



WYOMING DEPARTMENT OF CORRECTIONS

Policy and Procedure # 5.403

Inmate Access to Attorneys

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Authority: Wyoming Statute(s): 25-1-104; 25-1-105 ACA Standard(s): 4-4275	Effective Date: July 15, 2006 Revision/Review History: Summary of Revision/Review: Revises previous WDOC regulations and establishes a uniform WDOC policy and procedure.	
Cross Reference of Policy: P&P #3.006, <i>Property Control</i> ; P&P #3.013, <i>Searches</i> ; P&P #3.401, <i>Inmate Legal Affairs</i> ; P&P #5.400, <i>Inmate Visiting</i> ; P&P #5.401, <i>Inmate Mail</i> ; P&P #5.402, <i>Inmate Telephone Access</i>	Supersedes Existing Policy :	
Approved: _____ /s/ R.O. Lampert Robert O. Lampert, Director		_____ 6/19/2006 Date

APPROVED FOR INMATE DISTRIBUTION

REFERENCE

1. ATTACHMENTS
 - A. WDOC Form #102: *Staff Report*
 - B. WDOC Form #509: *Special Visit Form*
2. OTHER – None Noted



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I. PURPOSE

- A. Inmate Access to His/Her Attorney.** The purpose of this policy is to establish uniform rules and guidelines that afford an inmate under the custody and supervision of the Wyoming Department of Corrections (WDOC) reasonable access to his/her attorney.

II. POLICY

- A. General Policy.** Within the inherent limitations of resources and the need for facility security, safety, health and order, it is the policy of WDOC to satisfy its legal obligation to provide inmates meaningful access to their attorneys.

III. DEFINITIONS

- A. Attorney:** A member of a state bar association who is licensed to practice law in Wyoming or another state.
- B. Authorized Legal Representative:** A person coming to visit the inmate who is not the attorney, but is the attorney's authorized representative (e.g., paralegal, investigator, etc.). The attorney or law firm shall be required to provide the correctional facility with prior written documentation, signed by the attorney, specifying the name and title of the authorized representative, the expected date(s) and time of the visit(s), and the name and institutional number of the inmate to be visited. An inmate may not serve as an authorized legal representative under this policy.
- C. Basic Visit:** *(For this policy only.)* A type of visitation authorized by the Wyoming Department of Corrections in its correctional facilities in which an inmate and an approved visitor are permitted to see and talk with each other on a scheduled basis for a reasonable period of time with no physical contact. Non-contact visiting may be authorized by the Wyoming Department of Corrections to take place in person or through the use of videoconferencing technology where such exists.
- D. Chief Executive Officer (CEO):** A CEO is identified, but not limited to, the following positions: Director, Deputy Director, division administrators, deputy administrators, wardens, district supervisors, adult community corrections coordinator, and adult community corrections directors.
- E. Client:** *(For this policy only.)* The inmate within the Wyoming Department of Corrections for whom an attorney is rendering professional services.



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- F. Contraband:** Contraband includes:
1. Any item or article which an inmate is prohibited by statute, rule or order from obtaining or possessing;
 2. Any item or article which is not authorized by regulations of the Wyoming Department of Corrections, or a subunit thereof;
 3. Any item or article which is in excess of the maximum quantity permitted by written regulations of the Wyoming Department of Corrections, or a subunit thereto, including approved property items in excess of the amounts established by WDOC Policy and Procedure #3.006, *Property Control*.
 4. Any item or article which is received or obtained from an unauthorized source.
 5. Any item or article which was once authorized but is no longer authorized or which poses a threat to security and good order.
 6. Any item or article which is altered without authorization, put to an unauthorized use, or taken into an unauthorized area.
 7. Evidence of a crime or other violation.
- G. Correctional Facility:** Any adult correctional facility operated by the Wyoming Department of Corrections or correctional facilities and county jails under contract with the Wyoming Department of Corrections.
- H. Disturbance:** (*For this policy only.*) Conduct or activity which unnecessarily interferes with visitation operations, and/or which advocates, encourages, promotes or otherwise creates or poses a threat to the safety, security, health and good order of the facility, and/or the safety and security of inmates, staff, visitors, contractors or the community. A visitor commits a disturbance if he/she advocates, creates, engages in, maintains or promotes an annoying condition or disorder characterized by unruly, noisy, violent conduct which disrupts the orderly administration of the visiting process.
- I. Examine:** (*For this policy only.*) To check for physical contraband, without reading or photocopying.
- J. Inmate:** Any person under the supervision of the Wyoming Department of Corrections who is not on parole or probation status. An inmate is a person



