
JAIL INSPECTION BASICS

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an Introductory Self-Study Course for Jail Inspectors

prepared by
Thomas A. Rosazza

for
The Nebraska Commission on Law Enforcement
and Criminal Justice
Jail Standards Division

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JAIL INSPECTION BASICS
AN INTRODUCTORY SELF-STUDY COURSE FOR JAIL INSPECTORS

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BACKGROUND OF THE PROJECT CONSULTANT

Thomas A. Rosazza is a consultant specializing in the areas of correctional standards, risk management, training, and jail planning. He is President of Rosazza Associates, Inc. located in Colorado Springs, Colorado. He holds a Bachelors Degree from Providence College (Rhode Island), a Masters Degree from the University of Hartford (Connecticut), and has completed correctional administration courses at the graduate level at the University of Colorado and American University (Washington, D. C.).

FOREWORD

In response to a perceived need for training for jail inspectors, the National Institute of Corrections sponsored a meeting in Boulder, Colorado in 1988. The meeting was attended by several Administrators of state jail inspection agencies. Their purpose was to articulate training needs of jail inspectors to NIC and develop strategies to meet those needs with the assistance of NIC.

One major area of need which surfaced was the training of new jail inspectors. Since there were so few new inspectors each year, NIC could not offer formalized training for them. The result was a recommendation that a programmed instruction training manual be developed.

In 1989 a grant application was submitted by the Nebraska Crime Commission. Its goal was to develop a programmed instruction training manual. When the grant was approved, the Crime Commission contracted with Thomas A. Rosazza to develop the manual.

The grant was managed by Mark D. Martin, Chief of the Jail Standards Division of the Nebraska Crime Commission. The development of the training program was overseen by a Review Committee consisting generally of those persons in attendance at the 1988 Boulder meeting. Their active involvement in the program ensured that the program is realistic and addresses the needs of the new jail inspector.

PROGRAM OVERVIEW

One of the first tasks at the Boulder Meeting was the development of a training goal for the inspector training program. The following was developed and maintained over the training program's evolution.

TRAINING GOAL: TO PROVIDE A PROGRAMMED INSTRUCTIONAL TRAINING TEXT THAT IS GENERIC, MEASURABLE, AND SELF ADMINISTERED TO ADDRESS THE ENTRANCE LEVEL TRAINING NEEDS OF JAIL INSPECTORS.

Many jail inspectors enter their new positions with technical knowledge of correctional operations having developed that experience working in program areas or as correctional officers.

The complexity of even a small jail requires the inspector to possess more than correctional skills. In addition to assessing compliance with standards the inspector must develop skills as a communicator, facilitator, advisor, consultant, problem solver and problem identifier.

Inspectors' roles and responsibilities differ from state to state. However, it is possible to identify particular skills common to most inspectors. This is the intent of this training program.

This program addresses a variety of topics identified by a panel of experts who see the need for an entrance level training vehicle for inspectors. It is not intended as a terminal training activity, but one which can assist the inspector by developing a frame of reference for the wider role and responsibilities of the position.

HOW TO USE THIS SELF-STUDY TEXT

This text has been designed so it can be self-administered. The following may be helpful information to assist in using the text.

The text is broken into **CHAPTERS** and **SECTIONS**.

Each Chapter begins with a **NARRATIVE** and **PERFORMANCE OBJECTIVES**. Both the Narrative and Performance Objectives are important because they will provide a **FOCUS** for the Chapter. Further, they will direct any subsequent discussion between the jail inspector and his supervisor.

Each Section will provide information consisting of one or more pages. Read it carefully, **MAKE NOTES** or **UNDERLINE** the text.

Following each Section there are several **QUESTIONS** referring back to the text. The questions will be True/False, Multiple Choice, Fill-in, Short Essay or Matching.

Answer each question **REFERRING BACK** to the text if necessary.

Upon completing the questions for each Section, you may refer to the end of the Chapter where the answers are provided in an **ANSWER KEY**. The questions after each Section are **NOT** in order, but they are in order in the Answer Key. The reason for mixing the question numbers in the text is to preclude your seeing the answer to the next question when looking in the Answer Key.

If multiple copies of the program are available, you may mark in the text. If only one text is available in your agency, please do not mark the text. Rather use a **SEPARATE PAPER** take notes and answer questions.

EXAMPLE TEST QUESTION

PLEASE ANSWER THIS QUESTION

This text is designed for _____

7

You would answer Question #7 based upon what you have already read and know about this course. You would write the best answer and refer to the Answer Key #7 which would read like:

7. Jail Inspectors

If you were correct, you may move on. If not, re-read the text if you have any questions about the answer or are unclear as to why that is the answer.

You are encouraged to meet with your supervisor after you complete a Chapter so that you may be able to:

- Ask questions about the material; and,
- "Personalize" the training to the particularities of your agency and state.

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CHAPTER ONE

LEGAL ISSUES

OVERVIEW

Since the mid 1960's, federal courts have intervened in correctional matters. Prior to that time, the courts' unofficial policy was "Hands Off".

The courts tended not to get involved prior to the sixties for a number of reasons. Among those, was the assumption that the courts had no expertise in security and control. Further, it was felt that the security interests of a correctional facility precluded one's constitutional rights. Also, the "separation of powers" doctrine of the U.S. Constitution meant that the courts had no business in correctional matters.

With the advent of the civil rights movement in the early 1960s, the "Hands Off" policy fell to the wayside. Prisons and jails became open to civil rights litigation as their deplorable conditions and treatment of prisoners came under closer scrutiny.

The vehicle used to involve the federal courts was Title 42, Section 1983 of the Federal Civil Rights Act of 1871. Once the courts recognized this avenue to bring suits, there were several areas in which litigation proceeded.

Prisoners sued using the First, Sixth, Eighth and Fourteenth Amendments to the U.S. Constitution. The result of this court intervention was the development of an extensive body of "case law" which became the basis for the eventual development of state and national standards.

While civil rights suits are prevalent today, there is a fairly substantial body of case law to guide correctional administrators. Further, knowledge of this law is central to the inspector's ability to assist the correctional administrator in applying the law to daily facility operations.

This chapter will examine the state and federal judicial structure, including the courts' jurisdiction in criminal and civil suits. In addition, the various types of law will be discussed with an emphasis on the derivation of case law. Litigation and liability will be addressed as well as constitutional rights of prisoners and staff.

PERFORMANCE OBJECTIVES

AT THE CONCLUSION OF THIS SESSION, THE STUDENT WILL BE ABLE TO:

1. Identify several factors which led to the involvement of the courts in correctional matters.
2. Identify the structure of state and federal courts and be able to list their similarities and differences.
3. Define the terms "precedence" and "jurisdiction".
4. Identify the Executive and Judicial branches' authority to develop law, and the types of law they create.

5. Define the term "case law", how it is developed, and what impact it has on corrections.
6. Identify three types of liability and how each applies to correctional personnel.
7. Identify the courts' remedies in a civil rights suit.
8. Identify several elements of litigation and courtroom demeanor.
10. Identify the constitutional basis for prisoner suits and trends facing corrections today.
11. Identify basic inmate rights founded in case law.
12. Identify the rights of staff in areas such as Equal Employment Opportunity (EEO) and cross-gender supervision.
13. Identify the inspector's role in assisting counties in developing plans of action to correct deficiencies, and how that role may assist in avoidance of potential liability.
14. Given case studies, be able to identify elements of potential liability for inspectors.

INVOLVEMENT OF THE COURTS IN CORRECTIONAL MATTERS

HANDS OFF ERA

Prior to the 1960's, courts were not involved in correctional matters. In fact, there was more of a refusal to be involved for several reasons.

One was because of the **DOCTRINE OF SEPARATION OF POWERS**. This held that federal, state and local governments are all divided into three separate and distinct branches: **EXECUTIVE, LEGISLATIVE** and **JUDICIAL**. The courts strongly defended this separation recognizing that corrections was a function of the Executive branch. They stressed that it was not appropriate to be involved in that branch's affairs. To be involved would be a violation of the United States Constitution.

Another reason was the **LACK OF JUDICIAL EXPERTISE**. The courts took the position that they lacked the knowledge and skill to determine how correctional institutions should be managed.

The courts also regarded prisoners as **SLAVES OF THE STATE**. They took the position that all prisoners should lose their rights because they were charged with or convicted of a crime.

Finally, there was the issue of **INSTITUTIONAL SECURITY AND DISCIPLINE**. The courts felt intervention might threaten institutional security and that prisoners should be disciplined for their crimes.

ERA OF JUDICIAL INTERVENTION

During the 1960's and 1970's, the attitude of the courts began to change. First, there was the number of cases which followed the Civil Rights movement in the 1960's over police authority and alleged violations of individual's rights. It did not take long for the transformation from police cases to jail and prison cases.

In 1971, riots erupted at Attica Prison in New York. Negotiations to release hostages were a much televised and reported event. It had the result of opening the internal conditions of prisons to the public. The Attica riots signaled the end of the "Hands Off" era.

In the 1970's, there were several significant court decisions addressing correctional administration and the

rights of prisoners. These court decisions were mainly based upon the following amendments to the **UNITED STATES CONSTITUTION**.

FIRST AMENDMENT. This guarantees freedom of religion and access to the press, mail and libraries.

SIXTH AMENDMENT. This guarantees due process in disciplinary hearings, including the right to representation at such hearings.

EIGHTH AMENDMENT. This bans the use of cruel and unusual punishment and encompasses the variety of cases addressing overcrowding, conditions of confinement, medical services, etc.

FOURTEENTH AMENDMENT. This guarantees equal protection under the law and extends the rights of the U.S. Constitution to the states. (Prior to the passage of this amendment the Bill of Rights applied only to the federal government in its relations with citizens. The Fourteenth Amendment, passed after the Civil War, required the states to recognize these rights as well.)

With these amendments of the Constitution, cases have touched almost every area of correctional administration including: staffing; access to courts, counsel, mail, telephone, reading materials and libraries (particularly law libraries); religion; personal, professional and media visits; medical care; recreation and exercise; food services; classification and segregation, discipline and due process; living conditions; etc.

SECTION 1983 OF THE FEDERAL CIVIL RIGHTS

The legal basis for the intervention of the **FEDERAL COURTS** in corrections is **TITLE 42, SECTION 1983** of the **FEDERAL CIVIL RIGHTS ACT OF 1871**. This Act, also known as the **ANTI-KU KLUX KLAN ACT** was passed after the Civil War and was intended to protect the rights of citizens from the excesses of governmental agents.

The law is paraphrased below and provides that:

ANY PERSON ACTING UNDER THE COLOR OF LAW WHO DEPRIVES ANYONE OF RIGHTS SECURED BY THE CONSTITUTION OR LAWS OF THE UNITED STATES, SHALL BE LIABLE TO THE INJURED PARTY.

The courts have allowed prisoners to initiate civil suits (thereby becoming the plaintiffs) using Section 1983. Correctional officials can be sued (thereby becoming the defendants) since they are operating under the "color of law". In a suit, the plaintiff must allege and prove that the defendant deprived him of his constitutionally protected rights or that the defendant violated U.S. laws. He then may seek monetary or other types of relief.

In the few cases where jail inspectors were sued, it was around the issue of not enforcing state standards. The lesson is that the inspector must be vigilant in his efforts to enforce standards.

One final matter contributing to the increasing litigation in corrections is the incentive attorneys have to pursue such cases.

In 1976, Congress enacted **TITLE 42, SECTION 1988** of the Civil Rights Act. This is also known as the Civil Rights Attorney Fee Awards Act. It allows for the prevailing party in a Section 1983 suit to receive lawyer's fees from the losing side. The practical effect of this law is to encourage attorneys to pursue Section 1983 actions, since if they win the case they can petition the courts for legal fees related to the case.

Most suits involving Section 1983 are brought through federal courts. State courts can hear these cases, but Section 1988 is only triggered if the case is heard in federal court.

Through this section it can be seen that from a "hands off" doctrine the courts have become increasingly involved in correctional operations. This involvement has touched almost every aspect of correctional operations and has left correctional officials, including jail inspectors, open to lawsuits.

Review Questions

► The courts had a "hands off" policy prior to the 1960's because of the doctrine related to the three branches of government called _____.

7

► The three branches of government in governmental structures of the United States are _____, _____ and _____.

19

► In citing the *Lack of Judicial Expertise*, the courts were saying _____.

11

► The issue of _____ relates to the courts' feeling that their intervention into correctional matters would threaten institutional security, and the notion that prisoners should be disciplined for their crimes.

22

► The idea that prisoners should lose their rights because they were convicted of a crime refers to the notion that they were _____.

9

► Two reasons for the intervention of the courts in corrections in the 1960's and 1970's were:

- a. _____
- b. _____

15

► Indicate which amendment to the U.S. Constitution each of the following descriptions refers.

- a. Cruel and Unusual Punishment
- b. Access to the Press
- c. Due Process
- d. Equal Protection
- e. Freedom of Religion

24

► List seven areas of jail administration and operations which have been affected by court decisions.

5

► Another title for the Anti-Ku Klux Klan Act is _____.

18

► The phrase "Any person, who under the Color of Law" refers to any governmental agent of state and local government.

True or False.

2

► Section 1983 applies equally to state and federal laws and the constitutions of each.

True or False.

16

► The term "plaintiff" refers to the _____ and the term defendant refers to the _____.

25

► Since Section 1983 is a Federal law, suits can only be brought in Federal courts.

True or False.

1

► Section 1988 refers to the law which allows _____.

13

STRUCTURE OF STATE AND FEDERAL COURTS

All correctional suits are brought through federal or state courts. This section addresses the similarities and differences between those courts.

Within each state, there are two court systems: federal and state.

TRIAL COURTS

Persons who are charged and convicted of state **CRIMINAL** laws are tried in **STATE CRIMINAL COURTS**. Disputes regarding **CONTRACTS** or **INJURIES** between citizens of the same state are also heard in **STATE CIVIL COURTS**.

Constitutional questions, such as those involving Section 1983, can be heard in state courts, but generally the plaintiffs sue in federal court.

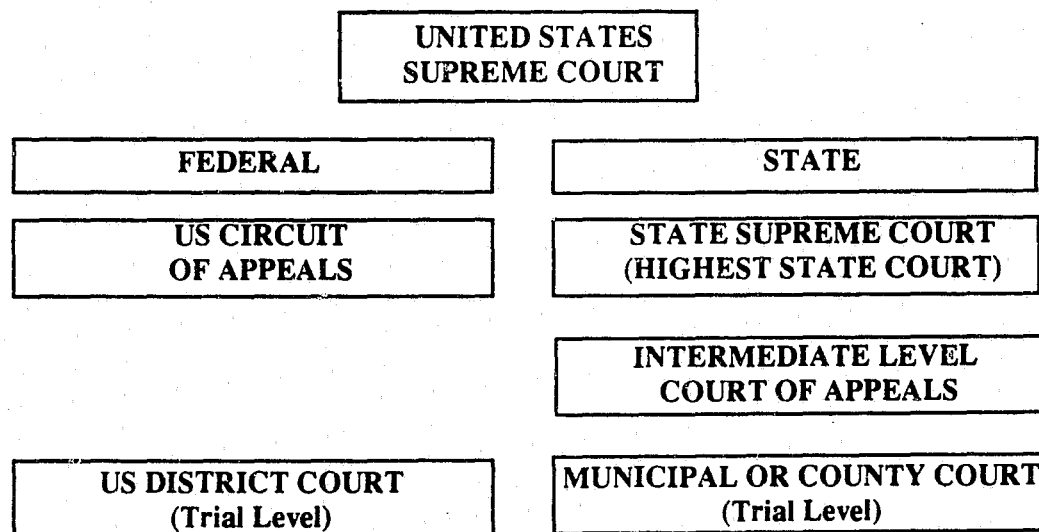
Federal courts are similar in structure to the state courts. Violations of federal **CRIMINAL** law and **CIVIL SUITS** regarding alleged violations of federal law or the U.S. Constitution are heard in **FEDERAL DISTRICT COURTS**. **CONTRACT** and **INJURY** cases may be heard in federal district courts where the opposing parties are from different states and at least \$10,000 in damages is alleged. Persons convicted of federal laws become prisoners of the federal government.

COURT STRUCTURE AND THE APPEALS PROCESS

Both state and federal court systems have different levels. Generally, at the lower level are the **TRIAL COURTS** which hear criminal cases and civil suits. There are also **APPELLATE COURTS** to which the losing party in a trial may **APPEAL**.

In the appellate courts a case is not retried. It is **REVIEWED ON THE RECORD**. The courts only hear arguments from both sides, usually written and/or oral, regarding **MATTERS OF LAW** in the case, not the **FACTS** of the case. The judges do not rehear the testimony of witnesses or re-examine all the trial evidence. What they are most concerned with are **LEGAL ERRORS** of the trial judge regarding such issues as admissibility of evidence, instructions to the jury, etc.

All courts fall under the authority of the **UNITED STATES SUPREME COURT** as that court is the final arbiter in all cases which come before it. The structure of the state and federal courts can be demonstrated by the following chart.



Federal courts are divided into thirteen **CIRCUITS**. Circuits are divided geographically and are somewhat evenly distributed according to population. There are ninety-four federal **DISTRICTS** within the thirteen circuits.

The federal **DISTRICT COURTS** are the trial courts. Cases are appealed to the **CIRCUIT COURT OF APPEALS** for the circuit in which the district court is located.

Cases from the Circuit Court of Appeals may be appealed to the **U.S. SUPREME COURT**. The Supreme Court only hears about 2% of the cases appealed to it, thus letting the Circuit Court of Appeals decision stand in most cases.

State courts are similarly structured, but there are local differences depending on the state. Suffice to note at the trial level there are a variety of municipal or county courts such as **SMALL CLAIMS COURT, LANDLORD-TENANT COURT, DOMESTIC RELATIONS COURT, CIVIL COURT, and CRIMINAL COURT**.

Lower level trial courts may not be authorized to have jury cases. But generally, criminal and civil courts hearing serious cases are required to provide for juries.

Cases can be appealed to a State Appellate Court or directly to the State Supreme Court in a similar manner as in the federal courts. Cases can also be appealed from the State Supreme Court to the United States Supreme Court.

Appeals courts consist of a number of judges, generally no less than three. They consider the case before them and render a written opinion based upon a majority vote.

Review Questions

- ▶ The two court structures in every state are _____ and _____. 28
- ▶ Federal crimes and suits alleging violations of Federal laws are heard in which of the Federal courts _____ 4
- ▶ The courts which hear civil and criminal cases are referred to as _____
and those at a higher level which may review lower court decisions are known as _____ 10
- ▶ At the appellate level, cases are usually retried.
True or False. 21
- ▶ The highest level of appeal in a case originating in a state court is the state's Supreme Court.
True or False. 30
- ▶ There are thirteen federal district courts somewhat evenly distributed across the nation according to population and geography.
True or False. 17
- ▶ List three different types of state trial courts.
a. _____
b. _____
c. _____ 6

PRECEDENCE, CASE LAW AND JURISDICTION

HOW THE JUDICIAL BRANCH MAKES LAW

Courts have a unique power to create law. When a state or federal appeals court decides a case and issues a **WRITTEN OPINION**, that opinion is referred to as **CASE LAW** or **PRECEDENT**.

The decision or opinion has the full force and effect of law within that court's **JURISDICTION**. Jurisdiction is that area over which that court has authority to hear and decide cases.

For example, if a state appeals court decided that strip searching newly booked prisoners required "probable cause", that is the precedent or case law in that jurisdiction. This means that all jails and police lockups under the jurisdiction of that court would be required to have probable cause to strip search newly booked prisoners.

If the state statute or jail standards had required only "reasonable suspicion" (a lower level of proof), the appeals court by its action would have declared that law or jail standard unconstitutional or illegal and created the higher level of proof ("probable cause").

Note that precedent or case law is **WRITTEN** and is **LAW**. The written opinion is printed in bound **LAW BOOKS** or **REPORTERS**. The law books are used by attorneys in researching case law either for cases they are currently litigating, or for developing the basis for appeals.

Before law books or reporters are published, cases are reported in monthly or quarterly publications. These are the vehicles for disseminating new case law before they can be printed in bound law books.

There are a number of jail, prison and corrections periodicals available. They are an invaluable resource as they address the latest opinions in case law.

Often these periodicals highlight a particular issue of current interest, such as suicide, searches, etc. These highlights examine the issues by looking at case law across the nation, indicating trends, and the latest in judicial thought on that issue. In addition, the opinions of legal scholars may be included.

Precedent is a most important element of our system of justice as it is **BINDING** on all lower courts. Also, it is the law by which correctional administrators are governed. Many correctional standards today, especially those referring to life, health, safety or constitutional matters, are based upon precedent or case law.

A State Supreme Court can affirm or invalidate the precedent of a State Appeals Court. If affirmed, the lower court's decision stands. If invalidated, a new precedent is established through the Supreme Court's opinion.

On the federal level, things are a bit more complicated. A Circuit Court of Appeals in the First Judicial Circuit may decide a matter one way, and the court in the Fifth Judicial Circuit may decide another.

Using the example cited above, the First Circuit may decide that probable cause is needed to strip search, where the Fifth Circuit may decide that only reasonable suspicion is necessary.

In this case, precedence or case law for the First Circuit is probable cause, and case law for the Fifth Circuit is reasonable suspicion.

If there are sufficient differences across all the federal circuits, the Supreme Court may decide to settle the issue. Its decision is case law or precedent which is binding upon all state **AND** federal courts within its jurisdiction. Further, all state and federal laws and standards must conform to the new case law.

When there is a difference between precedents of a state Appeals Court and a federal Appeals Court, the federal court is a higher authority and its precedent is binding on all the states within its jurisdiction.

HOW THE EXECUTIVE BRANCH MAKES LAW

The Executive branch has the power to enact law different from the Legislative and Judicial branches of government.

Probably the most common types of law created by the Executive branch is the variety of codes and regulations issued by state, county and municipal governments. Included within this are state jail standards.

Typically, state jail standards are published as **ADMINISTRATIVE RULES AND REGULATIONS**. The authority to publish Rules and Regulations is **DELEGATED** to the Executive branch by the Legislature and is subject to legislative review as addressed in an **ADMINISTRATIVE PROCEDURES ACT**. In many states this takes the form of publication of **PROPOSED STANDARDS** in a state **REGISTER**, providing for a period of **REVIEW** and **PUBLIC HEARINGS, LEGISLATIVE REVIEW**, and **FINAL PUBLICATION** in the register before being finally **APPROVED**.

After this process is concluded, the rules and regulations have the full force and effect of law. Eventually, the regulations are published in a **MANUAL OF ADMINISTRATIVE REGULATIONS**.

Review Questions

- ▶ *Precedent has the full force and effect of law within the jurisdiction of the issuing court.
True or False.* 35
- ▶ *Another term for precedent is _____.* 27
- ▶ *Precedent is established when a judicial opinion is _____.* 14
- ▶ *How are law books or reporters used by lawyers _____.* 31
- ▶ *Precedent is often the basis from which correctional standards are developed.
True or False.* 3
- ▶ *Indicate which of the following statements about precedent are true.*
 - a. Precedent established by an appeals court can be reversed by a higher level court.*
 - b. A higher level court can establish a new precedent after reviewing a case.*
 - c. Precedent in one federal circuit may differ from another federal circuit.*
 - d. If there is sufficient differences between federal circuits, the U.S. Supreme Court may decide to settle the issue and establish new precedent.*
 - e. All state and federal laws and standards must conform to precedent established by the United States Supreme Court.* 33
- ▶ *Laws made by the Executive Branch are most commonly referred to as _____
and _____.* 34
- ▶ *Jail standards which have the effect of law are normally published as _____.* 23
- ▶ *If the Legislature authorizes the Executive Branch to create law, it does so
by _____ that authority.* 8

TYPES OF LIABILITY

If a jail inspector or any other public official is sued and the Plaintiff (the one bringing the suit) wins, then the official is found **LIABLE**. This is similar to a finding of guilt in a criminal trial. There are different types of liability. Depending on the type, the official may or may not be personally responsible for monetary damages.

OFFICIAL LIABILITY is when a public official is found liable in his official capacity. When found officially liable, the official does not have to pay damages or attorney's fees. His liability is automatically indemnified (covered) by the government.

PERSONAL LIABILITY means that a public official may be found liable as a private person. If so, he is personally liable for damages and attorney's fees. His governmental agency may indemnify him totally, partially or not all.

In some cases the person can be found both officially and personally liable.

ADMINISTRATIVE OR VICARIOUS LIABILITY exists when there is a finding that an official is responsible for the acts of his employees. An administrator may be personally or officially liable for the acts of his employees **IF HE WAS AWARE OF A PATTERN OF MISCONDUCT ON THEIR PART AND DID NOTHING ABOUT IT.**

There are several areas of administrative liability which plaintiff's may attempt to prove. If they can prove that the administrator knew of the misconduct of his employees and did nothing about it, then the administrator, his agency and the county (or state) can be held liable.

The advantage of attaching the case to the administrator or supervisor is that he, his agency and unit of government may have a "deeper pocket" than a correctional officer, and thus the damages will be more lucrative.

The areas of administrative liability are:

NEGLIGENT HIRING. The agency has a responsibility to hire qualified employees and weed out those who are obviously unfit.

NEGLIGENT ASSIGNMENT. This arises when the supervisor knows, that an employee was obviously unfit for an assignment. In this case, he is obligated to change that employee's assignment.

NEGLIGENT RETENTION. If an employee is unfit for further employment and is retained, the supervisor can be held liable for the misdeeds of that employee.

NEGLIGENT ENTRUSTMENT. This applies to situations where, for example, employees are authorized off-duty weapons or use of automobiles. If they abuse those properties and injure someone, the supervisor can be held liable.

NEGLIGENT DIRECTION. The absence of a written policy and procedure manual may be enough in itself to prove that the supervisor was negligent in directing his employees.

NEGLIGENT TRAINING. A supervisor has an affirmative duty to train his employees, and the failure to do so may cause him to be found liable.

Review Questions

► Indicate which of the following descriptions are official, personal or vicarious liability.

- a. This is when a person is found liable as an individual _____.
- b. This is when a person is found liable as a governmental agent _____.
- c. This is when a person is found liable because of the acts of his employees _____.
- d. This type of liability is also known as administrative liability _____.

40

REMEDIES IN A CIVIL RIGHTS SUIT

To be found liable under Section 1983, the plaintiff (the party bringing the suit) must prove that the defendant (the party being sued):

- Deprived him of his constitutional rights;
- While acting under the color of state law;
- And that the official had some personal involvement in the deprivation. (This can include prior knowledge that conditions existed, failure to act to correct that situation, or failure to instruct staff to correct the situation.)

If found liable, the damages which can be awarded under Section 1983 are:

COMPENSATORY DAMAGES. This will "compensate" the plaintiff for his injury (the loss of property, for example) and nothing more.

NOMINAL DAMAGES. This means that the plaintiff gets a trifling sum awarded where there is no substantial loss. However, there is a recognition that there was at least technically a violation of the plaintiff's rights.

PUNITIVE DAMAGES. This is a recognition of misconduct in which the court punishes the defendant for willful disregard of the rights of the plaintiff.

If any damages are awarded, that is sufficient to trigger the Attorney Fee Award Act (Section 1988) when the suit is brought in federal court.

In addition to **DAMAGES**, the plaintiff in a Section 1983 suit may also ask the court for an **INJUNCTION**. This means that the plaintiff may ask the court to order cessation of certain jail practices, that they be changed, or that the staff be ordered to implement new procedures. An injunction could cover such issues as visiting, exercise, or the like.

Review Questions

► Identify which of the following remedies are compensatory damages, nominal damages or punitive damages.

a. This is an acknowledgement by the court that there was wrongdoing, and the defendant is penalized for the willful violation of the plaintiff's rights.

b. In this type of damages the plaintiff is awarded money for the actual loss he suffered.

c. This type of damages refers to when there is no substantial loss to the plaintiff but the court grants him a trifling sum.

► When the court orders that the jail cease operating in a certain manner that order is called a(n) _____.

37

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ELEMENTS OF LITIGATION AND PROPER COURTROOM DEMEANOR

The process of **CIVIL LITIGATION** includes all the steps one must take to pursue or defend a lawsuit. The process generally takes place over a considerable period of time. It can be terminated at any time if the parties decide to settle, or if the plaintiff decides to drop the case.

Below are the significant steps in the process of litigation. Keep in mind it is a lengthy process and what is listed below is only a barebones outline of what is a complicated proceeding.

1. **PLAINTIFF'S COMPLAINT.** Litigation starts with the filing of a complaint. The complaint claims a civil wrong and sets out factual and legal allegations.
2. **DEFENDANT'S RESPONSE.** This is the defendant's answer to the complaint where the defendant admits or denies the plaintiff's allegations and states the defense.
3. **PRE-TRIAL PROCEEDINGS.** This is the lengthiest part of litigation and includes a process called **DISCOVERY**.
4. **TRIAL.** Trial is the process of presentation of evidence by both plaintiff and defendant.
5. **DECISION.** This is the verdict or finding rendered by the judge or jury.
6. **JUDGEMENT.** This is announced by the judge in favor of either the plaintiff or defendant.
7. **ENFORCEMENT OF THE JUDGEMENT.** This is when the court forces the losing party to adhere to the judgement.

REPRESENTATION

When a lawsuit is filed, correctional employees become concerned about representation and the potential for personal loss. Since most jail inspectors are state employees, they are most likely to be represented by the **ATTORNEY GENERAL'S OFFICE**. Generally, this representation is at no cost if it is determined that he acted within the **SCOPE OF HIS AUTHORITY**, and **WITHOUT MALICE, FRAUD OR CORRUPTION**.

County employees are most likely to be represented by the **COUNTY ATTORNEY**, or if insurance is involved, by an attorney retained by the insurer.

DISCOVERY

Discovery is a process intended to open both plaintiff's and defendant's cases to each other. Unlike the surprises Perry Mason springs on the prosecutor, such are not allowed in real life. Because of the backlog of cases in most courts, each side must learn the strengths and weaknesses of each other's cases. Discovery encourages settlement out of court. If the case goes to trial, it allows the trial to proceed more efficiently.

The jail inspector may be involved in discovery even if he is not a party to a suit. He may be required to provide information to either side.

If information is requested, it must be provided in accordance with the state's **PUBLIC INFORMATION ACT**. Most states have such an act which outlines what can and what cannot be provided. Any question as to appropriateness of providing information can be referred to the jail inspection agency's counsel.

One of the more common types of discovery devices is **INTERROGATORIES**. These are written questions from one side to the other, the answers to which are given in writing and under oath. Interrogatories are usually the first step in gathering information in the discovery process.

REQUESTS FOR PRODUCTION OF DOCUMENTS can include any type of official documents such as jail inspection reports, memoranda, policies and procedures, records, incident reports etc. Requests for documents must be related to the suit. Sensitive materials may be withheld if the court so orders.

