

Module 11
Legal Responsibilities

LEGAL ASPECTS OF FORCE

11.1.0 Unit Goal: Summarize legal aspects of using force.

11.1.1 Explain the legal authorities for use of force by jailers.

- A. Penal Code, Sec. 38.01(1) - Custody
- B. Penal Code, Sec. 38.01(2) - Escape
- C. Penal Code, Sec. 9.01(3) - Deadly force

11.1.2 Explain the justification(s) for use of force by jailers.

- A. Penal Code, Sec. 9.31 - Self-Defense
- B. Penal Code, Sec. 9.52 - Prevention of Escape from Custody
- C. Penal Code, Sec. 9.53 - Maintaining Security in Correctional Facility
- D. Penal Code, Sec. 9.02 - Justification as a Defense
- E. Penal Code, Sec. 9.03 - Confinement as Justifiable Force
- F. Penal Code, Sec. 9.04 - Threats as Justifiable Force
- G. Penal Code, Sec. 9.22 - Necessity
- H. Penal Code, Sec. 9.32 - Deadly Force in Defense of Person
- I. Penal Code, Sec. 9.33 - Defense of Third Person
- J. Penal Code, Sec. 9.34 - Protection of Life or Health

11.1.3 Identify the use of force options.

- A. Force options
 - 1. Command presence - a correctional officer's mere position of legal authority initiates inmates' cooperation. Consists of routine supervision and an acceptance of authority by the inmates.
 - 2. Verbal/non-verbal communications – correctional officers must be able to effectively communicate, especially under stressful situations or conditions. Ex:
 - a. People who do not want to talk or listen
 - b. Emotionally charged individuals
 - c. Dangerous circumstances
 - d. Being watched by others
 - e. People who dislike and/or distrust correctional officers
 - 3. Weaponless strategies - physical strength/skill - use of the acronym "SAFER"
 - a. Security - person seriously threatens bodily harm to a correctional officer, another person, or when the officer's control is compromised.
 - b. Attack - an officer's personal body danger zone is violated, or an inmate displays aggressive behavior.
 - c. Flight - when an inmate begins walking or running away or when an inmate escapes from custody.
 - d. Excessive Repetition - when an officer is forced to repeat the same words or ideas over and over; repeated refusal by an inmate to comply or when an inmate is unreceptive to alternatives after repeated appeals.

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- e. Revised Priorities - possibly when the problem or constraints change or other events of greater importance occur.
- 4. Weaponless Control - when words do not control and the use of a weapon is not appropriate, weaponless control should be applied.
 - a. Techniques:
 - 1) Restraint holds
 - 2) Impact and stunning blows
 - 3) Pain compliance techniques to cause a person to cease resistance
 - b. Concepts:
 - 1) Self-control
 - 2) Balance - mental and physical
 - 3) Awareness
- 5. Weapons strategies - less lethal devices
 - a. Hand-held electrical weapons (stun guns and tasers)
 - b. Chemical weapons (mace and pepper spray)
 - c. Baton or other impact weapon
- 6. Deadly force
 - a. A correctional officer may use deadly force to protect themselves or others when and to the degree they reasonably believe an immediate threat of death or serious bodily injury exists to themselves or others.
 - b. An officer should not use deadly force if there is a risk that their actions could cause an innocent person to be injured or killed.
 - c. While an officer might be justified in the discharge of a weapon, the law requires that they do so with reasonable prudence to avoid injury to others and that they exercise care commensurate with the danger involved.
 - d. Refer to department policy and Texas Penal Code pertaining to the use of deadly force.
- B. Using the least amount of force necessary.
 - 1. Continuum of force – always use the least amount of force necessary to control the situation. Refer to “SAFER” acronym.
 - 2. Force may be justified due to the levels of the inmate’s resistance, but it must also be reasonable in the amount used.
- C. Improper use of force or excessive force may subject the correctional officer to civil and criminal liability.
- D. Departmental policy may limit or prohibit use of certain types of force.
 - 1. Irritants
 - 2. Batons/Impact weapons
 - 3. Deadly force

