



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
PRISON
OFFENDER/SPANISH MANUALS

REVISION DATE
4/15/21

PAGE NUMBER
1 of 12

NUMBER
DOC 590.500

POLICY

TITLE
LEGAL ACCESS FOR INCARCERATED INDIVIDUALS

REVIEW/REVISION HISTORY:

- Effective: 1/5/00
- Revised: 5/24/04
- Revised: 2/14/06 AB 06-003
- Revised: 6/7/07 AB 07-016
- Revised: 5/20/08
- Revised: 7/17/09
- Revised: 6/20/11
- Revised: 1/21/13
- Revised: 11/16/15
- Revised: 9/25/18
- Revised: 11/5/20
- Revised: 4/15/21

SUMMARY OF REVISION/REVIEW:

I.B. - Added proceedings for a new felony charge and witnessing for a felony/criminal proceeding for telephonic/virtual appearances
Added I.C. that virtual hearings will be coordinated through the Legal Liaison Officer


APPROVED:

Signature on file

STEPHEN SINCLAIR, Secretary
Department of Corrections

4/6/21

Date Signed

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REFERENCES:


DOC 100.100 is hereby incorporated into this policy; [RCW 10.73.090](#); DOC 200.000 Trust Accounts for Incarcerated Individuals; DOC 320.255 Restrictive Housing; DOC 440.000 Personal Property for Offenders; DOC 450.100 Mail for Individuals in Prison; DOC 450.200 Telephone Use by Incarcerated Individuals; [28 U.S.C. 2244\(d\)\(1\)](#)

POLICY:


- I. All incarcerated individuals, regardless of language barriers or financial/educational status, will be provided with meaningful access to the courts.
- II. Individuals in restrictive housing will have access to legal documents, materials, and resources per DOC 320.255 Restrictive Housing.
- III. Incoming and outgoing legal mail will be processed per DOC 450.100 Mail for Individuals in Prison.

DIRECTIVE:


- I. General Requirements
 - A. Incarcerated individuals will be given the opportunity to:
 1. Communicate with the courts and legal counsel.
 2. Research and prepare legal matters in the following order of priority:
 - a. Actions related to their sentence and/or confinement, including county jail time.
 - b. Actions related to their civil rights.
 - c. Actions related to proceedings in a dependency court.
 3. Access materials necessary for preparing and filing a legal pleading, as follows:
 - a. Paper, writing tools, and legal and manila envelopes may be purchased through the commissary.
 - 1) Manila envelopes are not available for purchase by indigent individuals. When determined to be necessary by an employee, 9" x 12" envelopes will be provided to send authorized legal mail per DOC 450.100 Mail for Individuals in Prison.

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- b. Writing tools will be available for loan and additional paper may be provided for individuals who run out before finishing their work while in the Law Library.
 - c. Carbon paper may be made available for use only while in the Law Library.
 - 4. Purchase and retain personal legal reference books and materials from authorized sources, subject to the property limitations per DOC 440.000 Personal Property for Offenders.
 - 5. Obtain free notary services, as appropriate.
 - a. Facilities will establish procedures for providing free notary services to incarcerated individuals.
 - b. Incarcerated individuals receiving a legal name change will be provided access to free notary services under the new legal name for purposes of accessing community-based essential services (e.g., federal/state assistance, licensing, power of attorney, court records/pleadings).
 - 6. Communicate with family members, friends, and support groups by means of visitation, mail, and/or telephone to obtain assistance in pursuing legal matters.
 - a. Individuals will be provided reasonable opportunity to access telephones for confidential legal matters per DOC 450.200 Telephone Use by Incarcerated Individuals.
- B. Employees will ensure individuals have access to Department resources for court ordered proceedings when the individual has been approved for a telephonic/virtual appearance for actions related to their:
 - 1. Sentence and/or confinement, including county jail time
 - 2. Civil rights
 - 3. Proceedings in a dependency court
 - 4. Proceedings for a new felony charge
 - 5. Witnessing for a felony/criminal proceeding
- C. Virtual hearings will be coordinated through the Legal Liaison Officer, who will ensure all information on DOC 02-027 Virtual Hearing Request has been received by the court.

