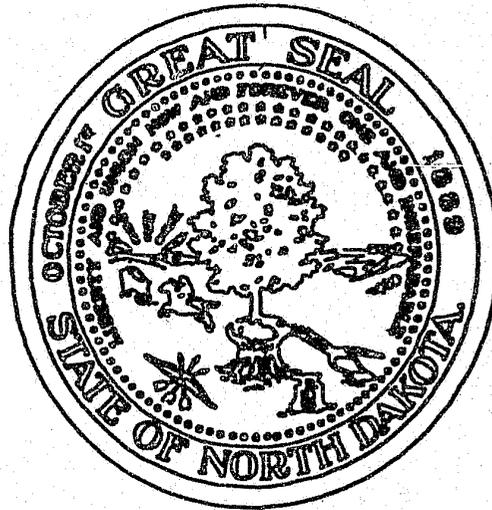


State of North Dakota



Office of Attorney General

Correctional Officers
Training Manual

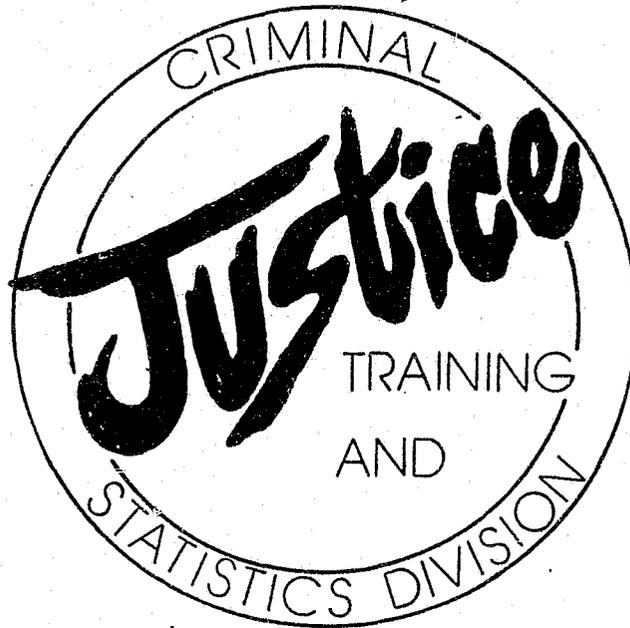
Instructors Guide
Basic Course

106346

NCJRS

AUG 12 1987

ACQUISITIONS



FOREWORD

The Criminal Justice Training and Statistics Division of the Office of the Attorney General has developed a correctional officer training curriculum which has been approved by the Peace Officer Standards and Training Board.

The Peace Officer Standards and Training Board understands that the training needs of the local correctional officers are constantly changing and have made adjustments to maintain the highest degree of professionalism.

The topic areas included in the curriculum are directly related to the most frequent job responsibilities as identified in your policies and procedures. To afford the greatest possible opportunity for retention of the material presented, the lesson plans have a basic design. Each trainee will be afforded the opportunity to receive, hear, write, and perform the duties of the topics covered. This design is not original, but does prove to be effective. The material is intended to help provide solutions and workable guidelines.

William H. Broer, Jr.
Director
Criminal Justice Training and Statistics Division
Office of the Attorney General

106346

**U.S. Department of Justice
National Institute of Justice**

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ROLE OF THE CORRECTIONAL OFFICER

THE ROLE OF THE CORRECTIONAL OFFICER IS, FIRST OF ALL, TO MAINTAIN CUSTODY OF PERSONS LEGALLY INCARCERATED IN ORDER TO ENSURE THE SECURITY OF THE COMMUNITY AND THEIR APPEARANCE IN COURT.

SECOND, THE CORRECTIONAL OFFICER MAINTAINS ORDER WITHIN THE FACILITY FOR THE PROTECTION OF ALL PERSONS INCARCERATED AS WELL AS THE FACILITY STAFF.

THIRD, THE CORRECTIONAL OFFICER SUPERVISES THE DAILY ACTIVITIES OF THOSE INCARCERATED, AND PROVIDES THE CARE REQUIRED FOR A CONSTITUTIONAL AND HUMANE ENVIRONMENT.

FOURTH, THROUGH THE USE OF THE PHYSICAL PLANT AND A CONTROLLED ENVIRONMENT, THE CORRECTIONAL OFFICER ATTEMPTS TO ENCOURAGE BEHAVIORAL PATTERNS THAT DO NOT INFRINGE ON THE CIVIL LIBERTIES OR PROPERTY RIGHTS OF OTHERS.

PEOPLE ARE SEPARATED FROM SOCIETY AS PUNISHMENT, NOT FOR PUNISHMENT.

ACKNOWLEDGEMENTS

Correctional officer training in North Dakota began in 1976. The training committee of the North Dakota combined Law Enforcement Council completed a needs assessment and presented a forty-hour program for local facility officers at the North Dakota State Penitentiary. Mr. Ron Bostick was the coordinator of this presentation.

In 1977 Michael Hill was appointed to the law enforcement/corrections training coordinator position. At corrections/jail administrator requests and based on trainee evaluations the training was expanded to eighty hours. Mr. Hill's two year efforts in curriculum and lesson plan development added greatly to the quality of training.

In 1979 a corrections training/jail inspector position was established. This position was filled by Neil L. Fahlsing, who had been a correctional officer, industry supervisor, and training officer at the North Dakota State Penitentiary.

In February, 1981, formal and complete lesson plans were developed. The National Institute of Corrections, corrections professionals and nationwide resources were utilized for this project. Credits and acknowledgements for the initial work is due to the following authors:

| | |
|-------------------------|--|
| Lyle D. Brudvig | Medical Screening |
| Kenneth J. Dawes, Ph.D. | Use of Community Resources |
| Charles M. Miceli | Report Writing Fire Emergency Procedures |
| Kenneth E. Mikulski | Stress and the Correctional Officer |
| Donald Walter | Substance Abuse Suicide Prevention Crisis Intervention |
| Sharon A. Gallagher | Legal Issues, Part I Legal Issues, Standards, Juvenile Issues |
| Neil L. Fahlsing | Security Body Searches Restraints/Transportation Supervision Cell Searches |

In addition to the persons who developed lesson plans for this training manual we wish to acknowledge the assistance of Thomas

White, Deputy Director of Program Services, Oklahoma Department of Corrections in the initial planning and design of the curriculum and for his editorial assistance in reviewing the first drafts of the lesson plans. Marie MacTavish, Corrections Specialist, NIC Jail Center provided the means to bring together the staff of the Law Enforcement Council and Mr. White as well as ushering through the necessary grant paper work which allowed this project to continue.

Lynn J. Lund - Legal Issues and Standards
Civil Liability

This lesson plan has been developed, edited, and revised over the past several years. The material was originally developed by Lynn J. Lund and Gary W. Deland in 1978. Substantial revisions were made in 1981 by Ms. Sharon Gallagher to comply with North Dakota statutes. Significant revisions were made in 1983 and 1985 by Lynn J. Lund, Inspector General, Utah Department of Corrections, Salt Lake City, Utah; Gary W. Deland, Director of Corrections, State of Utah, Salt Lake City, Utah; and Gary Bowker, President, Allied Correctional Services.

The Civil Liability section was written by Lynn J. Lund. Mr. Lund was chosen based on his background and broad knowledge of modern and legal correctional practices.

Mr. Lund is presently employed by the state of Utah. As inspector general for the state's Department of Corrections, Salt Lake City, Utah, he is utilizing his training and background as a legal professional. Mr. Lund has been involved in correctional law for many years. From the mid-1970s to the present time, he has worked as a consultant and instructor for the National Institute of Corrections. For additional information or credits and/or assistance write to: Lynn J. Lund, Inspector General, Utah Department of Corrections, Salt Lake City, Utah.

Gary M. Bowker - Inmate Classification
Use of Force

Gary M. Bowker is president of Allied Correctional Services in Lakewood, Colorado. Mr. Bowker coordinated the curriculum revision project and authored the lesson plans on inmate classification, use of force and assisted in the revision of the legal issues module.

Mr. Bowker has been involved in law enforcement and corrections for the past 20 years, beginning his career as a police officer in Spearfish, South Dakota. He has served as a probation and parole agent with the South Dakota Board of Pardons and Paroles, a corrections specialist with the South Dakota Division of Law Enforcement Assistance, correctional program administrator with the Wyoming Governor's Planning Committee on Criminal

Administration, and as a Corrections/Juvenile Specialist with the United States Department of Justice - LEAA in the Denver Region. He served as president of the South Dakota Corrections Association in 1972. Prior to establishing Allied Correctional Services in 1982, Mr. Bowder served five years with the National Institute of Corrections Jail center in Boulder, Colorado, where he served as technical assistance manager and developed and delivered numerous NIC training programs.

His firm specializes in developing operational and management training programs for corrections personnel planning new jail/correctional facilities; determining staff and manpower needs and policy and procedure development. He has provided consultant and training services to state and local correctional agencies in 42 of the 50 states and holds a B.S. in education from Black Hills State College in Spearfish, South Dakota with work towards a Masters Degree in guidance and counseling at the University of South Dakota. Gary M. Bowker, President, Allied Correctional Services, 12342 West Iowa Drive, Lakewood, CO 80228.

Neil L. Fahlsing - Security
Body Searches
Restraint/Transportation
Supervision
Cell Searches
Inmate Control Techniques
LIFO Training

Neil L. Fahlsing is presently employed as a corrections specialist with the Criminal Justice Training and Statistics Division, Office of Attorney General.

Mr. Fahlsing began his corrections career in 1962 as a correctional officer at the North Dakota State Penitentiary. He worked a relief position at the prison farm dormitory, institution infirmary, and the cell block. In April 1967, he was promoted to industry supervisor responsible for license plate and highway sign manufacture. In April 1973, he transferred to the training coordinator position responsible for design and direction of the penitentiary correctional officer training, assisted in coordinating the jailer training program of the Combined Law Enforcement Council, and taught correctional officer training classes in all aspects of corrections. Mr. Fahlsing worked as corrections coordinator and jail inspector for the Combined Law Enforcement Council from November 1979 to June 10, 1981.

He has attended the four weeks of training with the Federal Bureau of Prisoners; four weeks of training at the NIC Academy; Training the Trainer Project; and the Small Jails Management Project and is a certified LIFO analyst for Atkins-Katcher Associates of Beverly Hills, California.

For the past four years, Mr. Fahlsing has been employed as a corrections specialist for the State of North Dakota. Specialized professional development workshops have been made available each year. Training has included Juvenile Detention Center Management and Legal Issues in 1985-1986. This training has been in addition to his duties as coordinator of corrections training both of the academy and at local facilities.

All corrections/jail facilities are inspected annually by Mr. Fahlsing and technical assistance is provided to county commissioners and city councils. Mr. Fahlsing is largely responsible for the development of this manual and may be contacted for additional information. Neil L. Fahlsing, Criminal Justice Training and Statistics Division, Office of Attorney General, State Capitol, Bismarck, North Dakota 58505.

John R. Percy - Report Writing
Stress Management

John Percy is presently working as the training director of the Bismarck North Dakota Police Department. He is also the executive director of the North Dakota Association of Criminal Justice Trainers and Educators. John has been the correctional officer instructor for report writing and stress management for the past several years. The revised lesson plan contained in this manual is his effort to meet North Dakota officer needs.

John Percy has been a member of the Bismarck Police Department for 18 years. He has been a law enforcement officer in North Dakota for 19 years.

He has experience in the following sections of the Bismarck Police Department.

- a. patrol officer - 3½ years
- b. detective/investigator - 2½ years
- c. traffic corporal - 2 months
- d. police youth relations officer - 4 years
- e. training director - over 8 years

John is a certified instructor for the State of North Dakota in various law enforcement and related areas. They are:

- a. report writing
- b. management/supervision
- c. firearms
- d. crisis intervention
- e. emergency management
- f. self-defense/PR-24 police baton
- g. stress management
- h. planning and research development
- i. planning analysis

- j. instructor/instruction management
- k. general police topics/categories

John received the following formal education degrees and graduation certificates.

- a. Associate of Arts Degree in law enforcement, 1975
- b. Bachelor of Arts Degree in criminal justice, 1976 with a minor degree in sociology
- c. Graduate of the 63rd administrative officers course, Southern Police Institute
- d. Completed course work for a Masters Degree in public administration and presently writing his thesis on Career Development in Law Enforcement.
- e. Has well over 3,000 hours of certified law enforcement training within the State of North Dakota.

Was awarded the Jaycee Outstanding Law Enforcement Officer in 1975, the North Dakota District Award of Merit, Boy Scouts of America, and is the Executive Director of the North Dakota Association of Criminal Justice Trainers and Educators.

Darrell Nitschke - Crisis Intervention

Darrell Nitschke has worked in corrections and youth programs since 1973. His years of experience coupled with a B.A. degree in sociology and a minor in psychology have made him very effective as an instructor in crisis intervention/management. Within the time frame allowed he feels the enclosed lesson plan will be beneficial to the officers.

COLLEGE INFORMATION

Graduated from North Dakota State University in May 1974 with a B.A. Degree in Sociology and a Minor in Psychology.

EMPLOYMENT INFORMATION

Spring of 1973 - NDSU Internship Clay County Juvenile Detention Center (Youth Worker)

Summer of 1973 - NDSU Internship North Dakota State Penitentiary (Corrections Officer)

August 1974 - August 1977 North Dakota Industrial School (Pre-release Counselor, Group Home Counselor, and Group Home Director)

Experience: One to One Counseling
Group Counseling
Parent Training
Supervision

August 1977 - August 1980

Bismarck Police Youth Bureau
(Police Youth Worker)

Experience: One to One Counseling
Group Counseling
Family Counseling
Crisis Intervention
Prevention Program
Presentation
Public Speaking

August 1980 to Present

Bismarck Police Youth Bureau
(Administrative Director)

Experience: Management
Organization
Staff Supervision
Program Development/
Implementation
Training
Public Relations
Public Speaking

CAREER ACCOMPLISHMENTS

Wrote and implemented a training manual for the North Dakota Law Enforcement Training Center on Crisis Intervention. The training is conducted at Basic Training for all North Dakota law enforcement officers and at Advanced Jailers Training.

Conduct training sessions to law enforcement officers on Juvenile Relations and Interpersonal Communications.

Developed Wilderness Outing Program for Youth.

Appointed to the Governor's Committee on Children and Youth in 1981 and have served as Chairman from 1983-1985.

Member of the North Dakota Youth Justice Association since 1980 and served as chairman from 1983-1985.

Appointed to the National Board of State Committees on Children and Youth - 1982-1983.

Past Chairman of the Regional Youth Justice Task Force - 1981.

Member of the Children's Trust Fund on Abuse and Neglect Coalition - 1984.

Member of the Mini Grant Review Committee for the Division of Alcohol and Drug Abuse - 1983-1983.

Speaker on Juvenile Diversion for the International Association of Chiefs of Police - Dallas, Texas - 1984.

Member of the Governor's Subcommittee on Alternative Care for Adolescents at Risk - 1985.

TRAINING

1. Basic Technology in Human Resource Development
(Art of Helping, Problem Solving, and Program Development)
2. Reality Therapy
3. Interpersonal Communication
4. Crisis Intervention - Crisis Institute - Dallas, Texas
5. Supervision and Management
6. Juvenile Justice
7. Other Youth Related Training

You can contact Mr. Nitschke at the following address: Darrell Nitschke, 1814 LaForest Avenue, Bismarck, North Dakota 58501, 255-2438 (Home), 222-6738 (Office).

Vince Feist - Fire Safety in Correctional Facilities

Vince Feist is presently working as a battalion chief of the North Dakota Fire Department. Mr. Feist has many years of experience as an inspector and trainer. The correctional officer training program has benefited for many years through his assistance. The revised lesson plan contained herein is a combination of other works and his own experience to meet the officer's needs.

EMPLOYMENT INFORMATION

Date of Employment - October 23, 1952 to Present

Fire fighter - October 23, 1952 to July 1, 1955

Assignments: training and duties - fire and rescue

Lieutenant - July 1, 1955 to July 1, 1960

Assignments: line officer - fire and rescue
training officer
company inspections
public education programs

Deputy Chief - July 1, 1960 to July 15, 1984

Assignments: chief of Fire Prevention Bureau
(inspections and public education programs)
department training officer
supervisor overall department operations

Requested Reassignment as Battalion Chief - July 15, 1984

Assignments: shift commander
training officer
public education programs

EDUCATION AND TRAINING

1950 graduate - Bismarck High School
1951 graduate - Military Leadership School
1954 graduate - Fire Service Instructors Training

Attended numerous course in fire service operation and management.

Certified: Journeyman Fire Fighter
Air Crash Rescue Technician
Emergency Medical Technician
CPR Instructor

Courses Attended

"Fire Service Instructor Training," Wahpeton State School of Science by Fire Service Extension of Oklahoma A&M

"Instructors Conference and Training," Iowa State University - Fire Service Extension, Ames, Iowa

"Air Crash Rescue Technology," Ivey Tech, South Bend, Indian

"Emergency Medical Technology," St. Alexius Medical Center, Bismarck, North Dakota

"Fire Service Administration," Louisiana State University, Fire Service Extension, Baton Rouge, Louisiana

"Public Fire Safety Education," "Fire Protection Specialist," and others, National Fire Academy, Emitsberg, Maryland

Other programs too numerous to mention.

You can contact Mr. Feist at the following address: Vince Feist, Battalion Chief, Bismarck Fire and Inspection Department, Bismarck, North Dakota 58505.

Brenton O. Higdem - Suicidal Behavior in a Correctional Setting
Substance Abuse
Medical Screening and Administration of
Medications

Mr. Brenton D. Higdem has substantially revised the above-captioned lesson plans. Mr. Higdem's formal training, work background, and personally combine to make a very effective instructor. On a scale of one to ten, Mr. Higdem consistently is evaluated a 9.3 to 9.6 by the trainees. Mr. Higdem was born and

attended high school in Bagley, Minnesota. He has a B.S. degree in education and nursing. He was a physician's assistant with the U.S. Navy and Army. He is presently employed at the St. Alexius Medical Center, working in the Intensive Care Unit. His past experience working in the emergency room proves to be very valuable. For additional information or assistance write to: Brenton D. Higdem, 9 Shamrock Acres III, Bismarck, North Dakota 58501.

Carol C. Kuntz - Use of Community Resources

Ms. Carol Kuntz is presently employed at the Ward County Corrections Center in Minot, North Dakota. Ms. Kuntz is the assistant administrator under Sheriff Art Anderson. This new, 86 bed facility, opened largely under her direction. She carries the responsibility employment scheduling and training of staff. In addition, she supervises school, work release, counseling, and other programs.

Ms. Kuntz began her corrections career in 1976 as a dispatcher/matron at the Lake Region Corrections Center. In 1977 she worked as a matron/counselor. Carol was appointed assistant administrator in 1980. In 1982 she was appointed administrator of this forty-three bed facility. In 1984 she accepted the position of assistant administrator of the Ward county Corrections Center. The eighty-six bed facility was then under construction and the tasks fell to her to staff, train, supply and write policies and procedures. The work has been completed and the facility is running well. Carol C. Kuntz, P. O. Box 907, Minot, North Dakota 58701.

NORTH DAKOTA CORRECTIONAL OFFICERS' TRAINING MANUALS

COURSE INSTRUCTOR'S GUIDE

The curriculum of this training is divided into two separately presented courses. The basic course addresses 12 major topical areas and an advanced course of 9 major topical areas. The training is intended to meet the needs of administrators, full-time correctional officers, and correctional officers/dispatchers. Each topical area lesson plan contains pre- and post-tests, trainee worksheets, trainee handouts, performance checklists, overhead transparencies, and instructor reference material as applicable.

Although the curriculum does not include a first aid segment or a CPR segment, training in these areas is required by the North Dakota Administrative Code and is to be provided by the employing agency.

The 12 major topical areas of the 40-hour Basic Correctional Officers' Training Curriculum contained in this manual are as follows:

1. Cell Searches
2. Clothed and Unclothed Searches
3. Fire Safety in Correctional Facilities
4. Inmate Classification
5. Inmate Control Techniques
6. Legal Issues
7. Medical Screening and Administration of Medications
8. Report Writing
9. Restraining Devices/Transportation
10. Security Principles: Count and Key Control
11. Supervision of Inmates
12. Use of Force

The 9 major topical areas of the 40-hour Advanced Correctional Officers' Training Curriculum contained in the advanced manual are as follows:

1. Civil Liability
2. Crisis Intervention
3. Disciplinary Procedures
4. Inmate Control Techniques
5. LIFO - Life Orientation Study
6. Stress and the Correctional Officer
7. Substance Abuse
8. Suicidal Behavior in a Correctional Setting
9. Use of Community Resources

NORTH DAKOTA CORRECTIONAL OFFICERS' TRAINING MANUAL

BASIC COURSE INSTRUCTOR'S GUIDE

The Basic Curriculum of the training manual is divided into 12 major topical areas. Each topical area contains the topic's lesson plan, overhead transparencies, trainee handouts, pre- and post-tests, and instructor reference material. Although the curriculum does not include a first aid segment or a CPR segment, training in these areas is required by the North Dakota Administrative Code and is to be provided by the employing agency.

The 12 major topical areas of the 40-hour Basic Correctional Officers' Training Curriculum contained in this manual are as follows:

1. Cell Searches
2. Clothed and Unclothed Searches
3. Fire Safety in Correctional Facilities
4. Inmate Classification
5. Inmate Control Techniques
6. Legal Issues
7. Medical Screening and Administration of Medications
8. Report Writing
9. Restraining Devices/Transportation
10. Security Principles: Count and Key Control
11. Supervision of Inmates
12. Use of Force

BASIC REFERENCE MATERIAL

Each lesson plan in this training manual cites references which are recommended as background and teaching aids for the instructors. In some instances, specific material has been included in the manual or permission to reprint has been requested. Trainers are encouraged to contact the National Institute of Corrections', National Information Center, 1790 30th Street, Boulder, Colorado 80301, (303) 441-1101 for current and relevant information on all topics.

40-HOUR BASIC
CORRECTIONAL OFFICER TRAINING CURRICULUM

Proposed Presentation Agenda

| | <u>Hours</u> | |
|--|--------------|------------|
| Introductions and Pre-Test | 1 | First Day |
| Transportation and Restraints | 3 | |
| Report Writing | 3 | |
| Security in a Correctional Facility | 1 | |
| Supervision of Inmates | 1 | Second Day |
| Legal Issues | 6 | |
| Cell Searches | 1 | |
| Medical Screening and Administration of Medications | 8 | Third Day |
| Clothed and Unclothed Body Searches | 6 | Fourth Day |
| Use of Force | 2 | |
| Inmate Control Techniques | 2 | Fifth Day |
| Fire Safety | 3 | |
| Inmate Classification | 2 | |
| Post-Test and Evaluations | 1 | |

NORTH DAKOTA CORRECTIONAL OFFICERS' TRAINING MANUAL

ADVANCED COURSE INSTRUCTOR'S GUIDE

The Advanced Curriculum of this training manual is divided into 9 major topical areas. Each topical area contains a lesson plan, overhead transparencies, trainee handouts, pre- and post-tests, and instructor reference material.

A lesson plan relating to reporting requirements has not been developed. The subject was included within the curriculum to allow for instruction and discussion of reporting requirements which may be mandated by state standards which are now being developed. An example of one statutory reporting requirement is the correctional facility register which is the basis of the state's correctional facility population information system. The Office of the Attorney General may develop this lesson plan or decide upon a substitute topical area.

The 9 major topical areas contained in the Advanced Course section of this manual are as follows:

1. Civil Liability
2. Crisis Intervention
3. Disciplinary Procedures
4. Inmate Control Techniques
5. LIFO - Life Orientation Study
6. Stress and the Correctional Officer
7. Substance Abuse
8. Suicidal Behavior in a Correctional Setting
9. Use of Community Resources

ADVANCED REFERENCE MATERIAL

Each lesson plan in this training manual cites references which are recommended as background and teaching aids for the instructors. In some instances, specific material has been included in the manual or permission to reprint has been requested. Trainers are encouraged to contact the National Institute of Corrections', National Information Center, 1790 30th Street, Boulder Colorado 80301, (303) 441-1101 for current and relevant information on all topics.

40-HOUR ADVANCED
CORRECTIONAL OFFICER TRAINING CURRICULUM

Proposed Presentation Agenda

| | <u>Hours</u> | |
|---|--------------|------------|
| Introductions and Pre-Test | 1 | First Day |
| LIFO - Life Orientation Study | 3 | |
| Stress and the Correctional Officer | 3 | |
| Use of Community Resources | 1 | |
| Substance Abuse | 8 | Second Day |
| Crisis Intervention | 8 | Third Day |
| Suicidal Behavior in a Correctional Setting | 4 | Fourth Day |
| Civil Liability | 2 | |
| Inmate Control Techniques | 2 | |
| Disciplinary Procedures | 5 | Fifth Day |
| Inmate Control Techniques | 2 | |
| Post-Test and Evaluations | 1 | |

NOTE: Use of 3-hour Community Resources lesson plan will require an adjustment of the above stated curriculum.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Cell Searches

AUTHOR: Neil L. Fahlsing
Corrections Specialist
CJTS Division
Office of Attorney General
State Capitol
Bismarck, ND 58505

NOTE TO INSTRUCTOR

This lesson plan is intended to provide the minimum coverage of this topic consistent with the provisions of the North Dakota Century Code and the North Dakota Administrative Code.

This lesson plan and the supplementary materials in the Trainee Resource Manual and Workbook should not be treated as inflexible by the instructors who use it. It should, in fact, be viewed as a basic guide upon which the instructor must build by adding materials which reflect new situations and changes in corrections as they develop in the state. It should be tailored to the skills, knowledge, and learning capabilities of each correctional officer class.

It is recognized that instructors will inject their own experience, style, resources, and enthusiasm into the presentation of this material. Included, as well, will be the values and personal philosophy of individual instructors. We encourage and appreciate the personal investment made by you, the instructor, which will enrich this lesson plan for those receiving this instruction, and would only caution that the ideas presented should reflect the philosophy outlined in the Role of the Correctional Officer as it is printed at the beginning of this text.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Cell Searches

AUTHOR: Neil L. Fahlsing, Corrections Specialist
CJTS Division, Office of Attorney General
State Capitol
Bismarck, ND 58505

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: One (1) Hour

TRAINING OBJECTIVES:

1. To present the rationale for conducting cell searches.
2. To review the basic rules and procedures for conducting cell searches.
3. To provide trainees with a systematic approach in conducting cell searches.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

1. National Sheriff's Association Cell Search Guide
2. "Cell Searches", AIMS Discussion Leaders Guide, AIMS Instructional Media, Inc., 626 Justin Avenue, Glendale, CA, 91201, (213) 240-9300
3. "Contraband Control", Jail Officer's Training Manual, National Sheriff's Association, 1250 Connecticut Avenue, Suite 320, Washington, D.C., 20036, 1980, pp. 209-233.
4. "Search Prupose, Policy and Methods", On-The-Job-Training Program, Topic #37, California Department of Corrections, 630 K Street, Sacramento, CA, 95814

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 30th Street, Suite 130
Boulder, Colorado 80301
Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise(s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

TRAINING AIDS:

Supplies and Equipment

- Video Projection Screen
- 16 mm. Projector With Spare Lamp
- 16 mm. Film: Cell Searches, AIMS Series
- Discussion Guide
- Overhead Projector
- Appropriate Transparencies
- Slide Projector
- Slides
- Video Monitor, Player/Recorder
- Video Cassette: _____
- Cassette Player, Audio
- Audio Cassette: _____
- Flip Chart and Markers
- Masking Tape
- Chalkboard, Chalk, Eraser
- Trainee Worksheets
- Trainee Handouts
- Pre- and Post-Tests
- Trainee Course Evaluation
- Trainee Instructor Evaluation
- _____
- _____
- _____
- _____
- _____

I. Topic Introduction and Scope of Presentation - CELL SEARCHES

- A. Administrators have the legal responsibility to train in critical areas and/or institutional officer cell search procedures have become too lax.
1. Systematic and objective cell searches are the responsibility of every correctional officer.
 2. History/experience has shown, beyond a reasonable doubt, that cell searches are an absolute requirement to maintain safety and to prevent contraband.

Instructor introduction by the coordinator, department administrator or self, if appropriate.

Explain instructor's qualifications relevant to this topical area.

Administer Pre-Test.

Topic introduction should include the rationale for the topic being presented.

II. Performance Objectives

Transparency #1

- A. After listening to the lecture and viewing the film, each trainee will, from memory, be able to:
1. List four reasons for conducting cell searches.
 2. List four basic rules for cell searches.
 3. List the seven steps in a systematic cell search.

III. Definition

- A. Cell searches are defined as a systematic physical examination by one or more officers of an entire cell for the purpose of detecting weapons, contraband or items affecting facility sanitation. The search will include a thorough examination of all contents, furnishings and the cell structure.

IV. Legal Considerations

- A. An administrator has the legal responsibility to formulate policy and procedures for cell searches. Policy and procedures should insure that:

1. Cell searches are for security purposes.
 2. Cell searches are thorough and systematic through training.
 3. Cell searches are not conducted for harassment purposes.
- B. Correctional officers have a legal responsibility to conduct cell searches within the department's policy and procedure guidelines.
- C. If done properly within the department's policy and procedure guidelines, cell searches do not violate the fourth amendment constitutional right to privacy. (BONNER v. COUGHLIN, 7th Circuit Court; U.S. v. STUMES, 8th Circuit Court; BELL v. WOLFISH, U.S. Supreme Court.)

Legal handout: Refer to OLSON v. KLECKER, 8th Circuit Court re: cell searches.

V. Corrections Officer Responsibility

- A. Correctional officers have the responsibility to conduct cell searches in a systematic and professional manner in an effort to maintain security for the public, inmates and staff.
- B. Correctional officers have the responsibility to familiarize themselves with written policies and procedures and document the why, where, when and what of cell searches.

VI. Movie Introduction

- A. Training film on cell search procedures made by and for correctional officers.
1. AIMS film "Cell Searches"; 15 minutes.
 2. At film completion, open discussion on cell search procedures.

Start 16 mm projector.

Use AIMS Discussion Guide.

Hand out student worksheets.

Set up overhead projector.

VII. Response to Objectives

Transparency #2

A. List four (4) reasons for conducting cell searches.

1. Prevent Escape

Prevent escape through the confiscation of contraband; keys, saws, eating utensils, etc. Systematic thorough searches may reveal cut bars, enlarged air vents, or window tampering. Expound, if appropriate.

State line #1 verbally.

Expose #1 on transparency.

Discuss reason #1.

2. Prevent Violence

Prevent violence through the confiscation of shanks, garrotes, sharpened toothbrushes, combs, eating utensils, and fabricated cutting instruments.

State line #2 verbally.

Expose #2 on transparency.

Discuss reason #2.

3. Prevent Contraband

Through cell searches, an officer should confiscate anything that is not issued by/at the correctional facility, approved through the mail, or sold at the facility commissary.

State line #3 verbally.

Expose #3 on transparency.

Discuss reason #3.

4. Maintain Sanitation Standards

Prevent food items from being stockpiled or allowed to spoil; insure that the floor, corners, and sink commode is cleaned properly; insure that the bedding is changed, etc.

State line #4 verbally.

Expose #4 on transparency.

Discuss reason #4.

B. List four (4) basic rules that apply to the searching of cells.

Transparency #3

1. Look Before You Touch

Razor blades, broken glass, sharpened wire, nails or other pieces of metal may be placed to cause injury. Watch for booby traps.

State line #1 verbally.

Expose #1 on transparency.

Discuss rule #1.

2. Be Thorough

Develop a tool kit for cell searches. It should contain:

State line #2 verbally.

Expose #2 on transparency.

a. Putty knife

Discuss rule #2.

- b. Metal wire probe
- c. Mirror
- d. Hammer
- e. Pliers
- f. Two screwdrivers (Phillips and regular)
- g. Evidence container/report forms

Add to this kit to meet facility needs.

3. Be Systematic

Develop a system, ideally following the facility policy and procedures.

- a. Open and close the door while inside. See what the prisoner sees.
- b. Check the lock - Probe.
- c. Check the bars - Hammer.
- d. Check the sink - Probe and putty knife.
- e. Check the pillow - Look and feel.
- f. Check the mattress - Look and feel.
- g. Check the bedding - Look and feel.

Be thorough - Be Systematic.

4. Be Curious

- a. Check everything.
- b. Watch for items placed in an identifiable position (hair placed in the pages of books; small items placed on or leaning against other items).

Through these efforts, the inmate will know what you search and what you don't. The inmate will know if you look before you touch and whether or not you are thorough. If you do less than what you are instructed to do and paid to do, eventually everyone will know.

State line #3 verbally.

Expose line #4.

Refer to system demonstrated in AIMS film.

Discuss rule #3.

State line #4 verbally.

Expose #4 on transparency.

Discuss rule #4.

Recap basic rules for cell search.

Ask for questions.

Stimulate discussion on rules.

C. Some Operational Considerations in Conducting the Search

1. Procedures for Handling Inmates

When searching cells, officers should follow these procedures:

- a. Search all cells, including unoccupied ones.
- b. Lock inmates in their individual cells or move them entirely away from the area.
- c. If inmates are kept in their cells, search each before searching the cell, then move them far enough away from the cell to prevent observation of the search.
- d. Keep inmates who have been searched away from "unsearched" inmates to prevent transfer of contraband.

2. Procedures for Examining Contents

- a. Enter the cell and spend a few moments observing the general layout and contents of the cell to see if anything looks out of the ordinary.
- b. Examine all clothing in the cell, particularly double layers, and remove any unauthorized clothing.
- c. Inspect the bed carefully.
 - (1) Examine the pillow, blankets, mattress cover, and mattress.
 - (2) Remove all of the above from the bed.

Refer to trainee workbook "Cell Search Observation Checklist".

- (3) Remove the mattress and examine it for tears, split seams or cuts, and loose cording.
 - (4) Feel it thoroughly to check for hard objects in it.
 - (5) Check the bed frame for objects glued or taped to the sides or bottom.
 - (6) Make sure any hollow legs are empty.
- d. Inspect the sink, toilet, and other plumbing equipment.
 - e. Check any holes in the walls, floors or ceilings.
 - f. Examine all books, magazines and newspapers carefully.
 - g. Examine all letters, envelopes, toilet paper rolls, cigarette packages, matchbooks, tobacco cans, ashtrays, soap, cards, picture frames, etc. Check for false bottoms.
 - h. Examine all shelves, drawers, cabinets and furniture.
 - (1) Check for razor blades before running hands under these items.
 - (2) Be sure to check ledges of any kind.
3. Checking Cell Structure
- a. Check the bars with a leather mallet or wooden stick. Tap each one; a distorted sound indicates the bar has been tampered with.
 - b. Check all sliding doors or windows and their grooves

Write on flipchart as you discuss each procedure.

Transparency #3.

State line #1.

Expose line #1.

Expose line #2.

when doors are open and shut.

- c. Examine all locking devices and mechanisms.
- (1) Locks that are used frequently will wear out faster.
 - (2) As locks become worn, a reasonable facsimile of a key will very probably open them.
- d. Examine all ventilator grills.
- (1) Check for contraband hanging outside the cell by a thread or string.
 - (2) Remove anything blocking or covering the grill or the light.
- e. Unscrew any light bulbs and inspect the sockets. Do the same thing for electrical face plates.
- f. When everything has been carefully examined and inspected, take a few minutes to look over the cell one more time and think about where you might hide something.
- g. When leaving the cell, make sure you have left the cell in the same condition in which you found it.
- h. Do not turn the whole cell upside down and leave it. Leaving a mess only causes morale problems and unnecessary harassment for the inmates.
- i. Remember that the purpose of the search is to find or discourage the use of contraband and to detect violations of regulations. The purpose

Expose line #3.

After reviewing search procedures, help class apply what they have learned. Move the group into a cell and ask participants to guide you in a simulated search. Locate various contraband items that have been planted there ahead of time.

is not to harass the inmates or prove power over them.

Expose lines #4 - #7.

4. Non-Cell Area Searches

Jail officers are required to search any area to which inmates have access. Contraband may be located in the laundry, kitchen, common areas, recreation rooms, visiting areas, library, and dining areas. Searches should be made thoroughly before and after inmate use.

Explain that, in addition to searching cells, the officer is required to search other parts of the facility. Note that because of time and facility limitations, these types of searches will not be covered in detail here. Encourage participants to exchange information about searches of other areas during breaks or after the session.

Procedures. Officers may follow these procedures for searching showers, dayrooms, property, and grounds:

Summarize Section E on contraband control with AIMS film "Cell Searches".

- a. Inspect the property surrounding the jail.
- b. Inspect landscaped areas with trees, shrubs, and other plants.
- c. Examine all fixtures and ledges in the shower.
- d. Check any access to the plumbing.
- e. Check all furniture, bars, grills, and other contents of the dayroom in much the same way as the cells are searched.

5. Records

It is very important that a record is kept for each search. Times, dates and inmates present during the search may be important for locating a type of contraband, identifying its source or supplier and identifying how it is getting into the facility. For instance, a search for a hammerhead may be facilitated by locating a shop worker who was on the last shift

the day before. Or, a periodic confiscation of capsules filled with drugs in a particular inmate's cell may be traced to visits by a friend every third Thursday. The officer should follow these record-keeping procedures:

a. List on the record form any of the following that are found in the cell:

- (1) weapons
- (2) contraband
- (3) extra clothing
- (4) jail regulations violated
- (5) health and safety problems
- (6) report all confiscated items or irregularities to authorities upon completion of the search.

Write on flipchart.

VIII. Review Checklist for an Effective Cell Search (as recommended by the National Sheriff's Association)

Hand out checklist.

Questions to Stimulate Discussion:

- ° Have there been recent escapes?
- ° Have there been (or do you know of) officers injured?
- ° What items of contraband are currently being found?
- ° What did you learn from this presentation? What should be added to better prepare an officer for cell searches?

Balance of training hour should be devoted to discussion of current local problems.

If additional time can be afforded, a hands-on cell search should be performed by each trainee.

TRAINEE WORKSHEET

SUBJECT: Cell Searches

1. Objectives:

- A. After listening to the lecture and viewing the film, each student will be able to list four reasons for conducting cell searches.
- B. Each student will be able to list four basic rules for cell searches.
- C. Each student will be able to list the seven steps of systematic cell search.

2. Response to Objectives:

A. List four reasons for conducting cell searches.

- 1. _____
- 2. _____
- 3. _____
- 4. _____

B. List four basic rules that apply to the searching of cells.

- 1. _____
- 2. _____
- 3. _____
- 4. _____

C. List the seven steps of systematic cell search.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Cell Searches

1. Objectives:

- A. After listening to the lecture and viewing the film, each student will be able to list four reasons for conducting cell searches.
- B. Each student will be able to list four basic rules for cell searches.
- C. Each student will be able to list the seven steps of systematic cell search.

2. Response to Objectives:

A. List four reasons for conducting cell searches.

- 1. PREVENT ESCAPES
- 2. PREVENT VIOLENCE
- 3. PREVENT CONTRABAND
- 4. MAINTAIN SANITATION STANDARDS

B. List four basic rules that apply to the searching of cells.

- 1. LOOK BEFORE YOU TOUCH
- 2. BE THOROUGH
- 3. BE SYSTEMATIC
- 4. BE CURIOUS

C. List the seven steps of systematic cell searches.

- 1. OPEN AND CLOSE DOOR - SEE WHAT PRISONER SEES
- 2. CHECK THE LOCK - PROBE
- 3. CHECK THE BARS - HAMMER
- 4. CHECK THE SINK - PROBE AND PUTTY KNIFE
- 5. CHECK THE PILLOW - LOOK AND FEEL
- 6. CHECK THE MATTRESS - LOOK AND FEEL
- 7. CHECK THE BEDDING - LOOK AND FEEL

PRE- AND POST-TEST QUESTIONS

SUBJECT: Cell Searches

1. List four (4) reasons for conducting cell searches.

1. _____
2. _____
3. _____
4. _____

2. List four (4) basic rules of cell searches.

1. _____
2. _____
3. _____
4. _____

3. List the seven steps for a systematic cell search.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

PRE- AND POST TEST QUESTIONS (ANSWERS)

SUBJECT: Cell Searches

1. List four reasons for conducting cell searches.
 1. Prevent escapes
 2. Prevent violence
 3. Prevent contraband
 4. Maintain sanitation standards

2. List four basic rules that apply to the searching of cells.
 1. Look before you touch
 2. Be thorough
 3. Be systematic
 4. Be curious

3. List the seven steps of systematic cell search.
 1. open and close door - see what prisoner sees
 2. Check the lock - probe
 3. Check the bars - hammer
 4. check the sink - probe and putty knife
 5. Check the pillow - look and feel
 6. Check the mattress - look and feel
 7. Check the bedding - look and feel

CELL SEARCH
Observation Checklist

If sufficient time is available each trainee should be required to perform a cell search and be graded. Contraband shall be placed in the cells and the trainees required to recover some or all of it. This checklist is designed to include the areas covered in the film and lecture. It should be expanded to include items found in particular facilities.

| <u>Areas to be searched thoroughly</u> | <u>Performed Properly</u> | <u>Instruction Required</u> | <u>Performed Properly</u> |
|--|---------------------------|-----------------------------|---------------------------|
| 1. Cell door and cell front | _____ | _____ | _____ |
| 2. Ceiling | _____ | _____ | _____ |
| 3. Walls | _____ | _____ | _____ |
| 4. Floor | _____ | _____ | _____ |
| 5. Commode (if in cell) | _____ | _____ | _____ |
| 6. Sink (if in cell) | _____ | _____ | _____ |
| 7. Bed frame | _____ | _____ | _____ |
| 8. Mattress | _____ | _____ | _____ |
| 9. Pillow and case | _____ | _____ | _____ |
| 10. Sheet | _____ | _____ | _____ |
| 11. Blanket | _____ | _____ | _____ |

Trainee _____ Score _____

Officer's Department _____

On this date, the above officer satisfactorily completed the required routine for a cell search.

Scoring: 10 points for each step
5 points deducted for each step requiring instruction

Instructor

Date

The following guidelines for conducting an effective cell search are recommended by the National Sheriffs' Association.¹

"The Officer should be very thorough in his cell search. Guidelines for an effective search include:

- (1) Probe holes or cracks in walls, floors, and ceilings.
- (2) Unscrew light bulbs and check to see if face plates have been tampered with.
- (3) Inspect the washbowl, plumbing stacks, and the toilet. The officer should not be squeamish about putting his hand in a toilet. Also, with a flat metal scraper, check where fixtures go into the wall to see that caulking was not removed.
- (4) Examine shelves, drawers, and medicine cabinets and all articles on or in them.
- (5) Check bed clothing and extra blankets.
- (6) The officer should run his hands over the mattress and pillow with enough pressure to feel if anything is hidden. Also, the pillow and the mattress should be rolled and the corners crushed. Check seams to see if they have been opened and resewn. Look for other holes in the material. Hundreds of articles have been stored in pillows and mattresses and have escaped notice because of poor inspection procedures.
- (7) Leaf through books, magazines, and newspapers. Check the bindings and covers on hardcover books.
- (8) See if false bottoms exist on tobacco cans, ashtrays, drawers, and medicine cabinets. Cigarettes can be repacked. What about false bottoms on the cigarette pack?
- (9) Probe hollow legs and piping on furniture.
- (10) Examine window bars, window frames, overhead ventilators, grates. Tap the bars to see that they have not been tampered with. Look for signs of hacksawed bars. Floor grates are a favorite area for hiding contraband by tying it to a thread and suspending it into the hole. The officer may have to check floors by getting on his hands and knees.
- (11) Check sliding doors and check grooves when the doors are open and shut. Do this both inside and outside. A handy device is to have a mirror on a long handle. This will

allow the officer to search these and other areas without bending.

- (12) Check locking devices.
- (13) When searching clothes, search anywhere there is a double layer of material.
- (14) Do not overlook a roll of toilet paper, and the backs and frames of pictures. When searching shoes, the officer should put his hand all the way in. Check for slits in the soles and heels.
- (15) In checking furniture, the officer should look before he touches. Inmates have been known to hide razor blades in places where the officer will reach in with his hand with the expectation that the officer will cut himself."

¹"Contraband Control", Jail Officers' Training Manual, National Sheriffs' Association, 1980 pp. 213-214.

PERFORMANCE OBJECTIVES:

1. LIST FOUR REASONS FOR CONDUCTING CELL SEARCHES.
2. LIST FOUR BASIC RULES FOR CELL SEARCHES.
3. LIST THE SEVEN STEPS IN A SYSTEMATIC CELL SEARCH.

LIST FOUR REASONS FOR CONDUCTING
CELL SEARCHES

1. PREVENT ESCAPES
2. PREVENT VIOLENCE
3. PREVENT CONTRABAND
4. MAINTAIN SANITATION
STANDARDS

LIST FOUR BASIC RULES THAT APPLY
TO THE SEARCHING OF CELLS

1. LOOK BEFORE YOU TOUCH
2. BE THOROUGH
3. BE SYSTEMATIC
4. BE CURIOUS

SEVEN STEPS FOR A SYSTEMATIC CELL SEARCH

1. CHECK THE BARS – HAMMER
2. CHECK THE DOOR – LOCK
3. OPEN AND CLOSE THE DOOR – SEE
4. CHECK THE SINK – PROBE
5. CHECK THE PILLOW – FEEL
6. CHECK THE MATTRESS – LOOK/FEEL
7. CHECK THE BEDDING – LOOK/FEEL

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Clothed and Unclothed Body Searches

AUTHOR: Neil L. Fahlsing
 Corrections Specialist
 CJTS Division
 Office of Attorney General
 State Capitol
 Bismarck, ND 58505

NOTE TO INSTRUCTOR

This lesson plan is intended to provide the minimum coverage of this topic consistent with the provisions of the North Dakota Century Code and the North Dakota Administrative Code.

This lesson plan and the supplementary materials in the Trainee Resource Manual and Workbook should not be treated as inflexible by the instructors who use it. It should, in fact, be viewed as a basic guide upon which the instructor must build by adding materials which reflect new situations and changes in corrections as they develop in the state. It should be tailored to the skills, knowledge, and learning capabilities of each correctional officer class.

It is recognized that instructors will inject their own experience, style, resources, and enthusiasm into the presentation of this material. Included, as well, will be the values and personal philosophy of individual instructors. We encourage and appreciate the personal investment made by you, the instructor, which will enrich this lesson plan for those receiving this instruction, and would only caution that the ideas presented should reflect the philosophy outlined in the Role of the Correctional Officer as it is printed at the beginning of this text.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE

Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Clothed and Unclothed Body Searches

AUTHOR: Neil L. Fahlsing, Corrections Specialist
CJTS Division, Office of Attorney General
State Capitol
Bismarck, ND 58505

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: Six (6) Hours

TRAINING OBJECTIVES:

1. To provide trainees with an acceptable procedure required to conduct a clothed body search in a professional manner based on the 21 steps outlined in the class.
2. To involve students in a discussion that addresses U.S. Supreme Court decisions regarding unclothed body searches of detainees who are charged with minor offenses.
3. To have students be able to list the basic rules for conducting an unclothed body search.
4. To have trainees be able to identify the basic rules for a clothed body search.
5. To have students understand that they have a key role in lessening the anger and humiliation prisoners feel before, during and after searches.
6. To have students understand the direct relationship between professional searches and staff and inmate safety.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

1. "Clothed Body Searches" and "Unclothed Body Searches", AIMS Discussion Leader's Guide, AIMS Instructional Media, Inc., 625 Justin Avenue, Glendale, CA, 91201, (213) 240-9300
2. "The Booking and Admissions Process", Jail Officers' Training Manual, National Sheriff's Association, 1250 Connecticut Ave., Suite 320, Washington, D.C., 20036, 1980, pp. 162-170
3. "Search Purpose, Policy, and Methods", Lesson Plan, On-the-Job Training Program, California Department of Corrections, 630 K Street, Sacramento, CA, 95814
4. "Prisoner Searches", Lesson Plan, Montgomery, Michael, J., Kentucky Department of Justice, Bureau of Training, Stratton 354, ECU, Richmond, KY, 40475, February 8, 1979
5. "Body Searches", South Dakota Correctional Officers Training Manual, Detention Reporter, January/June 1985.

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 30th Street, Suite 130
Boulder, Colorado 80301
Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise(s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

TRAINING AIDS:

Supplies and Equipment

- Video Projection Screen
- 16 mm. Projector With Spare Lamp
- 16 mm. Film: Clothed Body Searches; Unclothed Body Searches
(AIMS series)
- Discussion Guide
- Overhead Projector
- Appropriate Transparencies
- Slide Projector
- Slides
- Video Monitor, Player/Recorder
- Video Casette: Clothed and Unclothed Body Searches (AIMS
series)
- Cassette Player, Audio
- Audio Cassette: _____
- Flip Chart and Markers
- Masking Tape
- Chalkboard, Chalk, Eraser
- Trainee Worksheets
- Trainee Handouts
- Pre- and Post-Tests
- Trainee Course Evaluation
- Trainee Instructor Evaluation
- Desirable but Optional: One street- and drug-wise assistant,
who has worked in admissions, to be searched _____ reinforce the
overall presentation. This assistant should have a large
collection of weapons and drug paraphernalia. This is not a
documented part of the presentation and is not covered by the

LESSON PLAN CONTINUATION SHEET

Continues Page 4

pre- or post-test. The exercise is an example and the assistant should not be considered liable for having provided training.

I. Topic Introduction and Scope of Presentation - CLOTHED AND UNCLOTHED BODY SEARCHES

- A. Administrators have the legal responsibility to train in critical areas and/or institutional problems have indicated that correctional officers' body searching procedures have not been up to a desired standard.
1. Inherent in the correctional process and facility security is the need for professionally conducted body searches.
 2. A primary responsibility of correctional officers is performing body searches of prisoners. These searches are conducted in two basic manners: clothed and unclothed.

Instructor introduction by the coordinator, department administrator or self, if appropriate.

Explain instructor's qualifications relevant to this topical area.

Administer Pre-Test.

Topic introduction should include the rationale for the topic being presented.

II. Performance Objectives

- A. After listening to the lecture and viewing the film, each trainee will, from memory, be able to:
1. List five reasons for conducting clothed body searches.
 2. List five basic rules for clothed body searches.
 3. State when, at a minimum, a prisoner should be searched (clothed).
 4. List three reasons for conducting an unclothed body search.
 5. List three problems associated with an unclothed body search.
 6. List the five basic rules for conducting unclothed body searches of prisoners.
 7. List six areas of the body frequently used by prisoners for concealing contraband.

Transparency #1(a)

Transparency #1(b)

8. When paired with another class member, each student will demonstrate the 21 steps in a clothed body search, locating at least four concealed items.

III. Definition

- A. A search means to go over or look through for the purpose of finding something; explore; rummage; examine; etc.
- B. To examine the prisoner's body and look through his/her personal apparel to uncover items not permitted in the facility or by society.

IV. Legal Considerations

- A. The administration of a facility holds the liability to maintain security within that facility. The administration is meeting its responsibility by providing training. By providing training, the burden of liability is shifted to the correctional officer.
- B. The administrator of a facility will normally develop a policy and procedure for conducting body searches. U.S. Supreme Court, Circuit Court of Appeals, State Supreme Court, and District Court decisions should be considered in the policy and procedure development.
- C. The U.S. Supreme Court decision of Giles v. Ackerman, 746 F.2d, 614 (1984) cert. denied as Ackerman v. Giles 84-317 prohibits strip searches for detainees charged with minor offenses. The court held that "... arrestees for minor offenses may be subjected to a strip search only if jail officials have a reasonable suspicion that the particular arrestee is carrying or concealing contraband or suffering from a communicable disease."

Blanket policy to search everyone coming into the security perimeter will not stand up in court. Explain Giles v. Ackerman.

Transparency #2

- D. North Dakota Jail Rules, 10-05-05-04, Written Jail Policy, requires written procedures for searches.
- E. The development of policy and procedures by the administrator transfers this liability to the correctional officer. (EXAMPLE: If the correctional officer deviates from the policy and procedure and a suit is filed, the correctional officer may stand alone. If the correctional officer has followed the policy and procedure, the liability for a suit will remain with the administrator.) In any event, you want the burden on the plaintiff inmate. You need policy and procedures for this.
- F. Either or both may be liable if security is breached resulting in injury to staff, inmate(s), etc.

V. Correctional Officer Responsibility

A. Importance of Subject

1. The correctional officer must have the knowledge to determine when and if newly admitted prisoners can be strip-searched.
2. The correctional officer will conduct most of the clothed and unclothed body searches at the facility. The safety of other staff and inmates are dependent upon the ability of the correctional officer to conduct thorough and professional searches.
3. The correctional officer has the duty to follow departmental policy and procedures related to clothed and unclothed body searches. Failure to do so could result in litigation against the correctional officer.
4. The correctional officer can play a key role in lessening the anger and humiliation associated

with searches. The officer must be well trained and professional.

VI. Impact of Body Searches

- A. Although body searches are an essential part of security, they are humiliating and dehumanizing and they often anger the person being searched.
- B. The anger or humiliation of the search can be lessened by a professional approach. If the subject will communicate — explain that everyone is searched upon entry under these conditions and at irregular intervals throughout incarceration, and that it helps insure the safety of all inmates.
- C. When performing a body search, be professional in your approach and manner. Never perform searches for harassment. Never perform searches as a disciplinary measure.

Discuss the impact of their attitude toward a body search.

VII. Movie Introduction

- A. Training film on clothed body searches made by and for correctional officers:
 - 1. AIMS film, "Clothed Body Searches", 16:15 minutes.
 - 2. At film completion, open discussion on clothed body searches as seen in the film.

Start 16mm projector.

Use AIMS Discussion Leader's Guide.

Hand out student worksheets.

VIII. Response to Clothed Body Search Objectives

Transparency #3

- A. List five reasons for conducting body searches.
 - 1. Prevent Weapon Carrying

While admitting a prisoner to the facility, a professional body search cannot be substituted with anything less. This is true for various reasons, such as:

 - a. The arresting officer may not

State line #1 verbally.

Expose #1 on transparency.

be trained.

- b. The arresting officer may have had to work in the dark.
- c. The officer may have been hurried.
- d. The officer may be lax in his performance (overconfident).
- e. The officer may not have searched (patted down) at all.

Sad, but true.

Irregular clothed and unclothed searches are required of those persons committed. In larger institutions, weapons are constructed on a daily basis.

Discuss reason #1.

2. Prevent Contraband

State line #2 verbally.

Contraband is manufactured and/or obtained and carried almost daily. Clothed and unclothed body searches will reveal drugs, weapons, hordes of food and, at times, other prisoners' property.

Expose #2 on transparency.

Discuss reason #2.

3. Protect Inmates from Themselves

State line #3 verbally.

Body searches can reveal suicide notes or paraphernalia such as broken glass in the nostrils for wrist cutting; rope or braided cloth for hanging; or items intended for use on someone else which would result in more time for the inmate.

Expose #3 on transparency.

Discuss reason #3.

4. Prevent Theft and Waste

State line #4 verbally.

The degree of theft and waste prevented will vary greatly between facilities. Facilities with an average daily population of one, and the bare necessities in a cell, will have very few problems in this areas. Facilities with school and work release programs will have many problems.

Expose #4 on transparency.

Discuss reason #4.

5. Prevent Health Hazards *State line #5 verbally.*
- Body searches may reveal that the prisoner is carrying or has: *Expose #5 on transparency.*
- a. Contraband food items *Discuss reason #5.*
 - b. Mouthed (not swallowed) medication *Recap reasons for conducting body searches.*
 - c. Skin rashes *Ask for questions.*
 - d. Body lice *Stimulate discussion on local policies and procedures.*
 - e. Venereal disease
 - f. Other communicable disease(s)
- B. List five basic rules rules when conducting body searches. *Transparency #4*
- 1. Work from Top to Bottom *State line #1 verbally.*
Start with the hands, then the hair; finish at the toes. *Expose #1 on transparency.*
 - 2. Be Thorough *State line #2 verbally.*
Your hand(s) should pass over all skin you cannot see. Your fingers should pinch or squeeze all clothing with special attention to the seams. *Expose #2 on transparency.*
 - 3. Be Systematic *State line #3 verbally.*
Develop a system. Have a co-worker observe and critique your performance. A life may be saved and it may be yours. *Expose #3 on transparency.*
 - 4. Take Your Time and Concentrate *State line #4 verbally.*
Start with the hair; follow the system you or your policy and procedure have developed and thoroughly complete each step. *Expose #4 on transparency.*
 - 5. Be Objective *State line #5 verbally.*
Complete each body search without bias or prejudice. Remain *Expose #5 on transparency.*

emotionally detached. Perform a professional duty. You may wish to explain the purpose of the search and give instructions in a courteous manner; however, do not engage in a conversation with the prisoner and be distracted from your goal. Do not permit actions or statements to cause you to pass over any step required to reach the desired goal.

Recap basic rules when conducting a body search.

Ask for questions.

Stimulate discussion on local policies and procedures.

C. State when, at a minimum, a prisoner should be searched.

1. Always search when a prisoner enters or is removed from the security perimeter.

IX. Movie Introduction

Start 16 mm projector.

A. Training film on unclothed body searches made by and for correctional officers:

Use AIMS Discussion Leader's Guide.

1. AIMS film, "Unclothed Body Searches", 12 minutes.
2. At film completion, open discussion on unclothed body searches as seen in the film.

Hand out student worksheets.

SPECIAL NOTE . . .

- A. This topic requires that both knowledge and observable skills be learned. To have attended a film and lecture, and to have passed a written test is inadequate documentation for an academy or trainer to say that the training is complete. Skills must also be demonstrated and documented.
- B. Following the showing and discussion of the film, an admissions area should be set up in preparation for the exercise. If the arrestee is not fully prepared, a break can be called--or continue through Section X.

C. In North Dakota, at this point in the film/lecture presentation, Chief Deputy Dick Peck will be introduced to reinforce the clothed search film and lecture. Deputy Peck will explain that he will be leaving the room to dress for a clothed body search. Two trainees will be chosen to conduct the search as they would in a local facility.

D. The scene begins at the State Fair Grounds. A rock group is performing. Drugs are in use and the situation is becoming tense. Peck is picked up on another NSF check warrant from Any County. As Peck is escorted into the admitting area, a call on the radio announces 1033, "Officer Down." The arresting officer simulates removal of the handcuffs and leaves to assist his fellow officers in the field. This quick decision is made as Peck is a known check writer and two correctional officers are present.

(Officer Peck then leaves to dress for the search and to conceal items on his person.)

E. At the conclusion of the clothed search of the arrestee, Officer Peck, a display of the drug paraphernalia and weapons is made.

F. This is followed by completion of Sections X and XI. The trainees will then search each other and be scored on the checklist provided.

X. Response to Unclothed Body Search Objectives

Transparency #6

A. List three reasons for conducting unclothed body searches.

State line #1 verbally.

1. Maintenance of Security and Order

Expose #1 on transparency.

To avoid litigation, you need to know the physical condition of the inmate. A search should be made to determine whether an

individual should be admitted or taken to the hospital. A list of bruises or cuts should be noted prior to discharge of a prisoner.

2. Suspected Drug Use

This shall also be checked during the search at admission. However, in facilities that have work or school release programs, it has been found that unclothed searches are required both upon release and re-entry.

State line #2 verbally.

Expose #2 on transparency.

3. Control of Weapons and Contraband

Unclothed searches implemented at irregular times assist in maintaining security. These searches will assist in preventing the inmate from thinking he can carry and, thereby, conceal weapons or contraband.

State line #3 verbally.

Expose #3 on transparency.

Recap reasons for unclothed searches.

Ask for questions.

Stimulate discussion on reasons.

B. List three problems associated with unclothed searches.

Transparency #7

1. Humiliation

Most people will feel humiliated when required to strip in the presence of strangers. At this point, a quiet, objective approach can aid in reducing potential problems. A simple statement-- such as that the department requires all persons coming into the facility to be checked for health reasons, to shower, and to receive clean clothes--diminishes the humiliation felt by an individual.

State line #1 verbally.

Expose #1 on transparency.

Discuss problem #1.

2. Anger

Anger in regard to a strip search is not uncommon. Anger, as with humiliation, can best be dealt with by a show of empathy and an explanation of why it is required.

State line #2 verbally.

Expose #2 on transparency.

Discuss problem #2.

Recap problems in unclothed searches.

Ask for questions.

Stimulate discussion on local policies and procedures.

- C. List the requirements that guide the development of procedures for conducting strip searches for detainees based on the Giles v. Ackerman decision.

Transparencies 8(a) and 8(b)

1. Strip searches must be conducted in a manner that preserves the dignity of the prisoner.
2. Strip searches can only be conducted by personnel of the same sex as the prisoner, out of the view of any persons of the opposite sex.
3. Strip searches must be conducted in a private area and inmates afforded the utmost privacy.
4. Strip searches for detainees charged with minor offenses (misdemeanors and traffic offenses) are prohibited unless jail officials have a reasonable suspicion that the arrestee is carrying or concealing contraband or suffering from a communicable disease. "Reasonable suspicion" can be based on such factors as the nature of the offense; the arrestee's appearance and conduct; the potential for concealment of a deadly weapon or contraband; prior arrest record; and legitimate medical or hygienic reason.
5. Strip searches for detainees should not be conducted for any prisoner if he or she is not placed in the general population.
6. Prisoners charged with a minor or non-serious offense will be pat-searched and housed separately in a short-term holding area.
7. Documentation of the search and findings must be kept, including any special reasons for conducting the search.

SECTION D SHOULD BE USED ONLY IF PRESENTING THE SECTION ON UNCLOTHED SEARCHES ONLY.

D. List five basic rules for conducting unclothed body searches.

Transparency #4

1. Work from Top to Bottom

State line #1 verbally.

Start with hands, then the hair; finish at the toes.

Expose #1 on transparency.

2. Be Thorough

State line #2 verbally.

Your hand(s) should pass over all skin you cannot see.

Expose #2 on transparency.

3. Be Systematic

State line #3 verbally.

Develop a system. Have a co-worker observe and critique your performance. A life may be saved and it may be yours.

Expose #3 on transparency.

4. Take Your Time and Concentrate

State line #4 verbally.

Start with the hair. Follow the system you or your policy and procedure have developed and thoroughly complete each step.

Expose #4 on transparency.

5. Be Objective

State line #5 verbally.

Complete each body search without bias or prejudice. Remain emotionally detached. Perform a professional duty. You may wish to explain the purpose of the search and give instructions in a courteous manner; however, do not engage in a conversation with the prisoner and be distracted from your goal. Do not permit actions or statements to cause you to pass over any step required to reach the desired goal.

Expose #5 on transparency.

Recap basic rules when conducting a body search.

Ask for questions.

Stimulate discussion on local policies and procedures.

E. List six areas of the body frequently used by prisoners to conceal contraband.

Transparency #9

1. Hair

Hair has been used to conceal an endless array of weapons or contraband. Some examples of items found in the hair are hack saw blades, sabre saw blades, razor blades, knives, joints of marijuana, pills, capsules, etc.

State line #1 verbally.

Expose #1 on transparency.

2. Mouth

The mouth has been used to conceal items such as glass or small cutting instruments (by the suicide-prone). Drugs under the tongue or a string tied to a tooth with drugs attached and then swallowed are also found in the mouth. Virtually an unending list of small items can be found in the mouth.

State line #2 verbally.

Expose #2 on transparency.

3. Ears

Ears can be used to conceal pills, capsules, small arms cartridges, broken glass, etc.

State line #3 verbally.

Expose #3 on transparency.

4. Anus

The anus can conceal an endless array of contraband such as drugs, money, cartridges, knives (protected), etc.

State line #4 verbally.

Expose #4 on transparency.

5. Nasal Passage

The nasal passage can be used for any small item. A prisoner breathing through the mouth only should call for very close inspection, both for health and contraband reasons.

State line #5 verbally.

Expose #5 on transparency.

6. Vagina

As with the anus, the vagina can be used to conceal an endless array of contraband items. The important point to remember is that if you see an irritation or

State line #6 verbally.

Expose #6 on transparency.

thread indicating contraband might be present, you may not enter the body opening. Only medically-trained personnel can enter a body opening. It may be to your advantage to appear not to have noticed anything. Have the person put their underclothing and clothes back on, so as to prevent removal of the item, and transport the prisoner to a doctor for examination.

Recap areas used to conceal contraband.

Ask for questions.

Stimulate discussion on local policies and procedures.

XI. Unclothed Body Search

- A. If a strip search is required, in an area of privacy (following a thorough clothed search), the inmate would be instructed to remove all clothing. The basic procedure would then be followed, using a flashlight to check all areas of the body. If the prisoner has bandaids on his body, have him remove them. If there is an injury, supply a bandaid for each one removed. Large bandages pose a security risk and may require the attention of a nurse or doctor. Even if there is a wound, the bandage should be checked for contraband.
- B. After searching, issue facility clothing or check and return prisoner's clothing.

Discuss unclothed and clothed body searches.

COFFEE BREAK

XII. Hands-On Body Search Preparation

- A. Each trainee should be carrying four items of contraband. If this is not possible, split the class into two groups--assign two areas for preparation. Supply items such as:
1. Finger rubbers
 2. Balloons
 3. Bandaids
 4. Shanks (dulled)

5. Toothbrushes (altered)
6. Straight razors (cutting edge removed)
7. Blank firing .22 pistol
8. Toy pistols
9. Pills
10. Capsules
11. Any available or imaginable item of contraband.

XIII. Hands-On Body Search

- A. Call up one trainee to be searched.
- B. Call up one trainee to search Choice A.
- C. Direct the remaining trainees to call "FREEZE" if they see an error on the part of the trainee performing the search.
- D. Repeat A, B, and C until all trainees have performed a search.
- E. Instructor will sign, date and then include the checklist with certificate for class attendance and send it to the appropriate facility administrator.

Instructor should be checking each trainee's performance on the "Body Search Checklist" in the Trainee Workbook.

TRAINEE WORKSHEET

SUBJECT: Inmate Body Searches - Part I (Clothed)

1. Objectives:

- A. After listening to the lecture and viewing the film, each student will be able to list five reasons for conducting inmate body searches.
- B. Each student will be able to list five basic rules for clothed body searches.
- C. Each student will be able to state when, at a minimum, a prisoner should be searched.

2. Response to Objectives:

A. List five reasons for conducting body searches.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

B. List five basic rules for conducting body searches.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

C. State when, at a minimum, a prisoner should be searched.

- _____
- _____

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Inmate Body Searches - Part I (Clothed)

1. Objectives:

- A. After listening to the lecture and viewing the film, each student will be able to list five reasons for conducting inmate body searches.
- B. Each student will be able to list five basic rules for clothed body searches.
- C. Each student will be able to state when, at a minimum, a prisoner should be searched.

2. Response to Objectives:

A. List five reasons for conducting body searches.

1. PREVENT WEAPON CARRYING

2. PREVENT CONTRABAND TRAFFICING

3. PROTECT INMATES FROM THEMSELVES

4. PREVENT THEFT AND WASTE

5. PREVENT HEALTH HAZARDS

B. List five basic rules for conducting body searches.

1. WORK FROM THE TOP TO BOTTOM

2. BE THOROUGH

3. BE SYSTEMATIC

4. TAKE YOUR TIME AND CONCENTRATE

5. BE OBJECTIVE

C. State when, at a minimum, a prisoner should be searched.

WHEN ENTERING OR BEING DISCHARGED

FROM THE SECURITY PERIMETER

TRAINEE WORKSHEET

SUBJECT: Inmate Body Searches - Part II (Unclothed)

1. Objectives:

- A. After listening to the lecture and viewing the film, each trainee will be able to list three reasons for conducting an unclothed inmate body search.
- B. Each trainee will be able to list two problems associated with an unclothed body search.
- C. Each trainee will be able to list the five basic rules for conducting unclothed body searches of prisoners.
- D. Each trainee will be able to list six areas of the body frequently used by prisoners for concealing contraband.

2. Response to Objectives:

A. List three reasons for conducting unclothed body searches.

- 1. _____
- 2. _____
- 3. _____

B. List two problems associated with unclothed body searches.

- 1. _____
- 2. _____

C. List five basic rules for conducting unclothed body searches.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

D. List six areas of the body frequently used by prisoners to conceal contraband.

- | | |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Inmate Body Searches - Part II (Unclothed)

1. Objectives:

- A. After listening to the lecture and viewing the film, each trainee will be able to list three reasons for conducting an unclothed inmate body search.
- B. Each trainee will be able to list two problems associated with an unclothed body search.
- C. Each trainee will be able to list the five basic rules for conducting unclothed body searches of prisoners.
- D. Each trainee will be able to list six areas of the body frequently used by prisoners for concealing contraband.

2. Response to Objectives:

A. List three reasons for conducting unclothed body searches.

- 1. MAINTENANCE OF SECURITY AND ORDER
- 2. SUSPECT DRUG USE
- 3. CONTROL OF WEAPONS AND CONTRABAND

B. List two problems associated with unclothed body searches.

- 1. HUMILIATION - EMBARRASSMENT
- 2. ANGER

C. List five basic rules for conducting unclothed body searches.

- 1. WORK FROM THE TOP TO BOTTOM
- 2. BE THOROUGH
- 3. BE SYSTEMATIC
- 4. TAKE YOUR TIME AND CONCENTRATE
- 5. BE OBJECTIVE

D. List six areas of the body frequently used by prisoners to conceal contraband.

- | | |
|----------------------|-------------------------|
| 1. <u>HAIR</u> | 4. <u>ANUS</u> |
| 2. <u>MOUTH</u> | 5. <u>NASAL PASSAGE</u> |
| 3. <u>EAR CANALS</u> | 6. <u>VAGINA</u> |

PRE- AND POST-TEST QUESTIONS

SUBJECT: Inmate Body Searches (Clothed and Unclothed)

Clothed Body Searches

1. List five (5) reasons for conducting body searches.

1. _____
2. _____
3. _____
4. _____
5. _____

2. List five (5) basic rules for conducting body searches.

1. _____
2. _____
3. _____
4. _____
5. _____

3. State when, at a minimum, a prisoner should be searched.

Unclothed Body Searches

4. List three reasons for conducting unclothed body searches.

1. _____
2. _____
3. _____

5. List two problems associated with unclothed body searches.

1. _____
2. _____

6. List six areas of the body frequently used by prisoners to conceal contraband.

- | | |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

PRE- AND POST TEST QUESTIONS (ANSWERS)

SUBJECT: Inmate Body Searches (Clothed and Unclothed)

Clothed Body Searches

1. List five reasons for conducting body searches.
 1. Prevent weapon carrying
 2. Prevent contraband trafficking
 3. Protect inmates from themselves
 4. Prevent theft and waste
 5. Prevent health hazards
2. List five basic rules for conducting body searches.
 1. Work from the top to bottom
 2. Be thorough
 3. Be systematic
 4. Take your time and concentrate
 5. Be objective
3. State when, as a minimum, a prisoner should be searched when entering or being discharged from the security perimeter.

Unclothed Body Searches

4. List three reasons for conducting unclothed body searches.
 1. Maintenance of security and order
 2. Suspect drug use
 3. Control of weapons and contraband
5. List two problems associated with unclothed body searches.
 1. Humiliation - embarrassment
 2. Anger
3. List six areas of the body frequently used by prisoners to conceal contraband.

| | |
|---------------|------------------|
| 1. Hair | 4. Anus |
| 2. Mouth | 5. Nasal Passage |
| 3. Ear Canals | 6. Vagina |

**CLOTHED BODY SEARCH
Observation Checklist**

As trainee performs each task-step, record performance on the appropriate line.

| <u>Step</u> | <u>Performed Properly</u> | <u>Instruction Required</u> | <u>Performed Properly</u> |
|--|---------------------------|-----------------------------|---------------------------|
| 1. Prisoner was properly positioned. | _____ | _____ | _____ |
| 2. Check the hands for contraband. | _____ | _____ | _____ |
| 3. Once over the prime areas for weapons. | _____ | _____ | _____ |
| 4. Check the hair and remove glasses, if worn. | _____ | _____ | _____ |
| 5. Check the ears. | _____ | _____ | _____ |
| 6. Check the collar, pinch & squeeze. | _____ | _____ | _____ |
| 7. Check the arm with a wrist watch first, if one is worn. Pinch and squeeze the cuff and remove the watch. | _____ | _____ | _____ |
| 8. Check the entire back down to the waist line (belt). Pull out shirt and undershirt. | _____ | _____ | _____ |
| 9. Check under arms and entire chest area. Pinch and squeeze all double cloth (seams), remove items from shirt pockets and secure. Place all items absolutely out of reach. | _____ | _____ | _____ |
| 10. Reach around both sides of the prisoner and place thumbs inside of the waist band. Check upper groin area with fingertips before drawing your thumbs completely around the waist band. | _____ | _____ | _____ |
| 11. Remove the belt, if worn, and check, pinch, and squeeze the belt loops and waist band. | _____ | _____ | _____ |
| 12. Check the groin area completely. Check the fly cover and bottom for drugs. The pocket at the fly base is often used to conceal drugs. | _____ | _____ | _____ |
| 13. Check front pockets, right side first (most people are right handed). Remove all items found in the pockets. | _____ | _____ | _____ |
| 14. Check and push up in the rectum area. Check and remove all items from rear pocket. | _____ | _____ | _____ |
| 15. Check, pinch, and squeeze all cloth on both pant legs. | _____ | _____ | _____ |
| 16. Remove the right footwear. Remove the sock and check the foot. | _____ | _____ | _____ |
| 17. Remove the left footwear. Remove the sock and check the foot. | _____ | _____ | _____ |
| 18. Turn the individual around. Check the nose. | _____ | _____ | _____ |
| 19. Check the mouth (have prisoner remove partials or dentures). | _____ | _____ | _____ |
| 20. Remove the prisoner to a safe distance. Check carefully all personal items and return all that he/she is permitted to carry. | _____ | _____ | _____ |
| 21. Log on prisoners personal property sheet all items you retain and ask the prisoner to sign. If prisoner refuses to sign have another officer sign as witness. | _____ | _____ | _____ |
| 22. Contraband item _____ found _____. | _____ | _____ | _____ |
| 23. Contraband item _____ found _____. | _____ | _____ | _____ |
| 24. Contraband item _____ found _____. | _____ | _____ | _____ |
| 25. Contraband item _____ found _____. | _____ | _____ | _____ |

Trainee _____ Score _____

Officer's Department _____

On this date, the above officer satisfactorily completed the required routine for clothed body searches.

Scoring: 4 points for each correct performance
2 points for each step requiring instruction
4 points for each item of contraband found

Instructor _____

Date _____

OBJECTIVES

1. IDENTIFY 5 REASONS FOR CONDUCTING CLOTHED BODY SEARCHES
2. LIST FIVE BASIC RULES FOR CLOTHED BODY SEARCHES
3. STATE WHEN, AT A MINIMUM, A PRISONER SHOULD BE SEARCHED (CLOTHED)
4. LIST THREE REASONS FOR CONDUCTING AN UNCLOTHED BODY SEARCH

OBJECTIVES (CONT.)

5. LIST THREE PROBLEMS ASSOCIATED WITH AN UNCLOTHED BODY SEARCH
6. LIST THE FIVE BASIC RULES FOR CONDUCTING UNCLOTHED BODY SEARCHES FOR PRISONERS
7. LIST SIX AREAS OF THE BODY FREQUENTLY USED BY PRISONERS FOR CONCEALING CONTRABAND
8. DEMONSTRATE THE 21 STEPS IN A CLOTHED BODY SEARCH

GILES V. ACKERMAN
U.S. SUPREME COURT

"... ARRESTEES FOR MINOR OFFENSES
MAY BE SUBJECTED TO A STRIP SEARCH
ONLY IF JAIL OFFICIALS HAVE A REASONABLE
SUSPICION THAT THE PARTICULAR ARRESTEE
IS CARRYING OR CONCEALING CONTRABAND
OR SUFFERING FROM COMMUNICABLE
DISEASE."

LIST FIVE REASONS FOR
CONDUCTING BODY SEARCHERS.

1. PREVENT WEAPON CARRYING
2. PREVENT CONTRABAND
3. PREVENT THEFT, WASTE
4. PREVENT HEALTH HAZARDS
5. PROTECTION OF INMATES

LIST FIVE BASIC RULES FOR
CONDUCTING BODY SEARCHES.

1. WORK, TOP TO BOTTOM
2. BE THOROUGH
3. TAKE TIME, CONCENTRATE
4. BE SYSTEMATIC
5. BE OBJECTIVE

STATE WHEN, AT A MINIMUM,
A PRISONER SHOULD BE SEARCHED.

WHEN ENTERING OR
BEING DISCHARGED FROM
THE SECURITY PERIMETER.

LIST THREE REASONS FOR
CONDUCTING UNCLOTHED SEARCHES.

1. MAINTENANCE OF SECURITY
AND ORDER
2. SUSPECTED DRUG USE
3. CONTROL OF WEAPONS
AND CONTRABAND

LIST THREE PROBLEMS ASSOCIATED
WITH UNCLOTHED BODY SEARCHES.

1. HUMILIATION &
EMBARRASSMENT
2. ANGER
3. LEGAL ASPECTS

PROCEDURES FOR DETAINEES
UNDER GILES V. ACKERMAN

1. PRESERVE DIGNITY OF THE PRISONER
2. CONDUCTED BY PERSONNEL OF THE SAME SEX; OUT OF VIEW OF PERSONS OF OPPOSITE SEX.
3. CONDUCTED IN A PRIVATE AREA
4. PROHIBITS SEARCHES OF DETAINEES CHARGED WITH MINOR OFFENSE UNLESS REASONABLE SUSPICION THAT ARRESTEE IS
 - CARRYING OR CONCEALING CONTRABAND
 - SUFFERING FROM COMMUNICABLE DISEASE

REASONABLE SUSPICION:

- NATURE OF OFFENSE
- ARRESTEES APPEARANCE & CONDUCT
- POTENTIAL FOR CONCEALMENT OF A DEADLY WEAPON OR CONTRABAND
- PRIOR ARREST RECORD
- LEGITIMATE MEDICAL OR HYGENIC REASON

PROCEDURES FOR DETAINEES
UNDER GILES V. ACKERMAN (Cont.)

5. SHOULD NOT BE CONDUCTED FOR ANY PRISONER NOT PLACED IN THE GENERAL POPULATION
6. DETAINEES CHARGED WITH A MINOR OR NON-SERIOUS OFFENSE WILL BE PAT SEARCHED AND HOUSED SEPARATELY IN A SHORT TERM HOLDING AREA.
7. DOCUMENTATION OF THE SEARCH AND FINDINGS, INCLUDING ANY SPECIAL REASONS FOR CONDUCTING THE SEARCH.

LIST SIX AREAS OF THE BODY
FREQUENTLY USED BY PRISIONERS
TO CONCEAL CONTRABAND.

1. HAIR
2. EAR CANALS
3. MOUTH
4. NASAL PASSAGE
5. ANUS
6. VAGINA

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Fire Safety in Correctional Facilities

AUTHOR: Vince Feist, Battalion Chief
City of Bismarck Fire Department
1020 Central Avenue
Bismarck, ND 58502

NOTE TO INSTRUCTOR

This lesson plan is intended to provide the minimum coverage of this topic consistent with the provisions of the North Dakota Century Code and the North Dakota Administrative Code.

This lesson plan and the supplementary materials in the Trainee Resource Manual and Workbook should not be treated as inflexible by the instructors who use it. It should, in fact, be viewed as a basic guide upon which the instructor must build by adding materials which reflect new situations and changes in corrections as they develop in the state. It should be tailored to the skills, knowledge, and learning capabilities of each correctional officer class.

It is recognized that instructors will inject their own experience, style, resources and enthusiasm into the presentation of this material. Included, as well, will be the values and personal philosophy of individual instructors. We encourage and appreciate the personal investment made by you, the instructor, which will enrich this lesson plan for those receiving this instruction, and would only caution that the ideas presented should reflect the philosophy outlined in the Role of the Correctional Officer as it is printed at the beginning of this text.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Fire Safety in Correctional Facilities

AUTHOR: Vince Feist, Battalion Chief
City of Bismarck Fire Department
1020 Central Avenue
Bismarck, ND 58502

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: Three (3) Hours

TRAINING OBJECTIVES:

1. The purpose of this presentation is to provide information through lecture, video and audio in respect to the unique fire condition in the correctional facility.
2. To create an awareness of fire safety problems and the ability to identify the following:
 - a. The leading cause of fires;
 - b. Motive for these fires;
 - c. Common factors affecting life safety; and
 - d. Correctional officer's responsibility.
3. To provide a basic knowledge of fire suppression equipment, its capabilities and limitations, and the ability to select and use appropriate fire extinguishers on minor fires.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

1. The following publications of the NFPA (National Fire Protection Association), Batterymarch Park, Quincy, MA 02269
 - A. "A Study of Penal Institution Fires," NFPA Bulletin FR78-1
 - B. "Fire in Prisons," NFPA Fire Journal, March 1978 (pp. 29-42)
 - C. "Analysis of Three Multiple Fatality Penal Institution Fires," NFPA SL-35
 - D. "Penal Institutions: Fire Safety Versus Security," Fire Journal, March 1979 (pp. 60-62)
 - E. "Ohio's Institutional Fire Safety Program," Fire Command, March 1979 (pp. 34-35)
 - F. "No Freedom for John - Two die in Correctional Youth Center - Cranston, RI," Fire Journal, May 1978 (pp. 16-17)
 - G. NFPA Handbook, 15th Edition: Several sections deal with specifics such as fire behavior, building design, fire hazards, detection and alarm systems, fire suppression systems, fire extinguishers, etc. Section 6, Chapter 5 addresses hazards to life in detention and correctional facilities.
2. Additional publications include:
 - A. "The Final Sentence," Firehouse Magazine, March 1980: Firehouse Magazine Associates, 515 Madison Avenue, New York, NY 10022
 - B. "Liability in Jail Fire," The Texas Lawman, Vol. 48, No. 8.

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 - 30th Street, Suite 130
Boulder, Colorado 80301

Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise (s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

TRAINING AIDS:

Supplies and Equipment

- Video Projection Screen
- 16 mm. Projector With Spare Lamp
- 16 mm. Film: _____
- Discussion Guide
- Overhead Projector
- Appropriate Transparencies
- Slide Projector
- Slides A Study of Penal Institution Fires, NFPA
- Video Monitor, Player/Recorder
- Video Cassette: "Fire in the Jail", AIMS Series
- Cassette Player, Audio
- Audio Cassette: A Study of Penal Institution Fires, NFPA
- Flip Chart and Markers
- Masking Tape
- Chalkboard, Chalk, Eraser
- Trainee Worksheets
- Trainee Handouts
- Pre- and Post-Tests
- Trainee Course Evaluation
- Trainee Instructor Evaluation
- _____
- _____
- _____
- _____
- _____

I. Topic Introduction and Scope of Presentation - FIRE SAFETY IN CORRECTIONAL FACILITIES

This unit of instruction is intended to:

- A. Create an awareness of potential for fire and the disastrous results experienced with fires in correctional or detention facilities.

To help us recognize and understand the unique problems and responsibilities of those charged with providing fire protection and fire safety in such facilities.

To present methods or concepts for providing greater life safety for occupants of correctional facilities.

To provide knowledge of basic fire suppression equipment and its use.

Time constraints will not allow for coverage of all aspects of fire control and extinguishment such as hose streams, ventilation practices, breathing apparatus, etc. however, it is recommended those areas of instruction to cover specific operations and responsibilities assigned at your place of employment be pursued at another time.

II. Performance Objectives

- A. Following the lecture and video/audio presentation, each trainee will have the ability to:
1. Identify the components of the simplified fire safety system.
 2. List methods or activities relating to fire prevention
 3. Identify methods of occupant protection.
 4. List steps for development of an effective fire emergency operation plan and required staff training.

Instructor introduction by the coordinator, department administrator or self, if appropriate.

Explain instructor's qualifications relevant to this topical area.

Administer Pre-test.

Topic introduction should include the rationale for the topic being presented.

Transparency #1

5. Give basic steps for effective immediate response to a fire emergency.
6. Verbally state or write the accepted methods for effective fire control and extinguishment.

III. Definition: Fire Safety in Correctional Facilities

Fire safety in correctional facilities is a complex problem. Defining and factors would also be very complex and involved. For the purpose of this presentation, fire safety will address the problem of any fire inadvertently caused or fire by arson.

IV. Legal Considerations

- A. Correctional facility fires are a potential litigation nightmare for the governing authority, administrator and the on-duty correctional officers(s). Successful litigation is likely if:
 1. There is no written plan for prevention (control of combustibles and detection of fires.
 2. There is no written plan for fire suppression and appropriate equipment in place.
 3. There is no written and approved fire evacuation plan for visitors, inmates and staff.
 4. There is no training (fire drills) in fire suppression and control procedures.

V. Correctional Officer Responsibilities

- A. The correctional officer has the responsibility to report, in writing, anything that he/she observes as a fire safety hazard.
- B. The correctional officer has the responsibility to read, study and be fully familiar with the department's written policies and procedures in regard to fire safety emergency plans.
- C. The correctional officer has the responsibilities for the day-to-day maintenance of the fuel load, amount of combustibles, with the facility.
- D. the correctional officer has the

responsibility for the release of prisoners in life threatening situations.

- E. The correctional officer has the responsibility to provide for the safety of inmates and the public during a fire.

VI. A look at case histories and NFPA study results will help us recognize problems unique to correctional facilities as well as identify possible corrective actions.

- A. We could look at numerous case histories which would portray the factors leading to disastrous fire experiences, but we will single out just a couple which will adequately show the problems or factors to be dealt with.

Transparency #2

(Also could use current news items.)

- B. The first is the Ohio State Penitentiary fire of 1930. This facility, which was thought of as fireproof, experienced a fire that spread to involve four cellblocks and took 322 lives in less than one hour.

Transparency #3

Factors leading to this disaster include:

Transparency #4

- 1. Overcrowding

Designed for 1500: occupied by 4300.

- 2. Delayed alarm

The inmate who discovered and reported the fire was known to be a practical joker, so guards refused to believe him. The smoldering fire grew to a fast-moving wall of fire before it was reacted to.

