



Prisoners Legal Advocacy Network  
244 Fifth Avenue, Suite 2517  
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## **LEGAL OBSERVER AFFIDAVITS PROVIDE PRISONERS A WAY TO REPORT PRISON INCIDENTS AND CONDITIONS, AND TO SEEK LEGAL SUPPORT**

***Stanley Holdorf, Supervising Attorney***

Prisoners face unique challenges when trying to establish their claims in grievances, court cases and disciplinary proceedings. Prisoners lack independent means to photograph or video record incidents. Although prisons are supposed to preserve video evidence when an incident occurs, in practice, they may record over it before prisoners can take steps to prevent it. Prisoners are often segregated or transferred after an incident, which may separate them from witnesses and complicate the exhaustion of remedies. Prisoners frequently report the confiscation of their legal research, notes and other materials by prison officials or the disappearance of this legal property when they are moved to segregation or transferred to a different facility. People inside commonly report that they were unable to exhaust remedies as required by the Prison Litigation Reform Act (PLRA) because staff refused to give them the necessary forms or because the prison rejected completed forms on policy-unsupported grounds. These examples establish what most prisoners know all too well: It is especially difficult to secure evidence and report rights violations from within prison. The Prisoners Legal Advocacy Network (PLAN) developed a Legal Observer Affidavit Form for Prisoners and Jailhouse Lawyers to help people inside document and report prison incidents and conditions, corroborate their allegations and seek professional support.

***WHAT IT IS:*** Any prisoner can complete the PLAN Affidavit form to document and report prison incidents and conditions they have personally experienced or witnessed.

***HOW TO USE IT:*** The completed and signed Affidavit can be sent by way of unmonitored legal mail. This may protect confidentiality. It may also lessen the risk of mail interception and retaliation, which prisoners sometimes report experiencing after reporting issues through monitored mail.

***WHAT IT ACCOMPLISHES:*** Dated reports that describe the details of a condition or incident may constitute admissible evidence. As a signed Affidavit, this form may also memorialize witness testimony. While adjudicative forums may sometimes consider a prison official's testimony more credible than a prisoner's account, when multiple prisoners witness or experience an event or condition, their corroboration can lend credence to a prisoner's allegations. PLAN will store these affidavits as evidence to protect them from loss or confiscation. The postmark on the mailing envelope or date of receipt by PLAN can help establish a foundation for this evidence, by showing by approximately what date it was completed. If permission is granted on the form, PLAN will inform legal teams that may be able to help with the situation. PLAN will also use information from these forms to determine where (i.e., in what facilities, prison systems, and geographic areas) unconstitutional conditions are most often alleged by prisoners and the kinds of violations that prisoners most often report. This data may help establish patterns and practices of rights violations for prisoners and attorneys who represent them.

***Note that PLAN legal teams usually complete pre-complaint investigations and issue statements of concern, as opposed to litigating court actions. As resources are limited, we cannot guarantee that all requests for support will be matched with a legal response team. Please note that sending a completed Affidavit form to PLAN does not initiate or imply an attorney-client relationship.***

### ***THINGS TO AVOID:***

- If you believe your rights have been violated, it is important that you "exhaust remedies" (file a grievance and complete all available appeals in accordance with prison policy). The PLRA and similar statutes in some states require prisoners to exhaust internal prison grievance procedures before a court can adjudicate their concerns in most cases.
- The PLAN Affidavit should be used to document only incidents and conditions you have personally witnessed or experienced, not events you have heard about from others.
- This tool can only serve its intended purpose if it is completed in ways that comply with prison policy. Blank forms can be photocopied and shared freely. While it may be permissible for jailhouse lawyers (JHLs) to inform prisoners of this legal resource and help prisoners complete the form, the legal precedent that protects jailhouse lawyering does not expressly permit JHLs to store or mail other prisoners' legal documents. Therefore, completed forms should be mailed to PLAN by the person who signs the form. Holding Affidavit forms completed by others, or actively encouraging prisoners to complete an Affidavit about a particular incident or condition (as opposed to simply assisting someone who needs help completing the form), could violate prison policy. In addition to leading to disciplinary action, this could also prevent a court from admitting a completed Affidavit form as evidence in any future proceeding.
- Please do not send PLAN documents that you need to have returned to you immediately or on an ongoing basis. Only mail photocopies of original documents that can be retained by PLAN unless and until you are wrongfully deprived access to them.



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**PLAN LEGAL OBSERVER AFFIDAVIT FORM FOR PRISONERS & JAILHOUSE LAWYERS**  
 Please complete this form to document and report prison conduct or conditions that you believe violated the rights of one or more prisoners. Attach additional pages and copies of directly relevant prison records (grievances, disciplinary reports, etc.), if necessary.  
**THIS FORM MAY BE PHOTOCOPIED AND SHARED FREELY.**

NAME OF PERSON COMPLETING THIS AFFIDAVIT: \_\_\_\_\_

CURRENT MAILING ADDRESS (INCLUDING ID #): \_\_\_\_\_

FACILITY WHERE THE CONDITIONS WERE PRESENT OR INCIDENT OCCURRED (PRISON NAME & STATE): \_\_\_\_\_

NAME(S) OF PRISONER(S) AFFECTED: \_\_\_\_\_

ON WHAT DATE(S) (OR DURING WHAT TIME PERIOD) DID THE CONDITIONS OR INCIDENT OCCUR? \_\_\_\_\_

DESCRIBE THE CONDITIONS OR INCIDENT, AS DIRECTLY OBSERVED OR EXPERIENCED BY YOU (ATTACH ADDITIONAL PAGES IF NECESSARY):

DESCRIBE WHERE SPECIFICALLY IN THE FACILITY THE CONDITIONS OR INCIDENT OCCURRED. WOULD SECURITY CAMERAS HAVE RECORDED THEM?

