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| Access to Courts/Law Library | ACA Standards: 2-CO-3C-01, 4-4268, 4-4274, 4-4275, 4-4276, 4-ACRS-6A-01, 4-ACRS-6A-02 | | |
| Robert Patton, Director Oklahoma Department of Corrections | | Signature on File | |

Access to Courts/Law Library

For the purpose of this procedure, the term “offender” will apply to anyone in the authority, custody or care of a prison or a community-based facility operated by or contracted with the Oklahoma Department of Corrections.

I. Establishment of Law Libraries (2-CO-3C-01, 4-4274, 4-ACRS-6A-02)

A. Law Libraries

Law libraries will be located at all minimum, medium, and maximum security facilities. Offenders are provided this service to assist them in cases related to conditions of confinement and post-conviction relief.

1. For the purpose of this procedure, conditions of confinement is defined as any challenge to transfers, actions of Department of Corrections (DOC) staff, living conditions, discrimination, job or program assignment or earned credit assignments.
2. Post-conviction relief is defined as any direct or collateral attack on a criminal sentence, probation or parole revocation, revocation of earned credits, or challenges to earned credit statutes and procedures.

B. Access to Law Libraries by Community Security and Private Prison Offenders

1. Consistent with community re-entry, offenders assigned to community corrections centers and work centers may have access to public libraries and other community resources. Community corrections offenders requesting access to a facility law library when one is not available in the local area are required to submit a “Request to Staff” ([DOC 090124D](#)) to their case manager for access to a facility law library. Offenders will be returned to community center assignment upon completion of their law library research.
2. Community corrections centers, work centers, and county jails may allow offenders to use the “Request for Legal Research Assistance” ([DOC 030115C](#), attached) for an offender who has requested access to a facility law library. A case manager may provide an offender with a “Request for Legal Research Assistance” and then forward the request to the law library supervisor at the host facility. An offender research assistant will respond to the request within two working days, and the law library supervisor will return the response to the case manager. The requesting offender will be informed that an offender research assistant will assist with legal research through the law library supervisor. In addition, the offender will be informed that correspondence is not privileged, and all correspondence may be reviewed by a staff member to determine that correspondence guidelines are not violated.

3. Community corrections centers will provide notary service, postage, envelopes and photocopy services in accordance with this procedure.
4. Offenders at a private prison must use the resources provided by the private facility.

C. Compliance

Periodic unannounced on-site inspections of the institutional law libraries will be conducted by the General Counsel's office to ensure the provisions of this procedure are properly implemented.

II. Requirements for Law Libraries (4-4276)

A. Standard Reference Materials

1. All law libraries of DOC will maintain the appropriate legal reference materials as indicated in "Required Materials for Law Library" ([Attachment A](#), attached). Such materials will be purchased and obtained for each institution by the office of the General Counsel.
2. The law library supervisor will inform the General Counsel's office of the need for replacement materials to ensure current materials are maintained. Materials lost, stolen, or vandalized will be replaced by the facility.

B. Legal Resource Center

The office of the General Counsel shall provide legal reference materials via Legal Resource Center computers. The Legal Resource Center will be placed where the monitor can be viewed by the law library supervisor.

1. Accessibility

The Legal Resource Center shall be made accessible to the facility's general population.

a. Time-Limit

An offender will be allowed the use of the Legal Resource Center for a session lasting no longer than 30 minutes if other offenders are waiting to use the Legal Resource Center. The law library supervisor will monitor time frames to ensure compliance.

b. Printing

Offenders will be allowed to print legal materials from the Legal Resource Center.

- (1) Offenders will purchase designated paper from the law library supervisor via the "Offender's Request for Disbursement of Legal Costs" form ([DOC 030115A](#), attached) at a cost of 25¢ cents per page.
- (2) Any offender found to be printing from the Legal Resource Center on any paper not designated for such, will be subject to disciplinary action.
- (3) Offenders will not be allowed to print from the Legal Resource Center unless they have funds available in their trust fund.

c. General Counsel's Responsibility

- (1) The office of the General Counsel will be responsible for the maintenance of the Legal Resource Center.
- (2) Designated paper and printer cartridges will be provided by the office of the General Counsel to the law library supervisor for disbursement.

d. Law Library Supervisor's Responsibility

- (1) The law library supervisor shall ensure the proper use of the Legal Resource Center.
- (2) The law library supervisor shall immediately report to the office of the General Counsel any damage and/or malfunction of the Legal Resource Center.
- (3) The law library supervisor shall be responsible to ensure that offenders use the designated paper for printing purposes. If an offender is found to be printing from the Legal Resource Center on any paper not designated for such, the law library supervisor or other appropriate staff member may take appropriate disciplinary action.

