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STATE OF MICHIGAN
IN THE COURT OF CLAIMS

JOHN CHAPPEL CAIN, RAYMOND C. WALEN, JR.,
ELTON FLOYD MIZELL, PAUL ALLEN DYE,
JOHN CHANDLER EWING, DELBERT M. FAULKNER,
C. PEPPER MOORE, RAMON COBOS, RONALD SIMPSON-BEY
On behalf of themselves and all others similarly situated,

HONORABLE JAMES R. GIDDINGS

Plaintiffs,

Case Nos: 88-61119-AZ
93-14975-CM
96-16341-CM

v.

MICHIGAN DEPARTMENT
OF CORRECTIONS,

Defendant.

Prison Legal Services of Michigan, Inc.
Attorneys for Plaintiffs
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PO Box 828
Jackson, MI 49204
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**ORDER APPROVING AGREEMENT TO RESOLVE PLAINTIFFS' CLAIMS
REGARDING ACCESS TO COURTS**

At a session of court held on

Nov. 4, 2003

PRESENT: HON. JAMES R. GIDDINGS
Court of Claims Judge

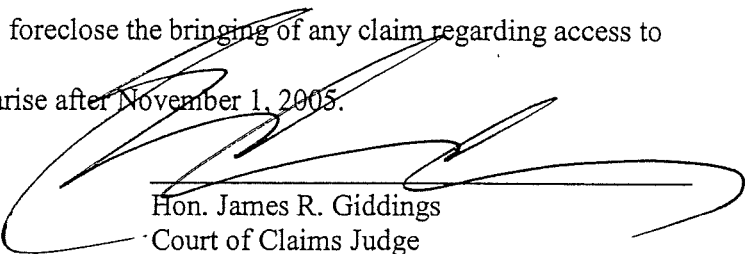
This matter having come before the Court by the presentation of the Agreement to
Resolve Plaintiffs' Claims Regarding Access to Courts under the Michigan Constitution and the
Court, recognizing the Agreement to Resolve Plaintiffs' Claims Regarding Access to Courts as
being a private settlement agreement as defined by MCL 600.5531(f) and notice having been

given to the Plaintiff class members and the Court having considered the comments timely received and the Court being otherwise advised in the premise;

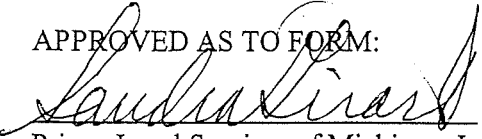
IT IS ORDERED that other orders granting prospective relief related to Plaintiffs' access to courts claims are vacated, including, but not limited to, the August 31, 1992 Contempt Order; the November 23, 1993 Order Granting and Denying Injunctive Relief; the February 7, 1997 Order on Legal Assistant Between Prisoners; the July 3, 1997 Order Enjoining PD 04.04.110 In Part; the October 21, 2001 Order Denying Plaintiffs' Motion to Enjoin Implementation of Defendant's Twenty Postage Stamp Limit and Enjoining Reduction of Prisoners' Personal Postage Stamps Below Sixty Until Specified Conditions Are Satisfied; and the April 9, 2002 Order on Defendant's Motion for Summary Disposition Regarding Telephones;

IT IS FURTHER ORDERED that the Plaintiffs' claims regarding access to courts under the Michigan Constitution contained within Plaintiffs' Consolidated Court of Claims Complaint are dismissed with prejudice, except for the relief permitted by MCL 600.5531(f), and as authorized in the Agreement to Resolve Plaintiffs' Claims Regarding Access to Courts;


This dismissal is not intended to foreclose the bringing of any claim regarding access to courts, as described above, which may arise after November 1, 2005.


Hon. James R. Giddings
Court of Claims Judge

APPROVED AS TO FORM:


Prison Legal Services of Michigan, Inc.
Attorney for Plaintiffs

By: Sandra Girard (P33274)


A. Peter Govorchin (P31161)

Allan J. Soros (P43702)

Attorneys for Defendant

Govorchin/CAIN CASE/Settlement Documents/10 31 03 Order re Agreement re Access to Courts

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**AGREEMENT TO RESOLVE PLAINTIFFS' CLAIMS REGARDING
ACCESS TO COURTS**

The parties, through counsel, acknowledge the following:

1. That Plaintiffs' Complaints filed in April 1988 and as subsequently modified, including the Consolidated Court of Claims Complaint filed July 2, 1996 asserted denial of access to courts claims under the Michigan Constitution.
2. The parties agree that the access to courts claims contained in Plaintiffs' Consolidated Court of Claims Complaint should be dismissed with prejudice, except for the relief permitted by MCL 600.5531(f), and in paragraph 22 of this Agreement, in exchange for the

provisions made in this Settlement Agreement and except as set forth in the Court's August 28, 2003 Order Dismissing Certain Claims Without Prejudice.

3. The MDOC agrees to promulgate and implement the following Policy Directive, Operating Procedure and/or DOM modifications within 45 days after the Order adopting this Agreement is entered and develop and implement the following forms no later than December 5, 2003.

A. Each CFA institution shall develop an Operating Procedure clarifying the procedure by which prisoners may obtain photocopies of necessary legal documents which shall be produced within three business days. The local Operating Procedures shall follow the form of the template in Attachment 3 to this Agreement. Copies of the completed local OP's shall be provided to the parties.

B. The Legal Photocopy Disbursement Authorization (Attachment 4) shall be used by prisoners to request photocopies. This form shall be available in the housing units and the law libraries. The parties agree that on October 1, 2004 the \$.10/page charge for prisoner legal photocopies will be adjusted at each institution according to the following formula:

Actual per page cost shall be rounded up to the next highest cent plus 2 cents. Actual costs include only all purchase/lease/maintenance costs plus toner, paper and electricity. The base period for determining the per page cost to be charged for prisoner legal photocopies as of 10-01-04 shall be July and August 2004. The calculations for each institution's machine used for prisoner legal photocopies shall be provided to counsel for the parties.

C. The MDOC shall modify its Prisoner/Parolee Grievances Policy, PD 03.02.130 to expressly require that:

- 1) All grievances rejected for the reason that the grievance presents a non-grievable issue shall be signed by the grievance coordinator and the grievance coordinator's supervisor.
- 2) All recommendations to place a prisoner on modified grievance status shall include a list of the grievances forming the basis for the recommendation and the reason for the recommendation. The grievance coordinator and the grievance coordinator's supervisor shall sign off on the recommendation for imposing modified grievance status.

- 3) Grievances and grievance appeals at all steps shall be considered filed when sent.
 - 4) The MDOC will maintain its current policy, PD 05.03.118(K), effective 11-01-02, on postage loans for grievances and rehearing requests.
 - 5) The MDOC will cease using grievance rejection code 28Z (Other) and will add grievance rejection code 28I (failing to attempt to resolve issue with staff member involved) as set forth in PD 03.02.130, ¶ Q, effective 4-28-03.
 - 6) Grievances should not be rejected or denied solely because they do not include what is considered to be a "necessary exhibit." If a grievance references documents that the grievance coordinator and/or respondent does not already have at his/her disposal (e.g., Record Office file), the documentation should be reviewed with the prisoner as part of the investigation process; copies can be made as necessary, at no cost to the prisoner.
- D. The MDOC shall modify the definition of "legal mail" in its expedited legal mail operating procedure, OP CFA 05.03.118, III A to read as follows: "Legal Mail – (for purposes of the expedited handling procedures in this OP) – Mail clearly identified as being to a court or attorney, or to a party to a new or pending lawsuit, contained in an envelope or other mailing package addressed consistent with the contents of the papers being mailed. This includes the initial filing and service of a lawsuit. This shall also include a transcript request addressed to a court or a court reporter."
- E. The MDOC shall allow prisoners to use the expedited legal mail system to send mail to Prison Legal Services of Michigan, Inc. (PLSM), the State Appellate Defender Office (SADO), Michigan Appellate Assigned Counsel System (MAACS), and any legal aid organization.
- F. Requests for rehearing shall be considered filed when sent.
- G. The MDOC shall require its prisoner call-out system to add a code to allow prisoner call-outs to law libraries just for copies. Prisoners shall also be allowed to submit documents for photocopying during regular law library call-outs.

4. The parties agree that the Court found the prisoner disbursement system in use in the first half of 2001 for prisoner outgoing legal mail to be not constitutionally adequate to provide prisoners, as a group, access to Courts. The Department shall continue to assure that:

A. The MDOC has adopted and shall maintain a statewide operating procedure, CFA OP 05.03.118, to ensure timely processing of mail sent by disbursement, including, where filing fees are paid by disbursement and postage for the mail is paid by disbursement. The MDOC shall ensure that the filing fee and the pleadings are sent in the same envelope.

