



UNDERSTANDING PROFESSIONAL LIABILITY



Juvenile Justice Training Academy
JPO | JSO Basic Course
February 1, 2018



TEXAS
JUVENILE JUSTICE
DEPARTMENT
TRANSFORMING YOUNG LIVES AND CREATING SAFER COMMUNITIES

Performance Objectives

- Summarize the common liability areas that may lead to undesired legal consequences.
- Explain the differences between criminal, civil, and administrative consequences.
- Outline the legal protections available to juvenile justice professionals.

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Legal Liabilities



**Responsibilities
under the law**

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Who's at Risk?

PERSONAL

BYSTANDER

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Vicarious Liability

SUPERVISORS

AGENCY | DEPARTMENT

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Determining Liability

ACCOUNTABLE

- Did the act happen during my scheduled work hours?
- Was I responsible for setting, enforcing, or following policy?
- Did I fail to act or ignore information presented to me?

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Criminal Conduct | Liability



**Detention Hearings
Status Offenses**



**Tampering with Government
Record**



**Violating Civil
Rights**



**STI's | AIDS | HIV Testing |
Results Disclosure**



**Improper Sexual Activity with
Person in Custody or Under Supervision**

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Criminal Conduct | Liability



**Permitting or Facilitating
an Escape**



Prohibited Substances or Items



**Failure to
Report Abuse
or Neglect**

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Legal Consequences



**Criminal
Proceedings**



**Civil
Proceedings**



**Disciplinary
Proceedings**

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Legal Consequences




- Violation of a legal duty
- The commission of an act
- Non-performance of an act that should have been performed



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Criminal Proceedings

- Prosecutor and defendant
- Beyond a reasonable doubt
- Crime committed
- Defendant committed the crime



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Criminal Proceedings



Probation



Jail or Prison



A Criminal Record



Fees, Restitution, Fines



Community Service




Public Scrutiny and Media



Hardships

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Civil Proceedings




- plaintiff and defendant
- a preponderance of evidence
- defendant had legal duty
- defendant breached that duty
- defendant harmed plaintiff as result of breach
- breach was primary cause of harm done
- extent of "damages" to be paid

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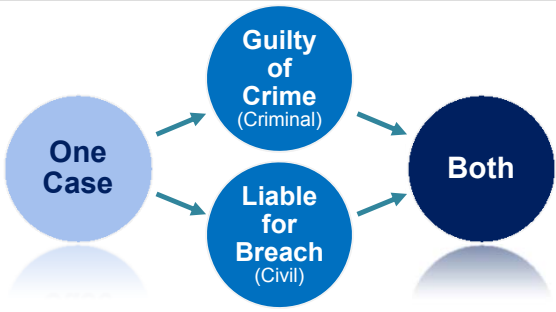
Civil Proceedings

Monetary Damages



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The Twist




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graph LR; A((One Case)) --> B((Guilty of Crime (Criminal))); A --> C((Liable for Breach (Civil))); B --> D((Both)); C --> D;
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The Twist



Criminal Proceedings
NOT GUILTY




Civil Proceedings
\$40 MILLION IN DAMAGES

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Disciplinary Proceedings

- Department | Facility | TJJJ
- Preponderance of evidence against employee
- Alleged behavior occurred
- Behavior violates department rules




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Disciplinary Proceedings




WARNING or REPRIMAND




TRANSFER or DEMOTION




POSSIBLE CONVICTION | JAIL TIME



TERMINATION | POSSIBLE CRIMINAL INDICTMENT




LOSS OF JPO | JSO CERTIFICATION



CRIMINAL RECORD

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Disciplinary Proceedings



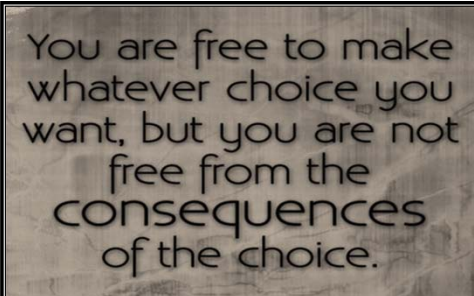
INITIATION OF DISCIPLINE

- Not eligible for certification
- Committed Code of Ethics violation
- Confirmed abuse, neglect, or exploitation

- Due process
- Action solely related to certification

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Activity | Not Just One



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Protections



GOOD FAITH



REPRESENTATION



QUALIFIED IMMUNITY





SCOPE OF AUTHORITY



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Protections



ADDITIONAL PROTECTIONS

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Final Thoughts

DO WHAT
IS RIGHT,
NOT WHAT
IS EASY.

- **You are personally responsible for your decisions.**
- **Avoid unnecessary situations by being aware of common liabilities.**
- **Be mindful of protections available to you.**

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