C. Available Forms

The law library supervisor will ensure the forms specified in "Forms Required for Law Libraries" ([Attachment B](#), attached) are maintained in order to be provided to offenders.

III. Supervision of Law Libraries

A. Staff Responsibilities

Law libraries will be supervised by a trained staff member. The staff member may not draft pleadings or assist offenders in drafting pleadings. The staff member is to provide security and supervision of the law library and offenders who are using the library. The staff member may assist offenders by showing them how to conduct legal research and may assign a research assistant to help an offender conduct research and draft pleadings that relate to conditions of confinement or post-conviction relief.

B. Facility Lock Down

In case of lock down of all or a portion of an institution for security reasons, offenders may request law library materials and the assistance of law library staff in meeting court deadlines. All consideration for library services in lock down areas may be granted by the facility head with consideration of security and order.

1. The offender is responsible for informing staff of any verified court imposed or other legal deadline as soon as the offender becomes aware of the deadline. Proof of the deadline must be presented to staff.
2. When informed of a pending deadline, the staff person will report the deadline to the warden within 24 hours of discovery (excluding weekends and holidays) of the deadline.
3. Requests made for services, which are not mandated by a court deadline, may be granted at the facility head's discretion with consideration of the security and order of the locked down area.

C. Documentation of Use

Each institutional law library will maintain sign-in log sheets, which all offenders and offender research assistants will sign reflecting the time each arrived and departed the law library. The logs will indicate which offenders are research assistants.

D. Equipment

The law library supervisor will be responsible for overseeing the use of all equipment housed in the law library.

1. Staff Computer/Printer/Scanner/Copier

Offenders are prohibited from accessing the computer that is assigned to the law library supervisor. Offenders are prohibited from accessing any printer/copier/scanner that is assigned to the law library without permission from the law library supervisor.

2. Law Library Computer

Computers may be provided for offender use in facility law libraries. The law library supervisor will be responsible for ensuring that all law library computers are used only for legal matters, as defined in Section I. item A.

- a. Law library computers shall contain only those programs which provide word processing and forms approved by the General Counsel's office.
 1. Offender created documents will not be stored on the computer hard drive. At the discretion of the law library supervisor, research may be stored on a disc until deleted.
 2. Each offender will save their documents to a disc and will return the disc to the law library supervisor prior to departing the law library.
 3. The law library supervisor will print the material and give copies to the offender each day when the research is not stored on a disc. Offenders will be charged for printed copies in accordance with this procedure.
 4. All discs will be maintained by the law library supervisor.
- b. Law library computers shall not contain any program designed for entertainment purposes (i.e., games, pornography, etc.).
- c. There will be no internet and/or network capability connected to computers in the law library, with the exception of the Legal Resource Center and staff computers.

3. Typewriters

Typewriters may be provided for offender use in facility law libraries. The law library supervisor will be responsible for ensuring that all law library typewriters are used only for legal matters as defined in Section I. item A. of this procedure.

IV. Library Services

Regulations consistent with this procedure will be outlined in the offender orientation, which details the procedures for offenders using the law library and legal resources.

A. Supplies and Work Area (4-4276)

1. Each institution will provide workspace for offenders using the law library.
2. Each institutional law library will be equipped to provide necessary supplies to permit an offender's access to the courts. Necessary supplies will include appropriate writing utensils, and a supply of plain paper (size 8½ x 11 only).
 - a. Typewriters or word processor computers may be provided, if available, but are not considered necessary for each library.
 - b. Supplies will be provided upon request and at cost to the offender. The offender will complete an "Offender's Request for Disbursement of Legal Costs" form ([DOC 030115A](#)).

