

“I just wanna know my rights”
Creating access to legal materials for
incarcerated Manitobans

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July 2024

Acknowledgements and Thank You

Provincial prisons in Manitoba are located on Treaty 1, Treaty 2, Treaty 3 and Treaty 5 territories, and the homeland of the Red River Metis.

We acknowledge that land acknowledgements alone are insufficient, that what was promised in the above treaties remains unfulfilled, and that we must do better. We are committed to working towards TRC Calls to Action #30, 36 and 38 as well as the calls to justice specific to all Canadians (15.1 through 15.8) from the National Inquiry into Missing and Murdered Indigenous Women and Girls.

This research paper was made possible through a Canadian Association of Law Libraries/Association canadienne de bibliothèques de droit (CALL/ACBD) Research Grant. The authors thank CALL/ACBD and the members of the Committee to Promote Research.

Many thanks as well to George Roy and Jhoanna Altasin for their research and graphic design assistance.

The authors also are grateful for the collaboration with the Manitoba Library Association - Prison Libraries Committee.

Finally, many thanks to the community members who are incarcerated inside Manitoba provincial prisons who helped us with our survey and our research. Your lived experience and knowledge have inspired and helped this project immensely.

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Introduction

Prison libraries play a critical role for justice-involved individuals by providing access to information about their legal rights as well as to the tools they require to exercise those rights¹. Libraries inside Manitoba prisons, however, continue to be seen as a privilege rather than a human right - if they exist at all.

As outlined in the *Prisoners' Right to Read* statement adopted by the Canadian Federation of Library Associations in 2016 and updated in 2024², “reading and access to information for prisoners is an important and rare connection to the outside world; it is also a basic right.” The *Corrections and Conditional Release Act*³ stipulates that incarcerated people enjoy the same rights as any citizen, except those rights that are necessarily removed due to their incarceration. Ultimately, the fundamental rights and freedoms of incarcerated people as Canadian citizens must be respected (Charter of Rights and Freedoms⁴).

Individuals who are incarcerated in Manitoba are an underserved segment of the population who lack adequate access to books, information, and library services. Over 3,000 provincially incarcerated Manitobans are not only without mandated and coordinated access to books and materials for recreational and educational reading, but also have limited or no access to legal information. Moreover, 80% of this population identify as Indigenous but their access to materials about Indigenous culture, histories, and identity in Manitoba prisons is scarce.

¹ Prison Libraries Network, Canadian Federation of Library Associations, “Prison Libraries Network: The Right to Read” (2024)

² Ibid

³ S.C. 1992, c. 20, s.4(d) as am.

⁴ Canadian Charter of Rights and Freedoms, s 7, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.

This Prison Libraries research project sought to investigate the legal needs of incarcerated Manitobans and create a comprehensive list of resources and materials to meet those needs. Through direct and anecdotal interactions with justice-involved people and corrections staff; through textual research and the creation of an annotated bibliography reviewing current and historic research available; and through the analysis of a survey of incarcerated Manitobans, major topics of legal information needs were identified.

A list of recommended legal materials and resources, both free and for purchase, was created that could assist unmet legal information needs of those inside the provincial correctional institutions in Manitoba. These recommended materials have been purchased, catalogued, and delivered to the first pilot project location, Milner Ridge Correctional Centre.

A successful application for further funding over three years from the Manitoba Law Foundation means that the project is able to continue to build legal collections of books and resources, to provide legal information programming, to advocate for legislative reform, and to create content for legal resources in accessible and relevant formats for each of Manitoba's six correctional institutions.

Building legal capability by creating access to legal information is a primary goal of this initiative. Recognizing the systems of discrimination and socio-economic marginalisation faced by the overrepresentation of First Nations, Inuit, and Métis peoples must also be taken into account as a major factor and barrier.

Methodology

The research was conducted through a mixed-methods methodology with a focus on qualitative methods. To determine the unmet legal information needs of incarcerated Manitobans, secondary data was analysed and the literature was examined with a focus on Canadian-specific materials. There is a lack of Canadian research on information access in Canadian prisons, and even less so when focused specifically on the province of Manitoba. An annotated bibliography has been created, and subsequently expanded to include beyond Canadian examples as well.

The gathered publications and writings were then scanned and read for content and relevance. Understanding that qualitative research is often exploratory and seeking to answer the “why”⁵, the literature was examined for information that addressed the following areas of interest: prisons and information access, the legal needs of incarcerated people, and current legal programming in correctional institutions.

Following this secondary data analysis, a more quantitative survey instrument was created and vetted by the Director of Custody Corrections with Manitoba Justice and then distributed to the provincial correctional institutions via their Assistant Superintendents of Programs. The surveys were shared with the incarcerated populations and sent back for review and analysis in order to provide some evidence of the hypotheses already made.

The survey instruments are included as Appendix 1. A caveat to the survey results: as respondents were incarcerated at the time, some surveys may have been completed as a duty or a task under the supervision of corrections officers. Some

⁵ https://libguides.uta.edu/quantitative_and_qualitative_research/qual

results may therefore have been completed not entirely of free will and may be somewhat skewed.

One-on-one, unstructured consultations with people who work with incarcerated Manitobans, like parole officers, halfway house workers, bail workers etc, were also conducted in order to get a sense of the legal information needs of both incarcerated and formerly incarcerated people. This insight proved valuable as it offers indirect data and observations from professionals who have been directly involved and engaged in providing legal information access to those incarcerated inside Manitoban prisons. Deeper insights into questions about unmet legal information needed were uncovered by consulting with these intermediaries.

Experience as a longtime prison libraries volunteer with the Manitoba Library Association (MLA) - Prison Libraries Committee (PLC), enabled the researcher to interpret and make sense of what was seen inside prisons, read about prisons, and directly experienced. This interpretative analysis involves understanding broader social contexts and a more holistic approach to the interpretations.

Finally, a legislative scan for prison libraries and legal materials access in Canada was conducted by University of Manitoba Robson Hall law students⁶, with a broad focus on provincial and territorial correctional facilities. The scan also examined the legislated access to legal information inside provincial and territorial institutions. This scan can be found in Appendix 3.

⁶ Tough, Lizzie & Maria Garcia Manzano, "Legislative Scan for Prison Libraries & Legal Materials Access in Canada" (2023)

The wide research lens used for the project was needed to provide that big-picture view and intersectionality to give deeper insights into the historic and persistent challenges experienced by First Nations, Inuit, and Métis peoples⁷.

⁷ Homeless Hub, “Considerations for Engagement with Indigenous People” (2021), online(webpage)

Key Findings

Key findings for this report were pulled from the annotated bibliography, from the legislative scan of provincial jurisdictions, from the survey results of justice-involved persons at the Women’s Correctional Centre (WCC), and Headingley Men’s Correctional Centre (HCC), and anecdotally, from literacy coordinators, teachers, programmers, correctional officers, community organisations and from incarcerated persons themselves.

Prison Libraries in Manitoba Prisons

Currently in Manitoba, there is no legislated directive or mandated policy to direct provincial correctional institutions to have libraries and/or library staff, much less access to legal materials. As a result, there are no real prison library programs, and Manitoba prisons rely on volunteer organisations like the MLA-Prison Libraries Committee to provide access to vital reading materials, whether for leisure, legal information, cultural learning, or other literacy needs.

In Canada, federal prisons are mandated to provide library services through Commissioner Directive 720⁸, although these services are still often understaffed and underfunded without quality collections. In the province of Manitoba, as in many others, provincial prisons are not held accountable to uphold standards for information access and library services, as stated by Tough and Manzano (2023⁹):

The only province in Canada to have legislation that explicitly requires libraries with legal reading materials in provincial correctional facilities is

⁸ Correctional Services Canada, “Commissioner Directive 720: Education programs and services for inmates” (January 24, 2023)

⁹ Tough, Lizzie & Maria Garcia Manzano, “Legislative Scan for Prison Libraries & Legal Materials Access in Canada” (2023)

Ontario. The lack of legislation was one of the most concerning issues we found when searching for legislation supporting the right to access libraries and law libraries in provincial correctional facilities.

Information access is essential for a multitude of reasons. For instance, it is frequently recognized that the experience of imprisonment increases the need for access to information, and freedoms, “[...] such as those of conscience and religion, thought, belief, opinion, and expression hav(ing) a heightened importance behind bars”¹⁰. With the understanding that many if not most incarcerated Indigenous people experience intergenerational trauma as a result of colonisation and residential schools, the prison library then must reflect those community members. The library must offer cultural programming, services, and collections to assist in mitigating any further traumatization and provide sources for healing and recovery. Incarcerated people and their information needs are varied and oftentimes complex. Reading for leisure is an important connection to the outside world, but can also bridge the reader to better mental health and wellness. People may seek culture, spirituality, the arts, and health through books. People may desire information for educational, professional development, and legal purposes, to support their plans for community re-entry, or to navigate the justice and carceral system. Most often though, books and information are only accessible through educators, Elders, and community partner groups, including library workers, that work or volunteer with and inside the prisons. In their *Legislative Scan for Prison Libraries*, Tough and Manzano concluded that there is a need for access to libraries and information by the

¹⁰ Prison Libraries Network, Canadian Federation of Library Associations, “Prison Libraries Network: The Right to Read” (2024)

incarcerated population across Canada. The Manitoba incarcerated population however depends on volunteer associations to supply them with access to vital reading materials.

Incarcerated Manitobans face numerous challenges and barriers in their ability to not only access and interact with information but also to create, and share information¹¹.

As stated by The Canadian Federation of Library Association's *Prison Libraries Network: Right To Read Statement*, upon incarceration, prisoners do not "[...] relinquish the rights and freedoms guaranteed to them under the *Canadian Charter of Rights and Freedoms*". However, people's access to information is impacted just by being incarcerated. Limited funds, staffing, and a lack of will, commitment, or prioritisation leave most prisoners in provincial prisons with little to no access to books and information. More details about these barriers are explored in later pages of this report.

Incarcerated Manitobans

There are 3,144 incarcerated people in Manitoba's provincial correctional centres.¹² Most incarcerated people in provincial prisons in Canada have been convicted of non-violent offences¹³. According to Statistics Canada's Correctional services statistics: interactive dashboard¹⁴, the rate of incarceration per 100,000 adults in Canada's provincial/territorial system as a whole is 71.59. Meanwhile in Manitoba, the incarceration rate is more than twice that at 160.71 per 100,00 adults. Within Canada's provincial/territorial system, 30% of custodial admissions identify as

¹¹ Huot, Ashley, "Prison zines: Relations, communication, and records", Progressive Librarians Guild (2021)

¹² Statistics Canada, "Correctional services statistics: Interactive dashboard" (2024)

¹³ McKay-Panos, Linda, "Prisoners and Work", LawNow (January 5, 2016)

¹⁴ Statistics Canada, "Correctional services statistics: Interactive dashboard" (2024)

Indigenous, while in Manitoba 77% of adult and 87% of youth prisoners identify as Indigenous. Additionally, 73% of Canadian prisoners and 75% of Manitoban prisoners are in remand, which is meant to be a temporary situation as they are held in custody awaiting court appearance¹⁵. As argued by the John Howard Society this is a cause for concern as those people who are found not guilty, which is about 35% of remand prisoners, end up serving time that cannot be returned to them¹⁶. Worthy to note is that racialized people are more likely to get remand rather than bail, compared to non-racialized people¹⁷. Additionally, the incarcerated population is ageing and becoming increasingly multi-lingual and these growing needs are important demographics to consider in terms of access to information¹⁸.

