

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ORDER ALLOWING §
USE OF PERSONAL §
ELECTRONIC DEVICES §
INSIDE STATE COURTHOUSES §

ORDER

This 31st day of July 2024, it appears that:

WHEREAS, on December 7, 2020, the Court established a committee to review the prohibition on personal electronic devices (“PEDs”) inside State courthouses and to recommend any changes to the existing policy (“the Committee”);

WHEREAS, the Committee included representatives from the trial courts, the Department of Justice, the Office of Defense Services, the Delaware State Bar Association, Capitol Police, and the Delaware Community Legal Aid Society;

WHEREAS, on April 14, 2021, the Committee submitted a report with its findings and recommendations to the Chief Justice and the Presiding Judges;

WHEREAS, the Committee, at the direction of the Chief Justice developed a pilot program to test allowing the public to bring their PEDs inside State courthouses;

WHEREAS, on February 7, 2022, the pilot program formally began at Family Court courthouses in Kent County and Sussex County and Justice of the

Peace Court courthouses 3 (Georgetown) and 11 (New Castle);

WHEREAS, on July 11, 2022, the pilot program was expanded to the Sussex County Courthouse, which contains both the Superior Court and the Court of Common Pleas;

WHEREAS, throughout the course of the pilot program, the Committee met to discuss and evaluate the progress of the pilot program;

WHEREAS, on February 15, 2023, the Committee submitted a report to the Court describing the success of the pilot program and recommending expansion of the pilot program throughout judicial facilities;

WHEREAS, on March 27, 2023, the Court ordered that the pilot program be expanded to all State courthouses by June 1, 2023;

WHEREAS, the Court further ordered that the Committee monitor and evaluate the progress of the expanded pilot program;

WHEREAS, on March 14, 2024, following the monitoring and evaluation, the Committee submitted a report to the Court with its findings and recommendations, including that the pilot program be made permanent.

NOW, THEREFORE, IT IS ORDERED that:

1. PEDs are permitted in all State courthouses consistent with the *Policy for the Public's Use of Portable Electronic Devices in Courthouses and*

Courtrooms (“the Policy”), attached as Exhibit A and Item 3 in Section IX Facilities of Judicial Branch Operating Procedures available at <https://courts.delaware.gov/aoc/operating-procedures/index.aspx>.

2. In the courthouse, the use of a PED for photography, video recording, audio recording, or transmitting live audio or video stream is strictly prohibited, except when permitted by Court staff for the reproduction of public court documents in a clerk’s office or when otherwise permitted by a Judicial Officer. In a courtroom, the use of a PED for photography, video recording, audio recording, texting, or transmitting or receiving data is prohibited without prior written authorization of the presiding Judicial Officer. Violations of this order could result in consequences up to and including confiscation of the PED by Court Security Officers at the direction of a judicial officers, removal from the courthouse, and filing of contempt charges.
3. This Order shall go into effect on August 7, 2024.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice

Exhibit A

**POLICY FOR THE PUBLIC’S USE OF PORTABLE ELECTRONIC DEVICES
IN COURTHOUSES AND COURTROOMS
Effective August 7, 2024**

1. Applicability of this Policy

Consistent with the July 31, 2024 Order of the Supreme Court of the State of Delaware this policy is applicable to all State courthouses in Delaware.

This policy does not apply to court employees, judicial officers, security personnel, law enforcement officers on official business, state employees or state contractors on official business, authorized media representatives, or attorneys admitted to practice in the State of Delaware, who are subject to policies and procedures established by the Administrative Office of the Courts.

2. Definitions

- a. The terms “Portable Electronic Device” or “PEDs” are defined to include personal mobile telephones (including cell phones and any form of telephone with cameras and audio and video recording and transmission capabilities), computers, tablet computers, cameras, electronic calendars, e-book readers, and “smart” watches.
- b. The term “Court Security” is defined to include Court Security officers, such as bailiffs and constables, and Delaware Capitol Police if called upon to assist.
- c. The term “courthouse” is defined to include all areas within the exterior walls of a court building, or if the court does not occupy the entire building, that portion of the building used for the administration and operation of the court.
- d. The term “courtroom” is defined to include the portion of the courthouse in which actual court proceedings take place. A courtroom also includes physical areas outside a court building where a judge or hearing officer conducts an event concerning a court case.