B. Offender Research Assistants

1. All institutional law libraries will provide offender research assistants to assist offenders in framing legal issues, conducting research and preparing pleadings relating to conditions of confinement and post-conviction relief. This DOES NOT include divorce, child custody, or other civil actions.
2. No research assistant will be assigned a computer, desk, office supplies (which includes staplers, staples, envelopes, etc), storage areas, or any materials that are designated for their individual use.
3. Research assistants will not print and/or copy any items for use in the law library without permission from the law library supervisor.

C. Notary Public

All institutional law libraries will provide for a commissioned notary public.

1. Each institution will ensure that the law library supervisor, correctional staff or a correctional officer assigned to the library is a notary public and available to offenders for the purpose of notarization of legal documents.
2. If a staff member regularly assigned to the law library and readily available is not a notary, the institution will provide a commissioned notary public to be available as needed.
3. The notary public will examine documents only to the extent necessary to establish that the offender seeking document certification is in fact the offender he or she purports to be. The documents will then be notarized.

4. Notary service will be provided at a cost of \$1.00 per notarization. The "Offender's Request for Disbursement of Legal Costs" form ([DOC 030115A](#)) will be submitted to the designated staff member.

D. Photocopying Services for Documents being Submitted to a Court

Legal photocopying services will be available during regular law library hours.

1. Requests for photocopies will be initiated by the offender by submitting "Offender's Request for Disbursement of Legal Costs" form ([DOC 030115A](#)) to the law library supervisor.
2. Offenders will be charged 25¢ cents per copy (i.e., one page front and back would total 50¢ cents).
3. Offenders who do not have enough funds to cover the cost of photocopying and who have a court-imposed or rule-imposed deadline will be provided the requested service. The cost of photocopying will be collected as soon as funds become available in his or her trust fund. Offenders with funds to cover the costs of photocopying and who desire a working copy of their pleading will be provided the requested service.
4. When legal photocopying services are denied, reasons for such denial will be documented on "Offender's Request for Disbursement of Legal Costs" form. The law library supervisor may deny legal photocopying services if the material is:
 - a. Not of a legal nature or not to a legal correspondent as defined in [OP-030117](#) entitled "Correspondence, Publications, and Audio/Video Media Guidelines" (Example: A copy of a program completion certificate for personal use);
 - b. Unreasonably voluminous;
 - c. Of poor copy quality;
 - d. Not for purposes of judicial legal redress relating to post conviction relief or conditions of confinement;
 - e. Solely a working copy when the offender lacks the necessary funds;
 - f. In excess of the judicial requirements for the number of required sets for distribution (Examples: Requesting ten copies of a pleading when there are only three defendants; the attaching of exhibits to a pleading that does not allow the attachment of exhibits); or

- g. Duplicate material is already available to the judiciary and opposing counsel (Example: Copies to both the defendant and to his or her attorney).
5. The law library supervisor will ensure the photocopies are available within 48 hours (excluding weekends and holidays) after the documents were submitted for photocopying. Staff will only view material for photocopying to the extent necessary to determine whether appropriate for legal photocopying and to ensure legible copying by the machine.
6. Photocopying services will be provided by the law library supervisor.
7. At no time is an offender to have access to a copier/printer/scanner without permission from the law library supervisor.

E. Postage/Envelopes

1. To assist offenders in making confidential contact with the courts and their attorneys of record relating to conditions of confinement or post conviction relief, postage/envelopes to the courts and the offender's attorney of record will be provided by the facility at cost to the offender.
 - a. An "Offender's Request for Disbursement of Legal Costs" form will be completed for all requests for postage/envelopes from the law library. The offender may purchase the postage or envelopes from the facility canteen.
 - b. For those offenders without funds available at the time of the request, the costs will be collected from the offender as soon as funds become available in his or her trust fund.
2. Certified mail services will be available to offenders, at cost to the offender, to document the first delivery of the complaint/petition/petition in error to the court clerk only, at both district and appellate level.
 - a. An "Offender's Request for Disbursement of Legal Costs" form will be completed for all requests for certified mail.
 - b. For those offenders without funds available at the time of the request, the costs will be collected from the offender as soon as funds become available in their trust fund.

