


**HOWARD COUNTY DEPARTMENT OF CORRECTIONS
POLICY & PROCEDURE**

	SUBJECT:	Inmate Right, Discipline and Services
	P & P #:	H-705
	TITLE:	Inmate/Detainee Access to Courts
	EFFECTIVE DATE:	June 25, 2020
	REVIEWED BY:	<i>Andrea King Wessels</i> Andrea King-Wessels, Deputy Director
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POLICY: An inmate/detainee of the Howard County Department of Corrections has the right to reasonable access to the courts, legal materials, supplies and services. The Department and its personnel, does not deny nor hinder in any way the right of an inmate/detainee to have access to the courts.

REFERENCE: Maryland Commission on Correctional Standards – Adult Detention Center Standard.05 C and Performance Based National Detention Standards 2011 Section 6.3.

DEFINITIONS: None

PROCEDURES:

- A. Detention Center personnel shall ensure that all written communications from inmates/detainees to the Courts are mailed (see policy H-703 Inmate/Detainee Mail).
- B. In the case of an indigent inmate/detainee, the Howard County Detention Center shall provide a reasonable amount of postage upon receiving a kiosk request or written request from the inmate/detainee (see policy H-700).
- C. Inmates/detainees in general population shall be allowed to contact their attorneys by the regular inmate/detainee telephones. Use of institutional telephones for attorney calls is not generally allowed. (see policy H-709).
- D. Visits from attorneys and/or their representatives shall not be restricted. Visits from attorneys and/or their representative shall not be counted against the number of allowed social visits (see policy H-708).
- E. Inmates/detainees shall have access to legal materials through the Detention Center Resource Center (see policy J-901).
- F. Inmates/detainees shall have the opportunity daily to submit outgoing legal mail for processing (see policy H-703).
- G. Inmates may communicate with the Office of the Public Defender by kiosk.
- H. Inmates shall be issued the District Court of Maryland, Bail Review Rights form attached as Appendix 1 from the Commitment officer prior to the bail hearing.

I. Inmates shall review and sign the District Court of Maryland, Bail Review Rights form. The inmate shall be provided a copy of the document with the original being placed in the inmate basefile.

J. Inmates shall be issued upon request from departmental staff HCDC Form H-705a Bail Review Request on a bench warrant attached as Appendix 2.

ATTACHMENTS: Appendix 1 Bail Review Rights Form DC-CR-100-BLS.
Appendix 2, Bail Review Request, HCDC Form H-705a.

RESCISSIONS: HCDC Policy H-705, effective August 7, 2019.

Sample for Reference Purposes Only. Forms have bilingual format for your convenience, but must be completed and filed with the court in English. **Modelo sólo para fines de referencia. Los formularios tienen formato bilingüe para su conveniencia, pero deben llenarse y presentarse ante el tribunal en idioma inglés.**

Bail Review Rights

Derechos sobre la Evaluación de la Fianza

District Court of Maryland (Tribunal de Distrito de Maryland)

Your bail review is not your trial. It is a hearing to determine whether the bail that has been set in your case ought to be changed, raised, or lowered, or whether you should be released on your own recognizance under conditions set by the Court.

La evaluación de fianza no es el juicio. Es una audiencia para determinar si la fianza fijada para su caso debe modificarse, aumentarse, reducirse o si se le debe dar libertad bajo palabra de honor bajo las condiciones del tribunal.

In determining your release conditions, the judge will take into account various factors, including: the nature and circumstances of the offenses; your previous criminal history record; your finances, employment history, and ties to the community; any recommendations provided by an agency, the State's Attorney, your lawyer or yourself; and any safety concerns related to yourself or others.

Al determinar las condiciones de la libertad, el juez considerará varios factores incluyendo: la naturaleza y circunstancias de los delitos; sus antecedentes penales; sus finanzas, historia laboral y vínculos con la comunidad; recomendaciones de agencias, del Fiscal, de su abogado o entregadas por usted; y todo asunto de seguridad relacionado con usted u otras personas.

This is not your opportunity to tell the Court whether you are guilty or not guilty, and you must not say anything about the facts of the case. Everything you say here is being recorded and may be used against you in the prosecution of your case.

Este no es el momento de decirle al tribunal si se declara culpable o no culpable, y no debe decir nada sobre los hechos del caso. Todo lo que diga se está grabando y puede usarse en su contra al enjuiciar su caso.

You have a right to have a public defender represent you at the bail review. If you have not talked to a public defender and would like to postpone your bail review, please tell the bail review judge. You may waive your right to representation by a public defender at the bail review. If you waive your right to representation by a public defender at the bail review hearing, your bail review will proceed today. If you want to waive your right to a public defender, please inform the judge. The judge will ask you questions to make sure you understand the rights you are waiving.

Usted tiene derecho a que lo represente un defensor público en la audiencia de la fianza. Si no ha hablado con un defensor público y desea postergar la evaluación de fianza, avise al juez que evalúe la fianza. En la audiencia, usted puede renunciar a su derecho de que lo represente el defensor público. Si renuncia a su derecho de que lo represente el defensor público en la audiencia, la evaluación de su fianza será hoy. Informe al juez si desea renunciar a su derecho de tener un defensor público. El juez le hará preguntas para asegurarse de que entiende los derechos a los que renuncia.