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who is incarcerated in any Wyoming Department of Corrections' correctional facility, county jail, municipal jail or in-state/out-of-state contract facilities, to include adult community corrections centers, who is committed to the custody and supervision of the Wyoming Department of Corrections.

- K. Inspection Device:** Any device (i.e., metal detector, fluoroscope, etc.) which is used to detect contraband in the form of metal or other foreign objects.
- L. Legal Material:** Legal documents, incoming legal or official mail already received, and outgoing legal and official mail not yet sent.
- M. Locked Housing Units:** Inmate living areas that are under locked restrictions, to include: maximum security, administrative segregation, protective custody, temporary protective custody, and Temporary Restriction Order.
- N. Privileged Visit:** (*For this policy only.*) A type of visitation authorized by the Wyoming Department of Corrections in its correctional facilities in which an inmate and an approved visitor are permitted to see and talk with each other on a scheduled basis for a reasonable period of time with limited physical contact.
- O. Reasonable Suspicion:** (*For this policy only.*) An apparent state of objective facts and rational inferences drawn there from which would permit a reasonable and experienced correctional staff person to conclude that an individual or set of circumstances poses a threat to the safety, security, health and good order of the facility, and/or the safety and security of inmates, staff, visitors, contractors or the community, including, but not limited to, committing a crime or rule violation or conspiring or attempting the same.
- P. Search:** (*For this policy only.*) A close inspection, including the physical touching in an impartial manner, of a person, a person's cell or other living unit, vehicle, possessions, or other property, or buildings or premises.
- Q. Security Inspection:** A distinction is made between search and security inspection. The latter is accomplished by means of an inspection device (i.e., metal detector), without the element of a personal contact search, although accompanying property will be subject to a visual and/or hand examination.
- R. Special Visiting:** (*For this policy only.*) A type of visitation authorized by the Wyoming Department of Corrections in its correctional facilities in which an inmate is permitted to visit with a person who is not on the inmate's approved visiting list, to include attorney visits.



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- S. **Visiting Period:** Any day and time during which the correctional facility has regularly scheduled inmate visitation.
- T. **Work Day:** (*For this policy only.*) The period from 8:00 AM until 5:00 PM each Monday through Friday, excluding holidays.

IV. PROCEDURE

- A. **Access to Attorneys.** The WDOC will afford each inmate reasonable access for making confidential contact with his/her attorney, to include:
 - 1. Telephone calls made in accordance with WDOC Policy and Procedure #5.402, *Inmate Telephone Access*;
 - 2. Correspondence in accordance with WDOC Policy and Procedure #5.401, *Inmate Mail*; and
 - 3. Visits in accordance with WDOC Policy and Procedure #5.400, *Inmate Visiting*, and this policy.
 - i. When authorized, visitation in a WDOC correctional facility is permitted, neither as a matter of right nor as a privilege of the inmate or the inmate's visitor. Rather, visitation is permitted when it is consistent with the safe, secure and orderly management and operation of the facility.
 - a. Attorney visits requested in accordance with this policy will normally be authorized unless WDOC has reasonable suspicion that permitting the visitation would jeopardize the safety, security, health or good order of the facility, and/or the safety and security of other inmates, staff, visitors, contractors, or the community.
 - b. Specific reasons for denial of a visiting request include, but are not limited to, the following:
 - (1) The prospective visitor has previously introduced contraband into a jail or other corrections facility, or there is reasonable suspicion that the prospective visitor will introduce contraband into a WDOC correctional facility through the visiting process.



