

WEBER COUNTY CORRECTIONAL FACILITY

Volume

INMATE SERVICES

Chapter

JG 01 - LEGAL ACCESS

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JG 01/01.00 **GENERAL**

JG 01/01.01 **Purpose**

The purpose of this chapter is to provide policy, rationale, and procedures regarding WCCF inmates' access to legal materials, supplies, courts and counsel.

JG 01/01.02 **Cross References**

JE 04 - Communication: Courts and Counsel

JG 03 - Inmate Funds and Accounting

JG 01/01.03 **Definitions**

indigent monetary status of an inmate whose funds do not exceed \$3 for the previous seven (7) days

paging system process of copying specific references or pages from legal or other texts rather than providing the whole book

WCCF Weber County Correctional Facility

JG 01/02.00 **LEGAL ACCESS**

JG 01/02.01 **Policy**

It is the policy of WCCF that:

- A. inmates access to courts and counsel shall not be unreasonably restricted;
- B. inmates be allowed access to legal materials and supplies;
- C. inmates be allowed communication with the courts and attorneys consistent with WCCF policy JE 04, Communication: Courts and Counsel; and
- D. inmates shall have reasonable access to courts and counsel while in segregation.

JG 01/02.02 **Rationale**

- A. Inmates' access to courts and counsel is a right guaranteed by the U.S. Constitution.
- B. Access to courts and counsel is essential for inmates to defend themselves in criminal actions, appeal convictions, and challenge conditions of confinement. Access may include, but not be limited to, the following:
 - 1. telephones;
 - 2. professional visits;
 - 3. writing materials and envelopes;
 - 4. law library books and references.
- C. Privileged mail is very important to inmates' access to counsel and every effort shall be made to ensure the confidentiality of privileged mail processed into and out of the WCCF.
- D. All inmates should have meaningful access to courts and counsel including inmates housed in segregation and indigent inmates.

JG 01/02.03 **Procedure: Attorney Access**

A. General

1. The WCCF shall provide inmates access to legal assistance through private attorneys, or the attorneys available to assist inmates with legal counsel.
2. Inmates may arrange for private legal counsel at their own expense.
3. Inmates may represent themselves if they choose.
4. Inmate writ writers may represent themselves, but may not represent other inmates.

B. Private Attorneys

Inmates are entitled to contact and employ private attorneys, but the WCCF shall not pay for private attorneys. Financial arrangements for a private attorney/representative are the responsibility of the inmate.

C. Public Interest Attorneys

In addition to private attorneys arranged for through their own efforts, inmates may request to be represented by public interest groups such as the American Civil Liberties Union (ACLU), Legal Aid Society, the Rocky Mountain Defense Fund, Legal Center for Individuals with Disability, or other such group.

D. Paralegals and Attorneys' Representatives

1. Attorneys may elect to have a representative visit an inmate client instead of visiting personally.
2. Attorney representatives may include paralegals, investigators, law clerks, other attorneys, or other designated persons.
3. Attorney representatives or paralegals have no standing of their own. Their standing to visit is granted only in their role as representatives of the attorney of record.
4. Procedure for attorneys to obtain authorization for representatives to visit requires that:
 - a. attorneys submit requests in writing to the Jail Commander/designee giving the name and title of the representative, the name of the attorney and the name of the inmate to be visited;

- b. a BCI records check shall be made of the attorney representative; and
 - c. if any attorney representative has a criminal record, he may be denied access to the facility unless it is established that:
 - 1) the supervising attorney has a compelling reason for utilizing this particular legal representative rather than another, equally qualified, individual;
 - 2) the legal representative in question presents no safety, security, management, or control problem for the facility as determined by the Jail Commander/designee; and
 - 3) the legal representative's access is approved by the Jail Commander, Chief Deputy, and WCS.
5. The supervising attorney may attempt to establish that his legal representative does not present a risk to the facility due to his criminal record by establishing:
- a. the remoteness in time or lack of seriousness of the criminal offense;
 - b. the good character of the legal representative; and
 - c. the unavailability of another legal representative to the supervising attorney, or special expertise or training possessed by the attorney/representative who is available.
6. In the event of exigent circumstances requiring a visit before appropriate screening can be completed, temporary approval for a visit may be approved at the Jail Commander level or Lieutenant level. Subsequent visits should follow established clearance procedures.
7. The attorney representative shall produce a letter of introduction from the attorney of record. This letter shall contain the name of the inmate client and the estimated length of time the attorney representative shall be involved with the inmate client.
- a. All letters are subject to verification.
 - b. A BCI check shall be run.
 - c. The attorney representative shall produce a photo ID.

E. Inmate Writ Writers

1. Inmate writ writers may represent themselves but may not represent other inmates.
2. Inmates charging a fee or attempting to receive consideration or payment for legal assistance shall be subject to a major disciplinary action.

JG 01/02.04 **Procedure: Legal Mail**

A. General

1. Attorney/representative mail shall be confidential if it qualifies as "privileged" as defined in WCCF policy JE 04, Communication: Courts and Counsel.
2. Court mail ordinarily includes public documents (court orders, pleading, etc.), but shall be given privileged status if marked "privileged".

