


**U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons**



**PROGRAM STATEMENT
Inmate Legal Activities**

Approved by	 William K. Marshall III Director, Federal Bureau of Prisons
DPI	OGC
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Summary of Changes

Program Statement Rescinded:

- 1315.07, CN-1 Legal Activities, Inmate (8/1/2023)

Changes:

- Incorporates Change Notice 1315.07, CN-1, addressing alternative legal access arrangements and notification of visiting disruption when a significant or disruptive event affects legal and/or social visiting.
- Eliminates requirement to maintain physical law libraries. Law library materials are now available to inmates via an electronic law library (ELL). This change eliminates Attachments A, B, and C, which are replaced by a list of resources in the ELL maintained on the Information Technology and Data Division (ITDD) page of the Bureau's intranet site.
- Creates BP-A1155, E-Discovery Material Authorization form.
- Eliminates attachments D, E, and F, as they are available on the form directory page of the Bureau's intranet site.
- Provides guidance on inmate access to discovery material produced in their criminal case in electronic format (e-discovery), and guidance on Bureau provided stand-alone computers that allow review of e-discovery material.
- Bureau regulations regarding attorney visits were amended by an interim final rule published in 89 Fed. Reg. 8330 (Feb. 7, 2024). Those changes are incorporated in Section 7.
- Adds guidance addressing enforcement of the dress code for legal visitors.
- Provides guidance on use of laptops during legal visits.

- Clarifies the procedures for admission of legal assistants for legal visitation and who qualifies as a “legal assistant.” Provides guidance for attorney requests to allow an attorney retained expert to visit with an inmate.
- Provides guidance on legal visits for individuals on suicide watch or psychological observation.

1. **§ 543.10 Purpose and scope.**

The Bureau of Prisons affords an inmate reasonable access to legal materials and counsel, and reasonable opportunity to prepare legal documents. The Warden shall establish an inmate law library, and procedures for access to legal reference materials and to legal counsel, and for preparation of legal documents.

a. **Program Objectives.**

- Inmates will have reasonable access to legal research material and the opportunity to prepare legal documents.
- Inmates will have reasonable access to legal visits.
- Attorneys and their legal assistants will have reasonable opportunity to access their clients in Bureau custody.
- Inmates and staff will be able to make oaths and affirmations and have them witnessed by institution Case Managers, as authorized by 18 U.S.C. § 4004.

b. **Institution Supplement.** Each institution will publish an Institution Supplement to establish local procedures. The Institution Supplement must include:

- Procedures for alternative legal access arrangements and notification of visiting disruption when a significant or disruptive event affects legal and/or social visiting.
- A description of how legal representatives may request authorization to send e-discovery to an inmate, how that e-discovery may be sent to the inmate, and how that e-discovery material will be maintained at the facility. This information should be placed in an Institution Supplement on Legal Activities, Inmate Personal Property, or Correspondence.
- Procedures for sharing legal documents in the visiting room and non-contact visiting (if applicable) should be placed either in an Institution Supplement on Legal Activities or in the required Institution Supplement on Visiting.

2. **ELECTRONIC LAW LIBRARIES**

All Bureau institutions will maintain electronic law libraries (ELL) containing materials listed on the ITDD page of the Bureau’s intranet site. Inmates may access the ELL on the TRULINCS computer system. TRULINCS workstations are ordinarily located in housing units, Special

Housing Units (SHU), the Education Department, and other locations deemed appropriate by the Warden.

The ITDD in Central Office will maintain the ELL content and database. Each institution is responsible for maintaining the workstations and ensuring that ELL workstations are functioning and accessible for inmate use.

Each institution must have print stations that allow inmates to print material from the ELL. For additional information, see the Program Statement **Trust Fund/Deposit Fund Manual**.

Inmates who demonstrate a requirement to meet an imminent court deadline, ordinarily within 30 days, may be allowed additional time to conduct legal research on the ELL. If additional time is needed, the inmate should submit a request to their Unit Management team.

Access to ELL workstations should be available as soon as practicable following a lockdown or other disruptive event that results in loss of access to ELL workstations.

3. OTHER LEGAL REFERENCE MATERIAL

An inmate may purchase legal materials from outside the institution pursuant to the Program Statement **Incoming Publications**.

Pursuant to the Program Statement **Acceptance of Donations**, an inmate may donate unwanted personally owned law books to the institution library; however, staff may decline such a donation. If there is a question about whether to accept a particular volume, the Regional Counsel and Ethics Officer may be consulted.

If a person other than an inmate offers a donation to the institution library collection, it may be accepted in accordance with the Program Statement **Acceptance of Donations**. If there is a question about whether acceptance is appropriate, the Regional Counsel and Ethics Officer may be consulted.

Donated materials, if lost or damaged, may not be replaced by the institution or the Central Office.

State officials are responsible for providing state legal assistance and/or state legal materials to state inmates transferred to federal custody. Staff may not interfere in an inmate's attempts to obtain such assistance or materials.

If state correctional officials elect to provide state legal materials for their inmates, the institution will suggest the manner in which such materials should be provided. The Regional Counsel should be consulted if questions arise.

