



ACCESS TO COURTS, COUNSEL AND LEGAL MATERIALS

POLICY.

It is the policy of the Deschutes County Adult Jail (DCAJ) and Work Center (WC) 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:

Deschutes County Adult Jail Law Library. A room designated for books and reference materials related to Oregon and federal law. This room offers space for material review as well as for taking notes and preparing 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 various 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 DCAJ and WC 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. Corrections staff 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 County.

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 reprisals 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 DCAJ or WC safety, security and orderly operations.
- B-3.** Because DCAJ and WC operate 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. DCAJ and WC further recognize 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 corrections staff.
 - 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 a corrections 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 will be 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 DCAJ or WC 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 DCAJ and WC 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 jail staff to allow inmates access to telephone contact with counsel outside the DCAJ and WC collect phone system. Upon shift supervisor approval, inmates may be permitted to make calls to counsel following the guidelines set forth in Section B-3, above. See also DCAJ Policy [CD-12-6, Professional Visits](#).

C-3. Inmates in administrative segregation will be 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 DCAJ Policy [CD-12-6, Professional Visits](#).

SECTION D: LAW LIBRARY

D-1. Inmates will be provided reasonable, direct access to law library materials located in DCAJ, restricted only when necessary to maintain DCAJ or WC safety, security and orderly operations. Inmates lodged at WC who request and need access to DCAJ law library materials are required to submit an Inmate Law Library Request Form No. 618 and clearly list all materials needed to complete their research. Materials will be provided on a check-out basis.

D-2. Inmates may have other inmates assist with legal research provided the safety and security concerns of the facility staff and inmates are addressed. Classification and supervision levels will not be mixed, nor will male and female inmates be allowed law library access at the same time.

D-3. Inmates will be allowed a maximum of two hours usage daily, subject to the use requirements of other inmates. DCAJ and WC may prioritize the competing requests of inmates for Law Library access by giving preference to inmates with approaching trial or

hearing dates. DCAJ and WC will make all reasonable efforts to grant the requests of inmates for Law Library access without unreasonable delay. The DCAJ Law Library will generally be accessible to inmates daily at any time other than headcount, meal service or after cell-in. All requests for usage of the Law Library will be in writing using an Inmate Law Library Request Form No. 618. All Library Requests will be reviewed each shift. Each inmate that is allowed access to the Law Library will be logged into JMS, to include the inmates last name, time and/or if declined.

- D-4.** Law Library materials will be accessible by 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 library, 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 deputies or classification staff 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 all Law Library materials are present and in acceptable condition twice a year. The Law Library contains a basic starter set of state and federal research materials pertaining to an appropriate selection of civil and criminal subject matter, that are periodically updated, including:
- a. United States Code Annotated – Title 28 – Judiciary & Judicial Procedure 2241 to 2253 – Habeas Corpus
 - b. United States Code Annotated – Title 28 – Judiciary & Judicial Procedure 2255 to 2280 – Habeas Corpus
 - c. United States Code Annotated – Title 28 – Judiciary & Judicial Procedure 2254 – Habeas Corpus
 - d. United States Code Annotated – Title 28 – Judiciary & Judicial Procedure 2241 to 2253 – Cumulative Annual Pocket Part
 - e. United States Code Annotated – Title 28 – Judiciary & Judicial Procedure 2254 – Cumulative Annual Pocket Part
 - f. United States Code Annotated – Title 28 – Judiciary & Judicial Procedure 2255 to 2280 – 1988 Cumulative Annual Pocket Part
 - g. United States Code Annotated – Title 42 – The Public Health and Welfare 1983 to 1984
 - h. United States Code Annotated – Title 42 – The Public Health and Welfare 1983 to 1984 – Supplementary Pamphlet
 - i. Federal Criminal Code and Rules
 - j. Prisoner’s Self-Help Litigation Manual
 - k. Federal Civil Rights Acts – 2nd Edition – Volumes 1 & 2
 - l. Legal Research – 4th Edition
 - m. Black’s Law Dictionary – 6th Edition
 - n. Appeal and Review, Oregon CLE (2 Volumes)
 - o. Criminal Law, Oregon CLE (2 Volumes)
 - p. Oregon State Bar Directory
 - q. Corrections and Prisoner’s Rights

- D-6.** In addition, the following legal materials are in the West CD-ROM Law Libraries on the computer in the DCAJ Law Library:
- a. Oregon Cases From 1853
 - b. Weekly Advance Sheets
 - c. Oregon Attorney General Opinions
 - d. Tax Court Decisions
 - e. Worker's Compensation Decision
 - f. Oregon Administrative Rules
 - g. Oregon Land Use Board of Appeals
 - h. Jury Verdicts Reports
 - i. Oregon Revised Statutes Annotated
 - j. Oregon Legislation Service
 - k. Oregon Court Rules
- D-7.** DCAJ will provide up to 100 free pages of legal research material during the time of an inmate's confinement, requested and available to inmates under policy. Additional copies will be charged at a rate of \$0.25 per page, against a positive balance in an inmate's account, unless the inmate is indigent. The requested copies will be delivered to the inmate within five (5) days of their request, excluding weekends and holidays. Inmates may also contact their privately retained or court-appointed attorney for legal assistance.
- D-8.** Inmates requesting required 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 Law Library Request Form No. 618. If DCAJ is able to assist, a \$0.25 per page fee will be assessed against any positive balance in an inmate's account.
- D-9.** Notification of inmate Law Library access rights will be communicated to DCAJ and WC inmates through the Inmate Manual and the Inmate Orientation Video. Both are offered Spanish. This information will also be communicated to the inmates by deputies or classification staff 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 six (6) sheets of paper and pen for use in the DCAJ Law Library. When the inmate has used up the six sheets of paper, he will be provided with additional paper as needed. Upon leaving the DCAJ Law Library, the inmate will return the pen and unused paper to corrections staff.

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 Law Library Request Form No. 618
- Inmate Manual