



THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION



DIRECTIVE

☒ NEW ☐ INTERIM ☐ REVISED		SUBJECT	
EFFECTIVE DATE 5/ 19/ 86		*TERMINATION DATE / /	
LAW LIBRARY OPERATIONS			
CLASSIFICATION # 3501	SUPERSEDES	DATED	DISTRIBUTION A
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RECOMMENDED FOR APPROVAL BY REVIEW BOARD MEMBER		AUTHORIZED BY THE COMMISSIONER	
SIGNATURE		SIGNATURE	

I. PURPOSE.

The purpose of this Directive is to establish policy and procedures for the operation of the law libraries in the Department's detainee and mixed detainee/inmate facilities.

II. POLICY.

The Department is committed to advancing and preserving the Constitutional right of detainees and inmates of access to the courts. Providing regular access to an effectively managed, adequately staffed and properly equipped law library is an integral part of preserving that right.

The Department has invested considerable time and resources in developing the quality law library program which this Directive embodies. The Department is committed to maintaining and enhancing this program.

The policies and procedures contained in this Directive conform with the provisions of the consent judgements, as modified, pertaining to law libraries.

III. PROCEDURE.

A. Law Library Equipment. Each facility shall maintain a properly equipped law library which shall include, among other items:

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1. necessary research and reference materials consisting of the materials listed on Exhibit "A", attached hereto. These materials shall be kept properly updated and supplemented, and shall be replaced without undue delay when any materials are missing or damaged. Research and reference materials shall be inventoried quarterly and updated without undue delay.

2. unmarked legal forms which are commonly used by detainees. Each detainee shall be permitted to use or make copies of such forms for his or her own use.

3. a sufficient number of operable photocopy machines for use by detainees to copy legal materials. Service contracts requiring prompt repairs shall be maintained on each photocopy machine. The Division of Management and Budget shall be responsible for securing and continuing such contracts. Back-up copier service shall be provided when regular machines are inoperable.

4. adequate copier supplies and paper, which supplies and paper shall be maintained at all times. Detainees shall be permitted to make unlimited free copies of all legal materials except when a legal coordinator determines that excessive copies are unwarranted.

5. a supply of operable typewriters equivalent to at least one percent of the facility's inmate capacity shall be available during all hours of law library operation for use by detainees and trained typists. Typewriters shall be repaired promptly and back-up typewriters shall be available to replace inoperable machines.

a. service contracts or alternative arrangements at all times for repair service and supplies for typewriters.

6. an adequate supply of paper and other writing material and other supplies appropriate for legal work, which shall be replenished on an as needed basis.

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B. Law Library Staff

1. Director of Law Libraries. There shall be a full time, qualified, director of law libraries who shall report to the Assistant Commissioner for Program Services. The director shall be responsible, among other things, for insuring that each law library is operated in compliance with the provisions of this directive. The director of law libraries is specifically responsible for the following:

- o providing the required reference materials to each facility.

- o notifying the facility of the legal coordinator vacation schedule.

- o scheduling and notifying each facility of vacation relief personnel. The director shall have the authority to reassign legal coordinators between and among facilities on an as needed basis.

- o providing coverage, when possible, to a facility when coordinators are unexpectedly absent.

- o training legal coordinators and student interns.

- o insuring that legal coordinators, law library officers and student interns apply to be appointed notaries or commissioners of deeds within 30 days of such employees' appointments to these positions.

2. Legal Coordinators.

- a. Each law library shall be operated and staffed with trained civilian legal coordinators, some of whom speak Spanish. If the facility's capacity is greater than 600 inmates, there shall be two permanent, full-time legal coordinators. The tours of duty of the coordinators shall overlap. If the facility's capacity is 600 or fewer inmates, there shall be one permanent, full-time legal coordinator.

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b. The legal coordinators shall be responsible for the following:

- o maintaining continual visual inventory of reference material and initiate reports of any missing or damaged volumes.

- o preparing written quarterly inventory reports.

- o receiving and logging all incoming reference material.

- o preparing and forwarding monthly receiving, statistical and utilization reports.

- o ensuring sufficient supplies are available and reporting any shortages.

- o providing accurate and appropriate legal assistance to detainees and inmates, while refraining from giving legal advice.

- o keeping informed of changes in law and/or legal procedures.

