

RESPONDING TO A CRIMINAL TAX INDICTMENT

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REVISION HISTORY

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REVISION HISTORY	2
<i>Description</i>	2
1 THE SCENARIO	28
2 TYPICAL SEQUENCE OF A FEDERAL CRIMINAL CASE	29
3 THE INDICTMENT OR INFORMATION	31
3.1 How to know if a criminal indictment is being pursued.....	31
3.2 Actions to take once you know or think an indictment is being pursued	31
3.3 Requirement for the indictment or information	32
3.4 Attacking the Indictment	34
4 THE ATTORNEY	38
4.1 Introduction	38
4.2 Finding an attorney.....	38
4.3 Court appointed counsel.....	40
4.4 Sixth Amendment Right to Effective Counsel	40
4.5 Conflicts of Interest.....	41
4.6 Substitute Counsel.....	42
4.7 Ninth Circuit Review.....	43
4.8 Counsel Rules of Professional Conduct and Disciplinary Complaints.....	44
4.9 Questionnaire to Counsel	44
4.10 Defendant Bound By Attorney Acts Absent Demonstration of Ineffectiveness.....	45
5 FARETTA HEARING AND SELF-REPRESENTATION	45
5.1 <i>Pro se</i> With Standby Counsel.....	46
5.2 Right to Self-Representation	47
5.3 Faretta Hearing for Proceeding <i>Pro Se</i>	47
5.4 Ninth Circuit Review and Ineffective Assistance of Counsel Claim.....	48
6 ARREST, INITIAL APPEARANCE, AND ARRAIGNMENT	48
6.1 The Judge Must Have “Joinder” to Create a “Controversy” for Trial.....	49
6.2 Creating an Issue for Trial.....	49
6.3 The Judge Making and Entering a Plea for the Accused.....	50
6.4 Statement for the Arraignment	50
6.5 Arraignment or Transfer to Another District.....	52
6.6 Appointment of Counsel or <i>Pro se</i>	52
6.7 Indictment, Complaint or Information.....	52
6.8 Speedy Trial Rights	54
6.9 Detention or Release.....	55
6.10 Detention Hearing	56
7 INTERSTATE COMMERCE: PREREQUISITE TO ALL FEDERAL CRIMES	56
8 THE PLEA	58
8.1 Memorandum of Plea Agreements	58
8.1.1 Voluntary Plea of Guilty and Penalties	58
8.1.2 Factual Stipulations and Calculating Sentence Guideline	59
8.1.3 Acceptance of Responsibility	59
8.1.4 No Downward or Upward Departures Argued at Sentencing	59
8.1.5 Evaluating a Plea Agreement	60
8.1.6 Restitution	60
8.1.7 Court Not Bound By Plea Agreement.....	60
8.2 Withdrawal of Guilty Plea.....	61
8.2.1 Guilty Pleas and Rule 11 Inquiries.....	63
8.2.2 Guilty Pleas and Plea Bargaining.....	65
8.2.3 Guilty Pleas and Competence	66
8.2.4 Ninth Circuit Review	66
9 CONSTITUTIONAL RIGHTS OF PRE-TRIAL DETAINEES AND PRISONERS	67
9.1 Pre-Trial Detainees	68
9.2 Access to the Courts.....	68
9.3 Jailhouse Lawyer Rendering Legal Assistance to Fellow Inmates.....	69
9.4 Legal Research and Document Preparation.....	71

9.5	Legal Research Methodology and Synthesis	73
9.6	Civil Rights Actions	75
10	STATUTE OF LIMITATIONS	76
10.1	Federal crimes generally.....	76
10.2	Statutory Provisions	77
10.3	Triggering of Statute of Limitations	78
10.3.1	Filing a False Tax Return	78
10.3.2	Failing to File a Tax Return	78
10.3.3	Tax Evasion.....	79
10.3.4	Conspiracy	79
10.4	Tolling provision: Fugitive Outside U.S.	80
10.5	Complaint to Extend Statute of Limitations	81
11	PRE-TRIAL MOTIONS, DISCOVERY AND HEARINGS	81
11.1	Pre-Trial Motions and Memorandums of Law	82
11.2	Suppression, Exclusion in Limine and Brady Motions	83
11.3	Fourth Amendment and Privacy Rights	85
11.4	Judicial Notice and Statement of Facts.....	87
12	PREPARATIONS FOR TRIAL.....	87
12.1	Rights of the Criminal Defendant.....	87
12.2	Third-Party Testimonial Statements and Hearsay Not Permitted.....	89
12.3	Impeachment of Witnesses and Jencks Act.....	90
12.4	Government's Burden of Proof.....	90
12.5	Motion for Mistrial.....	91
13	DEFENSIVE STRATEGIES.....	91
13.1	Immediate Defendant actions	91
13.2	Approach toward negotiating surrender to the authorities.....	92
13.3	Pre-Trial Discovery approach.....	92
13.4	Litigation Strategies.....	93
13.5	Initial Motions	95
13.6	Discovery Defenses.....	96
13.7	Claim for Ineffective Assistance of Counsel.....	96
13.7.1	Pre-Trial Ineffective Assistance of Counsel Claims.....	97
13.7.2	Counsel Has Constitutional Duty to Investigate	98
13.7.3	Developing Ineffective Assistance of Counsel Claim.....	99
13.7.4	Post-Conviction Ineffective Assistance of Counsel Claims	99
13.7.5	American Bar Association Complaints, Disciplinary Action and Malpractice Suits There are five types of claims which can be made against your attorney:	100
13.8	Claim for Prosecutorial Misconduct.....	101
13.8.1	Post-Conviction Prosecutorial Misconduct Claims.....	102
13.8.2	Selective Prosecution Claim.....	102
13.8.3	Vindictive Prosecution Claim	103
13.8.4	Government Misconduct Claim	103
13.8.5	Office of Professional Responsibility Complaints and Disciplinary Action	103
14	DETAILS ON SPECIFIC TYPES OF CHARGES.....	104
14.1	Charges Under 18 U.S.C. §371: Conspiracy to commit offense or to defraud United States.....	104
14.1.1	Statute	104
14.1.2	Risks.....	104
14.1.3	Generally, nature and elements of conspiracy, 18 U.S.C.A. §371, Section 41	104
14.1.4	Defenses	107
14.2	Charges Under 18 U.S.C. §287: False Fictitious, or Fraudulent Claims	108
14.2.1	Statute	108
14.2.2	Risks.....	108
14.2.3	Knowledge and Intent: 18 U.S.C.A. §287, Section 18.....	108
14.2.4	Falsity of Claim, 18 U.S.C.A. §287, Section 20	109
14.2.5	Defenses	111
14.3	Charges Under 26 U.S.C. §7203: Willful Failure to File	111
14.3.1	Statute	111

14.3.2	Risks.....	112
14.3.3	Legal background.....	112
14.3.4	Elements of offense generally, failure to file return or supply information, 26 USCA 7203, Section 42.....	114
14.3.5	Defenses.....	114
15	WILLFULNESS.....	115
15.1	Authorities.....	115
15.2	Reliance upon expert advice.....	115
15.3	The U.S. Supreme Court’s opinion on expert advice.....	115
15.4	Department of Justice, Criminal Tax Manual.....	115
16	FILING OF RETURNS AND REFUNDS.....	118
16.1	Returns not filed.....	118
16.2	Correcting False or Fraudulent Returns.....	118
16.3	Voluntarily paid taxes.....	119
16.4	Money received by IRS is stolen goods if paid by a “nontaxpayer” and Refund Demanded.....	120
16.4.1	Receipt of Stolen Goods: Criminal Law in a Nutshell, West, Section 7.07.....	120
16.4.2	Extortion: Criminal Law in a Nutshell, West, Section 7.09.....	121
16.5	Mistake of Law: Criminal Law in a Nutshell, West, Section 8.07.....	121
17	DEALING WITH THE JUDGE.....	121
17.1	Having an Independent Judge to Start the Case is a Lawful Requirement and Necessary.....	121
17.2	Prior Tax Cases Regarding the Judge.....	122
17.3	If Necessary, Subpoena the Judge to Appear.....	127
17.4	Good Behavior.....	128
17.5	Judge v. Jury.....	131
18	DEALING WITH THE JURY.....	131
18.1	Jury Trial.....	131
18.2	Does the judge of the law have the right to choose and control the judge of the facts?.....	132
19	TRIAL.....	134
19.1	Obtaining the Jury List.....	134
19.2	Speedy Trial Act.....	134
20	UNDERSTANDING AND RESPONDING TO JUDICIAL TREACHERY.....	134
20.1	Accusations of being “frivolous”.....	134
20.2	The Anti-Anarchist Speech to Selected Jury Panel.....	135
20.3	Switching jurists after the trial starts.....	136
20.4	Censorship of testimony of witnesses.....	136
20.5	Non-publication of the case.....	137
21	SENTENCING.....	137
21.1	United States Sentencing Guidelines (U.S.S.G.).....	139
21.2	Sentencing Allocution and Counsel’s Preparation.....	143
21.3	Sentencing Memorandum and Hearing.....	143
21.4	Mitigating Factors for Sentencing.....	144
21.5	Government’s Refusal to File §5K.1 Motion.....	146
21.6	Ninth Circuit Review.....	146
22	ALLOCUTION.....	147
23	DIRECT APPEALS.....	154
23.1	Notice of Appeal.....	154
23.2	Record, Appeal Questions and Final Judgments.....	154
23.3	Issues on Appeal.....	155
23.4	Jurisdiction and Preservation of Issues.....	157
24	STANDARDS OF REVIEW.....	158
24.1	Issues of Law and Legal Questions.....	158
24.2	Issues of Fact and Findings of Fact Questions.....	158
24.3	Issues of Mixed Law and Facts.....	159
24.4	Issues of Trial Court Discretion.....	159
24.5	Ninth Circuit Standards of Review.....	160
24.6	Procedures, Reversals and Remands.....	162
24.7	Judicial Complaints and Misconduct.....	162

24.8	Writ of Mandamus.....	162
25	MOTION TO VACATE, SET ASIDE, OR CORRECT A SENTENCE.....	162
25.1	Post-Conviction Discovery and Evidentiary Hearing.....	165
25.2	Motion to Correct Sentence.....	166
25.3	Motion to Reduce Sentence.....	166
25.4	Exhaustion of Remedies and Statute of Limitation	166
25.5	Procedures and Judicial Review.....	166
25.6	AEDPA.....	167
25.7	Involuntariness of Guilty Plea and Government Breach of Plea Agreement.....	167
25.8	Ninth Circuit Review.....	168
25.9	Section 2255 Form	169
26	WRIT OF HABEAS CORPUS.....	171
26.1	Administration of Parole	171
26.2	Computation of Time Served	171
26.3	Prison Disciplinary Actions, Transfers and Types of Detention	172
26.4	Prison Conditions	172
26.5	Extradition.....	172
26.6	Removal by Deportation or Exclusion	172
26.7	Court-Martial Proceedings	172
26.8	Burden of Proof, Filing and Exhaustion of Administrative Remedies	172
27	WRIT OF CORAM NOBIS	173
28	FEDERAL BUREAU OF PRISONS RULES, POLICIES AND PRACTICES.....	173
28.1	Administrative Remedies and Procedure.....	174
28.2	Making the Best of "Time Served"	174
28.3	Supervised Release and Probation.....	175
28.4	Home Free at Last	176
29	EXHIBITS:	176
29.1	Notice of Motion and Motion to Depose Judge With Accompanying Memorandum of Law.....	176
29.2	Voir Dire of Federal Judge	182
29.3	Ex Parte Notice to The Court of Appointment of Counsel.....	183
29.4	Order of Court	192
29.5	Competent Counsel Questionnaire	194
29.6	Petition for Declaratory Judgment With Incorporated Memorandum	195
29.7	Notice of Hearing on Petition for Declaratory Judgment	198
29.8	Original Verified Petition for Identity Hearing and Subpoena Duces Tecum with Incorporated Memorandum	201
29.9	Notice and Demand for Declaration of Court's Immunity and Impartiality.....	211
29.10	Notice and Demand for Declaration of Court's Immunity and Impartiality.....	214
30	FURTHER READING AND RESEARCH.....	216

LIST OF TABLES

Table 1: Typical Sequence of a Federal Criminal Case	30
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TABLE OF AUTHORITIES

Constitutional Provisions

13th Amendment	51
1st Amendment	51
5th Amendment.....	51, 124, 180, 205
6th Amendment.....	51, 204
Art. III	129
Art. III, Sec. 1	129, 130, 133
Article 1.....	38

Article III.....	130
Article III Section 1.....	182
Article III, Sec. 1.....	127, 196
Article III, sect. 1.....	129
Article III, Sect. 1.....	122, 206
Article III, Section 1.....	128, 131, 177, 180, 181, 196, 202, 205, 206
Article IV.....	38
Article VI.....	122, 177
Constitution of the Independent Republic of Vermont of 1777.....	188
Fifth Amendment.....	31, 33, 41, 91, 122, 125, 127, 128, 129, 130, 179, 196, 202, 206, 212, 213, 215
Fifth and Fourteenth Amendments.....	69
First Amendment.....	31, 148, 153
Fourteenth Amendment.....	38, 41
Maryland Constitution of 1776.....	188
Massachusetts Constitution of 1780.....	188
New Hampshire Constitution of 1784.....	188
Sixteenth Amendment.....	117
Sixth Amendment.....	38, 39, 40, 41, 42, 46, 54, 69, 143, 177, 188
The Sixth Amendment to the Constitution.....	188
Thirteenth Amendment.....	153
U.S. Const, Art I, §9, cl 2.....	171

Statutes

1 U.S.C. §204.....	94, 148
11 U.S.C. §106(a).....	37
12 U.S.C. §1841(b) (1994 ed., Supp. III).....	37
15 U.S.C. §1122(a).....	37
15 U.S.C. §77c(a)(2).....	37
1789 Statutes At Large.....	187
18 U.S.C. § 3231.....	56
18 U.S.C. §1522.....	136
18 U.S.C. §1622.....	136
18 U.S.C. §1867.....	95
18 U.S.C. §287.....	95, 108, 113
18 U.S.C. §3 and 4.....	136
18 U.S.C. §3161(b).....	81
18 U.S.C. §3231.....	56, 58
18 U.S.C. §3282.....	79
18 U.S.C. §3282.....	76
18 U.S.C. §3290.....	80
18 U.S.C. §3553(a).....	140, 144, 146
18 U.S.C. §3553(a)(2).....	140
18 U.S.C. §3553(a)(2)(D).....	144
18 U.S.C. §3553(e).....	140
18 U.S.C. §3559(a).....	138
18 U.S.C. §3624(b).....	172
18 U.S.C. §371.....	77, 95, 104, 113
18 U.S.C. §3742(a).....	61
18 U.S.C. §4083.....	138
18 U.S.C. §53161 - 3174.....	54
18 U.S.C. §546 and 547.....	57
18 U.S.C. §6002.....	31
18 U.S.C. 1510.....	136
18 U.S.C.A. §201(c)(2).....	103
18 U.S.C.A. §287.....	108
18 U.S.C.A. §3006(A).....	88
18 U.S.C.A. §3481.....	88

