

Joliet Prison
Final Exam Question 1
Workplace Legislation
Fall 2003

Joliet federal prison was in need of additional guards. Because of the nature of the job, the screening requirements were rigorous. One important aspect of the selection process was a personality and psychological profile administered as the first phase of the screening. The prison used a modified MMPI which was scored by the warden's personal assistant who shared the results with other members of the executive staff. The test screened for psychological impairments and character traits which would be negatively impact the performance of a guard. All applicants also had to take an honesty tests administered via a kiosk in the prison personnel office. The honesty test asked a series of increasingly personal and intrusive questions which were designed to get at the integrity of the applicant. The prison also planted undercover trainees who got to know the other applicants and reported back to the administration.

Each applicant also had to undergo rigorous physical fitness screening including hand-to-hand combat, running, stress testing, calisthenics, and medical screening. During one of the tests, an applicant suffered a heart attack. Another applicant was eliminated when he was deemed to be too heavy to be successful as a guard even though he passed the initial phases of the ability testing. Female applicants had a difficult time passing the tests because the standards had been based on professional football players who were thought to have the physical conditioning that would be necessary for the guard job.

In addition to ability testing, the applicants were given extensive physical exams before being allowed to enter into the training program. Each applicant had to fill out a very long and detailed medical questionnaire as a part of the physical. Any applicant who tested positive for the HIV virus or who had an extensive family history of cardiac disease, diabetes or sickle cell was eliminated. (In additional to screening out unfit candidates, this allowed the prison to keep its health insurance costs down). All medical information was stored in file cabinets in the warden's office so that she could be prepared should a medical emergency arise involving a staff member.

The prison physician Dr. Noe administered the physical exams. He always sought to examine the women applicants and was known to fondle or caress them during the course of an exam. Once during a physical he noticed a serious rattle in the lungs of an applicant who was also short of breath. Attributing this to nervousness, Dr. Noe did nothing. The applicant who was then hired had tuberculosis, but died a year later after infecting several inmates and coworkers. Guards who were smokers were informed that they would not be allowed to smoke in the prison, but could smoke outside on the grounds, however the policy was not strictly enforced.

You are a consultant to the prison, hired to review its employment practices. Discuss all the potential sources of liability, and evaluate whether each is likely to give rise to a claim. Discuss the potential damages and describe how the prison could better accomplish its goal to hire successful guards.

Marcella's Motel
Final Exam Question 2
Workplace Legislation
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Marcella had a hard time finding employees for her motel because the work was difficult and the pay was low. She paid her housekeeping staff on a piece rate basis of \$1.50 per room and were expected to clean at least 20 rooms a day in 8 hours. Often the housekeepers were required to work 7 days a week, because the staffing was so short. For each overtime day, they were paid \$2.00 per room, but were still required to clean 20 rooms. Marcella also averaged the employees' pay over two weeks so that overtime was based upon the number of rooms cleaned in two weeks. For example if a housekeeper cleaned 25 rooms and it took an additional 2 hours, she would ask that employee to be sure to work only 38 hours the next week. Sometimes guests would tip the housekeepers by putting a few dollars under the pillow. Because of this Marcella would occasionally take a tip credit against the housekeeper's wages.

Marcella had stringent screening requirements for the housekeeping staff because they had access to guests' rooms. Whenever any item was missing, she would require each staff member who worked on that floor of the hotel to report to the office for a polygraph exam administered by her chief of security. The chief would advise her as to whether each employee should be retained based on the results of the test. The housekeepers resented these sessions because of the nature of the questions the chief would ask during the polygraph. One housekeeper had a nervous condition quit because the polygraphs caused her such extreme emotional distress that she was unable to sleep and became socially withdrawn.

Similarly, Marcella checked all her staff's credit reports because she was concerned about theft. She also worried about the safety of her guests so she pulled an extensive investigative consumer report including information about her employees' habits and lifestyles as well as their credit. She obtained permission to do this by including a small notice on the employment application. She never hired anyone who had filed for bankruptcy. Employees dismissed on the basis of credit reports were never informed as to the reason for their dismissal.

Marcella's workforce tended to be heavily immigrant. She was used to accepting documents that appeared on their face to be altered or fake. Sometimes in order to send a message to the workforce she would implement a policy of asking for several documents when an applicant had a foreign sounding name, unless it appeared the name was of European descent. One headache for Marcella has been that a local competitor is complaining that because of the nature of her workforce Marcella is undercutting her competitors by paying unreasonably low wages.

Even though she was not the greatest boss in many ways, Marcella did take sexual harassment complaints seriously. She had a policy clear policy, and acted upon all complaints. She hired an outside firm to investigate and to submit a thorough report before she took any action.

The housekeepers have come to you asking you to bring suit against Marco, though they aren't certain what their claims are. Discuss any potential suits as well as their likelihood of success and any potential difficulties you might encounter.