

The Ethics of Research with Prisoners

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Abstract

Research involving prisoners is a vital and invaluable source of information on crime, criminal behaviour and criminal justice. However, it is also an area fraught with ethical challenges. In this article we consider the conditions in which prison research is conducted and examine some of the ethical issues associated with interviewing prisoners. We maintain that the review and approval of prison research by Human Research Ethics Committees may in some circumstances be insufficiently informed by the dilemmas of prison based research. Formal devices such as the 'signed informed consent form' serve the purpose of providing an audit trail for legal purposes but potentially snare both researcher and prisoner in a set of disclosures and risks which are not in the interests of either party. We argue for a more responsive and reflexive approach where 'ethics in practice' complement 'procedural ethics' to minimise potential harms and maximise potential benefits of the research.

Introduction

Think of prisons and research and what normally comes to mind is a cascading of negative images from Nazi doctors to 'A Clockwork Orange'. The vulnerability of a captive population and the interests of researchers provide a toxic mix that rightly raises suspicion at the outset. Historically, one can trace the systematic 'abuse' by research of prisoners to the Nazi doctor experiments of the Hitler reign of terror. However, this infamous chapter in the abuse of research was not the first. Prisoners, as a captive vulnerable population, have been used as 'human guinea pigs' in a range of medical research studies since the time of Lombroso in the 19th century. Commencing in the early 20th century, experiments conducted on American prisoners have included animal testicular transplants; the injection of cancer cells; trials of vaccines; exposure to sleeping sickness, sand-fly fever, dengue fever, gonorrhoea, syphilis, malaria, gas gangrene and flash burns; and pharmaceutical clinical trials. Medical research on federal prisoners in the US was only terminated as late as 1976 (Hornblum 1997). Similarly, in Canada there is evidence that prisoners were used in secretive LSD experiments, pharmaceutical clinical trials, and sensory deprivation and behavioural modification studies from the 1950s to 1970s (Osborne 2006).

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Clearly the worst abuse of prisoners through research involves the use of physically invasive procedures. However, prisoners have also been the 'participants' in a range of non-medical research which has given rise to a number of concerns. Non-medical research has the potential to be traumatising, demanding or degrading. Not only are prisoners a captive population, but there are a number of pressures, subtle and otherwise, that can be brought to bear to encourage prisoner participation even where the protection of informed consent seems to be present. Most current research with prisoners involves a one-on-one interaction that could be described as an 'interview' between the researcher and the prisoner. Prisoners are an attractive group to research as they present individuals that we can largely assume have perpetrated crimes, are available and accessible to interview, and as they have been convicted, may be willing to speak frankly about their views and how they relate to their offending behaviour. These simple characteristics represent 'gold' for research into criminal behaviour given that such informants are otherwise elusive.

Prisoners are also in an excellent position to give a client's eye view of the criminal justice system. Research based on interviewing prisoners has examined areas as diverse as violence in prisons (Silberman 1995), gangs in prisons (Wood 2006), women's experience of segregation in prisons (Martel 2004), and domestic visits in prisons (Carter 1996). Within the field of criminology, interviewing within prisons may be used as a methodology in its own right, as part of ethnographic research, appreciative criminological inquiry (e.g. Liebling et al 2006) or evaluation research. Despite its utility, there have only been a limited number of research studies conducted within prisons that utilise interviewing as a methodology. Wacquant (2002) decried the declining conduct of prison ethnographies (particularly in the US) at a time when the use of imprisonment is rapidly increasing.

In this article we draw on the international literature and our own research in conducting interviews within Australian prisons to explore ethical issues associated with interviewing in prisons. While the ethical issues explored fall within the broader scope of social science research ethics (see Israel & Hay 2006 for a recent volume on this), these issues take on a particular complexion within the closed institution of the prison. The issues are highly charged given that we are dealing with a captive, vulnerable population that has historically been subjected to abusive research. In the first section on 'procedural ethics' we outline the role of Human Research Ethics Committees (HRECs) and the relevant sections of the formal instrument that currently governs the conduct of research with prisoners by university based researchers in Australia, the *National Statement on Ethical Conduct in Human Research* (National Health and Medical Research Council, Australian Research Council and Australian Vice Chancellors' Committee 2007; hereafter referred to as the *National Statement*). The second section of the article picks up on some of the critical points raised in the first section and explores 'ethics in practice', by considering the context within which prison research is conducted and exploring how prison researchers have addressed ethical issues as they arise. This section is presented in the order in which issues are likely to be faced, from gaining access to a prison through to returning research findings to the prison community. We conclude by discussing the complementary role of procedural ethics and ethics in practise and the need for each to inform the development of the other through reflexive research practice.

Procedural Ethics: Ethical Guidelines for Conducting Research with Prisoners

The distinction between 'procedural ethics' and 'ethics in practice' is an essential point of departure for investigations of research ethics (see Guillemin & Gillam 2004). 'Procedural

ethics' is a term that refers to the procedures involved in obtaining approval from a HREC prior to the data collection phase of a research project commencing. In contrast, 'ethics in practice' refers to a researcher's responses to ethical issues that arise during the research process. Procedural ethics should at each and every point serve ethics in practice if ethical conduct is to be optimised.