A **DEPOSITION** is a formalized question and answer session where witnesses or parties to the suit are interviewed, usually by the attorney representing the other side. It is done under oath and answers are recorded word for word. If the answers provided at trial are different from those at deposition, the attorney may attempt to discredit the witness because of the discrepancies.

RELATIONSHIP WITH YOUR ATTORNEY

If the inspector is a party to a suit, he should work cooperatively with his attorney by providing timely and accurate information. Often cases drag on and on. It is not unusual for cases to be litigated over years. Thus, the inspector must be aware that if he does not hear from his attorney, it does not necessarily mean that he is not attending to the case. If any concerns arise over representation, a simple phone call may be all that is necessary to allay them.

COURTROOM DEMEANOR

If called as a witness, it is important to realize that one's testimony and behavior may determine how the case is settled. The following is offered as a very basic set of considerations in testifying.

1. **DRESS APPROPRIATELY.** Research shows that the most credible witnesses wear either gray or dark blue suits, and a red tie with a small repeating pattern. In any event, do not wear flashy clothes.
2. **SPEAK CLEARLY AND LOUDLY.** Make sure every juror and the judge can hear the testimony.
3. **POSITION THE BODY.** Sit straight but comfortably. Hands may be folded in the lap or positioned on the arms of the witness chair. Avoid distracting personal habits. Maintain eye contact with the questioner, and respond to the jury and/or the judge.
4. **BE CALM.** Testifying can be nerve wracking and the opposing attorney may try to rattle the witness. Take a breath before answering questions.
5. **LISTEN TO THE QUESTION BEFORE ANSWERING.** Do not anticipate the question. Wait for the entire question before answering and only answer the question asked.
6. **TESTIFY FROM MEMORY.** This does not mean to memorize. It is usually better not to use notes, as notes are available to the other side. Besides the witness is more credible if he appears that he knows facts without referring to notes.
7. **DO NOT GUESS OR SPECULATE.** If you do not know the answer, say so.
8. **ANTICIPATE EARLIER STATEMENTS.** If you were deposed, review the testimony.
9. **BE YOURSELF.** A witness' credibility is essential to the successful resolution of a case.
10. **DON'T ARGUE.** Arguing may portray the witness as arrogant or antagonistic. If this happens, the witness may be seen as culpable by the jury or the judge.

Review Questions

➤ The process of _____ is that which includes all the elements to pursue or defend a lawsuit.

➤ Arrange the following steps in the litigation process in the order they usually occur.

- _____ a. Pre-Trial Proceedings
- _____ b. Decision
- _____ c. Plaintiff's Complaint
- _____ d. Enforcement of the Judgement
- _____ e. Trial
- _____ f. Defendant's Response
- _____ g. Judgement

➤ Generally the Attorney General's Office will defend a jail inspector in a civil suit if he acts within the _____ and without _____.

➤ Which of the following is true about the process of discovery.

- a. It encourages settlement of disputes out of court.
- b. It discourages surprises when a case goes to trial.
- c. It opens both sides' cases to the other.
- d. It relates to the backlog of cases in courts and promotes the efficient use of court time.

➤ Indicate which of the following statements about discovery refers to the terms "Interrogatories", "Document Production" and "Deposition".

- a. This is a question and answer session where the witness is sworn.
- b. One can be discredited at trial if his answers are different than those given at this discovery phase.
- c. This may require that the jail inspector submit jail inspection reports.
- d. This term describes written answers to questions from the other side in a law suit.

➤ If sued, the jail inspector should expect that the litigation process will proceed swiftly and that his lawyer will need to be in continual contact with him.

True or False

53

12

36

26

43

45

CROSS GENDER SUPERVISION

Often the jail inspector is asked for advice on legal issues. The inspector is cautioned to not exceed his knowledge in these areas. On the other hand, he should not shy away from giving such advice.

One area of real concern is **CROSS GENDER SUPERVISION (CGS)**. Not only is it an emotional issue, but it is also a legal one. CGS refers to female staff supervising male prisoners and male staff supervising women prisoners. It is a legal issue supported by **TITLE VII** of the **1964 CIVIL RIGHTS ACT**, and is subject to the enforcement of the **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**.

There is considerable case law on the subject, the specifics of which are beyond the scope of this text. However, CGS has been supported by the courts since the issue first arose in the early to mid 1970's.

The issue tends to be an emotional one. Typically, suits over the issue were brought by female staff who felt discriminated against, male staff who felt their safety was jeopardized, or by prisoners who felt their right to privacy was violated, especially where nudity was involved.

The courts have generally held that CGS is legal and appropriate. And when pitting the inmates' right to privacy or womens' right to work, the inmates lose.

If asked about CGS, the inspector should be clear in providing information about its legality and the potential for lawsuits if officers are not allowed to supervise prisoners of the opposite sex. He should stress that it is a sensitive issue which should be addressed by management through training and supervision.

There are many resources available to assist in the transition to CGS through state and local EEO Commissions. In most states, there are several jails which have addressed the issue with success. Perhaps this may be a good starting point for those having questions on the subject.

Review Questions

► The term "Cross Gender Supervision" refers to _____

48

► Cross gender supervision is a legal requirement supported by Title VII of the Civil Rights Act of 1964. It is enforced through the _____

39

► Since cross gender supervision is required by law, it is an issue which has been openly accepted and encouraged by the corrections profession.
True or False

54

► To successfully implement cross gender supervision, management must address the issue through _____ and _____

42

DEVELOPING PLANS OF ACTION TO CORRECT DEFICIENCIES

Every jail inspection will uncover some degree of violation of standards, no matter how minor. However, there are many jails which are in substantial non-compliance with standards. The inspector can be a valuable resource to the county if it is serious about **CORRECTING** the deficiencies and **AVOIDING** the potential liability which can arise from the jail's conditions.

Addressing non-compliance with standards is known as **AN ACCEPTABLE BEGINNING**. It is a defense used in jail conditions litigation. This means that there is a **RECOGNITION** and **ACKNOWLEDGEMENT** by the county that there are serious problems in the jail and that the county has **PLANNED STRATEGY** to address and correct them **BEFORE A SUIT IS FILED**. It is also a demonstration of the **GOOD FAITH** of county officials. The notion of an acceptable beginning recognizes that the problems did not occur overnight, and that the solutions will not happen overnight.

A successful assertion of the acceptable beginning defense gives counties breathing space in solving their jail problems and essentially forestalls judicial intervention. This defense does not alleviate the need to correct unconstitutional conditions nor to postpone situations which require immediate attention.

What is necessary to assert this defense, and where the jail inspector can assist, is in the development of a **MASTER PLAN** or a **PLAN OF ACTION**. This plan will **DETAIL EACH VIOLATION OF STANDARDS**, include **REMEDIES** to address each violation, and have a **REALISTIC TIMETABLE** to address each with the most serious violations addressed first.

This defense has been used by a number of counties. The courts are not obligated to accept the defense. But officials are in a better position using this defense than if they attempt to argue that they do not have the money to correct the problems. The so-called **BUDGETARY DEFENSE** is no defense at all.

It is important to note that this defense is most effective if it is done **VOLUNTARILY** by the county and initiated **BEFORE** a lawsuit is filed.

In this area, the inspector can be an important resource to the county from two perspectives. First, the inspector can bring the notion of an acceptable beginning to the county before a lawsuit is filed and encourage them to action. Second, the inspector can serve as an objective party which can assist the county in developing a "Plan of Action" or a "Master Plan."

Review Questions

► An _____ means that there is a recognition and an acknowledgement by the county that there are serious problems in the jail. Further, it is a planned strategy to address the problems _____ a suit is filed.

47

► The notion of an acceptable beginning recognizes that solutions to jail problems cannot be corrected overnight.

True or False

41

► The assertion of the acceptable beginning defense may give counties breathing space in addressing and solving their jail problems.

True or False

50

► The acceptable beginning defense allows the county to postpone addressing unsafe jail conditions.

True or False

32

► What are three basic elements of a plan of action or a master plan?

51

► A jail inspector can assist a county in developing a plan of action by encouraging them to action before a lawsuit is filed.

True or False

46

INSPECTOR LIABILITY

While there is considerable jail litigation, there is surprisingly little litigation involving state jail inspection programs. This is not to say that jail inspection litigation will not be forthcoming.

If jail standards are not enforced, it is easy to see that the jail inspector can be sued under Section 1983 as he "operates under the Color of Law". Also, if he does not use his enforcement authority, it can be alleged that he was the cause of the deprivation of a prisoner's constitutional rights.

The inspector's role and the inspection process are covered in depth in later chapters of this text and will not be addressed here. But it is necessary to stress that he must be aware of his authority and exercise it in a firm and fair manner. Anything less than that is an abuse or misuse of his authority, a matter for which he could be sued.

The following describe two cases where state inspection programs were sued. The plaintiff won (prevailed) in one case and lost in the other. The won-loss record is less important than the issues which were litigated. What is important is to examine the issues with a view to eliminating similar conditions in your state if they exist.

THE FLORIDA CASE

The American Civil Liberties Union (ACLU) was concerned with conditions in Florida's jails. Instead of suing each jail or seeking improvements in jails one at a time, they identified one mechanism which could affect all the state's jails.

That mechanism was the authority of the secretary of corrections who had statutory supervisory responsibility over all jails. Specifically, he had responsibility to establish minimum standards, inspect jails according to the standards, and enforce the standards either through closure or removal of prisoners.

After considerable litigation, the secretary entered into a **CONSENT DECREE** with the ACLU.

A consent decree is an agreement between the parties in a suit to certain stipulations. The agreement is not a judgement of the court but more of a solemn contract. It is filed with the court and any violations of the agreement can be cause for further litigation.

The consent decree in the Florida case was negotiated between the parties and it was agreed that the Department of Corrections would:

1. Inspect each jail twice per year.
2. "Vigorously, promptly, effectively and thoroughly" enforce the jail standards by suing non-complying counties. Such action was to be taken within seven days in cases which appeared "to pose a substantial and immediate danger to life, health or safety".
3. Upgrade standards regarding space, medical screening, sick call, comprehensive medical care, compliance with fire and health codes, and prisoner classification.

Some results of the consent decree were that the inspection staff was increased and inspections became more thorough. Also, the State Fire Marshal is now inspecting jails and several non-complying counties have been brought to court.

THE TEXAS CASE

The Texas Jail Commission (TJC) was sued by the ACLU in a similar attempt to improve jail conditions. Among the many specific allegations, it was alleged that there were several "structural" problems in the way TJC was carrying out its responsibility.

The suit was not successful, but the issues which were litigated are important to note.

First, it was alleged that the inspection process was inadequate to detect and record violations of TJC standards. The ACLU alleged that:

- inspectors were not trained;
- the number of inspectors was inadequate (there were only three inspectors for 254 county jails);
- the inspectors lacked the proper equipment such as light meters to detect violations;
- inspectors did not talk to inmates;
- inmate complaints were sent back to the jails with the inmate's name not held in confidence; and,
- inspectors did not note non-compliance with non-mandatory violations.

Another allegation was that TJC did not adequately enforce its standards. It was specifically alleged that TJC ignored violations or allowed long periods to pass without requiring correction, did not issue notices of non-compliance, and did not provide updated copies of the standards to inmates.

Another allegation was that TJC granted numerous variances to counties regarding fire safety, space for mentally ill prisoners, outdoor exercise and dayroom space.

Finally, it was alleged that the jail standards themselves were vague and inadequate in areas such as construction, interior design and furnishings, safety, crowding, staffing and supervision, staff training, health care, exercise, etc.

SUMMARY

The important lesson from both cases is that any jail standards and inspection program can be sued, and over issues such as **ADEQUACY OF STANDARDS, the INSPECTIONS PROCESS, TRAINING OF INSPECTORS, ENFORCEMENT OF STANDARDS, GRANTING OF VARIANCES,** etc.

In subsequent chapters the inspection process, standards, and the role of the inspector are examined in depth with the intent of preventing the successful suit of either the inspector or his agency.

It is important to keep in mind when completing those chapters that the inspector is operating under the "Color of Law" and, therefore, responsibility attaches to his position to carry out his authority in a firm and fair manner.

Review Questions

- ▶ A jail inspector is subject to a Section 1983 suit because he operates or has authority under _____.
- ▶ When an inspector fails in his duty to exercise his authority firmly and fairly, this may become matter over which he can be sued.
True or False
- ▶ A _____ is an agreement between the parties in a suit when they agree to certain conditions and which is filed with the court.
- ▶ List three requirements of the Florida jail inspection case.
 - a. _____
 - b. _____
 - c. _____
- ▶ List four allegations in the Texas jail inspection suit.
 - a. _____
 - b. _____
 - c. _____
 - d. _____

49

29

38

44

52

CHAPTER 1

ANSWER KEY

1. **False.** Section 1983 cases can be brought in both state and federal courts. In most cases, plaintiffs sue in federal courts as there is a notion that federal courts are more sensitive to prisoners' rights.
2. **True.** Interestingly though Section 1983 applies **ONLY** to state and local governmental agents and **NOT** to federal agents.
3. **True.**
4. Federal District Courts
5. Staffing; access to courts, media, printed matter, counsel, telephone and libraries; practice of religion; visiting; recreation and exercise; classification and segregation, food and medical services, discipline; and living conditions
6. Small Claims, Landlord/Tenant, Domestic Relations, Civil, Criminal
7. Doctrine of Separation of Powers
8. Delegating
9. Slaves of the State
10. Trial Courts, Appellate Courts
11. That they lacked the expertise, knowledge and skill to determine how correctional facilities should be managed.
12. c, f, a, e, b, g, d
13. It allows the prevailing party in a Section 1983 lawsuit to receive lawyers' fees from the losing side.
14. Written
15. a. Police cases arising from the Civil Rights Movement.
b. The Attica riot which exposed the conditions of prisons.
16. **False.** It only applies to the Constitution and laws of the United States Government.
17. **False.** There are thirteen circuit courts and ninety-four districts. Circuit courts are appellate courts and district courts are trial courts.
18. Title 42, Section 1983, of the Federal Civil Rights Act of 1871
19. Executive, Judicial and Legislative

20. Injunction
21. **False.** Cases are not tried at the appellate level. At that level, Matters of Law are considered and judges do not rehear the case. They are most concerned with legal errors regarding admissability of evidence, jury instructions, etc.
22. Institutional Security and Discipline
23. Administrative Rules and Regulations
24.
 - a. Eighth
 - b. First
 - c. Sixth
 - d. Fourteenth
 - e. First
25. Plaintiff is the person or party bringing the suit.
Defendant is the one being sued.
26. All statements are true.
27. Case Law
28. State and Federal
29. True
30. **False.** A state case can be appealed to the United States Supreme Court.
31. Law books or reporters are used by lawyers to research case law either for cases they are litigating or for developing the basis for an appeal.
32. **False.** Unsafe conditions should be addressed immediately.
33. All five statements are true.
34. Codes and Regulations
35. True
36. Scope of his Authority; Malice, Fraud or Corruption.
37.
 - a. Punitive
 - b. Compensatory
 - c. Nominal
38. Consent Decree
39. Equal Employment Opportunity Commission (EEOC)
40.
 - a. Personal
 - b. Official
 - c. Vicarious
 - d. Vicarious

41. True
42. Training and Supervision
43.
 - a. Deposition
 - b. Deposition
 - c. Document Production
 - d. Interrogatories
44.
 - a. Inspect each jail twice per year.
 - b. Vigorously enforce the standards by suing non-compliant counties within seven days.
 - c. Upgrading of certain standards.
45. False. The litigation process is most always lengthy. Further the inspector's lawyer may not contact him for great periods of time because of his caseload and the delays in litigation.
46. True
47. Acceptable Beginning, Before
48. Cross gender supervision refers to officers of one sex supervising prisoners of the other.
49. Color of Law
50. True
51. Detailed list of each violation
Remedies to address each violation
Realistic timetable to address the violations with the most serious violations addressed first
52.
 - a. The inspection process was inadequate to detect and record violations of standards.
 - b. The standards were not adequately enforced.
 - c. Variances were granted too freely thus weakening the standards.
 - d. The standards themselves were inadequate and vague.
53. Litigation
54. False. Cross gender supervision is an emotional issue which has not been greeted with open arms. Inmates have sued over privacy issues. Male officers have sued over issues related to their safety (assuming that women would not be able to support them in the event of a disturbance). Women have sued for their equal employment opportunity and chances of advancement by being able to work in all areas of the jail.

CHAPTER 1

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CHAPTER TWO

STANDARDS)

OVERVIEW

This chapter addresses the historical backdrop which led to the development of standards and examines the differences between voluntary and mandatory standards. It addresses the importance of standards compliance as a means to demonstrate good faith, and it looks at the methods used in states to implement their standards, inspections and compliance program.

Since 1870 when the **AMERICAN PRISON ASSOCIATION** first promulgated standards, the field has evolved into a complex network of federal, state, and local systems. They include parole, probation, jails, community corrections, prisons, and adult and juvenile services.

Not only has the field become complex, but unique problems such as crowding have emerged adding to the complexity. Add to this the involvement of the state and federal courts and the requirement to operate constitutional jails. One then gets a picture of a system under stress.

In the mid-1960's, courts became involved in correctional matters, and they created varied and sometime conflicting case law among state and federal courts. In the face of the confusion this created, professionals saw the need for credible standards. The result was the creation of several bodies of correctional standards both on the state and national levels.

PERFORMANCE OBJECTIVES

AT THE CONCLUSION OF THIS SESSION, THE STUDENT WILL BE ABLE TO:

1. Explain the historical development of standards and their basis in law.
2. Distinguish between the terms **CERTIFICATION**, **ACCREDITATION**, **INSURABILITY** and **RISK MANAGEMENT**, and explain how standards compliance relates to each.
3. Distinguish between and define the following terms: **MANDATORY** and **VOLUNTARY STANDARDS**; **STATUTE** and **ADMINISTRATIVE RULES**; **MINIMUM STANDARDS**; **CONSTITUTIONAL MINIMA**; **PERFORMANCE** versus **PRESCRIPTIVE STANDARDS**.
4. Identify the types of standards issued by **STATE** and **NATIONAL** agencies, and how they apply to the correctional agency.
5. Distinguish between standards for **PHYSICAL PLANT**, **OPERATIONS** and **ADMINISTRATION**, and those which address **LIFE**, **HEALTH**, **SAFETY** and **CONSTITUTIONAL** issues.

6. Describe similarities and differences between standards for LOCKUPS, FULL SERVICE JAILS, PRISONS and COMMUNITY CORRECTIONAL CENTERS.
7. Describe the role of the Inspector in issuing INTERPRETATIONS, CLARIFICATIONS and DECLARATORY JUDGMENTS.

CERTIFICATION, ACCREDITATION, INSURABILITY AND RISK MANAGEMENT

CERTIFICATION is a legal requirement for some state jail inspection authorities. For those having certification authority, it is a legal recognition of an agency's compliance with standards, and it is a process which is required by statute or state regulation.

Certification results from either total or substantial compliance with standards. Agencies are generally given a period of time to meet certification requirements. If an agency is not "certified", it means that the agency does not comply with standards and requires some type of corrective action.

If corrective action is not forthcoming, some enforcement action may be taken against the county. Such action could include petitioning the courts for compliance, compelling the county commissioners to corrective action, fining the county, ordering cessation of certain activities in that facility, or even forcing closure.

Some state inspection agencies do not have certification authority, as their programs are voluntary or their enabling legislation does not provide for certification. Some of these programs recognize voluntary compliance with standards by issuing some type of formalized **RECOGNITION OF ACHIEVEMENT**.

Review Questions

- ▶ _____ is a legal recognition of an agency's compliance with state standards.
- ▶ Which of the following actions may result from a finding of non-compliance with state standards.
 - a. Imposition of fines.
 - b. Closure.
 - c. Granting of Certification.
 - d. Compelling County Commissioners to correct deficiencies.

15

2

ACCREDITATION

ACCREDITATION is a formal process developed and administered by a professional organization when a member agency is in full or substantial compliance with its standards. Compliance is verified by some type of inspection/audit.

Accreditation of hospitals and colleges preceded the move to accreditation in corrections. The model they use to grant accreditation is much the same as that used by Corrections.

The **COMMISSION ON ACCREDITATION FOR CORRECTIONS** of the **AMERICAN CORRECTIONAL ASSOCIATION** is the most recognized accrediting agency for corrections. The **NATIONAL COMMISSION ON HEALTH CARE IN CORRECTIONS** accredits medical programs in jails and prisons.

CERTIFICATION carries a legal requirement when it is mandated by statute or administrative regulations or rules. **ACCREDITATION** does not.

Accreditation can become a legal requirement, however, if it is a stipulation agreed to in a **CONSENT DECREE**. In this instance it becomes a requirement of the court overseeing the consent decree.

Both certification and accreditation may be useful in demonstrating the agency's **GOOD FAITH** in a Civil Rights lawsuit as both are recognition of compliance with standards by an outside authority.

Review Questions

- Accreditation is a process used in some states to recognize an agency's voluntary compliance with state standards.

True or False.

6

- The accreditation of hospitals and colleges provided a model for accreditation of correctional facilities.

True or False.

14

- Match the agency with the function.

Commission on Accreditation for Corrections. _____

Commission on Health Care in Corrections. _____

a. It accredits jail and prison medical programs.

b. It accredits jail and prison medical programs in addition to other programs.

5

- Accreditation may be an essential element in a Consent Decree and thus become a legal requirement, enforceable through the courts.

True or False.

1

INSURABILITY

INSURABILITY relates to an insurance company's willingness to provide insurance to a correctional agency or its employees.

Often insurance companies look to state or national standards to assess the degree of insurability of a correctional agency. Also, they may ask for jail inspection reports. This should become more prevalent as the industry becomes more aware of the importance of standards and how adherence to standards can reduce the potential for liability.

RISK MANAGEMENT or **LIABILITY PREVENTION** are terms that derive from litigation. Liability comes from being found negligent in meeting one's duty to another. For example, a sheriff who does not protect the rights of a person in his care may be found liable. Risk management includes the actions the sheriff would take to minimize his or his staff's liability, such as meeting standards and developing written policies and procedures adequate to address standards.

Review Questions

► *Terms which describe an agency's attempts to prevent successful litigation are:*
_____ and _____

► *Risk management is a notion which arises out of an insurance company's willingness to provide insurance to a correctional agency.*
True or False.

► *Insurability is a term related to a state's authority to grant certification.*
True or False.

20

13

22

TYPES OF STANDARDS

In order to distinguish between types of standards, it is first necessary to define the term **STANDARD**.

A CORRECTIONAL STANDARD IS A SPECIFIC, OBJECTIVE, MEASURABLE AND DIRECTIVE STATEMENT EXPRESSING A REQUIREMENT, LEVEL OF PERFORMANCE, OR EXPECTATION ABOUT A PARTICULAR CORRECTIONAL OPERATION OR ASPECT OF THE PHYSICAL PLANT.

Standards regarding a **CORRECTIONAL OPERATION**, such as security checks, use of force, discipline, etc, usually require a written policy and procedure to demonstrate implementation and written documentation to demonstrate compliance. Such standards are often referred to as **PERFORMANCE STANDARDS** as they require a level of "performance" or activity on the part of the correctional staff. Performance standards are **SPECIFIC** as they require certain behaviors or actions in a jail operation which can be documented.

PHYSICAL PLANT STANDARDS relate to the physical structure of the facility and conditions of confinement (such as space, ventilation, lighting, and life safety.) These standards are also essential in the renovation of an existing facility or the planning for a new facility.

PRESCRIPTIVE STANDARDS are those which usually dictate the "how to" of a particular operation. Examples may include standards which require: a booking or screening form to contain certain information; a set number of toilets per inmates; or certain specific steps to follow in a disciplinary procedure.

Standards are not "liberal" or "conservative". They are:

- in many cases a legal requirement;
- a management tool to direct staff;
- a pro-active means to discourage suits and minimize successful suits;
- an outline to formulate training programs;
- a means to demonstrate accountability to the public;
- a means to measure accomplishments; and,
- a means which lead to fairness and humaneness in the criminal justice system.

Many states have jail standards and inspection programs. Some are legislatively established. Others are voluntary.

Review Questions

Which of the following statements about correctional standards are TRUE ?

- ▶ Correctional standards may refer either to physical plant or operational issues _____.
- ▶ Correctional standards, to be effective should be objective, measurable, specific and directive _____.
- ▶ Correctional standards are rarely a legal requirement _____.
- ▶ Compliance with correctional standards is a means to demonstrate accountability to the public, AND a means to measure accomplishments _____.
- ▶ Which of the following statements refers to **PRESCRIPTIVE STANDARDS** ?
 - a. These standards usually dictate the specifics of an operation or the "how to" of that operation _____.
 - b. These standards require a level of activity on the part of correctional personnel _____.
 - c. These standards may require a set number of washbasins per inmate _____.
 - d. These standards may require certain documentable actions in a jail _____.
- ▶ Standards, which are essential for the planning and design of a new facility, are called _____ standards.

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STATUTE AND ADMINISTRATIVE RULES

Standards are issued by professional organizations such as the American Correctional Association. These standards in and of themselves do not carry the weight of law.

State standards which are mandated carry the **WEIGHT OF LAW**. The authority for mandating standards is either included in the **STATUTE** (law) or through the development of **ADMINISTRATIVE RULES AND REGULATIONS**.

In some states, standards are listed in the statute. In others, the Legislature **DELEGATES** the authority to develop standards-making authority to an **ADMINISTRATIVE LAW AGENCY**. This agency may be an independent board, commission or some other office in state government, such as the Commissioner of Corrections.

Where this is the case, generally, there is some form of legislative oversight to ensure that the administrative law agency did not go beyond its authority or beyond the intent of the Legislature when it passed the statute.

That is why in most states there is a period for public comment on the standards before they are enacted. Also, most states have a legislative review committee which must pass on the standards before they become effective.

Once the standards pass this review, they are enacted and have the full force and effect of law.

Review Questions

► Standards carry the "weight of law" in **ALL** of the following **EXCEPT**.

- a. If agreed to in a Consent Decree.
- b. If required in a Court Order.
- c. In a voluntary state inspection program.
- d. When mandated as state Administrative Rules and Regulations.

► When a state board or commission has standard-making authority, that authority is _____ by the Legislature.

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MANDATORY AND VOLUNTARY STANDARDS

MANDATORY standards are those which are either "mandated" by statute or administrative rules or regulations. The term "mandatory" implies that the agency must meet the standard, or face some form of **SANCTION** such as court action, denial of state construction or renovation funds, or even closure.

In some states there are provisions for a **WAIVER** or **VARIANCE** from mandated standards.

A waiver implies that there is some authority (a standards commission or board, etc.) which can allow the agency to forego the application of that standard. For example, if a standard required certain food preparation requirements and the agency contracted out its food preparation to a local restaurant, then the standard could be waived (or some states simply find the standard non-applicable).

A variance means that the agency may meet the intent of the standard but in a way not generally accepted for other agencies. In this case, the correctional agency would apply for a variance, which means that it will meet the standard's intent but in a method which "varies" from the norm. For example, if a standard required one shower for every ten inmates and the jail only had one shower for every fifteen inmates, the jail may request a variance. Their request may include procedures giving inmates access to showers sixteen hours per day.

Obviously the **INTENT** of the standard is for inmates to be able to shower frequently. The agency is finding another way to do so by providing for frequency of access to the showers it has and, therefore, may be eligible for a variance.

A related concept is **GRANDFATHERING**. This means that a standard may **NOT APPLY RETROACTIVELY** to a facility. For example, if physical plant standards are updated, they may not apply to existing facilities. However, not all physical plant standards are "Grandfathered." This is especially true when matters of fire safety are concerned.

VOLUNTARY standards do not have the full effect of law.

Some states which do not have mandatory standards have developed standards and a cooperative inspection process. The standards in these states are "voluntary" and may be issued through the Sheriffs Association, Jail Association, Association of Counties, or the Attorney General's Office.

Professional standards of the American Correctional Association and the National Commission on Health Care in Corrections are voluntary. Voluntary standards can take on a legal meaning if they become the basis of a consent decree.

Review Questions

Match the terms with the descriptions or definitions.

Terms. **Mandatory Standards**
Voluntary Standards
Grandfathering
Variance
Waiver

- _____ a. These do not generally have the full effect of law.
- _____ b. New standards may not be applicable to existing facilities.
- _____ c. This foregoes application of a standard to an existing facility.
- _____ d. This allows an alternative method to meet the intent of a standard.
- _____ e. These standards must be met by a correctional agency.

MINIMUM STANDARDS AND CONSTITUTIONAL MINIMA

The jail inspector will often come across the terms **MINIMUM STANDARDS** and **CONSTITUTIONAL MINIMA**.

The term "Minimum Standards" refers to administrative rules and regulations which are a **MINIMUM** requirement necessary for the operation of a safe and secure jail. It may also be a minimum requirement of state law.

Constitutional Minima generally refers to the minimum requirements of care and custody required by the U.S. Constitution. It covers those issues clearly articulated by the courts and addressed in Chapter One: Legal Issues.

Constitutional Minima have been the basis for the development of correctional standards. These include professional standards and minimum standards promulgated by states. They address such issues as due process, access to the courts, mail, religion, etc.

Review Questions

- ▶ Constitutional Minima refers to minimum requirements of care and custody of prisoners which have been articulated by the _____.
- ▶ Minimum standards is a term referring to a state's minimum requirements of jail operations as required in administrative _____ and _____.

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PHYSICAL PLANT, OPERATIONAL AND ADMINISTRATIVE STANDARDS

Generally, standards fall into three types, **PHYSICAL PLANT, OPERATIONAL, AND ADMINISTRATIVE.**

PHYSICAL PLANT standards are those addressing the building and grounds, and built-in (capital) equipment. They address issues such as: square footage; fire safety and health regulation requirements; and areas for exercise, housing, visiting accommodations, food services, medical, intake, storage, and mechanical. They also address **BUILDING CODES** or **ORDINANCES** which exist through other authority such as the fire marshal, health department, or local and state government agencies.

Physical plant standards normally differ for existing physical plants and those whose renovation or construction was designed after the effective date of the standards.

Exceptions to this are when matters of life, health and safety are concerned. In these cases, physical plant standards may be applied retroactively to an existing facility. A typical case to illustrate this point is the requirement for a second means of egress from housing units. Many jails were built without such consideration, but after several disastrous fires with loss of life, the standard was applied to new AND existing facilities.

OPERATIONAL STANDARDS address the methods by which the correctional facility are "operated". They address issues such as internal inspections, use of force, security and control, sanitation, food services, visiting, medical exercise, etc. Generally, these standards require the agency to establish written policies and procedures to implement the standard, to train staff on the policies and procedures, and to ensure that they are in effect through supervision and documentation.

Physical plant standards and operational standards can address the same subject. For example, when there is a requirement that the facility have a back-up generator for power outages, that is a physical plant standard. If the facility must test the operation of the generator monthly, that is an operational standard.

