



Prisoner Advocacy Network
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Email pan@nlgsf.org <https://www.prisoneradvocacynetwork.org/covid-19.html>

HOW TO FILE 602 & 602HC APPEALS THAT REQUEST CDCR ACTION OR RELEASE DUE TO COVID-19

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Purpose

This is a short guide for filing 602 and 602HC forms to request release from CDCR due to the COVID-19 pandemic, and Judge Tigar's April 17, 2020 ruling in the *Plata* case that CDCR's policies in response to COVID-19 are thus far constitutional. Because of this decision it is more important than ever to make a record showing that the policies CDCR claims are in place are not truly in place, or were so delayed to be meaningless or physically harmful to you. You are the one who will need to provide the proof that CDCR's practices are different than what it claims are the policies. If you create the paper trail that proves this, the judge may change his mind and find that the practices are unconstitutional.

This guide includes 10 Tips for Filing an Emergency 602 and 602HC About COVID-19, and a series of template 602 prompts and sentences organized by each issue arising amid the COVID-19 pandemic. We recommend reviewing the tips on how to file a 602 and then searching for template 602 sentences that best addresses your situation. A longer guide is available. PAN's guides are not intended to give legal advice, but rather general legal information. No attorney-client relationship is created by using any information in this guide. Consult an attorney for legal advice specific to your situation. In this emergency we did our best to give you useful and accurate information. However, the laws change frequently and are subject to differing interpretations. PAN does not have the resources to make changes to this material every time the law changes. If you use this information, it is your responsibility to make sure that the law has not changed and applies to your particular situation.

10 Tips For Filing an Emergency 602 About COVID-19

- 1) **Immediately start building a paper record.** File 602 and 602HC forms asking for release as quickly as you can while making sure they contain all the right information (See #3, #4, and #5). You can simultaneously file initial request forms (CDC Forms 22, 7362, 1824, 1858) and any other forms that you will need to build your case (See #8). You must file within 30 days of any COVID-19 related incident. Many COVID-19 issues are issues with ongoing harm, so if this ongoing harm happened within 30 days, describe how.
- 2) **Write "Emergency" on the top of any form related to COVID-19.** This will show you are facing physical or mental harm or death and that there is a need for quick action. Emergency

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602s require a response within 5 working days at the 2nd and 3rd levels (it skips the 1st level). Emergency appeals don't have a limit, you can file as many as you need.

- 3) **Demonstrate that you have the legal “standing” necessary to bring a lawsuit.** You can do this by illustrating that you are about to experience or have experienced a violation of rights. It is very important to describe the actual physical harm you are suffering already.
- 4) **Address three main factors: Medical factors, conditions factors, and release factors.** Provide information to give “notice” to CDCR about what problem you are asking them to respond to and how. Information can include date, time, place of any incidents, names & CDC No. (if possible) or titles of staff involved, diagnosis, symptoms, injuries you have sustained in the past, score, classification details, etc. **Custody 602 (Green):** In 602A “**Explain Your Issue,**” describe in a broad way the harm that CDCR’s response to the COVID-19 pandemic is causing your body. Because this is a custody form, focus on the conditions of the prison affecting you. Describe the bad thing you don’t want to be happening, and that it is CDCR’s job to fix it. In the later 602A attachment, you will have more room and there you can cite any CDCR rule or state or federal law that applies to your situation, and give specific facts as to how the rules are being broken or violated. In 602B “**Action Requested,**” if you are asking for immediate release, make clear your plan upon release and make clear that it will not expose you or others to COVID-19. **Medical 602HC (Now Blue, Formerly Pink):** In 602HC Part A “**Explain,**” describe in a broad way the harm that CDCR’s response to the COVID-19 pandemic is causing you medically or mentally. Write the “action requested” in Part A as well, such as treatment or release.
- 5) ***IMPORTANT*** File separate emergency 602 and 602HC appeals for each problem COVID-19 caused you. The most important thing is to file an emergency 602 and 602HC asking for release. Then, if one policy, incident, event, or inaction has caused a number of bad things, use that 602 form to carefully describe how multiple related issues came out of one incident. If you don’t word the form carefully, CDCR is likely to reject the appeal on the procedural technicality that one form contains multiple issues. Be strategic about providing details around one issue per form, such as inadequate cleaning supplies.
- 6) **Find, create, and attach as many documents as you can to reference the problem you are complaining about.** These documents should show how you are being physically harmed by CDCR’s response to COVID-19. If you are awaiting documents and time is running out, file the appeal and explain why you can’t yet attach documents. These documents can include: c-file documents (SOMS/ERMS records), Olson review documents, medical documents, custody documents (showing denial of program access, change to release date, loss of job, etc.), a declaration, CDCR policies, CDCR memos, 128 Chrono, Incident Report, receipts or Form 22 requests you’ve made, etc.

