# INVESTIGATIONS

## **13.1.0 Unit Goal:** Summarize the process of conducting internal investigations.

## **13.1.1 Learning Objective:** Identify inmates who violate a facility rule.

1. Establishment of facts through interviews with:
   1. Those directly involved in the violation (inmates and/or jailers)
   2. The witness to the violation (inmate and/or jailer)
   3. Gather information as to description of the complainant, suspect, witnesses, and any other related investigative facts.
   4. Obtain and record all pertinent information regarding the offense:
2. Time
3. Date
4. Location where they were when offense occurred
5. What was seen
6. What was heard
   1. Allow complainant and witnesses to tell own story, then ask pertinent, direct questions.
   2. Ask open-ended questions without supplying an answer.
   3. Avoid hearsay information.
   4. Obtain written statement from witnesses or complainant, whenever necessary and/or available.
   5. Advise inmates of rights under CCP §38.22(2)
   6. No written statement made by an accused as a result of custodial interrogation is admissible as evidence against him in any criminal proceeding unless it is shown on the face of the statement that:
   7. the accused, prior to making the statement, either received from a magistrate the warning provided in Article 15.17 of [the CCP] or received from the person to whom the statement is made a warning that:
      1. He has the right to remain silent and not make any statement at all and that any statement he makes may be used against him at his trial;
      2. Any statement he makes may be used as evidence against him in court;
      3. He has the right to have a lawyer present to advise him prior to and during any questioning;
      4. If he is unable to employ a lawyer, he has the right to have a lawyer appointed to advise him prior to and during any questioning; and
      5. He has the right to terminate the interview at any time; and
   8. the accused, prior to and during the making of the statement, knowingly, intelligently, and voluntarily waived the rights set out in the warning prescribed by Subsection (a) of this section.
7. Identification by cell or tank assignment.
8. Review camera footage and store footage accordingly.

## **13.1.2 Learning Objective:** Identify methods for securing and protecting physical evidence.

A. Criminal law violations:

1. Preserve the crime scene by; sealing and guarding the area from contact by other inmates or jailers.

2. Identify witnesses and, if possible, secure each in a separate area where they cannot contaminate or destroy evidence or communicate with other witnesses.

3. Notify the appropriate investigators.

4. Document the location of suspected evidence by photographing and/or recording the scene and evidence item, prior to removal.

5. Do not disturb the physical evidence or allow other to do so (exceptions: suicide/suicide attempts, assaults, and other medical emergencies).

6. Handling of blood or other potential pathogen evidence:

a. While wearing protective equipment (gloves, mask, etc.), place items in a paper bag.

1. Suspected inmates or victims should remove their clothing and place it into evidence. (These items can later be examined to determine presence of blood, stains, hairs, fibers, or other evidence that could directly link the individual to the offense as a witness, suspect, or victim).

7. Do not give information to inmates.

8. Do not leave the scene until relieved by the authority or released by the investigating officer.

B. General consideration in handling evidence is to preserve its integrity, preserve its value to owner and mark as evidence if possible.

C. Evidence is located and identified - the person doing this marks on evidence or attaches a tag on evidence showing name of person, date, offense, location found, and case number if available.

D. If evidence is too small to mark on, or if marking on will alter or damage, then evidence may be placed in an envelope or container that shows necessary identification.

## **13.1.3 Learning Objective:** Identify the process of handling administrative rule violations.

1. Should be handled the same as a criminal investigation.
2. An exception is that the violation will be investigated by jail personnel.
3. Administration will decide to treat the case as a criminal or administrative problem, or both.

## **13.1.4 Learning Objective:** Define chain of custody.

Chain of custody is the process which records transactions of evidence from person to person since its acquisition by a law enforcement agency. Chain of custody maintains exactly what happened to evidence from the time it was found until presented in court. Chain of custody accounts for:

1. Who found the item
2. Where it was found
3. Who took custody and marked it
4. Who transported it
5. Where it is being stored

Source: <https://www.scribd.com/document/336607566/Cases-Chain-of-Custody>

## **13.1.5 Learning Objective:** Identify the purpose of following a chain of custody:

1. To establish evidence was found at the scene
2. To document the evidence was in control or possession by the suspect
3. To document the evidence is related to a crime or violation of jail rule
4. To document the evidence has not been altered:
   1. This includes handling of evidence items by non-essential personnel (i.e., supervisors, fellow officers, etc.)
   2. The handling of evidence can destroy fingerprints and interfere with fiber and DNA collection
   3. Limit handling to removing items from their location and immediately placing them in an evidence container
   4. Whenever possible, evidence should be moved only by trained personnel or the investigating officer
5. To document the evidence has been positively identified
6. To document the evidence has been accurately collected, marked, and preserved
7. To document whom the evidence was taken from when it was handed over to the appropriate officials

## **13.1.6 Learning Objective:** Identify methods for investigating injured inmates.

A. Secure the scene

B. Aid the injured

C. Contact area supervisor

D. Identify and isolate witnesses

E. Reporting

1. TCJS 269.1(3) – Record System:

A separate written record of all incidents which result in physical harm or serious threat of physical harm to an employee, visitor, or inmate in a facility. Such record shall include the names of the persons involved, a description of the incident, the actions taken, and the date and time of the occurrence. Such a written record shall be prepared and submitted to the sheriff/operator within 24 hours of the incident.

