

**Date Revised:** 10/29/2019

**Course Goal:** To teach recruit officers their responsibilities and liabilities for the care, custody, and safety of prisoners while ensuring their constitutional and statutory rights.

**Learning Objective:**

- Recall the definition of custody [\[31.1.A\]](#)
- Recognize general responsibilities an officer has for the care and custody of an arrested person [\[31.1.B\]](#)
- Recognize the liabilities for an officer who shows callous disregard for an arrested person's safety [\[31.1.C\]](#)
- Recognize the circumstances that ensure a legal basis for commitment to custody, including:
  - Court documents (e.g., warrants, court orders, etc.) [\[31.1.D.1\]](#)
  - Parole and probation commitments [\[31.1.D.2\]](#)
  - Probable cause arrests [\[31.1.D.3\]](#)
  - Prisoners in transit [\[31.1.D.4\]](#)
- Recognize constitutional rights and protections afforded to an arrested person while in an officer's charge [\[31.1.E\]](#)
- Recognize fatal errors officers can make that jeopardize their safety while performing custodial duties [\[31.1.F\]](#)
- Recognize the crime elements, required to complete the crime of:
  - Assault of a prisoner under the color of authority [\[31.2.A.1\]](#)
  - Cruel or unusual treatment of prisoners [\[31.2.A.2\]](#)
  - Inhumane or oppressive treatment of a prisoner [\[31.2.A.3\]](#)
- Identify the crime classification as a misdemeanor or felony [\[31.2.B\]](#)
- Recognize the crime of violation of a prisoner's civil rights [\[31.2.C\]](#)
- Recognize the crime elements for bringing a firearm, deadly weapon, or explosive into a detention facility [\[31.3.A\]](#)
- Identify the crime classification as a misdemeanor or felony [\[31.3.B\]](#)
- Recognize responsibilities of the arresting or transporting officer and custodial personnel regarding medical care prescreening of prisoners before being accepted into a local detention facility [\[31.3.C\]](#)
- Identify classes of prisoners who may require special care or protection [\[31.3.D\]](#)
- Required Learning Activity [\[31.4.A.1 - 4\]](#)

**Session Time: 2 Hours**

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<p><b>Resources:</b></p> <ul style="list-style-type: none"> <li>• Classroom with tables</li> <li>• Overhead projector</li> <li>• Computer with multimedia software and Microsoft PowerPoint</li> </ul>	
<p><b>Session Summary:</b> The instructor will lead a facilitated discussion accompanied with learning activities with the whole class.</p>	
Outline	Instructor's Notes
<p>I. Peace Officer Responsibilities in a Custodial Situation</p> <p>A. Definition <a href="#">[31.1.A]</a></p> <ol style="list-style-type: none"> <li>1. Custody refers to the immediate care or charge of an arrested person</li> <li>2. An arrest is the taking of a person into custody in a case and manner authorized by law</li> <li>3. General responsibilities of a peace officer: <a href="#">[31.1.B]</a> <ol style="list-style-type: none"> <li>a. Assuring that there is a lawful basis for custody</li> <li>b. Protecting the constitutional and statutory rights of the arrested person while that person is in the officer's charge</li> <li>c. Maintaining the care, custody, and safety of the arrested person until that person is processed into a local detention facility</li> <li>d. Maintaining officer and public safety</li> <li>e. Handling those responsibilities necessary to facilitate the processing of the arrested person into a detention facility</li> </ol> </li> <li>4. Officer liability <a href="#">[31.1.C]</a> <ol style="list-style-type: none"> <li>a. Peace officers who have responsibility for arrested persons are liable for the safekeeping and standard of care of those persons</li> <li>b. Failure to uphold the expected level of care under the provisions of state and federal laws or the callous disregard for</li> </ol> </li> </ol>	<p><b>Ask:</b> What is the definition of custody?</p> <p><b>Ask:</b> What are the general responsibilities an officer has for the care and custody of an arrested person?</p> <p><b>Run: PowerPoint Slides # 1 - 2</b></p> <p><b>Ask:</b> What are the liabilities for an officer who shows callous disregard for an arrested person's safety?</p>

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an arrested person's safety will subject peace officers to:

- 1) Departmental discipline (including termination)
- 2) State prosecution for violation of penal code statutes
- 3) Federal prosecution for violation of federal civil rights law
- 4) Civil lawsuits which may include punitive damages levied directly against individual officers

