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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

PRISON LEGAL NEWS, a project of the
HUMAN RIGHTS DEFENSE CENTER,

Plaintiff,

v.

COLUMBIA COUNTY; COLUMBIA
COUNTY SHERIFF'S OFFICE; JEFF
DICKERSON, individually and in his capacity
as Columbia County Sheriff,

Defendants.

No. CV 12-71-SI

DECLARATION OF MARTIN KAY

In Support of Plaintiff's Motion for
Preliminary Injunction

e

DECLARATION OF MARTIN KAY (CV 12-71-SI) - 1

MACDONALD HOAGUE & BAYLESS
705 Second Avenue, Suite 1500
Seattle, Washington 98104
Tel 206.622.1604 Fax 206.343.3961

DECLARATION OF MARTIN KAY

I, Martin Kay, hereby declare as follows:

1. I am over the age of 18, am competent to testify, and make this Declaration based on my personal knowledge.
2. By letter dated August 18, 2011, from the law firm MacDonald, Hoague & Bayless, I received and reviewed the documents described below.
3. My check marks (✓) below indicate whether I received or did not receive mailings from Prison Legal News (PLN) when I was a prisoner at the Columbia County Jail, and whether I received or did not receive written notice from the Jail that mail addressed to me was rejected.

4. **EXHIBIT A** (3 single-page double-sided brochures)

- (i) PLN Brochure and Subscription Order Form
- (ii) 2010 PLN Book List
- (iii) PLN Brochure about two books for sale

☐ I **RECEIVED** Exhibit A from PLN; or

☒ I did **NOT** receive Exhibit A from PLN; and

☒ I did **NOT** receive written notification that the Columbia County Jail rejected Exhibit A; or

☐ I **RECEIVED** written notification that the Columbia County Jail rejected Exhibit A.

5. **EXHIBIT B** (copy of front and back of paperback book)

☒ I **RECEIVED** a paperback book titled *Protecting Your Health & Safety*; or

☐ I did **NOT** receive a paperback book titled *Protecting Your Health & Safety*; and

☐ I did **NOT** receive written notification that the Columbia County Jail rejected a paperback book titled *Protecting Your Health & Safety*; or

DECLARATION OF MARTIN KAY - 1

____ I **RECEIVED** written notification that the Columbia County Jail
rejected a paperback book titled *Protecting Your Health & Safety*.

6. **EXHIBIT C** (sample front and back of *Prison Legal News* journal)

☒ I **RECEIVED** PLN's 56-page monthly journals as indicated by my check marks
(✓) below next to the date of the issue(s) I received:

____ September 2008

☒ February 2011

☒ March 2011

☒ April 2011

☒ May 2011

____ June 2011

or

____ I did **NOT** receive **ANY** copies of PLN's 56-page monthly journals.

*If you did NOT receive one or more of the PLN journals listed above, please indicate
whether you received written notification that the journal(s) was rejected by the Jail:*

☒ I did **NOT** receive written notification that the Columbia County Jail
rejected *Prison Legal News* journals addressed to me; or

____ I **RECEIVED** written notification **EVERY TIME** the Columbia County
Jail rejected a *Prison Legal News* journal addressed to me; or

____ I **RECEIVED** written notification **SOMETIMES**, but not every time,
when the Columbia County Jail rejected *Prison Legal News* journals
addressed to me.

DECLARATION OF MARTIN KAY - 2

7. **Exhibit D** (PLN renewal letter and 3 single-page double-sided brochures)

☐ I **RECEIVED** Exhibit D; or

☒ I did **NOT** receive Exhibit D; and

☒ I did **NOT** receive written notification that the Columbia County Jail rejected Exhibit D; or

☐ I **RECEIVED** written notification that the Columbia County Jail rejected Exhibit D.

8. I am currently a prisoner at the Columbia County Jail; I have been a prisoner in the Columbia County Jail since:

22. 6, 2010.
[day] [month] [year]

9. I declare under penalty of perjury under the laws of the United States and the State of Oregon that the foregoing is true and correct to the best of my knowledge.

DATED this 22 day of August, 2011 at St Helens, Oregon.
[month] [city]


Martin Kay; Signature

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on January 31, 2012, I electronically filed the foregoing to the Clerk
3 of the Court using the CM/ECF system which will send notification of such filing to the
4 following:

- 5 • **Marc D. Blackman**
marc@ransomblackman.com, pat@ransomblackman.com
6 • **Gregory R. Roberson**
grr@hartwagner.com, cej@hartwagner.com
7 • **Lance Weber**
lweber@humanrightsdefensecenter.org
8 • **Jesse Wing**
JesseW@mhb.com
9

10 **MACDONALD HOAGUE & BAYLESS**

11 /s/ Katherine C. Chamberlain
12 KATHERINE C. CHAMBERLAIN
13 OSB #042580
14 (206) 622-1604
Of Attorneys for Plaintiff Prison Legal News

EXHIBIT A

Order Form

All purchases must be pre-paid. Prisoners can pay with new stamps (strips or books) or pre-stamped envelopes.

