



FIFTH JUDICIAL DISTRICT, STATE OF COLORADO

REGARDING THE USE OF)	
PORTABLE ELECTRONIC DEVICES IN THE)	ORDER 11-01
COURTS OF THE FIFTH JUDICIAL DISTRICT)	

New technologies have facilitated legal research as well as case preparation and presentation. They have also dramatically changed the means and expectations, which people have, in communicating with one another. Most people routinely carry some form of cell phone, smartphone, personal digital assistant, tablet, laptop, or other similar portable wireless communications or computing device (hereinafter collectively referred to as “Portable Electronic Devices”). To maintain the decorum of court proceedings, ensure a fair trial, and protect the rights and safety of court participants in this rapidly changing environment, it is important that courts place appropriate limits on the use of Portable Electronic Devices.

IT IS THEREFORE ORDERED:

1. **Expanded Media Coverage** – The Expanded Media Coverage rules found in Rule 2, Chapter 38 of the Colorado Supreme Court Rules, pertain to all persons entering the courthouse. Expanded Media Coverage means any still photography of proceedings, audio recording/streaming of proceedings, or video recording/streaming of proceedings, including but not limited to as those terms are defined by Rule 2, Chapter 38 of the Colorado Supreme Court Rules. No one shall be permitted to conduct any Expanded Media Coverage of proceedings, unless they obtain judicial authorization beforehand and otherwise fully comply with Rule 2.
2. **Within the Courthouse** - Subject to inspection and security screening, anyone may bring a Portable Electronic Device into the courthouse.
 - a. If the Portable Electronic Device contains a phone function, its ring function shall be turned off at all times within the courthouse. Telephone conversations are permitted within officially designated areas of the courthouse, but shall not interfere with the efficient functioning of the courts;
 - b. If the Portable Electronic Device contains other functionality that emits sound of any kind, it shall be set to provide completely soundless and noiseless (hereinafter “silent”) operation at all times within the courthouse;
 - c. Persons inside the courthouse may use a Portable Electronic Device, but only if the Portable Electronic Device is silent and operated in a manner that is unobtrusive and

does not interfere with the integrity, dignity and decorum of the courthouse, or the efficient operation of court business; and

- d. No person shall use a Portable Electronic Device to communicate with any courtroom participant at any time during the course of any proceedings. A “courtroom participant” includes a litigant, defendant, witness, or juror, who is present in the courtroom as part of the conduct of any proceedings.

3. **Within the Courtroom**

- a. If the Portable Electronic Device contains a phone function, it shall be turned off at all times within the courtroom. No telephone conversations are permitted within the courtroom, unless specifically authorized by the presiding judge;
- b. If the Portable Electronic Device contains other functionality that emits sound of any kind, it shall be set to provide silent operation at all times within the courtroom;
- c. Persons inside courtrooms (other than jurors) may use a Portable Electronic Device to take notes and to transmit and receive data communications, but only if the Portable Electronic Device is silent and operated in a manner that is unobtrusive and does not interfere with the integrity, dignity and decorum of the court. The Court may order all Portable Electronic Devices to be turned off, if they are deemed to be interfering with the courtroom audio system;
- d. No person shall use a Portable Electronic Device to communicate with any courtroom participant at any time during the course of any proceedings. A “courtroom participant” includes a litigant, defendant, witness, or juror, who is present in the courtroom as part of the conduct of any proceedings; and
- e. While testifying on the witness stand, no person shall use a Portable Electronic Device in any manner.

4. **Phone Use by Parties & Attorneys (or Their Staff)** –Sections 2(a) and 3(a) above shall apply to parties and attorneys (or their staff), unless other phone usage in the courthouse or courtroom is expressly authorized by the presiding judge for a specific purpose.

5. **Court & Probation Staff** – Conduct of court and probation staff is governed by Chief Justice Directive 08-06 and other applicable employment policies promulgated by the Colorado Judicial Branch. While operating within these bounds, court and probation staff may utilize Personal Electronic Devices as authorized by the Colorado Judicial Branch or presiding judge.

6. **Courthouse Security Officers & On-Duty Law Enforcement Officers** – Courthouse Security Officers and On-Duty Law Enforcement Officers, may use their Portable Electronic Devices while they are present in the courthouse and courtroom. However, the phone function on their Portable Electronic Device must be set to silent operation.

7. **Jury Service** - It is important to facilitate the civic duty of jury service by permitting use of Portable Electronic Devices, while contemporaneously balancing the need to protect the integrity of trials and the dignity of the court.

- a. Persons summoned for jury service are permitted to bring a Portable Electronic Device into the courthouse.
 - b. Prior to the start of the jury selection process, persons summoned for jury service shall be permitted to use their Portable Electronic Device in the courthouse in the manner provided by Section 2 above.
 - c. Once the jury selection process begins, persons summoned for jury service shall not be permitted to use their Portable Electronic Device in the courtroom at any time.
 - d. If persons summoned for jury service are permitted to leave the courtroom during the jury selection process but such persons have not been excused from potential service, they may use their Portable Electronic Device as allowed in Section 2 above; however, the use of their Portable Electronic Device shall be in accordance with the instructions delivered by the presiding judge at the commencement of jury selection.
 - e. Once a jury is selected, jurors will be permitted to contact family, employers, schools, babysitters to make the arrangements which are regularly required in such circumstances. This will occur under the supervision of the bailiff. Thereafter, while jurors are in the courtroom, all Portable Electronic Devices must be left in the jury deliberation room. Jurors may not use a Portable Electronic Device in the courtroom at any time, unless the presiding judge expressly instructs otherwise.
 - f. In the jury room, jurors may be allowed limited use of a Portable Electronic Device, but any such use shall be in accordance with the instructions delivered by the presiding judge at the commencement of jury selection or trial.
 - g. When they leave the courthouse for lunches or overnight, jurors shall be permitted to use Portable Electronic Devices and other means of electronic communication, but any such use shall be in accordance with the instructions delivered by the presiding judge at the commencement of jury selection or trial.
 - h. Some jurors may desire to take notes on electronic devices. This is not currently feasible in our courthouses without upgraded infrastructure, additional staff support and technological safeguards for the electronic data. For instance, unsecured wireless internet access is not currently available in any of the courts of the Fifth Judicial District. At present then, the court can only provide jurors with the means to take notes on paper.
8. **Judicial Discretion** - The presiding judge may restrict or prohibit use of Portable Electronic Devices at any time, if, in their discretion, the use of a Portable Electronic Device is interfering with the administration of justice, the security of a proceeding, or the dignity, decorum or integrity of the court process.
9. **Violation** - Individuals violating this order shall have their Portable Electronic Devices confiscated and held until the conclusion of that day's proceedings. Individuals in violation of this order shall also forfeit the privilege of bringing a Portable Electronic Device into the courthouse or courtroom for the remainder of the proceedings for that particular case. Furthermore, individuals violating this order may be held in contempt, which could result in a fine or jail time being levied. Finally, the court in its discretion may order that any audio recording, photographs, video, or communication, made in violation of these rules, be destroyed.

So ordered at Eagle, Colorado this ____ day of June, 2011.

R. Thomas Moorhead
Chief Judge