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THE ACLU OF UTAH AND COMPLAINTS REGARDING MEDICAL, DENTAL, AND MENTAL HEALTH CARE AT UTAH'S PRISONS AND JAILS

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.

Please note that the law is always evolving. If you have access to a law library, it is a good idea to confirm that this overview and the cases cited below are still good law. This document discusses rights provided by the Eighth Amendment of the United States Constitution. You may have additional rights provided by other sources and we recommend additional legal research.

Medical, dental, and mental health care for inmates

The Eighth Amendment requires that jail and prison officials provide inmates with basic sustenance. This includes adequate medical, dental and mental health care. *See Estelle v. Gamble*, 429 U.S. 97, 103 (1976); *Brown v. Plata*, 131 S.Ct. 1910, 1928 (2011). This applies to government employees and contracted private medical staff. *West v. Atkins*, 487 U.S. 42, 56-57 (1988).

However, not all medical, mental health, or dental care is constitutionally required. In order to succeed on a constitutional claim of inadequate medical care, prisoners must prove that jail or prison officials treated them with "deliberate indifference to serious medical needs." *Estelle* at 104. Inmates may prove deliberate indifference by showing that jail or prison officials were careless, meaning the officials *know of and ignore* the harm to inmates by failing to take reasonable steps to avoid the risk of serious harm to the inmates' health. *Farmer v. Brennan*, 511 U.S. 825, 836-37, 847 (1994). Some factors courts have considered in determining whether a medical need is "serious" include "(1) whether a reasonable doctor or patient would consider the medical need in question as important and worthy of comment or treatment; (2) whether the medical condition significantly affects daily activities; and (3) the existence of chronic and significant pain." *Brock v. Wright*, 315 F.3d 158, 162 (2d Cir. 2003).

An inmate may prove deliberate indifference by circumstantial evidence. This may include "the very fact that the risk was obvious" or proof the inmate's health was worsening. *Farmer* at 842. An inmate may prove an official's knowledge and unlawful improper action by direct evidence. For example, inmates may submit sick call requests, medical records, complaints, formal grievances or other records showing significant facts relating to diagnosis and treatment, complaints and grievances, and any additional information relating to the complaint.

Examples of poor medical care that are considered deliberate indifference to serious medical need include serious delay in access, denial of access to properly qualified personnel, failure to carry out medical orders (though reasonable disagreement among doctors on this issue will not always support a deliberate indifference claim); and unjustifiable trust in non-medical factors in making treatment decisions. *See, e.g., Estelle* at 104-05; *Hayes v. Snyder*, 546 F.3d 516, 526 (7th Cir. 2008); *Goebert v. Lee*

County, 510 F.3d 1312, 1327-28 (11th Cir. 2007); *Norfleet v. Webster*, 439 F.3d 392, 396 (7th Cir. 2006); *Boswell v. Sherburne County*, 849 F.2d 1117, 1123 (8th Cir. 1998); *Roe v. Elyea*, 631 F.3d 843, 862-63 (7th Cir. 2011).

The Eighth Amendment also requires that jail and prison officials provide adequate medical, dental and mental health care systems, and that inmates have the ability to ask for care on a regular basis. See *Hughes v. Joliet Correctional Center*, 931 F.2d 425, 428 (7th Cir. 1991). Officials show deliberate indifference to serious medical needs if inmates are unable to make their medical problems known to medical staff, if medical staff is not conducting regular sick calls or, in some situations, if facilities and equipment are inadequate. See, e.g., *Johnson-El v. Schoemebl*, 878 F.2d 1043, 1055 (8th Cir. 1989); see also *Harris v. Thigpen*, 941 F.2d 1495, 1509 (11th Cir. 1991). Mental health systems have some special requirements, including regular screening and evaluation of inmates, and providing treatment that meets standards above simply segregating and closely supervising patients.

What to do if the prison or jail is not providing the care you need

If you are housed at a jail, you must find out what formal processes the jail has put in place to request medical help. Follow the jail's formal processes exactly. If jail medical administrators deny your health care request, you may then file a grievance with the jail.

For inmates in prison, if you have a medical, dental, or mental health care need that the prison is not taking care of, make sure you submit a formal request for treatment.

- First, get an Inmate Care Request Form from your unit housing lieutenant, caseworker, or ethnic minority resource specialist.
- Second, fill the form out carefully. Fill in all the spaces. Clearly explain why you think you need the care you are requesting. If you need help filling out this form, ask your housing officer to call your caseworker to come help you.
- Finally, put the form in the Sick Call Box. Do not place the form in the mailbox.

Staff picks up Inmate Care Request forms daily and reviews them for immediacy of need. If the prison determines that your health care request requires a visit with a medical provider, the prison will schedule an appointment for you.

For immediate and very serious health care needs, you can do the following:

- Tell the medical tech in the pill line twice a day.
- Ask an officer on the block to put in an Inmate Care Request, which a registered nurse will sort according to priority within one day.

If administrators deny your health care request, you may file a grievance. You must file a grievance within seven (7) working days after the denial of your request for medical, mental health, or dental care. If you wait longer than 7 working days, you will have to submit a new Inmate Care Request and wait for a new denial before filing a grievance.

The ACLU of Utah compiled the above information from the following sources:

1. "Know Your Rights: Medical, Dental and Mental Health Care" by the ACLU National Prison Project, July 2012