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**“OUT OF THE DARKNESS INTO LIGHT”:
A CRITICAL EVALUATION OF SCOTTISH PRISON
REORGANISATION FOR LONG TERM
IMPRISONMENT 1988 TO THE PRESENT.**

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Date of submission: 31st December 1995

Date of award: 19th July 1996

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A Critical Evaluation Of Scottish Prison Reorganisation for Long Term Imprisonment 1988 To The Present.

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ABSTRACT:

During the mid 1980s official accounts stated that the Scottish Prison Service (SPS) was experiencing an unprecedented ‘crisis’ which primarily concerned: overcrowding, poor conditions, serious disorder and prisoner unrest, low staff morale and consequently loss of public confidence in the ability of the SPS to manage prisons effectively. Added pressure was placed on the SPS by a substantial increase in sentenced short term offenders together with an increase in long termers and a commitment in the courts to longer sentences. Although the ‘crisis’ in Scottish prisons emerged on a range of levels, producing one of the most bitter penal controversies in Europe, the SPS identified long term adult male imprisonment as fundamental to its problems and central to its programme of reform.

Once it became evident that the SPS had ‘lost control’ of its main male prisons, a period of evaluation and self appraisal was initiated. This research examines the manifestations of the ‘crisis’ and considers the response of the SPS, outlining and

evaluating the subsequent policy changes and new initiatives adopted to alleviate the 'crisis'.

The theoretical framework of this study is derived specifically in critical analysis within criminology, which prioritises the significance of the structural relations of production and distribution, reproduction and patriarchy, and neo colonialism, as primary determining contexts, within which the inter-relationships and mutual dependencies of structural forms of oppression can be considered. In examining the relationship between the law, crime, punishment and the state, the politics of marginalisation and the processes of criminalisation are prioritised. Within this context, the means through which imprisonment is conceived and legitimated and the implications of a growing authoritarianism are discussed.

This study focuses on the dynamics of long term male imprisonment in Scottish prisons. The views and experiences of long term male prisoners are contrasted with those of senior management, Governors and prison staff in order to understand the 'crisis', and ascertain the impact of policy changes and new initiatives on both the Prison Service and the experiences of men serving long sentences in Scotland's prisons. The research places official discourse, which incorporates the 'view from above', alongside the views of those individuals whose experiences provide essential testimony concerning the daily reality of operational policy on regimes.

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ACKNOWLEDGEMENTS.

Researching and writing this thesis has been a lengthy process. Throughout the years many people have influenced the direction of the work and provided considerable personal and academic support and help. To those colleagues at work, past and present, who have shared ideas and taken on more than their fair share of the load in order for me to complete this work I am most grateful. I would particularly like to thank Linda Moore, Margaret Malloch, Ann Jemphrey, Alan Morton and all members of the Advanced Research Group at the Centre for Studies in Crime and Social Justice. Also, past and present undergraduate and post graduate students, who have shown considerable interest in the project. Over the years I have received considerable support from members of INQUEST and the European Group for the Study of Deviance and Social Control. I am particularly indebted to staff at SPS Headquarters, Research Unit and Library who provided invaluable sources. The project would not have been possible without the staff of the SPS who spoke to me openly and honestly, but most importantly, the prisoners who placed in me their trust and shared what were at times painful experiences. Many thanks to Louise, Susan and Lynne MacFarlane for typing chapters. Particular thanks to Barbara Houghton for typing and being a constant support throughout the duration of the thesis and to Pauline Martland for typing and giving up her personal time to put the final draft together. Thanks to Gordon Dean, Seema and Jenna Patel for keeping my spirits high. My close friends Vicki Coppock, Ingrid Hall and Deena Haydon have provided considerable support over the years and learnt to live with the burden of an ongoing Ph.D. Hopefully we can now start to have some fun! The project has been influenced

considerably by my colleague, great friend and supervisor, Phil Scraton who has been an immense support, not only in the development of this work but also throughout my career. We have shared the highs and lows of prison research over a number of years. I am greatly indebted to his supervisory skills and the considerable time, effort and wisdom that he has offered. I would also like to thank John Clarke for providing invaluable material and support throughout the latter stages of the project. Finally this thesis would never have been completed without some very special people. My Mum, Dad, David, Andrew, Joan and Mahesh have always had faith in me and have typed, transcribed tapes, proof read and forsaken many things for this research project to be completed. I thank them for their love, support, care, concern and practical help. Most importantly, I would like to thank Mahesh for being there for me all the time and for 'putting up with me', particularly throughout the most stressful periods of the research. Hopefully we can now begin to enjoy a life together.

INTRODUCTION

Introduction.

By intention and design prisons and their prisoners are hidden from public view. Yet, imprisonment, outside the direct experience of most people, is constantly in the news, the focus of public and political debate over crime, disorder and criminal justice policy. It is extraordinary that in a society which confines more people to prison and for longer periods of time, than any comparable European state, the persistent myth is one of prisons as a 'soft option'. Undoubtedly this has been fed by media sitcoms such as 'Porridge' and by reactionary political opinion which retains a long - discredited belief in the deterrent potential of severe regimes. It is precisely because of their invisibility that prisons can be so misrepresented.

Even serious media coverage of prisons and imprisonment rely heavily on official sources for news and information. Inevitably, state agencies are administered in the context of professional ideologies and agendas (Cohen, 1985). The pre-eminence of official discourse mitigates against the experiences, views and voices of those confined becoming part of the public debate. This does not happen by chance and, as Foucault (1977) indicates, the processes by which certain information, or knowledge, is disqualified historically have been essential to penal policy and practice.

