

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 950.00: COUNTY CORRECTIONAL FACILITIES -- VISITING

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950.01: Visiting Plan

(1) The Sheriff/facility administrator shall develop a written visiting plan designed to facilitate visits between inmates and their family and friends, to accommodate visits between inmates and their attorneys, and to maximize the hours during which visits are permitted; provided, that nothing contained in 103 CMR 950.00 shall be construed to impair the discretion of the Sheriff/facility administrator to control access to his institution under the provisions of M.G.L. c. 127, § 36. The Visiting Plan shall include, but not be limited to, the following:

- (a) facility's visiting periods, including some time in the evening or weekends;
- (b) facility's rules and regulations for visiting;
- (c) identification and sign-in process for all visitors;
- (d) procedures for searching visitors;
- (e) written policy on procedure for excluding visitors;
- (f) provisions for special visits; and
- (g) procedure for keeping records of all visitors to facility; and,

(2) The Visiting Plan shall be available to staff, inmates, and visitors upon request.

950.02: Visiting Rules and Regulations

(1) The visiting plan shall contain written rules and regulations which shall include, but not be limited to, the following:

- (a) any limitation as to who may or may not visit an inmate, to include those who need permission (*i.e.*, youths, ex-offenders), or any exclusions (visitors who in the opinion of the Sheriff/facility administrator would be injurious to the best interest of the facility);
- (b) any limitation on the number of weekly visits allowed per inmate, any limitation in duration of single visits, or limitation on number of visitors per inmate at any one time;
- (c) a statement of rules and regulations for conduct of any visitor, a statement regarding physical contact with inmates, and a statement of expected dress code;
- (d) procedures for submitting approved parcels and funds, and a list of articles allowed or disallowed into the facility;
- (e) a statement warning visitors that it is a felony for any person to deliver any article to an inmate without permission of the Sheriff/Facility Administrator, or to procure an article to be delivered, to possess it with intent to deliver it or to deposit or conceal it with intent that an inmate shall obtain it; and
- (f) a procedure for a visitor to disclose any article, other than clothing, that he/she may be carrying, to include personal effects, medication, any form of weapon, *etc.*, and a means to check or properly secure such items prior to visit.

(2) The written rules containing the information required by 103 CMR 950.02(1)(a) through (f) shall be posted in the reception area, available through printed brochures if requested by visitors, and translated into Spanish or other languages understood by a significant number of visitors.

950.03: Identification and Sign-in

The written Visiting Plan shall contain a means to identify and register all visitors to the county correctional facility and shall include, but not be limited to, the following:

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- (1) A visitor shall be required to produce a current photographic identification such as a Massachusetts driver's license or a passport. (Exceptions may be made by the Sheriff/facility administrator or his designee);
- (2) As a condition of entry, every visitor except the officials listed in 103 CMR 950.03(2)(b) is required by statute to make and subscribe a statement under penalties of perjury stating true name and residence, whether or not he has been convicted of a felony and, if visiting an inmate, his relationship. Each institution shall provide either a sign-in sheet or "Request to Visit Inmate" form for the purpose of 103 CMR 950.00.
 - (a) if the visitor answers that he has been convicted of a felony, the visitor may be required, as a condition of entry, to provide a statement of the crime(s) for which he was convicted and the sentence served; and
 - (b) the following persons generally may not be asked to provide the statement generally required by 103 CMR 950.03(2): the Governor, a member of the Governor's Council, a member of the General Court, a Justice of the Supreme Judicial, Superior or District Court, the Attorney General, a District Attorney, the Commissioner, a Deputy or Associate Commissioner of Correction, Sheriff, County Commissioners, a member of the Parole Board, a Parole or Probation Officer, or others as designated by the Sheriff/facility administrator. Any such officer shall be required to sign his name, business address and the office which brings him within the exemption from the normal sign-in requirement.
- (3) Each visitor shall be asked by the admitting officer before entrance into the facility if he has a weapon. All weapons shall be given to the officer prior to entry to the facility.