3. Possession and Use of Portable Electronic Devices

The following policies and procedures govern the possession and use of PEDs in the applicable courthouses and in the applicable courtrooms.

A. In the Courthouse:

PEDs are permitted in the applicable courthouses subject to security screening, and the

following rules:

- (1) Court visitors may use PEDs in the common areas of the courthouse, such as lobbies and hallways, subject to the terms of this policy, provided the usage does not disrupt or disturb court business or proceedings. Further restrictions, including restricting mobile telephone conversations to designated areas, may be imposed as needed to maintain safety, security, proper behavior, order, and the administration of justice.
- (2) Upon entering the courthouse, all PEDs must be placed in a silent mode, such as vibrate.
- (3) Court visitors may use a PED to reproduce public court documents in a clerk's office as long as the device does not leave a mark or impression on the document and does not unreasonably interfere with the operation of the clerk's office.
- (4) Except as otherwise permitted herein or by a Judicial Officer, the use of PEDs to take photographs, make audio or video recordings, transmit live audio, or video stream anywhere within the courthouse is strictly prohibited.
- (5) Violations of this policy shall be regulated according to Section C below.

B. In the Courtroom:

PEDs must be set to silent mode or turned off prior to entering a courtroom. While in a courtroom PEDs may not be used to make or receive calls or to transmit or receive data or for other audible functions without express permission from the Judicial Officer. At the beginning of each court session or individual proceeding, Court staff or the Judicial Officer shall inform persons in the courtroom of the PED policy. The wearing or use of Bluetooth earpieces or other similar 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 and who have notified the court of their need.

1. Photography, video recording, audio recording, texting, or transmitting or receiving data using a PED inside the courtroom is prohibited without prior written authorization of the presiding Judicial Officer. Video transmission or real-time communication of any information using any media from inside the courtroom is strictly prohibited and could result in consequences up to and including confiscation of the PED, removal from the courthouse, and filing of criminal charges.

2. If a Judicial Officer determines that unfettered possession or use of a PED within a courtroom may or does interfere with the administration of justice or causes any threat to safety or security, the Judicial Officer may require that PEDs be turned off and securely stored in a locking pouch provided by the Court. When a Judicial Officer determines that use of a locking pouch is necessary, the Judicial Officer or Court staff shall document the determination and provide a basis for the decision. When completed, such documentation shall be sent to the Court's Presiding Judge for tracking purposes.

3. Although jurors, including prospective jurors, are permitted to bring PEDs into the courthouse, jurors will be required to turn off their PEDs and may be required to securely store them in locking pouches provided by the Court while present in the courtroom and during jury deliberations. Jurors may use their PEDs during breaks as permitted by the Judge. Jury Services may impose further restrictions, including restricting mobile telephone conversations, inside jury assembly rooms as needed to maintain safety, security, proper behavior, order, and the administration of justice.

C. Violations:

Any person using a PED in violation of this policy or any other court order or policy may be compelled to power off and securely store the PED in a locking pouch provided by the Court. Additionally, any person using a PED in violation of this policy or any other court order or policy may be removed from the courthouse, found in contempt of court, or subject to penalties as provided by law. These penalties may include confiscation of the PED by Court Security. For serious or repeat violations, a court's Presiding Judge or Court Administrator may prohibit an individual from bringing PEDs into a State courthouse. If a PED is confiscated, it shall be immediately turned off. Neither a confiscated PED nor its contents shall be searched unless subject to a warrant as part of an investigation. The Court or Delaware Capitol Police shall not be responsible or liable for any damage to or loss of a confiscated PED.

Each Court shall create a reporting system by which violations resulting in the pouching of a PED or the imposition of any more severe penalty are reported and tracked. Reports shall be shared with the AOC and Capitol Police not less than quarterly to help identify patterns of repeated violations.

4. Posting Notice of this Policy

This policy shall be prominently posted on the Judicial Branch's website and at the entrance to each applicable courthouse. Informational signage should be displayed throughout each applicable courthouse, including in jury assembly and deliberation rooms, and on the door to each applicable courtroom.