	ARIZONA DEPARTMENT OF CORRECTIONS INMATE NOTIFICATION	Notification Number: 22 – 11
		Issue Date: April 28, 2011

POSTING NOTIFICATION

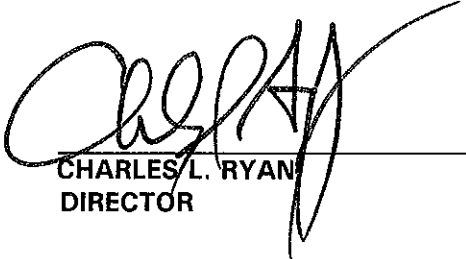
This information is to be posted for a **minimum of 30** days in areas accessible to inmates and shall be made available to inmates who do not have access to posted copies. This notification contains changes that are related to inmate issues/concerns only. Attached with this Inmate Notification is a copy of the revised Department Order for review purposes only.

TO ALL INMATES

Department Order 902, Inmate Legal Access to the Courts has been revised and will be effective 30 days from the issue date of this Inmate Notification.

Significant revisions include:

- Clarifying chargeable services include, but are not limited to, Notary Services related to qualified legal claims, or as required by statute or court rules.
- Clarifying Notaries related to statute or court required purposes will be treated the same as qualified Legal claims. The contract paralegal or Legal Access Monitor can assist in determining these types of notaries.



CHARLES L. RYAN
DIRECTOR



ARIZONA
DEPARTMENT
OF
CORRECTIONS

CHAPTER: 900
INMATE PROGRAMS AND
SERVICES

OPR:
DIR

DEPARTMENT ORDER MANUAL

DEPARTMENT ORDER: 902

***INMATE LEGAL ACCESS TO
THE COURTS***

SUPERSEDES:
DO 902 (08/15/07)
DI 84 (9/18/98)

EFFECTIVE DATE:
FEBRUARY 4, 2011

REPLACEMENT PAGE
REVISION DATE:
MAY 28, 2011

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PURPOSE

The Department of Corrections ensures that all inmates have direct access to the courts in all legal claims involving direct appeals from the conviction for which they are incarcerated, habeas petitions, civil rights actions, or conditions of confinement. The Department facilitates this access by making forms and specific legal assistance available to the inmate population. The system is designed to maximize inmates' opportunity to present legal claims pertaining to the aforementioned legal claims to the State or Federal court, in a quick, efficient manner, with no barriers. This Department Order establishes the process to be used by inmates for gaining access to the courts and also describes the role of all parties involved. This Department Order sets forth all affirmative steps that the Department shall take to assist inmates in obtaining access to the courts. This process does not affect the inmates' ability to independently pursue actions on their own or to obtain outside counsel to represent them.

RESPONSIBILITY

The Legal Access Monitor shall monitor this inmate legal access to the courts system in all facilities to ensure that the assistance provided to inmates by contract Paralegals conforms to all Department written instructions and contract provisions, and ensure staff are complying with the provisions of this Department Order.

PROCEDURES

- 902.01 SYSTEM OVERVIEW** - Inmates shall have direct access to the courts through the mail.
- 1.1 Qualified Legal Claims (See DEFINITIONS) - Inmates who do not feel able to draft pleadings or to complete District Court/state forms without assistance may:
- 1.1.1 Contact an attorney directly, at the inmate's expense.
 - 1.1.2 Request the court to appoint an attorney to represent them.
 - 1.1.3 Obtain active assistance through the Department from contract Paralegals. (See section 902.04 of this Department Order)
- 1.2 Non-Qualified Legal Claims - The Department may not actively assist inmates in the filing of documents not involving civil rights, conditions of confinement, appeals from conviction or habeas petitions. Inmates who desire assistance filing pleadings or petitions in matters not related to civil rights or conditions of confinement, appeals from conviction or habeas petitions may seek assistance of counsel, the courts or other assistance outside the Department. The Department may provide passive assistance as noted below:
- 1.2.1 Inmates may use legal texts and resource materials, as provided in section 902.02 of this Department Order and identified in Attachment A.
 - 1.2.2 Inmates may request from the Paralegal or designated staff the address of any Arizona Court above the level of Justice of the Peace courts and selected Federal Courts. (See Attachment C for Federal Courts. State Court material is in the Forms packet as identified in Attachment B.)
- 1.3 Legal Research - No provision is made in this system for extensive, generalized legal research.