DID ANYONE ELSE EXPERIENCE OR WITNESS THE CONDITIONS OR INCIDENT? IF SO, WHO? (PLEASE NOTE IF THEY ARE PRISONERS OR PRISON STAFF.)

PLEASE LIST THE NAME(S) AND JOB TITLE(S) OF PRISON OFFICIAL(S) WHO YOU WITNESSED PLAYING AN ACTIVE ROLE IN THE CONDITIONS OR INCIDENT:

PLEASE ALSO LIST THE NAME(S) AND JOB TITLE(S) OF PRISON OFFICIAL(S) WHO YOU BELIEVE ARE INDIRECTLY RESPONSIBLE FOR THE CONDITIONS OR INCIDENT (IF ANY), AND WHY THIS IS YOUR BELIEF (ATTACH ADDITIONAL PAGES IF NECESSARY):

WHAT HARM DO YOU BELIEVE OCCURRED AS A DIRECT RESULT OF THE CONDITIONS OR INCIDENT? (For example, physical injuries; loss of job; removal from general population; loss of good time; facility transfer; prejudicial effect(s)/unfavorable court case outcome because of inability to access attorney or the court.)

HOW DID OBSERVING/EXPERIENCING THE CONDITIONS OR INCIDENT CAUSE YOU TO FEEL? (For example: Powerless? Traumatized? Fearful for your safety?)

WHAT PRISONERS' RIGHTS VIOLATIONS DO YOU BELIEVE THE CONDITIONS/INCIDENT REPRESENTS OR CAUSED? (PLEASE CHECK ALL THAT APPLY.)

- |  |   |
|--|---|
| <input type="checkbox"/> Discrimination (based on race, religion, gender identity, etc.)<br>Please specify: _____  | <input type="checkbox"/> Environmental problems (such as drinking water, mold, or temperature issues)<br>Please specify: _____                  |
| <input type="checkbox"/> Deprivation of due process in disciplinary proceedings/wrongful loss of good time   | <input type="checkbox"/> Excessive use of force/physical abuse  |
| <input type="checkbox"/> Grievance procedure problems (such as obstructed access to forms or remedies)   | <input type="checkbox"/> Hygiene/sanitation problems (such as lack of cleaning or hygiene supplies)   |
| <input type="checkbox"/> Interference with community relations (including disruptions to social mail, and non-disciplinary disruptions to telephone use or visitation) | <input type="checkbox"/> Poor living conditions (including arbitrary or retaliatory changes in security classification or housing assignment)   |
| <input type="checkbox"/> Obstructed/lack of access to courts, lawyer, law library, legal mail, legal property, etc.  | <input type="checkbox"/> Inadequate medical care (including medication, medical devices, and accessibility)                                     |
| <input type="checkbox"/> Inadequate mental health care (including medication)  | <input type="checkbox"/> Property loss (including seizure or destruction of non-legal property by prison staff)                                 |
| <input type="checkbox"/> Lack of religious freedom (including religious diet and worship/holiday observances)  | <input type="checkbox"/> Sexual assault/abuse/harassment and/or failure to observe PREA reporting policy  |
| <input type="checkbox"/> Retaliation for jailhouse lawyering   | <input type="checkbox"/> Other retaliation (Please specify: _____)  |
| <input type="checkbox"/> Unjustified segregation from the general population and/or prolonged solitary confinement   | <input type="checkbox"/> Inhumane working conditions (including unsafe conditions, retaliatory job loss, and slave labor/involuntary servitude) |
| <input type="checkbox"/> Other inhumane treatment or rights violations (Please specify: _____)   | <input type="checkbox"/> Inadequate education, work training, or re-entry preparation programs  |

PLEASE CHECK THE ONE BOX BELOW THAT DESCRIBES YOUR CONFIDENTIALITY PREFERENCES & CONSENT FOR DISCLOSURE OF THIS LEGAL DOCUMENT:

- I am submitting the enclosed ONLY to PLAN Attorney Stanley Holdorf for safekeeping and for disclosure to other attorney(s) I may designate now or at a later date.
- I grant the Prisoners Legal Advocacy Network permission to share the enclosed with PLAN legal response teams who may want to provide support.

**PLEASE NOTE THAT INFORMATION FROM THIS AFFIDAVIT WILL BE USED FOR DATA COLLECTION PURPOSES, SO THAT PLAN CAN ANALYZE TRENDS IN THE PRISON CONDITIONS REPORTED BY PRISONERS. ANY DATA COLLECTED WILL BE SEPARATED FROM YOUR IDENTIFYING INFORMATION TO PROTECT YOUR PRIVACY. ONLY PLAN ATTORNEYS, OR INDIVIDUALS WORKING UNDER THEIR DIRECT SUPERVISION, WILL HAVE ACCESS TO THIS AFFIDAVIT.**

PURSUANT TO 28 U.S.C. § 1746, I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

SIGNATURE OF PERSON WHO COMPLETED THIS AFFIDAVIT: \_\_\_\_\_

EXECUTED ON (DATE THIS AFFIDAVIT WAS SIGNED): \_\_\_\_\_

Send completed affidavit with attachments (if any) by way of **LEGAL MAIL** to **OUR NEW ADDRESS**:

Stanley Holdorf, Supervising Attorney, Prisoners Legal Advocacy Network, 244 Fifth Avenue, Suite 2517, New York, NY 10001

**PLAN is unable to store any legal materials that are not directly related to alleged prison incidents or conditions. PLAN may not return document originals. This form does not replace prison grievance procedures, which must be exhausted for most complaints to be court actionable.**