18 U.S.C.A. §3500(a) - (e).....	90
18 U.S.C.A. §371	104
18 U.S.C.A. §3742(e).....	146
20 Stat. 102.....	208
26 U.S.C. §§7206(1), 7202, 7212(a) and 7214(a)	77
26 U.S.C. §6020(b)	118
26 U.S.C. §6041	95
26 U.S.C. §6072(a).....	114
26 U.S.C. §6072(a) (1988).....	78
26 U.S.C. §6072(b) (1988).....	78
26 U.S.C. §6081	114
26 U.S.C. §6103(h)	30
26 U.S.C. §6103(h)(5).....	132
26 U.S.C. §6501(a).....	118
26 U.S.C. §6501(c)(1)	118
26 U.S.C. §6513(c)(1) (1988).....	78
26 U.S.C. §6531	80
26 U.S.C. §6531	77
26 U.S.C. §6531 (1988).....	80, 81
26 U.S.C. §7201	28
26 U.S.C. §7203	28, 33, 77, 95, 112, 113
26 U.S.C. §7343	95, 112
26 U.S.C. §7502 (1988).....	78
26 U.S.C. §7601	93
26 U.S.C. §7621	93
26 U.S.C. §7701(a)(26)	35, 93, 95
26 U.S.C. §7701(a)(31).....	95
26 U.S.C. §7701(a)(9) and (a)(10)	95
26 U.S.C. §7701(c).....	95
26 U.S.C. §861(a)(3)(C)(i).....	94
26 U.S.C.A. (I.R.C.1954, art. 7203).....	131
28 U.S.C. §2255 or §2241	173
28 U.S.C §134	95
28 U.S.C. §§2072 and 2201	202
28 U.S.C. §1291	155, 157
28 U.S.C. §1654	39, 186
28 U.S.C. §1746(1)	177
28 U.S.C. §1915 (d)	70
28 U.S.C. §2072	177, 185, 207
28 U.S.C. §2201	196, 203, 207
28 U.S.C. §224	163
28 U.S.C. §2243	165
28 U.S.C. §2253(c).....	168
28 U.S.C. §2254	163
28 U.S.C. §2255	60, 61, 99, 162, 163, 171
28 U.S.C. §2255 or §2241	162
28 U.S.C. §2255(3)	165
28 U.S.C. §592	30
28 U.S.C. §594	30
28 U.S.C. §594(a)(1)	30
28 U.S.C. §636	30
28 U.S.C. Section 1746, 2072, 2201	215
28 U.S.C. Section 455	206
28 U.S.C.A. §2111	157
28 USCA Explanation, West's Edition, pg. V	187
29 U.S.C §652(5)	37
35 U.S.C. §271(h)	37

4 U.S.C. §72	93, 95
42 U.S.C. §1983	64, 67, 70, 75
42 U.S.C. §1997e(a)	174
42 U.S.C. §1997e(d)	76
44 U.S.C. §1505(a)	95, 113
44 U.S.C. §1505(a)(1)	113
5 U.S.C. §552(a)	92
5 U.S.C. §552(a)(1)	113
5 U.S.C. §552(b)(7)	31
5 U.S.C. §553(a)	95, 113
Federal Register Act, 44 U.S.C. §1505	113
Foreign Sovereign Immunities Act, 28 U.S.C. §1602 et seq.	107
Foreign Sovereign Immunities Act, 28 U.S.C. §1605	148
I.R.C. 7203	112
I.R.C. Subtitle A	147
Internal Revenue Code	94, 108, 116, 151
Prison Litigation Reform Act of 1995, Pub.L.No. 104-134, 110 Stat. 1321 (1996)	174
Public Salary Tax Act of 1939	204
Revised Statutes	50
Revised Statutes for the United States of America	187
Revised Statutes for the United States of America, Title XIII, The Judiciary, Ch. 12, pg 141, Sec. 747	187
Revised Statutes of 1878	187
Revised Statutes of the United States of America, Second Edition, 1878, Wm. M Evarts Sec. of State	187
Sherman Antitrust Act	149
Social Security Act	113
Speedy Trial Act	54
Speedy Trial Act, 18 U.S.C. §3 161 et seq.	55
Statutes At Large	94, 187
Title 18	34
Title 18, U.S. Code	217
Title 26	128
Title 26, Internal Revenue Code	217
Title 28 U.S.C., Section 1746	216
Title 28 U.S.C., Section 1746, 2072, 2201	212
Title 28 U.S.C., Section 455	204, 212, 213, 215
Title 28, U.S.C. Section 1746	213
U.S. Statutes At Large	187
Uniform Commercial Code (UCC) §3-501	51
Uniform Commercial Code, Article 1-207	181
United States Statutes At Large, Vol. I, Section I, Ch. 20, pg. 92, 1789	186
United States v. Lopez, 514 U.S. 549, 115 S.Ct. 1624, 131 L.Ed.2d 626 (1995)	58
United States v. Martin, 147 F.3d 529 (7th Cir.1998)	58

Rules

F.R.C.P. Rule 9(h)	153
F.R.Cr.P 57	196
F.R.Cr.Pr. No. 15	129
F.R.Crim.Proc. 7(e)	33
Fed. R. Civ. Pr.	202
Fed.R.App.P. 22(b)(3)	168
Fed.R.Civ.P 60(a) or (b)	161
Fed.R.Cr. Evid. Rule 901	202
Fed.R.Cr.P. 11	64
Fed.R.Cr.P. Rule 11(c)(1)(C)	140
Fed.R.Cr.P.32	142
Fed.R.Cr.Pr. Rule 15	129

Fed.R.Cr.Proc. Rule 54(c)	196
Fed.R.Crim. P. 52(a)	157
Fed.R.Crim.P 11(c)(3).....	67
Fed.R.Crim.P 11(c)(l).....	64
Fed.R.Crim.P 11(e)	61
Fed.R.Crim.P 11(e)(l).....	66
Fed.R.Crim.P 7(f).....	88
Fed.R.Crim.P. 11	58, 62
Fed.R.Crim.P. 11(a)(2).....	64
Fed.R.Crim.P. 11(d)(2)(B)	61
Fed.R.Crim.P. 11(e)(6).....	66
Fed.R.Crim.P. 12(b)(3)(C)	83
Fed.R.Crim.P. 29.....	157
Fed.R.Crim.P. 35(a)	166
Fed.R.Crim.P. 41(h)	83
Fed.R.Crim.P. 52(b)	157
Fed.R.Crim.P. Rule 16(a)(2) and (3).....	90
Fed.R.Crim.P.11.....	67
Fed.R.Evid. 201.....	161
Fed.Rule Crim.Proc. 7(a)	138
Fed.Rule.Appellate Procedure 4(b)	30
Fed.Rule.Civ.Proc. 72-73	30
Fed.Rule.Crim.Proc 7	30
Fed.Rule.Crim.Proc. 10.....	30
Fed.Rule.Crim.Proc. 11	30
Fed.Rule.Crim.Proc. 12.....	30
Fed.Rule.Crim.Proc. 12(b)(3)(A)	30
Fed.Rule.Crim.Proc. 12(b)(3)(B)	30
Fed.Rule.Crim.Proc. 12(b)(3)(C)	30
Fed.Rule.Crim.Proc. 12(b)(3)(D) and 14	30
Fed.Rule.Crim.Proc. 12(b)(3)(E) and 16.....	30
Fed.Rule.Crim.Proc. 15.....	30
Fed.Rule.Crim.Proc. 16.....	30
Fed.Rule.Crim.Proc. 16(d)(1).....	30
Fed.Rule.Crim.Proc. 17.....	30
Fed.Rule.Crim.Proc. 17.1	30
Fed.Rule.Crim.Proc. 23-31.....	30
Fed.Rule.Crim.Proc. 32.....	30
Fed.Rule.Crim.Proc. 32(c)	30
Fed.Rule.Crim.Proc. 5.1	30
Fed.Rule.Crim.Proc. 9.....	30
Federal Rule of Criminal Procedure 4(d)(2).....	80
Federal Rule of Criminal Procedure 6(e)	31
Federal Rule of Criminal Procedure 7	32
Federal Rule of Criminal Procedure 7(f).....	49
Federal Rule of Evidence 410	66
Hearsay Rule, F.R.E. 802.....	94
Maritime Claims Rule E(8)	153

Cases

Abney v. United States, 431 U.S. 651, 52 L.Ed.2d 651, 97 S.Ct. 2034 (1977).....	154
Aetna Life Ins. Co. v. Lavoie, 475 U.S. 813, 106 S.Ct. 1580 (U.S.Ala.,1986)	130
Alderman v. United States, 394 U.S. 165, 22 L.Ed.2d 176, 89 S.Ct. 961 (1969).....	84
American Insurance Co. v. Canter, 26 U.S. (1 Pet.) 511, 545, 7 L.Ed. 242 (1828).....	126
Anders v. California, 386 U.S. 738, 18 L.Ed.2d 493, 87 S.Ct. 1396 (1967)	97
Andersen v. United States, 298 F.3d 804, 807 n.2 (9th Cir. 2002), cert.denied, 155 L.Ed.2d 666 (2003).....	157

Andrews v. State (1925) 196 Ind. 12, 146 N. E. 817.....	50
Apprendi v. New Jersey, 530 U.S. 466, 147 L.Ed.2d 435, 120 S.Ct. 2348 (2000)	54
Apprendi v. New Jersey, 530 U.S. 466, 490, 147 L.Ed.2d 435, 120 S.Ct. 2348 (2000)	139
Argersinger v. Hamlin, 407 U.S. 25 (1972)	38
Argersinger v. Hamlin, 407 U.S. 25, 37, 32 L.Ed.2d 530, 92 S.Ct. 2006 (1972).....	40
Argersinger v. Hamlin, 407 U.S. 25, 92 S.Ct. 2006, 32 L.Ed.2d 530 (1972).....	40
Arizona v. Fulminante, 111 S.Ct. 1246, 13 L.Ed.2d 302	196
Arsenault v. Massachusetts, 393 U.S. 5, 89 S.Ct. 35, 21 L.Ed.2d 5 (1968)	40
Avery v. Alabama, 308 U.S. 444, 446, 60 S.Ct. 321, 322, 84 L.Ed. 377 (1940).....	40
Backer v. U.S., 275 U.S. 141	185
Badaracco v. Commissioner, 464 U.S. 386, 104 S.Ct. 756, 78 L.Ed.2d 785 (1983).....	119
Bank of U.S. v. Planters Bank, 9 Wheaton (22 U.S.) 904, 906.....	208
Bankers Trust Co. v. Bethlehem Steel Corp., 761 F.2d 943 (3rd Cir. 1985).....	162
Barefoot v. Estelle, 463 U.S. 880, 893 n.4, 77 L.Ed.2d 1090, 103 S.Ct. 3383 (1983)	168
Barker v. Wingo, 407 U.S. 514, 33 L.Ed.2d 101, 92 S.Ct. 2182 (1972)	54
Barrows v. Jackson, 346 U.S. 249 (1953)	39
Bell v. Wolfish, 441 U.S. 520, 60 L.Ed.2d 447, 99 S.Ct. 1861 (1979)	68
Bellamy v. Cogdell, 974 F.2d 302 (2nd Cir. 1992)	99
Benjamin v. Fraser, 264 F.3d 175 (2nd Cir. 2001).....	69
Berends v. Butz, 357 F.Supp. 143 (1973)	37
Berger v. United States, 295 U.S. 78, 88, 79 L.Ed. 1314 55 S.Ct. 629 (1935).....	101
Bergmann v. United States, 689 F.2d 789, 792 (8th Cir.1982)	34
BeVier v. Hucal, 806 F.2d 123, 128 (7th Cir. 1986).....	86
Bigford v. Taylor, 834 F.2d 1213, 1218 (5th Cir. 1988)	86
Bivens v. Six Unknown Fed. Narcotics Agents, 403 U.S. 388, 29 L.Ed.2d 619, 622, 91 S.Ct. 1999 (1971)	75
Blakely v. Washington, 542 U.S. 296, 159 L.Ed.2d 403, 124 S.Ct. 2531, 2537 (2004)	139
Bland v. California Dep't of Corrections, 20 F.3d 1469 (9th Cir. 1994)	43
Board of Pardons v. Allen, 482 U.S. 369, 96 L. Ed.2d 303, 107 S.Ct. 2415 (1987)	76
Bockting v. Bayer, 399 F.3d 1010 (9th Cir. 2005).....	89
Booth v. Churner, 532 U.S. 731, 149 L.Ed.2d 958, 121 Sect. 1819 (2001)	174
Bordenkircher v. Hayes, 434 U.S. 357, 363-65, 54 L.Ed.2d 604, 98 S.Ct. 663 (1978).....	65
Bose Corp. v. Consumer's Union of United States, Inc., 466 U.S. 485, 80 L.Ed.2d 502, 104 S.Ct. 1949 (1984).....	158
Bouie v. Columbia, 378 U.S. 347 (1964).....	121
Bounds v. Smith, 430 U.S. 817, 52 L.Ed. 2d 72, 97 S.Ct. 1491 (1977)	69
Bounds v. Smith, 430 U.S. 817, 52 L.Ed.2d 72, 97 S.Ct. 1491 (1977)	70
Bounds v. Smith, 430 U.S. 817, 821, 52 L.Ed.2d 72, 97 S.Ct. 1491 (1977)	76
Bourdon v. Loughren, No.03-0196 (2nd Cir. 2005).....	69
Bowen v. State (1886) 108 Ind. 411, 9 N. E. 378.....	50
Boyd v. State of Nebraska, 143 U.S. 135 (1892)	148
Boyd v. U.S., 116 U.S. 616, 635 (1885).....	188
Boykin v. Alabama, 395 U.S. 238, 242-43, 23 L.Ed.2d 274, 89 S.Ct. 1709 (1969)	63
Bracey v. Gramley, 520 U.S. 899, 138 L.Ed.2d 97, 117 S.Ct. 1793 (1997).....	165
Bradley v. Fisher, 13 Wall. (80 U. S.) 335, 351, 20 L. Ed. 646	150
Brady v. Maryland, 373 U.S. 83, 10 L.Ed.2d 215, 83 S.Ct. 1194 (1963).....	84
Brady v. United States, 397 U.S. 742, 27 L.Ed.2d 747, 90 S.Ct 1463 (1970).....	63
Brady v. United States, 397 U.S. 742, 748, 24 L.Ed.2d 747, 90 S.Ct, 1463 (1970).....	167
Brady v. United States, 397 U.S. 742, at 748, 90 S.Ct. 1463, at 1468, 25 L.Ed.2d 747	40
Brady v. United States, 397 U.S., at 748, 90 S.Ct., at 1469, 25 L.Ed.2d 747.....	40
Branzburg v. Hayes, 408 U.S. 665, 687 n. 24, 92 S.Ct. 2646, 2659-60 n. 24, 33 L.Ed.2d 626 (1972)	33, 138
Brewer v. Williams, 430 U.S. 387, 398, 51 L.Ed.2d 424, 97 S.Ct. 1232 (1977).....	41
Bridgeman v. U.S., C.C.A.9 (Mont.) 1905, 140 F. 577, 72 C.C.A. 145.....	111
Bridges v. California, 314 U.S. 252, 289-290	206
Brotherhood of Railroad Trainmen v. Virginia State Bar, 377 U.S. 1, 84 S.Ct. 1113, reh den 377 U.S. 1625	189
Brouse v. United States, 68 F.2d 294, 296 (1st Cir. 1933).....	81
Brown v. Borg, 951 F.2d 1011 (9th Cir. 1991)	102
Brown v. Craven, 424 F.2d 1166, 1170 (9th Cir. 1970).....	43
Brown v. United States, 411 U.S. 223, 230, 93 S.Ct. 1565, 1569, 36 L.Ed.2d 208 (1973).....	39

