

**VERMONT DEPARTMENT OF CORRECTIONS
ACCESS TO COURTS
INCARCERATED INDIVIDUALS HANDBOOK**

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This handbook is intended to serve as a resource to help you understand your fundamental constitutional right to access the court system to pursue qualified legal claims. If you have questions about anything in this handbook, please contact the Legal Education Director c/o Central Office.

ACCESS TO COURTS – OVERVIEW

In the United States, you are guaranteed certain constitutional and civil rights. These rights include the right of access to the courts.

While you do not have an absolute constitutional right to law libraries or legal assistance, you do have the constitutional right of access to the courts. The right of access to courts is based on the First, Fifth and Fourteenth Amendments to the Constitution. The First Amendment provides you with the right to “petition the government for redress of grievances” and under the Fifth and Fourteenth Amendments you have the right to “due process of law.”

Accordingly, state and federal correctional facilities must provide the tools to assist you to meaningfully access the courts. Law libraries are one of several ways to do so.

Vermont Department of Corrections (DOC) provides meaningful access to courts through a combination of:

1. Direct limited legal assistance from Inmate Law Librarians (ILL) and Inmate Legal Assistants (ILA); and
2. Primary and secondary legal materials located in the correctional facility law library.

The scope of the access does not apply to all legal filings but only to those areas directly related to your incarceration (‘qualified legal claims’):

1. Directly or collaterally attacking a sentence;
2. Initiating habeas corpus proceedings, direct appeals, constitutional rights actions;
3. Challenging the conditions of confinement; and
4. Bringing other civil rights actions related to incarceration.

LAW LIBRARY - GENERAL

Each DOC correctional facility has a law library.

The law library contains a collection of basic Vermont and Federal legal resources, including statutes, administrative rules, court rules, and primary and secondary legal materials. Online legal research is available on the law terminals located in the law library and other locations in the correctional facility.

DOC Administrative Directives, APA Rules, Interim Memos, Inmate Handbooks, and a copy of the DOC Glossary are provided by the Policy Development Unit and kept in the law library.

The law library does not have legal resources for researching, or filing legal pleadings not related to qualified legal claims.

Paper, pens, pencils, and envelopes are available to you for purchase through commissary, or shall be available for you to use if you qualify as indigent.

Typewriters, or other typing devices, provided by your correctional facility, are available in or near the law library. These are for qualified legal pleading preparation only.

Canteen items, personal property, and other items which are unrelated to legal research or the preparation of qualified legal pleadings are not allowed in the correctional facility law libraries and when using the law terminals and typewriters.

Depending on your housing status, you may be granted direct access to the law library. If access to the law library is not permitted, you will be given the opportunity to request limited resources from the law library for use in your living unit by requesting and submitting VTLL06 Book Loan Request with list of resources- Close Custody.

Hours of Operation:

The law library is open at least twenty hours each week including evenings and weekends. However, you are not entitled to access the law library for the full twenty hours each week. Programming, employment, visiting, and education are taken into consideration when scheduling law library hours.

The law library schedule is posted in living units and the law library.

The Superintendent may limit the number of inmates allowed in the law library at one time.

Special time allowances may be made on a case-by-case basis, for additional law library time for research and preparation of qualified legal claims if you can demonstrate, through written court documentation, a need for additional access to the law library and additional preparation time to meet an imminent court deadline of ten calendar days or less. To request extra time, submit a VTLL02 Law Library Use Request Form to the Law Library Administrator (LLA).

LIBRARY STAFF

Legal Education Director:

The Corrections Legal Education Director (LED) is a licensed attorney providing executive leadership, policy making, program planning, operational and administrative oversight for the Department of Corrections Legal Services Program having state wide financial and policy impact.

Note: The LED does not provide legal advice or legal opinions; the LED does not represent you in any legal or administrative proceedings. Communications with the LED are not confidential.