B. The MDOC shall ensure that legal mail sent by disbursement is at the post office within 2 business days after it is received by MDOC staff, per CFA OP 05.03.118.

5. Any damage claims by class members who have lost a right to present a claim on appeal because their pleadings were not mailed in a timely manner after being submitted to MDOC staff are dismissed without prejudice.

6. The MDOC shall amend PD 04.02.107 entitled, "Collection of Court-Ordered Victim Restitution/Filing Fees and Costs," effective 01-01-02 to provide that a prisoner who requests a Certificate of Prisoner Account Activity for the courts and their request includes all of the required information, the Certificate of Prisoner Account Activity shall be placed in the mail for return to the prisoner within five (5) business days of the date of receipt of the request by the institution's business office.

7. The MDOC will amend its access to courts policy, PD 05.03.116, effective 02-19-91, to implement the use of the "Flash Kite" form (Attachment 5). Prisoners may use the "Flash Kite" to submit an access to court problem specified on the Flash Kite form to the Deputy Warden's office for investigation as set forth in paragraph 5⁸ of this Agreement.

8. The MDOC shall require that the person in the Deputy Warden's office who is assigned to resolve the Flash Kite problem to report the action taken to resolve the Flash Kite to

the Deputy Warden's office within 24 hours of receipt of the Flash Kite by the Deputy Warden's office. The Flash Kite is to be turned into the housing unit staff who shall deliver it by the end of the shift to the assigned person in the Deputy Warden's office or Control Center or to the Duty Deputy. The Flash Kite responses shall be provided to the facility Warden every three months and audited annually. The audit reports shall be sent to the appropriate Regional Prison Administrator for review. The Flash Kite form will be reevaluated by the parties by May 3, 2004.

9. Prisoners who request special handling of their incoming legal mail must sign to receive it. Each institution shall develop a procedure to implement this paragraph and maintain a record of the prisoner's receipt.

10. The MDOC agrees to conduct bi-annual reviews of its "minimum collection for law libraries" for content. This requirement will be made part of Policy Directive PD 05.03.115, "Law Libraries." The MDOC's Office of Policy and Hearings (OPH) will conduct this review and report recommendations to the CFA Deputy Director. Prior to each bi-annual review, upon notice, the OPH shall invite suggestions for inclusion or deletion on the minimum collection for law libraries from the MDOC's law librarians, the State Appellate Defender's Office, the Prisons and Corrections Section of the State Bar of Michigan and each institution's PBF committee, and will consider additional suggestions as submitted.

11. The MDOC agrees that the law library collection will be as indicated in Attachment 1(A), (B) and (C) to this Agreement.

- A. In addition to the statutes identified in Attachment 1(A) to this Agreement, other Michigan criminal statutes will be provided as needed upon request.
- B. The semi-annual inventories of the law library contents shall include the law library's optional materials. The inventory shall

record items including the edition, date and most recent update where appropriate.

- C. Camp collections of OPs shall include all of those OPs included on Attachment A to the law library policy, PD 05.03.115. (Attachment 1A).
 - D. The MDOC shall include the Federal Standard Jury Instructions for 42 USC § 1983 civil rights cases in the mandatory minimum collection, Attachment A of PD 05.03.115.
12. For each segregation unit:
- A. The MDOC agrees to make available Attachment A to PD 05.03.115, the index and table of contents to the ICLE Family Law volumes identified on Attachment A of PD 05.03.115 and the MDOC's Hearings Handbook for prisoners' use upon request.
 - B. The MDOC will make public address announcements that expedited legal mail rounds are about to be made in each Level IV, V and VI segregation housing unit at least 10 minutes before making those rounds.
13. All segregation prisoners:
- A. Shall use the Segregation Law Library Resource Request Form in Attachment 2 to order materials from the law library. They may request as many items as they like on the form and they should receive at least five of the items they have requested if they are available.
 - B. Shall be allowed access to institutional typewriters for at least two hours per week in accord with PD 04.05.120, effective 02-21-00.
 - C. May be allowed to use the mini law library or typing room more than 2 hours/week if space permits in accordance with PD 04.05.120, effective 02-21-00.
 - D. Shall be allowed to either possess their legal papers in their cell or upon request have reasonable access to those legal papers in less than 48 hours.
14. The MDOC agrees to modify its law library policy, PD 05.03.115, as follows:
- A. At the end of paragraph I: However, purchases are not limited to those identified on Attachment B. These PBF purchased items will

remain in the law library unless the law librarian and a majority of the PBF committee agree the PBF purchased item(s) should be eliminated or until worn out or replaced by a new copy or revised edition.

- B. Paragraph K shall expressly authorize inter-library loans of materials between prison law libraries. A request for such a loan should be made as soon as practicable after the request is submitted to the law librarian by a prisoner. A prisoner shall not have to pay for a photocopy of an inter-library loan from another prison if the copy is left with the receiving library. However, the prisoner may purchase the copy at regular legal photocopying rates.
- C. Paragraph M shall be amended as follows: . . .however, another staff person shall provide on-site supervision if the librarian and librarian assistant are absent from the facility, including if the positions are temporarily vacant. This provision does not require the law library to remain open beyond the policy mandatory minimum with institutional staff.
- D. Amend paragraph Y to require that prisoners on toplock shall be allowed to go to law library in the same manner as general population prisoners.

15. A prisoner's request for law library call-out shall be processed within 48 hours of receipt if requested, the law library's scheduling permits and there are no conflicts that cannot be waived. Each institution shall allow emergency law library call-outs and may develop written criteria.

16. The MDOC shall allow typing or photocopy paper to be sold in the prison stores in packages up to 500 sheets.

17. The MDOC shall: (A) allow only one voice-over announcement during a prisoner phone call; (B) allow prisoners to bring their legal papers to the phone when talking to their attorneys; (C) ensure that each person responsible for approving or denying placement of attorney phone numbers on a prisoner's PIN list to have access to a current Bar Journal directory

to determine whether an individual is an attorney; and (D) allow prisoners to place an attorney's home phone number on their approved PIN lists at the attorney's written request.

18. The MDOC agrees to provide training for its prisoner law library clerks. This training shall be developed by the MDOC's law librarians as selected by the MDOC. This training shall include training in use of the collections, doing legal research and showing patrons how to use the collections. All MDOC law librarians, assistant librarians and all prisoners hired as law library clerks shall be required to successfully complete this training. A copy of the curriculum and materials shall be provided to counsel for the parties.

19. There will be statewide coverage of all eligible prisoners by the legal writer program by December 5, 2003 through substantial compliance with Attachment 6. A notice about the legal writer program service and the eligibility requirements shall be translated into Spanish and posted at all prisons.

20. The MDOC will continue to honor and allow legal assistance agreements between prisoners as presently authorized in PD 05.03.116, effective date 02-19-91, as modified by DOM 2003-1. Initial requests for a legal assistance agreement will be granted or denied within ten business days of the request being received. If a timely request for a renewal of a legal assistance agreement has been submitted, the current legal assistance agreement shall continue until the request for renewal is approved or denied.

21. The MDOC shall continue to allow prisoners to enter into legal assistance agreements, which shall last for no less than one year, subject to renewal for one year periods until completion of the case as provided in PD 05.03.116 effective 02-19-91 and DOM 2003-1. A request to enter into a legal assistance agreement may not be denied on the ground that one or both of the parties is pending transfer or because the party providing the assistance is already

providing assistance to others. A request to renew a legal assistance agreement may not be denied because one or both of the parties has transferred one or more times since the original legal assistance agreement or a prior renewal of one was signed. The legal assistance provider may possess the legal property, as defined in paragraph 23, belonging to someone with whom he has a legal assistance agreement.

22. Defendant shall not search attorneys entering the secured portion of its facilities on professional visits in a manner different than the search conducted on judges and prosecutors who enter the secure portion of MDOC facilities.

23. Prisoner Legal Property. Prisoners may have those materials that are reasonably necessary to assist the prisoner with his/her pending litigation. The MDOC shall accept a prisoner's representation as to materials needed unless it is belied by a cursory examination of the materials in question. All legal property hearings held by Defendant shall be governed by the standard in *Hadix v Johnson*, 712 F Supp 550 (ED Mich 1989). Prisoners shall continue to be permitted to possess legal property, defined as follows:

- A. Books, photographs, diagrams, documents, pleadings and any other written materials reasonable necessary to a prisoners' pending litigation, or reasonably necessary to another prisoner's pending litigations provided there is a current, valid agreement for legal assistance with the other prisoner in accordance with PD 05.03.116 "Prisoners' Access to the Court and Legal Assistance" and Director's Office Memorandum 2003-1. This includes any lawsuit or criminal or administrative appeal which has been filed and has not been finally disposed of by a court or administrative agency, and any lawsuit or criminal or administrative appeal which is being prepared for filing.
- B. Pleadings, transcripts, court orders and court opinions from the criminal case for the offense for which the prisoner is currently serving, even if there is no pending litigation.
- C. Example or sample pleadings that will assist in litigation.

