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| Cellular Telephone Policy | Related Policies:Computer, Electronic Communications, and Internet Usage Policy |
| *This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.* |
| Applicable KY Statutes: KRS Ch. 61.870 to 61.884; KRS Ch. 526 |
| NFPA Standard:  |
| Date Implemented: | Review Date: |

**Purpose:** The purpose of this policy is to establish procedures for the use of department issued and personal cellphones by all personnel that addresses the safety of personnel and ensures organization accountability.

**Policy:** This policy sets forth the department rules and regulations regarding the use of department issued cellular phones as well as the use of personal cellular phones while on duty as a member of this department.

**Scope:** This policy applies to the use of department issued cellular phones at all times, and private cellular phones while on duty, and includes their use as telephones, as well as pagers, text messaging devices, web browsers, personal data assistants (PDAs) and for email.

1. **Procedure for the use of a department issued cellular phone:**
	1. General Use. Department issued (DI) cellular phones are provided to certain employees in order to enhance the efficiency of the department. Employees who are assigned these phones should make every effort to utilize other means of communication where possible and appropriate.
	2. DI cellular phones shall only be used for department business except:
		1. When a personal emergency exists and use of a land-line is not possible or practical;
		2. When an employee is required to work beyond their normal shift and family notification is necessary, and access to other communication methods is not possible;
		3. To allow citizens involved in an incident, either as a victim or witness, to contact family members, employers, child care providers, etc. to inform of their possible delay due to the emergency;
		4. To return calls which result from unidentifiable pages or text messages believed to be work related; or
	3. If a DI cellular phone must be used for personal purposes, the employee shall utilize a department Cellular Phone Log to indicate that a call or text message is personal in nature. The employee shall be responsible to reimburse the department. In-coming personal phone calls shall be documented when accepted on DI cellular phones in frequency greater than once a \_\_\_\_\_\_\_.

***Editor’s Note:*** Policies regarding personal use of DI cellular phones vary greatly. For instance, some departments may allow personal use, but charge a fee for personal use and bill the employee for other non-work related charges (texting, roaming, etc.). This is one suggested policy and it should be modified to fit the needs of the department.

***Editor’s Note:*** Departments should establish a threshold appropriate for their organization, be it once a day, week, or month. In the alternative departments may choose to require every incoming call to be documented by deleting the last sentence in its entirety.

