

	<b>State of Alaska Department of Corrections Policies and Procedures</b>	<b>Index #:</b> 808.01	<b>Page 1 of 3</b>	
		<b>Effective:</b> 6/26/07	<b>Reviewed:</b>	
		<b>Distribution:</b> Pubic	<b>Due for Rev:</b>	6/09
<b>Chapter:</b>	Prisoner Rights			
<b>Subject:</b>	Legal Rights of Prisoners			

I. Authority

In accordance with AS 44.28.030, AS 33.30.021 and 22AAC 05.155, the Department of Corrections will establish and maintain a manual of policies and procedures to interpret and implement the statutory and regulatory duties of the Department.

II. Reference

Alaska Statutes

12.25.150, 33.30.011, 33.30.031, 33.30.221, 44.28.030

Alaska Administrative Code

22AAC 05.545

Standards for Adult Local Detention Facilities 3<sup>rd</sup> Edition 1991

3ALDF 3D-18, 3E-01, 3E-02, 3E-03, 5D-06

Standards for Adult Correctional Institutions 4<sup>th</sup> Edition 2003

4-4268, 4274, 4275, 4276

III. Purpose

To establish procedures enabling prisoner contact and communication with their attorney, the courts, and access to legal materials.

IV. Applications

All employees and prisoners

V. Definitions

Working Day

Monday through Friday except for legal holidays

VI. Policy

The Department will ensure that prisoners have access to privacy and a telephone to communicate with their attorney or legal representatives. Prisoners also must have access to the court for transmitting correspondence and documents. Department staff may not penalize prisoners for seeking judicial relief.

VII. Procedures

A. Visitation by Attorneys and Legal Representatives. (See also policy #810.02, Visitation.) Attorneys and legal representatives may visit a prisoner at the institution between 8 AM and 10 PM daily or at any time during the initial 24 hours of a client's incarceration except at meal times or while the institution conducts a population count. 22 AAC 05.545(a)

1. An attorney entitled to practice law in Alaska has the right to visit the prisoner immediately after arrest if the prisoner, a relative, or a friend so requests. A.S. 12.25.150(b); 22 AAC 05.545(b)

2. Attorneys and legal representatives must show proper identification and sign the Professional Visitor's Log when they arrive at the correctional facility. See policy #810.02, Visitation 22 AAC 05.545.

3. Each institution shall provide private and secure attorney-client interview space with adequate seating and a writing table or desk.

a. The institution shall ensure that the attorney or attorney's representative can speak privately with the prisoner and exchange or review legal documents without interference from correctional staff, except for a search for contraband.

- b. The institution may not monitor conversations between an attorney or attorney's representative and a prisoner except upon Court order.
  4. An attorney's representative has the same right to access prisoners as the attorney unless the Superintendent has reason to believe that the representative threatens the security of the institution. The Superintendent may require the attorney to specify in writing the identity of the representative and the prisoner to be interviewed. 22 AAC 05.545
  5. The institution shall make every effort to ensure that an attorney or attorney's representative is able to see his or her client within a reasonable time after a request.
- B. Telephone Calls after Arrest. See also policy #810.01 Prisoner Access to Telephone. Immediately after arrest, a prisoner has the right to telephone or otherwise communicate with an attorney and any relative or friend. A.S. 12.25.150(b)
  1. An officer shall pat-search each prisoner for weapons before allowing the prisoner to use the telephone. The pat-search is limited to external probing of body and clothing for possible signs of weapons. The officer may not remove a prisoner's clothing or search their pockets without probable cause. *Gray v. State*, 798 P.2d 346 (Alaska App. 1990)  
Note: This limited search only applies to a prisoner who has not been booked and admitted into the facility.
  2. The prisoner must call collect or otherwise pay for all long distance telephone calls.
  3. The shift supervisor shall allow combative and incapacitated prisoners to use the telephone only when they are under control.
- C. Access to Law Library and Material. The Department shall ensure that each prisoner, including a prisoner in either punitive or administrative segregation, is provided regular access to a facility law library and legal materials. Absent unusual circumstances, the Department shall provide a prisoner access to the law library within one *working day* of the prisoner's request. See policy #814.02 Law Library.
- D. Legal Correspondence. The Department may not restrict or censor a prisoner's legal correspondence; all legal mail to or from a prisoner is privileged mail. See policy #810.03 Prisoner Mail. Prisoners (except *indigents*) shall pay all postage costs.
  1. The Department may open and search legal correspondence for contraband only in the presence of the prisoner.
  2. Each institution shall provide first class postage for *indigent* prisoners to mail legal correspondence to any court or attorney. See policy #810.03 Prisoner Mail, for postage limits.
- E. Legal Faxes may be sent to the prisoner by an attorney.
  1. These messages may be delivered with the next scheduled mail call or may be delivered directly to the prisoner as determined by local standard operating procedures. In any case the fax shall be delivered to the prisoner by the next working day after it is received.
  2. The delivery of a legal fax may be expedited with the approval of a CO III or higher authority.
  3. Legal Faxes are limited to two pages including the cover page. Legal faxes in excess of two pages shall be forwarded to the facility standards officer who will return the fax to the sender by



- mail with an explanation for its non-delivery. The prisoner shall be notified verbally or in writing within 24 hrs of non-delivery.
4. The subject matter of a legal fax is limited to legal matters. Suspected abuse shall be reported to the Superintendent. When abuse is substantiated, the privilege may be suspended or revoked by the Superintendent.
  5. Prisoner requests to fax material to an attorney or other party shall be denied.
- F. Prisoners shall have access to notary public services.

VIII. Implementation

This policy and procedure is effective 14 days following the date signed by the Commissioner. Each Manager shall incorporate the contents of this document into local policy and procedure. All local policies and procedures must conform to the contents of this document; any deviation from the contents of this document must be approved in writing by the Director of Institutions.

6-26-07

Date



Joseph D. Schmidt, Commissioner  
Department of Corrections