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Juris Libris

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Juris Libris

Library Services for Prisoners

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Transparent Walls: Library Services to Prisoners

by **Susan J. Hemp** <sjhemp@prairienet.org>

Column Editor's Note: You will recall that Susan J. Hemp, the assistant law librarian/assistant professor of library administration, University of Illinois Law Library, Champaign, has written for us before. See "Librarians and the Legally Underserved," ATG, April, 1996, v.8#2, pp. 40-41. — JM

For as long as prisons have existed in the United States, the need for prisoners to read and the importance of their doing so has been recognized. The purpose early on was usually religious. Beginning around the end of the 1700s, Bibles and religious tracts were provided to prisoners to help them understand their sins and make atonement.¹

But a concern for the state of prisoners' souls did not mean that early American prisons were conducive to the promotion of reading or to the establishment of prison libraries. **Austin H. McCormick**, a pioneer in the education of prisoners, described conditions for the would-be inmate reader in the 19th century:

"One has only to think of how dimly lighted the early prisons were before electricity was installed, and that few cells well into the 20th Century had more than 25-watt bulbs, to realize that prisoners who would have liked to read were handicapped by more than a dim view of rehabilitation. If a humane chaplain had a few books to pass out, they were usually printed in fine type and on dull and dreary subjects. A prisoner needed extraordinary eyesight and will power to read, for example, in the old cell-block at Sing Sing Prison, condemned as unfit for human habitation in 1840 and used for another hundred years.²

McCormick and others traced the development of prison libraries through the early part of the 20th century, as the importance of inmates' access to books was increasingly recognized. While the improvement in the quantity and quality of prison libraries may have been slow, there was at least improvement. Most states began offering prison library service in 1840,³ although as McCormick pointed out, throughout most of the 19th century there were few prison libraries even worthy of the name.⁴

Then significant changes began to occur. The federal prison library system was initiated in 1929, and the 1930s ushered in an era of prison reform, with the "corrective" approach beginning to replace the purely punitive.⁵ The ALA became actively involved in prison libraries, forming a Committee on Correctional Institution Libraries and publishing, with the American Prison Congress, the *Prison Library Handbook* (1932), which was designed to give practical guidance.⁶ In a short time, professional librarians began to serve as prison library managers, although in 1931, McCormick could still write that so far as he knew, "there is only one library

school-trained librarian in all the penal institutions in the country ..."⁷ By way of comparison, a 1990 survey showed that of the approximately 500 prison libraries in the country, most were managed by professional librarians.⁸ Meanwhile, inmate population numbers were ballooning. The total number of state and federal prisoners quadrupled between 1971 and 1991, increasing from 198,061 to 789,347.⁹ By the end of 1994, the number of prisoners under state or federal jurisdiction had risen to 1,053,738.¹⁰

More prisoners means more demand for library resources, including legal material. Prison libraries have long doubled as law libraries, as the federal courts gradually formalized the duty of correctional institutions to provide inmates with legal resources to pursue appeals or civil rights actions. In 1977, the U.S. Supreme Court held in *Bounds v. Smith* that prisoners must be provided with meaningful access to the courts, and that prison law libraries constituted one "constitutionally acceptable" way that institutions could

satisfy this mandate.¹¹ The court did not define exactly what "meaningful access" means in terms of a law-library collection, however, and that issue remains unsettled. Most recently, the high court (in an opinion written by Justice Antonin Scalia) backed off from a liberal reading of *Bounds*, noting in *Lewis v. Casey*¹² that "*Bounds* did not create an abstract, free-standing right to a law library or legal assistance ..."¹³

The American Association of Law Libraries has developed a bibliography, "Recommended Collections for Prison and Other Institution Law Libraries," to guide prison librarians in developing their legal collections. The bibliography includes recommended core collections for primary law, legal research and writing; materials for jail, juvenile and mental institutions; and state and federal law titles.¹⁴ But while the legal collections of prison libraries are important in their own right, they are only part of the picture. Libraries which serve incarcerated men and women are multi-purpose: they provide books, audiovisual and other materials for education, recreation and entertainment. Prison librarians provide reference service, sponsor literacy programs, support volunteer efforts and help teach socialization skills to inmate patrons and inmate library staff. The fact that prison libraries are vital and

well-used is documented (see statistics collected by **Rhea Joyce Rubin**, which indicate the number of books read by an inmate is many times that of a member of the general public).¹⁵ Granted, inmates have more time on their hands — but the fact is they need to read and they do. **Brenda Vogel** quotes a former inmate interviewed on the television program *Sixty Minutes* who expressed simply what a prison library meant to him while inside: "Those books made the walls transparent."¹⁶