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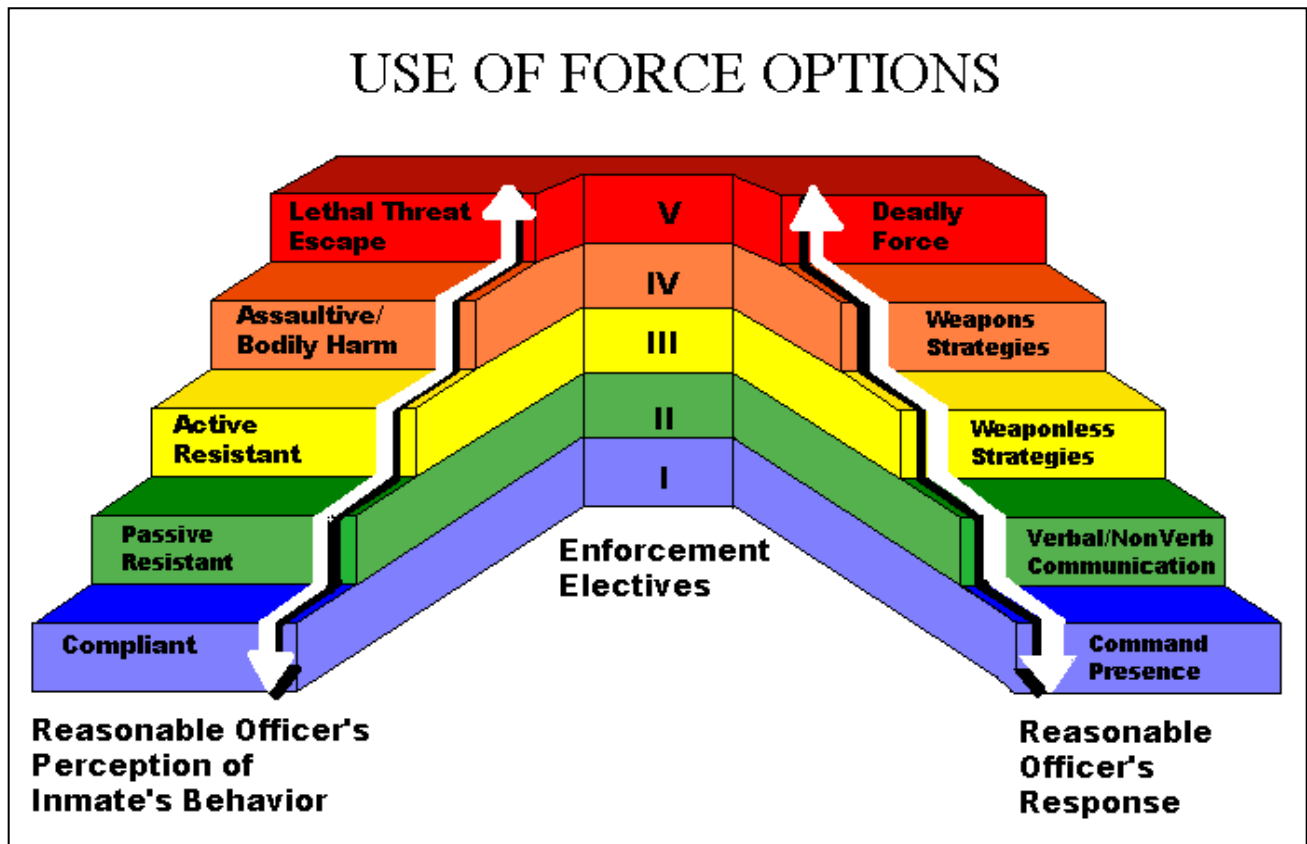
11.1.4 Identify the levels of the inmate's behavior.

- A. Perceptions of the inmate's behavior:
 - 1. Compliant - Inmates are willing to follow all rules and instructions from the correctional officer.
 - 2. Passive resistant - Inmates cease to obey or follow an officer's instructions or facility rules.
 - 3. Active Resistant - Inmates physically resist or impede an officer's attempt to enforce commands or rules but are not assaultive in their resistance.
 - 4. Assaultive/Bodily Harm - Inmate is physically attacking an officer or has placed the officer in fear of bodily harm.
 - 5. Lethal Threat/Escape - The same as deadly force for an officer.

11.1.5 Discuss the relationship between Use of Force law and force options.

- A. Force Continuum/Force Options
- B. Considerations in applying force continuum:
 - 1. There are a number of force continuum scales that various departments have adopted. Refer to your department's policy.
 - 2. Considerations of these scales:
 - a. Ineffective control results when the level of force is less than the subject's level of resistance.
 - b. Excessive control results when the level of force is greater than necessary.
 - c. The force used should be no more than a reasonable person would use under the total circumstances of situation.
- C. Work Assignments within the facility can impact decision-making and how you defend force decisions.
 - 1. Facility design
 - 2. Specific situations (rule violations vs criminal acts)
 - a. Rule violation
 - b. Criminal acts
 - 3. Manpower
 - 4. Access to assistance
 - a. Supervisors
 - b. Response Teams
 - 5. Level of training
 - a. Decision making
 - b. De-escalation training
 - c. Defensive tactics
 - d. Less lethal
- D. Follow departmental policy and the law.

