

 <p><b>Corrections and Community Supervision</b></p> <p><b>DIRECTIVE</b></p>	TITLE <b>Law Libraries, Inmate Legal Assistance and Notary Public Services</b>		NO. 4483
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REFERENCES (Include but are not limited to)	APPROVING AUTHORITY 		

**I. DESCRIPTION:** This directive establishes guidelines for operation of facility Law Libraries, and provision of legal assistance and notary public services to inmates. These libraries and related services are designed to give inmates basic resources for legal research and preparation of legal papers. This directive does not supersede any Court Order or consent decree that applies to the operation of a specific facility Law Library.

**II. ADMINISTRATION**

A. Law Library Coordinator: The Department's Law Libraries are administered by the Law Library Coordinator under the direction of Department Counsel. Any departure from the specifications set forth in this directive including proposals for schedule, floor plan, or location changes must be authorized by the Department's Law Library Coordinator who will consult with the facility Law Library Administrator prior to implementation.

The Law Library Coordinator will provide training for Law Library Supervisors. The Law Library Coordinator has responsibility for establishing guidelines for the training of Inmate Law Clerks and for the operation of such Legal Research Courses.

B. Law Library Administrator: Each Superintendent shall designate a Deputy Superintendent (or functional equivalent) to serve as facility Law Library Administrator and as liaison with the Law Library Coordinator. The Law Library Administrator shall be responsible for the overall operations of the facility Law Library. He or she shall ensure that the facility Law Library is adequately staffed and that the staff is trained to perform the functions described in this directive. He or she shall be responsible for assigning staff persons to render assistance under any special circumstances, which cannot be satisfied by available Law Library staff, and shall receive and respond to requests for special access to the Law Library.

C. Law Library Supervisor: Each Superintendent shall assign an employee as Law Library Supervisor to manage the day-to-day operations of the facility Law Library. The Law Library Supervisor's responsibilities shall include:

1. Collection Management - ensure that the facility's law collection contains all the materials required by the Department. Missing materials must be replaced as soon as possible. When necessary, the Law Library Supervisor shall facilitate access to urgently needed, missing materials through an interlibrary loan arrangement with a nearby facility Law Library.
2. Record Keeping - maintain a written record of material borrowed for use inside or outside the Law Library, maintain a written record of requests for legal assistance; and maintain a list of all legal books, journals, papers, and materials held in the Law Library. The Law Library Supervisor shall post this list in a conspicuous place; and distribute it upon request to any inmate unable to visit the Law Library.

3. Supervision - supervise inmate Law Library workers, and delegate specific tasks. In those cases where an inmate requesting assistance is either illiterate, has Limited English Proficiency (LEP), or is prohibited from visiting the Law Library, the Law Library Supervisor shall interview, or request the Law Library Administrator to designate another staff person to interview the inmate prior to arranging assistance or assigning an inmate worker to provide it.
4. Security - maintain security of all Law Library materials, cause inspection of loaned and returned materials (inmate Law Clerks may conduct this inspection provided spot checks are also made by facility staff members), and initiate disciplinary proceedings/seek restitution when inmates damage or destroy Law Library materials.
5. Authorizing Inmate Assistance - receive requests from inmates desiring legal assistance from other inmates who are not assigned to the Law Library, determine if a working relationship between the two inmates is feasible and would not compromise the security, order or discipline of the facility, and, with the approval of the Law Library Administrator or the Superintendent, authorize such assistance.
6. Reporting - prepare the Monthly Law Library Use Form (available from the Law Library Coordinator) and submit it, via the Law Library Administrator, to the Law Library Coordinator to arrive not later than the tenth working day of each month.

### III. POLICY

- A. Notice to Inmates: Consistent with the provisions of this directive, each facility shall prepare specific written procedures for access to and use of its Law Library resources and legal assistance services. These procedures shall cover each of the topic headings described below, and shall be conspicuously posted for reference by all segments of the inmate population and filed with the Law Library Coordinator.
- B. Law Library Hours/Access: The Law Library shall be open for access a minimum of seven hours per day, at least six days per week, or six hours per day, seven days per week, unless a written variance has been issued by the Department's Law Library Coordinator. The Law Library may be closed, however, for some or all legal holidays, without need for a variance, if the Law Library Administrator determines that such closures will not significantly impact on inmate access to the courts.

