

240-RICR-20-00-3

TITLE 240 – DEPARTMENT OF CORRECTIONS

CHAPTER 20 – ACCESS TO INMATES AND/OR RIDOC FACILITIES

SUBCHAPTER 00 – NA

PART 3 – Access to Institutional Facilities by Attorneys and Their Agents

3.1 AUTHORITY

These regulations are promulgated pursuant to R.I. Gen. Laws §§ 42-56-10(22) and 42-56-1.

3.2 PURPOSE

To establish procedures governing access to institutional facilities by attorneys and their agents for conducting legal business with their incarcerated clients and for items entering facilities with attorneys, attorney agents and inmates.

3.3 POLICY

The Rhode Island Department of Corrections (RIDOC) grants access to institutional facilities to attorneys-of-record and their agents for the purposes of conducting interviews with incarcerated clients and participating in administrative hearings in which they represent a party. Such access is consistent with state and federal law and legitimate security and operational needs of RIDOC.

3.4 PROCEDURES

- A. For the purposes of this Part, attorneys are defined as members in good standing with the Bar of Rhode Island or members of any other state or federal jurisdiction who represent clients incarcerated at RIDOC. See § 1.4(D)(1) of this Part for identification requirements.
- B. Attorneys' agents are any individuals employed by attorneys in any of the following categories:
 - 1. Law students - persons enrolled in accredited law schools.
 - 2. Paralegals/Legal Assistants/Investigators/Public Defender Social Workers - persons who work on legal matters under the supervision of attorneys.
 - 3. Interpreters - persons whose profession involves the translation of languages and who provide this service in the presence of attorneys who represent non-English speaking incarcerated clients. Also included are

those who communicate in sign language or other communication formats that inmates may require.

C. Attorneys' Agents Access to Institutional Facilities:

1. Attorneys agents are granted access to institutional facilities provided:
 - a. They work under the supervision and authorization of an attorney.
 - b. The attorney provides the affected facility's Warden with a letter to that effect at least three (3) days in advance of the agent's initial visit to a facility. Letters from attorneys requesting access for agents must be on the law firm's stationery and must include the agent's name, title, and date of birth.
 - c. They are not related to inmates for whom they provide professional services. "Related" is defined as blood, marriage, or step relationship.
 - d. They are not on the visiting lists of inmates for whom they provide professional services.
 - e. They are not former inmates.
 - f. Results of criminal history checks (i.e., BCI and whenever feasible, NCIC) are satisfactory.
 - (1) Criminal history checks are conducted on all agents by each facility.
 - (2) Agents who have been convicted of or pleaded nolo contendere to felonies or misdemeanors in either federal or state courts, or who have pending criminal charges, may be denied access to the institution.
2. Exceptions to §§ 1.4(C)(1)(a) through (f) of this Part above are granted only by the Director, the Assistant Director for Institutions and Operations or designees.
3. The Warden or designee of each facility maintains a current list of all agents of attorneys who are authorized to enter the facility. The Warden of the Intake Service Center (ISC) or designee generates and circulates said list on a regular basis to all RIDOC facilities and appropriate personnel.
 - a. Every ninety (90) days attorneys are responsible for submitting written lists of agents to the ISC Warden or his/her designee.

b. Once it is determined that attorneys' agents satisfy the criteria outlined in §§ 1.4(C)(1)(a) through (f) of this Part, those agents can meet with inmates without the attorney of record present. It is the attorneys' responsibility to ensure that their list is updated every 90 days.

4. Agents who are accompanied by supervising attorneys have received prior authorization from a Warden or designee, and who have proper identification are permitted access into the facility for business visits with inmates.

5. If an attorney wishes to enter the facility with an agent who is not on the current authorization list, s/he must obtain prior approval from the Warden or designee. If s/he is not available and a particular circumstance warrants an exception, the Shift Commander on duty may authorize entry, provided the agent is accompanied by the attorney-of-record and meets other requirements of this Part. BCI and, whenever feasible, NCIC/BCI checks must be done by the authorizing person prior to approval.

6. Attorneys or agents who are denied access to an institutional facility are notified as to the reason(s) by the individual who denied them access. In addition, the staff member who denied access files a detailed report with the Warden describing the reason(s) for denial. The Warden approves or rescinds the denial for future visits and, after conferring with RIDOC's Legal Counsel, notifies the attorney by letter. The Warden sends copies of his/her letter to RIDOC's Legal Counsel and the Assistant Director of Institutions and Operations.

D. Security Requirements:

1. Identification requirements are:

a. Attorneys - Bar card or judiciary I.D. card and photo identification, or a valid Public Defender's Office identification badge, or valid Attorney General's Office identification badge. Both the old version (with the attorney's bar number and a hologram of the state seal) and the newer version (without the attorney's bar number but a hologram of an eagle's head and a flying eagle) of the judiciary I.D. card (both cards have provisions "A-F" on the back) are acceptable.

b. Agents - photo identification and name appearing on list of approved agents.

c. Out-of-State Attorneys – State or Federal Bar Card

2. ALL articles which attorneys and their agents are permitted to bring into the institutional facilities are subject to search.

