



## ACCESS TO COURTS, COUNSEL AND LEGAL MATERIALS

### POLICY.

It is the policy of the Deschutes County Sheriff's Office – Adult Jail (AJ) to ensure that inmates are afforded their right of access to courts, counsel and legal material as established by the Constitution of the United States and the State of Oregon.

### PURPOSE.

This policy ensures that inmates have a right to access courts, counsel and legal materials, and that there shall be no unreasonable restrictions to such access.

### OREGON JAIL STANDARDS:

- D-101 Inmate Personal Mail
- D-105 Providing Writing Supplies and Postage
- D-212 Providing and Regulating Attorney Visits
- D-213 Privacy
- D-302 Telephone Access: Court and Attorney Calls
- F-101 Assisting Inmates' Access to Courts
- F-102 Writing materials
- F-103 Law Libraries

### REFERENCES.

- ORS 169.076, Standards for Local Correctional Facilities

### DEFINITIONS:

**Adult Jail Law Library.** An online resource consisting of books and reference materials related to Oregon and federal law. This resource offers legal materials to aid in the preparation for trial or to prepare legal documents for submission to the court.

**Inmate Manual.** A written handbook that includes the conduct and actions required of inmates as well as prohibited conduct and the range of sanctions which may be taken for rule violations. In addition, the Inmate Manual contains inmates' rights and privileges, jail operation schedule and other information concerning the inmate's incarceration.

**PROCEDURES.**

***SECTION A: GENERAL GUIDELINES***

- A-1.** Inmates in the AJ will be provided access to courts, counsel and legal aid. Access may include providing forms, law library orientation, legal aid, or assistance for illiterate or non-English speaking inmates and other assistance as needed. Members will not limit or obstruct access.
- A-2.** Inmates are entitled to assistance, including:
- a. Current criminal trials or challenging criminal sentences on appeal or post-conviction relief.
  - b. Habeas corpus actions for release from confinement.
  - c. Conditions of confinement claims, such as a 42 USC 1983 suit against the Sheriff's Office.

***SECTION B: ACCESS TO COURTS***

- B-1.** Inmates have the right to access the courts to address communications to governmental authorities. Inmates seeking legitimate judicial or administrative redress will not be subjected to retaliation or penalties as a consequence.
- B-2.** Inmates have the right to communicate with the courts by mail and telephone. This communication will be private and uncensored, restricted only when necessary to maintain AJ safety, security and orderly operations.
- B-3.** Because the AJ operates on a collect telephone system, it is unlikely the courts will accept inmates' calls. However, certain situations may require arrangements to be made which permit inmates to make calls to courts from a telephone that is not on the collect system, following approval of the shift supervisor. The AJ further recognizes that some instances may be better served by allowing direct phone contact, when written correspondence with the court would not be sufficient to resolve the situation and/or there is an emergency. Such calls will be facilitated as follows:
- a. Inmates will make calls to court personnel on their established out times, dependent upon their assigned housing unit and operational needs of the facility.
  - b. Calls will be made from Booking or the Programs Room, and overseen by a deputy.
  - c. Calls will be made during regular court business hours, from 0800 to 1700 hours.
  - d. Calls will be limited in length and last only as long as necessary to complete court business.
  - e. No limit will be placed on the number of calls per week allowed, unless deemed excessive by supervisor.

- f. All calls to court outside the collect phone system will be documented in the Jail Management System (JMS).
- g. Attorney calls will not be recorded or monitored except when done pursuant to a warrant.

**B-4.** Inmates in segregation are permitted to communicate with the courts in a manner consistent with that available to other inmates, restricted only by the safety, security and orderly operation requirements of the facilities. Reasonable arrangements will be made to assist these inmates in meeting court deadlines.

### ***SECTION C: ACCESS TO COUNSEL***

**C-1.** Inmates have the right to access counsel and/or authorized representative, restricted only when necessary to maintain AJ safety, security and orderly operations.

**C-2.** Inmates have the right to communicate with counsel and/or an authorized representative by mail, telephone or during visits. This communication will be private and uncensored, restricted only when necessary to maintain AJ safety, security and orderly operations. There will be no audio monitoring or recording of visits between inmates and their attorney. Additionally, some instances may arise which require members to allow inmates access to telephone contact with counsel outside the AJ collect phone system. With supervisor approval, inmates may be permitted to make calls to counsel following the guidelines set forth in **Section B-3**, above. See also AJ Policy [CD-12-6, Professional Visits](#).