- D. Final opinions and orders in any case. This includes a final opinion or order of another prisoner with whom the prisoner has not entered into a legal assistance agreement.
 - E. Documents and correspondence pertaining to *Cain v. MDOC*.
 - F. Documents and correspondence pertaining to other pending class actions, if the prisoner is a member of the class.
 - G. Documents and correspondence pertaining to pending grievances and misconducts and pending appeals therefrom.
 - H. Documents and correspondence pertaining to divorce and support, visiting and custody matters; these are pending litigation if there are minor children even if a judgment has been entered.
 - I. Calendars as sold in a prisoner store at any institution or as described in Paragraph E of PD 04.07.112, effective 03-25-02.
 - J. The above definition of "legal property" applies to a prisoners' legal material which they have in their immediate possession and to those which they are sending to or receiving from a court, attorney, or legal assistance provider. However, correspondence containing these materials shall not be considered "legal mail" or entitled to expedited legal mail handling.
 - K. Typewriters, to the extent set forth in paragraph 12 of the July 15, 2003 Stipulation to Settle Plaintiffs' Claims Regarding Personal Typewriters.
24. The MDOC shall not require storage of a prisoner's legal materials outside the prisoner's cell when the prisoner is not in Level VI or administrative segregation.
25. The MDOC shall not prevent a prisoner from receiving multiple copies of an item through the mail.
26. The MDOC will continue to conduct excess legal property hearings in accord with OP 04.07.112, effective 02-20-01 and define legal property in accord with PD 04.07.112, effective 3-25-02, except that typewriters and typewriter accessories are covered by the July 15, 2003 Typewriter Agreement. The Department shall convene, and complete, an administrative hearing within thirty days from the date it removes excess legal materials from a prisoner's cell.

27. The MDOC shall continue to allow the use of prisoner debit cards for photocopying at those institutions currently using prisoner debit cards. Nothing in this agreement shall prevent the MDOC from expanding the use of prisoner debit cards to additional institutions.

28. The MDOC agrees to continue its practice of not placing recording /listening devices in its attorney visiting rooms nor audio recording or electronically listening to attorney-prisoner confidential conversations in those same attorney visiting rooms.

29. The MDOC shall withdraw its Motion for Rehearing of the Court's order regarding prisoner to attorney phone calls. The MDOC will modify its prisoner call control system to allow prisoners to place collect telephone calls to attorneys on their PIN list and the Universal PIN list lasting up to 20 minutes in duration.

30. The parties agree that orders granting prospective relief related to Plaintiffs' access to courts claims are vacated, including, but not limited to, the August 31, 1992 Contempt Order; the November 23, 1993 Order Granting and Denying Injunctive Relief; the February 7, 1997 Order on Legal Assistance Between Prisoners; the July 3, 1997 Order Enjoining PD 04.04.110 In Part; the October 21, 2001 Order Denying Plaintiffs' Motion to Enjoin Implementation of Defendant's Twenty Postage Stamp Limit and Enjoining Reduction of Prisoners' Personal Postage Stamps Below Sixty Until Specified Conditions Are Satisfied; and the April 9, 2002 Order on Defendant's Motion for Summary Disposition Regarding Telephones.

31. The parties agree that the Court's order of June 8, 1998 mandating financial contributions or payments from the MDOC to PLSM should be vacated.

32. Dispute resolution:

A. A party must bring an alleged violation of this Agreement to that party's counsel within 30 days of becoming aware of the alleged violation.

- B. Within 30 days notice of a violation of this Agreement, counsel for the complainant will give written notice to opposing counsel, with any supporting documentation of the alleged violation.
- C. Within 10 business days of receipt of a complaint alleging a violation of this Agreement, the respondent shall submit its response to counsel for the complainant.
- D. If the initial complaint and response do not resolve the issue to the parties' satisfaction either party may, but is not required to, supplement its submissions to the other party.
- E. If either party believes, after reviewing the above described submissions, that the other party is not in compliance and has not come into compliance with this Agreement in regard to the situation described in the submissions, that party may set forth the basis for the alleged non-compliance in writing and file that complaint with the arbitrator. A copy of the documents filed with the arbitrator shall be simultaneously mailed to the other party.
- F. The responding party shall submit a response to the arbitrator and the complaining party within 10 business days of receipt of the complaint filed with the arbitrator.
- G. The arbitrator may request additional information from either party, at the arbitrator's discretion, relevant to the complaint presented. The arbitrator may request a telephone conference or meeting with the parties' counsel on the issues presented in the complaint.
- H. Within 30 days of the arbitrator's receipt of the complaint, the arbitrator shall decide whether neither, either, or both parties are in violation of the Agreement and send that decision in writing to the parties.
- I. Each party, regardless of the outcome of the complaint, is responsible for its own costs and attorneys fees.
- J. The arbitrator's fees shall be paid as follows:
 - 1. If the arbitrator determines that the respondent is in violation of the Agreement, the respondent shall be responsible for the arbitrator's fee.
 - 2. If the arbitrator finds that the respondent is not in violation of the Agreement, the complainant shall be responsible for the arbitrator's fee.

3. If the arbitrator finds that both parties are in violation of the Agreement, each party shall be responsible for one half of the arbitrator's fee.

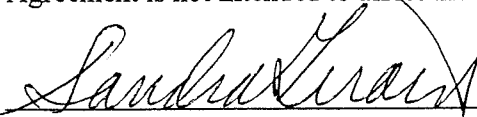
K. The arbitrator may order a party found to be in violation of the Agreement to comply with the Agreement by taking the actions specified by the arbitrator and the arbitrator's written decision. The arbitrator may consult with the parties in determining what is a reasonable time for compliance. Neither party may appeal or otherwise seek review of the arbitrator's decision.

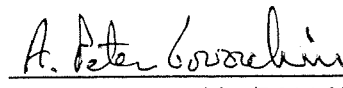
L. The parties have agreed that the Hon. Michael G. Harrison should serve as the Arbitrator under this Agreement. If for any reason the Hon. Michael G. Harrison becomes unavailable, the parties shall mutually agree on a substitute Arbitrator to act until such time as the Hon. Michael G. Harrison is again available. That substitute arbitrator shall be Carolyn Koenig.

M. The parties agree that compliance with this Agreement is enforceable through arbitration as described above, under MCL 600.5001, et seq and the decision of the arbitrator shall be enforceable under MCL 600.5025.

33. This Private Settlement Agreement and the Order adopting the Agreement are not intended to affect the jurisdiction of other state circuit courts with regard to existing orders from those courts. This Agreement is not intended to affect the jurisdiction of federal courts with regard to federal claims or orders.

34. The parties agree that this is a "private settlement agreement" as defined in MCL 600.5531(f). The parties agree that the provisions of the private settlement agreement are not severable and shall remain in effect until November 1, 2005. The parties agree that this Agreement is not intended to affect the filing of claims that may arise after November 1, 2005.


Prison Legal Services of Michigan, Inc.
Counsel for Plaintiffs
By: Sandra Girard (P33274)


A. Peter Govorchin (P31161)
Allan J. Soros (P43702)
Assistant Attorneys General
Counsel for Defendant

Dated: November 4, 2003

Dated: November 4, 2003

MICHIGAN DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE

EFFECTIVE DATE

11/05/01

NUMBER

05.03.115

SUPERSEDES

05.03.115 (01/30/95)

AUTHORITY

MCL 791.201; Knop v Johnson; Hadix v Johnson; Cain v MDOC

SUBJECT LAW LIBRARIES

ACA STANDARDS

3-4256, 3-4264, 3-4447, 3-4450,
3-4453, 2-CO-5F-01, 2-CO-3C-01

PAGE 1 OF 6

I. POLICY STATEMENT: Correctional Facilities Administration (CFA) institutions shall have law libraries available for prisoner use as set forth in this policy.

