

ANARCHIST

LITIGATION

For

DUMMIES

By, Gary William Hallford

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Those of us buried in the obscenity of the Criminal Justice System, usually do not have much educational resources from which to attack the absurdity we've been thrown into. That's a given. There is no reasonable method to explain why schools are being closed, while prisons continue to be built, other than being fraudulently displayed to the panicked taxpayer who wishes to protect whatever he or she has amassed as "wealth". Over the last couple years, the definitions of "wealth" have become more abstracted, leaving almost no previous rationales worthy of valid expression.

For anyone who has refused to employ the concepts of "Evolution", they have lost sight of the simplicity of change, and what necessity sometimes requires of each entity or process. This evolution is also required in Judiciary processes, and every other human interaction. Just to be expeditious, civil rights actions are an effective method of implementing change, but the Courts will reluctantly look at proposed changes. It would appear they are more inclined toward accepting "traditional hypocrisy" than "embracing social discourse", partly from ignorance, but most likely from their own personal prejudice(s) coming to the foreground.

If you place 1,000 "Generic People" in an Assembly Hall, odds are you will find more intricate differentiations than there are people. Whether the noted differences are of age, race, ethnicity, gender, sexuality, political beliefs, religion, favorite pass-time, beer-brand, or a Trillion other minute details the fact remains that people rapidly become either adamantly opinionated, or almost oblivious to the question presented....

and raising the awareness of those who find no direct causation for interest, requires either an incredible patience, combined with artistic creativity beyond most people's imagination. The following is a "Crash Course" for doing/bringing about positive social development, all on the Judiciary's dime.... 3

Part 1, Initiating a Complaint:

Just for the sake of this exercise, let's consider that access to religious services are restricted, or you're denied adequate access to the Law Library in your institution. These are common issues and there have been a plethora of legal decisions regarding various aspects of these issues. However, until someone knows you've been wronged, relief can't be received. So, you file a grievance to the supervisory personnel directly overseeing the situation (1), because this is required by Prison Litigation Reform Act, which requires you "exhaust administrative remedies" prior to filing suit in Federal Court. Recently, there has been a Supreme Court decision which appears to loosen the requirement (2), but for safety sake, it is preferable to thoroughly exhaust whatever grievance system is available in your prison.

While there is a dichotomy between Anarchist principles and the addressing of grievances to a governmental entity, you can't legitimately go from having a complaint, to receiving some answer, without reaching forward with a legal document. In the California gulag there is a rather useful form called a 602, and a new 602-HC (Health Care), and also an 1824 (Americans w/ Disabilities

Act Accommodation Form). Other jurisdictions will have different terminology but for this example, California forms will suffice. 4

Oddly enough, the only people with lower educational backgrounds are those who find themselves "working" for these gulags. Therefore, use the K.I.S.S. system: **Keep It Simple Stupid**. Going too far into detail will obscure the merit of your complaint. If you are forced into using technological idioms the screener is not going to readily know, provide a brief description of the matter. Should the problem involve an obscure medical terminology, expect the screener doesn't have an M.D. behind their name; and if the problem involves a legal situation outside the normal run-of-the-mill issues, do yourself a favor and provide explicit definitions and terminology as required in the legal field. This is extremely useful in Immigration matters, Political Asylum Requests, etc....

As is unfortunately normal, screeners will blow smoke up your ass and create issues where they previously didn't exist. Among their tactics are an array of odd demands for information already in their possession (in your confidential & medical files); a method of changing the question into something that doesn't resemble what you sought rectified; and/or, deflect the answer into something which addresses nothing the appellant/complainant brought into question.

