



The Activist Files Episode 41: Jailhouse Lawyer's Handbook - Exploring the legacy of inside-outside organizing

Leah Todd:

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Ian Head:

Welcome to the Activist Files. My name is Ian head. I'm a senior legal worker at the Center for Constitutional Rights. I'm also one of the co-editors of the Jailhouse Lawyers Handbook. The theme of this episode is going to be jailhouse lawyers, as well as talking about the new edition of the handbook. And so before I get into the different conversations, I'll just run through, uh, who I'll be talking to on this episode. First, I'll be talking to Brian Glick, uh, who is one of the original authors of the handbook back in 1973. Then I'll be talking to Jenipher Benino, um, who is someone who works with the organization [inaudible] as well as [inaudible] about Jailhouse Lawyers from clinic in 2000. And it's direction to that since then before founding the clinic and teaching at Fordham, Professor Glick has written a number of articles and publications. And one of those publications many years ago was the Jailhouse Lawyers Manual, which was put together by Professor Glick and a number of others, and is something that is very near and dear to myself now, because I am a co-editor of the current Jailhouse Lawyers Handbook, which is kind of the, the current manifestation of the Jailhouse Lawyers Manual.

Ian Head:

So I've always wanted to, to meet and talk to you about how this came together, originally, get put together. What were the ideas around it? Who else was working on it? If you can take us back to 1973.

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Brian Glick:

Oh, sure. Okay. Um, so this was a project. I was part of a group called the Prison Law Collective, which kind of grew out of a more mainstream prison law group called the Prison Law Project. Uh, we were more connected with the Guild and with, uh, the beginnings of prisoner rights movements, some lawyers who, uh, did both prison condition, class actions and some work with different individual prisoners and, um, a writer named Eve Pale did a book about one of the early prison struggles at Solidad Prison and some other good writing, some other people. So half a dozen of us, the funding stayed with the mainstream group mainly. So we kind of patch this together and this kind of emerged as a useful project for her and more activist prisoners. But the initial book was more focused on one major approach that we were, you know, at that point, which was to use the Federal Civil Rights law and particularly section 1983, to bring a lawsuits about prison conditions.

Brian Glick:

I was very interested. I had, I had worked before that. I was a lawyer for the Welfare Rights Movement when there was welfare in the late sixties. And I'm, I've always been very, very interested in and committed to writing about law for non-lawyers to demystify it and make it, uh, accessible and useful. And so I had been doing, uh, welfare rights handbooks in the late sixties. And this was, as I got involved in prison work, I moved to San Francisco bay area was, uh, I arrived just around the same time that George Jackson was murdered. And there was a lot of eventually Angela Davis went on trial out there. There was a lot of attention. We did a big teach-in at the UC Berkeley about presumably prisoner's rights. And this was a part of that. It wasn't some separate project. It was really a part of all that.

Brian Glick:

It's, uh, I was thinking back about the process and, you know, this was, uh, a pre-computer age and we had, um, we did this in such a way that feels so clunky and archaic. Now we, um, we composed I, composed it with help from some people in Prison Law Collective a lot from, uh, one particular progressive student at, uh, UC Berkeley Law School at that point. And then, uh, we found a sort of small, progressive type setting place and they type set it for us at a discount. They were called Archetype. And then we got some buddy's place to work in. And a few of us, not me so much because I don't have these skills, but a couple of friends of mine laid it all out yet. You know, they printed on something called a web press, it had a, it had multiples of eight better multiples of 16.

Brian Glick:

So we had 48. The reason it was 48 pages is because we had to do multiples of 16 and that's what we could afford. So it took many days to lay it out very carefully. We wanted cartoons and we wanted boxes. We wanted a nice layout that people could use, not just some like some damn law treatise that, you know, nobody would after a couple of minutes, they'd say, oh, screw this. And then we took it to the press. We just, you know, paid for what copies we could at that point and distributed it through our networks, through other prison, um, activists and legal organizations, a lot through the Lawyers Guild. I knew that, you know, we were very happy to have other people pick it up and then lost track of it. And then finally fourth or fifth edition was coming out of the Guild and CCR from you and Rachel Meeropol and other folks, it's great to give birth to something and then have it grow into the world. And, uh, I saw your 12th edition or so, and it seemed like it encompassed all of what we did and lots, lots more both updating, but also the whole scope is more helpful and more stuff. So I thank you. Thank you at the you individual in the You collective for, um, carrying this forward.