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- 7) **Follow every 602 appeal to the final level of review.** This is because of the CDCR rule that requires you to “exhaust” the internal appeals process before filing a lawsuit. We recommend filing all three levels of 602 and two levels of 602HC even if CDCR claims it is partially or fully granting your request so CDCR can’t raise any challenges in court.
- 8) **Make sure you have paper copies of all of the forms and attachments you have filed.** Keep a record of when and how you submitted the form, the log number, and CDCR’s response. Save these and transmit these to a trusted person outside who can contact a lawyer, send them to a lawyer for safe-keeping. File them directly with the court in your pro se suit. We know law library access is limited, so consider hand copying what you wrote on a second version of the form, even if the log number printed on the form is different.
- 9) **If CDCR does not respond within 5 working days of your Emergency 602, document this.** File a Form 22 to get them to address their delay. File a new emergency 602 appeal about the procedural violation of the delayed emergency 602 response. State the log number of your original appeal, the date it was filed, and that you have not yet received a response.
- 10) **Stay safe, stay strong, stay calm.** Know that there is an entire movement of people fighting for your safety amid the COVID-19 crisis. Keep pushing CDCR to either release you or improve the conditions in your facility. It just might make a difference.

Instructions for How to Use This Guide’s Templates

How to Enter Personal Information

Throughout this guide, where there is a set of brackets with a prompt in it [like this], this is an indication that you should replace [brackets] with the information about your particular circumstances. To do this, you should think about the words used in the sample, and be sure to describe your own personal experience and information using language that is similar to language in the samples provided. Make sure you re-read over your letter template once you’ve finished to make sure it reflects your individual case. *For example:*

Template: I am diagnosed with [disease/illness]
Your 602 form: I am diagnosed with asthma.

Start By Reading the Goals of What Each Template Is Trying to Demonstrate

Before the sample language in each template, there will be a quick description of what you should attempt to do in your 602 to explain how that specific issue relates to you. It often includes prompt questions that you can answer in your own words.

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Add As Many Template Sentences As Apply to Your Situation

Many of these template sentences will apply to you, and many will not. Make sure you read through carefully and select the template sentences that best reflect the situation you are facing. The strongest sentences for you will be sentences where you can attach exhibits that back up the claims you are making in the sentence, or explain how CDCR wouldn't allow you to have access to the exhibits you would have attached (and list what you would have attached). Often there will be prompts in (parentheses) that suggest exhibits you could include. Do not include those prompts in your 602, but you should say (See Exhibits) if there are exhibits.

[Template: Sentences To Add To Each "Claim" or "Issue" to Demonstrate the "Harm" of CDCR's COVID-19 Response](#)

Goal: Each 602/602HC should demonstrate that CDCR's response to COVID-19 is ALREADY causing you actual bodily harm, and that it presents an ongoing threat of injury including death.

Examples of COVID-19 symptoms: Fever, dry cough, fatigue, shortness of breath, sputum production (phlegm, thick mucus that is produced by the lungs), sore throat, headache, myalgia (muscle pain), arthralgia (joint pain), chills, nausea, vomiting, diarrhea, nasal congestion.