- 3. Delay in opening cells

The warden admitted he was more concerned about a possible escape plan than with the fire threat. Therefore, he would not release prisoners until National Guardsmen arrived.

4. Lack of protection or suppression equipment

The warden has refused to provide the recommended fire protection because he felt the fire department could respond in a matter of minutes.

5. No emergency procedure plan or training

The warden said he had no fire emergency plan and had not instructed the guards on what to do in case of fire. He said he hoped they would use common sense.

- C. A second and more recent fire incident at the Maury County Jail in Columbia, Tennessee during the summer of 1977 where 42 persons died shows factors affecting life safety haven't changed much.

Transparency #5

This jail, built in 1963, was a one-story structure of fire-resistive construction.

*NFPA Slide # or
Transparency #
Optional*

Interior finish and contents were typical of what we would find in most jail facilities today and would lead most officials or staff to consider fire potential as very low due to limited quantity of combustible contents.

*NFPA Slide # or
Transparency # optional
No different than fire
protection in your jails.*

We need to realize that most institutional fires involve less than 60 pounds of fuel, yet give disastrous results.

The floor plan shows the facility to be typical of most jails, especially those prior to enforcement of Life Safety Standards.

*NFPA Slide # or
Transparency # optional
Features to note:*

- ° Inadequate exits*
- ° No fire detection*
- ° No automatic suppression system*
- ° No ventilation provisions*

At the time of the fire, there were 63 inmates, five members of the sheriff's staff, and as many as 20 visitors in the facility.

The exact number of visitors is not known. It was standard procedure to lock visitors in cells with the inmates.

The area of fire origin was the padded cell, which was lined with styrene butadiene rubber foam glued to plywood. The foam was covered with nylon reinforced neoprene-coated material. Patching had been done using urethane foam and polyvinyl chloride covering.

*NFPA Slide # or
Transparency #
Optional*

The occupant of the padded cell had gotten a cigarette from a visitor and about 20 minutes later, the fire was reported.

Fire damage was limited to:

1. The padded cell and corridor outside the cell.
2. The suspended ceiling in the corridor partially collapsed due to intense heat from the burning padding in the cell.
3. Smoke damage was heavy throughout the building.

*NFPA Slide # or
Transparency #
Optional*

*NFPA Slide # or
Transparency #
Optional*

*NFPA Slide # or
Transparency #
Optional*

Nine (9) of the 42 dead were visitors. Tests showed all the dead had lethal levels of carbon monoxide in their blood.

*NFPA Slide # or
Transparency # Optional
All survivors had to be hospitalized for treatment of smoke inhalation, except for the occupant of the padded cell, who was the only one to receive burns.*

Due to lack of adequate exit facilities, survivors had to be removed through openings created in exterior walls.

*NFPA Slide # or
Transparency # Optional
All survivors, other than the occupant of the padded cell, had to be removed through openings created by breaking through a decorative concrete block wall (which covered and hid the barred windows) and window openings which required removal of iron bars with a wrecker truck. Some occupants were't removed until 1½ hours after the discovery of the fire.*

Other factors leading to the multiple life loss were:

*NFPA Slide # or
Transparency #15
Optional*

1. Type of padding and patching materials gave off extremely heavy smoke very rapidly.
2. The fire was not controlled in the early stages so it quickly became life threatening.
3. There was no adequate means for detection and alarm.
4. There was no way to quickly and reliably protect inmates and visitors.
5. There had been no training or planning for fire emergencies.

Showed the importance of maintaining the required fire resistive qualities.

No automatic suppression system.

Manual alarm only.

No means to defend in place or to evacuate to a secure area of refuge.

D. The NFPA study finds as follows:

*Refer to NFPA Bulletin
FR78-1.*

Statistical data shows:

Transparency #16

1. Eighty-seven percent (87%) of fires were intentionally set (incendiary).
2. Smoking materials, matches or cigarette lighters were almost always the source of ignition.
3. Materials first ignited were mattresses, bed clothes and personal clothing.
4. Seventy-five percent (75%) of fires originated in the occupants' cells.
5. The predominant motives were:
 - a. To increase chances of escape
 - b. To cause malicious damage
 - c. To show force during a riot
 - d. To commit suicide

Materials most commonly found in a prison cell.

Factors affecting life safety:

1. Preplanning *Transparency #17*
2. Suppression equipment. Where fire extinguisher and hose stations proved ineffective, reasons varied from improper use and/or inaccessibility to fire size upon discovery. *Inaccessibility due to location or lock up to prevent vandalism.*
Fire size beyond capability of available equipment.
Automatic suppression systems, such as automatic sprinklers, most effective.
3. Detection. Time lapse between fire origin and discovery commonly more than five minutes. This delay allows fire growth to make evacuation and rescue as well as control or extinguishment difficult, if not impossible. *Automatic fire detection systems most effective solution.*
Smoke detectors where possible.
4. Accumulation of products of combustion. Dense smoke created by fires in poorly ventilated areas presents hazard of toxicity as well as interferes with evacuation efforts. *Installation of equipment or facilities to vent smoke and/or heat from any fire area--or providing self contained breathing apparatus for use by guards are good alternatives.*
5. Compartmentation. While fire usually did not spread beyond the area of origin, such as a cell, products of combustion generally spread to affect adjacent cells, corridors and other areas. *Illustrating a need for heat and smoke partitions to confine fires effect to the area of origin and provide areas of refuge.*
6. Evacuation. At least two means of exit from each main cellblock are needed as well as a method to insure all emergency exits can be used quickly.
7. Building contents. Synthetic materials most commonly used in personal clothing, bedding, and furniture present strong potential for very rapid fire growth as well *Also highly toxic by-products.*

as release of overwhelming amounts of heat and dense smoke.

- E. From this and other available information, we can conclude that fire safety in any facility requires a combination of preventive as well as control measures.

Transparency #18

VII. Legal Responsibilities

In response to the problems and needs indicated, a U.S. Supreme Court ruling requires provision of life safety measures and staff training. State and local regulations also require steps be taken to provide greater life safety for occupants of correctional facilities.

The North Dakota Century Code requires the jail administrator to ensure compliance with the most current edition of the NFPA's Life Safety and Portable Fire Extinguisher Standards.

The Century Code also states that importance of fire safety is heightened in jails because inmates must rely on the staff for their release in the event of fire. The Life Safety Code sets out procedures and requirements regarding fire exits, fire alarms, automatic sprinkler systems, and building construction.

Also, the jail administrator is required to provide a written procedure specifying an entire evacuation plan, which shall include an accounting system to enable officers to readily determine the number of people inside the jail and the method for prompt release of all inmates.

[Refer to the North Dakota Century Code.]

According to case law, there are at least seven areas of responsibility associated with correctional facility fires:

- A. The prisoner must be protected from him/her self (suicide).
- B. There must be a ready means of evacuation in case of fire.
- C. Rescue from fire must be made promptly.
- D. Staff must not hinder rescue attempts of others.
- E. Ventilation must be provided to reduce smoke danger.
- F. Adequate surveillance must be made to detect fires.
- G. Adequate staff must be available at all times.

Transparency #19

Failure to adequately protect prisoners from fire danger may be interpreted as a violation of 8th and 14th Amendment rights and subject to court litigation.

VIII. Now that we have been made aware of the fire problem and legal responsibilities of correctional officers, let's look at methods or activities that can help us meet the life safety requirements.

- A. First, we will look at the NFPA's simplified fire safety systems approach and how it can apply to correctional facilities.

The system consists of five basic elements:

- 1. Ignition control
- 2. Fuel control
- 3. Occupant protection
- 4. Detection and suppression
- 5. Planning and training

Transparency #20

Each impacts on the other to provide an overall level of fire safety.

Security is the primary concern of correctional officers, but fire safety can and must be provided while security is maintained. Therefore, the inmates must be defended against fire where they are--a concept called "defend in place"--or they must be moved to a secure area of refuge.

Transparency #21

"Defend in place" is a realistic option achievable with available technology such as early warning detection alarms, automatic sprinklers, smoke control facilities and compartmentation.

1. Ignition control

- a. Concept is eliminating heat sources so that a fire not be ignited either accidentally or intentionally.
- b. Restriction of possible ignition devices limited.
- c. Least effective fire defense measure. Why?

Transparency #22

Any time there is an unwanted fire, ignition control has failed.

If an inmate decides to start a fire, he or she will find a way.

2. Fuel control

- a. The concept of fuel control is to control the type, quantity, arrangement and burning characteristics of potential fuels.
- b. Some elements difficult to control, such as personal property.

Transparency #23

Use of material that is fire resistive (slow burning); this gives people chance to react.

Inmate rights a problem

3. Occupant protection

- a. Concept of providing life safety in event of fire either by evacuation to a secure area or by defending in place.
- b. Elements include adequate means of egress, structural integrity, compartmentation, and building services.

Transparency #24

Means of egress also provide access routes for firefighters.

4. Detection and suppression

- a. Concept of automatically or manually detecting the presence of fire, sounding the alarm, and then automatically or manually suppressing the fire.
- b. Accomplished by fire protection hardware such as smoke and heat detectors, automatic alarm systems, automatic sprinkler systems, etc.

Transparency #25

5. Planning and training

Transparency #26

- a. Concepts of conducting training and planning before experiencing a fire.
- b. Includes employee training, inmate education, emergency operating procedure policy, and coordinated pre-planning with your fire department.

No one component of the fire safety system by itself can provide an acceptable level of protection. It takes the effects of a combination of factors to bring about the desired results.

Several components of the fire safety system touched on fire prevention.

IX. Fire prevention activities are the most effective approach to both fire and life safety.

Fire prevention activities should include:

Use sample form.

A. Self inspection

- *Periodic self inspections*
- *Assure exit facilities properly maintained*
- *Assure fire detection and alarm system operating properly*
- *Assure fire suppression systems properly maintained*
- *Check for general fire hazards*
- *Check housekeeping and amount or condition of contents*
- *Check on condition and maintenance of structural features and fire or smoke separations, such as fire doors and walls, etc.*
- *Check locking devices to assure ease of operation for emergency evacuation*

B. Have periodic drills to test staff performance and effectiveness of emergency procedure plans.

Have an outsider evaluate.

- C. All staff and inmates should be involved in a fire safety program since fire safety is everyone's concern.

Inmates may be motivated to learn basic facts about fire behavior, fire hazards and fire prevention, as well as ways of fire survival.

Staff members will increase their ability to maintain security, safeguard lives, and protect property during a fire.

Outside agencies such as fire departments, the fire marshal, and independent insurance agencies, etc., can provide program.

- D. Staff programs

Transparency #27

- History of the problem
- Hazards of fire
- Available fire protection technology (familiarization with the fire suppression equipment in your facility)
- Emergency operating procedures
- Potential problems related to a particular facility

- E. Inmate programs

Transparency #28

- Selected case studies discussing history and nature of correctional facility problems
- Fire behavior and hazards of fire
- Fire emergency operating procedures
- Fire evacuation procedures (drill where permissible)
- Personal action to improve chances of fire survival

X. Methods of Occupant Protection

- A. Defend in place with:

Transparency #29

1. Automatic detection and alarm systems (smoke and heat detectors)

2. Automatic sprinkler systems

3. Emergency ventilation systems capable of adequately venting smoke and heat to keep the area tenable

B. Evacuation to a secure area of refuge

1. Buildings designed with adequate exit facilities and compartmentation to provide both safety and security.

C. Both A and B above

XI. Planning and Training

Transparency #30

A. Preparing an effective emergency operating plan can be accomplished in five steps:

1. Identify the potential fire protection problems in the particular correctional facility.

Objectives could be to evacuate a specific area or accomplish specific tasks in a specified time frame.

2. Set objectives for the plan-- that is, what you expect the plan to do for the facility in an emergency.

Identifying potential needs and determine resources that are available or needed to control a fire emergency.

3. Determine the facility's capability for controlling an emergency situation.

Assigning responsibilities and/or function of each agency.

4. Define the roles of responding agencies.

5. Put the information in written form.

Once information is completed, organized, tested, written into a form/document, and distributed, it will serve to train and effect staff response capability.

B. Training

1. Training is needed in all areas of a facility's fire safety system to prepare staff, inmates and others with an understanding

and knowledge of all factors involved in providing for life safety in correctional facilities.

2. Training includes pre-fire planning sessions, review and study of written fire emergency procedure plans, drills, and critiques to evaluate drill results.

C. Value of planning and training

1. To show how planning and training can benefit a facility, we will view a presentation entitled "Fire in the Jail."

2. The video presentation will:

- a. Depict mistakes in use of fire suppression equipment
- b. Problems with keys
- c. Liabilities and obligations

These are typical of problems that have been experienced in jail fires.

3. After viewing, discuss lessons learned.

Use video tape cassette, "Fire in the Jail."

D. The most effective emergency operating plans are contained within a comprehensive educational and training program.

E. An effective and successful fire safety program takes a commitment of funds, time and involvement of all staff as well as inmates, who must be made to realize the fire safety program may benefit them most and requires their participation.

XII. Basic Steps for Effective Immediate Response

A. Whether or not written fire emergency plans exist, all staff should follow four basic steps upon discovery of a fire emergency:

Transparency #31

1. Assess the situation

Make a mental assessment of the extent of the fire,

2. Call for assistance

the origin and potential for spreading, the threat to life and property, and the availability of resources and evacuation routes.

You will need to alert others to the fire emergency and activate the emergency call list as well as notify the fire department immediately.

3. Evacuate if necessary

If the fire poses any threat to life and safety, evacuate the area immediately. Remember, the fire need not spread to cause fatalities. Maintain security during evacuation activities. In multiple tier units, evacuate upper tiers first. Close doors behind you as you leave to limit fire growth.

4. Begin suppression activities

Use available fire suppression equipment; use personal protection such as protective clothing, breathing apparatus, etc., if provided and do the best job possible within your capabilities.

XIII. Fire Suppression and Control

A. Portable fire extinguishers are the first line of defense against fires.

In fire emergencies, seconds count and the first few minutes are most critical.

B. Effectiveness of first response measures depends on two factors:

1. Availability of appropriate portable extinguishers.

The first factor involves selection, placement and distribution of fire extinguishers.

2. Availability of people who know how to use the equipment.

The second factor relates to training.

a. Selection of extinguishers depends on six criteria:

Transparency #32

- (1) Kinds of materials or class of fire they would extinguish.
- (2) Potential severity of fire.
- (3) Capability of persons using the extinguishers.
- (4) The extinguisher's relative "fire-killing" power.
- (5) The particular extinguishing agent contained.
- (6) Their propellant system.

C. Classes of fire

Class A Ordinary combustibles

Transparency #33

Wood, paper, fabric, etc.

Class B Flammable liquids

Petroleum products, paints, cooking oils, fats, etc.

Class C Electrical

Fires involving electrical equipment.

Class D Combustible metals

Magnesium, titanium, etc.

- 1. For Class A fires, we could use any of the following extinguishers:

Suggest a display of each type of extinguisher.

- a. Pressurized water
- b. Multi-purpose dry chemical
- c. Halon

Transparency #34

Multi-purpose chemical not only extinguishes, but prevents reignition.

- 2. For Class B fires, we could use any of the following:

Transparency #35

- a. Multi-purpose dry chemical
- b. Standard dry chemical
- c. Purple "K" dry chemical
- d. Halon

In cases of deep fat fryer fire, it is best to use standard dry chemical.

- e. CO₂ *CO₂ is least effective.*
3. For Class C fires: *Transparency #36*
- a. These are best controlled by turning off the power supply. *Either by turning off the electrical supply for the circuit or unplugging the affected appliances. Use caution when unplugging an appliance cord which may be overheated and presents an electrical burn or shock hazard.*
- b. Until the power supply is stopped, there will be continued arcing, sparking and rekindle. Once the electrical current is stopped, the fire is generally controlled.
- c. When using an extinguisher on electrical fires, the agent used must be a non-conductor of electricity such as:
- (1) Dry chemical
 - (2) CO₂
 - (3) Halon
4. Class D Fires are not a common occurrence and require special agents such as: *Transparency #37*
- a. Dry powder (generally a graphite-type agent)
or
- b. A "Metal-X" extinguisher.
5. Since the most common fires are of the Class A, B, or C type, the best all-around extinguishers are the multi-purpose dry chemical or Halon types. *Multi-purpose dry chemical is the most effective in most cases.*
- Halon is more desirable where concern for extinguishing agent residue is a problem.*

D. Use of Extinguishers

Transparency #38

1. Basic steps include:
 - a. Pull the pin
 - b. Aim the nozzle
 - c. Squeeze the lever
2. Common miscues leading to problems or failures in use of extinguishers:

- a. Difficulty or failure in pulling the pin.

Most often due to binding the pin by squeezing the lever or otherwise putting pressure on parts that cause the pin to bind.

Demonstrate proper method for pulling the pin.

Set the extinguisher on the floor or counter holding at neck below operating valve and steady with one hand while pulling the pin with the other hand.

- b. Poor performance due to lack of adequate discharge of extinguishing agent.

Assuming the extinguisher has been properly serviced and maintained.

- (1) Failure to operate the lever to fully open the valve and give good volume of agent discharging.

- (2) Failure to keep extinguisher in upright position affecting amount of chemical or agent discharged.

Most extinguishers have a tube attached to the valve body that draws the agent from the bottom/base of the extinguisher and these need to be kept in a position to keep the tube in the agent.

Tilting or inverting will allow for rapid loss of pressure with poor to non-discharge of agent.

c. Failure to properly apply the extinguishing agent.

Most often this problem is experienced with extinguishers that have the discharge nozzle attached to the valve body and are being used on fires above waist height. (Demonstrate.)

When possible, have an outdoor session to show proper use of extinguishers.

Alternative is use of appropriate training film, NFPA, "Using Fire Extinguishers the Right Way".

(1) On Class A fires, apply the extinguishing agent to the base of the fire starting at its weakest point and working toward its hottest point.

On all fires, take advantage of wind direction. Apply from upwind.

(2) On Class B fires, there can be two approaches:

(a) Applying agent in a manner sweeping the flame off the surface of the burning liquid, or

Demonstrate or illustrate. Most effect with least agent.

(b) Sweep the nozzle back and forth creating a cloud which effectively snuffs out the fire.

Generally uses more agent.

(3) Become familiar with and follow manufacturer's instructions for proper use and maintenance of extinguishers.

Instructions are on labels of extinguishers.

E. Other Fire Suppression Equipment

1. Automatic sprinklers

Become familiar with what you have and how it functions.

2. Standpipe systems

Familiarize with what you have and train in its proper use and limits.

3. Other specialized systems

Familiarize with what you have and any special actions necessary if involved in a fire emergency.

F. Is a Person's Clothing Burning?

1. Normal reaction of the victim is to panic and run.
2. Do not use an extinguishing agent.
3. Apply principle of stop-drop-and roll.
4. If available, wrap in blanket, jacket or throw rug to aid in more effective extinguishment.

Stop: If the victim runs or is allowed to run, this action will lead to more serious burns.

Drop: The horizontal position will get flames away from the face and hopefully prevent damage to the respiratory system.

Roll: Burning clothing sandwiched between the body and floor will have fire snuffed out.

XIV. Summary

- A. To create an awareness of fire safety problems and needs in correctional facilities, we have:
 1. Identified the correctional officer's responsibilities.
 2. Taken a look at case histories and learned about problems unique to correctional facilities.
 3. Reviewed NFPA study findings and factors making us aware of needs and obligations for fire safety in correctional facilities.

- B. We have covered points that should help us meet life safety requirements and responsibilities:
1. The five components of a simplified fire safety system
 - a. Ignition control
 - b. Fuel control
 - c. Occupant protection
 - d. Detection and suppression
 - e. Planning and training
 2. Fire prevention activities
 - a. Self inspection
 - b. Periodic fire drills
 - c. Fire safety education programs
 3. Methods of occupant protection
 - a. Defend in place
 - b. Evacuation to a secure area of refuge
 - c. . . . or both
 4. Steps for developing an effective emergency operations plan
 - a. Define potential problems
 - b. Set objectives
 - c. Determine facility capabilities
 - d. Define roles of responding agencies
 - e. Put information in written form
 - f. Train staff in procedures

5. Basic steps for fire emergency response
 - a. Assess the situation
 - b. Call for assistance
 - c. Evacuate if necessary
 - d. Begin suppression activities
6. Fire control and extinguishment
 - a. Classification of fire
 - A - Ordinary
 - B - Flammable Liquids
 - C - Electrical
 - D - Combustible Metals
 - b. Selection of extinguishing agents
 - Class A fires:
 - pressurized water
 - multi-purpose dry chemical
 - Halon
 - Class B fires:
 - dry chemicals
 - Halon
 - CO₂
 - Class C fires:
 - dry chemicals
 - Halon
 - CO₂
 - Best to turn off power supply
 - c. Basic steps for operation of fire extinguishers
 - pull the pin
 - aim the nozzle
 - squeeze the lever

C. It takes a combination of:

- awareness of fire problems
- planning and training for emergencies
- (and) knowledge and application of corrective measures

to provide the required life safety for occupants of correctional facilities, as well as fulfilling your obligations as correctional officers.

TRAINEE WORKSHEET

SUBJECT: Fire Safety

Following the lecture and video/audio presentation, each trainee will have the ability to:

1. Identify the components of the simplified fire safety system.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____

2. List methods or activities relating to fire prevention.

- a. _____
- b. _____
- c. _____

3. Identify methods of occupant protection.

- a. _____
- b. _____
- c. _____

4. List steps for development of an effective fire emergency operation plan and required staff training.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____

5. Give basic steps for effective immediate response to a fire emergency.

- a. _____
- b. _____
- c. _____
- d. _____

6. Provide information and know-how for effective fire control and extinguishment.

a. Classification of Common Fires

- _____
- _____
- _____

b. Classes of Fire Appropriate Extinguishing Agents

- | | |
|---------|-------|
| • _____ | _____ |
| | _____ |
| | _____ |
| • _____ | _____ |
| | _____ |
| | _____ |
| • _____ | _____ |
| | _____ |
| | _____ |

c. Basic steps for operation of fire extinguishers.

- _____
- _____
- _____

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Fire Safety

Following the lecture and video/audio presentation, each trainee will have the ability to:

1. Identify the components of the simplified fire safety system.
 - a. Ignition control
 - b. Fuel control
 - c. Occupant protection
 - d. Detection and suppression
 - e. Planning and training
2. List methods or activities relating to fire prevention.
 - a. Self inspection
 - b. Periodic fire drills
 - c. Fire safety education programs
3. Identify methods of occupant protection.
 - a. Defend in place
 - b. Evacuate to a secure area of refuge
 - c. Or both of the above
4. List steps for development of an effective fire emergency operation plan and required staff training.
 - a. Define potential problems
 - b. Set objectives
 - c. Determine capabilities
 - d. Define roles of responding agencies
 - e. Put in written form
 - f. Train and drill staff

5. Give basic steps for effective immediate response to a fire emergency.
 - a. Assess the situation
 - b. Call for assistance (sound alarm)
 - c. Evacuate if necessary
 - d. Begin suppression activities

6. Provide information and know-how for effective fire control and extinguishment.
 - a. Classification of Common Fires
 - o Class A: Ordinary combustibles
 - o Class B: Flammable liquids
 - o Class C: Electrical

 - b. Classes of Fire Appropriate Extinguishing Agents
 - o Class A Water
Multi-purpose dry chemical
Halon

 - o Class B Dry chemicals
Halon
CO₂

 - o Class C Dry chemicals
Halon
CO₂
Turn off power supply

 - c. Basic steps for operation of fire extinguishers.
 - o Pull pin
 - o Aim nozzle
 - o Squeeze lever

FIRE SAFETY AND CONTROL

Written Test

Score _____

Name/Title

Date

1. List five (5) components of the simplified fire safety system.

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____

2. List three (3) types of activity relating to fire prevention.

- 1) _____
- 2) _____
- 3) _____

3. List at least two (2) methods of occupant protection.

- 1) _____
- 2) _____

4. List at least three (3) steps for development of an effective emergency procedure plan.

- 1) _____
- 2) _____
- 3) _____

5. List four (4) basic steps for emergency response.

- 1) _____
- 2) _____
- 3) _____
- 4) _____

6. List type of materials representative of the following classes of fires:

- 1) Class A: _____
- 2) Class B: _____
- 3) Class C: _____

7. List appropriate extinguishing agents for the following classes of fires:

- 1) Class A: _____

- 2) Class B: _____

- 3) Class C: _____

8. List three (3) basic steps for operation of fire extinguishers.

- 1) _____
- 2) _____
- 3) _____

FIRE SAFETY AND CONTROL

Written Test - Answer Sheet

1. List five (5) components of the simplified fire safety system.
 - 1) Ignition control
 - 2) Fuel control
 - 3) Occupant protection
 - 4) Detection and suppression
 - 5) Planning and training
2. List three (3) types of activity relating to fire prevention.
 - 1) Self inspection
 - 2) Fire safety education programs
 - 3) Periodic fire drills
3. List at least two (2) methods of occupant protection.
 - 1) Defend in place
 - 2) Evacuate to a secure area of refuge
4. List at least three (3) steps for development of an effective emergency procedure plan.
 - 1) Define problems - set objectives
 - 2) Determine capabilities - define roles
 - 3) Put in writing - train staff
5. List four (4) basic steps for emergency response.
 - 1) Assess the situation
 - 2) Sound alarm (call for assistance)
 - 3) Evacuate if necessary
 - 4) Begin suppression activities
6. List type of materials representative of the following classes of fires:
 - 1) Class A: Ordinary combustibles
 - 2) Class B: Flammable liquids
 - 3) Class C: Electrical
7. List appropriate extinguishing agents for the following classes of fires:
 - 1) Class A: Water
Multipurpose dry chemical
Halon

2) Class B: Dry chemicals
Halon
CO₂

3) Class C: Turn off power supply
Dry chemical
Halon
CO₂

8. List three (3) basic steps for operation of fire extinguishers.

- 1) Pull pin
- 2) Aim nozzle
- 3) Squeeze lever

PERFORMANCE CHECKLIST

Observation Test

Use of Portable Fire Extinguishers

Trainee: _____ Date: _____

Type of Extinguisher: _____

As trainee performs each task step, record performance in appropriate box. Provide corrective instruction, if necessary, and check that instruction was necessary. Make sure each trainee has performed properly before signing.

| <u>Step:</u> | <u>Performed Properly</u> | <u>Instruction Necessary</u> | <u>Performed Properly</u> |
|--|---------------------------|------------------------------|---------------------------|
| 1. Proper extinguisher selected for class of fire involved. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Pulled safety clip from squeeze grip (pull back locking cam, if necessary). | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Removed nozzle or hose from retainer or rotated horn up to horizontal position and aimed properly. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Approached fire from upwind side (if applicable) and at correct distance from fire. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Pressed squeeze grip, aimed discharge at base of fire closest to operator. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Used side-to-side sweeping motion and worked into fire. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. When asked how extinguisher is checked for serviceability, correctly demonstrates hose check, nozzle check, safety check and explains correct method of determining charge. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. When asked what type of fires the extinguisher may be used on, correctly identifies the correct class or classes. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. When asked what safety pre-cautions must be observed when using extinguishers, states the correct pre-cautions. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Approved

Referred For More Training

Training Instructor: _____

PERFORMANCE OBJECTIVES

- A. FOLLOWING THE LECTURE AND VIDEO-AUDIO PRESENTATION, EACH TRAINEE WILL HAVE THE ABILITY TO:
1. IDENTIFY THE COMPONENTS OF THE SIMPLIFIED FIRE SAFETY SYSTEM.
 2. LIST METHODS OR ACTIVITIES RELATING TO FIRE PREVENTION.
 3. IDENTIFY METHODS OF OCCUPANT PROTECTION.
 4. LIST STEPS FOR DEVELOPMENT OF AN EFFECTIVE FIRE EMERGENCY OPERATION PLAN AND REQUIRED STAFF TRAINING.
 5. GIVE BASIC STEPS FOR EFFECTIVE IMMEDIATE RESPONSE TO A FIRE EMERGENCY.
 6. VERBALLY STATE OR WRITE THE ACCEPTED METHODS FOR EFFECTIVE FIRE CONTROL AND EXTINGUISHMENT.

THIS WOULD BE A TRANSPARENCY OF A SPREAD OF NEWSPAPER HEADLINES
FOR NUMEROUS FIRE INCIDENTS IN PENAL FACILITIES.

OHIO STATE PENITENTIARY FIRE

- FACILITY THOUGHT OF AS FIREPROOF
- FIRE SPREAD TO FOUR CELL BLOCKS
- 322 DEAD IN LESS THAN 1 HOUR

FACTORS LEADING TO DISASTER

- OVERCROWDING

- DELAYED ALARM

- DELAY IN OPENING CELLS

- LACK OF FIRE PROTECTION OR
SUPPRESSION EQUIPMENT

- NO EMERGENCY PROCEDURE PLAN
OR TRAINING

MAURY COUNTY JAIL
COLUMBIA - TENNESSEE
SUMMER 1977
42 DEAD

FACTORS LEADING TO MULTIPLE LIFE LOSS

- 1) LACK OF ALTERNATE EXITS.
- 2) MATERIALS THAT CREATED EXTREMELY HEAVY SMOKE VERY QUICKLY.
- 3) FIRE ALLOWED TO QUICKLY BECOME LIFE THREATENING.
- 4) INADEQUATE MEANS FOR DETECTION AND ALARM.
- 5) NO MEANS TO QUICKLY AND RELIABLY PROTECT INMATES AND VISTORS
- 6) NO TRAINING OR PLANNING.

NFPA STUDY SHOWS:

- 1) 87% OF FIRE INCENDIARY
- 2) SOURCE OF IGNITION
 - MATCHES
 - SMOKING MATERIALS
 - CIGARETTE LIGHTERS
- 3) MATERIAL IGNITED
 - MATTRESSES
 - BED CLOTHES
 - PERSONAL CLOTHING
- 4) 75% IN CELLS
- 5) MOTIVES
 - ESCAPE
 - MALICIOUS DAMAGE
 - SHOW OF FORCE
 - SUICIDE

FACTORS AFFECTING LIFE SAFETY:

- 1) PREPLANNING
- 2) SUPPRESSION EQUIPMENT
- 3) DETECTION
- 4) ACCUMULATION OF PRODUCTS OF COMBUSTION
- 5) COMPARTMENTATION
- 6) EVACUATION
- 7) BUILDING CONTENTS

FIRE SAFETY REQUIRES

PREVENTIVE & CONTROL

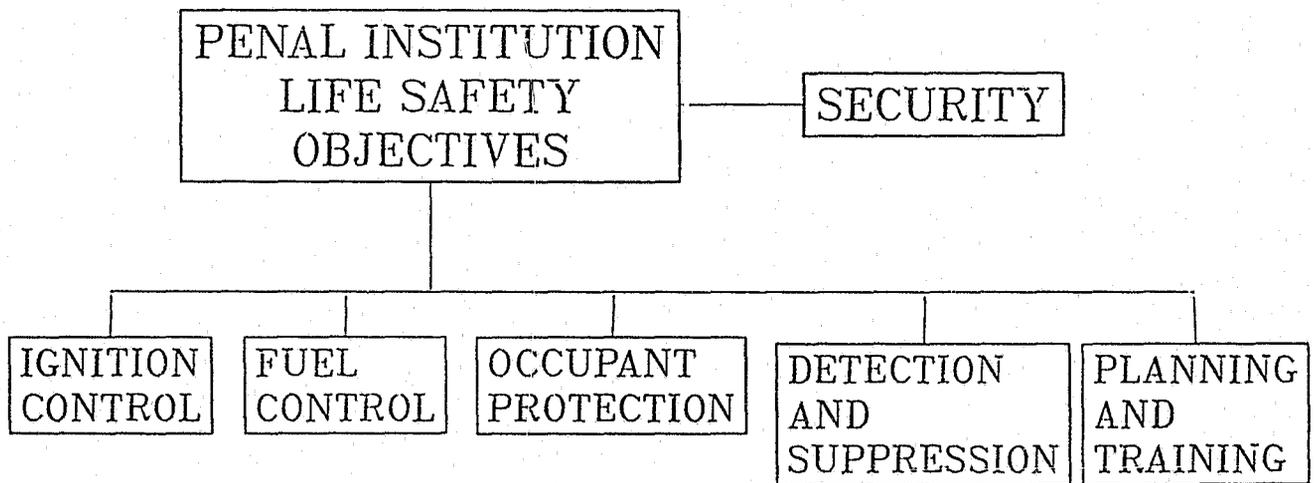
MEASURES

CASE LAW

AREA OF RESPONSIBILITY

- 1) PROTECT PRISONER FROM SELF
- 2) PROVIDE READY MEANS OF EVACUATION
- 3) RESCUE MUST BE MADE PROMPTLY
- 4) DO NOT HINDER OTHERS DOING RESCUE
- 5) VENTILATION TO REDUCE SMOKE DANGER
- 6) SURVEILLANCE TO DETECT FIRES
- 7) ADEQUATE STAFF ON DUTY

SIMPLIFIED FIRE SAFETY SYSTEM FOR PENAL INSTITUTIONS



FIRST LAW OF PENAL
INSTITUTION FIRE SAFETY

- * THE NUMBER ONE PRIORITY OF CORRECTIONAL PEOPLE IS SECURITY.
- * FIRE SAFETY MUST BE PROVIDED WHILE MAINTAINING SECURITY.
- * THEREFORE, OCCUPANTS MUST EITHER BE DEFENDED IN PLACE OR RELIABLY EVACUATED TO A SECURE AREA OF REFUGE OR BOTH.

IGNITION CONTROL

*CONCEPT: ELIMINATING HEAT SOURCES
WHICH COULD ACCIDENTALLY
OR INTENTIONALLY IGNITE A FIRE

*ELEMENTS: RESTRICTION OF SMOKING
MATERIALS, RESTRICTED USE OF
EXTENSION CORDS, ETC.

FUEL CONTROL

*CONCEPT: CONTROLLING THE TYPE, ARRANGEMENT
AND BURNING CHARACTERISTICS OF
POTENTIAL FUELS

*ELEMENTS: FURNISHINGS (MATTRESSES), INTERIOR
FINISH, PERSONAL PROPERTY
CONSTRUCTION TYPE

OCCUPANT PROTECTION

- *CONCEPT: PROVIDING LIFE SAFETY IN THE EVENT OF FIRE EITHER BY EVACUATION OR DEFENDING IN PLACE
- *ELEMENTS: MEANS OF EGRESS, STRUCTURAL INTEGRITY, COMPARTMENTATION, BUILDING SERVICES

DETECTION AND SUPPRESSION

- *CONCEPT: AUTOMATICALLY OR MANUALLY
DETECTING THE PRESENCE OF A
HOSTILE FIRE, SOUNDING AN
ALARM, AND THEN AUTOMATICALLY
OR MANUALLY SUPPRESSING THE FIRE
- *ELEMENTS: FIRE PROTECTION HARDWARE

TRAINING AND PLANNING

*CONCEPT: CONDUCTING TRAINING AND PLANNING
PRIOR TO THE OCCURRENCE OF A FIRE

*ELEMENTS: EMPLOYEE TRAINING, INMATE EDUCATION,
EMERGENCY OPERATING PROCEDURES
FIRE DEPARTMENT PRE-PLANNING

FIRE SAFETY EDUCATION PROGRAMS FOR STAFF

- 1) HISTORY OF THE PROBLEM
- 2) HAZARDS OF FIRE
- 3) AVAILABLE FIRE PROTECTION EQUIPMENT
- 4) EMERGENCY OPERATING PROCEDURES
- 5) POTENTIAL PROBLEMS RELATED TO A PARTICULAR FACILITY

FIRE SAFETY EDUCATION PROGRAMS FOR INMATES

- 1) SELECTED CASE STUDIES DISCUSSING THE HISTORY OF THE PROBLEM
- 2) HAZARDS OF FIRE
- 3) EMERGENCY OPERATING PROCEDURE
- 4) FIRE DRILLS (WHERE POSSIBLE)
- 5) PERSONAL ACTIONS FOR FIRE SURVIVAL

OCCUPANT PROTECTION

- A. DEFEND IN PLACE
 - 1) AUTOMATIC DETECTION & ALARM
 - 2) AUTOMATIC SPRINKLES
 - 3) EMERGENCY VENTILATION SYSTEMS
- B. EVACUTATION TO A SECURE AREA OF REFUGE
 - 1) ADEQUATE EXITS
 - 2) COMPARTMENTATION
- C. OR BOTH A AND B

FIVE STEPS FOR PREPARATION
OF AN EMERGENCY PLAN

- 1) IDENTIFY POTENTIAL PROBLEMS
- 2) SET OBJECTIVES
- 3) DETERMINE CAPABILITIES
- 4) DEFINE ROLES OF RESPONDING AGENCIES
- 5) PUT IN WRITTEN FORM

BASIC

FIRE EMERGENCY RESPONSE

- 1- ASSESS THE SITUATION
- 2- CALL FOR ASSISTANCE
- 3- EVACUATE IF NECESSARY
- 4- BEGIN SUPPRESSION ACTIVITIES

CRITERIA FOR SELECTION OF
FIRE EXTINGUISHERS

- 1) KIND OF MATERIAL OR CLASS OF FIRE
THEY WOULD EXTINGUISH
- 2) POTENTIAL SEVERITY OF FIRE
- 3) CAPABILITY OF USER
- 4) EXTINGUISHER'S RELATIVE 'FIRE-KILLING'
CAPABILITY
- 5) PARTICULAR AGENT USED
- 6) PROPELLANT SYSTEM

CLASSES OF FIRE

| <u>CLASS</u> | <u>HAZARD</u> | <u>EXAMPLES</u> |
|--------------|-----------------------|--|
| <u>A</u> | ORDINARY COMBUSTIBLES | WOOD, PAPER, CLOTH, RUBBER, ETC. |
| <u>B</u> | FLAMMABLE LIQUIDS | GASOLINE, OIL, PAINT, GREASE, SOLVENTS, ETC. |
| <u>C</u> | ELECTRICAL | SWITCHES, RELAYS, TRANSFORMERS, MOTORS, GENERATORS |
| <u>D</u> | COMBUSTIBLE | MAGNESIUM, TITANIUM, SODIUM, POTASSIUM |

FOR CLASS A FIRES — USE

* PRESSURIZED WATER

* MULTI-PURPOSE DRY CHEMICAL

* HALON

FOR CLASS B FIRES – USE

- * MULTI-PURPOSE DRY CHEMICAL
- * STANDARD DRY CHEMICAL
- * PURPLE "K" DRY CHEMICAL
- * HALON

FOR CLASS C FIRES

- * TURN OFF OR UNPLUG ELECTRICAL SUPPLY
- * USE ONLY EXTINGUISHING AGENTS THAT ARE NON-CONDUCTIVE OF ELECTRICITY SUCH AS:

DRY CHEMICAL

HALON OR

CO2

FOR CLASS D FIRES

* USE SPECIAL AGENTS SUCH AS

DRY POWDER

OR

"METAL - X"

USING FIRE EXTINGUISHERS

BASIC STEPS

1. PULL THE PIN
2. AIM THE NOZZLE
3. SQUEEZE THE LEVER

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE

Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Inmate Classification

AUTHOR: Gary M. Bowker, President
Allied Correctional Services
12342 W. Iowa Drive
Lakewood, CO 80228

NOTE TO INSTRUCTOR

This lesson plan is intended to provide the minimum coverage of this topic consistent with the provisions of the North Dakota Century Code and the North Dakota Administrative Code.

This lesson plan and the supplementary materials in the Trainee Resource Manual and Workbook should not be treated as inflexible by the instructors who use it. It should, in fact, be viewed as a basic guide upon which the instructor must build by adding materials which reflect new situations and changes in corrections as they develop in the state. It should be tailored to the skills, knowledge, and learning capabilities of each correctional officer class.

It is recognized that instructors will inject their own experience, style, resources, and enthusiasm into the presentation of this material. Included, as well, will be the values and personal philosophy of individual instructors. We encourage and appreciate the personal investment made by you, the instructor, which will enrich this lesson plan for those receiving this instruction, and would only caution that the ideas presented should reflect the philosophy outlined in the Role of the Correctional Officer as it is printed at the beginning of this text.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Inmate Classification

AUTHOR: Gary M. Bowker, President
Allied Correctional Services
12342 W. Iowa Drive
Lakewood, CO 80228

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: Two (2) Hours

TRAINING OBJECTIVES:

1. To provide trainees with an analysis and working knowledge of state laws and court decisions that impact the classification process.
2. To provide trainees with rationale for development of a formal classification process in their facilities.
3. To assist trainees in developing a classification plan for their facilities.
4. To provide trainees a working definition of classification.
5. To raise the awareness of trainees regarding the benefits of formal classification and how classification can increase safety for staff, inmates and the public.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

1. North Dakota Century Code, 12-44.1 - 09 and 10
2. North Dakota Jail Rules, 10-05-05-04
3. Classification, American Correctional Association monograph, 1981.
4. Legal Responsibility and Authority of Correctional Officers, American Correctional Association, 1982; Chapter 9, "Inmate Protection" and Chapter 11, "Classification and Transfer of Prisoners"
5. Small Jails Resource Manual, "Intake and Classification"
6. Jail Security, Classification and Discipline, National Sheriff's Association, 1983
7. Inmates' Legal Rights, Revised Edition, National Sheriff's Association, 1983

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 30th Street, Suite 130
Boulder, Colorado 80301
Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise(s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

TRAINING AIDS:

Supplies and Equipment

- Video Projection Screen
- 16 mm. Projector With Spare Lamp
- 16 mm. Film: _____
- Discussion Guide
- Overhead Projector
- Appropriate Transparencies
- Slide Projector
- Slides
- Video Monitor, Player/Recorder
- Video Cassette: _____
- Cassette Player, Audio
- Audio Cassette: _____
- Flip Chart and Markers
- Masking Tape
- Chalkboard, Chalk, Eraser
- Trainee Worksheets
- Trainee Handcuts
- Pre- and Post-Tests
- Trainee Course Evaluation
- Trainee Instructor Evaluation
- _____
- _____
- _____
- _____
- _____

I. Topic Introduction and Scope of Presentation - INMATE CLASSIFICATION

- A. The purpose of the lesson is to review state law and legal issues relating to the classification of inmates. Instruction will be delivered on the types of classification and procedures for assigning inmates to custody.
- B. The goal of a classification system is, for small facilities such as those in North Dakota, to provide for maximum inmate compatibility in housing assignments; to establish security risks; to provide inmate safety by separating the violent from the non-violent; to establish the amount of supervision required for individuals or groups of inmates; and to secure information about those with special needs who require handling and treatment separate from the standard process.
- C. The benefits of having a formal classification process are:
1. Better security without violating inmates' rights. (Those who are classified as violent and security risks will be allowed fewer privileges, restricted movement and less time out of cell.)
 2. Identifying and meeting special needs of inmates (those with health problems, suicidal, etc.)
 3. Providing safe and secure housing for inmates (safety from each other).
 4. Safety of staff and the public. (The public will be protected by providing intensive supervision to those who require it by identifying those who are violent and dangerous.)

Instructor introduction by the coordinator, department administrator or self, if appropriate.

Explain instructor's qualifications relevant to this topical area.

Administer Pre-Test.

Topic introduction should include the rationale for the topic being presented.

Before explaining the goals of a classification system, ask students what they think the goals/purposes of classification are/ Write these responses on a flip-chart. Follow this with a discussion of the goals as listed under C below.

5. Reduces threat of litigation against individual correctional officers and administrators.

II. Performance Objectives

Transparency #1

- A. After listening to the lecture, each trainee will be able to define classification.
- B. Each trainee will be able to list two areas of potential liability in the classification process.
- C. Each trainee will be able to utilize the sample forms in developing a classification plan for their jail.
- D. Each trainee will be able to cite the inmate separation requirements of NDCC 12-44.1-09.

III. Definition

Transparency #2

For purposes of this lesson, the inmate classification process is defined as a formal system developed by a facility that provides guidelines and criteria for facility personnel to evaluate inmates for assignment to individual cells or other living quarters.

We will not review some of the most critical court cases affecting trainees regarding classification: SMITH v. WADE and the FINNEY cases are 8th Circuit cases.

IV. Legal Concerns

- A. SMITH v. WADE: \$5,000 punitive damages against guard who showed indifference to inmate safety by placing inmate in cell with third inmate and "should have known" that third inmate was violent and that an assault would take place.
- B. FINNEY v. ARKANSAS BOARD OF CORRECTIONS: Prisoners are entitled to protection from the assaults of other prisoners. "When a state confines a person . . . the state must assume an obligation for the safekeeping of that prisoner."

- C. GATES v. COLLIER: Inmates are subjected to cruel and unusual punishment by not providing adequate protection against assaults through failure to classify them and segregate violent from the non-violent.
- Separate "violent" from the "non-violent".*
- D. BLAKEY v. BOOS: Sheriff has duty to use reasonable care and prudence for safety and protection of prison inmates and while he is not insurer of safety of inmates, he has duty to protect them from injury which he should have reasonably foreseen or anticipated. This is a South Dakota case.
- Emphasize that we have the duty to protect inmates from injury which we could have reasonably foreseen or anticipated. This is critical for classification. We must separate the violent from the non-violent and those who we think might harm one another. We must also have documentation of our classification decisions.*
- E. GATES v. COLLIER: Racially discriminatory classification is prohibited.
- F. LAAMAN v. HELGEMOE, WASHINGTON v. LEE: Where a classification system exists, the decisions cannot be arbitrary, irrational or discriminatory.
- G. North Dakota Century Code and Jail Rules
1. 12-44.1-09. HOUSING OF INMATES requires the following: A 1985 amendment to the Code will allow an exception to the separation of the pre-trial and convicted rule for security, order and rehabilitation at the discretion of the facility administrator.
- 12-44.1-09. HOUSING OF INMATES. In grade one and grade two jails, and where practicable in grade three jails, the following groups of inmates must be housed separately from each other:

- a. Female inmates from male inmates.
- b. Juveniles from adults.
- c. Persons detained for hearing or trial from inmates under sentence of imprisonment, unless authorized to be housed together by the jail administrator for security, order or rehabilitation.
- d. Persons detained for hearing or trial or under sentence of imprisonment from detained witnesses and other persons detained under civil commitment, unless authorized to be housed together by the jail administrator for security, order or rehabilitation.
- e. Mentally disturbed inmates and other inmates with special needs as determined by the jail administrator from the remainder of the population, unless authorized to be housed together by the jail administrator for security, order or rehabilitation.
- f. Special management inmates whose behavior presents a serious threat to the safety and security of the facility, the inmate, the staff, or the general inmate population from the remainder of the population.

Transparency #3a
Transparency #3b

12-44.1-10. DETAINED WITNESSES AND PRE-TRIAL DETAINEES require the following: Detained witnesses and persons held in custody awaiting arraignment or trial may not be restricted in their activities to any extent greater than required to maintain order and security and to assure appearance at arraignment or trial.

Briefly tell trainees what this requirement is.

Witnesses and pre-trial detainees shall not be required to do labor other than keeping their living areas clean nor shall they be required to participate in jail programs.

2. The North Dakota Jail Rules, 10-05-05-04, WRITTEN JAIL POLICY, requires that written jail policy be developed for the "classification of prisoners."

Transparency #4

It is essential that you have written procedures for classification. You are not only in violation of jail rules but also extremely vulnerable to litigation if you do not.

3. Additional requirements of the North Dakota Jail Rules that impact on classification are:

- 10-05-04-01 Health Screening
- 10-05-04-02 Health Exam and Treatment
- 10-05-04-03 Communicable Disease Treatment
- 10-05-04-04 Mental Illness - Supervision
- 10-05-05-03 Personal Observation of Inmates

Briefly discuss the impact of these on classification.

V. Correctional Officer Responsibility

A. Importance of Subject

1. It is your responsibility as a correctional officer to separate violent offenders from the non-violent. This means that you are responsible for the safety of inmates.
2. You are obligated by law to have some objective criteria upon which to decide who is assigned to particular cells or housing areas (initial classification).
3. Following initial classification or housing assignment, you have an affirmative duty to reclassify inmates if inmate safety or

facility security is threatened.

4. You are responsible for determining/assessing special needs of inmates for their safety--i.e., suicidal, health needs.
5. Your decisions on inmate classification will directly affect the safety of staff, inmates and the community.

VI. Beginning the Classification Process

- A. After all of the steps of the admission and intake process have been completed, the inmate will be admitted to the facility.
 1. Many facilities find it useful to first admit inmates to one section reserved for short-term inmates.
 - a. Can be used for inmates expected to stay only a few hours or a few days; who need special supervision; or for those who need time to adjust before being admitted to the general population.
 - b. Should hold new detainees in area that allows close observation.

B. Classification

Once a determination has been made that the inmate will not be immediately released on bond or by other means, he/she must be moved from the holding cell to the general population or cellblock area.

1. The primary purpose of classification in small facilities is to appropriately assign inmates to cells which will provide maximum inmate compatibility and safety and security in each cell or cellblock area.

Note that we will not be dealing with the basics of booking. The classification decision is one that is made once the inmate is admitted to the facility and will not make bond or secure other quick release.

Point out the fact that across the country, statistics show that about 60% of all inmates admitted to jail are released within 72 hours.

This is especially important for those who are intoxicated, under the influence of drugs or suicidal.

Write on flipchart. Explain that this was stated as part of the classification "goal" at the beginning of this lesson.

- a. While rehabilitation programs are worthy goals, they are not practical in most rural jails in North Dakota.
 - b. Efforts should be made to secure such services as alcohol counseling, mental health services, and educational programs from existing public agencies.

Encourage trainees to seek out services from local agencies. State that the Advanced Course offers a module on Use of Community Resources. This issue will be discussed in more detail during that module.
- C. Classification helps in the management and operation of the facility.
1. Provides staff with more accurate, fair and consistent decision making process for classifying inmates.

Discuss how classification helps the officer.
 2. Defines for staff:
 - a. How and where inmate should be housed.
 - b. Those prisoners who require special handling, treatment and supervision that varies from the standard process.
 - c. Level of supervision an inmate requires.
 - d. The setting for program participation.
 3. Establishes a process for identifying and planning individual inmate program needs/participation.
 4. Encourages a more orderly processing and consistent handling of inmates by staff.
 5. Helps gather relevant information concerning inmates such as security risk, prior violence, suicidal potential and health care needs.
 6. Most small facilities do not have enough staff or funds to develop

- and maintain a complex classification system.
- a. However, most likely, your facility is doing what is essential in this process.
- b. Collect information on inmates.
- c. At times, verify this information.
- d. Make decisions based on this information.
7. A formal system includes only a few procedural steps other than those presently practiced in your facility.
- a. Consistency between staff and administration must be maintained. You must avoid each shift classifying in a different manner. The lack of consistency will cause problems in the inmate population and make you vulnerable to litigation.
- b. Consistency (inmate to inmate). Inmates will learn that they are being handled in a fair and consistent manner.
- c. Accuracy.
- d. Documentation. Again, without any formal process to reach a decision on cell assignment and written documentation of that decision, you are extremely vulnerable to litigation.
8. A formal classification process does not need to be expensive or complicated.
- a. Can be done by line level correctional officers.
- Emphasize that manpower and resources will be limited. The system you develop must be a workable one with limited resources.*
- The information you get at booking.*
- Requesting wants and warrants checks; requesting criminal history.*

(1) Only a matter, in most cases, of formalizing and documenting what is already done.

b. Can be done in a minimum amount of time. Initial decision can be made in a few minutes--it may take longer in some cases to verify criminal history data.

c. Can be done without complicated, expensive "instruments."

VII. Suggested Criteria for Making Classification Assignments.

A. All classification systems must at a minimum take into account separating males from females, juveniles from adults, those with "special physical health or mental problems" from the general population and the violent from the non-violent.

B. NDCC 12-44.1-09 also requires the separation of "persons detained for hearing or trial from inmates under sentence of imprisonment" with the exception that for reasons of security, order and rehabilitation, the facility administrator may waive this Code requirement.

C. NDCC 27-20-16 requires that juveniles be detained "in a room separate and removed from those for adults."

Advise students that, if at all possible, juveniles should not be held in the same jail with adults. If they must be held, suggest they be held on a short-term basis until they can be transported to a juvenile detention center or other more suitable place of detention.

D. A combination of all the factors in A, B, and C above are required to protect you (legally) in the classification process.

- E. The following classification system is suggested. The system is based on four levels of classification (excluding work release and trusties). These four levels are:

Level 1: Special Physical and
Mental Health Problems

- Suicidal
- Diseased
- Disabled
- Intoxicated
- Mental

Transparency #5a
Transparency #5b

Student worksheets include all of Levels 1 - 4.

Level 2: Personal Safety

- Known enemies in jail
- Old/weak
- Youthful/effeminate
- Sexual deviate/homosexual
- Witness

Level 3: Violent, Aggressive
Behavior

- Prior violence, assaultive
- Violent/combatative at intake
- History of escapes
- High bond
- Awaiting transfer/on appeal

Note that Levels 1 - 3 separate special prisoners (Level 1), those who need protection (Level 2), and the violent prisoner (Level 3) into separate groups. Level 4 represents all other inmates who are not a safety or security risk. Level 4s can be housed in two separate areas-- one for pre-trial and one for sentenced.

Level 4: All Other Inmates/Non-
Behavioral Threats

- No prior/current violent or aggressive behavior
- No special health problems
- No personal safety issues

- F. Each of the classification levels cited above would apply to both males and females.

- G. Levels 1 - 3 would allow for a combination of pre-trial and sentenced prisoners for "security, order or rehabilitation" purposes. Of course, each level will have separate housing.

Cite the 1985 legislation that would allow this.

- H. Level 4 inmates will require separation only by pre-trial and sentenced for both males and females. The Level 4 groups will most likely comprise 60% to 70% of your average daily population.

VIII. Documentation of the Classification Decision

- A. As previously stated, it is critical that you document your rationale for your classification decision in some manner. Failure to have any documentation on why you made the classification decision you did places the burden on you to prove that you were rational, that you followed defined procedures, and that you utilized some objective criteria in your decision making.

Refer students to the sample "Any County Jail" inmate classification form in the student workbook.

- B. The two-page form in the student workbook presents a reasonably simple approach to making an objective classification decision and to having appropriate documentation. Following is a brief explanation of key features of the form.

Transparency #6a

1. Level 1. Special Physical and Mental Health Problems

- Juveniles have been placed in this category since they are "special problems."
- Medical screening information, observations of the arresting and admitting officers, and information about the inmate from prior incarcerations will be the primary determining factors whether or not to classify "Special Health Problems".

- The blank horizontal lines under the offender sex label followed by "cells" are utilized to specify what cell or cellblock areas are to be utilized for this classification of inmate. These cell areas should be designated on the form on the blank horizontal lines for each of the four classification levels.

2. Level 2. Personal Safety

- The booking officer will make this decision on appearance, type of charge (if sex crime), data from prior incarcerations, or information reported by the inmate.
- The officer making the decision should ask the inmate if there is any reason why he would fear for his safety in the facility. This question is used to elicit information on known inmate enemies in the facility as well as information related to illicit sexual activities.

3. Level 3. Violent/Aggressive Behavior

- Information on the inmate's behavior during prior incarcerations in your facility is critical. If the inmate has a history of violence (prior assaultive behavior in the facility, lengthy record of violent crimes, escape attempts) he/she should be classified as a behavior threat and removed from the general population (Level 4).
- If the inmate was combative during intake and has made threats of violence, he/she should be classified a Level 3.

- If the inmate has a high bond or is a known escape artist or you have reason to believe that he/she will attempt to escape, he/she should be in this classification.
4. Level 4. Non-Behavioral Threat *Transparency #6b*
- Inmates in this category are basically non-violent and have offered no reasons why their safety would be jeopardized in the facility. This group would typically be referred to as the general population.
 - According to the Century Code, the pre-trial and sentenced will have to be separated.
5. Space is provided on the second page of the form in the box entitled "Initial Classification Decision" to indicate and document the classification decision by placing the cell assignment in the appropriate space. The date of the decision must be recorded as well as the name of the officer making the decision. A supervisor should review the decision and approve or reject the initial decision. *Point out on Transparency #6b.*
- Documents are not official unless signed and dated.*
6. The box entitled "Classification Review" at the bottom of page 2 is utilized by the administrator or supervisor to make a final decision on the initial classification decision. Space is provided to either indicate "no change" in the initial decision or to indicate a change, the reason for the change, and the new cell or housing unit assignment. *Point out on Transparency #6b*

This form shall become a part of the inmate's file.

IX. Reclassification

- A. There should and will be a need to change the initial classification decision based on new information you receive about an inmate or based upon observed inmate behavior. Correctional officers should request reclassification of inmates when they feel either the inmate's safety is jeopardized or that facility security is being compromised by the existing classification. The rationale for this reclassification should be documented and the request made to the appropriate person(s).
- B. If you are in the position of having to compromise or violate your classification guidelines due to space limitations (example: by placing a youthful, non-violent passive offender in with an older violent inmate known for his propensity toward violence and aggressive behavior), you should transport that inmate to another facility. You must not violate your own classification procedures. Should an inmate be injured when you have compromised your own system, you are sure to be held liable.

It is most critical that officers stay in touch with the "facility climate." The CO is in the best of all positions to hear, see and feel what is going on. If you feel an inmate should be reclassified, you should make that known to your superiors.

*Emphasize the point that you cannot compromise your procedures. You may move inmates to various areas of the facility at various times to remain flexible and efficient with use of available space. However, you **MUST NOT** mix the different levels of classification.*

X. Lesson Summary

- A. Key points to remember:
1. **MUST** have some written policy and procedures to classify.
 2. Key purpose is to provide for safety of staff and inmates and security of facility.
 3. Potential liability for failure to classify (protect) is significant.
 4. Must follow requirements of Century Code and Jail Rules.
 5. Develop procedures and document your decisions.

*Write on flipchart.
Summarize classification and ask if any questions.*

Transparency #7a

Student worksheet in Trainee Manual.

6. Reclassify when necessary.

7. DO NOT compromise your own system.

B. Regardless of approach, all good classification systems:

Transparency #7b

1. Collect information on each inmate.

2. Verify the information.

3. Interpret the information as a basis of a decision.

4. Provide a fair and consistent process based on objective criteria.

5. Must be directed at inmate safety and facility security as the foremost considerations.

TRAINEE WORKSHEET

SUBJECT: Inmate Classification

1. Objectives

- A. After listening to the lecture, each trainee will be able to define classification.
- B. Each trainee will be able to list two areas of potential liability in the classification process.
- C. Each trainee will be able to utilize the sample forms in developing a classification plan for their jail.
- D. Each trainee will be able to cite the inmate separation requirements of NDCC 12-44.1-09.

2. Response to objectives:

A. List the two primary purposes of classification.

- 1. _____
- 2. _____

B. List two areas of potential liability in the classification process.

- 1. _____

- 2. _____

C. Cite the inmate separation requirements of NDCC 12-44.1-09.

- 1. _____
- 2. _____
- 3. _____

- 4. _____

5. _____

6. _____

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Inmate Classification

1. Objectives

- A. After listening to the lecture, each trainee will be able to define classification.
- B. Each trainee will be able to list two areas of potential liability in the classification process.
- C. Each trainee will be able to utilize the sample forms in developing a classification plan for their jail.
- D. Each trainee will be able to cite the inmate separation requirements of NDCC 12-44.1-09.

2. Response to objectives:

- A. List the two primary purposes of classification.
 - 1. Inmate Compatibility
 - 2. Safety and Security
- B. List two areas of potential liability in the classification process.
 - 1. Failure to separate the violent from non-violent (protect from assault).
 - 2. Failure to classify: "should have known existing classification would lead to injury or harm."
- C. Cite the inmate separation requirements of NDCC 12-44.1-09.
 - 1. Female from male
 - 2. Juveniles from adults
 - 3. Pre-trial from post-trial unless authorized by administrator for security, order or rehabilitation.
 - 4. Detained witness and civil commitments unless authorized by administrator for security, order or rehabilitation.

5. Mentally disturbed and other inmates with special needs unless authorized by administrator for security, order or rehabilitation.

6. Special Management inmates whose behavior presents a serious threat to the safety and security of the facility, the inmate, the staff or the general inmate population.

PRE- AND POST-TEST QUESTIONS

SUBJECT: Inmate Classification

A. List the two areas of potential liability in the classification process.

1. _____
2. _____

B. List the two primary purposes of classification.

1. _____
2. _____

C. Cite the six inmate separation requirements of NDCC 12-44.1-09.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

PRE- AND POST-TEST QUESTIONS (ANSWERS)

SUBJECT: Inmate Classification

- A. List the two areas of potential liability in the classification process.
1. Failure to separate the violent from non-violent (protect from assault).
 2. Failure to classify: "should have known existing classification would lead to injury or harm."
- B. List the two primary purposes of classification.
1. Inmate Compatibility
 2. Safety and Security
- C. Cite the six inmate separation requirements of NDCC 12-44.1-09.
1. Female from male
 2. Juveniles from adults
 3. Pre-trial from post-trial unless authorized by administrator for security, order or rehabilitation.
 4. Detained witness and civil commitments unless authorized by administrator for security, order or rehabilitation.
 5. Mentally disturbed and other inmates with special needs unless authorized by administrator for security, order or rehabilitation.
 6. Special Management inmates whose behavior presents a serious threat to the safety and security of the facility, the inmate, the staff or the general inmate population.

ANY COUNTY JAIL
INMATE CLASSIFICATION

| | | | | |
|--|-------|--------|-------------------------------------|-----------------------------------|
| NAME: Last | First | Middle | Booking # | Most Serious Offense at Booking |
| SEX: <input type="checkbox"/> Male <input type="checkbox"/> Female | | | Age: <input type="checkbox"/> Adult | <input type="checkbox"/> Juvenile |
| | | | DOB: | <input type="checkbox"/> Juvenile |

I. SPECIAL PHYSICAL & MENTAL HEALTH PROBLEMS (From Medical Screening or Officer Observation)

Suicidal Intoxicated Juvenile
 Communicable Mental Problem
 Disabled Special Medical (Cases, etc.)

If answer to any special health problem is affirmative, classify as follows:

| | | |
|---------------------|-----------------------|-------------------|
| ADULT MALE Cells | ADULT FEMALE Cells | JUVENILE Cells |
| Male | Female | |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

II. PERSONAL SAFETY

Youthful/effeminate Mental handicap
 Old/weak Witness/public official
 Sexual deviate or homosexual Known enemies in jail

If answer to any personal safety issue is affirmative, classify as follows:

| | |
|---------------------|-----------------------|
| ADULT MALE Cells | ADULT FEMALE Cells |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

III. VIOLENT/AGGRESSIVE BEHAVIOR

Prior violent behavior in the jail Bond exceeds \$100,000
 Violent/combatative at intake Awaiting transfer or on appeal
 History of escape Infamous crime
 History of arrests involving violent behavior

If answer to any violent/aggressive behavior issue is affirmative, classify as follows:

| | |
|---------------------|-----------------------|
| ADULT MALE Cells | ADULT FEMALE Cells |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

IV. NON-BEHAVIORAL THREAT

- No prior or current violent/aggressive behavior
- No special health problems
- No obvious personal safety issues
- Inmate has not offered any reason why his/her safety would be jeopardized in the jail

If answer to all issues under non-behavioral threat is affirmative, classify as follows:

| ADULT MALE Cell Assignment | | ADULT FEMALE Cell Assignment | |
|-------------------------------|------------------|---------------------------------|------------------|
| <u>Pre-trial</u> | <u>Sentenced</u> | <u>Pre-trial</u> | <u>Sentenced</u> |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

INITIAL CLASSIFICATION DECISION

DATE: _____ BY: _____

CELL ASSIGNMENT: _____

SUPERVISOR'S REVIEW DATE: _____ BY: _____

CLASSIFICATION REVIEW (within 72 hours) Yes No

DECISION: (No change or new housing assignment) _____

BY: _____ DATE: _____ Cell Assignment

REASON: _____

NOTE: All initial classification decisions are to be reviewed by a supervisor within 24 hours. All reclassification decisions are to be made by the supervisor upon recommendation of the corrections officer.

... PLEASE USE THE BACK OF THIS FORM TO ADD ANY COMMENTS REGARDING YOUR CLASSIFICATION DECISION ...

PERFORMANCE OBJECTIVES

- A. AFTER LISTENING TO THE LECTURE, EACH TRAINEE WILL BE ABLE TO DEFINE CLASSIFICATION.

- B. EACH TRAINEE WILL BE ABLE TO LIST TWO AREAS OF POTENTIAL LIABILITY IN THE CLASSIFICATION PROCESS.

- C. EACH TRAINEE WILL BE ABLE TO UTILIZE THE SAMPLE FORMS IN DEVELOPING A CLASSIFICATION PLAN FOR THEIR JAIL.

- D. EACH TRAINEE WILL BE ABLE TO CITE THE INMATE SEPARATION REQUIREMENTS OF N.D.C.C. §12-44.1-09.

DEFINITION

FOR THE PURPOSES OF THIS LESSON, THE INMATE CLASSIFICATION PROCESS IS DEFINED AS A FORMAL SYSTEM DEVELOPED BY A FACILITY THAT PROVIDES GUIDELINES AND CRITERIA FOR FACILITY PERSONNEL TO EVALUATE INMATES FOR ASSIGNMENT TO INDIVIDUAL CELLS OR OTHER LIVING QUARTERS.

- A. FEMALE INMATES FROM MALE INMATES.

- B. JUVENILES FROM ADULTS.

- C. PERSONS DETAINED FOR HEARING OR TRIAL FROM INMATES UNDER SENTENCE OF IMPRISONMENT, UNLESS AUTHORIZED TO BE HOUSED TOGETHER BY THE JAIL ADMINISTRATOR FOR SECURITY, ORDER, OR REHABILITATION.

- D. PERSONS DETAINED FOR HEARING OR TRIAL OR UNDER SENTENCE OF IMPRISONMENT FROM DETAINED WITNESSES AND OTHER PERSONS DETAINED UNDER CIVIL COMMITMENT, UNLESS AUTHORIZED TO BE HOUSED TOGETHER BY THE JAIL ADMINISTRATOR FOR SECURITY, ORDER, OR REHABILITATION.

- E. MENTALLY DISTURBED INMATES AND OTHER INMATES WITH SPECIAL NEEDS AS DETERMINED BY THE JAIL ADMINISTRATOR FROM THE REMAINDER OF THE POPULATION, UNLESS AUTHORIZED TO BE HOUSED TOGETHER BY THE JAIL ADMINISTRATOR FOR SECURITY, ORDER, OR REHABILITATION.

- F. SPECIAL MANAGEMENT INMATES WHOSE BEHAVIOR PRESENTS A SERIOUS THREAT TO THE SAFETY AND SECURITY OF THE FACILITY, THE INMATE, THE STAFF, OR THE GENERAL INMATE POPULATION FROM THE REMAINDER OF THE POPULATION.

CLASSIFICATION

TRANSPARENCY #4

THE NORTH DAKOTA JAILS RULES, 10-05-05-04, WRITTEN JAIL
POLICY, REQUIRES THAT WRITTEN JAIL POLICY BE DEVELOPED
FOR THE "CLASSIFICATION OF PRISONERS."

LEVEL 1: SPECIAL PHYSICAL AND MENTAL HEALTH PROBLEMS

- * SUICIDAL
- * DISEASED
- * DISABLED
- * INTOXICATED
- * MENTAL

LEVEL 2: PERSONAL SAFETY

- * KNOWN ENEMIES IN JAIL
- * OLD / WEAK
- * YOUTHFUL / EFFEMINATE
- * SEXUAL DEVIANT / HOMOSEXUAL
- * WITNESS

LEVEL 3: VIOLENT, AGGRESSIVE BEHAVIOR

- * PRIOR VIOLENCE, ASSAULTIVE
- * VIOLENT / COMBATIVE AT INTAKE
- * HISTORY OF ESCAPES
- * HIGH BOND
- * AWAITING TRANSFER / ON APPEAL

LEVEL 4: ALL OTHER INMATES / NON-BEHAVIORAL THREATS

- * NO PRIOR / CURRENT VIOLENT OR
AGGRESSIVE BEHAVIOR
- * NO SPECIAL HEALTH PROBLEMS
- * NO PERSONAL SAFETY ISSUES

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Inmate Control Techniques

AUTHOR: Neil L. Fahlsing
Corrections Specialist
CJTS Division
Office of Attorney General
State Capitol
Bismarck, ND 58505

NOTE TO INSTRUCTOR

This lesson plan is intended to provide the minimum coverage of this topic consistent with the provisions of the North Dakota Century Code and the North Dakota Administrative Code.

This lesson plan and the supplementary materials in the Trainee Resource Manual and Workbook should not be treated as inflexible by the instructors who use it. It should, in fact, be viewed as a basic guide upon which the instructor must build by adding materials which reflect new situations and changes in corrections as they develop in the state. It should be tailored to the skills, knowledge, and learning capabilities of each correctional officer class.

It is recognized that instructors will inject their own experience, style, resources, and enthusiasm into the presentation of this material. Included, as well, will be the values and personal philosophy of individual instructors. We encourage and appreciate the personal investment made by you, the instructor, which will enrich this lesson plan for those receiving this instruction, and would only caution that the ideas presented should reflect the philosophy outlined in the Role of the Correctional Officer as it is printed at the beginning of this text.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Inmate Control Techniques

AUTHOR: Neil L. Fahlsing, Corrections Specialist
CJTS Division, Office of Attorney General
State Capitol
Bismarck, ND 58505

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: Nine (9) Hours, Or As Time Permits

TRAINING OBJECTIVES:

1. To provide trainees with an opportunity to practice accepted body positioning to prepare for one's defense or for potential combat.
2. To familiarize trainees with actions that may be taken to free themselves from holds placed upon them by another person.
3. To familiarize trainees with actions/methods that may be used to physically restrain another person.
4. To familiarize trainees with moves that can be used to turn a move of aggression by another person into a "come-along hold."
5. To familiarize trainees with Inmate Control Techniques for the purpose of augmenting the Use of Force training lesson and in-service training at the trainees' employing departments.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

Defensive Tactics, A Manual for Law Enforcement Officers, Federal Bureau of Investigation

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 30th Street, Suite 130
Boulder, Colorado 80301
Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise(s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

TRAINING AIDS:

Supplies and Equipment

- Video Projection Screen
- 16 mm. Projector With Spare Lamp
- 16 mm. Film: _____
- Discussion Guide
- Overhead Projector
- Appropriate Transparencies
- Slide Projector
- Slides
- Video Monitor, Player/Recorder
- Video Cassette: _____
- Cassette Player, Audio
- Audio Cassette: _____
- Flip Chart and Markers
- Masking Tape
- Chalkboard, Chalk, Eraser
- Trainee Worksheets
- Trainee Handouts
- Pre- and Post-Tests
- Trainee Course Evaluation
- Trainee Instructor Evaluation
- _____
- _____
- _____
- _____
- _____

I. Topic Introduction and Scope of Presentation — INMATE CONTROL TECHNIQUES

- A. Administrators have a legal responsibility to train in all areas of correctional officer duties. Training may be required formally by the Peace Officers Standards Board (POST) or completed through in-service training.
- B. Inmate control techniques are considered by most administrators to be an important area and orientation is provided to document the degree, date and time of the presentation.
- C. Completion of this familiarization program will place a higher degree of liability on the correctional officer if litigation should be initiated.

Instructor introduction by the coordinator, department administrator or self, if appropriate.

Explain instructor's qualifications relevant to this topical area.

Administer Pre-Test.

Topic introduction should include the rationale for the topic being presented.

Orientation and/or practice will be provided here.

II. Performance Objectives

- A. Following the lecture and practical exercise, each trainee will be able to:
 - 1. Demonstrate the accepted defensive stance or body position.
 - 2. Demonstrate and verbally explain the principle of working against an opponent's thumb to break a hold on the arm(s).
 - 3. Demonstrate three holds that may be used to restrain another person.
 - 4. Demonstrate a method of turning a move of aggression by the instructor into a come-along hold.
 - 5. Verbally state the degree of force that may be used constitutionally.

Transparency #1

Refresh trainees on the lesson "Use of Force" in basic training.

III. Definition

- A. The definition of inmate control techniques for the purpose of this

Write on flipchart, chalkboard or display Transparency #2.

session is:

Physical, individual or team actions that may be taken to control an inmate's movements or acts of aggression. These actions may or may not include the use of batons, chemical mace, handcuffs or other approved law enforcement equipment as per departmental policy and procedure.

Emphasize that trainees must be familiar with local policy.

IV. Legal Considerations

- A. The U.S. Supreme Court has consistently recognized the constitutional need for:
1. The necessity to physically control inmate movements to prevent harm to themselves or others.
 2. A firm but fair approach in the application of such control techniques.
 3. Control techniques that do not exceed the guidelines as presented in the Use of Force and Legal Issues presentations.

Ask the class to explain these guidelines.

V. Correctional Officer Responsibility

- A. Importance of Subject
1. It is your responsibility to maintain order in the facility. Order requires enforcement of rules and regulations.
 2. The enforcement of facility rules and regulations, the safety of other people and your safety may require that you enter into physical confrontations when other alternatives have been considered and/or utilized.
 3. As stated, administrators have the responsibility to train. This is only an orientation and

exposure to skills and techniques that must be practiced regularly to maintain an acceptable degree of proficiency. It is your responsibility to develop a degree of proficiency as prescribed by your departmental policy and procedure.

Hand out the Defensive Tactics Manuals. Book #1 goes to the first person on the trainee roster; book #2 to the second, etc. The manuals are returned with evaluations and post-tests.

VI. Self Confidence/Protection

- A. This orientation may be your first exposure to inmate control techniques with respect to verbal and physical confrontations. The available classroom time is so limited that this training cannot be completed to the level that will instill a high degree of confidence. This confidence level can only be achieved with continued study and practice on your own time or under departmental authorization.
- B. Confidence is a by-product of skill and is developed directly in proportion to skill. The more skillful the officer becomes in performing the techniques, the more confidence he/she will have in his/her ability in self defense and in overcoming physical resistance.
- C. Defensive tactics training will teach the officer how to best defend and protect himself/herself against certain common types of attack.

Reaffirm that this orientation is not training. The trainee may not go home with the feeling of having been trained.

VII. Basic Position and Footwork

- A. Your best defense rests on your shoulders! Use it well and you will avoid most physical confrontation. Uses of the head are:
 1. To think and, at the same time, empathize with the inmate.

Transparency #3.

2. The mouth speaks, preferably in a calming tone, to give quiet directives.
 3. The head hears, receiving messages sent, which in turn alerts the body.
 4. Sight, for maintaining eye contact, detects attitude and action.
 5. Facial expression can certainly get you into or out of trouble.
- B. The accepted position in a verbal confrontation is: *Transparency #4.*
1. Stand erect; present a professional appearance, but not over-bearing; be erect but relaxed.
 2. Feet spread with the lead foot about 12 inches ahead of the other.
 3. Hands, waist high in a modified defensive position. Hands in this position will add strength to what you are saying. Body language is observed.
 4. Eye contact should be made and maintained throughout the confrontation.
- C. The accepted position for physical combat is: *Transparency #5.*
1. Stand flexibly, knees bent slightly, with a slight forward crouch.
 2. The feet should be comfortably spread with the heels off the floor.
 3. Hands should be held at about the level of your chin; hands open, not in a fist; palms toward the prisoner.

4. Eye contact should be made and maintained.

D. Eye contact, coupled with a proper body position, establishes a definite message for the opponent. Some thoughts on the topic are:

Transparency #6.

1. Positive eye contact: "I'm confident, I'm ready, I'm trained."

2. Eye contact and body position indicate training and another trained (or untrained) person will recognize this posture.

Expound upon as appropriate.

E. Position of the feet and movements:

Transparency #7.

1. What may be accomplished with the body is, to a great degree, determined by the positions of the feet. Examples are baseball, archery, bowling, golf, etc.

2. The recommended stance will allow you to move quickly in a defensive or offensive move. Addressing/facing the opponent properly will enable you to make positive moves.

3. Moves should always begin with widening of your stance. (See figures #2 and #3, page 5 of manual.)

Explain right-handed, left-handed.

VIII. Freeing Yourself From Holds

The following figures are in the FBI Defensive Tactics Manual.

A. Use your head first and ask yourself if you want to forcibly break the hold. If the prisoner/person is holding and talking, it may be just as well to let him/her hold your arm. The move required to free yourself may start a total physical confrontation.

Trainees will be paired up and practice the following holds.

B. Hand holds on the arm.

See figure 12.

C. Both hands holding your arm.

See figure 16.

- D. Hand on the upper arm. *See figure 20.*
- E. Hand on the chest. *See figure 23.*
- F. Body locks, front. *See figure 32.*
- G. Body locks, rear. *See figure 36.*
- H. Head lock. *See figure 43.*
- I. Strangle, one hand. *See figure 46.*
- J. Strangle, two hands. *See figure 48.*

IX. Wristlocks and Armlocks

See page 36 of FBI Manual.

A. The wristlock, if overapplied, is very painful and can be very damaging. During any application, and especially during training, apply all wristlocks and armlocks with CARE. In practice, you should physically resist the application of the wristlock hold as much as possible to provide the other trainee the opportunity to sense the degree of pressure required to subdue another person.

Trainees will practice this hold in pairs.

B. The bar hammerlock should be practiced as it is a very effective hold. This is especially true in a team effort.

See page 41 of FBI Manual; figures 138 to 150. Trainees will practice this hold in pairs.

X. Additional Holds and Defensive Moves

Obviously, many additional holds and moves are demonstrated in the FBI Manual. The time allotment must determine what shall be presented. Repetition of the holds presented must be allowed for if any small degree of proficiency is to be attained. Instructors must observe and facilitate.

This decision will be based upon whether or not the instructor feels the trainees are ready for additional holds.

Inmate Control Techniques - Checklist
(not to be viewed as proficiency test)

Officer _____ Date _____, 198

Employing Dept. _____

| | <u>Properly</u> | <u>Required Coaching</u> |
|--|-----------------|------------------------------|
| 1. Assumed the combative stance; | _____ | _____ |
| 2. Explain, verbally, the principle of breaking a hand hold; | _____ | _____ |
| 3. Broke a hand hold | _____ | _____ |
| 4. Demonstrated three (3) come-along holds | _____ | _____ |
| 5. Turned an act of aggression into a come-along hold | _____ | _____ |
| 6. Verbally stated the degree of force that may be used | _____ | _____ |

Instructor _____

Date _____, 198

1. FÓLLOWING THE LECTURE AND PRACTICAL EXERCISE EACH TRAINEE WILL BE ABLE TO DEMONSTRATE THE ACCEPTED DEFENSIVE STANCE OR BODY POSITION.
2. EACH TRAINEE WILL BE ABLE TO DEMONSTRATE AND VERBALLY EXPLAIN THE PRINICPLE OF WORKING AGAINST AN APPONENTS THUMB TO BREAK A HOLD ON THE ARMS.
3. EACH TRAINEE WILL BE ABLE TO DEMONSTRATE THREE HOLDS THAT MAY BE USED TO RESTRAIN ANOTHER PERSON.

4. EACH TRAINEE WILL BE ABLE TO DEMONSTRATE A METHOD OF TURNING A MOVE OF AGRESSION, BY THE INSTRUCTOR, INTO A COME-ALONG HOLD.

5. EACH TRAINEE WILL BE ABLE TO VERBALLY STATE THE DEGREE OF FORCE THAT MAY BE USED, CONSTITUTIONALLY.

INMATE CONTROL TECHNIQUES – DEFINITION

PHYSICAL, INDIVIDUAL, OR TEAM ACTIONS THAT MAY BE TAKEN TO CONTROL AN INMATES MOVEMENTS OR ACTS OF AGGRESSION. THESE ACTIONS MAY OR MAY NOT INCLUDE THE USE OF BATONS, CHEMICAL MACE, HANDCUFFS OR OTHER APPROVED LAW ENFORCEMENT EQUIPMENT.



YOUR BEST DEFENSE,
SETS ON YOUR SHOULDERS!

USE YOUR HEAD AND
AVOID PHYSICAL CONFRONTATION.
WHENEVER POSSIBLE



FIGURE 8

THE OFFICER ON THE RIGHT IS USING AN ACCEPTED STANCE FOR INTERROGATION OR VERBAL CONFRONTATION.

1. STANDING ERECT;
2. FEET SPREAD;
3. HANDS AT THE READY POSITION;
4. FULL EYE CONTACT.



FIGURE 1

THE OFFICER HERE HAS ASSUMED A
COMBAT READY POSITION

1. STANDING FLEXIBLE, READY TO MOVE;
2. FEET SPREAD;
3. HANDS HELD IN DEFENSIVE POSITION;
4. FIRM/CONSTANT EYE CONTACT.



EYE CONTACT IS A VERY IMPORTANT
ASPECT OF CONTROL/DEFENSIVE TACTICS."

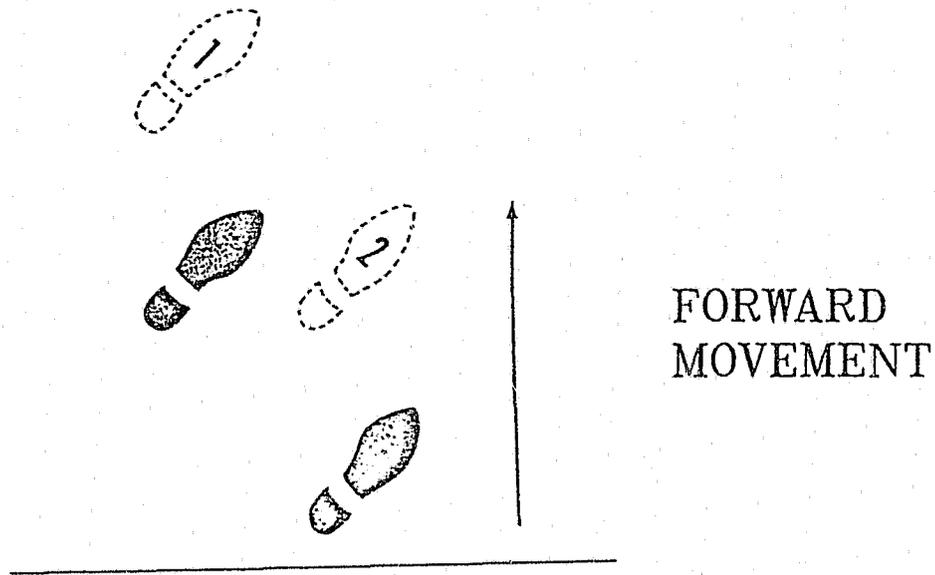


FIGURE 2

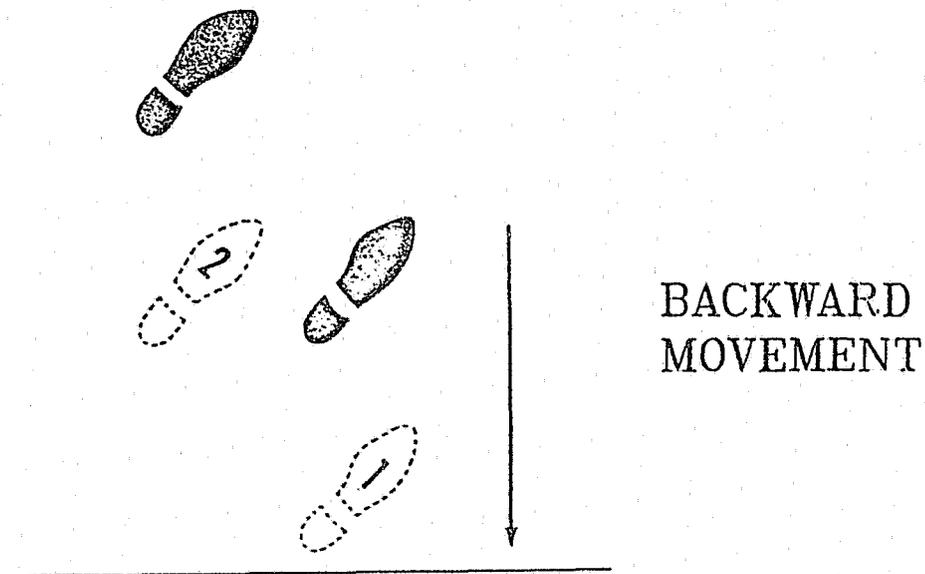


FIGURE 3

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Legal Issues and Standards

AUTHOR: This lesson plan has been developed, edited and revised over the past several years. The material was originally developed by Lynn J. Lund and Gary W. DeLand in 1978. Substantial revisions were made in 1981 by Sharon Gallagher. Significant revisions were made in 1983 and 1985 by Lund, DeLand and Gary M. Bowker.

NOTE TO INSTRUCTOR

This lesson plan is intended to provide the minimum coverage of this topic consistent with the provisions of the North Dakota Century Code and the North Dakota Administrative Code.

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NORTH DAKOTA ATTORNEY GENERAL'S OFFICE

Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Legal Issues and Standards

AUTHOR:

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: Six (6) Hours

TRAINING OBJECTIVES:

1. To provide to jail administrators and officers a basic understanding of the rights and privileges afforded by law to those incarcerated.
2. To increase the effectiveness of the jail administrator or officer through knowledge of the allowances and requirements in the law as it applies to running jails.
3. To provide material upon which to develop operational policy and procedures.
4. To provide information which will enable the jail administrator and officer to take appropriate preventive or remedial action to protect against potential civil liability, and to provide an aid to defense against actual actions filed through greater understanding of case law.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

1. Jail Officer's Training Manual, National Institute of Corrections, Chapter II, 1980.
2. Small Jails Resource Manual, "Section B. Courts and Case Law", National Institute of Corrections, July, 1980.
3. Compendium of the Law on Prisoner Rights, Federal Judicial Center, April, 1979.
4. "Prison Reform: The Judicial Process", Criminal Law Reporter, Supplement to Volume 23, No. 17, August 2, 1978.
5. The Emergency Rights of the Confined, South Carolina Department of Corrections, 1972.
6. "Mail: Censorship and Evidentiary Use", 52 ALR3d, 3548.
7. "Medical Care", 28 ALR Fed. 279.
8. "Prison Conditions Amounting to Cruel and Unusual Punishment", 51 ALR3d 111.

