Legal Issues Relating to Jail, Lock-up, & Prison Lighting

While the Constitution of the United States does not require that those housed in correctional facilities be comfortable, it does, however, require *humane* housing conditions.[i] [ii] It is well-settled that inmates in a correctional facility do not give up all constitutional rights by virtue of incarceration. Generally, *conditions of confinement* are covered under the 8th Amendment, and the courts have found that *adequate lighting* is one of the fundamental attributes of the *adequate shelter* requirement of the 8th Amendment.[iii] The U.S. Court of Appeals for the 5th Circuit worded the *test* regarding humane conditions of confinement as requiring *extreme deprivation of any "minimal civilized measure of life's necessities."*[iv] Further, the U.S. Supreme Court has made clear that the standards against which a court measures [correctional facility] conditions are *the evolving standards of decency that mark the progress of a maturing society* and not the standards in effect during the time of the drafting of the 8th Amendment.[v] Correctional facility officials must ensure that those housed in their facilities *receive adequate food, clothing, shelter, and medical care, and must take reasonable measures to ensure the safety of inmates*.[vi] [vii]

Correctional facility officials are found in violation of the 8th Amendment when it is shown that a *subjective deliberate indifference to* [correctional facility] *conditions that pose a substantial risk of serious harm* to those housed at the facility.[viii] [ix] Whether the correctional facility official knew about the *substantial risk* is a *question of fact* that is demonstrated at trial in the usual ways, including inference from circumstantial evidence, and a factfinder may conclude that a correctional facility official *knew of a substantial risk from the very fact that the risk was obvious*.[x] [xi]

Conditions of confinement may establish an 8th Amendment violation *in combination* when each would not do so alone, but only when they have a *mutually enforcing effect that produces the deprivation of a single, identifiable human* need such as food, warmth, or exercise — for example, a low cell temperature at night combined with a failure to issue blankets.[xii] [xiii] The Supreme Court has noted that *the length of confinement cannot be ignored ... A filthy, overcrowded cell... might be tolerable for a few days and intolerably cruel for weeks or months*.[xiv]

It is also important to note that the inmate need not show that death or serious illness has occurred. *It would be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their prison on the ground that nothing yet had happened to them.*[xv] The 5th Circuit has held that those housed in a correctional facility do not need to show that *death or serious illness has yet occurred to obtain relief*, but rather that they *must show that conditions pose a substantial risk of harm to which* [correctional facility] *officials have shown a deliberate indifference*.[xvi]

The 9th Circuit held that the [correctional facility] violated the [8th] Amendment based upon *evidence that the lighting was so poor that it was inadequate for reading and caused eyestrain and fatigue, and hindered attempts to ensure that basic sanitation was maintained*.[xvii] Further, the courts have credited *expert testimony* asserting that *lighting in cells was grossly inadequate for the purposes of sanitation, personal hygiene, and reading*, that such a condition *also contributes to further mental health deterioration*.[xviii]

To prove an 8th Amendment violation based on [correctional facility] *conditions, a prisoner must satisfy a two-part test.*[xix] *The objective part of the test requires a showing that the defendants deprived the plaintiff of the "minimal civilized measure of life's necessities" and the subjective part requires a showing that the defendants "acted with 'deliberate indifference' in doing so."*[xx]

After consideration of the aforementioned issues, reasonable and experienced correctional facility officials look to the U.S. Supreme Court which laid the groundwork for any question of constitutionality of actions and conditions in a correctional facility by holding that inquiry should be made into whether a [correctional facility] *regulation that impinges on inmates' constitutional rights is "reasonably related" to legitimate penological interests*.[xxi] The Supreme Court held that any correctional facility policy or regulation must have a valid, rational connection between the regulation and a legitimate and neutral governmental interest justifying it.[xxii]

NOTE: While the majority of cases and laws speak specifically about prisons, it is critical to note that the same requirements stand true for all correctional and detention facilities in the United States, including prisons, state jails, county jails, city jails, lockups, etc.

NOTE: The courts, both federal and state, use *footcandle* [fc] as the standard of measurement and not lux. When drafting a report, or preparing for testimony before the court, it is wise to make your recordings consistent with the court accepted standard (fc) and avoid references to *lux* altogether. This will avoid confusion and keep the dialogue away from the *conversion controversy* that could cause the exclusion of measured findings.