Law Library Administrator:

The Law Library Administrator (LLA) is a correctional facility staff member responsible for:

1. Managing printed legal resources to ensure they remain current and complete;
2. Coordinating the care and maintenance of the law terminals with the vendor and LED;
3. Locating or replacing missing legal materials and texts;
4. Initiating searches to recover missing materials;
5. Initiating disciplinary proceeding if you damage or destroy law library equipment or materials;
6. Maintaining a sufficient number of a current preprinted forms in the law library including:
 - a. VTLL02 Law Library Use Request Form;
 - b. VTLL02a Law Library Sign in Sheet;
 - c. VTLL05 Legal Photocopy Request Form;
 - d. VTLL08 Law Terminal Use Form;
 - e. VTLL09 Typewriter Use Form;
 - f. VTLL10 Supply Request Form;
 - g. VTLL11 End of Month Report;
 - h. Facility Inmate Law Library Job checklist; and
 - i. Outside Purchase/Special Package Request Form. (Provided for you to request permission to receive legal materials via CD or DVD from Court or Attorney).

And in close custody units providing:

- a. VTLL04 Legal Research Case Request Form;
- b. VTLL05 Legal Photocopy Request Form,

- c. VTLL06 Book Loan Request with list of resources- Close Custody;
 - d. VTLL08 Law Terminal Use Form; and
 - e. Outside Purchase/Special Package Request Form (to request permission to receive legal materials on electronic storage media from Court or Attorney.)
7. Collecting, reviewing and submitting monthly reports to the LED;
 8. Monitoring the overall operations of the correctional facility law library, ILL, ILA, and compliance with this directive and DOC policies related to inmate access to courts;
 9. Discussing with the LED when hiring the ILL and ILA;
 10. Ensuring that the law library is adequately staffed, the ILL and ILA are provided with a copy of the Inmate Access to Courts Inmate Handbook and are trained to perform all required duties;
 11. Assisting inmates who are illiterate, may have limited English proficiency (LEP), or who are prohibited from visiting the law library; and
 - a. The LLA may arrange for another staff member to interview and aid inmates requesting assistance due to illiteracy or limited English proficiency (LEP).
 12. Coordinate legal education, correctional facility location and schedule of classes with the LED and Legal Education Contractor.

Inmate Law Librarian and Inmate Legal Assistant:

The DOC employs qualified inmates to work in the law library as either the Inmate Law Librarian (ILL) or as the Inmate Legal Assistant (ILA), depending on training and certification.

ILLs and ILAs shall have a designated work space in the law library and necessary supplies to fulfill responsibilities.

ILLs and ILAs may provide you with limited assistance by:

1. Assisting you on how and where to access information;
2. Providing information on the availability of resources, supplies, and services;
3. Guiding you through general research processes;
4. Reviewing your photocopy requests to ensure they are correct and complete and helping you arrange for photocopying of qualified legal pleadings by the LLA or designee;
5. Helping you communicate with the LED and the courts; and
6. Acting as a hearing assistant as needed.

ILLs and ILAs are responsible for accurately completing and maintaining the following forms to submit to the LLA each month:

1. VTLL02 Law Library Use Request Form;
2. VTLL02a Law Library Sign in Sheet;
3. VTLL05 Legal Photocopy Request Form;
4. VTLL07 Law Library Inventory;

5. VTLL08 Law Terminal Use Form;
6. VTLL09 Typewriter Use Form;
7. VTLL10 Supply Request Form;
8. VTLL11 End of Month Report; and
9. Correctional Facility Inmate Law Library Job checklist.

The ILL or ILA cannot:

1. Provide legal advice and does not represent you in any court proceeding;
2. Prepare pleadings for you or sign any documents on your behalf;
3. Do legal research for you;
4. Provide any assistance that would amount to the practice of law; or
5. Charge and receive payment, or any form of compensation or trade, for providing assistance.
Please notify the LLA for any violation that you observe.

If you are discovered paying, or attempting to pay, an ILL or ILA for help in the law library:

1. You may be charged with the appropriate disciplinary sanction; and
2. You may be denied physical access to the law library for up to thirty days.
 - a. If physical access to the law library is denied due to a disciplinary sanction, and you can provide proof of a court imposed deadline, you can request a court form template and up to five court cases pertaining to qualified legal claims by sending a written request to the LED each week you are prohibited from accessing the library.

