

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE		EFFECTIVE DATE 04/01/2020	NUMBER 05.03.115
SUBJECT LAW LIBRARIES		SUPERSEDES 05.03.115 (11/01/2010); DOM 2020-8	
		AUTHORITY MCL 791.201, MCL 791.203	
		PAGE 1	OF 5

POLICY STATEMENT:

Michigan Department of Corrections (MDOC) facilities shall have law libraries available for prisoner use as set forth in this policy.

RELATED POLICY:

05.03.116 Prisoners' Access to the Courts

POLICY:

GENERAL PROVISIONS

- A. MDOC facilities shall have at least one law library for prisoner use. Law libraries are to be used for legal research and legal writing purposes only. A prisoner who uses the law library for other purposes (e.g., "visiting") or who fails to follow library rules may have that session terminated and be required to leave the library. A prisoner who engages in behavior in the law library for which a misconduct will be written shall have that session terminated and be required to leave the library consistent with Paragraph X.
- B. An electronic law library (ELL) shall be available for prisoners to research Michigan and federal case law and Michigan statutes relevant to conditions of confinement and challenges to the prisoner's criminal conviction. The ELL shall be located in each law library or other locations as deemed necessary by the Correctional Facilities Administration (CFA) Special Activities Coordinator. An ELL located in an area other than the law library shall be available for prisoner use consistent with the requirements for law library access as set forth in this policy directive.
- C. Each law library shall contain all of the items identified in Attachment A. Additional copies of Attachment A items must be available if demand cannot be met with a single copy. State-appropriated funds are to be used to purchase these items but shall not be used to purchase any other items. All items shall be kept current. Items that are lost, defaced, stolen, or destroyed must be promptly replaced, unless no longer available from the publisher, using state-appropriated funds.

SUPPLEMENTING THE-LAW LIBRARY COLLECTION

- D. The Prisoner Benefit Fund (PBF) may be used to purchase additional law library items consistent with the requirements set forth in PD 04.02.110 "Prisoner Benefit Fund." Items purchased and updated through the PBF shall remain in the law library until the items are worn out or are no longer current. These items shall be replaced by a new copy or revised edition unless the Law Librarian and a majority of the PBF committee agree the items should be eliminated.
- E. Donated legal publications, including law books, may only be accepted with the approval of the CFA Special Activities Coordinator in consultation with the Litigation Manager within the Office of Legal Affairs (OLA). However, publications shall not be accepted from an offender or an individual known to be related to an offender. All donated publications shall be inspected for contraband prior to being made available to prisoners. Donated publications that contain contraband shall be referred to the Inspector and may be discarded without notice to the donating party.
- F. Prisoners may request access to additional legal research materials through inter-library loans, when available. They also may purchase photocopies of legal research materials through the State Law

Library by submitting a request for the photocopies to the facility Librarian. The facility Librarian shall review the request for accuracy and completeness and forward it to the State Law Library on the Institutional Resident Request form (IRR). Each request must include the prisoner's name, number, lock number, and facility. The IRR may be submitted to the State Law Library by e-mail, U.S. Mail, or State ID Mail. The prisoner is responsible for payment of any photocopying charges assessed. Funds shall not be loaned for these photocopying expenses or for postage.

INVENTORY OF LAW LIBRARY COLLECTION

- G. At least every six months, each law library shall be inventoried to identify any Attachment A and PBF purchased items that need to be replaced. The inventory shall be retained by the Librarian in accordance with the Department's Retention and Disposal Schedule. The inventory shall include the date each item was inventoried and, for Attachment A items, when any necessary replacements were ordered and received.

LAW LIBRARY

Location

- H. The law library shall be located in an area where there is sufficient room to house the ELL equipment and the law library collection. It shall be functional in design, having sufficient space for tables and seating for law library users. It also shall be well lighted and free from noise and other distractions that would impair concentration.

Staffing

- I. The Librarian in charge of the general library pursuant to PD 05.03.110 "Institutional Library Services" also shall be in charge of the law library. Library coverage generally shall be provided by the Librarian or a library assistant/library technician. However, another staff person shall provide coverage when the Librarian and their staff are temporarily away from the library (e.g., staff meeting) or absent from the facility, including if the positions are temporarily vacant. Prisoners may be assigned as law library clerks pursuant to PD 05.01.100 "Prisoner Program Classification."
- J. Librarians, their staff, and law library clerks shall be trained in the proper use of the ELL and the law library collection, conducting legal research, and how to assist prisoners in the use of the ELL and the law library collection. However, neither staff nor prisoner clerks shall provide legal advice beyond instructions on the use of the ELL and the law library collection. Prisoner clerks shall not have the authority to deny other prisoner's access to the library, the ELL, or the law library collection.