Examples of harm that COVID-19 could have already caused: Physical manifestations of symptoms such as anxiety; fear; nervousness; paranoia; depression; insomnia; weight loss or gain; loss of appetite; problems eating; exhaustion; stress; suicidal thoughts; desire to harm self; anxiety; PTSD); self-mutilation; anguish; headaches; irritable bowels; digestion problems; hives/rashes; psychological distress; interference with hygiene; sleep problems; hearing; seeing; concentrating; thinking; communicating; working; learning; paranoia; agitation; social withdrawal; fatigue; reading; hyper-vigilance; disorientation; perceptual distortions; hallucinations; sensitivity to noises; side effects from medications prescribed to help deal with these issues; inability to shower; inability to leave cell; inability to go on yard/exercise.

COVID-19 High Risk Categories Identified By the Center For Disease Control and Other Medical Experts: Age 50 and over; asthma; heart conditions; Valley fever; lung disease; previous tuberculosis; diabetes; obesity; liver disease; renal failure; current or recent pregnancy; use of immune-weakening medications; blood disorders (e.g. sickle cell disease or on blood thinners); kidney disease; endocrine disorders; obstructive pulmonary disease; neurological, neurologic, and neurodevelopment conditions, including disorders of the brain, spinal cord, peripheral nerve and muscle such as cerebral palsy, epilepsy, stroke, intellectual disability, moderate to severe developmental delay, muscular dystrophy, or spinal cord injury; [Immunocompromised](#); bone marrow transplant; organ transplantation; immune deficiencies; HIV or AIDS; use of corticosteroids (such as hydrocortisone and prednisone to treat arthritis, allergies, rashes, lupus); mental health conditions; smoking; methamphetamine usage; previous or current cancer; or CDCR already classifies you as medically high risk.

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Sample Language for 602A (Personalize language and add each sentence that applies to you):

For People Over 50 Years Old: My age is [list age] and because of this age I am more at risk of infection and death from COVID-19. CDCR's inability to follow CDC and WHO regulations to protect me from COVID-19 caused me the physical harm of [list harm].

For those with vulnerable medical conditions: I am diagnosed with [disease or illness]. (Try to attach as "Exhibit" paperwork from CDCR or elsewhere proving this diagnosis). The condition of [diagnosed disease/illness/disorder] puts me at risk for COVID-19 because [describe reasons]. I am enclosing the following documentation of my medical condition. The news and public health officials indicate this condition puts me at risk of death from COVID-19 if I remain incarcerated. My [health problems] cannot be treated easily inside a prison environment even without the challenge of COVID-19. A list of my chronic and serious debilitating medical conditions includes [list]. CDCR's inability to follow CDC and WHO regulations to protect me from COVID-19 caused me the physical harm of [list harm].

For those with COVID-19 symptoms: I suffer from the following symptoms: [list symptoms here]. (Try to attach as "Exhibit" paperwork proving). CDCR's inability to follow CDC and WHO regulations on COVID-19 caused me to contract these symptoms [list].

For younger people: While older people with pre-existing conditions are the most vulnerable to COVID-19-related mortality, young people such as myself at age [age] without preexisting conditions have, also, succumbed to COVID-19. CDCR's inability to follow CDC and WHO regulations to protect me from COVID-19 caused me the physical harm of [list harm].

For everyone: The conditions at [name of facility] include close unsanitary quarters, lack of access to protective measures, limited medical capacity, and [list other reasons]. CDCR is not spacing me six feet away from people [list other transmission vectors like toilets, sinks, showers] or giving me the hygiene and sanitation items of [list] or cleaning [list places]. I am at greater risk of infection if I remain in custody, and also pose a greater risk of needing extreme measures, such as ventilator access, to save my life should I become infected. CDCR's inability to follow CDC and WHO regulations to protect me from COVID-19 caused me the physical harm of [list harm].

Sample Language for 602B (Pick sentences that apply to you):

Releasing me will not only protect me from the risk of infection when the COVID-19 outbreak spreads more but also avoids the unavoidable impact upon the quality of the medical care I will require by taxing an already taxed system. My release will have the added benefit of opening a medical bed to other people.

