



AMERICAN CIVIL LIBERTIES UNION OF UTAH FOUNDATION, INC
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INFORMATION ON JAIL INMATES AND GRIEVANCE PROCEDURE

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, but there is one important distinction: 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; *Blakeney v. Rusk County Sheriff*, 5th Cir. 2004).

Why it is important to file a formal grievance with the jail

If jail personnel violate your rights as an inmate, it is important that you go through the jail's formal grievance procedure for two reasons. First, the process gives officials the opportunity to address your complaint. Second, under the 1996 Prison Litigation Reform Act (PLRA), inmates must try to resolve their complaints through the jail's grievance procedure before filing a lawsuit in federal court. Additionally, under the PLRA, inmates must exhaust the grievance process, 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.

Please note that under Utah Department of Corrections policy, inmates who file malicious or frivolous grievances may be subject to criminal, civil, disciplinary, and/or administrative actions. A malicious grievance is one in which an inmate "willfully falsifies information with the intent to annoy, slander, or injure" someone; a frivolous grievance is any grievance that an inmate "knows or reasonably should know is without merit, is irresponsible, or has no rational basis in fact or law."

How to get help from the ACLU of Utah

The ACLU of Utah will review your complaint only after you have completed the jail grievance procedure. If your grievance was denied or you are not satisfied with the jail's response to your grievance, please fill out the attached form 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. In addition, we cannot assist with your defense in a criminal case.

**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 to the ACLU of Utah:

Name _____

Facility _____

Address _____

Are you: A pretrial detainee awaiting trial? _____
 Convicted of a crime and in jail as part of your sentence? _____

What was the grievance? _____

Date you filed grievance _____

Date you filed grievance appeal (if any) _____

Did you receive a response to your grievance and/or the appeal? _____

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 **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