Brown v. Vasquez, 952 F.2d 1164 (9th Cir. 1991), cert-denied, 503 U.S. 1011 (1992)	164
Budd v. People of State of New York, 143 U.S. 517 (1892).....	152
Buise v. Hudkins, 584 F.2d 223, 229 (7th Cir. 1978), cert.denied, 440 U.S. 916 (1979).....	76
Burns v. United States, 501 U.S. 129, 115 L.Ed.2d 123, 111 S.Ct. 2182 (1991)	141
Burton Swartz Land Corp. v. Commissioner, 198 F.2d 558, 560 (CA5 1952)	115
Busse v. C.I.R., 479 F.2d 1147, 1151	35
Butchers' Union Co. v. Crescent City Co., 111 U.S. 746 (1884).....	93
Byars v. United States, 273 U.S. 28, 71 L.Ed. 520, 47 S.Ct. 248 (1927)	83
California v. Taylor , 353 U.S. 553, 566 (1957).....	37
Campbell v. Wood, 18 F.3d 662 (9th Cir. 1994), cert.denied, 511 U.S. 1119 (1994).....	168
Campbell v. Wood, 18 F.3d 662, 672 (9th Cir. 1994), cert.denied, 128 L.Ed.2d 682 (1994)	48
Carey v. Piphus, 435 U.S. 247, 259-262, 266-267, 98 S.Ct. 1042, 1043, 1050-1052, 1053, 1054, 55 L.Ed.2d 252, (1978)125	
Carey v. PSI, 431 U.S. 678 (1977).....	39
Carlisle v. United States, 517 U.S. 416, 134 L.Ed.2d 613, 116 S.Ct. 1460, 1467 (1996)	173
Carlson, 235 F.3d at 470; Payne, 978 F.2d at 1179.....	79
Castro v. United States, 540 U.S. 375, 157 L.Ed.2d 778, 124 S.Ct. 786 (2003)	165
Chandler v. United States, 218 F.3d 1305 (11th Cir. 2000), cert.denied, 531 U.S. 1204, 149 L.Ed.2d 129, 121 S.Ct. 1217 (2001)	99
Chapman v. California, 386 U.S. 18, 17 L.Ed.2d 705, 87 S.Ct. 824 (1967)	88
Chappell v. United States, 494 U.S. 1075, 108 L.Ed.2d 931, 110 S.Ct. 1800 (1990)	99
Cheek v. U.S., 498 U.S. 192 (1991).....	121
Cheek v. United States, 498 U.S. 192, 202 (1991).....	117
Chicago ex rel. Cohen v. Keane, 64 Ill 2d 559, 2 Ill Dec 285, 357 NE2d 452.....	113
Chicago Park Dist. v. Kenroy, Inc., 78 Ill 2d 555, 37 Ill Dec 291, 402 NE2d 181	112
Chisholm v. Georgia, 2 Dall. (2 U.S.) 419, 1 L.Ed 440, 455 (1793).....	151
Chisholm v. Georgia, 2 U.S. (2 Dall.) 419, 1 L.Ed 440 (1793).....	150
Clearfield Trust Co. v. U.S., 318 US 363 (1943)	208
Coffin v. United States, 156 U.S. 432, 39 L.Ed. 481, 15 S.Ct. 394 (1895)	88
Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 93 L.Ed. 1528, 69 S.Ct. 1221 (1949)	155
Cohen v. United States, 378 F.Zd 751 (9th Cir. 1967).....	91
Coleman v. Calderon, 150 F.3d 1105 (9th Cir. 1998), rev'd on other grounds, 525 U.S. 141 (1998); cert.denied, 525 U.S. 1058 (1998).....	43
Coleman v. Thompson, 501 U.S. 722, 115 L.Ed.2d 640, 111 S.Ct. 2546 (1991)	96
College Savings Bank v. Florida Prepaid Postsecondary Education Expense, 527 U.S. 666 (1999).....	37
Collins, 783 F.2d at 1230-31	34
Com v. Davies, 1 Binn. (Pa.) 98.....	129
Commissioner v. American Assn. of Engineers Employment, Inc., 204 F.2d 19, 21 (CA7 1953)	115
Commissioner v. Lane-Wells Co., 321 U.S. 219 (1944).....	115
Commonwealth v. First Pennsylvania Overseas Finance Corp., 229 A.2d 896, 425 Pa. 143	207
Conde v. Henry, 198 F.3d 734, 741 (9th Cir. 1999).....	48
Cook v. Iverson, 122 N.W. 251.....	188
Cook v. United States, 354 F.2d 529, 531 (9th Cir. 1965)	82
Cooke v. United States, 267 U.S. 517, 537, 45 S.Ct. 390, 395, 69 L.Ed. 767.....	39
Cooke v. United States, 91 U.S. 389, 398 (1875).....	37
Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 400, 110 L.Ed.2d 359, 110 S.Ct. 2447 (1990)	159
Coppage v. Kansas, 236 U.S. 1	35
Cox v. Louisiana, 379 U.S. 559 (1965).....	121
Craig v. Boren, 429 U.S. 190 (1976).....	39
Crain v. United States, 162 U. S. 625, 16 Sup. Ct. 952, 40 L. Ed. 1097	50
Crandall v. Bunnell, 144 F.3d 1213, 1215-16 (9th Cir. 1998).....	48
Crawford v. Washington, 541 U.S. 36, 158 L.Ed.2d 177, 124 S.Ct. 1534 (2004)	89
Cruz v. Beto, 405 U.S. 319, 31 L.Ed.2d 263, 92 S.Ct. 1079 (1972).....	70
Cutts v. State, 54 Fla. 21, 23, 45 So. 491	39
Cuyler v. Sullivan, 446 U.S. 335, 345-50, 64 L.Ed.2d 333, 100 S.Ct. 1708 (1980)	41
Cuyler v. Sullivan, 446 U.S. 335, 349, 64 L.Ed.2d 333 100 S.Ct. 1708 (1980).....	43
Cuyler v. Sullivan, 446 U.S. 335, 64 L.Ed.2d 333, 100 S.Ct. 1708 (1980).....	62
David v. United States, 411 U.S. 233, 36 L.Ed.2d 208, 93 S.Ct. 1565 (1973).....	164

Davis v. Keohane, 835 F.2d 1147, 1 148,(6th.Cir. 1987).....	174
Davis v. Massachusetts, 167 U.S. 43.....	35
Davis v. United States, 417 U.S. 333, 343, 41 L.Ed.2d 109, 94 S.Ct. 2298 (1974)	163
Dayton Bronze Bearing Co. v. Gilligan, 281 F. 709, 712 (CA6 1922)	115
DeCoursey v. Cox, 94 Cal. 665, 669, 30 P. 95.....	150
Dennis v. U.S., 341 U.S. 494	185
Denton v. Hernandez, 504 U.S. 25, 118 L.Ed.2d 340, 112 S.Ct. 1728 (1992).....	70
DiPetto, 936 F.2d at 97.....	79
Disney v. Com. (Ky.) 5 S. W. 360	50
Dodd v. United States, (04-5286) 545 U.S. 353, 365 F.3d 1273, affirmed, 162 L.Ed.2d 343, 125 S.Ct. 2478, 2482-83, (2005).....	165
Doganieri v. United States, 914 F.2d 165, 169-70, (9th Cir. 1990).....	171
Doggett v. United States, 505 U.S. 647, 655, 120 L.Ed.2d 520, 112 S.Ct. 2686 (1992).....	54
Doi v. Halekulani Corp., 276 F.3d 1131, 1140 (9th Cir. 2002).....	98
Donnell v. United States, 229 F.2d 560, 563-65 (5th Cir. 1956).....	81
Donnelly v. DeChristoforo, 416 U.S. 637, 40 L.Ed.2d 431, 94 S.Ct. 1868 (1986)	102
Door v. U.S., 195 U.S. 138.....	208
Dorszynski v. United States, 418 U.S. 424, 431 n.7, 41 L.Ed.2d 855 94 S.Ct. 3042 (1974)	139
Duke Power v. CESGI, 438 U.S. 59 (1978).....	39
Dunne v. Keohane, 14 F.3d 335, 336-37 (7th Cir. 1994), cert-denied, 511 U.S. 1149 (1994).....	172
Dupasseeur v. Rochereau, 21 Wall. 130-138 (1874).....	190
Ellis v. United States, 206 U.S. 246; 27 S.Ct. 600 (1907).....	37
Erie R. Co. v. Tompkins, 304 U.S. 64 (1938)	208
Erie Railroad v. Tompkins, 304 U.S. 64 (1938).....	185
Estelle v. Gamble, 429 U.S. 97, 104, 50 L.Ed.2d 251, 97 S.Ct. 285, 291 (1976)	75
Estelle v. Smith, 451 U.S. 454, 68 L.Ed.2d 359, 101 S.Ct. 1866 (1981)	139
Estelle v. Williams. 425 U.S. 507, 48 L.Ed.2d 126, 96 S.Ct. 1691 (1976)	89
Evans v. Gore, 253 U.S. 245	126
Evans v. Gore, 253 U.S. 245, 40 S.Ct. 550, 64 L.Ed. 887 (1920)	131
Everson v. Bd. of Ed., 330 U.S. 1, 15 (1947).....	148
Evitts v. Lucey, 469 U.S. 387, 83 L.Ed.2d 821, 105 S.Ct. 830 (1985).....	41, 96
Ex parte Bain, 121 U.S. 1, 30 L.Ed. 849, 7 S.Ct. 781 (1887).....	82
Ex parte Chin Loy You (D.C.) 223 F. 833, 838,	39
Ex parte First Alabama Bank of Montgomery, N.A., 461 So.2d 1315.....	207
Ex parte Riggins (C.C.A.) 134 F. 404, 418,	39
Ex parte Wilson, 114 U.S. 417, 424, 5 S.Ct. 935, 938, 29 L.Ed. 89 (1885).....	33
Fahy v. State of Conn., 375 U.S. 85, 11 L.Ed.2d 171, 84 S.Ct. 229 (1963).....	84
Faretta v. California, 422 U.S. 806.....	39
Faretta v. California, 422 U.S. 806, 816, 95 S.Ct. 2525 (1976)	185
Faretta v. California, 422 U.S. 806, 835, 45 L.Ed.2d 562, 95 S.Ct. 2525, 2541 (1975).....	47
Fay v. Noia, 372 U.S. 391, 40 1-402, 9 L.Ed.2d 837, 83 S.Ct. 822 (1963).....	171
Felker v. Turpin, 518 U.S. 651, 135 L.Ed.2d 827, 116 S.Ct. 2333 (1996).....	167
Fellers v. United States, 540 U.S. 519, 157 L.Ed.2d 1016, 124 S.Ct. 1019 (2004).....	47, 88
Felts v. Estelle, 875 F.2d 785 (9th Cir. 1989)	89
Felts v. Murphy, 201 U.S. 123, 129, 26 S.Ct. 366, 50 L.Ed. 689.....	39
Fierro v, Gomez, 77 F.3d 301, 305 (9th Cir. 1998).....	164
Finestone, 816 F.2d at 589	80
Firestone Tire & Rubber Co. v. Risjord, 449 U.S. 368, 374, 66 L.Ed.2d 271, 101 S.Ct. 669 (1981)	155
Flanagan v. United States, 465 U.S. 259, 265, 79 L.Ed.Zd 288, 104 S.Ct. 1051 (1984).....	155
Flora v. United States, 362 U.S. 145, 80 S.Ct. 630 (1960).....	207
Fontaine v. United States, 411 U.S. 213, 36 L.Ed.2d 169, 93 S.Ct. 1461 (1973).....	168
Francis v. Henderson, 425 U.S. 536, 48 L.Ed.2d 149, 96 S.Ct. 1708 (1976).....	164
Frank v. Mangum, 237 U.S. 309, 344, 35 S.Ct. 582, 59 L.Ed. 969.....	39
Frazer v. United States, 18 F.3d 778 (9th Cir. 1994).....	42
Frazer v. United States, 18 F.3d 778, 779 (9th Cir. 1994).....	96
Friends of Yosemite Valley v. Norton, 348 F.3d 789 (9th Cir. 2003).....	160
Frisbie v. Collins, 342 U.S. 519, 96 L.Ed. 541, 72 S.Ct. 509 (1952)	87

Frisbie v. United States, 157 U.S. 160, 165 (1894).....	49
Georgia Dep't of Human Resources v. Sistrunk, 249 Ga 543, 291 SE2d 524	112
Georgia v. Randolph, 547 U.S. 103, 164 L.Ed.2d 208, 126 S.Ct. 1515 (2006).....	86
Gerstein v. Pugh, 420 U.S. 103, 43 L.Ed.2d 54, 95 S.Ct. 854 (1975)	56
Gibbs v. King, 779 F.2d 1040 (5th Cir. 1986), cert.denied, 476 U.S. 1117 (1986).....	70
Gibson v. Berryhill, 411 U.S. 564, 579, 93 S.Ct. 1689, 1698, 36 L.Ed.2d 488 (1973)	125
Gideon v. Wainwright, 372 U.S. 335 (1963).....	39
Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963)	40
Gideon v. Wainwright, 372 U.S. 335, 9 L.Ed.2d 799, 83 S.Ct. 792 (1963)	41
Giglio v. United States, 405 U.S. 150, 31 L.Ed.2d 104, 92 S.Ct. 763 (1972)	90
Gilmore v. Lynch, 319 F.Supp. 105 (N.D. Cal 1970)	70
Girard Investment Co. v. Commissioner, 122 F.2d at 848	115
Glasser v. U.S., 315 U.S. 60, 76 (1942)	39
Glasser v. United States, 315 U.S. 60, 69-70, 62 S.Ct. 457, 464-465, 86 L.Ed. 680 (1942)	40
Glazar v. Hubbard, 102 Ky. 68, 69, 42 S. W. 1114, 39 L. R. A. 210, 80 Am. St. Rep. 340	150
Glidden v. Zdanok, 370 U.S. 530 (1962)	125, 126
Glidden v. Zdanok, 370 U.S. 530, 8 L.Ed.2d 671, 82 S.Ct. 1459	202
Glidden v. Zdanok, 82 S.Ct. 1459, 370 U.S. 530, 9 L.Ed.2d 93	130, 196
Godinez v. Moran, 509 U.S. 389, 125 L.Ed.2d 321, 113 S.Ct. 2680 (1993).....	66
Goldberg v. Kelly, 397 U.S. 254, 271 (1970)	129, 180, 207
Goldberg v. United States, 425 U.S. 94, 47 L.Ed.2d 603, 96 S.Ct. 1338 (1976)	90
Graeter v. State (1876) 54 Ind. 159	50
Gregg v. United States, 394 U.S. 489, 492, 22 L.Ed.2d 442, 89 S.Ct. 1134 (1969).....	142
Griffin v. Illinois, 100 L Ed 891, 351 U.S. 12, 76 S Ct 585, 55 ALR 2nd 1055 (1965).....	51
Grunewald v. United States, 353 U.S. 391, 397 (1957)	80
Gulf, C. & S. F. R. Co. v. Ellis, 165 U.S. 150 (1897)	149
Haines v. Kerner, 404 U.S. 519, 30 L.Ed.2d 652, 92 S.Ct. 594 (1972).....	62
Hamilton v. United States, 67 E.3d 761, 763-64 (9th Cir. 1995)	165
Harris v. Nelson, 394 U.S. 286, 291, 22 L.Ed.2d 281, 89 S.Ct. 1082 (1969).....	171
Harris v. Nelson, 394 U.S. 286, 300, 22 L.Ed.2d 281, 89 S.Ct. 1082 (1969).....	165
Hatfield v. Bailleax, 290 F.2d 632,(640-41 (9th Cir. 1961)	68
Hatfield v. State (1894) 9 Ind. App. 296, 36 N. E. 664	50
Hatfried, Inc. v. Commissioner, 162 F.2d at 633-635	115
Hatter v. U.S., 953 F.2d 626 (1992)	130
Hayburn's Case, 2 Dall. 409 (1792)	38
Hayburn's Case, 2 Dall., 409 (1792).....	196
Haywood Lumber & Mining Co. v. Commissioner, 178 F.2d at 771	115
Heflin v. United States, 358 U.S. 415, 417, 3 L.Ed.2d 407, 79 S.Ct. 451 (1959)	163
Helvering v. Mitchell, 303 U.S. 391, 58 S.Ct. 630 (1938)	207
Hemphill v. Orloff, 48 S.Ct. 577, 277 U.S. 537, 72 L.Ed. 978	208
Henderson v. Morgan, 426 U.S. 637, 645-46, 49 L.Ed.2d 108, 96 S.Ct. 2253, 2257-58 (1976).....	62
Henna v. New York, 423 U.S. 61, 46 L.Ed.2d 195, 96 S.Ct. 241 (1975).....	64
Henry v. Mississippi, 379 U.S. 443, 451, 13 L.Ed.2d 408, 85 S.Ct. 564 (1965).....	45
Hewitt v. Helms, 459 U.S. 460, 468, 72 L.Ed.2d 675, 103 S.Ct. 864, 869 (1983).....	76
Hickman v. Taylor, 329 U.S. 495, 91 L.Ed. 451, 67 S.Ct. 385 (1947).....	90
Hicks v. Oklahoma, 447 U.S. 343, 347, 65 L.Ed.2d 175, 100 S.Ct. 2227 (1980)	146
Hicks v. State (1887) 111 Ind. 402, 12 N. E. 522.....	50
Higley v. C.I.R., 69 F.2d 160, 162, 163 (8thCir 1934).....	35
Hill v. Lockhart, 474 U.S. 52, 88 L.Ed.2d 203, 106 S.Ct 366 (1985)	62
Hill v. United States, 368 U.S. 424, 427, 7 L.Ed.2d 417, 82 S.Ct. 468 (1962)	163, 171
Hirabayashi v. United States, 828 F.2d 591, 604 (9th Cir. 1987).....	173
Holloway v. Arkansas, 435 U.S. 475, 482, 55 L.Ed.2d 426, 98 S.Ct. 1173 (1978)	41
Holt v. United States, 218 U.S. 245, 54 L.Ed. 1021, 31 S.Ct. 2 (1910)	88
Hopt v. People, 110 U.S. 574, 28 L.Ed. 262, 4 S.Ct. 202 (1884).....	41
Hoptowit v. Ray, 682 F.2d 1237, 1246 (9th Cir. 1982).....	76
Hoptowit v. Spellman, 753 F.2d 779 (9th Cir. 1985).....	76
Hugi v. U.S., 164 F.3d 378 (C.A.7 (Ill.),1999)	58

