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Your Responsibility When Using the Information Provided Below

We did our best to provide useful and accurate information below, including because we cannot give specific advice to all who ask for it. Rules, laws, and CDCR practices sometimes change quickly, and can be looked at in different ways. For these reasons, the information below may not be current. It is your responsibility to make sure that the law and practices have not changed and still apply to your situation.

PERSONAL SAFETY IN CALIFORNIA PRISONS
Updated July 2024

We received your letter requesting help to get safer housing or to bring a lawsuit against prison officials for failure to provide you protection from other residents of your prison. This letter discusses what you should do if you believe you have personal safety concerns and the different types of housing that the California Department of Corrections and Rehabilitation (CDCR) can provide for those with safety problems. It then discusses formal legal actions that can be taken if CDCR fails to provide protection.

Please note: there are some special laws and rules regarding protection from sexual abuse in prison. If you want information about those laws and rules, please write and ask for our information letter on sexual abuse. For people with internet access, both this letter and the sexual abuse letter are available on the Resources page at prisonlaw.com.

You have the right under the U.S. Constitution's Eighth Amendment to reasonable protection from the threat of violence, sexual assault, or extortion by others in prison, which is violated if prison officials act with "deliberate indifference" to your safety needs.¹ If you are in danger, you do not need to wait until an assault or other harm occurs to obtain legal relief.² Also, CDCR rules require in general that prison staff "safely keep" and provide for the "safe custody" of people in prison.³ In certain circumstances, failing to protect you from harm also may result in prison staff being held responsible under state tort law.⁴

¹ *Farmer v. Brennan* (1994) 511 U.S. 825, 832-34 [114 S.Ct. 1970, 1974; 128 L.Ed.2d 811]; *Berg v. Kincheloe* (9th Cir. 1986) 794 F.2d 457, 459; see also *Rhodes v. Chapman* (1976) 452 U.S. 337, 355 [101 S.Ct. 2392, 2404; 69 L.Ed.2d 59] (concurrency cites extortion as example of unconstitutional conditions, along with robbery, rape, theft, and assault).

² See *Helling v. McKinney* (1993) 509 U.S. 25, 33 [113 S.Ct. 2475, 2481; 125 L.Ed.2d 22]; *Clem v. Lomeli* (9th Cir. 2009) 566 F.3d 1177, 1181 (prison officials may be liable if they act or fail to act in a way that subjects an incarcerated person to an unreasonable risk of harm).

³ See Cal. Code of Regs., tit. 15, §§ 3270 and 3271.

⁴ See *Giraldo v. California Dept. of Corrections and Rehabilitation* (2008) 168 Cal.App.4th 231,

If you believe you are in danger, you should talk to prison staff. You should be prepared to provide as much detail as possible to show why you need protection, such as specific times, dates, places and details of attacks or threats. You can also ask family, friends, or an attorney to contact the prison, but prison officials will usually only act if they receive detailed information about why a person is in danger. It is important for you to make prison officials and staff aware of the safety problem (in as much detail as possible) both to try to solve your safety problem and to protect your rights in case you later want to file a legal action concerning your safety issues.

You can ask prison staff about changing your housing for the purposes of protection. Housing options are listed below. Some of these options are only available to those in men's prisons.

Restricted Housing Unit (RHU) – Immediate protection might be obtained by asking to “lock up” in an RHU.⁵ If staff place you in an RHU and a classification committee decides your safety issues are not in any way your fault, then you should be granted Non-Disciplinary Restricted Housing (NDRH) status.⁶ Placement in an RHU is generally only a short-term response to a safety issue. You should carefully consider whether to make a request for such placement, because RHU is a maximum custody, minimum privilege program. Also, while RHU is generally safer than housing in the general population, it may not be completely safe because you may have a cellmate. An RHU stay might also last longer than expected, because prison officials could take a long time to review and investigate your safety claim or to decide where to send you for longer-term housing.

Transfer to Another Facility – If you have a safety concern with a specific enemy or a few enemies, the problem might be resolved through a transfer to a different prison or yard. Transfer to another facility may help if you had problems at one place, but can start over and program successfully at a different prison or yard. The degree of safety can depend on the circumstances of your situation and on the particular yard or prison.

Non-Designated Program Facilities (NDPFs) –NDPFs are supposed to safely house people who demonstrate positive behavior and a willingness to participate in rehabilitation programs and comply with CDCR rules.⁷ All Level I, most Level II, and some Level III prisons or yards are NDPFs. The degree of safety can depend on the circumstances of your situation and on the particular yard or prison.