Also central to the perception and portrayal of imprisonment is the long-standing representation of a system in 'crisis'. On the one hand is the portrayal of 'weak' regimes lacking in control, discipline and security. On the other, is the portrayal of 'harsh' regimes, over-committed to punishment and brutality at the expense of reform,

rehabilitation and humane containment. Manifestations of the 'crisis' also include: an ever-increasing prison population resulting in serious overcrowding; out-dated prisons, poor physical conditions and unacceptable sanitation; low staff morale; prisoner protest and unrest. With sensationalised media coverage of selected, dramatic events heightening public anxiety, there has been a universal loss of confidence in the prison system. This was brought into stark relief by the highly publicised and unprecedented political row between the Home Secretary and the Director of Prisons in October 1995, which led to the sacking of the Director. As Fitzgerald and Sim (1982:5) noted over a decade earlier, this tension reflects "not one crisis" but a "whole series, which taken together amount to the parlous state of the prisons". Fitzgerald and Sim focus on the crises of visibility, authority, conditions, containment and legitimacy, suggesting that each is not autonomous or separate but "interwoven in the complex web which is 'the crisis in British prisons'".

Part of the manifestation of the 'crises' in British prisons throughout the 1980s was a series of violent confrontations, disturbances and hostage-taking incidents, represented as 'riots' or 'protests' depending on the underpinning analysis or political standpoint. Coyle (1994), a prison governor and reformer, notes that the legitimacy of any prison system is likely to be questioned only when it is put under considerable pressure. According to Sim (1993), it took an unprecedented level of prisoner protest at Strangeways prison, Manchester and at other prisons simultaneously, to bring about a major Government inquiry (Woolf and Tumim, 1991) into the long-standing crises in English/Welsh prisons. In Scotland, the Prison Service (SPS) had experienced similar events throughout the 1970s and 1980s. The seriousness and regularity of

incidents led the SPS to acknowledge that its prison system was in crisis. This led to a review of structures, policies and practices, resulting in a comprehensive programme of re-organisation.

Although prison disturbances and unrest are the most visible signs of prison crisis, problems are many and institutionalised. Scottish prisons mainly are Victorian, overcrowded and inhumane. With a high turnover of prisoners and a growing number of those serving long sentences, there is little opportunity for meaningful education, work or rehabilitation programmes. Additionally, there is a long history of poor relations between staff and prisoners. The 'crisis' in Scottish Prisons emerged on a range of levels, producing one of the most bitter penal controversies in Europe.

This research examines the manifestations of the 'crisis' in the SPS throughout the 1980s. It considers the response of the SPS, outlining and evaluating the subsequent policy changes and new initiatives adopted to alleviate the 'crisis'. The SPS identified long term male imprisonment (1) as fundamental to its problems and central to its programme of reform. This study focuses on the dynamics of long term male imprisonment in Scottish prisons. The views and experiences of long term male prisoners are contrasted with those of senior management, Governors and prison staff in order to understand the 'crisis', and ascertain the impact of policy changes and new initiatives on both the Prison Service and the experiences of men serving long sentences in Scotland's Prisons.

The research on which this thesis is based is unique. (See Appendix One). It provides a critical review and appraisal of official accounts, illustrating the priorities and emphases of current policy and practice. It analyses policy documents and details primary research interviews with senior management and prison staff. Significant, are the primary accounts, derived in semi-structured interviews, given by long term prisoners of their experiences, perceptions and appraisals of new policies and practices, and their impact on personal lives and interaction within prison. In recognising that doing research is part of a process of 'contributing to knowledge', the research is committed to providing an alternative analysis from that central to 'official discourse'. As Sim et al (1987:34) note, critical accounts based on sound theoretical analysis, provide, "alternative explanations for events...and a challenge to those whose voices are heard exclusively as part of government-backed official discourse".

The primary research includes: semi structured in-depth interviews with 40 long term prisoners, with 20 prison staff, ranging from senior managers of the SPS to basic grade officers and with a principal researcher from the Central Research Unit. Additional, informal interviews were carried out, during periods of observation in prisons, throughout the course of the study. Access was granted to interview prisoners and staff in four of the eight long term male prisons in Scotland. It was felt that the debate concerning the long term imprisonment of women was worthy of a separate project, recognising differences at a range of levels (see Carlen 1983; Dobash et al 1986). Also, the SPS denied access to interview long term women prisoners. The research also is informed by 114 formal meetings, discussions and interviews carried out between 1989 to 1995. These involved: senior managers at SPS

Headquarters; at the SPS Training College; Governors, prison officers and prisoners at 10 prisons. In developing the research three key areas emerged. These were: the 'crisis' and its background; the experience of long term imprisonment; policy changes.

i) The Background to the Crisis.

The background to the crisis is fundamental to this research study. In 1993 the Chief Executive of the SPS, Eddie Frizzell, asserted that the period 1986-1989 was a watershed in the development of the SPS. It was a period characterised by a sharp increase in the prisoner population. During 1986 the prison population reached 5,600, the highest ever recorded figure. Additionally, Adler and Longhurst (1991b) note that the numbers serving sentences of three years and over, and the number of life sentences imposed, increased by 7%. Further, throughout the 1980s there occurred a spate of serious disorders, including roof-top incidents, hostage-takings and substantial damage to the fabric of several prisons. Finally, Frizzell (1993) refers to the demise of staff morale throughout this period and to the loss of public and professional confidence in the ability of the SPS to maintain good order, control and security.

Coyle (1991:127) recognises that these events, although "traumatic in terms of their number and ferocity", are not without precedent. He refers to a major disturbance at Perth Prison in 1861 involving a group of long term prisoners who, according to the Annual Inspection Report of 1862, were protesting against increased sentence lengths.

Similarly he recounts a serious disturbance at Barlinnie Prison in 1934 caused by inconsistencies over privileges and between penal institutions. Coyle impresses that a broad historical context is essential to an understanding of the recent problems. Significantly, he notes that both historical and contemporary accounts identify the long term prison population as being responsible for crises throughout the prison system over time.

ii) The Experience of Long Term Imprisonment.