- 1.1.2 Coordinating, with institution staff and the Paralegal, the scheduling of appointments for inmates to meet with Paralegals (See Section 902.04, of this Department Order) and ensuring that inmates are made aware of the date and time of their appointment.
 - 1.1.2.1 Designated staff shall work closely with security/other staff to arrange for meetings between Paralegals and inmates. Paralegals shall be allowed to remain and work in the facilities in order to complete appointments.
 - 1.1.3 Photocopying or supervising the photocopying of all qualified and non-qualified legal claims.
 - 1.1.4 Processing inmate requests for services including: notary services, copies of the court forms identified in Attachment B and other chargeable services in accordance with section 902.06 and 902.07 of this Department Order.
 - 1.1.5 Facilitating the delivery of notary services, copies or other chargeable services in accordance with section 902.06 and 902.07 of this Department Order.
 - 1.1.6 Providing assistance to the inmate in properly completing Department forms, requesting assistance or having photocopies made.
 - 1.1.7 Maintaining the Contract Paralegals – Unit Sign-In Log, Form 902-4 at each unit for the ingress and egress of the Contract Paralegals. Designated staff shall collect data regarding paralegal visits and provide the information to the Legal Access Monitor on a monthly basis to use in verifying on-site hours worked by the paralegal contractors. The Contract Paralegals – Unit Sign-In Log shall be maintained for a period of three years.
- 1.2 Paralegals - Although not required to do so by law, the Department provides inmates with an opportunity to obtain assistance from qualified Paralegals (see definition), to facilitate their access to the courts.
- 1.2.1 Contract Paralegals shall be responsible for:
 - 1.2.1.1 Assisting inmates who request assistance in the actual preparation of their initial pleadings or petitions for filing with the courts.
 - 1.2.1.2 Providing bilingual services as required.
 - 1.2.1.2.1 A tele-conference with a bilingual interpreter is permissible.
 - 1.2.1.2.2 Certified interpretation is not required.
 - 1.2.1.3 Providing notary services, paid for by the inmate, in accordance with section 902.06, to the extent required by court rules.
 - 1.2.1.3.1 Non-qualified legal materials shall be notarized by authorized staff in accordance with the local Institution Order.

- 1.2.1.4 Making the determination as to what legal documents require photocopying and the number of copies to be made in matters involving qualified legal claims where the inmate is indigent. The Paralegal shall consult with the Legal Access Monitor if a question or problem arises. (See section 902.05, of this Department Order)
- 1.2.1.5 Contacting the Legal Access Monitor if they have any questions themselves pertaining to the inmate access to the courts system.
- 1.2.1.6 Contacting the Warden or designee with questions concerning institutional activity, coordination, etc.
- 1.2.1.7 Providing inmates with copies of Court names and addresses at a cost of \$.10 per printed side.
- 1.2.1.8 Complying with Department Orders and other Department written instructions, as identified in their contract, as well as the terms and conditions of their contract.
- 1.2.1.9 Recording their time in hours to the nearest tenth using the Paralegal Activity Log, Form 902-3, on a weekly basis, and forwarding a copy to the Legal Access Monitor on a bi-weekly basis.
- 1.2.1.10 Reviewing questionable outgoing legal mail to determine if it is actually legal mail. (Mail not addressed to an attorney, judge or court, but may be required by court order or statute.)
- 1.2.2 Contract Paralegals shall not:
 - 1.2.2.1 Practice law, give legal advice, conduct legal research, represent an inmate or make referrals.
 - 1.2.2.2 Aid inmates in any matter, legal or non-legal that does not involve qualified legal claims. The contract paralegal may direct inmates to where they may find information in the resource center.
 - 1.2.2.3 Assist inmates in qualified legal claims beyond the initial filing of their pleadings with the courts.
- 1.3 Legal Access Monitor - The Legal Access Monitor shall be responsible for:
 - 1.3.1 Providing system-wide monitoring and operational oversight of the inmate legal access to the courts system.
 - 1.3.2 Ensuring that the contract Paralegals are assisting inmates on matters involving qualified legal claims only and only at the initial pleading stage.
 - 1.3.3 Resolving questions Paralegals and designated staff may have concerning the inmate legal access to the courts system.
 - 1.3.4 Ensuring that the Paralegals are adhering to all contract provisions and Department written instructions in assisting inmates.

