

Inadequate Resources for and Access to Penitentiary Libraries Diminish Access to Justice and Transformation

Nellie Parr

The criminalized and incarcerated are subject to state power like few others in Canadian society. As such, we need to be afforded with the resources to defend ourselves and our rights in order to hold state power in check and its officials accountable for their (in)actions where warranted.

Last spring, our librarian was terminated. This caused significant problems for prisoners who are trying to get their legal work done. There can be no pursuit of justice because of this retaliatory action on behalf of Fraser Valley Institution for Women (FVI). The promises made by FVI officials to the courts in affidavits attesting that prisoner have access to all necessary legal material to get legal work done have been proven untrue. In fact, a lawyer who has practiced law over three decades wrote a 22 August 2015 affidavit regarding the FVI library where the following was noted:

...there are few law books. They fit on one rolling cart by the door. Many of the books are outdated and there are no practice guides for the British Columbia Court of Appeal, nor the Supreme Court of Canada. There was no access to case law other than the Western Canada digest law on the computer. There was no case law for the rest of Canada or the United States or Great Britain. The case law was not in full text as required by the courts... hours of the library are also a problem for FVI inmates who work long hours or are involved in programs or other activities that take hours out of the day. There is restricted movement time from 9-11 a.m. and from 1-3 p.m. No one is allowed to go to the library during these hours. I believe that the inmates who work until the 6 p.m. count can only access the library twice a week from 7-9 p.m. Sometimes those times are not available as the inmate staff do not always turn up. This interferes with getting legal work done.

Arguably the most important part of the affidavit states that “no one at FVI can undertake legal work of any depth with the legal material currently available at FVI. With the cuts in legal aid funding, many at FVI find themselves having to deal with complex appeals, ministerial applications, and civil suits to get back from a lawyer or estate issues. It just cannot be done with the materials available now”.

When prisoners at FVI requested that a full-time librarian be hired to restore what we once had and to address these issues by expanding our access to case law, legal and other research materials, we essentially got a part-time librarian who was kept to a severely limited schedule of four hours on Tuesdays and Thursdays. When we requested that she work full-time hours to fulfill FVI's promise to us, the librarian was subsequently laid off in what we can only interpret as an act of retaliation. This happened despite the part-time librarian following FVI's rules to the letter while providing library services to prisoner.

According to Commissioner's Directive 720 *Education Programs and Services for Inmates*, we are to be provided with "appropriate library services similar to those in the community, while taking into consideration the requirements of the correctional environment". Section 5 states that the Regional Administrator, Assessment and Interventions will "ensure that library services are available in all institutions and are provided with resources". Section 6 states that the Institutional Head will "ensure that library services support all institutional programs and address the inmates needs for computer literacy and recreational, cultural, religious, spiritual, educational, legal and informative materials, while taking into consideration the requirements of the correctional environment", as well as "ensure that all inmates, including those who do not have access to a library, have reasonable access to legal and non-legal reading materials, pursuant to section 97(3) of the CCRR". Section 12 states that the Librarian will "deliver library management services which support and promote institutional programming, employment, social, ethnic and cultural development, legal research and personal enrichment" and "ensure that the institution's library has available historical and current copies of legal, regulatory and official reference materials including, but not limited to:

- Canadian Charter of Rights and Freedoms
- Corrections and Conditional Release Act and Regulations
- International Transfer of Offenders Act
- Criminal Code of Canada
- Canadian Human Rights Act
- Access to Information Act and appropriate access request forms
- Privacy Act and appropriate access request forms
- Official Languages Act

- Immigration and Refugee Protection Act
- Commissioner's Directives and associated Guidelines
- the Standing Orders for that institution, except those orders or parts thereof related to security matters
- Security Reclassification Scale/Security Reclassification Scale for Women Functional Specifications (scoring matrix)
- Parole Board of Canada Policy Manual
- Info Source
- relevant publications produced by CSC regarding programs and services for inmates
- reports by the Office of the Correctional Investigator".

Consistent with the findings of the Office of the Correctional Investigator (2016, p. 57), who identified a “growing gap between this policy and reality in most federal penitentiaries”, the directive is clearly not being followed in practice.

Today, we remain in the dire position of not being able to do good legal work. Some prisoners cannot work to prove their innocence, while others cannot defend themselves and fight to obtain their freedom. Where is the justice in this? The Crown has access to unlimited resources and we are unarmed in almost every sense. The least CSC should provide to ensure there is due process is a full-time librarian and proper legal resources in libraries that are “compliant with policy and comparable to services, materials and technologies available in community libraries” as was recommended by the Office of the Correctional Investigator in 2016 (*ibid*, p. 59). Without this, there can be no actual justice for criminalized and incarcerated women behind these walls.

REFERENCES

- Correctional Service of Canada (2018) *Commissioner's Directive 720 Education Programs and Services for Inmates*, Ottawa. Retrieved from <<http://www.csc-scc.gc.ca/politiques-et-lois/720-cd-eng.shtml>>.
- Office of the Correctional Investigator of Canada (2016) *Annual Report – 2015-2016*, Ottawa.