General population inmates shall have physical access to and use of the Law Library. To the extent possible, all inmates requesting access to the Law Library shall be scheduled for access in a manner which ensures equal opportunity. To the extent possible, requests for access shall be granted as soon as possible. Requests for special access (continuous or repetitious), to meet a legally defined deadline, shall be addressed to the Law Library Administrator.

- C. Order of Service: Requests for use of Law Library resources will be answered and provided on a "first come - first served" basis. Whenever requested material is in use, or a request for use cannot be promptly granted, a chronological reserve list will be maintained to determine subsequent use.

- D. Cell Study Services: Inmates prohibited by their confinement status from visiting the Law Library shall be allowed to study Law Library materials in their cells and obtain legal services normally available to general population inmates.

Such inmates may request, in writing, a maximum of two items per day and these will be delivered, if available, within 24 hours of receipt of the request. Inmates may retain said legal materials for a period of not less than 16 hours nor more than 24 hours. Whenever feasible, in-cell use of Law Library materials shall be scheduled during hours the Law Library is not open so they can be returned and be available for general population use during regular hours.

In extenuating circumstances and with the permission of the Law Library Coordinator, facility Law Library Supervisors may loan photocopies of requested Law Library materials rather than the materials themselves.

- E. Legal Assistance: Inmate requests for assistance in using the Law Library or for obtaining Law Library services shall be made to the Law Library Supervisor who will respond on a "first come - first served" basis. The Law Library Supervisor shall either personally assist the inmate, assign an Inmate Law Clerk, or request the Law Library Administrator to delegate another staff person to provide the assistance. Special provisions must be made to accommodate the legal assistance needs of those who are illiterate, have Limited English Proficiency (LEP), or are prohibited from visiting the Law Library.

Any inmate may request that any other inmate in the same facility provide legal assistance. Such request shall be made to the Law Library Supervisor. The inmate of whom such assistance is requested shall advise the Law Library Supervisor whether he or she wishes to provide such assistance. The Law Library Supervisor, with the approval of the Law Library Administrator or the Superintendent, may permit such assistance if the security, order or discipline of the facility would not be endangered thereby.

No payment of any type from or on behalf of an inmate shall be permitted in exchange for legal assistance.

- F. Inmate Staffing: The program committee (or equivalent) and the Law Library Administrator shall ensure that trained Law Library workers, sufficient in number, expertise and linguistic ability are assigned to perform the following services:

1. Assist inmates using the Law Library and its resources;
2. Assist inmates who have Limited English Proficiency (LEP), and who need help expressing themselves in writing; and
3. Assist inmates who are prohibited from visiting the Law Library, because of their population status, either through an in-person visit or via correspondence.

Job titles for inmate Law Library workers may include Paralegal Assistant, Administrative Clerk, Legal General Clerk, Clerk Typist, and Porter.

- G. Law Clerk Training/Legal Research Courses: Guidelines for the training of Inmate Law Clerks and for the operation of Legal Research Courses are provided by the Law Library Coordinator. The Law Library Administrator shall ensure that the facility Law Library is adequately staffed with a sufficient number of trained Inmate Law Clerks by facilitating Legal Research Courses as needed. The teaching functions will be carried out by the most qualified individual at the correctional facility. This individual may be the Law Library Supervisor or an experienced Inmate Law Clerk. Other teaching arrangements may be considered by the Law Library Coordinator in extenuating circumstances at the request of a Law Library Administrator.
- H. Writing Materials: The facility shall provide reasonable quantities of plain white paper, carbon paper, legal size envelopes, large manila envelopes, and black ink pens to inmates requesting same for preparation of legal papers. Any inmate requesting an unusual quantity of such supplies may be required to provide verification of the scope of his or her current legal research or legal writing activities to demonstrate the need for the quantity requested. The Law Library Administrator shall determine the location(s) for distribution of these materials. The Law Library Supervisor will ensure that adequate quantities of these supplies are ordered for distribution. The Law Library Administrator will ensure that such orders are promptly filled.