Books (3 & 4-yr Subscription Specials: **CIRCLE** one book or bonus issues, and **DO NOT** add S/H)

\$ Amt.

Protecting Your Health and Safety

or 4 Bonus Issues (3-yr subscription offer) _____ Free

Prison Profiteers or With Liberty for Some

or 6 Bonus Issues (4-yr subscription offer) _____ Free

Book Total (inc. all books bought separately)

Add 6% sales tax for Vermont residents only

ADD \$6.00 S/H to book orders UNDER \$50

PLN Subscriptions

6-month Subscription (Prisoners only)

1 yr Subscription (12 issues)

2 yr Subscription (24 plus 2 Bonus issues)

3 yr Sub (Circle bonus book above or 4 Bonus issues)

4 yr Sub (Circle bonus book above or 6 Bonus issues)

Sample Issue - \$3.50 each

TOTAL Amount Enclosed: _____

Send to:

Name: _____

DOC #: _____

Agency/Inst: _____

Address: _____

City/State/Zip: _____

MAIL PAYMENT AND THIS FORM TO:



Prison Legal News

P.O. Box 2420

Brattleboro, VT 05303

Purchase by phone with a Visa or MasterCard

802-257-1342

Or buy books and subscriptions online at

www.prisonlegalnews.org

PLN Subscription Rates

Subscription Rates	1 yr	2 yrs	3 yrs	4 yrs
Prisoners *	\$24	\$ 48	\$ 72	\$ 96
Individuals	\$30	\$ 60	\$ 90	\$120
Professionals	\$30	\$160	\$240	\$320

(Lawyers, gov't. & professional agencies, libraries, etc.)

Sample issue for anyone - \$3.50 each *

Six-month prisoner subscription for \$12*

* Prisoners can pay with new first-class stamps (strips or books only) or pre-stamped envelopes, if allowed by prison policies.

Subscription Bonuses!

2 years - 2 bonus issues, for 26 monthly issues total.

3 years - 4 bonus issues (40 total) *OR* *Protecting Your Health and Safety* (see book description on the other side of this brochure).

4 years - 6 bonus issues (54 total) *OR* your choice of *With Liberty for Some* or *Prison Profiteers* (see descriptions on the other side).

New 3 or 4-Year Subscription Book Offers!

Subscribe or renew for three years at the regular price (\$72 for prisoners & \$90 for individuals), and receive as a FREE bonus, *Protecting Your Health and Safety* or four bonus issues of PLN! (40 monthly issues total). Indicate your choice on the Order Form.

Subscribe or renew for four years at the regular price (\$96 for prisoners & \$120 for individuals), and receive as a FREE bonus, *Prison Profiteers* or *With Liberty for Some*, or 6 bonus issues of PLN! (54 monthly issues total). Indicate your choice on the Order Form.

NO shipping charge for subscription bonus books!

NOTE: If you want the bonus issues of PLN instead of the free book offer, please indicate that on the Order Form.

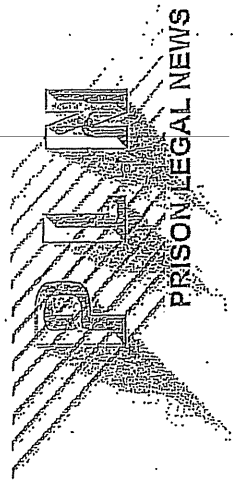
Contact Us for PLN's Book List!

You can buy dozens of legal, social commentary, self-help books, and legal and regular dictionaries directly from PLN's book store! Ask us for a book list, or view our selection online at:

www.prisonlegalnews.org/store.aspx

All subscription rates & bonus offers are effective as of 5-1-10 and valid through 12-31-10.

* No refunds after orders have been placed *



Dedicated to Protecting Human Rights

PLN is a project of the
Human Rights Defense Center



Eastern State Penitentiary 1829-1971

Charles Dickens visited Philadelphia's Eastern State Penitentiary in 1842 and he later wrote: "The System is rigid, strict and hopeless ... and I believe it to be cruel and wrong....I hold this slow and daily tampering with the mysteries of the brain to be immeasurably worse than any torture of the body." The prison remained open for 129 years after Dickens condemned it as being barbaric, and some of its inhumane practices continue to be used in prisons nationwide.

P.O. Box 2420, Brattleboro, VT 05303

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Prison Legal News is an independent, non-profit 56-page monthly publication that reports, reviews and analyzes court rulings and news related to prisoners' rights and prison issues. PLN has a national (U.S.) focus on state, federal and private prison issues, with some international coverage as well.

PLN's many thousands of subscribers and readers include civil and criminal trial and appellate attorneys, judges, public defenders, journalists, academics, paralegals, prisoners' rights activists, students, family members of prisoners, concerned individuals, politicians, other government officials, and numerous local, state and federal prisoners nationwide.

PLN is a vital link for prisoners who otherwise don't have access to current legal and prison-related news and information.

"Invaluable resource for anyone wanting 'user-friendly' information about current legal developments affecting prisoners in the United States."
~ Human Rights Watch, a long-time PLN subscriber

PLN's coverage of prison issues includes medical neglect, disciplinary hearings, nutrition, living conditions, excessive force, court access, censorship, jail litigation, visiting, telephones, religious freedom, free speech, prison rape, mental health, attorney/client access, sexual abuse of women prisoners, retaliation, the PLRA, HIV and Hep C, control units, the death penalty, attorney fees and much more.

