

## CELL PHONE RECORDS CAN HELP OR HURT YOUR CASE

Cell phone records are important to obtain during the investigation of a motor vehicle accident. Why? These records provide evidence as to whether the drivers were using their cell phones at the time of the accident. Was a driver talking or texting when the accident occurred? If so, to whom was the call placed or text sent? The recipient of the call or text will be interviewed to find why the driver was calling or texting while driving.

Cell phone records are valuable to show that no call was placed or text sent at the time of the motor vehicle accident to refute allegations by a driver that the other driver was using a cell phone at the time of the collision.

Eyewitnesses, other than the drivers, may have information about whether the drivers were using their cell phones during or after the collision.

Who made the 911 call after the accident? This may help determine whether one or both of the drivers had cell phones.

Was the cell phone, whether in use or not, damaged during the crash? It is not unusual for a driver to bring a shattered cell phone to an attorney to show that there was a major impact. If the driver has such a damaged phone, the driver should at the first opportunity, place it in a plastic zip-lock style bag, write the date and his or her initials on the outside of the bag and secure it for evidentiary purposes. This will help eliminate any legal arguments that the phone has been tampered with by anyone, i.e., the "chain of custody" will not be broken.

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