



PROBATION AND PAROLE BUREAU STANDARD OPERATING PROCEDURES

Procedure No.: P&P 20-5	Subject: LEGAL ASSISTANCE FOR STAFF
Reference: DOC 1.1.9 2-9-305, MCA ; 53-1-201, MCA	Page 1 of 3
Effective Date: 06/01/00	Revision Dates: 09/20/01; 10/06/08; 08/10/11; 03/08/12
Signature / Title: /s/Ron Alsbury, Probation & Parole Bureau Chief	

I. BUREAU DIRECTIVE:

The Department of Corrections' Legal Services Unit will provide Probation & Parole Bureau staff with legal advice and assistance to aid in the performance of duties, and provide legal defense for employees who are sued for acts performed during the course and scope of duties. This procedure outlines the system of assistance available to staff in the event general counsel is required.

II. DEFINITIONS:

Department – The Montana Department of Corrections.

III. PROCEDURES:

A. Availability of Counsel

The Department attorneys will generally be available for legal advice and consultation. A central email address for the Legal Services Unit (Legal) has been established at CORLegalMailbox@mt.gov.

Staff may confer with attorneys for the following:

1. Developing and evaluating Probation & Parole Bureau (Bureau) procedures;
2. Advising the Bureau Chief of necessary adjustments in procedure necessitated by a changing legal climate, including implementing court decisions relating to specific operations and offender rights;
3. Evaluating unusual operational issues; and
4. Evaluating and defending legal actions against the Bureau or its employees, including answering motions, preparing responses to interrogatories, and assisting in any other legal activity against Bureau staff for actions taken during the legal performance of their duties.

Legal assistance will be provided in connection with litigation filed against the Bureau or an individual staff member. All actions filed against the Department, a facility or an individual staff member will be handled directly by Department counsel in the Helena Central Office.

Should substantial evidence indicate an employee's conduct was illegal or outside the scope and course of employment, legal representation may be denied.

Procedure No.: 20-5	Section: Personnel	Page 2 of 3
Subject: LEGAL ASSISTANCE FOR STAFF		

An employee being sued may retain private counsel at his/her own expense. If private counsel is retained, Legal will be notified immediately and employee will be responsible for the defense of the lawsuit thereafter.

B. Employee Responsibility

Employees are responsible for providing Legal with all documents, subpoenas, and other materials related to any legal action to which they are a part. Staff must cooperate fully with the attorneys who defend them.

1. Requests for Legal Assistance

- a. If an employee believes he/she has a legal question and wants to discuss it with an attorney, the employee should first contact their immediate supervisor for discussion.
- b. If the supervisor is unable to respond to the question, the supervisor should direct the employee to contact the Regional Administrator (RA), and then the Bureau Chief for a response.
- c. If it is determined that assistance from Legal is needed, employee should email request to CORLegalMailbox@mt.gov, with a copy to the supervisor. The assigned attorney will contact the employee as best determined by the attorney.
- d. In an emergency, if a supervisor is not available, the employee may directly contact an attorney by whatever means is available.

2. Receiving Complaints, Petitions, Summonses and Subpoenas

- a. When an employee receives a complaint, petition, summons or subpoena concerning a work-related issue outside of routine offender court proceedings, the employee must do the following as soon as possible:
 - 1) note the date, time and method the document was received;
 - 2) contact Legal immediately;
 - 3) make a personal copy of the document; and
 - 4) forward all documents to Legal at Helena Central Office.
- b. The employee may sign indicating receipt of the document. An employee may not sign to accept the document on behalf of any other employee unless specifically designated to do so.
- c. The employee must **NOT** sign and return a form entitled, "Acknowledgement of Service" if received, but must immediately forward the complaint and acknowledgement to Legal.

3. Subpoenas and Summonses to Appear and Testify

- a. Employees will notify supervisor and immediately forward a copy of the document to Legal;
- b. Legal will provide instructions to the employee;
- c. Employee will respond to the subpoena in an on-duty status and submit all necessary expenses per established procedures unless the entity or person originating the subpoena prepays such expenses; and
- d. Employees will forward any witness fees received or state vehicle mileage allowance to the fiscal and accounting bureau.

Procedure No.: 20-5	Section: Personnel	Page 3 of 3
Subject: LEGAL ASSISTANCE FOR STAFF		

- e. Employees subpoenaed in a civil or criminal case as a personal consultant (non-work related) or expert witness will respond to the subpoena on approved leave and at their own expense.

IV. CLOSING:

Questions concerning this procedure shall be directed to the Regional Administrator, Bureau Chief, or the Legal Services Unit.