

CHAPTER 1

HOW TO USE THE *JLM*

A. General Comments

If you have been convicted of a crime and sentenced to prison, *A Jailhouse Lawyer's Manual* (the "*JLM*") is for you. It contains information about challenging your conviction or your sentence, what your rights are while you are in prison, and different ways to obtain an early release from prison. If your first language is Spanish, there is also a Spanish version of the *JLM*, which is a translation of the English *JLM*.¹

The *JLM* contains thirty-six Chapters. You should begin by reading Chapters 2, 5, and 6. These Chapters teach you the basics of understanding and using legal materials. You can also look in the Table of Contents for the subject or subjects that are related to your concerns.

The Appendices at the end of the *JLM* are also important. Appendices I and II contain the addresses of the federal courts and state courts in New York. Appendix III is a list of addresses for District Attorneys' offices in New York. Appendix IV contains a list of several organizations that help prisoners. Appendix V contains a dictionary of legal terms used in the *JLM*.

There are also supplements to *JLM*. There is an immigration supplement in both English and Spanish, which will give you information on how to handle any immigration-related legal problems you might have. State-specific supplements for Texas, California, and Louisiana are currently being written. For more information about these state supplements, refer to Chapter 1, Part D.

The entire *JLM*, appendices, and supplements are available online at <http://www3.law.columbia.edu/hrlr/jlm/toc/>. There is also the option of having certain chapters printed and mailed to you.

The *JLM* discusses only those areas of law that relate to prisoners' rights. To learn about the law relating to other matters—such as automobile accidents or apartment leases—you will need to look elsewhere. Chapter 2, "Introduction to Legal Research," explains how to research these and other areas of law in your prison law library.

Similarly, although the *JLM* explains the procedures you can use to attack your conviction, it does not explain many other areas of the law, such as the constitutional limits on the power of the police to search you, seize evidence from you, or arrest you. The *JLM* does not describe the limits on a grand jury's power to indict you, the limits on what the prosecutor can say to the jury, or the questions he cannot ask witnesses or defendants during the trial. If you have been convicted of a crime, these are areas of law that you will probably need to know more about to determine whether your conviction was lawful. The most important rules in these areas of the law derive from the Fourth, Fifth, and Sixth Amendments of the U.S. Constitution, and court rulings declaring what these amendments mean in relation to cases like your own. The best way to learn about Fourth, Fifth, and Sixth Amendment issues is to research them in the library using the skills you will learn by reading Chapter 2 of the *JLM*.

In general, it is always a good idea to seek the help of a lawyer in pursuing any legal action. But it is often not possible to get professional legal help—at least at first. If you do not have a lawyer, the *JLM* can help you initiate a legal action on your own or show you how to get a lawyer interested in your case. Even if you have a lawyer, the *JLM* will be helpful because no one is more concerned about your rights and needs than you. If you know what your lawyer should be doing, what papers he or she should be filing, and what questions he or she should be asking, you will be better able to actively participate in your case. You might even be able to help your lawyer with some of the work. Remember: there are very strict deadlines in criminal appeals and most other actions. Learn these deadlines and make sure your lawyer files all necessary papers on time.

Two final suggestions about using the *JLM*: use it cautiously and share it. *Use it cautiously* because it may contain statements that are out-of-date by the time you read them and because it may take years of litigation before you can vindicate your rights in court. To make sure that a statement, statute, or holding is not out-of-date, follow the steps described in Chapter 2, which explain "Shepard's" and "pocket-parts." Never

¹ You can request a copy of the Spanish version of the *JLM* by writing to Columbia Human Rights Law Review, 435 West 116th Street, New York, NY 10027.

forget that an incorrect or weak legal argument may waste a valuable opportunity to challenge a violation of your rights.

Share the JLM because there are not enough to go around and because you will benefit from others' understanding and assertion of their rights. One prisoner's victory in court may bring about changes in prison conditions that will improve life for all prisoners, including you.

B. How to Use the *JLM* to Learn About the Law

If you are not a jailhouse lawyer and you want to learn the basic tools of the jailhouse lawyer, begin by reading Chapter 2, "Introduction to Legal Research." If at all possible, read Chapter 2 in the law library and look at each book the Chapter mentions. Do not expect to understand all of Chapter 2 the first time you read it. It often takes law students many months before they understand how all of the different research tools work. The key to learning how to do legal research is practice.

The next step is to read Chapter 6, which introduces you to basic legal papers and to the most common types of legal proceedings. After you have read Chapters 2 and 6, you will be able to understand how the research for the memorandum in Chapter 6 was done and why the memorandum was written. From this point on, it is simply a question of improving your skills and becoming more familiar with the law. The best way to do this is to read the rest of the *JLM*.

If you come across a word in the *JLM* that you do not understand, refer to Appendix V. If the word is not explained there, use the legal dictionary in your prison's law library.

