# We the People

## Legal Primer

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**Introduction**

**Supreme Power**

Democracy means a form of government in which the sovereign power resides in the citizens either directly or indirectly through a system of representation. Thomas Jefferson, the primary author of the Constitution of the United States and the third President of the United States, referred to the American people as the permanent “repository” (security vault) of the supreme power in the United States.

**Supreme Law**

Law differs from power. The people, through their supreme power, create and empower law — meaning rules that all people must obey in order to protect the freedoms and rights of everyone. In Article VI of the Constitution of the United States of America, the authors, in representing the people, wrote: “This Constitution ... shall be the supreme law of the land...”

**The We the People Legal Primer**

The American people declare the Constitution of the United States of America as “the supreme law of the land;” with the powers of the federal and state legislatures, executives, and judiciaries depending from it. With this in mind, the *We the People Legal Primer* begins with the Constitution of the United States of America, and it borrows the Constitution’s first three words for use in its title.

**Recommended Legal Advice**

Incarcerated pro se defendants should obtain legal advice from primary and secondary authorities (publications), lawyers, legal associations, law school students, and jailhouse lawyers.

**Holistic Vision**

This primer provides a holistic view of pro se legal research by addressing all aspects of the law — the physical, the mental, the emotional, and the spiritual.

**Our World**

Our world, after all, consists of people. All the laws, technologies, and good surely amount to nothing if they do not further the lives of the people.

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The Constitution of the United States of America

May 2004

We the People of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Article One
Section 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of members chosen every second year by the people of each State, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature; and they shall have power to caucasus or home constituted, to do business; but a smaller number, not less than two thirds of the whole, may be present. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house, at the desire of one fifth of those present, shall be entered on the journal. Neither House, during the session of Congress, shall, without the consent of the Senate, be adjourned for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury; and no person shall be a Senator or Representative who shall not have attained to the age of thirty years, and been nine years a citizen of the United States. No Senator or Representative shall receive, directly or indirectly, any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Section 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; grant titles of nobility.

Section 19. The屋 of Representatives shall at a stated time, keep a register of its proceedings, and shall be responsible for them.

Section 20. No state shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties, and imports laid by any state on imports exported from another, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of Congress.

Section 24. The Congress shall have power to declare the laws in force in the several states when they shall be called into execution by the President of the United States.

Section 25. The Congress shall have power to execute the laws of the Union, throughout the same, under their direction and control.

Section 26. The Congress shall have power to set aside the advancement of the United States, to the President of the United States, to the Congress of the United States, to the Auditor of the United States, and to the Clerk of the United States. The Congress shall have power to set aside the advancement of the United States, to the President of the United States, to the Congress of the United States, to the Auditor of the United States, and to the Clerk of the United States. The Congress shall have power to set aside the advancement of the United States, to the President of the United States, to the Congress of the United States, to the Auditor of the United States, and to the Clerk of the United States.
the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation, or incapacity of the President or Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President or Vice President be elected. The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he is elected, and he shall not receive within that period any other emolument from the United States, or any of them. — Before he enter on the execution of his office, he shall take the following oath or affirmation: — “I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and to the best of my ability, preserve, protect and defend the Constitution of the United States.”

Section 2. The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment. — He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur, and he shall nominate, and by his advice and consent appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law, but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments. — The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by making recess appointments which shall expire at the end of their next session.

Section 3. He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between a state and citizens of another state; — between a state and citizens or subjects of any foreign state; — between citizens or subjects of different states; — between a state and citizens of any foreign state; — or citizens of any state under claim of adverse possession of lands under grants of different states, and to controversies to which the United States shall be a party; — to the judicial power of the United States, to make all needful rules and regulations respecting the exercise of their judicial functions, and exceptions to the laws of the Union. — He shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

Section 4. The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Article III

Section 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Section 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under the authority thereof; — to all cases affecting ambassadors, other public ministers and consuls, — to all cases of admiralty and maritime jurisdiction; — to controversies to which the United States shall be a party; — to controversies between a state and citizens of another state; — between a state and citizens of different states; — between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects thereof. — In all cases affecting ambassadors, other public ministers and consuls, citizens of one state claiming lands under grants of another state, and citizens of every state or the citizens of any foreign state, there shall be original jurisdiction. — In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make. — The Trial of all crimes, except in cases of impeachment, shall be by jury. — When in any state the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall be violated, the Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall compell'd in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

Amendment VII

In suits at common law, where the value in controversy shall not exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Amendment XI

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

Amendment XII

The electors shall meet in their respective states and vote by ballot for President and Vice President, one of whom at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons named in such ballots, on a majority of the electors present, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. — The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and count the votes; the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose one of them by ballot, but a quorum of the House of Representatives shall not be necessary to the choice. — The person having the greatest number of votes for Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number present shall be necessary to a choice. — But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Amendment XIII

[1865]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

May 2004

We the People” Legal Primer

First Edition Condensed

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Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

Amendment XIV [1868]
Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state within which they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President, or for representatives in Congress, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens bears to the whole number of male citizens twenty-one years of age in such state.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of the House of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Amendment XV [1870]
Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XVI [1913]
The Congress shall have power to lay and collect taxes on income, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

Amendment XVI [1913]
The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote. The senators from each state shall be apportioned according to their respective numbers, counting the whole number of persons in each state, excluding slaves. When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies. Provided that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct. — This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Amendment XVII [1919]
Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, or between the states, for any other use than as a beverage shall be prohibited, except as for the consumption of the person importing or holding them, or as may be necessary in transportation therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 2. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress.

Amendment XX [1933]
Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which they shall have been elected; if not, then at the time appointed by law. But Congress may by law provide for the case of a recess prior to the time fixed for the beginning of the term, or if the President elect shall have died, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, and such person shall act accordingly until a President or Vice President shall be qualified.

Section 3. The Congress may by law provide for the case of a recess prior to the time fixed for the beginning of the term, or if the President elect shall have died, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, and such person shall act accordingly until a President or Vice President shall be qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may fail to choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three fourths of the several states within seven years from the date of its submission.

Amendment XXI [1933]
Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any state, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three fourths of the several states within seven years from the date of the submission hereof to the states by the Congress.

Amendment XXII [1951]
Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or of his death or resignation, the Vice President shall become President. But this article shall not prevent any person who may have held the office of President, when the term for which he held that office shall have ended, from again being chosen to the office of President, nor shall Congress by any law, prior to the year two thousand eight, exclude any person who served as Vice President of the United States, and was not selected as the candidate of a political party for President on the ticket on which he or she served as Vice President, at the time of the selection of the candidate for the office of President. 

Section 2. No person except a natural born citizen, or a citizen of the United States, at the time of the Adoption of the Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States. 

Section 3. In case of the removal of the President from office, or of his death or resignation, the Vice President shall become President. 

Section 4. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress. 

Section 5. When the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Section 6. The President shall, in case of the removal of the President from office, or of the President’s death or resignation, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that the President is unable to discharge the powers and duties of his office. 

Section 7. The Congress may, by law, be authorized to create a Council of President, consisting of not more than five persons, to whom all power under this article pertaining during the fourty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the last written declaration, or, if Congress be not in session, within twenty-one days after Congress is required to assemble, determines by a two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Amendment XXVI [1971]
Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, shall be the same in all States, and in all political subdivisions thereof, as the right of the citizens of the several States, and they shall be eligible to all offices under them.

Section 2. The Congress shall have the power to enforce this article by appropriate legislation.

Amendment XXVII [1992]
No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

The Bill of Rights for Criminal Defendants

The United States Bill of Rights provides protections against infringement of the right to a fair trial. The protections consist of two types: (1) rights that a defendant can exercise, and (2) prohibitions for the government to take. The United States Bill of Rights is a living document, and the Amendment of the US Constitution applies these protections to criminal defendants in cases brought by states.

Protection by Amendment XVIII. The US Bill of Rights protects a defendant as outlined as follows.

First Amendment. Provision for: access to the courts.

Fourth Amendment. Prohibition against unreasonable search and seizure of persons or things.

Fifth Amendment. Provision for: grand jury indictment for averting crimes. Prohibitions against: double jeopardy, compulsory self-incrimination, and deprivation of life, liberty, or property with due process.

Sixth Amendment. Provision for: adequate notice of accusation, assistance of counsel, speedy trial, public trial by jury of peers, compulsory process for obtaining witnesses, and confronting adverse witnesses.

Eighth Amendment. Prohibition against: excessive bail, excessive fines, and cruel or unusual punishment.
AN OVERVIEW OF STATE CONSTITUTIONS

(Space limitations do not allow the reproduction of the analysis of the 50 state constitutions, thus the section may be an overview of them.)

Each of the 50 states has enacted its own constitution, and each state constitution contains a bill of rights to protect citizens from unnecessary governmental intrusion into individual liberties. Amendments may go farther than the US Constitution in the rights they explicitly extend to state residents. For example, the US Constitution does not explicitly give citizens the right to use obscene speech and print obscene literature, but Oregon's constitution specifically prohibits obscenity as free speech.

While a state can give its citizens broader rights than those in the US Constitution, it cannot narrow the rights set forth in the US Constitution. For example, the US Supreme Court would strike down a state constitutional provision that banned all firearms as violating the US Constitution's Second Amendment's guarantee of the right to bear arms.

State constitutions contain provisions that determine the way in which a state exercises its "police power"—meaning its right to pass laws that protect public morals, safety, and well-being. For example, a state exercises its police power when it regulates schools as licensing requirements for professionals, health standards for restaurants and theatres, and vaccination requirements for school children.

And, like the US Constitution, state constitutions also contain provisions specifying the procedures for their own amendment.

INTERPRETATIONS OF THE CONSTITUTION

Introduction. Five sources have guided the courts in interpreting the Constitution:

1. the text and structure of the Constitution,
2. the intentions of those who either drafted, voted to propose, or voted to ratify the provision in question,
3. prior precedents (usually judicial),
4. the social, political, and economic consequences of alternative interpretations, and
5. natural law.

Influence. Interpreters of the Constitution generally agree that the first two of these sources provide appropriate guidance for interpretation, but they certainly disagree as to the relative importance of each when they guide the courts in different directions. Many interpreters consider the consequences of alternative interpretations (#4 above) as irrelevant, even when the other sources of guidance (#1 through #3) neutralize each other. Interpreters often disagree about natural law (#5).

In practice, disagreement between originalists and non-originalists often concerns whether to apply heightened judicial scrutiny to certain "fundamental rights" which the text of the Constitution does not explicitly protect.

Definitions.

"Textualist" refers to an originalist who gives primary weight to the text and structure of the Constitution. Textualists often doubt the ability of judges to determine collective "intent." "Intentionalist" refers to an originalist who gives primary weight to the intentions of the Constitution's framers, members of proposing bodies, and ratifiers.

"Pragmatist" refers to a "non-originalist" who gives substantial weight to judicial precedent or the consequences of alternative interpretations, so as to sometimes favor a decision "considered second from the original view but "right" because it promotes stability or in some way promotes the public good.

"Natural law theorist" refers to a "non-originalist" who believes that higher moral law ought to triumph over inconsistent positive law.

Justifications for Non-originalism.

- Originalism reduces the likelihood that unelected judges will seise the raw power of elected participants. originalism in the long run better preserves the authority of the Court.
- Non-originalism allows too much room for judges to impose their own subjective and elitist views. Judges need neutral, objective decision-making tools to make legitimate decisions. The understanding of the framers and ratifiers of a constitutional clause provides those neutral criteria.
- Lochner v. New York (a decision widely considered as a bad non-originalist ruling) may go farther than the US Constitution in the rights they explicitly extend to state residents. For example, the US Constitution does not explicitly give citizens the right to use obscene speech and print obscene literature, but Oregon's constitution specifically prohibits obscenity as free speech.
- Originalism more often forces legislatures to reconsider and possibly overturn their own bad laws, rather than to leave it to the courts to get rid of them.

Justifications for Originalism.

- The framers at the Convention in Philadelphia indicated that they did not want their specific intentions to control interpretations of the Constitution. If the Constitution is law, then presumably, like all other law, the meaning the framers intended is as binding upon all judges as it is upon legislatures and executives. There is no other sense in which the Constitution can be what article VI proclaims it to be: Law... This means, of course, that a judge, no matter on what court he sits, may never create new constitutional rights or destroy old ones. Any time he does so, he violates not only the limits of his own authority but, for that reason, also violates the intentions of the framers and the people...the philosophy of original understanding is thus a necessary inference from the structure of government apparent on the face of the Constitution.

THE HISTORY OF LAW

Ur-Nammu's Code, 2350 BC. The Sumerian King Ur-Nammu founded and ruled the third dynasty of the ancient city of Ur. Ur-Nammu promulgated the oldest code of law yet known, consisting of a prologue and seven laws, although of such poor physical condition that critics can decipher only five of its articles. Archaeological evidence shows that an advanced legal system supported it. This system included: specialists and judges, the giving of oaths, the proper form of judicial decisions, and the ability of the judges to order that a guilty party pay damages to a victim. The Code allowed for the dismissal of corrupt officials, protection for the poor, and a criminal system proportional to the crime. Although called "Ur-Nammu's Code," scholars generally agree that his son Shugli wrote it.

Hammurabi's Code, 1700 BC. The Babylonian king Hammurabi created the Code of Hammurabi. It established the greatness of Babylon, the world's first metropolis. His officers developed a code of laws and had them carved on a huge rock column. Judges could use his law as the first example of a ruler to publicly proclaim an entire body of law to the people. The expression "an eye for an eye" has come to symbolize the principle behind Hammurabi's code—meaning that the bodily damage of the punishment could equal but not exceed the bodily damage caused by the crime. Although some people may think that the code involves barbaric punishments, it actually limited the more extreme brutalities previously practiced under older laws. The code contains 282 clauses regulating a vast array of obligations, professions and rights including commerce, slavery, assault, marriage, divorce, inheritance, and murder. It punished a thief with the cutting off a finger or a hand, punished a man who kissed a married woman with the cutting of her second child and place it in a foster home. ... We find it necessary to prevent persons from seeing the punishment as barbaric. The law prescribed the death penalty for more serious crimes, such as, perjury in a capital case, theft of temple, temple selling and eating, and kidnapping. The law punished a thief with the cutting off a finger or a hand, punished a man who kissed a married woman with the cutting of her second child and place it in a foster home. The Code prohibited anyone who defamed another with cutting out the person's tongue.

The Ten Commandments, 1300 BC. According to the Bible, Moses received a list of ten laws directly from God. Known as the Ten Commandments and written as part of the Book of Moses, they became part of the Bible. Many of the Ten Commandments survive in Judeo-Christian cultures as moral forms of "Do not kill," "Do not steal," and "Do not lie about others."

Draco's Law, 621 BC. Draco, a Greek citizen, wrote the first written laws of Athens (in ancient Greece). The code punished many offenses with death; thus, the English word "draconian" (drah-KOH-ne-ee-an) came from his name and means an unreasonably harsh law. These laws introduced the idea of the state's exclusive role in punishing persons accused of crime, instead of relying on private justice which citizens previously practiced.

Twelve Tables of Rome, 450 BC. (“Duodecibum Tabularem” in Latin) Experts consider the Twelve Tables of Rome as the most important work in Roman law. Thirty-five hundred years ago during the early formation of Rome, the patricians (pah-trish-uhn) (the nobles) controlled all the rights and privileges of the plebeians (pluh-BEE-uhn), the common people. The patrician judges kept the law in their collective minds and, thus, away from the plebeians (the common people). The plebeians (pah-BEE-uhn) or plebees (PLEE-beez), on the other hand, had the burdens of paying taxes and serving in the military. In about 450 BC, the plebees called a strike to protest the unfair advantages of the patricians. The patricians capitulated and gave the plebees more control over the government and allowed them to elect officials to represent them. Roman citizens elected the Decemvirs to make the code (meaning "ten men") and gave them the unprecedented powers to draft the statutes of the early Roman Republic. Twelve Decemvirs traveled to Greece to learn about law and life there as well as in other Greek communities. The Decemvirs then codified the customary Roman laws, including some Greek elements, and put them on public display. They invited all of Rome to come and personally consider them, to discuss them with friends, and to bring any desired changes to public hearings. Thus, each citizen had a fair say in the laws and was allowed to vote for elements of the law. The Roman government then inscribed the laws onto bronze tablets— the Twelve Tables of Rome— and put them on public display (the Twelve Tables of Rome are known as the Twelve Tables of Rome). The Twelve Tables of Rome allowed the people to learn and understand the law, and generations of schoolchildren memorized them.

The Twelve Tables codified and promoted the method of public prosecution of crimes and instituted a system for injured parties to seek just compensation in civil disputes. The Twelve Tables protected the plebeians from the legal abuses of the ruling patricians. No longer would the memories and interpretations of judges (composed only of patricians) act as
the sole foundation of justice. The desire and creation of the
Twelve Tables established the basic principle of a written legal
law. Perhaps most importantly, the Twelve Tables formed an important basis of all subsequent western civil and criminal law.

The Twelve Tables and their subject matter:

I. – Preliminaries to the law; II. – The Table;
III. – Debt; IV. – Rights of fathers over the family; V. – Inheritance and Guardianship; VI. – Acquisition, Ownership, and Possession; VII. – Rights concerning land and real estate; VIII. – Torts or Delicts; IX. – Public law; X. – Sacred law; XI. – Marriage laws; XII. – Binding public powers.

The Gauls destroyed the Twelve Tables when they sacked Rome in 390 B.C., almost 800 years after their creation. Several documents have survived which refer to parts of the different Twelve Tables; thus, some information exists as to their contents.

Justianis's Code, or Corpus Juris Civiles, 529 AD. Modern legal scholars remember Justian, a Roman, mostly for his codification of Roman Law in a series of books called Corpus Juris Civiles. His work was inspired by the Twelve Tables of Roman law; the barons and the bishops along the south bank of the River Thames in a meadow called Runnymede assembled in the presence of the barons and the bishops along the south bank of the River Thames in a meadow called Runnymede and affixed his seal to the Magna Carta. This is collection served as an important basis for law and, now, as the foundation of the constitution of every English speaking nation. The Magna Carta attempted to codify the relationships between the three great powers in the law at that time: the King and his state apparatus, the Church, and the barons. Such power problems ultimately led by the Pope, and the Barons (the leading nobles) to demand the Magna Carta. John tried to gather support, but almost all of his subjects who refused to pay. Charles signed the petition in exchange for parliamentary approval of funds needed to provide funding. Charles had arbitrarily imprisoned those servants. He meant to secure an agreement among the colonists aboard the Mayflower, a ship, to establish a society separate from England. The British jurist and legal scholar William Blackstone wrote his commentary on it in 1759, and William Blackstone wrote his commentary on it in 1759. The American Bar Association provided a modern commentary on it in 1759, and William Blackstone wrote his commentary on it in 1759. The American Bar Association provided a modern commentary on it in 1759, and William Blackstone wrote his commentary on it in 1759.

In 1986, almost 800 years after the creation of the Magna Carta, Britain's Lord Bingham wrote, "Historically, the constitutional significance of Magna Carta has depended much less on what the charter said, than on what it was thought to have said. What it was thought to have said was more significant than the content of any written document, with the aid of some statutory reinforcement, over succeeding centuries. It was this process which led to the English Bill of Rights, the first of the Magna Carta's provisions in its battles against the crown, the constitution of the United States, and the constitution of the Republic of India.

Mayflower Compact, 1620. A quick-draft civil document meant to secure an agreement among the colonists aboard the Mayflower, a ship, to establish a society separate from England. It began the development of an American federal government. It and the Constitution contained many of the same or similar principles and provisions. The people eventually established the Constitution because it "formed a more perfect Union."

The English Bill of Rights, 1689. The Bill of Rights was the subject of constant development, with the aid of some reinforcement, over succeeding centuries. The Bill of Rights was declared itself as the supreme law in the United States, and it that overrides other laws inconsistent with it. From the European viewpoint, the Constitution seemed to have serious weaknesses. The American Constitution seemed to weaken it further.

Instead of setting up the strongest possible government, the American revolutionists set up the weakest possible central government with most of the power remaining with the people and the states. The constitutions of the American colonies during the first century of American independence existed. The American Constitution existed. The Constitution defined the institutions of government and the powers and duties of the legislative, executive, and judicial branches. The Constitution also declared itself as the supreme law in the United States, and that it overrides other laws inconsistent with it. From the European viewpoint, the Constitution seemed to have serious weaknesses. The American Constitution seemed to weaken it further. Instead of setting up the strongest possible government, the American revolutionists set up the weakest possible central government with most of the power remaining with the people and the states. The constitutions of the American colonies during the first century of American independence existed. The American Constitution existed. The Constitution defined the institutions of government and the powers and duties of the legislative, executive, and judicial branches. The Constitution also declared itself as the supreme law in the United States, and that it overrides other laws inconsistent with it.
America can rightly claim authorship to this single most important innovation in political principles since the beginning of recorded history. The American Bill of Rights continues to influence many modern charters or bills of rights in countries around the world.

Marbury v. Madison, 1803. In Marbury v. Madison, the United States Supreme Court declared the supremacy of the Constitution and stated unequivocally that the Supreme Court had the power of "judicial review" – to strike down actions taken by American federal legislative bodies which, in its opinion, offended the Constitution. The legal profession generally considers this case as the most important milestone in the history of American law since the Constitution.

SPEECHES AND OTHER WRITINGS

The Federalist Papers, 1787 – 1788. The first and most authoritative commentary on the US Constitution. After the Declaration of Independence and the US Constitution, it ranks as the third most important work in American political science. In 1787 and 1788, Alexander Hamilton, James Madison and John Jay published what came to be known as the Federalist Papers as a way of promoting ratification of the Constitution in newspapers in New York City. They intended them to help explain the Constitution (as well as condemn the Articles of Confederation), in order to guarantee New York’s ratification of it. By May 1788, they were also publishing the Federalist Papers as books, and their greatest use came as a kind of handbook for debates in New York and Virginia. The Federalist Papers constitute the US Constitution, its Amendments and, thus, it has little use for researchers of constitutional rights given in the Amendments to the Constitution.

George Washington’s Farewell Speech, 1796. "...the basis of our political systems is the right of the people to make an end to the countries and ties which were so long held together by these three heads, the American people set their liberty first. Some Americans take their freedoms for granted, but the Constitution exemplifies the greatness of America’s government. Some Americans take their freedoms for granted, but the Constitution exemplifies the greatness of America’s government. The blood then mutually shed has now become a common property of all. It finds a warm reverberation over the whole world, and is repeated in every nation, every race, every language, and every creed. It has been the basis of the American Republic.

Ancient Law, 1861. Sir Henry James Sumner Maine. Maine wrote this book to "indicate some of the earliest [legal] ideas of mankind as preserved by the fewest and clearest of those ideas to modern thought." He employed the method of understanding facts by tracing their origins and historical connections. Charles Darwin used this same historical understanding in his "On the Origin of the Species" (1859). The works of both authors belong to a wider movement that is including the historical method. Although modern legal scholars agree that Ancient Law has a few inaccuracies, professors of law usually assign it as a classic must-read.

Emblem of Good Will, 1926. An extraordinary gift from the Polish people to the American people on the 150th anniversary of the Declaration of Independence, which exemplifies the greatness of America’s government. The people of Poland, who have been succeeded by the Polish nation, have not forgotten the suffering and the hardships that were endured by the American people during the Great War of 1914.

BASIC JUDICIAL DOCTRINES

Supreme law. The writers and signers of the US Constitution included the definition of the Supreme Law of the land in it. In fact, the Constitution is a written statement of political principles, intended to serve as the supreme law of the land. As explained in the Declaration of Independence, the Supreme Law of the land is the law of the United States, which is the law of the Constitution of the United States. The Supreme Law of the land is the law of the Constitution, as described in the Declaration of Independence.

Empowers government. The US Constitution empowers the Congress to provide remedies for violations of the Constitution. The power of the Court to provide these remedies is essential to the preservation of the Constitution. The Court is the only institution that can effectuate the remedies that the people have a right to expect.

Separation of powers. The US Constitution grants powers specifically to each branch of government: the legislative, the executive, and the judicial. The powers of the legislative branch are to enact laws, and the powers of the executive branch are to execute laws, and the powers of the judicial branch are to interpret laws.

Reactive judiciary. The US Constitution grants the power to the judiciary to enforce the laws of the land as they are interpreted by the legislative and the executive branches. The judicial power is a sovereignty in itself, and it is the only sovereignty that can be questioned by the legislative and the executive branches.

The SOLUTION of the American Republic involves limiting that sovereignty to the sovereignty of the people, and that sovereignty is the only sovereignty that can be questioned by the people.

The American Republic: Division of Power

The people intended the United States of America as a republic and administered by representatives chosen directly or indirectly by the people to protect the interest of all the people. Ultimately, any government, regardless of its name, must consist of one person or a small group of persons in power of the majority of people. The solution of the American republic involves limiting that power, cutting it to an irreducible minimum without incorporating the dangers of anarchy.

A person sits as head of state and, obviously, that person thinks, decides, acts, and judges. In this new American republic, no top official could act as a whole person. The people decided to separate the main functions of government into three heads (almost literally).

The first part (called the Congress) thinks and decides. The second part (called the Executive) orders the action. The third part (called the Supreme Court) serves as judge or referee. No monarchy or dictatorship here -- no single person to make laws, order actions, and judge others. No. The American people granted those powers to their new government, however, with the understanding that they would be divided into three branches, and with each branch acting as a safeguard of the other two.

Over these three heads, the American people set their Constitution, a written document of political principles, intended as the strongest safeguard of all. This document defines the powers of the government run by principles and rules, and not a government run on notions or impulses. Thus, the American Constitution serves as an imperceptible restraint upon the persons with human weaknesses, whom the people allow to wield their power.

The American people, in their wisdom, have recognized the necessity of these three parts.

The creation of two or more districts within each state, for example, New York and California contain four districts each. Further increases in cases have prompted Congress to simply increase the number of judges in the districts rather than adding more districts. For example, the Southern District of New York City, which has 27 judges, and the four districts in California have a total of 42. A single judge, with a jury if requested, heard cases in the federal district courts.

Federal magistrates. Federal district courts employ, as part of its judiciary, a system of "magistrates" -- judicial officers appointed to full-time (6-year term) or part-time (4-year term) positions by the district court judge. The magistrates exercise the narrow powers formerly exercised by the predecessors, the United States commissioners, and broader powers included in the terms of the provisional judges and magistrates of the early Republic. This system of magistrates has been created for the district of Columbia, which is composed of districts with magistrate judges.

Courts of appeal. There is a system of three levels of appeal in the federal system. The first level, the district courts, are located in each of the 94 districts in the United States. The second level, the Courts of Appeal, are located in each of the 12 regional circuits that make up the United States. The third level, the Supreme Court, is the highest court in the land.

The Court can hear cases by itself or by itself and the Supreme Court.

The Supreme Court is the final interpreter of the Constitution. The Court can hear cases on appeal from the Courts of Appeal. The Court can hear cases on appeal by its own motion, or on motion of any party to a case. The Court has the power of judicial review, which means that the Court can declare any law or action of a government to be unconstitutional.

The Supreme Court has the power to interpret the Constitution, and it has the power to interpret the laws of the land as they are interpreted by the legislative and the executive branches. The judicial power is a sovereignty in itself, and it is the only sovereignty that can be questioned by the people.
The Jurisdiction of the Federal Judiciary

District courts. The limited scope of Article III of the US Constitution and the enactment of Congress to establish the inferior federal court’s subject matter jurisdiction. Thus, Congress grants the inferior court jurisdiction over “federal questions” (cases arising under the Constitution, treaties, and laws of the United States; diversity of citizenship) (cases between citizens of different states), and cases involving the United States as a party (including those of sovereign immunity and consent of the United States to subject itself to a suit). Criminal defendants can appeal decisions by their state’s highest court, if applicable, to the applicable federal district court. The best avenue of appeal involves “federal questions.”

Court of Appeals. The courts of appeal have jurisdiction over appeals from district courts and from some special agencies of the executive branch of government (like those with states as both parties or, more rarely, those with Ambassadors or other public ministers as parties). This court almost always relates suits between a citizen and a state to a state court. The Constitution empowered Congress to determine the Supreme Court. Congress saw fit to unburden the Court by allowing the bulk of its cases to fall under discretionary “certiorari” jurisdiction. In a nutshell, the Court’s Rule 19 shows propensities of the court to grant a writ of certiorari in the lower court: (1) has ruled contrary to decisions of the Supreme Court or other courts. (2) has decided an important question of federal law that should be settled by the Supreme Court, or (3) has departed too much from the “settled and usual course of judicial proceedings.” A party should not read into a denial of certiorari about the merits of the issues presented. 338 U.S. 912, 917-919 (1965).

However, a decision made after granting certiorari does favor the petitioner, and many dissent from the denial of the writ have discussed the merits of the issues. And a strong relationship does exist between a Justice’s vote on whether to grant certiorari and later vote on the merits of the appeal.

Congress also empowered the Supreme Court to exercise appellate jurisdiction, as a matter of right, over various classes of cases arising under federal laws and treaties and between a state and federal laws. Congress did drastically reduce a party’s ability to appeal to the Supreme Court directly from a district court in 1932 by keeping Supreme Court from becoming overloaded.

Pro se and Certiorari. Of the several thousand appeals to the Supreme Court by pro se defendants for writs of certiorari, the Court decides to hear a few dozen. In turn, that court’s clerk will assemble the record, a package of documents for the appellate court, which will help it understanding the events that transpired in the trial court. Except for indigent criminal defendants, the appellate counsel must pay the court reporter for the work to create the transcript. Creating the transcript and assembling the record may take several months and, in some busy courts, a year or more.

Appellate Docket. When the appellate court receives the record of appeal, its clerk will docket the case and assign a case number to it. A Federal Court of Appeals may docket a case and assign it a case number before the transcript has been filed. In this event, the court will request further filing motions until the transcript arrives in order to extend the time for filing the Brief for Appellant. A trial court that receives the record of appeal, its clerk will docket the case and assign a case number to it. A Federal Court of Appeals may docket a case and assign it a case number before the transcript has been filed. In this event, the court will request further filing motions until the transcript arrives in order to extend the time for filing the Brief for Appellant.