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- (2) The inmate or prospective visitor has previously disrupted the visiting process or violated visiting rules and procedures within a jail or other corrections facility by words or acts, or there is reasonable suspicion that the inmate or prospective visitor will disrupt the visiting process or violate visiting rules and procedures within a WDOC correctional facility by words or acts.

B. Arrangements for Attorney Visits. Arrangements may be made for an attorney/authorized legal representative to meet with the inmate who is his/her client during any regularly scheduled inmate visiting period.

1. The attorney shall be required to contact the correctional facility where the inmate is located by telephone or fax, at least one (1) work day prior to the attorney or the attorney's authorized representative's arrival at the correctional facility, to schedule the inmate for a visit. Notice is normally expected to also occur at least twenty-four (24) hours in advance of the requested visit.
2. At the time of contact, the attorney will be asked to provide the name and institution number of the inmate to be visited; the name, address, telephone number and Bar Card Number of the attorney; the expected time of arrival and projected length of the visit, and if the visit is a personal social visit or a legal visit.
 - i. In order to obtain a personal or social visit, the attorney must be listed on the inmate's approved visitors list and the visit will be handled as a personal visit in accordance with WDOC Policy and Procedure #5.400, *Inmate Visiting*. Legal documents may not be exchanged during a personal visit.
 - ii. All other non-social visits with attorneys/authorized legal representatives and their inmate clients shall be handled as special visits in accordance with WDOC Policy and Procedure #5.400, *Inmate Visiting*, with a completed copy of the WDOC Form #509, *Special Visit Form*, to be maintained in the designated inmate's file.
3. If the person coming to visit the inmate is not the attorney, but is the attorney's authorized representative (e.g., paralegal, investigator, etc.), the attorney or law firm shall also be required to provide the correctional facility with written documentation on their letterhead and signed by the attorney specifying the name and title of the authorized representative, the



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expected date(s) and time of the visit(s), and the name and institutional number of the inmate to be visited. This information must be received prior to the authorized representative arriving at the institution.

4. Attorneys of the Office of the State Public Defender who are listed in the Wyoming State Government Directory, and investigative/paralegal personnel from the Office of the State Public Defender for whom the State Public Defender provides a master list to the Chief Executive Officer (CEO) of each correctional facility for distribution to the appropriate personnel, shall be provided access without additional verification from the Office of the State Public Defender being required.
 5. The Office of the State Public Defender will notify the correctional facility via telephone, e-mail or fax, at least one (1) work day prior to the attorney or the attorney's authorized representative's arrival at the correctional facility, to schedule the inmate for a visit prior to arrival of the attorney or authorized representative at the correctional facility, indicating the inmate's name and institution number and the expected date and time of the visit. Notice is normally expected to also occur at least twenty-four (24) hours in advance of the requested visit.
- C. **Attorney Visiting Rules.** Attorneys/authorized representatives shall be required to follow the rules of WDOC and the correctional facility.
1. Upon arrival at the correctional facility, the attorney will be required to present a valid picture identification and legal bar card.
 2. The only items permitted to be brought to the visit are those necessary to complete the visit and are subject to thorough search and/or security inspection as indicated in WDOC Policy and Procedure #3.013, *Searches* and WDOC Policy and Procedure #3.401, *Inmate Legal Affairs*.
 - i. Authorized material will generally be limited to legal documents and one (1) or two (2) notepads and writing implements, which may be carried in a folder, accordion file, etc., subject to search for physical contraband and/or security inspection.
 - a. Personal items, including purses, keys, and any items that could be used as a weapon will not be permitted into the visiting area.
 - b. All visitors will be screened with a metal detector and/or pat searched as a security precaution, therefore, the amount of metal, including such things as undergarments with wire



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sufficient metered postage (not stamps) required for the return of the legal documents being left with the inmate through regular or express mail.

- a. The envelope must contain the full name and business mailing address of the attorney or firm as the receiving address and must contain the inmate's full mailing address as the return address for tracking and logging purposes.
 - b. Fax services for attorney/inmate exchanges will not be provided.
- 3. Attorneys/authorized representatives will not be permitted to discuss any pending litigation or legal concerns with staff, unless prior authorization for an interview with that staff has been granted through the warden's office.
 - 4. Attorneys/authorized representatives shall be required to adhere to dress code requirements for inmate visitors.

