

Jail Administration for Correction Section 2

Missouri Core Jail Standards Section 6; and
Jail Civil Liabilities

71

Missouri Core Jail Standards

Highlight MCJS Section 6: Constitutional Protections
Sub-Section 6.5 Specific Rights and Conditions of Confinement

- 6.5.1 Discrimination
- 6.5.2 Religion and Religious Practices
- 6.5.3 Mail or Correspondence of Detainees
- 6.5.4 Access to Books, Newspapers, Periodicals and Mass Media
- 6.5.5 Access to Courts, Legal Assistance and Legal Materials
- 6.5.6 Visitation
- 6.5.7 Cell Occupancy and Conditions
- 6.5.8 Medical Care
- 6.5.9 Privacy and Searches
- 6.5.10 Rehabilitation, Exercise and Recreation
- 6.5.11 Other Rights and Conditions

72

Rights vs. Privileges

- ❑ Privileges are activities or benefits not guaranteed by the Constitution.
- ❑ A privilege taken away from one inmate may be a violation of the Fourteenth Amendment unless the inmate is provided a "Due Process Hearing".
- ❑ The challenge is balancing an inmate's rights against the institution/facility need to maintain security and control.

73

Equal Protection

☐ **Equal protection** simply means that **the rules of the facility apply equally to all detainees**. In order to show that a facility is not violating a detainee’s equal protection rights, the jail administrator **must have documented policies, procedures and records**. There is no other way he/she can demonstrate to the court that there is uniformity in the application of the rules or uphold the standard of “**what is good for one in the facility is good for all**”.

74

Turner v. Safley (1987)

- ☐ Is the regulation reasonably related to a **legitimate penological interest**? (Turner Test)
- 1. Is there a valid rational connection between the regulation and the legitimate government interest it purports to further?
- 2. Does the inmate have an alternative means of exercising his constitutional right?
- 3. What impact would the accommodation of the inmate’s right have upon other inmates?
- 4. Is there a ready alternative to the regulation?

75

Pre-Trial vs. Post-Conviction

At first glance, this does not seem like a difficult issue... but...

What about someone in DOC brought back on a writ for a new criminal case?

What about someone held on both misdemeanors and felonies who pleads guilty to the misdemeanors?

How hard is it for staff to determine the classification in a use of force incident?

The only case law on the topic is that a person convicted and pending sentencing is a CONVICT.

76

Conditions of Confinement

The good news is that crowding in a jail has been found not to be a constitutional issue.....but the related conditions of confinement definitely are.....

- Sanitation (Laundry, Access to Showers, etc.)**
- Hygiene**
- Safety**
- Mail Delivery**
- Food Service**
- Medication Dispensation**
- Medical Services**
- Etc.**

77

Defending the Conditions of Confinement

- Policy and Procedure
- Detainee Handbook
- Documented Staff Training and Acknowledgment of Policy and Procedure
- Published Schedule of Jail Operations

78

Detainee Handbook

- ☐ It is imperative to have the rules of the facility clearly outlined and presented to the detainees.
- ☐ It is also recommended to have the detainee mail procedures outlined.
 - Detainee Handbook provided at intake or made available over kiosk in the dayroom
 - Detainee signs an acknowledgement form or selects an acknowledgement on the kiosk

79

Access to the Courts

Do you have to provide a LAW LIBRARY? Case law says no, but you **must provide meaningful access to the courts.** *Bounds v. Smith* (1977)

What does this mean?

Assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries OR adequate legal assistance from persons trained in the law.

80

Access to the Courts

Johnson v. Avery

Access of prisoners to the courts for the purpose of presenting their complaints may not be denied or obstructed.

81

Access to the Courts

Simpson v. Wainwright; Corby v. Conboy; Christman v. Skinner; Johnson v. Anderson

Prisoners may not be punished for making allegations in petitions or other communications against the institution or institution officials.

82

Access to the Courts

Storseth v. Spellman

The inmate's constitutional right of access to the court is a fundamental freedom which includes, among other things, the right to correspond directly with them.

83

Access to the Courts

Bounds v. Smith

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.

84

Access to the Courts

Jensen v. Satran

Small institutions may have neither the space nor funds to provide an extensive law library and may use suitable alternatives. (Access was via copying.)

85

Access to the Courts

Wycoff v. Brewer; Jones v. Diamond; Gates v. Collier

All cases require outgoing privileged mail to be sent unopened by officials and uncensored.