PLN Subscription Rates

Prisoners: \$12 for 6 months, \$24 per year *

Non-incarcerated individuals: \$30 per year

Law firms, govt. agencies and libraries: \$80 per year

Sample issue for anyone: \$3.50 each *

* Prisoners can pay with new stamps or pre-stamped envelopes

Each monthly issue of PLN includes three different types of reporting:

- A cover story on a prison-related issue.
- Reports on individual and class-action prison and jail-related lawsuits when they are filed, when a judgment is entered or the case settles, and when an appellate court decision is issued. We also have prison-related news articles.
- A "News In Brief" section that summarizes interesting news stories across the U.S. and internationally.

Each issue of PLN also contains numerous advertisements from businesses that provide prison-related personal and legal services and books. PLN further sells dozens of self-help, social commentary and legal books.

PLN also has cumulative subject and case cite indexes for all PLN issues from 1990 through 2004. Write for info.

Special 3-year Subscription Offer!

Free with a 3-year PLN subscription! Four bonus issues of PLN (40 issues total) or a free book, *Protecting Your Health and Safety*! Circle your bonus choice on the form on the other side of this brochure (3-year subscription rates: prisoners \$72, individuals \$90, professionals \$240).

Protecting Your Health and Safety, by Robert E. Toome. Published by the Southern Poverty Law Center, 325 pages (2009). \$10.00 (free with a 3-year sub!). This book explains some basic rights that prisoners have in a jail or prison in the U.S. It deals mainly with rights related to health and safety, such as communicable diseases and abuse by prison officials; it also explains how you can enforce your rights to health and safety within the facility and, if necessary, in court through litigation. Buy separately: _____

You Can Buy These Books Separately!

If you don't want to purchase a 3 or 4-year subscription to PLN, you can still purchase any of the bonus books at the regular price. Just indicate which books you want to buy on this page, then enter the total cost on the other side of this brochure on the "Book Total" line of the Order Form. Shipping is \$6 per order (not per book), and we offer FREE shipping on book orders of \$50 or more! To place a phone order, please call 802-257-1342. We also accept book orders online, at www.prisonlegalnews.org.

Donations: PLN is a project of the non-profit Human Rights Defense Center. Your tax-deductible donations support our advocacy, free speech and First Amendment litigation efforts on behalf of prisoners and publishers. PLN not only provides uncensored prison-related news, but actively contests prison censorship that interferes with the delivery of our publication or any other PLN materials sent to prisoners. All donations further our goal of advocating for people imprisoned in U.S. detention facilities.

"Great source of information, especially in states such as Arizona where the law libraries have been taken from the inmates and replaced with paralegals."
~ SB, Arizona prisoner

Special 4-year Subscription Offer!

Free with a 4-year PLN subscription! Six bonus issues of PLN (54 issues total) or one free book, *With Liberty for Some or Prison Profiteers*! Circle your bonus choice on the form on the other side of this brochure (4-year subscription rates: prisoners \$96, individuals \$120, professionals \$320). Note: Free book option is for one book.

With Liberty for Some: 500 Years of Imprisonment in America, by Scott Christianson, Northeastern University Press, 372 pages (1998). \$18.95 (free with a 4-year sub!). A classic book and the best overall history of the American prison system from 1492 to the 20th Century. Well written and fact filled. A must-read for understanding how little things have changed as far as prisons go in the U.S. over hundreds of years. Buy separately: _____

Prison Profiteers: Who Makes Money from Mass Incarceration, edited by Paul Wright & Tara Herivel, New Press (2007). \$24.95 (free with a 4-year sub!). This is the third in a series of PLN anthologies that examines the reality of mass imprisonment in the U.S. *Prison Profiteers* is unique from other books on the market because it exposes and discusses who profits and benefits from mass imprisonment, rather than who is harmed by the prison industrial complex and our nation's reliance on over-incarceration. Buy separately: _____

Order Form

All purchases must be pre-paid. Prisoners can pay with new first-class stamps (strips or blocks, no singles) or pre-stamped envelopes, if allowed by prison policies.

Book Title / Number	Qty	Total Cost.

(attach another page if you are ordering more books)

Subtotal:

Add 6% sales tax for VT residents only:

Add \$6.00 S/H to orders UNDER \$50:

Total Order Amount:

Send to:

Name:

DOC #:

Agency/Inst:

Address:

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MAIL PAYMENT AND THIS FORM TO:



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A \$6 shipping charge applies to all other book and index orders.
(Free shipping policy in effect from Jun 1, 2010 until further notice)

More Books for Sale!

