

PRISONERS' RIGHTS

JAIL AND PRISON CONDITIONS

ACLU-TN knows that prisoners in county jails and state prisons have great difficulty getting help. Unfortunately, our resources and staff are quite limited and we receive hundreds of valid complaints from inmates each year. Because of the size of our office, we are unable to provide assistance to most of the prisoners who write to us. Our inability to help you further is not a reflection on the merits of your claims and we hope this information will help you continue to work as a strong advocate for yourself.

Please understand that none of the information in this handout is intended as legal advice. It is also possible that policy has changed since we last researched it. You should try to check on updated policies either through your prisoner manual, or through the facility's Law Library.

Any and every complaint about conditions in a jail/prison must first be addressed through the existing grievance system in the facility where the event/issue occurred. This *must* be done before any other step can be taken to address your concern, including filing a lawsuit against the facility.

If you are in a **county/city jail**:

When you arrived and were booked, you probably received written copies of all rules in that facility. This should also include the actions the jail will take when any rule is broken. The specifics of the grievance process will be different in different county jails, but you should always be able to receive information about how to file a grievance. Make sure you keep a copy of all written information concerning your grievance, including the dates in which you filed it, and the dates when you received responses. **You must follow your grievance through all levels that exist if you want to file a lawsuit, or address the problem through any other means.** However, if your facility has a multiple step grievance process and does not allow you to appeal to the next level without a response from the lower level, things change. If you do not receive a response at a lower level, and by not receiving a response cannot appeal to the next level, then it counts as having exhausted the process. If at all possible, though, it is

probably a good idea to try and file your grievance at the next level just in case.

If you are in a **state prison**:

Detailed instructions for the filing and processing of grievances, along with current policies on inmate grievances, can be found in the facility's Law Library. There are certain complaints that cannot be addressed through the grievance system, but can be appealed through other means. A list of these issues is also available with other grievance information. Inmates should have full, unrestricted access to grievance slips. For example, if you are in segregation, and ask for a grievance slip, it should be provided to you. The Tennessee Department of Corrections' grievance policy has three different levels of appeal. **You must follow your grievance through all three levels if you want to file a lawsuit or address the problem through any other means.**

Abuse of Procedure:

TDOC Policy # 501.01 considers the following behaviors abusive of the grievance procedure:

"-Inmates shall not be permitted to submit more than one (1) grievance arising out of the same or similar incident.

-Inmates shall not be permitted to have more than one (1) grievance pending at Level 1 review. A grievance improperly submitted under this provision will be logged and held by the grievance clerk until any grievance previously submitted has been forwarded to the warden for review of the chairperson's ruling.

-Profanity, racial slurs, or insults shall not be used by the grievant unless necessary, in context, to describe the complaint."

If any time limit expires, and you have not received a response, *you should file your grievance with the next level*, unless you agree in writing to wait for a fixed number of extra days.



P.O. Box 120160, Nashville, TN 37212
Tel: 615.320.7142

This information provided is for educational purposes only. It is not intended to be legal advice.

03/16

Level I:

-Inmates must file a grievance within *7 calendar* days of the day the incident occurs. (A calendar day is counted starting at 12:01 a.m. after the incident occurs, no matter what day of the week it is.) If your complaint involves discrimination, it must be filed within 180 days after the incident occurs (it is best to try to file it within seven days anyway).

-Your complaint should be reviewed by the chairperson of the review committee and by the supervisor of the employee addressed in your complaint within *7 working* days of when your complaint was processed. (Working days only include Monday through Friday. Do not count Saturday and Sunday when waiting for a response.)

Level II:

-If you are not satisfied with the response you receive at Level I you can appeal it to level two. This must be done within *5 calendar* days of receiving a response from the prison employees. This time your complaint will be reviewed by the grievance committee and by the warden.

-A hearing shall occur within *5 working* days of your second filing, and you should receive a response within *17 working* days of the hearing.

-If the warden accepts your suggested resolution to the issue you **cannot** appeal it to Level III.

Level III:

-If the warden does not accept your suggested resolution you can appeal it to Level III. This must be done within *5 calendar* days of receiving your response from Level II.