ADMINISTRATIVE STANDARDS refer to all other areas of a correctional operation which support the smooth functioning of the agency. Many states do not stress administrative standards such as fiscal controls, personnel practices and the like, while the national standards are quite thorough in this regard.

Review Questions

► Which of the following statements refers to physical plant, operational or administrative standards.

- _____ a. Square footage of cells.
- _____ b. Testing fire alarms.
- _____ c. Second means of egress from housing units.
- _____ d. Accounting of inmate commissary accounts.
- _____ e. Availability of outdoor exercise area.
- _____ f. Unannounced and irregularly scheduled searches.
- _____ g. Number of commodes.
- _____ h. Fire drills.

When one sees the phrase **LIFE, HEALTH, SAFETY AND CONSTITUTIONAL ISSUES**, it addresses the Constitutional Minima discussed earlier in the Chapter.

Most state standards programs address these types of standards as the **BEDROCK** of their inspection and compliance programs. These are so basic to the rights the courts have articulated over the years.

In addition to these standards, states may promulgate other standards which address what are referred to as **GOOD CORRECTIONAL PRACTICES**. While these standards may not be the subject of litigation, the corrections profession over the years has accepted the practice as essential to good operations.

Standards addressing the use of volunteers is an example. While probably not the subject of a Supreme Court ruling, many correctional programs use volunteers effectively. A standard addressing volunteers may address their recruitment, selection and training.

Review Questions

- ▶ *The term "Good Correctional Practice" refers to essentials of jail operations as required by the courts.
True or False.*
- ▶ *The phrase "Life, Health, Safety and Constitutional Issues" addresses Constitutional Minima.
True or False.*

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LOCK-UPS, JAILS, PRISONS AND COMMUNITY CORRECTIONS

The applicability of state standards to lock-ups, jails, prisons, and community correctional centers depends upon the statute in each state. Some states' standards apply to all, to some, or to only one.

A **LOCK-UP** is a **SHORT TERM FACILITY** generally operated by police departments for periods of up to seventy-two hours. In some cases lock-ups are operated longer.

Standards for lock-ups are generally less comprehensive than for jails because of their short term nature, and the fact that they are not "correctional" operations. There is a trend to more litigation in lock-ups, especially in relation to suicide and other safety concerns.

As for **JAILS**, several states differentiate between jails based upon their **LENGTH OF MAXIMUM DETENTION** or **SIZE** while others do not. Those which do will typically have a rating system such as **CLASS ONE** for jails with more than fifty prisoners and **CLASS TWO** for jails with fifty or less prisoners. Or they may refer to them as **FULL SERVICE JAILS** and **LOCKUPS**.

The American Correctional Association has separate standards for lock-ups, jails, prisons, community correctional centers and juvenile facilities. Recognizing that small jails differ substantially from large jails, the ACA promulgated **SMALL JAIL STANDARDS** in 1989.

PRISON STANDARDS differ from jails based upon their functional differences. These differences are due to the long term nature of confinement, the availability of treatment programs, the fact that convicted prisoners have less rights than pre-trial prisoners, and the fact that most prisons are larger than jails.

COMMUNITY CORRECTIONAL STANDARDS differ from the others based upon the levels of confinement, the nature of its dealings with the community, and the relatively short term nature of confinement.

Review Questions

- ▶ Often states will have differing standards dependent upon jails size and length of confinement.
True or False.
- ▶ The ACA Small Jail Standards apply to police lock-up operations as well as small jails.
True or False.

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INTERPRETATIONS, CLARIFICATIONS AND DECLARATORY JUDGMENTS

Often the inspector is asked to interpret the standards when there are questions as to their **INTENT**. It is important to note here that each standard should be written clearly. When there are too many questions about the intent of a standard, it may mean that it is not written clearly. Even though a standard may be written clearly, there still may be some question on **HOW** it is to be implemented.

The American Correctional Association and some states provide guidance with their standards by including a **DISCUSSION** or **COMMENTARY** next to or below each standard. The discussion is an explanation of the standard's intent and may include methods by which the standard may be met.

A discussion may be helpful, but still there are instances where the inspector will be asked to describe the acceptable method of meeting the standard. In this instance, the inspector may provide **TECHNICAL ASSISTANCE**. In doing so, he should be clear in his advice, consistent with advice he gives to other agencies, and consistent with the advice other inspectors have given.

Further, and more importantly, the inspector should never exceed his authority in giving advice. If he is unsure of his authority or unclear as to what advice to give, he should consult his superiors.

A more formalized process of interpretations may be in the form of an **OPINION** or **DECLARATORY JUDGEMENT**. These are formal and legal terms. If the inspection agency has the authority to issue judgments, it is generally included in the enabling legislation. If the agency is responsible to a **BOARD** or **COMMISSION**, then that is usually the authority which will issue a judgement.

A judgement may be requested if there is a finding of non-compliance and the jail **APPEALS** the finding. In this case there could be a request for a judgement to the board or commission. The resulting judgement will become a matter of record and will guide inspectors and jail administrators on future application of the standard.

Review Questions

- ▶ *Formal and legal terms referring to interpretations of standards are known as _____ or _____.*
- ▶ *Inspectors are expected to offer Declaratory Judgements in the course of their duties. True or False.*

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CHAPTER 2

ANSWER KEY

1. True
2. C
3. Physical Plant Standards
4. a. Voluntary, b. Grandfathering, c. Waiver, d. Variance, e. Mandatory
5. a. Commission on Health Care in Corrections
b. Commission on Accreditation for Corrections
6. False. Accreditation refers to professional recognition and is normally granted by that organization.
7. False. They are often legal requirements as they reflect Constitutional issues addressed in case law. Further the standards may be mandated by state law.
8. True
9. a. Physical, b. Operational, c. Physical, d. Administrative e. Physical, f. Operational, g. Physical, h. Operational
10. True
11. Rules and Regulations
12. C
13. False. Insurability
14. True
15. Certification
16. True
17. Opinion or Declaratory Judgments
18. True
19. True
20. Risk Management or Liability Prevention
21. a. and c., b. and d. refer to Performance Standards.

22. **False.** Term relates to an insurance company providing insurance to a correctional agency.
23. **False.** As identified by the profession.
24. **False.** If the Agency has the authority to issue Declaratory Judgments or Opinions it is done by an authority higher than the inspector.
25. Delegated
26. **False.** Only jails of fifty or less prisoners.

CHAPTER THREE

THE INSPECTION PROCESS

OVERVIEW

The heart of any standards program is the inspection process. Having a solid set of standards is necessary to establish performance requirements for jails, but it is the inspection process that makes the standards come alive.

What is commonly referred to as the **INSPECTION PROCESS** is really a continuum of activities designed to determine or assess compliance (or non-compliance) over time.

One element of this process is the actual on-site **INSPECTION** of the **PHYSICAL PLANT** and the **OPERATIONS** of the facility. Another is the **AUDIT** of the facility's **DOCUMENTATION** to verify compliance with the standards on an on-going basis.

Documentation is generally divided into **PRIMARY** and **SECONDARY** documentation. Primary documentation may include such items as the agency's written policies and procedures, and inspection reports of other agencies such as fire and health. Secondary documentation is verification that the policies and procedures are being implemented. It includes such items as weekly sanitation and fire inspection reports, work orders, incident reports, logs, correspondence, sanitation and pest control contracts, thirty day menus, training records, post orders, etc.

When reference is made to the inspection process in this program, it includes the continuum of activities of inspecting and auditing.

The inspection process is not something that starts and ends the day an inspection is completed. The process is one which requires preparation, conducting the inspection, issuing a report, and developing some form of compliance monitoring system to ensure that the deficiencies noted are corrected over time.

It is important for the inspector to coordinate with fire and health inspectors. Such coordination presents an orderly approach to a comprehensive inspection.

Unless such a process exists, it will be difficult to ensure that there is routine compliance with standards.

This chapter addresses every possible aspect of the inspection process. While not every aspect may apply to your state, the principles address the reasons for inspections, namely to identify deficiencies and work toward their solution.

Included in this chapter is a discussion of the purposes and types of inspections, the necessity for documentation, the need for data collection, and elements of the inspection process.

PERFORMANCE OBJECTIVE

AT THE CONCLUSION OF THIS CHAPTER THE STUDENT WILL BE ABLE TO:

1. List at least four purposes for inspections.
2. Describe seven types of inspections and identify why each is used.
3. Explain the importance of documentation to demonstrate compliance and to list at least six types of documentation used for inspections.
4. Explain the importance of data collection for reporting purposes.
5. Identify the essential elements of the inspection process to include the pre- and post-inspection process as well as the facility inspection and audit.

PURPOSES FOR AN INSPECTION

There are many reasons for a jail inspection.

Ultimately, inspections are conducted because there is a governmental interest in providing for the safe confinement of prisoners, and the protection of the public and staff.

Inspections are intended to **ASSESS COMPLIANCE** or **NON-COMPLIANCE** with minimum standards. Once that is done and a listing of accomplishments or deficiencies is established, subsequent inspections can serve to demonstrate an agency's movement toward full compliance.

When deficiencies are noted, a **COMPLIANCE PLAN** can be developed. This allows the agency to systematically approach the deficiencies and meet standards over a period of time.

When the inspection process identifies deficiencies, it allows the agency to **HIGHLIGHT THE NEED FOR CORRECTIVE ACTION**. Examples are the identification of life-safety or health code deficiencies and the subsequent need to fund capital improvements. Another example may be the identification of staffing inadequacies.

On a positive note, the inspection can demonstrate substantial compliance with standards and be an objective means to recognize the agency's professionalism. It is no small task to substantially comply with standards, especially if the standards and inspection processes are exacting. Substantial compliance demonstrates that staff are committed to compliance.

Anyone familiar with lawsuits recognizes that compliance with standards is proof of the agency's **GOOD FAITH**. To the contrary, non-compliance with standards indicates that the agency may be negligent in an area making them susceptible to litigation.

INTERNAL INSPECTIONS

In addition to inspections conducted by outside agencies, it is important to remember that jail personnel should conduct regular **INTERNAL** evaluations or inspections to ensure continued compliance with standards.

The methods for conducting internal inspections may be through:

- weekly checks of fire systems;
- daily or weekly sanitation inspections;
- periodic review of shift logs to ensure that routine functions are being accomplished;
- periodic inventories of supplies and equipment;
- routine testing of emergency equipment;
- continual reviews of incident reports;
- monitoring of mandated training; etc.

Internal inspections generate documentation. That will serve as secondary documentation for a formal state inspection.

Review Questions

- ▶ The term "governmental interest" means that there is a need to develop a compliance plan to demonstrate good faith.
True or False.
- ▶ Through the development of a compliance plan, an inspection can help to demonstrate an agency's movement toward full compliance.
True or False.
- ▶ A _____ is an instrument which allows the agency to approach and solve deficiencies over a period of time.
- ▶ Deficiencies noted in an inspection allow the jail to emphasize where corrective action is necessary.
True or False.
- ▶ An inspection demonstrating substantial compliance with standards is a recognition of an agency's _____.
- ▶ _____ is a term referring to a jail's intent to meet its constitutional responsibilities to prisoners.
- ▶ Inspections conducted by jail staff which can assist in demonstrating compliance with standards are called _____.

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TYPES OF INSPECTIONS

Of the various types of inspections, the most common are **PHYSICAL PLANT, OPERATIONAL, MANAGEMENT, COMPLAINTS/GRIEVANCES, COMPLETE, PARTIAL AND FINANCIAL.**

While each of these types of inspections may be done separately, the inspector will often complete all of them when doing an inspection. A description of each follows.

PHYSICAL PLANT INSPECTIONS

A **PHYSICAL PLANT INSPECTION** is one which examines the facility in its entirety. This includes all buildings and grounds and capital equipment (fixed equipment) such as generators, audio-video communications systems, fire systems, etc.

A physical plant inspection is crucial to meeting standards since much of the physical plant addresses issues of life, health and safety which are the core of correctional standards. The depth of the physical plant inspection will depend on the standards and the degree to which physical plant issues are addressed.

It is safe to assume that fire safety and health standards are common to most states. These standards may be issued by other agencies such as the fire marshal and health department. Regardless of the specific authority, one can see how critical these issues are to the safety and well-being of staff, prisoners and visitors.

Other non-correctional physical plant standards which apply to a correctional facility include sanitation and building codes.

When other agencies issue standards affecting a correctional facility, they are most often responsible for the inspection. Sometimes those agencies do not conduct inspections. If this happens, the inspector should communicate with these agencies to ensure that they conduct their inspections and possibly coordinate with them as to schedules and sharing results.

The jail inspector will have to inspect the physical plant for compliance with standards, addressing purely correctional issues. This may include:

- inspection for cleanliness of the housing, common areas, and food preparation areas;
- inspection of fire extinguishers, air packs, emergency evacuation routes, and emergency lighting fixtures;
- inspection of conditions of confinement such as crowding cells, showers, laundry, etc.;
- discussions with staff and inmates as to the general conditions and operations of the facility;
- examination of logs and reports; and,
- observation of the jail as it functions on a typical day.

OPERATIONAL AND MANAGEMENT INSPECTIONS

An **OPERATIONAL INSPECTION** is one which examines facility "operations" such as security, intake and release, medical, foodservices, visiting (personal and professional), mail, discipline, classification, etc.

A **MANAGEMENT INSPECTION** differs from an operational inspection in that a management inspection is one where critical "management" issues (as opposed to "operational" issues) are reviewed, inspected or audited. The matters addressed here are related to management's responsibility to direct, supervise and train its staff. This is done through the issuance of policies, procedures, plans, directives and post orders.

The management inspection is a detailed, extensive and exhaustive review which may address issues such as adequacy of policies, procedures and post orders, methods by which they are written and distributed, and their accessibility to staff. It also examines the secondary documentation which demonstrates that the written policies and procedures have been instituted and are an on-going part of the operation.

A management inspection may assess staff training. In those states with mandatory training, it may call for the inspector to coordinate with the state training authority to ensure that the requirements are met.

Generally, the management inspection occurs at the jail, but at least some of the review can be done in preparation for the on-site inspection.

It is important to combine the physical plant, management, and operational inspections to get a clear picture of the facility operations on a given day, and over time.

OTHER TYPES OF INSPECTIONS

COMPLETE and **PARTIAL INSPECTIONS** are what their titles imply. A complete inspection means that the facility is inspected and audited according to all the applicable standards. A partial inspection means that the jail is inspected using only selected standards.

There are several reasons for a partial inspection. One is when the inspection agency does not have the time or staff to do complete inspections. Another may be to assess compliance with particular standards where the agency was previously in non-compliance. Sometimes an agency may ask for technical assistance in a particular area which may begin by assessing that area by a partial inspection.

The inspector may be called upon to investigate prisoners' **GRIEVANCES/COMPLAINTS**. These may include complaints made to judges or the Governor and are referred to the jail inspector. When they are handled by the jail inspector, he must do so within the scope of his authority. He must also be mindful of his responsibility either to report the grievance or complaint, attempt to bring it to a settlement, or refer it to an appropriate authority.

Few inspectors conduct **FINANCIAL AUDITS** primarily because this does not involve a typically "correctional" function. Also, the inspector is not normally qualified to conduct such an audit.

Sometimes standards do address commissary accounts or inmate funds, and a brief review of financial procedures may be required. When facilities have work release programs, there may also be some need for the inspector to review accounts. In these cases the inspector is cautioned to know his technical limitations.

Review Questions

▶ Match the type of inspection with the description.

Types.

Physical Plant
Operational Management
Complete
Partial
Complaints/Grievances
Financial

- a. This type examines staff training _____.
- b. This type may include a check for fire safety equipment or for a second means of egress from a facility _____.
- c. This type may include an inspection of emergency lighting fixtures _____.
- d. This type includes an inspection based on all applicable standards _____.
- e. This type includes discussions with jail staff and inmates as to the general conditions of the facility _____.
- f. This type examines facility practices in areas such as intake, visiting, etc _____.
- g. This type is a detailed, exhaustive and extensive review of agency documentation _____.
- h. This type may include a review in preparation for the on-site inspection _____.
- i. This type may be necessitated by a request for assistance _____.

DOCUMENTATION

A noted expert in the field of correctional liability often said that the three most important things to do to prevent a successful lawsuit were to **DOCUMENT, DOCUMENT and DOCUMENT.**

In the "good old days" of corrections, managers had a rather free rein on their facilities and programs. It was typical to have little in the area of written policies and procedures, post orders or directives.

When lawsuits arose, correctional administrators were parading in and out of court completely unable to prove their practices were constitutional. The result was a string of losing cases leading to the Case Law governing corrections today.

The clear lesson learned from these cases was if a correctional administrator did not have written policies and procedures, and could not demonstrate they were in practice, he would be increasingly subject to successful liability suits.

Thus, there was the movement in corrections to develop the necessary **DOCUMENTATION** to direct and train the staff in their duties.

Today most state standards, and certainly national standards, require written policies and procedures. Also, most state inspection agencies require supporting documentation to prove the standards are implemented.

What then is meant by the term "**DOCUMENTATION**"?

Documentation is generally divided into **PRIMARY** and **SECONDARY DOCUMENTATION.**

While there are no legal definitions distinguishing the terms, **PRIMARY DOCUMENTATION** is generally of a higher order. It demonstrates the agency's **INTENT** to implement what is necessary to meet a standard. Primary documentation may include written policies, procedures, post orders, emergency plans, directives, and fire and health inspection reports.

SECONDARY DOCUMENTATION is that which verifies that policies and procedures are being implemented. Secondary documentation may include such items as weekly sanitation and fire inspection reports, work orders, incident reports, logs, correspondence, sanitation and pest control contracts, thirty day menus, training records, etc.

While many agencies offer documentation, it is important for the inspector to ensure that the documentation is sufficient to demonstrate compliance with a standard.

Questions regarding the quality of documentation include:

- If a written policy and procedure is offered, does it fully meet the requirement of the standard?
- If one is looking at logs, are they consistently and completely accomplished?
- If weekly sanitation inspection reports are required, does the documentation offered indicate that they have been accomplished weekly since the last inspection?
- If a monthly check of fire extinguishers is offered as documentation, are they complete and are they being done monthly?
- Are all documents signed and dated?

The point to be stressed is that it is not good enough to trust **VERBAL ASSURANCES**. The inspector is duty bound to verify compliance with standards on a continuing basis, and the basis of that proof is **DOCUMENTATION, DOCUMENTATION, DOCUMENTATION**.

Review Questions

► *The development of documentation in corrections was in part due to increasing numbers of court suits.*

True or False.

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► *Indicate which of the following are primary or secondary types of documentation.*

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a. Policies and procedures

b. Post orders

c. Incident reports

d. Emergency plans

e. Fire Inspections

f. Work orders

g. Menus

h. Directives

i. Logs

► *The adequacy of documentation may be that the function documented is routinely and substantively accomplished.*

True or False.

5

► *Verbal documentation is sufficient to prove compliance with standards.*

True or False.

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DATA COLLECTION

At the state level, the jail inspection agency is often the focal point for all matters dealing with jails.

State officials from the legislature, the Attorney General's Office, Department of Corrections, Health Department, Fire Marshal's Office, etc. have interests and concerns regarding jails.

There are also many and varied public interest groups and individuals having concerns about jails. They may include the League of Women Voters, Association of Counties, Sheriffs Association, Jailers Association, Bar Association, etc.

The concerns of these persons point to the need for information for comparative data, budgeting, planning, construction and the development of public policy issues.

While the collection of data may not be within the mandate of the jail inspection agency, most collect basic information to be able to answer the questions of interested parties.

This may seem like an unnecessary burden. However, if the jail inspector is concerned with the positive change for jails, he must advocate for it. And a principle means to do so is the collection and dissemination of information.

The ultimate use of data may be the passage of laws which benefit jails. Laws passed in several states which have benefitted jails include:

- state funding for jail construction;
- passage of good time laws;
- authorization for community work programs;
- funding for community corrections programs;
- mandated training for jailers;
- diversion programs for the mentally ill; etc.

In addition, information is important for the jail manager so that he may be able to:

- determine and justify staffing needs;
- determine program and service needs;
- project future capacities and plan for expansion;
- determine the impact of proposed policies such as sentencing; and,
- forecast the impact of alternative policy choices.

Review Questions

► Data collection is important in which of the following instances.

- a. To justify and determine staffing needs.
- b. To determine the placement of exercise equipment.
- c. To assess the proper time for sick call.
- d. To develop budget requests.
- e. To project future jail capacity.
- f. To project renovation or construction needs.

► Collection of data, while not necessarily mandated by statute is a means to develop information which could further the interests of jails.

True or False.

► Data is important for the development of public policy issues.

True or False.

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THE INSPECTION PROCESS

At the heart of any standards program is the **INSPECTION**.

It is important to keep in mind that each state has its own methods of conducting inspections. It would be impossible to describe every states' methods. What follows is a description of those elements which may be included in an inspection.

There is not one prescribed method of conducting an inspection. In fact, each inspector may develop his own methods. The key to a successful inspection process is that it be **RIGOROUS AND THOROUGH**.

There is a **PRE-INSPECTION PROCESS** in which the inspector must prepare for the inspection. In some states inspections are **ANNOUNCED**. For announced inspections it is important that jail staff responsible for overseeing the standards compliance process be available to facilitate the inspection.

Preparation for the inspection includes a review of: previous inspections; compliance monitoring reports; reports of fire and health inspections; reported incidents; data collected since the last inspection; newspaper accounts; grievances; etc.

In the case of **UNANNOUNCED** inspections, it is necessary to prepare in the same manner.

Upon arrival at the facility, the inspector should conduct an **ENTRANCE INTERVIEW** with the jail administrator and any other official who will be involved in the inspection. The purpose is to discuss the scope of the inspection, set an agenda of activities, and request certain information to update the last inspection such as accomplishments, renovations, changes in policy or the like.

The entrance interview allows for an exchange of information and clarifies any outstanding issues prior to the actual inspection. A **CHECKLIST** for this activity (and any other similar routine activity in the inspection process) may be helpful, especially if the information to be gathered is to be used in an inspection report.

The **INSPECTION** should consist of a **PHYSICAL PLANT INSPECTION** to include:

- a tour of the facility and grounds;
- discussions with staff and inmates;
- examination of written policies and procedures, post orders, inmate rules and regulations, notifications to visitors, essential forms for booking, release, classification, medical request forms, etc.
- a check of fire extinguisher tags, airpack tags, emergency lighting, emergency exit routes, backup generators, security devices, locking mechanisms, and cleanliness; and
- a check of conditions of confinement such as crowding, food services areas, medical areas, visiting, intake, general housing, indoor and outdoor exercise areas, etc.

A **MANAGEMENT AND OPERATIONAL INSPECTION** should include a **THOROUGH** and **EXHAUSTIVE REVIEW** of all documentation offered to demonstrate compliance.

The importance of the **PHYSICAL PLANT, MANAGEMENT AND OPERATIONAL INSPECTIONS** is that the physical plant inspection takes a "snapshot" of the facility on the day it is inspected. The management and operational inspections allow the inspector to verify that standards are addressed on an on-going basis. Together they will ensure a thorough and complete inspection.

After the on-site inspection is concluded, there should be some form of **EXIT INTERVIEW** to present preliminary findings, request additional information, and address any questions that the jail administrator may raise.

The next step in the inspection is issuing the **REPORT** where a formalized list of findings of compliance and non-compliance is reported. Some agencies leave a checklist at the jail. In some cases this may be a final report and in others it may be preliminary. Where it is a preliminary report, it probably means that the report must be reviewed at a higher level, eventually to be approved by a Board, Commission, or an official such as the Commissioner of Corrections. The final report can be a checklist, a formal written report or a combination of both.

Where there are deficiencies, a **COMPLIANCE PLAN** should be developed and included in the final report. A compliance plan is a formalized listing of deficiencies which may include a statement of what is required and a compliance date.

Methods for ensuring compliance depend upon the authority the state gives to the inspection agency. Some states' standards are mandatory, some advisory. Where they are mandatory, such a term implies that corrective action must be taken. Such is not the case with an advisory program.

Regardless of the authority of the inspection agency, a compliance plan is a useful tool for the inspector to assist the agency toward full compliance. It also gives the inspector **DOCUMENTATION** of **HIS WORK** should he be required at some later time to demonstrate that he performed his duties.

A final step in the inspection process is one which many jail inspectors do not consider, but without it, the process is incomplete. That step is **COMPLIANCE MONITORING**. Compliance monitoring uses the compliance plan as its basis. The length of compliance monitoring depends upon the degree of non-compliance with standards.

Those facilities in substantial non-compliance will require considerable time to correct their deficiencies. Those facilities in substantial compliance may need very limited compliance monitoring as they may be able to correct deficiencies quickly.

Regardless, without a compliance monitoring phase, the inspection process would not be complete.

A final word needs to be said about the inspector's **TECHNICAL ASSISTANCE** role.

The very nature of an inspection implies the finding of deficiencies. For the inspector, the creative part comes when the agency needs assistance in correcting the deficiencies. The inspector can be most helpful as he sees other jails which have corrected the similar deficiencies. Or, he has assisted others in solving similar problems. This is especially true when operations need to be changed, or policies and procedures need to be developed.

In summary, the **INSPECTION PROCESS** is at the heart of the standards program. It is the main vehicle by which we can objectively assess the performance of jails. The standards and inspection program is all about positive change from within the correctional system, and the inspection is a basic part of that positive change.

Review Questions

- ▶ The inspection process is the one process which is uniform across the various states.
True or False.
- ▶ The key to a successful inspection process is that it be _____ and _____.
- ▶ An element of the pre-inspection process is that it is either announced or unannounced.
True or False.
- ▶ An element of the pre-inspection process is the review of previous inspections and compliance monitoring reports.
True or False.
- ▶ In the pre-inspection process a _____ may be a helpful tool in ensuring that all items are covered.
- ▶ A complete inspection can be made on the basis of a physical plant inspection alone.
True or False.
- ▶ A _____ is a formalized listing of deficiencies with dates for correction.
- ▶ _____ is the process whereby the inspector monitors the progress of a jail toward full compliance with standards.
- ▶ Technical assistance is a role which the inspector may need to fill in advising an agency in the process of compliance with standards.
True or False.
- ▶ Arrange the following parts of the inspection process in the order from first to last.
 - _____ a. Compliance Plan
 - _____ b. Pre Inspection Process
 - _____ c. Exit Interview
 - _____ d. Entrance Interview
 - _____ e. Physical Plant/Management Inspection
 - _____ f. Compliance Monitoring

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CHAPTER THREE

ANSWER KEY

1. False. It varies from state to state depending on the authority of the inspection agency.
2. Compliance Plan
3. True
4. b, d, e, c, a, f
5. True
6. True
7. False
8. a, c, d, e, f
9. True
10. True
11.
 - a. Management
 - b. Physical Plant
 - c. Physical Plant
 - d. Complete
 - e. Physical Plant
 - f. Operational
 - g. Management
 - h. Operational
 - i. Partial
12. True
13. Internal Inspections
14. True
15. Good Faith
16. True
17. Compliance Monitoring
18. False. A Management and Operational Inspection is needed in conjunction with a Physical Plant Inspection.

19. True
20. Compliance Plan
21. Rigorous and Thorough
22. False. Verbal "documentation" is not sufficient to prove compliance.
23.
 - a. Primary
 - b. Primary
 - c. Secondary
 - d. Primary
 - e. Primary
 - f. Secondary
 - g. Secondary
 - h. Primary
 - i. Secondary
24. Professionalism
25. Checklist

CHAPTER FOUR

FACILITY DESIGN AND ITS IMPACT ON OPERATIONS

OVERVIEW

Because of many antiquated facilities in this nation and the overcrowded conditions of most, considerable jail construction is occurring.

Jail inspectors are often the first persons to identify inadequate facility conditions. Reasons for that inadequacy may include deteriorating physical plants or design problems which inhibit staff supervision.

Often inspectors are asked to provide information and advice on design of new facilities. In some states the jail inspection office has review authority on jail design since the state provides funds for construction or renovation, or it has jail construction standards. It is important for the jail inspector to be knowledgeable about the latest concepts of design and its impact on correctional operations.

There are too many stories where counties have made tragic mistakes in the design and construction of their new facilities. In some jurisdictions, poor planning has led to the need for further construction shortly after the new facility opened. In others, the new facility has been declared unconstitutional before it even opened.

Fortunately, these stories are fewer today, perhaps due in part to jail inspectors who have advised counties on the reasonable steps to take in planning their new facilities.

The inspector does not have to be a jail planner, architect, or construction manager. However, knowledge of the latest principles of jail design and the availability of resources will enable the inspector to serve as a consultant to the local jurisdiction.

This chapter addresses the important marriage between design and its impact on providing supervision which meets constitutional standards. Further, the necessary components of jail functioning such as housing, support, intake, program and administration are addressed. Discussion regarding separations and custody levels are followed by the notion of capacity setting.

PERFORMANCE OBJECTIVES

AT THE CONCLUSION OF THIS CHAPTER THE STUDENT WILL BE ABLE TO:

1. Identify correctional design concepts including Linear, Podular (Direct and Indirect), and Centralized versus Decentralized spaces.
2. List eight principles of the direct supervision concept of jail design.
3. Identify nine components of a facility and explain their importance to the correctional operation.

4. Explain the necessity for the separate housing of males and females, and adults and juveniles, in terms of legal requirements and practical correctional operations.
5. Identify the variety of custody levels to be considered in jail construction when considering the functions of the jail and the costs of building jail beds.
6. List several considerations in deciding the capacity of a planned jail, and methods by which to derive at such a decision.

MAJOR JAIL DESIGN CONCEPTS

Facility design has always been a concern for correctional professionals. This concern is for the effective management of and programming for prisoners.

Design principles have evolved over the years. For convenience, three major design concepts can be identified. They are: **LINEAR**, **PODULAR REMOTE** and **PODULAR DIRECT**.

Often the inspector will see components of each design type in a new facility, but facilities are generally built with one of the concepts predominating.

LINEAR

LINEAR (also called **INTERMITTENT SURVEILLANCE**) is the most common design concept in jails designed before the 1970's. It consists of corridors with single or multiple occupancy cells arranged at right angles to the corridor. Often there will be a security corridor around the cells for the officer to make his rounds.

The term **INTERMITTENT SURVEILLANCE** comes from the fact that the officer will make rounds periodically or intermittently, so that he can see into the cells and conduct counts. This design concept poses a unique difficulty apparent to anyone who has worked such a tier. That is, when the officer is observing one cell or group of cells, he cannot observe others. This creates a situation where predator inmates can exercise control over other prisoners.

Undoubtedly, many suits brought today are because of the linear design since they do not allow for effective supervision. It results in incidents such as suicide, brutality, etc.

The critical variables which determine the effectiveness of a linear jail are staffing, the frequency and thoroughness of patrols, and the proper classification of prisoners.

Review Questions

▶ *Another term for a linear design is _____.*

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▶ *The term "linear design" comes from the fact that such jails are designed with cells in "line", with a security corridor around them.*

True or False.