950.04: Searches of Visitors

The Visiting Plan shall contain policy and procedure for the conducting of searches of visitors, and shall include, but not be limited to, the following:

- (1) A large sign posted in the lobby or other entrance warning that, "ALL VISITORS ARE SUBJECT TO BEING SEARCHED", and containing the same wording in Spanish, "TODAS LAS VISITAS ESTAN SUJETAS A REVISION", or a language which is understood by a significant number of visitors;
- (2) A search procedure effective in preventing the smuggling of articles into the visiting area of the facility; to include that visitors successfully pass through a metal detector or scanner, or a pat down, and that any articles they are carrying may be thoroughly searched. In community release facilities the search procedure shall have a system to control contraband;
- (3) If the search procedure is to include a more extensive search than mentioned above (up to and including a strip search), the following shall be included:
 - (a) authorization from the Sheriff/Facility Administrator or designee for such search;
 - (b) the visitor shall be informed that he may leave the facility rather than submit to such a search. If he agrees to said search, a record of consent shall be documented noting date, time, individual being searched and individuals conducting search; and
 - (c) the officer(s) conducting a more extensive search shall file a written report concerning the search with the Sheriff/facility administrator prior to the end of his tour of duty. The report shall contain the name of the visitor, the names of the searching officers and of the official who approved the search, the extent of the search, and what, if anything, was found.
- (4) No search of a visitor's body cavities (anal or genital) shall be conducted by correctional staff. If a search less intrusive than a body cavity search (of anal or genital body cavities) is insufficient to eliminate suspicions that the visitor is smuggling, the visitor shall be denied admission;
- (5) Any person refusing to submit to any aspect of the search procedure shall be denied entrance to the facility. Where the refusal occurs under circumstances indicating that the most likely motive for refusal is to prevent discovery of concealed articles, where a suspicious pattern of refusals is apparent, or where a visitor engages in offensive or assaultive behavior during the search process, visiting privileges may be suspended or terminated;

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(6) Personal (Pat) searches that involve removal of more than just external clothing and accessories shall be conducted by a correctional employee of the same sex as the visitor, conducted in private, and documented with a written report. Searches are to be conducted in a professional and courteous manner; and,

(7) Papers and documents carried in or out by any judge, attorney, law student, paralegal, the governor, any legislator or member of the parole board may be inspected for concealed articles but may not be read.

950.05: Exclusion of Visitors

The visiting plan shall contain policy and procedure including, but not limited to, the following:

(1) Any visitor, even one who has obtained prior permission to visit, may be denied entrance to the county correctional facility or told to terminate a visit and leave the premises;

(2) A visitor who is denied entrance or asked to leave shall be told the reason for such action, except when it is deemed that to specify the reason might jeopardize security interests or the safety of any person or the facility;

(3) The officer(s) responsible for denying entrance or terminating a visit shall file a written report with the Sheriff/facility administrator, in accordance with Sheriff's Department policy. This report shall include the name of the visitor and the inmate visited, the time for the denial or termination, and the reasons for the action;

(4) When the Sheriff/facility administrator denies, suspends, or places restrictions on visiting privileges, the visitor shall be notified in writing of the reasons for such action, unless specification of the reason would jeopardize security interests or the safety of the individuals or the facility. The visitor may request a review of such action by writing the Sheriff/facility administrator. The Sheriff/facility administrator shall respond to all such requests in writing informing the visitor of the reasons for upholding, eliminating or modifying the original action;

(5) A statement that visiting privileges may be suspended for a specific time and procedures for reapplication of visiting privileges;

(6) Nothing in 103 CMR 950.00 shall in any way impair the Sheriff's or a designee's authority pursuant to M.G.L. c. 127, § 36 to exclude a visitor whenever, in his/her opinion admitting that person to visit would be injurious to the best interest of the facility or the administration of the county correctional facility; and

(7) Before any attorney or any of the officials listed in 103 CMR 950.03(2)(b) is excluded, the Sheriff/facility administrator or other officer in charge shall be consulted. The attorney or official may immediately appeal any exclusion to the Sheriff.

950.06: Special Visits

The visiting plan shall contain provisions for special visits which shall include, but not be limited to, the following:

(1) Provisions that are flexible enough to permit the Sheriff/facility administrator or designee to make exceptions to the rules in unusual circumstances, such as when a visitor has traveled a long distance to see an inmate, or when an inmate is ill or hospitalized; and,

(2) Provisions for special visits with attorneys and members of the clergy.

950.07: Visiting Records

The visiting plan shall include provisions for recording of all visits and shall include, but not be limited to, the following:

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- (1) A card or electronic record for each inmate on which shall be recorded the name of every person who visits that inmate and the dates on which those visits occur. This card or printout of the record shall, upon the request of the receiving facility, be forwarded whenever the inmate is transferred;
- (2) A written chronological file: visitor sign-in sheets and/or the "Request to Visit" forms; and
- (3) A written log of all other visitors to the facility stating name, agency, and reason for the visit. Notations may be maintained in the facility log.

REGULATORY AUTHORITY

103 CMR 950.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.