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SUSAN LAPSLEY
 Director

Debra Bowen
 DEBRA BOWEN
 SECRETARY OF STATE

Date: October 6, 2009

To: Alfredo Gomez

From: Chapter Two Compliance Unit

Subject: **2009 OAL DETERMINATION NO. 23(S)**
(CTU2009-0612-01)
 (Summary Disposition issued pursuant to Gov. Code, sec. 11340.5;
 Cal. Code Regs., tit. 1, sec. 270(f))

Petition Challenging as Underground Regulations: High Desert State Prison Supplement to the Department Operations Manual, titled "Library and Law Library" and dated January 2009

On June 12, 2009, you submitted a petition to the Office of Administrative Law (OAL) alleging that the California Department of Corrections and Rehabilitation (CDCR) had issued, used, enforced or attempted to enforce underground regulations. Your petition asks for a determination as to whether specific rules found in a High Desert State Prison Supplement to the Department Operations Manual (DOM), titled "Library and Law Library" and dated January 2009, constitute underground regulations.

The specific rules found in this DOM Supplement that you challenge as underground regulations concern certain library and law library procedures: limiting computer access to a maximum of four hours per week; and limiting indigent inmates to two copies of legal documents not to exceed 50 pages in length. This DOM Supplement is signed by Warden M. D. McDonald of High Desert State Prison. This DOM Supplement is attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).² Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL

¹ "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

² Such a rule is called an "underground regulation" as defined in California Code of Regulations, title 1, section 250, subsection (a):

"Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation:

(c) The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility....

This exemption is called the "local rule" exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a "local rule" adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

...

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the rules in the DOM Supplement challenged by your petition were issued by the warden, M. D. McDonald, at High Desert State Prison. Inmates housed at other institutions are governed by those other institutions' rules dealing with library and law library procedures. The rules you challenge were issued by the warden at High Desert State Prison and apply only to inmates at the High Desert State Prison. Therefore, these rules are "local rules" and are exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1).³

³ The rules challenged by your petition are the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

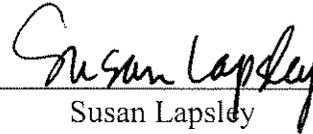
(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

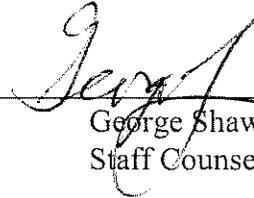
(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule. (Emphasis added.)

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.



Susan Lapsley
Director



George Shaw
Staff Counsel

Copy: Matthew Cate
John McClure

EXHIBIT

A

LIBRARY AND LAW LIBRARY

Location in DDM: Chapter 10, Article 12, Page 771
 Reviewed By: Associate Warden, Operations
 Review Annually: January
 Date of Last Review: January 2009

101120.6.2 Check Out of Library Books

To check out a book, the inmate must complete and sign a CDCR 193, Inmate Trust Withdrawal Form (See Attachment A). This form will remain on file with the Library Technical Assistant (LTA) until all materials are returned in good condition or until the inmate fails to return the materials, at which time it will be forwarded to Inmate Trust for collection.

Book Check Out

The maximum number of books a General Population (GP) inmate may check out at any one time is two. Library books may be checked out for two weeks. Books may be renewed once before the due date for an extra two weeks, with staff approval. Inmates must present the book they are requesting to renew.

Overdue Books

Books will be due on the date stamped on the circulation pocket. When books become overdue, the library staff will send an overdue notice to the inmate. Inmates will have two weeks from the date of the notice to respond before they are charged for the replacement value of the book(s). If the book(s) was taken during a cell search, it is the inmate's responsibility to provide a copy of the cell search receipt to clear his account.

Inmates will be charged the price of the book if the book has not been returned within two weeks of the due date. If a lost book is returned in good condition after being overdue for more than two weeks, the inmate will be reimbursed for the price of the book.