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▶ *Effective supervision is possible in a linear jail because the officer is able to observe all inmates simultaneously.*

True or False.

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PODULAR REMOTE

PODULAR REMOTE means that housing areas are divided into manageable sized units or "pods". In a typical pod, there are single cells clustered around a common area and a secure control booth from which an officer observes inmate activity.

General housing units rarely exceed a design capacity of more than 50 although many of these units are double celled after they are built. Higher levels of security may dictate that units are divided into sub units of eight to ten cells each. To the other extreme, dormitories may be designed for fifty or so minimum security or work release prisoners.

From secure observation booths, staff has minimal interpersonal contact with prisoners and reacts to negative behavior by calling for assistance.

The advantage of this type unit over the linear is that the officer can observe prisoners constantly. It can be argued that the officer's presence, although remote, may be sufficient to deter negative behavior.

As with any type of design, the key to housing effectiveness is proper classification. An effective classification system will go a long way toward ensuring the effectiveness of a podular remote design.

Review Questions

- ▶ *In a podular remote housing unit, the officer observes the inmates from _____.*
- ▶ *One advantage of podular remote over the linear design is that the officer _____.*
- ▶ *The podular remote housing design facilitates interpersonal contact between the officer and the prisoners.
True or False.*
- ▶ *The podular remote housing unit will be made effective through proper prisoner classification.
True or False.*

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PODULAR DIRECT

The third design category is **PODULAR DIRECT (DIRECT SUPERVISION)**.

This differs from podular remote design in that the officer is actually located in the housing unit with the prisoners. Like podular remote, it is more effective than the linear in that the officer is able to directly observe the prisoners while they are in the common areas.

A typical unit will have 40-50 prisoners. It is the officer's responsibility to control the inmates' behavior, keeping negative behavior to a minimum, reducing tension, and encouraging positive behavior.

Classification is the key to direct supervision. If a prisoner acts out or cannot handle the relatively relaxed atmosphere of the direct supervision unit, he may be housed in a more secure unit.

Typically, direct supervision units are designed with a more comfortable environment which is less expensive to build (although there are direct supervision jails built without such amenities). The underlying notion is that people react to their environment. If there is control by staff, prisoners will be less likely to vandalize cells and common living areas.

A discussion of the necessary principles for an effective direct supervision jail follows. Suffice it to say that direct supervision will not just happen. It takes commitment and dedication to make it work.

Review Questions

- ▶ *Podular direct differs from podular remote in that the officer assigned to a podular direct unit is _____.* 16
- ▶ *The podular remote and podular direct housing units share the common design principle which allows for constant supervision of prisoners.*
True or False. 5
- ▶ *Which of the following is not a responsibility of the officer in a podular direct housing unit.*
 - a. *Reducing tension.*
 - b. *Keeping negative behavior to a minimum.*
 - c. *Conducting disciplinary hearings.*
 - d. *Encouraging positive behavior.*18

CENTRALIZED AND DECENTRALIZED SPACES

In addition to the three design concepts described above, there is another design consideration in new jails. That is the concept of **CENTRALIZED** and **DECENTRALIZED SPACES**.

This means that there are options in planning programs. If the facility is podular remote or direct (as are most jails being built today), one can choose to bring all services and programs to the units, bring the prisoners to the services and programs, or have a combination of each.

The basic considerations in choosing centralized or decentralized services or programs, are facility and manpower costs, and the efficiency of limiting inmate movement.

Providing most services and programs in the units limits inmate movement. The programs offered in the units may include exercise, recreation, food, commissary, laundry exchange, medical, counselling, self-help, and religion. Even secure visiting units adjacent to the pods can be designed without allowing visitors to enter the jail's security perimeter.

To choose centralized or decentralized programs and services or a combination of both, is a management decision. It has to be made by those responsible for the design of the facility.

Review Questions

- ▶ *One reason for choosing decentralized services is the efficiency of _____.*
- ▶ *Facility and manpower costs are two important considerations in choosing either centralized or decentralized services or programs.
True or False.*
- ▶ *In most cases the design for decentralized spaces is preferred over centralized spaces.
True or False.*

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PRINCIPLES OF DIRECT SUPERVISION

In order to be effective, direct supervision requires a **COMMITMENT** to certain principles. If there is not a commitment, the direct supervision design concept should not be used. Those principles are examined below.

PRINCIPLE ONE: EFFECTIVE CONTROL

Effective control is the goal of any jail and is essential to a direct supervision jail. Prisoners are never to be left in control of a housing unit for any period of time. They must be **CONSTANTLY SUPERVISED**.

Prisoners must be divided into controllable groups of about fifty or less. In some cases, direct supervision jails have increased the population of units by double celling. In these cases, teams of two officers should be considered.

Units should be designed so that all areas are easily surveillable. This will prevent the likelihood of prisoners controlling parts of the pod while the officer is surveilling others. Further, it will cut down or even prevent vandalism.

Finally, direct supervision can work since it requires the prisoner to maximize his internal controls by not manipulating the environment.

PRINCIPLE TWO: EFFECTIVE SUPERVISION

Direct supervision is based upon the premise that the **OFFICER CONTROLS AND SUPERVISES** all aspects of the unit operation.

The unit should be seen as the "officer's space". He should not have to contend with non-compliant prisoners.

The officer needs to lead without being a "dictator", and he should be constantly supervised to ensure that policies and procedures are being implemented fairly and consistently.

PRINCIPLE THREE: NEED FOR COMPETENT STAFF

If a county is not committed to this principle, direct supervision will not work.

It is essential to recruit qualified staff and to orient them to the concept. The officer should have the ability to relate effectively to people, become a leader and learn the skills of his position.

Training is also important because it will not just happen.

An issue important to this principle is the concern for and training of existing staff. Often the greatest opposition to direct supervision is from officers who feel uncomfortable with direct contact with prisoners. If the existing jail is linear, the officers have developed a detached mode of supervision. The thought of being placed in a unit without physical barriers can be most threatening. Without a doubt, it requires totally different skills.

While the concerns of these officers must be addressed, one should always consider that they may have excellent "people" skills and can be won over to the concept. Methods to consider are tours to other direct supervision jails and their involvement in the training of new officers.

PRINCIPLE FOUR: SAFETY OF STAFF AND INMATES

Personal safety is a basic concern of anyone working or living in a jail.

Much of the violence in jails today revolves around the issue of safety. If an inmate is assured that he will be safe, he is less likely to act out. Officers will also be more effective as leaders if they feel their safety is assured and that safety is a continuing concern of management.

PRINCIPLE FIVE: MANAGEABLE AND COST EFFECTIVE OPERATIONS

A direct supervision jail may be less costly to build because less secure furnishings may be used. The notion is, and it has been proven in fact, that there is less vandalism in a direct supervision jail if operated in accordance with these principles.

The major note of caution here is that there will be less vandalism if the supervision is effective. If not, the design savings can become a redesign nightmare, and replacement of furnishings and fixtures can be most costly.

PRINCIPLE SIX: EFFECTIVE COMMUNICATION

In addition to training in effective communication skills, direct supervision requires frequent communications between staff and inmates. It is also most important for staff to communicate effectively and often with each other.

Anyone experienced in jail operations knows that different shifts operate differently. The inconsistency in operation may mean that staff is not communicating. While direct supervision may not eliminate this entirely, it is important for staff to communicate and consistently apply policies and procedures. Perhaps an effective way to ensure this is to arrange staff around a "team" concept. Periodic meetings of teams will add to the effectiveness of their communications and consistency of operations.

PRINCIPLE SEVEN: CLASSIFICATION AND ORIENTATION

Any prisoner assigned to a direct supervision pod should be oriented as to what is expected of him and what to expect **BEFORE** assignment. In addition, there should be an effective classification system for housing assignments.

If a prisoner cannot handle the direct supervision environment, there should be alternative housing available.

PRINCIPLE EIGHT: JUSTICE AND FAIRNESS

The sum total of the preceding principles lead to the eighth principle: justice and fairness.

Our system of government is based upon these principles and society in general expects that its governmental agencies practice them. The United States Constitution requires fairness in its prohibition against cruel and unusual punishment and in its requirement for due process.

These Constitutional requirements can be exhibited in a direct supervision jail if all the elements and principles discussed in this chapter are present. That does not mean that anything other than a direct supervision jail is unconstitutional. But if properly implemented, staffed and managed, a direct supervision jail can ensure the principles of fairness and justice.

These principles and dynamics of direct supervision are necessary and should be considered very carefully if an agency is to design such a facility. If there is not a **COMMITMENT** to these principles, then alternative designs should be pursued because it is difficult to retro-fit or to operate a jail designed for direct supervision in a remote manner.

Review Questions

► 13. Match the principle with the description.

- a. Principle _____ . This relates to the need for communications between staff and inmates.
- b. Principle _____ . This relates to the need to provide for an environment where staff and inmates are not fearful.
- c. Principle _____ . This relates to the need to prepare prisoners for assignment to direct supervision units and the need to ensure that they are assigned to them appropriately.
- d. Principle _____ . This requires the staff to always be in charge of a unit and to never let the prisoners exert authority over other prisoners.
- e. Principle _____ . This relates to the need for staff which are recruited for their ability to work well in a direct supervision unit and the need to train them in the principles of direct supervision.
- f. Principle _____ . This relates to the notion that a direct supervision jail experiences less vandalism if operated in accordance with the principles of direct supervision.
- g. Principle _____ . This relates to the need to operate a jail in accordance with Constitutional guarantees of due process and freedom from cruel and unusual punishment.
- h. Principle _____ . This relates to the benefits of having "team" operations to better coordinate the operation of a unit.
- i. Principle _____ . This relates to the unit being the officer's "space" and not having to contend with a prisoner who will not obey all lawful orders.
- j. Principle _____ . This relates to recognizing that existing staff may resist direct supervision as they may be more comfortable distancing themselves from prisoners.

COMPONENTS OF A CORRECTIONAL FACILITY

Correctional facility design includes several service and program components. Most older jails do not have these components (such as intake) built in to the facility even though the jailers are attempting to operate these functions.

Most older jails were built as lock-ups. It is important to remember that most were built in the "hands-off era" or during the transition period to the "era of judicial intervention."

With the involvement of the courts in correctional affairs, several prisoner rights evolved as well as the need for classification and separation of prisoners. Many of these had implications for jail design and operations.

Most jails, regardless of when they were built, provide for intake, release, personal and professional visiting, and the provision of many services such as food and medical. And regardless of their size, there is the need to separate prisoners based upon behavioral and legal requirements (juveniles, males/females, and in some states pre-trial/sentenced).

The problem faced by most jail administrators is that they must operate jails which were not designed with these operational considerations in mind.

With the establishment of the National Institute of Corrections Jail Center in the 1970's, there was an emphasis placed upon jail planning. This initiative resulted in the production of several manuals and publications addressing jail functions.

The purpose for this initiative was ensure that facility design addressed all the functions which a particular jail would accomplish, and thus allow it to operate as a jail rather than a lock-up.

With this in mind, a listing of the various components of a jail which should be considered in the planning phases is provided below.

INTAKE, PRISONER PROCESSING/AND RELEASE

The intake area is a vital component since all prisoners are processed through it. All too often though, a lack of planning results in too little space given to this important process.

In order to properly plan an intake area, one must consider factors such as: processing time; intake volume and peak time loads; use of intake as a holding area before making first appearance; use prior to classifying a prisoner into the general population; detoxification; suicide watch; and its use for temporary detention of the mentally ill and violent prisoners.

The issues such as adjacency to a vehicular sallyport, gun lockers, interface with the arresting officer (or the lack of same), fingerprinting, alcohol testing, property storage, searching, showering, phones, medical screening, prisoner orientation, classification and release, are all essential to the planning of the intake/release unit.

This simple listing of the functions of this unit is an indication of the importance one should give to its space requirements.

HOUSING

The design of housing units was previously discussed.

Other planning considerations include the need for separating males and females, sentenced from non-sentenced (in some states), and adults and juveniles.

The various levels of security will differ from jail to jail. Most will have some degree of maximum to minimum security levels. Also, many will program in work release beds and even weekender space.

HEALTH CARE

The provision of health care is essential to any jail. Some smaller jails provide it off-site. If it is provided on-site, it is necessary to ensure that adequate space is planned to include considerations for clerical functions, examinations, infirmary beds, storage of medications and supplies, etc.

VISITATION

Each jail must make provision for visitation. Related issues are whether or not to have personal contact visits, the provision for contact visits for professionals, adjacency of the visitation area to the housing units, frequency of visits, etc.

FOOD SERVICES

A first question to ask is whether or not food will be prepared at the facility or contracted. Many small jails contract for food services as it is economically practical. On the other hand, some small jails provide food services to other county agencies such as hospitals and nursing homes. In any event, several issues must be considered regarding the size and the scope of food services.

If it is to be a function of the jail, not only is the planning for the food preparation necessary, but also the related issue of whether inmates are to eat in a central dining area or in their housing units. If the latter is planned, then consideration must be given to how the food is to be delivered to the units.

FACILITY SUPPORT

Often overlooked is space for support services necessary for the smooth functioning of the jail. Issues include laundry, sanitation, maintenance, hair care, commissary, life-safety equipment, trash removal, storage, etc. (How many jail inspectors have ever found enough storage space in a new facility?)

EXERCISE/RECREATION

Exercise and recreation are important jail operation. Issues of concern are the amounts and types of indoor and outdoor programs, whether or not they will be provided as part of pod/housing unit programs, etc.

PROGRAMS

If the jail is to provide programs, the amounts and types are necessary to plan. Most jails provide some sort of programming to include basic education, self-help programs, counselling, religion and the like.

Review Questions

▶ *Many court decisions have facility design implications. Older jails often lack space for these requirements or the space they have is inadequate. List four typical problems which older jails have in this regard.*



a. _____.



b. _____.

c. _____.

d. _____.

The _____ of the National Institute of Corrections began an initiative in the 1970's which attempted to address the problem of new jail planning.

SEPARATE HOUSING ISSUES

It is a matter of law to separate males and females, and adults and juveniles. Additionally, in some states sentenced and non-sentenced prisoners must be separated. Generally, the law requires the housing separation to be of "sight and sound".

Regarding the separation of males and females, there are many different issues of law in the various states. However, it is generally accepted that men and women must be housed separately. While this is the case, they may participate together in work programs (food services and laundry) or attend programs together (education, self-help, counselling).

Where men and women participate in programs, it is the staff's responsibility to constantly supervise them.

The matter of separation of juveniles and adults is one which is seen less and less in jails due to Federal and state initiatives to remove juveniles from jails. The jail inspector may very well come across the issue if he has the authority to inspect police lockups.

SEPARATION OF JUVENILES IS AN ABSOLUTE ONE. That is, if juveniles are housed in the same facility, there can be no mingling for programs, housing etc.

Sometimes children are in jail when they are charged as an adult. This becomes a classification matter where the child's welfare is protected by keeping him in separate housing. In this case, a child may be involved in programs with adults, but as is the case with women, close supervision should be maintained. In the absence of this capability, they should not be allowed to do so.

Another important consideration for the separate housing of juveniles is that it often it places them in isolation. If this occurs, it is important to provide increased supervision, if not constant observation.

When states require the separation of sentenced and non-sentenced prisoners, the inspector must consult the particular statutes or case law as to particulars regarding housing, exercise, participation in programs, etc.

Review Questions

- ▶ *What is meant by the phrase: **THE MATTER OF SEPARATION OF JUVENILES IS AN ABSOLUTE ONE?***

- ▶ *Juveniles are being kept in jails less due to _____ and _____ initiatives.*

- ▶ *Since men and women must be housed separately from each other they may not participate in programs together.
True or False.*

- ▶ *Often the result of separation of juveniles from adults results in the juvenile being isolated.
True or False.*

- ▶ *The separation in housing of males from females and adults from juveniles is by " _____ and _____".*

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CUSTODY LEVELS AND CONSTRUCTION COSTS

It is no surprise that the cost of jail construction has sky-rocketed. Add the fact that over a thirty year period the costs of jail operations will be ten times the construction costs. Thus, a five million dollar jail will cost fifty million dollars to operate over the next thirty years.

Figures of up to \$70,000.00 per maximum security bed are often cited. But no matter what the cost, it is important to accept the principle that the costs of a well planned jail can be reduced with careful analysis of the types of persons to be incarcerated, local criminal justice policy, and the types of programs to be offered.

Most county officials have never planned for a jail, and most who do will never do so again. It is not uncommon, therefore, for public officials to want to be "hard on crime" and demand a maximum security jail.

The jail inspector may be consulted on matters such as this and can be a valuable resource.

Most officials become very reasonable in listening to alternative types of security levels when they learn the costs of building a "hard" jail. Such costs are driven by the need for sophisticated equipment and furnishings which are vandal-proof and add to the security and control in the facility.

Expensive equipment includes stainless steel washbasins/toilets and furniture, sliding steel doors, higher grade windows and lighting fixtures, locks, etc. The reverse is true of living space for lesser security classifications in that more conventional and less costly institutional furnishings and equipment can be used.

County officials can be convinced that a jail which protects the public through a secure perimeter can have a variety of security levels within that perimeter. Once this is done, a careful analysis of who the jail will house and the types of programs to be offered will dictate the levels and numbers of beds for each.

The options include: **MAXIMUM SECURITY** cells for special management inmates, disciplinary cases, protective custody, etc; **MEDIUM SECURITY** cells for general population prisoners needing less supervision but still maintaining the opportunity for separate housing; **MINIMUM SECURITY** cells for inmate workers; and **MINIMUM SECURITY (OUTSIDE THE SECURE PERIMETER IS OPTIONAL)** for work release prisoners and those on weekend incarceration.

One can possibly list other options based upon the particularities of the state, but generally most jail classifications will include those noted above.

A new jail will include beds and cells at all security levels. In order to determine the right mix of what is needed calls for a study of the:

- types of prisoners to be housed (pre-trial, sentenced, male/female, mentally ill, detox, etc);
- programs to be offered (work release, weekenders, short/long term, etc); and,
- the model of supervision (Direct or Indirect).

Review Questions

► List four types of furnishings or equipment which drive up the cost of "hard cells".

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

► To properly assess the security level of beds and cells needed in planning jail, what are three variables which should be considered?

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

► The costs of jail construction increase dramatically if most of the planned beds are for what level of security?

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JAIL CAPACITY PLANNING CONSIDERATIONS

It is not uncommon for a county to pre-determine the number of beds it will need. Often these are based upon a fixed dollar which the county can borrow. Often it is as unscientific as projecting a need based upon the recent average number of prisoners plus a "fudge factor" taking into consideration growth and assumptions about the future.

While those making such estimates may be right, there are several methods which can be used to justify the size of the jail and the custody levels needed. However, even the most scientific study is fraught with difficulties because several intervening factors can present themselves between completion of the planning period (average of five years) and the move into the new jail. An example of such an intervening factor is the change in public attitudes and awareness of drunk driving.

There are methods though which can assist the county planners. It is not the intent here to make the jail inspector proficient in this discipline, but to make him aware of the process.

In order to determine their capacity needs counties need to look at such factors as:

- Monthly Detention Days Served
- Monthly Admissions to the Facility
- Monthly Total of Inmates Held
- County Population Census and Projections
- Forecast Assumptions (changes in system policy, new actors in the system, changes in the economy, changes in county demographics, changes in laws)
- Data Samples of Current Population

Once gathered, these statistics can be computed to arrive at a reasonably accurate number of jail beds needed. The point to be made is that there are means by which to arrive at reasonable projections for anticipated jail space.

An additional reason to follow this process is that it is easier to justify the spending of taxpayer dollars if the jail space projections are based upon an accepted process of projections.

The jail inspector is not expected to be a planner but often, in the process of identifying deficiencies, he is a prime mover in a county's decision to plan for a new jail. It is quite natural then for the county to look to the inspector to assist in such issues as were addressed in this chapter.

A basic knowledge of the principles and practices of jail planning and facility options was addressed in this chapter. The inspector is encouraged to seek out particulars as time goes by so that he can be a better resource to county officials.

Review Questions

- ▶ A change in public policy such as public attitudes about drunk driving can dramatically affect jail planning efforts.

True or False.

- ▶ List four variables or factors which the National Institute of Corrections suggests can be studied in arriving at jail population projections.

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

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CHAPTER FOUR

ANSWER KEY

1. **False.** It is a decision which must be made by managers who must decide HOW the facility is to be operated.
2. **False.** The officer has minimal contact as he is "remote" and in a secure control booth.
3. Types of programs
Types of prisoners
Model of Supervision
4. Federal and State
5. **True**
6. **True**
7. Lack of separation for males/females
A lack of separation for juveniles
Inadequate professional visitation
Lack of or inadequate intake space
Lack of health care space
Inadequate indoor/outdoor exercise space
Life-safety conditions
Lack of program space
8. Has continuous observation of the prisoners
9. **False**
10. Intermittent Surveillance
11. Limiting inmate movement
12. A secure control booth
13.
 - a. Principle Six: Effective Communication
 - b. Principle Four: Safety of Staff and Inmates
 - c. Principle Seven: Classification and Orientation
 - d. Principle One: Effective Control
 - e. Principle Three: Need for Competent Staff
 - f. Principle Five: Manageable and Cost Effective Operations
 - g. Principle Eight: Justice and Fairness
 - i. Principle Two: Effective Supervision
 - j. Principle Three: Need for Competent Staff

14. Stainless steel toilets/furniture/washbasins
Higher grade windows (glazing)
Sliding steel doors
Lighting fixtures
Locking mechanisms
15. Sight and sound
16. Located within the housing unit
17. **True**
18. c. This would generally be done by a higher authority after being referred or reported by the correctional officer.
19. **False.** The officer can only observe inmates when he tours the catwalk and cannot observe all the inmates at the same time.
20. It means if juveniles are housed in a jail they must be housed separated by sight and sound and cannot participate in programs with adults.
21. **True**
22. Jail Center
23. **True**
24. **True**
25. Maximum Security
26. Days served
Admissions to the facility
Total inmates held monthly
County population projections
Forecast assumptions
Data samples of the current jail population

CHAPTER FIVE

COMMUNICATIONS

OVERVIEW

The jail inspector must develop or expand his capacity to communicate with a variety of persons under a variety of situations.

It is necessary to develop an ability to communicate verbally with the sheriff, jail administrator, correctional officers, prisoners, county officials or the like. Often different styles are needed depending on the type of, or reason for the communication, ie. investigations, testimony, negotiating, media interviews, conflict resolution, etc.

Much of the inspector's legacy is what is written, be it letters, reports, or suggested policies and procedures. The importance of these historical documents is underscored by their potential use many years later in litigation or as the basis of planning for a new facility. The inspector needs to develop skills of clarity and conciseness, and the use of objective language.

The inspector uses consulting skills almost daily. However, his role as a problem identifier does not stop there. It is necessary to have the ability to advise jail staff on what needs to be done to correct an identified deficiency.

This chapter focuses upon these important interpersonal and written communication skills. Its purpose is not to preclude the new inspector's need to attend professional development seminars in this area. Its intent is to bring to mind that much of his skills are based around his ability to communicate clearly with all those with whom he comes in contact.

PERFORMANCE OBJECTIVES

AT THE CONCLUSION OF THIS SESSION THE STUDENT WILL BE ABLE TO:

1. Identify deficiencies in various types of written communications to include reports, letters, and policies and procedures.
2. Describe the need for and demonstrate the ability to write with clarity and conciseness.
3. Distinguish between objective and subjective language in written reports.
4. List (several) important elements of an interview and an investigation.
5. Identify five negotiation tactics (conflict resolution strategies) and the appropriate situation in which to use each.
6. List (several) principles and practices to use in dealing with the media.
7. List and explain the role of the inspector as a consultant.

DEFICIENCIES IN WRITTEN COMMUNICATIONS

Most people will generally agree that any type of written communication will require **CLARITY** and **CONCISENESS**. While they nod their agreement, they will go back to the office and write something like the following.

One of the major issues, based upon our evaluation and that of Albert Sampson of Pythier County, involves the custody, security and control of the facility. The architectural design was a concept of angles to a considerable degree which, in addition to being costly and spatially dysfunctional, exacerbates the requirement of staff observation of prisoner movement and activity. In addition, the location of the control center is questionable. Not only is it distantly separated from the main entrance, but it poses some problems due to its proximity to inmate housing areas and the two level configuration which will necessitate additional personnel to staff the post. Another major consideration involves the need for an override system in case the control center is ever surrendered, lost or otherwise given over to the inmate population. The same staffing difficulties present themselves in the area of the female control center area. If such control center were positioned or situationally located in or near to the corridor rather than the interior of the structure, it would serve the dual purposes of housing and corridor security. In addition, the need to physically transport unruly or sick inmates up and down the stairs and around narrow corridors will pose more security problems.

Obviously this written communication, if grammatically correct, is confusing and violates the principles of clarity and conciseness. It contains many useless words and phrases and is confusing. It requires more than one reading and may possibly lead the reader to the wrong conclusions about its intent.

The reason people communicate this way is a mystery. One can only suppose that they are trying to impress others. The result is confusion, and failure to achieve the objective of communication, which is the transfer of ideas and messages.

The inspector is expected to communicate in many different forms. Perhaps his legacy is in his written communications. He may write letters, reports, recommendations, clarifications, and interpretations. He may be asked to assist a jail administrator in the development of a procedure or to develop training materials. In any event, his writing has very important legal, historical and practical considerations.

BASIC RULES OF WRITTEN COMMUNICATIONS

In order to write more effectively, we can look to some simple rules which were violated in the above cited excerpt.

The first rule is **KEEP IT SIMPLE**.

Look at the following words and attempt to define each:

SUPEREROGATION
SUPERFLUITY
SURPLUSAGE

They have basically the same meaning! But only 3% of persons can define supererogation, 10% can define superfluity, and 25% can define surplusage. If the word surplusage was in a letter, 75% of the audience would be excluded from the message. Would more people have understood it if words such as "excess" or "too much" were used?

The second rule is **AVOID ARTIFICIAL EXPRESSIONS**. Often we use phrases such as "make an attempt" when we really mean "try", or "at this point in time" when we mean "now". The problem with using artificial expressions is that it may confuse the reader, or it may take more than one reading to decipher the intent.

A third rule is to **AVOID GOBBLEDYGOOK**. Say what is meant and **STOP!!** Instead of referring to a "video screen with multi-color capability", say "color monitor".

Technical terms such as "Sallyport" are called **JARGON**. Such a term is acceptable if the audience is experienced in corrections. But it may be Gobbledygook to a county commissioner.

A fourth rule is **AVOID REDUNDANCY**. Redundancy is saying the same thing twice. Instead of writing "inmate population," write either "population" or "inmates". Instead of saying "architectural design," say "architecture" or "design".

Review Questions

► Make the following sets of words or phrases simpler. Note that for each grouping, one word should suffice as shown in a. below.

INSTEAD OF THESE

USE THIS

a. *make an effort*
make an attempt
endeavor
attempt

_____ *try* _____

b. *maintain surveillance over*
visually monitor

c. *relate*
state
verbalize
articulate

d. *inform*
advise
indicate
communicate verbally

e. *initiate*
instigate
commence
inaugurate
originate

f. *telephonically contact*
contact by telephone

g. *respond*
proceed

(continued)

Review Questions

h. *at which time*
at which point in time

i. *request*
inquire query

j. *presently*
currently
at the present
at the present time
at this time
at this point

k. *prior to*
previous to
in advance of

► 10. *Eliminate the redundancies in the following sentences.*

- a. *As he entered the school building.*
- b. *Later on, the officer subsequently secured the area.*
- c. *His policies and procedures have been kept up to date with the times.*
- d. *The inmate insisted with emphasis that he had no contraband.*
- e. *That event occurs frequently and happens over and over again.*
- f. *His writing is redundant as he repeats himself over and over, as well as iterating the same thing twice.*

► 3. *Rewrite the following sentences or phrases making them more clear and concise.*

- a. *Telephonically contact the sheriff at his place of residence.*
- b. *I proceeded to make a visual examination of the cell block area.*
- c. *Proceed to the upstairs area.*
- d. *Attempt to ascertain his precise direction of travel.*
- e. *In the near future, I propose a staff visit of your facility.*

A fifth basic rule of written communications is the **RULE OF TWENTY WORDS**. This simply means that sentences should be no longer than twenty words. People have limited interest and abilities to comprehend long sentences. It confuses them and their minds wander. Therefore a sentence should be short and to the point.

Review Questions

► Rewrite the following sentences observing the "Rule of Twenty."
Note that you will need more than one sentence to adequately rewrite the sentences.

- a. *Some juveniles should be transferred to a close security facility especially those who pose serious threat to self and others, those who have established a pattern of absconding and those youths who have a need for protection.*

- b. *Written procedures for releasing residents include verification of identity, verifying release papers, names of person or agency to who the juvenile is to be released, giving back personal effects, check to see that no facility property leaves the facility, instructions on forwarding mail.*

- c. *A clean facility has a positive effect on morale, and it is essential that sufficient receptacles are provided for those who reside in the facility not only for sanitation but also for control of combustibles.*

- d. *Orientation is important as new prisoners should be provided with an understanding of what is expected of them and they should also be provided with information which may set their programmatic and personal expectations.*

The sixth basic rule is the development of a **PARAGRAPH** which expresses both **UNITY** and **COHERENCE**. Often writers violate the simple rules of the paragraph by including a variety of ideas in one paragraph. To avoid this pitfall, consider the following.

A paragraph should start with a **TOPIC SENTENCE** identifying the subject of the paragraph. Next come **SENTENCE(S) WHICH DEVELOP THE TOPIC**. This may be one or more sentences which add facts to or explain the topic. The paragraph ends with an optional **CONCLUDING SENTENCE** summing up the point of the paragraph.

If the point of the paragraph is rather simple and clear, one need not have a concluding sentence. The more complicated the topic, or if the paragraph is very long, a concluding sentence may be helpful to direct the attention of the reader. It may also test the writer's logic and suggest that the paragraph be rewritten if the concluding sentence does not express the **UNITY** and **COHERENCE** necessary for a paragraph.

Review Questions

► *The following sentences can be arranged into a well-ordered paragraph. Fit them into the outline below, entering the sentence numbers in the appropriate places.*

- a. Unity involves sticking to the subject and to the purpose, plus presenting the ideas as a consistent whole.*
- b. Similarly, coherence involves orderly arrangement, and at the same time requires a clear indication of the relationship between the ideas.*
- c. Unity implies balance without excess in one part or lack in another.*
- d. This relationship is indicated by transitional words and phrases.*
- e. Unity and coherence are essential to good writing.*
- f. Unity and coherence therefore help to make writing clear and easy to read.*

Topic Sentence # _____

Sentences that Develop the Topic # _____, _____, _____, _____
(arranged in logical sequence)

Concluding Sentence # _____

The key to applying these rules is a desire to communicate most effectively. A writer does not want the audience to receive the wrong message nor have them **INFER** meanings which are not intended.

