

Julie M. Wooldridge. A Survey of Reference Services to Incarcerated Persons by Academic Law Libraries. A Master's Paper Proposal for the M.S. in L.S degree. May, 2022. 41 pages. Advisor: Donna Nixon

Abstract:

With the contents of prison law libraries decreasing dramatically and being replaced with digital kiosks of cases, prisoners are forced to turn to outside sources when additional legal materials are necessary. Law libraries across the country are tasked with fulfilling this need. This study will survey academic law libraries in the United States regarding their role in providing reference services to incarcerated individuals, including the number of requests received, the topics, and the percentage of requests where materials were furnished, and the primary reasons why requests are not fulfilled.

A SURVEY OF REFERENCE SERVICES TO INCARCERATED PERSONS BY
ACADEMIC LAW LIBRARIES

by
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INTRODUCTION

In the United States, over two million people are incarcerated across federal, state, and local prisons or jails. The disproportionate majority of people incarcerated are Black or Hispanic. An estimated sixty percent are awaiting trial and have not been convicted.

In 1977, the United States Supreme Court established an incarcerated person's right to meaningful access to the courts in the case of *Bounds v. Smith*.¹ The Court in *Bounds* elaborated, identifying the provision of law libraries as a method to provide meaningful access.² After *Bounds*, prison law libraries began popping up across the country as a means to effectuate this right. Twenty years later, the United States Supreme Court again addressed the issue and considered what must be provided to ensure meaningful access to the judicial system, in the case of *Lewis v. Casey*.³ This time, the Court choose to narrowly interpret the right of access to the courts, and rather than requiring assistance for prisoners in the exercise of this right, the Court required prisons to not actively interfere with the exercise of the prisoner's rights. If it can be said that *Bounds* established the right of meaningful access to the courts for prisoners, *Lewis* effectively gutted that

¹ *Bounds v. Smith*, 430 U.S. 817, 828 (1977)

² *Bounds*, 430 U.S. at 828

³ *Lewis v. Casey*, 518 U.S. 343 (1996)

right. Since *Lewis*, prison libraries across the country began closing and offering digital kiosks rather than books for prisoners.

As prison law libraries disappear or reduce contents and services, law libraries across the country have stepped in to fulfill this need. Academic law libraries are one type of library doing just that. This study surveyed academic law libraries across the United States regarding; (1) the number of requests received from incarcerated persons, (2) the types of materials requested, (3) the percent of requests where materials are provided, and (4) reasons requests could not be fulfilled.

LITERATURE REVIEW

Incarceration in the United States

In 2019, the incarcerated population in the United States included 2,086,600 people.⁴ Approximately two-thirds were incarcerated in state or federal prisons and one-third were held in local jails.⁵ It is estimated that six out of every ten people incarcerated are awaiting trial, and have not been convicted of a crime.⁶ While incarcerated, people risk losing their jobs, not getting medical attention, losing housing and custody of their children, and for a majority of them, without being convicted.

Race and Incarceration

Black and Latino people are more likely to be arrested and incarcerated than white people.⁷ Black men are six times as likely to be incarcerated as white men, and Latinos are 2.5 times as likely.⁸ *Figure 1*, below, represents data taken

⁴ OFF. OF JUST. PROGRAMS, U.S. DEP'T OF JUST., NCJ 300655, CORRECTIONAL POPULATION IN UNITED STATES, 2019 – STATISTICAL TABLES (July 2021), <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cpus19st.pdf>.

⁵ *id.*

⁶ OFF. OF JUST. PROGRAMS, U.S. DEP'T OF JUST., NCJ 251210, JAIL INMATES IN 2016 (Feb. 2018), <https://www.bjs.gov/content/pub/pdf/ji16.pdf>.

⁷ Wendy Sawyer, *Visualizing the Racial Disparities In Mass Incarceration*, PRISON POLICY INITIATIVE, (July 27, 2020), <https://www.prisonpolicy.org/blog/2020/07/27/disparities/>.

⁸ SENT'G PROJECT, INCARCERATED WOMEN AND GIRLS, (Nov. 2020), <https://www.sentencingproject.org/publications/incarcerated-women-and-girls/>.

from a Bureau of Justice Statistics Report detailing the percentage of federal prisoners in 2019 by race and ethnicity,⁹ compared to the US population in 2019, as estimated by the US Census Bureau.¹⁰

Race	% in Prison	% US population
White	29.0	76.3
Black	36.6	13.4
Hispanic/Latino	30.9	18.5
American Indian/ Alaska Native	2.1	0.2
Asian	1.4	1.3

Figure 1

People identifying as Black make up approximately 13.4 percent of the US population yet comprise 36.6 percent of the federal prison population. The statistics regarding people identifying as Hispanic or Latino/a are just as startling, making up 30.9 percent of the prison population, but only 18.5 percent of the US population. Using administrative data from State Courts Processing Statistics, Stephen Demuth examined the difference between Black, Hispanic, and white felony defendants in the bail system.¹¹ Demuth found Black and Hispanic defendants were 20 percent more likely to be denied bail than white defendants.