-Once you have filed your complaint for the third time, you should receive the final decision within *25 working* days.

*If you choose to file a civil suit based on your complaint, you must do it within one year of receiving the Level III response to your complaint. **Make sure you keep a copy of all written information concerning your grievance, including the dates in which you file them, and the dates when you receive responses.**

All Inmates:

The PLRA is important to understand if you are thinking about filing a lawsuit. The 1996 Prison Litigation Reform Act (PLRA), makes it harder for prisoners to file lawsuits in federal court. In ACLU's explanation of the PLRA you will also find specific information regarding your issue of concern and suggestions for responding to it.

We do not handle any cases that involve an individual's criminal trial, appeal, or post-conviction remedy. You need to file your own paperwork in these types of cases. If you wish to file your own Section 1983, Civil Rights Complaint, *A Jailhouse Lawyer's Manual Sixth Edition* will provide you with the appropriate information. There may be a copy of this manual in your facility's Law Library if not; the ACLU-TN has an order form available on our website. You can use this manual to file a lawsuit about general jail conditions, problems with medical treatment, misconduct by guards or other jail officials, and similar problems. When you file a lawsuit, also request that the court appoint an attorney to handle your case. You can call or write one of the addresses below to get a Section 1983 form:

There are three basic principles by which the law addresses prisoner rights:

- Incarceration deprives prisoners of certain rights and privileges they would enjoy in free society.
- Inmates do not lose all of their civil rights; certain fundamental rights follow them in prison and are protected by the courts.
- Prison officials are afforded wide discretion, and unless fundamental rights are involved, courts are reluctant to interfere with the internal operations of prisons.

JAILS

Individuals generally go to jail when arrested, while awaiting trial if no bail is posted, and when serving a sentence that is less than one year. Jails are operated by counties and cities, are generally more transient and overcrowded than prisons, and do not always provide programs for inmates.



P.O. Box 120160, Nashville, TN 37212
Tel: 615.320.7142

Inmates with complaints about conditions or administrative practices in jails can file **grievances** through the **jail grievance procedure**. If there is no grievance procedure, a letter may be sent to the sheriff or administrator of the jail.

Medical Care

If an incarcerated person files a request for medical assistance, they should retain a file copy and include the following information:

- their symptoms;
- the date on which medical care was requested;
- the type of medical care required;
- the last date on which medical care was received;
- what type of care was provided and by whom;
- the names of the inmate and of the institution;
- the date the inmate arrived in the institution;
- the expected date of release;

PRISONS

ACLU's ability to assist these inmates is extremely limited and must be determined on the basis of the pervasiveness of the problem, the availability of resources and our level of commitment to other prison and jail-related issues.

Freedom from Cruel and Unusual Punishment

Prisoners have an absolute right to be free from cruel and unusual punishment. In determining whether something is cruel and unusual, courts look to whether: (1) the punishment shocks the general conscience of a civilized society; (2) whether the punishment is unnecessarily cruel; and (3) whether the punishment goes beyond legitimate penal aims. However, this is a difficult standard to meet, as courts today generally require direct proof showing harm resulting from the prison condition. Further, courts will often consider prison conditions *as a whole*, rather than determining whether one particular practice goes outside constitutional boundaries. Specifically, courts look to sanitation, lighting, heating, ventilation, food, noise, programs, education, exercise, vocational training and access to the law library when assessing prison conditions to determine whether the totality of these conditions “create a total environment where debilitation is inevitable, and which is unfit for human habitation and shocking to the conscience.” Courts have found that corporal punishment,

confinement without exercise, and sexual assault are cruel and unusual.

Due Process

While prisoners do lose many rights, they still retain fundamental liberties, and these cannot be denied without due process. Before a person can be penalized for disciplinary violations, they must be informed of the charges against them at least 24 hours before a hearing, and have the right to call witnesses and present documents in their defense. They have the right to an impartial hearing and may submit a written statement. When it comes to prison violations, prison guards have absolute discretion to determine what day-to-day conduct violates prison policy. They also can act virtually without question in making decisions on requests for medical care, library use, or yard time.