Describing prisons, Coyle (1994:1) states:

They are buildings in which one group of human beings deprives another group of human beings of their liberty. They may do it humanely and with care or they may do it brutally and without feeling, but in each case the principle remains the same.

The loss of liberty as a punishment is well-established as a main option within the criminal justice system. Coyle (1991:13) recognises that the experience of imprisonment is essentially negative and that for the majority of prisoners, “their best hope has been to minimise its harmful effects”. The negative effects of serving time often are experienced most acutely by those serving long, often indeterminate sentences.

Long term imprisonment is characterised by: harsh, punitive regimes; poor physical and insanitary conditions; isolation and lack of contact with loved ones; strict routine, regulation, order and discipline; a climate of fear and physical violence. All prisoners experience the loss of liberty, their movement and freedom is restricted. They are

confined in small spaces, isolated from family, friends and familiar surroundings and, although fed and clothed, often experience a profound sense of deprivation. As Short (1979:x) notes:

Gross overcrowding, lack of proper washing and sanitary facilities and of privacy, after the initial shock of the conditions, have a brutalising rather than a rehabilitative effect, especially on long term prisoners.

Critical research into the experience of long-term imprisonment, relying on qualitative research methods and data, has documented not only the, “pain of confinement”, (see Mathieson, 1990), but also the measures and strategies adopted by prisoners, individually and collectively, in order to manage and survive their sentences, and in response to prison regimes. At one end of the continuum of coping with or resisting regimes is almost obsessive immersion in education or ‘special projects’ or physical fitness. At the other is violence, directed inwards (ie self mutilation) or outwards, sometimes collectively, against authority as a form of rebellion (see Fitzgerald 1977; Thomas and Pooley 1980; Scraton, Sim and Skidmore 1988, 1991). As Scraton, Sim and Skidmore (1991:63) note: “occasionally the full potential of rebellion is unleashed as accumulated frustration or specific injustices provoke a major demonstration of collective anger”.

A number of core themes emerge from quantitative research into long term imprisonment. They include: the means of coping with the physical and mental pains of imprisonment (Flanagan 1980; Haley 1984; Wormith 1984; Zubrycki 1984); the prevalence of personal illness among long term prisoners (Heather 1977); the psychological impact of serving long sentences (Richards 1978; Sapsford 1978,

1983). Sapsford (1978:143) summarises the problems of 'introversion' in one large maximum security prison:

....this paper provides some evidence for certain specific changes, which in some cases might amount to "deterioration", associated with the length of time a man spends in prison: an increase in introversion, and a tendency for men who were not already dependent on routine and on staff support when they first came into prison to be seen by staff as becoming so as the sentence progresses.

iii) Policy Changes.

Once it became evident that the SPS had 'lost control' of its main male prisons and accepting that prison regimes for long term prisoners were under scrutiny, the SPS initiated a period of evaluation and self appraisal. At that time, 1988, it was never envisaged that the process would turn out to be so radical and all-encompassing in its impact. At the outset a decision was taken to draw up and circulate consultative documents which, as Coyle (1994) records, for the first time developed and presented potential policies advocating the positive treatment of prisoners.

Custody and Care (SPS:1988a) was the starting point. Circulated widely within and beyond the Prison Service, it introduced the concept of Corporate Planning and recognised that a coherent, corporate philosophy was essential to the future of The Service. It suggested that 'custody' and 'care', should be seen as complementary principles, rather than alternative emphases, in the good management and delivery of humane regimes. The need for a shared enterprise between the prison and its prisoners was recognised. Hence a 'new' vocabulary was introduced which was

enabling rather than prescriptive - the Service was to 'provide', 'promote', 'enable' and 'encourage'. Central to its objectives was the introduction of 'sentence planning' through which prisoners would be responsible for determining the direction of their sentence.

A further document, Assessment and Control (SPS:1988b), examined the behaviour of prisoners identified as 'violent' and 'disruptive'. It considered potential strategies for the management of this identified group. This document was grounded in theoretical explanations concerning individual pathology and the undersocialisation of offenders. It received considerable criticism for failing to recognise the broader problems facing the SPS and for relying on pathological explanations for the behaviour of prisoners.

Two years later Opportunity and Responsibility (SPS:1990a), which examined the management of prisoners serving long sentences, was presented as a "far reaching document" (Frizzell, 1993:204). According to Coyle (1994:89) it "broke new ground in penal policy in the United Kingdom". It laid down a set of principles which contextualised the experience of imprisonment as a 'shared enterprise'. It was proposed that this could be achieved by establishing mutual responsibilities for staff and prisoners. The latter would be encouraged to address their offending behaviour, and to use their time effectively, acting 'responsibly' in order to enhance and secure their personal development. Correspondingly, the SPS would offer an appropriate range of opportunities, creating conditions guaranteeing a basic quality of life for prisoners in which they could achieve self-respect and self-esteem. The initiation of a

Sentence Planning Scheme was central to this new programme of opportunity and responsibility. For those prisoners unable to settle within mainstream prison regimes, the use of small regimes and units was advocated, the overall emphasis being preventive rather than reactive.

The SPS also addressed its organisational and administrative functions. The first Business Plan (SPS:1989) was published projecting strategy through to 1992. The SPS 'Mission Statement' appeared for the first time, emphasising 'customer' awareness, with the objective of 'service provision' for perceived customers at different levels. Aims, objectives and action plans were developed indicating how the initiatives proposed by the SPS were to be developed.

External consultants were commissioned to review the managerial structure of SPS Headquarters and its relationship with prisons. This investigation culminated in the publication of Organising for Excellence (SPS:1990b), which advocated the delegation of responsibility and accountability from Headquarters through to individual prisons. It was envisaged that Headquarters would facilitate the delivery of a quality service at the level of establishments and that senior management would concentrate on strategic planning and prioritisation. Coyle (1994:89) notes:

By the beginning of the 1990s a great deal of work had been done in the Scottish Prison Service in laying out policy, in setting up structures, in building links and in establishing pockets of good practice.