Nothing suggested above means to say that a person has to be simplistic or insulting to his audience. It suggests that the writer be **SENSITIVE** and **ATTENTIVE** to his readers and transmit his message **CONCISELY** and **CLEARLY**.

Finally, most persons of average intelligence read at the **SIXTH GRADE** level. Most magazines, newspapers and even classics are written at that level.

In summary, the official and legal consequences of the inspector's letters, reports, decisions and recommendations are important. He does not want a jail administrator scratching his head wondering what the inspector **REALLY** means.

OBJECTIVE AND SUBJECTIVE LANGUAGE IN WRITTEN REPORTS

USE OF OBJECTIVE LANGUAGE

“And in conclusion sheriff, I have never seen a filthier jail than yours nor a more slovenly staff. What you need to do is have a heart to heart talk with that group or hire some professionals. By the way, if you want, I will be happy to talk to the county commissioners about the incredible goings-on there.”

This letter is exaggerated. It does bring about the point that, in writing, one needs to use **OBJECTIVE** language.

What is wrong with **SUBJECTIVE** language? Several things including:

- it does nothing constructive;
- it labels the writer as intemperate;
- it indicates that he may have scores to settle;
- it gives the author **AND** the sheriff little maneuvering space;
- it creates enemies;
- credibility is lost; and,
- battle lines are drawn over present and future issues.

While many a jail inspector has felt like sending off such a letter, there are too many negatives in doing so. Also, one finds that much more can be accomplished through use of objective language. This is also true when one realizes that a purpose of a jail inspection program is to foster positive change. There are other remedies open to every jail inspector rather than the intemperate mood expressed by the author of that letter.

Review Questions

- ▶ *Rewrite the excerpt from the inspector's letter cited above.*

- ▶ *The use of Objective Language in a report results in a tone which is*
_____.

- ▶ *List three reasons why Subjective Language should not be used in a report.*

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ELEMENTS OF INTERVIEWS AND INVESTIGATIONS

To accomplish the many duties of a jail inspector, one must rely upon interpersonal communication skills. This is evident in conducting **INTERVIEWS** and **INVESTIGATIONS**.

INTERVIEWS

When assessing compliance, an inspector **AUDITS** documentation and **INSPECTS** a facility. An additional tool commonly used is the interview. The inspector may interview county officials, correctional officials, staff, and inmates.

Included below are several considerations in conducting interviews. Not all may apply depending on the circumstances. For example, during an inspection, inmates or staff may be informally interviewed. A more formal interview in an office may be held with the sheriff or a county commissioner.

When conducting a formal interview, consider the following:

1. **BE PREPARED.** Gather all relevant information. Develop a list of questions to facilitate the interview. This will help focus on the most important issues and it will save time for both parties.
2. **PROVIDE FOR PRIVACY AND COMFORT.** This may not always be possible, but to the extent it is, privacy and comfort should be arranged. People are not likely to be forthcoming with information if they feel others are listening.

Providing for comfort not only means a comfortable chair. It also includes minimizing interruptions such as phone calls, arranging furniture so that open discussion is encouraged, and establishing a fair and friendly tone.
3. **ALLOW ENOUGH TIME.** While it is necessary for the inspector to have an agenda, the interviewee may very well have a need to discuss matters. Allow him the time to do so.
4. **BE HONEST.** Often during an interview the inspector is asked questions. An honest, forthright answer most appropriate. Non-confidential information may be shared. If it is confidential, most interviewees will understand that it cannot be shared. But to hide behind a false "confidentiality" is not being honest.
5. **BE OBJECTIVE.** Do not be intemperate. When one uses objective language or is objective in his approach, an element of fairness is evident.
6. **USE INTERPERSONAL SKILLS.** Good interpersonal skills can be developed by any jail inspector. The following are some interpersonal communication tips which can be used in conducting interviews.
 - a. **POSITIONING.** Positioning is the skill of placing oneself in the best possible position to see, hear and listen. Optimum positioning will depend upon the circumstances and the setting. In an interview, it means arranging the office in a manner which is friendly to the interview and which eliminates barriers between people.

Part of positioning is **DISTANCING**, or using space effectively. In a one-on-one situation, distancing of two to three feet is appropriate.

Another part of positioning is **FACING SQUARELY**. Squaring off in a one-to-one interview helps both parties to focus their complete attention upon each other and thus, the issues at hand.

- b. **POSTURING.** Posturing is the ability of an interviewer to hold and use one's body in a manner which shows strength, confidence, interest and control.

One aspect of posturing is holding oneself **UPRIGHT**. Even when sitting down, one's shoulders should be squared, hands positioned comfortably (not folded arms) and feet placed upon the floor. Slouching, and having one's feet on the desk are poor posturing techniques.

Another element of posturing is **ELIMINATING DISTRACTIVE BEHAVIORS**. A nervous and fidgety interviewer will make the interviewee feel the same. Biting nails, foot tapping, clicking a pen, playing with a paper clip, smoking and chewing gum are examples of distracting behaviors. Consciously trying to calm the body will communicate an attitude of attention.

INCLINING slightly forward and **LOOKING DIRECTLY** are other posturing skills. Using them is a powerful one-to-one technique. It says to the other person that he is the focus of attention and that the interviewer is in control of the situation.

c. **OBSERVING**. This means observing the behavior of the other person. For example, if the sheriff is continually looking at his watch, the interview may have gone too long. Asking if there is a time conflict would be appropriate. Also, signs of nervousness such as crossed arms, foot wiggling, etc., may be a cue that the other person may be uncomfortable. Or, it may mean that the person is anxious about some other aspect of the interview.

d. **LISTENING**. Listening is the ability to hear and understand what others are trying to express. The message from others may be clouded in obscure words, colored by feelings, or indicated by body language. Listening is the ability to put all the clues together to find out the real meaning.

Good listening is not a skill with which most people are born. When confronted by someone who is emotional, we often interrupt. What we should be doing is stepping back and listening for what the person is telling us. This will provide the other person an opportunity to open up.

7. **ENCOURAGE PARTICIPATION**. If the purpose of the interview is to get information or assist in forming an opinion, the participation of the interviewee is essential.

8. **CLOSE POSITIVELY**. Consider anyone interviewed as potential for another or later interview. One should never "burn a bridge", especially those with whom future work is expected.

9. **MAINTAIN IMPARTIALITY**. Fairness demands an impartial atmosphere where the interviewer is not taking sides. Put yourself in the place of the person being interviewed. How would you respond to someone who is not impartial?

Review Questions

▶ The following statements refer to considerations for conducting an interview. Indicate which consideration best matches each statement.

- a. The interview should be conducted out of "ear shot" of others _____.
- b. Get the cooperation of the interviewee by having him involved in the interview _____.
- c. Develop a list or checklist of questions for the interview _____.
- d. Have an agenda for the meeting _____.

▶ When conducting an interview or investigation the jail inspector must make best use of his _____.

▶ Of the interpersonal skills listed in the text indicate which matches the following description.

- a. This relates to the interviewer's ability to hold and use his body in a manner which shows confidence.
- b. This is another term for distancing _____.
- c. This refers to the interviewer's ability to seek out hidden messages _____.
- d. One is practicing this skill if he is attentive to signs of nervousness on the part of the interviewee.

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INVESTIGATIONS

Some jail inspection agencies are required to conduct investigations of complaints by inmates, staff, families of inmates, etc. Others may not have that authority but use more informal methods. Such may be the case regarding inmate complaints referred by the offices of the Governor, Attorney General or Legislators.

Whether the agency conducts formal or informal investigations, many or all of the following techniques may apply.

NOTE: The investigations referred to here do not include criminal investigations. If the inspection agency conducts criminal investigations, the principles and practices of the investigative interview will differ as to issues such as Miranda warnings and the like.

1. **PREPARE.** Like the interview, when an investigation is required, the inspector must be prepared. This calls for a review of any written documentation about the situation or incident. Additionally, other evidence such as weapons, video or audio tapes, etc. must be reviewed.
2. **INVESTIGATIVE INTERVIEW.** One of the most important parts of an investigation is the interview. The principles noted above in the INTERVIEW section apply with some additional considerations.
 - a. **TIMELINESS.** It is important to conduct the investigative interview as soon as possible after learning of the incident.
 - b. **PRIVACY.** Use the privacy of an office. An investigative interview cannot be conducted in an informal setting such as a lunchroom. If a private office is not available in the jail, perhaps the county courthouse may be used.
 - c. **NOTE ALLEGATIONS.** Begin by informing the interviewee of the nature of the allegations and the reason he is being interviewed. Note that the purpose of the investigation is to clarify information and to assess to what extent, if any, there was a violation of standards.
 - d. **REASONABLE TIME.** The interview should not be unreasonably long. If a lengthy interview is required, frequent breaks should be given.
 - e. **CHALLENGE FACTS.** Allow the person to challenge facts. If the person was involved in the incident, let him present his side of the story.
 - f. **VIOLATION OF STANDARDS.** If there was a violation of standards, allow the person to express any mitigating facts.
 - g. **REFUSAL TO COOPERATE.** If the person refuses to cooperate, such non-cooperation should be noted.

When all information is gathered, the inspector should review the facts with his supervisor. If there is a violation of standards, a compliance plan should be developed consistent with the inspector's agency policies.

Review Questions

- _____ refers to the need to begin the investigation as soon a possible after learning of the incident.
- _____ refers to the person's un-cooperativeness in the interview.
- _____ refers to when the interview is lengthy and there is a need for frequent breaks.
- _____ refers to the interviewee being able to present his version of the incident.

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CONFLICT RESOLUTION

The jail inspector often finds himself in the middle of an issue regarding non-compliance. Issues may include disagreements between the sheriff and county commissioners over methods by which to come into compliance. Other conflicts may be over interpretations of standards.

The inspector should recognize that there are a variety of strategies which can be applied to any conflict situation. The key is to use the most appropriate strategy.

Described below are five "conflict resolution strategies" which are intended to raise the awareness that a variety of strategies can be used in resolving conflict.

1. AVOIDING. This is a style of non-confrontation. By avoiding the conflict, the issue is not addressed.

The negative side of avoiding is that the issue is not solved nor is there any agreement as to its solution. This means that the issue may simmer and reappear.

However, use of avoidance may be positive if the issue is a relatively minor one. Or, the conflict may be avoided because emotions are high.

2. ACCOMMODATING. Using this style means that one's concerns are neglected to satisfy the concerns of others.

This can be positive if the issue is not important. However, if it is used inappropriately, it can mean giving in, not addressing the underlying causes of the conflict, and creating hard feelings in future dealings with the other person.

3. COMPETING. This is a power-oriented mode where someone uses whatever power he can to win. Political power, coalition-building or similar techniques may be used.

Power should be used as a last resort. The problem with power is that it makes enemies, and does not really address the conflict. It seeks to WIN. And every time there is a winner there is a LOSER.

There is an appropriate use of power. Sometimes issues are not negotiable. It may be an issue of life, health or safety. In these instances, the inspector has no negotiating space. He should first attempt to explain the issue and use other conflict resolution strategies. But, if argument ensues, he may have to fall back upon the power of his position. But even in this case, it should be used as a means of last resort.

4. COMPROMISING. This is a strategy which resolves conflict by seeking what is acceptable to both parties.

Compromise may be the best achievable solution to a conflict, especially if both sides are severely divided. While this may be the best strategy to use, it does not explore all sides of an issue. The solution is basically "splitting the difference" or seeking a quick middle ground. It will leave some issues unsettled and can create conflict in the future.

5. COLLABORATING. Collaborating is the best of all possible worlds. It attempts to explore all sides of an issue with an aim to attaining the best solution. Collaborating takes the form of learning from other's insights, confronting issues in a mature way, exploring differences, and agreeing to disagree while resolving the conflict.

The key to the use of "conflict resolution strategies" is using them in the most appropriate situations. Think of conflict situations you have been involved in and ask if you have used strategies appropriately.

Unfortunately, many people get stuck in one style. If it worked in the past, they feel it will always work. If one uses an avoiding style consistently, it is easy to predict that the person never addresses conflict and probably is an easy touch.

If a person uses a competing style predominantly, he is interested in power. The problem is that sooner or later he will meet those with more power. And, being unable to use another conflict resolution style, he will lose.

One should attempt to develop a collaborating style. While it may not be appropriate in every situation, it develops interpersonal communication skills, and allows for the best possible solution to a problem. Additionally, the collaborating style is best used with the inspector's consulting and problem solving roles.

Review Questions

- ▶ *This style of conflict resolution may not satisfactorily address everyone's concerns but it arrives at a solution to the problem which is the best possible one. _____*
- ▶ *This conflict resolution style is appropriate when the issues are non-negotiable. However, it should be used as a last resort because it either is, or may be perceived as, a use of power. _____*
- ▶ *This style of conflict resolution confronts issues in a positive way, attempts to explore all sides of an issue, and is exemplified by respecting the other side's right to disagree. _____*
- ▶ *Sometimes the use of this conflict resolution style is best used if the issue is relatively minor or the time does not seem right to address the issue. _____*
- ▶ *This style is typified by not addressing the basic concerns of the conflict and it may create hard feelings on the part of the person giving in to the other. _____*

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MEDIA RELATIONS

The media plays an important role in society especially in the setting of the image of corrections. Because of this, it is necessary for the jail inspector to know how to present information to the media.

If interviewed by the media, one cannot gain support by saying "no comment" or evading the issue at hand. Cooperation is essential if the important issues facing corrections are to be aired. If a jail inspector is committed to positive change in jails, he must see the media as an important tool in getting out the news in an accurate manner.

There are several rules to keep in mind when dealing effectively with the media.

The most important of these is **TELLING THE TRUTH**. Lying, giving false information or half truths destroys credibility for the moment and the future. In corrections, things will go wrong and the media will demand information. If this happens, it is best to admit what went wrong and then explain what is being done to correct it. The inspector cannot prevent what is reported, but he can provide the information for accurate reporting.

If it appears there may be legal implications, some information may be withheld. In this instance it would be best to explain why he cannot comment. Matters to which the inspector does not have to respond include:

- Legal case pending
- Speaking for a third party
- Personal information
- Irrelevant questions
- On going investigations
- Personnel action pending
- Security of the institution
- Hypothetical situations

Address issues from the **PUBLIC'S PERSPECTIVE**. Avoid jargon or "bureaucratese". Speak in terms the public will understand. And, instead of being unemotional, be human. This will build credibility not only with the public, but also with the media.

There is no such thing as **OFF THE RECORD**. If it is said, expect it to be printed.

BE DIRECT with the media. Do not evade a reporter's question. Address the answer if it is known. If not, say so, and then get back to the reporter or find someone who can respond. If not at liberty to respond, say so and give the reason or direct them to someone who can respond.

If a question is asked and the answer is not known or not understood, **BUY TIME** using statements such as:

"Let me think for a moment".

"I've never been asked that question before."

"I'll need further information before I can respond."

These allow the time to develop a response. It is better to do this than to shoot from the hip.

The media is not to be feared, instead it is a means to get one's message across to the public. Knowing how to communicate effectively with the media can be a means to garner support for the inspection agency and the jails it serves.

Review Questions

▶ *When interviewed by the media, it is important to address issues from the _____ by avoiding jargon.*

▶ *One can buy time in dealing with the media by using statements such as (list three).*

▶ *List five instances when an inspector does not have to respond to a media question.*

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THE INSPECTOR AS A CONSULTANT

Throughout this program, reference has been made to the role of the inspector as a consultant. A consultant is a **PROBLEM IDENTIFIER** and a **PROBLEM SOLVER**.

All inspectors are problem identifiers because of the nature of their work. Not all are problem solvers. Indeed, some inspection agencies do not define their mission as problem solving. But for those which do, it requires the inspector to be creative in addressing the problems he is asked to solve.

A consultant is only a consultant if he is asked to be one. A person cannot invite himself into an agency to solve problems. Therefore, to be a consultant first requires the **RESPECT** and **CONFIDENCE** of the jail staff.

Some benchmarks of a helpful consultant are offered below.

A consultant **NEVER TAKES A PROBLEM AS HIS OWN**. It is always the agency's problem, but one which they may need help in solving. Instead of writing a policy and procedure, the consultant should give staff the information which may be included, and perhaps teach them how to write one. If he does the writing, it is his policy and procedure and not theirs. If they do the writing, they have ownership and will be attentive to its requirements.

A consultant **ACCEPTS PROBLEMS AS A MATTER OF COURSE**. He does not make the jail staff feel ignorant nor unusual.

A consultant **ENCOURAGES** the jail staff to take a positive approach in seeking the best solution to a problem.

A consultant **ASKS HELPFUL QUESTIONS** about the nature of the problem, why it occurred, and why it is a problem. He is careful to diagnose the problem before jumping to conclusions or offering solutions.

ALTERNATIVE PLANS ARE EXPLORED by the consultant to assist the jail staff in implementing a solution and choosing that which seems most promising. Additionally, he develops a strategy for evaluating the results of the plan.

The consultant is one whose **ATTITUDE** is not how "I am going to solve the problem", but how he can help the jail staff solve its problem.

If a jail inspector approaches his duties fairly and develops credibility, he will be as a problem identifier and as a potential source for solutions to the problem. When this occurs, he will earn the privilege of being a consultant. And he will be a valuable resource to the jail staff, the sheriff and the county commissioners.

Review Questions

- ▶ *Two terms which describe the inspector's role as a consultant are _____ and _____.*
- ▶ *It is important for the inspector in his role as consultant to assist an agency by actually writing policies and procedures if they are needed to comply with standards.*
True or False.
- ▶ *Even though he accepts a role as consultant, it is important for the inspector to not compromise his main responsibility of determining compliance or non compliance with standards.*
True or False.

24

16

21

SUMMARY

This chapter on communications addressed a myriad of issues related to interpersonal communication skills such as:

INTERVIEWING
INVESTIGATIONS
CONFLICT RESOLUTION
MEDIA RELATIONS
CONSULTING

In addition, the important area of written communications was addressed.

Each of these topics could be the subject of a separate book or training session. Indeed, for some people, each area is that of a lifetime study.

A jail inspector's duties are varied as are the abilities he must develop to effectively carry out those duties. The material contained in this chapter is just the tip of the iceberg when it comes to developing the abilities to be effective.

CHAPTER FIVE

ANSWER KEY

1. Avoiding
2. Challenge Facts
3. More than one answer may be correct. Those found below are suggested answers.
 - a. Call the Sheriff at home.
 - b. I examined the cell block area.
 - c. Go upstairs.
 - d. Try to find out which way he went.
 - e. I will visit the facility soon.
4. If a question is asked and the answer is not known or not understood, **BUY TIME** using statements such as:
"Let me think for a moment".
"I've never been asked that question before."
"I'll need further information before I can respond."
5. Compromising
6. Timeliness
7.
 - a. try
 - b. watch
 - c. say/tell
 - d. tell/speak
 - e. begin/start
 - f. call/phone
 - g. go
 - h. then/when
 - i. ask
 - j. now
 - k. before
8. it cites nothing constructive;
it labels the writer as intemperate;
it indicates that he may have scores to settle;
it gives the author **AND** the sheriff little maneuvering space;
it creates enemies;
credibility is lost; and,
battle lines are drawn over present and future issues.
9. Interpersonal Skills

10. More than one answer may be correct. Those found below are suggested answers.

- a. As he entered the school.
- b. The officer subsequently secured the area.
- c. His policies and procedures have been kept up to date.
- d. The inmate insisted that he had no contraband.
- e. That event occurs frequently.
- f. His writing is redundant.

11. Constructive

12. More than one answer may be correct. Those found below are suggested answers.

- a. Some juveniles should be transferred to a close security facility. They should include those who pose serious threat to self and others. It should also include those who have established a pattern of absconding and who have a need for protection.
- b. Another way to write this and be consistent with the Rule of Twenty would be to use colons (:) and semi-colons (;).

Written procedures for releasing residents include: verifying identity and release papers; including names of person(s) or agency to whom the juvenile is to be released; returning personal effects; checking to see that no facility property leaves the facility; and, receiving instructions on forwarding mail.

- c. A clean facility has a positive effect on morale. It is essential that enough receptacles are provided for residents for sanitation and control of combustibles.
- d. Orientation is important as new prisoners should be told what is expected of them. They should also be given information which may set their programmatic and personal expectations.

- 13.
- a. Posturing
 - b. Positioning
 - c. Listening
 - d. Observing

14. Topic Sentence e.

Sentences that develop the topic # a,c,b,d or c,a, b,d
(arranged in logical sequence)

Concluding Sentence # f

- e. Unity and coherence are essential to good writing.
- a. Unity involves sticking to the subject and to the purpose, plus presenting the ideas as a consistent whole.
- c. Unity implies balance without excess in one part or lack in another.
- b. Similarly, coherence involves orderly arrangement, and at the same time requires a clear indication of the relationship between the ideas.
- d. This relationship is indicated by transitional words and phrases.
- f. Unity and coherence, therefore, help to make writing clear and easy to read.

15. Legal case pending
Speaking for a third party
Personal information
Irrelevant questions
On-going investigations
Personnel action pending
Jeopardy of the security or safety of the institution
Hypothetical situations
16. **False.** He may teach them how to write a policy and procedure, refer them to another jail, or provide them information which they need to write a policy and procedure.

17. Collaborating

18. Rewrite the excerpt from the inspector's letter cited below.

"And in conclusion sheriff, I have never seen a filthier jail than yours nor a more slovenly staff. What you need to do is have a heart to heart talk with that group or hire some professionals. By the way, if you want, I will be happy to talk to the County Commissioners about the incredible goings-on there."

Rewrite

"Finally sheriff, the jail needs cleaning as there was evidence of vermin, and considerable trash and dirt on the floor. Further, the toilets, washbasins, and showers have not been cleaned for some time.

"In order to comply with the sanitation standards, staff will be required to supervise prisoners more closely. Also, more frequent and effective sanitation inspections are needed."

(The point made in this rewrite is to make the language more objective by tying the deficiencies to standards and objective evidence of the filth. The inspector need not become emotional. A straight forward citation of deficiencies will make the point well.)

19. Accomodating
20.
 - a. Provide for Privacy
 - b. Encourage Participation
 - c. Be Prepared
 - d. Allow Enough Time or Be Prepared
21. **True.** Even though he accepts a role as consultant, it is important for the inspector to not compromise his main responsibility of determining compliance or non compliance with standards.
22. Competing
23. Public's Perspective
24. Problem Identifier and Problem Solver
25. Reasonable Time
26. Refusal to Cooperate

CHAPTER SIX

ORGANIZATIONAL STRUCTURES

OVERVIEW

The inspector deals with a variety of governmental agencies. In some states inspectors have authority over state prisons, county jails and city police lockups. Some even have authority over community corrections programs (halfway houses) and privately-operated facilities.

This myriad of political subdivisions requires the inspector to be sensitive to the peculiarities of each level of government and the variety of officials with whom he comes into contact daily. While each level of government exercises **EXECUTIVE, JUDICIAL** and **LEGISLATIVE** powers, the actors in the varying systems differ, and some officials exercise all three powers.

All governments exercise management control over their agencies utilizing the basic principles of **PLANNING, ORGANIZING, DIRECTING** and **CONTROLLING**. A basic knowledge of these processes is important for the inspector, especially if he is called upon to assist a particular jurisdiction in the solution of jail problems.

This chapter addresses these issues by examining the structures of differing levels of government, funding mechanisms and the necessity to understand formal and informal organizational structures.

PERFORMANCE OBJECTIVES

AT THE CONCLUSION OF THIS CHAPTER, THE STUDENT WILL BE ABLE TO:

1. Define the terms Planning, Organizing, Directing and Controlling in the context of government operations.
2. Identify the similarities and differences between city, county, state and federal government structures.
3. Describe various methods of funding for improving jail facilities or for financing new facilities.
4. Define the term fiscal year and explain how the fiscal year for one jurisdiction may differ from others.
5. Identify the variety of "chains of command" for managers of correctional facilities.
6. Compare and contrast the similarities and differences between state and local facilities and programs.

MANAGEMENT IN GOVERNMENTAL ORGANIZATIONS

The basic functions of management are **PLANNING, ORGANIZING, DIRECTING** and **CONTROLLING**. The inspector must be aware that these functions exist in government because they affect it's ability to address the deficiencies identified in an inspection. Sometimes those deficiencies have obvious budgetary implications, especially where renovations or staffing are concerned.

The inspector must be sensitive to these processes and realize that positive change in an agency may take time as plans are made, strategies are developed, staff is directed to implement the change, and the agency ensures that plans are in effect. If the process is hastily developed, then the possibility for confusion and chaos is very real.

PLANNING is the process of identifying **WHAT** needs to be done. It includes:

- defining goals and objectives;
- identifying problems and developing strategies to address their solution; and,
- developing evaluation methods to ensure that plans which are developed are effective in addressing the goals, objectives or problems.

The budgetary process is part of the planning process as funds are often necessary to address problems.

ORGANIZING is the process of identifying the resources needed to implement what is planned. Such resources could include equipment, materials and personnel.

DIRECTING is the process of putting a plan into effect. It requires that policies and procedures be implemented and that staff be trained on the plan's implementation. Directing includes the communication of all information necessary for staff to implement the plan with a minimum of disruption to the existing routine.

CONTROLLING is the process of ensuring that planned activities or strategies actually address the problem identified. It includes the establishment of an evaluation strategy (in the planning stage) which is implemented when the directing stage is begun.

When an inspector identifies deficiencies, the jail must use all of the functions of management to correct them.

Sometimes these functions can be addressed rather easily when the deficiency is minor. If all that is needed is a change in procedure, the jail administrator may plan, organize, direct and control with a minimum of effort. He probably will not need to go outside the jail to address its solution.

In another situation, the problem may be more complicated, requiring the involvement of many agencies of county government. An example is where staffing levels are apparently at the basis of non-compliance with standards.

Staffing is not a problem with an easy solution. Most standards do not require a staffing analysis or approved levels of staffing. What generally happens is that staffing deficiencies become apparent when staff are not able to meet standards on a continuing basis.

If the **PLANNING** process identifies staff deficiencies, several things must happen and considerable time may be required to get new staff.

First, the County Commissioners must be notified of the deficiency and strategies must be developed to convince them that the problem is insufficient staff. Then the commissioners may require a personnel study. It is then that the **ORGANIZING** process comes into play. This may require a staffing analysis to determine the number and types of personnel needed. It will also require the development of a budget request which may not be approved until the next year's budget cycle.

If new staff is approved, in the DIRECTING function the jail will advertise, interview, hire and train the new staff.

Through CONTROL, staff are evaluated and their performance is measured against the standards originally identified as deficient.

If this scenario proceeds smoothly, the inspector will see an improvement in the compliance status of the standards in question. Such a process may take considerable time and effort because it involves multiple entities of county government. In many counties with staffing deficiencies, this scenario plays out year in and year out. The reason is that managers often do not know how to plan, organize, direct and control.

Thus, the inspector can be an invaluable resource to the jail administrator and the county by assisting them in identifying the problem and working it through to its conclusion.

Review Questions

- *It is important for the inspector to be aware of the functions of management as they affect the agency's ability to respond to non-compliance with standards.*

True or False.

7

- *Identify which of the following statements relate to planning, organizing, directing or controlling.*

- a. In this function necessary resources such as personnel are identified.*
- b. This relates to identification and solution of problems.*
- c. This relates to developing goals and objectives.*
- d. This refers to the agency's need to implement evaluation strategies.*
- e. This relates to the agency's need to communicate through written policies and procedures.*
- f. This function ensures that what is planned is carried through as planned. If not, it assists management in identifying the need for program adjustment.*

15

- *Regardless of the problem to be solved, the functions of management (planning, organizing, directing and controlling) are involved in its solution.*

True or False.

28

- *If a jail required a new policy and procedure, the process of evaluating it would be the _____ function of management.*

2

- *Training of staff would involve the _____ function of management.*

8

- *Developing strategies to address non-compliance with standards would involve the _____ function of management.*

17

CITY, COUNTY, STATE AND FEDERAL GOVERNMENTAL STRUCTURES

In the United States, government at all levels has three branches or functions, **EXECUTIVE, JUDICIAL** and **LEGISLATIVE**.

The Executive branch is responsible for the day-to-day "administration" of the entity of government. The Legislative branch enacts the laws around which the government is structured. The Judicial branch makes decisions when there are questions about the interpretation of those laws.

While every level of government has executive, judicial and legislative responsibilities, they differ as to form. It is important for the inspector to understand these differences because he may deal with city, county and state officials. It is necessary that he understand the constitutional and statutory powers of these officials.

CITY government generally has responsibility for police lockups or city jails.

Most cities are governed by a **MAYOR** (Executive Branch) and a **CITY COUNCIL** (Legislative Branch). The judicial function of city government may be shared by the mayor and council and may be delegated to boards such as zoning, housing, health etc. Cities may be managed by a **CITY MANAGER** who is responsible for the day to day functioning of city government. Otherwise, the mayor may assume the management function himself.

A city jail is a function of the Executive Branch. It may be a separate department of city government or it may be under the police department. Lockups are almost always a function of police departments. City facilities receive their funds through a budget **PROPOSED** by the mayor and **APPROVED** by the council.

COUNTY governments are responsible for jail operations.

Generally, smaller counties are governed by a **BOARD OF COUNTY COMMISSIONERS** which performs both the executive and legislative functions. They may even perform judicial functions. Depending on the state, the commissioners have different titles (supervisors, freeholders, county judges, etc), but usually perform the same functions.

Larger counties may have the same organization, but generally there is an elected **COUNTY EXECUTIVE** (Executive Branch) and a **COUNTY COUNCIL** (Legislative Branch). In this instance, the county will operate much the same as a city. Often counties will employ a **COUNTY MANAGER** to administer the county on a day to day basis.

Jails are generally operated through the office of the **SHERIFF** who receives his authority from the state constitution. While the sheriff is an elected official and not responsible to the Board of County Commissioners, he receives his budget appropriation from the Board.

Many counties have established their jails as separate departments, responsible to the county executive or the county commissioners, not the sheriff. In this case, the county may also operate other correctional functions which fall under the purview of the inspector such as community correctional programs or separate juvenile facilities. In this case, the budget will go from the jail to the county executive who proposes the budget to the county council. In other counties, it will go directly to the Board of County Commissioners.

STATE and **FEDERAL** governments are generally constituted the same. The Legislative branch is in the form of the General Assembly or Congress with members elected from various districts. The Executive branch is governed by the elected Governor or President. The Judicial branch consists of the various levels of courts to include trial and appellate courts.

The jail inspector has intimate and almost daily contact with county and city officials. He also has an impact on the operation of their jails. It is important for him to have a basic knowledge of how local governments are organized, especially, if he is asked to assist in the correction of jail deficiencies.

Review Questions

► Indicate which of the following statements refer to the Executive, Legislative or Judicial branches or functions of government.