Indigent inmates may have their library privileges suspended for a period of up to 90 days for the loss of more than one book.

During a lockdown, book due dates are extended until after the lockdown.

Damaged Books

Inmates will be subject to receiving a CDCR 115, Rules Violation Report, for damaging or defacing library books and will also be charged the price of the book.

If the book is discovered with the pocket part missing, ink drawings, the law library stamp marked over, or pages

torn out to the book, the inmate will be charged for the replacement value of the book. Inmates may have their library privileges suspended for a period of up to 90 days for the destruction of state property.

Inmate Transfers

If transferred to a different facility within the institution, inmates can return library books to the library on the facility to which they are transferred.

If an inmate is transferred to another institution unexpectedly, and is unable to get to the library, he should return the library book(s) to his building floor officer prior to the move. It is the inmate's responsibility to inform the library staff of this transfer and the name of the officer to whom the book was returned. This should be done as soon as possible after his move. Library staff will then verify this and clear the inmate's record.

Library books retrieved by unit staff will be returned to the Facility Library.

Administrative Segregation Unit (ASU) In-Cell Use of Recreational Library

To request the in-cell use of recreational books, the ASU inmate completes an Administrative Segregation and Reception Center (RC) Recreational Library Book Checkout Procedures and Request Form (See Attachment B). The ASU Law Library Officer will pick up the requests and deliver books.

To check out the book that is delivered, the inmate must complete and sign a CDCR 193. If a book is not returned or renewed, the CDCR 193 will be forwarded to Inmate Trust for collection. Inmates must present the book they are requesting to renew.

Reception Center In-Cell Use of Recreational Library

To request the in-cell use of recreational books, the RC inmate completes an Administrative Segregation and Reception Center Recreational Library Book Checkout Procedures and Request Form (See Attachment B.) To checkout the book, the inmate must complete and sign an Inmate Trust Account Withdrawal, CDCR 193. If a book is not returned or renewed, the CDCR 193 will be forwarded to Inmate Trust for collection. Inmates must present the book they are requesting to renew.

Correctional Treatment Center In-Cell Use of Recreational Library

Access to recreational library books for inmates housed in the Correctional Treatment Center (CTC) will be provided by assigned staff from available library books issued by the Central Library. The CTC may maintain a small

library comprised of books exchanged and/or renewed with the Central Library on a quarterly basis.

Service will be provided by the Occupational Therapist. The Senior Librarian will provide legal service as requested up to twice a week.

To check out a book, the inmate must complete and sign a CDCR 193. If a book is not returned or renewed, the CDCR 193 will be forwarded to Inmate Trust for collection. Inmates must present the book they are requesting to renew.

All materials/books will be searched by custodial staff before being given to inmates and before being returned to the library.

Computer Access

To use the Law Library computer, the inmate must complete and sign a CDCR 193, Inmate Trust Withdrawal (See Attachment C). This form will remain on file with the LTA. Upon arriving in the law library, the inmate gives the LTA his green or red privilege identification card. The LTA will check the computer equipment before and after use. When the inmate is finished and upon satisfaction that all computer components are intact the LTA will return the green or red privilege card to the inmate. If any of the computer equipment is damaged or missing, the LTA will issue a CDCR 115, along with a Trust Account Withdrawal Order for replacement of any or all parts of the damaged computer station. Inmates may have their library privileges suspended for a period of up to 90 days for the destruction of State property.

Inmates may gain access to the computer for up to one hour per week per session unless there are no other inmates waiting. All computer stations will be assigned to ensure maximum access to the inmate population.

