

SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 1500-03	PAGE NUMBER 1 OF 3
		DISTRIBUTION:	Public
		SUBJECT:	Legal – Service, Tracking, and Dissemination of Legal Documents
RELATED STANDARDS:	None	EFFECTIVE DATE:	January 15, 2024
		SUPERSESION:	08/01/2022
DESCRIPTION: Offender Legal Services	REVIEW MONTH: December	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) that the DOC attorney will monitor the status of all open lawsuits involving the DOC and oversee the processes regarding service, tracking, and distribution of legal documents.

II. PURPOSE

The purpose of the Legal – Service, Tracking, and Dissemination of Legal Documents policy is to establish the processes involved with the acceptance of service of legal documents pertaining to lawsuits involving the DOC and any DOC staff, and the proper dissemination and tracking of documents involved with other legal matters.

III. DEFINITIONS

None.

IV. PROCEDURES

1. Acceptance of Service of Summonses and Complaints:

- A. Each DOC institution and unit shall designate persons who will accept service of summonses and complaints. A primary and a backup will be identified by the warden at each facility. The persons designated may only accept service for current offenders and DOC employees. If non-DOC employees need to be served (food service contractor, vendor, etc.), the persons designated to accept service for DOC employees can assist by contacting an on-site representative for those entities but may not accept service on their behalf.
 1. At no time will anyone other than the identified persons at each institution or unit accept legal service.
 - a. Any service of legal paperwork for DOC staff that is related to personal matters outside of the scope of work will not be accepted. Service of all legal paperwork related to personal matters will have to be served on the employee in person and will not be accepted by the identified person(s) at the institution/facility.
 2. When a summons and complaint is served and accepted, the person accepting service shall immediately **scan and email all documents received**, as well as a list of those defendants for whom service was accepted, to the email address: DOC.LSNOTICE@state.sd.us. This distribution group includes designated individuals from the Department of Corrections; the Office of the Attorney General; and designated staff in the Office of Risk Management.
 3. The designated person accepting service may accept service from the U.S. Marshals, a sheriff's office, or process server.

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4. Upon notification, the DOC attorney shall track the date and time of service, who served the summons and complaint, a list of the defendants for whom service was accepted (not a list of all named defendants), and the name of the person who accepted service. This information will be maintained by the DOC attorney.
5. The DOC attorney will maintain contact with the attorney defending the matter to remain informed of all significant actions and developments.

B. This process includes other documents as well. The designated persons at each facility will also process notice of intent to file a lawsuit per SDCL § 3-21, a Writ of Habeas Corpus (or any follow-up paperwork related to the Writ), or any other legal paperwork including, but not limited to, notice of small claims action, administrative notice of appeal, etc.). The designated person for each facility shall immediately scan and email all documents received, to the email address DOC.LSNOTICE@state.sd.us.

2. Acceptance of Service of Subpoenas:

- A. Each DOC institution and unit shall direct the service of ALL subpoenas for offenders and DOC staff to DOC general counsel. At no time will the identified person(s) at the institution accept service of a subpoena. DOC general counsel will not accept subpoena service for any matters pertaining to volunteers or third-party contractors.
 1. Staff with questions will consult the DOC counsel prior to accepting service.

3. Staff Expectations and Standards Regarding Legal Matters:

- A. Staff members are to comply with all matters regarding the defense of a lawsuit as directed by the attorney defending the lawsuit. This includes providing information to assist in the defense, providing information required pursuant to discovery requests, and testifying at depositions or trial.
- B. 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 (SOC). This restriction does not apply to discussions with defense counsel or legal proceedings such as a deposition or testimony in court.
- C. DOC staff cannot be a third party to legal proceedings, either by relaying to or from offenders, with attorneys, scanning or receiving paperwork via e-mail, fax, or receiving faxes between offenders and attorneys.

4. Tracking and Documentation of Legal Matters:

- A. Lawsuit tracking will be maintained and updated as changes occur with pending cases. The DOC attorney updates the information in collaboration with the attorney general's office.
- B. All settlement agreements and related information will be tracked and updated by the DOC attorney.

V. RESPONSIBILITY

The SOC is responsible for the annual review and revision, as needed, of this policy.

VI. AUTHORITY

SDCL § 32-1

VII. HISTORY

December 2023

August 2022

April 2021

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February 2020
February 2019
March 2018
March 2017
February 2016
March 2015
March 2014
March 2013
April 2012

ATTACHMENTS

1. DOC Policy Implementation / Adjustments