4. FEDERAL REGISTER MATERIALS

Federal Register documents (specifically, final rules, proposed rules, interim final rules, and certain notices) pertaining to the Bureau and to the U.S. Parole Commission are to be maintained in the institution's inmate libraries and posted on the TRULINCS bulletin board. Maintaining these documents in the inmate libraries and posting them on the TRULINCS bulletin board ensure that inmates have notice of the rulemaking and have the opportunity to comment on a rule.

The assigned Assistant General Counsel in the Office of General Counsel distributes Federal Register documents via email to the Reentry Services Division (RSD), Education Branch Administrator. RSD then distributes the documents via email to all Regional Education Administrators, who in turn distribute the documents to all institution Supervisors of Education via email. The Education Branch Administrator and Regional Education Administrators must copy the assigned Assistant General Counsel on those routing emails.

Ordinarily, Federal Register documents will remain posted on the TRULINCS bulletin board for a period of two years from the effective date of the rule.

The Supervisor of Education (SOE) or designee at each institution must complete the following tasks related to Federal Register documents:

- Distribute the attachments (either on paper or via email) to staff responsible for the institution's inmate libraries. Staff assigned to the institution libraries are to maintain paper copies of the Federal Register documents along with the most recent copy of the list of Federal Register documents.
- Forward a copy of the most recent list of Federal Register documents to institution Unit Managers for posting on inmate bulletin boards. The list of Federal Register documents serves to notify inmates that the documents are available in the inmate libraries.
- Ensure a copy of each Federal Register document is posted on at least one centrally located employee bulletin board. Staff may submit comments on proposed or interim rules as members of the public according to the instructions in the rule itself.

5. **§ 543.11 Legal research and preparation of legal documents.**

(a) The Warden shall make materials in the inmate law library available whenever practical, including evening and weekend hours. The Warden shall allow an inmate a reasonable amount of time, ordinarily during the inmate's leisure time (that is, when the inmate is not participating in a scheduled program or work assignment), to do legal research and to prepare legal documents. Where practical, the Warden shall allow preparation of documents in living quarters during an inmate's leisure time.

(b) The Warden shall periodically ensure that materials in each inmate law library are kept intact and that lost or damaged materials are replaced.

(c) Staff shall advise an inmate of rules and local procedures governing use of the inmate law library. Unauthorized possession of library materials by an inmate constitutes a prohibited act, generally warranting disciplinary action (see part 541 of this chapter).

Part 541 refers to the Program Statements **Inmate Discipline Program** and **Special Housing Units**.

(d) An inmate's legal materials include but are not limited to the inmate's pleadings and documents (such as a presentence report) that have been filed in court or with another judicial or administrative body, drafts of pleadings to be submitted by the inmate to a court or with other judicial or administrative body which contain the inmate's name and/or case caption prominently displayed on the first page, documents pertaining to an inmate's administrative case, photocopies of legal reference materials, and legal reference materials which are not available in the institution main law library (or basic law library in a satellite camp).

In accordance with the Program Statement **Information Security**, inmates may receive electronic discovery (e-discovery) material pertaining to their own case which is necessary for ongoing criminal proceedings, for ongoing federal civil proceedings where e-discovery is required, or in cases where there are special circumstances necessitating the use of e-discovery. If there is a question about whether there are special circumstances necessitating the use of e-discovery, the Regional Counsel may be consulted.

E-discovery material may only be accepted from the inmate's attorney or a U.S. Attorney's Office and must be read-only format. Attorneys seeking to provide e-discovery to an inmate must obtain prior approval from the Warden or their designee and must complete and submit the BP-A1155, E-Discovery Material Authorization form. This form may be tailored locally. Electronic formats include external hard drives and USB thumb drives. The e-discovery media may be on a hard drive storage device or USB drive. Compact discs (CDs) and Digital Video Discs (DVDs) are not authorized. Each institution will develop procedures describing how legal representatives may request authorization to send e-discovery to an inmate, how it may be sent to the inmate, and how that e-discovery will be maintained at the facility.

Approved e-discovery media may only contain discovery material in a criminal case, in an ongoing federal civil proceeding where e-discovery is required, or in other cases presenting special circumstances requiring the use of e-discovery. Prohibited data includes but is not limited to pornography, nudity, personal photos, personal communications from third parties, games, movies, music, executable programs such as readers, password protection/security suites, and viruses. The e-discovery media is subject to external search and scanning for viruses and

malware. Staff may not read the content and copying is prohibited. If staff discover that the device includes prohibited data, the sending attorney will be contacted to resolve the issue which may include returning the device to the sending attorney for corrective action.

There are two categories of e-discovery material:

1. **Normal Access E-Discovery (NAE-D).** This is discovery material that an inmate may possess when not actively viewing it and the material does not pose an unacceptable risk if viewed or accessed by others. This is the default category of e-discovery access and should be the more common way for an inmate to receive and access e-discovery.
2. **Sensitive Access E-Discovery (SAE-D).** SAE-D refers to e-discovery materials that cannot be in the inmate's possession except during active viewing and must be reviewed in a private, secure area. These materials pose an unacceptable risk if viewed or accessed by others. SAE-D is ordinarily subject to a protective or discovery order. If the material is not subject to a protective order, the sending attorney must submit an explanation to justify categorizing the discovery material as SAE-D. The media containing SAE-D material must be secured by staff when not in use. The submitting attorney is responsible for marking such materials as SAE-D.

