



Detention Legal Issues

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Presentation Topics

- ▶ Ventura County Sheriff's Legal Unit Overview
- ▶ Jail Liability and Incarcerated Persons Rights
- ▶ Lawsuit/Litigation Case Examples

Correctional Law

- ▶ Correctional law is very fluid
 - ▶ New legislation, laws, case law court decisions, regulation changes brings changes to jail policies and procedures.
 - ▶ AB 732 Reproductive rights for incarcerated persons
 - ▶ Truth Act/SB 54 immigration rights
 - ▶ Title 15 update April 2023
 - ▶ The availability of new programs
 - ▶ JBCT, EASS, MAT

REFORM



Ventura County Sheriff Detention Services Legal Unit

▶ Response to need

- ▶ VCSO created a divisional unit to address these challenges
- ▶ Unique unit across the state and nation

▶ Purpose

- ▶ Limit liability for our facilities, our agency and the County
- ▶ Ensure our facilities are in compliance with state and federal regulations/laws, case law decisions and lawsuit settlement agreements
 - ▶ Legal Research
 - ▶ Updating and auditing policy & procedures
 - ▶ Provide training
- ▶ Ensure incarcerated person's rights are not violated
- ▶ Act as a resource for jail staff when responding to issues that may result in liability
- ▶ Custodian of Records for jail records



Detention Legal Unit Staffing

- ▶ The Legal Unit is comprised of professional/civilian staff members
 - ▶ **Supervisor** - formerly a Sheriff's Sergeant
 - ▶ Civilianized to create continuity and historical knowledge
 - ▶ **Legal Assistant** - DNA Collection, Pro Per Inmates/Law Library, Surveys/Statistical Reporting
 - ▶ **2 Administrative Aides** - Records Release & Securus Systems Management
 - ▶ Jail Records / JMS reports
 - ▶ Securus Records - Phones/Video Visitation
 - ▶ Jail Audio/Video recordings
 - ▶ **Incarcerated Persons Mail System**
 - ▶ Lead Mail Clerk
 - ▶ 2 Sheriff's Cadets



Legal Unit Duties

- ▶ Liaison to outside agencies such as the Courts, DA, PD, Private Attorneys, Social Security, law enforcement investigators
- ▶ Divisional Policy & Procedure - draft new and updates policies
- ▶ Represent the jail with court issues with County Counsel
- ▶ Respond to Lawsuit Discovery requests
- ▶ Daily procedure audits
- ▶ Inmate Death/Serious Injury Response & Documentation
- ▶ Oversee Immigration/Truth Act SB54 program
- ▶ Instruction for STC Courses
- ▶ Complete Surveys - DOJ, BSCC, etc.
- ▶ Respond to Legal / Phone / Video Visitation / Tablet grievances & kites
- ▶ BSCC Inspections / Title 15 compliance
- ▶ Court motion/order preparation & filing - 4011, AR Orders, Writs of Habeas Corpus
- ▶ Risk Management Liaison & Claim Investigations
- ▶ Liaison to Social Security inmate benefits
- ▶ Coordinate inmate requested Off-Site transports - Payment
- ▶ County Parole Program



Jail Liability

- ▶ It is inevitable that things will go wrong in jails
 - ▶ Housing / Classification / Security Issues /UOF
 - ▶ Medical/Mental Health issues
 - ▶ Timely Treatment/Injuries/Overdoses/Deaths
 - ▶ Technology / Physical Plant issues
 - ▶ Financial issues (Administrative)
 - ▶ Staffing challenges - Female staff levels