The Theoretical Context.

The theoretical framework of this study is derived specifically in critical analysis within criminology. In drawing on a range of theoretical discourses the research project accepts that theories co-exist and compete, and adopts an eclectic position. The relationship between agency and structure, first identified in the work of Giddens (1979) and which prioritises the world of everyday life within the broader structural relations of the world of institutions, allows for the development of context and meaning as opposed to the obsessive, classical pursuit of causation. Moreover, the structural relations of production and distribution, reproduction and patriarchy, and neo colonialism are defined as primary determining contexts, within which the inter-relationships and mutual dependencies of structural forms of oppression can be considered (Scraton 1991; Scraton and Chadwick 1991).

In examining the relationship between the law, crime, punishment and the state, the politics of marginalisation and the processes of criminalisation are prioritised. Domination and subordination, key features of the above determining contexts, are the processes through which the marginalisation of 'identifiable groups', at the levels of the economic, political and ideological, occurs.

Critical analyses have established that in order to maintain social order and political and economic stability in advanced capitalist, patriarchal and neo-colonial societies, the criminal justice system and its process of punishment, is both necessary and functional. Whatever the political or ideological claims, however, the role of prisons

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Critical analyses have established that in order to maintain social order and political and economic stability in advanced capitalist, patriarchal and neo-colonial societies, the criminal justice system and its process of punishment, is both necessary and functional. Whatever the political or ideological claims, however, the role of prisons

in the maintenance of social order is doubtful given its persistent failure to prevent or deter offending behaviour or to reform, rehabilitate, treat or correct offenders (see Bottomley 1973; Fitzgerald 1977; Wright 1982; Rutherford 1986; Stern 1989a). Given that prison fails to meet its defined objectives, the question of legitimacy will be within the thesis. The power to demand order and obedience and to impose regulation, authority and control within prisons through penal regimes will be located within the context of the liberal democratic state form.

As part of the administration and management of state authority, prisons function to punish those who infringe rules, laws and customs. The intricate relationships between authority, order, power and legitimacy in relation to punishment is central to the theoretical framework of this thesis.

This introduction provides a brief outline of the policy, research and theoretical contexts within which this study is derived. The thesis is presented in three parts: Part One provides the historical and theoretical foundations of the research. Part two explores the background to the 'crisis', the immediate explanations and debates, and qualitative data from prisoners and prison staff concerning their perceptions of the problems evident throughout the 1980s. Part three documents the subsequent policy initiatives which emerged, followed by further primary research, presenting accounts of change and its impact on Scotland's long term prisoners.

PART ONE

Introduction.

Part One comprises of two chapters which provide the historical and theoretical foundations of the research. Chapter One is a literature review of the historical development of the modern penal system, contextualised within dominant social, political and economic relations. It provides an account of competing penal philosophies of punishment, retribution, deterrence and reformation which have been differentially imposed on prisoners over time. The persistence of the ethos of reform and rehabilitation, as conceived by the early reformers is critically assessed.

Chapter Two is a literature review of the key theoretical debates concerning the relationships between authority, order, power and legitimacy as they relate to punishment. The functions, purpose and justifications of punishment within the liberal democratic state form are outlined and critiqued. The failure of imprisonment to meet its own objectives and the emergence of a 'crisis' in legitimacy is considered within the context of a critical criminological analysis. Particular emphasis is given to the relationship between punishment, crime and the state.

CHAPTER ONE

THE HISTORICAL DEVELOPMENT OF BRITISH PRISONS.

Introduction.

Michel Foucault (1977) exposes a fundamental contradiction in the history and development of imprisonment, arguing since inception the failure of prisons has always been accompanied by their maintenance and expansion :

We are aware of all the inconveniences of prison, and that it is dangerous when it is not useful. And yet one cannot 'see' how to replace it. It is the detestable solution, which one seems unable to do without.

(Foucault, 1977:231).

For Foucault the introduction of the prison represented the focal moment in the history of criminal justice providing the state with a significant "disciplinary mechanism". Incarceration however, was one of a range of punishments inflicted on those who transgressed legal and moral codes.

Discipline and punishment in sixteenth and seventeenth century England occurred primarily in Houses of Correction where petty offenders, beggars and the poor were subjected to harsh regimes of physical punishment and hard labour. Systematic confinement of this nature was slower to develop in Scotland. Despite a statute in 1579 stating that prisons should be built and maintained in burghs, few local gaols were built. 'Moral redemption' within communities as opposed to training and discipline in institutions was administered by Calvinist Kirk (Church) Sessions until 1845 (Dobash, 1983:5).

By the eighteenth century systematic confinement and the use of penal labour were superseded by direct corporal punishment and transportation. Although imprisonment

continued in a limited form, harsher deterrents, pain, torture and humiliation of public floggings, whippings, mutilation, death and the direct removal of individuals via transportation to America and the Colonies, prevailed.

In 1775, following the American Revolution, transportation ceased and imprisonment, often accompanied by hard labour and discipline, re-emerged. The proliferation of penal institutions (Houses of Correction, Bridewells, local gaols, the Hulks and ultimately the development of national penitentiaries) followed. According to Fitzgerald and Sim (1982), eighteenth century prisons were autonomous and self governing. Prisoners maintained full contact with the outside world and their families, but conditions were poor and disease and 'gaol fever' claimed many lives.

It was these conditions and the administration of penal establishments that became the focus of penal reformers. Despite contrasting philosophical, religious and political backgrounds and different emphases, the reformers agreed that penal institutions should become more effective instruments of punishment, discipline and regulation, maximising impact on the individual. For Ignatieff (1985:81) the aim of reform was to: "... withdraw the prisoner from the corrupting influence of his former milieu and, at the same time , to inflict the pains of emotional and sexual isolation".

