Chapter 11

LEGAL ISSUES IN CORRECTIONS

Introduction to Corrections
CJC 2000
Darren Mingear
CHAPTER OBJECTIVES

11.1 Outline the development and sources of prisoners’ rights.

11.2 Describe types of inmate lawsuits using access to courts and issues of religion as examples.

11.3 Describe how inmate litigation is limited.

11.4 Summarize the issues associated with the loss of civil right.

11.5 Explain procedures by which civil rights can be restored.
Learning Objectives
After this lecture, you should be able to complete the following Learning Outcomes

11.1 Outline the development and sources of prisoners’ rights.
11.1

Key Terms

- Rights-Are-Related
- Rights-Are-Lost
- Writ of Habeas Corpus
- Ex Post Facto Law
- Incorporation
- Due Process Clause
- Equal Protection Clause
- Section 1983 Claim
Argues that prisoners keep all the rights of an ordinary citizen, except those that are expressly or by necessity taken away from them by law.

Source: femaleimagination.files.wordpress.com
Argues that prisoners are wholly without rights except those expressly conferred by law or necessity.

Source: blogatcynthia.blogspot.com
11.1

Writ of Habeas Corpus

Judicial mandate to a prison official ordering that an inmate be brought to the court in order to determine the legality of the prisoner’s detention.

Source: www.proprofs.com
Ex Post Facto Law

A law imposing a greater punishment [or amnesty] for a crime than was allowed when the crime was committed.

Source: usafair.org
Legal theory arguing that all provisions of the Bill of Rights are made applicable to the states through the due process clause in the Fourteenth Amendment.
Due Process Clause

That section of the Fourteenth Amendment requiring all states to abide by the Bill of Rights when depriving a person of life, liberty, or property.

Source: socialjustice.ccmtl.columbia.edu

Attica Riot
Equal Protection Clause

That section of the Fourteenth Amendments prohibiting any state from denying equal protection of the law to person within its jurisdiction.

Source: mmsmirandam2.weebly.com
A claim brought under the authority of U.S. Code Title 42, Section 1983 that civil rights have been violated.

What do you call natural rights that protect one against arbitrary discrimination?

When was Section 1983 enacted?
What Legal Rights do Inmates Have?

Which constitutional amendment prohibits cruel and unusual punishment?
11.1 Important Prisoner's Rights Cases

- Ruffin v. Commonwealth (1871)
- Cruz v. Beto (1972)
- Brown v. Plata (2011)
Describe types of inmate lawsuits using access to courts and issues of religion as examples.
Key Terms

Legitimate Penological Interest
11.2 Legitimate Penological Interest

Standard used by courts to determine whether a **prison policy** was developed in an **arbitrary** manner or **out of concern** for prison order and security.

Ok if prisoners’ actions **threaten prison security and order**.

Source: theguardian.com
11.2

Access to the Courts

Two Prisoner Rights Issues

Religion
Turner v Safely Standards

- Does the regulation have a valid, rational connection to a legitimate government interest?
- Do inmates have available alternate means to exercise the asserted right?
- How would accommodation of the right affect correctional officers, inmates, and prison resources?
- Are there ready alternatives to the regulation?
Describe how inmate litigation is limited.
Key Terms

Prison Litigation Reform Act (PLRA)
Prison Litigation Reform Act (PRLA)

Intended to **reduce the volume of prisoner litigation** and to **improve the merit** of filed claims including limiting nongovernmental organizations to legally challenge prison conditions and automatically terminates court orders after two years regardless of compliance.

Source: lifeofthelaw.org
11.3 Prison Litigation Reform Act Provisions

- Frequent Filer Provision
- Three-Strikes Provision
- Exhausted Remedies Provision
Summarize the issues associated with the loss of civil rights.
Key Terms

- Civil Death
- Civil Disabilities
- Invisible Punishments
- Collateral Consequences
- Sex Offender Registration Laws
- Public Notification Laws
- Residence Restriction Laws
- Civil Disenfranchisement
Civil Death

Convicted offenders **forfeit all rights** and privileges of citizenship, including things such as the right to enter in a contract or the right to sue.

Source: th00.deviantart.net
Civil Disabilities

Convicted offenders suffer a partial, rather than an absolute, loss of civil rights because of a criminal conviction.

Source: breakthechains.info
Sanctions operating mostly beyond public view, yet having very serious, adverse consequences for the individuals affected.

Source: mlive.com
Collateral Consequences and Civil Disenfranchisement

**Collateral consequences:** Secondary consequences beyond the actual sentence that was imposed.

**Civil disenfranchisement:** The loss of the right to vote due, for example, to a felony conviction.

Source: pfmuniversity.org
Sex Offender Registration Laws

Requires persons convicted of sex offenses to register in a community, even after they have completed their sentence for that conviction.

Source: superiorchronicle.com
Public Notification Laws

Requires the public be notified of the name and location of certain sex offenders in the community.

Source: 1.bp.blogspot.com
Residence Restriction Laws

Require sex offenders to live in certain areas or restrict them from living in other areas.

Source: d3n8a8pro7vhmx.cloudfront.net
Civil Sanctions

- Civil Death
- Invisible Punishments
- Civil Disabilities
- Collateral Consequences
Collateral Consequences of a Sex Offense Conviction
Disenfranchisement

Loss of the Right to Vote
Learning Objectives
After this lecture, you should be able to complete the following Learning Outcomes.

Explain procedures by which civil rights can be restored.
Certificate of Rehabilitation
Certificate of Rehabilitation

Generic term for an official recognition that a criminal offender has shown reliability and good character over time and deserves to regain lost civil rights.

Source: shouselaw.com
11.5

Restoration of Civil Rights

1. Are there some rights that should never be restored? Which ones, and why or why not?

2. What actions and recognitions should be in place to assist offenders in regaining of civil rights that were lost due to a conviction?
Prisoners’ rights are primarily found in the U.S. Constitution, including the Bill of Rights, and the Civil Rights Act. The courts when weighing rights have tried to also be compatible with prison administration goals.

Access to the courts is important for hearings on any other claims the prisoner may have, including religious freedoms. The court have gone from “hands-off” to involvement in many of the administration directives to now deferring to the reasonable assessment of prison officials.

The Prison Reform Litigation Act (PRLA) limits the number of inmate lawsuits, as well as improves the merit of suits that are file.
CHAPTER SUMMARY

11.4  Convictions of criminal offenses can result in the loss or restriction of civil rights.

11.5  A person who has lost or had civil rights restricted can regain them through a variety of methods.