Indigenous, Black, and other racialized, and marginalised peoples continue to fill prisons at disproportionate rates¹⁹, and the causes of Indigenous overrepresentation are rooted in the history and impacts of colonisation. The Supreme Court, with the cases of *R. v. Gladue*²⁰ and *R. v. Ipeelee*²¹ among others, makes evident that Indigenous peoples have faced and continue to face direct and systemic discrimination within the justice system²². In 2021 Indigenous people were incarcerated at a rate 8.9 times higher than non-Indigenous peoples, and in Manitoba's women's prison, this ratio tends to be much higher. The historical and

¹⁵ Statistics Canada, "Correctional services statistics: Interactive dashboard" (2024)

¹⁶ John Howard Society, Fact sheet, "Remand and overcrowding" (February 2013)

¹⁷ Exclusive: New data shows race disparities in Canada's bail system (October 2017) <https://www.reuters.com/article/world/exclusive-new-data-shows-race-disparities-in-canadas-bail-system-idUSKBN1CO2RD/>

¹⁸ Aging and dying in prison an investigation into the experiences of older individuals in federal custody (February 2019) (<https://publications.gc.ca/site/eng/9.867536/publication.html>)

¹⁹ Department of Justice Canada, Just Facts, "Overrepresentation of black people in the Canadian criminal justice system" (December 2022)

²⁰ [1999] 1

²¹ 2012 SCC 13

²² Rudin, Jonathan, Indigenous People and the Criminal Justice System, 2nd ed (Emond Criminal Law Series, 2022)

ongoing colonialism facing justice-involved Indigenous people is linked directly to a system of discrimination and socio-economic marginalisation²³.

The systemic racism within Canadian society and its carceral systems has been researched and reported on widely, including the 1999 reports from the Aboriginal Justice Implementation Commission²⁴; a recent StatsCan report from the Government of Canada addressing the overrepresentation of Indigenous, Black, and racialized people in the criminal justice system²⁵; and webinars about systemic racism offered by the Law Society of Manitoba²⁶. Many Calls to Action from the Truth and Reconciliation Commission²⁷ are aimed at the justice system, and specifically speak to how this overrepresentation of justice-involved Indigenous people is a direct manifestation of intergenerational trauma of residential schools. This research report found that the Calls #30, #36, and #38 could relate to prison libraries, services and programming, and is therefore guided by these Calls in hopes of addressing some of these systemic issues by providing access to legal information and library service and programming for the highly racialized incarcerated population in Manitoba. In the recent 2023 update called *Spirit Matters* tabled by the Office of the Correctional Investigator, Canada's correctional population is described as becoming increasingly "Indigenized" and in fact:

²³ Clark, Scott, "Overrepresentation of Indigenous People in the Canadian Criminal Justice System: Causes and Responses" (2019)

²⁴ Aboriginal Justice Implementation Commission "Final Report" (June 29, 2001)

²⁵ Department of Justice Canada, Just Facts, "Overrepresentation of black people in the Canadian criminal justice system" (December 2022)

²⁶ The Law Society of Manitoba, "Critical Conversations about Systemic Racism and Implicit Bias in Law and Canadian Society" (October 18, 2021)

²⁷ Truth and Reconciliation Commission of Canada, "Truth and Reconciliation Commission of Canada: Calls to Action" (2015)

“ [...] the correctional system seems to perpetuate conditions of disadvantage and discrimination for Indigenous people”²⁸.

The Need for Access to Legal Information

The need for legal information is important to consider in relation to other informational and access needs of an incarcerated person. It bears repeating that there is no legislated requirement in Manitoba for library access to those in prison, despite the UN Standard Minimum Rules for the Treatment of Prisoners²⁹, also known as the Nelson Mandela Rules.

While the Truth and Reconciliation Calls to Action #30 and #38 reference the imperative to lower the number of incarcerated Indigenous adults and youth, #36 references the need for culturally relevant services for incarcerated individuals about “issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.”³⁰ A holistic approach to creating access to legal information must include providing access to information on these other health, wellness, and cultural issues.

A report from Justice Canada³¹ about the legal needs in prisons concluded that incarcerated respondents “identified unmet legal needs with respect to all types of

²⁸ Correctional Investigator Releases Updated Findings on the State of Indigenous Corrections in Canada: National Indigenous Organizations Issue Statements of Support (November 2023) <https://oci-bec.gc.ca/en/content/correctional-investigator-releases-updated-findings-state-indigenous-c-orrections-canada>

²⁹United Nations Office on Drugs and Crime, “The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)” (December 2015)

³⁰ Truth and Reconciliation Commission of Canada, “Truth and Reconciliation Commission of Canada: Calls to Action” (2015)

³¹ Justice Canada, Legal Aid and Research Series, “Study of the Legal Services Needs of Prisoners in Federal Penitentiaries in Canada” (July 31, 2002)

legal matters.” Incarcerated Manitobans require basic information of their rights under *The Human Rights Code*³², and *The Charter of Rights and Freedoms* for example. There is also a need however, for more detailed and complex legal information for those to better manoeuvre through these legal systems as self-represented litigants. The Canadian case of *R. v Biever*³³ speaks to the provision of legal resources in prison libraries. The case highlights how the lack of technology, specifically the lack of the internet and online resources, can affect the provision of legal information. Meaningful access to legal resources for those in prison is often hampered further by the conflict between stated prison policy and the prison’s own budgetary restrictions, in the case of photocopying and printing off legal resources for a prisoner³⁴.

Also discovered in the review of the literature, was a lack of legal information resources specifically geared towards incarcerated Manitobans. This project did not initially intend to create content and legal resources. However, it was determined that content creation, especially in the form of frequently asked questions (FAQs) in plain language and on topics of high interest would be developed throughout phase two of the initiative.

Access to legal information, books and reading materials for people who have been in conflict with the law is important, as is the consistency in what meaningful access to the law could mean and look like across institutions. Also important is that incarcerated people be able to access library professionals and programming to help

³² C.C.S.M. c. H175

³³ 2015 ABQB 301

³⁴ Gladstone, Joel, “Prison Law Libraries: From US’s Bounds to Canada’s Biever*” (2017) *Canadian Law Library Review*, Vol. 42, Issue 4,15.

with reference questions, to help determine what it is that the incarcerated patron wants to find out, and to help create pathways to make sense of the legal materials. Reppe states that most incarcerated individuals' requests for legal information are “overly broad, vague, or unclear.” Additionally the legal research often requires “browsing through various materials in search of inspiration It is unrealistic to expect a prisoner to know in advance exactly what materials he needs to consult.”³⁵ It is therefore essential to have access to a library professional who can help conduct that reference interview³⁶.

While the need for professional library staff to assist in mitigating the legal question and research is important, the training of library staff in the basics of legal research and understanding the options for legal assistance is just as important. In fact, the library means little without such a professionally trained staff person. In a study of access to justice for incarcerated people in Virginia³⁷, a “troubling finding revealed in this study [...] is the lack of professionally trained library staff on hand to help inmates in navigating available legal resources in the jails. [...], only 3 of the 33 jails participating in this study employ specially trained librarians to oversee library services, of which court access is a significant part. The mere presence of access-to-court resources does not necessarily mean that those resources are ‘adequate, effective, and meaningful’.”³⁸

³⁵ Reppe, Liz, “Law Library Service to the Jail: Experiences, Challenges, and Lessons from Providing Library Services to Inmates” (November 2012), 17 AALL Spectrum, 12.

³⁶ A reference interview is a conversation between a librarian and a library user, usually at a reference desk, in which the librarian responds to the user's initial explanation of his or her information need by first attempting to clarify that need and then by directing the user to appropriate information resources (Wikipedia: https://en.wikipedia.org/wiki/Reference_interview)

³⁷ Balestrieri, Blythe Alison & Dominic Zicari, “Access to Justice for Inmates Jailed in Virginia” (2023) Law Library Journal, Vol 155, Issue 1, 179.

³⁸ Balestrieri, Blythe Alison & Dominic Zicari, “Access to Justice for Inmates Jailed in Virginia” (2023) Law Library Journal, Vol 155, Issue 1, 179.

Incarcerated Manitobans' need for legal information will be further expanded upon in the next section about legal topics identified in the research.

Challenges and Barriers

A prison's focal point of attention remains fixed on issues of safety and security, while librarianship focuses on values of intellectual freedom and access to information for all. The policies of the prisons and the values of libraries are unfortunately often fundamentally at odds. The core values of librarianship are continually challenged as library workers and volunteers work to bring books and information to the incarcerated library patron. With no legislation to require that prisons have libraries, there are also no budget lines for books, and no consistency in the provision of information to justice-involved people. There needs to be institutional buy-in and Ministerial cooperation in the establishment of the library spaces and the distribution of books. Relationship-building is critical to ensure that buy-in happens but also that correctional staff begin to understand that access to information is not a threat to safety in the institution. Neither should the prison library and access to information be seen by carceral staff as only a privilege for good behaviour, rather than a fundamental right or simply a meaningful service that supports rehabilitation programming for prisoners.

Aside from the lack of books, informational resources, and internet, there is often no formal library space itself in the prison in which to house any true library collection, legal or otherwise. PLC volunteers in Manitoba have set up library spaces in sanctuaries, in gyms, and in classrooms. There are standard restrictions to what kinds of books and information can be brought into the prisons: no true crime

(although that genre is becoming so broad and so popular outside prisons that it is getting harder to restrict), nothing that glorifies violence, sexual violence, hate speech and gangs. But there are other restrictions as well: no hardcovers, no magazines, nothing with staples. The lack of policies for library and collection management, opens the door to arbitrary censorship by prison staff, based on little else than pre-conceived, biased, and/or paternalistic notions of what individuals in prison should and shouldn't be reading³⁹.

There is no internet inside prisons, whether the institution is provincial, territorial, or federal. Nevertheless, the internet is a “major source of accessible legal information today through services like the Canadian Legal Information Institute (CanLII.org)”⁴⁰. Any email requests for information must be done through an intermediary like a teacher, Elder, chaplain or counsellor. There is a lack of computer availability for filling out forms or other government documents and requests. The shift in placing legal information online, as a primary source for Canadians, is underway and incarcerated persons are being excluded from this simple access to the law. Despite calls for supervised and/or mediated access to digital legal resources including legal databases⁴¹, this legal information is not accessible to most, if not all incarcerated persons.

Working with the many challenges and barriers as outlined above, this project also came up against challenges in communicating and information-sharing with the

³⁹ Austin, Jeannie, *Library Services and Incarceration: Recognizing Barriers, Strengthening Access* (Chicago, ALA Neal-Schumann, 2022).

⁴⁰ Noonan, Danielle, “Readers’ Advisory Services in Canadian Prisons”, *Canadian Law Library Review*, (March 7, 2023)

⁴¹ International Federation of Library Associations, “Guidelines for library services to Prisoners” (February 28, 2023)

institutions themselves, and Manitoba Justice and Corrections as a whole. The project did benefit from working with the Manitoba Library Association - Prison Libraries Committee who have spent well over a decade building relationships inside and outside of the prisons. These relationships proved valuable in sharing the project idea and getting permissions for distributing the survey and getting the pilot project location finalised at the Milner Ridge Correctional Centre. Even so, while there was support and interest in the project, the bureaucracy of the system meant that a legal information and law library project was often “tabled” or pushed down the list of priorities.

Taking away the right to read, to access information can have a profound effect on the human spirit. The consistent inequity and lack of information access experienced by prisoners can be described as institutionalised information poverty or information marginalisation; in which the need for information is often caused by the prison itself⁴². Information poverty along with low literacy levels do nothing to help incarcerated individuals deal with the complexities of an information-driven society, nor does it offer access to the necessary information, legal and otherwise, needed to understand and solve problems. The term information poverty though is not an apt description for what currently occurs inside Canadian and Manitoban prisons. Instead, Correctional Investigator Ivan Zinger calls the situation “obsolete and inexplicably information-depriving”⁴³.

⁴² Rabina, Debbie, Drabinski, Emily, & Paradise, Laurin, “Information Needs in Prisons and Jails: A Discourse Analytic Approach” (November 29, 2016)

⁴³ Zinger, Ivan, “Office of the Correctional Investigator Annual Report 2021-2022” (June 30, 2022)

By setting up libraries in provincial correctional institutions with legal resources and programming, incarcerated Manitobans could not only build some legal capability, their rights and freedoms would also be better supported.

Major legal topics and formats identified

"How do I negotiate my innocence? Without screwing it up and getting in deeper trouble?" (HCC survey respondent)

Research and reporting from other jurisdictions reveal that the struggle to both understand and exercise basic rights as an incarcerated person is of great importance. This struggle is accompanied by a lack of information about legal processes like appeals, grievances, and parole preparation⁴⁴. There is a strong and basic need for the understanding of one's rights but also how to also exercise those rights as a justice-involved individual. Meanwhile prison policies from Manitoban institutions are not easily shared or readily available in order that one might gain knowledge of how the institutions handle legal information requests.