101120.10 Inmate Access to Law Libraries

Inmates will access the law libraries based on the following priorities:

- First: Inmates with verifiable court case deadlines, Priority Legal Users (PLU) as defined below, in order of imminence. Off-duty assigned inmates, followed by unassigned inmates.
- Second: Inmates doing law research, General Legal User (GLU), as defined below. Off-duty assigned inmates, followed by unassigned inmates.
- Third: Inmates requesting recreational reading. Off-duty assigned inmates, followed by unassigned inmates.
- Inmates who have transferred into HDSP, or inmates

who have transferred between cell blocks, may have personal legal materials being held by Receiving and Release, Inmate property, or ASU property. Property officers should inspect the inmate's property, taking appropriate measures to deliver legal property to the owners.

General Population Law Library

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The following steps outline the procedure by which inmates access the law library:

- There will be a limit of 8 inmate users and 3 clerks in the law library at any time.
- The inmate will obtain and completely fill out the Law Library Access Request Form (see Attachment D) and submit it to the law library by giving it to his building floor officer who will take all completed Law Library Access Request Forms to the Program Office for placement in the law library mail slot or give them directly to the LTA.
- The LTA will pick up all completed Law Library Access Request Forms from the Program Office on a daily basis. The LTA will submit a list based on these requests to the Inmate Assignment Office (IAO) for ~~creating~~ scheduling on the Daily Movement Sheet (DMS)

The LTA will also provide a list to the Facility Sergeant or Lieutenant.

All inmates requesting access should ~~receive a date~~ be scheduled on the DMS noting date and time to report to the Law Library. There will be a limit of 8 inmate users and 3 clerks in the law library at any time. If an inmate does not respond to his ~~date~~ DMS schedule the LTA will call the unit to ascertain why the inmate did not show, documenting the reason for his absence on the ~~date~~ schedule list. During lockdown, cell searches, or yard closures when ~~date~~ scheduled inmates are not brought to the law library the LTA will contact the Program Office to ascertain the reason the inmates are not brought, notify their supervisor and document the reason(s) on the ~~date~~ schedule list. Inmates not brought will be ~~date~~ scheduled at a later date. The supervisor will contact the Lieutenant at the earliest date to ascertain why the inmate(s) is not being sent to the law library. The LTA will document the reason for any inmate's failure to respond. There will be as many sessions as appropriate each day.

Inmates will be searched by yard officers and the Education Officer prior to entering and upon leaving the law library.

Upon arrival in the law library, the inmate will sign the Law Library Access Log (name/CDCR number/housing/

time in and out) and give the LTA his green or red privilege identification card. No materials will be given out unless the log is signed. In the law library there will be a limit of three law books checked-out per inmate at a time. Upon leaving the law library, the inmate will sign out on the Law Library Access Log.

No copying will be done unless it meets the requirements of legal material outlined in DOM Section 14010.21.2. Per DOM Section 14010.21, Legal Copying Services, copy service is provided as a convenience for inmates in preparing legal documents, and is therefore not mandatory. Copy service is not guaranteed to be completed during library visits and paging service is not available. The cost for copying shall be ten cent. (\$.10) per page. Library staff will adhere to the library standardization documents provided in each law library. A completed Inmate Trust Account Withdrawal Form must accompany the inmate's request for copies, blank paper, and/or manila envelopes. Indigent inmates' free copying shall be limited to one copy for the intended court, and one copy for the lead opposing party, and a copy for their records. ~~The indigent inmate may retain the original documents for their records.~~

Twenty-eight (28) line paper is not considered legal, as legible, handwritten material is acceptable by the courts. As such, no copy service will be provided.

CDCR 602's are not considered legal documents. Inmates may have one copy of the attachment for the CDCR 602 made for their records and no copies of the whole document will be made until the document is to be submitted to the Director's level for disposition.

Envelopes will only be provided for legal materials going to the particular court(s)/involved parties, as per the court rules. Court rules may require that a particular number of copies be sent to a particular court(s)/party(ies) involved in the litigation. Before it leaves the law library, an envelope(s) will be addressed to the court(s)/party(ies).

The appropriate officers' Post Orders will reflect the above-mentioned duties and responsibilities.