Procedural ethics are largely governed by the requirements of institutional HRECs and professional codes of ethics. Qualitative research with prisoners may require the approval of academic HRECs (if conducted by an academic researcher) and/or the ethics committee (where one has been established) of the Department responsible for the prisons where the research will be conducted. Within Australia, HRECs are largely responsible for reviewing and approving research. Therefore these committees have considerable power in that university based human subjects' research cannot be commenced or funded until approval has been obtained. Perhaps unsurprisingly obtaining ethics approval is simply regarded by many researchers as 'a formality, a hurdle to surmount to get on and do the research' (Guillemin & Gillam 2004:263).¹

In Australia, the guiding authority for the shape and content of procedural ethics enforced by HRECs is the National Health and Medical Research Council (NHMRC). The *National Statement*, published by the National Health and Medical Research Council, Australian Research Council and Australian Vice Chancellors' Committee in 2007, is the current leading document published by this body. The stated intent of the *National Statement* is the protection of the welfare and rights of research participants through providing authoritative guidance for the ethical conduct of research involving humans. Central themes are weighing the risks and benefits of potential research and the need to obtain informed consent from research participants. The *National Statement* enshrines principles of integrity, respect for persons, beneficence and justice while recognising that ethical considerations may vary by field of inquiry and research methodology. Three sections of the *National Statement* have particular relevance to conducting research within prisons: Section 4.3 addresses issues when researching people in dependent or unequal relationships; Section 4.6 addresses researching people who may be involved in illegal activities; and Section 4.7 addresses issues in conducting research with Aboriginal and Torres Strait Islander peoples.

Section 4.3 of the *National Statement* defines prison authorities and prisoners as being in a dependent or unequal relationship. It also states that this dependent or unequal relationship extends to relationships 'between participants and researchers or between participants and others involved in facilitating or implementing the research' (p 59). Recognising the unequal relationship is fundamental as it may influence prisoners' decisions to participate in research. The statement contains basic provisions to ensure that any unrealistic expectations potential participants may have of the research are countered and that informed consent is obtained.

Section 4.6 of the *National Statement* addresses the issues associated in conducting research with people who may be involved in illegal activities. It notes that researchers may have a statutory obligation to disclose information about illegal activities or may be subject to legal orders compelling disclosure of information obtained during research activities. It is foreseeable that in interviewing prisoners illegal activity may be disclosed, even where the research is not designed to expose it. In these circumstances, the *National Statement* suggests that researchers have a responsibility to explain to participants the legal

1 See Israel (2004a) for an overview of the difficulties criminologists face in obtaining approval from HRECs.

obligations of the researcher and the limits of confidentiality. The statement suggests that the confidentiality of research participants may be enhanced through removing explicit links between the individual and the data, through the use of pseudonyms and de-identified data.

Section 4.7 of the *National Statement* addresses research with Aboriginal and Torres Strait Islander people with a basis on 'respect and valuing of cultural and linguistic diversity' (p 69). The statement cites six core values for guiding research with Aboriginal and Torres Strait Islander people: reciprocity; respect; equality; responsibility; survival and protection; and spirit and integrity. The guidelines are designed to apply to research conducted in two specific categories of relevance to Aboriginal and Torres Strait Islander people. The first relates to those geographical locations where Aboriginal and Torres Strait Islander people represent a significant proportion of the population. The second concerns those research topics that are of specific concern to Aboriginal and Torres Strait Islanders. Prisons in Australia fall clearly within the first category, with 23.6% of all prisoners at the national level identified as indigenous. The proportion of prisoners who are indigenous varies widely across states, ranging from only 6% in Victoria to a massive 82% in the Northern Territory (Australian Bureau of Statistics 2006). Further, with a national age standardised Indigenous imprisonment rate 13 times higher than non-Indigenous imprisonment rate (Australian Bureau of Statistics 2006), all research on prisons is likely to be of specific concern to Aboriginal and Torres Strait Islander people, this meeting the second criteria of relevance outlined in the *National Statement*.

Formal ethical guidelines such as the *National Statement* have been developed within the 'medical model' with origins in addressing concerns related to medical research. Over time the reach of these guidelines has been extended to social science research, including criminology. Concerns of Australian criminologists in relation to HREC oversight of criminological research have been documented by Israel (2004a). Two major areas of criticism were:

1. a National Statement that failed to consider the conditions under which criminologists operated; and
2. autonomous HRECs that regulated research on the basis of limited expertise, acting slowly, secretly, and arbitrarily, and exercising unfettered discretion according to their own interpretations of amorphously expressed standards (p vi).

Underlying both of these issues may be a lack of familiarity with criminological research. In terms of the requirements for HREC membership, only one member is required to have 'knowledge of, and current experience in, the areas of research that are regularly considered by the HREC' (NH&MRC, ARC & AVCC 2007:16). The reality is that HRECs vary in the experience of their members. Where HRECs operate within departments responsible for prisons, one or more committee members may have significant criminal justice and/or prison experience.² However, not all states have HRECs within the responsible department, and researchers may need to obtain ethics approval through an approved HREC, usually based at a university. The concerns and approaches of specific areas such as criminology may not be fully understood by members of university ethics committees to the extent necessary to judge the level of risks associated with conducting criminological research within the closed institutions of prisons. Committees may be at a disadvantage if members do not have an understanding of the experience of prisoners and the operations of prisons and the criminal justice system. A more informed perspective could be provided by

2 We would like to thank an anonymous reviewer for their comments on the level of prison experience expertise available in some government department ethics committees.

members who have some experience of prison environments. However, even in these situations difficulties have arisen. For example, Beyer (cited in Israel 2004a) was advised by the New South Wales Department of Corrective Services ethics committee of their concerns that merely talking to a researcher might place prisoners at risk. Clearly whilst the protection of the interests of prisoners is paramount, it is possible to become overly (if not falsely) sensitive to the risks posed by social science research. Perhaps most importantly the potential benefits of research on, and with, prisoners should be considered lest all attempts to further our understanding of crime and criminal justice from the offender's perspective be crushed under the weight of caution.

