



# Histories and Philosophies of Carceral Education

Aims, Contradictions, Promises  
and Problems

*Edited by* Marcus K Harmes  
Barbara Harmes · Meredith A Harmes

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macmillan

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**Lukas Carey** completed his Doctorate in education and has worked in the field for most of his career as a coach, teacher, trainer and educator. While filling a role in local government he was charged with and convicted of receiving secret commissions and served time in prison. During and since Lukas' incarceration, he developed a strong interest in the role that previously incarcerated people have in the development of policy and procedure in the justice system concerned with education and post-release employment. He is a strong advocate for the importance of Lived Experience to govern the direction of these policies and practices.

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**Marcus K Harmes** has published extensively in the field of popular culture. His most recent publications include *Roger Delgado: I am usually referred to as the Master* (Fantom Publishing 2017) and *Doctor Who and the Art of Adaptation* (Rowman and Littlefield, 2015). He is the author of numerous studies on the church in modern popular culture, including book chapters in the collection *Doctor Who and Race*, and articles in journals including *Science Fiction Film and Television*, and *Journal of Religion and Popular Culture*. In 2018 he edited the Handbook for Springer on *Postgraduate Education in Higher Education*.

**Meredith A Harmes** teaches communication in the enabling programs at the University of Southern Queensland in Australia. Her research interests include modern British and Australian politics and popular culture in Britain and America. Her most recent publication in the *Australasian Journal of Popular Culture* was on race and cultural studies on American television. She holds an honours degree from the University of Queensland in political science and a Graduate Diploma of Journalism and a Masters of Public Relations from the University of Southern Queensland. She is co-editor of *Postgraduate Education in Higher Education* (Springer, 2018).



**Barbara Harmes** lectures in communication at the University of Southern Queensland, with a particular focus on international students. Her doctoral research focussed on the discursive controls built around sexuality in late-nineteenth-century England. Her research interests include cultural studies, postgraduate education and religion. She has published in areas including modern Australian politics, postgraduate education, 1960s American television and her original field of Victorian literature.

**Sharon Klamer** is an endorsed Forensic Psychology, with extensive employment experience within the criminal justice system in Australia. Notably, Dr Klamer has developed expertise in the assessment, treatment, and management of sexual offenders both within custodial and community-based settings. Dr Klamer's doctoral dissertation was titled 'Understanding the stories of online child pornography offenders: A qualitative analysis of defended subjects'. Dr Klamer has been involved in the development and implementation of a pilot program for radicalized and terrorist offenders in addition to the development of policies and procedures related to the management of female sexual offenders, and at risk offenders in custody in NSW. Dr Klamer commenced private practice in 2020, with a focus on specialised sexual offender and radicalised offender risk assessment and treatment.

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**Jimmy McLauchlan** is the Chief Development Officer for Methodist Mission Southern—a social service provider based in Dunedin, New Zealand. Jimmy specialises in the development and delivery of evidence-based programmes for significant life-course impacts at large scale—including VR prison education, self-regulation and oral language programmes for early childhood, and transitional housing for young people. Alongside research partners at University of Otago (Professor Holger Regenbrecht) and delivery partners at Animation Research Limited, Jimmy has spent the previous five years developing and evaluating VR learning solutions alongside prison-based learners, and is now focussed on expanding the reach and impact of these tools.

**Laia Moretó Alvarado** is an independent artist and collaborates with various schools and cultural motivators. She has taken part in teaching collaborations with the Institute of Photographic Studies in Catalonia (IEFC) and with the University of Barcelona (UB), where she trained and was awarded the extraordinary prize in Fine Arts and gained a Master's Degree in Artistic Production and Research. She has been investigating the relationships between art and prisons since 2019 with an FPU scholarship from the Ministry of Education, Science and Universities, integrated into the IMARTE research group. She has been given scholarships for various visual projects, and is recognised by Roca Umbert and the VU Centre in Canada, the Institut Ramon Llull and Barcelona City Council (City of Barcelona Award). She has exhibited in different national and international salons and her works can be found in various galleries, and in the Patrim Foundation and UNESCO collections, among others.

**James C Oleson** is an Associate Professor of Criminology at the University of Auckland. After his discharge from the US Navy's nuclear propulsion programme, he earned his BA in psychology and anthropology from St Mary's College of California, his MPhil and fast-track PhD in criminology from the University of Cambridge, and his JD from the University of California, Berkeley (where he was Editor-in-Chief of the *California Law Review*). He was selected as one of the four 2004–2005 US Supreme Court Fellows, receiving the Tom C. Clark prize. He then served as the Chief Counsel for Criminal Law Policy for the United States Courts, 2005–2010. He is the author of *Criminal Genius: A Portrait of*

*High-IQ Offenders*, co-author of *Contesting Crime Science: Our Misplaced Faith in Crime Science Technology* (with Ronald Kramer), and co-editor of *Fifty Years of Causes of Delinquency: The Criminology of Travis Hirschi* (with Barbara Costello).

**Jenny Ostini** (PhD, MA Minnesota, BA (Hons) (Asian Studies ANU) is an Australian applied social scientist working in social and policy settings on gender, literacies and understanding workplace experiences and behaviours. Her work has taken her from evaluation of social and health interventions, to digital literacies for non-traditional students to water and energy policy to research governance and ethics and many places in between. Presently she works in research practice, research and data governance for an Australian government department. Her research interest is uncovering and analysing the narratives, institutions and structures that affect our everyday lives and working out how these may be changed to shape different futures.

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**Suzanne Reich** is the program director and a senior lecturer for criminology and criminal justice at the University of Southern Queensland. Dr Reich's substantive area of research concerns the reintegration of those with a criminal record back into society and their associated desistance from crime. In her PhD. thesis Dr Reich examined whether and why employers will hire job applicants who have a criminal record with a particular emphasis on the beliefs employer's hold about the capacity for ex-offenders to change and desist from crime, and how desistance from crime is recognised by employers. Dr Reich's previous employment

includes working with at-risk young people in the community as well as in detention. Later on, she moved into the offending behaviour programs sector within the adult prison system in both Australia and England, working specifically with people who had committed serious and violent offences. Influenced by her time working in industry, Dr Reich maintains a research interest in programs and initiatives that are designed to support successful reintegration and desistance from crime.

**Stephen Seymour** is the Associate Director of Social Justice, Equity & Inclusion at the University of Southern Queensland (USQ). In this role, Stephen coordinates the application of the university's Incarcerated Student Strategy. Before this, he was the Engagement Leader for the award-winning Making the Connection project which saw the introduction of digital technologies into 39 Australian prison sites to provide access to digital higher education. Stephen oversaw the transition of this project into business as usual at USQ. Before joining the USQ team in mid-2014, Stephen spent 10 years in the vocational education sector working closely with stakeholders as a Director for Business Development and Industry Engagement. Stephen also has extensive experience in the not-for-profit sector and cross-cultural contexts, specifically in economic and community development in central and southern Africa, primarily in the Congo and Zimbabwe.

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# Part I

## Contexts and Possibilities



# 1

## Aiming and Promising, and Recognising the Contradictions and Problems

Marcus K Harmes, Meredith A Harmes,  
and Barbara Harmes

The global prison population continues to grow, and only a relatively small proportion of the world's incarcerated people have access to or undertake formal education (Gottschalk, 2006, pp. 1, 181; Kilgore, 2015, p. 18). Delivering education in prisons not only presents logistical and technical challenges, but is also a sensitive and culturally charged issue for governments and communities. Governments seeking to deliver a 'tough on crime' or 'law and order' political agenda with policies that drive up the rates of incarceration may also find that a concomitant or complementary action to their approach is cutting off prisoners' access to education. The punitive impulses that drive the era of mass incarceration can also drive the restriction of education to people in prison and further drive the cutting of funds to education programs (Stern, 2014). Spending tax payer money on the education of prisons is well described as an

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emotional issue (Behan, 2021). Pointing to the discernible connections between anti-recidivism and education (see for example Esperian 2010; Ellison et al., 2017; Battams et al., 2021) may not be enough to dispel community concern or neutralise political discourse regarding criticism of using public money to educate prisoners. Certain measures, such as the cutting of the Pell Funding in the mid-1990s, are well documented instances of the reduction of resources for prisoner education, with the associated outcome of restricting education to a large population of people from minorities (Lillis, 1994; Slater, 1995).

Even where there are positive or intentional policies in place to provide access to education, there may well be a gap between policy and the transpiring reality inside a correctional facility (Behan, 2021; Czerniawski, 2016). Notably, while much mainstream educational activity takes place out of sight of the general population (parents are not normally in their children's classrooms), prison education is even more emphatically invisible to the wider community. That invisibility may have a two-fold implication. It is hard for a wider community to sense or see the value in what is taking place out of sight. Equally, people who are incarcerated may be able to create their own meaning out of their educational endeavour.

Approaches to prison education are anchored in different historical realities and shifting philosophical conceptions of incarceration and education over decades and centuries. This diversity is reflected in the chapters in this collection where educational practice ranges in approach and level, from tertiary study, art, prison consultancy, and religion to the re-education of sex offenders, to different intentions and even philosophies including rehabilitation and empowerment. The penal practices that brought Europeans to Australia and the Americas in the eighteenth century are one dimension of this history. Another dimension of a complex and contested history is the way that authorities and educators have sought to educate the incarcerated, or conversely where that has been prohibited or limited.

Staff in prison and educators contributing to education in centres for other institutions are among the contributors, and they offer reflections on principles and practice, showing cutting edge work but also limitations to application. Many chapters demonstrate the application of educational aims through technologies. As other chapters show, historical

insights into these practices are valuable to understand both intentions for and barriers to education in correctional centres. These operational barriers are matched by cultural and polemical barriers, such as the oft-repeated criticism of diverting resources to and spending money on prisoner education when the cost of a college education seems so prohibitive for people outside prison.

The types and range of education analysed in the following chapters are extensive and definitions of educational practice and content shift across chapters. Many are focused on higher education but even that focus is broad. Taken generally, in this collection education is activity that instructs and may also correct, redeem or rehabilitate, but it may also empower and among the contributors there are voices from prisoner learners themselves. Therefore education is discussed as being at the intersection of instruction with rehabilitation. As a result, delivery of pathways programs, art, or literacy are assessed but so are education programs in sexual offences and religious instruction intended to reform and edify. The collection is conceptualised around the histories and philosophies of carceral education across these different types, proposing the value of examining in a longer historical view the intentions of education in prison. Philosophically, the contributors approach the intentions and challenges of carceral education from a variety of perspectives, but often with engagement that intersects directly with the experience of teaching in prison and implementing relevant policy.

Historically the coverage is extensive. The eighteenth century, arguably a period of mass incarceration in its own way as much as the present era, is the earliest period surveyed including the provision of religious instruction through catechisms, preaching and the building of chapels as part of large prison complexes in Britain and its convict colonial offshoots. Religious instruction could also include the inculcation of basic literacy, at least enough to know the Ten Commandments and read some scriptural texts, demonstrating the provision of learning foundations that is still necessary for many prisoners. Art education, a grounding in the Liberal Arts and programs that (like the religious instruction of the eighteenth century) seeks to rehabilitate including the education programs for sex offenders are among the types of content surveyed. But moving from the print and stone of an eighteenth-century penitentiary up to the

present day and the cutting edge, chapters also analyse opportunities and challenges in delivery methods, including the use of digital and virtual technologies in prisons.

This collection derives from academics and practitioners (and contributors who occupy both spaces) whose work in delivering education programs to incarcerated people has been long-standing and has included landmark developments such as the wholly radical introduction of digital technology into prisons for educational purposes. While much educational activity has taken place, more remains to be done in documenting and interpreting in scholarly writing what happens when incarceration and education intersect. These contributions are original interpretations of the intentions behind, history of, and philosophies underpinning carceral education.

The chapters in this collection are a mixture of the theoretical and practical, including from policy makers in carceral spheres, former prison educators turned academics, and university academics who oversee the delivery of education behind bars. The chapters address a wide scope of related topics and the overall collection has transdisciplinary and global relevance.

The chapters traverse the educational experiences of those preparing to enter prison, those in prison, and in post release. As such, as a benefit of this collection is the full coverage of different points on the trajectory of incarceration.

The chapters are globally relevant including the United States, Australia and New Zealand, Europe and the United Kingdom.

Most of the contributors, including the editors, are themselves practitioners. Contributors who are members of the academic staff of a university or college have taken themselves and their teaching into prisons in Australia, New Zealand, Europe and the United States, coming face to face with prisoners who are or who want to be scholars and students, teaching them, grading their work, and gaining insight into both the motivations and challenges of studying while incarcerated. Other contributors work for departments of correction or centres and charities that support education. One contributor has a uniquely double perspective of having been a prisoner and now an academic. Almost all contributors

have spent time as staff, visitors or indeed as an inmate in prisons and the theory, history, and policy analysed in these chapters is underpinned by a strong grasp of reality. The chapters are collectively alert to the positive anti-recidivist potential in education, not least as all but a tiny proportion of prisoners in any jurisdiction or country will eventually serve out their sentence, be released, and be back as part of a community. However other points resonate with these chapters. Recently Adam Key and Matthew S. May have offered original interpretations of the outcomes of education in prisons. They note the oft-repeated (and important) points about recidivism, but further propose the way education can be ways for the incarcerated to mobilise resistance or defiance of different forces, including the often toxic masculinity that prevails in prison populations as a normative or expected type of behaviour (2019). Education in any context can be subversive, although inside organisations where security and order are the overriding concerns of those in charge, resistance, subversion or defiance are highly unlikely to welcome the implications of educating prisoners. Nonetheless, the point is important and positive, relating to agency and identity (Chlup, 2020). As people who have taken education inside prison ourselves, the way an education can be used to enact resistance against negative types of behaviour or attitudes is something very real to the contributors. As a recent example, the large scale collection on teaching the Latin and Greek Classics in prison (Capettini & Sorkin Rabinowitz, 2021) has provided an account of non-vocational subject matter and where the ancient world has intersected with modern prisons. Among the many subject areas and curricula that can be delivered in prisons, works of early nineteenth-century literature or eighteenth-century art have been found useful and meaningful. For example, teaching in the humanities including the Classics in Greek and Latin but also the history of art and using works such as William Hogarth's 1730 paired oil paintings *Before* and *After* is a means to teach subjects such as the history and provenance of British art. However these paintings, depicting as they do the beginning and the aftermath of a sexual assault of a man on a woman, can and have provided the means for discussion to modulate into consideration of the impacts of sex offending. The eighteenth century art provides a perhaps unexpected but also chronologically and culturally distant neutral entry point into lived experiences.

Likewise, using Jane Austen's *Pride and Prejudice* (published in 1813) invites emphatic consideration of the how and why of vulnerability.

### The Chapters

**Section one** lays out the conceptual groundwork for the collection. Following this opening chapter, the contribution by Helen Farley and Jenny Ostini situate education for incarcerated students as isolated not only in place and practice but also from the main currents of knowledge in educational research, recognising research in carceral education as specialised in its nature. The chapter lays out essential themes in academic literature that provide an intellectual basis for later chapters. These include how students in prisons can build identities as scholars, the logistical and practical challenges related to making content and teaching available including digital limitations, institutional focus on security, and the likelihood of disruption from frequent transfers, as well as more intangible features of prison education as a strong narrative of social class as an unexpected aspect of prison education.

**Section two** offers chapters that contrast strikingly in the taught content, but are united by the theme of offering types of education that are intended to redeem and rehabilitate. These chapters place prison education in a long historical focus, including scriptural allusions to prison and how these have over centuries informed texts and traditions for education. Broader than higher education or any other specific level of learner ability or achievement, inculcating religious instruction is reconstructed as a mainstay of education in prison. Out of this longer historical perspective, the chapter comes up to date to situate religious instruction in prison amidst a complex interplay of factors including public and political concerns about rehabilitation and radicalisation. As equally controversial as potential radicalisation, chapters by Rodger Benefiel and Suzanne Reich and Sharon Klamer broaden the conception of education to programs that focus on sex offenders, assessing their history, development, educational underpinnings and their understanding of deviant behaviour.

Above we noted the significance of prison education as offering a pathway to rehabilitation and anti-recidivism, as being a source for agency and identity building, and as taking place behind bars and out of sight. We noted the significance of that point as shaping, negatively,

perceptions of something that is unseen and perhaps misunderstood, and the challenge in asking a tax paying public to appreciate something invisible. Therefore in **Section three**, it is important and appropriate that the chapter are not only about education *in* but education *about* prisons and where current and former prisoners become instructors about that world in a post-release claiming of an educational identity. JC Oleson situates ex-prisoners as educators. Education and all other activities in prison take place largely out of sight, inevitably creating misconceptions, exacerbated by popular culture. From these emerge former prisoners taking agency as educators about prison to those about to enter and serve a sentence. Prisoners with educational agency is a theme pursued in the chapter by Laia Moretó Alvarado, this time with students inside rather than released. From the terms of English-language scholarship, her original focus on Catalonian prison education studies female inmates in the process of co-creating art, a creative act she philosophically assesses as disrupting binaries of free and unfree.

**Section four** studies a diversity of educational experiences, including technological innovations in digital technologies, a practical step that has had to overcome deeply embedded ontological challenges based on attitudes resistant to digital change in prisons. Helen Farley, Stephen Seymour and Jimmy McLauchlan outline and evaluate cutting edge developments in prison education. All are practitioners and drivers of change and policy in universities, prisons and departments of correction. Between these accounts of innovation, Daniel McGloin and Nicoletta Policek evaluate significant strands of theory and practice, grounded in notions of injustice and resistance to inequality and power structures. Finally, it is fitting that the last chapter extends to life after a sentence. Lukas Carey writes with the unique perspective as both a university educator with a doctorate and a former inmate and his chapter therefore traverses the academic and personal and the educational affordances both within prison and after serving a sentence.

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# 2

## Beyond Idealism to the Realities of Incarcerated Higher Education: What We Know About the Provision of Higher Education in Prisons

Jenny Ostini and Helen Farley

### Introduction

Prison education is a niche specialisation within the larger field of education provision. In some ways, it is perceived to be isolated from much of the current state of knowledge in education research. Its unique characteristics and the social justice motivations (and sometimes moralism) that accompany research on this area set it apart in unhelpful ways. Research in this area tends to appear in correctional trade and professional publications rather than academic journals. For the most part, prison education is not something that occupies the research agendas of either educationalists or criminologists. This chapter seeks to address this knowledge gap by examining the available literature to identify themes and ideas in prison

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education research that are tied specifically to the provision of higher education to incarcerated students.

## The Current State of Prison Education

The vast bulk of literature on prison education has focused on the delivery of ‘catch-up’ secondary education, for example, General Equivalency Diplomas (GED) in the United States (for example, see Batchelder et al., 2018), GCSE (General Certificate of Secondary Education) or A levels in the United Kingdom and similar high school completion equivalency diplomas elsewhere. However, according to Nina Champion (2012), at the time, the head of policy at the Prisoners’ Education Trust (Champion, 2012), 80 per cent of respondents to the Trust’s 2011 survey entered prison with qualifications and 45 per cent with their GCSE. In the 2014 iteration of the survey, 20 per cent had A Levels (Taylor, 2014). In both survey years, some 41 per cent of respondents felt that the educational options were at too easy a level and some respondents were taking courses at a lower level because more advanced options were not available (Champion, 2012; Taylor, 2014). The 2012 Prisoners’ Education Trust report found that 40 per cent of prisoners had not had the opportunity to offer feedback on their learning, even though they wanted to be consulted about and engaged with their learning journey (Champion, 2012).

The eurodesip review of higher education in European prisons found that university studies were the smallest proportion of education offered in European prisons with the main focus being on basic literacy and vocational training courses (Callejo & Viedma, 2008; Rosário et al., 2016). Callejo and Viedma noted also the prevalence of suspicion in institutional attitudes towards adult and higher education. They estimated that between 3 and 5 per cent of prisoners were qualified to access higher education (Callejo & Viedma, 2008). In Australia, around 1.5 per cent of eligible prisoners are engaged with higher education (Australian Government Productivity Commission, 2020). In 2003, Australian data showed that 2.1 per cent of prisoners in Queensland had completed tertiary study and 1 per cent had a technical or trade qualification (Farley et al., 2014). Farley et al. (2014) compared this to 2005 figures for

Queensland that showed 13.6 per cent for tertiary education and 19.4 per cent for technical qualifications in the general population. A 2014 study of Malaysian juvenile offenders (below the age of 21) studied 23 incarcerated students, of whom three were identified as being at technical certificate or diploma level (Rafedzi & Abrizah, 2014). Although the majority of students were not in higher education, the study noted that tertiary students had ‘privileges granted to them by the prison authorities’ to use the Internet for their studies although some sites could not be accessed (Rafedzi & Abrizah, 2014). This is quite different to the experience of prisoners in other countries who generally did not have any Internet access (Farley & Pike, 2016).

## Prison Education in the Literature

For the purpose of this chapter, higher education was defined as education beyond the equivalence of high school completion that falls within commonly accepted ‘tertiary education.’ This may include community college, technical education, and perhaps stretching the definition slightly, enabling programs that attempted to build on secondary education in preparation for higher education. If the focus is placed on the provision of higher education options within prisons, the literature in major eResources databases (Serials Solutions) was scarce (fewer than two dozen articles over a five-year period). There is an emerging recognition of the value of higher education in prisons by both correctional jurisdictions and universities, resulting in an emerging and robust literature.

A web search was conducted using the constraints: 2000 onwards; English language; not reflective pieces about experience teaching in prisons (see comment below); full text available online; peer-reviewed; post-secondary higher education—that is, not including literacy and numeracy teaching, year 10 and senior equivalency courses and purely vocational training. In the United States, this excludes community college and in Australia, vocational and educational training (VET).

It is worthwhile to note that there is a particular genre of prison education narratives that is less about the prisoner as student or the provision of education but more about the personal reflections of the educator

experiencing what is portrayed as ‘hostile space’—almost penal colonialism. While sometimes providing valuable insight, these narratives have been excluded for the reason that they are focused on individual teacher experiences and not prisoner education *per se*.

Some key themes emerged from the literature. These included ideas about: the impact of education on recidivism; a gendered perspective; the role of class in prison education; educational constraints related to the system of incarceration; practical issues related to teaching and learning in prison; the role of the creation of a student persona in successful student outcomes; the moral imperative as a motivation for prison higher education; and questions about who pays for education and the impact of that on educational outcomes.

## The Impact of Education on Recidivism

There is evidence that the rate of recidivism is lower for incarcerated students receiving higher education than for those receiving general equivalency diplomas, vocational training and high school (Halkovic, 2014). A landmark 2005 study demonstrated that in one prison, students undertaking higher education had a 62 per cent reduction in recidivism compared to 16 per cent for GED, 19 per cent for vocational training and 2 per cent for high school programmes. (Batiuk et al., 2005). Other studies have demonstrated similar outcomes showing that higher education in prison is more effective in reducing recidivism than other types of prison education (Burke & Vivian, 2001; Halkovic, 2014; Kelso, 2000). Halkovic (2014) argued that higher education in prison interrupted ‘circuits of dispossession’ and cited 2005 research (Torre & Fine, 2005) that withholding college education for 100 prisoners in New York State cost USD \$300,000 for 1 year and \$900,000 for 2 years. Torre and Fine (2005) also mentioned that this amount did not take into account both monetary and emotional costs for parental and other caring commitments and the cost to communities in general (through welfare, cohesion, policing and other costs).

## A Gendered Perspective

The overwhelming majority of the literature pertaining to higher education in prisons is focused on men. There are likely a few reasons for this. First, in general women make up only 8 per cent of the prison population. Though this number is growing, particularly among indigenous populations, it still remains a relatively low proportion. Second, sentences for women tend to be much shorter than for men. This is both because of the nature of the crimes that women commit, but also the consideration that is given to women in sentencing, especially if they are mothers. And finally, many women hold few ambitions beyond motherhood or caring for other family members. This may be at least partially because they are unaware of the study and career options available to them, instead filing into stereotypical nurturing roles within the family.

Barangar et al. (2018) asserted that incarcerated women form 'pseudo families' while incarcerated who tend to act as sources of cultural capital, supporting women towards self-improvement, including higher education. They also used higher education as a way to both cope with present circumstances and to secure hope for the future. Interestingly, the incarcerated women interviewed were primarily driven by the need to reconnect with their children and families, and viewed education as giving them the skills to do that.

Women engaged in higher education through Boston University's (BU) Prison Education Program reported they were involved in far fewer disciplinary incidents because of their improved behaviour through their involvement with coursework. The women also formed new pro-social relationships with other women engaged with study. Personally, they reported that their self-confidence grew as did their communication skills demonstrating that higher education benefits women in similar but slightly different ways to men, though more work needs to be done to tease out the differences (Barangar et al., 2018).

## The Role of Class in Prison Education

The literature showed that social class could play a role in those relationships between services in prison environments (for example, correctional officers and prisoners, correctional staff and education officers, prison management and external stakeholders); relationships between student-prisoners and program instructors and also in the selection of programs offered to students and assumptions made by higher education providers and prison authorities about the future career needs of prisoners.

Watts (2010) highlighted the existence of a theme of class and elitism within the narrative of prison education. Basic literacy and numeracy skills were regarded by prisoners and staff, that is by those within the system, with less wariness than the 'elite' activity of higher education (Watts, 2010). In the United Kingdom, Watts argued that the focus was on a deficit model within prisons that tried to address prisoners' educational lack of achievement with the goal of increasing employment on release from prison and decreasing the likelihood of recidivism. This model does not aim to widen educational opportunity but is what Watts called, an 'instrumental approach of learning for work' (Watts, 2010). Hopkins suggested that offenders may emerge from prison even more isolated and marginalised than before they were incarcerated (Hopkins, 2015). Hopkins also referred to the fine line that may be crossed between realistic advice to student-inmates about what they should study and discrimination that excludes them from some profession by making assumptions about ability, outcomes and future employability. The Bard Prison Initiative in the United States demonstrated that students were motivated, rather than turned off, by the rigour of the programs (Lagemann, 2011). However, their vaunted completion rates of close to 100 per cent reflected more on the selective nature of entry to the Bard Prison Initiative; only 10 per cent of applicants are accepted, and many students apply many times before being accepted (Lagemann, 2011).

Hopkins (2015) identified three main trends that intersected with issues of class within prisons: Monetarisation, privatisation and vocationisation, and argued that vulnerable university students who happened to be incarcerated, needed particular support to overcome these barriers if

they were not to be further penalised post-incarceration. Lagemann (2011) suggested that most prisoners would choose a vocational course rather than a liberal arts degree and in this way resembled their collegiate peers nationwide. However, when they did enrol, those students came to recognize the essential, identity-forming value of liberal learning (Lagemann, 2011) that is, they learned something beyond the specific vocational aspects of their courses.

Writing from a US viewpoint, Castro and Gould (2019) wondered whether higher education is in itself elitist and racist, and the combination with another such institution, namely corrections, could exacerbate the issues. In this way, white entitlement and anti-blackness would be perpetuated. The authors beseech us to examine in what ways implicit classed, abled, and gendered practices are tacitly extended into prisons and enacted in the name of program quality. Though written in the US, this is a challenge encountered in many countries where indigenous overrepresentation in the criminal justice system is the norm. For example, Aboriginal and Torres Strait Islander people are underrepresented in higher education but overrepresented in the Australian prison population (Lee et al., 2017). Castro (2018) explored this further, stating that the measuring the success of higher education programs in terms of impact on recidivism is problematic given that people of colour are incarcerated at a higher rate. She beseeches people to find other ways of measuring the benefits of higher education in an effort to counter public narratives focused on recidivism as part of an anti-racist praxis.

## **Educational Constraints Related to the System of Incarceration**

Research within prisons has identified that learning opportunities vary widely and may be dependent on the type of prison. Pike and Adams (2012) found that within UK prisons, high-security private prisons provided the resources and environment for study while those in the lower security prisons provided less opportunity. In some cases, this was because incarcerated learners shared rooms with up to ten people or because they

were expected to be working. Hopkins (2015) argued that as prisons in Australia focus on vocational training and work-readiness, access to higher education is increasingly limited. Hopkins especially raised the concern that of 'fundamental contradictions between utilitarian profit motives and the more humanistic goal of higher education.' In Greece, students at special Second Chance School Prisons could use technology to access distance education but not students in non-school designated prisons (Linardatou & Manousou, 2015).

A review of European practices of education in penal institutions concluded that two ideal postures could be identified for education officers. These were a 'conservative, passive position' that placed 'redemption above re-education or training' and a 'progressive, active posture' that focused primarily on re-education as a tool for change (Callejo & Viedma, 2008). Whatever the motivations behind these postures, these two approaches tended to lead to better outcomes for students.

Ideally, prison education needs to be comprised of a mix of short and longer-term education options to meet education needs across the range of sentences even within a single institution. This would include short modules, training and post-release pathways (Hammerschick, 2010). Having a range of short courses, perhaps even consecutive modules that added up to larger courses, would also address issues of incarcerated learners moving within the system. Higher education providers that replicated the system requirements of non-incarcerated students without adaptation to differing circumstances within the correctional environment had lower student retention and successful outcomes (Hammerschick, 2010; Pike & Adams, 2012). This did not mean lower expectations of incarcerated learner academic performance, but flexibility about how students achieved and demonstrated that performance.

## Practical Issues Related to Teaching and Learning in Prison

The provision of higher education within prison encounters a range of practical problems. These range from the mundane and prosaic concerns of finding individual spaces for learning to more complex concerns related to institutional social mores, expectations and organisation. Also, movement within prisons is often constrained because of restrictions in how prisoners belonging to different security classifications can interact. Security breaches lead to lockdowns where prisoner movement is stopped completely, and incarcerated students cannot access prison computer labs or classes (Farley & Hopkins, 2017).

Many prisons are experienced with the provision of vocational training and provide facilities for this (Mbatha et al., 2020). However, the academic nature of higher education teaching requires a quieter workspace than practical, hands-on learning. This may be difficult within a prison setting (Watts, 2010). It can be difficult within the correctional setting to establish quiet learning areas. Teaching and learning in prisons is stressful. Noise, surveillance, and lack of privacy all contribute to making study and teaching difficult (Watts, 2010). Administrators and custodial officers sometimes intervened in program content as part of an 'exercise of power in the total institutional setting' (Parrotta & Thompson, 2011). Parrotta and Thompson taught sociology in several different institutions and had program material on racism and sexism deemed inappropriate because of its potential disruptive effect on behaviour. Not only prison staff but other prisoners may not respect incarcerated students' interest in studying (Watts, 2010).

Teaching and learning are activities marginal to the operation of the institution and are thus not prioritised. Watts discussed power imbalances and the importance of maintaining prison staff goodwill for what 'may not be seen as a legitimate activity for inmates' (Watts, 2010). The dominant ideology within prisons is the correctional infrastructure. In the words of a former prison officer, 'custodial is king' (C Lee 2016, pers. Comm., 16 June). Pike and Adams (2012) found that in some UK prisons, higher education was seen as an 'unpaid recreational activity which



helped to maintain order, rather than as a means of rehabilitation.’ Education officers needed to have their education activities clearly separated from surveillance and control tasks, that is, to have education as their primary focus (Callejo & Viedma, 2008). Callejo and Viedma further argued that education officers needed to work closely with universities to organise educational activity.

Program instructors, particularly those at distance learning institutions, may never have met their incarcerated learners and may not even be aware that they have incarcerated students enrolled in their courses. This means they are not aware of the unique and difficult circumstances faced by the students (Hopkins, 2015). Hopkins called these students the ‘ghosts in the machinery of mass, post-secondary education’ (Hopkins, 2015, p. 50). Research on success factors for higher education in North Carolina prisons showed that good interaction between program instructors and students and subsequent course modification to meet specific needs of individual students was the key to good education outcomes (Anders & Noblit, 2011). In some countries such as Greece, course instructors and incarcerated learners were not allowed to have face-to-face meetings (Linardatou & Manousou, 2015). Incarcerated students had to apply for special leave to attend exams for subjects as examinations are only held outside the prison. Parrotta and Thompson (2011) reported that contact with students before and after class was controlled and that this had negative impacts on student outcomes, especially for students who had additional support needs beyond direct teaching.

The overwhelming majority of prisons do not allow prisoners to access the internet and as a consequence, e-learning. The inability to access e-learning restricted subject choice for many incarcerated students (Watts, 2010). Pike and Adams (2012) wrote about the tension between digital choice and participation, and a system that existed to restrict choice as a means of punishment. Callejo and Viedma (2008) identified lack of access to computers and the internet as two of the main difficulties for student-inmates. An Australian project, Making the Connection, has introduced digital technologies (a server-based solution and notebook computers), that do not require internet access, into a number of Australian correctional centres to provide access to higher education for

prisoners. Even so, only a limited number of programs are available via this means (Farley et al., 2016).

Frequent staff and student movement within and outside the system disrupt learning (Watts, 2010). Students may have differing access to resources across prisons, providers and courses (Hopkins, 2015). Constant security reclassification of prisoners as they move through the UK system on their protection and rehabilitation pathways also influenced their access to education (Pike & Adams, 2012). In addition, there is a significant time lag between technologies becoming prevalent in wider society and their implementation within prisons (Hammerschick, 2010). This also led to dated and sometimes obsolescent courses being taught within prisons due to the amount of time taken for course modifications to be developed and approved for use within prisons. A further structural impediment is the fact that most education is provided via distance learning providers with student-inmates required to liaise through intermediaries such as education officers rather than directly organising their own learning (Pike & Adams, 2012). Even with supportive education officers, this adds an extra layer of complexity for incarcerated learners.

Pike and Adams further identified that many prisons promoted not just digital exclusion but also learning exclusion; that education is trumped by menial work and hampered by conflicting priorities among the multiple organisations controlling prisoner activities. In the United Kingdom, there is a push for prisoners to work full-time which leaves few avenues and time for study (Pike & Adams, 2012). Pike and Adams (2012) referred to the 'regimented working culture' of open prisons where higher level learning was considered irrelevant to the goal of teaching basic skills and filling work placements.

## **The Role of the Creation of a Student Persona in Successful Student Outcomes**

All students, whether incarcerated or not, have to learn how to manage their diverse identities. Contemporary students may be parents, workers, carers, or have other identities in addition to being learners. Watts (2010)

argued that the prison system focused identity powerfully on the surveilled and controlled individual, making it harder to shift from prisoner to student identity. In order to facilitate this shift, prison teachers needed to act as one-to-one mentors and provide additional support to help individuals position themselves within the teaching context (Watts, 2010).

Further, US prison education research found that incarcerated students used language in powerful ways to construct a student identity separate from a prisoner identity and that higher education helped students make sense of their lives (McDowell, 2014). McDowell was initially concerned that students in her creative writing workshop used an academic tone in their writing that seemed alien to authenticity but concluded that it was a deliberate choice and that 'language was a tool of identity construction, reinforcement, projection and maintenance. Language was an arena for their *agency*' (italics added, McDowell, 2014).

The construction of a student persona or identity seems to be an important part of higher education for incarcerated students, perhaps more than for non-incarcerated students (Harmes et al., 2019). Students need support to enable the development and maintenance of this identity within the constant changes occurring within the prison institution. Parrotta and Thompson argued that the success of prison education is dependent on establishing democratic classrooms that can enable students to see themselves as something more than prisoners (Parrotta & Thompson, 2011). In the 2008 survey of European prisons, Callejo and Viedma found that a key factor that motivated prisoners to study while incarcerated was the 'construction of a project for life after time in prison.' However, they also found that the students most satisfied with education options in prison were those who studied for the purpose of improving their lives *inside* prison. This was closely followed by students who studied for the purpose of 'reinsertion in society' (Callejo & Viedma, 2008).

McDowell also identified clearly that language was seen by the students that she taught as power, that being able to speak in certain ways conveyed authority and, that power works through choice of language (McDowell, 2014). Lagemann referred to the power of liberal arts education to 'enhance [their] sense of agency, especially their sense of civic mission' (2011, p. 18).

Pike and Adams (2012) found that for the incarcerated learners they studied, learner identity was very important, even if it was hard to be the person saying that they wanted to better themselves. They found that within working prisons, as in more open prisons, incarcerated learners tended to seek out employment related to learning or technology such as library assistants. The student identity also provided a sense of hope to prisoners, that there was a future. Other researchers reported that for some students, the education program in prisons was the first time they 'felt smart' and that being a student was transformative (Anders & Noblit, 2011).

Studies in Norway and Ireland have demonstrated links between educational disadvantage and motives for study. More educationally disadvantaged prisoners are motivated more by a desire for change from prison routines, while more qualified prisoners used incarceration as a time to upgrade qualifications (Manger et al., 2010). Manger et al. (2010) suggested that age and gender differences, citizenship and length of incarceration were factors influencing interest in and motivations for education. They further discussed the idea that motivations changed over time and context, and that effective educational engagement relied on understanding the push and pull factors and developing appropriate ranges of responses to the individual needs of inmates.

Parrotta and Thompson (2011) described tensions between the types of behaviour prescribed in prison such as not speaking out of turn, raising hands, and lack of communication between students in a class, and the goals of 'democratic teaching' that encouraged engagement with the subject, classmates and teachers in a conversational manner. Parrotta and Thompson were also directed to address student-inmates as 'Inmate X' and not to allow students to use their first names—both things they felt inimical to developing a student identity and good relationships within the class (Parrotta & Thompson, 2011, p. 172). In fact, they referred to these processes as 'degradation rituals' (2011, p. 175).

## The Moral Imperative as a Motivation for Prison Higher Education

Larson (2015) framed the higher education in prison discourse in economic terms as a tool to 'break the ghetto-to-prison revolving door.' The economic framing of prison education is portrayed as essential to overcoming what he called 'penal populism,' which is the widespread public support of incarceration. It is difficult to separate, especially in literature from the United States, the tone of moral imperative from writing about prisoner education (Larson, 2015). That is, that prisoner education is about redressing social injustice as much as it may be about education.

Another common thread to North American writing about prisoner education is an admiration of European models of incarceration. Larson (2015) in particular discussed the way in which incarceration in Nordic prisons operated on a model of normalisation, that is, prisoners were integrated into their local communities and service provision was often by locals. The question raised that is not addressed here is how to normalise something that may not be normal? Prisoners may not have had the experience of higher education, and that access to this education may already be outside the norm. What is clear, however, is the desire of prisoners for education. In the case described by Larson, over half of the then prison population of 2200 submitted written expressions of interest for participating in a college program (Larson, 2015). High rates of interest in Norwegian educational options in prisons are also tied to a broad category of prisoners who started education to avoid aspects of prison life. Also, education is often not seen as being attractive in itself, but prisoners may take up education to avoid other alternatives, such as prison work (Manger et al., 2010).

It is clear that prison education has a strong moral component. Lagemann (2011, p. 19) argued that abandoning the American ideal of 'college for all' magnified and entrenched inequalities: racial, social and economic. Parrotta and Thompson (2011) highlighted the moral tensions between a prison system that dehumanised individuals and the goal of education to humanise people. They further argued that educators must leave the 'ivory tower to educate marginalised populations' as an 'important step to raising critical awareness in society' (Parrotta & Thompson, 2011, p. 175).

## Who Pays for Education Received in Prison?

In the case discussed by Larson (2015), a community college provided a prison education program on a full fee basis where the fees were paid in full by a charitable organisation. Thus, education depended on a philanthropic basis undergirded by business as usual on the part of the educational institution. Another key element was committed and enthusiastic support within the prison infrastructure itself. As with many social services, continued service delivery relied on both goodwill and key committed individuals and could easily be derailed by personnel changes.

In the United States, federal and state prison residents were not entitled to Federal government financial aid, but jail and detention centre inmates, halfway houses and community correction centre residents may access Federal funding (Linton, 2011). Drug offenders, who offended while receiving Federal aid, remained ineligible. A secondary but related problem, especially post-incarceration, is the college entrance process under which students may be required to disclose criminal records. In a US Department of Education Update, Linton (2011) expressed his surprise that ‘we learned that there are public community colleges in our country that exclude all persons who are under active criminal justice supervision.’

Pell Grants were established in 1972 by the US Government to provide funds to support low income people to study towards an undergraduate degree from participating universities. Prisoners were eligible for these grants until 1994 when Bill Clinton introduced the Violent Crime Control and Law Enforcement Act (VCCLEA). This act prohibited the provision of Pell Grants to prisoners. Many higher education programs in prisons were terminated and the only ones able to continue, were those funded by other means. Some members of the House of Representatives introduced the Restoring Education and Learning Act (REAL Act) in 2014. The Obama administration supported the lifting of the ban for some prisoners with Second Chance Pell Grants (Batchelder

et al., 2018). The ban was finally lifted with the Consolidated Appropriations Act, 2021 (National Association of Student Financial Aid Administrators, n.d.)

In the United Kingdom, students can fund their own studies or get assistance from charities such as the Prisoners' Education Trust. More recently, they can also receive government student loans (Pike & Adams, 2012). In Australia, incarcerated learners have the same access to the Higher Education Contribution Scheme (HECS) where loans are repaid post-graduation when a certain income level is reached as other students, but Hopkins (2015) argued that it is inadequate to cover such costs as laptop hire and textbooks. Students may also be reluctant to take on future debt when their futures are so uncertain.

European research has shown that there is a strong connection between state subsidisation of prison education and completion rates (Callejo & Viedma, 2008). In situations where education in prisons is subsidised, but the grant ends when the student leaves prison, there is a very low rate of completion of study. Where students have to pay for their own education, there is a very low participation rate.

## Conclusion

Prison education is a niche field both in education and in the literature of social interventions. The difficulty of conducting research and evaluating program outcomes in a prison setting contributes to a lack of evidence as to the processes and outcomes of educational interventions. There is a significant body of literature on prison education that resides in the genre of what we have called 'penal colonialism'—that is narratives of educators in hostile space, and also narratives of individual change that do not seek to be generalizable to a wider prison population. This chapter seeks to provide an overview of the literature on the provision of higher education to incarcerated students in order to draw some conclusions about good higher educational practice and outcomes in a prison setting.

It is clear from the literature that class plays a role in prison education with the provision of basic literacy and numeracy regarded with less suspicion than higher education (Hopkins, 2015; Lagemann, 2011; Watts,

2010). Learning opportunities vary widely and are dependent on the type of prison and length of sentence (Callejo & Viedma, 2008; Hammerschick, 2010; Hopkins, 2015; Linardatou & Manousou, 2015; Pike & Adams, 2012).

There are many practical issues that affect what course content can be delivered and how. Locating quiet areas for learning can be an issue and access can be dependent on power relationships within the prison (Parrotta & Thompson, 2011; Watts, 2010). Education can be seen as part of the surveillance and control mechanisms of the prison rather than having a value of its own (Callejo & Viedma, 2008; Pike & Adams, 2012). Restricted Internet access can severely constrain course content and delivery (Farley et al., 2015).

There is a consensus in the literature that central to educational success may be the ability for individuals to create a student persona (Anders & Noblit, 2011; Callejo & Viedma, 2008; Lagemann, 2011; Manger et al., 2010; McDowell, 2014; Parrotta & Thompson, 2011; Pike & Adams, 2012; Watts, 2010). While there may be a moral imperative that exists for prison education and this imperative drives many aspects of tertiary education provider involvement in prison education, there is also a question of cost. Many programmes depend upon charitable contributions to fund education initiatives as denying access to government funding initiatives may be part of the punitive process. This becomes a social justice issue as there is clear evidence that there is both a low participation rate when students have to pay for their own education and a low completion rate if student access to funding ends on completion of their sentence (Callejo & Viedma, 2008; Hopkins, 2015; Larson, 2015; Linton, 2011; Pike & Adams, 2012). There is also evidence that a link exists between a lower rate of recidivism for students receiving higher education than for those receiving general equivalency and vocational training (Burke & Vivian, 2001; Halkovic, 2014; Kelso, 2000; Torre & Fine, 2005). This strongly suggests that more attention needs to be paid to attracting incarcerated students to, and retaining them in, higher education programmes.



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# Part II

**Educating to Eliminate Risk and  
Change Lives**



# 3

## Tough on the Causes: Religion and the Penitent in Prison Education

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### Introduction

Historically, the education of not only prison populations but the population in general was religious in content and emphasis and was provided by religious organizations, with Sunday Schools being one of the few formal and widespread sources of education until the later 19<sup>th</sup> century. The education of prisoners has therefore long carried a religious emphasis; after all, to be a penitent in a penitentiary implied some degree of religious instruction and knowledge as well as the ability to hear, read and learn from the scriptures. For the incarcerated, religious instruction would be carried through a period of imprisonment, perhaps to a terminal exit, with a chaplain officiating on the gallows at execution.

The association of the carceral and the ecclesiastical is also longstanding in Australia, as among the arrivals on the First Fleet was a Church of

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England chaplain. That fleet was a product of the era of transportation in British carceral history, transportation to the Indies, to the American colonies and finally to Botany Bay and other antipodean colonies. But coterminous with the era of transportation was the development of large-scale incarceration, in England especially via the *Penitentiary Act* of 1779 (19 Geo III, c74) and the emergent infrastructure to keep people incarcerated but also morally improve them. In these prisons, the chaplain, the ordinary of the prison, may still have religiously officiated at executions but was also expected to exhort and reform via religious instruction. American prisons founded in the eighteenth and early nineteenth centuries such as Auburn were established with explicit principles of inculcating penitence and encouraging spiritual reformation (Thomas & Zaitzow, 2006, p. 247).