This is simply an attempt to intimidate and confuse, leaving you confused over the situation. In some cases, they will not even respond to the inquiry. At the abattoir known as California State Prison-Solano, I had difficulties with an Appeals Coordinator who refused to supply answers

to assorted complaints. Finally, in some desperation, I sent him a 602 en francais! He responded with an acknowledgement that I spoke and wrote adequate English, that using French was a waste of his valuable time. My reply? Since he had given the first "Informal Response", the next one required a log number, thus forcing the appeal up the Chain of Command...he wasn't happy with being "punked", but the same Appeal is in a 42 U.S.C. § 1983, currently being reviewed by the Ninth Circuit. 5

Another tactic they use is to overly delay their response. For example, there can be a simple statement of absolute truth ("the sun rises in the East") they are not willing to admit. In the 602 system, the complainant is required to respond to whatever reply is received within 15 day. Technically, the CDCR's supposed to play by the same rules, but almost never do. If you hit then with an extremely complicated question, they often will extend the "due dates" for an extensive period; only for delivery 17, 18, 21 days past the date of their having signed the 602. In this instance, if the staff member is willing to do so, have them sign the form with a "Delivery Date". This will usually only be useful for one or two times, because the Staff will catch heat for subverting the other Staff's subversion (yeah, it becomes a childish soap opera...).

The key point is to persevere through this maze of idiocy and either obtain the relief you sought, or an adequate response to your complaint explaining their "justification" for denying this relief. In California, between beginning and end, usually **Eight Months Elapse**, and the majority of **State Tort Claims** have a **Six Month "Statute of Limitations"**

between the harm done, and the potential relief being afforded. If State Agencies delay the process long enough, the Courts will refuse to hear the case....

Needless to say, this is a complicated and confusing system, abused by those whom are "entrusted by the public" with protecting the public's rights. **PRISONERS ARE PART OF THE PUBLIC!** Though we have limited rights, the Right to Petition ⁶ the Government for Redress of Grievances (3) is one of our most valuable. Without it, we are essentially neutralized from being effective members of any political body, and become hopeless, helplessly distraught, meaningless entities. Failure to recognize this truth is damning....

Part 2, How to Apply Completed Complaint:

Where to utilize the response elicited depends entirely upon the specific type of complaint is involved. If the issue is over property damage, then a State Tort Claim is probably the area to bring Court scrutiny. If the issue involves a well defined U.S. Constitutional Right, **42 U.S.C. § 1983** is the appropriate venue to file suit in. In some cases, you're able to file both State & Federal Claims simultaneously. This will depend mostly on the Court in your jurisdiction, and even when you proceed with one venue, there is a strong likelihood an Attorney General will change venue (from State to Federal) to deflect your attention from the abuse of power. I personally, filed a State Tort against Corruptional Officers (**IN THEIR PERSONAL CAPACITIES**), only to have a Deputy Attorney General move the case to Federal Court, claiming it was a "Federal Question". For those readers who get **Prison Legal News**, in February 2009, you'll see a story about

the USDC Eastern District of California,
"farming out" cases to "foreign courts".
2:07-cv-1068-PMP, is now being stalled
in the USDC District of NEVADA, because

the California Court is buried in cases
(2500 from unhappy prisoners). Through
some hocus-pocus, and use of a Ouija
Board, the Ninth Circuit has chosen 7
to relieve the Eastern District of Cal-
ifornia of their excess baggage (nothing
is being done, except using smoke and
mirrors...), delaying basic human rights
for unbelievably long periods of time....

All this being said, you now have
a completed 602 before you, and no relief
has been obtained. For the sake of this
essay, let's consider a hypothetical
situation where you were denied access
to religious observations, and you are
not segregated by specific disciplinary
circumstances. Your only problem involves
some kind of "Home-Boy" network which
prevents you (as an outsider) from being
allowed/accepted into the service. While
you noted some intricate case law during
the grievance, usually you do not want
to reach in to a Federal Court and tell
them what the law says (they are far
more qualified than you are to determine
the definition...). So, you write them
a short story:

Who you are;

Who the Defendants are;

What harm has been done;

Who specifically is responsible;

What relief you seek;

If it's an obscure issue, provide case
law of pertinence;

Request In Forma Pauperis status to
delay paying any fees;

(OPTIONAL)-Request representation to
protect your interests with professional
legal assistance;

(OPTIONAL)-Provide specific State-Sponsored exhibits of pertinence.