Prisoners' Self-Help Litigation Manual, updated 4th ed. (2010), by John Boston and Daniel Marville, Oxford Univ. Press, 1500 pages, \$39.95. The premiere, must-have "Bible" of prison litigation for current and retiring jail-house lawyers. If you plan to litigate a prison or jail civil suit, this book is a must-have. 1077

Prisoners' Guerrilla Handbook to Correspondence Programs in the U.S. and Canada, updated 3rd ed. by Jon Mac Taylor, Ph.D. and edited by Susan Schwartzkopf, published by PLN, 221 pages, \$49.95. Written by Missouri prisoner Jon Mac Taylor, who obtained a B.S. degree, an M.A. degree and a Doctorate, the *Guerrilla Handbook* contains contact information and descriptions of high school, vocational, paralegal and college courses available through correspondence study. Great resource for prisoners who want to further their education. 1057

Protecting Your Health and Safety, by Robert E. Trone, Southern Poverty Law Center, 323 pages, \$40.00. This book explains basic rights that prisoners have in a jail or prison in the U.S. It deals mainly with rights related to health and safety, such as communicable diseases and abuse by prison officials; it also explains how you can enforce your rights within the facility and, if necessary, in court through litigation. 1060

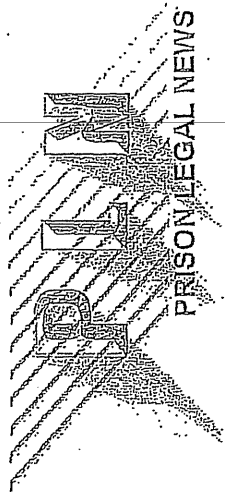
Starting Out The Complete Re-Entry Handbook, edited by William H. Foster, Ph.D., & Carl E. Horn, Ph.D., Starting Out Inc., 446 pages, \$22.95. Complete do-it-yourself re-entry manual and workbook for prisoners who want to develop their own re-entry plan to increase their chances of success after they are released. Includes a wide variety of resources, including a user code to the Starting Out website that can be accessed following release. 1074

Jailhouse Lawyers: Prisoners Defending Prisoners in the U.S.A., by Martin Abu Jamal, City Lights Publishers, 280 pages, \$16.95. In *Jailhouse Lawyers*, Prison Legal News columnist, award-winning journalist and death-row prisoner Martin Abu-Jamal presents the stories and reflections of fellow prisoners-turned-advocates who have learned to use the court system to represent other prisoners, and in some cases have won their freedom. Must-read for jailhouse lawyers! 1073

How to Win Your Personal Injury Claim, by Atty. Joseph MacIewski, 7th edition, NOLO Press, 304 pages, \$34.99. While not specifically for prison-related personal injury cases, this book provides comprehensive information on how to handle personal injury and property damage claims arising from accidents — including dealing with doctors, attorneys and insurance companies. 1075

All prices are effective as of 9-15-10
(prices subject to change without notice)

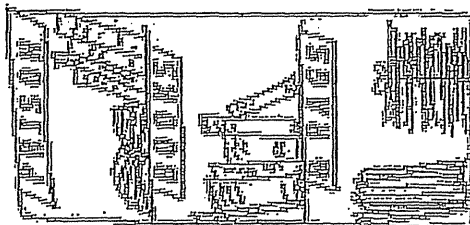
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2010 PLN BOOK LIST

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Graphic from Boole 2 Prisoners, Vancouver, BC

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Check the box of the books you want to buy and use the Order Form on the other side of this brochure to add up the cost of your order. **FREE SHIPPING** for book and index orders **OVER \$50**. There is a \$6 shipping charge for all other book and index orders.

Prison Profiteers, edited by Paul Wright and Tim Heavel, 323 pages, \$24.95. This is the third and latest book in a series of *Prison Legal News* anthologies that examines the reality of mass imprisonment in America. (The other titles are *The Culling of America* & *Prison Nation*, see below). *Prison Profiteers* is unique from other books because it exposes and discusses who profits and benefits from mass imprisonment, rather than who is harmed by it and how.

Prison Nation: The Warehousing of America's Poor, edited by Tim Heavel and Paul Wright, 332 pages, \$35.95. *PLN* anthology exposes the dark side of the "lock-down" political agenda and legal climate in the U.S. 1041

The Culling of America, edited by Daniel Berman, Ron, Dan Pease and Paul Wright, 264 pages, \$22.95. *PLN* anthology presents a detailed "inside" look at the workings of the American criminal justice system. 1001

Everyday Letters for Busy People, by Debra Hart May, 287 pages, \$18.99. Hundreds of sample letters that can be adapted for most any purpose, including letters to government agencies, and officials. Has numerous tips for writing effective letters. 1048

The Criminal Law Handbook Know Your Rights, Survive the System, by Attorneys Paul Bergman & Sam J. Berman-Barrett, Nolo Press, 608 pages, \$39.99. Explains what happens in a criminal case from being arrested to sentencing, and what your rights are at each stage of the process. Uses an easy to understand question-and-answer format. 1038

Represent Yourself in Court: How to Prepare & Try a Winning Case, by Attorneys Paul Bergman & Sam J. Berman-Barrett, Nolo Press, 328 pages, \$39.99. Breaks down the civil trial process in easy-to-understand steps so you can effectively represent yourself in court. The authors explain what to say in court, how to say it, etc. 1037