II. RELATED POLICY: 05.03.116 Prisoners' Access to the Courts and Legal Assistance

III. POLICY: GENERAL PROVISIONS

- A. Each CFA institution shall have at least one main law library for prisoner use. A separate main law library shall be located at least at one camp housing male prisoners and one camp housing female prisoners, as selected by the CFA Deputy Director.
- B. Prisoners in security Level I at the Michigan Reformatory who request access to a main law library shall be temporarily transferred to the Deerfield Correctional Facility until their legal research has been completed. Prisoners in camps without law libraries who request access to a law library shall be either temporarily transferred to a camp with a law library or temporarily transferred to another Level I facility at which prisoners are provided direct access to the main law library until their legal research has been completed.
- C. Prisoners temporarily transferred pursuant to Paragraph B to conduct legal research 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 will not be paid for the library assignment but will receive credit for the assignment on the Security Classification Screen - Review form (CSJ-481) or the Security Classification Screen - Review - Female Prisoners Only form (CSJ-482), as appropriate, as set forth in OP 05.01.130 "Instructions and Definitions For Use of Security Classification Forms".
- D. Prisoners in security Level I at the Scott Correctional Facility shall be provided direct access to a main law library at that institution. Except as set forth in Paragraph B, all other prisoners housed in security Level I-of institutions with more than one security level shall be provided direct access to a mini law library instead of to the main law library. They also shall be allowed to request at least five items at one time from the required main law library collection at least three days each week. Requested items shall be delivered to the prisoner on the next day library services are provided to Level I following receipt of the request, unless the item has been loaned to another prisoner. A prisoner shall be allowed to keep requested items for at least 24 hours.
- E. Law libraries are to be used for legal research and legal writing purposes only. A prisoner who uses the law library for other purposes may be required to leave the

library. If the prisoner was transferred to the facility pursuant to Paragraph B, the prisoner also may be returned to the sending facility.

REQUIRED MAIN LAW LIBRARY COLLECTION

- F. All main law libraries shall contain all of the items listed in Attachment A. Additional copies of required 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 using state-appropriated funds.
- G. At least every six months, each law library shall be inventoried to identify any items from the required collection which need to be replaced. It shall be documented when each item was inventoried and when any necessary replacements were ordered and received. The inventory shall be retained by the librarian in accordance with the Department Retention and Disposal Schedule.
- H. In camps without a law library, the Department's administrative rules, non-exempt Director's Office Memoranda, non-exempt policy directives and operating procedures, and the Hearings Handbook shall be kept in a location convenient for prisoner use, as determined by the camp Assistant Deputy Warden. These items shall be kept current and promptly replaced using state-appropriated funds if lost, defaced, stolen or destroyed.

SUPPLEMENTING MAIN LAW LIBRARY COLLECTION

- I. The Prisoner Benefit Fund may be used to purchase additional law library items consistent with the requirements set forth in PD 04.02.110 "Prisoner Benefit Fund". Attachment B may be used as a guide to assist in identifying additional law library items to purchase.
- J. Donated law books may be accepted from courts, attorneys, law firms and other legitimate organizations and individuals if it is determined by the librarian that the books will be useful additions to the law library collection, subject to approval from the Warden or designee. Approval from the Director is not required to accept such donations. However, books shall not be accepted from an offender or an individual known to be related to an offender. All donated books shall be inspected for contraband prior to being made available to prisoners. Donated books which contain contraband may be discarded by the librarian without notice to the donating party.
- K. Librarians shall establish and maintain cooperative relationships with other libraries as set forth in PD 05.03.110 "Institutional Library Services" to enable prisoners to have access to additional legal research items through inter-library loans, when available, or to purchase photocopies of items not available in the institutional law library.

MAIN LAW LIBRARY FACILITIES

Location

- L. The main law library shall be located in an area where there is sufficient room to house the required law library collection and to allow for expansion as additional items are added. It shall be functional in design, having sufficient space for tables

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and seating for law library users. It also shall be well lighted and free from noise and other distractions which would impair concentration.

Staffing

- M. The librarian in charge of the general library pursuant to PD 05.03.110 also shall be in charge of the law library. On-site supervision generally shall be provided only by the librarian or a library assistant; however, another staff person may provide on-site supervision if the librarian and library assistant are absent from the facility, including if the positions are temporarily vacant.
- N. Prisoners may be assigned as law library clerks pursuant to PD 05.01.100 "Prisoner Program Classification". Librarians shall ensure that prisoner clerks are trained in the proper use of the law library collection. However, neither staff nor prisoner clerks shall provide legal advice beyond instructions on use of the law library collection. Prisoner clerks shall not have authority to deny other prisoners access to the library or the law library collection.

Hours of Use

- O. 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.
- P. Except if in security Level VI and subject to Paragraphs Y and Z, each general population prisoner shall be permitted at least six hours per week of law library use, in segments of not less than two hours each, unless a shorter time segment is requested by the prisoner and approved by the librarian, library assistant or other Department staff supervising the library. Travel time to and from the library shall not be counted in the allotted library time. Time spent by a prisoner meeting with a prisoner providing legal assistance through the Legal Writer Program also shall not be counted in the allotted library time.
- Q. Law library operating schedules shall ensure that a prisoner who chooses to use his/her six hours of law library will not be deprived of yard privileges due to a complete overlap in the yard and law library time schedules. If there is some overlap, it shall not exceed two of the required six hours unless yard time is available to the prisoner at other times during the week.
- R. Prisoners who have direct access to the main law library and have court deadlines requiring additional time in the law library may request permission for additional time from the librarian, library assistant or other Department staff supervising the library. Prisoners shall 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 are to be scheduled outside the prisoner's assignment hours when possible.

LIMITATIONS ON DIRECT ACCESS TO MAIN LAW LIBRARY

Prisoners in Security Level VI or in Segregation

- S. Prisoners in security Level VI or in any form of segregation other than protective segregation shall not be allowed to go to the main law library. With approval of the Warden, prisoners in protective segregation may be allowed to use the main law

library in the same manner as general population prisoners when general population prisoners are not present.

- T. Except as set forth in Paragraph U, prisoners in security Level VI or in any form of segregation who are not allowed to go to the main law library shall be allowed to request at least five items at one time from the required main law library collection at least three days 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 item has been loaned to another prisoner. Copies of specifically identified items (e.g., a court case) may be provided in lieu of providing an entire volume. A prisoner shall be allowed to keep requested items, or copies provided in lieu of the requested items, for at least 24 hours.
- U. Prisoners in security Level VI or in segregation who are on a paper restriction pursuant to PD 05.01.143 "Security Level VI" or PD 04.05.120 "Segregation Standards" shall be provided access to items from the required main law library collection in the same manner as access is provided to legal documents pursuant to PD 04.05.120.
- V. Prisoners in administrative and protective segregation at the State Prison of Southern Michigan, Michigan Reformatory, Southern Michigan Correctional Facility, Marquette Branch Prison, and at other institutions as approved by the Warden shall have access to a mini law library. The Warden of the Ionia Maximum Correctional Facility also may allow prisoners in security Level VI to have access to a mini law library. Prisoners in protective segregation who are provided direct access to the main law library need not be provided access to a mini law library. Prisoners shall be allowed to use the mini law library at least two hours per week. Additional time shall be allowed consistent with the requirements set forth in Paragraph R for general population prisoners.
- W. Mini law libraries shall contain all the items listed in Attachment C and are to be purchased with state-appropriated funds. The mini law library collection shall be kept current. Items that are lost, defaced, stolen or destroyed must be promptly replaced using state-appropriated funds. The collection shall be inventoried in the same manner as the main law library collection.
- X. The mini law library collection shall be kept in a cell or room which is reserved exclusively for that purpose. The cell or room shall have a chair, a writing surface, shelving for the collection, adequate lighting and a working typewriter. Mini law libraries at the State Prison of Southern Michigan, Michigan Reformatory, Southern Michigan Correctional Facility and Marquette Branch Prison must contain pencils, writing paper, grievance forms and any forms used to request required items from the main law library; these supplies shall be checked regularly by unit staff and replaced as necessary. These mini law libraries also must contain posted instructions on how segregation prisoners may obtain assistance from a prisoner assigned to the Legal Writer Program, where to find the complete listing of the required main law library collection and how to obtain items from the required main law library collection.
- Toplock
- Y. As determined by the Warden, prisoners on toplock shall either be allowed to go to the main law library in the same manner as general population prisoners or request and receive items from the required main law library collection in the same manner as segregation prisoners.

Medical/Psychiatric Inpatient Units

- Z. Prisoners in a residential medical or psychiatric unit, including the Huron Valley Center, shall be allowed to request and receive items from the required main law library collection in the same manner as segregation prisoners. The Huron Valley Men's Facility shall provide the law library items for prisoners in the Huron Valley Center. As an alternative to receiving items from the required main law library, the Warden or designee may allow a prisoner in a residential medical or psychiatric unit other than the Huron Valley Center.