Americans with Disability Act (ADA) Inmate Request for Assistance From the Court

An inmate claiming to have a disability covered under the ADA, and the disability makes it difficult to read, write, and/or understand the process or legal material regarding a case, may request assistance from the court of competent jurisdiction over a case the inmate wishes to prosecute. The range of assistance the inmate may request varies from obtaining large print materials to assignment of counsel.

An inmate must obtain from the LTA, and fill-out completely an Inmate Request for Assistance from the

Court (Attachment E). The LTA may assist the inmate in filling out the request, but shall not offer any legal advice. The LTA shall forward a copy of the request to the inmate's assigned case worker for Central File placement. The inmate shall mail the request to the court of competent jurisdiction via the confidential legal mail process.

This process satisfies the obligations of CDCR under the *Armstrong v. Schwarzenegger*, and *Clark v. California* court ordered remedial plans.

Inmate Worker Access

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Law library services for inmates assigned to jobs will be provided during the inmates' off-duty hours. Inmate workers who request Law library access shall note the days and hours of their assignment on their Law Library Access Request Form (see Attachment D) and send it to the LTA per procedures outlined above, or deliver it to the law library service window. Upon receipt, the LTA will note the days and hours of assignment and schedule access during the inmate's off-duty hours. A ~~date~~ *schedule* list will be provided to the IAO for ~~creating~~ *scheduling on the DMS*. In the event that an inmate, who has a verifiable PLU date and whose off-duty hours are when the law library is closed, it is the inmate's responsibility to contact his supervisor. The supervisor will arrange a time for the inmate to attend the law library.

~~Creating procedures will be followed as outlined above.~~

Indigent Inmate Legal Services

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HDSP Law Libraries will perform the following legal services for indigent inmates:

- Photocopy service: HDSP Law Libraries will make two (2) photocopies of indigent inmate legal material *not to exceed 50 pages in total length* for mailing to a court. An indigent inmate must complete and submit a Trust Account Withdrawal Order (Attachment A) to receive this service.
- Legal envelopes: HDSP Law Libraries will provide legal envelopes to indigent inmates in sufficient amount for mailing of completed legal material to the courts. An indigent inmate must complete and submit a Trust Account Withdrawal Order (Attachment A) to receive this service. An indigent inmate must fully address legal envelopes to the court of competent jurisdiction prior to leaving the law library.
- Writing paper: HDSP Law Libraries will provide indigent inmates twenty-five (25) sheets of indigent inmate writing paper per week. An indigent inmate must complete and submit a Trust Account Withdrawal Order (Attachment A) to receive this service.

Law Library Access During Lockdowns and Partial Lockdowns

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Library clerks may be considered critical workers and may work during lockdowns with approval of the Associate Warden and/or Facility Captain. The LTA is responsible to submit a critical workers list to the Associate Warden and/or Facility Captain, via the Education Department chain-of-command. This list will include the inmate's name, CDCR number, housing, ethnicity and affiliation, if known.

In accordance with the Facility Captain's Lockdown Plan, PLU's and GLU's will be given access to the law library. If no access has been provided to PLU and GLU inmates on lockdown, PLU's will be granted access after a minimum of 7 days of being locked down. GLU inmates will be provided access in the order their requests were received, as space is available. The LTA will work with the Facility Sergeant/Lieutenant on each locked down yard in order to secure law library access prior to the 7 days to avoid problems on the 7th day. If necessary, the LTA's supervisor will contact the Facility Captain to arrange access. The LTA's receipt of the Law Library Access Request Form (see Attachment D) from PLU and GLU inmates will facilitate the queuing of the inmate to the law library.