The librarians who manage these institutional information centers must be multi-skilled. It takes a special person to be a prison librarian, and many who have taken on the mission have written eloquently about their jobs and the challenges they face.¹⁷ A prison librarian must be not only a librarian but also a sociologist, a teacher, a diplomat. It's not surprising that recruiting prison librarians

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ians can be difficult, and on average a person stays less than five-and-a-half years on the job.¹⁸

In addition, prison librarians face most of the problems other librarians do, and many others as well. Automation for circulation and other functions may be inadequate or lacking altogether. Stolen books, the defacing of material, censorship are universal issues with librarians who serve the public, but they can be even more problematic for librarians who serve prisoners, a diverse and special community. Prison librarians have a lot to juggle, in a setting that is isolating despite the fact that they are surrounded by hundreds or thousands of inmates. Sandra Souza, among others, describes the nature of the challenge prison librarians face and the type of personality best suited to the task: being too trusting and familiar with prisoners doesn't work, nor does being overly rigid and arbitrary.¹⁹

Funding to develop and maintain an adequate prison library is often difficult to guarantee. While the **Library Services and Construction Act of 1966** provided financial support for the incarcerated through state library agencies, states developed their own systems for distributing the money, leading to inconsistencies.²⁰ The states may administer LSCA or other funding through a department of corrections, through the state library, or through the state library in cooperation with a local public library or library system.²¹ Some states have supported their correctional-center libraries very well; others have not.

In the federal prison system, there was a period of great expansion in libraries and library services in the 1930s, but this movement began to decline after World War II.²² A 1980 survey of twenty federal prison libraries, compared with a similar survey in 1938, showed only marginally larger collections and an alarming figure: six prison librarians possessed a library science degree in 1938, none in 1980.²³ Back in 1931, MacCormick bemoaned the sorry state of prison library collections in general: "For the most part they are very poor. The usual prison library consists of a mongrel collection of gift books, many of which are discards from city libraries or the homes of well-meaning citizens."²⁴ Of course the situation has improved since then. Still, many collections remain small and limited given the populations to be served. And prison law libraries with inadequate and out-of-date materials cannot begin to provide "meaningful access" to inmate patrons. Factors such as these mean that assistance from libraries and librarians outside the prison walls is crucial. Assistance often starts with resource-sharing through interlibrary loan, which is being used more by prison libraries in regional systems and cooperatives as assumptions about high loss rates fade, along with the perception that prison libraries have nothing to loan in return.²⁵

There are many other ways in which libraries and librarians outside the prison walls can help those inside. National organizations have established standing committees to promote service for institution residents: the **Library Services to Prisoners Forum of the Association of Specialized and Cooperative Library Agencies** division of ALA, and the **Law Library Services to Institution Residents** committee of the **Social Responsibilities Special Interest Section** of AALL. Such groups provide an opportunity for prison librarians to network and for other librarians to get involved. Additionally, individual public libraries often establish outreach programs to correctional facilities in their area. Law librarians can and do volunteer to answer prisoners' legal reference questions by mail or to photocopy cases, articles or statutes not available in the prison library. AALL has published a state-by-state directory of law libraries offering services to prisoners.²⁶ The **Kratter Law Library** at the **University of San Diego** has gone farther than most libraries in developing its own reference guidelines for assisting prisoners.²⁷ The support can be meaningful to prisoners, and it is time well spent for those librarians on the outside who believe, as

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prison librarians do, that fostering reading, education and access to information among inmates benefits not just them but ultimately society as a whole.

Selective Bibliography

Prison librarianship is a specialized field, and as such its literature is less extensive than that of many other aspects of the profession. Nevertheless, a good many monographs, articles and books exist. This bibliography includes only a sampling of some of the current material available.

Prison Librarianship: Resources, Theory

American Library Association. *Library Standards for Adult Correctional Institutions*. Chicago: ALA, 1992.

William J. Coyle. *Libraries in Prisons: A Blending of Institutions*. New York: Greenwood Press, 1987. 141 pp. Index, appendices, bibliography. Coyle, who has served as a prison librarian and consultant, proposes that the public library model is not the correct one for prison libraries, which should avoid providing "recreational" materials and instead stick to supplying educational resources to those prisoners who want to improve themselves. His thesis has been challenged by others in the field. See Daniel Suvak, "Throw the Book at 'Em: The Change-Based Model for Prison Libraries," *Wilson Library Bulletin* 31 (October 1989).