**B. Lawful Basis for Custody**

1. Legal commitment to custody can be arrest warrants. Document required to have:  
[\[31.1.D.1\]](#)
  - a. Name of the defendant
  - b. Crime that defendant is suspected of committing
  - c. Date of the warrant
  - d. City or county where the warrant is issued
  - e. Signature of the issuing authority with the title of office
  - f. Name of the court or other issuing agency
  - g. Amount of bail
2. The existence of a valid court commitment documents they must contain:
  - a. Signature of the magistrate or court clerk (signature of authority)
  - b. Court case number/docket number
    - 1) Violation
    - 2) Bail or sentencing information
3. Parole or probation commitment [\[31.1.D.2\]](#)
  - a. Re-imprisonment of a prisoner on parole Penal Code Section 3056
  - b. Revocation of probation Penal Code Section 1203.2
  - c. Suspension of release for a person on an outpatient release status Welfare and

**TTS 31.1.D.1 - 31.1.D.4**

**Ask:** What are the circumstances that ensure a legal basis for commitment to custody?

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<p>Institutions Code 3151</p> <ul style="list-style-type: none"><li>d. Suspension, cancellation, or revocation of parole related to a juvenile Welfare and Institutions Code 1767.3</li></ul> <p>4. A probable cause to arrest <a href="#">[31.1.D.3]</a></p> <ul style="list-style-type: none"><li>a. An arrest based on a set of facts that would cause a person of ordinary care and prudence to entertain an honest and strong belief that the person to be arrested is guilty of a crime</li><li>b. When in custody that person must be accompanied with documentation that clearly states the set of facts that led to the arrest. Such documentation may be:<ul style="list-style-type: none"><li>1) Arrest report</li><li>2) Initial booking sheet, and must have<ul style="list-style-type: none"><li>a) The name of the person to be held</li><li>b) The crime that person was arrested for.</li></ul></li></ul></li></ul> <p>5. An en-route prisoner commitment: <a href="#">[31.1.D.4]</a></p> <ul style="list-style-type: none"><li>a. Prisoner transportation occurs when prisoners are held in temporary custody while in transit from one facility or agency to another</li><li>b. Patrol officers usually do not handle en route prisoner commitments</li></ul> <p>C. Constitutional and Statutory Rights and Protections <a href="#">[31.1.E]</a></p> <p>1. The first 10 amendments to the Constitution, commonly referred to as the Bill of Rights, were written to ensure that certain rights of people cannot be infringed upon by the government</p> <ul style="list-style-type: none"><li>a. First Amendment<ul style="list-style-type: none"><li>1) Freedom of religion</li><li>2) Freedom of speech</li></ul></li><li>b. Sixth Amendment<ul style="list-style-type: none"><li>1) Right to a speedy trial</li><li>2) Right to legal counsel</li></ul></li></ul>	<p><b>Ask:</b> What are the constitutional rights and protections afforded to an arrested person while in an officer’s charge?</p>
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<ul style="list-style-type: none"><li>3) Eighth Amendment: Protection from cruel and unusual punishment</li><li>4) Fourteenth Amendment<ul style="list-style-type: none"><li>a) The right to due process of the law</li><li>b) Right to equal protection</li></ul></li><li>2. Statutory rights and protections<ul style="list-style-type: none"><li>a. The reasonable opportunity to exercise religious freedom PC 4027</li><li>b. The right of a prisoner’s attorney to visit the prisoner PC 825</li><li>c. The right to any physician, surgeon, psychologist or psychiatrist who is employed by the prisoner, or the prisoner’s attorney, to visit the prisoner for the purpose of assisting in the prisoner’s defense PC 825.5</li><li>d. The right to make at least three local telephone calls within the first three hours of the arrest PC 851.5</li><li>e. The right to retain certain civil rights which include the right to PC 2601:<ul style="list-style-type: none"><li>1) Inherit, own, sell, or convey real or personal property</li><li>2) Correspond confidentially with a member of the State Bar or public office</li><li>3) Purchase, receive, and read newspapers, periodicals, and books accepted For distribution by the U.S. Postal Service, with some limitations.<ul style="list-style-type: none"><li>a) Initial civil actions</li><li>b) Marry</li><li>c) Create a power of appointment</li><li>d) Make a will</li></ul></li></ul></li></ul></li><li>D. Officer safety common fatal errors: <a href="#">[31.1.F]</a><ul style="list-style-type: none"><li>1. “Tombstone Courage” overly anxious to show courage<ul style="list-style-type: none"><li>a. Trying to handle dangerous situations beyond officer’s ability or experience</li></ul></li></ul></li></ul>	<p><b>Ask:</b> What are fatal errors officers can make that jeopardize their safety while performing custodial duties?</p>