Hugi v. United States, 164 F.3d 378, 380 (7th Cir.1999).....	56
Hull v. Celanese Corp., et al., 513 F.2d 568 (1975).....	209
Hunt v. Dental Department, 865 F.2d 198 (9th Cir. 1989).....	75
Hurtado v. California, 110 U.S. 516, 4 S.Ct. 111, 28 L.Ed. 232 (1884).....	33
Hutchinson v. United States, 838 F.2d 390, 394 (9th Cir. 1988).....	75
Hyde v. United States, 225 U.S. 347, 369-70 (1912).....	80
In Re Assarsson, 687 F.2d 1157, 1162 (8th Cir. 1982).....	80
In re Claasen, 140 U.S. 200, 206, 11 S.Ct. 735, 737, 35 L.Ed. 409 (1891).....	33
In re Gault, 87 S.Ct. 1428, 1435.....	38
In Re Merriam's Estate, 36 N.E. 505, 141 N.Y. 479.....	207
In re Murchison, 349 U.S. 133, 136, 75 S.Ct. 623, 625, 99 L.Ed. 942 (1955).....	125
In re Murchison, 349 U.S. 133, 75 S.Ct. 623, 99 L.Ed. 942 (1955).....	180
In Re. Gubelman, 10 F.2d 926.....	34
In re. Murchison, 349 U.S. 133, 136 (1955).....	130
Indiana State Ethics Comm'n v. Nelson (Ind App) 656 NE2d 1172.....	113
Inmates of Allegheny County Jail v. Pierce, 612 F.2d 754 (3rd Cir. 1979).....	68
INS v. St. Cyr, 533 U.S. 289, 150 L.Ed.2d 347, 121 S.Ct. 2271, 2282 n.25 (2001).....	171
INS v. St. Cyr, 533 U.S. 289, 150 L.Ed.2d 347, 121 S.Ct. 2271, 2282-83 (2001).....	172
Iowa v. Tovar, 541 U.S. 77, 158 L.Ed.2d 209, 124 S.Ct. 1379 (2004).....	48, 88
Jaben v. United States, 381 U.S. 214, 219 (1965).....	81
Jackson v. Ylst, 921 F.2d 882 (9th Cir. 1990).....	47
James v. Campbell, 104 U.S. 356.....	208
Javor v. United States, 724 F.2d 831, 834 (9th Cir. 1984).....	41
Jeffers v. Lewis, 38 F.3d 411 (9th Cir. 1994).....	103
Jencks v. United States, 353 U.S. 657, 1 L.Ed.2d 1103, 77 S.Ct. 1007 (1957).....	90
Jersey City v. Hague, 18 NJ 584, 115 A2d 8.....	112
Jhirad v. Ferrandina, 486 F.2d 442, 444-45 (2d Cir. 1973).....	81
Johnson v. Avery, 393 U.S. 483, 21 L.Ed.2d 718, 89 S.Ct. 747 (1969).....	69
Johnson v. Avery, 393 U.S. 483, 80 S.Ct. 747, 755 (1969).....	187
Johnson v. U. S., C.A.8 (Mo.) 1969, 410 F.2d 38, certiorari denied 90 S.Ct. 63, 396 U.S. 822, 24 L.Ed.2d 72.....	108
Johnson v. United States, 520 U.S. 461, 137 L.Ed.2d 718, 117 S.Ct. 1544 (1997).....	157
Johnson v. United States, 544 U.S. 295, 161 L.Ed.2d 542, 125 S.Ct. 1571, 1580 (2005).....	167
Johnson v. Zerbst, 304 U.S. 458 (1938).....	39
Johnson v. Zerbst, 304 U.S. 458, 464 (1938).....	129
Johnson v. Zerbst, 304 U.S. 458, 464, 82 L.Ed. 1461, 58 S.Ct. 1019 (1938).....	62
Johnson v. Zerbst, 304 U.S. 458, 82 L.Ed. 1461, 58 S.Ct. 1019 (1938).....	47, 89
Joint Anti-Fascist Committee v. McGrath, 341 U.S. 123, 172, 71 S.Ct. 624, 649, 95 L.Ed. 817 (1951).....	125
Jones v. Barnes, 463 U.S. 745, 751, 77 L.Ed.2d 987, 103 S.Ct. 3308 (1983).....	45
Jones v. Johnson, 781 F.2d 769, 771 (9th Cir. 1986).....	75
Jones v. United States, 362 U.S. 257, 4 L.Ed.2d 697, 80 S.Ct. 725 (1960).....	84
Jones v. United States, 526 U.S. 227, 143 L.Ed.2d 311, 119 S.Ct. 1215 (1999).....	52
Juodakis, 834 F.2d at 1102.....	80
Juodakis, 834 F.2d at 1102-03.....	80
Kanar v. United States, 118 F.3d 527, 529-30 (7th Cir.1997).....	58
Kansas v. Colorado, 206 U.S. 46.....	208
Kansas v. Colorado, et al. Defendants, and the United States, Intervenor, 200 U.S. 46, (1906).....	185
Katz v. United States, 389 U.S. 347, 19 L.Ed.2d 576, 88 S.Ct. 507 (1967).....	86
Kelley v. State of Oregon, 273 U.S. 589, 591, 47 S.Ct. 504, 71 L.Ed. 790.....	39
Kercher v. U.S., C.A.8 (Mo.) 1969, 409 F.2d 814.....	110
Kercheval v. United States, 274 U.S. 220, 224, 71 L.Ed. ,1009, 47 S.Ct. 582 (1927).....	61
Kimmelman v. Morrison, 477 U.S. 365, 91 L.Ed.2d 305, 106 S.Ct. 2574 (1986).....	98
Kimmelman v. Morrison, 477 U.S. 365, 91 L.Ed.2d 305, 308 106 S.Ct. 2574 (1986).....	99
Kingsley v. United States Bureau of Prisons, 937 F.2d 26, 30 n.5 (2nd Cir. 1991).....	172
Knight v. United States, 611 F.2d 918, 921 (1st Cir. 1979).....	168
Knowlton v. Moore, 178 U.S. 41.....	35
Koehler v. US, 379 F. Supp. 532.....	189
Koon v. United States, 518 U.S. 81, 135 L.Ed.2d 392, 116 S.Ct. 2035 (1996).....	140

Koscielski v. State, 158 N.E. 902, 903 (Ind. 1927)	50
Kotteakos v. United States, 328 U.S. 750, 90 L.Ed. 1557, 66 S.Ct. 1239 (1946)	157
Krasn, 614 F.2d at 1236	80
Kurzrok v. U.S., C.C.A.8 (Okla.) 1924, 1 F.2d 209	110
Kyles v. Whitley, 514 U.S. 419, 131 L.Ed.2d 490, 115 S.Ct. 1555 (1995).....	85
La Fever v. United States, 279 F.2d 833, 834 (7th Cir.1960).....	58
Ladner v. United States, 358 U.S. 169, 178, 3 L.Ed.2d 199, 79 S.Ct. 209 (1958), affirmed 503 U.S. 291 (1992)	147
Laing v. U.S., 96 S.Ct. 473 (1976)	207
Lambright v. Stewart, 220 F.3d 1022 (9th Cir. 2000)	168
Lambright v. Stewart, 220 F.3d 1022, 1028 n.6 (9th Cir. 2000)	99
Lash, 937 F.2d at 1083	80
Lassiter v. Dep't of Soc. Services, 452 U.S. 18, 24, 68 L.Ed.2d 640, 101 S.Ct. 2153 (1981)	146
Lavender v. Kurn, 327 U.S. 645, 90 L.Ed. 916, 66 S.Ct. 740 (1946).....	159
Lewis v. Case, 518 U.S. 343, 135 L.Ed.2d 606, 116 S.Ct. 2174 (1996)	69
Lewis v. Casey, 518 U.S. 343, 135 L.Ed.2d 606, 116 S.Ct. 2174 (1996)	70
Lindh v. Murphy, 521 U.S. 320, 336, 138 L.Ed.2d 481, 117 S.Ct. 2059 (1997).....	167
Link v. Wabash R. Co., 370 U.S. 626, 634, 8 L.Ed. 2d 734, 82 S.Ct. 1386 (1962)	45
Long v. S., 65 A.2d 489 (Del.1949)	121
Lord et al. v. Kelley et al, Civ. A. 63-932, 240 F. Supp 167 at page 169, (USDC 9th CKT 1965).....	206
Lord v. Kelley, 240 F. Supp 167 (USDC 9thCir. 1965).....	180
Louisville v. Schmidt, 177 U.S. 230	189
Lowe v. United States, 923 F.2d 528, 528-30 (7th Cir. 1991), cert.denied, 500 U.S. 937 (1991)	168
Lurk v. U.S., 370 U.S. 530, 82 S.Ct. 1459, 8 L.Ed.2d 671.....	38
Lurk v. U.S., 82 S.Ct. 1459, 370 U.S. 530, 8 L.Ed.2d 671	196
Mabry v. Johnson, 467 U.S. 504, 81 L.Ed.2d 437, 104 S.Ct. 2543 (1984)	66
Mackin v. United States, 117 U.S. 348, 350, 6 S.Ct. 777, 778, 29 L.Ed. 909 (1886)	33
Madlener v. Finley (1st Dist) 161 Ill App 3d 796, 113 Ill Dec 712, 515 NE2d 697	112
Malloy v. Hogan, 378 U.S. 1, 10 (1964).....	185
Manning v. Ketcham, 58 F.2d 948 (1932)	150
Mapp v. Ohio, 367 U.S. 643, 6 L.Ed.2d 1081, 81 S.Ct. 1684 (1961).....	86
Marbury v. Madison, 5 U.S. (Cranch) 137, 174, 176 (1803)	188
Marbury v. Madison, 5 U.S. 137, 174, 176 (1803).....	189
Marchant, 774 F.2d at 892.....	80
Marshall v. Jerrico, Inc., 446 U.S. 238, 100 S.Ct. 1610 (U.S.Dist.Col.,1980)	125
Martin v. Mott, 12 Wheat (25 U.S.) 19, 6 L.Ed. 537 (1827).....	38
Martin v. Mott, 12 Wheat. (25 U.S.) 19, 6 L.Ed. 537 (1827)	196
Martin v. State, 51 Ga. 567, 568.....	39
Massachusetts v. Mellon, 262 U.S. 447, 488, 43 S.Ct. 597, 67 L.Ed. 1078.....	127
Mathews v. Eldridge, 424 U.S. 319, 344, 96 S.Ct. 893, 907, 47 L.Ed.2d 18 (1976).....	125
Mayberry v. Pennsylvania, 400 U.S. 455, 91 S.Ct. 499, 27 L.Ed.2d 532 (1971).....	125
McCandless v. United States, 298 U.S. 342, 347, 56 S.Ct. 764, 766, 80 L.Ed. 1205	39
McCarthy v. United States, 394 U.S. 459, 466, 89 S.Ct. 1166, 1170-1171, 22 L.Ed.2d 418 (1969)	40
McCarthy v. United States, 894 U.S. 459 22 L.Ed.2d 418, 89 S.Ct. 1166 (1969)	64
McCoy v. U. S., C.C.A.9 (Mont.) 1948, 169 F.2d 776, certiorari denied 69 S.Ct. 298,335 U.S. 898, 93 L.Ed. 433	109
McCulloch v. Maryland, 4 Wheaton 17 U.S. 316 (1819).....	185
McGowan v. Maryland, 366 U.S. 420, 429-430, 81 S.Ct. 1101, 1106-1108, 6 L.Ed.2d 393 (1961).....	39
McGowen v. United States, 105 F.2d 791, 792 (D.C. Cir. 1939).....	80
McJunkins v. State (1858) 10 Ind. 140.....	50
McKinney v. DeBord, 507 F.2d 501 (9th Cir. 1974)	68, 69
McMann v. Richardson, 397 U.S. 759 (1970).....	40
McMann v. Richardson, 397 U.S. 759, 25 L.Ed. 2d 763, 90 S.Ct. 1441 (1970)	64
McMann v. Richardson, 397 U.S. 759, 771 n.14, 25 L.Ed.2d 763, 90 S.Ct. 1441 (1970)	41
Menefield v. Borg, 881 F.2d 696, 698 (9th Cir. 1989).....	41
Midland Asphalt Corp. v. United States, 489 U.S. 794, 799, 103 L.Ed.2d 879, 109 S.Ct. 1494 (1989).....	155
Miller v. Standard Nut Margarine, 284 U.S. 498, 508 (1932).....	35
Miller v. State (1901) 26 Ind. App. 152, 59 N. E. 287	50
Miranda v. Arizona, 384 U.S. 436 (1966)	128, 187