This research-led chapter examines the historical intentions of religious education in prisons, bringing this history into dialogue with a now complex interplay of factors regarding education in faith inside prisons in the present era, especially in prisons in the post 9/11 world. This chapter considers the evolving and still emergent roles of religious instruction as an educational activity in prisons where contextual western society may be both preoccupied with tough on crime approaches and increasingly secular in outlook. It considers where and how long-established certainties are now in dialogue with cultural anxieties and considers how the longer history of religious instruction inside prison is now contested by anxiety over radicalization, rehabilitation, specialization and overcrowding within prisons. Taking some content and analysis from the way prisons and their religious activities have registered in popular consciousness via popular culture, but primarily drawing on research into actual prisons, this chapter examines the long historical expectation that inmates will receive religious instruction and the emphasis that criminologists have placed on religious education as a means to reform and rehabilitate, against cultural and political anxieties about the nature of religious experiences in modern prisons. Contextually, secularizing western society surrounds the religious education in prisons and may further complicate its intentions and results.

## A brief history of carceral religious instruction

The Old Bailey, the domed Edwardian building in the City of London, is properly known as the Central Criminal Courts and is arguably the most famous court house in the world. The fabric of the building embodies in a fusion of the carceral and the religiously instructive. Above its portals, its main doors, is a stone carved inscription proclaiming ‘Defend the Children of the Poor and Punish the Wrongdoer’. The biblically literate would recognize the quotation as a portion of verse 4 from Psalm 72, in the translation made in the sixteenth century by Miles Coverdale and used ever since in the Psalter of the *Book of Common Prayer*. Setting words from the Bible up on the walls of the Old Bailey follows long practice, whereby the walls of the courtroom were covered with verses from the scriptures, especially to discourage perjury in eras when putting witnesses on oath was not uniform and when professional thief takers and criminals turned over to King’s or Queen’s Evidence may have been tempted to lie from the witness box (Adam, 1932, p. 64). The verse above the portals is a truncation of the full verse, and the truncation in fact changes what is a statement of intent in the full verse (He shall keep the simple folk by their right: defend the children of the poor, and punish the wrong-doer) becomes a terse imperative command to ‘defend the children of the poor, and punish the wrong-doer’. The commanding words rising epigraphically above the portals gives a high minded and even austere sense to the work carried out in the building, and the association of justice with the scriptures achieved here in sculpture and inscription continues a long-standing link between them in criminal justice history and wider accounts of religion. The Bible itself contains many references to captivity, prisons and prisoners, both figurative and literal. The First Epistle of Peter 3:17 said ‘he went and preached unto the spirits in prison’. In both the Old and the New Testaments, people including Jehoiachin king of Judah, Jeremiah and John the Baptist are in prison, and when not referred to literally, the prison cell is also a figurative place of darkness and captivity to writers including Isaiah and John the Divine. The prison cell therefore features in Christian thinking. Following a visit to a prison in London during Holy Week in 2017, Graham Tomlin the Bishop of Kensington,

described the resonances between the prison cells he was seeing and the cell described in the Passion Narratives, writing ‘In Holy Week, Jesus was imprisoned, most likely in a small, underground cell with no light, much like the segregation unit I saw. He entered the darkest, most desolate place, though even worse – the only prospect of release was to a cruel, public, painful death. Yet by entering the lowest place, he did so to redeem it, to break its power. Christians believe that that prison cell, the place of Jesus’ confinement, became a place through which redemption and freedom comes to the human race’ (Tomlinson, 2017).

Thereafter, prisons and those in them continued to register in religious writing. The Litany of the *Book of Common Prayer* included supplication to ‘shew thy pity upon all prisoners and captives’. The eighteenth-century clergyman and hymnist Charles Wesley ministered to inmates who were waiting for their execution at Tyburn, the site for public execution in London (Gill, 1964, p. 76), and these ministrations informed some of his hymns, including ‘Jesus Love of My Soul’. Prisons and prisoners also featured figuratively in others of his hymns, including ‘Prisoners of hope lift up your heads’, which referred to prisoners in a metaphorical rather than a literal sense and ‘And can be it be’, which evoked the chains and darkness of a dungeon to describe a soul before gaining assurance of salvation. Wesley’s ministrations to prisoners were the actions of just one minister. However, historically Churches have also organized consistent and ongoing ministry to prisoners and further to recently released prisoners including General William Booth’s Prison Gate Movement, organized with the Salvation Army in the nineteenth century and whose text on deprivation and poverty in England, *In Darkest England and the Way Out* (Booth, 1890, p. 74), discussed ministry to released prisoners as a spiritual necessity.

Liturgically, prisoners received perhaps their most sustained ecclesiastical attention in the service for the visitation of prisoners included in the 1786 *Book of Common Prayer* authorized by the post-revolutionary Protestant Episcopal Church in the United States of America (which grew out of the Church of England). The visitation service (also included in the 1789 and 1892 revisions but omitted from the 1928 and 1979 revisions) provided a full non-Eucharistic service for a chaplain to use to excite and stir the consciences of prisoners. Cast in the traditional



sixteenth-century language of the original Tudor prayer books, the series of collects, scripture readings, versicles and suffrages exhorts reflection on punishment and redemption. For example the collect recognizes that those praying 'for our evil deeds do worthily deserve to be punished'. Another prayer balances acknowledgment of wrong-doing and the rightness of punishment with a softer and more merciful hope for comfort and redemption:

We humbly beseech thee, of thy goodness to comfort and succour all those who are under reproach and misery in the house of bondage; correct them not in thine anger, neither chasten them in thy sore displeasure. Give them a right understanding of themselves, and of thy threats and promises; that they may neither cast away their confidence in thee, nor place it any where but in thee. Relieve the distressed, protect the innocent, and awaken the guilty (1789, p. 268).

Overarchingly, the visitation offered a complex theological response and those participating and those praying reflected the complexity of a theologically dense and strongly eschatological approach to crime, punishment and redemption. In this work, the actual physical incarceration in an earthly prison was explicitly paralleled to the theatre of God's judgment in a supernatural realm. Prayers included this mingling of earthly with supernatural punishment such as recognizing: 'It is your part and duty, therefore, to humble *yourself* under the mighty hand of God, to acknowledge the righteousness of his judgments, and to endeavour that, by his grace, this present visitation may lead you to a sincere and hearty repentance'. The wording of this liturgy speaks directly to the individual listener. While both the English and American *Books of Common Prayer* envisage their use for corporate worship, they also serve for smaller scale and even one on one worship between a chaplain and a prisoner, and a large congregation is by no means a prerequisite of worship. The intensity of worship, with the possible emphasis on the individual penitent, is paralleled by the setting for some acts of prison worship. For example the prison chapel in HMP Pentonville did not contain pews or benches but 250 cubicles, each designed for a single occupant, so that the chaplain could be seen and heard, the organ could be heard, but the prisoners

could not see each other. Instead the solitary confinement of their cells was continued in the solitary cubicles of the chapel, with the instruction of worship and sermon being received by each as an individual alone (Johnston, 2000, p. 92). Religious instruction could take form in sermons, to which prisoners, especially condemned prisoners, were expected to listen carefully (Throness, 2008, p. 258).

The question arises of what a prison participating in this worship may have understood of what they prayed and what they heard, either for this Episcopal visitation service or from prison-based worship in any other denomination offered in prison chapels. That question points to the importance of interpreting and understanding the wider context of religious education taking place in prisons. Institutionally, the chaplain (or ordinary) came to have an increasing prominence and authority in prisons. As Robin Evans notes, the so-called new prisons which came into existence after the passing of the 1770 *Penitentiary Act* had chaplains, but these clergy had few responsibilities except celebrating divine service. As Evans describes, the range and impact of the ministers of religion increased so that by the 1840s the chaplains were almost as authoritative in the spiritual realm as the governors were in their exercise of temporal authority (Evans, 1982, p. 328). Physical contexts can shape the educational. Chaplains were expected to teach via preaching and by visiting inmates in their cells (Simpson, 2014, p. 13). The Episcopal Church's Visitation service exhorted that prisoners were to be taught they were guilty, practically and spiritually. The carceral regime and the discipline it applied was a physical parallel to the religious insights (Ignatieff, 1978, p. 75). Many prisons built in the nineteenth-century and earlier included large chapels as part of their infrastructure, especially when influenced by the reforming spirit that also animated the creation and intention of the 1770 *Penitentiary Act*.

Some structures including the chapel of HMP Wormwood Scrubs (now Grade 2 listed as being aesthetically significant) rival cathedrals in design, scale and architectural significance. More generally still, the Victorian prisons (many still in use including Wormwood Scrubs, Pentonville and Manchester) followed norms of Victorian architecture in evoking the medieval ecclesiastical in buildings designed for a range of purposes. Elsewhere, writing of the religious life of Ruth Ellis awaiting

execution in HMP Holloway, we described the now-demolished Victorian buildings as akin to a ‘cathedral of punishment’ given the gothic vaults, corbels and arches in Holloway, but these features of ecclesiastical architecture recur in Pentonville and others (Harmes et al., 2020, p. 709). They created and in some cases still create a religious ambience for the condition of incarceration.

As well as the physical spaces and the atmosphere and associations created by architecture, prison ministry remains and has long been a central and indeed enduring aspect of the education programs in prisons. According to Clear and Sumter (2002, p. 126), the use of chaplains offering religious instruction is a more widely used and maintained type of education ‘than any other type of correctional intervention’. Thomas and Zaitzow (2006) propose that religious education programs, while commonly found in prisons, remain an under-researched aspect of carceral education provisions. Their own research has however delineated important features of modern and current religious education programs in prisons. Their focus is on the United States but their points are relevant to other national contexts, such as their observations on the tension between an overarching security regime and the provision of religious worship and fellowship. They do however reinforce that a range of factors, including religious instruction, may contribute to rehabilitation and anti-recidivism. These encompass the static factors of their past records, and the dynamic factors, such as engaging in education.

Set against the long history of scripture, religious literature and figurative language, biblical narratives and Christian ministries, that collectively establish the imbrication of religion and carceral punishment, the next sections of this chapter moves to more recent history. As the liturgical texts above indicate, including the 1789 *Book of Common Prayer*, the figurative prisons in religious writing intertwine with actual places of correction. An eschatological vision where God’s judgement is prayerfully accepted, but his mercy and redemption are anticipated, interacts with the punishment in the here and now. As noted in the introduction, the prayer and worship take place in the context of the penitentiary. The prayer and worship are accordingly also educational. Knowledge of scripture and the ability to understand concepts such judgement, mercy,

punishment and redemption are prerequisites to personal reformation and rehabilitation.

The liturgies, the prison chapels, and the religious texts discussed above are Christian, often specifically Protestant. Today, British prisons are required by law to maintain a chaplain on their staff, and by long-standing custom that is often a minister of the Church of England. The Church of England, the established national Church, also maintains a consistent prison ministry within its infrastructure and the Bishop of Rochester, James Langstaff, serves as the Bishop to prisons. However it is no longer an axiomatic expectation that the ministry to prisons will be overseen or coordinated by an Anglican minister, nor even a Christian minister of another denomination. Studying religion as an aspect of the history of carceal education opens a wider and conflicted vision that echoes changes in wider society, including the decline of notions of a Christian society. In England, the Church of England as noted remains the established Church, including a nationally organized ministry to the prisons in England and Wales. However the proportion of the population that identified either meaningfully or nominally with the Church of England declines at each census, and the Church's own statistics of weekly attendance indicates the same decline. There is no reason for the population of prisoners to reflect any difference from these broader national patterns and for the number of believers in prison to be different from the general population.

It is illuminating to detour briefly to consider how prisons and their religious instruction and education have resonated in popular media and popular consciousness. Strikingly, Anthony Burgess's 1962 novel *A Clockwork Orange* and its 1971 film adaptation are both set in the future, in line with the date of writing and production. In the novel, the dystopian society and peculiarities of language and in the film the references to space travel and the modernist production design all evoke the future. Yet nonetheless, while the book and film both posit futuristic changes including Britain as a run-down police state, they still anticipate the Church of England as the normative religion and the religious instruction taking place in prisons as an Anglican activity. The story's protagonist, Alex, is asked during his reception to prison (following his trial and conviction for murder) for his religion, and unhesitatingly answers he is 'C of E'.

Lengthy passages in the film's central reel (mirroring the book's plotting) are given over the fire and brimstone preaching of the prison chaplain and the presentation of religious worship in the prison, which includes congregational hymn singing. The story shows the prisoners to be mostly unresponsive to the religion (they are irreverent and easily distracted) and Alex's own earnest study of the scriptures lead him down worryingly non-religious pathways including his enjoyment of the many passages of violence in the Bible. Nonetheless, the Church of England is presented as part of this futuristic evocation of prison education. That presentation matches other film and television presentations of religion in prison. In programs as diverse as the television sitcom *Porridge* and dramas including *The Sculptress* and *Bad Girls*, prison ministry in popular culture is in the hands of Anglican clergy. Popular media from other societies without an established Church offer a more diverse and fragmented impression. Programs such as *Oz* (broadcast 1997–2003) included Christian religious characters (although none of them using the visitation service from the *Book of Common Prayer*) but also indicated the diversity of religious identities within prisons. The presence of clergy and other religious figures testifies to the constitutional right that prisoners have to practice religion, and the religious activity in *Oz* reflects the actuality that many American inmates participate in worship or some other kind of religious activity (O'Connor, 2013, p. 109). That diversity of identities, including the high proportion of Muslim inmates and the possibility of religious conversion taking place while people are incarcerated (Copeland, 2017).

## Radicalization

In the discussion of the book and film *A Clockwork Orange* above, it was noted that the protagonist's reading of scripture had, inadvertently, confirmed and reinforced his violently sexual imagination, as the accounts in the Old Testament of wars and violence and the New Testament Passion Narratives of Christ's execution provided ample mental stimulation for his passionately violent fantasies. That potential for religious instruction to radicalize and undermine peaceful intentions for rehabilitation is a precursor to concerns expressed in the decades since, of the impact of

religious instruction, both official and illicit, on inmates. Compared to the comfortingly familiar (at least to a particular perspective) Church of England, religious instruction in jails has become a politically and educationally contested activity.

Politically, intelligence agencies, including the Federal Bureau of Investigation, have examined and reported on the religious conversion experiences of inmates, meaning specifically the conversion to Islam and people becoming susceptible to terrorist recruitment (Hamm, 2013). Prisons in both the United States and the United Kingdom have within them disproportionate high numbers of minorities and non-white populations. In the United States that includes the high Latin American and African American prison populations and in Britain Muslim men from South Asia. These disproportionately high levels testify to systemic disadvantage and institutional racism, as do the numbers of Indigenous people in Australian prisons. However in the post-9/11 political context, the populations in American and British prisons are subjected to further layers of overt and subtle control. Cognate trends are apparent in other countries, where people who can be stigmatized and marginalized are not only over-represented in general prison populations but also are then subject to further layers of apparent concern for the potential to radicalize following religious instruction. For example, research into Italian prisons, following the so-called 'Migrant crisis' referring to humanitarian asylum seekers entering Italy, has noted the high proportion of foreign detainees now in Italian prisons (Saint-Blancat, 2015, p. 276).

In British prisons, research has charted discrimination faced not by converts to Islam but by anyone who identifies as Islamic. Gabriele Marranci (2009, p. 81) notes that the Prison Service for England and Wales, susceptible to tabloid criticism and sensitive to it, has in recent years increased surveillance on Islamic prisoners. We are a world away from the almost wholly white and nominally Church of England inmates in *Porridge*, where the only possible concern about religious faith was that the well-meaning Anglican chaplain would make a nuisance of himself on an otherwise quiet weekend afternoon. As Marranci further notes, the tabloidization of reporting means that potentially baseless claims are made that terrorist groups are radicalizing inmates, religious instruction therefore seeming to become a site of political subversion. Reactions and

actions from prison staff that may indeed actually contravene relevant race relations policy have been adduced by Marranci's research, including deliberate attempts to limit access to religiously educational resources that may have interested inmates in conversion. However, in a post 9/11 context, the associations between prisons and religious instruction are susceptible to tabloid reporting and the promotion of narratives that imbricate prison religion with extremism, such as *Daily Mail* reports of Muslim gangs occupying the chapel of HMP Brixton.

The exaggerations of tabloid media and the reactions and restrictions adduced by Marranci exist in a complex relationship with education. Educators, criminologists and theologians find in education a rich anti-convict and rehabilitative potential. The potential can lie in positive connections that are formed with educators and instructors and the sponsors of their programs. Studies have considered both religious and secular education programs in seeking these positive dimensions (Kerley & Copes, 2008). That potential includes specifically religious education which, if leading to a conversion and the adopting of a new religious faith and outlook, can be 'viewed by criminologists as generally conducive to successful rehabilitation' (Spearlt 2012, p. 766 cited in Jones & Narag, 2018). That expectation is longstanding. As discussed in the opening section of this chapter, the theological underpinnings of incarceration and the creation of carceral regimes in penitentiaries are explicitly religious ideals and expectations. Equally longstanding has been the expectation that the religious instruction and education leading to first penitence and then to moral reform was a Christian undertaking. As discussed above also, in England the status of the established Church explains the prominence of Anglicanism in prisons there. In the United States, the normative expectation that the religious education in penitentiaries would be Christian stemmed from the majority position of Christianity in the population. As Jones and Narag note, the early penitentiaries foregrounded Christianity over 'non-traditional religions' (2018). In the present, Christian chaplains continue to greatly outnumber Muslim chaplains. However religious instruction in prisons becomes politically, racially and discursively complex when set against claims such as religious education programs being used by the Saudi government to recruit terrorists.

## Rehabilitation

It is axiomatic that a prison sentence is intended to rehabilitate a person for when they have served their sentence and return to society. Rehabilitation is a secular notion that is nonetheless closely associated with penitence and redemption, again therefore directing attention to the historical trajectories of religious education in prisons. Reform, or rehabilitation or redemption are aspects of prison education particularly cast about with cynicism. For example tabloid media propose that prisoners who ‘find God’ do so for the hollow and pragmatic reason of obtaining parole, a point of debate traceable at least to the eighteenth century when prison chaplains expected a truly penitent inmate to prove they were sincerely instructed in religion by preparing to die, rather than seeking a pardon (Throness, 2008, p. 258). Tabloid media such as the *Express* also report on the views of others by covering the question in the House of Commons by the right wing conservative member of Parliament David Nuttall (*Express* 19 January 2017), who queried the Second Church Estates Commissioner on that issue.

The reformatory potential of carceral religious instruction also sits heavily in popular consciousness as high profile prisoners are reported to have ‘found God’ while incarcerated. OJ Simpson is one such example from the United States correctional system. From the British prison system the former conservative minister Jonathan Aitken is an instance of high profile conversion, with an ongoing trajectory. Aitken, jailed for perjury in 1999, joined a prayer group in prison, and following his release studied theology before proceeding to ordination as first a deacon and then a priest in the Church of England. Aitken has both spoken and written extensively about the associations that exist between prison, religion and education in both his private faith and his public life. Even before his conviction but when he was in the midst of lengthy and expensive legal proceedings, the *Independent* placed him at the top of their ‘villain of the year poll’ for, in the paper’s editorial opinion, combining his criminal perjury with a declaration of faith in Christian redemption (Blackhurst, 1997).



Beneath the layer of high profile converts there are the others experiencing religious instruction in an entirely anonymized way. Prison chaplains who deliver religious instruction have been the subject of research into their expectations of their work, questions inevitably coloured by the prevailing cynicism that surrounds the notion of finding God in prison. For example, Thomas O'Connor noted that a majority of American chaplains who were surveyed in his study wished the outcome of their education to be firstly changing values and thereafter changing behaviours. A curious finding from this research was the high number of surveyed chaplains (40%) who felt that rehabilitation was best achieved by secular instructional programs rather than religious ones (O'Connor, 2013, p. 20). That finding points to other developments for the use of religious instruction in prisons. Among different approaches to prison reforms in American centres has been the creation of so-called 'faith based' centres. As described by Winnifred Fallers Sullivan, these locate all of the carceral regime, including education and treatment, in an 'explicitly religious' environment (Sullivan, 2011, p. 20). Although only one model for an approach toward prison reform, the curiosity of the 'faith based' model is its evocation of a long history of carceral experiences. As discussed above, the penitentiary models derived from both eighteenth-century law and morality intended that the whole prison would be imbued with an ecclesiastical character, a point reinforced by the Gothicizing tendencies of nineteenth-century architects. Notably, the prison schemes of Jeremy Bentham, whose utilitarian philosophies underpinned his theorizing of the Panopticon, were the products of a man who was, in his own time, noteworthy for being an atheist. Yet these plans did not progress from theory to practice, the prisons, instead of being a full implementation of his panoptic theory, becoming gothic and quasi-sacred establishments.

## Specialization and Overcrowding

As discussed above, teaching religion in prison, whether through sermons and liturgy or more recently through classes and fellowship, is a consistent aspect of prison programs across centuries. Many prisons are now

beyond capacity in terms of inmates. Equally, prison programs are full with many competing priorities, complicating the place and space for religious instruction. Studies of religious identities within modern overcrowded prisons have identified the significance of religious instruction leading to religious insights and conversion as a means to sustain a positive self-image in circumstances shaped by the tensions and deprivations concomitant with overcrowded systems. Thomas and Zaitzow note the irony that no matter how overcrowded, a prison can enforce emotional if not physical isolation, isolation experienced in relation to other inmates and in the loss of access to connections in the outside world. Against this isolation in the midst of overcrowding, they note the significance of spiritual instruction as a means to combat it (p. 246).

The comments above situate religious instruction in a long historical trajectory, inherent and foundational to the legislating for prisons and the creation of prisons as penitentiaries from the eighteenth century. In English prisons, housing the inmates of a realm with an established Church, the presence of Anglican clergy is axiomatic. In the United States there is no established religion but the Christian majority is an historic trend which has shaped the provision of religion behind bars. However the long historical trajectory now intersects with deep debates not only about religious instruction in prisons but about the role of prisons themselves. Religion may encourage rehabilitation, but the rehabilitative potential of prisons may be doubted. The established and dominant norms not just of Christianity but particularly of Protestant Christianity sit against concerns of radicalization, and religious instruction must find its place in prisons that are fragmented by specialization and beset by overcrowding. This chapter began with scriptural and liturgical texts, the Bible and the *Book of Common Prayer*, including lines inscribed above the portals of the Old Bailey. The solidity and permanency of words in stone belies the complex and contestable current state of religious education in prison, but the field continues to be a fruitful point of study for rehabilitation and anti-recidivism and a site of often anxious policy and educational reform.

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# 4

## Managing Their Needs, Managing Their Risks: The Education and Treatment of Sex Offenders in United States Federal Prisons

Rodger C. Benefiel Jr.

### Introduction

Society's response to sex offences and offenders has long been of interest to stakeholders, practitioners, academics, and the general public. Generally, sex offences are treated harshly in the United States, but there is also a curious ambivalence toward sexual crimes: some crimes and some offenders receive tacit acceptance and understanding, while others are stigmatized and punished harshly. At the same time, responses have evolved from Victorian-era laws that made it unlikely some offenders would even face charges (Conley, 1986) to an expansive set of expressive, punitive policies, including the possibility of civil commitment beyond sentence completion (Miller, 2010).

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In the US, the move toward punitiveness (particularly since the mid-1970s) can be traced to the public's collective fear of and desire for protection from sex offenders. For a variety of reasons, sex offenders are stigmatized. They are loathed and feared. They face harsh sentences, victimization and threats to their safety in prison, and continued public resistance to their reintegration into society. At the same time, there is an assumption that prisons will treat them and reduce the likelihood of recidivism. Prisons are expected to protect society and punish inmates, but they should also protect them, treat them, and prepare them to live a crime-free life upon release (Garland, 2001).

In this chapter I will explore how incarcerated sex offenders are assessed and educated in US Federal prisons. I will begin with a discussion of definitional issues, followed by public attitudes and perceptions of sex offenders. I will show how these attitudes have influenced a punitive sentiment regarding sentencing as well as a repugnance in prison that impacts their ability to remain in general population and receive substantive treatment. I will then discuss how federal prisons manage and treat sex offenders, with an eye toward resolving the punishment/treatment dichotomy. Throughout, this chapter recognises that the treatment of sex offenders is a critical aspect of education in prison, interpreting education as systematic programs to reform and change. The programs analysed align with themes encountered throughout this collection, including public questioning of the cost and value of education in prison and the intention of education to rehabilitate as an anti-recidivist activity.

There are many treatment approaches to sex offender education, ranging from pharmacological interventions to programs that stress sexual offending as an addiction to relapse prevention strategies based on cognitive behavioural therapy. In U.S. federal prisons, some sex offenders are eligible to participate in the Sex Offender Management Program (SOMP). There are nine SOMP institutions in the agency, distributed to house minimum, medium, and high security offenders. Eligible offenders that volunteer for treatment at these institutions can either be placed in a residential Sex Offender Treatment Program (SOTP-R), or a non-residential version (SOTP-NR). The residential program is managed as a modified

therapeutic community.<sup>1</sup> In these programs the goal of sex offender assessment and treatment is two-fold: managing their needs and managing their risks.

## Conceptualizing Sex Offences

A major obstacle to any examination of carceral sex offender treatment is identifying the treatment group, made more difficult by the evolving nature of sex offences. One approach to conceptualizing the breadth of sex offences would be to simply list the applicable statutes, but the American criminal justice system is an amalgamation of semi-autonomous state and federal systems, so sex offence statutes vary. Even when researchers attempt to use standardized definitions, such as those used by the FBI and the National Crime Victimization Survey (NCVS), there is variance in the reporting periods (Wiseman & Lobanov-Rostovsky, 2017), which makes it difficult to estimate incidence and prevalence. While standardization concerns are common with crime reporting in general, sexual crimes are relatively unique in that they evolve in tandem with vacillating social mores.<sup>2</sup> Acts that were socially acceptable in the seventeenth and eighteenth centuries (such as marrying minors) are illegal and immoral today, while acts that extend beyond heterosexual, married, consensual, vaginal intercourse have long been considered either fornication or sodomy by some elements of society and punished accordingly. Indeed, laws prohibiting these acts have in some cases extended into the twenty-first century.<sup>3</sup>

Another concern is the array of crimes that are considered sex offences. Because of the wide range of offences, it may be instructive to categorize them in order to better picture how they relate to each other. One way to

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<sup>1</sup>The model for the modified therapeutic community is similar to one the Bureau of Prisons uses for its Residential Drug Abuse Program (RDAP).

<sup>2</sup>A similar phenomenon is found with drug crimes, but the stigmatization of sex offenses and offenders is arguably much more severe.

<sup>3</sup>See *Bowers v Hardwick* (1986) for a landmark Supreme Court case where the court upheld a Georgia statute criminalizing oral and anal sex between consenting adults. The case was eventually overturned in *Lawrence v Texas* (2003).

do this was proffered by Green (2016), who visualized sex offences as falling into one of three interlocking categories:

- Prohibited sexual conduct. This can be non-consensual (rape, sexual assault, statutory rape, and abuse of positions of trust), as well as consensual or arguably consensual (fornication, adultery, prostitution, sodomy, incest).
- Offences that are presumed to be preparatory of or conducive to future sexual misconduct. Examples include solicitation, pandering, bigamy, polygamy, and failing to register as a sex offender.
- Offences that impinge on another's rights. These can be voyeurism, indecent exposure, and obscenity (*ibid at 4, 5*).

Another grouping method was recommended by Lockmuller et al. (2012). This version uses five categories that appear to be more directly aligned with statutory definitions:

- Child Abuse—adult sexual relations with a minor, irrespective of relatedness, gender, or age;
- Rape—non-consensual penetrative sex with adults;
- Sexual Murder—Committing a homicide in the commission of a sexual act;
- Internet offences—voyeuristic crimes that typically involve accessing prohibited sexual material online, usually of minors; and
- Exhibitionism—non-contact offences involving exposure of one's genitals.

The point of the grouping exercises is to show that the umbrella term 'sex offence' includes crimes ranging from exhibitionism to rape and sexual murder. These crimes vary in severity, but the term, 'sex offence' does not differentiate between the voyeur and the paedophile. Sex offenders are often similarly categorized—it is relatively common for the general public to associate the term 'sex offender' with the more egregious crimes.



## Trends Regarding Sex Offences

To illustrate how definitional issues and changing values impact public perceptions, two examples are provided:

**Example #1: Underreporting** Arguably the most consistently identified trend among the different data sources on sex crimes and victimization is underreporting. For sexual assaults, estimates vary from 16 percent by the National Women's Study to between 25 and 33 percent based on NCVS data (Wiseman & Lobanov-Rostovsky, 2017). Even with the underreporting, the National Violence Against Women Survey found that 1 in 5 women will be sexually assaulted in their lifetime, and NCVS data reveals that most rape/sexual assault victims are White females under the age of 30 (ibid). Underreporting contributes to public opinion because it allows the public to visualize sex crimes as being rampant, which feeds into beliefs regarding how incorrigible sex offenders are and how severely they should be punished. The public's concern is that because it is possible there are a lot more crimes occurring than are reported, the public is in greater danger and needs higher levels of protection.

**Example #2: Stalking** Stalking is a relatively new category of sexual offence—the first law criminalizing it was enacted in California in 1990. Since then, all 50 states and the federal government have anti-stalking legislation (ibid). There is a relationship between stalking, sexual assault, and intimate partner violence. According to the Stalking Prevention, Awareness, and Resource Center (SPARC), 74% of those stalked by a former intimate partner reported violence and/or coercive control, and 31% of women stalked by an intimate partner were sexually assaulted. Stalking is an example of evolving sexual mores. The push for legislation and punishment is reflective of the public's support for social defence strategies.

## Conceptualizing Federal Sex Offenders

Sex offences can be state crimes, federal crimes, or both. For a crime to be a federal crime generally means the act involved crossing state or national borders (including use of the internet), occurs on federal property, or

**Table 4.1** Federal sex offenders in prison as of 2016 where the primary guideline was a sexual crime ( $N = 2633$ )

Offence	No. of offenders	Percent of total
Possession of child pornography	751	28.52%
Distribution of child pornography	690	26.21%
Transportation of a minor to participate in a commercial sex act	410	15.57%
Production of child pornography	368	13.98%
Criminal sexual abuse/rape	142	5.40%
Receipt of child pornography	124	4.71%
Promoting a commercial sex act—non-minor	66	2.51%
Abusive sexual contact	34	1.30%
Statutory rape	33	1.25%
Criminal sexual abuse of a ward	12	0.05%
Selling or buying of children for use in production of child pornography	1	<0.01%
Other	2	<0.01%

USSC (2019)

<sup>a</sup>Three offenders' primary guideline was Child Exploitation Enterprises, which are not necessarily sexual in nature and are not counted, and 80 offenders' primary guideline was Trafficking Child Pornography, but there were also convicted of other sexual abuse offenses carrying higher penalties so are distributed in the existing table

<sup>b</sup>One of these two offenders was convicted of First Degree Murder, and the other was convicted of Kidnapping. Both crimes were of a sexual nature so are included in this table

violates a federal statute such as the Sex Offender Notification and Registration Act (SORNA) of 2006 (Table 4.1).

While the number of offenders whose primary guideline is a sexual offence was only 2633, the number of federal inmates as of May 29, 2021 with a current or past sex offence conviction is 16,009.<sup>4,5</sup> (Bureau of Prisons, 2021). Note that five of the six most common offences involve children. This is not particularly surprising, since most child-related sex crimes involved the production, distribution, and possession of child pornography. It makes sense that the illegal material would cross state

<sup>4</sup>This number represents 11.2% of the in-custody federal population, which as of June 3, 2021 was 129,164.

<sup>5</sup>Criminal history data on all Bureau of Prison (BOP) inmates with a history of sex offenses was not publicly available.

**Table 4.2** Federal sex offender demographics as of 2016

	Sex abuse offenders	Child pornography offenders
<i>Race</i>		
White	49.1%	80.9%
Black	23.6%	3.8%
Hispanic	13.3%	12.9%
Other	14.0%	2.4%
<i>Gender</i>		
Male	91.9%	99.7%
Female	8.1%	0.3%
<i>Age</i>		
≤ 30	37.7%	23.6%
31–40	27.5%	28.4%
41–50	18.5%	21.2%
> 50	16.4%	26.8%
<i>Citizenship</i>		
US	92.8%	96.2%
Non-US	8.1%	3.8%
<i>Criminal History</i>		
First Offence	63.6%	78.3%
3 or more priors	25.7%	12.7%
<i>Average Sentence Length</i>		
	191 months	101 months

USSC (2019)

lines or the federal border at some point. It is also important to remember that offence categories are being reported, rather than specific offence codes. For example, ‘criminal sexual abuse/rape’ can include aggravated sexual abuse (18 USC §2241), sexual abuse (§2242), or abusive sexual contact (§2244) (Table 4.2).

The USSC breaks down sex offences into sexual abuse and child pornography categories for analytical purposes, which makes for interesting comparisons. It appears that the average federal sex abuse offender is a white male, 30 years old or younger, a U.S. citizen, with no prior offences. The average child pornography offender is overwhelmingly a white male, slightly older (31–40 years old), a U.S. citizen, and with no prior offences. The USSC does not report education levels, but other studies have put the mean education level for sex offenders at 12.6 years (Katz-Schiavone et al., 2008).

## **Punitiveness in the United States and Attitudes Toward Sex Offenders**

### **Punitiveness as a Social Trend**

Scholars have asserted that policies and laws in the United States have been oriented toward punitiveness since the mid-1970s (Garland, 2001; Wacquant, 2000). Garland (2001) asserted that a series of social changes, coupled with consistently rising crime rates since the early 1960s, resulted in society believing that crime and criminals were (a) omnipresent and (b) beyond the government's ability to address. The political response to this was to enact reactionary laws that would assuage the public by punishing criminals and would thus demonstrate support for the public's concerns. Not only were the criminal laws passed in the latter part of the twentieth century largely symbolic, they painted offenders as recalcitrant evildoers who deserved harsh punishment. They are expressive, populist, simplistic 'bumper-sticker' solutions to complex social issues, and they resonate with the public.

To be fair, reactionary responses to crime were not invented by politicians—they grew out of society's collective fear of crime and their loss of faith in the rehabilitative ideal (*ibid*). The phenomenon is exacerbated by the media's portrayal of crime and criminals. Gerbner and Gross (1976) adduced that when the public is frequently exposed to violent images and messages they will see the world as a dangerous place where people cannot be trusted, especially those that are different.

### **A Short Punitiveness Debate**

According to Matthews (2005), the problem with this assessment of how the public came to become more punitive is that it has no empirical support. He characterized what appears to be a sophisticated analysis as a crude form of functionalism rooted in liberal politics. He countered that late modern society was simply employing a variety of methods and techniques that understandably supported the public's desire to feel safe. He saw late modern society as being preventive, not reactive.

Ramirez (2013) set out to resolve the debate by defining and measuring punitive sentiment. He described punitive sentiment as a ‘general positive or negative evaluation of the punitiveness of a criminal justice system’ (331–332). In other words, it is a measure of society’s level of support for policies that punish, incapacitate, or increase the transaction costs of crime. His study showed that policy positions taken by politicians, media coverage, a person’s education level, and one’s political affiliation all influence a person’s punitive sentiment, making it both measurable and malleable. Ramirez (2013) saw punitive sentiment in tautological terms—politicians were reacting to public opinion, but the words and actions of politicians and the media were influencing public perceptions. This tautology is evident in society’s prevailing attitudes regarding sex offenders.

## General Public Attitudes and Perceptions of Sex Offenders

Garland (2001) pointed out that in order for society to coalesce around support for punitive policies, there must be a ‘criminalized other’—a group of incorrigible people who cannot be helped and can only be controlled. Included in this group are career criminals, juvenile super predators, and sexual predators. Even though there is considerable variation in what constitutes a sex offence, the general public’s collective fear of sex crimes results in all sex offenders being stereotyped as reprehensible scourges of society. Pickett et al. (2013) proffered three theoretical perspectives that help explain the public’s punitive stance regarding sex offenders:

- Concern for the victim, which focuses on protecting young females but is related to the idea that everyone is or knows of a potential victim.
- The monstrous stereotype model, which portrays sex offenders as unrepentant predators, and
- The risk-management model, which acknowledges limited governmental ability to defend society amid concerns over rising victimization rates.

These models are complementary and mirror both the public's moral outrage at the depravity of sex offenders and the accompanying desire to be insulated from them. There is, however, some variance in public perceptions. Willis et al. (2013) found that respondents with lower levels of education had more stereotypical beliefs about sex offenders and had higher recidivism rate estimates. However, neither education nor occupation had a significant impact on feelings about sex offenders—everyone in the by survey Willis et al. (2013) expressed negative feelings near the top of the scale used. Attitudes remained almost universally negative, but perceptions and assumptions varied.

## Sex Offender Sentencing

The combination of stereotyping, fear, and moral outrage engenders consistent public support for punitive sanctions, which fuels political efforts to reflect public concerns about sex crimes. Indeed, in a 2005 Gallup poll, 66% of the respondents believed it was at least somewhat likely that a child molester lived in their neighbourhood, and 65% believed child molesters cannot be rehabilitated (Saad, 2005). A salient example of this is changes to laws regarding child pornography. Since the early 1970s, Congress has focused on creating new offences, enacting mandatory minimums, and increasing statutory maximums for sex crimes through directives to the sentencing commission and statutory changes to guideline penalties (USSC, 2009). When the Child Protection Restoration and Penalties Enhancement Act of 1990 criminalized the possession of child pornography, the sentencing commission was directed to amend the guidelines to allow for more substantial penalties. The submitted changes were insufficient for Senators Helms and Thurmond, who proposed an amendment to the 1991 appropriations bill that raised base levels for all child pornography offences and put receipt of child pornography on the same level as trafficking. The amendment passed with a 99-0 vote (ibid).

## Room for Individuation

Even though sanctions have been on an upward trajectory for several years, federal guidelines allow for some individuation of these sanctions. Table 4.1 of this chapter noted that the average sentence for sexual abuse offenders was 191 months, but for child pornography it was only 101 months. This may seem incongruous with public attitudes toward child sex offenders, but child pornography sentences have lower averages due to mandatory minimum provisions; some crimes carry mandatory minimum sentences and others not. Regarding child pornography, sentences can range from 274 months to mandatory minimum sentences for production of child pornography to an average sentence of 89 months for child pornography crimes that do not carry a mandatory minimum (USSC, 2019).

## Sentencing Variation

It is also important to remember that federal sentencing guidelines are advisory; judges may depart from the guideline range or they may grant the offender a variance. A *departure* is when the judge departs from the range in the sentencing guidelines for a variety of mitigating factors; a *variance* is when the judge imposes a sentence outside the range based on sentencing factors in the law the defendant was charged with. In 2019, 7.5% of sex abuse offenders received downward departures (average reduction: 45.4%); and 42.1% received a below-range variance (average reduction: 36.4%—*ibid*). For child pornography offenders, 6.7% received a downward departure (average reduction: 47.5%) and 59.1% received a below-range variance (average reduction: 40.6%—*ibid*). Even with departures and variances, 98.8% of federally-charged sex abuse offenders were sentenced to prison, as are 99.0% of federally-charged child pornography offenders (*ibid*). The Federal Bureau of Prisons is absorbing a lot of sex offenders (11.2% of the current in-custody population), and they present special challenges to prison administrators.

## Sex Offenders in Prison

### An Incident at USP Leavenworth

In October 2002 a sex offender was repeatedly stabbed in his cell by two associates of the Aryan Resistance Movement (ARM) while the leader and an associate waited outside. The incident occurred because the sex offender's victim sold her story to *The National Enquirer*, and the paper printed the inmate's mugshot. Right after it was published, an inmate in the prison read the article and realized the sex offender in the story was living two cells down from him. He told the cellblock leaders about it, and a plan was made to remove the sex offender from the prison population. The victim received seven stab wounds (one of which punctured a lung) and several lacerations. He was treated at a local hospital and was eventually transferred to another prison. When the suspects were interviewed regarding the incident, they said,

(ARM Leader) The guy had it coming... We care about White people. We care about our children. You can't put rape-o's and molesters on our line and tell us we have to live with them. We don't have to live like that... You told me before you're not going to let us dictate who's on the line... We're just trying to do what's right... That guy deserved much worse.

(Assailant #1) You can't put a rapist on the compound with me.' (that inmate) is a vile, vile human being. There was no attempt to kill the guy. If we wanted to kill him we would have killed him.

(Assailant #2) We found out what he had done. We went in there to give him an ass-whooping and get him off the line. It escalated into this sticking.

Assaults of this severity are relatively rare even in high security prisons, and it is possible there was no intent to kill the victim. In prison, 'stickings' are sometimes done to ensure the inmate is transferred. The idea is to assault the inmate serious enough to ensure he doesn't return to population at that prison but does not result in severe physical injury or death. This happens because inmates in the federal system are very aware of how



the administration handles violent incidents, so they act in a way they believe will guarantee the offender's transfer (Benefiel, 2020).

The motivation for the assault in this case was simply to remove an undesirable inmate: a sex offender. He was repugnant to them, and the inmates who assaulted him did so in part because their status in the inmate subculture would be called into question if they knowingly allowed a rapist to walk the line (Leddy & O'Connell, 2002; Levan, 2012). Violence as a form of bullying is common in prison, but so are other types of victimization, including being forced to pay for protection, having personal property stolen, and being coerced into sexual acts (Leddy & O'Connell, 2002; Mann, 2016). The bullying occurs because in prison sex offenders are considered monsters—scourges on society—similar to how they are perceived by the public.

Prison staff are aware of the lowered status of sex offenders and their vulnerability to violence and exploitation, but not everyone sees exigency in their protection. Connor and Tewksbury (2013) surveyed prison wardens across 19 state jurisdictions and found that 76.1% of the respondents believed sex offenders are at the bottom of the inmate hierarchy, and while 70.2% believed sex offenders were subjected to hostility from other inmates more than half (56.8%) did not believe sex offenders were routinely subjected to physical attacks. This may sound incredulous, but it is important to consider that the Wardens surveyed likely came from different prison security levels. A Warden at a low security prison may be aware of several sex offenders on his compound that are living in general population without issues, whereas another Warden's experiences may be different. Bullying is common but not universal, and violence tends to increase with the security level (Benefiel, 2019).

## Responding to Violence and Exploitation

Inmates who are experiencing violence and other forms of bullying have very few options at their disposal. Reporting the incidents to prison staff will result in them being labelled a 'snitch' and increase the likelihood of being seriously assaulted (Earley, 1992; Fleisher, 1989), so the only other two options, according to McCorkle (1992) is to either (a) become

socially isolated and avoid situations that could lead to victimization or (b) become the aggressor and react violently when threatened. All three outcomes (a snitch label, social isolation, or pre-emptive violence) are negative, and two will likely result in the victimized inmate going to administrative detention.

For prison officials, the available options for dealing with sex offenders (or any other marginalized group) are also limited. Administrators naturally prefer to have all offenders in the general population, where they can utilize recreational services, be employed, go to school, etc. However, when incidents that threaten an inmate's safety occur or when staff become aware of threats to an inmate's safety, protective steps must be taken.

At least initially this means removing the inmate from the general population and placing him in administrative detention. For the Bureau of Prisons, procedures for placement in detention and the confinement conditions are codified in Title 28 of the Code of Federal Regulations (CFR). The need for detention placement includes situations where 'the inmate's continued presence in the general population poses a serious threat to life, property, self, staff, other inmates or orderly running of the institution and when...staff determine that admission to or continuation in administrative detention is necessary for the inmate's own protection' (28 CFR, §541.22.a). In other words, if the administration feels there is an exigent threat to the inmate's safety, they will proactively place him in protection.

The use of administrative detention for protection is further detailed in §541.23. There are two types: those where the inmate requests it, and those where he does not. Either way, prison staff are obligated to conduct a threat assessment, which ordinarily should not exceed 90 days (§541.23.d). If the threat to the inmate's safety is verified, then he will be transferred to another facility commensurate with his custody and security needs. If the threat cannot be verified, then the inmate is ordered to return to general population. If the inmate refuses to leave detention, then staff will write an incident report for refusing programs and the inmate will be disciplined. Typically, an inmate will have to refuse population three times and be sanctioned three times before the prison may seek an administrative transfer as an unverified protection case.

## Offering Protection and Transfers Are Not Solving the Problem

It is clear that placing a sex offender in administrative detention for protection is at best a temporary solution and does not address the larger problem of keeping sex offenders in general population following re-education. Use of administrative detention is also problematic for the inmate, particularly if he has an underlying mental health condition (Garcia, 2016). It is also clear that transferring the inmate to another institution does not guarantee the inmate will be able to remain in that prison's population—he could be assaulted again and end up in detention waiting for yet another transfer. Again, however, an administration's options are limited. Some prisons adapt by creating specialized units to house sex offenders—protection units. Sometimes these units resemble administrative detention; in others the inmates can move about freely in the unit but are still separated from the rest of the prison.