Free Speech and Access to the Courts

Prisoners lose many, but *not all*, of their constitutional rights during their incarceration. For example, subject to significant limitations, prison officials *must* accommodate inmates' right to free exercise of religion and their right of access to the courts, two areas of special concern to the ACLU. The greatest degree of protection is afforded to prisoners' communications with the courts, their attorneys, and government officials. The Supreme Court, in 1977, held that prison officials must “assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in law.” Thus, prisoners *do* have the right to meet face to face with their lawyers. Many courts have used this “either/or” approach (either adequate law libraries *or* assistance from people trained in the law) when determining if inmates have received adequate assistance. A 1996 Supreme Court case specified that a prisoner must show a denial of access to court, not a denial of access to a law library or legal assistance, in order to claim a denial of court access.

Prisons cannot refuse to mail prisoner correspondence. While prison officials *can* open general incoming mail for inmates, legal correspondence marked clearly as “Legal Mail” affords it greater protection from invasion by prison officials. Prison officials can also censor certain types of books, but generally must exercise the same standards they



P.O. Box 120160, Nashville, TN 37212

Tel: 615.320.7142

use for censoring mail, i.e., pornographic or sexually explicit materials; materials that detail how to make explosives, or those that would aid in escape attempts.

Religious Freedom

The First Amendment guarantees all people the right to exercise their religious beliefs. Prisons can place some conditions on an inmate's exercise of religious beliefs, but only if the restrictions are reasonably related to legitimate penological interests. Nevertheless, inmates can practice their religions. Inmates can have bibles and attend religious services. Muslims, Jews, Native Americans and other minority groups have the same right to exercise their religion, but prisons are not required to give them special privileges. Prisons must make *reasonable* provisions for the dietary needs of Muslim or Jewish prisoners. If the regular diet can in any way include food that meets those needs, then prisons need not provide separate meals.

Privacy

Prison officials have a right to search inmates' cells and any personal belongings without a warrant. Prisons can control inmates' personal appearances, including clothes, hair, etc. Most inmates, male and female, still retain some degree of privacy in intimate affairs like showering or using the toilet.

Prison officials do not need to have probable cause in order to search an inmate, and prison officials can engage in "shakedown" searches of housing areas or cells. Searches must be conducted in a reasonable manner, and shouldn't result in damage to an inmate's property.

Prison officials may engage in strip or body cavity searches after contact visits; however, these should not be conducted in the presence of guards of the opposite sex.

Where prison officials seize inmate property, they must give the prisoner a receipt for the seized property, a statement of the reason for the seizure, and the opportunity to challenge the decision.

Medical Care

Lack of adequate medical care is one of the more common prison complaints we receive. Most prisons' medical

facilities are understaffed, and therefore minor ailments often get ignored. Nevertheless, inmates have a right to adequate medical care.

Unfortunately, the current political climate promotes the belief that society should get tougher on prisoners and take away the few privileges they have available. Overcrowding and reduced funding has led to reduced medical staff, facilities and materials, and reduced medical care for inmates. However, courts have ruled that a prisoner's medical treatment violates the constitution only where prison authorities have shown "deliberate indifference" to an inmate's "serious" medical condition.

Courts have provided relatively little in the way of concrete relief to prisoners because most cases have involved disputes between prisoners and prison medical staff about whether the medical treatment was sufficient. The courts often believe the testimony of the doctors and other prison officials over inmates. To succeed in court, inmates must show that prison officials knew of the inmate's serious medical need, and did nothing to alleviate it. Negligence on the part of medical personnel is not generally sufficient to demonstrate "deliberate indifference."

Inmates who believe their serious medical needs are not being met should document their situation as extensively as possible and take advantage of the grievance procedure. They should keep copies of all letters, grievances and responses.

We can be most effective through litigation when we find a pattern of constitutional violations in a particular institution. Accordingly, we have a system of recording each complaint based on the institution involved and the nature of the grievance. For this reason, prisoners writing to ACLU should be as specific as possible in their complaints, and keep track of names of witnesses and of the dates and times of all related incidents.