Odds are they won't allow an Attorney, so do your home-work. Multiple examples of religious persecution cases have been decided, some benefit your case, others go directly opposite what are arguable as being beneficial/derogatory to the case.

In one specific case, I submitted 47 **State Auditors Reports** as Exhibits. They were pertinent and show the State to be acting fraudulently in countless areas. In another one, I've submitted documents proving a conflict of interest where they refuse to provide public documents for exhibits (**Government Codes!?!?!).** These are documents which should be made readily available via either the **Federal Freedom of Information Act**, or **State Public Records Acts**. Essentially, you have to fight for the most basic accommodations which already are guaranteed by law (?). All you can do is keep struggling forward....

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Part 3, Filing Fees and Other Costs:

The Courts really don't want to hear from "non-professionals", and have created a cost system that scares away most folks. **Habeas Corpus** is an age-old Right of which the Courts have been reluctant to overtax, leaving the cost at only \$5.00 per filing. With nearly **800 YEARS OF GUARANTEEING THIS RIGHT** make it rather difficult to destroy through political subversion (4).

CIVIL RIGHTS ACTIONS are far different: State Torts vary by locality, but you're still allowed to bring "legitimate" suits without prepayment (in forma pauperis). **Federal Actions** under **42 U.S.C. § 1983** must eventually be repaid. There are only three levels of Federal Court, and they receive different prices:

District Court = \$350.00
Circuit Court = \$455.00
Supreme Court = \$300.00

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The vast majority of cases are settled (or dismissed) in the District Court and are also more "politically charged" with assorted biases. Circuit Courts have turned rather "Bi-Polar", and are following some rather bizarre internal dogmatism their "area" doesn't necessarily reflect. There is virtually no chance of having a case heard by the U.S. Supreme Court, unless there is a significant "public interest" in the decision (defining an established law; argue the Contitutionality of recent legislation; or, challenge legislative and/or executive authority; or, of recent interest, determine the legitimacy of "War Powers" of an illegitimate President) (5.). At any rate, the key point to watch is that you not worry about the costs!!! To borrow an old term: "A closed mouth won't get fed".

Being indigent and representing yourself the Courts are supposed to allow the basic errors and violations of Rules of Court to be "overlooked" (6), but this depends more on the specific Court. Some will be very kind, while others will crucify you. **BEFORE FILING, ASK OTHER LITIGANTS WHAT EXPERIENCE THEY'VE HAD IN THIS COURT!!!** Also, check out the Magistrate assigned. Does he have a history of acting unfavorably against prisoners? If he has acted "justly", were the plaintiffs proceeding pro per, or did they have hired counsel? If the Judge has a history of acting one way towards attorney-represented litigants, and another way against pro per complainants, there's a reasonable probability of prejudicial thought being brought forth. **ASKING JUDGES TO RECUSE THEMSELVES OPENS THE DOOR FOR FURTHER ABUSE OF DISCRETION.** They do not like anyone "pissing in their fishbowl".

TO RECUSE ONE DOES NOT PREVENT THE OTHERS FROM "OVER-RULING" YOUR FUTURE OBJECTIONS. Be very careful in your potential challenge of any Judge, because it will probably come back to haunt you....

Part 4, RESEARCH, RESEARCH, RESEARCH:

Pick any television program...doesn't matter what genre...and consider writing the script. If you have never been outside Manhattan, are you qualified writing the next Western? If you're sitting in a County Jail in Central North Dakota, do you have the experience to write about the "Street-Life" of Chicago? If you're the Governor of Alaska, do you have sufficient knowledge and expertise to become Vice-Dictator?

If you want to complain about something, the only way you'll catch my attention will be to have some legitimate knowledge of both the **RIGHTS INFRINGED**, and **LEGAL AUTHORITY EXPRESSING THIS RIGHT**. To simply pick Constitutional Amendment, does not necessarily establish the **SPECIFICS** of this Right. For an arbitrary example look at the **4th Amendment**. There are places where it is applicable, but there have also been "Legislative erosion" from the "apparent meaning"(8).