The emergence of the modern prison was mirrored by other total institutions which instilled order, surveillance and control; the workhouse, asylum, and juvenile reformatory. According to Dobash (1983), by the mid-nineteenth century an organised judicial, police and penal system had been established in England and

Scotland, firmly directed at the regulation, surveillance, punishment and discipline of the labouring poor. Further, he asserts that the daily routine of current prison discipline and regulation is derived in these moral and social legacies. Likewise, Fitzgerald and Sim (1982) argue that the contemporary prison system, one based on institutional reform and the 'crises' which they identify are those of reform.

It follows therefore, that the analysis of reform is central to an understanding of the development of prisons and their regimes within a context of crime, disorder and justice. Traditional histories of imprisonment such as Grunhut (1948), concentrated on reform as a process and on the work of philanthropic reformers in their endeavours to create a humane, reformatory and punitive system. Public, physical punishment on the body was considered barbaric, arbitrary and cruel, to be replaced by strident and punitive forms of imprisonment - hard but humane. Reform in this context is presented as progressive, displacing barbarism for enlightenment. Such a narrow historical interpretation of imprisonment has been challenged by revisionist historians, questioning the integrity and legitimacy of reformism. According to Cohen and Scull (1985:2):

....reform, progress, humanitarianism, benevolence, doing good - these are precisely the taken-for-granted signifiers of this tradition now under attack. A 'revisionist' history.... has now emerged with some shared points of departure.

These being: scepticism of the aims, beliefs and intentions of reformers; the need to identify and analyse power and its subsequent effects; and the location of penal reform in the broader, social, economic and political contexts of the period. For Cohen and Scull revisionism represents a serious challenge to 'conventional wisdom'.

Fitzgerald and Sim (1982) emphasise the importance of the revisionist challenge and its historical mission to identify the philosophy of practice of power and authority. This places the prison system in a broader context of criminal justice, analysing changes in political - economic power relations, institutionalised authority and class relations (see Foucault 1977; Ignatieff 1978). In analysing punishment from the sixteenth to the early nineteenth century Foucault examines the progression from ritual, public torture of the body, legitimated by the sovereignty of the King, to systematic imprisonment in 'carcerals'. Punishment as a spectacle was eradicated, marking "a slackening of the hold on the body" (Foucault, 1977:8). While other forms of punishment directly affecting the body remained, Foucault claims that the body became manipulated from a distance, according to strict rules. For Foucault, the development of the carceral was accompanied by the development and interventionism of the professional classes: a 'whole army of technicians' - 'judges of normality', replacing the executioner - the warders, doctors, chaplains, psychiatrists, psychologists, educationalists. In establishing the standards of 'normality' and 'deviance', a process of assessing, diagnosis, prognosis and normative judgement followed directly from the examination, observation and surveillance of those incarcerated. On this basis, the prisoners would leave the prison convinced of the moral legitimacy of the state and its rulers. For Foucault (ibid:23) a "corpus of knowledge, techniques and discourses" was initiated, becoming "entangled with the practice of the power to punish." The new institutions isolated individuals and this manufactured and reproduced divisions within the lower classes: the rough versus respectable: the poor versus the pauperised. This diverted attention from the

illegalities of the middle and upper classes, producing informers within the lower classes functioning to control unrest and radicalism.

Central to Foucault's work is the power - knowledge axis as they "imply" each other. This is not a unidirectional process but a complex relation. In arguing that prison reform and incarceration serve and reflect each other, Ignatieff (1978) concurs with Foucault. For Ignatieff the roots and development of the penitentiary can only be interpreted through analysis of its relevant economic, social, legal, political, and intellectual contexts. His research shows that in all disciplinary institutions the 'poor' and the 'criminal' were to be 'cured' of immorality, disease, insanity and crime. Despite the failure of disciplinary regimes to reform or deter, they appeared plausible and achieved legitimacy because they were directed towards the maintenance and reproduction of an 'ordered' society.

Ignatieff maintained that nineteenth century reform emphasised the "imperative to control, to dominate and to subdue" noting that this imperative was "written deep into the structures of those ways of thinking we call the 'human sciences'" (ibid:18). The penitentiary was the focus of implementation. In analysing the reformist intent of working on the 'criminal personality' Ignatieff argues that studying the penitentiary was not an end "in itself" but "for what its rituals of humiliation could reveal about a society's ruling conceptions of power, social obligation and human malleability" (Ignatieff, 1985:77).

Following the consolidation of these revisionist analyses there has been a critical reappraisal. Ignatieff (ibid:78) in an “exercise of self criticism”, identifies three “basic misconceptions of these revisionist histories”. First that the state maintains a monopoly over punitive regulation of behaviour. Secondly that the state’s moral authority and practical power determine social order. Finally, that all social relations are based on domination and subordination.

De Lacy (1986:13) makes the point that historically “prison reform is far more complicated than a simple history of ideologies or of the dominance of one class by another.” She argues that a theory of social control based on the dominance of one group over another, “obscures more than it reveals” (ibid:6). Her concern over the vagueness of social control as a concept is not that a, “class-based approach to penal law” is incorrect, “but it requires demonstration in every specific case.” (ibid:8). She considers it important to guard against ‘conspiracy’ theories which simply interpret reformism as the repression of prisoners by state administration especially as prisoners have been and remain deeply divided over the issue of penal reform. Further, she notes the dilemma faced by abolitionists in that support for penal reform implies the legitimisation of the prison. De Lacy (ibid:5) argues that prison reform has not failed but “has succeeded in keeping the prison firmly rooted in our society”.