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Ian Head:

Yeah, no, it's been an honor. I mean, we really, we really were trying to keep that original spirit of this is a free resource. We send it out, you know, to anyone who requests it, we've add definitely added to it, but we're trying to keep it at that postage weight that we can afford to send it out, you know, and it's easily available within and people can pass it around inside and still, and it still has some, a couple of little cartoons in it. And it's written hopefully in a way that isn't some kind of, like you said, legal treaty, um, and instead is, is easy to, to follow. It's so funny. I, I that's so great. I wanted to know how you guys put it together because when I got ahold of it in 2002, I think, I actually retyped the entire thing. Cause all we had was a Xerox copy of it. So I had to retype the entire thing onto Word. So, um, before we could edit it.,

Brian Glick:

Thank you. That's great. I'm so glad that people picked up on it and uh, and that it's the point of it is to be used. Right. And it's really getting out there and being helpful.

Ian Head:

Anything else about those, those early days of, of how was sent around or who else might've been involved? You know, I still, I got a letter from, uh, someone in prison a few years ago that said they had an original copy. They had sadly been in prison that long, but they had the first copy and they wanted to, they wanted to let me know.

Brian Glick:

It was thinking about how we did the distribution, which is obviously really key. And I don't ever remember very well. I think it was a lot through the Lawyers Guild and mainly in California, we, I - this was out of the San Francisco bay area. And in California, we had a lot of prison contacts and there was an active prison movement and moving former prisoners and so on. And so there's a lot of networks to get it through, but nationally I, I'm, I guess it was probably mainly through the Guild.

Ian Head:

Okay. Did, uh, folks like actual Jailhouse Lawyers inside? Would they reviewing it when you were putting it together at all or providing input or was that logistically too hard? I couldn't tell.

Brian Glick:

What a great question. I'm not sure I was, it seems like the kind of thing that we would have done. I don't really specifically remember whether we did.

Ian Head:

It sounds like the movement was really strong outside and inside at that point. So regardless, it seems like you were in, people around, you were in touch with folks.

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Brian Glick:

Oh yeah. Yeah. And we were in touch with people who'd come out and I'm sure there were people reading it. So how was it, how was it, how do you guys use it now?

Ian Head:

So the first version that I was involved in with Rachel, um, came out in 2003 and we had put it together without much of a distribution plan. And there was a moment when I worked at the Lawyer's Guild National Office for about six or seven years in the 2000s. And we were literally photocopying the entire thing, sending it to the people who, whether they request it specifically, or they requested assistance with prison conditions and an interest in filing lawsuits, we would send, um, send them the ma-, uh, manual, but that became kind of a burdeness process. And so the Guild and CCR invested in putting together kind of a more, a newspaper bound staple bound version. And, um, and then in 2006, I think I, I started a volunteer program and had weekly volunteer nights where we would sit around and send out the handbook and that, yeah, those volunteer nights lasted until just a couple years ago with COVID.

Ian Head:

And now I think we're going to use a, a printing house as we get these letters. I mean, we, there are literally a hundred letters at each organization that come in every week, people requesting the handbook. Yeah. We send out, we probably send out at least 5,000 copies a year, probably more. We, we order them in batches of about 8,000 and over the years. And we go through that, that lasts us about a year, year to year and a half somewhere in there, but we've sent out tens of thousands of handbooks in the last 15 years. Yeah. Wow. You started something.

Brian Glick:

I Did. And that's a new one coming on. This podcast is timed to the release, I see, of the new edition.

Ian Head:

Yeah. And we have a new website where, um, families and friends of with people inside can download and print it out. And depending on where they are, you know, send part parts or all of it to, to people as well.

Brian Glick:

So God, there could be like a hundred thousand out there or something, something close to that.

Ian Head:

Something close to that definitely tens of thousands out there, you know, and, and at a couple of these volunteer nights, cause I would advertise for the volunteers on idealist.org. We ran it at the, both the Guild office and at CCRs office in New York. A couple of times people would show up to volunteer who had been inside and used the handbook. And so it was really amazing to hear. One man came, came by for a few volunteer sessions and said that he had, he had in his three years, upstate New York, he had gotten about three or four different copies and whenever he would get transferred, he would pass it off to someone...