* 1. General policy relating to the use of DI cellular phones.
		1. **Department Facilities:** Employees should refrain from using a DI cellular phone when they are in any department-owned facility where there is access to a department (hard-line) phone.
		2. **Personal calls and text messaging, phones assigned to a single department employee**. Each month, employees that are assigned DI cellular phones shall be provided with a copy of their phone’s billing statement by the department. Utilizing the Cellular Phone Log, employees shall highlight those calls and text messages on the billing statement that were personal in nature. Calls made to an employee’s home shall be reviewed on a case by case basis and may be authorized when not excessive. Employees shall submit the highlighted billing statement, a copy of the Cellular Phone Log, and the appropriate reimbursement to the department for those calls which were of an unauthorized personal nature.
		3. **Personal calls and text messaging, phones shared by a number of employees**. Where a cellular phone is shared by a group of employees, each personal call or text message must be logged on a department Cellular Phone Log form which will remain with the phone until it is full or the end of a billing cycle. At the end of each billing cycle, phone logs shall be forwarded to the designated department person. A comparison will be made between the billing statement and the cellular phone log indicating a reimbursement fee for any employee who made a personal call. Each month, highlighted billing statements along with reimbursements shall be reviewed by the department in order to insure that reimbursement has been made for all personal calls.
		4. Reimbursement fees will be set at a rate determined by the department.
		5. Employees assigned DI cellular phones are advised that the department reserves the right to view, examine, monitor, intercept, listen to, copy, store, save, and forward to third parties any and all electronic communications sent or received over DI cellular phones, including any stored electronic communication or other files stored on a DI cellular phone, and any voicemails, recordings, text messages or instant messages sent or received. The failure of the department to exercise its rights under this section, shall not constitute a waiver of these rights.
		6. Employees are advised that they have no expectation of privacy in any and all electronic communications sent or received over DI cellular phones, including any stored electronic communication or other files stored on a DI cellular phone, and any voicemails, text messages or instant messages sent or received.
		7. Employees are advised that DI cellphones contain technology that allows the device to be tracked both in real-time and forensically. Tracking the whereabouts of the device will track the location anyone in possession of the device. The department reserves the right to track the location of device at any time.
		8. Employees are further advised that no employee, including the Fire Chief, has the authority to verbally alter the terms and conditions of this policy under any circumstance
1. **Procedure for Use of Privately Owned Cellular Phones While on Duty**
	1. **Usage:** Personnel are permitted to carry their personal cellular phone with them while on duty provided that right has not been limited or revoked by their company officer, or a chief officer, and such use is in compliance with this policy.
	2. Personal cellular phones carried while on duty shall be placed in, and shall remain on, a silent or vibrate mode that does not emit an audible ring, tone or sound. The use of personal cellular phones while on duty that cannot be placed in a silent or vibrate mode is prohibited.
	3. Personnel shall limit their use of personal cellular phones to ensure that such use does not interfere with their duties. For that reason, personal cellular phones may not be used while:
		1. responding to, operating at, or returning from incidents;
		2. while performing housework, apparatus maintenance, equipment maintenance, or cleaning;
		3. during drills, training, or meetings;
		4. while on inspections, in parades, or at civic events; or
		5. at such other times as directed by their company officer, or a chief officer.
	4. Company officers and chief officers shall have the discretion to limit personal cellular phone usage by personnel under their command when appropriate, including when such usage is not in accordance with these procedures.
	5. The department will not reimburse an employee for damage to or destruction of a personal cellular phone. The use or possession of a personal cellular phone by an on-duty employee is totally and completely at the employee’s risk of loss or damage. Members who are concerned about the loss of or damage to a personal cellphone should refrain from using or possessing the phone while on duty. Any expense incurred by the member for an on-duty usage of a personal cellular phone, whether air time charges, service charges, usage fees, text messaging fees, roaming fees, long distance fees, or any other charge or fee, shall be the sole responsibility of the employee even when used for departmental business.
	6. Members are advised that use of their personal cellular phones for fire department related business purposes, whether for voice calling, text messaging, or other electronic communications purposes may trigger a public records obligation on the part of the member to retain and maintain documentation of the communication pursuant the to records retention policy.
2. **General requirements for the use of DI and personally owned cellular phones**
	1. **Operational communications**: Personnel should refrain from using cellular phones to relay incident related information where such information may be important to the safety of other personnel responding to or operating at the incident. Such safety related information should be communicated to all personnel either over the radio through the dispatcher or through mobile data terminal (MDT) electronic messaging. Except in an emergency, where necessary as a part of a strategic plan, or when other official department communication methods are unavailable, personnel shall not use a cellular phone to by-pass official means of communication.
	2. **Operating a department vehicle**: Personnel shall not operate a department vehicle while using a cellular phone without hands-free capability. When faced with an emergency where the use of a cellular phone is required in a vehicle without hands-free capability, calls shall be made from a stationary position whenever possible. Text messaging, emailing or otherwise handling a cellular telephone while operating a moving vehicle is strictly prohibited.
	3. **Public use of cellular phone while on duty.** On duty personnel shall not utilize a cellular phone while standing in public unless directly related to an emergency incident. In the absence of an emergency situation, personnel shall be discreet in their use of a cellular phone.
	4. **Use of cellular phones while on a paid detail.** Personnel shall not use cellular phones for personal matters while working paid details unless an emergency exists or it becomes necessary for the employee to briefly call home/family member. Department related phone calls shall be kept as brief as possible or shall be postponed until the completion of the detail.
	5. **Emergency notifications:** Personnel are prohibited from contacting the family of a firefighter killed or injured in the line of duty via any means to inform them of the casualty. The purpose of this requirement is to permit the department to make an appropriate face-to-face notification and arrange for the emergency transportation of family members as may be necessary. The incident commander may authorize a deviation from this regulation as circumstances warrant.
3. **Personal Cellular Phones and Administrative Investigations**
4. **Production of cellular telephone records**:  Employees who carry cellular phones during work hours, whether department issued or personal, shall provide telephone usage records during administrative investigations, whenever requested.
5. **Hours:** Employees shall produce personal and/or department issued cellular telephone records during administrative investigations regardless of when the usage took place when the matter concerns an allegation of misconduct that is "directly, narrowly, and specifically related to the employee's performance of duty or fitness to perform.” Otherwise, personal cellular phone records shall only be required to be provided for the dates and times that the member worked, or for such other times as the member utilized the device to conduct departmental business.
6. **Privacy:** To the extent that DI or personal cellular phones access the fire department computer system, including any messaging, email, intranet, or internet access provided through the fire department computer system, the fire department’s Computer, Electronic Communications, and Internet Usage Policy shall apply. Employees have no expectation of privacy in any electronic communications that occur while a personal or DI cellular phone or electronic device is accessing the fire department computer system.