

<b>East Haven Police Department</b>  	<b>Type of Directive:</b> <b>Policies &amp; Procedures</b>		<b>No. 205.2</b>
	<b>Subject/Title:</b>  <b>Standards for Use of Cell Phones</b>	<b>Issue Date:</b> <b>July 29, 2014</b>	
	<b>Issuing Authority:</b>  <b>Honorable Board of Police Commissioners</b>	<b>Effective Date:</b> <b>September 1, 2014</b>	
<b>References/Attachments: N/A</b>  <b>Connecticut General Statutes § 14-296</b>		<b>Review Date:</b>  <b>Annually</b>	<b>Rescinds:</b> <b>205.2</b>
			<b>Amends:</b> <b>N/A</b>

## I. PURPOSE

- A. The purpose of this directive is to set forth the policies and procedures of the East Haven Police Department regarding the appropriate use of cellular telephones and other forms of text messaging by police officers and other employees while on duty.

## II. POLICY

- A. It is the policy of the East Haven Police Department that its members shall use cellular telephones and other texting devices, as with all other equipment used in the course of their duties, in a manner that is safe and effective. Members shall not allow use of these devices to compromise in any way their attention to duty; attention to their own safety and that of their fellow officers; and/or attention to persons in need of their assistance.

## III. GENERAL CONSIDERATIONS AND GUIDELINES

- A. The use of cell phones has proven to be an effective supplemental method of communication with supervisors, other members of the department, and dispatch. Such use is not intended to replace the radio communications network. These alternative communication devices are only to be used to supplement the radio communications network.
- B. Those who are assigned a department cell phone must exercise caution and good judgment on when and how to use them.
- C. Recent governmental studies highlight a correlation between cellular telephone use and automobile accidents. A joint study released by the National Highway Traffic Safety

Administration (NHTSA) and the Virginia Tech Transportation Institute in April 2006 concluded that nearly 80 percent of car crashes and 65 percent of near-crashes occur within three seconds of some kind of driver distraction. Dialing a cell phone was ranked among the most dangerous distractions, tripling the risk of being involved in an auto accident.

## **IV. PROCEDURES FOR USE OF CELL PHONES**

A. Officers must comply with all provisions of Connecticut General Statute 14-296aa.<sup>i</sup>

### **B. Cell Phone Usages**

1. Cellular telephones that have been issued to personnel for official police business shall be restricted to official use only.
  - a. Exceptions to this policy are limited to family emergencies that require immediate attention, where alternative forms of communication are not suitable or easily available.
2. Officers may use Bluetooth® or similar hands free devices in conjunction with their cell phones. The allowed use of such devices does not relieve officers of their obligation to minimize the use of cell phones while engaged in their duties.
3. Approved cellular telephone usage or texting includes, but is not necessarily limited to, the following communications.
  - a. Conveyance of sensitive or restricted information.
  - b. Lengthy communications with supervisors, station personnel, or with dispatch.
  - c. Undercover operations.
  - d. Communication beyond normal radio range.
  - e. Incidents in which direct contact with an employee and the public is critical.
  - f. Incidents in which the use of a hard line telephone would be appropriate, but where one is not available.
  - g. Situations in which the officer is directed by a superior to communicate via cellphone.
4. Prohibited and Restricted Uses
  - a. Personnel are not to use cell phones as a substitute for radio communications.
  - b. Whenever using a cell phone in public view, all such communications should be kept brief.
  - c. A cell phone shall not be used when it would unnecessarily or unreasonably divert the attention of an employee from official duties and/or cause a potentially hazardous condition.

- d. Officers who are riding as passengers in vehicles and on duty should limit cell phone use to circumstances approved under this directive.
  - e. At no time should an officer be engaged on a cell telephone and/or texting while his or her partner officer is actively engaged in a policing function, such as a motor vehicle stop, interviewing another person, or performing some other activity where the officer's presence is vital to enhancing another officer's safety.
  - f. Whenever an officer is approached by or speaking with an individual seeking assistance, an officer should not be engaged in a telephone conversation, unless specifically for the purpose of assisting said individual.
  - g. When actively engaged in performing a certain duty or function that requires an employee's full and undivided attention, officers should not be engaged in a telephone conversation or texting (e.g. actively directing traffic).
  - h. An employee should never leave an assigned post in order to engage in a personal cellular telephone conversation or to use a texting device, unless their absence in no way compromises public safety. All such absences from an assigned post should be brief.
  - i. While on a road job sworn officers should not use cellular telephones either in voice or data transmission for personal calls that are not of an emergency nature. When it is necessary to make personal calls, they should be kept as brief as possible.
  - j. Officers may not use cell phones as substitutes for responding to service calls. When officers are dispatched to a call, they must respond in person.
  - k. Photo messaging capabilities are prohibited unless they can be clearly linked to the conduct of official police business.
  - l. Any images captured or audio recorded during the course of an employee's duties are considered to be Department documents and may only be distributed in accordance with Department policy.
  - m. Officers may provide their department issued cellphone numbers to members of the public. This helps enhance trust between the officer and the community.
  - n. Personnel shall not provide any personal non department issued cellular telephone numbers to a member of the public unless the employee approves.
5. The department monitors its monthly allotment of cellular telephone minutes. In those instances where it is determined that an employee has used a department-issued cell phone for personal use excessively, the department can seek financial reimbursement.

- a. Requests for phone records and/or text message records have a much lower threshold in terms of protection from a public records request. All personnel are encouraged to be keenly aware that records concerning department-issued cellular telephones may be the subject of a public records request and all such records may be subject to disclosure.