B. Delivery of Privileged Mail to Inmates

Privileged mail should be received, processed and delivered to inmates entirely by designated mail clerk/staff.

1. Exceptions to that policy may be approved to meet operational necessity.
2. Such exceptions should be approved by the mail supervisor or jail commander.

C. Searching Privileged Mail Packets

1. Privileged mail which accumulates in cells may become a hiding place for contraband. Legal mail is, therefore, subject to inspection for contraband.
2. Searches shall not involve the reading of documents; however, documents may be examined to the extent necessary to determine that non-legal documents are not hidden inside legal mail.
3. Searches of cells, even those containing legal mail, need not occur in the presence of the inmate.

JG 01/02.05 **Procedure: Legal Telephone Access**

Telephone legal access shall be accomplished consistent with WCCF policy JE 04, Communication: Courts and Counsel.

JG 01/02.06 **Procedure: Legal Visit Access**

Legal visits shall be accomplished consistent with WCCF policy JE 04, Communication: Courts and Counsel

JG 01/02.07 **Procedure: Legal Materials**

A. **Access to Legal Materials**

1. Inmates shall have access to sufficient writing materials, (i.e., pencils, paper and envelopes) to accomplish access to the courts or their attorneys.
2. Inmates may purchase writing materials from commissary.
3. Indigent inmates may receive writing materials and envelopes through the commissary system as defined in WCCF policy JG 03, Inmate Funds and Accounting.
4. Inmates housed in punitive isolation, medical, or other segregation shall have access to writing materials consistent with those housed in general population unless specifically restricted from those materials.
 - a. Such restriction must be documented in writing and approved by the jail commander/designee.
 - b. Alternative means of providing legal access shall be considered when an inmate is restricted from writing materials, (e.g., supervised telephone calls, attorney visits, etc.)

B. **Law Library**

1. Inmates may request access to a law library by completing an inmate request form with specific references requested.
2. Law library requests shall be processed by WCCF staff by:
 - a. checking out law books maintained by the WCCF; or
 - b. making copies to fill specific requests by a paging system from sources outside the WCCF.

C. **Storing Legal Material**

1. Upon request, inmates shall be issued clear plastic pouches for the purpose of storing legal materials **ONLY**.
2. Pouches shall be marked and contain legal information as outlined:
 - a. Legal - Public: case copies, court rules, public filed court documents (but not books) which are necessary to processing the case any may otherwise exceed the applicable property rules
 - b. Legal - Privileged: attorney-client correspondence and other non-public material which qualifies as privileged
3. Legal - Privileged pouches may be inspected, but contents shall not be read.
4. Legal - Public pouches shall be subject to normal inspection rules and have no privilege against reading.
5. Books may be obtained as property according to the applicable "Inmate Property" procedure.
6. Inmates may request additional legal pouches.
 - a. The lieutenant/designee shall evaluate if the request is appropriate.
 - b. Appropriate requests shall be facilitated as soon as reasonably possible.
 - c. Denials shall be documented, stating the reasons for the denial.

D. Inmate-to-Inmate Transfer

Legal material may be transferred to another inmate (for legal purposes) with written consent and approval.

1. Legal - Public includes case copies, court rules, and publicly filed court documents (but not books) which are necessary in processing case and which may otherwise exceed the applicable property rules.
 - a. The receiving inmate in possession of legal public material shall have written consent from the sending inmate with final approval by the housing unit Sergeant.
 - b. The housing unit Sergeant shall sign the consent and shakedown the material prior to giving it to the receiving

inmate.

2. Legal - Privileged includes attorney-client correspondence and other non-public material which could compromise the inmate's legal position if disclosed.
 - a. Inmates who have a legitimate need to communicate with other inmates regarding specific legal actions:
 - 1) shall place legal correspondence in an envelope providing the appropriate information;
 - 2) shall place the name, ID number, and housing location of the sending inmate on the envelope;
 - 3) shall placed the name, ID number, and housing location of the receiving inmate on the envelope;
 - 4) shall contact a housing unit officer who shall inspect for contraband, but may not read the material;
 - 5) shall seal the envelope in the presence of the officer;
 - 6) shall witness the officer sign over the seal;
 - 7) shall then place the envelope in the jail mail system.
 - b. The jail mail clerk/staff shall forward the mail to the addressee after inspecting the mail for compliance to these procedures.
 - 1) If the mail clerk discovers evidence of tampering, the envelope complete with its contents shall be returned to the sender and inspected in the presence of the inmate sender.
 - 2) The process may then be reinstated for delivery as intended.
 - 3) Any discrepancies shall be documented.

JG 01/03.00 **LEARNING OBJECTIVES**

Staff shall demonstrate an understanding of the following:

- A. what constitutes legal access and why is it important;
- B. what legal materials shall be supplied to inmates;

- C. what legal materials should be supplied to inmates in segregation/isolation;
- D. what WCCF policy describes how legal visits, legal telephone calls, and legal mail are accomplished; and
- E. how are legal materials accessed and stored by inmates.