Miranda v. Arizona, 384 U.S. 436, 16 L.Ed.2d 694, 86 S.Ct. 1602 (1966)	84
Miranda v. Arizona, 384 U.S. 436, 491.....	129, 177
Mitchell v. United States, 434 F.2d 483 (D.C. Cir. 1970).....	91
Mitchell v. United States, 526 U.S. 314, 143 L.Ed.2d 424, 119 S.Ct. 1307 (1999).....	139
Monterey Technical Co., v. Wilson, 125 F.3d 702, 705 (9th Cir. 1997).....	160
Moran v. Godinez, 57 F.3d 690 (9th Cir. 1994).....	63
Moran v. Godinez, 57 F.3d 690 (9th Cir. 1994), cert.denied, 516 U.S. 976 (1995)	40
Morello v. James, 810 F.2d 344 (2nd Cir. 1987).....	76
Moss v. United States, 323 F.3d 445 (6th Cir. 2003), cert.denied, 124 S.Ct. 303 (2003)	88
Murray v. United States, 487 U.S. 533, 101 L.Ed.2d 472, 108 S.Ct. 2529 (1988).....	86
NAACP v. Button, 371 U.S. 415, 83 S.Ct. 328.....	189
Nardone v. United States 308 U.S. 338, 84 L.Ed. 307, 60 S. Ct. 266 (1939).....	86
Neder v. United States, 527 U.S. 1, 144 L.Ed.2d 35, 119 S.Ct. 1827 (1999).....	54
Neitzke v. Williams, 490 U.S. 319, 104 L.Ed.2d 338, 109 S.Ct. 1827 (1989).....	70
New York v. Hill, 528 U.S. 110, 145 L.Ed.2d 560, 120 S.Ct. 659 (2000).....	55
New York v. Hill, 528 U.S. 110, 145 L.Ed.2d 560, 562, 120 S.Ct. 659 (2000).....	45
Norris v. Baltimore, 172 M.D. 667, 192 A. 531.....	189
North Carolina v. Alford, 400 U.S. 25, 31, 27 L.Ed.2d 162, 91 S.Ct. 160 (1970).....	63
Northern Pipeline Constr. Co. v. Marathon Pipeline Co., 458 U.S. 50 (1982).....	127
Noyd v. Bond, 395 U.S. 683, 693-699, 23 L.Ed.2d 631, 89 S.Ct. 1876 (1969)	172
Occhino v. United States, 686 F.2d 1302 (8th Cir. 1982)	68
O'Donoghue v. U.S., 289 U.S. 516 (1933).....	126, 127
O'Donoghue v. United States, 289 U.S. 516, 53 S.Ct. 740, 77 L.Ed. 1356 (1933)	126
Ohio v. Roberts, 448 U.S. 56, 65 L.Ed.2d 597, 100 S.Ct. 2531 (1980)	89
Olano v. United States, 507 U.S. 725, 732-37, 123 L.Ed.2d 508, 113 S.Ct. 1770 (1993).....	157
Olmstead v. United States, 277 U.S. 438, 478 (1928).....	152
Orient Investment & Finance Co. v. Commissioner, 83 U.S.App.D.C. at 75, 166 F.2d at 603.....	115
Orthopedic Hospital v. Belshe, 103 F.3d 1491, 1495 (9th Cir. 1997), cert.denied, 522 U.S. 1044 (1998).....	160
Osborne v. United States, 371 F.2d 913 (9th Cir. 1967)	91
Pacemaker Diagnostic Clinic of America v. Instromedix, Inc., 725 F.2d 537 (1984).....	207
Packard v. Banton, 264 U.S. 140.....	35
Paradis v. Arave, 130 F.3d 385, 390 (9th Cir. 1997).....	168
Parr v. United States, 351 U.S. 513, 518, 100 L.Ed. 1377, 76 S.Ct. 912 (1956).....	155
Pate v. Robinson, 383 U.S. 375, 15 L.Ed.2d 815, 86 S.Ct. 836 (1966).....	66
Patterson, at 864; Taylor v. Kincheloe, 920 F.2d 599, 604 (9th Cir. 1990).....	64
Patton v. United States, 281 U.S. 276, 292, 50 S.Ct. 253, 256, 74 L.Ed. 854, 70 A.L.R. 263	39
Paulson v. U.S. Secretary of the Treasury, CA 4-82-598E (1983) U.S.D.C., Ft Worth, Texas	181, 205
Paulson v. U.S. Secretary of the Treasury, CA 4-82-598E (D.C.N.D.Tex.FT.Worth 1983).....	123
Paulson v. U.S. Secretary of Treasury, 4-82-598E.....	209
Peguero v. United States, 526 U.S. 23, 143 L.Ed.2d 18, 119 S.Ct. 961 (1999)	62
Peguero v. United States, 526 U.S. 23, 24, 143 L.Ed.2d 18, 119 S.Ct. 961 (1999)	48, 99
Pennsylvania v. Finley, 481 U.S. 551, 95 L.Ed.2d 539, 107 S.Ct. 1990 (1987).....	96
Penson v. Ohio, 488 U.S. 75, 84, 102 L.Ed.2d 300, 109 S.Ct. 346 (1988)	40
Penson v. Ohio, 488 U.S. 75, 88, 102 L.Ed.2d 300, 109 S.Ct. 346 (1988)	41
People v. Naphthaly, 105 Cal. 641, 644, 39 P. 29.....	39
Percy v. U.S., 294 US 330-381, 79 L.Ed. 912 (1935).....	207
Perry v. United States, supra at 352 (1935).....	37
Peters v. Kiff, 407 U.S. 501 (1972).....	130
Petition of Karas, 17 N.Y.S.2d 958, 960, 173 Misc. 353 (1940).....	36
Peyton v. Rowe, 391 U.S. 54, 65-67, 20 L.Ed.2d 426, 88 S.Ct. 1549 (1968)	171
Phillips, 843 F.2d at 442-43	79
Pickering v. Board of Education, 391 U.S. 563, 578-579, n. 2, 88 S.Ct. 1731, 1739-1740, 20 L.Ed.2d 811 (1968).....	125
Plumlee v. Del Papa, 426 F.3d 1095, 1103 (9th Cir. 2005).....	97
Porter v. Nussle, 534 U.S. 516, 152 L.Ed.2d 12, 122 S.Ct. 983 (2002)	174
Powe v. U.S., (C.C.A.Ala.) 109 F.2d 147, 149 (1940).....	36
Powell v. Alabama, 287 U.S. 45	189
Powell v. Alabama, 287 U.S. 45 (287 U.S. 45, 53 S.Ct. 55 (1932).....	39

Powell v. Alabama, 287 U.S. 45, 57, 53 S.Ct. 55, 59-60, 77 L.Ed. 158 (1932)	40
Powell v. Alabama, 287 U.S. 45, 77 L.Ed. 158, 53 S.Ct. 55 (1932)	40
PPCM v. Danforth, 428 U.S. 52, (1976)	39
Prell v. McDonald, 7 Kan. 266, 283, 12 Am. Rep. 423.....	150
Pritchard v. State (1920) 190 Ind. 49, 127 N. E. 545	50
Providence Bank v. Billings, 29 U.S. 514 (1830)	151
Pullman-Standard v. Swint, 456 U.S. 273, 287, 72 L.Ed.2d 66, 102 S.Ct. 1781 (1982).....	159
Rabinowitz et al v. Kennedy, 376 U.S. 605, 11 L.Ed.2d 940, 84 S.Ct. 919	209
Rakas v. Illinois, 439 U.S. 128, 58 L.Ed.2d 387, 99 S.Ct. 421 (1978).....	84, 86
Read, 658 F.2d at 1233.....	80
Read, 658 F.2d at 1236.....	80
Redfield v. Fisher, 292 P. 813	35
Reece v. Georgia, 350 U.S. 85, 90, 76 S.Ct. 167, 170, 100 L.Ed. 77 (1955)	40
Reed v. Parley, 512 U.S. 339, 350, 354, 129 L.Ed.2d 277, 114 S.Ct. 2291 (1994).....	163
Reimer v. U.S., 90-1 USTC (USDC 9th Cir Hawaii).....	36
Reno v. American-Arab Anti- Discrimination Committee, 525 U.S. 471, 142 L.Ed.2d 940, 119 S.Ct. 936 (1999).....	172
Reno v. Koray, 515 U.S. 50, 52-55 n.1, 132 L.Ed.2d 46, 115 S.Ct. 2021 (1995)	171
Reynolds v. Cochran, 365 U.S. 525, 81 S.Ct. 723.....	189
Rhines v. Weber, 544 U.S. 269, 161 L.Ed.2d 440, 125 S.Ct. 1528, 1533-34 (2005).....	167
Rice v. Wood, 77 F.3d 1138, 1141 (9th Cir. 1996)(en banc), cert.denied, 519 U.S. 873 (1996)	44
Rice v. Wood, 77 F.3d 1138, 1141 (9th Cir. 1996)(en bane), cert.denied, 519 U.S. 873 (1996)	48
Riley v. Deeds, 56 F.3d 1117 (9th Cir. 1995)	43
Rizzo v. Dawson, 778 F.2d 527 (9th Cir. 1985).....	76
Roberts v. United States, 445 U.S. 552, 63 L.Ed.2d 622, 100 S.Ct. 1358 (1980)	139
Robin v. Hardaway, 1 Jefferson 109 (1772).....	188
Rockey v. State (1862) 19 Ind. 225	50
Rose v. Clark, 478 U.S. 570, 577, 92 L.Ed.2d 460, 106 S.Ct. 3101 (1986)	43
Ross v. Moffitt, 417 U.S. 600, 41 L.Ed.2d 341, 94 S.Ct. 2437 (1974).....	96
Russell v. U.S., 369 U.S. 749, 765 (1961).....	35
Russell v. United States, 369 U.S. 749, 763-65, 8 L.Ed.2d 240, 82 S.Ct. 1038 (1962).....	52
Russell v. United States, 369 U.S. 749, 8 L.Ed.2d 240, 82 S.Ct. 1038 (1962).....	82
Sabo v. State (1926) 197 Ind. 210, 150 N. E. 103	50
Sands v. Lewis, 886 F.2d 1166 (9th Cir. 1989).....	76
Santobello v. New York, 404 U.S. 257, 262, 30 L.Ed.2d 427, 92 S.Ct. 495 (1971)	63
Santobello v. New York, 404 U.S. 257, 30 L.Ed.2d 427, 92 S.Ct. 495 (1971)	144
Satterwhite v. Texas, 486 U.S. 249, 100 L.Ed.2d 284, 108 S.Ct. 1792 (1988)	41
Savage v. Estelle, 908 F.2d 508 (9th Cir. 1990), opinion amended and superseded, 924 F.2d 1459 (9th Cir. 1990)	47
Schell v. Witek, 218 F.3d 1017, 1024-25 (9th Cir. 2000) (en banc)	48
Schlup v. Delo, 513 U.S. 298, 130 L.Ed.2d 808, 115 S.Ct. 851 (1995).....	100
Scott v. Illinois, 440 U.S. 367, 99 S.Ct. 1158 (U.S.Ill.,1979)	40
Seagraves v. Wallace, 69 F.2d 163.....	35
Seminole Tribe of Fla. v. Florida, 517 U.S. 44 (1996).....	37
Shaw v. Murphy, 532 U.S. 223, 149 L.Ed.2d 420, 121 S.Ct. 1475 (2001)	70
Sheppard v. State, 165 Ga. 460, 464, 141 S.E. 196.....	39
Silva v. Woodford, 279 F.3d 825 (9th Cir. 2002).....	98
Silverthorne Lumber Co. v. United States, 251 U.S. 385, 64 L.Ed. 319, 40 S.Ct. 182 (1920).....	86
Simmons v. U.S., 390 U.S. 389 (1968)	189
Simmons v. United States, 390 U.S. 377, 19 L.Ed.2d 1247, 88 S.Ct. 967 (1968)	84
Sims v. Ahrens, 271 S.W. 720	35
Siripongs v. Calderon, 133 F.3d 732 (9th Cir. 1998)	98
Slack v. McDaniel, 529 U.S. 473, 478, 146 L.Ed.2d 542, 120 S.Ct. 1595 (2000)	168
Slote v. Bd of Examiners, 274 NY 367; 2 NE 2d 12.....	188
Smith v. Ayer, 101 U.S. 320, 326, 25 L.Ed. 955 (1880)	45
Smith v. Maryland, 442 U.S. 735, 61 L.Ed.2d 220, 99 S.Ct. 2577 (1979).....	86
Smith v. Stewart, 140 F.3d 1263, 1268-69 (9th Cir. 1998) ; cert.denied. 525 U.S. 929 (1998)	43
Snyder v. Massachusetts, 291 U.S. 97, 116, 54 S.Ct. 330, 336, 78 L.Ed. 674, 90 A.L.R. 575	39
Snyder v. Massachusetts, 291 U.S. 97, 78 L.Ed 674, 54 S.Ct. 330 (1934)	89

Solem v. Helm, 463 U.S. 277, 77 L.Ed.2d 637, 103 S.Ct. 3001 (1983).....	139
Solsbee v. Balkom, 339 U.S. 9, 16 (1949)	180, 207
Sommers v. Flint, 355 Mich 655, 96 NW2d 119.....	208
Sparf v. U.S., 156 U.S. 51, 15 S.Ct. 173 (1895).....	131
Spatola v. United States, 925 F.2d 615, 617-19 (2nd Cir. 1991).....	172
Speiser, Krause & Madole P.C. v. Ortiz, 271 F.3d 884, 887 (9th Cir. 2001).....	160
Spies v. United States, 317 U.S. 492, 499 (1943)	79
Spreckles Sugar Ref. v. McClain, 192 U.S. 397	35
Springer v. Government of Philippine Islands, 277 U.S. 189, 201, 48 S.Ct. 480, 72 L.Ed. 845	126
Stack v. Boyle, 342 U.S. 1, 4-5, 96 L.Ed. 3, 72 S.Ct. 1 (1951).....	56
Stack v. Boyle, 342 U.S. 1, 96 L.Ed.2d 3, 72 S.Ct. 1(1951)	154
State ex rel. Egan v. Wolever, 127 Ind. 306, 26 N. E. 762, 763	150
State ex rel. Nagle v. Sullivan, 98 Mont 425, 40 P2d 995, 99 ALR 321	112
State v. Acton, 109 N.J.L. 34, 160 A. 217 (N.J.Sup. 1932)	50
State v. Bell, 2 Mart. N.S. (La.) 683.....	129
State v. Brennan, 83 N. J. Law, 12, 84 A. 1066, 1067	50
State v. Briggs, 58 W.Va. 291, 292, 52 S.E. 218.....	39
State v. Clarkson, 3 Ala. 378, 383	49
State v. Ferris, 16 La. Ann. 414.....	39
State v. Moore, 61 Kan. 732, 734, 60 P. 748.....	39
State v. Pruitt, Mo., 169 S.W.2d 399, 400.....	147, 154
State v. Simpson, 38 La. Ann. 23, 24	39
Staton v. United States, 685 F.2d 117 (4th Cir.1982).....	34
Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 118 S.Ct. 1003, 1009-12, 140 L.Ed.2d 210 (1998)	58
Stein v. Wood, 127 F.3d 1187 (9th Cir. 1997)	157
Stewart v. Martinez-Villareal, 523 U.S. 637, 140 L.Ed.2d 849, 118 S.Ct. 1618 (1998)	167
Stirone v. United States, 361 U.S. 212, 215-216 (1960)	33
Stirone v. United States, 361 U.S. 212, 4 L.Ed.2d 252, 80 S.Ct. 270 (1960).....	53
Storseth v. Spellman, 654 F.2d 1349 (9th Cir. 1981).....	69, 70
Storseth v. Spellman, 654 F.2d 1349, 1352 (9th Cir. 1981).....	76
Strickland v. Washington, 466 U.S. 668, 686, 80 L.Ed.2d 674, 104 S.Ct. 2052 (1984)	96
Strickland v. Washington, 466 U.S. 668, 80 L.Ed.2d 674, 104 S.Ct. 2052 (1984)	63
Strickland v. Washington, 466 U.S. 688, 691, 80 L.Ed.2d 674, 104 S.Ct. 2052 (1984)	98
Strickler v. Greene, 527 U.S. 263, 144 L.Ed.2.d 286, 119 S.Ct. 1936 (1999).....	85
Struck v. United States, 412 U.S. 434, 439-40, 37 L.Ed.2d 56, 93 S.Ct. 2260 (1973).....	54
Summerlin v. Schriro, 427 F.3d 623 (9th Cir. 2005).....	98
Tatum v. Christensen, 786 F.2d 959, 963 n.4 (9th Cir. 1986).....	62
Taylor v. Hayes, 418 U.S. 488, 501-503, 94 S.Ct. 2697, 2704-2705, 41 L.Ed.2d 897 (1974).....	125
Taylor v. Illinois, 484 U.S. 400, 417-18, 98 L.Ed.2d 798, 108 S.Ct. 646 (1988).....	45
Teague v. Lane, 489 U.S. 288, 103 L.Ed.2d 334, 109 S.Ct. 1060 (1989)	89
Telink Inc. v. United States, 24 F.3d 42, 45 (9th Cir. 1994)	173
Templeton v. I.R.S., 86-1363 (7th Cir 1985) No. 85-C-457	36
Territory v. Gonzales, 13 N. M. 97, 79 Pac. 705.....	50
The Antelope, 23 U.S. 66; 10 Wheat 66, 6 L.Ed. 268 (1825)	35
Tindall v. State (1880) 71 Ind. 314.....	50
Toussaint v. McCarthx, 801 F.2d 1080, 1098 (9th Cir. 1986), denied, 481 U.S. 1069 (1987)	76
Toussie v. United States, 397 U.S. 112, 115 (1970).....	77
Townsend v. Burke, 334 U.S. 736, 741, 92 L.Ed. 1690, 68 S.Ct. 1252 (1948).....	139
Tripathi v. Herman, 843 F.2d 1160, 1163 (9th Cir. 1988), cert.denied, 488 U.S. 982 (1988)	167
Truesdell v. Combs, 33 Ohio St. 186, 194	150
Tumey v. Ohio, 273 U.S. 510 (1927).....	129, 179
Tumey v. Ohio, 273 U.S. 510, 532, 47 S.Ct. 437, 444, 71 L.Ed. 749 (1927).....	125
Tumey v. Ohio, 273 U.S. 510, 535, 47 S.Ct. 437, 445, 71 L.Ed. 749, 50 A.L.R. 1243	39
Turner v. Safley, 482 U.S. 78, 96 L.Ed.2d 64, 107 S.Ct. 2254 (1987).....	70
Tutun v. United States, 270 U.S. 568, 578, 46 S.Ct. 425, 427, 70 L.Ed. 738.....	36
U. S. v. Buckley, C.A.5 (Miss.) 1978, 586 F.2d 498, rehearing denied 589 F.2d 1114, certiorari denied 99 S.Ct. 1792, 440 U.S. 982, 60 L.Ed.2d 242	114