Within the gulag archipelago most folks reading this inhabit, there is virtually no expectation of privacy(9), and there is almost no case law to benefit your **4th Amendment** rights. However, there are a few decisions which speak otherwise(10), and were not received by placing your hands on your head and pray for relief. Slavery is not abolished by complacency, but only by concerted counter-attacks of courageous audacity...and fighting the urge to panic and neglect the drudgery of learning just what you're fighting for and why. Without some form of "direction", we continue to repeat others mistakes, and negate our

possibility for relief. However, there's always an opportunity to counter whatever inappropriate decisions or actions we're forced into facing...but it takes massive amounts of research.

Access to the Prison Law Library tends to be below the minimum Federal Standard, and this varies by location and Security Level of the Institution. The Law Schools around the nation routinely have access to Case Law, but the cost varies. Recent communiques from the only "Free Access" University in California, show an ongoing economic crisis has ended "free access", essentially violating State and Federal Constitutional rights(11), while allowing "Free People" ready access(12). As these developments unduly punish incarcerated people, there is a **DIRE NEED** to support groups which work to benefit prisoners, either directly(13), or through useful texts and journals(14). Among the most critical texts to obtain is fittingly called the "**Cite Book**", which can bring extremely useful decisions directly into your hands.

Another organization which should be considered vital is the **Friends Committee on Legislation** (assorted addresses aren't readily available for other locations), but are usually available via "**Prison Activist Resource Center**", Oakland(15). They provide a listing of both State and Federal legislation which has effect upon our existences. **CURE** (Citizens United for Rehabilitation of Errants), has an annual listing of Supreme Court cases recently decided(16). The Supreme Court only allows you to obtain copies of five decisions each year, but they are useful tools and resources for study.

Just for an arbitrary example, let's take a look at one case and see how it can create infinite complexities regarding

our subject. Say, we're looking for 4th Amendment protection in a motor vehicle. The specifics are immaterial for this example, but let's assume it involves 12 some level of drug possession, and you're trying to argue the police didn't have the authority to search your car. Under U.S. v. Sigmond-Ballesteros, 285 F.3d 1117, 1127 (9th Cir. 2002), the seizure was Impermissible because the driver pulled over in response to being tailgated by an officer; However, U.S. v. Moore, 235 F.3d 700, 704 (1st Cir. 2000), there was a "reasonable suspicion" to detain someone for "running through a high crime area". While that may seem hypocritical, try U.S. v. Juda, 46 F.3d 981 (9th Cir. 1995), which allows/endorses the planting of a transmitter BY FOREIGN AGENTS (in this case Australian), to track and catch a ship in International Waters. Needless to say, besides the 4th Amendment being moot, these examples are a brief glimpse into the assorted dichotomies found within a "simple" problem.

For another example, let's look into 1st Amendment Religious Rights: Love v. Reed, 216 F.3d 682, 689 (8th Cir. 2000), provided protection of "self-proclaimed" adherent of "Hebrew Religion", because the prison officials violated his method of practice, even though he was the only participant; However, Dunn v. White, 880 F.2d 1188, 1197-98 (10th Cir. 1989), is not a violation when prisoner had refused to submit to an AIDS test on vague grounds that were not confirmed as religiously mandated; and, Theriault v. A Religious Office in the Structure of the Government Requiring a Religious Test as a Qualification, 895 F.2d 104, 107 (2d Cir. 1990), which brought a "possible claim" under the "Establishment Clause", because the

Chaplain interfered excessively with management of the prison.; and Hallford v. CDCR, et al., 07-15335 (9th Cir.)(active), regarding C.S.P.-Solano denying Buddhist's "Religious Diet", and grooming standards challenge (I've won it, I'm just waiting for the final decision being remanded to the District Court....

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Another issue to consider is the way an oddly impertinent case can be utilized in a different context. Perhaps the best example of this is Roe v. Wade, 410 U.S. 113 (1973), is generally looked upon as the "Abortion Decision", but if you really look at it, there is a deep explanation of the 9th Amendment, which precludes the government from "unlawfully" interfering with a persons private affairs. Looking "outside the box" can be rewarded greatly.