All e-discovery media must be handled in a manner which prevents unauthorized access. Each inmate is responsible for securing their approved e-discovery media in their assigned locker when not being reviewed. For security and housekeeping reasons, Wardens may require approved e-discovery media to be stored by an appropriate department when not being reviewed. Because e-discovery material may contain sensitive information that could affect the inmate's security and privacy, inmates should not permit other inmates to view or have access to this material.

All Bureau institutions are allocated stand-alone computers for inmates to review e-discovery material. A list of formats supported by the discovery computers is available on the Bureau's public webpage. Discovery computers should be positioned in a manner that allows opportunity to view the material in a confidential setting to the greatest extent practicable.

Pretrial facilities will maintain discovery computers that allow pretrial and unsentenced individuals to view and listen to e-discovery material in their criminal case. Discovery computers at pretrial facilities should be placed in each housing unit, the SHU, and other locations as determined by the Warden.

In accordance with the Program Statement **Release of Information**, sentenced inmates are prohibited from retaining possession of their Presentence Investigation Report (PSR) and Statement of Reasons (SOR). The purpose of this restriction is to protect individuals from being coerced to produce their PSRs for illicit purposes. Inmates may review their PSR and/or SOR by

submitting a request to their Unit Management team. This prohibition does not apply to unsentenced inmates in Bureau custody with a need to review their PSRs prior to sentencing. Staff may consult with Regional Counsel if there is any question whether certain items qualify as legal materials.

(1) An inmate may solicit or purchase legal materials from outside the institution. The inmate may receive the legal materials in accordance with the provisions on incoming publications or correspondence (see 28 CFR part 540, subparts B and F) or through an authorized attorney visit from a retained attorney. The legal materials are subject to inspection and may be read or copied unless they are received through an authorized attorney visit from a retained attorney or are properly sent as special mail (for example, mail from a court or from an attorney), in which case they may be inspected for contraband or for the purpose of verifying that the mail qualifies as special mail.

28 CFR part 540, subparts B and F refer to the Program Statements **Correspondence** and **Incoming Publications** respectively.

(2) Staff may allow an inmate to possess those legal materials which are necessary for the inmate's own legal actions. Staff may also allow an inmate to possess the legal materials of another inmate subject to the limitations of paragraph (f)(2) of this section. The Warden may limit the amount of legal materials an inmate may accumulate for security or housekeeping reasons.

To ensure that legal materials do not become a security or housekeeping hazard (e.g., fire, sanitation), each institution may establish a limit on the amount of, and storage location for legal materials in the inmate's living area.

The amount of storage space provided for legal materials depends upon the total storage space available. Ordinarily, the amount may not be restricted below three cubic feet per inmate. In a segregation or detention area, the amount ordinarily may not be restricted below one cubic foot per inmate.

Alternate storage areas may be provided only for storing excess legal materials. Inmates will be provided the opportunity to dispose of or send home excess legal material not in use at the inmate's expense. The Regional Counsel may be consulted if there is a question as to the need for bulky or excess legal material, or if there is any question regarding the applicability of the legal materials to the inmate's own legal actions.

(e) An inmate is responsible for submitting his documents to court. Institution staff who are authorized to administer oaths shall be available to provide necessary witnessing of these documents, as requested by inmates and at times scheduled by staff.

See Section 11 of this program statement for further instructions on administering oaths and acknowledgments.

(f)

(1) Except as provided for in paragraph (f)(4) of this section, an inmate may assist another inmate in the same institution during his or her leisure time (as defined in paragraph (a) of this section) with legal research and the preparation of legal documents for submission to a court or other judicial body.

Any assistance offered by one inmate to another is voluntary. An inmate is not entitled to assistance from any specific inmate. Because no inmate may conduct a business, the assisting inmate may not receive compensation. The assisting inmate must not be provided any privileges ordinarily afforded to attorneys or paralegals, clerks, and legal assistants, even if the inmate was an attorney before their incarceration.

Inmates who are in different institutions are prohibited from providing legal assistance to each other except to the extent that they may be allowed to correspond with each other about current legal matters. For example, immediate family members, co-defendants, or co-plaintiffs may receive approval to exchange correspondence in accordance with the Program Statement **Correspondence**.

Inmates who are allowed to exchange correspondence may choose to include legal material pertinent to their joint action in their correspondence. Enclosed legal material, however, is subject to inspection and can be read or copied.

(2) Except as provided for in paragraph (f)(4) of this section, an inmate may possess another inmate's legal materials while assisting the other inmate in the institution's main law library and in another location if the Warden so designates.

(i) The assisting inmate may not remove another inmate's legal materials, including copies of the legal materials, from the law library or other designated location. An assisting inmate is permitted to make handwritten notes and to remove those notes from the library or other designated location if the notes do not contain a case caption or document title or the name(s) of any inmate(s). The assisting inmate may also develop and possess handwritten drafts of pleadings, so long as the draft pleadings do not contain a case caption or document title or the name(s) of any inmate(s). These notes and drafts are not considered to be the assisting inmate's legal property, and when the assisting inmate has these documents outside the law library or other designated location, they are subject to the property limitations in § 553.11(a) of this chapter.