AIDS

On any given day, according to recent data from the Bureau of Justice Statistics, there are approximately 22,000 people known to be HIV-positive incarcerated in jails and prisons in the United States. And, this number is thought to vastly underestimate the true numbers of HIV-positive inmates. HIV-positive inmates are entitled to adequate



P.O. Box 120160, Nashville, TN 37212

Tel: 615.320.7142

treatment, and should be seen by a doctor with experience treating HIV.

Disability

The Americans with Disabilities Act (ADA) requires entities to make reasonable accommodations for a person's known disability unless the accommodation would impose an "undue burden" on the program. An individual analysis must be made with every request for accommodation, and its reasonableness must be determined on a case-by-case basis. In 1998, the Supreme Court ruled in *Pennsylvania v. Yesky* that the ADA applies to prisons. This means that prisons must reasonably accommodate an inmate's known disability. For example, inmates with mobility problems should be given the lower bunk or be housed in an area that does not require travel by stairs. Deaf inmates should receive hearing aids. Inmates should use the prison grievance procedure to request the accommodation they need.

Segregation

Prison officials may place inmates in segregated housing as punishment for misconduct, to prevent future misconduct, or for protection from harm by other prisoners. While there are constitutional limits to confinement in isolation, inmates can be kept in segregation for indefinite periods of time as long as there is continued justification for the placement.

Courts have held that inmates lose many services in segregation that are afforded to inmates in the general population, including yard time and educational programs. While segregated inmates cannot be held in conditions that are unsanitary or unhealthful, they do not need to be granted all the services given to general population inmates. Courts have held that inactivity, lack of companionship, and boredom do not constitute cruel and unusual punishment. However, strip cell confinement has been found unconstitutional in a number of situations, as have absence of light, ventilation, or sanitation. Segregated prisoners must receive adequate food and medical care. They must also be afforded adequate access to legal materials, but as long as materials can be brought to the inmates' cells, segregated prisoners do not need to be taken to the law library.

Likewise, segregated inmates cannot be deprived entirely of their right to religious practice, but may not be entitled to attend religious services.

RESOURCES – NATIONAL AND STATE

ACLU-TN provides the following list of resources for informational purposes only. ACLU-TN does not endorse any of the organizations listed.

National Organizations

- **[ACLU National Prison Project](#)**
915 15th Street, NW, 7th Floor
Washington, DC 20005
Website: <https://www.aclu.org/about-aclu-national-prison-project>
Phone: 202-393-4930
Fax: 202-393-4931

The National Prison Project is dedicated to ensuring the nation's prisons, jails, and detention centers comply with requirements of the U.S. Constitution, federal law, and international human rights principles, and to addressing the crisis of over-incarceration in this country.

- **[Black and Pink](#)**
614 Columbia Road
Dorchester, MA 02125
Website: <http://www.blackandpink.org/>
Phone: 617-519-4387
E-mail: members@blackandpink.org

Black and Pink is an open family of LGBTQ prisoners and "free world" allies who support each other.

- **[Center for Constitutional Rights](#)**
666 Broadway, 7th Floor
New York, NY 10012
Website: <http://www.ccrjustice.org/>
Phone: 212-614-6464
Fax: 212-614-6499

The Center for Constitutional Rights is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights.



P.O. Box 120160, Nashville, TN 37212
Tel: 615.320.7142

- **The Innocence Project**
40 Worth Street, Suite 701
New York, NY 10013
Website: <http://www.innocenceproject.org/>
Phone: 212-364-5340
E-mail: info@innocenceproject.org

The Innocence Project is a national litigation and public policy organization dedicated to exonerating wrongfully convicted individuals through the use of DNA testing and reforming the criminal justice system to prevent further injustice.

- **Just Detention International**
3325 Wilshire Blvd., Suite 340
Los Angeles, CA 90010
Website: www.justdetention.org
Phone: 213-384-1400

1900 L. St. NW, Suite 601
Washington, DC 20036
Phone: 202-506-3333

Justice Detention International (JDI) is the only organization in the world dedicated to ending sexual abuse in detention. JDI advocates for laws and policies that make prisons and jails safe, and fight to ensure that survivors get the help needed.