2. TCJS 273.5(7) – Mental Disability/Suicide Prevention Plan:

Reporting. Procedures for reporting of completed suicides to appropriate outside authorities and family members.

## **13.1.7 Learning Objective:** Identify procedures for investigating a death in custody.

1. Secure the scene
2. Contact Supervisor
3. Maintain a log of all personnel entering and exiting the scene until an outside investigating agency, appointed by the Texas Commission on Jail Standards, takes over control of the scene.
4. Upon conclusion of the investigation the report shall be submitted to the Texas Commission on Jail Standards.
5. Refer to departmental policies.

# REPORT WRITING

## **13.2.0 Unit Goal:** Summarize key report writing skills and basic grammatical rules.

## **13.2.1 Learning Objective:** Identify the reasons to write a report.

1. Documenting a criminal act
2. Documenting an institutional violation
3. Documenting a medical emergency
4. Documenting a statement related to a complaint
5. Clear notes and reports can help jailers recall information
6. Proper documentation may prevent litigation

## **13.2.2 Learning Objective:** Identify methods for preparing investigative reports.

1. Good field notes:
   1. Always have a method of recording information.
      1. Notecards
      2. Personal notebooks
   2. Developing a good consistent shorthand is essential to fast note taking.
   3. Writing any notes that come to mind during interviews and observations, will help keep follow-up questions focused.
   4. Clearly identify who did and said what during the incident:
      1. Officers’ actions and statements
      2. Inmates’ actions and statements
      3. Witness actions and statements
   5. Note the sequence, time, and environmental conditions.
   6. Note any unusual circumstances.
2. Establishing all the elements of the incident:
   1. When writing reports related to criminal offenses:
      1. Use the statute as an outline for your report.
      2. Remember that every element of the offense must be proven beyond a reasonable doubt.
      3. Never falsify or omit information on a report.
      4. Pay attention to tiny details when possible.

***Instructor Note:*** *Defense attorneys will attack the element of the offense that is the least supported or the one that gives rise to the likeliest defense. Developing the skill to anticipate defense helps officers write stronger reports.*

* 1. When writing reports related to institutional rule violations:
     1. Use the rule violation as an outline for your report.
     2. Address any and all institutional violations.
     3. Good reports protect your reputation, job, and ability to testify.
     4. Never falsify or omit information on a report.
  2. When writing reports related to a relay of information (this includes suicide attempts, medical events, etc.):
     1. Keep in mind the reason this type of report is written, is to relay a factual record of an event to maintain an accurate record for future reference. This is imperative in the event an accusation is made against an officer or the facility.
     2. Ensure accurate information of all parties involved is recorded; including:
        1. Suspects
        2. Victims
        3. Responding officers
        4. Responding medical personnel
        5. Witnesses
     3. Clearly notate any circumstances involving officer liability
     4. Never falsify or omit information on a report.

1. Include all evidence
   1. When describing the scene in a written report use a consistent process to record your observations.
      1. One technique in descriptive writing is describing from memory; this refers to the observer’s ability to visualize the scene by memory and explain the setting.
      2. Sketching has been known to help officers remember details of an event when struggling to recall a situation.
      3. Remember to include:
         1. Was the floor wet or dry?
         2. Was there an abundance of light or was it dark?
         3. Was it cold or warm in the area? (This is particularly important when reporting on a death, to qualify the time of death.)
   2. Include names of all officers, and witnesses.
   3. Reference any and all audio or video material.
   4. Include every step taken to secure evidence when present, up to and including the chain of custody.
2. Answer all questions
   1. When reviewing your report there should be no open-ended questions.
      1. If medical treatment was required:
      2. When did the subject return from receiving medical treatment?
      3. What was the condition of the subject upon completion of receiving medical treatment?
      4. Did you follow up with all statements or accusations to verify their validity?
   2. Anytime an escalation in force was required remember to notate de-escalation of force when the subject stops resisting.

## **13.2.3 Learning Objective:** Identify sources of information for written reports.

1. Complainant
2. Witness
3. County, city and state records
4. Informants
5. Officer Observations

## **13.2.4 Learning Objective:** Identify what information is appropriate content for a written report.

1. Reports should be written from a first person perspective.
2. Reports should be written in plain English.
3. All information should be:
   1. Accurate
   2. Concise
   3. Complete
   4. Clear
   5. Legible
   6. Objective
   7. Grammatically correct
   8. Correctly spelled

## **13.2.5 Learning Objective:** Identify inappropriate content for a written report.

Report writers should avoid the use of Police Jargon such as:

1. Ten Codes
2. APB – All-Points-Bulletin
3. ATW – All the way out
4. MVA – Motor Vehicle Accident

## **13.2.6 Learning Objective:** Identify the appropriate sequence of information in written reports.

1. Reports should always be written in the order in which the event occurred.
2. All events being documented in a report will need to be in past tense since these events have already occurred.

## **13.2.7 Learning Objective:** Identify the elements of a complete report.

1. Who?
2. What?
3. When?
4. Where?
5. Why?
6. How?

## **13.2.8 Learning Objective:** Identify the elements of a case summary sheet.

1. Each case summary sheet includes the following information:
   1. Subject’s name
   2. Charge
   3. Date, time, location of offense
   4. Synopsis of events
   5. Briefly describe what the witnesses can testify to
2. Include a copy of the complete report.