- 1.7 Designated staff shall:
 - 1.7.1 Make photocopies in accordance with the Paralegal's notation on the request form, ensuring that the inmate has paid for the copies or that the account has been placed on hold in accordance with section 902.06 of this Department Order. Photocopies shall be made, if possible, within three work days of designated staff receiving the request form back from the Paralegal. Extra time may be necessary for extensive copying requests.
 - 1.7.1.1 All legal documents, such as, but not limited to, pleadings, briefs, motions, affidavits, copies of case law, and licenses submitted for photocopying shall not be censored, but may be read to the extent required to establish that the contents of the document do not contain contraband.
 - 1.7.1.2 All legal matters, other than legal documents, namely and especially letters to or from an inmate's attorney, to or from a judge, or to or from a court of law, that are submitted for photocopying, shall not be read or censored, but may be scanned to the extent necessary to establish that the letters do not contain contraband.
 - 1.7.2 Refrain from photocopying any documents, if so instructed by the Paralegal.
 - 1.7.3 Arrange for a meeting between the Paralegal and the inmate, if so instructed by the Paralegal.
- 1.8 Designated staff shall keep a copy of the request and:
 - 1.8.1 Forward a copy of the Request/Authorization for Qualified Legal Claim Copying form, together with the photocopied material, to the inmate.
 - 1.8.2 Return the material, above, to the inmate if the request was denied.
 - 1.8.3 Forward the Inmate Request for Withdrawal, Form 905-1, to the Business Office in accordance with section 902.06 of this Department Order, if the material is to be photocopied.
 - 1.8.4 Forward a copy of all requests for qualified legal claim copying to the Legal Access Monitor on a monthly basis.
- 1.9 The Paralegal's decision is final. Inmates may present concerns regarding qualified legal claim copying to the Legal Access Monitor through designated staff using the Inmate Letter, Form 916-1.
- 1.10 The inmate shall be responsible for payment for copies in accordance with section 902.06 of this Department Order, except that the inmate may choose to pay for copies relating to qualified legal claims in accordance with section 902.07 of this Department Order. In this event, the documents do not require the Paralegal's review.
- 1.11 If the copies do not relate to a qualified legal claim, the inmate may request that copies be made in accordance with section 902.07 of this Department Order as non-qualified legal documents or non-legal documents.

- 1.12 Telephonic review of qualified legal copying requests may be done when designated staff and the Paralegal determine it necessary based upon time frames (e.g., verified impending court deadlines, date of Paralegal's next visit to the unit, etc.)
- 1.13 There is no requirement that the paralegal meet in person with the inmate to review a qualified legal copy request.
- 1.14 Requests for copies of Exhibits/Attachments shall have a legitimate pleading to support the copying of those documents. Exhibits/Attachments shall also relate to the pleading. The contract Paralegal may deny copying of documents if they do not relate to a pleading in an active court case.

902.06 CHARGES - QUALIFIED LEGAL CLAIMS - All inmates shall be responsible for payment for services related to qualified legal claims.

