

## Inmates take fight for food to federal court

By Michael Baker

The Oklahoman - July 10, 2004



Jon Andrew Cottriel (2003)

Three Oklahoma inmates are waging a battle over prison cuisine with federal lawsuits demanding corrections officials pay for them to eat kosher. Kosher diet

**Box Insert:** *There are 613 basic laws of Orthodox Judaism, and 60 to 70 of those pertain to eating kosher. Jews following strict interpretation of kosher laws cannot eat pork or mix meat and dairy, including cooking the items in the same pot, pan or stove, or with the same utensils; and beef must be properly slaughtered and drained of all blood.*

**Source:** *Rabbi Ovadia Goldman of Oklahoma City*

The inmates, all convicted sex offenders, claim the state Corrections Department is violating the U.S. Constitution's First Amendment by not allowing them to practice their chosen religion, Orthodox Judaism.

Lawyers representing prison officials responded that serving the kosher meals would cost millions of dollars, might violate the First Amendment's establishment-of-religion clause and could even cause riots.

Similar arguments failed two years ago when Colorado lost a court case with prisoners demanding free kosher meals.

The arguments in the Oklahoma case unfolded this week in an Oklahoma City federal courtroom with testimony from the Jewish inmates, a rabbi and a top state prison official.



Jon Cottriel (2004)

The inmates Jon Andrew Cottriel, 44; Jerry Harmon, 49; and Dennis Earl Fulbright, 36 all said they practiced Orthodox Judaism while incarcerated at Joseph Harp Correctional Center near Lexington.

The inmates said they are forced to pay for kosher meals without any real assurance the food is, indeed, kosher. In most instances, the men said they are forced to eat just fruits and vegetables.

The inmates' attorney, Rand Eddy, called Rabbi Ovadia Goldman of the Chabad Jewish Center of Oklahoma City to testify about the importance of eating kosher to those practicing Orthodox Judaism.



Jon Cottriel (2004)

"Every law that God gave us is an opportunity and a chance to strengthen our relationship with him," Goldman said. "If there's a possibility to eat kosher food, then not eating kosher food weakens our relationship with God."

Goldman said that in a restrictive setting, the best way to ensure meals are properly prepared is to serve pre-packaged kosher meals.

Bobby Boone, deputy director of the Corrections Department's eastern region, said to provide such meals would cost Oklahoma's prison system about \$3.8 million extra a year.

Once kosher meals are served, then other religions will demand other special diets, Boone said under questioning from Oklahoma Assistant Attorney General Stefan Doughty.

Of the 96 religions represented in the state's prison population, 20 could make a claim to having a special dietary need, Boone estimated, saying about 6 percent of the prison population could make such a claim.

The prison system now spends about \$2.50 a day for each inmate to eat. Kosher meals would cost about \$10 a day, Boone said.

To provide kosher meals, the Corrections Department would have to cut staff, Boone said.

"We're not operating at full staff anywhere in the state of Oklahoma," Boone said. "It would increase the risk" inside and outside the prison.

Inside the prison, Boone said, providing kosher meals for Jews could upset other groups that see it as preferential treatment.

In 2002, Colorado lost similar arguments when the 10th U.S. Circuit Court of Appeals in Denver ruled the state must serve kosher foods to Jewish prisoners at no charge. The court ruled Colorado had violated the prisoners' freedom-of-religion rights, an argument three Oklahoma inmates are making.

But while arguing the case Thursday for the Corrections Department, Doughty added a twist not considered in the Colorado case.

Serving kosher meals at taxpayers' expense would violate the U.S. Constitution, providing for the establishment of religion by government, Doughty said.

After Thursday's hearing, Magistrate Judge Gary M. Purcell said he would consider all the arguments before issuing a report and recommendation. The case will then go to a district judge, who could follow Purcell's recommended ruling, ask for more evidence or reject Purcell's recommendation.

Weeks or months could pass before Purcell issues a report, attorneys said.