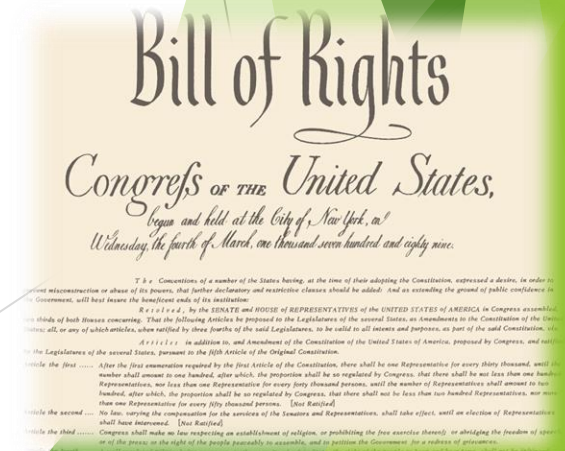
Reduction of Liability

- ▶ Best defense against litigation
 - ▶ Prevention & Mitigation
 - ▶ Have updated and comprehensive Policy & Procedures and Operational Plans
 - ▶ Provide regular training, including practical scenarios
 - ▶ Provide functional equipment such as life safety and medical
 - ▶ **Documentation is key - Keep good records**



Constitutional Rights

- ▶ Incarcerated Persons do not lose their constitutional rights while in jail
- ▶ Jails are allowed to infringe on these rights for safety and security reasons that can be articulated
- ▶ The infringements must be in the least restrictive means possible
- ▶ Turner v. Safley 1987 Four-Part Test
 - ▶ Leading case law



Turney v. Safley Test



- ▶ Is there a “**valid rational connection**” between the regulation or rule and the legitimate governmental interest put forward to justify it?
- ▶ Are there **alternative means** of the incarcerated person exercising the basic right that remain available to the them?
- ▶ What is the **impact of the accommodation** that the asserted right will have on staff, other incarcerated persons and on the allocation of jail resources? This is referred to as the “Ripple Effect”.
- ▶ The existence of obvious, easy alternatives may show the rule or decision is an **exaggerated response** which is not supported by a true governmental interest.

Lawsuit Examples

- ▶ Incarcerated Person's Voting Lawsuit 2020
 - ▶ Eligible inmates have the right to vote
 - ▶ Plaintiffs claimed we did not provide adequate assistance with voter registration, collection and tracking of ballots
 - ▶ Collaborated with the County Registrars Office
 - ▶ 2021 settlement included updated policy with specific voting/ballot issuance and collection procedure and payment of attorney fees
 - ▶ Voting instructions and eligibility requirements were added to Orientation/Rule pamphlet
 - ▶ Upcoming elections are announced on tablets/kiosks



Lawsuit Examples

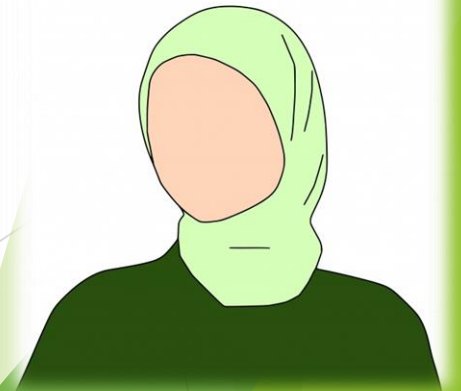
- ▶ RLUIPA - Religious Land Use and Institutionalized Persons Act
 - ▶ Incarcerated persons have the right to practice their religion of choice
 - ▶ Jail staff must make every effort to accommodate religious request as long as they don't jeopardize safety and security of the jail
 - ▶ If we must say NO, incarcerated persons must have other means to practice their religion
 - ▶ Least restrictive means possible





Lawsuit Examples

- ▶ Religious rights violation
 - ▶ Plaintiff claim of denial of religious freedom over denial of religious head cover - 2017
 - ▶ Settled on updated policy, training & monetary payment
 - ▶ Purchased disposable head coverings



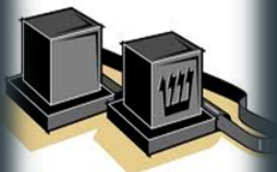


Religious Objects

- Case Law has held that jails can restrict the use of religious items that present a safety and/or security threat.



- Religious Head Coverings
- Ceremonial daggers
- Crucifix or Rosary Beads
- Access to prayer oils
- Prayer rugs
- Prayer Boxes – Tefillin





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