Arturo A. Flores. *Werner's Manual for Prison Law Libraries*. Littleton, Colo.: Fred B. Rothman & Co., 1990. 2d ed. 173 pp. Index, appendices. Contains an introduction to law books and legal research, information on cataloging, shelving, and borrowing, and suggested resources for prison law librarians. Also includes the AALL's *Recommended Collections for Prison Law Libraries* and *Directory: Law Libraries Offering Services to Prisoners*.

Fred R. Hartz. *The Library in the Correctional Setting: A Selective, Annotated, Classified Bibliography of the Literature of Prison*

Librarianship, 1958-1983, Lyons, Ga.: Rue Chien Press, 1984. 70pp. Author index. Hartz, who has been a prison librarian, reflects in his foreword on the nature of and theories behind prison librarianship. The bibliography lists sources divided into 18 categories, including libraries and rehabilitation, libraries and education, history, law libraries, library service to female prisoners, and surveys.

Libraries Inside: A Practical Guide for Prison Libraries. Rhea Joyce Rubin and Daniel Suvak, eds. Jefferson, N.C.: McFarland & Co., Inc., 1995. 235 pp. Index, appendices, bibliography. Contains chapters by several contributors in the prison library field, discussions of planning, services, programs, collection development, automation and providing legal access. Contains a reading list for prison librarians.

Standing Committee on Law Library Service to Institution Residents, Contemporary Social Problems Special Interest Section, American Association of Law Libraries. *Correctional Facility Law Libraries: An A to Z Resource Guide*. Laurel, Md.: American Correctional Association, 1991. 146 pp. Contains the complete *Recommended Collections* (general, federal and state materials, and Canadian national and provincial material), and the *Directory* as well as a directory of legal publishers and a chapter on planning and staffing a prison law library.

Brenda Vogel. *Down for the Count: A Prison Library Handbook*. Metuchen, N.J.: Scarecrow Press, Inc., 1995. 193 pp. Index, appendices, bibliography. Also a practical handbook, with reflections by the author on her experiences as a prison librarian. Sections on collection development, censorship, using space, and staff development, among other topics.

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Cases of Note from page 44

to employees in Dallas, Houston, and Durham, North Carolina. Upon discovery of the practice at Enmark, Pasha filed suit alleging copyright infringement. In a consent judgment handed down from United States District Court, the court found Enmark liable for copyright infringement and in violation of the fair use provision of the U.S. Code.⁷ Briefly, the court found that:

1. *Gas Daily* is a newsletter which reports on natural gas markets, regulations, and industry news. It constitutes original material pursuant to the Copyright Act, 17 U.S.C. 102.

2. The Register of Copyrights has issued certificates of registration pertaining to each issue of *Gas Daily*.

3. Enmark Gas, on a regular basis, produced multiple, cover-to-cover copies of *Gas Daily* for certain employees, including those in Dallas, Houston, and Durham, North Carolina, the latter two of whom received the newsletter via facsimile.

4. Enmark was unaware at the time that it was producing and transmitting copies of *Gas Daily* that it was infringing on Pasha Publications' copyrights and Enmark never intended to infringe on the same.

And, as a result of the above, the court concluded:

1. That Enmark's repeated cover-to-cover copying of *Gas Daily* constituted an infringement of Pasha Publications' rights.

2. That the repeated, unauthorized facsimile transmission of *Gas Daily* from Dallas to Houston and Durham constituted an infringement of Pasha Publications' rights.

3. Despite the fact that Enmark was unaware and did not intend

to infringe on Pasha's rights, the copying of *Gas Daily* by Enmark did not constitute "fair use" in that:

a. Enmark is a commercial enterprise and by copying the newsletter Enmark was furthering its own commercial pursuits;

b. Newsletters are accorded broad protection under the Copyright Act (See H.R. Rep. No. 94-1476, 94th Cong. 2d Sess. at 73-74 (1976));

c. The entire newsletter was being reproduced and transmitted;

d. The above rendered unnecessary the purchase by Enmark of additional subscriptions.

Clear, concise and without question, the opinion by the court asserts how both the publisher should protect himself and how the subscriber should handle the publisher's rights under the Copyright Act.

ENDNOTES

¹L. Will, Do You Photocopy? Your Firm May Be Infringing Upon the Fair Use Doctrine, 19 (*Law Practice Management* No. 1, 1993).

²S. Smit, Make a Copy for the File...: Copyright Infringement by Attorneys, 46 *Baylor Law Review* 1, 29-30 (1994).

³Smit, 31.

⁴41 *Patent, Trademark & Copyright Journal* 387 (1991).

⁵*Public Relations Newswire*, February 26, 1991.

⁶Smit, 19.

⁷43 *Patent, Trademark & Copyright Journal* 450 (1992).

History

Many of the books listed above also contain chapters on the history of prison libraries.