Reception Facilities

- AA. As determined by the Warden, prisoners in a reception facility shall either be allowed to go to the main law library in the same manner as general population prisoners or request and receive items from the required main law library collection in the same manner as segregation prisoners. prisoners with the approval of the treating physician/psychiatrist.

SERVICES TO ASSIST IN ACCESS TO THE COURTSNotary Services

- BB. All non-custody housing unit staff, librarians and library assistants are required to be notaries public and to notarize prisoners' signatures on legal documents if requested. Notarized signatures are not required on Department documents and personal letters; therefore, requests to notarize such items may be denied even if the prisoner claims they are legal documents.

Writing Materials

- CC. Writing materials, including envelopes and carbon paper, are available for purchase in prisoner stores as set forth in PD 04.02.130 "Prisoner Store". These items also are available to prisoners as set forth in PD 05.03.118 "Prisoner Mail".

Photocopying Services

- DD. Prisoners shall be provided photocopying services to obtain copies of items needed for legal research and other necessary legal material to be filed with a court or served on a party to a lawsuit. The photocopying services shall be provided for a reasonable time during the operating hours of the main law library but need not be provided at all times when the library is open. Copies shall be provided as promptly as possible. A reasonable fee may be charged for copies.
- EE. Prisoners who lack sufficient funds to pay for copies of legal exhibits or other documents necessary for litigation shall be loaned funds to pay for the copying under the following circumstances:
1. The document cannot otherwise be reproduced by the prisoner, and,
 2. Except for exhibits attached to a complaint to be filed with the court, there is a court deadline by which the prisoner will not have sufficient funds deposited in his/her account from a work or school assignment to pay for the copying.
- FF. A prisoner requesting a loan pursuant to Paragraph EE may be required to present documentation (e.g., court rule, copy of the pleading) to show that the copies are

necessary. If the prisoner presents his/her personal legal materials, staff shall read only those portions that are necessary to determine whether the funds will be loaned. If approved, the loan shall be considered an institutional debt and collected as set forth in PD 04.02.105 "Prisoner Funds and Prisoner Organization Accounts".

PRISONER MISCONDUCT

GG. A prisoner who is found guilty of a major misconduct violation which occurs in the main or mini law library may be barred from further access to the library. In such cases, items from the required main law library collection shall be brought to the prisoner in the same manner as for segregation prisoners.

HH. In addition to being barred from further access to the law library, a prisoner who is found guilty of a major misconduct violation for damaging or destroying law library items may be limited to only receiving copies of requested items from the main law library collection. If the requested items cannot be copied or the prisoner continues to damage or destroy the copies provided, the Administrator of the Office of Policy and Hearings or designee shall be consulted on additional restrictions that may be imposed.

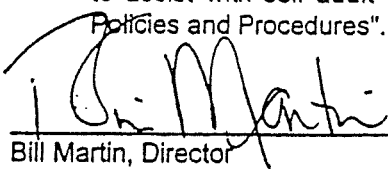
OPERATING PROCEDURES

II. Each Regional Prison Administrator shall ensure that procedures necessary to implement this policy directive are developed within 60 calendar days after its effective date.

IV. AUDIT
ELEMENTS:

JJ. A Primary Audit Elements List has been developed and will be provided to Wardens to assist with self audit of this policy, pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

APPROVED:


Bill Martin, Director

10/18/01
Date

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ATTACHMENT A
10/08/03

MINIMUM COLLECTION FOR LAW LIBRARIES

MICHIGAN MATERIALS

1. Michigan Compiled Laws Annotated *
 - (a) Volumes on U.S. and Michigan Constitutions
 - (b) Volume containing Administrative Procedures Act (MCL 24.201 - 24.328)
 - (c) Volume containing Drug Laws (MCL 333.7101 - 333.7545)
 - (d) Volumes containing Penal Code; Code of Criminal Procedure; Corrections Code (MCL 750.830.End)
 - (e) Volumes containing the Revised Judicature Act (MCL 600.101-600.end)
 - (f) Mental Health Code, MCL 330.1001-MCL 330.2003a. (2 volumes)
 - (g) Motor Vehicle Code (MCL 257.1-257.end)
 - (h) Other Michigan criminal statutes as needed, upon request.

Source of volumes: West Group

or

Michigan Compiled Laws Service (Formerly Michigan Statutes Annotated)*

Equivalent to MCLA items required

Source of volumes: Lexis Publishing Company

2. Michigan Digest -2nd Series*

Volumes: All

Source: West Group

or

Michigan Digest *

Volumes: All

Source: Lexis Publishing Company

3. Michigan Reporter

Volumes: 1960 to present

Source: West Group

or

Michigan Supreme Court Reports*

Volumes: From Vol. 358 (1960) to the present plus subscription to advance sheets

Source: Darby Printing Co.

and

Michigan Appeals Reports *

Volumes: All plus subscription to advance sheets

Source: Darby Printing Co.

*Must have current pocket parts or supplements for all required volumes.

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ATTACHMENT A - continued

MINIMUM COLLECTION FOR LAW LIBRARIES

4. Shepard's Michigan Citations
Volumes: All plus subscription to advance sheets
Source: Matthew Bender & Company, Inc.
5. Gillespie - Michigan Criminal Law and Procedure*
Volumes: All
Source: West Group
6. Martin, Dean and Webster - Michigan Court Rules Practice*
Volumes: All
Source: West Group
7. Michigan Criminal Jury Instructions*
Volumes: All plus any updates issued
Source: Institute of Continuing Legal Education
8. Michigan Standard Jury Instructions - Civil*
Volumes: All plus any updates issued
Source: Institute of Continuing Legal Education
9. Gromek, Lydick and Bosh - Michigan Appellate Handbook*
Volumes: Current binder plus any updates issued
Source: Institute of Continuing Legal Education
10. State Court Administrative Office - State of Michigan - Sentencing Guidelines Manual
All editions plus any updates issued
Source: State Bar of Michigan (updates available upon request)

or

Michigan Sentencing Guidelines Manual
All editions plus any updates issued
Source: West Group
11. Michigan Family Law * (current edition)
Source: Institute of Continuing Legal Education
12. Michigan Basic Practice Handbook * (current edition)
Source: Institute of Continuing Legal Education
13. Michigan Probate Source Book * (current edition)
Source: Institute of Continuing Legal Education
14. Michigan Court of Appeals, Filing Appeals and Original Actions – A Guide for Appellants without Attorneys (May 3, 2000) (with updated preface)
15. Defender Trial Book – State Appellate Defender Office
16. Defender Plea, Sentencing & Post-Conviction Book – State Appellate Defender Office
17. Criminal Defense Newsletter – State Appellate Defender Office

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18. Whalen, Steve - Pleadings and their Usage in Michigan Criminal Appellate Practice
(2d ed) – 2002 - Michigan Appellate Assigned Counsel System

ATTACHMENT A - continued

*Must have current pocket parts or supplements for all required volumes.

MINIMUM COLLECTION FOR LAW LIBRARIES

FEDERAL MATERIALS

1. United States Code Annotated *
Volumes: Constitution (All), Title 18 (All), Title 28 (All), Title 42 (All)
Source: West Group

or

United States Code Service
Volumes: Equivalents to USCA volumes required
Source: West Group
2. Supreme Court Reporter
Volumes: From Vol. 80 (1959) to the present plus subscription to advance sheets
Source: West Group

or

United States Supreme Court Reports, Lawyers' Edition, 2nd series to present
Volumes: From Vol. 4 (1959) to the present plus subscription to advance sheets
Source: Lexis Publishing Company
3. Federal Reporter, 2nd and 3rd series to present
Volumes: From Vol. 300 (1962) to the present plus subscription to advance sheets
Source: West Group
4. Federal Supplement, 1st and 2nd series to present
Volumes: From Vol. 200 of 1st series (1961) to the present plus subscription to advance sheets
Source: West Group
5. Federal Practice Digest, 3rd and 4th series to present *
Volumes: All including subscription to advance sheets
Source: West Group
6. Shepard's United States Citations
Volumes: All related to Supreme Court reporter chosen (see item #2 above) plus subscription to advance sheets for those volumes
Source: Matthew Bender & Company, Inc.
7. Shepard's Federal Citations
Volumes: All plus subscription to advance sheets
Source: Matthew Bender & Company, Inc.

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8. Wright - Federal Practice and Procedure
Volumes: Volumes covering Criminal Law
Source: West Group

*Must have current pocket parts or supplements for all required volumes.