## **13.2.9 Learning Objective:** Identify methods of proofreading reports.

1. Complete sentences
   1. Written communication is an integral part of every day for each officer.
   2. Without clear, complete sentences in reports, officer’s thoughts cannot be understood by any number of people who rely upon the report and/or notes.
   3. Complete sentences include the subject of the sentence as well as the verb and if necessary the object of the sentence.
2. Other common sentence errors:
   1. Sentence fragments are incomplete sentences. In this instance an important piece of information is left out of the sentence.
   2. Run-on sentences occur when punctuation is missed.
   3. Run-on sentences may also occur when the writer combines two sentences that are closely related.
   4. In law enforcement, the use of pronouns may confuse the reader because there are usually multiple subjects involved in a report.
   5. Spelling is the most common mistake found in reports. While spellcheck and modern technology have improved this; students must remember that they may have corrected the spelling of a word but the spellcheck may have interpreted it as the incorrect word.
3. Double negatives
   1. A double negative is identified when two negative words are used in the same clause.
   2. The following words should be avoided in pairs:
      1. No
      2. Not
      3. Never
      4. None
      5. No one
      6. Nobody
      7. Nothing
      8. Nowhere
      9. Neither
      10. Conjunctions which create negative words such as the word isn’t
4. Passive Voice vs. Active Voice
   1. Reports should be written in what is known as active voice.
      1. In this sentence structure the subject performs the action.
      2. Example: *Inmate Johnson hit Inmate Romero with a closed fist.*
   2. Report writers should avoid using passive voice.
      1. In this sentence structure the subject receives the action.
      2. Example: *Inmate Romero was hit by Inmate Johnson with a closed fist.*
5. Quotation Marks
   1. Quotation marks help the reader to identify the exact words of the speaker.
   2. If you are not able to quote someone verbatim, do not use quotation marks.
   3. Example, Sergeant Smith instructed Officer Johnson to, “Go to the Medical Center and get a wheel chair.”
   4. If slang or jargon is used in a report it should only be used as part of a quotation and only if necessary.
      1. Example: Officer Jones stated, “Let’s go, we have a 10-50.”
      2. When possible the writer should avoid slang or jargon.
      3. Preferred example: Officer Jones said we should leave to respond to a car accident.

## **13.2.10 Learning Objective:** Demonstrate observation and descriptive skills.

1. Instructors may use this video link which demonstrates misdirection; a common technique used by inmates to distract officers.

<https://www.ted.com/talks/apollo_robbins_the_art_of_misdirection>

1. Instructors may use the scenario included below titled Scenario 1 as an exercise in observation and descriptive skills.
2. Instructors may use the activity below titled Activity 1 as a supplemental exercise in observation and descriptive skills.

## **13.2.11 Learning Objective:** Demonstrate the ability to write a report.

1. Instructors may use video footage of an incident and require the class to write a report based on their observations.
2. Instructors may use the scenarios included below to have the class write reports.

## **13.2.12 Learning Objective:** Demonstrate the ability to proofread a report.

1. Instructors should have each student proofread the reports of their peers to demonstrate their ability to identify common report writing errors.
2. Instructors may utilize the handout below to have the students identify sentence errors.

## **Scenario 1: Demonstrating Observation and Descriptive Skills**

**Setup:**

The instructor should orchestrate an interruption in the class at a precise time, where a random person enters the classroom and does some spontaneous action. This interruption should be in clear view of the students and should last no more than 10 seconds.

**Student Task:**

The students will be required to describe, in writing, the person who entered the classroom and their actions. The students are not allowed to talk during this exercise. The students should include as much detail and description as possible. The students should take approximately 5 minutes for this exercise.

**Review of Material:**

The instructor should ask the student to read their descriptions aloud until the class has filled in the details. The instructor can write chronological details as the students identify them.

## **Activity 1: Exercise in Descriptive Writing**

**Setup:**

Collect 10-15 common male and female items. You should choose things that are varied in color, texture, size and weight. Place the items into a box where each item is visible when the student looks from above.

Instruct the students they will be required to describe the “things” on paper and no talking will be allowed during this exercise.

Allow the student to come up in a group of 4-6 to the box without paper. Give each student exactly 10 seconds to look at (no touching) the “things.” Instruct the group to return to their desk to write down the “things” and descriptions.

Ask all students how many items were in the box?

Allow the students to return to the box, this time for 15 seconds. Students are allowed to pick up items and examine them to improve their descriptions. The student must return the item to the same location they picked it up from. Remind them to check smell, texture, and weight. The students should look for distinguishing marks, the items’ location in the box, and proximity to other things.

Encourage the students to come up with vivid language that describes details about the pieces they examined.

This exercise demonstrates the importance of being able to provide accurate details from memory as an officer with a short exposure to evidence.

## **Scenario 2: Demonstrating Observation and Descriptive Skills**

**Setup:**

An inmate has filed the following complaint/grievance:

*“Officer \_\_\_\_\_\_\_\_\_\_\_\_\_ was working in my housing unit yesterday at about 3 o’clock pm. I returned from working in the kitchen and this officer groped me during the pat down. I want to file charges for sexual assault.”*

**Student Task:**

The students will be required to describe, in writing, the circumstances surrounding this situation. Each student will be required to describe the inmate, the setting, and their response.

Each student will proofread another student’s statement.

**Review of Material:**

The students will be required to review their reports to ensure the following was included:

1. The inmate’s positioning to the officer.
2. The inmate’s posture while making their complaint.
3. The context of the complaint.
4. Any steps the officer took to resolve the issue.
5. What was the resolution to the initial complaint?
6. Did the officer document the initial encounter?

