

Exemplar Backup Directive for Custodian-Directed Backup of iPhone
By Craig Ball

[NOTE: This draft directive is offered to assist counsel in formulating language suited to the needs of the case and controlling law. It is not a form to be deployed without counsel. This example omits optional steps to encrypt the data set and transfer same to a distal repository for preservation, as such steps are frequently unnecessary to meet preservation duties].

Dear [Custodian]:

You recently acknowledged your obligation to preserve information relevant to a dispute between [you] [employer] and [opposing party]. Please see the [date] hold notice for further details.

Within 48 hours of your receipt of this notice, you must preserve the contents of your company-issued iPhone. If you cannot comply, please advise me at once by e-mail or phone. Time is of the essence.

You must make an unencrypted backup using iTunes and compress the backup folder per the instructions below. *Do not assume that you have been automatically making an unencrypted backup or preserving what's required using iCloud. You must carefully follow the procedures set out below.*

What you will need:

- Your company-issued iPhone and its USB charge/sync cable;
- Your company-issued desktop or laptop computer with the iTunes program installed. The computer must have available (unused) storage space on its boot (C:) drive exceeding *twice* the storage capacity of the iPhone. That is, if you have a 128GB capacity iPhone, use a computer with at least 256GB of unused storage space on its C: drive. You can find the capacity of the iPhone in Settings>General>About>Capacity. You can find the available storage on your computer's boot (C:) drive using File Explorer on a Windows machine or Finder on a Mac.

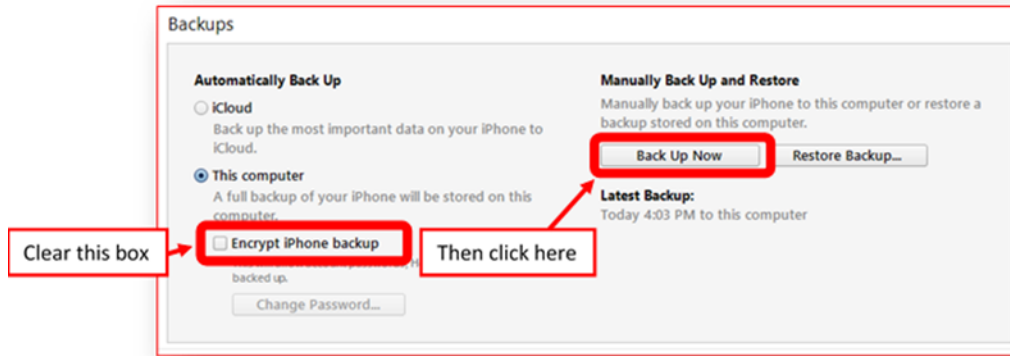
Time Required: One to two hours (most of it unattended "machine" time)

It will take about 10-15 minutes to follow these instructions, update iTunes, if needed, and begin the backup. The backup will complete in under 30 minutes, and you can continue to use the phone during the backup process (*but don't disconnect the charge/sync cable*). Then, it should take less than an hour to compress the data and 10 minutes or so to confirm successful compression and report on results. So long as the computer is secure and powered up throughout the process, you do not need to supervise, or leave the iPhone connected once backup completes.

Follow These Steps:

1. Open iTunes and check for updates (Help>Check for Updates). Install the latest version of iTunes if not installed.
2. Connect your iPhone to a USB 2.0 or 3.0 port on the computer using a USB charge/sync cable.

3. If a message asks for your device passcode or to Trust This Computer, follow the onscreen steps.
4. Select your iPhone when it appears in iTunes. Click Summary in the sidebar.
5. In the Summary pane, be sure to uncheck "Encrypt iPhone Backup," then click "Back Up Now." You need not otherwise modify your Backups settings.

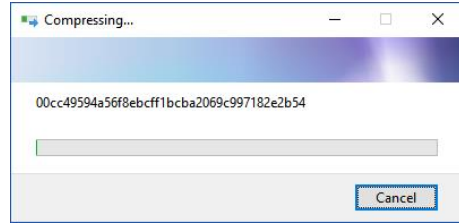


6. Monitor the progress of the backup at the top center of the iTunes window. After the process ends, see if your backup finished successfully. If you're using iTunes for Windows, choose Edit>Preferences>Devices from the menu bar at the top of the iTunes window. If you're using iTunes for Mac, go to iTunes Preferences>Devices. You should see the name of your device with the date and time that iTunes created the backup. If you see a lock icon beside the name of your device, you need to be certain you unchecked "Encrypt iPhone Backup" and repeat the process until you do not see a lock icon beside the name of your device.
7. You can now disconnect your phone from the computer.
8. Locate the backup folder:

1. **Windows:** Using File Explore, navigate to:
C:\Users\your account name\AppData\Roaming\Apple Computer\MobileSync\Backup
 where "your account name" is the name of your Window's User ID on the machine.
2. **Mac:** Using Finder, select Go>Go to Folder on the Finder menu and enter:
~/Library/Application Support/MobileSync/Backup/

In both Windows and Mac, the Backup folder will contain one or more subfolders with 40-character names like *12da34bf5678900386c48267658d340eb34007f8*. **If there are multiple subfolders, identify the subfolder that has the last modified date and time that matches the time you started this backup.**

9. **Compress the contents of the subfolder:** In Windows, right click on the subfolder just identified and select **“Send to>Compressed (zipped) folder.”** A progress panel like the one at right should appear. On a Mac, right click on the subfolder and select **“Compress.”** Do not turn off your computer or reboot. Allow the compression process to complete. It could take less than an hour to finish depending upon the type and volume of data backed up.
10. Once compression has completed, Windows users should again navigate to the backup folder (see step 8 above) to confirm the presence of a file with the same name as the subfolder you identified but with the file extension .zip. Record the name, date/time and size of the zip file. *[If you cannot see file extensions on your Windows machine, open “My Computer,” click “Tools” and click “Folder Options” or click “View” and then “Options” depending on your version of Windows. In the Folder Options window, click the “View” tab. Uncheck the box that says, “Hide file extensions for known file types.” This should make file extensions visible.]*
11. By reply e-mail, send the **name, date/time and size of the zip file you just created.** *Do not delete or open this file. It must be preserved without alteration until further notice.*



Your supervisor is copied here to insure you are afforded the time, oversight and support needed to comply in a timely way. Thank you for your cooperation. Call me at _____ with any questions.