

**SECTION - SUPPORTIVE SERVICES
ADMINISTRATIVE DIRECTIVE NO. 608
(Replaces A.D. No. 608 dated 6/15/06)**

Effective Date: July 12, 2007

SUBJECT: INDIVIDUALS' ACCESS TO THE COURTS

I. PURPOSE

To ensure that Individuals are provide with access to the courts.

II. AUTHORITY

The United States Constitution; and Department of Mental Health (DMH), Special Orders 248.01 and 249.01.

III. POLICY

Individuals have a constitutional right to have access to the courts, including the right to solicit and procure legal assistance; availability of and access to legal reference materials, and the opportunity to duplicate and mail necessary legal documents that pertain to their legal status. Indigent Individuals shall not have their rights restricted for lack of funds. Coalinga State Hospital (CSH) Employees will not give legal advice.

IV. METHOD

A. Staff Assistance:

1. Program Directors will ensure that when Individual's request legal information related to their commitment, this information will be provided to the Individual (i.e., committing court, determinate sentencing data, commitment order data, any relevant information regarding legal guardian or conservator).
2. The facility is neither authorized nor equipped to advise Individuals in their legal affairs, except to provide assistance to those who are illiterate, who are non-English speakers, or who are physically incapable of completing forms adopted by the Judicial Council of California.
3. If an Individual is unable to obtain assistance, he may request the Patients' Rights Contract Advocate to intervene. The Advocate shall take the necessary steps to ensure that appropriate assistance is provided.
4. The Trust Officer shall assist Individuals in all matters regarding their financial status, including providing supporting documentation related to indigent status.

5. Non-English speaking Individuals will have the necessary translation services arranged by the hospital.

B. Other Assistance:

1. The Patients' Rights Contract Advocate shall provide Individuals with information regarding possible sources of legal assistance.
2. Access to the Patients' Library:
 - a. A legal collection is located in the CSH Patient Library. Individuals have a right to access the legal collection. The CSH Patient Library has a maximum capacity and there will be higher priority consideration given to Pro Per Individuals with upcoming legal deadlines. If a court has granted an Individual In Pro Per status, a copy of the court order will be filed in the Legal Section of the Individual's medical record. The request for enhanced library access shall be made to the Individual's Treatment Team. The Treatment Team shall review the Individual's request and, if appropriate, authorize the enhanced access. A notice should be forwarded to the Library staff. The authorization should be time-limited to the scheduled court-hearing date. Based on other library space availability, other Individuals are admitted on a first-come, first-served basis and are allowed in the area during regularly scheduled hours (staffing and hospital conditions permitting).
 - b. Individuals must demonstrate appropriate behavior and responsible use of library materials. "Inappropriate use" (defined as sleeping, eating, drinking, loitering, conducting meetings, being argumentative, and other disruptive behavior or activities) could result in termination of the Individual's use of the area.
 - c. Special Order Legal Materials: If specific legal material relevant to the Individuals' legal commitment is unavailable in the CSH Patient Library, Library staff may request photocopies from the California State Law Library. Library staff will only order special material with the concurrence of the Individual's Treatment Team. The Individual is responsible for the cost of ordering those items. Indigent Individuals will not be responsible for the cost of ordering legal materials or forms required by the courts (See Attachment A).
 - d. When an Individual requires staff escort to use the legal collection, the following procedures shall be followed:
 - i. An Individual will explain the general nature of his need to use the legal collection.