Clock starts. When the clerk docket the case, the clerk also notifies the attorney that the attorney should file the Brief for Appellant. Rules of the court in most jurisdictions allow 40 days for this filing. Upon the filing of the brief, the rules usually then allows the appellate 30 days to file its response called the Brief of Appellee. Upon filing of the Brief of Appellee, the rules usually allow the appellate 15 days to file its Reply Brief. In virtually every case, the appellate needs more than 40 days to file the briefs and usually files an extension of time. Courts typically grant one or two extensions. Some courts require special circumstances in order to grant more than two extensions.

Issues of appeal. Criminal defendants in prisons often misunderstand the powers of an appellate court and, thus, the issues of appeal that the court will consider. The judge, judges, or jury in the trial court already considered and determined many facts ultimately found in the case. An appellate court does not have the power nor the desire to retry the facts of the case. It can only jurisdiction to consider issues allowing errors in the execution of the law in the trial court and not issues alleging errors in the evidence and testimony in the case. The appellate court has only the transcript and the record of appeal before it.

Appellate attorneys. The appellant’s trial attorney may identify issues upon which the appellant can raise an appeal. However, appellate attorneys, who specialize in appeals, can usually find other issues as well. Although the attorney for an appellant usually tries to outdo the court’s record and work from the trial court’s record, the appellate court works with the same materials. More importantly, the appellate attorney often finds issues of appeal and raise them on appeal. This process is called “error” because the appellate attorney must convince the court of errors in the lower court’s decision. Many pro se prisoners seek post-conviction relief by appealing to the federal district courts.

Appellate Procedure. The Federal Rules of Appellate Procedure (FRAP) govern federal appellate courts. A state’s own rules of appellate procedure vary from state to state. Appellate Procedure consists of the rules and practices by which appellate courts review trial court judgments. Appellate review performs several functions, including the correction of errors committed by the trial court, achieving a uniform approach across courts, as well as the overall pursuit of justice.

Appellate procedure focuses on several main themes: the types of arguments an appellate attorney brings before the court, requirements for a reversal of the lower court (e.g., a showing of “abuse of discretion,” “clear error,” etc.), and what procedures parties must follow. Appeals commonly concern “extraordinary writs” to “final judgments.” However, notable exceptions to the “final judgment rule” include: instances of plain or fundamental error by the trial court, questions of subject-matter jurisdiction of the trial court, or constitutional questions.

Argument in appellate court centers on written briefs prepared by the parties. These state the questions on appeal and enumerate the legal authorities and arguments in support of each party’s position.

Only a few jurisdictions allow for oral argument as a matter of course. Where allowed, parties must intend to oral argument only to clarify legal issues presented in the briefs, and not to introduce new issues. Courts normally oral argument before hearing the briefs, and not to introduce new issues. Courts normally oral argument before hearing the briefs.
insufficient representation—errors made by the trial attorney—where the trial attorney may not care to admit, or which he does not recognize.

Appellate procedure. The appellate court considers and rules on issues of whether the trial court made mistakes of law which justify reversing or modifying the judgment in order to bring it into line with the law. It also considers whether the judge properly admitted evidence; whether the judge properly instructed the jury; whether the evidence viewed in favor of the winning party sufficiently supported the verdict; whether the court fairly selected jury members; whether pretrial publicity unfairly prejudiced the jury; whether the court improperly refused to allow appellant to admit exculpatory evidence or testimony; whether a lawful sentence was imposed. 

Appellate focus. Many criminal defendants believe that they must bombard the appellate court with every conceivable issue in order to ensure that they cover every possible angle to free themselves from imprisonment. Skillful appellate attorneys realize, however, that appellate courts spend limited time considering the stronger and more central issues. A bombardment of weak and peripheral arguments simply detracts from the credibility and character of the appellant’s brief. (Consider a man who tells a woman every possible reason why she should go to bed with him.)

Appellate review. The appellate court exercises a full review of an issue if defense counsel in the trial court objected on the record to the item alleged as an error. The court performs a “harmful error analysis” of the alleged error to determine whether it significantly prejudiced the appellate attorney’s defense in the trial court. If defense counsel failed to object in trial court, the appellate court only will review the issue for “plain error”—meaning that the court will reverse if no judge in his right mind would have committed the error which resulted in a gross miscarriage of justice. Appellate courts also analyze an alleged error for fundamental fairness to the proceeding itself. The appellate court will act on a “structural error” if it has been reversed by the decision of the trial court.

Affirmation sought. Appellate courts seek to find any way that they can uphold the judgments of the trial court because of strong social interests and finality. Appeals win by showing fundamentally unfair or improper event(s) in the trial court, and the appellate court will most likely reverse the judgment in order to protect the integrity of our system of law. A skillful and hard-working appellate attorney will persevere in persuading the appellate court that it best serves justice by reversing or, at least, modifying the judgment of the trial court.

Appellant brief. The appellant’s attorney must file the Brief of Appellant which contains: the Statement of the Case (the procedural history of the case—the what happened, when, and in which court it happened); a description of the issues in the case (as introduced at the trial court), an argument (the legal basis for the appeal for each error alleged with appropriate cites to constitutional law, statutes, rules, and case law); and a Conclusion (stating the relief that the appellate court should grant).

Most appellate courts limit the Brief of Appellant to 50 pages of double-spaced, one-inch margins at top, bottom, and right, and 1½ inches at the left. Some attorneys attempt to cheat these limitations by using word processors to expand the margins slightly and to place the lines slightly closer together, and by using many footnotes which don’t fall under the double-spaced limitation and, in some appellate courts, the titlepage limitation. The justice system developed these rules because human appellate judges face heavy workloads. Appellate judges feel cheated and abused by such cheap tricks.

The most convincing briefs will obey these limitations and, in fact, go one better by limiting the amount of footnotes, which disturbs the appellate judges who believe that all appellate judges are very busy, and don’t want to waste their time reading them. If the appellate briefs studying the brief will have a much more pleasant experience reading it, which contributes to its persuasiveness in the judges eyes, there is a higher chance that judges will follow your advice, and don’t anger the people who can grant you relief.

Appellee brief. The appellee will file its Brief of Appellee in response to the Brief of Appellant. This brief represents the appellee’s position which includes all the fundamental issues of the case. The Brief of Appellee cannot bring further issues before the court, and the appellee can only try to persuade the court that it should not grant relief on the issues set forth by the Brief of Appellant.

Reply brief. The court allows the appellant to respond by filing a Reply Brief. The appellant should do this only if the Brief of Appellee raised or discussed an issue in a way which was not sufficiently covered in the Brief of Appellant. If the Brief of Appellant set out the appellee’s position fully and well, then little need exists to file a Reply Brief. For simplicity of the appellant’s position, he should not file one.

Orals scheduled. At some point after the filing of the last brief, the clerk of the appellate court will schedule a hearing for oral arguments. This will include: whether the judge properly admitted evidence; whether the judge properly instructed the jury; whether the evidence viewed in favor of the winning party sufficiently supported the verdict; whether the court fairly selected jury members; whether pretrial publicity unfairly prejudiced the jury; whether the court improperly refused to allow appellant to admit exculpatory evidence or testimony; whether a lawful sentence was imposed. 

Predicting decisions? Defendants should not try to predict the decision based on the behavior of the judges during oral arguments. Judges are public officials and as such, the atmosphere does not tend itself to the theatrics and exhortations more common in the trial courts.

Conclusion (stating the relief that the appellate court should grant). The court reporter publishes the written decision in hardbound books, which will become precedent to guide future cases. However, case law is subject to change, and some courts may, unfortunately, fake years to produce and issue a decision.

Further appellate review. Higher courts exercise strict requirements in reviewing errors committed by lower courts in the “first instance” (described above). The appellee must petition the higher court for such a review, arguing that a lower appellate court erred in its application and analysis of the law, and failed to reverse or modify or extended to achieve substantial justice.

Federal system. Federal Courts of Appeals rarely grant rehearing or rehearings en banc (a full bench of all active judges in the circuit). Appellate courts are under no legal duty to allow rehearing after the loss of the “first instance” (described above). The appellee must petition the higher court for such a review, arguing that a lower appellate court erred in its application and analysis of the law, and failed to reverse or modify or extended to achieve substantial justice.

History. Early use of the writ as a constitutional remedy against the tyranny of the British Crown occurred in the latter part of the 18th century. Enframed by the Privy Council. Judges, however, often found weaknesses in the writ, and by employing a procedural requirement of a specific error, the law essentially circumvented the writ. In 1776, the judges decided that a warrant of the Privy Council supplied sufficient proof to detain the prisoner. In 1641, 24 judges and judges in the English courts were granted power to grant the writ of habeas corpus. In 1679 however, dealt only with habeas corpus, but also gave the writ to prevent illegal imprisonment. In the democratic countries of Western Europe, however, the codes of criminal procedure require the government to inform the defendant of the charges within a reasonable promptness and to allow the person to seek legal counsel. In many other countries, governments sometimes restrict persons to lengthy periods of imprisonment without being informed of the charges. Many Latin American countries have adopted the writ of habeas corpus, either to allow for student protest or by custom, but have frequently nullified its use during periods of political or social upheaval.

US law. The federal and state constitutions in the United States establish habeas corpus as a personal right. Article I, Section 9, of the US Constitution provides that no court shall suspend the privilege of the writ of habeas corpus except in cases of rebellion or invasion, when the public safety may require it. The constitutions of most states contain similar provisions, and some states forbid suspension of the writ in any case. Massachusetts suspended the privilege of the writ from November 1675 to July 1777, during Shays’ Rebellion. The outstanding instance in the US of the suspension of the right of habeas corpus occurred in 1861 during the American Civil War, when Abraham Lincoln suspended habeas corpus. In 1863 Congress explicitly empowered Lincoln to suspend the privilege of the writ during the war. In later years, courts in several states suspended the privilege when state executives declared martial law during strikes.

Courts originally limited use of the writ to cases of illegal imprisonment, but subsequently extended its use to include controversies in divorce and adoption proceedings involving the custody of minors. For such applications of the writ, courts have declared that the state has the right, above any parental or other claims, to determine the children’s best interests. Both federal and state courts issue writs of habeas corpus. Federal courts, however, can issue such writs only under given conditions, as for a prisoner detained by order of the federal government or has been committed for trial before a federal court. Federal courts can also issue writs of habeas corpus when an unlawful prison is maintained by the US government or has been committed for trial or punishment before a federal court. Courts in this regard extends to foreigners, if they have acted under the authority of their own governments, so that their guilt or liability must be determined by the federal courts. The state courts may issue the writ in all cases that do not fall exclusively under federal jurisdiction.

DUE PROCESS OF LAW

Overview and History

For hundreds of years, the American legal system has used the right to “due process” to protect the legal rights of individuals, but has found difficulty defining it.

England. Magna Carta refers to due process as “law of the land” and “legal judgment of his peers.” Some state constitutions in the US base civil law on a British heritage. The US Constitution’s Fifth Amendment grants due process protection against the federal government and its agencies and courts. The Fourteenth Amendment extends due process protection to all persons. In other words, in the United States, due process refers to the “how’s” and the “whys” of enforcing laws. It applies to all persons, citizen or alien, and also to corporations.

The “how,” referred to as “procedural due process,” holds great importance. For example: How does a law read? How does it presume guilt? In a more specific instance, a court may declare a law in violation of due process. A clear and fair judicial analysis of the law, or that the law must be modified or violated. A court may declare that a law violates constitutional requirements; that a law is not constitutional. A court in the Roe v. Wade abortion decision declared a Texas law in violation of due process and ruled that in the first trimester, a state could reasonably interfere with a woman’s right to an abortion; during the second trimester, a state could reasonably regulate abortion in the interest of the health of mothers; and in the third, the state has a reasonable interest to act in protecting the fetus. In other examples, courts have struck down legislation requiring states to confine certain non-dangerous mentally ill persons against their will.

Remedies. Remedies generally granted by courts under due process scrutiny involve, but are not limited to:

- Courts must conduct trials fairly, publicly, and in a competent manner
- Courts must allow the defendant the opportunity to attend the trial
- Courts must allow the defendant the opportunity to have an impartial jury try the case

We the People Legal Primer

May 2004

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Further Discussion on Due Process

General. Due process refers to the constitutional guarantees that the government cannot deny a person the basic rights of life, liberty, or property in a manner that is arbitrary or unreasonable. For example, if the government intends to bulldoze a person’s house in order to use the land for a new highway, the government must notify the owner and allow the owner the opportunity to state objections to the government’s plans and to propose alternatives.

Provisions. The right to due process derives at two provisions in the US Constitution. The first provision, which is part of the Fifth Amendment, states “No person shall be deprived of life, liberty, or property, without due process of law.” The Second provision, part of the Fourteenth Amendment, provides that no state shall “deprive any person of life, liberty, or property, without due process of law.” Because of these two provisions, all of the branches of federal, state, and local government must respect the due process guarantees.

Citizens. Due process of law does not apply to actions by ordinary, private citizens. For example, a landlord wants to relocate a tenant in a public housing complex in order to make room for a parking garage. The tenant cannot complain about due process of law against the landlord. The tenant, however, may have contractual rights to exercise to prevent this from happening.

Applicability. The guarantee of due process applies to American citizens, residents of possessions of the United States, aliens, members of the armed forces, prisoners, and corporations.

Procedural Due Process. Lawsuits alleging the denial of due process rights have become more common. For example, if the government did not notify a homeowner of the bulldozing mentioned above, bringing a lawsuit alleging denial of procedural due process – that the government had not taken the appropriate steps that existed to protect people’s property. Procedural due process, which focuses on the rights of the individual citizen, is the government giving a person the opportunity to “have his day in court.”

Substantive Due Process. In contrast, substantive due process focuses on the government and its authority to make and enforce certain kinds of legislation. For example, the government notifies a homeowner that it plans to bulldoze his house. However, the owner has strong reservations about the government’s decision to bulldoze his property. Substantive due process, which focuses on the substantive rights of all individuals, regulates the government cannot enact arbitrary or unreasonable legislation.

Clear laws. Governments must create laws so that a person of ordinary intelligence need not guess at their meaning. Criminal laws receive great amounts of scrutiny regarding substantive due process. A statute that says “no person shall be in a public way without a purposeful intention” cannot survive a proper analysis for substantive due process. The courts declared unconstitutional as “categorically void or void for vagueness” because they give no clear or fair indication of what activity it prohibits.

Purposeful laws. If a law survives an analysis for substantive due process, the provision for the government’s enforcement must have a legitimate governmental purpose. For example, a state’s law requiring new residents to subject themselves to an AIDS test would exceed the state’s authority and invade individual privacy even to such a degree that it would violate substantive due process rights.

Equal application. If a particular statute affects only a certain segment of the population, the law will meet the due process requirements if the government applies it equally to all persons in that segment. For example, a law requiring all drivers over age 75 to take a driving test every two years.

Compelling state interest. If a law discriminates between individuals in a certain segment of the population, courts apply two of the analyses in order to determine whether it violates due process rights. Courts apply the “compelling state interest” analysis for constitutionally “suspect” classifications, such as age, race, or sex or if the law affects a fundamental freedom such as freedom of religion. This analysis determines whether the classification furthers a compelling state need. In the older driver testing law cited in the example above, highway safety would suffice as a compelling state interest.

Rational basis. Courts apply a “rational basis” analysis to classifications not suspected of being unconstitutional. This analysis tests whether a law reasonably relates to legitimate government interests. For example, a state law requiring all drivers and passengers to wear seat belts while riding in an automobile applies to the classification of drivers and passengers. Unlike the driving test example above, it does not discriminate on the basis of age or sex. A rational basis analysis requires only that the law be reasonably related to its stated purpose.

Due Process and the Fifth Amendment

The first session of Congress under the new US Constitution passed a resolution expressing a desire to prevent misconstruction or abuse of the US Constitution’s powers by the federal government by adding further declaratory and restrictive clauses.

Thomas Jefferson, considered as the author of the Constitution, wrote to President Madison urging a need for a Bill of Rights saying, “the tyranny of the legislatures is the most formidable dread all present, and will be for many years. That of the executive will come in its turn.” In 1790, Congress desired and adopted the Bill of Rights, which contains the first ten amendments to the US Constitution – a means to safeguard guarantees and immunities inherited from our English ancestors.

Over this fear of misconstruction or abuse of the Constitution by the federal government, part of the Fifth Amendment reads: “...nor shall any person be deprived of life, liberty, or property, without due process of law.”

Due process of law basically means the same as “the law of the land,” as used in the English Petition of Right in 1628 “that both sides expressed.” That Petition reads that no man should be “in any manner destroyed but by the lawful judgment of his peers or by the law of the land,” and that no man should be “put out of his land or tenements, nor taken nor imprisoned, nor disinfected, nor put to death, without being brought to answer by due process of law.”

In Murray’s Lessee v. Hoboken, etc., (1855), the United States Supreme Court answered the question, What is due process of law? A trial or other legal proceeding must, in order to give due process, conform to the guarantees contained in the US Constitution and conform to the guarantees that have come to the American through the adoption in this country of any part of the law of England. This clause preserves to the citizen against action by Congress, against action by the President, and against action by the courts, not only rights enumerated in the Constitution itself, but also those privileges and immunities to which he has become entitled through the early adoption and application in America of English law.

“The Constitution contains,” stated the Court in Murray, “no description of those processes which it was intended to allow or forbid. It does not even declare what principles are to be applied in procedure whether it be due process. It is manifest that it was not left to the legislative power to enact any process which might be devised. The article is a restraint on the legislative as well as on the executive and judicial powers of the government, and cannot be so construed as to leave Congress free to make any process ‘due process of law,’ by its mere will. To what principles, then, are we to resort to ascertain what is due process of law? Is the process by due process of law? To this we must answer be twofold. We must examine the Constitution itself, to see whether this process be in any manner destroy but by the lawful judgment of his peers or by the law of the land.”

Due Process and the Fourteenth Amendment

In the first years of the life of our new country, our founding fathers feared the power of the federal government to deprive anyone of life, liberty, or property without due process of law. Experience later showed that the states could also act tyrannically in depriving a person of these rights. In Ex Parte Young, the US Supreme Court stated that “no change in ancient procedure can be made which disregards those fundamental principles of government which have been acted on by them after the settlement of this country.”

UNITED STATES DISTRICT COURT PRISONER’S PRO SE HANDBOOK

– An example of how to file your case in federal court –

ALWAYS CONSULT THE LOCAL RULES FOR YOUR FEDERAL DISTRICT COURT

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VII. Legal Research – An Overview

CHAPTER I – Introduction. This handbook specifically addresses the needs of you, the pro se prisoner. It provides you with practical and informative initial resources to assist you in the decision-making process and in the filing of a lawsuit when choosing not to retain the aid of a licensed attorney.

The next three chapters provide information that you should consider before filing your own lawsuit such as whether or not you have a case you can win, the importance of legal counsel and alternatives, and the structure of the federal court system. If after considering this information, you feel you have a case to file in federal court and you wish to represent yourself, this handbook also contains additional information to assist you in filing your case and utilizing the appropriate rules of procedure for the United States District Court.

Do not consider this handbook as the final word, nor should you use this entire handbook as your only resource. Consider using this handbook only as the first step in filing your own lawsuit.

The Clerk of Court can assist pro se litigants with questions regarding the Local Rules of Civil Procedure and the Local Rules of Criminal Procedure as well as the Federal Rules of Civil Procedure and the Federal Criminal Rules of Procedure. However, by law, the clerk and other court staff cannot answer questions of a legal nature.

MISSION. United States District Court provides an impartial and accessible forum for the just, timely, and economical resolution of legal proceedings within the jurisdiction of the courts, so as to preserve judicial independence, protect
CHAPTER II – Five Required Elements of a Lawsuit. You must meet five critical elements before filing a case in federal court. The following summarizes what you should consider before filing a case in federal court; however, do not consider this as the final word even if you meet all five elements, you may not prevail in court.

THE THREE REQUIRED ELEMENTS OF A LAWSUIT
A. Real Injury or Wrong. Cases brought by pro se litigants typically fall into two categories: civil rights violations and tort claims.

A civil rights case involves a claim seeking redress for the violation of a person’s constitutional rights. This type of claim is often brought under the federal statute, 42 U.S.C. §1983.

Under this law, a person who acts under color of state law to violate another’s constitutional rights has responsibilities for damages.

A tort refers to “a private or civil wrong or injury,” separate from criminal law because of its injury against an individual and not the state (city, county or state government). If a person ran a stoplight and hit your car, the state would ticket the driver for running the stoplight but the state could not sue the driver for the injuries to your car. The law considers those injuries a private wrong or injury, and you have a right, as the victim, to file a civil suit against the driver seeking damages for the injuries sustained.

Three types of torts exist: intentional, negligence, and strict liability. You cannot sue someone just based on your anger at them; The person must have caused an injury to you in some way. You can bring a tort action in federal court if a violation of a federal law has occurred.

B. Jurisdiction. Jurisdiction refers to the authority given to a court to hear and decide certain cases. For a court to render a valid judgment, it must have both jurisdiction over the subject matter of the case and personal jurisdiction over the persons or entities involved. Chapter IV of this handbook describes the court system more fully; however, to file a case in federal court, you must meet at least one of two important criteria:

1. Your case must involve a “federal question” of law; or

2. The parties to the case must reside in different states (known as diversity of citizenship) and the monetary amount in controversy must exceed $75,000.

Federal courts enforce “federal law,” meaning the United States Constitution and federal statutes enacted by Congress. State courts enforce state law. Sometimes they overlap, such as in diversity cases. Difficulties in determining such issues shows the importance of obtaining legal counsel.

C. Statute of Limitations. A statute of limitations refers to the part of a statute of time within which you can file a suit. It begins to run when a person has the information to file a suit, but does not file a suit. After the statute runs, the right to file a suit is lost.

For example:

- Car accident or other personal injury: 2 years
- Civil rights violation: 2 years
- Contract dispute: 6 years
- Medical malpractice: 2½ years

D. Immunity. Immunity prohibits you from suing a person for an act included in the performance of his/her duties as prescribed by law. When a judge decides a case, he does so free from suit because he performs his duties as directed by law. However, if a judgeFuneral Services...
CHAPTER IV – The Structure of the Courts: Should This Case be Filed in State or Federal Court? Two court systems exist in the United States: the state courts and the federal courts. The state courts typically hear matters relating to criminal, domestic, divorce and child custody, probate, and property in accordance with the laws of each state. Matters typically heard in federal courts involve violation of federal laws, admiralty and maritime matters; United States patent, trademark, and copyright matters; bankruptcy proceedings, proceedings against ambassadors, consuls, and ministers. These matters usually fall into two main categories: (1) federal question cases – cases which arise under the Constitution, laws, or treaties of the United States; and (2) diversity cases – civil matters arising between citizens of different states and the amount in controversy exceeds $75,000.

Remember that Chapter II discussed the five required elements of a legal action. Before filing a case in a federal court, you must decide if the court has jurisdiction. Jurisdiction refers to the authority given a court to hear and decide certain cases. The United States Supreme Court. Article III of the United States Constitution gives authority to the United States Supreme Court. This court normally reviews judgments rendered by the United States Courts of Appeals in each of the thirteen federal judicial circuits. The United States Supreme Court has original jurisdiction over matters involving treason and presidential impeachment. Rare instances may occur when the United States Supreme Court may review a decision of the United States Court of Appeals. This court normally reviews judgments of the United States Courts of Appeals. There are two types of cases which arise under the federal laws: civil actions arising under the Constitution, laws, or treaties of the United States; and actions involving labor disputes which are authorized by specific statutes to be litigated in federal court.

The United States Courts of Appeals. • The Courts of Appeals for the District of Columbia and for the First through the Eleventh Circuits hear appeals from the federal district courts, bankruptcy courts, and tax courts. They also review some decisions of various federal administrative agencies. • The United States Court of Appeals for the Federal Circuit hears appeals from final decisions of federal district courts for civil actions involving the United States as a defendant, and appeals from decisions of the United States Court of International Trade, and United States Patent and Trademark Office, the United States International Trade Commission relating to unfair import practices, and decisions by the Secretary of Commerce relating to import tariffs, among others. • United States Court of Military Appeals. This court hears appeals from court martial decisions. Parties cannot appeal its decisions to any other court. • United States Claims Court. This court hears cases concerning the federal tax laws. Parties can appeal its decisions to the United States Court of Appeals for the Federal Circuit. • Tax Court of the United States. This court hears cases concerning the federal tax laws. Parties can appeal its decisions to the United States Court of Appeals. • United States Court of International Trade. This court hears cases concerning the federal tariff laws. Parties can appeal its decisions to the United States Court of Appeals for the Federal Circuit. • United States Bankruptcy Courts. These courts hear all matters pertaining to bankruptcy and financial reorganization. Parties can appeal its decisions to the United States District Court and, in some cases, to the appropriate United States Court of Appeals. • United States District Courts. These courts by both criminal and civil actions relate to federal questions cases. They may also review decisions of federal administrative agencies. At least one United States District Court exercises jurisdiction within each state. Parties can appeal its decisions to the appropriate United States Court of Appeals.

United States District Courts. These courts have both civil and criminal jurisdiction. They have original jurisdiction in the following types of actions:

• Civil actions arising under the Constitution, laws, or treaties of the United States (“federal question” cases).
• Actions where the matter in controversy exceeds the sum or value of $75,000, exclusive of interest and costs.
Applicable Rule(s): LR16.1

Time Line: —

C. FORMS INDEX

Forms to be used by Pro Se Litigants:

• CIVIL COVER SHEET
• PETITION UNDER 28 U.S.C. SECTION 2255 FOR WRIT OF HABEAS CORPUS
• SUBPOENA IN A CIVIL ACTION
• MOTION FOR INSTRUCTED OR DIRECTED VERDICT

SCHEDULING CONFERENCE FORM/FORMULATION PLAN

INSTRUCTIONS

(When case is assigned to Article III Judge.)

a. Scheduling Conference Form/Litigation Plan Instructions
b. Notice of Availability of the Magistrate Judge to Exercise Civil Jurisdiction and Appeal Option
c. Waiver of Service
d. Notice of Lawsuit and Request for Waiver of Service of Summons

NOTICE OF ASSIGNMENT TO MAGISTRATE JUDGE

• General Order No. 98
• Scheduling Conference Form/Litigation Plan Instructions
• Scheduling Conference Form/Litigation Plan
• Notice of Lawsuit and Request for Waiver of Service of Summons

e. Waiver of Service of Summons

• INSTRUCTIONS FOR FILING A COMPLAINT UNDER 28 U.S.C. SECTION 1983
• CERTIFICATE OF SERVICE BY MAIL

Forms to be used by Incarcerated Pro Se Litigants:

• APPLICATION TO PROCEED IN FORMA PAUPERIS, SUPPORTING DOCUMENTATION AND ORDER
• INSTRUCTIONS FOR FILING A COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. 1983
• PETITION UNDER 28 U.S.C. SECTION 2255 FOR WRIT OF HABEAS CORPUS BY A PERSON IN FEDERAL CUSTODY
• PETITION UNDER 28 U.S.C. SECTION 2254 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

CHAPTER VI – Trial Preparation. The Local Rules cover all phases of trial preparation from the pretrial conference to the satisfaction of judgment. The following information is not meant to be all inclusive and you should always consult the Federal Rules of Civil Procedure and the Local Rules of the United States District Court to find out what the court requires of all parties when it comes to preparing for trial.

A. Pretrial Conference and Order. Prior to the actual trial, a pretrial conference is held between the trial judge and counsel to determine if all discovery has been completed, what exhibits and witnesses each side might use during the trial, the approximate length of time that will be necessary for the trial, and what ground rules the judge will require before, during, and after the trial. After the conference, a pretrial order is usually prepared which sets out the above.

B. The Trial – The Role of the Judge and Jury. A trial is defined as “a judicial examination of issues between parties to a cause of action.” The parties each get the opportunity to present their side of the case, and the judge and jury (if the trial is a jury trial) are responsible for the final determination of the case based on the evidence and arguments presented. It is the judge’s duty to see that only proper evidence and arguments are presented. In a jury trial, the judge will usually take the lead and follow closely to make decisions regarding those matters at issue and then a judgment is entered based on the verdict reached by the jury. Local Rule 58.1.

If the parties have not requested a trial by jury, Local Rule 38.1, the judge becomes the trier of fact (the judge) and the trier of fact (the jury). The judge then enters a Findings of Fact and Conclusions of Law, sometimes prepared by the prevailing party, and arguments presented and then a judgment is entered based on those findings of fact and conclusions of law.

C. Selection of the Jury. A jury trial begins with the judge choosing prospective jurors to be called for voir dire (examination). Local Rule 47.1. The jury box shall be filled before examination on voir dire and the Court will examine the jurors as to their qualifications. Not less than five (5) days before trial, the parties are to submit written requests for voir dire questions. Unless otherwise ordered, six (6) jurors plus a number of jurors equal to the total number of pretrial challenges which are allowed by law shall be called to complete the initial list of all prospective jurors, a six (6) is named and instructed by the judge regarding the issues they will be deciding. Local Rule 51.1.

Preemptory challenges: Each party has been given a number of preemptory challenges established by law, which enable the parties to reject prospective jurors without cause. This decision is based on subjective considerations and any party may feel a prospective juror would be detrimental to their side of the case.

Challenge for Cause: Either the plaintiff or defendant may challenge a prospective juror for cause when the prospective juror lacks a qualification required by law, is not impartial, or is related to either of the parties, or will not accept the law as given to him by the court or other reasons approved by the court.

D. Opening Statements. After the jury is empanelled, each side may present an opening statement. Local Rule 39.1. The plaintiff has the burden of proving that plaintiff was wronged and suffered damages as a result of defendant caused such damages; the plaintiff is therefore allowed to present his statement first. This may be followed by a statement by the defendant.

E. Testimony of Witnesses. After opening statements are given, testimony of witnesses and documents presented by each side, plaintiff side to begin. Local Rule 43.1. Cross-examination is conducted by the other side after the initial examination. If after examining a witness, the other side has the opportunity to redirect examination in order to test the witness on the points covered by the cross-examination.

If a witness testifies to one fact and a statement or document in the files shows that testimony to be contradicted, the document can then be used to question the witness on the accuracy of the witness’s statements. If the evidence produced shows that the witness, the witness is considered impeached upon cross-examination.

F. Motions During the Course of the Trial. Before the closing arguments and up until the time the case is sent to the jury for deliberation certain motions may be made during the course of the trial.