V. Procedures for Offender Access to Legal Materials

A. Access to Law Libraries

Institution law libraries will be open a minimum of 30 hours per week. Medium facilities with a minimum unit will have the minimum unit law library open for at least 6 of the 30 hours per week during which time the facility may close the law library for medium offenders. At no time will the law library be open without the law library supervisor and/or staff member present. All offenders, excluding segregation housing, community corrections centers, or community work centers, will have access to the law library at least six hours a week, if the offender has a verifiable court deadline that is less than 90 calendar days away. Unless otherwise noted, all other offenders, including those offenders in community corrections centers or community work centers at which a local area law library is available, will be provided at least two hours a week access to the law library.

1. Offenders housed in a segregated housing or a restricted unit must submit a "Request for Legal Research Assistance" ([DOC 030115C](#)) to the law library. An offender research assistant will respond to the request within two working days. The requesting offender will be informed that an offender research assistant will assist with legal research through the law library supervisor. In addition, the offender will be informed that correspondence is not privileged, and all correspondence may be reviewed by a staff member to determine that correspondence guidelines are not violated. (4-4268)
2. Offenders with a court imposed or other legal deadline that is less than 45 calendar days away may be allowed extra time in the law library. The law library supervisor will determine whether a legal deadline exists. The offender will be required to furnish the law library supervisor with written proof, including the jurisdiction and case number, that a deadline does in fact exist, and provide notice at least 20 days in advance of the 45-day time period.
3. No offender who has an attorney representing them is entitled to access to the law library to obtain research materials for said case, as it is the responsibility of the offender's attorney.

B. Other Legal Materials

1. Offenders are permitted to purchase, directly from a publisher or bookstore, legal materials needed to advance their research. This includes law books, treatises, and legal periodicals which are softbound. These materials will be provided at offender expense. Offenders will be allowed to keep these materials in their cells, as long as the total space for legal materials does not exceed one cubic foot in accordance with [OP-030120](#) entitled "Offender Property." The offender may also seek assistance of friends or family in obtaining statutes or case law.

2. In order to have access to statutes and case law concerning Oklahoma or federal law, which may not be available on the Legal Resource Center, offenders may request to purchase copies of cases from the office of the General Counsel. All such requests will be made on [DOC 030115B](#) entitled "Offender Request for Legal Materials" (attached).
 - a. Requests for cases under this section are limited to cases which relate to a direct or collateral attack on sentences, or which challenge the conditions of confinement (Lewis v. Casey, 116 S. Ct. 2174 (1996)).
 - b. Requests must be made on the form entitled "Offender Request for Legal Materials," be legible, and accurately cite the case(s) requested.
 - c. No requests may be made under this provision when an offender is represented by counsel. In such case, the offender must make all such requests to his or her counsel.
 - d. When completing an "Offender Request for Legal Materials" form ([DOC 030115B](#)), offenders shall pay 25 cents per page for all legal materials.
 - e. Information requested will be returned to the law library supervisor.
 - f. Once the requested information is provided, the office of the General Counsel will forward the offender's completed request form to the law library supervisor.
3. In order to have access to statutes and case law of other states not provided by DOC in the law library, an offender must make a request in writing asking for the address of a legal aid organization or entity in the other state. The law library supervisor will obtain the address of at least one legal aid entity from that state and give it to the offender. The offender may then correspond by mail at his or her own expense with that or any other legal aid organization seeking assistance.

C. Legal Assistance

1. Offenders may receive legal assistance from offender research assistants or offenders at their assigned institution.
2. Offenders may write to attorneys or organizations that handle legal problems in an effort to obtain additional legal assistance.
3. If unable to secure legal counsel, offenders may proceed pro se (on their own). An offender may not sign a pleading on behalf of another offender.

4. No offender may possess the legal material of another offender.
5. Offenders who have been transferred to another state under the Corrections Compact Agreement may receive assistance in the following manner:
 - a. Any staff member receiving any correspondence from any offender who has been transferred per the Corrections Compact Agreement requesting legal assistance will forward the correspondence to the corrections compact officer at the Lexington Assessment and Reception Center (LARC) within five working days of receipt.
 - b. The corrections compact officer, upon receipt of such request, will contact the law library supervisor at LARC to request assistance. A research assistant will complete requests for legal redress per this procedure. The research assistant's name will be kept confidential and will not be given to the offender requesting assistance.
 - c. The corrections compact officer and the law library supervisor will review the material to ensure that confidentiality is being maintained.
 - d. The corrections compact officer will handle all mailing of materials, etc. The location of the interstate offender will be confidential unless it affects the request for legal materials.
 - e. The requesting offender will be informed that an offender research assistant will assist with legal research through the law library supervisor. In addition, the offender will be informed that correspondence is not privileged, and all of it will be reviewed by a staff member to determine that correspondence guidelines are not violated.