While a focus on procedural ethics serves a useful function in forcing researchers to design ethical research and consider ethical issues that may arise in their planned research, they provide limited assistance in dealing with the ethical issues that often arise during the conduct of research (Guillemin & Gillam 2004). This disjuncture between the formal procedures and the dynamic flow of research in environments such as prisons highlights the importance of the ability of the researcher to consider and respond ethically to situations as they arise. The underlying assumption of procedural ethics appears to be that if the formal requirements can be stipulated closely enough and agreed to by researchers the ethical conduct of the research and the human rights of participants can be protected. However, it is much more likely that the sensitivity and responsiveness of the researcher in a difficult environment such as a prison is the more important variable. Here we might consider the potentially corrosive effects of trying to dictate the terms of the research so closely that the professionalism and judgment of the researcher is subverted by being considered irrelevant. It is important to ensure the achievement of ethical research that ethics in practice is not supplanted or subverted by procedural ethics. Rather procedural ethics should at each and every point serve ethics in practice if ethical conduct is to be optimised. Thus to get closer to what is really needed to ensure ethical research in prisons we need to consider the issue of ethics in practice.

'Ethics in Practice': Conducting Ethical Research in Prisons

In this section we outline the conditions within which prison research takes place and explore how researchers conducting interviews with prisoners have addressed the methodological and ethical issues arising in their research. The approaches taken may be guided to a greater or lesser extent by 'procedural ethics' on the one hand and researchers' own professionalism on the other to cope reflexively with issues that arise in the course of the research.

Access and Recruitment of Prisoners

Access to prisons is tightly controlled. Patenaude (2004) argued 'It is far easier to gain access to study the residents of a remote Alaskan community than to study the lives of prison inmates' (p 69S). But this is not entirely true, access may be easy and facilitated for police and prison chaplains but restricted to those seen as 'suspicious' to authorities. Approval to conduct research within a prison and obtain access to prisoners to interview often involves layers of formal and informal approval, from HRECs, the administering department, prison superintendent and prison officers. Delays may be experienced in each step of the process (Singh 2007). Ultimately access is controlled by front line prison officers managing the varied demands and routines of the prison. Approval by the administering department does not necessarily translate into access or cooperation at the level of the

prison and prison officers can block access to prisoners for a variety of motives through a variety of means (Waldram 1998). An uneasy relationship often develops between prison staff and researchers (Sparks, Bottoms & Hay 2006). At a fundamental level the co-operation of prison authorities and front line prison officers is required and recognition given that these individuals are charged with responsibility for order in a dangerous environment. Indeed, a full ethical 'audit' of research should include the impact of the research on the rights and sensitivities of the staff. Part of the risks of research that is rarely considered by ethics committees that are not attuned to the prison environment is the disruption to the maintenance of order in prison, including threats to the safety and well-being of prison officers.³

Prison officers act as the ultimate 'gatekeepers' to prisoners and those prisoners selected as suitable for interview by prison officers may differ from other prisoners in any number of ways. There is the potential for the selected prisoners to have an agenda they have been asked to push, or for 'selected' prisoners to want to cooperate in order to obtain or retain favour with the prison officer. One of us was told during an interview with a prison staff member that some prisoners had asked 'what do you want us to say?' when enquiries were made as to whether they would like to participate in a research project we were conducting. Prison officers may also attempt to bias researchers against particular prisoners through comments made about them (Waldram 1998; Bosworth 1999). In some circumstances it is particularly difficult to avoid such uninvited and gratuitous comments. Although researchers may feel able to distance themselves from the influence of such comments in regard to the research, the picture this creates is problematic in regard to recruitment and the framework for a potential relationship between the researcher and prisoner. There are also difficulties if prisoners perceive that the research is not favoured by the authorities as it may deter prisoners from participating lest they offend officers. The difficulties in randomly selecting prisoners for research participation (see Silberman 1995) or relying on prison-officer selected or self-selected samples is likely to result in significant sample bias.

There is little research that has explored the motivations of prisoners in relation to the decision to participate (or not participate) in research. Ultimately, the decision to participate is likely to reflect a range of instrumental and affective factors (Bosworth et al. 2005). Suggested motivations for participation include appearing cooperative to staff (Waldram 1998), hoping to gain some advantage or tangible benefit (McDermott & King 1988; Waldram 1998), the social benefits of engaging with an interested 'outsider' (Liebling 1999; McDermott & King 1988; Overholser 1984), seeking understanding and a 'voice' (Bosworth et al. 2005), desire for change and social reform (Bosworth et al. 2005) and altruism (Overholser 1987). In our experience, it is clear that a minority of prisoner research participants have a particular agenda they wish to push, but the majority appear to welcome the opportunity to talk to someone from outside the prison system.