Law Dictionary, Random House Webster's, 525 pages, \$19.95. Comprehensive up-to-date law dictionary explains more than 8,500 legal terms. Covers civil, criminal, commercial & international law. 1036

The Blue Book of Grammar and Punctuation, by Jane Straus, 110 pages, \$14.95. A guide to grammar and punctuation by an educator with experience teaching English to prisoners. 1046

Legal Research: How to Find and Understand the Law, by Stephen Elias and Susan Levinland, 568 pages, \$49.99. Comprehensive and easy to understand guide on researching the law. Explains case law, statutes and digests, and much more. Includes practice exercises. 1059

Deposition Handbook, by Paul Bergman and Albert Moore, Nolo Press, 352 pages, \$34.99. How-to handbook for anyone who conducts a deposition or is going to be deposed. 1054

Spanish-English/English-Spanish Dictionary, Random House, \$8.95. Two sections, Spanish-English and English-Spanish, 60,000+ entries from A to Z; includes Western Hemisphere usage. 1034

Please Note: All book and index orders are mailed via the U.S. Postal Service with Delivery Confirmation. *PLN* does not assume any responsibility to replace book or index orders once their delivery to the destination address (facility) is confirmed by the U.S. Postal Service.

Writing to Win: The Legal Writer, by Steven D. Smith, Broadway Books/Random House, 283 pages, \$9.95. Explains the writing of effective complaints, responses, briefs, motions and other legal papers. 1035

Actual Innocence When Justice Goes Wrong and How to Make it Right, updated paperback ed., by Bruce Stacks, Peter Neufeld and Jim Dwyer, 403 pages, \$16.00. Founders of the Innocence Project explain how criminal defendants are wrongly convicted on a regular basis. Explains DNA testing and how it works to free the innocent. Devastating critique of police and prosecutorial misconduct and the system that ensures such abuses continue. 1030

Rogers's Thesaurus, 717 pages, \$8.95. Helps you find the right word for what you want to say. 11,000 words listed alphabetically with over 200,000 synonyms and antonyms. Sample sentences and pairs of speech shown for every main word. Covers all levels of vocabulary and identifies informal and slang words. 1045

Webster's English Dictionary, Newly revised and updated, Random House, \$8.95. 75,000+ entries. Includes tips on writing and word usage, and has updated geographical and biographical entries. Includes recent business and computer terms. 1033

Capital Crimes, by George Winslow, Monthly Review, 360 pages, \$19.00. Explains how economic policies create and foster crime, and how corporate & government crime is rarely punished. 1024

With Liberty for Some: 500 Years of Imprisonment in America, by Scott Christianson, Northeastern University Press, 372 pages, \$18.95. The best overall history of the American prison system from 1492 through the 20th Century. Well written and fact filled. A must-read for understanding how little things have changed as far as prisons go in the U.S. over hundreds of years. 1026

Ten Men Dead: The story of the 1961 Irish hunger strike, by David Barrett, Atlantic Monthly Press, 334 pages, \$16.95. Inside story of IRA prisoners at Belfast's Long Kesh prison. 1006

Finding the Right Lawyer, by Jay Feinberg, ABA, 256 pages, \$19.95. Explains how to determine your legal needs, how to evaluate a lawyer's qualifications, fee payments, and more. 1015

Seize the Day! 7 Steps to Achieving the Extraordinary in an Ordinary World, by Danny Cox and John Hooyer, 256 pages, \$15.99. Provides 7 steps to changing your expectations and envisioning yourself as being a successful and respected person—which is essential to changing the course of one's life. 1052

Women Behind Bars: The Crisis of Women in the U.S. Prison System, by Silja J.A. Thivi, Seal Press, 295 pages, \$25.95. Best book available that covers issues related to imprisoned women, based on interviews with hundreds of women behind bars. 1066

10 Insider Secrets to a Winning Job Search, by Todd Bertram, 216 pages, \$15.99. Roadmap on how to get a job even under adverse circumstances—like being an ex-con. Includes how to develop a winning attitude, write attention-grabbing resumes, prepare for interviews, networking, how to present your strengths to an employer, and much more. 1056

The Politics of Racism: CIA Complicity in the Global Drug Trade, 2003 Ed. by Alfred McCoy, 734 pages, \$34.95. Documented exposure of the government's involvement in drug trafficking. 1014

Lockdown America: Police and Prisons in the Age of Crisis, by Christian Parenti, 280 pages, \$19.00. Analyzes the rise on the part of the criminal justice system. Well documented and includes first-hand reporting. Covers prisons, pre-military policing, SWAT teams and the INS. 1002

Hepatitis and Liver Disease: What You Need to Know, by Melissa Palmer, MD, 457 pages, \$17.95. Describes symptoms & treatments of hepatitis B & C and other liver diseases. Includes medications to avoid, what diet to follow, exercises to perform, and a bibliography. 1031

Crime and Punishment in America, by Elliot Gutt, 230 pages, \$16.95. Effective rebuttal to right-wing proponents of prison building. Fact-based argument shows that crime is driven by poverty, Decries prison myths and discusses proven, effective means of crime prevention. 1019