Sensitive Needs Yards (SNYs) – SNYs are facilities for people whose safety would be endangered by housing in any other type of general population. You can be considered for SNY if you (1) express safety concerns and request an SNY placement; (2) have specific, documented,

245-253 [85 Cal.Rptr.3d] (neglect in failing to protect a person from harm may violate state tort laws, even if it does not rise to the level of unconstitutional cruel and unusual punishment).

⁵ See Cal. Code of Regs., tit. 15, § 3335.

⁶ See Cal. Code of Regs., tit. 15, § 3335(b).

⁷ Cal. Code of Regs., tit. 15, § 3269.4.

and verified “systemic” (not limited to one facility or institution) safety concerns; (3) do not pose a threat to the safety of other people in an SNY; and (4) were documented as a validated STG-I affiliate and have completed the debriefing process.⁸ SNY’s provide programming roughly equivalent to a general population yard. CDCR in recent years eliminated SNYs in all Level I and Level II prisons, as well as in all EOP buildings and many medical settings. There are still some Level III and Level IV SNYs.

Protective Housing Unit (PHU) – CDCR has a Protective Housing Unit (PHU). It is located at Corcoran State Prison and houses only a few people. PHU is available if you: (1) do not require restricted housing for reasons other than protection; (2) are not affiliated with a Security Threat Group-I (STG-I); (3) do not pose a threat to the safety or security of other people who are housed in the PHU; (4) have specific verified enemies likely to cause you harm if you are placed in the general population; (5) have notoriety likely to result in harm if placed in the general population; and (6) cannot be safely housed anywhere else. The Department Review Board (DRB) must approve all PHU placements.⁹

What To Do If Talking With Prison Staff Does Not Resolve Your Concerns

If after talking with prison staff you disagree with how they respond to your safety concerns, you should submit an administrative grievance using a CDCR 602-1 form. Staff at the Office of Grievances must review your 601-1 within one business day after the office receives it, and they are supposed to immediately take “appropriate” action to address any immediate danger to your personal safety.¹⁰ If you are not satisfied with the response to your 602-1, you can submit an administrative appeal using a CDCR 602-2 form. The CDCR Office of Appeals must review your 602-2 form within one business day after the office receives it and, if there is information about an immediate danger to your personal safety, must refer the matter to the local institution to take “appropriate” action the danger.¹¹

If prison officials and staff do not respond reasonably to your safety concern, and you are still in danger, you can consider filing a formal legal action requesting a court order to protect your safety. When you file your legal action, you can ask the court to issue a temporary restraining order to make the prison officials provide safe housing during the time while the case is pending in the court. Usually, the quickest and easiest way to seek an order for protection is by filing a state court petition for writ of habeas corpus. Alternatively, you can seek a court order through a federal civil rights (§1983) lawsuit. If you have already been injured because of prison officials’ past failure to provide safe housing, you can try to get money damages through a federal civil rights lawsuit or a state civil lawsuit. However, be aware that the law almost always will require you to “exhaust” administrative remedies by completing the CDCR 602-1/602-2 administrative grievance and appeal process before you file a legal action. One possible

⁸ Cal. Code of Regs., tit. 15, §§ 3269.2-3269.3.

⁹ Cal. Code of Regs., tit. 15, § 3335.1(g)

¹⁰ Cal. Code of Regs., tit. 15, § 3483(a).

¹¹ Cal. Code of Regs., tit. 15, § 3485(a); see also Cal. Code of Regs., tit. 15, § 3483(a).

exception is that a court may allow you to bring a state habeas corpus petition if there is a risk of irreparable injury that justifies allowing an exception to the exhaustion requirement.¹²

You can write to Prison Law Office, General Delivery, San Quentin, CA 94964 to request free manuals that explain how to file administrative grievances and appeals, state habeas petitions, and lawsuits for money damages. For people with internet access, the information manuals are also available for free under the Resources tab at www.prisonlaw.com.

There is information on your legal rights and how to protect your rights in *The California Prison and Parole Law Handbook*, published by the Prison Law Office. The *Handbook* is on CDCR electronic tablets and kiosks as a PDF in the Free materials and also in the Law Library/California/Secondary Sources/The California Prison and Parole Law Handbook. In addition, people who have internet access can view and print the *Handbook* under the Resources tab at www.prisonlaw.com. As of 2024, we are in the process of updating the *Handbook* to reflect changes in the law since 2019. Updated chapters will state the dates on which they were updated.

¹² *Ogo Associates v. City of Torrance* (1974) 37 Cal.App.3d 830, 834 [112 Cal.Rptr. 761].