⁹ OFF. OF JUST. PROGRAMS, U.S. DEP'T. OF JUST., NCJ 255115, PRISONERS IN 2019 (Oct. 2020), <https://bjs.ojp.gov/redirect-legacy/content/pub/pdf/p19.pdf>.

¹⁰ U.S. Census Bureau, Quick Facts: United States (Accessed on 10/17/2021), <https://www.census.gov/quickfacts/fact/table/US/RHI325219>.

¹¹ Stephen Demuth, *Racial and Ethnic Differences in Pretrial Release Decisions and Outcomes: A Comparison of Hispanic, Black, and White Felony Arrestees**, 41 CRIMINOLOGY 873–908 (2003).

Demuth also found Hispanic defendants suffered from, what he termed, a *triple burden* at the pretrial stage, as they are: (1) the group most likely to be required to pay bail to gain release, (2) the group that receives the highest bail amounts, and (3) the group least able to pay the bail.¹²

Socioeconomic Status and Incarceration

Socioeconomic status is intrinsically linked to incarceration.

Socioeconomic status, according to the American Psychological Association encompasses “not just income but also educational attainment, financial security, and subjective perceptions of social status and social class.”¹³ According to a Texas Criminal Justice Coalition Report, 11 percent of the population is comprised of adults in poverty, yet they are three times as likely to be arrested than adults above the poverty line.¹⁴ Adults in poverty are also 15 times more likely to be charged with a felony, than people earning over 150 percent of the federal poverty level.¹⁵ So not only are adults in poverty more likely to be arrested, they are also more likely to be charged with a felony, and thus spend more time incarcerated.

¹² *id.*

¹³ American Psychological Association, Ethnic and Racial minorities & Socioeconomic Status (2017). <https://www.apa.org/pi/ses/resources/publications/minorities>

¹⁴ Bailey Gray et al., TEXAS CRIMINAL JUSTICE COALITION. RETURN TO NOWHERE: THE REVOLVING DOOR BETWEEN INCARCERATION AND HOMELESSNESS. 6 (February 2019). <https://www.texascjc.org/system/files/publications/Return%20to%20Nowhere%20The%20Revolving%20Door%20Between%20Incarceration%20and%20Homelessness.pdf>

¹⁵ *id.*

Women and Incarceration

Of the approximately 2 million people incarcerated in the United States, 222,455 of them are women.¹⁶ A study in 2008 by Bastick and Townhead, found women prisoners are discriminated against as compared to male prisoners in almost every aspect of prison life, including decisions as to pre-trial detention, opportunities for education, employment, and healthcare needs.¹⁷

Female prisoners face similar challenges to men while incarcerated, however, the proportion of male and female prisoners dealing with particular issues differs according to a study conducted by Nancy Loucks.¹⁸ In Scotland, Loucks found custody of children is generally of more concern for women in prison than men, citing that only 17 percent of fathers looked after their children while the mother was in custody, compared to the 87 percent of mothers who looked after their children while the father was in custody.¹⁹ In the United States, a study sponsored by National Institute of Justice found comparable rates of 25 percent of fathers caregiving for their children while the mother was in prison as

¹⁶ SENT'G PROJECT, *supra*

¹⁷ QUAKER UNITED NATIONS OFF., WOMEN IN PRISON: A COMMENT. ON THE UN STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS, (June 2008) https://www.peacewomen.org/sites/default/files/HR_Prisoners_QUNO_2008_0.pdf.

¹⁸ Nancy Loucks, *Women in Prison in WOMEN WHO OFFEND* 142-58, (G. McIvor ed., 2004)

¹⁹ *id.*

compared to 90 percent of mothers.²⁰ Women who are incarcerated have also similarly been found to be more likely to lose their housing while in custody than men.²¹ Although studies disagree on the percentages of women who will lose their housing during incarceration, estimations range from 30 percent to 40 percent.²² Loucks attributed this to the fact that women are more often single parents and have tenancy agreements in their own names, whereas men are more likely to have a partner at home to maintain the tenancy.²³

Female inmates have been found to suffer from higher rates of mental health problems than their male counterparts.²⁴ *Figure 2*, below, represents the findings of a Special Report by the Bureau of Justice Statistics regarding the prevalence of mental health issues in prisoners.²⁵

Jurisdiction	% with mental health problems	
	Women	Men
State	73	55
Federal	61	44
Local	75	63

Figure 2

²⁰ OFF. OF JUST. PROGRAMS, U.S. DEP'T. OF JUST., NAT. INST. OF JUST., RESEARCH IN BRIEF, WOMEN OFFENDERS: PROGRAMMING NEEDS AND PROMISING APPROACHES, (Aug. 1998), <https://www.ojp.gov/pdffiles/171668.pdf>.

²¹ Nancy Loucks *supra*

²² Atanda Saliu Sambo & Laretta Nnebuogor Ojei, *Women in Prison and Their Information Needs: South – South Prison Libraries Perspective*, LIBRARY PHILOSOPHY AND PRACTICE 1 (2018).

²³ *id.*

²⁴ OFF. OF JUST. PROGRAMS, U.S. DEP'T. OF JUST., NCJ 213600, SPECIAL REPORT: MENTAL HEALTH PROBLEMS OF PRISON AND JAIL INMATES, (Sept. 2006), <https://bjs.ojp.gov/redirect-legacy/content/pub/pdf/mhppji.pdf>.

