



THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION



DIRECTIVE



<input type="checkbox"/> NEW <input type="checkbox"/> * INTERIM <input checked="" type="checkbox"/> REVISED			SUBJECT		
EFFECTIVE DATE 04/07/2005		* TERMINATION DATE / /		ATTORNEY, LEGAL, AND OFFICIAL VISITS	
CLASSIFICATION # 6000R-A	SUPERSEDES 6000	DATED 09/03/96	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DISTRIBUTION A	PAGE 1 OF 6 PAGES
RECOMMENDED FOR APPROVAL BY REVIEW BOARD MEMBER			AUTHORIZED BY THE COMMISSIONER		
ROBERT N. DAVOREN, CHIEF OF DEPARTMENT SIGNATURE			MARTIN F. HORN SIGNATURE		

I. PURPOSE

To delineate the policy and procedure regarding Attorney, Legal and Official Visits with inmates in departmental facilities.

II. POLICY

- A. Inmates who are awaiting trial or any other court disposition shall have the right to communicate with an attorney.
- B. Attorneys possessing a Departmental or Unified Court System (OCA) pass will be permitted to visit any inmate under the jurisdiction of the Department. In addition, Legal Aid (LAS) Attorneys will be permitted access with their Legal Aid Attorney ID. Only LAS Attorneys are permitted access based on their LAS ID. All other LAS employees must obtain appropriate DOC ID.
- C. Attorney visiting hours shall be permitted for at least eight (8) hours per day between 0800 and 2000 hours. During business days, four (4) of those hours shall be 0800 to 1000 hours and 1800 to 2000 hours. The attorney visit schedule shall be posted at each facility. All attorneys shall be required to complete the Counsel Logbook upon arrival and departure from a facility.
- D. When an inmate is to be interviewed by an official of the Department or other public official or for an attorney or legal visit, all necessary precautions, including the searching of the inmate, shall be taken to ensure the safety of the official.
- E. Visits and telephone communication between inmates and attorneys shall be kept confidential and protected unless a lawful warrant is obtained. Visits or telephone communication between inmates and their legal counsel shall not be monitored except visually. Proper security precautions shall be taken to ensure the protection of the attorney, to prevent an inmate escape, and to prevent injury to other inmates or personnel.

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II. POLICY (cont.)

- F. Visits and telephone communication between inmates and their legal counsel shall not be included in the total number of visits or phone calls to which an inmate is entitled.
- G. Mail between prisoners and attorneys shall not be delayed, read or interfered with in any manner except to search for contraband or pursuant to a lawful search warrant.
- H. Departmental passes (e.g. Attorneys, Legal Assistants or Investigator, Special One Day Passes) shall be retained by the persons to whom they were issued. No Departmental, Unified Court System (OCA) pass or LAS Attorney ID, which will be accepted in lieu of a DOC pass, will be honored after the expiration date has elapsed.
- I. Any attorney visiting an inmate on Rikers Island shall be permitted to proceed directly to any other institution of Rikers Island to visit another inmate without first returning to the Control Building or any other Central Processing Facility.

III. PROCEDURE

A. General

1. Inmates shall not be restricted in their communication with attorneys. The fact that an inmate is represented by one attorney shall not be grounds for preventing that inmate from communicating with other attorneys.
2. If an attorney arrives at a facility for a visit with an inmate while a count is in progress, the attorney shall not be permitted to visit until such time as the count has been completed.
3. Attorneys are permitted to arrange visits in advance by calling to inquire as to whether a particular inmate will be available at a particular time and to leave a message informing the inmate of the time of the attorney's intended visit.

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III. PROCEDURE (cont.)

4. Inmates are allowed to receive incoming calls from their attorney. If an inmate is unavailable, a message shall be taken and the inmate shall be permitted to return the call as soon as possible. This call will be in addition to the number of permitted calls and shall be made at Departmental expense if it is a local call. If it is a long distance call, it shall be a collect call. In the event that an incoming legal call is received after the commencement of the evening lock-in, the return call shall be permitted no later than the following morning.
5. All inmates shall be entitled to make the number of completed telephone calls necessary to contact and retain legal counsel. Indigent inmates shall be entitled to make such unlimited calls at facility expense. Long distance telephone calls for the purpose of retaining or consulting with legal counsel shall be made collect, except that, at the discretion of the Commanding Officer or a designee, arrangements may be made to permit inmates to bear the cost of such calls or to allow such calls to be made at the facility expense.

