

# CORRECTIONS LAW

Presented by

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# Introduction

## Definition of Law:

The set of rules by which society regulates the conduct of its members

## Definition of Corrections Law:

### Consequences if don't obey corrections law

- 1.
- 2.
- 3.

### Differences between Civil Law and Criminal Law

- 1.
- 2.
- 3.

# Sources of Law

## U.S. Constitution (Amendments)

example – 1<sup>st</sup> Amendment Freedom of Religion  
and pandemic

## U.S. Statutes (U.S.C.)

PREA

ADA

RLUIPA

## Maine Constitution

## State Statutes

Title 17-A (use of force)

Title 29-A

Title 15

Title 34-A (apprehend  
escapees)

Title 30-A

MHRA

# Sources of Law (continued)

U.S. Regulations

C.F.R.

Maine Regulations

DOC for itself and jails

AG's Office for juvenile facilities and jails

Maine Common Law

Tort Law

# Maine Correctional Center Case

Facts

Compensatory Damages

1.

2.

3.

4.

5.

# Maine Correctional Center Case (continued)

## TORT LAW

State court

SOL

Limits on Damages

Attorney's Fees

## CONSTITUTIONAL RIGHTS

(Civil Rights) (42 U.S.C. § 1983)

Federal court or State court

SOL

No Limits on Damages

Attorney's Fees

# Maine Correctional Center Case (continued)

## TORT LAW

### Absolute Immunity

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

## CONSTITUTIONAL RIGHTS

### Qualified Immunity

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

# Maine Correctional Center Case (continued)

## TORT LAW

### Fault

Negligence (stupidity)

## CONSTITUTIONAL RIGHTS

### Fault

Deliberate indifference  
(uncaring)

Maliciously and sadistically  
for the very purpose of  
causing harm (evil)



# Maine Correctional Center Case (continued)

Compensatory Damages (who pays)

Punitive Damages (what are they and who pays)

What happened when this case went to court

# Amendments to the U.S. Constitution

Eighth Amendment – No Cruel and Unusual Punishment (physical or psychological)

- Discipline – excessive
- Staff use of force – excessive (chokehold, etc.) and what type of fault? (duty to intervene)
- Resident on Resident violence and what type of fault?

# Amendments to the U.S. Constitution (continued)

Eighth Amendment – No Cruel and Unusual Punishment (physical or psychological)

- Conditions of confinement (living conditions) – below the minimal civilized measures of life's necessities and what type of fault?
- Medical care – failure to fulfill a serious medical need and what type of fault?
- Mental health care – failure to fulfill a serious mental health need and what type of fault? (no constitutional right to rehabilitation)

# Amendments to the U.S. Constitution (continued)

## Fourteenth Amendment

- Due process
- Equal protection (suspect classes)

# Amendments to the U.S. Constitution (continued)

## First Amendment

- Freedom of religion
- Right to petition government for redress of grievances
- Freedom of speech (expression)
- Freedom of press
- Freedom to peaceably assemble (association)

# Amendments to the U.S. Constitution (continued)

Fourth Amendment – No unreasonable search or seizure

- Search of property (no reasonable expectation of privacy)
  1. any reason or no reason
  2. black
  3. IMHU
- Search of person (reasonable expectation of privacy?) (gender, etc.)
  - pat (frisk) or other clothed body search – any reason or no reason
  - unclothed body (strip) search - r.s. or r.s.
  - cavity search - (probable cause and warrant or p.c. and exigent circumstance)

# Amendments to the U.S. Constitution (continued)

## Sixth Amendment – Right of Access to the Courts

- Courts (mail, phone)
- Lawyers (mail, phone calls, visits)
- Law library

# Amendments to the U.S. Constitution (continued)

## Fifth Amendment – Privilege against self-incrimination

- In custody
- Questioning
- Miranda warning



# Supervisory Liability

- Supervisors are, of course, equally liable (or make the DOC liable) if they themselves commit any of the above violations of constitutional, statutory, regulatory, or common law.
- In addition, they might also be held liable for violations committed by those they supervise.
- There is no liability just by virtue of being the supervisor of someone who commits a violation, but if the supervisor's fault contributed to the other person's initial or continued violation (either by action or inaction), then there will also be supervisory liability.
- Willful blindness as a form of deliberate indifference
- Contrast violation brought to supervisor's attention by a grievance vs. brought to supervisor's attention while still ongoing
- Other examples