Criteria for Assignment as an ILL or ILA:

If you are interested in applying for an ILL or ILA position, you can request a copy of the Correctional Facility Inmate Law Librarian and Legal Assistant Job Description from the LLA.

If selected for hire, you will be provided with a copy of the job check list to sign. You must also sign and abide by the Facility Inmate Law Librarian Job Description.

Compensation for Inmate Law Library Workers:

ILLs and ILAs shall receive compensation for actual hours worked in the law library in accordance with inmate pay procedures, and at the same rate as other correctional facility inmate support program clerks in the certified or trainer/mentor grade level.

Any assignment or removal from an ILL or ILA position shall comply with DOC policies and procedures regarding inmate work assignments.

No ILL or ILA shall be removed from their position as retaliation for legitimate legal activities.

LEGAL MATERIALS

The law library provides resources for filing initial qualified legal pleadings with the court to attack sentences, directly or collaterally; challenge the conditions of confinement; and initiate habeas corpus proceedings, direct appeals, constitutional rights actions, and other civil rights actions related to incarceration (qualified legal claims).

1. Legal resource materials may be made available to you using original materials, photocopies, or through approved electronic resources.
2. You shall not write in, highlight, mark, or in any other way damage or destroy materials loaned to you and/or marked “VTDOC Law Library.” Such damage shall be considered destruction of state property, and may result in:
 - a. Being charged with the appropriate disciplinary infraction; and
 - b. Being denied physical access to the law library for a period of up to thirty days.
 - i. During this time, you can request a court form template and up to five court cases pertaining to qualified legal claims by sending a VTLL04 Legal Research Case Request Form to the LED for each week you are prohibited from accessing the law library.

Legal Materials from Other States:

Vermont correctional facility law libraries do not maintain legal materials from other states, or on every area of law.

DOC will not supply you with forms, addresses, or any legal materials from other states. It is your responsibility to contact your sending state court or correctional agency. Submit a written request to your Facility Corrections Services Specialist (CSS) for out of state addresses.

SUPPLIES AND SERVICES

Supplies:

Basic office supplies such as pens, paper, and envelopes for drafting and mailing qualified legal pleadings are available for you to purchase in the correctional facility commissary. You cannot purchase or provide supplies to other inmates.

Law libraries shall have supplies available for indigent inmates to use while in the law library. These supplies shall be used only for legal research and preparation of qualified legal claims in the law libraries. Unused supplies cannot be removed from the correctional facility law library.

Mailing Services:

Qualified legal pleadings can be mailed at your expense. You cannot pay for or mail another inmate's legal mail. Specialized mailing services such as overnight, Fed-Ex, UPS, registered mail, certified mail, return/receipt, etc. will not be provided.

Notary Services:

Notary services are provided by staff who are licensed notaries at no cost to you. This service is available for notarizing qualified legal pleadings only; you are limited to the notarization of no more than five qualified legal pleadings per month.

The correctional facility shall establish a schedule, to ensure inmates have reasonable access to a notary public within 72 hours of submitting a request, excluding weekends and holidays.

Photocopying Services:

Photocopying services are available for making duplications of your original initial pleading of qualified legal claims, at your expense. Free photocopying service for legal materials will not be provided. Photocopying costs will be deducted from your account. The fee is \$.05 per single-sided page, \$.09 per double-sided page for pages up to 8.5 by 11 inches and is consistent with the Uniform Schedule of Public Record Charges for State Agencies.

You must have sufficient funds in your inmate account to cover the cost of photocopying at the time of submitting VTLL05 Legal Photocopy Request Form, unless you qualify for indigent status.

If you do not have sufficient funds in your account to cover the costs of photocopying services at the time of the request, you may obtain photocopies on a reimbursable basis if you can demonstrate that:

1. Hand duplication cannot be accomplished, and additional photocopies are required by the court or procedural rules; or
2. You can demonstrate through written court documentation that failure to immediately obtain photocopy services would directly impact your ability to meet a court deadline of 10 calendar days or less.

