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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 prisoners often have difficulty obtaining legal information and we cannot provide specific advice to all the prisoners who request it. However, 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. Most of the materials you need should be available in your institution law library.

Information Re: Direct Appeals of Criminal Convictions

(updated January 2012)

We have received your request for help with an appeal of your criminal conviction. This office does not represent prisoners in challenges to criminal convictions. However, the courts of appeal will appoint a lawyer for any prisoner who has filed an appeal of a criminal conviction and who does not have enough money to hire a lawyer.

This information letter explains (1) how to file the paperwork to start an appeal; (2) how to request appointment of an attorney to represent you for the appeal; (3) what organizations can help you with filing a notice of appeal if you cannot do so on your own or if you missed the deadline; and (4) where to find information about other way to challenge a criminal conviction or sentence. Note: the information in this letter applies only if you were convicted of one or more felonies (or a mix of felonies and misdemeanors) in California state court; there are different forms and procedures for appeals in cases that involve only misdemeanors. There are also different procedures for juvenile court cases or criminal convictions issued by federal courts or other states' courts.

1. How to File an Appeal

An appeal may be taken from a final judgment in a criminal case. A final judgment includes order sentencing a person to jail or prison or an order granting or revoking probation. People may also appeal orders made after the sentencing hearing that substantially affect their rights, such as an order imposing more restitution or an order reducing the amount of pre-sentence credits. (Penal Code § 1237.)

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An appeal is started by filing a form called a "Notice of Appeal" with the superior court in which you were convicted. ***The Notice of Appeal must be filed within sixty (60) days after the date that you were sentenced (or the date that the post-sentencing order that you are appealing was made)***. (Cal. Rules of Court, rule 8.308.) If the superior court clerk receives a Notice of Appeal from a prisoner after the 60 day period has expired, but the envelope shows that the notice was mailed or delivered to prison staff for mailing within the 60-day time period, then the notice will be considered to be timely. (Rule 8.25(b)(5); *In re Jordan* (1992) 4 Cal.4th 116.)

The official Notice of Appeal form (CR-120) is attached to this letter. If you don't have the official form, you can create your own "Notice of Appeal"; you just need to write on a piece of paper: (1) the case number and the name of the court, and (if you know it), the date the judgment was entered, which usually means the date that you were sentenced, (2) a statement that you are appealing, and (3) your signature and the date that you are signing the document. (Rule 8.304(a)(4).)

The procedure is a bit more complicated if you want to appeal following a guilty or no contest plea. If you file a Notice of Appeal after a guilty or no contest plea, you need to state generally what matters you are appealing, and depending on what types of legal arguments you want to make, you may have to file an additional form called a "Request for a Certificate of Probable Cause." Also, please note that if you pled guilty or no contest, you cannot argue on appeal that your conviction should be overturned just because were innocent of or had a defense to the crimes to which you pled; by pleading guilty or no contest, you admitted every element of the offenses. (*People v. Hoffard* (1995) 10 Cal.4th 1170, 1177-1178.) Following are the general types of issues you can raise on appeal after a guilty or no contest plea, and how to request permission to raise those issues:

(A) If you want to appeal based only on things that happened after you entered your plea and that do not affect the lawfulness of the plea agreement itself (such as claims that the prosecutor or court violated the terms of your plea bargain or that your sentence was not lawful), then you need to state that your appeal is "based on the sentence or other matters occurring after the plea that do not affect the validity of the plea." If you want to appeal the denial of a motion to suppress evidence that happened before you entered you plea, you must state that the appeal is "based on the denial of a motion to suppress evidence." (Rule 8.304(b)(4).) If you use the official Notice of Appeal form (CR-120), there are boxes that you can check to make these statements.