- 1.1 For issues relating to qualified legal claims, the service requested shall be provided in accordance with the Paralegal's notation on the request regardless of the inmate's ability to pay. However, if the inmate has funds available, the cost of the service shall be deducted from the inmate's account. If funds are not available, the inmate's account shall be placed on hold in accordance with Department Order #905, Inmate Banking/Money System, until such time as the debt is paid.
- 1.2 Chargeable services include, but are not limited to:
 - 1.2.1 Qualified legal claim photocopying, including required court forms, other attachments or other documentation.
 - 1.2.2 Notary services related to qualified legal claims, or as required by statute or court rules.
 - 1.2.3 Court forms listed on Attachment B. (There is no charge for the initial form requested, or for one subsequent request on the same pleading.)
- 1.3 An inmate who is requesting any service relating to qualified legal claims shall complete and deliver to designated staff an Inmate Request for Withdrawal form in the amount necessary to completely pay for the requested service at the time designated staff perform the service or arrange for delivery of the service. For photocopies, the Request/Authorization for Qualified Legal Claim Copying form shall be required.
- 1.4 Designated staff shall submit the Inmate Request for Withdrawal form to the Business Office when the service has been provided to the inmate. Designated staff shall indicate on the Inmate Request for Withdrawal that the service is for qualified legal claims.
- 1.5 The Business Office shall:
 - 1.5.1 Upon receipt of the Inmate Request for Withdrawal form, ensure that if funds are available the inmate's account is debited or that the inmate's account is placed on hold.
 - 1.5.2 Ensure that the Inmate Request for Withdrawal form serves as documentation for the hold or request for payment.
 - 1.5.3 Ensure that funds collected are deposited in the appropriate account in accordance with Department Order #905, Inmate Banking/Money System.

- 1.6 The charge for any document is \$.10 per printed side (excluding those provided at no charge as outlined in 1.2.3 of this section), including copies of court forms listed on Attachment B, a photocopy of a document or form, or any other form published by another agency or court (normally available and provided by the Department).
- 1.7 The charge for notary public services shall be \$1.00 per notarized document, pursuant to A.R.S. 41-316. Notaries related to statute or court required purposes shall be treated the same as qualified legal claims. The contract paralegal or Legal Access Monitor can assist in determining these types of notaries.
- 1.8 The price charged for individual services, forms or copies shall be subject to periodic review and adjustment by the Director.

902.07 NON-QUALIFIED LEGAL CLAIMS SERVICES - (See Attachment F, Non-Qualified Legal Claims Copying Process.) Inmates shall be charged for all non-qualified legal claim photocopies as well as other services provided for in this section. Non-legal copying shall be done in accordance with Department Order # 910, Inmate Education and Resource Center Services.

- 1.1 Inmates who do not have sufficient funds to pay for the copies/service at the time requested shall be denied the service or copies.
- 1.2 All documents submitted for copying shall be in compliance with Department Order #909, Inmate Property, and are not to violate any other written instructions.
- 1.3 Chargeable items include:
 - 1.3.1 Non-qualified legal claim photocopies.
 - 1.3.2 Qualified legal claims photocopies that were not copied, in accordance with the Paralegal's notation on the request.
 - 1.3.3 Names and address lists for federal or state courts. (See Attachment C for federal courts. State courts are available in the Legal Resource Center.)
 - 1.3.4 Notary Services related to non-qualified claims.
- 1.4 An inmate who wishes to purchase non-qualified claim photocopies or other immediately chargeable services shall complete an Inmate Request for Withdrawal form and request that the assigned Correctional Officer III verify that funds are available.
- 1.5 The Correctional Officer III shall verify the availability of funds and sign and date the Inmate Request for Withdrawal form in accordance with Department Order #905, Inmate Banking/Money System.
- 1.6 The inmate shall deliver the Inmate Request for Withdrawal form to designated staff within two work days of verification by the Correctional Officer III, together with the material to be photocopied. An inmate who wishes to copy non-qualified legal material shall complete a Request for Non-Qualified/Non-Legal Copying, Form 902-7, as well as the Inmate Request for Withdrawal form, and deliver the Request for Non-Qualified/Non-Legal Copying form, the Inmate Request for Withdrawal form and the documents to be photocopied to designated staff.
- 1.7 Designated staff shall determine if the copies are authorized in accordance with Department Order #909, Inmate Property, or other written instructions. If there is any question about the suitability of the copies, designated staff may consult with:
 - 1.7.1 His/her supervisor, the Unit Deputy Warden or the Unit Chief of Security.

