

# Correctional Officers Training: Correctional Officer Ethics, Liability & Inmate Rights

**Developed in Partnership with MCIT**

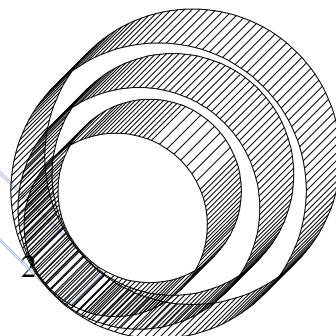
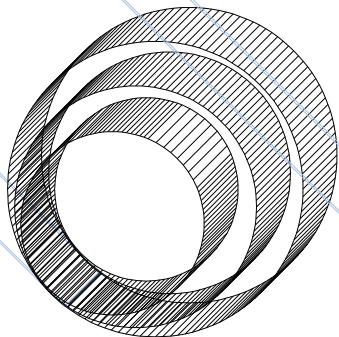
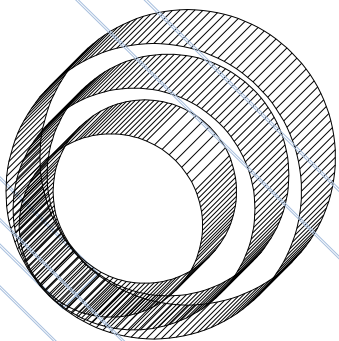
**Presented By:**

Jon Iverson, Attorney, Iverson Reuvers

Roger Rowlette, Attorney, Johnson & Lindberg, P.A.

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Correctional officers are required to interact with inmates. This interaction exposes the officer to liability. This session will introduce the correctional officer to situations and conditions that expose him/her to liability and strategies to mitigate these exposures while acknowledging and respecting the rights of inmates within the framework of the organization's policies and procedures.



## Correctional Officer Ethics, Liability & Inmate Rights

### I. Discussion of Liability

#### A. What is “Liability?”

- A compensable injury resulting from a legal obligation to treat or not to treat others in a certain manner and an alleged failure to do so
- A compensable injury resulting from a failure to maintain and/or uphold an obligation/ minimum standard that is legally enforceable in court
- Compensable injury is typically money paid as compensation for:
  - Personal injuries (*Any violation of an individual's right, other than his or her rights in property.*)
    - Excessive force
    - Unreasonable search and seizure
      - \*\*Strip searches
    - Religious discrimination
    - American with Disabilities Act
  - Property loss or damage
  - Punitive damages (damages awarded to punish misconduct and deter others from engaging in similar misconduct)

### **GENERAL RISK MANAGEMENT TO AVOID LIABILITY**

- Be knowledgeable about your job
- Be knowledgeable about your obligations under:
  - Policies
  - Directives
  - Statutes
  - administrative rules
  - constitutional requirements
- Treat inmates with respect- lawsuits happen because:
  - inmate believes his/her rights were violated
  - inmate perceives he/she was disrespected  
(motivation to sue)
- Consistently perform duties/application of obligations  
(doing it right *most of the time* is not a defense)

## B. Laws and Rules that Create Liability Standards

- US Constitution (and court decisions that clarify constitutional rights)

*These are typically more limited than the scope of rights afforded to those who are not incarcerated*

- First Amendment
  - Freedom of speech
  - Freedom of religion
- Fourth Amendment
  - Right to be free from unreasonable search and seizures
  - Excessive force
- Eighth Amendment
  - Cruel and unusual punishment
  - Duty to provide medical care (Deliberate indifference to an inmate's medical needs)
- Fourteenth Amendment
  - Due process
    - Providing inmates with proper procedures to challenge revocation of rights and/or discipline
  - Equal protection
    - Obligation to translate disciplinary hearings for detainees who do not speak English.
- Federal Legislation
  - 42 USC §1983
    - Does not create any independent causes of actions
    - A vehicle for inmates to bring law suits for alleged federal violations
    - Successful claimants are awarded attorneys fees
  - American with Disabilities Act (ADA)
    - Physical handicap
      - Wheelchair bound
      - Impaired vision/hearing