Suggested motivations for not participating in research include fear that the information a prisoner provides will not be treated confidentially (Silberman 1995; Waldram 1988), that their participation may be construed by other prisoners as a 'sign of weakness' (Silberman 1995), or that the research may be used to justify further restrictive policies (Silberman 1995). To the extent that the research and researchers are seen to be part of the system, or somehow in collusion with the prison administration, involvement in the research could be seen as a sign of 'giving ground'.

3 As advised by an anonymous reviewer, this question is asked by at least one prison departmental ethics committee.

Issues Surrounding the Payment of Prisoners

One way of increasing research participation rates is through the payment of research participants. Whether prisoners and other offenders should be paid for their research participation has been a topic of some debate. A number of arguments have been put forward in favour of paying drug using offenders in the community from human rights, methodological and administrative perspectives. First, from a human rights perspective, it can be argued that not paying offenders for their research participation when other research participants may be paid or reimbursed for similar types of research is a form of discrimination (Seddon 2005). This situation particularly arises in relation to health and drug research where research participants are often paid to participate. Further, prisoners may be placed at an economic disadvantage when taking part in research as they may not be paid for time absent from their prison work (Overholser 1987). From a methodological perspective, paying offenders for their participation may broaden the sample obtained (Seddon 2005). From an administrative perspective, paying offenders for their participation may also prove a cost effective recruitment strategy (Seddon 2005).

However, arguments against paying offenders have also been raised. There is concern that payment may provide 'undue inducement' to participate, that payments may be seen as rewarding offending, or that payments may be used to fund additional offending. There are also administrative and methodological concerns, with payments involving financial accountability and audit trail requirements, the unknown effect on the integrity of the research, and the potential to create a demand for all offender research participation to be paid (Seddon 2005). There is also the potential for payments to create a further point of division between researchers and authorities. For example, Hodgson, Parker and Seddon (2006) noted the negative police reaction to researchers paying detained arrestees for drug research in police custody suites.

Where research participants are paid for their research involvement, typically one of three models is adopted. The 'market model' is based on paying whatever amount is required to recruit research participants, with higher payments made for riskier research. The 'wage payment model' pays all research participants at the rate of an unskilled worker. The 'reimbursement model' pays research participants' expenses at a rate that varies according to the hourly rate of the participant's job (Dickert & Grady 1999). Within the prison context the most appropriate strategy may be to set the rate of payment at a rate commensurate with other work activities undertaken in the prison. Indeed in the context of most prisons in Australia, payment is less of an issue than it would be in the community as the prisoner would simply be released from routine duties to attend the research interview and thus earn no more or less than he or she would otherwise. The prisoner and the research may benefit from the simple fact that the research interview provides a break from the routine of prison work. This inherent interest may be enough to make participation in research mildly attractive without in any way being compelling.

However, there is another issue regarding payment that is relevant. Some token of gratitude, usually in the form of money, is generally accepted as acknowledging in a fair way the contribution provided by an individual. Fair payment for time takes the research out of the realm of favours and places it in the rather ordinary category of 'work', which can easily be maintained and managed as simply another activity. By presenting research as a work opportunity the potential power implications of the research may be minimised.

Payment of money is not always an option, and recognising the reciprocal obligation on researchers to interviewees, alternative forms of 'payment' to prisoners have been made. These have included buying books for prison libraries (Waldrum 1998), the loaning of

books (Bosworth 1999), delivering prisoners' messages to family members (Goulding 2004) and the provision of candy bars as an incentive or payment for participation (Leukefel et al. 1999; Yacoubian 2003). The offer of cigarettes or refreshments raises other issues and certainly would require the written permission of prison administration (Carlen & Worrall 2004).

Given the reality that in most prison research prisoners will be no better or worse off financially through participation in research the focus should be on the symbolism of payment. In normal life if one is approached to do something out of the ordinary, some token or sign of respect or reciprocity is typically offered. These 'signs of respect' are no less important in the prison environment. To respect the individual who is being invited to participate in research some small token of appreciation such as offering a decent cup of coffee, a chocolate bar, or some other small item that conveys acknowledgement of co-operation might be appropriate. It is unlikely that such tokens would be enough to induce prisoners to participate in research they objected to but it does allow some small sign of respect and gratitude and thus blunt the perception or suspicion of exploitation.

Informed Consent and Confidentiality

Obtaining informed consent from prisoners who are potential research participants is central to the conduct of ethical research. As Waldram (1998) notes, this respect for the rights of prisoners is not always understood by front line prison authorities. For prison officers the approval of research by management is the most important level of authorisation. We concur with Waldram's statement that a 'correctional system that insists on maintaining absolute control over inmate participation in research, to the exclusion of the inmates' own wishes, is not a healthy place for ethical social science' (Waldram 1998:243).

Although informed consent forms the bedrock of all ethical research, this does not mean that there is agreement regarding the means by which such consent is obtained and documented. At first glance the most preferable method may seem to be a signed statement from the prisoner to consent to participate in the research. Indeed evidence of informed consent is typically obtained through the use of a signed consent form, a procedure mandated by most Australian HRECs.