- a. This refers to the enactment of laws and ordinances.
- b. This refers to the day to day administration of government.
- c. This relates to the enforcement of jail standards.
- d. This refers government's authority in the solution of disputes.
- e. Jails are a part of this function of government.
- f. Jail inspection programs which are established by statute receive their authority from which function of government.

► Generally, every level of government has executive, judicial and legislative powers.

True or False.

► Indicate in which level of government (City, County, State or Federal) each of the following officials may be found.

- a. Sheriff
- b. Mayor
- c. Congressman
- d. Commissioner
- e. Executive
- f. Governor
- g. Judge
- h. Manager

► Of all the levels of government the _____ and _____ levels are constituted much the same.

13

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4

JAIL FUNDING MECHANISMS

The operation of a jail comes primarily from its **OPERATING BUDGET**. The budget is a **FUNDING PLAN**. It is authorized through the Legislative branch of government based upon projections of need, and delivery of services. For a jail this means the safekeeping of prisoners and the protection of the public while meeting constitutional and state standards.

If facility improvements are needed, funds would be earmarked through a **CAPITAL BUDGET** which is developed from **BORROWED** funds. The exception to this may be for repairs or renovations under a specified amount of money dictated by county or state law. In this case, funds may be appropriated through the operating budget.

State law may provide funds for county jail improvements if they are required by state standards. In this case the county may have to request funds from the state legislature and a special appropriation would be enacted.

There are many forms of financing for major renovations or new jail facilities. One is through a **BOND ISSUE**.

Counties are allowed by state law to issue bonds for facility renovation or construction. A bond is a **DEBT** the county owes to those who purchase the bonds. Regular payments are made to bondholders until the bond is retired (ten, twenty years or so).

Voter approval is generally required to issue bonds. The amount of the county's indebtedness from all outstanding bond issues cannot exceed a specified amount. That amount is set according to the county's **ASSESSED VALUATION** which is based upon the State Assessor's estimates of the county's worth (considering such factors as industry and property value).

For example, if the State Assessor values the county at five million dollars for the year 1990, that is the maximum amount of bond issues that can be outstanding at any one time that year. If the county already has bond issues of three million dollars, it means that two million dollars could be borrowed for a new jail if approved by voters.

In some states, the legislature has enacted statutes to exempt the debt for jail construction from the county's Bond Indebtedness. In this case the county is allowed to exceed the debt limit.

Another means to finance jail construction is through **LEASE PURCHASE**. Technically, a lease purchase is **NOT INDEBTEDNESS**. Therefore, it does not require voter approval, nor is it counted against the county's assessed valuation.

Simply, a lease purchase is an agreement to fund capital improvements (or purchases of major equipment such as a fire truck) through the operating budget. To do this, the county creates an **AUTHORITY** (an agency of its government) which has the "authority" to enter into an agreement with investors. The authority "owns" the facility and the county leases it from the authority for a specified period of time, perhaps twenty years.

Using the previous example, if the county has indebtedness of five million dollars, it cannot issue additional bonds. But it can set up an authority to enter into a lease purchase for the two million dollars it needs to build a new jail. They will pay for the lease annually from operating funds generated through sales, property and other tax collections.

Raising funds for jail construction is often a highly emotional matter among voters. Voters often turn down jail bond issues leaving county commissioners unable to fund new jail construction. An alternative is the lease purchase. However, it may be seen as a means to subvert the voting process. For this reason, many county commissioners are hesitant to use lease purchase.

Another source of funding for jail construction is to contract with another jurisdiction for the housing of its prisoners. Agencies such as the Federal Marshal's Service may contribute construction funds with the assurance that it has a specified number of beds for its prisoners.

Another method which combines one or more of the various funding schemes is known as **BLENDING**. This simply uses more than one method of funding for jail construction or renovation.

In some states, counties are authorized to increase the rate of sales tax levied in the county. Generally, the sales tax may be increased by 1/2 to 1%. The county commissioners may pass a resolution making the increase effective without specific voter approval. However, the sales tax increase can be challenged by voters through an **ELECTION TO REPEAL** or by **REFERENDUM**. Alternatively, the commissioners may submit the tax increase to the electorate at a primary or general election.

The additional revenue generated by the sales tax increase must go into the county **GENERAL FUND** and is not restricted for a particular purpose. When a sales tax is used to fund a jail project, generally the county will impose the sales tax, issue general obligation bonds to finance the construction costs, and use the revenue generated by the sales tax to retire the debt. If sufficient revenue is generated, it may be also used to finance any increase in jail operating costs.

Review Questions

- An _____ budget is that which funds day to day jail functions, while a _____ budget funds renovations.
- A jail budget may be referred to as a _____ proposed by the Executive branch of government and authorized by the Legislative branch.
- Which of the following statements about a bond issue are true.
- a. This requires voter approval to issue bonds.
 - b. Regular payments are made until the debt is paid off.
 - c. It is a debt owed to the state for funding jail construction.
- Assessed valuation is _____.
- Which of the following statements about lease purchase are false.
- a. It requires voter approval.
 - b. An "authority" is established by the jurisdiction.
 - c. It is counted against the county's assessed valuation.
 - d. It is an agreement to fund capital improvements through the operating budget.
- "Blending" means _____.
- Some states allow counties to increase the sales tax to fund jail improvements. If voter approval is not necessary, what means are open to voters to repeal the increase?
- When a county increases a sales tax for jail renovations or construction, it will purchase general obligation bonds and pay them off through the use of sales tax revenues.
True or False.

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FISCAL YEAR: GOVERNMENTS' BUDGETING YEAR

The term **FISCAL YEAR** derives from the French, **FISC**, which literally means "breadbasket".

A **FISCAL YEAR** refers to a government's budget year. A budget year is **TWELVE MONTHS** and can consist of any twelve month period.

The year referred to is the year in which the fiscal year ends. For example, fiscal year 1992 may begin in 1991. Because it ends in 1992, it is referred to as fiscal year 1992.

The Federal government's fiscal year is from October 1 to September 30 of the following year. That means the budget appropriated from Congress authorizes approved funds to be expended for that period of time. Most state and local governments' fiscal year is from July 1 to June 30 of the following year.

The term fiscal year is referred to in many ways. For example the period July 1, 1990 to June 30, 1991 may be referred to as:

Fiscal Year 1991
Fiscal Year 91
Fiscal 91
FY 91.

It is important for the inspector to understand the budget process of each jurisdiction, particularly with respect to budget submittals and approval dates. This can have a significant impact on the planning process for jail improvements and the development of compliance plans which may depend on those budget cycles.

When jail projects combine the use of local, state and federal funds, differences in fiscal years can create problems. If each jurisdiction is on a different fiscal year, coordination of funds can be difficult and even delay project timetables.

It is also important to know each jurisdiction's budget process. Most jurisdictions require a preliminary budget submittal as much as six months prior to the start of the fiscal year. The degree of importance placed upon the preliminary budget varies among jurisdictions.

Being sensitive to the different budgetary deadlines may be important to the building of a cooperative relationship with the jurisdiction.

Review Questions

► *Identify the fiscal year from the following dates.*

a. October 1, 1956-September 30, 1957

b. July 1, 1993- June 30, 1994

c. January 1, 1997-December 31, 1997

► *Generally, the fiscal year for state and Federal governments are coordinated and thus the same.*

True or False.

► *A _____ is part of a budget process which may take place months before the final budget is authorized.*

3

12

22

CORRECTIONAL ORGANIZATIONAL STRUCTURES

There are a variety of **CHAINS OF COMMAND** for jail managers depending largely upon the size and structure of the county government.

Typically, jails should have someone principally in charge of the jail even if they do not have the title of jail administrator.

In a sheriff's department, the jail administrator may report to the **CHIEF DEPUTY** or the **SHERIFF**.

Where the jail is not under the sheriff, the jail administrator may report to a variety of officials depending on the size and structure of the government. Such titles may include **COUNTY COMMISSIONERS, COUNTY EXECUTIVE, COUNTY MANAGER, DIRECTOR OF PUBLIC SAFETY, DIRECTOR OF CORRECTIONS,** or **POLICE CHIEF**. In the case of a multi-jurisdictional jail, they report generally to a commission comprised of officials from the counties using the jail.

There are reasons why it is important for the jail inspector to be sensitive to the chain of command. First, he needs to know who, other than the jail administrator, is responsible for the jail. He may find that the jail administrator, while genuinely committed to meeting standards, may not have the budgetary authority to request needed changes. Further, he may not have the power to effect change in his county.

Also, there are matters of **PROTOCOL**. This may dictate that a jail inspection report be sent to an official other than the administrator. Or, when setting up a jail inspection, that other officials be notified.

The best way to ensure that "feathers are not ruffled" is to simply ask the jail administrator who, other than he, should be kept abreast of the inspector's activities, and who should receive the original and copies of the inspection report.

Review Questions

➤ *In a sheriff's department, the jail administrator may report directly either to the _____ or _____.*

23

➤ *Jail administrators are likely to report to any of the following officials except.*

- a. County Commissioners*
- b. County Executive*
- c. Director of Public Safety*
- d. Jail Inspector*

26

➤ *While the jail administrator may be genuinely interested in improving jail conditions, other county administrators might need to be informed of jail problems in order to effect change.*

21

True or False.

➤ *As a matter of protocol, originals of inspection reports should be forwarded to the jail administrator.*

True or False

16

DIFFERENCES BETWEEN STATE AND LOCAL FACILITIES AND PROGRAMS

While state and local facilities are required to protect the public by the safekeeping of prisoners, the missions of these facilities differ.

State prisons are generally only for persons convicted of crimes, and generally for a period to exceed one year. Jails hold pre-trial prisoners as well as short term convicted prisoners. There are so many exceptions depending on state law that it is difficult to generalize as to the length and nature of state and local confinement.

Prisons normally have a variety of programs for prisoners to include vocational, educational, counselling, religious, and work and industry. Some jails have many of these services and programs, but normally, smaller jails do not see their mission as including reformation or rehabilitation.

Besides these rather apparent differences, there are other differences which are more subtle.

As for **CLASSIFICATION**, generally, prisons have more options since not only will they be able to classify prisoners within the confines of the prison but also between prisons. Most states have prisons designated for different levels of security, which allow classification flexibility. Even in most larger jurisdictions, jails do not have the same luxury as prisons resulting in prisoners at all levels of security classification within the same facility.

The **POPULATION** of jails and prisons differ dramatically. Jails will have a greater mix of prisoners such as male, female and even juvenile. Further, they will have misdemeanants and felons, and sentenced and pretrial. Prisons in most states are designated either for males or females, and almost always all prisoners are convicted, usually for felonies.

PROGRAMMING is different in prisons and jails largely due to the anticipated length of stay. This has implications for exercise and out-of-cell time which, in prisons, is more a part of the daily routine. Further, medical facilities and services are more extensive in prison as there are chronic illnesses which must be treated, and the fact that many older prisoners will need geriatric treatment.

Review Questions

► Jails have a greater mix of types of prisoners than prisons. List three.

a. _____

b. _____

c. _____

► Programming in prisons is different than in jails mainly due to _____

► Generally, prisons have greater options in classifying prisoners.

True or False.

25

10

18

CHAPTER SIX

ANSWER KEY

1. Funding Plan
2. Controlling
3. FY 57
FY 94
FY 97
4. State and Federal
5.
 - a. False. It does not since it is not indebtedness.
 - b. True
 - c. False. It is not counted against assessed valuation since it is not a debt.
 - d. True
6.
 - a. County,
 - b. City,
 - c. Federal,
 - d. County (It can also be a state official such as the Commissioner of Corrections.)
 - e. County,
 - f. State,
 - g. City, State, County or Federal
 - h. City or County
7. True
8. Directing
9. Operating, Capital
10. The anticipated length of stay.
11. The amount a county can be indebted from all bond issues. It is set by the state assessor based upon estimates of the county's worth.
12. **False.** They are not coordinated. Most state fiscal years are July 1-June 30. This difference can sometime create problems for local jurisdictions attempting to coordinate state and federal grants.
13.
 - a. Legislative
 - b. Executive
 - c. Executive
 - d. Judicial
 - e. Executive
 - f. Legislative

14.
 - a. True
 - b. True
 - c. False. It is a debt to the those who purchase the bonds.
15.
 - a. Organizing
 - b. Planning
 - c. Planning
 - d. Controlling
 - e. Directing
 - f. Controlling
16. **False.** In some states the jail inspection law indicates who will get the report. But if it is not indicated in the law the inspector should be sensitive to the county power structure and ascertain who should get the original and who should get copies.
17. Planning
18. True
19. True
20. Using a variety of funding schemes to fund capital improvements.
21. True
22. Preliminary Budget.
23. Sheriff or Chief Deputy
24. True
25. Males/Females
Pre-trial/Sentenced
Misdemeanants/Felons
26. d.
27. Referendum or Election to Repeal.
28. True

CHAPTER SEVEN

RESOURCES

OVERVIEW

A wise person once said the intelligent person is not one who knows everything, but one who knows where to find it.

This is an apt comment for the inspector who needs to develop and tap resources in providing advice to jailers. He need not be knowledgeable in all things, but must be aware of the existence of resources and where to refer those needing information.

Unlike the days when corrections did not have standards or even training, today there is an abundance of information and resources. Also, professionals in the field are quick to assist their colleagues. To that end there are clearinghouses, information centers, college libraries, and formal and informal networks on the local, state and national levels.

There are materials in every form which can assist the correctional administrator. Such forms include printed matter, video tapes, films, filmstrips and audio tapes.

The intent of this chapter is not to duplicate the variety of resource banks which already exist. Its intent is to highlight some of the major state and national resources from which the inspector can begin to expand his repertoire of resources. The chapter addresses major national resources, prominent resources in the states, professional standards setting bodies, and major special interest groups.

PERFORMANCE OBJECTIVES

AT THE CONCLUSION OF THIS SESSION, THE STUDENT WILL BE ABLE TO:

1. Identify at least seven national resource agencies and define the nature of those resources.
2. List at least three national professional agencies which promulgate standards for corrections.
3. List at least six agencies in their state which may provide resources to their jails.
4. Identify at least six special interest groups on the state and national level which can provide resources to states.

NATIONAL RESOURCES

In an earlier chapter, it was noted that the inspector is often seen as a resource to the jail and the county. He is not only a finder of deficiencies, but also looked to as a problem solver. This does not mean that he has to know everything, but he should know where to get information. Knowing the available **RESOURCES** makes him **RESOURCEFUL**.

There are many resources available on the national level. Addresses and phone numbers are not included in this text as they are subject to change. However, the National Institute of Corrections has published a Resource Manual with that and other valuable information.

The **NATIONAL INSTITUTE OF CORRECTIONS (NIC)** is a Federal agency founded in 1971 as a major resource to Corrections. It has five major sections, namely:

**PRISONS DIVISION
COMMUNITY CORRECTIONS DIVISION
JAIL CENTER
NATIONAL ACADEMY OF CORRECTIONS
NATIONAL INFORMATION CENTER**

The Prisons Division, Community Corrections Division and Jail Center provide basically the same services but in their area of specialty. The **JAIL CENTER** is the jail inspector's major resource. However, if questions arose regarding prisons or community corrections, the other divisions would be contacted.

The **JAIL CENTER** provides technical assistance in staffing analyses, reviews of written policies and procedures, planning of and transition to new facilities, jail design, direct supervision, etc.

It has focused on assistance to small jails. Several materials on small jails have been published and are available at no cost. Of particular interest, the Center published a small jail resource directory as well as a small jail design guide, both of which should be in the library of every jail inspector.

The Jail Center is a valuable and easily accessible resource. Often all that is needed is a letter explaining why assistance is needed. The Jail Center staff will then provide the assistance or hire a consultant to do so. If the assistance requires on-site work, the Center will pay all consultant expenses.

The **NATIONAL ACADEMY OF CORRECTIONS** provides management and special issue training. Jail managers attend training programs with prison and community corrections managers. The Academy also provides technical assistance in the area of training. If a jail has a training officer or an academy, and needs assistance, it can be requested in the same manner as from the Jail Center.

The **NATIONAL INFORMATION CENTER** is a clearinghouse of correctional information and materials. If a jail is having difficulty in implementing a classification system or a disciplinary procedure, it can call the Information Center and explain the nature of the problem. The information experts there will send documents addressing the problem. Training lesson plans on all types of subjects are catalogued from across the nation. As with other NIC activities, the Information Center staff are most responsive in providing the appropriate material, quickly and at no cost.

The **NATIONAL INSTITUTE OF JUSTICE** is a Federal agency which provides research in corrections and can provide valuable information on such issues as construction techniques, technology, etc. It also operates the **NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE (NCJRS)** which is an extensive library service. In addition to written material, it catalogues video tapes and other training aids. Many of these documents are free or copies can be made from master copies. NCJRS also operates an electronic bulletin board for quick and easy computer access to information. It has a monthly publication announcing the results of the latest research in corrections, materials available, and abstracts of new books.

PROFESSIONAL ASSOCIATIONS are also a resource as they provide information in the form of training materials, correspondence courses, books, publications, and video tapes. They also publish periodical journals with important technical information, information regarding innovative programs, research results, construction techniques, and advertisements which can assist the inspector in keeping abreast of the latest in jail equipment and furnishings.

They also sponsor training programs and provide technical assistance as well as conducting annual meetings and conventions for sharing information. Often too, the large national organizations have affiliate state organizations such as state jail associations, which are important resources for networking. Further, these are vehicles for the inspector to make himself accessible to jail professionals.

The three major professional organizations focusing on jails are the **AMERICAN CORRECTIONAL ASSOCIATION (ACA)**, **AMERICAN JAIL ASSOCIATION (AJA)**, and the **NATIONAL SHERIFFS ASSOCIATION (NSA)**.

Review Questions

➤ The _____ is a Federal agency which produces a jail resource directory.

7

➤ List the five major resource sections of the National Institute of Corrections.

13

➤ The _____ is the major NIC resource addressing programs, activities and technology related to jails.

18

➤ The NIC Jail Center provides all of the following services EXCEPT.

- a. Technical assistance
- b. Reviews of written policies and procedures.
- c. Jail construction
- d. Planning of new facilities
- e. Transition to new facilities

1

➤ If a jail administrator needed training in jail management, he would apply to the NIC _____.

10

➤ The NIC _____ is an invaluable source for materials on policies and procedures, lesson plans and other correctional information.

➤ The _____ is an information clearinghouse operated by the National Institute of Justice.

5

➤ List three national professional agencies providing resource services in corrections.

16

STANDARDS OF NATIONAL AGENCIES

Professional organizations on the national level have developed standards.

Professional associations are a valuable resource, especially, if questions arise in the development of new state standards. These organizations can provide information if questions are raised as to why a standard should be implemented. Finally, if there is technical research required to validate a standard, these organizations usually have the resources to do so. The results of their studies are often available to the inspector.

Perhaps the best known standards are those of the **AMERICAN CORRECTIONAL ASSOCIATION (ACA)**. ACA publishes several different sets of standards and most have been updated or supplemented since originally being published. Caution is offered when citing these standards that the most recent **EDITIONS** and **SUPPLEMENTS** are consulted. Those editions most relevant to the jail inspector are:

STANDARDS FOR ADULT LOCAL DETENTION FACILITIES
STANDARDS FOR ADULT COMMUNITY RESIDENTIAL SERVICES
STANDARDS FOR JUVENILE DETENTION FACILITIES
STANDARDS FOR SMALL JAIL FACILITIES

Standards for lockups are published by ACA in the Detention Manual. Similar standards are also issued by the **COMMISSION ON ACCREDITATION FOR LAW ENFORCEMENT AGENCIES, INC.** The publication containing these standards is:

**THE STANDARDS MANUAL OF THE LAW ENFORCEMENT AGENCY
ACCREDITATION PROGRAM**

The **NATIONAL COMMISSION ON CORRECTIONAL HEALTH CARE (NCCHC)** publishes standards for health care in jails. They generally follow the ACA standards and are consistent with them. The NCCHC manual of standards is entitled:

STANDARDS FOR HEALTH CARE IN JAILS

Not only is this manual more detailed than the ACA standards, but it also provides suggested forms to be used for intake screening, suicide screening, and other medical procedures.

The **NATIONAL FIRE PROTECTION ASSOCIATION (NFPA)** issues standards for jails and prisons in its publication titled **LIFE SAFETY CODES**. NFPA standards are required in renovations or the construction of new facilities and are the basis of fire inspections.

NFPA also publishes the **LIFE SAFETY CODE HANDBOOK** which outlines NFPA requirements along with comments which are helpful in interpreting the Code.

In addition to developing standards, ACA and NCCHC offer a voluntary **ACCREDITATION** service. Accreditation through ACA is administered by the **COMMISSION ON ACCREDITATION FOR CORRECTIONS (CAC)**. NCCHC administers its program.

Accreditation for police lockups is administered through the **COMMISSION ON ACCREDITATION FOR LAW ENFORCEMENT AGENCIES**.

All accreditation programs involve costs. They include administration of the accreditation program, and the "peer review" during which auditors assess compliance with standards.

Review Questions

- List three reasons why professional organizations which promulgate standards can be a resource to the jail inspector.

- When citing standards of the American Correctional Association, one should be careful to cite the correct _____ and _____.

- What are the titles of the four manuals of standards of the American Correctional Association standards having particular relevance to the jail inspector.

- The title of the standards manual published by the Commission on Correctional Health Care is _____.

- The title of the publication containing the National Fire Prevention Association standards for jails is _____.

- The major accrediting agency for corrections is the _____.

12

9

3

14

4

11

STATE AGENCIES PROVIDING RESOURCES TO JAILS

There are many state agencies which may assist jails. Often these agencies are eager to assist jails but are unaware that their assistance is needed or wanted.

On the last point, some jail administrators would rather not have a parade of persons from outside agencies disrupting their routine. While it is easy to understand this, the jail inspector should emphasize the benefits to be derived from their involvement.

A major benefit includes **SUPPORT** for correcting deficiencies noted by these agencies, especially in the areas of sanitation, health and fire safety. Additionally, their involvement may demonstrate the jail's **GOOD FAITH** to improve jail conditions in the event of a liability suit.

Fire safety is such a critical issue in jails and the **FIRE MARSHAL** is an important resource. Often there are fire safety problems in jails and the fire marshal may be able to assist in developing practical plans to correct them. In addition, the fire marshal can assist in developing emergency/fire plans.

Allied to the fire marshal is the assistance which can be provided by the **LOCAL FIRE DEPARTMENT**. Most departments are interested in reviewing or participating in the development of emergency plans, having their staff visit or tour the facility, etc.

The **HEALTH DEPARTMENT** is capable of providing assistance in many areas. Often in small counties, the health department may provide **MEDICAL SERVICES**, or at least screening for infectious diseases. Additionally, it will inspect and make recommendations on the food services program. **DIETITIANS** will normally be eager to review menus and to suggest substitutions so that a balanced menu is provided.

SANITATION services are also available through the Health Department. Not only is the sanitation engineer available to make inspections, but also to assist in the implementation of recommendations.

There are several other state and local agencies which can be of assistance to the jail. A listing follows with a brief description of the types of assistance they can provide.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA). Inspection, investigation and consultation to ensure safety in the workplace.

CIVIL DEFENSE/EMERGENCY PREPAREDNESS. Assistance in development of emergency plans.

POLICE DEPARTMENTS. Emergency response assistance, and coordination for mass arrests.

SOCIAL SERVICE AGENCIES. Provision of counselling for staff and inmates, and augmentation of in-jail counselling programs and services.

GOVERNMENTAL AUDITORS. To assist in the development of inmate accounts and accounting procedures.

UNIVERSITIES/COLLEGES/COMMUNITY COLLEGES. Assist in conducting studies or placement of students for special projects.

HANDICAPPED OFFICE. Provides technical assistance on architectural barriers.

HISTORICAL COMMISSION. Provides information on renovation of historical structures.

PROFESSIONAL ASSOCIATIONS. Can provide technical assistance regarding social, academic or technical issues.

Review Questions

➤ *The documentation provided as a result of the involvement of local resource agencies can demonstrate the _____ of the county to improve conditions at the jail.*

➤ *List three services the local health department can provide to a jail.*

8

2

SPECIAL INTEREST GROUPS

There are several special interest groups which can act as resources to corrections.

The **NATIONAL ASSOCIATION OF COUNTIES (NACO)** is an association addressing issues critical to counties. In this regard, jails are a real concern and there are committees in the association whose purpose is to focus on corrections. NACO has **STATE CHAPTERS** whose members may be a resource to the jail inspector.

The **LEAGUE OF WOMEN VOTERS** is an organization at the national, state and local levels which has an interest in jail reform as does the **AMERICAN CIVIL LIBERTIES UNION**.

Additionally, there are state professional organizations such as the **STATE SHERIFFS ASSOCIATION** and the **STATE JAIL ASSOCIATION** which are important vehicles for positive change. An advantage they provide over national organizations is that they are readily accessible to the membership and attendance at their conferences is less expensive.

State professional associations are an important source for developing networks of information and support among jail colleagues. Many state associations, working through committees, have accomplished dramatic results in the passage of legislation. Such legislation includes the establishment of jail inspection programs and state training academies. Others are the passage of laws for good time, work release, correctional officer benefits and rights.

Review Questions

- ▶ List three ways the state sheriffs or jail association can assist toward jail improvements.
- ▶ The _____ is a national organization which is dedicated to addressing issues critical to local jurisdictions.
- ▶ Identify the organizations listed below by writing the name of the organization.

NACO _____
NSA _____
NIC _____
NFPA _____
ACA _____
NCCHC _____
AJA _____
NCJRS _____
CAC _____
ACLU _____
OSHA _____

6

17

19

CHAPTER 7

ANSWER KEY

1. c. Jail construction
2. Medical, Dietitian, Sanitation
3. Standards for Adult Local Detention Facilities
Standards for Adult Community Residential Facilities
Standards for Juvenile Residential Facilities
Standards for Small Jail Facilities
4. Life Safety Codes
5. National Criminal Justice Reference Service
6. Passage of legislation
Networks for information
Accessibility of meetings
7. National Institute of Corrections
8. Good Faith
9. Edition(s) and Supplement(s)
10. National Academy of Corrections
11. Commission on Accreditation for Corrections
12. Development of new standards
Providing a rationale as to why a standard is needed
Technical assistance on a standard
13. Prisons Division
Jails Division
Community Corrections Division
National Academy of Corrections
National Information Center
14. Standards for Health Care in Corrections
15. National Information Center

16. ACA American Correctional Association
AJA American Jail Association
NSA National Sheriffs Association
17. National Organization of Counties
18. Jail Center
19. National Association of Counties
National Sheriffs Association
National Institute of Corrections
National Fire Prevention Association
American Correctional Association
National Commission on Correctional Health Care
American Jail Association
National Criminal Justice Reference Service
Commission on Accreditation for Corrections
American Civil Liberties Union
Occupational Safety and Health Administration

JAIL INSPECTION BASICS
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an Introductory Self-Study Course for Jail Inspectors

SUPERVISOR'S GUIDE

prepared by
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for
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Jail Standards Division

July 1990

JAIL INSPECTION BASICS
AN INTRODUCTORY SELF-STUDY COURSE FOR JAIL INSPECTORS

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PURPOSE AND USES OF THE SUPERVISOR'S GUIDE

The purpose of the Supervisor's Guide is to provide the supervisor a shortened companion to the Jail Inspection Basics manual. The companion is designed to facilitate interaction between the supervisor and new inspector about the topics in the program.

In order for the new inspector to benefit the most from the program will require the assistance of his supervisor. Your Supervisor's Guide contains the bare bones of the Jail Inspection Basics manual and assumes that you are a content expert. If there is any question regarding the content, you may refer to the appropriate material in the text.

It is not the intent that this program be the last word in jail inspections. It is fully realized that each state approaches the matter of jail inspections differently. And, to make the training realistic, the supervisor must make it "come alive" through the mentoring of the new inspector. The Supervisor's Guide will assist toward this end.

One limitation of the Jail Inspection Basics manual is that its structure allows only limited learning outcomes. The student responds to concrete questions asking him to **IDENTIFY, LIST** and **DEFINE**. The Supervisor's Guide involves the supervisor and allows him to ask the student questions, discuss peculiarities of his or her state, and allow the new inspector to share in the experience of the supervisor.

The result of this interaction will be the new inspector's ability to **EXPLAIN, DIFFERENTIATE AND DISTINGUISH** and thus demonstrate higher levels of learning.

STRUCTURE OF THE SUPERVISOR'S GUIDE

There are seven chapters in the Supervisor's Guide which follow the same order as the Jail Inspection Basics manual. Each chapter is in the following format:

Chapter Overview
Objectives and Related Test Questions and Answers
Discussion Topics
Resources and Bibliography

The Chapter Overview is an outline of the material covered in the chapter. Each Objective is followed by the test questions in the Jail Inspection Basics manual. However, the Supervisor's Guide has the answer following each question.

The Discussion Topics section is most important. It is intended to focus the learnings of the self-administered text to your agency and state. It is suggested that after the new inspector finishes each chapter, he or she meet with you to discuss the Topics in this section. The Topics in this section are not all inclusive, and you should feel free to add to them depending upon your experience.

The Resources and Bibliography section includes the texts used to develop this training program and suggests some resources within your state to which you can refer the new inspector to add to his learning.

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CHAPTER ONE

LEGAL ISSUES

Since the mid 1960s, federal courts have intervened in correctional matters. Prior to that time, the courts' unofficial policy was "Hands Off".

There were many reasons for the courts to adopt this policy. Among those was the assumption that the courts had no expertise in security and control. Further, it was felt that the security interests of a correctional facility precluded one's constitutional rights. And the "separation of powers" doctrine of the U.S. Constitution meant that the courts had no business in correctional matters.

With the advent of the Civil Rights Movement in the early 1960s, the "Hands Off" policy fell to the wayside. Prisons and jails became open to Civil Rights litigation as their deplorable conditions and treatment of prisoners came under closer scrutiny.

The vehicle used to involve the federal courts was Title 42, Section 1983 of the Federal Civil Rights Act of 1871. Once the Courts recognized this avenue to bring suits, there were several areas in which litigation proceeded.

Prisoners sued using the First, Sixth, Eighth and Fourteenth Amendments to the U.S. Constitution. The result of this court intervention was the development of an extensive body of "Case Law" which became the basis for the eventual development of state and national standards.

While civil rights suits are prevalent today, there is a fairly substantial body of case law to guide correctional administrators. Knowledge of this law is central to the inspector's ability to assist the correctional administrator in applying the law to daily facility operations.

This chapter will examine the state and federal judicial structure including the courts' jurisdiction in criminal and civil suits. In addition, the various types of law will be discussed with an emphasis on the derivation of case law. Litigation and liability will be addressed as well as Constitutional rights of prisoners and staff.

OBJECTIVES, TEST QUESTIONS AND ANSWERS

INVOLVEMENT OF COURTS IN CORRECTIONAL MATTERS

OBJECTIVE 1. Identify several factors which led to the involvement of the courts in correctional matters.