[Template: Sentences to Add to Show "I Am Safe to Release from CDCR"](#)

Goal: Ask for release & show why you are a low risk to public safety through attachments that prove it. If you are asking for release in the 602, you should describe why it is safe to release you. Show don't tell. Don't just reach that conclusion, give proof. Describe and attach

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evidence related to what CDCR or a court would consider in assessing your “risk” if released. Note any positives from: Security Level of Yard; Placement/Classification score; Custody designation (Max, Close, Med A, Med B, Min A, Min B); COMPAS Risk Assessment Score; California Static Risk Assessment “CSRA” Score; BPH Comprehensive Risk Assessment Score; Commitment offense(s) and classification (Non/Violent); Years of incarceration completed and remaining (if known, release date, if indeterminate, parole hearing or other proceeding date); Rehabilitation efforts.

Sample General Language to Request Release in 602B: *Due to CDCR’s creation of the life threatening conditions of [summarize what you wrote in section 602A] and my unique medical risk for COVID-19 of [list medical problems that put you at risk] and my low risk to public safety if released as evidenced by [list examples] and the enclosed exhibits of [list names of exhibits], I am requesting immediate release. I am an excellent candidate for early release for the following reasons: [list reasons]. For the commitment offense(s) of [list offense(s)], I was sentenced to [length of sentence]. The court did not sentence me to death, nor do I deserve to die. My point score is low, at [list score]. In my most recent risk assessment, CDCR indicated I was [risk status]. I am unlikely to repeat my commitment offense(s) because [list reasons]. My release plan includes the following place to live at [specific address], which is a sober-living environment, and other support for my health including [list], and financial support of [list].*

Sample Language to Request Release in 602B If Have Existing Proceedings: *Expedite my release date of [current date] by moving it up to a sooner date and releasing me immediately. Expedite my parole hearing from [date]. As I was already found suitable for release by [date] on [date of parole hearing]. I was found eligible for release under Prop [number]. I have been re-sentenced pursuant to [1170.95 (SB 1437), other]. I have been referred by CDCR or the DA for resentencing under 1170(d)(1). I have already applied for a commutation (Enclose) and request release due to the merits in my application.*

[Template: Sentences to Add to Show “I Have a Release Plan for If I Am Released”](#)

Goal: Describe the release plan that will support you if you are released, including your housing, reentry support, work plan, potential school plan, general support, training for a job, financial support, and medical care. CDCR initially required people to provide a physical address. Make clear that if you are released, you will not contribute to the wider spread of COVID-19 because you will follow all Center for Disease Control recommendations. Be sure your release plans are solid and realistic. The CDCR and BPH can and do sometimes check on letters of support and offers of assistance. Don’t allow your plans to be discounted or slowed because they are vague or not verifiable. You need a specific address for COVID release.

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Sample Language to Prove You Have a Release Plan in 602B: *My release plan includes a place to live at [place + specific address], which is a sober-living environment, and other support for my health at [through place or institution] and financial support of [families or organizations]. I have a plan to pursue employment that respects the social distancing limitations on the hiring process amid the COVID-19 crisis. [If you've already built a resume, attach a resume.] I have a relapse prevention plan; I know where and when digital addiction support groups will be meeting in my parole area [name of place]. I have both short-term plans for remaining safe and stable during the COVID-19 crisis, including [items that could include getting identity cards or enrolling in remote school and medical providers] and long-term plans for when the COVID-19 crisis is over. My short-term plan includes concrete ways that I can follow Center for Disease Control recommendations about mitigating the spread of COVID-19, including [ways I can obtain masks and gloves, safely get groceries, avoid impacting local hospitals]. I have family members that can support me, including [list family members and what financial and logistical support they can provide].*

[Template Sentences to Add: "CDCR's Cruel & Unusual Response to COVID-19"](#)

Your goal is to describe the specifics of what CDCR staff members did or DID NOT DO when implementing a policy or action around COVID-19, so there is more of an individualized factual basis to hold particular people who did harm liable.