Respondents to the survey for incarcerated peoples at the Women's Correctional Centre (WCC) and Headingley Correctional Centre (Men) (HCC) offered some insights into areas of law that were of greatest interest. Response rates at both institutions were low, with 11% at WCC and 17% at HCC, however many of the results matched the anecdotal evidence provided by organisations working with people who have been in conflict with the law.

How the legal system works

Almost 50% of WCC respondents indicated that information about the legal system was needed, including information about appeals, bail, criminal records and pardons. HCC respondents also identified that learning more about how to navigate the

⁴⁴ Community Legal Education Ontario, "Legal information needs of persons who are incarcerated. Phase 1: Exploratory research – Working paper" (January 2019)

judicial system was an important area of interest for 18% of respondents. This included specific information about court dates, early release, and pardons. HCC respondents, unlike those at WCC, also identified the need for information about prison law including access to the Civilian Review and Complaint Commission, and to the Corrections Canada Rules of Conduct.

Many incarcerated people are unsure about how the legal system works, what the process is for sentencing or appeal, and why things take so long⁴⁵. The lack of knowledge about the legal system as one enters prison is exacerbated then by the lack of accessible legal information inside that can be shared with the incarcerated person.

Family law and child custody

The lack of understanding about the judicial system and of the charge facing the incarcerated person is often made worse by a lack of knowledge of other legal issues that might be facing them, both while inside prison and for their life post-incarceration. For instance, many incarcerated people might now have to face what will happen to their children and family members while they are in prison. While far less at HCC, close to 50% of respondents at WCC wanted more legal information about child custody issues and family law. Legal issues often concern current children living in the home, while others involve incarcerated pregnant women and their need for information about what will happen to their baby. Women, often the primary caregivers, are particularly concerned with legal questions about family law. The interconnectedness of these types of legal issues, combined also with mental

⁴⁵ Community Legal Education Ontario, “Legal information needs of persons who are incarcerated. Phase 1: Exploratory research – Working paper” (January 2019)

health, trauma, and past abuse can further complicate the access and absorption of the information.

Rights and Reentry

Half of respondents at both WCC and HCC said that they were interested not only in learning more about their charges, but also that they wanted to learn more about the law for when they leave prison. This could include questions about getting a job with a criminal record, residential tenancies, or health and medical rights. Through both the survey, email reference questions, and direct interactions with incarcerated people, it was evident the enormous need to learn more about their rights, and what they need to do to exercise those rights. The access to the information is important, but so too is the access to the personal support and assistance to make sense of that information for successful reentry.

Formats

The format in which the incarcerated person receives the legal information can be as important as the content itself. If someone is not able to read, not able to see small fonts, or not able to understand legalese, then the information itself could become mute. Our survey initially included a question about the use of tablets or laptops as a preferred format, but that question was removed by Corrections staff so as not to provide an offer of a format that is currently not allowed in provincial prisons. There is however, a pilot project to provide user-pay tablets in Manitoba Correctional Centres as a way to provide access to entertainment, music, video and informational materials to the incarcerated person. Manitoba Justice is working to help create access to some free materials as well, including legal resources as compiled through

this research project. Many of the permissions regarding what can and cannot be placed on the tablets are controlled by Synergy, a Texas-based company, and there have been some privacy and other concerns by others piloting the tablets⁴⁶.

In the final Corrections-approved survey, print was identified as the preferred format to access information with 60% of HCC respondents wanting books or legal textbooks. Worth noting however is the 62% who would also like a one-on-one conversation (either in person or video). This “format” request represents perhaps a need for legal information but also for that personal support and assistance as mentioned previously. Meanwhile, 76% of WCC respondents wanted legal information in book or legal textbook format, and over half of respondents were interested in legal information in formats like pamphlets, brochures, infographics and posters. Printed articles and summaries of law were also a preferred format at 52%.

By far the most popular accessible way to read and receive the legal information for both WCC and HCC was through large print. Large print, while helpful for the ageing population in prisons, is also easier for folks with lower literacies⁴⁷. A smaller percentage and yet still significant at 10%, requested access to legal information in other languages including Cree, Ojibway, and Soto, and also Spanish, Punjabi and Arabic. Both ASL and braille accessible formats were also requested.

Our results are supported by the 2019 working paper created by Community Legal Education Ontario⁴⁸ which highlights the following tips and formats that they gathered

⁴⁶ <https://www.prisonpolicy.org/blog/2019/03/07/free-tablets/>
<https://www.halifaxexaminer.ca/uncategorized/jail-phone-system-appears-to-violate-provincial-privacy-rights-policy>

⁴⁷ Thorndike Press, “Advancing literacy with large print: white paper” (2020)

⁴⁸ Community Legal Education Ontario, “Legal information needs of persons who are incarcerated. Phase 1: Exploratory research – Working paper” (January 2019)

from respondents to their own research into the legal needs of incarcerated

Ontarians:

- Create very simple one-page fact sheets or infographics; short format, very focused information
- Write clear, step-by-step information, especially about the criminal process and timelines – e.g., “I’m here; what happens next”
- Use images and graphics and brightly coloured paper
- Use large print – some people might not have access to their prescription eyeglasses; also, large print can be easier to read for people with lower literacy levels
- Booklets with more detailed information can be useful at times; create booklets without staples or paper clips
- Write short columns for prison newsletters
- Create small, folded referral cards that can be carried around easily in a pocket

Both survey tools are found in Appendix 1. A list of questions and topics asked by those incarcerated in Manitoba prisons was also collected throughout the course of this research. The complete list can be found in Appendix 2.

Future Project Goals

Access to information is a human right⁴⁹. Currently, incarcerated community members in Manitoba provincial prisons have serious unmet legal information needs. These people are members of the community, they come from our communities, and they will return to our communities.

To help meet more of those legal information needs, the *Legal Information for Incarcerated Manitobans* Initiative has received approval for funding from the Manitoba Law Foundation to continue and expand this initiative over the next three years. The newly funded initiative will build on this 2023 proof-of-concept research project.

The initiative will continue to:

- expand its reach to all six provincial prisons,
- purchase, build and maintain collections of legal books and resources,
- provide legal information programming,
- create content for legal resources in accessible and relevant formats.

Books from the list of recommended materials have been purchased and distributed to Milner Ridge Correctional Centre, and these book collections will be distributed as well to Headingley Correctional Centre for Men, Women's Correctional Centre, the Winnipeg Remand Centre, Brandon Correctional Centre, and The Pas Correctional Centre.

⁴⁹ Prison Libraries Network, Canadian Federation of Library Associations, "Prison Libraries Network: The Right to Read" (2024)

The research project funded by CALL/ACBD has identified clear legal topics that need to be addressed to meet the incarcerated person's legal needs. Future plans include to create programming and workshops for justice-involved people about those legal topics, and also to create legal information content in the form of FAQs and in plain language.

Working with partners and community, including law clinics and organisations like Elizabeth Fry and John Howard, and the Manitoba Library Association-Prison Libraries Committee, greatly assists the *Legal Information for Incarcerated Manitobans* Initiative as we work to achieve these future goals over the next three years.

Conclusion

Provincial and federal prisons are subject to human rights law, to the Canadian *Charter of Rights and Freedoms*, and to International Human Rights standards for the treatment of prisoners. These global standards have been ratified by Canada and include: the Charter of the United Nations, the UN Declaration of Human Rights, the UN Standard Minimum Rules for the Treatment of Prisoners and the International Covenant on Civil and Political Rights (Penal Reform International). Arguably, access to a prison library, and specifically to legal information inside that library is a key right for an incarcerated person.

Referencing legal information, Section 15.2 of IFLA's *Guidelines for library services to prisoners*⁵⁰ states that:

Legal information resources must be provided to prisoners. The selection of materials for this section of the library should be guided by a legal practitioner experienced in the legal environment of the country. A legal practitioner should review the currency and completeness of the legal resources available through the prison library on an annual basis.

There exists a huge opportunity for public libraries, law libraries, law students and law schools, and law firms to provide services and resources that can help with legal information for incarcerated people. Library staff, especially those from public libraries who already create access to legal resources and services, can help with reentry for people leaving prison. Law firms and law students can assist in virtual or telephone clinics to both the incarcerated and formerly incarcerated, but also to

⁵⁰International Federation of Library Associations, "Guidelines for library services to Prisoners" (February 28, 2023)

support the expungement or cleaning of records. Library staff, legal workers, and community organisations working collaboratively is a key component to success.

Librarians and libraries have a role to play in contributing to social justice in our communities: to create and humanise a space where everyday knowledge, experiences, and literacies are valued. Helping incarcerated community members build legal capability, and to feel included in, and knowledgeable about the judicial process is a small and yet significant library role to play in breaking down the systemic racism and socio-economic marginalisation that plagues our current carceral system in Manitoba, if not Canada as a whole.

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Annotated Bibliography

The availability of research regarding library and information access to Canada's incarcerated population is very limited. The research on legal information access is even rarer still. The following annotated bibliography looks at the research and information available in Canada as well as American and other sources of research and information.

Literature regarding prison libraries generally will be considered as well as prison legal information and libraries more specifically.

The review examines a wide range of materials from journal articles to government directives and guidelines, and studies or surveys from non-governmental organizations to historical assessments of the prison library.

Articles

Danielle Noonan. *Readers' Advisory Services in Canadian Prisons*, (2023) 48 – 1 CLLR 9. <https://canlii.ca/t/7n21d>

The author explains the meaning of a readers' advisory service as defined for a public library, and compares the value of providing such a service in Canadian federal prisons. The service ensures staff are familiar with their collection and their patrons so that they can make recommendations of appropriate reading material. Review of several government reports on institutional library services, including a Royal Commission and a Report to Parliament. Notes the necessity of having legal information materials. Despite encouraging additional funding and services in prisons, Corrections Canada has not followed through. The majority of prison libraries continue to be supported by donation programs from individuals and

libraries. This is not ideal, as the institution is unlikely to receive the kinds of information resources that are most beneficial for the incarcerated audience.

Michelle De Agostini. ***Locked up Libraries: A Critique of Canadian Prison Library Policy.*** Journal of Radical Librarianship, Vol. 8 (2022) pp. 1-24, published 17 May 2022. <https://journal.radicalibrarianship.org/index.php/journal/article/view/69/58>

The author notes that the history of prison libraries in Canada, starting in the mid-19th century has already been reviewed, so she is focussing on the 1980s to the present, including the beginning of the COVID-19 pandemic. A standardized federal prison library policy would not exist until 2012, despite the Archambault Report delivered in 1938 criticizing the lack of library services. Correctional staff generally consider prison library services to be a privilege earned by good behaviour, rather than a right. Author worked as a prison librarian in Edmonton and can provide a first hand experience.

Madison Parker. ***Decades in Crisis: A Critical Analysis of the Underuse of Sections 81 and 84 of the Corrections and Conditional Release Act and its Role in the Systemic Neglect of Indigenous Rehabilitation and Reintegration.*** Volume 44, Issue 5, Manitoba Law Journal. https://themanitobalawjournal.com/wp-content/uploads/articles/MLJ_44.5/445_Parker.pdf

Indigenous people are incarcerated at a rate much higher than all other offenders, even though they represent a much lower percentage of the population. Sections 81 and 84 of the *Corrections and Conditional Release Act* (CCRA), S.C. 1992, c. 20 were formulated to combat this problem of Indigenous overrepresentation in custody. This paper analyses the successes and (mostly) failures of Corrections Services Canada (CSC) to build and fund alternative means of custodial rehabilitation.

Studies of the reasons for overrepresentation showed that a significant number of offenders were imprisoned due to “breach offences”, e.g. breaches against the administration of justice leading to a “revolving door” of custody.

Factors to reduce the number of incarcerated Indigenous people include changes made to the Criminal Code (e.g. s.718.2) and the introduction of *Gladue* principles in sentencing.

This article discusses in great detail the facilities developed to respond to these sections of the *Act*.