Therein lies the problem. In the federal prison system anyone housed in a protection unit (or an administrative detention unit) is required to have access to the same programming as other inmates in general population (§541.21.a). Since the inmates in a protection unit can no longer freely go to the law library, for example, the library must come to the inmate. Coordinating this much programming on a housing unit scale can become a logistical nightmare, but a protective unit that affords some freedom of movement and program participation is still preferable to detention. There is, however, one other option.

## Sex Offender Management Program (SOMP)

### The 40 Percent Rule

There is a colloquial concept among prison administrators called the 40 percent rule. Experience has shown that if about 40 percent of the population of a prison is a marginalized group, then that group can reasonably expect to live safely in the general population. Based in part on this idea, the Bureau of Prisons assigned specific institutions the mission of

managing populations with a majority (or close to it) sex offender population. The Sex Offender Management Program (SOMP) was created to manage sex offenders designated to these institutions.

## The Development of SOMP

The Sex Offender Management Program was first established at the Federal Medical Center (FMC) in Devens, MA in 2004.<sup>6</sup> It was set up as a required program assignment for inmates at FMC Devens who had been identified as a sex offender with a Public Safety Factor (PSF).<sup>7</sup> The point of the program was behaviour management. SOMP is not treatment, but treatment is offered in a SOMP institution. There are currently nine federal prisons designated as SOMP institutions, and it is no longer a requirement that newly committed inmates with a sex offender PSF will be designated to one of these institutions. It depends on the risk the inmate presents—what kind of risk is he to society, and how much is he at risk of being victimized if he is designated to a regular institution. Some inmates are designated straight to SOMP; others may not have been but were transferred to one after being victimized in a mainline institution. Others may have been at other institutions but engaged in behaviour that warranted the increased monitoring capability of a SOMP. Regardless of the reason, SOMP are prisons tasked with safely and securely housing and managing sex offenders.<sup>8</sup>

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<sup>6</sup>There were sex offender programs in the federal system going back to the early 1960s, but were phased out in the 1970s. This was the first SOMP program.

<sup>7</sup>As part of classification, the BOP has identified nine behaviors that require additional security measures. These were created to override security level scores if necessary to ensure inmates are placed in appropriately secure facilities. In order to receive a PSF of sex offender, there are six associated behaviors: (a) engaging in sexual contact with another without permission; (b) possession, distribution or mailing of child pornography; (c) sexual contact with a minor or someone mentally incapable of granting consent; (d) any sexual act not part of a through c but is aggressive or abusive in nature; (e) attempts to perform any of the aforementioned acts will be treated as if the act was completed, and (f) any other offense referenced in the Sex Offender Notification and Registration Program Statement (not a publicly available document). It should be noted that a conviction is not required for this PSF to be applied if the Presentence Investigation Report (PSR) clearly indicates the behavior occurred. The PSF cannot be entered if the case was dismissed or nolle prosequi (P.S. 5100.08).

<sup>8</sup>Not all inmates at a SOMP institution are sex offenders, but a good percentage are. In 2016, USP Tucson's population was 71% sex offenders.

## Initial Assessment

The first step for an inmate assigned to a SOMP is an initial screening interview, which is to take place within 30 days of arrival.<sup>9</sup> Within that time a SOMP psychologist or a treatment specialist will go over the program with the inmate and will review their offence history to determine if they are at an elevated risk for recidivism. The initial assessment will also determine treatment needs, and during the interview staff will explain the available sex offender treatment programs. If the inmate volunteers for treatment, then an initial risk assessment will be conducted. The risk assessment is accomplished through a review of the inmate's sexual offence history and an actuarial risk assessment tool (the Static 99R).

## Use of the Static 99R/2002R

Developed by Hanson and Thornton (2000), the Static 99 is composed of ten static risk factors that are scaled to predict sexual recidivism.<sup>10</sup> The Static 2002, also created by Hanson and Thornton (2003), consists of 14 static risk factors organized into five content areas (age, persistence of sexual offending, deviant sexual interests, relationship to victims, and general criminality).<sup>11</sup> Overall, the Static 2002 performs slightly better than the Static 99 in field tests, but both are highly predictive of a person's risk of sexual and violent reoffending. The weighted mean predictive accuracy of sexual recidivism was 0.701 for the Static 99 and 0.711 for the Static 2002. For violent recidivism, the Static 2002 performed about the same (0.713), but the Static 99's accuracy dropped to .687 (ibid). The likely reason that the BOP and other agencies continue to use the Static 99R is the tool's simplicity, reliability, and validity.

A common criticism of the Static 99R (and other actuarial risk assessment tools) is their reliance on static risk factors. The concern about not including dynamic risk factors for sexual offending is that dynamic risk

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<sup>9</sup>Remember, not all inmates at a SOMP institution are in the SOMP. The population is not entirely sex offenders.

<sup>10</sup>The Static 99R (revised) was implemented in 2012.

<sup>11</sup>The Static 2002R (revised) was implemented in 2016.

factors are 'changeable characteristics of the offender that have a demonstrated empirical relationship with sexual offending behaviour and that, when reduced, lead to reductions in recidivism' (Hanson, 2006; Hanson & Harris, 2001; in Cortini, 2009, pp. 41–42). Dynamic risk factors equate to Andrews and Bonta's (2010) criminogenic needs, and include deviant sexual arousal, attitudes supportive of sexual offending, supportive social influences, difficulties with intimacy, low self-regulation, and difficulties with supervision.

Cortini (2009) proffered that while actuarial assessments enjoy high levels of predictive accuracy, adding dynamic risk factors would incrementally increase assessment accuracy. One way to resolve this and gain a more holistic, analytical frame for assessing an offender's risk of sexual recidivism is to approach the assessment from a case management perspective. However, for the BOP the goal of initial risk assessment is simply to identify the level of risk presented by the offender. A more in-depth analysis of an offender's risk for recidivism (one that includes dynamic factors) will occur as the inmate progresses through treatment.

## **Managing Their Risk: The Case Management Plan**

Some offenders are identified as actively engaging in risk-relevant behaviour at the initial risk assessment; other times, staff will uncover evidence of an inmate's behaviour in the course of their daily duties, such as conducting cell searches, monitoring phone calls, routine mail monitoring, or reviewing incoming publications and visiting/telephone lists. If an inmate is identified as engaging in risk-relevant behaviour, then the chief psychologist or designee will evaluate the inmate and determine if a case management plan is to be recommended to the warden (P.S. 5324.10).

Case management plans are designed to change/mitigate inmate behaviour through negative sanctions related to the behaviour exhibited. For example, if an offender's victim was a minor family member and the offender puts the victim's family on his telephone list and tries to call them, then that behaviour can be addressed by limiting his access to the

phone and/or prohibiting any outgoing calls to those numbers. If an inmate is collecting photos or drawings that could be used as sexual paraphernalia, then that inmate's personal property as well as his incoming mail can be restricted. This is separate from sanctions imposed at a disciplinary hearing for committing a prohibited act—it is behaviour modification and risk management.

Case management plans do not have an expiration date, but they are regularly reviewed and can be modified or terminated. In a way, a case management plan is a living document—the plan changes as the risk changes. The inmate is provided with a copy, and copies are distributed to affected parties in other departments (such as the mail room). These restrictive documents can only be imposed at a SOMP. If a sex offender not assigned to a SOMP engages in behaviour that may justify use of a case management plan, that inmate would have to be transferred to a SOMP institution and be evaluated (*ibid*).

## Maintaining a SOMP: Legal Issues

Inmates on case management plans rarely file lawsuits, but inmates have filed lawsuits under 42 USC §1983 (Bivens actions),<sup>12</sup> and under the Federal Tort Claims Act (FTCA). The most common lawsuits tend to be allegations of unconstitutional restrictions of inmate mail, phone privileges, or access to personal property.

### Lawsuits Under the FTCA

Tort claims procedures for filing a claim under the federal tort claims act of 1946 is detailed in Title 28, chapter 171 of the U.S. Code, §§2671–2680. Governmental liability is found under 28 USC §1346. The act allows individuals to sue government employees when the

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<sup>12</sup>Section 1983 refers to 42 U.S.C. §1983, which provides individuals the right to sue state government employees who violate their civil rights under color of state law. The right was extended to federal employees with *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

claimant alleges monetary damages caused by wrongful or negligent actions. Tort claims cannot be filed for negligent conduct that is outside of the employee's scope of employment.

Because the claim is for monetary damages, inmates must first file an administrative claim, called a claim for damage, injury, or death, SF95-07a (P.S. 1320.06). The claim will be investigated, but there are several exceptions to a FTCA claim. There are two parts to these exceptions: due care and discretionary function (Hackman, 1997). Due care is simply an assessment of whether or not the employee used due care in implementing a regulation, but discretionary function is more commonly used as a defence. Discretionary function requires a two-pronged test (Berkovitz v U.S. 1988). In order for a discretionary function defence to be applied, the conduct must include an element of choice (United States v Gaubert, 1991), and it must involve broad considerations of 'social, economic, and political policy (Berkovitz v United States, 1988).

## Bivens Actions

A Bivens action is named after *Bivens v Six Unknown Named Agents of the Federal Bureau of Narcotics* (1971). This case extended the right to sue federal government employees for violating someone's constitutional rights while acting 'under color of state law,' under 42 USC §1983. Essentially, a §1983 lawsuit is a constitutional tort claim. The claimant is not asserting monetary damages; rather, the damage is the violation of their constitutional rights.

The most common defence to a §1983 lawsuit is 'qualified immunity.' Qualified immunity acts like a contract between government employees and the courts. The employee agrees to ensure their actions are reasonable, and the courts would have to show that the laws were established in a way that an officer following them would clearly know doing so would be unconstitutional. There is a two-pronged test to receive qualified immunity: were the employee's actions constitutional, and if not, was the law clearly established at the time (Congressional Research Service, 2020). An example may better illustrate the process. At USP Tucson an inmate filed a lawsuit after his tort claim was denied. He alleged damages



due to having incoming magazines confiscated, which he asserted were allowed for inmates not on a correctional management plan. He also alleged his legal materials were confiscated because he had sued the institution, violating his first and fourteenth amendment rights. In this case, the inmate claimed both monetary and constitutional damages, so the lawsuit was a tort claim *and* a Bivens action.

The magazine in question was a boating magazine, and there were photos of young children in the magazine on the beach, etc. The children were in bathing suits, so they were partially undressed. The inmate did not get to see the confiscated materials, but another inmate had a copy of a boating magazine and allowed the claimant to view it. The claimant made a copy of the entire magazine, ostensibly as evidence for his lawsuit. The claimant also had a collection of copied material, photos, etc. in his cell that featured children partially dressed. When the inmate filed his lawsuit, he included a copy of one of the magazines he had been denied as evidence. The staff attorney at the prison noticed the inmate had a copy of rejected material, and submitted a memorandum. As a result, correctional staff searched the inmate's cell and found the illicit material, confiscating it. Because the legal materials had illicit material, it was also confiscated.

The inmate filing the suit was serving time for a child pornography charge, and photos of children of the same approximate age as his victims constituted 'risk-relevant behavior.' As a result of the materials found in his cell, he was placed on a correctional management plan. The institution was required to give the inmate his legal materials back (minus the copied magazine), but the correctional management plan stayed in place and the case was dismissed in a summary judgment. The case has since been appealed (Vanaman v Marlow, et al., 2021).

## Continued Monitoring

Cases such as the one described highlight the need for institutions to continuously monitor SOMP inmates (and other inmates not in the SOMP but housed at the same prison. Therefore, wardens at SOMP institutions regularly meet with their executive staff (associate wardens,

the chief of correctional services, the executive assistant, and the staff attorney), along with the chief psychologist and the SOMP coordinator to go over recent publications that have been rejected, special cases, legal developments, and other concerns. These meetings are important for ensuring a coordinated response to SOMP issues.

## **Managing Their Needs: The Sex Offender Treatment Program (SOTP)**

### **Voluntariness and Programs Offered**

SOMP institutions offer two sex offender treatment programs (SOTPs): a non-residential program designed for low to moderate risk offenders, and a residential program for higher risk offenders. Qualifying inmates may volunteer for treatment, but psychology staff will recommend one of the two programs based on the initial assessment.

### **Philosophical Underpinnings of SOTPs**

#### **Risk, Needs, Responsivity**

For both the residential and non-residential version of SOTP, SOMP staff will create individualized treatment plans. These plans follow a specific template and use the risk, needs, responsivity principle for their development. Risk, needs, and responsivity (RNR) was developed by Andrews and Bonta (2010), and was originally created for correctional treatment programs. It is based on social learning principles (Bandura, 1977), although it is also rooted in cognitive learning (Piaget, 1963). Adaptability is key in assessing risk and relating it to treatment, as people with higher levels of risk should be provided with a greater level of service.<sup>13</sup> The needs principle is critical in that treatment should target an offender's criminogenic needs, which are dynamic risk factors (Andrews

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<sup>13</sup> This is the reason high risk inmates are recommended for the SOTP-R and low and moderate risk inmates are recommended for the SOTP-NR.

& Bonta, 2010). The responsivity principle states that treatment programming should be provided in such a way that it is responsive to the offender's learning style and ability to address his cognitive barriers.

### Targeting Criminogenic Needs

Andrews and Bonta (2010) argue that since the focus of correctional treatment is on the reduction of criminal behaviour post-release, it only makes sense to target the reasons why criminals commit crimes. Using principles of social learning and differential association (Akers, 2011; Sutherland & Cressey, 1966), Andrews and Bonta base their RNR concept on the influence of antisocial associates for the development of antisocial attitudes. Criminal behaviour is learned, and that learning occurs in a process of intimate communication with others. With continued exposure, criminals internalize behavioural definitions that are more favourable for law violation than adherence to the law, and will commit crimes when presented with the opportunity.

This learning process is rooted in symbolic interactionism (Blumer, 1969). Under symbolic interactionism we react to our environment based on the meanings we attach to what we are interacting with—objects, people, situations, and so forth. Those meanings are social products formed by what we learn through social interactions. How we react (or rather how we *define* the appropriate course of action in a given circumstance) will depend on how we interpret the situation, or how we learn to think in a criminal way. That thinking is based on criminogenic needs, or dynamic risk factors that were developed through antisocial associates and increase the likelihood of offending. In order to change an offender's criminal thinking, their criminogenic needs must be identified and targeted through intervention.

### Cognitive Behavioural Therapy (CBT)

CBT is a class of therapeutic intervention based on the belief that maladaptive behaviours occur when cognitions affect how we handle emotional distress and behavioural cues (Beck, 1976; Ellis, 1962). Grounded

in western empiricism, CBT seeks to help patients balance emotions with rationality. There is a relationship between subjective cognitions, behaviours, and emotions—change one and you are likely to affect the others (Beck, 1976).

The concept of change is particularly important here, as is the interrelatedness of the biological, social, and psychological realms (Engel, 1977). Key to healthy psychological function is agency, or the feeling of control over one's actions and emotions. The ability to control one's behaviours and emotions is a measure of self-regulation, but the ability to psychologically self-regulate is related to other biological and social factors (Bolton & Gillett, 2019). One way to improve cognitive function and increase the ability to self-regulate is through psychotherapy, such as cognitive behavioural therapy.

Studies have shown that psychotherapy works, and it results in changes to hippocampal brain function (Frommberger et al., 2004). Of course, therapy in general can produce changes in functionality, and there are non-specific factors common to many interventions, such as the therapeutic alliance, empathy, and a corrective emotional experience. However, CBT has also been shown to improve the patient's mood management and life skills (Hawley et al., 2017). Accomplishing these behavioural changes necessarily involves the active participation of the patient. CBT is a collaborative process where maladaptive cognitions are challenged using a variety of techniques to address the psychological, biological, and social sources of those cognitions and induce the patient to change how they perceive and react to those cues.

## **Cognitive Behavioural Therapy in Prison**

Active participation in therapy takes time and is often challenging. Engaging in therapy while incarcerated presents unique challenges, due to the prison environment's inability to reconcile treatment and custodial concerns (Cressey, 1959; Ohlin, 1956). Even so, meta-analytic studies have shown that behaviour therapies and CBT were most effective for reducing recidivism rates (Hofmann et al., 2012). For sex offenders, a meta-analysis of 69 studies by Lösel and Schmucker (2005) showed that surgical castration and

hormonal therapies were more effective for reducing recidivism, but of the various psychosocial techniques only cognitive behavioural therapy was statistically significant, and only if the program was specifically designed for sex offenders. In a follow-up meta-analysis, Schmucker and Lösel (2015) compared 29 sexual offender studies that had equivalent treatment and control groups. Because of the stricter criteria, the study almost exclusively included CBT-based programs, and the only programs with statistically significant effects were designed for outpatient treatments and those conducted in hospitals—prison-based programs had a small, non-significant mean effect. These results should not be taken as an indictment against prison-based programs, however. Carceral programs are rarely subjected to randomized control trials, so comparisons are usually accomplished using matching techniques. Schmucker and Lösel (2015) were also concerned about the small sample sizes, reasoning that there is a possibility of publication bias, but they noted it could also be due to carceral treatment being implemented on a smaller scale.

## Combining CBT and RNR in Prison

While some studies of carceral CBT programming for sex offenders paint a bleak picture, other studies of prison-based programs that combine CBT with RNR principles have proven effective for reducing recidivism, such as the Canadian federal SOTP (Olver et al., 2020).<sup>14</sup> In the study by Olver et al. (2020), the Canadian federal SOTP standardized program was compared to a specialized program at the Rockwood institution, a minimum-security facility in Manitoba. The study showed the Rockwood program to be more effective for lowering sexual and violent recidivism than the SOTP program, but recidivism rates for both were well below that of the control group (5.6% adjusted 8-year sexual recidivism rate for Rockwood and 10.7% for SOTP, compared to 20.2% for the control group).

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<sup>14</sup>Again, the results should be qualified as there are methodological issues with study design and there is variance in how closely some programs adhere to CBT/RNR principles. The methodological issues were also noted by Schmucker and Lösel (2015).

## Implementing a Combined CBT/RNR SOTP Program in the United States

In federal prisons, Sex Offender Management Programs (SOMPs) are relegated to specific institutions where at least 40% of the overall population are sex offenders. Inmates at these institutions may volunteer for the Sex Offender Treatment Program (SOTP). In order to be accepted, inmates must have no less than 21 months remaining on their sentence for the non-residential program and 27 months for the residential programs. The inmates should ordinarily not have received any greatest severity or high severity incident in the previous 12 months, speak English, be literate, and not suffer from a major mental disorder or cognitive impairment that would preclude the inmate from actively engaging in treatment (PS 5324.10). Based on their initial risk assessment, volunteers will be assigned to the non-residential program if they represent a low- or moderate- risk of reoffending, and the residential program if they represent a high- risk. Once an inmate is accepted into one of the two programs, the initial risk assessment, along with a psychosocial/psychosexual history report (based on record a record review) are used as part of an individualized treatment plan. The individualized plan will incorporate the offender's criminogenic needs and is to be completed prior to the inmate entering phase II of the program. There is no substantive difference in the type of treatment offered in the non-residential and the residential programs—the only differences are intensity and duration.

### Treatment Phases

Both programs use three phases: an orientation phase to develop the interpersonal skills needed to engage in treatment and demonstrate a willingness to engage; a core treatment phase where inmates acquire cognitive-behavioural and pro-social skills, and a transition phase where cognitive-behavioural skills are practiced and applied in varying scenarios and contexts. In both programs, inmates are expected to participate in process groups that expect honest self-disclosure and encourage peer accountability. Process groups generally take up about 25% of the

inmate's time in treatment. The non-residential program requires about 6 h of treatment per week for approximately 9 to 12 months, about 120 h total.

## **The SOTP-R Modified Therapeutic Community**

Offenders deemed to have a high-risk for reoffending, meet the selection criteria, and volunteer for the program will ordinarily be assigned into the residential program. This program requires 10 to 12 h of treatment per week for 12 to 18 months, or about 400 hours of treatment. In addition, the inmates live together in one housing unit as part of a therapeutic community. Groups and other therapeutic interventions take place in the unit, and the unit is exclusively housed with participating inmates. In fact, inmates in all three phases of treatment will be housed together, along with inmates waiting for their cohort to begin and sometimes inmates who have completed the program. It is considered a modified therapeutic community because it has been adapted to fit a prison setting.

The SOTP-R is a hierarchical, concept-based program, but it is also a democratic program built on social learning principles. Community meetings, process groups, and aftercare groups are essential for helping an inmate develop prosocial skills as well as challenging criminal thinking, and the program itself is highly structured (which is part of the development of prosocial skills). There are high expectation levels for personal and unit sanitation, respect for others, and restrictions on activities that can inhibit treatment progress, such as role-play games and collecting pictures or other materials that can be used for sexual stimulus (P.S. 5234.10). Individual therapy may also be employed if needed. It is an intensive, challenging program.

## **History of the Therapeutic Community (TC)**

The therapeutic community concept (and the phasing of the sex offender treatment program) are adapted from drug treatment communities generally and the agency's Residential Drug Abuse Program (RDAP)

specifically. TCs in prison can be traced back to the works of Maxwell Jones and Charles Dederich. Jones had worked with soldiers during World War II and became intrigued by the power of the patient peer group in treatment. After several years developing community and group treatment methods in a hospital setting, Jones took a job at Stanford University and soon afterward was offered a teaching position at Oregon State Hospital. He took the position in part because he was eager to demonstrate that a therapeutic system was relevant for any psychiatric facility (Barracough, 1983). While in Salem, Oregon, Jones presented a series of lectures before the American Psychiatric Association, which were published in 1962. One of those lectures was ‘social psychiatry in hospitals and prisons,’ which led to the development of democratic therapeutic communities in prisons in Oregon, California and Arizona (Vandavelde et al., 2004).

## Parallel Development

Jones’ model was considered a democratic model, characterized by permissiveness and relative freedom. Around the same time a stricter, concept-based hierarchical model was developing in California. Known as Synanon, it was developed by Charles Dederich in 1958 as a community-based method of treatment for drug addiction.<sup>15</sup> The core principles of the Synanon model included:

- Community—communal living and peer accountability;
- Hierarchy—structured daily activities;
- Confrontation—group-based interventions where feelings can be freely expressed; and
- Self-help—the patient is responsible for taking charge of his treatment and implementing change (ibid).

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<sup>15</sup> Synanon eventually devolved into a cult, and Dederich pleaded no contest to conspiracy to commit murder of an attorney who had sued the organization (New York Times, 1997).



In the 1960s, Synanon-inspired TCs were quite popular. Several were established at federal prisons, including Terminal Island, CA, Marion, IL, Oxford, WI, and Danbury, CT. The programs were short-lived, however, as support waned in the 1970s due to changing perceptions regarding punishment and a lack of faith in correctional treatment (Garland, 2001; Martinson, 1974). Eventually, new programs were initiated throughout the 1980s and 1990s, with the first federal program reappearing in 2004 (although this reappearance was a combination of the concept-based and democratic versions of a TC).

Essentially, there were two prototypes for therapeutic communities: Synanon's concept-based model and the democratic model espoused by Jones. In practice, both used social learning as a linchpin concept, both had a lot in common, and eventually the two versions merged. Contemporary therapeutic communities believe that learning prosocial behaviours and challenging one's criminal thinking occurs through the social interactions of the group, guided by a trained facilitator. They also stress personal responsibility and discipline as measures of self-regulation and prosocial behaviours.

## Challenges for Therapeutic Communities in Prison

Even though contemporary prison-based TCs stress personal responsibility and adherence to established rules, TCs have a philosophy regarding misconduct that can contrast with traditional prison discipline. For example, there was an incident at USP Tucson where an inmate had stolen items out of another inmate's locker. Normally, this would be a high-severity incident report and the inmate would have been sent to administrative detention pending discipline; however, in this case the inmate was confronted about his behaviour in a group. During this intervention, other members of his cohort challenged him regarding his thinking, and he was confronted with the effect of his behaviour. Within the therapeutic community, this can have a positive impact on the offending inmate. There is a measure of security that is engendered when an inmate

can freely express himself with the knowledge that deviant behaviour will not automatically result in formal discipline. The intervention can end up being cathartic, as other inmates can serve as role models and encourage prosocial behaviour (De Leon, 2000). This did not sit well with correctional staff, who viewed the incident as the TC promoting favouritism, even a sense of entitlement. Their concern was the appearance of uneven application of discipline, made all the more salient by the fact that inmates not in the therapeutic community had heard about the group intervention and reported the lack of formal discipline to the prison's chief of correctional services.

There is an historical element to this treatment/custody dichotomy. When TCs were first being implemented in the 1960s, many scholars did not believe it was possible to run a rehabilitative program nested in a custodial-oriented prison. Ohlin (1956) asserted that correctional agencies are charged with the dual objectives of maintaining the secure custody of offenders and treating them in order to alter their criminal propensity upon release, but the resentment and socialization of inmates (coupled with prison administration practices that increase feelings of depersonalization) render achievement of those objectives virtually impossible. At the time it was popularly believed that prisons were defined by staff-inmate conflict (Clemmer, 1958), but informal interactions between staff and inmates resulted in a finely balanced system of formal and informal structures. That delicate balance was disrupted when professional staff with a treatment orientation were added. Cressey and Galtung (1961) believed it was functionally impossible to be oriented toward punishment and treatment at the same time. They said institutions typically avoided this by compartmentalizing the two functions through a combination of temporal and spatial segregation (i.e., therapeutic communities), but because you can never achieve total separation effective treatment is impossible (*ibid*). Exacerbating the problem of incomplete separation was the possibility of cognitive dissonance, because as an inmate interacts with other inmates he comes to see his own condition as normal and not necessarily requiring treatment (*ibid*).

## Do Carceral Sex Offender Treatment Programs Work?

The short answer is that there isn't enough evidence to determine what impact sex offender treatment programs have on reductions in recidivism or prison misconduct rates. There are no studies that have examined U.S. federal prison SOTPs. Since randomized control trials are both unethical and problematic in a prison setting, any future study would have to compare program participants with otherwise qualified offenders who did not volunteer for the program, which introduces selection bias.

Studies of sex offender programs in other jurisdictions offer some promise, although results are mixed. Schmucker and Lösel (2015) did not find a significant effect size in their meta-analysis of sex offender programs, while Olver et al. (2020) examined two SOTP programs in Canada (one at Rockwood institution and the other was Canada's federal SOTP) and found significant reductions in recidivism rates for both. In all the studies presented, variations in adherence to CBT/RNR principles and methodological issues in study design dilute the results.

Variation in treatment methodology and study design issues are inherent when analysing existing programs. Perhaps the most prudent method going forward is to avoid meta-analysis studies and instead design studies that adequately examine individual programs. It may be more appropriate to look at the U.S. federal SOTP programs, for example, by using matching techniques for a quantitative analysis but then introduce a qualitative element by looking at the treatment in context—what impact do the prison's operations have on the TC, and how closely are the treatment staff using core principles? It would also be instructive to examine a TC's impact on both recidivism rates and misconduct rates in order to gain a more immediate measure of program success.

There is anecdotal evidence of effectiveness. Graduation ceremonies are filled with testimonials expounding the changes experienced by inmates following this re-education. Sex offender treatment programs, both the residential and non-residential versions, are based on empirically sound CBT and RNR principles, and the bureau of prison's method of separating sex offenders at the institutional level allows inmates to

engage in more educational and recreational programs, even as the prison seeks to balance the competing needs of managing the risks presented by these offenders with managing their treatment needs.

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# 5

## The Past, Present and Future of Education Programs for Individuals Who Sexually Offend

Suzanne Reich and Sharon Klamer

### History of Sex Offender Treatment Programs

Sex offender treatment programs derive from a well-established history of research endeavours to produce theoretical explanations for human sexual behaviour, both conventional and deviant (Benkert; Patze; Maudsley; Moll; von Krafft-Ebing; Westphal cited in Laws & Marshall, 2003). Like Rodger Benefiel's chapter in this collection, this chapter situates sex offender treatment programs within the field of education, doing so in response to the eclectic understanding of education that defines this current collection, but also where across the collection education is given

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methodological cohesion by core attributes including redeeming and rehabilitating. In the area of carceral education, sex offender treatment is indeed a critical area to include in any broader collection on or study of education in prisons. These programs are a major instructional and educational undertaking in many prisons, they are based on theoretical and philosophical underpinnings, and they are anti-recidivist. Studies of human sexuality date back to the mid-late 1800's with the work of Sigmund Freud (cited in Strachey 1976), who is now considered the 'father of the study of human sexuality' (Laws & Marshall, 2003, p. 76), and one of the pioneers in this area of research. However, Freud was not the first to study both conventional and deviant human sexuality, even though his work is perhaps the most widely known. Treatment for sexual behaviours regarded as deviant date back to the work of Charcot and Magnan (cited in Laws & Marshall, 2003) and Schrenk-Notzig (cited in Laws & Marshall, 2003) and their treatment of homosexuality, regarded at that time as a deviant sexual orientation.

Since the work of these earlier scholars, treatment for sexual offending has evolved over time, alongside our understanding about what motivates offending behaviour. Early theoretical explanations were simplistic and formed the basis for theoretical expansion for what we now know: that sexual offending behaviour cannot be reduced to singular or simplistic explanations and accordingly be addressed in singular or simplistic ways (Becker & Murphy, 1998; Marshall, 1996). Instead, it is now understood as a complex, multi-faceted problem, requiring treatment programs to address underlying motivations for sexual offending as well as factors that increase the risk for further sexual offending (Marshall & O'Brien, 2014; Wheeler & Covell, 2014; Yates & Ward, 2007).

Reducing risk suggests behaviour management rather than removing risk, which would be characteristic of a cure. Therefore sex offender treatment is more about educating those who sexually offend to manage their own behaviour in ways that promote desistance from further sexual offending, rather than providing treatment to cure the individual from any or all sexual offending proclivities. For this reason, we include this chapter in this book about carceral education the history, theoretical reasoning, approaches, progress and efficacy of sex offender treatment programs (SOTPs) as a way to educate individuals who have engaged in this

specific type of offending behaviour. There is no cure for sexual offending and therefore it may be problematic for treatment programs to be viewed as a clinical response, but more pertinent to be viewed as an educational response.<sup>1</sup>

## Understanding Sexual Offending

In Australia and around the world, sexual offences are predominantly committed by males (World Health Organisation, 2003), with the majority of victims being women or children (Australian Institute of Health and Welfare, 2020a, 2020b; National Sexual Violence Resource Center, 2015). Whilst adult men also experience sexual victimisation, this section of the chapter will focus on women and children, these accounting for the majority of sexual assault victims. The Australian Institute of Health and Welfare reported that in the 2018–2019 year, 97% of sexual offences recorded in official police data were committed by male perpetrators. The proportion of male offenders for sexual offences is comparably high in the United States (Black et al., 2011; Smith et al., 2017), the United Kingdom (Office for National Statistics, 2020), Canada (Perreault, 2020), and New Zealand (NZ Family Violence Clearinghouse, 2017a, 2017b).

Sexual offences and those that commit these types of crimes often elicit a strong response of outrage from the general public, prompting all manner of questions about why someone would sexually offend and what can be done about it (Collie et al., 2008). As early as the turn of the twentieth century, scholars proposed that sexual behaviour and deviance is a learned response and by the mid-1900s this idea became the generally accepted explanation for sexually deviant behaviour (Mcguire, Carlisle & Young; Ford & Beach; Kinsey, Pomeroy & Martin cited in Laws & Marshall, 2003).

Today, there are a number of factors that are understood to predict sexual offending behaviour. Categorically, these factors are similar for

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<sup>1</sup>For the sake of this chapter, the terms treatment, rehabilitation and programs are used interchangeably but all refer to this notion of educating individuals who have sexually offended to manage their own behaviour in a way that reduces their risk of reoffending.

sexual offences committed against women and children; however there are differences in the way these factors influence sexual offences perpetrated against a woman compared to those perpetrated against a child (Dangerfield et al., 2020; James & Proulx, 2020). In categorical terms, the factors known to influence sexual offending behaviour are deviant sexual interests; psycho-social conditions and/or deficits; and cognitive distortions.

## Deviant Sexual Interests

Deviant sexual interest is reported to be the strongest predictor of sexual re-offending against both women and children (Dangerfield et al., 2020; James & Proulx, 2020). Research shows that for offenders against women, deviant sexual interests are manifested through preferences for and responses to non-consensual vs consensual sexual activity and sex cues, respectively (Barbaree, 1990; Lalumière & Quinsey, 1994; Michaud & Proulx, 2009). On the other hand, for those who offend against children, it is estimated that about half do so on account of their sexual preference for children (Seto cited in Seto et al., 2011). On its own, however, a sexual interest in children does not fully explain sexual offending against children since there are many who harbour this deviant sexual interest and yet do not offend. The transition from deviant sexual interest in children to sexual offending is proposed to occur because this offending behaviour is learnt (Marshall & Barbaree, 1990) or the individual is biologically pre-disposed to do so (Blanchard et al., 2007; Lussier et al., 2005; Mcphail & Cantor, 2015).

## Psycho-Social Conditions and/or Deficits

Psycho-social conditions associated with sexual offending are the second-strongest predictors of sexual reoffending and relate to empathy, anti-social personality disorders and psychopathy. There are similarities and differences in the way that each of these psycho-social conditions motivate sexual offending towards women and children.

As defined by Gladstein (1983), empathy is broadly understood to feature two key elements: (1) cognitive empathy which refers to possessing the ability to understand the way that others feel; and (2) affective empathy which refers to the ability to replicate the perceived emotions experienced by others. Over time researchers have proposed additional components be considered as part of the definition of empathy. These additional components include emotion recognition and response decision (Marshall et al., 1995), and 'compassion and respect, absence of certain situational factors, and ability to manage personal distress' (Barnett & Mann, 2013, p. 234). Despite the ongoing development regarding how empathy is defined, the recurring themes among each are the perceptions of, feelings about and responses to others in a given situation. As it relates to sexual offending, there appears to be some agreement amongst scholars that for both women and child victims, offenders are not necessarily lacking in empathy in a general sense, but rather lacking in empathy towards the victim of their sexual offence. A hostile relationship between the offender and the victim is one reason that an offender may lack empathy toward their victim, and this possibility is found to be true for both women and child victims. Research also shows that in relation to women, a lack of empathy can be attributable to a misguided perception that victims found their sexual victimisation to be pleasurable, or there are situational context factors that can diminish empathy such as being under the influence of drugs or alcohol (Hanson & Scott, 1995).

Psycho-social conditions for those who sexually offend against women and children can also be partly explained by deficits in intimate relationships. Intimacy deficits develop during childhood due to poor attachment to significant others (Marshall, 1993) as a result of adverse childhood experiences. Subsequently, intimacy deficits lead to loneliness and an inability to develop healthy intimate relationships with adults. In turn, intimacy deficits manifest via inappropriate sexual relationships with children for child sex offenders (Ward & Gannon, 2006), but for sexual offences against women, intimacy deficits manifest via hostile attitudes and sexually aggressive behaviour towards women (Proulx et al., 1996). It is also reported that psycho-social conditions for sexual offenders against women include antisocial personality disorders and/or traits,

psychopathic tendencies, poor social skills, a proclivity for violating rules, and negative social influences (Hanson & Morton-Bourgon, 2005).

## Cognitive Distortions

Cognitive distortions is a psychological term given to an individual's propensity for problematic or unreasoned ways or patterns of thinking. Cognitive distortions can present in a number of ways such as drawing conclusions about a circumstance with no supporting evidence to substantiate that conclusion; overgeneralising (such as. always, never); making inaccurate or poor assumptions about a situation on the basis of a few select details while ignoring the rest; taking an unbalanced perspective on a situation by either magnifying or minimising the reality of it; taking things personally without valid reason; and dichotomous thinking (such as complete failure or total success) (Beck & Weishaar, 2014, p. 240). Again, whilst cognitive distortions are associated with sexual offending against both women and children, they differ according to each of these victim types (Arkowitz & Vess, 2003). However, past studies have criticised the notion that cognitive distortions are associated with sexual offending behaviour due to a lack of evidence to support this proposition (Maruna & Mann, 2006). Alternatively, other studies present empirical evidence to support the proposition that an association does indeed exist (Hazama & Katsuta, 2019; Ward, 2000). Ward (2000) explained that cognitive distortions are influenced by the beliefs people hold about the world around them and how this leads to interpreting situations, such as a sexual offence situation, in inaccurate and self-serving ways. These beliefs are referred to as 'implicit theories' (Ward, 2000).

Implicit theories that offenders hold in the context of a sexual offence provide offenders with justifications and minimisations for their offending behaviour (Ward & Keenan, 1999). Ward and Keenan (1999, pp. 827–832) and Polaschek and Ward (2002, pp. 393–399) identify five specific implicit theories associated with sexual offending behaviour against women and children:

*Children or women as sexual objects*: the belief that children desire pleasure and sexual satisfaction, just the same as adults do and therefore

children are perceived as sexual objects. Women are constantly receptive to the sexual needs of men, but may not realise they are.

*Entitlement:* the belief that men are entitled to fulfil sexual desires with women or children who are less important than men and they retain the right to punish any resistance.

*Dangerous world:* this belief has two strands. First, the world is a dangerous place and so are the people in it, so the only way to respond to people, including women and children, who appear threatening is with (sexual) aggression. Second, adults are untrustworthy, unreliable, and will use others for their own advantage, whereas children will not and can be trusted.

*Uncontrollability:* the belief that human urges and subsequent behaviour are out of an individual's control, so are the perceived external influences over behaviour such as a spiritual being or the Devil causing someone to sin.

*Nature of harm:* the perceived extent of harm caused to the victim is moderated by the offender's assessment of what happened compared to how much worse it could have been. Additionally, any negative outcome from a sex offence is likely to be associated with other factors of the offence (such as use of force) than the sex act itself, because sexual experiences are a natural expression of human needs and therefore good.

Together, deviant sexual interests, psycho-social conditions and/or deficits, and cognitive distortions constitute a range of factors that influence problematic thinking and behavioural patterns that can manifest in sexual offending ways. Accordingly, sex offender treatment programs (SOTPs) Sex Offender Treatment Program (SOTP) seek to alter these factors. By do so, the objective is to influence thinking and behavioural patterns in ways that support non-offending outcomes.

## Approaches to Sexual Offending Behaviour Treatment

Earlier behavioural approaches to sex offender treatment were informed by the idea that sexual offending behaviour is motivated by deviant sexual preferences (Bond & Evans 1967; Mcguire et al. 1965). This being the case, the aim of treatment for sexual offenders was to reduce sexually deviant desires and thereby reduce the proclivity for sexually offending behaviour (Laws & Marshall, 2003). In 2005, Hanson and Morton-Bourgon's meta-analysis of studies following up sex offenders post-sentence concluded that those with sexually deviant preferences had a greater tendency for sexual re-offending.

During the 1950s, the University of London's Institute of Psychiatry began developing treatment for individuals with problem behaviours including sexual offending (Marshall & Hollin, 2015). The treatment for sexual offenders at that time centred on applied procedures (aversive conditioning techniques) aimed at reducing deviant sexual proclivities and was mostly used in the UK and the USA (Laws & Marshall, 2003). As treatment for sexual offenders evolved, therapists within the USA began to also incorporate cognitive-behavioural treatment (CBT) and relapse prevention (RP) approaches in sexual offender treatment programs in order to address the unique risk factors associated with an individual's sexual offending (CBT), but also to decrease the risk for further offending (RP). Approaches characterised by CBT and RP approaches are now commonplace across the USA and have influenced treatment for sexual offenders in the UK, Europe, Australia and New Zealand.

## Cognitive Behavioural Treatment

In the early 1970s, cognitive psychology began to have some influence on behaviour therapies for a range of problematic behaviours and by the mid-late 1970s this influence was also apparent in treatment for sex offenders. The shift from behavioural therapy to cognitive behavioural therapy was characterised by the introduction of developing empathy for



victims, addressing low self-esteem, perceptions of others, cognitive restructuring and the concept of 'cognitive distortions' (Beck & Weishaar, 2014; Marshall & Laws, 2003).

Cognitive-behavioural treatment is grounded in the idea that people's thoughts, feelings, motivations and behaviour all feature in the way they respond to given situations. The way an individual thinks about and interprets a given situation influences their feelings, motivations and behaviours, and these responses have their roots in biology and past learning (Beck & Weishaar, 2014). Therefore, it stands to reason that an individual can also learn non-offending behaviours. Through CBT, the aim is to re-educate the way an individual thinks about and interprets a given situation in order to alter the remaining factors (i.e. Feelings, motivations and behaviour) that influence their response (Beck & Weishaar, 2014).

## Relapse Prevention

Relapse prevention is also a CBT approach to address problem behaviours, including sexual offending. RP began as a strategy to help people with alcoholism to avoid lapses and relapses into problematic drinking behaviours (Witkiewitz & Marlatt, 2007). RP models of treatment aim to help individuals identify the triggers for their own problematic behaviours and develop strategies to manage these triggers. RP for sex offenders is also an educational approach to reducing further risks for reoffending because it aims not only to help offenders identify and anticipate the triggers for their sexual offending, but also 'to teach them a variety of cognitive and behavioral skills to cope with these problems when they arose' (Yates & Ward, 2007, p. 218).

## SOTPs in Australia

In Australia, offending behaviour programs [OBPs] are now offered across all States and Territories to address issues associated with offending such as cognitive skills, anger management and substance abuse, as well

as addressing specific offence types such as violent offending and sexual offending. A review of the range of obps available across all Australian States and Territories reveals that sex offender treatment programs account for the greatest number and offer the widest variety in terms of specific target groups (i.e. Individuals with a cognitive or intellectual disability, Indigenous), duration of program (hours), and levels of program intensity (Heseltine et al., 2011).

Within the Australian context, early accounts of treatment for individuals who have sexually offended is reported to have been provided in forensic psychiatric facilities and prison-based settings. Although some forensic psychiatric hospital facilities are still operational in Australia, many were closed as a result of the deinstitutionalisation of mental health facilities (aka 'asylums') that has occurred since the 1960's (Richmond & Savy, 2005). This process of deinstitutionalisation has had serious implications for the over-representation of individuals with mental health concerns inside Australia's prisons (Hanley & Ross, 2013).

For the cohort of mentally ill individuals who have sexually offended and would have received treatment in forensic hospital facilities, their redirection into the criminal justice system means that access to treatment is made available via community or custodial correctional settings (Dixon, 1996). Accordingly, the range of treatment options for individuals who have sexually offended has also evolved over time in order to address assessed level of risk or to adapt the treatment program in order to cater to specific target groups such as Indigenous individuals or those with a cognitive impairment (Heseltine et al., 2011).

## What SOTPs Aim to Achieve

The primary focus for SOTPs is to reduce the risk of recidivism by addressing the risk factors that are associated with sexual offending behaviour (Collie et al., 2008). Treatment is provided on either an individual basis or in a group setting and aims to address individual-level needs associated with the sexual offending behaviour related to: (1) denial and/or minimisation of responsibility; (2) sexual and general self-regulation; (3) cognitive distortions; (4) lack of victim empathy; and (5)

interpersonal skills such as anger management, social skills, self-esteem, and intimate relationship deficits.

## Public Perceptions of SOTPs and Why They Matter

Whilst there is a growing body of evidence that shows the Australian and International public support rehabilitation for the general offender population (Bartels et al., 2018), public attitudes towards individuals who have sexually offended tend to be more punitive (Church et al., 2011; Jeglic, 2006). These attitudes have implications for public perceptions of whether or not treatment programs for individuals who have sexually offended are effective and in turn, these public perceptions influence policy (Jeglic, 2006).

SOTPs are provided as one way for individuals who have sexually offended to be rehabilitated as part of their preparation for living offence-free in the community. What it means to be rehabilitated could easily be mistaken for being 'cured'. Indeed, in other contexts that are more familiar to the wider community, rehabilitation is generally understood as 'the process of returning to a healthy or good way of life' (Cambridge Dictionary, n.d.) after injury or illness. Transferring this idea to individuals who have sexually offended raises expectations that rehabilitation will result in 'curing' people of the proclivity to offend in this way.

Alternatively, rehabilitation of individuals who have sexually offended, seeks to effect change in the individual, rather than return them to a prior condition. On account of this type of rehabilitation that promotes personal change, the individual is able to live an offence-free life (Bernard et al., 2017). One might expect then that rehabilitation programs are some kind of panacea for sexual offending where the risks of reoffending are removed as an outcome of the rehabilitative process. Perhaps this is characteristic of the individual who is transformed as a result of the rehabilitative process, but the literature does not support the notion that SOTPs rehabilitate individuals who have sexually offended by removing any risks for re-offending and therefore rendering him or her cured.

Instead, the literature consistently states that STOPs aim to reduce the risks for reoffending (Jones & Neal, 2019; McCartan et al., 2018; Ronken, 2017; Sentencing Advisory Council, 2016; Wheeler & Covell, 2014).

This distinction highlights the point that SOTPs are not anticipated to cure inclinations that some individuals may have that lead them to sexually offend, but rather to educate them to be able to manage those inclinations in order to avoid further offending. The implication here is that the proclivity to sexually offend may still continue to exist, but the goal is to educate the individual about their own proclivity to sexually offend and equip him or her with the necessary skills to better manage those inclinations in order to avoid further offending.