However, whilst signed consent forms provide a legally defensible 'proof' of informed consent, the process poses a threat to potential research participants. Signed consent forms provide a record of participation in a research project, providing the potential for research documentation to be subpoenaed and the identity of prisoners to be revealed. This poses a threat to the prisoner's future wellbeing, particularly if the research discusses illegal activities (Roberts & Indermaur 2003). Further, there is often a reluctance amongst prisoners to sign consent forms (Indermaur 1995), creating a barrier to participating in research and potentially affecting response rates and the representativeness of samples. Concerns over confidentiality associated with signing a consent form may also result in limited disclosure and self-protecting responses (Roberts & Indermaur 2003). The enforced use of signed written consent forms for research with criminals in the UK has resulted in frequent 'Mickey Mouse' identifications, sometimes at the instigation of the researcher (Coomber 2002). An alternative we have suggested that better meets the needs of offender interviewees is for the researcher to document informed consent by the prisoner. Indeed this may better meet the needs of both researchers and prisoners (Roberts & Indermaur 2003). Using an approach that eliminates the recording of names and the signing of forms by offenders minimises the harm to the prisoner at the time of the research and forever thereafter. Thus the approach has more benefits for the prisoner and none of the risks of a

signed consent form because the key concern of prisoners is likely to be the maintenance of confidentiality of information provided.

Where signed consent forms have been collected threats to confidentiality continue once the interview has been completed. There is the potential for interview notes to be lost or stolen within the prison, or to be confiscated by staff upon leaving the prison (Coggeshall 2004). There are a number of strategies that can be employed by researchers to enhance confidentiality. These include not using names during recorded interviews, and transcribing and destroying tapes as soon as possible (Tunnell 1998). In our own research we do not record the prisoner's name or other identifying information on interviewing notes. In writing up our research findings we take care that individual prisoners can not be identified from the examples we use. Mahon (1997) noted the difficulties involved in assuring prisoners of confidentiality in an environment where research is conducted in close physical proximity to prison officers. The requirement for a prison officer to be physically present during some interviews in research within Russian prisons led Piacentini (2007) to discard some interview data as 'unreliable'. Similarly, Goulding (2004) conducted interviews in the grounds of one Western Australian prison because the women prisoners feared being overheard by other prisoners or staff, or the interview being recorded by prison authorities. In another prison involved in the same research project, the researcher had concerns that interviews may have been recorded by prison authorities. In our own experiences in interviewing prisoners we have had prison officers ask to be present during interviews (something we obviously would not allow) and have had prison officers walking in during interviews. Our approach has been to negotiate private interviewing space prior to entering the prison.

Apart from external threats to confidentiality there are threats posed by the prisoner-interviewee to the researchers' endeavour to maintain or offer confidentiality. Indeed the potential for the prisoner to disclose sensitive information that may result in ethical dilemmas for researchers is ever present. As Genders and Player (1995:42) exclaimed: 'in our experience, the unpredictable nature of fieldwork ensures that unwelcome and unsolicited materials can be generated as instantaneously and as inexplicably as a rabbit from a magician's hat'. During interviews prisoners may disclose information about unprosecuted criminal offences they have been involved in or are planning. Prisoners may also disclose information relating to potential harm to themselves or others. These unanticipated disclosures have been described by Lowman and Palys (2001) in terms of 'heinous discovery' (p 23).

These heinous discoveries pose potential conflict between researchers' promises of confidentiality and the law. There may be statutory requirements to report certain types of crimes and researchers may face liability for harm to third parties if planned future crimes are not reported. Researchers may also be subject to pressure from criminal justice agencies to provide their research for prosecution purposes. Research records may be subpoenaed and orders made for disclosure. Researchers may face contempt charges and possible imprisonment if they do not comply with these requirements (Israel 2004b; Lowman & Palys 2001).

Researchers have varied in their approaches to information on crimes revealed in interviews. Some researchers strongly oppose revealing information about criminal activity. For example, Wolfgang (1981) stated that 'if any researcher doubts the moral obligation to maintain confidentiality he (sic) should abstain from this type of research' (p 352). Similarly, Tunnell (1998) stated his preparedness to 'deceive and lie to authorities if ever questioned about the particulars of my research' (p 209) and indeed did so, both to

prison authorities (denying the false identity of a prisoner) and when threatened with a subpoena. He stated (falsely) that tapes and transcripts had been destroyed. Lowman and Palys (2001) note the changing role of researchers if they were to report: 'persons conducting research with the intention of reporting offences that they can anticipate hearing about would appear to be self-consciously building a law-enforcement role into their research' (p 23).

Other researchers have adopted a more flexible reflexive approach. Offenders may have a range of motivations for revealing information about specific offences ranging from testing confidentiality through to inventing material (Feenan 2002). Genders and Player (1995) maintain the decision to reveal or not reveal is a matter for the judgment of the researcher, and is influenced by the perceived motivation for disclosure. In one instance they were informed by a prisoner of officer misconduct which constituted a criminal offence and after checking with the prisoner that they did want this information passed on, informed a member of staff without identifying the individual informant. Other disclosures of unprosecuted criminal offences made to them were not reported.