Prison Madness: The Mental Health Crisis Behind Bars and What We Must Do About It, by Tony Kupers, Jossey-Bass, 245 pages, *Hardback only*, prisoners please include any acquired authorization form, \$32.95. Psychiatrist writes about the mental health crisis in U.S. prisons and jails. Covers all aspects of mental illness, prison rape, negative effects of long-term isolation in control units, and more. 1003

Prison Writing in 20th Century America, by H. Bruce Franklin, Penguin Books, 368 pages, \$16.00. From Jack London to George Jackson, this anthology provides a selection of some of the best writing describing life behind bars in America. 1022

Soledd Brother: The Prison Letters of George Jackson, by George Jackson, Lawrence Hill Books, 339 pages, \$18.95. Lucid explanation of the politics of prison by a well-known prison activist. More relevant now than when it first appeared 40 years ago. 1016

Marijuana Law, by Richard Bode, Roud, 271 pages, \$17.95. Examines how to reduce the probability of arrest and prosecution for possession of the weed, sale or possession of marijuana. Info on legal defenses, search & seizures, surveillance, asset forfeiture and drug testing. 1008

Worse Than Slavery: Prisoner Farm and the Ordeal of Jim Crow Justice, by David Oshinsky, 306 pages, \$16.00. Analysis of prison labor's roots in slavery. Focuses on prison plantations and self-sustaining prisons that use prison labor. 1007

No Equal Justice: Race and Class in the American Criminal Justice System, by David Cole, The New Press, 218 pages, \$19.95. Explains how the criminal justice system perpetuates race and class inequality, creating a two-faced system of justice. 1028

The Prison and the Gallows: The Politics of Mass Incarceration in America, by Made Gotschall, Cambridge University Press, 451 pages, \$29.99. Great political analysis of the confluence of events leading to 2.3 million people behind bars in the U.S. 1069

The Eabees Citebook: Ineffective Assistance of Counsel, by Brandon Sample, *PLN* Publishing, 200 pages, \$49.95. This is *PLN*'s second published book, which exclusively covers ineffective assistance of counsel-related issues in federal habeas petitions. Great resource for habeas litigation, and contains hundreds of case cited. 1078

Factor 8 (DVD), a film by Kelly Dudak, Concrete Films, \$21.95. Movie about the Arkansas prison blood scandal, in which prison officials sold infected blood harvested from prisoners. Note: This is a DVD and cannot be shipped to prison. 1076

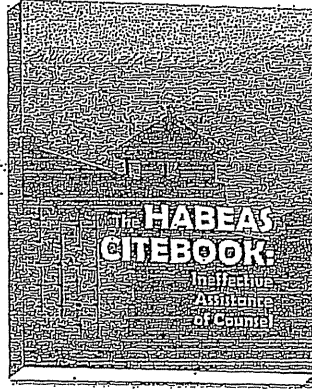
PLN Cumulative Index, \$22.50 each. *PLN* Article Indexes provide detailed information about all *PLN* articles, including title, author, issue, page number, topics covered, citations, and if it is state, BOP or jail specific. Can be searched on over 500 subjects such as medical neglect or sexual assault. Circle the index(es) you are ordering. 1990-1995, 1996-1998, 1999-2001, 2002-2004. (more recent indexes not yet available)

All books are soft cover except *Prison Madness*

The Habeas Citebook:
Ineffective Assistance of Counsel is the first in a series of books by Prison Legal News Publishing designed to help pro-se prisoner litigants identify and raise viable claims for potential habeas corpus relief. This book is an invaluable resource that identifies hundreds of cases where the federal courts have granted habeas relief to prisoners whose attorneys provided ineffective assistance of counsel.

It will save litigants
thousands of hours
of research and
it focuses on the
WINNING cases criminal
defendants need to
successfully challenge
their convictions.

Well organized into 52 concise chapters, this easy to use book puts the law at the reader's fingertips. The Appendix includes pleadings and forms from successful habeas corpus cases that



demonstrate formatting and show how to frame a winning argument that will persuade a court to grant habeas relief. *The Habeas Citebook* explains the procedural and substantive complexities of federal habeas corpus litigation with the goal of identifying and litigating claims involving ineffective assistance of counsel.

Brandon Sample is a successful jailhouse lawyer litigant incarcerated in the Bureau of Prisons. He is a *Prison Legal News* contributing writer and a member of the National Lawyer's Guild. Editor Susan Schwartzkopf has a master's degree in education and is the director and editor in chief of Prison Legal News Publishing.

“ *The Habeas Citebook* is a nifty and concise self-help guide for prisoners seeking habeas relief based on claims of ineffective assistance of counsel. Navigating the complex and treacherous terrain of habeas law is never easy; but claiming that your lawyer screwed up is even more difficult — especially from the confines of an ill-equipped prison law library.