MCIT has seen 2 law suits resulting from County jail not providing adequate resources for a hearing impaired inmate

- Title VI of the Civil Rights Act of 1964 - Prohibits discrimination on basis of race, color, gender
- State Constitution with State Court Decisions
  - Mostly sued under federal law, but Minnesota state constitution affords many of the same rights as the federal constitution
- State Legislation
  - MS 641.15 (obligation to provide food, clothing, housing to inmates)
  - MS 13 (Minnesota Government Data Practices Act)
  - Minnesota Human Rights Act (prohibits discrimination)
- State Administrative Laws - DOC Rules/Chapter 2911

**See attached handout.**

- Jail policies and procedures
  - Mandatory policies (provides direction in absolute terms – welfare checks)
  - Discretionary practices

## **II. Personal Liability v. Employer Liability**

### **A. Personal Liability**

- Liability/law suit arising out of actions committed by corrections officers
- Local government employer has an obligation to defend and pay damages for employee’s alleged wrongful conduct unless:
  - Acts committed outside of your official capacity or authority
  - Acts that are committed maliciously, wantonly or recklessly
  - Criminal misconduct

### **B. Employer’s Liability**

- If the correctional officer’s actions resulted from:
  - Negligent assignment
  - Negligent training
  - Failure to direct

- Failure to supervise
- Failure to intervene
- If the Supervisor:
  - Knew or should have known the consequences of the correctional officer's actions

### **PRACTICAL APPLICATION**

- Supervisor is doing his/her job if enforcing policies and disciplining employees for failure to follow those policies
- Failure to do so could result not only in liability for the county but also PERSONAL liability for the correctional officer

- Was aware of a pattern of bad behavior and did nothing to correct the situation

## **III. Defending the Correctional Officer's Actions/ Inactions**

### **A. Qualified Immunity**

- Defense to claims alleging violation of federal civil rights
- Applies when a correctional officer mistakenly violates an inmates civil rights but the law is not clearly established
- When qualified immunity will not apply:
  - Failing to follow a well established law (even if you did not know the law existed)

## **B. Official Immunity**

- Defense to claims arising under state law
- Applies when the correctional officer has discretion
- “Color of Law”
- When official immunity will not apply:
  - When a policy requires or prohibits a certain act
  - Acts or omissions outside of the scope of employment/responsibility
  - Acts or omissions are malicious, wanton or reckless

## **C. Statutory/Discretionary Immunity**

- Defense to claims arising under state law
- Provides local units of government with immunity for decisions made at the policy making level
- Statutory immunity only protects planning level decisions and not operational level decisions
- May provide protection for employee whose actions are pursuant to a policy if the lawsuit really is a challenge to the policy itself

# **IV. Case Studies of Situations/Conditions that Create Liability**



## A. Illegal Search and Seizure

- What is contraband/limitations on searching for contraband
- Strip Search
- Mail
- Phone calls

This segment of the training will include vignettes, videos, transcripts and a group discussion. Group discussion topics will include:

- Could there be liability?
- On what grounds?
- Is that fair?

***(This session will not include a discussion of abuse of force, excessive force or assault and battery as this will be discussed in another section regarding continuum of force.)***

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## **B. Deliberate Indifference**

- Failure to provide medical treatment
- Failure to supervise
- Suicide
- Inmate on inmate violence
- Strategies on how to avert or mitigate liability

## **C. Discrimination**

- Race
- Religion (including dietary restrictions)
- Disability
- Strategies on how to avert or mitigate liability

## **D. Due Process**

- Access to law library/library
- Access to courts and counsel
- Access to education/vocational opportunities

## **E. Negligence**

- Definitions
  - Simple negligence

Reasonable act by reasonable officer in the scope of employment but without due care

- Gross negligence

An unreasonable act

- Willful Negligence

A gross act intentionally done

- Elements of Negligence
  - Duty or act or refrain from action

- Breach of duty that causes harm

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