Researchers may also need to make a judgment about reporting where there is potential for harm to an individual (either the prisoner or someone else). Cowburn (2005) discussed the ethical dilemma he faced when interviewing a prisoner who appeared about to fully identify a child who was being abused and the abuser. Cowburn's response was to stop the interview and reiterate the confidentiality agreement. He stated this was an ethical response that provided the prisoner 'the opportunity to reflect on where his story was going and to make decisions about how to continue' (p 59). Other researchers have indicated their preparedness to disclose in circumstances where there was intention to harm others or to escape (Feenan 2002; Hodgson et al. 2006).

These dilemmas give a deeper context to the harm-benefit calculus through which the relative value of research needs to be judged. In the examples provided above a prisoner may disclose potentially serious and criminal activity to the researcher that is indeed false as a way of 'testing' the researcher and the limits of confidentiality. Many of these problems are overcome if the researcher does not know (and does not want to know) the name of the prisoner. This provides a greater level of protection for both prisoner and interviewer and in terms of potential benefits it provides a unique opportunity for the prisoner to speak on a truly anonymous basis.

A number of steps can be taken to limit the potential for disclosure of sensitive information that may create ethical dilemmas for researchers. An understanding of the law and evidentiary requirements of the court can be used to design research that minimises the potential for 'heinous discovery' (Lowman & Palys 2001). Prisoners can be specifically requested not to provide specific details on previous criminal activities (Feenan 2002). Names and identifying information can either not be recorded, or be removed from the data collected. In some circumstances it may be appropriate to reach agreement over non-disclosure with criminal justice agencies before the research begins. In the US statutory protection including confidentiality certificates may be available for some types of research (Israel 2004b).

In establishing informed consent and addressing concerns over confidentiality it is vital that research participants understand the limits of protections of confidentiality that will be afforded by the researcher (Cowburn 2005; Feenan 2002; Wood 2006). For example, Cowburn (2005) advised potential research participants in a letter that '[t]he content of the interviews is confidential unless you: (a) tell me in detail about an offence that you have committed but have not been prosecuted for; and (b) if you indicate that you are a risk to

yourself. In both cases I would report these matters to the Prison Service' (p 57). Note, however, that this disclaimer did not cover disclosure of risk to others, something that he was eventually faced with in his research.

Prisoners may have unrealistic expectations of what research can deliver. Therefore, as part of the informed consent discussion, it is important not to raise hopes where the required outcome can not be delivered. In our own evaluation research we advise prisoners that what we can offer is a fair representation of prisoners' views in any report we write, but stress that while we can make recommendations for change, it is others who decide whether or not recommended changes will be accepted and implemented.

McDermott and King (1988) noted the cynicism by prisoners and staff over outcomes of research:

Superficially, both staff and prisoners were convinced that we would not be allowed to publish our findings uncensored, or that if we were, no-one would take any notice. At a deeper level, *both* groups were sometimes fearful that our findings would be used selectively, either to get better value out of the staff, or the better to control the minds and bodies of prisoners (p 359).

Concern that prison research may be used by prison authorities for political purposes should also be a concern of researchers. For example, Sparks (2002) drew on his experience as an ethnographic researcher within the Special Unit of the Scottish prison system to describe his unease over the use of his research to effect the closure of the unit.

Establishing a Trusting Relationship

Establishing trust in prisons is difficult. Indeed it is the issue of trust that is perhaps one of the most central and defining features of interpersonal life in prisons. Prisoners, prison officers and administration may share a distrust for external researchers as they cannot control their findings or reports (Patenaude 2004). O'Connor (1976), in reporting on his research within two Western Australian prisons, noted the time and effort required to develop and manage a 'front' and establish trust with research participants in prison settings (both prisoners and staff), and the requirement to work through prison officers' various interpretations of his presence (from being a 'spy' for the Department or the Superintendent, a 'radical', a 'bludger', a 'crim-lover', an 'idiot' or a 'con-man'). Prisoners initially viewed him as either a 'spy', a 'screw' or a 'mad Irishman'. He was subjected to a number of 'tests' by both prison officers and prisoners in order to determine his genuineness. Mahon (1997) noted the particular difficulties in establishing trust when interviews relate to the sexual activity and drug use of prisoners, citing previous research where prisoners, suspicious of the purpose of research, had refused to answer questions relating to their drug use in prison. Sparks, Bottoms and Hay (1996) commented that '[i]t may be that the best one can hope for as a researcher is to move, over the course of time, from being a grudgingly tolerated fool to a fairly welcome one' (p 349). This change in status is dependent on spending time within the prison, talking to people and learning the prison argot, and asking and answering questions.

The distrust of researchers may be increased where researchers choose to tape record interviews. Piacentini (2007) noted that more information was obtained from prisoners through 'off-the-record' conversations than in recorded interviews. Similarly, Genders and Player (1995) chose not to record interviews with prisoners because of a belief that responses would be inhibited. However, Sparks, Bottoms and Hay (1996) reported that taping was generally agreed to where a level of trust had been established, but believed that this required 'several hundred hours' (p 347) of familiarisation within each prison in order

to achieve trust, credibility and access. Other researchers have adopted strategies such as declining to carry keys, as this may heighten the perception of a power relationship (Gelsthorpe 1990) and identification with prison officers (Bosworth 1999).