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<ul style="list-style-type: none"><li>b. Fatigue<ul style="list-style-type: none"><li>1) Failure to get adequate rest</li><li>2) Attention and reflexes are compromised</li></ul></li><li>c. Bad Position<ul style="list-style-type: none"><li>1) Failure to exercise caution</li><li>2) Failure to call for back-up when handling an aggressive or agitated prisoner</li></ul></li><li>d. Bad Attitude<ul style="list-style-type: none"><li>1) Treating a prisoner disrespectfully</li><li>2) Ignoring Danger Signs<ul style="list-style-type: none"><li>a) Process becomes routine</li><li>b) Ignoring signs a prisoner is an immediate threat</li><li>c) Failure to watch hands. Prisoner reaching for a firearm or other deadly weapon</li><li>d) Relaxing too soon officers become careless</li></ul></li></ul></li><li>2. Use of Restraint Devices<ul style="list-style-type: none"><li>a. Failure to cuff or use other restraints when necessary</li><li>b. Improperly cuffing a prisoner</li></ul></li><li>3. No Search or Poor Search<ul style="list-style-type: none"><li>a. Cursory search in the field or in a facility</li><li>b. Failure to locate firearms, other deadly weapons, or contraband</li></ul></li><li>4. Officers' Inoperative Weapons<ul style="list-style-type: none"><li>a. Undependable weapons, malfunctions</li><li>b. Failed to check the condition of the weapons before watch</li><li>c. Resulting in injury or death to officer</li></ul></li><li>II. Crimes Involving the Treatment of Prisoners<ul style="list-style-type: none"><li>A. Assault by a Public Officer. Crime elements every public officer who: <a href="#">[31.2.A.1]</a><ul style="list-style-type: none"><li>1. Under color of authority</li><li>2. Without lawful necessity</li><li>3. Assaults or beats any person (PC149) the crime of assault by a public officer is a felony</li></ul></li></ul></li></ul>	<p><u>31.2.A - 31.2.B</u></p> <p><b>Run Learning Activity # 1 in conjunction with PowerPoint Slides # 3 – 6.</b></p> <p><b>Note: See last page for learning activity # 1</b></p>
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<p><a href="#">[31.2.B]</a></p> <ol style="list-style-type: none"><li>4. Color of authority: Misuse of power, officers acting under color of authority using their positions as peace officers to commit acts that are not authorized</li><li>5. For the purpose of this crime public officers includes both patrol officers and custodial personnel</li></ol> <p>B. Cruel and Unusual Punishment <a href="#">[31.2.A.2]</a></p> <ol style="list-style-type: none"><li>1. Definition<ol style="list-style-type: none"><li>a. Any cruel and degrading punishment not known to the common law</li><li>b. Any punishment so disproportionate to the offense as to shock the moral sense of the community. PC 673</li></ol></li><li>2. Crime elements<ol style="list-style-type: none"><li>a. Any person who inflicts cruel, corporal, or unusual punishment</li><li>b. Injures or impair the health upon a prisoner, inmate, or person confined (misdemeanor)</li></ol></li></ol> <p>C. Inhumane or Oppressive Treatment <a href="#">[31.2.A.3]</a></p> <ol style="list-style-type: none"><li>1. Peace officers are prohibited from using inhumane or oppressive treatment against prisoners in their custody. Any officer who willfully inhumanely treats or oppresses any prisoner under his/her care or custody (Fine and termination)</li><li>2. Inhumane or Oppressive treatment, any officer who willfully withholds basic necessities such as food, water, or medical care. Also withholds privileges, without reason taunts or verbally abuses</li></ol> <p>D. Violation of a Prisoner’s Civil Rights PC 422.6(a) <a href="#">[31.2.C]</a></p> <ol style="list-style-type: none"><li>1. Any person whether or not acting under color of law, who shall by force or threat of force willfully deprive any person of any legal right based on that person’s</li></ol>	<p><b>Ask:</b> What’s the crime elements for assault of a prisoner under the color of authority?</p> <p><b>Ask:</b> What’s the crime elements for Cruel or unusual treatment of prisoners?</p> <p><b>Ask:</b> What’s the crime elements for inhumane or oppressive treatment of a prisoner?</p> <p><b>Ask:</b> Do prisoners have civil rights? If so, what would it include?</p>