Michele M. Leering, Executive Director/Lawyer, Community Advocacy & Legal Centre (CALC), Belleville, Ontario, with contributions from Nicole Paviglianiti, Project Researcher & Facilitator March 2020

Stymied, Stigmatized and Socially Excluded: A Pilot Study Exploring Unmet Civil Legal Needs of People Incarcerated at the Quinte Detention Centre

<https://communitylegalcentre.ca/wp-content/uploads/2021/04/Unmet-Civil-Legal-Needs-2020-Full-Report.pdf>

Report on the findings of a pilot study undertaken by CALC to identify the unmet civil legal needs of people who are or have been detained or incarcerated in the Quinte Detention Centre (QDC). Goal of the research was to understand the impact of unmet legal needs and whether improving a person’s legal health might ease community re-entry after release. Most people admitted to QDC are on remand and have not been found guilty of any crime. Issues include finding child care, loss of employment after arrest, maintaining housing and income insecurity. CALC wondered if there were partnership opportunities with Legal Aid Ontario (LAO) and Community Legal Education of Ontario (CLEO) to strategize and help meet these needs.

CALC created resources on local services and developed an online portal for legal information. They made 10 recommendations to further the results of their research, including future research.

Community Legal Education Ontario (CLEO) January 2019

Legal Information Needs of Persons Who are Incarcerated: Phase 1: Exploratory research – Working paper

<https://cleoconnect.ca/wp-content/uploads/2019/04/CLEO-PLI-for-incarcerated-persons-final-paper-with-appendices-January-2019.pdf>

Community Legal Education Ontario (CLEO) began studying how to understand the needs for legal information of adults who are either incarcerated or newly released. They uncovered issues such as the type of legal information incarcerated people needed, as well as what format would best serve them. They discussed the barriers faced both by the people they are trying to help, and by CLEO in getting responses from corrections staff. This paper is a roadmap to the process of starting an institutional legal information centre.

Jayne Finlay and Jessica Bates. ***What is the Role of the Prison Library? The Development of a Theoretical Foundation.*** Journal of Prison Education and Reentry, Vol. 5, No. 2, December 2018.

https://www.academia.edu/90677244/What_is_the_Role_of_the_Prison_Library_The_Development_of_a_Theoretical_Foundation

This article suggests that by situating prison library research within the disciplines of librarianship, education, and criminology can lead to a deeper understanding of the contribution made by libraries to incarcerated people (from abstract). The authors note that there is very little empirical evidence of inmates' use of library services. Most prison library research has focused on the “how to” of setting up a prison

library, rather than on the theory. The article examines the principles of desistance⁵¹, informal learning, and critical librarianship.

Most desistance research concerns individuals before and after incarceration. This article concentrates on the library during incarceration. The authors hypothesize that the library already plays a role by providing a nonjudgmental space for incarcerated people where they can access many varieties of reading material. It is well understood that any kind of reading provides informal, flexible learning, which is more likely to be well received by inmates than a formal educational program.

Joel Gladstone. ***Prison Law Libraries: From US's Bounds to Canada's Biever***, (2017) 42-4 CLLR 15.

https://www.callacbd.ca/resources/Documents/CLLR/42/CLLR%2042%204_Final%20compressed.pdf

This article examines prison law libraries in North America over the last 50 years, starting with a survey of U.S. case law, scholarship, current Canadian policy and legislation, and an in-depth review of two key cases, one American, *Bounds v. Smith*, (1977) 97 S. Ct. 1491 and the more recent Canadian *R. v. Biever*, 2015 ABQB 301. The article explores the impact of those cases on the provision of legal resources in prison libraries, the politicisation of those resources, and the effect that technology, specifically online resources, are having on the issue. More fundamentally, these cases raise questions about what is meaningful access to legal resources for those in prison and what a prison law library could and should be.

Illana Newman. ***The Role of the Librarian in Canadian Correctional Libraries***, (2017) 42-4 CLLR 9.

⁵¹ The process of abstaining from crime by those with a previous pattern of offending. Oxford Bibliographies online:
<https://www.oxfordbibliographies.com/display/document/obo-9780195396607/obo-9780195396607-0056.xml#:~:text=obo%2F9780195396607%2D0056-,Introduction,offending%20or%20other%20antisocial%20behavior.>

https://www.callacbd.ca/resources/Documents/CLLR/42/CLLR%2042%204_Final%20compressed.pdf

This paper discusses and critiques the scholarly and professional literature on the role of the librarian and the library in Canadian correctional facilities. A review of the literature found a dearth of recent and rigorous scholarly investigation into the subject and a concerning lack of interest outside of the librarian profession. The paper concludes that more regular study of libraries and librarianship in the corrections context is critical to the maintenance of inmates' rights and the preservation of the integrity of the office of the prison librarian.

Prepared by Thérèse Lajeunesse. ***Study of the Legal Services Needs of Prisoners in Federal Penitentiaries in Canada: Legal Aid Research Series***

Justice Canada. 2002

https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr03_la19-rr03_aj19/rr03_la19.pdf

The Department of Justice Canada (2002) developed a new legal aid and access to justice policy framework. This study is based on the perceptions of inmates, corrections officials and prisoner advocates. The purpose of the research is to determine the range of legal matters faced by prisoners in federal penitentiaries, document the difficulties prisoners experienced accessing legal advice and support, and examine possible approaches to address these difficulties and needs. Fifteen institutions in total were selected for the study.

None of the inmates interviewed reported any public legal information activities.

Many assume they have no rights. Incarcerated women reported family law concerns, such as apprehension of children and changes related to temporary or permanent custody. Three general observations: (1) inmates require legal assistance; (2) the nature of the penitentiary raises unique issues and barriers; and

(3) incarcerated people are a unique population, governed completely by legislation, Corrections' policy directives and the rules governing individual institutions.

Final recommendations focused on providing access to lawyers, through a "staff lawyer" program. Concerns were over who would fund such a program so that the lawyers were truly independent. Potential outcomes included less violence in prison and incarcerated people feeling acknowledged.

Directives

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Government of Canada, 2017.

<https://www.canada.ca/en/correctional-service/corporate/acts-regulations-policy/commissioners-directives/720.html>

Policy Papers

IFLA Guidelines for Library Services to Prisoners

Edited by Jane Garner and Lisa Krolak, with contributions and support from the working group on Prison Libraries of the IFLA Library Services to People with Special Needs Section 4th ed. February 2023

<https://repository.ifla.org/handle/123456789/2538>

A tool for the planning, implementation and evaluation of library services to prisoners in all kinds of places of incarceration. The Guidelines were first published in 1992, and have been revised in 1995, 2005 and 2023. It includes minimum standards of library service, recognizing that many countries may not be able to achieve even that level.

...[T]hese guidelines shall serve as a general statement of principle for the fundamental right of prisoners to read, learn, access and acquire information.

(p. 6).

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Acknowledgment - Canadian Library Association (CLA), Prison Libraries Network: Approved January 2016. CFLA-FCAB: Adopted August 26, 2016.

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Position statement on the rights of incarcerated people to have access to all types of reading material while in custody.

National Guide for Institutional Libraries (archived)

Correctional Services Canada. 2012

<https://www.publicsafety.gc.ca/lbrr/archives/cn21137-eng.pdf>

Policy developed for developing a correctional institutional library, using the public library as its model. Written in plain language, it lays out the philosophy and purpose of such a library, and recommends the level of staffing, kind of collection and technology required. It takes into account the challenges of working in a carceral institution, such as restrictions on the type of material available and lack of access to the internet. Types of materials to be acquired cover legal information, recreational and self-help resources, and religious materials in a wide variety of formats.

Specifically does not include educational materials such as textbooks.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

UNODC United Nations Office on Drugs and Crime

https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

Rule 64: Every prison shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make use of it.

Report of the Royal Commission to Investigate The Penal System of Canada
(Archambault Royal Commission), 1938.

<https://publications.gc.ca/site/eng/9.699906/publication.html>

Terms of Reference: To inquire into and report upon the penal system of Canada, including (among others) the treatment and classification of offenders, construction of penal institutions, reformatory and rehabilitative treatment, and co-operation between governmental and social agencies in the prevention of crime.

Volume 1, Chapter VIII. Prison Management. Education. (pp. 114 - 120)

The Commission noted that “existing regulations establish certain requirements for the education of prisoners, including the provision of a library”.⁵² These regulations have very rarely been carried out as intended. It is interesting to note that the Commission found that teachers were not given the respect that the importance of their work entitled them. Although this document was submitted almost a century ago, it contains recommendations that are still relevant today.

⁵² Archambault Royal Commission, p. 114.

Recommended Collection for every Manitoba Prison

Catalogued here:

https://catalog.lawlibrary.ca/en/list?p=1&ps=20&place_facet=Prison%20Libraries

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<https://www.cnib.ca/en/support-us/advocate/know-your-rights/legal-information-handbooks?region=mb>

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<https://representingyourselfcanada.com/wp-content/uploads/2017/09/Reading-A-Case-Primer.pdf>

National Self Represented Litigants Project. So you're representing yourself.

<https://representingyourselfcanada.com/wp-content/uploads/2020/06/So-you%E2%80%99re-representing-yourself.pdf>

Parole Board of Canada

- [Application Form Royal Prerogative of Mercy \(Clemency\) PDF](#)
- [Court Information Form PDF](#)
- [Cannabis Record Suspension Application Forms](#)
- [Cannabis Record Suspension Application Guide](#)
- [Expungement Application Form PDF](#)
- [Expungement Application Guide PDF](#)
- [Record Suspension Application Form PDF](#)
- [Your Guide to Parole PDF](#)
- [What You Need to Know About Parole if You're in Provincial/Territorial Custody PDF](#)

APPENDIX 1



LEGAL INFORMATION NEEDS SURVEY (first survey)

Please answer the following 9 questions to tell us what you need to learn more about the law. The survey should only take you about five minutes to complete. Thank you!

1. Are you from Manitoba?

- Yes
- No

2. What prison are you in?

3. Do you plan to stay in Manitoba after your release?

- Yes
- No




4. If not, which province or territory do you plan to return to?



- | | | |
|--|---|---|
| <input type="radio"/> British Columbia | <input type="radio"/> Newfoundland and Labrador | <input type="radio"/> Prince Edward Island |
| <input type="radio"/> Alberta | <input type="radio"/> New Brunswick | <input type="radio"/> Yukon |
| <input type="radio"/> Saskatchewan | <input type="radio"/> Nova Scotia | <input type="radio"/> Northwest Territories |
| <input type="radio"/> Ontario | | <input type="radio"/> Nunavut |
| <input type="radio"/> Quebec | | |

5. Do you have a prison library you can visit now?

- Yes
- No

6. Please circle your answers to the following questions using these faces:

-  = Strongly Disagree
-  = Disagree
-  = No opinion

-  = Agree
-  = Strongly Agree

I want to learn more about my charges:



I don't have a lawyer and I want one:



I want to learn more about the law for when I leave prison:



I wish there were more chances to learn about the law in prison:



7. What kind of legal information do you need?

8. How would you like to get legal information (choose up to three):

- One-on-one conversation with a lawyer/law student/librarian
- Video call to a lawyer/law student/librarian
- Video presentation or workshop with a lawyer/law student/law librarian
- Instructional videos
- Printed articles
- Books
- Pamphlets and brochures
- Summaries of the law
- Legal textbooks
- Posters and infographics
- On a tablet or laptop
- Other _____

9. Would any of these be helpful? Check all that apply.

- Large print
- Translation into another language (if so, what language: _____)
- ASL (sign language) translation
- Subtitles for video
- Audio/spoken word for text
- Braille
- Transcript (written copy) of what is said in a video
- Screen reader (software that reads the text on a computer screen in computerized voice)
- Other _____

Thank you for completing this survey!



LEGAL INFORMATION NEEDS SURVEY (revised survey)

Please answer the following **7** questions to tell us what you need to learn more about the law. The survey should only take you about five minutes to complete. Thank you!