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INMATE RIGHTS

11.2.0 Unit Goal: Summarize issues involving the rights of inmates.

11.2.1 Define a right.

- A. Definition of a right - a power, interest, or demand inherent in one person or established by law for protection and benefit of a person.
- B. A right may not lawfully be suspended under normal conditions without due process of law.
- C. Examples of rights that an inmate possesses:
 - 1. Constitutional Rights - rights given by the constitution or through amendments.
 - 2. Statutory Rights - rights given through passing of laws by legislatures.
 - 3. Regulatory Rights - rights given by regulatory agencies (both state and federal).
 - 4. Case Law - rights given or restored to the individual by the courts.
 - 5. Rights gained through policy and procedure - department rules and regulations.

11.2.2 Identify the constitutional rights inmates possess.

A. Habeas Corpus

This term has to do with the right of an inmate to be brought before a court or judge. A writ of habeas corpus directs a person detaining another, commanding them to produce the body of the person detained. The purpose is to test the legality of the person's detention or imprisonment; not to determine the person's guilt or innocence. It is to determine whether the prisoner is being denied their liberty by due process. The writ is guaranteed by the U.S. Constitution, Article I, Section 9.

B. First Amendment

- 1. Free exercise of religion - reasonable opportunities to exercise religious beliefs must be afforded
- 2. Freedom of expression - access to the media, some visitation, and some telephone use
- 3. Right to Assemble - petition the Government for redress of Grievance

C. Fifth Amendment

- 1. Protection from double jeopardy
- 2. Protection from self-incrimination (i.e., bearing witness against oneself)
- 3. Protection from being deprived of life or liberty without due process
- 4. Commitment documents – the question of lawful authority to receive or hold the inmate

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- D. Sixth Amendment
 - 1. The right to be informed of the accusation (i.e., the reason for being held)
 - 2. The right to counsel (i.e., an attorney)
 - 3. The right to a public trial
 - 4. The right to a speedy trial
 - 5. The right to a trial by a jury of peers
- E. Eighth Amendment
 - 1. The right to bail (if allowed by law) – Code of Criminal Procedure, Art. 17.29 - Accused Liberated
 - 2. Protection from cruel or unusual punishment
 - a. Refusing access to medical treatment
 - b. Not ensuring the physical safety of inmates, unsanitary conditions, etc.
- F. Fourteenth Amendment
 - 1. Equal protection of the law
 - a. No discrimination in treatment or favor on a basis other than individual merit
 - b. No segregation because of race, color, or creed

11.2.3 Identify the statutory rights of an inmate under Texas law.

- A. Some statutory rights may be denied through disciplinary process except as follows:
 - 1. Right to equal treatment - female/male inmates
 - 2. Texas Commission on Jail Standards, Rule 291.2(1)(E) - Inmate Correspondence Plan: Right to access to mail, unless the offense is related to the facility correspondence plan.
 - 3. Right to be properly fed and housed
 - 4. Right to adequate medical care
 - 5. Right to reasonably exercise religious beliefs
 - 6. Right to physical exercise and sunlight
 - 7. Right to be free from corporal punishment
- B. Code of Criminal Procedure, Art. 1.04 - Due Course of Law

11.2.4 Define privilege.

- A. Definition of privilege – a particular benefit enjoyed by a person beyond the common advantage of other citizens.
Source: <https://thelawdictionary.org/privilege/>
- B. A privilege may be suspended, but only in accordance with the agency's approved disciplinary plan.