D. Attorney Visit as Basic Visit

- 1. A visit by an attorney/authorized representative shall be conducted as a basic visit if:
 - i. The correctional facility has an area designated for basic and/or attorney visits, which allows for private consultation;
 - ii. The inmate is on contact visitation restriction as a result of an administrative due process hearing; or
 - iii. The inmate is assigned to a locked housing unit and a contact visit is counter-indicated for safety or security reasons.
- 2. If the visit is basic in nature, arrangements will be made for the inmate and attorney to exchange legal documents if necessary by way of a pass through slot or with the assistance of visiting area staff.

E. Attorney Visit as Privileged Visit. If none of the subdivisions of Paragraph D.1., above, apply then the visit will be conducted as a privileged visit in the open visiting room or other designated space.

- 1. If the visit is privileged in nature, arrangements may be made upon request for the meeting to occur in a more private area of the open visiting room



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where discussion between the inmate and attorney can be more confidential.

F. General Provisions Applying to All Attorney Visits

1. Visual observation shall be maintained throughout the visit to ensure safety and security considerations are met.
2. An inmate may refuse to visit with the attorney/authorized representative, with such refusal to be noted by staff on WDOC Form #509, *Special Visit Form*, for tracking and filing purposes.
3. Attorney visits may be arranged after normal visiting hours with the prior approval and scheduling by the correctional facility warden in unique circumstances, such as attorney visitation with a condemned inmate within three (3) days of a scheduled execution.
4. If the inmate becomes disruptive or the inmate or visitor creates a disturbance during the attorney/authorized representative visit, the visit will be immediately terminated and documented as staff report on WDOC Form #102, *Staff Report*.

V. TRAINING POINTS

- A.** Reasonable access for making confidential contact with his/her attorney offered to inmates by WDOC, include which of the following?
1. Telephone calls made in accordance with WDOC Policy and Procedure #5.402, *Inmate Telephone Access*;
 2. Correspondence in accordance with WDOC Policy and Procedure #5.401, *Inmate Mail*; and/or,
 3. Visits in accordance with WDOC Policy and Procedure #5.400, *Inmate Visiting*, and this policy.
- B.** TRUE OR FALSE? Attorney visits are considered a form of special visit and as such require the attorney to contact the correctional facility where the inmate is located by telephone or fax, at least one (1) work day prior to the attorney or the attorney's authorized representative's arrival at the institution, to schedule the inmate for a visit. Notice is normally expected to also occur at least twenty-four (24) hours in advance of the requested visit.



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- C.** TRUE OF FALSE? In order to obtain a personal or social visit, the attorney must be listed on the inmate's approved visitors list and the visit will be handled as a personal visit in accordance with WDOC Policy and Procedure #5.400, *Inmate Visiting*.
- D.** TRUE OF FALSE? Legal documents may not be exchanged during a personal visit with an attorney.
- E.** TRUE OF FALSE? Upon arrival at the institution, the attorney will be required to present a valid picture identification and legal bar card.
- F.** TRUE OF FALSE? The only items permitted to be brought to the visit by an attorney or an attorney's authorized representative are those necessary to complete the visit and are subject to thorough search and/or security inspection.
- G.** The visit shall be conducted as a basic visit if which of the following apply?

 - 1.** The correctional facility has an area designated for basic and/or attorney visits, which allows for private consultation;
 - 2.** The inmate is on contact visitation restriction as a result of an administrative due process hearing; and/or,
 - 3.** The inmate is assigned to a locked housing unit and a contact visit is counter-indicated for safety or security reasons.
- H.** TRUE OF FALSE? An inmate may refuse to visit with the attorney/authorized representative, with such refusal to be noted by staff on WDOC Form #509, *Special Visit Form*, for tracking and filing purposes.
- I.** TRUE OF FALSE? If the inmate becomes disruptive or the inmate or visitor creates a disturbance during the attorney/authorized representative visit, the visit will be immediately terminated and documented on a staff report form.