

## Proposed Revision to the Seventh Circuit Civil Jury Instructions

The Seventh Circuit Pattern Civil Jury Instruction Committee submits for public comment the attached proposed revised civil pattern jury instructions: 6. Public Employee and Prisoner Retaliation; 7. Constitutional Torts: 42 U.S.C. § 1983; and 8. Prisoner's Right of Access to Courts.

The Committee, which includes judges, attorneys, and law professors, welcomes comment. Please email your comments to [jicommments@ca7.uscourts.gov](mailto:jicommments@ca7.uscourts.gov) with a subject line of "Pattern Jury Instruction Comment." The Committee will accept comments through April 1, 2024.

The revised instructions seek to clarify existing language and update citations and associated text. The committee made minor revisions to Chapters 6 and 8 along those lines. More thorough changes were made to Chapter 7. Changes to Chapter 7 include, but are not limited to, the following:

1. Updated committee comment to Instruction 7.05 to address recklessness.
2. Updated committee comments to Instruction 7.09 with *Kinglsey* case and replacing "harm to plaintiff" with "injury."
3. Updated Instruction 7.11 at element 3 with knowledge requirement.
4. Updated Instruction 7.14 to separate out "exculpatory evidence" and "fabricated evidence." Added optional instruction to "identify the allegedly fabricated evidence."
5. In Instructions 7.15 to 7.19, the proposed revision separates the 8th Amendment and 14th Amendment claims into A/B instructions.
6. Updated Instruction 7.15A to add "acted reasonably" in element 4 and include *Gray v Hardy* (re multiple adverse conditions) in committee comments. The proposed revision clarifies "harm" in committee comments, including adding citation to recent case addressing the issue (*Lord v. Beaham*).
7. Instruction 7.15B is new to address the 14th Amendment standard. The third element omits the word "consciously" to reflect the objective-reasonableness standard consistent with *Pittman ex rel. Hamilton v. County*. The proposed revision adds "acted reasonably" in element 4 and updates committee comments in comment (a) to incorporate *Kingsley*.
8. Instruction 7.16A adds "acted reasonably" to element 4.

9. Instruction 7.16B is new to address the 14th Amendment standard. The third element omits the word “consciously” to reflect the objective-reasonableness standard consistent with *Pittman ex rel. Hamilton v. County*. It adds “acted reasonably” to element 4.
10. Updated committee comments to Instruction 7.17A to add citation for inclusion of mental health care.
11. Instruction 7.17B is new to address 14th Amendment standard. The third element omits the word “consciously” to reflect the objective-reasonableness standard consistent with *Pittman ex rel. Hamilton v. County*.
12. Updated Instruction 7.18 to clarify the amount of force in comment (b).
13. Instruction 7.19B is new to address 14th Amendment standard. The third element omits the word “consciously” to reflect the objective-reasonableness standard consistent with *Pittman ex rel. Hamilton v. County*.
14. In Instructions 7.15A/B, 7.16A/B, 7.17A/B, 7.19 A/B, the proposed revision updates the second element to reflect the knowledge requirement difference between a pretrial detainee’s 14th Amendment claim and a convicted prisoner’s 8th Amendment claim.

Respectfully,

A handwritten signature in black ink, appearing to read 'Manish S. Shah', written in a cursive style.

Judge Manish S. Shah  
Chair, Seventh Circuit Pattern  
Civil Jury Instruction Committee