Rudolf Engelbarts, "Prison Libraries," in *Books in Stir*. Metuchen, N.J.: Scarecrow Press, 1972. pp. 25-71.

Austin H. McCormick, *A Brief History of Libraries in American Correctional Institutions*. Paper delivered Oct. 12, 1970, at the American Correctional Association's Centennial Congress of Correction, Cincinnati, Ohio.

Larry Sullivan, "Between Empty Covers: Prison Libraries in Historical Perspective," *Wilson Library Bulletin*, 26-28, 143 (October 1989).

A Day in the Life of a Prison Librarian

Many prison librarians have written of their experiences and the unique problems they face in doing their job.

Patricia Kirby and Elizabeth Letterly, "... At Logan Correctional Center: Where's the Love Pomes?" *73 Illinois Libraries* 580-82 (1991).

Phil Koons, "Lest We Forget: Prison Libraries," *Library Journal* 51-53 (May 15, 1988).

Mary Jeanne Leffers, "Prison Library — One Day," *Special Libraries* 242-246 (Summer 1990).

Elizabeth Robson, "Reference Service at the Danville Correctional Center Library — or How to Get by With Limited Help,

Funds, and Time," *73 Illinois Libraries* 567-68 (1991).

Michael Sawyer, "I Know What's Best for You: Censorship in Prison," *Ohio Libraries* 8-11 (March/April 1991).

Sandra Souza, "Real Libraries ... Real Librarians," *Wilson Library Bulletin* 37-38 (October 1989).

Brenda Vogel, "In Preparation for a Visit to a Smaller Planet," *Wilson Library Bulletin* 34-36 (October 1989).

Footnotes

¹Rubin, Rhea Joyce, *U.S. Prison Library Services and Their Theoretical Bases*, (University of Illinois Graduate School of Library Science, Occasional Paper No. 110, 1973), 3.

²MacCormick, Austin H., *A Brief History of Libraries in American Correctional Institutions* (Paper delivered at the American Correctional Association's Centennial Congress of Correction, Cincinnati, Ohio, Oct. 12, 1970), 3.

³Rubin, *U.S. Prison Library Services*, 3.

⁴MacCormick, *A Brief History*, 3.

⁵This philosophy and its practical ramifications are reflected by MacCormick, among others. See MacCormick, Austin H., *The Education of Adult Prisoners*, (New York: the National Society of Penal Information, 1931), especially Chapter 1.

⁶MacCormick, *A Brief History*, 11.

⁷MacCormick, *Education*, 158.

⁸*Libraries Inside: A Practical Guide for Prison Libraries*, Rubin, Rhea Joyce and Suvak, Daniel, eds., (Jefferson, N.C.: McFarland & Co., Inc., 1995), 1.

⁹*Ibid.*, 4.

¹⁰*World Almanac and Book of Facts* (Mahwah, N.J.: World Almanac Books, 1996), 959.

¹¹*Bounds v. Smith*, 430 U.S. 817, 830 (1977).

¹²*Lewis v. Casey*, 1996 U.S. LEXIS 4220.

¹³*Ibid.*, 14.

¹⁴American Association of Law Libraries, *Recommended Collections for Prison and Other Institution Law Libraries* (Chicago: AALL, 1990).

¹⁵Rubin, *U.S. Prison Library Services*, 2.

¹⁶Vogel, Brenda, *Down for the Count: A Prison Library Handbook* (Metuchen, N.J.: Scarecrow Press, Inc., 1995), 125.

¹⁷See, e.g. Vogel, *Down for the Count*.

¹⁸Leffers, Mary Jeanne, "Prison Library — One Day," *Special Libraries* (Summer 1990): 246.

¹⁹Souza, Sandra, "The Professional Staff," in *Libraries Inside*, 51.

²⁰Vogel, *Down for the Count*, 6-7.

²¹Rubin, Rhea Joyce, *An Evaluation of System-Provided Library Services to State Correctional Centers in Illinois*, (Illinois State Library, 1983).

²²Coyle, William J., *Libraries in Prisons: A Blending of Institutions*, (New York: Greenwood Press, 1987), 36, 64-65.

²³*Ibid.*, 65.

²⁴MacCormick, *Education*, 150.

²⁵Rubin, Rhea Joyce and Suvak, Daniel, "Services," in *Libraries Inside*, 91-92.

²⁶*Directory: Law Libraries Offering Services to Prisoners*, (Chicago: American Association of Law Libraries, Contemporary Social Problems Special Interest Section, 1993).

²⁷St. Sauver-Reinecke, Barbara, "Assisting Prisoners: Reference Guidelines at Kratter Law Library, University of San Diego," *75 Law Library Journal* 528 (1982).

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