



## **INMATE RIGHTS AND PRIVILEGES**

### **POLICY.**

It is the policy of the Deschutes County Adult Jail (DCAJ) and Work Center (WC) to safeguard inmates' constitutional and statutory rights and provide inmates with privileges as a way to help maintain order and encourage compliant behavior. The procedures in this policy do not give inmates any rights or liberty interests that are not in the United States or State of Oregon Constitutions, federal or state statute, or common law.

### **PURPOSE.**

The purpose of this policy is to outline the differences between inmate rights and privileges and to establish a procedure for the non-punitive suspension of inmate privileges. The protection of inmate rights minimizes costly litigation resulting from lawsuits by inmates or special interest groups. It also reduces civil liability of jail staff and Deschutes County.

### **OREGON JAIL STANDARDS:**

- C-201 Use of Non-Disciplinary Restrictions
- C-204 Justification and Authorization for Restriction
- C-205 Prohibited Restrictions
- C-206 Authorization for Restriction
- C-207 Review of Restrictions

### **REFERENCES:**

- United States Constitution, Bill of Rights
- Oregon State Constitution, Article I—Bill of Rights
- ORS 169.076, Standards for Local Correctional Facilities

### **DEFINITIONS.**

**Non-Punitive/Punitive.** Restrictions which are not intended to punish. Punitive restrictions should only be ordered as a result of a finding of guilt at a due process disciplinary hearing.

**Penological interest.** A legitimate administrative concern that represents the governmental interest in inmate detention and jail operations. It may be related to security, safety, sanitation, and management of available resources, good order, discipline, and rehabilitation.

**PROCEDURES.*****SECTION A: RIGHTS***

- A-1.** Inmates (convicted or pre-trial) do not lose their rights while incarcerated in jail. The rights of inmates originate from the U.S. and Oregon Constitutions, statutes and common law.
- A-2.** Inmates have certain rights relative to their conditions of confinement. These rights include the following:
- a. Supervision in all aspects by staff, not by other inmates.
  - b. Freedom from unreasonable searches of person and property.
  - c. Protection from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment.
  - d. Living conditions that are in compliance with state, federal, and local fire and safety laws and regulations, including:
    - 1) Clean and orderly surroundings.
    - 2) Adequate toilet and bathing facilities.
    - 3) Personal grooming choices regarding appearance, limited only by facility requirements of safety, security, identification or hygiene.
    - 4) Adequate lighting, heating and ventilation.
    - 5) A wholesome, properly prepared, nutritionally adequate diet.
    - 6) Clean and adequately fitted clothing.
  - e. Communication and correspondence with family members, friends, public officials, attorneys, officials of the court and other persons and organizations, to include:
    - 1) Visitation with approved visitors in an area that is limited only by facility requirements necessary to maintain order and security.
    - 2) Private visiting for confidential meetings with attorneys, except where substantial justification for restriction is provided.
    - 3) Access to a consular official of inmate's country of citizenship or counselor assistance enabling foreign nationals to contact their consular official.
  - f. A written grievance procedure available to all inmates that includes at least one level of appeal.
  - g. Fair and equitable treatment from staff that ensures no form of unlawful discrimination against inmates.

- h. Access to programs, services and facility privileges based on non-discriminatory practices. Note: Discrimination based on race, national origin, gender, religion or creed, physical handicap, political belief, or other category is expressly prohibited by state and federal statute.
  - i. Separate female housing and sleeping areas, to include:
    - 1) All housing features and amenities will be consistent with those provided male inmates in the same general security and supervision categories.
    - 2) All programs and services for female inmates will be comparable in scope and content to those offered male inmates and will be related to the needs of the female inmate population.
- A-3.** Inmates will **not** be denied access to any program or service, assignment to inmate worker assignments, housing unit, or classification status except as may be required for the security and safety of the facility.
- A-4.** Corrections staff may regulate the manner in which inmates exercise their retained rights as is reasonably necessary to gain control over an inmate's dangerous, threatening, or otherwise manipulative behavior, or to control any situation that threatens the safety, security, or order of the jail, or facilitate an investigation or other administrative process.
- A-5.** Staff must document any imposed restriction into the jail management system (JMS).
- A-6.** Certain resources which may be restricted to protect a legitimate penological interest of DCAJ and WC include:
- a. Ability to appeal inmate classification status.
  - b. Indoor and outdoor recreational opportunities.
  - c. Chaplains, spiritual advisors, publications and related services that allow inmates to voluntarily adhere to their legitimate religious practice.
- A-7.** The Inmate Manual will include information for the inmates on their basic rights while in jail and how staff will control and administer these rights. Specific DCAJ and WC policies and procedures will provide staff with the operational structure for regulating inmate rights.