§553.11(a) refers to the Program Statement **Inmate Personal Property**.

(ii) Although the inmate being assisted need not remain present in the law library or other designated location while the assistance is being rendered, that inmate is responsible for providing and retrieving his or her legal materials from the library or other designated location. Ordinarily, the inmate must provide and retrieve his or her legal materials during his or her leisure time. An inmate with an imminent court deadline may request a brief absence from a scheduled program or work assignment in order to provide or retrieve legal materials from an assisting inmate.

The inmate library is the most appropriate location for allowing inmates to assist one another with legal matters however, the Warden may choose to designate additional locations.

Where it is difficult to use the institution's main library (e.g., at a medical facility, a metropolitan detention center, a metropolitan correctional center, an administrative maximum security facility, an administrative high security level institution, or in a SHU, pretrial unit, or holdover unit), the Warden should designate another location. The need for institution security, good order, or discipline, however, may prevent the use of another location.

The inmate being assisted must bring their legal materials to the inmate library or other designated location to provide them to the assisting inmate. The assisting inmate may not remove the legal materials from the library or other designated location.

Legal materials left unattended in the inmate library or other designated location may be disposed of as nuisance contraband or returned by staff to the owner. Staff may consult with institution legal staff or Regional Counsel if they have a question about who owns the legal materials.

(3) The Warden may give special consideration to the legal needs of inmates in mental health seclusion status in federal medical centers or to inmates in controlled housing.

(4) The Warden at any institution may impose limitations on an inmate's assistance to another inmate in the interest of institution security, good order, or discipline.

For reasons of security, inmates in an administrative institution or unit, or in a SHU, have limited access to other inmates on those units and no access to general population inmates. Legal assistance under Section 5 of this program statement remains available for such inmates.

(g) The institution staff shall, upon an inmate's request and at times scheduled by staff, duplicate legal documents if the inmate demonstrates that more than one copy must be submitted to court and that the duplication cannot be accomplished by use of carbon paper. The inmate shall bear the cost, and the duplication shall be done so as not to interfere with regular institution operations. Staff may waive the cost if the inmate is without funds or if the

material to be duplicated is minimal, and the inmate's requests for duplication are not large or excessive.

In such cases, staff may request the inmate follow procedures for reimbursement for the amount of legal copies received at the government's expense. Inmates must complete the paper version of the BP-199 ("green form") and submit the form for processing to Trust Fund through their Unit Manager. To prevent abuses of this provision (e.g., inmate shows a pattern of depleting their commissary funds prior to requesting duplication of legal documents) the Warden may impose restrictions on the provisions of subsection (g).

(h) Unless clearly impractical, the Warden shall allow an inmate preparing legal documents to use a typewriter, or, if the inmate cannot type, to have another inmate type his documents. The Warden may allow the inmate to hire a public stenographer to type documents outside the institution, but the institution may not assume the expense of hiring the public stenographer. Staff shall advise the inmate of any delay in the typing of which they have received notice from the stenographer.

(i) The Warden shall give special time allowance for research and preparation of documents to an inmate who demonstrates a requirement to meet an imminent court deadline. Otherwise, each inmate shall continue his regular institutional activities without undue disruption by legal activities.

Inmates who request time to do legal research and preparation for filing legal documents during their regularly scheduled work time may be required to do so first during all available leisure time. When such requests are made, staff may also authorize the inmate to work reduced hours. For example, an inmate may be allowed mornings to do legal research, work in the afternoons, and then use evenings for further research. The Regional Counsel may be consulted regarding such arrangements.

(j) With consideration of the needs of other inmates and the availability of staff and other resources, the Warden shall provide an inmate confined in disciplinary segregation or administrative detention a means of access to legal materials, along with an opportunity to prepare legal documents. The Warden shall allow an inmate in segregation or detention a reasonable amount of personal legal materials. In no case shall the amount of personal legal materials be such as to pose a fire, sanitation, security, or housekeeping hazard.

A reasonable amount of personal legal material in segregation or detention is approximately one cubic foot. Greater amounts may be allowed when an inmate has an imminent court deadline.

The Regional Counsel should be consulted before the accumulation of legal materials is limited for housekeeping reasons.

6. § 543.12 Retention of attorneys.

(a) The Warden shall allow an inmate to contact and retain attorneys. With the written consent of the inmate, staff may advise an attorney of the inmate's available funds. Staff may not interfere with selection and retention of attorneys if the inmate has attained majority and is mentally competent. If the inmate is a mental incompetent or a minor, the Warden shall refer to the inmate's guardian or to the appropriate court all matters concerning the retention and payment of attorneys.

The Warden must ensure that a list of legal resources, including attorneys acting pro bono or through an established legal aid program at the institution, is made available.

(b) The Bureau of Prisons may not act as guarantor or collector of fees. As to correspondence with attorneys and telephone calls to attorneys, see part 540 of this chapter.

Part 540 refers to the Program Statements **Correspondence** and **Inmate Telephone Regulations**.

7. § 543.13 Visits by attorneys.

(a) The Warden shall, under the conditions of this section, permit visits by the retained, appointed, or prospective attorney of an inmate or by an attorney who wishes to interview an inmate as a witness.

