Temporary Holding

David Vest
Introduction

• David A Vest
• Firearms Trainer
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• Adjunct Professor
• Veteran
• MPD
Course Outline

• Law enforcement leader standpoint
  – Safety and security
  – Do the right thing

• Title 15, Title 24, PC 4025, RLUIPA, and MPD Policy

• Case law

• Best practices
Course Outline

Stewart v Gates

• In 1978, the District Court (Judge William P. Gray) found unconstitutional conditions of confinement at the jail and issued injunctive relief ordering reforms be implemented in a number of areas. Including: telephone access, visitation, law library access, mail, religious exercise, administrative segregation, meals, and sleeping accommodations. Stewart v. Gates, 450 F. Supp. 583 (C.D. Cal. 1978)
• Nothing = Consequences
• Proactive = Benefits
Types of Facilities

Local Detention Facility - Any city, county, city and county, or regional jail, camp, court holding facility, or other correctional facility, whether publicly or privately operated, used for confinement of adults or of both adults and minors, but does not include that portion of a facility for confinement of both adults and minors which is devoted only to the confinement of minors.

Temporary Holding Facility – A local detention facility constructed after January 1, 1978, used for the confinement of persons for 24 hours or less pending release, transfer to another facility, or appearance in court.

Court Holding Facility - Local detention facility constructed within a court building after January 1, 1978, used for the confinement of persons solely for the purpose of a court appearance for a period not to exceed 12 hours.

Law Enforcement Facility – A building that contains a Type I Jail, Temporary Holding Facility, or Lockup. It does not include a Type II or III jail, which has the purpose of detaining adults, charged with criminal law violations while awaiting trial or sentenced adult criminal offenders.
Types of Facilities

Type I Facility – A local detention facility used for the detention of persons for not more than 96 hours excluding holidays after booking. Such a Type I facility may also detain persons on court order either for their own safekeeping or sentenced to a city jail as an inmate worker.

Type II Facility – A local detention facility used for the detention of persons pending arraignment, during trial, and upon a sentence of commitment.

Type III Facility – A local detention facility used only for the detention of convicted and sentenced persons.

Type IV Facility – A local detention facility or portion thereof designated for the housing of inmates eligible under Penal Code Section 1208 for work/education furlough and/or other programs involving inmate access into the community.
Mission Statement

We, the members of the Montclair Police Department, in collaboration with the community, are committed to providing the highest level of service and public safety to those who visit, live, and work in the City of Montclair.
Mission Statement

Through our commitment to service and duty to protect, we will maintain public trust by respecting individual rights while at all times being professional, fair, and responsive to the needs of our community. In our pursuit of justice, we do so with honor and integrity, conducting ourselves with the highest level of ethical standards.
Organization
Organization

• Facility Administrator: The Chief of Police shall be the Facility Administrator officially charged, by law, with the administration of the Temporary Holding Facility.
• Facility Manager: The Captain shall be the Facility Manager officially charged with the responsibility for planning, managing, administrative functions, establishing channels of communication, and conducting inspections and operations reviews, review of the facility manual and the operations of the Temporary Holding Facility. The Facility Manager will be responsible to the Facility Administrator.
• Maintenance Manager: The Watch Commander shall report to the Facility Manager any deficiencies in the physical maintenance, cleanliness and supply of the Temporary Holding Facility.
• Facility Supervisor: The member with 24 hour a day functional responsibility for the Temporary Holding Facility will be the Watch Commander. Any other supervisor may provide assistance as needed. The Facility Supervisor shall be responsible to the Facility Manager.
• Custodial personnel: Custodial personnel shall be those on-duty sergeants, officers, detectives or other designated members whose additional duties include the supervision of prisoners who are detained in the Temporary Holding Facility. Custodial personnel will be responsible to the Facility Supervisor.
• The arresting officer shall maintain responsibility for a prisoner taken into custody until that responsibility is transferred to, and accepted by, another officer.
Inspections
• The Watch Commander should inspect the Temporary Holding Facility during his/her shift to ensure that the detention area is clean and maintained to an acceptable level of cleanliness. The Watch Commander should ensure that the Temporary Holding Facility is cleaned, as necessary, in order to provide a proper custodial and working environment. Any maintenance problems shall be reported to applicable personnel and to the Facility Manager.
Prisoner

• Adult
  – Check every no more than 30mins
  – Visual

• Juvenile
Screening/ Classification
Non-detainable

• Any person who is sick, injured or who has any other medical condition, including pregnant females, who may require medical attention, supervision or medication during confinement.