Current best practise guidelines for the development and implementation of custody-based treatment programs for sexual offenders focus on three predominant principles. These are referred to in the literature as the Risk, Needs and Responsivity (RNR) model of offender assessment and rehabilitation (see Andrews & Bonta, 2010). Identified and proposed over 20 years ago, the RNR model of offender rehabilitation focuses on assessing the risk of an offender reoffending within a particular context, the individual treatment needs for offender to reduce the risk of future offences, and any specific responsivity issues for each offender that may impact on the successful engagement in treatment and subsequent reduction of risk of recidivism. These three components of offender rehabilitation and treatment will be considered below in further detail, specifically focused within the field of sex offender assessment and treatment. Additional strength-based principles will also be considered and outlined, as complementary to the RNR model, namely, the Good Lives Model (see Ward, 2002; Ward et al., 2011), and the consideration of protective factors (De Vries Robbe et al., 2015).

## Risk

In order to accurately assess an offender's risk of committing further sexual offences, a consideration of both 'static' and 'dynamic' risk factors need to be undertaken. 'Static,' historical, factors are unchangeable and, within the context of sex offender risk assessment, are assessed with the

use of an actuarial risk assessment measure such as the STATIC-99R (see Hanson et al., 2016) or the SORAG (Sex offender risk assessment guide; RRASOR (see Rettenberger et al., 2017)). The factors included in such measures are empirically validated and identified from the histories of samples of prior male contact sexual offenders. These factors include a consideration of the offender's prior offence histories, age, and victimology. Generally speaking, the higher the assessed risk of committing a further sexual offence, the more likely it is that an offender will commit such an offence.

The predominant criticism of actuarial risk assessment tools is that there is no definitive way of knowing whether an offender will fall into the group who will commit further sexual offences, or the group of offenders who will not re-offend. In order to provide a consideration of 'dynamic' or changeable risk factors, an additional assessment is undertaken. An assessment of an offenders 'dynamic risk' considered alongside an offender's 'static risk', increased the overall accuracy of an assessment of an offender's overall risk of committing future sexual offences.

Assessment tools such as the STABLE 2007 (Hanson et al., 2007) and the SONAR (Hanson & Harris, 2001) have been demonstrated to identify a range of relevant factors that are considered to be changeable over time, for example, interpersonal relationships, sexual interests, problem solving skills and cognitive distortions (see Van den Berg et al., 2017 for summary of relevant dynamic risk factors). Of greatest concern, and linked to the higher rates of recidivism, is the presence of sexual deviancy (for example, Hanson et al., 1998). These dynamic risk factors determine the treatment needs recommended for each offender in order to further reduce the likelihood of future sexual offences. Additional assessment tools, described as Structured Professional Judgement Tools, are valuable in the field of sex offender assessment. These tools, for example, the RSVP (Risk of Sexual Violence Protocol; Hart et al., 2003) and the SVR-20, provide a range of empirically validated risk factors to be considered alongside a clinical interview and collateral information. These tools add to the accuracy of the overall assessment when compared to clinical judgement alone (Sexual Violence Risk – 20; Boer et al., 1997).

Generally speaking, the higher the 'risk' allocated to an individual, the greater their treatment needs and the greater number of hours of

treatment they will require to address, and manage, these factors. Difficulties arise when predicting the recidivism rates of lower frequency groups of sexual offenders, such as female, juvenile, and on-line offenders, given the lack of empirically supported validated risk assessment tools.

## Needs

Once an offender's level of risk is ascertained, the above outlined risk assessment tools provide a framework for determining the individual treatment needs of an offender. In relation to male contact offenders, these treatment needs focus around intimacy deficits, cognitive distortions, limitations to their social supports, and difficulties with their sexual and general self-regulatory behaviours. Each of these treatment targets are addressed individually by each offender in treatment. The greater the number of factors, the longer the period of treatment required. Group based treatment programs have been suggested to provide additional advantages to individual treatment. These programs are related to the resource efficiencies of treating groups of offenders, in addition to the benefit gained from peer-to-peer relationships within such groups. Open, or rolling, groups provide more flexibility in being able to address each offender's individual needs. Rather than being rushed ahead at a pre-determined rate, offenders are able to spend as much time as is required on each treatment target, commensurate with their individual circumstances (Ware & Bright, 2008; Wilson et al., 2020). Such a process also allows for the effective commencement of new group members as space becomes available, rather than requiring a delay in participation for the individual until a subsequent treatment group is commenced (a process in and of itself that is labour intensive for the facilitators). In a custodial environment, this potentially allows urgent referrals to be addressed, in addition to the inclusion of offenders with shorter sentences (Fernandez & Marshall, 2000). Furthermore, incorporating a new member into an existing group provides an easier transition as it allows the offender to

follow the existing group structure and group dynamics (Ware & Bright, 2008). Research has suggested that a rolling group results in lower attrition rates from the group and a greater therapeutic alliance (Ware et al., 2009).

## Responsivity

A range of individual factors have been demonstrated to impact an individual's ability to engage in and benefit from a treatment program. For example, cognitive deficits, cultural differences, language deficits, mental health issues, personality factors, and level of insight or denial. The ability for a treatment program to address or assist an offender in overcoming these factors will greatly increase the likelihood of an offender completing treatment. Modifications to program delivery can include additional time or sessions for an offender to address their individual needs, modification to content or the nature of the delivery of the content to assist with comprehension issues, and referral to adjunct practitioners to assist with psychotropic or anti-androgen medication.

Additional individual treatment sessions occurring concurrently with group sessions have been demonstrated to aid the effectiveness of group-based interventions by addressing the responsivity factors of certain offenders (see Wilson et al., 2020 for review). For example, offenders may present with personal trauma backgrounds that require addressing within an individual context. They may also present with significant personal traits impacting on their ability and motivation to interact within a group setting. Finally, individual treatment may be beneficial to those offenders who have re-offended or been re-incarcerated for breaches of community orders. Rather than the financial and time commitment for an offender engaging in a whole treatment program, individual treatment sessions may be able to act as a 'top up' to the prior participation with a specific focus on the factors that lead to their re-arrest.

## Strengths Based Approach

The focus of treatment programs in recent years has shifted from a relapse prevention approach to a strengths-based approach. Earlier treatment programs were centred on the Good Lives Model (GLM; Ward, 2002). This model proposes that sexual offenders possess the same basic needs as non-offenders, only they engage in behaviours to achieve these basic human needs in a criminal, anti-social manner. Such a focus has allowed for treatment programs to target the individual and personal strengths of each offender, resulting in a positive impact on their self-esteem and efforts. Within this field is the consideration of 'protective' factors present in the lives and circumstances of offenders. Although this is an emerging field within the sex offender literature, research has suggested that the presence of protective factors in the lives of sexual offenders reduces the likelihood of their re-offending.

## Is Sex Offender Treatment Effective?

The 'gold standard' of assessing the effectiveness of a treatment program is to facilitate a randomised controlled trial (RCT). These are difficult to implement within the field of sex offender treatment due to ethical difficulties associated with knowingly releasing untreated sex offenders into the community (Marshall, 2020). Furthermore, a range of additional idiosyncratic factors exist that are specific to an individual's progress in a psychological treatment program, for example, the therapeutic alliance between the treatment client and the therapists. Alternative considerations have therefore been outlined in the research as indicators of effectiveness of treatment programs. This includes a reduction in the number and degree of harm to victims, and a reduction in the financial cost of re-integrating an offender into the community (Marshall, 2020).

There are a number of meta-analyses published within the literature suggesting some positive outcomes for men who have completed treatment programs aimed at addressing their offending behaviours, for example, Gannon et al. (2019) and Hanson et al. (2009). Marshall



(2020) recently reviewed outcome data from an 11 year follow up study of a Canadian custody-based treatment program. The results suggested that 19.6% of untreated male sexual offenders re-offended over this period of time compared to 12.6% and 5.4% across two of their treatment programs (p. 179). Specialised treatment programs, as outlined below, are still in their infancy and therefore, meta-analyses reviewing the success of these programs are yet to be conducted.

## Treatment Programs Targeting Specific Offence Types

Traditionally, world-wide, group-based treatment programs are aimed at male offenders who have committed contact offences against adults or children. These programs, as previously outlined, rely on a cognitive-behavioural treatment (CBT) approach. Variations to this approach are necessary for specific cohorts of offenders who present with variances to their offence history, age, gender, and cognitive skills. These variations are consistent with the RNR model of offender rehabilitation. They provide a 'multi-factorial conceptualisation of assessment and treatment of offenders' (Proulx, 2020, p. xvii).

## Deniers

Research has failed to empirically demonstrate that acceptance of responsibility for the offending behaviour is related to recidivism (e.g. Mann et al., 2010). Traditional treatment programs have focused on the acceptance of guilt as a necessary aspect of participation in treatment. Offenders who present as categorically denying having committed the offences have historically been unable to complete this component of treatment. 'Deniers', (as these offenders are colloquially referred to), are motivated to deny their involvement in the offences due to high levels of shame and guilt about their behaviour, low self-esteem, and strong concern about the impact of admitting their guilt. Programs available to these offenders

focuses on their addressing the remaining elements of traditional treatment programs in such a manner that they concentrate on improving their lives for the future. For example, an Australian program directs the offenders to consider the challenges present in their lives in the lead up to the commission of the index offence in a way that allows them to consider their treatment targets and treatment goals within a strengths-based, Good Lives Model (GLM) framework.

## Internet Only Offenders

Offenders who commit offences on-line are a heterogeneous group including those who view, create and or disseminate child abuse material, those who try to procure children online for sexual contact, and those who have also committed contact offences in the offline world (Paquette et al., 2020). Overall, these offenders present with similar treatment needs to contact offenders, however, with higher rates of sexual deviancy, sexual pre-occupation, and intimacy problems (see Ramsay et al., 2020 for review). Research has suggested these offenders are at a higher risk of committing further online offences (Howard et al., 2014) and a lower risk of future contact offences (Babchishin et al., 2018). In her qualitative interviews of six men convicted of online offences, Klamer (2013) noted that a range of factors were present in their background including challenges within their psychosexual developmental, voyeuristic interests, employment and financial distress, and difficulties within their interpersonal relationships. Similarly, Knack et al. (2020) identified factors such as social skills deficits, maladaptive coping styles and a lack of sexual education as relevant to the role of men viewing online images of child abuse material.

The UK has recently developed and introduced a community treatment program specifically for online offenders, taking into account their additional specific treatment needs. The 'I-Horizon program' reduces the overall hours of group-based contact to 46 hours of participation, in addition to 6 h of individual treatment. The program focuses additional treatment sessions on increasing interpersonal relationship skills, healthy

sexuality and sexual behaviours, positive self-esteem and appropriate internet use (Ramsay et al., 2020).

## Female Offenders

Females perpetrate sexual offences and re-offences at significantly lower rates to those committed by males (Cortoni et al., 2010). This is consistent with the trend noted when comparing other types of non-sexual offences, that is, overall females offend at lower rates than males. Female sexual offenders are a relatively recent cohort of offenders attracting scientific and research attention. Research is beginning to consider the developmental background of these offenders, differences in offence behaviours, and best-practise guidelines in relation to the assessment and treatment of such a small cohort. Overall, female sexual offenders resemble female offenders in general more closely than they resemble male sexual offenders. Female sexual offenders differ significantly from their male counterparts in that an estimated 30 percent of female sexual offenders offend alongside a male co-offender, who is usually an intimate sexual partner. The victims of these offences are typically their biological or stepchildren, and the motivation for the offending can be coercive, such as within the context of a domestic violence relationship, or in response to their own deviant sexual arousal. In contrast, female sexual offenders who offend alone are more likely to commit offences against male child victims unrelated to them. Female offenders are more likely to commit offences involving their children being filmed as victims in the production of child abuse material rather than actually consuming and viewing the images or materials themselves (Cortoni & Stefanov, 2020).

Female sexual offenders, similar to other general female offenders, present with a range of risk factors. These factors include developmentally disadvantaged backgrounds, parental abuse or neglect, maladaptive coping styles including substance use, and unhealthy interpersonal relationships. Higher rates of mental health issues, such as Axis I and personality disorders, have been noted in those women who offend alone while higher rates of anti-social behaviours have been noted in those women who offend with a male co-offender (Cortoni & Stefanov, 2020).

To date, there is no validated actuarial risk assessment in use with female offenders. This is due to a range of reasons including the very low rates of females offending, and re-offending, females being considered within the context of male assessment and treatment until recently, and societal views depicting these behaviours as non-offending behaviours (Cortoni & Stefanov, 2020). Treatment for female offenders is best undertaken within an individualised, trauma informed approach addressing the factors that contributed to the offences, specifically, emotional and psychosocial functioning, cognitive distortions, intimacy and relationship issues, and sexual functioning. It is unclear if treatment for female sexual offenders is best facilitated within a group or individual environment; however, program decisions are likely to be dependent on the resources available, given the low numbers of female sexual offenders.

## Sexually Abusive Behaviours in Young People

The assessment and treatment of young people who engage in sexually abusive behaviours differs significantly from that of adult offenders. An in-depth analysis is outside the context of this chapter and further review and research of this topic is recommended for those interested (for example, Dopp et al., 2020). In summarising the specific field of working with adolescents who engage in sexually abusive behaviour, these behaviours are generally considered within the context of developmental processes. Adolescent offenders can be considered to engage in sexually abusive behaviours within the context of ‘generalist’ criminal offending or ‘specialist’ sexual offending. A range of factors have been identified as present in the developmental backgrounds of both groups of offenders, for example, impulsivity, problematic family upbringing, educational difficulties, and community violence. Youth who engage in sexually abusive behaviours present with higher levels of sexual and physical abuse histories, lower self-esteem, early exposure to pornography and atypical sexual interests. Similarly, they present with lower levels of anti-social peer influences, and substance use and prior offending behaviours. Accurate actuarial risk assessment for young people is an ongoing challenge due to the low rates of recidivism within this group. Current best practice guidelines

recommend a comprehensive individualised assessment of each offender's specific risk and treatment needs, as consistent with the 'RNR' principle. Specifically, a focus on the young person's strengths, and that of their family, has been recommended. Individual treatment plans are best focused on factors such as coercive sexual behaviours, impulse control, and forming emotionally healthy relationships. A comprehensive collateral assessment is imperative, including information obtained across a range of domains such as family functioning, social supports, educators, and mental health providers. The empirical evidence available on the effectiveness of treatment programs aimed at young people is limited. Some efficacies have been demonstrated with a cognitive-behavioural approach, specifically, one program targeting both problematic sexual behaviours, and a second program facilitated within a multi-system therapy framework. Overall, the research is suggestive that treatment programs for young offenders focus on assisting them to develop appropriate social and emotional coping behaviours and healthy sexual behaviours, a strengths-based approach utilising family and other supportive relationships.

## Cognitively Impaired Offenders

CBT treatment approaches are modified to take into account the limitations of offenders with cognitive impairments. Additional components such as a focus on incorporating Ward's Good Lives Model (GLM; Ward et al., 2011) can be inserted into the existing modified treatment targets, with the offenders focusing their treatment outcomes on developing improved personal goals and behaviours, within the context of their personal strengths. The importance of through care and community support is vital within this cohort, particularly in relation to the offenders returning to any residential environment that may continue to support or model sexually problematic behaviours (Frize et al., 2020).

## Ethical Considerations

A range of challenges exist within the custodial environment that impact the effective and timing administration of sex offender treatment programs. For example, staff shortages, resource limitations, unscheduled lockdowns, assaults, and other incidents all reduce the accessibility of treatment to offenders. Some researchers have in fact recommended these programs be facilitated within 'therapeutic communities' allowing for the environment to support the greater needs of the programs. The impacts of these challenges can result in a range of ethical considerations for each jurisdiction to facilitate managing. For example, resourcing within each jurisdiction will enable only a maximum number of offenders to be participants in treatment at any given time. How does one decide how to allocate offenders for treatment? Is it based on their earliest date of eligibility for release, or their level of risk, or number of outstanding treatment needs? Is it ethical to refuse an offender's release based on their inability to access treatment programs due to systemic resource limitations?

The issue of 'consent' to participate in sex offender treatment in custody is a significant point of discussion and consideration. Psychological guidelines across all jurisdictions worldwide will recommend that a participant is required to 'consent' to engage in treatment. For example, in Australia the ethical behaviour of psychologists is governed by the Australian Health Practitioners Regulation Agency (APHRA). The code of conduct (APS, 2007) requires that all potential clients are provided with informed consent to voluntarily participate in a psychological treatment program. Given that in many jurisdictions, the release into the community for sexual offenders can be mandated on their participation in treatment, are these offenders ever in a position where they can voluntarily consent to participation or is there an element of implied or coercive consent present?

Schmucker and Lösel (2015) failed to identify any differences in treatment outcomes for men who had voluntarily participated in treatment versus non-voluntary participation. This suggests that although 'consent' is a dubious notion within the legal and carceral system, additional

factors contribute to the outcomes seen in offenders who may not have been likely to consent to treatment outside the criminal justice system. For example, factors such as motivational interviewing techniques, the specific skills of the therapists to motivate and facilitate the group process, the therapeutic alliance between the offender and the therapist, and the availability of open/rolling groups allowing for an adjustment for the individual presentations and needs of each offender (Wilson et al., 2020). Subsequently, despite a range of ethical and systemic difficulties to overcome when facilitating custody-based treatment program for sexual offenders, treatment targets are achieved, and treatment clients appear to demonstrate some progress at addressing the factors that contribute to their offending behaviours.

## Conclusion

The assessment, management and treatment of individuals who commit sexual offences is a contentious issue worldwide, with the topic provoking a range of varying and emotive responses from the general public, victims, witness and the criminal justice system. Significant progress has been achieved worldwide in developing and implementing assessment and treatment protocols that adhere to scientific best practices guidelines. Such programs have evolved over time with the recent evolution of programs over the most recent decade. In recent years, many have focused on options specific to smaller cohorts of offenders; these are most evident for individuals who offend online, female sexual offenders and offenders who continue to deny their behaviours. Available empirical data is supportive of the effectiveness of some of these programs with the future of such treatment programs encouraging for those affected by these crimes. Ideally, such programs will overall reduce the likelihood of an offender committing a similar offence again in the future. Regardless of the outcome of these, all engagement between an offender and the criminal justice and educational system provides an increase in understanding of how and why an individual offends, further contributing to the growing and emerging field of sexual offender assessment, treatment and management.

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# Part III

## Student Agency



# 6

## Virgil in Hell: Commercial Prison Consultants as Teachers and Guides

James C Oleson

### Introduction

The prison is oft equated with hell (Fludernik, 2019).<sup>1</sup> For example, the fourteenth-century prison is characterised as hell in the work of da Nono (Geltner, 2006, p. 266), and the nineteenth-century prison in Oscar Wilde's 'Ballad of Reading Gaol' (1898, ll. 407–408). Newgate Prison operated as 'a prototype of hell' (Halliday, 2007), while the solitary cells in Coldbath Fields allegedly gave the Devil hints for improving his prisons in hell (Byrne, 1989, p. 73). Ferguson (2014) describes the US prison system as an 'inferno'; Reynolds (1890) writes of the 'twin hells of Kansas and Missouri penitentiaries'; prison hulks were hell on US rivers (Lowenthal, 2009); solitary confinement in prison is a 'hellhole' (Gawande, 2009); supermax prisons are 'a clean version of hell' (60 Minutes, 2007);

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<sup>1</sup> Along with the metaphor of the tomb, the hell metaphor is the most common—Fludernik says 'hackneyed' (2019, p. 47)—of a large set of prison metaphors.

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and accounts of US Civil War prisoners in southern POW camps are ‘a perfect picture of hell’ (Genoways & Genoways, 2001). World War I prison camps were a ‘hell on earth’ (Hameiri, 2017).<sup>2</sup> Auschwitz (Newman, 2015), Bergen-Belsen (Lerner, 2020), Buchenwald (Whitlock, 2014), and Treblinka (Grossman, 2014) have all been described as ‘hell’, as has the Soviet gulag system (Remnick, 2003). Comparing prisons to hell invokes notions of darkness, judgment, and torment.<sup>3</sup> Certainly, as Jewkes (2014) observes, invoking the hell metaphor justifies and authorizes the prison as a site of intentional suffering (c.f., Christie, 2007).

Two literary works in particular have shaped the western conception of hell in the popular imagination: Dante’s *Inferno* (Alighieri, 1995, originally published 1472) and Milton’s *Paradise Lost* (Milton, 2005, originally published 1674). In George Bernard Shaw’s *Man and Superman*, the Devil describes the impact of these works on humans:

Hell is a place far above their comprehension: they derive their notion of it from two of the greatest fools that ever lived, an Italian and an Englishman. The Italian described it as a place of mud, frost, filth, fire, and venomous serpents: all torture. This ass, when he was not lying about me, was maundering about some woman whom he saw once in the street. The Englishman described me as being expelled from Heaven by cannons and gunpowder; and to this day every Briton believes that the whole of his silly story is in the Bible. What else he says I do not know; for it is all in a long poem which neither I nor anyone else ever succeeded in wading through (Shaw, 1930, p.106).

Milton’s account of Satan’s expulsion from Heaven establishes hell as a prison (Fludernik, 2019), and consequently frames God as a jailer—a concept elaborated in Thomas More’s *Dialogue of Comfort against Tribulation* (1951). But it is Dante’s *Inferno*, a hell not only populated with fallen angels but also congested with human souls, which serves as

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<sup>2</sup>The ‘hell on earth’ trope has been applied to dozens of prisons, including Karaj Central Prison (Iran), Phu Quoc Prison (Vietnam), Okrestina (Belarus), and the federal supermax at ADX Florence (Colorado, USA).

<sup>3</sup>Of course, through the extended hell-metaphor of purgatory, they also connote expiation and potential redemption.

the principal template for the prison as hell. As Dante enters the underworld, an iconic inscription over the gate of hell reads, 'Abandon hope, forever, you who enter' (Alighieri, 1995, p. 34). In both tone and direction, this inscription operates as a prison 'welcome speech,' an iconic meme across generations of prison movies (prisonmovies, nd). Indeed, in one edition of *The Crime of Imprisonment* (Shaw, 1946), a William Gropper caricature of George Bernard Shaw holds aloft a lamp that reveals brick walls and prison bars. In the shadows above the bars, Dante's iconic words (Abandon All Hope, Ye Who Enter) can be faintly discerned.

Dante, however, does not enter hell alone. Before arriving at the gates of hell, Dante, lost in a dark wood, is driven back into the darkness of error by three beasts—a she-wolf, a lion, and a leopard—but he is rescued by a shade: 'a figure coming toward me of one grown weak, perhaps from too much silence' (Alighieri, 1995, p. 20). The phantom, of course, is the great classical Roman poet Virgil, author of the *Aeneid*. Virgil exemplifies the Roman virtues; he is sober, wise, and the embodiment of reason. Dante tells him 'You are my guide. You are my lord and teacher' (Alighieri, 1995, p. 31). Virgil leads Dante downward through nine circles of hell, then upward, ascending the nine rings of Mount Purgatory, before he entrusts Dante to the care of Beatrice so that he might finally enter heaven. Without Virgil, Dante would be lost in the hinterlands of hell. The only way that Dante can navigate the prison of hell (and escape it)<sup>4</sup> is by education from a wise teacher and expert guide.

## Prison Consultants

Today, there is little demand for Virgil: the humanities remain in crisis (e.g., Fish, 2010). But there is a great and growing need for guides who can educate first-time prisoners navigate their new environment. For, although prison is filled, disproportionately, with young men of colour (Oleson, 2016), and although most of those in prison have been in prison before (Durose et al., 2014), unprecedented growth of US mass incarceration since 1980 means that increasing numbers of 'respectable'

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<sup>4</sup> *Inferno* is a prison escape story (c.f., Martin & Chantraine, 2018).

citizens have become ensnared in the criminal justice system, including individuals who lack direct knowledge about these institutions.

The overwhelming majority of people have no direct knowledge of the worlds of crime and criminal justice. Save for criminal justice professionals, lawbreakers and their ‘significant others,’ victims and social researchers grappling with pertinent issues, the rest cannot but glean information solely from mass-mediated representations (Cheliotis, 2010, p. 178).

Through their consumption of media accounts, people construct heuristics—folk criminologies about crime and punishment (Oleson, 2015). But media representations of crime and punishment are notoriously inaccurate. ‘Whatever the media show is the opposite of what is true. In every subject category ... the entertainment media present a world of crime and justice that is not found in reality’ (Surette, 1998, p. 47). We think that we know prison, but know that we do not. This means that many new prisoners attempt to navigate the prison with flawed information. It means that film clichés (e.g., ‘on your first day, attack the biggest guy on the yard’)<sup>5</sup> attains sufficient cultural currency to pass as legitimate mainstream knowledge. This is why the *Onion* spoof, ‘Biggest Guy in Prison Tired of Every New Inmate Beating Shit out of Him on Their First Day’ (Onion, 2018) is funny even to general audiences.

Imagine the terror of going to a maximum-security US state prison as a young first timer (Oleson, 2002, pp. 897–899). All that you know (or *think* you know) has been cobbled from news headlines and Hollywood films. You do not know where you will be housed or who your cellmates will be. You assume the food will be inedible, but do not know what you will be permitted to buy at the canteen. You do not know if the guards will be sadistic. You do not know if you will be pressured to fight or to join a gang. Fighting is an integral part of the convict identity ... a rite of passage (Silberman, 1995, p.72). You do not know if you will make

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<sup>5</sup> This trope appears in many films: *25<sup>th</sup> Hour* (‘When you get there, figure it out who’s who. Find the man nobody’s protecting. A man without friends. And beat him until his eyes bleed. Let them think you are little bit crazy, but respectful, too. Respectful of the right men’), *Office Space* (‘Minimum-security prison is no picnic. I have a client in there right now. He says the trick is: kick someone’s ass the first day or become someone’s bitch. Then everything will be all right’), and *Deadpool 2* (‘First rule of the yard, fuck-face: find the biggest guy and make him your—’).

friends or if other prisoners can be trusted. You cannot even know if you will be ‘turned out’ (raped) and trafficked as a sex slave (Man & Cronan, 2001). The US Supreme Court has lamented that ‘a youthful inmate can expect to be subjected to homosexual gang rape his first night in jail, or, it has been said, even in the van on the way to jail’ (United States v. Bailey 1980, p. 421). The anxiety about prison rape was echoed in a Canadian Supreme Court decision when a US prosecutor warned five Canadian defendants they would ‘become the boyfriend of a very bad man’ if they resisted extradition (United States of America v. Cobb 2001, ¶8). In desperation, you watch the 2000 prison film, *Animal Factory*, and feel a glimmer of hope when hardened con Earl Copen takes first timer Ron Decker under his wing. Copen teaches Decker how to interpret his experiences and how to navigate the prison environment (c.f., Becker, 1953). Copen’s protection is not wholly altruistic—while paternalistic, it is based in part on sexual desire—but he does not harm Decker. On the other hand, you watch the HBO series *Oz*, against explicit professional advice (Hoelter, in Miller, 2020). In season one, when seemingly-friendly Vernon Schillinger offers to rescue newcomer (and convicted lawyer) Tobias Beecher by celling with him, the façade of kindness is dropped during their first night, when Schillinger (leader of the Aryan Brotherhood) brutally rapes Beecher and brands him with a swastika. Beecher’s rape precipitates a spiral of heroin abuse, revenge, and murder. Thus, the message appears to be, distinguishing a trustworthy guide from a false friend is of paramount importance in the prison. And this is where prison consultants, the Virgils of contemporary mass incarceration, can help educate ‘new fish’ for the experience of prison.

Although, curiously, there is no academic scholarship on the phenomenon of prison consultancy, there is a substantial commercial literature. A number of celebrities have availed themselves of the services of prison consultants, including Bernie Madoff, Michael Vick, Ivan Boesky, Martha Stewart, Leona Helmsley, and Lori Loughlin. The niche profession of prison consultants has been profiled in US publications as varied as *Criminal Justice* (Ellis, 2002), *Forbes* (Pavlo, 2015), *The Economist* (Nixey, 2019), *Town and Country* (Goldman, 2020), *Vanity Fair* (Miller, 2020), *New York Magazine* (Senior, 2002), and the *New York Times* (Richtel, 2012). Although the industry is a more recent development in

the UK, prison consultants have been profiled by the BBC (Prasad, 2019), in the *Independent* (McSmith, 2013), and in the *Guardian* (Noor, 2020).

A number of handbooks and memoirs have been published to help prisoners do the best time that they can, including *You Are Going to Prison* (Hogshire, 1994), the *Federal Prison Handbook: The Definitive Guide to Surviving the Federal Bureau of Prisons* (Zoukis, 2017), *Surviving and Thriving in Prison: A How-To Guide for Federal Inmates* (Dantes, 2018), *Behind Bars: Surviving Prison* (Ross & Richards, 2002), and *When You Have to Go to Prison: A Complete Guide for You and Your Family* (Kohut, 2010). There is also a sizable and growing field of consultants who draw upon their own experience (sometimes academic, usually lived) to assist convicted defendants prepare for incarceration. Some consultants are solo practitioners, while others belong to large organisations; some focus entirely on prison consultancy, while others advise clients on a range of matters.

Prison consultancy is an unregulated field, without specific educational or carceral requirements. As Zoukis (2017, p.3) notes, many individuals who operate as prison consultants are (1) criminologists with research expertise but no first-hand experience of prison conditions, (2) former inmates who have served short sentences in low-security facilities, or (3) hardened criminals whose advice is relevant only for similarly-situated individuals. Within the field, there are debates about whether time in custody is a desideratum. Can someone with a year of minimum-security experience educate a client for medium-security confinement? Can a long-time maximum-security convict prepare a white-collar offender for a prison camp? The well-known operator of American Prison Consultants and Wall Street Prison Consultants, Larry Levine, says, 'Look at my resume. I've got 10 years: high-security, medium, low. These guys go in for a year and a half, maybe two. I've got more experience than all the rest of these guys combined' (Levine in Richtel, 2012). But William Mulholland, 'the Real Prison Consultant' (who served more than 21 years in prison), dismisses Levine's claim of expertise: 'If I was in prison, I wouldn't share a chow table with Larry Levine. He's like a used-car salesman' (in Richtel, 2012). Michael Frantz, who operates Jail Time Consulting, served a little less than three years in a federal camp. It makes

sense that former prisoners, who face re-entry barriers to education and employment (Bushway et al., 2007), would hope to capitalise upon their incarceration by serving as coaches, guides, and teachers. The vocation appears to be an example of ‘doing well by doing good’. For example, Obie Chambers of the Exigency Group says, ‘Nothing can compare with helping a person’s family through the storm. They are often overlooked during this process but they need the most support’ (Chambers in Pavlo, 2015). Not only can prison consultants help first-time prisoners manage their anxiety, adjust to a profoundly dysfunctional social environment (Nygaard, 1995), and learn to work effectively toward parole (Santos, 2013), but consultants can earn a substantial amount of money while doing so. Some consultants charge by the hour—Justin Paperny of White Collar Advice quotes a current rate of \$400 per hour (Powers, 2021)—while others charge by the service or program—for example, Jail Time Consulting’s surviving prison course costs USD\$495 and White Collar Advice’s sentence mitigation course is \$997. The Jail Time Consulting package that includes 24-hour access to Michael Frantz himself costs \$35,000 (Prasad, 2019), and Paperny describes a sweeping price range for his services: from \$9.00 (for his book) to more than \$100,000 (for elaborate options including ghost-writing books, brand building, and running a business) (Prasad, 2019). Of course, that kind of money is far out of reach for most convicted defendants (Wacquant, 2009), and it is telling that Levine’s clients consist of offenders with money: 75% white-collar offenders and 25% narcotics offenders (Prasad, 2019).

Whether these prison consultants provide objectively useful guidance is a contested question. Some of the services provided by prison consultants, especially those related to sentence mitigation, resemble traditional legal work provided by defence counsel;<sup>6</sup> other advice, related to BOP sentence reduction programmes such as the 500-hour residential drug abuse programme, transfers, or release date calculations, closely resembles

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<sup>6</sup> Levine is sceptical of placing faith in one’s defence counsel for these services: ‘The lawyers, they really don’t care. I don’t care how much you’re paying your lawyer - your lawyer has never spent one day behind the fence inside of a cell, he doesn’t know, he just wants to plead you out, take your money and be done with you.’ (1 News, 2019).



the remit of prison counsellors;<sup>7</sup> and other consultant advice (be respectful of others, keep personal information private, don't borrow things from other prisoners, and don't snitch) seems like simple common sense. Indeed, Donson (2016) warns that many prison consultants are unscrupulous opportunists who prey upon the anxieties of desperate white-collar defendants. Paperny makes a similar point:

Many so-called prison consultants masquerade as experts, citing time they served as their credential. They sell fear, preying upon people who are more vulnerable than ever. ... We recognize that many prison consultants are distasteful, bordering on sleazy in their approach to dispensing guidance (White Collar Advice, About the Company, n.d.).

But the therapeutic value of a consultant's work must not be underestimated: 'I'm like a cross between a psychologist, a marriage counsellor, a life coach and a priest' (Levine in Prasad, 2019). For white-collar defendants bound for prison, there are myriad anxieties, but two loom particularly large: 'Will I be raped? Will I be killed?' (Fuller in Chestang, 2015). The prison consultant's value lies in his ability to mitigate those dangers.

## A Survey of Ten Sources

Rape and violence both underpin scores of prison films and novels (Eigenberg & Baro, 2003): *Midnight Express*, *The Shawshank Redemption*, and *Sleepers* are a few iconic examples but there are dozens more, including the entirety of the women-in-prison genre (Cecil, 2007). The poster for *Let's Go to Prison* (2006) is a sight gag for rape: a dropped bar of soap in open showers. Therefore, to ascertain the importance of rape and other violence within representations of prison consultants, a survey was conducted of three films (*25<sup>th</sup> Hour*, *Big Stan*, and *Get Hard*), three prison

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<sup>7</sup>This point is made ably by Donson (2016): 'The victimization of white-collar defendants all too prevalent. It is basically *caveat emptor*, 'let the buyer beware,' that you are being persuaded to pay for things which will ordinarily occur within the framework of the prison system. Most private prison consultants have little control or impact because of the statutory discretion given to the BOP'.

books (*You Are Going to Prison, You Got Nothing Coming: Notes from a Prison Fish*, and *Incarcerating White-Collar Offenders: The Prison Experience*), and four consultancy websites (Jail Time Consulting, Prison Professors, Wall Street Prison Consultants, and White Collar Advice). These sources were selected deliberately and opportunistically. Another sample might present a different picture. Nevertheless, these sources all encode messages that help to explain prison consultancy as a response to fears of racialized prison violence.

## Films

All three films, two comedies and a drama, centre upon and derive from the fear of homosexual prison rape. For this reason, they are worth quoting at some length. In Spike Lee's acclaimed 2002 film, *25<sup>th</sup> Hour*, viewers watch voyeuristically as Monty Brogan enjoys his last day of freedom before surrendering himself to the authorities and commencing a seven-year federal sentence for dealing drugs. At the end of the day, Brogan asks an old friend (Frank Slaughter) to beat him up, confessing that he is terrified of being raped upon his arrival at the prison. 'I need you to make me ugly. I can't go in there looking like this. I already told you. It's all about the first day. If they get one look at me looking like this, I'll be finished.' Slaughter demurs (friends don't beat up friends, after all),<sup>8</sup> but after Brogan provokes him sufficiently, his friend relents, breaking Brogan's nose and leaving a score of swollen bruises across his face.

In Rob Schneider's 2007 directorial debut, *Big Stan*, Schneider plays the titular character, a real estate swindler sentenced to three years in prison. Given six months to put his affairs in order, Stan Minton is increasingly terrified of being raped in custody and at one point goes into a dive bar. After noticing a hoary-bearded biker's 'property of state prison'

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<sup>8</sup> There is an irony in casting Edward Norton, the nameless protagonist who seeks out authentic living through clandestine bare-knuckle fighting in David Fincher's 1999 *Fight Club*, as Montgomery Brogan. Brogan also uses consensual violence to improve his condition. Of course, in the 1998 film, *American History X*, Edward Norton plays Derek Vinyard, a first-time prisoner who is muscular enough and violent enough that he does not worry about his reception as a neo-Nazi in prison. In this film, however, Vinyard *is* gang raped in the showers when he disavows his prison gang of white supremacists.

tattoo, he turns to Tubby (Dan Haggarty) for ad hoc paid prison consultancy:

Tubby: 'Do you got a problem?'

Stan: 'No, no, I, I was just wondering. You've been to prison, right?'

Tubby: 'You *do* have a problem.'

Stan: 'No, I, I'm going to prison. I've never been there before and I was thinking maybe you can give me some pointers. I'll pay you a hundred bucks.'

Tubby: 'Just for talkin?'

In the next scene, Tubby and Stan are seated at a small table, drinking. The dialogue immediately turns to rape jokes.

Tubby: 'How much time did you get?'

Stan: 'Three to five.'

Tubby: 'Where at?'

Stan: 'Verlaine.'

Tubby: 'Verlaine? That's fucked, Stan. Guards just don't give a damn. Let the cons beat the shit out of one another all day.'

Stan: 'How am I going to do in there? I mean, if you saw me, would you beat the shit out of me?'

Tubby: 'I'd probably rape you.'

Stan: 'You'd rape me?'

Tubby: 'Yeah.'

Stan: 'So it's true, huh? A lot of guys turn gay in prison?'

Tubby: 'I'm *always* gay. I only rape people in prison.'

Stan: 'You're gay?'

Tubby: 'Yeah, this is a gay bar.'

Stan looks around the bar and sees three patrons look up from a foosball game, hug effeminately, and kiss: a stereotyping gay joke. But in a brief, oddly self-reflexive moment, Tubby deconstructs the rape joke

through an insightful lens of power and control,<sup>9</sup> although this momentary respite simply sets up the next part of the rape joke:

Tubby: ‘Look, rape isn’t an act of sex. Rape is an act of violence. And in prison society, it’s all about violence. You’re judged by how bad the other cons fear you. By raping a dude is the ultimate way of beating him down. Means you’re one bad motherfucker.’

Stan: ‘So, you rape people?’

Tubby: ‘Well, now that’s something I’m not real proud of. I don’t condone the practice to be honest, but I do it some. Just to keep up with the Jones. You know what I mean. Little dude like you, be an easy mark.’

Stan is therefore justified in enlisting the help of The Master, who teaches Stan martial arts, thereby allowing Stan—in a kind of little man’s wish fulfilment fantasy—to defeat predatory inmates, unify rival prison factions, and outwit a corrupt warden.

Identical motives and similar plot points underpin Etan Cohen’s 2015 film, *Get Hard*. After wooden and privileged hedge fund manager James King is framed for fraud and embezzlement, he refuses a plea deal and is sentenced to ten years in San Quentin. He is granted 30 days to put his affairs in order. King briefly contemplates fleeing as a fugitive, but eventually turns to Darnell Lewis, a guy who runs a carwash service, for advice on surviving prison. As soon as King reveals where he is going, the conversation turns to rape.

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<sup>9</sup>The inverse relationship between toughness and sexual exploitation is well described by Sykes:

But even though the *punk* does not exhibit those mannerisms characterized as feminine by the inmate population, he has turned himself into a woman, in the eyes of the prisoners, by the very act of his submission. His is an inner softness or weakness; and, from the standpoint of the prisoners, his sacrifice of manhood is perhaps more contemptible than that of the *fag* because he acts from fear or for the sake of quick advantage rather than personal inclination (1958, pp. 96–97, italics in original).

- James: 'For the love of Alan Greenspan! Fuck! My life is ruined. I venture you've heard that I'm going to prison.'
- Darnell: 'Yeah. No, we uh, we all did. I didn't want to bring it up first is all. Come on, they're probably sending you to some Club Fed prison. Be playing tennis and golf, you know.'
- James: 'I'm going to be attending San Quentin.'
- Darnell: 'They're sending you to San Quentin? Oh!'
- James: 'What?'
- Darnell: 'Oh God. They fucking in San Quentin.'
- James: 'Oh!'
- Darnell: 'Everybody gets the dick!'
- James: 'I don't want it.'
- Darnell: 'You're not going to get it. You'll be there for three months.'
- James: 'I'm going to be there for ten years.'
- Darnell: 'God. Damn. Ten years! Ow.'
- James: 'Why do you say it like that?'
- Darnell: 'Oh!'
- James: 'It's not as bad as I've heard, is it?'
- Darnell: 'If you heard everyone fucking, it is. That's how bad it is.'
- James: 'I didn't hear that part.'
- Darnell: 'Might as well call that San Fucking, man. I don't wish that on my worst enemy. You talking about bad, that's bad.'

As in *Big Stan*, there's a self-aware moment underneath the joke in *Get Hard* that should appeal to criminologists. King condescendingly assumes that Lewis has been to prison (he has not) simply because Lewis is Black and because Blacks are overrepresented in US prisons (c.f., Oleson, 2016). There is even a slight nod to the social problem of felon disenfranchisement (Manza & Uggen, 2008).

- James: 'You should know, I'm sorry to remind you.'
- Darnell: 'What are you... what are you talking about?'
- James: 'Well, the fact that you went to prison.'
- Darnell: 'The fact that I went to prison?'

James: 'Yes. Look, you did your time. You paid your debt. And we, as society, should welcome you back. And we do. You and I are exactly the same, except you can't vote, ever.'

Darnell: 'Just before I get to another level of anger, Mr. King, just tell me—for giggles—how do you know I went to prison?'

James: 'It's really quite simple. Statistical analysis is what I do. Here's the deal. One out of three Black men will find themselves incarcerated during their lifetime. Imagine a pizza, okay?'

Darnell: 'Okay.'

James: 'There are three pieces. Three black pieces. One of those pieces of pizza will be thrown in jail at some point during its life.'

It is unclear whether it is James King's blithe racism or the dystopia of Black male bodies in the US criminal justice system (Wacquant, 2009), but something in the exchange sufficiently provokes Lewis to counter with his own analysis. And the focus, of course, is prison rape.

Darnell: 'You know what, let me give you my statistical analysis. You going to San Quentin. There's a one hundred percent chance that you're going to be somebody's bitch. Ten years of this. [slaps hands together] Hunh. Hunh. Hunh. Hunh. Hunh. Hunh. Hunh. You know what that is?'

James: 'Mmm-mmm.'

Darnell: 'That's a big ass black man on your pale white ass.'

James: 'Aw.'

Darnell: [slaps hands together again] 'Hunh. Hunh. Hunh. Hunh. Hunh. Hunh. Hunh. You: 'No! I don't want anymore! Stop! That's enough!' Too late. He done tagged the next guy in. [slaps hands together quickly] That's like a rabbit. You don't want him no more, so here comes a guy who wants to rub your face. Ahh. I like his hair. He's breathing on you. That's disgusting. But guess what? You can look forward to ten years of it.'

James: 'What if I speak to all the bitches and we organise, form a union, and we put our feet down and say, enough! There's got to be more of us than them.'

Darnell: 'Well, there's not. You deserve everything you're getting. Good luck on survival, sir. Better luck on handling yourself.'

Finally, with the threat of rape on full display, the conversation shifts to the issue of prison consultancy. There is an inversion of power: the heretofore-subordinate Black car washer suddenly assumes power over a rich white banker. Finally, Lewis' prison expertise, even if it is false, is valued and monetised.

- James 'Wait, wait, wait, don't leave, don't leave please. I could use your help.'
- Darnell 'Help you with what?'
- James 'Help me to not be someone's bitch.'
- Darnell 'You expect me to help you. I'm supposed to teach you what?'
- James 'How to prevent this.' [claps hands awkwardly]
- Darnell 'Stop.'
- James 'You could train me. You could be the Athena to my Odysseus.'
- Darnell 'I don't even know what the fuck that is, man.'
- James 'I, I could pay you. Whatever it takes.'
- Darnell 'I need thirty thousand dollars.'
- James 'Done.'

The rest of *Get Hard* is as far-fetched as *Big Stan*: Lewis prepares King for incarceration through an array of silly training scenarios; King is disillusioned when he learns that Lewis is not actually an ex-con; then, like something out of a Scooby Doo episode, they reconcile as buddies to identify the actual embezzler, sneak onto a yacht to steal his computer, and are rescued by the US Marshals. King is exonerated while the real criminals are sent to San Quentin (and are immediately victimised).

## Books

All three of the surveyed books—a survival handbook, a memoir, and a scholarly monograph—include rape, conflict and violence in their discussions of prison culture. Violence occupies a prominent position in Jim Hogshire's, 1994 *You Are Going to Prison*, said to be the source material for the film, *Let's Go to Prison* (2006). Indeed, rape appears almost immediately in Hogshire's introduction:

A half dozen people die each day in U.S. prisons. Another one hundred are seriously injured. Savagery and viciousness rule our prisons. Torture by prison guards is routine. And if women feel the problem of rape and violent assault has reached intolerable proportions in the free world, consider the problem in U.S. prisons where sexual assault is a virtual certainty for anyone. For you. You, the prisoner. One in a million. Fucked up the ass, locked in a cell and eating fatback with hair growing out of it. Your friends will forget you, your wife will leave you, your mama can't help you and you will live by the law of the jungle whether you like it or not. That's prison. Hell on earth. And it is not a country club (1994, pp. 2–3).