(B) If you want to argue that your guilty or no contest plea was not lawfully entered, then you must file a Request for a Certificate of Probable Cause to seek permission to challenge the plea itself. (Penal Code § 1237.5(a); Rule 8.304(b)(1).) Examples of arguments for which you must get a Certificate of Probable Cause include claims that you did not understand what the plea meant, were not advised of your rights to go to trial, were not accurately informed about consequences of pleading guilty, or that the court did not follow rules requiring it to find a factual basis for the plea. To raise these types of issues, when you write out your Notice of Appeal, you should state that your appeal "challenges the

> validity of the plea or admission." The official Notice of Appeal form (CR-120) has a box you can check to make that statement and a second page that you can use to explain your Request for a Certificate of Probable Cause. If you don't have the official form, then you must write a separate statement with the name of the court and the case number that is entitled "Request for Certificate of Probable Cause." In the statement, you must describe why you believe your plea agreement was not lawful and should be undone. At the bottom of your Request, you must write, "I declare under penalty of perjury that the foregoing is true and correct and that this statement was written on [the date you write the statement] at [the city and state where you wrote the statement]," and then you must sign the Request. You can send the Request for a Certificate of Probable Cause to the superior court with your Notice of Appeal or in a separate envelope. ***However, like the Notice of Appeal, the Request for a Certificate of Probable Cause must be filed within sixty (60) days after the judgment is entered (which usually is the date you were sentenced).***

The Prison Law Office has a free information letter with more information about the issues that can and cannot be raised on appeal after a guilty plea. If you would like the Prison Law Office to send you that information, please send that office a request for the Guilty Plea letter.

After you fill out the paperwork, you must send the Notice of Appeal and any Request for a Certificate of Probable Cause to the clerk of the superior court in which you were convicted. Rule 8.304(a)(1)). A list of addresses for the superior courts for all California counties is attached to this letter.

Once the superior court receives the Notice of Appeal, the superior court clerk will begin preparing transcripts of the superior court proceedings and will notify the court of appeal that you are appealing your criminal case. If you have filed a Request for a Certificate of Probable Cause, the superior court will decide whether you should be allowed to challenge your plea agreement. If the court believes there are possible grounds for arguing that your plea was not valid, the court will issue a Certificate of Probable Cause giving you permission to raise those arguments in your appeal briefs. If the superior court denies your Request for a Certificate of Probable Cause, you can file a petition for writ of mandate in the court of appeal challenging the denial. (*People v. Castelan* (1995) 32 Cal.App.4th 1185, 1187; *In re Brown* (1973) 9 Cal.3d 679, 683; *People v. Hoffard* (1995) 10 Cal.4th 1170, 1180.)

If more than 60 days have passed since you were sentenced, you should immediately contact one of the appellate program offices listed under topic number 3, below. If you did not file your Notice of Appeal on time, and there is a good reason why you missed the deadline, the appellate program office may be able to help you ask the court for permission to proceed with your appeal. For example, courts might allow you to appeal even though your Notice of Appeal was filed late if you did your best to file on time but prison staff caused a delay or if your lawyer did not follow through on a promise to file a Notice of Appeal for you. (See *People v. Lyons* (2010) 178 Cal.,App.4th 1355.) The appellate program office may also be able to help if you have problems understanding the forms, if your Request for a Certificate of Probable Cause is denied, or if you have other problems getting your appeal case started.

2. Requesting Appointment of Counsel

A person who is "indigent" (meaning with very little or no money) is entitled to a free lawyer to represent him or her on a direct appeal in a criminal case. Unlike the Notice of Appeal and Request for a Certificate of Probable Cause, there is no set deadline for requesting appointment of an attorney. Generally, even if you don't ask for an attorney, the Court of Appeal will send a notice asking if you want to make such a request after the Notice of Appeal has been filed.

