

### Jail Administration for Chapter Section 7

Jail Detainee Programs and  
Missouri Core Jail Standards Section 5

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### Missouri Core Jail Standards

Highlight MCJS Section 5: Programs and Activities

- 5.1 Programs and Services
- 5.2 Visitation
- 5.3 Mail
- 5.4 Telephone
- 5.5 Release
- 5.6 Exercise and Recreation Access
- 5.7 Library Services
- 5.8 Religious Services
- 5.9 Commissary / Canteen

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### Detainee Mail

- > First Amendment
  - > Protection of Free Speech
  - > Includes right to send and receive mail
- > Fourth Amendment
  - > Protection from unreasonable seizures
- > Fifth Amendment
  - > Due Process (Access to the Courts)
- > Fourteenth Amendment
  - > Provides Due Process of Law
  - > Provides Equal Protection under the Law

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***Wolff v. McDonnell (1974)***

- ☐ Evaluated the rule of opening legal mail in the presence of the inmate.
- ☐ “...by acceding the rule whereby the inmate is present when mail from attorneys is inspected, have done all, and perhaps even more, than the Constitution requires.”

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***Gardner v. Howard (1997)***

- ☐ Howard violated department policy by inadvertently opening an envelope containing Gardner's incoming legal mail.
- ☐ Gardner was upset that officials did not discipline Howard in response to the grievance.
- ☐ There is no § 1983 liability for violating policy.
- ☐ Gardner must prove that Howard violated his constitutional right to receive mail or access to the courts.
- ☐ The act of opening incoming mail does not injure an inmate's right to access the courts.
- ☐ The policy that incoming confidential legal mail should be opened in inmates' presence instead serves the prophylactic purpose of assuring them that confidential attorney-client mail has not been improperly read in the guise of searching for contraband.

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***Gardner v. Howard (cont.)***

“...to assert a successful claim for denial of meaningful access to the courts...an inmate must demonstrate that he suffered prejudice.”

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***Harrod v. Halford (1985)***

- ☐ The plaintiff claimed prison officials improperly opened several pieces of mail, outside of his presence, addressed to him.
- ☐ 8 from the clerk of the district court, 1 from the district judge, 4 from a magistrate, 1 from the DOJ, 3 from a Corrections Department, 1 from the bureau of community correctional services, and 5 from a law firm
- ☐ Each letter was clearly marked with a return address from a legal source, but none stamped confidential.
- ☐ "...the mere fact that a letter comes from a legal source is insufficient to indicate that it is confidential and requires special treatment."

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***Romine v. Gaunt (2009)***

- ☐ Jail officials inadvertently opened Inmate Romine's legal mail.
- ☐ In this case, the inadvertent opening of the mail was at most negligent.
- ☐ Negligent conduct is insufficient to make a civil rights claim.
- ☐ Claim was dismissed.

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***Thongvanh v. Thalacker (1994)***

- ☐ 8<sup>th</sup> Circuit sustained a verdict against the agency, which was enforcing an "English Only" rule and prohibiting an inmate from receiving mail in another language.

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***Procunier v. Martinez (1974)***

- ▣ “the interest of prisoners and their correspondents in uncensored communication by letter, grounded as it is in the First Amendment even though qualified of necessity by the circumstance of imprisonment.”

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***Lane v. Lombardi (2012)***

- ▣ Western District granted the plaintiff (Caged Potential) a motion for preliminary injunction .
- ▣ Defendants (MDOC) are required to provide notice and opportunity to appeal to senders of censored or seized communications.

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***Bonner v. Outlaw (2009)***

- ▣ “...whenever prison officials restrict that right by rejecting the communication, they must provide minimum procedural safeguards, which include notice to an inmate that the correspondence was rejected.”

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***Martin v. Kelly (1986)***

- ☐ “...mail censorship regulation is insufficient because it fails to require notice and an opportunity to protest the decision be given to the author of the rejected letter.”

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***One Approach***

- ☐ The Platte County Detention Center developed a procedure where incoming mail is in the form of postcards.
- ☐ AVOID statements like, “postcard only.”
- ☐ Policy should provide clear instructions on how to request exceptions and what exceptions will be considered. (Due Process)
- ☐ Reasons for rejection are documented.

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***Mail Rejection Notification Form***

- ☐ Based on the rules outlined in the detainee handbook, create a Mail Rejection Notification Form.
  - Easy for staff and detainees to understand
  - Documents the action taken; what happened to the article of mail.