To request photocopying services, you must:

1. Submit a completed VTLL05 Legal Photocopy Request Form to the ILL or ILA; and
2. Sign and date the form authorizing the appropriate deductions from your account.

If you refuse to complete and sign the form, your request for photocopying services will be voided.

Your legal materials shall be reviewed and visually scanned by the ILL, ILA, LLA, or designated staff, prior to photocopying to insure it contains qualified legal pleadings only. Refusal to permit a review of material by the ILL, ILA, LLA or designated staff prior to photocopying will void your request for photocopying services.

Generally, you will receive your photocopies within five business days of submitting VTLL05 Legal Photocopy Request Form.

You will not pay for, or provide, photocopying services for other inmates.

You will not sign VTLL05 Legal Photocopy Request Form on behalf of another inmate or submit a photocopy request for another inmate.

Printed materials that you have access to in the law library or on the law terminal will not be photocopied.

Only the LLA or designee are permitted to photocopy your qualified legal pleadings.

ACCESS TO THE LAW LIBRARY

For General Population Inmates:

If you are housed in general population, you may have physical access to the law library.

To schedule time in the law library, submit VTLL02 Law Library Use Request form to the ILL, ILA, or LLA, and you will be notified of your scheduled time.

For Inmates in Restrictive Housing:

If you are housed in segregation, you are still able to access your personal legal materials, as well as legal resources from the law library; please refer to your Resident Handbook.

If you are assigned to a restricted housing unit, you may be able to access law library services through the law terminal located in your housing area.

If a law terminal is not available, you can request a court from template and up to five legal cases pertaining to qualified legal claims by sending a VTLL04 Legal Research Case Request Form to the LED for each week you are prohibited from accessing the law library. You may also request printed material from the law library by submitting a completed VTLL06 Book Loan Request – Close Custody Form to staff assigned to your unit.

You will be allowed to request and receive up to three items of legal materials per day, delivered on three alternating days per week, such as, M-W-F, from the correctional facility's law library

collection for in-cell use by submitting a completed VTLL06 Book Loan Request - Close Custody to staff assigned to your unit.

LAW LIBRARY MISCONDUCT

If you are found to be involved of any of the following activities, you may be charged with a disciplinary infraction and may be denied access to the law library:

1. You seek compensation for providing authorized, or unauthorized, legal assistance to another person;
2. You damaged or misused law library materials, equipment or supplies;
 - a. Any damage to law library materials or equipment will be considered destruction of state property.
3. You remove law library material, text, handbooks, or supplies from the law library;
4. You bring personal property into the law library unrelated to legal research;
5. You sign another inmate's name, or use another inmate's name or jacket number when signing a document;
6. You are working on another inmate's case, or possess another inmate's document when that inmate is not with you;
7. Your presence disrupts normal operations; or
 - a. You enter the law library without prior approval; or
 - b. The ILL or ILA are not present.
8. You exhibit abusive behavior toward the ILA, ILL, or others.

If you are restricted from accessing the law library, and your living unit does not have a law library terminal, and you are able to show proof of an upcoming court deadline, you can request a court form template and up to five legal cases pertaining to qualified legal claims by submitting a VTLL04 Legal Research Case Request Form to the LED for each week you are prohibited from accessing the law library.

LAW TERMINALS AND REMOVABLE ELECTRONIC MEDIA STORAGE

Your correctional facility may have law terminals in the law library, and elsewhere in the correctional facility for legal research and viewing of authorized, electronic legal materials only.

1. All law terminal use will be logged and monitored.
2. When using the law terminals, you cannot:
 - a. Store any personal legal documents on the hard drive;
 - b. Alter the hard drive and any removable media;
 - c. Turn off, or unplug the law terminal, surge protector, and monitor;
 - d. Attach anything, (i.e. thumb drive, or external hard drive) to the law terminal, monitor or surge protector;
 - e. Play/insert DVD or CD;