Getting a lawyer appointed is a simple process. If you file your Notice of Appeal using the official form (CR-120), you can check the boxes that say you are requesting and attorney and whether or not you had an appointed attorney in your criminal case in the superior court. If you don't have the official form or if you have already filed your Notice of Appeal, you can send the court of appeal a document titled "Request for Counsel" and listing the name of the case and the case number(s). Here is sample language you can use:

I, [your name] declare that I am the appellant in the above-referenced matter, and that I an indigent and unable to afford counsel. My total assets are [describe any money or property you own] and my monthly income is [describe any income you receive from work, public benefits or investments]. I hereby request that counsel be appointed in this matter so that my interests may be protected by the professional assistance required. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this date: [fill in date and sign your name]. A list of the addresses of state courts of appeal is attached to this letter.

If the Court needs more information about your financial situation, it will send you another form to fill out. If you qualify for an appointed attorney, the court will assign a lawyer from a panel of attorneys who handle criminal cases. There are appellate program offices that screen the panel attorneys to make sure they are competent to handle criminal appeal cases. The appellate program offices also provide the panel attorneys with training, assistance and supervision. You will receive a notice of your appointed attorney's name and address.

3. Organizations that Can Help with Getting Your Appeal Started

There are appellate project or program offices that can help you get your appeal started and help with problems that arise in communicating with your lawyer or other parts of the appeal process. There are five appellate program offices that divide up responsibility for the various counties in California. When you write the an appellate program office, you should try to include the county in which you were convicted, the case number(s), the date you were sentenced, and whether you were convicted by a guilty plea or by a trial.

If you were convicted in the county of Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Solano or Sonoma, write to:

First District Appellate Project
730 Harrison Street
Suite 201
San Francisco, CA 94107

If you were convicted in the county of Monterey, San Benito, Santa Clara, or Santa Cruz, write to:

Sixth District Appellate Program
100 N. Winchester Blvd.
Suite 310
Santa Clara, CA 95050

If you were convicted in the county of Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Kern, Kings, Lassen, Madera, Mariposa, Merced, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, or Yuba write to:

Central California Appellate Project
2407 J Street
Suite 301
Sacramento, CA 95816

If you were convicted in the county of Los Angeles, San Luis Obispo, Santa Barbara or Ventura, write to:

California Appellate Project -LA
520 S. Grand, 4th Floor
Los Angeles, CA 90071

If you were convicted in the county of Imperial, Inyo, Orange, Riverside, San Bernardino or San Diego, write to:

Appellate Defenders, Inc.
555 West Beech Street
Suite 300
San Diego, CA 92101

4. Other Ways to Challenge a Criminal Convictions of Sentence ("Collateral Attacks")

In a direct appeal case, the Court of Appeal can consider only information that was presented in the superior court through documents, other evidence, testimony or arguments by the attorneys. If your issues are based on evidence or information that is not in the transcripts of the superior court proceedings, then the only way you can raise those issues is by filing a petition for writ of habeas corpus. A habeas corpus petition is sometimes called a "collateral attack" on the criminal conviction or sentence. Examples of issues that might need to be raised in a habeas corpus petition are a claim that your attorney provided ineffective assistance by failing to present witnesses or evidence at your trial or a claim that the district attorney presented false evidence. Another type of issue that might need to be brought in a habeas corpus case is a claim that the court misinformed you about the consequences of your decision to plead guilty and that you would not have pled guilty if you knew the true consequences. Whether you file your habeas corpus petition in the superior court or the court of appeal may depend on several factors, including whether you have a direct appeal case going at the same time. If you are being represented by an attorney in a direct appeal case, your attorney might be able to prepare a habeas petition for you. Thus, you should make sure to tell your appeal attorney about things that happened during your case that you think were unfair and that may not be included in the official trial court transcripts.

The Prison Law Office does not represent prisoners in habeas corpus cases challenging criminal convictions. However, we can provide a free self-help manual on how to file a petition for writ of habeas corpus in state court. We can also provide a free manual on how to file a habeas corpus petition in federal court if the state courts rule against you in your direct appeal or state habeas corpus cases. There is also information on direct appeals and habeas corpus petitions in the Prison Law Office's publication, *The California State Prisoners Handbook, Fourth Edition* (4th ed. 2008 and periodic supplements). More extensive information on direct appeals and habeas corpus petitions can be found in *Appeals and Writs in Criminal Cases* (updated periodically), published by the Continuing Education of the Bar, 300 Frank H. Ogawa Plaza, Suite 410, Oakland, CA 94612-2001. These publications, as well as forms for filing petitions for writ of habeas corpus, should be available in the prison law library.