3. Dress code – Attorneys and their agents should refer to the most recent version of DOC's Visits (Part 1 of this Subchapter) regulation, for a listing of acceptable and unacceptable attire while meeting with inmate clients within RIDOC facilities.
4. Suit jackets, blazers, and lightweight outerwear are permitted. Bulky outerwear is not permitted and is stored according to the specific facility's procedures.
5. Metal Detector - All attorneys and agents who visit clients in secure facilities are required to pass through metal detectors. Individuals who are not able to successfully pass through metal detectors may be subject to search or denied access to facilities. It is recommended that individuals planning to visit any of the secure facilities dress accordingly as certain articles of clothing (e.g., underwire bras, belts with excessive metal) may set off the detectors. Absent any particularized suspicion, a female attorney will be permitted access to meet with a client when she is unable to successfully pass through the metal detector three (3) times and after being scanned with a hand-held wand when it appears likely that her underwire bra may be setting off the alarm. This rule also applies to professionals from other state or federal agencies entering a secure facility in a professional capacity (not as a social visitor). All attorneys must adhere to this protocol. This exception also applies to female attorneys' agents only when they are accompanied by an attorney and have been approved as an attorney's agent pursuant to § 1.4(B)(3) of this Part. This exception does NOT apply to anyone other than female attorneys and approved female attorneys' agents who are accompanied by an attorney.
6. Jewelry is permitted. Attorneys and agents may put jewelry on after passing through metal detectors.
7. Briefcases/Pocketbooks - An attorney or agent may bring one receptacle (briefcase, pocketbook, handbag, purse, backpack, etc.) into the visit.
 - a. Receptacle must pass through metal detector.
 - b. Receptacle must be presented for search.
 - (1) Searches will be limited to determining the presence of contraband.
 - (2) Sealed envelopes will be opened for inspection.
 - (3) Correctional staff will not read documents for content.
 - c. Receptacle contents should be limited to those items specified in §§ 1.4(D)(9) through (12) of this Part and other items necessary for conducting the inmate interview.

8. Keys are permitted.
9. Wallets/Billfolds are permitted.
10. Recording Devices/Cameras/ Lap Top Computers/ Computer Tablets are permitted.
 - a. One item of removable storage media as relates to each item specified in § 1.4(D)(10) of this Part (e.g., cassette, film, and/or CD/DVD/diskette) is/are allowed.
 - b. Its/Their use is limited to the meeting with clients in designated areas of the institutional facilities.
 - c. All items used during interviews (see § 1.4(D)(10) of this Part) will be removed from the facilities by the attorneys or agents upon conclusion of the interviews.
 - d. An attorney may take a photograph of his/her own client only with the prior permission of the facility Warden and only in a designated area.
 - e. Attorneys are strictly prohibited from using any wireless access through a computer/computer tablet they bring into a facility. In addition filming and/or recording of inmates, staff, institutional activities, security operations and/or key use is strictly prohibited. Violation of these directives may result in an attorney and his/her approved agent being barred from ACI facilities.
 - f. The Warden/designee of each facility shall post the prohibitions and possible sanction listed in this section at the MCC/entrance to the facility and in the facility attorney rooms.
11. Pagers (Beepers) worn by attorneys and agents are permitted after examination by correctional staff.
12. Papers/Documents: All papers, envelopes or other documents entering any facility shall be passed through the mail scanner or other approved technology. This includes all papers, envelopes or legal documents entering the facility with an attorney, attorney agent or by an inmate returning from court. Papers, envelopes or legal documents entering the facility with an attorney, attorney agent or by an inmate returning from court will be processed as privileged in accordance with the procedure below:
 - a. ~~Such documents are subject to inspection for contraband following the visit. Sealed envelopes will be opened for inspection. However, their contents will not be read or copied by correctional staff. Any papers or documents that are not already sealed in an~~

envelope shall be placed in an envelope (provided by security staff) by the attorney, attorney agent, or inmate.

(1) RIDOC staff is prohibited from reading these privileged items, however, staff may inspect the items for contraband before they are put into the envelope.

(2) All papers, envelopes or other documents entering the facility must be in the following format to comply with the requirements of the mail scanner:

(AA) No more than twenty-five (25) pages in each single (10"x13") manila envelope (multiple envelopes may be submitted); or,

(BB) No more than five (5) pages in each (4 1/8" x 9 1/2") standard letter envelope.

(3) The envelope shall be sealed by the attorney, attorney agent or the inmate.

~~(4)~~ (4) RIDOC staff will request that the attorney, attorney agent or the inmate document, in ink on the envelope, the time, date and the inmates name and ID number. The attorney, attorney agent or the inmate must also sign their name along the seal of the envelope.