In contributing to the debate over the ‘progressive’ potential of reform Mathieson (1974) distinguishes between ‘negative’ and ‘positive’ reforms. While penal reform has the capacity to reshape and redefine, it also has the potential to regulate and control. In that sense, reform was instrumental in the construction and consolidation

of a new social order which emphasised regulation and control while guarding against the threat of revolution.

This chapter examines contrasting explanations and analyses of the development of the modern prison system, tracing changes in legislation, philosophy, provision of facilities, conditions endured and the work of penal reformers. The penal philosophies of punishment, retribution, deterrence and reformation differentially employed against prisoners over time are central to an understanding and analysis of penal history. Finally the legitimacy of prisons, and their development are contextualised within dominant social, political and economic relations. Systematic confinement emerged throughout a period of social upheaval. It followed the shift to codification from custom in the administration of justice (see McLennan, 1981) itself derived in the advance of early capitalism. Finally, the power of rising professionals to define, accompanied by new codes to criminalise, served to regulate and divide - the poor, the idle, the criminal - the deserving and the undeserving. (see Steedman Jones 1971; Cohen 1979; Walker 1980; Hay 1989).

Early Prisons : Bridewells and Houses of Correction.

McConville (1981) provides evidence that prisons were part of criminal justice as early as the ninth century, but suggests it was not until the sixteenth century that systematic confinement emerged.(1). For Dobash (1983) this coincided with the weakening of traditional feudal bonds, the dissolution of monasteries, the emerging material and ideological demands of mercantile capitalism and the ascendancy of

Protestant ideology. The latter emphasised moral redemption through labour and work, which would provide the solution to dominant social and economic problems.

Despite the severity of legislation, pauperism and vagrancy increased and remained a threat to social stability. Van der Slice (1991) suggests that the response was to establish Houses of Correction through the Justices of the Peace in every English county under a 1576 Act of Parliament. The forerunner of the Houses of Correction were Bridewells which incarcerated petty criminals. McConville (1981:48) asserts that both forms of confinement were derived in the “broad conservative concerns of Tudor social policy, and flourished as an integral part of Elizabethan and Jacobean poor relief and social control”. Vagrancy persisted despite whipping, branding, enslavement and hanging. The ‘new’ institutions used deterrents, discipline and ‘correction’ as an alternative. (2).

In contrast to Medieval prisons, dedicated to custodial and punitive functions, the Bridewells and Houses of Correction aimed to reform or ‘correct’ the individual. It was intended that authoritarian and disciplinary regimes would develop social and moral responsibility. Through compulsory labour the poor would become familiar with employment, develop self-discipline and be reclaimed from lives of idleness and vagrancy. The commitment, according to Dobash (1983), was to a work ethic based on habits associated with production. McConville (1981) notes that over 200 Houses of Correction were built in England. Dobash (1983) argues that ‘reformatory’ regimes were the forerunners of the factory and were significant in the development of the modern prison system. With the exception of solitary confinement, the Houses of

Correction “exhibited the fundamental principles upon which the modern penitentiary would be established in the nineteenth century” (ibid:5).

For the incarcerated it was a daily routine of work, prayer and systematic punishment. On admission, prisoners were whipped, chained and subjected to harsh punishments including restricted diets, public floggings, torture and confinement in ‘black holes’. Although the primary aim was to discourage idleness, “by sending the common people to correction houses where they were forced to labour, the propertied classes affirmed their power to regulate and determine the lives of the labouring poor” (Dobash, ibid:4).

Despite a 1579 statute specifying that burghs should have the sole responsibility for constructing and maintaining prisons (Forsythe 1981; Coyle 1991), Dobash (1983) notes that correctional institutions were not founded in Scotland until the late eighteenth century. Concern about idleness and vagrancy in Scotland was strong, with statutes passed in 1574 and 1579 stating that idle beggars were to be whipped, banished, mutilated and subject to imprisonment. According to Cameron (1983), many towns persisted with traditional forms of confinement: castles, tollbooths and church steeples. Unlike the English Houses of Correction there was no provision for work and conditions were wretched. Cameron (ibid:34) states that during the seventeenth century the “primitive tower-like tollbooths” were gradually remodelled or enlarged and eventually were replaced by more formally designed buildings. Alternatives to imprisonment also diminished the significance of imprisonment. Transportation from Scotland to Virginia began in 1648 and army conscription for

young males prevailed from 1621 until the end of the century. Penal servitude offered another alternative (Cameron, *ibid*:29).

Early Eighteenth Century Justice.

At the turn of the century, imprisonment was used to punish minor infractions such as vagrancy and disobedience. Major crimes were punished with banishment, whipping, hanging and pillory with greater emphasis on direct and physical punishment (Ignatieff, 1978). As Foucault (1977) notes, the body became the major target of punishment. As public spectacles, bodies were tortured, dismembered, branded and burnt. Eighteenth century justice was irregular, unpredictable, uncodified, partial and ineffective.(McLennan, 1981). It was locally administered, often by the landed gentry, connecting wealth, power, property and office with justice. For Hay (1989), class relations defined the character of social order, including the rule of law. Dobash (1983) notes that with the expansion of agricultural and industrial exploitation, there was a consolidation of the aristocracy and the development of a bourgeoisie which emphasised a widening gulf with the common people. The 'masses' were regarded as insolent, rebellious and dangerous, requiring a strict disciplinary code, supported by harsh, deterrent punishments.

With enclosure the propertied classes utilised the law to secure ownership. New Game Laws and the Black Act criminalised a number of activities that had traditionally been associated with common rights (Thompson, 1977). As Ignatieff (1978:17) suggests:

.... the extension of the definition of crime, brought about in the Black Act and in other new capital penalties, appears to represent the aggrandisement of the property rights of the gentry at the expense of common right and custom.