It reads like a vulgar glimpse of the Inferno, even naming the prison as hell, and the back cover text positions its author as a Virgilian figure: 'Jim Hogshire guides you through the correctional system, pointing out all the dangers and scams, leading you toward the safest path.' In six chapters—custody, arrest, prison, jailhouse justice, execution, and an afterword—Hogshire paints a nightmarish picture of the US prison landscape. But his sections on rape are among the most disturbing:

More than 90% prison rapists are black and the instance of a white raping a black is the rarest of all. If this rankles your ideals about racial harmony and the essential equality of the races, etc.—tough shit. Most rape victims are young and white. ... In some prisons, race is everything. If you are unlucky enough to be a white entering a large prison where young, aggressive blacks are in control and race war is continuous, you will be set upon very quickly by black guys who will try to get off in your ass. ... In some cases this may happen within hours of your arrival. ... If you are the type who is afraid of violence, who would in a given situation, prefer to blow a guy than get punched out, you're going to be a prison punk. If you are weak, you'll be fucked. It is unavoidable (Hogshire, 1994, pp. 76, 79).

Jimmy Lerner's, 2003 memoir, *You Got Nothing Coming: Notes from a Prison Fish*, also paints a bleak, graphic picture of the modern US prison. Lerner, a self-described nice Jewish boy from Brooklyn, begins his three-part narrative inside an 8' × 10' suicide watch cell, and he, too, draws liberally upon hell imagery. In fact, part one of Lerner's book is entitled, 'The Abyss' (p. 3) and quotes Dante's inscription over the gates of hell;



part two is entitled, 'Inferno' (p. 141). Just as Dante was guided through hell by Virgil, Lerner is guided benevolently through the labyrinth of Nevada State Prison by his massive cellmate, Kansas, the skinhead leader of a Nazi gang.<sup>10</sup> The threat of rape is often present in *You Got Nothing Coming*; for example, upper tier prisoners jeer about a 'muthafuckin' par-tay in yo butt' when Lerner enters general population (p. 35), but because he is housed with Kansas, this threat is effectively neutralised and Lerner is never forced to address the issue.

Brian Payne's, 2003 *Incarcerating White-Collar Offenders: The Prison Experience and Beyond* surveys the literature on white-collar crime and punishment, with chapters on motivation to commit white-collar crime, denial and excuses, and white-collar punishment. His chapter on the experience of white-collar offenders focuses upon what he calls 'the six Ds' (p. 82): depression, danger, deviance, deprivations (of status, privacy, identity, freedom, and future), denial, and doldrums. Payne notes that white-collar offenders feel at heightened risk of physical assault and rape for at least six reasons:

First, white-collar inmates often believe that these assaults are more common than they actually are. Second, they may be verbally harassed by inmates simply because they make more money, and this harassment results in fear about victimization. Third, some white-collar inmates, especially politicians and those who work in the justice system, are often blamed by the inmates for the inmates' incarceration. Fourth, many white-collar inmates feel weaker physically. Fifth, inmates with longer sentences (more often violent offenders and drug offenders) are not particularly fond of those who receive shorter sentences. Finally, some white-collar criminals believe, sometimes justifiably, that they are simply not liked by other offenders. According to a former New York City disc jockey who spent time in a minimum security prison, 'Let's just say you're not a welcome addition, and people don't want to be around you' (Payne, 2003, p. 94, citations omitted).

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<sup>10</sup> There is irony in a middle class, middle-aged Jew finding protection from a giant Nazi with a 3' swastika tattooed upon his neck.

## Websites

The four consultancy websites (Jail Time Consulting, Prison Professors, Wall Street Prison Consultants, and White Collar Advice) do not foreground the dangers of physical assault. There are occasional allusions to the issue: for example, on Wall Street Prison Consultants' testimonial pop-ups, one former client attests 'As a first-time white-collar inmate doing time for sending a fax ... I could have been killed.' There are also allusions to rape: for example, in Jail Time Consulting's FAQ there is a question, 'I've heard a lot about sex in prison; do I need to worry about sexual assault?' while in Wall Street Prison Consultants' Fedtime 101 Prison Survival Program, one of the topics is 'Prevent being RAPED' and the page for sex offender defendants states, 'Prison violence is real.' But as a rule, the consultancy websites de-emphasise the violence of prison culture and instead emphasise the potential to reduce one's future sentence, to repair reputational damage, to remove criminal records, and to influence institutional decisions about transfers, custody and security level placements, and medical care. They provide toll-free US numbers for confidential consultations, use online forms to tailor advice to client needs, offer free e-books and digital guides, and offer a spectrum of products and services.

Although there is a great deal of similarity between the four websites, each is distinct. White Collar Advice, operated by Justin Paperny and colleagues, is a polished and elegant website. The home page promises to 'prepare you for sentencing or prison'; uses 'as-seen-on' logos for *CNN*, *CNBC*, *60 Minutes*, *ABC*, *Forbes*, *Fox News*, and *Dr. Phil*; and contains links to a 90-minute video with Dr. Phil, to Paperny's book (*Prepare: What Defendants Need to Know*), client case studies of sentence mitigation, a free course on character reference letters, a monthly YouTube schedule of rotating presentations, an instant download of an e-book (Lessons from Prison) for those who register, FAQs, and blog entries. The store contains courses, templates, and books (in paperback and pdf). An endorsement from the Washington Post mentions Paperny's links to Hollywood, which helps explain the link at the bottom of the page to a

‘NBC Universal & the Esquire Network Presents the Justin Paperny Movie: *My Deal with the Devil*.’

While White Collar Advice focuses on one-on-one advising, Prison Professors focuses on content produced for wide scale consumption. Michael Santos’ Prison Professors site is also highly polished, with a sidebar list of keynotes and dropdowns across the top for testimonials, store (including courses, consulting by the hour, and books), services, contributors (including Paperny), and contacts. The site encourages visitors to sign up to receive free bonuses, and a small logo in the bottom right invites users to click for live chat (‘We’re Online! How may I help you today?’), like an insurance website. Santos’ page on the Prison Professor Story, with images from his history, is particularly interesting: Santos served 26 years of a 45 year sentence and vowed to make a million dollars within five years of his release (which he did, early, before losing \$4.9 million in assets in 2018).

Larry Levine’s website for Wall Street Prison Consultants is more static, with a large toll-free number and an offer for a 30-minute free consultation and a free e-book (*Fed Time 101*) across the top of the page. Six packages are offered: bronze, silver, and gold (for pre-custody defendants), early release, in-custody services, and post-custody services. The text advises: ‘Don’t go at this journey alone, have a fighter and a friend by your side. Get your plan in place now, there is no room for error in the prison system.’ A photo of Levine, bald with a grizzled goatee, sporting a black shirt and aviator sunglasses suggests a no-nonsense tough guy. His credentials (appearing in text, not logos) mirror those of White Collar Advice: *CNN*, *Fox*, *MSNBC*, *Washington Post*, *Wall Street Journal*, and the *New York Times*. His focus is on consulting, including novel services such as false indictment and plea documents so that sex offenders can ‘prove’ that they were convicted of drug or financial crimes. Wall Street Prison Consultants does not sell books or courses.

Finally, Michael Frantz’s Jail Time Consulting site is no-frills, text-heavy, HTML. Under the large logo is a toll-free number for free, confidential consultation. The left of the home page contains a list of links to 5 sentence reduction programs, 10 inmate programs, and 7 defendant programs. Small buttons at the top link to the *JailTime* book and *JailTime Reports*. Frantz’s \$49.99 book consists of practical guidance for

defendants in the federal criminal justice system, while his series of 35 reports (costing \$9.99 each) focus on topics as diverse as intake screening, prison's unwritten rules, and release. On the Jail Time Consulting site, there are links to testimonials, a blog, and a FAQ page. Frantz's description of his book, *Jail Time*, provides a sense of Frantz's view of the criminal justice system:

Jail Time was published and it sold like hot cakes. The publisher soon ran out of copies and had to print more. It was an immediate best seller and is still the #1 Prison preparation book in print today. ... Jail Time Consulting started with a boom and continued as I was fielding calls and getting new clients almost daily. **Fox News** called, **ABC's 20/20 News Program** called, and even the **Oprah Winfrey** television channel called. Then disaster struck. My probation officer was transferred and I was assigned a new probation officer. ... I remember to this day his exact quote the very first day I met him. He said, *'I think criminals need to be punished and they don't need help. I would never have allowed you to be a consultant and help criminals and I will do everything in my power to stop you.'* ... Equally ridiculous, ludicrous, and moronic was the federal district judge who followed the Probation Officers lead and actually shut down Jail Time Consulting, the Jail Time Consulting website, and my book. His bias, prejudice, and slanted views were evident throughout the hearing (Jail Time Consulting, Product, Jail-Time, n.d., n.p., italics and bold in original).

The experience prompts Frantz to describe *Jail Time* as a kind of subversive literature, as 'the book a United States District Judge doesn't want you to read.' Frantz's personal narrative, like Levine's arrest story, Paperny's *Deal with the Devil* movie, and Santos' entrepreneurial timeline, might seem a bit self-involved. But they underscore a tension within consultancy work: although white-collar clients hire prison consultants as problem solvers, not as friends, consultants must reveal enough personal detail, and enough relevant experience, to persuade the client that they have the vision, and are the right kind of person, to help solve the problem. Every Dante must be made to believe that his Virgil can lead the way.

## Discussion

Because the prison is a site of deliberate human suffering (Christie, 2007), it is frequently analogised to hell. This has been true for centuries (Geltner, 2006) and the appellation has been applied to POW camps, concentration camps, and prison ships, as well as criminal prisons and jails. The modern American experiment in prison exceptionalism, in which 1 in 31 Americans were under correctional control (Pew Center on the States, 2009) is inscribed in the language of hell (e.g., Ferguson, 2014), and remains an object of curiosity and fear around the world (Oleson, 2002). However, despite high rates of incarceration, most Americans have no direct experience of state or federal prisons (Oleson, 2015, 2016) and people form their impressions of prison using media impressions (Cheliotis, 2010). As noted by Rafter and Brown (2011), the influence of popular culture dwarfs by orders of magnitude the influence exerted by academic scholarship. In popular representations of prison, physical assault and rape are a near-certainty. This view is echoed by academic scholarship (e.g., Hogshire, 1994; Man & Cronan, 2001) and even the US Supreme Court (*US v. Bailey*, 1980). The prison is hell in which rape and murder are staples.

The likelihood of going to prison for white-collar offending is low (Shapiro, 1985), but when white-collar offenders *are* sentenced to prison, they are particularly fearful (Payne, 2003). It is frequently said that the white-collar offender suffers the pains of prison more acutely (Stadler, 2012). As New York state judges explained:

A middle-class person has far more to lose in terms of career, status, property and personal reputation than does a lower-class individual. He also generally makes a much poorer adjustment to prison and has more to fear at the hands of other inmates (in Pollack & Smith, 1983, p. 178).

Certainly, to the degree that fear and weakness are correlated with victimisation (e.g., being extorted, assaulted, or raped), the white-collar offender, with no practical knowledge of prison but plagued by mediated images of rape and assault, is at a grave disadvantage. All of the privilege, status, and wealth that the white-collar offender has enjoyed while at

liberty cannot save the white-collar prisoner while in custody. Remember Hogshire: 'Your mama can't help you and you will live by the law of the jungle whether you like it or not' (1994, p. 3). Accordingly, many white-collar offenders suffer acute anxiety, and one mechanism to ameliorate this anxiety is to enlist the services of a prison consultant. If the American prison is hell, the prison consultant is Virgil, ready to lead the lost white-collar soul out of darkness and upward into redemption. A burgeoning field of these consultants exists, both in the US and the UK. Today, the vocation is unregulated and it is difficult to determine where salesmanship bleeds into narcissism or charlatanism: many of the services offered by prison consultants consist of work traditionally provided by lawyers or Bureau of Prisons staff (Donson, 2016). But, in an extraordinary inversion of traditional roles, the prison consultant (often an ex-convict bearing all the stigma of that label) is able to instruct the white-collar defendant (whose superior education, occupation, and income, through a twist of circumstance, no longer matter). Therefore, although it might be the fear of prison rape that initially motivates the white-collar defendant to reach out, a good prison consultant might be able to guide his clients through those preliminary fears and, moreover, help them to reorient their lives and make better choices. This is an objective of which Virgil might be proud.

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# 7

## Prison and Co-creation: An Experimental Creative Method

Laia Moretó Alvarado

### Introduction

In the name of art, the system makes an exception. Artistic activity is a strange passport that opens a crack in the prison wall. Artists are able to enter prisons with this passport and break the penitentiary routines with projects that make the institutions more flexible. The pores that dilate creation achieve strange milestones that would be hard to obtain through any other channel. So much so that some projects, using art as their justification, have brought a grand piano into a prison yard for a show, have installed 200 blocks of ice to reproduce a work by Allan Kaprow or have planted a lemon tree to be able to write a score with the drops from the fruit (Moretó, 2019). It is this faith in art or the inertia of its practice that manages to create shared values and experiences, which highlight it as an area of learning. In some way, artistic events manage to filter through more rigid systems and enlarge any crack along their way.

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The penitentiary scenario concentrates on the difficulty of managing the damage to sociability; it shows up contradictions between law and order and hides a city within another city because, amongst its walls, there are births, growth, and deaths, including suicides. In a place so full of life, yet hard to live in, art springs up in a very natural yet persistent way, like a weed pushing through cement. Although artistic practice in prisons has been associated with educational training, it runs in parallel with an autonomy of the inmate that has not been well explored or encouraged. It would be inflexible to contemplate artistic activities as actions that occur in a necessarily dependent way, functionally linked to prosociality or to the well-being of the inmate, as before any artistic guidance we find drawings on the walls of old prisons that show the driving need for expression of people who have been incarcerated. Artistic expression reached the penitentiary caves long before education.

We may think that teaching in prison, whether overprotective or not, goes from outside to inside the walls. Despite the claimed virtues and benefits of artistic teaching in prisons, I would question this one-way direction. As Foucauldian philosophy states, penal isolation has a double direction: it stagnates people and makes them captive, but it also segments and segregates our knowledge. Therefore, we can also imagine that education can draw a line that goes from the prison to the exterior. That outside the walls there is something to be learnt from the teachings that may be made by the inmates. As Szekely (1982) stated, contact with prisons reassesses our idea of freedom, and coexisting with art of penal origin offers us self-knowledge and helps us to confront limits.

My uneasiness regarding the prison world appears because I cannot perceive the existence of two binary concepts—freedom and imprisonment—that do not flow and influence each other, at least from an artistic perspective. These two spaces, although impassive throughout certain historic periods, are contiguous and have an impact even though this relationship is not particularly visible: prison belongs to us. My co-creative methodology proposal with the collaboration of a single inmate artist started in 2018. My proposal, converted into reality, is a contribution towards the circulation of art between the inside and outside of Wad-Ras Prison in Barcelona, done jointly, with the dialogue and the

growth that come from the direct conversation that arises between two people.

The prison institution in Catalonia, at that time, was facing a lack of co-creative background and a long experience in participatory programs for the inmates that had certain common guidelines. Most of these projects valued the creative process itself over achieving a piece of art or the expression of an inmate and had, as a goal, behavioural improvement and better well-being for the inmate to be able to alleviate the collateral damage of prison life. It was unusual to find projects in which there was any autonomy rather than a more interventionist guidance, even though it was a great channel for expression. In these participatory artistic processes, the direction of the work or part of the decisions regarding it were pre-established, and the inmate could contribute their experience in an assigned area in which they could move about, as long as they did not overstep established limits. Although this form of doing art was often well received by the inmates, some projects did require greater autonomy, such as the documentary initiated by Pau Coll (2016), in which a group of young inmates were able to have cameras and recorded themselves during their everyday lives, took the shots and decided on the final montage of a documentary, becoming its genuine co-authors.

If artistic prison education is often presented with the backing of benefits from a considerable number of studies, statistics and results, co-creation on such a reduced scale as one-to-one collaboration with an inmate appears as an experimental method, yet without guarantees, that shows the external artist as someone who can also grow along with the inmate and the responsibility for the co-created work is taken on in a very close way.

Despite the evident disproportion established between freedom and captivity, the artistic project that I will describe below was designed with the aim of knowing and for doing away with hierarchies, of listening and cooperating with the autonomous voice stagnated between the walls. From this conditioning factor, it was essential that there should be no previously designed preliminary project until the inmate was able to decide on all the parameters of the work that include, as principal items, the subject, the concept, the discipline, the technique, the formalisation and, finally, the best possible place to exhibit it. The lack of any

pre-established guideline or instruction was the part that differentiated it most from any other artistic prison project carried out in Catalonia.

Therefore, co-creation, as devised here, was not a teaching mission, or a physical or mental cure, but a responsibility with a joint artistic process. One essential instruction added was that the inmate's participation should not represent any kind of punishment or reward for her, but should be the result of a motivated, shared decision. With this request, the coordinator of artistic projects at Wad-Ras, with the assessment of the board of treatment and the arts instructors, suggested Sara Sánchez as the co-creator, due to her motivation, her skills and her previous experience as a draughtswoman. With the perspective of working together and without a teaching relationship as such (or in any case, there being mutual learning between us) the institution made a room and three hours a week for a year available to us.

It could be questioned whether this exception of an inmate selected could represent some kind of privilege for her, as many of the prison activities are carried out in groups. Although it is still early to make this analysis, one could at least say that imprisoned people are almost always treated as a collective, meaning that individual attention is a necessary stimulus (Szekely, 1982), and even more so in the case of a potential differentiation that could become a disadvantage if not dealt with.

In view of the lack of references to creative penal activity that is not designed in advance, with a theme or a technique as set instructions, the possibility of the project could only go ahead with the opening up of the institution, in a prison and in a phase in which education carries more weight than surveillance and in which the contribution of the artistic process is more important than its result. In *The Necessity of Art*, Ernst Fischer tells us that only by undoing a knot can we understand this knot and get to know the best way of undoing it (2011), so to go beyond a prison barrier and to establish an artistic relationship with someone inside, we need to follow the opposite process: create a knot in the most natural way possible, which is achieved by doing it and sharing it. To establish this knot, we also need proximity, time, a certain degree of both flexibility and institutional cooperation and the permission of the Directorate-General of Prison Services of Catalonia, which were open to

such an unusual experience in the world in terms of such a close, ongoing scale.

The application of the co-creative methodology was not designed any differently to when it is used in a place of freedom. The idea is to establish knowledge to find out about the creative backgrounds of both sides, those of Sara Sánchez, initially linked to drawing, video and animation, and mine, which are more multidisciplinary; to share common themes of interest; to distinguish which contributions are necessary from each party and which are joint contributions; to make a note of ideas; to compile references and to start the process.

The results of the application of this co-creative methodology were several pieces of work, one of which, *Fer casa* [Making a Home], was exhibited in a central gallery in Barcelona and was not labelled as 'prison art' but was integrated with other works from non-incarcerated artists.

## Intimacy and the Prison 'Home': Choosing the Subject

Art is the artist's home. If we are unable to find a common definition of contemporary art, perhaps this is because there is no such thing, in the same way as there is no single definition of a home. Although when we say 'house' we bring to mind architecture, philosophy has also noted that the concept of the 'home' overlaps with the other (Patočka, 2016). The others are parts of ourselves and prison cells are, in some way, part of our free cities because they belong to us.

A prison cannot be considered a 'home' in the sense that we understand it from the outside. Apart from the so-called 'institutionalised inmates', people who do not wish to be free because they consider that they have nothing outside, inmates do not have a standard 'home', but seek the greatest comfort possible, to adapt from the point of view of survival. According to Sara Sánchez, at Wad-Ras, inmates put care into improving the appearance of their 'home' under the most adverse conditions; they decorate the walls of their cells, they design cushion covers

which they stuff with underwear to put on the only pillow they are supplied with.

Sara Sánchez told me about ways, observed in her cell for eight people, of covering the bunkbeds by hanging bathrobes, cloths, sheets and garments in general to make them more similar to a refuge or a hut. Other ways in which she has observed people seeking intimacy, outside the cell, were the extreme use of earphones to listen to music, requesting intimate *vis-à-vis*, going into classrooms to draw or paint or provoking minor altercations to be able to be sent to an isolation cell (although this latter means a report is filed and inmates do not often resort to this strategy).

After giving our project a name, *Fer Casa*, we talked about the theme related to covering the bunkbeds and/or the constructions made with the sheets from the intimate *vis-à-vis* that look like the huts that children make with household linen when they are playing. During the first phase, my unlimited possibilities to travel outside the prison enabled me to build and photograph simulations of the huts in the prison in inaccessible places and those that inmates miss, such as the beach, the forest or parks. These locations were specifically suggested by Sara, with the aim of placing them in landscapes that were inaccessible to inmates.

In the second phase, we exhibited these photographs in the places with the most passers-by—and with the least intimacy—in the prison, such as the corridor, the cabins or the yard. Then, we took photos of these photographs in their exhibition area inside the penitentiary centre. Due to the complexity and slowness of permits, we were unable to portray any inmate going through these public spaces, meaning that the result consisted of images that showed the prison as an empty space, an unusual and powerfully intimate situation, as the inmates do not usually ever get to see these spaces deserted in such an exiguous and densely populated place as *Wad-Ras* before the pandemic.

These images were printed on envelopes and Sara sent them by post from the prison to a central gallery in the city of Barcelona, the *Galeria dels Àngels*. I sent the photographs taken outside in the street to the penitentiary centre. In this way, all the photographs became visible, not only in the prison and in the gallery, but also all along the way (in the post boxes, in the post offices, while the letters were being delivered, when they arrived at the prison or the gallery).



Creating images that could make the outside reality ‘come inside’ and vice versa was done with an association with Sara Sánchez. We approached this interchange or communication between photographs of the inside and of the outside in the form of letters to create nomadic images. The photograph became the revelation of an inaccessible area. Its representational nature specifically enabled us to break the representation and to activate itinerancy, to move a hut from one side to another of the wall to activate poetics that made a second *haima*, a nomadic tent that we accentuated by sending the images by post in a visible way on the outside of the envelope.

Letter writing, one of the most frequent forms of communication still used in prisons, which today is behind the times in terms of cultural customs, highlighted this lack of synchronicity established between the exterior and the interior of the prison. Sara Sánchez observed the surprise of the prison warders on the arrival of each envelope in photographic format which, just as it looks, did not contain any letter inside it; the content was entirely exhibited on the outside of the envelope even though the aim was for intimacy and the home; perhaps because, as Sánchez said, ‘dedication to artistic activity also creates a refuge’. A space as a shelter, which is the old meaning of the home, as this home was understood: a human nucleus, capable of corporal displacement and of thought, which always transports images.

## The Weight of the Image: Choosing the Photograph

The use of photographs in the prison context has restrictions regarding access and, at the same time, is something that is desired, perhaps because the prison landscape is monotonous and poor in terms of images. In fact, one of the first needs for Fer Casa was that of bringing in images from the outside, which finally led to also disseminating images of the inside of the prison. As I have already mentioned, this organic drive of ‘making images travel’ was almost more intense than any representational aim. Our analysis enables us to share reflections on the use of photographs, to feel our

limits and those of the institution, to understand how the images transform culture in the prison context. By choosing the photograph, we knew that our conflict in visibility was torn between the need for remembering the presence of the incarcerated person and maintaining their intimacy.

The debate on the gaze through art and, in particular, on the area of visibilities, has an established route. Seeing horror, suffering or misery has an impact on the viewer: it awakens discomfort, caused by the desire to look and the transitory pain felt, as stated by Susan Sontag in *Regarding the Pain of Others* (Sontag, 2003). The image has the ability to affect and, at the same time, is not able to indefinitely dilate the pain it transmits. Sontag calibrated the impact of the impossibility of translating the momentary pain into something productive, informative and effective, translated into a political action. Thus, visibility includes the following dilemma: without vision, the conflict has no presence or memory—we do not easily remember wars without looking at human loss. By looking at the conflict, the dimension of what is terrible causes impotence and contradiction. This disconnectedness has been a constant reflection of artists, such as Harun Farocki, who approaches it as an ethical fight so as not to hurt the feelings of the viewer, but without perpetuating the ignorance of a social reality (2013).

In the prison area, this dilemma regarding visibility returns if we take into account that the people who are doing time are imprisoned because their actions have been penalised by accepted values. Therefore, conflict is cloaked in the same invisibility as criminality, which makes it difficult to look at as, when we do so, it is stigmatised. Art which originates in prison will, therefore, retain the notion of conflict when looked at. When Jane Evelyn Atwood was asked why she took photographs of such a 'sad' subject as women inmates around the world, she answered that she did it initially out of 'curiosity' and that then 'surprise, shock and bewilderment' took over and that finally, a transforming 'rage' propelled her along to the end when that external reality had started to infiltrate her gaze (Atwood, 2000). This rage that arose from the inequality of two social realities is the same one that Vida Yovanovich points out in another show of interest towards female inmates (Yovanovich, 2011).

Obviously, the external photographic gaze reveals, lifts invisibility, undresses and brings back the debate between the need for presence and

voyeurism. Sontag wrote about managing these two factors: ‘Beauty, that which is adorable—and repulsive—depends, above all, on the favourable and unfavourable scale, and on proximity. And this—scale and proximity—is what photographers always come up against’ (Sontag, 2010). The external view, therefore, regulates the degree of lack of protection of the person being photographed, it removes protection from the need to pronounce it or wrap it up.

In the debate on artistic education, we should also value the fact that many women who end up in prison have been victims of abuse in their home from their spouses. On being given the opportunity to be photographed, some of them use the camera to pose before the lens just to please their partner’s gaze (Sampere, 2021). This fact strains the nexus between the need for education and the need for autonomy, as without previous education, autonomy does not seem to be genuinely liberating. One way of dealing with these dilemmas is to organise workshops promoting a critical appraisal, in which education is not imposed but is a mainstream listening to jointly create discourses in artistic productions and to use the camera with certain instructions. Education therefore enables freedom of expression and amplifies the voice of inmates, for example in the work carried out at Las Mirillas (2019).

In Wad-Ras, cameras can only be used with special permission and with the presence of security staff, to control the images of the entrances or of the private areas in the centre, as well as to respect the fundamental rights regarding exhibiting the identity of the female inmates that may appear in them. Either their preventative regime or the knowledge that they are inmates may make their personal relationships more difficult, as for example in obtaining future opportunities for employment. The photographs that are taken must, in addition, pass through a control before being published. Despite these limitations, the female inmates at Wad-Ras have access to photographic tools and many of them make great effort to explore and represent themselves by means of photographs, even though surveillance rules out the possibility of taking photographs with complete intimacy or genuine spontaneity and their dissemination is always highly restricted. Therefore, on taking a photograph, imprisoned women rarely have the opportunity to ‘let the image be’, to allow accidents or experiments in this media. Prison makes it difficult for the

photograph to go beyond responsibilities to the camera, in the sense of enabling an emancipation of the people who press the button and of having to choose from the unexpected margins of its mechanical recording.

Therefore, the greatest freedom that we found in our project was that of generating a route that made the images of the cabins travel from the art gallery to the prison, and from the prison to the art gallery because, on this journey, we were not able to control anything in the photographs until they reached their destination. On this uncertain trip that nevertheless had two origins and destinations, we were able to place the loss of home and the need for intimacy at the centre of everything.

The image that made visibility circulate between the inside of the prison and the outside is that which managed to talk about what needed to be seen rather than not be seen. Therefore, our reverence towards art focused on a more essential yet minimal gesture, which was not ostentatious but was shared, which approached a journey that started from looking to live and returned to living to look.

## Simultaneous Exhibition

As the project started to take shape, we asked ourselves what the best place to exhibit the end photographs would be. The street seemed to be the largest and most accessible place for a greater number of public. Initially, Sara Sánchez preferred the art gallery, ruling out street art or the prison, because she considered that there were very few opportunities for a female inmate to be able to exhibit work in this kind of context and it also meant being aimed at a type of public specifically interested in the artistic field.

By chance, we left one of the photographs in a classroom in the prison and when we removed it we received some complaints from some of the female inmates, who missed the presence of the image. This made us realise that it was necessary to exhibit in a dual way, in two differentiated areas, and that we could do so simultaneously: in the gallery and in the prison. The opening was held at the same time in both these spaces. As a result of the preventative prison sentence that Sara Sánchez was serving,

each creator was in a different space during the opening as it was not possible to obtain a visiting permit for her to go to the gallery; the passport of art could not bend the law.

The way of exhibiting the photographs was radically different in each place. While in the corridor on the second floor of Wad-Ras, the images were exhibited visibly and with enlargements in different formats, at the Galeria dels Àngels, they were exhibited printed on the original envelopes and enclosed in transparent letterboxes. By enclosing them in the letterboxes and making the viewing of the photographs more difficult, with posters explaining the project and the simultaneous exhibition, an extra layer of meaning was applied. In some way, we had imprisoned the photos in our correspondence, in a final gesture of intimacy, informing the public that the photographs could be seen at that time in the prison (Figs. 7.1 and 7.2).

This was, in the end, yet another poetic action to go back to the prison, to share, for a day, the same images from such different points of view and



**Fig. 7.1** Photograph taken inside Wad Ras prison, with the image of an external hut



**Fig. 7.2** Set of letters with printed photographs that were sent from the gallery to the prison and from the prison to the gallery

with an unusual synchronicity, as the prison space nearly always has a phaseless relationship with reality.

## Formalisation

Ethics and aesthetics, although they are changeable over time, are switches that permit or prevent the dissemination of a work of art in its present moment. In the case of the prison, they are particularly incisive and are added to the controversy of their production, as is the lack of availability of time of the inmates, the lack of continuity, unsuitable infrastructures, access to or the ephemerality of the materials used, the institutional relations or some restrictions (see Berneman, 2013; Cape, 1954; Cuesta, 2016; Szekely, 1982).

One scar that shows the aesthetic impediments of art that is produced in prisons is the language itself. As soon as we label art that comes from a

prison as ‘prison art’ or ‘outsider art’, we can almost imagine formally naive art or art of a low quality that is often exhibited as a genre of its own and totally segregated from the discourse of other non-imprisoned artists. In this context, it is always necessary to remember the feasibility of top-quality art in prisons (Berneman, 2013), so that if it is not created we should ask ourselves what prevented it. Other aesthetic lines that we associate with prisons such as crude or hyper-dramatized art works act as brakes that do not enable us to see the need for resistance that emerges in prisons (Brook, 2015). At the same time, the search for beauty is a primordial need in the architectural coldness of prisons but often artistic trends do not understand this shortcoming and reject excessively ‘well-meaning’ or stylised projects without taking into account the fact that the institution tends towards prosociality among its objectives. We can also observe how the anonymity or the use of pseudonyms in many works that come from prisons is perpetuated, as if the works of art did not have the energy to overcome the mark of the crime committed.

In the area of ethics, some viewers may not be interested in the discourses that come from a delinquent person, giving priority to punishment over education (Gibbons, 1997). To enjoy the artistic productions created in prisons, the art curator Meri Cuesta tells us that we need an amoral vision that does not judge (2016). Without an effort to disseminate the art of inmates, it is, on the other hand, difficult to understand their experiences or to empathise with their points of view. Sara Sánchez reminds us that often ‘we see the crime as the canopy of the tree, but we do not see the roots that have caused it to be committed’ (see Moretó, 2019). Cheliotis, however, warns of the risks of idealising the function of art in prisons and insists on a need to be critical about its goals and applications, in addition to pointing out the need for the works to reflect the expression of the people imprisoned rather than those of the institution (2012). Therefore, it is urgent to find a way for the artistic voice of imprisoned people to reach us with less background noise, precisely because it has great difficulty in doing so without a mediating channel that takes away from its robustness.

The ethical pitfall is a switch of feasibility in artistic projects and in their dissemination. In transmural collaborations, the responsibility often falls on the external artist. Ruyter (2017) explains well the tension that



can be produced when the artist aims to represent the reality of the prisoner only from their perspective or for their own interests, with a risk that comes close to abuse of the other. Other times, we can see the approach of the artist to the prison as a pure and more honest place (Fundació Antoni Tàpies, 2014), the genuine place in which art happens without the need to be spectacular.

In any innovation, however small it may be, new challenges and dilemmas must be faced, as well as avoiding any conflict of interests. In the co-creation of the *Fer casa* project, a process of absolute involvement was drawn up, because the fact that the artist outside the walls and the artist inside the walls were joint authors of a single piece of work led to equal rights over it, a dual participation of responsibilities and benefits that could be derived from the work. For this reason, the de-emotionalising institutional mechanisms that exist (Atwood, 2000), cannot function at a very close co-creational level and we need to make a braver and more real commitment to the social bonds that are made between inmates and outmates. It should be taken into account that, as in this case, co-creation can generate bonds of friendship and letting them be shortens and makes the artifice of reinsertion more direct. In Esther de las Heras' opinion, small-scale co-creation is feasible with a good selection of authors (Centre for Juridic Studies and Specialist Studies, 2020). It should be mentioned that before being able to work with Sara Sánchez in close co-creation, two previous candidates were proposed by the institution and their unexpected release interrupted the project. The possibility of these processes will therefore depend on the artistic team formed with its synergy and with the possibility of continuity. At the moment, Sara Sánchez and I continue to create other works from freedom at the same time that each of us follows their own path. From my path, I can imagine the roots of the trees.

## Co-responsibility in Co-creation

Co-creation with proximity is an emancipating form of reflection that generates co-responsibility. It enables creation to be understood as a way of listening, in which small changes maintain a vigil on the way the world



is perceived. Artistic experience is a source of research which, applied to prisons, enables us to more effectively know and understand human dilemmas and the limits of art. Like the law, these reveal contradictions and randomness; understanding them helps artists to avoid them or to surround them to grasp the possibilities in the circulation of the art that is generated on both sides of the prison walls. In this process, commitment is shared, but is not necessarily a burden of dependence.

While prisons continue to be valid, it is important to create close co-creative backgrounds that open up joint ways of growth between the inmate and the outmate. It is a form of discovery, of constructing mutual experience, of materialising presence and changing points of view so that the other can also look at us, show us and teach us. The joint production of a piece of work can be a focus of appeal and can spread the dissemination of works that exist about prison. This practice works not in opposition to creative prison workshops, but in a parallel way to them.

The situation of incarceration in many cases has a provisional nature and one can always count on a return, in which it is desirable to hope that the artists who one day inhabited the prison can express themselves always from their own voice, clarifying or negating, if necessary, our own words and constructing their own discourse with full autonomy. We must pay attention, from proximity co-creation or from other experimental methods, to what imprisoned people want to learn, but also to everything that they say, invisibly or latently, and to everything that they can show us.

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# Part IV

## Restrictions and Opportunities



# 8

## Higher Education for all: Prisoners, Social Justice, and Digital Technology

Helen Farley and Stephen Seymour

### Introduction

Under international human rights laws, including the International Covenant on Economic Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights, prisoners have the same rights to education as free citizens. Even so, in most jurisdictions, prison management generally prioritise security, administration and economic efficiency over education (Farley & Hopkins, 2018). Where education is delivered, precedence is given to literacy, numeracy, and living skills, and then to vocational training, stemming from the widely held belief that employment is the magic bullet that prevents those released from prison from reoffending and returning. In this schema, there is little room for

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more 'academic' education, particularly higher education, even though it has been shown to be most effective in reducing recidivism rates (Davis et al., 2013) and is more cost-effective to deliver (Pike & Farley, 2018).

In spite of this prejudice against higher education, the University of Southern Queensland (USQ), nestled in the rural Darling Downs and with a strong social justice agenda, has for many years delivered higher education via hard-copy materials, to prisons around Australia. This became increasingly difficult as the university, in line with most other higher education institutions not only in Australia but globally, moved its offerings increasingly online. The delivery of digital higher education programs to learners with little or no internet access encounters many obstacles and constraints. The security priorities and regimented practices embedded in prisons foster a learning environment which is not conducive to the same kind of 'flexible delivery' which learning designers in the digital university take for granted (Farley & Hopkins, 2018). This chapter interprets the journey of USQ to deliver digital higher education to Australian prisoners through a series of innovative projects using eBook readers, dedicated servers, and laptop computers alongside the realignment of processes and policies associated with incarcerated learners. Through the expenditure of millions of dollars, the technologies, courseware and processes that began in these projects were adopted as business as usual for the university, and embedded in USQ's Incarcerated Student Strategy that was endorsed in 2018. Since that time, the number of incarcerated learners enrolled with USQ has continued to grow with retention rates and results slightly better than their non-incarcerated counterparts. This chapter is therefore an account of digital innovation against the challenges of carceral sites and the chapter offers analysis of the programs most suitable for incarcerated learners.

## Inclusion or Exclusion: The Role of eLearning in Higher Education

Universities are increasingly moving online in either blended or fully online modes (Farley & Willems, 2017), and access to digital technologies and reliable Internet connectivity is necessary to enable full participation by students via eLearning (Willems et al., 2018). eLearning was heralded as the technological and pedagogical breakthrough that would increase engagement in higher education by allowing non-traditional cohorts to participate at a time and place convenient to them. After the dust had cleared, it became evident that eLearning was also preventing many of those people from participating. Delivery of course materials and activities through the learning management system (LMS) and through the Internet is problematic when the distribution of that access is uneven (Farley & Willems, 2017).

A metanalysis conducted by Khalid and Pedersen (2016), concluded there were three main ways people were excluded when a university switched to a predominantly online offering of their programmes. These were:

1. Social exclusion because of low income, lack of motivation, ICT avoidance, or mental or physical disability.
2. Digital exclusion due to a lack of access to ICT and Internet connectivity. This is most often referred to as the 'Digital Divide.'
3. Impaired accessibility because of disparities with ICT literacy or information literacy.

The first way will be seen particularly with those who have not previously participated in higher education. They are likely not to have any cultural capital and will most likely have low educational attainment. The same is likely to be true of their families and close circle of friends. Pedagogies that are used by universities must take this into account and be appropriate for the cohorts that are to be included (Sims et al., 2008). Being first in the family, especially for distance learners in remote communities, can raise issue of its own. Incarcerated learners are very often

first in family to engage with higher education (Willems, 2013). Pedagogical approaches can be very difficult to influence and change within universities due to the high level of autonomy of most teaching academics (Farley & Willems, 2017).

In order to be inclusive, provision must be made so that these excluded students can access the technologies that they need to participate. This is summarised in the second way stated by Khalid and Petersen. These technologies would include hardware, software and access to the Internet (Farley, 2018). Though this sounds relatively uncomplicated, there are certain instances where the provision of Internet access will just not be possible. Incarcerated learners in Australian jurisdictions would fall into this category (Farley & Willems, 2017), at least for the foreseeable future.

It is not enough to supply access to the technology to enable participation in eLearning and this speaks to the third way people were excluded. Potential students must be shown how to use the technologies that they have not previously used (Sims et al., 2008). For example, in the case of incarcerated learners, they may have been in prison longer than a particular technology has been available. In a USQ pilot project with incarcerated learners, some students reported that they had never seen or handled a smart phone (Farley et al., 2014). Before educators can deliver curriculum through these technologies, the learners must be taught how to use them (Farley & Willems, 2017).

Potential solutions proposed by universities generally pre-suppose that access to technologies and the chance to engage with higher education is the main reason preventing these groups from participating (Selwyn & Gorard, 2003). As discussed, it is likely that the situation is far more complex. There are likely to be other issues at play such as a lack of appropriate role models, the necessity to work or engage in other activities that compete for the potential learner's time, and a whole raft of cultural, social, health and economic issues. Any potential solution will have to involve an active engagement with all stakeholders and a holistic approach to not only dealing with the lack of access to Internet and other technologies, but also tackling those social, cultural and other issues which may play a part. There is also likely to be heightened needs in terms of support both from a technical point of view and from a personal and educational point of view. Generic skills such as time management, prioritising

competing demands and generic writing skills will also need to be part of the solution (Farley & Willems, 2017).

## The Digital Exclusion of Prisoners

The lack of access to the Internet generally means a lack of access to online learning technologies, to fully online material and to online interactive formative assessment or any of the support mechanisms normally available to distance education learners (Farley & Doyle, 2014), or any learners in these COVID times (Dhawan, 2020). Universities much time and money to provide off-line alternatives to their students in prison and some universities are beginning to desert this cohort due to the difficulties and high costs associated with provisioning them with access to higher education (Farley & Willems, 2017), particularly given the current funding environment.

When governments, NGOs and universities think about digital exclusion, prisoners can be overlooked and this is exactly their experience. Warren stated that digital exclusion refers to “a situation where a discrete sector of the population suffers significant and possibly indefinite lags in its adoption of ICT through circumstances beyond its immediate control” (2007, p. 375). In most jurisdictions, prisoners face the compound challenges of outdated technology and limited or no internet access inside the prison (Farley & Hopkins, 2017; Farley & Hopkins, 2018). Most would also have suffered from both social exclusion and accessibility challenges prior to their arrest. Socio-economic challenges disproportionately affect the most vulnerable in society; lower education leads to lower earnings, which in turn lead to reduced capacity to buy ICTs and result in limited ICT experience (Khalid & Pedersen, 2016). This means that not only are prisoners digitally excluded before they are arrested, they generally will not gain the digital literacies they need to successfully reintegrate into society upon release from custody.

Once in prison in some jurisdictions, prisoners have access to computer labs where eight to ten computers are networked to an isolated server. Hardware and software are typically out of date and poorly maintained. In the Australian Capital Territory, prisoners have access to in-cell



computers running on a Linux platform. Certain websites are whitelisted, i.e., can be accessed by prisoners, but the degree of access is not sufficient for prisoners to undertake university study. This same system allows for limited emails to five email addresses. This enables parents or partners to access materials on behalf of the incarcerated student (Farley & Willems, 2017).

In other jurisdictions, education officers would work with prisoners to download course materials and to load them onto correctional centre computers (without access to the Internet). Alternative arrangements are made to accommodate assessments with education officers very often searching for and downloading journal articles and other resources that enable prisoners to complete assignments. Correctional centres are very often registered as exam centres so that prisoners can complete exams. All of these measures place a considerable burden on both education and custodial staff (Farley & Willems, 2017). Prisons in South Australia, Victoria and New South Wales are also exploring ways of introducing newer technologies to provide access to digital learning, but all stop short of allowing useful access to the Internet for incarcerated learners. Instead, access enables educators to provide resources and course materials to learners rather than allowing incarcerated learners to search for their own resources.

As a result, incarcerated students may fall through the digital gap between those who benefit from new educational technologies, and those who are left behind. The lack of direct access to the Internet for education experienced by incarcerated learners and maintained by corrections policy and practice, would be considered discriminatory or unjust if applied to other learner populations. This denial of Internet undermines educational and employment opportunities, and compounds social and economic marginalisation for the prisoner or former prisoner (Harmes et al., 2019; Pike & Adams, 2012; Czerniawski, 2015).

Universities must accommodate these technological challenges to ensure equity for incarcerated university students. Technology is not enough; it is equally important to invest in relationships to ensure institutions are able to innovate in the corrections environment. Without support and security, or with reflective educators working together, technology alone cannot bring higher education to disconnected or

disengaged learners. Moreover, it takes adequate time, training, people and people skills to build relationships with disadvantaged students and to build collaborative partnerships among educators and administrators across different institutions (Farley & Hopkins, 2018).

## USQ and Digital Learning in Prisons

Prisons and universities share some common values in accepting education as a key ingredient in rehabilitating people and improving the society and economy (Farley & Hopkins, 2018). The motto that the University of Southern Queensland promulgated is *Per studia mens nova*—‘through study the mind is renewed’—and the university achieved this by making a significant contribution to the building of human and social capital through ensuring higher education is accessible to people regardless of their location and individual circumstances. The university is the largest provider of higher education into correctional centres in Australia. It has been providing distance education into Australian prisons for some 30 years. The Tertiary Preparation Program, offered by USQ’s Open Access College (now USQ College), has been popular with incarcerated learners across the country (Lee et al., 2017).

USQ is predominantly a distance education provider with about 75% of its enrolments (even prior to the COVID pandemic) studying at a distance. Distance education has traditionally been used to engage prisoners in higher education, delivering resources to students who are unable to undertake traditional face-to-face education (Salane, 2008). Until recently, formal education and training delivery to prisoners in these jurisdictions were provided in non-digital forms, using large volumes of printed copies of the course materials and learning support resources, sometimes supplemented by CDs for use on in-cell laptops or in computer labs (Dorman & Bull, 2003). Hard copy materials are costly for universities to assemble, print and post, and cannot incorporate all of the learning support resources of the course. These materials do not allow for the socially constructive pedagogies favoured by modern educators. Incarcerated learners have very little or no contact with each other and are not able to leverage the social learning supports that are available to

students engaged in online courses outside of the carceral environment. This poorly prepares learners for the world in which employers expect their employees to be familiar with social networking and cloud-based applications (Erisman & Contardo, 2005). Furthermore, the traditional forms of delivery to incarcerated learners do not enable them to develop the crucial graduate attributes promoted by most universities, including the digital literacies, collaborative teamwork and critical thinking skills required to complete studies in higher education and to obtain meaningful employment after release from custody (Lee et al., 2017).