Federal Minimum Lighting Levels For Jails & Prisons

As of the writing of this document, the only existing, directly measurable minimum lighting requirement by the courts is that of *20 footcandles for cells*.[xxiii] Interestingly, while the courts have accepted this illumination level as a standard, they do not go as far as to specify the manner in which such a measurement is to be taken. (i.e. height, surface, room location, etc.) As such, the focus of lighting areas for the *purposes of sanitation, personal hygiene, and reading* [xxiv], and in an effort to reduce *mental health deterioration*, correctional facility officials, lighting designers, and lighting experts need focus their measurements of minimum illumination levels in these specific areas to ensure adherence with 8th Amendment Constitutional requirements for *adequate shelter*.

Required Maximum Lighting Levels

As of the writing of this article, there exist no maximum lighting level requirements for correctional facilities through state or federal laws, or by state or federal courts. The courts have recognized that correctional facility officials have significant penological interests in deciding what is proper for the safety and security of their facility. As such, it remains the purview of the correctional facility officials to determine what maximum lighting levels are appropriate for the various parts of their facilities. In so doing, reasonable, trained, and experienced correctional facility officials focus their efforts on the penological interest needs of the facility, and the security and safety needs of staff, officers, and inmates. It is extremely important to ensure that at no point is lighting to be utilized as a punishment tool.

Constant Illumination

As of the writing of this article, it is not well-settled whether it is an 8th Amendment violation to subject inmates to constant illumination. The United States Court of Appeals for the 9th Circuit has provided direction that there are possible legitimate penological interests when considering allegations that continuous lighting violated the 8th Amendment.[xxv] The same court later upheld a district court's decision finding that legitimate penological reasons support utilizing 24-hour lighting [constant illumination] in certain circumstances.[xxvi]

What is clear, and most critical to ensure, is that any use of constant illumination has a legitimate penological interest and is not utilized as a punishment tool.

Natural Light

Although far from well-settled, correctional facility officials and lighting designers should make reasonable efforts to provide natural light for inmates where and when it is reasonably possible and reasonably practical.

Prison Litigation Reform Act (PLRA)

The Prison Litigation Reform Act (PLRA) mandates that *"[n]o action shall be brought with respect to prison conditions... by a prisoner ... until such administrative remedies as are available are exhausted."*[xxvii] The Supreme Court has held that "*the PLRA's exhaustion requirement applies to all inmate suits about prison life, whether they involve general circumstances or particular episodes*"[xxviii], and made clear that *exhaustion is now mandatory*. [xxix] The United States Court of Appeals for the 5th Circuit has held that the *available administrative remedy must be pursued to its conclusion*.[xxx] Thus, *if the plaintiffs did not exhaust administrative remedies,* [any] *suit should be dismissed*.[xxxi]

Being that PLRA's *exhaustion requirement* is *mandatory*, it is then the responsibility of the officials for any correctional facility to ensure that a reasonable and functional method for ensuring that there is a process that allows for *administrative remedies*, and that any such *grievance* is considered, with various stages of appeal. The standards for such a process remain in the purview of the correctional facility officials through their policies that set the guidelines for such grievances processes. The 5th Circuit held that available administrative remedies are exhausted in compliance with the PLRA when the time limits for the prison's response set forth in the prison grievance procedures have expired.[xxxii]

Respective of lighting, grievances that arise from inmates should reasonably be considered consistent with the correctional facility's grievance procedures. All care should be taken to ensure that the lighting at issue serves a legitimate penological interest and that there is no other reasonable balance that can be found that balances the grievance of the inmate with the penological needs of the facility.

Private Association Standards

It is critical for correctional facility officials to remember that, with rare exceptions, they are the ones responsible for setting the standards at their facility. Respective of lighting, except for the less than specific standard of 20 fc in cells for the purpose of sanitation, personal hygiene, and reading, the lighting standards are set by the correctional facility officials based on the legitimate penological needs of that facility and in providing *adequate shelter* under the 8th Amendment to the inmates of the facility.

