

KATHRYN SLATTERY
DISTRICT I

STATE OF MAINE

MARIANNE LYNCH
DISTRICT V

JONATHAN SAHRBECK
DISTRICT II



NATASHA IRVING
DISTRICT VI

ANDREW ROBINSON
DISTRICT III

MATTHEW FOSTER
DISTRICT VII

MAEGHAN MALONEY
DISTRICT IV

MAINE PROSECUTORS ASSOCIATION

STEPHANIE ANDERSON
EXECUTIVE DIRECTOR

TODD R. COLLINS
DISTRICT VIII

July 13, 2020

Dear Sheriffs and Jail Administrators,

I am writing on behalf of the Maine Prosecutors Association. We hope that you and your staff are doing well during these very difficult times. In light of recent accounts of improper recording and disclosure of communications between attorneys and inmates to law enforcement agencies or the State by some county jails, we thought it would be a good time to review the procedure. As a general proposition, visits, calls or emails between the inmate and their attorneys are privileged and cannot be recorded or shared. Investigators and prosecutors do not want any communication between an attorney and their client and we are not entitled to possess it.

Although each facility has well established procedures to safeguard against these circumstances from occurring, it is imperative that all attorney contact information is obtained by the jail. This should include cell phone, office phone, or any number associated with that defense attorney, including email address. We recognize that circumstances occur where an attorney changes their telephone number and fails to notify the jail of the change or the inmate contacts their attorney at a different telephone number without notifying the jail of the new telephone number. We would ask that you keep track of all attorney contact information so we can reduce the number of attorney/client calls that are recorded and improperly provided to law enforcement and the State. In turn, we have made the defense bar aware of the importance of keeping the jail up to date on contact information.

We also recognize that a number of facilities have provided inmates access to tablets to communicate with family, friends and their attorneys. Again, we understand that procedures have been implemented to notify inmates that their written communications to family and friends are subject to review and disclosure to law enforcement and the State when requested. It is important that inmates acknowledge in writing that their written communications on a tablet to family and friends may be reviewed and distributed upon request to law enforcement and the State. Although written communications with friends and family may be shared, attorney/client emails should not be documented or shared with law enforcement or the State.

We recognize that you have taken significant steps to ensure that attorney/client communications are protected and will continue to do so in the future. We also understand that you will need the full cooperation of inmates and their attorneys to keep you updated on their contact information to avoid situations like those recently experienced. Thank you for your efforts and if you have any questions please do not hesitate to contact us.

Sincerely,


Andrew S. Robinson, President
Maine Prosecutors Association

cc: John Pelletier, Executive Director, MCILS