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- C. Examples of common privileges:
 - 1. Texas Commission on Jail Standards, Rule 287.4 - Library Plan
 - 2. Texas Commission on Jail Standards, Rule 291.1 - Inmate Telephone Plan
 - 3. Texas Commission on Jail Standards, Rule 291.3 - Inmate Commissary Plan
 - 4. Texas Commission on Jail Standards, Rule 291.4 - Visitation Plan
 - 5. Texas Commission on Jail Standards, Rule 291.5 - Inmate Religious Practices Plan
 - 6. Texas Commission on Jail Standards, Rule 287.1 - Education and Rehabilitation Plan
 - 7. Election Code, Sec. 11.002(4) - Qualified voter

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GRIEVANCES

11.3.0 Unit Goal: Summarize the process of handling grievances.

11.3.1 Explain some considerations of inmate grievances.

- A. Purpose of grievances: An administrative means to resolve conflicts; a viable grievance system for handling inmate complaints creates a safer, more secure jail environment for inmates and staff. Texas Commission on Jail Standards, Rule 283.3 – Inmate Grievance Plan
- B. Grievance procedures exist to allow for intervention and the resolution of inmate complaints at the earliest opportunity. If unresolved, inmate complaints often escalate into acts of aggression and destruction.
- C. Most inmate complaints can be resolved by an individual staff member.
- D. Concerns that cannot be handled by the individual officer should be submitted, in writing, through the chain of command.
- E. The grievance must state:
 - 1. The right or privilege allegedly violated
 - 2. The persons involved
 - 3. The names of witnesses
 - 4. The times, date, and pertinent details of the grievance
- F. The sheriff or sheriff's designee shall appoint a grievance board composed of individuals (staff and/or civilian) who shall make an impartial and objective determination based upon the evidence presented.
- G. Inform inmates of the Grievance process:
 - 1. Orientation
 - 2. Inmate Handbook
 - 3. Facility rules and regulations

11.3.2 List the four valid grievance reasons.

- A. Violation of civil rights
- B. Criminal act
- C. Unjust denial or restriction of an inmate privilege
- D. A prohibited act by facility staff - any act that is prohibited by facility rules and regulations, and that is initiated by facility staff, is a cause for a grievance

11.3.3 Identify the process involved in grievance procedures.

- A. Grievances will be processed in an expeditious manner, especially if the possibility of personal injury or other problems (medical, maintenance) exist.
 - 1. An interim response shall be completed within 15 days.
 - 2. A final response shall be completed within 60 days.

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- B. No reprisal against an inmate for initiating a grievance will be tolerated.
- C. Inmates not satisfied with the decision may appeal the findings.
- D. Release of information is governed by departmental policy and relevant law.

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INMATE DISCIPLINE

11.4.0 Unit Goal: Summarize the disciplinary process within a jail.

11.4.1 Explain how inmates are familiarized with the rules and regulations of the facility.

- A. It is imperative that officers explain the rules and regulations to an inmate in order for the inmate to become familiar with the jail's rules and regulations.
 - 1. Inmate orientation during intake and processing
 - 2. Distribution of facility rules and regulations (Texas Commission on Jail Standards, Rule 283.2 - Inmate Rules and Regulations)
 - 3. Facility rules and regulations posted
 - 4. If found to be illiterate, staff shall read the rules and regulations to the inmate
 - 5. Inmates will acknowledge receipt of facility rules and regulations with their signature or mark
- B. Refer to departmental policy

11.4.2 Identify forms of prohibited discipline

- A. Texas Commission on Jail Standards, Rule 283.1(4) - Inmate Discipline Plan
- B. Refer to department policy.

11.4.3 Identify forms of accepted discipline for minor and major infractions.

- A. Minor infractions: Texas Commission on Jail Standards, Rule 283.1(1) - Inmate Discipline Plan
 - 1. Examples of minor infractions:
 - a. Refusing to clean a cell
 - b. Being noisy
 - c. Refusing to work
 - d. Being insolent or disrespectful
- B. Major Infractions: Texas Commission on Jail Standards, Rule 283.1(2) - Inmate Discipline Plan
 - 1. Examples of major infractions:
 - a. Interfering with a count
 - b. Attempting to escape
 - c. Possessing a weapon
 - d. Assault
 - e. Fighting
 - f. Destroying security equipment
- C. Refer to department policy.

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11.4.4 Identify methods for documenting inmate disciplinary behavior.