• Motion to Limit: This motion is made prior to the jury selection and it requests that the judge not allow certain evidence either as insurance policies, prior convictions, criminal records, and other matters which are either not relevant to the particular case involved or which might influence the jury unfairly.

• Motion for Instructed or Directed Verdict: This motion is usually made by the defendant at the close of evidence presented by the plaintiff and is based on the premise that the plaintiff has failed to prove his case. If it is granted, the court orders a verdict in favor of the defendant. The trial is concluded in the defendant’s favor. If the court denies the motion, the trial continues with presentation of the defendant’s case.

• Motion for Mistrial: Either party can move for a mistrial if, for example, during the course of the trial certain matters which are not admissible such as insurance or personal information which is not cited except in certain circumstances, is found in the case. The most accepted form of authority cited is “A Uniform System of Citation,” Eleventh Edition, published and distributed by the Harvard Law Review Association, Cambridge, Massachusetts. It is more commonly referred to as “Bluebook” and sometimes as the “Harvard Citation.” All of the information required for proper citation format can be found in this text.

G. Rebuttal Testimony. After each side has presented its evidence, the jury will be allowed to present some rebuttal testimony.

H. Closing Arguments. Closing arguments to the jury set out the facts as each side has presented and the reasons why the jury should decide in favor of the plaintiff. Time limits are sometimes set by the court for closing arguments, and each side must adhere to the time limits set. After the closing argument first and may present rebuttal to defendant’s closing argument. Local Rule 39.1.

I. Charge to the Jury. After each side presents testimony and evidence, the jury delivers his charge to the jury, usually in the form of written instructions. Each side may present proposed written instructions to the judge for consideration. After the judge has considered all proposed instructions, the jury is given each instruction which sets forth the jury’s responsibility to determine issues of fact as a matter of law and the applicable rules of law. The jury then returns a verdict granting favor to the plaintiff or defendant and assesses damages to be awarded, if any.

J. Mistrial. If a jury is unable to reach a verdict, in which case the judge declares a mistrial and may order a new trial before a new jury. A jury which cannot reach a verdict is usually referred to as hung jury.

K. Preparation of Judgment. Following the entry of the jury’s verdict, either side may challenge its decision by appeal. The judgment is prepared by the prevailing side and presented to the court for entry. These post-trial motions usually set out why the jury’s verdict should be disregarded or why the judgment submitted by the other side must be more in keeping with the jury’s verdict. Local Rule 58.1.

L. Costs. If the jury or the judge awarded costs to the prevailing party, it is necessary to prepare a bill of costs incurred in the suit for the approval of the court. Costs are specified by Local Rule 54.1 as to what is allowable, and only those costs listed as allowable may be recovered by the prevailing party. Unless otherwise ordered, the judgment submitted by the other side should be made in writing and should be paid into court by payment to the clerk, the clerk shall enter satisfaction of judgment order. The court will enter satisfaction of any judgment upon receipt of an acknowledgment from the prevailing party that all awards have been satisfied. Local Rule 58.2.

CHAPTER VII – Legal Research – An Overview. It is not the purpose of this chapter to teach the pro se litigant legal research and writing nor is it our goal to sort out the complexities of applying the law, whether it be statutory or case law, to the facts of a particular case. The most common source of citation standards is “A Uniform System of Citation,” Eleventh Edition, published and distributed by the Harvard Law Review Association, Cambridge, Massachusetts. It is more commonly referred to as “The Bluebook” and sometimes as “The Harvard Citation.” All of the information required for proper citation format can be found in this text.

Authority is the information we use to convince a court how to apply the law to the facts of a case. Legal authority divided into two classes – primary and secondary. There are two sources of primary authority: (1) constitutions, codes, statutes, and ordinances; and (2) case law. These are found in the same jurisdiction where the case is filed. Secondary authority, which is not cited except in certain circumstances, is found in legal encyclopedias, treatises, law review articles, and court cases in other jurisdictions.

Primary authority. The most accepted form of authority cited and should be used before any other authority.

• Constitutions, codes, statutes, and ordinances of the United States, states, counties, and municipalities. These laws are enacted by the United States Congress, state legislatures, commissioners, and city councils.

• When a particular case is decided, it becomes “precedent” which means that it becomes an example or authority for an identical or similar case or a similar question of law. Court decisions are the basis for the system of stare decisis. These decisions are published in what is called the National Reporter System which covers cases decided by the United States Supreme Court down to the individual state district courts. These reports each have their own “digest” system that serves as a summary of all points of law. There are many reporters in this system and they can be found in most law libraries.

Secondary authority. Used to obtain a broad view of the area of the law and also as a final authority. The most common secondary authority is not cited to the court unless there is no other authority available.

• Legal encyclopedias contain topics that are arranged alphabetically and are substantiated by supporting authority.
• Treatises are texts written about a certain topic of law by an expert in the field.
• Law reviews are published by most accredited law schools and are sometimes a broad diagnosis of a particular area.
• The Index to Legal Periodicals provides the only book review in the law and also provides case comments, which cases are listed in the "Table of Cases."
• American Law Reports Annotated (A.L.R.) is a collection of cases on single narrow issues. You must be aware that A.L.R. must be constantly updated.
• Restatements are publicaciones compiled from statutes and decisions that are found in a particular area.
• Shepard's Citations is a large set of law books which provide a means of which by any reported case (cite decision) may be checked to see when and how another court (the court of appeal) has decided the same or similar case. All cases must be checked to make sure another court has not reversed or overturned your cited decision.
• Some basic rules of legal research are as follows:
  – Give priority to cases from your own jurisdiction.
  – Search for the most recent ruling on a subject matter.
  – Check the pocket part in the back of almost all law books. The pocket part is the most frequently used device for updating information.
  – Pay attention to dates on books, i.e., copyright date and date of pocket parts.
  – Be aware of "2d" and "3d" in citations. They distinguish one series of reporter from another.
  – All legal citations are written with the volume number first, an abbreviation of the law journal, and the page number, e.g., 152 P.2d 967 or 144 A.L.R. 422.
  – Shepardizing your citations can save a lot of embarrassment and failure later on.

As a general rule, you should always consult your Local Rules for your federal district circuit.

POST-CONVICTION REMEDIES
As discussed in this article, convicted defendants can take a number of steps to challenge guilty verdicts and/or to correct violations of constitutional rights, including motions, appeals, and writs. The following list illustrates these steps. A defendant who loses at one time may go on to the next step, all the way down the list (up the legal chain) in a process that can take many years—especially for serious felonies such as death penalty cases.

This list is merely an illustration of possible post-conviction proceedings—some of which may only be used in certain cases. Also, defendants usually must first have unsuccessfully sought relief through the available state remedies before they can use any of these remedies. The list is not intended to be a full list of all possible remedies. For these reasons and because of the complexities of these proceedings and what is at stake (liberty or life), defendants should consult counsel to determine which remedies are available to them.

Motion for Acquittal. A request that the judge decide that there is not enough evidence to convict the defendant. Depending on whether the trial is before a judge or jury and depending on court rules, this motion may be made either after the prosecution presents its evidence or after all the evidence is presented.

Motion for a New Trial. Request that trial judge declare a mistrial and grant a new trial.

Appeal to State Appellate Court. Contends that trial judge made some legal error.

Petition for Review to State Appeals Court. Requests that appeals court judges change their own decision.

State Supreme Court Appeal. Requests that highest court in the state review and overturn the decision of the mid-level appeals court.

U.S. Supreme Court Appeal. Requests that highest court in the nation review and correct an error on the part of the state courts that violated the U.S. Constitution.

State Court Habeas Corpus Petitions. Requests that the state courts overturn the guilty verdict and order the defendant released. The person filing the petition is the defendant, and the court is the state court. The defendant is being held in violation of some state law or constitutional right.

Federal Habeas Corpus Petition to District Court. Requests the federal trial court to order the jail or prison holding the defendant to release the defendant because the defendant is being held in violation of the U.S. Constitution.

Appeal of Federal Habeas Corpus Petition to Circuit Court. Requests the mid-level federal court to review the federal trial court's decision denying the writ.

A rule may state: “One who kills another without excuse or justification shall be punished...” The part “One who kills another” implies a description of facts which a jury should determine objectively. The part “without excuse or justification” describes facts that the jury almost always must determine subjectively. The part “shall be punished...” states the legal consequences. The entire rule implies an obligation for all persons not to kill another wrongfully; however, this rule says very little about what constitutes a wrongful killing — or a rightful killing.

Conclusion. Thus, a case amounts to a short story of an incident and the reaction to it by the state; a rule represents an abstract or general statement of what, in criminal justice, the legislature prohibits of a class of persons in a class of circumstances.

Legal studies. As legal students and attorneys study cases and rules, they look to see why the courts acted in the ways that they did. They analyze the cases to make predictions for possible future disputes, and they combine their separate understandings into general comprehensions of individual topics of law.

Thus, legal professionals gain a capacity to predict what the courts will do, and they seek to persuade the courts to rule one way or the other in the future. This really amounts to studying what judges ought to do or will probably do — a study of judicial behavior and of the pursuit of justice. Although rules play a significant role in the study of law, the primary focus normally falls onto decided cases — the examples of the law in action and their possible implications for future cases.

Expressing law. Expressions of the law involves both rules (generalizations) and cases (experiences). Rules appear deceptively simple in appearance. Cases involve complexities and richness in variety. Predictions based on rules often fail in a world so complex and varied.

Consider a simple rule, such as: “No person shall sleep in a city park.” Imagine two cases. In one, the police find a well-dressed man sitting up on a park bench at noon, his chin resting on his shoulder, his eyes closed, and him snoring loudly, obviously asleep. In the other case, the police found a disheveled man, who suffers from insomnia, lying on the same park bench at midnight, on a small bundle of clothes, and newspapers spread over his body like a blanket, obviously asleep. How would you predict the outcome of the cases? Does your answer follow only from the language of the rule? What logic and reasoning do you use to come to your conclusions?

Rules. Virtually every rule leaves more intellectual work because rule-making authorities, by necessity, create rules imperfectly and projected into an uncertain future. The rule’s language alone does not determine that many or most cases fall within the class of cases intended by the rules-makers. Rule-makers cannot easily predict which intended cases the language of the rule may plausibly describe as falling within its class of cases. Likewise, rule-makers cannot realistically anticipate intended cases that the language of the rule does not plausibly describe.

Cases. Cases provide the substance, the living instance, of rules. But studying and using cases, for making predictions and as a basis for forming persuasions in other cases, involves a less precise and more intellectual process. The goal here is that the studying rules seems to require. Learning through the study of cases often requires practice and effort; however, it continues as an art to be learned.

To persuade a court of what it should do in the case at bar, an attorney must argue what courts have done in other, similar cases. Comparing and contrasting cases has its advantages because cases supply particulars grossly lacking in bare rules. Where the language of a rule gives no precise guidance, judges and attorneys must look elsewhere — to case law.

Justice. Legal experts have described "law" as the human striving toward the ideal of "order." The studying and use of cases forces judges and attorneys to contemplate and strive toward justice in our society. American jurisprudence bases its performance on the idea that such the arguments of adversaries before a judge. Attorneys, although engaged to protect a client's interests, also participate in striving toward justice. Lawyers persuade judges by appealing to the justice in the case.

Cases display the complexities with which the law must deal. Comparing and contrasting cases supplies the particularities that attorneys need to predict intelligently what a court will do or will probably do — a study of judicial behavior and of the pursuit of justice. Although rules play a significant role in the study of law, the primary focus normally falls onto decided cases — the examples of the law in action and their possible implications for future cases.
The PROPER MENTALITY FOR LEGAL RESEARCH

Technical research. A proper mentality helps the legal researcher get the best results. The proper mentality helps researchers in other technical fields. Legal research involves learning from the material while learning the legal language and the legal research.

Incarcerated, indigent, pro se defendants. Several difficulties accompany legal research by incarcerated pro se defendants. Incarcerated defendants have limited access to legal and other research materials. Indigent defendants have little means of personally acquiring legal materials. They may lack a high school diploma or its equivalent. And they may have little means of personally acquiring legal materials. They can gain experience by making legal work their own and by helping others with their legal work. All this focusing expends your mental powers as well as your time away, or do your legal work? Decide on your priorities.

Work at your peaks. Inspect your daily behavior and determine when your mental powers come to a peak. This may happen in the morning, afternoon, or evening. Attend to your legal work at this peak time. For example, if you are a racquetball player, watch your favorite TV shows, or do your legal work. Decide on your priorities.

Be prepared. Always go to the library with a pen or pencil and a notebook. Contend only with reading laws that have a decided case. Or, restated using deductive logic: Two (or more) specific cases seem so similar that they "induce" the general idea of one particular class of cases. Thus, treatment of them by the courts should, likewise, follow the same lines of reasoning. Legal research employs deduction. The phrase "deductive logic" and the verb "to deduce" are derived from the Latin word "deducere," which means from one general class of cases to the particular class of cases.

Read. Read. Read. Nothing can substitute for carefully reading all legal materials. The more you read, the better you read — and the more you learn. Read a case, and re-read again — more than once. Read it when you can do so with the least interference.

Work space. As much as possible, while working in the library, sit in a well-lit area away from distracting voices and noises. Sit facing away from distracting people and activities.

Posture. Try to find a comfortable chair. Sit up straight and comfortably, and don't lean back. If your posture should allow blood to flow freely to most parts of your body without parts "falling asleep." Don't feel ashamed to get reading glasses from the medical staff or to wear them in the library when you read.

Focus. Don't expect to ponder personal issues or to carry on personal conversations while dealing with your legal work. You may not have to laugh it up, talk the time away, or do your legal work. Decide on your number-one priority. Experts who study learning report that every time you change subjects in your head, you must reconfigure your thinking.

Mentality. If you intend to study law with the emotion that the government and the courts want to "scare" you, then you will have great difficulty with it. Basically, most people have respect and for satisfaction with the law. Any dissatisfaction, when proven through due process before the judge or jury, can frustrate you, cause you to focus on them and then re-focus back onto your legal work. All this focusing expends your mental powers as well as wasting more of your time.

Legal publications. Most legal publications attempt to make a national audience an audience with a special purpose. Certain publications have a general purpose. Some publications attempt to make a national audience an audience with a special purpose. Some publications have a general purpose. Some publications attempt to make a national audience an audience with a special purpose. Some publications have a general purpose. Some publications attempt to make a national audience an audience with a special purpose.
Forgiveness. Forgiveness includes emotional, intellectual, and behavioral phenomena that diminish negative feelings and judgment toward the offender, not by denying one’s “right” to such feelings and judgment, but by viewing the offender with compassion, benevolence, and love. It involves the surrendering of resentment and anger, and it can restore justice in the aftermath of personal injury. Organizational science has mostly ignored forgiveness probably because of its traditional lack of scientific interest in the topic.

Yet, the ancient foundations of our civilized societies involve the essential element of forgiveness. Parents teach children forgiveness from a very early age. Adults encourage each other to forgive offenders. People on their deathbeds make final acts of forgiveness. To not exercise forgiveness leaves only angry and violent extremes: exile (banishing offenders forever), or capital punishment (chopping off hands of thieves, an eye for an eye, a tooth for a tooth, and so on — even death).

Forgiveness, as with revenge, attempts to come in response to perceived injustice. In stark contrast to revenge, forgiveness does not demand nor compensate the victim for the injustice inflicted. The injured party deliberately gives up opportunities for retribution, punishment, or even fair distribution of goods, as the victim struggles to release the offender from obligation.

Forgiveness and revenge seem to oppose each other. A victim focusing on one alternative strengthens the belief in that alternative, and causes less attention to other alternatives.

Restitution. Restitution involves the return of something taken — money, property, etc. — even a person’s social status and reputation. Reaffirmation of a person’s status and reputation may mean more to the victim than the restitution of material property.

Apology — a special form of restitution. Apology expresses regret, sorrow, distress, and moral anguish for the fault or offense committed. Ironically, it often includes a request that the victim pity (sympathize with or show mercy to) the offender as well as forgive the offender. Apology also reafirms and restores the status and reputation of the victim. It often can reassure the victim that the offender has taken steps to commit a wrong toward that specific person, but perhaps, rather toward a person in their circumstance. This assures the victim that he or she did not personally and unconditionally contribute to the wrong, about which many others worry. An apology should assure the victim that the victim’s future does not involve further victimization or thoughts of victimizing the victim by the offender. In all, an apology acknowledges, expresses profound regret, and conveys that the wrongfulness of the act, assures the victim that the offender did not target the victim personally, expresses assurance that the victim can consider the future to be free from wrongs by the offender, and can even beg forgiveness from the victim.

Compensation. Behavior which counteracts or balances a wrong. Compensation differs from restitution in that compensation cannot restore what existed in the past. Compensation makes amends through other means.

HOW TO SHEPARDIZE®

Introduction. Shepardizing involves citations and their research which will show you the “precedential value” of the cited legal authority. Most legal writings include one or more citation—a reference to a legal authority such as a statute, a regulation or an opinion on a case. A citation identifies a legal authority by showing you what publications published (or reported) the full text of that authority.

Shepardizing shows you the precedential value of a legal authority, and helps to expand your research by leading you to new legal sources. Shepardizing helps fulfill part of your responsibility in your legal work as a pro se defendant.

You must learn to Shepardize, and you must Shepardize. The legal profession knows Shepard’s Citations for their capacity to determine the precedential value of a legal authority, law, cases, and constitutional provisions.

Our law has many sources of authorities, including written judicial opinions (or cases), statutes, regulations, and others. Judicial opinions form the basis of our common law (meaning “citations” or “citations” of a legal principle) of the cited case.

A pro se defendant who does not Shepardize as part of his legal research may end up basing his arguments on ‘bad law’ — cases that later courts limited or reversed. Not Shepardizing amounts to practicing sloppy law and risking failure which, for you, means continued incarceration.

Shepardizing its citation. You need to know the precedential value of any case, statute, or other legal authority before relying on it in an argument.

Shepard’s lists cases from other jurisdictions only for secondary sources and from annotations that cite your case. Some state Shepard’s include references to Attorney General opinions. Shepard’s Citators may include references to legal treaties published by Shepard’s McGraw-Hill.

Shepard’s abbreviations for cases. Shepard’s uses unique abbreviations in its citation lists. Refer to the Table of Abbreviations in the front of each Shepard’s volume for explanations of these symbols. This legal primer also describes them. Some references cases have small case letters to the left of the case citation. These notations refer to either the “history” or “treatment” of the cited case.

History. The definitions below of the history assignments explain how the “citing case” (or opinion) relates to the “cited case” (or opinion).

- Affirmed. The citing case affirms or affirms to the cited case either on appeal, reconsideration or rehearing.
- Denied. The citing case denies appeal the cited case.
- Modified. The citing case modifies the cited case either on appeal, reconsideration or rehearing. This modification can involve affirmance in part and reversal in part.
- Reversed. The citing case reverses the cited case either on appeal, reconsideration or rehearing.
- Reh den. Rehearing denied. The citing order denies rehearing (or reconsideration) in the cited case.
- Reh gran. Rehearing granted. The citing order grants rehearing (or reconsideration) in the cited case.
- Same case. The cited case involves the same litigation as the cited case at a different stage in the proceedings.
- Superceded. The citing case supercedes, or substitutes for, the cited case on appeal, reconsideration or rehearing.
- Cert den. Certificate denied. The citing order by the US Supreme Court denies certiorari in the cited case.
- Cert dis. Certificate dismissed. The citing order by the US Supreme Court dismisses certiorari in the cited case.
- Cert gran. Certificate granted. The citing order by the US Supreme Court grants certiorari in the cited case.
- US cert den. The citing order by the US Supreme Court denies rehearing in the cited case.
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**US reh dis**

Rehearing dismissed. The citing order by the US Supreme Court dismisses rehearing in the cited case.

v. Vacated. The citing case vacates or withdraws the cited case.

W. Withdrawn. The citing decision or order withdraws the cited decision or order.

Treatment. Treatment assignments show how a legal authority in an unrelated case evaluated the cited case. Remember that a judge may require you to know when courts have treated your largest case both positively as well as negatively. The indexes below show how the “citing case” (or opinion) treats the “cited case” (or opinion).

c. Criticized. The citing case criticizes the cited case and, thus, disagrees with its reasoning or result. Important: The citing court may not have the authority to materially affect the precedential value of the cited case.

c. Conflicting authorities. The citing case lists the cited case as one of several conflicting authorities.

d. Distinguished. The citing case distinguishes itself from the cited case, because of slightly different facts or application of the law. Refer to the Logic in Legal Reasoning section of this legal primer.

e. Explained. The citing case significantly explains, interprets or clarifies the cited case.

Followed. The citing case follows the cited case, and relies upon it as the controlling authority.

Harmonized. The citing case harmonizes with the cited case by resolving differences or variations.

Disregarding opinion. A dissenting opinion in the cited case cites the case.

Concurring opinion. A concurring opinion in the citing case cites the cited case.

Limited. The citing case limits the authority of the cited case because the cited case contains only limited circumstances of the cited case.

Overruled. The citing case clearly overrules or disapproves the cited case.

Overruled in part. The citing case overrules the cited case either partially or on other grounds or with other qualifications.

Questioned. The cited case questions the validity or precedential value of the cited case because of intervening circumstances, including judicial or legislative overruling.

Superseded. Superseded by statute as stated in the cited case.

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**“Overruled” — a warning.** Inexperienced pro se defendants may mistakenly believe that, if Shepard's does not show the cited case as “overruled,” then it remains as good law. A court can effectively overrule a case, but Shepard's does not draw the cited case as “overruled,” then it remains as good law. A court “Overruled” (or opinion) treats the “cited case” (or opinion).

Case Citations. To interpret citations, you must learn how to read the reference to the reporter. The reporter reference tells you where in the reporter, like the Supreme Court Reports, Lawyers' Edition you will find the cited case. The reporter reference tells you how to retrieve any case cited by a citing case.

Citations in Shepard's are divided into three parts (1) authority, (2) dates, and (3) pagination.

Authority. The authority is the name of the court (for example, the US Supreme Court) and the date of the case. Shepard's does not distinguish between a higher and a lower court.

Dates. The dates of the cases in Shepard's are:

- The date of the citing decision
- The date of the cited decision
- The date of publication

Pagination. The pagination of Shepard's is:

- Page numbers
- Volume numbers
- Law and Annual Supp

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**HOW TO SHEPARDIZE A STATUTE**

Shepard's Statute volumes indicate later legislation and court decisions that amend, repeal, or otherwise affect a statute. These volumes allow you to Shepardize federal and state constitutions, court rules, session laws, treaties, charters and ordinances.

Use the method below to list all state and federal statute citations. You can Shepardize your statute as a whole, and also its sections and subsections. Citations to the statute as a whole appear first followed by citations to sections and groups of sections. Citations to subheadings appear under the related section.

Shepardizing statute citations. Follow the same procedure shown above for Shepardizing case citations. (Refer to the Citation section of this legal primer to interpret citations.)

Shepard's order of statute citations.

- Subsequent legislative enactments (amendments, repeals, etc.)
- Cases citing to the statute
- Attorney General Opinions
- Legal periodicals
- Annotations in American Law Reports and United States Supreme Court Reports, Lawyers' Edition

You should always Shepardize statutes on three levels:

- The statute as a whole (for example 147.19);
- The subparts of the statute (for example 147.19(2));
- The statute as part of a group (for example 147.19 et seq. or 147.19 to 147.32).

Then Shepardize your statute in each of the books listed in "What Your Library Should Contain." Use the system consi...
of decision, additional information, and parallel citations. Ten
states have begun to order their information in citations as:
case name, year, page, sequential number, and paragraph
number. Refer to “The Bluebook: A Uniform System of
Citation” for a comprehensive rules and references about
citations. The following describes the most common method
of case citation.

Case Name. The case name consists of party names, and it
appears in the citation as the first named plaintiff or petitioner
and the name of defendant or, respondent, with “v.” or “vs.
(abbreviations for “versus”) between them. These names appear
only as surnames for individuals. Criminal case citations
can have the name of the state, such as “New York,” “Comm.”
Or “Commonwealth,” a commonwealth, such as Massachusetts), “State,” “People,” and so on—all of which refer
to the prosecution.

Reporter Cite. The volume number of the reporter appears
first, followed by the abbreviation for the title of the
reporter, and then the initial page number of the case in
that volume. If a page number follows the initial page number
(separated by a comma), it refers to the page number of that
particular citation.

Date of Decision. The year or date that the trial court decided
the case sometimes appears in parentheses following the
reporter cite.

Additional Information. Other related information may follow
the above information, such as an abbreviation for the court
issuing the opinion or a brief history of subsequent review.

Parallel Citations. Cites often include parallel cites. These
cites refer to the same case as reported in a different
reporter. For example, when the reporter cites and includes
the Northwest Reporter may report on a Massachusetts case. Citations for
United States Supreme Court decisions very often appear with
parallel cites, such as: U.S. (United States Reports), U.S. (Supreme
Reporters) or Massachusetts case, such as “People’s”, and so on—of which refer
following the prosecution.

Case Name. The name of the case appears as “People’s” in
volume 65 of the California Reports (Superior Court),
Second Series, starting on page 615 with parallel citations in
volume 55 of the California Reporter starting on page 597. The trial court decided
the case in volume 390 of the United States Supreme Court
Citations usually consist of the following elements:
The name of the case appears as “People’s” in
volume 5 of the California Reports (Superior Court),
Second Series, starting on page 615 with parallel citations in
volume 55 of the California Reporter starting on page 597. The trial court decided
the case in volume 390 of the United States Supreme Court
Citations usually consist of the following elements:
• The “title number,” similar in idea to the volume number for a
  case. Remember, however, that more than one title may appear in a book.
  Authorities may also refer to a section using its symbol “§” as in §183 of the
Example: 42 U.S.C. 183
This citation refers to title 42 of the United States Code
Annotate, section 183.
Codes usually consist of the following elements:
• Division. The name of the source reference, such as C.M.R. (or Code Massachusetts Regulations). Within a division, Shepard’s covers codes in chronological order. Learn the correct version if your code has had multiple
versions.
• Section Number. Section numbers appear within a book on
  the page.
• Subsections. Shepard’s may divide sections into subsections. To find a subsection, scan the columns of numbers until you see “Subd. a.” for example. Shepard’s will list the citing references to that specific subsection
  beneath it.

Rules of Citation. Several publications describe the rules for
citations, most commonly “The Bluebook: A Uniform System of
Citation” and “University of Chicago Manual of Legal
Citations” (also called the Maroon Book).

Sources for Abbreviations. Various publications describe the
standard abbreviations for legal materials: “The Bluebook: A
Uni...
COURTROOM ETIQUETTE

A few basic rules apply to how you, as a pro se litigant, should behave in a courtroom. Four general rules apply:

1. Always show great respect in every possible way. Don’t think of it as “sucking up” to the judge, but more along the lines of not tempting his/her shortcomings.

2. Speak clearly and at a moderate volume and pace.

3. Expect a judge to wear a “poker face.” You may feel defeated because the judge doubts your brief, seems to brow beat you, or questions you extensively. Or, you may feel confident because the judge precipitously accepts your brief, looks pleasantly at you, or asks very few questions. Ignore your feelings —you can’t read the judge’s mind.

4. You must perform a once-only “performance” on a “stage” called a courtroom, so practice, practice, practice. If you must, practice showing great amounts of respect to the nastiest screw on your tier, and your performance in court will go easy. Practice your speeches standing up in your cell, in front of a mirror, in the yard, in front of jailhouse lawyers or your friends, or anywhere you can.

More specifically, you should:

• If possible, wear a suit of clothes — a humble suit — NOT a $2,000 Armani suit. If you don’t have or can’t borrow a suit, wear the most respectful clothes possible. Nothing flashy or distracting. No jewelry except for a wedding ring. Wear jeans, T-shirts, sneakers, or a jumpsuit ONLY as a last resort.

• Appear as traditional as possible. Cover up as many tattoos as possible, even by wearing a long-sleeved shirt and tie on a hot summer day. Wear your hair at a respectable length —yes, cut it if necessary. Likewise, lose the moustache and beard. You want to show the judge a face that a “mother could love” and not a face from a police line-up or a biker’s bar.

• Sit up straight, and face forward. If you have shackles or chains on you, try to remain still enough to prevent them from making distracting noises.

• Stand up when the judge enters and leaves. A court officer will direct everyone to do this.

• Stand up if the judge begins talking to you. Because the judge has initiated this exchange between the two of you, you now have a right to speak but, obviously, wait for the judge to finish.

• Always do what the judge asks you to do, although you may ask the judge about this.

• Otherwise, address the court only when directed by the judge. “Ask” the judge to speak by standing quietly. The judge will direct you to speak in due time. If you change my mind about speaking, then sit down.

• When you do address the court, stand up, and speak clearly and respectfully. Keep your arms by your side, or make small, graceful gestures. Address the judge as “your honor.” Speak and act without anger or disrespect. Use “please” and “thank you” when appropriate. Wear a sincere show.

• When you express concern about making a point, try to voice your concern in terms of your burden instead of the court’s burden. For example, you should ask, “I’m not sure I answered the court’s question satisfactorily... May I explain myself?” instead of “Your honor doesn’t understand. Let me explain what I said.”

• The judge will expect you to know ALL the court rules and to follow its procedures accordingly. However, judges usually show a little leniency and assist a little leniency and assistance for incorrigible pro se litigants. If the judge does not offer it, you can politely request it. Watch the judge’s attitude about this; use it if you must, but don’t irritate the judge with requests.

• Don’t approach the bench unless directed by the judge. Ask to do so while allowed to speak. The judge will probably not allow a prisoner to approach the bench.

• If you want to give the judge something, tell the judge so (when allowed to speak), fold it out, and a court officer should come to you, take it, and bring it to the judge.

• Write or search through your papers quietly.

• Refrain from talking to others or from making obvious gestures. Try to yawn, sneeze, or cough quietly and unload. If you desperately need a glass of water, catch a court officer’s eye, beckon him over, ask him or her, and you might get it.

• If you absolutely must talk to others, whisper or speak in a very low voice without gesturing, and make it brief — no lengthy conversations. However, talk as needed with your lawyer so you don’t spoil your case.

Also, make sure you have everything in advance of your once-only performance:

• All pertinent documents and evidence within reason (what the prison or court will allow you to bring).

• Reading glasses. Don’t let your fears of your image ruin your case. Besides, glasses can make you look older and smarter. Judges usually wear glasses.