- o disapproving requests for excessive copies of legal materials.

- o making referrals to appropriate departmental service units and/or outside agencies for individuals in need of same.

- o performing the function of notary or commissioner of deeds. Each legal coordinator shall apply to be appointed a notary public or commissioner of deeds within thirty days of his or her assignment to such a position.

- o instructing classes in legal research methodology on at least a quarterly basis.

- o providing services to inmates excluded from the law library.

- o training and supervising inmate law clerks.

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o such other duties as may be directed.

3. Correction Officers.

a. Each facility shall staff its law library with an adequate number of steady correction officers knowledgeable of law library procedures.

b. Law library officers shall be responsible for the following:

o maintaining attendance and special logs and twenty-four hour report.

o maintaining sign-up sheets.

o maintaining recall list.

o notifying housing areas of scheduled and recall periods.

o performing function of notary or commissioner of deeds. Each library officer shall apply to be appointed a notary public or commissioner of deeds within thirty days of his or her assignment to such a position. (Each facility shall insure that such applications are made.)

o reporting broken or inoperable equipment.

o supervising inmates in attendance and notifying area supervisor immediately of need to remove any inmates.

o maintaining ongoing list of excluded inmates.

o insuring that the law library schedule and code of behavior is posted at all times.

o preparing Departmental reports as required.

o such other duties as may be directed.

4. Staff Absences and Vacations.

a. Legal coordinator(s) and regular law library officer(s) shall not be scheduled for vacations at the same time. The director of law libraries shall notify the

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facilities of the legal coordinator vacation schedule prior to the semi-annual vacation selection process for correction officers.

Each facility shall maintain a pool of relief correction officers knowledgeable of law library procedures to replace steady law library officers during extended absences.

b. During extended absences of the regularly assigned legal coordinator(s) such as vacations, military leave, jury duty and prolonged illnesses, legal coordinator coverage shall be provided. The director of law libraries shall be responsible for assigning legal coordinators to provide such coverage. Every effort shall also be made to provide backfill coordinator coverage during one or two day absences of the legal coordinator(s).

c. When unforeseen circumstances dictate, graduate or undergraduate interns trained in law library procedures, and capable of assisting detainees with their legal research, may be assigned as substitutes for coordinators, provided that such interns shall be so assigned (i) for periods of five days or less; and (ii) only to law libraries with comparative low detainee usage, or to law libraries with comparatively higher detainee usage so long as the period during which the intern works without the supervision of a legal coordinator does not exceed three and one-half hours per day. In no event shall student interns be assigned to cover during legal coordinator extended absences for periods in excess of ten days during any thirty day period of scheduled law library use. If a regular coordinator is not present during a detainee's scheduled law library period, the detainee shall be given access to a coordinator during a recall period, on request, so long as a coordinator is available at that facility.

The director of law libraries shall insure that student interns apply to become notaries public or commissioners of deeds.

C. Hours and Days of Operation.

1. Larger Facilities. If the capacity of a facility is greater than 600 inmates, its law library shall operate a minimum of ten hours per day, five days per week (Tuesday

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through Saturday), including at least three hours between 6:00pm and 10:00pm.

2. Smaller Facilities. If the capacity of a facility is 600 or fewer inmates, its law library shall operate a minimum of eight and one-half hours per day, five days per week (Tuesday through Saturday), including at least three hours between 6:00pm and 10:00pm. This provision shall not be construed to apply to the Manhattan House of Detention for Men or the Rikers Island Hospital, the schedules of which are attached hereto.

3. Holidays. The law library shall be kept open for detainee use on all major holidays which fall on regular law library days except New Year's Day, July 4th, Thanksgiving, and Christmas.

On holidays on which the law library is kept open, the law library shall operate for a minimum of eight hours with legal coordinator coverage. The law library may be closed on holidays other than those specified above, provided that (i) law library services are provided on either Sunday or Monday of the same week; and (ii) that on such alternate day, the law library is operated on a non-holiday schedule.

4. Schedules. The schedules of law library operations attached to this directive as Exhibit "B" comply with the aforementioned requirements. No changes whatsoever may be made in any of the attached schedules without the prior written authorization of the director of law libraries.

5. Posting of Schedules. A copy of the law library schedule shall be kept posted at all times in each facility's law library and in each housing area.

