

	JUVENILE JUSTICE SERVICES	Effective Date: 7/31/10
	Client Rights and Services	Issue Date: 7/31/10
	Title: Client Right to Telephone Use	
	Procedure #: P.20.11	

1 ISSUING AGENCY Children, Youth and Families Department (CYFD)

2 SCOPE Juvenile Justice Service (JJS)

3 STATUTORY AUTHORITY NMSA 32A-2-1, 32A-2-2.E

4 FORMS None

5 APPLICABLE POLICY: NMAC 8.14.20.11

CLIENT RIGHT TO TELEPHONE USE: To maintain ties with the community, each client in the care and custody of JJS shall have access to a telephone to make and receive personal telephone calls with frequency and time allotments subject only to the facility schedule and their respective program evaluation level.

[8.14.20.11 NMAC - N, 6/1/2010]

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7. DEFINITIONS

7.1 **“Contraband”** means objects or items which are unlawful or which threaten the security of the facility. Each facility shall provide to each facility client and the parent/guardian/custodian a copy of a list of what constitutes contraband items. This list shall include but not be limited to: weapons or objects that might be made into weapons, controlled substances including prescription medications that are not prescribed and distributed by facility personnel, escape plans, and plans for or incitement to any activity which is unlawful or which threatens the security of the facility.

7.2 **“Obscene”** means content or material the dominant theme of which, taken as a whole, appeals to the prurient interest or is patently offensive because it affronts contemporary community standards relating to the description or representation of sado-masochistic abuse or sexual conduct; and lacks serious literary, artistic, political or scientific value. The use of “swear words,” foul language, etc., standing alone, does not constitute obscenity.

7.3 **“Prohibited material”** means any inappropriate objects or items that a client is prohibited from possessing while in the facility. Each facility shall provide to each facility client a copy of a list of what constitutes prohibited material. This list shall include but not be limited to: obscene materials, gang signs or symbols or messages written in code, and any material which threatens the security of the facility.

7.4 **“Reasonable cause”** means knowledge by the Superintendent or any member of the facility staff of articulable facts, together with rational inference based on those facts, that would lead a reasonable person to believe that a client has committed an act or is planning an act that is prohibited by law or by CYFD facility procedures, or that an

envelope or package contains contraband or prohibited material as defined by these procedures, or that a communication that appears to be privileged is not in fact a privileged communication.

8. GENERAL PROVISIONS FOR CLIENT COMMUNICATIONS

- 8.1 These procedures will be provided to each client upon admission to the facility and prominently posted on bulletin boards in areas of the facility that are commonly used by clients.
- 8.2 Staff will give a copy of these procedures to non-clients upon request.
- 8.3 Clients have the right to communicate with persons or organizations subject only to these procedures, which are designed to balance the client's right to correspond with others against the need of the institutional staff to maintain the security of the facility and the health and safety of the clients and staff.
 - 8.3.1 Attorneys who represent the client or with whom the client is discussing potential representation, clergy, Juvenile Probation Officers, representatives of child advocacy groups, judicial or public officials, parents, siblings, grandparents, legal guardians or custodians, incarcerated and non-incarcerated relatives, non-incarcerated partners, privileged entities as detailed in this procedure, and children of the client shall be permitted to have written and telephonic communication with clients. A list of the persons who satisfy each of these types of contacts shall be immediately compiled for each client upon admission to the facility and regularly be updated to ensure that clients are not impeded in their efforts to communicate with these persons.
- 8.4 Items not on a facility's list of contraband or prohibited material will not be seized without a basis to believe they constitute a threat to the security of the facility.
 - 8.4.1 Such determination must be documented in writing in the client's master file and will require review and approval by the JJS Director/designee.
- 8.5 Any basic communication privilege, as described in this procedure, is never withheld or used as punishment, denied as a means of reducing privileges, or restricted for disciplinary reasons. Clients may be given additional privileges based on positive behavior.