• Several blank pages and more than one writing instrument in case one breaks or fails to write (you don’t want to try to bum a pen or pencil from someone while your case goes on without you).

• Handkerchief, a paper towel, or facial tissue for snots, coughs, runny nose, watery eyes, cleaning glasses, etc.

Finally, once you have passed the point of no return on your way to court, if you have forgotten something of importance, resign yourself to that fact. Tell the judge so when appropriate, but don’t apologize for it — don’t dwell on it. Simply make do the best you can. Resist the temptation to beat yourself mentally. Keep a positive attitude. Strive to be happy.

DICTIONARY OF LEGAL WORDS AND PHRASES


28 U.S.C. 1331. The statute that allows a federal prisoner to file a complaint against a federal officer and request compensation for loss or injury.

28 U.S.C. 2241. The statute that allows a prisoner under federal sentence to petition for a writ of habeas corpus to challenge: denial of bail, implementation of a sentence, computation of a sentence, revocation of sentence credits, or revocation of probation or parole.

28 U.S.C. 2254. The statute that allows a prisoner under state sentence to petition for a writ of habeas corpus.

28 U.S.C. 2255. The statute that allows a prisoner to move to vacate, set aside or correct a sentence that violates the Constitution or laws of the United States, that exceeds the maximum legal sentence, that the court imposed without jurisdiction, and so on.

42 U.S.C. 1983. The statute allowing civil actions for the deprivation of rights under color of state law or authority.

abstract of title. A chronological summary of all official records and recorded documents affecting the title to a parcel of real property.

acceptance. The taking and receiving of anything in good faith with the intention of retaining it.

access to the courts. Regarding prisoners, the only unprivileged constitutional right, from which all other rights of their depend.

accessory. A person who aids or contributes in a secondary way or assists in or contributes to a crime as a subordinate. 216 So.2d 929, 931. Mere silence or approval of the commission of the crime does not amount to accessorial liability. 81 Mo. 483. Failure to report a felony may constitute a crime in itself. An accessory does act to facilitate another in the commission of a crime or in avoiding apprehension for a crime. accessory after the fact. A person who receives, comforts, or assists a felon knowing that he has committed a felony or who permits the police to be in connection with the commission or attempted commission of a felony. 234 A.2d 284, 285. Thus, a person who obstructs justice by giving comfort or assistance to a criminal offender in an attempt to hinder or prevent his apprehension or punishment. 378 F.2d 540.

accessory before the fact. A person who procures, counsels, or commands the deed perpetrated, but who does attend, actively or constructively, at such perpetration. 228 A.2d 154. Cf. accomplice, aid and abet, complicity, conspiracy, misprision.

accomplice. A person who knowingly and voluntarily participates with another in the commission or attempted commission of a crime. 165 N.E.2d 814. A person liable for the identical offense charged against the defendant. 233 P.2d 347. A person who knowingly, voluntarily, or purposefully, and with common intent with the principal offender unites in the commission or attempted commission of a crime. Mere presence combined with knowledge that the crime will

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"We the People" Legal Primer

May 2004

First Edition Condensed

transpire, without active mental or physical contribution, does not make an accomplice. Id. 348, 349. For example, persons who are under charges do not make them accomplices. 475 S.W.2d 450, 451; 735 S.W.2d 19, 20. Accomplice liability requires a shared, common mens rea and criminal purpose between them. Cf. accessory, aid and abet, complicity, conspiracy.

accretion. The increase or accumulation of land by natural causes, as out of a lake or river.

acknowledgment. A formal declaration before an authorized official by a party to a document or instrument creates the effect of authenticated by certified copy of criminal fact or deed. The certificate of the official on such instrument attesting to such acknowledgment.

acquittal. A release, absolution, or discharge of an obligation or liability. In criminal law the finding of not guilty.

Action Case. Cause, suit, or controversy disputed or contested by an adversary into a judicial trial.

additur. An increase by the judge in the amount of damages awarded by a jury.

adjective law--or-procedural law. That body of law which governs the process of protecting the rights under substantive law.

adjudication. The law pertaining to and prescribing the practice and procedure of the legislative process for determining or making affirmative substantive laws. Cf. substantive law.

adjudication. Giving or pronouncing a judgment or decree. Also the judgment given.

administrative agencies. Agencies created by the legislative branch of government to administer laws pertaining to specific areas such as taxation, transportation, and labor.

administrator. 1. The judicial officer which administers the estate of a person who dies without a will. A 2. A court official.

admiralty law. Also, maritime law. That body of law relating to ships, shipping, marine commerce and navigation, transportation of persons or property by sea, etc.

admissible evidence. Evidence that can be legally and properly introduced into a criminal trial.

admonish. To advise or caution. For example the court may caution or admonish counsel for wrong practices.

answer. In a civil or criminal trial.

appeal. A legal document, eg, an appeal to a higher court. Methods include mediation, conciliation, arbitration, and review a trial court's procedure.

appeal bond. A court order obligating a defendant to appear for the hearing on the appeal.

appeal bond. An order obligating a defendant to appear for the hearing on the appeal.

appeal bond. An order obligating a defendant to appear for the hearing on the appeal.

answer, responsive pleading) which a person intends to prove in court.

anticipatory notice. Notice of the intent or purpose then and there to make the arrest, and 4. the arrestee understanding that the arresting officer intends to arrest him. 250 F. Supp. 718, 724. An arrestee who is present because of his own property or that of another with present ability to act on their own behalf.

arrest warrant. A document issued by a judicial officer which directs a law enforcement officer to arrest an identified person who has been accused of a specific offense.

arrest. At common law, "the willful and malicious burning of a dwelling house of another." 70. In some states the burning of a house by its owner or part-owner. 221 S.W. 285, 286. Several jurisdictions divide arson into degrees. Statute and case law offers varying offenses involving destruction of property other than dwellings by methods other than burning, eg, explosion. The intentional damaging or destruction or attempted destruction or damage, by means of fire or explosion of the property of another without the consent of the owner, or of one's own property or that of another with intent to defraud. Perkins & Boyce, 3d ed. 962. Model Penal Code §220.1.

Ashurst-Summers Act. A 1935 federal legislation which effectively ended the industrial prison era by restricting interstate commerce in prison-made goods.

assault. Threat to inflict injury with an apparent ability to do so. Also, any intentional display of a weapon or violent action that would give the victim reason to fear or expect immediate bodily harm. An attempt or threat, with unlawful force, to inflict bodily injury upon another, constitutes a present ability to give effect to the attempt if not prevented. 125 P.2d 681, 690. Threat, accompanied by present ability, may constitute assault. 447 F.2d 264, 273. In criminal law, for example, a threat of force may constitute assault. But if the threat is too vague or indefinite, or if it is not made directly to the person threatened, it will not constitute assault.

attorney. A defense lawyer appearing in the case as the correct one to the judge or jury.

attachment. The two sidesusted structure under which costs are awarded by a jury.

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At one time, a free publication. For imprisoned people, and allowing admission to the bar and a license to practice

attorney-at-law. An advocate, counsel, or official agent employed in preparing, managing, and trying cases in the courts.

Attorney General. The chief law officer and legal counsel of a state governors and is appointed by its governor.

attorney-in-fact. A private person (not necessarily a lawyer) authorized by another to act in his or her place, either for some particular purpose, as to do a specific act, or for the transaction of business in personae.

autopsy. The dissection of a body to determine the cause of death. It may involve inspection and exposure of important organs of the body to determine the nature of a disease or injury. Abnormally, the medical examiner of a county often conducts autopsies. The coroner will call a coroner’s inquest as required. Different from a post mortem, inquest, qv. Cf. post mortem, in Latin Words & Phrase.

Bankruptcy. Refers to statutes and judicial proceedings involving persons or businesses that cannot pay their debts and seek the court’s assistance in getting a fresh start. Under the protection of the bankruptcy court, the courts may release or “discharge” debtors from their debts, perhaps by paying a portion of each debt. Bankruptcy judges preside over these proceedings. The debtor owes the debtors to creditors – both people or companies. See Chapter 7, page 21.

bill of particulars. A statement of the details of the charge made against the defendant.

Bill of Rights. The first ten amendments of the United States Constitution. Part of that constitution which articulates fundamental rights of citizenship. A declaration of rights fundamental to the free enjoyment of human rights, and thus, a reservation of limited individual sovereignty. Courts will of necessity balance and limit them when they clash with one another. The First Amendment’s guarantee of free speech and publication has, in some cases, conflicted with the Sixth Amendment guarantee of a fair trial, with the result of a judicial balancing of the two. Courts may also balance the right of free speech against other social values considered of equal importance. Thus, Oliver Wendell Holmes Jr., US Supreme Court Justice, stated that freedom of speech does not extend to yelling “Fire!” in a crowded theater. Courts will constraining the freedom of religion when its practices seriously endangers the lives of others, or violates other basic societal values (for example, values against bigness).

bind over. To hold a person for trial on bond (bail) or in jail. If the judicial official conducting a hearing finds probable cause to believe the accused committed a crime, the official will bind over the accused, normally by setting bail for the accused’s appearance at trial. (Refers to a state court procedure.)

black letter law. Certain principles of law commonly known and without doubt or ambiguity.

The substantive and procedural laws of a state. BWS has been defined by California courts as a “series of common characteristics of which all persons who are abused physically and psychologically over an extended period of time by the dominant male figure in their lives; a pattern of psychological symptoms that develop only after some woman has lived in a battering relationship; or a pattern of responses and perceptions presumed to be characteristic of women who have been subjected to continuous physical abuse by their mates.”

battery. 1. Unlawful physical force inflicted upon another without his or her consent; 2. An intentional and offensive touching or wrongful physical contact with another without consent; that results in some injury or offense or causes discomfort.

battery. “The unlawful application of force to the person of another.” Perkins & Boyce, Criminal Law 152 (3d ed. 1982). The instruction is phrased similarly in 3 Bl. Comm. “The actual touching involved in an assault and battery. In tort law, the legal protection from battery extends to any part of one’s body or to “anything so closely attached thereto that it is customarily regarded as a part thereof.” Restatement (Second) Tort §18. “Thus, contact with the plaintiff’s clothing, or with a cane, the car which he is riding [sic] or driving, etc. is sufficient to support a claim of civil tort liability.” Prosser, Torts 34 (4th ed. 1971). If the contact is offensive, even though harmless, it entitles the plaintiff to an award of nominal damages or, if extreme, a jury may award compensatory and punitive punishable application of force to the person of another as a criminal battery (a misdemeanor at common law). Perkins and Boyce, supra at 158. A beating, or wrongful physical violence, “Assault refers to the failure to use force in battery, ‘battery’ refers to the use of it, which usually includes an assault.”

bench. The seat occupied by the judge. More broadly, the court itself.

bench trial. (Also known as court trial.) Trial without a jury in which a judge decides the facts.

bail warrant. An order issued by a judge for the arrest of a person.

beneficiary. Someone named to receive property or benefits in a will. In a trust, a person who will receive benefits from the trust.

bequeath. To give a gift to someone through a will.

bodily injury. In general usage the term refers to physical harm to a human being. In cases of assault and battery, however, the term refers to the unlawful application of physical force upon the person of the victim – even when no actual physical harm results.

bond. A written agreement by which a person insures he will pay a certain sum of money if he does not perform certain duties properly. Bond, qv.

bound supplement. A supplement to a book or books to update the service bound in permanent form.

booking. The process of photographing, fingerprinting, and recording identifying data of a suspect. This process follows the arrest.

Brandes brief. A type of legal brief in which wisdom and intellect, instead of legal factors, supports its issue. Named after Louis Brandes, the then lawyer, who, for example, “succeessfully” argued economic necessity for the installation of minimum wage laws.

brain death. Death determined by a “flat” reading on an electroencephalograph (EEG), usually after a 24-hour period, or by other medical criteria.

breach. The breaking or violating of a law, right, or duty, either by commission or omission. The failure of one part to carry out any condition of a contract.

breach of contract. An unjustified failure to perform the performance agreed upon by contract.

breach of peace. Any unlawful activity that unreasonably disturbs the peace and tranquility of the community. Also, “an act calculated to disturb the public peace.”

brinbery. The offense of giving or receiving a gift or reward intended to influence a person in the exercise of a judicial or public duty.

brief. A written argument by counsel arguing a case, which contains a summary of the facts of the case, pertinent laws, and an argument of how the law applies to the fact situation. Also called a memorandum of law.

buggery. A term usually meaning anal intercourse.

burden of proof. In the law of evidence, the necessary to establish an issue: “without this, that would not be,” or “but for the conduct of the defendant, the result would not have occurred.”

bylaws. Rules or laws adopted by an association or corporation to govern it.

capital crime. A crime punishable by death.

calendar. A list of cases scheduled for hearing in court.

canons of ethics. Standards of ethical conduct for attorneys.

capacity. Having legal authority or mental ability. Being of sound mind.

caption. Heading or introductory party of a pleading.

career offender. Under federal sentencing guidelines, a person who: (1) is at least 18 years old at the time of the most recent criminal conviction; (2) has at least two prior convictions of a felony or a controlled substance offense; (3) has at least two prior felony convictions of either a crime of violence or a controlled substance offense.

case law. Law established by previous decisions of appellate courts, particularly the United States Supreme Court.

case law. The system of laws, originally developed in England and adopted in the United States, based on court decisions, specifically appellate courts; on the doctrines implicit in those decisions, and on customs and usages rather than on a codified body of written law or statutes. Cf. constitution,
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First Edition Condensed

“we the people” legal primer

May 2004

legislation, civil law 1. Cf. statute, decisis, in Latin Words & Phrases

cases. General term for an action, cause, suit, or controversy, at law or in equity; questions contested before a court of justice.

castle exception. An exception to the retreat rule that recognizes a persons’ fundamental right to be in his or her home, and recognizes the home as a final and inviolable place of retreat. Under the castle exception to the retreat rule it is not necessary to retreat from one’s home in the face of an immediate threat, even when retreat is possible, before resorting to deadly force in protection of the home.

causation in fact. An actual link between an actor’s conduct and a result.

cause. A lawsuit, litigation, or action. Any question, civil or criminal, litigated or contested before a court of justice.

cause of action. The fact or facts which give a person a right to relief in court.

caveat. A warning; a note of caution.

censure. An official reprimand or condemnation of an attorney. Cf. disbarment, suspension.

Certificate of Title. Document issued by Registrar of Titles for real estate registered under the Torrens System considered conclusive evidence of the present ownership and state of the title to the property described therein.

certification. 1. Written attestation. 2. Authorized declaration verifying an instrument as a true and correct copy of the original.

certiorari. A writ of review issued by a higher court to a lower court. A means of getting an appellate court to review a lower court’s decision. If an appellate court grants a writ of certiorari, it agrees to take the appeal. Sometimes referred to as “granting cert.”

challenge. An objection, such as when an attorney objects at a hearing to the seating of a particular person on a civil or criminal jury.

challenge the cause. A request from a party to a judge that the court not allow a certain prospective juror as a member of a jury because of specified causes or reasons. Cf. peremptory challenge.

chambers. A judge’s private office. A hearing in chambers takes place in the judge’s office outside of the presence of the jury and the public.

change of venue. Moving a lawsuit or criminal trial to another place for trial. Cf. venue.

Chapter 7 Liquidation. The declaration of the insolvency or bankruptcy of a debtor, the liquidation of certain assets of the debtor, the fair distribution of such assets, and the retention of the debtor of properties deemed exempt from his liabilities. Cf. bankruptcy.

Chapter 13 Repayment. Petitions for relief under chapter 11, if allowed, permit the debtor to undertake a restructure finances in order to allow the debtor to continue to operate and, thus, pay his debts. This policy allows for a break from debt collection and allows the debtor to work out a repayment plan with creditors as to how much the debtor will pay them, in what form, and other details. Cf. bankruptcy.

Chapter 13 Protection-Or-Wage Earner’s Plan. Relief, under chapter 13, to a debtor in possession of property of value, who has filed a petition substantiated by promises (for payment of a percentage of his debts from future earnings) offered by a debtor in return for government protection from creditors. Termined “wage earner’s plan” for individual workers and “chapter 13 protection” for companies. Under chapter 13, the debtor retains nominal possession and use of his property, but under supervision of a court-appointed trustee and according to a court-approved schedule to pay creditors within a period of time. Bankruptcy trustees also take legal title to the debtor’s property and hold it in “trust” for equitable distribution among creditors, if needed. Cf. bankruptcy.

charge to the jury. The judge’s instructions to the jury concerning the law that applies to the facts of the case on trial.

circuit judge. Presiding or administrative judge in a court.

change mediary. A sudden quarrel resulting in an unpremeditated homicide.

chattel. An article of personal property.

child. Offspring of parentage; progeny.

chronological. Arranged in the order in which events happened. According to date.

circumstantial evidence. All evidence except eyewitness testimony. For example, physical evidence, such as fingerprints, from which an inference can be drawn.

citation. A writ or order issued by a court commanding the person named therein to appear at the time and place named; also the written reference to legal authorities, precedents, reported cases, etc., in briefs or other legal documents.

citators. A set of books which provides the subsequent history of reported decisions through a form of abbreviations or work. Shepard’s Citations, has the widest use.

civil. Relating to private rights and remedies sought by civil actions as contrasted with criminal proceedings.

civil action. An action brought to enforce or protect private rights.

Civil Aeronautics Board (CAB). A commission which promotes and renders services with respect to civil aeronautics and activities in the U.S. and between the U.S. and foreign countries.

Civil law. 1. Law originally embodied in the Justinian Code (Codex Justinianus) and today prevalent in most western European countries and also used as the foundation of law in Louisiana (due to its French, not English, origins) – cf. common law. 2. Laws dealing with the rights of private citizens – cf. criminal law. 3. Laws promulgated by the supreme authority of any nation, state, or city. Also termed “chapter 13 protection” for companies. Under chapter 13 of the Bankruptcy Code, in the form of a plan with creditors as to how much the debtor will pay them, in order, thus, to pay his debts. This policy allows for a break from finances in order to allow the debtor to continue to operate from his liabilities. Cf. bankruptcy.

Clean Air Acts. Federal and state environmental statutes enacted to regulate and control air pollution.

clear and convincing evidence. Standard of proof commonly used in civil lawsuits and in regulatory agency cases. It is a standard of proof that is more burdensome than a preponderance of the evidence standard. It governs the amount of proof that must be offered in order for the plaintiff to win the case. Proof, qv.

clemency or-executive clemency. Act of grace or mercy by the president or governor to ease the consequences of a criminal act, accusation, or conviction. (Sometimes known as commutation or executive clemency.)

clerk of Court. The administrator or chief clerical officer of the court who exercises serious power in the court. Note: NEVER consider this clerk as a “file clerk.”

closing argument. The closing statement, by a counsel, to the jury of facts after the trial.

code. A comprehensive and systematic compilation of laws. The criminal code refers to the penal laws of the jurisdiction. Today most jurisdictions have codified a substantial part of their laws. All jurisdictions record each new law in a volume of session laws or Statutes at Large. For example, Public Law 91-112 refers to the 112th law passed by the 91st Congress of the United States, based on federal precedent rather than statutory laws. It will appear only in these session law publications.

code jurisdiction. Those states that have enacted legislation recognizing as criminal only that conduct specifically prohibited by statute.

Code of Federal Regulations. The legal publication which contains the cumulative executive agency regulations.

Code of Professional Responsibility. The rules of conduct that govern the legal profession.

codify. An amendment to a law.

codify. To arrange in a code. Cf. code.

collate. To arrange in order; verify arrangement of pages before binding or fastening; put together.

collective mark. Trademark or service mark used by members of a cooperative, an association, or other collective group or organization.

committ. To send a person to prison, asylum, or reformatory by a court order.

common law. Also case law. Law established by subject matter heard in earlier cases.

common law. The system of jurisprudence originally developed in England, later applied in the United States, based on federal precedent rather than statutory laws. Based on the unwritten laws of England, common laws derive from principles rather than rules. It does not consist of absolute, fixed, and inflexible rules, but rather of broad and comprehensive principles, based on prior occurrences, and common sense. It originates and promulgates from judicial decisions. The social needs of society (and the changes in those needs) determine common law principles and the changes in those principles. Changes in common law principles reflect new conditions, interests, relations, and uses as the progress of society may require. Cf. civil law 1.

compensation service. A sentence alternative that requires offenders to spend at least part of their time working for a community agency.

commutation. The reduction of a sentence, as from death to life imprisonment.

comparative fault. A rule in admiralty law where the court requires each vessel involved in a collision to pay a share of the total damages in proportion to its percentage of fault.

comparative negligence. The rule under which a court measures negligence by percentage, and lesser damages in proportion to the amount of negligence attributable to the person seeking recovery.

competent to stand trial. A finding by a court, when a defendant’s mental competency to stand trial is at issue, that the defendant has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding, and that he has a rational as well as factual understanding of the proceedings against him.

complainant. The party who complains or sues; one who applies to the court for legal redress. Cf. plaintiff.

complaint. The legal document that usually begins a civil lawsuit. It states the facts and identifies the action it requests the court to take. 2. Formal written charge that a person has committed a criminal offense.

complacency. Involvement in crime either as principal or accomplice. The term also refers to the activities of conspirators, and may therefore be taken to mean the conduct on the part of a person that intended to encourage or aid another person in the commission of a crime, assist in an escape, or avoid prosecution.

composing a crime or-compounding a felony. Consists of the receipt of property or other valuable consideration in exchange for an agreement to conceal or not prosecute one who has committed a crime.

computer crime. Crime which employs computer technology as central to its commission, and which could not be committed without such technology. Cf. cybercrime.

computer fraud. A statutory provision, found in many states, which makes it unlawful for any person to use a computer or computer network without authority and with the intent to (a) obtain property or services by false pretenses; (b) embezzle or commit larceny; or (c) convert the property of another.

computer tampering. The illegal insertion or attempt to insert a “program” into a computer, while knowing or believing that the “program” contains information or commands that will or may cause it or a computer to alter data or destroy data, or any other computer (or its data) accessing or being accessed by that computer, or that will or may cause loss to the users of that computer or the users of a computer which accesses or which is accessed by such “program.”

computer trespass. The offense of using a computer or computer network without authority and with the intent to (a) remove computer data, computer programs or computer software from a computer or computer network; (b) cause a computer to malfunction; (c) alter or erase any computer data, computer programs or computer software; (d) effect the creation or alteration of a financial record or of an electronic transfer of funds; (e) cause physical injury to the property of another; or (f) make or cause to be made an unauthorized copy of data stored in any computer, or of computer programs or computer software.

concealed weapon. One that is carried on or near one’s person and is not discernible by ordinary observation.

conciliation. A form of alternative dispute resolution in which the parties to the dispute have the services of a neutral third party, who helps to lower tensions, improve communications, and explore possible solutions. Similar to mediation but perhaps less formal.

concurrence. The simultaneous coexistence of an act in violation of the law, and a culpable mental state.

concurrent sentences. Sentences for more than one crime for the convicted person to serve at the same time, rather than one after the other. Cf. cumulative sentences, consecutive sentences.

condemnation. The legal process by which the government takes private land for public use, paying the owners a fair price. Cf. eminent domain.

conduct. Behavior and its accompanying mental state.

conformed copy. An exact copy of a document containing written things that, for some reason, could not copy. For
example, a notation, which states the parties signed a document, replaces the written signature.

conviction. A final judgment. Subjective sentences, one
beginning at the expiration of another, imposed against a
person convicted of two or more violations. Cf. concurrent
sentences, cumulative sentences.

consent. A justification offered as a defense to a criminal
charge which absolves the defendant from blame or
excuses his or her conduct. A voluntary and informed
consent to another; a person filing for
judicial review in a civil suit.

concurrent. A means of accomplishing a change in industrial ownership, or
conveyance. Detaining of a person by lawful process or authority
in the unauthorized use of the defendant's property for
another's use, as for a lease or rental, or in the
unlawful possession of the property of another.

construction. Law set forth in the Constitution of the
United States and the state constitutions.

constructive. Through the operation of the law, not
through the will of the parties.

constructive possession. The capacity to exercise control over
real property and objects, even though not in one's physical
possession.

constructive touching. A touching inferred or implied from
prevailing circumstances. Also, a touching for purposes of
the action.

consumer bankruptcy. A proceeding under the Bankruptcy
Code filed by an individual (or husband and wife) who do not
conduct a business.

contempt of court. The violation of a court order.

continuance. Extension of time for performance of an
order.

contract. A binding agreement. An agreement in two or
more persons which
creates an obligation to do or not to do a particular thing. A
legally enforceable agreement.

contributory negligence. The rule of law under which the
court considers an act or omission of plaintiff as a cause of
injury and a bar to recovery.

controlled substance. A specifically defined psychoactive or
pharmacological chemical substance which comes under
the purview of the criminal law.

conversion. Unauthorized assumption of the right of
ownership. Conversion is a central feature of the crime of
embezzlement, as in the unlawful conversion of the personal
property of another, by a person to whom it has been
entrusted.

conveyance. Instrument transferring title of land for one
person or group of persons to another.

conviction. A judgment of guilt against a criminal
defendant.

coroner. A public official who investigates the causes and
circumstances of deaths that occur within his or her jurisdiction and
makes a finding in a coroner's inquest. Autopsy, inquest, qv.

corroborating evidence. Supplementary evidence that tends to
strengthen or confirm the initial evidence.

counsel. A legal advisor; a term used to refer to lawyers in a
case.

counterclaim. A claim made by the defendant in a civil
lawsuit against the plaintiff. In essence, a counter lawsuit within
a lawsuit.

court. A government body to which the government
delegates the administration of justice.

court-appointed attorney. Attorney appointed by the court
to represent a defendant, usually with respect to criminal charges
and with the defendant having to pay for the representation.

court costs. The expenses of prosecuting or defending a
lawsuit, other than the attorney fees. An amount of money
that the court may award to the successful party (and may be
recoverable from the losing party) as reimbursement for court
costs.

court of last resort. The highest court in the land. Typically,
the supreme court of a state or the US.

court of original jurisdiction. A court where a party initiates
a matter and the court hears it in the first instance; a trial court.

court record. A record of a court proceeding or congressional
activity.

custody. The control or immediate possession of another's property or
person or group of persons to another.

custodian. A person or group of persons to another.

custody. The control or immediate possession of another's property or
person or group of persons to another.

decedent. A person to whom a debtor owes a debt.

derelief. The court's order allowing a person to have some
benefit, such as a judgment or other order, granted to them.

decedent. A deceased person.

default. A judgment entered against a party who
fails to answer a summons or complaint.

defendant. The person on trial, i.e., the person charged
with a crime.

defense. Evidence and arguments offered by a defendant
and his or her attorney(s) to show why the
plaintiff should not be held liable for a criminal charge.

defense of property. Affirmative defense in criminal law
or tort law where defendant used force to protect his property.

defense of persons. A defense to a crime charged or
asserted by the defendant, which shows that
someone else is culpable for the defendant's actions.

defense of the innocent. To show that an innocent
person could not have committed the crime charged.

defense of the state. A defense to a crime charged which
shows that the crime was committed for the benefit of the
state.

defense of self. The right of a defendant to protect himself
or herself from another person who is trying to
harm him or her.

defense of the sovereign. To show that the crime charged
was committed for the benefit of the state.

defense of the state. A defense to a crime charged which
shows that the crime was committed for the benefit of the
state.

defense of the innocent. To show that an innocent
person could not have committed the crime charged.

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defense of the state. A defense to a crime charged which
shows that the crime was committed for the benefit of the
state.
detriment sentencing -or- presumptive sentencing -or- fixed sentencing. A model for criminal punishment which sets one particular punishment, or limit, for a lawful purpose in such a way as to purposefully disturb the public assembly. A crime that occurs when an offender is being sentenced. The act of removing a charge, responsibility, or duty. ex parte. On behalf of only one party, without notice to any other party. For example, a request for a search warrant, since neither the party nor the court notifies the person subject to the search of the proceeding, nor does that person attend the hearing. execution of public duty defense. A defense to a criminal charge that an assault was not committed, and which precludes the possibility of police officers and other public employees from being prosecuted when lawfully exercising their authority. executor. A personal representative, named in a will, who administers an estate. exempt property. All the property of a debtor not attachable under the Bankruptcy Code or the state statute. exhibit. A document or other item introduced as evidence during a trial or hearing. exonerate. Removal of a charge, responsibility, or duty. effective consent. Also termed legal consent, is consent that has been obtained in a legal manner. elements of a crime. Specific factors that define a crime which the prosecution must prove beyond a reasonable doubt in order to obtain a conviction: (1) that a crime has actually occurred, (2) that the accused intended the crime to happen, and (3) a timely relationship between the first two factors. eminent domain. The right of all persons to receive the fair market value of their homes or property by false pretenses. person without his or her consent. court. The trial of persons alleged to be criminals in order to determine their guilt or innocence. criminal trial if the police obtained it through illegal conduct. exclusionary rule. A legal principle that mandates the suppression of evidence in a criminal trial if the police obtained it through illegal conduct. The rules do not apply in civil proceedings, although some statutes specifically provide for exclusion of such evidence. The Fourteenth Amendment to the U.S. Constitution that the law is applicable to acts and transactions occurring in each state, and that states cannot pass laws that have an actual or apparent purpose to discriminate against citizens of other states.金字塔。
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Proceeding may use such evidence to impeach the testimony of a defendant who takes the stand in his own defense. 401 U.S. 222. This rule does not apply to evidence resulting from illegal conduct except such conduct involving complicity on the part of the state. 256 U.S. 465. However, several states courts do exclude evidence obtained through unreasonable searches. 485 P.2d 47. Also, if the police employ a method of acquiring evidence sufficiently distinct from the original illegal activity, the prosecution may use it if it shows the dissipation of the tainted (poisonous) act. For example, a bona fide confession where the police illegally arrested but then released the defendant, who then somehow thereafter returns and confesses. 371 U.S. 158.

This doctrine has its name from the idea that, once the police “poison the tree” (act legally or to attempt to obtain the primary evidence), then any “fruit of the tree” (any secondary or derivative evidence) resulting from that illegal search also contains that “poison.”

Fighting words do not fall under the privilege of the First Amendment. Some jurisdictions, with intent to provoke, inherently like to provoke. The federal agency in charge of printing, binding, and selling of all government communications. 

The fee required for filing various documents. 

