



AMERICAN CIVIL LIBERTIES UNION OF UTAH FOUNDATION, INC  
355 NORTH 300 WEST, SALT LAKE CITY, UT 84103  
(801) 521-9862 PHONE • (801) 532-2850 FAX  
[ACLU@ACLUUTAH.ORG](mailto:ACLU@ACLUUTAH.ORG) • [WWW.ACLUUTAH.ORG](http://WWW.ACLUUTAH.ORG)

---

## THE ACLU OF UTAH AND COMPLAINTS ABOUT CONDITIONS AND PRACTICES AT UTAH'S JAILS

### Introduction

Thank you for contacting the American Civil Liberties Union (ACLU) of Utah. We are committed to fighting unconstitutional jail conditions and practices, and your complaint is important because it helps us identify problems in Utah's jails. This paper provides a brief outline of your constitutional rights in jail as well as information about how you can receive help from the ACLU of Utah.

### The constitutional rights of people in jail

While incarcerated, people in jail retain limited constitutional rights. In general, convicted inmates in jail have the same legal rights as prisoners, which are:

- **The right to medical, dental, and mental health care.** Courts have found that a lack of adequate medical, dental, or mental health care for prison inmates constitutes cruel and unusual punishment prohibited by the Eighth Amendment to the United States Constitution. However, not all medical, dental, or mental health care is constitutionally required. In a 1976 decision, the United States Supreme Court stated that, "deliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain' proscribed by the Eighth Amendment" (*Estelle v. Gamble*). In other words, only the deliberate indifference to "serious medical needs" violates the Eighth Amendment, and to prove a constitutional violation, inmates must show that prison officials knew of and disregarded a substantial risk of serious harm to their health (*Farmer v. Brennan*, 1994). A medical need is considered "serious" if it "causes pain, discomfort, or threat to good health" (*Dean v. Coughlin*, S.D.N.Y., 1985).
- **The right to safe jail conditions.** Exposing prisoners to dangerous conditions or toxic substances may also violate the Eighth Amendment. Prison officials violate the Eighth Amendment if, with deliberate indifference, they expose a prisoner to a condition that poses an unreasonable risk of serious damage to that prisoner's future health (*Helling v. McKinney*, 1993).
- **The right to protection from excessive force and inmate assault.** Prison staff also violate the Eighth Amendment if they use force "maliciously and sadistically for the very purpose of causing harm;" however, prison staff are permitted to use force "in a good faith effort to maintain or restore discipline" (*Hudson v. McMillian*, 1992). In general, use of force will be found to be excessive only if an inmate can show that it was not justified by any legitimate law enforcement or prison management need, or was completely out of proportion to that need. Sexual abuse of prisoners by guards and other prison staff is never justified. Additionally, the Eighth Amendment requires prison officials to protect prisoners from violence, including sexual assault, at the hands of other inmates. Prison staff may be held liable under the Eighth Amendment if they acted with "deliberate indifference" or "reckless disregard" for a prisoner's safety (*Farmer v. Brennan*, 1994). In other words, prison staff may be liable if they knew that an inmate was at substantial risk of serious harm, but ignored that risk and failed to take reasonable steps in light of that risk. In addition to the actions of individual prison staff members, courts may also look at prison conditions or practices that create dangerous situations for inmates.

- **The right to be treated fairly.** The Fourteenth Amendment to the United States Constitution (the Equal Protection Clause) prohibits prisons from discriminating on the basis of race, ethnicity, or sex. The Equal Protection Clause may also prohibit discrimination on the basis of sexual orientation (*Johnson v. Johnson*, 5th Cir., 2004). A prison violates the Equal Protection Clause if it disadvantages one of the above prison populations for no legitimate governmental reason. Keep in mind that if prison officials can demonstrate that a policy or practice is reasonable and is necessary for maintaining safety and security, then that policy may be constitutional even if it impacts one particular group of inmates more than another. Differences in treatment among prisoners may not always be due to discrimination. Prisoners who suspect that they have been discriminated against because of their race, ethnicity, sex, or sexual orientation should obtain as much information as possible about the situation to learn whether there is a pattern of discrimination.
- **The right to religious freedom.** The religious rights of inmates are protected by the First Amendment to the United States Constitution, and restrictions on religious practices are valid only if they are “reasonably related to legitimate penological interests” (*Turner v. Safely*, 1987). In other words, if prison administrators can show that a policy is necessary for maintaining prison safety and order, then a court is likely to uphold that policy even if it restricts inmates’ religious rights. To be constitutional, policies must impact inmates with different religious beliefs equally and not treat some religions more favorably than others.
- **The right to have access to the courts.** Inmates have a constitutional right to reasonable access to the courts. In 1977, the United States Supreme Court recognized this right and held that prison officials must “provid[e] prisoners with adequate law libraries or adequate assistance from persons trained in the law” (*Bounds v. Smith*, 1977). In 1996, the Supreme Court somewhat limited the *Bounds* ruling by specifying that a prisoner must show a denial of access to court, not a denial of access to a law library or to legal assistance, in order to claim a denial of court access (*Lewis v. Casey*, 1996). Therefore, a prisoner must show that the inadequacies in a correctional facility’s library or legal assistance program made it more difficult for him to pursue a legal claim and that an “actual injury” resulted. To establish injury, an inmate does not need to show that he had been provided with adequate legal facilities he would have prevailed in a lawsuit; he need only show that he was prevented “from litigating a non-frivolous case” (*Walters v. Edgar*, 7th Cir., 1998).
- **The right to mail and publications.** The United States Supreme Court has held that the First Amendment entitles prisoners to receive and send mail, subject only to the prison’s right to censor letters or withhold delivery if necessary to protect institutional security, and if accompanied by appropriate procedural safeguards (*Hudson v. Palmer*, 1984). Thus, prison officials should have a rational security reason for every restriction placed on the receipt or sending of correspondence. Prison officials have much more ability to inspect and censor non-privileged mail (commercial mail, as well as letters from family members, friends, and businesses) than they do privileged mail (attorney-client mail, including mail from the ACLU of Utah). Publications inmates receive through the mail may be censored, subject to certain procedural safeguards, if they contain material harmful to prison security (*Thornburgh v. Abbott*, 1989). However, both the sender and the intended recipient must receive notice of the censorship and the opportunity to appeal (*Montcalm Publishing Corp. v. Beck*, 4th Cir., 1996).