U. S. v. Computer Sciences Corp., C.A.4 (Va.) 1982, 689 F.2d 1181, certiorari denied 103 S.Ct. 729, 459 U.S. 1105, 74 L.Ed.2d 953.....	110
U. S. v. Cooperative Grain & Supply Co., C.A.8(Neb.) 1973, 476 F.2d 47.....	108
U. S. v. Gorman, C.A.7 (Ill.) 1968, 393 F.2d 209, certiorari denied 89S.Ct. 102, 393 U.S. 832, 21 L.Ed.2d 103, rehearing denied 89 S.Ct. 1738, 395 U.S. 917, 23 L.Ed.2d 231.....	114
U. S. v. Klein,S.D.N.Y.1977, 438 F.Supp. 485.....	114
U. S. v. Mignon, E.D.Pa.1952, 103 F.Supp. 20.....	109
U. S. v. Miller, C.A.9 (Cal.) 1976, 545 F.2d 1204, certiorari denied 97 S.Ct. 1549, 430 U.S. 930, 51 L.Ed.2d 774.....	110
U. S. v. Miller,C.A.9 (Cal.) 1976, 545 F.2d 1204, certiorari denied 97 S.Ct. 1549, 430 U.S. 930, 51 L.Ed.2d 774.....	108
U. S. v. Precision Medical Laboratories, Inc., C.A.2 (N.Y.) 1978, 593 F.2d 434.....	108
U.S. ex. rel. Toth v. Quarles, (App.D.C.1955), 350 U.S. 11.....	130
U.S. v. Arthur, SA 87-CR-242 (D.C. San.Ant.Tex 1989).....	123
U.S. v. Ballard, CR 4-86-129 (1986) U.S.D.C. Ft. Worth, Texas.....	180, 204, 205
U.S. v. Ballard, CR 4-86-129 (DC N.D.Tex. Ft.Worth 1986).....	122
U.S. v. Barker, C.A.9 (Cal.) 1991, 967 F.2d 1275.....	108
U.S. v. Barker, C.A.9 (Cal.) 1991,967 F.2d 1275.....	109
U.S. v. Beuttenmuller,C.A.5 (Tex.) 1994, 29 F.3d 973.....	105
U.S. v. Branker, C.A.2 (N.Y.) 1968, 395 F.2d 881, certiorari denied 89 S.Ct. 639, 393 U.S.1029, 21 L.Ed.2d 573.....	110
U.S. v. Butler, 279 U.S. 1 (1936).....	188
U.S. v. Caldwell, Case #14,708, 2 Dall. 333, 25 Fed. Case. pg. 238.....	127
U.S. v. Caldwell, Case 14706, 2 Dall. 333, 25 Fed. Case 238.....	209
U.S. v. Christensen, D.Utah 2004, 344 F.Supp.2d 1294.....	114
U.S. v. Conforte, 624 F.2d 869, 871-872.....	130
U.S. v. Cooper Corp., 312 U.S. 600, 85 L.Ed 1071, 61 S.Ct 742.....	208
U.S. v. Cronic, 466 U.S. 649 (1983).....	39
U.S. v. Cruikshank, 92 U.S. 542, 558 (1876).....	35
U.S. v. Deisch 20 F.3d 139 (5th Cir. 1994).....	138
U.S. v. Deisch, 20 F.3d 139 (C.A.5 (Miss.),1994).....	33
U.S. v. Dinitz, 538 F.2d 1214 (CA 5 Fla. 1976).....	189
U.S. v. Dougherty, 473 F.2d 1113, 1139 (1972).....	132
U.S. v. Downey, D.C.R.I.1919, 257 F. 366.....	110
U.S. v. Erie Railway Co., 106 U.S. 327 (1882).....	208
U.S. v. Ferguson, C.A.7 (Ind.) 1986, 793 F.2d 828, certiorari denied 107 S.Ct. 406, 479 U.S. 933, 93L.Ed.2d 358.....	110
U.S. v. Ferguson, S.D.Ind.1985, 615 F.Supp. 8, affirmed 793 F.2d 828, certiorari denied 107 S.Ct. 406, 479 U.S. 933, 93 L.Ed.2d 358.....	111
U.S. v. Ferriera, 13 (54 U.S.) How 40, 14 L.Ed. 42 (1851).....	38
U.S. v. Ferriera, 13 (54 U.S.) How. 40, 14 L.Ed. 42 (1851).....	196
U.S. v. Gaddis, C.A.7 (Ind.) 1989, 877 F.2d 605, 108 A.L.R. Fed. 363.....	105
U.S. v. Hashimoto, 878 F.2d 1126 (9thCir. 1989).....	132
U.S. v. James William Arthur, SA 87-CR-242 (1989), U.S.D.C., San Antonio, Texas.....	180, 205
U.S. v. Jobe, C.A.5 (Tex.) 1996, 101 F.3d1046, certiorari denied 118 S.Ct. 81, 522 U.S. 823, 139 L.Ed.2d 39.....	104
U.S. v. Johnson, 76 F. Supp. 538 (1947).....	29
U.S. v. Kahl, 583 F.2d 1351, 1356.....	35
U.S. v. Lloyd, C.A.8 (S.D.) 2000, 205F.3d 1348.....	111
U.S. v. McBride, C.A.6(Ohio) 2004, 362 F.3d 360, rehearing en banc denied.....	109
U.S. v. Merriam, 263 U.S. 179, 187, 188.....	35
U.S. v. Moylan, 417 F.2d 1002, 1006 (1969).....	132
U.S. v. Perkins, 16 S.Ct.1073, 163 U.S. 625, 41 L.Ed. 287.....	207
U.S. v. Peterson, 550 F.2d 379 (7th Cir 1977).....	185
U.S. v. Pinckney, C.A.2 (N.Y.) 1996, 85 F.3d 4.....	104
U.S. v. Prudden, 424 F.2d 1021 (5th Cir. 1970).....	31
U.S. v. Sciuto, 531 F.2d 842 (1976).....	130, 179
U.S. v. Slater, 545 F.Supp. 179 (D.C.Del., 1982).....	36
U.S. v. Stockheimer, 385 F.Supp 979 (W.D. Wis. 1975).....	185
U.S. v. Sutton, 819 F.2d 1289 (5th Cir. 1987).....	34
U.S. v. Tarlowski, 305 F.Supp. 112 (D.C.N.Y. 1969).....	40
U.S. v. Tarlowski, 69-2 USTC, 1969 Standard Federal Tax Reports, 9554.....	185

U.S. v. Thompson, D.C.Conn. 1964, 230 F.Supp. 530, affirmed 338 F.2d 997	114
U.S. v. Turano, CR 84-295-Z (USDC Distr. of Mass. 1985)	207
U.S. v. Tweel, 550 F.2d 297, 299 (5th Cir. 1977)	31
U.S. v. Updike, 281 U.S. 489	35
U.S. v. White, C.A.11 (Fla.) 1985, 765 F.2d 1469	110
U.S. v. Whitesel, 543 F.2d 1176 (CA 6th Cir. 1976)	185
U.S. v. Wiley, 503 F.2d 106 (8thCir1974)	131
U.S. v. Wiley, 503 F.2d 106 (8thCir1974), Westlaw Headnotes.....	132
U.S. v. Will, 449 U.S. 217 (1980)	206
U.S. v. Will, 449 U.S. 217, 218 (1980)	129
U.S. v. Wilson, 3 Blatchf. 435 (1856)	34
U.S. v. Woodley, 726 F.2d 1328 (9th Cir. 1983)	126
United Mine Workers of America v. Illinois State Bar Association, 88 S.Ct 353 (1967).....	189
United States of America, Plaintiff, v. Peter Hendrickson, Case No. 08-20585, Eastern District of Michigan	136
United States v. Hanoum, 33 F.3d 1128 (9th Cir. 1994)	99
United States v. Taylor, 648 F.2d 565, 572 (9th Cir. 1991)	99
United States v. Addonizio, 442 U.S. 178, 185, 60 L.Ed.2d 805, 99 S.Ct. 2235 (1979).....	163
United States v. Adelzo-Gonzalez, 268 F.3d 772, 776 n.1 (9th Cir, 2001)	43
United States v. Agurs, 427 U.S. 97, 49 L.Ed.2d 342, 96 S.Ct. 2392 (1976).....	85
United States v. Allen, 153 F.3d 1037, 1041-42 (9th Cir. 1998), cert.denied, 525 U.S. 1170 (1999).....	41
United States v. Ameline, 409 F.3d 1073 (9th Cir. 2005)	140, 146
United States v. Ameline, 409 F.3d 1073, 1105 n.3 (9th Cir. 2005)	162
United States v. Anderson, 574 F.2d 1347 (5th Cir. 1978)	85
United States v. Anderson, 850 F.2d 563 (9th Cir. 1988)	100
United States v. Anderson, 993 F.2d 1435 (9th Cir. 1993)	66
United States v. Annigoni, 68 F.3d 279 (9th Cir. 1995).....	43
United States v. Antonakopoulos, 399 F.3d 68, 81 (1st Cir. 2005)	141
United States v. Aracri, 968 F.2d 1512, 1517 (2d Cir. 1992).....	80
United States v. Armstrong, 517 U.S. 456, 464, 134 L.Ed.2d 687, 116 S.Ct. 1480 (1996)	53
United States v. Arzate-Nunez, 18 F.3d 730 (9th Cir. 1994)	64
United States v. Auranndt, 15 N.M. 292, 107 P. 1064 (N.M.Terr. 1910)	50
United States v. Balough, 820 F.2d 1485, 1487 (9th Cir. 1987)	47
United States v. Bancalari, 110 F.3d 1125, 1428 (9th Cir. 1997).....	157
United States v. Baramdyka, 95 F.3d 840, 844 (9th Cir. 1996), cert.denied, 520 U.S.	67
United States v. Barber, 881 F.2d 345, 348 (7th Cir. 1989), cert. denied, 495 U.S. 922 (1990).....	173
United States v. Barsanti, 943 F.2d 428, 437 (4th Cir. 1991).....	80
United States v. Bates, 917 F.2d 388, 395 (9th Cir. 1990).....	161
United States v. Bigman, 906 F.2d 392, 394 (9th Cir. 1990)	62
United States v. Booker, 543 U.S. 220, 160 L.Ed.2d 621, 125 S.Ct. 738 (2005).....	139
United States v. Borelli, 336 F.2d 376, 385 (2d Cir. 1964).....	80
United States v. Bostwick, 94 U.S. 53, 66 (1877).....	37
United States v. Boyd, 610 F.2d 521, 528 (8th Cir. 1979)	80
United States v. Boylan (CA1 Mass) 898 F2d 230, 29 Fed Rules Evid Serv 1223.....	112
United States v. Boyle, 469 U.S. 241, 250-01 (1985)	93, 115
United States v. Bratcher, 833 F.2d 69 (6th Cir. 1987)	55
United States v. Brown, 985 F.2d 478, 482 (9th Cir. 1993).....	140, 142
United States v. Bruce, 976 F.2d 552 (9th Cir. 1992)	66
United States v. Brunetti, 615 F.2d 899, 901 (10th Cir. 1980).....	80
United States v. Bunez, 223 F.3d 956, 959 (9th Cir. 2000), cert.denied, 534 U.S. 921 (2001).....	61
United States v. Burr, 309 U.S. 242	208
United States v. Caldwell, Case #14, 708, 2 Dall. 333, 25 Fed. Cas. pg. 238	179
United States v. Caperell, 938 F.2d 975 (9th Cir. 1991)	82
United States v. Caperell, 938 F.2d 975, 977 (9th Cir. 1991)	65, 157
United States v. Carlson, 235 F.3d 466, 470 (9th Cir. 2000)	79
United States v. Caro, 997 F.2d 657 (9th Cir. 1993).....	66
United States v. Castle, 906 F.2d 134 (5th Cir. 1990).....	55
United States v. Cheek, 3 F.3d 1057 (7th Cir. 1993), cert. denied, 114 S. Ct. 1055 (1994).....	117

United States v. Cole, 403 F.3d 764, 768 (6th Cir. 2005)	140
United States v. Collorafì, 876 F.2d 303, 305 (2d Cir. 1989).....	116
United States v. Cook, 938 F.2d 149 (9th Cir. 1991)	140, 142
United States v. Cotton, 535 U.S. 625, 152 L.Ed.2d 860, 122 S.Ct. 1781 (2002).....	157
United States v. Crawford, 982 F.2d 199 (6th Cir. 1992).....	55
United States v. Cronic, 466 U.S. 648, 80 L.Ed.2d 657, 140 S.Ct. 2039 (1984).....	97
United States v. Cronic, 466 U.S. 648, 80 L.Ed.2d.657, 140 S.Ct. 2039 (1984).....	97
United States v. Cross, 928 F.2d 1030 (11th Cir. 1991).....	103
United States v. Cyrus, 890 F.2d 1245, 1247 (D.C. Cir. 1989).....	99
United States v. Cyrus, 890 F.2d 1245, 1247 (D.C.Cir.1989).....	166
United States v. Dack, 987 F.2d 1282, 1285 (7th Cir. 1993)	116
United States v. D'Amore, 56 F.3d 1202 (9th Cir. 1995)	43
United States v. Dandy, 998 F.2d 1344, 1355 (6th Cir. 1993)	79
United States v. Daniel, 956 F.2d 540, 543 (6th Cir. 1992)	115
United States v. Davis, 410 F.3d 1122 (9th Cir. 2005)(amending 410 F.3d 1122)	62
United States v. DeClue, 899 F.2d 1465 (6th Cir. 1990).....	115
United States v. Deeb, 944 F.2d 545, 548 (9th Cir. 1991)	164
United States v. Del Muro, 87 F.3d 1078 (9th Cir. 1996)	41, 142
United States v. Dhinsa, 243 F.3d 635, 669 (2d Cir.2001).....	33
United States v. DiPetto, 936 F.2d 96, 97 (2d Cir. 1991).....	79
United States v. Du Bo, 186 F.3d 1177, 1179 (9th Cir. 1999)	54
United States v. Fagan, 996 F.2d 1009 (9th Cir. 1993).....	43
United States v. Falcone, U.S.N.Y. 1940, 61 S.Ct.204, 311 U.S. 205, 85 L.Ed. 128.....	104
United States v. Fernandez, 443 F.3d 19, 34 (2d Cir. 2006)	146
United States v. Ferris, 807 F.2d 269, 271 (1st Cir. 1986).....	79
United States v. Finestone, 816 F.2d 583, 589 (11th Cir. 1987)	80
United States v. Finlay, 55 F.3d 1410 (9th Cir. 1995), cert.denied, 516 U.S. 871 (1995).....	41
United States v. Finley, 301 F.3d 1000,1007 (9th Cir. 2002).....	161
United States v. Floyd, 108 F.3d 202, 203-04 (9th Cir. 1997)	64
United States v. Floyd, 428 F.3d 513 (3d. Cir. 2005).....	146
United States v. Folak, 865 F.2d 110, 113 (7th Cir. 1988).....	173
United States v. Foreman, 329 F.3d 1037, 1039 (9th Cir. 2003).....	64
United States v. Frady, 456 U.S. 152, 71 L.Ed.2d 816, 102 S.Ct. 1584 (1982)	102, 164
United States v. Fruehauf, 577 F.2d 1038, 1070 (6th Cir. 1978)	80
United States v. Gamez-Orduno, 235 F.3d 453 (9th Cir. 2000)	86
United States v. Garcia-Sanchez, 189 F.3d 1143, 1147 (9th Cir. 1999).....	98
United States v. Gastelum, 16 F.3d 996 (9th Cir. 1994)	65
United States v. Gaumer, 972 F.2d 723, 725 (6th Cir. 1992).....	118
United States v. George, 85 F.3d 1433, 1438 (9th Cir. 1.996).....	43
United States v. George, 85 F.3d 1433, 1439 (9th Cir. 1996).....	48
United States v. Ginsberg, 243 U.S. 472, 37 S.Ct. 422, 61 L.Ed. 853	36
United States v. Gonzalez, 113 F.3d 1026, 1028-29 (9th Cir. 1997).....	43
United States v. Gonzalez, 300 F.3d 1048 (9th Cir. 2002).....	86
United States v. Gonzalez, 797 F.2d 915, 917 (10th Cir. 1986).....	80
United States v. Gonzalez-Lopez, No.03-3487 (8th Cir. 2005)	41
United States v. Goodwin, 457 U.S. 368, 73 L.Ed.2d 74, 102 S.Ct. 2485 (1982).....	65
United States v. Goodyear, 649 F.2d 226 (4th Cir. 1981)	77, 79
United States v. Grayson, 438 U.S. 41, 57 L.Ed.Zd 582, 98 S.Ct. 2610 (1978).....	139
United States v. Green, 757 F.2d 116, 123-24 (7th Cir. 1985).....	115
United States v. Greever, 134 F.3d 777, 780-81 (6th Cir. 1998).....	81
United States v. Griffin, 617 F.2d 1342 (9th Cir. 1980).....	103
United States v. Habig, 390 U.S. 222, 223 (1968)	78
United States v. Harper, 901 F.2d 471, 472-73 (5th Cir. 1990)	164, 167
United States v. Hashimoto, 878 F. 2d 1135, (9th Cir. 1989)	179, 206
United States v. Hayman, 342 U.S. 205, 212-214, 96 L.Ed.2d 232, 72 S.Ct. 263 (1952).....	163
United States v. Henderson, 241 F.3d 638, 646 (9th Cir. 2000).....	161
United States v. Hernandez, 203 F.3d 614 (9th Cir. 2000).....	48