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Brian Glick:
right.

Ian Head:

at the prison that he was in. And then when he got to the new prison, he would ask for a new one, get a new one. So it really has been a resource and, you know yeah.

Brian Glick:

People presumably share it so that it's, it's reaching, it's a resource for a lot more people than the number of copies, which it suggests. I am so, so pleased that it took off like this and thank you so much for carrying it.

Ian Head:

No, it's been probably my most favorite thing that I've done in the last 20 years. I really think it is. It's just such a great resource. It goes back to what you said originally that, you know, I'm, I'm not a lawyer, I'm a, I'm a legal worker. I've just worked with lawyers for a long time and kind of that translating or you know, talking about the law and these legal things in non-legal terms and kind of, you know, getting that, that kind of information and um, into the hands of folks who didn't necessarily have the privilege of going to law school or didn't want to, or just, you know, whatever it may be, you know, which is, I think fundamentally Jailhouse Lawyers are, you know, they're self-taught litigators and we just wanted to provide or update this great tool that you put together and provide it to them. So I really appreciate you coming on the podcast.

Brian Glick:

I'm really happy to, I'm sorry. I don't have more, that I don't remember more, you know, it was definitely something that grew from and fed into a movement.

Ian Head:

Yeah. This latest edition, the cover is, uh, art is designed by someone who's, who's currently inside. And the, um, the whole handbook was reviewed by someone, a jailhouse lawyer who's recently gotten out and we, over the years, we get letters from folks inside, with little corrections or little ideas and so we add those you know national office and so its really great, we try to keep it as organic as possible. So I'll send you a copy for sure.

Brian Glick:

Wow! Thank you. It's great to know you connect with you and to put a face to the name.

Ian Head:

Our next guests are Lisa Drapkin from the National Lawyers Guild. Lisa is the membership director at the Guild national office and has been for the last six year and is a long time administrator of the Prison Legal Project.

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Ian Head:

Joining Lisa on this podcast is Jenipher Jones Benino who is lead counsel of Jailhouse Lawyer Speak International Law Project. Jenipher is a member and co-lead of the National Lawyers Guild, Mass Incarceration Committee, Prisoner's Rights Section, and a Civil Rights Attorney, primarily litigating impact cases related to prisoners' rights and has successfully challenged practices related to mass incarceration. Particularly with respect to medical treatment. Jenipher is also a law instructor in a diversity equity and inclusion law school professional. She now advances initiatives. The first of their kind aimed to catalyze increased recruitment of formerly incarcerated persons and LGBTQI+ students of color to law school.

Ian Head:

Jenipher has been published in both domestic and international publications. She is a member of the executive committee for the American Association of Law Schools, Balance Section and Scholarship Committee and serves on the Board of Directors for the Blue Bench of Colorado and is active with her family and the community. Thank you guys, both for being us today on this podcast. We really appreciate it. I wanted to start with a question for Jenipher. I really would love to know more about Jailhouse Lawyers Speak and what your role is with that organization. Um, along with other prison related advocacy that you've been working on.

Jenipher Jones:

Thank you for having me on. Jailhouse Lawyers Speak is a self organized collection of anonymous, incarcerated activists throughout the United States. And the overarching goal that they have is to abolish prisons in the United States. So I work with the Jailhouse Lawyers Speak International Law Project. And as you said, I am the lead counsel for that, but what's unique about that is that it's a prisoner led project. So we work hand in hand with JLS, um, to advance the goals that we have. Um, this year we are submitting a request to the Organization of American States to challenge medical conditions in prisons, prison labor, as a form of slavery and solitary confinement. Um, and in the words of JLS, they fight to end legalized enslavement because it's wrong. It promotes prisons, it demands profits off of the convicted and it violates human rights. So, um, that's my work, that's pretty much representative of the work

Ian Head:

That's really great and really important work. And so Jailhouse Lawyers have kind of constant input into how that is led and moves forward.

Jenipher Jones:

Absolutely. I think it's key that, um, affected populations actually lead the movement, um, movement ideas, um, movement efforts, um, like the Shut'em Downs that are happening from the 21st of August to September 9th.

Ian Head:

Can you speak a little more on that?

