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Chapter: **General Facility Operations**

Classification: **Public Document**

Subject: **Access to Legal Resources and Disclosure Materials**

For: **Adult Custody**

  
Authorized by the Executive Director

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## Policy

- 1 The superintendent/youth custody manager will ensure all individuals in custody have access to
  - (a) legal disclosure materials.
  - (b) electronic devices for the purpose of reviewing digitally stored legal disclosure materials will be available for individuals in custody.
  - (c) legal reference materials as described in this policy.
  - (d) equipment to access information.

## Definitions

- 2 Legal Disclosure Materials: Includes any legal documents in hard copy (paper) or electronic format (disk/flash drive), photographs or correspondence with legal counsel released to the individual by the Crown or Defence Attorney. Legal disclosure material, even for self-represented litigants, are deemed privileged correspondence between an individual and the individual's solicitor pursuant to Section 56 of the *Correctional Services Act* and Section 61 of the *Correctional Services Regulations*.
- 3 Legal Reference Materials: Legal reference materials include at a minimum: the *Criminal Code of Canada* and related statutes; Notice of Appeal or Application for Leave to Appeal Form; Application to Appoint Legal Counsel and Instructions; Court of Appeal Information Booklet; Canadian Charter of Rights and Freedoms.
- 4 Communication Equipment: communication equipment includes telephones and fax machines.

## Access to Legal Disclosure Materials

- 5 Disclosure materials may contain sensitive information where pre-trial dissemination could jeopardize the safety and privacy of individuals and the administration of justice (e.g., witness statements, information relating to victims). The following controls will be implemented to prevent the materials from being accessed by others in custody or third

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- party.
- (a) Dated disclosure materials, not currently required by an individual, will be stored with their personal property.
  - (b) Current disclosure material will be stored in a secure location, designated by the superintendent or youth custody manager, within the correctional facility.
  - (c) Superintendents or the youth custody manager will ensure individuals who request access to their legal disclosure, are provided access in a secure area of the facility.
- 6 The superintendent or youth custody manager will designate locations within the facility where individuals may be provided controlled and private access to disclosure materials.
- 7 To ensure that access to disclosure materials is tracked, the Disclosure Materials Registry form ([37.14.01-A](#)) will be affixed to the materials and signed by both the individual and supervising staff each time disclosure material is accessed and returned.
- 8 Individuals requesting to keep disclosure materials in their assigned cell will be required to sign a waiver accepting responsibility for any lost, viewed, or damaged disclosure, see Informed Consent and Waiver of Liability form ([37.14.01-B](#)). This form will be completed and uploaded to the individual's JEIN file.
- 9 When disclosure material is received at the correctional facility, staff will ensure the Informed Consent and Waiver of Liability form ([37.14.01-B](#)) is completed and uploaded to the individual's JEIN file.
- 10 The Disclosure Materials Registry form will record when an individual
- (a) releases disclosure materials to a third party (e.g. lawyer/legal representative, family)
  - (b) requests that disclosure material be moved to or from their personal storage
  - (c) requests to have disclosure material remain in assigned cell
  - (d) is transferred to another facility
  - (e) is released from the facility
  - (f) requests that disclosure material attend with them to court
- 11 Supervising staff will remove the Disclosure Materials Registry form ([37.14.01-A](#)) from the

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disclosure material when it is provided to an individual to ensure the form is not destroyed or altered. When an individual returns the disclosure information the supervising staff will reattach and update the form.

- 12 All legal disclosure materials made available to the individual will be in accordance with Policy and Procedures, [Subject No. 37.14.00](#), *Communication*.

### **Legal Disclosure Material**

- 13 Where disclosure material has been misplaced or lost, staff will immediately provide a verbal report the superintendent or youth custody manager. The verbal report will include
- (a) description of disclosure material lost
  - (b) name of individual and staff involved
  - (c) description of how disclosure became lost
  - (d) steps taken to locate missing disclosure material
  - (e) if any outside entity involved, such as crown prosecutor, defense lawyer, or the court
- 14 The superintendent or youth custody manager will provide a written summary to the responsible director via e-mail, as follows
- (a) description of disclosure material lost
  - (b) name of individual and staff involved
  - (c) description of how disclosure material became lost
  - (d) steps taken to locate missing disclosure material
  - (e) the Disclosure Materials Registry form ([37.14.01-A](#))
  - (f) the Informed Consent and Waiver of Liability form ([37.14.01-B](#)).
  - (g) any other disclosure material lost involving the same individual
  - (h) any other disclosure material lost involving the same staff
  - (i) any outside entity involved, such as crown prosecutor, defense lawyer, or the court
  - (j) whether Correctional Services is required to attend court due to this occurrence. If Correctional Services is required to attend court, include the date, time, location, and

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who is to attend

### **Access to Communication Equipment**

- 15 Individuals in custody will have access to electronic equipment (see the Use of Computers and Technology section of this policy) to review digitally stored legal disclosure materials.
- 16 The electronic equipment used to review disclosure materials will be set up in a private location that is supervised by staff as designated by the superintendent or youth custody manager.

### **Computer Configuration**

- 17 The computer will be configured with
  - (a) a password which is only available to facility staff
  - (b) installed software which allows the user to view documents (only) in Word, WordPerfect and PDF format as well as the ability to view graphics and standard video presentations; files may not be saved or written to the hard drive or CD/DVD
  - (c) a CD/DVD player
- 18 The computer will not have wireless internet access or be connected to a network.

### **Use of Computers and Technology**

- 19 The only data storage devices permitted are CD/DVD or flash drive.
  - (a) Password protected or encrypted files are not permitted.
- 20 Individuals will only be permitted to print essential documents as determined by supervising staff.
  - (a) Individuals are not permitted to pick up printouts directly. Staff will pick up the printouts and provide them to the individual.
- 21 Faxes (to defence, crown etc.) will be permitted but will be approved and sent by supervising staff who will review the material to ensure it is acceptable and does not jeopardize the

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security of the facility.

- 22 Facility staff will routinely monitor and search the computer for unauthorized content.

### **Legal Resource Materials**

- 23 Individuals may, upon request, have access to non-electronic legal reference materials as defined in this policy.
- 24 Legal resource materials will be catalogued and stored in a designated area. Textbooks will be signed out and returned within specified time frames.
- (a) Legal resource materials may be found on the phone system tablets through approved pre-loaded website links or applications.

### **Standard Operating Procedures**

- 25 The superintendent or youth custody manager will develop standard operating procedures respecting
- (a) staff assigned to manage disclosure material
- (b) the location, storage and security of disclosure material
- (c) approved locations to access disclosure information
- (d) security measures to be in place while an individual reviews disclosure material
- (e) detail process to track all movement of disclosure material within the facility
- (f) staff responsible to upload disclosure tracking documentation to JEIN