²⁵ SPECIAL REPORT: MENTAL HEALTH PROBS. OF PRISON AND JAIL INMATES, *supra*

White females are among the most likely to have mental health problems. The same report found 62 percent of white females, 20 percent of Black females, and 22 percent of Hispanic females in state prison suffered from mental health issues.²⁶

Information Needs of Incarcerated Persons

In general, prisoners have the same information needs as persons in the regular society.²⁷ The information needs of inmates have been studied in a variety of environments outside of the United States. Studies have described prisoner information needs to include information on health-related issues, information on how to find solutions to situational problems, information on education opportunities, information on how to cope in prison, and psychological information needs.²⁸ In a collection of studies analyzed by Sambo and Ojei they found legal information needs were represented in over 86% of the requests from prisoners.²⁹

Studies in Africa found prisoner information needs were related to legal, religious/spiritual, health, literacy and moral education, vocation, recreation, and finance.³⁰ In a study of Southeastern Nigerian prisons, one researcher found that

²⁶ SPECIAL REPORT: MENTAL HEALTH PROBS. OF PRISON AND JAIL INMATES, *supra*

²⁷ Sambo & Ojei, *supra*

²⁸ Sambo & Ojei, *supra*

²⁹ Sambo & Ojei, *supra*

³⁰ Limbani Chrispin Gama et al., *Information Behaviour of Prison Inmates in Malawi*, 52 J. OF LIBRARIANSHIP AND INFO. SCI. 1224–1236 (2020).

the information most highly needed by the prisoners was for spiritual growth, health, legal matters, education, and financial matters.³¹ In the Scotland study, the information needs of prisoners were categorized as: education, health, prison routines, legal, finance, housing, and employment.³² Juveniles in Asia also expressed legal information needs as of primary concern.³³ In Canadian prisons, legal materials were the highest type of material requested at prison libraries, according to one study.³⁴

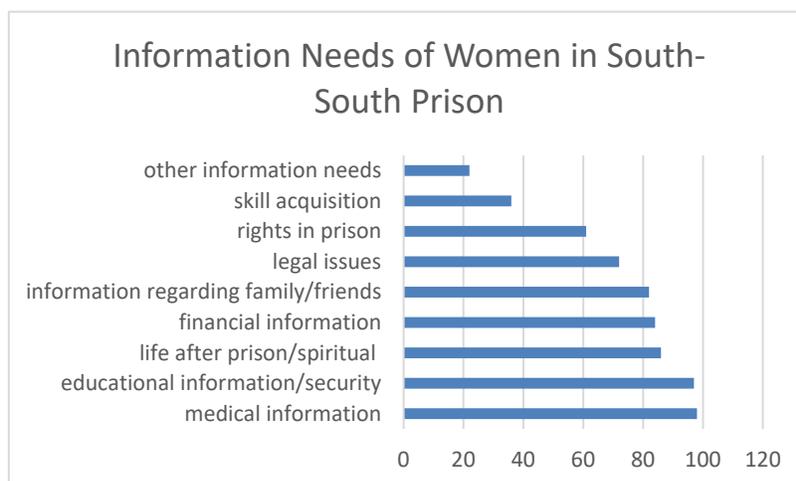
³¹ Jacintha U. Eze, *Information Needs of Prisoners in Southeast Nigerian Prisons*, 32 INFO. DEV. 243–253 (2016).

³² Cheryl Canning & Steven Buchanan, *The Information Behaviours of Maximum Security Prisoners: Insights Into Self-Protective Behaviours and Unmet Needs*, 75 J. OF DOCUMENTATION 417–434 (2019).

³³ E.R.K. Rafedzi & A. Abrizah, *Information Needs of Male Juvenile Delinquents: The Needs to be Met in a Prison Setting*, 32 INFO. DEV. 592–607 (2016).

³⁴ Ann Curry et al., *Canadian Federal Prison Libraries: A National Survey*, 35 J. OF LIBRARIANSHIP AND INFO. SCI. 141–152 (2003).

Researchers A.S. Sambo and L. N. Ojei studied women's information needs in South-South Prison also in Nigeria. Their findings are reflected in *Figure 3* below.³⁵



*Figure 3*³⁶

The available literature on prisoner's information needs all demonstrate that legal materials are frequently requested and are a prime concern for incarcerated persons, evidencing it as a prominent information need.

The previously cited studies demonstrate the pressing need incarcerated people have for access to legal materials. However, what legal materials they need, or what their legal information needs are has been studied less frequently. One study by Kimberli Kelmor, found men typically requested legal information relating to their criminal charges, but women requested information about other

³⁵ Sambo & Ojei, *supra*

³⁶ Sambo & Ojei, *supra*

legal issues, including divorce, child support, custody, domestic abuse, and restraining orders.³⁷ This finding supports Loucks finding that women are more likely to face custody issues and housing loss during incarceration.

