



## PRISON LAW OFFICE

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*IMPORTANT INFORMATION REGARDING THE USE OF THIS INFORMATION:  
When putting this material together, we did our best to give you useful and accurate information because we know that prisoners often have trouble getting legal information and we cannot give specific advice to all prisoners who ask for it. The laws change often and can be looked at in different ways. We do not always have the resources to make changes to this material every time the law changes. If you use the information below, it is your responsibility to make sure that the law has not changed and still applies to your situation. Most of the materials you need should be available in the prison or public law library.*

### INVESTIGATIONS OF STAFF MISCONDUCT (Revised March 2016)

The following is information about investigations of CDCR staff misconduct, and what you can do to request an investigation. We have limited resources and are unable to provide you direct help regarding an investigation. We hope this information helps you.

Staff misconduct is behavior that violates law, regulation, policy or an ethical or professional standard. Title 15, California Code of Regulations (CCR), § 3084(g). Examples of misconduct include unnecessary or excessive force, other brutality, harassment based on race or religion, and blatant failures to follow rules.

Prisoners and others who experience or observe staff misconduct can ask CDCR to investigate what happened by filing an administrative appeal (602). Prisoners and others can also contact the independent Office of Inspector General about staff misconduct. The CDCR Office of Internal Affairs can also be contacted.

CDCR conducts investigations to determine whether staff committed misconduct. If after an investigation is determined that staff committed misconduct, the Warden or other supervisor can take action to correct the misconduct and/or discipline the staff member. Such actions can range from counseling and training to a suspension, salary reduction, or termination.

**A prisoner who wants CDCR to investigate staff misconduct should file an administrative appeal (602 or 602-HC) requesting an investigation. Filing an administrative appeal is the only way a prisoner can directly request an investigation.** These administrative appeals are known as staff complaints. Title 15, CCR § 3084.9(i).

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### **Advice and Procedure for CDCR Administrative Appeals (602s) About Staff Misconduct**

The staff complaint appeal should describe in detail what happened, including dates, times, place, names of involved and all witnesses, if any and if known. The appeal should request an investigation. If custody or other non-healthcare staff did the misconduct, the appeal should be done on a 602 (the green form). If the misconduct was done by healthcare staff (medical, mental health, or dental), then the appeal should be done on a 602-HC (the pink or blue form). When filing a 602 or 602-HC about staff misconduct, you must also fill out and attach a CDCR Form 1858 Rights and Responsibilities Statement. 15 CCR §§ 3084.9(i) and 3391(d). A copy of Form 1858 is attached. Copies should be available in your housing unit or law library.

If you want to appeal other issues or request other types of relief related to the same problem, you should file a separate appeal regarding those matters. 15 CCR § 3084.9(i)(2). For example, if you were involved in a use of force incident in which excessive force was used, and you were also found guilty of a disciplinary rule violation related to the incident, you should file two separate appeals: a staff complaint appeal regarding the excessive force, and another challenging the disciplinary guilty finding.

Appeals alleging staff misconduct must be reviewed by an official at least at the level of Chief Deputy Warden, Deputy Regional Parole Administrator, or equivalent to determine if the appeal really concerns staff misconduct. If your appeal is not found to be a true staff misconduct complaint, it will be processed as a regular 602 appeal. 15 CCR § 3084.9(i)(1). If your appeal is accepted as a staff misconduct appeal, the officials will decide whether to conduct a confidential fact-finding or inquiry at the local prison level or to refer the case to CDCR Office of Internal Affairs (OIA) for a formal investigation. CDCR Operations Manual, section 54100.25.2.

You should receive a response that states whether the case has been referred for investigation or for a confidential inquiry. If a confidential inquiry is done, you should be interviewed, as should any witnesses. The findings will be summarized in a report. 15 CCR § 3084.9(i)(3). The same is true if a formal investigation is done by OIA.

Neither confidential inquiry nor OIA investigation report are provided to prisoners. 15 CCR § 3084.9(i)(3)(B)(1). If a confidential inquiry was conducted, you will be notified whether the staff member did or did not violate CDCR policy in regard to each of the specific allegations. 15 CCR § 3084.9(i)(4). If an investigation is conducted, you will be notified of the basic outcome when the investigation is completed. CDCR Operations Manual § 54100.25.2. If officials decide that staff did commit misconduct, you will not be told what, if any, action was taken against the staff member.

**Citizen Complaints:** Non-prisoners who experience or see staff misconduct can submit a “Citizen’s Complaint” to the Warden of the prison where it happened. 15 CCR § 3391(b). A “Citizen’s Complaint” form, available on-line, should be used. Prisoners cannot use a “Citizen’s Complaint” process.