The numbers of incarcerated learners undertaking higher education in a particular correctional centre are very small; perhaps a handful. This mostly precludes the economic feasibility of universities providing face-to-face tuition in correctional facilities. In addition, these facilities are frequently remote from university campuses. For example, the prison population of Lotus Glen Correctional Centre in Far North Queensland is 90 minutes' drive away from the nearest university campus. The situation is even worse for some correctional centres in Western Australia and the Northern Territory that are even more remote from those university campuses located in metropolitan centres (Lee et al., 2017).

Given these constraints, USQ enrolled incarcerated learners in its distance education programs, mostly the Tertiary Preparation Program (see also Lukas Carey's chapter in this collection), and supplied hard copy materials that were delivered by post to the prisons. Though not a perfect system, it did enable those unable to attend face-to-face classes, the opportunity to study at a higher level. However, in Semester 12,015, USQ moved all of its courses and programs online and ceased production of hardcopy materials, including CD-ROMs. Though the university did slightly relent and provided hard copy materials to incarcerated students enrolled in the Tertiary Preparation Program, this has been viewed as an interim measure (Lee et al., 2017). In addition, the responsibility for assembling materials for distribution, now fell to academics instead of the specialised teams who had this task until that point.

USQ had made considerable investment to ensure that its distance learning materials and virtual environments were of a very high standard, enriched with interactive multi-media made in specialist facilities. The provision of hard copy materials did not allow for incarcerated learners to

benefit from these innovations. A small team of educational support staff and researchers from the Australian Digital Futures Institute (ADFI) set about finding ways to provide access to digital technologies for incarcerated learners to enable them to benefit from these innovative materials. These staff supported the development of digital literacy skills and enhanced learning experiences for incarcerated students through the deployment of a computer-based, simulated online learning environment which was capable of operating independently of the internet within the prison (Farley & Hopkins, 2018).

### **Portable Learning Environments for Incarcerated Adult Distance Education Students**

*PLEIADES (Portable Learning Environments for Incarcerated Adult Distance Education Students)* was the first of the specialist projects to introduce digital technologies into correctional centres to provide access to higher education. The project was funded internally using existing staff and existing technologies at the Southern Queensland Correctional Centre. Additional eBook readers were purchased to supplement the desktop computers and server housed in the centre's education lab. The project trialled the installation of USQ's StudyDesk on the local correctional centre education server, together with the provision of eBook readers loaded with course readings converted to ePub format. The eBook readers were obsolete when they were purchased. They were incapable of connecting to the internet and did not have SD card slots. This project made use of one course from USQ's Tertiary Preparation Program called TPP7120 Studying to Succeed. This pilot was trialled over semesters 2 and 32,012. This project was led by USQ's Australian Digital Futures Institute (ADFI) with USQ's Open Access College (OAC), Queensland Corrective Services (QCS) and Serco Asia Pacific, operators of the Southern Queensland Correctional Centre. The project was a proof of concept to demonstrate that:

1. It was possible to install a learning management system in the offline environment of the prison's computer lab; and

2. eBook readers could be used by incarcerated learners in their cells without creating a security concern.

The project was successful, however, the time to install the learning management system on the computer lab server was prohibitive and the LMS took the majority of the available space on the server. If this idea was to progress, some significant modifications needed to be made.

### **From Access to Success: Improving the Higher Education Learning Experience for Students without Internet Access**

The next project aimed to automate the installation of the LMS onto the prison education server. In order to guarantee the experience of the learner, it was decided to procure a separate server optimised for the LMS. This Australian Government Office for Learning and Teaching funded project built on the PLEIADES pilot and developed a level of automation to enable the StudyDesk instance to be deployed on the correctional centre education server. The technology was trialled with two courses, TPP7120 Studying to Succeed and TPP7181 Mathematics Tertiary Preparation Program Level A, again at the Southern Queensland Correctional Centre. Learners accessed the courses via thin clients (or low performance computers) deployed in the computer lab and connected to the server which was connected to the existing education server via a network switch.

From Access to Success successfully demonstrated that the LMS could be automatically installed onto an education lab server. Before the beginning of the semester, a DVD would be mailed to the correctional centre. The DVD would be inserted into the server and would automatically install the LMS. A second DVD installed the two courses onto the server. This project built on the partnership between ADFI, OAC, QCS and Serco Asia Pacific. This project ended in March 2015.

## The Triple 'E' Project

Where from Access to Success furthered the work of installing the LMS onto the education server, the Triple 'E' Project furthered the eBook reader work of PLEIADES. The Triple 'E' Project (Empowerment, E-Learning and E-Readers) began in semester 12,013 and was led by the Open Access Project. The project deployed eBook readers at four additional correctional centres beyond SQCC. The correctional centres were chosen on the basis of the number of students enrolled in TPP7120 Studying to Succeed and the strong relationships between USQ TPP staff with the correctional centre education staff. The additional correctional centres were Brisbane Women's Correctional Centre, Wolston Correctional Centre, Woodford Correctional Centre and Maryborough Correctional Centre. The four additional centres are directly administered by QCS.

Unfortunately, the eBook readers selected for this project were different to the ones in the previous project and proved not to be so robust. They would spontaneously turn off, run flat and malfunction. Hard copy materials were made available to learners so as not to disadvantage them. Though this was very disappointing at the time, it ended up being a blessing in disguise. Queensland Corrective Services had so far refused to consider the use of laptop computers in these projects. With the failure of the eBook readers, they changed their minds and asked that the project staff consider these alternative technologies in future iterations of the project.

## Making the Connection

Making the Connection was an Australian government-funded program which aimed to improve access to higher education for incarcerated learners. The project team further developed the offline version of the university LMS, which was loaded onto prison education lab servers and laptop computers. This alternative virtual learning environment had no connection to the 'real' internet and was physically isolated from the main prison computer network. This new offline version of the LMS (called 'StudyDesk'), allowed students to engage with electronic learning

in the prison education lab without needing to access the 'real' internet. The stand-alone LMS would hold digitised course content in a simulated Internet or intranet environment (Farley & Hopkins, 2017). The previous projects did not adapt the online courses to the offline environment but Making the Connection did. Course examiners, lecturers, eLearning designers, copyright personnel and graphic designers worked to create courses that would work on the offline technologies, in response to feedback from education officers, jurisdictional owners and the learners themselves (Farley & Hopkins, 2017). The secure digital learning platform has been deployed in Queensland, Tasmania, Western Australia, the Northern Territory, and recently in South Australia (Farley & Hopkins, 2018).

Whole programs were adapted to the offline environment. In the first instance the programs adapted were: the Tertiary Preparation Program; the Diploma of Business Administration; the Diploma of Science (in Environment and Sustainability); and the Diploma of Arts in Community Welfare and Development. These programs were selected to align with the vocational focus of the jurisdictions. In 2018, the university recognised that these programs did not provide learners with adequate preparation to enter the workforce, and, in consultation with the jurisdictions, changed the offerings. The available programs were: the Tertiary Preparation Program; the Associate Degree of Business and Commerce; the Certificate of University Studies; the Diploma of University Studies; and the Bachelor of General Studies. The Bachelor of General Studies was chosen as its structure allowed learners to undertake a range of courses across a range of disciplines. The project team calculated that learners were enrolled while incarcerated for approximately three semesters. They elected to make a broader range of courses available that could be transferred as credit to programs that aligned with learners' aspirations upon release from custody. The Making the Connection project finished in June 2018 and transitioned into business as usual with the drafting and adoption of the USQ Incarcerated Student Strategy in August 2018.

## **Paper to Pixels: An Interim Streamlined Approach to Providing Course Resources for Incarcerated Students at USQ**

Two additional projects ran alongside the correctional technology projects. It was recognised that the programs and technologies only comprised some of the incarcerated learners' journeys. Paper to Pixels had two foci:

1. To develop a snapshot of how universities delivered programs to incarcerated students; and
2. To formulate workflows to help USQ transition from paper-based systems for incarcerated students to the outputs of the Making the Connection project.

In developing the snapshot of Australian universities' accommodation of incarcerated students, particular attention was given to the use of digital technologies. Within USQ, a survey was deployed to course coordinators, equity officers and university leadership. Education Officers were also included as they were the interface between USQ and correctional centres. The data collected was used to develop workflows and guidelines in order to allow USQ to increase the enrolment numbers of incarcerated learners.

### **Bridging the Digital Divide**

Bridging the Digital Divide built on the successes of Paper to Pixels in order to map all of the touchpoints that incarcerated learners and education officers had with the university. Processes were created that meant that this number shrank to a handful of touchpoints (from around 100!) It also created efficiencies for university staff. Positions arose that were dedicated to supporting the processes around enrolling and supporting incarcerated learners.

The USQ experience suggests that faster response times between institutions and greater awareness and support for correctional centres at the



university end, produces better learning outcomes for incarcerated students. The university provides clear, central, personalised contact points and specialised, trained staff to provide correct and consistent advice to the prisons (Farley & Hopkins, 2018).

## Challenges for Incarcerated Learners

Even when a university can overcome the administrative and technological divide to deliver a program into a prison or correctional centre, there are many challenges to overcome both within the university and in the prison. Mainstream university teachers may feel overwhelmed with the added burden of the *ad hoc* adaption of courses and assessment tasks to suit the closed learning environment of incarcerated learners, who may or may not have access to an education officer to communicate on their behalf and print materials for them (Farley & Hopkins, 2018). In addition, these same teachers are frequently wary of going 'behind the wire' at correctional centres either due to fears for their own safety and/or because of prejudice against prisoners ('they are in there for a reason') (Warner, 1998).

The chances of an incarcerated learner completing a higher education qualification are often severely compromised by other institutional priorities and practices (Farley & Hopkins, 2017). Correctional centres are challenging learning environments, even for the most committed student. They are stressful, noisy, disorientating, and depressing environments (Torre & Fine, 2005). These conditions have been exacerbated by the compulsory lockdowns that have been deployed to help restrict the spread of COVID-19 in prisons (Brennan, 2020). Skyrocketing imprisonment rates have led to overcrowding which results in two or three prisoners sharing cells that are designed to house one person (Mackay, 2015). This can be difficult for the prisoner who wants to study being distracted by a cellmate who wants to talk, listen to music or watch television. In addition, institutional 'norms' such as daily lockdowns, cell searches and head counts cause frequent disruptions (Hopkins & Farley, 2015). Security restrictions, cultural constraints and inconsistent staffing may prevent learners from accessing education centres, resources and support.

Those prisoners who choose to do higher education through distance learning in their 'own time' while also working, may also be seriously hampered, as unlike their non-prison counterparts, they are unable to access the space or the technology for learning outside of working hours (Pike & Hopkins, 2019). The increasing privatisation of prisons comes with additional implications for students (Andrew, 2007), who find themselves on strict working schedules without adequate study time (Hopkins, 2015). Prisoners are moved between correctional centres or even released, often with little advance notice, further disrupting study (Lee et al., 2017). One of the biggest challenges remains the difficulties associated with movement around prisons. Particularly when they are overcrowded, movement to learning spaces become difficult due to processes that dictate which cohorts of prisoners can mix (Farley & Hopkins, 2017), but increasingly because staffing levels do not allow for correctional officers to accompany learners to these spaces.

These conditions arise because prison security is privileged over everything else in the prison and education comes very low on the priority list. Study sessions are constantly interrupted, cancelled or changed at short notice. Incarcerated learners may also be transferred to another prison, or even released without prior warning, which could mean that they lose their work and their resources (Pike, 2014). Meanwhile, education staff in prisons are often dealing with the consequences of overcrowding, limited facilities and lack of time, training and resources to meet the needs of students sometimes with low literacy and attainment levels (see Vinson, 2007). Security concerns dictate that communication between university staff and their incarcerated learner is normally directed through an intermediary in the prison. However, there is often tentative communication between prisons and university educators. Prison education staff are increasingly likely to be supporting higher education on top of another demanding full-time role (Pike & Hopkins, 2019).

The Making the Connection project team found that the best way to overcome some of these challenges was to hold professional development days for prison staff at the university. This gave them the opportunity to see the constraints under which the university educators and administrators were working under, to discuss the intricacies of a process face-to-face and demonstrate the good will of the university. Conversely, the

team also took the university educators to the prisons so that they could see first-hand the challenges encountered by prison education staff and talk to the incarcerated learners to gain a better understanding of their world. Sometimes when the prison was too remote from the university to facilitate such an exchange, project team staff travelled to the prison to conduct professional development for prison education staff, talk to the incarcerated learners, and talk to prison management to try and address issues as they arose. Good relationships were key to the success of the project.

Though the Making the Connection project has made higher education in Australian prisons more accessible, there is still no equity. Incarcerated learners have access to only a very limited range of programs and the number of incarcerated learners tackling postgraduate study could be counted on one hand. For incarcerated postgraduate learners, the challenges are even more significant. Universities have an institutional obligation to ensure postgraduate students are exposed to a research culture but providing such an exposure within a prison environment holds many challenges. University personnel at all levels do not fully understand the restrictions imposed by the prison environment. Invariably, the organisers of the research are not familiar with the prison context and are not sufficiently aware of the difficulties for students and staff. For example, there is a common misunderstanding that prisoners have unlimited time for study and have access to adequate resources but that is often not the case. Initial decisions to admit prisoners onto postgraduate programs are often made without knowledge of the pertinent facts. Educators may fail to take into account the disruptive prison environment, lack of suitable study space, lack of technologies and the potential distractions and transfers (Pike & Farley, 2018).

## **A Culture Shift in the University**

While prisons deny social mobility, universities enable it; especially at a university as invested in social justice as the University of Southern Queensland. Those who spend time in prison are generally those who are already marginalised and excluded. Incarceration ensures that these

people stay at the bottom. By way of contrast, university is traditionally for the elite, to perpetuate the middle class and to give a leg up to those aspiring to it. The expansion of higher education in the 1990s, predominantly benefited the children of the relatively 'well to do' and the gap in participation between rich and poor widened (Earle, 2011). Many incarcerated learners are first in family to engage with higher education and Making the Connection project staff would often hear the learners talking with pride about 'going to university.'

When the first projects were beginning at USQ, project personnel encountered resistance from unexpected places. A research assistant was trying book a pool car so the team could go to the local prison, collect data and ensure the technologies were being used appropriately. The research assistant spent an entire day making phone calls, sending emails, and visiting those people responsible for administering the carpool to try and secure a vehicle. At every turn she was blocked because the people responsible did not think it was a worthwhile use of university property, even though this project was funded by the Australian government. The project leader reported that other staff would stand at the door of her office to enquire as to why she was bothering with researching education in prisons. A common refrain was: 'They're in there for a reason you know.'

Instead of espousing the intrinsic value of education and the prisoner's right to that education, the project leader felt compelled to couch the research in economic terms; saying that education caused a drop in recidivism rates and because imprisonment was expensive, even a modest drop in recidivism rates would result in a significant cost saving to the public purse. It was not until the project leader had a meeting with the Queensland Corrective Services Commissioner, Marlene Morrison, that she felt able to change the way she spoke about prison education. She asked the project leader why she was doing this research and she trotted out her spiel about keeping people safe and saving the taxpayer money. The Commissioner urged the project leader to also speak about the intrinsic value of education.

The then Vice-Chancellor of the University of Southern Queensland, Professor Jan Thomas, was a fierce advocate of the Making the Connection project, calling it 'The Jewel in the Crown of USQ.' With her support, the project was able to make significant progress. Though the

discrimination did not go away, it did become less visible. And with the endorsement of the Vice-Chancellor, people began to take the initiative and find ways to support the project but more broadly, to support incarcerated students studying at USQ. Scholarships for incarcerated learners were established. Enrolment procedures were streamlined. Academics would visit the prisons to give tutorials and conduct workshops. University staff would contact the project team with suggestions or offers of help. The project team organised a book drive to help replenish the depleted shelves of the libraries in Queensland prisons. The response was overwhelming with thousands of books coming from the university's own library as well as generous donations from staff members and their families. Since the early beginnings of the PLEIADES project, the culture of the university had shifted from one of restrained and hostile tolerance to one of generous support and a sense of vocation. University staff would express that what made USQ special was its particular mission to work with incarcerated learners.

## What Programs Are Appropriate for Prisoners?

It has cost a lot of money, time and effort on the part of many people to get higher education from the University of Southern Queensland into Australian prisons. Across Australia, only about 1.5% of eligible prisoners are engaged with higher education. Literacy training and vocational education attract far higher numbers than higher education (see Australian Government Productivity Commission, 2020; Pike & Farley, 2018). There is strongly held belief that prisoners are not capable of higher education. The focus of most prison education personnel is on basic skills with literacy, numeracy and applied skills for the job market taking precedence (Szifris et al., 2018). This leads to a narrow curriculum and lack of progression opportunities (Pike & Farley, 2018). Such prejudicial assumptions, which reflect the populist, erroneous stereotype that criminals are of lesser intelligence tend to reduce motivation, aspiration and confidence in incarcerated university students, or potential students (Harmes et al., 2019). Prisoners are frequently stigmatised and this causes low self-worth, shame, and embarrassment (Kyprianides et al., 2019),

assumptions which would be considered discriminatory if applied to other student populations. Despite rigorous research to the contrary (Coates, 2016), assumptions are made that prisoners need only basic skills development and vocational training, rather than higher education (Pike & Farley, 2018).

Another widely held belief by both community members and prison administrators is that employment has the biggest impact on recidivism, and it is this belief that many correctional jurisdictions use to justify the widespread enrolment of prisoners into vocational training. The promotion of a 'working' culture over a 'learning' culture (Pike & Adams, 2012) where a 'working' culture encourages a strict working regime and compulsory employment can reduce the ability for prisoners to choose appropriate education (Pike & Farley, 2018). Even if the choices exist, employment normally pays more wages than education, so there is further incentive to work rather than learn (Farley & Hopkins, 2017). It is time that correctional administrators stopped thinking about education and vocational training purely in terms of increasing employability and started thinking about the impacts on prison culture, dynamic security, and reoffending rates (Pike & Farley, 2018).

Learning should address deeper personal and social development needs (essential for social integration and gaining employment) rather than simply focusing on job skills relating to any specific employment route (Clark, 2016). This is especially true when considering that the chances of an ex-offender gaining employment post-release are significantly less than for an individual of the same age and educational level who has not been previously incarcerated (Visher et al., 2011). The reality is that many of these ex-offenders will not be employed and this is especially true of former sex offenders (Brown et al., 2007).

Although academic subjects may not map onto jobs in any 'straight-forward manner' (Barnett, 2006, p. 145), they do provide the advanced transferable employability skills that are now more increasingly required by employers such as critical thinking skills and communication skills (Pike & Farley, 2018). Education, particularly secondary and higher education, improves employability over a range of vocations and in fact, there is no significant difference between education and vocational training in terms of improving employment outcomes (Davis et al., 2013).

USQ is leading the field in terms of providing more responsive and flexible pathways for incarcerated university students, including specialised and staged general studies courses that are easier to complete in a shorter timeframe and allow students to experience a wider range of different disciplines. The Tertiary Preparation Program facilitates personal development, academic communication skills, career development, maths and technical literacy. Through the university's student relationship officers (SROs) and other specialised support staff, USQ also supports incarcerated students to transition successfully to further distance and online learning outside the prison gates (Farley & Hopkins, 2018).

## Conclusion

As universities move increasingly online, incarcerated learners are likely to become even less able to participate in higher education, particularly given that correctional jurisdictions are more likely to favour basic literacy and living skills with vocational education, rather than higher education. A more holistic approach to education and training would be most appropriate, providing prisoners with suitable choices so they can find different ways of thinking and behaving and more opportunities for developing pro-social identities for active citizenship upon release (Pike & Farley, 2018). Duguid and Pawson (1998) propose that 'it is not the programs that work but their capacity to offer resources that allow participants the choices of making them work' (p. 492).

A series of projects culminating with Making the Connection, led by the University of Southern Queensland, introduced digital technologies into prisons to provide access to digital higher education. The technological aspects of these projects were highly successful and there have been no security breaches over the many years of their operation. Breaches, when they do arise, are from human error—inadvertently disclosing passwords, and so on. But the technology is only part of the answer; the real success has come about because long held assumptions about the capacity of incarcerated learners have been challenged and found wanting. Incarcerated learners are capable of engaging with and succeeding with higher education. Strong relationships and open communication between

jurisdictional administrators have ensured that challenges are met head on and overcome with innovative solutions.

The project team of Making the Connection noticed that when they visited prisons that custodial officers would lament that prisoners had more entitlements than non-incarcerated learners. The team would point out that this was not the case and that the officers themselves had the same entitlements. The officers would also ask why a prisoner would need a degree, perhaps insecure when all they required to do their jobs was a relatively low-level certificate. Over a number of years and after many of these conversations, the project team noticed that there were increasing numbers of corrections officers enrolling at the university and then going on to postgraduate study. This first came to their attention when they could not find an officer to supervise an exam of an incarcerated learner. When they dug deeper, the reason was because all of the available officers had enrolled at USQ and were therefore ineligible to supervise a USQ exam. With exposure and frank communication, the culture of the prisons where the Making the Connection project was active had shifted. And perceptions around the capability of corrections officers to engage with and succeed at higher education were challenged and fell away.

At the university, a corresponding shift had occurred. Incarcerated learners were no longer the university's 'dirty little secret' but a valued part of the student community. Slowly, people began to realise that because these learners would be released into society to become friends, neighbours, employees and family members, it was better that they be educated. The change in these learners is not only reflected in exam results, but in the way they think about themselves and the change they want to make for their families and community.

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# 9

## Epistemic Injustice and College in Prison: How Liberal Arts Education Strengthens Epistemic Agency

Daniel McGloin

This chapter aims to draw a connection between epistemic injustice and higher education in prison (HEP), motivated by the corresponding beliefs that HEP is a concrete application of epistemic injustice and that the theoretical framework of epistemic injustice provides a powerful justification for HEP.<sup>1</sup> More specifically, the ways in which philosophers describe the harms of epistemic injustice and how they may be counteracted correspond to some of the benefits of HEP as understood

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<sup>1</sup> This chapter pertains to liberal arts college programs in prison. HEP takes many forms, of which liberal arts is one. I do not claim that liberal arts HEP programs exclusively provide the benefits enumerated in this chapter, nor that they do so more or less effectively than other types of HEP programs.

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by practitioners and students.<sup>2</sup> A close look at the work of the relevant philosophers, practitioners, and students reveals that they often discuss the same phenomena in different terms with different objectives. This chapter will demonstrate that epistemic injustice is common in prison settings and that HEP provides at least a partial antidote.<sup>3</sup> In doing so, it will show that the benefits associated with counteracting epistemic injustice can aid HEP practitioners and students in validating HEP as a tool to help right a social wrong inflicted on incarcerated men and women.

While the most often cited benefit of HEP is that it lowers recidivism rates, many practitioners and students of HEP criticise recidivism as the sole or dominant justification for offering college education to incarcerated people. Though lowering recidivism is a welcome by-product of HEP, positioning it as the central motivation for providing college classes to incarcerated people reinforces their institutionalization and reduces them to a social problem. It also makes it more difficult to justify the inclusion of people with life and virtual life sentences in college programs. According to David Evans (2018, p. 6), an incarcerated student in Georgia, ‘a better argument for higher education access in prison is one that recognises incarcerated citizens as people who deserve opportunities that aide them in their intellectual growth, teach them critical thinking skills, and facilitate their personal enrichment.’ The benefits Evans expresses here are just the type that lend themselves to the lens of epistemic injustice and how it may be remedied by HEP. Evans’s sentiments are echoed by Clint Smith (2017, p. 87), writer, educator, and Emerson Fellow at the think tank New America, who argues that ‘we must understand how these programs facilitate community building, identity development, and cognitive liberation’ if we are to recognise education as a

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<sup>2</sup> I say ‘the harms of’ epistemic injustice rather than simply ‘epistemic injustice’ in order to leave open the question whether incarcerated people deserve to be treated in the ways that characterise epistemic injustice. Strictly speaking, if it is deserved then the treatment should not necessarily be described as injustice without additional argument. It is beyond the scope of this chapter to examine whether the treatment is deserved and to pose that additional argument. Nevertheless, the characteristic features of epistemic injustice are experienced by many incarcerated people and the harms resulting from those features can be counteracted by HEP, as this chapter will argue. For convenience I will use the term ‘epistemic injustice’ throughout to mean ‘the features of epistemic injustice.’

<sup>3</sup> My focus is on American adult state prisons, as opposed to jails, immigration detention centers, juvenile centers, or military detention centers.

fundamental human right and a source of human dignity rather than as merely a means to prepare incarcerated men and women for re-entering society. Each of these authors focuses on equipping incarcerated students with certain skills and fostering their personal development, just as college is meant to do anywhere. They do not attempt to analyse these benefits in instrumental terms related to recidivism rates.

As the rest of this chapter will show, Evans, Smith, and several other practitioners and students of HEP highlight its humanizing capacities of community building and of raising students' critical awareness of the structural realities that surround them and their lives prior to and during incarceration. These two oft-cited benefits correspond to the two main varieties of epistemic injustice: testimonial injustice and hermeneutical injustice. Since Miranda Fricker's (2007) study, others have expanded on the framework of epistemic injustice and applied it to a multitude of social groups. Yet, even though incarcerated people are among the most oppressed, distrusted, and marginalised today, scant attention has been given to them in this literature.<sup>4</sup> This chapter will bolster the importance of including incarcerated populations in discussions of epistemic injustice. In the following discussion, the chapter will summarise what testimonial injustice is and how it manifests in prison, and will then detail how HEP addresses its harms to incarcerated people. It will then do the same regarding hermeneutical injustice.

## What is Testimonial Injustice and What does It Look Like in Prison?

One of the two broad forms of epistemic injustice is testimonial injustice. Testimonial injustice typically occurs when a speaker experiences a credibility deficit on the part of their auditor(s) stemming from a negative identity prejudice (Fricker 2007, p. 28). In other words, if someone is communicating with another and the listener discounts what the speaker is saying because the listener bears a negative prejudice toward one or more social groups to which the speaker belongs, then the speaker

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<sup>4</sup> Three notable exceptions are Group (2016), McHugh (2017), and Medina & Whitt (2021).

becomes the victim of testimonial injustice.<sup>5</sup> For example, famed biologist and chief developer of CRISPR, Jennifer Doudna, recounts explaining her plans to study chemistry to a high school guidance counsellor, who responded, ‘Girls don’t do science. [...] Do you really know what [the College Board chemistry test] is, what the test is for?’ (Isaacson 2021, p. 31) In this example, Doudna’s counsellor exhibits a prejudice toward women such that they are not suited to be scientists and that someone like Doudna could not have a clear understanding of what is required to become one. He is unable to believe that she knows what she is talking about and dismisses her inquiries. Central cases of testimonial injustice are ‘systematic,’ i.e., ‘connected, via a common prejudice, with other types of injustice [...] that ‘track’ the subject through different dimensions of social activity’ (Fricker, 2007, p. 27). According to Fricker, while anyone may experience testimonial injustice at one time or another, the cases that warrant the most attention are those that reflect broader social power dynamics in which the subject’s social identity systematically exposes them to other types of injustice due to prejudice.

Such cases warrant attention because testimonial injustice is at its most harmful for a given individual ‘when it is persistent and systematic’ (ibid, p. 43). Testimonial injustice can be practically harmful, as it would have been for Doudna. Had she accepted her guidance counsellor’s admonishment she would not have the outstanding career she now has. Testimonial injustice is also epistemically harmful because ‘the speaker is wrongfully undermined in her capacity as a knower’ (ibid, p. 17), more specifically ‘as a giver of knowledge’ (ibid, p. 44). Since our capacity as givers of knowledge through testimony is tied to our capacity for reason, a chief distinction of being human, ‘in contexts of oppression the powerful will be sure to undermine the powerless in just that capacity, for it provides a direct route to undermining them in their very humanity’ (ibid, p. 44). In the Jim Crow south, for example, the words of a Black person were rarely accepted over those of a white person in a dispute. Psychologically, being subject to persistent, systematic testimonial injustice may drive someone to ‘lose confidence in her general intellectual abilities to such an extent that she is genuinely hindered in her educational or other

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<sup>5</sup>Other forms of communication, such as writing, may also result in testimonial injustice.



intellectual development' (ibid, p. 47–48). It may also stunt the subject's development of their personal identity. Through a process Bernard Williams calls 'steadying the mind,' mutual trustful dialog is essential to achieving stable beliefs and values, hence of a stable personal identity (cited in Fricker 2007, pp. 52–53). When another person desires to know what we think and trusts us to give them the truth we find ourselves in deep discussion. Such discussions give us an opportunity to bolster who we are, whether it is by reinforcing what we believe or causing us to rethink what we believe. By contrast, someone who is continually subject to testimonial injustice, and thus continually deprived of mutual trustful dialog, is prevented from developing themselves.

In prison, incarcerated men and women are seldom given the benefit of the doubt in their testimony, the opportunity to enrol in higher education in any subject, or occasions for mutual trustful dialog. Incarcerated populations are thus subject to a high degree of testimonial injustice. In order to understand the ways in which they suffer testimonial injustice, it is helpful to apply Fricker's use of Bernard Williams's 'state of nature' approach to epistemic function and dysfunction. In state of nature thought experiments we imagine a group of people in the wilderness, before civilization as we know it, who develop basic social agreements in order to secure their collective safety and to divide labour. They tend to focus on helping one understand the origin of moral and legal customs.

The division of ordinary labour typically gives rise to a division of epistemic labour. Individuals with different tasks naturally accumulate different stores of knowledge about the environment. Since the survival of the group depends on having accurate information about the environment and no one can know everything, individuals must pool their knowledge and members of the group must count on one another to be accurate and sincere (Fricker 2007, pp. 109–10). Division of labour gives rise to distinct social groups, which, in turn, are bound to create identity prejudices. These prejudices need not be negative or harmful *per se*. In a well-functioning community, a mutual trust develops among its members, even among those from different social groups. Elsewhere, Fricker (2017) comments that successful communities find ways to combat the tendencies toward distrust that can develop because of identity prejudice, while epistemically dysfunctional communities do not.

Prison does not combat tendencies toward distrust between members of different social groups. On the contrary correctional systems go to great lengths to distinguish incarcerated people as a separate social group, including dressing them in identical uniforms and referring to them as ‘inmates’ or ‘offenders.’ As Jim Earhart, incarcerated at Bonne Terre Prison in Missouri, relates, ‘OFFENDER dwarfs even the inmate number so critical to administrative transactions. A prisoner can be thirty years removed from his crime and twelve years removed from his last conduct violation’ and still be ‘labelled a lying, manipulative criminal’ (Earhart 2014, p. 337). The starkly defined social groups amplify the ‘us-them’ dynamic between correctional staff and incarcerated people that arises naturally among them as different social groups.

Correctional systems also encourage distrust because they train staff to be wary of incarcerated people in the interest of safety and security. Correctional staff are constantly on guard against deceit, manipulation, or worse. In ‘Epistemic Activism and the Politics of Credibility,’ Jose Medina and Matt Whitt highlight conditions in a North Carolina jail in which a detainee died due to medical neglect despite repeated pleas from the detainee and his peers for medical attention. Medina and Whitt note that ‘disbelief and disregard are widely accepted ways to treat individuals who are presumed to be uncivil, self-serving, untrustworthy, infamous, or otherwise “criminal”’ (Medina & Whitt 2021). Major Paul Martin of this jail system, at a public forum responding to a series of detainee letters describing poor jail conditions, said, ‘Just because someone writes a letter doesn’t mean it’s true. Who wrote the letter? [...] I can’t even authenticate that it’s real [...] Some of these letters are rigged; they’ve not been authenticated. And I don’t believe them because I know the jail’ (cited in Medina & Whitt 2021). Martin and his staff’s distrust blinded them to their detainee’s need for medical attention to the point of death. Martin’s comments, particularly his blanket reference to ‘the jail,’ reveal a systematic distrust of incarcerated people. Major Martin may not represent all correctional staff and administrators, but there are enough personnel who share his attitude toward ‘the jail’ to foster and maintain a dysfunctional epistemic community within many correctional systems.

The credibility deficits that incarcerated men and women routinely experience are part of the overall prison atmosphere of epistemic

dysfunction. The lack of a healthy epistemic community harms incarcerated people practically, as when it leads to medical neglect, and epistemically, as it diminishes their status as knowers, which degrades their humanity. These experiences and consequent harms are all facets of testimonial injustice. College classrooms inside prison, on the contrary, are well positioned to create a contrasting space in which incarcerated people are not subject to testimonial injustice.

## How does College in Prison Remedy Testimonial Injustice?

Higher education programs within prisons are powerfully positioned to counteract the harms produced by testimonial injustice. It is important to distinguish between their ability to offset the resulting harms and any capacity to neutralise the injustice itself. HEP cannot necessarily reverse the credibility deficits that take place in prison. However, by creating a space within prison for incarcerated people to engage in higher learning, HEP offers a well-functioning epistemic community with whom to engage. Students may thereby gain a reprieve from credibility deficit. It is a space in which incarcerated people are respected as knowers, where they are assumed to have valuable and sincere contributions to make to one another's learning and intellectual development, and where they may rebuild their intellectual confidence and steady their minds.

The consensus among HEP practitioners and incarcerated students alike bears this out. Jill McCorkel and Robert DeFina (2019, p. 8), sociology professors from Villanova University speaking of their experience teaching at SCI-Graterford<sup>6</sup> in Collegeville, PA, for instance, note:

scholarly communities in prisons [...] can push back against the mechanisms of distrust, alienation, and competition [...]. The prison classroom [...] offer[s] space to de-commodify life, a place where one can learn to value a diversity of opinions and to participate in a common struggle, in this case the search for understanding and truth.

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<sup>6</sup>SCI-Graterford closed in 2018 and was replaced by SCI-Phoenix in the same location.

McCorkel and DeFina argue that since knowledge is not a zero-sum resource, students need not think selfishly nor fear being exploited in a race to see who gets the most. This is especially notable because the classroom joins students across racial, religious, and other social lines that are not often crossed in prison. Rather than compete, students come to realise that they are dependent on their classmates because their collective effort is indispensable to the success of all. Students not only explore and discuss the subject matter themselves, but they also witness, compare, and contrast one another's approach to the material. Without the earnest effort and sincere participation from all, the value of the experience for each is deeply diminished.

Cooperating with one another by feeding off of each other's insights and quandaries in the classroom not only neutralises distrust and alienation, but also breeds a collective sense of purpose among incarcerated students. Jody Lewen (2014, p. 361), president of Mount Tamalpais College in San Quentin, CA, argues that 'great educational experiences also create a mutual sense of connection, respect, affection, and gratitude—and this in turn produces a sense of personal responsibility and accountability to the other.' Lewen frames this in general terms of countering the dehumanizing effect of prison, but we can apply it concretely in the context of epistemic injustice. The atmosphere of cooperation that arises in the HEP classroom is a characteristic of the well-functioning epistemic community that develops there. The feeding off each other's insights and quandaries, the witnessing of one another's approach to the material in real time, is a division of epistemic labour when it comes to understanding that material. Each individual contributes what they understand and everyone benefits by increasing their knowledge. Sincerity on each student's part is safely assumed given the non-competitive nature of the enterprise. Hence, the educational experience counters dehumanization because it restores the incarcerated students' status as knowers, as full-fledged members of an, albeit circumscribed, epistemic community in which their knowledge is welcomed, trusted, and valued. As Rodney Spivey-Jones (2019, para. 1), an alumnus of Bard College in Eastern Correctional Facility in Naponoch, NY, describes his first course: 'We took our seats in the classroom... not as inmates, but as classmates. The stress and tension that seem to burst through every crack and crevice of

the prison receded into the background.’ He (*ibid.*, para. 3) goes on to say, ‘There, in that space, my curiosity deepened. [...] I learned to evaluate details and offer my own viewpoints. [...] No longer did I sit stiffly in my seat afraid to hear my own voice. With confidence and genuine passion, I began to speak.’ Spivey-Jones and students like him are seizing upon an opportunity to recover a vital part of being human when they participate in the collective success of the college in prison classroom and rebuilding their intellectual confidence. In doing so, they are undoing some of the harm caused by the testimonial injustice often faced while incarcerated.

Spivey-Jones is not the only student who recognises the function that community-building plays in the success of the classroom and its ‘rehumanizing’ effects. Charleston (cited in Evans 2018, p. 9), a student of Common Good Atlanta and incarcerated in Phillips State Prison in Buford, GA, echoes Lewen’s notion of accountability, claiming, ‘The class represents for me an accountable community where we hold one another accountable for the success of the program as a whole.’ He credits his classmates for his success in acquiring greater critical thinking skills and applying them. He is aware that without a group of dedicated like-minded individuals challenging him, his personal and intellectual growth would only get so far. The ‘fuller humanity’ that Evans references in this context is reclaimed by each student when, amid their classmates’ participation, they not only search within for answers but also come to find that they rely on one another’s participation. The *mélange* of intellectual challenges students present to one another, and the opportunities it creates for introspection and sincere feedback, are at the heart of Charleston’s observation about their mutual accountability.

Finally, HEP classrooms provide opportunities to incarcerated students to rebuild their identities. Clint Smith, speaking of his experience teaching creative writing in MCI-Norfolk in Norfolk, MA, emphasises the importance of a space in which incarcerated people can come together. He writes, ‘We are engaged in the collective project of self-exploration, building together a world that might reclaim what others have sought to take away’ (2017, p. 88). Whereas prison ‘is meant to render the incarcerated person as someone different than other members of society,’ the college classroom inside of a prison is a space where incarcerated people may

develop relationships with one another that the prison generally does not foster (ibid, p. 88). Smith creates a space for them to collectively explore big questions about themselves and discuss them together. Just as Bernard Williams points out that steadying one's own mind requires sincere dialog with others on topics of importance, Smith's students dissect powerful poems and essays together and develop relationships that enable self-exploration. Smith's students are able to participate in a well-functioning epistemic community, giving them the opportunity to recover their sense of self that is stripped away by the rules and norms that govern relationships and communication in prison.

College classrooms in prisons like McCorkel and DeFina's, Lewen's, Spivey-Jones's, Charleston's, and Smith's, provide an environment in which incarcerated people may come to rely on one another to achieve a goal, and to do so by introspecting on weighty issues, sharing their reflections, and examining one another's thoughts alongside their own. Success in a college classroom is not a zero-sum game and its degree of collective success is commensurate with the degree to which students trust one another with the vulnerability that comes with sharing their thoughts and questions. As a result, incarcerated men and women who participate in HEP receive opportunities to undo the harms that spring from the forms of testimonial injustice that dominate prison.

## **What does Hermeneutical Injustice Look Like in Prison?**

The other broad form of epistemic injustice that Fricker (2007, p. 155) characterises is hermeneutical injustice, 'the injustice of having some significant area of one's social experience obscured from collective understanding owing to a structural identity prejudice in the collective hermeneutical resource.' Hermeneutical resources are the vocabulary and concepts, as well as media and cultural representations, available for making sense of the experience of a given social group. The wealth of hermeneutical resources pertaining to some social groups is greater than that of others. Dominant groups typically enjoy an abundance of hermeneutical

resources while subordinated groups suffer an impoverishment of hermeneutical resources. Consequently, the experience of subordinated groups tends to be relatively obscured and its importance minimised in comparison with dominant groups. Members of subordinated groups may thus find themselves unable to make sense of their own social experience and identity, and may be marginalised by society.

Hermeneutical injustice occurs when a member of a marginalised group is thwarted in understanding some aspect of their experience because of the impoverished resources available for doing so (*ibid*, p. 159). It is a form of epistemic injustice because the victim is unable to acquire (self-) knowledge—about their individual experience and about how that experience is tied to their social identity—due to their group being hermeneutically marginalised. Fricker (*ibid*, p. 149–50) offers the example of Carmita Wood, who suffered sexual harassment before the notion of sexual harassment was established. Since ‘sexual harassment’ was not among the hermeneutical resources of mid-twentieth century American society, women had difficulty fully articulating their experience, leaving many to face it feeling isolated, confused, and powerless. As with testimonial injustice, the cases of hermeneutical injustice that warrant the most attention are those that track other areas of social life in which the group faces marginalisation. Also, as with testimonial injustice, the persistent and systematic exclusion from the knowledge community bears the same potential epistemic consequences of oppressive dehumanization and hindered intellectual and personal development, as well as practical consequences such as stymied career advancement (*ibid*, pp. 162–63).

Hermeneutical injustice is practically harmful because what we can do with our lives is influenced by how we perceive the social structures that govern our environment and the constraints those structures place on our lives. Our ability to reinterpret those structures and our relationship to them depends on the hermeneutical resources available to us. Philosopher Lorenzo Simpson (2017, pp. 258–59) characterises this as a relationship between our ‘picture of the social world,’ or what he calls our ‘social ontology,’ and our social agency, which he defines as ‘the scope of our ability to intervene in that world.’ Victims of hermeneutical injustice work with impoverished hermeneutical resources and, in turn, an

impoverished social ontology, limiting their social agency. Building a path out requires ‘narrative representability,’ the ability to articulate to oneself how to get ‘from where they are, in all their concrete circumstances and identities, to circumstances that permit life-enhancing behaviour’ (ibid, p. 258). In order to expand narrative representability, victims of hermeneutical injustice must have access to richer hermeneutical resources to develop their understanding of the social and political forces that shape their lived experience.

Incarcerated communities are among the social groups who suffer hermeneutical injustice. Incarcerated people who wish to better understand themselves and their place in society have a difficult time doing so due to the lack of hermeneutical resources at their disposal. According to the LoCI and Wittenberg University Writing Group (2016, p. 15), comprising residents of London Correctional Institution in London, OH, and members of the Wittenberg University community, ‘To change and to grow epistemically is to be open to new information, opinions, and practices—something not readily accessible to the inmate population overall because of the structure of prison life.’ This is in part due to rules and regulations within the prison. This may not precisely align with what Fricker had in mind when she defined hermeneutical injustice. She targets the hermeneutical resources available to society in general for understanding the lives and experiences of a given social group insofar as the available resources disproportionately favour dominant groups over subordinated ones. Examining the incarcerated population, however, shows that we need to expand the ways in which people can be subject to hermeneutical injustice. Fricker remarks that hermeneutical injustice strikes when an actual attempt is made to understand one’s own experience and it is thwarted because of the inquirer’s social standing. As Fricker discusses, one way that can happen is when there are insufficient resources pertaining to one’s social standing because one belongs to a subordinated group. The situation is different for incarcerated people. The general availability of resources for understanding the lives and experiences of incarcerated people is not the only factor in determining whether an incarcerated person may be thwarted in their attempt to understand their own life and experience. Even if there are sufficient resources available in society in general, incarcerated people are deprived of a great many



resources that people in society take for granted. Thus, because of their position in society, incarcerated people may be unable to obtain the necessary hermeneutical resources for making sense of their own experience even if society in general were to possess a wealth of hermeneutical resources pertaining to the experience of incarcerated people.<sup>7</sup>

Assuming, for the sake of argument, that there are sufficient resources available to society in general for understanding the experience of incarcerated people, rules and regulations at most prisons create structural barriers for incarcerated people to access them. As Karen Lehman, incarcerated at Robert E. Ellsworth Correctional Center in Union Grove, WI, explains (Heider and Lehman 2019, p. 4), ‘The prison environment is not always conducive to learning. [...] The lack of Internet access restricts research and forces me to rely on other avenues, such as asking family and friends to look up information and mail it to me.’ Internet access is highly restricted or forbidden entirely in most prisons. Many have libraries, though they vary in how well they are maintained, and their contents are controlled by prison administrators. Incarcerated men and women may buy or borrow books from outside the prison, but their selection will be limited to what is listed in prison catalogues, what they can afford, or by who they are in contact with to request titles from, all of which rely on the incarcerated person to know what they are looking for. Lastly, many incarcerated people have access to newspapers, magazines, and cable television, but they must rely on what is being printed or aired rather than pursue what is specifically of interest to them.

Other structural policies within correctional settings further contribute to the hermeneutical injustice experienced by incarcerated people. For example, many prisons place restrictions on access to higher education. The next section will explore the features of HEP that enable it to counteract hermeneutical injustice, but let it be taken for granted for the moment that it does so. Just as in traditional higher education settings, HEP provides reading material to people that they may not otherwise be aware of or be able to acquire, as well as the skills necessary to critically reflect on oneself and one’s condition. Unfortunately, not everyone incarcerated who desires and would benefit from HEP is able to access it. As

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<sup>7</sup>I am not claiming there is in fact a sufficient wealth of such resources.

the LoCI and Wittenberg University Writing Group (2016, p. 14) explains, for example, 'In Ohio prisons, people who are incarcerated are not eligible to take most college-level courses or trade training until within five years of their release date.' For those with longer sentences, the long period of languishing 'creates a feeling of helplessness' and contributes to 'feeling intellectually inferior,' which may calcify into closed-mindedness toward opportunities for education when they finally arise (ibid., p. 14). The group laments that this 'can lead to inmates not viewing themselves as benefitting from and/or worthy or capable of [...] college-level or trade courses, or participating in programming that might challenge their point of view and lead them in new directions,' as well as prevent them from 'developing a critical lens for understanding how they are individually situated within the structure of prison' (ibid, p. 15). By limiting access to higher education, these policies prevent many incarcerated people from gaining a better understanding of their lived experience and how it is influenced by their social position. As a result, such policies prevent those affected from discovering new perspectives on what the future may hold for them. In short, policies such as these perpetuate hermeneutical injustice against incarcerated people.