MINIMUM COLLECTION FOR LAW LIBRARIES

9. Mushlin, Michael – Rights of Prisoners (current edition plus any supplements)
Source: West Group – When the previous alternate selection needs to be updated, if in the law library, this book will be purchased instead, but no later than November 1, 2004.

or

Hertz-Liebman, J. - Federal Habeas Corpus Practice and Procedure (current edition)
Volumes: All
Source: Lexis Publishing Company
10. Federal Civil Judicial Procedure and Rules* (current edition - available in paperback)
Source: West Group
11. Standard Federal Jury Instructions, sections 1-4 (1.01-4.60)

GENERAL MATERIALS

1. Corpus Juris Secundum
Volumes: Volumes covering Criminal Law and Index
Source: West Group
2. Black - Black's Law Dictionary (current edition)
Source: West Group

or

Ballentine - Ballentine's Law Dictionary (current edition)
Source: West Group
3. Cohen, M. - Legal Research in a Nutshell (current edition)
Source: West Group
4. Bailey and Fishman - Complete Manual of Criminal Forms* (current edition)
Volumes: All
Source: West Group
5. Israel and LaFave - Criminal Procedure in a Nutshell (current edition)
Source: West Group
6. Criminal Law Reporter
Volumes: Most current binder (retain previous five years, if available)

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Source: Bureau of National Affairs

7. Branham & Krantz - Sentencing, Corrections and Prisoners' Rights in a Nutshell* (current edition)
Source: West Group

ATTACHMENT A - continued

8. Flores, A. - Werner's Manual for Prison Law Libraries (current edition)
Source: National Law Resource, Inc.

*Must have current pocket parts or supplements for all required volumes.

MINIMUM COLLECTION FOR LAW LIBRARIES

9. Mushlin, Michael - Rights of Prisoners (current edition plus any supplements)
Source: West Group – When the previous alternate selection needs to be updated, if in the law library, this book will be purchased instead, but no later than November 1, 2004.
10. LaFave, W.R. - Principles of Criminal Law (current edition)
Source: West Group

or

LaFave, W.R. & Scott, A.W., Jr. - Hornbook on Criminal Law (current edition)
Source: West Group

or

Loewy, A. - Criminal Law in a Nutshell (current edition)
Source: West Group
11. Department administrative rules
12. Non-exempt Department policy directives and Director's Office Memoranda
13. Non-exempt state-wide Department and CFA operating procedures dealing with prisoners
[And OP FOA 06.06.115; OP FOA 01.06.115 and OP FOA 06.04.130-G]
14. Non-exempt operating procedures for the institution where the library is located
15. The Hearings Handbook
16. Michigan Bar Journal - Directory Issue (April each year)
Source: State Bar of Michigan
17. Diplomatic List (current edition)
Source: U.S. Department of State
18. MDOC Time Computation Manual
19. PLSM's Self-Help Packets and Booklets Binder – Prison Legal Services of Michigan, Inc.
(including federal FOIA packet)

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20. Defender Habeas Book – State Appellate Defender Office

ATTACHMENT A - continued

MINIMUM COLLECTION FOR LAW LIBRARIES

SOURCE ADDRESSES

Anderson Publishing Co.
P.O. Box
Cincinnati, OH 45201-1576

Bureau of National Affairs,
1231 25th Street N.W.
Washington D.C. 20037

Civic Research Institute
4490 U.S. Route 27, P.O. Box 585
Kingston, NJ

Darby Printing Co.
Subscriptions Dept.
6215 Purdue Drive
Atlanta, GA 30336

Institute of Continuing Legal Education
Hutchins Hall
1020 Greene Street
Ann Arbor, MI 48109-1444

Michigan Appellate Assigned Counsel System
1375 S. Washington, Suite 300
Lansing, Michigan 48933

Matthew Bender & Company, Inc.
11 Penn Plaza
New York, New York 10001

Lexis Publishing Company
P.O. Box 7587
Charlottesville, VA 22906

National Law Resource, Inc.
National Law Resource Building
328 South Jefferson
Chicago, IL 60661-5605

Nolo Press
1576950 Paker Street
Berkely, CA 94710

Oceana Publications, Inc.
75 Mai Street
Dobbs Ferry, NY 10522

Prison Legal Services of MI, Inc.
PO Box 828
Jackson, MI 49204

Southern Illinois University Press
P.O. Box 3697
Carbondale, IL 62907-3697

State Appellate Defender Office
3300 Penobscot Bldg.
Detroit, MI 48226

State Bar of Michigan
Michael Franck Building
306 Townsend Street
Lansing, MI 48933-2083

U.S. Department of State
Superintendent of Documents
P.O. Box 371954
Pittsburgh, PA 15250-7954

West Group
Midwest Market Center
155 North Pfingsten Road
Suite 100
Deerfield, IL 60015

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8/6/03

ATTACHMENT C

MINIMUM COLLECTION FOR MINI LAW LIBRARIES

MICHIGAN MATERIALS

1. Michigan Compiled Laws Annotated *
 - (a) Volumes containing U.S. and Michigan Constitutions
 - (b) Volume containing Administrative Procedures Act (MCL 24.201 - 24.328)
 - (c) Volume containing Drug Laws (MCL 333.7101 - 333.7545)
 - (d) Volumes containing Penal Code; Code of Criminal Procedure; Corrections Code (MCL 750.1 - 830.End)
 - (e) Copy of MCL 600.2963 of the Revised Judicature Act
 - (f) Copy of MCL 600.5501, et seq. (Prisoner Litigation Reform Act)

Source of volumes: West Group

or

Michigan Compiled Laws Service (Formerly Michigan Statutes Annotated) *
Equivalent to MCLA items required
Source: Lexis Publishing Company

2. Michigan Family Law * # (current edition)
Source: Institute of Continuing Legal Education
3. Michigan Basic Practice Handbook * # (current edition)
Source: Institute of Continuing Legal Education
4. Michigan Probate Source Book * # (current edition)
Source: Institute of Continuing Legal Education

- GENERAL MATERIALS

1. A treatise on Michigan criminal law and procedure
2. Superseded advance sheets of Shepard's Citations (United States, Federal and Michigan)
3. A treatise (e.g., Nutshell Series by West Group) on prisoners' rights
4. A treatise on habeas corpus
5. A general treatise on criminal law and on criminal procedure
6. A legal dictionary
7. Federal rules of civil and criminal procedure
8. A copy of the Prisoner Guidebook
9. A current list of the main law library collection, PD 05.03.115, Attachment A
10. The indexes to non-exempt Department policy directives and Director's Office Memoranda
11. The index to Department administrative rules
12. The indexes to the Department and institution non-exempt operating procedures

*Must have current pocket parts or supplements for all required volumes.

Only required at facilities housing female prisoners.

C

SEGREGATION LAW LIBRARY RESOURCE REQUEST FORM

LIBRARY USE ONLY Date Processed: _____

Processed by: _____ (initials)

Notice to prisoners requesting materials from the Law Library: This form is to be used for all requests for legal reference material. The Law Library staff will not process reference material requests submitted on anything other than this approved form. This form is NOT to be used as a kite. Copies of this form may be obtained from housing unit staff. You are allowed to request as many items as you like on this form. These items need to be listed in the order of their importance to you. You are entitled to receive at least the first five (5) items that are available. Items may be kept for 24 hours, at which time they will be picked up.

PRISONER NAME: _____ NUMBER: _____ LOCK: _____

LIBRARY USE ONLY:

I request the following items from the Law Library:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____

Sent	Don't Carry	Out, Re-Order	Not on Attachment A or C
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*** DO NOT WRITE BELOW THIS LINE (Except Signatures) – FOR LIBRARY USE ONLY ****

NOTE: If a prisoner refuses to sign for this material, the distributing officer will give the legal items to the prisoner and make the following notation on this form: "PRISONER REFUSED TO SIGN, MATERIALS GIVEN." The officer will then sign and date the form.

Upon receipt of the item(s) identified above, I personally inspected them for damage and found none.

Prisoner's Signature

Date

Officer's Signature (passing out items)

Date

Officer's Signature (picking up items)

Date



MICHIGAN DEPARTMENT OF CORRECTIONS

OPERATING PROCEDURE

EFFECTIVE DATE

NUMBER

XXX05.03.115

SUPERSEDES

New

AUTHORITY

PD 05.03.115

SUBJECT LEGAL PHOTOCOPYING SERVICES TEMPLATE

PAGE 1 OF 3

August 22, 2003 **DRAFT**

I. OBJECTIVE:

To establish a process for prisoners in CFA facilities to obtain copies of items needed for filing with a court or for service on a party to a lawsuit, AND LEGAL RESEARCH in accordance with PD 05.03.115 *Law Libraries*.

