



# LAWS OF CORRECTION & CUSTODY

ALABAMA PEACE OFFICERS STANDARDS & TRAINING  
COMMISSION



# LESSON OBJECTIVES

- ◆ Understand basic jail procedures and the booking process
- ◆ Know prisoners' constitutional rights
- ◆ Understand the difference between rights and privileges
- ◆ Understand the possible penalties for infringing on a prisoner's constitutional rights



# Fundamentals of Jail Operation

## Purpose of Jails

- ◆ To Safely and Securely detain people in a humane manner
- ◆ Understand that the JAIL is the ultimate stopping point. The entire criminal justice system is dependant on the jail.



# Jail Operations

- ◆ TITLE 14 governs jails and their operations
- ◆ 14-6-1
  - “The sheriff has the legal custody and charge of the jail in and all prisoners”
  - The Sheriff and the Chief of Police are ultimately responsible for all jail operations within their particular jurisdictions



# 14-6-3

## ◆ Who may be confined in a county jail?

- (1) Persons committed for trial for public offenses
- (2) Convicts sentenced to imprisonment
- (3) Persons committed for contempt or on civil process;
- (4) Persons committed on failure to give security for their appearance as witnesses in any criminal case;
- (5) Persons charged with, or convicted of, a criminal offense against the United States;
- (6) Insane persons, pending transfer to a mental hospital or other disposition; and
- (7) All other persons committed thereto by authority of law.



# Booking / Intake

- ◆ Cooperative Effort! (between jail staff and arresting officer)
- ◆ Never take offense if the jail staff wants you to leave the area if you are having trouble with an arrestee.
- ◆ Never leave the area if the jail staff needs your assistance. Booking is typically where most assaults will happen in a jail.



# Booking / Intake

- ◆ Never be offended by the jail staff “double checking” your work.
- Searching
- Arrest reports
- Assorted paperwork



# Constitutional Rights and Jails

- ◆ 1<sup>st</sup> Amend. – Practice of Religion
- ◆ 4<sup>th</sup> Amend. – Search & Seizure
- ◆ 5<sup>th</sup> Amend. – Due Process, Double Jeopardy
- ◆ 6<sup>th</sup> Amend. – Access to Courts & Attorneys
- ◆ 8<sup>th</sup> Amend. – Protection from cruel and unusual punishment
- ◆ 14<sup>th</sup> Amend. – applies all other amendments to the states





# Rights

- ◆ A Right is guaranteed by the Constitution
  - Right to practice religion (1<sup>st</sup> Amend.)
  - Right to medical care (8<sup>th</sup> Amend.)
- ◆ Sources of Inmate Rights
  - U.S. Constitution
  - State Laws
  - Jail Policy & Procedure Manual



# Restricting Rights

- ◆ Rights cannot be denied, taken away or restricted unless there is a Legitimate Penological Interest

Ex.    Right to bear arms  
       Right to assemble

## Legitimate Penological Interest

- A bona fide concern for essential jail operations that can be used as a reason to curtail an inmate's rights



# Privileges

- ◆ A Privilege is a benefit over and above minimum statutory requirements
- ◆ Not Required & Can be taken away
  - Television, Radio, Newspaper
  - Smoking
  - Visitation (except with attorney)
  - Commissary
- ◆ When taking privilege from individual
  - Must provide a due process hearing/proceeding



# Suspending & Limiting Rights or Privileges

- ◆ Accurate Documentation is the best protection and defense against lawsuits.
- ◆ Learning to accurately articulate circumstances and happenings is **ESSENTIAL** for any law enforcement officer.



# 1<sup>st</sup> Amendment (Practice of Religion)

- ◆ The jail officer is not concerned with whether a religion is “true religion”.
- ◆ The jail officer is only concerned with the government’s compelling interest to restrict religious practice based on well articulated reasons of safety and security.



## 4<sup>th</sup> Amendment (Search & Seizure)

- ◆ A search warrant or arrest warrant must be based on Probable Cause.
- ◆ The standard for Jail Inmates is Reasonableness.





# Searching Prisoners

- ◆ Searching is the best way to maintain a secure and safe jail.
- ◆ Both regular search patterns and irregular, unannounced searches aid in jail security.
- ◆ If a prisoner is verbally abusive, the officer should ignore the abuse and continue the search.

# Invasive Searches

- ◆ **Strip Searches** should only be conducted by *same-sex personnel*
- ◆ **Body Cavity Searches** should only be conducted by *medical personnel*







# Searching Incoming Prisoner Mail

- ◆ Jail officers may:

1. Open letters from friends, family, etc,
2. Open packages and remove items the inmate is not allowed to have
3. Open legal mail, *if there is a security need*, in the inmates presence

- ◆ Jail officers may not read all incoming mail



# Searching Outgoing Prisoner Mail

- ◆ Jail officers can require inmates to give them an unsealed envelope with the letter so the contents can be inspected.
- ◆ Exception : Legal Mail



# Searching Visitors

- ◆ Anyone, including all visitors, are subject to a search upon entering a jail.
- ◆ All Visitors should be searched.
- ◆ Search the outer clothing and bags unless there is evidence that a more thorough search is needed.



