

**PUBLIC SAFETY
YAKUTAT BOROUGH POLICE DEPARTMENT
OPERATION MANUAL**

Subject: Basic Prisoner Rights	
Number: 10.305 Jail	Pages: 04
Effective Date: 10/1/2020	Re-evaluation Date: 10/1/2023

APPEARANCE BEFORE JUDGE:

All prisoners shall be taken before a judge or magistrate within twenty four (24) hours of the arrest. (§AS 12.25.150 (a)).

TELEPHONE CALLS:

Immediately after arrest (see DUI exceptions), a prisoner may telephone or otherwise communicate with two persons as follows: (§AS 12.25.150 (b)).

- (a) an attorney of his or her choice, and
- (b) any other individual

"Immediately" shall mean at the time the inmate requests the call. All prisoners shall be allowed three outgoing telephone calls (completed) in the 24 hour period preceding his arraignment, which shall include the two calls authorized by statute above; the third call need not be made immediately following arrest, but rather at the convenience of the jail.

INITIAL VISIT BY ATTORNEY:

All prisoners shall be entitled to a visit by any Alaska licensed attorney immediately following his or her arrest, regardless of the identity of the person notifying the attorney. (§AS 12.25.150(b)).

"Immediately following" shall mean at the time of the verbal request or as soon thereafter as counsel arrives at the jail. The brief delay of visitation caused by the unavailability of an officer to supervise the visit shall not constitute unnecessary delay of this right provided the delay is necessary for the officer to return to the station or is caused by a field emergency.

If the visit cannot be accommodated within a reasonable time due to emergency conditions, an off-duty officer shall be called to the station to supervise the visit.

BAIL:

All prisoners have a right to bail. Bail may be set by either:

- (a) A court approved bail schedule, or
- (b) A judge or magistrate.

Any prisoner requesting to have his bail set shall be advised of the amount of bail as soon as it can be properly set by the court. There shall be no unreasonable delay in setting bail. (§AS 12.30.010) (AK Court Administration Order 3AN-AO-89-02).

FREEDOM FROM INVENTORY SEARCH:

- a. All persons arrested for minor offenses (i.e. those on bail schedule) shall be given an opportunity to post bail prior to an inventory search of their property incident to booking.
- b. If that person posts bail, he/she shall be released from custody without his/her personal property being inventoried and searched (other than a frisk for weapons).
- c. The prisoner shall, however, be booked into the jail for records purposes to include fingerprints, photograph and booking sheet in accordance with current jail policies. ZEHRUNG VS. STATE, 569 P 2nd 189 (1977) as modified 573 P 2nd 858 (1978).
- d. After an arrested person has had an opportunity to make a phone call to secure bail, only a reasonable time will be allowed for the bail to appear before an inventory search is conducted and the inmate is placed into a cell.
- e. A reasonable amount of time shall be based on the knowledge the booking officer has at the time the incarcerates phone call is completed. A reasonable amount of time may be as long as 45 minutes or as short as 15 minutes.
- f. Booking officers should also take into consideration the incarcerates ability to complete necessary booking requirements, such as fingerprinting and photographing.
- g. If, due to the incarcerate's level of intoxication, combativeness, or unwillingness to cooperate, these procedures cannot be completed, the incarcerate will be fully booked into the facility and held in a cell regardless of the availability of bail until such time as the fingerprints and photographs can be taken.

- h. In this situation, a full inventory search shall be completed. The necessity of fingerprints and photographs is only an issue for people arrested on warrants in which no previous arrest has been made.
- i. Positive identification of the person arrested in a case such as this is a requirement of the booking process and warrants special consideration.

BAIL REVIEW HEARING:

- a. Any prisoner remaining in custody over 48 hours who is unable to affect a bail release is entitled to have a bail review hearing. (§AS12.30.020 (f)).
- b. If any prisoner requests to have a bail review hearing, the on-duty police officer shall advise the prisoner (a) if represented by counsel, to contact his attorney, or (b) if proper, to draft a written request for a bail hearing and have him/her date and sign the request to the Yakutat District Court at the earliest opportunity which shall be during regular court business hours.

RECEIPT FOR PROPERTY:

All prisoners shall be given a receipt for all cash and other property removed from their possession at the time of the arrest and/or booking.

RIGHT TO PROSECUTE WRIT OF HABEAS CORPUS:

- a. All persons in official custody have the right to prosecute a Writ of Habeas Corpus to attempt to obtain remedies thereby.
- b. A habeas corpus is defined as a writ which is filed by an inmate, or on behalf of an inmate, to bring a party before a court having as its function the release of an inmate being held on an alleged unlawful charge or complaint.
- c. Any prisoner requesting to file a Writ of Habeas Corpus will be told to contact his attorney and be assisted to that contact. The police department or jail shall not assist any prisoner in preparing a Writ of Habeas Corpus, other than by furnishing writing materials and forwarding any prepared pleadings to the appropriate court.
- d. Proper defendants should be told that they can either obtain an attorney to assist their effort, or they will have to research the matter themselves and prepare all necessary pleadings which we will transport to the appropriate court.

RIGHT TO COUNSEL:

- a. All prisoners have the right to be represented and to consult with counsel. Persons unable to afford their own attorney are entitled to representation by the public defender.
- b. If a prisoner asks to speak to an attorney, he/she shall not be questioned by departmental personnel pertaining to any elements of his/her criminal case, unless the prisoner subsequently approaches the jailer/officer and requests to discuss the case.
- c. In this situation, a full Miranda shall be given, and an interview and Miranda shall be given, and a knowledgeable waiver of counsel shall be obtained. The custodial interview and Miranda waiver shall be tape recorded.
- d. Any prisoner requesting to consult an attorney or obtain representation shall be assisted by allowing necessary telephone calls in accordance with above stated policies.
- e. Any prisoner unable to afford an attorney or asking to speak to the public defender shall be allowed to call the public defender regardless of whether the public defender has been appointed the case.
- f. It is the responsibility of the public defender and/or the prisoner to file the appropriate paperwork with the court to initiate official representation.

Approved:

_____ Date: _____
Jon Erickson, CBY Manager

_____ Date: _____
James Capra, Police Chief