

Attorney-Client Communication

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Background

- Cochise County Office of the Legal Advocate
 - 1 of 3 conflict offices for indigent defense in the County.
 - Handle criminal felony, misdemeanor, delinquency, dependency and other cases as assigned.

Attorney for 14 years.

Law clerk at Arizona Federal Public Defender – 2006-2007

Yuma County Public Defender – 2008-2010

Maricopa County Office of the Legal Advocate – 2010-2016

Cochise County- 2016 to present

Rule 42 Arizona Rules of Professional Conduct

Communication ER 1.4

- An attorney must promptly inform the client of the case
- “reasonably consult with the client”
- “keep the client reasonably informed about the status of the matter”
- “promptly comply with reasonable requests for information”

Comment to the rule:

- “[1] Reasonable communication between the lawyer and the client is necessary for the client effectively to participate in the representation.”

Rule 42 Arizona Rules of Professional Conduct

Confidentiality of Information ER 1.6

- “A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent”
- “(e) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.”

Comment to the rule

- “When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients.”

Communications

- At the beginning of the case, an attorney must meet with their client:
 - To describe the nature of the case
 - Investigate time sensitive issues
 - Obtain ROIs
 - Assess any mental health concerns
 - Assess medical concerns if applicable
 - Address conditions of release if applicable
 - Establish an attorney-client relationship
 - Often discuss very sensitive issues such as past trauma, abuse.
 - Often discuss facts of the case that if others were to obtain, could use against the client.

Jail Visitation Options

- In person
- Securus
- Polycom
- Telephone

In person

- By appointment only.
- Time consuming.
- Visits limited to the rooms available.
- Difficult to maintain confidentiality because of sound traveling.

Securus

- Appointment must be made in advance.
- Visit is in the pod.
- Other inmates can see the screen.
- Other inmates can hear what the client is saying.
- No “mute” button.
- Cannot share screen to share disclosure.
- Technology problems are difficult to address.

Polycom

- Time consuming.
- Visits limited to the rooms available.
- Difficult to maintain confidentiality because of sound traveling.
- Able to share disclosure and screen.
- Certain video visit rooms require the client to be shackled.
- Audio problems in certain video visit rooms.
- Technology problems are difficult to address.

Telephone

- Attorney cannot call in- client has to call.
 - Call must be to the main line to allow for free, confidential calls.
 - Phone time limited to 15 minutes.
 - No ability to share disclosure.
 - No ability to make appointments to call, calling ability can be dependent on when the individual is out of the cell.

Other options

- Tablets
 - Good client access, ability to share disclosure
 - Confidentiality concerns
 - Potential for abuse
- Call-in capabilities
 - Confidentiality concerns
 - Potential for abuse