- ii. The unit supervisor will assess the need and schedule staff to escort the Individual to the area. An Individual who has not been granted In Pro Per status by the court is entitled to an escorted visit to the legal collection a minimum of two (2) hours per week. Individuals, who are acting as their own attorney (In Pro Per) regarding charges adjudicated or pending, commitment proceedings, convictions, or conditions of confinement, may request temporary enhanced staff escorted access to the library. If a court has granted an Individual In Pro Per status, a copy of the court order will be filed in the Legal Section of the Individual's medical record. Staff may check with the HIMD Legal Section and the CSH Litigation Coordinator to confirm an Individual's In Pro Per status. Unit Staff escorting an Individual will be responsible for monitoring his behavior during the visit. An Individual under escort who demonstrates inappropriate behavior can have his visit terminated. The Treatment Team will be notified to review for Denial of Rights.
3. Indigent Individual: Individuals shall not be denied access to the courts due to a lack of funds. Individuals who have been in the hospital for a period of at least 30 days are paid an amount of aid for personal and incidental needs which when added to his income equals \$12.50 per month. Individuals without income may be eligible for State funds under the California Welfare and Institutions Code (WIC), Section 4136. Eligibility for funds is based on the Individual's trust office account balance, all income sources (including funds available to the Individual within or outside the state hospital) are computed daily. Individuals with an income of \$12.50 per month are considered indigent and shall not have funds deducted from their \$12.50 to pay for court mail and duplication of materials as described in this Administrative Directive. Individuals qualifying for WIC 4136 funds may save all or any portion of their \$12.50 in subsequent months and still maintain their indigent status.

C. Legal Forms:

1. Individuals have the right to access the courts through applicable writ procedures.
2. The printed forms required by the state and federal courts that are supplied to the hospital by the courts shall be provided to Individuals without charge. Individuals shall be required to pay for duplication of printed forms and other written or typed materials, unless the Individual is indigent.

D. Access to Duplication Service:

1. Individuals have access to duplication of certain legal materials. Non-indigent Individuals may duplicate legal and other material at a cost of 10 cents per copy. Individuals may not duplicate copyrighted material, material for hospital distribution (other than for an Individual government activity), medical records belonging to another Individual, pornographic material, "hate" or gang-related items. Individuals will be able to use their Trust issued debit cards to purchase photocopies. Non-Indigent Individual duplication will be paid for at the time of duplication with no duplication provided on credit.
2. Indigent Individuals shall not be required to pay for the cost of duplicating legal materials to be filed with a court. Indigent Individuals may not duplicate copyrighted legal material, textbooks, case law, or other legal reference materials that are provided and readily available for their use in the CSH Patient Library (see Attachment A). The State is only required to provide the number of copies of documents required by the court to which the indigent Individual is seeking access (see Attachment A).
3. If Copy Center staff determines an item an indigent Individual wants duplicated is not allowed (under Table 1 and 2 on Attachment A), the Individual may return to the unit and request that unit staff intercede. If an Individual is not satisfied with the unit's response he may request the Patient's Rights Contract Advocate review the item in question and intercede if appropriate.
4. The courts do not require copies of the cases cited.
5. Legal duplicating services for an Individual may be restricted (provided such restriction will not interfere with the Individual's access to the courts) when that Individual abuses the service to such an extent that other Individuals are deprived of the services or it results in unnecessary expense to the state. A Denial of Rights and authorization of the Clinical Administrator are required before an Individual's duplicating services may be restricted.

E. Legal Mail:

1. Individuals have the right to mail legal documents to the courts. The cost of postage for mailing documents to the courts will be charged against funds in, or later deposited in, the Individual's Trust Account and shall not exceed monthly spending limits without the Executive Director's approval.
2. The State provides free mail for the first 30 days after initial admission. Indigent Individual's legal documents (i.e., pleadings, writs, documents for court filings, and proof of service documents) will be mailed to the courts using first class postage, at the State's expense. The State will provide the necessary mailing envelope as well as postage for indigent Individuals.

3. Individuals have the right to mail legal documents to attorneys. The cost of postage for mailing documents to attorneys will be charged against funds in, or later deposited in, the Individual's Trust Account. The State provides free mail for the first 30 days after initial admission to DMH.
4. Staff shall ensure that Individuals have access to their legal documents and privileged correspondence pursuant to a current action and/or their current legal status. Copies of case law are not considered confidential.