The ease of developing trust may be affected by previous relationships between the researcher and prisoners. As a former correctional officer who now conducts research in prisons, Patenaude (2004) noted that while he can easily establish rapport with staff this is more difficult with prisoners, requiring the demonstration of his independence as a researcher. Similarly, Marquart (1986) described his initial difficulties in gaining the trust of prisoners when he adopted a role as a 'researcher-guard' within a prison. From an alternative perspective, Jones and Schmid (2000) reported on the use of a prisoner (Jones) as a researcher conducting ethnographic research within the prison system, and later conducting interviews with other prisoners after his release. One of us has experience working in the prison system as a psychologist. This not only provided a useful background into prison procedures and prisoner argot but also helped in gaining access to prisons and building trust with prisoners and staff.

The development of rapport and trust may also be affected by demographic features of researchers and prisoners. The age and gender of an interviewer may elicit different reactions from prisoners and officers (Leibling 1999; Gelsthorpe 1990; Genders & Player 1995). Gelsthorpe reports on female researchers as feeling 'quite out of place' within the almost exclusively male environment of a prison, and of adopting roles as 'counsellors' to prisoners during interviews. Similarly, Genders and Player (1995) described how they were drawn into playing the roles of 'therapist' and 'confidant' to prisoners and while male prisoners found it easier to discuss personal problems with the female researchers, they were more inhibited when it came to discussing deviant sexuality.

The development of a trusting relationship between researchers, gate-keepers and potential research participants in prison research (and indeed, any research) is crucial to ensure the validity of findings. If trust can not be established, participation rates may be low and less than full cooperation with research and limited disclosure can be expected.

Psychological Needs of Interviewees

The line between research and counselling as alluded to in the previous section is more blurred than is generally acknowledged. Research on some occasions can be considered therapeutic, particularly where the topic is of great relevance to the prisoner such as the fairness of his/her treatment, their perceptions of the criminal justice system and the likely impact of these interventions on their behaviour. It is possible for a person to be arrested, tried, sentenced and imprisoned without anyone specifically asking how he or she feels about these issues. The research may provide the first opportunity a prisoner has to express himself/herself on these central issues. Whilst the research may not intend to provide a therapeutic outlet and would not formally be considered 'treatment', the non-judgmental and 'disinterested' state of the researcher may provide conducive conditions in some contexts for the person to reflect on matters of deep relevance. It is possible, as indeed we have found, for the research interview to pose fundamental questions about crime and punishment that the prisoner has not hitherto considered.⁴

Given the potential of research to be relevant to prisoners' psychological issues, researchers have a responsibility to ensure that prisoners have access to support services following the interview should this be required. For example Goulding (2004) arranged for prison counselling services, a prison chaplain and/or peer support women to be available following research interviews. The availability of follow up counselling and treatment, if

needed, should be a mandatory component of prison based research lest the research do more damage by uncovering emotional issues, only to leave them unresponded to. This issue has rather more potential to affect the risk-harm balance perhaps more than any other discussed. Given that access to counselling is provided by services associated with the prison the availability of such follow up services should be discussed and confirmed prior to the commencement of the research and researchers should have ready access to a specific number, name or set of procedures they can engage to ensure that a prisoner wishing to receive counselling can access it. This advice and information should be provided to the prisoner-interviewee at the conclusion of the interview. Perhaps most importantly interviewers should have access to a suitably trained psychologist or counsellor to discuss issues which arise in the conduct of the research which may be sensitive or cause distress in prisoners. It is quite possible that some questions which were, at the outset considered innocuous are highly sensitive and their necessity should be reviewed. This is particularly important in the context of a cross cultural interview.

Although any emotional reaction of a prisoner to an interview may be seen by HRECs as constituting 'risk' or 'harm', when seen in a broader context it may be acknowledged that meaningful research is likely to raise issues for prisoners that they may wish to pursue – and this should be seen as a 'benefit' and not a 'harm'. In this context the research could be seen as serving not only the prisoners' interests but the public interest as well. Research that is properly linked to treatment has the potential to raise awareness in prisoners of potential areas of need whilst at the same time informing policy makers on the nature of prisoners' problems and perspectives. It is thus somewhat surprising that the potential beneficial effects of research have not always been recognised, monitored or harnessed. Perhaps a relevant question for HRECs would be how can the potential benefits of the research for prisoners be optimised, in addition to how can the risks be minimised.

Maintaining the Personal Safety and Well-being of Researchers

The design of ethical research should also include provisions for maintaining the personal safety and well-being of all research staff. Prisons house many known violent offenders and are frequently the sites of violence. A search of the academic literature revealed only one reported incident of research staff in prison being subjected to physical violence. Zinger (1999, cited in Zinger, Wichmann & Gendreau 2001) reported that a research assistant was grabbed by a prisoner, and as a result this prisoners' future participation in the study was terminated. Liebling (1999) described the threats to personal safety when interviewing in a maximum security prison at a time when a hostage situation was deemed likely. Researchers were reliant on prison staff for an assessment of the suitability of prisoners to interview, with Liebling describing interviews during this period as 'harrowing' and 'traumatic encounters' (p 150).