Private organizations may offer suggestions and recommendations but, as the courts have found, subservience to these private organizations' standards is not proof that any conditions in question do not violate the 8th Amendment. Compliance with such standards may be considered by the courts as a *relevant consideration,* it is not*,* however, *per se evidence of constitutionality*.[xxxiii] [xxxiv] The responsibility for ensuring compliance with the 8th Amendment rests with the correctional officials responsible for that facility or the elected officials they work for.

[i] Farmer v. Brennan, 511 U.S. 825, 832, 114 S. Ct. 1970, 128 L. Ed. 2d 811 (1994).
[ii] Gates v. Cook, 376 F.3d 323, 342 (5th Cir. 2004).
[iii] Hoptowit v. Spellman, 753 F.2d 779, 783 (9th Cir. 1985).
[iv] Davis v. Scott, 157 F.3d 1003, 1006 (5th Cir.1998).
[v] Estelle v. Gamble, 429 U.S. 97, 102, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976).
[vi] Farmer v. Brennan, 511 U.S. 825, 832, 114 S.Ct. 1970, 128 L. Ed. 2d 811 (1994).
[vii] Gates v. Cook, 376 F.3d 323, 342 (5th Cir. 2004).
[viii] Farmer v. Brennan, 511 U.S. 825, 833-34, 114 S. Ct. (1970).
[ix] Gates v. Cook, 376 F.3d 323, 342 (5th Cir. 2004).
[x] Farmer v. Brennan, 511 U.S. 825, 842, 114 S. Ct. (1970).
[xi] Gates v. Cook, 376 F.3d 323, 342 (5th Cir. 2004).
[xii] Wilson v. Seiter, 501 U.S. 294, 304, 111 S. Ct. 2321, 115 L. Ed. 2d 271 (1991).
[xiii] Gates v. Cook, 376 F.3d 323, 342 (5th Cir. 2004).
[xiv] Hutto v. Finney, 437 U.S. 678, 686-87, 98 S. Ct. 2565, 57 L. Ed. 2d 522 (1978).
[xv] Helling v. McKinney, 509 U.S. 25, 32, 113 S. Ct. 2475 (1993).
[xvi] Gates v. Cook, 376 F.3d 323, 342 (5th Cir. 2004).
[xvii] Hoptowit v. Spellman, 753 F.2d 779, 783 (9th Cir. 1985).
[xviii] Gates v. Cook, 376 F.3d 323, 342 (5th Cir. 2004).
[xix] Grenning v. Miller-Stout, No. 11-35579 (9th Cir. 2014).
[xx] Hallett v. Morgan, 296 F.3d 732, 744 (9th Cir. 2002) (internal quotation marks and citations omitted).
[xxi] Turner v. Safley, No. 85-1384 (U.S. 1987).
[xxii] Turner v. Safley, No. 85-1384 (U.S. 1987).
[xxiii] Gates v. Cook, 376 F.3d 323, 335 (5th Cir. 2004).
[xxiv] Gates v. Cook, 376 F.3d 323, 342 (5th Cir. 2004).
[xxv] Grenning v. Miller-Stout, No. 11-35579 (9th Cir. 2014).
[xxvi] Grenning v. Miller-Stout, No. 16-35903 (9th Cir. 2018).
[xxvii] 42 U.S.C.A. § 1997e(a).
[xxviii] Porter v. Nussle, 534 U.S. 516, 532, 122 S.Ct. 983, 152 L. Ed. 2d 12 (2002).
[xxix] Porter v. Nussle, 534 U.S. 524, 122 S. Ct. 983, 152 L. Ed. 2d 12 (2002).
[xxx] Wright v. Hollingsworth, 260 F.3d 357, 358 (5th Cir. 2001).
[xxxi] Gates v. Cook, 376 F.3d 323, 342 (5th Cir. 2004).
[xxxii] Underwood v. Wilson, 151 F.3d 292, 295 (5th Cir. 1998).
[xxxiii] Gates v. Cook, 376 F.3d 323, 342 (5th Cir. 2004).
[xxxiv] Ruiz v. Johnson, 37 F. Supp. 2d 855, 924-25 (S.D. Tex. 1999) (recognizing the limitations of ACA accreditation and noting situations where it has not equated to constitutionality).