(b) The Warden generally may not limit the frequency of attorney visits since the number of visits necessary is dependent upon the nature and urgency of the legal problems involved. The Warden shall set the time and place for visits, which ordinarily take place during regular visiting hours. Attorney visits shall take place in a private conference room, if available, or in a regular visiting room in an area and at a time designed to allow a degree of privacy. The Warden may make exceptions according to local conditions or for an emergency situation demonstrated by the inmate or visiting attorney.

Alternative Legal Access Arrangements. To ensure inmates have access to legal counsel as soon as it is safely possible after a significant or disruptive event at a facility exceeds 24 hours, each facility will develop alternative legal access arrangements. These plans may include, but are not limited to, alternative visiting locations at the facility, expansion of normal visiting hours, and any additional procedures consistent with the mission and security of the facility. Restriction of legal access should occur only when necessary to protect the safety and security of staff, inmates, or the public.

Notification of Visiting Disruption. In instances where there is a significant or disruptive event affecting the conditions of confinement and institution management decides to restrict legal

access and/or social visiting, staff must make all reasonable efforts to notify all known parties affected by the disruption. This includes, but is not limited to inmate families, defense counsel, local courts, and the public. For facilities housing pretrial inmates, such notice must also be made to the local Federal Public Defender Office(s), the local United States District Court(s), and the local United States Attorney's Office(s). This information can be transmitted via telephone, email, or listed on the Institution's webpage.

To the extent practicable, staff are to provide an area for attorney-client visits that ensures their conversation has a high degree of privacy.

(c) For Bureau institutions that do not house pretrial detainees and unsentenced individuals, the attorney shall make an advance appointment for the visit through the Warden prior to each visit. However, the Warden shall make every effort to arrange for a visit when prior notification is not practicable. Bureau institutions that house pretrial detainees and unsentenced individuals will allow scheduled and unscheduled attorney visits during designated attorney visitation hours.

The Warden may delegate the function of reviewing and determining whether to approve requests for attorney visits.

The Program Statement **Pretrial Inmates** advises that pretrial facilities will provide the opportunity for attorney-client visits on a seven-days-a-week basis during established hours. Only institutions with dedicated pretrial missions and those with a dedicated jail unit (e.g., detention center) are required to allow for both scheduled and unscheduled attorney visits during designated attorney visitation hours established by the Warden. Attorneys seeking to visit clients at Bureau institutions whose mission is to house convicted individuals are required to make an advance appointment for a legal visit.

(d) The Warden may require an attorney to indicate where he is licensed as an attorney and how that fact may be verified. Prior to each appointment or visit, the Warden shall require each attorney to identify himself and to confirm that he wishes to visit an inmate who has requested his visit or whom he represents or whom he wishes to interview as a witness. The Warden may not ask the attorney to state the subject matter of the law suit or interview. If there is any question about the identity of the visitor or his qualification as an attorney in good standing, the Warden shall refer the matter to the Regional Counsel.

Licensed attorneys are not required to submit the BP-A0660, Criminal History Check form.

All visitors must comply with Bureau rules, regulations, and procedures in accordance with Program Statement **Visiting Regulations**. The Warden may delegate to the Operations Lieutenant or Duty Officer decision-making authority to deny or terminate a legal visit that is disruptive to the security or good order of the institution, including when a legal visitor is unable

to clear the security screening process, in accordance with Program Statement **Searching, Detaining, or Arresting Visitors to Bureau Grounds and Facilities**.

The Bureau's public webpage provides information about visiting individuals in its custody, including information on the dress code for visitors. Program Statement **Visiting Regulations** provides that each institution will develop local procedures to administer the national policy, including guidelines on the dress code for visitors. Each institution posts its Institution Supplement about visiting on its individual public webpage. Legal visitors should consult the local Institution Supplement for the specific guidelines prior to visiting. If a visitor is wearing inappropriate clothing for the correctional environment, entry into the facility may be denied. If an attorney or approved legal representative is unable to clear the screening process or if the front lobby officer believes the visitor is wearing inappropriate attire, the front lobby officer must notify the Operations Lieutenant or Duty Officer for resolution.

A legal visitor denied entry may submit a request to the Warden for a written explanation, which should ordinarily be submitted within seven days of the denied entry. The Warden should ordinarily respond within 21 days of receiving the request

(e) Staff shall not subject visits between an attorney and an inmate to auditory supervision. The Warden may permit tape recordings to be used by an attorney during the course of a visit only if the attorney states in writing in advance of the interview that the sole purpose of the recording is to facilitate the attorney-client or attorney-witness relationship.

Attorneys may bring into the visiting room legal documents related to the inmate's case when visiting their client, which may not be given to the inmate for retention without prior written authorization from the Warden or their designee. Procedures for sharing legal documents in the visiting room and non-contact visits (if applicable) should be placed either in an Institution Supplement on Legal Activities or in the required Institution Supplement on Visiting.

Unless specifically authorized in advance by the Warden, possession or use of electronic devices to make any audio or video recordings or to take any photographs is prohibited. The Warden may authorize such use if (1) the attorney's request demonstrates that such use of such electronic device is essential to facilitate the attorney-client relationship, and (2) the Warden determines that such use would not be inconsistent with the institution's maintenance of security, good order, and discipline. The BP-A0241, Visiting Attorney Statement form is a sample of a statement which institution staff may utilize locally.