# Handling Visitation

- ◆ Jailers may watch or observe visitation
- ◆ Jailers may listen to conversation between inmates and visitors
- ◆ Exception – when the visitor is an attorney



# Promoting Prison Contraband

13A-10-36, 13A-10-37, 13A-10-38

- ◆ A visitor or other non-inmate is guilty if they introduce an item of contraband
- ◆ An inmate is guilty if they make, obtain, or possess an item of contraband
- ◆ The particular type of item determines the severity of the crime



# Promoting Prison Contraband

- ◆ 1<sup>st</sup> degree – Class C Felony
  - deadly weapon, instrument, tool, or other device used for escape
- ◆ 2<sup>nd</sup> degree – Class C Felony
  - narcotic, dangerous drug or controlled substance
- ◆ 3<sup>rd</sup> degree – Class B Misdemeanor
  - any contraband




# 5<sup>th</sup> Amendment

(Due Process)

(Double Jeopardy)

- ◆ Due Process requirements under this amendment primarily apply to three key areas of jail operations:
  - Disciplinary Proceedings
  - Administrative Segregation
  - Use of Force



# Criminal Charges vs. Institutional Discipline

- ◆ If you search and find contraband on a prisoner, do you charge criminally or do you discipline in-house? Can you do both?
- ◆ Criminal charges are distinct and separate from institutional discipline.
- ◆ Double Jeopardy only applies to a criminal charges





## 6<sup>th</sup> Amendment

- ◆ Guarantees all US Citizens the right to participate in the legal system.
- ◆ Guaranteed access to :
  - access to the courts
  - access to legal counsel

# Access to Courts

- ◆ 72 hr hearing
- ◆ Trial
- ◆ Inmate dress





# Access to Counsel

- ◆ You may **NOT** limit the times an attorney can visit the jail unless you can show a *compelling government interest*.
- ◆ You may not suspend or limit a prisoner's telephone calls to his or her attorney, unless there is a *compelling government interest*.
- ◆ Compelling government interest – based on safety, security, and sometimes rehabilitation *Turner v. Safley*



## 8<sup>th</sup> Amendment

- ◆ Provides protection against cruel and unusual punishment
- ◆ Duty to protect does not mean that jails must guarantee each inmate's safety at all times
- ◆ Failure to protect also applies to life safety issues as well... fire, environmental, medical, infectious diseases, etc...



## 8<sup>th</sup> Amend. (Use of Force)

- ◆ A claim of improper use of force does not require Serious Harm
- ◆ 5 part test for evaluating whether use of force was constitutional:
  - Extent of Injury
  - Need for use of force
  - Amount of force used in relation to need
  - Threat perceived by reasonable officer
  - Effort made to temper forceful response



## 8<sup>th</sup> Amend. (Medical Care)

- ◆ Jails must provide :
  - Access to medical care (including medicine)
  - The same quality of care found on the street
  - Care by qualified medical professionals
- ◆ Jail staff cannot make medical decisions!!!!
- ◆ Jail staff cannot take action which would deny, delay, or block access to medical care
- ◆ Prisoners are responsible for paying the costs of elective surgery.



## Medical Care cont.

- ◆ City, County, and State facilities must:
  - Fumigate cells so other inmates will not catch or spread communicable diseases
  - Test convicted inmates, who have been held for 30 days or more, for sexually transmitted diseases



# Food, Shelter, & Clothing

- ◆ Failing to provide an inmate with food, shelter, or clothing, not only violates the 8<sup>th</sup> Amendment, but also state law.
- ◆ Necessary clothing and bedding must be provided
- ◆ Food must be “nutritious, clean, wholesome, and of sufficient quantity and variety”, but state law forbids providing alcohol unless proscribed by a doctor.





# 14<sup>th</sup> Amendment

- ◆ Applies due process, along with other constitutional amendments to the states
- ◆ Inmate discipline is governed by the due process provisions of the 5<sup>th</sup> and 14<sup>th</sup> Amendments



# Phone Calls

- ◆ Does an inmate have the right to use the phone immediately? NO
  - ◆ Does an inmate have the right to use the phone at all? YES
- 
- Understand that using the phone, except for legal calls, is a privilege.
  - An inmates behavior will dictate what privileges they are given.



# 1983 Lawsuits

- ◆ 42 U.S.C. §1983 – “Civil Rights Act”
- ◆ The law creates a federal civil cause of action to recover damages against anyone who:
  - **acting under color of law**
  - violates federal constitutional or statutory rights**



# 1983 Lawsuits

- ◆ Any jail officer, law enforcement officer, or other government official who violates the constitutional rights of any inmate is liable to that inmate



# QUESTIONS

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