### C. Use of Personal Cell Phones

1. Department personnel may carry a personal cell phone on duty with the following conditions.

- a. Employees shall not use their personal cell phones for any personal reason while driving.
- b. They shall not use personal cell phones when it takes their attention away from their policing duties, such as interrupting an interaction with a citizen or communication with other employees.
- c. Although a request for access to personal cellular telephone and/or texting device records is subject to a higher threshold than a department-issued cellular telephone and/or texting device records, department requests, subpoenas, court orders, or public records requests may result in access to personal cellular telephone or texting device records if they are used for work-related purposes.

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<sup>i</sup> For purposes of this section, the following terms have the following meanings:

(1) "Mobile telephone" means a cellular, analog, wireless or digital telephone capable of sending or receiving telephone communications without an access line for service.

(2) "Using" or "use" means holding a hand-held mobile telephone to, or in the immediate proximity of, the user's ear.

(3) "Hand-held mobile telephone" means a mobile telephone with which a user engages in a call using at least one hand.

(4) "Hands-free accessory" means an attachment, add-on, built-in feature, or addition to a mobile telephone, whether or not permanently installed in a motor vehicle, that, when used, allows the vehicle operator to maintain both hands on the steering wheel.

(5) "Hands-free mobile telephone" means a hand-held mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such hand-held mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a function of such telephone.

(6) "Engage in a call" means talking into or listening on a hand-held mobile telephone, but does not include holding a hand-held mobile telephone to activate, deactivate or initiate a function of such telephone.

(7) "Immediate proximity" means the distance that permits the operator of a hand-held mobile telephone to hear telecommunications transmitted over such hand-held mobile telephone, but does not require physical contact with such operator's ear.

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(8) "Mobile electronic device" means any hand-held or other portable electronic equipment capable of providing data communication between two or more persons, including a text messaging device, a paging device, a personal digital assistant, a laptop computer, equipment that is capable of playing a video game or a digital video disk, or equipment on which digital photographs are taken or transmitted, or any combination thereof, but does not include any audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistance to the operator of such motor vehicle or video entertainment to the passengers in the rear seats of such motor vehicle.

(b) (1) Except as otherwise provided in this subsection and subsections (c) and (d) of this section, no person shall operate a motor vehicle upon a highway, as defined in section 14-1, while using a hand-held mobile telephone to engage in a call or while using a mobile electronic device while such vehicle is in motion. An operator of a motor vehicle who types, sends or reads a text message with a hand-held mobile telephone or mobile electronic device while such vehicle is in motion shall be in violation of this section, except that if such operator is driving a commercial motor vehicle, as defined in section 14-1, such operator shall be charged with a violation of subsection (e) of this section.

(2) An operator of a motor vehicle who holds a hand-held mobile telephone to, or in the immediate proximity of, his or her ear while such vehicle is in motion is presumed to be engaging in a call within the meaning of this section. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not engaged in a call.

(3) The provisions of this subsection shall not be construed as authorizing the seizure or forfeiture of a hand-held mobile telephone or a mobile electronic device, unless otherwise provided by law.

(4) Subdivision (1) of this subsection shall not apply to: (A) The use of a hand-held mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: An emergency response operator; a hospital, physician's office or health clinic; an ambulance company; a fire department; or a police department, or (B) any of the following persons while in the performance of their official duties and within the scope of their employment: A peace officer, as defined in subdivision (9) of section 53a-3, a firefighter or an operator of an ambulance or authorized emergency vehicle, as defined in section 14-1, or a member of the armed forces of the United States, as defined in section 27-103, while operating a military vehicle, or (C) the use of a hand-held radio by a person with an amateur radio station license issued by the Federal Communications Commission, or (D) the use of a hands-free mobile telephone.

(c) No person shall use a hand-held mobile telephone or other electronic device, including those with hands-free accessories, or a mobile electronic device while operating a moving school bus that is carrying passengers, except that this subsection shall not apply to (1) a school bus driver who places an emergency call to school officials, or (2) the use of a hand-held mobile telephone as provided in subparagraph (A) of subdivision (4) of subsection (b) of this section.

(d) No person under eighteen years of age shall use any hand-held mobile telephone, including one with a hands-free accessory, or a mobile electronic device while operating a moving motor vehicle on a public highway, except as provided in subparagraph (A) of subdivision (4) of subsection (b) of this section.

(e) No person shall type, read or send text or a text message with or from a mobile telephone or mobile electronic device while operating a commercial motor vehicle, as defined in section 14-1, except for the purpose of communicating with any of the following regarding an emergency situation: An emergency response operator; a hospital; physician's office or health clinic; an ambulance company; a fire department or a police department.

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(f) Except as provided in subsections (b) to (e), inclusive, of this section, no person shall engage in any activity not related to the actual operation of a motor vehicle in a manner that interferes with the safe operation of such vehicle on any highway, as defined in section 14-1.

(g) Any law enforcement officer who issues a summons for a violation of this section shall record on such summons the specific nature of any distracted driving behavior observed by such officer.

(h) Any person who violates this section shall be fined one hundred twenty-five dollars for a first violation, two hundred fifty dollars for a second violation and four hundred dollars for a third or subsequent violation.

(i) An operator of a motor vehicle who commits a moving violation, as defined in subsection (a) of section 14-111g, while engaged in any activity prohibited by this section shall be fined in accordance with subsection (h) of this section, in addition to any penalty or fine imposed for the moving violation.

(j) The state shall remit to a municipality twenty-five per cent of the fine amount received for a violation of this section with respect to each summons issued by such municipality. Each clerk of the Superior Court or the Chief Court Administrator, or any other official of the Superior Court designated by the Chief Court Administrator, shall, on or before the thirtieth day of January, April, July and October in each year, certify to the Comptroller the amount due for the previous quarter under this subsection to each municipality served by the office of the clerk or official.