1. What Correctional Centre are you in?

2. Do you plan to stay in Manitoba after your release?

Yes No

3. What kind of legal information do you need? (for example: family law, child custody, criminal law, information about the legal system, appeals etc)

4. Please answer the following questions:

I want to learn more about my charges:

Yes No

I want to learn more about the law for when I leave prison:

Yes No

5. How would you like to get legal information (choose up to three):

- Virtual/video call to a lawyer/librarian
- Virtual/video presentation or workshop
- Recording of the workshop
- Instructional videos
- Printed articles
- Books

- Pamphlets and brochures
- Summaries of the law
- Legal textbooks
- Posters and infographics
- Other _____

6. Would any of these be helpful? Check all that apply.

- Large print
- Translation into another language (if so, what language: _____)
- Subtitles for video
- Audio/spoken word for text
- Braille
- Transcript (written copy) of what is said in a video
- Screen reader (software that reads the text on a computer screen in computerized voice)
- Other _____

7. Do you have any other comments about your legal information needs?

Thank you for completing this survey!

APPENDIX 2

LEGAL TOPICS FROM INCARCERATED MANITOBANS

Appeals

- How to file own appeal and have questions about an appeal book.
- Looking for resources on filing own appeal
- Appealing Legal Aid refusal

Amicus at trial

Breached bail (was wondering if mother was going to lose the \$2,000 she paid for his cash bail)

Civil lawsuit - how to file

Conspiracy for wrongful prosecution - section 465(1)(b)

Collecting WCB

Complaints about judge, insufficient resources for inmates

Criminal forfeiture proceedings

Criminal Records (for job seeking)

Deadlines for filing appeals regarding conditions of residency with the Correctional Service of Canada and the Parole Board of Canada

Family Law

Child custody

Child Welfare (custody, access, divorce)

-how to access the Child Advocate

-complaints

Divorce

Parental rights

Filing grievances re: prison conditions and re: rehabilitation

Fraud - restitution payments - how does it work?

Immigration Law / Refugee Law

Injury

-A nurse in Winnipeg Remand Centre had broken inmate's finger

Inmate/Prisoner's Rights

Jordan's Principles as they apply to Corrections

Housing / Residential Tenancies

Human Rights / Charter Rights
Habeas Corpus

Lawyer Referrals

- Needs a lawyer for a civil case. Placed by CFS in the Seven Oaks Juvenile Centre where he was sexually abused and continued to run away.
- Lawyer for personal injury cases
- Civil litigation lawyers who deal with police brutality or actions against law enforcement.
- How to contact lawyer for solitary confinement class action lawsuit for Manitoba.
- Lawyer to respond to petition he was served with.
- Questions about ineffective counsel.

Malicious prosecution inquiries.

Pardons - how to get one

Parole

Record Suspension

Residential School claims

Rowbotham applications

Section 84 - special parole provision - release to an Indigenous community

Segregation, rights and lack of mental health - bail worker was saying many 2SLLGBTQQIA+ folks are placed in segregation and not even sure why they are there.

Self-representing

- on their criminal matter - questions about upcoming case conference and negotiation of sentence
- trying to understand how to serve corrections facilities and government bodies.

Starting a business

- as an Indigenous person

Unreasonably Delay inquiries.

Variance forms difficulty understanding the form and finding it confusing

Some more specific questions:

"validation of charges against me"

"fabrication of evidence"

"evidence admissible in court"

"What are my rights for how much time out of my cell I can have?"

"How do I get personal property back from the police after arrest?" (One woman said she is homeless and all of her things were taken by the police after they arrested her - she was being released in a few days but had none of her personal property and had been told that the police had thrown it out (because the police said she hadn't contacted them in the proper time frame.)

APPENDIX 3

MEMORANDUM

TO: Professor McCandless

FROM: Lizzie Tough and Maria Garcia Manzano

DATE: June 01, 2023

RE: Legislative Scan for Prison Libraries & Legal Materials Access in Canada

[A] Introduction

Access to law libraries in provincial or territorial correctional facilities is critical for inmates awaiting trial.⁵³ Throughout Canada, there are differences in how detained self-representing accused persons may access legal research materials and whether that access is adequate to protect the ss. 7 and 11 *Charter* rights of a detained accused.⁵⁴ In general, access to law libraries or legal materials for self-representation differs in each province and territory in Canada, and the legislation is mainly curated for the general public, as opposed to an accused detainee. The only province in Canada to have legislation that explicitly requires libraries with legal reading materials in provincial correctional facilities is Ontario.⁵⁵ The lack of legislation was one of the most concerning issues we found when searching for legislation supporting the right to access libraries and law libraries in provincial correctional facilities.

Preliminary research on prison libraries was conducted before we met with other members of this project. Completed research on prison libraries in Canada is minimal,⁵⁶ and provincial

⁵³ Joel Gladstone, "Prison Law Libraries: From US's Bounds to Canada's Biever" (2017) 42:4 *Can L Library Rev* 15 at 18, online (pdf):

<https://www.callacbd.ca/resources/Documents/CLLR/42/CLLR%2042%204_Final%20compressed.pdf> [https://perma.cc/HN9T-N3AQ].

⁵⁴ *R v Biever*, 2015 ABQB 301, at paras 51, 74, 119-131, online: *Canlii*

<<https://canlii.ca/t/ghlc5>>. Justice Graesser recognized that for correctional and remand facilities to facilitate an accused's right to make a defense and right to a fair trial, self-representing accused persons who are remanded must have access to adequate legal research resources and space to privately review their disclosure.

⁵⁵ *Correctional Services Transformation Act*, 2018 SO, c 6, ss 60, 90(1)-(3).

⁵⁶ Ilana Newman, "The Role of the Librarian in Canadian Correctional Libraries"(2017) *Can L Library Rev* 42:4 at 15, online (pdf):

and territorial legislation that either mandates or supports prison library development are sparse. Although some provincial corrections policy handbooks were available, they were often outdated or did not support an inmate's right to access legal reading material.⁵⁷ The strongest supports for libraries in provincial correctional facilities were committees and organizations that voluntarily collected and distributed books to inmates.⁵⁸ In Manitoba, all provincial correctional facilities except for Brandon Correctional Centre now have access to library materials because of the ongoing work of the Prison Libraries Committee.⁵⁹

In terms of Federal guidelines, in 2012, Correctional Service Canada compiled the *National Guide for Institutional Libraries*, and it states that the purpose of a library in a federal institution is to provide access to a wide range of information, ideas, and perspectives.⁶⁰ When addressing Library Access and Privileges, the guide indicates that while library services should be provided to all inmates, the access granted is subject to each institution's standing orders.⁶¹ Regarding the library contents, the guide states that there are required acquisitions for a prison library, including a selection from educational, recreational, ethnically diverse, and legal materials.⁶²

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https://www.callacbd.ca/resources/Documents/CLLR/42/CLLR%2042%204_Final%20compressed.pdf <<https://perma.cc/HN9T-N3AQ>>.

⁵⁷ British Columbia, Ministry of Justice, *Adult Custody Policy*, (policy), by the Adult Custody Division of the Corrections Branch, JAG-2013-00337 (British Columbia: Ministry of Justice, April 2005) at 533, online (pdf): <

http://docs.openinfo.gov.bc.ca/d26445513a_response_package_jag-2013-00337.pdf>

[<https://perma.cc/2EQR-LKR4>]. [*British Columbia Policy*]

⁵⁸ John Howard Society, Manitoba Library Association, "Prison Library Committee", online: Manitoba Library Association <

<https://mla.mb.ca/about/committees/prison-libraries-committee/>>

[<https://perma.cc/D25A-5PYB>].

⁵⁹ Sav Jonsa, "'They had no libraries': Book drive in Winnipeg gets reading into province's jails", *APTN National News* (15 May 2023), online:

<<https://www.aptnnews.ca/national-news/they-had-no-libraries-book-drive-in-winnipeg-gets-reading-into-provinces-jails/>> [<https://perma.cc/A3Z4-YNZT>].

⁶⁰ *National Institutional Library Policy Guidelines* (2012), Public Safety Canada Archives - Correctional Services Canada. <

<https://www.publicsafety.gc.ca/lbrr/archives/cn21137-eng.pdf> > [perma.cc/XJ84-7LH]

⁶¹ *Ibid.*

⁶² *Ibid.*

In this memorandum, first, an overview of the relevant legislation for the preliminary research and law libraries access has been made available in table format. Next, the noteworthy findings regarding broad access to prison libraries will be discussed, followed by a discussion on legislative language which best supports the funding, implementation, and operations of law libraries and access to legal materials in provincial correctional facilities.

[B] Preliminary Research

Table 1: Access to Prison Libraries

Jurisdiction	Prison Library Access Legislation	Date of Legislation Enactment	Legislation Description
British Columbia	Correction Act Regulation	2004	“must” provide programs designed to assist in improving education. ⁶³
Alberta	nil		
Saskatchewan	nil		
Manitoba	nil		
Ontario	Correctional Services Transformation Act	07 May, 2018 ⁶⁴	Inmates have rights to borrow books and a library shall be established. ⁶⁵
Quebec	nil		

⁶³ BC Reg 58/2005, s 38(2)(a), online (pdf): https://www.bclaws.gov.bc.ca/civix/document/id/crbc/crbc/58_2005 <https://www.bclaws.gov.bc.ca/civix/document/id/crbc/crbc/58_2005> [<https://perma.cc/2KUC-XSM2>].

⁶⁴ *Supra* note iii.

⁶⁵ *Supra* note iii, ss 60, 90(3).

New Brunswick	Corrections Act	2011	The Lieutenant-Governor may make regulations in respect to the operation, management of the correctional institution. ⁶⁶
	With Corrections Act NB Regulation 35(a) as Legislative authority ⁶⁷	Effective March 2001 Revised December 2022	Establish procedural guidelines ensuring access to library for all clients. ⁶⁸
Prince Edward Island	nil		
Nova Scotia	Correctional Services Act	2005	Under s.94 The minister with approval from the Governor can make regulations “respecting the development, establishment and delivery of correctional programs for offenders.” ⁶⁹

⁶⁶ *Corrections Act*, RSNB 2011, c 132, s 35(a).

⁶⁷ Province of New Brunswick, “Library Services F3” (March 2001), online: *Department of Justice and Public Safety Adult Custody Services* <<https://www2.gnb.ca/content/dam/gnb/Departments/ps-sp/pdf/corrections/policies-politique/s/F3-library-services.pdf>> [perma.cc/GG4V-ZKCA] [*New Brunswick Policy*]

⁶⁸ *Ibid.*

⁶⁹ *Correctional Services Act* S.N.S. 2005, c. 37, s 94.

	Correctional Services Regulations made under Section 94 of the Correctional Services Act ⁷⁰	28 June, 2006	Under s. 57 “An offender who is not being penalized must be allowed library privileges in the correctional facility at least once a week for the purpose of selecting and exchanging reading material.”
Newfoundland & Labrador	nil		
Nunavut	nil		
Northwest Territories	Corrections Act	2019	Access to reading materials considered a minimum living condition and standard. ⁷¹
Yukon Territory	Corrections Regulation made	2009	Inmate right to access reading materials. ⁷³

⁷⁰ NS Reg 99/2006, s 57.

⁷¹ *Corrections Act*, SNWT 2019, c 17, s 28(1)(f), online (pdf): <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf> <<https://perma.cc/F8HW-5YVU>>.

⁷³ YOIC Reg 2009/250, s 8(1)(d), online (pdf): https://laws.yukon.ca/cms/images/LEGISLATION/SUBORDINATE/2009/2009-0250/2009-0250_1.pdf <<https://perma.cc/78HB-5UDV>>.

	under Section 51 of the Corrections Act ⁷²		
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Table 2: Access to Law Libraries

Jurisdiction	Law Library Legislation	Date of Legislation Enactment	Legislation Description
British Columbia	Legal Profession Act	1998	The purpose of British Columbia's law foundation is to fund legal education, legal research, and law libraries in British Columbia. ⁷⁴
Alberta	Legal Profession Act	2000	Benchers may contribute to libraries maintained by provincial government; ⁷⁵ Benchers may make rules on use of libraries maintained by society; ⁷⁶ Alberta Law Foundation to establish, maintain

⁷² *Corrections Act*, SY 2009, c 3, s 51, online (pdf): https://laws.yukon.ca/cms/images/LEGISLATION/PRINCIPAL/2009/2009-0003/2009-0003_3.pdf > [<https://perma.cc/F2SX-9AFF>].