- **Prison Legal News**
1013 Lucerne Avenue
P.O. Box 1151
Lake Worth, FL 33460
Website: <https://www.prisonlegalnews.org/>
Phone: 561-360-2523
Fax: 866-735-7136
E-mail: info@prisonlegalnews.org

Prison Legal News is a monthly magazine that reports on criminal justice issues and prison and jail-related civil litigation, with an emphasis on prisoners' rights.

- **TJI Justice Project**
1372 Mission Street
San Francisco, CA 94103
E-mail: info@tgijp.org
Website: www.tgijp.org

TGJ Justice Project is a group of transgender people—inside and outside of prison—creating a united family in the struggle to survival and freedom.

State Organizations

- **Corrections Corporation of America**
10 Burton Hills Boulevard
Nashville, TN 37215
Website: <http://www.cca.com/>
Phone: 615-263-3000 or 800-624-2931
Fax: 615-263-3140

Corrections Corporation of America (CCA) is a private management service whose mission is to advance corrections through innovative results that benefit and protect individuals.

- **Department of Justice**
Special Litigation Section
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001
Website: <https://www.justice.gov/>
Phone: 202-514-6255 or
Toll Free: 877-218-5228
Fax: 202-514-0212 or 202-514-6273
E-mail: Special.Litigation@usdoj.gov

The Special Litigation Section is one of several sections in the Civil Rights Division. The section works to protect civil rights in several different areas, including the rights of people in state or local institutions. Such institutions include jails, prisons, juvenile detention facilities, and health care facilities for persons with disabilities.

- **Dismas, Inc.**
1513 16th Avenue South
Nashville, TN 37212
Website: <http://www.dismas.org>
Phone: 615-297-9287
Fax: 615-297-6326
E-mail: info@dismas.org

Dismas House offers loving and supportive homes and holistic, client-specific services that empower self-sufficiency for those re-entering society after incarceration.



P.O. Box 120160, Nashville, TN 37212
Tel: 615.320.7142

- **Families of Incarcerated Individuals**

915 East McLemore Avenue, Suite 201
Memphis, TN 38106

Website: <http://familiesofincarcerated.org/>

Phone: 901-726-6191

Fax: 901-726-6196

Families of Incarcerated Individuals provides community based programs and services designed to foster positive values and cultivate opportunities for self-sufficiency and citizenship among individuals affected by incarceration.

- **Family Reconciliation Center**

P.O. Box 90827

Nashville, TN 37209

Website: <http://familyreconciliationcenter.com>

Phone: 615-554-5075

E-mail: info@familyreconciliationcenter.com

Family Reconciliation Center restores families and communities impacted by incarceration by promoting family unification and health programs to strengthen the family unit as a whole and reduce inter-generational incarceration.

- **The Jailhouse Lawyer's Manual**

Columbia Human Rights Law Review

435 West 116th St.

New York, NY 10027

Website: http://www3.law.columbia.edu/hrlr/index_jlm.php

Phone: 212-854-1601

Fax: 212-854-7946

The Jailhouse Lawyer's Manual (JLM) is a handbook of legal rights and procedures designed for use by people in prison. The JLM informs prisoners of their legal rights and instructs them about how to secure these rights through the judicial process, clearly explaining legal research techniques and how to read legal documents. The manual is written and updated by members of the *Columbia Human Rights Law Review*.

- **Project Return**

806 4th Avenue South

Nashville, TN 37210

Website: <http://www.projectreturninc.org/>

Phone: 615-327-9654

E-mail: pri@projectreturninc.org

Project Return works with persons who have been convicted of felonies or serious misdemeanors and were released from incarceration within the preceding 12 months.

- **Tennessee Department of Correction**

320 Sixth Avenue North

Nashville, Tennessee 37243-0465

Website: <https://www.tn.gov/correction>

Phone: 615-741-1000

E-mail: TDOC.webmaster@tn.gov

The Tennessee Department of Correction has a responsibility to work with the law enforcement community to protect and serve the public by operating safe and secure prisons and providing effective community supervision.

