

Custodial Operations Policy and Procedures

10.5 Visits Legal Practitioners and their Employees or Agents

Policy summary

This policy covers the rights and authority of legal practitioners to visit an inmate in an area designated for legal visits in a correctional centre.

Inmates have a statutory right to receive visits from a legal practitioner.

Aboriginal and Torres Strait Islander people are entitled to access to the Aboriginal Legal Service or a representative of that service.

Legal practitioners will be given priority processing. The same rights are given to employees of law firms, who are in the company of the legal practitioner.

Management of Public Correctional Centres Service Specifications

Outcome	Decency and Respect
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Scope

This policy applies to inmates in all correctional centres in NSW, and all CSNSW employees.

Related Documents

Crimes (Administration of Sentences) Act 1999

Crimes (Administration of Sentences) Regulation 2014

Management of Public Correctional Centre Outcome Specifications

Related Policy and Procedures

17.3 Stop, detain, search of visitors and staff

10.1 Visits General Controls and Conditions

10.2 Visits Restrictions and Prohibitions

10.3 Visitors to inmates

Forms and Annexures

Definitions

ALS	Aboriginal Legal Service
BID	Biometric Identification System
CLFO	Criminal Law Field Officers
COPP	Custodial Operations Policy and Procedures
OIC	Officer in Charge
OIMS	Offender Integrated Management System
SAS	Senior Assistant Superintendent

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1 Legal Practitioners

Corrective Services NSW (CSNSW) aims to facilitate inmates receiving prompt legal contact when requested by either the inmate or their Legal Practitioner. CSNSW strives to provide Legal Practitioners with reasonable resources and services to allow them to provide advice, and that inmates are provided with reasonable access to their Legal Practitioners when requested. Under the ***Crimes (Administration of Sentences) Regulations 2014***, a Legal Practitioner is someone who is an Australian lawyer who holds a current Australian practicing certificate.

CSNSW will endeavour to provide legal access for Legal Practitioners at all times during advertised legal visit operating hours. Legal practitioners may contact the Inmate Placement Unit to find the location of an inmate in CSNSW custody by email to InmatePlacements@justice.nsw.gov.au. Legal visits can be booked anytime during operating hours of the correctional centre or court cells. Operating hours vary from centre to centre. The Legal Practitioner should contact the centre for further information.

If there is industrial action by CSNSW staff members that affects visitors, CSNSW will attempt to provide opportunities for legal practitioners to visit inmates. Legal practitioners must make an advance application to visit during these times.

CSNSW may from time to time limit Legal Practitioner access to clients because of security operations or issues. CSNSW will assist Legal Practitioners to gain access to their clients at the earliest possible time.

Members of the legal profession will be given preferential access to inmates except on weekends. Once a legal representative has identified themselves to a visits officer, the processing of the visit will be given priority over other visits. To ensure that legal practitioners are aware of this service, signs advertising the service should be posted in legal visits areas. This service will not be extended to law clerks, public enquiry agents, and private investigators who are not accompanied by a solicitor or barrister.

1.1 Policy for proof of identity

A legal practitioner must provide one of the following to enter a correctional centre or court cell complex:

- a current Law Society identification card
- a current Bar Association identification card
- a current Legal Aid identification card
- photo identification with proof they are a practicing lawyer

Legal practitioners, who present a current valid identification card issued by either the NSW Law Society or the NSW Bar Association, must register on the BID system if in operation at the correctional centre and will be given priority in processing this registration (***refer to COPP section 10.3 Visits to inmates***).

Legal practitioners may elect to have their photograph taken and the image stored on the CSNSW database (BID), or have their identification card deposited in a secure area at the gate or visitor reception area if there is no legal visits waiting room.

Legal practitioners unable to produce an official identity card may provide photo identification with proof they are a practicing lawyer.

1.2 Policy for telephone conference facilities

An individual, organisation or agency granted authorised visitor status may request the use of telephone conference facilities. This can be arranged if the distance to the correctional centre is too great for the legal visitor to visit the centre in person. The decision will be at the Governor's discretion.

The inmate will be responsible for the cost of any conference call, which will be debited to their personal account. Staff allocated to set up the conference will make reservations through Telstra Conferlink Telephone on 1800 011 080. A purchase request should be completed by the inmate to facilitate payment of this call. Conference calls will neither be monitored nor recorded by correctional centre staff.