During partial or total lockdown status, inmates will receive access to the facility satellite law library using the following steps:

- The inmate will obtain and completely fill out the Law Library Access Request Form (see Attachment D) and submit it to the law library by giving it to the floor officer of his building who will take all completed Law Library Access Request Forms to the Program Office or deliver them to the LTA.
- The LTA will pick up all completed law library Access Request Forms from the Program Office on a daily basis.
- The Program Sergeant will review the list and may revise the list if there are any safety and security needs deemed necessary to restrict access. The LTA will note any restrictions on the queat list.
- The LTA will prepare a ~~queat~~ list law library access schedule by building and compatible groups for all inmates on lockdown status.
- The LTA will submit this list to the IAO for ~~queating~~ scheduling on the DMS.
- The LTA will provide a list indicating group, housing, name, CDCR number, ethnicity, and PLU/GLU status of ~~queated~~ scheduled inmates to the

Yard Sergeant each morning. Affiliation will be included, if known.

- The Yard Sergeant will ensure custody escort to the Law Library for each group of library users.
- Each building officer will record any inmate refusal to attend the library and sign the notation in the Building Daily Logbook. The Search & Escort officer will notify the LTA regarding any inmates refusing to attend the Law Library. The LTA will make a notation on the ~~queat~~ schedule list along with the name of any refusal.
- The LTA will call the building officer to verify the reason ~~if why~~ any ~~queated~~ scheduled inmate does not report to the law library unless the inmate has refused. The LTA will document this contact with the name of the staff spoken to on the ~~queat~~ schedule list for the day the inmate was to have attended the library.
- If the inmate fails to report to the law library within 30 minutes of the LTA's call to the building officer, the LTA will contact the building officer to report the situation and document the reason on the daily ~~queat~~ schedule list as noted above. This document will be completed daily.
- If a particular inmate or inmate group frequently miss their scheduled library access, the Senior Librarian will notify the Facility Sergeant to facilitate active steps be taken to ensure the noted population is provided access as expediently as possible.
- A monthly review will be conducted of documentation regarding each inmate's failure to attend the law library as ~~dueated~~.

During partial or total lockdown status, paper and pen inserts can be requested from the building floor officer. Yard Sergeant and Building Officers' Post Orders are to reflect the above duties and responsibilities.

All inmates will follow the GP Law Library Procedures as noted above.

Law Library Schedule

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All facility libraries will operate according to the posted schedules. Institutional circumstance may alter library access per safety and security needs. The law library ~~queats~~ schedules access according to any lockdown memorandums which supersede all other policies and procedures until the memorandum is rescinded. Law Libraries are not responsible for escort.

Administrative Segregation Unit Law Library

Inmates housed in ASU shall be issued Law Library Access Request Forms (Attachment D) to request direct access to the law library. Direct access forms are available in each building and will be provided to the inmate, upon request, following appropriate distribution procedures. First Watch ASU staff will separate the library request forms from the regular mail and place the forms in the law library mailbox, which is located in each respective Housing Unit. Z Unit direct access forms will be placed in the Law Library Officer's mailbox located in Z Unit's Law Library room. All direct access forms will be picked up and processed by the ASU Law Library Officer on a daily basis. PLU inmates will be given first priority. GLU inmates will receive direct access in the order in which their requests were received. The ASU Law Library Officer shall provide service to ASU inmates.

The responsibility for addressing inmate issues and/or appeals relative to ASU Library and Law Library service is under the review of the Facility D Captain and ASU Library custody staff. ASU Library issues and/or appeals concerning law and recreational reading should be forwarded to the Associate Warden, Complex II for distribution and handling.

Administrative Segregation Unit Direct Access

ASU inmates requesting direct access to the library and/or law library in the ASU will utilize the Law Library Access Request Form (See Attachment D). The Facility D LTA, when requested by ASU Library and/or Law Library staff, is responsible for helping determine if an inmate may be eligible for PLU status. Utilizing the Law Library Request Forms, the ASU staff shall prepare a list of all ASU and Orientation inmates requesting direct Library and law library access in order of highest to lowest priority according to the following guidelines:

- First Priority: Inmates with verifiable court deadlines - PLU.
- Second Priority: Inmates doing legal research - GLU.