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- D. Facilities will establish processes for employees to serve legal documents (e.g., Court summons) to incarcerated individuals.
 - E. Confidential attorney visitation to discuss legal matters will be allowed.
 - 1. The Superintendent may set reasonable limits on the time, place, and manner of visits with legal counsel or verified representatives employed by legal counsel.
 - 2. Attorneys/verified representatives will not provide documents or any other items to incarcerated individuals during legal visits without prior approval. Documents can be sent to the individual per DOC 450.100 Mail for Individuals in Prison.
 - F. Individuals must notify the case manager of pending legal actions when a permanent transfer is being proposed/planned.
 - 1. If an individual informs an employee of any verified court-imposed deadline or can demonstrate prejudice to a current case, the employee should provide priority handling of that individual's personal legal documents/papers during a transfer.
- II. Assistance in Legal Matters
- A. An incarcerated individual may confer with another incarcerated individual in researching and preparing legal pleadings.
 - 1. No Incarcerated individual may represent, attend, hear, or participate in another individual's legal matter before a legal tribunal unless called as a witness.
 - 2. An incarcerated individual cannot, under any circumstances, receive any form of favor or payment for the time, efforts, equipment, or materials used in assisting another individual. Anyone found to be in violation of this requirement will be subject to disciplinary action.
 - a. No contract agreement, fee, or consideration may be charged by an incarcerated individual who assists another with any legal matter.
 - 3. Access Assistants may assist individuals with disabilities in the Law Library per written expectations set by their supervisor as part of a work program, and when related to legal documents (e.g., reading, writing).
 - a. Assistants will not be authorized to provide legal advice or assistance with legal matters.

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- B. Incarcerated individuals may assist each other in preparing legal documents in the Law Library when the schedule allows.
1. When possible, sufficient time in the Law Library should be provided to both individuals.
 2. The Superintendent may limit the time, place, and manner in which individuals confer inside or outside of the Law Library based on security levels, housing assignment, security concerns, and general order of the facility.
- C. An incarcerated individual assisting another in legal matters may only possess the other's legal documents/papers while both are in the Law Library, or other area designated by the Superintendent.
1. All personal legal documents/papers must be retained by the individual(s) directly involved in the legal matter.
- D. Individuals who are unable to read or write English or otherwise disabled will be referred by the Law Librarian first to contracted attorneys, then trained law clerks. Other incarcerated individuals may also provide legal assistance.
- E. Software and headphones will be available in each Law Library to assist visually impaired individuals.
1. The equipment will be tested and documented monthly by the Law Librarian.
- F. Individuals wanting to serve legal documents on a Department employee or contract staff may not use other incarcerated individuals, employees, or contract staff. An individual may:
1. Ask the court for assistance,
 2. Ask or retain a person outside the facility (e.g., county Sheriff, commercial process server) to serve the documents, or
 3. Ask for assistance from the facility's legal service contractor(s), where available.
 - a. Legal service contractors can assist only if:
 - 1) The documents being served are a summons and complaint filed in a state superior court, challenging conditions of confinement, and

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2) The employee or contract staff works in the same facility where the incarcerated individual is currently housed.

b. Legal service contractors will not assist with federal complaints, personal restraint petitions, Public Records Act suits, and cases against the Department or another state agency.

III. Possession of Legal Materials/Documents

A. Individuals will be allowed to possess their personal legal materials/documents with the exception of those housed at the Reception Diagnostic Centers (RDCs).

1. Except for community custody violators, personal legal materials/documents will be stored in the Law Library at RDCs. Individuals will have access upon request through the Law Librarian only.

a. Community custody violators at an RDC may possess personal legal materials/documents.

2. Individuals may possess discovery documents pertaining to their own criminal case if redacted.


a. If preparing to challenge their convictions, individuals will be given the opportunity to view, but not possess un-redacted criminal discovery documents pertaining to their criminal case.

1) This is not applicable to public disclosure material/requests.

b. Facilities will establish procedures to allow individuals to view un-redacted criminal discovery documents. The process will include, but not be limited to, the storage and disposition of the documents.

3. Individuals will not possess legal materials (e.g., case law, legal documents) containing information about another Washington State incarcerated individual.


B. The Superintendent may limit the quantity of legal materials an individual may accumulate in order to maintain adequate sanitary conditions, meet storage space limitations, reduce fire hazards, and provide reasonable ease for conducting security inspections. Limitations may also be placed on the possession time and amount of personal legal documents/papers allowed in a specific security level and/or housing unit.

