



# Commander's Log

June 2019

LEGAL UPDATE FOR MARYLAND CORRECTIONAL ADMINISTRATORS AND OFFICERS

## Inmate Access to the Courts: An Overview

### The Law

In *Bounds v. Smith*, 430 U.S. 817 (1977), the Supreme Court declared that prisoners have a constitutionally protected right to access the courts. This right extends to both convicted prisoners and pretrial detainees (hereinafter referred to as “inmates”). To preserve this right, the Supreme Court directed detention authorities to assist inmates in the preparation and filing of meaningful legal papers by providing them with adequate law libraries or adequate assistance from persons trained in the law. The Court subsequently clarified that *Bounds* did not establish a freestanding right to a law library or legal assistance. Thus, while the Constitution does not guarantee an inmate adequate legal assistance and an adequate law library, it does guarantee a right to reasonable access to the courts.

More bluntly, and as has been stated by many courts, *Bounds* does not grant inmates the wherewithal to transform themselves into litigating engines pursuing any conceivable legal claim. Rather, inmates’ constitutional rights are protected so long as they are afforded a reasonably adequate opportunity to file nonfrivolous legal claims

challenging their convictions or conditions of confinement.

### What an Inmate Must Prove

To prevail on access to courts claims, inmate plaintiffs must demonstrate that they have suffered an actual injury hindering their ability to bring legal challenges. Because inmates do not possess an abstract, free-standing right to a law library or legal assistance, inmates cannot prevail by identifying a “theoretical” defect in the prison’s or other detention facility’s library or legal assistance program. Simply proving that an institution’s library is inadequate or access to that library is restricted will not suffice. Rather, inmate plaintiffs must demonstrate that their nonfrivolous legal claims have been “frustrated” or “impeded.”

### Individual Officer and Supervisor Liability

To establish liability under 42 U.S.C. § 1983, inmate plaintiffs must show that the defendants acted *personally* to cause the alleged violation. Supervisory liability may attach under § 1983 if a plaintiff can establish three elements: (1) the supervisor had actual or constructive knowledge that his or her subordinate was engaged in conduct that posed a pervasive and unreasonable risk of



constitutional injury to citizens like the plaintiff; (2) the supervisor's response to that knowledge was so inadequate as to show "deliberate indifference" to or tacit authorization of the alleged offensive practices; and (3) an "affirmative causal link" between the supervisor's inaction and the particular constitutional injury suffered by the plaintiff. Inmate plaintiffs may meet their heavy burden of proof to show that defendants acted with deliberate indifference by demonstrating a supervisor's continued inaction in the face of documented widespread abuses. Inmates cannot simply rely on a single incident or isolated incidents to establish widespread abuse.

### **The Limitation on the Kinds of Litigation a Prisoner Can Pursue**

An inmate's constitutional right of access to the courts does not encompass all kinds of litigation. Rather, access to the courts concerns legal matters directly related to the inmate's conviction or conditions of confinement. Impairment of any other litigating capacity is simply one of the incidental (and perfectly constitutional) consequences of conviction and incarceration. Legal matters which do not touch upon the inmate's confinement, including domestic relations cases fall outside of constitutional protection.

*By John F. Breads, Jr., Director of Legal Services, Local Government Insurance Trust*

*This publication is designed to provide general information on the topic presented. It is distributed with the understanding that the publisher is not engaged in rendering legal or professional services. Although this publication is prepared by professionals, it should not be used as a substitute for professional services. If legal or other professional advice is required, the services of a professional should be sought.*