OBJECTIVE 10. Identify the Constitutional basis for prisoner suits and trends facing corrections today.

OBJECTIVE 11. Identify basic inmate rights founded in case law.

Test Questions and Answers for Objectives 1, 10 and 11

7. The courts had a "hands off" policy prior to the 1960s because of the doctrine related to the three branches of government called _____
[The Doctrine of Separation of Powers]
19. The three Branches of Government in governmental structures of the United States are _____,
_____ and _____.
[Executive, Judicial and Legislative]
11. In citing the Lack of Judicial Expertise the courts were saying _____
[That they lacked the expertise, knowledge and skill to determine how correctional facilities should be managed.]
22. The issue of _____
relates to the courts' feeling that their intervention into correctional matters would threaten institutional security, and the notion that prisoners should be disciplined for their crimes.
[Institutional Security and Discipline]
9. The idea that prisoners should lose their rights because they were convicted of a crime refers to the notion that they were _____
[Slaves of the State]
15. Two reasons for the intervention of the courts in corrections in the 1960s and 1970s were:
*[a. Police cases arising from the Civil Rights Movement.
b. The Attica riot which exposed the conditions of prisons.]*
24. Indicate which Amendment to the U.S. Constitution each of the following descriptions refers.
a. Cruel and Unusual Punishment
b. Access to the Press
c. Due Process
d. Equal Protection
e. Freedom of Religion
*[a. Eighth
b. First
c. Sixth
d. Fourteenth
e. First]*
5. List seven areas of jail administration and operations which have been affected by court decisions.
[Staffing; access to courts, media, printed matter, counsel, telephone and libraries; practice of religion; visiting; recreation and exercise; classification and segregation, food and medical services, discipline; and living conditions.]
18. Another title for the Anti Ku Klux Klan Act is _____
[Title 42, Section 1983 of the Federal Civil Rights Act of 1871]
2. The phrase "Any person, who under the Color of Law" refers to any governmental agent of state and local government.
True or False.
[True. Interestingly, though Section 1983 applies ONLY to state and local governmental agents and NOT to federal agents.]

16. Section 1983 applies equally to state and federal laws and the constitutions of each.

True or False.

[False. It only applies to the Constitution and laws of the United States Government.]

25. The term Plaintiff refers to the _____ and the term Defendant refers to the _____.

[Plaintiff is the person or party bringing the suit. Defendant is the one being sued.]

1. Since Section 1983 is a Federal law, suits can only be brought in Federal courts.

True or False.

[False. Section 1983 cases can be brought in both state and federal courts. In most cases Plaintiffs sue in federal courts as there is a notion that federal courts are more sensitive to prisoners' rights.]

13. Section 1988 refers to the law which _____.

[allows the prevailing party in a Section 1983 lawsuit to receive lawyers fees from the losing side.]

STRUCTURE OF STATE AND FEDERAL COURTS

OBJECTIVE 2. Identify the structure of state and federal courts and be able to list their similarities and differences.

Test Questions and Answers for Objective 2.

28. The two court structures in every state are _____ and _____.
[State and Federal]

4. Federal crimes and suits alleging violations of Federal laws are heard in which of the Federal courts?
[Federal District Courts]

10. The courts which hear civil and criminal cases are referred to as _____ and those at a higher level which may review lower court decisions are known as _____.
[Trial Courts, Appellate Courts]

21. At the appellate level, cases are usually retried.

True or False.

[False. Cases are not tried at the appellate level. At that level Matters of Law are considered and judges do not rehear the case. They are most concerned with legal errors regarding admissibility of evidence, jury instructions, etc.]

30. The highest level of appeal in a case originating in a state court is the state's Supreme Court.

True or False.

[False. A state case can be appealed to the United States Supreme Court.]

17. There are thirteen federal District Courts somewhat evenly distributed across the nation according to population and geography.

True or False.

[False. There are thirteen Circuit Courts and ninety-four Districts. Circuit Courts are appellate courts and District Courts are trial courts.]

6. List three different types of state trial courts.

[Small Claims, Landlord/Tenant, Domestic Relations, Civil, Criminal]

PRECEDENCE, CASE LAW AND JURISDICTION

OBJECTIVE 3. Define the terms Precedence and Jurisdiction.

OBJECTIVE 4. Identify the Executive and Judicial Branches' authority to develop law, and the types of law they create.

OBJECTIVE 5. Define the term Case Law, how it is developed, and what impact it has on corrections.

Test Questions and Answers for Objectives 3, 4 and 5.

35. Precedent has the full force and effect of law within the jurisdiction of the issuing court.

True or False.

[True]

27. Another term for Precedent is _____.

[Case Law]

14. Precedent is established when a judicial opinion is _____.

[Written]

31. How are law books or reporters used by lawyers?

[Law Books or Reporters are used by lawyers to research case law either for cases they are litigating or for developing the basis for an appeal.]

3. Precedent is often the basis from which correctional standards are developed.

True or False.

[True]

33. Indicate which of the following statements about Precedent are true or false.

- Precedent established by an appeals court can be reversed by a higher level court.
- A higher level court can establish a new Precedent after reviewing a case.
- Precedent in one federal Circuit may differ from another federal Circuit.
- If there is sufficient differences between federal Circuits the U.S. Supreme Court may decide to settle the issue and establish new Precedent.
- All state and federal laws and standards must conform to Precedent established by the United States Supreme Court.

[All five statements are true]

34. Laws made by the Executive Branch are most commonly referred to as _____ and _____.

[Codes and Regulations]

23. Jail standards which have the effect of law are normally published as _____.

[Administrative Rules and Regulations]

8. If the Legislature authorizes the Executive Branch to create law it does so by _____ that authority.

[Delegating]

TYPES OF LIABILITY

OBJECTIVE 6. Identify three types of liability and how each applies to governmental officials.

Test Questions and Answers for Objective 6.

40. Indicate which of the following descriptions are Official, Personal or Vicarious Liability.
- This is when a person is found liable as an individual.
 - This is when a person is found liable as a governmental agent.
 - This is when a person is found liable because of the acts of his employees.
 - This type of liability is also known as Administrative Liability.
- [a. Personal
b. Official
c. Vicarious
d. Vicarious]

REMEDIES IN A CIVIL SUIT

OBJECTIVE 7. Identify the courts' remedies in a civil rights suit.

Test Questions and Answers for Objective 6.

37. Identify which of the following remedies are Compensatory Damages, Nominal Damages or Punitive Damages.
- This is an acknowledgement by the court that there was wrongdoing, and the Defendant is penalized for the willful violation of the Plaintiff's rights.
[Punitive]
 - In this type of Damages the Plaintiff is awarded money for the actual loss he suffered.
[Compensatory]
 - This type of Damages refers to when there is no substantial loss to the Plaintiff but the court grants him a trifling sum.
[Nominal]
20. When the court orders that the jail cease operating in a certain manner that order is called a(n)
_____.
[Injunction]

ELEMENTS OF LITIGATION AND PROPER COURTROOM DEMEANOR

OBJECTIVE 8. Identify several elements of litigation and courtroom demeanor.

Test Questions and Answers for Objective 8.

53. The process of _____ is that which includes all the elements to pursue or defend a lawsuit.
[Litigation]

12. Arrange the following steps in the Litigation process in the order they usually occur.

- a. Pre-Trial Proceedings
 - b. Decision
 - c. Plaintiff's Complaint
 - d. Enforcement of the Judgement
 - e. Trial
 - f. Defendant's Response
 - g. Judgement
- [c,f,a,e,b,g,d]*

36. Generally the Attorney General's Office will defend a jail inspector in a civil suit if he acts within the _____ and without _____.

[Scope of his authority; Malice, fraud or corruption]

26. Which of the following is true about the process of Discovery.

- a. It encourages settlement of disputes out of court.
- b. It discourages surprises when a case goes to trial.
- c. It opens both sides' cases to the other.
- d. It relates to the backlog of cases in courts and promotes the efficient use of court time.

[All statements are true]

43. Indicate which of the following statements about Discovery refers to the terms "Interrogatories", "Document Production" and "Deposition".

- a. This is a question and answer session where the witness is sworn.
[Deposition]
- b. One can be discredited at trial if his answers are different than those given at this Discovery phase.
[Deposition]
- c. This may require that the jail inspector submit jail inspection reports.
[Document Production]
- d. This is written answers to questions from the other side in a law suit.
[Interrogatories]

45. If sued the jail inspector, should expect that the litigation process will proceed swiftly and that his lawyer will need to be in continual contact with him.

True or False

[False. The litigation process is most always lengthy. Further the inspector's lawyer may not contact him for great periods of time because of his caseload and the delays in litigation.]

CROSS GENDER SUPERVISION

OBJECTIVE 12. Identify the rights of staff in areas such as EEO and cross-gender supervision.

Test Questions and Answers for Objective 12.

48. The term _____ refers to officers of one sex supervising prisoners of the other.
[Cross Gender Supervision]

39. Cross Gender Supervision is a legal requirement supported by Title VII of the Civil Rights Act of 1964. It is enforced through the _____.
[Equal Employment Opportunity Commission]

54. Since Cross Gender Supervision is required by law, it is an issue which has been openly accepted and encouraged by the corrections profession.

True or False

[False. Cross Gender Supervision is an emotional issue which has not been greeted with open arms. Inmates have sued over privacy issues. Male officers have sued over issues related to their safety (assuming that women would not be able to support them in the event of a disturbance). Women have sued for their equal employment opportunity and chances of advancement by being able to work in all areas of the jail.]

42. To successfully implement Cross Gender Supervision management must address the issue through _____ and _____.

[Training and Supervision]

PLANS OF ACTION TO CORRECT DEFICIENCIES

OBJECTIVE 13. Identify the Inspector's role in assisting counties in developing Plans of Action to correct deficiencies, and how that role may assist in avoidance of potential liability.

Test Questions and Answers for Objective 13.

47. An _____ means that there is a Recognition and an Acknowledgement by the county that there are serious problems in the jail. Further, it is a Planned Strategy to address the problems _____ a suit is filed.

[Acceptable Beginning, Before]

41. The notion of an Acceptable Beginning recognizes that solutions to jail problems cannot be corrected overnight.

True or False

[True]

50. The assertion of the Acceptable Beginning defense may give counties breathing space in addressing and solving their jail problems.

True or False

[True]

32. The Acceptable Beginning defense allows the county to postpone addressing unsafe jail conditions. True or False.

[False. Unsafe conditions should be addressed immediately.]

51. What are three basic elements of a Plan of Action or a Master Plan ?

[Detailed list of each violation

Remedies to address each violation

Realistic timetable to address the violations with the most serious violations addressed first]

46. A jail inspector can assist a county in developing a Plan of Action by encouraging them to action before a lawsuit is filed.

True or False

[True]

INSPECTOR LIABILITY

OBJECTIVE 14. Given case studies, be able to identify elements of potential liability for inspectors.

Test Questions and Answers for Objective 14.

49. A jail inspector is subject to a Section 1983 suit because he operates or has authority under

_____.
[Color of Law]

29. When an inspector fails in his duty to exercise his authority firmly and fairly, this may become matter over which he can be sued.

True or False

[True]

38. A _____ is an agreement between the parties in a suit when they agree to certain conditions and which is filed with the court.

[Consent Decree]

44. List three requirements of the Florida jail inspection case.

[a. Inspect each jail twice per year.

b. Vigorously enforce the standards by suing non-compliant counties within seven days.

c. Upgrading of certain standards.]

52. List four allegations in the Texas jail inspection suit.

[a. The inspection process was inadequate to detect and record violations of standards.

b. The standards were not adequately enforced.

c. Variances were granted too freely thus weakening the standards.

d. The standards themselves were inadequate and vague.]

AREAS OR QUESTIONS FOR DISCUSSION

1. Discuss any significant lawsuits in your state which have affected standards, methods of inspection or compliance planning.

2. Discuss any cases in which you were sued.

Was it a Section 1983 suit or state tort claim?

Discuss the process of Discovery and any involvement you had in the litigation.

Who represents state employees in your state?

3. Discuss the structure of courts in your state including trial and appellate courts.

Are there city as well as state courts?

How do they relate to each other?

4. Are there any Precedents in your state which are reflected in state standards?

How did they come about?

5. Are there any cases in your state where officials have been found liable and damages have been awarded?

- What types of damages were awarded--punitive, compensatory and/or nominal?
Are there any cases where Injunctions were ordered?
What were the circumstances?
- 6. Describe the Administrative Procedures Act in your state.
- 7. Discuss how deficiencies with standards are handled in your state.

What is the sanction for non-compliance?
Do you have compliance monitoring authority?
Do you develop compliance plans or plans of action?
Is the jail required to respond to your agency if they are in non-compliance with any standards?
- 8. Discuss your State court structure using an organizational chart.
- 9. Discuss any relevant statutes or case law affecting jail operations or inspection programs in your state.

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CHAPTER TWO

STANDARDS

This chapter addresses the historical backdrop which led to the development of standards and examines the differences between voluntary and mandatory standards. It addresses the importance of standards compliance as a means to demonstrate good faith and it looks at the methods used in states to implement their standards, inspections and compliance program.

Since 1870 when the **AMERICAN PRISON ASSOCIATION** first promulgated standards, the field has evolved into a complex network of federal, state and local systems. They include parole, probation, jails, community corrections, prisons, and adult and juvenile services.

Not only has the field become complex but unique problems such as crowding have emerged to add to the complexity. Add to this the involvement of the state and federal courts and the requirement to operate constitutional jails. One then gets a picture of a system under stress.

In the mid 1960s, courts became involved in correctional matters and they created varied and sometimes conflicting case law among state and federal courts. In the face of the confusion this created, professionals saw the need for credible standards. The result was the creation of several bodies of correctional standards both on the state and national levels.

OBJECTIVES, TEST QUESTIONS AND ANSWERS

CERTIFICATION, ACCREDITATION, INSURABILITY AND RISK MANAGEMENT

OBJECTIVE 1. Explain the historical development of standards and their basis in law.

OBJECTIVE 2. Distinguish between the terms Certification, Accreditation, Insurability and Risk Management, and explain how standards compliance relates to each.

Test Questions and Answers for Objectives 1 and 2.

15. _____ is a legal recognition of an agency's compliance with state standards.

[Certification]

2. Which of the following actions may result from a finding of non-compliance with state standards.

- a. Imposition of fines.
- b. Closure.
- c. Granting of Certification.
- d. Compelling County Commissioners to correct deficiencies.

[C]

6. Accreditation is a process used in some states to recognize an agency's voluntary compliance with state standards.

True or False.

[False. Accreditation refers to professional recognition and is normally granted by that organization.]

14. The accreditation of hospitals and colleges provided a model for accreditation of correctional facilities.

True or False.

[True]

5. Match the agency with the function.

Commission on Accreditation for Corrections. _____

Commission on Health Care in Corrections. _____

a. It accredits Jail and Prison medical programs.

b. It accredits Jail and Prison medical programs in addition to other programs.

[a. Commission on Health Care in Corrections

b. Commission on Accreditation for Corrections]

1. Accreditation may be an essential element in a Consent Decree and thus become a legal requirement, enforceable through the Courts.

True or False.

[True]

20. Terms which describe an agency's attempts to prevent successful litigation

are _____ and _____.

[Risk Management or Liability Prevention]

13. Risk Management is a notion which arises out of an insurance company's willingness to provide insurance to a correctional agency.

True or False.

[False. Insurability]

22. Insurability is a term related to a state's authority to grant Certification.

True or False

[False. Term relates to an insurance company providing insurance to a correctional agency.]

TYPES OF STANDARDS

OBJECTIVE 3. Distinguish between and define the following terms: Mandatory and Voluntary Standards; Statute and Administrative Rules; Minimum Standards; Constitutional Minima; and Performance versus Prescriptive Standards.

OBJECTIVE 4. Identify the types of standards issued by State and National agencies, and how they apply to the correctional agency.

Test Questions and Answers for Objectives 3 and 4.

Which of the following statements about correctional standards are TRUE ?

10. Correctional standards may refer either to physical plant or operational issues.

[True]

18. Correctional standards, to be effective should be Objective, Measurable, Specific and Directive.
[True]

7. Correctional standards are rarely a legal requirement.
[False. They are often legal requirements as they reflect Constitutional issues addressed in case law. Further the standards may be mandated by state law.]

16. Compliance with correctional standards is a means to demonstrate accountability to the public, AND a means to measure accomplishments.
[True]

21. Which of the following statements refers to **PRESCRIPTIVE STANDARDS**?

- a. These standards usually dictate the specifics of an operation or the "how to" of that operation.
 - b. These standards require a level of activity on the part of correctional personnel.
 - c. These standards may require a set number of washbasins per inmate.
 - d. These standards may require certain documentable actions in a jail.
- [a and c. Answers b and d refer to Performance Standards.]

3. Standards which are essential for the planning and design of a new facility are called _____ standards.
[Physical Plant Standards]

12. Standards carry the Weight of Law **ALL** of the following **EXCEPT**.

- a. If agreed to in a Consent Decree.
 - b. If required in a Court Order.
 - c. In a voluntary state inspection program.
 - d. When mandated as state Administrative Rules and Regulations.
- [c]

25. When a state Board or Commission has standard-making authority, that authority is _____ by the Legislature.
[Delegated]

4. Match the terms with the descriptions or definitions.

Terms. Mandatory Standards
Voluntary Standards
Grandfathering
Variance
Waiver

- _____ a. These do not generally have the full effect of law.
 - _____ b. New standards may not be applicable to existing facilities.
 - _____ c. This foregoes application of a standard to an existing facility.
 - _____ d. This allows an alternative method to meet the intent of a standard.
 - _____ e. These standards must be met by a correctional agency.
- [a. Voluntary, b. Grandfathering, c. Waiver, d. Variance, e. Mandatory]

14. Constitutional Minima refers to minimum requirements of care and custody of prisoners which have been articulated by the _____.
[Courts]

11. Minimum Standards is a term referring to a state's minimum requirements of jail operations as required in Administrative _____ and _____.
[Rules and Regulations]

PHYSICAL PLANT, OPERATIONAL AND ADMINISTRATIVE STANDARDS

OBJECTIVE 5. Distinguish between standards for Physical Plant, Operations and Administration, and those which address Life, Health, Safety and Constitutional issues.

Test Questions and Answers for Objective 5.

9. Which of the following statements refers to Physical Plant, Operational or Administrative Standards.

- _____ a. Square footage of cells.
- _____ b. Testing fire alarms.
- _____ c. Second means of egress from housing units.
- _____ d. Accounting of inmate commissary accounts.
- _____ e. Availability of outdoor exercise area.
- _____ f. Unannounced and irregularly scheduled searches.
- _____ g. Number of commodes.
- _____ h. Fire drills.

[a. Physical, b. Operational, c. Physical, d. Administrative, e. Physical, f. Operational, g. Physical, h. Operational]

23. The term Good Correctional Practice refers to essentials of jail operations as required by the Courts.
True or False.

[False. As identified by the profession.]

19. The phrase "Life, Health, Safety and Constitutional Issues" addresses Constitutional Minima.

True or False.

[True]

LOCK-UPS, JAILS, PRISONS AND COMMUNITY CORRECTIONS

OBJECTIVE 6. Describe similarities and differences between standards for Lockups, Full Service Jails, Prisons and Community Correctional Centers.

Test Questions and Answers for Objective 6.

8. Often states will have differing standards dependent upon jail size and length of confinement.

True or False.

[True]

26. The ACA Small Jail Standards apply to police lock-up operations as well as small jails.

True or False.

[False. Only jails of fifty or less prisoners.]

INTERPRETATIONS, CLARIFICATIONS AND DECLARATORY JUDGEMENTS

OBJECTIVE 7. Describe the role of the inspector in issuing Interpretations, Clarifications and Declaratory Judgements.

Test Questions and Answers for Objective 7.

17. Formal and Legal terms referring to interpretations of standards are known as _____
or _____
[Opinion or Declaratory Judgements]
24. Inspectors are expected to offer Declaratory Judgements in the course of their duties.
True or False.
[False. If the Agency has the authority to issue Declaratory Judgments or Opinions, it is done by an authority higher than the inspector.]

AREAS AND QUESTIONS FOR DISCUSSION

1. Are the standards in your state Mandatory or Voluntary?

What is the history behind the standards program in your state? If the standards are voluntary, did the legislature specifically prohibit mandatory standards? Why?
2. If you have mandatory standards, are they embodied in statute or administrative rules?

If they are rules, who has the authority to develop the standards-a board, commission, Attorney General, Director of Correction? What is the process of developing new standards or changing existing standards?
3. Do your standards cover physical plant issues?

Are they general or particular?
4. Discuss the types of facilities covered by your standards to include prisons, jails, lockups and community correctional facilities.
5. How are requests for clarification of standards handled in your state?

Are the inspectors expected to make such clarifications or are they to refer such requests to their supervisor or to a board/commission/attorney?
Discuss the inspector's latitude in decision making. Also, discuss the need to be consistent.

RESOURCES

1. Relevant statutes.
2. Flow Chart on your state's standards development process.
3. Codified Administrative Rules and Regulations of your agency.

CHAPTER THREE

THE INSPECTION PROCESS

The heart of any standards program is the inspection process. Having a solid set of standards is necessary to establish performance requirements for jails, but it is the inspection process that makes the standards come alive.

What is commonly referred to as the **INSPECTION PROCESS** is really a continuum of activities designed to determine or assess compliance (or non-compliance) over time.

One element of this process is the actual on-site **INSPECTION** of the **PHYSICAL PLANT** and the **OPERATIONS** of the facility. Another is the **AUDIT** of the **DOCUMENTATION** to verify compliance with the standards on an on-going basis.

Documentation is generally divided into **PRIMARY** and **SECONDARY** documentation. Primary documentation may include such items as the agency's written policies and procedures, and inspection reports of other agencies such as fire and health. Secondary documentation is verification that the policies and procedures are being implemented. It includes such items as weekly sanitation and fire inspection reports, work orders, incident reports, logs, correspondence, sanitation and pest control contracts, thirty day menus, training records, post orders, etc.

When reference is made to the Inspection Process in this program, it includes the continuum of activities of inspecting and auditing.

The Inspection Process is not something that starts and ends the day an inspection is completed. The process is one which requires preparation, conducting the inspection, issuing a report, and developing some form of compliance monitoring system to ensure that the deficiencies noted are corrected over time.

It is important for the Inspector to coordinate with fire and health inspectors. Such coordination presents an orderly approach to a comprehensive inspection.

Unless such a process exists, it will be difficult to ensure that there is routine compliance with standards.

This Chapter addresses every possible aspect of the inspection process. While not every aspect may apply to your state, the principles address the reasons for inspections, namely to identify deficiencies and work toward their solution.

Included in this Chapter are a discussion of the purposes and types of inspections, the necessity for documentation, the need for data collection, and elements of the inspection process.

OBJECTIVES, TEST QUESTIONS AND ANSWERS

PURPOSES FOR AN INSPECTION

OBJECTIVE 1. List at least four purposes for inspections.

Test Questions and Answers for Objective 1.

7. The term "Governmental Interest" means that there is a need to develop a Compliance Plan to demonstrate Good Faith.
True or False.
[False]
16. Through the development of a Compliance Plan, an inspection can help to demonstrate an agency's movement toward full compliance.
True or False.
[True]
20. A _____ is an instrument which allows the agency to approach and solve deficiencies over a period of time.
[Compliance Plan]
3. Deficiencies noted in an inspection allow the jail to emphasize where corrective action is necessary.
True or False.
[True]
24. An inspection demonstrating substantial compliance with standards is a recognition of an agency's _____.
[Professionalism]
15. _____ is a term referring to a jail's intent to meet its constitutional responsibilities to prisoners.
[Good Faith]
13. Inspections conducted by jail staff which can assist in demonstrating compliance with standards are called _____.
[Internal Inspections]

TYPES OF INSPECTIONS

OBJECTIVE 2. Describe seven types of inspections and identify why each is used.

Test Questions and Answers for Objective 2.

11. Match the Type of Inspection with the description.

Types.

Physical Plant
Operational Management
Complete
Partial
Complaints/Grievances
Financial

- a. This type examines staff training.
- b. This type may include a check for fire safety equipment or for a second means of egress from a facility.
- c. This type may include an inspection of emergency lighting fixtures.

- d. This type includes an inspection based on all applicable standards.
- e. This type includes discussions with jail staff and inmates as to the general conditions of the facility.
- f. This type examines facility practices in areas such as intake, visiting, etc.
- g. This type is a detailed, exhaustive and extensive review of agency documentation.
- h. This type may include a review in preparation for the on-site inspection.
- i. This type may be necessitated by a request for assistance.

- [a. Management*
- b. Physical Plant*
- c. Physical Plant*
- d. Complete*
- e. Physical Plant*
- f. Operational*
- g. Management*
- h. Operational*
- i. Partial]*

DOCUMENTATION

OBJECTIVE 3. Explain the importance of documentation to demonstrate compliance and to list at least six types of documentation used for inspections.

Test Questions and Answers for Objective 3.

10. The development of documentation in corrections was in part due to increasing numbers of court suits.

True or False.

[True]

23. Indicate which of the following are Primary or Secondary types of documentation.

- a. Policies and procedures
- b. Post orders
- c. Incident reports
- d. Emergency plans
- e. Fire Inspections
- f. Work orders
- g. Menus
- h. Directives
- i. Logs

- [a. Primary*
- b. Primary*
- c. Secondary*
- d. Primary*
- e. Primary*
- f. Secondary*
- g. Secondary*
- h. Primary*
- i. Secondary]*

5. The adequacy of documentation may be that the function documented is routinely and substantively accomplished.
True or False.
[True]

22. Verbal documentation is sufficient to prove compliance with standards.
True or False.
[False. Verbal "documentation is not sufficient to prove compliance.]

DATA COLLECTION

OBJECTIVE 4. Explain the importance of data collection for reporting purposes.

Test Questions and Answers for Objective 4.

8. Data collection is important in which of the following instances.

- a. To justify and determine staffing needs.
- b. To determine the placement of exercise equipment.
- c. To assess the proper time for sick call.
- d. To develop budget requests.
- e. To project future jail capacity.
- f. To project renovation or construction needs.

[a,c,d,e,f]

12. Collection of data, while not necessarily mandated by statute is a means to develop information which could further the interests of jails.

True or False.

[True]

19. Data is important for the development of public policy issues. True or False.

[True]

THE INSPECTION PROCESS

OBJECTIVE 5. Identify the essential elements of the Inspection Process to include the Pre- and Post- Inspection Process as well as the Facility Inspection and Audit.

Test Questions and Answers for Objective 5.

1. The inspection process is the one process which is uniform across the various states.

True or False.

[False. It varies from state to state depending on the authority of the inspection agency.]

21. The key to a successful Inspection Process

is that it be _____ and _____.

[Rigorous and Thorough]

14. An element of the Pre-Inspection process is that it is either announced or unannounced.

True or False.

[True]

6. An element of the Pre-Inspection Process is the review of previous inspections and compliance monitoring reports.
True or False.
[True]
25. In the Pre-Inspection Process, a _____ may be a helpful tool in ensuring that all items are covered.
[Checklist]
18. A complete inspection can be made on the basis of a physical plant inspection alone.
True or False.
[False. A Management and Operational Inspection is needed in conjunction with a Physical Plant Inspection.]
2. A _____ is a formalized listing of deficiencies with dates for correction.
[Compliance Plan]
17. _____ is the process whereby the inspector monitors the progress of a jail toward full compliance with standards.
[Compliance Monitoring]
9. Technical Assistance is a role which the inspector may need to fill in advising an agency in the process of compliance with standards.
True or False.
[True]
4. Arrange the following parts of the Inspection Process in the order from first to last.
- Compliance Plan
 - Pre Inspection Process
 - Exit Interview
 - Entrance Interview
 - Physical Plant/Management Inspection
 - Compliance Monitoring
- [b,d,e,c,a,f]*

AREAS AND QUESTIONS FOR DISCUSSION

1. Discuss the types of inspections your agency conducts (Physical Plant, Operational, Management).
- Does the process include an audit of logs, policies and procedures, training records, etc?
 If not, is it because there is not enough time to conduct such an audit?
 Do you make allowances for older facilities?
2. Does your inspection process allow for Partial and Complete inspections?
- Is a Partial inspection conducted only for agencies which have been in substantial compliance with standards?
 Are they conducted because there is not enough time to conduct Complete inspections for all jails?
 If there are Partial inspections, are there particular standards which are used for the inspection?
 Who do you question? Are inmates routinely questioned?
3. Is the Inspector required to address prisoner grievances or complaints?
- How are they conducted?
 Are there any privacy issues or confidentiality issues of which the inspector should be aware?
 How do inspections maintain consistency in applying standards to jail operations?

4. Discuss the process of Compliance Monitoring in your agency.

Are agencies required to follow-up on any non-compliances?

5. Discuss the Technical Assistance role of the inspector.

Is he expected to provide technical assistance? To what extent? Are there any precautions you may suggest to him in providing technical assistance?

6. The text of this program could not address specifics of any inspection program. Discuss the inspections process used by your agency.

RESOURCES

1. Relevant inspection agency policy and procedures.
2. Inspection forms.

CHAPTER FOUR

FACILITY DESIGN AND ITS IMPACT ON OPERATIONS

Because of many antiquated facilities in this nation and the overcrowded conditions of most, considerable jail construction is occurring.

Jail inspectors are often the first persons to identify inadequate facility conditions. Reasons for that inadequacy may include deteriorating physical plants or design problems which inhibit staff supervision.

Often inspectors are asked to provide information and advice on design of new facilities. In some states, the jail inspection office has review authority on jail design since the state provides funds for construction or renovation, or it has jail construction standards. It is important for the jail inspector to be knowledgeable about the latest concepts of design and its impact on correctional operations.

There are too many stories where counties have made tragic mistakes in the design and construction of their new facilities. In some jurisdictions, poor planning has led to the need for further construction shortly after the new facility opened. In others, the new facility has been declared unconstitutional before it evened opened.

Fortunately, these stories are fewer today, perhaps due in part to jail inspectors who have advised counties on the reasonable steps to take in planning their new facilities.

The inspector does not have to be a jail planner, architect, or construction manager. However, knowledge of the latest principles of jail design, and the availability of resources, will enable the inspector to serve as a consultant to the local jurisdiction.

This Chapter addresses the important marriage between design and its impact on providing supervision which meets constitutional standards. Further, the necessary components of jail functioning such as housing, support, intake, program and administration are addressed. Discussion regarding separations and custody levels are followed by the notion of capacity setting.

OBJECTIVES, TEST QUESTIONS AND ANSWERS

MAJOR JAIL DESIGN CONCEPTS

OBJECTIVE 1. Identify correctional design concepts including Linear, Podular (Direct and Indirect), and Centralized versus Decentralized spaces.

Test Questions and Answers for objective 1.