A Prisoner's Right to Meaningful Access to the Courts

In 1977, the United States Supreme Court established an incarcerated person's right to meaningful access to the courts, in the case of *Bounds v. Smith*.³⁸ The Court explained, meaningful access to the courts could be provided by supplying prisons with adequate law libraries or assistance from persons trained in law.³⁹ Denial of this right is a denial of due process of law under the Fourteenth Amendment and requires remedial measures to ensure inmate access to the courts was adequate, effective, and meaningful.⁴⁰

For nearly twenty years, *Bounds* was the controlling authority regarding prisoner access to the courts, and law libraries. In 1996, on appeal from the Ninth Circuit, the United States Supreme Court heard the case of *Lewis v. Casey*. In *Lewis*, the Court considered, what must be provided to ensure meaningful access to the judicial system.⁴¹ The United States Supreme Court chose to narrowly

³⁷ Kimberli Kelmor, *Inmate Legal Information Requests Analysis: Empirical Data to Inform Library Purchases in Correctional Institutions*, LAW LIBRARY FACULTY WORKS (2016), https://elibrary.law.psu.edu/library_faculty/17.

³⁸ *Bounds v. Smith*, 430 U.S. 817, 828 (1997)

³⁹ *Bounds*, 430 U.S. at 828

⁴⁰ George L. Blum, *Sufficiency of Access to Legal Research Facilities Afforded Defendant Confined in State Prison or Local Jail*, 98 A.L.R. 445 (2002)

⁴¹ *Lewis v. Casey*, 518 U.S. 343 (1996)

interpret the right to access the courts by finding *Bounds* did not create an abstract free-standing right to a law library or legal assistance, but rather, *Bounds* simply acknowledged the right of access to the courts.⁴² In doing so, the Court held that states had only negative duties (e.g., a duty not to interfere with inmates' attempts to prepare legal documents or file them, a duty to waive filing fees or transcript fees for indigent inmates), and virtually no affirmative duties to ensure access to the courts.⁴³ As articulated by Joseph Schouten, the

right to meaningful access to the courts that emerged after *Lewis* does not place any discernable affirmative obligation on the states to ensure access for prisoners. The components of access viewed as necessary under *Bounds* are no longer considered to be so.⁴⁴

After *Lewis*, in order for an inmate to establish a *Bounds* violation, the inmate must demonstrate that the alleged shortcomings in the prison library or legal assistance program have hindered, or are currently hindering, the inmate's efforts to pursue a nonfrivolous legal claim.⁴⁵ The "actual injury to a non-frivolous claim" requirement articulated in *Lewis* created a significant barrier to inmates desiring an improvement in their prison law library.⁴⁶

⁴² *Lewis*, 518 U.S. at 350-351

⁴³ *Lewis*, 518 U.S. at 350

⁴⁴ Joseph A. Schouten, *Not So Meaningful Anymore: Why a Law Library Is Required to Make A Prisoner's Access to the Courts Meaningful*, 45 WM. & MARY L. REV. 1195 at 1203, (Feb. 2004).

⁴⁵ Blum, *supra*

⁴⁶ Camilla Tubbs, *Electronic Research in State Prisons*, 25 LEGAL REFERENCE SERVICES Q. 13-38 (2006).

Courts and Department of Corrections, across this country, have reacted to the limitation of a prisoner's right to access the courts and legal materials largely by gutting law library services and resources. The Arizona Department of Corrections, for example, in the wake of *Lewis*, began closing prison law libraries and limiting inmates to only 16 items for legal assistance.⁴⁷

Prison Law Libraries Today

Prison law libraries today are a mixed bag.⁴⁸ By 2018, a majority of state prison systems have elected to stop carrying print materials, and instead substitute computer kiosks with subscriptions to legal databases.⁴⁹ Adam Wisnieski cites the primary reason prison libraries are transitioning to digital platforms is due to costs.⁵⁰ Regardless of the reason, the result makes legal research harder for the inmates. Most notably today, during the Covid-19 Pandemic, prison law libraries across the country have closed to inmates completely.⁵¹

⁴⁷ Rebecca S. Trammell, *Out of Bounds Feature*, 2 AALL SPECTRUM 10–11 (1997).

⁴⁸ Trammell, *supra*

⁴⁹ Adam Wisnieski, *Access Denied: The Digital Crisis in Prisons*, THE CRIME REPORT (2018), <https://thecrimereport.org/2018/08/06/access-denied-the-digital-crisis-in-prisons/> (last visited Oct 16, 2021).

⁵⁰ Wisnieski, *supra*

⁵¹ See *Healy v. Yasmeen*, No. 2:19-CV-2052 (E.D. Cal, Feb. 17, 2021)(citing closure of prison law library due to COVID-19, in support of motion to appoint counsel), *Chapman-Sexton v. U.S.*, No. 2:20-CV-3661 (S.D. Ohio, Jan. 28, 2021)(citing lock-down from prison law library due to COVID-19, in support of motion for extension of time), *Kriesel v. Bowen*, No. 19-CV-0992 (D.N.M., Jan. 21, 2021)(citing lock-down from prison law library due to COVID-19, in support of motion for extension of time).