Known as the 'Bloody Code', the criminal law shifted from custom to a more codified form. It was rigid and inflexible, yet provided considerable judicial discretion. The system was founded on paternalism and deference, with the process of 'justice' controlling through rules and, significantly, 'moral values'. Judicial discretion allowed appeals for mercy, but capital punishment emerged as an instrument of terror and repression. By the end of the century over 200 offences were punishable by hanging (Dobash, 1983). Confinement as a means of correction, was subsumed by the harsher deterrents of public torture and execution.

Foucault suggests that although public execution was not the most frequent form of punishment, all serious penalties used torture, its extent calculated and the pain inflicted regulated. For Foucault (ibid:34) torture, "correlates the type of corporal effect, the quality, intensity, duration and pain, with the gravity of the crime, the person of the criminal, the rank of his victims". The public spectacle was a ritual, a 'theatre of terror' and a 'ceremony of triumph'. The administration of torture behind closed doors was meaningless, as the public were the audience observing the pain and experiencing the fear. Foucault (ibid) continues:

The very excess of the violence employed is one of the elements of its glory: the fact that the guilty man should moan and cry out under the blows is not a shameful side-effect, it is the very ceremonial of justice being expressed in all its force.

The ritual provides the ultimate deterrent, a symbol and reality of power. As Foucault argues, the threat and pain of the penalty had to be greater than the promise and rewards of crime. The 'power to punish' indicated both the politics and the judicial functions of the public ritual, a "juridico - political function" (ibid:48).

As Ignatieff and Foucault observe however, the public had the capacity to overturn the ritual. Occasionally public opposition to 'excessive' sentences brought agitation, resistance and riotous behaviour to the scaffold. Discontent focused particularly on sentences not regarded as serious, or those connected to the deteriorating social and economic conditions. The "great spectacle of punishment", observes Foucault (ibid:63) "ran the risk of being rejected by the very people to whom it was addressed". Solidarity and resistance among the labouring masses, together with the 'glorification' of the criminalised population threatened the consensual foundations necessary for the effectiveness of torture as public retribution and deterrence (Ignatieff, 1978).

Eighteenth Century Confinement.

With capital punishment, torture and transportation prevalent, imprisonment was rarely used to punish and when administered, sentences often were short. Scotland was comparatively liberal, according to Coyle (1991), using the range of available punishments comparatively less than the English courts.(3).

Ignatieff (1978) identifies three forms of confinement which together formed the eighteenth century legacy: the debtors prison; county and borough gaols; houses of correction. These institutions held a variety of prisoners: the 'disorderly', 'idle' and 'vagrant'; petty, short-term offenders; debtors; those on remand, awaiting transportation, corporal or capital punishment (Dobash 1983; Emsley 1987). The gaols were characterised by poor physical conditions and inconsistent administration. They were typified by appalling physical conditions, lack of security, corrupt administration, poor quality staff and no classification or segregation of prisoners (McConville 1981; Dobash 1983; Coyle 1991).

McConville (1981) identifies several common features of the period: defective and poorly built prison buildings; the squalor, stench and filth; lack of sanitation; overcrowding and poor hygiene. While McConville suggests that prison conditions are to be judged according to the general standards of the time, he found that outbreaks of gaol fever, were commonplace and regularly fatal. Prison conditions, however, were an extension of the worst social conditions, and prisons were abusive and corrupt in their administration.

De Lacy (1986), however, questions the authenticity of such accounts arguing that the appalling conditions of mid- eighteenth century London prisons were untypical. She considers that such evidence "should not be extrapolated to the provinces" (ibid:52). Further, De Lacy argues that while it remains "possible that many or most prisons in the mid-eighteenth century were places of terror and death", this has yet to be proven. She identifies the period as one of "relative stability" in which complaints from

prisoners reduced, as did the prison population (ibid:53). In Lancashire, for example, she maintains that local Justices regularly intervened in prison affairs, being responsive to petitions from prisoners and ensuring that prison buildings were adequately maintained. Justices also guaranteed prisoners their rights, monitored gaol fever and encouraged support from the communities outside. Yet the evidence of corruption and disorganisation in the staffing and financing of prisons is extensive.

For Ignatieff (1978:35) prisons constituted a “state within a state”:

It is symptomatic of the informality of eighteenth century administration that reformers in the 1780s were unable to discover any act specifically setting out the duties of each of these parties (Sheriff, Magistrates, Juries).

The administration and daily routine of the prison was left to the discretion of keepers, resulting in “arbitrary, personal and capricious” regimes (ibid:6). The absence of rules, inspection and supervision combined with the staff discretion to create a system that condoned both cruelty and leniency. Prisons were self-governing and financially independent resulting in discretionary fees for admission, for special privileges and for release. Income was derived mainly from the more wealthy prisoners sentenced for embezzlement (Ignatieff, ibid). With limited staffing prisoners were regularly chained. This practice enabled visitors to have free access, with little restriction on visits. Free movement between the prison and the community meant that prisoners were supported by families, friends or begging in order to survive. Overall, confinement in the eighteenth century was neither consistent nor systematic. While there were some attempts at reform, reflecting some public disquiet with penal administration, the aims and legitimacy of imprisonment went largely unquestioned. With the main function being the detention of vagrants and petty offenders, the

prevailing belief was that prisons should be harsh in order to deter offenders and to prevent those who might 'choose' prison.

Eighteenth Century Justice : The Birth Of Reform.

During the late eighteenth century prison was increasingly used as punishment and capital punishment diminished. Transportation to America ended abruptly in 1775, following the American War of Independence. As a temporary measure 'hulks' were introduced to deal with the increased numbers of those sentenced to prison. The hulks were disused and unseaworthy warships, utilised as floating prisons on the River Thames in London. Dobash (1983) argues that prisoners regarded such confinement, consisting primarily of hard labour, as the most dreaded of all forms of imprisonment. The introduction of the hulks and "their associated programme of oppressive labour" marked "a significant transformation in the British response to the poor and criminal" (Dobash, *ibid*:7). Overall, the prison population increased, reflecting the rising crime rate. (4). For Ignatieff (1978) this was due to several factors, including a depression in trade and the breakdown in urban order, class harmony and moral discipline.