Each of you should have received a copy of your statement of charges. If you have not received your charging documents, please tell the pretrial representative, your public defender, and the bail review judge and a copy will be provided to you. If you are represented by the public defender, he or she should have reviewed your charges with you.

Cada uno de ustedes debe haber recibido una copia de su declaración de cargos. Si no la recibió, avise al representante de la etapa previa al juicio, a su defensor público y al juez de evaluación de fianza, y se le entregará una copia. Si el defensor público lo representa, debería haber hablado con usted sobre sus cargos.

You have certain very important rights. Please listen carefully. If you are charged with a felony that cannot be heard in District Court, you have the right to a preliminary hearing. Before there can be a preliminary hearing, you or your attorney must request the hearing within 10 days after you first appeared before the commissioner. If you fail to ask for a preliminary hearing within those 10 days, you will have given up that right. In some jurisdictions, the date of your hearing will be given today. If you choose to have a preliminary hearing, the State must show that there is probable cause to believe that a felony was committed and show probable cause that you committed the felony. You will not be able to testify or call witnesses to testify for you, but you or your attorney will be able to ask limited questions of the State's witnesses to learn what evidence the State has against you, and challenge the existence of probable cause.

Usted tiene ciertos derechos muy importantes. Escuche con atención. Si le acusa de un delito grave que no puede decidirse en el Tribunal de Distrito, usted tiene derecho a una audiencia preliminar. Antes de que se pueda tener la audiencia preliminar, usted o su abogado deben solicitar una audiencia dentro de los 10 días de haber comparecido por primera vez ante el comisionado. Si no solicita la audiencia preliminar dentro de esos 10 días, se considera que renunció a ese derecho. En algunas jurisdicciones, hoy se le dará la fecha de su audiencia. Si decide tener una audiencia preliminar, el Estado debe demostrar que existen motivos fundados para creer que se cometió un delito grave y que usted lo cometió. Usted no podrá dar testimonio ni presentar testigos a su favor, pero usted o su abogado podrá hacer preguntas limitadas a los testigos de la fiscalía para averiguar qué pruebas tienen en su contra y oponerse a los motivos fundados.

If probable cause is found, your case will be moved to the city or county circuit court. If probable cause is not found, the felony charge will be dismissed.

Si se hallan motivos fundados, su caso pasará al tribunal de circuito de la ciudad o del condado. Si no se hallan motivos fundados, se desestimaré el cargo de delito grave.

If you are charged with a crime that carries more than 90 days incarceration, you have a right to a judge trial in the District Court or a jury trial in the county circuit court where the trial is held. A jury is composed of twelve (12) persons, chosen at random from the motor vehicle and voter rolls of the city or county where the trial is held. In order to find you

guilty in a jury trial, all twelve (12) jurors would have to find beyond a reasonable doubt, that you are guilty. All twelve could also decide you are not guilty. If they couldn't agree, it is a hung jury, and the State has to decide whether to try you again.

Si se le acusa de un delito que conlleva más de 90 días de encarcelamiento, tendrá derecho a un juicio con juez en el Tribunal de Distrito o a un juicio con jurado en el Tribunal de Circuito del condado donde ocurre el juicio. El jurado está integrado por doce (12) personas, elegidas al azar de los registros de conductores y padrones electorales de la ciudad o condado donde ocurre el juicio. Para que le declaren culpable en un juicio con jurado, los doce (12) jurados sin excepción deben decidir más allá de duda razonable que usted es culpable. Los doce también pueden decidir que usted no es culpable. Si no se ponen de acuerdo, el Estado debe decidir si enjuiciarle a usted otra vez.

You also have a right to a judge trial where the burden of proof is also beyond a reasonable doubt.

Usted también tiene derecho a un juicio con juez, en el que la carga de la prueba también está más allá de duda razonable.

Perhaps your most important right is the right to have legal representation. You may hire any private lawyer you choose. If you cannot afford to hire a private lawyer, the public defender may provide a lawyer to represent you at no cost, or at a nominal cost, if you qualify for their services. To apply for Public Defender representation, contact a District Court commissioner. The State's Attorney who will be prosecuting your case is a lawyer. The rules of evidence will apply at your trial. If you are not trained in the law and you do not know the rules of evidence, you will find that you are at a disadvantage in attempting to represent yourself. A lawyer can help you in many ways. A lawyer can help you investigate your case and determine if there is a legal defense that you might not know exists. A lawyer can help you: explain any potential collateral consequences of a conviction, including immigration consequences, question the State's witnesses, challenge any evidence; call any witnesses; and question any witnesses on your behalf.