- A. Informal methods
 - 1. Acts of a minor nature not requiring formal documentation may include verbal counseling.
- B. Formal methods
 - 1. Repetitive minor acts of a disciplinary nature or incidents of serious misconduct will be documented on official reporting forms.
 - a. Written reports placed in inmate file
 - b. Written reports given directly to the sheriff
 - 2. Filing formal charges
 - a. Administrative charges (disciplinary)
 - b. Criminal charges
- C. Refer to departmental policy

11.4.5 Explain the functions of an inmate disciplinary board.

- A. Inmate Disciplinary Board
 - 1. Administrative proceeding (not part of a criminal prosecution)
 - a. Supreme Court has upheld that disciplinary proceedings do not violate due process of criminal proceedings
 - b. Wolff v. McDonald, 418 US 539, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974)
 - 2. Composed of individuals (staff or civilian), who were not involved in the incident and are able to make an impartial, objective determination based on the evidence presented.
- B. Disciplinary Board should:
 - 1. Question, listen, and think through the testimony and evidence presented.
 - 2. Obtain all pertinent facts.
 - 3. Analyze the evidence.
 - 4. Make an objective determination of the fact based upon a preponderance of the evidence.
 - 5. Document the situation - sustains “good faith” intention against subsequent litigation.

11.4.6 Explain procedures for due process rights of inmates.

- A. Texas Commission on Jail Standards, Rule 283.1(3) - Inmate Discipline Plan: Disciplinary Due Process Requirements
- B. Texas Commission on Jail Standards, Rule 283.1(3)(J)
 - 1. Inmates found guilty by a disciplinary board may appeal the decision.
 - 2. Specific reasons for a reversal of the decision must be stated in writing.
 - 3. Refer to department policy.

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Instructor Note: The instructor will provide examples of forms used in the disciplinary process in addition to various examples of rule violations. Example forms can be found on the Texas Commission on Jail Standards Website under “Online Forms and Resources” (<https://www.tcjs.state.tx.us/forms/>).

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LIABILITY

11.5.0 Unit Goal: Summarize liability issues for jail personnel.

11.5.1 List circumstances constituting federal civil rights violations by jail personnel.

- A. United States Code (USC), Title 18, Part I, Chapter 13, Sections 241 and 242.
 - 1. 18 USC 241 - Conspiracy Against Rights
 - 2. 18 USC 242 - Deprivation of Rights Under Color of Law

11.5.2 List violations/possible charges of state criminal law by jail personnel.

Instructor Note: Refer to the Penal Code for a summary of the statutes.

- A. Penal Code, Sec. 20.02 - Unlawful Restraint
- B. Penal Code, Sec. 22.01 - Assault
- C. Penal Code, Sec. 22.011 - Sexual Assault
- D. Penal Code, Sec. 22.02 - Aggravated Assault
- E. Penal Code, Sec. 22.021 - Aggravated Sexual Assault
- F. Penal Code, Sec. 31.03 - Theft
- G. Penal Code, Sec. 37.09 - Tampering with or Fabricating Physical Evidence
- H. Penal Code, Sec. 37.10 - Tampering with Governmental Record
- I. Penal Code, Sec. 38.07 - Permitting or Facilitating Escape
- J. Penal Code, Sec. 38.09 - Implements for Escape
- K. Penal Code, Sec. 38.11 - Prohibited Substances and Items in Correctional or Civil Commitment Facility
- L. Penal Code, Sec. 39.02 - Abuse of Official Capacity
- M. Penal Code, Sec. 39.03 - Official Oppression
- N. Penal Code, Sec. 39.04 - Violations of the Civil Rights of Person in Custody
- O. Penal Code, Sec. 39.05 - Failure to Report Death of Prisoner
- P. Penal Code, Sec. 39.06 - Misuse of Official Information

11.5.3 Identify circumstances which subject jail personnel to civil liability.

- A. USC Title 42, Chapter 21, Subchapter I, Section 1983 - Civil Action for Deprivation of Rights
- B. Tort Liability
 - 1. Money damages for civil wrong
 - 2. Negligent, malicious acts done intentionally by jail personnel that result in injury to an inmate, such as:
 - a. Punitive striking of inmate.
 - b. Excessive use of force.

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3. Negligent, malicious acts or omission of acts done intentionally by jail personnel that result in injury to an inmate, such as:
 - a. Failure to provide medical treatment.
 - b. Failure to ensure physical safety of inmate.
 - c. Failure to provide sanitary conditions.
 - d. False imprisonment.

