



**PRISON LAW OFFICE**  
General Delivery, San Quentin, CA 94964  
Telephone (510) 280-2621 • Fax (510) 280-2704  
www.prisonlaw.com

**Director:**  
Donald Specter

**Deputy Director:**  
Sara Norman

**Legal Director:**  
Margot Mendelson

**Staff Attorneys:**  
Rana Anabtawi  
Patrick Booth  
Tess Borden  
Claudia Ceseña  
Steven Fama  
Alison Hardy  
Sophie Hart  
Jacob Hutt  
A.D. Lewis  
Rita Lomio

### Your Responsibility When Using the Information Provided Below:

When we wrote this Informational Material we did our best to give you useful and accurate information because we know that incarcerated people often have difficulty obtaining legal information and we cannot provide specific advice to everyone who requests it. The laws change frequently and are subject to differing interpretations. We do not always have the resources to make changes to this material every time the law changes. If you use this pamphlet it is your responsibility to make sure that the law has not changed and is applicable to your situation.

## **Filing a Grievance in a County Jail** (updated August 2022)

There are two main reasons for filing a grievance when you have a problem in a county jail. First, your grievance might solve the problem or at least help you understand the jail staff's policy or action. Second, your grievance will protect your rights to file a court case about the problem, because in most situations a court will require that you "exhaust administrative remedies" before you file your court case. This applies to court actions including state habeas corpus petitions, federal civil rights complaints ("§ 1983" cases), and state tort lawsuits, and applies even if you are seeking money damages. If you have not gone through all levels of grievance review, a court will dismiss any lawsuit about your problem, with very few exceptions.

You may file a grievance to complain about an action taken by any jail employee or any jail policy or procedure that negatively affects you. For example, you may file a grievance to complain about problems related to: health care, disciplinary actions, program participation, visiting procedures, food, clothing, bedding, telephone access, mail access, law library access, etc.

General rules about jail grievances are in the California Code of Regulations (CCR), Title 15, Section 1073. Specific rules for the grievance process in each jail are usually in the Inmate Orientation Handbook. When filing a grievance, you should closely follow the jail grievance rules in your Handbook. The typical jail grievance process consists of a form that you fill out and submit for review by jail staff. Often, if your appeal is denied at the first level, you can ask for the issue to be reviewed review by higher level staff. Usually, there are two to three levels of reviews available. You must start at the lowest level of review and may not move on to a higher level of review until you receive a response at the lower level. In some jails, staff may complete all levels of review in one go before returning the grievance to you.

Each jail has time limits for filing grievances and for submitting grievances to higher levels of review. These time limits should be described in the Inmate Orientation Handbook. Failing to meet these time limits may cause you to lose the chance to win a lawsuit in the future.

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In your grievance, you should start by stating the problem. Try to be as clear as possible about what happened, when it happened, who did it, and what else you have done to try to fix the problem. You also should say what you want jail staff to do to fix your problem. If you have supporting documents, attach a copy of them to the grievance. Make sure to fill out all portions of the grievance form and to sign and date it.

Sometimes grievances are lost or not answered in a timely fashion by jail staff. Before you file your grievance, you should make copies of the grievance and all documents that you attach to the grievance. If you cannot get access to a copy machine, make a handwritten copy. You should also keep notes about when and how you submitted your grievance.

There may be time limits for when jail staff must reply to your grievance. If the reply is late, you should file a grievance about this delay. In this new grievance, you should provide the date and log number (if available) of the original grievance and restate the problem you want fixed. Unfortunately, there is no clear answer from the courts about how long you should wait for a grievance reply before filing a lawsuit when jail staff have failed to follow their own time limits.

If you receive a reply to your grievance that does not fix your problem, check your Inmate Orientation Handbook to see if there is a procedure for you to submit your grievance to a higher level of review. The grievance form itself, or the reply, may also tell you how to submit your grievance to a higher level of review. If there is a procedure for a higher level of review, you should submit your grievance to the next highest level even if the reply states that jail officials cannot or will not fix your problem. In most cases, you have not “exhausted administrative remedies” until you have received a reply from every available level of review. An exception is that your remedies may be exhausted if a reply at any level states that your problem will be fixed, and your problem is indeed fixed. On the other hand, you have not exhausted and you should continue through all levels of the grievance process if a reply fixes some but not all of the problems you raised in your grievance or if the reply promises to fix all the problems but staff do not follow through on that promise.

Jail staff may ask you to “withdraw” your grievance before you have received a written reply or gone through all levels of review. Although withdrawing an appeal may be an option, it is almost always better to refuse to withdraw the grievance and receive a written reply formally granting or denying your grievance. Withdrawing an appeal might cause you to lose the right to file a court case about the issue.

If you want to know more about Suing a Local Public Entity or State Court Petitions for Writ of Habeas Corpus, you can request information on those topics by writing to the Prison Law Office, General Delivery, San Quentin, CA 94964 or from the Resources page at [www.prisonlaw.com](http://www.prisonlaw.com).