



**STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE**

Policy No. DOC 3.3.2	Subject: OFFENDER LEGAL ACCESS TO COURTS
Chapter 3: FACILITY/PROGRAM OPERATIONS	Page 1 of 3 and Attachment
Section 3: Rights and Privileges	Effective Date: Oct. 1, 1997
Signature: /s/ Mike Ferriter, Director	Revised: 07/13/11

I. POLICY

The Department of Corrections will assist incarcerated offenders who desire to access the courts.

II. APPLICABILITY

All Department-owned and contracted adult secure facilities, as specified in contract.

III. DEFINITIONS

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility or program operation and management.

Offender Library Worker (OLW) – An offender assigned to work in a facility library in the Offender Legal Assistance Program to perform the duties outlined in the OLW job description.

Pro se – The offender represents himself or herself in court without an attorney.

IV. DEPARTMENT DIRECTIVES

A. Electronic Legal Research and Legal Forms

1. Each facility will provide, at a minimum, the following legal reference materials to offenders:
 - a. the Montana Code Annotated;
 - b. the published decisions of the Montana Supreme Court;
 - c. the decisions of the Ninth Circuit Court of Appeals;
 - d. the decisions of the United States Supreme Court;
 - e. the United States Code, Titles 28 and 42; and
 - f. federal and state rules of court.
2. Each facility will have the following forms available to provide to offenders who request them:
 - a. notice of appeal;
 - b. motion to withdraw guilty plea;
 - c. petition for post conviction relief, memorandum and affidavit;
 - d. petition for habeas corpus relief;
 - e. petition for DNA testing;
 - f. form 28 U.S.C. 2254;
 - g. federal complaint;
 - h. in forma pauperis form;

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- i. petition for executive clemency; and
- j. application for sentence review.

B. Assistance Provided to Offenders

1. Each administrator will designate a staff member to oversee offender access to legal materials and to assist offenders to access the appropriate forms and perform legal research.
2. Each facility will assist illiterate, disabled, and non-English speaking offenders who wish to file a form identified in Section A.2 above. Each administrator will designate a staff member to assist these offenders in obtaining the required legal materials.
3. The designated staff member may designate one or more offender library workers to assist in the provision of legal access for other offenders. If the facility employs offender library workers, the OLWs may help disabled offenders and perform other duties to assist the Offender Legal Assistance Program.
4. Each facility will have procedures that allow for attorney access to offenders in accordance with [DOC Policy 3.1.5, Entrance Procedures and Detainment of Non-Offenders](#).

C. Photocopies and Other Services

1. At the discretion of the administrator, the facility may provide a copy machine for offenders to make photocopies for litigation purposes.
 - a. the facility may establish the cost for copies of legal research or court pleadings, which may include an administrative fee, but may not exceed \$.25 per page; and
 - b. the cost of the copies will be deducted from the offender's account.
2. Upon request, a designated staff member will provide copies of legal research or court pleadings free of charge to indigent offenders when there is a demonstrated need for such copies in an amount not to exceed 30 pages per month.
3. Each facility will offer notary service to offenders free of charge for the first five (5) documents per month. Any additional notarizations may be charged up to \$2.00 per document.
4. Offenders who are indigent may request first class postage for legal mailings not to exceed eight mailings or a maximum of \$10.00 postage per month.

D. Prohibited Activities

1. Except as provided in Section B.3 above, an offender may not provide legal work or write a legal document for another offender, to do so may result in disciplinary action.
2. An offender may retain only his or her own personal legal papers, in accordance with [DOC Policy 4.1.3, Offender Personal Property](#).
3. Facility staff will not retaliate against or penalize any offender who chooses to access the courts.

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V. CLOSING

Questions concerning this policy should be directed to the Department's Legal Services Bureau.

VI. REFERENCES

- A. [2-15-112](#), MCA; [37-61-201](#), MCA; [37-61-210](#), MCA; [37-61-418](#), MCA
- B. 4-4274, -4275, -4276, *ACA Standards for Adult Correctional Institutions, 4th Edition*
- C. *DOC Policies* [3.1.5](#), *Entrance Procedures and Detainment of Non-offenders*; [3.3.6](#), *Offender Mail*; [4.1.3](#), *Offender Personal Property*; [4.1.4](#), *Indigent Status*

VII. ATTACHMENT

None