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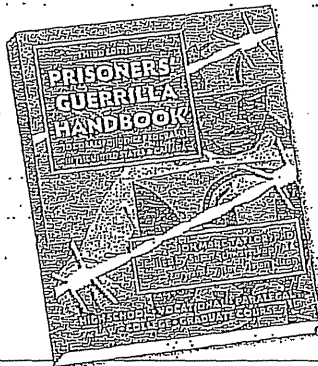
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Jon Marc Taylor has more than 25 years experience as an incarcerated student, advocate for prisoner education, and author. He has successfully earned a bachelor's degree, a master's degree, and a doctorate via correspondence courses while incarcerated. Editor **Susan Schwartzkopf** has a master's degree in education and 12 years experience teaching immigrants English language skills.

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PRISON

Legal News

VOL. 22 No. 4

ISSN 1075-7678

Dedicated to Protecting Human Rights

April 2011

Nationwide *PLN* Survey Examines Prison Phone Contracts, Kickbacks

by John E. Dannenberg

An exhaustive analysis of prison phone contracts nationwide has revealed that with only limited exceptions, telephone service providers offer lucrative kickbacks (politely termed "commissions") to state contracting agencies – amounting on average to 42% of gross revenues from prisoners' phone calls – in order to obtain exclusive, monopolistic contracts for prison phone services.

These contracts are priced not only to unjustly enrich the telephone companies by charging much higher rates than those paid by the general public, but are further inflated to cover the commission payments, which suck over \$152 million per year out of the pockets of prisoners'

families – who are the overwhelming recipients of prison phone calls. Averaging a 42% kickback nationwide, this indicates that the phone market in state prison systems is worth more than an estimated \$362 million annually in gross revenue.

In a research task never before accomplished, *Prison Legal News*, using public records laws, secured prison phone contract information from all 50 states (compiled in 2008-2009 and representing data from 2007-2008). The initial survey was conducted by *PLN* contributing writer Mike Rigby, with follow-up research by *PLN* associate editor Alex Friedmann.

The phone contracts were reviewed to determine the service provider; the kickback percentage; the annual dollar amount of the kickbacks; and the rates charged for local calls, intrastate calls (within a state based on calls from one Local Access and Transport Area to another, known as interLATA), and interstate calls (long distance between states). To simplify this survey, only collect call and daytime rates were analyzed.

Around 30 states allow discounted debit and/or prepaid collect calls, which provide lower prison phone rates (much lower in some cases). However, since other states don't offer such options and not all prisoners or their families have access to debit or prepaid accounts, only collect calls – which are available in all prison systems except Iowa's – were compared. Also, while telephone companies sometimes provide reduced rates for evening and nighttime calls, many prisoners don't have the luxury of scheduling phone calls during those time periods.

Lastly, it should be noted that more

recent phone rates may now be in effect due to new contract awards or renewals, and while data was obtained from all 50 states, it was not complete for each category. See the chart accompanying this article for a breakdown of the data obtained.

PLN has previously reported on the egregious nature of exorbitant prison phone rates, notably in our January 2007 cover story, "Ex-Communication: Competition and Collusion in the U.S. Prison Telephone Industry," by University of Michigan professor Steven Jackson.

How Are Phone Rates Regulated?

Domestic phone calls are generally divided into three categories: local, intrastate and interstate. The rates charged for these calls depend on several factors and are regulated by different authorities. Local calls are usually flat-rate within a small area around the call's originating location; e.g., within the same city.

Local and intrastate calls are often regulated by state public utility or service commissions, which set rate caps. These caps are negotiated to allow phone companies to recover capital costs in a reasonable time frame while also satisfying requirements levied by the state. The latter include subsidizing low-income phone users, providing emergency communications for state agencies, and providing required phone coverage (such as emergency-reporting phone booths along major highways). Obviously, some of these state-mandated requirements are not in and of themselves profitable, so negotiation of rate structures includes recouping these otherwise nonrecoverable costs.

At the interstate level, phone com-

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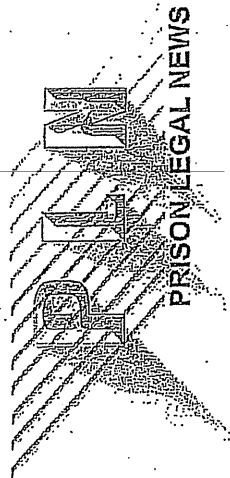
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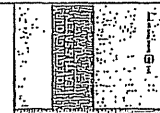
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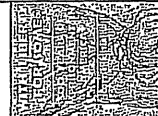
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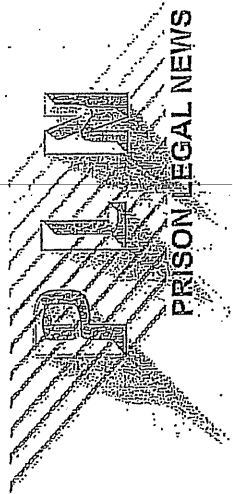
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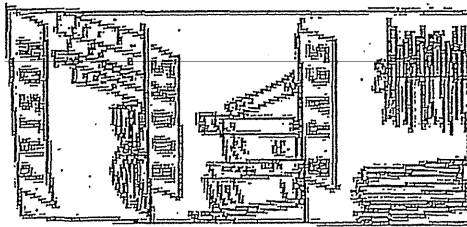
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Prison Madness: The Mental Health Crisis Behind Bars and What We Must Do About It, by Terry Kupers, Jossey-Bass, 245 pages, *Hardback only*. Prisoners please include any required authorization form, \$32.95. Psychiatrist writes about the mental health crisis in U.S. prisons and jails. Covers all aspects of mental illness, prison apps, negative effects of long-term isolation in control units, and more. 1003