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 30th Street, Suite 130
Boulder, Colorado 80301
Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise(s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

LESSON PLAN CONTINUATION SHEET

Continues Page 3

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

9. "Search: Fourth Amendment as Protecting Prisoner Against Unreasonable Searches", 32 ALR Fed. 601.
10. "Assault: Liability of Prison Authorities to Prisoners Directly Caused by Assault by Other Prisoners", 41 ALR3d 1021.

TRAINING AIDS:

Supplies and Equipment

- Video Projection Screen
- 16 mm. Projector With Spare Lamp
- 16 mm. Film: _____
- Discussion Guide
- Overhead Projector
- Appropriate Transparencies
- Slide Projector
- Slides
- Video Monitor, Player/Recorder
- Video Cassette: _____
- Cassette Player, Audio
- Audio Cassette: _____
- Flip Chart and Markers
- Masking Tape
- Chalkboard, Chalk, Eraser
- Trainee Worksheets
- Trainee Handouts
- Pre- and Post-Tests
- Trainee Course Evaluation
- Trainee Instructor Evaluation
- _____
- _____
- _____
- _____
- _____

- G. List the five basic rights in the First Amendment.
- H. List a basic right relating to inmate litigation in the Fourth, Fifth, Eighth and Fourteenth Amendments.
- I. Explain the primary difference in U.S. Supreme Court decisions with regard to the treatment of pretrial v. sentenced inmates.
- J. Explain the evolution and rationale for judicial involvement in jail management and operations ("hands-off" policy).

III. Definition

- A. There is no formal definition for legal issues. This lesson will present those constitutional issues (state and federal) and state jail rules and code requirements that impact the operation of local jails.

IV. Legal Considerations

- A. The entire lesson is "legal considerations." This lesson will cover state and federal legal considerations, infractions in jail operation and management.

V. Correctional Officer Responsibility

- A. Importance of Subject
 - 1. It is the responsibility of the correctional officer to maintain security and order and, at the same time, not violate the constitutional rights of inmates.
 - 2. Violation of inmate rights is a basis for legal action against individual officer.
- B. A review of inmate rights as applied to the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the Constitution will be provided.

VI. Historical Overview of Inmate's Rights

- A. Correctional law - concerning inmate rights and institutional administration - is the most dynamic area of law today. Sudden aggressive court review has taken many jail and prison administrators by surprise.
- B. In the past, society and prisoners both accepted that incarceration resulted in loss of many basic privileges. Today, some prisoners actively work to change those conditions by taking problems to the courts. Thus, correctional administrators have to justify their actions to insure equal protection under law to all prisoners.
- C. Rights of prisoners are being redefined along with institutional limitations and minimum standards of treatment.
- D. Supreme Court rulings (1973) which impact:
 - 1. Inmate discipline
 - 2. Mail censorship
 - 3. Mail inspection
 - 4. Inmate access to the media
 - 5. Regulating use of agents of attorneys to interview inmates
 - 6. Required assistance in filing civil rights actions.
- E. Traditional "hands-off" doctrine of courts:
 - 1. That it's not the court's function to superintend treatment of prisoners.

2. That the power to make regulations within prisons lies with administrators, who have wide discretion.
 3. That courts have no power to supervise or interfere with prison administration on ordinary rules or regulations.
- F. Modifications of "hands-off" doctrine still included willingness to give administrators justifiable latitude. This is a result, partly, of limitations of scope of federal review of state penal institutions; it also results from perceiving prison administrators' responsibilities for maintaining order and discipline, preventing unauthorized access or escape, rehabilitating prisoners...all problems whose solutions lie within the legislative and executive branches of government more than the judicial.... Judicial recognition that courts are ill-equipped to deal with prison administration and reform.
- G. Today courts have entered an era of sweeping mandates for operating changes in prisons and jails. This reflects similar challenges to administrators of schools, mental health institutions, and public institutions in general.
- H. Dramatic increase in civil rights lawsuits by prisoners, from 218 in 1965 to 9,730 in 1978--or an increase of almost 400 percent since 1970.

VII. The Evolution of Inmate Rights

- A. "Slavery" status - prevailing attitude that prisoners had no rights and were "slaves of the state." Specific exemption cited in the Thirteenth Amendment.

B. Evolution of inmate rights:

1. 1933: probation is "act of grace."
2. 1948: "necessary withdrawal of many privileges and rights."
3. 1951: not function of the courts to superintend treatment...of prisoners.
4. Regulations must be "reasonable and necessary."
5. 1969/71: "a compelling (or substantial) state interest."
6. 1971: difference between right and privilege.
7. 1972 on: extension of due process rights to parolees, probationers and prisoners.
8. 1972: balance swings toward prisoners' individual rights.
9. New judicial approach (Holt v. Sarver, 8th Cir. 1971) that sum of prison conditions could add up to "cruel and unusual punishment."
10. Change results from several theoretical factors:
 - a. Press and public reactions to Attica prison riot.
 - b. Civil rights and protest marchers.
 - c. Middle class drug culture prisoners.
11. One in every seven civil cases in the U.S. is filed by prisoner seeking relief, or about 20,000 cases. As of February 1, 1981, 36 states (and Puerto Rico, D.C., Virgin Islands) were involved in

Emphasize that the Holt v. Sarver case noted "that lack of resources will not constitute a justification for maintaining an unconstitutional facility" and, Campbell v. Cauthron, 623 F.2d 503 (8th Cir. 1980) "lack of funding is not a defense to performance of a constitutional duty."

Point out more recent 8th Cir. decision specifically impacting on local jails; Tatum v. Houser, 642 F.2d 253 (8th Cir. 1981).

court decrees or litigation on conditions of confinement or prison overcrowding.

- a. Court-ordered reform, including sweeping changes in system. (See Alabama decision, Pugh v. Locke.)

VIII. Rights v. Privileges

- A. Constitutional rights: does jail rule, policy or procedure affect a recognized one?
- B. Privileges: not subject to court scrutiny.
- C. Special case: pretrial detainees.
 - 1. Pretrial detainees not convicted may not be punished by restrictions.
 - 2. Only regulations to maintain jail security or order allowed. (S.Ct.)

IX. The Balancing Test

Transparency #2

- A. Weighing the institution's needs against individual rights of inmates. Legitimate administrative concerns include:
 - 1. Security
 - 2. Management and custody
 - 3. Order and discipline
 - 4. Punishment
 - 5. Rehabilitation
 - 6. Resource limitation
- B. Prisoners don't forfeit all protections by reason of conviction and prison confinement.

Transparency #3

1. Rights are subject to restriction.
2. Accommodation of rights and institutional needs.
3. Rights may be limited for security, discipline.

Case Study #1 on the "Role of the Courts"

FIRST AMENDMENT

I. Religion

A. "Congress shall make no law respecting an establishment of religion or prohibiting free exercise thereof..."

Instructor should explain difference between state and federal courts. Should discuss Federal Districts, Circuit and Supreme Court systems. Should state that North Dakota is in the 8th Circuit Court of Appeals.

1. "Establishment" clause prohibits requiring religious activity, compelling prayer or church attendance on parole.
 - a. Religious volunteers--only if all prisoners want to hear them. (8th Cir.)
2. "Free exercise" clause means religious activity can't be prohibited, and members of all religions should have reasonable opportunity to worship.
 - a. Freedom "to believe" absolute; "to act" is not.
 - b. May not interfere with rights of others. (8th Cir.)

Chapter 10-05-13 of N.D. Jail Rules.

N.D.C.C. 12-44.1-14.

B. What is "religion"?

1. Courts have supported Buddhism, Black Muslims and even Church of New Song as religions.
2. Satanism supported as belief, but not in practice within cells.
3. Indian religions recognized as legitimate. (8th Cir.)

Transparency #4

Instructor must note the sensitivity to the religious issue due to the fact that many jails have Native American inmates. Jail officials should make an effort to understand this issue. Also see Crowe v. Erickson.

4. Test of legitimate religion is whether:
 - a. religion questions morality or purpose of life
 - b. religion has cohesiveness and commonality of beliefs; characteristics of accepted religions
 - c. Structural characteristics of a traditional religion
- C. "Freedom to act" may be regulated but can't be infringed upon unduly.
- D. Restricting Services
 1. If security is threatened, segregated prisoners may be refused opportunity to attend Sunday services. (8th Cir.)
 2. Prisoners in isolation or with disruptive history may be restricted.
 3. Services must be permitted equally for all religions. (Time and frequency can be regulated.)
 4. If services are denied, access to ministers in cells may not be.
 5. Implements of a religion may be considered a threat to security.
- E. Access to Ministers
 1. Ministers need not be provided to every faith, though all must have reasonable opportunity for religion. (See outline for specific cases.)
- F. Access to religious writings is permitted unless clear and present danger exists. Refusal to allow sharing is unreasonable.

G. Restricting wearing of religious medallions is justified if they might be used as weapons.

H. Access to Facilities for Services

1. Organized religions must be provided a place for services.
2. Size of groups may be restricted.
3. Religious "witnessing" allowable in cellblocks if inmates willing and not "forced" to hear. Separate place for meetings suggested. (8th Cir.)

I. Special Religious Diets

1. Most cases uphold administrators serving standard diet and meals at standard times.
2. Modest degree of accommodation required for Black Muslims (non-pork) diet, including one pork-free meal per day.

J. Personal Appearance and Hair Length

1. Rules on hair length and facial hair do not raise constitutional issues. (8th Cir.)
2. Pretrial detainees have more right to maintain appearance than convicts.
3. Religious belief on appearance normally yields to jail or prison regulations. Exception may be when wearing of long braids is deeply rooted in religion, sincere belief and institutional needs can be served by less restrictive means. (8th Cir.)

However, in Furgon v. Ga. State Board of Offender Rehabilitation, 554 F. Supp. 873 (ND Ga. 1982) cutting beard was permitted for identification purposes, but not security or hygiene.

II. Freedom of Expression

A. Prisoner retains all rights except those specifically taken from him by law.

B. Restrictions on Free Speech

1. Silence requirements at some times, as in chow lines, acceptable since conversation is permitted at other times.
"Lights out" o.k.
2. Inflammatory speeches, "fighting words" may be prohibited.

III. Prisoners and the Press

A. Access of the Press to Jails and Prisons

1. Press has no special rights not available to general public.
2. No right to interview specific individuals. Alternative methods which exist:
 - a. correspondence
 - b. information through clergy, family, etc.
3. Rules may prohibit anyone but family, friends, clergy and attorneys from visits.

The right of the press to access the jail is no greater than that of the general public.

B. Access of Prisoners to Press

1. Right to correspond is protected; free speech. May be limited only if contraband, escape plans, etc. are involved.
2. Face-to-face contact with press may be limited because alternatives exist.

The right of prisoners to access to the press is guaranteed by the Constitution.

C. Monitoring Press Interviews

1. Monitoring acceptable, but inmates may not be subject to reprisal because of comments.
2. Officer monitoring conversation is for security; may not interrupt or interfere.

3. Tape recorders may be used to monitor, but inmate and press must be informed.

D. Access to Publications

*Chapter 10-05-10 and 11
of the N.D. Jail Rules*

1. Religious publications usually allowed.
2. Non-religious publications.
 - a. Limiting First Amendment right requires strong justification, and regulations must be no more restrictive than justified.
 - b. Right is not absolute, and some reasons justify regulation:
 - (1) To maintain order and security, or to punish misconduct.
 - (2) Restriction of obscenity has both support and opposition from courts.
 - c. "Publishers only" rule allowing hardcover books only from publishers, book clubs or bookstores.
 - (1) Upheld (S.Ct.) because of security problems posed by hardcover books, and because of alternatives present like paperbacks, magazines, etc.
3. Due process is required in regulating access.
 - a. Fair procedures: 48-hour notice, review, opportunity for inmate reply.
 - b. Reasons must be based on fact, not conjecture. (8th Cir.)

Transparency #5

4. Pretrial detainees.

- a. Restraints only when related to jail security, and not deterrence, rehabilitation or punishment. (S.Ct.).

Transparency #6

IV. Access to Courts and Counsel

N.D.C.C. 12-44.1-14.

A. General Access to Courts and Counsel

N.D. Jail Rules

10-05-11 and 10-05-09.

Transparency #7

1. Strongly protected and guaranteed by Constitution.
2. Letters may not be kept from court or unreasonably delayed.
3. Inmates may not be punished for allegations against prison or jail or its officer.
4. Access can't be denied as punishment.
5. Access can't be denied because prisoner is financially unable to file or pay fee.

B. Outgoing Mail

N.D.C.C. 12-44.1-14.

N.D. Jail Rules

10-05-10.

Transparency #8

1. Letters to the Court
 - a. Mail from inmates to courts cannot be censored, read or refused delivery. (8th Cir.)
 - b. Inspection of mail to courts.
 - (1) Guidelines for opening outside mail:
 - (a) Blanket procedure of opening all mail not permitted. (8th Cir.)
 - (b) May be justified if letter is believed to hold something that represents physical danger.

(c) Must be opened in inmate's presence.

(d) Get a court order.

2. Letters to Attorneys

a. No reading, censoring or refusal to mail Wolf v. McDonnel, supra.

b. Inspection of mail for contraband.

(1) Officials bear burden of justifying.

(2) Justifications include showing compelling government security interest, clear and present danger of security breach, or substantial interference with orderly operation.

Transparency #9

(3) Highly unlikely that administrators could show how danger created.

C. Incoming Mail from Courts and Attorneys

1. Inspecting incoming mail.

a. All privileged mail may be inspected for contraband; this violates no right.

Must be opened in presence of the inmate.

b. Mail from courts or attorneys, especially if marked "privileged", should be opened in inmate's presence.

2. Procedure for regulation (S.Ct.)
 - a. Letters from attorney may be required to be marked with name and address.
 - b. Permissible to require attorney to identify himself and client to officials before corresponding to assure such letters are from legitimate source.
 - c. Once so identified, letters should be opened and inspected for contraband in front of inmate but not read.
 3. Censoring or reading legal mail is outside institution's authority.
- D. Attorney Visits
1. Regulation of attorney visits allowed.
 - a. While courts uphold right to visits, also uphold restrictions.
 - b. Restrictions justified for reasons from security to "housekeeping rules."
 - (1) Limiting number of attorneys who may visit inmate.
 - (2) Specifying membership in certain bars.
 - (3) Banning visits at meal-times.
 - c. Restrictions based on substantial state interest in security, order or discipline.
 - (1) Courts have required minimum visiting hours.

Mail from the courts or attorneys may be inspected if it is opened in front of the prisoner.

*N.D. Jail Rules 10-05-09.
N.D.C.C. 12-44.1-4.*

Stress the fact that since a majority of the inmates in jail are pretrial detainees, they are in the process of preparing for trial with their attorneys. Rules which limit counsel's ability to provide effective assistance through regular contact deny the inmate his right of access to the courts.

3. Privacy must be assured by facilities and regulations.
 - a. No monitoring conversation between attorney and client.
 - b. Security accomplished without listening.
 4. Agents of attorneys
 - a. Visits can't be restricted to only attorney; includes representatives.
 - b. Can require attorneys to provide notification (for security reasons.)
- E. Access to Jail House Lawyers
1. In absence of "reasonable alternatives", inmates may use jail house lawyers.
 - a. Habeas corpus and civil rights actions.
 2. Regulating jail house lawyers.
 - a. May be regulated.
 - b. Inmate has right to representation, but does not have right to represent.
 - (1) It is the rights of the illiterate and uneducated which are protected.
 - c. Limits on times and locations.
 - d. Limits on giving or receiving consideration for services.
 - e. May deny assistance of jail house lawyers from other institutions.

Visits between attorneys and clients must be assured of privacy.

Booking--Attorney should have access to arrestee soon after booking. (Logan v. Schealy, 102 S.Ct. 1435.)

3. "Reasonable access" alternatives *Bounds v. Smith.*

- a. If alternatives are adequate, jail house lawyers can be prohibited.
- b. Burden on institution to provide adequate alternatives.

F. Regulation of Legal Materials

1. Access to law library

- a. Since 1971 (S.Ct.), prison authorities required to assist inmates...by providing adequate law library or adequate legal assistance from persons trained in law.
- b. Acceptable alternatives (S.Ct.) include paralegals, paraprofessionals, law students, legal associations.

Prisoners who are not represented by an attorney have a right to access to a law library.

2. Law books, etc., in cells

- a. Courts permit inmate to purchase for use in cell.
- b. Reasonable limits on number kept in cell based on space (8th Cir.).
- c. Time limits on library use to assure equal opportunity for use to all.
- d. Restriction upheld on use of typewriters, legal pads, carbon paper, duplicating machines.

V. Personal Communication

Transparency #10

A. Mail

N.D. Jail Rules 10-05-10.

- 1. Authority to regulate; Procunier test (S.Ct.)

Transparency #11

- a. Based on security, order, rehabilitation (not suppression of expression). Must further legitimate governmental interest.
- b. All restrictions no greater than necessary.
- c. Pretrial detainees: no mail restrictions for rehabilitation purposes.
2. Procedural safeguards in rejecting mail.
- a. Protection of inmates against arbitrary government invasion.
- b. If letter addressed to inmate is rejected:
- (1) Notify inmate of rejection.
 - (2) Give author opportunity to protest.
 - (3) Decision made by someone other than person who originally rejected it.
3. Inspection of incoming mail
- a. Inspecting for contraband is justified as is not censorship.
- b. Justifications for censorship, reading or rejection:
- (1) Escape plans, proposed criminal activity, encoded messages. (S.Ct.)
- c. Courts have found most restrictions unwarranted.
- Emphasize that inmates have a right to maintain communication with the outside world. The right relates to one of the most depressing aspects of institutional life-- isolation. Communications with family, friends and others are important if the inmate is to retain his ties to the community.*
- Transparency #12*
- Should have reasonable suspicion and ability to articulate need to read and documentation.*
- Have policy indicating under what circumstances incoming mail will be read:*
1. circumstances
 2. purpose

- (1) Eighth Circuit forbids approved mailing lists based on desire to investigate visitors' criminal background and belief that recipient's assumed disinterest in receiving mail from prisoners.
- (2) Deliberate withholding, copying or censorship only based on Procurier test. (B1 above).
- (3) Withholding inmates' mail unless they consent to inspection violates First Amendment. (8th Cir.)

4. Outgoing mail

- a. Reading is questionable, though may be justifiable.
- b. Eighth Circuit: May not open, unless furthers "substantial legitimate interest", and unless restrictions "no greater than essential...for that interest."

More justification required on outgoing for reading.

5. Use of inmate mail as evidence.

- a. S.Ct. has upheld right of prison officials to use admissions in letters.

B. Visitation

*N.D. Jail Rules 10-05-09.
N.D.C.C. 12-44.1-14.*

- 1. Need for visiting well established.
- 2. Regulation is supported by law, but extreme restrictions may be struck down.
- 3. Officials may have to justify reasonable restrictions; balance between inmate needs and security.

4. Regulation of visiting

- a. Recommend a policy restrict on a case-by-case basis like mail. Look at:

- legitimate governmental purpose
- rational relationship
- articulable
- documentation

- b. May be denied on security grounds.

- (1) Pretrial detainees: provide minimum due process.

- c. Conjugal visits have been denied on various grounds.

- d. Strip searches permitted after contact visitation; body cavity searches permitted after contact visits (medical personnel advised).

- e. Other regulations:

- (1) Privacy not required.

- (2) Contact visits not required.

Block v. Rutherford and Hudson v. Palmer.

- (3) Approved visiting lists ok.

- (4) Monitoring (non-attorney) talk ok.

U.S. v. Stumes, 549 F.2d 831 (8th Cir. 1977).

U.S. v. Paul, 614 F.2d 115 (6th Cir. 1980).

- f. Pretrial detainees have greater visitation rights, regulated only for security or order.

U.S. v. Hearst, 563 F.2d 1331 (9th Cir. 1977).

- (1) Eighth Circuit: county jail facilities which

made private conversation difficult violate First Amendment.

- (2) Age restrictions prohibited.

C. Telephone

- 1. Right to use generally related to access to courts (i.e., attorney.)
- 2. Pretrial detainees: only security or order-based restrictions.
- 3. Telephones are a means for pre-trial detainees to maintain contact with family and friends.

Emphasize that this right reflects the long-standing revulsion to secret arrest and a recognition that places of confinement in themselves are somewhat coercive.

Telephones generally less restrictive and less legitimate purpose for limiting phones than for visitation.

Telephone calls...

- may be monitored (if not to attorneys) for security, order, management.

- can't be monitored to obtain evidence for trial.

- should be conspicuously posted that calls may be monitored.

VI. Right to Assembly and Association

- A. Religious assembly (See I, this outline)
- B. Unionization of inmates.

- 1. No constitutional right to form unions while in custody (S.Ct.)
- 2. May read or talk about unions.
- 3. Balance between inmates' First Amendment rights v. needs of institutional order.

VII. Redress of Grievances

- A. Best plan: develop grievance system within organization.

- 1. S.Ct. Chief Justice Burger calls for informal grievance procedure for inmate complaints before resorting to court. See 42 USC 1997 (e).
 - a. Answer complaint in 15 days.
 - b. Exhaust procedure before going to court.

N.D. Jail Rules 10-05-14.

Case Study #2 on First Amendment issues

- B. Access to public officials (via correspondence) is required; no interference permitted. (See Part V, this outline)

FOURTH AMENDMENT

N.D. Jail Rules 10-05-15.
N.D.C.C. 12-44.1-15.

"The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

I. General Principles

- A. S.Ct. brought Fourth Amendment into jails with standards of "reasonable expectation of privacy" in 60s and 70s.
- B. S.Ct. in 1980s sets clear standards for jailers.
 - 1. Bell v. Wolfish has set standard that searches in all cases must be reasonable and justified in terms of legitimate security concerns. The Bell decision required that all restrictions and practices be rationally related to legitimate non-punitive governmental purposes.
 - 2. The Block v. Rutherford and Hudson v. Palmer Supreme Court cases in 1984 have clearly concluded that inmates are not protected by the Fourth Amendment right against random search and seizure in their cells.
- C. Two things for which jailer can search:
 - 1. Contraband: anything illegal in and out of itself (narcotics).

In jail, can include anything named by jailer related to jail security, even newspapers, food, extra blankets, etc.

- a. Items in writing.
- b. Equal enforcement procedures for all.

Policies and procedures and inmate rules and regulations should specify contraband.

- 2. Evidence: anything to aid jail in investigating incident.

D. Conditions under which search conducted:

- 1. Incident to arrest, including inventory search.
- 2. Consent search; not applicable to jails.
- 3. Exigent (emergency) circumstances.

- a. Jail is permanent "emergency circumstance"; all personal and cell searches/seizures upheld unless outrageous circumstances.

- b. For security, administrators can conduct inmate and cell shakedowns to almost any degree. (S.Ct.)

- c. Body cavity searches.

- (1) Visual body cavity searches after contact visits upheld (S.Ct.)

- (2) Abusive searches without privacy not tolerated.

- (3) Prone-type body cavity searches must be conducted carefully and by medical personnel in private.

Searches for no particular reason or for purposes of harassment likely will be seen as unreasonable. Dufurin v. Spreen, 712 F.2d 1084 (6th Cir. 1983).

d. Strip searches

- (1) Indiscriminate strip search policy applied to all detainees cannot be constitutionally justified simply on the basis of administrative ease in attending to security considerations. Facilities must consider scope of intrusion, manner, justification and place.
- (2) Arrestees for minor offenses may be subjected to a strip search only if jail officials have a reasonable suspicion that the particular arrestee is carrying or concealing contraband or suffering from a communicable disease.

II. Search of Cells

- A. Reasonable cell shakedowns upheld as necessary.
- B. Inmates have no rights of privacy under the Fourth Amendment. Random searches and irregular shakedowns are ok.
- C. No right for detainee to be present during cell searches and shakedowns.
- D. Jail policies and procedures should specify time, manner and place of searches; may not be conducted as "harassment", must be applied to all prisoners of same classification equally. (S.Ct.)

Transparency #13

Searches must not be conducted in a manner which may amount to harassment and must be applied to all prisoners of same classification equally.

Bell v. Wolfish

III. Seizure of Conversations and Communications

- A. Seizure of conversations ok (no reasonable expectation of privacy in jail).

- B. Privileged conversations do get protection, as with attorneys, clergy, doctor; no monitoring or recording.
- C. S.Ct.: Intercepting and/or copying inmate mail without justifiable purpose violates Fourth Amendment rights.

IV. Summary of Search and Seizure

Case Study #3 on Inmate Searches

- A. Inmates have no privacy or Fourth Amendment rights with respect to cells.
- B. Strip searches must consider scope of intrusion, manner, justification and place.
- C. Strip searches of "turnarounds" and minor misdemeanor non-violent offenders are prohibited unless reasonable suspicion that arrestee is carrying contraband, weapon, or has communicable disease.
- D. Almost anything can be declared contraband and searched for under exigent circumstances if administration documents policies and procedures.
- E. Areas of concern
 - 1. Cell searches
 - 2. Strip searches
 - 3. Body cavity searches
 - 4. Stored personal effects
 - 5. Harassment
 - 6. Equal protection under Fourteenth Amendment
 - 7. Monitoring privileged communications.

Emphasize the fact that it is unreasonable actions which end up restricting our activities. Point out the case in Chicago where women were subject to strip searches for visual inspection in connection with traffic violations and men subject only to 'pat-down' searches. Over 100 women have been awarded money damages. Guinan v. City of Chicago, U.S. Dis.Ct. (N.D. Ill. 1982).

MUST HAVE CLEAR POLICIES AND PROCEDURES. Milwaukee Police Chief liable for \$16,000 in damages for failing to promulgate a clear policy on strip and body cavity searches. No policy existed and police officers had conducted both such searches on a suspected drug courier's wife and his four children. Salinas v. Breier, 517 F.Supp. 1272 (E.D.Wisc. 1981).

V. Inmate Privacy Issues (Male/Female)

- A. Equal opportunity employment allows male guards of female institutions when accommodation made to insure reasonable privacy.
- B. If accommodations not made for inmate privacy, right to equal employment yields. (Women prevail - men fail.)

*N.D. Jail Rules 10-05-05.
N.D.C.C. 12-44.1-15.
N.D.C.C. 12-44.1-14.*

THE FIFTH AND FOURTEENTH AMENDMENTS

Fifth Amendment

"No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense twice, put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

*N.D. Jail Rules 10-05-14
and 10-05-16.
N.D.C.C. 12-44.1-14.
N.D.C.C. 12-44.1-20 and 21.*

I. Due Process

Fourteenth Amendment

"Section 1. All persons born or natural-naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction-administration the equal protection of the laws."

II. Double Jeopardy

- A. Inmate may be charged both administratively and criminally on same charges.
- B. May be acquitted in court of law (standard of proof greater), but found guilty in administrative discipline hearing without constituting double jeopardy.

III. Discipline

- A. Written rules and regulations are critical.
 - 1. Before being disciplined, prisoner must be able to know what's expected of his behavior.
 - 2. Must be clearly stated so that no doubt exists as to what is prohibited.
- B. Disciplinary due process requirements. (S.Ct.)
 - 1. Written notice of charges given to inmate 24 hours (24 - 72 hours is reasonable) prior to hearing.
 - 2. Hearing by impartial board required for any grievous disciplinary action.
 - a. Person who first made report may not sit on disciplinary board. (8th Cir.)
 - 3. Inmate can call witnesses, present evidence, if does not jeopardize safety and correctional goals.
 - 4. No correctional constitutional right to confront and cross-examine; this is discretionary.
 - 5. Right to counsel not required; counsel substitute recommended

for illiterates or unusually complex issues.

6. No right to remain silent in discipline action.
7. Written findings of fact required.
8. Allow appeal to higher internal authority.

IV. Discipline - Administering Punishment

A. Meaning of Eighth Amendment based on "evolving standards of decency".

1. "Must not be degrading." (S.Ct.)
 - a. No physical abuse.
 - b. Restraints must restrain only and be "least restrictive alternative."
 - c. If physical abuse or excessive force found, jail administrator and personnel can be civilly liable.

Jail managers and officers should view passive and active recreation as constructive activities. "Idleness is the devil's workshop." Also, can be used as a positive management tool.

B. Tests for "Cruel and Unusual Punishment"

Transparency #14.

1. Two tests applied.
 - a. Is punishment disproportionate to offense?
 - b. Whether shocks society's conscience.
2. Severe liability for jailer, jail administrator under Civil Rights Act, civil tort law.
3. Emergencies: still liable to "least restrictive clause."
4. Law presumes jailer's action justified unless becomes clear as matter of law that negligence or abuse were gross.

C. Due Process and Equal Protection Consideration

1. Two key factors in discipline - due process and equal protection.
2. Due process hearing required in major infractions before discipline administered.
 - a. Exception - emergencies. Then, action followed by justification hearing.
 - b. Punishment without any due process impermissible.
3. Rules of discipline must apply equally to all inmates. Written policies, procedures and rules only way to demonstrate this.

Again, emphasize importance of policies and procedures and inmate rules and regulations.

D. Punishment Must Be for a Legitimate Government Purpose

1. Reasonable force may be used to move prisoners, maintain order, insure compliance with regulations.
2. No punishment for religious beliefs and related activities. (S.Ct.)
3. No punishment for petitioning the courts.

E. Corporal Punishment Forbidden

1. Some indication may be unconstitutional.
2. Whips or lashes unconstitutional.
3. Use of strap as discipline unconstitutional. (8th Cir.)
4. Gauntlet/beatings prohibited.
5. Unjustified use of drugs (tranquilizers) prohibited.

6. Restricted use of tear gas or mace except under clear and present danger of "riotous proportions."
 7. Use of restraints (chaining to wall, bed) only when necessary to control behavior for short periods and with medical attention.
 8. Threats of corporal punishment prohibited.
 9. Various other methods prohibited.
- F. Use of Force Allowed in Some Cases
1. Self-defense, breaking up fights between inmates, compelling obedience to lawful measures (if lesser methods fail), protecting state property, preventing escapes, sometimes in recapturing escapees.
 2. When are rights violated by force?
 - a. Examine need for force.
 - b. Relationship between need and amount.
 - c. Extent of injury inflicted.
 - d. Whether force applied in good faith attempt at order (not malicious, sadistic).
 3. Use of tear gas, mace, firehoses, stungun upheld if reasonably applied under proper circumstances.
- G. Punitive Segregation/Solitary Confinement
1. Not per se violation of Eighth Amendment, but safeguards

A two-hour module will be devoted to this topic later in the session.

required. Periodic review when inmate held for long periods. (8th Cir.)

- a. Inmates entitled to due process.
 - b. Segregation justified if based on one of these:
 - (1) Security (personal or facility)
 - (2) Protection of or from other inmates
 - (3) Health
 - (4) Prevent escape
 - (5) Punishment
 - c. Cell must have basic facilities (bunk, toilet); heat, light, ventilation, sanitation, clothes, adequate diet.
 - d. Reduced rations ok, but must be balanced; minimum of 2500 calories.
 - e. Regular exercise must be afforded.
 - f. Mail privileges continued
 - g. Equal protection privileges
 - h. Medical care must be provided
 - i. Stay cannot be excessive; must be preceded by due process hearing.
2. Written procedures extremely important.

H. Summary of Discipline

1. "Reasonableness under circumstances": can't be disproportionate, shocking and must be least restrictive choice.
2. Jailers' actions presumed reasonable unless "reasonable people couldn't differ that actions gross."
3. All major discipline actions preceded by due process except in emergency.

THE EIGHTH AND FOURTEENTH AMENDMENTS

N.D. Jail Rules 10-05-03, 10-05-06, 10-05-07, 10-05-09, 10-05-13 and 10-05-15.

I. Eighth Amendment:

"Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishment inflicted."

II. Fourteenth Amendment

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

III. General Principles

- A. "Cruel and unusual punishment" clause applicable to jail and prison administrators. (S.Ct.)
 1. Various cases proscribe unnecessary, wanton infliction of pain."

N.D.C.C. 12-44.1-09, 1-10, 1-13, 1-14, 1-16, 1-17, 1-18 and 1-24.

2. Measures incompatible with "the evolving standards of decency of maturing society."
3. Not just specific acts with individuals but also general, prevailing conditions.
4. Confinement itself "cruel and unusual punishment" if "conditions and practices are so bad as to be shocking to the conscience of reasonably civilized people." (8th Cir.)

B. Tests for "cruel and unusual" conditions.

Transparency #15

1. Inherent cruelty not warranted by conduct of inmates.
2. Abhorrent to contemporary society.
3. Excessive and disproportionate to infraction of rules for which it was imposed not justified by penal aims.
4. Administered arbitrarily or discriminatorially.

C. Five areas of major concern

Transparency #16

1. Health care
2. Diet and exercise
3. Discipline
4. Protection of inmates from violence
5. The facility.

The principles behind the guarantee against cruel and unusual punishment establish the government's obligation to provide medical care.

IV. Health Care

- A. Basic constitutional right to "adequate medical and health care." (S.Ct.)

- B. Medical care must be reasonable and adequate under the circumstances.
1. Must be administered when and where there is reason to believe needed.
- C. Standard of care that violates Eighth Amendment.
1. "Barbarous" failure, conduct that shocks conscience of a reasonable person.
2. "Deliberate indifference to serious and obvious injuries is gross negligence."
3. Essential medical care: whether physician would conclude evidence of serious injury and whether potential for harm in delay or denial was substantial.
- D. Denial of medical care violates the Eighth Amendment.
1. Actionable under Civil Rights Act if:
- a. Deliberate indifference
- b. Serious medical need
2. Deliberate indifference
- a. Denial of inmate's request for treatment.
- b. If officials know of need and don't go ahead and provide it.
- c. Deliberate ignoring or interference by officials with physician's orders.
3. Serious medical need
- a. One diagnosed by physician.
- State law requires that prisoners have adequate medical care.*
- An 8-hour lesson later in the week will deal in depth with developing health care services.*
- Transparency #17*
- Transparency #18*
- Transparency #19*

b. So obvious that lay persons recognize.

4. Prison health system: unconstitutional if care denied or greatly delayed by initial screening, inadequate records.

E. Facilities and Personnel

1. Critical problem is shortage of qualified personnel, leading to failure to treat or protracted delays.
2. Another concern: inadequate staff or conditions--equipment lacking, unsanitary areas, failure to quarantine contagion.
3. Cases have resulted in orders to upgrade personnel and facilities. (See detailed outline.)

F. Mental Health Care

1. Prisoners as entitled to psychological or psychiatric care as well as for physical needs.
2. Failure to provide inflicts pain, therefore does not meet constitutional requirement.

The right to medical care also includes mental health care.

G. Physical Examinations

1. Failure to diagnose serious medical problems leads to same trouble as failure to treat.
2. Prisoners have been ruled to be entitled to reasonable medical exams upon entering a facility, if held of seven (7) days, or (8th Cir.) all pretrial detainees must be given pre-detention examination.

Garcia v. Lloyd, C-79-0092
(C.D. Ut. 1982)

Emphasize that Ahrens v. Thomas is a leading 8th Circuit case.

Glover v. City of Cicero

H. Summary of Prisoner's Health Care Rights

1. Violations of rights include deliberate or shocking lack of health care; grossly negligent treatment, or seriously endangering the patient through lack of care.
2. Perfect or superior care not required.
3. Mere negligence or less than ideal care not grounds for action.
4. Negligence must be gross or shocking, but if so, budget problems are not a defense.

V. Diet and Exercise

A. Diet

1. Bread and water violate Eighth Amendment. (8th Cir.)
2. Depriving of adequate food is "cruel and unusual punishment."

B. Exercise

1. Confinement for long periods without reasonable time outside cells for exercise is "cruel and unusual punishment."
2. Adequate equipment and facilities must be provided to prevent deterioration.
3. Prisoners in isolation - 30 minutes daily.
4. If confined to cell 16 hours or more daily, one hour exercise must be given, must be meaningful, at discretion of officials.

A bread and water diet violates the 8th Amendment. Inconsistent with minimum standards of respect for human dignity.

Jones v. Diamond

Prisoners confined to their cells for more than 16 hours must be given the opportunity to exercise 1 hour per day.

5. Length of confinement and its conditions make difference in courts' decisions.

Transparency #20

VI. Protection of Inmates from Violence

- A. State is responsible for safekeeping of inmates. Prisoners entitled to protection (8th Cir.).
- B. Duty to provide reasonable protection from constant threat of violence and freedom from assault or threat of violence.
- C. Duty of state to provide guards in open dormitories; limited use of trusties. (8th Cir.)
- D. "Cruel and unusual punishment" if not adequately protected against assaults by failure to segregate and classify violent from non-violent, and by use of incompetent or untrained trusty guards.
- E. Staff/inmate ratio must be reasonable.
- F. Should follow these guidelines:
1. Supervision 24 hours by trained staff.
 2. Staff located to hear and respond promptly to cries of help.
 3. Personal observation on irregular, frequent schedule.
 4. Sufficient staff for all functions of security, custody and supervision.
 5. Inmates prohibited from supervising, controlling or exerting authority over other inmates.

These guidelines are not formally state law but should be followed as minimal staffing requirements.

VII. The Facility and Physical Conditions

- A. Specific conditions which have been found wanting:

Life Safety Code mandatory. (Ramos v. Lamm).

1. Small, dark, unventilated cells; no toilets.
 2. Gross unsanitary conditions.
 3. Gross overcrowding.
 4. Insects or vermin in cells.
 5. No medical/health care facilities.
 6. Unheated cells in cold climate.
- B. Shifting liability to protect jailer.
1. Little administrator can do if facility inadequate; notification to commissioners shifts liability.
 2. Conditions must be sanitary and not overcrowded.
 3. Pretrial detainees have greater safeguards.
- C. Totality of circumstances.
1. Totality of circumstances, rather than individual acts against individuals, can add up to "cruel and unusual."
 2. Cumulative effect can violate rights despite severity of each condition.
- D. Overcrowding and space allocations.
1. Square footage per prisoner: generally ruled by courts to be 50 to 80 square feet.
 2. Not just square footage involved in overcrowding; also quality of quarters and length of confinement.
 3. Determination of space on case-by-case basis.

- a. Eighth Circuit: Unconstitutional to hold two in 47 sq. ft. cells. Suggestion that double-celling be eliminated.
- b. Avoid confining given number of people in quarters which cause them to "endure genuine hardship and privation over extended period." (St.Ct.)

VIII. Rehabilitation

- A. Eighth Circuit: Indicates lack of rehabilitation programs could, with other conditions, violate 8th Cir.
- B. Supreme Court: Rehabilitation one of ends of correctional confinement.
- C. Absence may mean constitutional failure.

Case Study #4 on Eighth Amendment issues

THE FOURTEENTH AMENDMENT

I. The Constitution

A. General Provision:

"All persons born or naturalized in the U.S. and subject to the jurisdiction thereof, are citizens of the U.S. and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U.S.; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law."

B. Application to states: The Fourteenth Amendment makes all others applicable to states.

1. No state may...abridge privileges or immunities of U.S. citizens.

2. No state may deprive...life, liberty or property...without due process.
3. No deny equal protection.

II. Status of Pretrial Detainees

- A. Retain all express constitutional guarantees.
- B. Plus right to be free of punishment. (S.Ct.)
- C. Restrictions inherent in confinement.
 1. Not all restrictions on detainees are "punishment."
 2. Security rules.
 3. Keeping weapons or drugs from detainees.
 4. Effective management rules.
- D. What is punishment?
 1. Arbitrary or purposeless in relation to legitimate goal.
 2. Excessive response.
- E. "Least Restrictive Means"
 1. Pretrial detainees have greater freedom and more rights than convicted inmates.
 2. Careful review of purpose of policies.

III. Disciplinary Due Process Requirements

- A. Supreme Court: Violator of major prison rules entitled to due process hearing.

Also covered with the Fifth Amendment.

- B. Elements of due process.
 - 1. Prior notice of what behaviors prohibited.
 - 2. Notice of charge.
 - 3. Time to prepare response.
 - 4. Impartial hearing.
 - 5. Right to call witnesses.
 - 6. Written findings of fact.
- C. Segregation for safety of prisoner is not punishment; due process not applicable. (8th Cir.)
- D. Adverse inference from silence at disciplinary hearing; not invalid. (S.Ct.)

SUMMARY OF CONSTITUTIONAL RIGHTS

I. Constitutional Rights Retained by Prisoners

- A. Right to exercise one's religion.
- B. Right of freedom of speech and communication.
- C. Right of access to the press.
- D. Right to petition the government for redress of grievance.
- E. Right to be protected against unreasonable searches.
- F. Right to access to courts and attorneys.
- G. Right to know the charges against oneself.
- H. Right to be free from cruel and unusual punishment.
- I. Right to due process.

Transparency #21

Summarize and refer students to workbook for sources of information on how to stay current in area of legal issues. Make it clear that must contact their State's Attorney or the State Attorney General when they have legal questions or require interpretations.

RIGHTS OF JUVENILESI. Rights GenerallyA. Constitutional Rights

All the rights retained by adult prisoners which were reviewed in the previous section are also retained by juveniles. For example, the right to exercise one's religion, send and receive mail, to be free from unreasonable searches and due process rights prior to discipline for major rule violation--all apply equally to juveniles.

B. Rights Granted Under State Law

The law makes no distinction between the age or sex of prisoners in granting rights to mail, telephone use, and visitors (for example).

C. Restrictions

Just as a jail administrator may restrict or regulate the rights of adult prisoners based upon legitimate governmental interests of security, order and rehabilitation, so too may the rights of juveniles be restricted. However, the jail administrator must carefully consider the wisdom of applying any restrictions not reasonably related to security or order. For example, a jail rule which prohibits visits to detained juveniles by friends is not related to security but rather is based on some belief that the jailer may act as a parent in regulating social contacts. Such a rule and its justification is spurious at best and goes beyond the legitimate exercise of authority granted to the administrator by state law. The "why" of regulations applied only to juveniles needs careful consideration.

II. Procedural Rights Retained by State Law

A. Reasons for Detention

A child taken into custody shall not be detained prior to the hearing on the petition unless his detention is required to:

1. protect the person or property of others or of the child; or,
2. because the child may abscond or be removed from the jurisdiction of the court; or,
3. because he has no parent, guardian, or custodian or other person able to provide supervision and care for him; or,
4. an order for his detention has been made by the court. N.D.C.C. 27-20-13.

B. Taking Into Custody Runaways

A child may be taken into custody by a law enforcement officer or a juvenile supervisor or by order of the juvenile supervisor, if there are reasonable grounds to believe that the child has run away from his parents, guardian, or other custodian. An order of the juvenile supervisor made pursuant to this subsection shall be reduced to writing within 24 hours of its issuance. N.D.C.C. 27-20-13.

C. Detention Authorization Required

A child may be detained in a jail only if:

1. a detention home for juveniles which is under the supervision of the court is not available; and
2. the detention is in a room separate and removed from those for adults; and

3. it is ordered by the juvenile supervisor or court. N.D.C.C. 27-20-16.

III. Juvenile Detention Standards

A review of juvenile detention standards promulgated by the Office of the Attorney General should be inserted for discussion.

FIRST AMENDMENT
LEGAL ISSUES
CASE STUDY PROBLEMS
AND DISCUSSION GUIDE

#1

Freedom of Speech, Press, Assembly, and Religion:

Problems for Analysis

Problem #1

Correctional Officer Jones has received a tip from one of the inmates that Inmate Thomas is making plans with a friend on the outside to escape. Jones reads several letters from Thomas, and in one addressed to Mr. Young, Jones finds a description of the layout of the jail, a jailer work shift schedule, and a request from Thomas that Young bring Thomas' favorite Western shirt and boots with him "on D-Day."

- May Officer Jones withhold the letter?
- Was he right to read it in the first place?
- May the jail refuse to let Inmate Thomas correspond with citizen Young in the future?

Problem #2

Inmate Thomas is given a public defender, Cassidy, to represent him on the conspiracy to escape charge. Cassidy sends Thomas a letter asking him some questions about the case in an envelope with the firm's name in the upper left-hand corner, and the words "Privileged Communication" marked on it. Correctional Officer Jones looks at the letter, opens it, shakes it out for contraband, and when he finds none, he reads the letter.

- Has Jones done anything wrong?
- If so, what were his mistakes?

Problem #3

Correctional Officer Jones sees Inmate Thomas reading Playboy in his cell. He takes the magazine away and tells Thomas such trash is not allowed in his jail.

- Was Jones' action appropriate?

Problem #4

The visitation room at the Any County Jail is constructed so that inmates and visitors are separated by a solid plexiglass partition. Inmates and their visitors communicate by means of telephones installed in the visitation room. Correctional Officer Jones is working the visitation room while Inmate Thomas visits with his girlfriend. Several times during their conversation, Thomas glances toward Jones as if to see whether Jones is keeping an eye on them. After Thomas' girlfriend leaves, Jones conducts a strip search of Thomas before allowing Thomas to return to his cell.

- Has Jones acted properly?

Problem #5

Inmate Elk Boy, an enrolled Indian member of the Oglala Sioux Tribe, wore long braided hair upon his sentence to the Any County correctional facility. C.O. Jones, under protest from Elk Boy, had Elk Boy's hair cut to collar length for identification and hygiene purposes per standard operating procedures. Elk Boy objected to the forced hair cut, objecting on deeply-rooted cultural religious beliefs, that the cutting of his hair interfered with his right to exercise his religious beliefs.

- Was C.O. Jones' action appropriate?
- Is there a potential constitutional violation?

Problem #6

The corrections facility in which Thomas is confined has an adequate law library, but he can only use it for 45 minutes at a time, 3 days a week, may not check out books to use in his cell, and is provided no other research assistance.

- Is he being prevented reasonable access to the courts?

Problem #7

Thomas is transferred to another correctional facility which permits attorneys who represent inmates to visit them but does not permit visits from law students and paralegals who work for the attorneys.

- Is this rule legal?

Case study problems 1-4 were adapted from the University of Georgia "Jail Operations" training program developed under a grant from the National Institute of Corrections. Problems 6 and 7 were adapted from Practical Law for Correctional Personnel, by Edward O'Brien, Margaret Fisher, and David T. Austern, St. Paul, Minn.: West Publishing, 1980.

Discussion Guide

Problem #1

Jones has good reason to believe that Thomas was planning an escape; this would justify reading Thomas' outgoing mail. Since the letter to Young discussed illegal activity and is evidence concerning a crime (i.e., conspiracy to escape), it may be withheld. Given Young's role in the conspiracy, Thomas may be prohibited from sending him any more mail.

Problem #2

Jones should not have read Cassidy's letter. If Jones did not know that Cassidy had been appointed counsel for Thomas, he should have held the letter until that relationship was verified. Another option would have been to call in Thomas when the letter was opened.

Problem #3

It is difficult to make a good case that Playboy is obscene. The magazine as a whole has at least some serious literary value. It is questionable whether "the average person applying contemporary community values" would find that the magazine, as a whole, appeals to prurient interest. It also seems highly questionable whether the other test that is followed by some courts, the "encourages criminal sexual behavior" test, could be met in this case.

Problem #4

After contact visits, strip searches of inmates are permissible, but in this situation it does not seem justified. The visits involve no contact, and there does not appear to be any way that Thomas' girlfriend could have passed contraband to the inmate during their visit.

Problem #5

In general, regulations covering hair length and facial hair have been held not to raise constitutional issues. Administrators can justify such regulations to achieve purposes of hygiene, identification and concealment of contraband. However, in 8th Circuit (and the 6th and 4th as well) cases where the inmate is of the Indian race (where the wearing of long braided hair is shown to be a practice deeply rooted in religious belief) and the inmate appears to be sincere in his belief, these courts have held that the cutting of the hair restricts the rights of the Indian inmate's right to exercise his religious beliefs. Officer Jones could have utilized other least restrictive alternatives for hygiene (washing the hair), contraband concealment (washing and search) and identification (photograph and other distinguishing features).

Problem #6

In Williams v. Leeke, the court found that this amount of use of the law library was so meager that it made the inmate's access to the courts meaningless, and was therefore unconstitutional.

Problem #7

The Supreme Court decided that this rule created a "substantial burden" on inmates' right of access to the courts and was unconstitutional (Wolff v. McDonnell). The court noted that many penal institutions are located in remote places; requiring lawyers personally to do such things as taking documents to inmates for signature would likely result in a refusal by many attorneys to represent inmates at all. Although jails are not likely to be very remote from where attorneys are located, there is still a question about the impact of the inconvenience. The better course of action is to permit visits from law students, paralegals, and legal secretaries who are working for an attorney.

This would especially be true of Inmate Thomas had no other legal assistance (attorneys, paralegals, etc.) and was not restricting other inmates from using the law library. Thomas should be allowed additional access to the legal materials. Remember that the key point is access to the courts and the quality of that access.

FOURTH AMENDMENT
LEGAL ISSUES PROBLEMS
AND DISCUSSION GUIDE

#2

Search and Seizure
Problems for Analysis

Problem #1

Jailer Jones suspects that Inmate Thomas is planning an escape. Working the "graveyard shift" from midnight to eight, he sees a light on in Thomas' cell at 2:00 a.m. Jones enters Thomas' cell and searches Thomas and the cell thoroughly. The next week, Jones works the evening shift. He makes a round of the cellblock every hour and on every round he searches Thomas and his cell.

- Is Jones doing anything improper?

Problem #2

A jail regulation calls for inmates in solitary confinement to submit to a body cavity search before and after going to the recreation yard. Only inmates from solitary confinement are allowed in the recreation yard at that time.

- Is this rule legal?

Problem #3

Inmate Boswell was arrested for a minor traffic offense and upon her admission to the county correctional facility by Officer Jones was strip searched. The search was conducted pursuant to a jail policy which required that all persons booked into the jail be strip searched. Officer Jones had no suspicion that Boswell was carrying contraband or that Boswell threatened jail security.

Boswell brought a Section 1983 action against the Sheriff and the county claiming her 4th Amendment privacy rights were violated.

Was there an invasion of Boswell's privacy?

Did Officer Jones violate Boswell's 4th Amendment rights?

Problems 1 and 2 were adapted from Practical Law for Correctional Personnel by Edward O'Brien, Margaret Fisher, and David T. Austern, St. Paul, Minn.: West Publishing, 1980.

Guide to Discussion

Problem #1

As long as Jones has some reasonable basis for his suspicion, such as overhearing Thomas telling an inmate that he'll be glad to see his wife in Peoria next week, the first search conducted is proper. However, the regular, frequent searches of the next week are more suspect. Searches with such frequency begin to look more like harassment than as necessary to maintenance of security; these searches might well be attacked successfully in court.

Problem #2

Body cavity searches are seen by the courts as greater invasions of privacy than ordinary searches or strip searches; therefore, the courts will sometimes not permit body cavity searches where they would permit other kinds of searches. This factual situation was the subject of a real case (Hodges v. Klein). The court ruled that there was no need for a body cavity search whenever an inmate entered or left segregation because the inmates in segregation were not mixing with the general population. A patdown search of the inmates as they returned to their cells would be proper as a means of protecting jail security.

Problem #3

The 9th Circuit Court of Appeals held that "...arrestees for minor offenses may be subjected to a strip search only if jail officials have a reasonable suspicion that the particular arrestee is carrying or concealing contraband or suffering from a

communicable disease. Because no such suspicion existed in Boswell's case, the officer who searched Boswell violated her rights under the fourth amendment."

The strip search was conducted pursuant to a section of the jail's Policy and Procedure Manual which provided that subjects who are being admitted will be placed in the booking cell, all items and clothing will be removed, and the subject will be strip searched.

The Court of Appeals rejected the County's arguments that strip searches were lawful under United States v. Robinson, 414 U.S. 218 (1973) and Bell v. Wolfish, 441 U.S. 520 (1979). The court instead found that: "...we must, therefore, balance the security needs of local jail facilities against the privacy interests of arrestees charged with minor offenses to determine what objective standard authorizes strip searching of arrestees. See Mary Beth G., 723 F.2d at 1273; Hunter v. Auger, 672 F.2d 668 (8th Cir. 1982)."

The Appeals Court found that the County did not demonstrate that its security interests warrant the serious invasion of privacy inflicted by its policy.

8TH AMENDMENT
LEGAL ISSUES PROBLEMS
AND DISCUSSION GUIDE

#3

Problems for Analysis

Problem #1

Frank Felon, an inmate in the Dakota County Jail, brought a Section 1983 Civil Rights action against the Sheriff for inadequate medical treatment. Upon his arrival to the jail, Felon notified the Sheriff that he was to take Dilantin and Phenobarbital four times a day to keep his epileptic condition under control. He repeated the request several times, but did not receive the medication until four days after his initial request. On the fifth day, he suffered a seizure and injured himself when he fell on a cement floor, striking his head.

The inmate instituted an action to recover over \$10,000 for alleged mental, emotional and physical anguish caused by his seizure. The defendant Sheriff brought a motion to dismiss and contended that even if Felon's allegations were true, they would not constitute a valid action under Section 1983.

- Does Felon have a valid cause for action?

Problem #2

Carl Crime, a prisoner in the Dakota County Jail, escaped in December 1977. He remained at large for a week in the Black Hills in near-freezing temperatures before he was apprehended. Upon his return to the jail, he was brought to the local hospital facility, where a physician began treating his damaged and frostbitten legs. In spite of the efforts of one doctor and three nurses, and an extensive course of treatment, it became necessary to amputate the inmate's legs after two weeks.

Subsequently, Crime brought a civil rights suit against the Sheriff and jail physician alleging violation of the 8th Amendment (cruel and unusual punishment). His suit alleged that he was given improper medical care.

- Does Crime's claim give rise to a constitutional claim of cruel and unusual punishment? Why or why not?

Problem #3

An inmate's glasses were broken during a scuffle to which he was an innocent bystander. Despite repeated requests, including a letter to the warden, the inmate was not examined for three months, at which time the physician found the inmate's vision to have been permanently impaired. Who could be held liable for this injury?

Problem #4

New inmates in the Dakota County correctional facility are placed in a housing area on a space-as-available basis until a proper classification decision can be made. Inmate Withers, a slightly built, young inmate, arrives at the institution. His file went to the records office and the cell-assigning official never saw it. Had he been able to review the record he would have discovered that Withers had been sexually assaulted on prior occasions. Withers was assigned to a cell with a large, older inmate whose record showed a history of violent, aggressive sexual assaults. Withers was sexually assaulted. Does a constitutional violation exist?

Problem #5

During an orientation period in the Dakota County correctional facility, Inmate Hall made sexual advances to Inmate Barnard. At his request, Barnard was moved to a new cell. Hall assaulted Barnard with a razor blade issued by the facility causing Barnard extensive injuries. Barnard sued the county for failing to protect him from Hall's attack.

Should the county be liable? Why or why not? What facts, if added, would change the outcome of the case?

Answers to Case Studies

Discuss answers to Case Studies.

Answer to Case Study #1: In Gulate v. Potts, 630 F.2d 322 (4th Cir. 1980) (withdrawn from publication at court request) the court reversed the lower court's dismissal, stating this kind of abuse, if true, could amount to a constitutional violation. Assigning Withers (with his physical build and having been sexually assaulted previously in the facility) with a known violent offender will most likely result in the personal liability of those involved. See Smith v. Wade supra.

Discussion Guide

Problem #1

Yes. Felon has a valid claim for action since he was denied (for a short critical period of time) and delayed his medication by the correctional officials. The amount of damages would be a decision of the jury and court.

Problem #2

No. Crime's injuries were inflicted as a result of his escape and subsequent stay in the Hills to avoid capture. He was returned to a hospital and given immediate care for frostbite and subsequent care and treatment. There was no "deliberate indifference," no "delay" and no denial of medical services.

Problem #3

This was the case of Febo v. Keve, 395 F.Supp. 1350 (D. Del. 1975) where the federal court said that the facts in this case were not enough to constitute a claim under Section 1983 (not "deliberate indifference" as required by Estelle v. Gamble, see Chapter 3), but that they would be sufficient to establish a negligence claim under state tort law. If a state court found that the warden or other personnel had been negligent in not replacing the glasses and that this caused further damage, the individuals responsible and/or the local government unit might be held liable. Good management practice would have dictated replacement of the glasses at an early date and prevention of the litigation!

Problem #4

The institution argued that negligence would not amount to a constitutional violation. The court rejected that argument in Withers v. Levine, 615 F.2d 158 (4th Cir. 1980), finding that the risk of assault on younger, smaller prisoners by older, larger ones puts a duty on institutions to provide reasonable protection from unreasonable risks of harm. Given the pervasive risk of harm to these smaller, younger prisoners, negligence is actionable as a constitutional violation under Section 1983. Also see Smith v. Wade, supra for personal liability of the correctional officer.

Problem #5

The court said the county would be liable where it could be shown that it had unreasonably exposed inmates to risks. However, here, the court found no proof that the county had failed to take reasonable care for Barnard's safety.

To show liability, the inmate would have to prove the state had unreasonably exposed him to risks. Had the inmate proven he had reported the first sexual advance and no action was taken, there would probably be liability. Additionally, if a correctional officer had observed Hall in the area of Barnard's new cell assignment and made no report or documentation, with action to remove Hall, there might have been liability.

The standard that the courts use in determining negligence is whether personnel knew or should have known of a dangerous situation. In one case, the court found no negligence because the officials did not know of any hostility, tension or personal

problem between the inmates prior to attack by one inmate on another. This underscores the extreme importance of documenting unusual behaviors or statements of fear, suicide, etc. This documented information should be fed back to the persons making the classification decisions.

TRAINEE WORKSHEET

SUBJECT: Legal Issues

A. General Principles

1. In reviewing prisoner rights' suits the courts employ a balancing test which weighs the following competing interests:

1. _____
2. _____

2. The following have been recognized as legitimate administrative concerns which represent the state's interest in detention:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

B. First Amendment Right to Religion

3. The usual issues in 1st Amendment religion cases include:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____

C. First Amendment Right of the Press

4. The right of the press to access to the jail is _____
_____.

5. The right of prisoners to access to the press is _____
_____.

6. In order to restrict prisoner access to reading material due process requires:

a. _____

b. _____

c. _____

d. _____

7. Restrictions on pretrial detainee's 1st Amendment Rights may not be based on the institution's _____ purposes; whether they be:

a. _____

b. _____

c. _____

D. First Amendment Access to the Court

8. Concerning a prisoner's right of access to the courts, jail officers may not:

a. _____

b. _____

9. Mail from prisoners to the courts cannot be:

a. _____

b. _____

c. _____

10. Mail from the courts or attorneys may be inspected for contraband IF _____.

11. The tests for interfering with mail between prisoners and their attorneys are:

a. _____;
_____;

b. _____;
_____; and

c. _____
_____.

12. Visits between attorneys and clients must be assured of _____.

13. Prisoners who are not represented by an attorney have a right to _____.

E. Personal Communication

14. State law provides that the governing body of each jail shall ensure prisoner access to:

a. _____

b. _____

c. _____

15. Regulation of prisoner mail must further one or more of the following government interests:

a. _____

b. _____

c. _____

16. The following procedural safeguards must be followed in rejecting prisoner mail:

a. _____

b. _____

c. _____

F. Fourth Amendment

17. The Fourth Amendment prohibits _____ searches.
18. In order to avoid accusations that searches "violate the dictates of reason" either because of their number or their perpetuation, jail policies and procedures must clearly specify:
- a. _____;
 - b. _____; and
 - c. _____.
 - d. _____.
19. Searches must not be conducted in a manner which may amount to :
- a. _____ and must be applied
 - b. _____.

G. Discipline:

20. A prisoner is entitled to due process prior to disciplinary action on a major rule violation. The required elements of due process are:
- a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
 - f. _____

H. Eighth Amendment

21. Four tests in determining whether particular jail conditions are cruel and unusual are:
- a. _____
 - b. _____
 - c. _____
 - d. _____

22. Five major areas in jail to which 8th Amendment standards have been applied are:

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____

23. The principles behind the guarantee against cruel and unusual punishment establish the governments obligation to provide _____.

24. State law requires _____.

25. The test for violation of the 8th Amendment relative to medical care is:

- a. _____
- b. _____

26. Deliberate Indifference is:

- a. _____
- b. _____
- c. _____

27. Serious Medical Needs are:

- a. _____
- b. _____

28. The right to medical care also includes _____.
29. A bread and water diet _____.
30. Prisoners confined to their cell for more than 16 hours must be given _____.
31. Two considerations which are relevant to whether exercise or recreation must be provided are:
- a. _____
 - b. _____
32. The tests for cruel and unusual punishment in discipline matters are:
- a. _____
 - b. _____
 - c. _____
33. The two key factors in prisoner discipline are:
- a. _____
 - b. _____
34. Due Process requires:
- a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
 - f. _____

35. Punishment must further legitimate governmental purposes which are:

a. _____

b. _____

36. In reviewing the use of force courts consider the following four factors:

a. _____

b. _____

c. _____

d. _____

37. Segregation must be justified on the basis of one of the following legitimate purposes:

a. _____

b. _____

c. _____

d. _____

e. _____

38. Concerning prisoner supervision and security state law requires that:

a. _____

b. _____

c. _____

d. _____

e. _____

J. Fourteenth Amendment

39. In addition to the specific express guarantees of the Constitution pretrial detainees also have a right to be

40. The Fourteenth Amendment guarantees:

a. _____

b. _____

c. _____

41. Jail Administrators and officers should have enough knowledge about legal issues in the area of corrections to be able to know when they need to consultant:

42. Outgoing inmate mail may be read if reasonable cause exists to conclude that the mail contains:

43. Decisions of the U.S. Supreme Court do not prevail over

44. When restricting inmate rights, the jail administrator should be able to show a _____ basis between the restriction/condition imposed and a legitimate governmental purpose the administrator hopes to achieve.

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Legal Issues

A. General Principles

1. In reviewing prisoner rights' suits the courts employ a balancing test which weighs the following competing interests:
 1. Individual constitutional rights
 2. State's institutional needs

2. The following have been recognized as legitimate administrative concerns which represent the state's interest in detention:
 1. Security
 2. Management and Custody
 3. Order
 4. Punishment
 5. Rehabilitation
 6. Resource Limitation

B. First Amendment Right to Religion

3. The usual issues in 1st Amendment religion cases include:
 1. What is a religion
 2. Restricting services
 3. Access to ministers
 4. Access to religious writings
 5. Restricting wearing of religious medals
 6. Lack of religious counseling
 7. Access to facilities for services
 8. Special diets
 9. Personal appearance and hair length

C. First Amendment Right of the Press

4. The right of the press to access to the jail is no greater than the general public.
5. The right of prisoners to access to the press is guaranteed under the constitution - First Amendment.
6. In order to restrict prisoner access to reading material due process requires:
 - a. Notice of intent to withhold or deny access
 - b. Review of less restrictive alternatives
 - c. An opportunity for prisoner to reply
 - d. Listing of reasons for prohibiting the publication
7. Restrictions on pretrial detainees 1st Amendment Rights may not be based on the institution's punishment purposes; whether they be:
 - a. Deterrence
 - b. Retribution
 - c. Rehabilitation

D. First Amendment Access to the Court

8. Concerning a prisoner's right of access to the courts, jail officers may not:
 - a. Deny or obstruct the communication
 - b. Punish the prisoner for exercising his right
9. Mail from prisoners to the courts cannot be:
 - a. Censored
 - b. Read
 - c. Refused Delivery

10. Mail from the courts or attorneys may be inspected for contraband IF it is opened in front of the prisoner.
11. The tests for interfering with mail between prisoners and their attorneys are:
 - a. A compelling government interest affecting institution security;
 - b. A clear and present danger of a breach of prison security; and
 - c. Some substantial interference with orderly institution administration.
12. Visits between attorneys and clients must be assured of privacy.
13. Prisoners who are not represented by an attorney have a right to access to a law library.

E. Personal Communication

14. State law provides that the governing body of each jail shall ensure prisoner access to:
 - a. Mail
 - b. Telephone use
 - c. Visitors
15. Regulation of prisoner mail must further one or more of the following government interests:
 - a. Security
 - b. Order
 - c. Rehabilitation (does not apply to pretrial detainees)
16. The following procedural safeguards must be followed in rejecting prisoner mail:
 - a. The prisoner is notified of the rejection
 - b. The author is given reasonable opportunity to respond
 - c. The matter should be reviewed by someone other than the person who refused the letter originally.

F. Fourth Amendment

17. The Fourth Amendment prohibits unreasonable searches.
18. In order to avoid accusations that searches "violate the dictates of reason" either because of their number or their perpetuation, jail policies and procedures must clearly specify:
- a. time ;
 - b. manner ; and
 - c. place of the search
 - d. justification.
19. Searches must not be conducted to :
- a. Harrassment and mus
 - b. Equally to all prisoner

G. Discipline:

20. A prisoner is entitled to due p action on a major rule violation. The required elements of due process are:
- a. Written notice of the charges
 - b. Time to prepare a response, at least 24 hrs.
 - c. Hearing by an impartial board
 - d. Right to call witnesses
 - e. Written findings of fact
 - f. Appeal

H. Eighth Amendment

21. Four tests in determining whether particular jail conditions are cruel and unusual are:
- a. Whether it is of such "inherent cruelty"
 - b. Whether it is abhorrent to contemporary society
 - c. Whether it is "excessive"
 - d. Whether it is administered arbitrarily or discriminatorily

22. Five major areas in jail to which 8th Amendment standards have been applied are:
- a. Health Care
 - b. Diet and Exercise
 - c. Discipline
 - d. Protection of Prisoners from Violence
 - e. The Facility / Physical Conditions
23. The principles behind the guarantee against cruel and unusual punishment establish the governments obligation to provide medical care.
24. State law requires that inmates have adequate medical care
25. The test for violation of the 8th Amendment relative to medical care is:
- a. a deliberate indifference to a prisoner's
 - b. serious medical needs.
26. Deliberate Indifference is:
- a. Denial of medical treatment requested by a prisoner
 - b. Where prison officials are cognizant of the urgent need of a prisoner for immediate medical attention and fail to provide it.
 - c. Where prison officials ignore or interfere with medical treatment ordered by a physician.
27. Serious Medical Needs are:
- a. That which has been diagnosed by a physician as mandating treatment.
 - b. One that is so obvious that even a lay person would easily recognize necessity for doctor's attention.

28. The right to medical care also includes mental health care
29. A bread and water diet violates the 8th Amendment.
30. Prisoners confined to their cell for more than 16 hours must be given an opportunity to exercise one hour per day.
31. Two considerations which are relevant to whether exercise or recreation must be provided are:
- a. length of confinement
 - b. conditions of confinement
32. The tests for cruel and unusual punishment in discipline matters are:
- a. Is the punishment disproportionate to the offense
 - b. Whether the punishment is of such a nature as to shock the general conscience of a modern society
 - c. Did the punishment go beyond that necessary to achieve the objective.
33. The two key factors in prisoner discipline are:
- a. Due Process
 - b. Equal Protection
34. Due Process requires:
- a. Notice
 - b. Time to prepare a response
 - c. Impartial Hearing
 - d. Right to call witnesses
 - e. Written findings of fact
 - f. Appeal

35. Punishment must further legitimate governmental purposes which are:
- a. Security
 - b. Internal Order
36. In reviewing the use of force courts consider the following four factors:
- a. The need for the application of force
 - b. relationship between the need and the amount of force used
 - c. the extent of injury inflicted
 - d. whether the force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the purpose of causing harm.
37. Segregation must be justified on the basis of one of the following legitimate purposes:
- a. Security
 - b. Protection of the inmate population
 - c. Health
 - d. Prevent escape
 - e. Punishment
38. Concerning prisoner supervision and security state law requires that:
- a. Inmates shall be supervised on a 24 hr. basis
 - b. Jail staff shall be located in such proximity to inmate living areas to permit the staff to hear and respond promptly to calls for help.
 - c. Each jail shall provide for personal observation of inmates on an irregular but frequent schedule.
 - d. Each jail shall maintain sufficient staff to perform all functions relating to security, control, custody, and supervision of inmates.
 - e. Inmates shall be prohibited from supervising controlling or exerting authority over other inmates.

J. Fourteenth Amendment

39. In addition to the specific express guarantees of the Constitution pretrial detainees also have a right to be free from any condition or restriction, the purpose of which is punishment.
40. The Fourteenth Amendment guarantees:
- a. The application of all the amendments to the states
 - b. Due Process (Disciplinary proceedings and pretrial det.
 - c. Equal Protection
41. Jail Administrators and officers should have enough knowledge about legal issues in the area of corrections to be able to know when they need to consult legal counsel.
42. Outgoing inmate mail may be read if reasonable cause exists to conclude that the mail contains something threatening to the security of the facility.
43. Decisions of the U.S. Supreme Court do not prevail over state law.
44. When restricting inmate rights, the jail administrator should be able to show a rational basis between the restriction/condition imposed and a legitimate governmental purpose the administrator hopes to achieve.

PRE- AND POST-TEST QUESTIONS

SUBJECT: Legal Issues

1. In order to restrict or regulate the exercise of a prisoner's constitutional rights, jailers must have good reasons to justify the restriction. Which three of the following are legitimate reasons?

- _____ 1. Not enough staff
- _____ 2. Punishment
- _____ 3. Security
- _____ 4. Budget restrictions
- _____ 5. Management

2. Of the following, pick five rights which are granted to prisoners by state law.

- | | |
|------------------------------|--|
| _____ 1. Telephone use | _____ 5. Reading material |
| _____ 2. Visitors | _____ 6. Classification |
| _____ 3. Rehabilitation | _____ 7. Privacy |
| _____ 4. Grievance procedure | _____ 8. Free from corporal punishment |

3. Explain the proper method of checking for contraband in a letter from an attorney to a prisoner.
-
-

4. There are three legitimate administrative concerns which justify the jail regulation of prisoner mail. Identify the three reasons.

- _____ 1. Order
- _____ 2. Rehabilitation (sentenced inmates only)
- _____ 3. Punishment
- _____ 4. Staffing
- _____ 5. Security

5. Approved mailing lists is a proper method of regulating prisoner mail.

True _____ False _____

6. Whenever prisoners are disciplined for major rule violations which could be punished by loss of good time, solitary confinement or loss of privileges for more than three days, the courts require that a certain procedure be followed. Which four of the following are required as part of that procedure?

- _____ 1. Written notice of the charges
 - _____ 2. Time to prepare a defense
 - _____ 3. Assistance of counsel or an attorney substitute
(all inmates)
 - _____ 4. Right to cross-examine witnesses
 - _____ 5. Written findings of fact
 - _____ 6. Appeal
7. An inmate must be afforded due process protections before being punished for serious misconduct. Whether there has been serious misconduct depends on whether:
 - a. Another inmate was seriously hurt
 - b. The punishment that can be awarded as a result of the misconduct is substantial, such as forfeiture of good time credits
 - c. The inmate's behavior constitutes a crime
 - d. The authority of jail officials has been jeopardized
8. Body cavity searches of inmates may:
 - a. Be conducted only when there is a reasonable belief that the search will turn up something that is the proper object of a search and done by medical personnel
 - b. Never be conducted
 - c. Be conducted only after obtaining a search warrant
 - d. Never be conducted on an inmate who is a pre-trial detainee
9. Every inmate must:
 - a. Have access to a law library
 - b. Submit legal documents to jail officials for approval before filing them with the courts
 - c. Be provided an attorney upon request
 - d. Have access to the courts, either by means of an adequate legal assistance program or a system whereby inmates or their jailhouse lawyers have reasonable access to a law library
10. It's permissible to punish inmates. In order for punishment to be unlawful because it is cruel and unusual punishment under the U.S. Constitution, the punishment must:
 - a. shock the conscience

- b. Be grossly disproportionate to the severity of the offense
 - c. Unnecessarily and wantonly inflict pain
 - d. Have any of the above characteristics
11. The U. S. Supreme Court has held that:
- a. Double-bunking is always permissible
 - b. Once a lawful decision has been made to place an inmate in solitary confinement, any living conditions are constitutional
 - c. Double-bunking is permissible where the living conditions as a whole do not violate a contemporary standards of decency
 - 4. All inmates should have single cells
12. Jail officials must:
- a. Give inmates the best medical treatment money can buy
 - b. Insure that all inmate complaints of illness are immediately attended to by a physician
 - c. Have a physician on duty at the jail at all times
 - d. Insure that if there is no physician in residence at the jail, reasonable access to medical facilities within a reasonable time is available
13. Which one of the following pieces of mail could be censored by jail officials with the least likelihood of running afoul of legal requirements?
- a. Playboy
 - b. Newsweek
 - c. A magazine containing photographs of homosexuals engaged in sexual conduct
 - d. A magazine containing photographs of members of the opposite sex engaged in sexual conduct
14. Jail administrators and officers should have:
- a. The ability to interpret constitutional law for inmates
 - b. A law degree
 - c. The ability to do legal research

- d. Enough knowledge about legal issues in the area of corrections to be able to know when they need to consult legal counsel
15. The reading of outgoing inmate mail by jail officials has been addressed by many of the district and circuit courts. Which of the following statements best describe the position of the Federal Courts today concerning this matter?
- a. It is well established law that jail officials may not read outgoing mail of inmates
- b. It is well established law that jail officials may read outgoing mail of inmates
- c. There is no "well established" law concerning this matter. The courts are going both ways on the issue but the trend appears to be that officials may examine outgoing mail if reasonable cause exists "to conclude that the item contains something threatening the security of the facility."
- d. There is no "well established" law in this area. The courts are going both ways on the issue but a trend appears to be that officials may not examine outgoing mail.
16. In 1976, the U. S. Supreme Court released the decision of Estelle v. Gamble concerning the level of required medical care in jails and prisons. Which of the following statements best represents the Court's position on this matter?
- a. Inmates are entitled to the same level of medical care in a jail/prison that he/she could reasonably expect to find in the community.
- b. Inmates are only entitled to a level of medical care that does not show deliberate indifference to known medical needs of prisoners in terms of life saving, limb saving, or pain relieving injuries or illnesses.
- c. The Court adopted the AMA's standards in toto.
- d. The Court stated that each state had to have some medical program in their jail facilities but there was no one standard of care. The standard of care would vary with each individual jail depending on the age, condition, and the size of the facility.
17. Suppose that a state legislature, after a long line of court cases giving pre-trial detainees superior rights and privileges, passed legislation that required the pre-trial detainees to be incarcerated separately from sentenced prisoners. Sometime after the legislation was law, the U.S. Supreme Court made the decision to do away with the

distinguishing factors between the two classes of prisoners. Which statement most accurately reflects the obligations and responsibilities of a jail administrator in that state (after the Supreme Court decision)?

- a. The jail administrator may now mingle the two classes of prisoners because the Supreme Court has nullified the state law.
- b. The jail administrator is free to decide which concept he wishes to follow but, after he makes a choice, he will have to abide by his decision thereafter.
- c. Nothing has changed for the jail administrator. State law would prevail over the decision of the Supreme Court.
- d. None of the above statements is an accurate reflection of the administrator's new obligations after the decision.

18. The Supreme Court ruled that visual body cavity searches of inmates, after a contact visit, were dehumanizing and could not be done unless jail personnel had probable cause to believe that the inmate was carrying contraband.

- a. The above statement is true.
- b. The above statement is false.
- c. The above statement is neither true nor false. The Supreme Court has not addressed this issue recently.

19. The Supreme Court in Wolfish attempted to give administrative guidelines to jail administrators and to the lower courts in judging future jail cases. Which one of the following statements best represents one of the major guidelines given by the Court?

- a. The very nature of confinement requires that a jail administrator impose some unpleasant conditions and restrictions upon all inmates, if only they cannot go where they want, when they want. The jail administrator should be able to show only a rational basis between a restriction/condition imposed and a legitimate governmental purpose the administrator hopes to achieve.
- b. The jail administrator should operate his/her jail based upon a set of documented standards and procedures. These documented standards may be state or national. Any major deviation from those standards could be justified by the jail/prison administrator showing a compelling governmental necessity.
- c. Most jail administrators are humane individuals trying to operate a jail on an inadequate budget. The lower courts

should examine each individual case on how well the administrator was operating his jail on the specific funds which were allotted him for that purpose.

d. The jail administrator should look to the District and Circuit Courts in his area to determine how his jail should be operated.

20. It is a potential violation of an Indian inmate's First Amendment constitutional rights if his long hair is cut and there is relationship between the long hair and his religious beliefs.

a. The above statement is false.

b. The above statement is true.

PRE- AND POST TEST QUESTIONS (ANSWERS)

SUBJECT: Legal Issues

1. 2,3,5
2. 1,2,5,6,8
3. The letter must be opened for inspection in the presence of the prisoner.
4. 1,2,5
5. False
6. 1,2,5,6
7. d
8. a
9. d
10. d
11. c
12. d
13. c
14. d
15. c
16. b
17. c
18. b
19. a
20. b

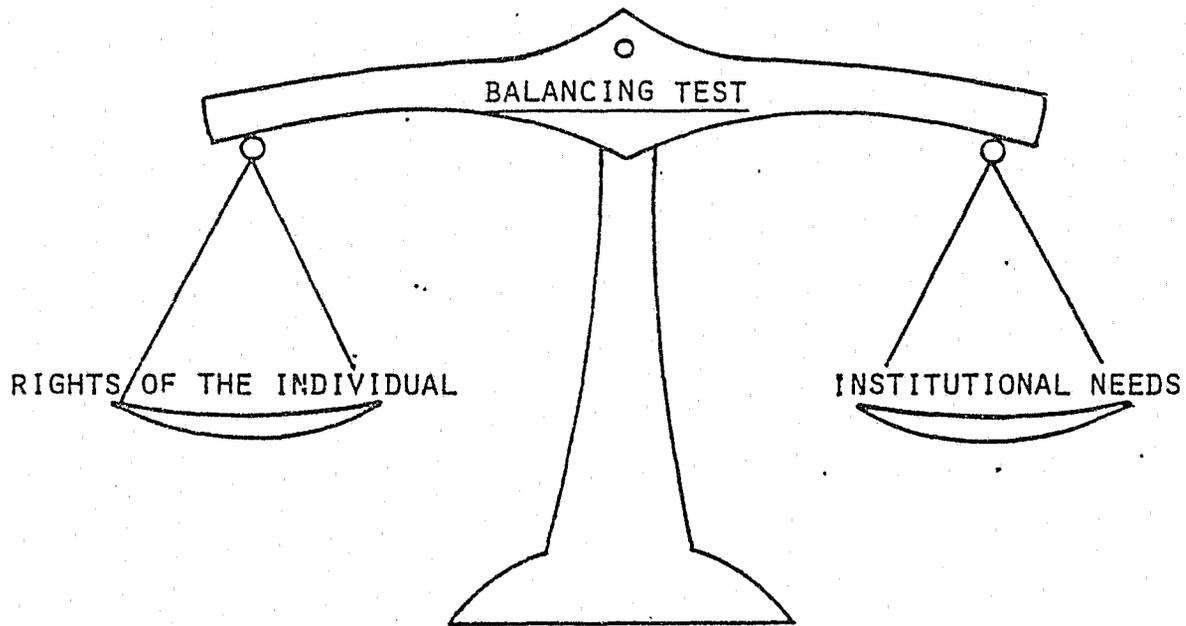
PERFORMANCE OBJECTIVES

FOLLOWING THE LECTURE, CASE STUDIES, AND DISCUSSION,
THE TRAINEES WILL BE ABLE TO:

- A. IDENTIFY THREE LEGITIMATE CORRECTIONAL
JUSTIFICATIONS FOR RESTRICTING PRISONERS' RIGHTS.
- B. IDENTIFY SIX CONSTITUTIONAL RIGHTS RETAINED
BY PRISONERS.
- C. IDENTIFY FIVE RIGHTS OF PRISONERS PROTECTED
UNDER STATE LAW.
- D. EXPLAIN LEGITIMATE CONTRABAND CONTROL
PROCEDURES FOR MAIL.
- E. LIST THE THREE LEGITIMATE CORRECTIONAL
JUSTIFICATIONS FOR RESTRICTING PRISONERS' RIGHTS.

PERFORMANCE OBJECTIVES

- F. IDENTIFY THREE CONSTITUTIONALLY MANDATED PROCEDURES IN DISCIPLINARY ACTIONS RELATING TO SERIOUS INFRACTIONS.
- G. LIST THE FIVE BASIC RIGHTS IN THE FIRST AMENDMENT.
- H. LIST A BASIC RIGHT RELATING TO INMATE LITIGATION IN THE FOURTH, FIFTH, EIGHTH, AND FOURTEENTH AMENDMENTS.
- I. EXPLAIN THE PRIMARY DIFFERENCE IN U.S. SUPREME COURT DECISIONS WITH REGARD TO THE TREATMENT OF PRETRIAL V. SENTENCED INMATES.
- J. EXPLAIN THE EVOLUTION AND RATIONALE FOR JUDICIAL INVOLVEMENT IN JAIL MANAGEMENT AND OPERATIONS ("HANDS-OFF" POLICY).



PRETRIAL DETAINEES

- CONSTITUTIONAL RIGHTS V.
1. SECURITY
 2. ORDER
 3. MANAGEMENT AND CUSTODY

CONVICTED PRISONER

- CONSTITUTIONAL RIGHTS V.
1. SECURITY
 2. ORDER
 3. MANAGEMENT AND CUSTODY
 4. PUNISHMENT
 - a. DETERRENCE
 - b. RETRIBUTION
 5. REHABILITATION

LEGITIMATE ADMINISTRATIVE CONCERNS

1. SECURITY
2. MANAGEMENT AND CUSTODY
3. ORDER
4. PUNISHMENT
 - A. DETERRENCE
 - B. RETRIBUTION
5. REHABILITATION
6. RESOURCE LIMITATION

USUAL ISSUES IN FIRST AMENDMENT RELIGION CASES

1. WHAT IS A RELIGION?
2. RESTRICTING SERVICES
3. ACCESS OF MINISTERS
4. ACCESS TO RELIGIOUS WRITINGS
5. RESTRICTING WEARING OF RELIGIOUS MEDALS
6. LACK OF RELIGIOUS COUNSELING
7. ACCESS TO FACILITIES FOR SERVICES
8. SPECIAL DIETS
9. PERSONAL APPEARANCE AND HAIR LENGTH

IN ORDER TO RESTRICT PRISONER ACCESS TO READING
MATERIAL DUE PROCESS REQUIRES:

1. REVIEW OF LESS RESTRICTIVE ALTERNATIVES
2. NOTICE OF INTENT TO WITHHOLD OR DENY ACCESS
3. AN OPPORTUNITY FOR PRISONER TO REPLY
4. LISTING OF REASONS FOR PROHIBITING PUBLICATION

RESTRICTIONS ON PRETRIAL DETAINEES FIRST AMENDMENT
RIGHTS MAY NOT BE BASED ON THE INSTITUTION'S
PUNISHMENT PURPOSES; WHETHER THEY BE:

1. DETERRENCE
2. RETRIBUTION
3. REHABILITATION

CONCERNING A PRISONER'S RIGHT OF ACCESS
TO THE COURTS, JAIL OFFICERS MAY NOT

1. DENY OR OBSTRUCT THE COMMUNICATION; OR,
2. PUNISH THE PRISONER FOR EXERCISING HIS RIGHT

MAIL FROM PRISONERS TO THE COURT CANNOT BE:

1. CENSORED
2. READ; OR,
3. REFUSED DELIVERY

THE TEST FOR INTERFERING WITH MAIL BETWEEN
PRISONERS AND THEIR ATTORNEYS ARE AS FOLLOWS:

1. A COMPELLING GOVERNMENT INTEREST AFFECTING
INSTITUTION SECURITY;
2. A CLEAR AND PRESENT DANGER OF A BREACH OF
PRISON OR JAIL SECURITY;
3. SOME SUBSTANTIAL INTERFERENCE WITH ORDERLY
INSTITUTION ADMINISTRATION.