1.3 Policy for recording legal visits

All legal visits will be processed and recorded for future reference and legal purposes, by the legal visits officer at each centre. The legal visit will be recorded in the OIMS.

2 Aboriginal and Torres Strait Islander People

Policy

The Aboriginal Legal Service (ALS) assists Aboriginal people who have come into contact with Police, the Courts, or are in custody. The ALS has Criminal Law Field Officers (CLFOs) to assist lawyers who represent Aboriginal clients. A CLFO or a field officer from another organisation that are providing legal assistance to Aboriginal and Torres Strait Islander people are legal visitors once approved by the Commissioner.

Field officers are entitled to see all Aboriginal and Torres Strait islander inmates, including those confined to cells, and are entitled to conduct their business in the legal visiting area.

2.1 Procedures

- A CLFO or a field officer from another organisation must book a visit through the local procedures for the correctional centre before visiting an inmate. The CLFO or field officer from another organisation must produce a letter of introduction from their respective service or organisation as proof of identity and appointment (these letters are only valid for 12 months from the date they are issued), and produce a CSNSW visitor identification card for all subsequent visits

3 Other Legal Professional Visitors

3.1 Policy

A legal practitioner may engage either the services of a public enquiry agent, private investigator or other professional, or use the assistance of a law clerk. If the visitor is unaccompanied by the legal practitioner, the legal practitioner must provide the person

assisting them with a valid letter of introduction on official letterhead of the firm, to facilitate their entry into a correctional centre to conduct business.

3.2 Procedures

The professional visitor must produce a letter of introduction to the OIC of legal visits which will contain:

- the date on which it was written
- the identity of the person nominated to visit the inmate
- sufficient details indicating the nature of the legal business being conducted
- an office telephone contact number
- the authority for the person to act on the legal practitioner's behalf and to receive instruction from their client.

These letters are valid for three months, and a replacement letter must be obtained by the professional visitor and provided prior to the next visit. Entry to the correctional centre is at the discretion of the Governor.

If a listed professional visitor accompanies a legal practitioner into a correctional centre, they are not required to produce a letter of introduction. However, one primary or three secondary forms of identification should be produced to confirm their identity. **(refer COPP section 10.3 Visitors to inmates)**. All legal or professional visits will be recorded in the OIMS by the OIC visits.

3.3 Policy for registered migration agents

If a registered migration agent declares that the immigration assistance to be provided to an inmate at a correctional centre relates to the preparation for court proceedings, a review authority relating to a visa application, or a cancellation or review of an application, a legal visit may be used if practicable.

Other migration assistance, such as the preparation of a visa application or the dispensing of advice, should be provided using the normal visits facilities **(refer to COPP section 10.3 Visitors to inmates)**.

4 Mobile telephones, pagers, laptops, voice recording and removable storage devices

4.1 Policy

Visitors are not allowed to take mobile telephones into correctional centres, police or court cells, however may request to use a telephone if needed.

The use of personal pagers, laptops, voice recording devices and removable storage devices are allowed inside correctional centres and court complexes by Legal Practitioners on the condition that:

- the visitor declares possession of the device/s and produces it for inspection upon entering and leaving the premises to the officer in charge of the gate, and to the officer in charge of the legal visiting area.
- the visitor retains personal possession of the device/s at all times whilst on the premises; and
the visitor ensures inmates only view the information contained on the device/s in the presence of the visitor but do not have physical access to the device.

4.2 Procedure

Prior to attending a correctional centre, representatives must apply in writing to the Governor to seek approval for use of personal pagers, laptops, voice recording devices and removable storage devices during inmate interviews. If approval is provided by the Governor, this equipment will be subject to searching procedures (***refer to COPP section 17.3 Stop, detain, search of visitors and staff***).

Governors should provide an area that will assist legal practitioners to maintain the confidentiality of their discussions. Arrangements must be made to enable communications between a lawyer and inmate to be undertaken not within the hearing of any correctional officer.

5 Document history

Version	Date	Reason for Amendment
1.0		Initial publication (<i>Replaces section 15.12 and 15.13 of the superseded Operations Procedures Manual</i>)