⁷⁴ *Legal Profession Act*, SBC 1998, c 9, ss 61(1)(a)-(b), 61(1)(e), online: https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/98009_01 > [<https://perma.cc/83HU-FWSB>].

⁷⁵ *Legal Profession Act*, RSA 2000, c L-8, s 6(i).

⁷⁶ *Ibid*, s 7(2)(u).

			and operate law libraries; ⁷⁷ Alberta Law Foundation to contribute to public legal education. ⁷⁸
Saskatchewan	Legal Profession Act	1990	Benchers may make rules and provide funds or other assistance to establish and maintain law libraries. ⁷⁹
Manitoba	The Legal Profession Act	2002	Purpose of Manitoba Law Foundation includes “the development and maintenance of law libraries.” ⁸⁰
Ontario	Law Society Act	1990	One of the objects of the Law Foundation of Ontario is to establish, maintain, and operate law libraries; ⁸¹ by-laws

⁷⁷ *Ibid*, s 119(a)(ii).

⁷⁸ *Ibid*, s 119(a)(iii).

⁷⁹ *Legal Profession Act*, SSK 1990, c L-10.1, s 10(aa), online: <<https://publications.saskatchewan.ca/#/products/593>> or (pdf) <<https://publications.saskatchewan.ca/api/v1/products/593/formats/826/download>> [<https://perma.cc/UQG9-DHSX>].

⁸⁰ *The Legal Profession Act*, CCSM 2002, c L107, s 88(e), online (pdf): <<https://web2.gov.mb.ca/laws/statutes/ccsm/pdf.php?cap=1107>> [<https://perma.cc/T6PC-S3YV>].

⁸¹ *Law Society Act*, RSO 1990, c L.8, s 55(1).

			“providing for and governing libraries” may be made. ⁸²
Quebec	Act respecting the Barreau du Quebec	1967	By by-law, the board of directors may fund law libraries, but the focus is professional legal training and education. ⁸³
New Brunswick	Law Society Act	1996	Council may operate “a system of law libraries;” ⁸⁴ law foundation to fund legal research, education, and law libraries. ⁸⁵
Prince Edward Island	Legal Profession Act	1988	Operations, sufficient space in law courts for law libraries are responsibilities of the law society; agreements with Minister of Justice and Public Safety and Attorney General may be entered regarding all aspects

⁸² *Ibid*, at s 62(0.1)27.

⁸³ *Act respecting the Barreau du Quebec*, 1967 c B-1, s 15(2)(h).

⁸⁴ *Law Society Act*, 1996, SNB 1996, c 89, s 16(2)(o).

⁸⁵ *Ibid*, at s 98(1)(a)(ii)- (iii), 98(1)(a)(v).

			of law library operations. ⁸⁶
Nova Scotia	Legal Profession Act	2004	Council may provide “library services” and support for public legal education. ⁸⁷
Newfoundland & Labrador	Law Society Act	1999	Benchers may establish, maintain, and operate law libraries; ⁸⁸ Law Foundation fund to be used for law libraries. ⁸⁹
Nunavut	Consolidation of Legal Profession Act ⁹⁰	1988	May establish and maintain libraries for members of law society. ⁹¹
Northwest Territories	Legal Profession Act	1988	May establish and maintain libraries for members of law society. ⁹²

⁸⁶ *Legal Profession Act*, RSPEI 1988, c L-6.1, s 54, online (pdf): <
https://www.princeedwardisland.ca/sites/default/files/legislation/l-06-1-legal_profession_act.pdf> [<https://perma.cc/YLH7-CZUL>].

⁸⁷ *Legal Profession Act*, CSNS 2004, c 28, ss 28(3)(b), 28(3)(d).

⁸⁸ *Law Society Act*, SNL 1999 c L-9.1, s 18(2)(iv).

⁸⁹ *Ibid*, s 67(1)(e).

⁹⁰ *Consolidation of Legal Profession Act*, RSNWT 1988, c L-2 (Nunavut).

⁹¹ *Ibid*, s 7(i).

⁹² *Legal Profession Act*, RSNWT 1988, c L-2, s 7(i), online (pdf): <
<https://www.justice.gov.nt.ca/en/files/legislation/legal-profession/legal-profession.a.pdf>>
[\[https://perma.cc/E9GB-LF49\]](https://perma.cc/E9GB-LF49).

Yukon Territory	Legal Profession Act	2017	An object of the law foundation is to “establish, maintain and operate” public law libraries. ⁹³
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Table 3: Legislated Dissemination of Legal Information

Jurisdiction	Legislation Which Supports Dissemination of Legal Information	Date of Legislation Enactment	Legislation Description
British Columbia	Legal Services Society Act	2002	May provide legal services by way of assistance in self-representation, information packages, self-help kits. ⁹⁴
Alberta	nil ⁹⁵		

⁹³ *Legal Profession Act*, SY 2017, c 12, s 143(1)(b), online (pdf): <https://laws.yukon.ca/cms/images/LEGISLATION/acts/lepr_2017.pdf> [<https://perma.cc/4N9Q-A38L>].

⁹⁴ *Legal Services Society Act*, SBC 2002, c 30, s 11(1)(c), online (pdf): <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/02030_01#part2> [<https://perma.cc/W7UJ-CE22>]. See also s 11(1)(e), which prescribes legal aid services as including the provision of public legal education and information. See also s 10(3)(a), which mandates that "the society must not engage in an activity unless it does so without using any of the funding provided to it by the government."

⁹⁵ Canada, Department of Justice, *Legal Aid Eligibility and Coverage in Canada*, (report), Legal Aid Research Series rr03lars-5e, (Ottawa: Canadian Council on Social Development, October 2002), at 12, online (pdf): <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr03_la5-rr03_aj5/rr03_la5.pdf> [<https://perma.cc/2HNX-BQCE>]. The Legal Aid Society is established by the Law Society of Alberta by way of an agreement between the provincial government, the Law Society of Alberta, and the Legal Aid Society.

Saskatchewan	Legal Aid Act		May provide legal programs, as considered by commission. ⁹⁶
Manitoba	nil		
Ontario	Legal Aid Services Act	2020	Legal aid services may include assistance to self-representation, advice, legal information. ⁹⁷
Quebec	nil		
New Brunswick	nil		
Prince Edward Island	nil		
Nova Scotia	Legal Aid Act	1989	May assist in self-representation or provide legal information and self-help kits. ⁹⁸
Newfoundland & Labrador	Legal Aid Act	1990	Legal Aid may assist other individuals or groups with projects consistent with legal

⁹⁶ *Legal Aid Act*, SSK 1983, c L-9.1, s 7(h), online: <
<https://publications.saskatchewan.ca/#/products/620>> (pdf): <
<https://publications.saskatchewan.ca/api/v1/products/620/formats/880/download>>
[\[https://perma.cc/8YL4-SRUV\]](https://perma.cc/8YL4-SRUV).

⁹⁷ *Legal Aid Services Act*, SO 2020, c 11, s 3(b). See also 3(e) legal aid services also include providing public legal education and information.

⁹⁸ *Legal Aid Act*, RSNS 1989, c 252, s 15(3)(d). See also s 15(3)(f).

			aid's purpose; ⁹⁹ Distribution of information to public and detained persons including legal rights and obligations (method may be regulated.) ¹⁰⁰
Nunavut	Consolidation of Legal Services Act	1988	An objective of legal aid is to provide public education and outreach on human rights. ¹⁰¹
Northwest Territories	nil		
Yukon Territory	The Legal Services Society Act	2002	Develop or coordinate efforts to increase public knowledge of the law, legal process, and administration of justice. ¹⁰²

[C] Noteworthy Findings

⁹⁹ *Legal Aid Act*, RSNL 1990, c L-11, s 63.

¹⁰⁰ *Ibid*, s 67(bb).

¹⁰¹ *Consolidation of Legal Services Act*, RSNWT(Nu) 1988, c L-4, s 7(c)(iii). See also *Human Rights Act*, SNu 2003, c 12, s 49(2) as it appeared in 2003.

¹⁰² *The Legal Services Society Act*, RSY 2002, c 135, s 16(1)(c), online (pdf): <<https://laws.yukon.ca/cms/images/LEGISLATION/PRINCIPAL/2002/2002-0135/2002-0135.pdf>> [<https://perma.cc/86ZV-LYBU>]. See also s 16(1)(b) which provides legislation on student roles in the Legal Services Society.

[1] Prison Library Access

[1.1] Access to Reading Material & Library Access

The right of inmates to access reading materials is legislated in Northwest Territories and Ontario and is a right declared in the regulations for correctional facilities in Nova Scotia, New Brunswick, and Yukon Territory.¹⁰³ In British Columbia, the rights of inmates to access libraries, including a legal library, is a fundamental part of the policy handbook which provincial correctional facilities adhere to.¹⁰⁴ Ontario, Nova Scotia, and New Brunswick either have legislation or regulation explicitly mentioning access to correctional library facilities or services.¹⁰⁵ It remains unclear whether the Northwest Territories and Yukon Territory recognize the rights of inmates to access library services in their territorial correctional facilities. Although the right of inmates to access reading materials is recognized in the territories,¹⁰⁶ this may only be a right for an inmate to receive reading materials from someone not incarcerated. It is unclear what a right to access reading materials means for an inmate who does not have someone who can drop off books for them or whether access to reading materials is facilitated with access to books for sale instead of library access.

[1.2] Provinces with Access to a Prison Library Legislation

Ontario is one of the few provinces in Canada to have explicit provincial legislation regarding prison libraries. The *Correctional Services Transformation Act*¹⁰⁷ (*The Act*), first introduced on February 20, 2018, by the Honourable Marie-France Lalonde, sought to modernize Ontario's Correctional system by "improving conditions of confinement....and aid in greater rehabilitation and integration." (Hansard Record for Bill 6 ON).¹⁰⁸ *The Act* received royal assent on May 7, 2018, after three readings and comment submissions to the Standing

¹⁰³ *Supra* note xix, s 28(1)(f); *supra* note iii, ss 60, 90(1)-(3); *supra* note xviii, s 57; *New Brunswick Policy*, *supra* note xv; *supra* note xxi, s 8(1)(d).

¹⁰⁴ *Supra* note v at 533.

¹⁰⁵ *Supra* note iii, s 90; *supra* note xviii, s 57; *New Brunswick Policy*, *supra* note xv.

¹⁰⁶ *Supra* note xix, s 28(1)(f); *supra* note xxi, s 8(1)(d).

¹⁰⁷ *Supra* note iii.

¹⁰⁸ "Bill 6, An Act to enact the Ministry of Community Safety and Correctional Services Act and the Correctional Services and Reintegration Act", 1st Reading, *Ontario Legislative Assembly* (Hon. Marie-France Lalonde)

<<https://www.ola.org/en/legislative-business/house-documents/parliament-41/session-3/2018-03-20/hansard#para959>> [perma.cc/L9W3-6ZEQ]

Committee by the Human Rights Commissioner,¹⁰⁹ Ontario Ombudsman,¹¹⁰ Registered Nurses' Association¹¹¹ and the Centre for Addiction.¹¹² All four associations approved *The Act* submission, and the Human Rights Commissioner specifically stated, "Bill 6 (*The Act*) establishes the minimum conditions of confinement for all prisoners, including access to...libraries." (Ontario Human Rights Commission).¹¹³ Furthermore, all four associations discussed the Howard Sapers Independent Review of Ontario Corrections completed in March 2017, including recommendations that inmates have access to institutional and legal library materials.¹¹⁴

The noteworthy sections which explicitly relate to prison libraries are ss. 60 and 90.¹¹⁵ As stated below, the provisions include language that states an inmate has the right, and not merely a privilege, to access a library to borrow books.

S.60 "Every inmate has the right to borrow books in accordance with the regulations."¹¹⁶

¹⁰⁹ Ontario Human Rights Commission, *Chief Commissioner Renu Mandhane comments to the Standing Committee on Justice Policy regarding Bill 6, the Corrections Transformation Act*. (19 April 2018).