Sample Language for 602A: *The action Officer [First Name] [Last Name] took because of COVID-19 is resulting in cruel and unusual deprivations of life's necessities because [reasons]. CDCR did not give me appropriate hygiene, sanitation, and personal protective equipment products [list] to prevent infection and death from COVID-19 or allow me six feet of space from others. The action of [name action] is depriving me of "the minimal civilized measures of life's necessities," including [list items, which could be medical care or personal safety, such as the ability to wash my hands regularly, disinfect surfaces, or maintain social distance under COVID-19 guidelines released by the Center for Disease Control]. While the deprivation of [state what is not being given, or being taken away] might be tolerable for a few days, it is intolerably cruel for the [duration: days, weeks or months] staff subjected me to it and intolerably cruel to experience even briefly during a pandemic such as COVID-19. Here the policy of [name policy] causing the action to last [duration], a cruelly long time. COVID-19 resulted in deprivation of [safety or item] on [date], by [name of CDCR staff member], when the staff member took the action of [state action] upon [person name]. This resulted in the harm of [injury, symptom, loss]. COVID-19 resulted in deprivation of health on [date], by [name CDCR staff member] when the staff member took the action (or failed to act) of [state action] upon [name of person]. This resulted in the harm of [injury, loss, symptom]. Objectively, the deprivation of [item or thing or action or event] is "sufficiently serious." Where*

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CDCR officer [name] failed to prevent harm of [name what is harmed] that occurred on [date], conditions that posed a substantial risk of serious harm included [state risks]. Subjectively, the prison official [name] in the position of [name of job] knew of and disregarded an excessive risk to my health or safety which was posed by [state thing posing excessive risk]. The official knew of the substantial risk of serious harm because [name how you know they knew]. The official [name] in the position of [job] failed to take reasonable measures to stop or reduce it when official [name] took the action of [state action] and failed to act when [state action that required a response].

Template Sentences to Add: “CDCR Is Not and Cannot Follow CDC’s Standards”

Goal: Describe in 602A how CDCR has not followed safety protocols to protect you from the spread of COVID-19. This could include answering the following questions: How and when did people put CDCR on notice of COVID-19 protocols? Describe [videos](#), or loudspeaker announcement, or chronos, or meetings, or informational literature that the facility presented. What are the protocols? Are there confirmed cases in your facility? Are there suspected cases in your facility? How and where is CDCR isolating people with symptoms and for how long (it should be 14 days)? Has anyone been transferred to a hospital? Has CDCR posted signs for any isolation or quarantine areas? How and where is CDCR isolating people without symptoms? If you had close contact, were you then isolated for 14 days? Who has CDCR offered tests to? What is the test (a swab through nose to back of throat, or other method)? Are people administering the tests wearing protective gear (i.e. masks and gloves)? Have you had close contact (within 6 feet) with someone who reported symptoms, if so describe contact?

Sample Language for 602A to show CDCR is Not Following CDC/WHO COVID-19

Protocol: *It is physically impossible for me to follow COVID-19 recommended protocol from the CDC and WHO to stay six feet away from others, thus increasing the risk I will be infected or killed. [Name of institution or CDCR staff] brought me into contact with [number] different people [list other incarcerated people, custody workers, and health care workers] in one week [or other duration of time] in the following locations [list]. The custody and health care workers are traveling between buildings and treating other patients. So are incarcerated workers, who continue to work. My housing situation [describe] brings me within 6 feet of people or potential surfaces/materials that could be infected with the virus at the following locations [describe, yard, canteen, bathroom, shower, chow hall].*

Sample Language for 602B to Argue Following Protocol Is Not Possible In ANY CDCR Prison and You Must Be Released:

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There is no safe way to house me here because of [reasons]. I request release. I am a low risk if released because [reasons]. My plans for a supported and successful reentry include [see parole plan template above on page 5].