Each Friday, during second watch, the ASU Law Library Officer will establish a list of those inmates requesting direct access to the law library. A total of 18 ASU inmates can be accommodated each day the library is open for direct access to the Facility D Law Library area established for ASU inmates. A total of 8 Z Unit inmates can be accommodated in the Z Unit Law Library. The ASU Law Library Officer shall ensure the first 18/8 inmates on the list are given the opportunity to have direct access to the Law Library. The second 18/8 may receive access the second day, the third 18/8 on the third day and the fourth 18/8 on the fourth day. Should an inmate decline service, transfer or parole, the next inmate on the list shall be given the opportunity for direct law library access. This procedure shall be repeated until 18/8

inmates have been escorted to the ASU Law Library area each day or the list is depleted. The inmates will be escorted in accordance with the established escort policy.

Library access for ASU inmates will be according to their posted schedule.

The ASU Law Library Officer will be responsible for providing direct and constant supervision of inmates in the holding cells provided for direct access. Mechanical restraints will be removed during direct access in the holding cells provided.

The ASU Law Library Officer is responsible for maintaining a log of all law library activity of ASU and orientation inmates (to include date/time of access, inmate's name/CDCR number, refusal, etc.). Additionally, documents requesting direct access to the law library each week are to be kept on file by the ASU Law Library Officer.

The Facility D LTA shall be responsible for obtaining the legal materials requested by ASU inmates. The ASU staff shall be responsible for searching all materials given to the ASU inmates in the unit, as well as the materials being returned at the end of the direct access visit and all of the materials going into the cells.

While at the law library, ASU inmates are to behave in a quiet, orderly manner. If two inmates are working together on an appeal court case, they are authorized to communicate between themselves in a quiet manner. Should an inmate refuse to comply with staff's directions to be quiet, or the inmate becomes disorderly, the ASU Sergeant shall be advised and the decision can be made to terminate the inmate's visit to the law library. In such circumstances, the suspension of access to the law library for a period of up to 90 days can be invoked by the Warden or Chief Deputy Warden per DOM Section 101120.10, Abuse of Law Library. During physical suspension, forms may be obtained by using the Law Library Access Request Form.

Administrative Segregation Unit In-Cell Use of Legal Material

To request the in-cell use of legal materials, the ASU inmate must complete the ASU Checkout Procedures Form (see Attachment B) indicating what materials or forms are needed.

A completed Inmate Trust Account Withdrawal Form must be attached to the inmate's first request for a legal publication. If the response is for envelopes, the address of the court to which it will be sent must be written on the request form. Envelopes will only be provided for legal material going to the courts. A copy of the Inmate Trust Account Withdrawal Form will remain on file with the Facility D LTA.

Original Inmate Trust Account Withdrawal Forms will be forwarded to Inmate Trust daily for collection.

Most court-produced legal forms (California Judicial Counsel Forms) are available to inmates at no cost and can be obtained via the Law Library Request Form.

Paper and pen inserts can be requested from the ASU Law Library Officer.

The ASU Library and Law Library Officers' Post Orders are to reflect the duties, responsibilities and schedule noted in the above two sections.

Reception Center Law Library Schedule

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Facility A Library is open to RC inmates on ~~Wednesdays~~ according to the following schedule:

Tuesday through Friday: 1130-1330 window

Thursday: 0800-1100 Buildings 2,3,4

~~*Friday: 0800-1000 Building 5*~~

The library is closed to mainline inmates during RC inmate usage; however, the window is open for service. This schedule is responsive to bus arrivals.

Inmates housed in the RC will access the Facility A Law Library by filing a Law Library Access Request Form (see Attachment D) and returning it to the RC Sergeant. He/She will forward the requests to the Facility A LTA, who will prioritize them as noted in the General Law Library Procedures. The LTA will create a prioritized access list for the RC Sergeant. The RC Sergeant will ensure that listed RC inmates will be escorted to the Law Library by Facility A custody staff.