D. Detainee/Inmate Access.

1. Daily Access. Each detainee shall be allowed access to the law library for a period of at least two hours per day (or more time in accordance with the attached schedules) each day the law library is open.

2. Extra Time. Each detainee shall be provided as much extra time as space permits as is requested, unless the detainee requesting additional time failed to heed a verbal warning to cease making improper use of the law library (as

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described in paragraph "H.2.a" below) during that detainee's regular law library period.

a. In providing extra time, preference shall be given to detainees who have an immediate need for additional time, such as an impending court deadline, provided, however, if on a particular day, with maximum use of the law library, access to some detainees must be denied because there is insufficient space to accommodate all detainees who wish to use the law library, those detainees who are denied access on that day shall be provided access on the following day.

3. Sign-up Sheets. Detainees shall request access to the law library through the use of sign-up sheets. Bilingual sign-up sheets shall be posted in each housing area so that detainees have unfettered access to these sheets during all lock-out periods the preceding day in order to sign-up for law library the next day, if the law library is scheduled for operation.

a. An adequate number of sign-up sheets shall be available to each housing unit. If an original sheet is torn down, a replacement must be posted immediately.

b. A detainee who is unable to sign up for law library use due to court appearances, etc., shall be provided access to the law library the following day the law library is scheduled for operation, upon request.

c. Each facility head shall appoint a supervisory employee(s) to insure that sign-up sheets are distributed and posted in accordance with this Directive.

4. Recall. A detainee who misses his or her regularly scheduled law library period due to a legitimate conflict with any other institutional activity, medical or legal proceeding, shall be recalled automatically for the required two hours of law library access later that same day or the next available recall period. The housing area officers shall notify the law library of detainees eligible for recall. Recall periods shall be scheduled when most detainees requiring law library recall would be available.

If legitimate space constraints preclude calling all recalls and honoring all requests for extra time,

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preference shall be given first to recalls to insure each detainee receives at least the minimum daily access. Extra time shall then be granted with preference given to those detainees with immediate need for additional time.

5. Housing Area Announcements. Announcements of law library periods shall be audible to detainees in all sections of the housing areas and detainees shall be given adequate time to respond to such announcements.

6. Failure to Respond. A detainee who is present when his or her housing area is called for the regular law library period and does not respond to the announcement or chooses not to attend shall be considered to have refused his or her daily opportunity to attend the law library and is not entitled to recall.

7. Late Court Returns. A detainee who returns to his or her housing area from court after the law library sign-up sheets have been removed (i.e., after midnight), is entitled to access to the law library the following day the law library is in operation, as if he or she had signed the sign-up sheets.

E. Sign-In Procedure/Logbooks.

1. Upon arrival in the law library, each detainee will sign the log in his own handwriting indicating the following information:

- a. name
- b. commitment number
- c. housing location
- d. time of arrival

2. Upon leaving the law library, each detainee will sign the log indicating the time of departure.

3. The law library officer will indicate, if necessary, whether the detainee is there for recall or extra time.

F. Law Library Accommodations and Capacity.

1. Capacity. Each law library shall contain sufficient space to accommodate daily approximately ten percent

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of the facility's inmate population. The inmate population of each facility shall be distributed equitably through the law library schedule so that during each law library period, the law library is capable of accommodating the bona fide demand of all detainees scheduled for that period without exceeding the capacity of the law library. (This provision shall not be construed to apply to HDM's 1A/1B special law library, which has sufficient capacity to handle the detainees utilizing that facility.)

a. As of the date of this Directive, the capacity of each law library is as set forth on Exhibit "C", attached hereto. No change in this capacity figure may be made without the prior written authorization of the director of law libraries.

2. Noise, Space and Lighting. Each law library shall be maintained sufficiently free of noise and activity and with sufficient space and lighting necessary to permit sustained research.

G. Inmate Assistants/Training Courses.

1. An adequate number of trained inmate legal assistants and typists, some of whom speak Spanish, shall be available to assist inmates with the preparation of legal materials.

2. Legal research classes for general population detainees shall be conducted at each facility on at least quarterly basis. Legal research training materials shall be made available to special housing detainees, upon request. Special housing detainees may be considered for participation in legal research classes on a case-by-case basis.