In reviewing the proofreading, did the student pay attention to these common sentence errors:

1. Were the sentences in complete sentences?
2. Did the student avoid double negatives?
3. Was the punctuation correct?
4. How often was spelling an issue?
5. Were quotations used?
6. If quotations were used did they reflect a realistic statement?

**References:**

<https://www.policeone.com/investigations/articles/6049898-5-keys-to-great-report-writing/>

Parr, L. A. (2000). Report Writing Essentials. Nevada: Copperhouse Publishing Company.

Rutledge, D., J.D. (2d. Ed). (2000). The New Police Report Manual. Nevada: Copperhouse Publishing Company.

<https://www.ted.com/talks/apollo_robbins_the_art_of_misdirection>

# COURTROOM DEMEANOR AND TESTIMONY

## **13.3.0 Unit Goal: S**ummarize some issues encountered during courtroom testimony.

## **13.3.1 Learning Objective:** Identify professional demeanor and appearance when appearing in court.

A. Benefits of professional courtroom demeanor and appearance:

1. The reputation of the jailer and the department may be enhanced or diminished by the demeanor and appearance of the jailers in court.
2. Courtroom testimony represents a challenge to officers and is a test of:
   1. True abilities
   2. Self-control
   3. Tact
   4. Obedience
   5. Personal conduct
   6. Bearing
   7. Verbal communication

B. Courtroom Attire

1. A jailer’s attire can impact their credibility as viewed by a jury; care should be taken in preparation so clothing is neat, clean, and free from wrinkles.

2. Shoes should be cleaned and polished.

3. Refer to departmental policy.

## **13.3.2 Learning Objective:** Identify methods for testifying in court.

A. Elements of preparation for testimony:

* + - 1. Vital to every criminal prosecution is the officers’ preparation to testify.
      2. Anticipation of logical questions allows for refreshing memory on important information.
      3. Have ready a full history of your participation in the case, with any relevant evidence and facts.
      4. Conduct a careful study of reports, interviews, photos, evidence, and notes; failure to do so will often result in misstatements, omissions, and contradictions.

B. Using notes during testimony:

* + - 1. The decision to use notes in court must be based on a determination as to whether or not the information can be remembered without the notes.
      2. If the jailer had firsthand knowledge of the preparation of the notes and the notes were prepared at the same time as the investigation, the notes may be used by the witness to refresh memory.
      3. Once the notes are used by the jailer, they are subject to cross-examination and admission into evidence.

## **13.3.3 Learning Objective:** Identify proper demeanor when called to testify.

1. First Impression:
2. Approach the court confidently.
3. Walk directly to the witness stand or clerk's desk and prepare to take the oath.
4. Do not look at the accused, the jury, or the judges.
5. Follow the prosecutor's direction.
6. Taking the Oath:
7. While taking the oath, look at the person administering it.
8. Keep right hand at shoulder level, with fingers extended, until the oath is completed.
9. The prosecutor will then begin by directing the officer to be seated and then asking for name, occupation, and department.

## **13.3.4 Learning Objective:** Identify the different types of examination.

1. The initial phase of the trial during which the prosecution presents the evidence demonstrating the guilt of the defendant is usually when the officer is first called to testify.
   1. Direct Examination:
2. The prosecutor elicits facts from the officer.
3. Direct testimony to the jury, or to the judge in the absence of a jury, when answering prosecutor's questions.
4. In the event that defense counsel objects to a question, remain silent until the court has ruled on the objection.
5. The judge will rule on the objection in one of two ways:
   1. "Sustained" (the jailer may not answer)
   2. "Overruled" (the jailer may answer the question)
   3. Cross Examination: The defense counsel will begin the questioning after the prosecution has finished with the witness.
   4. Redirect Examination: Following the cross examination by the defense attorney, the prosecutor may question the witness to clarify statements or answers given during the cross-examination.
   5. Re-cross Examination: The defense attorney may further question a witness after redirect examination by the prosecutor.
6. Techniques for effective testimony: A juror’s impressions are strongly affected by the manner in which an officer/witness informs the court of the facts discovered during the course of an investigation.

1. The Principles of Witnessmanship:

a. Honesty: present a modest demeanor and display a sincere interest in the accuracy and truth of statements.

b. Brevity: most witnesses do not get flustered, confused, or embarrassed as long as they confine their statements to answering the questions. Be brief and to the point. Do not volunteer information, argue with the attorney, or make spontaneous, unneeded comments.

c. Clarity: errors, inconsistencies, and confusion undermine credibility with the jury.

d. Objectivity: present an impartial and conscientious picture of a public servant working for the interests of justice. Be courteous, answer directly, and remain poised. The defense counsel will often endeavor to portray the officers as prejudicial and interested to accuse the first person of whom they become suspicious, so remain the objective public servant during testimony.

e. Emotional Control: ignore insults, badgering, and innuendoes. A display of anger loses credibility.

f. How to be clearly and properly heard.

## **13.3.5 Learning Objective:** Identify steps to achieve positive verbal communication and body language.

* + 1. Speaking Clearly.
    2. Act in a mature manner.
    3. Make face-to-face contact.
    4. Maintain good sitting posture (i.e., sit up straight).
    5. Show a sense of confidence.
    6. Be respectful.
    7. Address the judge, jury, or whoever asks the questions.
    8. Treat both attorneys equally.