Attachments:
Notice of Appeal/Request for Certificate of Probable Cause form (CR-120)
List of California courts

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*:	*FOR COURT USE ONLY*
TELEPHONE NO.: FAX NO.:	
ATTORNEY FOR *(Name)*:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF	
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
Date of birth: _____ Cal. Dept. of Corrections and Rehabilitation No. (if any): _____	
NOTICE OF APPEAL—FELONY (DEFENDANT) **(Pen. Code, §§ 1237, 1237.5, 1538.5(m); Cal. Rules of Court, rule 8.304)**	CASE NUMBER(S):

NOTICE

- **You must file this form in the SUPERIOR COURT WITHIN 60 DAYS after the court rendered the judgment or made the order you are appealing.**
- **IMPORTANT:** If your appeal challenges the validity of a guilty plea, a no-contest plea, or an admission of a probation violation, you must also complete the Request for Certificate of Probable Cause on page 2 of this form. (Pen. Code, § 1237.5.)

1. Defendant appeals from a judgment rendered or an order made by the superior court.

   NAME of defendant:

   DATE of the order or judgment:

2. ***Complete either item a. or item b. Do not complete both.***

   a. If this appeal is after entry of a plea of guilty or no contest or an admission of a probation violation, check all that apply:

   (1) ☐ This appeal is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea. (Cal. Rules of Court, rule 8.304(b).)

   (2) ☐ This appeal is based on the denial of a motion to suppress evidence under Penal Code section 1538.5.

   (3) ☐ This appeal challenges the validity of the plea or admission. *(You must complete the Request for Certificate of Probable Cause on page 2 of this form and submit it to the court for its signature.)*

   (4) ☐ Other basis for this appeal *(you must complete the Request for Certificate of Probable Cause on page 2 of this form and submit it to the court for its signature) (specify):*

   b. For all other appeals, check one:

   (1) ☐ This appeal is after a jury or court trial. (Pen. Code, § 1237(a).)

   (2) ☐ This appeal is after a contested violation of probation. (Pen. Code, § 1237(b).)

   (3) ☐ Other *(specify)*:

3. ☐ Defendant requests that the court appoint an attorney for this appeal. Defendant ☐ was ☐ was not represented by an appointed attorney in the superior court.

4. Defendant's mailing address is: ☐ same as in attorney box above.
   ☐ as follows:

Date:

(TYPE OR PRINT NAME) ▶ (SIGNATURE OF DEFENDANT OR ATTORNEY)

Form Approved for Optional Use
Judicial Council of California
CR-120 [Rev. January 1, 2010]

Penal Code, §§ 1237, 1538.5(m);
Cal. Rules of Court, rule 8.304
www.courtinfo.ca.gov

PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	CASE NUMBER(S):

REQUEST FOR CERTIFICATE OF PROBABLE CAUSE

I request a certificate of probable cause. The reasonable constitutional, jurisdictional, or other grounds going to the legality of the guilty plea, no-contest plea, or probation violation admission proceeding are *(specify):*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT OR ATTORNEY)

COURT ORDER

This Request for Certificate of Probable Cause is *(check one):* ☐ granted ☐ denied.

