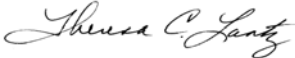
 <p>State of Connecticut Department of Correction</p> <p><b>ADMINISTRATIVE DIRECTIVE</b></p>	Directive Number 1.12	Effective Date 10/31/2007	Page 1 of 4
	Supersedes Legal Counsel or Representation of Staff, dated 6/1/1998		
Approved By 	Title  Employee Legal Counsel/Representation		

1. Policy. The Department of Correction shall request legal assistance, advice and representation of the Department and its staff through the Office of the Attorney General whenever a legal issue, question or claim arises involving the official authority or duty of Department staff.
2. Authority and Reference.
  - A. Connecticut General Statutes, Sections 3-125, 4-165, 5-141(d), 18-81, 46a-68 and 52-143.
  - B. American Correctional Association, Standards for the Administration of Correctional Agencies, Second Edition, April 1993, Standard 2-CO-1A-28.
  - C. American Correctional Association, Standards for Adult Correctional Institutions, Fourth Edition, January 1990 2003, Standard 4-4023.
  - D. American Correctional Association, Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition, June 2004, Standard 4-ALDF-7A-02.
  - E. American Correctional Association, Standards for Adult Probation and Parole Field Services, Third Edition, August 1998, Standard 3-3031.
  - F. American Correctional Association, Standards for Correctional Training Academies, First Edition, May 1993, Standard 1-CTA-1A-16.
3. Definition. For the purposes stated herein, the following definition applies:
  - A. Legal Affairs Office. A unit within the Department that serves as the liaison to the Office of the Attorney General as well as with various state and federal courts and agencies throughout the State of Connecticut on all legal matters affecting the Department.
4. General Principles. The Department shall endeavor to utilize the legal services provided by the Office of the Attorney General. As attorney for the Department, the Office of the Attorney General, subject to judgment, may advise staff on legal matters which relate to their official duties. Such legal assistance may also be afforded in any civil action or proceeding in any state or federal court arising out of any alleged act, omission or deprivation which occurred or is alleged to have occurred while the employee was acting in the discharge of duties or in the scope of employment, except that the state shall not be required to provide such a defense whenever the Office of the Attorney General, based on an investigation of the facts and circumstances of the case, determines that it would be inappropriate to do so. The Office of the Attorney General, in addition to the Legal Affairs Office, is available to staff for consultation in areas that effect the performance of their duties within the Department of Correction. The Office of the Attorney General may provide legal advice and assistance on:

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- A. The development of policies and procedures.
  - B. Changes in state or federal law that effect Department policy and procedure.
  - C. Implementation of court decisions relating to specific Department operations or inmate rights.
  - D. Representing Department of Correction staff in legal actions against, or initiated by, the Department and staff to include: filing motions, responding to interrogatories and carrying out any legal defense of the staff for actions pertaining to the official performance of their duties.
5. Legal Access Procedures.
- A. Agency/Division Level. All actions brought against the Department naming the Commissioner or the Department of Correction as a defendant shall be coordinated by the Legal Affairs Office. The Legal Affairs Office shall maintain communication with the Office of the Attorney General on matters related to court decisions, interpretation of statutes, drafting of legislation and formal opinions requested on behalf of the Department.
  - B. Unit Level. Litigation and preparation for defending the Department and staff at the unit level shall be coordinated by the Unit Administrator or designee who shall act as a coordinator between the unit and the Legal Affairs Office and/or the Office of the Attorney General. Any staff member named as a defendant to a lawsuit involving his/her official duties shall notify the Unit Administrator. In addition, the staff member shall inform the Legal Affairs Office and the Office of the Attorney General in accordance with Section 8(C) of this Directive.
  - C. Case Preparation. Nothing in this Directive is intended to interfere with the discretion of the Office of the Attorney General regarding witness strategy, case preparation or legal judgments within the purview of the Office of the Attorney General.
  - D. Requests for Written Attorney General Opinions. Only the Commissioner is authorized to request a written legal opinion from the Office of the Attorney General regarding any matter(s) of departmental or statewide significance (e.g., good time questions, disciplinary procedures, classification issues, etc.). Staff shall direct all requests for written opinions through the appropriate chain-of-command to the Legal Affairs Office. Nothing in this Section shall restrict staff from seeking advice from the Legal Affairs Office and the Office of the Attorney General regarding litigation and preparation for defending the Department and staff.
6. Employee Responsibility. All staff shall provide the Office of the Attorney General with relevant documents, subpoenas or other materials related to legal action with which they are involved. Staff shall cooperate in all inquiries, depositions, interrogatories, or other legal processes that will assist the Legal Affairs Office and/or the Office of the Attorney General.
7. Official Mail. Each facility shall maintain mailboxes for official correspondence addressed to staff members. Staff members shall regularly check this area for official mail.