### **Pretrial detainees and convicted inmates**

If you have not yet been convicted of a crime and are in jail awaiting your trial, then you are a pretrial detainee. If you have been found guilty of a criminal offense and are in jail as part of your sentence, then you are a convicted inmate. In general, pretrial detainees have *at least* the same constitutional rights as convicted inmates.

There is one important distinction between pretrial detainees and convicted inmates: because pretrial detainees have not yet been convicted of a crime, the Due Process Clause of the Fourteenth Amendment to the United States Constitution prohibits the punishment of pretrial detainees for the alleged crimes that led to their detention. Convicted inmates, on the other hand, may be punished as long as their punishment is not cruel and unusual and therefore prohibited by the Eighth Amendment. In establishing the constitutionality of a jail condition or practice as it affects pretrial detainees, it must be determined whether that restriction is for the purpose of punishment or is reasonably related to a legitimate governmental interest (*Bell v. Wolfish*, 1979).

Typically, courts have deferred to jail officials and have found a variety of restrictions on pretrial detainees' rights to be constitutional. Also, please note that if pretrial detainees violate jail policies or procedures while they are detained, then jail officials can constitutionally punish them for those violations (*Collazo-Leon v. United States Bureau of Prisons*, 1st Cir., 1995 and *Blakeney v. Rusk County Sheriff*, 5th Cir., 2004).

### **Important information about the Prison Litigation Reform Act (PLRA)**

If you are thinking about filing a federal lawsuit, it is important that you know about a 1996 law called the Prison Litigation Reform Act (PLRA), which makes it harder for people in jail to file lawsuits in federal court. You should know about the following provisions in the PLRA:

- Before you file a lawsuit, you must try to resolve your complaint through the jail's official grievance procedure. Additionally, you must "exhaust" the grievance procedure, which means that if the jail denies or does not respond to your initial complaint and the grievance procedure allows you to appeal this decision, then you must complete ALL appeals available.
- If you choose to file a federal lawsuit after you have exhausted the jail's grievance procedure, then you will have to pay court filing fees in full. If you do not have the money up front, you can pay the filing fee over time through monthly installments.
- Each lawsuit you file that is dismissed because a judge decides it is frivolous, malicious, or does not state a proper claim counts as a "strike." After you get three strikes, you cannot file another lawsuit unless you pay the entire court filing fee up front. The only exception to this rule is if you are at risk of suffering serious physical injury in the immediate future.

### **How to get help from the ACLU of Utah**

The ACLU of Utah will review your complaint only after you have fully completed the jail grievance procedure. If your grievance was denied or if you are not satisfied with the jail's response to your grievance, please fill out the attached form on page 4 and send it to the ACLU of Utah. Please know that while we review all complaints we receive, we may not be able to respond to your complaint. Also, we cannot assist with your defense in a criminal case.

*August 2006*

**AMERICAN CIVIL LIBERTIES UNION OF UTAH  
REQUEST FOR REVIEW OF GRIEVANCE DENIAL**

If you would like the ACLU of Utah to review your grievance denial, please fill out the following form and return it to the ACLU of Utah.

Name: \_\_\_\_\_

Facility: \_\_\_\_\_

Address: \_\_\_\_\_

Are you a pretrial detainee awaiting trial or have you been convicted of a crime and are in jail as part of your sentence? \_\_\_\_\_

What was your grievance? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Date you filed your grievance: \_\_\_\_\_

Did you receive a response to your grievance? \_\_\_\_\_

If so, what was the jail's response? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

What do you want the ACLU of Utah to do? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Please sign below if you authorize the ACLU of Utah to contact the jail on your behalf:

Signature \_\_\_\_\_

Date \_\_\_\_\_

Please include a copy of your grievance form and all responses from the jail. We are unable to return materials so please do not send your originals. Send this form and copies of your grievances and responses to:

ACLU of Utah  
355 North 300 West  
Salt Lake City, UT 84103

*September 2006*