Date:

JUDGE

LIST OF CALIFORNIA STATE COURTS

(and state prisons in those court districts)
(updated January 2012)

California State Superior Courts

Alameda County Superior Court
1225 Fallon Street
Oakland, CA 94612

Alpine County Superior Court
14777 State Route 89
PO Box 518
Markleeville, CA 96120

Amador County Superior Court
500 Argonaut Lane
Jackson, CA 95642
Mule Creek State Prison

Butte County Superior Court
One Court Street
Oroville, CA 95965

Calaveras County Superior Court
891 Mountain Ranch Road
San Andreas, CA 95249

Colusa County Superior Court
532 Oak St.
Colusa, CA 95932

Contra Costa County Superior Court
725 Court Street
Martinez, CA 94553-1233

Del Norte County Superior Court
450 H Street, Room 209
Crescent City, CA 95531
Pelican Bay State Prison

El Dorado County Superior Court
495 Main Street
Placerville, CA 95667

Fresno County Superior Court
1100 Van Ness
Fresno, CA 93724-0002
Pleasant Valley State Prison

Glenn County Superior Court
526 West Sycamore Street
Willows, CA 95988

Humboldt County Superior Court
825 Fifth Street
Eureka, CA 95501

Imperial County Superior Court
939 West Main Street
El Centro, CA 92243
Calipatria State Prison, Centinela State Prison

Inyo County Superior Court
168 Edwards Street
Independence, CA 93526

Kern County Superior Court
1415 Truxtun Avenue
Bakersfield, CA 93301
Cal. Correctional Institution, Kern Valley State Prison, North Kern State Prison, Wasco State Prison

Kings County Superior Court
1426 South Drive
Hanford, CA 93230
Avenal State Prison, CSP-Corcoran, Substance Abuse Treatment Facility

Lake County Superior Court
255 North Forbes Street
Lakeport, CA 95453

Lassen County Superior Court
220 South Lassen Street
Susanville, CA 96130
California Correctional Center, High Desert State Prison

Los Angeles County Superior Court (main criminal)
210 W. Temple St.
Lancaster, CA 90012
CSP-Los Angeles County

Madera County Superior Court
209 West Yosemite Avenue
Madera, CA 93637
Central California Women's Facility, Valley State Prison for Women

Marin County Superior Court
3501 Civic Center Dr.
PO Box 4988
San Rafael, CA 94913
CSP-San Quentin

Mariposa County Superior Court
5088 Bullion Street, PO Box 28
Mariposa, CA 95338-0028

Mendocino County Superior Court
100 North State Street, Rm 108
Ukiah, CA 95482

Merced County Superior Court
2260 N Street
Merced, CA 95340-3744

Modoc County Superior Court
205 South East Street
Alturas, CA 96101

Mono County Superior Court (south county) or **Mono County Superior Court** (north county)

PO Box 1037
Mammoth Lakes, CA 93546

PO Box 537
Bridgeport, CA 93517

Monterey County Superior Court (criminal)
240 Church St
Salinas, CA 93901
Correctional Training Facility, Salinas Valley State Prison

Napa County Superior Court
825 Brown Street
Napa, CA 94559

Nevada County Superior Court
201 Church Street, Suite 5
Nevada City, CA 95959

Orange County Superior Court (criminal)
P.O. Box 1138
Santa Ana, CA 92702

Placer County Superior Court
10820 Justice Center Dr.
P.O. Box 619072
Roseville, CA 95561

Plumas County Superior Court
520 Main Street, Room 104
Quincy, CA 95971

Riverside County Superior Court (criminal)
4100 Main St
Riverside, CA 92501
California Rehabilitation Center, Chuckawalla Valley State Prison, Ironwood State Prison

Sacramento County Superior Court
720 9th Street
Sacramento, CA 95814
CSP-Sacramento, Folsom State Prison

San Benito County Superior Court
440 5th Street
Hollister, CA 95023-3892

San Bernadino County Superior Court
351 N. Arrowhead Ave.
San Bernardino, CA 92415
California Institution for Men, California Institution for Women

San Diego County Superior Court
220 W. Broadway
San Diego, CA 92101
Richard J. Donovan Correctional Facility

San Francisco County Superior Court (criminal)
850 Bryant Street
Francisco, CA 94103

