

'Potential death sentence:' Utah inmate claims 'gross negligence' over COVID transfers

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<https://kutv.com/news/local/potential-death-sentence-utah-inmate-claims-gross-negligence-over-covid-transfers>

DRAPER, Utah (KUTV) — Serious allegations from an inmate against the Utah Department of Corrections and its former leader of its [handling of the COVID-19 pandemic](#) are coming out in a handwritten lawsuit filed by the inmate himself. In two months, 13 prisoners have died from coronavirus and the latest data shows there are nearly [1,200 active positive cases](#).

One of those inmates, Damon Crist, is now suing the prison's former executive director, Mike Haddon claiming [cruel and unusual punishment](#)—a violation of the state constitution's 8th Amendment. Attorney Sara Wolovick with ACLU Utah says:



Attorney Sara Wolovick with ACLU Utah. (KUTV)

What that means is that a jail or prison cannot be deliberately indifferent to an incarcerated person's serious medical need or to a serious risk of harm."

Haddon [stepped down from his position late last year](#) after questions arose regarding his handling of the COVID-19 pandemic behind prison walls.

Wolovick says that generally, lawsuits challenging conditions of confinement are an uphill battle because the plaintiff (Crist in this case) would have to prove deliberate indifference on the part of the Department of Corrections. Wolovick said that's extremely challenging to do even for experienced attorneys and in this case, Crist is representing himself.

Wolovick says:

A jail or prison could be grossly negligent to an incarcerated person's serious medical needs and officials would still not face civil liability under the 8th Amendment. The legal standard actually rewards ignorance on the part of jail and prison officials. These sorts of cases are very difficult even for people who are represented by very experienced attorneys,"

2News has a team scouring lengthy documents, which include a handwritten lawsuit on rationed paper by inmate Damon Crist, who representing himself, as well as a handwritten letter from Crist to KUTV.

We've embedded those entire documents below.

[Damon Crist Lawsuit against Utah Department of Corrections](#) by [Adam Leif-Erik](#) on Scribd

In his lawsuit, Crist says there have been hundreds of inmate transfers and during those transfers, inmates were never tested or asked if they were experiencing symptoms. Crist also says inmates that had tested positive were assigned to dorms with inmates that were negative. He says the movement of hundreds of prisoners, all done without testing for COVID-19, caused him to contract the virus, which he says has led to extreme headaches, pressure throughout the chest and shortness of breath.

At the time the lawsuit was filed, Crist says he requested medical attention—but three days later and he had not yet seen a provider.

In the lawsuit, Crist says his rights are being violated pursuant to the [Article 1 Section 9 of the Utah Constitution](#), which states:

Excessive bail shall not be required; excessive fines shall not be imposed; nor shall cruel and unusual punishments be inflicted. Persons arrested or imprisoned shall not be treated with unnecessary rigor.

Crist then says there have been violations of the [Utah medical malpractice act](#); as well as three sections of Department of Corrections policy concerning “jeopardizing safety and security [of prisoners],” “competent supervision of offenders,” and “communicable/infectious disease control”

The introduction to the lawsuit filed by Crist reads:

“Petitioner brings this request for extraordinary relief out of necessity to preserve life from COVID-19 infection in around 500 prisoners after hundreds of internal prisoner moves brought COVID-19 positive prisoners into multiple areas of the prison that were COVID-19 negative locations. The mass and unexpected relocation of prisoners on October, 23, 2020 brought COVID-19 infected prisoners to Lonepeak and petitioner is now infected with COVID-19. Not one of the transferred prisoners was tested for COVID-19, or even questioned if they were exhibiting symptoms. Respondent’s reckless [sic] disregard for the current COVID-19 pandemic is now causing death to unknown number of prisoners.

“Prison resources cannot handle massive COVID-19 outbreaks. Department nurse Wesley Shuman refused to change his gloves as he performed COVID-19 tests on October 30, 2020 and when inmate Chris Rebstock questioned Dr.[Gabriel] Power about this conduct, Dr. Power alleged there wasn’t enough personal protective equipment. Respondent has lost control.”

Crist also cites “cruel and unusual punishment” in his lawsuit, saying the numerous prisoner locations means a “potential death sentence” for those forced to be housed with COVID-19-infected inmates. Another major allegation in Crist’s lawsuit states that a nurse who was performing COVID-19 tests refused to change his gloves in between tests.

Wolovick says the allegations from Crist are not surprising, saying she’s received dozens of phone calls, letters, and complaints from inmates and their families regarding safety in Utah’s correctional facilities. She says:

We’ve heard a lot of complaints in long delays in getting medical care even for people with serious symptoms, people who are struggling to breathe.”

Saying respondent Mike Haddon had ordered “hundreds of possible death sentences,” Crist says the Utah Department of Corrections also did not follow Centers for Disease Prevention and Control guidelines or Utah Department of Health guidelines.

In his lawsuit, Crist says:

Petitioner’s right to be free from cruel and unusual punishment is being violated by every prisoner relocation when medical testing is not being administered to ensure the prisoner being relocated is not a potential death sentence to the others being forced to live with the transfer.”

Later on, Crist says:

Respondent may not [have] intended to infect hundreds of prisoners, and petitioner, he was just willing to take the chance.”

Crist cites the 8th Amendment to the Utah Constitution, saying prison officials showed “deliberate indifference” to future harm with the prisoner moves, and lack of testing. Crist cites many past cases regarding prisoners and health risks.

Crist also claims the Utah prison system also committed “unnecessary rigor” against prisoners, which cites a section of the Utah Constitution. The lawsuit also points out portions of the Utah Department of Corrections policy regarding prisoner safety. Crist says it’s gotten so bad that a SWAT response team has had “record high calls” regarding violence from prisoners refusing to return to their cells.

Based on the reports she’s heard—Wolovick says something must be done, saying all inmates are required access to the most basic human rights:

I think there absolutely needs to be independent investigation and evaluation into how the Department of Corrections is handling this I want people to recognize that these are human beings and they are somebody’s family and their lives matter.”

2News reached out to the Department of Corrections for comment and the department responded:

We would not have a comment at this time as the litigation is pending."

Crist's lawsuit isn't seeking release from prison, rather the following list of changes, as quoted from the lawsuit:

- Order respondent (Mark Haddon, Utah Department of Corrections) to respond to this petition
- Order all U.D.C. staff to receive N95 masks each shift
- Order all U.D.C. staff administering COVID-19 testing to change their gloves after each and every test
- Order respondent to stop all prisoner moves and transfers until and unless:
 1. Utah prisoners are vaccinated for COVID-19; or,
 2. There exists "imminent threat" to a prisoner's life or safety; or,
 3. The transfer or move is "medically necessary" and so ordered by a licensed physician;
 4. Any other prisoner move that does not meet the standards of 1,2, or 3 shall obtain and shall initiate: A). The inmate being moved-transferred shall sign an agreement outlining the risks to health and life of being relocated during the COVID-19 pandemic; AND B). Once release is obtained, the inmate agreeing to the relocation shall be placed in a quarantine location for 14 days with restricted access to other inmate populations; AND C). On day 15, the inmate to be relocated shall be administered a COVID-10 test and only after the test is medically cleared as "negative" for COVID-19 will the move commence.
 5. All relocations outside these guidelines are strictly forbidden except transferring prisoners back to their original housing unit prior to the OVID-19 positive test and transfer to medical isolation.
- Order respondent to move all medically isolated prisoners who recover from COVID-19 and are medically cleared, right back to the exact location prior to the medical transfer.
- Order any other stipulation that ensures prisoners do not experience hardship and punishment due to exposure and medical isolation from COVID-19.