When prison law libraries fail to solve the legal information needs of incarcerated persons, they can contact outside law libraries for assistance. In some states, incarcerated persons may contact public state law libraries with specific requests. However, not all states have public law libraries, and in those circumstances, incarcerated persons turn to private and/or academic law libraries. According to the American Association of Law Libraries, Social Responsibilities Special Interest Section's List of Law Libraries Serving Prisoners, there are a reported 70 law libraries (public, private, and academic) that offer services to incarcerated persons. Of those, 19 are academic law libraries.⁵² Those 70 law libraries are a last recourse for over 2 million prisoners, to fulfill their legal information needs when prison law libraries are insufficient. This is the basis for this research study.

⁵² SOCIAL RESPONSIBILITIES SPECIAL INTEREST SECTION, AMERICAN ASSOCIATION OF LAW LIBRARIES, *List of Law Libraries Serving Prisoners*, (2017), available at: https://docs.google.com/spreadsheets/d/1r9IRBPSYikRrvNbCTwpWGHWMBP_xKJyHEFqG9-ApHOo/edit#gid=1.

RESEARCH QUESTIONS

The purpose of this study was to document the role academic law libraries play in providing reference services to incarcerated persons. In order to achieve this purpose, this study examined the following questions:

1. What role do academic law libraries fulfill in providing reference services to incarcerated persons?
2. What are the topics of reference requests from incarcerated persons to academic law libraries?
3. What percentage of requests from incarcerated persons go unfulfilled?
4. What are the primary reasons requests from incarcerated persons go unfulfilled?

For the purposes of this study, I will define “academic law libraries” as *libraries belonging to academic institutions accredited by the American Bar Association*. “Prisoners”, “Incarcerated Persons”, and “Inmates” will be used interchangeably, and will be defined as *people who are incarcerated in prisons or jails on either the Federal, State or Local level*.

METHODOLOGY

The purpose of this study was to determine the role academic law libraries play in providing reference services to incarcerated persons, the topics of reference requests from incarcerated persons, what percentage of requests are fulfilled and what are the reasons requests go unfulfilled. The study used a convergent mixed methods design, a type of design in which qualitative and quantitative data are collected in parallel, through a survey, analyzed separately, and then merged. In this study, quantitative data regarding the frequency of prisoner requests received and the percentage fulfilled, was collected and used to establish the role academic law libraries play in providing reference services to incarcerated persons. The qualitative data collected explores the types of information requested by incarcerated persons, and the challenges faced in providing prisoner reference services.

Positionality / Researcher Role

My role, as researcher, was to design the survey instrument, distribute the survey, collect, analyze and interpret the results. In regards to my positionality, I currently work at two academic law libraries of institutions accredited by the American Bar Association, one of which provides reference services to prisoners and maintains a policy regarding the provision of services to incarcerated persons.

Additionally, prior to working at law libraries, I worked as an attorney representing federal criminal defendants, who were often incarcerated prior to adjudication. My work with prisoners and at law libraries has made me aware of the need and some of the challenges of prisoner reference services.

Sample / Research Participants

For this study, I surveyed the Directors or Associate Directors of Access and Public Services at academic law libraries which offer services to incarcerated individuals. I used convenience sampling for participant selection. The academic law libraries chosen for inclusion in this study were selected from the American Association of Law Libraries, Social Responsibilities Special Interest Section's List of Law Libraries Serving Prisoners, (hereinafter "AALL-SIS List") created in 2013, most recently updated in 2017.⁵³ The list features 70 law libraries that extend services to incarcerated persons. Of those, only the academic law libraries were selected for inclusion in this study, 19. By using a pre-established list, last updated in 2017, I risk missing some libraries that may not be included on the list, and surveying some libraries that may no longer be servicing incarcerated individuals. The previously established list was utilized due to limits on resources and time for the study.

⁵³ *List of Law Libraries Serving Prisoners, supra*

Additionally, while prisoners and their legal information needs are central to the study, they were not surveyed or interviewed due to their status as protected individuals, because of their incarceration. Rather than going to the source of the information needs, the locations receiving the requests were surveyed, to avoid any possible ethical issues due to prisoner vulnerabilities.

Data Collection Methods

A survey was used to collect the data from the academic law libraries.⁵⁴ Prior to administering the survey, it was pilot tested by academic law librarians. The survey was administered via email on December 14th. The goal was to distribute the survey in early December, when it was less likely the potential respondents would be occupied with class or instructional duties. However, due to the length of the IRB process, the survey was not distributed until mid-December. A reminder email was sent out to potential respondents on January 7th and, faculty advisor for this study, Donna Nixon, sent a final reminder on January 26th. Qualtrics was utilized to administer the survey and record the data.

Data Analysis Methods

Raw data was cleaned before analysis. This was done manually by utilizing spot-checking, eyeballing, and logic checks. Qualitative and quantitative

⁵⁴ See Appendix, Survey – Reference Services by Academic Law Libraries to Incarcerated Persons.

data was analyzed separately. Coding of qualitative data was conducted manually, and then converted to quantitative data.

Open categorical coding was utilized during qualitative analysis regarding the topics of reference requests received by the library from incarcerated persons. Categories were initially determined using the responsive text for the question and then were compared and categorized. During the coding process it became clear there was a difference in interpretation for the term “topics” in one survey question. Some responses included types of requests, *i.e.*, document requests, research requests, whereas other responses included the legal topic of the request, *i.e.*, criminal law, civil matters. In response, respondent answers were reviewed for both the *type* and *topic* of the request. One library responded by indicating the source of the request, *i.e.*, incarcerated person, relative of incarcerated person, this response was considered non-responsive and not included in the data analysis.