II. INFORMATION:

- A. Photocopy services will be available to prisoners to obtain copies of items needed for filing with a court or service on a party to a lawsuit AND LEGAL RESEARCH, as set forth in this operating procedure. The cost of the copies shall reflect the actual cost of materials and other expenses involved in producing the copies. The cost of copies is identified on the *Legal Photocopy Disbursement Authorization* form (XXX).
- B. All photocopies requested of items needed for filing with a court or to be served on a party to a lawsuit must be provided to those prisoners with sufficient funds to pay for the copies. Prisoners who lack sufficient funds to pay for copies of legal exhibits or other documents necessary for litigation shall be loaned funds to pay for the photocopying if the document cannot otherwise be reproduced by the prisoner as set forth in PD 05.03.115 *Law Libraries*.
- C. Requests for legal photocopy services shall be submitted on the *Legal Photocopy Disbursement Authorization* form. The *Legal Photocopy Disbursement Authorization* form shall be available to prisoners in the law library and housing units and shall also be provided on request to prisoners who are unable to go to the law library (for example, prisoners in segregation). Completed forms shall be turned in to X (facility identify staff member(s)).
- D. EXCEPT IN EMERGENCY SITUATIONS, ~~prisoners~~ shall receive approved legal photocopies as soon as practical, BUT NO LATER THAN ~~in all but emergency situations within three business days of~~ AFTER receipt of a completed *Legal Photocopy Disbursement Authorization* form by (facility identify staff member(s)). This applies to legal photocopies for both those prisoners who have funds to pay for the copies as well as for those prisoners who are without sufficient funds to pay for the copies and for which the funds must be loaned as identified in Paragraph B. If a loan is requested, prisoners should include documentation OR AN EXPLANATION that the copies are needed for litigation (for example, identification of a court rule, or a copy of the pleading or brief) shall be included with the *Legal Photocopy Disbursement Authorization* form. Legal photocopies will be made only of those documents approved by Y (facility identify staff member(s)).

NOTE: Prisoner must receive LEGAL copies within three business days of receipt of the form by (facility identify staff member(s)) AND RESEARCH COPIES WITHIN A REASONABLE TIME.

- E. Legal photocopies will be made only of those documents approved by Y (facility identify staff member(s)). THE Photocopies shall be made only by Z (facility identify staff member(s)) except that Warden or designee may approve a prisoner clerk working for Z (facility identify staff member(s)) to make the copies. A prisoner clerk

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shall make copies only while under the continuous supervision of Z (facility identify staff member(s)) OR THE STAFF PERSON SUBSTITUTING FOR Z (facility identify staff member(s)). This paragraph does not apply to personal photocopies made by prisoners using photocopy cards approved by the Warden.

- F. Prisoners who have sufficient funds in their account may obtain copies of research materials. Requests for these copies are not subject to the time limits in paragraph D above, but should be provided within a reasonable time.

III. PROCEDURE:

WHO	DOES WHAT
Prisoner	1. Completes <i>Legal Photocopy Disbursement Authorization</i> form and documents to be copied (as identified in paragraph C); it is the prisoner's responsibility to provide documentation, explanation, and justification for the request as needed.
	2. Submits completed form and documents to be copied to X.
X	3. If not authorized to approve the request, forwards the form to Y.
Y	4. Logs receipt of the <i>Legal Photocopy Disbursement Authorization</i> form. Reviews request and communicates with the prisoner as necessary to review the documents the prisoner requested to be copied to determine if they are needed for filing with a court or served on a party to a lawsuit, OR LEGAL RESEARCH. <ul style="list-style-type: none"> a. If the copies are not needed for either ANY of the above reasons or additional information is needed, completes the authorization denied section of the <i>Legal Photocopy Disbursement Authorization</i> form. Gives prisoner the goldenrod copy of the form or arranges for delivery of the copy of the form to the prisoner. <p>NOTE: Prisoner must receive the copy of the form within three business days after initial receipt of the form by X.</p> b. If the copies are needed for either of the above reasons, determines if prisoner has sufficient funds to pay for the photocopying. <ul style="list-style-type: none"> (1) If prisoner has sufficient funds to pay for all copying requested, approves the legal photocopy request using the <i>Legal Photocopy Disbursement</i> form and proceeds to no. 5 below. (2) If prisoner does not have sufficient funds to pay for all copying requested, authorizes copying only those documents for which the prisoner can pay copying costs, and those necessary documents which cannot be otherwise reproduced by the prisoner.
Z	5. Copies all authorized documents and completes the <i>Legal Photocopy Disbursement Authorization</i> form, indicating the amount the prisoner has to pay and the amount of any loan. Retains pink copy and forwards remaining two copies of the completed form to Prisoner Accounting.
	6. Gives prisoner the copies or arranges for delivery of the copies to the prisoner.
NOTE: Prisoner must receive LEGAL copies within three business days of receipt of the	

DOCUMENT TYPE OPERATING PROCEDURE	EFFECTIVE DATE DRAFT	NUMBER XXX 05.03.115	PAGE 3 OF 3
<p>Prisoner Accounting 7. form by XXX AND RESEARCH COPIES WITHIN A REASONABLE TIME. Processes the approved <i>Legal Photocopy Disbursement Authorization</i> form. Sends prisoner the canary copy of the form.</p>			
<p>APPROVED: _____ XXXXXXXXXXXX, Deputy Director, CFA _____ Date</p>			

MICHIGAN DEPARTMENT OF CORRECTIONS
LEGAL PHOTOCOPY DISBURSEMENT AUTHORIZATION

Draft August 22, 2003

Please PRINT clearly. Illegible and/or incomplete forms will not be processed.

Filing Deadline Date

Lock

Facility

Prisoner Number

Prisoner Name (Print Clearly)

☐ New Case☐ Case Number☐ Court☐ Legal Research

Item(s) to be Photocopied	No. Pages	No. of Copies to be Made	\$.10 per copy (2 sided copies will be \$0.20) Subtotal	Is the complaint or other document for which these copies are required attached? If yes, please identify. If no, cite court rule or attach explanation.
1.				<input type="checkbox"/> Yes <input type="checkbox"/> No
2.				<input type="checkbox"/> Yes <input type="checkbox"/> No
3.				<input type="checkbox"/> Yes <input type="checkbox"/> No
4.				<input type="checkbox"/> Yes <input type="checkbox"/> No
5.				<input type="checkbox"/> Yes <input type="checkbox"/> No
6.				<input type="checkbox"/> Yes <input type="checkbox"/> No
7.				<input type="checkbox"/> Yes <input type="checkbox"/> No
8.				<input type="checkbox"/> Yes <input type="checkbox"/> No

Prisoner Signature	Date Submitted
Received By (Print Name & Title)	Date Received
<input type="checkbox"/> Photocopies Authorized	<input type="checkbox"/> Photocopies Denied
Staff Signature	Date Processed

Authorization Denied Because:

☐ Inadequate funds, and does not qualify for a legal photocopy loan. See OP 05.03.115.(B).☐ The following additional information is needed to process this request:☐ Other:

Only Business Office Staff Are to Write In the Section Below

Obligation Amount	Actual Expense

Date Posted:

Processed By
(Print Name & Title):

Signature:

DISTRIBUTION: White - Prisoner Accounting Canary - Prisoner Pink - Copy Center Goldenrod - Prisoner

DRAFT

ACCESS TO COURTS - FLASH KITE		
Date:		August 22, 2003
		Date Received:
To:	Deputy Warden's Office	
From:		
	Prisoner's Name	Prisoner's Number
		Prisoner's Lock
Note:	This flash kite process is to be used only after you have followed the appropriate Policy/Procedure and you still have not received the authorized result. This is not a substitute for the grievance process and should be used only for urgent problems.	
Problem With:	<ul style="list-style-type: none"><input type="checkbox"/> Access to Law Library<input type="checkbox"/> Access to Legal Property<input type="checkbox"/> Legal Photocopying Service<input type="checkbox"/> Expedited Legal Mail Process<input type="checkbox"/> Access to Legal Writer Program<input type="checkbox"/> Receiving Books from Law Library<input type="checkbox"/> Access to Mini Law Library or Typing Room<input type="checkbox"/> Adding/Changing Attorney's Telephone Number on PIN List.<input type="checkbox"/> Typewriter in Mini Law Library, Typing Room, or Library Not Working.	
Problem:	(Include any steps you have taken to resolve the issue, who you have talked/written to about this problem, and when you did so. Provide any related documentation you have available).	
Section below to be completed by the Deputy Warden		
Action Taken:		
Name of Respondent:		
Date:		

PROPOSAL FOR A DEPARTMENT WIDE LEGAL WRITER PROGRAM SERVING MALE PRISONERS HOUSED IN CFA FACILITIES

The Department has been providing the services of trained prisoner legal writers to eligible prisoners housed in facilities subject to the Knop and Hadix case since 1998. The Department now intends to expand this program state wide so that services of a legal writer will be available to all eligible male prisoners housed in Correctional Facilities Administration facilities. It is anticipated that the program will be implemented statewide by November 3, 2003.

