

**STATE OF RHODE ISLAND  
DEPARTMENT OF CORRECTIONS  
PUBLIC NOTICE OF PROPOSED RULE-MAKING**

In accordance with Rhode Island General Laws (RIGL) § 42-35-3, notice is hereby given that the RI Department of Corrections (RIDOC) proposes to amend the following RIDOC rule:

**13.02-5 DOC; Access to Institutional Facilities by Attorneys and Their Agents**

This amended rule includes revisions which reflect:

- clarification to identification requirements
- metal detector procedures for female interpreters and attorneys
- procedures for photographing clients
- clarification to wireless communication devices
- clarification to denial of access during an institutional count
- change in dress code (shoes).

In the development of these rules, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the RI Secretary of State website (<http://www.sec.state.ri.us/ProposedRules/>) and the RIDOC website (<http://www.doc.ri.gov/index.php>) or available in hard copy upon request (401) 462-3533. Interested persons should submit written comments by October 10, 2015, to Jayne Del Sesto, Chief, Program Development, RI Department of Corrections, 1375 Pontiac Avenue, Cranston, RI 02920 ([jayne.delsesto@doc.ri.gov](mailto:jayne.delsesto@doc.ri.gov)).

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

RIDOC does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap in acceptance for or provision of services or employment in its programs or activities.

# RHODE ISLAND DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE

	<b>POLICY NUMBER:</b> 13.02-5 DOC	<b>EFFECTIVE DATE:</b> <u>Draft #4; 03/31/15</u>	<b>PAGE 1 OF 8</b>
	<b>SUPERCEDES:</b> 13.02-4 DOC	<b>DIRECTOR:</b>	
<b>SECTION:</b> INMATE RIGHTS		<b>SUBJECT:</b> ACCESS TO INSTITUTIONAL FACILITIES BY ATTORNEYS AND THEIR AGENTS	
<b>AUTHORITY:</b> Rhode Island General Laws (RIGL) § 42-56-10(22), Powers of the director; § 42-56-1, Declaration of policy			
<b>REFERENCES:</b> ACA # 4-4275, Access to Counsel			
<b>INMATE/PUBLIC ACCESS ?</b>		<b>X YES</b>	
<b>SPANISH TRANSLATION?</b>		<b>X NO</b>	

I. **PURPOSE:**

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

II. **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.

III. **PROCEDURES:**

A. For the purposes of this policy, 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 Section III.E.1. for identification requirements

Public Notice:	Public Hearing:
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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. Public Defenders - persons possessing valid identification (ID) badges establishing them as employees of the Public Defender's Office. Such employees may be either:~~

- ~~1. Temporary (ID badges contain expiration dates); or~~
- ~~2. Permanent.~~

D. Attorneys' and 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.

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- 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 items a. through f. 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 ~~every ninety (90) days~~.
    - b. Once it is determined that attorneys' agents satisfy the criteria outlined in Section III.D.1 (a-f) of this policy, those agents can meet with inmates without the attorney of record present. The Public Defender's Office will also provide to the ISC Warden a list of the Public Defender's Office's permanent employees every ninety (90) days. If the Public Defender's Office fails to do so, the ISC Warden or designee will contact the Office with a reminder. 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 policy. BCI and, whenever feasible, NCIC checks must be done by the authorizing person prior to approval.

- ~~6. Paralegals, investigators, interpreters, law students, legal assistants, and Public Defender social workers are permitted to meet with inmates in the absence of attorneys of record only after receiving approval from the Warden or designee.~~
76. 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.

E. Security Requirements:

1. Identification requirements are:

- ~~a. 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.

NOTE: 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. Public Defender's Office — Public Defender photo I.D. 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 ~~Attachment 1~~the most recent version of RIDOC Policy 24.30 DOC; Visits, 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.

All attorneys must adhere to this protocol. ~~This -and this-~~ exception also applies to female ~~interpreters~~attorneys' agents **only** when they are accompanied by an attorney and have been approved as an attorney's agent pursuant to section III.B.3 of this policy.

This exception does NOT apply to anyone other than female attorneys and approved female ~~interpreters~~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.

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- (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 section III.E.9.-12 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 III.E.10. above (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 III.E.10. and III.E.10.a.) 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.

**NOTE:** At no time will any device be used for wireless communications/transmissions. 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.

- e. 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.

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11. Pagers (Beepers) worn by attorneys and agents are permitted after examination by correctional staff.
  12. Papers/Documents Attorneys and agents are permitted to leave legal papers or documents with their incarcerated clients.
    - 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.
    - b. Personal letters are to be delivered through the normal mail process.
  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.

**NOTE: 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.**

~~Cell phones, palm pilots, and/or blackberries are not permitted into any facility at any time.~~

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 policy.
- F. 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

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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.
- G. Once allowed access to a facility, attorneys and/or their agents are required to sign the facility's legal blotter.
- H. Complaints:
1. Attorneys and their agents may carry copies of this policy 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.
- I. Emergency Cancellation:
- If an emergency exists within an institution, the Warden or designee may temporarily terminate visits by attorneys or their agents.
- J. Post Orders:
- Each facility Warden or designee shall incorporate into the post orders for Visiting Desk and MCC posts acknowledgements of the provisions provided herein.