Analytical coding was utilized for determining the primary reasons reference requests from incarcerated persons went unfulfilled. During the coding process, four categories of reasons for unfulfilled requests were identified, including; library policy violations, request for legal advice, incomplete/vague/too broad, and no actual request.

Quantitative data was tabulated, and then descriptive statistics were used to assess the role academic law libraries play in providing reference services to

incarcerated individuals, and the percentage of requests fulfilled. Descriptive statistics were calculated using Qualtrics.

RESULTS

Respondents were recruited from the AALL-SIS List⁵⁵ (N = 11). A total of 11 law libraries responded to the survey, out of the 19 invited, indicating a response rate of 57.8%. The results of this study are not generalizable, and are only intended to be descriptive in nature. As such, only descriptive statistics are reported, including, when appropriate, modes and medians. Respondents answered four primary questions, (1) the average number of requests received by their library per month from incarcerated persons, (2) the topics of reference requests from incarcerated persons received by the library, (3) the percentage of reference request from incarcerated persons fulfilled by the library, either by providing materials or information, and (4) the primary reasons requests from incarcerated persons go unfulfilled. The responses for each of the above four research questions are discussed individually below.

Requests Received Monthly

Respondents were offered four ranges for the number of requests their library received, on average, per month: 0-3, 4-7, 8-11, and 12+, resulting in categorical data. Of those who responded, 36% ($n = 4$), reported receiving, on

⁵⁵ *List of Law Libraries Serving Prisoners, supra*

average, 4 to 7 reference requests a month from incarcerated persons, with $n = 4$ also representing the median. Representing a bimodal distribution, another 36% ($n = 4$) reported receiving on average 0 to 3 reference requests from incarcerated persons monthly. The findings of the survey are represented in *Figure 4* below.

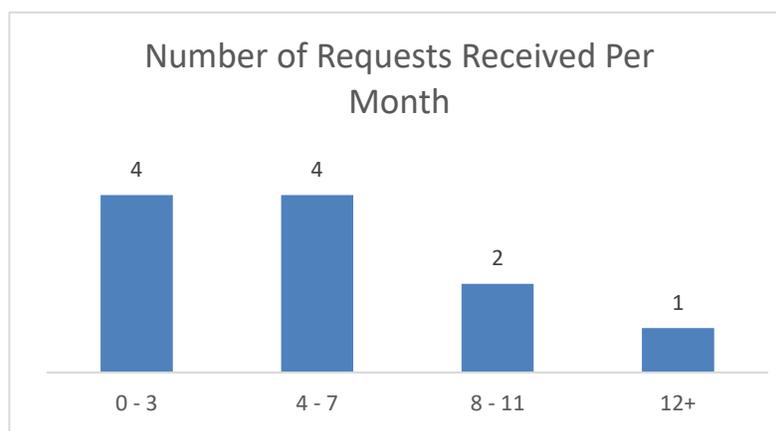


Figure 4

Topics of Reference Requests

As briefly mentioned previously, due to ambiguity of the term “topics” as used in the relative survey question, there were two primary categories of information respondents included in their responses: one, the *type* of information requested, and two, the *topics* of the requests. Question 6 of the survey read, “Please summarize the topics of the reference requests, received by your library from incarcerated persons.”⁵⁶ While responses similar to those classified as *topics*

⁵⁶ See Appendix, Survey – Reference Services by Academic Law Libraries to Incarcerated Persons, Q6.

below were meant to be elicited, it was clear from the responses received that there was ambiguity as to what the term “topics” meant. Some responses described the *type* of information requested (i.e., document requests, research requests). Other responses described the *topics* of the requests (i.e., criminal law topics, inmate services, civil matters). Often, responses included descriptions of both. For example, one respondent stated “...I tend to get lists of citations for documents they would like copies of. The most common subject, of course, is some sort of post conviction relief or other attempt to relitigate or appeal their original case...” This response includes both “citations for documents” and “post conviction relief,” representing both categories of responses. In response to the same question, one respondent described *from whom* the requests were received: “We receive both direct request from incarcerated individuals, request on behalf of incarcerated persons from family members, the court of appeals and state supreme court system, and organizations.” This response further illustrates the confusion regarding the question.

In response to this ambiguity and resulting confusion, responses were reviewed for both categories, *topics* and *types* of requests. Nine respondents included information regarding the *types* of requests received from prisoners, and five respondents included information regarding the *topics* of the requests. One response was eliminated from consideration and determined to be non-responsive to the question. Both categories of responses are discussed separately below.

Types of Information Requested

After open categorical coding was conducted of the nine survey responses (N = 9), five categories of information were identified: attorney referrals, case information, internet items and contact information, research requests, and document requests. Of those categories, “document requests” was the most frequently reported, and was included by 89% of respondents ($n = 8$). The second most frequently represented category was “research requests,” reported by 44% of respondents ($n = 4$). See, *Figure 5* below for a further detailing of the results.