## **SECTION B: PRIVILEGES**

- B-1.** Specific DCAJ or WC policies and procedures, and work instructions, will provide staff with the operational structure for regulating inmate privileges on an on-going or temporary basis.
- B-2.** Inmate privileges include, but are not limited to:

- a. Watching television.
- b. Use of library services.
- c. Use of dayroom areas.
- d. Use of indoor/outdoor recreation yard.
- e. Use of telephones, except attorney calls.
- f. Social visiting.
- g. Access to commissary, except for basic hygiene and letter writing items.
- h. Taking part in voluntary programs.
- i. Sending and receiving personal mail.

**SECTION C: *RESTRICTION OF PRIVILEGES***

- C-1.** Upon approval of the shift supervisor, DCAJ and WC deputies may impose temporary, non-punitive restrictions on inmate privileges in order to manage non-compliant behavior, or to control any situation that threatens the safety, security, or order of the jail. Additionally, privilege restrictions may be necessary to manage administratively segregated or other special management inmates, provided there is no intent to punish. All restrictions must be documented in the JMS and include a review date.
- C-2.** The shift supervisor will review all temporary restrictions of privileges daily. Once the need for the restriction is resolved, the restriction will be lifted and normal privileges resumed.
- C-3.** Restriction of privileges is non-punitive and non-disciplinary. Therefore, restrictions must not include:
- a. Loss of good-time.
  - b. Denial of food, medical care, personal hygiene, or other essential necessities of life.
  - c. Denial of access to courts and counsel or other restrictions that would violate the clearly established rights of inmates.
- C-4.** Based on an inmate's behavior, corrections deputies may vary the types and degrees of restrictions for individual inmates or, if appropriate, as a group of inmates lodged in the same housing area. As incentives to bring about desired behavior and transition to different levels of custody and supervision, staff may control access to privileges either by

removing privileges for unacceptable behavior or having inmates earn privileges by displaying good behavior. Refer to DCAJ Policy [CD-6-5, Supervision Levels](#).

Example: If inmates in a housing dorm do not properly maintain a sanitary housing area, staff may remove the privilege of watching television until the area is cleaned.

- C-5.** The Corrections Captain may give authority to individual, civilian staff members and supervisors to control an inmate's privileges as they relate to that staff member's work area. An example is the Programs Specialist for program-related privileges.
- C-6.** Corrections staff who decide that an inmate needs on-the-spot correction of his behavior, short of formal disciplinary action, may use a temporary, non-punitive restriction of privileges that best relates to the inmate's behavior, as follows:
- a. The corrections deputy will notify the shift supervisor within 15 minutes of the restriction. This temporary restriction will not extend beyond the deputy's shift unless the shift supervisor authorizes it. The deputy will document the restriction of a standard privilege in the JMS by means of a written warning. The shift supervisor will review the restriction.
- C-7.** Corrections staff may temporarily restrict privileges in a housing unit as needed to maintain control, sanitation, and security of the inmates within that area, as follows:
- a. Corrections deputies will notify the shift supervisor within 15 minutes of the restriction and write an incident report documenting the reason for the group restriction. The shift supervisor will either continue the restriction or reinstate privileges, based on the presented facts after review.
  - b. Shift supervisors will not allow a privilege restriction for a housing unit to last longer than 24 hours without the Corrections Captain's (or designee) approval.

**FORMS USED:**

- DCAJ Inmate Manual
- Jail Incident Report Form No. 102 (JMS)