Though Fricker originally conceives hermeneutical injustice as being produced in part by a lack of hermeneutical resources to be found generally within a society pertaining to a disadvantaged social group, incarcerated people find themselves victims of hermeneutical justice for additional reasons. Even if there are sufficient resources available in society generally to make sense of the lives and social conditions of incarcerated people, many prison policies place restrictions on the access incarcerated people would have to those resources. Many policies work by restricting the raw materials that incarcerated people can access, such as books, the internet, and other media, while other policies work by restricting access to certain levels of education. In fact, higher education is strongly suited for reducing the degree of hermeneutical injustice faced by incarcerated men and women and the harm it causes.

## How does College in Prison Remedy Hermeneutical Injustice?

Just as in conventional campus settings, HEP develops students' critical thinking skills and provides an abundance of literature to which to apply those skills, gradually enhancing their ability to understand their world. It raises students' critical awareness of the social, political, and cultural forces that shape their lives and those around them in prison and in their communities prior to incarceration. Regarding incarcerated students specifically, obtaining higher education equates to repairing some of the hermeneutical injustice they face as incarcerated members of society. The reflections of HEP practitioners bear this out.

One way in which practitioners witness HEP as a remedy to hermeneutical injustice in prison is in terms of individual agency. For instance, Smith (2017, p. 96) offers, 'The incarcerated, and formerly incarcerated, must be in a position in which they can understand structural realities that shape their lives while also freeing themselves of the idea that they do not have agency with which to shape the direction of their lives.' His terms of agency and shaping the direction of one's life echo Simpson's sentiments in the context of hermeneutical justice. Smith's reference to 'structural realities that shape their lives' is the object of what Simpson calls their 'social ontology.' A greater understanding of those structural realities is precisely the expanding of one's social ontology. Simpson argues for the importance of broadening one's forward-looking self-narrative to increase one's agency. Smith (*ibid*, p. 90) believes education, especially in prison, serves that function:

Discussing history means coming to understand that there is a larger, more systemic reason why a disproportionate number of people in prison across this country are black. Understanding this means understanding your place in this prison differently, because doing so disrupts previously established notions of authority and moral supremacy. [...] How might a prisoner's sense of self change if he understood the social and historical phenomena that have led to his community being disproportionately targeted by the police in a way that others are not?

Based on the parallel remarks between Simpson and Smith, one way to interpret Smith's claim about prison education offering liberation and dignity is to say that prison education offers incarcerated students the tools to reverse the effects of the hermeneutical impoverishment they suffer during, and in some cases prior to, their incarceration.

In addition to individual agency, practitioners also witness HEP as a remedy to hermeneutical injustice in prison in terms of collective empowerment. McCorkel and DeFina (2019, pp. 8–9) observe, 'As students begin to see the larger forces that have produced their common situations and predicaments, the need for and possibility of solidarity and coordinated social action can become more evident.' McCorkel and DeFina echo certain remarks of Fricker's regarding addressing hermeneutical injustice in group settings. Recognizing the cognitive dissonance one may feel between one's own attitudes toward oneself and the messages one receives from one's social environment is an important 'starting point for both the critical thinking, and the moral-intellectual courage that rebellion requires' (Fricker 2007, p. 168). Fricker (*ibid*, p. 168) goes on to claim, 'Put a number of people together who have felt a certain dissonance about an area of social experience [...] and it is not surprising that the sense of dissonance can increase and become critically emboldened.' Not only does the HEP classroom equip incarcerated men and women with the tools to better articulate the dissonance they may experience, but it also creates a space to compare their experiences with one another. The result, if Fricker is correct, is mutual encouragement and a bolstering of individual critiques and self-understanding among incarcerated students.

McCorkel and DeFina's claim that collective critical emboldening in HEP classrooms may produce a consolidated effort to yield social change is also reflected in the work of philosophers.<sup>8</sup> Jose Medina (2017, p. 48), for instance, theorises that hermeneutical injustice must be met with hermeneutical resistance, which he describes as 'exerting epistemic friction against the normative expectations of established interpretive frameworks.' Along the same lines, Nancy McHugh (2017, p. 272), citing

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<sup>8</sup> While it is beyond the scope of this chapter to explore in detail the potential broader social ramifications of HEP, I gesture toward some promising connections.

Chandra Mohanty (2003), argues that oppressed communities may develop into ‘communities of epistemic resistance’ that

reformulate and counter the dominant framework that dehumanises them, that denies the significance and validity of their experience and knowledge, and that speaks for them and frames the groundwork for knowledge and epistemic legitimacy such that the voices of oppressed people are invisible, silenced, and discredited.

In doing so, McHugh (ibid, p. 275) goes on, communities of epistemic resistance may develop what Medina calls ‘subversive lucidity,’ empowering them to question their oppression and further articulate and spread their experience, ultimately ‘reformulating the epistemic terrain.’

In order for incarcerated people to create friction and reformulate the epistemic terrain, their own voices must be included in critical conversations on the outside. HEP provides the tools and the space for them to develop their voices. A hint as to how HEP may offer opportunities to apply Medina’s recommendation of exerting epistemic friction can be found in Smith’s work. Smith (2017, p. 90) describes the importance of discussing the Ferguson protests with his class, particularly in connection with race, a taboo subject he was warned against by prison staff:

The men, too, know that this subject is off limits here. These types of conversations represent something that might lead to the sort of rebellion that is not singularly defined by physical resistance but, perhaps more importantly, by a new sense of socio-political wherewithal and sense of self. [...] For these men in a state prison in Massachusetts, the act of putting pen to page is their way of joining the protests.

While Smith does not say whether his students’ writings on this subject made it outside of the prison, imagine they were. By joining the chorus of voices protesting in Ferguson, the people in Smith’s class would be ‘exerting epistemic friction against the normative expectations of established interpretive frameworks’ since established interpretive frameworks seldom include incarcerated voices and would, one hopes, find a place for

them. Their experience with our criminal justice system provides a crucial standpoint from which most participants in these dialogues cannot speak.

Moving the needle toward correcting the hermeneutical injustice suffered by incarcerated communities requires that the hermeneutical resources of our society expand to include more (authentic) representations of the experiences of incarcerated men and women during and prior to their incarceration. Moreover, these resources must be made available to incarcerated people themselves. Finally, more of these resources must originate from the voices of those who are or have been incarcerated. HEP plays an important role in these measures by bringing more resources inside to a greater number of incarcerated people to aid self-understanding, just as college does anywhere, and by equipping incarcerated people with the critical skills and critical emboldening necessary to carry their voices beyond the prison and add their standpoints to our collective hermeneutical resources.

## Conclusion

HEP does not and cannot fully address the epistemic injustice experienced by incarcerated people or the harms that result. Nor can addressing the epistemic injustice perpetrated on incarcerated people relieve the other ways that they are mistreated. However, it provides a space within the prison in which they may continue to develop as epistemic agents, build intellectual skills and confidence, and maintain their humanity in at least this one dimension in a place that too often diminishes it. HEP does this primarily by creating a space for a properly functioning epistemic community within prison and by expanding incarcerated students' critical understanding of their experience. At its best, HEP may not only help those incarcerated to understand the social forces that influence their lives and communities, but may also empower them to instead have an influence those social forces.

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# 10

## The Difficult Art of Higher Education Delivery in Prison

Nicoletta Policek

Higher education delivery in prison is both a theory and a practice of helping prisoners achieve critical consciousness by providing ways of thinking, and modes of being which open up distinctive conditions so that prisoners can acquire a new awareness as citizens (Abs & Veldhuis, 2006). Therefore, this contribution contends, higher education in prison is both a political and pedagogical strategy assisting democratization and active citizenship. This strategy sustains prisoners' use of their right of resistance, validating the prerogatives of an individual in contrast to the central power structure present in the social order that is the prison.

The contemporary crisis in higher education (Ash & Clayton, 2009), defined by students' identity as consumers of knowledge and education, is currently magnified in prison. This crisis has as its background the crisis of the subdivision of human experience into Labor, (political) Action and Intellect (Virno, 2004). In defining students as consumers of higher education there is a juxtaposition, a sort of hybridization between spheres

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which, until recently, seemed clearly distinct and separated. This tripartitioning, mirrored in the prison, has seemed flawless and almost unquestionable. It is not a matter of an undertaking which is only philosophical, but instead, of an extensively shared pattern of thoughts in which education often emulates the interests of new modes of colonialism and empire (Kincheloe, 2008). Such dynamics must be exposed, understood, and acted upon as part of critical transformative praxis. The difficult art of pedagogical practices of higher education in prison strives to achieve this transformation against the production of prisoners as docile bodies (Kilgore, 2011).

University-based prison education programmes try hard to represent affirmations of education as an intrinsic right rather than a market commodity framed by corporatized universities (Horton & Freire, 1990). Prison education as human right is anchored within international law, beginning with article 26 of the Universal Declaration of Human Rights (1948) and articles 13 and 15 of the International Covenant on Economic, Social and Cultural Rights (1966). The Covenant's article 13, section (c) states 'Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education'. The right to education in prisons has been discussed further in United Nations, Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1955).

While the capacity of university-based prison education programmes is negligible in relation to need, they make outsized and innovative contributions given the current unpromising educational landscape of the prison system (Bahr et al., 2010). At the same time, it is also fair to observe that higher education institutions have not contributed to prison education on the scale of which they are capable if motivated (Behan, 2010). Whatever universities contribute, the bulk of prison education must and will remain a domain of state provision, not voluntarism originating from academic campuses (Belzer, 2004). While university partnerships can provide at best a modest response to a systemic problem, a limitation of scale does not constitute an excuse for avoidance.

University faculty and students can and should forge Prison–University partnerships for credit and non-credit programming, not only in order to uphold a mission to educate students, but also to fulfil an inseparable community service mission. Universities can make significant contributions by raising prisons and prison narratives as teaching subjects; by shaping consciousness among students concerning these issues and encouraging continuing civic involvement; by ensuring that the prison–industrial complex becomes a site for research and intellectual engagement; and by locating language and literature studies within a cognisance of prisons and confinement systems globally (Bumiller, 2013). Engagement with prisons represents a responsibility for higher education institutions, especially given their claims to offer intellectual tools for broad social understanding and critical integration into society (Byliss, 2003). At the outset, this chapter offers an overview of pedagogical practices of higher education in prison; it then describes the provision of higher education in European prisons with a focus on the Learning Together partnership; and finally articulates the apparent creation of the student as consumer, couched in the economic good of having a degree and thus purchasing a stake in an educational ‘free market’. Students in prison, this chapter finally contends, are also consumers of education. They however witness a contradiction. In principle, prison education is both a political and pedagogical strategy assisting democratization and active citizenship because it is indeed this strategy that sustains prisoners’ use of their right of resistance. This right does not mean legitimate defence, but it is something which is more imperceptible and complex. In other words, the right of resistance consists of validating the prerogatives of an individual prisoner or of prisoners as a whole, in contrast to the central power structure present in the current social order.

## **Pedagogical Practices of Higher Education in Prison**

Dissimilarities in educational systems between countries make it problematic to argue for the existence of a homogeneous approach to prison education (Prisoners’ Education Trust, 2017). Penitentiary and

correctional systems differ significantly, as does the definition of what constitutes prison education. In spite of this, a number of generalisations can be made in relation to prison education. Prison education in its wide sense includes library services, vocational education, cultural activities, social education, physical education, as well as the academic subjects which are included in narrower concepts of education. The provision of some forms of education for prisoners has been a common feature of the penitentiary systems (Clark, 2016). In contemporary Europe, virtually all countries have education available in at least some of their prisons, although there is great variability in what is provided (Behan, 2010). This variety can be credited to the different understandings on the aims and possibilities of prison education, these being the direct outcome of the general attitudes of society to people who are held in prison (Morenoff & Harding, 2014). There are many reasons supporting the provision of education and training in penitentiary contexts. International legislation, conventions and recommendations all recognise the right of prisoners to participate in educational activities while serving their sentences (Parrotta & Thompson, 2011).

Prison education has been considered as a process to bring advantages to both prisoners, since they gain skills and competences which will facilitate their re-integration into society (Hannon & DeFina, 2010), and to society as a whole since it reduces the social costs of crime (Byliss, 2003). Prison education is often linked to the improvement of employability among prisoners, an important factor which reduces the likelihood of inmates to re-offend and return to prisons (Coates, 2016). European countries have been making significant efforts towards quality prison education. They face specific challenges because the majority of correctional institutions are overcrowded with an average occupancy rate of 105% across the EU-27 (Costelloe & Warner, 2014). Furthermore, inmates in European prisons form a significantly diverse group in terms of nationality, age, qualifications, skills and sentences (Costelloe & Langelid, 2011).

Decisions and Laws regarding the right to education and training for all exist at a European level such as the Protocol no. 1 to the European Convention for the Protection of Human Rights and Fundamental

Freedoms (Article 2) 1 and Article 14 of the Charter of Fundamental Rights. Moreover, seeing the person in prison as an equal member of society is central to the Council of Europe's penal policy in general and its prison education policy in particular. The Council's policy on prison education is set out most fully in *Education in Prison* (Council of Europe, 1990), and this is endorsed strongly in the *European Prison Rules* (Council of Europe-Committee of Ministers, 2006). Prisoners are regarded as entitled to a form of adult education as those in the community outside. The Council of Europe sees adult education as a fundamental factor of equality of educational opportunity and cultural democracy, and sees it as promoting the development of the active role and critical attitudes of women and men, as parents, producers, consumers, users of the mass media, citizens and members of their community (Council of Europe, 1990). According to the policy of the Council of Europe, adult education is 'seen to be about participating and experiencing rather than about the passive absorption of knowledge and skills; it is a means by which people explore and discover personal and group identity' (Council of Europe, 1990, p. 12). Thus, a key recommendation is that all prisoners should have access to a wide curriculum, with the aim 'to develop the whole person bearing in mind his or her social, economic and cultural context' (Council of Europe, 1990, p. 4). While such policy on prison education is clear, provision (and the philosophy behind that provision) varies considerably across countries. In some countries, comprehensive programmes of education that are well-resourced and based on Council of Europe principles are offered to all imprisoned individuals, while elsewhere there are only educational offerings of weak and narrow forms of learning. Generally, it can be said that placing prison education in the general framework of adult education, lifelong learning and basic competences acquisition (both key and transversal competences) provides the basis upon which initiatives, research and pilot learning programmes can be organised, developed and evaluated, so that those who are in prison have more opportunities to participate in educational interventions and benefit from both short and long term results (Champion, 2018).

## Prison Education and Prisoners' Rehabilitation

The role of prison education in the rehabilitation process of prisoners has been considered of major importance (Duwe, 2015). Prison education offers prisoners the opportunity to engage in useful activities while imprisoned, constitutes a pathway towards secondary and post-secondary mainstream education, improves their employment prospects after release, contributes to their smooth and permanent re-entry to society so that they become active in their local economies and societies, facilitates the process of their personal development and transformation and enhances their prospects of developing the motivation, autonomy and responsibility to gain control over their lives after their release (Ravagnani et al., 2017). These points constitute the rationale upon which the European Union provides funding for the development of innovative educational and training activities and for the facilitation of the exchange of knowledge and experience across borders. Funding from European Union programmes, such as the Lifelong Learning Programme, the European Social Fund and the EQUAL Community Initiative has been supporting the creation and the development of prison education and training systems across Europe (Armstrong & Ludlow, 2016). It has also been facilitating the sharing and transfer of practices through the creation of sustainable partnerships and networks. More specifically, during recent years, more than 100 projects were funded by the Socrates, Leonardo da Vinci and Lifelong Learning Programme, most of which fell under the Grundtvig sub-programme. These projects focused on different aspects of prison education, such as the acquisition of basic skills by inmates, the integration of prisoners to society, the development of innovative learning models for both prisoners and the penitentiary personnel, all supporting the creation of a positive learning environment within prisons (Eaggleston & Gehring, 2000). Projects on prison education were commissioned by Directorates-General of the European Commission, such as the Directorates-General for Education and Culture and Employment, Social Affairs and Inclusion, the Directorate-General for Justice and Home Affairs and the Directorate-General for Research. These projects focused on more peripheral issues influencing prison education, such as

the cooperation of different sectors for the support of the education of inmates (Dewey, 2012).

Based on the aforementioned Decisions and Rules and the provision of funding, it can be stated that education and training in correctional institutions constitute a legal requirement and are commonly provided to all prisoners, even though in some cases certain groups are given priority, such as juveniles and prisoners with deficiencies in basic skills. The provision of education and training in European prisons can be divided into general education, vocational training and non-formal education and training (Sung, 2011). Moreover, different approaches to education in prison evident across Europe exist and can be categorised in three broad typologies (Armstrong & Ludlow, 2016). First, provision is embedded in a traditional and mainstream secondary school curriculum but oriented towards the interests and needs of adult prisoners. Second, training programmes are focused more on employability than traditional education and are almost exclusively centred on basic skills and vocational training. Third, programmes are offence-focused and provide courses influenced directly by the prison context. Of course, combinations of these elements exist, with countries giving different foci to the different types of education. Such variance in provision and philosophy continues even while individual countries remain signed up to Council of Europe and European Union principles and policies. It can therefore be stated that a variety of educational interventions is provided to prisoners across Europe. Recent findings however indicate that the participation in these educational pathways is low, reaching a mere 25% in the majority of European countries (Costelloe & Warner, 2014), usually attributed to the lack of motivation and to prior negative experiences in mainstream education. Regarding the curriculum available in prison education, much diversity exists between European countries. The basic tendency involves the provision of educational activities related to the acquisition and development of basic skills among prisoners, either by providing separate courses on basic skills or integrating the education in these skills into other training activities. Bearing in mind the low levels of basic skills among the prison population, this tendency seems to answer specific learning needs, supporting the declaration in the European Prison Rules (Council of Europe-Committee of Ministers, 2006) which states that 'prisoners with

literacy and numeracy needs, and those who lack basic or vocational education, should be given priority'. This statement reveals the second tendency existing in prison education, which is the provision of vocational training programmes (Darke & Aresti, 2016). Such programmes are highly valued among prisoners since they facilitate access to the labour market after release and provide skills which can be transferred to other environments, other than employment, such as the home and family environment.

The issue of future employability of inmates is considered as a key issue towards the reintegration of inmates into society (Bumiller, 2013). Enhancing their employability is a complex issue though, since apart from the acquisition of basic and vocational skills, a holistic approach is followed in many cases, combining prison work, which provides the opportunity to gain experience on the demands and disciplines of the working environment, and other types of support programmes which tackle problems which influence employability, such as substance abuse, housing, and relationships. This holistic approach also includes the issue of non-formal learning (Armstrong & Ludlow, 2016). This type of learning presents a pathway into education for prisoners with previous negative experiences of the mainstream system. It also plays an important role for prisoners serving long sentences, or those for whom a focus on work is unrealistic (Costelloe & Warner, 2014).

## **The Industrialisation of HE and the Prison as a Business Model**

The advent of 'liquid modernity' in Bauman's (2007) terms countersigns the transformation of a society of producers into a society of consumers. In this context, perhaps it is no surprise that participation in higher education has become commodified. Bauman (2007) contends that the most significant part of this transformation is the subtle and pervasive transformation of consumers into commodities because, he explains, 'In the society of consumers no one can become a subject without first turning into a commodity' (Bauman, 2007, p. 9). Thus, for the government, students



are seen as commodities to fulfil business requirements in generating wealth and prosperity in society, where the public good is framed in terms of students accruing their own economic capital. Not only are students paying consumers of higher education, but their degree becomes integral to their accruing of personal capital as a developing commodity, so that they are able to participate in the ‘consumer society’. Individuals who are incarcerated access education as part of the same ‘consumer society’.

Bauman (2007, p. 17) argues that consumer identity is wrapped up in what individuals consume—‘I shop therefore I am’—and possession of a particular university degree becomes part of the student’s identity. While this in itself is not a problem, and could even be seen as a positive factor, it is perhaps the expectations that come with commodities that are potentially contentious. Bauman (2007, p. 16) suggests that, in the consumer society, commodities come with answers to all of the questions that prospective buyers might ask. Problematically, if a student’s creation as the sovereign subject in this relationship as a consumer of higher education matches with what Bauman (2007) suggests, knowledge being the commodity, it is expected that what students will want to buy in higher education is inextricably linked to their future aspirations and personal capital. The student as consumer concentrates on the acquisition of intellectual capital/property and privilege. When the student is a prisoner, the business model is perfected. Prisoners’ participation in higher education provisions serves as a way to cope with present circumstances, to provide a sense of hope for the future, and as a strategy to connect with or please family members. There is a disconnect between what prisoners wanted to learn and what prison authorities believed prisoners need to learn to be successful after release. For prison and university partnerships to be truly effective, they must embed transformative pedagogic practices at their heart (Belzer, 2004). In addition to exploring personal growth, it is pivotal to discuss the changes that can occur within the public institutions at the centre of these collaborations—the prisons and the universities.

Undoubtedly, removing barriers to higher education can contribute more widely to social change and social justice (Freire, 1996). In most European countries, educational institutions that operate in prison include all levels of education, up to university. This conforms with European Prison Regulations (EPR) recommendations. However, due to

a lack of resources, the types of courses and opportunities offered are often limited (in particular for higher education). Educational courses are commonly run by the Ministries of Education (as prescribed by the EPR), but informal education programmes exist, sometimes organized by members of prison staff (i.e., in Greece). Distance learning is offered only in France, Spain, Portugal and the United Kingdom (UK), but prisoners can rarely afford it because of the high costs. Libraries exist everywhere but, despite EPR provisions, access is sometimes made difficult for security or organisational reasons and the availability of foreign language books is limited.

## Learning Together?

The growth in prison–university partnerships currently occurring in the UK can be linked to the government’s ambition to improve the provision of education in prisons both at the compulsory curriculum level and at the higher university level (Learning Together Cambridge, 2018). These partnerships can also be connected to understandings of prison ‘rehabilitation’ and the factors that most successfully assist reintegration into the community on release. It has been shown that engagement in education while in prison is linked to lower rates of re-offending (Lochner & Moretti, 2004).

In the UK, prison-university partnerships come under the umbrella of the Learning Together network (Learning Together Cambridge, 2018). Transformative learning is an underpinning principle of the learning together model in that it is learner-centred, participatory, and interactive. Classroom participation and dialogue are core features of the learning and teaching approach. For the academic year 2018–19, 24 universities and 23 prisons are partnered together delivering 31 different courses. Geographically, Learning Together courses are run throughout England, with clusters in Cambridge, London and the Northwest of England. The majority of the partnerships have been in place for between 2 and 3 years. A number of the modules are running as first-time pilot projects, but many are in their second and third year of delivery. A second Middlesex–Wandsworth module was delivered between October 2018 and January

2019. Nearly half (46%) of the courses being delivered within the network are Criminology focused (Learning Together Cambridge, 2018).

The Learning Together network and the other prison university initiatives emerging in the UK are part of a more extensive prisons–university educational movement. These emulate and borrow from programmes established in the USA such as the Inside-Out programme operating from Temple University, Philadelphia since 1997 and the ‘Prisons-to-College Pipeline’ project in John Jay College of Criminal Justice, New York (Hall & Killackey, 2008). Other international initiatives include the ‘African Prison Project’, ‘The Prison Education Project’ and ‘Project Rebound’ (Hall & Killackey, 2008), illustrating the growing popularity of prison education. These partnerships go beyond the standardized lower-level literacy and numeracy courses and core curriculum teaching that make up education provision in English and Welsh prisons. Further, they add a different dimension to the distance learning model of the Open University (OU) degree courses accessible in English and Welsh prisons. Specifically, this is in the way partnership courses are delivered through face-to-face, in-class teaching in the same format as conventional university teaching and that comprise in-prison and community-based students learning together.

The UK is currently seeing expansion in the development of prison–university education partnerships in the way community-based students are brought together to learn alongside in-prison students. These are styles of classroom knowledge exchange that encourage active participation and nurture dynamic processes of self-realisation. They are collaborations specifically intent on developing mutually beneficial exchange for the students taking part and the prisons and universities involved. Moreover, they are collaborations that can have impacts for wider social change.

Students experienced the shared learning approach designed on principles of transformative pedagogy, and how they interpreted their personal self-development and the knowledge and skills gained as a result. The discussion reflects on the common pedagogical practice that is grounded in the values of the wider learning together approach, which endeavours to create high-quality and academically rigorous learning experiences that encourage and support individual, as well as social and

institutional transformation. The learning together model is typically narrated as inclusive learning communities with principles of equality and mutual respect reflected in the structures, policies and practice in place.

Teachers involved in the delivery of the Learning Together model of prison pedagogical philosophy talk of 'transformative pedagogy' (Pompa, 2013). Both the community-based and in-prison students reported significant alterations to their sense of self-determination and confidence as a result of participating in this shared class teaching model. This is clearly a very positive side effect whose repercussions should not be underestimated. As a knock-on effect, aspirations and goals for the future are reimagined (Mezirow, 2007). In this way, students are contributing to the co-creation of knowledge that draws from the exchange of different perspectives and ideas among a diverse, mixed group of learners. In this sense, it could be argued that this approach challenges the notion of 'student as consumer'. However, questions remained unanswered in relation to what is the level of intellectual freedom and critical thinking that prisoners can indulge when approaching education in prison. If students are treated as consumers, and consumers have rights, it follows that student have rights. However, prisoners who are students lack the opportunity to enjoy rights even when they are equated to consumers.

Many European countries have realised the importance of providing 'tailor made' educational pathways to the inmates serving their sentences in their correctional institutions, in an effort to answer their different learning needs and aspirations (Armstrong & Ludlow, 2016). To this end, projects have been focusing on different aspects supporting this 'individual approach' in prison education. For example, tools and tests to assess inmates' skills and competences at an initial stage have been produced, to reveal their gaps. Information campaigns on the availability of courses and seminars within the prison have been supported, so that inmates are aware of the existing educational offers. Guidance, counselling and mentoring services have also been provided to inmates so as to help them select the educational pathway which mostly suits their wishes and their future plans as active citizens in society after they are released. Finally, the provision of education and training based on modules or separate learning units also supports the individual character, which

prison education should have. These examples, however, demonstrate the fact that prison education enhances its effectiveness only superficially. It does provide benefits to prisoners, such as self-awareness, time management skills and ability to set short and long term goals and targets. However, the context within which these goals are set, makes it impossible for prisoners to achieve them fully.

## Concluding Remarks

Despite the aforementioned characteristics which outline some important aspects of the provision of prison education in Europe, challenges exist, bringing certain barriers to the smooth provision of education and training in correctional institutions. One of the most important challenges is the diversity of the prison population. Prisoners in European prisons form a heterogeneous group, as far as their age, their educational background, their sex, their nationality and their sentences are concerned. These differences need to be taken into account when designing and implementing educational activities, since they affect their learning needs in terms of both educational content and learning methodologies. Linked to this challenge is also the fact that European prisons are overcrowded with an average occupancy rate of 105% across the EU-27 (Armstrong & Ludlow, 2016). Prison populations across Europe are growing (Aebi & Delgrande, 2010), bringing additional limitations to the education provided. Another challenge is the lack of a unified prison education policy not only across Europe, but across different prisons in the same country. This means that severe variations in the levels of access to education exist and prisoners' rights to education and training are far from being addressed. In many cases, educational programmes are not offered on a permanent basis, they are more 'one-off' initiatives, funded for a specific purpose. This means that there are prisoners who cannot benefit from them on a regular basis, or who cannot continue their education after a specific programme has ended (Bumiller, 2013). This is not the case for the organised and traditional educational programmes provided in prisons; it is more the case of other national and transnational initiatives which seek to overcome specific barriers, and even though willingness for

their transfer to other inmates and other counties exists, this is not always achieved (Coates, 2016). Another important challenge relates to the continual disruption of planned educational activities either as a result of the transfers of prisoners to other correctional institutions or due to the lack of security and/or educational staff in the prisons (Ravagnani et al., 2017). This challenge is related to the fact that not all prisons of the same country provide the same offers in education, training and other learning activities, and as a result, prisoners do not follow a linear pathway, repeating courses or finishing them before their actual end. On the other hand, security issues influence educational provisions as well, placing barriers and restrictions in the continuity of offers. Finally, a number of other issues constitute challenges influencing prison education in Europe, such as the general economic recession, the large numbers of immigrants moving to Europe, the lack of a concrete evidence-based information on 'what works' in adult education and prison education in particular and the difficulty in the cooperation between different sectors (e.g., public and private sector, Ministries, local authorities, employers' associations, etc.) (Coates, 2016). These challenges need to be fully and effectively addressed in order to guarantee that prison education plays the key role in the rehabilitation and efficient integration of prisoners in society (Dewey, 2012).

Legal, pedagogical, and penological discussions of prison education are taking place within the context of a global shift of which they take little or no cognisance: the textual world in which all such arguments are located has been revolutionised through digital literacy. Digital texts and online pedagogies have changed education radically, to the point where Internet access and educational access have become interlocking concepts. Limitation to print media constitutes a contemporary educational access barrier (Learning Together Cambridge, 2018). The real question is not whether prison education will adopt digital texts, online courses, and hybrid forms, but when it will adopt the global shift into digital formats and Internet distribution. In Europe, conversion toward an Internet-cognisant prison educational consciousness is underway. Online and digital initiatives such as the Virtual European Prison School, the Flexible School in Danish prisons, the short-lived TELiS project at the University of Bremen, and similar projects have become an integral part of the

realisation of prisoners' right to education. Approximately 1500 inmate students at 150 prisons across the UK and Northern Ireland currently are working at online postsecondary degree programmes at the Open University, taking some 200 courses in different faculties (Learning Together Cambridge, 2018). European discussions in the field of online prison education include security issues, new model development, integration into national education systems, and critiques of efficacy that are common to online education. European critiques of online-based prison education generally emphasise the right of prisoners to postsecondary education but base their criticism in questions concerning the quality and efficacy of online delivery, suggesting that absence of face-to face instruction may deepen educational inequality. Reservations have been raised about populations that have not performed well in physically based educational settings and may do even less well in online settings, requiring greater levels of intellectual self-organisation and learning discipline. While distance education may be employed to put further distance between society and prison inmates who many might prefer to forget, it can also be a powerful tool for provision where there is none.

Effective re-entry of formerly incarcerated people is largely measured by reductions in recidivism (Ravagnani et al., 2017). Such a metric, while important to the notion of public safety, ignores the many individual benefits of personal development and advancement gained through prison higher education, including the formation of strong family bonds, resilience in the face of setbacks, improvements in self-esteem and self-compassion, enhanced communications skills, and increased community awareness. A formerly incarcerated person can build upon each of these factors when navigating the challenges of re-entry. Providing an incarcerated person with the opportunity to gain a significant educational credential (Parrotta & Thompson, 2011) may help to facilitate resilience in taking on the systemic challenges of re-entering communities (Sung, 2011). One challenge to address when thinking about higher education delivery in prison is developing networks to support course and degree completion after re-entry. While many students earn college credits in prison, their release prior to degree completion remains a major issue. Future research should explore educational continuity, and prison

education programs should work to foster mechanisms of support for degree completion after release (Coates, 2016).

As state and national criminal justice policy has fostered the utilization of imprisonment and punitive sentencing policies, there have been few efforts to promote individual resilience and rehabilitation. Higher education in prison may serve as a mechanism for such transformation and, as such, may represent one tool to empower participants to combat systemic injustice and reduce and even prevent what could be defined as ‘criminalized survival strategies’ (Costelloe & Warner, 2014). Higher education in prison can be considered as a policy that can change the criminal trajectory of formerly incarcerated people returning to their communities. However, it should also be noted that the difficulty in higher education delivery in prison must be balanced with the danger that reproducing the notion of students as consumers of education interferes with creating citizenship (Delanty, 2003).

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# 11

## A Fast Track to Knowledge: Using Virtual Reality for Learning in Prisons

Jimmy McLauchlan and Helen Farley

### Introduction

Correctional jurisdictions are cautious when considering the introduction of educational technology initiatives within the carceral environment (Farley & Doyle, 2014). Prisons are designed with custodial security as the overriding priority, far ahead of education or other rehabilitative programs (Farley, 2018). Even given this fundamental challenge, a number of jurisdictions around the world are beginning to implement innovative technology programs for education. These include the Making the Connection project in Australia, discussed elsewhere in this volume, which uses internet-independent laptop computers for incarcerated learners to use in their cells to provide access to digital higher education

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from the University of Southern Queensland (Farley & Hopkins, 2016). Beginning in 2013, this project is active in Queensland, Tasmania, Western Australia, South Australia and the Northern Territory and has had around 1700 course enrolments with better retention rates and slightly better results than for non-incarcerated students (Farley & Willems, 2017). In Finland, an innovative programme trains prisoners to work with artificial intelligence algorithms and prepares them to work with the technology industry upon release (Chen, 2019). And a number of prisons around the world incorporate computer coding programs to train prisoners to fill positions in a rapidly growing field. For example, in California's notorious San Quentin prison, prisoners can learn how to code through software engineering classes delivered by The Last Mile, an education and entrepreneurship program (Hughes, 2020). As the appetite for allowing technologies, formerly seen as 'risky', increases, the opportunity for innovative education programs broadens, preparing prisoners for release into a world characterised by the integration of technology in every aspect of life.

## The Incarcerated Learner

It is estimated that nearly two-thirds of those in New Zealand prisons lack the functional numeracy and literacy needed to fully participate in everyday life (Department of Corrections, 2021). Many have struggled with formal education, often leaving school early and entirely disengaging with education. In line with other countries, many more suffer from a range of learning challenges brought about by traumatic brain injury, foetal alcohol spectrum disorder, attention deficit hyperactivity disorder, and a range of other conditions (for example, see Lambie, 2020). Learners with neurodiversities are massively overrepresented in the prison population in most jurisdictions. It is estimated that up to 60% of learners suffer from one or more neurodiversities such as dyslexia, traumatic brain injury, and foetal alcohol spectrum disorder among others (Jones & Manger, 2019). In many cases, these challenges are the reason for these learners being assessed at such a low level for numeracy and literacy. A project currently underway within Ara Poutama Aotearoa Department of

Corrections in New Zealand will screen for some of these neurodiversities, particularly dyslexia (Stewart, 2019).

In New Zealand, numeracy and literacy levels of learners are measured in steps 1 to 6, with learners at step 1 being able to read simple one and two-syllable words, and learners at step 6 able to read more confidently and being able to read more complex words and sounds (Ako Aotearoa, 2019). Learner literacy and numeracy is assessed using the LNAAT (Literacy and Numeracy for Adults Assessment Tool) which is a standardised assessment tool (Tertiary Education Commission, 2019). The LNAAT helps educators improve the literacy and numeracy skills of their learners. It does this by providing robust and reliable information that educators can use to understand learners' literacy and numeracy skills and their progress. This tool can assess adult reading, writing, numeracy and vocabulary skills. The LNAAT is a key component of the national literacy and numeracy resources that have been developed by the New Zealand Tertiary Education Commission (Tertiary Education Commission, 2019).

## Digital Literacies

It is widely recognised that ensuring prisoners have sufficient literacy and numeracy skills to navigate the world upon release is a sure way to positively impact on recidivism rates (for example, see Morken et al., 2021). What is less recognised, is that the attainment of digital literacies can also impact positively on recidivism rates by enabling those who are released from custody to successfully deal with a world that is increasingly dependent on technology whether in the workplace or in social and personal settings (for example, see Coiro, 2003; Sherman & Craig, 1995). There are very few occupations that do not rely on technology, at least to some degree, and many high quality and better paid occupations are highly reliant on technology (Bejaković & Mrnjavac, 2020; Reisdorf & Rikard, 2018). Securing good quality employment is widely recognised as one of the most successful means of reducing reoffending (Labriola, 2020). In addition, prisoner access to digital technologies positively impacts their ability to self-manage and positively impacts recidivism rates, with or without employment (McDougall et al., 2017).

With most correctional jurisdictions offering no or very limited training using computers, or the computers available are obsolete, incarcerated learners miss the opportunity to gain the skills they need to successfully reintegrate into a digital society. Without digital skills and coupled with the stigma of a criminal record, the ability of a prisoner released from custody to secure a living wage is severely limited. The jobs that these digitally illiterate learners can secure are also the jobs that are least likely to positively impact reoffending rates (Reisdorf & Rikard, 2018). If jurisdictions are serious about wanting to reduce recidivism rates, thought must be given to the provision of programmes that use cutting edge technologies that are in use in the larger community, including augmented reality, web 2.0 and 3.0 technologies, and virtual reality (VR).

## Virtual Reality in Prisons

Outside of the carceral environment, the benefits of VR for education have been well documented (for example, see Freina & Ott, 2015; Massis, 2015). Virtual reality allows learners to gain knowledge and skills in a way that easily transfers to improved performance in a time efficient way (Farrell, 2018). Immersion in a simulated environment helps to embed the environmental cues that aid recall in the workplace or other learning contexts (Fujimi & Fujimura, 2020). Virtual reality enables a workplace or other environment to be readily simulated (Collins et al., 2020; Farley & Steel, 2009), making it the ideal technology for teaching skills in correctional settings.

A very few correctional jurisdictions have already employed VR initiatives for rehabilitation, education, and reintegration. Even so, there are no widescale deployments of VR in prisons for any purpose, educational, or otherwise (Farley, 2018). There are a number of reasons for this: (1) correctional jurisdictions are necessarily risk-averse, and VR hardware is thought to introduce an unacceptable level of risk; (2) many VR applications require internet connectivity, and this is forbidden in most correctional jurisdictions; (3) VR hardware and applications are sophisticated and expensive and beyond the means of many educational providers and

correctional jurisdictions; and (4) VR applications are labour intensive to run and supervise, making them prohibitively expensive for most education providers delivering into prisons and for the correctional jurisdictions themselves. However, it is aversion to risk that is the most significant barrier in the introduction of VR into prisons.

There are a small number of initiatives already in place. A pilot study in a US-based state women's prison in the US, used VR to lessen the anxieties experienced by women facing release, using storytelling to recreate stressful situations that the women might face when returning home. Future iterations of the project will compare this approach to non-immersive approaches (Teng et al., 2019).

In 2017, those in the Fremont Correctional Facility in Colorado, who had already served 20 years of their sentences and had been detained as juveniles, were entered into a program to prepare them for life on the outside. The program made use of VR that was accessed via headsets and hand controllers. The program focused on money management and computer skills. Another benefit was the ability to show participants how much the world had changed since their imprisonment. For example, they were able to learn how to use a self-checkout at a supermarket (Dolven & Fidel, 2017).

In another project called Back Home, Chilean filmmaker Catalina Alarcón created videos of the families of twelve incarcerated women at the San Joaquin Women's Penitentiary in Chile. Over a period of 6 months, Alarcón arranged for a 360-degree camera to film inside the homes of the participants. Family members featured in the videos, performing everyday tasks such as cooking dinner. Towards the end of the project, Alarcón allowed the women to watch the videos using VR headsets. The aim was to help these prisoners reconnect with the outside world. In the future, Alarcón hopes to stream the footage from the 360-degree cameras to prisoners in real time (Knowles, 2017).

An avatar-based, virtual reality program called ProReal was used with a therapeutic community in a UK prison with the aim of improving the mental health and wellbeing of prisoners. Participants created avatars to help them explain situations to another and had access to other virtual props. The program was designed to promote therapeutic change by



allowing participants the opportunity to make their thoughts visible (Van Rijn et al., 2015).

Vocational education is commonly delivered in correctional settings as it is widely believed that post-release employment decreases the chances of reoffending (Manudeep et al., 2016). However, given the nature of the carceral environment, it can be difficult to recreate those environments that will sufficiently contextualize vocational education. It can be challenging to provide suitable environments for a range of occupations such as carpentry, forestry and so on. Virtual reality environments may be one way of making learning meaningful and engaging through contextualization for a cohort that has largely disengaged from learning (Farley & Steel, 2009). Before their arrest, nearly one third of incarcerated people had not completed junior high school with undiagnosed learning difficulties that resulted in very negative experiences with formal education (Skues et al., 2019).

## Virtual Reality for Numeracy and Literacy

The potential for VR to be used as a tool to aid literacy and numeracy instruction has recently been recognised. For example, in 2016, authors Pilgrim and Pilgrim posited that VR would be well-suited to teaching literacy and numeracy in the classroom as it would enable virtual field trips that would prove to be engaging to learners, particularly if the focus of that field trip was something in which they were interested and/or something with which they had prior experience. Practical applications were soon to follow.

A research team in Brazil, developed a game using VR technologies to teach literacy to children with intellectual disabilities. VR was seen as being especially suitable for this cohort as they were often denied a wide experience of the physical world which could be augmented via the virtual environment. The technology also had the capacity to leverage those physical interactions which the participant used in their daily lives. Before beginning, each learner received a story that discussed various elements that they would encounter in the game. The idea was to evaluate the

understanding of the text and later learning through the system (De Vasconcelos et al., 2017).

Another VR literacy project was used with a second-grade class in the US. Using Google Cardboard (<https://arvr.google.com/cardboard/>) and cell phones, learners explored various habitats using the View-Master National Geographic Wildlife app ([http://www.view-master.com/en-gb\\_1](http://www.view-master.com/en-gb_1)). The app also allowed participants to conduct virtual field trips, visit landmarks and play multi-media associated with the topic they were exploring. The participants explored the habitats, searching out plants and animals, and formulated questions about the habitats. The answers to the questions were embedded in the environment. The participants were exposed to a range of texts and listening opportunities, to reinforce core literacy concepts (Hutchinson, 2018). As with the previous example, this VR activity promoted engagement by leveraging the participants' interest in a particular topic.

## The Project

Social services agency Methodist Mission Southern (MMS) was contracted by Ara Poutama Aotearoa Department of Corrections New Zealand to deliver intensive literacy and numeracy training to learners in the Otago Corrections Facility (OCF), one of the country's southernmost prisons. They believed that VR had the potential to increase learner engagement with literacy and numeracy education (Methodist Mission Southern, n.d.), and overcome the participants' lack of confidence (Collins et al., 2020). To mitigate this issue, the MMS used a contextualized learning approach in which they wrapped the content in vocationally relevant contexts to improve the engagement and motivation levels of their learners. They were confident that their learners would learn better when they were presented with images about a topic which they were already interested in and familiar with (Pilgrim & Pilgrim, 2016).

The goals of the pilot project were to determine if VR technologies would increase engagement with contextualized numeracy and literacy learning, and thereby promote learner progress. Incarcerated learners, often because of their negative experiences with education and

undiagnosed learning difficulties (Skues et al., 2019), are often reluctant to engage with literacy and numeracy education while incarcerated. In addition, to show a ‘weakness’ in learning can leave prisoners susceptible to ridicule by other prisoners. Many would rather avoid engagement with learning than expose themselves as ‘dumb’ (Ricciardelli et al., 2015). For these reasons, it can be difficult to encourage learners to attend classes. Increased learner engagement would lead to better attendance in class and increased participation in activities. The pilot project was also designed to determine whether it was viable to deliver literacy and numeracy education using VR technologies in the longer term and to more prison sites.

For this pilot project, learners at steps 1 and 2 were recruited. MMS was contractually obligated to focus on learners assessed at steps 1 and 2 of the LNAAT, so these learners were the focus of the project. In New Zealand prisons, some 60% of learners are considered to have literacy levels that would prevent them from fully participating in life outside of prison (Department of Corrections, 2017).

## Project Design

During the development of the virtual environment, the VR technologies were taken into the prison, where an advisory panel of 12 incarcerated learners gave feedback on the technologies, activities and the environment. Discussions with the advisory panel revealed that most had an interest in cars (along with tattooing, gambling, and drugs) (Collins et al., 2020). At this stage, MMS made contact with the HCI laboratory at the University of Otago. Initial brainstorming sessions confirmed the potential of the project and alignment with the research aims of the lab. The research team committed to the development of a prototype to demonstrate the feasibility of the project to interested parties, investors, and Ara Poutama Aotearoa Department of Corrections. MMS provided pedagogical guidance and contributed to the design of the content delivery mechanisms. After a number of iterations, a functional prototype called the ‘Virtual Mechanic’ project was developed. This prototype demonstrated the immersive contextualized learning possible with VR, with the

virtual learning space taking the form of a mechanic's workshop (Collins et al., 2020).

The development of a successful prototype prompted MMS to take the project to a commercial partner who would further develop the project into a product. The MMS began a collaboration with Animation Research Ltd. (ARL) based in Dunedin, New Zealand (Collins et al., 2020). More familiar with recreating sporting animations for high profile sporting events such as America's Cup, ARL is a computer graphics production house, turning digital data into pictures. ARL specializes in real-time 3D sports graphics, 3D television graphics, 3D stereographics and 3D data visualization tools (Animation Research Ltd., 2021).