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- C. The Superintendent may authorize additional storage if personal legal documents/papers needed to meet a court-imposed deadline exceed the storage limit specified in DOC 440.000 Personal Property for Offenders.
- D. Legal materials, copies of the individual's prior cases, and other public documents that have a very common, general availability and use will be handled the same as all other property, books, and papers.
- E. Personal legal documents/papers will not be read by employees during inspections and security searches if the documents/papers are stored in an authorized container (e.g., envelope, folder, box) separate from other legal materials.
 - 1. The container must be clearly marked as personal legal documents/papers and stored in an area designated by the facility.
 - 2. Each document within the container must be clearly labeled with the individual's name, DOC number, and the document title in the top inch of the document.
 - 3. Personal legal documents/papers that are not properly stored and labeled will be handled the same as other property.
- F. The Superintendent may limit access to legal pleadings and personal legal materials, depending upon behavior, security, and rules of the housing unit.

IV. Legal Media Recordings

- A. The Superintendent/designee will retain and store audio/video recordings received from one of the following:
 - 1. A court, if sending proceedings and other recordings that are submitted as evidence for the current conviction.
 - 2. The Prosecuting Attorney, if sending recorded court proceedings that were submitted as evidence in an appellate case.
 - 3. Prisons, Community Corrections, or the Indeterminate Sentence Review Board for Department hearings.
- B. Recordings will be documented on DOC 19-080 Receipt of Legal Media Materials and retained for 90 days after the final level of administrative or court appeal.

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1. Every 90 days, individuals will notify the Superintendent/designee of the status of the appeal. If notification has not been received 90 days after the final level of appeal, the individual will be notified of disposition options per DOC 440.000 Personal Property for Offenders.
- C. The individual must make a request to the Superintendent/designee to be placed on callout to view/listen to the individual's own recording(s).
- V. Photocopying/Scanning
- A. Photocopy/scanning requests will be submitted to the Law Librarian/designee(s) on DOC 19-084 Legal Copy/Indigent Postage/Scanning Request, allowing 5 business days from the day it is received to schedule the request in advance of any known deadlines.
 - B. Individuals may obtain photocopies of their own legal pleadings being submitted to the court, opposing party, or opposing counsel in cases regarding current conviction, conditions of confinement including county jail confinement, challenges to the sentence, and/or child dependency.
 1. Incarcerated individuals representing themselves may incur a debt for photocopies if they do not have sufficient funds to pay the required fee at the time of the request. Photocopying fees will be recovered per DOC 200.000 Trust Accounts for Incarcerated Individuals.
 2. Photocopying will be limited to:
 - a. The number of copies necessary to meet specific court rules, including bench/judge's copies
 - b. One copy each for the opposing party(ies)
 - c. One copy for the counsel of record listed on the Judgment & Sentence for appeals
 - d. One copy for the individual's records if the individual is not keeping the original
 - e. Up to 5 pages being submitted to the Office of Corrections Ombuds (OCO), which will not be processed as legal mail
 - 1) The individual waives confidentiality for the purposes of photocopying and sending to the OCO.
 3. Photocopies should be made in the requestor's presence, except for those in restrictive housing if it compromises security. If the requestor is not prepared for the scheduled photocopying appointment, the requestor may either:



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- a. Agree to return at a reasonable, specific time for the copying to be completed, or
 - b. Waive having the copies made in the requestor's presence and return to pick up the copies at an agreed upon time.
4. Photocopies will be treated as legal mail per DOC 450.100 Mail for Individuals in Prison and will be mailed out immediately.
- a. Public Records Act (PRA) requests and associated documents are not considered legal mail/documents and are not eligible for photocopying/scanning.
- C. Individuals may obtain a photocopy for the following if they have sufficient funds to pay the required fee at the time of the request:
1. Working legal documents for active cases or letters to legal entities per 450.100 Mail for Individuals in Prison, and
 2. Legal documents/papers or legal materials which are not legal pleadings, including but not limited to:
 - a. Family law documents,
 - b. Legal name change documents, or
 - c. Tort claims.
- D. DOC 06-075 Request to Transfer Funds must be completed to request withdrawals from the individual's account to pay for photocopy services. The fee for any photocopies is 20 cents per page.
- E. The Superintendent may restrict access to photocopies if there is documentation that the requestor is barred from litigation in a particular court, or is making excessive requests, such as requesting:
1. More than one additional copy other than the original for personal mailing.
 2. More copies of briefs, appeals, and writs of habeas corpus than the court requires.
- F. Cases needing to be filed in the Eastern/Western United State District Court of Washington will be scanned per the General Order of the respective court. This does not apply to copies for discovery.
1. After the document is scanned, it will be returned to the requestor. No other copies will be provided.