10. Another term for a Linear Design is _____.
[Intermittent Surveillance]

6. The term Linear Design comes from the fact that such jails are designed with cells in "line", with a security corridor around them.
True or False.
[True]
19. Effective supervision is possible in a Linear jail because the officer is able to observe all inmates simultaneously.
True or False.
[False. The officer can only observe inmates when he tours the catwalk and cannot observe all the inmates at the same time.]
12. In a Podular Remote housing unit, the officer observes the inmates from _____
[A secure control booth]
8. One advantage of Podular Remote over the Linear design is that the officer _____
[Has continuous observation of the prisoners.]
2. The Podular Remote housing design facilitates interpersonal contact between the officer and the prisoners.
True or False.
[False. The officer has minimal contact as he is "remote" and in a secure control booth.]
17. The Podular Remote housing unit will be made effective through proper prisoner classification.
True or False.
[True]
16. Podular Direct differs from Podular Indirect in that the officer assigned to a Podular Direct unit is _____
[Located within the housing unit.]
5. The Podular Indirect and Podular Direct housing units share the common design principle which allows for constant supervision of prisoners.
True or False.
[True]
18. Which of the following is not a responsibility of the officer in a Podular Direct housing unit.
- Reducing tension.
 - Keeping negative behavior to a minimum.
 - Conducting disciplinary hearings.
 - Encouraging positive behavior.
- [c. This would generally be done by a higher authority after being referred or reported by the correctional officer.]*
11. One reason for choosing Decentralized services is the efficiency of _____
[Limiting inmate movement.]
21. Facility and manpower costs are two important considerations in choosing either Centralized or Decentralized services or programs.
True or False.
[True]

1. In most cases, the design for Decentralized spaces is preferred over Centralized spaces.

True or False.

[False. It is a decision which must be made by managers who must decide HOW the facility is to be operated.]

PRINCIPLES OF DIRECT SUPERVISION

OBJECTIVE 2. List Eight Principles of the Direct Supervision Concept of jail design.

Test Questions and Answers for Objective 2.

13. Match the Principle with the description.

- a. Principle _____ . This relates to the need for communications between staff and inmates.
- b. Principle _____ . This relates to the need to provide for an environment where staff and inmates are not fearful.
- c. Principle _____ . This relates to the need to prepare prisoners for assignment to Direct Supervision units and the need to ensure that they are assigned to them appropriately.
- d. Principle _____ . This requires the staff to always be in charge of a unit and to never let the prisoners exert authority over other prisoners.
- e. Principle _____ . This relates to the need for staff which are recruited for their ability to work well in a Direct Supervision unit and the need to train them in the principles of Direct Supervision.
- f. Principle _____ . This relates to the notion that a Direct Supervision jail experiences less vandalism if operated in accordance with the Principles of Direct Supervision.
- g. Principle _____ . This relates to the need to operate a jail in accordance with Constitutional guarantees of due process and freedom from cruel and unusual punishment.
- h. Principle _____ . This relates to the benefits of having "team" operations to better coordinate the operation of a unit.
- i. Principle _____ . This relates to the unit being the officer's "space" and not having to contend with a prisoner who will not obey all lawful orders.
- j. Principle _____ . This relates to recognizing that existing staff may resist Direct Supervision as they may be more comfortable distancing themselves from prisoners.

[a. Principle Six: Effective Communication

b. Principle Four: Safety of Staff and Inmates

c. Principle Seven: Classification and Orientation

d. Principle One: Effective Control

e. Principle Three: Need for Competent Staff

f. Principle Five: Manageable and Cost Effective Operations

g. Principle Eight: Justice and Fairness

i. Principle Two: Effective Supervision

j. Principle Three: Need for Competent Staff]

COMPONENTS OF A CORRECTIONAL FACILITY

OBJECTIVE 3. Identify nine components of a facility and explain their importance to the correctional operation.

Test Questions and Answers for Objective 3.

7. Many court decisions have facility design implications. Older jails often lack space for these requirements or the space they have is inadequate. List four typical problems which older jails have in this regard.

a. _____.

b. _____.

c. _____.

d. _____.

*[Lack of separation for males/females
A lack of separation for juveniles
Inadequate professional visitation
Lack of or inadequate intake space
Lack of health care space
Inadequate indoor/outdoor exercise space
Life-safety conditions
Lack of program space]*

22. The _____ of the National Institute of Corrections began an initiative in the 1970s which attempted to address the problem of new jail planning.
[Jail Center]

SEPARATE HOUSING ISSUES

OBJECTIVE 4. Explain the necessity for the separate housing of males and females, and adults and juveniles, in terms of legal requirements and practical correctional operations.

Test Questions and Answers for Objective 4.

20. What is meant by the phrase: THE MATTER OF SEPARATION OF JUVENILES IS AN ABSOLUTE ONE ?
[It means if juveniles are housed in a jail they must be housed separated by sight and sound and cannot participate in programs with adults.]

4. Juveniles are being kept in jails less due to _____ and _____ initiatives.
[Federal and State]

9. Since men and women must be housed separately from each other, they may not participate in programs together.
True or False.
[False]

23. Often the result of separation of juveniles from adults results in the juvenile being isolated.
True or False.
[True]

26. List four variables or factors which the National Institute of Corrections suggests can be studied in arriving at jail population projections.

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

*[Days served
Admissions to the facility
Total inmates held monthly
County population projections
Forecast assumptions
Data samples of the current jail population]*

AREAS AND QUESTIONS FOR DISCUSSION

1. Discuss a number of facilities in your state which are designed as linear, remote and direct supervision.

Are there any significant differences in their abilities to meet state standards?
2. Of new facilities in your state, are there any examples of centralized or decentralized spaces.

What are the advantages and disadvantages?
3. Discuss the operational problems of older facilities which were not designed as full service jails. Of special note, these facilities generally have problems with intake, release, separations for prisoners, storage, etc.
4. Discuss housing of juveniles in your state.

What are the statutory limitations if any?
What internal resources are available to the inspector which will assist in: determining capacities, site analysis, mission statement development, staffing plans, cost projections (operational and physical plant), financing, staff training, and methods of supervision?
5. Discuss the role of the inspector in providing technical assistance in jail planning and construction.

RESOURCES AND BIBLIOGRAPHY

RESOURCES

1. Provide the inspector with diagrams of various design concepts.
2. Identify key planning documents which are available especially from the NIC PONI and HONI programs.

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CHAPTER FIVE

COMMUNICATIONS OVERVIEW

The jail inspector must develop or expand his capacity to communicate with a variety of persons under a variety of situations.

It is necessary to develop an ability to communicate verbally with the sheriff, jail administrator, correctional officers, prisoners, county officials or the like. Often a different style is needed depending on the type of or reason for the communication, ie. investigations, testimony, negotiating, media interviews, conflict resolution, etc.

Much of the inspector's legacy is what is written, be they letters, reports, or suggested policies and procedures. The importance of these historical documents is underscored by their potential use many years later in litigation or as the basis of planning for a new facility. The inspector needs to develop skills of clarity and conciseness, and the use of objective language.

The inspector uses consulting skills almost daily. However, his role as a problem identifier does not stop there. It is necessary to have the ability to advise jail staff on what needs to be done to correct an identified deficiency.

This Chapter focuses upon these important interpersonal and written communication skills. Its purpose is not to preclude the new inspector's need to attend professional development seminars in this area. Its intent is to bring to mind that much of his skills are based around his ability to communicate clearly with all those with whom he comes in contact.

OBJECTIVES, TEST QUESTIONS AND ANSWERS

DEFICIENCIES IN WRITTEN COMMUNICATIONS

OBJECTIVE 1. Identify deficiencies in various types of written communications to include reports, letters, and policies and procedures.

OBJECTIVE 2. Describe the need for and demonstrate the ability to write with clarity and conciseness.

Test Questions and Answers for Objectives 1 and 2.

7. Make the following sets of words or phrases simpler. Note that for each grouping, one word should suffice as shown in a.

INSTEAD OF THESE**USE THIS**

a. make an effort
make an attempt
endeavor
attempt

[try]

b. maintain surveillance over
visually monitor

[watch]

c. relate
state
verbalize
articulate

[say/tell]

d. inform
advise
indicate
communicate verbally

[tell/speak]

e. initiate
instigate
commence
inaugurate
originate

[begin/start]

f. telephonically contact
contact by telephone

[call/phone]

g. respond
proceed

[go]

h. at which time
at which point in time

[then/when]

i. request
inquire
query

[ask]

j. presently
currently
at the present
at the present time
at this time
at this point

[now]

k. prior to
previous to
in advance of

[before]

10. Eliminate the redundancies in the following sentences.

- a. As he entered the school building.
- b. Later on the officer subsequently secured the area.
- c. His policies and procedures have been kept up to date with the times.
- d. The inmate insisted with emphasis that he had no contraband.
- e. That event occurs frequently and happens over and over again.
- f. His writing is redundant as he repeats himself over and over, as well as iterating the same thing twice.

[More than one answer may be correct. Those found below are suggested answers.]

- a. As he entered the school.
- b. The officer subsequently secured the area.
- c. His policies and procedures have been kept up to date.
- d. The inmate insisted that he had no contraband.
- e. That event occurs frequently.
- f. His writing is redundant.]

3. Rewrite the following sentences or phrases making them more clear and concise.

- a. Telephonically contact the Sheriff at his place of residence.
- b. I proceeded to make a visual examination of the cell block area.
- c. Proceed to the upstairs area.
- d. Attempt to ascertain his precise direction of travel.
- e. In the near future I propose a staff visit of your facility.

[More than one answer may be correct. Those found below are suggested answers.]

- a. Call the Sheriff at home.
- b. I examined the cell block area.
- c. Go upstairs.
- d. Try to find out which way he went.
- e. I will visit the facility soon.]

12. Rewrite the following sentences observing the Rule of Twenty.

Note that you will need more than one sentence to adequately rewrite the sentences.

- a. Some juveniles should be transferred to a close security facility especially those who pose serious threat to self and others, those who have established a pattern of absconding and those youths who have a need for protection.
- b. Written procedures for releasing residents include verification of identity, verifying release papers, names of person or agency to who the juvenile is to be released, giving back personal effects, check to see that no facility property leaves the facility, instructions on forwarding mail.
- c. A clean facility has a positive effect on morale, and it is essential that sufficient receptacles are provided for those who reside in the facility not only for sanitation but also for control of combustibles.
- d. Orientation is important as new prisoners should be provided with an understanding of what is expected of them and they should also be provided with information which may set their programmatic and personal expectations.

[More than one answer may be correct. Those found below are suggested answers.]

- a. *Some juveniles should be transferred to a close security facility. They should include those who pose serious threat to self and others. It should also include those who have established a pattern of absconding and who have a need for protection.*
- b. *Another way to write this and be consistent with the Rule of Twenty would be to use colons (:) and semi-colons (;).
Written procedures for releasing residents include: verifying identity and release papers; including names of person(s) or agency to whom the juvenile is to be released; returning personal effects; checking to see that no facility property leaves the facility; and, receiving instructions on forwarding mail.*
- c. *A clean facility has a positive effect on morale. It is essential that enough receptacles are provided for residents for sanitation and control of combustibles.*
- d. *Orientation is important as new prisoners should be told what is expected of them. They should also be given information which may set their programmatic and personal expectations.]*

14. The following sentences can be arranged into a well-ordered paragraph. Fit them into the outline below, entering the sentence numbers in the appropriate places.

- a. Unity involves sticking to the subject and to the purpose, plus presenting the ideas as a consistent whole.
- b. Similarly, coherence involves orderly arrangement, and at the same time requires a clear indication of the relationship between the ideas.
- c. Unity implies balance without excess in one part or lack in another.
- d. This relationship is indicated by transitional words and phrases.
- e. Unity and coherence are essential to good writing.
- f. Unity and coherence therefore help to make writing clear and easy to read.

[Topic Sentence e.

*Sentences that Develop the Topic # a,c,b,d or c,a, b,d
(arranged in logical sequence)*

Concluding Sentence # f]

OBJECTIVE AND SUBJECTIVE LANGUAGE IN WRITTEN REPORTS

OBJECTIVE 3. Distinguish between objective and subjective language in written reports.

Test Questions and Answers for Objective 3.

18. Rewrite the excerpt from the inspector's letter cited below.

"And in conclusion Sheriff, I have never seen a filthier jail than yours nor a more slovenly staff. What you need to do is have a heart to heart talk with that group or hire some professionals. By the way, If you want, I will be happy to talk to the County Commissioners about the incredible goings-on there."

• *Suggested Answer*

["Finally Sheriff, the jail needs cleaning as there was evidence of vermin, and considerable trash and dirt on the floor. Further, the toilets, washbasins and showers have not been cleaned for some time.

"In order to comply with the sanitation standards, staff will be required to supervise prisoners more closely. Also, more frequent and effective sanitation inspections are needed."]

(The point made in this rewrite is to make the language more objective by tying the deficiencies to standards and objective evidence of the filth. The inspector need not become emotional. A straight forward citation of deficiencies will make the point well.)

11. The use of Objective Language in a report results in a tone which is _____.

[Constructive]

8. List three reasons why Subjective language should not be used in a report.

*[it cites nothing constructive;
it labels the writer as intemperate;
it indicates that he may have scores to settle;
it gives the author AND the sheriff little maneuvering space;
it creates enemies;
credibility is lost; and,
battle lines are drawn over present and future issues.]*

ELEMENTS OF INTERVIEWS AND INVESTIGATIONS

OBJECTIVE 4. List (several) important elements of an interview and an investigation.

Test Questions and Answers for Objective 4.

20. The following statements refer to Considerations for Conducting an Interview. Indicate which Consideration best matches each statement.

- a. The interview should be conducted out of "ear shot" of others.
- b. Get the cooperation of the interviewee by having him involved in the interview.
- c. Develop a list or checklist of questions for the interview.
- d. Have an agenda for the meeting.

*[a. Provide for Privacy
b. Encourage Participation
c. Be Prepared
d. Allow Enough Time or Be Prepared]*

9. When conducting an interview or investigation the jail inspector must make best use of his _____.

[Interpersonal Skills]

13. Of the interpersonal skills listed in the text, indicate which matches the following description.

- a. This relates to the interviewer's ability to hold and use his body in a manner which shows confidence.
- b. This is another term for Distancing.
- c. This refers to the interviewer's ability to seek out hidden messages.
- d. One is practicing this skill if he is attentive to signs of nervousness on the part of the interviewee.
 - [a. Posturing
 - b. Positioning
 - c. Listening
 - d. Observing]

6. _____ refers to the need to begin the investigation as soon as possible after learning of the incident.
[Timeliness]

26. _____ refers to the person's un-cooperativeness in the interview.
[Refusal to Cooperate]

25. _____ refers to when the interview is lengthy and there is a need for frequent breaks.
[Reasonable Time]

2. _____ refers to the interviewee being able to present his version of the incident.
[Challenge Facts]

CONFLICT RESOLUTION

OBJECTIVE 5. Identify five negotiation tactics (conflict resolution strategies) and the appropriate situation in which to use each.

Test Questions and Answers for Objective 5.

5. This style of conflict resolution may not satisfactorily address everyone's concerns but it arrives at a solution to the problem which is the best possible one. _____
[Compromising]

22. This conflict resolution style is appropriate when the issues are non-negotiable. However, it should be used as a last resort because it either is or may be perceived as a use of power.

[Competing]

17. This style of conflict resolution confronts issues in a positive way, attempts to explore all sides of an issue, and is exemplified by respecting the other side's right to disagree.

[Collaborating]

1. Sometimes the use of this conflict resolution style is best used if the issue is relatively minor or the time does not seem right to address the issue. _____
[Avoiding]

19. This style is typified by not addressing the basic concerns of the conflict, and it may create hard feelings on the part of the person giving in to the other. _____
[Accommodating]

MEDIA RELATIONS

OBJECTIVE 6. List (several) principles and practices to use in dealing with the media.

Test Questions and Answers for Objective 6.

23. When interviewed by the media, it is important to address issues from the _____ by avoiding jargon.

[Public's Perspective].

4. One can buy time in dealing with the media by using statements such as (list three).

*[If a question is asked and the answer is not known or not understood **BUY TIME** using statements such as:*

"Let me think for a moment".

"I've never been asked that question before."

"I'll need further information before I can respond."]

15. List five instances when an inspector does not have to respond to a media question.

[Legal case pending

Speaking for a third party

Personal information

Irrelevant questions

On-going investigations

Personnel action pending

Jeopardy of the security or safety of the institution

Hypothetical situations]

THE INSPECTOR AS A CONSULTANT

OBJECTIVE 7. List and explain the role of the inspector as a consultant.

Test Questions and Answers for Objective 7.

24. Two terms which describe the inspector's role as a consultant are _____ and _____

[Problem Identifier and Problem Solver]

16. It is important for the inspector in his role as consultant to assist an agency by actually writing policies and procedures if they are needed to comply with standards.

True or False.

[False. He may teach them how to write a policy and procedure, refer them to another jail, or provide them information which they need to write a policy and procedure.]

21. Even though he accepts a role as consultant, it is important for the inspector to not compromise his main responsibility of determining compliance or non-compliance with standards.

True or False.

[True. Even though he accepts a role as consultant, it is important for the inspector to not compromise his main responsibility of determining compliance or non-compliance with standards.]

AREAS AND QUESTIONS FOR DISCUSSION

1. It may be helpful for you to examine examples of the inspector's writing and critique it using the principles and practices shown in this section.
2. Does your agency conduct investigations?

If so, discuss the kinds of investigations typically conducted. Also, discuss methods used as well as the suggestions included in this chapter.

3. Describe some typical and atypical examples of how you have resolved conflict in dealing with:

County Commissioners
Sheriffs
Jail Administrators
Jail Staff
Inmates

Were the methods you used successful? What worked for you?

Did you use any of the methods suggested in this Chapter (Avoiding, Competing, Accommodating, Compromising, Collaborating)?

4. Do you have a policy regarding dealing with the media?

If so, discuss it with the inspector.

How do you handle requests for public information?

Discuss examples of when you have dealt with the media and offer suggestions.

5. Discuss whether or not your inspectors are expected to act as consultants.

To what degree?

You may wish to discuss limitations on that role based upon your experience.

Also, discuss some instances where you have provided consulting services to a county in areas such as problem solving, staffing analysis or the like.

RESOURCES AND BIBLIOGRAPHY

Resources

1. Sample letters prepared by other staff (good and poor).
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CHAPTER SIX

ORGANIZATIONAL STRUCTURES OVERVIEW

The inspector deals with a variety of governmental agencies. In some states, inspectors have authority over state prisons, county jails and city police lockups. Some even have authority over community corrections programs (halfway houses) and privately-operated facilities.

This myriad of political subdivisions requires the inspector to be sensitive to the peculiarities of each level of government and the variety of officials with whom he comes into contact daily. While each level of government exercises **EXECUTIVE, JUDICIAL** and **LEGISLATIVE** powers, the actors in the varying systems differ, and some officials exercise all three powers.

All governments exercise management control over their agencies utilizing the basic principles of **PLANNING, ORGANIZING, DIRECTING** and **CONTROLLING**. A basic knowledge of these processes is important for the inspector, especially if he is called upon to assist a particular jurisdiction in the solution of jail problems.

This Chapter addresses these issues by examining the structures of differing levels of government, funding mechanisms and the necessity to understand formal and informal organizational structures.

OBJECTIVES, TEST QUESTIONS AND ANSWERS

MANAGEMENT IN CORRECTIONAL ORGANIZATIONS

OBJECTIVE 1. Define the terms Planning, Organizing, Directing and Control in the context of government operations.

Test Questions and Answers for Objective 1.

7. It is important for the inspector to be aware of the functions of management as they affect the agency's ability to respond to non-compliance with standards.

True or False.

[True]

15. Identify which of the following statements relate to Planning, Organizing, Directing or Controlling.

- a. In this function necessary resources such as personnel are identified.
- b. This relates to identification and solution of problems.
- c. This relates to developing goals and objectives.
- d. This refers to the agency's need to implement evaluation strategies.
- e. This relates to the agency's need to communicate through written policies and procedures.
- f. This function ensures that what is planned is carried through as planned. If not, it assists management in identifying the need for program adjustment.

- a. Organizing*
- b. Planning*
- c. Planning*
- d. Controlling*
- e. Directing*
- f. Controlling*

28. Regardless of the problem to be solved the functions of management, (Planning, Organizing, Directing and Controlling) are involved in its solution.

True or False.

[True]

2. If a jail required a new policy and procedure, the process of evaluating it would be the _____ function of management.

[Controlling]

8. Training of staff would involve the _____ function of management.

[Directing]

17. Developing strategies to address non-compliance with standards would involve the _____ function of management.

[Planning]

CITY, COUNTY, STATE AND FEDERAL GOVERNMENTAL STRUCTURES

OBJECTIVE 2. Identify the similarities and differences between city, county, state and federal government structures.

Test Questions and Answers for Objective 2.

13. Indicate which of the following statements refer to the Executive, Legislative or Judicial branches or functions of government.

- a. This refers to the enactment of laws and ordinances.
- b. This refers to the day to day administration of government.
- c. This relates to the enforcement of jail standards.
- d. This refers government's authority in the solution of disputes.
- e. Jails are a part of this function of government.
- f. Jail inspection programs which are established by statute receive their authority from which function of government.

- a. Legislative*
- b. Executive*
- c. Executive*
- d. Judicial*
- e. Executive*
- f. Legislative*

19. Generally, every level of government has Executive, Judicial and Legislative powers.

True or False.

[True]

6. Indicate in which level of government (City, County, State or Federal) each of the following officials may be found.

- a. Sheriff
- b. Mayor
- c. Congressman
- d. Commissioner
- e. Executive
- f. Governor
- g. Judge
- h. Manager

[a. County,

b. City,

c. Federal,

d. County (It can also be a state official such as the Commissioner of Corrections.)

e. County,

f. State,

g. City, State, County or Federal

h. City or County]

4. Of all the levels of government the _____ and _____ levels are constituted much the same.

[State and Federal]

JAIL FUNDING MECHANISMS

OBJECTIVE 3. Describe various methods of funding for improving jail facilities or for financing new facilities.

Test Questions and Answers for Objective 3.

9. An _____ Budget is that which funds day to day jail functions, while a _____ Budget funds renovations.

[Operating, Capital]

1. A jail budget may be referred to as a _____ proposed by the Executive branch of government and authorized by the Legislative branch.

[Funding Plan]

14. Which of the following statements about a Bond Issue are True.

- a. This requires voter approval to issue Bonds.
- b. Regular payments are made until the debt is paid off.
- c. It is a Debt owed to the state for funding jail construction.

[a. True

b. True

c. False. It is a debt to the those who purchase the bonds.]

11. Assessed Valuation is

[It is set by the state assessor based upon estimates of the county's worth.]

5. Which of the following statements about Lease Purchase are False.

- a. It requires voter approval.
- b. An "authority" is established by the jurisdiction.
- c. It is counted against the county's assessed valuation.
- d. It is an agreement to fund capital improvements through the operating budget.
*[a. False. It does not since it is not indebtedness.
b. True
c. False. It is not counted against assessed valuation since it is not a debt.
d. True]*

20. "Blending" means

[Using a variety of funding schemes to fund capital improvements.]

27. Some states allow counties to increase the sales tax to fund jail improvements. If voter approval is not necessary, what means are open to voters to repeal the increase?

[Referendum or Election to Repeal]

24. When a county increases a sales tax for jail renovations or construction, it will purchase general obligation bonds and pay them off through the use of sales tax revenues.

True or False.

[True]

FISCAL YEAR: GOVERNMENTS' BUDGETING YEAR

OBJECTIVE 4. Define the term Fiscal Year and explain how the Fiscal Year for one jurisdiction may differ from others.

Test Questions and Answers for Objective 4.

3. Identify the Fiscal Year from the following dates.

a. October 1, 1956-September 30, 1957

b. July 1, 1993- June 30, 1994

c. January 1, 1997-December 31, 1997

[a. FY 57

b. FY 94

c. FY 97]

12. Generally, the Fiscal Year for state and federal governments are coordinated and thus the same.

True or False.

[False. They are not coordinated. Most state Fiscal Years are July 1-June 30. This difference can sometime create problems for local jurisdictions attempting to coordinate state and federal grants.]

22. A _____ is part of a budget process which may take place months before the final budget is authorized.

[Preliminary Budget]

CORRECTIONAL ORGANIZATIONAL STRUCTURES

OBJECTIVE 5. Identify the variety of Chains of Command for managers of correctional facilities.

Test Questions and Answers for Objective 5.

23. In a Sheriff's Department the jail administrator may report directly either to the _____ or

[Sheriff or Chief Deputy]

26. Jail administrators are likely to report to any of the following officials except.

- a. County Commissioners
- b. County Executive
- c. Director of Public Safety
- d. Jail Inspector

[d]

21. While the jail administrator may be genuinely interested in improving jail conditions, other county administrators might need to be informed of jail problems in order to effect change.

True or False.

[True]

16. As a matter of protocol, originals of inspection reports should be forwarded to the jail administrator.

True or False.

[False. In some states the jail inspection law indicates who will get the report. But if it is not indicated in the law, the inspector should be sensitive to the county power structure and ascertain who should get the original and who should get copies.]

DIFFERENCES BETWEEN STATE AND LOCAL FACILITIES AND PROGRAMS

OBJECTIVE 6. Compare and contrast the similarities and differences between state and local facilities and programs.

Test Questions and Answers for Objective 6.

25. Jails have a greater mix of types of prisoners than prisons. List three.

a. _____

b. _____

c. _____

*[Males/Females
Pre-trial/Sentenced
Misdemeanants/Felons]*

10. Programming in prisons is different than in jails mainly due to

[The anticipated length of stay]

18. Generally, prisons have greater options in classifying prisoners.

True or False.

[True]

AREAS AND QUESTIONS FOR DISCUSSION

1. Discuss the structure of county government in your state.

Do counties have home rule?

What is the structure of Boards of County Commissioners?

Do Boards have three or five members?

Do most counties have county managers?

Do they meet on certain days?

Do they have open meetings?

Does the sheriff operate the jail or are there separate county departments of corrections?

2. Does your agency have standards for police lock-ups or city jails?

Discuss the structure of the city governments?

Are the city jails operated by police departments or are they separate departments? Who is responsible?

Are there any protocols which the new inspector must know in dealing with city jails?

3. Discuss jail funding in your state.

What are the means by which jail construction or renovation funds can be generated?

Are there any examples where lease purchase have been used?

Is there any state money for jail funding?

How can a county/city apply for those funds?

4. What is the typical Fiscal Year in your state for both state and local jurisdictions?

What are key months for budget preparation?

Is there a link between budget cycles and action plans to correct deficiencies with state standards?

5. Discuss the differences between state and local corrections in your state.

What are the minimums for sentencing to the state and what are the maximums for local sentences?

Are there any private correctional operations in your state?

How is a state prison different from a county jail?

What standards cover the state prisons?

RESOURCES

1. Organizational diagram of state government, and typical county and city governments.
2. Materials related to jail funding to include relevant statutes, application criteria, approval process, etc.

CHAPTER SEVEN

RESOURCES OVERVIEW

A wise person once said the intelligent person is not one who knows everything, but one who knows where to find it.

This is an apt comment for the inspector who needs to develop and tap resources in providing advice to jailers. He need not be knowledgeable in all things, but must be aware of the existence of resources and where to refer those needing information.

Unlike the days when corrections did not have standards or even training, today there is an abundance of information and resources. Also, professionals in the field are quick to assist their colleagues. To that end there are clearinghouses, information centers, college libraries, and formal and informal networks on the local, state and national levels.

There are materials in every form which can assist the correctional administrator. Such forms include printed matter, video tapes, films, filmstrips and audio tapes.

The intent of this Chapter is not to duplicate the variety of resource banks which already exist. Its intent is to highlight some of the major state and national resources from which the inspector can begin to expand his repertoire of resources. The Chapter addresses major national resources, prominent resources in the states, professional standards setting bodies, and major special interest groups.

OBJECTIVES, TEST QUESTIONS AND ANSWERS

NATIONAL RESOURCES

OBJECTIVE 1. Identify at least seven national resource agencies and define the nature of those resources.

Test Question and Answers for Objective 1.

7. The _____ is a Federal agency which produces a jail resource directory.
[National Institute of Corrections]

13. List the five major resource sections of the National Institute of Corrections.
*[Prisons Division
Jails Division
Community Corrections Division
National Academy of Corrections
National Information Center]*

18. The _____ is the major NIC resource addressing programs, activities and technology related to jails.
[Jail Center]
1. The NIC Jail Center provides all of the following services EXCEPT
- Technical assistance
 - Reviews of written policies and procedures.
 - Jail construction
 - Planning of new facilities
 - Transition to new facilities
- [c]*
10. If a jail administrator needed training in jail management he would apply to the NIC

[National Academy of Corrections]
15. The NIC _____ is an invaluable source for materials on policies and procedures, lesson plans and other correctional information.
[National Information Center]
5. The _____ is an information clearinghouse operated by the National Institute of Justice.
[National Criminal Justice Reference Service]
16. List three national professional agencies providing resource services in corrections.
*[ACA American Correctional Association
AJA American Jail Association
NSA National Sheriffs Association]*

STANDARDS OF NATIONAL AGENCIES

OBJECTIVE 2. List at least three national professional agencies which promulgate standards for corrections.

Test Questions and Answers for Objective 2.

12. List three reasons why professional organizations which promulgate standards can be a resource to the jail inspector.
*[Development of new standards
Providing a rationale as to why a standard is needed
Technical assistance on a standard]*
9. When citing standards of the American Correctional Association, one should be careful to cite the correct _____ and _____.
[Editions and Supplements]
3. What are the titles of the four manuals of standards of the American Correctional Association standards having particular relevance to the jail inspector.
*[Standards for Adult Local Detention Facilities
Standards for Adult Community Residential Facilities
Standards for Juvenile Residential Facilities
Standards for Small Jail Facilities]*

CAC
ACLU
OSHA

*[National Association of Counties
National Sheriffs Association
National Institute of Corrections
National Fire Prevention Association
American Correctional Association
National Commission on Correctional Health Care
American Jail Association
National Criminal Justice Reference Service
Commission on Accreditation for Corrections
American Civil Liberties Union
Occupational Safety and Health Administration]*

AREAS AND QUESTIONS FOR DISCUSSION

1. Discuss if and how the services of national correctional agencies have been utilized by your agency.

Which agencies have been used?

Have any counties in your state used NIC services such as technical assistance for staffing analyses, security audits, overcrowding studies, PONI, HONI, etc?

Were the services of NIC's Information Center or the NCJRS used in the development of standards?

Have you suggested any of the NIC, ACA, AJA, or NSA training programs to jail staff?

2. Were the standards of any national agencies consulted and used in the development of your state standards?
3. What state and local agencies have been helpful as resources for jails in your state?

Discuss the necessity of using the services of other agencies to assist in compliance with standards.

4. What special interest groups have assisted jails in meeting standards, or at least advocated for the improvement of jails in your state?

Have any of these agencies assisted your agency?