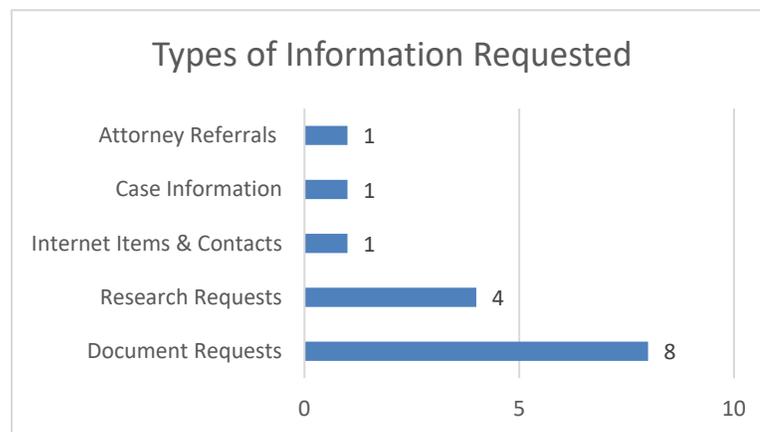


Figure 5

Topics of Reference Requests

After open categorical coding was conducted on the survey responses, five categories of topics of reference requested from incarcerated persons were identified. Topics of reference requests included: criminal law, inmate services/prisoners’ rights, civil matters, post-conviction relief, becoming a paralegal. Sixty percent (60%) of the respondents ($n = 3$), included criminal law

and inmate services/prisoner's rights as topics of reference requests, representing a bimodal distribution. See, *Figure 6* below.



Figure 6

Of the types and topics of requests from incarcerated persons, document requests, criminal law topics and information regarding inmate services/prisoners' rights were among the most frequently requested.

Percentage of Reference Requests Fulfilled

Of the ten libraries that responded, 70% ($n = 7$), reported fulfilling 75-100% of all the requests received from incarcerated persons. See *Figure 7* below for more information.

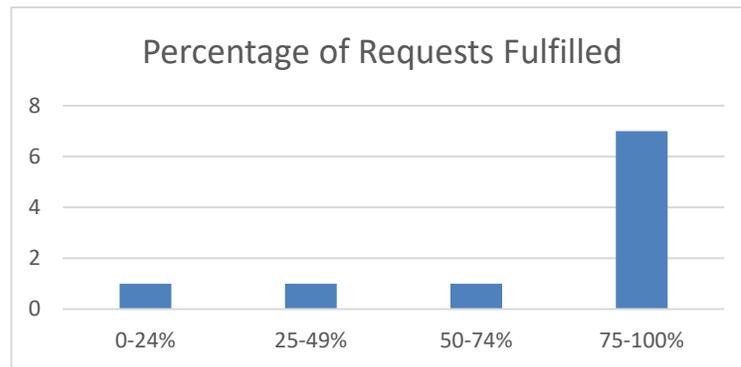


Figure 7

Reasons for Unfulfilled Requests

After analytical coding was conducted of the survey responses, four reasons requests from incarcerated persons went unfulfilled were identified. Those categories are: (1) letters received that do not actually contain a reference request, this can include individuals who as one response phrased it, “just want to tell their story and have someone listen,” (2) requests that are incomplete, vague or overly broad, (3) requests for legal advice, and (4) requests that violated library policy, which was often due to library jurisdiction issues or page limitations.

There were ten respondents to this question. Of the respondents, 80% reported that requests from incarcerated persons went unfulfilled because they were actually legal advice requests, ($n = 8$). The second most frequently cited reason was due to incomplete, vague or overly broad requests, which was reported by 60% of respondents ($n = 10$). See *Figure 8* below for more information.



Figure 8

LIMITATIONS & POTENTIAL FOR FUTURE RESEARCH

This study is descriptive and not generalizable, due to convenience sampling. Therefore, only descriptive statistics are reported. Additionally, because the survey included ranges of numbers/percentages for responses, rather than allowing the respondents to enter a number, only the mode and median were calculated when appropriate.

One of the major delimitations of this study is the use of AALL's already established database of law libraries offering services to incarcerated persons. Compiled by AALL's Social Responsibility Special Interest Section, Standing Committee on Law Library Services to Prisoners this list was originally published as a print directory in 1972 before moving to online in 2002.⁵⁷ Last updated in 2017, and currently being updated again, this list has the potential to be out-of-date, and may include libraries that no longer offer prisoner services, and miss libraries that do. This delimitation is justified due to the time and resource restrictions. Additional study could be conducted, by surveying either a random sampling or all academic law libraries in the United States to provide a more comprehensive picture.

⁵⁷ American Association of Law Libraries, <https://www.aallnet.org/srsis/resources-publications/assistance-for-prisoners/list-law-libraries-serving-prisoners/> (last visited April 19, 2022).

Another delimitation of the study is the surveying of Directors or Associate Directors of Access and Public Services, instead of prisoners. This limitation was made due to concerns regarding IRB approval and the vulnerability of prisoners. While prisoners would be a better source regarding their information needs, this limitation is justified due to protected status of inmates, and time and resource restrictions. Future studies could address this limitation by gathering information directly from prisoners.