All inmates will follow the GP Law Library Procedures as noted above.

When there is no compatible Library Clerk available, the custody escort will stay to supervise the inmates while the LTA finds the legal books and materials requested.

Orientation Inmate Law Library Access

Inmates on orientation status will access the law library by filling out a Law Library Access Request Form (see Attachment D) and returning it to the Building Floor Officer. He/She will forward the requests to the Facility LTA, who will prioritize them as noted in the General Law Library Procedures. The LTA will create a prioritized access list for the Facility Sergeant. The Facility Sergeant will ensure that listed Orientation inmates are escorted to the Law Library by Facility custody staff.

All inmates will follow the GP Law Library Procedures as

noted above.

When there is no compatible Library Clerk available, the custody escort will stay to supervise the inmates while the LTA finds the legal books and materials requested.

During lockdown or partial lockdown of a Facility, lockdown procedures will be followed.

Correctional Treatment Center Law Library Access

Inmates housed in the CTC can request Law Library access by filling out a Law Library Access Request Form (See Attachment D). The Occupational Therapist will collect the forms and notify the Senior Librarian who will pick up the request forms. If the Occupational Therapist is unavailable, the Senior Librarian will collect the Law Library Access Request Form. Inmates must be housed in CTC for a minimum of seven days before they can request access. If the request is for a book, a completed Inmate Trust Account Withdrawal Form must be attached to the inmate's first request. This form will remain on file with the Senior Librarian until all materials are returned or until the inmate fails to return the materials, at which time it will be forwarded to Inmate Trust for collection. Requested materials will be delivered by the Senior Librarian, their designee or the Facility C LTA within seven days of receiving the request.

Inmates housed in the CTC will receive only photocopies of requested cases and legal materials to prevent any possible contamination of law materials.

A limit of three cases may be requested for three days.

Minimum Support Facility (Facility E) Law Library Access

Inmates requiring direct law library access to file an appeal or work on a current case will request access through the Facility E Correctional Counselor I (CCI). The CCI/Sergeant will contact the Facility A LTA at extension 6228 to determine the user category and the time of the LTA's attendance in the Facility E Law Library. The LTA will provide direct service to the Facility E Law Library. A maximum of two inmates will be allowed access at a time. Inmates requesting legal forms may request these materials by filling out a Law Library Access Request Form (see Attachment D) and sending it to the Facility A Law Library via institutional mail. Materials will be provided to the inmate when the LTA attends the Facility E Law Library. In coordination with the Facility E Sergeant, an LTA will attend the Facility E Law Library as needed, but no more than once per work week to provide legal cases, copying, and other Law Library services.

Typing of Legal Documents

No typing service is, or will be, provided for the preparation of an inmate's legal documents or correspondence. Legible, handwritten material is acceptable unless otherwise directed by a court on an individual basis. The institution does not provide typewriters or typing service.

Access to Bathrooms

Bathroom access is not a part of the law library session. Each law library session is two hours in length. Inmates should take care of their bathroom needs before entering the law library. LTAs are not responsible for bathroom access. If an inmate has an emergency need to use the restroom, the LTA may call the Program Office to arrange an unlock so the inmate may either be returned to his house or use the bathroom facilities provided on the yard.

Pens and Pen Fillers

The Law Library is not responsible for providing pens and pen fillers. Pencils can be loaned out, upon request, when an inmate gives the LTA his green or red privilege identification card. The identification card or red privilege card will be returned once the inmate returns the pencil.

During partial or total lockdown status, paper and pen inserts can be requested from the Building floor Officer.

11020.16 Access to Law Library by Inmates with Court Deadlines

The two categories of law library users are PLU and GLU.