THE GOVERNING BODY OF EACH JAIL SHALL
INSURE PRISONER ACCESS TO:

1. MAIL
2. TELEPHONE USE
3. VISITORS

REGULATION OF PRISONER MAIL MUST FURTHER ONE
OR MORE OF THE FOLLOWING GOVERNMENT INTERESTS:

1. SECURITY
2. ORDER
3. REHABILITATION (DOES NOT
APPLY TO PRETRIAL DETAINEES)

THE FOLLOWING PROCEDURAL SAFEGUARDS MUST BE FOLLOWED IN REJECTING PRISONER MAIL:

1. THE PRISONER IS NOTIFIED OF THE REJECTION
2. THE AUTHOR IS GIVEN REASONABLE OPPORTUNITY TO RESPOND
3. THE MATTER SHOULD BE REVIEWED BY SOMEONE OTHER THAN THE PERSON WHO REFUSED THE LETTER ORIGINALLY

IN ORDER TO AVOID ACCUSATIONS THAT PERSONAL UNCLOTHED BODY SEARCHES "VIOLATE THE DICTATES OF REASON" EITHER BECAUSE OF THEIR NUMBER OR THEIR NUMBER OR THEIR MANNER OF PERPETUATION JAIL POLICIES AND PROCEDURES MUST CLEARLY SPECIFY:

1. TIME
2. MANNER
3. PLACE OF THE SEARCH
4. SERVE NEED FOR SECURITY, ORDER,
OR DISCIPLINE
5. HAVE "REASONABLE SUSPICION" BASIS
FOR "TURNAROUNDS" AND NON-VIOLENT
MISDEMEANANTS
6. BE CONDUCTED BY STAFF MEMBERS OF
SAME SEX

A PRISONER IS ENTITLED TO DUE PROCESS PRIOR TO DISCIPLINARY ACTION ON A MAJOR RULE VIOLATION. THE REQUIRED ELEMENTS OF DUE PROCESS ARE:

1. WRITTEN NOTICE OF THE CHARGES
2. TIME TO PREPARE A RESPONSE, AT LEAST 24 HOURS
3. HEARING BY AN IMPARTIAL BOARD
4. RIGHT TO CALL WITNESSES
5. WRITTEN FINDINGS OF FACT
6. APPEAL

FOUR TESTS IN DETERMINING WHETHER PARTICULAR
JAIL CONDITIONS ARE CRUEL AND UNUSUAL ARE:

1. WHETHER IT IS OF SUCH "INHERENT CRUELTY"
2. WHETHER IT IS ABHORRENT TO CONTEMPORARY SOCIETY
3. WHETHER IT IS "EXCESSIVE"
4. WHETHER IT IS ADMINISTERED ARBITRARILY OR
DISCRIMINATORILY

FIVE MAJOR AREAS IN JAIL TO WHICH 8th
AMENDMENT STANDARDS HAVE BEEN APPLIED:

1. HEALTH CARE
2. DIET AND EXERCISE
3. DISCIPLINE
4. PROTECTION OF PRISONERS FROM VIOLENCE
5. THE FACILITY / PHYSICAL CONDITIONS

THE TEST FOR VIOLATION OF THE 8th
AMENDMENT RELATIVE TO MEDICAL CARE IS:

1. A DELIBERATE INDIFFERENCE TO A PRISONER'S
2. SERIOUS MEDICAL NEEDS

DELIBERATE INDIFFERENCE IS:

1. DENIAL OF MEDICAL TREATMENT REQUESTED
BY A PRISONER

2. WHERE JAIL OFFICIALS ARE COGNIZANT OF
THE URGENT NEED OF A PRISONER FOR
IMMEDIATE MEDICAL ATTENTION AND
FAIL TO PROVIDE IT

3. WHERE JAIL OFFICIALS IGNORE OR INTERFERE
WITH MEDICAL TREATMENT ORDERED BY A
PHYSICIAN

SERIOUS MEDICAL NEEDS ARE:

1. THAT WHICH HAS BEEN DIAGNOSED BY A
PHYSICIAN AS MANDATING TREATMENT

2. THAT WHICH IS SO OBVIOUS THAT EVEN A
LAY PERSON WOULD EASILY RECOGNIZE
NECESSITY FOR DOCTOR'S ATTENTION

TWO CONSIDERATIONS WHICH ARE RELEVANT TO WHETHER
EXERCISE OR RECREATION MUST BE PROVIDED ARE:

1. LENGTH OF CONFINEMENT
2. CONDITIONS OF CONFINEMENT

THE TESTS FOR CRUEL AND UNUSUAL PUNISHMENT
IN DISCIPLINE MATTER ARE:

1. IS THE PUNISHMENT DISPROPORTIONATE
TO THE OFFENSE
2. WHETHER THE PUNISHMENT IS OF SUCH A
NATURE AS TO SHOCK THE GENERAL
CONSCIENCE OF A MODERN SOCIETY
3. DID THE PUNISHMENT GO BEYOND THAT
NECESSARY TO ACHIEVE THE OBJECTIVE

RIGHTS UNDER STATE LAW

- A. RIGHT TO HAVE CONFIDENTIAL ACCESS TO ATTORNEYS AND THEIR AUTHORIZED REPRESENTATIVES.
- B. RIGHT NOT TO BE SUBJECTED TO DISCRIMINATION BASED ON RACE, NATIONAL ORIGIN, COLOR, CREED, SEX, ECONOMIC STATUS, OR POLITICAL BELIEF.
- C. RIGHT TO EQUAL ACCESS BY FEMALE AND MALE PRISONERS TO PROGRAMS AND SERVICES.
- D. RIGHT TO ACCESS TO MAIL, TELEPHONE USE, AND VISITORS.
- E. RIGHT TO BE PROPERLY FED, CLOTHED, AND HOUSED.
- F. RIGHT TO ADEQUATE MEDICAL CARE.
- G. RIGHT TO REASONABLY EXERCISE RELIGIOUS BELIEFS.
- H. RIGHT TO ACCESS TO AVAILABLE RELIGIOUS, MENTAL HEALTH, ALCOHOLISM, AND ADDICTION COUNSELING.
- I. RIGHT TO PERSONAL SAFETY.
- J. RIGHT TO APPROPRIATE CLASSIFICATION.
- K. RIGHT TO BE PROTECTED AGAINST UNREASONABLE AND UNNECESSARY SEARCHES.
- L. RIGHT TO BE FREE FROM CORPORAL PUNISHMENT.
- M. RIGHT TO BE FREE FROM SUPERVISION OF OTHER INMATES.

RIGHTS UNDER STATE LAW

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LEGAL ISSUES

A CORRECTIONAL LAW STUDY GUIDE

A CORRECTIONAL LAW STUDY GUIDE

RIGHTS OF THE INMATE UNDER THE FIRST, FOURTH, FIFTH, SIXTH,
EIGHTH AND FOURTEENTH AMENDMENTS

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Updated With Recent U.S. Supreme Court and

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July 1983

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NORTH DAKOTA OFFICE OF THE ATTORNEY GENERAL
DIVISION OF CRIMINAL JUSTICE TRAINING AND STATISTICS

July 1985

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relief from confinement conditions." Criminal Law Reporter, op. cit. p. 3. In 1976, for example, this meant almost 20,000 cases. Reportedly, fewer than five percent of these petitions eventually get to trial. Nevertheless, the National Prison Project reports that as of February 1, 1981, "36 states (plus the District of Columbia, Puerto Rico and the Virgin Islands) were involved in court decrees or pending litigation concerning over-crowding and/or total conditions of confinement." "Institutions I.E.", Volume 4, No. 3, p. 10, March 1981. (See Appendix A for a listing.) Many of the court orders mandate sweeping reform of the conditions. For example, in the Alabama prison decision, Judge Johnson ordered the State of Alabama to comply with various minimum constitutional standards. Among other things, he required the state to reduce the prison population to the designed capacity to provide each prisoner with a minimum 60 square feet of living space, to provide each prisoner with a meaningful job, the opportunity to participate in recreational, educational, vocational training and pre-release transition programs; to provide each prisoner with certain minimum personal articles, such as linens, toilet articles, hot and cold water, reading and writing materials, etc.; to provide necessary medical and mental health care, minimum staff, food, correspondence, visitation and other physical standards. Judge Johnson also focused on facility related matters; e.g., lighting, ventilation, recreation space, bathing facilities, dormitory use and the like. He detailed the

number, characteristics, assignment and training of correctional staff. Pugh v. Locke, 406 F.Supp. 318 (M.D. Ala 1976) aff'd. 559 F.2d 283, Cert. denied, 438 U.S. 915, 98 S.Ct. 3144 (1978). This sweeping decision was upheld by the Supreme Court in 1978. (Connected cases included James v. Wallace, 382 F.Supp. 1177 (M.D. Ala. 1974) and Newman v. State of Alabama, 466 F.Supp. 628 (M.D. Ala. 1979).

III. Rights vs. Privileges

- A. Constitutional Rights: It is undisputed that a prisoner is not stripped of all constitutional rights merely by virtue of incarceration. Bell v. Wolfish, 441 U.S. 520, 99 S.Ct. 1861, 60 L.Ed. 2s 447 (1979). However, in order for prisoners to maintain a cause of action under Section 42 U.S.C. 1983, an abridgement or denial of a right which is protected under the United States Constitution must be alleged. Therefore, the crucial issue is whether the jail rule, policy or procedure affects a recognized constitutional right.
- B. Privileges: In contrast, jail rule, policy or procedure may grant, abridge or deny privileges to prisoners which are not subject to scrutiny by the courts. Thus, jail administrators have full authority and wide discretion in the use and control of privileges. While it is the intent of this training to delineate between those facets of the jail operation which are constitutionally protected and those which are not, state law has provided an additional responsibility to be considered in relation to the rights of pretrial detainees.
- C. Pretrial Detainees: The Supreme Court held in Bell v. Wolfish, 441

PART ONE: INTRODUCTIONI. Purpose of Course of Study

- A. To provide to jail administrators and officers a basic understanding of the rights and privileges afforded by law to those incarcerated.
- B. To increase the effectiveness of the jail administrator or officer through knowledge of the allowances and requirements in the law as it applies to running jails.
- C. To provide material upon which to develop operational policy and procedures.
- D. To provide information which will enable the jail administrator and officer to take appropriate preventive or remedial action to protect against potential civil liability, and to provide an aid to defense against actual actions filed through greater understanding of case law.

II. Method of Instruction

- A. An overview of the evolution of correctional case law is provided as a means of understanding the present situation in the context of what prisoner rights have been and the trends and direction of the Supreme Court and Federal Circuit Courts.
- B. Instruction is given concerning the role of the courts (i.e., judicial review) in protecting the rights of prisoners, the function and relationship of the various courts (Supreme Court, Appeals Courts, Federal District Courts and State Courts), and an understanding of binding precedents v. persuasive argument in the application of decisions of the various courts.

- C. Review inmate rights as applied to the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the Constitution.
- D. Explain in basic terms, civil liability -- including the various state and federal remedies available to the inmates and the impact on jail administrators. This instruction also provides positive means for administrators of coping with civil liability problems.

PART TWO: HISTORICAL OVERVIEW OF INMATE RIGHTS

I. The Problem

- A. The most dynamic area of law today (and during the last few years) is correctional law, the body of law which concerns inmate rights and the administration of institutions of incarceration. The emphasis of the courts has shifted dramatically from law enforcement to corrections and few jails or prisons have been prepared for the suddenly aggressive judicial review of the policies and procedures involved in the housing of prisoners.
- B. "In years past, both society and the incarcerated individual accepted the fact that being confined because of antisocial behavior resulted in a loss of many basic privileges. The vast majority of inmates accepted such conditions of confinement, but those who did not -- those who felt they were being deprived of certain basic rights guaranteed them under the Constitution of the United States--were, except in rare cases, powerless to change their conditions of confinement. Today, activism is replacing mute acceptance by the inmates of the conditions of their incarceration and attendant problems. Confined persons are now taking their grievances to readily accessible courts and thus causing correctional administrators to justify their actions so as to insure that all inmates enjoy equal protection under the law." The Emerging Rights of the Confined, South Carolina Department of Corrections, (1972).
- C. "Federal marshals are reported to be using 'baskets' to transport the 'writs' to be served on correctional personnel."¹ A redefining of the rights of prisoners, the limitations on the institutions, and minimum

standards of treatment are the focus of this new awareness.¹ Kerper and Kerper, Legal Rights of the Convicted, (West Publ.: 1974) at p. 277.

- D. "The October 1973 term of the Supreme Court of the United States will probably have more impact on the rights of confined persons than any other previous term." Inmate discipline, Wolff v. McDonnell, 418 U.S. 539 (1974); mail censorship, Procurier v. Martinez, supra; and required assistance for inmates filing civil rights actions, Wolff v. McDonnell, supra.
- E. Prior to this new attitude and involvement by the courts, jail and prison administrators could function as they wished behind the safety of the court's "hands-off doctrine". The essence of this doctrine was stated particularly well in three U.S. Circuit Court Cases.
1. It is not the function of the Courts to superintend the treatment and discipline of prisoners in penitentiaries, but only to deliver from imprisonment those who are illegally confined. Adams v. Ellis, 197 F.2d 483 (5th Cir. 1952).
 2. The power of promulgating regulations necessary for the safety of the prison population and the public as well as for the maintenance and proper functioning of

the institution is vested in correction officials with expertise in the field and not in the courts. There can be no question that they must be granted wide discretion in the exercise of such authority. Long v. Perker, 390 F.2d 816 (3rd Cir. 1968).

3. Courts are without power to supervise prison administration or to interfere with the ordinary prison rules or regulations. Banning v. Looney, 213 F.2d 771 (10th Cir. 1954), cert. den. 348 U.S. 859, 75 S.Ct. 84, 99 L.Ed. 677 (1954).

F. Even in laying the "hands-off doctrine" to rest, the Supreme Court did so gently and gave additional insight into the court's willingness to give prison administrators as much latitude as could be justified. Traditionally, federal courts have adopted a broad hands-off attitude toward the problems of prison administration. In part, this policy is the product of various limitations on the scope of federal review of conditions in state penal institutions. More fundamentally, this attitude springs from complementary perceptions about the nature of problems and the efficacy of judicial intervention. Prison administrators are responsible for maintaining internal order and discipline, for securing their institutions against unauthorized access or escape, and for rehabilitating, to the extent that human nature and inadequate resources allow, the inmates placed in their custody. The Herculean obstacles to effective discharge of these duties are too apparent to warrant explication. Suffice it to say that the problems of prisons in America are complex and intractable, and, more to the point, they are not readily susceptible of resolution by decree. Most require expertise, comprehensive planning,

and the commitment of resources, all of which are peculiarly within the province of the legislative and executive branches of government. For all of those reasons, courts are ill-equipped to deal with the increasingly urgent problems of prison administration and reform. Judicial recognition of that fact reflects no more than a healthy sense of realism.

- G. Despite the latitude afforded prison administrators by the United States Supreme Court, federal courts have entered an era of judicial activism in which sweeping court orders have been mandating operating changes in prisons and jails. "Corrections has not been singled out for such treatment, but to the contrary, school administrators, mental health administrators and public employees have also been undergoing the same kind of challenges to their previously apparent omnipotence over their charges. Emerging Rights, op. cit. p. 28 (1972).
- H. Where in 1965, 218 civil rights cases were filed in federal court by prisoners seeking relief from conditions of their confinement, in 1978, 9,730 such actions were filed. "When Prisoners Sue: A Study of Prisoners Section 1983 Suits in the Federal Courts", 92 Harv.L.Rev. 610, 611 (1978-79). In 1976, 19,809 habeas corpus and civil rights petitions were filed in the federal courts--representing 15.2 percent of all cases filed that year. "Prison Reform: The Judicial Process", The Criminal Law Reporter, Supplement to Volume 23, No. 17, 1978. According to the 1978 Annual Report of the Director of the Administrative Office of the United Courts, civil rights petitions from state inmates have increased by 379.3 percent since 1970.

II. The Evolution of Inmate Rights

A. "Slavery" Status

1. At one time the prevailing legal view was that the deprivation of rights of convicted persons was essentially total.
2. Both the Constitution and case law indicated a philosophy of slavery status for convicted persons.
 - a. The inmate was considered a "salve of the State" in Ruffin v. Commonwealth, 62 Va. 790 (1871).
 - b. The Thirteenth Amendment provided support for this concept forbidding slavery, "except as punishment for crime whereof the party shall have been duly convicted."

B. Evolution of Case Law Concerning Inmate Rights

1. "Probation or suspension of sentence comes as an act of grace to one convicted of a crime." Escoe v. Zerbst, 295 U.S. 890 (1935).
2. "Lawful incarceration brings about necessary withdrawal...of many privileges and rights, a restriction justified by the considerations underlying our prison system." Price v. Johnson, 334 U.S. 226 (1948).
 - a. This decision followed by four years Coffin v. Reichard, 143 F.2d, "A prisoner retains all rights of an ordinary citizen except those expressly, or by necessary implication taken from him by law."

3. "It is not the function of the courts to superintend the treatment and discipline of prisoners in penitentiaries, but only to deliver from imprisonment those who are illegally confined." Stroud v. Swope, 187 F.2d 850 (9th Cir. 1951).
4. "Any prison regulation or practice which restricts the right of free expression that a prisoner would have enjoyed if he had not been imprisoned must be related both reasonably...and necessarily,...to the advancement of some justifiable purpose of imprisonment....A prisoner could be punished only if he acted or threatened to act in a way that breached or constituted a clear and present danger of breaching the justifiable regulation." Carothers v. Follette, 314 F.Supp. 1014 (S.D.N.Y.).
5. From 1969 to 1971 a series of cases required, in First Amendment cases, "a compelling state interest." In most other cases, at least a "substantial state interest" is necessary.
6. The court in Graham v. Richardson rejected the idea that constitutional rights turn upon whether a government benefit is characterized as a "right" or "privilege." Thus the court rejected the "act of grace" theory of Escoe v. Zerbst. Graham v. Richardson, 403 U.S. 365 (1971).
7. Starting in 1972, a series of U.S. Supreme Court decisions extended due process rights to parolees, see Morrissey v. Brewer, 408 U.S. 471 (1972); probationers, Gagnon v. Scarpelli, 411 U.S. 778 (1973) and inmates, Wolff v. McDonnell, 418 U.S. 539 (1974).

8. In Morales v. Schmidt, 340 F.Supp. 544 (D.C. Wisc. 1972), the federal district courts and Supreme Court had ventured.
 - a. "The balance must be struck in favor of individual rights of Prisoners....if one of these rules of institutional survival affects significantly a liberty which is protected among the general population and if its only justification is that the prison cannot survive without it, then it may well be that the Constitution requires that the prison be modified.
9. An 8th Circuit case, Holt v. Sarver, 309 F.Supp. 362 (E.D. Ark. 1970) aff'd. 442 F.2d 304 (8th Cir. 1971) has been touted as the case which signaled the new judicial approach toward prison reform. "In that case, a federal court for the first time took a 'totality of conditions' approach to prison reform. It ruled that a multitude of prison conditions and practices which might not be unconstitutional if viewed individually could, when viewed as a whole, make confinement a cruel and unusual punishment." Criminal Law Reporter, op. cit., p. 4 (1978). Judge Lay in his concurring opinion at 442 F.2d 304, 310 (8th Cir. 1971) noted that the record "reflects the prison system at Cummins Prison Farm to be not only shocking to 'standards of decency' but immoral and criminal as well." Because the federal district courts have an opportunity to see first-hand the conditions in the jails and prisons, either through personal visits or graphic testimony, their decisions tend to reflect

the activism through detailed orders mandating specific change.

10. Recent 8th Circuit decision, Tatum v. Houser, 642 F.2d 253 (8th Cir. 1981) held absolute liability of Sheriff for jail operations regardless of his personal knowledge of existing conditions, including mistreatment of inmates.
11. Several theories regarding this change in judicial posture cite not only the inhuman conditions found in many prisons and jails but also a variety of other factors impacting public and judicial perception. The Attica prison riot received national attention through extensive media coverage. As the resultant negotiation and litigation unfolded, the press reported abuses of power by prison administrators as well as the violence of the inmates. The type of prisoner incarcerated in local jails changed during the 1960s. Civil Rights marches and student activities protesting U.S. involvement in Vietnam found themselves spending time in jail. Viewing themselves as political prisoners, not criminals, they were more apt not only to challenge their conditions of confinement, but also, due to their middle-class status, apt to be heard by the public and the courts. The drug culture brought many more middle-class prisoners to the inside of the heretofore publicly ignored edifices.
12. Whichever theory is embraced, the results are the same. According to the Bureau of National Affairs "...one in every seven civil cases in federal courts throughout the country is filed by a prisoner seeking some form of

U.S. 520 (1979) that the proper inquiry in reviewing conditions of confinement of pretrial detainees is whether the condition amounts to punishment. It is important in reviewing jail regulations to be able to identify why the regulation exists; what purpose it serves. For example, the Supreme Court specifically noted that the state has a legitimate interest in maintaining security and order in the jail and in assuring that no weapons or illicit drugs reach detainees. In a footnote in its Bell v. Wolfish decision, the court acknowledged that "security measures may directly serve the Government's interest in ensuring the detainee's presence at trial." (441 U.S. 520, 538 footnote 22).

In developing policies and procedures for your jails, it is important to relate them to your "legitimate interest" in maintaining security and order. There must be a "rational relationship" between the restriction or procedure and the "legitimate interest."

IV. The Balancing Test

- A. No constitutional right is absolute. An inmate, just as the man on the street, may not do anything he wishes in the name of a constitutional right. The balancing test weighs the competing interest of the state institutional needs against that of the individual constitutional rights of the inmates. Prisoners' rights cases typically are not situations wherein one party is right and the other is wrong. Instead, both parties are usually right; however, one is more right than the other.

The following have been recognized as legitimate administrative concerns which represent the state's interest in detention.

1. Security: Procedures which prevent escapes and riots, control introduction of contraband into the facility, and promote inmate safety and welfare.
2. Management and custody: Utilization of space and other

institutional resources, particularly manpower.

3. Order: Procedures to maintain order including discipline.
4. Punishment: Allows the abridgment or denial of privileges in order to maintain order or serve as a deterrent.
5. Rehabilitation: Relates to the treatment of the inmate for his institutional adjustment as well as for future reintegration into society which includes the maintenance of positive and constructive influence over inmates..
6. Resource limitation: Courts consider this the weakest of all justifications when balanced against constitutional rights; some courts will not consider this concern.

According to Bounds v. Smith, 430 U.S. 817, 97 S.Ct. 1491, 1977, budget may be a consideration as to how but not whether a constitutional right will be provided.

- B. "Prisoners do not forfeit all constitutional protections by reason of their conviction and confinement in prison. See Jones v. North Carolina Prisoners' Labor Union, 433 U.S. 119, 129 (1977); Meachum v. Fano, 427 U.S. 215, 225 (1976); Wolff v. McDonnell, 418 U.S. 539, 555-556 (1974); Pell v. Procunier, 417 U.S. 817, 822 (1974). 'There is no iron curtain drawn between the constitution and the prisons of this country.' Wolff v. McDonnell, supra, at 556. [However], simply because prison inmates retain certain constitutional rights does not mean that these rights are not subject to restrictions and limitations. 'Lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system.' Price v. Johnston, 334 U.S. 266, 285 (1948); see Jones v. North Carolina Prisoners' Labor Union, supra. at 1256, Wolff v. McDonnell,

supra, at 555; Pell v. Procunier, supra. at 822. There must be a 'mutual accommodation between institutional needs and objectives and the provisions of the Constitution that are of general application.' Wolff v. McDonnell, supra. at 556. [Thus], maintaining institutional order and discipline are essential goals that may require limitation or retraction of the retained constitutional rights of both convicted prisoners and pretrial detainees." Bell v. Wolfish, 441 U.S. 520, 543-544 (1979).

PART THREE: FIRST AMENDMENTI. ReligionA. Constitution

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

1. "Establishment" Clause

- a. No jail or prison would be allowed to require religious activity nor to require adherence to any one religion as opposed to any other religion.
- b. Compelled prayer/church attendance as parole factor, or other activities would generally be prohibited by the establishment clause.
- c. Allowing religious volunteers into the cell block does not constitute an impermissible establishment of religion by the state. The court implied, however, that all prisoners in the cellblock must be willing to listen to the preaching. Campbell v. Cauthron, 623 F.2d 503, 509 (8th Cir. 1980).

2. "Free Exercise" Clause

- a. The vast majority of religion cases fall under the free exercise clause. In Cruz v. Beto, 405 U.S. 319, 92 S.Ct. 1079, 31 L.Ed. 2d 264 (1972), the Supreme Court ruled that the First Amendment prohibits

the government from prohibiting free exercise of religion and that reasonable opportunities must be afforded all prisoners to exercise religious beliefs.

- b. The First Amendment embraces two concepts: "freedom to believe and freedom to act. The first is absolute, but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society. In every case the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom." Cantwell v. Connecticut, 310 U.S. 296, 303-304, 60 S.Ct. 900, 903, 54 L.Ed. 2d 1213 (1940).
- c. "Freedom of religion can never mean freedom to interfere with the peaceful rights of others, or freedom to flagrantly disregard reasonable rules of conduct in or out of prison." Evans v. Ciccone, 377 F.2d 4, 6 (8th Cir. 1967). "While freedom to believe is absolute, the exercise of religion is not." Sharp v. Sigler, 408, F.2d 966, 970 (8th Cir. 1969).
- d. The usual issues in religion cases include:
- (1) What is religion?
 - (2) Restricting services
 - (3) Access of "ministers"
 - (4) Access to religious writings
 - (5) Restricting wearing of religious medals or medallions

- (6) Lack of religious counseling
- (7) Access to facilities for services
- (8) Special diets
- (9) Personal appearance and hair length

B. What is a "Religion"

1. In Cruz v. Beto, 405 U.S. 319 (1972), the Supreme Court mentioned the length of existence of the Buddhist religion "established 600 B.C., long before the Christian Era" as justification allowing worship.
2. In the case of the Black Muslims, the courts' views have gradually changed since the early '60s.
 - a. In the early '60s, the courts ruled the Black Muslims were not considered a legitimate religion. Religious restrictions were upheld by invoking security and discipline concerns. Ex Parte Ferguson, 55 Cal. 2d 663, 361 P.2d 427 (1961).
 - b. The '70s have seen acceptance of Black Muslims as a religion. See Ross v. Blackledge, 477 F.2d 616 (4th Cir. 1973).
3. The Church of the New Song offers an indication of how far courts will go.
 - a. Prisons must recognize C.O.N.S. as a religion. Therault v. Carlson, 339 F.Supp. 375, (N.D. Ga. 1972).
 - b. In Texas, C.O.N.S. was ruled by the District Court not to be a religion on remand from the 5th Circuit. Therault

v. Silber, 391 F.Supp. 578
(W.D. Texas 1975).

- c. In Iowa, the District Court ordered Iowa prison authorities to allow members of C.O.N.S. free exercise, Remmers v. Brewer, 361 F.Supp. 537 (N.D. Iowa 1973). The 8th Circuit affirmed the Iowa District Court. Remmers v. Brewer, 494 F.2d 1277 (8th Cir. 1974).
- d. Inmates not allowed to practice a religion found to be a "sham." The tests for deciding if qualifies as a religion:
- (1) addresses question of human morality or purpose of life;
 - (2) cohesiveness and commonality of beliefs characteristic of accepted religions; and
 - (3) structural characteristics of a traditional religion. Jacques v. Hilton, 469 F.Supp. (D.N.J. 1983).

4. Satanic Religion

- a. The court distinguished between "absolute ban" and "qualified right."
- b. Satanists were given religious status, but were not allowed to keep Baphomets, bells, candles, pointing sticks, gongs, incense or black robes in their cells. Kennedy v. Meacham, 382 F.Supp. 996 (D. Wyo. 1974). A similar result was reached by the 7th Circuit, which upheld a lower court opinion finding no constitutional violation

created by the denial of an inmate's request to practice Satanism. The implements of the religion were considered a threat to safety and security, and a lower court finding that Satanism is not a religion was not overturned. Childs v. Dackworth, 705 F.2d 915 (CA 7 1983).

5. Indian religions have been recognized by the 8th Circuit as being legitimate religions justifying accommodations by prison officials to allow free exercise. Teterud v. Burns, 522 F.2d 357 (8th Cir. 1975).

C. Religions Subject to Regulation

1. While the freedom to act in the exercise of religious belief is subject to regulation for the protection of society, such regulations must not unduly infringe the protected freedom. Cantwell v. Connecticut, 310 U.S. 296 (1940). Institution officials must be given liberal discretion in running the facility where no constitutional violations occur. All regulations were found to be rationally related to legitimate interests. Rogers v. Scurr, 676 F.2d 1211 (CA 8 1982).

D. Restricting Services

1. Most recent case is St. Claire v. Culver, 634 F.2d 109 (3rd Cir. 1980). The court, in reversing the District Court, stated that "First Amendment freedoms may be curtailed when prison officials reasonably believe that exercise of such freedoms would be likely to result in disruption to the prison's order and stability."

2. Segregated prisoners may be refused opportunity to attend regular Sunday religious services. The freedom to believe is absolute, the freedom to exercise is not. Sharp v. Sigler, 408 F.2d 966 (8th Cir. 1969). Likewise, prisoners may be denied access to congregate services on the basis of their classification. Jackson v. Hogan, 446 N.E.2d 692 (Sup.Ct. Mass. 1983).
3. The right to attend religious services can be prohibited in such cases only when it can be shown that institutional security is threatened. Konigsberg v. Ciccone, 285 F.Supp. 585 (W.D. Mo. 1968).
4. Prisoners justifiably isolated may be denied the right to attend religious services. Pinkston v. Bensinger, 359 F.Supp. 95 (N.D. Ill 1973).
5. Prisoners with history of disruptive activity may be denied attendance at services. LaReau v. MacDougall, 473 F.2d 974 (2nd Cir. 1972), cert. denied 414 U.S. 878.
6. Services must be permitted equally for all religions, although the time and frequency may be regulated. Walker v. Blackwell, 411 F.2d 23 (5th Cir. 1969); Cruz v. Beto, 329 F.Supp. 443 (S.D. Texas 1970). The institution officials may schedule and regulate chapel. Convenience of prisoners in chapel use is not a cause of action. Rogers v. Scurr, supra.
7. In these cases the courts upheld the right of prison authorities to deny attendance at chapel with the general prison population

based on the overriding security considerations. In each instance, however, the prisoners were allowed access to ministers. "Prisoners in segregation are entitled at least to individual religious ministrations in their cells." Wojtczak v. Cuyler, 480 F.Supp 1288, 1300 (E.D. Pa. 1979).

8. "Prison officials must be free to take appropriate action to ensure the safety of inmates and corrections personnel and to prevent escape or unauthorized entry. Accordingly, we have held that even when an institutional restriction infringes a specific constitutional guarantee such as the First Amendment, the practice must be evaluated in the light of the central objective of prison administration, safeguarding institutional security." Bell v. Wolfish, 441 U.S. 520, 99 S.Ct. 1861, 1878 (1979).
9. Native American inmates at the South Dakota State Penitentiary claimed that Christian inmates were allowed to have their families and friends, children included, inside the prison to attend and participate in religious services but that the same privilege was denied to them. The court ruled that the plaintiff's contentions raised claims of a constitutional dimension. The case has been remanded and the State must show that it had a legitimate need, either for security or other reasons, for the restriction. It had the burden of proving that it was using the least restrictive method to reach its proven, legitimate need. Native American Council of Tribes v. Solem, 691 F.2d 382 (8th Cir. 1982).

10. The U.S. District Court for the District of South Dakota in Crowe v. Erickson, Cir. No. 72-4101, ordered the following (1975):

- a. Official recognition of Indian religious activities, provision of routine Indian religious ceremonies including a sweat lodge and medicine men ceremonies, equal to the amount expended for Catholic or Protestant ceremonies.
- b. Allowance of traditional Indian food at reasonable intervals, allowance of inmates to wear headbands and other paraphernalia subject to security requirement.
- c. That the hair length regulation of the South Dakota Penitentiary as applied to members of the plaintiff Indian sub-class, is unconstitutional.

E. Access to Ministers

1. Reasonable opportunities must be afforded to all prisoners to exercise their religious freedom guaranteed by the First Amendment and the Fourteenth Amendment. However, ministers need not be provided for every faith regardless of the extent of the demand. Cruz v. Beto, 92 S.Ct. 1079, 1981 footnote 2 (1972).
2. A prison must supply at its expense Muslim ministers where it pays for Catholic, Jewish and Protestant ministers. Northern v. Nelson, 315 F.Supp. 687 (N.D. Cal. 1970).
3. There was no right to services of a Jewish rabbi where small percentages of population was

Jewish. Gittlemacker v. Prasse,
428 F.2d 1 (3rd Cir. 1970).

4. Security and visiting rules were sufficient grounds for refusing to allow Mormon family home evening contact. Fallis v. U.S., 476 F.2d 619 (5th Cir. 1973).

- a. This program involves a mormon elder and his family "adopting" a prisoner and visiting him for an evening of religious teaching, counseling and spiritual guidance.

F. Access to Religious Writings

1. Muslim writings banned in '60s now generally allowed. Long v. Parker, 390 F.2d 816 (3rd Cir. 1968).
2. Unless a clear and present danger exists, religious literature is permitted. Northern v. Nelson, 315 F.Supp 687 (N.D. Cal. 1970); Long v. Parker, 390 F.2d 816 (3rd Cir. 1968).
3. Refusal to allow sharing of material is unreasonable. Cruz v. Beto, 405 U.S. 319 (1972).

G. Restricting Wearing of Religious Medallions

1. Restrictions on wearing of metal ornaments which might be used as weapons is justified. Coleman v. District of Columbia Commissioners, 234 F.Supp. 408 (E.D. Va. 1964).
2. If one religious group is allowed medallions, then all others must be given the same privilege. Coleman v. District of Columbia Commissioners.

H. Access to Facilities for Services

1. Organized religions must be provided a place for services; however, the administration may allocate the largest areas to groups with the largest membership. Long v. Katzenback, 258 F.Supp. 89 (M.D. Pa. 1966). Modified 390 F.2d 816 (3rd Cir. 1968).
2. The size of groups at services may be restricted. Lee v. Crouse, 284 F.Supp. 541 (D. Kan. 1976).
3. Government required to make institutional religious facilities available to all groups. Fulwood v. Clemmer, 206 F.Supp. 370 (D.D.C. 1962).
4. Where lay witnesses were allowed to enter the cellblocks to "preach, sing, and witness" to the inmates, the 8th Circuit Court cautioned that "forced inculcation (teaching)...would clearly contravene the Free Exercise Clause of the Constitution." From the record, it appeared that the witnessing was often allowed to take place in such a manner as to make it nearly impossible for the inmates to "escape" the preaching. The court suggested that jail officials may need to set aside a separate place for the witnesses to meet with the inmates. Campbell v. Cauthron, 623 F.2d 503, 509 (8th Cir. 1980).

I. Special Diets

1. Case upholding administrators serving a standard diet.
 - a. When the menu allows for a selection and pork-free items offered are sufficient to

prevent malnutrition, prison officials need not offer a special diet to religious sects. Elam V. Henderson, 472 F.2d 583, (5th Cir. 1973).

- b. Security concerns justified refusal of Muslims' request to have meals after sunset. Walker v. Blackwell, 411 F.2d 23 (D.C. Cir. 1969).
 - c. Accommodations should be made within budgetary constraints. Barnet v. Rodgers, 410 F.2d 995.
 - d. One office of the Church of New Song even requested, unsuccessfully, communion which consisted of a Porter-house steak and a glass of sherry.
 - e. Other supportive cases include Abernathy v. Cunningham, 393 F.2d 775 (4th Cir. 1968); and Knuckles v. Prasse, 435 F.2ds 1255 (3rd Cir 1970: cert. denied 403 U.S. 936 (1971)).
2. Cases going against administrators
- a. A modest degree of official deference to Black Muslim dietary requirements required. When the non-pork diet was alleged to be nutritionally inadequate and the burden was shifted to the prison to show why it could not prepare a pork-free diet. Ross v. Blackledge, 477 F.2d 616 (4th Cir. 1973).
 - b. Black Muslim diets must be recognized if other special diets are recognized.

Jackson v. Pate, 382 F.2d 517 (7th Cir. 1967).

- c. One full-course, pork-free diet once a day represents the minimum jail authorities are required to do. Barnett v. Rogers, 410 F.2d 995 (D.C. Cir. 1969). Also see Prushinowski v. Hambric, 570 F.Supp. 863 (E.D.N.C. 1983).

Appellants do not seek, either for themselves or other Muslims, a full menu tailored specially to their religious beliefs. Their request for "one full-course pork-free diet once a day and coffee three times daily" is essentially a plea of a modest degree of official deference to their religious obligations. Certainly if this concession is feasible from the standpoint of prison management, it represents the bare minimum that jail authorities...are constitutionally required to do, not only for Muslims, but indeed for any group of inmates with religious restrictions on diet. 410 F.2d at 1001.

- d. Attempts to establish a kosher kitchen for Passover did not satisfy court that it was "kosher" according to the prisoner's religious beliefs. Prison officials were ordered to make accommodations assuring that the prisoner could prepare kosher food. Schlesinger v. Carlson, 489 F.Supp. 612 (1980).

J. Personal Appearance and Hair Length

1. Regulations covering hair length and facial hair have been held

not to raise constitutional issues. Administrators can justify such regulations to achieve purposes of identification, hygiene, discipline and prevention of concealment of contraband. Blake v. Pryse, 444 F.2d 218 (8th Cir. 1971). Also see Furgan v. Ga. State Bd. of Offender Rehabilitation, 554 F.Supp. 873 (N.D. Ga. 1982) (cutting beard permitted for identification purposes, but not security or hygiene.)

2. When beliefs concerning appearance and hair style or length conflict with jail or prison regulations, religious belief must yield. Williams v. Batton, 342 F.Supp. 1110 (E.D.N.D. 1972); Brooks v. Wainwright, 428 F.2d 652 (5th Cir. 1970).
3. Pretrial detainees have been given more right to maintain appearance than convicted prisoners.
 - a. Health or security consideration may nullify the pretrial detainee's right to maintain hair style or appearance. Seale v. Manson, 326 F.Supp. 1375 (D. Conn. 1971).
4. However, where the wearing of long braided hair is shown to be a practice deeply rooted in religious belief; that the prisoner was sincere in his belief; and that the legitimate institutional needs can be served by less restrictive means (than by a requirement to cut the hair) which will not unduly burden the administrator's task, then the challenged regulation will be found to impermissibly infringe on the prisoner's right under the

First Amendment to the free exercise of his religion. Teterud v. Burns, 522 F.2d 357 (8th Cir. 1975).

5. Courts will balance constitutional interest of a Cherokee Indian's (inmate) claim that his hair length had religious significance against the prison's need to promote health, security and safety. Weaver v. Jago, 675 F.2d 116 (6th Cir. 1982).
6. Regulation requiring inmates to keep their hair at collar length or shorter unconstitutionally restricted a Cherokee Indian's right to exercise his religious beliefs, and found that least restrictive alternatives were available. Gallahan v. Hollyfield 670 F.2d 1345 (4th Cir. 1982).

II. Freedom of Expression

A. Justification for Allowing Free Expression

1. Allowing more freedom of expression opens channels of communication through which administrators monitor the pulse of the jail and keep track of what's right and wrong with the jail climate and operation.
2. "A prisoner retains all rights of an ordinary citizen except those expressly or by necessity taken from him by law." Coffin v. Reichard, 143 F.2d 443 (6th Cir. 1944).

B. Justification for Restriction

1. Silence requirements at certain times and places.
 - a. Some jails and prisons do not allow talking in chow lines,

when walking to and from cells, or at other times and places during incarceration. Such rules show no substantial deprivation since such prisoners may converse later in dayrooms, at recreation, etc. See Singer and Statsky, Rights of the Imprisoned, (1974).

b. "Lights out" regulations which require termination of talking are similarly justified.

2. Inflammatory or disruptive speech may be prohibited. Fulwood v. Clemmer, 206 F.Supp. 370 (D.D.C. 1962).

a. When a Black Muslim inmate preached a black supremacy doctrine which maligned the white race and which could be easily heard by white inmates, the court ruled in Fulwood that the speech was not protected, and it could be prohibited.

b. The special circumstances that exist in prisons present potentially explosive situations when inflammatory or disruptive speech is permitted.

3. "Fighting words" not protected

"It is generally held that speech which is obscene, libelous, or contains 'fighting words'--those which by their very utterance inflict injury or tend to create an immediate breach of the peace--is of such little social value that it does not deserve protection." Singer and Statsky, Rights of the Imprisoned, (1974).

III. Press

A. Access of the Press to the Jail or Prison

1. "It has generally been held that the First Amendment does not guarantee the press a constitutional right of special access to information not available to the public generally....Despite the fact that news gathering may be hampered, the press is regularly excluded from grand jury proceedings, our own conferences, the meetings of other official bodies in executive session, and the meetings of private organizations. Newsmen have no constitutional right of access to the scenes of crime or disaster when the general public is excluded." Branzburg v. Hayes, 408 U.S. 665 (1972).

The right of the press to access the jail is no greater than that of the general public.

2. The media has no constitutionally protected right to interview specific individual inmates. Pell v. Procunier, 417 U.S. 817 (1974). Alternative methods exist for communication with the press without requiring jail and prison administrators to allow interviews with specific inmates. Such alternatives include:

a. Correspond with media by mail. Procunier v. Martinez, 416 U.S. 396 (1974).

b. Information can be transmitted from persons who have general visiting rights; (e.g., family, friends, attorneys, clergy, etc.) to the media.)

c. In California, an additional alternative allows the media to visit the institution and talk randomly to available.

inmates. (Refer to "Big Wheel" theory)

3. Institution rules that prohibit anyone except family, friends, clergymen and attorneys from designating and visiting a particular inmate upheld in Saxbe v. Washington Post Company, 417 U.S. 843 (1974).

B. Access of Prisoners to the Press

1. The right to correspond is protected under the free speech clause of the First Amendment. See Palmigiano v. Travisono, 317 F.Supp. 776 (D.R.I. 1970); and Procunier v. Martinez, 416 U.S. 396 (1974).
2. Written communication should be limited only if contraband, escape plans, etc. are involved. See Nolan v. Fitzpatrick, 451 F.2d 545 (1st Cir. 1971) and Procunier v. Martinez, supra.
3. Face-to-face contact with the press is not required. Pell v. Procunier, supra. As with the access of press to inmates, the access of inmates to press may be handled with the alternate means outlined above.
 - a. While there's no legitimate governmental interest to justify substantial restrictions on written communication by inmates, when the question involves the entry of people into the prisons for face-to-face communication. limitations may be placed on such visitations. Pell v. Procunier, supra.
 - b. "So long as reasonable and effective means of communication remain open and no discrimination in terms of

content is involved...in drawing such lines, 'prison officials must be accorded great latitude.'" Pell v. Procunier, supra.; Cruz v. Beto, supra.

- c. When the issue involves a regulation limiting one of several means of communication by an inmate, the institutional objectives furthered by that regulation and the measure of judicial deference owed to corrections officials in their attempt to serve those interests are relevant in gauging the validity of the regulation. Pell v. Procunier, supra.

C. Monitoring Press Interviews

1. Monitoring of inmate/press interviews is acceptable.
2. Inmates may not be subjected to reprisal or retaliation because of comments made during the interview, however. Burnham v. Oswald, 342 F.Supp. 880 (W.D.N.Y. 1972).
3. The officer monitoring the interview has a security responsibility only, and cannot interrupt or interfere with the interview. Burnham v. Oswald, supra.

D. Access to Publications

1. Religious publications
 - a. Publications of religious nature have generally been allowed.
 - b. See "Religion" section of this outline for freedom of religion cases.

2. Non-religious publications

- a. Compelling interest must be shown to justify regulation of inmate access to reading material.
- (1) Any cases involving procedures limiting inmates' First Amendment rights come to the court bearing a heavy presumption against its constitutional validity. Heller v. New York, 413 U.S. 483 (1973).
 - (2) Regulations must not infringe upon inmate rights nor be more restrictive than the state interest justifies. Newkirk v. Butler, 364 F.Supp. 497 (S.D.N.Y. 1973), affirmed in relevant part 499 F.2d 1214 (2nd Cir. 1974).
 - (3) Prohibition of a publication which contains distorted or untrue articles about prisons or which might embarrass institution officials not justified. Fortune Society v. McGinnis, 319 F.Supp. 901 (S.D.N.Y. 1970).
 - (4) Racial minority publications may be excluded only if officials can show prison security is threatened. Collins v. Schoonfield, 344 F.Supp. 257 (D. Md. 1972).
- b. First Amendment rights are not absolute, however. Corrections officials may develop justification to

regulate access to reading material.

- (1) Some courts allow restriction of access to desired publications to maintain order and security and to punish misconduct.
- (2) Cutting off access to reading material while an inmate is under disciplinary sentence serves a legitimate state interest in the discipline of an inmate. Johnson v. Anderson, 370 F.Supp. 1373 (D. Del. 1974).
- (3) Restricting Black Panther Newspaper could be justified with adequate due process. Hopkins v. Collins, 548 F.2d 503 (4th Cir. 1977).
- (4) Restricting access to obscene material has brought about both support and rejection of regulation. Some cases support of regulation of reading material for various reasons.
 - (a) Violation of Supreme Court standards for the general population. Miller v. California, 413 U.S. 15 (1973), rehearing denied 414 U.S. 881.
 - (b) Danger of homosexual attack. Washington Post v. Kliendienst, 357 F. Supp. 770 (D.D.C. 1973) aff'd. 494 F.2d 994 (1st Cir. 1974). Reversed

on other grounds 417
U.S. 843 (1974).

- (c) Censorship of sex manuals where prurient interest and sexual arousal were only purpose of material, and where material was of questionable literary value.

Carpenter v. South Dakota, 536 F.2d 759 (8th Cir. 1976).

- (d) Pornographic publications to be denied on an issue-by-issue basis. Montana v. Commissioners Court, 659 F.2d 19 (5th Cir. 1981).

c. "Publisher Only Rule"

- (1) Bureau of Prison's rule permitted inmates to receive magazines and paperback books from any source but hard cover books could be received only directly from the publisher, book clubs and book stores. The "publisher only" rule was justified on the basis that hard cover books were a "more dangerous source of risk to institutional security."
- (2) The Supreme Court upheld the regulation stating that it did not violate the First Amendment rights of the inmates. "That limited restriction is a rational response by prison officials to an obvious security problem. It hardly needs to be emphasized that hard

cover books are especially serviceable for smuggling contraband into an institution." Bell v. Wolfish, 99 S.Ct. 1861, 1880, (1979).

(3) The court's decision that the rule did not infringe on First Amendment rights was influenced by several other factors.

(a) Rule operates in a neutral fashion, without regard to content of the expression.

(b) There are alternative means of obtaining reading material that have not been shown to be burdensome.

1] magazines and paperbacks from any source

2] prison had "relatively large" library for use by inmates.

3. Some Due Process Required in Regulation of Access

a. Fair procedures including 48 hours notice of intent to withhold, review of less restrictive alternatives, an opportunity for the inmate to reply, and a listing of reasons for prohibiting the publication would be fair procedure. Hopkins v. Collins, supra.

b. State should justify reasons for restricting access with hard fact, not conjecture. Washington Post Company v.

Kleindienst, supra; Collins v. Schoonfield, 344 F.Supp. 257, Supra; U.S. ex rel Marricone v. Corso, 365 F.Supp. 576 (E.D.N.Y. 1973); and Rowland v. Sigler, 327 F.Supp. 821 (D. Neb. 1971), aff'd. 452 F.2d 1005 (8th Cir. 1971).

4. Pretrial Detainees

- a. Restrictions on pretrial detainees may not be based on the institution's punishment purposes; whether they be deterrence, retribution or rehabilitation.
- b. Restraints that are reasonably related to the institution's interest in maintaining jail security do not, without more, constitute unconstitutional punishment, even if they are discomfoting and are restrictions that the detainee would have experienced had he been released while awaiting trial. Bell v. Wolfish, 99 S.Ct. 1861, 1874, (1979).
- c. A jail rule limiting pretrial detainees to non-pornographic, soft bound, non-pictorial reading material such as Reader's Digest and the Bible violated the First Amendment rights of the detainees. The rule could not be justified on the theory that newspapers would be more likely to be used to start toilet fires or that hard bound books could cause injury by being thrown. Kincaid v. Rusk, (C.A.7) No. 78-1822 (1982).

E. General Access

1. Access to the Courts/Counsel
Strongly Protected

- a. The right of prisoners to access to the courts is guaranteed by the Constitution and has been affirmed repeatedly by the courts.
- b. "It is fundamental that access of prisoners to the courts for the purpose of presenting their complaints may not be denied or obstructed." Johnson v. Avery, 393 U.S. 483 (1969).
- c. The inmate's constitutional right of access to the courts is a fundamental freedom which includes, among other things, the right to correspond directly with them. (See this case for a general discussion on all aspects associated with inmate access to the courts.) Storseth v. Spellman, 654 F.2d 1349 (9th Cir. 1981).
- d. Access to the courts may be denied if the inmate has no "legal standing" to challenge a particular practice or jail condition; but this decision is to be made by the court system, not the Sheriff or jail officers. Leeke v. Timmerman, 454 U.S. 83, 102 S.Ct. 69 (1981).

2. Letters Critical of Institution,
Officials

- a. Petitions or letters to the courts critical of the institution may not be kept from the courts nor unreasonably delayed. Procunier v.

Martinez, 416 U.S. 396
(1974).

3. Negative Sanctions Prohibited

- a. Prisoners may not be punished for making allegations in petitions or other communications against the institution or institution officials. Simpson v. Wainwright, 488 F.2d 494 (5th Cir. 1973); Corby v. Conboy, 457 F.2d 251 (2nd Cir. 1972); Christman v. Skinner, 468 F.2d 723 (2nd Cir. 1972); Johnson v. Anderson, 370 F.Supp. 1373 (D. Del. 1974).

4. Effect of Disciplinary Punishment on Access

- a. Prisoners may not, as a result of disciplinary action, be denied access to the courts or counsel.

5. Effect of Prisoners' Financial Capability

- a. Financial ability to file a writ or other legal action is not a bar to the inmates' access to the court.
- b. A prisoner cannot be denied access to a court or a habeas corpus claim because of his statutory filing fees. Smith v. Bennett, 365 U.S. 708 (1961).
- c. Other topics which involve access to legal assistance by inmates who are financially disadvantaged will be covered later in this section. Those topics will cover jail house lawyers, access to legal materials and other legal alternatives.

F. Outgoing Mail1. Letters to the Court

a. Censoring, intercepting and refusal to mail

- (1) An inmate's right of access to the court is as complete as that of any citizen. Corby v. Conboy, 457 F.2d 25 (2nd Cir. 1972).
- (2) All inmate rights are dependent upon access to the courts. If those rights are to be more than illusory, judicial review is necessary to insure that institution administrators are meeting those rights. Adams v. Carlson, 488 F.2d 619 (7th Cir. 1973).
- (3) Mail from inmates to the courts cannot be censored, read, or refused delivery. Carothers v. Follette, 314 F.Supp. 1014 (S.D.N.Y. 1970); McDonnell v. Wolff, 483 F.2d 1059, 1067 (8th Cir. 1973).
- (4) Censorship of outgoing mail serves no substantial governmental interest.

b. Inspection of mail to the courts

- (1) The courts have not been entirely clear or united on the matter of opening outgoing mail to courts. It would be safe to follow the guidelines.

- (a) A blanket procedure of opening all mail to the courts would not be upheld. In fact, some recent cases would seem to forbid any opening of this mail. Barlow v. Amiss, 477 F.2d 896 (5th Cir. 1973). The 8th Circuit noted that opening outgoing mail marked "court-client" was "unconstitutional and unjustified." Wycoff v. Brewer, 572 F.2d 1260, 1266 (8th Cir. 1978).
- (b) About the only justification for opening mail to the courts would be the reasonable belief that the letter contained something which presented a physical danger to persons who might handle the letter. Collins v. Schoonfield, 344 F.Supp. 257 (D. Md. 1972).
- (c) Mail concerning the prison administration or civil litigation is entitled to privileged status. Where outgoing privileged mail is opened and inspected for contraband, it must be opened in the presence of the inmate. No reading, censoring or refusing to mail is allowed. Ramos v. Lamm, 639 F.2d 559 (10th Cir. 1981). (Also ruled that

No reading, censoring or refusing to mail is allowed.

where a substantial portion of the population does not speak English [at least as a primary language], limiting all correspondence to English is irrational and violates the First Amendment.)

2. Letters to Attorneys

a. Inspection

- (1) Inspecting inmate mail to attorneys is ill-advised and would require compelling justification by institution officials. The 8th Circuit noted that the opening of mail to attorneys was "unconstitutional and unjustified." Wycoff v. Brewer, 572 F.2d 1260 (8th Cir. 1978).
- (2) Officials would have to show how the outgoing mail created the danger to order or security. It's highly unlikely that an administrator could demonstrate how contraband leaving the jail created such a danger.
- (3) But, see Jones v. Diamond, 594 F.2d 997 (5th Cir. 1979) outgoing mail to attorneys, courts, and court officials must be sent unopened; Wycoff v. Brewer, 572 F.2d 1260 (8th Cir. 1978) opening of mail to attorneys was unconstitutional and unjustifiable; Gates v. Collier, 349 F.Supp. 881, aff'd 489 F.2d 298 (5th Cir. 1973);

outgoing mail addressed to courts, administrative and public officials, and attorneys may not be opened by prison officials; Battle v. Anderson, 376 F.Supp. 402 (D. Okla. 1974) and prison regulations limiting confidential treatment to correspondence with one attorney, state courts and state government officials, but not with their federal counterparts constituted arbitrary and unreasonable intrusion upon inmates' right to freely petition their government and courts. Attorney mail cannot be read.

G. Incoming Mail from Courts and Attorneys

1. Inspecting Incoming Mail

- a. All incoming privileged mail may be opened and inspected for contraband but only in the presence of the inmate.
 - (1) Opening incoming mail violates no inmate right. Frye v. Henderson, 474 F.2d 1265 (5th Cir. 1973).
 - (2) "The possibility that contraband will be enclosed in letters, even those from apparent attorneys, surely warrants prison officials in opening letter." Wolff v. McDonnell, 418 U.S. 439 (1974).

- b. Mail from courts or attorneys, particularly if marked privileged, should be opened in the presence of the inmate. Wolff v. McDonnell, supra.

2. Procedure for Regulating

- a. In Wolff, the Supreme Court approved a procedure which required the mail to be identifiably from an attorney and stamped "privileged."

- (1) It is proper to require that any letters be specially marked as originating from an attorney with his name and address being given.

- b. It is also permissible that authorities require that a lawyer desiring to correspond with a prisoner first identify himself and his client to institution officials, to assure the letters marked privileged are actually from members of the bar.
- c. Once identified as privileged communication, letters from attorneys and courts should be opened in the presence of the inmate, and inspected for contraband, but not read.

3. Reading Legal Mail

- a. Since privileged mail cannot be opened outside the presence of the inmate, and cannot be read, it goes without saying that censoring that mail is beyond the institution's authority.

H. Attorney Visits

1. An FBI agent who denied a prisoner his Sixth Amendment to counsel in a criminal proceeding was not immune from liability. His action in instructing the Sheriff not to permit the public defender access to the prisoner was not reasonable. The right to counsel is so basic that it was inconceivable and unreasonable for an agent of the FBI to give erroneous instructions and to make improper representations to law officers from another jurisdiction concerning Sixth Amendment rights. (Emphasis added) Nees v. Bishop, (D.C. Colo.) No. 77-2-541 (November 2, 1981).

2. Regulation of Attorney Visits Allowed

- a. The courts have upheld the rights of inmates to be visited by their attorneys. However, the courts have also approved restrictions - at times severe restrictions - on the visits of attorneys.
- b. Restrictions on attorney visits are justified for reasons which range from security to the simple need to have housekeeping rules.
- c. Restrictions which have been permitted include:
 - (1) Limiting the number of attorneys who may visit an inmate
 - (2) Specifying which bars an attorney shall belong to
 - (3) Banning visits during mealtimes. Souza v. Travisono, 386 F.Supp. (D.R.I. 1973), aff'd 498

F.2d 1120 (1st Cir. 1974); Via v. Cliff, 470 F.2d 271 (3rd Cir. 1972).

- (a) In Miller v. Carson, 401 F.Supp. 835 (M.D. Fla. 1975), the District Court held a regulation denying attorney visits after 9:00 p.m., during meals, or during time reserved for regular visiting to be a violation of the Sixth Amendment for pre-trial detainees.
- d. Restrictions on attorney visits should be based on a substantial state interest of security, order or discipline to insure judicial support, and avoid expensive suits under 42 USC 1983. See Via v. Cliff, supra.
- (1) The court in Inmates of Suffolk County Jail v. Eisenstadt, 360 F.Supp. 676 (D. Mass. 1973) required minimum visiting hours.
- (a) Holidays/Sundays:
9:00 a.m. to 5:00 p.m.
- (b) Weekdays: 9:00 a.m. to 8:00 p.m.
- e. There should be adequate area for attorney visits in jails. Collins v. Schoonfield, 344 F.Supp. 255 (D. Md. 1972); State v. Jones, 37 Ohio St. 2d 221, 306 N.E.2d 409 (1974).
- Attorneys should have access to arrestee soon after the booking process. (Logan v. Shealey, 102 S.Ct. 1435.)*

3. Privacy

- a. Facilities must insure privacy. State v. Jones, supra.
- b. Regulations must insure privacy.
 - (1) When security requires observation, it may be permitted, but observation must be accomplished without listening to the conversation. Baker v. Beto, 349 F.Supp. 1263 (S.D. Tex. 1972) vacated on procedural grounds 491 F.2d 417 (5th Cir. 1974).
 - (2) Conversations between attorney and client may not be monitored. Adams v. Carlson, 488 F.2d 619 (7th Cir. 1973); Souza v. Travisono, supra.

4. Agents of Attorneys

- a. Visits with attorneys cannot be restricted just to the attorney himself. An attorney may be represented by a law student, law clerk, or other legal paraprofessional. Procunier v. Martinez, 416 U.S. 396 (1974); Souza v. Travisono, supra; N.D.C.C. 12-44.1-14.
- b. Institutions as a matter of security can require attorneys to provide notification that an inmate interview will be conducted by his agent to insure that persons do not secure visits under false pretenses.

I. Access to Jail House Lawyers

A. General Rule

- a. In the absence of "reasonable alternatives," an inmate may receive legal help from jail house lawyers (inmate writ writers). Johnson v. Avery, 393 U.S. 483 (1969).
- b. Assistance is not restricted to habeas corpus actions, but may be required for civil rights actions under 1983. Wolff v. McDonnell, 418 U.S. 539 (1974).

2. Regulation of Jail House Lawyers

- a. Even when a jail or prison is required to allow the "jail house lawyer" function because it lacks adequate alternatives, officials may reasonably regulate the process. Johnson v. Avery, supra; Wells v. McGinnis, 344 F.Supp. 594 (S.D.N.Y. 1972) In Re Harrell, 87 Cal. Rptr. 504, 470 P.2d 640 (1970).
- b. An inmate has right to be represented, but he does not have a right to represent.
 - (1) "It is the rights of illiterate and uneducated prisoners which are protected by Johnson - not the assumed prerogatives of those inmates who have for one reason or another, set themselves up as legal consultants." In Re Harrell, supra.
- c. Limits may be imposed on the time and location of inmate legal assistance and may impose punishment for the giving or receipt of consi-

deration in connection with such activities. Johnson v. Avery, supra; Hatfield v. Bailleaux, 290 F.2d 632 (9th Cir. 1961); McCarty v. Woodson, 465 F.2d 822 (10th Cir. 1972).

- d. The institution may require that inmates receive "jail house lawyer" assistance from within that institution and may refuse to allow assistance from inmates in a different institution. Heft v. Carlson, 489 F.2d 268 (5th Cir. 1973); Wilkerson v. Warden, 465 F.2d 956 (10th Cir. 1972).
- e. Court of Appeals held that inmate paralegal was not entitled to attorney fees under civil rights attorney fee statute for expenses incurred in civil rights action brought against State and award of partial costs was within trial court's discretion. The purpose of the civil rights attorney fees statute is not to compensate pro se litigants, but to provide counsel fees to prevailing parties in order to give private citizens meaningful opportunity to vindicate their rights. Davis v. Parratt, 608 F.2d 717 (8th Cir. 1979).
- f. While jail house lawyers cannot be prevented from providing services, they can be prevented from charging fees. Therefore, the State could properly intercept and seize a check mailed by one inmate to another for legal services. 449 F.Supp. 1066 (D. Colo. 1980).

3. Reasonable Access Alternative

- a. If the institution provides an adequate alternative, a regulation prohibiting "jail house lawyers" would be upheld. Novak v. Beto, 453 F.2d 661 (5th Cir. 1971).
- b. The burden is on the institution to provide the alternative and to prove it is adequate.
- (1) "The fundamental constitutional right of access to the courts requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law." 430 U.S. at 828 (emphasis added).
- (2) Commenting on available alternatives officials may consider in providing access to the courts, the Court stated: "This is not to say economic factors may not be considered, for example, in choosing the methods used to provide meaningful access. But the cost of protecting a constitutional right cannot justify its total denial." Bounds v. Smith, 430 U.S. 817 (1977).

J. Regulation of Legal Materials

1. Access to a Law Library

a. Post-1970 requirements

- (1) Johnson v. Avery, supra. though not ruling on prison libraries, opened the door in requiring reasonable legal assistance alternatives for inmates.
- (2) Gilmore v. Lynch, 319 F.Supp. 105 (N.D. Cal. 1970), stopped short of requiring law libraries, but firmly established law libraries as a reasonable alternative. The court left the final determination in the hands of prison officials ordering that they provide an adequate library or "adopt some new method of satisfying the legal needs of its charges."
- (3) The Supreme Court in 1971 upheld Gilmore saying:
"The fundamental constitutional right of access to the courts requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law."
Younger v. Gilmore, 404 U.S. 15 (1971).
- (4) The Supreme Court in 1977 reaffirmed its decision in Younger, and ruled again that reasonable

alternatives are required if law libraries are not available. The court listed as possible acceptable alternatives the use of paralegals, paraprofessionals, law students, and legal associations. Bounds v. Smith, 97 S.Ct. 147 (1977).

- (5) Bounds v. Smith. The court held the following in Bounds: "The fundamental constitutional right of access to the courts requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law." (Emphasis added.)

Commenting on available alternatives officials may consider in providing access to the courts, the Court stated: "This is not to say economic factors may not be considered, for example, in choosing the methods used to provide meaningful access. But the cost of protecting a constitutional right cannot justify its total denial." Bounds v. Smith, supra.

b. Cases interpreting Bounds v. Smith

- (1) Where a law library was not unquestionably accessible to the jail inmates and where counsel were not always willing to

handle civil actions, the failure of the County to provide a law library in the county jail constituted a violation of the right of inmates' access to the courts. Leeds v. Watson, 630 F.2d 674 (9th Cir. 1980) Kootenai County Jail, Idaho.

- (2) The failure of a prison to provide adequate law library facilities does not immediately trigger a denial of access to the courts. While the court agreed with the plaintiff that the prison library was woefully inadequate, the court held that where the prison provided alternative sources of assistance, it could not be said that the inmates were being denied proper access to the courts in violation of the Constitution. The court found that a sufficient means of aid via the Legal Assistance of Minnesota Prisoners was available. Kelsey v. State of Minnesota, 622 F.2d 956 (8th Cir. 1980).

- (3) Small institutions may have neither the space nor funds to provide an extensive law library and may use suitable alternatives. Access was via copying. Jensen v. Satran, 303 N.W.2d 568 (North Dakota Supreme Court, 1981).

You may fall short of a law library but not the alternatives.

- (4) U.S. Ex Rel. George v. Lane, 718 F.2d 226 (7th Cir. 1983). Inmate who refused legal assistance

not entitled to increased access to law library. Relying on the Supreme Court Case, Bounds v. Smith, 430 U.S. 817, 97 S.Ct. 1491 (1977), the Seventh Judicial Circuit Court of Appeals has ruled that an inmate does not have an option to have legal assistance or to receive access to a legal library. The Bounds decision held that: "...the fundamental right of access to the courts requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers with adequate law libraries or adequate assistance from persons trained in the law" 430 U.S. at 828 (emphasis added).

In a related case, People v. Heidelberg, an Illinois appeals court held that: "...by electing to represent himself, a prisoner in custody may not expect favored and privileged treatment even though the result may be that he is less effective as his own attorney."

The 7th Circuit decision supported the People v. Heidelberg conclusion that when an inmate in custody "knowingly and voluntarily elects to manage his own defense, he relinquishes many of the traditional benefits associated with the right to counsel." (DR)

(5) Wanninger v. Davenport, 697 F.2d 992 (11th Cir. 1983) (Hillsborough Co. Jail, Fla.). Access to law library sufficient; photocopies not required. Where the inmate had access to a law library to prepare his post-conviction petition, he was not also entitled to photocopies of precedents, at least where the library and access thereto were adequate.

2. Law Books and Materials in Cells

a. There is general agreement in recent court decisions permitting an inmate to purchase law books for use in his cell; particularly if that alternative is needed to insure access to the courts.

b. Reasonable limits on the number of law books a prisoner may keep in his cell will be upheld.

(1) Inmate has no right to wide opportunities to do legal research. In Re Harrell, 470 P.2d 640 (1970); Hatfield v. Bailleaux, 290 F.2d 632 (9th Cir. 1961).

(2) Limit of five law books in cell. Carey v. Settle, 351 F.2d 483 (8th Cir. 1965).

(3) Limit of 16 books. In Re Harrell, supra.

(4) Limit of 25 books. Parks v. Ciccone, 281 F.Supp. 805 (W.D. Mo. 1968).

(5) Limits according to space in cells. Noorlander v. Ciccone, 489 F.2d 642 (8th Cir. 1973).

- c. Time limits may be set on use of law library to insure that one inmate does not deny other inmates equal opportunity. Cruz v. Beto, 329 F.Supp. 443 (S.D. Tex. 1970) (12 hours per week maximum) aff'd 445 F.2d 801 (5th Cir. 1971) vacated 405 U.S. 319 (1972) (to consider adequacy of library). Jordan v. Johnson, 381 F.Supp. 600 (E.D. Mich. 1974) (11½ hours per week).

- d. Restrictions on the use of typewriters, legal pads, carbon paper and duplicating machines have been held to be reasonable. Noorlander v. Ciccone, supra; Hampton v. Sebauer, 361 F.Supp. 641 (D. Colo. 1973); Parks v. Ciccone, supra.
- (1) Ownership of typewriter in institution prohibited. Williams v. U.S. Dept of Justice, 433 F.2d 958 (5th Cir. 1970); Gittlemaker v. Prasse, 428 F.2d 1 (3rd Cir. 1970).
 - (2) Refusal of prison to type writs. Durham v. Blackwell, 409 F.2d 838 (5th Cir. 1969).
 - (3) Legal pads, typing paper, etc. prohibited. McKinney v. DeBord, 324 F.Supp. 928 (E.D. Cal. 1970).
 - (4) Limit of ten sheets of paper per day. Conklin v. Wainwright, 424 F.2d 516 (5th Cir. 1970).

V. Personal Communication

A. Mail

1. Authority to regulate inmate mail. Procunier v. Martinez, 4316 U.S. 396 (1974).
 - a. The regulation must further an important or legitimate governmental interest unrelated to suppression of expression. The interests must be one or more of the following:

- (1) Security
 - (2) Order
 - (3) Rehabilitation
- b. Restrictions must be no greater than is necessary to protect the government interest involved.
- (1) This does not mean that prison administrators may be required to show with certainty that adverse consequences would flow from the failure to censor a particular letter.
- c. Rehabilitation is a punishment-related interest and may not be used to justify regulation of pretrial detainees' mail.
2. Procedural safeguards in rejecting inmate mail. Procunier v. Martinez, supra.
- a. Inmates must be protected against arbitrary governmental invasion.
 - b. If a letter written by or addressed to an inmate is rejected, it is necessary that:
 - (1) The inmate be notified of the rejection
 - (2) The author be given a reasonable opportunity to protest that decision
 - (3) The matter should be decided by someone other than the mail officer who refused the letter originally.

3. Inspection of Incoming Mail

- a. Incoming inmate mail may be inspected for contraband. See Wolff v. McDonnell, 418 U.S. 539 (1974); Procunier v. Martinez, supra.
- b. It is also clear that reading of incoming mail can be justified as a legal issue. Smith v. Shimp, 562 F.2d 423 (CA.7 1977); Guajardo v. Estelle, 580 F.2d 748 (CA.5 1978); U.S. v. Dawson, 516 F.2d 796 (CA.9 1975).
- c. Inspection for contraband is not censorship. Wolff v. McDonnell, 418 U.S. 539 (1974).

The reading of incoming mail is generally viewed by jail officials as impractical and unrewarding as a daily practice.

Circumstances allowing inspection should be established in policy and procedures.

4. Justification for censoring or rejecting mail. Procunier v. Martinez, supra.

- a. The Supreme Court cited in Martinez examples of types of letters which could justifiably be rejected. "Perhaps the most obvious example of justifiable censorship of prisoner mail would be refusal to send or deliver letters concerning escape plans or containing other information concerning proposed criminal activity, whether within or without the prison. Similarly, prison officials may properly refuse to transmit encoded messages." (Emphasis added)
- b. The court in Martinez refused to try to list all the possible justifications, but settled on trying to establish a standard for determining if a particular prison regulation restricting mail

"constitutes an unpermissible restraint of First Amendment liberties."

- c. Prior to Martinez, other courts had approved restrictions which may be imposed. For example, requiring approved mail correspondence lists, limiting the number, type and identity of persons upheld. O'Brien v. Blackwell, 421 F.2d 844 (5th Cir. 1970).
- d. Since Martinez the courts have reviewed the restrictions based on the two-prong test enunciated above and have found most restrictions to be unwarranted.
- (1) The 8th Circuit has forbidden the use of approved mailing lists where the justifications were based on (a) spurious intent to investigate potential visitors, (b) a contention that people, because of their criminal backgrounds have no right to correspond with prisoners and (c) a belief that some people may not wish to receive mail from prisoners. Finney v. Arkansas Board of Corrections, 505 F.2d 194, 211 (8th Cir. 1974).
- (2) Deliberate withholding of mail, copying, or censorship may be accomplished only if the prison officials comply with the Procurier test and procedures or with the Fourth Amendment requirements, Laaman v. Helgemo, 437 F.Supp. 269 (D.N.H. 1977).

- (3) County jail's practice of refusing to permit inmates to receive mail, except privileged mail, unless they consented to having their mail opened violated inmates' and their correspondents' First Amendment rights. Ahrens v. Thomas, 434 F.Supp. 873 (W.D. Mo. 1977) aff'd. 570 F.2d 286 (8th Cir. 1978).
- e. Gary Carpenter v. State of South Dakota, 536 F.2d 759 (8th Cir. 1976). Censorship by the South Dakota Penitentiary of publications mailed to prisoners was constitutionally permissible only if it furthered the penitentiary's substantial interest in security, order or rehabilitation and no less restrictive means would be sufficient to protect the penitentiary's interests. The court ruled that penitentiary officials have a heavy burden of proving that censorship is warranted, but that the penitentiary's censorship board had acted pursuant to the district court order establishing censorship guidelines and state regulations adopted in accordance with that court order, banning receipt of prisoner mail containing sexually explicit material. Board members could not be held liable in damages for violating prisoner's civil rights.
- f. Thibodeaux v. State of South Dakota, 553 F.2d 558 (8th Cir. 1977). The court recognized that a publication could be censored if it was

found to be detrimental to rehabilitative aims but could not be censored merely on a finding that a publication was of no value in rehabilitation. The fact that there was no finding that the release of materials would have a detrimental effect on rehabilitation put this case in a different light than the Carpenter decision and led the court to order that the case should not have been dismissed by the trial court. The court also noted that the South Dakota Penitentiary officials carried a heavy burden of proving the need for censorship, and that they had not discharged that heavy burden.

5. Outgoing Mail

- a. Reading of outgoing mail can be justified, but is a questionable practice and should be limited. Shimp v. Smith, supra.
- b. One court has gone so far as to require a search warrant to open outgoing mail. Palmigiano v. Travisono, 317 F.Supp. 776 (D.R.I. 1970).
- c. The 8th Circuit has upheld a district court order that outgoing mail may not be opened or inspected unless "Prison authorities can show that the regulation of an inmate's right to send and receive mail furthers a substantial interest, and that the incidental restrictions placed on the inmate's rights are no greater than essential to further that

interest." McDonnell v. Wolff, 483 F.2d 1059, 1067 (8th Cir. 1973).

- d. The 8th Circuit reversed a lower court decision prohibiting an inmate to correspond with a former correctional officer. The court found that the prison's security concerns could be adequately protected by reviewing the inmate's mail. Stevens v. Ralston, 674 F.2d (8th Cir. 1982).

6. Use of Inmate Mail as Evidence

- a. The Supreme Court upheld the right of prison officials to use as evidence in court, admissions made by an inmate in letters found in his cell or passed on for mailing. Stroud v. United States, 251 U.S. 15 (1919).
- b. An inmate correspondence to another inmate was given to the warden instead and the evidence contained in the letter used to convict him of murder. The court ruled that "the messages in question came into the possession of the penitentiary officials under established practices reasonably designed to promote discipline of the institution." Denson v. United States, 424 F.2d 329 (10th Cir. 1970); also see Hayes v. U.S., 367 F.2d 216 (10th Cir. 1966); United States v. Wilson, 477 F.2d 1 (9th Cir. 1971).

C. Visitation1. Need for Visiting

- a. The need for visiting is well established in the jail and prison systems. Such visits benefit both the inmates and the institution. Pugh v. Locke, 406 F.Supp. 318, 1327 (M.D. Ala. 1976).
- b. Regulation of visiting is both necessary and supported by law. Regulation of visiting is essential to institutional security. However, where visitation policies are so restrictive as to frustrate the ability of inmates to engage in rehabilitation, they will be struck down. Pugh v. Locke, 406 F. Supp. 318 (W.D. Ala. 1976). A total ban or unreasonable restrictions on prison visitation policy implicates the inmates' First Amendment right. Laaman v. Helgemoe, 437 F.Supp. 269 (D.1 N.H. 1977).
- c. Officials while allowed to reasonably regulate visiting, may be required to justify specific regulations if they are unnecessarily restrictive. A balance must be struck between the legitimate needs of inmates and security of the institution. Block v. Rutherford, 104 S.G. 3227 (1984) and Hudson v. Palmer, 104 S.G. 3194 (1984). Rhem v. Malcolm, 371 F.Supp. 594 (S.D.N.Y. 1974); aff'd. 507 F.2d 333 (2nd Cir. 1974); Patterson v. Walters, 363 F.Supp. 486 (W.D. Pa. 1973). 104 S.G. 3227 and Hudson v. Palmer, 104 S.G. 3194 (1984).
- d. The 5th Circuit Court of Appeals has held that

convicted criminals do not have a right to visitation except for legal counsel, whereas pretrial detainees' rights are limited in that they must yield, where necessary, to the needs of institutional security. Jones v. Diamond, 594 F.2d 997 (5th Cir. 1979).

2. Regulation of Visiting

a. Who may visit?

- (1) Visits can be required to be limited to immediate family. Saxbe v. Washington Post, 417 U.S. 843 (1974). Rowland v. Wolff, 336 F.Supp. 257 (D. Neb. 1971); Seale v. Manson, 326 F.Supp. 1375 (D. Conn. 1971). But for opposite ruling, see Ramos v. Lamm, 485 F.Supp. 122 (D. Colo. 1980), 639 F.2d 559, cert. denied 450 U.S. 1041 (1981).

b. Visits may be denied.

- (1) Sister denied when suspected of bringing gun. Rowland v. Wolff, supra.
- (2) Wife with criminal record. Walker v. Pate, 356 F.2d 502 (7th Cir. 1966).
- (3) Denial or suspension of pretrial detainee's visitation requires minimum due process procedures. Jones v. Diamond, 594 F.2d 997 (5th Cir. 1979); Laaman v. Helgemoe, 437 F.Supp. 269 (N.D.H. 1977).

c. Contact visits

- (1) Contact visits with spouses, relatives, children and friends may be denied. The U.S. Supreme Court in Block stated: "Here, the Central Jail's blanket prohibition on contact visits is an entirely reasonable, nonpunitive response to legitimate security concerns, consistent with the Fourteenth Amendment. Contact visits invite a host of security problems. They open a detention facility to the introduction of drugs, weapons, and other contraband. Moreover, to expose to others those detainees who, as is often the case, are awaiting trial for serious, violent offenses or have prior convictions carries with it the risks that the safety of innocent individuals will be jeopardized. Totally disallowing contact visits is not excessive in relation to the security and other interests at stake. There are many justifications for denying contact visits entirely, rather than attempting the difficult task of establishing a program of limited visits such as that imposed here. Nothing in the constitution requires that detainees be allowed contact visits; responsible,

experienced administrators have determined, in their sound discretion, that such visits will jeopardize the security of the facility and other persons." Block v. Rutherford, 104 S.Ct. 3227 (1984) and Hudson v. Palmer, 104 S.Ct. 3194 (1984).

d. Conjugal visits

- (1) Conjugal visits have been denied. There have been two approaches. One approach involves the rights of the inmate to sexual contact with spouse and the other approach involves the due process rights of the spouse. Loving v. Virginia, 388 U.S. 1 (1967); Griswald v. Connecticut, 381 U.S. 479 (1965); Lyons v. Gilligan, 382 F.Supp. 996 (D. Wyo. 1974); Payne v. District of Columbia, 253 F.2d 867 (D.C. Cir. 1958) (rights of spouse); In Re Flowers, 292 F.Supp. 390 (E.D. Wis. 1968) (interference with marriage contract.)
- (2) Restrictions on conjugal visits have been unsuccessfully challenged on privacy issues also. See Payne v. District of Columbia, supra.

e. Strip searches before/after visits

- (1) Strip searches of prisoners before/after contact visits are

allowed. Daugherty v. Harris, 486 F.2d 292 (10th Cir. 1958).

- (2) Body cavity searches following contact visits upheld. Bell v. Wolfish, supra.
- (3) When searches involve body cavities, (rectum, vagina), medical personnel are advisable. Henderson v. United States, 389 F.2d 805 (9th Cir. 1968).
- (4) The 8th Circuit Court of Appeals reviewed the strip search policy for visitors at the Iowa State Reformatory. Officers attempted to search visitors based on an anonymous tip that visitors were attempting to bring drugs in the institution. The court held that authorities must have more than a casual suspicion to search. They must have reasonable cause to believe that drugs or other contraband are concealed in the particular place to be searched. The court also pointed out alternatives to a search by providing for non-contact visits. Mere suspicion alone can justify denial of contact visits if non-contact visits are available. Hunter v. Auger, 672 F.2d 668 (8th Cir. 1982).

f. Other regulations

- (1) Privacy not required.

- (2) Approved visiting lists may be required.
- (3) Monitorings of non-attorney conversations are not prohibited. Lanza v. N.Y., 370 U.S. 139 (1962); U.S. v. Stumes, 549 F.2d 831 (CA.8 1977); U.S. v. Paul, 614 F.2d 115 (CA.6 1980); U.S. v. Hearst, 563 F.2d 1331 (CA.9 1977). Christman v. Skinner, 468 F.2d 723 (2nd Cir. 1972). Also, see opposite holding, DeLancie v. Superior Court, 159 Cal. Rptr. 20 Cal. App. 1979.

g. Pretrial detainees appear to have greater visitation rights which may be regulated solely on the basis of security or maintaining order. Regulations, such as approved lists which may be justified on rehabilitation grounds, may not be used to restrict detainee non-contact visitation.

This is questionable in light of Bell v. Wolfish, Block v. Rutherford and Hudson v. Palmer.

- (1) County jail facilities for visitation which did not allow for any privacy and which made conversation difficult violated inmates' First Amendment rights to communicate with their friends and relatives. Ahrens v. Thomas, 434 F.Supp. 873 (W.D. Mo. 1977) aff'd. 570 F.2d 286 (8th Cir. 1978).
- (2) Pretrial detainees have constitutional right secured by First Amendment to communicate with persons from outside

prison by means of mail, visits and telephone calls. Moore v. Janning, 427 F.Supp. 567 (D. Neb. 1976); Miller v. Carson, 563 F.2d 741 (5th Cir. 1977).

- (3) Under the Bell v. Wolfish guidelines the court, while deferring to the jail administration, must still ensure that the administration's response to problems is "reasonable." "Based on the applicable law and the evidence adduced at trial, the court finds unconstitutional the ban imposed by the defendants on visitation by children. The court finds that this prohibition is not reasonably related to any legitimate goal of the Passaic County Jail. It represents the judgment of the jailer that it is not in the best interests of the children to visit their parents while those parents are in jail." Valentine, v. Englehardt, 474 F.Supp. 294 (1979). Also see Inmates of the Suffolk County Jail v. Eisenstadt, 360 F.Supp. 676 (D. Mass. 1973); Nicholson v. Choctaw Co., 498 F.Supp. 295 (S.D. Ala. 1980).

D. Telephone

1. The right to telephone usage by inmates has generally been related to the inmates' right of access to the court: i.e., telephone communications with an

attorney. Collins v. Schoonfield, 344 F.Supp. 257 (D. Md. 1972); Jones v. Wittenberg, 330 F.Supp. 707 (N.D. Ohio 1971). Also, see Duran v. Elrod, 542 F.2d 998 (CA.7 1976).

2. Courts have also viewed the telephone as a means for pretrial detainees to maintain contact with family and friends, a right protected under the First Amendment, Dillard v. Pitchess, 399 F.Supp. 1225 (D.C. Cal. 1975); and since denial or restriction of such contact is viewed as punishment, it becomes a right which is guaranteed under the Fifth Amendment Due Process Clause and may only be restricted for reasons related to security or order of the institution. Moore v. Janning, 427 F.Supp. 567 (D. Neb. 1976). Other courts have found no inmate right to telephones for personal calls. C.f. Hill v. Estelle, 537 F.2d 214 (CA.5 1976).

3. Privacy

- a. No privacy

Courts saying there is no expectation of privacy. Crooker v. U.S. Dept. of Justice, 497 F.Supp. 500 (D. Conn. 1980); U.S. v. Paul, 614 F.2d 115 (CA.6 1980) (as long as the monitoring is for security purposes); Rodriguez v. Blaedow 497 F.Supp. 558 (G.D. Wisc. 1980); State v. Fischer, 270 N.W. 345 (Sup.Ct. N. Dak. 1978).

- b. Privacy required

Jail house telephone calls may be monitored where there is no expectation of privacy.

Courts requiring a privacy right. Campiti v. Walonis, 611 F.2d 387 (CA.1 1979) (ruled that monitoring violates Title III of the Omnibus Crime Bill); Mitchell v. Untreiner, 421 F.Supp. 886 (N.D. Fla. 1976).

4. Defendant's statements made in telephone conversation with his wife while he was detained in jail as evidence against him did not violate Fourth Amendment where jailer was present in the same room within a few feet of defendant as he was engaged in the phone conversation, since anything said could not legitimately have been intended as private. With a jailer present in the same room and within a few feet of appellant as he was engaged in the phone conversation, anything said could not legitimately be intended as private. State of South Dakota v. McKercher, 332 N.W.2d, 286 (S.D. 1983). The best practice is not to monitor the attorney/client conversation. This could be considered eavesdropping and constitute a criminal violation.

VI. Right to Assembly and Association

A. Religious Assembly

1. See "Religion" in this outline.

B. Unionization of Inmates

1. Inmates do not have a constitutionally protected right to form labor unions while in custody.
 - a. In Michigan, inmates at the Michigan State Prison were refused recognition by the court as public employees. The court said their "employment" was more correctional

than industrial. Prisoners' Labor Union at Marquette v. Michigan, 232 N.W.2d 699 (Mich. App. 1975).

- b. In a North Carolina case, the U.S. Supreme Court refused to recognize a constitutionally protected right for inmates to unionize and overturned gains made in lower courts in that case. Jones v. North Carolina Prisoners' Labor Union, 97 S.Ct. 2532 (1977). Also see North Carolina Prisoners' Labor Union v. Jones, 409 F.Supp. 937 (E.D.N.C. 1976).

2. Some earlier cases have indicated inmates may read and talk about unionization absent any showing interference with institution operation. See National Prisoners' Reform Association v. Sharkey, 347 F.Supp. 1234 (D.R.I. 1972).
3. The court must balance the inmates' rights under the First Amendment to associate with others in a group and to take action as a group against the needs of the institution to maintain order and security. Parks. v. Manson, 16 Cr.L.Rptr. 2257 (D. Conn. 1974).

VII. Redress of Grievances

A. Best to Develop a Grievance System in the Institution

1. Courts are "ill-suited to act as the front line agencies for the infinite variety of prisoner complaints....the capacity of our criminal justice system to deal fairly and fully with legitimate claims will be impaired by a burgeoning increase in prisoner

complaints." Procunier v. Martinez, 416 U.S. 396 (1974).

2. Chief Justice Burger called for an administrative procedure which would require institutions to develop informal grievance procedures for hearing inmate complaints. Inmates might then be required to exhaust that remedy before filing a complaint in court. Toal, Recent Developments in Correctional Case Law at 34 (1975.)

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- a. U.S. Bureau of Prisons procedures pursuant to that recommendation required wardens to answer prisoner complaints within 15 days.
- b. At least two federal circuits have required inmates to exhaust that procedure before filing a claim in federal court. See Thompson v. United States Federal Industries, 492 F.2d 1082 (5th Cir. 1974); Jones v. Carlson, 495 F.2d 209 (5th Cir. 1974); Waddle v. Allredge, 480 F.2d 1078 (3rd Cir. 1973); and Toal, Recent Developments in Correctional Case Law (1975).

These were cases against federal institutions.

The essence of these cases is that if a facility has a certified grievance procedure (certified by the federal court), then the facility administrator may require inmates to exhaust administrative grievance procedures prior to proceeding with litigation.

B. Access to Public Officials

1. Inmates must be allowed to correspond with public officials. Institution administrators may not, therefore, intercept, refuse or fail to deliver or otherwise interfere with the inmates' right to correspond. See "Mail" in this outline for citations.
2. See "Mail", Part Three, IV for citations and additional information.

PART FOUR: THE FOURTH AMENDMENTI. General Principles

- A. Amendment IV: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
- B. Since 1979, the U. S. Supreme Court has decided several cases that have served to clarify inmate rights and the Fourth Amendment. The Supreme Court has consistently ruled that searches in all cases must be reasonable and justified in terms of legitimate security concerns. In Bell v. Wolfish, *Supra*, the Supreme Court required that detention officials' "restrictions and practices must be rationally related to legitimate non-governmental purposes." Also, see Block v. Rutherford, 104 S. Ct. 3227 (1984), Hudson v. Palmer, 104 S. Ct. 3194 (1984) and Giles v. Ackerman, 746 F.2d 614 (9th Circuit, 1984) cert. denied (37 CrL 4034),
- C. In establishing written policies and procedures relating to searches and seizures within the jail facility, the jail administrator need not be confused. The courts have quite clearly set out the constitutional protections that survive incarceration. But the jail manager should be knowledgeable in the entire range of search and seizure issues. He then may more comfortably set those policies and procedures that pertain to the inmates in his facility.

The Block and Hudson cases have clearly concluded that inmates are not protected by the Fourth Amendment right against random search and seizure in their cells.

The operational implications of these cases for correctional personnel are addressed later in this section.

D. Objects of a Jail Search

1. Contraband: anything that is illegal in and of itself.
Example - narcotics.

In the outside world, contraband must be forbidden by statute or ordinance. In a jail facility, however, it can be literally anything named by the jail administrator that even remotely relates to the security of the jail operation. Examples - newspapers, food, extra blanket, weapons, etc.

The courts have stated that they are not about to attempt to out-guess jail officials in what items may or may not affect the security operation of the facility. They will only look to see that items labelled as "contraband" are documented in writing in a policies and procedures manual and that enforcement procedures are applied equally to all inmates (the equal protection clause of the Fourteenth Amendment). The overwhelming majority of jail searches are for contraband.

From a management standpoint, it is best to write procedures and rules and regulations that state which items inmates are allowed. All other items can then be classified as contraband.

2. Evidence

Evidence is anything that will aid the jail in an investigation of an incident.

E. Conditions

1. Incident to an Arrest, Including An Inventory Search

- a. It is well established law that a jailer, usually the booking officer, may search an inmate and anything he brings to the facility. In fact, all custodial searches are presumed reasonable

unless "[they] violate the dictates of reason either because of their number or their manner or perpetration." Charles v. U.S., 278 F.2d 386 (9th Cir.) cert. denied 364 U.S. 831.