Goal of the Program

The Legal Writer Program is designed to assist prisoners without counsel who are unable to effectively help themselves, as defined by the US District Court in Knop v Johnson, case number G84-651, and Hadix v Johnson, case number 80-73581, by using the law library or other available resources. The program is designed to provide the prisoner with assistance in reaching the court house door and is not equivalent to legal representation. Legal Writer Programs will be established in facilities throughout the Department so that there is a facility at which every prisoner who is eligible for assistance can be provided service. The facilities where the programs are offered are subject to change as experience dictates. If there are a large number of requests for service from a facility without a program, a program may be added at that facility. Conversely, if there is a facility with a program and few requests are received, that program might be relocated to another facility. Other changes which can affect the location of the onsite programs include changes in the custody level of the facility, the education level of the majority of prisoners housed at the facility (e.g. in a facility designated as a GED center most prisoners at the facility would be eligible for service, whereas in an career/vocational center most prisoners housed there would not be eligible for the service as most already have a GED or High School Diploma).

Eligible prisoners not housed in a facility where there are legal writer services available will be transferred to receive assistance or a legal writer will be sent to that facility to provide the services. The Department may also explore the use of video conferencing or other means to provide the service.

Types of Assistance Provided

The program is designed to provide assistance to prisoners only on matters related to their criminal appeals or conditions of confinement. Service will not be offered on civil matters. The following pleadings may be produced by legal writers for prisoners needing assistance:

- a. All post-conviction challenges, including all proceedings necessary for exhaustion of state remedies (such as motions for a new trial at the initial trial court level or applications for leave in the appellate courts), including all post-conviction work for which there is no right to assigned counsel, and assistance in obtaining assigned counsel when the right to assigned counsel exists. Assistance shall also be provided for collateral attacks upon convictions including motions for relief from judgment, pursuant to MCR 6.500 and for filing petitions for leave to appeal before the Michigan Supreme

Court, responding to Magistrate=s Reports and Recommendations, and taking steps necessary to survive dispositive motions.

- b. Constitutional and civil rights actions pursuant to 42 USC 1983 related to conditions of confinement.

The assistance provided by the legal writers consists of preparation of timely and intelligible pleadings but does not include collateral matters related to the pleading such as discovery requests. Legal writers also draft letters for prisoners related to legal matters and assist them in completing forms such as a request for appointment of counsel.

Eligibility for Service

The Legal Writer Program is available only to those prisoners who meet certain eligibility criteria. Prisoners who do not have a verified GED or high school diploma (including prisoners who do not speak, read, or write English), those who have a physical or mental impairment or a learning disability which could affect his ability to use the law library, all prisoners housed in segregation or in a Department operated inpatient medical unit who have a pending deadline, and all prisoners housed in a reception facility are eligible to receive services.

Prisoners interested in requesting assistance will send a completed form or kite to a designated staff person at the facility, who will then screen the prisoners for eligibility. The prisoner=s eligibility for service will be determined prior to providing service or to arranging for a transfer.

The majority of the prisoners will be screened into or out of the program based upon their education level. If the prisoner is determined to be eligible for services because he does not have a GED or High School Diploma, no other screening will be required. Prisoners who have a GED, high school diploma, or college credits are not eligible unless they have a medical or mental health condition which affects their ability to use the resources available (such as compromised eyesight, disabilities which affect the ability to write, severe mental illness etc.).

Prisoners housed in segregation or in a Department operated inpatient medical unit who request assistance will be interviewed to determine if they have a deadline. If the prisoner has a deadline he is automatically eligible to receive assistance even if he does not meet the above criteria. Prisoners housed in segregation or in a Department operated inpatient medical unit requesting assistance with matters for which there is no deadline or for which there is a long or indeterminate deadline (e.g. 1983 claims) may not be provided assistance at the time of the request, if it is likely that they will be released from segregation or the inpatient unit prior to the deadline.

How the Programs Work

When a program is implemented at each facility a notice is posted informing prisoners of the existence of the program and who they should contact to request assistance. When a request for service is received the prisoner=s eligibility is determined. If eligible, he is either given an appointment with a legal writer in his facility, or if there is no program at that facility, the prisoner

will be transferred to a facility with a program, a legal writer will be transported to the facility, or other arrangements, such as video conferencing, will be made to provide the service.

There is a specialized training program for legal writers. Prior to any prisoner beginning training, they are screened to ensure that they qualify to be a legal writer and the warden then makes the final determination as to whether the prisoner will be allowed into the training. Only prisoners who have successfully completed the specialized training will be hired as legal writers.

The legal writers meet with the eligible prisoners, including those in segregation, reception and inpatient units, to obtain the facts of the case. Legal writers have standardized forms, templates and other information used to gather facts and help prepare pleadings. As the legal writers complete forms or draft pleadings the information is provided to the contracted legal firm for review and comment. Once the contractor has reviewed the forms and pleadings, he/she provides comments or changes back to the legal writers. All final pleadings must be approved by the contractor. Once the pleading is approved the legal writer provides the final pleading to the prisoner. The prisoner receiving services is responsible for the cost of mailing and photocopying.

There is no attorney client privilege associated with the legal writer or the contracted attorney firm and the prisoner receiving service. The Department has the right to read or review any document prepared by a legal writer should there be any concern or need to do so. However, when ever possible, interviews are conducted in a manner which provides some privacy and all the prisoner=s legal documents being used in the preparation of pleadings are locked in a file cabinet in the legal writer work area when the legal writers are not on the assignment. The file cabinet may be searched for contraband only if the program supervisor or custody staff at the sergeant level or above are present.

At each facility where there is a Legal Writer Program a staff person is designated to provide oversight and supervision of the program. The staff person supervises the legal writers while on assignment; develops the work schedules for legal writers; prints the final documents prepared by the legal writers; develops the call-outs for prisoners needing to meet with legal writers, ensures that the legal writers have access to prisoners in segregation or other specialized housing, confers with the legal writers and the contractor regarding the general nature of the assistance requested; and ensures that legal writers have necessary supplies, materials, forms, etc.

In each facility where there is no onsite Legal Writer Program a staff person will be designated to receive the requests for services, determine the prisoner=s eligibility, and if eligible, request that the prisoner be transferred or make other arrangements for the legal writer service to be provided.

PRISON LEGAL SERVICES OF MICHIGAN, INC.

Sandra L. Girard
Executive Director

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Jackson, MI 49204
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FAX (confidential): (517) 780-5887
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E-Mail: plsminc@ameritech.net

September 2, 2003

A. Peter Govorchin
One Michigan Ave., #300
P.O. Box 30217
Lansing, MI 48909

RE: Letter of Understanding concerning Cain v MDOC, Agreement to Resolve
Plaintiffs' Claims Regarding Access to Courts

Dear Mr. Govorchin:

This letter is to confirm our mutual understanding on the following five matters:

1. "[R]easonable time" as used in paragraph "D." of the template for institutional operating procedures means 7 calendar days or less.
2. It is the parties' intention to continue PLSM's funding from the PBFs through the period covered by this Settlement Agreement and that the amount of the funding will be negotiated as part of a settlement agreement on Plaintiffs' classification claims, or in the event those claims are not settled, in a separate agreement.
3. The mandatory uniform cost per page for prisoners' legal photocopying only applies to those copies paid for by disbursement and is not mandatory for legal photocopies made with a debit card.
4. In paragraph 3D a deadline is not required to use the expedited legal mail system.
5. In paragraph 12 of the Agreement, "emergency law library call-outs" shall mean less than 48 hours.

Our signatures below, indicate our agreement on items 1 - 5 above.

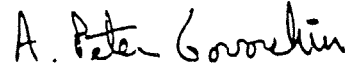
Date:

Prison Legal Services of Michigan, Inc.
Counsel for Plaintiff



By: Sandra Girard (P33274)

Assistant Attorneys General
Counsel for the Defendant



A. Peter Govorchin (P31161)



Allan J. Soros (P43702)