F. Notarization of Legal Documents:

Upon request from an Individual's Social Worker, notary service shall be arranged by the Trust Officer if the Individual has sufficient funds to pay applicable fees to notarize legal documents. The courts do not require notarized copies of legal material. The Individual will be responsible for the cost of notary service, whether indigent or not.

G. Legal Materials:

1. Individuals do not have an absolute right to have in their possession copies of case law or legal documents that do not pertain to their current commitment status.
2. Motions, briefs, suits or writs, filed or in the process of preparation by or on behalf of the Individual, as well as correspondence with the courts and officers of the courts, are confidential.
3. An Individual's personal law books and legal reference materials shall be limited by hospital regulations regarding availability of space for personal property. If the amount of material exceeds that currently allowed by hospital regulations, the Individual will decide which materials to keep. Excess materials must be sent home or destroyed, whichever the Individual prefers.
4. When staff determines that an Individual has excess paper in his possession (as outlined in Administrative Directive No. 626), staff shall question the Individual to determine the nature of the paperwork. If the Individual indicates the paperwork is legal in nature, and staff determines that the volume of paper exceeds policy guidelines, staff is to enlist the Individual's cooperation in reducing the volume to an acceptable level. If the Individual will not or cannot cooperate, staff shall:
 - a. Secure the papers without reading them;
 - b. Ensure their confidentiality; and
 - c. Notify the Patients' Rights Advocate (PRA). The PRA shall review the papers to determine their nature, and provide staff guidance as to which documents can be mailed home or destroyed.



BEN MCLAIN
Executive Director (Acting)

Cross Reference(s):

A.D. No. 624 Individuals' Mail and Packages
A.D. No. 626 Individuals' Property and Storage
A.D. No. 644 Trust Office Functions

Attachment A – Legal Documents That Can Be Duplicated At No Cost To Indigent Individuals

LEGAL DOCUMENTS THAT CAN BE DUPLICATED AT NO COST TO INDIGENT INDIVIDUALS

LEGAL DOCUMENTS THAT MAY BE DUPLICATED AT NO COST TO INDIGENT INDIVIDUALS	ITEMS CONSIDERED NON-LEGAL DOCUMENTS THAT INDIVIDUALS WILL BE CHARGED FOR DUPLICATING
Writs: Habeas corpus, mandate, etc.	Law book pages
Civil rights complaints	Law review articles
Civil complaints or answers	Court transcripts
Petitions for hearings in appellate courts	Correspondence with attorneys or public officials
Exhibits, including slip opinions of the California Court of Appeals, when attached to petitions for hearing in the State Supreme Court	Slip opinions, except as noted.
Pleadings, proof of service documents	
Motions to proceed "in forma pauperis" (without funds to hire counsel).	

TABLE 1. List of Legal and non-legal documents

COURT	WRITS OF HABEAS CORPUS	APPEALS AND CERIORARI PETITIONS	HEARINGS AND OTHER WRITS	EXHIBITS
U.S. Supreme Court	Original and Appendix ¹	Original and 8 Copies	---	Original
U.S. Court of Appeals	Original and 3 copies	Original and 15 copies ²	---	Original and 3 copies
U.S. District Courts	Original and 3 copies	---	---	Original and 3 copies
California State Supreme Court	Original and 14 copies	Original and 14 copies	Original and 14 copies	Original and 1 copy
California State Appeals Court	Original and 3 copies	Original and 3 copies	Original and 3 copies	Original and 1 copy
State Superior Court	Original	---	---	Original

TABLE 2. Number of copies required by the courts.

- Paper size for all courts is 8 ½" x 11".
- Indigent Individuals will also receive 1 personal copy of all legal materials duplicated at State expense.
- Indigent Individuals may not duplicate copyrighted legal material, textbooks, case law, or other legal reference materials that are provided and readily available for their use in the law library (See Table 1). The courts do not require copies of the cases.

¹ Indigent Individuals – original and forma pauperis affidavit.

² Indigent Individuals – original and four copies