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2. When the Notice of Electronic Filing (NEF) is provided by the court, it will be printed and sent to the incarcerated individual via facility mail within 2 business days. The NEF is not considered legal mail.

VI. Law Library

- A. All Level 3 and higher facilities will have at least one Law Library. Individuals will have access to a Law Library and/or the resources of a Law Library, assistance from individuals trained in the law, and/or access to legal service contractors.
 1. The Law Library will contain relevant and up-to-date:
 - a. Constitutional, statutory, and case materials
 - b. Applicable state and federal court rules
 - c. Practice treatises
- B. Each Law Library will be maintained by a Law Librarian.
 1. Incarcerated individuals will be hired as clerks and trained to work with the Law Librarian to provide effective Law Library assistance.
 2. Employees may open the Law Library when the Law Librarian is unavailable as long as incarcerated individuals are supervised while in the Law Library.
- C. Each Law Library will provide reasonable access to the general population. Facilities will make reasonable adjustments to allow individuals to use the Law Library during weekend and evening hours, when necessary.
 1. An individual housed at a minimum facility who has legal needs regarding electronic filing, habeas corpus, civil rights actions, challenges to the individual's conditions of confinement, and/or child dependency may request an initial temporary transfer to a major facility designated by the Department to use the Law Library for up to 90 days.
 - a. The individual will be allowed full access to the Law Library as scheduling allows or per priority access procedures and must attend all callouts.
 - b. During the temporary transfer, individuals will not be able to program (e.g., attend school/work).
 - c. Individuals housed in a Minimum Security Unit at a Level 3 or higher facility must be physically transferred through Headquarters to use the Law Library.

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- d. Extension of initial transfer timelines will be made at the discretion of the receiving Superintendent.
2. Access to a Law Library employee will be available to individuals in long-term restrictive housing upon written request to:
 - a. Provide timely guidance relating to the resources available from the Law Library, or
 - b. Answer questions and/or make necessary referrals to other available legal services.
- D. Priority Access
1. The Superintendent/designee may grant priority access or accommodation to an individual who demonstrates an exceptional need regarding actions related to the individual's sentence, confinement, civil rights, and/or child dependency such as:
 - a. A documented or identifiable court deadline within 45 days of the request.
 - b. Any demonstrated prejudice to a case if access is not obtained.
 - c. An identifiable deadline imposed by court rule or statute including deadlines for appeals or imposed per RCW 10.73.090 or 28 U.S.C. 2244(d)(1).
 2. To request priority access, individuals will complete and submit DOC 02-247 Law Library Request for Priority Access to the designated employee. Copies of court documents can be included as attachments at no cost to the individual.
 - a. If the employee cannot determine whether the individual has correctly identified a deadline, the individual will be given up to 5 business days to locate additional documentation for consideration before needing to submit a new request.
 - b. If no deadline is established, the form will be returned to the individual with reasons noted.
- E. Each Law Library will maintain a Brief Bank in which any incarcerated individual can file a copy of a legal pleading related to terms of confinement or conditions of sentencing that may be helpful to another, provided the pleading does not threaten legitimate penological objectives or security needs.

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1. Briefs submitted to the Brief Bank must have the names of parties or any other sensitive/confidential information redacted.
 2. Law Librarians will index briefs and make them available for review in the Law Library and to those in restrictive housing.
- F. The Superintendent may establish reasonable restrictions consistent with legitimate penological goals and security needs regarding the possession, time, and quantity of reference materials allowed in the Law Library.

DEFINITIONS:

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Exhibit, Indigent, Legal Materials, Legal Matter, Legal Pleadings, Personal Legal Documents/Papers. Other words/terms appearing in this policy may also be defined in the glossary.

ATTACHMENTS:

None

DOC FORMS:

- DOC 02-027 Virtual Hearing Request
- DOC 02-247 Law Library Request for Priority Access
- DOC 06-075 Request to Transfer Funds
- DOC 19-080 Receipt of Legal Media Materials
- DOC 19-084 Legal Copy/Indigent Postage/Scanning Request