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THE ACLU OF UTAH AND COMPLAINTS REGARDING EXCESSIVE FORCE AND INMATE ASSAULT AT UTAH'S JAILS OR PRISONS

Introduction

Thank you for contacting the American Civil Liberties Union (ACLU) of Utah. We are committed to combating unconstitutional jail and prison conditions and practices, and your complaint is important because it helps us identify problems in Utah's correctional facilities.

Use of force by jail or prison staff

The Eighth Amendment to the United States Constitution forbids the use of cruel and unusual punishment on convicted inmates. Jail or prison staff violate the Eighth Amendment when they use force "maliciously and sadistically for the very purpose of causing harm;" however, jail and prison staff are permitted to use force "in a good faith effort to maintain or restore discipline" (*Hudson v. McMillian*, 1992). In general, the courts find the use of force to be excessive only if an inmate can show that it was not justified by any appropriate law enforcement, jail, or prison management need, or was completely out of proportion to that need. Sexual abuse of prisoners by guards and other jail or prison staff is never justified.

Protection from assault by other inmates

The Eighth Amendment also requires jail and prison officials to protect prisoners from violence, including sexual assault, at the hands of other inmates. Jail or prison staff may be liable under the Eighth Amendment if they acted with "deliberate indifference" or "reckless disregard" for a prisoner's safety. *Farmer v. Brennan*, 511 U.S. 825 (1994). In other words, jail or prison staff may be responsible if they knew that an inmate was at significant 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 jail or prison staff members, courts may also look at jail or prison conditions or practices that create dangerous situations for prisoners in general.

If you feel jail or prison staff have used excessive force or have failed to protect you from an assault by another inmate, file a formal grievance with the jail or prison.