



**DEPARTMENT OF CORRECTIONS
MONTANA STATE PRISON
OPERATIONAL PROCEDURE**

Procedure No.: MSP 3.3.2	Subject: INMATE LEGAL ACCESS TO COURTS
Reference: DOC Policy No. 3.3.2	Page 1 of 3
Effective Date: June 10, 2002	Revision: (new effective date) July 13, 2009
Signature / Title: /s/ Mike Mahoney / Warden	

I. PURPOSE

To provide assistance to inmates who desire to access the courts.

II. DEFINITIONS

Pro se – the inmate represents himself in court without an attorney.

III. PROCEDURES

A. Inmate Legal Access

The Warden or designee will ensure MSP inmates have meaningful access to the courts by providing:

1. A minimum of one computer with electronic legal research capabilities in the high side library, the low side library, the Work reentry Center Library, and one for use by inmates with disabilities.
2. Forms that inmates may utilize to file complaints or petitions.
3. Reasonable accommodations for legal access will be made for indigent inmates, inmates with disabilities, and inmates in locked housing units.
4. Assistance to illiterate and non-English speaking inmates who wish to access legal material. Illiterate and non-English speaking inmates that need assistance will be referred to the Education Department for assistance.

B. Attorney Access to Inmates

1. Inmates who desire a consultation with their attorney will, upon reasonable notice by their attorney, be allowed to consult alone and in private with the attorney in accordance with procedures outlined in *MSP 3.3.8, Inmate Visiting*. The Warden may limit attorney visits if such visits present a threat to the safety, security, or orderly operation of MSP.
2. Inmates are allowed to correspond with attorneys and the courts in accordance with the provisions outlined in *MSP 3.3.6, Inmate Mail*.

C. Inmate Legal Materials and Assistance

The Librarians will oversee inmate access to legal materials, and will assist inmates in accessing the appropriate forms and performing legal research, and may designate one or more inmate library workers to assist in providing access to legal materials. Inmates in locked housing units, and those with disabilities preventing them from accessing the libraries, may access available legal material by sending an OSR to the Librarian who will process the requests.

1. Inmates will be provided access to MSP and DOC policies and the following legal materials at the libraries or through the librarians:
 - a. the Montana Code Annotated
 - b. the published decisions of the Montana Supreme Court
 - c. the decisions of the Montana federal district court

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- d. the decisions of the Ninth Circuit Court of Appeals
- e. the decisions of the United States Supreme Court
- f. the United States Code, Titles 28 and 42
- g. federal and state rules of court
- 2. The following forms will be available for inmates in the libraries or from the librarian:
 - a. notice of appeal
 - b. motion to withdraw guilty plea
 - c. petition for post conviction relief, memorandum and affidavit
 - d. petition for habeas corpus relief
 - e. petition for DNA testing
 - f. form 28 U.S.C. 2254
 - g. federal complaint
 - h. in forma pauperis form
 - i. petition for executive clemency
 - j. application for sentence review

D. Copies and Notary Services

- 1. A copy machine is available in the low side library for producing photocopies of legal research or court pleadings an inmate needs to pursue litigation.
 - a. Inmates may purchase copy coupons from the librarians. The coupons will be used by the inmates to exchange for:
 - 1) The photocopies of legal research or court pleadings that are made for them by the librarians or their designee.
 - 2) Each page of a policy or procedure that are printed out for them by the librarians or their designee.
 - b. The cost of the coupons, which may include an administrative fee, may not exceed 25¢ per page.
 - c. Inmates in locked housing units, and those with disabilities preventing them from accessing the library, may get photocopies or print outs of the materials referenced above by sending an OSR to the librarians, who will process the requests.
 - d. Indigent inmates may request up to 30 pages of copies per month of the materials referenced above from the librarians. The librarians will approve or reject the request based upon the inmate’s name being on the current indigent list.
- 2. Notary service is available to inmates through their housing unit Case Manager. Notary service is free of charge for the first five documents per month. Inmates may be charged up to \$2.00 per document for any additional notarizations.

E. Inmate Personal Legal Papers

An inmate may retain only their own personal legal papers in accordance with *MSP 4.1.3, Inmate Personal Property*.

F. Prohibited Inmate Activities

An inmate may not provide legal work or write a legal document for another inmate. To do so is a disciplinary rule violation subject to potential disciplinary action pursuant to *MSP 3.4.1, Institutional Discipline*.

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G. Other Legal Issues

1. Indigent inmates receive paper, envelopes, and writing instruments in their indigent packages for writing and mailing legal documents, and may request first class postage for legal mailings not to exceed eight mailings or a maximum of \$10.00 postage per month.
2. Inmates may not save or store data or information for their personal use on state owned computers. Any inmate document saved on a state computer is subject to deletion.

H. Prohibition on Retaliation

MSP staff will not retaliate against or penalize any inmate who chooses to access the courts.

IV. CLOSING

Questions concerning this operational procedure should be directed to the DOC Legal Services Bureau.

V. ATTACHMENTS (none)