

## **TITLE 18 U.S.C. § 241 CONSPIRING AGAINST CIVIL RIGHTS**

- The right not to be subject to cruel and unusual punishment, *United States v. LaVallee*, 439 F.2d 670, 686 (10 Cir. 2006);
- The right not to be deprived of liberty without due process of law. This right includes the right to be kept free from harm while in official custody. “No person may ever be physically assaulted, intimidated, or otherwise abused intentionally and without justification by a person acting under the color of the laws of any state.” *United States v. Bigham*, 812 F.2d 943, 949 (5 Cir. 1987);
- The right to enjoy public accommodations, 42 U.S.C. § 2000a. The presence of electronic video games turns a convenience store into a supplier of entertainment and therefore a place of public accommodation. *United States v. Baird*, 85 F.3d 450 (9 Cir. 1996). In *United States v. Piche*, 981 F.2d 706, 716 (4 Cir. 1992), the defendant was prosecuted for interfering with Asian-American men because they were enjoying the goods and services of a public facility. The district court correctly charged the jury that “[a] place of public accommodation is any establishment that is used by members of the general public for entertainment, that is, recreation, fun, or pleasure, and in which the sources of entertainment move in interstate commerce.”

A pretrial detainee has a Fourteenth Amendment right to be free from the use of excessive force that amounts to punishment; an arrestee has a Fourth Amendment right to be free from unreasonable seizures; and a convict has an Eighth Amendment right to be free from cruel and unusual punishment. *United States v. Cobb*, 905 F.2d 784, 788 and 788 n. 7 (4th Cir. 1990).

## **TITLE 18 U.S.C. § 242 CIVIL RIGHTS – COLOR OF LAW**

Title 18, United States Code, Section 242 makes it a crime to deprive any person of his civil rights under color of law. For you to find the defendant guilty, the government must prove each of the following beyond a reasonable doubt:

- First, that [name of victim] was present in South Carolina;
- Second, that the defendant deprived [name of victim] of a right secured or protected by the Constitution or laws of the United States [the right infringed must be identified], or to different punishments, pains, or penalties on account of such person being an alien, or by reason of his color or race;
- Third, that the defendant acted under color of law; and
- Fourth, that the defendant acted willfully.116