Hours of Use

- K. Each law library shall be open a minimum of 25 hours per week, with at least 12 of those hours being after 5:00 p.m. or on weekends. Law library operating schedules shall be adjusted as necessary if demand for access to the law library cannot be met within established hours.
- L. Subject to Paragraphs A and X, each general population prisoner shall be permitted at least four hours per week of law library use in sessions of not less than one hour each, unless a shorter session is requested by the prisoner and approved by the Librarian or designee. ELL use shall be counted toward this minimum requirement. A session terminated pursuant to Paragraph A or X is not required to be rescheduled to meet this requirement. Travel time to and from the library shall not be counted in the allotted library time. Time spent by a prisoner receiving legal assistance through the Legal Writer Program also shall not be counted in the allotted library time.
- M. Prisoner requests to use the law library or an ELL shall be submitted in accordance with facility procedures. The prisoner shall be scheduled to attend law library, or access an ELL, as soon as the law library schedule permits, unless there are other higher priority call-outs that cannot be waived or the prisoner requests a later date that is approved by the Librarian or designee. "Emergency" law library callouts, including to use an ELL that is not within the law library, shall be allowed under written criteria

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 04/01/2020	NUMBER 05.03.115	PAGE 3 OF 5
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developed by the Warden or designee.

- N. A prisoner who has direct access to the law library or to an ELL may request additional time from the Librarian or designee to meet a court deadline requiring additional research time. The prisoner may be required to present documentation supporting the need for the additional time. Additional time shall be granted if there is a demonstrated need for the additional time. The additional hours shall be scheduled outside the prisoner's assignment hours if necessary.
- O. Law library operating schedules shall ensure that a prisoner who chooses to use the law library or an ELL is not deprived of yard privileges due to a complete overlap in yard and law library schedules. If there is some overlap, it shall not exceed two of the required four hours unless yard time is available to the prisoner at other times during the week.

LIMITATIONS ON DIRECT ACCESS TO LAW LIBRARY

Segregation

- P. Prisoners in segregation shall not be allowed to go to the law library. Instead, the prisoners shall be allowed to receive upon request at least five Attachment A items at one time from the required law library collection at least twice each week. The Segregation Law Library Request Form (CSJ-601) shall be used for this purpose. Requested items shall be delivered to the prisoner on the next day that scheduled service is provided to the housing unit after receipt of the request unless the prisoner does not return all items previously delivered to them or the item has been loaned to another prisoner. A prisoner's failure to return previously delivered items shall be handled in accordance with PD 03.03.105 "Prisoner Discipline." Copies of specifically identified sections of an Attachment A item may be provided in lieu of providing an entire item. A prisoner shall be allowed to keep requested items, or copies provided in lieu of the requested items, for at least two calendar days. Prisoners in administrative segregation may have access to the Legal Writer.
- Q. Upon request, prisoners in segregation shall be provided access to a copy of Attachment A to this policy directive. The prisoner shall be allowed access to the list for at least 2 hours.
- R. Prisoners in segregation who are on a paper restriction pursuant to PD 04.05.120 "Segregation Standards" shall be provided access to items from the law library collection and a copy of Attachment A in the same manner as access is provided to legal documents pursuant to PD 04.05.120.

Multi-Level Institutions

- S. Subject to Paragraph T, prisoners housed in security Level I of a multi-level institution shall either be allowed to go to the law library or be provided direct access to an ELL that is not within the law library. Prisoners who only have access to an ELL shall be allowed to receive upon request at least five Attachment A items at one time at least twice each week. Requested items shall be delivered to the prisoner on the next day library services are provided to the housing unit following receipt of the request, unless the prisoner does not return all items previously delivered to them or the item has been loaned to another prisoner. A prisoner's failure to return previously delivered items shall be handled in accordance with PD 03.03.105 "Prisoner Discipline." A prisoner shall be allowed to keep requested items for at least two calendar days.
- T. Level I prisoners who do not have access to the law library, or an ELL that is not in the law library, may be temporarily placed in a higher security level at that institution for the purpose of conducting legal research. The prisoner may remain in the higher security level until the legal research has been completed. Prisoners temporarily moved for this purpose may be assigned full-time to the law library to complete the research in lieu of being assigned to work or school. In such cases, the prisoner shall not be paid for the library assignment but shall receive credit for the assignment on the Security Classification Screen - Review form (CSJ-481) as set forth in OP CFA 05.01.130 "Completion of Security Classification Forms - for Male Prisoners."

Inpatient Medical/Psychiatric Units

- U. Prisoners in an inpatient medical/psychiatric unit are provided legal services through the Legal Writer program pursuant to PD 05.03.116 "Prisoners' Access to the Courts." A prisoner in an inpatient medical/psychiatric unit also may be allowed to go to the law library in the same manner as general population prisoners or be provided direct access to an ELL that is not within the law library as determined by the Warden, and approved by the treating Qualified Mental Health Professional (QMHP).