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Ian Head:

Sure. There's some demonstrations happening outside of prisons this year called the, Shut'em Down demonstrations and that is happening this month and next. Um, and it represents a key period for JLS in terms of advocacy. And it's based on several demands, including some of those that I just mentioned the end to prison slavery, um, the closure of a majority of jails and prisons in every state immediately closing down all private prisons and freeing all political prisoners in the United States.

Ian Head:

So listeners, definitely put that on your calendar. Um, really, really important. How is the National Lawyers Guild been working with, uh, Jailhouse Lawyers Speaks on prison issues or Jailhouse Lawyer issues?

Jenipher Jones:

Um, we provide outside supports to JLS's network with respect to the Jailhouse Lawyers Speak International Law project. So we try and get a sense of the issues that are going on, the ongoing issues. And that became very relevant during COVID-19 actually with what was happening in the prisons. I think everyone is very well aware of the abuses and the neglect to speak of medical neglect that is completely encapsulated by prisons' response to COVID-19. So those are the sorts of things that we do while we have the central mission of challenging the practices and raising awareness on an international level, we do provide support because as a rule, as lawyers, I work with Audrey Bones, we think it's very important to do so and almost neglectful not to do it.

Ian Head:

So in terms of supporting Jailhouse Lawyers, um, I know that Jailhouse Lawyers have been able to be members of the National Lawyers Guild for, for a number of decades doing their work from inside and getting membership, uh, with a national legal organization. I know has been really important for them. I wonder if Lisa, you can speak about the work that you've been doing over the last several years to kind of outreach and involve them more, um, with the NLG.

Lisa Drapkin:

Um, yes, currently we have a few thousand members that we consider Jailhouse Lawyer members, and it used to be a program that people had to pay a small fee for, but now it, now it's completely free. So basically people just have to write us and say, they want to be a member of the National Lawyers Guild and we'll add them in as a member. So there's no real barriers or anything. What being a member of the Guild means is people receive our publication, which is called Guild Notes. And in that we try to, it's basically a publication that's talking about the work of NLG on the outside. We try to encourage our members to write articles or submissions that will be of interest to people on the inside. And so we also open that up sometimes to outside organizations that just want to get their, some news piece out to a lot of incarcerated people inside and inside of Guild Notes.

Lisa Drapkin:

And inside Guild Notes too is a section called Beyond Bars, which our, uh, Communications Director Tasha Moreau, uh, had had started. And that is basically pieces, uh, articles, um, submissions of drawings or writing that people on the inside, um, submit. And then it's shared with the thousands of

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other incarcerated people that receive it. So I think that overall it's, I mean, at first to tell you the truth, I didn't even, I didn't think it was that valuable for people, but we do over the years have gotten like, like we'll get letters being like, Hey, like I haven't gotten Guild Notes in a while for, you know, for some mail thing or like a bunch of things like that. So I think people really do appreciate just having that small piece of connection on the outside. And then we also just like make sure in regard to the handbook that people know about the handbook, that people are able prison chapter, which, uh, a member in one of the Texas prisons, uh, had started. And there's just about like, I don't know, maybe 20 or so people in his unit that have all signed up to be members and they basically just like make their own sorts of like projects and write in to give us updates and stuff like that.

Ian Head):

It's really important. I mean, there's really, I don't know a lot of other legal organizations, especially national ones that interface and connect with, with Jailhouse Lawyers and offer membership in that way. So really great work. There's any other things that you want to make people aware of Jenipher or Lisa?

Jenipher Jones:

Well, I think in close, first we'd like to congratulate you in the new copy and thanks for all that you've done and supportive jailhouse lawyers. One of the things that I'd encourage people to do is to visit the Jailhouse Lawyer Speak website that they have, um, one functional, they have a couple of websites, but one really functional one is iamweubuntu.com and they can be contacted at outthemud.jls@protonmail.com and then to get involved in our project. That is, I believe on both of those websites, a way to contact us as well in terms of the, uh, international law project.

Ian Head:

Again, I want to thank both Lisa and Jenipher for coming on. Uh, we really appreciate it and, uh, look forward to doing more work with you both in the future.

Jenipher Jones:

Thank you so much.

Ian Head:

Joining us next is my colleague at the Center for Constitutional Rights, senior staff attorney, and Jailhouse Lawyer Handbook co editor, thank you for joining.