**13.3.6 Learning Objective:** Identify techniques to utilize when being questioned.

1. Listen.
2. Don’t answer until the meaning of the question is clear.
3. Ask to repeat or clarify.
4. Watch for double questions.
5. Watch for hypothetical questions.
6. Be cautious about “yes” or “no” questions.
7. Don’t say “he” did such-and-such. Say “Mr. Jones” did such-and-such.
8. Admit your mistakes.
9. Keep within the limits of what you really know:
   1. Jailers should answer only the questions they are qualified to answer.
   2. "I don't know": does not mean ignorance, only that the facts were not observed directly. This statement closes examination on a point about which the attorney may need to ask additional questions concerning forgotten facts. "That is all I can recall" may be an appropriate statement.
   3. "I don't remember": witness is unsure.
   4. Opinion evidence should always be based upon facts. Make clear the distinction between opinion and facts. Represent only facts as fact.
10. Exclusion of witnesses from courtroom:
    1. “Under the Rule” – Officers are not to discuss the case with other witnesses and/or jurors.
    2. Exclusion of witnesses – Texas Rules of Evidence 614
    3. Invocation of Rule – CCP 36.03:
       1. Notwithstanding Rule 614, Texas Rules of Evidence, a court at the request of a party may order the exclusion of a witness who for the purposes of the prosecution is a victim, close relative of a deceased victim, or guardian of a victim only if the witness is to testify and the court determines that the testimony of the witness would be materially affected if the witness hears other testimony at the trial.
       2. (b) On the objection of the opposing party, the court may require the party requesting exclusion of a witness under Subsection:
          1. (a) to make an offer of proof to justify the exclusion.
          2. (a) does not limit the authority of the court on its own motion to exclude a witness or other person to maintain decorum in the courtroom.
          3. (d) In this article:
             1. (1) "Close relative of a deceased victim" and "guardian of a victim" have the meanings assigned by Article 56.01.
             2. (2) "Victim" means a victim of any criminal offense.
          4. (e) At the commencement of a trial, the court shall admonish each witness who is to testify as to those persons whom the court determines the witness may talk to about the case before the trial ends and those persons whom the witness may not talk to about the case. The court may punish as contempt a witness who violates the admonishment provided by the court.
       3. Not to Hear Testimony – CCP 36.05: Witnesses under rule shall be attended by an officer, and all their reasonable wants provided for, unless the court, in its discretion, directs that they be allowed to go at large; but in no case where the witnesses are under rule shall they be allowed to hear any testimony in the case.
       4. Instructed by the Court – CCP 36.06: Witnesses, when placed under rule, shall be instructed by the court that they are not to converse with each other or with any other person about the case, except by permission of the court, and that they are not to read any report of or comment upon the testimony in the case while under rule. The officer who attends the witnesses shall report to the court at once any violation of its instructions and the party violating the same shall be punished for contempt of court.
    4. Jailers are to remain near the courtroom.
    5. After testifying, the jailer should again leave the courtroom and stay nearby.
    6. Jailers should not leave the area until dismissed by the judge.

**13.3.7 Learning Objective:** Discuss tactics used by defense attorneys.

1. Courtroom tactics by defense attorney:
   1. Challenging the credibility of the prosecution’s witness. Many times the defense counsel realizes the prosecution has an extensive case against the defendant so the only logical defense must be based on challenging the credibility of the prosecution's witnesses.
   2. Some of the tactics defense counsel may use in order to diminish your credibility:
2. Offensive: rapid-fire questioning is intended to confuse the witness and procure inconsistent answers. When faced with such a situation, take time to consider each question, be deliberate in answering, and ask to have the question repeated. Remain calm.
3. Condescending defense counsel will be ultra-benevolent in approach to the point of ridicule in an effort to give the impression that the witness is inept. When faced with such a situation, ask for the question to be repeated if it was improperly phrased and then answer in a firm and decisive manner.
4. Friendly defense counsel may be overly courteous in an effort to lull the witness into a false sense of security where answers may be given in favor of the defense. When faced with such a situation, stay alert and bear in mind that the defense counsel is attempting to diminish the effect of the testimony.
5. Badgering/belligerent: intended to provoke to lose emotional control and, therefore, credibility with the jury. When faced with such a situation, ignore the defense counsel's actions, stay calm, speak in a deliberate voice, and give the prosecutor time to make the appropriate objections.

***Instructor Note:*** *Students will critique and discuss video footage of courtroom testimony as provided.*

# INMATE RELEASE

## **13.4.0 Unit Goal:** Summarize the process involving inmate release.

## **13.4.1 Learning Objective:** Define release.

Release is the discharge or setting free from restraint or confinement

Source: <http://thelawdictionary.org/release/>

## **13.4.2 Learning Objective:** Identify some types of releases.

1. Time served
2. Conditional releases
3. Alternative sentencing
4. Transfer to other agencies
5. Dismissal
6. No bill by Grand Jury
7. Death
8. Escape

## **13.4.3 Learning Objective:** Define a conditional release.

Conditional release is a discharge from an obligation based on some condition, the failure of which defeats the release.