The personal safety of researchers in prisons is also an issue of concern for prison authorities who have responsibility for the safety of prisoners, staff and visitors. Directives may be issued on the location of interviews, restrictions on movement, the allocation of keys, and the use of alarms and other safety precautions. Prison researchers adopt a range of responses to the potential for violence within prisons and directives from prison

4 One of us, in the context of a large study of prisoners' alcohol use, found simple questions from a standard Alcoholism Screening test that looked at the link between health problems and drinking resulted in a number of prisoners suddenly reflecting on these effects in a way that they had not previously. Becoming open to the prospect that drinking was having a larger effect on their lives than they had previously considered, they appeared to be particularly open to some form of counselling, education or treatment. The final report recommended that screening for alcohol problems with a link to treatment become routine intake practice.

authorities. At one extreme, Waldram (1998) refused to wear a personal security device (in order to differentiate himself from prison officials), mingled with prisoners and conducted interviews within cells, against the wishes of security. Other researchers (e.g. Genders & Player 1995) follow prison directives that include not entering floors housing living accommodation and interviewing only in rooms that have a glass viewing panel and alarm.

Additional measures may be required according to the age and gender of the researchers. Genders and Player (1995) noted that prison authorities expressed additional safety concerns with young, female researchers due to their perceived vulnerability to physical and sexual assault and hostage taking. Genders and Player further described difficulties associated with becoming 'objects of sexual fantasies' for a minority of prisoners. Concerns were also expressed by prison authorities that these researchers may establish intimate relationships with prisoners and that their skirts were too short!

In addition to ensuring the physical safety of research staff, attention needs to be paid to the emotional well-being of research staff. Liebling (1999) noted the potential for interviews to be emotional experiences for the interviewer as well as the prisoner. Similarly, Bosworth (1999) related the physical and behavioural symptoms she experienced associated with the emotional reaction to long-term interviewing and participant observation of women in prison.

Interpretation of Findings and Returning Findings to the Prison Community

In interpreting and presenting the results of prison research a persistent issue is whose perspective should be adopted. Liebling (2001) highlighted the need to incorporate and synthesise multiple competing perspectives in research findings. The views of prisoners, prison officers, program providers and prison administrators may all be of importance. Research findings may be open to accusations of bias if they strongly favour one group within the prison over others. The potential for researchers to 'go native' when identifying strongly with research participants has been identified in ethnographic prison research (Liebling 1999). O'Connor (1976) recommended the interviewing of both prisoners and prison officers in order to balance research. In our own evaluation research in prisons we usually identify key stakeholder groups relevant to the research question during the research design stage and ensure that the views of each group are represented in our reports. While the perspective adopted may depend largely on the research question and methodology adopted, we concur with Liebling (2001) that 'Whose side are we on? The side of prudent, perhaps reserved, engagement' (p 483).

Once research has been completed, an issue arises over whether feedback on the findings of research should be provided to research participants and/or the prison community in which the research took place. Some researchers seek to provide feedback to participating prisoners during the research process. This may be achieved by providing research participants with transcripts of their interviews to review (Goulding 2004; Waldram 1998), although for this to occur the names or other identifiers of participating prisoners must be obtained and a second meeting arranged. Feedback may also be provided to prisoner representatives at regular meetings during the research process (Goulding 2004). Research findings could also be posted on a website and prisoner participants advised to access the site for the (aggregated) results if they are interested. The effectiveness of these strategies to disseminate research findings to participating prisoners is likely to be limited where prisoners are serving short sentences.⁵ Completed research has also been provided to prisoners at participating prisons through providing reports to prison libraries (Waldram 1998). The provision of completed research reports may not be a possibility where the research report is not publicly released by the funding agency.

Conclusion

Interviewing prisoners can provide criminological researchers with valuable insight into phenomenological accounts of offending behaviour and perceptions of the criminal justice system. In this article we have outlined the conditions in which prison research is conducted and raised a number of ethical issues that may be encountered when conducting interviews with prisoners. We have argued that the review and approval of prison research may be insufficiently informed by the dilemmas of prison based research where HREC members have limited or no experience or knowledge of prisons. What is needed is a specific approach that is a more responsive and a reflexive guide to conducting research that minimises potential harms and maximises potential benefits.

There is a need for prison researchers to be aware of the type of issues that may arise during their research and through planning adopt procedures to maximise research participants' protection and minimise the likelihood of any harm. Procedural ethics comprise an important stage of the planning process, but need to be supplemented by researchers adopting a reflexive approach to deal with ethical issues that do arise in the field. Procedural ethics should at each and every point serve ethics in practice to optimise ethical conduct. It is equally important that ethics in practice reflect the principles underlying procedural ethics.

Research in prison should ideally be routine and seek to serve the interests of both the prisoner and the public by illuminating an understanding of the nature of crime and the effectiveness of criminal justice responses as well as other prevention measures. However to achieve this goal sentencing authorities, prison authorities and HRECs will need to work closely together to promote the human rights of prisoners whilst at the same time optimising the potential for an exploration of the key factors which may help prevent crime and facilitate justice.

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5 We would like to thank an anonymous reviewer for raising this point. While the median aggregate prison sentence length is three years with the median expected time to serve of 1.8 years for sentenced prisoners, remand prisoners spend a median of 2.7 months on remand (Australian Bureau of Statistics 2007). However, the return rate to prison is high and when research results are posted on the internet access will actually be easier for those prisoners still in the community

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