
 <b>Corrections and Community Supervision</b>  <b>DIRECTIVE</b>	TITLE <b>Law Libraries, Incarcerated Individual Legal Assistance and Notary Public Services</b>		NO. 4483
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REFERENCES (Include but are not limited to) ACA Expected Practices 5-ACI-3D-01, 5-ACI-3D-03, 2-CO-3C-01	APPROVING AUTHORITY 		

- I. DESCRIPTION:** This directive establishes guidelines for the operation of facility Law Libraries, and provision of legal assistance and Notary Public services to incarcerated individuals. These libraries and related services are designed to give incarcerated individuals 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. The Director of Library Services will serve as 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 the responsibility for establishing guidelines for the training of Incarcerated 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 the 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. They shall ensure that the facility Law Library is adequately staffed and that the staff is trained to perform the functions described in this directive. They shall be responsible for assigning staff 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 the 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 current materials required by the Department. All superseded materials must be recycled. 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 or Central Office.

2. **Record Keeping and Retention:** Maintain (pursuant to disposition/retention records requirements) 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 incarcerated individual unable to visit the Law Library.
3. **Supervision:** Supervise incarcerated Law Library workers and delegate specific tasks. In those cases where an incarcerated individual 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 incarcerated individual prior to arranging assistance or assigning an incarcerated worker to provide it.
4. **Security:** Maintain security of all Law Library materials, cause inspection of loaned and returned materials (Incarcerated Law Clerks may conduct this inspection provided spot checks are also made by facility staff members) and initiate disciplinary proceedings/seek restitution when incarcerated individuals damage or destroy Law Library materials.
5. **Authorizing Incarcerated Individual Assistance:** Receive requests from incarcerated individuals desiring legal assistance from other incarcerated individuals who are not assigned to the Law Library; determine if a working relationship between the two individuals 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 no later than the second working day of each month.

### III. POLICY

- A. **Notice to Incarcerated Individuals:** 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 incarcerated population and accessible to 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 incarcerated individual access to the courts. A variance is required whenever there is a deviation of the Law Library's schedule unless it has been previously mandated by a permanent variance.

Incarcerated individuals in general population shall have physical access to and use of the Law Library. To the extent possible, all incarcerated individuals requesting access to the Law Library shall be scheduled for access in a manner which ensures equal opportunity and 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: Incarcerated individuals 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 individuals.

Where available, tablets that are specifically designated for Law Library use should be distributed to incarcerated individuals who are unable to physically visit the Law Library. Tablet use may be limited by availability and/or location within a correctional facility. If tablets are not available, incarcerated individuals may request, in writing, a maximum of two items per day of written materials available in the Law Library which will be delivered, if available, within 24 hours of receipt of the request. Incarcerated individuals may retain said legal materials for a period of not less than 16 hours nor more than 24 hours.

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

- E. Legal Assistance: Incarcerated individual 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 incarcerated individual, assign an Incarcerated 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 LEP, or are prohibited from visiting the Law Library.

Any incarcerated individual may request that any other incarcerated individual in the same facility provide legal assistance. Such request shall be made to the Law Library Supervisor. The incarcerated individual of whom such assistance is requested shall advise the Law Library Supervisor whether they wish 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 incarcerated individual shall be permitted in exchange for legal assistance.

- F. Incarcerated Individual 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 incarcerated individuals using the Law Library and its resources.
2. Assist incarcerated individuals who have LEP, and who need help expressing themselves in writing.
3. Assist incarcerated individuals 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 incarcerated 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 Incarcerated 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 Incarcerated 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 Incarcerated Law Clerk. Other teaching arrangements may be considered by the Law Library Coordinator in extenuating circumstances, at the request of the Law Library Administrator.
- H. Writing Materials: The facility shall provide reasonable quantities of white paper (at least 8 ½" x 11"), carbon paper, legal size envelopes, large manila envelopes, and black ink pens to incarcerated individuals requesting same for preparation of legal papers. Any incarcerated individual requesting an unusual quantity of such supplies may be required to provide verification of the scope of their 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: Incarcerated individuals 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 incarcerated individual, 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 incarcerated individuals 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 (ICAS #2706) or copy card. 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 incarcerated individual must receive their photocopies within five business days of receipt of the disbursement form (ICAS #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 incarcerated individual 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 ICAS #2708, "Authorized Advance Request."

- J. Notary Public Services: Facilities shall establish a schedule which ensures individuals in general population have reasonable access to the services of a Notary Public within 72 hours of the request, excluding weekends and holidays.
- Individuals confined to SHU 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 Incarcerated Law Clerks and incarcerated individuals eligible to visit the Law Library may type legal papers. Typing services provided by Incarcerated Law Clerks must be made available to all incarcerated individuals on an equitable basis. If a Law Library offers an incarcerated individual 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 incarcerated individual must be provided photocopies or printer copies, if necessary, equal to the number of carbon copies that the incarcerated individual could have made using a typewriter.
- L. Deprivation Order: Incarcerated individuals 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: Incarcerated individuals 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. INCARCERATED LEGAL RESOURCES PROGRAM (ILRP):** The Incarcerated Legal Resources Program (ILRP) provides incarcerated individuals with access to legal resource materials not available in the facility Law Libraries, through the Secure Offender Network (SON) and the print material. The ILRP is limited to obtaining the following resources: American Law Reports articles; court decisions; law review articles less than twenty years old; New York Law Journal articles; sections of the New York State Code of Criminal Procedure; the historic penal law; other state statutory law; and records and briefs for New York State cases, U.S. Supreme Court cases, and federal cases from the U.S. Court of Appeals, Second Circuit. Requests for older copies of records and briefs that are only available in microfiche format by the New York State Library will be provided in electronic format.

The official [Form #ILRP](#), "Incarcerated Legal Resources Program Request Form," must be used in order to submit requests. The completed request forms are to be sent to the ILRP/Library Services address listed on the form.

**The ILRP will not fill requests for materials that are available in print or electronic format in the facility Law Library. All incarcerated individuals, including those receiving cell study services, will receive written notification if their request has been filled or not available from ILRP. If the ILRP cannot find the information that is needed, a referral to New York State Unified Courts will then be recommended.**