Cell phones, smart watches, smart glasses, and any other cellular or Wi-Fi capable devices (except authorized laptops) are prohibited within the secure confines of the institution.

Use of Laptops During Legal Visits. Authorized laptops may only be used for professional purposes related to legal representation and must not be used for non-legal or entertainment

purposes. All authorized electronic devices are subject to physical inspection for contraband, and all wireless connectivity functions must be turned off. Access to the internet in any way is prohibited.

The authorized legal visitor must notify the institution's front lobby officer that they possess and intend to use a laptop device during the legal visit and must review the Notice to Legal Visitors: Rules of Conduct Regarding the Use of Computer Laptops, Tablets, and External Memory Devices located on the Legislative and Correctional Issues (LCI) branch page of the Bureau's intranet site. Legal representatives may access that notice on the Bureau public webpage.

The procedures set out in Section 8 must be followed if the Warden determines that the legal visitor has violated one or more of the rules of conduct for use of the laptop. The Warden must consult with the Regional Counsel before taking any action with respect to such a violation.

a. **Pretrial Facilities.** Attorneys and their approved legal assistants may bring a laptop to a legal visit at Bureau pretrial facilities for the sole purpose of facilitating the attorney-client relationship (e.g., reviewing e-discovery material or conducting an assessment which utilizes software-based tools). Legal visitors must comply with local guidelines for accommodating the use of laptops.

If good cause exists to deny an attorney or their approved legal assistant permission to bring a laptop into a pretrial facility, the Warden must document the reasons for the denial and confer with the Regional Counsel prior to denying use of the laptop. In general, "good cause" means that the Warden has determined that an articulable and documented set of facts exists demonstrating that the legal visitor's use of the laptop will threaten the security, good order, and discipline of the institution.

b. **Facilities Housing Sentenced Individuals.** Ordinarily, legal visits must be scheduled in advance through the Warden. If an attorney or approved legal assistant wants to use a laptop during the legal visit to facilitate review of e-discovery material, they must indicate that in the request for a legal visit. If the laptop is not approved in advance, the laptop will ordinarily not be allowed inside the institution. The Warden may authorize such use if it is essential to facilitate the attorney-client relationship and would not be inconsistent with the institution's maintenance of security, good order, and discipline.

c. **Legal Visits for Individuals on Suicide Watch or Psychological Observation.** A determination on whether to allow a legal visit for individual on suicide watch or psychological observation will be made on an individualized basis in accordance with the Program Statement **Suicide Prevention Program**. A legal visit should not be denied solely due to an individual's placement on suicide watch or psychological observation.

(f) The Warden may, at any time, subject an attorney to a search of his person and belongings for the purpose of ascertaining if contraband is present, as a condition of visiting an inmate.

8. § 543.14 Limitation or denial of attorney visits and correspondence.

(a) An act by an attorney which violates Bureau regulations or institution guidelines and which threatens the security, good order, or discipline of the institution is grounds for limitation or denial by the Warden of the attorney's privileged visitation and correspondence rights. Acts by an attorney which may warrant such limitation or denial include, for example the following:

- (1) A false statement as to the attorney's identity or qualifications;
- (2) A plan, attempt, or act to introduce contraband into the institution;
- (3) A conspiracy to commit, an attempt to commit, or the actual commission of an act of violence within an institution; and
- (4) Encouraging an inmate to violate the law, Bureau of Prisons rules, or local implementing guidelines.

(b) Unless the breach of regulations is extreme or repeated, limitation rather than a denial of visitation or correspondence rights is proper, especially where the inmate is represented by the attorney and is confronted with a court deadline. For example, the Warden may subject an attorney to a search of his person and belongings or may permit the attorney only non-privileged correspondence. The Warden shall also consider referral of the matter to the state agency regulating the attorney's professional conduct.

The Warden must consult with the Regional Counsel before taking action under this subsection.

(c) An act by an inmate in violation of Bureau regulations or institution guidelines warrants a limitation by the Warden of the inmate's correspondence or visiting rights with attorneys only if necessary to protect institution security, good order, or discipline. The Warden may not deny correspondence or visiting rights with attorneys generally.

The Warden must consult with the Regional Counsel before taking action under this subsection.

If the Warden determines that the legal visitor has violated the rules of conduct for use of a laptop, unless warranted by the specific circumstances justifying a greater sanction, violation of the rules of conduct will result in the loss of the privilege to introduce a laptop into the institution for a specific period of time. Written notice via U.S. mail or email must be provided to the legal visitor of the violation that is the basis for any such limitation along with an explanation of the legal visitor's right to appeal the limitation.

(d) The attorney may appeal any limitation or denial by the Warden of attorney visits or correspondence rights to the Regional Director. The inmate affected may appeal through the Administrative Remedy Procedures.

9. § 543.15 Legal aid program.

(a) A legal aid program which is funded or approved by the Bureau is expected to provide a broad range of legal assistance to inmates. Staff shall allow these programs generally to operate with the same independence as privately retained attorneys. The Warden shall refer a request or decision to terminate or restrict a program, or individual participants in a program, to the Regional Counsel.