D. Legal Fees

1. Court related costs for the filing fees of civil and criminal cases (defined in 28 O.S. § 151 et. seq. or for a federal action as defined in 28 U.S.C. § 1911 et. seq.), must first be deducted from an offender's trust fund draw account. After the offender has depleted their draw account, they may be required to withdraw money from their mandatory savings to cover these court related costs.
2. Offender petitions to the court for "Motions for Leave to Proceed In Forma Pauperis" will follow this procedure:
 - a. The offender will supply the trust fund officer with two copies of the "Motion for Leave to Proceed In Forma Pauperis," with the

pre-addressed stamped envelope of the appropriate court to which it is to be sent.

- b. After the trust fund officer fills in the amount in the offender's trust fund account (including all mandatory savings), the trust fund officer will give the original copy of the motion to the offender so it can be placed in the envelope to the court containing the offender's lawsuit. A copy of the motion will also be promptly forwarded to the offender by the trust fund officer.
- c. The six-month statement of the offender trust fund accounts will be prepared by the trust fund officer as required by federal and state courts.

E. Postmarks

1. Should an offender's deadline arrive for filing an action or response in the Oklahoma Supreme Court or the federal courts, it will be the offender's responsibility to bring that fact to the attention of the facility staff not later than 10:00 a.m. the date of the deadline. The offender will be required to show that day is the last day for filing.
2. Each facility will establish procedures for keeping a record of any such occurrence. The record will contain the name and signature of the offender, name, and signature of the mailroom staff that received the item, the date and time the item was received by the mailroom staff, and the time the item was deposited with the local post office.
3. Any mail received by the facility staff as above will be delivered the same day prior to closing of the local U.S. Postal Office.

F. Communication with Staff

1. After an offender has filed a lawsuit against DOC or any staff member, the offender may not communicate with the agency or staff concerning any issues or related issues in the lawsuit without counsel for the defendant being advised, present, and/or consenting to the communication.
2. Staff will not prepare affidavits for offenders without review by the office of the General Counsel. Affidavits submitted to the courts are treated as sworn testimony and staff needs to seek legal advice when preparing affidavits which have the potential to subject the employee to charges of perjury.

VI. Offender Research Assistants

Any offender may apply for an available research assistant position.

A. Selection

Standards for the selection of offender research assistants will be such that the most qualified offenders are chosen for the position in accordance with [OP-030103](#) entitled "Offender Job and Program Assignments."

1. Offender research assistant job vacancies will be posted by the law library supervisor.
2. Candidates for consideration must meet the following requirements:
 - a. Either scored a minimum of 9.0 in both the reading and language sections of the Test of Adult Basic Education (TABE) or completed high school or equivalency;
 - b. Projected release date falls no less than two years from date of selection;
 - c. Clear conduct for six months prior to application;
 - d. Submit a brief narrative, no more than 50 words, of their desire to work in a library/research atmosphere and why;
 - e. Any offender who has a case dismissed as frivolous or malicious may not be assigned as an offender research assistant. Before considering an offender for the position as an offender research assistant, the law library supervisor or the facility head shall contact the office of the General Counsel to inquire whether an offender is excluded due to this requirement;
 - f. Any offender research assistant (law clerk) who has any case dismissed as frivolous or malicious will be removed from the position of law clerk immediately and the offender's file will be flagged;
 - g. Any offender with a current or previous conviction for Extortion or with a misconduct for Extortion or Bartering shall not be assigned as an offender research assistant; and
 - h. Any offender removed from the position of offender research assistant as the result of misconduct history shall never be reinstated to such position.
3. The law library supervisor will review qualified applicants considering all past job performance, offender work evaluations, and communication skills. Other factors may be considered. The unit classification team will review the law library supervisor's

recommendation(s) for final selection subject to the facility head's approval.

B. Facility Head Approval

The facility head will approve any selection or removal of offender research assistants.

C. Removal

Offender research assistants will not be removed because of their efforts to assist another offender to secure legal redress within the guidelines established herein.

