

**Waupun Correctional Institution: A Case Study in the Failures of the PLRA's
Administrative Remedies Requirement**

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The Eighth Amendment protects prisoners from cruel and unusual conditions of [confinement](#). Court intervention is often credited by commentators as the driving force keeping correctional facilities from being “[stuck in the 1960s](#)” or being “[reminiscent of the Black Hole of Calcutta](#).” However, passage of federal and state legislation restricts prisoners’ ability to bring actions against the state for [Eighth Amendment violations](#). At the federal level, the [Prison Litigation Reform Act \(PLRA\)](#) of 1996 introduced significant barriers to court access. State-level legislation may exacerbate such barriers, further restricting the possibility of recourse and relief for many inmates. Wisconsin’s Waupun Correctional institution highlights the detrimental effects of these limitations, emphasizing the need to reduce the strictness of the PLRA’s administrative remedies requirement.

The PLRA was [introduced to curb the number of actions](#) brought by prisoners against the government. Notably, the PLRA requires prisoners exhaust all administrative remedies prior to resorting to legal action.¹ [In Wisconsin](#), complaints must be filed within 14 days of the incident,

¹ 42 U.S.C. § 1997e(a) (“No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”).

500 words or less, filed with the personnel best suited to address the complaint, legibly written,² and completed using the proper form, which is available upon request. Despite requiring prisoners to file complaints with prison personnel, the PLRA does not make exceptions for [retaliation issues](#). Prior to the PLRA, [courts were given discretion](#) regarding whether exhaustion of administrative remedies was necessary in the interest of justice. However, exhaustion is now a [mandatory requirement](#). Failure to exhaust administrative remedies can lead to [dismissal of the action](#).

In 2011, then-governor Scott Walker signed the Wisconsin Budget Repair Bill, or [Act 10](#), during his first year in office. Act 10 effectively [eliminated collective bargaining rights](#) for most public employee labor unions, including correctional officers. Many of the benefits associated with correctional officer work were gutted, and [new problems arose in their place](#). Before Act 10, approximately [3% of correctional officer positions statewide were unfilled](#). In the years that followed, [vacancies steadily increased](#) until hitting their peak at 35% in 2023. [Maximum security facilities](#) experienced even greater staffing shortages, peaking closer to 44%.³ Governor Tony Evers signed the [2023-2025 Compensation Plan](#) to help reduce these shortages, and statewide vacancies decreased to approximately [11% in less than one year](#). However, the maximum security Waupun Correctional Institution maintained [vacancy rates of over 50%](#) well into 2024, and approximately 30% of positions remain open.⁴ This [staffing crisis](#) led to a myriad of

² A 2003 national survey found that 70% of prisoners are not able to read above a fourth grade reading level. *The Relationship Between Incarceration and Low Literacy*, LITERACY MID-SOUTH, <https://www.literacymidsouth.org/news/the-relationship-between-incarceration-and-low-literacy#:~:text=Early%20Signs%20in%20Adults,interest%20or%20experienced%20academic%20difficulty> (last visited Nov. 3, 2024). National statistics for 2022-2023 indicate that 3 out of 5 people in American prisons cannot read. Literary Statistics 2022-2023, NAT'L LITERARY INST., <https://www.thenationalliteracyinstitute.com/post/literacy-statistics-2022-2023> (last visited Nov. 16, 2024).

³ Parameters set to show only Adult Facility Type: Adult Correctional Institutions - Maximum Security.

⁴ Parameters set to show only Adult Facility: Waupun Correctional Institution.

subhuman conditions across the state, many of which continue today. Citing safety concerns, [Waupun introduced a lockdown](#) in March 2023. This lockdown has yet to be lifted, due in part to [lack of sufficient staff](#). The lockdown has introduced a number of [potential Eighth Amendment violations](#) that remain unresolved, such as not receiving clean clothes and being allowed out of cells for days at a time. The [Waupun inmate handbook](#) specifically states that information on proper complaint procedure is available at the library. However, under the lockdown, inmates are unable to visit the library.

In the last two years, at least [six men have died](#) in Waupun Correctional Institution, with their deaths allegedly caused by the failures of correctional officers. [Donald Meier died](#) after the water to his cell was turned off and he stopped receiving meals. His water was turned off on February 16, 2024 and his [last recorded meal was on February 17th](#). Official records were not kept regarding his water shut off, and it is unclear if he received any water until [his body was found on February 22, 2024](#). [Staff members heard](#) him beg for water, saw him attempt to drink from his toilet, and watched him have seizures. Despite being in a suicide observation cell, his body was cold when it was [found](#). [Cameron Williams'](#) body was discovered in his cell at least 12 hours after his signals of distress were ignored before succumbing to a stroke. Nine Waupun officers were [charged](#) with abuse of residents in penal facilities and misconduct in public office. [Dean Hoffman](#) committed suicide while in solitary confinement. [Tyshun Lemons](#) died of a fentanyl overdose. The U.S. Department of Justice is currently investigating over 20 employees suspected in a [possible drug smuggling operation at Waupun](#). In the past six months, [two more men have died](#). [Jay Adkins and Christopher McDonald](#) both committed suicide. While individual officers are under investigation, these deaths teach an important lesson: none of these men could

have made valid Eighth Amendment claims under the PLRA, as they had not exhausted administrative remedies.

Inmates at Waupun have stated that the living conditions make them [contemplate suicide](#). An anonymous inmate spoke with a local news station about the [drinking water at Waupun](#),⁵ saying that the terrible conditions make him “feel less than life” and make him contemplate taking his own life. Inmates have filed numerous complaints with the prison, but [nothing has been done](#). A [class action lawsuit](#) was filed against Waupun Correctional Institution and the Wisconsin Department of Corrections alleging violations of the Eighth Amendment. The ten plaintiffs allege that conditions at Waupun are [“grossly inadequate.”](#) The [complaint](#) includes claims that inmates are only allowed one shower per week, are not allowed in-person or electronic visitation, are not allowed access to the library, and are receiving inadequate medical care. The [complaint](#) details the stories of men going months without proper medical treatment, some going years without medical or dental care at all. In May 2024, [eight of the ten plaintiffs were dismissed](#) as they had failed to exhaust all administrative remedies under the PLRA. Per the PLRA, the judge was not allowed any discretion in dismissing the plaintiffs.

Requiring a mandatory exhaustion of administrative remedies proves to be impractical. Withholding discretion from the courts prevents necessary instances of injunctive relief based on technicalities. The PLRA contributed to the [decline in court regulation of prisons](#), but the burden on the court remains as litigants are still able to file claims. By mandating dismissal, the PLRA only serves to suppress constitutional rights. A return to the pre-PLRA administrative remedies

⁵ When shown a video of the prison’s water, the Waupun mayor stated, “it looks disgusting. It almost looks like wastewater.” The prison’s water exceeds federal and state standards for copper, lead, and radium levels. Ben Jordan, *Inmates Raise Concerns About Brown Tap Water at Waupun Correctional Institution*, TMJ4 (July 23, 2024, 6:27 PM) <https://www.tmj4.com/about-us/lighthouse/inmates-raise-concerns-about-brown-tap-water-at-waupun-correctional-institution>.

standard would appropriately balance the practical needs of the courts with the rights of prisoners.