If you already know how to do legal research but have a specific problem, look at the Table of Contents to see which sections may apply to your problem. If you need to determine your rights in an area covered by the *JLM*, like religious freedom or temporary release programs, read the appropriate Chapter and then *confirm what it states through research in the library*. This is done by finding the part(s) of the Chapter discussing your problem and then writing down the cases or statutes that are cited in the footnotes. If these authorities are cases, read the cases and then Shepardize them; if they are statutes, find the statutes, check their pocket-parts to make sure that they have not been repealed or amended, and then look at the "notes of decisions" in the pocket-parts to see if they have been recently interpreted by the courts. Although terms like "Shepardize" and "notes of decisions" may seem strange to you right now, Chapter 2 will explain them. You should make sure to read all the Chapters that might contain information on any part of your case.

You should read Chapter 5 if you have a serious problem and you think you require relief (help) from a court. This Chapter directs you to other Chapters that explain the kinds of legal proceedings you can use. Again, verify and update anything cited in the *JLM* that you plan to use in your case. Outdated and incorrect cases or statutes will jeopardize your chances of winning or may delay the process.

If no Chapter in the *JLM* discusses your problem, you will have to start from the beginning, using the legal research skills that you will learn by reading Chapter 2. It is also possible that one of the Chapters in the *JLM* discusses a similar problem. If this is the case, it may be helpful to start your research by reading some of the cases or statutes cited in that Chapter.

C. How to Use the *JLM* When Filing a Lawsuit

Once you have decided that your rights have been violated or that you have a valid claim and you want to go to court, you should turn to the sample legal papers in Chapters 9, 16, and 17 (and Chapters 10, 20, and 22 for New York State Prisoners). Each of these Chapters discusses a different kind of lawsuit and provides examples of the legal papers that you must send to the court in order to initiate the suit. These legal papers are called "forms" because you can use the basic language provided in the sample form and fill in the blanks with the facts that apply to your case. For example, Chapter 9, "Appealing Your Conviction or Sentence," contains the types of papers you will need to start a criminal appeal.

It is important that you do not tear these sample legal papers out of the *JLM* and do not copy them word for word. If you tear them out and try to send them to a court, or if you simply copy them and then send your copy to a court, the court will either throw them out or send them back to you. Before using these forms, you should read the first part of the Chapter that discusses how to use them. Then follow the footnotes contained in each legal paper, which will tell you exactly how to prepare your own version.

After you have written your version of the legal papers, you must make copies of what you have written. Each Chapter tells you how many copies you will have to make. Then you will have to mail the original form plus several copies to a court. Appendices I and II tell you which court you should send the papers to. You may also have to send copies to the District Attorney. Appendix III contains the mailing addresses of all of

the District Attorneys in New York. Most prisons have photocopying machines. If your prison does not, you can copy your papers by retyping or rewriting them.

Chapters 4 and 9 also explain how to request a court-appointed lawyer to pursue your case. When you make this request—by filing “poor person’s” or *in forma pauperis* papers—you can also ask the court to assume the responsibility for “serving” all of your papers on your opponents and to allow you to proceed without paying court fees up front. Under the Prison Litigation Reform Act (“PLRA”), prisoners may be required to pay court-filing fees in full. The full cost of the fees will be deducted gradually from your prison account. For a fuller discussion of the PLRA and how it affects your rights, read Chapter 14 of the *JLM*, “The Prison Litigation Reform Act.”

D. How to Use the *JLM* if You Are Not Imprisoned in New York State

Many of the Chapters in the *JLM* discuss the law as it exists in New York State. If you are not a prisoner in the state of New York, these laws do not apply to you. You must find out what laws and regulations your state or municipality has issued. Similarly, cases decided by New York state courts that are described in the *JLM* do not apply directly to non-New York state prisoners.

If you are unable to find materials dealing with the laws and regulations of your state in the *JLM*, do not be discouraged. The *JLM* is valuable for prisoners outside of New York for several reasons. First, many of the Chapters discuss laws that affect prisoners outside of New York. Several Chapters have parts on, or are entirely focused on, the law of states other than New York, like Chapter 21, “State Habeas Corpus: Florida, New York, and Michigan.” In addition to Chapters in the *JLM* that address state law outside of New York, you may find information on the laws and regulations affecting you in the State Supplements. Currently, State Supplements are being written for prisoners in Texas, California, and Louisiana state prisons, with plans to write supplements for other states in the coming years. If you are a state prisoner in Texas, California, or Louisiana, these supplemental books will provide you with information on the state laws and regulations affecting your rights, especially when they are different from the laws discussed in the main *JLM*. The *JLM* is also valuable for prisoners outside of New York, Texas, California, and Louisiana for two other reasons. First, as you will learn in Chapter 2, decisions by the United States Supreme Court discussed in the *JLM* apply to all prisoners throughout the nation. Second, by reading the Chapters in the *JLM* you will learn how to effectively research the laws of your own state. Chapter 2 gives you the skills to become an excellent jailhouse lawyer no matter what state law applies to you.

Although this book does not always present you with the exact answer you need, it teaches you how to get the answer on your own. Wherever you are imprisoned, you can use your new skills to protect your rights and advance your interests. A careful reading of the Chapters that relate to your problem will allow you to think like a lawyer and to analyze your problem from a legal perspective. Knowing how to think this way is very important because what matters most is knowing what remedies you are entitled to, and not what remedies you think are best.