## **13.4.4 Learning Objective:** Identify types of conditional releases.

1. Bail Bond
2. Probation
3. Recognizance
4. Work Release
5. Pretrial Release
6. Community Service
7. Court Ordered Treatment Programs
8. Court Ordered Half Way House

## **13.4.5 Learning Objective:** Define intermittent sentencing.

Intermittent Sentencing – A sentence consisting of periods of confinement interrupted by periods of freedom (also termed Weekend Sentencing).

Source: <https://definitions.uslegal.com/w/weekend-sentence%20/>

## **13.4.6 Learning Objective:** Differentiate between various types of bonds.

1. Bail as defined in CCP 17.01 - "Bail" is the security given by the accused that he will appear and answer before the proper court the accusation brought against him, and includes a bail bond or a personal bond.
2. Bail Bond as defined in Black’s Law Dictionary - When collateral is used to keep a defendant out of jail before the hearing. It's a percent of the total bond. It is taken if the person does not appear in court.
3. Personal Bond as defined in Black’s Law Dictionary - when a person is released on a pledge to appear in court to answer the charges against him at a later date.

## **13.4.7 Learning Objective:** Identify the requisites of a bond.

1. A bail bond must contain the following requisites:
   1. That it be made payable to "The State of Texas";
   2. That the defendant and his sureties, if any, bind themselves that the defendant will appear before the proper court or magistrate to answer the accusation against him;
   3. If the defendant is charged with a felony, that it state that he is charged with a felony. If the defendant is charged with a misdemeanor, that it state that he is charged with a misdemeanor;
   4. That the bond be signed by name or mark by the principal and sureties, if any, each of whom shall write thereon his mailing address;
   5. That the bond state the time and place, when and where the accused binds himself to appear, and the court or magistrate before whom he is to appear. The bond shall also bind the defendant to appear before any court or magistrate before whom the cause may thereafter be pending at any time when, and place where, his presence may be required under this Code or by any court or magistrate, but in no event shall the sureties be bound after such time as the defendant receives an order of deferred adjudication or is acquitted, sentenced, placed on community supervision, or dismissed from the charge; and
   6. The bond shall also be conditioned that the principal and sureties, if any, will pay all necessary and reasonable expenses incurred by any and all sheriffs or other peace officers in rearresting the principal in the event he fails to appear before the court or magistrate named in the bond at the time stated therein. The amount of such expense shall be in addition to the principal amount specified in the bond. The failure of any bail bond to contain the conditions specified in this paragraph shall in no manner affect the legality of any such bond, but it is intended that the sheriff or other peace officer shall look to the defendant and his sureties, if any, for expenses incurred by him, and not to the State for any fees earned by him in connection with the rearresting of an accused who has violated the conditions of his bond.
2. A personal bond is sufficient if it includes the requisites of a bail bond as set out in Article 17.08, except that no sureties are required. In addition, a personal bond shall contain:
   1. The defendant's name, address, and place of employment;
   2. Identification information, including the defendant's:
   3. Date and place of birth;
   4. Height, weight, and color of hair and eyes;
   5. Driver's license number and state of issuance, if any;
   6. Nearest relative's name and address, if any; and
   7. The following oath sworn and signed by the defendant:

"I swear that I will appear before (the court or magistrate) at (address, city, county) Texas, on the (date), at the hour of (time, a.m. or p.m.) or upon notice by the court, or pay to the court the principal sum of (amount) plus all necessary and reasonable expenses incurred in any arrest for failure to appear."

## **13.4.8 Learning Objective:** Identify regulations for depositing moneys received for bail bonds.

1. An officer who collects recognizances, bail bonds, fines, forfeitures, judgments, jury fees, and other obligations recovered in the name of the state under any provision of this title shall deposit the money in the county treasury not later than the next regular business day after the date that the money is collected.
2. If it is not possible for the officer to deposit the money in the county treasury by that date, the officer shall deposit the money in the county treasury as soon as possible, but not later than the fifth regular business day after the date that the money is collected.

## **13.4.9 Learning Objective:** Identify methods for reviewing bond applications.

1. Check to assure the names are correct.
2. Check for property bonds with county clerk.
3. Cash bond
   1. Have principal produce cash or equivalent to satisfy bonds.
   2. Produce receipt for the principal person.
4. Obtain inmate’s current address.
5. Assure bond amount agrees with booking amount.
6. Obtain name and address of surety (if required).
7. Assure surety is authorized (if required).
8. Obtain proper signature from inmate, “same as on document”.
9. Check to be sure that court number agrees with the designated court.
10. Assure that charge is correct.
11. Get a fingerprint on the application (if applicable).

## **13.4.10 Learning Objective:** Identify methods for recording changes in bond amount or conditions.

A. Receive information through court procedures.

B. Assure correctness of written process.

C. Assure process is legal and properly signed.

D. Check computer for a change from court (if applicable).

E. Update booking cards with caution - only proper procedures according to departmental policy should be used.

## **13.4.11 Learning Objective:** Identify circumstances in which an agency may place a hold on an inmate who is making bond.