Quizás su derecho más importante es el de tener representación legal. Usted puede contratar el abogado privado de su preferencia. Si no tiene los medios, el defensor público puede ofrecerle un abogado que lo represente sin costo o por un costo nominal, si usted califica para esos servicios. Para solicitar representación por el Defensor Público, comuníquese con un comisionado del Tribunal de Distrito. El Fiscal que enjuiciará su caso es un abogado. Las normas de prueba se aplicarán en su juicio. Si no tiene formación en leyes y no conoce las normas para presentar pruebas, estará en desventaja si intenta representarse a sí mismo. Un abogado puede ayudarle de muchas formas. Puede ayudarle a investigar el caso y a determinar si hay una defensa legal que quizás usted no conozca. Un abogado puede ayudarle a: explicar las posibles consecuencias colaterales de una condena, incluyendo consecuencias de inmigración; interrogar a los testigos del Estado; refutar las pruebas; convocar testigos; e interrogar testigos en su nombre.

I Acknowledge By My Signature That I Have Heard And Understand These Rights And That I Have Received A Copy Of This Document.

Al firmar, ratifico que he escuchado y que entiendo estos derechos, y que recibí una copia de este documento.

If you don't know the rules of evidence, the Court may not allow you to present evidence that you may have. A lawyer may help you decide whether you should testify or whether you should exercise your right to remain silent. Even if you are found guilty, a lawyer can still help you by presenting facts in your favor, so that you receive the best possible sentence. The lawyer can also explain your rights concerning any appeal, modification, or new trial. These are the advantages of having a lawyer.

Si desconoce las normas de prueba, el Tribunal quizás no le permita presentar las pruebas que tenga. El abogado puede ayudarle a decidir si debe dar testimonio o ejercer su derecho de guardar silencio. Aunque se le declare culpable, el abogado puede ayudarle presentando hechos a su favor para que pueda recibir el mejor fallo posible. El abogado también puede explicarle sus derechos sobre la apelación, modificación o un nuevo juicio. Esas son las ventajas de tener un abogado.

If you remain in jail, you may apply to the Office of the Public Defender for representation. If you make bail or you are released on your own recognizance, you must go in person to the Public Defender's Office immediately upon release or as soon as possible thereafter. When you arrive, you will be given an income verification form. The verification form must be returned to the Public Defender's Office before your trial date so that a determination can be made whether you qualify for representation and allow time for the attorney to prepare your defense. Certain jurisdictions require 10 working days, meaning not including weekends or holidays.

Si permanece en la cárcel, puede solicitar un abogado a la Oficina del Defensor Público. Si se le libera bajo fianza o bajo palabra de honor, debe ir en persona a la Oficina del Defensor Público inmediatamente después de su liberación o lo antes posible. En la Oficina del Defensor Público se le dará un formulario de verificación de ingresos. Este formulario debe entregarse a la Oficina del Defensor Público antes de la fecha de su juicio para determinar si usted califica para la representación y dar tiempo al abogado a prepararse para su defensa. Ciertas jurisdicciones exigen 10 días hábiles, que no incluye fines de semana ni días feriados.

If you appear for your trial without a lawyer, without good cause, the judge could find that you have waived your right to a lawyer and you may have to represent yourself.

Si comparece a su juicio sin abogado, sin buen motivo, el juez puede decidir que usted renunció a su derecho de tener un abogado y quizás deba representarse a sí mismo.

Finally, if you are not a citizen of the United States, a conviction of a crime may result in immigration consequences, including: detention, denial of citizenship, or deportation to your country of origin. If you have any questions, please ask the bail review judge when your name is called.

Por último, si no es ciudadano estadounidense, la condena de un delito puede tener consecuencias inmigratorias, como: detención, denegación de ciudadanía o deportación a su país de origen. Si tiene preguntas, hágalas al juez de evaluación de fianza cuando digan su nombre.

Defendant (Demandado): _____ Date (Fecha): _____ Case # (Número de caso): _____

Howard County Department of Corrections

Bail Review Request

Date: _____

To: District / Circuit Court _____

From Inmate: _____
(Print Name)

Inmate ID#: _____

Case #: _____

To whom it may concern:

I have been committed to the Howard County Department of Corrections on a bench warrant. At this time, I am requesting a bail review as soon as possible.

Thank you,

(Signature)

CERTIFICATE OF SERVICE

I certify that on this _____ day of _____, _____ a copy of the
Month Year

Document(s) titled _____
Title(s) of document(s)

was faxed by _____ and/or hand delivered by the Howard County Sheriff's department to:

- Howard County State's Attorney's Office 3451 Courthouse Drive, Ellicott City, MD 21043 – **District** Court Case
- Howard County State's Attorney's Office 3450 Courthouse Drive, Ellicott City, MD 21043 – **Circuit** Court Case

Print

Signature

The court has set a bail on the bench warrant. The court will not hold a bail review hearing unless an affidavit is filed with the request and the court finds something in the affidavit justifying a hearing.

Bail Review Affidavit

PRINT in the following space, all the reasons why the Court should reduce the amount of bail set on your Violation of Probation bench warrant. (If your affidavit is not legible, it will not be set for a hearing.)

I hereby declare or affirm under the penalty of perjury that the above facts are true and are made based on my personal knowledge.

Signature

Print name in full

Date

Note: If you rely upon a doctor, hospital, employer or similar source, attach a copy of any written confirmation that you may have to this affidavit before filing your request for a bail review with the Clerk of the Court.