STATE PRISONS

- **Bledsoe County Correctional Complex**

1045 Horeshead Road

Pikeville, TN 37367

Website: <http://tn.gov/correction/article/tdoc-bledsoe-county-correctional-complex>

Phone: 423-881-3251

- **Hardeman County Correctional Facility**

2520 Union Springs Road

P.O. Box 549

Whiteville, Tennessee 38075

Website: <http://tn.gov/correction/article/tdoc-hardeman-county-correctional-facility>

Phone: 731-254-6000



P.O. Box 120160, Nashville, TN 37212

Tel: 615.320.7142

- **[Lois M. DeBerry Special Needs Facility](#)**
 7575 Cockrill Bend Boulevard
 Nashville, TN 37209-1057
Website: <http://tn.gov/correction/article/tdoc-lois-deberry-special-needs-facility>
Phone: 615-350-2700
- **[Mark H. Luttrell Correctional Center](#)**
 6000 State Road
 Memphis, TN 38134
Website: <http://tn.gov/correction/article/tdoc-mark-luttrell-correctional-center>
Phone: 901-372-2080
- **[Morgan County Correctional Complex](#)**
 541 Wayne Cotton Morgan Drive
 P.O. Box 2000
 Wartburg, TN 37887
Website: <http://tn.gov/correction/article/tdoc-morgan-county-correctional-complex>
Phone: 423-346-1300
- **[Northeast Correctional Complex](#)**
 5249 Highway 67 West
 P.O. Box 5000
 Mountain City, TN 37683-5000
Website: <http://tn.gov/correction/article/tdoc-northeast-correctional-complex>
Phone: 723-727-7387
- **[Northwest Correctional Complex](#)**
 960 State Route 212
 Tiptonville, TN 38079
Website: <http://tn.gov/correction/article/tdoc-northwest-correctional-complex>
Phone: 731-253-5000
- **[Riverbend Maximum Security Institution](#)**
 7475 Cockrill Bend Boulevard
 Nashville, TN 37243-0471
Website: <http://tn.gov/correction/article/tdoc-riverbend-maximum-security-institution>
Phone: 615-350-3100
- **[South Central Correctional Facility](#)**
 555 Forest Avenue
 P.O. Box 279
 Clifton, TN 38425-0279
Website: <http://tn.gov/correction/article/tdoc-south-central-correctional-facility>
Phone: 931-676-5372
- **[Tennessee Prison for Women](#)**
 3881 Stewarts Lane
 Nashville, TN 37243-0468
Website: <http://tn.gov/correction/article/tdoc-tennessee-prison-for-women>
Phone: 615-741-1255
- **[Trousdale Turner Correctional Center](#)**
 140 Macon Way
 Hartsville, TN 37074
Website: <http://tn.gov/correction/article/tdoc-trousdale-turner-correctional-center>
Phone: 615-808-0400
- **[Turney Center Industrial Complex](#)**
 1499 R.W. Moore Memorial Highway
 Only, TN 37140-4050
Website: <http://tn.gov/correction/article/tdoc-turney-center-industrial-complex>
E-mail: 931-729-5161
- **[West Tennessee State Penitentiary](#)**
 480 Green Chapel Road
 P.O. Box 1150
 Henning, TN 38041-1150
Website: <http://tn.gov/correction/article/tdoc-west-tennessee-state-penitentiary>
Phone: 731-738-5044
- **[Whiteville Correctional Facility](#)**
 1440 Union Springs Road
 P.O. Box 679
 Whitesville, TN 38075
Website: <http://tn.gov/correction/article/tdoc-whiteville-correctional-facility>
Phone: 731-254-9400



P.O. Box 120160, Nashville, TN 37212
 Tel: 615.320.7142

United States District Courts:

- [Clerk of the U.S. District Court for the Middle District of Tennessee](#)
801 Broadway, Room 800
Nashville, TN 37203
Website: http://www.tnmd.uscourts.gov/clerk_court
Phone: 615-736-5498

- [Clerk of the U.S. District Court for the Western District of Tennessee](#)
167 North Main Street, Room 242
Memphis, TN 38103
Website: <https://www.tnwd.uscourts.gov/>
Phone: 901-495-1200

- [Clerk of the U.S. District Court for the Eastern District of Tennessee](#)
800 Market Street, Suite 130
Knoxville, TN 37902
Website: <http://www.tned.uscourts.gov/>
Phone: 865-545-4228



P.O. Box 120160, Nashville, TN 37212
Tel: 615.320.7142