United States v. Holzer (CA7 Ill) 816 F2d 304.....	112
United States v. Houtchens, 926 F.2d 824, 828 (9th Cir. 1991).....	99
United States v. Howard, 894 F.2d 1085, 1090 (9th Cir. 1990).....	146
United States v. Hoyland, 264 F.2d 346, 352-53 (7th Cir.1959).....	58
United States v. Hunerlach, 197 F.3d 1059, 1065 (11th Cir. 1999).....	79
United States v. Hyde, 520 U.S. 670, 674-78, 137 L.Ed.2d 935, 117 S.Ct. 1630 (1997).....	65
United States v. Hyde, 52d U.S. 670, 674-78, 137 L.Ed.2d 935, 937, 117 S.Ct. 1630 (1997).....	61
United States v. Jannoti, 729 F.2d 213, 221 (3d Cir. 1984).....	80
United States v. Jaramillo-Suarez, 857 F.2d 1368 (9th Cir. 1988).....	64
United States v. Jimenez, 440 F.3d 514 (1st Cir. 2006).....	147
United States v. Jimenez-Medina, 173 F.3d 752, 754 (9th Cir. 1999).....	160
United States v. Johnson, 187 F.3d 1129, 1135-36 (9th Cir. 1999).....	67
United States v. Johnson, 187 F.3d1 129, 1135-36 (9th Cir. 1999).....	61
United States v. Juodakis, 834 F.2d 1099, 1103 (1st Cir. 1987).....	80
United States v. Kahl, 583 F.2d 1351, 1355 (5th Cir. 1978).....	138
United States v. Kahl, 583 F.2d 1351, 1355 (5th Cir.1978).....	33
United States v. Kamer, 781 F.2d 1380 (9th Cir. 1986).....	89
United States v. Kamer, 781 F.Zd 1380 (9th Cir. 1986).....	61
United States v. Kelley, 539 F.2d 1199 (9th Cir. 1976).....	46
United States v. Kelly, 864 F.2d 569, 574 (7th Cir. 1989).....	78
United States v. Kimbrew, 406 F.3d 1149, 1152 (9th Cir. 2005).....	146
United States v. Krasn, 614 F.2d 1229, 1236 (9th Cir. 1980).....	80
United States v. Kroll, 547 F2d 393, 395396 (CA7 1977).....	115
United States v. Lane, 474 U.S. 438, 444-45, 88 L.Ed.2d 814, 106 S.Ct. 725 (1986).....	157
United States v. Lanier, on certiorari No. 95-1717.....	51, 153
United States v. Lash, 937 F.2d 1077, 1083 (6th Cir. 1991).....	80
United States v. Leahy, 438 F.3d 328 (3rd Cir. 2006).....	143
United States v. Longoria, 113 F.3d 975, 977 (9th Cir. 1997).....	67
United States v. Lopez, 219 F.3d 343 (4th Cir. 2000).....	84
United States v. Lopez, 514 U.S. 549, 131 L.Ed.2d 695, 115 S.Ct. 1624 (1995).....	82
United States v. Lopez-Alvarez, 970 F.2d 583, 588 (9th Cir. 1992), cert.denied, 506 U.S. 989 (1992).....	157
United States v. Lorenzo, 995 F.2d 1448 (9th Cir. 1993). cert.denied, 510 U.S. 881 (1993).....	161
United States v. Lowder, 492 F.2d 953, 955-56 (4th Cir. 1974).....	80
United States v. Ludwig, 508 F.2d 140 (10th Cir. 1974).....	103
United States v. Mack, 362 F.3d 597 (9th Cir. 2004).....	47
United States v. Maken, 510 F.3d 654 (6th Cir. 2007).....	135
United States v. Mantilla, 870 F.2d 549 (9th Cir. 1989), amended, 907 F.2d 115 (9th Cir. 1990).....	65
United States v. Marchant, 774 F.2d 888, 892 (8th Cir. 1985).....	80
United States v. Marrinson, 832 F.2d 1465, 1475-76 (7th Cir. 1987).....	78
United States v. Marshall, 856 F.2d 896, 897-900 (7th Cir. 1988).....	81
United States v. Martin, 278 F.3d 988, 1001 (9th Cir. 2002).....	161
United States v. Matta-Ballesteros,7 1 F.3d 754 (9th Cir 1995).....	87
United States v. Mayer, 235 U.S. 55, 69, 59 L.Ed.2d 129, 35 S.Ct. 16 (1912).....	173
United States v. McClintock, 748 F.2d 1278 (9th Cir. 1984).....	85
United States v. McConney, 728 F.2d 1195, 1201 (9th Cir. 1984); cert.denied, 469 U.S. 824 (1984).....	160
United States v. McKoy, 78 F.3d 446 (9th Cir. 1996).....	90
United States v. Mena, 925 F.2d 354, 355 (9th Cir. 1991).....	146
United States v. Menyweather, 431 F.3d 692 (9th Cir. 2005).....	146
United States v. Menyweather, 431 F.3d 692, 700 (9th Cir. 2005).....	144
United States v. Mett, 65 F.3d 1531 (9th Cir. 1995).....	42
United States v. Mett, 65 F.3d 1531, 1534 (9th Cir. 1995), cert.denied, 519 U.S. 870 (1996).....	41
United States v. Mezzanatto, 513 U.S. 196, 130 L.Ed.2d 697, 115 S.Ct. 797 (1995).....	66
United States v. Michaelian, 803 F.2d 1042 (9th Cir. 1986).....	86
United States v. Miller, 471 U.S. 130, 134-35, 85 L.Ed.2d 99, 105 S.Ct. S8ll (1985).....	52
United States v. Miquel, 111 F.3d 666 (9th Cir. 1997).....	43
United States v. MMR Corp., 907 F.2d 489, 501 (5th Cir. 1990).....	80
United States v. Moody, 778 F.2d 1380 (9th Cir. 1985), opinion amended, 791 F.2d 707 (9th Cir. 1986).....	90

United States v. Moore, 159 F.3d 1154, 1158 (9th Cir. 1998)	43
United States v. Moreland, 258 U.S. 433, 42 S.Ct. 368, 66 L.Ed. 700 (1922)	33
United States v. Morgan, 346 U.S. 502, 512, 98 L.Ed.2d 248, 72 S.Ct. 247 (1954)	173
United States v. Najjor, 255 F.3d 979, 983 (9th Cir. 2001), cert.denied, 536 U.S. 961 (2002)	157
United States v. Nordby, 225 F.3d 1053, 1059 (9th Cir. 2000)	41
United States v. Norman, 767 F.2d 455, 456 (8th Cir. 1985)	167
United States v. Nunez, 223 F.3d 956, 959 (9th Cir. 2000), cert.denied, 534 U.S. 921 (2001)	43
United States v. Oaxaca, 233 F.3d 1154 (9th Cir. 2000)	85
United States v. Odedo, 154 F.3d 937, 940 (9th Cir. 1998)	67
United States v. O'Neal, 834 F.2d 862, 865 (9th Cir. 1987)	81
United States v. Onimex, Inc., 991 F.2d 546, 551 (9th Cir. 1993)	41
United States v. Ono, 997 F.2d 651 (9th Cir. 1993)	43
United States v. Ortiz-Hernandez, 427 F.3d 567, 574 (9th Cir. 2005)	86
United States v. Parker, 439F.3d 81 (2nd Cir. 2006)	45
United States v. Parnell, 581 F.2d 1374, 1384 (10th Cir. 1978)	80
United States v. Partida-Parra, 859 F.2d 629, 631-34 (9th Cir. 1988)	64
United States v. Patterson, 381 F.3d 859 (9th Cir. 2004)	64
United States v. Payden, 613 F.Supp. 800 (S.D.N.Y. 1985)	82
United States v. Payne, 978 F.2d 1177, 1179 (10th Cir. 1992)	79
United States v. Pinto, 838 F.2d 426, 435 (10th Cir. 1988)	80
United States v. Popoola, 881 F.2d 811, 812-13 (9th Cir. 1989)	164
United States v. Poschwatta, 829 F.2d 1477, 1483 (9th Cir. 1987), cert. denied, 484 U.S. 1064 (1988)	115
United States v. Powell, 955 F.2d 1206, 1215 (9th Cir. 1992)	118
United States v. Quintero-Barraza, 78 F.3d 1344 (9th Cir. 1995), cert. denied, 519 U.S. 848 (1996)	41
United States v. R.L.C., 915 F.2d 320, 325 (8th Cir. 1990)	147
United States v. Ramirez- Sandoval, 872 F.-2d 1392 (9th Cir. 1989)	86
United States v. Ranum, 353 F.Supp.2d 984, 987 (E.D.Wis.2005)	144
United States v. Read, 658 F.2d 1225, 1234 (7th Cir. 1981)	80
United States v. Reyes-Platero, 224 F.3d 1112, 1114-15 (9th Cir. 2000), cert.denied, 531 U.S. 1117 (2001)	64
United States v. Robinson, 967 F.2d 287 (9th Cir. 1992)	100
United States v. Rodriquez, 360 F.3d 949, 958 (9th Cir. 2004)	82
United States v. Rogers, 209 F.3d 139 (2nd Cir. 2000)	42
United States v. Romero, 692 F.2d 699 (10th Cir. 1982)	86
United States v. Ruiz, 536 U.S. 622, 153 L.Ed.2d	90
United States v. Rutgard, 116 F.3d 1270, 1278 (9th Cir. 1997)	43
United States v. Salerno, 481 U.S. 739, 740, 95 L.Ed.2d 697; 107 S.Ct. 2095 (1987)	56
United States v. Salvucci, 448 U.S. 83, 65 L.Ed.2d 619, 100 S. Ct. 2547 (1980)	84
United States v. Sarno, 73 F.3d 1470, 1491 (9th Cir. 1995), cert.denied, 518 U.S. 1020 (1996)	47
United States v. Saussy, 802 F.2d 849, 853 (6th Cir. 1986), cert. denied, 480 U.S. 907 (1987)	117
United States v. Shivers, 788 F.2d 1046, 1048 (5th Cir. 1986)	115
United States v. Signori, 844 F.2d 635, 638 (9th Cir. 1988)	67
United States v. Simas, 937 F.2d 459, 463 (9th Cir. 1991)	99
United States v. Smith, 60 F.3d 595 (9th Cir. 1995)	67
United States v. Smith, 953 F.2d 1060 (7th Cir. 1992)	66
United States v. Spinner, 380 F.3d 514 (3rd Cir. 1999)	82
United States v. Sprague, 135 F.3d 1301, 1307 (9th Cir. 1998)	157
United States v. Tighe, 266 E.3d 1187, 1194 (9th Cir. 2001)	140
United States v. Timmreck, 441 U.S. 780, 60 L.Ed.2d 664, 99 S.Ct. 2085 (1979)	168
United States v. Tisor, 94 F.3d 370, 378-80 (9th Cir. 1996), cert.denied, 519 U.S. 1140 (1997)	157
United States v. Toothman, 137 F.3d 1393 (9th Cir. 1998)	64
United States v. Trowsell, 367 F.2d 815, 816 (7th Cir. 1966)	79
United States v. Tubwell, 37 F.3d 175, 177 (5th Cir. 1994)	172
United States v. Tucker, 404 U.S. 443, 446, 30 L.Ed.2d 592, 92 S.Ct. 589 (1972)	139
United States v. Tucor Int'l, Inc., 238 F.3d 1171, 1175 (9th Cir. 2001)	161
United States v. Turnbull, 888 F.2d 636 (9th Cir. 1989)	46
United States v. United States Gypsum Co., 333 U.S. 364, 395, 92 L.Ed 746, 68 S.Ct. 525 (1948)	158
United States v. Universal C.I.T. Credit Corp., 344 U.S. 218, 220, 97 L.Ed.2d 260, 73 S.Ct. 227 (1952)	53

United States v. Upton, 799 F.2d 432, 433 (8th Cir. 1986).....	115
United States v. Vogt, 910 F.2d 1184, 1201 (4th Cir. 1990).....	80
United States v. Vonn, 535 U.S. 55, 152 L.Ed.2d 90, 122 S.Ct. 1043 (2002).....	67
United States v. Wadsworth, 830 F.2d 1500, 1510 (9th Cir. 1987).....	41
United States v. Waldman, 941 F.2d 1544, 1548 (11th Cir. 1991)	80
United States v. Walgren, 885 F.2d 1417, 1420 (9th Cir. 1989).....	173
United States v. Watts, 519 U.S. 148, 136 L.Ed.2d 554.....	139
United States v. Wayne, 710 F.2d 1385 (9th Cir. 1983), cert. granted in part, 467 U.S. 214, 81 L.Ed.2d 362, 104 S.Ct. 2655 (1984).....	103
United States v. Wazney, 529 F.2d 1287, 1289 (9th Cir. 1976).....	81
United States v. West, 877 F.2d 281, 289 (4th Cir. 1989).....	80
United States v. Weston, 448 F.2d 626 (9th Cir. 1971).....	139
United States v. White, 671 F.2d 1126, 1133-34 (8th Cir. 1982).....	80
United States v. Williams, 504 U.S. 36 118 L.Ed.2d 352, 112 S.Ct. 1735 (1992).....	54
United States v. Williams, 594 F.2d 1258, 1260 (9th Cir. 1979)	42
United States v. Williams, 928 F.2d 145, 149 (5th Cir. 1991)	79
United States v. Willis, 431 F.3d 709 (9th Cir. 2005)	84
United States v. Winfield, 960 F.2d 970, 973-74 (11th Cir. 1992)	79
United States v. Witherspoon, 231 F.3d 923 (4th Cir. 2000)	100
United States v. Working, 224 P.3d 1093, 1102 (9th Cir. 2000).....	146
United States v. Young, 470 U.S. 1, 84 L.Ed.2d 1, 105 S.Ct. 1038 (1985).....	103
United States. Bridgeman v. U.S.,C.C.A.9 (Mont.) 1905, 140 F. 577, 72 C.C.A. 145	111
US v. Will, 449 U.S. 217 (1980)	179
USA v. Sciuto, 531 F.2d 842 (1976).....	206
V. Barts, 38 A.2d 828 (N.J.1944).....	121
Van Iran v. Lindsey, 212 F.3d 1143, 1145 (9th Cir. 2000)	98
Van Tran v. Lindsey, 212 F.3d 1143 (9th Cir. 2000)	40
VanHorne's Lessee v. Dorrance, 2 U.S. 304 (1795).....	151
Vasquez v. Hillery, 474 U.S. 254, 263-6488 L.Ed.2d 598, 106 S.Ct. 617 (1986).....	43
Von Moltke v. Gillies, 332 U.S. 708, 92 L.Ed. 309, 68 S.Ct. 316 (1947).....	63
Wainwright v. Torna, 455 U.S. 586, 71 L.Ed.2d 475, 102 S.Ct. 1300 (1982)	96
Wainwright v. Sykes, 433 U.S. 72, 53 L.Ed.2d 594, 97 S.Ct. 2532 (1977)	164
Wainwright v. Torna, 455 U.S. 586, 71 L.Ed.2d 475, 102 S.Ct. 1300 (1982)	41
Waletzki v. Keohane, 13 F.3d 1079, 1080-8 1 (7th Cir. 1994)	172
Wallace v. Jaffree, 472 U.S. 69 (1985)	148
Watson v. Memphis, 375 US 526.....	188
Weaver v. State, 83 Ind. 289	50
Webbe v. McGhie Land Title Co. 549 F 2d 1358 (1977).....	179, 206
Weeks v. U.S., 232 U.S. 383	188
Westbrook v. Arizona, 384 U.S. 150, 16 L.Ed.2d 429, 86 S.Ct. 1320 (1966).....	66
Wharton v. Calderon, 127 F.3d 1201, 1203-04 (9th Cir. 1997)	100
White v. Maryland, 373 U.S. 59, 83 S.Ct. 1050, 10 L.Ed.2d 193 (1963).....	40
Williams v. Department of Justice, 433 F.2d 958 (5th Cir. 1970).....	70
Williams v. New York, 337 U.S. 241, 93 L.Ed. 1337, 69 S.Ct. 1079 (1949)	139
Windsor v. McVeigh, 93 U.S. 274, 23 L.Ed. 914	130
Withrow v. Larkin, 421 U.S. 35, 95 S.Ct. 1456	125
Wolff v. McDonnell, 418 U.S. 539, 41 L.Ed.2d 935, 94 S.Ct. 2963 (1974)	70
Wong Tai v. United States, 273 U.S. 77, 82, 71 L.Ed.2d 545, 47 S.Ct. 300 (1927)	53
Wong Yang Sung v. McGrath, 339 U.S. 33, 45-46, 70 S.Ct. 445, 451-452, 94 L.Ed. 616 (1950)	180
Yascavage v. Weinberger, Sect. HEW, 379 F.Supp. 1297 (USDC M.D. Pa. 1974)	127
Yates v. Lansing, 281 Johns Rep. 5.....	129
Yerger v. State (Tex. Cr. App.) 41 S. W. 621	50
Yick Wo v. Hopkins, 118 U.S. 516 (1886)	187
Younger v. Gilmore, 404 U.S. 15, 30 L.Ed.2d 142, 92 S.Ct. 250 (1971).....	70
Zedner v. United States, 547 U.S. 489, 164 L.Ed.2d 749, 126 S.Ct. 1976 (2006)	55