(b) In order to promote the inmate-program relationship, the Warden shall give those students or legal assistants working in legal aid programs the same status as attorneys with respect to visiting and correspondence except where specific exceptions are made in this section and in part 540 of this chapter.

Part 540 refers to the Program Statement **Correspondence**.

(c) An attorney or law school professor shall supervise students and legal assistants participating in the program. The supervisor shall provide the Warden with a signed statement accepting professional responsibility for acts of each student or legal assistant affecting the institution. The Warden may require each student or legal assistant to complete and sign a personal history statement and a pledge to abide by Bureau regulations and institution guidelines. If necessary to maintain security or good order in the institution, the Warden may prohibit a student or legal assistant from visiting or corresponding with an inmate.

When an attorney requests that a student or legal assistant be allowed to correspond or visit an inmate, staff ordinarily should confirm the request by completing the BP-A0242, Paralegal or Legal Assistant Agreement form. This agreement form should be given or sent to the supervising attorney, along with a completed BP-A0243, Application to Enter Institution as Representative form. The Warden may require each student or legal assistant to complete a BP-A0243.

The Warden must consult with the Regional Counsel if there is a question regarding the qualifications of a participant before a final determination is made, or on any recommendation or decision to limit or prohibit a student or legal assistant.

10. § 543.16 Other paralegals, clerks, and legal assistants.

(a) The Bureau of Prisons recognizes the use of assistants by attorneys to perform legal tasks and, with proper controls and exceptions enumerated in this section and in part 540 of this

chapter, accords such assistants the same status as attorneys with respect to visiting and correspondence.

Part 540 refers to the Program Statement **Correspondence**.

The special visiting/correspondence status accorded to legal assistants depends upon an ongoing, supervisory relationship with an attorney on an approved visiting/correspondence list.

The term “legal assistant” includes paralegals, law clerks, legal assistants, investigators, and experts designated by an attorney in the direct provision of legal representation pursuant to the attorney-client relationship as certified by the attorney. An “expert” is a licensed professional such as a psychiatrist, psychologist, or qualified mitigation specialist retained by an attorney to evaluate an inmate for purposes of a criminal, civil, or habeas proceeding. Absent any current supervisory relationship, such persons may only receive social visiting or general correspondence privileges.

With prior approval, certified language interpreters and sign language interpreters may accompany an attorney and legal assistants during legal visits. Such individuals must submit a completed BP-A0660, Criminal History Check form and be cleared prior to a legal visit. The Warden may waive the criminal history check for interpreters that have been pre-screened and approved by the local U.S. District Court or interpreters employed by an Office of the Federal Public Defender that have received credentials from their employing office.

A request by a legal assistant for social visiting/general correspondence privileges must be evaluated and considered on the same basis as requests from non-legal persons.

The Warden must consult with the Regional Counsel if there is a question regarding the status of a legal assistant before making a final determination, or any recommendation or decision to limit or prohibit the visiting/correspondence privileges of such persons.

Attorney Retained Experts. At Bureau institutions whose mission is to house convicted individuals, attorneys must obtain the Warden’s approval, at least seven days in advance, for a retained expert to visit with a client. This seven-day advance notice is not required at Bureau institutions whose mission is to house pretrial and unsentenced individuals, and attorneys should consult the local procedures at the pretrial facility for arranging an attorney retained expert visit with a client. The request must include a general statement as to the purpose of the visit and provide a list of items the expert intends to bring to the visit (subject to the restrictions herein), and the purpose for which the expert must bring those items to the visit.

The Warden may place reasonable time limits on expert visits. Although medical and mental health professionals retained by an attorney may be approved to visit as members of the defense team to develop expert testimony and/or aid in defense preparation, such experts may

not provide therapy or treatment to the client during a legal visit. Necessary medical care and mental health care are provided by the Bureau of Prisons.

(b) The attorney who employs an assistant and who wishes the assistant to visit or correspond with an inmate on legal matters shall provide the Warden with a signed statement including:

- (1) Certification of the assistant's ability to perform in this role and awareness of the responsibility of this position;
- (2) A pledge to supervise the assistant's activities; and
- (3) Acceptance of personal and professional responsibility for all acts of the assistant which may affect the institution, its inmates, and staff. The Warden may require each assistant to fill out and sign a personal history statement and a pledge to abide by Bureau regulations and institution guidelines. If necessary to maintain security or good order in the institution, the Warden may prohibit a legal assistant from visiting or corresponding with an inmate.

This requirement is ordinarily satisfied by having the legal assistant and the sponsoring attorney complete their respective section of the BP-A0243, Application to Enter Institution as Representative form. Legal assistants must also complete and submit a BP-A0660, Criminal History Check form. These forms are available on the Bureau's public website. The NCIC clearance for legal assistants will be valid for one year absent good cause for more frequent review on an individual basis. Legal assistants employed by an Office of the Federal Public Defender that have received credentials from their employing office should not be required to clear the criminal history check.