H. Discipline / Misuse of Facilities. (See Sanction Grid on Page 13).

1. Code of Behavior The following code of behavior governing the law library shall be adhered to:

- a. Inmates must have their identification cards.
- b. No smoking.
- c. No loud or boisterous behavior.
- d. No food or beverages.
- e. No contraband of any kind.

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- f. No books or reference material may be removed from the law library.
- g. Inmates are not permitted in areas designated for legal coordinators and inmate clerks.

2. Removal of Inmates From Law Library. An inmate who violates the code of behavior or disrupts the orderly functioning of the law library or who does not use the law library for its intended purposes may be removed from the law library, as set forth below.

a. Misuse of Facilities.

i. The law library is provided for legal research and writing and for no other purposes. An inmate may be removed and excluded from the law library for the remainder of any law library period when he or she does not use the law library for its intended purposes during that period. Such a removal may occur only when it is clear that the activity engaged in is inappropriate and is not merely occurring while the inmate is waiting to make appropriate use of library facilities. An inmate who is quietly reading or writing shall be presumed to be using the law library properly, unless the material is clearly not related to legal matters.

An inmate may be removed and excluded from the law library for improper use of facility only after the inmate has failed to heed a prior verbal warning by supervising staff.

ii. An inmate who is removed from the law library two times in any one week period for misuse of law library facilities may be charged with a disciplinary infraction, and, after a due process hearing, be denied access to the law library for up five days.

b. Disciplinary Infractions Occurring in Law Library.

i. If an inmate is found guilty after a due process hearing of an assault on staff occurring in the law library which assault results in injury to staff, the hearing officer may, in addition to the other sanctions permitted under the Department's rules and regulations, exclude the inmate from the law library for a period not exceeding

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ten days.

ii. If an inmate is found guilty after a due process hearing of a Grade I or II offense (i.e., an offense for which the maximum period for punitive segregation is at least 20 days) within the law library, the hearing officer may, in addition to other sanctions permitted under the Department's rules and regulations, exclude the inmate from the law library for a period not exceeding five days, for the first offense occurring within the law library.

iii. Any inmate who, following a due process hearing, is excluded from the law library and transferred to a more restrictive housing area which has a separate law library serving that area, shall not be excluded from using that separate law library, unless he or she has been found guilty of injury to staff occurring in the law library. In such case, the inmate may be excluded from the use of the separate law library for the remainder of the exclusion order.

(a) Detainees in housing units 1A (institutional punitive segregation) and 1B (central punitive segregation) at the House of Detention for Men ("HDM") shall be provided law library services in the separate law library established adjacent to those housing areas.

iv. If, within a six month period, an inmate is found guilty after a due process hearing of more than one offense involving injury to staff within the law library, the hearing officer may exclude the inmate from the law library for a period not exceeding thirty days, in addition to other sanctions authorized by the Department's rules and regulations.

v. If an inmate is found guilty after a due process hearing of a subsequent Grade I offense within the law library within ninety days of any prior Grade I or II offense occurring within the law library, or a subsequent Grade II offense within the law library within sixty days of any prior Grade I or II offense occurring within the law library, the hearing officer may exclude the inmate from the law library for a period not exceeding ten days, in addition to other sanctions authorized by the Department's rules and regulations.

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vi. For third and subsequent Grade I or II offenses committed within the law library within ninety days of any prior Grade I or II offense occurring within the law library, the hearing officer may exclude the inmate from the law library for a period not exceeding fifteen days, and in additional increments of up to five additional days for each subsequent Grade I or II offense involving the law library.

vii. An inmate may not be excluded from the law library as a part of the sanction for first time Grade III offense committed within the law library except as provided in paragraph "H.2.a.ii.", above. If an inmate commits a subsequent Grade III offense within the law library within thirty days of a prior Grade I, II or III offense within the law library, the hearing officer may exclude the inmate from the law library for a period not exceeding five days.