Note: Inmates who are not able to visit the Law Library due to assignment to a SHU, shall be issued a black ink mini pen (approximately 4" in length). Upon request of the inmate for the purpose of completing legal work (facilitating production of 3-5 carbon copies), a flexible barrel mini pen (if issued) shall be exchanged for a stiff barrel mini pen, unless a deprivation order has been issued. Once the mini pen is issued in SHU, it will only be replaced on an exchange basis.

- I. Photocopying: The facility shall provide reasonable photocopying service to inmates requesting copies of their legal papers and/or Law Library materials, subject to copyright regulations. The Law Library Supervisor or other staff assigned to facilitate the legal photocopying service shall review all materials submitted to ensure that they are legal in nature. All photocopying requests must be accompanied by a disbursement form (IAS 2706). All disbursement forms for legal photocopying must be forwarded to the Business Office no later than the end of the shift when received. Absent extenuating circumstances, the inmate must receive his or her photocopies within five business days of receipt of the disbursement form (IAS 2706) in the Business Office. Two-day commissary holds, where applicable, might increase the delivery deadline to seven days. Fees shall be assessed equal to the facility's cost of reproduction excluding costs for staff time.

An inmate lacking sufficient funds may not receive photocopying services, unless the Law Library Supervisor, in consultation with the Law Library Administrator or the Office of Counsel, approves an advance for same. Advances will only be authorized for photocopies of specific documents that are required by the courts that cannot be replicated longhand. All requests for legal photocopy advances must be accompanied by a completed Form IAS #2708, "Authorized Advance Request."

- J. Notary Service: Facilities shall establish a schedule which ensures inmates in general population with reasonable access to the services of a notary public within 72 hours of request excluding weekends and holidays. Inmates confined to special housing, keeplock and protective custody shall be provided notarial services at least two times per week.
  - K. Typewriters: The facility Law Library will be equipped with a sufficient number of working typewriters, word processors or computers so that Inmate Law Clerks and inmates eligible to visit the Law Library may type legal papers. Typing services provided by Inmate Law Clerks must be made available to all inmates on an equitable basis. If a Law Library offers an inmate the use of a word processor or computer in lieu of a typewriter, or if a clerk is providing typing service using a word processor or computer, the inmate must be provided photocopies or printer copies, if necessary, equal to the number of carbon copies that the inmate could have made using a typewriter.
  - L. Deprivation Order: Inmates who purposely damage, destroy, or misuse Law Library materials or supplies, consistently fail to return materials when due, or who persist in exhibiting abusive behavior toward Law Library Supervisors or others who facilitate legal assistance services may have their Law Library services curtailed through issuance of a temporary deprivation order. The violations must first be documented through the disciplinary process, and authorization for the deprivation order obtained from the Law Library Coordinator or from other staff in the Office of Counsel or Library Services.
  - M. Complaints: Inmates with complaints concerning access to and the use of Law Libraries and/or Law Library services may address their complaints to the Law Library Supervisor, the Law Library Administrator, the Superintendent, and the Department's Law Library Coordinator in that order.
- IV. NEW YORK STATE LIBRARY PRISONER SERVICES PROJECT**: The New York State Library offers inmates access to the resources held in its legal collection through the Prisoner Services Project (PSP). This service is restricted to legal materials held in the State Library such as, but not limited to: legal records and briefs, older case law decisions, out-of-state case law decisions or statutes, and law journal articles. The PSP will not fill requests for materials that should be held by the facility Law Library. Inmates may register for this service, and receive an initial supply of request forms, by writing to the Prisoner Services Project at the New York State Library, Cultural Education Center, Albany, NY 12230. Materials sent to fill an inmate's request are either in photocopy or microfiche format. Such materials are sent as "legal mail" and are to be processed as privileged correspondence by the correctional facility. Upon receipt, PSP materials are deemed to be the personal property of the requesting inmate.