[Template Sentences to Add: “CDCR Is Not Distributing Free COVID-19 Transmission Reduction Products”](#)

Goal: Describe how CDCR is not, or unreasonably delayed in giving out free hygiene and sanitation products. This can include soap (liquid preferred), hand sanitizer (alcohol-based hand sanitizer that contains at least 60% alcohol preferred), gloves, masks, clean laundry, cleaning products, hand drying supplies (hand drying machines, disposable paper towels), hot water, tissues, toilet paper, other cough or sneeze covering products, more access to hand washing areas and supplies for hand washing, [EPA approved disinfectant](#), respirators, no-touch trash receptacles, water at 60–90°C to wash laundry, detergent to wash laundry, extra clean clothes, bedding, towels, or fresh chlorine bleach solution at a 1:10 dilution.

Sample Language for 602A on Limited Sanitation Products: *I understand some items can minimize the spread of COVID-19. CDCR is preventing me from taking recommended precautions to minimize the spread of the virus. I have limited access to CDC-recommended personal hygiene items such as [fill in with examples such as tissues, soap, disinfectant, or hot water, laundry, clothing]. On [date] I asked for [item] and was denied by [staff member] and told [explain]. [Explain your attempts to obtain and the response from CDCR] [Fill in information about any relevant hygiene items that may be available only to people with financial resources].*

Sample Language for 602A on Limited Personal Hygiene: *CDCR fails to offer reasonable opportunities for maintaining personal cleanliness. CDCR is failing to provide adequate supplies, maintain fixtures and equipment, and organize cleaning activities. CDCR forced me to live in proximity to human waste on [date]. The units have fecal matter, urine, hair, blood, and food remnants on the floor. CDCR forces people to live in filth and grime. Neither staff or incarcerated workers clean regularly. Staff do not regularly provide inmates cleaning supplies. People are forced to use personal hygiene soap and bathing towels to clean their cells. Staff track COVID-19-carrying matter on their shoes up and down halls and into cells. Because laundry is collected only [state frequency], this means I do not have access to the clean laundry that the CDC and WHO recommend. The shared mop and cleaning brush are never sanitized, this means I am exposed to germs. If I want to clean my cell I am forced to potentially expose myself. I have seen staff supervise cleaning of tiers and showers and bathrooms [list other locations] [number of times] in [date] and this is not enough.*

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Sample Language for 602B Request for Release or Supplies: *There is no safe way to house me here because these cleaning standards do not meet CDC and WHO recommendations. I request release. I also request the following [name supplies] free of charge with delivery every [number of hours/days]. Provide protective equipment, e.g. gloves and cleaning materials, and training to incarcerated people and staff who participate in prep or distribution of food or other goods, like laundry and supplies. Permit the distribution of weekly packages containing the following: Cleaning supplies (hand sanitizer, gloves, tissues, cleaning fluid and disposable paper towels), hygiene products (soap, toothpaste, shampoo, feminine hygiene products as appropriate), non-perishable nutritious food (e.g., trail mix, preserved meat, healthy soup packets), writing materials (wireless notebook), reading materials (books or magazines), indigent mail packets even to non-indigent people and increase the supplies in the indigent packages. Lift all fees for the following supplies [list supplies]. Provide more of the following [list supplies]. Reduce prices of [list supplies]. Remove limits on the number and amount of deposits or transfers to accounts. Eliminate all transfer and transaction fees associated with commissary. Expedite money order transfers into accounts. Remove limits on number, type, weight of Quarterly Package and SPO.*

[Template for Filing a 602HC: "CDCR Is Not Following and Cannot Follow COVID-19 Protocols, Which Is a Personal Medical Risk for Me"](#)

Goal: Describe how CDCR's COVID-19 protocols have had an actual, harmful physical effect on your health and welfare that requires a remedy. Unlike the custody 602 that has a part "B" for you to include what you want CDCR to do, on the 602 HC you write the "action requested" in the same section where you describe the physical harm. Describe how you are not getting medical, dental, mental health care, or disability accommodations because of COVID-19. Be very detailed about the kind of medical attention you asked for and when and why you think COVID-19 affected it. Ask for an interview.

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