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To: [ADMcomment](#)
Cc: [James Gibbs](#); [Thom Jen](#); [Tab Wedge](#); [Gary Secor](#)
Subject: ADM File No. 2018-30
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We are writing to strongly oppose the proposed amendment to MCR 8.155, which if adopted, would remove the ability of individual courts to prohibit “portable electronic devices”. Even with the stated “prohibitions,” several concerns remain relative to the disruption of court proceedings, in addition to numerous other serious aspects that need to be taken into consideration.

All cell phones must be assumed to have cameras. One may think that existing security or a judge could simply confiscate a cell phone upon discovering it, however, there is a lot going on in a courtroom at any given time and it can be easy for a person to surreptitiously take pictures and/or send text messages. In order to fully enforce the proposed prohibitions, at least one additional security person in a courtroom would be needed to watch solely for people using portable electronic devices in any way. Imposing any “appropriate sanction, including contempt of court and the removal of person or persons from the courtroom” does nothing but attempt to address the issue after harm has already been done.

Additional courtroom monitoring would still leave victims and officers vulnerable while in the hallways. If two or three additional security officers were added to each floor of a courthouse, which would be a very costly endeavor, it would continue to be almost impossible to effectively control the use of cell phones and cameras. The unfortunate reality is that some of the people coming through our courts are accused of and involved in some particularly heinous crimes. The following should be seriously considered when allowing for the reality that some video, photographs, and messages will be assuredly taken in the courtroom/courthouse without permission:

- Undercover police officers frequently testify. Associates of defendants have easily taken pictures or otherwise recorded these officers, thus revealing their identity. Once digitally captured, any images and video could easily be posted online or otherwise shared, thus “outing” the undercover officer. In fact, every major mobile operating system now automatically backs up photos taken by instantly uploading them to “the cloud.” Anyone with shared access to these files receives them almost immediately after they have been taken.
- Even more serious than compromising police investigations, such occurrences put the safety and lives of those officers and their families in jeopardy.
- The same holds true for victims and witnesses, putting the safety and lives of themselves and their families in jeopardy.
- Witnesses may be much less likely to testify if they believe that their safety and the safety of their loved ones are at risk.
- Witnesses could receive text messages with instructions to alter their testimony, or how to testify by someone present during another witness’

testimony.

Separately, allowing the use of portable electronic devices to “reproduce public court documents in a clerk’s office” greatly increases the possibility that confidential information will be released to the public. Unless the court can provide a staff member to oversee the that every single photo taken is a public court document, sensitive information could be exposed.

There would also be increased costs incurred due to several changes which would be necessary if the Court Rule is adopted related to printing of court forms, signage, and additional security costs.

The convenience of the general public should not come before the administration of justice, nor before the safety of those who enter our courthouses. The risks to adopting these rule changes massively outweigh the potential benefits, and we implore you to take a more in-depth look at the reasons for why most of the courts in our state have cell phone bans in place. Although we are One Court of Justice, we should continue to have a Prohibited Item List that is decided by each individual Chief Judge.

Sincerely,

Michigan Court Administrators Association – MCAA

Julie C Fend, President