~~(2)~~ (5) If an attorney, attorney agent or inmate refuses to write the identifying information on the envelope, it shall be done by RIDOC staff.

~~(3)~~ (6) RIDOC staff shall use proper personal protective equipment (PPE) when handling suspicious items, including but not limited to paper, envelopes or other documents.

b. Personal letters are to be delivered through the normal mail process. All sealed envelopes containing documents brought into the facilities shall be passed through the mail scanner or other approved technology without being opened.

(1) The mail scanner is a T-ray scanner utilizing 4D imaging technology to detect all nine (9) types of postal threats identified by the Department of Homeland Security (DHS). Its primary purpose is to enhance physical mail security by identifying potential threats or contraband and ensuring the safe handling of incoming mail. The scanner is not designed or utilized for analyzing or interpreting the text content of mail. This ensures the privacy of correspondence is maintained. While photographs of scanned mail may be

taken for investigative purposes related to security concerns, the scanner will not be used to read or copy the textual contents of any papers or legal documents.

(2) An envelope that is deemed clear will then be returned to the attorney, attorney agent or inmate without delay.

(3) Any envelope passed through the mail scanner that is deemed suspicious (possibly containing contraband) shall be held for further testing and the procedure below must be followed:

(AA) The attorney, attorney agent, or inmate will be notified in person that the items will be held for further testing.

(BB) The envelope shall remain sealed.

(CC) The sealed envelope will then be secured in the facilities SIU evidence locker and an incident report will be generated for "suspicious documents" while also indicating "SIU Investigation Requested."

(DD) The Deputy Chief of the Office of Investigations and Intelligence will be notified, and the IR assigned to an investigator for follow up.

(EE) In the event additional testing will be done which requires the envelope be opened, it shall only be opened and tested in the presence of the inmate.

(FF) If additional testing is required, it shall be conducted within twenty-four (24) to forty-eight (48) hours excluding holidays and weekends.

(GG) Any paper, envelopes or other documents testing positive for illegal substances shall be deemed illegal contraband and seized in accordance with the procedures outlined in the most recent version of RIDOC Policy 9.14 DOC, Detecting and Confiscating Contraband on or in the Possession of Inmates/Detainees (including Frisk, Strip and Body Cavity Searches) or in Inmate Transport Vehicles, and a referral shall be made to the Rhode Island State Police.

c. Any personal letters, cards, etc. must be delivered through the normal mail process in accordance with the most recent version of RIDOC policy 24.01 DOC, Inmate Mail.

13. Cellular phones and smartphones (including but not limited to Blackberry, Android, and iPhones) and any other device that facilitates wireless communication (i.e., Bluetooth headsets) are not permitted inside any facility. Said items may be left in the facility's Main Control Center (MCC) upon entrance.
 - a. The RIDOC is not responsible for the safety and security of such items and it is recommended that they be left in locked personal vehicles.
14. Attorneys and their agents are subject to all other Departmental and institutional policies and regulations governing visitors that are not in direct conflict with this Part.

E. Hours of Visits:

1. Attorneys and their agents are permitted to visit incarcerated clients between the hours of 8:30 AM and 8:30 PM every day, and at other times should special circumstances arise. Prior approval by the Warden or designee is required for access outside the hours of 8:30 AM to 8:30 PM.
2. Access may be delayed if an attorney or agent arrives while an institutional count is in progress or an emergency is being addressed (i.e., Level II or Level III Emergency Response Codes). Attorneys and/or their agents should contact the facility(ies) they wish to visit or review affected facilities' bulletin boards located in reception areas for count times. The duration of counts is approximately 45 minutes.
3. Visits between attorneys and/or agents with clients which are in progress when a count begins are not terminated for the purpose of conducting the count. Correctional staff counts the inmate in the location where the visit is taking place.
4. Visits with inmates by attorneys or agents are not terminated for meals. In cases where a visit continues through meal time, the Visiting Room Officer notifies the Shift Commander, who ensures that suitable food is reserved for consumption by the inmate following the visit.

- F. Once allowed access to a facility, attorneys and/or their agents are required to sign the facility's legal blotter.

G. Complaints:

1. Attorneys and their agents may carry copies of this Part with them on visits in order to clarify issues regarding access which arise with correctional personnel.
2. Attorneys or agents who have complaints about access are encouraged to contact the Warden of the facility in question. If the matter is not resolved to the satisfaction of the attorney or agent, appeal may be made to the Assistant Director for Institutions and Operations.
3. All institutional personnel shall provide an attorney or attorney's agent with last name, rank, and badge number upon request.

H. Emergency Cancellation:

1. If an emergency exists within an institution, the Warden or designee may temporarily terminate visits by attorneys or their agents.

I. Post Orders:

1. Each facility Warden or designee shall incorporate into the post orders for Visiting Desk and MCC posts acknowledgements of the provisions provided herein.

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Agency Head Signature

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