Chinyere Ezie:

Hi, glad to be with you.

Ian Head:

So thanks so much for joining us Chinyere. Um, I was hoping you could talk about the new pieces of the latest Jailhouse Lawyer Handbook edition, which I know you've spent a lot of time working on.

Chinyere Ezie:

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Yes, thank you. I was part of an incredible team that worked on these are visions that come. Um, if I'm not mistaken about 10 years after our last publication of the Jailhouse Lawyers handbook or JLH, and for this year's edition, the sixth edition of the handbook, we have a very, um, detailed section about the rights of LGBTQIA, um, a prisoners, which is to say lesbian, gay, bisexual, intersex, and asexual folks. And, um, well, that's been a feature of the handbook in recent years. We really took time to add developments in case law, some of which, um, we're proud to be able to say we achieved through our own, um, litigation and advocacy, but that includes, um, changes to the way that prisons approach access to transgender health care and gender related healthcare, developments related to visitation, updates about the equal protection jurisprudence that applies in the, in the prison and jails setting with respect to trans and gender non-conforming individuals who, um, feel they're being discriminated against or treated differently on that basis.

Chinyere Ezie:

And so it's a really exciting section from members of that community. That is chock-full of information that should really help people on the inside who are trying to navigate their own, trying to say, litigation. So that's the first change that I'm really excited to share enough with. Of course, we've also updated all the other sections of the handbook to include the latest in legal developments, case law updates. So where there have been new Supreme Court decisions or important appellate cases that have made pronouncements about the rights of people on the inside. We have included those cases as well, whether it relates to your rights to resist searches or, um, your rights to due process or folks' rights to be free from, um, you know, cruel and unusual punishment, which can take the form of a healthcare, medical, neglect, or actual, um, use of force and violence by staff or by inmates we've taken care to really update all those sections.

Chinyere Ezie:

And then finally, something I'm really excited about is we introduced an appendix that covers policies that apply state-by-state. And while we don't have all 50 states represented, yet we have done our best to compile for our handful of representative states information about the grievance process, which as you may know, is something that, um, incarcerated folks have to navigate when asserting constitutional or statutory claims under the Prison Litigation Reform Act or PLRA. So it gives up-to-date guidance about the grievance procedures that apply to different prison settings. Um, we have information about policies related to TG and C people that have been promulgated at the prison level, uh, in different states, for instance, um, California just introduced a new policy that allows transgender people to be housed in accordance with their gender identity, kind of as a default position. And so, you know, we have updates about some of those state level developments and then also an updated resource page. So it's more easy than ever to connect with other types of, um, legal support, other types of, um, free literature and resources that help people who are incarcerated. So we're really trying to make sure that our readers have as many resources at their fingertips as possible going forward so they can get the support they need when they're, um, challenging abuses and on the inside.

Ian Head:

Thank you so much for that. It is really exciting. And I have to say that having worked on the handbook for the last almost 20 years, watching it grow into such an amazing resource and keep, keep growing, it has been, I mean, incredible. So thank you for all your work on, on this handbook. And I know also that there's, um, a new website where family and friends can download the handbook.

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Chinyere Ezie:

Yes, our website revamp is another real achievement of this 2021 rewrite of the handbook. We have a brand new website at jailouselaw.org that is incredibly interactive. So you can engage with the website via topic. You could, if you would like read the jailhouse handbook and digital format from cover to cover, you can request a copy of the entire handbook for a loved one on the inside. And you can print out sections of the handbook yourself at home for even, your own review, or to send on to an incarcerated loved one. So we've really tried to emphasize assessability here and to make sure that you're able to access the text of the JLH but also content like the cases that we cite etcetera in a really easy to use format. So I'm really hoping that, um, just like the JLH, it will become a resource that's used by, um, you know, folks who are incarcerated and their, and their loved ones, um, year after year for years to come.

Ian Head):

Thank you so much for all your work on the handbook, and thank you for your ongoing and amazing work in general, on behalf of folks inside.