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8. Service of Process. There are three (3) methods by which a person may be served legal process: (a) directly, in hand, to the individual, (b) directly to the residence of the individual, and (c) by first-class mail. It is common for service of process in lawsuits to be mailed to staff who are being sued in their individual capacity at their place of employment. The papers served may include a copy of the complaint and a waiver form, Attachment A, AO 398, Notice of Lawsuit and Request for Waiver of Service of Summons and Attachment B, AO 399, Waiver of Service of Summons.

If the following procedures are not followed with respect to returning Attachment B, AO 399, Waiver of Service of Summons in accordance with the instructions provided, the plaintiff may seek disclosure of the staff member's home address in order to complete service. The staff member may also be held responsible for the costs associated with that service. Therefore, staff shall:

- A. immediately advise the Unit Administrator of the complaint and provide a copy.
  - B. mail the original waiver in accordance with the instructions provided.
  - C. forward a copy of the complaint, the signed waiver and a memo identifying the staff member served to the Director of Legal Affairs and the Office of the Attorney General. In inmate related cases, correspondence to the Office of the Attorney General shall be mailed to: Office of the Attorney General, MacKenzie Hall, 110 Sherman Street, Hartford, Connecticut 06105.
  - D. retain the original complaint and a copy of the waiver.
9. Subpoenas. Any subpoena summoning a correctional employee as a witness regarding his/her official duties (not a personal matter) may be served at the facility in which the employee is assigned. The Unit Administrator or designee shall be authorized to accept service of the subpoena, and shall notify the employee as soon as is practicable.

If a staff member receives a subpoena to appear in court or at a deposition in an employment related issue and requires guidance, the staff member shall call the Legal Affairs Office. In addition, the staff member shall make three (3) photocopies of the materials enclosed, forward a copy to the Office of the Attorney General, a copy to the Legal Affairs Office, a copy to the Unit Administrator and retain the original. In employment related cases, correspondence to the Office of the Attorney General shall be mailed to: Office of the Attorney General, 55 Elm Street, Hartford, Connecticut 06106.

10. Attorney General Response. Upon receipt of the suit, the Office of the Attorney General may request a preliminary investigation into the allegations contained in the complaint. The Legal Affairs Office may assist in gathering information and documents and in arranging meetings, etc. The Office of the Attorney General will determine whether representation is appropriate in accordance with Section 5-141(d) of the Connecticut General Statutes and shall inform the employee. Staff should be aware that if they are subject to a lawsuit, they should inform the Legal Affairs Office and seek the assistance of the Office of the Attorney General.

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11. Administrative Hearings. All staff shall assist Department representatives, the Legal Affairs Office and the Office of the Attorney General in preparation for the defense of the Department in matters before the Commission on Human Rights and Opportunities, the Equal Opportunity Commission and the Freedom of Information Commission.
12. Forms and Attachments. The following attachments are applicable to this Administrative Directive and shall be utilized for the intended function:
  - A. Attachment A, AO 398, Notice of Lawsuit and Request for Waiver of Service of Summons; and,
  - B. Attachment B, AO 399, Waiver of Service of Summons.
13. Exceptions. Any exceptions to the procedures in this Administrative Directive shall require prior written approval from the Commissioner.