- b. Incident to Arrest: The law is less clear with regard to "second looks" at inmate property after it has been inventoried and placed in property storage. The New York Supreme Court has ruled that police were allowed to examine an arrestee's belongings after they had been inventoried and locked away. The detainee's wallet and personal property were sealed in an envelope and placed in the property room. Later, his wallet was removed from the envelope and a search revealed a piece of paper with the name, address and telephone number of one of the victims. The court upheld the search and stated:

"It is now beyond doubt that under the Fourth Amendment an arresting officer may, without a warrant, search a person validly arrested. The fact of a lawful arrest, standing alone, authorizes the search (Michigan v. Defillippo, 443 U.S. 31, 99 S. Ct. 2627; Gustafson v. Florida, 414 U.S. 260, 94 S. Ct. 488; United States v. Robinson, 414 U.S. 218, 94 S. Ct. 467).

- c. Inventory Search: That there may be some time interval between the arrest and the subsequent taking of property for use as evidence does not change this principle, nor does the fact that "the clothing or effects are

immediately seized upon arrival at the jail, held under the defendant's name in the property room' of the jail, and at a later time, searched and taken for use at the subsequent criminal trial." United States v. Edwards, 415 U.S. 800, 94 S.Ct. 1234, 1239.

See also Jensen v. Klecker, 599 F.2d 243 (8th Cir. 1979). Where inmate's property was not prohibited by rules, property must be returned to the inmate upon request.

2. The Consent Search

The consent search is simply not applicable to the jail search.

3. Exigent (Emergency) Circumstances

a. The jail, by its very nature, is a perpetual exigent circumstance and all personal and cell searches/seizures will be upheld by the court unless inmates can show outrageous conditions with no justifiable cause.

Of course, these searches must not be for the express purpose of harassment and must be consistent with equal protection issues.

b. Security is the primary objective and jail administrators have a duty to maintain a facility in which inmates may reside without fear for their lives. The administrator may conduct inmate and cell shakedowns in almost any degree he chooses. The court will uphold such searches if only remotely connected in a reasonable manner to the security of the facility. "...the Government must be able to take steps to maintain security and order at the institution and make certain no weapons or illicit drugs reach detainees. Central to all other corrections goals is the institutional consideration of internal security within the corrections facilities themselves....Prison adminis-

trators, therefore, should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security." Bell v. Wolfish, 99 S. Ct. 1861 (1979).

II. Search of Persons - Inmates vs. Bookings

- A. Pat down searches of inmates moving about within the jail have been found reasonable by courts, if conducted according to documented procedures. Cross-sexual pat searches have been approved according to the following courts: Madyum v. Franzen, 704 F. 2d 954 (CA7 1983); Roscom v. City of Chicago, 570 F. Supp. 1259 (N.D. Ill. 1982). These rulings are seen as a balancing response by the courts in response to the requirement that detention and corrections facilities provide equal employment opportunities for females.
- B. A skin or strip search is not a body cavity search, although an exterior viewing of body cavities (without exploratory touching) may be made if it is not done in such a manner so as to be unduly degrading to human dignity. (Justice Brennan of the U.S. Supreme Court) The courts universally have upheld skin/strip searches any time an inmate has been in contact with the outside world and may be bringing contraband back to the facility. It cannot be overstressed, however, that the jail administrator must have documented policies and procedures covering this aspect of jail operations and those policies are equally enforced to all.

The courts generally allow females to pat search males (given that the genital area is avoided) but have been more restrictive with males pat searching females.

Courts opposing strip search: Hunt v. Polk Co., 551 F. Supp. 339 (S.D. Iowa 1982). (Minor offenses, search impermissable.) Comm. v. Lapia, 457

F.2d 877 (Pa. App. 1983). (Anonymous tip not sufficient cause.)

1. Requirement for all arrestees to submit to strip search at booking/intake may violate the Fourth Amendment.

Strip search of female traffic offender upheld by district court was overturned by Court of Appeals. U.S. Supreme Court denied cert. (1985) allowing appellate decision to stand. The woman in Idaho filed suit against the Bonneville County Sheriff's Office after she was strip-searched following arrest for failure to appear and pay parking tickets. Although the district court judge found the circumstances unusual and was sympathetic, he held that it was not unreasonable to search the woman after it became clear that she would not be released on bond prior to her hearing in court. Finding that the policy requiring a strip search of every prisoner processed into the general population of the facility was reasonable, he held that it was not a violation of the Fourteenth Amendment. On appeal, the Appeals Court found that the search violated the plaintiff's Fourth Amendment rights and reversed the lower court decision, holding that "...arrestees for minor offenses may be subjected to a strip search only if jail officials have a reasonable suspicion that the particular arrestee is carrying or concealing contraband or suffering from a communicable disease."

(Giles v. Ackerman, supra)

The ruling further stated:

"County policy of strip searching all persons admitted to county jail, regardless of severity of

charges or whether suspicion that arrestee is concealing contraband, and unsupported by any indication that strip searches effectively deter smuggling of contraband into jail, violates Fourth Amendment; strip search of person who was arrested for minor traffic offense and was described as cooperative and orderly violated Fourth Amendment in absence of individualized suspicion that she was carrying contraband or was in any way threatening jail security."

2. While the courts are not clear or consistent on when a strip search can be conducted for newly admitted detainees, the following rules should be followed when developing strip search procedures:

- a. Serve the needs of the facility for security, order and discipline as specified in departmental policies/procedures.
- b. Not constitute an exaggerated response to legitimate institutional needs.
- c. Generally, the least intrusive security measure should be used.
- d. Detainees being held for minor misdemeanor charges should not be routinely strip searched; rather, the detainee could be searched when "reasonable suspicion" is based on:
 - the nature of the offense
 - the demeanor of the prisoner
 - the prisoner's prior record

Must be specific for cause and reason to strip-search at intake.

In dealing with non-violent misdemeanors, the following two rules should be followed:

(1) If a quick "turnaround", do not strip search unless an articulable cause.

(2) If going into general population, must have reasonable cause to believe that there are disease, contraband, weapons or safety issues involved; then can be strip searched.

An indiscriminate strip search policy routinely applied to detainees cannot be justified simply on the basis of administrative ease in attending to security considerations. Courts will consider the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it was conducted. Logan v. Shealy, 30 Cr.L. 2077, (4th Cir.) See also Hunt v. Polk County, 551 F.Supp. 399 (S.D. Iowa 1982).

- belief that a weapon or contraband is being concealed
 - e. Be conducted by staff members of the same sex without unnecessary force, is not demeaning, preserves the dignity of the prisoner and officers refrain from inappropriate comments.
 - f. Conducted in a private area out of the view of any persons of the opposite sex.
 - g. Documentation of the search and findings and any special reasons for conducting the search.
 - h. Review of state laws, standards and applicable court decisions.
3. Strip searches have been considered appropriate by the courts after prisoners have had the opportunity to secure contraband; e.g., after contact visits, after transports, upon arrival from another facility, and after leaving the security perimeter of the facility.

C. Body Cavity Searches

The Supreme Court has firmly put to rest the line of court decisions which ruled that VISUAL body cavity searches could only be conducted where reasonable cause existed and a substantial security justification had been demonstrated. In reviewing Fourth Amendment rights of pretrial detainees subjected to body cavity searches following all contact visits with a person from outside the institution, the court stated that the "Fourth Amendment prohibits only unreasonable searches and under the circumstances, we do not believe that these searches are unreasonable."
(Bell v. Wolfish, supra)

Visual body cavity search of female arrestees by another female officer was constitutional. (Dufrim v. Spreen, 712 F.2s 1084 (CA6 1983))

1. "We do not underestimate the degree to which these searches may invade the personal privacy of inmates. Nor do we doubt, as the District Court noted, that on occasion a security guard may conduct the search in an abusive fashion. Such abuse cannot be condoned. The searches must be conducted in a reasonable manner." Bell v. Wolfish, supra. A search conducted without privacy and accompanied by "a lot of oohs and aahs and 'good show'" will not be tolerated. Frazier v. Ward, 426 F. Supp. 1354 (N.D.N.Y. 1977)
 2. Body cavity searches which go beyond a visual search to a probe must, however, be conducted in a more careful manner and be conducted by medically trained personnel in private. Daugherty v. Harris, 476 F.2d 292, cert. denied 414 U.S. 872, 94 S. Ct. 112, 38 L. Ed. 2d 91 (10th Cir. 1973).
- D. The Supreme court of North Dakota held that a prisoner's required participation in a prison urine screening program, used as a means of controlling drug usage in the institution, did not constitute an unreasonable search and seizure and did not violate the prisoner's right against self-incrimination. Refusal to submit to the urine sample resulted in the same penalties as a positive finding (loss of good time). The court stated that since drug traffic within the penitentiary presents a threat to institutional security and internal order and discipline, minimizing such traffic is a legitimate state interest. The

urine screening program was a reasonable attempt to minimize drug usage at the prison and was not intrusive on the inmate's Fourth Amendment rights. Hampson v. Satran, 319 N.W.2d, 786 (N.D. 1982)

E. Search of Visitors

The 8th Circuit has ordered a change in the visitor strip search policy at Iowa State Prison. Three women attempted visits at three different facilities in the state and were subjected to strip searches based on uncorroborated, anonymous tips containing an allegation that they were carrying drugs into the institution. The court noted that the penal environment is fraught with serious security dangers, and that a central objective of prison administrators is to safeguard institutional security by using all reasonable means to exclude contraband. However, the court stated that to justify the strip search of a prison visitor, prison officials must point to specific objective facts and rational inferences that they are entitled to draw from these facts in light of their experience. Unspecified suspicions fall short of providing reasonable grounds to suspect that a visitor will attempt to smuggle drugs or other contraband into the prison. The court granted the plaintiffs declaratory and injunctive relief and suggested that Iowa prison authorities arrange for facilities to provide non-contact visits between prisoners and their guests, deeming such a solution an economical alternative method for preventing the introduction of contraband into the prison. Hunter v. Auger, 672 F.2d 668 (8th Cir. 1982).

IV. Search of Cells

- A. The U.S. Supreme court has ruled that inmates are not protected by the Fourth Amendment right against random search and seizure in their cells. The majority of those sitting on the U.S. Supreme Court have recently ruled in favor of correctional institutions to promote effective security through random searches. In Hudson v. Palmer, 104 S. Ct. 3194 (1984), the court ruled that prisoners have no Fourth Amendment right against unreasonable and random search and seizure in their cells. A right of privacy under the Fourth Amendment was "fundamentally incompatible with the close and continual surveillance of inmates and their cells required to ensure institutional security and internal order", the court stated.

The Hudson court extended the reasoning in Parratt v. Taylor, 451 U.S. 527, 101 S. Ct. 1908 (1981), by holding that intentional deprivations of property, as well as negligent deprivations, did not constitute a violation of due process because meaningful post-deprivation remedies for the loss were available under state law. It said there was no logical reason to make a distinction between intentional and negligent deprivations of property for the purposes of post-deprivation remedies.

In another case involving pretrial detainees, Block v. Rutherford, 104 S. Ct. 3227 (1984), the majority allowed for irregular shakedown searches of cells out of the detainees' presence while they were at meals, recreation, or other activities. Again, the ruling was in the interest of jail security.

- B. Jail policies and procedures must clearly specify the time, manner and place of searches in order to avoid accusations that the searches

"violate the dictates of reason either because of their number or their manner of perpetration."
United States v. Edwards, 415 U.S. 800, 94 S. Ct. 1234 39 L. Ed. 2d 771 (1974). Searches must not be conducted in a manner which may amount to harassment and must be applied to all prisoners of the same classification equally. In Brown v. Halton, 492 F.Supp. 771 (D.E.J. 1980), inmate has a right against unreasonable searches. A search which leaves the cell a shambles and damages personal property is unreasonable.

V. Seizure of Conversations and Communications

- A. Since prisoners have no "reasonable expectation of privacy" within a jail setting, seizure of conversation between inmates and with visitors has been upheld, if there is prominent posting notifying the inmate and visitor that there is no expectation of privacy. Lanza v. New York, supra. Also see State v. Fischer, 270 N.W. 2d 345 (N.D. 1978).
- B. See prior section regarding conversation between prisoner and counsel. However, "...the relationships which the law has endowed with particularized confidentiality must continue to receive unceasing protection..." Lanza, supra. Thus, conversations between prisoners and their attorneys or their authorized representatives, clergy or doctor may not be monitored or recorded.
- C. Interception and photocopying by a prison security officer of a letter written by the defendant to an inmate of another penitentiary constituted a violation of the accused's rights under the Fourth Amendment, "absent a showing of some justifiable purpose of imprisonment or prison security." United States v. Savage, 482 F.2d 1371 (9th Cir. 1973) cert. denied 415 U.S. 932, 94 S. Ct. 1446, 39 L. Ed. 2d 491. Also see Stroud v. U.S.

Must have articulable cause.

VI. Inmate Privacy

- A. In balancing the inmates' rights to privacy (from involuntary viewing of unclothed or partially clothed bodies) against the rights of opposite sex guards to equal employment, one court has upheld the right of male guards to work in a female prison hospital. The guards' right to equal employment was protected because several accommodations were made to protect the privacy of the female inmates. For example, translucent shields were erected in front of the showers, inmates were allowed to close their cell doors and cover the window for 15-minute periods for undressing and using the toilet both during the day and at night, and accommodations were made for distribution of sleepwear. Forts v. Ward, 621 F.2d 1210 (2nd Cir. 1980).
- B. The 7th Circuit Court of Appeals has held that a pat down search by a female prison guard of a male inmate is permissible so long as the search does not extend to the genital area. The inmate was subjected to a frisk search which encompassed the head, neck, back, chest, stomach, waist and the outside of the legs and thighs. The court held that because the inmate was fully clothed during the search and the search did not extend to the genital or anal area, it was reasonable and did not violate his right or privacy or the Eighth Amendment's prohibition against cruel and unusual punishment. Smith v. Fairman, 5.2d No. 80-14015 (7th Cir. 1982).
- C. It appears that if accommodations cannot be made to protect the inmate's privacy, the rights of opposite sex guards to equal employment must fall.

These cases usually involve female guards with control over male inmates.

PART FIVE: THE FIFTH AND FOURTEENTH
AMENDMENTS

I. Constitution

Amendment V: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentation or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property be taken for public use, without just compensation.

Amendment XIV: Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

A. Due Process

The rights of inmates to due process within a state prison or county jail are governed by the principles of the Fourteenth Amendment and will be discussed in that section of this outline.

B. Double Jeopardy

An inmate may be charged administratively and criminally on the same charges without double jeopardy. An inmate may be acquitted in a court of law (where the standard of proof is greater) but found guilty in an administrative discipline hearing

(where the burden of proof is less) without constituting double jeopardy.

C. Witness Against Self

Inmates have no right to remain silent in defense of administrative charges against them. An inmate's failure to testify at a discipline hearing can result in an adverse inference. Baxter v. Palmigiano, 425 U.S. at 326-30 (1976).

II. Discipline

A. Written Rules and Regulations
Critical

1. Before an inmate can be disciplined, there must be written rules and regulations available so that he knows what is expected of him. This need was addressed in 1971 in Landman v. Royster, 333 F.Supp. 621 (E.D. Va.):

"The evidence, however, shows that the purposes of the constitutional requirement of reasonable specificity--fair warning so that one may conform to the rules, and exactness so that arbitrary penalties or penalties for protected conduct will not be imposed--have been ill-served by rules against Virginia prisoners."

2. "A rule or regulation, the violation of which can result in disciplinary proceedings, must apprise inmates of the proscribed conduct." Laaman v. Helgemoe, 437 F.Supp. 269, 321 (D.N.H. 1977).
3. The rule must be clearly stated so that no doubt exists as to what conduct is prohibited. "The usual rule is that a statute or regulation must 'give a person of ordinary intelligence fair notice

that his contemplated conduct is forbidden...' [N]o person of ordinary intelligence could reasonably understand exactly what behavior is proscribed as each enforcer will have his own idea as to what conduct is 'poor'". Laaman v. Helgemoe, supra. (holding a prison rule which authorized discipline for "poor conduct" as unconstitutionally vague).

4. SDCL 24-11-23: The governing body or Commission responsible for the operation of the jail shall adopt written policies and procedures for the regulation of the jail on the following subjects: ... (8) the punishment of prisoners for violation of the policies and procedures of the jail.

B. Discipline Due Process Requirements

The following procedures are set down in Wolff v. McDonnell, by the U.S. Supreme Court:

1. Written notice of charges must be given to the offending inmate 24 hours prior to a hearing. Twenty-four (24) to 72 hours is reasonable for a disciplinary hearing (excluding holidays and weekends.)
2. Hearing by an impartial board was required on any serious disciplinary action.
 - a. Wolff in 1974 set requirements for "grievous" disciplinary actions. Baxter v. Palmigiano, 425 U.S. 308 (1976), reaffirmed the Supreme Court's ruling that the hearing requirement applied to "grievous" actions.

- b. The person who initially makes the incident report for which disciplinary action may be taken, may not sit on the discipline board to decide the sanction to be applied. Finney v. Arkansas Board of Corrections, 505 F.2d 194 (8th Cir. 1974).
3. An inmate should be allowed to call witnesses and present documentary evidence in his defense if permitting him to do so will not jeopardize institutional safety or correctional goals. Wolff v. McDonnell, Baxter v. Palmigiano, supra.
 - a. Failure to provide the inmate with polygraph results (exculpatory evidence) tending to exonerate him was an actionable violation of his constitutional right to due process. Chavis v. Rowe, 643 F.2d 1281 (7th Cir. 1981).
4. The inmate has no constitutional right to confrontation and cross-examination. Because of the potential danger that procedure would present in the prison environment, it will be discretionary with prison officials.
 - a. Prison officials have wide discretion in conducting prison disciplinary hearings and reaffirmed Wolff v. McDonnell with regard to presentation of testimony. A correctional officer did not have to reveal information disclosing the informant in the interest of safety. The court relied on the Wolff ruling in that "the right (to present evidence) shall be allowed when permitting him to do so will not be unduly hazardous to institutional

Wolff v. McDonnell and Baxter v. Palmigiano, supra.

safety or correctional goals"
Smith v. Rabalais, 659 F.2d
 539 (5th Cir. 1981).

5. Right to counsel was not required by the court, although counsel substitute was recommended in actions where the inmate is illiterate or where unusually complex issues exist. There is no right to remain silent in a disciplinary hearing.

The Supreme Court went further in Baxter when it ruled: "Neither Miranda nor Mathis has any substantial bearing on the question whether counsel must be provided at prison disciplinary hearings (which) are not a part of criminal prosecution."

In Baxter, the court also said: "The short of it is that permitting an adverse inference to be drawn from an inmate's silence at his disciplinary proceeding is not, on its face, an invalid practice."

6. Written findings of fact are required.
7. There must be allowance for review by, and appeal to, a higher authority; generally, the jail or prison administration.
 - a. Inmates have right to judicial review in state courts of administrative action resulting in loss of good time. Tibbetts v. State, 336 N.W.2d 658 (South Dakota Supreme Court, 1983).

It is important that the findings be documented or recorded.

This case was specific to inmates in the South Dakota State Prison.

C. Court Review of Disciplinary Measures

1. In reviewing disciplinary actions, the test is whether there exists any basis in fact to support the action taken by the jail officials. Jackson v. McLemore, 523 F.2d 939 (8th Cir. 1975); Willis v. Ciccone, 506 F.2d 1011, 1018 (8th Cir. 1974). Otherwise the federal court would assume the task of retrying all prison disciplinary disputes. Willis v. Ciccone, supra. Courts sit to decide whether proper constitutional rights are protected, not to second-guess the actions of prison officials. Bell v. Wolfish, supra.
2. The disciplinary action taken will come under the court's review if the Eighth Amendment's proscription against cruel and unusual punishment is alleged. This will be discussed in the next section.

D. Due Process and Equal Protection Considerations

1. There are two key factors in inmate discipline: due process (Fifth Amendment) and equal protection (Fourteenth Amendment). Both have been made applicable to inmates, particularly in pretrial detainees.
2. In all cases of major infractions by inmates, a due process hearing is required under the Fifth Amendment of the Constitution before the jail/prison official can administer the discipline. Wolff v. McDonnell, 418 U.S. 539 (1974). In determining the procedural due process, a prisoner is entitled to a disciplinary hearing; the test is the severity of the potential punishment, not the actual punishment. While

The instructor may wish to address these issues under the prior section on the Fifth Amendment.

prisoner only suffered loss of recreational privileges, he was exposed to a loss of good time, therefore was entitled to due process safeguards. Ward v. Johnson (CA.4). No. 79-6304, Dec. 30, 1981.

- a. There is one notable exception to the rule. In an emergency situation where the inmate is a danger to himself or others, the jail administrator may take whatever action is reasonable under the circumstances to quell the emergency. The "after the fact" due process hearing then becomes a "justification hearing" on the reasonableness of the action taken.
 - b. Infliction of summary punishment upon prisoners without any semblance of due process is impermissible; where such summary punishment is likely to recur, court may appropriately enjoin correctional personnel from summarily beating or otherwise physically mistreating prisoners; Diamond v. Thompson, 364 F.Supp. 659 (D. Ala.).
3. Equal protection simply means that the rules of inmate discipline apply equally to all inmates. In order to show that a facility is not violating an inmate's equal protection rights, the jail administrator must have documented (written) policies, procedures, and records. There is no other way he can demonstrate to the court "what is good for one in the facility is good for all."

E. Punishment Must Be for a Legitimate Governmental Purpose

1. The fact that prison officials may not inflict summary punishment without any semblance of due process does not mean that prison officials may not use reasonable force to move prisoners, maintain order, or insure compliance with regulations. Diamond v. Thompson, supra.
2. Inmates may not be punished for religious beliefs and related activities, Cruz v. Beto, 405 U.S. 319, 92 S.Ct. 1079, 31 L.Ed.2d 263 (1972).
3. Inmates may not be punished for exercise of their constitutional right to petition the courts for redress or wrongs. Carothers v. Follette, 314 F.Supp. 1014 (D.C.N.Y. 1970).

F. Infliction of Corporal Punishment Prohibited

1. In General

While the use of corporal punishment in the prison disciplinary setting has been held permissible in appropriate circumstances and under certain conditions, the tendency of the courts seems to be to generally discountenance it, and there are some indications that corporal punishment may be unconstitutional as violative of the Eighth Amendment's prohibition against cruel and unusual punishment. 18 ALR Fed, 7, 43.

2. Whips or Lash

Use of the whip or lash was enjoined as unconstitutional corporal punishment. Gates v.

Collier, 349 F.Supp. 881 (D.Miss. 1972).

3. Strap

Use of a strap to beat prisoners as a disciplinary measure violated the Eighth Amendment even if due process safeguards were used. Jackson v. Bishop, 404 F.2d 571 (8th Cir. 1968).

4. Gauntlet/Beatings Prohibited

Evidence showed that beginning immediately after the state's recapture of Attica prison from inmate rioters, on the morning of September 13, 1971 and continuing at least until September 16, 1971, guards, state troopers, and correctional personnel had engaged in cruel and inhuman abuse of numerous inmates, including the striking, prodding or beating of injured prisoners with sticks, belts, bats or other weapons; forcing others to strip and run naked through gauntlets of guards armed with clubs which were used to strike the bodies of inmates as they passed; dragging some inmates on the ground; marking some inmates with an "X" on their backs; spitting upon others or burning them with matches; and poking others in the genitals or arms with sticks. Accompanying the physical violence were threats of death or further brutality. The court said that this barbarous conduct was wholly beyond any force needed to maintain order, far exceeded what society would well tolerate on the part of officers of the law in custody of defenseless prisoners and amounted to cruel and unusual punishment. Inmates of Attica Correctional Facility v. Rockefeller, supra.

5. Unjustified Use of Drugs

The constitution not only protects individuals from unjustified beatings meted out by state officials, but also against the unjustified administration of tranquilizing drugs. Davis v. Schmidt, 57 F.R.D. 37 (D. Wis. 1972).

6. Use of Tear Gas and Mace Restricted

Use of chemical agents as punitive measure rather than as control device, or without justification, and in excessive amounts constitutes cruel and unusual punishment. Battle v. Anderson, 376 F.Supp. 402 (D. Okla.). Use of tear gas and chemical agents against individual prisoners in their cells is unjustified and unconstitutional absent a clear and present danger of riotous proportions. Spain v. Proconier, 408 F.Supp. 534 (N.D. Cal. 1976). Use of mace on pretrial detainee was constitutional. Smith v. Iron Co., 692 F.2d 685 (CA.10 1982). Inmate refused to give up an item he was using to bang on the wall. But in Soto v. Cady, 566 F.Supp. 773 (E.D. Wisc. 1983), use of mace on inmates whose behavior was disobedient but passive was improper.

7. Use of Restraints Restricted

- a. Finding that one prisoner had been restrained in his solitary cell by handcuffing him, chaining his body to the cell bars, wrapping tape around his neck and securing that to the bars also, and that he remained in that position for 14 hours; while another prisoner had been chained to the

cell bars by his waist and arms in such a position that he could just barely recline; that the chaining had caused both prisoners lack of sleep and prolonged physical pain and that neither prisoner was released to respond to a call of nature or to eat. The court said that corporal punishment by chaining was outmoded and was forbidden by the constitution. Landman v. Royster, supra.

*The softer the restraint,
the less the liability.*

- b. The practice of restraining prisoners by chaining them on their backs to beds for days at a time, on occasion without timely access to toilet facilities, does not comport with the standards of decency of a civilized society. Certainly, the practice of restraining human beings in this manner amounts to cruel and unusual punishment. Restraints may not be used as punishment but only when necessary to control prisoner's behavior for short periods of time. In the situations where restraints are necessary, the inmate should receive medical attention and care. Any use of restraints beyond the time required to receive this attention should be under control of medical personnel. Steward v. Rhodes, 473 F.Supp. 1185 (1979).

8. Threats of Violence
Prohibited

Threats of corporal punishment in connection with actual physical punishment violate the Eighth Amendment. For example, a prisoner was compelled, under threat of

violence, to remain standing at military attention in front of his cell door each time an officer appeared from 7:30 a.m. to 10:00 p.m. every day, and was not permitted to sleep during those hours under the pain and threat of being beaten. Wright v. McMann, 387 F.2d 519 (2nd Cir. 1967).

9. Other Methods of Corporal Punishment

Methods of corporal punishment used in prison, including the administering of milk of magnesia, stripping inmates of clothes, turning fan on inmates while naked and wet, and cuffing inmates to fence and to cells for long periods of time, shooting at or around inmates to keep them standing or moving, and forcing inmates to stand, sit or lie on crates, stumps or otherwise to maintain awkward positions for prolonged periods violated the Eighth Amendment. Gates v. Collier, 501 F.2d 1291 (5th Cir. 1974).

G. When Use of Force Allowed

1. Corporal punishment is disapproved of by penologists except where necessary to protect one's self or others from injury or to prevent escape or serious injury to property. Inmates of Attica Correctional Facility v. Rockefeller, 453 F.2d 12 (2nd Cir. 1971).
2. Force is properly employed by prison personnel in self-defense, in breaking up fights between inmates, in compelling obedience to lawful orders where milder

measures fail, in connection with preventing escapes, in protecting state property, and at times, in connection with recapturing escaped convicts. Holt v. Hutto, 363 F.Supp. 194 (E.D. Ark.)

3. Not every push or shove, even if it may seem unnecessary in the place of the judge's chambers, violates a prisoner's constitutional rights: in determining whether the constitutional line has been crossed, a court must look to the following factors:
 - a. Need for the application of force
 - b. Relationship between the need and the amount of force used
 - c. Extent of injury inflicted
 - d. Whether the force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the purpose of causing harm. Johnson v. Gluck, 481 F.2d 1028 (2nd Cir. 1973).
4. Use of tear gas against prisoners who are locked behind bars of their cell is not per se cruel and unusual punishment, but use of such gas should be strictly limited to circumstances presenting utmost degree of danger and loss of control.
5. The use of mace, tear gas, fire hoses and stun guns have been upheld "if reasonably applied under proper warranting circumstances." Properly warranting circumstances are viewed under the least restrictive alternative doctrine.

H. Punitive Segregation/Solitary Confinement

1. Solitary Confinement

The "why" becomes all important word. Administrative segregation is not per se a violation of the Eighth Amendment, but several safeguard procedures must be implemented. The validity of segregation depends upon the existence of valid and subsisting reasons for segregation and the relative humaneness of the conditions. Where an inmate is held in segregation for a prolonged or indefinite period, due process requires that the situation be reviewed periodically, meaningfully and by relevant standards. The decision as to administrative segregation should be made by or under the supervision of the warden. Kelly v. Brewer, 525 F.2d 394 (8th Cir. 1975).

Over 30 days in solitary found unconstitutional in poor conditions in Arkansas, Hutto v. Finney.

- a. Inmates are entitled to due process procedures (notices, hearings, etc.) before being placed in segregation.
- b. The segregation must be justified on the basis of one of the following:
 - (1) Security reasons
 - (a) Personal or
 - (b) Facility
 - (2) Protection of the inmate population
 - (3) Health reasons
 - (4) Prevent escape
 - (5) Punishment

- c. The cell cannot be completely devoid of facilities; i.e., bunk, toilet, etc. Prisoners in solitary confinement may not be deprived of the basic necessities, including heat, light, ventilation, sanitation, clothes and an adequate diet. Finney v. Arkansas Board of Corrections, 505 F.2d 194 (8th Cir. 1974).
- d. The inmate may have reduced rations, but the jail administrator must be able to document that the inmate is receiving a balanced diet (most courts have held 2500 calories as a minimum daily intake.)
- e. Inmates in isolation must be afforded regular opportunities to exercise. Pugh v. Locke, supra.; Laaman v. Helgemoe, supra.
- f. The inmate is still entitled to mail privileges. Emphasis is added concerning court-related mail.
- g. The inmate is entitled to equal protection procedures. The U.S. Supreme Court has said, "Segregation is, of course, one of the most serious punishments an inmate may face."
- h. The inmate is still entitled to medical and health care.
- i. The inmate may be placed in segregation for discipline (punishment) but the stay cannot be excessive and the placement must be preceded by a due process hearing. A punishment segregation has all of the safeguards listed above; i.e., inmate cannot be

unreasonably denied mail or meal privileges, cell cannot be devoid of facilities, etc.

2. The importance of the jail/prison administrator having written procedures for placing an inmate in segregation cannot be overstressed. Virtually all courts have stated the "absence of records is too much of an opportunity for abuse of discretion."
3. A jail administrator or jail staff member having charge of an inmate may use only such means as are necessary to control inmate behavior. If an inmate confined in any jail is disorderly or wilfully destroys jail property, the jail administrator may cause the inmate to be secured or kept in solitary confinement.

I. Summary

1. "Reasonableness under the circumstances" is the key phrase in inmate discipline. Any discipline cannot be disproportionate to the offense committed, nor can it be of such nature to shock the conscience of a modern society. The courts will examine "applied force" situations in light of the doctrine "the least restrictive alternative available" (could any less force accomplish the objective).
2. The presumption of law is with the jail administrator, and his acts or acts of his personnel are presumed reasonable unless "reasonable people could not differ that their actions were gross" (clear as a matter of law concept), which shifts the burden of proof to jailer/jail administrator to prove their actions were reasonable.

3. All major cases of discipline such as segregation should be preceded by a due process hearing unless emergency circumstances exist.

PART SIX: THE EIGHTH AND FOURTEENTH AMENDMENTS¹

I. Constitution:

A. "...Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted."

B. Fourteenth Amendment:

Section 1. "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Fourteenth Amendment is cited here due to the Bell v. Wolfish decision on pretrial detainees. Even though we are discussing Eighth Amendment issues, for pretrial detainees it is the Fourteenth Amendment through which the rights develop and relief is sought. See Bell v. Wolfish, supra.

C. Applicable to States

The United States Supreme Court has ruled that the Eighth Amendment's ban on cruel and unusual punishment is obligatory on the states through the Fourteenth Amendment, Robinson v. California, 370 U.S. 660, 82 S.Ct. 1417, 8 L.Ed.2d 758 (1972).

D. What is cruel and unusual punishment?

Cruel and unusual punishment prohibition of the Eighth Amendment applies to county jails as well as other institutions.

"Convicted prisoners are protected by the Eighth Amendment to the United States Constitution which prohibits the imposition of cruel and unusual punishment. Like most constitutional declarations, the exact meaning of 'cruel and unusual punishment' is somewhat elusive. Consequently, we

look to the broad principle underlying the constitutional terms."

The basic concept underlying the Eighth Amendment is nothing less than the dignity of man... The words of the amendment are not precise... Their scope is not static. The amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society..." The amendment prohibits penalties that transgress today's "broad and idealistic concept of dignity, civilized standards, humanity, and decency." Campbell v. Cauthron, 623 F.2d 503 (8th Cir. 1980); Hutto v. Finney, 437 U.S. 678, 685 (1978); Trop v. Dulles, 356 U.S. 86 (1958).

- E. An important distinction exists within the Eighth Amendment between pre-trial detainees and post-trial convicted misdemeanants and felons. Since the due process clause prohibits punishment prior to conviction, the constitutional issue rests on determination of whether the conditions of confinement are punitive in nature. This deals, in part, with the intention of detention facility officials; however, courts have held that, even in the absence of expressed punitive intent, "if a restriction or condition is not reasonably related to a legitimate goal - be it arbitrary or purposeless - a court permissibly may infer that a purpose of the governmental action is punishment that may not constitutionally be inflicted upon detainees." Bell v. Wolfish, 441 U.S. 520 (1979); Campbell v. Cauthron, supra.

II. General Principles

- A. The jail administrator has no control over the first two parts of this amendment, bail and fines, but recent U.S. Supreme Court and circuit court

decisions dictate that the third part of this amendment, cruel and unusual punishment, is very applicable to the jail/prison administrator in his/her day-to-day management procedures of the jail/prison facility.

1. The Eighth Amendment proscribes the "unnecessary and wanton infliction of pain." Gregg v. Georgia, 428 U.S. 153, 173 (1976).
2. The Eighth Amendment proscribes more than physically barbarous punishments. Its prohibition extends to penal measures which are incompatible with "the evolving standards of decency that mark the progress of a maturing society." Trop v. Dulles, 356 U.S. 86, 101 (1958). Confinement itself, under certain conditions, may violate the Amendment's prohibition of cruel and unusual punishment.
3. The Eighth Amendment proscription of cruel and unusual punishment "is not limited to specific acts directed at selected individuals, but is equally pertinent to general conditions of confinement that may prevail at a prison," Gates v. Collier, 501 F.2d 1291, 1300-01 (5th Cir. 1974).
4. "Confinement itself within an institution may amount to cruel and unusual punishment prohibited by the Constitution where the confinement is characterized by conditions and practices so bad as to be shocking to the conscience of reasonably civilized people..." Holt v. Sarver, 309 F.Supp. 362 (E.D. Ark. 1970) aff'd 442 F.2d 304 (8th Cir. 1971).

B. Tests

1. In determining whether particular prison conditions are cruel and unusual, the courts have been guided by certain basic tests or standards which have evolved over years in Eighth Amendment litigation. Thus, depending upon the test or combination of tests focused upon by the court, a prison treatment or condition may be held cruel and unusual:
 - a. Because it is of such "inherent cruelty" that no conduct upon the part of inmates can warrant it;
 - b. Because, although perhaps not frowned upon in the past, it is abhorrent to contemporary society;
 - c. Because it is "excessive" either in the sense that it is disproportionate to the infraction of prison rules for which it was imposed or in the sense that it is not justified by legitimate penal purposes or aims (even if a severe prison treatment does to some extent serve a legitimate penal aim, it will not be considered permissible if some less drastic means of achieving that aim exists); and,
 - d. Because it is administered arbitrarily or discriminatorily. Comment Note - Prison Conditions Amounting to Cruel and Unusual Punishment, 51 A.L.R.3d 111 (1973).

C. Areas of Concern

1. Five major areas in jail/prison administration will be examined by the courts for violations of

cruel and unusual punishment.
Those areas are:

- a. Health care
- b. Diet and exercise
- c. Discipline
- d. Protection of inmates from violence
- e. The facility and its physical condition

III. Health Care

A. Right to Medical Care

For some years now, the federal courts have ruled that inmates have a basic Constitutional right to "adequate medical and health care." Failure to provide such care entitles the inmate to file a legal action against the facility and its administrator. This concept was upheld by the U.S. Supreme Court as late as 1976 in Estelle v. Gamble, 97 S.Ct. 285 (1976).

1. "[The] principles [behind the guarantee against cruel and unusual punishment] establish the government's obligation to provide medical [health] care for those whom it is punishing by incarceration. An inmate must rely on prison authorities to treat his medical needs; if authorities fail to do so, those needs will not be met." [Estelle v. Gamble, 1976].
2. The Estelle decision clearly establishes an inmate's "right" to health care but the court left unanswered such questions as "What standard of care is the inmate entitled to?"; "Must every medical need be met?"; "What about elective medical care?", etc.

B. Reasonable and Adequate Under the Circumstances

The question is probably best answered in the decision of Mills v. Oliver, 366 F.Supp. 77 (1973 Va.)
"Under the totality of the circumstances, adequate medical care [must be] administered when and where there is reason to believe it is needed.
In short, there is a Constitutional right to 'reasonable medical care' that is 'adequate under the circumstances.'" Both of these standards are abstract and a review of other cases is needed to understand "reasonable under the circumstances."

C. Standard of Care

1. In Church v. Hegstrom, 416 F.2d 449 (2nd Cir. 1969), the court stated that the failure to provide medical care must be some "barbarous act" or some conduct that shocks the conscience (of a reasonable prudent person).
"Mere negligence in giving or failing to supply medical treatment alone will not suffice."
2. In Martinez v. Mancusi, 443 F.2d 921 (2nd Cir. 1970), the court stated that "deliberate indifference to serious and obvious injuries constitutes gross negligence" that meets the Church standard that "shocks the conscience (of a reasonable person)."
3. In Stakes v. Hurdle, 393 F.Supp. 757 (D. Mo. 1975), the court asserted that the deprivation or inadequacy of "essential" medical care is unreasonable. The court defined essential medical care as: "Whether a physician exercising ordinary skill and judgment would have concluded the symptoms evidenced a serious injury and whether the potential

for harm by reason of delay or denial of medical care was substantial."

D. Denial of Medical Care Violates the Eighth Amendment

1. A deprivation or inadequacy relative to medical care is actionable under the civil rights act if the complaint alleges:
 - a. A deliberate indifference to a prisoner's
 - b. serious medical needs.
2. Deliberate Indifference
 - a. Denial of necessary medical treatment requested by the inmate.
 - b. Where prison officials are cognizant of the urgent need of a prisoner for immediate medical attention and fail to provide it on their own initiative.
 - c. Where prison officials ignore or interfere with medical treatment ordered by a physician, 28 A.L.R. Fed. 269, 290.
3. Serious Medical Need
 - a. One that has been diagnosed by physician as mandating treatment.
 - b. One that is so obvious that even a lay person would easily recognize necessity for doctor's attention.
Laaman v. Helgemoe, 437 F.Supp. 269 (D.N.H. 1977).
4. A prison health care delivery system was held unconstitutional because access to primary care

physicians was denied or substantially delayed by initial screening procedures and inadequate recording. Todaro v. Ward, 431 F.Supp. 1129 (S.D.N.Y. 1977) aff'd 565 F.2d 48 (2nd Cir. 1977).

E. Facilities and Personnel

1. The most critical problem is the shortage of qualified personnel leading to failure to treat or protracted delays in the rendering of treatment. "Certainly, if the infirmity -- lack of attention -- is of constitutional magnitude, then the deficiency which spawns the infirmity -- lack of available personnel, and ill-conceived emergency and referral procedures -- can also be deemed to be of constitutional import." Newman v. Alabama, 349 F.Supp. 278 (M.D. Ala. 1972) aff'd in part 503 F.2d 1320 (5th Cir. 1974) cert. denied, 421 U.S. 928 (1975).
2. "The medical staff and available facilities fail to provide adequate medical care. Inmates have been allowed to perform important medical functions for which they are not qualified. Necessary emergency equipment is lacking, unsanitary conditions prevail in and near the hospital, and inmates with serious contagious diseases are not quarantined." Gates v. Collier, 349 F.Supp. 881 (N.D. Miss. 1972). Additional staff ordered.
3. Medical facilities are totally inadequate (insufficient personnel, equipment, facilities, medical record keeping). Individuals with contagious diseases and the mentally ill are at large in the population. There is not even basic emergency service much less

more complete medical treatment. The district court was ordered to enter a decree with specific requirements and time limits for implementation, Finney v. Arkansas Board of Corrections, 505 F.2d 194 (8th Cir. 1974). Must insure that every inmate in need of medical attention would be seen by qualified physician when necessary.

4. States must treat prisoners' serious medical needs, a constitutional duty obviously requiring outlays for personnel and facilities. Bounds v. Smith, 430 U.S. 817, 825 footnote 12.
5. In a city jail, there was no constitutional need for in-house medical facilities but inmates must be afforded access to such facilities to assure prompt attention to medical needs. Thorough and detailed observation and guidance by unbiased and highly competent medical experts are solely needed. Collins v. Schoonfield, 344 F.Supp. 257 (D. Md. 1972).
6. Doctors must be available on call twenty hours a day to meet the medical needs of prisoners. There must be a daily sick call attended by a licensed physician. Arrangements must be made to meet the needs of prisoners with special medical problems, Jones v. Wittenberg, 330 F. Supp. 707 (N.D. Ohio 1971).
7. Staff shortages render medical services below constitutional muster if the shortage is such that it endangers the health of the inmate population by either lack of medical coverage or by use of unqualified persons to staff the facility. Laaman v.

Helgemoe, supra. at 312, Finney, supra. 505 F.2d at 202-04.

8. Lack of action by a correctional officer can be considered "deliberate indifference" if officer intentionally refused to provide or arrange for treatment. Robinson v. Moreland, 665 F.2d 887 (8th Cir. 1981).
9. Confining a non-violent mentally ill pretrial detainee in a strip cell without clothing, items of personal hygiene, bed or bedding and without out-of-cell recreation for nearly 56 days is punishment and thus, violates due process. The intent to punish and the knowledge of conditions are implied from the facts. Littlefield v. DeLand, 641 F.2d 729 (10th Cir. 1981).

F. Mental Health Care

1. A convicted prisoner is entitled to psychological or psychiatric care for serious mental or emotional illness... There is "no underlying distinction between the right to medical care for physical ills and its psychological or psychiatric counterpart." Bowring v. Godwin, 551 F.2d 44 (4th Cir. 1977).
2. "Failure to provide necessary psychological or psychiatric treatment to inmates with serious mental or emotional disturbances will result in the infliction of pain and suffering just as real would result from the failure to treat serious physical ailments. Thus, the 'deliberate indifference' standard of Estelle v. Gamble is applicable in evaluating the constitutional adequacy of psychological or psychiatric care provided at a jail or prison... We hold that when

inmates with serious mental illnesses are effectively prevented from being diagnosed and treated by qualified professionals, the system of care does not meet the constitutional requirements...." Inmates of Alleghany County Jail v. Pierce, 612 F.2d 754, 763 (3rd Cir. 1979).

3. Prison officials were required to identify those inmates who require mental health care and to make arrangements for the provision of such care whether it be in the facility or elsewhere and were required to hire mental health professionals and support personnel. Pugh v. Locke, 406 F.Supp. 318 (M.D. Ala. 1976).

G. Physical Examination/Intake Screening

1. "An inmate's dependency upon the prison's medical system includes, of necessity, the diagnostic stage of medical treatment. The failure to discover and/or diagnose serious medical problems can lead to the same evils as does the lack of therapeutic attention once an illness or injury is known. If one is to be considered as a shocking failure on the part of the government to fulfill its duty to provide adequate medical care, so must the initial failure of the system to provide for discovery of latent and incubating diseases and medical problems. Furthermore, the systematic absence of complete routine physical examinations, blood tests, syphilis tests, and other ordinary preventative medical measures can endanger the entire prison community." Laaman v. Helgemoe, supra. at 312.

See Garcia v. Lloyd.

2. Prisoners must be given a reasonable medical exam and access to regular sick call. Collins, supra.
3. A reasonable medical exam must be given to each entering prisoner. Jones, supra.
4. Inmates remaining over seven days must be given a physical examination. Inmates of Suffolk County Jail v. Eisenstadt, 360 F.Supp. 676 (D. Mass. 1973).
5. All pretrial detainees must be given a pre-detention physical examination. Ahrens v. Thomas, 434 F.Supp. 873 (W.D. Mo. 1977) aff'd 570 F.2d 286 (8th Cir. 1978).

H. Summary of Prisoners' Health Care Rights

1. Inmates of jails/prisons have a constitutional right under the Eighth Amendment and the Civil Rights Act to reasonable medical care. The courts, including the U.S. Supreme Court, have defined what violates the "entitled to reasonable health care" standard in threefold definition:
 - a. If the lack of health care is of such "deliberate indifference" to "shock the conscience of the court;"
 - b. If the treatment of the prisoner is "grossly negligent" or constitutes some "barbarous act;" and,
 - c. "If the deprivation of care would, in the judgment of a physician exercising ordinary care and judgment, seriously endanger the prisoner's well being."

2. These negative definitions are helpful. From them, it can be determined that jail/prison officials are not required to provide "perfect or superior" medical care to inmates, but only that care that is reasonably designed to meet routine and emergency health care needs of the facility. (Battle v. Anderson, 1974).
3. The courts have essentially used these same standards in relating to the adequacy of facilities and physicians' competence (Seward v. Hutto, 525 F.2d 1024 8th Cir.), sanitation and overcrowding (Newman v. Alabama, 503 F.2d 1320, 1975), and specialized treatment (Mosby v. O'Brien, 414 F.Supp. 36 Mo. 1976). Mere negligence or less than "ideal" circumstances do not constitute a cause for action under either the Federal Civil Rights Act, the Eighth Amendment's prohibition against cruel and unusual punishment, or a regular tort action.
4. The negligence must be "gross" or "shocking," but if the level of medical care is gross or shocking, jail/prison administrators cannot use economic considerations as a defense in court, i.e., "We don't have the money to provide reasonable care." Newman v. Alabama, 1975.
5. Again, economic considerations do not constitute a valid defense. Supreme Court Justice Blackman said, "Humane considerations and constitutional requirements are not, in this day, to be measured or limited by dollar considerations." Everything said about inmates applies to an even greater degree to the unconvicted pretrial detainee.

IV. Diet and Exercise

A. Diet

1. A bread and water diet is inconsistent with minimum standards of respect for human dignity and violates the Eighth Amendment. Landman v. Royster, 333 F.Supp. 621, 647 (E.D. Va. 1971), Jackson v. Bishop, 404 F.2d 571 (8th Cir. 1969).
2. Depriving a prisoner of basic necessities such as adequate food is cruel and unusual punishment. Finney v. Arkansas Board of Corrections, 505 F.2d 194 (8th Cir. 1974).
3. Every prisoner is to be served three wholesome and nutritious meals per day, served with proper utensils and prepared under the supervision of a dietician with a bachelor's degree or its equivalent. The Board of Corrections shall employ a registered dietician as a nutrition consultant. Special diets required by individuals for health or religious reasons shall be provided. Pugh v. Locke 406 F.Supp. 318 (M.D. Ala. 1976); Laaman v. Helgemoe, 437 F.Supp. 269 (D.N.H. 1977).

B. Exercise

1. Confinement to cell for periods up to one year without any opportunities for physical exercise, work or education programs violates the Eighth Amendment. All inmates must be afforded reasonable time outside their cells daily for the purpose of exercise or other forms of recreation. When weather permits, the inmates shall be allowed outdoors during at least part of this exercise period. Battle v. Anderson, 376 F.Supp. 402 (E.D. Okla. 1974).

2. Inmates suffer physical deterioration from lack of opportunities for exercise and recreation. Adequate equipment and facilities shall be provided to offer recreational opportunities to every inmate. Pugh v. Locke, 406 F.Supp. 318 (M.D. Ala. 1976).
3. Failure to provide physical exercise for an unreasonable period of time constitutes a threat to the well-being of prisoners which is cruel and unusual punishment. A lack of adequate facilities for exercise poses a similar threat. Prisoners in isolation shall be allowed 30 minutes of physical exercise daily. Laaman v. Helgemoe, supra.
4. Inmates confined to their cell for more than 16 hours a day must be given an opportunity to exercise one hour per day. The determination of the type of exercise equipment and facilities available for this purpose shall be within the discretion of jail officials. They must, however, provide a meaningful opportunity for exercise. Being allowed to walk around a narrow corridor is not sufficient. Campbell v. Cauthron, 623 F.2d 503 (8th Cir. 1980).
5. A review of the court decisions indicates that the length of confinement and conditions of confinement are relevant considerations in determining an inmate's right to exercise and recreation.
6. The importance of recreational programs in jails is underscored by a recent court decision which held that a permanent recreational program was essential to the proper administration of a jail facility and ordered that

each inmate should be provided a minimum of one hour recreation off the tier at least five days a week. The court ordered the construction of the recreation area and that additional security personnel be hired. Franklin v. State of Oregon, State Welfare Division, 662 F.2d 1346 (9th Cir. 1981).

7. Cases requiring outdoor recreation are Ahrens v. Thomas, 434 F.Supp. 872 (W.D. Mo. 1977); Spain v. Procnier, 600 F.2d 187 (CA 9 1979); Dillard v. Pitchess 399 F.Supp. 1225 (C.D. Calif. 1975). But Jones v. Diamond, 495 F.2d 997 (CA 5 1979) did not require outdoor recreation.

V. Discipline

A. Cruel and Unusual Punishment Generally

1. The Eighth Amendment "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society," Trop v. Dulles, supra.
2. Justice Brennan of the U.S. Supreme Court said this of punishment: "Punishment must not...be degrading to the dignity of human beings." Physical abuse is definitely not allowed; any physical restraint must be just that--only restraint. And the standard for that restraint is to be "the least restrictive alternative after a clear and present danger is shown." This concept means that any force applied to an inmate will be examined to see if a danger did exist and if less force would have accomplished the same objective. If physical abuse or excessive force can clearly be shown, the jail administrator as well as his

personnel can be found civilly liable under several different causes of action.

B. Test for Cruel and Unusual Punishment

1. In all cases of inmate discipline three tests will be applied by the courts to determine if "cruel and unusual punishment" has occurred. These three tests are as follows:
 - a. Is the punishment disproportionate to the offense?
 - b. Whether the punishment is of such a nature as to shock the general conscience of a modern society. Example: putting naked inmates in cold, unheated cells.
 - c. Although applied in pursuit of a legitimate penal aim, did the punishment go beyond that necessary to achieve the objective? Weems v. United States, 217 U.S. 349 30 S.Ct. 554, 54 L.Ed. 793 (1910), Landman v. Royster, 333 F.Supp. 621 (D. Va. 1971).
2. The standard again is "the evolving standard of decency in a modern society." Physical abuse in any form will not be tolerated by the courts and such abuse subjects jailer and the jail administrator to severe liability under the Federal Civil Rights Act, civil tort law, and a #1983 action for violation of the prohibition of "cruel and unusual punishment" portion of the Eighth Amendment.
3. Even in emergency situations requiring physical force, the courts will examine the circumstances in light of the doctrine

of "The Least Restrictive Alternative;" that is, "would any less force have been just as effective in accomplishing the legitimate objective of the facility?"

4. It should be stated that the law presumes the jailer/jail administrator acted reasonably in any situation requiring physical force, and until it becomes "clear as a matter of law" (so clear that reasonable people cannot differ over the results) that the negligence or the physical force were gross, the plaintiff (person suing) has the burden to prove negligence or abuse as a matter of law; then the burden of proof shifts and the jailer and the jail administrator now have the burden of proving to the court that their actions under the circumstances were reasonable. There is a saying in legal circles, "He who has the burden, loses the case."

VI. Protection of Inmates from Violence

- A. The U.S. Supreme Court has upheld a jury award of \$25,000 in compensatory damages and \$5,000 in punitive damages against a guard who showed reckless and careless disregard and indifference to inmate's safety by placing a third inmate in the cell where plaintiff was beaten and sexually assaulted by the new cellmate. The guard knew or should have known the third inmate was violent and an assault would take place. Smith v. Wade, 103 S.Ct. 1625 (1983).
- B. The state must assume responsibility for the safekeeping of prisoners. Finney v. Arkansas Board of Corrections, 505 F.2d 194 (8th Cir. 1974). Under the Eighth Amendment, prisoners are entitled to protection from the assaults of other prisoners. Holt v. Sarver, 442 F.2d 304 (8th Cir. 1971).

- C. The state has a duty to provide reasonable protection from constant threat of violence, Pugh v. Locke, 406 F.Supp. 318 (M.D. Ala. 1976); and to provide freedom from assaults or threat of violence, Laaman v. Helgemoe, 437 F.Supp. 269 (D.N.H. 1977).
- D. If inmates are confined in open barracks, the state has a constitutional duty to provide guards. The use of inmate trustees must be limited and under supervision and eventually phased out. Reports that prisoners are frequently assaulted and raped and that no adequate means exist to protect inmates from assaults clearly confirm the district courts' findings of Eighth Amendment violations, Holt, supra.
- E. Inmates are subjected to cruel and unusual punishment by not providing adequate protection against assaults, through failure to classify them and segregate the violent from the non-violent and by use without supervision of incompetent and untrained inmate "trustees" to guard other inmates. Gates v. Collier, 349 F.Supp. 881 (N.D. Miss. 1972) aff'd 501 F.2d 1291 (5th Cir. 1974).
- F. "The number of guards necessary to assure a constitutional level of inmate safety must bear some reasonable relationship to the total number of inmates." The evidence for the proper staff-inmate ratio may be provided by examining the kinds of facilities, their capacities and purposes, and the number of guards required for security in each. The court upheld the order requiring the presence of two guards in open dormitories at all times. Williams v. Edwards, 547 F.2d 1206 (5th Cir. 1977).

G. State law requires that:

1. SDCL 24-11-13 and 24-11-23 specify the responsibility of the Sheriff and governing body with respect to the supervision of the jail.
2. Sheriff has duty to use reasonable care and prudence for safety and protection of prison inmates and while he is not insurer of safety of prisoners, he has duty to protect them from injury which he should have reasonably foreseen or anticipated. Blakey v. Boos/SD.

VII. The Facility/Physical ConditionsA. Specific Conditions Found Wanting

Recently, more and more facilities are being successfully sued as violating the Eighth Amendment. The circuit courts and the U.S. Supreme Court have applied the three tests of cruel and unusual punishment (mentioned in the preceding section on discipline) and have found the following to be a violation of the Eighth Amendment:

1. Small, dark, unventilated cells without toilets
2. Gross unsanitary conditions
3. Gross overcrowding
4. Insects and vermin in cells
5. No medical/health care facilities
6. Unheated cells in cold climates

B. Fire Safety

Courts have required jails to install modern fire equipment and take modern fire safety precautions. See Watson v. Ray, S.Dist.Ia. 78-106-1 (March 2, 1981):

1. no styrene butadiene mattresses nor polyurethane

NFPA Life Safety Code required in Ramos v. Lamm, supra.

2. electrical wiring to 1981
National Code standards
3. fire extinguishers installed and
maintained
4. no padlocks on any occupied cells
5. use of personal padlock by inmate
only when occupied
6. two fire exits per building and
range
7. smoke exhaust ventilation equip-
ment

C. Shift in Liability

A facility itself may violate the Eighth Amendment, although there is little a jail administrator can do about the problem, but proper notification to commissioners can shift liability. A facility cannot be grossly overcrowded or unsanitary. Cells must be heated, with reasonable bunk and toilet facilities. Last, pretrial detainees are entitled to greater safeguards than convicted prisoners.

D. Totality of Circumstances

"Modern courts have increasingly acknowledged that the concept of cruel and unusual punishment is not limited to situations in which a particular inmate is subjected to punishment directed toward him as an individual, it is often being said that confinement within an institution where offensive practices and conditions generally prevail can itself expose the inmate to cruel and unusual punishment, even though he has never been subjected to specific disciplinary action. More and more, the judicial approach has been to consider cruel and unusual punishment claims in light of the totality of the circumstances surrounding life

within a penal institution. In furtherance of this approach, many courts have focused their attention not upon the question of whether several prison conditions individually inflict cruel and unusual punishment, but upon the broader question of whether cruel and unusual punishment attends the overall confinement of inmates within an institution where such conditions, taken together, exist.... A proscription against cruel and unusual punishment can be violated by the cumulative effect of several prison conditions which considered independently might or might not approach the requisite severity." 51 A.L.R.3d 111, 207 (1973).

A federal court jury has awarded \$1,000 each to the pretrial detainees housed in the Worcester County Jail since 1977. Convicted inmates who served time will each receive \$500. An estimated 2,000 inmates will be eligible to receive damages. The award is the result of a totality of conditions suit (poor housing conditions and the lack of disciplinary procedures). Walker v. Worcester Co. Jail (D. Md. 1981).

E. Space/Overcrowding

1. The issue of space requirements for prisoners and overcrowding has been the subject of many court decisions which have ordered reductions in prison population and increases in inmate square footage from 50 square feet to 80 square feet per prisoner. See Gates v. Collier, supra; Pugh v. Locke, supra.; Battle v. Anderson, supra.; Laaman v. Helgemoe, supra.; and Palmigiano v. Garraty, supra.
2. The question of whether a prison is overcrowded to the point of unconstitutionality involves more

than determining how many square feet of living space are allocated to individual inmates. Regard must be had to the quality of the living quarters and to the length of time which inmates must spend in their living quarters each day..." Finney v. Hutto, 410 F.Supp. 251, 254 (E.D. Ark. 1976) aff'd 548 F.2d 740 (8th Cir. 1976). The length of incarceration also is a consideration, Bell v. Wolfish, supra.

Keep in mind this Ohio State prison was very modern with numerous inmate programs and activities.

3. There is no evidence that double bunking under these circumstances either inflicts unnecessary or wanton pain or is grossly disproportionate to the severity of crimes warranting imprisonment. The Constitution does not mandate comfortable prisons, and prisons of the Southern Ohio Correctional type, which house persons convicted of serious crimes, cannot be free of discomfort. Rhodes v. Chapman, U.S. Supreme Ct. 49, U.S.L.W. 4677 (1981).
4. The determination of space needs is made by the courts on a case-by-case basis.
 - a. The 8th Circuit Court has ruled that it is unconstitutional to hold two inmates in 47 sq. ft. and three inmates in 65 sq. ft. cells and advised the district court to reevaluate double celling in 65 sq. ft. cells, suggesting that double-celling be eliminated. Burks v. Teasdale, 604 F.2d 59 (8th Cir. 1979) aff'd Burks v. Walsh, 461 F.Supp. 454 (W.D. Mo. 1978).
 - b. "[S]ix inmates, who are released from their cells for eight hours per day or more may be housed in the 130 to

154 sq. ft. cells... [C]omparable space requirements shall apply to such inmates housed in larger or smaller cells and the number of bunks shall not exceed the maximum number of inmates permitted. Campbell v. Cauthron, 623 F.2d 503 (8th Cir. 1980).

5. The test for space needs for pre-trial detainees was enunciated by the Supreme Court:

"[C]onfining a given number of people in a given amount of space in such a manner as to cause them to endure genuine privations and hardship over an extended period of time might raise serious questions under the due process clause as to whether those conditions amount to punishment..." Bell v. Wolfish, supra., 441 U.S. at 542, 99 S.Ct. at 1875.

VIII. Classification

A. No Constitutional Right to Classification, per se

1. To date, the courts have not determined that there exists a constitutional right to a classification system. However, several courts have ordered the establishment of a classification system as a remedy to eradicate abuses that were themselves unconstitutional, in particular to assure safety of prisoners.
 - a. The 5th Circuit affirmed the establishment of a classification system noting the state's duty to provide protection against assaults and its failure to classify inmates according to the severity of their offense. Gates v. Collier, 347 F.Supp. 881

- (N.D. Miss. 1972) aff'd 501 F.2d 1291 (5th Cir. 1974).
- b. Classification is essential to an orderly and safe prison. Palmigiano v. Garrahy, 443 F.Supp. 956, 965 (D.R.I. 1977).
 - c. Adequate classification is needed for officials to fulfill their duty to diagnose and treat inmates' medical and psychological needs and to protect them from assaults. Laaman v. Helgemoe, 437 F.Supp. 269 (D.N.H. 1977).
 - d. The classification process's failure to function results in the unnecessary debilitation of the inmates in violation of their constitutional rights. Trigg v. Blanton, No. A-6047 (Davidson Co., Tenn. Chancery Ct. August 23, 1978).
 - e. Officials must establish classification system which will make it possible to determine which inmates require maximum security confinement, to separate violent from non-violent prisoners. Campbell v. McGruder, 580 F.2d 521 (D.C. Cir. 1978).
 - f. Racially discriminatory classification is prohibited. Gates v. Collier, supra.
2. Where a classification system exists, classification decisions cannot be arbitrary, irrational, or discriminatory, Laaman v. Helgemoe, 437 F.Supp. 269 (D.N.H. 1977); Washington v. Lee, 263 F.Supp. 327 (M.D. Ala. 1966), aff'd mem. sub. mon., Lee v. Washington, 390 U.S. 333, 88

S.Ct. 994, 19 L.Ed.2d 1212
(1968).

3. The transfer of an inmate to segregation for non-punitive reasons does not require procedural due process. St. Louis County Jail, Cummins v. Roberts, 628 F.2d 1065 (8th Cir. 1980).

Only an informal, non-adversary review is required. Hewitt v. Helms, 103 S.Ct. 864 (1983).

IX. Rehabilitation

A. Right to Rehabilitation

1. State law does not require the governing body of each jail to formulate a plan whereby the resources of the community are utilized to provide inmates with available educational, vocational, counseling and work release opportunities. Each jail administrator should, if possible, provide opportunities for access to available religious, mental health, alcoholism and addiction counseling by inmates desirous of such counseling.
2. The 8th Circuit has indicated that the lack of rehabilitation programs could, in the face of other conditions, be violative of the Eighth Amendment. Finney v. Arkansas Board of Corrections, 505 F.2d 194 (8th Cir. 1974).
3. "In Jackson v. Indiana, 406 U.S. 715, 738, 92 S.Ct. 1845, 32 L.Ed. 2d 435 (1972), Mr. Justice Blackman stated: At the least, due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed." *Id.* at 738, 92 S.Ct. at 1858. The Supreme Court has recognized rehabilitation as one of the ends of correctional confinement. See, e.g., Procunier v. Martinez, 416 U.S. 396, 412-413, 94 S.Ct. 1800,

1811, 40 L.Ed.2d 224 (1974)."
Finney, supra. at 208.

4. Absence of rehabilitation programs constitutes a constitutional failure, Palmigiano v. Garrahy, 443 F.Supp. 956 (D.R.I. 1977).
5. An inmate's right to a particular classification or work assignment is not controlled by federal law but will be determined by state standards, law and guidelines. Peck v. Huff, 660 F.2d 371 (8th Cir. 1981) (So. Dak. State Prison).
6. In the absence of grievously debilitating prison conditions, failure to provide vocational and educational training does not violate the Constitution. Likewise, the diminution of the educational opportunities available to such prisoners is not a deprivation as to constitute punishment under the Eighth Amendment. Peck v. South Dakota Penitentiary Employees, 332 N.W.2d (Supreme Court of So. Dak. 1983).

B. Required Attendance

1. Where rehabilitative programs, including work programs, exist, jail officials may mandate attendance. Jackson v. McLemore, 523 F.2d 838 (8th Cir. 1975).
2. Refusal by a prisoner to participate may properly result in disciplinary action. Jackson, supra.

PART SEVEN: THE FOURTEENTH AMENDMENTI. The ConstitutionA. General Provisions

Amendment XIV: Section 1. "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law."

B. Applicable to States

The Fourteenth Amendment makes all of the other amendments applicable to the states. Section I has three major provisions that are applicable to jail administrators.

1. No state may enforce any law which shall abridge the privileges or immunities of citizens of the United States.
2. No state shall deprive a person of life, liberty or property without due process (mentioned under due process).
3. Nor deny any person equal protection (mentioned previously).

II. The Status of Pretrial DetaineesA. Retention of Express Constitutional Guarantees

Pretrial detainees also retain the express guarantees of the Constitution found in the First, Fourth, Fifth, and Sixth Amendments which have been discussed previously.

B. Right to Be Free From Punishment

In addition to any of the express guarantees of the Constitution is the pretrial detainee's right to be free from punishment. "In evaluating the constitutionality of conditions or restrictions of pretrial detention that implicate only the protection against deprivation of liberty without due process of law, we think that the proper inquiry is whether those conditions amount to punishment of the detainee. For under the due process clause, a detainee may not be punished prior to an adjudication of guilt in accordance with due process of law. A person lawfully committed to pretrial detention has not been adjudged guilty of any crime." Bell v. Wolfish, 441 U.S. 520, 99 S.Ct. 1861, 60 L.Ed.2d 447 (1979).

C. Restrictions Inherent in Confinement

Not every disability imposed during pretrial detention amounts to "punishment" in the constitutional sense, however. Once the Government has exercised its conceded authority to detain a person pending trial, it obviously is entitled to employ devices that are calculated to effectuate this detention....

1. ...For example, the Government must be able to take steps to maintain security and order at the institution and make certain no weapons or illicit drugs reach detainees...
2. ...In addition to ensuring the detainee's presence at trial, the effective management of the detention facility once the individual is confined is a valid objective that may justify imposition of conditions and restrictions of pretrial detention and dispel any inference

that such restrictions are intended as punishment." Bell, supra.

D. What Is Punishment?

If a particular condition or restriction of pretrial detention is reasonably related to a legitimate governmental objective, it does not without more (i.e., it is not an excessive response) amount to punishment. Conversely, if a restriction or condition is not reasonably related to a legitimate goal - if it is arbitrary or purposeless - a court permissibly may infer that the purpose of the governmental action is punishment that may not constitutionally be inflicted upon detainees qua (because they are) detainees. Bell, supra.

E. Least Restrictive Means for Detainees

The "why" of jail rules and restrictions becomes critical in determining whether they may be appropriately applied to pretrial detention. In addition, jail administrators must ensure that the "least restrictive means" is used in the rule's application to pretrial detainees. The bottom line is that pretrial detainees are entitled to greater freedom and more rights than are convicted prisoners. A review of jail population statistics show that at least 80 percent of the jail's population is pretrial detainees. Therefore, it is important for jail administrators to carefully review the intent and purpose of their policies and procedures.

III. Discipline Due Process Requirements

A. Major Rule Violation

The Supreme Court noted in its Wolff v. McDonnell decision that prisoners who violated major prison rules which could result in serious punishment

including loss of good time, solitary confinement, or loss of privileges for an extended period of time were entitled to due process hearing.

B. Due Process Elements

Due process requires not only that prisoners have prior notice of what behavior is prohibited but also that when a rule is violated, they be given:

1. notice of the charge
2. time to prepare a response
3. an impartial hearing
4. right to call witnesses
5. written findings of fact.

C. Segregation for Safety Purposes

If, however, the intent of segregation is to ensure the safety of the prisoner not punishment, then due process requirements are not applicable. Cummings v. Roberts, No. 79-2077 (8th Cir., August 1980).

D. Adverse Inference from Silence

Permitting an adverse inference to be drawn from an inmate's silence at his disciplinary hearing is not, on its face, an invalid practice. Baxter v. Palmigiano, 425 U.S. 308, 96 S.Ct. 1551, 47 L.Ed.2d 810 (1976).

PART EIGHT: SUMMARY OF CONSTITUTIONAL RIGHTS

I. Constitutional Rights Retained by Prisoners

- A. Right to exercise one's religion
- B. Right to freedom of speech and communication
- C. Right of access to the press
- D. Right to petition the Government for redress of grievance
- E. Right to be protected against unreasonable searches
- F. Right to access to courts and attorneys
- G. Right to know the charges against oneself
- H. Right to be free from cruel and unusual punishment
- I. Right to due process
- J. Right to equal protection of the laws, rules or regulations
- K. Right to be free from discriminatory practices

RIGHTS OF JUVENILESI. Rights GenerallyA. Constitutional Rights

All the rights retained by adult prisoners which were reviewed in the previous section are also retained by juveniles. For example, the right to exercise one's religion, send and receive mail, to be free from unreasonable searches and due process rights prior to discipline for major rule violation--all apply equally to juveniles.

B. Rights Granted Under State Law

The law makes no distinction between the age or sex of prisoners in granting rights to mail, telephone use, and visitors (for example).

C. Restrictions

Just as a jail administrator may restrict or regulate the rights of adult prisoners based upon legitimate governmental interests of security, order and rehabilitation, so too may the rights of juveniles be restricted. However, the jail administrator must carefully consider the wisdom of applying any restrictions not reasonably related to security or order. For example, a jail rule which prohibits visits to detained juveniles by friends is not related to security but rather is based on some belief that the jailer may act as a parent in regulating social contacts. Such a rule and its justification is spurious at best and goes beyond the legitimate exercise of authority granted to the administrator by state law. The "why" of regulations applied only to juveniles needs careful consideration.

II. Procedural Rights Retained by State Law

A. Reasons for Detention

A child taken into custody shall not be detained prior to the hearing on the petition unless his detention is required to:

1. protect the person or property of others or of the child; or,
2. because the child may abscond or be removed from the jurisdiction of the court; or,
3. because he has no parent, guardian, or custodian or other person able to provide supervision and care for him; or,
4. an order for his detention has been made by the court. N.D.C.C. 27-20-13.

B. Taking Into Custody Runaways

A child may be taken into custody by a law enforcement officer or a juvenile supervisor or by order of the juvenile supervisor, if there are reasonable grounds to believe that the child has run away from his parents, guardian, or other custodian. An order of the juvenile supervisor made pursuant to this subsection shall be reduced to writing within 24 hours of its issuance. N.D.C.C. 27-20-13.

C. Detention Authorization Required

A child may be detained in a jail only if:

1. a detention home for juveniles which is under the supervision of the court is not available; and
2. the detention is in a room separate and removed from those for adults; and

3. it is ordered by the juvenile supervisor or court. N.D.C.C. 27-20-16.

III. Juvenile Detention Standards

A review of juvenile detention standards promulated by the Office of the Attorney General should be inserted for discussion.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE

Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Medical Screening and Administration
of Medications

AUTHOR: Brenton D. Higdem, R.N.
BSN, BSE, HREMT/ECT
Route 1, Shamrock Acres III
Bismarck, ND 58501

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: Eight (8) Hours

TRAINING OBJECTIVES:

Illness or injuries in the correctional situation can cause stress and undue pressures in the correctional setting. The objectives for the participants in this class are:

1. To provide the trainees with the list of 14 types of illnesses or injuries for which a medical clearance should be obtained before admission to a correctional facility.
2. To identify the 8 benefits of doing medical screening and value to the trainees.
3. To provide information to the trainee to enable them to recognize signs and symptoms of ill health, as well as wellness, and to explain how to handle that person.
4. To provide a systematic method in order to verify medications brought into a correctional institution.
5. To identify 6 basic medical orders that a correctional officer might be asked to follow and provide the information and guidance to carry out those orders.
6. To provide situations where the trainee will be able to view ill or injured individuals and allow the trainee to utilize the knowledge acquired in this lesson.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

1. TM 8-230, Army Medical Department Handbook of Basic Nursing, November 1970, Chapter 4, pp. 4-12 through 4-13
2. Revised student manual, "Training of Jailers in Receiving Screening and Health Education", AMA, revised July 1980, NDMA
3. Emergency Care and Transportation of the Sick and Injured, AAOS, Second Edition, 1977. Chapters 26, 27, 29, 30, 31, 32, 33, 34, 35, 38 and 39
4. "Recognition of Abnormal Behavior", Six Medical Screening Case Studies, Video-cassette, 3/4", Georgia Medical Association, Jail Health Care Project, Atlanta, Georgia
5. "Booking and Admitting Inmates", Slide/Tape presentation, National Sheriffs' Association, Washington, DC
6. Nursing 83 Books, Diseases, Intermed Communications, Inc., Springhouse, Pennsylvania, 1983

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 30th Street, Suite 130
Boulder, Colorado 80301
Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise(s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

LESSON PLAN CONTINUATION SHEET

Continues Page 3

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

7. Stanhope, Marcia, Lancaster, Jeanette, Community Health Nursing, Process and Practice for Promoting Health, C.V. Mosby Co., St. Louis, Toronto, Princeton, 1984
8. Burgess, Ann Wolbert, Psychiatric Nursing in the Hospital and the Community, Englewood Cliffs, New Hersey, 1981
9. New York State Sheriff's Association Institute, Inc., Suicide Prevention in Correctional Facilities, New York, NY
10. Heartview Foundation, Intake Assessment, Mandan, ND
11. Hafen, Brent O., Peterson, Brenda, Preventing Adolescent Suicide, Nursing 83, October
12. National Institute on Drug Abuse, Are You a Drug Quiz Whiz?, Washington, DC, 1983

TRAINING AIDS:

Supplies and Equipment

- Video Projection Screen
- 16 mm. Projector With Spare Lamp
- 16 mm. Film: _____
- Discussion Guide
- Overhead Projector
- Appropriate Transparencies
- Slide Projector
- Slides
- Video Monitor, Player/Recorder
- Video Cassette: Receiving Screening for Jail Prisoners
- Cassette Player, Audio
- Audio Cassette: National Sheriffs' Association: Booking and Admitting Inmates
- Flip Chart and Markers
- Masking Tape
- Chalkboard, Chalk, Eraser
- Trainee Worksheets
- Trainee Handouts
- Pre- and Post-Tests
- Trainee Course Evaluation
- Trainee Instructor Evaluation
- Physician's Desk Reference (One for each two trainees)
- _____
- _____
- _____
- _____

I. Topic Introduction and Scope of Presentation — MEDICAL SCREENING AND ADMINISTRATION OF MEDICATIONS

- A. Injuries and illness are a part of life that must be attended to in the correctional setting. The correctional officer must decide, prior to admission of an individual to the facility, if the individual has a condition that warrants medical attention. Disposition of the individual will then follow.
- B. The booking officer's basic decision is to admit or not admit. Factors that must be considered are:
1. The jail is not a medical facility and cannot be expected to care for the ill or injured person as a medical facility would.
 2. Once the person is accepted into the jail, the person must be provided for, with all the related costs.
 3. Some individuals need to be seen by a medical professional, prior to admission, in order for a plan of treatment and a proper disposition to be developed.
- C. Medical screening and clearance is a system that correctional officers will utilize that will enable them to place the prisoner in the proper classification as well as jail dispositions. This will avoid undue facility expense and harm to the prisoner and other prisoners as well. There are many benefits of doing medical screening. However, they must not be overlooked simply to facilitate the arresting officer's attitude on caseload.

Instructor introduction by the coordinator, department administrator or self, if appropriate.

Explain instructor's qualifications relevant to this topical area.

Administer Pre-Test.

Topic introduction should include the rationale for the topic being presented.

II. Performance Objectives

Transparency #1

After completion of this lesson, the trainees should be able to:

- A. List the first decision an officer should make regarding the health care of a prisoner.
- B. State two general reasons why a prisoner should be refused admission to a jail.
- C. List 10 of the 14 health conditions that would cause an officer to refuse to accept a prisoner.
- D. List 8 values and benefits for the jail to do receiving screening.
- E. Identify the two skills necessary to do effective receiving screening.
- F. List methods in taking medications.
- G. Identify the method used to verify a medication.

III. Definitions

- A. Medical Clearance: a written notice from a physician, or designate, that a person was examined and, in their judgement, the person is medically fit to be placed in the correctional facility.
- B. Receiving Screening: a system of an orderly observation and interview in order to assess a person's health status.
- C. Sign: something that can be seen about an individual's health.
- D. Symptoms: something that the individual tells you about their health status.

IV. Legal Considerations

- A. Legal considerations in respect to this topic within a correctional setting are:
 - 1. Section 12-44.1-14 (1 through 7) place the responsibility for supervision and safekeeping of all persons confined with the

correctional officer within the written policies and procedures.

2. Section 12-44.1-14 (6) of the North Dakota Century Code places the responsibility for medical care with the jail administration and, through written policies and procedures, with correctional officers.

- B. Only if proper supervision and medical care are maintained, utilizing policies and procedures, can litigation be avoided following the admission and incarceration of an individual.

V. Correctional Officer Responsibility

- A. The correctional officer has the responsibility to maintain:
 1. Custody
 2. Control
 3. Care of individuals incarcerated
- B. An ongoing knowledge of illnesses and injuries to include the forms of treatment as well as written policies and procedures for the prevention of further illness or injury in the correctional setting.

VI. Historical Perspective

- A. Historically, very few citizens take notice or get too concerned about the jail and the people in it. But, jails have a very important role to play in our society.
 1. How a person was treated in a city or county jail regardless of the offense may have a bearing on how that person will react in the future.
 2. The jail can and does serve as the initial contact a person may have with an organized segment of society that may help that person with alcohol and drug problems, mental illness

and infectious diseases.

3. There has been interest generated recently and more people are beginning to see the need for attention to be drawn to jails
 4. Clearly, one area of jail operations that is in need of attention is medical and health services.
- B. There are a number of things that can be done to deal with this problem. This course is geared to help you do your part in this effort.

The issues of concern are:

1. Humanitarian. A person placed in a county or city jail, regardless of the offense, is a human being. By virtue of his/her being placed in jail, that person loses the ability to access medical care on their own. You as a correctional officer must assess, at the time of booking, that person's health status. This will permit you to determine whether or not to refer that person for medical care before booking and what to be aware of after being placed in the jail.
2. Safety. Inmates in a jail setting are in close contact with staff as well as other inmates. Conditions are ideal for the transmission of disease and there is also a concern for physical injury with mentally unstable persons.
3. Legal. Inmates in correctional facilities must be afforded access to adequate health care and any indifference to the health needs of inmates can be interpreted by the courts as "cruel and unusual punishment."

Show slide/tape on booking and admitting.

(Optional - available from National Sheriffs' Association)

4. In this lesson, we are going to look at the responsibilities that the jail assumes for the health and well-being of individuals brought to the jail. At the moment that a person is booked into the jail, the jail becomes legally and morally liable for that person's care. The jail then must provide for health care.

As a correctional officer, you need to fully understand your responsibility in assuring that the health of any person placed in the jail is not jeopardized.

Throughout this lesson, as well as the entire 40-hour course, it will be stressed that the jail develop a system approach in all that is done in jail. This calls for jails to have sound policies and procedures in handling the variety of situations that might occur in the jail. The jail should have policies and procedures that guide the jail staff's decisions in determining how health and medical care should be handled.

The overall goal of this lesson is to help you become more of the professional that you are. You have a demanding job, one that many people know very little about, but one that involves a good deal of responsibility.

Upon completion of this lesson, you should know:

- a. Why it is important to refuse to admit certain persons into the jail.
- b. What medical clearance means.

Show Transparency #2

Note: Hopefully this lesson will encourage a systematic approach to health care.

WARNING: Stress that students will not be EMTs or PAs but only more aware of recognizing signs and symptoms of health problems.

- c. What medical screening is and why it is important to do it correctly.
- d. What health conditions warrant being seen by a medical person before admission.
- e. How to look for signs and symptoms of ill health.
- f. How to handle medications.
- g. The importance of following medical orders.

5. Booking Officer's Basic Decision

Before any person is booked into the jail, a brief health assessment must be performed. The booking officer must be able to make a decision to either refuse or accept a person into the jail. The purpose of this health assessment is done to determine if the person should be placed in the general jail population. There are valid reasons why some persons should be refused to be admitted. A person may have a serious physical injury or a serious physical or mental illness..

Show Transparency #3.

- a. The jail is not a medical facility, and cannot be expected to care for the ill or injured person as a medical facility.
- b. Once the person is accepted into the jail, the jail then must provide for the health care and its related costs.
- c. Some individuals need to be seen by a medical professional so a plan of treatment can be developed.

Show Transparency #4.

VII. Medical Clearance

As indicated before, there are times when an arresting officer will bring an individual to the jail who should not be admitted because of that person's health status. If you have any doubts about that person's health, let an M.D. take the responsibility to decide if the jail is the proper place to house that person. The jail should accept that person only after obtaining a medical clearance, preferably in writing.

What is medical clearance? It is a written notice from the physician that the person was examined and it is his/her judgment that the person is medically fit to be placed in jail. Included on the clearance should be any special orders that direct how the jail should care for that person. It would be wise for the jail to have some agreement with the physician on the specific format that will be used.

Show Transparency #5.

VIII. Health Conditions That Warrant A Clearance

There are specific circumstances that dictate when you should refuse to accept a person until a medical clearance is obtained.

NOTE: Prepare to react to statement that physicians do not like to sign a clearance.

- A. Someone who is unconscious. Only a medical professional can determine the reason why a person is unconscious or what the significance of the condition means.
- B. Someone who is having or recently had a convulsion. Seizures can be caused by epilepsy, severe head injury, infection, overdose, or some other nervous system condition that can lead to coma and possibly death.
- C. Someone who is bleeding and the bleeding cannot be controlled. This is especially true of head injuries.

- D. Someone who is suspected of having internal injuries or internal bleeding.
- E. Someone with obvious broken bones.
- F. Someone with signs of a head injury. With any head injury, the non-medical person must always suspect a spine injury or brain injury.
- G. Someone suspected of a neck or spine injury.
- H. Someone who appears to be in severe pain. This is especially important with pain associated with any deformity of a limb or if the pain is in the chest or abdomen.
- I. Someone who cannot walk under their own power. The only exception might be someone who is intoxicated.
- J. Someone who is going into shock. Shock can be caused by a number of things. Pain, loss of blood, fear, trauma, allergic reaction, heart problems and blood clot are a few.
- K. Someone who is unable to answer any questions asked of him/her. This could be caused by a mental or emotional condition, alcohol or drug reaction, head injury, or some other illness that makes it impossible for the correctional officer to obtain information to react to their needs.
- L. Someone experiencing drug or alcohol overdoses or withdrawal. A person overdosed on alcohol and/or drugs can go into a seizure that can lead to coma and eventually death. This is a judgment and common sense situation. If a person is really acting unusual or reacting violently, then refuse to admit.
- M. Pregnant women who are having problems. If a woman is having cramps, abdominal pain, bleeding or vaginal

discharge, she should not be admitted.

- N. Persons who indicate they are on a medication, but do not have that medication with them. If you cannot obtain the needed medication and the condition being treated is serious, then that person should be seen by a medical professional so the necessary medication or treatment can be received.

Note: The only reason that you should accept persons with the above conditions is when you have no control over the situation. But, ideally, it is when the person has been seen by a medical professional and has been given a medical clearance to be placed in jail.

IX. Medical Screening

Let's look at how you might proceed to identify those signs and symptoms and the procedure you should follow to document what you observe and obtain from a person coming to the jail.

Every jail should use a medical screening form which could look like the sample in your workbook. Medical screening, also known as receiving screening, can be defined as a system of orderly observation and interview of each new inmate in order to assess that person's general medical and health status. It should be done before booking because what information it yields will be the means to determine if that person should be admitted or referred to a physician. The sample form shown starts with a series of observations that the booking officer should make of the person. These observations are marked 'yes' or 'no' with an explanation, if necessary. It is followed by a series of questions asked of the person.

Show Transparency #7.

A. Benefits of doing a medical screening and it is important to be aware of them.

Show Transparency #8.

1. It might uncover conditions that might require rapid medical treatment or evaluation, and in doing so, help to avoid a more serious situation if treatment is delayed.
2. It can also identify on-going conditions such as diabetes, epilepsy, high blood pressure or heart disease. This can alert the jail staff to any special needs of the person.
3. It can also identify those inmates who are taking medications.
4. It becomes a written record of the inmate's medical condition at the time of admission.
5. It is a valuable tool to counter any claims that a condition was ignored. Inmates do have the tendency to claim that they were injured in jail, when in fact the injury may have occurred before admission. The courts look favorably on a good system of records.
6. Medical screening at admission also indicates to the inmates that the jail staff is concerned about their health, which boosts their morale.
7. It also provides a means to note if the person displays signs and symptoms of alcohol or drug abuse and if there are signs and symptoms of withdrawal or overdose.
8. It also provides some insight into the basic emotional or mental status of the person.

Indicate that the M.D. must be the judge of whether or not a person is fit to be in jail, not the correctional officer.

- B. Medical screening will normally be done the same for every person. The booking officer fills out the form and then makes the decision, based on some established procedure, to place the person in the general jail population or some other disposition.

The form we are going to be using is a sample. It is one that a number of jails are using throughout the country but should serve as a guide for you in developing your own. It would be beneficial to ask the physician who works with your jail to assist in the development of your form. Of particular importance, the physician should assist in developing the procedures that you should follow in making dispositions of inmates. The medical screening procedures call for a line of communication between the jail staff and the medical professional.

- C. In doing medical screening, the booking officer needs to have two basic skills. The booking officer must be able to visually assess the person's condition. This means being familiar with signs and symptoms. The booking officer must also be able to interview a person in a manner that would yield answers to health conditions. It also means being able to ask follow-up questions when necessary.

Show Transparency #9.

Hand out receiving screening form and review the format.

- D. As indicated, your job is to recognize signs and symptoms, not diagnose a condition. In fact, most medical people do not appreciate being told by the non-medical person or even the patient what they think is wrong with them.

1. A sign is something that can be seen by the person who is doing the exam. Examples of signs are:

Show Transparency #10.

- o Sweating
- o Pale skin

- o Restlessness
- o Blood-shot eyes
- o Bleeding
- o Deformity
- o A bruise or lump

2. A symptom is something that the person being examined tells you or feels. Example of symptoms are:

- o Feels weak
- o Feels like throwing up
- o Pain
- o Tells you that he/she sees things

E. The knowledge and skill you will acquire in the rest of this lesson will enable you to do your job as it relates to recognizing certain signs and symptoms. It will not make you a physician's assistant or even an emergency medical technician. Again, your job is not to diagnose. but to recognize signs and symptoms.

X. Recognition of Signs and Symptoms

A. Abdominal Pain

Show Transparency #11.

