

Policy Memorandum¹

This Policy Memorandum Issuance # 16-01-003

Effective Date Upon Issuance Expiration Date Upon Reissuance of IMPP² (required)

_____ Addresses subject matter for which an IMPP will be forthcoming and assigned to Chapter(s) _____ of the IMPP manual.

X _____ Amends or modifies existing IMPP(s) # 01-107D

_____ Elaborates on the contents of IMPP(s) # _____

_____ Is for Staff Only X Is for Both Staff and Offenders

This policy memorandum is being issued to amend Attachment A to IMPP 01-107D, Access to Legal Counsel and Litigation Management, to accurately reflect the current geographic location of legal counsel assignments.

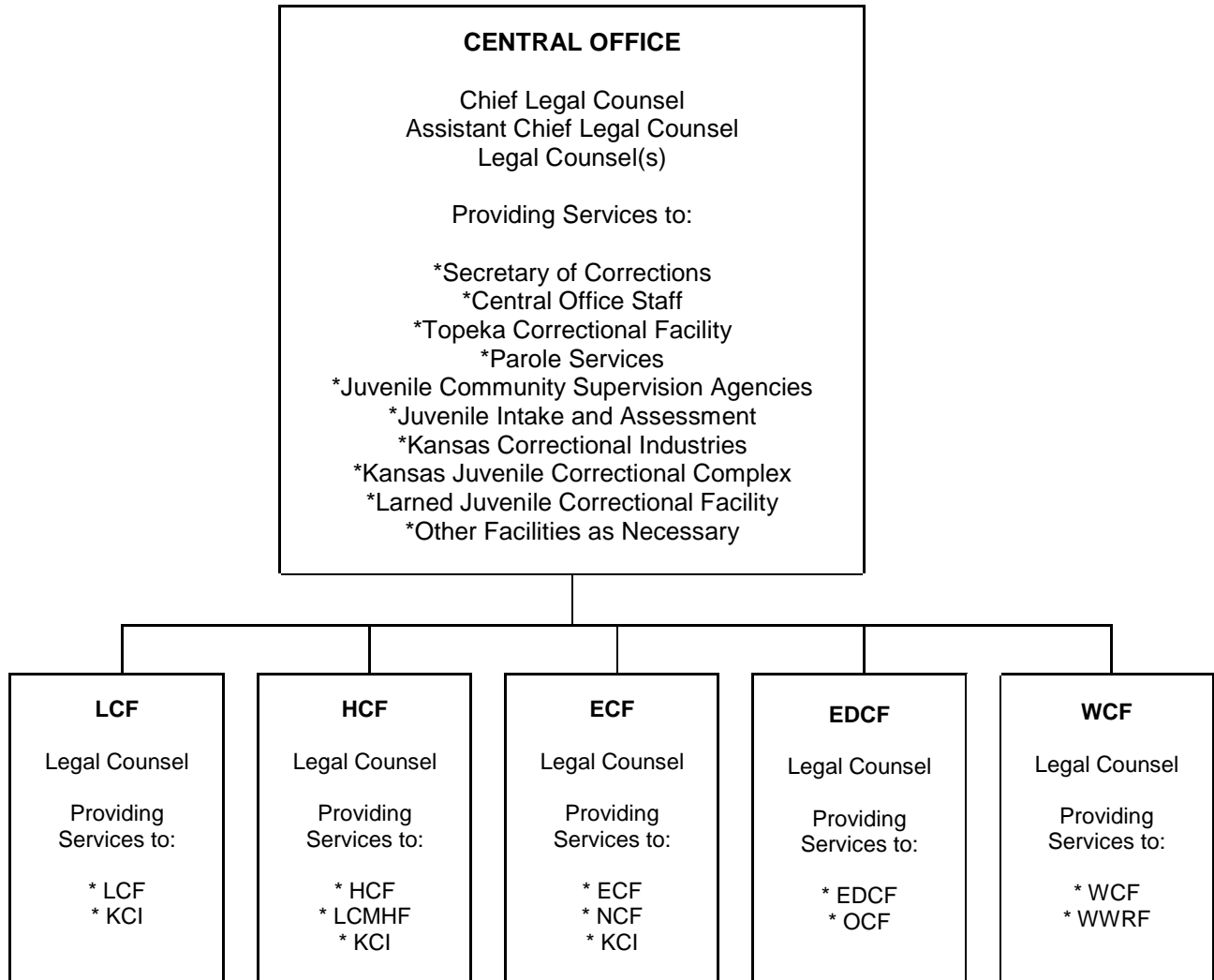
Secretary of Corrections

Date: 01/13/16


¹ Note: To keep your IMPP Manual current, please place this Policy Memorandum in your manual at the appropriate location. If the memorandum addresses subject matter for which an IMPP will be forthcoming, place this issuance before the first IMPP in the Chapter indicated. If the memorandum addresses an existing IMPP, the issuance should be placed in front of the existing policy. If this memorandum is for both staff and offenders, it shall be immediately posted.

² Unless another Policy Memorandum or IMPP on this subject is issued, the requirements contained herein have no force and effect after the indicated expiration date.

GEOGRAPHIC LOCATION OF LEGAL COUNSEL ASSIGNMENTS



KANSAS DEPARTMENT OF CORRECTIONS

 Department of Corrections	I NTERNAL M ANAGEMENT P OLICY AND P ROCEDURE	SECTION NUMBER	PAGE NUMBER
		01-107D	1 of 4
		SUBJECT: ADMINISTRATION: Access to Legal Counsel and Litigation Management	
Approved By: Secretary of Corrections		Original Date Issued:	11-24-15
		Replaces Version Issued:	N/A
		CURRENT VERSION EFFECTIVE:	11-24-15

APPLICABILITY:	<input type="checkbox"/> ADULT Operations Only	<input type="checkbox"/> JUVENILE Operations Only	<input checked="" type="checkbox"/> DEPARTMENT-WIDE
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POLICY STATEMENT