Speaking of "outside the box", there's over 5000 years of philosophical thought which can be referenced (though not very easily) and all have pertinence to modern legal theory. Besides the rather obvious Torah/Bible/Qu'ran references (that have helped shape legal and moral thought), there are countless scholarly texts which have significant information to contribute to your argument. Among these are:
"Two Treaties of Government", John Locke;
"Ethics" and "Politics", by Aristotle;
"De L'Esprit des Lois XIV", Montesquieu;
"Du Contrat Social" Jean-Jacques Rousseau;
"Either/Or", by Soren Kierkegaard;
"Genealogy of Morals" Friedrich Nietzsche;
"Utilitarianism", John Stuart Mill;
"The Conquest of Death", Bertrand Russell;
"The Second Sex", by Simone De Beauvoir;
"The Metaphysics of Oppression" J. Valdez;
"Gravity and Grace", by Simone Weil;
(just a few that are referenced in another "personal" case: Gary William Hallford v. Each Individual Member of the California

Correctional Peace Officers Association,
And Other Employees of the California
Department of Corrections and Rehabilit-
ation, In Their Personal Capacities, 14
Et Al, 08-16322 (9th Cir.)(active).

Suffice it to say, there are countless resources to utilize and reference, but it helps if you actually know what you're talking about and can craft a cognizant argument which not only expresses where you have been wronged, but provide some rationale at how to rectify the problem. You don't have to be brilliant, you simply have to be dedicated to curing the problem and bringing the fight in an appropriate manner which is respected by the Courts and the People who might be have effects upon them as well (you don't live in some kind of vacuum...).

Part 5, Retaliation and Retribution:

Personally, I prefer to live a peaceful and "unassuming" lifestyle...very low key. However, I also prefer not to have rights violated by some retarded, State-employee who can't particularly understand what's actually going on. The Bullshit can only effect you if you allow it to; preparation and contingency plans are an essential element of surviving the retaliation **WHICH WILL COME**. When you know the Defendants are going to retaliate, a wise litigator will provide information to outside folks, and if the threat appears dire enough, it is essential to protect information (phone numbers, addresses, case numbers, etc...), by either sending "Emergency Information" to **TRUSTED** outside contacts (friends, family, etc...), and/or **TRUSTED** inside contacts (friends), who can relay the information back to you either through the mail, or by hand, depending on the particular circumstances.

During an episode of retaliation that resulted in a journey to a **SHU**, I mailed my "Emergency Address List" to a friend, who made copies and returned one to me ¹⁵ once I landed in the **SHU**. While my stay was short, the necessity of having access to this information can not be over-stated when you have multiple cases active and have time barriers to comply with (Courts do not usually grant extensions while serving a **Disciplinary Sanction** regardless of the validity...).

One thing that does bring cheer has to be the ability of receiving some responses from Legislators, and other Human Rights Advocacy Groups. The Threepenny Review published a letter to the Editor detailing being denied my reading glasses (THANK YOU Wendy Lesser!!!), and though it didn't directly change my circumstances, others read about this wanton deprivation and other matters of torture. The ACLU, Human Rights Watch, etc..., responded to letters and a few groups wrote letters of protest to the California Department of Correction and Rehabilitation, and assorted gulags within their "sphere of influence"....

A closed mouth not only doesn't get fed, but it endures torture too quietly. **IF YOU ARE NOT BEING TREATED JUSTLY OVER ANY SITUATION, SPEAK OUT LOUDLY AND WITH GREAT PASSION!!!** Failure to resist equates to surrender....

When you know you will be retaliated against, **HAVE YOUR SHIT TOGETHER BEFORE IT ALL FLIES APART!** You won't regret it.