Abdominal pain is a symptom that can be caused by a number of problems. Some reasons a prisoner might have abdominal pain are: they might have an ulcer, either a stomach ulcer or one elsewhere in the digestive system; they might have an inflamed appendix (appendicitis) or internal bleeding, for some reason; they may have an infection in the digestive system or elsewhere in one of the organs in the abdomen. There might be a bowel obstruction causing pain with the passage of digested food or body wastes or, in females, it might be a condition such as a ruptured female organ like the uterus.

As a correctional officer, your concern is to identify signs and symptoms that associate with

abdominal pain. You might observe that the person is vomiting or telling you that he is feeling like vomiting. The person may tell you that he/she experiences cramps and you might observe the person doubling up in pain. Someone who has abdominal pain can very easily have hard, tense abdominal muscles or have a very difficult time breathing. The person will not want to breathe deeply because that increases the pain. If the person has an infection such as appendicitis or gastritis or some other infection, the body reacts to combat the infection and, in doing so, causes the body temperature to rise or to become feverish.

Abdominal pain, as with any severe pain, may cause the person to appear in shock. The person may look pale, be sweating, have cold, clammy skin, become very anxious, and be nauseous --all signs or symptoms of shock.

If the person has any bleeding inside of the abdomen from the internal organs, it might show up in vomit or bowel movement; it might be associated with painful urination and the urine may have blood flecks in it; or there may be bleeding in some degree from the vagina. The severity of the pain does not tell you much; only diagnostic tests can identify the problem.

Anyone who has abdominal pain and shows signs and symptoms that we just covered should be given nothing to eat or drink. The reason is that if they are to have surgery or be examined, it is best to have an empty stomach so they will not irritate the problem or become sick and vomit. Allow the person to get into the most comfortable position, which is usually with the legs drawn up toward the chest; treat for shock and transfer to the emergency room.

Show Transparency #12.

B. Internal Bleeding

Show Transparency #13.

Related to abdominal pain, as we have seen, is internal bleeding. Internal bleeding can be caused by a bleeding ulcer or a ruptured or lacerated liver or spleen. Internal bleeding is usually not visible, but it is quite serious and could cause death. The things you need to look for are: signs of shock--pale color of the skin, weak or rapid pulse, cold, clammy skin, thirst, anxiety, nausea and falling blood pressure.

Other indicators can be bright red blood coughed up or vomited up which might indicate an injured lung or tuberculosis. A tender, painful abdomen that enlarges could be a sign of a liver or spleen injury or rupture. A swelling around the end of a major bone could indicate that a major blood vessel is damaged and there is pooling of blood. Any unusual, non-menstrual bleeding from the vagina, bright red blood in the bowel movement may indicate bleeding occurring or recently occurred in the stomach or intestines. A smokey appearance of the urine could indicate a kidney or bladder infection or injury. Or there could be bright red flecks of blood in the urine.

The disposition of someone suspected of internal bleeding is to test for shock, give nothing to eat or drink, and transfer to the emergency room.

Show Transparency #14.

C. Chest Pain

Show Transparency #15.

In this section, we will deal with problems related to the heart. The first we will consider is chest pain or Angina Pectoris. When the heart is not getting adequate oxygen from the blood, the person with Angina will experience pain in the chest--a pain that radiates to the jaw or arms. It is felt as a sensation of squeezing or pressure. If a person

has been treated for this condition, he/she may have the medication. Normally, nitroglycerine capsules or tablets are prescribed.

Your job would be to see to it that the person has the nitroglycerine medication and places it under the tongue to relieve the pain. If the person does not have any medication or if the medication does not help, get that person to the emergency room. Angina Pectoris indicates that the person has a heart disease.

Show Transparency #16.

D. Heart Attack

Heart attack is a term used to describe a condition that exists where the coronary arteries are blocked so a part of the heart muscles die. It is a very common and a serious condition. The most common symptom of a heart attack is pain in the chest that is described as pressure or crushing. The pain may be long-lasting and cannot be relieved by medication.

Show Transparency #17.

A person suffering from a heart attack may have shortness of breath, show signs of shock, nausea, sweating, bluish color to lips, skin and fingernails. The person can be very anxious and may become unconscious.

You need to be prepared to begin CPR if the person is not breathing and has no pulse. If he is conscious, get him in a comfortable position, reassure him, loosen clothing and let him rest. He must be taken to the emergency room.

Show Transparency #18.

E. Congestive Heart Failure

Another condition to be aware of is congestive heart failure. This condition occurs when the heart does not pump blood efficiently to the body. Fresh blood cannot enter the heart from the lungs, so blood and other

Show Transparency #19.

fluids collect in the lungs, congesting the lungs.

A person experiencing congestive heart failure will show signs of shortness of breath, and if one can't breathe easily, he becomes very anxious. The person will have a rapid pulse, indicating that the heart is trying very hard to do its job. The person also will have a bluish color to the lips and skin and will be sweaty or show other shock-type symptoms.

Someone suspected of congestive heart failure needs to see the physician. All that you can do as a correctional officer is to maintain this person's breathing, treat for shock and transfer to the emergency room.

Show Transparency #20.

F. Stroke

A stroke is caused by a blockage of blood flow to the brain. It usually is a blood clot or a ruptured blood vessel that causes stroke. It is not always a condition of the elderly; it could happen to anyone. Strokes can lead to death, paralysis or loss of bodily functions. Most people who survive a stroke can be rehabilitated with treatment.

Show Transparency #21.

Signs and symptoms of stroke vary, but the common ones are: unconsciousness, weakness or paralysis to one side of the body or face, difficulty with breathing, slurred speech, loss of bladder or bowel control, convulsions and headaches. The amount and severity of conditions depend upon the severity of the stroke.

In all cases of stroke, medical care is required. Call the ambulance, monitor and maintain breathing and pulse, place the person on the paralyzed side to allow saliva to flow out of the mouth, give nothing to eat

Show Transparency #22.

or drink, calm and reassure the person and transfer to the emergency room.

G. Hyperventilation

Show Transparency #23.

A common condition that can occur to anyone who is experiencing a great deal of emotional stress is hyperventilation. Simply, it is breathing in more air than is breathed out. By not expelling air correctly, a person can experience a great deal of anxiety, become dizzy, have numbness or tingling of the hands or feet, have sharp chest pains and a rapid breathing with a high pulse rate.

This person needs to be calmed down and asked to breathe into a paper bag. This will cause less oxygenated air to enter the lungs and balance the oxygen and carbon dioxide in the lungs.

Show Transparency #24.

H. Diabetes

New insulin injector.

Diabetes is an inherited disease. It is a condition in which the body is unable to use sugar normally. All the cells of the body need sugar. The body produces insulin which enables the sugar to pass from the blood to the cells. If there isn't enough insulin, the body cells will not receive enough sugar. That causes cells to die or not function properly and results in diabetic coma.

Patch for insulin behind ear.

If too much insulin is produced, the sugar in the blood will leave too rapidly, not allowing the brain to receive an adequate amount of sugar. The result is insulin shock.

This imbalance of insulin creates a diabetic emergency. Most people are aware that persons suffering diabetes usually control the condition with insulin injections, medication and a regulated diet.

Also motion sickness.

A person who is not taking the medications or watching the diet can run into problems. They also can have problems if they have an infection or if they have been mistreating their body with alcohol or lack of exercise. The balance is delicate.

Diabetic coma can occur when there is not enough insulin. It can be generally recognized by:

Transparency #25/

1. Air hunger--a gulping for air; deep, rapid breathing
2. A sweet or fruity odor to the breath, also referred to as an acetone odor.
3. The skin is dry and red.
4. The person will act drunk--he will be disoriented and stuporous. He can be unresponsive and it can lead to a coma.
5. The person appears extremely ill.
6. The condition occurs gradually over a period of days.
7. There may be vomiting, thirst, abdominal pain, loss of appetite, weak rapid pulse, normal to low blood pressure.

Insulin shock occurs suddenly, within minutes.

8. Breathing is normal or shallow.
9. The skin is pale, moist.
10. There may be tremors or trembling.
11. The person may have convulsions in later stages.
12. The person may be faint, confused restless, have a change in

personality and this, too, may lead to coma.

13. The person appears very weak.
14. As said before, this condition can occur very rapidly.
15. There may be headaches and a craving for food.

Both of these types of conditions require immediate medical attention. As a correctional officer, you can help by treating both the same. Give the person sugar.

If the person is conscious, give the person candy, juice, soda or anything that has sugar in it. If he is unconscious, place a tablespoon of sugar under the tongue. Don't pour anything into the mouth directly because he may choke and it can stop breathing.

Show Transparency #26.

NOTE: The person in insulin shock really does need the sugar and the person in diabetic coma really won't be hurt by the sugar. Always ask new inmates if they are a diabetic or look for the medic alert card or tag.

Both these conditions need to be transferred to the emergency room so the insulin balance can be stabilized.

Show Transparency #27.

*Yellow lights.
Blinking lights.*

I. Epilepsy

Epilepsy, often labeled as "fits" or "seizures", is a brain disorder. It might have been caused by an injury, a brain tumor, or some other blockage of blood flow to the brain.

The epileptic attack may vary from an appearance of daydreaming, blank stare or a brief unconsciousness to a violent convulsion.

We will concentrate on the more violent seizure called Grand Mal. It is a common condition and most people who suffer from it are on medication. It is good to know a little more about this condition so it will not be so frightening to react to. It is important to find out whether a person is an epileptic at receiving screening so you can have medications available and you can observe for the condition.

The usual signs and symptoms of a grand mal seizure follow a sequence. The are:

Show Transparency #28.

1. A warning sign--a feeling or smell, taste, sound or visual sensation. The person just has a little time to prepare.
2. If no warning sign, the person may give a hoarse cry and fall down.
3. The body muscles tense for 5 to 30 seconds.
4. Then the legs, arms, head and body jerk uncontrollably.
5. Breathing usually stops during the muscle tensing, the face turns blue to black, then breathing returns and is labored as if something is caught in the airway.
6. The person may bite his tongue or have a bowel movement.
8. Finally, the person will fall into a deep sleep.

Your primary concern should be to protect the person having an epileptic seizure from injuring himself. Loosen tight clothing if possible; move chairs, tables, or other objects that he may strike his body against and put some padding under his head

Show Transparency #29.

or his arms and legs. There is no way you can restrain this type of person without fear of injury.

The person can literally break his bones as well as yours from the convulsions. Do not try to get a gag in the mouth, even though you fear he will bite his tongue. It is too dangerous for him as well as you. Do not give anything by mouth as it can block the airway. After the seizure, allow the person to rest away from others if that is possible. If the seizure lasts longer than 4 minutes, transfer the person to the emergency room or seek medical advice.

J. Mental/Emotional Disorders

Different people react in unusual ways under stress. There is really no way that you or I can label anyone's reaction to stress, such as arrest and confinement, as normal or abnormal. What is normal for one person may be abnormal to another.

A number of signs and symptoms can indicate mental or emotional disorders but for it to be an illness or an emergency situation, you as a correctional officer will need to determine if the behavior is unusually extreme or unusual for the situation.

Show Transparency #30.

A person who may have mental disorder can be extremely fearful--a fear that is displayed by trembling, sweating, crying, screaming or fainting. The person may have headaches or nausea.

A person may be very anxious, and this feeling cannot be overcome by adjustment to the setting.

A person may display a constant sadness or depression that is shown in loss of appetite, insomnia, tension guilt, all of which can lead to suicidal behavior.

A person may withdraw. There is a lack of interest in what is going on around him; he does not respond to others; he may try to avoid others by sleeping days and staying up nights. He even may become catatonic and sit, stand or lie in an immovable position.

A person can become extremely angry. He may argue with you over anything; he may threaten others, become self-destructive or become easily insulted.

A person may become totally confused, not knowing times, dates, places. He forgets easily and may even lose track of normal habits.

A person may become constantly in motion. A term used is "mania." He has seemingly unending energy--talks continuously, and the talk is unrealistic or strange for the situation he is in.

A person may display a loss of the real world. He may think that people are plotting against him; he may hear voices or see things others can't see or hear. He may talk in a strange language. All are indicators that he has lost touch with reality.

He may have physical symptoms such as unfounded ailments--a backache, headache, stomach ache. They may be very vague symptoms that keep him from functioning normally.

NOTE: You may have had similar feelings. We all do. It is normal to experience fear, anger, depression or anxiety. We all have talked to ourselves at some time or been a bit paranoid, feeling that someone is talking about us. This is not abnormal and is not a cause for concern.

But when these behaviors go the

extreme so as to affect the day-to-day functioning of an individual, then some help should be sought. It really is a judgment call based on intuition and common sense.

What can you do?

Show Transparency #31.

Calm the person by displaying confidence, firmness and reasonableness. If at all possible, move the person from one cell to another, especially if there may be inmates who can be provoking the situation.

Clarify the problem with the person; how you see his problem, what can and is being done, and what the final outcome will be.

Explain the steps you are going to take. Let him choose alternatives in solving his problem so he is involved in some decision making.

Tell him how you see things will work out in a positive way.

Allow the person to get his feelings off his chest.

Do not provoke or argue with him. If you disagree with the way he sees things, suggest looking at the situation another way.

Do not lie or be sarcastic. Make no promises you cannot keep.

Try to bring order to his thinking so he can tackle a small part of the problem at a time rather than becoming overwhelmed at the total situation.

Encourage the person to obtain professional help and assist him in obtaining it by being understanding.

NOTE: Do not be too quick to label someone as being emotionally unstable or mentally ill because of a mental

condition. Some physical or medical conditions can be misinterpreted as mental conditions. Some are:

Diabetes: We have gone over signs and symptoms of diabetes. As you recall, a diabetic may act very confused, restless, be sweating and acting strange.

Someone with a severe infection may act strange or have convulsions.

A person with a severe head injury or epilepsy often acts dazed or confused.

Medications, taken normally, alter the behavior of some persons.

Alcohol and drugs change the normal behavior of some individuals, especially when the two are mixed.

Older people with hardening of the arteries can become irrational or confused.

It is important, then, to note these conditions upon receiving screening so you can react to problems that do arise during incarceration.

K. Suicidal Behavior

Show Suicide slides.

Of all the mental and emotional disorders we have talked about, there is one that is of prime concern for the correctional officer--that being the recognition of suicidal behavior.

Often a person under the stress of arrest--being placed in jail, and reflecting on the situation that led him to being confined,--looks at suicide as the only answer.

He may feel ashamed of what he has done, concerned over the shame he has inflicted on family, relatives, and friends and not being able to provide for them. Or he may be afraid of the

surroundings and what he has heard it has done to others.

Crucial times are the initial confinement, the first 72 hours, waiting sentencing, the sentencing and prior to release.

It is not easy to identify the suicidal person but there are signs and symptoms that suggest a potential for self-destructive behavior.

Show Transparency #32.

Any person who is depressed should be considered a potential suicide.

If the depression is displayed by sadness or crying, withdrawal into silence, loss of appetite, insomnia, slow methodical movements or drastic changes in mood, you can suspect a possible suicide.

The person may express feelings of hopelessness or helplessness. He may talk about getting out of jail tonight by some strange method. He sees no real reason to go on living. His only conversation may be centered around the past with no concern for the present or future. He may actually tell you he is going to commit suicide, how he is going to do it, and when he is going to do it. He may have difficulty in getting along with others and he may have sudden changes in behavior--shifts from very agitated to calm and quiet. This can indicate a point of decision that is reached to commit suicide.

NOTE: Once you have identified any of these signs and feel that the person is indeed a serious threat to himself, you need to be able to react.

You need to be aware . . .

Show Transparency #33.

1. Does the person seem to have problems that he cannot deal with?

2. Is he remorseful or ashamed?
3. Does he feel strongly about the family loss?
4. Does he have family problems?
5. Is he anxious about the trial?
6. Is he fearful?
7. Take all threats seriously.

You need to be tuned in.

Try to measure the impulsiveness of the person. People who act first and think later are prime suicides.

Make daily contact.

Look for changes in behavior. Is he rational, than irrational? Get him to relate to you.

Has he done anything in the past to indicate he may be suicidal? Try to piece out the problem he has and suggest solutions.

Be sympathetic.

Let him know someone does care and that his problems are your concern and you are willing to find someone who can help.

Don't give up.

L. Drug and Alcohol Abuse

Many people who enter the jail are alcohol or drug users or abusers.

A majority of the inmates were originally arrested for an alcohol/drug related offense. A great deal have combined the use of alcohol and drugs.

It is important to be aware of the typical classification of drugs.

1. Uppers: Those drugs that stimulate the central nervous system. They are the amphetamines, cocaine, caffeine, anti-asthmatic drugs and vasoconstrictors. Signs are excitement, restlessness, irritability, and talkativeness. Cocaine can cause the breathing to cease.
2. Downers: Depressants of the central nervous system. They are the barbiturates, tranquilizers, marijuana, solvents and opiates. They also can cause respiratory failure. Signs are drunken type behavior, stupor, talkative, etc.
3. Hallucinogens: These are mood altering drugs. They include LSD, mescaline, STP and peyote. A drug that is around that is not an hallucinogen nor a depressant is PCP. It has the qualities of both. It is common and dangerous. Called Angel Dust, it is smoked, injected or taken orally.

Because of the nature of the alcohol and drug problem and the fact the specific signs and symptoms are so difficult to identify because of side effects and mixing of different types, we will only brush the surface of signs and symptoms of drug/alcohol abuse.

You will see or the person will display signs of confusion, hallucinations, inability to stand or walk, restlessness, slurred speech, lethargy, rapid shallow breathing, cramps, nausea, diarrhea, change in pupil size. (Alcohol slows the reaction of pupils to light. As with barbiturates, the downers like heroin or opium tend to cause pinpoint pupils; the hallucinogens tend to dilate the pupils, as do uppers.)

Show Transparency #34.

There may be a sudden collapse or coma. The person may feel hot or cold.

Then the typical signs are smell on breath or track marks on arms or elsewhere.

Show Transparency #35.

Monitor the breathing and pulse; protect the hyperactive from hurting themselves; watch the person closely, reassure and calm him; call for medical advice and transfer to the emergency room.

M. Communicable Disease

Show Transparency #36.

A communicable disease is one that can be spread from one person to another. In a jail where people are in close contact with each other, this is of great concern. It is important for the correctional officer to be aware of the possibility of a communicable disease and what to do.

We all have been exposed to types of problems such a cold, flu, measles, chicken pox and generally have a good idea if we are coming down with something of that sort.

We have a fever, feel chilled, may have a headache, rash, sore throat, cough, sore joints, feel weak, be itchy, or have diarrhea. All are signs of the "bug".

If an inmate has these signs or thinks that he has a disease, you should arrange to isolate him from others, call the physician for advice and treat as the doctor orders.

Show Transparency #37.

Other considerations are to use disposable plates, cups and spoons. Wash your hands after contact with the inmate or things in his cell. Ask about cell cleaning instructions. If the inmate has lice or scabies,

have him use a medicated lotion or shampoo and clean the cellblock.

A fever can be serious when associated with headache, confusion or coma; or when breathing is impaired or when the person cannot keep liquids down.

A communicable disease should be monitored closely as it could constitute a medical emergency.

N. Female Disorders

Female inmates may experience pain or discomfort from a number of potentially serious problems.

A pregnant inmate might experience difficulties that could pose a serious health or medical problem at any time during the pregnancy.

Show Transparency #38.

It is important for the correctional officer to identify this potential at receiving screening and be able to recognize and react to signs and symptoms such as unusual or heavy or clotty vaginal bleeding; abnormal vaginal discharge; pain or tenderness in the lower abdomen; pain or tenderness or swelling around the external genitalia.

If a female problem exists and you have noticed or have been told of these signs and symptoms, it is important for you to control or cover any bleeding with a sanitary napkin, treat for shock, call the physician for advice and transport to the emergency room.

Show Transparency #39.

Remember that any gynecological or obstetrical emergency can cause anxiety and be embarrassing,

In addition to getting appropriate medical assistance and providing first aid, you should be sensitive to the woman's emotions and act accordingly.

O. Medications

Every inmate has a right to have access to medications that are legally prescribed for the treatment of a health condition.

Every jail should have defined procedures for handling and administering medications. They will vary from jail to jail, but the procedures should be approved by a competent health authority.

There are a number of ways that medications may be brought into the jail. The prisoner may carry them in; someone may deliver them to the jail for the inmate; or the jail staff may obtain them from a pharmacy for the inmate.

It is important for the jail staff to know what information should be on each medication label so that a medication may be identified, verified and given correctly.

Show Transparency #40.

The label should contain:

1. Name of pharmacy
2. Address and telephone number of pharmacy
3. A prescription number
4. Patient's name
5. Physician who prescribed the medication
6. The date it was filled
7. The name of the medication
8. Dosage
9. Instructions
10. Initials of pharmacist

There are four ways that medications may be taken: Ingestion: taken by mouth--also included are medications inhaled; Injection: taking medications by needle and syringe; Insertion: placing medication into a body cavity like suppositories; and Application: spreading a cream, lotion or ointment on the skin.

Show Transparency #41.

The medication label should clearly give the instructions for the medications, using one of these methods.

Each medication label should indicate how often to take a medication. The timing and dosage for giving medication should be strictly followed. It may indicate "take two tablets four times a day" or it may state "take 2 q.i.d."--both indicate the same thing. Because of the variety of ways that the timing and dosage might be indicated, it is wise to contact the pharmacist or the physician to obtain specific information.

The medication label may also have special orders regarding the conditions for taking medication. These special orders may be typed on the label or a label may be attached.

Show Transparency #42.

Examples of any special orders might include:

1. Take with food or milk.
2. Take on an empty stomach--1 hour before or 2/3 hours after a meal.
3. Finish all this medication unless otherwise directed.
4. Medication should be taken with plenty of water.
5. Shake well.

Other special orders may refer to storage of the medication. Some

medications may need to be refrigerated or stored out of the sunlight.

Many medications can produce side effects. These warnings will usually be a small colored sticker on the container. Examples are:

1. May cause drowsiness.
2. May discolor the urine or feces.
3. May cause nausea.

The important thing to remember is that there are sound reasons for these warnings. And the warnings should alert the jail staff for some possible side effects that a person taking a medication may show.

The last item of concern is that a person who is given any drug might have an allergic reaction to that drug. If at all possible, find out if an inmate has any known allergies at receiving screening. Be aware that allergic reactions can develop at any time and can be caused by even the most common drug, such as aspirin.

The correctional officer must be sure that any medication given to an inmate is, in fact, the medication that was prescribed to him. Regardless of the means by which a medication entered the jail, there should be a standard procedure to verify any medication that is to be given.

Show Transparency #43.

Ways that medications can be verified are:

Show PDR and explain how it is used to identify drugs.

1. If you have a copy of a Physician's Desk Reference (PDR), compare the pill or capsule with the corresponding picture in this reference. This will give you the name of the drug along with a host of information about the drug.

2. Call the pharmacy and describe the drug and ask for a verification of the medication.
3. Call the physician who prescribed the drug to verify the medication.
4. Call the nearest hospital for verification.
5. Always record that you have verified the medication.

Be aware that certain medications such as capsules can be tampered with. The outside container may be a valid color, size, shape, but the contents may have been altered. If there is any doubt, obtain a new prescription. This is very important to do if medications are brought in an unlabeled container.

Show Transparency #44.

Once you have verified the medication and it is in your control, you should store all medications in a locked cabinet or drawer. This applies for all medications, both prescription and non-prescription. There may be certain medications that an inmate should keep in his cell, but this should be limited to an amount that the prescribing physician deems necessary. One common example may be nitroglycerine tablets for chest pain.

Show Transparency #45.

In administering medications, the most important thing to remember is to follow the instructions. There should be no question as to how much a person should receive and when he should receive a given medication. In giving the medication, you should be sure that the inmate actually did take the medication and that the right person took the medication.

Show Transparency #46.

The final point in administering medication is that you record the

Show Transparency #47.

fact that the medication was taken or was refused.

It is vital that there be a record of medication administration. A medication log sheet should have, as a minimum:

1. The inmate's name
2. Date and time of administration
3. Type and amount of medication
4. Initials of person administering

In addition, there should be a space to record whether or not an inmate refused the medication. Ideally, there is a medication log sheet for each inmate receiving medication. This will become a part of the inmate's health record.

Following orders given by physicians regarding the administration of medications is one example of what you need to be able to do to assure inmate's rights to health care. There may be other orders that a physician may ask you to follow.

Show Transparency #48.

The physician may ask you to observe the inmate's health condition; in other words, to look for signs and symptoms.

The physician may order some specific treatment like applying ice packs, bed rest, or exercise.

The physician may want some limited tests performed like taking temperature or blood pressure.

The physician may order special diets. Or, you may be asked to explain to an inmate the proper way to maintain good health such as proper washing, teeth brushing, hair care and so on.

If you have any reservations about following any medical orders, check with the physician and explain the situation.

Review of lesson objectives.

1. Medical screening
 - a. Who needs medical clearance?
 - b. Values and benefits.
2. Verification of medications.
3. Medical orders.

NOTE: Show video tape of case studies and critique what was observed and discuss disposition of each case.

Hand out case studies. Divide class in equal groups, one group for each case. Evaluate and discuss the way each group filled out receiving screening form and the answers for disposition.

Administer written test (based on instructional objectives).

Write the four objectives on blackboard or chalkboard.

Use Georgia Medical Association videotape.

Case studies and sample receiving form.

TRAINEE WORKSHEET

SUBJECT: Medical Screening

A. Objectives

1. After the lecture and transparency presentation each student should be able to state what the booking officer's first decision is regarding the health care of the prisoner.
2. Each student should be able to state the two general reasons why a prisoner should be refused admission to the jail.
3. Each student should be able to define:
 - a. Medical Clearance.
 - b. Receiving Screening.
4. Each student should be able to list 14 specific health conditions that would cause the booking officer to refuse to accept a prisoner.
5. Each student should be able to list the 8 values and benefits for the jail to do receiving screening.
6. Each student should be able to state the two skills necessary to do effective receiving screening.

B. Response to Objectives

1. As booking officer, the very first decision you must make regarding the health care of a prisoner is:

2. State two general reasons for refusing to admit a prisoner into the jail before that person is seen by a physician.

3. Define:

a. Medical Clearance _____

b. Receiving Screening _____

4. List 14 health conditions for refusal to admit.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____
- g. _____
- h. _____
- i. _____
- j. _____
- k. _____
- l. _____
- m. _____
- n. _____
- _____

5. List 8 benefits and values for receiving screening.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____
- g. _____
- h. _____
- _____

6. State two skills needed for effective receiving screening.

- a. _____
- b. _____

NOTES:

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Medical Screening

A. Objectives

1. After the lecture and transparency presentation each student should be able to state what the booking officer's first decision is regarding the health care of the prisoner.
2. Each student should be able to state the two general reasons why a prisoner should be refused admission to the jail.
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6. Each student should be able to state the two skills necessary to do effective receiving screening.

B. Response to Objectives

1. As booking officer, the very first decision you must make regarding the health care of a prisoner is:
Whether to refuse or accept a person into the jail.
2. State two general reasons for refusing to admit a prisoner into the jail before that person is seen by a physician.
The person may be seriously ill.
The person may be seriously injured.
3. Define:
 - a. Medical Clearance A written notice from a physician that a person was examined and it is the physician's judgement that the person is medically fit to be placed in jail.
 - b. Receiving Screening A system of orderly observation and interview in order to assess a person's general medical and health status.

4. List 14 health conditions for refusal to admit.
- a. Someone who is unconscious.
 - b. Someone who is having or had convulsions.
 - c. Someone who is bleeding uncontrollably.
 - d. Someone who is suspected of having internal injuries.
 - e. Someone with obvious broken bones.
 - f. Someone with signs of a head injury.
 - g. Someone suspected of a neck or spinal injury.
 - h. Someone who appears to be in severe pain.
 - i. Someone who cannot walk under their own power.
 - j. Someone who is going into shock.
 - k. Someone who is unable to answer any questions.
 - l. Someone experiencing drug/alcohol overdose or withdrawals.
 - m. Pregnant women who are having problems.
 - n. Persons who are on medications but who do not have it with them.

5. List 8 benefits and values for receiving screening.
- a. It can uncover conditions requiring rapid medical attention.
 - b. It can identify on-going conditions.
 - c. It can identify persons who are taking medications.
 - d. It becomes a written record of inmate's condition at booking.
 - e. It is a tool to counter claims that a condition was ignored.
 - f. It indicates that the jail staff is concerned about inmates health.
 - g. It is a means to note signs and symptoms of alcohol/drug abuse.
 - h. It provides initial insight into the emotional or mental status.

6. State two skills needed for effective receiving screening.
- a. Observation of signs and symptoms.
 - b. Interviewing or asking questions regarding the health status.

NOTES:

TRAINEE WORKSHEET

SUBJECT: Administration of Medications and Following Medical Orders

A. Objectives:

1. After the lecture and transparency presentation, each student should be able to list the required information that must be on every medication label.
2. Each student should be able to list the four common ways of taking medications.
3. Each student should be able to explain the directions and special instructions that may be found on medication labels.
4. Each student should be able to state the steps necessary to take to verify medications.
5. Each student should be able to explain how to provide for security of medications.
6. Each student should be able to explain the steps to follow in distributing medications.
7. Each student should be able to state the procedure used to record medications.
8. Each student should be able to list 6 types of medical orders that he/she may be asked to follow.

B. Response to Objectives:

1. List the information that must be on every medication label.
 - a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
 - f. _____
 - g. _____
 - h. _____
 - i. _____
 - j. _____

2. List the 4 common methods of taking medications.
 - a. _____
 - b. _____
 - c. _____
 - d. _____

3. List the types of directions and special instructions that may be found on medication labels.
 - a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
 - f. _____

4. State the steps to verify medications.
 - a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____

5. Explain the security procedure for medications.
 - a. _____
 - b. _____

6. Explain the steps in distributing medications.
 - a. _____
 - b. _____
 - c. _____
 - d. _____

7. State the procedure to record medications.
 - a. _____
 - b. _____
 - c. _____
 - d. _____

8. List certain medical orders that a physician may ask you to follow.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Administration of Medications and Following Medical Orders

A. Objectives:

1. After the lecture and transparency presentation, each student should be able to list the required information that must be on every medication label.
2. Each student should be able to list the four common ways of taking medications.
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4. Each student should be able to state the steps necessary to take to verify medications.
5. Each student should be able to explain how to provide for security of medications.
6. Each student should be able to explain the steps to follow in distributing medications.
7. Each student should be able to state the procedure used to record medications.
8. Each student should be able to list 6 types of medical orders that he/she may be asked to follow.

B. Response to Objectives:

1. List the information that must be on every medication label.
 - a. Name of pharmacy
 - b. Address of pharmacy
 - c. Telephone number of pharmacy
 - d. Number of prescription
 - e. Patient's name
 - f. Doctor's name
 - g. Date filled
 - h. Type of medication and amount
 - i. Instructions for taking
 - j. Initial's of pharmacist

2. List the 4 common methods of taking medications.
 - a. Ingestion
 - b. Injection
 - c. Insertion
 - d. Application

3. List the types of directions and special instructions that may be found on medication labels.
 - a. Timing
 - b. Dosage
 - c. Conditions for taking
 - d. Storage
 - e. Side effects
 - f. Reactions

4. State the steps to verify medications.
 - a. Compare with PDR
 - b. Call the pharmacy
 - c. Call the physician
 - d. Call the nearest hospital
 - e. Record the verification

5. Explain the security procedure for medications.
 - a. All medications should be kept under lock and key
 - b. Certain medications may be kept by inmate

6. Explain the steps in distributing medications.
 - a. Follow the instructions
 - b. Make sure the medication was actually taken
 - c. Verify the correct person taking
 - d. Document the fact it was taken or not

7. State the procedure to record medications.
 - a. Inmate's name
 - b. Date and time
 - c. Type of medication
 - d. Initial's of officer giving

8. List certain medical orders that a physician may ask you to follow.

a. Observe inmate's condition

b. Give medications

c. Provide limited treatment

d. Limited tests

e. Special diets

f. Health Education

TRAINEE WORKSHEET

SUBJECT: Signs and Symptoms

A. Objectives:

1. After the lecture and transparency/video tape presentation, each student should be able to define:
 - a. A Sign.
 - b. A Symptom.
2. Each student should be able to list signs and symptoms of the following.
 - a. Abdominal Pain
 - b. Internal Bleeding
 - c. Heart Attack
 - d. Angina Pectoria-Chest Pain
 - e. Congestive Heart Failure
 - f. Stroke
 - g. Hyperventilation
 - h. Diabetes
 - i. Epilepsy
 - j. Mental or Emotional Disorders
 - k. Suicidal Tendencies
 - l. Drug and Alcohol Abuse
 - m. Communicable Disease
 - n. Obstetrical or Gynecological Problems
3. Each student should be able to state the general disposition and basic treatment that should be afforded to persons displaying signs and symptoms for the above conditions.

B. Response to Objectives:

1. a. Define a sign _____

- b. A symptom _____

2. List signs and symptoms associated with abdominal pain.
 - a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
 - f. _____
 - g. _____
 - h. _____
 - i. _____

3. State the disposition & treatment of someone displaying signs & symptoms of abdominal pain.
 - a. _____
 - b. _____
 - c. _____

4. List signs & symptoms of internal bleeding.
 - a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
 - f. _____
 - g. _____
 - h. _____
 - i. _____

5. State the disposition & treatment suspected of internal bleeding.
 - a. _____
 - b. _____
 - c. _____

6. List the signs & symptoms of heart attack.
 - a. _____
 - b. _____
 - c. _____
 - d. _____

7. State the disposition of someone suspected of heart attack.
 - a. _____
 - b. _____
 - c. _____
 - d. _____

8. List the signs & symptoms of angina pectoris or chest pain.
- a. _____
 - b. _____
9. State the disposition and treatment of someone experiencing chest pain.
- a. _____
 - b. _____
 - c. _____
10. List the signs & symptoms of congestive heart failure.
- a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
 - f. _____
11. State the disposition & treatment of someone suspected of congestive heart failure.
- a. _____
 - b. _____
12. List the signs & symptoms of stroke.
- a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
 - f. _____
13. State the disposition & treatment of someone suspected of having a stroke.
- a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____

14. List the signs & symptoms of hyperventilation.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____

15. State the disposition & treatment of someone who is hyperventilated.

- a. _____
- b. _____

16. List the signs & symptoms of:

a. Diabetic Coma

b. Insulin Shock

| | | |
|--------------|-------|-------|
| Breathing | _____ | _____ |
| Breath Odor | _____ | _____ |
| Skin | _____ | _____ |
| Tremors | _____ | _____ |
| Convulsions | _____ | _____ |
| Mental State | _____ | _____ |
| Appearance | _____ | _____ |
| Onset | _____ | _____ |
| Other | _____ | _____ |
| | _____ | _____ |
| | _____ | _____ |

17. State the treatment for diabetic emergency.

- a. If conscious _____
 - b. If Unconscious _____
- _____

18. State the disposition of a diabetic emergency.

- a. _____

19. List signs & symptoms of epilepsy (Grand Mal)

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____
- g. _____
- h. _____

20. State the disposition & treatment of a person experiencing an epileptic seizure.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____

21. List the signs & symptoms associated with mental or emotional disorders.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____
- g. _____
- h. _____
- i. _____

22. State the disposition & treatment for a person displaying mental or emotional disorders.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____
- g. _____
- h. _____
- i. _____
- j. _____

23. List signs & symptoms of Suicidal behavior.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____
- g. _____
- h. _____
- i. _____
- j. _____
- k. _____
- l. _____
- m. _____
- _____
- _____
- _____

24. State the disposition & treatment of a suicidal person.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____

25. List general signs & symptoms of drug/alcohol abuse.

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____
- g. _____
- h. _____
- i. _____
- j. _____
- k. _____
- l. _____
- m. _____

26. State the disposition & treatment for someone suspected of drug/alcohol abuse.
- a. _____
 - b. _____
 - c. _____
 - d. _____
27. List common signs & symptoms of communicable disease.
- a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
 - f. _____
 - g. _____
 - h. _____
 - i. _____
 - j. _____
28. State the disposition & treatment of suspected communicable disease.
- a. _____
 - b. _____
 - c. _____
29. List signs & symptoms indicating potentially serious female disorders.
- a. _____
 - b. _____
 - c. _____
 - d. _____
30. State the disposition & treatment for female disorders.
- a. _____
 - b. _____
 - c. _____

NOTES:

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Signs and Symptoms

A. Objectives:

1. After the lecture and transparency/video tape presentation, each student should be able to define:
 - a. A Sign.
 - b. A Symptom.
2. Each student should be able to list signs and symptoms of the following.
 - a. Abdominal Pain
 - b. Internal Bleeding
 - c. Heart Attack
 - d. Angina Pectoria-Chest Pain
 - e. Congestive Heart Failure
 - f. Stroke
 - g. Hyperventilation
 - h. Diabetes
 - i. Epilepsy
 - j. Mental or Emotional Disorders
 - k. Suicidal Tendencies
 - l. Drug and Alcohol Abuse
 - m. Communicable Disease
 - n. Obstetrical or Gynecological Problems
3. Each student should be able to state the general disposition and basic treatment that should be afforded to persons displaying signs and symptoms for the above conditions.

B. Response to Objectives:

1.
 - a. Define a sign Something that can be seen about the person's health.
 - b. A symptom Something that the person tells you about his health.
2. List signs and symptoms associated with abdominal pain.
 - a. Vomiting
 - b. Cramps
 - c. Hard, tense abdominal muscles
 - d. Difficulty breathing
 - e. Fever
 - f. Shock
 - g. Blood in vomit or bowel movement
 - h. Painful or bloody urination
 - i. Bleeding or pain in vagina

3. State the disposition & treatment of someone displaying signs & symptoms of abdominal pain.
 - a. Give nothing to eat or drink
 - b. Place in a comfortable position
 - c. Transfer to emergency room

4. List signs & symptoms of internal bleeding.
 - a. Shock
 - b. Bright, red blood coughed up or vomited up
 - c. Tender, enlarging abdomen
 - d. Swelling a end of major bone
 - e. Non-menstral bleeding
 - f. Bright, red blood in stool
 - g. Tarry looking stool
 - h. Smokey appearance of urine
 - i. Bright, red blood in urine

5. State the disposition & treatment suspected of internal bleeding.
 - a. Give nothing to eat or drink
 - b. Treat for shock
 - c. Transfer to emergency room

6. List the signs & symptoms of heart attack.
 - a. A squeezing pain radiating to jaw, left arm, or both arms.
 - b. Sudden weakness
 - c. Nausea
 - d. Sweating

7. State the disposition of someone suspected of heart attack.
 - a. Place in semi-reclining position
 - b. Calm, comfort, and reassure
 - c. Be prepared to do CPR
 - d. Transfer to emergency room

14. List the signs & symptoms of hyperventilation.
- a. Anxiety
 - b. Dizzy, fainting
 - c. Numbness - tingling of hands or feet
 - d. Sharp, stabbing pain in chest
 - e. Rapid breathing, high pulse rate

15. State the disposition & treatment of someone who is hyperventilated.
- a. Calm and reassure
 - b. Have person breathe into a bag

16. List the signs & symptoms of:

| | a. Diabetic Coma | b. Insulin Shock |
|--------------|--|---------------------------|
| Breathing | <u>Deep, rapid or gulping</u> | <u>Normal to shallow</u> |
| Breath Odor | <u>Fruity - acetone</u> | <u>None</u> |
| Skin | <u>Red, dry</u> | <u>Pale, moist</u> |
| Tremors | <u>Absent</u> | <u>Present</u> |
| Convulsions | <u>None</u> | <u>In later stages</u> |
| Mental State | <u>Acts drunk</u> | <u>Confused, restless</u> |
| Appearance | <u>Extremely ill</u> | <u>Weak</u> |
| Onset | <u>Slow</u> | <u>Sudden</u> |
| Other | <u>Vomiting, thirst, no appetite, Abdominal pain</u> | <u>Headache, hunger</u> |

17. State the treatment for diabetic emergency.

- a. If conscious Give sugar
- b. If Unconscious Put 1 tablespoon sugar or honey under tongue

18. State the disposition of a diabetic emergency.

- a. Transfer to emergency room

19. List signs & symptoms of epilepsy (Grand Mal)
- a. A warning sign (aura)
 - b. Brief tensing of muscles
 - c. Uncontrollable body jerking
 - d. Breathing is labored
 - e. Face turns blue
 - f. Foams at mouth
 - g. Loss of bladder or bowel control
 - h. Deep sleep
20. State the disposition & treatment of a person experiencing an epileptic seizure.
- a. Protect the person from injury
 - b. Do not restrain
 - c. Do not force a gag in mouth
 - d. Be sure person can breathe
 - e. Allow the person to rest
 - f. Call ambulance if seizure lasts 4 minutes or longer
21. List the signs & symptoms associated with mental or emotional disorders.
- a. Fear
 - b. Anxiety
 - c. Depression
 - d. Withdrawal
 - e. Anger
 - f. Confusion
 - g. Mania
 - h. Loss of reality
 - i. Physical Symptoms
22. State the disposition & treatment for a person displaying mental or emotional disorders.
- a. Calm the person with your confidence, firmness and reasonableness
 - b. Remove from crisis scene
 - c. Explain how you see the problem
 - d. Be directive and supportive
 - e. Encourage expression of feelings
 - f. Avoid argument
 - g. Do not lie or be sarcastic
 - h. Encourage seeking professional help
 - i. Help person structure the experience
 - j. Convey positive expectations

23. List signs & symptoms of Suicidal behavior.

- a. Sadness or crying
- b. Withdrawal or silence
- c. Change of appetite
- d. Insomnia
- e. Slow mehtodical movements
- f. Visual change in mood
- g. Feeling of hopelessness
- h. Speaks of getting out unrealistically
- i. Sees no future
- j. Preoccupied with past
- k. Talks of suicide plans
- l. Cannot relate to others
- m. Sudden changes in behavior

24. State the disposition & treatment of a suicidal person.

- a. Be aware
- b. Be tuned in
- c. Make daily contact
- d. Be sympathetic
- e. Don't give up

25. List general signs & symptoms of drug/alcohol abuse.

- a. Confusion
- b. Hallucinations
- c. Unable to stand or walk
- d. Restlessness
- e. Slurred speech
- f. Agitation-Agressiveness
- g. Lethargy
- h. Rapid, shallow breathing
- i. Cramps, nausea, diarrhea
- j. Pinpoint or dilated pupils
- k. Sudden collapse
- l. Hot or cold feeling
- m. Track marks - smell on breath

26. State the disposition & treatment for someone suspected of drug/alcohol abuse.
- a. Monitor airway, breathing, and pulse
 - b. Do not leave victim; reassure and calm
 - c. Call physician for advice
 - d. Transfer to emergency room
27. List common signs & symptoms of communicable disease.
- a. Fever
 - b. Chills
 - c. Headache
 - d. Rash
 - e. Cough
 - f. Painful joints
 - g. Weakness
 - h. Itching
 - i. Diarrhea
 - j. Sorethroat
28. State the disposition & treatment of suspected communicable disease.
- a. Isolate
 - b. Call physician for advice
 - c. Treat as physician orders
29. List signs & symptoms indicating potentially serious female disorders.
- a. Unusually heavy or clotty vaginal bleeding
 - b. Abnormal vaginal discharge
 - c. Pain or tenderness of abdomen
 - d. Pain or tenderness or swelling around external genitalia
30. State the disposition & treatment for female disorders.
- a. Administer first aid
 - b. Call physician for advice
 - c. Transfer to emergency room

NOTES:

PRE- AND POST-TEST QUESTIONS

SUBJECT: Medical Screening - Administration of Medications

Name/Title

Date

1. List 14 types of illnesses or injuries for which a medical clearance should be obtained before admission.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____
- 11. _____
- 12. _____
- 13. _____
- 14. _____

2. List eight values and benefits of doing medical screening.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

- 6. _____
- 7. _____
- 8. _____

3. State the five steps necessary to take to verify medications brought into jail.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

4. List six types of medical orders that a correctional officer might be asked to follow:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

PRE- AND POST TEST QUESTIONS (ANSWERS)

SUBJECT: Medical Screening - Administration of Medications

1. List 14 types of illnesses or injuries for which a medical clearance should be obtained before admission.
 1. Someone who is unconscious
 2. Someone who is having or had convulsions
 3. Someone who is bleeding uncontrollably
 4. Someone who is suspected of having internal injuries
 5. Someone with obvious broken bones
 6. Someone with signs of a head injury
 7. Someone suspected of a neck or spinal injury
 8. Someone who appears to be in severe pain
 9. Someone who cannot walk under their own power
 10. Someone who is going into shock
 11. Someone who is unable to answer questions
 12. Someone experiencing drug/alcohol overdose or withdrawals
 13. Pregnant women who are having problems
 14. Persons who are on medications but who do not have it with them
2. List eight values and benefits of doing medical screening.
 1. It can uncover conditions requiring rapid medical attention
 2. It can identify on-going conditions
 3. It can identify persons who are taking medications
 4. It becomes a written record of inmates' condition at booking
 5. It is a tool to counter claims that a condition was ignored

6. It indicates that the jail staff is concerned with inmate's health
7. It is a means to note signs and symptoms of alcohol/drug abuse
8. It provides initial insight into emotional or mental status

3. State the five steps necessary to take to verify medications brought into jail.

1. Compare with PDR
2. Call the pharmacy
3. Call the physician
4. Call the nearest hospital
5. Record the verification

4. List six types of medical orders that a correctional officer might be asked to follow:

1. Observe inmate's condition
2. Give medications
3. Provide limited treatment
4. Limited tests
5. Special diets
6. Health education

CASE STUDY # 1

Ralph Jones, a 24 year old male, born July 4, 1958, was brought in at 3:20 A.M. by an arresting officer for attempting to break into a drug store. He is conscious, has a cut on his right hand, smells of liquor, but no other signs.

He tells you that he has a stomach ulcer and takes Gelusil. Does not have it with him. Does not have any special diet. Has not been hospitalized. No other problems.

1. Fill out his Receiving Screening form.

2. How would you handle him?

- a. _____
- b. _____
- c. _____
- d. _____
- _____
- _____
- _____

CASE STUDY # 1

Ralph Jones, a 24 year old male, born July 4, 1958, was brought in at 3:20 A.M. by an arresting officer for attempting to break into a drug store. He is conscious, has a cut on his right hand, smells of liquor, but no other signs.

He tells you that he has a stomach ulcer and takes Gelusil. Does not have it with him. Does not have any special diet. Has not been hospitalized. No other problems.

1. Fill out his Receiving Screening form.
2. How would you handle him?
 - a. Place in general jail population.
 - b. Clean and dress wound on hand.
 - c. Find out who his doctor is, if any.
 - d. Monitor his condition, if he is in need of Gelusil, contact his physician, the jail physician, or your own procedures or standing orders.

CASE STUDY # 2

Gloria Doe, 8:30 P.M., age 21, born January 1, 1960, involved in a domestic argument with husband and another female. She stabbed the other female, fought with husband and arresting officer. She fell, striking her head. Has a 3 inch laceration on lower, back of head, black right eye, and abrasions and minor cuts on face and hands. She is crying, appears very pale, cold, clammy skin, and confused.

She tells you very little other than she doesn't feel well.

1. Fill out Receiving Screening form.

2. How would you handle her?

a. _____

b. _____

3. What should be your concern regarding this person?

a. _____

b. _____

c. _____

d. _____

e. _____

CASE STUDY # 2

Gloria Doe, 8:30 P.M., age 21, born January 1, 1960, involved in a domestic argument with husband and another female. She stabbed the other female, fought with husband and arresting officer. She fell, striking her head. Has a 3 inch laceration on lower, back of head, black right eye, and abrasions and minor cuts on face and hands. She is crying, appears very pale, cold, clammy skin, and confused.

She tells you very little other than she doesn't feel well.

1. Fill out Receiving Screening form.
2. How would you handle her?
 - a. Do not book into jail.
 - b. Tell arresting officer to take her to Emergency Room.
3. What should be your concern regarding this person?
 - a. She has possible spine injury due to head injury.
 - b. She may be in shock.
 - c. She cannot or will not be able to answer any questions regarding how she feels.
 - d. Could be suicidal.
 - e. Admit only after receiving medical clearance.

CASE STUDY # 3

Anita Bonita, 23 year old female, born February 1, 1958, brought in at 10:00 A.M. for shoplifting by arresting officer. Fought with arresting officer, acts very aggressive and will not answer any questions. Defiantly states "I'm an epileptic, so watch out." Does not appear to have any injuries except she is holding her arm. Arresting officer states he had to restrain her, and held her arm to her back while handcuffing her.

1. Fill out Receiving Screening form.

2. How do you handle her?

- a. _____

- b. _____

- c. _____

- d. _____

CASE STUDY # 3

Anita Bonita, 23 year old female, born February 1, 1958, brought in at 10:00 A.M. for shoplifting by arresting officer. Fought with arresting officer, acts very aggressive and will not answer any questions. Defiantly states "I'm an epileptic, so watch out." Does not appear to have any injuries except she is holding her arm. Arresting officer states he had to restrain her, and held her arm to her back while handcuffing her.

1. Fill out Receiving Screening form.
2. How do you handle her?
 - a. Place in cell where she can be monitored closely for
epilepsy.
 - b. Try to find out what medication she may be on for
epilepsy.
 - c. Check her arm when she calms down for fracture or sprain.
 - d. Monitor any mood changes.

CASE STUDY # 4

Jack Jones, age 30, born August 9, 1950, involved in an automobile accident, DWI, has multiple cuts and abrasions about face, had to be helped into the booking office by arresting officer. Cannot put any weight on right leg. Upon checking you notice a large lump appearing on right shin bone. Indicates he wants to rest, does not offer any information while doing receiving screening. Appears pale, cold, clammy skin, shaking and dazed.

1. Fill out Receiving Screening form.

2. What would you do for this person?

a. _____

b. _____

3. What should be your concern?

a. _____

b. _____

c. _____

d. _____

CASE STUDY # 4

Jack Jones, age 30, born August 9, 1950, involved in an automobile accident, DWI, has multiple cuts and abrasions about face, had to be helped into the booking office by arresting officer. Cannot put any weight on right leg. Upon checking you notice a large lump appearing on right shin bone. Indicates he wants to rest, does not offer any information while doing receiving screening. Appears pale, cold, clammy skin, shaking and dazed.

1. Fill out Receiving Screening form.
2. What would you do for this person?
 - a. Refer to Emergency Room.
 - b. Treat for shock.
3. What should be your concern?
 - a. Head injury - possible spinal injury.
 - b. Possible fracture of right lower leg.
 - c. Indicates shock.
 - d. Cannot give you or correctional officers information that might be needed.

MEDICAL SCREENING QUESTIONNAIRE ** FOR ALL NEWLY ADMITTED INMATES

NAME _____ SEX M () F () DATE & TIME
 BIRTH DATE _____ ADMITTED _____

CELL NO. _____ BOOKING OFFICER'S NAME _____ SIGNATURE OF INMATE _____

| | Yes | No | No Response |
|--|-------|-------|-------------|
| 1. DOES THE INMATE HAVE OBVIOUS PAIN, BLEEDING, OR OTHER SYMPTONS SUGGESTING NEED FOR EMERGENCY MEDICAL SERVICE? | _____ | _____ | _____ |
| 2. ARE THERE VISIBLE SIGNS OF INJURY OR ILLNESS REQUIRING IMMEDIATE CARE? | _____ | _____ | _____ |
| 3. Is there any jaundice, complaint of sore throat, fever, or other evidence of infection which might spread through the jail? | _____ | _____ | _____ |
| 4. Does he/she appear to be under the influence of alcohol, barbiturates, heroin, or any other drug? If yes, list type, amount, frequency, mode of use, last time used, and history of use _____ | _____ | _____ | _____ |
| 5. Are there any visible signs of alcohol or drug withdrawal symptoms? (Extreme perspiration, pinpoint pupils, shakes, nausea, cramping, or vomiting?) | _____ | _____ | _____ |
| 6. Is he/she so disoriented or mentally confused as to suggest the risk of suicide? | _____ | _____ | _____ |
| 7. Does the inmate's behavior suggest the risk of assault to staff or other inmates? | _____ | _____ | _____ |
| 8. Is he/she carrying medication? If yes, list _____ | _____ | _____ | _____ |
| 9. Does he/she report being on medication which should be continuously administered or available? If yes, list _____ | _____ | _____ | _____ |
| 10. Is he/she on a special diet prescribed by a physician? If yes, list type _____ | _____ | _____ | _____ |
| 11. Does he/she have a history of venereal disease or abnormal discharge? | _____ | _____ | _____ |
| 12. Has he/she recently been hospitalized or recently seen a physician for any illness? | _____ | _____ | _____ |
| 13. Is he/she allergic to any medication or food? If yes, list _____ | _____ | _____ | _____ |
| 14. Has he/she fainted recently or had a recent head injury? | _____ | _____ | _____ |
| 15. Is there a history of tuberculosis? | _____ | _____ | _____ |
| 16. Does he/she have hepatitis? | _____ | _____ | _____ |
| 17. Does he/she have any painful dental condition? | _____ | _____ | _____ |
| 18. If female, is she pregnant? Currently on birth control pills? | _____ | _____ | _____ |
| 19. Do you have any other medical problem we should know about? If yes, list _____ | _____ | _____ | _____ |

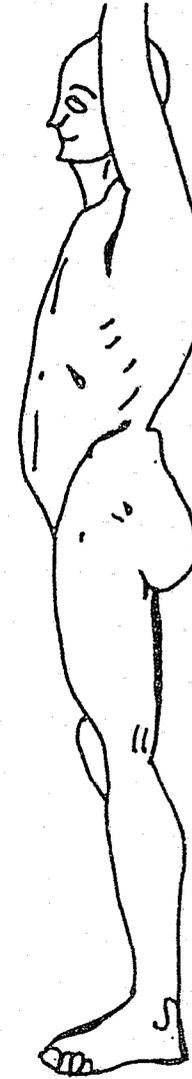
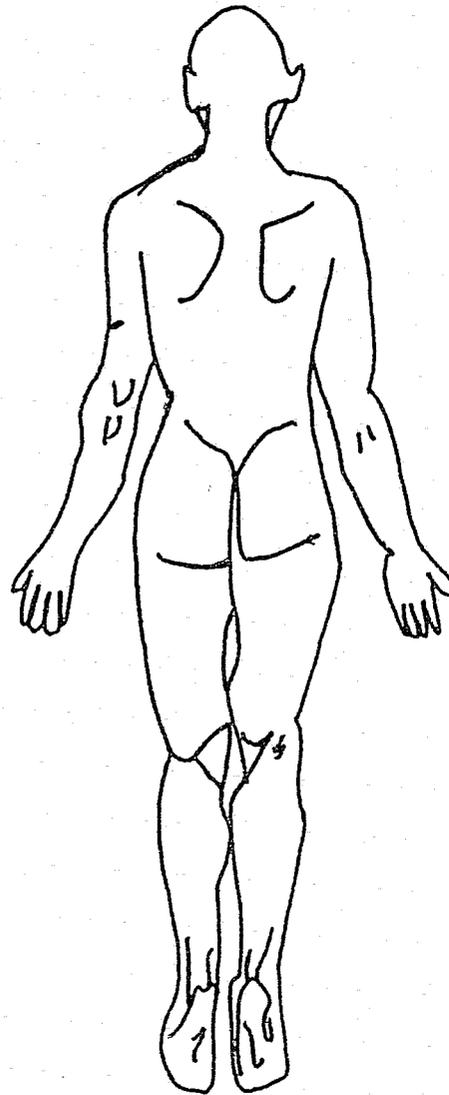
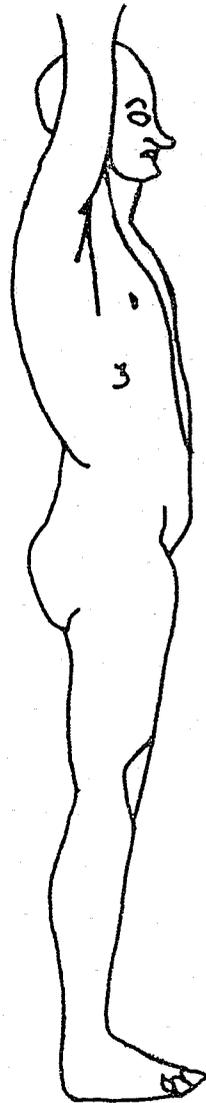
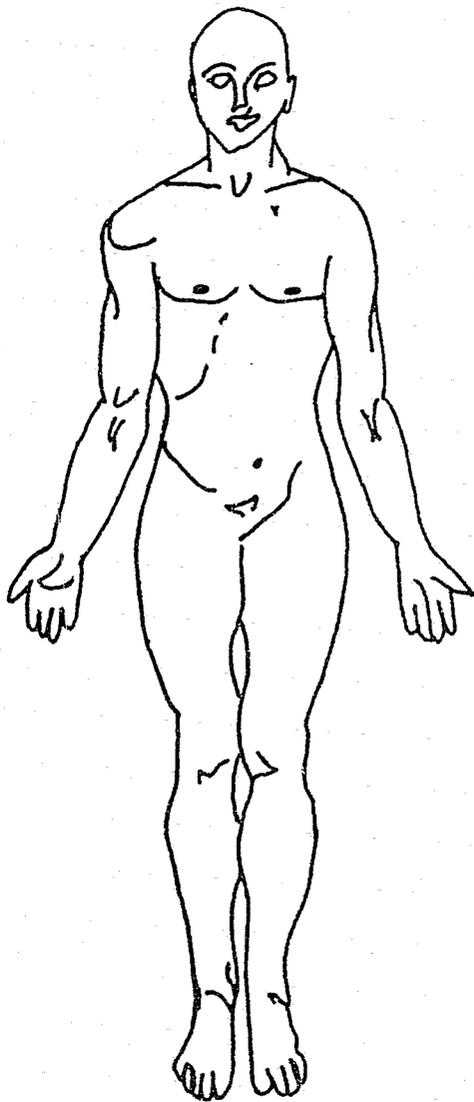
IN CONJUNCTION WITH THE ABOVE INFORMATION, THIS INMATE WILL BE HOUSED IN:

- _____ The general population.
- _____ The general population with later referral to appropriate health care service.
- _____ To emergency room for treatment.
- _____ An isolated area designated to protect newly admitted inmates and/or general population. Explain _____

IF THERE IS A "YES" ANSWER TO ANY QUESTION, THEN NOTIFY THE OFFICER IN CHARGE. PLACE FORM IN APPROPRIATE BOX FOR FURTHER MEDICAL ATTENTION.

SOURCE: AMERICAN MEDICAL ASSOCIATION JAIL HEALTH PROJECT. CHICAGO, ILLINOIS

INJURIES AND IDENTIFICATION MARKS ON ADMISSION



PHYSICAL EXAMINATION

1. Bruise
2. Cut
3. Swelling
4. Sore
5. Amputation
6. Bandage
7. Cast
8. Old Scars
9. Tattoos
10. Needlemarks
11. Deformity
12. Infestation
- 13.
- 14.
- 15.

SOURCE: Indiana State Jail Health Project, Sara Klein, R.N., State Project Coordinator. Indianapolis, Indiana.

Sample Protocol

for use of

MEDICAL SCREENING QUESTIONNAIRE ** FOR ALL NEWLY ADMITTED INMATES

Question 1: "Does the inmate have obvious pain, bleeding or other symptoms suggesting need for emergency medical service?"

Answer YES if:

- The inmate is bleeding at all seriously.
- The inmate is in obvious pain for any reason.
- The inmate is experiencing serious breathing difficulty.
- Other obvious signs and symptoms indicate an emergency situation.

Question 2: "Are there visible signs of injury or illness requiring immediate care?"

Answer YES if:

- The inmate has any signs of serious head injury (scalp lacerations, skull deformity, clear or bloody fluid from nose or ears, pupil or vision changes, vomiting, bruises under eyes or at back of ear, dizziness or convulsions, very poor coordination, muscle weakness, any change in level of consciousness).
- The inmate has any signs of symptoms of possible spinal injury (pain or tenderness over a part of the spine, painful back movement, spinal deformity, cuts or bruises on face, shoulders, back or abdomen, paralysis or numbness in parts of the body).
- The inmate displays any signs or symptoms of a possible crushing chest injury (extreme pain, usually in a specific place, difficulty breathing, frail chest).
- The inmate displays signs or symptoms of a potentially serious abdominal injury (any obvious penetrating wound, nausea and vomiting, abdominal tenderness, abdominal muscle spasms, bruises and abrasions over injury site).

- The inmate displays signs or symptoms of eye injury (vision problems, swelling of eyes, pain, bleeding in eye, badly "bloodshot" eye, foreign materials in eye, pupil changes, darkening of iris).
- The inmate has any serious laceration or puncture wound involving a bad cut, tearing of the skin, or especially any knife or gunshot wound.
- The inmate displays any signs or symptoms of possible poisoning (nausea, vomiting, abdominal pain, big or small pupils, excessive sweating or salivation, abnormal breathing).
- The inmate displays any signs of potentially serious chest pain, especially if the pain might indicate possible heart attack (persistent, gripping or squeezing pain usually just under the breastbone; pain which radiates to neck, shoulders or jaw; pale or bluish skin color; sweating; indigestion; and feeling of doom), or other general symptoms of possibly serious illness (difficult breathing along with chest pain, chills or fever; dizziness, bulging neck veins; etc.).
- The inmate displays any signs or symptoms of possible stroke (paralysis or weakness of body and facial muscles, difficulty breathing and swallowing, inability to talk or slurring of speech, loss of bladder or bowel control, unequal pupils, convulsions, headache alone).
- The inmate displays any signs or symptoms of possible shock (cold clammy skin, dull or lack-luster eyes, weak or rapid pulse, nausea and or vomiting, anxiety or restlessness, possible bluish skin color).
- The inmate displays any other signs of possible internal bleeding (coughing up or vomiting blood, tender abdomen along with signs and symptoms of shock, bright red blood in stool).
- The inmate shows any other signs or symptoms of a potentially serious illness which might require emergency or doctor's care. Some general signs or symptoms to be concerned about include: nausea, vomiting, trouble in breathing, fever, diarrhea, bad headache, etc.

Question 3: "Is there any jaundice, complaint or sore throat, fever, or other evidence of infection which might spread through the jail?"

Answer YES if:

- There is obvious fever (skin feels very warm to touch; oral temperature is above 99.6° F; chilly sensation; shivering; feeling boiling hot, unusually dry, maybe sweating, headache, restlessness weakness, feeling ill, possible confusion of thought or speech, etc.).
- There are swollen lymph nodes, which are small glands located in the neck at the angle of the jaw.
- The inmate has obvious yellowish coloring of the skin and the whites of the eyes.
- The inmate displays any other general signs or symptoms of possible infectious disease (chills, rash, persistent cough, diarrhea, cramps, sore throat, genital ulcers or sores which you might notice during a strip search, complaint of painful urination, joint swelling and pain, especially along with fever).

Question 4: "Does he/she appear to be under the influence of alcohol, barbiturates, heroin, or any other drug? If yes, list type, amount, frequency, mode of use, last time used, and history of use."

Answer YES if:

- The inmate displays physical and behavioral signs of alcohol influence (poor co-ordination, inability to walk well, slurred speech, lethargy or sleepiness, decreased response to pain, tremors, aggressive or otherwise inappropriate behavior, poor breathing, possible seizures, delirium tremens).
- The inmate seems very confused or disoriented. (NOTE: This could indicate drug influence, mental or emotional distress, or other problem.)
- The inmate seems delirious or reports hallucinations.
- The inmate is unable to stand or walk well or has poor muscle co-ordination in general.
- The inmate's breathing is very rapid or shallow.
- The inmate seems unusually lethargic, if his responses are very slow.
- The inmate seems very agitated or aggressive, or if he seems quite moody, and his moods shift suddenly.
- The inmate complains of cramps, nausea, or diarrhea, or if he/she is vomiting.

- The inmate has a sudden onset of drowsiness, or starts to nod off.
- The inmate acts unusually happy or silly for no apparent reason; if he finds remarks or events to be extraordinarily entertaining.
- The inmate's pupils appear dilated or constricted (very large or very small). Pinpoint pupils often indicate heroin use.
- The inmate complains of feeling either very hot or very cold.
- The inmate is sweating for no apparent cause. This is especially important if it is a cold sweat.
- If inmate's skin appears very dry or flushed. Or, if the skin seems quite cool and clammy.

NOTE: Many of the above signs or symptoms of possible drug influence are also symptomatic of other problems or conditions. The problem could be medical; or it could be that the person is suffering from mental or emotional distress; or it could be any combination of conditions. Therefore, if you think that the inmate may be under the influence of drugs because he shows some of the above signs or symptoms, even if it could be due to another cause, circle YES just to be safe.

In addition, the inmate could be under the influence of both drugs and alcohol. It is often difficult to tell. His breath may smell of alcohol, but he may also have taken something else. This is especially dangerous if he has taken alcohol and barbiturates. Therefore, do not assume that just because you smell alcohol that he has taken only alcohol. Look for other signs and symptoms and mark the screening form accordingly. Remember: If you have any doubt, circle YES.

Question 5: "Are there any visible signs of alcohol or drug withdrawal symptoms?"
(Extreme perspiration, pinpoint pupils, shakes, nausea, cramping, or vomiting?)

NOTE: It is not always easy or even possible to distinguish withdrawal symptoms from symptoms of "high" or overdose. The symptoms vary depending on the drug taken. Therefore, guidelines here can only be general and deal with obvious symptoms.

Answer YES if:

- The inmate's eyes are watery, red or irritated, glazed, or if the pupils are dilated.
- The inmate has other general "flu" symptoms: runny nose, aching joints and muscles, slight fever, chills and sweating.
- The inmate has cramps, nausea, or diarrhea.

- The inmate's skin is unusually dry.
- The inmate's breathing is rapid.
- The inmate seems very depressed and tired or weak, as though he had just come down from a great "high."
- The inmate seems very agitated or restless, or very irritable.
- The inmate complains of a need for a "fix" or other term for more drugs.

Question 6: "Is he/she so disoriented or mentally confused as to suggest the risk of suicide?"

NOTE: It is not usually easy to tell during booking whether or not an inmate is suicidal. Often, it takes more observation. Certainly, an inmate may not feel or act suicidal until he has been in jail for a while. However, there are a few things to look for during booking.

Answer YES if:

- The inmate talks about killing himself, even if he just seems to be joking.
- The inmate seems very depressed or talks about not caring about things any more.
- The inmate, in addition to seeming depressed, talks about feeling very guilty or seems to blame himself very harshly for having done something.
- The inmate seems very agitated and tense, as though he has strong feelings which he cannot control. This can be especially significant if he also seems to have a lot of self-blaming feelings.
- There is anything else about his behavior that makes you think he might be suicidal. Trust your judgment and intuition.

Question 7: "Does the inmate's behavior suggest the risk of assault to staff or other inmates?"

Answer YES if:

- The inmate starts a fight during the booking or if he fought with the arresting officer prior to being brought into the jail.

- The inmate makes threats or is verbally abusive.
- The inmate seems very agitated or tense and unable to effectively control his emotions.
- There is anything else about his behavior that makes you think he might be dangerous.

If the following questions are answered YES by the inmate, the booking officer should alert jail medical personnel. These are suggestions for questions to utilize the follow-up and disposition by jail medical staff.

Question 8: "Is he/she carrying medication? If yes, list."

Question 9: "Does he/she report being on medication which should be continuously administered or available? If yes, list."

Answer YES if:

- He/she is carrying medication or reports being on medication of the type described in the question.

Also, look for a Med-Alert tag or card which might identify the inmate as a diabetic, epileptic, cardiac patient, etc., who might need medication which should be continuously administered or available. The inmate may not report that he needs such medication for a medical condition, even though it is vitally important that he have the medication.

- List.
- Determine time of need for next dosage.
- Validate by:
 1. Physician and/or
 2. Pharmacist.

Labeling requirements:

1. Name of pharmacy,
2. Patient's name,
3. Prescribing doctor's name,
4. Date the prescription was filled (check with Doctor for his decision on "too old" medication, i.e., one year, etc.),
5. Number of the prescription,

6. Name of drug,
7. Dosage,
8. Instructions for taking:
 - a. Number of times the drug is to be taken daily,
 - b. Method of taking,
 - c. Any special times that the drug should be taken (i.e., before meal, after meal, before bed, etc.).

Question 10: "Is he/she on a special diet prescribed by a physician? If yes, list type."

- The inmate tells you the type of diet he/she requires.
- The inmate can explain the medical condition warranting a special diet.
- Ask what physician prescribed the diet. List, call and verify as possible.
- Weigh the inmate if possible.

Question 11: "Does he/she have a history of venereal disease or abnormal discharge?"

- Specific type of venereal disease.
- Specific type of abnormal discharge.
- Specific time and place of treatment.
- Specific physician treating disease.
- Inquire about present need for medical follow-up.

Question 12: "Has he/she recently been hospitalized or recently seen a physician for any illness?"

- List illness.
- List attending physician.

Question 13: "Is he/she allergic to any medication or food? If yes, list."

- List.

Question 14: "Has he/she fainted recently or had a recent head injury?"

- When did fainting or head injury occur?
- How often does condition reoccur?
- Assess vital signs.
- Assess pupils, ears with any consequent drainage, reports of dizziness.
- Notify physician as symptoms indicate.

Question 15: "Is there a history of tuberculosis?"

If Answer YES for Booking Officer

- Isolate until medical staff can examine.

If Answer YES for Jail Medical Staff:

- Explain hx.
- Has inmate been exposed within the past six months. If so, when?
- Reports positive skin tests and/or chest x-ray.
- Determine present need for medication.
- Determine attending physician. Check with Doctor accordingly.
- Determine need for follow-up treatment and/or isolation.
- Determine need to test officers and/or inmates already exposed.
- Report findings to jail physician.

Question 16: "Does he/she have hepatitis?"

If Answer YES for Booking Officer:

- Isolate until medical staff can examine

If Answer YES for Jail Medical Staff:

- Determine attending physician. Check with Doctor accordingly.
- Determine present need for medication, treatment, and/or isolation.
- Determine need to test or inoculate officers and/or inmates already exposed.

- Report findings to jail physician.

Question 17: "Does he/she have any painful dental condition?"

- Determine duration of painful dental condition.
- Check mouth for obvious bleeding, infection, and/or abcess.
- Notify inmate's personal dentist or jail dentist, as necessary.

Question 18: "If female, is she pregnant?"

- Determine how far along pregnancy is.
- Elicit any problems associated with her pregnancy. List.
- Elicit weight, vital signs, and urinalysis.
- Determine attending physician. Check with Doctor accordingly.
- Notify jail staff of expected date of delivery.
- Report findings to jail physician.

"Currently on birth control pills?"

- Jail physician decides about continuation of medication.

Question 19: "Do you have any other medical problem we should know about? If yes, list."

- Determine problem.
- Determine duration of these specific problems.
- Determine attending physician. Check with Doctor accordingly.
- Report findings to jail physician.

Sample Protocol

for

Disposition

General Population

- All questions are answered "no".

General Population with Later Referral to Appropriate Health Care Service

- Any question answered "yes," that booking officer can attend and notify jail medical staff within 24 hours.

To Emergency Room for Treatment

- Any question answered "yes," that indicates physical, mental, and/or emotional health of inmate would be adversely affected without immediate medical attention.

An Isolated Area Designated to Protect Newly Admitted Inmates and/or General Population. Explain

- Any question answered "yes." that requires isolation (as specified by jail physician), i.e., active tuberculosis, contagious hepatitis, behavior suggesting assault to staff or inmates, etc.

SOURCE: Indiana Jail Health Project, Sara Klein, R.N., Project Coordinator, Indianapolis, Indiana.

MEDICAL CLEARANCE

DATE: _____
TIME: _____ A.M.
P.M.

Patient's name: _____ S.S.# _____

Age: _____ D.O.B. _____ Sex: _____

_____ The above patient has been seen in _____
Hospital's emergency room. He/she may return to the jail without
further need for medical treatment.

_____ The above patient has been seen in _____
Hospital's emergency room. Follow-up, medical treatment (as stated
below) is required. He/she may return to the _____
County Jail, providing the stated care is implemented.

_____ The above patient has been seen in _____
Hospital's emergency room. He/she can not return to the _____
County Jail due to the nature of the
diagnosis below and consequent treatment.

DIAGNOSIS:

TREATMENT REQUIRED:

Patient's Signature _____ M.D.

Witnesses:

SOURCE: North Dakota Jail Health Project, Lyle Brudvig, State Project
Coordinator, North Dakota Medical Association, Bismarck, N.D.

Indiana State Medical Association

Sara Klein, R.N.

Sample Protocol

for use of

MEDICAL SCREENING QUESTIONNAIRE ** FOR ALL NEWLY ADMITTED INMATES

Question 1: "Does the inmate have obvious pain, bleeding, or other symptoms suggesting need for emergency medical service?"

Answer YES if:

- The inmate is bleeding at all seriously.
- The inmate is in obvious pain for any reason.
- The inmate is experiencing serious breathing difficulty.
- Other obvious signs and symptoms indicate an emergency situation.

Question 2: "Are there visible signs of injury or illness requiring immediate care?"

Answer YES if:

- The inmate has any signs of serious head injury (scalp lacerations, skull deformity, clear or bloody fluid from nose or ears, pupil or vision changes, vomiting, bruises under eyes or at back of ear, dizziness or convulsions, very poor coordination, muscle weakness, any change in level of consciousness).
- The inmate has any signs of symptoms of possible spinal injury (pain or tenderness over a part of the spine, painful back movement, spinal deformity, cuts or bruises on face, shoulders, back or abdomen, paralysis or numbness in parts of the body).
- The inmate displays any signs or symptoms of a possible crushing chest injury (extreme pain, usually in a specific place, difficulty breathing, frail chest).
- The inmate displays signs or symptoms of a potentially serious abdominal injury (any obvious penetrating wound, nausea and vomiting, abdominal tenderness, abdominal muscle spasms, bruises and abrasions over injury site).

- The inmate displays signs or symptoms of eye injury (vision problems, swelling of eyes, pain, bleeding in eye, badly "bloodshot" eye, foreign materials in eye, pupil changes, darkening of iris).
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- The inmate displays any signs or symptoms of possible stroke (paralysis or weakness of body and facial muscles, difficulty breathing and swallowing, inability to talk or slurring of speech, loss of bladder or bowel control, unequal pupils, convulsions, headache alone).
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- The inmate shows any other signs or symptoms of a potentially serious illness which might require emergency or doctor's care. Some general signs or symptoms to be concerned about include: nausea, vomiting, trouble in breathing, fever, diarrhea, bad headache, etc.

Question 3: "Is there any jaundice, complaint or sore throat, fever, or other evidence of infection which might spread through the jail?"

Answer YES if:

- There is obvious fever (skin feels very warm to touch; oral temperature is above 99.6°F; chilly sensation; shivering; feeling boiling hot, unusually dry, maybe sweating, headache, restlessness weakness, feeling ill, possible confusion of thought or speech, etc.).
- There are swollen lymph nodes, which are small glands located in the neck at the angle of the jaw.
- The inmate has obvious yellowish coloring of the skin and the whites of the eyes.
- The inmate displays any other general signs or symptoms of possible infectious disease (chills, rash, persistent cough, diarrhea, cramps, sore throat, genital ulcers or sores which you might notice during a strip search, complaint of painful urination, joint swelling and pain, especially along with fever).

Question 4: "Does he/she appear to be under the influence of alcohol, barbiturates, heroin, or any other drug? If yes, list type, amount, frequency, mode of use, last time used, and history of use.

Answer YES if:

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- The inmate seems very agitated or aggressive, or if he seems quite moody, and his moods shift suddenly.
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- The inmate has a sudden onset of drowsiness, or starts to nod off.
- The inmate acts unusually happy or silly for no apparent reason; if he finds remarks or events to be extraordinarily entertaining.
- The inmate's pupils appear dilated or constricted (very large or very small). Pinpoint pupils often indicate heroin use.
- The inmate complains of feeling either very hot or very cold.
- The inmate is sweating for no apparent cause. This is especially important if it is a cold sweat.
- If inmate's skin appears very dry or flushed. Or, if the skin seems quite cool and clammy.

NOTE: Many of the above signs or symptoms of possible drug influence are also symptomatic of other problems or conditions. The problem could be medical; or it could be that the person is suffering from mental or emotional distress; or it could be any combination of conditions. Therefore, if you think that the inmate may be under the influence of drugs because he shows some of the above signs or symptoms, even if it could be due to another cause, circle YES just to be safe.

In addition, the inmate could be under the influence of both drugs and alcohol. It is often difficult to tell. His breath may smell of alcohol, but he may also have taken something else. This is especially dangerous if he has taken alcohol and barbiturates. Therefore, do not assume that just because you smell alcohol that he has taken only alcohol. Look for other signs and symptoms and mark the screening form accordingly. Remember: If you have any doubt, circle YES.

Question 5: "Are there any visible signs of alcohol or drug withdrawal symptoms?"
(Extreme perspiration, pinpoint pupils, shakes, nausea, cramping, or vomiting?)

NOTE: It is not always easy or even possible to distinguish withdrawal symptoms from symptoms of "high" or overdose. The symptoms vary depending on the drug taken. Therefore, guidelines here can only be general and deal with obvious symptoms.

Answer YES if:

- The inmate's eyes are watery, red or irritated, glazed, or if the pupils are dilated.
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- The inmate's skin is unusually dry.
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- The inmate seems very depressed and tired or weak, as though he had just come down from a great "high."
- The inmate seems very agitated or restless, or very irritable.
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- The inmate, in addition to seeming depressed, talks about feeling very guilty or seems to blame himself very harshly for having done something.
- The inmate seems very agitated and tense, as though he has strong feelings which he cannot control. This can be especially significant if he also seems to have a lot of self-blaming feelings.
- There is anything else about his behavior that makes you think he might be suicidal. Trust your judgment and intuition.

Question 7: "Does the inmate's behavior suggest the risk of assault to staff or other inmates?"

Answer YES if:

- The inmate starts a fight during the booking or if he fought with the arresting officer prior to being brought into the jail.

- The inmate makes threats or is verbally abusive.
- The inmate seems very agitated or tense and unable to effectively control his emotions.
- There is anything else about his behavior that makes you think he might be dangerous.

If the following questions are answered YES by the inmate, the booking officer should alert jail medical personnel. These are suggestions for questions to utilize the follow-up and disposition by jail medical staff.

Question 8: "Is he/she carrying medication? If yes, list."

Question 9: "Does he/she report being on medication which should be continuously administered or available? If yes, list."

Answer YES if:

- He/she is carrying medication or reports being on medication of the type described in the question.

Also, look for a Med-Alert tag or card which might identify the inmate as a diabetic, epileptic, cardiac patient, etc., who might need medication which should be continuously administered or available. The inmate may not report that he needs such medication for a medical condition, even though it is vitally important that he have the medication.

- List.
- Determine time of need for next dosage.
- Validate by:

1. Physician and/or
2. Pharmacist.

Labeling requirements:

1. Name of pharmacy.
2. Patient's name,
3. Prescribing doctor's name
4. Date the prescription was filled (check with Doctor for his decision on "too old" medication, i.e., one year, etc.),
5. Number of the prescription,

6. Name of drug,
7. Dosage,
8. Instructions for taking:
 - a. Number of times the drug is to be taken daily,
 - b. Method of taking,
 - c. Any special times that the drug should be taken (i.e., before meal, after meal, before bed, etc.).

Question 10: "Is he/she on a special diet prescribed by a physician? If yes, list type."

- The inmate tells you the type of diet he/she requires.
- The inmate can explain the medical condition warranting a special diet.
- Ask what physician prescribed the diet. List, call and verify as possible.
- Weigh the inmate if possible.

Question 11: "Does he/she have a history of venereal disease or abnormal discharge?"

- Specific type of venereal disease.
- Specific type of abnormal discharge.
- Specific time and place of treatment.
- Specific physician treating disease.
- Inquire about present need for medical follow-up.

Question 12: "Has he/she recently been hospitalized or recently seen a physician for any illness?"

- List illness.
- List attending physician.

Question 13: "Is he/she allergic to any medication or food? If yes, list."

- List.

Question 14: "Has he/she fainted recently or had a recent head injury?"

- When did fainting or head injury occur?
- How often does condition reoccur?
- Assess vital signs.
- Assess pupils, ears with any consequent drainage, reports of dizziness.
- Notify physician as symptoms indicate.

Question 15: "Is there a history of tuberculosis?"

If Answer YES for Booking Officer

- Isolate until medical staff can examine.

If Answer YES for Jail Medical Staff:

- Explain hx.
- Has inmate been exposed within the past six months. If so, when?
- Reports positive skin tests and/or chest x-ray.
- Determine present need for medication.
- Determine attending physician. Check with Doctor accordingly.
- Determine need for follow-up treatment and/or isolation.
- Determine need to test officers and/or inmates already exposed.
- Report findings to jail physician.

Question 16: "Does he/she have hepatitis?"

If Answer YES for Booking Officer:

- Isolate until medical staff can examine

If Answer YES for Jail Medical Staff:

- Determine attending physician. Check with Doctor accordingly.
- Determine present need for medication, treatment, and/or isolation.
- Determine need to test or inoculate officers and/or inmates already exposed.

- Report findings to jail physician.

Question 17: "Does he/she have any painful dental condition?"

- Determine duration of painful dental condition.
- Check mouth for obvious bleeding, infection, and/or abcess.
- Notify inmate's personal dentist or jail dentist, as necessary.

Question 18: "If female, is she pregnant?"

- Determine how far along pregnancy is.
- Elicit any problems associated with her pregnancy. List.
- Elicit weight, vital signs, and urinalysis.
- Determine attending physician. Check with Doctor accordingly.
- Notify jail staff of expected date of delivery.
- Report findings to jail physician.

"Currently on birth control pills?"

- Jail physician decides about continuation of medication.

Question 19: "Do you have any other medical problem we should know about? If yes, list."

- Determine problem.
- Determine duration of these specific problems.
- Determine attending physician. Check with Doctor accordingly.
- Report findings to jail physician.

Sample Protocol

for

Disposition

General Population

- All questions are answered "no".

General Population with Later Referral to Appropriate Health Care Service

- Any question answered "yes," that booking officer can attend and notify jail medical staff within 24 hours.

An Isolated Area Designated to Protect Newly Admitted Inmates and/or General Population. Explain

- Any question answered "yes," that requires isolation (as specified by jail physician), i.e., active tuberculosis, contagious hepatitis, behavior suggesting assault to staff of inmates, etc.

S

Sanz Jail Health Project, Sara Klein, R.N., Project Coordinator,
Napolis, Indiana.

MEDICAL CLEARANCE

DATE: _____ A.M.
TIME: _____ P.M.

Patient's name: _____ S.S.# _____

Age: _____ D.O.B.: _____ Sex: _____

_____ The above patient has been seen in _____
Hospital's emergency room. He/she may return to the jail without
further need for medical treatment.

_____ The above patient has been seen in _____
Hospital's emergency room. Follow-up, medical treatment (as stated
below) is required. He/she may return to the _____
County Jail, providing the stated care is implemented.

_____ The above patient has been seen in _____
Hospital's emergency room. He/she can not return to the
_____ County Jail due to the nature of the
diagnosis below and consequent treatment.

DIAGNOSIS:

TREATMENT REQUIRED:

Patient's Signature _____ M.D.

Witnesses:

SOURCE: North Dakota Jail Health Project, Lyle Brudvig, State Project
Coordinator, North Dakota Medical Association, Bismarck, N.D.

PERFORMANCE OBJECTIVES

1. IDENTIFY PRISONERS NEEDING MEDICAL CLEARANCE BEFORE ADMISSION
2. LIST THE VALUES AND BENEFITS OF MEDICAL SCREENING
3. RECOGNIZE SIGNS AND SYMPTOMS OF ILL HEALTH
4. STATE THE STEPS TO VERIFY MEDICATIONS
5. LIST TYPES OF MEDICAL ORDERS PERFORMED IN JAIL

BOOKING OFFICER'S FIRST DECISION

TO ADMIT OR NOT.

REASONS FOR REFUSING TO ADMIT

SERIOUSLY ILL

SERIOUSLY INJURED

MEDICAL CLEARANCE

A WRITTEN NOTICE FROM A MEDICAL PROFESSIONAL

THAT A PERSON HAS BEEN EXAMINED AND IT

IS HIS/HER JUDGEMENT THAT THE PERSON IS

MEDICALLY FIT TO BE PLACED IN JAIL

DO NOT ACCEPT A PRISONER WHO:

IS UNCONSCIOUS
IS HAVING OR HAD CONVULSIONS
IS BLEEDING SEVERELY
IS SUSPECTED OF HAVING INTERNAL INJURIES
IS SUSPECTED OF HAVING FRACTURES
HAS SIGNS OF HEAD INJURY
IS SUSPECTED OF HAVING SPINAL INJURY
APPEARS IN SEVERE PAIN
CANNOT WALK
IS GOING INTO SHOCK
IS UNABLE TO ANSWER QUESTIONS
IS HAVING WITHDRAWAL OR OVERDOSE SYMPTOMS
IS PREGNANT AND HAVING PROBLEMS
NEEDS BUT DOES NOT HAVE MEDICATIONS

RECEIVING SCREENING

A SYSTEM OF ORDERLY OBSERVATION AND
INTERVIEW IN ORDER TO ASSESS A PERSON'S
GENERAL HEALTH STATUS.

VALUES AND BENEFITS OF RECEIVING SCREENING

UNCOVER CONDITIONS THAT MIGHT NEED
RAPID MEDICAL EVALUATION OR TREATMENT.

IDENTIFY ON-GOING CONDITIONS

IDENTIFY MEDICATIONS NEEDED

WRITTEN RECORD OF ADMISSION HEALTH STATUS

WAY TO COUNTER CLAIMS THAT CONDITIONS WERE IGNORED

BOOSTS MORALE OF INMATE-SHOWS CONCERN

MEANS TO NOTE ALCOHOL OR DRUG PROBLEMS

PROVIDES INSIGHT INTO EMOTIONAL OR MENTAL STATUS

SKILLS NEEDED FOR EFFECTIVE SCREENING

OBSERVATION

INTERVIEW

A SIGN IS SOMETHING THAT CAN BE SEEN.

A SYMPTOM IS SOMETHING THAT A PERSON TELLS YOU.