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***Food Services***

- ☐ Standard Meals-Dietician Recommended
  - Nutritional Content
  - Caloric Value for Adult Male Detainees

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***Food Services***

- ☐ Special Diets
  - Religious Meals / Calendars
  - Medical Diets
  - Diets of Preference

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***Religious Diets***

- ☐ Non-Pork
- ☐ Kosher
- ☐ Religious Holiday Calendar
  - Lent (Fish on Fridays)
  - Ramadan
  - Kwanza
  - Etc.

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**Medical Diets**

- ☐ Diabetic
- ☐ Low Sodium
- ☐ Bland
- ☐ Soft
- ☐ Liquid
- ☐ No Nuts, No Onions, etc.

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**Preferential Diets**

- ☐ When there is not religious or medical component, a requested meal is preferential. (VEGAN, VEGITARIAN, etc.)
- ☐ You may want to add a statement like...
  - Special diets will only be provided on the basis of medical need and/or religious requirements. You may be required to provide additional information/documentation for guidance. Diets of preference will not be served.
  - You are not required to consume any or all of the nutritional meal provided. Should you be observed eating food outside of a requested diet, you will be notified in writing of the violation. Should there be a second occurrence; you will be notified in writing that you will be returned to the standard diet.

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**Medical Services**

- ☐ Detainees are responsible for costs and when services are provided a detainee can be assessed the costs, including reasonable co-pays.
- ☐ Do not deny access for inability to pay. (Permit account to go negative, then work to get the money back as provided in earlier listed statutes.)
- ☐ Do not permit anyone other than the facility doctor to give/provide a medical order. If you override the doctor's order you take on exceptional liability.

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### ***Medical Services***

▣ *Johnson v. Hamilton*

“To show deliberate indifference, [plaintiff] must demonstrate that he suffered objectively serious medical needs, and the officials actually knew of but deliberately disregarded those needs.”

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### ***Medical Services***

▣ *Davis v. Hall*

...a mere disagreement by the inmate/detainee with the course of his treatment will not be sufficient to raise to the level of constitutional deprivation. Such a disagreement concerning the course or type of treatment “is not sufficient to state a claim of deliberate indifference to medical needs”.

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### ***Medical Services***

- ▣ Deliberate Indifference is a standard for liability for when you know or should have known a duty to act or acted inconsistent with the knowledge and it creates a risk to the detainee. If the detainee suffers loss, injury, etc. is a path to 1983....
- ▣ Detainee have the right to:
  - Express a medical concern
  - To be seen by medical/trained staff (protocols)
  - For the doctor to be contacted for an order (includes if the doctor orders that nothing be done at the time)
  - For the order to be followed
  - Your Medical Presentation will go much deeper on this topic

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**Religion and Religious Considerations**

*Bell v. Wolfish*

Prison inmates “do not forfeit all constitutional protections by reason of their conviction and confinement in prison.”

*Pell v. Procunier*

...which include actions based on free exercise rights protected by the First Amendment.

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**Religion and Religious Considerations**

*Hamilton v. Schriro*

An inmate who challenges the constitutionality of a prison regulation or policy that limits the practice of religion must first establish that it infringes upon a sincerely held religious belief.

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**Religion and Religious Considerations**

*O’Lone v. Estate of Shabazz*

A prisoner’s free exercise claim is “judged under a ‘reasonableness’ test less restrictive than that ordinarily applied to infringements of fundamental rights.”

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**Religion and Religious Considerations**

*Holt v. Hobbs (Arkansas Department of Corrections)*

*The tenant of religious belief does not have to be a tenant of the religion. It does not have to be a sincerely held belief.*

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**Chapter 221 Jail and Jailers**

Canteen or commissary in county jail authorized--revenues to be kept in separate account--fund created.

- 221.102. 1. The sheriff of any county may establish and operate a canteen or commissary in the county jail for the use and benefit of the inmates, prisoners, and detainees.
- 2. Each county jail shall keep revenues received from its canteen or commissary in a separate account. The acquisition cost of goods sold and other expenses shall be paid from this account. A minimum amount of money necessary to meet cash flow needs and current operating expenses may be kept in this account. The remaining funds from sales of each canteen or commissary shall be deposited into the "Inmate Prisoner Detainee Security Fund" and shall be expended for the purposes provided in subsection 3 of section 488.5026. The provisions of section 33.080 to the contrary notwithstanding, the money in the inmate prisoner detainee security fund shall be retained for the purposes specified in section 488.5026 and shall not revert or be transferred to general revenue.

Effective August 28, 2013

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**Jail Administration for Chapter Section 7**

QUESTIONS?

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