11.5.4 List circumstances which reduce civil liability for jail personnel.

- A. Act in a lawful manner
 1. Federal statutes
 2. State statutes
 3. Texas Commission on Jail Standards
 4. Any other applicable statutes
- B. Follow departmental policies
 1. Immunity may exist if “reasonable, good faith belief” is justified
- C. Do not act in a punitive manner
- D. Documentation of events to include written and photographic evidence if applicable.
 1. Any use of force
 2. Inmate injuries
 3. Discharge of weapons
 4. Escapes/attempted escapes

11.5.5 List civil liabilities of supervision.

- A. Jail personnel are inmates’ supervisor(s).
- B. What an inmate does under supervision is a liability.
- C. Vicarious liability (e.g., the liability of an employer for the acts of an employee)
- D. Failure to protect

11.5.6 Identify areas which may reduce civil liability of supervision.

- A. Follow written and verbal instructions carefully.
- B. When in doubt, seek clarification.
- C. Review rules and procedures.
- D. Be sure the inmate knows what is expected of them.
- E. Maintain records - use forms to document incidents.
- F. Report all unusual occurrences.
- G. If policy/procedure is not followed, take prompt corrective action.
- H. Request supervisor issue written order if the verbal order is contrary to rule or law.

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Related Case Law

***Shaw v. Stroud*, 13 F. 3d 791 (4th Cir. 1994)**

A supervisor may be liable for acts of subordinates even when the supervisor has no direct involvement if the supervisor has failed to document and take corrective action for prior similar acts of misconduct. Elements of supervisory liability: the supervisor had actual or constructive knowledge that subordinate was engaged in conduct that posed a pervasive and unreasonable risk of constitutional injury; the supervisor's response or lack of response showed deliberate indifference or tacit authorization of the officer's conduct; a causal link between supervisor's inaction and the injury that occurred.

***City of Canton v. Harris* 489 U.S. 378 (1989)**

An agency that fails to train officers for recurring tasks that law enforcement officers face may be liable for failing to train the officers, where the lack of training foreseeably leads to a constitutional violation. Failure to train established where: agency fails to train officer in a subject where there is an "obvious need" for training (e.g., firearms and deadly force); the agency is aware, or should be aware of a pattern of conduct by officers which evidences the need for training or better training to avoid constitutional violations, and the agency fails to take action on this need.

***Munger v. City of Glasgow*, 227 F.3d 1082 (9th Cir. 2000)**

It is not enough for an agency to merely have a policy that governs officer actions: the agency must train the officers on the policy to effectively avoid liability.

***Perrin v. Gentner*, 177 F.Supp.2d 1115 (D. Nevada 2001)**

An agency may be liable for the conduct of an officer when the agency fails to adequately guard against constitutional injuries through training and supervision. "A law enforcement agency's policy may be inferred from widespread practices or evidence of repeated constitutional violations for which the errant municipal officers were not discharged or reprimanded."

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INMATE CON GAMES

11.6.0 Unit Goal: Identify inmate con games.

11.6.1 Identify the characteristics of an inmate set-up.

- A. Some inmates know how to manipulate situations and people. Coercion and manipulation has, in many cases, become a lifestyle.
 - 1. How and why it happens:
 - a. Tendency to give people the benefit of the doubt and pay little attention to the idea that some people are deceptive.
 - b. The system of deception they have created is called the set-up.
 - c. The set-up is a game in which the inmate wants to win.
 - 2. There is a winner and a loser.
 - a. The Winner: In a successful setup an inmate can receive:
 - 1) Illegal contraband
 - 2) Sex
 - 3) Status among peers
 - 4) Personal satisfaction from just being able to do it
 - b. The Loser: In an unsuccessful setup, an inmate can:
 - 1) Be terminated from their employment (Inmate Worker)
 - 2) Face additional criminal charges
 - 3) In some cases, face death at the hands of other inmates
- B. Through education and experience, correctional officers become aware of deceptive practices.

11.6.2 Recognize the manipulation tactics of inmate(s).

- A. Manipulation is to control by skillful, unfair, or insidious means especially to one's own advantage.
- B. Manipulative Tactics Inmates Use:
 - 1. Flattery – Stroke one's ego
 - 2. False Empathy – To identify without feeling sorry
 - 3. False Sympathy – To feel sorry for them
 - 4. Helplessness – Beware the inmate asking for help
 - 5. False Sensitivity – To you as a person
 - 6. Confidentiality – To share a "secret" or create a bond
 - 7. Isolate and Protect – Use of rumors, play staff against staff
 - 8. Touching – Implies permission to proceed further
 - 9. Sexual References – Always unacceptable whether by staff or inmates

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- 10. Coercion and Intimidation – Usually in the form of blackmail
- 11. Susceptibility – Factors that affect manipulation of staff by inmates
- 12. Power and Control – Gives the inmates incentive to “get” the staff
- 13. Connection – Something in common with the inmate (age, race, religion, background)
- 14. Sexual Attraction
- 15. Environmental/Societal Conditioning
- C. Victims are selected because of their personality traits.
- D. A correctional officer’s education, years of experience, rank, sex, ethnicity, and intellect are not protectors.