B. Notice to the Warden (Procedure in Lieu of DOC or OCA Pass)

1. This procedure applies to attorneys who have been assigned as counsel by the Court but who do not currently possess a DOC pass or an OCA pass.
2. An attorney requesting to visit an inmate who is awaiting trial or other court disposition, may file at the facility a "Notice to the Warden" form. This instrument, executed under seal and signed by the clerk of the court of jurisdiction, advises the Commanding Officer that the attorney named has filed a "Notice of Appearance" with court. When a "Notice to the Warden" has been presented at the facility, the attorney named therein shall be treated as the attorney of record. A Notice to the Warden is good for one visit. If the attorney wishes to make future visits, he or she should be advised to obtain a DOC attorney pass or an OCA pass. Otherwise, the attorney will be required to present new Notices for each future visit.
3. Whenever an attorney files a "Notice to the Warden", appropriate entries shall be made in the "Notice to the Warden" logbook indicating the date, name of attorney, name of inmate concerned and the court which issued said notice. When entries have been made, the "Notice to the Warden" form shall then be filed in the respective Inmate Record Envelope. In addition, the name and address of the attorney of record shall be entered in the "Remarks" section of the Inmate Detention Record, (Form #239) and the Accompanying Card (Form #236).

III. PROCEDURE (cont.)

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C. Sentenced Inmates

1. All attorneys desiring to visit inmates serving sentences in Departmental facilities shall present a Departmental Attorney Pass, Unified Court System (OCA) pass or LAS Attorney ID.
2. In cases where sentenced inmates are awaiting trial or other court disposition on pending criminal cases, they shall be permitted to visit with any attorney who presents a DOC pass, an OCA pass or who files a "Notice to the Warden" form at the facility.

D. Federal Inmates



An attorney requesting to visit a federal inmate detained in an institution of the Department shall present a Departmental Attorney pass or a Unified Court System (OCA) pass.

E. Other Official Visits

1. Upon presentation of proper credentials to the Commanding Officer, members of any law enforcement agency, investigators from the Civilian Complaint Review Board (CCRB), and members of the clergy, shall be permitted to interview inmates in connection with their official duties. A record shall be maintained of all such interviews and such record will include the signatures of the officials and clergy concerned. In addition Consulate Visits shall be permitted as set forth in Operations Order #11/87. These individuals do not require clearance.
2. In addition to documenting the official visit by law enforcement personnel as noted above, the Commanding Officer or designee shall notify the Intelligence Unit, anytime members from any outside law enforcement agency request to interview an inmate. The following information shall be provided to the Intelligence Unit:
 - Date and time of visit;
 - Inmate's first & last name;
 - Inmate's Book & Case number;
 - Inmate's NYSID number;
 - Inmate's arrest number (if available);

III. PROCEDURE (cont.)

- Name of official visiting;

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- Agency employing the visiting official; and
- Facility name providing information.

The only exceptions to this notification procedure are interviews being conducted by members of the following agencies;

- New York State Division of Parole
- New York City Department of Probation
- New York City Board of Correction
- New York State Commission of Correction
- New York City Police Department Internal Affairs Bureau
- New York City Police Department Intelligence Division personnel assigned to the DOC Intelligence Unit.
- United States Department of Homeland Security Immigration & Customs Enforcement (ICE) personnel assigned to the Rikers Island Field Office.

NOTE: The notification to the Intelligence Unit shall not be construed as requesting permission to allow the official visit to take place.


3. The Commanding Officer of the Intelligence Unit shall establish a hardcover logbook and record the above noted information. This information shall be transmitted daily to the New York City Police Department Personnel assigned to the Intelligence Unit, who shall process this information in accordance to their established procedures.
4. Members of social service or charitable organizations desiring to interview an inmate shall present a special or annual Departmental pass. Representatives of the Department of Social Services shall present the following items issued by the Department of Social Services for identification: an identification card, and a special Departmental pass.

IV. REFERENCES

- A. Benjamin v. Kerik, 75 Civ 3073 (HB), 08/03/2000.
- B. Directive #6002, ATTORNEY VISIT, dated 12/29/00
- C. Board of Correction Minimum Standards for New York City Correctional Facilities, Section 1-09 (c) Access to Counsel.

IV. REFERENCES (cont)

- D. Operations Order #11/87, ACCESS TO FACILITIES BY EMBASSY AND CONSULATE OFFICIALS, dated 03/09/1987.

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- E. Teletype Order #3910-0, ATTORNEY VISITS, dated 09/05/1999.
- F. New York City Charter, Section 626 (Board of Correction).
- G. New York State Correction Law, Article 3 (State Commission of Correction).

V. SUPERSEDES

Directive #6000, ATTORNEY, LEGAL, AND OFFICIAL VISITS, dated 09/03/1996.