1. Art. 17.29. ACCUSED LIBERATED. (a) When the accused has given the required bond, either to the magistrate or the officer having him in custody, he shall at once be set at liberty.
2. Article 17.29 does not apply when a person has been arrested or held without a warrant in the prevention of family violence if there is probable cause to believe the violence will continue if the person is immediately released. The head of the agency arresting or holding such a person may hold the person for a period of not more than four hours after bond has been posted. This detention period may be extended for an additional period not to exceed 48 hours, but only if authorized in writing directed to the person having custody of the detained person by a magistrate who concludes that:
   1. The violence would continue if the person is released; and
   2. If the additional period exceeds 24 hours, probable cause exists to believe that the person committed the instant offense and that, during the 10-year period preceding the date of the instant offense, the person has been arrested:
      1. On more than one occasion for an offense involving family violence; or
      2. For any other offense, if a deadly weapon, as defined by Section [1.07](http://www.statutes.legis.state.tx.us/GetStatute.aspx?Code=PE&Value=1.07), Penal Code, was used or exhibited during commission of the offense or during immediate flight after commission of the offense.

## **13.4.12 Learning Objective:** List the importance of comparing bond application to the court document setting bail.

1. Check if bond has been lowered or raised.
2. Check for any other agency holds.
3. Assure the case is docketed in the court authorizing the change.
4. Contact the court if any part of the proceeding is incorrect.
5. At such time when inmate is transferred to TDCJ:
6. CCP 42.09
7. Parole Revocation Disposition (blue warrant)
8. Release to another agency:
9. Verify identity of agency representative.
10. Verify and copy agency paperwork (TCJS 267.2).
11. Have officer sign for inmate.
12. Release personal property to officer – inmate signs to acknowledge the release of their property.
13. At commutation or end of jail sentence and/or fine paid or served.
14. Upon custodial death of inmate, follow state law and departmental policy for notification of kin, medical examiner, media, etc. (refer to death in custody section).
15. By court order:
    * + 1. Temporary release
        2. Sentences during off work time - CCP 42.031, 42.032, and 42.033
        3. Dismissals

Note: No-bill (failure to indict)

Note: Bonds. TCJS, 265.9-Bonding: CCP 17.29 & 17.291 – under Family Violence, agency can hold for four hours after bonding/magistrate, not to exceed 48 hours with magistrate approval

* + - 1. Work release - CCP 42 CCP - Judgment and Sentence
      2. Habeas Corpus - CCP 11.01 CCP
      3. Bench warrant - CCP 24.13 CCP

## **13.4.13 Learning Objective:** Discuss the requirements for bail.

1. Bail CCP 17.01
2. Bail Bond CCP 17.02. - Surety or Cash

CCP 17.08 - Requisites of Bail Bond

1. Qualifications of sureties for bail - CCP 17.031, 17.032, 17.06, 17.11, and 17.12
2. Bail Bond Certificate - CCP 17.045
3. Personal Bond - CCP 17.03 and 17.04

## **13.4.14 Learning Objective:** Identify some methods of documenting monetary amounts of bonds required and received.

A. CCP 17.39

B. Recording necessary for county auditor or treasurer:

1. CCP 103.004 and 103.009-.012

2. Show example of completed records.

C. Recognize the necessity of collecting the correct amount of monetary fine or bond:

1. Official Misconduct – PC 38.01

2. Fines and bonds collected shall reflect court requirements.

Note: Inmate shall be discharged from jail upon serving/working out fine, or remittance thereof - CCP 43.01 and 43.09.

3. CCP 43.09 – Fine Charged: (a) When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine or is confined in a jail after conviction of a felony for which a fine is imposed, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the county jail industries program, in the workhouse, or on the county farm, or public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county, as provided in the succeeding article; or if there be no such county jail industries program, workhouse, farm, or improvements and maintenance projects, he shall be confined in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; rating such confinement at $100 for each day and rating such labor at $100 for each day; provided, however, that the defendant may pay the pecuniary fine assessed against him at any time while he is serving at work in the county jail industries program, in the workhouse, or on the county farm, or on the public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county, or while he is serving his jail sentence, and in such instances he shall be entitled to the credit he has earned under this subsection during the time that he has served and he shall only be required to pay his balance of the pecuniary fine assessed against him. A defendant who performs labor under this article during a day in which he is confined is entitled to both the credit for confinement and the credit for labor provided by this article.

## **13.4.15 Learning Objective:** Identify some methods for verifying eligibility of surety executing bail bond.

A. Obtain department bondsman list, if applicable.

B. Compare names on list.

C. Comply with County Bail Bond Board list for those approved (if applicable).

## **13.4.16** **Learning Objective:** Explain the importance of comparing bond application to court document setting bail to insure the bail amount is correct.

A. Check if bond has been lowered or raised – the agency can hold for four hours after bonding/magistrate 24 hours - CCP 17.291.

B. Assure the case is docketed in the court authorizing change.

C. Contact court if any part of the proceedings is incorrect.

## **13.4.17 Learning Objective:** Recognize the necessity of informing bonding agent of conditions of a bond.

1. Conditions of bond may prevent the inmate from being released from jail immediately
   1. Immigration and Customs Enforcement holds
   2. Domestic violence holds
   3. Parole Violations
2. Conditions of bond are generally found on the magistrates warning
3. Refer to your departmental policy

## **13.4.18 Learning Objective:** Explain the importance of checking for new wants and warrants before releasing an inmate.

**Instructor Note:** The following information sources should be checked to ensure that a person is not released when wanted by another jurisdiction.

A. Check for a detainer.

B. Check local agency records.

C. Regional records system inquiry.

D. License Issuance and Driver Records (LIDR) inquiry for HP-44's (Texas Highway

Patrol Traffic warrants).