A judge or jury regarding a fact. First impression—first consideration. The first time a court considers, for determination, a particular question of law. A first impression consideration of law before considered by any court, and thus, not influenced by stare decisis. Cf. question of law, stare decisis. 

A brief summary of a legal rule or significant facts for another and who must exercise a standard care imposed by law, i.e., personal representative or executor of an estate, a heir, etc.

A form of evidence, statements, or testimony that permitted officers to shoot a suspected felon who was attempting to flee from a lawful arrest. 

The making of a false written instrument or the use of a financial institution or the United States Government, or which is one of two or more employees used to fund the Social Security system. IRC §3121.

An agency which insures deposits in banking institutions in the event of financial failures. 

A federal agency that regulates interstate and foreign communications by wire and radio.

A court proceeding upon default in a mortgage. 

A federal agency which regulates immigration and naturalization of aliens.

A defense to a charge of attempted criminal activity that claims either that the defendant could not have factually or legally committed the envisioned offense even if he or she had been able to carry through the attempt to do so. It is, for example, factually impossible to kill someone who is already dead.

Hearing. A formal proceeding (generally less formal than a trial) with the purpose to hear definite issues of law or of fact. Legislative and administrative agencies extensively use hearings.

Hearings. Statements by a witness who did not see or hear the incident in question but heard about it from someone else—“hear someone’s say.” Courts admit hearsay as evidence depending on several lenient principles.

A brief summary of a legal rule or significant facts in a case, which along with other headnotes, precedes the text.

Implied contract. The federal agency in charge of immigration and naturalization of aliens. 

Impeachment. A criminal proceeding against a public official. 

Impeachment of a witness. An attack on the credibility (believability) of a witness, through evidence introduced for that purpose.

A contract not created or evidenced by the explicit permission of the parties but one inferred by law, as the use of electric power in your home implies a contract with the light company.

Implied. Implied or understood although not directly expressed. For example, a concealed weapon statute with the wording “...revolvers, shotguns, and similar firearms...” implicitly refers to semi-automatic pistols. The implicit meaning of any expression coming from the matter in question through logic, implication, or understanding. Parties and courts seek to scrutinize possible implicit renderings of an expression. 

Insalubrity. Inadequate ventilation in a room, house, or dwelling.

Insane. A defendant if he or she kills another person during the commission of certain felonies. 

Incompetent. Incompetence, which is referred to as a defendant’s behavior. General intent refers to an actor’s general deterrence.
Indecent exposure. Public indecency. Specifically, the willful exposure of the private parts of one person to the sight of another person in a public place with the intent to arouse or gratify sexual desires. Also, the commission, in a place accessible to the public, of (1) an act of sexual intercourse; (2) a lewd exposure of person; (3) a lewd appearance in a state of partial or complete nudity; or (4) a lewd caress or indecent fondling of the body of another person.

Indispensable evidence. Evidence necessary to prove a particular fact.

Infancy—immaturity. A defense that makes the claim that certain individuals should not be held criminally responsible for their actions because of youth. It may also be used in civil cases to determine the mental capacity of a minor to enter into a contract.

Initial appearance. The defendant comes before a judge within hours of the arrest to determine the presence of probable cause for his or her arrest.

Inference. A deduction from the facts given, usually less than certain, but which a trier of fact may decide as sufficient to support a finding of guilt. Inferences are drawn with the help of a fact or proposition sought to be established. In such cases, inferences are deduced as a logical consequence from other facts, or a state of facts, already proved or admitted, and also be evidence of "a deduction of an ultimate fact from other proved facts," by virtue of the common experience of man, will support but not compel such deductions. 186 A.2d 632, 633. Cf. presumption.

Injunction. A prohibitive order or remedy issued by the court at the suit of the complaining party, which forbids the defendant to do some act which he threatens or attempts to do. Conversely, it may require him to perform an obligatory act that he refuses to do.

Insants. A judiciary inquiry. An inquiry made by a coroner to determine the cause of death in a sudden death, a death under suspicious circumstances, a death in prison, or a killing. Generally, a coroner is to determine the time, place, and cause of death of any person involved in the death, or to someone else.

Inheritance tax. A state tax on property that an heir or beneficiary under a will receives from a deceased person's estate. The heir or beneficiary pays this tax.

Injunction. A prohibitory order or remedy issued by the court at the suit of the complaining party, which forbids the defendant to do some act which he threatens or attempts to do. Conversely, it may require him to perform an obligatory act that he refuses to do.

Incredible sentence. A model of criminal punishment that builds upon the use of general and relatively unspecific sentences (such as a term of imprisonment "from one to ten years"). A sentence of imprisonment to a specific minimum and maximum period of time, specifically authorized by statute, is a sentence of imprisonment for a definite term. The branch of government invested with judicial power, claiming that it would confuse jurors (519 A.2d 1331, 47 F.T.C. 1136 (D.C. Cir. 1972)). Such rulings contradict the fact that once a court empains citizens as a jury, they become part of government and act on behalf of the people. Thus, courts (judges) seem to have ruled not to inform a whole legitimate arm of the government of its full powers and responsibilities (362 A.2d 706 (D.C. 1976) (en banc)).

Just desserts. A test for insanity that evaluates the defendant's claim that, at the time the crime was committed, a mental disease or disorder prevented the defendant from knowing or meaningly understanding what he or she was doing. "...a process of determining whether a criminal defendant's act was due to a mental disease or mental defect or of determining whether a person's act fits the definition of a mental disease or defect."

Jurisdiction. The branch of government invested with judicial power, claiming that it would confuse jurors (519 A.2d 1331, 47 F.T.C. 1136 (D.C. Cir. 1972)). Such rulings contradict the fact that once a court empains citizens as a jury, they become part of government and act on behalf of the people. Thus, courts (judges) seem to have ruled not to inform a whole legitimate arm of the government of its full powers and responsibilities (362 A.2d 706 (D.C. 1976) (en banc)).

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Jurisdictional. May 2004

Justice. A presiding officer of the court.

Justifiable homicide. 1. Homicide that is permitted under the law, or which is justifiable under the law. 2. A killing justified for the good of society. 3. The killing of another in self-defense when danger of death or serious bodily harm exists. 4. The killing of a person according to one's duties or out of necessity, but without blame.

Justification. A category of legal defenses in which the defendant admits committing a crime, but claims it was necessary in order to avoid some greater evil.

Juvenile Offender. A child who violates the criminal law, or who commits a status offense. Also, a person subject to juvenile court proceedings because a statutory defined event caused by the person was alleged to have occurred while his or her age was below the statutory specified age limit of original jurisdiction of a juvenile court.


Killing a peace of prostitution. Knowing granting or permits the use of the peace for the purpose of prostitution.
A free publication. For imprisoned people only.

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key number system. A research aid developed by West Publishing Company that classifies digests of cases into various law topics and subtopics by paragraph numbers, called "Key Numbers." Each key number for a given topic helps the researcher quickly find all references to the legal matter being researched. Refer to the "Key Number System" section in this legal primer.

kidding. The unlawful and forcible removal of a person from his or her residence or place of business. Also, an aggravated form of the impersonation that is accompanied by either a moving or secreting of the victim.

knowing behavior. Action undertaken with awareness.

knowing possession. Possession with awareness (of what one possesses).

knowingly. Regarding criminal behavior, a person acts knowingly when he has a reasonable certainty that his behavior involves, or is capable of, an element of a crime.

larceny. The trespassory taking and carrying away (asportation) of the personal property of another with intent to steal. Also, the wrongful taking of the personal property of another, with intent to steal. Obtaining property by fraud or deceit.

lascivious. Obscene or lewd, or that which tends to cause lust.

last act test. In the crime of attempt, a test which asks whether the accused had taken the last step or act towards commission of the offense, and had performed all that he intended to do and was able to do in an attempt to commit the crime, but for some reason the crime was not completed.

law. The codifications of principles and conduct promulgated by the legislature, the courts, or by local custom, which should guide one's actions in society. Our laws derive from a combination of moral laws, laws of nature, and human experience, all of which have evolved by human intellect throughout human history. Laws, by its definition, must change— and criminal laws change as criminally or as the people's view of criminality changes. 123 N.W. 504, 508. Cf. adjective law, case law, common law, session law.

law Blank. 504, 508. Cf. adjective law, case law, common law, session law.

lapsed gift. A gift made in a will to a person who has died prior to the will-makers death.

larceny. The trespassory taking and carrying away (asportation) of the personal property of another with intent to steal. Also, the wrongful taking of the personal property of another, with intent to steal. Obtaining property by fraud or deceit.


legal, lawful, or recognized by law or according to law.

legal aid. Professional legal services available usually to persons or organizations unable to afford such services.

legal cause. A legally-recognizable cause. The type of cause that is required to be demonstrated in court in order to hold an individual criminally liable for causing harm.

legal consent. Cf. effective consent.

legal process. A formal, legally valid paper. Something the law makes.

legal text. Books that cover specific areas of the law, usually dealing with a single topic.

legislation. The act of giving or enacting laws. The power to make laws via legislation in contrast to court-made laws.

legislation. Law. A legal, political, or administrative act of a government or body of government that is created, adopted, and promulgated by the elected legislative agents of the people and subject to the limitation of the constitution. Cf. constitution, case law.

legislature. Agents elected by the people and representing the people in their official capacity to make laws or promulgate laws.

legislative intent. The reasons why a legislature creates a statute, often documented, and, thus, available to the courts in review for in order to understand the "spirit" behind the words of the law.

legitimate. Legal, lawful, or recognized by law or according to law.

leniency. Recommendation for a sentence less than the maximum allowed.

Letters of Administration. Legal document issued by a court that shows an executor's legal right to take control of assets in the deceased person's name.

Letters Testamentary. Legal document issued by a court that shows an executor's legal right to take control of assets in the deceased person's name.

liable. Legally responsible.

libel. Published defamation which tends to injure a person's reputation. Cf. slander, invasion of privacy.

licensing boards. State agencies created to regulate the issuance of licenses to issue to contractors, barbers, cosmetologists, realtors, etc.

lien. An encumbrance or legal burden upon property.

limine. Cf. in limine in Latin Words & Phrases.

limited jurisdiction. Refers to courts that are limited in the types of criminal and civil cases they may hear. For example, a limited jurisdiction court does not hear traffic violations.

limited jurisdiction. Cf. regional jurisdiction. Certain courts limited by statute to have subject matter jurisdiction only over certain or special types of cases. Examples: small claims court, probate court.

litigant. A party to a lawsuit.

litigation. A lawsuit; a legal action, including all proceedings therein.

living trust. A trust set up and in effect during the lifetime of the grantor. (Also called inter vivos trust.)

loitering. The act of delaying, lingering, or to be idle about without lawful business for being present.

loose-leaf services. Loose-leaf replacement pages provided by a publisher in areas of the law where changes occur at a rapid rate.

looting. Burglary committed within an affected geographical area during an officially declared state of emergency, or during a local emergency declared by the mayor or president of a city.

lynching. The taking, by means of riot, any person from the lawful custody of any peace officer.

maladroit. —

malfeasance. The commission of an unlawful act.

malfeasance. Cf. misfeasance.

malice. A legal term that refers to the intentional doing of a wrongful act without just cause or legal excuse. In cases of homicide the term means “an intention to kill.”

malice aforethought. An unjustifiable, inexcusable and unmotivated person-endangering state-of-mind.

malicious prosecution. An action instituted with intention of injuring the defendant and without probable cause, and which terminates in favor of the person prosecuted.

malpractice. Any professional misconduct.

manslaughter. The unlawful killing of another without malice aforethought (prior intent to kill); either voluntary (upon a sudden impulse), or involuntary (during the commission of an unlawful act not normally expected to result in great bodily harm). Cf. murder.

marshals. The executive federal or municipal officer who carries out the orders of such federal or municipal court, respectively.

Martindale-Hubbell Law Directory. A publication of several volumes which contains names, addresses, specialties, and rating of United States lawyers; also includes digests of state and foreign statutes and court decisions.

mayhem. Intentional infliction of injury on another that causes the removal of, seriously disfigures, or impairs the function of a person.

mediation. A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party, who helps them reach an agreement.

memorandum. An informal note or instrument embodying something the parties desire to have in written evidence.

memorialized. In writing.

menacing. Assault, qv.

mere possession. Possession in which one may or may not be aware of what he or she possesses.

mere preparation. An act or omission that may be part of a series of acts or omissions constituting a course of conduct planned to culminate in the commission of a crime, but which fails to meet the requirements for a substantial step. Also, preparatory actions to the commission of a crime that are remote from the actual commission of the crime.

merger. The absorption of one thing or right into another.

minor. A person under the age of legal competence.

minority. More than the common meaning regarding number, race, ethnicity, religion, handicap, or gender. In regards the constitutional guarantee of equal protection, it refers to an identifiable and specifically disadvantaged group, and includes criminal defendants both prior to and following conviction. 343 F. Supp. 704, 730.

mistrial. A book maintained by the courtroom deputy bailiff, which contains minute entries of all hearings and trials concluded by the judge.

minutes. Memorandum of a transaction or proceeding.

Miranda warning.— Miranda Rule. Requirement that police tell a suspect in their custody of his or her constitutional rights before any question is asked. Named as a result of the Miranda v. Arizona ruling by the United States Supreme Court. 384 U.S. 436, 444, 478 479, 86 S.C. 1602, 1630, 13 L.Ed. 2d 694, 706.


misconduct in office. Acts which a public office holder: 1. has no right to perform, 2. performs improperly, or 3. fails to perform in the face of an affirmative duty to act.

misdemeanor. A minor crime; an offense punishable by incarceration usually in a local confinement facility, for a period of time whose upper limit is prescribed by statute in a given jurisdiction, typically limited to a year or less.

misfeasance. Improper performance of an act which a person might lawfully do. Cf. malfeasance.

misprision of felony. The failure to report a known crime; concealement of a crime.

misprision of treason. The concealment or nondisclosure of the known treason of another.

mistake of fact. Misinterpretation, misunderstanding, or forgetfulness of a fact relating to the subject matter at hand; belief in the existence of a thing or condition that does not exist.

mistake of law. A misunderstanding or misinterpretation of the law relevant to a situation at hand.

mistrial. An invalid trial, caused by fundamental error. When a court decides a mistrial, the trial must start again from the selection of the jury.

mitigating circumstances. Circumstances that do not constitute a justification or excuse for an offense but which a court may consider as reasons for reducing the degree of blame.

mitigating factors. Circumstances surrounding the commission of a crime which do not in law justify or excuse the act, but which in fairness may be considered as reducing the blameworthiness of the defendant. Also, all factors that are material to an offense or of an offender's background that could result in a lesser sentence under the determinate sentencing model than would otherwise be called for by sentencing guidelines.

mitimus. The name of an order in writing, issuing from a court and directing the sheriff or other officer to convey a person to a prison, asylum, or reformatory, and directing the jailer or other official appropriate to receive and safely keep the person until his or her fate shall be determined by due course of law.

mitigation. A reduction, abatement, or diminution of a penalty or punishment imposed by law.

mixed sentence. One which requires that a convicted offender serve weekends (or state or federal periods of time) in a confinement facility (usually a jail), while undergoing probation supervision in the community.

Model Penal Code. A model code of criminal laws intended to standardize general provisions of criminal liability, sentencing, defenses, and the definitions of specific crimes between and among the states. The Model Penal Code was developed by the American Law Institute.

moral certainty. At least "reasonable certainty" or "certainty beyond a reasonable doubt" but less than an absolute certainty. "A reasonable certainty or conviction based on convincing reasons and excluding all reasonable doubts that a contrary or opposite conclusion based on any reasons." 104 N.W.2d 379, 382. A juror settles into a morally certain mentality regarding a truth of a fact seeks to prove which the juror would have the same mental process in matters of the greatest importance to himself. This term sometimes finds use as the criminal law standard of proof, but also may indicate an even higher standard. Proof, qv.

morals. Ethical principles, or principles meant to guide human conduct and behavior; principles or standards of right and wrong.

morals offenses. A category of unlawful behavior originally created to protect the family and related social institutions. Included are crimes such as sodomy, bestiality, unchaste behavior, obscenity, profanity, and prostitution.

moot. Regarding a moot case or a moot point: one not subject to a judicial determination because it involves a abstract question or a pretended controversy that has not yet actually arisen or has already passed. Mootness usually refers to situations in which there is no actual controversy or question for the court to decide. For example, a court might hold that a case is moot if it determines that the controversy has been resolved by other means, such as through an agreement between the parties, or through a statute or other legal action.
parole evidence. Oral or verbal evidence; evidence given by word of mouth in court.

parole. Supervised release of a prisoner from imprisonment on certain prescribed conditions that entitle him to termination of his sentence.

Part I Offenses. That group of offenses, also called major offenses or index offenses, for which the Uniform Crime Reports (UCR) publishes counts of reported instances, and which consists of murder, rape, robbery, aggravated assault, burglary, larceny, auto theft, and arson.

Part II Offenses. A group of 19 "lesser" crimes including forgery, fraud, embezzlement, vandalism, prostitution, drug abuse violations, etc., which are reported in the FBI's Uniform Crime Reports (UCR). Part II Offenses are counted only in terms of arrests (rather than as reported crimes).

parties to crime. All persons who take part in the commission of a crime, including those who aid and abet, and who are therefore criminally liable for the offense.

party. A person, business, or government agency actively involved in the prosecution or defense of a legal proceeding.

patent. A grant to an inventor of the right to exclude others for a period of time from making, using, or selling his invention in the United States.

Penalties and Trademark Office. The federal agency which examines and issues patents and registers trademarks.

Penal Code. The body of laws pertaining to crimes and offenses and the penalties for their commission.

Pennsylvania style. A form of imprisonment developed by the Quakers in Pennsylvania about 1756 and used until about 1820. Prisons had cells lining the outer walls and containing windows so that the religious Quakers could see into the great amounts of solitary confinement (thus the windows in the cells) for religious study. They expected prisoners to show penitence (repentance)—thus the word "penitentiary." It competed with the Auburn system.

Peremptory challenge. Request by a party that a judge not allow a certain prospective juror as a member of the jury. No reason or cause need be stated. Cf. challenge for cause.

perfect self-defense. A claim of self-defense that meets all of the generally accepted legal conditions for such a claim to be valid. Where deadly force is used, perfect self-defense requires that, in light of the circumstances, the defendant reasonably believed that it was necessary to use deadly force to prevent imminent death or great bodily harm, and the defendant was not the initial aggressor nor was responsible for provoking the fatal confrontation.

Periodical. A publication which appears regularly but less often than daily.

Perry. The willful giving of false testimony under oath in a judicial proceeding. Also, false testimony given under any lawfully administered oath.

Perpetual injunction. A court order requiring that some action be taken, or that some party refrain from taking action. It differs from forms of temporary relief, such as a temporary restraining order or preliminary injunction.

Per se doctrine. Under this doctrine, courts can declare an activity as criminal or as a crime fixing as a violation of the antitrust laws without necessity of a court inquiring into the reasonableness of the activity.

person in need of supervision. Juvenile found to have committed a "status offense" rather than a crime that would provide a basis for a finding of delinquency. Cf. status offense.

personal crime. Also called violent crime, is a crime committed against a person, including (according to the FBI's UCR program) murder, rape, aggravated assault, and robbery.

Personal property. Anything of value that a person owns other than real estate or funds.

Personal jurisdiction— or in personam jurisdiction. The court's power over the parties involved in a particular matter. The court can exercise personal jurisdiction over the defendant as a result of the defendant's purposeful conduct within the state or where a defendant's activity meets the "minimum contacts" test: "In order to subject a defendant to a judgment in personam, he [must] have certain minimum contacts with the forum such that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice." 362 U.S. 310, 316.

Personal recognizance. In criminal proceedings, the pretrial release of a defendant without his or her promise to return to court. Cf. recognizance.

Personal representative. The person who administers an estate. If named in a will, the title "executor" refers to that person. If there is no valid will, the title "administrator" refers to that person.

personal trespass by computer. An offense in which a person uses a computer or computer network without authority and with the intent to cause physical injury to an individual.
petitioner. The person filing an action in a court of original jurisdiction. Also, the person who appeals the judgment of a lower court. Cf. appellant.

physical proximity test. A test traditionally used under common law to determine whether a person was guilty of attempted criminal activity. The physical proximity test requires that the accused has had his or her power to complete the crime almost immediately.

pimping. Aiding, abetting, counseling, or commanding another in the commission of prostitution, or the act of procuring a person to engage in prostitution.

plaintiff. A person brings an action; the party who complains or sues in a civil action. Cf. complainant.

plea. The first pleading by a criminal defendant, the defendant’s declaration in open court of guilty or not guilty. The answer to the charges made in the indictment or information.

plea agreement —or- plea negotiation —or- plea negotiating (verb) —or- negotiating a plea (verb) —but never— plea bargaining. Process where the accused and the prosecutor in a criminal case agree to a disposition of the case. The accused usually agrees to plead guilty to a lesser offense or to some counts of a multi-count indictment in return for concessions as to the length of the sentence. A judge then either accepts or rejects the plea and the terms of the agreement. A judge who accepts the guilty plea must then adhere to the terms of the agreement. 404 U.S. 257, 260-261. ABA Minimum Standards for Criminal Justice —Standards Relating to Pleas of Guilty (1988).

Criminal defendants should not refer to this as a “plea bargain.” The word “bargain” implies that: 1. the defendant did not pay the full and intended penalty for his act; 2. the defendant used some trickery (criminal trickery, of course) to obtain the “bargain;” 3. the inability of the prosecution to otherwise prosecute the defendant to the proper and fullest extent; or 4. all of the above.

In any event, the phrase “plea bargain” suggests more actual guilt than the legal guilt (the plea and the conviction) would indicate.

pleadings. The written statements of fact and law filed by the parties to a lawsuit.

plurality requirement. The logical and legal requirement that a conspiracy involve two or more parties.

pocket parts. Supplements to law books in pamphlet form inserted into a pocket inside the back cover of the books in order to keep the book current.

polling the jury. The act, after a jury verdict has been announced, of asking jurors individually whether they agree or disagree and the basis of their decision. A procedure to keep the book current.

pons as to excite the viewer sexually. The depiction of sexual behavior in such a way as to excite the viewer sexually.

post-crime victimization —or- secondary victimization. Problems that follow from criminal victimization, such as the loss of employment, medical bills, the insensitivity of family members, and others, etc.

post-trial. Refers to items happening after the trial, such as post-trial motions and appeals.

pour-over will. A will that leaves some or all estate assets to a trust established before the will-maker’s death.

power. Authority to do. One has the power to do something if he has attained legal age. Also, used as “powers,” the term refers to authority granted by one person to another, such as powers given to a representative or agent in a power of attorney.

power of attorney. A formal instrument authorizing another to act on his or her behalf.

precedent. A previously decided case which courts recognize as authoritative in disposing of future cases. At common law, courts regarded precedents as the major source of law. A precedent may involve a novel question of common law or it may involve an interpretation of a statute. In either situation, to the extent that future cases rely upon it or distinguish it from themselves without disapproving it, the cases will serve as a precedent for future cases under the doctrine of stare decisis. Laws established by common law courts must follow in cases involving identical circumstances. Cf. stare decisis in Latin Words & Phrases.

precedential value. The value of a case regarding its use as an authority under the doctrine of stare decisis. Precedent, stare decisis, qv.

precursor chemicals. Chemicals that may be used in the manufacture of a controlled substance.
public intoleration, obstructing public passage, and (illegally) carrying weapons.

Public Service Commission or Public Utilities Commission. A state agency which regulates utilities.

punitive damages. Monetary award given to the defendant or wrongdoer.

purchase agreement or purchase offer or sales agreement or earnest money contract. Agreement between buyer and seller whereby the seller in general the price and terms of a proposed sale.

putative. Alleged; supposed; reputed.

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quash. To vacate or void a summons, subpoena, etc.

quasi-contract. An obligation created by the law in the absence of an agreement or contract, not based upon the intentions or expressions of the parties.

quasi-criminal action. A classification of actions such as violation of a city ordinance not a violation of a criminal statute, yet considered wrongs against the public punishable through fines — not usually crimes.

quiet title action. A court proceeding to remove a cloud on the title to real property.

quitclaim deed. A deed without warranty of title that passes whatever title the grantor has to another.

positive law. Existing law created by legally valid procedures. Similar to legislation. Cf. natural law.

question of fact. Disputed factual contentions traditionally left for the jury to decide. For example, in a battery case, the question of whether A touched B. Juries decide questions of fact, although the judge(s) act as the trier of facts in a trial without a jury. The trier of questions of fact, then decides the legal significance, if any, of the touching. Courts often experience difficulties in separating facts and law.

The manner in which a court characterizes an issue can trigger many different legal consequences. Courts employ different standards of review for findings of fact and findings of law. More at question of fact. Cf. question of law.

question of law. Disputed legal contentions, usually as regards the legal significance of an occurrence, traditionally left for the judge to decide. An appellate court pays less deference to the resolution of a question of law than to a determination of a question of fact. Keep in mind that courts often experience difficulty in trying to objectively determine the fine lines between fact and law. In such instances, the court may issue a new case and set of both fact and law. More at question of fact. Cf. question of fact.

quorum. The number of members of any body who must act in order for that body to transact business. 179 P2d 870, 873. While a quorum usually requires a majority, the body can alter this general principle to require or permit more or less than a majority.


rape. Unlawful sexual intercourse with a female person without her consent. 18 U.S.C. §2311. The prosecution must prove penetration, however slight; otherwise, the prosecution must prove the reasonable force and arms, to the laws or operations of the government, committed by a subject.

rebut. Evidence disproving other evidence previously given or reestablishing the credibility of challenged evidence. Cf. rejoiner.

receiving stolen property. 1. knowingly taking possession of or control over property that has been unlawfully stolen from another; 2. the receiving of stolen property, knowing that it has been stolen.

reckless behavior. Activity which increases the risk of harm. Cf. recognizezice. An obligation entered into before a court whereby the recognizezor acknowledges that he will do a specific act required by law.

record. All the documents and evidence plus transcripts of oral proceedings in a case.

recovery. The process by which the court disqualifies a judge from hearing a case either on his or her own motion (sua sponte) or upon the objection of a party.

re-direct examination. Opportunity to present rebuttal evidence after cross-examination of one's evidence.

redress. To set right. To remedy. To compensate. To remove the cause of.

refer. A person to whom the court refers a pending case to take testimony, hear the parties, and report back to the court.

rehearing. Another hearing of a civil or criminal case by the same court in which the case was originally heard.

registered mark. Trademark with the words "Registered in the U.S. Patent and Trademark Office" or the letter "R" enclosed within a circle.

rehabilitation. The attempt to reform a criminal offender. Also, the state in which a reformed offender is said to be.

rejoinder. Opportunity for the side that opened the case to offer limited response to evidence presented during the rebuttal by the opposing side. Cf. rebut.

remand. To order the court which originally heard it. Usually an appellate court that remands a case for proceedings in the trial court consistent with the appellate court's ruling.

remedy. Legal or judicial means by which a court either enforces a right or privilege, or prevents, redresses, compensates the violation of a right or privilege.

remittitur. The reduction by a judge of the damages awarded by a jury.

removal. The transfer of a state case to federal court for trial. In civil cases, with parties from different states. In criminal and some civil cases, because of a significant possibility that a state court could not conduct a fair trial.

renunciation. The voluntary and complete abandonment of the intent and purpose to commit a criminal offense. Renunciation is a defense to a charge of attempted criminal activity.

replacement volumes. Volumes which replace books combined with their pocket parts when the pocket parts cause the books to become too bulky.

replevin. An action for the recovery of a possession that one has wrongfully taken.

reply. The response by a party to charges raised in a pleading by the other party.

reporters. Books which contain court decisions.

republic. A political order in which the people exercise the supreme power of the land. They elect officers and representatives responsible to them. They usually elect a president as the head of state.

The word "republic" derives from the Latin "respublica" which derives from the phrase "res publica," meaning "the affairs of the people." The word "republica" summarizes the Roman idea, because they regarded government as something that concerns all the people. Though the Roman state never truly became a democracy as the Greek city-states did, the Romans strongly believed that everyone had a duty to serve the community. After the Roman republic survived almost 500 years, imperial rule (with an emperor as the single supreme authority) replaced it. However, the republican idea survived and came to help influence modern European and American people in the shaping of their governments.

request for admission or request for admit. Written statement of facts concerning a case that a party submits to an adversary party and which that party must admit or deny, a discovery device.

request for production of documents. A direction or command to the opposing party to produce for specified documents for review with respect to a suit, a discovery device.

request to admit. Request for Admission, qv.

rescission. The unmaking or undoing of a contract. A repeal.

rescuing a prisoner. A crime which is committed when any person or persons rescues or attempts to rescue any person held in lawful custody.

research. A careful hunting for facts or truth about a subject; inquiry; investigation.

resolution. The formal adoption of a motion.

respondent. The person against whom an appeal is taken. Petitioner, qv.

rest or rest its case. A party is said to "rest" or "rest its case" when it has presented all the evidence it intends to offer.

restatement. A publication which provides the law in a particular field, such as compiled from statutes and decisions.

restitution. Act of restoring anything to its rightful owner. The act of restoring someone to an economic position he enjoyed before he suffered a loss. A court requirement that an alleged or convicted offender pay money or provide services to the victim of the crime or provide services to the community.

restoration. A sentencing goal which seeks to make victims and the community "whole again.

restorative justice. A sentencing model that builds upon restitution and community participation in an attempt to make the victim "whole again.

retainer. Act of the client in employing the attorney or counsel, and also denotes the fee that the client pays when he or she retains the attorney to act for them.

retrieval. A rule operative in many jurisdictions which requires that a person being attacked retreat in order to avoid the necessity of using force against the attacker if retreat can be accomplished with "complete safety.

retribution. The act of taking revenge upon a criminal perpetrator. Also, the most punishment-oriented of all sentencing goals, and one which claims that we are justified in punishing because offenders deserve to suffer.

retrial. A report to a judge by police on the implementation of an arrest or search warrant. Also, a report to a judge in reply to a subpoena, civil or criminal.

reverse. An action of a higher court in setting aside or revoking a lower court decision.
The process through which a sentencing authority imposes a lawful punishment or other sanction upon a person convicted of a crime, and that offense per the will of the judge or jury.


reversible error. A procedural error during a trial or hearing sufficiently harmful to justify reversing the judgment of a lower court.

revocable trust. A trust that may be revoked by the settlor or terminated by the court under appropriate circumstances.

right. A liberty, power, privilege, immunity, or entitlement expressed either explicitly or implicitly (or interpreted).

right of allocation. A statutory provision permitting crime victims to speak at the sentencing of convicted offenders. A federal right of allocation was established for victims of federal violent and sex crimes under the Violent Crime Victim and Law Enforcement Assistance Act of 1994.

right of way. The right of a party to pass over the land of another.

riot. A tumultuous disturbance of the peace by three or more persons assembled of their own authority.