11. ADMINISTERING OATHS AND ACKNOWLEDGMENTS

28 U.S.C. § 1746 provides that an unsworn declaration under penalty of perjury may be used with "like force and effect" as a sworn declaration, verification, certification, statement, oath, or affidavit, when such action is required by any law, rule, regulation, order, or requirement of the United States. Exceptions specified in the statute are a deposition, an oath of office, and an oath required to be taken before a specified official other than a notary public.

Since most documents inmates sign are pursuant to a United States law, rule, or regulation, a sworn oath is often not required.

When an unsworn declaration is not sufficient, 18 U.S.C. § 4004 authorizes specified Bureau staff members to administer oaths and take acknowledgments of officers, staff, and inmates. Thus, while state and local laws may often refer only to a notary public (or similar officials) because they are the only officials authorized by state law to administer oaths and witness signatures, Federal law also authorizes certain Bureau officials to perform such functions in Federal prisons.

Unsworn Declarations. Other than for the exceptions cited above, staff need not administer oaths and witness inmate signatures on any documents to be filed in Federal courts or with Federal agencies, unless directly instructed to do so by the Court or agency. Inmates may make their own unsworn declaration on such documents by placing the following paragraph at the end of the document:

"I declare (or certify, verify or state), under penalty of perjury, that the foregoing is true and correct. Executed on (date)."

(Signature)

Oaths. Unsworn declarations are not legally sufficient for declarations on depositions, for oaths of office, or for oaths required to be taken before an official other than a notary public. In addition, documents for submission to state courts and state agencies may require a sworn declaration. For such documents, it is Bureau policy to administer oaths prior to witnessing the signatures of persons executing these documents.

a. **Administering Oaths.** Title 18 U.S.C. § 4004 provides:

“The wardens and superintendents, associate wardens and superintendents, chief clerks, and record clerks, of Federal penal or correctional institutions, may administer oaths to and take acknowledgments of officers, employees, and inmates of such institutions, but shall not demand or accept any fee or compensation therefor.”

For the purpose of this program statement, institution Case Managers are considered to be chief clerks and record clerks.

The person giving the oath must face the oath administrator and raise their right hand while the administrator states:

“You do solemnly, sincerely, and truly swear that the various matters and things set forth in this paper which you are about to sign before me are true, and that you do this under the pains and penalties of perjury.”

After receiving the affirmative answer, the proper stamp is to be affixed in the necessary places, and the paper(s) duly signed by parties in the places provided.

b. **Administering Affirmations.** Affirmations are to be offered for individuals who cannot or do not wish to swear or take oaths.

The person giving the affirmation must face the affirmation administrator and raise their right hand while the administrator states:

“You do solemnly, sincerely, and truly affirm and declare that the various matters and things set forth in this paper which you are about to sign before me are true, and that you do this under the pains and penalties of perjury.”

After receiving the affirmative answer, the proper stamp is to be affixed in the necessary places, and the paper(s) duly signed by parties in the places provided.

c. **Stamps.** The following shall be the wording of the stamps used:

_____(name), _____(title) , Authorized by the Act of July 7, 1955, as amended, to administer oaths (18 U.S.C. § 4004).

d. **Validity of Witnessing.** Any document witnessed without the initiator's taking the oath or affirmation may be invalid. The witnessing of a person's signature in no way is a representation by the witness as to the validity of the material or its contents but is an indication that the document has been signed by the individual whose signature appears thereon.

Employee Responsibility. Each Warden will assign an employee to instruct appropriate personnel in the proper procedures to follow in witnessing signatures and in giving affirmations. Each person issued a stamp is responsible for its control and safekeeping, so it will not be available to unauthorized persons.

REFERENCES

Program Statements

Acceptance of Donations
Correspondence
Incoming Publications
Information Security
Inmate Discipline Program
Inmate Personal Property
Inmate Telephone Regulations
Pretrial Inmates
Release of Information
Searching, Detaining, or Arresting Visitors to Bureau Grounds and Facilities
Special Housing Units
Suicide Prevention Program
Trust Fund/Deposit Fund Manual
Visiting Regulations

Bureau Forms Prescribed by 1315.08

BP-A1155 E-Discovery Material Authorization
BP-A0241 Visiting Attorney Statement
BP-A0242 Paralegal or Legal Assistant Agreement
BP-A0243 Application to Enter Institution as Representative

Other Bureau Forms

BP-A0660 Criminal History Check
BP-199 Request for Withdrawal of Inmate's Personal Funds

Federal Statutes

18 U.S.C. § 4004
28 U.S.C. § 1746

Federal Regulations

28 CFR §543.10-16

ACA Standards

Performance-Based Standards and Expected Practices for Adult Correctional Institutions (5th Edition): 5-ACI-4A-22, 5-ACI-4A-23, 5-ACI-4A-27, 5-ACI-4B-22, 5-ACI-3D-01, 5-ACI-3D-02, 5-ACI-3D-03, 5-ACI-7E-01

Performance-Based Standards and Expected Practices for Adult Local Detention Facilities (5th Edition): 5-ALDF-2E-20, 5-ALDF-2E-23, 5-ALDF-2F-17, 5-ALDF-6A-01, 5-ALDF-6A-02,

5-ALDF-6A-03, 5-ALDF-5B-03

Standards for the Administration of Correctional Agencies, 2nd Edition: 2-CO-5F-01

Records Retention Requirements

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on the Bureau's intranet site.