Ian Head:

Mumia Abu Jamal is an award winning broadcast journalist, essayist, and the author of 12 books. Most recently, he's completed the historic trilogy "Murder, Inc." It's third volume, "Perfecting Tyranny" coming out this fall to follow "Dreaming of Empire" and "America's Favorite Pastime". Currently he's serving life without parole at a correctional institution in Pennsylvania. His 1982 trial and conviction had been criticized as unconstitutional and corrupt by legal and activist groups for decades, including Amnesty International and Nobel Laureates, Nelson Mandela, Toni Morrison, and Desmond Tutu. And he has been made an honorary citizen of Paris, France. This message was taped for Prison Radio, and you can visit Prison Radio at prisonradio.org. And we really appreciate Mumia recording this message in regards to Jailhouse Lawyers and the Jailhouse Lawyer Handbook.

Mumia Abu Jamal:

Of jailhouse lawyers to be a jailhouse lawyer is to be above all a prisoner. And there's such among the most despised of men and women in the nation. Jailhouse lawyer was similarly a term of derision, a joke, a mockery until that is they began to win. Early in this era of mass incarceration around the eighties, a guy named Hiram filed suit against the prison at Huntington, Pennsylvania because of their practice of giving guys yard that literally lasted as long as it took to smoke a cigarette or about five to seven minutes long. Hiram read old statutes in dusty law books and filed suit in state court and won an order that forced officials to give at least an hour, a day, five days a week in the yard. It was a revelation and the change from six minutes every other day, the 60 minutes a day could not be more dramatic.

Mumia Abu Jamal):

Hiram wasn't a joke. He represented a rare power of intelligence against state repression. I've studied and written about jailhouse lawyers for years. Few have been as impressive as Richard Maybury of Pennsylvania. He had spent decades in prison. Yes, but he is also cut decades off of sentences. His and

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his clients once after a series of verbal jousts with a state court judge, he was sentenced to 11 and a half to 22 years for contempt of court. Mayberry launched an appeal that went all the way to the U S Supreme Court and won in its 1971 opinion, *Mayberry vs Pennsylvania*, the court in reversing Mayberry's conviction issued a new rule forbidding courts from sentencing defendants who had performed contempt before them. New presumably, unbiased judges had to be appointed to avoid the taint of judicial bias. Mayberry detests the term jailhouse lawyer, and rarely uses it.

Mumia Abu Jamal:

He uses the law by necessity to get closer to home, to push back against state repression and sometimes to make positive change. There's another kind of jailhouse lawyer that rarely is referenced by that term because he skips by the jailhouse. I refer here to the late Dr. Huey P Newton, one of the co-founders of the Black Panther party in Oakland, California in 1966. Newton, before he helped form the party was a deep student of the law, not to practice it as a lawyer, but to break it and get away with it. He writes the following in his first book, "Revolutionary Suicide" published in 1973, I first studied law to become a better burglar figuring I might get busted at any time and wanting to be ready when it happened. I bought some books on criminal law and burglary and felonies and looked up things, everything possible.

Mumia Abu Jamal:

I tried to find out what kind of evidence they needed, what things were actually considered violations of the law, what the loopholes were and what you could do to avoid being charged at all. It had a law for everything. I studied the California penal code and books like "California, Criminal Evidence in California Criminal Law", by Frick and other con, concentrating on those areas that were somewhat vague. The California penal code says that any law, which is vague to the ordinary citizen, the average reasonable man, who lives in California and who is exposed to the state's rules, regulations, and culture, doesn't qualify as a statute. Dr. Newton added my studying helped because every time I got arrested, I was released with no charges. Huey P Newton, from the Huey P Newton reader, page 25. To be sure Dr. Newton describes how he avoided the jail house, but he utilized the law as a true Jailhouse Lawyer would for liberation in this era of mass incarceration, it is important to know that there are not enough lawyers in the country to help the millions who are held in the iron houses we call prisons. There are not enough lawyers to try the cases of the accused, not to mention the cost of hiring a lawyer. Prisons, are the preserves of the poor and most prisoners can't begin to afford real legal help. So in the bleakest of circumstances, most people are forced to turn to a jailhouse lawyer and hope, just hope that they won't get burned or do as Huey did self study, but look for cracks in the walls of repression. Now, I don't think it's fair to ask you to read what Huey read way back then, but you should read the Jailhouse Lawyer Handbook. Which shows you how to prepare your legal papers, even providing forms so that you can do it the right way. Keep on struggling from In Prison Nation, this is Mumia Abu Jamal. These commentaries are recorded by In Prison Radio.

Leah Todd:

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