Robinson-Patman Act. The amendment to the Clayton Act that deals with price discrimination.

robbery. The unlawful taking of property that is in the immediate possession of another by force or threat of force. Also, larceny from a person by violence, intimidation, or by placing the person in fear. Felonious taking of another’s property, from his or her person or immediate presence and against his or her will, by means of force or fear. Cf. larceny, rout.

the preparatory stage of a riot.

rule of law -or- supremacy of law. The maxim that an orderly society must be governed by established principles and known codes that are applied uniformly and fairly to all of its members.

rules. Established standards, guides, or regulations set up by authority.

rules of evidence. Standards governing whether a court admits evidence in a civil or criminal case.

scienter. Knowledge; guilty knowledge.

search warrant. A written order issued by a judge that directs a law enforcement officer to search a specific area for a particular piece of evidence.

seal. To mark a document with a seal; to authenticate or make binding by affixing a seal. Court seal, corporate seal.

second degree murder. Depending upon jurisdiction, either: 1. murders committed during the perpetration or attempted perpetration of an enumerated felony such as arson, rape, robbery, and burglary, or 2. all murder not classified by statute as first degree.

secondary authority. Legal encyclopedias, treatises, legal texts, law review articles, and citations. Writings which set forth the opinion of the writer as to the law.

secured debts. In bankruptcy, a debt that the debtor gave the creditor a right to repossess the property or goods used as collateral.

Securities and Exchange Commission (SEC). A federal agency which monitors the securities industry.

sedition. A crime that consists of a communication or agreement intended to defame the government or to incite treason.

selective incapacitation. A sentencing strategy that imprisons or otherwise removes from society a select group of offenders - especially those considered to be most dangerous.

self-defense. The claim of legal justification of an otherwise criminal act due to the necessity to protect a person or property from harm by means of another. A defense to a criminal charge that is based upon the recognition that a person has an inherent right to self-protection and that to reasonably defend oneself from unlawful attack is a “natural” response to threatening situations.

self-incrimination, privilege against. The constitutional right of people to refuse to give testimony against themselves that could subject them to criminal prosecution. The Fifth Amendment to the United States Constitution guarantees this right; thus, people often refer to the assertion of this right as “taking the Fifth.”

self-proving will. A will whose validity does not require testimony to be proved before it wills the witnesses executed an affidavit reflecting proper execution of the will prior to the will maker’s death.


sentencing. The process through which a sentencing authority imposes a lawful punishment or other sanction upon a person convicted of a crime, and that offense.
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stay. A court order halting a judicial proceeding.

stipulation. An agreement between the parties involved in a suit regulating matters incidental to trial.

strict liability. Concept applied by the courts in product liability cases when a manufacturer presents his goods for public sale, he represents them as suitable for their intended use. Liability without fault or intention. Strict liability offenses do not require mens rea.

strict liability crimes. Violations of law for which one may incur criminal liability without fault or intention.

strike. Highlighting, in the record of a case, of evidence that has been improperly offered and will not be relied upon.

subject matter jurisdiction. The empowerment of a court to hear and determine a particular category of cases. Federal courts can exercise only "limited jurisdiction" q.v. as explicitly conferred by federal statutes. 28 U.S.C. §1251 et seq. Many state trial courts have "subject matter jurisdiction" to hear almost all matters. The parties to a lawsuit may not waive a requirement of subject matter jurisdiction.

subject research. Research of matter by determining all law related to that matter by finding everything on the subject.

subpoena. A command to appear at a certain time and place to give testimony upon a certain matter.

Subpoena Duces Tecum. A command to produce documents for filing.

substantially capacity test. A test developed by the American Law Institute and embodied in the Model Penal Code. The test holds that "a person is responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality (wrongfulness) of his conduct or to conform his conduct to the requirements of the law."

substantial step. Significant activity undertaken in furtherance of some goal. An act or omission that is a significant part of a series of acts or omissions constituting a course of conduct planned to culminate in the commission of a crime. Also, an important or essential step toward the commission of a crime that is considered as sufficient to constitute the crime itself.

Substantial step is conduct that is strongly corroborative of the actor's criminal purpose. According to one court, a substantial step is "behavior of such a nature that a reasonable observer, viewing it in context could conclude beyond a reasonable doubt that it was undertaken in accordance with a design to violate the statute.

substantive criminal law. Law with the purpose of prevention of harm to society and which prescribes punishment for specific offenses. The basic law of rights and duties as opposed to "remedial law" which provides methods of enforcement.

substantive law. The statutory or written law that governs rights and obligations of those subjected to it.

substantive law. The positive law that creates, defines, and regulates the rights and duties of parties, and which may give rise to a cause of action. 152 P.2d 589, 593-594. Cf. adjective law.

sudden passion. As in instances of voluntary manslaughter, passion directly caused by and rising out of provocation by the victim or of another acting with the victim, and includes the understanding that the passion arises at the time of the killing and is not solely the result of some prior passion.

summary judgment. A judgment given on the basis of pleadings, affidavits, and exhibits presented for the record without any need for trial. Used when no parties do not dispute the facts of the case and a matter of law entitles one party to a judgment.

summons. Instrument used to commence a civil action or special proceeding. A means of acquiring jurisdiction over a party.

support trust. A trust that instructs the trustee to spend only as much income and principal (the assets held in the trust) as needed for the beneficiary's support.

supress. For the court to forbid the use of evidence at a trial because police or a party improperly obtained it. Cf. exclusionary rule, fruit of the poisonous tree doctrine.

Surety Bond. A bond purchased at the expense of the estate to insure the executor's proper performance. Also referred to as "bail bond." A bond issued by a surety company to ensure that a criminal defendant will appear at scheduled court dates.

survivorship. Cf. joint tenancy.

suspension. A temporary loss of the right to practice law by an attorney. Cf. disbarment, censure.

suspicion. A court ruling upholding an objection or a motion.

syndrome. A complex of signs and symptoms presenting a clinical picture of a disease or disorder.

syndrome-based defense. A defense predicated upon, or substantially enhanced by, the acceptability of syndrome-related claims.

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section. clause. §§ sections. clauses.
aft. Affidavit.
aka. Also known as.
arg. Arguedo.
C.J. Corpus Juris.
C.J.S. Corpus Juris Secundum.
cap. resp. [L] capias ad respondendum.
e.g. [L] exempli gratia. For example.
Eq. equity. et al. [L] et alii. And others.
et seq. [L] et sequentes. And the following (of that described - clauses, paragraphs, pages, etc).
etc. [L] et cetera. And the rest. Not spelled "etc."
fixa. Formerly known as.
ib. [L] bidem. Refers to the same book or page.
ibid. [L] bidem. Refers to the same book or page.
id. [L] idem. The same.
ie. [L] id est. That is.
nm. No middle name.
noll. [L] noll contendere. He will not contest.
pro tem. [L] pro tempor. For the time being.
q.v. [L] qvod vide. Which see.
viz. [L] videlicet. That is to say.

Dictionary of Latin Words and Phrases

The legal profession borrows some words and phrases from Latin. Spanish-language people may find some familiarity with Latin words because the Spanish language comes mostly from Latin.

actus reus (ACT-us re-us) "guilty act" or "deed of crime"

ad testificandum (AD-TES-ER-KAHN-dom) "for testifying" Refers to any person sought as a witness. Generally refers to a type of habeas corpus writ to bring a prisoner to court to testify.

additur (AD-dih-tur) "add onto" An increase made by the court which reduces the jury's insufficient verdict.

a fortiori (AH FAWR-ee-oh-REE-ee) "from the most powerful reason" Refers to drawing conclusion based on a powerful requirement. A person not guilty of larceny, because he did not steal, also not guilty of robbery (stealing with threat of force).

aliund (AL-ee-UN- duh) "from elsewhere" The aliunde rule says a verdict may not be impeached by evidence held by a jury unless based on competent evidence from elsewhere. Evidence aliunde refers to evidence from elsewhere. 141 Ohio St. 423.

amicus curiae (uh-MICK-us KYEE-ee-ree) "friend of the court" A person, not a party, who calls the court's attention to information which might otherwise escape its attention to allow a proper decision (for the sake of justice). Amicus brief, a brief so submitted. 264 F. 270; 279; 64 N.Y.S.2d 510; 512.

a posteriori (AH POST-er-ee-oh-REE) "from what comes after" Refers to knowing a cause from its effects. Reasoning from particular facts to general principles: inductive logic. Cf. a posteriori.

a priori (AH prih-oh-REE) "from what comes before" Refers to predicting an effect from its cause(s). Reasoning from general principles to particular facts: deductive logic. Cf. a posteriori.

amor (AH-mohr) (love) "to love" In Latin, a passion for something. Amor refers to the affection a person has for his or her country. also, "the love of the people." In Latin, the love of the people for their country.

applied justice or law. Any branch of the law. Also, "the law."
null
becomes a nuisance as a matter of law. 281 S.W.2d 721, 723, 266 N.W.2d 525, 528.

nunc pro tunc (proh TAHN-loh) "now for then". An action after the time when the event should have taken it. Retroactive. Thus, a nunc pro tunc court order corrects the record, supplementing a matter it originally had jurisdiction over. If time to appeal has expired, a party may seek leave to file notice of appeal out-of-time. If permitted, the court will file the notice nunc pro tunc and, thus, render the appeal timely.

obiter dicta (OH-beh-ter DICK-tah) "passing comments" Statements or observations in a court opinion not necessary to the disposition of the case at hand.

per curiam (peroh KEE-ee-uhm) "by the court" Refer to "opinion" entry in the Dictionary of Legal Words and Phrases in this legal primer.

post mortem (post MOR-ehm) "after death" Refers generally to the examination of a body or to the determination of the cause of death. It may include only such examination as that performed by a coroner and may not extend to a true medical determination of the cause of death which would involve autopsy and dissection. 31 N.Y.S. 856, 865. Cf. autopsy.

praeceipe (PREE-ay see-payee) "order" Command a writ commanding the defendant to perform a requirement or to show reason why they should not do so. 105 N.E.2d 454, 458; 185 N.E.2d 115, 124.

prima facie (PREE mah FAY shee-yay) "at first view" Sufficient to establish existence, validity, credibility, etc. But does not compel a certain conclusion. Trier of the facts must weigh it. However, sufficient to avoid a directed verdict or motion to dismiss. 105 N.E.2d 115, 124.

pro bono (proh BOH-noh) "for the good of the public." Often just pro bono. Attorneys represent a party pro bono for the good of the public. Done for indigent defendants in criminal cases.

procedendo (proh SEE-den doh) "duly to have proceeded" Commonly called a remand. A writ by an upper court when a party has improperly removed a cause to it, as by certiorari, commanding the lower court to assume jurisdiction and to proceed to judgment on the cause.

pro forma (proh FOR-mah) "for the sake of the form" In an appealable decree or judgment, usually that the court rendered decision, not upon a procedural conviction of the decree, but merely to facilitate further proceedings. 267 F.2d 564, 565.

pro hac vice (proh hak VEE-chay) "for this turn" The allowance of an exception; usually the permission granted an attorney to appear in a particular case without the aid of counsel. And a locally admitted attorney is usually given permission to do so. 510 F.2d 1518, 1963.

prae sentencer (PREE see-ent-suh) "judge" Often signifies "guilty knowledge." Signifies a wrongfull act committed designedly, understandingly, knowingly, or with guilty knowledge, usually involving fraud, trespass, 211 S.W. 498, 503.

secundum (suh KOO-deen-um) "after" Refers, in law publishing, to the second series of a treatise. For example Corpus Juris Secundum.

seriatum (suh RAY shee-ah-tuhm) "in [proper] order" In order, in succession; by order.

sic (sick) "thus" Usually used with quotes to refer to an incorrectly spelled, surprised, or paradoxical word, phrase, or fact quoted properly (not mistakenly). Usually written in brackets "[sic]."

sine die (SEE-nay DEE-ee-ay) "without day" Legislative bodies adjourn sine die if they do not sit a day to assemble again. 300 S.W.2d 806.

sine qua non (SAY-nuh kway nohn) "without which not" The essence of a thing. The alleged ad.

status quo (STAY-tus kwoh) "existing conditions" 488 F.2d 42, 45; 75 S.2d 176.

stare decisis (STAYr-deh-seh-dee-ess) "to stand by that which was decided" Rule by which common law courts "are slow to interfere with principles annunciated in the former decisions and conform with them even though the court would decide otherwise were the question a new one." 156 P.2d 340, 345. Although [stare decisis] is not inviolable, our judicial system demands that it be overruled only on a showing of good cause. Where there is not, it will be repudiated. The doctrine is of particular limited application in the field of constitutional law. 298 U.S. 38, 94.

sub poena (SOO-puh) "under silence" Refers with principles announced in the former decisions and conform with them even though the court would decide otherwise were the question a new one.

unde (ah-deh) "under" Legislative bodies adjourn sine die if they do not sit a day to assemble again. 300 S.W.2d 806.

unde (ah-deh) "under" Legislative bodies adjourn sine die if they do not sit a day to assemble again. 300 S.W.2d 806.

extension of res adjudicata...
There is no crime without a prerequisite.  
   – Seneca, Hippolytus, c. 60 AD  

The law is every man’s oracle, even in deceptively understanding, or some error in reasoning, or some sudden force of the passions. – Thomas Hobbes, Leviathan, 1651

CRIMINALS. 
The act is not criminal unless the mind is criminal.  
– Legal maxim

The wrongful man does not see the law. 
– Publius Syrus, 1st century BC

DECISIONS. 
Out of thy mouth I will judge thee. 

DEFENSE. 
Even God himself did not pass sentence upon Adam before he was called upon to make his defense: “Adam, where are you?”  
“Have you eaten of the tree which I commanded you not to eat?”  
... “Why did you do that?”  
– Old Testament, Genesis

DOUBT. 
An honest man never surrenders an honest doubt.  
– Walter Malone, 1896-1915

DUE PROCESS. 
No man should be condemned unheard. – Legal maxim  
That no man of what estate or condition, shall be put out of land or tenement, nor taken nor imprisoned, nor disinherited, nor put to death, without being brought in answer by due process of law. – Statute of Westminster, c. 13th century

ERAS. 
The cautious seldom err. – Francis Bacon, Of Judicature, Essays, 1597  

Arguments derived from probabilities are idle. – Francis Bacon, Of Judicature, Essays, 1597

– Oliver Wendell Holmes Jr., 1901

The effort to attain such accommodations concretely. – Sir Frederick Pollock, 1845-1937

EVIL. 
Better to suffer a great evil at the hand of another than to commit a little one yourself. – Proverb

Evil deeds never prosper. – Homer, Odyssey, c. 8th century BC

Of two evils we should always choose the less.  
– Thomas Kempis, Imitation of Christ, c.1420

INNOCENCE. 
It is better than ten guilty persons escape than one innocent suffer. – Sir William Blackstone, Commentaries on the Laws of England, 1765-1769

Today, the grand jury is the total captive of the prosecutor who, if he is candid, will concede that he can indict anybody, at any time, for almost anything, before a grand jury. – William J. Campbell, American jurist, judge, US District Court, US News & World Report, 19 June 1976

Those who make the attack ought to be very well prepared to support it. – Sir Giles Gooch, English jurist, Almgv v Pearson (1797) 2 Bos. & Pul. 104

[A plaintiff must show that he stands on fair ground when he calls on a Court of justice to administer relief upon him. – Lord Lloyd Kenyon, English jurist, lord chief justice, Booth v Hodgson (1795), 6 T.R. 409

JURIES. 
Let the judge answer the question of law, the jury on the question of fact. – Latin legal phrase

Twelve good honest men shall decide in our Cause, and Be judges of facts though no Judges of Law. – William Pulteney, Earl of Bath, 1684-1764

Every new tribunal, erected for the decision of facts, without the intervention of a jury ... is a step towards establishing aristocracy, the most oppressive of absolute governments. – Sir William Blackstone, Commentaries on the Laws of England, 1765-1769

JUSTICE. 
Justice is blind, he knows nobody. – John Dryden, The Wild Gallant, 1663

Justice, I think, is the tolerable accommodation of the conflicting interests of society, and I don’t believe there is any royal road to attain such accommodations concretely. – Learned Hand, Life, 4 Nov 1940

LAW. 
Every law has a loophole. – Proverb

Where no law is, there is no transgression. – Bible, New Testament, Romans 4:15

The law is good if a man use it lawfully. – Bible, New Testament, 1 Timothy 1:8

Taking the law into one’s own hands. 
– Asopos, Fables, c620-660 BC

Law can never issue an injunction binding on all [par Praetex what real embodies what is best for each; it cannot prescribe with perfect accuracy what the good and right for each member of the community at any one time. The differences of human personality, the variety of men’s activities and the inevitable unsettlement attending all human experience make it impossible for any act whatsoever to issue unqualified rules holding good on all questions at all times. – Plato, Politicus, 427C-474C

Even when laws have been written down, they ought not, always to remain unaltered. – Aristotle, Politics, c322 BC

LAW is a pledge that citizens of a state will do justice to one another. – Aristotle, Politics, c322 BC

LAW is reason free from passion. – Aristotle, 384-382 BC

Time is the best interpreter of every doubtful law. – Dionysius of Halicarnassus, Antiquities of Rome, c. 20 BC

No law perfectly suits the convenience of every member of the community; the only consideration is, whether upon the whole it be profitable to the greater part. – Livy, History of Rome, c. 10 BC

The precepts of law are these: to live honorably, to injure no other man, to render everything as his due. – Justinian I, Institutes, c. 533

There is no worse torture than the torture of laws. – Francis Bacon, Of Judicature, Essays, 1597

Laws are spiders’ webs, which stand firm when any light and yielding object falls upon them, while a larger thing breaks through them and escapes. – Solon, Diogenes Laertius, Lives of Eminent Philosophers, 3rd Century

Possession is nine points of the law. – Thomas Fuller, Holy Roa, 1668-1661

Where good laws are, many people flock thereto. – Benjamin Franklin, Poor Richard’s Almanack, 1734

Let all laws be clear, uniform, and precise; to interpret laws is almost always to be corrupt. – Voltaire, Philosophical Dictionary, 1764

The standards of the law are standards of general application. The law takes no account of the infinite varieties of temperament, intellect, and education which make the internal character of a given act so different in different men. It does not attempt to see men in their complexu. – Oliver Wendell Holmes Jr., US Supreme Court justice, in The Common Law, 1881

For law’s sake only, to be held in bonds? – Algernon Charles Swinburne, Mary Smart, 1881

It is the capacity to command free assent that makes law a substitute for power. The force of legitimacy — and conversely the habit of voluntary compriation — is the foundation of the law’s civilizing and liberalizing influence. – Archibald Cox, et al, Civil Rights, The Constitution, and the Courts, 1967

In the whole history of law and order the longest step forward was taken by primitive man when, if by common consent, the tribe sat down in a circle and allowed only one man to speak at a time. – Derek Curtis Bok, “If We Are to Act Like Free Men.” Saturday Review, 13 Feb 1954

Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself, it invites anarchy. – Louis Brandeis, 1856-1941, US Supreme Court, 277 U.S. 438 (1928)

This won’t be the first time I’ve arrested somebody and then built my case afterward. – James Garrison, district attorney, New Orleans LA

I’m not against the police, I’m just afraid of them. – Alfonso Hiched, late 4th century BC

It is not better that all felons suspects die than that they escape. Where the suspect poses no immediate threat to the officer and none to others, the harm resulting from the failure to apprehend him does not justify the use of deadly force to do so. – Byron T White, Tenny v Gamer, US Supreme Court decision, 27 Mar 1985

LEGAL STUDIES. 
To be a lawyer you have to learn to work off of precedents and to explore statutory ambiguities. But you should also understand that the law is not a disciplined set of rules. The landscape in which the law exists is changing. – Charles Hallett, American educator, dean, City University of New York Law School at Queens College, New York Times, 14 Sep 1982

MOTIVES. 
The act does not constitute a criminal unless the mind is criminal. – Latin legal phrase

Acts indicate the intention. – Legal maxim

An act against my will is not my act. – Legal maxim

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What passes in the mind of man is not scrutable by any human tribunal; it is only to be collected from his acts. — Sir John Willes, English jurist, King v Shipley (1784), 3 Doug. 177.

NATURAL LAW.

It would not be correct to say that every moral obligation involves a legal duty; but every legal duty is founded on a moral obligation. — John Duke Calhoun, English jurist, lord chief justice, The Queen v. Instan (1833)

The law that will work is merely that summing up in legislative form the moral judgment that the community has already reached. — Woodrow Wilson

NEED.

Inability suspends the law. — Latin legal phrase

No one is bound to enter into the impossible. — Latin legal phrase

The law does not seek to compel a man to do that which he cannot possibly perform. — Legal maxim

OBEEDIENCE.

A strict observance of the written laws is doubtless one of the highest duties of a good citizen, but it is not the highest. The laws of necessity, of self-preservation, saving our country when in danger, are of a higher obligation. ... To lose a country by a scrupulous adherence to written law would be to lose the law itself, with liberty, property and all those who are enjoying them with us; thus absurdly sacrificing the ends to the means. — Thomas Jefferson

No man is above the law and no man is below it; nor do we ask any man’s permission when we require him to obey it. — Thomas Jefferson, English jurist, chief justice, New York State Supreme Court, 76 S. Ct. 58 (1956)

The doctrine of the law then is this: that precedents and rules are of no first importance; belief itself is a historical fact, ... Inconvenience does not absolve the government of its obligation to tolerate speech. — Justice Anthony M. Kennedy, U.S. Supreme Court

RULE OF LAW.

What due process of law means to Americans ... is bound up with our traditional notions of Magna Carta. Whether all that has been read into [that document] is ... legally sound, is not of first importance; belief itself is a historical fact, ... legend and myth cannot be left out of account on tracing the sequence of cause and effect. — Heman M. Craig, English historian

Too often, practitioners of the law are ... not creators of legal justice and do not, in fact, understand, the philosophical bases of law, its ultimate goals, or its importance ... in a democratic society. It should be the role of universities to constantly explore the possibilities of improving the rule of law, of constantly studying the extension of the rule of law, of constantly working for the universalization of the basic principles which lead to an international conformity of basic law. It should be the role of universities to study the extension of law to other areas of human disputes and arguments and violence, so as to substitute basic principles and rational procedures for prejudice and violence. — Robert John Henle, American educator, president, Georgetown University

SELF-INCORPORATION.

The critical point is that the Constitution places the right of silence beyond the reach of government. — William O. Douglas, U.S. Supreme Court, Ullman v. United States, 355 U.S. 422, 78 S. Ct. 497 (1956)

SENTENCES.

The toughest part of this job is sentencing. I’ve lost all kinds of sleep over sentences. I find it dreadful. — Malcolm Muir, American jurist, United States District Court, San Francisco Examiner & Chronicle, 8 March 1981

SEVERITY.

There is a point beyond which even justice becomes unjust. — Sophocles, Electra, 4. 409 BC

SUPREME COURT.

By the very nature of its functions the Supreme Court, each member of it is subject only to his own sense of the trustworthiness of those who are perhaps the most revered traditions on our national system. — Felix Frankfurter, 83 Harvard Law Review, 1, 2 (1949)

TORTS.

It is a vain thing to imagine a right without a remedy; for want of right and want of remedy are reciprocal. — Sir John Holt, English jurist, chief justice, Ashby v. White (1703) 2 Raym. 953. That great principle of the common law which deems it is your duty so to use and exercise your own rights as not to cause injury to other people. — Sir Charles James Wiliams, English jurist, Gray v. North-Eastern Rail. Co. (1843) 48 L.T.R. 905.

TRIALS.

It is abominable to convict a man behind his back. — Sir John Holt, English jurist, chief justice, The Queen v. Dyer (1753) 9 Mod. 41.

In criminal trials a state can no more discriminate on account of poverty than on account of religion, race or color. — Hugo Black, Griffin v. Illinois, 351 U.S. 12, 19, 76 S. Ct. 565; 54 A.L.R. 2d 1253 (1956).

Guilt or innocence become irrelevant in a criminal trial as we found in a morass of artificial rules, poorly conceived and often impossible of application. Like the hapless centepede on the flypaper, our efforts to extricate ourselves from the self-imposed dilemma will, if we keep it up, soon have all of us immobilized. — Warren E. Burger, justice, U.S. Supreme Court, Washington Post, 26 May 1969

Those who think that the information brought out at a criminal trial is the truth, the whole truth, and nothing but the truth are fools. Prosecuting or defending a case is nothing more than getting to those people who will talk your side, who will say what you want said. ... I use the law to frustrate the law. But I don’t set up a ground rule for it. — Life Bailey, New York Times Magazine, 20 September 1970

[Preparation] is the be-all of good trial work. Everything else — felicity of expression, improvisational brilliance — is a satellite around that sun. — Louis Nizer, Newsweek, 11 December 1973

To work effectively, it is important that society’s criminal process “satisfy the appearance of justice,” ... and the appearance of justice can be provided by allowing allowing people to observe it. — Warren E. Burger, Richmond Newspapers Inc. v. Virginia, 488 U.S. 555, 106 S. Ct. 2184 (1980)

TRUTH.

And, finally, that truth is great and will prevail if left to herself; that truth is the proper and sufficient antagonist to error; and has nothing to fear from the competition of facts unless it is by human interposition disarmed of her natural weapons, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them. — Thomas Jefferson

Truth and falsehood, it has been well said, are not always opposed to each other like black and white, but oftentimes, and by design, are made to resemble each other so as to be hardly distinguishable; just as the counterfeit thing is counterfeited because it resembles the genuine thing. — Sir Anthony Clesby, English jurist, Johnson v. Emerson, (1871), L.R. 6 Ex. Ca. 357.

All sides in a trial want to hide at least some of the truth. The defendant wants to hide the truth because he’s generally guilty. The defense attorney’s job is to make sure the jury does not arrive at that truth. The prosecution is perfectly happy to have the truth of guilt come out, but it, too, has a truth to hide; it wants to make sure the process by which evidence was obtained is not truthfully presented because, as often as not, that process will raise questions. — Alan M. Dershowitz, US News & World Report, 9 August 1982

TYRANNY.

The purpose of law is to prevent the strong from always having their way. — Ovid, Roman poet, Fasti, ch. 8

It is from petty tyrannies that larger ones take root and grow. This fact can be no more plain than when they are imposed on the most remote native soil. Seedlings planted in the soil grow great, and, in growing, break down the foundations of liberty. — Wiley B Rutledge, Thomas v. Collins, 333 U.S. 516; 65 S. Ct. 515 (1944)

WITNESSES.

One eye-witness is worth more than ten who tell what they have heard. — Plautus, Roman playwright, Truculentus

We better know there is a fire whence we see smoke rising into the sky and seeing it by one or two witnesses swearing to it. The witnesses may commit perjury, but the smoke cannot. — Abraham Lincoln

There is an old story of blind men trying to describe an elephant. One felt it’s leg and declared that the elephant was like a rope. One felt its body and declared the elephant was like a wall. A third felt the tail and said the elephant was like a rope. Each man had a notion of reality that was limited by the number and kind of attributes he had perceived. — Wayne C. Ninemick, American educator, The Art of Persuasion, 1957

WORDS.

All laws are promulgated for this: that every man may know his duty; and therefore the plainest and most obvious sense of the word must be understood. — Sir Thomas More, Utopia, 1516

The heaviest thing that is, is one “et cetera.” — John Florio, Friste Frutes, 1578

You do not examine legislation in the light of the benefits it will convey if properly administered, but in the light of the wrongs and the harms it would cause if improperly administered. — Pres. Lyndon B. Johnson

A word must become a friend or you will not understand it. Perhaps you do well to be cool and detached when you are asking for information.” — Sir Edward Coke, Case of Sars (1625) 7 Rep. 15, 17

In the case at bar, also, the logic of realities would yield to the logic of realities. — Louis D Brandeis, Justice, U.S. Supreme Court, Di Santo v. Pennsylvania, 273 U.S. 34; 47 Ct. 267 (1927)

Words, after all, are symbols, and the significance of the symbols varies with the knowledge and experience of the mind receiving them. — Benjamin N Cårdozo, Cooper v. Vashier, 280 U.S. 106, 54 S. Ct. 76 (1933)

We live by symbols, and what shall be symbolized by a tree? — Oliver Wendell Holmes Jr., justice, U.S. Supreme Court

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“We the People” Legal Primer

May 2004

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who can reproduce it without permission.
forms of address and salutations
forms of address for use in outward addresses on envelopes and in internal addresses on letters. salutations for use as the greeting in a letter. when writing to women, please substitute the appropriate word(s) in parentheses for the previous word(s) shown.

attorney
address mr. john (ms. jane) smith
attorney at law

-- or --

john (jane) smith, esq.
salutation dear mr. (ms.) smith:

attorney general (state)
address the honorable john (jane) smith
attorney general of the state

salutation dear mr. (madam) attorney general:

attorney general (us)
address the honorable john (jane) smith
attorney general of the united states

salutation dear mr. (madam) attorney general:

chief justice (us supreme court)
address the chief justice of the united states

salutation dear mr. (madam) chief justice:

-- or --

mrs. (sr.

chief justice/associate justice (us supreme court)
address the honorable john (jane) smith

salutation dear mr. (ms.) smith:

clerk (county)
address the honorable john (jane) smith

salutation dear mr. (ms.) smith:

clerk (of a court)
address john (jane) smith, esq.
clerk of the court of

salutation dear mr. (ms.) smith:

district attorney
address the honorable john (jane) smith
district attorney

salutation dear mr. (ms.) smith:

governor
address the honorable john (jane) smith
governor of

salutation dear governor smith:

judge (federal)
address the honorable john (jane) smith
judge of the united states
district court for the

salutation dear judge smith:

judge (state or local)
address the honorable john (jane) smith
judge of the united states

salutation sir (madam): -- or -- dear judge smith:

lieutenant governor
address the honorable john (jane) smith
lieutenant governor of

salutation dear mr. (ms.) smith:

mayor
address the honorable john (jane) smith
mayor of

salutation dear mayor smith:

president (us)
address the president
the white house

salutation dear mr. president:

representative (state)
address the honorable john (jane) smith
secretary of the state
capitol

salutation dear mr. (ms.) smith:

representative (us)
address the honorable john (jane) smith
united states house of representatives

salutation dear mr. (ms.) smith:

secretary of state (state)
address the honorable john (jane) smith
secretary of the state
capitol

salutation dear mr. (madam) secretary:

senator (state)
address the honorable john (jane) smith
the state senate
capitol

salutation dear senator smith:

senator (us)
address the honorable john (jane) smith
united states senate

salutation dear senator smith:

english grammar and usage
english prime (also e-prime or e')
a variation of the english language called "english prime" or "e'-prime" represents reality in a more accurate and more positive manner. english prime does this by not using any form of the verb "to be" (am, is, are, was, were, aren't, isn't, wasn't, weren't, i'm, you're, he's, she's, it's, we're, they're).

instead of writing,

"the heabes corpus was filed in court,"

"john doe was charged with four felonies,"

"the suspect was violent,"

"he is a terrorist, or"

"he was entering the house,"

someone using english prime might write:

"the defendant filed the heabes corpus in court,"

"da smith charged john doe with four felonies,"

"a witness described the suspect's behavior as violent,"

"the police suspect him of terrorist activity, or"

"a neighbor says he saw him entering the house."

notice how the e-prime versions show who acted ("defendant filed "prosecutor charged "the witness describes," etc.) as if he were a subject, and that he can reproduce it without permission.

such free thinking involved with that poor wording forces people to come to grips with the difficulty of ever determining that

"john doe is a thief."