Reception Facilities

- V. Prisoners undergoing reception center processing are provided legal services through the Legal Writer program pursuant to PD 05.03.116 "Prisoners' Access to the Courts." These prisoners also may be allowed to go to the law library in the same manner as general population prisoners, be provided direct access to an ELL that is not within the law library, or be permitted to receive upon request at least five Attachment A items at one time twice each week as determined by the Warden. Requested items shall be delivered to the prisoner on the next day that scheduled service is provided to the housing unit after receipt of the request unless the prisoner does not return all items previously delivered to them or the item has been loaned to another prisoner. A prisoner's failure to return previously delivered items shall be handled in accordance with PD 03.03.105 "Prisoner Discipline." Copies of specifically identified sections of an Attachment A item may be provided in lieu of providing an entire item. A prisoner shall be allowed to keep requested items, or copies provided in lieu of the requested items, for at least two calendar days.

PRISONER MISCONDUCT

- W. A prisoner who engages in conduct in the law library, or at an ELL, for which a misconduct will be written shall have that session terminated and be required to leave the library. The prisoner also may be temporarily barred from further access to the library, including the ELL, pending the hearing on the misconduct. If the prisoner is found guilty of the misconduct, they may be barred from further access to the library or ELL for a period of time not to exceed 180 days. In such cases, the prisoner shall be permitted to receive upon request at least five Attachment A items at one time twice each week. Requested items shall be delivered to the prisoner on the next day that scheduled service is provided to the housing unit after receipt of the request unless the prisoner does not return all items previously delivered to them or the item has been loaned to another prisoner. A prisoner's failure to return previously delivered items shall be handled in accordance with PD 03.03.105 "Prisoner Discipline." Copies of specifically identified sections of an Attachment A item may be provided in lieu of providing an entire item. A prisoner shall be allowed to keep requested items, or copies provided in lieu of the requested items, for at least two calendar days. If a restricted prisoner requests additional legal research materials due to pending litigation, the Administrator of the Office of Legal Affairs or designee shall be consulted for guidance on how to proceed.
- X. A prisoner who is found guilty of a misconduct for damaging or destroying law library items, including ELL equipment, may be limited to only receiving copies of requested items from the law library collection for a period of time not to exceed 180 days. This limitation also may be temporarily imposed pending the misconduct hearing. If the prisoner damages or destroys the copies provided, the Administrator of the Office of Legal Affairs or designee shall be consulted regarding any additional restrictions that may be imposed. The Administrator of the Office of Legal Affairs or designee also shall be consulted if a restricted prisoner requests additional legal research materials due to pending litigation.

PROCEDURES

- Y. If necessary, to implement requirements set forth in this policy directive, Wardens shall ensure that procedures are developed or updated.

AUDIT ELEMENTS

- Z. A Primary Audit Elements List has been developed and is available on the Department's Document

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 04/01/2020	NUMBER 05.03.115	PAGE 5 OF 5
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Access System to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audits and Performance Audits."

ATTACHMENTS

AA. This policy includes the following attachments:

1. Attachment A - Required Collection for the Law Library

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DOCUMENT TYPE PD ATTACHMENT	EFFECTIVE DATE 04/01/2020	NUMBER 05.03.115A	PAGE 1 OF 2
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ATTACHMENT A

REQUIRED COLLECTION FOR THE LAW LIBRARY

BOOKS PROVIDED BY LEXIS

1. Butterworth's English/Spanish Legal Dictionary
2. Legal Research Guide: Patterns and Practice
3. Criminal Procedure: Constitutional Constraints Upon Investigation and Proof
4. Criminal Procedure, 8th Edition
5. The Lawyer's Craft: An Introduction to Legal Analysis, Writing, Research and Advocacy
6. Constitutional Litigation Under Section 1983
7. Weissenberger's Michigan Evidence Courtroom Manual

MICHIGAN MATERIALS

8. Michigan Rules of Court - State
Volumes: Current
Publisher: Thomson/West
9. The Sentencing Guidelines Manual
2000 to present
Publisher: State Bar of Michigan (updates available upon request)

or

Michigan Sentencing Guidelines Manual
2000 to present
Publisher: Thomson/West

FEDERAL MATERIALS

10. Federal Civil Judicial Procedure and Rules * (current edition - available in paperback)
Publisher: Thomson/West

GENERAL MATERIALS

11. Black - Black's Law Dictionary (8th or subsequent edition)
Publisher: Thomson/West
12. Department administrative rules
13. Non-exempt Department policy directives and Director's Office Memoranda
14. Non-exempt Department-wide operating procedures and CFA operating procedures
15. Non-exempt operating procedures for the institution where the library is located
16. April Resource Directory: State Bar of Michigan

DOCUMENT TYPE PD ATTACHMENT	EFFECTIVE DATE 04/01/2020	NUMBER 05.03.115A	PAGE 2 OF 2
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17. State Bar of Michigan List of Active Michigan Attorneys
18. Diplomatic List (current edition; available online)
Publisher: U.S. Department of State
19. Consular Notification and Access - (current edition as provided by Director's Office)
Publisher: U.S. Department of State
20. The Hearings Handbook

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