- 1.7.2 The Legal Access Monitor or Paralegal if it appears that the copying may be legal in nature.
- 1.8 Any attempt by the inmate to have contraband documents copied shall result in denial of the request for copies and shall subject the inmate to disciplinary action.
- 1.9 Designated staff shall arrange for delivery of the service, copies or forms and submit the Inmate Request for Withdrawal form to the Institution Business Office where the appropriate deduction from the inmate's account shall be made. Designated staff shall ensure that the Inmate Request for Withdrawal form indicates that it is for payment of non-qualified services or photocopies.
- 1.10 If at any time an inmate requests and receives copies or other service for which payment is due and the inmate's account has insufficient funds to pay, the account shall be placed on hold in accordance with Department Order #905, Inmate Banking/Money System. The hold shall remain in place until such time as the inmate has satisfied the obligation.
- 1.11 At no time shall non-qualified legal claims copying or non-legal copying take precedence over copying of documents relating to qualified legal claims.
- 1.12 All non-qualified legal matter copies shall be sold at \$.10 per printed side.
- 1.13 Any other form published by another agency relating to a non-qualified legal claim, or to be utilized by the inmate for non-qualified legal claim purposes, that the inmate may require and that the Department normally provides, may be sold at a charge of \$.10 per printed side.
- 1.14 Court name and address documents shall be copied at a charge of \$.10 per printed side.
- 1.15 The Notice of Claim required for property claims in accordance with Department Order #909, Inmate Property, shall be sold to inmates at a cost of \$.10 per copy. This form is not to be used for any other purpose than that outlined in Department Order #909, Inmate Property.
- 1.16 Inmates who request Notary Public Services for non-qualified/non-legal matters shall be charged \$1.00 per notarized document.

902.08 SPECIAL NEEDS INMATES

- 1.1 Accommodations shall be made, as needed, to ensure access to the courts for inmates with special needs, to include inmates who are illiterate, non-English speaking, and disabled.
 - 1.1.1 Accommodation may include providing a tele-conference with a bilingual interpreter and the Paralegal.
- 1.2 Arrangements shall be made for inmates who have limited access to the Unit Library to meet with Paralegals, to review legal resource materials, or to obtain forms or photocopies.
- 1.3 CDUs and Protective Segregation Units shall establish and maintain, within the unit, a collection of the required legal resource materials as identified in Attachment A.
 - 1.3.1 The Warden shall designate a staff member to be responsible for those functions identified in section 902.03, 1.1 through 1.1.6 of this Department Order.

- Agents shall not include anyone who is on an inmate's visiting list.

ATTORNEY - An attorney-at-law licensed to practice in any state or federal jurisdiction.

- Who has entered into or may in the future enter into an attorney-client relationship with the inmate or has been appointed to represent the inmate, as evidenced by court record, court order or by the inmate's written authorization.
- Shall not include anyone who is on the inmate's visiting list.

CIVIL RIGHTS - Rights guaranteed by the United States Constitution.

DEBIT - An immediate withdrawal of funds from an inmate's account.

DESIGNATED STAFF - Any Department Employee(s) appointed by the Warden to be responsible for such duties as outlined in this Department Order.

HABEAS CORPUS - A writ by which a party attempts to obtain release from confinement.

HOLD - An obligation owed by an inmate that restricts inmate funds until the obligation is collected.

INITIAL FILING - The filing of a pleading or petition with a court of law to begin a legal action in that court. An initial filing also includes the filing of all notices or other documents that may be required prior to the filing of the pleading or petition, including the initial filing of amended complaints or petitions.

LEGAL ACCESS MONITOR - A Department employee with paralegal training, located in the Legal Services Unit at Central Office.

LEGAL CALL - Unmonitored telephone calls made by an inmate to the inmate's attorney or an agent of the attorney, for legal purposes, which have been scheduled according to Institution Orders as legal calls. Court-ordered telephonic conferences with the court are also unmonitored calls and are made at the Department's expense on the state's long-distance service, when necessary.