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Responding to a Criminal Tax Indictment

Copyright Sovereignty Education and Defense Ministry, <http://sedm.org>
 Litigation Tool 10.004, Rev. 11-20-2009

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1 Cooley's Constitutional Limitations (8th Ed.) 700	39
1 Kent's Comm. Lect. 14, p. 273	124
16 Am Jur 2d Sections 353, 354 and 355	189
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63C Am.Jur.2d, Public Officers and Employees, §247	113
7 C.J.S., Attorney and Client, §4.....	38
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ABA Standards for Criminal Justice, 4-8.1 (The Defense Function)(3d ed. 1993).....	143
Black's Law Dictionary, Fourth Edition, p. 100	147
Black's Law Dictionary, Sixth Edition, p. 1185.....	94
Black's Law Dictionary, Sixth Edition, p. 501.....	151
Black's Law Dictionary, Sixth Edition, p. 63.....	186
Bouvier, Pg. 1359, Rawles Ed.....	129
Bouvier's Dictionary, Rawle's Third Revision, p. 2687 ff.....	186
Canon 1 - Coce of Judicial Conduct.....	180, 204
Civil Court Remedies for Sovereigns: Taxation, Litigation Tool #10.002.....	217
Competent Counsel Questionnaire: Tax Case, Litigation Tool #01.004	194, 217
Correcting Erroneous Information Returns, Form #04.001	92
Correcting Erroneous IRS Form 1042's, Form #04.003	92
Correcting Erroneous IRS Form 1098's, Form #04.004	92
Correcting Erroneous IRS Form 1099's, Form #04.005	92
Correcting Erroneous IRS Form W-2's, Form #04.006	92
Criminal Law in a Nutshell, Fourth Edition, Section 7.07; Arnold H. Loewy; West Group, 2003; ISBN 0-314-14518-4. 113, 121	
Criminal Law in a Nutshell, Fourth Edition, Section 7.09; Arnold H. Loewy; West Group, 2003; ISBN 0-314-14518-4..	121
Criminal Law in a Nutshell, Fourth Edition, Section 8.07; Arnold H. Loewy; West Group, 2003; ISBN 0-314-14518-4..	121
Daniel Webster, The Speeches and Orations of Daniel Webster, Edwin P. Whipple, Little Brown and Company, Boston, 1914, p. 366.....	152
Department of Justice Criminal Tax Manual	115
DOJTDCTM Sections 6-4.121	30
Enclosure (16)	91
Executive Order 10289.....	93
Federal Criminal Practice Guide	217
Federal Litigation Quick Reference, Litigation Tool #10.001	217
Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government-Long, Form #15.001..	31, 92
Federal Pleading/Motion/Petition Attachment, Litigation Tool #01.002	149
Federal Sentencing Guidelines Manual.....	217
Form 1040	37, 128
George Washington, Farewell Address	153
H.R.Conf.Rep. No. 1515, 94th Cong. 2d Sess. 477-78, reprinted in U.S.Code Cong. & Admin.News, 4181-82 (1976)....	132
House Congressional Record, March 27, 1943, page 2580.....	35
How the Government Defrauds You Out of Legitimate Deductions for the Market Value of Your Labor, Form #05.026...	36
ICS History Transcript	32
ICS History Transcript; Data Service, Treasury/IRS 24.030.....	32
IMF Decoding Freedom of Information Act Request, Form #03.015	32
Internal Revenue Service.....	206
IRS Form 1040	35, 118
IRS Form 1040 Individual Income Tax Return.....	182
IRS Pub. 519	94
IRS Publication No. 21 (1982)	34
IRS publications	94
Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States, Form #10.001	91
Legal Requirement to File Federal Income Tax Returns, Form #05.009	31
Legal Research Tools	217

Manual of Model Criminal Jury Instructions for the Ninth Circuit, Instruction No. 8.5.4 (1997)	80
Meaning of the Word “frivolous”, Form #05.027	135
Merriam Webster’s Ninth New Collegiate Dictionary, ISBN 0-87779-510-X, p. 1301	150
Montesquieu's Spirit of Laws, B.11, Ch. 6.....	124
Newsweek, Dec. 11, 1978	190
Ninth Circuit Court of Appeals	206
Petition for Admission to Practice.....	38
Rawie on the Constitution, Ch. 21, p. 199.....	124
Reasonable Belief About Income Tax Liability, Form #05.007.....	114, 115
Requirement for Reasonable Notice, Form #05.022	95, 113
Resignation of Compelled Social Security Trustee, Form #06.002.....	91
SEDM Liberty University	216
SEDM Litigation Tools Page	216
Silence as a Weapon and a Defense in Legal Discovery, Form #05.021	31, 96
Socialism: The New American Civil Religion, Form #05.016.....	94
Substitute 1040NR Return.....	94
Substitute For 1040NR, Exhibit 2, Subexhibit 15	94
Supremacy of Law in the United States, by John Dickson, Cambridge Harvard University Press, 1927 at page 271.....	34
Techniques for Building a Good Administrative Record, Form #09.008.....	31
Tr. Dec. 20, 1983, Pag. 3, lines 8-12	205
Treasury Decision 3445.....	120
U.S. Attorney Manual Section 6-4.270	147
U.S.S.G. §3E 1.1 (a).....	59
U.S.S.G. §3E1.1 (b) (2).....	59
U.S.S.G. §4A1 .2(c)(2).....	140
U.S.S.G. 55C1.1.....	141
United States Sentencing Guidelines (U.S.S.G.).....	71
USAM §9-11.000	30
USAM §9-12.000	30
USAM 6-4.122	30
Versus Law.....	217
Walt Maken	135
Webster's New Collegiate Dictionary 73 (1975).....	185
What to Do When the IRS Comes Knocking, Form #09.002.....	31
Why I Am Not Legally Liable to File Affidavit, Form #07.103	31
Why You Don’t Want an Attorney	38
Why Your Government is Either a Thief or you are a “Public Officer” for Income Tax Purposes, Form #05.008	113

Scriptures

1 Sam. 15:22-23	148
Exodus 20:3.....	153
Exodus 23:32-33	153
Ezekial 20:10-20	153
James 2:8-10.....	152
Prov. 3:30	152
Romans 13:9-10	152

1 The following information is intended to show what happens on ones first appearance before the magistrate or judge
2 concerning a criminal indictment for an alleged violation of an income tax statute.

3 The author of this information is not aware of anyone in the patriot community who has published the specifics and
4 importance of what should be done **before** the accused makes **any plea**, i.e. guilty or not guilty to any alleged charge.

5 **1 THE SCENARIO**

- 6 1. Grand Jury Indicts an accused based upon information supplied by the United States Attorney or his assistant. The
7 Attorney is not required to submit exculpatory evidence about the accused to the grand jury.
- 8 2. An arrest warrant is issued for the accused by the court clerk.
- 9 3. The Accused is arrested by Federal Marshalls, fingerprinted and mugged, and, then brought, before a federal
10 Magistrate or Judge for a Bond Hearing. Object to being fingerprinted, signing your name to the fingerprint card and
11 being photographed. Both constitute a taking of property without due process or consent. Do not freely give consent.
- 12 4. The Court sets an arraignment Date, time and place certain.
- 13 5. At arraignment:
 - 14 5.1. Judge must join the case by eliciting a plea from the accused.
 - 15 5.2. Before asking for a plea, like guilty or not guilty from the accused, the Judge may question the accused as to
16 whether he has a lawyer and can afford one, if not, that the accused is entitled to an attorney and that the court
17 will appoint the accused an attorney, if requested, and before the accused answers any of the judges questions.
18 The accused has the right to have an attorney at all phases of the court procedure. However, the court may decide
19 to proceed anyway, and ask the accused as to whether he is a citizen of the United States, understands the nature
20 and cause of the alleged charges in the indictment, and will inform the accused of his right to a jury trial.

21 **LET THE SHOW BEGIN: [and you can believe it, the Judge and attorneys are very good actors], ...** So the U.S.
22 Attorney has indicted you by using the federal grand jury, for an alleged violation of the IR Code, 26 U.S.C. §7201 (tax
23 evasion - a felony (infamous crime), or section 7203 (willful failure to file a 1040 tax return - a misdemeanor), or for
24 something else.

25 What do you do now?:

- 26 1. Hire a lawyer?
- 27 2. Let the judge protect you and your rights?
- 28 3. Plea bargain?
- 29 4. Throw in the towel?
- 30 5. Call a local tax group?
- 31 6. Confide in a friend?
- 32 7. Handle it yourself?
- 33 8. Pray?

34 A very serious decision to make.

35 If one will take the time to look up the definitions of "joinder," "plea," "controversy," "mandamus," and "prohibition," in
36 one of the leading law dictionaries, or in the Criminal and civil rules of procedure, one can see how important and
37 significant the words are regarding one who has been indicted or charged by information.

38 Remember, one has to identify one's self in court, otherwise, the court is required to bring in witnesses' who can identify the
39 accused. Use your own discretion.

40 The bond hearing. In order to compel one to give up his property in the nature of money to secure a bond for an alleged
41 indictment requires a hearing before an independent judicial officer (See the Fourth Amendment right to be secure in your
42 person, papers, and effects (property rights). Demand an independent judicial officer even at the BOND HEARING.

43 One must **belligerently claim** his rights, or he has none.

1 *"The privilege against self-incrimination [Fifth Amendment] is neither accorded to the passive resistant, nor*
2 *the person who is ignorant of their rights, nor to one who is indifferent thereto. It is a fighting clause. Its*
3 *benefits can be retained only by sustained combat. It cannot be claimed by an attorney or solicitor. It is only*
4 *valid when insisted upon by a belligerent claimant in person."*
5 *[U.S. v. Johnson, 76 F. Supp. 538 (1947), Emphasis added]*

6 **2 TYPICAL SEQUENCE OF A FEDERAL CRIMINAL CASE**

7 The table below describes the typical sequence of a criminal tax case. It was derived by examining the federal criminal
8 rules and the U.S. code.

Table 1: Typical Sequence of a Federal Criminal Case

#	Event	Authority
1	Federal agency investigates case	
2	Complaint filed with Dept of Justice for Prosecution by private individual or federal agency	28 U.S.C. §592 DOJTDCTM Sections 6-4.121
3	Dept. of Justice investigates	28 C.F.R. § 0.70; 26 U.S.C. §6103(h) USAM 6-4.122
4	Dept of Justice decides to prosecute	28 U.S.C. §594 Authority of indep. Counsel.
5	Grand jury conducts discovery on suspect: <ul style="list-style-type: none"> • May subpoena records on suspect. • May call suspect in to ask questions 	Fed.Rule.Crim.Proc. 16
6	Suspect may file a declaration directly with the district court in lieu of testifying before the grand jury	Fed.Rule.Crim.Proc. 16(d)(1)
7	U.S. Attorney from DOJ: <ul style="list-style-type: none"> • For felonies involving a sentence of one year or more, brings evidence from investigation before a grand jury and requests an indictment • For misdemeanors with a combined sentence of no more than one year, files an “information” directly with the court 	28 U.S.C. §594(a)(1) Authority of indep. Counsel. USAM §9-11.000 USAM §9-12.000
8	Grand Jury indicts suspect	Fed.Rule.Crim.Proc 7
9	Indictment filed with Federal District Court	
10	Judge randomly assigned	Local Rules (Local Criminal Rule 57.2 in Calif. Southern District)
11	Arrest Warrant or Summons issued	Fed.Rule.Crim.Proc. 9
12	Suspect is Personally served with Summons or Arrested	Fed.Rule.Crim.Proc. 9
13	Defendant selects private counsel or is appointed public defender	Local Rules (Local Criminal Rule 44.1 in Calif. Southern District)
14	Assignment of Magistrate Judge to prosecute discovery	28 U.S.C. §636 Fed.Rule.Civ.Proc. 72-73
15	Preliminary hearing before Magistrate	Fed.Rule.Crim.Proc. 5.1
16	Defendant is arraigned before Judge	Fed.Rule.Crim.Proc. 10
17	Defendant enters a plea	Fed.Rule.Crim.Proc. 11
18	Submit amended plea, joinder, etc.	
19	Pretrial motions: Motion alleging defect in instituting prosecution Motion alleging defect in indictment or information Motion to suppress evidence (motion in limine) Motion to sever charges or defendants Motion for discovery	Fed.Rule.Crim.Proc. 12 Fed.Rule.Crim.Proc. 12(b)(3)(A) Fed.Rule.Crim.Proc. 12(b)(3)(B) Fed.Rule.Crim.Proc. 12(b)(3)(C) Fed.Rule.Crim.Proc. 12(b)(3)(D) and 14 Fed.Rule.Crim.Proc. 12(b)(3)(E) and 16
20	Discovery: Depositions Subpoenas	Fed.Rule.Crim.Proc. 16 (Discovery and inspection) Fed.Rule.Crim.Proc. 15 Fed.Rule.Crim.Proc. 17
21	Completion of discovery	Fed.Rule.Crim.Proc. 16
22	Submission of Pre-Trial Memorandums	Local Criminal Rule 16.1 in Calif. Southern District
23	Pretrial meeting between counsel and formulation of final pretrial order. Exhibits are displayed or exchanged.	Local Criminal Rule 16.1 in Calif. Southern District
24	Pretrial conference with judge. Date set to for trial, motions in limine, submission of trial briefs, exchange of exhibits and evidence	Fed.Rule.Crim.Proc. 17.1
25	Two month wait (usually) before trial (criminal cases take priority)	
26	Parties exchange witnesses and exhibits used for trial Not Later Than 30 days before trial	
27	Parties submit trial briefs to judge usually Not Later Than two weeks before trial date	
28	Trial: Selection of jurors Voir dire (examination of jurors) Opening statements Calling of Witnesses (establish foundation for evidence) Discussion of evidence Closing statements	Fed.Rule.Crim.Proc. 23-31
29	Probation officer conducts a presentence investigation and prepares a presentence report	Fed.Rule.Crim.Proc. 32(c)
30	Judge determines sentence	Fed.Rule.Crim.Proc. 32(c)
31	Sentencing hearing	Fed.Rule.Crim.Proc. 32
32	Defendant files a notice of appeal within 10 days of the entry of judgment	Fed.Rule.Appellate Procedure 4(b)