The construction of the VR mechanic's garage was an interactive process undertaken by a small team of educators, software developers, and prison learners via several user testing sessions over 12 weeks (McLauchlan & Farley, 2019). Using the advisory panel's feedback, the project development team at ARL built the application from the ground up in a scalable manner with the intention that this product could be adopted on a large scale. The project was initially developed with 40 hours of educational content (Collins et al., 2020). The development team created the environment using Unity3D which is a widely used game development software platform, used to build high-quality 3D and 2D games and deploy them across mobile, desktop, VR/AR, and consoles. It was selected because of its quality as a development platform and because it is a familiar tool for the development team and any future developers required by the project (McLauchlan & Farley, 2019).

A realistic virtual environment was generated by mapping photographs to surfaces to achieve the appearance of a real workshop. The realism of 360-degree panoramic images provided a convincing immersive experience. The HCI laboratory research team contacted a local mechanic's workshop and arranged to take photos with stereoscopic cameras provided by ARL. Images were taken from four different positions to provide different perspectives in the virtual environment (Collins et al., 2020).

## Cohort Selection

The participants in the pilot project were selected by Ara Poutama Aotearoa Department of Corrections New Zealand. Security classification, sentence length, location within the prison and LNAAT score were considered when selecting suitable participants. Priority for literacy and numeracy education is given to those with very low levels of literacy and numeracy (steps 1 and 2). Those participants must have exhibited a certain standard of behaviour and not be currently eligible for psychological or criminogenic programs which are given priority over education. Those of different security classifications cannot mix, and those involved with different gangs cannot mix due to security concerns. The participants in this pilot project met all these criteria which are more to do with security and managing risk than suitability for a technology pilot. Nine learners participated in the project, 3 of whom were released from custody during the project and did not complete (McLauchlan & Farley, 2019). These learners were typical of the wider New Zealand prison population though it must be stated that different prisons necessarily focus on people with different security classifications and gender. There are no mixed gender prisons in New Zealand.

## The Hardware and Environment

Participants wore an Oculus Rift CV1 VR headset and used an Oculus Touch controller in each hand to access the virtual environment. This hardware ran from an Acer Predator 15 gaming PC, which could be viewed by instructors while the learners were immersed. There were two VR set-ups in each classroom session. The VR activities were supplemented by activities on Samsung Galaxy tablets (McLauchlan & Farley, 2019). During the sessions, there was a high level of ambient noise which was distracting to participants. There was also interaction with other participants resulting in breaks in focus. Anecdotally, the research team noticed that prisoners had to develop trust when wearing head-mounted displays in a room where other prisoners were present (Collins et al.,

2020). Prisoners are very often hypervigilant in the prison environment, with threats or perceived threats arising as a result of turf wars and other factors impacting hierarchical relationships between prisoners (Olliffe et al., 2018).

## The Lessons

The project began in April 2019 and ran for 10 weeks using virtual reality and tablet technologies. By the end of the pilot project, learners participated in at least 40 hours (and up to 100 hours) of virtual reality and tablet-mediated activities each. The virtual environment took the form of a mechanic's workshop equipped with detailed virtual replicas of cars such as a Ford Mustang and a Toyota Corolla. The participants had to identify various car parts, tools, and features of the mechanic's workshop, manipulate the various components and respond to instructions. Before the lessons began, participants were given an induction where they were introduced to the technologies and were encouraged to use them until they felt comfortable. They were also shown how to look after the equipment so as not to damage it during use (McLauchlan & Farley, 2019).

Storyboarding was used to design the educational content that would be delivered in the environment. The concept of storyboarding has its origins in the film industry where the process has been used effectively over many years to depict the sequence of narrative activities in a film or television episode. More recently, the process of storyboarding has been used in software design processes and agile user stories where sketches are accompanied by narration to provide context (Doyle et al., 2013).

In a passive activity, participants were provided with a prompt when they focused on specific car parts. By gazing at the speaker symbol on the display and actioning the prompt, users triggered a voice over which demonstrated the pronunciation of the part name and would break the word down into its syllables. An active task was implemented based on a rhyming task. Upon activating this task, a voice over provided instructions for the participant, directing them select the first letter of a word ending in 'ad' from the set provided in order to make a word that rhymed with 'Pad.' Participants hovered over letters with their gaze control and

selected a word. If the word was correct, the word was spoken and was added to the list of correct word (Collins et al., 2020).

The activities in the VR were reinforced by game-based activities on Samsung tablets. Because there was not a large number of VR headsets due to their cost, the requirement for supervision, and a limitation on the amount of time, learners could stay engaged with the VR due to their comfort, and some activities were designed for use outside of the VR. Activities included doodling with purpose, checking for understanding (where learners related what they had learned), and mind mapping. These are generic classroom facilitation techniques recommended by speech-language therapists to support adult learners with speech-language communication needs (SLCN) (Dockrell, Lindsay & Ricketts, 2012). These techniques have previously been used individually and/or in an ad hoc fashion by prison tutors, and the intention with these lessons was to formalize their use and improve their application. The activities are explained in more detail below.

Doodling with purpose—tutors draw simple diagrams and illustrations (on paper or on a whiteboard) while explaining a concept or talking learners through activities for the day. This visual aid supports understanding for SLCN (Speech, Language and Communication Needs) learners with difficulties with receptive communication. Doodling with purpose is a technique employed by speech-language therapists in New Zealand when working with youth and adults to provide simple visual aids to support oral communication—usually via simple hand-drawn doodles, diagrams, and sketches that the speaker will draw while speaking to reinforce or highlight important messages, ideas, or themes in their communication (McLauchlan & Farley, 2019).

Checking for understanding—tutors simply asking open questions more frequently to check that learners are understanding communication and/or asking learners to relay their own understanding of a concept before moving on (McLauchlan & Farley, 2019).

Mind-mapping—tutors and learners use post-it notes and simple whiteboard mind maps to recap content. This acts as another visual aid for communication (McLauchlan & Farley, 2019).

The actual structure of the lessons was as follows: There were two-hour sessions with a 10-minute break in the middle. There was a maximum of

3 sessions per week. Each tutor worked with three or four learners. Each class used two VR units and two tablets. Sessions were semi-structured with learners alternating between VR, tablet, and non-device activities (usually group-based). Virtual Reality participation represented approximately 40% of the total learning time, tablet participation approximately 40%, and non-device activities approximately 20%. Learners took part in two or three planned learning activities per session interspersed with self-directed learning activities (there was approximately a 50/50 split between structured and self-directed activities) (McLauchlan & Farley, 2019).

More specific activities included creating a parts catalogue sequence and designing customer loyalty cards. VR activities included participating in a numeracy scavenger hunt, exploring an engine block, identifying hazards in the VR mechanic's workshop, and participating in an adding game. Learners could also learn practical tasks such as assembling and disassembling a brake calliper or fixing faulty brakes while receiving a mini-lesson and learning associated vocabulary. Participants were able to walk around the mechanic's workshop and even walk out of the workshop and onto the virtual street (McLauchlan & Farley, 2019).

## Data Collection

Data were collected through semi-structured interviews with participants and were analysed using thematic analysis. Gains in literacy and numeracy were also identified through the standardized literacy and numeracy assessment tool, LNAAT. Initial results from the pilot project were encouraging, with all participants showing gains in their literacy and/or numeracy scores. Learner engagement was heightened, with all reporting positively about the program. Future iterations of the project are planned to accommodate higher-level learners and alternate scenarios.

Project instructors recorded their own observations and talked informally with participants throughout the pilot project, observing participants for engagement and learning. Learner progress was mapped using the LNAAT, and results recorded. A semi-structured formal interview of between 15 and 30 minutes was conducted at the end of the pilot project,



which involved several questions about the ease of using the hardware, the activities, and their confidence in their literacy and numeracy skills. The following questions formed the basis of the interviews for all participants:

How did you feel about using the VR headset?

How did you feel about using the tablet?

What did you think about the learning activities?

What was good about this course?

What was not so good about this course?

How would you improve this course?

How do you feel about your literacy and numeracy compared to when you started this course?

Would you like to do more learning using VR?

Would you like to do more learning using tablets?

Would you like to do more work on your literacy and numeracy when you are released?

Any other comments or suggestions?

These interviews were recorded and transcribed. The data were analysed using thematic analysis. Researchers closely examined the data to identify common themes—topics, ideas, and patterns of meaning that came up repeatedly (Winter & McClelland, 1978).

As the number of participants was small, it was difficult to generalize about the results except to say that all learners made some gains. The LNAAT results indicated that all tested learners gained at least two steps in numeracy and literacy. One learner gained three steps. These gains were made after participating in classes for between 40 and 100 hours. Each learner had participated for different amounts of time due to competing demands on their time within the prison. There is a hierarchy of attendance at activities that is outside the control of both MMS and the participants.

Participants quickly learned how to use both the VR and tablet technologies. Many indicated that even though the technologies were not what they were used to, it did not take long for them to get used to them. As one participant reported when asked how he felt about using the VR headset:

‘Crazy at first! Had it all down by the first session though. Real easy once you know what you’re doing.’ And the tablet: ‘Great. Easy to use and good to be able to pick your own activities. Enjoyed the videos and the games. Would like to see more!’

It was noted that all learners were highly engaged with the pilot project. Learners reported feeling more motivated to attend and less likely to decline sessions. They were noticeably more engaged than in conventional intensive literacy and numeracy classroom delivery—with most learners actively engaged in activities for the full two hours of a session. This level of engagement was remarked on by the tutors who had typically delivered more conventional literacy and numeracy classes (without technology) before the VR sessions. Several learners requested that they continue their VR learning when released (which MMS will facilitate in the nearby city of Dunedin via Community Corrections). All participants indicated strong enthusiasm for ongoing learning with both the VR and accompanying tablets.

Participants rapidly progressed through step 1 and step 2 content and quickly developed confidence in the learning environment. Universally, participants felt that future learning content needed to be made more challenging. This indicated that the learners, assessed as being step 1 or step 2, readily mastered the content and gained self-confidence. This is reflected in the LNAAT assessments that indicated that all participants increased their step scores in literacy and/or numeracy. When asked how he felt about his numeracy and literacy skills, one learner reported: ‘Real good. Have definitely brushed up on a few skills and learned some new ones. Mostly literacy though.’

Neurodiverse learners reported enjoying the visual and audio prompts available in the VR and tablet exercises and felt confident trying new exercises in the headset and while wearing headphones. The immersive VR learning environment also appeared to allow for the introduction of phonemic awareness and number concept activities that are often difficult to introduce to adult learning environments. Learners enjoyed a range of prototype grapheme-phoneme activities delivered in a game-based way in VR, and ongoing development work is currently underway to further explore this opportunity. It appears there is strong potential to

use VR to supplement the conventional ‘whole language’ approach to adult literacy and numeracy delivery with more targeted skill development for individual learners where appropriate. Neurodiverse learners with probable trauma histories reported feeling comfortable in the VR headset relatively quickly (once they were aware of the classroom set-up and had established trust and comfort with other class members).

Instructors observed that all learners had made visible improvements in their ability to complete individual learning activities. The progress of the learners was viewed via system data. It is likely that the combination of activities resulted in the gains in numeracy and literacy, and also the gains in engagement. The increased engagement was most likely facilitated using VR as learners reported enjoying the VR activities. Even so, the use of the Samsung tablets also facilitated engagement, particularly as personal technology is uncommon in the prison environment. Increased engagement with the activities in the VR and on the tablets undoubtedly drove the significant gains in literacy and numeracy.

## Unexpected Outcomes

The gains in literacy and numeracy achievement and learner engagement were expected. However, some other outcomes were unexpected. The virtual reality pilot at the Otago Corrections Facility has highlighted the huge potential in creating virtual scenarios where prisoners can also become educators. One participant of the pilot was sharing a cell with a person who was keen to participate in the pilot but failed to meet the eligibility criteria. The participant was working through a difficult engine assembly task and took very detailed step-by-step notes of what he was doing (up to a full page of A4 notes for each session) and drawing diagrams of key processes. He then took the notes back to his cellmate and revised them with him. He was clearly highly motivated to write and take notes for sharing knowledge. In doing so, he significantly improved his literacy skills as his work was more meaningful and memorable. By explaining the scenarios to his cellmate, he was also reinforcing his own learning. Another participant requested that a multi-user virtual classroom environment be created, which could accommodate the avatars of

other participants. He could foresee himself acting as an instructor and teaching the others what he had already learned.

Though these responses from the participants were not expected, they do indicate the potential for personal development beyond the planned curriculum. These technologies allowed for the creation of predictable, realistic environments which could empower learners to become educators and sharers of information much earlier in their learning progress than would otherwise be possible in traditional classroom settings (where a high degree of tutor skill and extremely high levels of learner comfort with each other is needed before most prison learners will even attempt this in a meaningful way).

## Technical and Environmental Performance

Overall, the equipment used for the pilot project operated well. Minor technical issues were experienced in the initial weeks (mostly due to the portable set-up of the VR sensors), and occasional ongoing interruptions caused by software updates and facilitator error but the equipment was largely fit-for purpose for single-site delivery. The current method of working offline and the manual loading and updating of content is sustainable for single-site delivery at OCF with MMS tutors, but not optimal for multiple site delivery at scale with third party providers. The overall quality of the VR and tablet content continues to improve with ongoing learner input—including innovative ideas from neurodiverse learners on how to better utilize the immersive VR learning environment.

In order to foster participant engagement, the ideal environment would be free of significant distractions (Farley, 2013). In a prison, though the environment is highly controlled, noise levels and sources are unpredictable. The participants' lack of trust, manifesting as hypervigilance, could constantly distract participants from their tasks. These issues could potentially be addressed by keeping class sizes small and consisting of friendship groups or with more isolated immersive learning spaces (Collins et al., 2020).

## Scope for Further Research

Though the results of this pilot project were promising, there are several limitations to this study. First, this pilot project was run with a small number of participants on one site for a relatively short period of time. For these results to be generalizable, more learners at more sites would need to participate. Second, the participants of this pilot were not typical of learners outside of the carceral environment or even of all learners within that environment. For example, we are unable to say how this project might play out in a women's prison, particularly given the subject focus of the VR program. Third, it is difficult to say if the results would be the same with a different focus, for example a carpentry workshop. Fourth, this project was unable to identify which components of the program afforded the most significant gains in numeracy and literacy. Further research would help to address some of these issues. In addition, other areas would prove to be a suitable focus for further research.

Each prison in New Zealand has one or more Secure Online Learning (SOL) labs, each of which houses 8 or 10 thin client computers through which learners can access a handful of whitelisted websites (Department of Corrections, 2015). Files can also be made available to learners through this system. It would be beneficial if, for future iterations of the project, a learning management system (LMS) could be loaded onto the SOL suites to enable the monitoring of learner progress more closely through a series of activities within the LMS that would complement and augment the VR experiences with continuity for learners moving between prisons.

The VR numeracy and literacy pilot has proven to be successful with learners in steps 1 and 2. Future iterations of the project would concentrate on those with higher levels of literacy and numeracy, specifically those at steps 3 and 4. More challenging learning content is now being added for existing tablet activities (including content for Step 3 through to Step 6 for most activities) and will be available to learners participating in a future iteration of the project.

The mechanic's workshop was only the first of several environments that have been planned. Others include a forestry environment with

diggers and forestry vehicles, virtual hairdressing and a virtual restaurant where participants could learn about being a chef (Otago Daily Times, 2018). It is hoped that future iterations of the project could accommodate larger numbers of learners for longer periods.

## Conclusion

This paper reported on a pilot project delivering a low-level literacy and numeracy program contextualised in a virtual mechanic's workshop and delivered via virtual reality and tablets. It has demonstrated that these technologies are well-suited to this kind of delivery but also show enormous potential for use for vocational education and training. Using VR, prisoners engaged in vocational education could visit a virtual construction site or commercial kitchen (Zoukis, 2016). They could role-play a vocation such as being a mechanic or shop assistant and familiarize themselves with the environment in a way that would be otherwise impossible to do within a prison. Without leaving their cells, prisoners could learn safety and handling procedures such that when they leave prison, they are job ready. This pilot project has demonstrated that the technologies can be made secure, minimizing risks of security breaches, and are more probably more secure than undertaking similar sorts of activities in the corresponding physical environments.

Importantly, these technologies were engaging to learners who generally have limited access to technology. While significantly improving their numeracy and literacy levels, they are importantly developing their digital literacies; something that most employers state as being crucial in the contemporary workplace (Herold, 2018). Most learners finished the program feeling more confident to participate in work and education inside and outside of the prison and looking forward to continuing their learning journey. Low levels of literacy and numeracy have previously precluded these learners from participation in work or education. Now, these opportunities are available to them in line with their aspirations.

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# 12

## Education Post Incarceration: Opportunities and Challenges

Lukas Carey

### Introduction

International research continually proposes the advantages gained when a society offers educational opportunities to all people and community groups. By logical extension, current and previously incarcerated people gain significant benefit from education but often require additional assistance, advice or direction to gain access to the educational opportunities afforded to those without a criminal record. The journey into post primary and secondary education can be non-existent for many of those who are currently and previously incarcerated. Education offered to inmates while they serve a period of incarceration can often commence their longer and fulfilling educational journey, and their study has the possibility to be continued post incarceration. There is a significant link between study whilst incarcerated and continuing it upon release, which

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suggests that the strength of the programs being offered inside directly correlates to the success of an individual upon release from a period of incarceration. This chapter will paint a picture of the educational landscape in Australia for those currently and previously incarcerated, and will explore the connection between education commenced while incarcerated and its continuation upon release. Additionally, the chapter will explore some of the challenges faced in continuing education upon release and some of the programs that provide assistance to students who have been or remain incarcerated. Based on relevant academic literature and statistical data, it is nonetheless also a distinctively personal piece, synthesizing personal educational experiences behind bars and post release with academic insights.

## Author's Perspective

The author of this chapter has a unique lived-experience perspective that brings validity and authenticity to the discussions surrounding education and incarceration. Lukas Carey served time in a prison himself and understands first-hand the relationship between education and the person both during and after incarceration. While working in local government, Lukas Carey was found guilty of receiving secret commissions and was sentenced to a period of incarceration in Australia. Throughout his incarceration he spent time in multiple facilities and gained lived experience from 'the other side of the fence'.

As soon as was practical, Lukas enrolled in additional educational opportunities and worked with many others who were also undertaking education while incarcerated. As a trained teacher and someone with extensive educational training prior to incarceration, these interactions intrigued Lukas and started his interest in the educational journey of those he served time with.

Dr. Lukas Carey has a notable point of difference to many others in this academic field because he brings an 'insider perspective' to education practices from his experiences inside, and personally understands the challenges faced upon release and the opportunities available to those returning to the community. His distinct perspective is a blend of his

theoretical and academic training, teaching qualifications and lived experience. This is a rare mix in Australian scholarship and provides a unique snapshot from the eyes of someone who understands education through the eyes of the educator and of the incarcerated and as noted above, it informs this chapter.

In addition, the stories of other previously and currently incarcerated students have been collected especially for this chapter and will be shared in order to continue provide a lived experience perspective and present the human side of education. Their names have been changed, but their words, stories and the reality of their experiences have not been altered.

## Australian Prison History and Profile

Australia is the island home to more than 20 million people and was colonized (a more appropriate term is invaded) after the relocation of a large amount of ‘convicts’ and other British settlers. The period of colonization commenced in the late 1700’s and was a time of violence and death. A group of British settlers arrived to commence colonization in 1788 after Captain James Cook arrived in 1770. Since its inception as a colony the plight of the incarcerated began with Australia used as a penal colony as early as records exist after the arrival of Europeans onto the island (Macintyre et al., 2000).

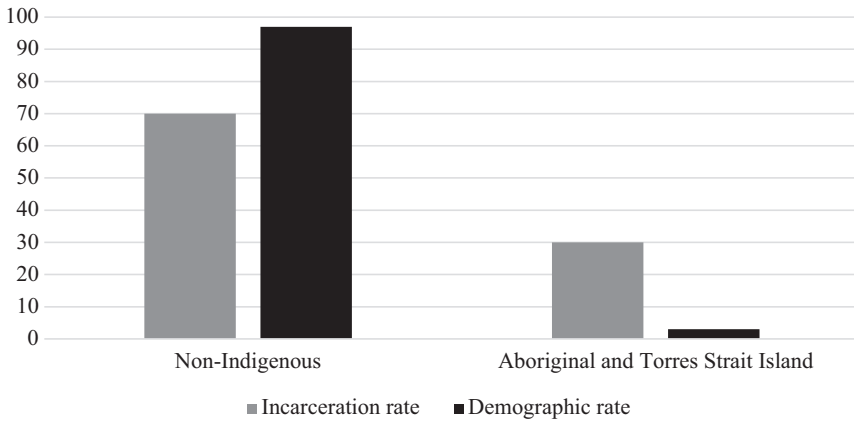
One group that was not recognized in a positive way by the European colonizers was the Indigenous Australians. Upon arrival of the ‘colonizers’, the Indigenous Australians had their land taken from them, were killed, enslaved, incarcerated and subjected to many dehumanizing practices. Some of these practices continue today with Indigenous Australians over represented in incarceration across all states and territories of Australia (ABS, 2020).

According to work by the Australian Bureau of Statistics in their Productivity Report—Corrective Services, in September 2020 there were over 40,000 prisoners imprisoned in Australia, with 12,073 of those incarcerated identifying as being Indigenous (ABS, 2020) (Table 12.1 and Fig. 12.1).

**Table 12.1** Australian Prisoner Population

Australian prison population (daily average Sep qtr. 2020)		
	Non-Indigenous	Aboriginal and Torres Strait Island
Female	2,000	1,138
Male	26,929	10,935
Total	28,929	12,073
%	70	30

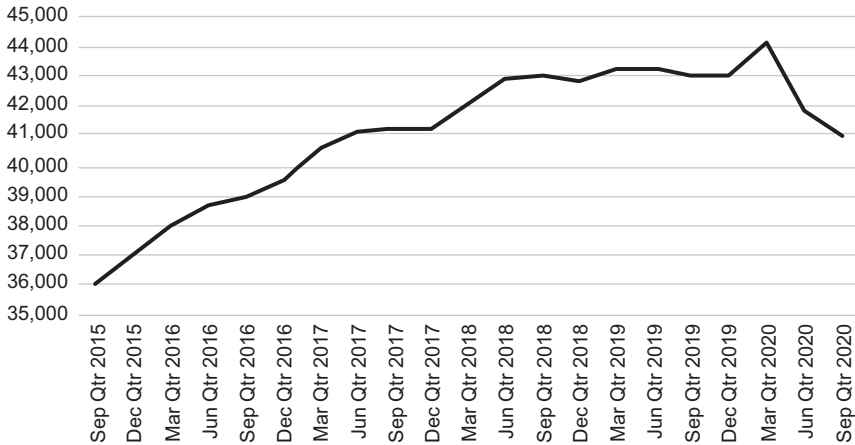
Adapted from ABS (2020)



**Fig. 12.1** Australian Prisoner Population. (Adapted from ABS (2020))

Of all the people represented in Australian prisons 92% identified as male. 82% of these incarcerated people were in secure custody with differing levels of educational and program opportunities and the remaining 18% were identified as serving their sentences in open custody settings (ABS, 2020).

This number of people being incarcerated in Australia is not decreasing with recent reports showing that the total number of prisoner receptions in the September quarter increased by 9% to a total of 15,919 people, with more than 200 people incarcerated daily across Australia (ABS, 2020). Of all prison receptions 87% were male, 13% female with 33% of those identifying as Aboriginal and Torres Strait Islander. They also have the highest percentage of indigenous habitants, an issue requiring further exploration (ABS, 2020) (Fig. 12.2).



**Fig. 12.2** Average number of incarcerated persons, based on daily average number, September 2015–September 2020 Apologies

This ongoing increase in the level of incarceration in this country, although tragic, prompts questions regarding the educational opportunities being provided whilst they serve their periods of incarceration and the influence of education on recidivism. It proposes discussion points as to the inclusion of Indigenous education and what and how education is being provided to those serving time in Australia.

## Education while Incarcerated in Australia

Education in Australian prisons is diverse. Some educational opportunities occur through trade tickets, programs, secondary school equivalences, TAFE certifications and tertiary qualifications (Dawe, 2007; Baldry, 2016; Baldry et al., 2018). The below table outlines Prisoner education and training opportunities and participation in Australia from 2009–2020 (ABS, 2020) (Table 12.2).

The table highlights the small amount of incarcerated people who involve themselves with higher education. With only 1.5% of people accessing and participating in higher education while inside Australian

**Table 12.2** Prisoner Education and training

		Unit	NSW	VIC	QLD	WA	SA	Tas	ACT	NT	Aust.
<b>Prisoners in Education and Training 2018-19</b>											
Pre-certificate Level 1 courses	%		1.3	1.5	16.3	8.2	29.0	9.9	38.3	–	8.0
Secondary School education	%		8.5	0.7	5.0	–	–	–	12.0	–	3.6
Vocational Education and Training	%		16.9	37.8	15.6	20.5	39.7	18.2	59.4	31.5	24.9
Higher Education	%		0.1	0.9	6.2	1.5	–	0.2	1.9	1.2	1.5
<b>Total</b>											
2018-19	%		22.9	39.5	38.2	29.7	68.6	24.8	70.8	32.7	35.1
2017-18	%		22.4	36.3	36.2	25.6	79.5	25.1	77.3	15.1	34.0
2016-17	%		24.6	34.1	39.1	24.6	63.4	16.0	70.6	31.0	32.9
2015-16	%		32.2	34.1	35.6	28.5	67.4	14.4	72.3	24.4	34.4
2014-15	%		31.7	35.7	28.0	24.0	53.1	16.9	76.3	14.1	31.6
2013-14	%		33.6	33.4	26.4	29.1	59.4	13.1	82.7	12.8	32.3
2012-13	%		36.1	38.1	24.5	29.0	46.2	25.3	81.8	16.5	33.2
2011-12	%		35.3	37.2	26.5	31.8	46.4	28.5	85.1	22.4	33.8
2010-11	%		30.0	40.4	27.8	36.3	49.1	na	89.8	32.7	33.8
2009-10	%		34.0	35.6	27.4	37.1	45.9	na	92.0	30.1	33.9

Na Not Available – Nil or rounded to zero

Adapted from ABS (2020)

prisons, the opportunity to improve outcomes is here, but will take significant effort from a large group of stakeholders (ABS, 2020).

The state with the highest level of participants in higher education is Queensland (6.2%), which is no surprise given the extensive education program run for incarcerated students by the University of Southern Queensland (USQ). USQ provides mentoring and direct educational contact for people who are studying while incarcerated. This structure not only provides support, but also takes away some of the challenges of getting access to equipment, texts and online materials that are common hurdles for incarcerated students.

Corrections Queensland also possesses an invested group of educators and education managers that work hard to formalize their own relationship with USQ staff and teachers. Fostering this relationship through shared training opportunities, shared research and ongoing inclusion in



decision-making and policy design, has bought the voice of the incarcerated student to the fore in Queensland. It could be suggested that the linkage between USQ and Queensland Corrections has been shown to allow for a greater level of students to commence, complete, continue or finish off tertiary or higher education whilst inside or after they have returned to the community.

Another state that is slowly increasing the number of incarcerated students as more stakeholders increase their involvement is Western Australia. The work of Universities such as Curtin University, Murdoch University and The University of Western Australia are increasing the possibilities of people both currently and previously incarcerated to commence or continue their studies. Curtin University is currently developing a program that is designed to support currently incarcerated students by providing support and designated staff to work through issues related to access to information and learning materials.

The plight of Indigenous students is never more highlighted than in Western Australia. The University of Western Australia, specifically under the aegis of Hilde Tubex, continues to work hard in this space to present the educational plight of First Nations Peoples. Discussions and workshops increase information distribution and provide context the real cultural, financial and educational level challenges that individuals face inside WA and Australian prisons.

NSW registered 0.1% of higher education involvement in 2018–19, but this is sure to increase through the work of Brett Collins and the Justice Action Group in NSW. This new program that has been introduced is an Australian first and has made a portable tablet accessible for every incarcerated person within selected NSW prisons. These tablets have controlled access over accessible sites but provide a unique opportunity for universities to provide content for the students that are enrolled. This program is yet to be explored to this extent across other states and could highlight the importance of an improvement in education (among other things) as other states are observing the results, costs and also practicalities of implementing such programs.

Assisting with the push for improved educational opportunities in NSW are the long time Indigenous and First Nations advocates Deadly Connections. The work being done by Carly Stanley, Keenan Mundine

and Dean Lloyd (among others) to promote the overall needs of Indigenous peoples during and post incarceration is making differences to the lives of many. Their team continues to assist the return to the community of previously incarcerated Indigenous peoples by bringing families together to increase support networks and assist with the provision of material items such as housing and food. Additionally, the provision of culturally specific and sensitive support and advocacy make their work essential.

States such as South Australia (SA) and Tasmania (TAS) show either no or extremely low participation in higher education, leading to questions about the importance expressed by those jurisdictions toward higher education. There is possibly an over reliance on vocational training (VET) and the support of the prison industrial complex. Additionally, questions must be raised as to role of universities in the development of participation in these states. These missing relationships are not only taking away educational opportunities for now, but are also missing an opportunity to provide transformative educational opportunities that may influence behaviours, reduce recidivism and alter the incarcerated person's perception of education post release.

## Pre-Certificate Courses

The participation of incarcerated people in pre-certificate level 1 educational courses throughout Australia is a topic that warrants discussion and exploration. Involvement in this type of course occurs as preparation for trade or other certification and can also prepare students for involvement in other forms of study such as high school or university education (Dawe, 2007).

The participation numbers in pre-certificate levels of education vary immensely from state to state across Australia. The Australian Capital Territory (ACT) leads with a total of 38.3% of incarcerated people participating. Statistics suggest that although SA has no focus on higher education, they place importance on practical skills with above average participation in base level, practical skills qualifications. 29% of currently incarcerated people participate in pre-level certificates, with the Australian

average being 8%. The rationale behind these challenges requires further exploration with key questions relating to corrections in each of those states as to the role of education in reducing recidivism in their state/territory (ABS, 2020).

'Daniel' completed a period of incarceration in Victoria and whilst inside completed several pre-certificate level qualifications. He said:

I had a little or no skills before I went in and had to start somewhere. If I didn't start some of these basic things while I was away I probably would never of done it. Put my hand up to do as many as I could, but I had to pay for some of them and I couldn't afford it. The ones I have finished have helped by giving me with more skills, such as concreting, that I've been able to earn money from when I go home.

Each state faces its own challenges in relation to access to and the delivery of education to incarcerated people. State elections and the new appointments of Justice and Corrections Ministers in various states at different times pose challenges to the consistent development of education, educational relationships and employment opportunities for previously incarcerated people. Additionally, the idea of 'throughcare' (Baldry, 2007; Cale et al., 2019; Tubex et al., 2020a, b) and the importance of providing opportunities greater than currently being provided are also challenges being faced in all states and territories. It is hoped that changes in the goal of education of incarcerated people, relationships with higher education providers and through care become the practice and not merely a theory awaiting implementation. It is also hoped that with the development of greater support for currently incarcerated people to commence education while serving their sentences, upon release they will continue their studies and may progress in further education after returning to the community.

## Challenges to Continuing or Commencing Education Post Incarceration

Opportunities to continue education post incarceration can be challenging for many reasons. These educational opportunities are often in plain sight and easily accessible but bring with them individual challenges depending upon the state in which a person is incarcerated, requirements of the educational facility being accessed, level of education being accessed, cost of education and resources, time investment required and career requirements of the study being undertaken (Brown, 2015; Baldry et al., 2018). These challenges continue to provide legitimate and real hurdles that many people returning to the community cannot overcome, often resulting in the cessation of their education journey.

### Cost of Education

The cost to commence or continue education after being released from incarceration brings with it significant costs, not just financial, but also relating to time and effort. It has been commonly accepted that the large majority of people returning to the community are unemployed and have financial challenges and lack assets such as cars and houses. Education is not free although the best efforts of the Australian Government to provide such programs such as FEE HELP, or other types of assistance, can often leave a previously incarcerated person with a large financial burden.

After a review of the costs of the large majority of university units throughout major Australian universities, it can be stated that the average cost is around the \$2000.00 AUD mark per unit, with a student required to complete anywhere from 14–20 units depending upon the qualification being sought after. Although some government funding is available (as mentioned previously), resources such as textbooks, stationary, technology, and computer programs are not covered and are to be paid for by the student. These costs can often run into the thousands, depending upon the award being sought.

'Ashley' enrolled in a bachelor's degree while serving time in a Western Australian jail. His financial position and that of his family caused initial challenges for him.

Before even starting to do my degree the cost was a major hurdle. It was going to cost me nearly \$10,000 to do one semester of a six-semester course. I didn't know what government handout I could get but when I found out I was happy and could enroll. However, this is where the hidden costs kicked me, with textbooks, stationary and other books making it nearly impossible to be involved.

In Australia a large majority of people returning to the community after incarceration are under some sort of parole or supervision order which requires them to attend prescribed meetings, drug and alcohol urine tests, psychology appointments or parole officer meetings. These meetings can either be pre-planned or are, more often than not, completely random and unplanned. The uncertainty around these events makes the ability to participate in employment difficult, leaving many to live a paltry existence with government and welfare payments. The reality of the challenges financially is that community corrections orders or returning to the community without employment is dire for many who need to make priority decisions for their lives and in many instances the lives of their family and loved ones. For many, the idea of paying thousands of dollars for education from an already stretched family budget is not an option, with essentials such as food and accommodation as well as the needs of children taking priority over their own educational needs.

'Peter' had served a long stint inside and when released had distinct parole conditions that affected his ability to commence the education he needed to return to the workforce.

My parole conditions were next level, weekly parole meetings, weekly psychologist meetings and weekly urine and drugs tests. I wanted to study, I needed to study, but the requirements on me as part of my release made this completely impossible. The constantly changing meeting times made it impossible for me to enrol in any of the courses I wanted to do. I explained this to my parole officer but no accommodations were made.

Another difficulty in completing or commencing an educational pursuit upon completion of incarceration is the time investment. This difficulty is often particularly challenging for people without lived experience to completely appreciate, but is a common one faced daily. A large number of men and women who have been incarcerated spend time away from their loved ones, including children, partners, parents and siblings. When returning to their community, post incarceration, many experience a sense of 'owing' time to others or a need to try and return things to the 'way they were' with others, and this takes a significant time investment. Many individuals grapple with this and in many instances study becomes the 'thing' that misses out as it will take time away from rebuilding relationships and rebuilding their own lives. This challenge and phenomenon is receiving significant attention in academic discussions both in a mental health and criminology sense, but is definitely prominent.

'Tracy' served 5 years of incarceration in South Australia. She's a mother of three children and returned to her family to attempt to rebuild the relationships that had been damaged by incarceration.

My kids lost their mother for three years and when I returned home I had to start rebuilding those relationships again. Every opportunity to spend my own time with them was more important and anything else I could imagine. I had to balance the idea of what time with my kid's means for the rest of our life against my education. It was pretty easy choice.

## **State of Incarceration and Chosen Educational Facility**

With each state and territory responsible for their own justice and corrections departments, conditions inside each jurisdiction vary immensely. Higher education is key for some states, while the prison industrial mechanisms and its financial benefits, the priority for others. Lived experience suggests that this inconsistent landscape unfortunately makes gaining access to education during incarceration challenging and then making access to education post incarceration even less likely. The geographic location of a person's incarceration and then their release can also have a

huge influence over an individual's ability to gain access to support specifically designed for previously incarcerated students. Some of the programs listed earlier provide specialist support for previously incarcerated people who wish to continue or commence study and provide peer support and mentoring from others with lived experience to assist with the myriad challenges they face.

'Andrew' was incarcerated in a Western Australia maximum-security jail and upon his release commenced study at university.

I'm a Perth boy, committed my crimes in Perth, was jailed in Perth, live in Perth and am now excited about studying in Perth. My university has not made a big deal about my previous incarceration and there are two other students in my class that I work with and understand what I went through.

'Jack' served a period of incarceration in New South Wales but returned to his home state of Queensland upon release. He is now working to complete the degree he started inside as part of a Queensland university incarcerated students program.

Started studying through my university while I was inside and they tried to make it as easy as possible. While surrounded by other students inside it was easy, but when I came home I didn't have that support and needed someone who got what I've been through to help me.

Additionally, the type of educational facility and the type of study chosen can also form a barrier for those recommencing or starting study after incarceration. The increase in VET training across corrections facilities throughout Australia has made leaving a facility and residing in the same state relatively easy with the large majority of qualifications recognised. However, serving time in one state, gaining VET qualifications and moving to another state to use them has been fraught with difficulties as the requirements of different states in areas such as traffic management, heavy machinery operations and other construction qualifications require additional study, further units to be completed or a repeat of a qualification due to its failure to fit the new state standards in which the person resides. This is a common challenge faced by previously incarcerated people

moving states and is then exacerbated, in many instances, with the individual then facing the previous barriers of cost and required sacrifice which often steer them in the direction of recidivism.

The stigma of prison when entering an education facility, such as a university or vocational college, can be extremely challenging for a previously incarcerated person. Often, mental health challenges such as anxiety and the shame of having been previously incarcerated can take its toll on an individual. Those who work directly with previously and currently incarcerated people can see first-hand the damage that incarceration can play on a person's self-esteem and self-worth, as well as overall mental health issues including but not limited to post-incarceration syndrome and PTSD.

'Darren' tells of the mental pressures he faced before enrolling to complete a university degree he commenced while incarcerated.

Mentally I was toast and studying was surrounded by others that wanted to study was weird. I didn't want to tell anyone that I had gone to jail. I try to hide it but every day the energy to do so was so tiring and increased my anxiety levels. It was easier to stay away from uni's and schools so I didn't have to face my past.

'Tina' also experienced the stigma of returning to education post incarceration.

Going back to a classroom again to finish my certificate is still to this day one of the greatest mental challenges I've ever had to face. Students knew who I was as my offence was shown in the paper. I felt like a bit of a freak show with people asking me about jail and if it was like what they had seen on television and in the movies. It took some real guts and some help from a teacher to take away my anxiety to allow me to continue.

Many universities and education facilities do not understand or provide support to people like Darren and Tina when they returned to the community after a period of incarceration. The importance of providing specialized mechanisms such as mentors who have also been previously incarcerated provides the specific and individualized support needed for people to continue their education and training after returning to the community.



## Education Opportunities Post Incarceration (Australia)

The notion of education specifically designed for previously incarcerated students is a continually developing ideal in Australian institutions. Several universities provide high quality and well-developed programs where the unique needs of previously incarcerated students are catered for. Some others suggest that they provide assistance for these needs but are missing one key thing: lived experience mentors with developed 'insider perspective' (Aresti & Darke, 2018). The idea of pairing lived experience with the quality education offered by Australian educational institutions is still lagging. Countries such as the USA, but more so the UK, continue to lead the world in this area and lead the educational opportunities for previously incarcerated people who have returned to the community.

The idea of pairing lived experience, mentoring and teaching skills and formal training is not a new phenomenon. Some of the most successful education programs throughout the world are based on this link and the sharing of all the lessons learned from others who have gone before them. Programs such as Alcoholics Anonymous and Narcotics Anonymous combine lived experience with training and have been shown internationally to assist in the breaking of the drug and alcohol cycle. It is essential that the lessons learned from such programs are implemented in educational facilities both internationally and within an Australian context.

Numerous universities and other educational providers provide programs designed for previously and currently incarcerated people, all with varying levels of success, but some stand out with regards to their success and penetration. Because programs are not listed in this chapter does not mean they are any less important in relation to the work they do, but stand currently in a position of great opportunity where they can learn

from others and yoke the experience of those that have lived it, pair it with research and academic skill and produce programs and systems to make study easier for those who need it the most.

Probably the leading light in relation to the education offerings to current and previously incarcerated people is the University of Southern Queensland. USQ has developed a wide spread network to explore the specific requirements of those commencing study whilst incarcerated and those that wish to commence or continue after returning to the community. This work has allowed them to develop the 'Making the connection project' that steers their delivery of programs to currently and previously incarcerated people (Farley et al., 2015). The program has developed an off line education system that provides ease of accessibility to students with access challenges faced during incarceration or while serving periods of community correction orders such as parole or home detention (Hopkins, 2015). The USQ 'Offline Study Desk' is available to those with restricted access and provides units of work for consumption on personal or shared devices. Tablets were introduced to some students undertaking work through USQ whilst incarcerated. Additional tablets were also provided to some students continuing their study upon release from incarceration with software support provided through the university's network (Farley et al., 2016).

The following courses were selected for involvement in the Offline Study Desk and to be developed and altered to meet the needs of incarcerated and recently returned people.

- **Tertiary Preparation Program**—These units include English, Maths, Study Skills and Humanities courses that prepared the student for higher education and provided them with automatic entry into a USQ course. One of the most successful elements of this program is that it is a Commonwealth funded program that takes away one of the most significant challenges of study, the cost.
- **Indigenous Higher Education Pathways Program**—With the level of over representation of Indigenous and First Nations peoples in Australian prisons this was chosen as these students are half as likely to complete year 12 as non-indigenous students. The same fee structure

has been designed for this course to ensure maximum accessibility and reduce barriers to entry (Farley et al., 2015).

- **Diploma of Arts, Science, and Business Administration**—These courses were selected due to the initial interest and general appeal across the large and diverse student population that were either incarcerated or had returned to the community. Additionally, the opportunity to work in these areas with a criminal record was seen as probable, making them more appealing to students.

Since the development of this initial program the offerings have expanded with many students starting their study using the offline format, but completing their initial study or future study on the regular USQ systems post incarceration. This transition has been shown to be supported by education support officers with specific experience in the education of incarcerated students.

Two other universities leading this space with the development and provision of consideration for currently and previously incarcerated students are The University of New England (UNE) in NSW and The Royal Melbourne Institute of Technology (RMIT) in Victoria. These universities have different approaches but make the process easier for currently and previously incarcerated students to gain access and overcome some of the barriers placed in front of them.

UNE works through their Student Accessibility and Wellbeing Office (SAWO) contact and the education officers at correctional facilities to manage access issues relating to course content, assessment and the receiving of information pertinent to the completion of study. Upon release from incarceration, the university works with the education office to pass all relevant information and access back to the student to allow them to complete the study that had already undertaken. UNE not only has the ability to work with students who have been approved for study whilst incarcerated, but they also have the ability to provide admissions and disability and health assistance for previously incarcerated students wanting to commence or continue study with them. The admissions process and SAWO office make it clear that no information regarding a person's conviction or previous record is required, taking away a significant component of the stigma that exists for previously incarcerated people.

RMIT provides Australia's only registered Inside Out Program. The RMIT program is headed up by Marietta Martinovic and is based on her experiences in the successful program of the same name at Temple University in the USA. The program partners with Corrections Victoria and operates across four prisons across the state and allows for undergraduate and postgraduate students from the School of Global, Urban and Social studies to study and work in unison with currently incarcerated students. This unique link provides benefits to both students and provides a real and sustained motivation to incarcerated students to continue study after release. Another opportunity provided to students once they are released is the ability to be part of 'Think Tanks' that are designed to influence the development of policy and procedure in the areas of education and incarceration across all of the Corrections Victoria network and support providers and practitioners.

## Conclusion

Education has been shown for decades to be a key tool in breaking the cycle of poverty, homelessness and recidivism. To attempt to decrease not only the level of recidivism but also the level of crime related activity, well planned and community link based programs must be developed. Many universities and educational facilities are working hard to develop linkages that will allow previously and currently incarcerated people to commence or complete education in order to better their employment opportunities and possibly even increase their own mental health.

In order to make this happen, community links that go beyond words are required with universities, TAFE, education departments, corrections and individual prisons are all essential. While individual universities are working towards building relationships with state correctional facilities, future possibilities to incorporate other educational facilities need urgent exploration.

Additionally, it must be acknowledged that the educational journey for many is easier to commence while incarcerated, rather post-incarceration due to the many challenges and barriers outlined. Providing a wider range of educational offerings delivered to all levels of study (secondary, tertiary

or trade based) while incarcerated that provide opportunities to be continued or finished post incarceration will also assist in the reduction of recidivism.

The importance of lived experience is an area where post incarceration education has the greatest space for inclusion. The ability to provide a person or people with lived experience of incarceration to support current students or promote future students to enroll in education is an opportunity worth exploring. Imagine the power provided not only to the currently incarcerated student, but also to the previously incarcerated mentor who is helping someone else overcome barriers they may have faced themselves upon their own return to the community post incarceration.

The opportunities are there, the overall motivation is there, and many educational facilities see their social role in assisting with reducing recidivism while many correctional facilities are eager to engage incarcerated people with educational opportunities. The next step revolves around the successful implementation of specialized educational services for previously and currently incarcerated people that combine through care principles, lived experience mentoring and employment opportunities. If done correctly, these educational opportunities would have a positive impact on society and make a real and very practical difference to the lives of many communities and the general quality of life enjoyed by Australians.

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