LEGAL MAIL - Any letters to or from an inmate's attorney as defined above, or to or from a judge or to or from a court of law.

NON-QUALIFIED LEGAL CLAIMS - Any legal claims that do not fall under the definition of QUALIFIED LEGAL CLAIMS. These include divorce, child custody, paternity, name change, etc.

PARALEGAL - An independent contractor who has obtained a diploma/degree/certificate from an accredited Paralegal school that has met American Bar Association (ABA) approval, or possesses three or more years verifiable full-time paralegal experience. The Department shall contract in accordance with Department Order #302, Contracts and Procurement, to obtain the services of qualified Paralegals. Individuals who have graduated from law school but have never been licensed to practice law in any jurisdiction may serve as Paralegals.

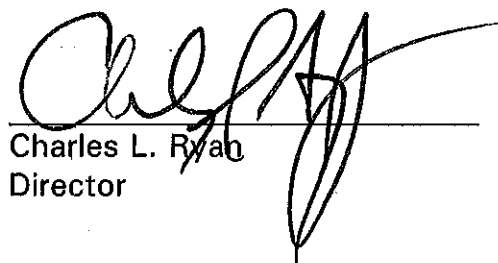
PETITION - A written request that the court exercise its authority to redress a wrong.

PLEADING - For the purpose of this Department Order, a pleading refers to a Notice of Appeal pursuant to Ariz.R.Crim.P. 31.2; the initial filing of a Petition for Post-Conviction and related forms, pursuant to Ariz.R.Crim.P. 32; a Petition for Review pursuant to Ariz.R.Crim.P. 31.19; a Petition for Review pursuant to Ariz.R.Crim.P. 32.9(c); a Petition for Review pursuant to Ariz.R.Crim.P.31.19 and 32.9(g); a Petition for Writ of Habeas Corpus in state or federal court; and a civil rights complaint or condition of confinement complaint in state or federal court.

POST-CONVICTION RELIEF (RULE 32, ARIZONA RULES OF CRIMINAL PROCEDURE) - The process through which a party seeks relief from a sentence imposed on the party by a court of law.

QUALIFIED LEGAL CLAIMS - In the direct appeal, any claim of error; in the Post Conviction Relief proceeding, any non-precluded claim set forth in Ariz.R.Crim.P.32; and in federal court, any claim of error based on a violation of the federal constitution or law. Forms include the Notice of Appeal from the Superior Court (Ariz.R.Crim.P.31.2(a)); Notice of Post-Conviction Relief, Request for Preparation of Post-Conviction Relief Record, and Petition for Post-conviction Relief (Ariz.R.Crim.P. 32); Petition for Review (Ariz.R.Crim.P. 32.9(c)); Petition for Review (Ariz.R.Crim.P. 31.19 and 32.9(g)); Petition for a Writ of Habeas Corpus in state or federal court; and a civil rights action or condition of confinement claim (42 U.S.C. ' 1983).

WRIT - A written judicial order to perform a specified act or giving authority to have a specified act done.



Charles L. Ryan
Director

FORMS LIST

- 902-1, Inmate Request for Paralegal Assistance
- 902-1S, Solicitud De Preso Para Ayuda De Paralegal
- 902-2, Request/Authorization for Qualified Legal Claim Copying
- 902-3, Paralegal Activity Log
- 902-4, Contract Paralegals – Unit Sign-In Log
- 902-7, Request/Authorization for Non-Qualified/Non-Legal Copying
- 902-8, Paralegal Meeting Notification
- 902-9, Checklist for Storage of Inmate Legal Materials

ATTACHMENTS

- Attachment A, Legal Texts and Resource Material
- Attachment B, Court Forms Packets
- Attachment C, Federal Appellate/District Courts and State Appellate Courts
- Attachment D, Paralegal Assistance Request Process
- Attachment E, Qualified Legal Claims Copying Process
- Attachment F, Non-Qualified Legal Claims/Non-Legal Copying Process

AUTHORITY

Lewis v. Casey, 116 S. Ct. 2174 (1996)