"to say today "this is an orange" to say tomorrow (about the same thing) "this is not an orange" goes against our reasoning, even though it has rooted into an unfamiliar mess. once we define john doe as a thief we cannot then redefine him as a non-thief. these types of declarations in standard english have no expiration date -- they exist forever! instead, consider an e-prime version:

"john doe stole a car in 1989."

such an e-prime statement corresponds with reality in every detail. it defines the single criminal act which concerns the government and, of which, the government found him guilty. it allows the government to consider whether john doe has "done since then" for purposes of evaluation.

obviously, as victims of people's need to "define" others, we take great interest in the meanings and usages of words. notice that people habitually define others as they define inanimate objects. join in the e-prime movement and take a step closer to reality.

criminal. one who has committed a crime, or one whom a court has convicted of committing a crime. thus, according to standard english: once a criminal, always a criminal.

convictions. clearly, equating a person with a stereotype using standard english fails to represent reality. let's face the facts: anyone can hurt others, steal, or lie; and, thus, everyone has the potential for becoming an "assassin," a "thief," or a "liar." effective help to eliminate the tools necessary for us to "label people.", also, the constitution empowers only courts to convict a defendant — defendant's cannot convict themselves. thus, "being a convict" represents an antithetical concept. the results from an act of a court, but not always from an act of a defendant. as everyone knows, courts haven't convicted some people who did commit a crime, while courts have convicted some people who did not commit a crime. be aware that many wrongful convictions by courts amount to "over-convicting" defendants, for example, finding them guilty of murder instead of manslaughter, or guilty of seven burglaries instead of the three that they actually committed.

ex-convict? a "convict" means someone convicted — "someone found or declared guilty of an offense or crime." so, would the word "ex-convict" mean "someone formerly found or declared guilty of an offense or crime?" doesit make sense, does it? it doesn't make sense because the word "ex-convict" doesn't really exist — at least not in dictionaries — but only in the minds of wishful thinkers. the same holds true for the word "ex-offender." it doesn't exist in dictionaries. if we support the falsity of the standard english language for labeling people, then, once a convict, always a convict, once an offender, always an offender.

expectations. in standard english, all other such labels have expirations dates. when someone stops managing, people stop labeling him as "a manager." when someone stops waiting on tables, people stop labeling her as "a waitress." you certainly understand the obvious point here. try asking a classification or parole board when the label of "convict," "offender," "villain," "thief," or "what ever" expires. (if you do this, try asking politely.) they may not love you for it, but certainly may give them cause to think. (a sarcastic response from them is: "that isn't up to you, mrs. doe."

everyone has a nasty label. as a little kid, we all have stolen something or lied. so, by using standard english, "everyone is a thief and a liar" — FOREVER. virtually everyone has exceeded the speed limit at some point in their lives. thus, "nearly everyone is a speeder." and the bible says, "everyone is a sinner!" (speaking of labels, some bible scholars find interest in the passage where god allows adam to "name" things.)

final point. do we all look at each other and recognize ourselves as the eternal liars, thieves, speeders, and sinners that the false and harmful labeling process makes of all of us, or do we honestly confront the labeling process and admit that it contains fatal flaws that cannot survive any test against reality?

media spin and its savage games of words
subjects, actions, and offenses. pay careful attention to the subject of sentences, the verbs (actions), and the descriptions of events. the standard "e-prime" statement is "john doe for the murder of fred smith." already, the author of that statement has declared smith's death as, not only a crime, but also psychologically — the tabloid-style "john murdered fred" statement (not a claim) has done its damage in the readers' minds.

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Fair coverage. If the media wanted truly fair coverage of the news, it would use English such as: “Police label Fred Smith’s death a murder.” and “Police bring murder charge against John Doe.” But the media doesn’t focus on what the police do because it doesn’t sell newspapers or airtime. Instead, the media uses current political terms like “stalking horses” to snipe and deflect criminal defendants.

Media, the illegal forum. The police, prosecutors and media work hand-in-hand to try criminal defendants in the public forum prior to the judge and a defendant’s chance of a trial before a fair and impartial jury, and they know that they do this. The state, and the media as its henchmen, unilaterally inject copious amounts of accusations, both true and false, into the public. The state, and the media, do not bear the burden of proof. The defendant must effectively defend himself in this illegal forum without giving away his legal defense for use later in court. Thus, the state and the media poison the public. The public puts the defendant on trial for a crime he did not commit—cannot—because he cannot effectively defend himself in this illegal forum without going against his legal defense. The state and its media henchmen starkly crudely attack the unfortunate defendant, vilify his family and friends. And they perform an injustice to society in general.

Gender spin. Notice how newspapers and newscasters word accusations differently for men and women; “John Doe murdered Fred Smith, according to police,” but “Police arrest Jane Doe for Smith’s death.” Notice the subject of the sentences, the actions, and the overall idea conveyed: “John Doe murdered,” but “Police charge Jane.” Some media accounts ignore the gender females suspect is never actually stating the charge. For whatever reason, society should hold men more accountable for their actions than women. Perhaps men should get some fair play … at least from the media.

The black birds that sit on tombstones. The media in general, not just the newspapers, still bear the nickname of “black birds that sit on tombstones.”

The Dehumanizing of a Person Involves Words

Criminality begins with potential perpetrators dehumanizing potential victims in their own minds. Anthropomorphism (Greek: anthropos = human, morphe = shape) refers to attributing human motivation, characteristics, or behavior to non-human objects, animals, or natural phenomena. This amounts to describing: mountains as “wise,” animals as “loving,” and storms as “angry.” Language experts consider anthropomorphism as poor and undeveloped thinking or, at best, posse.

Likewise, attributing animal characteristics, motivation, or behavior to humans also comes from poor and underdeveloped thinking. This amounts to describing a person as “a cat,” “a dog,” “a bear,” and so on. People should consider these uses as serious prejudices and as inhuman roots of evil and criminality. This thinking dehumanizes people and allows us to devalue potential victims other than human. (Consider the excuses used by death penalty proponents.)

A person, who attributes animal or sub-human characteristics to another person, lowers him or herself into the dangerous and frightening realm of the animal. People, who use such an attitude, strip their victims of more than their personal identity—they strip them of their human identity. Thus, the potential perpetrator begins to believe and looking upon their victim as something non-human, something not deserving of human consideration and respect.

This potential for criminality applies to regular citizens and also to the media, police, prosecutors, jurors, judges, executioners, parole boards, and other government officers. Thus people in government can consider warehousing, torturing, and murdering their victims without the belief that they do these things to humans—it’s a lot easier to look upon their targets as animals. This one is “a monster,” that one is “an animal,” and so on.

We lose track of reality when we start labeling people.

Sapir–Whorf–Korzybski Hypothesis

This hypothesis (theory) implicitly includes the topic of English Prime described in the section above.

Three Linguists (Edward Sapir 1884-1939, Benjamin Whorf 1896-1941, the Star Trek alien), and Alfred Korzybski 1879-1950) contributed their ideas about language and perception to their hypothesis which, in essence, states:

The grammar and the words and their definitions that a person uses and shapes that person’s perception of reality.

The author of this legal primer believes this, and encourages readers: to acquire a dictionary and a thesaurus (th-SCOUR-Us), to expand their vocabulary, to pay closer attention to subtile shades of meaning among seemingly identical words, and perhaps to learn a new language. To quote an old adage:

“To learn another language is to gain another soul.”

Writing Arabic (Standard) Numerals

Arabic numerals refer to our standard numbers (0 through 9) as compared, for example, to Roman numerals. (European languages adopted and modified these numerals from the Arabic language.) Anyway, when writing numerals one through nine in a sentence, write out the names of the numbers (one, two, three, …). When writing numbers greater than nine, name by sonts. Thus, for example, “four of the nine justus...” as compared to “...the 50 states…” However, spell out all numbers that begin sentences; for example, “Fifty police officers raided the house.” Use Arabic numerals when citing legal publications—do not convert them to words.

Roman Numerals

Some legal authors and authorities continue to use Roman numerals to enumerate paragraphs, sections, the year, and so on.

<table>
<thead>
<tr>
<th>i</th>
<th>v</th>
<th>x</th>
<th>l</th>
<th>c</th>
<th>d</th>
<th>m</th>
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<tbody>
<tr>
<td>1</td>
<td>5</td>
<td>10</td>
<td>50</td>
<td>100</td>
<td>500</td>
<td>1,000</td>
</tr>
</tbody>
</table>

Reading. Read Roman numerals from left to right; add the values as you read. Add equal valued numerals together; also add smaller numerals that follow larger ones. But—subtract a smaller numeral to a number that comes before it. Thus,

V = 5 … but VI = 6

MC = 1,000 … but CM = 900

Writing. Write Roman numerals from left to right starting with the largest available values. Thus, “2007” becomes “CCVII,” which means 300. Don’t use more than three Is or Cs or Cs; instead, use the subtract rule. Thus,

CD (not CCCO) = 400

Using “Who” and “Whom”

Who. Use “who” as the doer of an action. Thus, “Who cooked dinner?”, “Who got the car?”

Whom. Remember the “ends with M” Rule: “Use whom” as you would use “him” or “her.” Thus, “by them—by whom” “ask him—ask whom” “against whom” “toward whom” and the ever popular, “To Whom It May Concern:”

Using “Its” and “It’s”

It’s. Shows ownership without the usual apostrophe (to eliminate confusion). “The dog bit its tail,” and “The cat bit itself.”

It’s. An contraction that replaces “it is.” “It’s a boy!”, “It’s a nice day,” and “It’s my motion, Your Honor.”

Spelling Out Contractions, Abbreviations and Symbols

Contractions. Most people use contractions while speaking and in writing letters. However, strictly speaking, the use of contractions assumes a casual attitude between the writer and reader. Although lawyers may use contractions, such as “don’t,” in speaking to a judge, written legal documents do not subtract a V, L, or D because VX = 50, which is just L; and DM = 900, which is just D.

Use Roman numerals as capitals (MMMCCCXX = 1924) or as small letters (xvi = 16). Both styles can represent to the same value. However, only use capital Roman numerals in larger print; in writing letters or in speaking. Thus, don’t write “XVII” for a page originally numbered “xxii.” And, don’t mix capital and small letters together (don’t write “LVII” or “xxvi”).

A More Accurate “I Before E” Rule

“I before E when sounding like ‘ee’ except after C.” This rule applies to more words than does the longer and more popular rule. Of course, when in doubt, look it up!

Your Health... and your Freedom

A Sound Mind in a Sound Body

Alcohol, drugs, nicotine, and caffeine. People use these chemicals in blind attempts to solve non-chemical problems, such as: fear, anger, stress, boredom, abuse, laziness, lack of sleep, general dissatisfaction, love, murder, and so on. You can’t "fit a square peg into a round hole." Learn more effective coping skills, live honestly, and give up the chemical "crutches.”

Nutrition. Proper nutrition involves: amino acids, vitamins, and steady dependable energy. Many people care for their car better than their own bodies.

Amino acids. Cells link amino acids into chains called proteins, which the cells use to build and repair tissue, to repair, and to grow. Cells use proteins as carriers of information, instruments of operations, and as building blocks of the cell itself. Most people get the bulk of their protein from two sources: meats and beans. Perhaps men should get some fair play … at least from the media.

Energy sources. If your body does not obtain enough energy from non-processed foods, it will "burn" proteins for fuel instead absorbing their amino acids. We use these amino acids to build proteins (carbohydrates) to fuel your body when you eat meats.

Essential amino acids. Nutritionists have identified eight essential types of amino acids out of the 20 types that our bodies use. “Essential” mean we must obtain them in our food because our bodies cannot manufacture them. Learn about essential amino acids and eat enough of them.

Carbohydrates. Carbohydrates, especially complex carbohydrates, provide our bodies with steady and dependable streams of energy. Complex carbs, formerly called starchy release their energies slowly. Simple carbs, from fruits or refined sugars, release their energies quickly and cause you to eat more energy highs” by following the "energy lows." Eat mostly complex carbs.

Brain food. Brain cells don’t store energy as muscle cells do. They cannot “carbo load.” All brain energy must come from the bloodstream as brain cells need it. Their lack of storage can cause nervous to suffer from high sugars and low blood sugar levels rise and fall. An excellent reason to provide and dependable streams of energy (complex carbs) to your mind and body.

Tell me no lies. The TV commercial describing a candy bar (obviously eaten on an empty stomach) as supposedly holding someone over until dinner falsely represents the facts about simple carbs. Slow but steady (complex carbohydrates) win the race—especially as we grow older and suffer diabetes-like symptoms.

Dietary fiber. People laugh about fiber (formerly called roughage), but they also cry about constipation, straining on the toilet, and hemorrhoids. To be the healthy choice. We get fiber from vegetables and fruits.

Vitamins. Vegetables also provide the great amounts of vitamins which our bodies use for various serious purposes. Look up kale, a veggie fairy dust with vitamins!

Stress. Human bodies react when exposed to stress. One reaction causes the body to literally “piss away” the important B-complex vitamins (B-1, B-2, B-6, B-12). The nervous system needs these vitamins. Stress increases in the body. Stress increases in the body. Stress increases in the body. Stress increases in the body.

Meals in general. Eat three sufficient and regular meals per day to provide regular amounts of what we need. Consistency is the key to nutrition and nutrients allow our bodies to learn to fit their digestion into our bodies’ busy routine.

Aging process. As we age, our bodies’ ability to provide sustained energy declines, giving us diabetes-like symptoms. Older people find that eating smaller meals, with both snacks and abbreviated titles such as “Mr.” “Ms.” “Dr.” “Sr.” and “Jr.” make no sense. Instead, use full names:

M. Ford—Mr. Ford

Jr. Ford—Mr. Ford Jr.

Unlike the author of the We the People Legal Primer, you need to follow all abbreviations. Use full names as much as possible:

M. Ford—Mr. Ford

Jr. Ford—Mr. Ford Jr.

Symbols. Finally, unless legal papers, court decisions and so on commonly use a symbol, you should use words for all questionable symbols that you want to use. Mostly, you need to take care not to use “%” and “%” (instead, spell out “and” and “percent”).
We the People, Legal Primer

May 2004

First Edition Condensed

of solid rest at night provides our bodies—and minds—with enough rest and repairs. Also, a recent study shows that a lack of exercise causes fat build up in men’s bodies.

Sleep schedule. Changing your sleep schedule—going to bed or rising, even by an hour or two, will shift your daily cycle and cause you to operate at a decreased mental and physical capacity for several days—similar to “jet lag” caused by flying between time zones. Find a sleep schedule that works for you. Practice it habitually, and it will help keep you in peak form. So, just study late into the night for your court hearing the next day.

Mental health. (Refer to the poem “Desiderata.”)

Spirituality. (Refer to the poem “Desiderata.”)

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THE STRUGGLING SECRET IN THE WORLD

— You will become what you think about most —

How often have you found yourself doing something that you told yourself you didn’t want to do? Have you ever told yourself, “I must not forget her birthday,” and then you forgot about it? Ever told yourself, “I don’t want to screw up,” and then you screwed up? Ever tell yourself, “I can’t afford to lose this [whatever],” and then you lose it? You will gravitate toward whatever you think about most.

A true story (although I forget the name of the pitcher). A major league pitcher faced a tough hitter. He knew that this guy could hit low and outside pitches. He knew that he didn’t want to pitch low and outside. His manager even came out and reminded him to not pitch low and outside. He pitched the ball, which went low and outside, and the batter hit it out of the park. Afterward, the pitcher furiously stomped off the mound, vowing to himself to never again focus on what he didn’t want to do!

Earl Nightingale, world-renowned self-help speaker, described the following statement as “the strangest secret in the world.”

“You will become what you think about most.”

William James, the undisputed father of American psychology, labeled this fact’s discovery as the most important finding of the last hundred years.

What do you mean by “No”?

Understand an important—yet little known and little talked about—fact about the human mind: it seems unable to understand the concept of “no” and “not.” The human mind simply does not work well on the reverse of an idea. Look at the major league pitcher in the example above. Tell a kid, “Stop screaming,” and the kid goes on screaming. Tell a kid, “Don’t draw on the floor with your crayons,” and you’ll find him drawing but maybe on the walls. Tell a kid, “Don’t fall out of the tree,” and that actually plants a seed in his mind to fall out of the tree. Tell yourself, “I don’t want to be broke,” or, “I don’t want to be lonely,” and, guess what? You end up broke or lonely—or both! This helps explain why you can drive your old wreck for years without a scratch, and then the first day with your new shiny set of wheels, you end up remodeling the whole front end.

Do you really expect to go into a store and tell the clerk, “I don’t want peanut butter, milk or bread,” and then go home with what you do want? You must learn to want the “donut” instead of not wanting the “hole.” In other words, two wrongs don’t make a right. For clarity, I’ve underlined two negatives: To not want the hole does not naturally bring your subconscious to focus on wanting the donut. You must focus on wanting the donut.

Thoughts work like muscles. Thoughts behave exactly like muscles in that, the more you exercise them, the stronger they become; the less you exercise them, the weaker they become. Exercising productive thoughts strengthens them. Not exercising destructive thoughts allows them to become flabby and weak.

Practice positive thinking. Positive thinkers dwell on what they want, and then they naturally gravitate toward their goals. Always think about what you want. When you do, your mind will work on your goals both consciously and subconsciously, day and night. You will dream about your goals, whether you know it or not. You will wake up with ideas and possibilities in mind. You will find yourself in “the right place at the right time.”

You will find yourself around people more positive and helpful to your goals. You will find yourself in the library looking at the books to help you. And you will find yourself reaching those goals which you desire most.

So focus on the donut. Tell your kid, “Play more quietly.” “Draw on this pad of paper,” or “Hang on.” And tell yourself, “I want to save $50 a week,” or, “I want to drive carefully.” Just as importantly, don’t just tell yourself, “I don’t want to drink,” or, “I won’t do drugs.” Instead, tell yourself, “I want to live soberly” or “I want to live life honestly” and your mind will go to work understanding sobriety, finding reasons why and how soberly and honestly works, seeing why you want to live soberly and honestly, and actually bringing yourself to live that way. Yes, do realize the destructiveness of drugs and drinking, but you probably know that running away from one addition can cause you to run unconsiously and headlong into another one. “Run” toward a definite goal.

— Want the donut —

The Struggling Secret in the World Revisited

— Your mind attracts what it thinks about —

Our thoughts work among subconscious undercurrents of communication. These channels of communication allow us to attract the people, the circumstances, the forces, and the information which harmonize with the nature of our dominating thoughts. This “secret” closely relates to the first “secret.” So, now we know that pure luck does not account for being in the right place at the right time, just happening to meet the right people, as well as other kinds of so-called “coincidences.” This attraction works separately from our conscious efforts to make things happen, and so, we don’t consciously see the connection. We end up perceiving these things as “coincidences.”

And how often have you found yourself in a situation that you said that you didn’t want to happen? Although we can attract to us those things that we want, this process works with all thoughts—including thoughts involving worry and hate. As humans, we tend to occupy our thoughts mostly with what we love most and what we fear or hate most. Thus, we can also attract to us those things which we fear or hate.

For those people who believe in some form of God, to fear means to not trust God and to discount God’s power and importance in their lives.

Successful people prove themselves toward their successes; whereas, “losers” try to run away from their failures and almost never reach success. The ancient Chinese had a saying: When you don’t know where you’re going, any road will do.

Realize that the strangest secret in the world works both internally (within ourselves) and externally (outside of ourselves).

DESIDERATA

Go placidly amid the noise and haste, and remember what peace there may be in silence. As far as possible without surrender, be on good terms with all persons. Speak your truth quietly and clearly; and listen to others, even the dull and obtuse; they too have their story.

Avoid loud and aggressive people, they are vexations to the spirit. If you compare yourself with others, you may become vain and bitter; for always there will be greater and lesser people than yourself.

Enjoy your achievements as well as your plans. Keep interested in your career, however humble; it is a real possession in the changing fortunes of time.

Exercise caution in your business affairs; for the world is full of trickery.

But let this not blind you to what virtue there is, many persons strive for high ideals, and everywhere life is full of heroism.

Be yourself.

Especially, do not feign affection.

Neither be cynical about love; for in the face of all aridity and disenchantment, it is as perennial as the grass.

Take kindly the counsel of the years, gracefully surrendering the things of youth.

Nurture strength of spirit to shield you in sudden misfortunes. But do not distress yourself with imagings.

Many fears are born of fatigue and loneliness.

Beyond a wholesome discipline, be gentle with yourself.

You are a child of the universe, no less than the trees and the stars, you have a right to be here.

And whether or not it is clear to you, no doubt the universe is unfolding as it should.

Therefore be at peace with God, whatever you conceive him to be, and whatever your labors and aspirations, in the noisy confusion of life, keep peace with your soul.

With all its sham, drudgery, and broken dreams, it is still a beautiful world. Be cheerful. Strive to be happy.

(written by Max Ehrmann in 1927)

ADDITIONAL LEGAL INFORMATION

Protecting Your Rights In Prison:

(Note: Much of this information comes from pamphlets published by the ACLU’s National Prison Project. The ACLU National Prison Project Publications contain more detail and citations to specific cases.)

A. Know Your Rights in Prison

1. Freedom of Religion: You are entitled to the free exercise of religion. Generally, you are allowed to refuse to eat foods that violate your beliefs and you are entitled to have access to prayer facilities and to have respect for your Sabbath. These rights are not absolute; a prison may limit them for a legitimate reason, i.e. guard or inmate safety. Generally, the prison is not required to provide you with specific foods and they may restrict your ability to comply with religious grooming and clothing requirements. If your religion is not Christianity, Islam, Judaism or other well-known religion, you may be required to prove that your beliefs are sincerely held and religious in nature. You may need to explain your beliefs and how long you have held them. Explaining how your beliefs are comparable to better known religions may be useful in helping the prison authorities understand and approve your religion.

2. Restrictions on Communication: Prisons may not censure your mail or prevent you from receiving publications unless the restrictions are reasonably related to a legitimate interest. However, courts often uphold restrictions on publications, particularly if the restrictions do not unfairly single out any one group and the restrictions do not limit national new

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A free publication. For imprisoned people only, -- page 40 -- who can reproduce it without permission.
3. Cruel and Unusual Punishment: The Eighth Amendment entitles you to freedom from cruel and unusual punishment. This means that prison officials cannot show deliberate indifference to a serious medical condition. This is hard to show. The official must know of and ignore an excessive risk of harm and fail to take reasonable steps to eliminate the risk. A serious need exists when a condition could result in further significant injury or the unnecessary and unjustifiable infliction of pain. Courts look at (1) whether a reasonable doctor or patient would perceive the medical need in question as important and worthy of comment or treatment; (2) whether the medical condition significantly affects daily activities; and (3) the existence of chronic and substantial pain. If you have a medical need, you should document when you told prison officials and what you told prison officials and whether you had already been diagnosed with the condition before you entered prison. The later stages of pregnancy can constitute a serious medical condition.

Cruel and unusual punishment may include unsafe working or living conditions. This can include exposure to human waste, non-functioning plumbing, exposure to asbestos or toxic waste, unsafe food, filthy cells, extreme temperatures, extreme noise, constant lighting or other similar situations. To establish that you have been a victim of cruel and unusual punishment, you must show that the prison official knew of and ignored the condition. This is hard to meet and depends on the facts of your case. Showing that you told guards about the problems, that the potential effects are severe and that the condition affects others can help you meet the requirement. It is unlikely to constitute cruel and unusual punishment if the condition is temporary or only existed for a short period.

B. Steps to Protect Your Rights

1. Grievance Process: If you believe that a guard or other person violated your rights, you should immediately file a grievance with the prison. You should investigate the grievance process for your individual prison. Ordinarily, grievances must be filed in writing. You should file your grievance as soon as you can after the event occurs. Your grievance should follow the specific rules set by your prison but you should include as much detail about the event as possible. You should follow up with the status of your grievance. If your grievance is denied or you do not receive the desired result, you may need to appeal the denial of the grievance. The process for appealing a denial of a grievance will depend on the state and prison in which you are incarcerated. You must follow the rules closely.

2. Lawsuit: The Federal Prison Litigation Reform Act limits your ability to file a federal lawsuit. In most cases, you can only file a federal lawsuit if you have filed a grievance about the incident and exhausted all appeals of that grievance. There is an exception if you are facing immediate harm. If you file the lawsuit, there will be filing costs associated with the lawsuit, you may be able to pay the costs over time but you should be aware that you likely will need to pay the costs. If you file a lawsuit, you will need to write a complaint and have the complaint served on the defendants. The Complaint should include as many facts as possible, including information about how you were harmed and what you want to receive, particularly monetary damages. You should write in plain English. You should be careful about filing lawsuits because if you file three lawsuits that the court find are without merit, you may be required to pay for all subsequent lawsuits when you file the lawsuit.

You may have the right to file a lawsuit in state court or before an administrative board. Those rights depend on the state and right at issue.

AFTER YOUR RELEASE

A. General Resources: After you have been released from prison there are a variety of organizations that can help you reenter society. The American Civil Liberties Union maintains a “Prisoners’ Assistance Directory” that lists many such organizations. The directory can be downloaded from www.ACLU.org In addition to the ACLU, local legal services offices may have listings for local organizations that can assist with reentry. The internet is another good resource for finding local organizations that assist with reentry.

B. Restoring Rights and Sealing Records: After you have been released from prison, you may need to look into restoring your rights and sealing your criminal record. Each state has different regulations concerning which rights can be restored and how much time must pass between your release and restoration of rights. Similarly, each state has different rules governing the sealing of criminal records. Sealing criminal records can assist in job searches and in obtaining housing. If you are unsure of your state’s process for restoring rights and sealing records, your local legal aid society may be a good place to start. They may be able to assist with restoring your rights or be able to refer you to an attorney who can assist.

Before attempting to vote or registering the vote after leaving prison, you should verify that you are allowed to vote. Many states have restrict ex-offenders’ right to vote in elections.

C. Employment Opportunities: You should begin planning your post incarceration as soon as possible. This planning can include deciding what field you want to work in and signing up for classes that can help you obtain a position once you leave prison. The prison may also have counselors who can help you find employment upon release or choose which jobs are the best fit for your skills and experiences and expectations. The Department of Labor publishes a useful guidebook to assist ex-offenders find employment opportunities: http://www.exoffender.org/wp/docs/ExOffHandbook.pdf. Department of Labor, Employment Information Handbook for Ex-Offenders.

NATIONAL PRISONER RESOURCE LIST APRIL 2017

ARTISTS & WRITERS IN PRISON

CALIFORNIA PRISON FOCUS
1904 Franklin St, Suite 507, Oakland, CA 94612
Publishes "Prison Focus" three times a year, a publication primarily by prisoners and for prisoners, their friends, and families, with a focus on issues around solitary confinement. All prisoners are welcome to submit articles, artwork or creative writing’s for possible publication, but are not guaranteed that items will be returned. Free to all California prisoners in the SHU, upon request.

PEN PRISON WRITING PROGRAM
588 Broadway, Suite 303, New York, NY 10012
Free "Handbook for Writers in Prison" upon request. Also sponsors annual writing contest for prisoners.

PRISONS FOUNDATION
PO Box 58043, Washington, DC 20037

Free exhibitions of prisoner art and free electronic publishing of prisoner books. Write for guidelines stating whether you are a writer or an artist. Also presents prisoner-written plays annually at the Kennedy Center in Washington DC.

TOCSIN MAGAZINE
PO Box 64527, Rochester, NY 14624
347-541-7740
info@tocsimag.com
An urban entertainment publication that caters to inmates and their families. Tocsin provides inmates the opportunity to write articles, send photos, and much more. Please contact us for more info.

FRIENDS & FAMILIES

FAMILIES AGAINST MANDATORY MINIMUMS
1612 K St NW, Suite 700, Washington, DC 20006
FAMM works to change mandatory sentencing laws through the legislative process on the federal and state levels, participation in precedent-setting legal cases and by educating the public.

FAMM FLORIDA PROJECT
PO Box 142933, Gainesville, FL 32614
(352) 682-2542, www.famm.org/florida
FAMM’s Florida Project works to change mandatory minimum sentencing laws, as required by Florida state law, for drug and gun offenses.

LEGAL SERVICES FOR PRISONERS WITH CHILDREN
1540 Market St, Suite 490, San Francisco, CA 94102
Information and referrals only. No individual legal aid.

GAY, LESBIAN, BISEXUAL, & TRANSGENDER

ACLU GBLT RIGHTS / AIDS PROJECT
125 Broad St, 18th Floor, New York, NY 10004
Experts in constitutional law and civil rights, specializing in sexual orientation, gender identity, and HIV/AIDS.