- f. Create documents; or
- g. Print documents.
- 3. Relevant court form templates will be stored on the law terminals located in the law library and select housing units;
 - a. You are not allowed to print from the law terminals.
 - b. You will be able to view and take notes on the court form(s) templates provided.
 - c. You may choose to handwrite or use a typewriter to type the information accessed on the law terminal.
 - i. If you are assigned to a restricted housing unit where a law terminal is not located, you may request pre-printed court form(s) templates by submitting a VTLL04 Legal Research Case Request Form to the staff assigned to the unit.
 - ii. DOC Staff will submit all written requests for legal materials to the LED.
 - iii. The LED shall review all requests and determine if the requests is reasonable.
 - 1. If approved, the LED will provide you with a printed copy of the requested material for you to copy by hand.
 - 2. If denied, the LED will indicate the reason in writing.
- 4. Electronic media mailed to you is considered contraband, and will not be permitted in your possession or in the secure area of the correctional facility. It will be confiscated in accordance with the DOC policy on Contraband.
 - a. If it is labeled “Legal”, “Privileged”, or “Confidential”, it will be opened in your presence and inspected for contraband.
- 5. To receive electronic media containing your legal materials pertaining to qualified legal claims from an attorney or court, you must submit a completed Outside Purchase/Special Package Request Form.
 - a. You must first receive written permission, and the package must follow local procedures and rules. These rules may include specific times and shipping methods.
 - b. There is a five Gigabyte Maximum and the files must be PDF or MP4 only.
 - c. Once determined not to be contraband, the electronic media will be immediately sent to the LED, and you will be provided with a Confiscation of Offender Property Form.
- 6. The LED will review the electronic media to make sure it is legal in nature, and does not contain any personal communications, inflammatory material, nudity, or sexually explicit material in violation of the DOC policy concerning permissible inmate mail. The LED will notify you when the materials are available on the law terminal.
 - a. Your electronic media folder will be available to you for up to sixty days from the date you are notified by the LED that your materials are available, and you are provided with a secure password to access your folder.
 - b. At the end of the sixty-day viewing period, you will be notified that you have ten calendar days to arrange for the disposal of the electronic media.
 - c. You must notify the LED, in writing, where the materials will be sent. The mailing costs will be debited from your inmate account.
 - d. If you fail to designate a method of disposal it will be destroyed.
 - e. Any electronic media sent out of a correctional facility cannot be returned to the facility.

7. Legal materials may be sent to you electronically through email on your JPay or GTL tablets or kiosks. Electronic media will be reviewed and inspected for contraband.
 - a. Legal materials sent to you electronically **are not** protected by attorney client privilege.
 - b. You must sign any relevant acknowledgement forms or agree to any Terms of Use provided by DOC or vendor before being allowed to access electronic media.

Note: It is your responsibility to inform your attorney that they are responsible for redacting any prohibited information from documents intended for you, prior to scanning or recording. If you have any additional questions about this, please refer to the inmate mail policy.

STORAGE OF PERSONAL LEGAL MATERIAL

Your personal legal documents should be kept separate from “other” personal papers, in a large envelope and labeled “legal work.”

You can only store your legal documents that are needed for your active legal case.

Any other property questions, please refer your resident handbook, or the resident property handbook.

INDIGENT INMATES

If you do not have sufficient funds in your account to cover the costs of the original initial pleading of qualified legal claims for postage, and photocopying services the time of the request, you may obtain those services on a reimbursable basis.

Please refer to the DOC glossary for the definition of an indigent inmate.

Debts incurred for mailing or photocopying services shall remain on your account until the entire indebtedness balance is paid, or until your death. 100% of any monies you receive from an outside source may be used for the purpose of reimbursement towards incurred indigent indebtedness.

Mailing Services:

Postage costs incurred by DOC by providing necessary mailing services will be tracked and will be charged against your individual account for reimbursement.

1. Postage costs cannot exceed the current first-class mailing rate.
2. You will be limited to a maximum of 7 first-class stamps per week.

3. Specialized services such as overnight, Fed-Ex, UPS, registered mail, certified mail, and return receipts shall not be provided.

If you do not have sufficient funds in your account to cover the costs of legal mail at the time of the request, you may obtain those services on a reimbursable basis. You must be able to demonstrate through written court documentation that failure to immediately provide mailing services would directly impact your ability to meet an imminent court deadline of 10 calendar days or less. If you cannot prove an emergent need, your legal mail will be delayed, and your 7-stamp weekly allotment will be used.