SIGNS AND SYMPTOMS OF ABDOMINAL PAIN

VOMITING

CRAMPS

HARD, TENSE ABDOMINAL MUSCLES

DIFFICULTY BREATHING

FEVER

SHOCK

BLOOD IN VOMIT OR BOWEL MOVEMENT

PAINFUL OR BLOODY URINATION

BLEEDING OR PAIN IN VAGINA

DISPOSITION AND TREATMENT OF ABDOMINAL PAIN

GIVE NOTHING TO EAT OR DRINK

PLACE IN COMFORTABLE POSITION

TRANSFER TO EMERGENCY ROOM

SIGNS AND SYMPTOMS OF INTERNAL BLEEDING

SHOCK

BRIGHT, RED BLOOD COUGHED OR VOMITED

TENDER, ENLARGED ABDOMEN

SWELLING AT END OF MAJOR BONE

NON-MENSTRUAL BLEEDING

BRIGHT, RED BLOOD IN STOOL

TARRY LOOKING STOOL

SMOKEY APPEARANCE OF URINE

BRIGHT, RED BLOOD IN URINE

DISPOSITION AND TREATMENT OF INTERNAL BLEEDING

GIVE NOTHING TO EAT OR DRINK

TREAT FOR SHOCK

TRANSFER TO EMERGENCY ROOM

SIGNS AND SYMPTOMS OF CHEST PAIN (ANGINA PECTORIS)

PAIN, DESCRIBED AS SQUEEZING THAT RADIATES
TO LEFT ARM, JAW, OR BOTH ARMS

PATIENT IS USUALLY AWARE OF THIS CONDITION

DISPOSITION AND TREATMENT OF CHEST PAIN

ASSIST IN GIVING MEDICATION (NITROGLYCERINE)

HAVE THEM REST

IF PAIN PERSISTS, TRANSFER TO EMERGENCY ROOM

SIGNS AND SYMPTOMS OF HEART ATTACK

PAIN, DESCRIBED AS SQUEEZING, RADIATES TO
JAW, LEFT ARM OR BOTH ARMS.

SUDDEN WEAKNESS

NAUSEA

SWEATING

DISPOSITION AND TREATMENT FOR HEART ATTACK

PLACE IN SEMI-RECLINING POSITION

CALM, COMFORT, AND REASSURE

BE PREPARED TO DO CPR

TRANSFER TO EMERGENCY ROOM

SIGNS AND SYMPTOMS OF CONGESTIVE HEART FAILURE

SHORTNESS OF BREATH

SHOCK

ANXIETY

RAPID PULSE

WHEEZING BREATH

BLUISH COLOR TO SKIN

SIGNS AND SYMPTOMS OF STROKE

NUMBNESS OR PARALYSIS OF ARMS OR LEGS

CONFUSION-DIZZY

SLURRED SPEECH-BLURRED VISION

DIMINISHED CONSCIOUSNESS-COMA

CONVULSIONS

HEADACHE

DISPOSITION AND TREATMENT OF STROKE

MONITOR AIRWAY AND BREATHING

PLACE ON SIDE

GIVE NOTHING TO EAT OR DRINK

CALM AND REASSURE

TRANSFER TO EMERGENCY ROOM

SIGNS AND SYMPTOMS OF HYPERVENTILATION

ANXIETY

DIZZY, FAINTING

NUMBNESS OR TINGLING OF HANDS OR FEET

SHARP, STABBING CHEST PAIN

RAPID BREATHING, HIGH PULSE RATE

DISPOSITION AND TREATMENT FOR HYPERVENTILATION

CALM AND REASSURE

HAVE PERSON BREATHE INTO A BAG

SIGNS AND SYMPTOMS

| | <u>DIABETIC COMA</u> | <u>INSULIN SHOCK</u> |
|--------------|----------------------------|----------------------|
| BREATHING | DEEP-RAPID-GULPING | NORMAL TO SHALLOW |
| BREATH ODOR | FRUITY-ACETONE | NONE |
| SKIN | RED, DRY | PALE, MOIST |
| TREMORS | ABSENT | PRESENT |
| CONVULSIONS | NONE | IN LATER STAGES |
| MENTAL STATE | ACTS DRUNK | CONFUSED, RESTLESS |
| APPEARANCE | EXTREMELY ILL | WEAK |
| ONSET | SLOW | SUDDEN |
| OTHER | VOMITING, THIRST | HEADACHE, HUNGER |
| | ABDOMINAL PAIN NO APPETITE | |

TREATMENT FOR DIABETIC COMA OR INSULIN SHOCK

IF CONSCIOUS, GIVE SUGAR

IF UNCONSCIOUS, PUT 1 TABLESPOON SUGAR OR
HONEY UNDER TONGUE

DISPOSITION FOR DIABETIC EMERGENCY

TRANSFER TO EMERGENCY ROOM

SIGNS AND SYMPTOMS OF EPILEPSY (GRAND MAL)

A WARNING SIGN

BRIEF TENSING OF MUSCLES

UNCONTROLLABLE BODY JERKING

BREATHING IS LABORED

FACE TURNS BLUE

FOAMS AT MOUTH

LOSS OF BLADDER OR BOWEL CONTROL

DEEP SLEEP

DISPOSITION AND TREATMENT – EPILEPTIC SEIZURE

PROTECT THE PERSON FROM INJURY

DO NOT RESTRAIN

DO NOT FORCE A GAG IN MOUTH

BE SURE PERSON CAN BREATHE

ALLOW THE PERSON TO REST

CALL AMBULANCE IF SEIZURE LASTS 4 MINUTES OR LONGER

SIGNS AND SYMPTOMS – MENTAL OR EMOTIONAL DISORDERS

FEAR

ANXIETY

DEPRESSION

WITHDRAWAL

ANGER

CONFUSION

MANIA

LOSS OF REALITY

PHYSICAL SYMPTOMS

DISPOSITION AND TREATMENT FOR EMOTIONAL
OR MENTAL DISORDERS

CALM THE PERSON WITH YOUR CONFIDENCE,
FIRMNESS AND REASONABLENESS

REMOVE FROM THE CRISIS SCENE

EXPLAIN HOW YOU SEE THE PROBLEM

BE DIRECTIVE AND SUPPORTIVE

CONVEY POSITIVE EXPECTATIONS

ENCOURAGE EXPRESSION OF FEELINGS

AVOID ARGUMENT

DO NOT LIE OR BE SARCASTIC

HELP PERSON STRUCTURE THE EXPERIENCE

ENCOURAGE SEEKING PROFESSIONAL HELP

SIGNS AND SYMPTOMS OF SUICIDAL BEHAVIOR

SADNESS OR CRYING

WITHDRAWAL OR SILENCE

CHANGE OF APPETITE

INSOMNIA

SLOW METHODOICAL MOVEMENTS

VISUAL CHANGE IN MOOD

FEELING OF HOPELESSNESS

SPEAKS OF GETTING OUT UNREALISTICALLY

SEES NO FUTURE

PREOCCUPIED WITH PAST

TALKS OF SUICIDE PLANS

CANNOT RELATE TO OTHERS

SUDDEN CHANGES IN BEHAVIOR

DISPOSITION AND TREATMENT OF SUICIDAL PERSON

BE AWARE

BE TUNED IN

MAKE DAILY CONTACT

BE SYMPATHETIC

DON'T GIVE UP

SIGNS AND SYMPTOMS OF DRUG/ALCOHOL ABUSE

CONFUSION

HALLUCINATIONS

UNABLE TO STAND OR WALK

RESTLESSNESS

SLURRED SPEECH

AGITATION – AGRESSIVENESS

LETHARGY

RAPID, SHALLOW BREATHING

CRAMPS, NAUSEA, DIARRHEA

PINPOINT OR DILATED PUPILS

SUDDEN COLLAPSE

HOT OR COLD FEELING

TRACK MARKS – SMELL ON BREATH

DISPOSITION AND TREATMENT OF DRUG/ALCOHOL ABUSE

MONITOR AIRWAY, BREATHING AND PULSE

DO NOT LEAVE VICTIM, REASSURE, AND CALM

CALL PHYSICIAN FOR ADVICE

TRANSFER TO EMERGENCY ROOM

SIGNS AND SYMPTOMS OF COMMUNICABLE DISEASE

FEVER

PAINFUL JOINTS

CHILLS

WEAKNESS

HEADACHE

ITCHING

RASH

DIARRHEA

COUGH

SORE THROAT

DISPOSITION AND TREATMENT OF COMMUNICABLE DISEASE

ISOLATE

CALL PHYSICIAN FOR ADVICE

TREAT AS PHYSICIAN ORDERS

SIGNS AND SYMPTOMS OF SERIOUS FEMALE DISORDERS

UNUSUALLY HEAVY OR CLOTTY VAGINAL BLEEDING

ABNORMAL VAGINAL DISCHARGE

PAIN OR TENDERNESS OF ABDOMEN

PAIN OR TENDERNESS, SWELLING
AROUND EXTERNAL GENITALIA

DISPOSITION AND TREATMENT OF FEMALE DISORDERS

ADMINISTER FIRST AID

CALL PHYSICIAN FOR ADVICE

TRANSFER TO EMERGENCY ROOM

INFORMATION ON MEDICATION LABELS

NAME OF PHARMACY

ADDRESS OF PHARMACY

TELEPHONE NUMBER OF PHARMACY

NUMBER OF PRESCRIPTION

PATIENT'S NAME

DOCTOR'S NAME

DATE IT WAS FILLED

TYPE OF MEDICATION AND AMOUNT

INSTRUCTIONS FOR TAKING

INITIAL'S OF PHARMACIST

METHODS OF TAKING MEDICATIONS

INGESTION

INJECTION

INSERTION

APPLICATION

DIRECTIONS AND SPECIAL INSTRUCTIONS – MEDICATIONS

TIMING

DOSAGE

CONDITIONS FOR TAKING

STORAGE

SIDE EFFECTS

REACTIONS

VERIFYING MEDICATIONS

COMPARING WITH (PDR) PHYSICIAN'S DESK REFERENCE

CALL THE PHARMACY

CALL THE PHYSICIAN

CALL THE NEAREST HOSPITAL

RECORD THE VERIFICATION

WHEN ANY DOUBT, OBTAIN NEW PRESCRIPTION

ALL MEDICATIONS MUST BE SECURED UNDER LOCK AND KEY
CERTAIN MEDICATIONS SHOULD BE KEPT BY INMATE

ADMINISTERING MEDICATIONS

FOLLOW THE INSTRUCTIONS

MAKE SURE THE MEDICATION WAS ACTUALLY TAKEN

VERIFY THE CORRECT PERSON TAKING

DOCUMENT THE FACT IT WAS TAKEN OR NOT

PROCEDURE FOR RECORDING MEDICATION

INMATE'S NAME

DATE AND TIME

TYPE OF MEDICATION

INITIAL'S OF OFFICER

MEDICAL ORDERS YOU MAY BE ASKED TO FOLLOW

OBSERVE INMATE'S CONDITION

GIVE MEDICATIONS

PROVIDE TREATMENT

LIMITED TESTS

SPECIAL DIETS

HEALTH EDUCATION

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE

Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Report Writing

AUTHOR: Lieutenant John R. Pearcy, Jr.
Director of Training, Planning
and Development
Bismarck Police Department
Bismarck, ND 58501-5879

NOTE TO INSTRUCTOR

This lesson plan is intended to provide the minimum coverage of this topic consistent with the provisions of the North Dakota Century Code and the North Dakota Administrative Code.

This lesson plan and the supplementary materials in the Trainee Resource Manual and Workbook should not be treated as inflexible by the instructors who use it. It should, in fact, be viewed as a basic guide upon which the instructor must build by adding materials which reflect new situations and changes in corrections as they develop in the state. It should be tailored to the skills, knowledge, and learning capabilities of each correctional officer class.

It is recognized that instructors will inject their own experience, style, resources, and enthusiasm into the presentation of this material. Included, as well, will be the values and personal philosophy of individual instructors. We encourage and appreciate the personal investment made by you, the instructor, which will enrich this lesson plan for those receiving this instruction, and would only caution that the ideas presented should reflect the philosophy outlined in the Role of the Correctional Officer as it is printed at the beginning of this text.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE

Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Report Writing

AUTHOR: Lieutenant John R. Pearcy, Jr.
Director of Training, Planning
and Development
Bismarck Police Department
Bismarck, ND 58501-5879

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: Three (3) Hours

TRAINING OBJECTIVES:

1. Define a report.
2. List 5 of the 7 elements of a report.
3. List 4 of the 5 characteristics of a well-written report.
4. Examine 5 reasons why reports are dismissed.
5. List 4 criteria for effective note taking.
6. Evaluate a report of a correctional officer.
7. Evaluate, to the instructor's satisfaction, the requirements of good report writing.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

1. It's Easy to Write Better Police Reports, Devallis Ruthledge, Deputy District Attorney, Orange County District Attorney's Office, California
2. Writing Police Reports: A Practical Guide, Alec Ross and David Plant, 1977, Motorola Teleprograms, Inc.
3. Communication At Work: Writing and Speaking, Roger P. Wilcox, 1977, Houghton Mifflin Company
4. North Dakota Correctional Officers' Training Manual, Part One, Report Writing, July 1982
5. Report Writing, Motorola Teleprogram 16mm film, 28 minutes, color: emphasizes think before you write; check over what you have written

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 30th Street, Suite 130
Boulder, Colorado 80301
Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise(s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

TRAINING AIDS:

Supplies and Equipment

- Video Projection Screen
- 16 mm. Projector With Spare Lamp
- 16 mm. Film: _____
- Discussion Guide
- Overhead Projector
- Appropriate Transparencies
- Slide Projector
- Slides
- Video Monitor, Player/Recorder
- Video Cassette: _____
- Cassette Player, Audio
- Audio Cassette: _____
- Flip Chart and Markers
- Masking Tape
- Chalkboard, Chalk, Eraser
- Trainee Worksheets
- Trainee Handouts
- Pre- and Post-Tests
- Trainee Course Evaluation
- Trainee Instructor Evaluation
- _____
- _____
- _____
- _____
- _____

I. Topic Introduction and Scope of Presentation - REPORT WRITING

- A. One of the important differences between man and the lower forms of animal life is that man is able to write and to read. Man can reduce his observations to symbols which other men can interpret and understand.

As correctional officers, you'll encounter the opportunity (and, in some cases, the necessity) to be able to exercise your human ability to express yourself. As was stated, humans can read and write. No other form of life can.

However, the key to being able to read and write falls to the sender. The sender must be able to express the message so that the person receiving the message can read and understand it.

As correctional officers, you'll come into contact with basic operational reports and administrative reports. These reports are used to document day-to-day activities as well as to plan, develop and implement short- and long-term administration and operations of your correctional facility.

Your reporting has a wide range of effect. It may be the report which initiated a policy and procedure change within your organization. It may have been the document which created the rationale for a directive to all agency personnel.

1. Operation Halley's Comet

As one can see when reading through this example of a directive, there appears to be a breakdown in the written word. By the time one receives the message from the Sergeant to the squad, things are a bit different

Instructor introduction by the coordinator, department administrator or self, if appropriate.

Explain instructor's qualifications relevant to this topical area.

Administer Pre-Test.

Topic introduction should include the rationale for the topic being presented.

Transparencies 1-A, 1-B, 1-C, 1-D, 1-E

from the original directive from the Colonel.

- a. Does this happen in your agency?
- b. Is the report such that it leads to confusion, misunderstanding and policies and procedures?

Think about how you may have started the problem in "Halley's Comet".

2. Letter from Playgirl, Inc.

Transparency #2

Oftentimes, your report is the reason for correspondence to an outside agency. It may be a response to a survey or in reference to a policy, procedure or incident within your agency involving an inmate, employee or both.

- a. Does your letter, based upon your report, reflect bias?
- b. Does your correspondence reflect the facts of the situation or reflect misunderstanding, confusion and personal opinions?

3. The Waywide Chapel

Transparency #3 (top half)

Your report may be reviewed by name; it may be the source for inquiries from other interested persons.

Correspondence often bases itself on a written report. It is important that your reports be accurate and complete. A report must be concise, free of jargon and clear enough so that all reading it can interpret your narrative without a conflict of terminology.

This correspondence reflects how easily a narrative could be misinterpreted with just a few minor language barriers or with the usage of jargon.

Transparency #3 (bottom half)

One must remember that a narrative may be read by a variety of people.

It will reflect upon your personal training and character, as well as your agency's reputation and professionalism.

II. Performance Objectives

- A. The following is an overview of what you as a trainee will establish as your objectives.
1. Define a report.
 2. List 5 of the 7 elements of a report.
 3. List 4 of the 5 characteristics of a well-written report
 4. Examine 5 reasons why reports are dismissed.
 5. Organize the thoughts and ideas for a scenario for a report.
 6. Evaluate a report of a correctional officer.
 7. Evaluate, to the instructor's satisfaction, the requirements of good report writing.

III. Definitions

Transparency #4

- A. A report, for the purposes of this block of instruction, is "a formal written presentation of facts."
1. Formal: a report is formal, while day-to-day communications may be formal or informal.
 2. Written: while communications can occur in many ways, we will focus specifically on the written word as the medium for communications.
 3. Presentation: from a specific message to be transmitted by the sender to a specific receiver.
 4. Facts: a report must reflect the

facts; no opinions or personal judgements in the report text.

- a. Can a person making a report present an opinion or judgement? Certainly. However, it must be presented in such a way as to ensure there is no doubt by the reader of distinguishing the break from the presentation of facts and the opinion or judgement by the author of the report.

You may provide an opinion but use options #1 or #2 to do so.

- (1) You may accomplish this by attaching a separate supplement page entitled "Confidential", or
- (2) You may attach a separate supplemental page entitled "Opinions and Conclusions"

- B. Often you are the fact finder of an investigation. As such, you will be called upon for a conclusion. What is the conclusion? It is your opinion or judgement as to what happened, based upon your investigation or report assignment completion after reviewing all of the facts as gathered.

IV. Legal Considerations

- A. Legal considerations in respect to report writing are varied; briefly, they include:
1. The courts require documentation of any/all action taken. If it's not documented, the court's position is "it didn't happen."
 2. Clear, concise, complete and correct reports should be written as the report may appear in court as evidence or be read by people other than staff.
 3. A well-written report may avoid successful litigation by inmates against yourself, the administrator or governing authority of the facility.

V. Correctional Officer Responsibility

- A. To accept report writing as an integral part of correctional officer duties.
- B. To write reports to the very best of one's ability.
- C. To retain all reports as prescribed by departmental policy and procedure.
- D. To write reports that will stand the test of court scrutiny.

VI. Rationale for Well-Written Reports

- A. A well-written report is a permanent record.
- B. Report reflects on the training and character of the reporter.
- C. Written reports are subject to review.
- D. Reports may have a wide circulation.
- E. Written reports may ultimately have legal implications.
- F. Written reports provide a means of insuring that facility policies and procedures are applied consistently and appropriately documented.

Transparency #5

Ask students for examples.

Why are they important?

VII. Types of Reports

- A. Correctional employees will be expected to provide documentation of operations of their facility. Some examples of the types of reports you'll find are:
 - 1. Incident Reports
 - 2. Disciplinary Reports
 - 3. Admitting and Processing
 - 4. Inmate Money and Property Receipt
 - 5. Medical Notations

Transparency #6

Ask students for examples.

Why are they important?

6. Log Entries
 - a. Visitor's logs
 - b. Telephone calls
 - c. Mail
 - d. Commissary
 - e. Observation
7. Inspection Reports
8. Courts
9. Others

VIII. Categories of Reports

Transparency #7

- A. Reports completed by others which must be reviewed for accuracy and completeness. Some examples are:

Why is it important to be accurate and complete?

1. Commitment
2. Register
3. Admissions
4. Release

- B. Reports which the correctional officer completes but which require no narrative.

1. Count sheets
2. Special meals received
3. Medical treatment received, etc.

- C. Reports which the correctional officers complete which require narratives and statements. Sometimes narratives can be:

1. Short remarks, or
2. Detailed descriptions

IX. Characteristics of a Well-Written Report

- A. There are seven essentials to a well-written report. Some call the essentials the Four W's and HAW. (That may sound like a rock group, but it's not!)

Transparency #8

If you don't apply those five W's and the HA to your investigation, you aren't going to have the material necessary to write the report. If the report doesn't get written, you're going to hear some very loud sounds indeed from your immediate supervisor or the individual requesting the report. Let's go down the usual list of W and HA, then take a look at the typical personal description sheet. Apply both of them to any report you have to make.

The characteristics are:

1. WHO

The report writer must ask the following:

- a. Who discovered the incident?
- b. Who reported the incident?
- c. Who were the witnesses who saw, heard, or know who is involved?

Ask students for examples of how they do this in their agencies.

When identifying persons involved, be sure to:

- (1) Identify inmates by complete name and number
- (2) Identify staff by complete name and title
- (3) Identify witnesses by full name, date of birth, title

By identifying persons involved in this manner, it classifies who is involved for the reader, adds to your professionalism, and the titles

add to the witnesses' credibility. Don't forget to include your position or rank title as well for the same reasons.

2. WHAT

Transparency #8

- a. What happened?
- b. What was the offense or infraction committed?
- c. What are the elements of the incident?
- d. Identify what objects were used or precisely involved.

3. WHERE

- a. Where was the incident discovered?
- b. Where were the persons involved seen?
- c. Where were the tools and weapons obtained?
- d. Where were the witnesses located to see the incident?

When using the characteristic WHERE, identify locations by such things as cellblock number, cell number and name of area. Be sure to include the same process when locating persons as well as objects. If you were the witness, don't forget to specify your location or position during the incident.

You must draw a written picture for the reader.

4. WHEN

Transparency #9

- a. When was the infraction or violation committed?
- b. When was the occurrence discovered?
- c. When was the notification of the incident received?

- d. When did staff arrive on the scene?
- e. When did the incident cease?

Be sure to give the exact time, if known. If the exact time is not known, specify approximate time and trace the steps you were last performing.

5. HOW

HOW: one part of the "HA"

- a. How was the offense, violation or infraction committed?
- b. How was the incident planned, (if you can determine)?
- c. How did the inmate use the weapons or tools?
- d. How much damage was done?

Be sure to place this information in chronological narrative form. Keep in mind that you, as the report writer, want to begin your report with how the situation started, progressed and was concluded.

This characteristic, generally, will be the largest part of your narrative.

- Here the class participates in an exercise of organizing their thoughts into chronological order.

EXERCISE: Read this brief scenario to the class.

Scenario read to students or shown for one minute on overhead and then turned off.

The scene takes place in a recreation area (dayroom, recreation hall, library, etc.) An inmate, Jack Loud, is arguing and being insolent to Officer Ben Annoyed. During the argument over school and work release, Inmate Loud is asked for his cell number. Inmate Loud states his cell number to the officer but still refuses to quiet down or leave. He

wants to know why he is not eligible for school or work release when Inmates Black and White are eligible and they were all admitted on the same day.

Officer Annoyed orders Inmate Loud to return to his cell. Inmate Loud tells the officer to "take his order and shove it! I'm not leaving 'til I get an answer." He demands to know why he can't go on school or work release.

A scuffle starts when Inmate Loud, not getting a response, shoves past Officer Annoyed who responds by swinging Inmate Loud around to face him. Loud, having been grabbed by the arm, swings at Officer Annoyed with his free arm, hitting him in the cheek. Officer Jones enters the area, separates the two involved in the scuffle and ushers Inmate Loud to his cell.

After this is read to the class, give the students eight (8) minutes to list in one or two words all of the thoughts or ideas they remember about the scenario just read to them.

After they have done this, then have the students place the chronological number next to the thought or idea in order of presentation in the report.

You as a student have just completed a simple exercise in organizing your thoughts and ideas for a report.

This small process will:

- a. Assist in organizing your report
- b. Assist you in identifying parts of information which are still needed to complete your report

Transparency #10

Show your list after they have shared several of theirs or write on chalkboard.

- c. Each block paragraph in your report is one thought or idea. This makes it easy to read your report as well as ensure that all of your thoughts or ideas were addressed in the report.

6. WHY

- a. Why was the violation, offense or infraction committed?
- b. Why was a particular tool or weapon used?
- c. Why was a particular method employed?

Yes, this characteristic answers the question of Motive. This characteristic must be factual. You may offer opinions so long as the reader can distinguish them from the facts.

Remember factual and opinion separate.

If the information as to why is second-hand, state that it is and give the source.

7. ACTION TAKEN

This is usually the weakest or most forgotten part of the report. That is because others are often responsible for this part rather than the original report-taker and investigator. The following gives you an idea of what might be included in "Action Taken".

Why is it the weakest?

- a. What was the final disposition?
- b. If referred, to whom?
- c. If handled informally, how?
- d. Specify other reports completed or which need to be completed from analysis, witnesses or victims.

If the report was forwarded for follow-up, review or continuance, to whom?

Naturally, the list is not complete.

Every case is different. This list is shown here in this form only as an indicator of the type of information you will be recording because all that information, in one form or another, will be included in your report.

X. The Five Requirements of a Report

Transparency #11

A. The five requirements of a report are:

1. Complete

The report must be as complete as possible.

- a. The report must include the seven essentials of a report.
- b. The report must be written so as to be understood by a third party.
- c. When completed, you must sign your full name, in signature form; include your position or title if appropriate; and date the report.

Put yourself in the shoes of the third party or reader.

2. Concise

When writing a report, one must consider the following to be concise:

- a. Get to the point
- b. Don't editorialize
- c. Make every sentence count
- d. Avoid repeating points
- e. Do not include unnecessary information not pertinent to the specific incident.

3. Clear

Reports must be clear to avoid confusion, misunderstanding and loss of credibility. Examples of items to keep a report clear are:

- a. Use simple, descriptive words.
- b. Avoid exaggeration.
- c. Use concrete words, names of people, numbers and titles, clock and calendar times, gender (Ms., Mrs., Mr.)--words that point to a specific person or thing.
- d. Do not "over reach", using vocabulary above your level.
- e. Don't legalize where it isn't necessary.
- f. Avoid jargon and buzz words.

4. Correct

Remember, you and your agency's credibility is on the line on this one.

- a. Use proper grammar.
- b. Use proper spelling.
- c. Present a neat report.
- d. Your information must be accurate and unbiased.
- e. Actual words or phrases spoken are accepted--not paraphrases or generalities.

Transparency #12

5. Courteous

One gathering information must always display courtesy and professionalism. This reflects objectivity on the part of the report writer.

- a. Cooperative - indicate so.
- b. Uncooperative - indicate as well.
- c. Avoid judgements, stereotypes or biases.

- d. Avoid "loaded" words or absolutes.

XI. Student Report Evaluations

Transparency #13

The following phase of this block of instruction will require student participation. This will provide an opportunity for the student to be a third party and scrutinize the report, looking for areas of strength and weakness in the reports presented.

Have students look in their workbook for Report #1. Tell them the page. Use report critique form. (Pass out two so the students can keep theirs for reference.)

- A. Report One: (See Report #1)
 B. Report Two: (See Report #2)

Report Evaluation #1

Transparency #14

1. First paragraph, second sentence: "I can tell you now . . .": is this statement substantiated by the text?
2. Who is Mr. Cardinal?
3. First paragraph, last sentence: is this statement substantiated in the text?
4. Second paragraph: is this information pertinent?
5. Who is Keller?
6. What is the significance of the explosion?
7. Why was the report written?

These questions can be used to identify weaknesses and strengths of Report #1. These questions are asked after the students use and complete the "Report Critique Sheet."

Usually the above questions will be brought out by the students in their discussion of Report One after they have completed the "Report Critique Sheet."

Report Evaluation #2*Transparency #15*

One will note that the second report regarding the same scenario as the first is much more complete.

Ask the students the following questions to coincide with these critiques:

1. What happened? Is it more clear? Is there anything else to include?
2. When did the incident occur? Is it more clear? In what way?
3. Where did the incident occur? Describe how this is better compared to the first report.
4. How did it happen? Is it still somewhat confusing or not?
5. Who was involved? The second report does identify those involved more clearly. Does it cover and identify everyone?
6. Why did it happen? The motive is still unclear. How can it be done to complete this portion of the report?
7. What action was taken? Is this still left to complete? How did it compare with the first report?

(The discussion on Report #2 can take some time depending upon the class participation.)

XII. Note Taking

It is impossible to always be able to write your report immediately after an incident. It could be due to:

- A. Medical emergencies requiring transportation
- B. Fire emergencies requiring evacuation
- C. Insufficient time to complete reports prior to the end of shift or other reasons.

Situations like those mentioned above happen, and the corrections officer should make it a habit to record the facts of the situation in a pocket notebook until such time as the official report can be written.

Here are some helpful hints on note taking: *Transparency #16*

- D. Notes should cover the seven essentials of a report.
- E. They should be made as quickly as possible following the incident.
- F. Notes should include verbal statements of participants and witnesses.
- G. If applicable, include sketches of the scene and locations of people and important objects.
- H. Note all evidence collected and its disposition.
- I. If the situation warrants, have pictures taken to mark objects and make notes of them also.
- J. Record events in chronological order and give approximate times where possible.
- K. Carry a notebook. Always.
- L. Number pages consecutively and DO NOT remove any pages from the notebook.
- M. Record only facts and observations, not opinions; opinions are separate from notes about facts.
- N. Reference communications and reports concerning incidents.
- O. When notebook is full, do not discard. File it in chronological order with others. I may be needed months from the time the notes were taken.

XIII. Preservation of Evidence

Evidence has been mentioned several times during this session. In terms of

reporting, there are several important things to remember when handling evidence in addition to knowing your department or agency policies and procedures.

They are:

A. Mark it

Transparency #17

1. Physically mark it
2. Attach a tag or label to the object
3. Store it in a marked container
4. Insure it is permanently identifiable

B. Note it

1. Note the means of marking it
2. Record the physical description (include the serial number, model number, other numbers, names)
3. Note who assisted you

C. Report it

1. Include a record of all evidence and its disposition in the appropriate reports.

D. Document it

1. Document each time the evidence passes from one person to another and how it was secured by each of those persons.

XIV. Log Entries

Transparency #18

Log entries often are the culprits which get correctional personnel in trouble. They are often so routine and mundane that they are not taken seriously. They are:

- A. Most often performed by line personnel
- B. Serve a vital role in documentation.

The following are a few helpful hints regarding log entries.

- C. "OK" is not adequate
- D. Entry should reflect actual observation
- E. Any and all unusual occurrences should be noted
- F. Follow through. Verbally summarize the day's occurrences to your relief.

XV. Closing/Summary

The following information is a recap of what has been presented to you to assist in your written communications skill development.

As the old saying goes, "You can lead a horse to water, but you can't make him drink." This is true with report writing as well. You have been given a brief overview of one of the most critical responsibilities of criminal justice practitioners--that of being able to share the message of facts accurately, concisely and gramatically.

The following blanks are in your trainee workbook. They are designed as a review.

Transparency #19

Transparency #20

Tell students the pages and review the worksheet answers so they can complete the blanks.

TRAINEE WORKSHEET

SUBJECT: Report Writing

A. Define a report: _____

B. List six (6) reasons reports must be well written:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

C. List seven (7) types of correctional staff reports you work with:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

D. Describe the three (3) general categories of report responsibilities:

1. _____
2. _____
3. _____

E. List the seven (7) essential elements of a well-written report:

- | | | |
|----------|----------|----------|
| 1. _____ | 4. _____ | 6. _____ |
| 2. _____ | 5. _____ | 7. _____ |
| 3. _____ | | |

F. List five (5) requirements of a well-written report:

- | | | |
|----------|----------|----------|
| 1. _____ | 3. _____ | 5. _____ |
| 2. _____ | 4. _____ | |

G. State five (5) reasons reports are dismissed:

1. _____
2. _____
3. _____
4. _____
5. _____

H. List five (5) suggestions for effective notetaking:

- | | |
|----------|-----------|
| 1. _____ | 6. _____ |
| 2. _____ | 7. _____ |
| 3. _____ | 8. _____ |
| 4. _____ | 9. _____ |
| 5. _____ | 10. _____ |

I. List four steps discussed for preservation of evidence:

1. _____
2. _____
3. _____
4. _____

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Report Writing

A. Define a report: A formal written presentation of facts.

B. List six (6) reasons reports must be well-written:

1. Permanent record
2. Reflects on training and character of reporter
3. Subject to review
4. May have wide circulation
5. May have civil and legal implications
6. Documents consistent application of facility policy and procedures

C. List seven (7) types of reports correctional staff work with:

1. Disciplinary Reports
2. Incident Reports
3. Admitting and processing reports
4. Inmate money and property receipts
5. Medical notation
6. Log entries
7. Inspection reports

D. Describe the three (3) general categories of report responsibilities:

1. Reports completed by others which the officer must review for accuracy and completeness
 2. Reports which the officer completes, but require no narrative information
 3. Reports which the officer completes requiring narrative statements
-

E. List the seven (7) essential elements of a well-written report:

1. Who
2. What
3. Where
4. When
5. How
6. Why
7. Action taken

F. List the five (5) requirements of a well-written report:

1. Complete
2. Concise
3. Clear
4. Correct
5. Courteous

G. State five (5) reasons reports are dismissed:

1. insufficient facts or evidence
2. insufficient relationship between text and action requested
3. inclusion of personal opinions, assumptions and/or hearsay
4. incident better handled informally
5. poorly organized statements of generalities rather than specifics

H. List five (5) suggestions for effective notetaking:

1. Cover the seven essentials
2. Made as soon as possible
3. include statements
4. sketches of scene
5. note evidence
6. Note pictures taken
7. chronological order
8. carry notebook always
9. number pages
10. only facts and observations

I. List the four (4) steps discussed for preservation of evidence:

1. Mark it
2. Note it
3. Report it
4. Document claim of custody

PRE- AND POST-TEST QUESTIONS

SUBJECT: Report Writing

1. Define a report: _____

2. Who, What, Where, When, How, Action Taken and Why are:
 - a. seven non-essential elements of a well-written report.
 - b. seven reasons why a report is dismissed.
 - c. seven essential elements of a well-written report.
 - d. seven essential elements of notetaking.
3. The five requirements of a well-written report are the following except:
 - a. complete, concise, short, clear, correct.
 - b. short, correct, clear, to the point, accurate.
 - c. complete, concise, clear, to the point, courteous.
 - d. complete, concise, clear, correct, courteous.
4. State five (5) reasons why reports are dismissed:
 1. _____
 2. _____
 3. _____
 4. _____
 5. _____
5. List five criteria for effective notetaking:
 1. _____
 2. _____
 3. _____
 4. _____
 5. _____

PRE- AND POST TEST QUESTIONS (ANSWERS)

SUBJECT: Report Writing

1. Define a report: A formal written presentation of facts

2. Who, What, Where, When, How, Action Taken and Why are:
 - a. seven non-essential elements of a well-written report.
 - b. seven reasons why a report is dismissed.
 - c. seven essential elements of a well-written report.
 - d. seven essential elements of notetaking.

3. The five requirements of a well-written report are the following except:
 - a. complete, concise, short, clear, correct.
 - b. short, correct, clear, to the point, accurate.
 - c. complete, concise, clear, to the point, courteous.
 - d. complete, concise, clear, correct, courteous.

4. State five (5) reasons why reports are dismissed:
 1. Insufficient facts or evidence
 2. Insufficient relationship between text and action requested
 3. Inclusion or personal opinion, assumptions and/or hearsay
 4. Incident better handled informally
 5. Poorly organized statements of generalities rather than specifics

5. List five criteria for effective notetaking:
 1. Cover seven essentials - Note pictures taken
 2. Made as soon as possible - Chronological order
 3. Include statements - Carry notebook always
 4. Sketches of scene - Number pages
 5. Note evidence - Only facts and observation

STUDENT HANDOUTS

Interdepartment Message

| | | | |
|--|--------------------------------|---------|----------------------|
| <i>To</i> | NAME Superintendent Holland | TITLE | DATE May 21, 1978 |
| | AGENCY CCI Hilltop | ADDRESS | |
| <i>From</i> | NAME Lt. Ready | TITLE | TELEPHONE X2100 |
| | AGENCY CCI Hilltop | ADDRESS | |
| SUBJECT Investigation Report of Cell Fire - Report #1 | | | |

Superintendent Holland,

Per your instructions, I investigated the fire in Ryan's cell with Lt. Right. I can tell you now that the T.V. set was definitely not the cause of the fire. We looked over the entire cell area carefully and found no evidence that the T.V. set was involved in any way, in causing the fire. We also had Mr. Cardinal take a look at the T.V. set and he concurs. Furthermore, we found a burned area and a cigarette butt on the shelf below the T.V. and some burned paper which looks to be the remains of several empty Camel Packs. The fire looks like it was set intentionally by Ryan and it is my opinion that he should be placed in administrative segregation pending the outcome of this investigation.

I looked up his record and found that he was brought up on disciplinary charges at CCI Winters for a similar offense on May 12, 1977. He received ten days punitive segregation after being found guilty.

Keller said that the fire broke out soon after Ryan went to work, which was about 7:50 A.M. and that no other inmates were in the cell between the time Ryan left and the time the fire broke out. Keller heard the explosion too, but Mr. Cardinal said that it probably occurred after the fire broke out, and not before. After our investigation was completed we had Keller deadlock the cell and instructed him that no one was to enter it without first contacting the Captain's office. We also sent a memo to all supervisors on all shifts, alerting them of this and asking them to maintain the deadlock until they received clearance from you.

Respectfully submitted,

s/Lt. A. W. Ready

AWR/CMM/jc

REPORT CRITIQUE SHEET

I. Briefly answer the following questions:

1. What happened? _____

2. When did the incident occur? _____

3. Where did the incident occur? _____

4. How did it happen? _____

5. Who was involved? _____

6. Why did it happen? _____

7. What action was taken? _____

II. On each scale below, circle the appropriate number in terms of how you rate the report overall.

| | <u>Excellent</u> | <u>Good</u> | <u>Fair</u> | <u>Poor</u> | <u>Inadequate</u> |
|--------------|------------------|-------------|-------------|-------------|-------------------|
| Completeness | 5 | 4 | 3 | 2 | 1 |
| Conciseness | 5 | 4 | 3 | 2 | 1 |
| Clarity | 5 | 4 | 3 | 2 | 1 |
| Correctness | 5 | 4 | 3 | 2 | 1 |
| Courtesy | 5 | 4 | 3 | 2 | 1 |

REPORT WRITTEN BY _____

REPORT CRITIQUED BY _____

INSTRUCTOR'S
REPORT CRITIQUE SHEET

RE: INVESTIGATION OF CELL FIRE -- REPORT #1

I. Briefly answer the following questions:

1. What happened? Fire in inmate Ryan's cell involving a T.V. set, (par. 1--sent. 1 & 2). No inmate No. for Ryan.
2. When did the incident occur? "Soon" after 7:50 a.m., (par. 3--sent. 1). Not explicit enough.
3. Where did the incident occur? Ryan's cell, (par. 1, sentence #1). No cell No. or location given.
4. How did it happen? Set intentionally, (par. 1, sent. 6). Not substantiated in report. Explosion, (par. 3, sent. 2) not explained.
5. Who was involved? Ryan (alleged arsonist), Lt. Right (co-investigator), Mr. Cardinal and Keller, (not identified).
6. Why did it happen? No reason given.
7. What action was taken? Cell deadlocked by Keller and instructions given for approval only by Capt's. Office. Supervisors also notified.

II. On each scale below, circle the appropriate number in terms of how you rate the report overall.

| | <u>Excellent</u> | <u>Good</u> | <u>Fair</u> | <u>Poor</u> | <u>Inadequate</u> |
|--------------|------------------|-------------|-------------|-------------|-------------------|
| Completeness | 5 | 4 | 3 | 2 | ① |
| Conciseness | 5 | 4 | ③ | 2 | 1 |
| Clarity | 5 | ④ | 3 | 2 | 1 |
| Correctness | 5 | ④ | 3 | 2 | 1 |
| Courtesy | 5 | 4 | 3 | ② | 1 |

REPORT WRITTEN BY _____

REPORT CRITIQUED BY _____

Interdepartment Message

| | | | |
|--|--------------------------------|---------|----------------------|
| To | NAME Superintendent Holland | TITLE | DATE May 21, 1978 |
| | AGENCY CCI Hilltop | ADDRESS | |
| From | NAME Lt. Right | TITLE | TELEPHONE X2100 |
| | AGENCY CCI Hilltop | ADDRESS | |
| SUBJECT Investigation Report of Cell Fire - Report #2 | | | |

Superintendent Holland,

Per your instructions, I co-investigated the fire in inmate Ryan's (62005) cell with Lt. Ready. I understand that your basic concern was to determine whether or not the T.V. set in the cell (21 cell, first floor in G-building) at the time was the cause of the fire. Here then are our findings.

The fire apparently broke out yesterday morning, May 20, 1978, between 7:50 and 7:55 A.M. Correction Officer Keller was on duty on the first floor of G-building at the time. He stated that inmate Ryan left the cell for work call at approximately 7:50 A.M. and that he heard an explosion within five minutes of that time. Correction Officer Keller responded to the fire, and noted that the cell door was locked and there were no other people in the area at the time.

Upon investigating we found the cell to contain the wooden table stand involved in the fire with the T.V. on top and a single shelf with some items underneath. The cell also contained a footlocker, chair, bedding and Ryan's personal items, but these were not involved in the fire.

Investigation of the stand disclosed that no part of the stand itself burned more than two inches below the lower shelf. The top of the lower shelf of the stand was completely charred over 3/4 of the total area. The shelf contained the remains of a cigarette and at least four empty Camel cigarette packages.

The end of the cigarette was resting in the center of the remains of the cigarette packages. The T.V. set was sitting on the top shelf of the stand. The plastic case was melted and charred over approximately 30% of its area. The bottom of the set was neither disfigured nor charred and neither was the top of the stand. These findings seem to indicate that the fire originated on the bottom shelf and traveled upward. The T.V. set was unplugged when the investigation took place and Correction Officer Keller reported unplugging it immediately after extinguishing the blaze.

Interdepartment Message

| | | | |
|---|--------|---------|-----------|
| <i>To</i> | NAME | TITLE | DATE |
| | AGENCY | ADDRESS | |
| <i>From</i> | NAME | TITLE | TELEPHONE |
| | AGENCY | ADDRESS | |
| SUBJECT | | | |
| Investigation Report of Cell Fire (continued) | | | |

Mr. Cardinal, the electronics supervisor, investigated the electronics and reported that the 5A fuse for the outlet the set was plugged into was still intact as well as a 1/2A fuse inside the T.V. set itself. He also said that the components inside the set were sooted but showed no signs of burning. His findings indicated to him that the T.V. set was not the cause of the fire. He also explained that the large crack in the picture tube was probably caused by the heat of the fire and most likely produced the explosion heard by Correction Officer Keller.

In summary, our findings indicate that the T.V. set in the cell at the time was not the cause of the fire. Furthermore, the fire did not appear to be the work of another inmate, although the cause of the blaze appears to be suspicious and I recommend that this be investigated further.

After our investigation was completed we had Correction Officer Keller deadlock the cell and instructed him that no one was to enter it without first contacting the Captain's Office. We also sent a memo to all supervisors on all shifts alerting them to maintain the deadlock until they received clearance from you.

Respectfully submitted,

s/Lt. A. W. Right

AWR/CMM/jm

REPORT CRITIQUE SHEET

I. Briefly answer the following questions:

1. What happened? _____

2. When did the incident occur? _____

3. Where did the incident occur? _____

4. How did it happen? _____

5. Who was involved? _____

6. Why did it happen? _____

7. What action was taken? _____

II. On each scale below, circle the appropriate number in terms of how you rate the report overall.

| | <u>Excellent</u> | <u>Good</u> | <u>Fair</u> | <u>Poor</u> | <u>Inadequate</u> |
|--------------|------------------|-------------|-------------|-------------|-------------------|
| Completeness | 5 | 4 | 3 | 2 | 1 |
| Conciseness | 5 | 4 | 3 | 2 | 1 |
| Clarity | 5 | 4 | 3 | 2 | 1 |
| Correctness | 5 | 4 | 3 | 2 | 1 |
| Courtesy | 5 | 4 | 3 | 2 | 1 |

REPORT WRITTEN BY _____

REPORT CRITIQUED BY _____

DISCIPLINARY COMMITTEE ASSIGNMENT

You are members of a penal facility disciplinary committee. It is your duty to hear cases of disciplinary infractions based on an officer's written report of the incident. You must weigh the contents of the officer's report against the testimony of the inmate(s) involved, and make a determination of guilt or innocence. In the case of a guilty finding, you must also determine the appropriate sanctions to be applied.

The standard procedure for the operation of the disciplinary committee is as follows:

1. Committee calls inmate before it.
2. Committee chairman reads the charge or charges and the text of the offense to the inmate and asks the inmate if he understands.
3. Committee chairman asks inmate for a plea.
4. Inmate's plea is entered on summary sheet form by committee secretary. If no plea is given, a not guilty is entered.
5. Committee chairman asks inmate for his explanation of the incident.
6. After testimony is completed, inmate leaves the room and committee members decide on finding. This information, along with the reasons for the decisions, is recorded on a summary sheet by the committee secretary.
7. Inmate is brought back in and the findings of the committee are read to him by the committee chairman.
8. The inmate is informed that he may appeal the decision to the jail administrator in writing within seven (7) days of the hearing.
9. If there are no further questions, the inmate returns to his living unit, or, for guilty findings, is escorted to administrative segregation pending imposition of sanctions.

In the time you have left, you are to become familiar with the standard procedures above and the summary sheet and choose a chairman and secretary for the committee. You will hear your first disciplinary case when you return to the group.

REPORT CRITIQUE SHEET

I. Briefly answer the following questions:

1. What happened? _____

2. When did the incident occur? _____

3. Where did the incident occur? _____

4. How did it happen? _____

5. Who was involved? _____

6. Why did it happen? _____

7. What action was taken? _____

II. On each scale below, circle the appropriate number in terms of how you rate the report overall.

| | <u>Excellent</u> | <u>Good</u> | <u>Fair</u> | <u>Poor</u> | <u>Inadequate</u> |
|--------------|------------------|-------------|-------------|-------------|-------------------|
| Completeness | 5 | 4 | 3 | 2 | 1 |
| Conciseness | 5 | 4 | 3 | 2 | 1 |
| Clarity | 5 | 4 | 3 | 2 | 1 |
| Correctness | 5 | 4 | 3 | 2 | 1 |
| Courtesy | 5 | 4 | 3 | 2 | 1 |

REPORT WRITTEN BY _____

REPORT CRITIQUED BY _____

DISCIPLINARY HEARING SUMMARY

DATE OF HEARING _____

INMATES NAME _____ NUMBER _____

CHARGE 1 _____ PLEA 1 _____ FINDING 1 _____

CHARGE 2 _____ PLEA 2 _____ FINDING 2 _____

CHARGE 3 _____ PLEA 3 _____ FINDING 3 _____

REASONS FOR FINDINGS:

CHARGE 1 _____

CHARGE 2 _____

CHARGE 3 _____

Committee Chairman, Name _____ Title _____

Committee Secretary _____

Committee Member _____

I verify the above to be true and correct:

Signature of Secretary

IT'S EASY TO WRITE
BETTER POLICE REPORTS

DEVALIS RUTHLEDGE
Deputy District Attorney
Orange County District Attorney's Office

Most police officers write lousy reports. When I was a cop, I wrote lousy reports...I just didn't realize it until I became a prosecutor and had to try to read, understand, and rely on reports written by other cops.

What's wrong with your reports? Just about everything. Some are too short; others are too long. Your language is stilted and confusing. You state too many conclusions and not enough facts. The "standard" police style of writing has turned your reports into gobbledygook.

Because they're so difficult to read and understand, your reports slow down the complaint-issuing process; they make it more difficult for the prosecutor to determine who should be subpoenaed for trial; and they give the defense attorney something to use to try to confuse your testimony. (Incidentally, you're all the more unconvincing to the judge or jury if you testify the same way you write, as many officers do.)

Luckily, it's easy to break your bad writing habits and eliminate all the unnecessary problems you've been creating. Most of the problems result from your attempts to copy the reporting style of other officers, and from your eagerness to display your literary style. Therefore, about all you have to do to correct these problems is to write more naturally.

If you think you have to show off your literary style and your impressive vocabulary, write a novel. Police reports should be kept simple, straight-forward, and clear. They are the wrong place to express your creativity. Their purpose is to inform, not to confuse or entertain.

The best way to write a police report (and the best way to testify, incidentally) is to be yourself. Remember that the purpose of your reports and testimony is to communicate information. You fail to achieve this purpose when you abandon everyday language and your natural methods of communicating, and adopt the totally unnatural and confusing language and methods of the "standard" police report.

Here are a few suggestions for a better report format, improved word usage, and a better writing technique. These suggestions are guaranteed to make your reports more readable and more factual, with less effort than you're probably expending now on your lousy reports.

FORMAT:

(1) Details which are going to be important in every report filed (such as date, time, location and identities) are normally provided in the standard heading. Once listed, these items do not need to be duplicated in your narrative. Probably two-thirds of all reports I see have a duplicative "introductory" statement which should be omitted.

For example, after completing the appropriate blanks in the heading, the officer begins his narrative by saying: "On above date and time undersigned responded to above location and contacted above-listed party." If this information has already been given, leave it out of your narrative. Get right to the facts.

(2) Another wasteful and confusing practice is the endless repetition of such words as "suspect," "victim," "subject," etc. Repeating these labels each time you mention someone's name in the narrative simply wastes time and words, and adds to the confusion. A better practice is to list in the heading and fully identify (by name, sex, DOB, address, phone, and role--e.g., "witness," etc.), everyone materially involved. Then refer to them in your narrative only by last name (use full name if two or more share a last name).

- EXAMPLE

- Bad: Victim #1 told Suspect #2 that Victim #2 was going to Suspect #1's house.

(This "numbering system" forces the reader to turn back constantly to the heading to see who "Suspect #2" is, etc.)

- Better: ASA told BLUE that CORD was going to DOAN's house.

Good examples of standard report forms which use this more sensible format are Garden Grove P.D. forms 307 and 313.

(3) When you are going to report a number of things told to you by someone, do not begin a dozen sentences with words, "EASTER related that..." It is better to say, "EASTER gave the following account:" and then set forth what he told you.

- EXAMPLE

- Bad: EASTER stated he saw it all. He further stated FRANKS started it. EASTER related that GRANT waved a knife. EASTER explained that HAWKS fell. EASTER continued by adding that IRWIN fled.
- Better: EASTER said: FRANKS started it; GRANT waved a knife; HAWKS fell; and IRWIN fled.

(4) Do not use rambling sentences or long paragraphs. Paragraphs of more than 4 or 5 sentences are harder to read and digest.

WORD CHOICE:

Some words seem to have a special appeal to police officers, and I don't understand why. They are among the most ambiguous and least descriptive words in the language.

(1) The worst is probably "indicate." A person can "indicate" by saying something, by shaking his head, by pointing, by glancing, or through a facial expression or sign language. He can indicate directly or indirectly. Putting a statement in a report which says that someone "indicated" something is not very helpful.

- EXAMPLE

- Bad: KREBS indicated that he did not desire to submit to custody.

- Better: KREBS said: "You ain't taking me, pig!"

(If you use the word "indicate" while testifying in court, your answer may be stricken as "Conclusionary.")

(2) Another poor word is "contact." You can "contact" a witness in person, by phone, by letter, by telegram, or by E.S.P. Each of these methods presents different problems of proof. Instead of saying that someone "was contact," say who did it, and how.

- EXAMPLE

- Bad: LEWIS was contacted at his home.

- Better: I phoned LEWIS at his home.

(Don't use the ridiculous expression "telephonically contacted" when you mean "phoned.")

(3) "Responded" is another overworked word that could always be replaced with a shorter, more factually precise word.

- EXAMPLES

- Bad: I responded to First and Cherokee.

- Better: I drove to First and Cherokee.

- Bad: Her mother responded to the station.

- Better: Her mother came to the station.

- Bad: I responded to the security office.

- Better: I went to the security office.

(4) "Proceeded" is abused 2 Ways.

- EXAMPLES

- Bad: I proceeded to the rear yard.

- Better: I went to the rear yard.

- Bad: I proceeded to conduct an investigation.
- Better: I investigated.
- Bad: I proceeded to question the witnesses.
- Better: I questioned the witnesses.

(5) Instead of using vague words such as "observed" and "detected," simply say what you mean.

- EXAMPLES

- Bad: I observed that there was a bottle on the floorboard.
- Better: I saw a bottle on the floorboard.
- Bad: I detected the odor of burning marijuana.
- Better: I smelled burning marijuana.

(6) If you have the terrible habit of using the senseless expression "It should be noted that...", start changing that habit with your next report! This phrase is just surplus verbiage.

- EXAMPLES

- Bad: It should be noted that the trunk was empty.
- Better: The trunk was empty.
- Bad: It should be noted that he fell.
- Better: He fell.

When you throw "it should be noted that" into your reports, all you do is write--and force someone to read--five extra words which absolutely nothing to the meaning. If you are typical, you use that phrase 5 or 6 times in each report, over 1000 times each year! That's up to 6000 words of pure report padding per year, per officer. Resist the temptation--do not use this ridiculous expression!

(7) As a rule, you should use the most specific words you can to describe things. Using general words and expressions usually just raises question: ("how?" "what kind?" etc.).

- EXAMPLES

- General: It was determined that MOON was a minor.
- Specific: A DMV teletype showed MOON's DOB as 4-8-60.

See the difference? The specific statement tells you, in the same number of words, not only what the general statement tells, but also the two additional facts of exact DOB and source of your information.

- General: NEAL is the sole occupant of the residence.
- Specific: NEAL lives alone in the apartment.

The essential difference between general and specific terms is that a general term usually describes a category made up of specific things. A "residence" could be a house, an apartment, a mobile home, or a hotel suite. If you haven't said which it is, don't use the word "residence" until you do.

Being specific sometimes means that you use more words, but you'll still be ahead if you drop all the unnecessary words you've been using. And being specific always means that your report is less ambiguous and more factual. It's the difference between telling someone, "There's somebody here to see you," and saying, "There's a tall, buxom, blue-eyed blonde here in a bikini."

(8) Here is a list of some of your most popular expressions, and some suggested substitutes to eliminate work and increase clarity.

| Bad | Better |
|---|----------|
| related stated explained articulated verbalized | said |
| informed advised notified instructed | told |
| altercation mutual combat physical confrontation | fight |
| verbal altercation verbal dispute heated debate fiery exchange of words verbal flare-up | argument |
| regarding in regard to reference in reference to | about |

| Bad | Better |
|---|--|
| due to the fact that in view of the fact that in light of the fact that | because |
| at this point at this time at which time at this point in time | then (often, you need no substitute-- just leave these words out!) |
| utilize make use of employ | use |
| kept under observation maintained surveillance over visually monitored | watched |

There are many more, of course. Review a few of your old reports and see how often you've used ambiguous or meaningless language where shorter and more precise language would have achieved your communication goal much better.

The best advice I can give about word choice is this: put things down the same way you'd tell it to a neighbor--use everyday language and be as factually specific as you can.

TECHNIQUE:

Just two major changes in the reporting technique I see most often could turn lousy reports into good ones.

(1) Stop pretending that the pronouns "I" and "me" are poison. Nobody really believes that your reports are more objective simply because you call yourself "this officer," or "the undersigned," or "writer," etc.

In fact, use of this archaic third-person narrative makes your reports seem suspiciously unnatural and unnecessarily confusing. If anyone in law enforcement had a justifiable reason for preferring the awkward third-person style to the straightforward first-person style, I haven't heard it.

A juror once asked me, after a trial in which police testimony and reports were in evidence, "Why do the police write and speak like they don't want you to understand them? What've they got against straight talk?" ...What DO you have against straight talk?

"I" is one of the shortest words in the language, and "me" and "my" aren't much longer. You may have been told in your college creative writing course to avoid these pronouns, but when you are composing a police report about things you did, don't worry about creative writing--just communicate.

Look at the difference:

- EXAMPLE
- Bad: This officer verbally advises OWENS to give this officer the baton belonging to this officer.
- Better: I told OWENS to give me my baton.

(2) The second thing you should do is to stop using what grammarians call the "passive voice." Almost every report I see has been so inflated and complicated by the passive voice that this one change in writing style could easily reduce report length by 20% and increase factual clarity by 80%.

The alternative to the passive voice is called "active:"

- EXAMPLE
- Passive: PERKINS was arrested by me.
- Active: I arrested PERKINS.

What's the difference? In this example, the "active" sentence uses 40% fewer words to say precisely the same thing as the "passive." This example shows the most common use of the passive voice--the extra words are usually "was" and "by".

The worst feature of the passive voice, though, is not the extra length it adds to most sentences where it is used; it is worse that you often use it in such a way that you create an unanswered question when you are supposed to be communicating specific facts.

- EXAMPLE
- Passive: A knife was found in QUINN's right boot.

(Who found it? Most arrests involve at least 2 officers. Will you remember later who found the knife? Can the DA tell from your report whom to subpoena for trial?)

- Active: Officer RAY found a knife in QUINN's right boot.
- Passive: It was ascertained that a gun had been drawn by SANTOS.

(How was it ascertained? By whom?)

- Active: TAYLOR told me he saw SANTOS draw a gun.
- Passive: The booking process was complete on USHER and the broadcast was cancelled.
- Active: Officer VANCE booked USHER and I cancelled the broadcast.

See how the active voice forces you to be more precise (and usually saves several words per sentence)? There are times when the passive voice is appropriate, but a good rule for police report construction is this: if you can say it in the active voice, don't use the passive... Your reports will then answer questions, rather than raising them, and will be informative, rather than just wordy.

Any single poor writing habit is bad enough, but when you string several bad ones together, as many officers do, the result is even worse.

- EXAMPLE

- Bad: On above date and time at referenced location, this officer was verbally advised by reporting party that suspect #3 and victim #2 became engaged in verbal dispute, which then escalated into a physical altercation between victim #2 and suspect #3. It was unknown by reporting party which of the subjects had actually initiated the physical altercation. It should be noted that when this officer responded to the location of victim #2, this officer was able to observe no indications of the altercation, except that on contacting victim #2, it was ascertained by this officer that victim #2 was indicating that he was suffering a painful head. It should be noted further that in view of this fact, a unit of the paramedics was requested by this officer at this time.
- Better: BIRD told me GOON and MEEK argued and then fought, but he did not know which of them was first to use force. MEEK said his head hurt, so I radioed for the paramedics.

The "better" example is shorter, NOT because any facts are omitted, but because all the meaningless, surplus words and phrases are left out. Remember that the only words you should eliminate are those which add nothing. Always include in your report anything which may conceivably be relevant to the case (see "CONTENT CHECKLIST," Appendix C).

For a further illustration of the difference sensible writing technique can make, see the sample reports in Appendices A and B. SAMPLE REPORT 1 is an actual report from a local agency. It is not the worst report I could find; I selected it because it is typical of the reports most of you write. Only the names and places have been changed. You will notice that, like many of your own, this report is bloated with most of the wordy, meaningless expressions I've singled out above.

SAMPLE REPORT 2 is the same report, with deletions and short modifications, to show you how the officer could have said all the same things far more clearly, and in 45% fewer words. Notice that I could not always rewrite the passive sentences into active voice, because the very information needed to rewrite the sentences is the information left unknown by using the passive voice.

As I suggested earlier, some of your bad writing habits are carried over into your testimony. Appendix D contains some hints on how to testify (and how not to).

A final word: Whether writing or testifying, always, keep your purpose in mind, be natural, and strive for clarity, accuracy, and completeness. You'll find that following these suggestions generally requires less effort, not more, and will make you far more effective in communicating information.

OPERATION HALLEY'S COMET

A Colonel issued the following directive to his executive officer: "Tomorrow evening at approximately 2000 hours Halley's Comet will be visible in this area, an event which occurs only once every 75 years. Have the men fall out in the battalion area in fatigues, and I will explain this rare phenomenon to them. In case of rain, we will not be able to see anything, so assemble the men in the theatre and I will show them films of it."

OPERATION HALLEY'S COMET (cont.)

THE EXECUTIVE OFFICER TO THE COMPANY COMMANDER:
"By order of the Colonel, tomorrow at 2000 hours,
Halley's Comet will appear above the battallion
area. If it rains, fall the men out in fatigues
then march to the theatre where this rare
phenomenon will take place, something which occurs
once every 75 years."

OPERATION HALLEY'S COMET (cont.)

COMPANY COMMANDER TO LIEUTENANT:

"By order of the Colonel be in fatigues at 2000 hours tomorrow evening. The phenomenal Halley's Comet will appear in the theatre. In case of rain, in the battalion area, the Colonel will give another order, something which occurs once every 75 years."

OPERATION HALLEY'S COMET (cont.)

LIEUTENANT TO SERGEANT:

"Tomorrow at 2000 hours, the General will appear in the theatre with Halley's Comet, something which happens every 75 years. If it rains the Colonel will order the comet into the battalion area."

OPERATION HALLEY'S COMET (cont.)

SERGEANT TO SQUAD:

"When it rains tomorrow at 2000 hours, the phenomenal 75 year old General Halley, accompanied by the Colonel, will drive his comet through the battalion area in fatigues."

Playgirl Inc.
10288 West 97th Street
New York, N.Y. 10012

Dear Sir:

We wish to thank you for your letter and polaroid picture which we recently received. We regret, however, that we will not be able to use you as 'PLAYGIRL'S Man of the Month' centerfold.

When rated by our panel of AAW (Average American Woman) on a scale of 1 to 10, your body rated minus 2. The AAW is comprised of widowed females ages 60 to 75, who have not been involved with sex for five years or more.

To further justify our ratings, we submitted your photo to another panel of women in the age bracket of 25 to 35, but we could not get them to stop laughing long enough to rate you.

Please be assured that should the taste of American women change so drastically that bodies of your type are in demand for our centerfold, you will be notified. Meanwhile, don't call us.

Sincerely,

HORTENSE BLAKE, EDITOR
Playgirl, Inc.

P.S. We regret to tell you that the staple used to hold the centerfold would completely cover what you call your "item of interest" even if we were to use our smallest staple.

THE WAYSIDE CHAPEL

An English lady, while visiting Switzerland, was looking for a room, and she asked the school master if he could recommend a place to stay. He took her to see several rooms, and when everything was settled, the lady returned home to make final arrangements to move. When she arrived home, the thought occurred to her that she had not seen a W.C. (water-closet, an English term for the toilet) around the place. She immediately wrote a note to the school master asking him if there was a W.C. The school master was a very poor English student, and so asked the parish priest if he could help him in the matter. Together they tried to discover the meaning of the letter, W.C. and the only solution that they could find was the Wayside Chapel, which they took to mean a local church. The school master then wrote the following letter.

Dear Madame:

I take great pleasure in informing you that the W.C. is situated nine miles from the house, in the center of a small clearing surrounded by lovely grounds.

It is capable of holding 200 people and it is open on Sundays and Thursdays. As there are a great number of people expected during the summer months, I would suggest that you come early, although there is plenty of standing room. This is an unfortunate situation particularly if you are in the habit of going regularly and sitting.

INSTRUCTIONAL OBJECTIVES

1. DEFINE A REPORT
2. LIST 5 OF THE 7 ELEMENTS OF A REPORT
3. LIST 4 OF THE 5 CHARACTERISTICS OF A WELL WRITTEN REPORT
4. EXAMINE 5 REASONS WHY REPORTS ARE DISMISSED
5. LIST 4 CRITERIA FOR EFFECTIVE NOTE TAKING
6. EVALUATE A REPORT OF A CORRECTIONAL INCIDENT
7. EVALUATE TO THE INSTRUCTOR'S SATISFACTION

KEY POINTS

A. DEFINITION:

A REPORT FOR THE PURPOSE OF THIS SESSION IS "A FORMAL WRITTEN PRESENTATION OF FACTS".

1. FORMAL – A REPORT IS FORMAL, WHILE DAY-TO-DAY COMMUNICATIONS MAY BE FORMAL OR INFORMAL.
2. WRITTEN – WHILE COMMUNICATIONS CAN OCCUR IN MANY WAYS, WE WILL FOCUS SPECIFICALLY ON THE WRITTEN WORD AS THE MEDIUM FOR COMMUNICATIONS.
3. PRESENTATION – FROM A SPECIFIC SENDER TO A SPECIFIC RECEIVER.
4. FACTS – JUDGEMENTS OR OPINIONS.

B. RATIONALE FOR WELL WRITTEN REPORTS:

1. A WRITTEN REPORT IS A PERMANENT RECORD.
2. REFLECTS ON TRAINING AND CHARACTER OF THE REPORTER.
3. WRITTEN REPORTS ARE SUBJECT TO REVIEW.
4. REPORTS MAY HAVE A WIDE CIRCULATION.
5. WRITTEN REPORTS MAY ULTIMATELY HAVE LEGAL IMPLICATIONS.
6. WRITTEN REPORTS PROVIDE A MEANS OF INSURING THAT FACILITY POLICIES AND PROCEDURES ARE APPLIED CONSISTENTLY AND APPROPRIATELY DOCUMENTED.

C. TYPES OF REPORTS:

1. INCIDENTS REPORTS.
2. DISCIPLINARY REPORTS.
3. ADMITTING AND PROCESSING REPORTS.
4. INMATE MONEY AND PROPERTY RECEIPTS.
5. MEDICAL NOTATIONS.
6. LOG ENTRIES.
 - A. VISITORS LOG
 - B. TELEPHONE CALLS
 - C. MAIL
 - D. COMMISSARY
 - E. OBSERVATION
7. INSPECTION REPORTS.
8. COURTS.
9. OTHERS.

D. CATEGORIES OF REPORTS:

1. REPORTS COMPLETED BY OTHERS, WHICH MUST BE REVIEWED FOR ACCURACY AND COMPLETENESS.
 - A. COMMITMENT
 - B. REGISTER
 - C. ADMISSIONS
 - D. RELEASE, ETC.

2. REPORTS WHICH THE OFFICER COMPLETES, BUT REQUIRE NO NARRATIVE.
 - A. COUNT SHEETS
 - B. SPECIAL MEALS RECEIVED
 - C. MEDICAL TREATMENT RECEIVED, ETC.

3. REPORTS WHICH THE OFFICER COMPLETES WHICH REQUIRE NARRATIVE STATEMENTS.
 - A. SHORT REMARKS
 - B. DETAILED DESCRIPTIONS

D. CHARACTERISICS OF A WELL-WRITTEN REPORT:

THERE ARE SEVEN ESSENTIALS TO A WELL-WRITTEN REPORT.

1. WHO

- A. INCLUDE WITNESSES AS WELL AS OTHERS DIRECTLY INVOLVED.
- B. IDENTIFY INMATES BY COMPLETE NAME AND NUMBER.
- C. IDENTIFY STAFF BY COMPLETE NAME AND TITLE.

2. WHAT:

- A. GIVE FACTS, WHAT YOU OBSERVED HAPPENED.
- B. IDENTIFY OBJECTS USED OR INVOLVED PRECISELY.

3. WHERE:

- A. IDENTIFY LOCATIONS, SUCH AS CELL BLOCK, CELL NUMBER.
- B. GIVE LOCATION ON PERSONS AS CELL AS IMPORTANT OBJECTS.
- C. SPECIFY YOUR POSITION DURING THE INCIDENT AS WELL AS WITNESS POSITIONS.

4. WHEN:
 - A. GIVE EXACT TIME IF KNOWN.
 - B. IF EXACT TIME IS NOT KNOWN, SPECIFY APPROXIMATE AND TRACE STEPS CHRONOLOGICALLY.

5. HOW:
 - A. CHRONOLOGICAL NARRATIVE OF HOW THE SITUATION STARTED, PROGRESSED, AND WAS CONCLUDED.
 - B. THIS WILL BE THE LARGEST PART OF YOUR NARRATIVE.

6. ACTION TAKEN:
 - A. WHAT WAS THE FINAL DISPOSITION.
 - B. IF REFERRED, TO WHOM.
 - C. IF HANDLED INFORMALLY, HOW.
 - D. SPECIFY OTHER REPORTS COMPLETED, WITNESSES AND VICTIMS.

7. WHY:
 - A. MOTIVE.
 - B. FACTS, NOT OPINION.
 - C. IF INFORMATION AS TO WHY IS SECONDHAND, STATE SO AND GIVE SOURCE.

REPORT ORGANIZING
CHECK LIST

1. RECREATION ROOM
2. INMATE LOUD
3. OFFICER BEN ANNOYED
4. WORK RELEASE
5. "TAKE HIS ORDER AND SHOVE IT"
6. SCUFFLE
7. STRIKING IN CHEEK
8. OFFICER JONES

THE FIVE REQUIREMENTS:

1. COMPLETE:(INCLUDES ALL SEVEN ESSENTIALS OF INFORMATION) (REVIEW AS A THIRD PARTY) SIGNATURE AND DATED, IF CALLED FOR
2. CONCISE:
 - A. GET TO THE POINT.
 - B. DON'T EDITORIALIZE.
 - C. MAKE EVERY SENTENCE COUNT.
 - D. AVOID REPEATING POINTS.
 - E. DO NOT INCLUDE UNNECESSARY INFORMATION, NOT PERTINENT TO THE SPECIFIC INCIDENT.
3. CLEAR:
 - A. USE SIMPLE, DESCRIPTIVE WORDS.
 - B. AVOID EXAGGERATION.
 - C. USE CONCRETE WORDS, NAMES OF PEOPLE, NUMBERS, TITLES, CLOCK AND CALADNER TIME, GENDER, WORDS THAT POINT TO A SPECIFIC PERSON OR THING.
 - D. DO NOT "OVER REACH", USING VOCABULARY ABOVE YOUR LEVEL.
 - E. DON'T LEGALIZE WHERE IT ISN'T NECESSARY.
 - F. AVOID JARGON AND BUZZ WORDS.

THE FIVE REQUIREMENTS: (cont.)

4. CORRECT:

- A. PROPER GRAMMER.
- B. PROPER SPELLING.
- C. NEAT.
- D. ACCURATE INFORMATION.
- E. ACTUAL WORDS OR PHRASES SPOKEN,
NOT PARAPHRASES OR GENERALITIES.

5. COURTEOUS:

- A. OBJECTIVE.
- B. AVOID JUDGEMENTS, STEREOTYPES,
OPINIONS, AND BIASES.
- C. AVOID "LOADED" WORDS AND
ABSOLUTES.

MEN

MEN ARE WHAT WOMEN MARRY. THEY HAVE TWO FEET AND SOMETIMES TWO WOMEN, BUT NEVER MORE THAN ONE DOLLAR OR ONE IDEA AT A TIME. LIKE TURKISH CIGARETTES, THEY ARE ALL MADE OF THE SAME MATERIAL, THE ONLY DIFFERENCE BEING THAT SOME ARE BETTER DISGUISED THAN OTHERS.

GENERALLY SPEAKING, THEY MAY BE DIVIDED INTO THREE CLASSES: HUSBANDS, WIDOWERS, AND BACHELORS. A BACHELOR IS AN ELIGIBLE MASS OF OBSTINANCY, ENTIRELY SURROUNDED BY SUSPICION. HUSBANDS ARE OF THREE TYPES: PRIZES, SURPRISES, AND CONSOLATION PRIZES. MAKING HUSBANDS OF THESE MEN IS ONE OF THE HIGHEST FORMS OF PLASTIC ART KNOWN TO CIVILIZATION. IT REQUIRES SCIENCE, SCULPTURE, COMMON SENSE, FAITH, HOPE AND CHARITY... MOSTLY CHARITY. IT IS A PHYSIOLOGICAL MARVEL THAT A SOFT, VIOLET SCENTED, YOUNG THING LIKE A WOMAN SHOULD ENJOY CARRESSING A BIG AWKWARD, STUBBY, TOBACCO AND BAY RUM SCENTED THING LIKE A MAN.

IF YOU FLATTER A MAN, YOU SCARE HIM TO DEATH. IF YOU DON'T, YOU BORE HIM. IF YOU PERMIT HIM TO MAKE LOVE TO YOU, HE GETS TIRED OF YOU. IF YOU ARGUE WITH HIM ON EVERYTHING, YOU FAIL TO CHARM HIM. IF YOU BELIEVE ALL HE TELLS YOU, HE THINKS YOU ARE A FOOL, AND IF YOU DON'T, HE THINKS YOU ARE A CYNIC.

MEN (cont.)

IF YOU WEAR GAY CLOTHES, ROUGE, AND STARTLING HATS HE HESITATES TO TAKE YOU OUT. IF YOU WEAR A TAILORED SUIT AND A LITTLE BROWN BARET, HE TAKES YOU OUT AND STARES ALL EVENING AT OTHER WOMEN IN GAY CLOTHES, ROUGE, AND A STARTLING HAT. IF YOU JOIN IN GAITIES AND APPROVE OF HIS IMBIBING, HE URGES YOU TO GIVE UP THE GAITIES. IF YOU ARE THE CLINGING TYPE HE DOUBTS WHETHER YOU HAVE A BRAIN; IF YOU ARE SILLY, HE LONGS FOR A BRIGHT MATE; IF YOU ARE INTELLECTUAL, HE LONGS FOR A PLAY MATE.

MAN IS JUST A WORM IN THE DUST. HE COMES ALONG, WIGGLES AROUND FOR A WHILE AND FINALLY SOME CHICKEN GETS HIM.

@ early 1900

Investigation Report of Cell Fire - Report #1

Superintendent Holland,

Per your instructions, I investigated the fire in Ryan's cell with Lt. Right. I can tell you now that the T.V. set was definitely not the cause of the fire. We looked over the entire cell area carefully and found no evidence that the T.V. set was involved in any way, in causing the fire. We also had Mr. Cardinal take a look at the T.V. set and he concurs. Furthermore, we found a burned area and a cigarette butt on the shelf below the T.V. and some burned paper which looks to be the remains of several empty Camel Packs. The fire looks like it was set intentionally by Ryan and it is my opinion that he should be placed in administrative segregation pending the outcome of this investigation.

I looked up his record and found that he was brought up on disciplinary charges at CCI Winters for a similar offense on May 12, 1977. He received ten days punitive segregation after being found guilty.

Keller said that the fire broke out soon after Ryan went to work, which was about 7:50 A.M. and that no other inmates were in the cell between the time Ryan left and the time the fire broke out. Keller heard the explosion too, but Mr. Cardinal said that it probably occurred after the fire broke out, and not before. After our investigation was completed we had Keller deadlock the cell and, instructed him that no one was to enter it without first contacting the Captain's office. We also sent a memo to all supervisors on all shifts, alerting them of this and asking them to maintain the deadlock until they received clearance from you.

Respectfully submitted,

F. REPORT EVALUATION #1:

- A. FIRST PARAGRAPH, SECOND SENTENCE, "I CAN TELL YOU NOW...." IS THIS STATEMENT SUBSTANTIATED BY THE TEXT?
- B. WHO IS MR. CARDINAL?
- C. FIRST PARAGRAPH, LAST SENTENCE, IS THE STATEMENT SUBSTANTIATED IN THE TEXT?
- D. SECOND PARAGRAPH, IS THIS INFORMATION PERTINENT?
- E. WHO IS KELLER?
- F. WHAT IS THE SIGNIFICANCE OF THE EXPLOSION?
- G. WHY WAS THE REPORT WRITTEN?

Investigation Report of Cell Fire. - Report #2

Superintendent Holland,

Per your instructions, I co-investigated the fire in Ryan's (62005) cell with Lt. Right. I understand that your basic concern was to determine whether or not the T.V. set in the cell (21 cell, first floor in G-building) at the time was the cause of the fire. Here then are our findings.

The fire apparently broke out yesterday morning, May 20, 1978 between 7:50 and 7:55 A.M. Correction Officer Keller was on duty on the first floor of G-building at the time. He stated that inmate Ryan left the cell for work call at approximately 7:50 A.M. and that he heard an explosion within five minutes of that time. Correction Officer Keller responded to the fire, and noted that the cell door was locked and there were no other people in the area at the time.

Upon investigating we found the cell to contain the wooden table stand involved in the fire with the T.V. on top and a single shelf with some items underneath. The cell also contained a footlocker, chair, bedding and Ryan's personal items, but these were not involved in the fire.

Investigation of the stand disclosed that no part of the stand itself burned more than two inches below the lower shelf. The top of the lower shelf of the stand was completely charred over 3/4 of the total area. The shelf contained the remains of a cigarette and at least four empty Camel cigarette packages.

Investigation Report of Cell Fire - Report #2 (cont.)

The end of the cigarette was resting in the center of the remains of the cigarette packages. The T.V. set was sitting on the top shelf of the stand. The plastic case was melted and charred over approximately 30% of its area. The bottom of the set was neither disfigured nor charred and neither was the top of the stand. These findings seem to indicate that the fire originated on the bottom shelf and traveled upward. The T.V. set was unplugged when the investigation took place and Correction Officer Keller reported unplugging it immediately after extinguishing the blaze.

Mr. Cardinal, the electronics supervisor, investigated the electronics and reported that the 5A fuse for the outlet that the set was plugged into was still intact, as well as a 1/2A fuse inside the T.V. set itself. He also said that the components inside the set were sooted but showed no signs of burning. His findings indicated to him that the T.V. set was not the cause of the fire. He also explained that the large crack in the picture tube was probably caused by the heat of the fire and most likely produced the explosion heard by Correction Officer Keller.

In summary, our findings indicate that the T.V. set in the cell at the time was not the cause of the fire. Furthermore, the fire did not appear to be the work of another inmate, although the cause of the blaze appears to be suspicious and I recommend that this be investigated further.

After our investigation was completed we had Correction Officer Keller deadlock the cell and instructed him that no one was to enter it without first contacting the Captain's Office. We also sent a memo to all supervisors on all shifts alerting them to maintain the deadlock until they received clearance from you.

Respectfully submitted,

G. REPORT EVALUATION #2.

- A. IS IT CLEAR WHY THIS REPORT WAS WRITTEN?
- B. IS THE INFORMATION CONTAINED IN THE THIRD PARAGRAPH PERTINENT?
- C. WHAT IS THE SIGNIFICANCE OF THE EMPTY CAMEL PACKS?
- D. IS THERE SUFFICIENT EVIDENCE IN THE REPORT TO CHARGE INMATE RYAN WITH ARSON?

J. NOTETAKING:

IT IS NOT POSSIBLE TO ALWAYS WRITE A REPORT IMMEDIATELY.

- A. MEDICAL EMERGENCIES REQUIRE TRANSPORTATION.
- B. FIRE EMERGENCIES REQUIRE EVACUATION.
- C. INSUFFICIENT TIME TO COMPLETE REPORTS PRIOR TO END OF SHIFT OR OTHER REASONS.

SITUATIONS LIKE THESE ABOVE HAPPEN, AND THE OFFICER SHOULD MAKE IT A HABIT TO RECORD THE FACTS OF THE SITUATION IN A POCKET BOOK (NOTEBOOK) UNTIL SUCH TIME AS THE OFFICIAL REPORT CAN BE WRITTEN.

1. HELPFUL HINTS ON NOTETAKING:

- A. NOTES SHOULD COVER THE SEVEN ESSENTIALS OF A REPORT.
- B. THEY SHOULD BE MADE AS QUICKLY AS POSSIBLE FOLLOWING THE INCIDENT.
- C. NOTES SHOULD INCLUDE VERBAL STATEMENTS OF PARTICIPANTS AND WITNESSES.
- D. IF APPLICABLE, INCLUDE SKETCHES OF THE SCENE AND LOCATIONS OF PEOPLE AND IMPORTANT OBJECTS.
- E. NOTE ALL EVIDENCE COLLECTED AND ITS DISPOSITION.
- F. IF THE SITUATION WARRENTS, HAVE PICTURES TAKEN AND MARKED, AND MAKE NOTE OF THEM.

1. HELPFUL HINTS ON NOTETAKING: (cont.)

- G. RECORD EVENTS IN CHRONOLOGICAL ORDER AND GIVE APPROXIMATE TIMES WHERE POSSIBLE.
- H. CARRY NOTEBOOK ALWAYS.
- I. NUMBER PAGES CONSECUTIVELY AND DO NOT REMOVE ANY FROM THE NOTEBOOK.
- J. RECORD ONLY FACTS AND OBSERVATIONS, NOT OPINIONS.
- K. REFERENCE COMMUNICATION, AND REPORTS CONCERNING INCIDENT.
- L. WHEN FULL, DO NOT DISCARD NOTEBOOK, BUT FILE IT IN CHRONOLOGICAL ORDER WITH OTHERS. IT MAY BE NEEDED MONTHS OR EVEN YEARS LATER.

K. PRESERVATION OF EVIDENCE:

EVIDENCE HAS BEEN MENTIONED SEVERAL TIMES DURING THIS SESSION. IN TERMS OF REPORTING, THERE ARE SEVERAL IMPORTANT THINGS TO REMEMBER WHEN HANDLING EVIDENCE:

1. MARK IT:
 - A. PHYSICALLY MARK IT.
 - B. ATTACH A TAG OR LABEL TO THE OBJECT.
 - C. STORE IT IN A MARKED CONTAINER.
 - D. INSURE IT IS PERMANENTLY IDENTIFIABLE.

2. NOTE IT:
 - A. NOTE THE MEANS OF MARKING IT.
 - B. RECORD THE PHYSICAL DESCRIPTION (INCLUDE THE SERIAL NUMBER, MODEL NUMBERS, BRAND NUMBERS OR NAMES, ETC.

3. REPORT IT:
 - A. INCLUDE A RECORD OF ALL EVIDENCE AND ITS DISPOSITION IN THE APPROPRIATE REPORTS.

4. DOCUMENT CHAIN OF CUSTODY:
 - A. DOCUMENT EACH TIME THE EVIDENCE PASSES FROM ONE PERSON TO ANOTHER, AND HOW IT WAS SECURED BY EACH OF THOSE PERSONS.

J. LOG ENTRIES:

- A. MOST OFTEN PERFORMED BY LINE PERSONNEL

- B. SERVE A VITAL ROLE IN DOCUMENTATION

THE FOLLOWING ARE SOME GUIDELINES:

- 1.
 - A. O.K. IS NOT ADEQUATE.

 - B. ENTRY SHOULD REFLECT ACTUAL OBSERVATION.

 - C. ANY AND ALL UNUSUAL OCCURRANCES SHOULD BE NOTED.

 - D. FOLLOW THROUGH, (VERBALLY BRIEF YOUR RELIEF ON THE OCCURRANCES OF THE DAY).

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Prisoner Transportation and Restraint

AUTHOR: Neil L. Fahlsing
Corrections Specialist
CJTS Division
Office of Attorney General
State Capitol
Bismarck, ND 58505

NOTE TO INSTRUCTOR

This lesson plan is intended to provide the minimum coverage of this topic consistent with the provisions of the North Dakota Century Code and the North Dakota Administrative Code.

This lesson plan and the supplementary materials in the Trainee Resource Manual and Workbook should not be treated as inflexible by the instructors who use it. It should, in fact, be viewed as a basic guide upon which the instructor must build by adding materials which reflect new situations and changes in corrections as they develop in the state. It should be tailored to the skills, knowledge, and learning capabilities of each correctional officer class.

It is recognized that instructors will inject their own experience, style, resources, and enthusiasm into the presentation of this material. Included, as well, will be the values and personal philosophy of individual instructors. We encourage and appreciate the personal investment made by you, the instructor, which will enrich this lesson plan for those receiving this instruction, and would only caution that the ideas presented should reflect the philosophy outlined in the Role of the Correctional Officer as it is printed at the beginning of this text.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Prisoner Transportation and Restraint

AUTHOR: Neil L. Fahlsing, Corrections Specialist
CJTS Division, Office of Attorney General
State Capitol
Bismarck, ND 58505

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: Three (3) Hours

TRAINING OBJECTIVES:

1. To provide trainees with generally accepted guidelines to be utilized in prisoner transportation.
2. To discuss and promote trainee interaction regarding basic rules of prisoner transportation.
3. To stimulate discussion on security and restraint issues affecting prisoner transportation and restraint.
4. To expose trainees to the various types of prisoner restraints and their appropriate use.
5. To conduct hands-on exercise using various prisoner restraints.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

1. "Transportation of Prisoners", AIMS Discussion Leaders Guide, AIMS Instructional Media, Inc., 626 Justin Avenue, Glendale, CA, 91201, (213) 240-9300
2. "Escort of Inmates", Jail Officers' Training Manual, National Sheriff's Association, 1250 Connecticut Avenue, Suite 320, Washington, D.C., 20036, 1980, pp. 297-318.
3. "Transporting Prisoners", Training Aids Digest, Training Outline Series, McCartney, Allen R., Kentucky Department of Justice, Bureau of Training, Stratton 354, EKV, Richmond, KY, 40475

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 30th Street, Suite 130
Boulder, Colorado 80301
Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise(s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

TRAINING AIDS:

Supplies and Equipment

- Video Projection Screen
- 16 mm. Projector With Spare Lamp
- 16 mm. Film: Transportation of Prisoners (AIMS film)
- Discussion Guide
- Overhead Projector
- Appropriate Transparencies
- Slide Projector
- Slides
- Video Monitor, Player/Recorder
- Video Cassette: _____
- Cassette Player, Audio
- Audio Cassette: _____
- Flip Chart and Markers
- Masking Tape
- Chalkboard, Chalk, Eraser
- Trainee Worksheets
- Trainee Handouts
- Pre- and Post-Tests
- Trainee Course Evaluation
- Trainee Instructor Evaluation
- _____
- _____
- _____
- _____
- _____

I. Topic Introduction and Scope of Presentation - PRISONER TRANSPORTATION AND RESTRAINT

- A. Administrators have the legal responsibility to train in critical areas and/or institutional problems have indicated that correctional officer handling of restraint and transportation has not been up to a desired standard.
1. Possibly the single most dangerous function for a correctional officer is the transportation of inmates. Officers are killed or placed in very embarrassing positions while performing this duty.
 2. Restraining devices of many kinds are available to assist a transportation officer. Security can normally be provided to society and the officer if the devices are properly applied.
 3. The treatment and care of the prisoner is the responsibility of the officer. Typically speaking, it is unlawful to use any cruel, corporal or unusual punishment or to inflict any treatment or allow any lack of care whatever which would injure or impair the health of the prisoner.
 4. Each year, the Federal Bureau of Investigation publishes a list of officers killed in the line of duty. Without fail, year after year, that list contains the names of officers killed due to misapplication of restraint devices. There simply is no room for error.