Priority Legal User (PLU) Status

Rev 01/09

A PLU is an inmate who has verified court-ordered or procedural deadline to file a petition, brief, motion, opposition, traverse, reply or other pleading within 30 days. If a deadline exceeds or extends beyond thirty days, for example, 60, 90, or 120 days, the law library will honor only the last 30 days. To request PLU status, an inmate must submit a Law Library Request Form (See Attachment D) and check the line, "I am PLU" for each week during his deadline timeline. PLU status also results from the application of Federal Rules of Appellate Procedure wherein the petitioner may serve and file a reply within 10 days after the filing of the Attorney General's response. A PLU inmate must be acting "in propria persona" (in person) and may not have an attorney assigned to his case. If an inmate wishes, he can (per California Code of Regulations (CCR) Title 15, Section 3163, Assisting Other Inmates) transfer his PLU deadline to another inmate using the Transfer of PLU Status form (Attachment F). The inmate who he transfers his PLU status to will become PLU for the 30 days and the inmate

~~with the original deadline will become GLU. PLU status shall expire on the date of his verified deadline. PLU cases are those pertaining to the inmate's sentence or conditions of the prison. It is the responsibility of the inmate to provide proof of his PLU status.~~

When court documents are unclear for purposes of establishing a deadline, law library staff may call the court issuing the document for clarification. If further clarification is necessary, staff may obtain legal advice from departmental counsel or the Attorney General's Office.

To request PLU status an inmate must submit a Law Library Access Request Form (see Attachment D) and check the line, "I am a PLU." The Senior Librarian or LTA will keep a logbook of all inmates with court verified documents. The logbook will include the inmate's name, CDCR number, deadline date, case number and the court issuing the document.

~~Upon request verification, PLU's shall may, if conditions warrant, receive a minimum maximum of two four consecutive hours of library time per week. This access cannot conflict with an inmate's assigned Work Training Incentive Program and will supersede scheduled building/yard release.~~

PLU's must work only on meeting their legal deadlines when using the library.

If a PLU has more than one verified court deadline, he will only receive PLU status on one deadline. However, he may work on both deadlines while in the library.

~~An inmate may delegate his PLU status to another inmate in the same facility. Both must sign a Transfer of PLU Form (see Attachment E) in the presence of the Senior Librarian or LTA before the PLU status can be delegated. Inmates who accept a transfer of PLU status must act in accordance with CCR Title 15, Section 3163.~~

~~All legal papers must be returned to the respective owners, using the procedure cited below, when either inmate is transferred to another facility or institution, or when other administrative action prevents direct communication between inmates involved in assisting each other in preparation of legal documents.~~

- ~~• Inmates with legal material belonging to an inmate in another facility will notify law library staff who will then escort the inmate to the Law Library.~~
- ~~• Law Library staff (Senior Librarian or LTA) will inspect the property for contents / contraband and transfer the property to the designated Law Library.~~
- ~~• Law Library staff (Senior Librarian or LTA) in the~~

~~receiving unit will again inspect the property and take appropriate measures to deliver legal property to the owner.~~

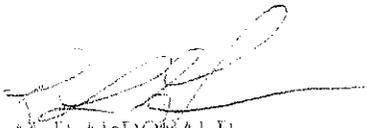
~~A PLU cannot transfer his PLU status to another inmate to work on one deadline and, at the same time, retain his PLU status to work on another deadline.~~

~~If an inmate has accepted a PLU transfer and also has a personal court deadline, he may receive PLU status for only one case.~~

General Legal User (GLU) Status

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GLU are inmates who need law library access, but do not have verified court deadlines within 30 days. GLU inmates may gain access by submitting a Law Library Access Request (see Attachment D) to the Law Library per procedures outlined above. The inmate will be ~~educated~~ *scheduled*. Under normal conditions, a GLU will receive access within seven days of his request. An inmate who is given access to the law library as a GLU inmate is not to use his time in the law library for recreational reading.



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