11.6.3 Identify the types of staff.

- A. Inmates place correctional officers into three categories: soft, medium, and hard.
 - 1. Soft officers
 - a. Soft correctional officers are usually very trusting, overly familiar and naïve. They may have a strong desire to help the inmate and be sympathetic and understanding.
 - b. They have the inability to say “NO” or take command.
 - c. Soft equals gullible.
 - 2. Medium officers
 - a. Medium correctional officers exhibit traits of both soft and hard officers as necessary.
 - b. Their actions discourage the manipulative process, not because they cannot be manipulated, but because the process would take too much time.
 - c. Medium equals cautious.
 - 3. Hard officers
 - a. Hard correctional officers go strictly by the book. Everything is black and white and there is no in-between.
 - b. They grant no leeway.
 - c. Hard equals suspicious.
- B. Officers should be aware that the same techniques can be used on civilian employees and volunteers in the facility.

11.6.4 Recognize the phases of a set-up.

- A. There are three phases in the set-up.
 - 1. Observation and selection
 - 2. Hooks

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3. Compromised
- B. Observation and Selection
 1. Observation Process
 - a. It is a very precise, close, silent study by the inmate to determine the likelihood of a victim.
 - b. The observer pays close attention to an employee who uses inmate jargon, ignores minor rule infractions, plays favorites, and is easily distracted.
 - c. Responses to seemingly harmless questions assist in the construction of this profile.
 - d. This takes place over months.
 - e. It is slow, subtle, and calculated.
 2. Body Language
 - a. The manner and method in which a person carries oneself gives off messages.
 - b. The observer, watching body language, wants to know if the individual lacks confidence and is not sure in certain situations.
 - c. Observes individual's appearance of having unpresented clothing, unkempt personal hygiene, and all-around sloppy look that shows the lack of self-esteem and professionalism.
 - d. This could add to the profile as selection for a victim becomes better defined.
 3. Listening Observation
 - a. Inmates listen to everything we say and how we say it.
 - b. Inmates listen and note to hobbies, interests, likes, dislikes, and personal information (i.e. home address, married, single, divorced, children, and other seemingly harmless information.).
 - c. This phase has probably been assisted by numerous inmates.
 4. Verbal Observation
 - a. Based on the employee profile, a "turner" will be chosen from the inmates with the same likes, dislikes, and background as the employees.
 - b. Other inmates that accompany the "turner" are only there to see how the "turner" is received by the employee. Ex: Will the employee "befriend" the inmate?
 5. Action Observation
 - a. The "turner," in this step, will violate a minor rule to test what sort of stand the employee takes.
 - b. They find out if the theory about the employee's reaction is correct.
 - c. The "turner" may even make a verbal suggestion that they may violate the rule or regulation to see what type of response the employee is going to give.

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- d. If the employee ignores this subtle suggestion and looks the other way, then the turner acts out the violation.

6. Selection of Victim

Employees are selected as victims in two ways:

- a. Accidental – Selection could come from the employee making an error in judgment that they would not normally make and inmates becoming aware of it.
- b. Intentional – Selection is based on the personality profile, employee traits and all the information gathered up to this point.

7. Test the Limits

- a. This is called “nudging.”
- b. The inmate will push, bend, and attempt to circumvent minor rules to determine how far they can go before the victim acts, if at all.
- c. Fish testing occurs when the “turner” requests minor items of contraband that the victim is not supposed to issue.
- d. The inmate has put out the line and hook, which is the request.
- e. The bait on the hook is the inmate making the victim feel obligated due to a friendly relationship which has been cultivated.
- f. The intent is to see how much of – and how easily and how fast – these items can be obtained.

C. Hooks

These hooks can be in any sequence of their appearance in the set-up process, however, they can proceed in any order, calculated to validate that individual.

1. The Support System

- a. Verbal support could be comments of support and understanding indirectly given to the victim through conversations with other inmates.
- b. Later, they are given directly to the victim. Ex: “you’re the best CO in the joint.”
- c. The inmate builds the victim’s ego.
- d. The inmate wants to create a feeling of making himself indispensable and, if possible, making the victim’s job easier.
- e. Pledges of devotion and faith in the individual help create a strong, trusting friendship.