9. LIMITATIONS ON PERSONS WITH WHOM CLIENTS MAY COMMUNICATE.

- 9.1 Clients may communicate/correspond with any person on their MDT-approved contact list, except as limited below. Based on clients individual program needs, clients may have other contacts as permitted by their MDT. Upon arrival at the facility and until the client's first MDT, the client's initial approved contact list is provided by the JPPO at intake.
- 9.2 The MDT reviews client requests to communicate with individuals not on the client's contact list, and makes decisions for approval/disapproval. Once a decision has been made by the MDT, the MDT provides the client's updated approved contact list to the Superintendent/designee, who then provides it to control. Any time a client request for contact has been denied by the MDT, the client shall be informed of their grievance rights and shall be given the opportunity to file a grievance.
- 9.3 If the client's MDT is not immediately available, clients may receive permission from their Case Manger or the Superintendent/designee to contact educational, vocational, and other necessary persons to facilitate their educational, vocational, or other programming goals. All such short-term contact approvals shall be forwarded to the client's MDT for notification and approval.

10. PHONE CALLS
 - 10.1 All calls are documented in the client master file.
 - 10.2 Clients do not place or receive calls directly.
 - 10.3 Staff verifies the reason for all calls and the contact relationship to the client.
 - 10.4 Clients are given the opportunity to contact a parent/guardian/custodian by phone within Twenty-four (24) hours of arrival at a facility.
 - 10.5 Clients are encouraged and are given the opportunity to call their parent/guardian/custodian.
 - 10.6 At least twice a week two (2) calls are paid for by CYFD/JJS.
 - 10.6.1 Additional calls may be made but placed as collect to the party being called.
 - 10.6.2 Clients shall be given the opportunity to have calls which are ten (10) minutes in length after the connection is established.
 - 10.6.3 Supervisory staff is responsible for developing and implementing a plan that allows for incoming and outgoing calls from the living unit.
 - 10.7 Based on the treatment recommendations and the client program level, a parent/guardian/custodian may provide a client with a prepaid calling card.
 - 10.7.1 The client does not retain possession of the card.
 - 10.8 Staff may impose reasonable restrictions on lengths of calls in order to accommodate all clients wishing to make calls.
 - 10.9 Calls are not recorded or monitored by staff unless the Superintendent/designee determines there is reasonable cause to believe that the client is planning an escape, trying to obtain contraband, communicating with persons who are not on the client's approved contact list, planning to commit a crime or delinquent act, that the phone call constitutes a crime or delinquent act in and of itself.
 - 10.9.1 Calls other than privileged calls as defined below can also be monitored or restricted if supervisory behavioral health staff determines that there is reasonable cause to believe that the communication will be detrimental to the client's mental health. If behavioral health staff determine that a call needs to be monitored for mental health reasons, behavioral health staff is responsible for monitoring the call.
 - 10.9.2 Every such determination to monitor or restrict a client's phone calls shall be made in writing, include the reason for the restriction, and recorded in a log maintained for this purpose.
 - 10.9.3 The client shall be notified of the restriction and/or monitoring decision and shall have the opportunity to make the call while being monitored or to refuse the call.
 - 10.10 Emergency phone calls are placed for or received for clients at any time.
 - 10.10.1 Any time a client is to be informed of a call regarding a death or other emergency situation, staff immediately notifies a member of behavioral health. Behavioral Health staff is present when the client is told the news.
 - 10.11 Privileged Calls: Clients may contact attorneys, advocacy groups, and judicial or public officials at any reasonable time between 9 am and 5 pm. Such calls are privileged and shall not be monitored, and clients shall be permitted to make such calls in a location that preserves confidentiality.
 - 10.11.1 Permission to make such calls is documented in client's master file.
 - 10.11.2 Staff verifies that the client is calling the designated individual, but may not otherwise listen to, monitor, or record the conversation except as follows:
 - 10.11.2.1 For calls made to public officials or advocacy groups other than attorneys and judicial officers, calls may be monitored only if the Superintendent/designee determines that there is reasonable cause to believe that the client is planning an escape, trying to obtain

contraband, or planning to commit a crime or delinquent act or that the phone call constitutes a crime or delinquent act in and of itself.

10.12 Any time a client's phone calls are monitored or otherwise restricted, the client shall be notified of their right to file a grievance regarding the monitoring or restriction.

11. NOTICE AND OPPORTUNITY TO OBJECT

11.1 When any action is taken to limit a client's communication (including limitations of access to the phone) the client and any other party affected by the action will be notified in writing as to the reason for action. The client may contest the action through the client grievance procedure.

12 AUTHORIZED SIGNATURE:



APPROVED: _____

**Bill Dunbar, Cabinet Secretary
Children Youth and Families Department**