EXCLUSION GRID CHART

<u>Disciplinary Infraction Occurring in Law Library</u>	<u>Max. Exclusion Period</u>
1st offense involving staff injury	10 days
2nd offense involving staff injury (within 6 months of 1st such offense)	30 days
All other 1st Grade I or II offenses	5 days
2nd Grade I Offense (within 90 days of 1st such offense)	10 days
2nd Grade II Offense (within 60 days of prior I or II offense)	10 days
3rd subsequent Grade I or II Offenses (within 90 days of prior I or II offense)	15 days
4th and subsequent Grade I or II offenses (within 90 days of prior I or II offenses)	20 days + 5 - each add'l
2nd Grade III Offense (within 30 days of prior I, II or III offense)	5 days

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c. Administrative Segregation.

i. Detainees confined in administrative segregation pending a disciplinary hearing shall not be excluded from the law library, provided, however, a detainee confined in administrative segregation as a result of an offense alleged to have occurred in a law library, may be excluded from the law library pending his or her disciplinary hearing under the following conditions:

(a) The detainee is charged with a Grade I or II offense that involves actually engaging in physical violence within the law library or wilful destruction of law library materials;

(b) The supervising officer investigating the infraction makes a written finding, with reasons, that the detainee may pose a threat to the safety and security of the institution because he or she is likely to again actively disrupt law library services; and

(c) The reasons for such immediate exclusion shall be included in the infraction report forwarded to the disciplinary board or hearing officer.

ii. A detainee confined in administrative segregation who is excluded from the law library shall be provided access to legal services and materials as provided in paragraph 16.f, below.

iii. Whatever time the detainee is excluded from the law library while in administrative segregation shall be credited toward any exclusion penalty imposed after a due process hearing.

d. Punitive Segregation.

Subject to the provisions of paragraph "H.2.b.iii.(a)", above, detainees who are placed in punitive segregation as a result of a disciplinary infraction shall be provided access to the law library with other punitive segregation detainees.

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e. Documentation.

All removals and exclusions pursuant to this section "H" shall be noted in the law library logbook and on the 24 Hour Report (described in section "I", below). Law libraries shall prepare a monthly summary documenting the number of removals, the names of detainees removed, the length of time and the reason for each removal.

f. Excluded Detainees.

i. All law library services available to general population detainees shall be available to a detainee who is excluded from the law library, and shall be provided (on days that the law library is in operation) law library services through the procedure described below. This procedure for requesting legal services shall be provided to a detainee in writing at the time the exclusion sanction is imposed through the disciplinary process.

ii. An excluded detainee needing legal services shall sign the law library request sheet for the housing unit in which he or she is confined, and in addition, submit a written request slip for services and/or materials. Written requests for materials and/or services from excluded detainees shall be picked up and filled daily. In the event that the excluded detainee's name appears on the housing unit request sheet, but no accompanying request slip can be located, or the detainee has requested the assistance of the coordinator, a legal coordinator shall visit the excluded detainee to determine his or her law library needs as soon as practicable, but no later than the same day. Services provided to excluded detainees shall be noted in both the law library and housing unit logbooks.

I. Recordkeeping.

a. All unusual incidents in the law library shall be recorded in the law library logbook.

b. Each facility shall prepare a daily summary of law library operations on the form attached hereto as Exhibit "D" (the "24 Hour Report").

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C. Each facility shall prepare a monthly summary of law library operations in a form provided by the Director of law libraries.

J. On-Site Inspections. The division of Compliance and Field Audits shall conduct regular on-site inspections of the law libraries to insure compliance with the provisions of this directive and shall make written reports of its inspections.

K. Institutional Orders. As of the date of this Directive, the Department has approved an Institutional Order governing law library operations at each facility as being in compliance with this directive. No changes to any institutional order may be made without the prior written authorization of the director of law libraries.

IV. ATTACHMENTS.

A. Exhibit "A" -- List of required reference and research materials.

B. Exhibit "B" -- Institutional law library schedules.

C. Exhibit "C" -- List of law library capacities.

D. Exhibit "D" -- 24 Hour Report.

V. SUPERCEDES.

All prior written or verbal directives or orders applicable to law library operations.

VI. REFERENCE.

A. Stipulation for Entry of Modification of Partial Final Judgments by Consent, Benjamin, et al., v. Malcolm, et al., 75 Civ. 3073 (MEL) SDNY, and related cases, executed by the parties, September 24, 1985.

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B. Minimum Standards for New York City Correctional Facilities, Board of Correction, City of New York, Part 9, effective January 1, 1977, as amended, November, 1985.

C. Bounds v. Smith, 430 U.S. 817 (1977).

VII. APPLICABILITY.

This Directive does not apply to any facility exclusively housing sentenced inmates, any hospital ward, work release facility or work camp.