Employees of the Department shall be provided legal assistance in the resolution of legal issues related to Department operations, which are within the scope of official duties. This includes but is not necessarily limited to interpretation of case law, formation of departmental policy, advice on individual cases, and representation in Civil litigation including actions under the tort claims act and habeas corpus actions; federal civil rights actions; administrative hearings; offender disciplinary hearings; grievances; and claims against the State. Legal counsel shall not be provided to any Department employee in the defense of a criminal charge resulting from actions of the employee, whether within or beyond the scope of the employee's official duties.

Access to departmental legal counsel by the Secretary of Corrections and System Management Team members shall be unrestricted. Access to departmental legal counsel by other staff in the performance of their duties shall be through the established chain of command and in accordance with established General Orders.

Departmental legal services shall be under the supervision and direction of the Chief Legal Counsel located in the Central Office.

DEFINITIONS

Appointing Authority: As defined in IMPP 02-109, any person or group of persons empowered by the constitution, by statute, or by lawfully delegated authority to make appointments to positions in the State service pursuant to K.A.R. 1-2-9. Anytime this term is used in this IMPP, it can be read as referring to the "appointing authority or designee".

Facility Legal Counsel: Legal counsel located at specific facilities and assigned to provide legal counsel and service for facility staff in defined geographic areas.

Legal Counsel: Legal counsel located in the Central Office and providing legal counsel and service to the Secretary, specific facilities, other Central Office staff, parole services, and all or other facilities as necessary.

Management Team: A panel of Central Office management staff designated by the Secretary. Currently this panel is comprised of the Secretary; deputy secretaries, Chief Legal Counsel, Senior Counsel to Secretary; Director of Victim Services; Special Assistant and Communications Director; Legislative Liaison; Reentry Director; Human Resources Director; Chief Information Officer; Fiscal Officer and Director of Enforcement, Apprehensions and Investigations.

System Management Team: A management panel designated by the Secretary which is comprised of the Management Team, wardens, superintendents, parole directors, and Director of Kansas Correctional Industries.