San Joaquin County Superior Court
222 East Weber Avenue #303
Stockton, CA 95202
Deuel Vocational Institution

San Luis Obispo County Superior Court
1035 Palm Street, Room 385
San Luis Obispo, CA 93408
California Men's Colony

San Mateo County Superior Court
400 County Center
Redwood City, CA 94063

Santa Barbara County Superior Court
PO Box 21107
Santa Barbara, CA 93121

Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

Santa Cruz County Superior Court
701 Ocean Street
Santa Cruz, CA 95060

Shasta County Superior Court
1500 Court Street
Redding, CA 96001

Sierra County Superior Court
100 Courthouse Square
PO Box 476
Downieville, CA 95936

Siskiyou County Superior Court
311 4th St.
P.O. Box 1026
Yreka, CA 96097

Solano County Superior Court
600 Union Avenue
Fairfield, CA 94533
California Medical Facility, CSP-Solano

Sonoma County Superior Court
600 Administration Drive, #107J
Santa Rosa, CA 95403-2818

Stanislaus County Superior Court
PO Box 3488
Modesto, CA 95353

Sutter County Superior Court
446 2nd Street
Yuba City, CA 95991-5525

Tehama County Superior Court
445 Pine Street
PO Box 170
Red Bluff, CA 96080

Trinity County Superior Court
11 Court Street
PO Box 1258
Weaverville, CA 96093

Tulare County Superior Court
221 S. Mooney, Room 201
Visalia, CA 93291

Toulumne County Superior Court
41 West Yaney Avenue
Sonora, CA 95370
Sierra Conservation Center

Ventura County Superior Court
PO Box 6489
Ventura, CA 93006-6489

Yolo County Superior Court
725 Court Street
Woodland, CA 95695

Yuba County Superior Court
215 Fifth Street, Suite 200
Marysville, CA 95901-5794

California State Courts of Appeal

First District Court of Appeal
350 McAllister Street
San Francisco, CA 94102
Pelican Bay State Prison, San Quentin State Prison, California Medical Facility, CSP-Solano
Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Solano, and Sonoma counties

Second District Court of Appeal
300 Spring Street, Floor 2, North Tower
Los Angeles, CA 90013
CSP-Los Angeles County
Los Angeles, San Luis Obispo, Santa Barbara, and Ventura counties

Third District Court of Appeal
621 Capitol Mall, 10th Floor
Sacramento, CA 95814
Mule Creek State Prison, California Correctional Center, High Desert State Prison, Folsom State Prison, Deuel Vocational Institution; CSP-Sacramento
Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo, and Yuba counties

Fourth District Court of Appeal, Division 1
750 B Street, Suite 300
San Diego, CA 92101
Richard J. Donovan Corr. Fac., Centinela State Prison, Cal. Rehabilitation Center, Calipatria State Prison
Imperial and San Diego counties

Fourth District Court of Appeal, Division 2
3389 12th Street
Riverside, CA 92501
California Institute for Women, California Institute for Men, Chuckawalla Valley State Prison, Ironwood State Prison, California Men's Colony
Inyo, Riverside, and San Bernadino counties

Fourth District Court of Appeal, Division 3
P.O. Box 22055
Santa Ana, CA 92702
Orange County

Fifth District Court of Appeal
2424 Ventura Street
Fresno, CA 93721
CSP-Corcoran, Substance Abuse Treatment Facility, Sierra Conservation Center, Pleasant Valley State Prison, California Correctional Institution, Kern Valley State Prison, North Kern State Prison, Wasco State Prison, Central California Women's Facility, Valley State Prison for Women, Avenal State Prison
Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne counties

Sixth District Court of Appeal
333 West Santa Clara Street, Suite 1060
San Jose, CA 95113
Correctional Training Facility, Salinas Valley State Prison
Santa Clara, Santa Cruz, Monterey and San Benito counties

California State Supreme Court

California Supreme Court
350 McAllister Street
San Francisco, CA 94102