<<https://www.ohrc.on.ca/en/bill-6-corrections-transformation-act-chief-commissioner-comments-standing-committee-justice-policy>> [perma.cc/RXT7-X92X] [ONHRC]

¹¹⁰ Ombudsman Ontario, *Transforming the Conditions of Confinement* (Submission to the Standing Committee on Justice Policy regarding Bill 6, Correctional Services Transformation Act, April 2018).

<<https://www.ombudsman.on.ca/Media/ombudsman/ombudsman/resources/Submissions/Bill-6-OmbudsmanSubmission-EN-accessible.pdf>> [perma.cc/QEC9-FWKT]

¹¹¹ Registered Nurses' Association of Ontario, *RNAO's Response to Bill 6: Correctional Services Transformation Act, 2018* (Submission to Standing Committee on Justice Policy 19 April 2018).

<https://nao.ca/sites/nao-ca/files/RNAO_Bill_6_corrections_april_19_2018_rev.pdf> [perma.cc/S3DH-6FVR]

¹¹² Centre for Addiction and Mental Health, *Submission to The Standing Committee on Justice Policy on Bill 6, Correctional Services Transformation Act*, 19 April 2018, online (pdf):

<<https://camh.ca/-/media/files/pdfs---public-policy-submissions/submission-on-bill-6-apr2018-pdf.pdf>> [perma.cc/T34Y-MNC5].

¹¹³ *Supra* note lvii.

¹¹⁴ Independent Review of Ontario Corrections, *Segregation in Ontario*, (March 2017), ss 6.1.11- 6.1.12, online (pdf):

<<https://hsjcc.on.ca/wp-content/uploads/IROC-Segregation-Report-2017-03.pdf>> [https://perma.cc/65DP-66EA].

¹¹⁵ *Supra* note iii, ss 60, 90.

¹¹⁶ *Supra* note iii, s 60.

S.90 (1) Library “The superintendent of a correctional institution shall establish and maintain a library or equivalent system, which may include an electronic library or database, that is accessible to all inmates.”¹¹⁷

S.90 (2) Contents

(2) “The library shall contain (a) legal reading materials; (b) religious and spiritual reading materials; (c) human rights reading materials; and (d) a reasonable selection of other reading materials that are commonly available to the public.”¹¹⁸

S. 90 (3) Access

(3) “The superintendent shall ensure that every inmate is provided access to the materials described in subsection (2), subject to any disciplinary measures imposed under this Act.”¹¹⁹

To determine the application of the legislation across correctional centres in Ontario, the inmate information guide for adult correctional facilities on the Ontario website,¹²⁰ states that access to a prison library is a privilege and only applicable if there's a library at the institution. If a library is available, inmates may typically have weekly access.¹²¹ It is worth noting there are restrictions on reading material if there is a “reasonable cause to believe the reading material would impact the security and safety of the institution.” (Ontario website).¹²² The website specifies that if no library program is available at an institution, the inmate may request specific reading material subject to approval, making reading material somewhat accessible regardless of the lack of a library.¹²³

[1.3] Policies and Regulations in Other Provincial and Territorial Prisons

In some jurisdictions, regulations and policies have been adopted that require correctional facilities to provide a library. In British Columbia, the *Adult Custody Policy*, which guides the

¹¹⁷ *Supra* note iii, s 90(1).

¹¹⁸ *Supra* note iii, s 90(2).

¹¹⁹ *Supra* note iii, s 90(3).

¹²⁰ Ontario, “Inmate information guide for adult correctional facilities” online: *Law and Safety*

<<https://www.ontario.ca/page/inmate-information-guide-adult-correctional-facilities#section-6>> [perma.cc/H6VS-64TN].

¹²¹ *Ibid*, Under Inmate Privileges – Library and reading materials.

¹²² *Ibid*.

¹²³ *Ibid*.

daily operations of provincial correctional facilities, has a specific section which requires provincial correctional facilities to have a legal library, which inmates can rightfully access.¹²⁴ This is supported by the strong language in British Columbia's *Correction Act, 2004*, which requires provincial correctional facilities to provide inmate-centred activities and programs.¹²⁵ Other examples of provinces that have regulations and policies regarding access to prison libraries are New Brunswick and Nova Scotia.

New Brunswick's *Adult Correctional Services Policies and Guidelines*,¹²⁶ with the *Corrections Act s.35(a)* as the legislative authority,¹²⁷ was revised in December of 2022 but has been effective since March 2001. The policy states that "clients have the right to read and access information from libraries." (New Brunswick Policy) Furthermore, the policy states that restricting the outlined rights can only be done if there is clear evidence that the reading materials will endanger the security of the correction facility. Whether all corrections in New Brunswick have applied the policy is yet to be determined, as the policy states that the procedure varies according to the local policy of the correction center.¹²⁸

In Nova Scotia, per the *Correctional Services Regulations made under S.94 of the Correctional Services Act*¹²⁹ the existence of prison libraries can be assumed as under s.57 of the regulation governing offender entitlements, those who are not being penalized must be allowed library privileges at least once a week so they can access reading material.¹³⁰ Furthermore, the access to libraries by inmates in Nova Scotia Correctional centers is further reinforced by the *East Coast Prison Justice Society Handbook For Prisoners* in Provincial jails, which on page 32 outlines that inmates' access to a prison library must comply with the Correctional Services Regulations.¹³¹

¹²⁴ *British Columbia Policy*, *supra* note v at 533.

¹²⁵ *Correction Act*, SBC 2004, c 46, s 38.

¹²⁶ *New Brunswick Policy*, *supra* note xv.

¹²⁷ *Supra* note xiv, s 35(a).

¹²⁸ *New Brunswick Policy*, *supra* note xv.

¹²⁹ *Supra* note xviii, s 57.

¹³⁰ *Supra* note xviii, s 57.

¹³¹ East Coast Prison Justice Society, "Handbook for Prisoners in Provincial Jails" at 32, online: *Resources* <<https://www.eastcoastprisonjustice.ca/resources.html>> [perma.cc/Y2AZ-8TV6].

[1.4] Access to Prison Libraries by Volunteer Associations

Regardless of most provinces' lack of legislative guidance, volunteer associations nationwide have sought to provide a library service to inmates. As mentioned in the introduction, the Manitoba Library Association formed the Prison Library Committee in Manitoba. The Prison Library Committee has provided almost all inmates in Manitoba corrections with access to reading materials and libraries except for the Brandon Correctional Center. The committee was formed in 2012 from a belief that prisoners have the right to read and access reading materials.¹³² The committee provided access to reading materials by operating library services inside prisons pre-covid 19 but continued providing access by collecting and delivering books to correctional facilities.¹³³ Most recently, the committee conducted its annual book drive in mid-May to ensure inmates' bookshelves are filled with new reading materials.¹³⁴

Other notable associations include the John Howard Society of Newfoundland and Labrador, which, as research indicates, may be one of the only ways Her Majesty's Penitentiary inmates receive regular access to a library as it is staffed and operated entirely by volunteers.¹³⁵ Furthermore, in the review of the Prison System in Newfoundland & Labrador, the importance of the John Howard Society Prison Library Program was highlighted.¹³⁶ In British Columbia, Books to Prisoners has been providing reading materials to correctional facilities since 1992 and has expanded its services from provincial and federal correctional facilities in British Columbia to facilitate sending books to correctional facilities outside the province.¹³⁷ In Nova Scotia, although legislation for library access exists, there was still a Books Beyond Bars Program that would provide a library service to the women's side of Burnside Jail in

¹³² Manitoba Library Association, "Prison Libraries Committee", online: *Committees* <<https://mla.mb.ca/about/committees/prison-libraries-committee/>> [<https://perma.cc/SKM3-N5TJ>].

¹³³ *Ibid.*

¹³⁴ *APTN*, *supra* note vii.

¹³⁵ The John Howard Society of Newfoundland and Labrador, "Prison Library Program" online: *Prison In-Reach* <<https://www.johnhowardnl.ca/services/prison-in-reach/prison-library/>> [perma.cc/9SBF-5F3B].

¹³⁶ Canada, "Review of Prison System in Newfoundland and Labrador." (2008), online: *Public Safety* <<https://www.publicsafety.gc.ca/cnt/rsrscs/lbrr/ctlg/dtls-en.aspx?d=PS&i=18391755>> [perma.cc/CX56-VUJD].

¹³⁷ Books to Prisoners Vancouver, "Books to Prisoners Vancouver – About" online: *Books to Prisoners* <<https://bookstoprisoners.ca/>> [<https://perma.cc/7FD3-ER3V>].

Halifax pre-covid 19.¹³⁸ However, to date, the library service has not resumed. Still, volunteers have maintained the library and obtained new books so that when the program is able to resume, there will be an abundance of reading materials available.¹³⁹ In Nunavut, although no legislation requires a prison library in 2021, The Aaqqigiarvik Correctional Healing Facility was opened in Iqaluit.¹⁴⁰ The Territorial Justice Minister, stated upon its opening that the facility would house a library space that would also contain law-related content.¹⁴¹ Furthermore, there appear to be other existing library programs in Nunavut specifically for women inmates who have library access, but the association's name is unclear.¹⁴²

[1.5] Provinces Lacking Legislation and Have Minimal Volunteer Programs

Although most provinces across Canada have some way of providing library access to inmates, Saskatchewan, Alberta, and Quebec are three of the provinces that have no explicit legislation about library access and where there is minimal volunteer programming. The Saskatchewan Penitentiary in Prince Albert had a correctional library for over 25 years.¹⁴³ The correctional library was open five days a week and, at some point, hired a certified First Nations librarian to ensure the library contents were appropriate.¹⁴⁴ However, in 2013, the correctional library was closed due to budgetary cuts.¹⁴⁵ As of the start of 2023, according to the Saskatchewan library directory, the correctional library remains permanently closed.¹⁴⁶ Despite the closure of the correctional library in 2021, the Saskatchewan Library Association established the Prison Library Sub-Committee to address the deficit of reading materials

¹³⁸ Books Beyond Bars, “Updates from 2020-2022” online: *Books Beyond Bars* <<https://booksbeyondbars.wordpress.com/>> [perma.cc/B66X-6X6J].

¹³⁹ *Ibid.*

¹⁴⁰ Mélanie Ritchot, “Behind bars — an inside look at Iqaluit’s new jail”, *Nunatsiaq News* (8 September 2021), online: [perma.cc/6NJF-Z7D5].

¹⁴¹ *Ibid.*

¹⁴² McCreary Consultants Ltd., “Nunavut Correctional Facilities Strategy” (December 2012) online (pdf): <<https://assembly.nu.ca/library/GNedocs/2015/001802-efi.pdf>>.

¹⁴³ CBC News, “Prison library closed at Saskatchewan Penitentiary”, *CBC* (26 April 2013), online: <<https://www.cbc.ca/news/canada/saskatchewan/prison-library-closed-at-saskatchewan-penitentiary-1.1334760>> [perma.cc/9LMD-6PZC].

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.*

¹⁴⁶ Marshall Breeding, “Saskatchewan Penitentiary Library”, (2007) online: *Libraries.org* <<https://librarytechnology.org/library/31988>> [perma.cc/T4KY-TW2W]

available to inmates.¹⁴⁷ The sub-committee has partnered with the Regina Correctional Center and the Paul Dojack Youth Center to provide reading materials through regular book drop-offs.¹⁴⁸ In Alberta, the Greater Edmonton Library Association (GELA) has a Prison Libraries Project, which provides library services and workshops to inmates in local and provincial correctional facilities.¹⁴⁹ In Quebec, knowledge about the existence of correctional libraries is obscure, and one of the programs that aim to provide inmates with books is the Open Door Book Collective.¹⁵⁰ The collective aims to provide inmates with reading materials by forming relationships with librarians to deliver requested books, as many corrections have policies against inmates personally receiving books.¹⁵¹ However, the collective is sometimes faced with unresponsive librarians and library closures, which prevent them from delivering reading materials.¹⁵²

[2] Legislated Access to Legal Information

[2.1] Law Libraries and Public Legal Information

Ontario's direct legislation on access to libraries and law library materials is the strongest legislative support for law libraries in provincial correctional facilities.¹⁵³ The next strongest legislative support is British Columbia's *Correction Act, 2004*, and the adult custody policies on access to legal libraries in provincial correctional facilities.¹⁵⁴ However, the general operation, maintenance, and funding of law libraries have already been legislated in all Canadian jurisdictions.¹⁵⁵ Further, several Canadian jurisdictions have legislation that

¹⁴⁷ Saskatchewan Library Association, "Prison Library Sub-Committee" online: *Saskatchewan Library Association*

<<https://www.saskla.ca/programs/prison-library-sub-committee>>

[<https://perma.cc/HJR5-D6E7>]

¹⁴⁸ *Ibid.*

¹⁴⁹ Greater Edmonton Library Association, "GELA Prison Libraries Project", online: *Prison Project* <<https://gela.ca/gela-prison-project/>> [<https://perma.cc/JEV7-5U36>].