Photocopying Services:

Like mailing costs, any costs incurred by the DOC in providing you photocopying services will be tracked and charged against your individual account for future reimbursement, even if it results in a negative balance.

1. The number of photocopies of qualified legal pleadings cannot exceed 3 copies of any single page, or a maximum of 50 pages for all copies in any calendar month.
2. Generally, single copies of each page will be provided, unless otherwise requested to facilitate service of initial court filings.
3. An exception to these limits may be made if you can demonstrate through written court documentation that failure to immediately access photocopying services would directly impact your ability to meet an imminent court deadline of 10 calendar days or less from the date of the request.

If you do not have sufficient funds in your account to cover the costs of photocopying at the time of request, you may be provided supplies necessary to hand duplicate or type your copies.

DOC POLICIES AND DIRECTIVES

All DOC Administrative Directives, APA Rules, Interim Memos, Inmate Handbooks, Forms, Policy/Directive Index and the DOC glossary will be provided by the Policy Development Unit, and maintained in paper form by the correctional facility and made available in the law library for viewing by inmates permitted access to the law library.

1. All Administrative Directives, APA Rules, Interim Memos, Inmate Handbooks, Forms, along with a Policy/Directive Index and the DOC Glossary, are available in each correctional facility law library.
2. If you are in a living unit unable to access the law library you must contact your Facility CSS or other designated staff, in writing to request access to these documents.

3. The ILL or ILA may request replacements of materials from the LLA for law library use only. Administrative Directives, APA Rules, Interim Memos, Inmate Handbooks, and the DOC glossary shall not be provided to you.

“JAILHOUSE LAWYER”¹

1. You may assist one another with legal work regulated by time, place, and manner.
2. You are not permitted to provide legal services for other inmates in exchange for any form of compensation or trade.
3. If you are provided direct access to the law library, you may assist one another while in the law library, if doing so does not compromise the security, order, or discipline of the correctional facility.
4. If you are in general population and assigned to the same housing unit, you may assist one another with legal work in the common area of their assigned housing unit provided that:
 - a. All work is during regularly scheduled dayroom hours in which you do not have a conflicting work or program schedule;
 - b. It does not compromise the safety and security, order or discipline of the correctional facility, or result in possible exposure to either inmate’s stated conflicts, and
 - c. Neither inmate is on restricted status.
5. When meeting in person to assist one another with legal matters, you are required to return all personal legal documents to their owner before parting company.
 - a. Example: Inmate A and Inmate B are working together on Inmate A’s case. Inmate A must leave to report for work. Inmate B shall return all personal legal documents to Inmate A before Inmate A leaves the company of Inmate B.
6. You are not permitted to possess or store other inmates’ personal legal documents, pleadings, or mail on your person or in your unit.
 - a. If you are found in possession of another inmate’s legal documents, you may lose the privilege of assisting other inmates.

LEGAL EDUCATION

Qualified legal professionals may, from time to time, provide legal education classes. General population inmates may sign up once the class is posted. The curriculum shall include instruction in the areas of state and federal post-conviction remedies, civil rights/conditions of confinement and other relevant legal courses.

¹ A “Jailhouse Lawyer” is an inmate in a jail or other prison who, though usually never having practiced law nor having any formal legal training, represents themselves in legal matters relating to their sentence, or informally assists other inmates in legal matters relating to their sentence, to their conditions in prison, or other civil matters of a legal nature. Many states in the U.S. have Jailhouse Lawyer Statutes, some of which exempt inmates acting as jailhouse lawyers from the licensing requirements imposed on other attorneys when they are helping indigent inmates with legal matters.

ACCESS TO VERMONT LEGAL MATERIALS FOR INMATES HOUSED OUT OF STATE

Vermont inmates housed in out-of-state privately run correctional facilities, or under the Interstate Compact, who do not have access to Vermont law pertaining to qualified legal claims, may write to the LED about post-conviction relief claims and condition of confinement/civil rights claims which arose in Vermont.