This study utilizes a survey, so measurement error resulting from poorly worded questions is a concern, as is non-response error. To minimize measurement error the survey went through a pilot study. Even with the pilot testing, there is some concern regarding the responses received for Question 6. Question 6 read, “Please summarize the topics of reference requests from incarcerated persons”.⁵⁸ As discussed in more detail in the results section, the term “topics” proved to be vague, and resulted in the collection of additional data than intended. Since this study is purely descriptive, the data resulting from this question was still included in the results. Additionally, to minimize non-response error, a \$5.00 gift card to Starbucks was offered to participants who completed the survey. However, even with this only 11 out of 19 libraries responded to the survey.

⁵⁸ See Appendix, Survey – Reference Services by Academic Law Libraries to Incarcerated Persons.

Another limitation of this study is that it relies on recall of past services provided for quantitative data rather than observing the service directly or relying on logs of transactions. The participants may misremember certain details, or not want to share negative results. This limitation could result in measurement error. To minimize this, rather than require participants to enter a specific number for quantitative data, ranges of numbers were used. However, due to this, only modes and medians could be calculated. Future study could include the reporting of statistics, rather than relying on recall.

CONCLUSIONS

Over two million people are currently incarcerated in this country, the disproportionate majority of whom are Black or Hispanic and awaiting trial. Post *Bounds*, and prior to *Lewis*, inmates in need of legal materials could visit a prison law library and gain access. However, post-*Lewis*, prison law libraries across the country have begun closing or reducing services. Further, since the onset of the COVID-19 pandemic incarcerated people, due to lock-downs, have lost nearly all prison law library access. The reduction in access to legal resources available to incarcerated persons can be seen as part of the systemic discrimination within our criminal justice system.

As prison law libraries across the country are disappearing, and access to legal materials is being reduced for incarcerated persons, academic law libraries are stepping up to fill the information gap. This study provides some insight to the role academic law libraries play in providing reference services to incarcerated persons. Of the libraries surveyed, 36% of respondents reported receiving on average 4-7 reference requests from incarcerated persons a month and 70% percent of respondents reported successfully fulfilling 75-100% of the reference requests from incarcerated persons. While there is plenty of area for

further research, this study was a beginning step, and will hopefully illuminate a need for future study.

APPENDIX

Survey – Reference Services by Academic Law Libraries to Incarcerated Persons

Survey - Reference Services by Academic Law Libraries to Incarcerated Persons

Survey Flow

Block: Default Question Block (3 Questions)

Standard: Block 1 (1 Question)

Standard: Block 2 (4 Questions)

Standard: Block 3 (2 Questions)

Standard: Block 4 (1 Question)

Page Break

Start of Block: Default Question Block

Q1 Welcome to the "Reference Services to Incarcerated People by Academic Law Libraries" Survey. This survey is being conducted by a graduate student at University of North Carolina at Chapel Hill, in the School of Information and Library Sciences in preparation for a Master's Paper. The goal of this survey is to determine the role academic law libraries play in providing reference services to incarcerated individuals. This survey should take you 5-10 minutes to complete. Your participation is completely voluntary, and you can leave any item blank that you choose not to answer.

Q2 Please enter the name of the law library where you provide reference services. (Please Note: this information will not be disseminated or published, it is only for data reconciliation purposes.)

Q3 Do you receive and/or respond to reference requests from incarcerated persons? Select all that apply.

Receive (1)

Respond (2)

Neither (3)

Skip To: End of Survey If Condition: Selected Count Is Less Than 1. Skip To: End of Survey.

End of Block: Default Question Block

Start of Block: Block 1

Display This Question:

If Q3 = Neither



Q4 Please enter the email address of the person at your law library who receives and/or responds to reference requests from incarcerated persons.

Skip To: End of Survey If Condition: Please enter the email addr... Is Displayed. Skip To: End of Survey.

End of Block: Block 1

Start of Block: Block 2

Q5 On average how many reference requests from incarcerated persons does your library receive per month?

- 0 - 3 (1)
 - 4 - 7 (2)
 - 8 - 11 (3)
 - 12 + (4)
 - Don't know (5)
-

Q6 Please summarize the topics of the reference requests, received by your library from incarcerated persons.

Q7 Of the reference requests received by your library from incarcerated persons, approximately what percentage are fulfilled, either by providing materials or answers?

- 0% - 24% (1)
- 25% - 49% (2)
- 50% - 74% (3)
- 75% - 100% (4)
- Don't know (5)

Q8 Please summarize the primary reasons reference requests, received by your library from incarcerated persons, are not fulfilled.

End of Block: Block 2

Start of Block: Block 3

Q9 Does your law library have a policy regarding reference services for incarcerated persons or prisoners?

- Yes (1)
- No (2)
- Don't know (3)

Display This Question:

If Q9 = Yes

Q10 Please summarize your law library's policy regarding reference requests for incarcerated persons or prisoners, including any information regarding the submission process, fees, or payment procedures.

End of Block: Block 3

Start of Block: Block 4

Display This Question:

If Q3 != Neither



Q11 As a thank you for time, please enjoy a \$5.00 gift card for Starbucks. Please enter your email address below to receive a gift card.

End of Block: Block 4