2. Empathy/Sympathy

- a. In empathy, the inmate can identify and understand with the victim without feeling sorry or pity. “I have been there. I can relate to exactly how you are feeling.”

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- b. Sympathy demonstrates a feeling without necessarily having shared the experience that created the feeling.
- 3. Plea for Help
 - a. It is an understatement to say correctional work can be thankless.
 - b. It is rare to see the fruits of our labor and the occasional pat on the back.
 - c. The inmate is trying to build you/me situation.
 - d. Following the empathy and sympathy stage is the “you are the only one that can help me.”
 - e. There is nothing confidential between an employee and an inmate.
- 4. We/They Syndrome
 - a. The inmate wants to separate the victim from the rest of the staff so the victim turns to the inmates for ego support.
 - b. Inmate(s) create animosity between staff (officer against officer).
 - c. Inmates support whatever position a susceptible employee takes such as race, background, religion, and prejudices.
- 5. Offer of Protection
 - a. An inmate is willing to “take the heat” for the victim.
 - b. In the more serious offer of protection, the inmate will offer information about areas of danger to the victim.
 - c. The inmate will assure that they would never let this happen to the victim.
 - d. If the victim does not appear overly concerned about the dangers, the set-up team may stage an event to demonstrate to the victim that the inmate or inmates are there to “protect.”
 - e. This staged event is not to injure the victim but for the victim to be grateful for the inmate’s intervention.
 - f. The friendship between the victim and the protector now becomes even stronger.
- 6. Allusion to Sex
 - a. The situations and conditions must be carefully planned and implemented so as not to draw attention to the inmate.
 - b. Manipulative inmates are not only males; female inmates can be and have proven to be just as devious.
 - c. Comments and repeated comments.
 - d. Response will determine the next step.
- 7. The Touch System
 - a. Inmates will create a touching situation with both male and female employees.

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- b. A handshake, pat on the back, or placing of a hand on the shoulder are examples to create a more personable bond.
 - c. Touching occurs more frequently and prolonged as well as better timed to ensure that no other staff member is around.
- 8. The Rumor Clinic
 - a. The inmates pull the victim from the peers and the peers from the victim, thus coming full circle.
 - b. This creates a feeling of isolation in the victim and a strengthening of the bond between the inmates and the victim.
- D. Compromised
 - 1. Up until now, the inmates have not violated any laws and the rule infractions have been minor. Before making the next step, the inmates must review whether the set-up has been properly administered. The next steps are the point of no return for all involved.
 - a. The Shopping List
 - 1) The shopping list is just that, a list of contraband items.
 - 2) This list not only includes items but sexual favors.
 - 3) The victim knows they have been compromised.
 - 4) Backing out is never an option.
 - b. The Lever
 - 1) The right distribution of pressure has been applied and now they get their demands met.
 - 2) Somewhere along the line there has been some type of indiscretion on the victim's behalf that the manipulator threatens to expose.
 - 3) Victims are led to believe that this is a one-time request.
 - 4) The victim feels some release of pressure thinking that after the demands are met, things will return to normal.
 - 5) This is not the case.
 - c. The Sting
 - 1) The victim now has a choice to make – do as you are told or suffer the consequences.
 - 2) Employees either comply with the demands of the inmate, resign, or risk the possibility of being harmed and expose the situation.
 - 3) Others resign and some will risk the possibility of being harmed and the situation exposed.
 - 4) It is a lose situation for the victim.
 - 5) Even if the victim succumbs to their demands, it is not enough for the inmate(s).

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11.6.5 Recognize the warning signs of inmate con games.

- A. Inmate set-ups are a serious problem.
- B. If you see an employee heading down the path, stop them and report the incident.
- C. Inmate warning signs.
 - 1. Inmates will:
 - a. Ask for special favors.
 - b. Offer gifts to the officer.
 - c. Try to develop a personal relationship.
 - 2. Improper touching or compliments.
 - 3. A certain inmate will be viewed or treated more favorably by an officer.

11.6.6 Describe fundamental ways to avoid a set-up.

- A. How to avoid a set-up:
 - 1. Always look and act professional.
 - 2. Know policies and procedures.
 - 3. Be aware of con games.
 - 4. Be straight forward and honest.
 - 5. Inform and communicate with the supervisory chain:
 - a. Verbally
 - b. Written
- B. Officers must be constantly vigilant and aware of inmate manipulation.