Instructor introduction by the coordinator, department administrator or self, if appropriate.

Explain instructor's qualifications relevant to this topical area.

Administer Pre-Test.

Topic introduction should include the rationale for the topic being presented.

II. Performance Objectives*Transparency #1*

- A. After listening to the lecture and viewing the film, each trainee will be able to list seven general guidelines for prisoner transportation.
- B. Each trainee will be able to list three basic rules for prisoner transportation.
- C. Each trainee will be able to state the ultimate goal of prisoner transportation.

III. Transportation and Restraint: Definitions

- A. The restraining reference here is to hold back from action; check; suppress; curb; to keep under control; or to deprive of physical liberty, as by shackling.
- B. The transportation reference here is to transport a restrained person to a given destination — for example, the transportation of a convicted person to another penal institution without injury or escape.

IV. Legal Considerations

- A. Correctional agencies have the legal responsibility to transport and deliver prisoners to destinations ordered by the courts.
- B. Failure to properly restrain prisoners could amount to excessive force and injury to the prisoner.
- C. Prisoners who escape during transport are prone to violence in order to secure food, weapons or automobiles to make their getaway. Harm to private citizens frequently occurs. Administrators and correctional officers may be liable if their inactions contribute to the escape during transport.

V. Corrections Officer Responsibility

- A. The corrections officer is responsible for delivering prisoners to approved destinations in a safe and timely manner.
- B. The corrections officer is responsible for the safety of the public when moving the prisoner outside of the institution.
- C. The corrections officer is responsible for the safety of the inmate during transportation.
- D. The corrections officer is responsible for making adequate preparation prior to the actual transport.

VI. Impact of Restrained Transportation

- A. Knowledge of the emotional impact of being restrained and transported gives a necessary perspective on an inmate's behavior. This is especially true when a prisoner is restrained and transported to court in a small community. Most offenses are committed while under the influence of a controlled substance, i.e., alcohol or drugs. Under sober conditions, it can be very humiliating to appear before family and friends in a shackled condition.
- B. A professional correctional officer will carefully consider each incident and choose only that degree of restraint that is required to complete the task. The choice and application of restraints shall not be done with malice. Always check and/or know the department policy and procedures.

VII. Movie Introduction

Start 16 mm projector.

- A. Training film on restraint and transportation of prisoners made by and for correctional officers.

1. AIMS film, "Transportation of Prisoners", 13 minutes.
2. At film's completion, open discussion on transportation procedure.

VIII. Types of Restraints

A. Restraint Equipment

There are several types of restraint devices which can be used when transporting:

1. Swivel Handcuffs. The most popular type of handcuff, their light weight, ease of application and versatility make for a practical device that can be used in most situations.
2. Securing handcuffs to wrists. This method requires the handcuffs to be secured to each wrist of the inmate as he holds his/her hands in the opposite direction. The key aperture should be to the rear or facing the inmate's body or head. Each cuff must be double-locked to prevent the inmate from opening it by using a thin piece of metal or plastic. Double-locking also prevents the bracelet from accidentally becoming uncomfortably tight.

The proper application of the handcuff is outlined briefly as follows:

- a. Place the handcuff on the inmate's wrist so that the double supportive arm is on top of the inmate's wrist and the keyhole is facing up the inmate's arm, away from his hands.
- b. Observe that the double-locking is on top of the

The instructor should obtain a functioning example of each of the various restraint devices and, as time allows, demonstrate proper application of each device.

Call upon a volunteer to serve as the inmate subject and demonstrate the various methods of handcuffing described.

If the instructor has the expertise, he should demonstrate how a bracelet can be removed by inserting a thin metal strip between the teeth of the cuff and advancing the cuff closed until the strip serves as a shim, thus prohibiting the integration of the teeth and allowing the cuff to be forced open.

Cuff the strong arm first.

handcuff on the same side as the double supporting arm.

- c. Place both handcuffs on the inmate's wrists before any adjustment is made.
- d. Handcuffs should never be applied to inflict pain or discomfort. There is simply no room for such action on the part of a professional officer.

The handcuffs are adjusted by squeezing the ratchet arm one notch at a time and sliding it over the ulna of the wrist bone. This method of tightening is continued until the cuff will pass over the highest point. This will be a proper fit in most cases. The exception to the rule would be a prisoner with an extra-large wrist bone and a very small hand, in which case, the handcuff would be adjusted so that it will not pass over the wrist bone.

- 2. Waist Chains. This chain is used in conjunction with handcuffs. The chain encircles the inmate.

Using handcuffs with waist chain.

Waist chains vary greatly in design and thus, the following outline is admittedly general and describes a technique that assumes a connecting handcuff waist chain assembly rather than a homemade separate assembly. The waist chain is applied as follows:

- a. Waist chain application:
 - (1) Hold chain so that the the ring is in the right hand.

IMPORTANT NOTE:

This procedure will vary depending upon nature of devices employed. The procedure described insures maximum safety, given that proper devices are utilized.

Participants should be encouraged to examine their facility's restraint equipment and determine best method of application given design and possible adjustments that would need to be made in the procedure herein discussed.

- (2) Stand behind the inmate.
 - (3) Have the inmate hold his hands behind his head with fingers interlocked.
 - (4) Place the chain around the inmate's waist and put the tail of the chain through the ring.
 - (5) Have the inmate breathe in and out in a normal manner.
 - (6) Place the thumb between the chain and prisoner's stomach.
 - (7) With the other hand, tighten or loosen the waist chain to a proper fit.
 - (8) Hold the chain in place and fasten with a padlock (some schools of thought recommend two [2] padlocks at this point).
 - (9) Bring the tail of the chain up between the inmate's legs and fasten to waist chain in front with a padlock, thus preventing removal of the waist chain over the head or slipping off the legs (when leg irons are later applied).
- b. Adjustment of extension chains connecting handcuffs to the waist chain is accomplished as follows:
- (1) Allow two [2] or three [3] links of the chain to one handcuff to permit the prisoner to smoke, etc.

- (2) Do not allow enough slack to permit the inmate to reach either handcuff with the other hand.
 - (3) Secure the handcuff in this position with a padlock.
 - (4) Secure the other handcuff to the waist chain with a padlock.
3. Leg Irons. These are cuffs similar in appearance to handcuffs but larger and sturdier. These shackles are designed to restrict leg movements and are used primarily in transporting inmates for long distances.

Applying Leg Irons

- a. Have the inmate seated so that his legs are extended in a straight position.
 - b. Keep to the side of the inmate's legs when applying leg irons. A good method is to kneel on one knee and lay the inmate's legs across the other knee.
 - c. Apply leg irons so that the key way is facing down, away from the inmate's hands and secure the double lock.
 - d. Adjust the leg iron chain to the desired length by using a padlock unless the irons are of the integrated, manufactured variety.
4. The Strait Jacket. This is used on violent inmates and is designed to restrict all upper body movements and to immobilize

Call upon a volunteer to serve as an inmate subject and demonstrate a procedure for applying leg irons.

the prisoner. However, the strait jacket can be easily defeated and should therefore not be considered as secure as handcuffs or leg irons.

5. Soft Leather Restraint Straps. These are usually used to secure a violent person to a bed for security reasons or to prevent injury to the inmate. They usually consist of heavy harness-quality leather with softer leather linings at points that contact the wrists, ankles, etc.
6. Leg Brace. The leg brace or cage is often used when the officer desires to restrict movement with application of outwardly obvious restraint. It is often used when transporting an inmate by air. The brace consists of straps and metal struts that immobilize the knee in a stiff or straight-out position. The cage is capable of being applied directly to the leg under trousers.

If your home department has these restraints available, in-service training should be provided.

Have trainees identify other restraints--thumb cuffs, leg weights, etc.

IX. Response to Objectives

- A. List seven guidelines for prisoner transportation.
 1. Treat the prisoner firmly but humanely. Be objective. Do not allow personal bias to influence decisions or actions. Choose carefully and use any restraints justly deemed necessary. Check department policy and procedures. If possible, concealment of restraints may be permitted. This concealment should not prevent an officer from checking the device(s) periodically.
 2. Never ASSUME that restraints are foolproof. Factories have shipped faulty equipment. Equipment can be faulty due to wear. Equipment may have been tampered with (altered).

Transparency #2.

State line #1.

Expose #1 on transparency.

Discuss Guideline #1.

State line #2.

Expose #2 on transparency.

Check restraints periodically throughout the transportation to prevent lock picking, etc.

Discuss Guideline #2.

3. Always conduct a body search. Never assume that someone else has performed a proper search. Do your duty yourself. No one else knows how you want it done. The life you save may be your own. The security classification risk of the prisoner will dictate whether the body search is clothed or unclothed as per departmental policy and procedure.

State line #3.

Expose #3 on transparency.

When transporting a prisoner, you search the body and the vehicle and you check the restraints. You are responsible!

Discuss Guideline #3.

4. Keep firearms concealed when possible. If possible, conceal your weapons or, at least, place your sidearm on your side away from the prisoner. This rule should apply whether you are driving or riding as a second officer.

State line #4.

Expose #4 on transparency.

5. Do NOT inform the prisoner in advance. Do not notify a prisoner that he/she will be transported at a given time on a certain day. Attorneys should be requested to notify prisoners of the court day only if they must, but never of the time. This is simply a precaution against preplanned escape attempts.

Discuss Guideline #4.

State line #5.

Expose #5 on transparency.

6. Keep the prisoner within sight. As the transportation officer, you shall always be in, or entering, the same room with the prisoner. With a hard-core prisoner, you may need/want to check a chair, table, commode, or sink before permitting the prisoner to use it.

Discuss Guideline #5.

State line #6.

Expose #6 on transparency.

Discuss Guideline #6.

- 7. Increase your attention when approaching your destination. At the destination, an officer has the greatest risk of escape. A prisoner's stress may be very great and, at this point, help can be pre-arranged to provide weapons or aid in escape.

State line #7.

Expose #7 on transparency.

Discuss Guideline #7.

Recap Guidelines for transporting an inmate.

Ask for questions.

Stimulate discussion on the Guidelines.

- B. List four basic rules for prisoner transportation.

Transparency #3.

- 1. Prepare/search your motor vehicle yourself. You must know that tires, radiator, lights, oil, brakes, etc., are all functional. Thoroughly search vehicle for weapons and contraband.

State line #1.

Expose #1 on transparency.

Discuss Rule #1.

- 2. Search all prisoners yourself. No one else but you knows how to conduct a proper body search. It is your safety/life on the line. Be systematic, thorough, and objective.

State line #2.

Expose #2 on transparency.

Discuss Rule #2.

- 3. Apply all restraints yourself. Check all restraints. If they are worn badly or not functioning properly, get them replaced. If you receive a prisoner in restraints, simulate complete application before signing for the prisoner.

State line #3.

Expose #3 on transparency.

Discuss Rule #3.

- 4. Resolve all doubt in your favor. A transportation officer should KNOW that he/she is in command of the situation. Your job and life are on the line every time this duty is performed.

State line #4.

Expose #4 on transparency.

Discuss Rule #4.

Recap rules for transporting an inmate.

Ask for questions.

Stimulate discussion on the Rules.

Transparency #4

C. State ultimate goal of prisoner transportation:

To reach a given destination without injury to yourself or your prisoner and to still have the prisoner in your custody.

Discuss Goal.

X. Hands-on Exercise

Each trainee will perform or state that function has been performed when transporting a prisoner. The instructor will observe the student's use of transportation restraints. Each student will be required to prepare another trainee for transport in accordance with the Prisoner Transportation Checklist in the student workbook. The instructor will observe each student and grade the student on the Checklist.

Use Prisoner Transportation Checklist in student workbook.

XI. Summary

In the topic of use of restraints, a great deal of emphasis has been placed on proper search techniques. Personal search techniques are detailed in another module and should be religiously followed. If the officer fails to use the proper methods of search to discover possible weapons or objects used for escape, he may lose the prisoner and could be killed/injured, no matter how well the restraint equipment is applied. Remember, all restraint equipment is temporary and can be broken or removed.

TRAINEE WORKSHEET

SUBJECT: Transportation of Prisoners

1. Objectives

- A. After listening to the lecture and viewing the film, each student will be able to list seven general guidelines for prisoner transportation.
- B. Each student will be able to list four basic rules for prisoner transportation.
- C. Each student will be able to state the ultimate goal of prisoner transportation.

2. Response to Objectives:

A. List seven guidelines for prisoner transportation.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____

B. List four basic rules for prisoner transportation.

- 1. _____
- 2. _____
- 3. _____
- 4. _____

C. State the ultimate goal of prisoner transportation.

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Transportation of Prisoners

1. Objectives

- A. After listening to the lecture and viewing the film, each student will be able to list seven general guidelines for prisoner transportation.
- B. Each student will be able to list four basic rules for prisoner transportation.
- C. Each student will be able to state the ultimate goal of prisoner transportation.

2. Response to Objectives:

- A. List seven guidelines for prisoner transportation.
 - 1. TREAT THE PRISONER FIRMLY BUT HUMANELY.
 - 2. NEVER ASSUME THAT RESTRAINTS ARE FOOLPROOF.
 - 3. ALWAYS CONDUCT BODY SEARCHES YOURSELF.
 - 4. KEEP FIREARMS CONCEALED WHEN POSSIBLE.
 - 5. DO NOT INFORM THE PRISONER IN ADVANCE.
 - 6. KEEP THE PRISONER WITHIN SIGHT.
 - 7. INCREASE ATTENTION WHEN APPROACHING DESTINATION.
- B. List four basic rules for prisoner transportation.
 - 1. PREPARE/SEARCH MOTOR VEHICLE YOURSELF.
 - 2. SEARCH ALL PRISONERS YOURSELF.
 - 3. APPLY ALL RESTRAINTS YOURSELF.
 - 4. RESOLVE ALL DOUBT IN YOUR FAVOR.
- C. State the ultimate goal of prisoner transportation.

To reach a given destination without injury to yourself or your prisoner and to have the prisoner in your custody.

PRE- AND POST-TEST QUESTIONS

SUBJECT: Transportation of Prisoners

1. List seven guidelines for prisoner transportation.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

2. List rules for prisoner transportation.

1. _____
2. _____
3. _____
4. _____

3. What is the ultimate goal of prisoner transportation?

PRE- AND POST-TEST QUESTIONS (ANSWERS)

SUBJECT: Transportation of Prisoners

1. List seven guidelines for prisoner transportation.
 1. Treat the prisoner firmly but humanely
 2. Never assume that restraints are foolproof
 3. Prisoners must be searched
 4. Keep firearms concealed when possible
 5. Do not inform the prisoner in advance
 6. Keep the prisoner within sight
 7. Increase attention when approaching destination
2. List four basic rules for prisoner transportation.
 1. Prepare/search motor vehicle yourself
 2. Search all prisoners yourself
 3. Apply all restraints yourself
 4. Resolve all doubt in your favor
3. What is the ultimate goal of prisoner transportation.

To reach a given destination without injury to yourself or your prisoner and to have the prisoner in your custody.

PRISONER TRANSPORTATION
Observation Checklist

As trainee performs each task-step, record performance on the appropriate line.

| <u>Step</u> | <u>Performed Properly</u> | <u>Instruction Required</u> | <u>Performed Properly</u> |
|--|---------------------------|-----------------------------|---------------------------|
| 1. Checked file to determine prisoner classification (belly chain & cuff required). | _____ | _____ | _____ |
| 2. Objectively informed the prisoner of reason for transportation (COURT). | _____ | _____ | _____ |
| 3. Objectively informed the prisoner of the degree of restraints to be used (i.e. cuffs only; cuffs with belly chain; cuffs, belly chains, and leg irons). | _____ | _____ | _____ |
| 4. Performed a systematic thorough clothed body search or an unclothed body search and issued personally checked street clothes. | _____ | _____ | _____ |
| 5. Placed belly chain through belt loops, not touching flesh, secured chain end. | _____ | _____ | _____ |
| 6. Visually rechecked the cuffs and properly placed the cuffs in the belly chain ring or rectangle. | _____ | _____ | _____ |
| 7. Placed prisoner's strong arm first in a cuff. (Normally right arm or arm without a wrist watch). | _____ | _____ | _____ |
| 8. Place second arm in cuff with key hole upon the arm and pin lock on top. | _____ | _____ | _____ |
| 9. Escort the prisoner to a pre-searched and locked vehicle, walking to the side and one step behind. | _____ | _____ | _____ |
| 10. Open the door and set the prisoner in an unscreened car. (Simulate with chairs). | _____ | _____ | _____ |

Trainee _____ Score _____

Officer's Department _____

On this date, the above named officer satisfactorily completed the required routine for the transportation of a prisoner.

Scoring: 10 points for each step
5 points deducted for each step requiring instruction

Instructor

Date

OBJECTIVES

1. LIST SEVEN GENERAL GUIDELINES FOR PRISONER TRANSPORTATION
2. LIST THREE BASIC RULES FOR PRISONER TRANSPORTATION
3. STATE THE ULTIMATE GOAL OF PRISONER TRANSPORTATION

LIST SEVEN GUIDELINES FOR PRISONER TRANSPORTATION

1. TREAT THE PRISONER FIRMLY BUT HUMANELY
2. NEVER ASSUME THAT RESTRAINTS ARE FOOLPROOF
3. PRISONERS MUST BE SEARCHED
4. KEEP FIREARMS CONCEALED WHEN POSSIBLE
5. DO NOT INFORM THE PRISONER IN ADVANCE
6. KEEP THE PRISONER WITHIN SIGHT
7. INCREASE YOUR ATTENTION WHEN APPROACHING YOUR DESTINATION.

LIST FOUR BASIC RULES FOR PRISONER TRANSPORTATION

1. PREPARE/SEARCH MOTOR VEHICLE YOURSELF
2. SEARCH ALL PRISONERS YOURSELF
3. APPLY ALL RESTRAINTS YOURSELF
4. RESOLVE ALL DOUBT IN YOUR FAVOR

ULTIMATE GOAL OF PRISONER TRANSPORTATION

TO REACH A GIVEN DESTINATION
WITHOUT INJURY TO YOURSELF OR
YOUR PRISONER AND TO HAVE THE
PRISONER IN YOUR CUSTODY.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Security in a Correctional Facility

AUTHOR: Neil L. Fahlsing
Corrections Specialist
CJTS Division
Office of Attorney General
State Capitol
Bismarck, ND 58505

NOTE TO INSTRUCTOR

This lesson plan is intended to provide the minimum coverage of this topic consistent with the provisions of the North Dakota Century Code and the North Dakota Administrative Code.

This lesson plan and the supplementary materials in the Trainee Resource Manual and Workbook should not be treated as inflexible by the instructors who use it. It should, in fact, be viewed as a basic guide upon which the instructor must build by adding materials which reflect new situations and changes in corrections as they develop in the state. It should be tailored to the skills, knowledge, and learning capabilities of each correctional officer class.

It is recognized that instructors will inject their own experience, style, resources, and enthusiasm into the presentation of this material. Included, as well, will be the values and personal philosophy of individual instructors. We encourage and appreciate the personal investment made by you, the instructor, which will enrich this lesson plan for those receiving this instruction, and would only caution that the ideas presented should reflect the philosophy outlined in the Role of the Correctional Officer as it is printed at the beginning of this text.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Security in a Correctional Facility

AUTHOR: Neil L. Fahlsing, Corrections Specialist
CJTS Division, Office of Attorney General
State Capitol
Bismarck, ND 58505

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: One (1) Hour

TRAINING OBJECTIVES:

1. Presentation and discussion of security aspects relating to correctional facility operations.
2. To identify and discuss the primary means by which correctional officers maintain security.
3. To have trainees identify the primary elements of his/her duty assignment in respect to security.
4. To instill in trainees that the most important element of facility security is the correctional officer.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

1. "Security in a Correctional Facility", AIMS Discussion Leader's Guide, AIMS Instructional Media, Inc., 626 Justin Avenue, Glendale, CA, 91201, (213) 240-9300
2. "Basic Jail Security Principles", Jail Officers' Training Manual, National Sheriff's Association, 1250 Connecticut Avenue, Suite 320, Washington, D.C., 20036, 1980, pp. 125-141
3. "Operational Security", Montgomery, Michael J., Kentucky Department of Justice, Bureau of Training, Stratton 354, ECU, Richmond, KY, 40475

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 30th Street, Suite 130
Boulder, Colorado 80301
Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise(s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

I. Topic Introduction and Scope of Presentation - SECURITY IN A CORRECTIONAL FACILITY

- A. Governing authorities and/or administrators have a legal responsibility to train in critical areas. Security is most certainly a critical aspect of correctional facility routine.
1. The public is seeking security when, through due process, they sentence people to a facility.
 2. The correctional process cannot succeed without professional maintenance of security procedures.
 3. A major portion of correctional officer duties involve staff, inmates, and institutional security.

Instructor introduction by the coordinator, department administrator, or self, if appropriate.

Explain instructor's qualifications relevant to this topical area.

Administer Pre-Test.

Topic Introduction should include the rationale for the topic being presented.

II. Performance Objectives

Transparency #1

- A. After listening to the lecture and viewing the film, each trainee will, from memory, be able to:
1. Identify the most important aspect of security.
 2. List six primary elements used by correctional officers to maintain security.
 3. List three primary elements of his/her duty assignment.

III. Definition

- A. The word security means different things to particular groups of people:
1. To the public, security means the state of being or feeling secure; freedom from fear, anxiety, danger, doubts, etc.; state or sense of safety of certainty.

2. For people in the financial profession, security means something given as a pledge of repayment; fulfillment of a promise to repay; etc.
3. To correctional facility personnel, security means protection or defense against attack, interference, escape, etc. The correctional officer must feel that the physical plant and the policies and procedures are sufficient to keep him/her free from bodily harm. Secondly, s/he must feel that the plant and procedures make it reasonably possible for him/her to complete the assigned duties.

IV. Legal Considerations

- A. Facility administrators and correctional officers have an affirmative duty to operate a secure facility for the safety and protection of the community, inmates and staff.
- B. Administrators and correctional officers are vulnerable to litigation if security procedures are not defined by administration and implemented by staff.
- C. North Dakota Jail Rules, Chapter 10-05-05 require:
 1. On-duty correctional officers must be capable of responding to inmate needs.
 2. No inmate may be placed in a supervisory capacity over other inmates.
 3. Inmate supervision and security must consider inmates' privacy issues.
 4. Inmates are to be observed by a correctional officer not less than every 60 minutes, or more often as required.

These are paraphrased from the Jail Rules.

5. Written policy on security procedures is required.

V. Correctional Officer Responsibility

- A. Security is not possible in correctional facilities without professional correctional officers.
- B. The correctional officer is responsible for safety of the public, inmates and fellow staff through the implementation of security procedures.

VI. Security in a Correctional Setting

- A. The single most important factor of security is alert, concerned professional correctional officers. A professional correctional officer can hold a prisoner under adverse conditions, thereby affording public security.
- B. To maintain security where even one correctional officer is involved, policies and procedures are a requirement. Consistent application of written policies and procedures by professional correctional officers cannot be substituted with anything less. Policies and procedures should never be altered without administrative approval unless altered within guidelines established by the administrators.
- C. The physical plant should be designed to assist correctional officers in their role of maintaining security. Only with proper utilization of staff, policies and procedures and physical plant, can society's goal be attained. Custody, control and care of the inmates can be accomplished if security is maintained.
- D. Where crime prevention is unsuccessful, apprehension and incarceration must follow. The correctional officer becomes a front-line security officer for the citizenry. Taxes are paid

Discuss the importance of correctional officers, policies and procedures and physical plant.

(reluctantly) to maintain a physical plant and pay the correctional officer's salary. It is trusted that the security provided in the facility will also provide security in the homes of the community.

VII. Facility Security Overview

A. There are many divisions of facility security. Most of these divisions are handled as separate training topics. These divisions are:

1. Medical Screening
2. Admitting the Inmate
3. Classification - Cell Assignment
4. Escorting - To Cells, Court, Doctor, etc.
5. Cell Searches - Before, During and After Use
6. Sick Call and Control of Drugs
7. Policies and Procedures

Discuss the security needs of individual facilities.

VIII. Movie Introduction

A. Training film on security in a correctional facility made by and for correctional officers.

1. AIMS film, "Security in a Correctional Facility", 25 minutes.
2. At film completion, open discussion of security as discussed in the film.

Start 16 mm projector.

Use AIMS Discussion Leader's Guide.

Hand out student worksheet.

IX. Response to Objectives

A. Identify the most important aspect of security.

1. Correctional officers

B. List six important factors of security. *Transparency #3*

Transparency #2

1. Classification

It must be carried out to meet legal requirements of separation by class. Cell assignments are a prime factor in officer and inmate safety. Further, classification and/or separation is mandated by law; i.e., juveniles, adults, females, males, etc.

State line #1 verbally.

Expose #1 on transparency.

Discuss factor #1.

2. Inspection

It must be carried out on an irregular schedule throughout the facility if security is to be maintained for society, inmates and staff.

State line #2 verbally.

Expose #2 on transparency.

Discuss factor #2.

Cell and body searches at irregular intervals are an integral part of the overall plant inspection.

3. Key Control

It involves many steps and should be defined in policy and procedures. Some steps are:

State line #3 verbally.

Expose #3 on transparency.

Key control issues should be discussed or covered in detail based upon the state's minimum jail standards.

- a. Carried keys shall be covered, cased.
- b. Keys not in use shall be secured.
- c. Key chips shall be kept for keys issued.
- d. A complete set of backup keys shall be on hand.
- e. Emergency keys shall be kept separate and easily identifiable (two sets).

Elaborate: give examples and explain why.

4. Counts

To maintain security, counting of inmates must be completed accurately within the guidelines of policy and procedures. Formal

State line #4 verbally.

Expose #4 on transparency.

Discuss factor #4.

and/or informal counts may be required. It is required that a count be made at least once an hour. For certain inmate classifications, counts may be more frequent or require constant observation.

5. Emergency Plans/Training

Both are essential parts of security. Emergency plans is a training topic in itself and must be a part of in-service training.

State line #5 verbally.

Expose #5 on transparency.

Discuss factor #5.

6. Firearm Usage

As an emergency plan, it cannot be presented in this time allowance. Other training must be provided for certification.

State line #6 verbally.

Expose #6 on transparency.

Discuss factor #6.

Recap the factors of security.

Ask for questions.

Stimulate discussion on the factors.

C. List three primary duty factors.

Transparency #4

1. Prevent Escape

State line #1 verbally.

This is the primary duty of a correctional officer. It is the function for which society pays a salary. No escapes provide society with security.

Expose #1 on transparency.

Discuss duty #1.

2. Maintain Order

State line #2 verbally.

Through effective security practices, preventing disorder provides safety for inmates, staff and the physical plant.

Expose #2 on transparency.

Discuss duty #2.

3. Control Contraband

State line #3 verbally.

Through effective supervision, cell searches, key control and security practices, contraband can, for the most part, be controlled.

Expose #3 on transparency.

Discuss duty #3.

4. Inmate Care

With custody and control, inmate care can be considered; i.e., food, showers, visits, etc.

Recap primary duties.

Ask for questions.

Stimulate discussion on duties and security.

TRAINEE WORKSHEET

SUBJECT: Security in a Correctional Facility

1. Objectives:

- A. After listening to the lecture and viewing the film, each student will be able to identify the most important aspect of security.
- B. Each student will be able to list six primary factors used by correctional officers to maintain security.
- C. Each student will be able to list three elements of his/her duty assignment.

2. Response to Objectives:

- A. Identify the most important aspect of security.

- B. List six important factors of security.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

- C. List three primary duty factors.

1. _____

2. _____

3. _____

Discussion Notes:

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Security in a Correctional Facility

1. Objectives:

- A. After listening to the lecture and viewing the film, each student will be able to identify the most important aspect of security.
- B. Each student will be able to list six primary factors used by correctional officers to maintain security.
- C. Each student will be able to list three elements of his/her duty assignment.

2. Response to Objectives:

- A. Identify the most important aspect of security.

CORRECTIONAL OFFICER

- B. List six important factors of security.

1. CLASSIFICATION

2. INSPECTION

3. KEY CONTROL

4. COUNTS

5. EMERGENCY PLANS - TRAINING

6. FIREARM USAGE

- C. List three primary duty factors.

1. PREVENT ESCAPE

2. MAINTAIN ORDER

3. CONTROL CONTRABAND

PRE- AND POST-TEST QUESTIONS

SUBJECT: Security in a Correctional Facility

1. What is the single most important aspect of security?

2. List the three primary duties of a correctional officer.

1. _____

2. _____

3. _____

3. List six important factors for security in a correctional facility.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

PRE- AND POST TEST QUESTIONS (ANSWERS)

SUBJECT: Security in a Correctional Facility

1. Identify the most important aspect of security.
Correctional Officer

2. List six important factors of security.
 1. Classification
 2. Inspection
 3. Key control
 4. Counts
 5. Emergency plans - training
 6. Firearm usage

3. List three primary duty factors.
 1. Prevent escape
 2. Maintain order
 3. Control contraband

OBJECTIVES

1. IDENTIFY THE MOST IMPORTANT ASPECT OF SECURITY
2. LIST SIX PRIMARY ELEMENTS USED BY CORRECTIONAL OFFICERS TO MAINTAIN SECURITY
3. LIST THE THREE PRIMARY ELEMENTS OF A CORRECTIONAL OFFICER DUTY ASSIGNMENT.

THE MOST IMPORTANT
ASPECT OF SECURITY

THE
CORRECTIONAL
OFFICER

SIX IMPORTANT FACTORS OF SECURITY

1. CLASSIFICATION
2. INSPECTIONS
3. KEY CONTROL
4. COUNTS
5. EMERGENCY PLANS
6. FIREARMS USAGE

THREE PRIMARY DUTY FACTORS

1. PREVENT ESCAPES
2. MAINTAIN ORDER
3. CONTROL CONTRABAND

OR

1. CUSTODY
2. CONTROL
3. CARE

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Supervision of Inmates

AUTHOR: Neil L. Fahlsing
 Corrections Specialist
 CJTS Division
 Office of Attorney General
 State Capitol
 Bismarck, ND 58505

NOTE TO INSTRUCTOR

This lesson plan is intended to provide the minimum coverage of this topic consistent with the provisions of the North Dakota Century Code and the North Dakota Administrative Code.

This lesson plan and the supplementary materials in the Trainee Resource Manual and Workbook should not be treated as inflexible by the instructors who use it. It should, in fact, be viewed as a basic guide upon which the instructor must build by adding materials which reflect new situations and changes in corrections as they develop in the state. It should be tailored to the skills, knowledge, and learning capabilities of each correctional officer class.

It is recognized that instructors will inject their own experience, style, resources, and enthusiasm into the presentation of this material. Included, as well, will be the values and personal philosophy of individual instructors. We encourage and appreciate the personal investment made by you, the instructor, which will enrich this lesson plan for those receiving this instruction, and would only caution that the ideas presented should reflect the philosophy outlined in the Role of the Correctional Officer as it is printed at the beginning of this text.

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Supervision of Inmates

AUTHOR: Neil L. Fahlsing, Corrections Specialist
CJTS Division, Office of Attorney General
State Capitol
Bismarck, ND 58505

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: One (1) Hour

TRAINING OBJECTIVES:

1. The training objective is to provide an insight into the problems faced by Correctional Officers during the task of day-to-day inmate supervision.
2. This presentation will alert C.O.s to certain pitfalls that occur in virtually every detention, corrections or correctional facility.
3. The trainees will be provided the seven basic steps that are considered mandatory in a day-to-day approach to effective supervision.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

1. "Supervision of Inmates", AIMS Discussion Leaders Guide. AIMS Instructional Media, Inc., 626 Justin Avenue, Glendale, CA, 91201, (213) 240-9300
2. "Supervising Inmates: Principles and Skills", National Sheriff's Association, 1980, pp. 507-534, 1250 Connecticut Avenue, Suite 320, Washington, D.C., 20036
3. "Personal Supervision Situations in Housing and General Areas", Jail Officers' Training Manual, National Sheriff's Association, 1980, pp. 535-580
4. "Supervision and Discipline", Montgomery, Michael J., Kentucky Department of Justice, Bureau of Training, June 4, 1979, Stratton 354, ECU, Richmond, KY, 40475

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 30th Street, Suite 130
Boulder, Colorado 80301
Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise(s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

TRAINING AIDS:

Supplies and Equipment

- Video Projection Screen
- 16 mm. Projector With Spare Lamp
- 16 mm. Film: Supervision of Inmates: AIMS Series
- Discussion Guide
- Overhead Projector
- Appropriate Transparencies
- Slide Projector
- Slides
- Video Monitor, Player/Recorder
- Video Cassette: _____
- Cassette Player, Audio
- Audio Cassette: _____
- Flip Chart and Markers
- Masking Tape
- Chalkboard, Chalk, Eraser
- Trainee Worksheets
- Trainee Handouts
- Pre- and Post-Tests
- Trainee Course Evaluation
- Trainee Instructor Evaluation
- _____
- _____
- _____
- _____
- _____

I. Topic Introduction and Scope of Presentation - SUPERVISION OF INMATES

A. Administrators have the legal responsibility to train in critical areas and/or institutional officer supervision has not been up to a desired standard.

1. A major portion of correctional officer duties involves the supervision of inmates.
2. Inherent in the correctional process is the need for professional supervision.
3. Inmate supervision must be adequate and effective. The entire correctional process is dependent upon and directly related to the way the correctional officer carries out his/her duties.

Instructor introduction by the coordinator, department administrator or self, if appropriate.

Explain instructor's qualifications relevant to this topical area.

Administer Pre-Test.

Topic introduction should include the rationale for the topic being presented.

The days of custodians, jailers, or turnkeys are past. The days of effective correctional officers are here and they must possess the capability of supervision.

II. Performance Objectives

A. After listening to the lecture and viewing the film, each trainee will, from memory, be able to:

1. List five inmate tactics which a correctional officer should be alert to and be prepared to deal with.
2. List seven factors that are considered to have positive effects in inmate supervision.

Transparency #1

III. Supervision - Definition

A. Supervision is a relationship in which one person controls the activities of one or more persons or things.

1. The correctional officer's task is primarily to supervise people. This is most often accomplished through written and/or verbal communication. Communication is a training topic in itself. The

importance of effective communication cannot be over-emphasized. Effective supervision will break down without it.

- B. Supervision by correctional officers should influence inmates to achieve specific goals and/or to function within defined guidelines.
1. The defined guidelines shall be in writing if consistency is to be maintained. Specific goals must be available to the correctional officers as well as to the inmates.
 2. Supervision goes beyond following a rule book to the letter. Supervision also incorporates the application of common sense and a degree of flexibility. A good supervisor should know when to say NO with emphasis. A simple stated NO will bring about understanding.
 3. It is an innate human need, a must, that an individual fully and accurately understand the limits of guidelines. Unclear, poorly defined guidelines will result in inconsistency which will result in ineffective supervision.
 4. Through ineffective supervision, some or many inmates are placed on report which may result in disciplinary action; when, in reality, the infraction was administration or correctional officer caused. An officer may cause an inmate to be insolent through lack of empathy or failure to communicate, thus causing anger.

Make sure the trainees understand the connection between good supervision and written inmate rules and regulations.

IV. Legal Considerations

- A. North Dakota State Statutes and Jail Rules require that inmates be held

under the supervision of a correctional officer 24 hours per day.

- B. The North Dakota Century Code requires that "a correctional officer be available at all times to respond to the reasonable needs of an inmate."
- C. The North Dakota Jail Rules require that "each inmate must be personally observed by a correctional officer at least every 60 minutes on an irregular basis."
- D. The North Dakota Jail Rules require that inmates who exhibit suicidal tendencies, who manifest emotional distress, or who have specialized medical problems such as severe intoxication, shall be observed by a correctional officer at more frequent intervals (than in C above) as their condition requires.
- E. The North Dakota Jail Rules require that juvenile inmates be observed by a correctional officer every 30 minutes on an irregular basis.
- F. Federal and state courts have consistently held that correctional officers have a duty to protect inmates. A breach of that duty which results in injury to the inmate can lead to successful litigation against the governing authority, the facility administrator, and/or the officer(s) involved.

V. Correctional Officer Responsibilities

- A. The correctional officer has the responsibility (duty) to protect inmates from harming themselves or others. This requires good supervision techniques.
- B. The correctional officer has the responsibility for assuring that all inmates are properly supervised while being escorted, during visitation, during activity periods, and while engaged in dayroom activities.

- C. The correctional officer has the responsibility to be aware of inmate changes in behavior (variance from normal patterns), document these changes, and report them to supervisors.
- D. The correctional officer must maintain general order and security. This is accomplished by being aware of all inmate activities and movements. Supervision is the key to maintaining order and security. You are the key.

VI. Correctional Supervision

- A. Effective correctional officer supervision should result in the continuous custody of the inmate(s). This is the primary goal of a correctional officer's employment. Society wants/has ordered that these individuals be separated.
- B. Effective correctional officer supervision will result in consistency throughout the inmate care process. Effective, consistent supervision is required for all human needs. Each human being has an innate need to care for themselves. Deprived of self-care, they will insist, as much as possible, on fair and equal treatment. Important areas of fair and equal treatment are:
 - 1. Atmosphere
 - 2. Lighting
 - 3. Clothing
 - 4. Hygiene
 - 5. Leisure time
 - 6. Recreation
 - 7. Medical treatment
 - 8. Work assignments

VII. Impact of Incarcerations

- A. Knowledge of the emotional impact of being incarcerated gives a new and necessary perspective on an inmate's behavior.

1. Empathy, a key word in corrections, is the ability to understand another's emotions or feelings. Correctional officers should empathize with the deprivation of freedom and of access to:
 - a. Meals
 - b. Mail
 - c. Visitors
 - d. Lights
 - e. Furniture
 - f. Telephone
 - g. Beverages
 - h. Temperature control
 - i. Heterosexual relationships
 - j. Family

Empathy in these areas can give an important insight in respect to inmate behavior. (Example: THINK! How would you feel having someone else choose your meals, inspect your mail, and determine who you may or may not speak with.)

- B. Deprivation impact is the responsibility of the State and/or County. Deprivation SHALL NOT be determined by or administered with malice by the correctional officer.

VIII. Movie Introduction

- A. Training film on supervision of inmates made by and for correctional officers.
 1. AIMS film, "Supervision of Inmates", 22:15 minutes.

Start 16 mm projector.

2. At film completion, open discussion on supervision.

*Use AIMS Discussion Guide.
Hand out student worksheet.
Set up Overhead Projector.*

IX. Response to Objectives

- A. List five inmate tactics which a correctional officer should constantly be alert to and be prepared to deal with.

Transparency #2

1. Discussion of officer's personal life/affairs

State line #1 verbally.

Expose on transparency.

An officer may reveal that on Thursday evening, he and his wife bowl on a mixed bowling league. For an inmate, it may be all he needs to know in order to rip the officer off the Thursday after the inmate is released. The same information may let a rapist know that the daughter is home alone.

Discuss Tactic #1.

2. Informers expect favors in return for information

State line #2 verbally.

Expose on transparency.

The favors may be small, such as an extra sheet or pillow. Don't get caught granting even one favor. If a favor is granted, respect will be forfeited.

Discuss Tactic #2.

3. Inmates play one officer against another

State line #3 verbally.

Expose on transparency.

There are many ways for inmates to play one officer against another. The most common is "Officer _____ lets us do this or that; why won't you?"

Discuss Tactic #3.

4. Discussion with an officer about other officers/inmates

State line #4 verbally.

Expose on transparency.

Discussions with inmates is improper, unprofessional and can only reveal information that will result in the inmate's playing one officer against the other.

Discuss Tactic #4.

5. Granting minor favors leads to blackmail tactics

State line #5 verbally.

Expose on transparency.

Special favors granted, such as letter taken out or brought in, may result in the correctional officer being coerced to carry other contraband. Carrying contraband should be/is a reason for dismissal.

Discuss Tactic #5.

Recap Inmate Tactics; ask for questions. Stimulate discussion.

B. List seven points, as presented, to be accepted as segments of professional supervision.

Transparency #3

1. Job Knowledge

State line #1 verbally.

There is no substitute for total knowledge of the job/duties you are to perform. Read and follow the policies and procedures of your department.

Expose on transparency.

Discuss point #1.

2. Self-Confidence

State line #2 verbally.

Nothing replaces knowing you know. There is no substitute for shined shoes and a clean pressed uniform to aid in developing self-confidence. Avoid saying "I think" to an inmate. Avoid saying "I know" or "you will" unless you can back it up.

Expose on transparency.

Discuss point #2.

3. Consistent Temperament

State line #3 verbally.

When you report for work, leave your personal problems at home. You are reporting to work with what could be classed as problem people with problems. Bringing your problems into the facility can only cause you to be inconsistent and could result in a lack of proper supervision.

Expose on transparency.

Discuss point #3.

4. Ability to Communicate

State line #4 verbally.

Communication is a separate topic in itself. It can only be emphasized here as very important. However, communication through body language, the tone of voice, and the art of listening should all be topics of study sought by

Expose on transparency

Discuss point #4.

correctional officers. Effective communication and/or supervision may ultimately save your life.

5. Ability to Recognize Individual Differences

Each human being is an individual different from all others. A correctional officer has the responsibility to treat all prisoners alike and, at the same time, remember that each is an individual who should be treated and/or approached differently. If I talk to you, as I would have you speak to me, odds are that my communication would not be received.

State line #5 verbally.

Expose on transparency.

Discuss point #5.

6. Ability to Correct and Praise

If correction for any reason is required with an inmate, be constructive. Explain quietly and calmly the correction needed and why. If something goes better than expected, say so.

State line #6 verbally.

Expose on transparency.

Discuss point #6.

7. KEEP YOUR WORD

Your word is your bond! If you say something, back it up! If you can't back it up, don't say it! If you want to lose respect--if you want to cause more problems--just tell an inmate you will do something and then fail to do it!.

State line #7 verbally.

Expose on transparency.

Discuss point #7.

Recap Points of Supervision; ask for questions. Stimulate discussion.

TRAINEE WORKSHEET

SUBJECT: Supervision of Inmates

1. Objectives:

- A. After listening to the lecture and viewing the film, each student will be able to list five inmate tactics to which he/she should constantly be alert to and be prepared to avoid.
- B. Each student will be able to list seven factors that are considered to have positive effects in supervising inmates.

2. Response to Objectives:

A. List five inmate tactics an officer should be alert for.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

B. List seven points, as presented, that an officer may consider in his/her approach while supervising inmates.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____

Discussion Notes:

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Supervision of Inmates

1. Objectives:

- A. After listening to the lecture and viewing the film, each student will be able to list five inmate tactics to which he/she should constantly be alert to and be prepared to avoid.
- B. Each student will be able to list seven factors that are considered to have positive effects in supervising inmates.

2. Response to Objectives:

- A. List five inmate tactics an officer should be alert for.
 - 1. DISCUSSION OF OFFICERS PERSONAL LIFE/AFFAIRS
 - 2. INFORMERS EXPECT FAVORS IN RETURN
 - 3. INAMTES PLAY ONE OFFICER AGAINST ANOTHER
 - 4. DISCUSSION WITH AN OFFICER ABOUT OTHER OFFICERS/INMATES
 - 5. REQUESTING MINOR FAVORS LEADS TO BLACKMAIL
- B. List seven points, as presented, that an officer may consider in his/her approach while supervising inmates.
 - 1. JOB KNOWLEDGE
 - 2. SELF-CONFIDENCE
 - 3. CONSISTENT TEMPERAMENT
 - 4. ABILITY TO COMMUNICATE
 - 5. ABILITY TO RECOGNIZE INDIVIDUAL DIFFERENCES
 - 6. ABILITY TO CORRECT AND PRAISE
 - 7. KEEP YOUR WORD

PRE- AND POST-TEST QUESTIONS

SUBJECT: Supervision of Inmates

1. State five (5) inmate tactics a correctional officer should be alert to.

1. _____
2. _____
3. _____
4. _____
5. _____

2. State seven (7) factors required of a correctional officer to provide effective supervision.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

PRE- AND POST TEST QUESTIONS (ANSWERS)

SUBJECT: Supervision of Inmates

1. List five inmate tactics an officer should be alert for.
 1. Discussion of Officers personal life/affairs
 2. Infromers expect facors in return
 3. Inmates play one officer against another
 4. Discussions with you an officer about other officers/inmates
 5. Requesting minor favors - leads to blackmail

2. List seven points that an officer may consider in his/her approach while supervising inmates.
 1. Job knowledge
 2. Self-confidence
 3. Consistent temperament
 4. Ability of communicate
 5. Ability to recognize individual differences
 6. Ability to correct and praise
 7. KEEP YOUR WORD

1. LIST 5 INMATE TACTICS WHICH A CORRECTIONAL OFFICER SHOULD BE ALERT TO AND BE PREPARED TO DEAL WITH.
2. LIST 7 FACTORS THAT ARE CONSIDERED TO HAVE POSTIVE EFFECTS IN INMATE SUPERVISION.

LIST FIVE INMATE TACTICS AN OFFICER SHOULD BE ALERT FOR

1. DISCUSSION OF OFFICERS PERSONAL LIFE and/or AFFAIRS.
2. INFORMERS EXPECTS FAVORS IN RETURN.
3. INMATES PLAY ONE OFFICER AGAINST ANOTHER.
4. DISCUSSION WITH OFFICER ABOUT OTHER OFFICERS OR INMATES.
5. REQUESTING MINOR FAVORS – LEADS TO BLACKMAIL:

LIST SEVEN POINTS, AS PRESENTED, THAT YOU MAY CONSIDER IN YOUR APPROACH WHILE SUPERVISING INMATES.

1. JOB KNOWLEDGE
2. SELF-CONFIDENCE
3. CONSISTENT TEMPERMENT
4. ABILITY TO COMMUNICATE
5. RECOGNIZE INDIVIDUAL DIFFERENCES
6. ABILITY TO CORRECT AND PRAISE
7. KEEP YOUR WORD

NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Use of Force

AUTHOR: Gary M. Bowker
 Allied Correctional Services
 12342 W. Iowa Drive
 Lakewood, CO 80228

NOTE TO INSTRUCTOR

This lesson plan is intended to provide the minimum coverage of this topic consistent with the provisions of the North Dakota Century Code and the North Dakota Administrative Code.

This lesson plan and the supplementary materials in the Trainee Resource Manual and Workbook should not be treated as inflexible by the instructors who use it. It should, in fact, be viewed as a basic guide upon which the instructor must build by adding materials which reflect new situations and changes in corrections as they develop in the state. It should be tailored to the skills, knowledge, and learning capabilities of each correctional officer class.

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NORTH DAKOTA ATTORNEY GENERAL'S OFFICE
Criminal Justice Training and Statistics Division

LESSON PLAN

LESSON TITLE: Use of Force

AUTHOR: Gary M. Bowker
Allied Correctional Services
12342 W. Iowa Drive
Lakewood, CO 80228

TARGET POPULATION: Correctional/Jail Facility Administrators,
Correctional Officers (Full- or Part-Time),
and Deputies or Police Officers Performing
Correctional Officer Duties

TIME ALLOCATION: Two (2) Hours

TRAINING OBJECTIVES:

1. The lesson will cover state statutes and legal considerations on the use of force.
2. The lesson will provide case studies allowing the trainees to examine what, if any, force is allowed in correctional facility situations.
3. The lesson will not instruct in how to apply certain types of force. Inmate control tactics will be the subject of additional training in the Advanced Course.
4. The lesson will not cover the use and application of chemical restraints.
5. The lesson will not cover the use of firearms. Trainees should defer to current departmental policy in this regard and/or consult with your State's Attorney General for guidance in this area.

REFERENCES AND SUGGESTED INSTRUCTOR READINGS:

1. Curriculum Materials: Practical Law for Correctional Officers, National Street Law Institute, 1979.
2. Standardized On-the-Job Training Program, Department of Corrections, State of California.
3. The Rights and Responsibilities of Correctional Staff: Dealing With Judicial Involvement in Corrections, Babe Crockett, U. S. Bureau of Prisons.
4. Use of Force, Chemical Agents and Mechanical Restraints, North Florida Evaluation and Treatment Center, State of Florida.
5. North Dakota Century Code: 12.1-05-07.
6. Use of Force and Application of Restraints on Inmates, Policy Statement 5566.1, U. S. Bureau of Prisons.

FOR ADDITIONAL INFORMATION, WRITE OR CALL:

National Institute of Corrections
Information Center
1790 30th Street, Suite 130
Boulder, Colorado 80301
Telephone: (303) 444-1101

INSTRUCTIONAL METHODS:

- Lecture
- Video Presentation
- Audio Presentation
- Transparency Display/Discussion
- Guest or Supporting Instructor
- Hands-On Practical Exercise(s)
- Group Exercise(s)

CLASSROOM AREA AND REQUIREMENTS:

One room with enough tables and chairs to accommodate the number of trainees and staff.

TRAINING AIDS:

Supplies and Equipment

- Video Projection Screen
- 16 mm. Projector With Spare Lamp
- 16 mm. Film: _____
- Discussion Guide
- Overhead Projector
- Appropriate Transparencies
- Slide Projector
- Slides
- Video Monitor, Player/Recorder
- Video Casette: _____
- Cassette Player, Audio
- Audio Cassette: _____
- Flip Chart and Markers
- Masking Tape
- Chalkboard, Chalk, Eraser
- Trainee Worksheets
- Trainee Handouts
- Pre- and Post-Tests
- Trainee Course Evaluation
- Trainee Instructor Evaluation
- _____
- _____
- _____
- _____
- _____

I. Topic Introduction and Scope of Presentation - USE OF FORCE

- A. Administrators have a legal responsibility to train in all areas of correctional officer duties. Training may be required formally by the Peace Officers Standards and Training Board (POST Bd.) or completed through in-service training.
- B. Use of Force is considered by most administrators to be a critical area and formal training is provided to document the degree, date and time of the presentation.
- C. Completion of this training will place a high degree of liability on the correctional officer if excessive force should be used.

Instructor introduction by the coordinator, department administrator or self, if appropriate.

Explain instructor's qualifications relevant to this topical area.

Administer Pre-Test.

Topic introduction should include the rationale for the topic being presented.

II. Performance Objectives

After listening to the lecture and completing the small group exercises, each trainee will be able to:

- A. Cite those instances when corrections personnel can use non-deadly force in correctional facilities.
- B. Cite four areas in which courts recognize the use of force as justifiable in correctional settings.
- C. Cite the general rule that applies to the use of deadly force.
- D. Cite NDCC requirements specific to the use of force.
- E. Determine if use of force in various circumstances is justified and/or excessive.
- F. Identify the elements necessary to protect against law suits alleging excessive use of force.

Transparency #1

Emphasize that students should avail themselves of training opportunities in self-defense training. Training in "Orientation to Control Tactics" will be provided as a 10-hour block in the Advanced Course.

III. Definitions

Transparency #2

- A. Force: Means any physical force directed toward another, either by direct physical contact or by the use of a weapon such as tear gas, chemical mace, a baton, a firearm, etc.
- B. Non-Deadly Force: Force which normally causes neither death nor serious bodily injury.
- C. Deadly Force: Force which will likely cause death or bodily injury.

Question class on two issues to get their involvement:

- A. What is the principle reason for use of force? (Stress that answers are security of institution and safety of staff/inmates.)
- B. When can correctional personnel use force? (Ask for example of each; explain each generally.)

Write responses to each question on flicharts. Tape list on wall and indicate that these are the specific issues you will be discussing. It is your intention that students will have a clear notion of their rights and responsibilities in each area at the end of the session.

IV. Legal Considerations

- A. Of all assault cases, the claims of assaults by staff on inmates are, by far, the most frequent. These types of claims (against police, jail staff, probation/parole officers) can and have arisen in correctional facilities, jails and half-way houses.
- B. The standing law is that a correctional officer's use of unreasonable force is a violation of an inmate's Eighth Amendment right to be free from cruel and unusual punishment. Inmates will rarely bring a suit alleging common law tort liability against the state, presumably because inmates tend to believe that any unpermitted shove, push, or physical force is a constitutional violation. The courts are not as likely as the inmate to support the contention

It is well documented that inmates have better success with Civil Rights actions in the Federal Courts than they do with tort liability cases in state courts.

that all "touching" constitutes a claim under the Civil Rights Act. Assaults involve an evaluation of the Fourteenth Amendment "due process" clause and the Eighth Amendment "cruel and unusual punishment" prohibitions. The basic test most frequently used by the courts is whether the complaint alleges and the facts substantiate that an inmate has received physical and mental abuse or corporal punishment of such base, inhumane, and barbaric proportions that it shocks the court's sensibilities and offends the Eighth Amendment as well.

Emphasize the "barbaric" and "shocks the sensibilities" aspects of the Court's position.

C. North Dakota Century Code

1. NDCC 12.1-05-07. Limits on the use of force; Excessive Force, Deadly Force.

Refer to student workbook. Briefly review the Code. State that the Code primarily addresses Deadly Force.

- D. It is a clear right and duty to use force in certain situations. Unfortunately, in many instances, "bad cases make bad case law."

1. Refer students to TAKEN ALIVE v. LITZAU court case in student workbook.

TAKEN ALIVE v. LITZAU, 551 Fed. 2d 1977. This is an example of how we get in trouble by totally unreasonable actions. This South Dakota case is utilized to keep students' attention on the fact that it can happen to them. Have students review.

2. This case is only utilized to point out that you must be reasonable in your use of force. While this was clearly unreasonable use of force, this lesson will clarify when force can and cannot be used.

3. Two other cases are illustrative of the difference in views that can be taken in these "unreasonable use of force" cases.

Read the general facts of these two examples to the class.

- a. An inmate in a state penitentiary recovered \$3,000 in damages from institution staff after being beaten by two correctional officers who used billy clubs to systematically beat several

inmates whom they believed had participated in a prison riot where staff had been injured. The plaintiff, by the State's admission, had mistakenly been identified as one of the rioters, and while being moved to segregation, was beaten by the staff. The inmate sued the two correctional officers that he could identify, their supervisors, the state and other officials. The state was dismissed under the defense of sovereign immunity, but the court found the two correctional officers and their supervisors who took no measures to prevent, and tacitly acquiesced in, the beatings jointly and severally liable.

- b. In another case, an inmate refused to re-enter his cell after cell inspection. He was ordered into his cell and threatened with force if he resisted. The inmate refused to move, and staff then moved him. The inmate suffered several bruises, swellings and minor ailments from the scuffle. He claimed he had been subjected to cruel and unusual punishment. The court ruled that the force used was not so "base, inhumane, and barbaric" as to constitute a violation of the Eighth Amendment. Furthermore, since the inmate had clearly provoked and aggravated the situation at a time when other cells were open and a possibility of a dangerous confrontation between the other inmates and staff existed, the officers were fully justified in taking swift and forceful action.

Emphasize potential liability of officer who stands by and does nothing. To witness a constitutional violation such as this can make you liable as well.

Read the general facts of this case and ask the class if use of force was justified and whether or not it was excessive.

4. Every officer should recognize that each use of force, each application of mechanical restraints or each use of chemical mace could eventually bring the officer before a court of law to evaluate whether such use was excessive. The officer is legally accountable, both criminally and civilly for the actions he takes against any inmate. If the force used has been excessive, the officer could be charged with assault and at the same time, sued for money damages (as in the LITZAU case).

This training increases the officer's liability as training is documented.

At the same time, it is very clear that one of the primary functions of the correctional officer is to respond to situations where the only proper response will be to use force. The courts have clearly recognized this responsibility and generally are in full support of non-deadly force. They will support the use of deadly force where it is factually warranted.

5. The question becomes one of how does the court determine when excessive force has been used. There is no clear criteria for the correctional officer to depend upon. The courts will examine the total evidence in the particular use of force and by balancing the evidence presented, find for one side or the other. This issue will be addressed in detail later in this lesson.

The court term is "the preponderance". Give this information to provide a learning experience for trainees.

- E. Courts recognize four areas in which use of force is justifiable.

Transparency #3

1. Fortunately, the courts recognize a strong presumption in favor of the correctional officer that institutions similar to ours have a population that requires force

to be used occasionally to handle serious management problems. But this does not take the burden totally off the officer to know when force is justifiable and to what extent force can be used. The following are the four basic categories that the courts recognize as justifiable for the use of force. (Privileged)

- a. Self-defense. Every person, regardless of who they are or where they are, has the right to defend himself against an unlawful attack by another.
- b. Defending or Aiding Another Staff Member or Inmate (Third Person). This is one of the primary functions of the corrections officer. As discussed above, the courts recognize this and realize force must be used in certain circumstances to maintain the security of the institution.
- c. Enforcing Facility Rules and Regulations. Legally, this is a touchy area and one the courts view involving the greatest discretion. It is accepted that order must be maintained within an institution. At the same time, it is equally clear that force cannot be used as a form of punishment.
- d. Preventing the Commission of a Crime, Including Escape. The courts have recognized this as a reasonable expectation of the institution and the corrections officer. The court's only concern will be with the degree or force used.

Refer to Part Seven of Legal Issues Module, the 8th Amendment, V.F. When Use of Force Allowed. Also cite JACKSON v. BISHOP, 404 F.3d 571 (8th Cir. 1968).

In North Dakota, the use of deadly force by a guard is justified only in the following instances: (1) to prevent the escape from custody of a person who has committed or attempted to commit a felony involving violence; (2) attempting to escape by use of a deadly weapon; (3) or has otherwise indicated that he is likely to endanger human life or to inflict serious bodily injury unless apprehended without delay.

V. Correctional Officer Responsibility

- A. The correctional officer must know state statutes and legal considerations on the use of force.
- B. The lesson will provide case studies allowing correctional officers to examine what, if any, force is allowed in correctional facility situations. You must make the decisions on the spot.
- C. The lesson will not instruct in how to apply certain types of force or chemical restraints. Inmate control tactics will be the subject of additional training in the Advanced Course.
- D. The lesson will not cover the use of firearms. Student should defer to current departmental policy in this regard and/or consult the State's Attorney General for guidance in this area.
- E. You will be in situations that will most likely require some use of force. It is your responsibility to be prepared to make quick and rational decisions on when force can be used and to what extent.

VI. The Extent To Which Force Can Be Used

Transparency #4

- A. After recognizing when force can be used, the next logical question is to what extent force can be used. The courts generally apply a balancing test to each situation presented to them. The basic test outlined in JOHNSON v. GLICK, 481 F.2d 1028 (2d Cir. 1973), cert. denied 414 U. S. 1033 (1973), is whether the complaint alleges and the facts substantiate that an inmate has received

physical and mental abuse or corporal punishment of such base, inhumane, and barbaric proportions that it shocks the court's sensibilities and offends the Eighth Amendment as well.

Among the factors which a court will look to in its determination are:

1. The need for application of force.
2. The relationship between the need and the amount of force used.
3. The extent of the injury inflicted.
4. Whether the force was applied in a good faith effort to restore discipline or maliciously and sadistically for the very purpose of causing harm.

Consider the following problems.

Mess Hall Incident. A prison inmate on return from noon meal in the mess hall claimed an unconstitutional use of force. The officer in charge of movement claimed the inmate refused to move from the front of Cellblock after giving him two orders to proceed to Cellblock 5. The officer then "physically directed the inmate by the shoulder" to the cellblock, stating he used the minimum amount of force needed to ensure compliance with his order and that the inmate's actions threatened to interfere with the normal inmate movement. The inmate claimed he heard no orders, that he was singled out for harassment and as a result of the unconstitutional use of force, he suffered a wrenched neck and superficial facial damages. Was there an unconstitutional use of force?

[Answer to Mess Hall] MILLER v. HAWYER, 474 F. Supp. 441 (D. Colo. 1979) said officer's conduct was not shocking or brutal; there is no constitutional violation.

These problems are in the trainee workbook. Assign three groups of 10 to examine problems A, B, and C. Ask them to decide if excessive force was used and discuss.

The third case, PUTNAM v. GERLOFF, is in the student workbook.

The Slammer* Incident. A female inmate claimed excessive force had been used against her. She was serving a life sentence for murder of a police officer, kidnapping and had escaped from prison a number of times. She had 12 major disciplinary offenses in her file. Due to her dissatisfaction with her housing assignment to mini-maximum, she destroyed her cell, pulling out the light and water fixtures, pulling down the ceiling, breaking metal stripping and throwing her water pitcher and bedcovering on the floor.

Later, on her way to the library, she broke away and ran toward the official's offices after being denied an opportunity to meet with them on that day. She was physically restrained and put into her cell. Later, the Major and Shift Supervisor entered her cell. The inmate claimed that she was sitting on her bed when the Major rushed in her cell and started hitting her repeatedly with a slammer and that she was then dragged into the bathroom and beaten further.

The Major, a 5'1", 103-pound woman, claimed that the inmate jumped from bed swinging with both hands, hit her on the right forehead, knocked her onto the bed and hit her head up and down on the wash basin, dislodging her contacts so she couldn't see. She claimed she used the slammer one time to defend herself against the inmate's attack, but did not hit her once the inmate had been handcuffed.

The Major also described the amount of training she had in use of force, particularly in use of the slammer, and that she had used the slammer only to defend against attack.

*"Slammer", a slang term originating in eastern states, means a rubber, sap-like instrument.

[Answer to Slammer Incident] The court believed the Major and agreed that the force was reasonable and necessary, given the inmate's attack on the Major, her previous escape history and her propensity for violence. Through documentation, the Major could establish the training she had had, the history of that inmate in the institution for violence and her own written report of the incident at the time of the occurrence to support her side of the incident.

[Answer to PUTNAM v. GERLOFF; Case Summary in Student Workbook]

The jury had found for the defendant Sheriff Gerloff. However, the U.S. Court of Appeals, 8th Circuit, remanded the case for a new trial. The Appeals Court concluded that the trial court erred by placing too great a burden on the plaintiffs and stated "a Sheriff does not have authority to punish a person in the process of arresting him or after placing him in custody, or to otherwise use excessive and unreasonable force."

- B. The American Correctional Association has developed a set of guidelines that have been found to be within the courts' acceptable definitions for the use of force. These guidelines follow on succeeding pages.

The key here is to emphasize the documentation and training.

The jury at the Federal District Court level cleared the Sheriff. The 8th Circuit, on appeal, said too great a burden had been placed on the plaintiffs to prove the excessive use of force--a new trial.

Ask students what their decision would have been and why.

Read through Model Rules with students. They have a copy in the student workbook.

Highlight and clarify questions.

CORRECTIONAL LAW PROJECT'S
[American Correctional Association]
MODEL CORRECTIONAL RULES AND REGULATIONS

Non-Deadly Force

A. Non-deadly force is force which normally causes neither death nor serious bodily injury. It may be in the form of physical force or chemical agents.

1. Physical force or chemical agents may be used only in the following instances:

a. Prior to the use of deadly force.

(1) To prevent the commission of a felony, including escape.

(2) To prevent an act which could result in death or severe bodily harm to one's self or to another person.

b. In defending one's self or others against any physical assault.

c. To prevent the commission of a misdemeanor.

d. To prevent serious damage to property.

e. To enforce institutional regulations.

f. To prevent or quell a riot.

In every case, only the minimum force necessary shall be used.

2. Chemical Agents - Special Conditions.

a. Chemical agents may be used only by employees specifically trained in their use.

b. Chemical agents shall not be used:

(1) Without the approval of the Warden or his representative, if approval is possible under the circumstances.

- (2) Repeatedly against an inmate within a short period of time.
 - (3) In every case, individuals affected by the agents shall be permitted to wash their face, eyes or other exposed skin areas as soon as possible after the use of the agent.
3. After the use of non-deadly force, the following steps shall be undertaken:
- a. Notification of its use shall be given to the Warden.
 - b. A report written by the officer who employed the non-deadly force shall be filed with the Director of the Department of Corrections. Such report shall include:
 - (1) An accounting of the events leading up to the use of the non-deadly force.
 - (2) A precise description of the incident, and the reason for employing the force.
 - (3) A description of the weapon used, if any, and the manner in which it was used.
 - (4) A description of injuries suffered, if any, and the treatment given.
 - (5) A list of all participants and witnesses to the incident.
4. The use of force (of any type) for punishment or reprisal is strictly prohibited and is grounds for dismissal of the employee involved.

Mechanical Restraints

- A. Mechanical restraints may be used only when reasonably necessary and only in the following instances:
1. In transporting an inmate from place to place.
 2. When past history and present behavior or apparent emotional state of the inmate creates the likelihood that bodily injury to any person or escape by the inmate will occur.

3. Under medical advice, to prevent the inmate from attempting suicide or inflicting serious physical injury upon himself.

B. Mechanical restraints shall never be used:

1. As a method of punishment.
2. About the head or neck of the inmate.
3. In a way that causes undue physical discomfort, inflicts physical pain or restricts the blood circulation or breathing of the inmate.

C. Practical Problems and Answers

OFFICER LEWIS: Officer Lewis is assigned to the intake unit. Three inmates are present and handcuffed. Lewis indicates in a somewhat abusive manner to inmate Frank that he is to strip down for the customary intake search. He unhandcuffs Frank and in response to the instruction, Frank swings around and hits Officer Lewis squarely on the jaw. Lewis, dazed, responds by slugging Frank, knocking him down, and then handcuffing him to restrain him.

ANSWER to Officer Lewis: Though Officer Lewis may have violated his institution's rules by being abusive and therefore could be subject to discipline, inmate Frank has committed a criminal assault as well as broken institutional rules. Officer Lewis seems to have properly defended himself against physical assault.

INMATE SIMMONS: Inmate Simmons refused to enter a punishment cell, having just received a negative decision from the Adjustment Board. Officer Jones, accompanying Simmons, tells him to go into the cell, whereupon Simmons responds by yelling "Shove it." Jones unlocks the cell, pushes Simmons into the cell where the inmate smashes into the wall.

ANSWER to Inmate Simmons: Physical force may be used here to enforce institutional regulations. However, this is subject to the requirement that the minimum force necessary be used. A push that is hard enough to cause the inmate to smash into the wall is clearly excessive and could subject the officer to a civil lawsuit.

Using the Model Rules and Regulations set out on the preceding pages, have the students determine in each of these six cases if personnel had a right to use the force employed--and if not, what the officer should have done.

Assign five students to each problem and have a spokesperson report out.

*PROBLEMS ARE IN THE
TRAINEE WORKBOOK.*

OFFICER MARSHALL: Officer Marshall discovers that inmate Smith has violated institutional rules by sneaking food out of the dining room back to his cell. Smith yells an obscenity at Marshall. Marshall slaps Smith.

ANSWER to Officer Marshall: While Marshall may use force to enforce institutional rules, this use of force to punish an inmate for breaking the rules is forbidden.

INMATE GREEN: Inmate Green went on a rampage in his cell, setting mattresses on fire, and wrecking it. He was transferred to an isolation cell where he requested medical and psychiatric care. He was told he would be required to wait. He again set his mattress on fire. A correctional officer teargassed him and left him alone in the cell for 11 hours.

ANSWER to Inmate Green: Use of chemical agents is permitted to prevent an act which could result in death or severe bodily harm to the person himself or to others or to prevent serious damage to property. However, it should only be used if it is the minimum force necessary and that does not appear to be the case here. If Green was in isolation and could have been controlled by officers in some other manner, the use of teargas was unnecessary but these facts were taken from a Virginia case (GREAR v. LOVING, 391 F. Supp. 1269 [W.D. Va. 1975]) where the court held that the use of teargas was a proper security action. This was based on the fact that it had taken five correctional officers to subdue the inmate. He was on a destructive rampage and with reason, the

officers feared for his and their safety. In addition, he had also received numerous warnings. As for his being left for 11 hours, the court found this all right since the windows were left open and that providing medical care at the next available time was sufficient.

Reinforce the notion of training and the need the need to secure immediate medical attention for those who have been subject to physical force.

However, under Standard A-2 of A.C.A. Model, the use of teargas would only be justified here if an employee trained in its use with the permission of the Warden used the gas. Under this Standard, steps would also have to be taken as soon as possible to allow the inmate to wash those parts of his body exposed to the gas and he should not have been left for 11 hours. (See Standard A-2)

INMATE FERRARI: Inmate Ferrari was continually yelling from his cell at officers and other inmates to rise up against the poor conditions in the facility. He was warned repeatedly to stop his disruptive behavior but continued to act in this way. Officer Moore and his supervisor, Captain Friendly, teargassed Ferrari's cell.

ANSWER to Inmate Ferrari: Physical force may be used to enforce regulations and to prevent a riot. The minimum amount of force requirement may mean that in this case the inmate should have been moved to a segregation area. This was what occurred in the actual case, LANDMAN v. ROYSTER, 33 F. Supp. 261 (E.D. Va. 1971) where the court held that teargas should not be used to subdue a man who did not pose a serious threat to others.

INMATE OWENS: Inmate Owens, in a county facility, was awakened by an officer and told to report to the court desk downstairs to acknowledge the lodging of a warrant against him. He refused, protesting that there should not be any warrant against him. Later, Officer Haas came and ordered him to leave his cell. They argued and exchanged insults before the officer left. Twenty minutes later, seven officers and Officer Haas came, ordered Owens out of his cell and as he came out, grabbed him and beat him up. He received lacerations, bruises and still suffers from black-outs three years later. Should the County be liable for failure to supervise and train the officers?

ANSWER to Inmate Owens: The court said the County could be liable if failure to supervise or lack of proper training amounted to gross negligence or deliberate indifference. A single brutal incident may establish the causal link between the County's failure to train and a violation of constitutional rights. The court sent back to the trial court for limited discovery to explore the County's liability under this standard.

D. Summary of Non-Deadly Force

1. As can be seen from the above, it is difficult to state exactly how much force may be used in each situation, though the general rule is that the amount of force must be reasonable under the circumstances. Where an inmate believes that too much or an unreasonable amount of force has been used, a civil case may be filed, or a criminal complaint of assault may be made with the local prosecutor's

office. The use of excessive force may constitute the crime of assault or may give an injured inmate the right to collect money damages in a civil suit against correctional employees. The use of too much force may also constitute a violation of an inmate's constitutional right under the Eighth Amendment to be free from "cruel and unusual punishment." If such a case comes to court, a judge or the jury must look to the evidence in each particular case to determine if too much force was used.

2. As the above materials and state statutes indicate, the corrections officer has the power to take what action is necessary without fear of legal action as long as he complies with the policies and procedures of the institution. His three primary concerns with any use of force, use of restraints and use of chemical mace are: (1) that the use of force was justified; (2) that the force used was not excessive; and (3) that the use of force was properly documented.

Transparency #5

VII. Deadly Force

- A. The general rule is that deadly force can be used only in two instances:
 1. To prevent a felony, sometimes including escape; and
 2. To prevent an act which could result in death or severe bodily injury.
- B. It is well established that deadly force can be used only as a last resort. If used at any other time, such force may result in civil and/or criminal liability against the user. The general rules regarding self-defense also apply in that persons defending themselves or

Transparency #6

others may use only that amount of force reasonably necessary to subdue the attacker.

- C. The question of whether deadly force should be used to stop a prison or jail escape is a difficult one. In your trainee workbook, refer to NDCC, 12.1-05-07.

Refer students to their trainee workbooks for NDCC, 12.1-05-07 and discuss.

- D. It is suggested that you follow the Model Correctional Rules and Regulations of the American Correctional Association regarding deadly force. These rules follow on the next page.

Note that the Model Rules are in the trainee workbook. Review these with the class.

CORRECTIONAL LAW PROJECT'S
[American Correctional Association]
MODEL CORRECTIONAL RULES AND REGULATIONS

I. Deadly Force

- A. Deadly force is force which will likely cause death or serious bodily injury.
- B. It may be used only as a last resort and then only in the following instances:
 - 1. To prevent the commission of a felony, including escape.
 - 2. To prevent an act which could result in death or severe bodily injury to one's self or to another person.
- C. When used, the following steps shall be undertaken:
 - 1. An immediate notification of its use shall be given to the Warden and to the proper law enforcement authorities.
 - 2. A report written by the officer who used the deadly force shall be filed with the Director of the Department of Corrections, and the proper law enforcement authorities. Such report shall include:
 - a. An accounting of the events leading to the use of deadly force.
 - b. A precise description of the incident and the reasons for employing the deadly force.
 - c. A description of the weapon and the manner in which it was used.
 - d. A description of the injuries suffered, if any, and the treatment given.
 - e. A list of all participants and witnesses to the incident.

3. The extent of the injury inflicted.
 4. Whether the force was applied in a good faith effort to restore discipline or maliciously and sadistically for the very purpose of causing harm.
- F. The facility administrator's role in use of force situations is to establish policy and procedures consistent with local law and covering situations correctional personnel find themselves in. Additionally, they must establish and document training in use of force — both with and without weapons. Regular refresher courses must also be conducted and documented. More and more lawsuits are being filed on the basis that supervisors have failed to fulfill their duty to train or supervise personnel in the use of force, resulting in constitutional violations of inmates' rights.
- G. Know the law, be rational, use good judgment and be physically and mentally prepared to make decisions and use the degree of force necessary for the safety of staff and inmates, and for the orderly and secure operation of the correctional facility.

Hand out Sample Policy. Reinforce the notion that the development of a policy and procedure on use of force is absolutely essential. It is also critical that the departmental policy be reviewed by the State's Attorney.

- E. Another potential area of liability if deadly force is used lies with supervisory personnel and the department as a whole, both for failing to provide adequate training in the use of firearms, and for failing to instruct when such force may be used. The failure to provide training required may impose grounds for liability on additional persons.

Emphasize that policies and procedures must be developed and training provided. The procedure should be reviewed and approved by your State's Attorney.

VIII. Conclusion and Summary

- A. There may be times when any correctional officer will have to defend himself or someone else from injury or death. It is necessary that the officer be aware of the laws, policies, rules and regulations relating to the use of force.
- B. The correctional officer should always use self-control and maintain a calm, confident attitude which may prevent the officer from having to resort to the use of force.
- C. Generally, society does not allow one person to use force against another and, under some circumstances, even to threaten verbally can constitute a crime. Use of force against another constitutes the crime of assault, and can also result in a civil lawsuit whereby the person assaulted may sue the attacker for any damages caused. However, there are certain circumstances in which correctional officers may use force and when it is their duty or "right" do so. In the circumstances where force is permitted, correctional officers may be guilty of criminal assault if excessive force is used, and may be liable for money damages from a civil lawsuit in which the arrested or assaulted person (or inmate) sues the officer.
1. Was the use of force necessary under the circumstances existing when the force was used?

Transparency #7a

2. Was the amount of force used reasonable under the circumstances existing at that time?
 3. What amount of force was used by the prisoner (or threatened) and what tools, weapons or other devices did he threaten to use?
 4. What sort of apprehension would the normal person have concerning the use of force by the officer?
 5. What alternatives could have been used to prevent threatened or actual force by the officer?
 6. Was force used in self-defense or defense of a third person?
 7. Was the officer responding to the actual force or threatened force of a prisoner, or was he the one who initiated the use of force?
 8. What training had the officer been given in the use of force or of a weapon such as a baton, mace, etc.?
- D. Generally, the circumstances in which an officer in a correctional setting has the right to use force are four:
1. Self-defense.
 2. Defending or aiding an inmate of officer.
 3. Enforcing institutional regulations.
 4. Preventing commission of a crime, including escape.
- E. Courts will generally look at four criteria to determine if force used was excessive:
1. Need for application of the force.
 2. The relationship between the need and the amount of force used.

Instructor should go over these eight points. They can and should be utilized by your department when making an investigation or review of each incident involving the use of force to determine if the use of force was justified or excessive.

Transparency #7b

TRAINEE WORKSHEET

SUBJECT: Use of Force

1. List four factors the courts consider in determining if excessive force was used.

- a. _____
- b. _____
- c. _____
- d. _____

2. List four situations when correctional personnel may use force that is reasonable and necessary under the circumstances and act with the protection of the law.

- a. _____
- b. _____
- c. _____
- d. _____

3. Two critical elements necessary to protect against suits resulting from an allegation of the use of excessive force are:

- a. _____
- b. _____

4. List the eight questions that should be considered when examining the use of force.

- a. _____
- b. _____

c.

d.

e.

f.

g.

h.

TRAINEE WORKSHEET (ANSWERS)

SUBJECT: Use of Force

1. List four factors the courts consider in determining if excessive force was used.

- a. Need for application of the force.
- b. Relationship between the need and the amount of force used.
- c. Extent of injury inflicted.
- d. Whether force was applied in a good faith effort to restore discipline or maliciously and sadistically for the very purpose of causing harm.

2. List four situations when correctional personnel may use force that is reasonable and necessary under the circumstances and act with the protection of the law.

- a. Maintaining order and security.
- b. In self-defense.
- c. Prevention of felony, including escape.
- d. Defense of others.

3. Two critical elements necessary to protect against suits resulting from an allegation of the use of excessive force are:

- a. Policy and procedures
- b. Training

4. List eight questions that should be considered when examining the use of force.

- a. Was the use of force necessary under the circumstances existing when the force was used?
- b. Was the amount of force used reasonable under the circumstances existing at that time?
- c. What amount of force was used by the prisoner or threatened to be used by the prisoner and what tools, weapons or other devices were used or threatened to be used by the prisoner?

- d. What sort of apprehension would the normal person have concerning the use of force by the prisoner?
- e. What other alternative means could have been used by the law enforcement officer to prevent any threatened or actual force by the prisoner?
- f. Was the force used in self-defense, defense of a third person, in the maintaining of order and control, or the prevention of a felony or escape?
- g. Was the law enforcement officer responding to the actual force or threatened force of a prisoner, or was he the one who had initiated the use of force?
- h. What training had the officer been given in the use of force or of a weapon such as a baton or mace?

PRE- AND POST-TEST QUESTIONS

SUBJECT: Use of Force

A. List four factors the courts consider in determining if excessive force was used.

1. _____
2. _____
3. _____
4. _____

B. Two critical elements necessary to protect against suits resulting from an allegation of the use of excessive force are:

1. _____
2. _____

C. List five (5) of the eight questions that should be considered internally when examining the use of force.

1. _____

2. _____

3. _____

4. _____

5. _____

PRE- AND POST TEST (ANSWERS)

SUBJECT: Use of Force

A. List four factors the courts consider in determining if excessive force was used.

1. Need for application of the force.
2. Relationship between the need and the amount of force used.
3. Extent of injury inflicted.
4. Whether force was applied in a good faith effort to restore discipline or maliciously and sadistically for the very purpose of causing harm.

B. Two critical elements necessary to protect against suits resulting from an allegation of the use of excessive force are:

1. Policy and procedures
2. Training

C. List five (5) of the eight questions that should be considered internally when examining the use of force.

1. Was the use of force necessary under the circumstances existing when the force was used?
2. Was the amount of force used reasonable under the circumstances existing at that time?
3. What amount of force was used by the prisoner or threatened to be used by the prisoner and what tools, weapons or other devices were used or threatened to be used by the prisoner?
4. What sort of apprehension would the normal person have concerning the use of force by the prisoner?
5. What other alternative means could have been used by the law enforcement officer to prevent any threatened or actual force by the prisoner?
6. Was the force used in self-defense, defense of a third person, in the maintaining of order and control, or the prevention of a felony or escape?

7. Was the law enforcement officer responding to the actual force or threatened force of a prisoner, or was he the one who had initiated the use of force?
8. What training had the officer been given in the use of force or of a weapon such as a baton or mace?

NORTH DAKOTA CENTURY CODE

12.1-05-07. LIMITS ON THE USE OF FORCE--EXCESSIVE FORCE--DEADLY FORCE.--1. A person is not justified in using more force than is necessary and appropriate under the circumstances.

2. Deadly force is justified in the following instances:
 - a. When it is expressly authorized by law or occurs in the lawful conduct of war.
 - b. When used in lawful self-defense, or in lawful defense of others, if such force is necessary to protect the actor or anyone else against death, serious bodily injury, or the commission of a felony involving violence. The use of deadly force is not justified if it can be avoided, with safety to the actor and others, by retreat or other conduct involving minimal interference with the freedom of the person menaced. A person seeking to protect someone else must, before using deadly force, try to cause that person to retreat, or otherwise comply with the requirements of this provision, if safety can be obtained thereby. But, (1) a public servant justified in using force in the performance of his duties or a person justified in using force in his assistance need not desist from his efforts because of resistance or threatened resistance by or on behalf of the person against whom his action is directed; and (2) no person is required to retreat from his dwelling, or place of work, unless he was the original aggressor or is assailed by a person who he knows also dwells or works there.
 - c. When used by a person in possession or control of a dwelling or place of work, or a person who is licensed or privileged to be there, if such force is necessary to prevent commission of arson, burglary, robbery, or a felony involving violence upon or in the dwelling or place of work, and the use of force other than deadly force for such purposes would expose anyone to substantial danger of serious bodily injury.
 - d. When used by a public servant authorized to effect arrests or prevent escapes, if such force is necessary to effect an arrest or to prevent the escape from custody of a person who has committed or attempted to commit a felony involving violence, or is attempting to escape by the use of a deadly weapon, or has otherwise indicated that he is likely to endanger human life or to inflict serious bodily injury unless apprehended without delay.
 - e. When used by a guard or other public servant, if such force is necessary to prevent the escape of a prisoner from a detention facility, unless he knows that the prisoner is not such a person as described in subdivision d above. A detention facility is any place used for the confinement, pursuant to a court order, of a person (1) charged with or convicted of an offense; or (2) charged with being or adjudicated a juvenile delinquent; or (3) held for extradition; or (4) otherwise confined pursuant to court order.
 - f. When used by a duly licensed physician, or a person acting at his direction, if such force is necessary to administer a recognized form of treatment to promote the physical or mental health of a patient and if the treatment is administered (1) in an emergency; (2) with the consent of the patient, or, if the patient is a minor or an incompetent person, with the consent of his parent, guardian, or other person entrusted with his care and supervision; or (3) by order of a court of competent jurisdiction.
 - g. When used by a person who is directly or authorized by a public servant, and who does not know that, if such is the case, the public servant is himself not authorized to use deadly force under the circumstances.

LESSON OBJECTIVES

1. LIST FOUR SITUATIONS WHEN CORRECTIONAL PERSONNEL MAY USE FORCE THAT IS REASONABLE AND NECESSARY UNDER THE CIRCUMSTANCES AND ACT WITH THE PROTECTION OF LAW.
2. LIST FOUR FACTORS THE COURTS CONSIDER IN DETERMINING IF FORCE USED WAS EXCESSIVE.
3. LIST TWO CRITICAL ELEMENTS NECESSARY TO PROTECT AGAINST SUITS RESULTING FROM AN ALLEGATION OF THE EXCESSIVE USE OF FORCE.
4. UNDERSTAND THE CRITICAL ISSUES INVOLVED WHEN EXAMINING THE USE OF FORCE IN ONE'S DEPARTMENT.
5. CITE THE REQUIREMENTS OF NORTH DAKOTA CENTURY CODE REGARDING USE OF FORCE.
6. BE ABLE TO CORRECTLY IDENTIFY PERTINENT ELEMENTS IN SAMPLE PRACTICAL PROBLEMS REGARDING THE USE OF FORCE.

DEFINITIONS

FORCE

MEANS ANY PHYSICAL FORCE DIRECTED TOWARD ANOTHER, EITHER BY DIRECT PHYSICAL CONTACT OR BY THE USE OF A WEAPON SUCH AS TEAR GAS, CHEMICAL MACE, A BATON, OR A FIREARM.

NON-DEADLY FORCE

FORCE WHICH NORMALLY CAUSES NEITHER DEATH NOR SERIOUS BODILY INJURY.

DEADLY FORCE

FORCE WHICH WILL LIKELY CAUSE DEATH OR BODILY INJURY.

JUSTIFIABLE USE OF FORCE

1. SELF-DEFENSE
2. PREVENTING THE COMMISSION OF A CRIME, INCLUDING ESCAPE.
3. DEFENDING OR AIDING ANOTHER STAFF MEMBER OR INMATE (THIRD PERSON).
4. ENFORCING JAIL RULES AND REGULATIONS.

BASIC TEST IN DETERMINING
AMOUNT OF FORCE

THE NEED FOR APPLICATION OF FORCE.

THE RELATIONSHIP BETWEEN THE NEED AND
THE AMOUNT OF FORCE USED.

THE EXTENT OF THE INJURY INFLICTED.

WHETHER THE FORCE WAS APPLIED IN A GOOD
FAITH EFFORT TO RESTORE DISCIPLINE OR
MALICIOUSLY AND SADISTICALLY FOR THE
VERY PURPOSE OF CAUSING HARM.

OFFICER CONCERNS WITH FORCE

THAT THE USE OF FORCE WAS JUSTIFIED.

THAT THE USE OF FORCE WAS NOT EXCESSIVE.

THAT THE USE OF FORCE WAS PROPERLY.
DOCUMNETED.

USE OF DEADLY FORCE

TO PREVENT A FELONY, SOMETIMES
INCLUDING ESCAPE; AND

TO PREVENT AN ACT WHICH COULD RESULT
IN DEATH OR SEVERE BODILY INJURY.

1. WAS THE USE OF FORCE NECESSARY UNDER THE CIRCUMSTANCES EXISTING WHEN THE FORCE WAS USED?

2. WAS THE AMOUNT OF FORCE USED REASONABLE UNDER THE CIRCUMSTANCES EXISTING AT THAT TIME?

3. WHAT AMOUNT OF FORCE WAS USED BY THE PRISONER (OR THREATENED) AND WHAT TOOLS, WEAPONS, OR OTHER DEVICES DID HE THREATEN TO USE?

4. WHAT SORT OF APPREHENSION WOULD THE NORMAL PERSON HAVE CONCERNING THE USE OF FORCE BY THE OFFICER?

5. WHAT ALTERNATIVES COULD HAVE BEEN USED TO PREVENT THREATENED OR ACTUAL FORCE BY THE OFFICER?

6. WAS FORCE USED IN SELF-DEFENSE OR DEFENSE OF A THIRD PERSON?

7. WAS THE OFFICER RESPONDING TO THE ACTUAL FORCE OR THREATENED, OR WAS HE THE ONE WHO INITIATED THE USE OF FORCE?

8. WHAT TRAINING HAD THE OFFICER BEEN GIVEN IN THE USE OF FORCE OR OF A WEAPON SUCH AS A BATON, MACE, ETC.?