*Please see next page for information about staff misconduct investigations and the Office of the Inspector General, Office of Internal Affairs, and Office of Ombudsman*

## Office of the Inspector General

The Office of the Inspector General (OIG) is an independent agency, not part of the CDCR. The OIG does not have authority to investigate CDCR staff misconduct on its own or if requested by prisoners or others. However, the OIG reviews all complaints it receives regarding CDCR staff misconduct, including from prisoners. In some of those cases, the OIG will, if the prisoner agrees, send the complaint to CDCR, and ask CDCR to review the complaint and then tell OIG whether and what type of inquiry or investigation will be done. **For this reason, we suggest that a prisoner who experiences or observes staff misconduct write to OIG about what happened, in addition to filing an administrative appeal.** The letter to the OIG about staff misconduct should be as specific as possible about what happened, including dates, times, place, names of involved and all witnesses, if any and if known.

The OIG's address is:

Office of the Inspector General  
10111 Old Placerville Road, Suite 110  
Sacramento, CA 95827

The OIG also has a toll-free phone number – (800) 700-5952 – that can be used to make a complaint, but the OIG encourages complaints to be made in writing. There is more information at the OIG's website: [www.oig.ca.gov](http://www.oig.ca.gov) including a page on which a complaint form can be filled out and submitted via the internet: <http://www.oig.ca.gov/pages/about-us/how-to-file-a-complaint/complaint-form.php>

The OIG also monitors and issues reports on some CDCR staff misconduct investigations. The OIG's reports on CDCR staff misconduct investigations, called "Semi-Annual Reports," are issued twice a year and are available on the OIG website: <http://www.oig.ca.gov/pages/reports.php#>

## CDCR Office of Internal Affairs

Anyone can request an investigation by writing to the CDCR Office of Internal Affairs (OIA), the office that does formal investigations of CDCR staff. Non-prisoners can ask OIA for an investigation about something that happened to a prisoner. Prisoners should still file a 602 at the prison, and non-prisoners should still submit a Citizen's Complaint to the Warden. Here is the address for the CDCR Office of Internal Affairs:

CDCR Office of Internal Affairs  
P.O. Box 3009  
Sacramento, CA 95812

## CDCR Office of the Ombudsman

The CDCR Office of the Ombudsman cannot and does not conduct investigations of staff misconduct. However, it may be helpful with some issues. Information about the Ombudsman Office is provided on the other side of this page.

## **Information about CDCR Office of the Ombudsman**

– all information from CDCR Ombudsman website: <http://www.cdcr.ca.gov/Ombuds/> –

### **Mission**

The Office of the Ombudsman works independently as an intermediary to provide individuals with a confidential avenue to address complaints and resolve issues at the lowest possible level. The Office proposes policy and procedural changes when systemic issues are identified.

### **What the Office of the Ombudsman Can and Can't Do**

The Office of the Ombudsman listens, answers your questions, analyzes your situation, explains CDCR policies and procedures, advocates for the fairness of a process as opposed to advocating for an individual party, provides information and at times advice and develops options, suggests appropriate referrals, apprises administration of significant trends and may recommend changes in policies and procedures.

The Office of the Ombudsman does not conduct formal investigations; does not change rules, policies, or procedures; does not participate in any formal hearing or grievance process; does not supersede the authority of other CDCR officials; does not disclose and may not be required to disclose information provided in confidence, except to address an imminent risk of serious harm where there is no other responsible option; and does not engage in any activity that might be perceived by others as advocacy for any individual.

With regard to medical issues please note due to patient privacy laws the Office of the Ombudsman cannot divulge or discuss specific health treatment an inmate-patient is receiving; rather, this Office can assist concerned family members by listening to their concerns and referring them to the appropriate health care staff at an institution.

### **When contacting the Office of the Ombudsman, please provide the following information:**

- Your name
- Your phone number
- Your relationship to the offender
- CDCR number of the offender
- Location of the offender
- Brief description of the issue
- Brief overview of the results of efforts made by you, and the offender, to resolve the issue

**You may contact the Office of the Ombudsman** by calling (916) 445-1773 or writing to:

California Department of Corrections and Rehabilitation  
Office of the Ombudsman  
1515 S Street, Room 311 South  
Sacramento, CA 95811

## RIGHTS AND RESPONSIBILITY STATEMENT

*The California Department of Corrections and Rehabilitation has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.*

**Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:**

**YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.**

COMPLAINANT'S PRINTED NAME	COMPLAINANT'S SIGNATURE	DATE SIGNED	
INMATE/PAROLEE PRINTED NAME	INMATE/PAROLEE'S SIGNATURE	CDC NUMBER	DATE SIGNED
RECEIVING STAFF'S PRINTED NAME	RECEIVING STAFF'S SIGNATURE	DATE SIGNED	

DISTRIBUTION:  
ORIGINAL -  
Public - Institution Head/Parole Administrator  
Inmate/Parolee - Attach to CDC form 602  
Employee - Institution Head/Parole Administrator  
COPY - Complainant