

TEXAS CIVIL COMMITMENT OFFICE



POLICY AND PROCEDURE

NUMBER: 3.21
EFFECTIVE DATE: 08/20/2016
SUPERCEDES: NONE

SUBJECT: ACCESS TO COURTS

PURPOSE: To establish guidelines for providing clients with the fundamental constitutional right to access the court system.

POLICY: It is the policy of the Texas Civil Commitment Office (TCCO) to ensure that clients assigned to the Texas Civil Commitment Center (TCCC) are not restricted in the exercise of their constitutional right of access to the courts, counsel, and public officials, and that such access is adequate, effective, and meaningful in accordance with applicable state and federal law. Every client has the right of access to state and federal courts, as well as legal counsel and public officials and agencies. Clients may confer about legal matters, subject to regulation of time, place, and manner necessary to maintain the security and order of the TCCC. This policy does not extend or apply to clients living in residences other than the TCCC, who have access to law libraries in the community.

DEFINITIONS:

“**Attorney**” is any individual licensed by and currently in good standing with any state bar of the United States.

“**Designated Representative**” is any individual, such as a paralegal employee, legal assistant, clerk, student, investigator, expert, or interpreter, visiting, corresponding with, or otherwise contacting a client for matters related to an attorney-client or attorney-witness relationship, as certified by the attorney, and for no other purpose.

“**Legal Correspondence**” is any mail sent to or from an attorney or designated representative.

“**Media Correspondence**” is any mail sent to or from a media correspondent.

“Public Official” is anyone in a position of official authority that is conferred by a state or a subdivision of a state, i.e. someone who holds a legislative, administrative, or judicial position of any kind, whether appointed or elected, to carry out some portion of a government's sovereign powers.

“Public Official Correspondence” is any mail sent to or from a public official.

PROCEDURES:

I. General Requirements

A. Clients shall be afforded:

- 1.** Correspondence with attorneys, designated representatives and public officials;
- 2.** Visitation with attorneys, designated representatives, and public officials;
- 3.** Access to attorneys and designated representatives by unmonitored telephone calls;
- 4.** Access to in-house legal materials and copying services;
- 5.** Possession of personally owned legal materials and copies; and
- 6.** Freedom from retaliation based on their legal activity.

B. Reasonable restrictions may be imposed:

- 1.** Requiring registration of attorneys and designated representatives prior to contact with clients;
- 2.** On the timing, length, and conditions of attorney visits based on availability of space and the needs of other clients;
- 3.** On the timing, length, and conditions of calls to attorneys or designated representatives, made by means other than a personal cell phone, based on the needs of other clients and the business needs of TCCC;
- 4.** On the amount of personally-owned legal materials and copies;
- 5.** On the hours of operation for the law library; and
- 6.** For inspection, in the presence of the client, of incoming legal, media and public official correspondence for contraband and to determine whether the correspondence is legal correspondence.

C. Restriction of telephone access as a sanction for a violation of civil commitment or treatment requirements shall not extend to access to a court, attorney, designated representative or public official.

D. Under no circumstances shall employees or agents of TCCO listen to or record telephone calls between a client and an attorney.

II. Correspondence

- A.** Clients may correspond with, and receive correspondence from, attorneys, designated representatives, media and public officials.
- B.** The TCCC shall develop a policy concerning client correspondence with attorneys, designated representatives, the media and public officials. The TCCC policy shall include:
 - 1.** A system to log incoming and outgoing legal correspondence;
 - 2.** Instructions for TCCC staff inspection of legal correspondence; and
 - 3.** A provision allowing indigent clients to access supplies needed for legal correspondence.

III. Visitation with Attorneys, Designated Representatives, and Public Officials

- A.** Visitation with attorneys and designated representatives is covered in TCCO Policy 3.3, Client Visitation.
- B.** Public officials are afforded the same rights and privileges as attorneys in TCCO Policy 3.3, Client Visitation.
- C.** Clients on housing restriction shall not be denied visitation under this policy. Security may be required as appropriate for escorting the client to visitation, and for visual monitoring of the visitation.

IV. Telephone Contact

- A.** Clients may use their personal cell phones to call or receive calls from their attorney and designated representatives subject to the requirements of TCCO policy regarding cell phone ownership and usage.
- B.** Clients may schedule calls to their attorney and designated representatives using the dormitory telephone.
- C.** Clients without a cell phone who need to receive a call from their attorney and designated representatives must arrange with the Case Manager a time for the call.
- D.** Indigent clients may schedule in advance, through the Case Manager, an outgoing or incoming phone call with their attorneys and designated representatives.

V. Access to Legal Materials

- A.** The following materials shall be available to clients, in either hard copy or electronically through a service such as FastCase, LexisNexis or Westlaw:
 - 1.** Relevant Texas and federal statutes and regulations;
 - 2.** Texas and federal reporters from the past 30 years;

3. Shepard's citations;
 4. Basic treatises on habeas corpus and civil rights;
 5. Texas Legal Directory; and
 6. Periodic updates to these materials.
- B.** The TCCC shall have a law library and shall develop policies and procedures concerning its usage to ensure all clients have meaningful access to it.
- C.** Clients' personal legal materials:
1. Clients may possess their own legal reference or source materials, and copies of their own legal documents and correspondence, subject to the storage restrictions of the TCCC.
 2. Legal materials are confidential and may not be read as part of a search of client property, but may be physically inspected for contraband. Legal materials shall not be scattered, destroyed or handled in a manner that would unduly disrupt the materials or their organization.
- D.** Authorized use and damage:
1. If available, computers that are provided to clients for the purpose of accessing legal materials are intended solely for use in that purpose. Any other unauthorized use of computers with that capability is prohibited and may result in limitation of access to computers with that capability. Clients, and not TCCO or TCCC, shall be responsible for securing and maintaining the confidentiality of legal documents they create on any computers to which they are provided access.
 2. Clients shall be financially responsible for any damage to legal materials, computers or physical furnishings in the law library, and can be subject to limitation of their access to the law library as a result.
- E.** Clients may request that documents be notarized by a TCCC employee by submitting a Client Communication Request. The request shall provide the name of the document(s) to be notarized and advise of any relevant deadline. Services will be scheduled accordingly.

VI. Freedom from Retaliation

- A.** Employees or agents of the TCCO shall not interfere with, harass, punish, or otherwise penalize any client as a result of:
1. Participation in litigation, either as a party or a witness;
 2. For filing or threatening to file a lawsuit, grievance, appeal, or other complaint about TCCC conditions or official misconduct; or
 3. For discussing with others or writing to others about actual or potential legal action or other forms of grievance and complaint.
- B.** Clients' access to courts shall not be restricted through:
1. Blocking the preparation and filing of clients' lawsuits;

2. Refusal or delay in mailing or delivering clients' legal correspondence;
3. Taking away legal research materials;
4. Denying access to legal materials; or
5. Confiscation or destruction of legal materials.

SIGNATURE ON FILE

Marsha McLane
Executive Director

Attachment:

- Form TCCO-74-16 Client Acknowledgment of Receipt of Access to Courts Policy