86

Access to the Courts

Leeke v. Timmerman

The inmate's constitutional right of access to the court is a fundamental freedom which includes, among other things, the right to correspond directly with them.

87

Access to the Courts

Procunier v. Martinez

Petitions or letters to the courts critical of the institution may not be kept from the courts nor unreasonably delayed.

88

Access to the Courts

What about access for Civil Proceedings, including suit against the jail?

If the detainee is Pro Se, access must be provided.

**There are 2 forms required to be given if requested.
1983 packet AND Writ of Habeas Corpus**

89

Access to the Courts

What about facilities that do not have a Law Library?

Supervised access to the library in the courthouse
Electronic Law Libraries
Other Considerations?

90

Access to the Courts

You should have a procedure outlined in the Detainee Handbook limiting access and providing instruction on how to achieve access of the Law Library.

- Submit request
- Determination of Pro Se
- Request of desired legal material
- Any restriction on time or amount
- When access can be provided
- This includes a reasonable amount to be retained in the cell by the detainee

91

Access to the Courts

Steps must be taken to ensure the privacy of the detainee.

Should staff see or hear something that could violate privacy, the claim only moves forward if it is used and creates prejudice in the courts.

92

Access to the Courts

What about Jailhouse Lawyers?

These detainees may provide assistance, but are not entitled to extended times or locations and can be prevented from charging fees.

93

Access to the Courts

The jail may place limits on the amount of materials retained in the cell by the detainee, but should provide a procedure to allow access to review items that cannot be retained in the cell.

94

PREA in Jails

What is the impact of the Prison Rape Elimination Act on Jails in Missouri?

95

9 Purpose of PREA

1. Establish a zero tolerance standard for the incidence of prison rape in prisons in the US
2. Make the prevention of prison rape a top priority in each prison system
3. Develop and implement national standards for the detection, prevention, reduction and punishment of prison rape
4. Increase the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities
5. Standardize the definitions used for collecting data on the incidence of prison rape
6. Increase the accountability of prison officials who fail to detect, prevent, reduce and punish prison rape
7. Protect the Eighth Amendment rights of Federal, State and local prisoners
8. Increase the efficiency and effectiveness of Federal expenditures through grant programs
9. Reduce the costs that prison rape imposes on interstate commerce

96

PREA Statement

"The Prison Rape Elimination Act" (PREA) is a federal regulation that prohibits and seeks to eliminate sexual assaults and sexual misconduct in correctional institutions and community corrections settings. The Platte County Detention Center (PCDC) is committed to providing a safe and healthy environment for staff and detainees. "Sexual activity and behaviors of any kind are not allowed in the PCDC. This warning only names some of the behavior that can result in action. All sexual behavior must be reported." You are specifically advised that:

- The PCDC enforces zero tolerance for sexual assault, abuse, or any sexual activities and behaviors of any kind, between detainees, detainees and detention staff, or detainees and vendors working for the county.

97

PREA Statement (cont)

- Detainees who have consensual sexual contact with another detainee will be disciplined.
- Detainees who have non-consensual sexual contact with another detainee, detention staff or vendors working for the county will be disciplined and referred for criminal prosecution.
- Employees, contract staff, volunteers and vendors who are found to have engaged in sexual contact or sexual misconduct with detainees will be disciplined and referred for criminal prosecution when applicable.
- Detainees may report in person, through written detainee communication, through the grievance system, or via this kiosk.
- False reporting of a PREA violation will not be tolerated. Making a false report is a violation of facility rules and a crime. Generally, this will result in discipline and new criminal charges being filed."

98

PREA Conditions

Requirements include a grievance process that does not have a time limitation.

Requirement of the Executive to designate the PREA Compliance Manager and PREA Coordinator

Requirement to contact agency which had a detainee, now in your custody, making a report to you about the other agency.

Audit Requirements

Staff, Contractor and Volunteer training requirements

Investigation of claims including medical and mental health support; services of a victim advocate and the involvement of a PREA Trained Investigator

99

PREA Conditions

Can your jail be compliant?

How do you get there?

100

Religion and Religious Considerations

Religious Land Use and Institutionalized Persons Act (RLUIPA) is a United States federal law that prohibits the imposition of burdens on the ability of prisoners to worship as they please and gives churches and other religious institutions a way to avoid burdensome zoning law restrictions on their property use. It also defines the term "religious exercise" to include "any exercise of religion, whether or not compelled by, or central to, a system of religious belief."

101

~~Julia Adams, Director for Church & State~~

QUESTIONS?

102
