

1.1.A.5 Lawsuits

I Policy Index



Date Signed: 03/14/2017
Distribution: Public
Replaces Policy: 1A-12
Supersedes Policy Dated: 03/21/2016
Affected Units: All Units
Effective Date: 03/21/2017
Scheduled Revision Date: February 2018
Revision Number: 16
Office of Primary Responsibility: Senior Staff Attorney and DOC Administration

II Policy:

The Senior Staff Attorney will monitor the status of all open lawsuits involving the Department of Corrections (DOC).

III Definitions:

None.

IV Procedures:

1. Notification of a Lawsuit:

- A. The Senior Staff Attorney will be promptly notified of all served lawsuits (summons and complaint) which affect the DOC, as described below:
1. The Chief Executive Officer's contact at any DOC unit or facility (DOC Institutions, Parole or Division of Juvenile Services) receiving a summons and complaint will photocopy and mail or scan and e-mail the summons and complaint within two (2) working days to the following individuals:
 - a. Secretary of DOC
 - b. DOC Policy and Compliance Manager
 - c. DOC Senior Staff Attorney
 - d. Attorney General's Office
 - e. Public Entity Pool for Liability/State Risk Management Office
 - f. Attorney at the South Dakota State Penitentiary (SDSP) if the summons and complaint are applicable to the adult institutional system.
 2. The Senior Staff Attorney will be promptly notified of all significant actions and developments on active lawsuits.
 3. "Significant actions" will include, but are not limited to the filing of a motion for summary judgment, issuance of summary judgment from the court or the result from a trial.

- B. The Senior Staff Attorney and Executive Director of the Public Entity Pool for Liability (Risk Management) will be notified when any institution or agency within the DOC receives a notice of intent to file a lawsuit per SDCL § 3-21 (See DOC policy 1.1.A.3 [Staff Reporting Information to DOC Administration](#)).
- C. If a *Writ of Habeas Corpus* (or any follow-up paperwork related to the *Writ*) is received by a DOC staff member, the staff member will e-mail the Attorney General's office with the basic information (plaintiff name, defendant name, case number and date received).
 - 1. If the Attorney General's office requires a copy of the *Writ* or any related paperwork, they will contact the DOC staff member who sent the email.
 - 2. A copy of the *Writ of Habeas Corpus* paperwork will be forwarded to the DOC Senior Staff Attorney if it alleges an error, omission or action by DOC staff or a DOC agency; i.e. incorrect release dates, unconstitutional Parole Board action, incorrect withholding good time, holding an offender past his/her scheduled release or discharge dates, etc.

2. Tracking Lawsuits:

- A. The CEO of each DOC unit will designate a contact person within the facility who can be reached for additional information regarding any of the active lawsuits involving their respective institution or agency.
 - 1. The contact person will track all significant actions and developments for each active lawsuit.
 - 2. The contact person will establish and maintain a file of correspondence and documents related to each lawsuit.

3. Public Comment on Lawsuits:

- A. No DOC staff member may publicly comment, discuss, editorialize, or provide verbal or written statements, including statements of opinion pertaining to ongoing or current lawsuits involving the state or the DOC without prior authorization from the Secretary of Corrections or designee (See DOC policy 1.1.A.4 [Relationship With News Media, Public and Other Agencies](#)).
- B. This restriction does not apply to discussions with defense counsel or legal proceedings such as a deposition or testimony in court.

V Related Directives:

SDCL § 3-21.

DOC policy 1.1.A.3 -- [Staff Reporting Information to DOC Administration](#)

DOC policy 1.1.A.4 – [Relationship With News Media, Public and Other Agencies](#).

VI Revision Log:

February 2002: Added section on lawsuit database. Revised responsibility for monthly summary of lawsuits in monthly report. Revised "Central Office" references to "DOC Administration".

June 2003: Revised the policy statement. Revised the section on Notification of a Lawsuit to include more specific contact information.

April 2004: Changed the reference from Central Office Corrections Specialist to Policy and Compliance Manager throughout the policy. Changed "institution or agency within the DOC" to "DOC Unit".

March 2005: Deleted the requirement that a monthly summary of active lawsuits be included in the DOC monthly report by DOC Administration Staff. Added information on contacting the Policy and Compliance

Manager if problems develop with the Citrix database. **Added** information on how to access the lawsuit database.

April 2006: **Added** notification requirements for lawsuits and writs. **Added** a section regarding public comment on lawsuits.

March 2007: **Clarified** notification of lawsuits only involves lawsuits that are served. **Added** language that the Policy and Compliance Manager will ensure the Secretary of Corrections and the DOC Senior Staff Attorney are provided a copy of a summons and complaint. **Added** the DOC Senior Staff Attorney as a contact person for SDCL 3-21 notices. **Added** additional contact duties on *Writs of Habeas Corpus*. **Added** reference to DOC policy 1.1.A.4.

March 2008: **Added** the procedure of who should be contacted when a summons and complaint is filed towards any DOC Unit and clarified that the CEO's contact for each facility is responsible for entering the lawsuit into the Citrix lawsuit database. **Clarified** the language in the Notification of a Lawsuit section by combining bullets. **Clarified** the CEO's designated contact person as a staff member of each facility.

February 2009: **Revised** formatting of policy in accordance with DOC policy 1.1.A.2. **Added** reference to only lawsuits pertaining to the adult system in ss (A1f of Notification of a Lawsuit).

February 2010: **Revised** formatting of Section 1. **Added** only lawsuits pertaining to the adult system with ss (A2e of Notification of a Lawsuit). **Revised** minor grammar in ss (A of Public Comment on Lawsuits). **Added** hyperlinks.

February 2011: **Deleted** individual names from SS 1 in section 1. a. b. c. e. f. and in SS 1. section 2.

April 2012: **Deleted** "non-public" and **Replaced** with "Public". **Deleted** "Policy & Compliance Manager" and **Replace** with "Senior Staff Attorney" in the policy index and throughout the body of the policy. **Deleted** "(Only lawsuits pertaining to the adult system" from Section 1 A. 1. f. **Deleted** 2. and a. - e. in Section 1. A. **Deleted** "contact person" and **Replaced** with "Senior Staff Attorney or the attorney at SDSP" in Section 2 A. 1. **Deleted** reference to "Citrix Program" throughout the policy.

March 2013: Reviewed with no changes.

March 2014: **Removed** reference to the "lawsuit database".

March 2015: **Reviewed** with no changes.

February 2016: **Added** "if the summons and complaint are applicable to the adult institutional system" in Section 1 A. 1. f. **Added** "without prior authorization from the Secretary of Corrections or designee" to Section 3 A.

March 2017: **Reviewed** with no changes.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

03/14/2017

Date