that person is sitting in a designated area.⁴⁸ In New Jersey, cell phone use is permitted and can be used in common areas for any purpose other than taking photos, recording and/or broadcasting.⁴⁹

- c. Case-by-Case Restrictions: Judges could have the discretion and authority to impose cell phone prohibitions in their courtroom for particular cases. The Virginia Model Policy specifies that “a judge may further limit or ban the carrying or use of any Portable Electronic Device” to “regulate media coverage”, if the device may “interfere with the administration of justice or cause any threat to safety or security” or “for any other reason.”⁵⁰

3. Consequences for Prohibited Use

Courts could balance a liberal policy by retaining the right to confiscate devices in the case of a violation. Courts could also decide to implement citations, fines, or other penalties to discourage inappropriate conduct. It would be important for courthouses to have clear and multilingual signage conveying these prohibitions and consequences to court users. Additionally, any added fees or fines would need to be considered in the context of their impact on low-income individuals. For example, in an Arizona court where a cell phone was not silenced, a phone of a client’s family member rang during a hearing, and the judge fined her \$50.⁵¹ Some courts may confiscate cell phones, such as in Maine where cell phones are allowed if turned off, and any usage of devices with a camera may be confiscated unless authorized.⁵² In Anne Arundel Circuit Court, MD: “Security personnel or other court personnel may confiscate and retain an electronic device that is used in violation of this Rule, subject to further order of the court or until the owner leaves the building.” Prohibited use is considered to be in contempt of court.⁵³

4. Alternative Solutions

- a. Lockers: If a particular court or judge is firmly unwilling to allow cell phones into the courthouses, the next-least restrictive solution would be to require that phones are stored in lockers inside the courthouse. Phones could still be permitted to complete forms and gather relevant personal and legal information, but then could be checked in lockers before individuals proceed to trial. An example can be found

⁴⁸ <http://www.kscourts.org/kansas-courts/supreme-court/Orders/2013/2013SC62.pdf> (6/12/2013)

⁴⁹ <https://www.judiciary.state.nj.us/public/assets/guidelines.pdf> (effective 2/2/2015)

⁵⁰ Virginia Access to Justice Commission Model Policy on the Use of Portable Electronic Devices in Courthouses, endorsed 12/7/2017.

⁵¹ Dina Afek, Volunteer Attorney Program Director at New Mexico Legal Aid, 11/28/2017.

⁵² http://www.courts.maine.gov/rules_adminorders/adminorders/JB-05-16.html (effective 5/1/2008)

⁵³ Md. Rule 16-208(c)(1)

in the Eastern district of Virginia which supplies lockers for phone storage.⁵⁴

However, some courts may not be able to pay for additional security personnel to watch over the lockers.

- b. Pouches: Another possibility is the use of Yondr pouches, wherein a litigant keeps their phone on their person, but it is sealed in such a way as to prevent its use.⁵⁵ In the Criminal Justice Center in Philadelphia, Pennsylvania, pouches are used by individuals to seal their cell phones when they enter, carry it around with them, and unseal at the unlocking station on their way out. About 20-30 cases were reported of people mutilating or destroying these pouches without visiting the official unlocking station. Some people allegedly found out how to turn on their phones by touch and use the phone through Siri. Philadelphia court officials are now working to improve pouches so that they are more resistant and larger to fit newer, larger cell phones.⁵⁶ The Massachusetts Board of Bar Overseers also uses Yondr pouches during Bar exam administration.⁵⁷
- c. Notice: At a minimum, the Court should provide sufficient and consistent notice to litigants, in multiple languages, to enable them to plan accordingly for their trips to court (understanding that this would only be helpful to those individuals with scheduled court affairs, and not, for instance, someone dropping by to use a Court Service Center). For example, in Maryland Courts, the official policy specifies that notice regarding any limitations or prohibitions on cell phones and electronic devices “shall be included prominently on all summonses and notices of court proceedings”.⁵⁸
- d. Entry List: Judges, attorneys, or clerks could provide the names of litigants allowed to bring in their devices to security officers.

⁵⁴ Abel Mattos, Admin. Office of US Courts, 11/21/2017

⁵⁵ “How it Works”, Yondr, <https://www.veryondr.com/howitworks/>, February 2018.

⁵⁶ <http://www.philly.com/philly/news/crime/Some-find-ways-to-defeat-Phila-courts-new-locking-cellphone-pouch.html> (4/7/2017)

⁵⁷ <https://www.mass.gov/files/documents/2018/06/27/6.14.2018%20security%20policy.pdf>

⁵⁸ Md. Rule 16-208(d)(2)

Conclusion

Allowing cell phones in courtrooms significantly increases access to information for pro se litigants. Today, legal forms and other legal help tools are increasingly available to the public online and through smartphone applications that allow individuals to complete, submit, and save court documents on their phone without having to access a printer.⁵⁹ A smartphone is a commonplace and essential daily tool for communication, information and document storage, and safety and security. The smartphone's ability to complete court documents and store important case information makes it a critical tool for expanding access to justice and promoting a positive and productive experience for individuals in the court system.

When individuals are not offered a simple solution to the cell phone ban, the results are often extreme. Many individuals resort to hiding their phones in bushes and other areas around the courthouse; these phones are often stolen. Others choose to stay outside of the courthouse with their phones, but may miss their hearings and have default judgments entered against them as a result.⁶⁰ In this technology-driven, and often technology-dependent era, it is highly problematic for individuals to have to choose between carrying a cell phone and attending an appointment in court.

Cell phones are an integral part of daily life for most of the population, and their restriction in a public space such as the Trial Court should be treated with the appropriate gravity. Living in a democratic society demands a constant balancing of security with liberty and equality; and we would encourage the Court to ensure this balance is not being too hastily dismissed. Access to justice is often an elusive concept—and one with which the Massachusetts Trial Court will surely be grappling for many years to come—but the removal of cell phone bans is one concrete and demonstrable step toward the Court's goal of 100% access across the Commonwealth.

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⁵⁹ "Forms in Your Pocket: Mobile Solutions are Nearly Ready to Scale (News 2016)", Self-Represented Litigation Network.

⁶⁰ "Chaos in the Courthouse, with no Place to Stash Smartphones", Chicago Tribune, April 6, 2016.