¹⁵⁰ Open Door Books Collective, "Open Door" online: *Books to Prisoners Montreal* <<https://opendoorbooks.wordpress.com/>> [perma.cc/5JDB-R94V].

¹⁵¹ *Ibid.*

¹⁵² *Ibid.*

¹⁵³ *Supra*, note iii, ss 60, 90.

¹⁵⁴ *Supra* note lxxiii, s 38; *British Columbia Policy*, *supra* note v at 533.

¹⁵⁵ *Supra*, note xxxv, ss 28(3)(b), 28(3)(d); *supra* note xxxii, s 16(2)(o); *supra* note xvii, s 10(aa); *supra* note xxxi, s 15(2)(h); *supra* note xxxvi, s 18(2)(iv); *supra* note xxxviii, s 7(i); *supra* note xxiii, ss 6(i), 119(a)(ii); *supra* note xxii, s 61(1)(e); *supra* note xxix, s 55(1); *supra*

mandates public legal information development.¹⁵⁶ The language from legislated frameworks which place responsibilities on agencies and societies to maintain law libraries and provide access to public legal information ought to be considered when creating a legislative framework that will require law libraries in provincial correctional facilities. Examples of strong legislative language regarding public access to legal information can be found in several jurisdictions.¹⁵⁷ Language which requires access to public legal information, can be found in Newfoundland and Labrador, Nunavut, Yukon Territory, and Alberta.¹⁵⁸ Ontario, British Columbia, and Nova Scotia legislate the responsibilities of providing services and legal self-help kits for the public to their legal aid societies, although the legislative language does not require their legal aid societies to fulfill these provisions.¹⁵⁹ Such examples of legislative language could be transferable to the context of law libraries in provincial correctional facilities.

[2.2] The Legislated Roles of Law Societies and Legal Aid Programs

Law society and foundation obligations regarding law libraries varied between jurisdictions in Canada. In most jurisdictions, the purpose of law libraries was not explicitly restricted by legislative language as legal materials for law society members.¹⁶⁰ Only Yukon Territory had legislation that mandates their law society's foundation to maintain a public law library.¹⁶¹ Although all other legislative districts in Canada do not legislate public access to law libraries, they are often still open to the public, though the law libraries are often established

note xxxiv, s 54(1); *supra* note xli, s 143(1)(b); *supra* note xxviii, s 88(e); *supra* note xl, s 7(i).

¹⁵⁶ *Supra* note xxiii, s 119(a)(iii); *supra* note xlvii, ss 63, 67(bb); *supra* note xlii, s 11(1)(c); *supra* note xlv, s 3(b), 3(e); *supra* note xlvi, ss 15(3)(d), 15(3)(f); *supra* note xlix, s 7(c)(iii); *supra* note l, s 16(1)(c).

¹⁵⁷ *Supra* note xxiii, s 119(a)(iii); *supra* note xlvii, ss 63, 67(bb); *supra* note xlii, s 11(1)(c); *supra* note xlv, s 3(b), 3(e); *supra* note xlvi, ss 15(3)(d), 15(3)(f); *supra* note xlix, s 7(c)(iii); *supra* note l, s 16(1)(c).

¹⁵⁸ *Supra* note xlvii, ss 63, 67(bb); *supra* note xlix, s 7(c)(iii); *supra* note l, s 16(1)(c); *supra* note xxiii, s 119(a)(iii).

¹⁵⁹ *Supra* note xlv, s 3(b), 3(e); *supra* note xlii, s 11(1)(c); *supra* note xlvi, s 7(c)(iii).

¹⁶⁰ *Contra supra* note xl, s 7(i); See also Nova Scotia Barristers' Society, "Library", online: *Legal Profession* < <https://nsbs.org/legal-profession/library/> > [<https://perma.cc/2DU5-PNXD>].

¹⁶¹ *Supra* note xli, s 143(1)(b).

primarily to support legal professionals.¹⁶² Prince Edward Island’s legislation on the requirements that must be met for a suitable law library location provides an example of legislative language which supports accessible law libraries.¹⁶³ Legislative language which supports a suitable space for a law library in a provincial correctional facility should be considered to ensure that a permanent and accessible library space is a requirement.¹⁶⁴

Although we have found legislation for law libraries in each legislative jurisdiction in Canada, we have not found consistency in legislated requirements for Legal Aid departments to provide materials for self-representing persons.¹⁶⁵ Some jurisdictions held their Legal Aid departments responsible for outreach, public legal education, and access to materials for those who are self-representing.¹⁶⁶ There have been some interesting approaches to legislating access to legal resources for the public and self-representing persons. In Newfoundland and Labrador, the *Legal Aid Act* explicitly mentions distributing legal information “to detained persons respecting legal aid and legal rights and obligations.”¹⁶⁷ Although the function of the provision is to give powers to the Lieutenant-Governor in Council to make regulations for the distribution of legal information to detained persons, it still acknowledges this role as part of Legal Aid’s operations. As of 2023, there are no regulations in Newfoundland and Labrador that describe how legal information is distributed to and accessed by detained persons.¹⁶⁸ Another interesting legal aid statute that addresses access to legal information comes from Nunavut. In 2003, the *Human Rights Act* of Nunavut was passed with a provision at s. 49(2) which amended the *Consolidation of Legal Services Act* and made public education and outreach on human rights issues an objective of legal aid.¹⁶⁹ Legislative language that

¹⁶² *Supra*, note xxxv; *supra* note xxxii; *supra* note xvii; *supra* note xxxi; *supra* note xxxvi; *supra* note xxxviii; *supra* note xxiii; *supra* note xxii; *supra* note xxix; *supra* note xxxiv; *supra* note xxviii; *supra* note xl, *contra* note xli, s 143(1)(b).

¹⁶³ *Supra* note xxxiv, s 54.

¹⁶⁴ *Supra* note xxxiv, ss 54(1)-(3)(a); *Supra* note xli, 143(1)(b).

¹⁶⁵ See Table 3.

¹⁶⁶ *Supra* note xlv, ss3(b), 3(e); *supra* note xlii, s 11(1)(c); *supra* note xlvi, ss 15(3)(d), 15(3)(f); *supra* note xlvii, s 67(bb); *supra* note l, s 16(1)(c); *supra* note xlix, s(7)(c)(iii); See also *supra* note xlv, s 7(h).

¹⁶⁷ *Supra*, note xlvii, s 67(bb).

¹⁶⁸ *Supra*, note xlvii, s 67(bb).

¹⁶⁹ *Supra*, note xlix, s 7(c)(iii); See also *Human Rights Act*, SNu 2003, c 12, s 49(2) as it appeared on 5 November 2003.

mandates provincial correctional facilities to uphold the human rights of inmates, including access to libraries and the right to make a full defence, should be strong and direct language.

[2.3] Lessons from Ontario

Research about the need for legal information by inmates in Ontario was conducted in 2019 by Community Legal Education Ontario (CLEO).¹⁷⁰ The exploratory study was conducted to learn how to tailor legal reading materials for inmates about civil legal problems experienced while incarcerated and information about the criminal process and administrative prison law.¹⁷¹ CLEO interviewed staff from legal and community organizations who work with people who are incarcerated or have been recently released. From the interviews, it was broadly identified that there is a need for clear information about the criminal process in a way that is easy to follow, such as a road map and access to civil legal information that will help people who are about to serve a sentence put things in place to deal with disruptions to work, family life, housing, income support, etc.¹⁷² Furthermore, the researchers concluded that regardless of whether an inmate can act on it or not, they still need and want access to legal education and information.¹⁷³ Since Ontario's legislation for provincial correctional services allocates oversight of provincial prisons to the Ministry of Community Safety and Correctional Services, law libraries in such prisons are the responsibility of this ministry.¹⁷⁴ However, the *Ministry of Community Safety and Correctional Services Act, 2018* is not yet in force as of May 2023, nor is there a date provided by the Ontario government on when this statute will be in force.¹⁷⁵ In Manitoba, it should be determined who will be responsible for the oversight of libraries in provincial correctional facilities and how long it would take to implement that oversight. It is also worth considering how legislating law library operational responsibilities to legal library and research professionals who have an interest in access to

¹⁷⁰ Community Legal Education Ontario, "Legal information needs of persons who are incarcerated Phase 1: Exploratory research – Working paper" (2019 January), online (pdf): <<https://cleoconnect.ca/wp-content/uploads/2019/04/CLEO-PLI-for-incarcerated-persons-final-paper-with-appendices-January-2019.pdf>> [perma.cc/G8W3-8BSY]

¹⁷¹ *Ibid.*, at 1-2.

¹⁷² *Ibid.*, at 22-23.

¹⁷³ *Ibid.*

¹⁷⁴ *Ministry of Community Safety and Correctional Services Act*, SO 2018, c 6 Sched 1, ss 2-4.

¹⁷⁵ *Ibid.*

justice for inmates would be more beneficial than placing the operational responsibilities in the hands of correctional facility employees.

[2.4] Funding and Operational Considerations

It ought to be considered who will oversee the use of funding and the operations of law libraries in Manitoban provincial correctional facilities. Alberta's agreement with the Alberta Law Society to facilitate legal aid for Albertans in need is an example of an agreement in which a provincial law society implements services that are funded by a provincial government.¹⁷⁶ This may be a way to consolidate the potential costs of infrastructure and upkeep of law libraries to support access to adequate legal research for a self-representing provincial inmate, while still holding the provincial government responsible for the costs of implementation and operation of law libraries in provincial correctional facilities.¹⁷⁷ A method of legislation that may put the operational responsibilities on trained law librarians, whether in person or remote, would be appropriate to consider.

[D] Conclusion

The information regarding prison library access and access to legal reading materials by inmates is scarce. However, it is clear that there is a need for access by inmates across Canada. Furthermore, our research concluded that the Manitoba inmate population depends on volunteer associations to supply them with access to vital reading materials.¹⁷⁸ Ontario's legislation and British Columbia's correctional services policies provide the strongest support for the right of an accused detainee to make a full defence.¹⁷⁹ Although Ontario's legislation is the best provincial example in Canada, the complicated change in correctional facility oversight and the statute's lack of enforceability has caused the statute to fall short of its intent.¹⁸⁰ Consideration for language from provincial statutes which legislate law library and public legal information responsibilities was given because of the lack of examples of

¹⁷⁶ *Supra*, note xliii at 12.

¹⁷⁷ *Supra* note xliii at 12.

¹⁷⁸ *Supra* note vii.

¹⁷⁹ *Supra* note iii, ss 60, 90; *British Columbia Policy*, *supra* note v at 533.

¹⁸⁰ *Supra* note iii; *Supra* note cxviii.

correctional legislation which mandated law libraries in correctional facilities.¹⁸¹ Law societies are better equipped to facilitate law libraries, and legal aid agencies are better designed to provide access to legal materials to self-representing detainees.¹⁸² Alberta's unusual structure to provide legal aid without a statute may provide as an example of a framework that could translate to provision of law library services in provincial correctional facilities in Manitoba.¹⁸³ Overall, strong legislative language which is direct would be more beneficial to facilitate law libraries for inmates in provincial correctional facilities.

¹⁸¹ See Tables 2 and 3.

¹⁸² See Tables 2 and 3.

¹⁸³ *Supra* note xliii at 12.