BLACK AND PINK, NATIONAL OFFICE
614 Columbia Rd, Dorchester, MA 02125
An open family of LGBTQ and/or HIV+ prisoners and "free world" allies who support each other. As a national organization made up of thousands of prisoners, B&P provides a free prisoner-
generated monthly newspaper to lesbian, gay, bisexual, transgender, queer prisoners and prisoners living with HIV regardless of sexual orientation or gender identity. B&P also provides a free non-romantic pen pal program. B&P is unable to promise anyone a pen pal, but they regularly recruit “free world” volunteers to write prisoners. B&P is also able to provide limited advocacy for those experiencing harm and harassment (B&P is not able to help with court cases as they are not lawyers).

GENDER IDENTITY CENTER OF COLORADO INC.
120 Bryant St., Denver, CO 80219
Offers The T.I.P. Journal newsletter for transgender prisoners.

LEGAL INFORMATION HELPLINE, NCLR
870 Market St. #370, San Francisco, CA 94102
NCLR is a national legal organization committed to advancing the civil and human rights of lesbian, gay, bisexual, and transgender (LGBT) people through litigation, legislation, policy, and public education. NCLR’s Legal Information Helpline provides basic information about laws that affect LGBT people, including LGBT people in prison, and resources available for people who are facing discrimination or other civil rights issues. We do not conduct client intake and cannot provide any legal advice, legal representation or take on cases through the Legal Information Helpline.

LGBT BOOKS TO PRISONERS
See Free Books to Prisoners section.

QUEER DETAINEE EMPOWERMENT PROJECT (QDEP)
HOTLINE: (347) 645-9339
Mailing: 521 W 126th St New York, NY
info@qdep.org
An Alternative to Detention Program (ATD), that works with Lesbian, Gay, Bisexual, Queer, Two Spirit, Trans and Gender Non-Conforming, HIV+ detainees and their families currently in detention centers and those that are recently released from immigrant detention centers, seeking status in the United States. We engage in community organizing and international policy to demand the liberation of our people.

SINISTER WISDOM, INC.
2333 McIntosh Road, Dover, FL 33527
Publishes work by lesbians only - prose, poetry, essays, graphics, and book reviews. Free to women in prison.

TRANZMISSION PRISON BOOKS
PO Box 1874, Asheville, NC 28802
Offers free books and resources to LGBT/QIA (Lesbian, gay, bisexual, transgender, queer, intersex, Asexual) identified folks and women only. We no longer offer pen pals.

HIV/AIDS & HEPATITIS C RESOURCES

POZ MAGAZINE, SMART + STRONG
212 West 35th Street, 8th Floor, New York, NY 10001-2508
Free subscription to any HIV+ person who cannot afford it.

TEST POSITIVE AWARE NETWORK
5537 N. Broadway, Chicago, IL 60640
Publishes Positively Aware, a bi-monthly magazine covering HIV/AIDS treatment, research, policy and lifestyle. Annual drug guide covers all HIV drugs. No dating or pen pal services. Write for free subscription.

INFORMATION SERVICES

AMERICAN CIVIL LIBERTIES UNION (ACLU)-NATIONAL PRISON PROJECT
125 Broad St, 18th Floor, New York, NY 10004
Write for list of publications and contact information for your state.

NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
PO Box 6000, Rockville, MD 20849-6000
800-851-3420
www.ncjrs.gov
Distributes documents and information from the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS), the Bureau of Justice Assistance (BJA), the Office for Victims of Crime (OVC) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP)

LEGAL PUBLICATIONS & EDUCATION

BLACKSTONE CAREER INSTITUTE
1011 Brookside Rd, Suite 300
PO Box 3717
Allentown, PA 18106-3717
(800) 826-9228
info@blackstone.edu
www.blackstone.edu
Low-cost paralegal course by mail

CENTER ON WRONGFUL CONVICTIONS
Northwestern Pritzker School of Law
375 East Chicago Ave
Chicago, IL 60611
The CWC handles claims of actual innocence in DNA and non-DNA cases.

CENTURION MINISTRIES, INC
1000 Herrontown Rd,
The Clock Building,
Princeton, NJ 085402
www.centurionministries.org
Works to vindicate and free prisoners who are factually innocent and have been unjustly sentenced to either death or life in prison without parole. Focuses on murder and rape cases. Does not consider child abuse/sex cases (unless physical evidence can be scientifically tested to prove innocence). Does not consider accidental death or self-defense cases. CM has no religious affiliation. CM is not a law office. To have a case considered, write a short letter to CM outlining the facts of the case (do not include documents or transcripts). CM reads and responds to all letters within approximately 6-8 weeks.

INNOCENCE PROJECT
40 Worth St, Suite 701
New York, NY 10013
Accepts post-conviction cases where DNA testing can yield conclusive proof of innocence. All cases for consideration should be mailed with a brief factual summary of the case and a list of the evidence used against the defendant. For cases originating from the states of AZ, CA, MI, OH, WA and WI, and for cases not involving DNA evidence, see the Innocence Network (www.innocencenetwork.org/members). Please do not send documents.

LEGAL INSIGHTS INC.
25401 Alicia Pkwy #L323
Laguna Hills, CA 92653
(714) 941-0578
www.legalinsights.org
info@legalinsights.org
A non-profit organization that provides discounted post-conviction assistance to state and federal prisoners challenging their convictions, illegal sentences, pleas, parole denials, DNA and sentence modifications. Inmates / family members may write, call, or visit the website to request information and assistance. Payment plans are available to those in low or fixed income situations. Legal Insights staff have over 20-years’ experience in post-conviction assistance and have secured the release of several inmates as well as sentence reductions.
LEWISBURG PRISON PROJECT
PO Box 128
Lewisburg, PA 17837-0128
Free list of low-cost legal bulletins related to prisoner rights.

MUSLIM LEGAL FUND OF AMERICA / CONSTITUTIONAL LAW CENTER FOR MUSLIMS IN AMERICA
833 E Arapahoe Rd, Suite 209
Richardson, TX 75081
www.clcma.org & www.mlfa.org
A charitable law firm providing free legal services to Muslims facing challenges to constitutional civil rights and liberties in America. Some of its clients are Muslim prisoners facing difficulties with religious accommodations.

NAACP LEGAL DEFENSE & EDUCATIONAL FUND INC
40 Rector St, 5th Floor, New York, NY 10006
Non-profit law firm which deals only with cases of obvious race discrimination, as well as a small number of death penalty and life without parole cases.

PRISON LEGAL NEWS
PO Box 1151, Lake Worth, FL 33460
PH: 561-360-2523
FAX: 866-735-7136
www.prisonlegalnews.org
Monthly prison-related magazine. Covers court decisions affecting prisoner rights and conditions of confinement. ($30 per year for prisoners). Write for catalog.

SET MY WAY FREE MINISTRIES INC
221 North Hogan St, NO 141, Jacksonville, FL 32202
PO Box 1655, Semmes, AL 36575
(877) 344-8035 (toll free)
Not attorneys, but provide legal research, attorney searches, manuscript proofreading, and revise pro se pleadings for a fee.

PRISONER SUPPORT

AFSC PRISON WATCH PROGRAM
89 Market Street, 6th floor
Newark, NJ 07102
www.afsc.org
973-643-3192
An advocacy program monitoring human right abuses in US federal and state prisons. The program promotes national and international attention to mass imprisonment, the use of torture and isolation in US prisons. Publishes several titles available to prisoners:

- Survivors Manual: Surviving In Solitary
- Survivors Speak: Prisoner Testimonies of Torture in United States Prisons and Jails
- Aging in Prison
- Our Children's House – a pamphlet and a one act play of testimonies of imprisoned children.
- LGBTQ+ Prisoner Resource Guide
- Testimonies of Torture in New Jersey Prisons

CITIZENS UNITED FOR THE REHB OF ERRANTS (CURE)
PO Box 2310,
Washington, DC 20013-2310
Focuses on analysis of prison issues and working with the friends and families of prisoners to bring about prison reform. Write for local information.

COALITION FOR PRISONERS’ RIGHTS (CPR)
PO Box 1911, Santa Fe NM 87504
Publishes free to prisoners:
- a short monthly newsletter nationwide,
- the booklet Psychological Soldier, a Guide to a Healthy Life in Solitary,
- a small meditation manual, Doing your Time with Peace of Mind.

CPR also offers several resource lists, by state and topic and has a limited number of free, mostly used, paperback English & Spanish dictionaries. Cannot offer any legal advice. There are no lawyers or legal workers on staff.

FAIR SHAKE
PO Box 63, Westby, WI 54677
www.fairshake.net
608-634-6363
Fair Shake is a reentry resource hub with the nation’s largest free resource directory, a free ‘office in the cloud’ for all formerly incarcerated people and lots of free tools and information for all reentry stakeholders. We have free software for all prisons and jails. We’ve created a 120+ page Reentry Packet which your family or friends can download or print for free. We can also mail a copy of the packet to you with your donation of $8 (our cost) or more. If you have Trulincs, feel free to sign up for our newsletter at outreach@fairshake.net.

THE FORTUNE SOCIETY
29-76 Northern Blvd, Long Island City, NY 11101-2822
Helps people formerly incarcerated break the cycle of crime and incarceration, and educates the public about prison and the causes of crime. Free newsletter for prisoners.

JUST DETENTION INTERNATIONAL (FORMERLY STOP PRISONER RAPE)
3325 Wilshire Blvd, Suite 340,
Los Angeles, CA 90010
Nonprofit organization that seeks to end sexual abuse in all forms of detention. Anyone who has experienced any form of sexual harm in custody – including sexual harassment, sex in exchange for protection, sexual assault, etc. – is encouraged to contact JDI for support and a packet of information. Prisoners can write to JDI via confidential, legal mail by addressing their letter to Cynthia Totten, Attorney at Law, CA Attorney Reg. #199266, at the address above.

 PENNSYLVANIA PRISON SOCIETY
230 South Broad Street, Suite 605
Philadelphia, PA 19103
215-564-4775
Official visitors’ network, transportation services, parenting and life skills classes, and the Prisoner Reentry Network, as well as a clothing closet and computer lab for returning citizens in Pennsylvania. Memberships include the bimonthly publication, Graterfriends, are available to prisoners for $5.00 per year.

PRISON ACTIVIST RESOURCE CENTER
PO Box 70447, Oakland, CA 94612
Source for progressive and radical information on prisons and the criminal prosecution system. Produces a national directory that is free to all prisoners upon request, and seeks to work in solidarity with prisoners, formerly incarcerated people, their friends and families.

PRISONER VISITATION AND SUPPORT
1501 Cherry Street; Philadelphia, PA 19102
PVS@prisonervisitation.org
www.prisonervisitation.org
(215) 241-7117; Fax: (215) 241-7227
Prisoner Visitation and Support (PVS) is the only nationwide, interfaith visitation program with access to all federal and military prisons and prisoners in the United States. PVS DOES NOT VISIT COUNTY OR STATE PRISONS. The visitors make monthly visits to see prisoners who rarely, if ever, receive outside visits. PVS visitors also focus on seeing: those serving long sentences, those frequently transferred from prison to prison, and those in solitary confinement and on death row.

A free publication. For imprisoned people only, who can reproduce it without permission.
PRISONS, JUSTICE, AND POLITICS

CALIFORNIA PRISON FOCUS
1904 Franklin St, Suite 507
Oakland, CA 94612
Publishes "Prison Focus" three times a year, a publication primarily by prisoners and for prisoners, their friends, and families, with a focus on issues around solitary confinement. All prisoners are welcome to submit articles, artwork or creative writing for possible publication, but are not guaranteed that items will be returned. Free to all California prisoners in the SHU, upon request.

JUSTICE DENIED
PO Box 66291, Seattle, WA 98166

MAOIST INTERNATIONALIST MINISTRY OF PRISONS
PO Box 40799
San Francisco, CA 94140
Anti-imperialist group fighting criminal injustice, helping prisoners to organize and educate themselves. Free subscriptions to newsletter, sends books, and runs political study groups.

PATHFINDER PRESS
PO Box 162767
Atlanta, GA 30321
50% prisoner discount. Write for a catalog. Books on the works of revolutionary and working class leaders. There is a flat shipping and handling fee of $2.75. Books in English, Spanish, French, Farsi, Arabic, Swedish, Greek, Chinese, Russian, and Indonesian. Family members may order for inmates and receive the same discount if the recipient's address is a correctional institution.

UNSTOPPABLE!
PO Box 11032, Pueblo, CO 81001
This publication is for women and trans prisoners. Write for a free subscription and feel free to contribute artwork, poetry, writings, etc., about topics like: personal triumphs in overcoming past or ongoing trauma; surviving, thriving, and resisting in prison; self-care in high stress environments; building community while incarcerated, etc. We also invite pieces that are more creative.

RELIGION & SPIRITUAL MATERIALS

THE ALEPH INSTITUTE
9540 Collins Ave, Surfside, FL 33154
(305) 864-5553, receptionist@aleph-institute.org
www.alephinstitute.org
Offers Jewish religious instruction to prisoners; religious articles, Torah literature, quarterly newsletter, correspondence courses, counseling, religious-freedom advocacy; personal visits to prisoners by Rabbis, rabbinical students, and family support groups.

AMERICAN BIBLE ACADEMY
PO Box 1627, Joplin, MO 64802-1627
417-781-9100
www.abarc.org
Free English and Spanish Bible correspondence courses for prisoners. All courses are 120 pages in length. Info also available from www.abarc.org.

ARM PRISON OUTREACH – INTERNATIONAL
PO Box 1490, Joplin, MO 64802-1627
417-781-9100
www.arm.org
ARM is the jail and prison chaplains’ source for Christian greeting cards from Day Spring, Bibles from the American Bible Society, in-prison seminars, gospel tracts, and baptismaries.

ASSOCIATION FOR RESEARCH & ENLIGHTENMENT
c/o Prison Outreach
215 67th St, Virginia Beach, VA 23451
Books about the life and work of Edgar Cayce, meditation, and reincarnation. Prisoners are limited to one book every two months.

ASSOCIATION OF HAPPINESS FOR ALL MANKIND
4368 NC Highway 134, Asheboro, NC 27205
AHAM is nondenominational. It offers some free materials on Ramana Maharshi’s self-inquiry method of meditation, has a price list of other books directly related to self-inquiry. Does not offer pen pals nor materials on Wicca, paganism, the occult, or black magic

BBI MEDIA
P O Box 687, Forest Grove, OR 97116.
Offers free subscriptions to prison chaplains and prison libraries. Requests must be submitted on official prison letterhead. Its publications include Witches & Pagans and SageWoman (women’s facilities only).

Witches & Pagans features:
• interviews with those who create and lead our traditions
• visits to the sacred places and people who inspire us
• in-depth discussions of our ever-evolving practices
• practical daily magic
• ideas for solitary ritual and devotion
• craft- projects
• Pagan poetry and short fiction and reviews

BRIDGE PROJECT–CENTER FOR COMMUNITY SERVICE & JUSTICE
4501 N. Charles St. Baltimore, MD 21210
Free brochure of contemplative meditation.

CHANDRA YOGA RESOURCES
1400 Cherry St, Denver, CO 80220
Free books on devotional yoga and mantra meditation.

CHUANG YEN MONASTERY
Attn. Rev. Richard Baksa, Prison Program
2020 Route 301, Carmel, New York 10512
rbaksa@mac.com
Our organization sends free Buddhist books to prisoners who request them, answers questions regarding Buddhist beliefs and practice that prisoners may have, and sponsors a free Buddhist Correspondence Course for prisoners.

COMPASSION WORKS FOR ALL
PO Box 7708, Little Rock, Arkansas 72217-7708
We Provides a free Dharma Friends newsletter every other month. This Buddhist-based newsletter gives teachings about the Dhammapada and meditations to support people in all faith traditions who are seeking personal growth and transformation. Subscribe by writing to us, and include "new subscriber" on the envelope

FOUNDATION OF PRAISE
PO Box 2518, Escondido, CA 92033
www.foundationofpraise.org
"Prison to Praise is not only about a prison with bars, but about a prison of circumstances - and how to be set free! This book is available free to prison Chaplains when they write and request them for the inmates in their facility."

HUMAN KINDNESS FOUNDATION
PO Box 61619, Durham, NC 27715
Sends interfaith spiritual books free to prisoners.
IN-TOUCH MINISTRIES
PO Box 7900, Atlanta, GA 30357
Christian ministry led by Dr. Charles Stanley. Free In Touch religious magazine.

ISKCON PRISON MINISTRY
PO Box 2676, Alachua, FL 32616
www.iskconprisonministry.org
iskconprisonministry@gmail.com
Sends free material about bhakti-yoga study and practice; books, prayer beads, CDs, MP3s, and incense. We need to know:
- Which items you are allowed to have,
- Are you allowed hardbound or only softbound books?
- Which items can be sent to you directly and which only through the chaplain?

The books cover reincarnation, karma, and how to live a simple, godly life, and find internal peace and joy no matter what your circumstances.

JEWISH PRISONER SERVICES INTERNATIONAL
PO Box 85840, Seattle, WA 98145-1840
Offers the Jewish Bible, prayer books, and Jewish history/culture books to Jewish prisoners only. Hebrew available.

LIBERATION PRISON PROJECT
PO Box 33036, Raleigh, NC 27636
Offers spiritual materials on Buddhism. Offers correspondence courses and spiritual materials on Buddhism.

MIRACLES PRISONER MINISTRY
4118 County Hwy. B, Wisconsin Dells, WI 53965
Its Spiritual Recovery Correspondence Course is based on the 12 Steps, the Bible and A Course in Miracles. Write to request a free copy of A Course in Miracles and section one of the course.

NALJOR PRISON DHARMA SERVICE
www naljorprisondharmaservice org
Offers The Heart of Dharma Collection: ten precious dharma teachings. These accurate, concise teachings are perfect for daily study, contemplative meditation, and inspiration. This entire collection is available free of charge from our website. Offers a 29-page Resource Directory for Prisoners.

PBPF PRISON PROJECT
4936 Route 414, Dept. LP, Burdett, NY 14818
FREE BOOKS: What Is Karma? by Paul Brunton—a positive view of what karma is and how to get it working for you. AND The Gift of Grace: Awakening to It’s Presence by Paul Brunton—how each of us can find our true path, our divine self, despite (or maybe because of it) the struggle and turmoil along the way.

Available on written request. Include your name, prisoner ID, full prison name, cell location and address. Please also your facility’s restrictions on mailing books.

THE ROWAN TREE CHURCH
Address inquiries to: Ms. Kate Madin, Program Director
PO Box 195, Plantsville, CT 06479
The Rowan Tree Church offers a Prisoner Outreach Program for those who desire to explore the Tradition of Lothlorien and Wiccan Church. This is an assignment based program for which educational materials may be purchased by either check or postage stamp exchange. We are unable to provide complimentary program materials or publications.

SYDA FOUNDATION PRISON PROJECT
PO Box 99140, Emeryville, CA 94662
Email: prisonproject@syda.org
510-898-2700 ext 4113
The Prison Project is dedicated to disseminating the Siddha Yoga teachings and practices to incarcerated individuals. Sends free monthly newsletter and “Home Study Course” to prisoners. Siddha Yoga teaches that within each of us, behind the mind, body, and ego, is a divine power called the Self. We meditate to harmonize our actions, thoughts and words with this power. Also available in Spanish.

UNITED PRISON MINISTRIES INTERNATIONAL
PO Box 8, Verbiana, AL 36091
Prisoners can order two booklets at a time: What the Bible Says, The Desire of Ages, Bible Answers, Bible Questions Answered, God Still Answers Prayers, and Keys to Happiness.

WISDOM PUBLICATIONS
199 Elm Street, Somerville MA 02144
info@wisdompubs.org
Provides free Buddhism books to prisoners.

CHICAGO BOOKS TO WOMEN IN PRISON
See Free Books to Prisoners section.

NATIONAL CLEARINGHOUSE FOR THE DEFENSE OF BATTERED WOMEN
125 s 9th St, Suite 302, Philadelphia, PA 19107
(215) 351-0010
Resource center for victims of battering who have been charged with crimes related to their abuse. Does not provide direct legal representation; assists defense team members. A very small nonprofit organization, they do what they can to answer requests for assistance as promptly as possible but it often takes a long time to get a response. Phone or write.

MS. MAGAZINE
ATTN: MS. IN PRISON PROGRAM
1600 Wilson Blvd, Suite 801, Arlington, VA 22209
Ms. is a feminist publication covering current events, politics, and culture. Women in prison can obtain a free membership by writing to the address above.

NARCOTICS ANONYMOUS
PO Box 9999, Van Nuys, CA 91409
www.na.org
NA publishes a wide variety of materials concerning drug addiction and recovery, some of which are expressly produced for persons currently incarcerated, including Behind the Walls. También ofrece literatura en español, incluyendo Entre Rejas. Booklets are 85 cents each.

U.S. SMALL BUSINESS ASSOCIATION
409 3rd St, SW, Washington, DC, 20416
Write for free information.
FREE BOOKS TO PRISONERS PROGRAMS

The groups listed here provide a variety of books similar to what you would find in a small bookstore or library. Books are free and do not need to be returned. Local communities and publishers donate books so what’s available varies greatly.

To request books, send your full name (as known to the DOC), ID Number, full address including cell number, and a list of subjects that interest you. Requests for specific titles are difficult to fill. Include your facility’s restrictions on mailing books, if known.

Many programs have a backlog of several months, so please be patient. Do not request books if you are moving in the next few months because the books may not get to you. They are sent by Media Mail by the Post Office which is not forwarded like other mail.

ATHENS BOOKS TO PRISONERS
PO Box 45, Rutland, OH 45775
Cannot fill orders for specific titles. Send a list of subjects/types of books.
SERVES: OH

APPALACHIAN PRISON BOOK PROJECT
PO Box 601, Morgantown, WV 26507
SERVES: KY, MD, OH, TN, VA, WV

ASHEVILLE PRISON BOOK PROGRAM
67 N. Lexington Ave, Asheville, NC 28801
Also supplies a NC Prisoner Resource List to NC prisoners upon request.
SERVES: GA, NC, SC, TN

BOOK’EM
5129 Penn Avenue, Pittsburgh PA 15224
Focuses on educational and non-fiction books and magazines.
SERVES: PA

CHICAGO BOOKS TO WOMEN IN PRISON
c/o RFUMC, 4511 N. Hermitage Ave, Chicago, IL 06040
Women (including transwomen) only. Does not serve jails and other short-term facilities outside Chicago.
Serves federal prisons in all states and state prisons in AZ, CA, FL, IL, IN, KY, MS, and OH.

DC BOOKS TO PRISONS
PO Box 34190, Washington, DC 20043
www.dcb ookstoprisoners.org
Stamps and donations are appreciated where possible. Request reading material by prioritized subjects. List prison restrictions if known. Please wait 5 months between requests.
SERVES: DC residents in Federal prisons everywhere. Federal prisoners in AZ and all prisons in AL, AK, AR, CA, CO, DE, GA, HI, IA, ID, IN, KS, KY, LA, MD, MN, MO, MS, MT, NC, ND, NE, NM, NV, OH, OK, SC, SD, TN, TX, UT, VA, WV, WY

INSIDE BOOKS PROJECT,
c/o 12th Street Books,
827 W. 12th St, Austin TX 78701
One request every three months. Also publishes a free Resource Guide for TX prisoners
SERVES: TX

LGBT BOOKS TO PRISONERS
c/o Social Justice Center Incubator
1202 Williamson St #1, Madison, WI 53703
LGBTQ-identified prisoners only. Also offers LGBT and Trans resource lists.
SERVES: All states except TX

LOUISIANA BOOKS 2 PRISONERS
1631 Elyan Fields Ave. #117, New Orleans, LA 70117
www.lab2p.org
Women and LA prisoners are prioritized.
SERVES: AL, AR, LA, MS

MIDWEST PAGES TO PRISONERS PROJECT,
c/o Boxcar Books & Community Ctr.
PO Box 1324, Bloomington, IN 47402
SERVES: AR, IA, IN, KS, KY, MN, MO, ND, NE, OH, OK, SD, TN, WI

NYC BOOKS THROUGH BARS
c/o Bluestocking Bookstore,
172 Allen St, New York, NY 10002
Specializes in political and history books. Also has literary fiction and other educational books. No religion books. Prioritizes requests from NY.
SERVES: All US states except AL, FL, LA, MA, MI, MS, NC, OH, and PA.

OPEN BOOK PRISON BOOKS PROJECT
1040 N. Guîllemard St, Pensacola, FL 32501
SERVES: FL

PRISON BOOKS COLLECTIVE
PO Box 625, Carrboro, NC 27510
www.prisonbooks.info
prisonbooks@gmail.com
Zines (small booklets) on various topics
Request our zine catalog.
SERVES: Books: AL, NC
Zines: All states

PRISON BOOK PROGRAM
C/o Lucy Parsons Bookstore
1306 Hancock Street, Suite 100,
Quincy, MA 02169
Serves: All states except CA, IL, MI, MD, NV, and TX

PRISON LIBRARY PROJECT
915C W. Foothill Blvd, PMB128,
Claremont, CA 91711
Dictionaries and basic reference, personal and spiritual growth, general fiction and non-fiction.
SERVES: All states except MA

PRISONERS LITERATURE PROJECT
1910 42 Lenox Ave. Providence, RI 02907
www.prisonersliterature.org
Serves: All states except OR, MA and TX

PROVIDENCE BOOKS THROUGH BARS
42 Lenox Ave. Providence, RI 02907-1910
SERVES:

READ BETWEEN THE BARS
C/o Daily Planet Publishing
PO Box 1589, Tucson, AZ 85702
SERVES: AZ

WISCONSIN BOOKS TO PRISONERS
C/o A Room of One’s Own Bookstore
1202 Williamson Street, Ste #1,
Madison, WI 53703
SERVES: WI

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### BOOKS TO PRISONERS PROGRAMS – STATES SERVED (X=All, F=Federal only, S=State only)

| Athens Books to Prisoners | AL | AK | AR | AZ | CA | CO | CT | DE | FL | GA | HI | ID | IL | IN | KS | KY | LA | MA | MD | ME | MI | MN | MO | MS |
|--------------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| Appalachian Prison Book Project |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| Asheville Prison Book Program | X |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| Book’Em |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| Chicago Books to Women in Prison | S | S |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | S |    |
| DC Books to Prisoners | X | X | X | F | X | X | X | X | S | S | X | X | X | X | X | X | X | X | X | X | X | X | X | X | S | S | S |
| Inside Books Project |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| LGBT Books to Prison (LGBT only) | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Louisiana Books 2 Prisoners | X | X |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| Midwest Pages to Prisoners | X |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | X |
| NYC Books Through Bars | X | X | X | X | X | X | X | X | S | S | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Open Books Prison Books Project | X |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | X |    |
| Providence Books Through Bars |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | X |    |
| Prison Books Collective | X |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | X |    |
| Prison Book Program | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Prison Library Project | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Prisoners Literature Project | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Read Between the Bars |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | X |    |
| Wisconsin Books To Prisoners |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | X |    |

| MT | NC | ND | NE | NH | NJ | NM | NV | NY | OH | OK | OR | PA | RI | SC | SD | TN | TX | UT | VA | VT | WA | WI | WV | WY |
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WHAT IS THE PRISON BOOK PROGRAM
The *We the People Legal Primer* and *National Prisoner Resource List* are publications of the Prison Book Program in Quincy, MA, one of the dozens of “books to prisoners” programs listed on page 46. We have been sending books to prisoners since 1972. We are entirely staffed by volunteers and supported by many donors who care about literacy in prison.

WHO IS LUCY PARSONS AND THE LUCY PARSONS BOOKSTORE?
Lucy Parsons (1853 - 1942) was a radical American labor organizer, anarchist, and powerful public speaker. She was born in Texas (likely as a slave) to the parents of Native American, African American, and Mexican ancestry. Because of her singular fight against social and economic oppression, Lucy led a controversial life. She always kept a sharp eye on the social revolution that she was convinced was necessary to change what she saw as the glaring excesses of the oppressive capitalist system. (SOURCE: Wikipedia) Her legacy is alive in the Lucy Parsons Center, a bookstore and gathering place for a wide range of concerned citizens.

WHO CAN REQUEST BOOKS?
Prisoners in all states except California, Illinois, Maryland (except Fed Prisons), Nevada and Texas, where allowed by their facility. We do not serve jails and short-term facilities or halfway houses. We cannot send books to libraries or prison staff. Prisoners are limited to one shipment every six months.

HOW TO REQUEST BOOKS FROM PRISON BOOK PROGRAM
Write us a letter that includes:
- Your full name as known to the DOC. No nicknames.
- Your ID Number
- Full mailing address
- Restrictions on receiving books if known
- At least 3-4 subjects that interest you from the list below in priority order. Rarely can we fulfill requests for specific books

MAIL REQUESTS TO:
Prison Book Program
C/o Lucy Parsons Bookstore
1306 Hancock Street, Suite 100
Quincy, MA 02169

USUALLY IN STOCK

<table>
<thead>
<tr>
<th>Foreign Language (tell us if the person is a native English speaker)</th>
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<td>History – African</td>
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<td>History – American</td>
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<td>History – Carib/Latin Am.</td>
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<td>Legal Primer – &quot;We the People&quot;</td>
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<td>Nat. Prisoner Resource List</td>
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<td>Psych – Addictions</td>
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<td>Psych – Addictions/Dysfunctional Families</td>
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<td>Psych – Death &amp; Dying</td>
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<td>Women’s Studies</td>
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<td>Writing</td>
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FREQUENTLY OUT OF STOCK

| Art/Drawing |
| Business |
| Construction |
| Culture – Latin Am. |
| Culture – Native Am. |
| Exercise & Nutrition |
| Fiction – Urban Fiction |

HELP US OUT

- Tells us if a book has helped you (Get your GED, go to school, find a new job, start a business, personal growth, etc.) We welcome all success stories, big or small. Your stories can make a huge difference to our program by inspiring the donors and volunteers that make this program possible. We appreciate your help!
- Encourage your family and friends to support us financially.
- Send us your advice and suggestions. If you discover incorrect information, disappointing resources, or new resources to be added to this listing, please let us know. We are constantly making updates and improvements to better assist you.

THANK YOU FOR SHARING YOUR LIVES AND IDEAS - WE APPRECIATE YOUR PASSION, PATIENCE, AND SENSE OF HUMOR