Part 6, Conclusion:

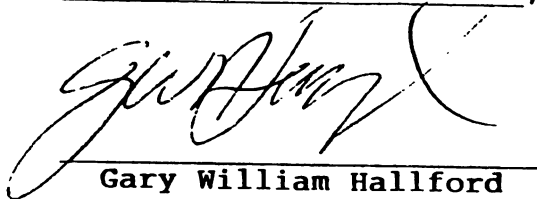
One basic moral dynamic shared across the various ethnic, religious & political ideologies, is the wish to not be harmed, nor harm others. Another is to refrain from taking things that are not "freely given". Within the countless gulags, there

are innumerable subdivisions. To reach 16
into the abysmal wastelands of rhetoric
and depraved selfishness, and reach for
"something better", seems unthinkable to
people facing personal and economic crises
of every version imaginable. The fight
for basic civil rights can only be left
once the goals are reached. "Pie in the
Sky" crap won't fly when everyone's deep
in trouble and the "Savior from Chicago"
is in all reality, the best we can muster.

I'm personally fighting to eliminate
restrictions that don't apply to me. Why?
BECAUSE IT'S THE RIGHT THING TO DO....
All it's done for me was have my sanity
questioned, and the expenditure of almost
everything I own...but, I can go to bed
each night with one promising thought in
my mind: "At Least I'm Trying...". How
many readers can honestly say the same?
Today, my cell mate received EXTREMELY
rapid response from a 602 I sent in last
night regarding his health. My benefit?
Though I'll probably lose him soon, he'll
live longer...all from a few well chosen
words on a Government Form. Why? **BECAUSE
IT WAS THE RIGHT THING TO DO....**

April 3, 2009

In Struggle 'til the End,



Gary William Hallford

Author can be contacted by non-prisoners
at the following address:

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Represa, CA 95671-5071

May Peace and Justice Come Soon

PLEASE NOTE: There are innumerable people and/or organizations which are desperate for funds to continue the struggle ON OUR BEHALF. Anthony is not a financially gifted man; nor are the groups noted in the Points and Authorities. **EVERYONE IN THE GULAGS SHOULD SEND SOME "DONATION" DURING THESE ECONOMIC CRISES...**(if not us, then who'll bring them relief?).---PEACE---

POINTS AND AUTHORITIES

- 1.) Turner v. Safely, 482 U.S. 78 (1987);
Farmer v. Brennan, 511 U.S. 825, 832 (1994); et al.
- 2.) Jones v. Bock, 127 S.Ct. 910 (2007),
followed in: Freeman v. Watkins, 479 F.3d 1247 (10th Cir. 2007); et al.
- 3.) United States Constitution, Amendment #1;
"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the people peaceably to assemble, and to petition the government for a redress of grievances."
- 4.) The Magna Carta, Chapter 36: Henceforth nothing shall be given or taken for a writ of inquest in a matter of life or limb; but it shall be conceded gratis, and shall not be denied.
- 5.) Rasul v. Bush, ~~124~~ 544 S.Ct. 534 (2004);
Al Odah v. U.S., 124 S.Ct. 2686 (2004)

- 6.) DeMallory v. Cullen, 855 F.2d 442, 18
446-49 (7th Cir. 1988); Johnson v.
Avery, 393 U.S. 483, 485 (1985); et al.
- 7.) United States Constitution, Amendment 4:
"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 person
[s] or things to be seized.
- 8.) Patriot Act I, (October 2001); United
States Constitution, Article IV, Section
2, Paragraph 3: No person held to serv-
ice or labor in one state, under the
laws thereof, escaping into another,
shall, in consequence of any law or
regulation therein, be discharged from
such service or labor, but shall be
delivered up on claim of the party
to whom such service or labor may be
due; Fugitive Slave Act (1850).
- 9.) U.S. v. Ready, 82 F.3d 551, 559 (2d Cir.
1996); William W. Wilkins, Jr., "Plea
Negotiations, Acceptance of Responsib-
ility, Role of the Offender, and Depar-
tures: Policy Decisions in the Promul-
gation of the Federal Sentencing Guide-
lines, 23 Wake Forest L. Rev. 181, 184
(1988).
- 9.) Continued:
Turner v. Safley (supra); Crawford-El v.
Britton, 523 U.S. 574, 584 (1998); Cody
v. Weber, 256 F.3d 764, 768 (8th Cir.
2001); Ex Parte Hull, 312 U.S. 546, 548-
549 (1941); Bear v. Kautzky, 305 F.3d
802 (8th Cir. 2002); et al.