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<p>a. Race b. Color c. Religion d. Ancestry e. National origin f. Disability g. Gender, or sexual orientation h. Also if the person perceives that the other person has one or more of those characteristics</p> <p>2. Peace officers who are found guilty of violating the civil rights of prisoners may be subject to:</p> <p>a. Departmental discipline, up to and including termination b. State prosecution for violation of penal code statutes c. Federal prosecution for violation of federal civil rights law, and/or d. Civil lawsuits which may include punitive damages levied directly against individual officers</p> <p>III. Care and Handling of Prisoners in a Local Detention Facility</p> <p>A. Securing Weapons in Detention Facilities <a href="#">[31.3.A]</a></p> <p>1. All persons, including peace officers, are prohibited from bringing weapons into a local detention facility PC4574(a) (Felony) <a href="#">[31.3.B]</a></p> <p>2. Any person who knowingly brings or sends or assists in bringing into or sending into a local detention facility any:</p> <p>a. Firearms b. Deadly weapons c. Explosives d. Any person who e. While lawfully confined to a detention facility f. Possesses any g. Firearm</p>	<p><b>Ask:</b> What are the crime elements for bringing a firearm, deadly weapon, or explosive into a detention facility and what is the crime classification?</p> <p><b>Run</b> Learning Activity # 2</p> <p><b>Note:</b> See last page for learning activity # 2</p>
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<ul style="list-style-type: none"><li>h. Deadly weapon</li><li>i. Explosive</li><li>j. Tear gas or tear gas weapon<ul style="list-style-type: none"><li>1) Any person who knowingly brings or sends tear gas or a tear gas weapon into a local detention facility is guilty of a misdemeanor PC 4574(c)</li><li>2) If the tear gas is actually released or tear gas weapon used within the facility the crime becomes a felony. (Penal Code Section 4574(b))</li><li>3) Officers are required to secure other deadly weapons (back-up weapons, buck knives) outside the facility before entering. Non-lethal devices (ammunition, batons, chemical agents, pepper spray) are also required to be secured unless specifically permitted by detention facility policies</li></ul></li></ul> <p><b>B. Medical Care and Prescreening of Prisoners</b> <a href="#">[31.3.C]</a></p> <ul style="list-style-type: none"><li>1. Conditions requiring urgent medical care include but are not limited to:<ul style="list-style-type: none"><li>a. Diabetic shock</li><li>b. Head injury</li><li>c. Severe bleeding</li><li>d. Drug overdose</li><li>e. Unresponsiveness or unconsciousness</li><li>f. Chest pain</li></ul></li><li>2. Officers must always remember that they have a responsibility to ensure that sick or injured persons receive appropriate medical attention<ul style="list-style-type: none"><li>a. A complaint of illness or injury may be used by an arrested person as a means to improve the opportunity to escape or gain special attention/treatment</li><li>b. Officers must weigh issues of officer safety, reasonableness of</li></ul></li></ul>	<p><b>Ask:</b> What are responsibilities of the arresting or transporting officer and custodial personnel regarding medical care prescreening of prisoners before being accepted into a local detention facility?</p> <p><b>Ask:</b> What are the classes of prisoners who may require special care or protection?</p>
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<p>complaint/request and the individual circumstances</p> <ol style="list-style-type: none"><li>3. The arresting officer is responsible for informing custodial personnel and documenting any observable, known, or recognized signs of:<ol style="list-style-type: none"><li>a. Injury</li><li>b. Illness</li><li>c. Possible drug overdose</li><li>d. Mental incapacitation.</li><li>e. Suicide risk</li><li>f. Whether the person requires medication</li></ol></li><li>4. Custodial personnel should also be informed if the arrested person was exposed to OC spray, tasers, or if a carotid restraint or baton was used during the arrest process</li></ol> <p>A. Prescreening <a href="#">[31.3.D]</a></p> <ol style="list-style-type: none"><li>1. Arresting/custodial personnel are required to complete a prescreening medical questionnaire for each arrested person brought to a local detention facility. The purpose of performing a prescreening is to determine if the arrested person has any medical problems or conditions that need special care or attention</li><li>2. Medical Prescreening<ol style="list-style-type: none"><li>a. The purpose of performing a prescreening is to determine if the arrested person has any medical problems or conditions that need special care or attention<ol style="list-style-type: none"><li>1) If arrestee is cleared for incarceration<ol style="list-style-type: none"><li>a) That person proceeds with the intake process</li><li>b) The arresting or transporting officer is relieved of the responsibility for the care and custody of the arrested person</li></ol></li><li>2) If arrestee is not cleared for incarceration</li></ol></li></ol></li></ol>	<p><b>Run Learning Activity # 3</b></p> <p><b>Note: See last page for learning activity # 3</b></p>
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<ul style="list-style-type: none"><li>a) The arrested person remains the responsibility of the arresting or transporting officer</li><li>b) The arresting or transporting officer may be required to transport the arrested person to an agency-approved medical facility for clearance</li></ul>	
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## Learning Activity # 1