Prison Writing in 20th Century America, by El Bruce Franklin, Penguin Books, 368 pages, \$16.00. From Jack London to George Jackson, this anthology provides a selection of some of the best writing describing life behind bars in America. 1022

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Marijuana Law, by Richard Boite, Ronin, 271 pages, \$17.95. Explains how to reduce the probability of arrest and prosecution for people accused of the use, sale or possession of marijuana. Info on legal defenses, search & seizures, surveillance, resurfacing and drug testing. 1008

Worse Than Slavery: Prisoner Abuse and the Ordeal of Tim Crow Justice, by David Oshinsky, 306 pages, \$16.00. Analysis of prison labor's roots in slavery. Focuses on prison plantations and self-sustaining prisons that use prison labor. 1007

No Equal Justice: Race and Class in the American Criminal Justice System, by David Cole, The New Press, 218 pages, \$19.95. Explains how the criminal justice system perpetuates race and class inequality, creating a two-tiered system of justice. 1028

The Prison and the Gallows: The Politics of Mass Incarceration in America, by Marie Gottschalk, Cambridge University Press, 451 pages, \$29.99. Great political analysis of the confluence of events leading to 2.3 million people behind bars in the U.S. 1069

The Habeas Circuit: Ineffective Assistance of Counsel, by Brandon Sample, PIN Publishing, 200 pages, \$49.95. This is PIN's second published book, which exclusively covers ineffective assistance of counsel-related issues in federal habeas petitions. Great resource for habeas litigation, and contains hundreds of case cites! 1078

Factor 8 (DVD), a film by Kelly Dudu, Concrete Films, \$21.95. Movie about the Arkansas prison blood scandal, in which prison officials sold infected blood harvested from prisoners. Note: This is a DVD and cannot be shipped to prison. 1076

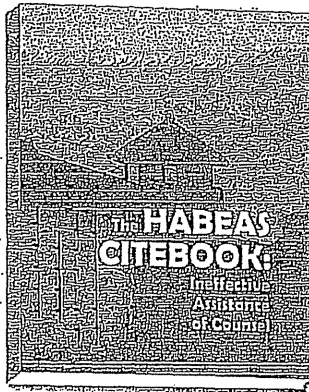
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The Habeas Citebook: Ineffective Assistance of Counsel is the first in a series of books by Prison Legal News Publishing designed to help pro-se prisoner litigants identify and raise viable claims for potential habeas corpus relief. This book is an invaluable resource that identifies hundreds of cases where the federal courts have granted habeas relief to prisoners whose attorneys provided ineffective assistance of counsel.

It will save litigants thousands of hours of research and it focuses on the WINNING cases criminal defendants need to successfully challenge their convictions.

Well organized into 52 concise chapters, this easy to use book puts the law at the reader's fingertips. The Appendix includes pleadings and forms from successful habeas corpus cases that



demonstrate formatting and show how to frame a winning argument that will persuade a court to grant habeas relief. *The Habeas Citebook* explains the procedural and substantive complexities of federal habeas corpus litigation with the goal of identifying and litigating claims involving ineffective assistance of counsel.

Brandon Sample is a successful jailhouse lawyer litigant incarcerated in the Bureau of Prisons. He is a *Prison Legal News* contributing writer and a member of the National Lawyer's Guild. Editor Susan Schwartzkopf has a master's degree in education and is the director and editor in chief of Prison Legal News Publishing.

“The Habeas Citebook is a nifty and concise self-help guide for prisoners seeking habeas relief based on claims of ineffective assistance of counsel. Navigating the complex and treacherous terrain of habeas law is never easy; but claiming that your lawyer screwed up is even more difficult — especially from the confines of an ill-equipped prison law library. “Brandon Sample has provided an amazing and much-needed tool for prisoners who are forced to seek relief on their own. The book is thorough; but simple and readable. It starts with a wonderfully well-organized listing of hundreds of different types of ineffective assistance of counsel, set forth in the form of citations to court rulings - a novel approach that not only acts as a springboard for further research but also saves the prisoner countless hours of preliminary research.”

PETER SCHMIDT
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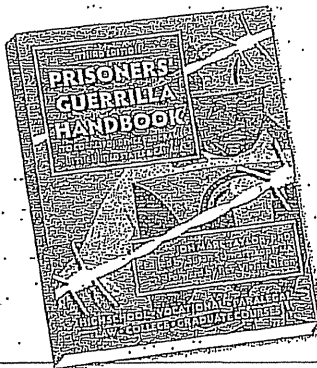
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Jon Marc Taylor has more than 25 years experience as an incarcerated student, advocate for prisoner education, and author. He has successfully earned a bachelor's degree, a master's degree, and a doctorate via correspondence courses while incarcerated. Editor **Susan Schwartzkopf** has a master's degree in education and 12 years experience teaching immigrants English language skills.

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