10.) Prison Legal News v. Cook, 283 F.3d 1145 (9th Cir. 2001); Prison Legal News v. Schwarzenegger, (N.D. Cal. 2007); Allah v. Seiverling, 229 F.3d 220, 225 (3rd Cir. 2000); Lindquist v. Idaho State Bd of Corr., 776 F.2d 851 (9th Cir. 1985); Abu-Jamal v. Price, 154 F.3d 128 (3rd Cir. 1998); et al. 19

11.) United States Constitution, Amendment 14, 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 wherein 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".

12.) Coalition of Prisoners Rights
P.O. Box 1911
to Santa Fe, NM 87504

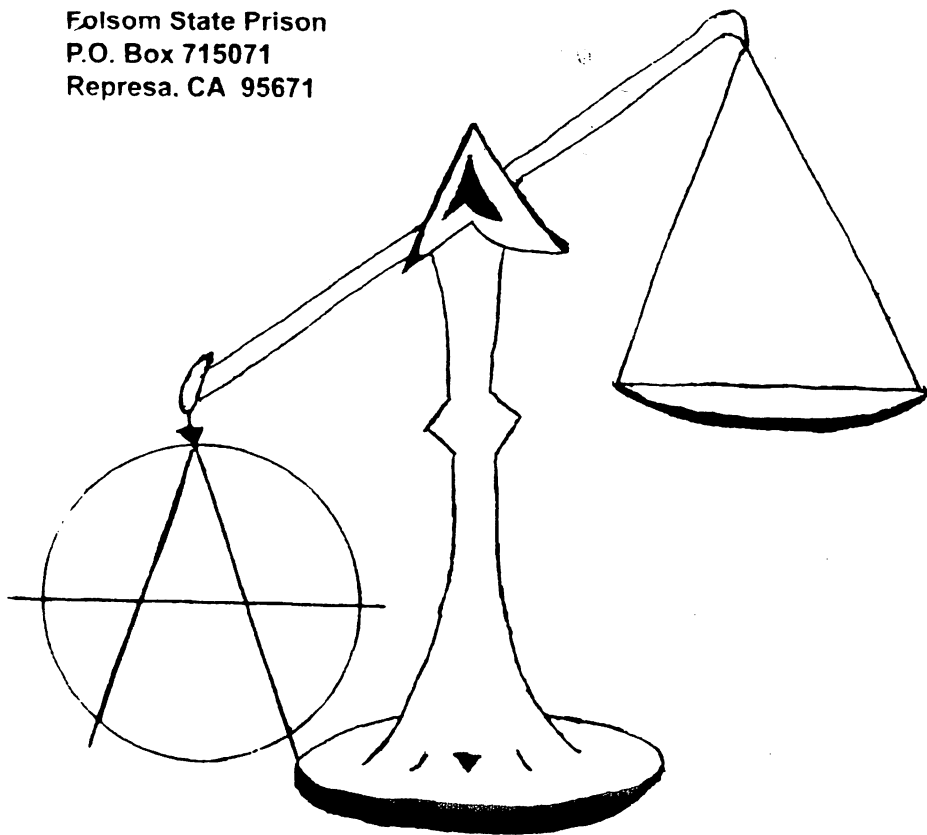
16.) Prison Legal News
2400 NW 80th Street, #148
Seattle, WA 98117

Georgetown Law Journal
600 New Jersey Avenue
Washington, DC 20001

Prison Activist Resource Center
P.O. Box 70447
Oakland, CA 94612

International Cure
P.O. Box 2310
Washington, DC 20013

Folsom State Prison
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South Chicago ABC
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2010

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