**C-3.** Inmates in administrative segregation are permitted to communicate with counsel and/or an authorized representative in a manner consistent with that available to other inmates, restricted only by the safety, security and orderly operation requirements of the facilities. Classification Level 8 – Maximum Custody inmates will be further restricted, as outlined in AJ Policy [CD-12-6, Professional Visits](#).

### ***SECTION D: LAW LIBRARY***

**D-1.** Inmates are provided reasonable, direct access to law library materials located in the AJ, restricted only when necessary to maintain AJ safety, security and orderly operations. All Law Library materials will be accessible via the video kiosks located within each housing unit, and will be made available during daytime hours as determined by AJ members.

**D-2.** Inmates may have other inmates assist with legal research provided the safety and security concerns of the facility, members and inmates are addressed.

**D-3.** Inmates will be allowed reasonable access to the tablet kiosk during dayroom time, subject to the use requirements of other inmates. The AJ may prioritize the competing needs of inmates for access to the tablet kiosk by giving preference to inmates with approaching trial or hearing dates. Law Library materials on the tablet kiosks will

generally be accessible to inmates daily at any time other than headcount, meal service or after cell-in.

**D-4.** Law Library materials will be accessible to all inmates, including those who are illiterate, do not speak English, or are locked down or segregated. For those inmates who have a disability which precludes use of the tablet kiosk, and this alone denies them access to the courts, other arrangements will be made to grant them reasonable access. This information will be communicated to the inmates by members during the inmate orientation process. Inmates that do not speak English will be provided with interpreter services as needed.

**D-5.** The Administrative Lieutenant or designee will ensure the online Law Library resources are available and suitable on a regular basis. Law Library materials include a comprehensive set of state and federal research materials pertaining to an appropriate selection of civil and criminal subject matter. The materials are regularly updated by the contracted vendor and include:

**Federal Primary Sources:**

- U.S. Supreme Court Cases
- Federal Cases (all circuit and district court cases)
- United States Code Service, Annotated
- Federal Court Rules (including the Federal Rules of Criminal and Civil Procedure)
- United States Constitution
- Code of Federal Regulations

**Oregon Primary Sources:**

- Oregon Revises Statutes, annotated by LexisNexis
- Oregon State Cases
- Oregon Constitution
- Oregon Court Rules
- Oregon Administrative Code

**Analysis and Practice Guides:**

- Criminal Defense Techniques
- Bender's Federal Practice Forms
- Moore's Federal Practice – Criminal
- Ballentine's Law Dictionary, 3<sup>rd</sup> ed.
- Criminal Constitutional Law
- Civil Rights Actions
- Weinstein's Evidence Manual
- Criminal Law Advocacy
- Courtroom Criminal Evidence
- Oregon Evidence, By Laird Kirkpatrick

- Federal Habeas Corpus Practice and Procedure
- Constitutional Rights of Prisoners, by Palmer
- Criminal Law

**Citatory:**

- Shepard's – Federal and U.S. Citations
- Shepard's – Oregon Citations

- D-7.** All Law Library materials are available via the video kiosk located in each inmate housing unit. Extra pages of blank notebook paper may be provided upon request, for taking notes in support of legal representation. Inmates may also contact their privately retained or court-appointed attorney for additional legal materials or legal assistance.
- D-8.** Inmates requesting additional legal forms will be first directed to their assigned or retained counsel. If counsel is not able to fulfill the request, inmates may request necessary legal forms on *Inmate Message Form No. 103*. If the AJ is able to assist, a \$0.25 per page fee will be assessed against an inmate's account.
- D-9.** Notification of inmate Law Library access rights will be communicated to AJ inmates through the Inmate Manual and the Inmate Orientation Video. Both are offered in Spanish. This information will also be communicated to the inmates by members during the inmate orientation process. Inmates that do not speak English will be provided with interpreter services as needed.

**SECTION E: WRITING MATERIALS AND POSTAGE**

- E-1.** Upon request, inmates will be provided with up to six (6) sheets of paper and pen when using the online AJ Law Library resource (paper is provided one sheet at a time and must be completely used prior to receiving additional sheets). When the inmate has used up the six sheets of paper, they will be provided additional paper as needed. Unused sheets of paper will be returned to the AJ.
- E-2.** Inmates may also request and receive plain envelopes (not postage pre-paid) for sending correspondence to courts and counsel. Inmates who are indigent may order a legal pack from commissary that consists of six sheets of paper and two pre-stamped envelopes.

**FORMS USED:**

- Inmate Message Form No. 103
- Inmate Manual