E. TCIC/NCIC check.

## **13.4.19 Learning Objective:** Identify some methods for verifying a warrant and placing a detainer on inmate.

A. How received?

1. Teletype
2. Telephone
3. Mail
4. Delivered in person

B. Verification of detainer:

1. Ascertain correct identity of detaining person and agency.

a. ID (if in person)

b. Teletype address (needs no further ID)

c. Telephone - call back

d. Documentation by mail

2. Ascertain correct identity of inmate.

a. Fingerprints

b. Photographs

c. Personal identification

d. Scars, marks, tattoos

3. Appearance before magistrate - CCP 14, 15, 15.16, 15.17, and 15.18

Example:

Art 17.291, “Family Violence” agency can hold for four hours after bond has been posted. This detention period may be extended for an additional period not to exceed 48 hours, but only if authorized in writing directed to the person having custody providing you believe violence will continue. Public intoxication release, according to PC49.02 and department policy.

## **13.4.20 Learning Objective:** Explain the importance of reviewing transfer and release documents for completeness and accuracy.

A. Review documents:

1. Court proceedings

2. Bonds

3. No bills (failure to indict)

4. Bench warrants

5. Warrants or commitment documents

B. Verbal authorization:

1. Judges

2. Sheriff

C. Check for accuracy:

1. Names need to be correct

2. Check charge or charges

3. Bond amount

4. Signature of surety, prisoners, judge, or clerk

## **13.4.21 Learning Objective:** Identify some methods of verifying the identity of a person picking up an inmate.

A. Official ID card and commission card, if officer

B. Known by department

C. Driver’s license - if not officer and named in order to pick up inmate

## **13.4.22 Learning Objective:** List some methods for making a positive identification of an inmate being released.

A. Identification

B. Check for location of inmate on jail log

C. Check photograph

D. Check fingerprints

E. Check scars, marks, and tattoos

F. Check signature on inmate records

G. Check signature on bond - compare with known signature

## **13.4.23 Learning Objective:** Explain the importance of documenting the type of release when an inmate leaves the facility.

A. TCJS 269.1(2)(J) - Record

B. Time served

C. Dismissal

D. Transfer to other agency

E. Information should be put on proper form:

1. Booking sheet

2. Inmate permanent files

## **13.4.24 Learning Objective:** Identify some methods for returning an inmate’s property upon release.

A. TCJS 267.5 - Property Return

1. Review inmate’s property and count money with inmate present, issue check if money has been taken.

C. Check for property released by inmate while in custody:

1. To family or attorney

2. Commissary

3. Fines and court costs

D. Have inmate sign for property:

1. On book card or sheet

2. If inmate refuses to sign, make a note it and have a witness.

## **13.4.25 Learning Objective:** Identify methods for dressing-out inmates being released for court or transfer.

A. Identify correct inmate(s):

1. Verbal contact from authorized employees.

2. Printed court docket.

B. Secure clothing:

1. Remove the clothing from the property room.

2. Check the clothing against the property sheet.

3. Check name on the property sheet with inmate’s identity.

4. Search the clothing.

C. Secure inmate:

1. Remove the inmate from assigned quarters.

2. Transfer the inmate to dressing area.

3 Have the inmate check the clothing to assure ownership.

4. Have the inmate put the clothing on.

5. Follow departmental policy.

D. Signing of documents:

1. Obtain the signature of the inmate who is returning jail clothes and receiving their own clothes.

2. Have the officer sign the receipt of same.

## **13.4.26** **Learning Objective:** Explain the importance of updating a roster with current inmates.

A. Determine who is in jail

1. Determine the location of each inmate
2. Change in charge

D. Change in bond amount

E. Change in status: felony to misdemeanor

F. Change in age, health, etc.

G. Determine who has been released

## **13.4.27** **Learning Objective:** Explain the importance of reviewing court lists.

1. Used to identify and notify inmates of their scheduled court dates.
2. Keep a current court list.
3. Determine the location of inmates.
4. Notify the jailer on duty of the time and court.

## **13.4.28 Learning Objective:** Explain statutory notification requirements according to state law and department policy.

1. Statutory notifications required pertaining to “Sex Offenders” and under “Stalking Law”: PC 42.079, 22.11, 17.46, 26.13, 56.11 and 62.03, (a)(b)(c)(e)(f). GC 501.006.
2. Refer to department policy.
3. Statutory notification required for victims:

CCP 17.29(b) - Further detention of certain persons: (a) In this article: (1) “family violence” has the meaning assigned to that phrase by Section 71.01(b)(2), Family Code; and (2) “magistrate” has the meaning assigned to it by Article 2.09 of this code, as amended by Chapters 25, 79, 916, and 1068, Acts of the 71st Legislature, Regular Session, 1989. (b) Article 17.29 does not apply when a person has been arrested or held without a warrant in the prevention of family violence if there is probable cause to believe the violence will continue if the person is immediately released. The head of the agency arresting or holding such a person may hold the person for a period of not more than four hours after bond has been posted. This detention period may be extended for an additional period not to exceed 48 hours, but only if authorized in a writing directed to the person having custody of the detained person by a magistrate who concludes that: (1) the violence would continue if the person is released; and (2) if the additional period exceeds 24 hours, probable cause exists to believe that the person committed the instant offense and that, during the 10-year period preceding the date of the instant offense, the person has been arrested: (A) on more than one occasion for an offense involving family violence; or (B) for any other offense, if a deadly weapon, as defined by Section 1.07, Penal Code, was used or exhibited during commission of the offense or during immediate flight after commission of the offense.