• Any person who has claimed, or is known to be afflicted with or displays symptoms of any communicable disease.
• Any person suffering from a severe mental disorder.

• Any person suffering from a severe mental disorder. Any combative or unruly person who is likely to cause damage to the facility or severely disrupt the good order of the Temporary Holding Facility (15 California Code of Regulations § 1053).
• A prisoner who is or may be contemplating suicide
• Any person suspected of being under the influence of a hallucinogen, hyperglycemic agent, psychotropic medication, narcotic, sedative, tranquilizer, anti-neoplastic (cancer) drug, research medication or any person suffering from withdrawals of the above.
• Any person suspected or confirmed to be developmentally disabled (15 California Code of Regulations § 1057).

• Any person or persons for whom appropriate classification (by gender, age) cannot be maintained.
• Any person who is so intoxicated as to be a danger to him/herself or others and cannot be safely accommodated within the facility (15 California Code of Regulations § 1056). This shall also apply to those inmates who are undergoing withdrawal reactions (15 California Code of Regulations § 1213).
Detainable

- (a) Release on citation in accordance with the Cite and Release Policy
- (b) Transportation to another jail facility
- (c) Release per Penal Code § 849(b)
- (d) In-custody interview or other investigation
LGBTQ

- Best practices?
- Do not search for identity
Juveniles

• Temporary Custody of Juveniles
• Secure/ Non-secure detention
• Evaluate age/ gender/ offense/ appearance
  – Non-offender
  – Offender
  – Status offender
Juveniles Not Held

- a) Unconscious
- b) Seriously injured
- c) A known suicide risk or obviously severely emotionally disturbed
• (d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).
• (e) Extremely violent or continuously violent
Use of Force

- Officers may carry Tasers
- Violence/ non-compliance--jail
Restraints

- Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and in no event shall persons known to be pregnant or in recovery following delivery be restrained by the use of leg irons, waist chains or handcuffs behind the body.
• No arrestee who is in labor, delivery or recovery after delivery shall be otherwise handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers or others (Penal Code § 6030).
In a perfect world, inmate rights look like this – neat, orderly, and clearly defined.
This is how they look in the real world
RLUIPA

- RLUIPA provides that prison regulations that impose a "substantial burden" on an inmate's religious exercise may only be enforced if they serve a compelling governmental justification and do so through the means that are the least restrictive of religious exercise.
The burden is on the prisoner to demonstrate a substantial burden, and if he can do so, the burden shifts to the prison to show that denying an accommodation to the prisoner is the least restrictive means to further a compelling governmental interest.

– Khatib v Orange County / Court holding facility
And . . .

- 8th Amendment
- California Department of Corrections and Rehabilitation Unit 14.0
- Penal Code 851.5
- Penal Code 6030
- Penal Code 4027
- Peace Officer Code of Ethics
- Organizational Mission and Vision
PC 851.5

• Every prisoner, whether adult or juvenile, detained in the Temporary Holding Facility shall be entitled to at least three completed telephone calls immediately upon being booked and no later than three hours after arrest

• Must determine custodial parental responsibility
IN CASE OF EMERGENCY
USE THIS!
Emergency Procedures

• (a) Safety of public
• (b) Safety of department personnel
• (c) Safety of prisoners
• (d) Security of prisoners
Suicide Prevention

• Visual observation
• Questioning
• Removal of clothing
• Best practices?