**Purpose:** To apply the concepts learned in Learning Domain (LD) 31 Custody as it relates to the legal responsibilities of a peace officer in the care and custody of an arrested person from the time of arrest to the transfer of responsibility to a local detention facility.

### Description:

1. **Break** recruits into learning teams
2. **Show** surveillance video of Cassandra Feuerstein's arrest

**Synopsis:** On March 13, 2013, Cassandra Feuerstein was arrested for driving under the influence in Skokie, Illinois. While in custody, Officer Michael Hart became irate at Feuerstein, after she failed to cooperate with him during the booking process and shoved her into the holding cell. Feuerstein sustained an orbital fracture and loosened some teeth.

Feuerstein plead guilty to DUI; however, other charges of resisting arrest were dropped.

Hart pled guilty (to a charge equivalent to 149 PC: Assault by a Public Officer) and sentenced to 2 - years probation. Hart lost his service pension because of the felony conviction.

After a Federal civil lawsuit, the Village of Skokie settled with Feuerstein for \$250,000. The courts imposed punitive damages against (3) officers totaling \$650,000. The Village of Skokie accepted financial responsibility for the officers and paid a total of \$875,000.

3. **Allow** the recruits to discuss the video and apply the concepts learned in this LD.
4. **Conduct** a facilitated discussion with the class and ensure to include, at a minimum, the following in the discussion:
  - a. Legal basis for the custody [31.4.A.1]
  - b. Pertinent laws relating to the care and custody of the arrested person [31.4.A.2]
  - c. Officer's responsibilities during intake [31.4.A.3]
  - d. Actions of custodial personnel upon receipt of the arrested person
  - e. Department Manual Section 3/805.25 Misconduct - Defined
  - f. Department Manual Section 1/210.46 Employee's Duty to Report Misconduct
  - g. Department Core Values and Law Enforcement Code of Ethics

### Resources needed:

- Classroom
- PPT w/ attached video

### Handouts:

- None

**Time required:** 30 Minutes

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**Learning Activity # 2**

**Purpose:** To teach the recruits the elements required to complete crimes involving the treatment of prisoners and to correctly categorize these crimes as misdemeanors or felonies.

**Description:**

5. **Break** recruits into learning teams
6. **Assign** one of the following to each group:
  - a. Assault of a prisoner under the color of authority [31.2.A.1]
  - b. Cruel or unusual treatment of prisoners [31.2.A.2]
  - c. Inhumane or oppressive treatment of a prisoner [31.2.A.3]
  - d. Violation of a prisoner’s civil rights [31.2.C]
7. **Allow** the recruits to work together in their teams and present the following to the class
8. Presentation should include:
  - a. Penal code section
  - b. Crime elements
  - c. Classification [31.2.B]
9. **Point out** the acts committed in their presentations are results of not understanding the TTS’ in chapter 1
  - a. Responsibilities an officer has for the care and custody of an arrested person
  - b. Liabilities for an officer who shows callous disregard for an arrested person’s safety
  - c. Circumstances that ensure a legal basis for commitment to custody
  - d. Constitutional rights and protections afforded to an arrested person while in an officer’s charge

**Resources needed:**

- Classroom

**Handouts:**

- None

**Time required:** 30 Minutes

**Purpose:** To develop a basic knowledge of investigative report writing, interview skills, crime scene investigation. The recruit officer will have a basic understanding of how to gather information during an investigation of a crime, properly document the facts and activity on a crime report.

**Description:**

Pass around the booking package to the recruits so they may become familiar with the various paperwork associated with the booking process.

Arrest Supplemental Reports

Booking package

- Show custody reports package
- Booking approval
- Medical screening forms
- Evidence package
- Property report
- PCD

**Resources needed:**

- Classroom

**Handouts:**

- Booking Package

**Time required:** 30 Minutes