PROCEDURES

I. Administration of Legal Services

- A. To facilitate the delivery of legal services, legal counsel shall be assigned to provide legal services to various facility locations in the State.
- B. Facility legal counsel shall be assigned to and provide services in accordance with Attachment A.

II. Duties of Legal Counsel

- A. The services of legal counsel shall be made available as required.
- B. Legal counsel shall prepare legal documents, including drafts of proposed administrative regulations and legislation for the Secretary.
- C. Legal counsel shall represent the Secretary through conference and negotiations with departmental officials, outside agencies, private business entities, and individuals to negotiate contracts, leases, and other matters, where necessary for the operation of the Department.
- D. Legal counsel shall also be available to other specified staff for advice and guidance on other legal matters that might arise.
- E. Legal counsel shall provide all necessary assistance to the Attorney General and/or contracted attorney representing the Department or State.
- F. Legal counsel shall review all final drafts and revisions of General Orders for the Topeka Correctional Facility.

III. Duties of Facility Legal Counsel

- A. The services of the facility legal counsel shall be made available in accordance with Attachment A.
- B. Facility legal counsel shall provide guidance on matters related to civil service hearings and other administrative hearings; offender disciplinary hearings; offender grievance processing; claims processing; and shall provide representation at court hearings held in the District Court of the county where a facility for which they are responsible is located.
- C. Facility legal counsel shall prepare drafts of legal documents at the request of the facility warden(s) for review by the Department's Chief Legal Counsel.
- D. Facility legal counsel shall review all final drafts and revisions of General Orders issued by facilities within the geographic area for which they are responsible.
- E. Facility legal counsel shall represent facilities and facility staff in the resolution of legal issues within the scope of the staff's official duties.
- F. Facility legal counsel shall complete other tasks and assignments as directed by the Chief Legal Counsel.

IV. Access to Legal Counsel

- A. Access to legal counsel may be obtained by telephone, in person or by written memorandum, but in all cases requests for access to legal counsel shall be through the employee's chain of command and the appointing authority.
- B. Nothing in this IMPP shall be construed as affecting, addressing, limiting or interfering with the right of any employee of the Department to request a defense in a civil action pursuant to K.S.A. 75-6108; K.S.A. 75-6116; or K.S.A. 75-4360.

- C. Legal counsel shall have unrestricted access to any document, employee, contract personnel, volunteer, intern, or correctional facility as necessary for the performance of their legal duties or tasks.

V. Lawsuits and Other Legal Actions

- A. All lawsuits filed against the Secretary and/or any employee shall be served upon that individual.
 - 1. If an employee is named as a defendant in a lawsuit arising out of his/her employment, the employee shall immediately notify legal counsel and deliver a copy of any legal document including any envelopes received, to legal counsel assigned to that geographic location.
 - 2. Except as specifically authorized by the Secretary, no employees shall accept service or sign for certified/registered mail intended for another employee.
 - 3. No employee shall accept or sign for restricted delivery mail for former employees.
- B. No employee shall accept service or sign for any documents regarding service of a lawsuit filed against the agency. If an employee is improperly served with a lawsuit, he/she shall immediately notify legal counsel and deliver a copy of any legal document including any envelopes received, to legal counsel assigned to that geographic location.
- C. Any employee who has knowledge of a potential legal matter shall immediately notify legal counsel.
- D. Any employee contacted by an outside attorney or investigator shall refer the attorney or investigator to legal counsel and shall immediately notify legal counsel of the attorney or investigator's request to speak with them.
- E. An employee contacted or served with a subpoena to provide testimony in a court of law or at a deposition that is directly or indirectly related to a lawsuit involving the agency shall immediately notify legal counsel and deliver a copy of any legal document including any envelopes received, to legal counsel assigned to that geographic location.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

KSA 75-6108, 75-6116, 75-4360
ACO 2-1A-28
ACI 3-4023
APPFS 3-3031

ATTACHMENTS

Attachment	Title of Attachment	Page Total
A	Geographic Location of Legal Counsel Assignments	1 page

GEOGRAPHIC LOCATION OF LEGAL COUNSEL ASSIGNMENTS