D. Training

The office of the General Counsel will develop and provide training to the offender research assistants.

1. Successful performance on an examination is required to work as an offender research assistant. Offenders completing the training will not receive achievement credits.
2. Any offender research assistant who fails to complete any training session/testing may immediately be terminated from assignment as a research assistant. The offender may be allowed to attend the next training session and retest. If the offender successfully passes the retest, the offender may be assigned to a position as a research assistant.
3. Offenders cannot be transferred to a facility of lower security than their security classification for training.

E. Duties

1. Offender research assistants are to assist all fellow offenders at their own facility in their legal claims for no fee or any type of remuneration other than offender wages granted by the agency.
 - a. Upon an administrative determination that an offender research assistant has engaged in extortion or bartering for services (supported by some evidence), the offender will be removed from the position and will never be returned to such position in the agency. The offender's file will be flagged as well as making this information a permanent part of the offender's file.
 - b. Appropriate disciplinary action may be taken as specified in [OP-060125](#) entitled "Department Offender Disciplinary

Procedures.”

2. Offender research assistants will not be used by staff to prevent claims against the agency or its staff, or for personal matters.
3. Offender research assistants will not be impeded in carrying out their duties.
4. Offender research assistants are not allowed to work on their own cases during the time officially working in the law library as offender research assistants if there are other offenders requiring their assistance. When not assisting other offenders, offender research assistants have the same access to the law library afforded other offenders engaged in work or other offender programs.
5. Offender research assistants are not authorized to possess the legal materials of another offender outside the duties of a research assistant.
6. Research assistants will not have access to any printer/copier/scanner without permission from the law library supervisor.
7. Any damage, modification or alteration of any kind to the Legal Resource Center by an offender will result in disciplinary action. If it is done by a research assistant, the offender will be removed and permanently banned from this position.

F. Pay Grade

An offender successfully completing the offender research assistant training and testing will receive the pay grade at the appropriate level in accordance with [OP-060107](#) entitled “Systems of Incarceration”, Section II. H. item 2.

G. Computer

No offender research assistant will be assigned a computer.

VII. Access to Legal Services

Attorneys are encouraged to visit offenders. Correspondence and communication between an offender and their attorney of record is privileged communication and will not be unreasonably impeded. Attorney visits shall be in accordance with [OP-030118](#) entitled “Visitation.” (4-4275, 4-ACRS-6A-01)

VIII. Private Prisons

Private prisons will provide access to courts in accordance with their contract with DOC.

IX. References

Policy Statement No. P-030100 entitled "Provision of Services/Offenders Rights and Responsibilities"

OP-030103 entitled "Offender Job and Program Assignments"

OP-030117 entitled "Correspondence, Publications and Audio/Video Media Guidelines"

OP-030118 entitled "Visitation"

OP-030120 entitled "Offender Property"

OP-060107 entitled "Systems of Incarceration"

OP-060125 entitled "Department Offender Disciplinary Procedures"

28 U.S.C. § 1911

28 O.S. § 151

57 O.S. § 5663

Lewis v. Casey, 518 U.S. 343, 116 S. Ct. 2174 (1996)

Booth v. Churner, 532 U.S. 731, 121 S.Ct. 1819 (2001)

Porter v. Nussle, 534 U.S. 516, 122 S.Ct. 983 (2002)

X. Action

The division managers are responsible for compliance with this procedure.

The office of the General Counsel is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the director.

This procedure will be effective as indicated.

Replaced: Operations Memorandum No. OP-030115 entitled "Access to Courts/Law Library" dated April 29, 2014

Distribution: Policy and Operations Manual
Department Website

| <u>Referenced Forms</u> | <u>Title</u> | <u>Location</u> |
|-----------------------------|--|---------------------------|
| DOC 030115A | “Offender’s Request for Disbursement of Legal Costs” | Attached |
| DOC 030115B | “Offender Request for Legal Materials” | Attached |
| DOC 030115C | “Request for Legal Research Assistance” | Attached |
| DOC 090124D | “Request to Staff” | OP-090124 |

| <u>Attachments</u> | <u>Title</u> | <u>Location</u> |
|------------------------------|--|-----------------|
| Attachment A | “Required Materials for Law Libraries” | Attached |
| Attachment B | “Forms Required for Law Libraries” | Attached |

