

The background of the slide is composed of several overlapping, semi-transparent green geometric shapes, primarily triangles and quadrilaterals, creating a modern, abstract design. The colors range from a light, pale green to a darker, forest green. The shapes are layered, with some appearing in front of others, creating a sense of depth. The overall composition is clean and professional, typical of a corporate or academic presentation.

Chapter 7-IFPO-CPO

# Legal Aspects of Security

# Purpose

- ▶ Responsibility to protect the clients, property and people is the main function of the security professionals. Security professionals have a responsibility and duty yet , can raise the the question of liability against themselves and the client.

# Key Terms

- ▶ Common Law
- ▶ Case Law
- ▶ Statutes
- ▶ Criminal Laws
- ▶ Civil Law
- ▶ Contracts
- ▶ Warranties
- ▶ Torts
- ▶ Civil Liability
- ▶ Negligence
- ▶ Hearsay Evidence

# Development of Our Laws

The three (3) sources of our laws are:

1. Common Law: From old England. Based on customs and were not written. Common throughout the land.
2. Case Law: The principle of “*stare decisis*” or “let the decision stand”. A court must stand by previous decisions.
3. Statutes: Written and passed by legislative bodies. Constantly amended. The law in “black and white”.

## Regulations

Regulations are rules or directives made by an authority. In the security industry, examples of regulations include:

- ▶ Setting training requirements
- ▶ Age restrictions
- ▶ Education requirements
- ▶ Licensing requirements
- ▶ Criminal background checks

# The Two Types of Laws - Civil

- ▶ **Civil:** Passed to protect the private rights, not public right.
  - ▶ Individuals are wronged
  - ▶ Compensation goes to victims
  - ▶ No public prosecutor involved
  - ▶ Warranties and contracts are civil in nature
  - ▶ Torts are civil actions that may be intentional wrongs

# The Two Types of Law - Criminal

- ▶ **Criminal:** Passed to protect people and ensure the peace of good in society.
  - ▶ Protect the people
  - ▶ Ensure peace and order
  - ▶ Prosecutor acts on behalf of the state

# Other Laws

- ▶ **Administrative Law:** The operation and procedure of government
- ▶ **Labor Law:** Set parameters for employees and employers or their counsel.
- ▶ **Juvenile Offenders Legislation:** Special treatment of juveniles based on:
  - ▶ Age
  - ▶ Parent notification: Can only release to guardian or the police
  - ▶ Confidentiality of the offender's identification

# Search and Seizure

The rights of a protection officer to search and seize property? Follow policy!

- ▶ Did the employee use all reasonable investigative measures before conducting the search.

Private Security Advisory Council Recommendations for ground of a search:

- ▶ Consent
- ▶ Implied Consent as part of employment
- ▶ Incident to a valid arrest
- ▶ Incidental to valid conditions. Ex. Boarding a commercial aircraft

**Some companies have policies that require people to consent to a search upon leaving the property.**

- ▶ People have a right to change their mind and refuse to consent to a search.
- ▶ The protection officer should NOT force the issue.
- ▶ Report the matter.
- ▶ Management will decide on the matter:
  - ▶ If employee, they can take disciplinary actions
  - ▶ If visitor/contractor, they can refuse future entry to premises

# Consent Search

When consent is given, security personnel have the right to seize items such as:

- ▶ Property of the owner and employer
- ▶ Evidence of commission of a crime
- ▶ Controlled Substances
- ▶ Weapons
- ▶ Items that could be used to help the subject escape from detention

**If no consent given, a search cannot be conducted**

## Evidence

- ▶ Evidence is the proof that is required to establish the guilt or innocence of the accused.
- ▶ Evidence may be one of the following:
  - ▶ Real: A physical object
  - ▶ Documentary: Various documents, photos, etc.
  - ▶ Testimony: Oral statements of a witness made under oath

# Hearsay Evidence

- ▶ Hearsay Evidence are assertions of someone other than the witness who is testifying.
- ▶ Generally INADMISSIBLE in court; however, there are exceptions:
  - ▶ Expert witnesses
  - ▶ A **voluntary** confession read into the record by a protection or law enforcement officer

## Statement Evidence - Confessions

The following steps will help ensure the admissibility of a confession:

- ▶ Suspect offered a chance to call counsel
- ▶ The interview is to learn the truth
- ▶ No implied threats or promises
- ▶ Suspect allowed to give full explanation
- ▶ Suspect questioned in a language they understand
- ▶ No ambiguous questions
- ▶ Do not be aggressive or abusive
- ▶ Have suspect sign a statement and have a second witness present



# Burden of Proof

The burden of proof is different in a civil action than it is in a criminal matter:

- ▶ **Civil Action:** Burden of Proof is based on the balance of probabilities.
- ▶ **Criminal Matter:** Burden of proof requires proof of guilt beyond a reasonable doubt.

A person can be found not guilty in a criminal court but be held responsible in a civil court.

# Trespassing

One or more of the following must be present for a trespass to occur:

- ▶ Subject does not own or have legal rights to the property
- ▶ Subject must know they have no legal rights to enter
- ▶ Property is posted in accordance of the law
- ▶ No permission
- ▶ A request to leave by security or owner
- ▶ Refuses to leave after seeing posted, crossed barriers, or did not leave after request