Inevitably, the changing prison population had an impact on prison administration and regimes, with conditions rapidly deteriorating. For De Lacy (1986:63) the "steady and rapid increase" constituted "the single most important fact underlying all the changes in early nineteenth century prison administration". For others (Foucault 1977; Ignatieff 1978; Cameron 1983), the birth of a reform movement within a small but influential group of gentry was of equal significance in establishing new structures

of imprisonment. The reform movement questioned the type and use of punishment at a time when protest against public punishments and execution were increasing. As Foucault (1977:73) observes, “very soon the public execution became intolerable”. ‘Humane’ punishment without torture was the reformists’ objective and it would be achievable through regimes of correction.

Dobash (1983) identifies three distinct schools of thought within the reform movement, each examining moral, ideological and material conditions of prisons and punishment. The most vigorous and influential was the Evangelical, largely Quaker, reformers such as John Howard, Elizabeth Fry and Jonas Hanway, whose philanthropy was inspired by religion. Sharing an essentially conservative, conformist position they argued that social stability was threatened by economic change and political unrest in France. As Forsythe (1987:8) states:

Evangelicals maintained that a moral cataclysm was coming to pass whose symptoms were the rapid spread of irreligion, immorality and crime among the poor, especially those massed in the great cities which were brought into being by the economic and demographic changes of the late eighteenth and nineteenth centuries.

The Evangelical reformers were ‘soul - savers’ determined to challenge the human, natural inclination towards disobedience, sinfulness and evil. Put simply, to be saved, sinners had to suffer through the pain of punishment, “pain was the natural sequella of sin on earth” (Forsythe, *ibid*:10). In administering pain to ‘criminals’ penal regimes required cellular confinement, religious, secular and moral education and useful, productive labour. Silence, useful labour and inspection formed the fundamental principles of such regimes (Dobash, 1983).

The ideals of useful, productive labour however, were not universally shared. 'Traditionalists' (Dobash, *ibid*) conceded that labour was essential but felt it should be "punitive, irksome and (a) deterrent". Men such as Paley, C.C. Western and Sidney Smith prioritised punishment and deterrence above training and discipline, with the treadmill as the ideal form of labour. As Smith wrote in 1865, it was, "economical, certain, well administered.... affecting the imagination only with horror and disgust and affording great ease to the government" (in Dobash, *ibid*:19).

'Utilitarian' reformers, such as Jeremy Bentham and Cesare Beccaria, also emphasised the significance of punishment and regulation in penal institutions. What united reformers was their commitment to penal institutions as more effective instruments of punishment and regulation in the correction and reformation of the individual.

John Howard, a Bedfordshire squire, described by Emsley (1987:217) as, "a philanthropic, non-conformist gentleman", was particularly concerned about the squalor of county gaols and the plight of prisoners therein. Following a substantial survey of British and European prisons in 1777, he published his results in The State of the Prisons. This "father of the penitentiary" (Ignatieff, 1978:47) focused his attention on the imposition of order and routine. While he wanted to 'humanise' regimes and improve conditions, his authoritarianism demanded the enforcement of strict, regulatory regimes as the means to correction. As Ignatieff (*ibid*:55) states:

He did not view the prison only with an administrative eye, as a cluster of inefficiencies and abuses demanding reform, but as the arena in which he would grapple with evil and demonstrate his worthiness before God.

After becoming a County Sheriff in 1773, Howard took seriously his duty of inspecting prisons. Commenting on his experiences he stated:

Many who went in healthy, are in a few months changed to emaciated dejected objects. Some are seen pining under diseases, 'sick, and in prison', expiring on the floors, in loathsome cells, of pestilential fevers, and the confluent smallpox....

(Howard 1777, in Muncie and Sparks, 1991:7).

Howard recommended highly disciplined routines, in which prisoners were to be treated impersonally. Administratively, prisoners were to be classified according to their sex and the severity of their offence. Jailers were to be paid regular salaries, abolishing the need for 'fees' and 'fetters'. Prisons were to be visited regularly by Magistrates. A strict, silent routine would include: separate confinement by night; early rising; prayer and religious instruction in the prison chapel; communal work by day. Silence and solitude would lead to repentance. Howard also prioritised the control of disease through the promotion of good physical health and personal hygiene. Prisons, he argued, should be quiet and clean with prisoners fed a regular diet rather than buying, begging or depending on food from families.

For Howard, the aim was to create an environment conducive to reform. He believed that criminals were capable of change and correction by awakening their consciousness to sin. To this end, the body and mind had to be disciplined. Ignatieff (1978) describes Howard's 'materialistic psychology', through which characters could be reformed through the application of 'scientific' principles. Authority, discipline and regulation applied to the body, in time would become habitual, transformed into moral preference. For Howard "routinisation and repetition, the regimes of discipline,

would be internalised as moral duties” (ibid:67). Alongside such regimes moral re-education would be directed at the mind. For, existing penal establishments were ‘loose and disorderly’ places whose buildings, regimes and administration limited the potential for control. They would be reformed into ‘total institutions’.

In 1767 Cesare Beccaria’s Dei Delittie e delle Pene was first published in English. Beccaria, a utilitarian, claimed that existing punishments were arbitrary, barbaric and failed to prevent crime. For Beccaria, punishment required rationality, directly related to the seriousness of the crime and geared to prevention through deterrence. The purpose of punishment was deprivation of liberty and reparation through hard labour (Emsley, 1987). Like Beccaria, Bentham was critical of the uncertainty and irregularity of the eighteenth century justice system. He believed that punishment could only be effective through an enforceable, regular, systematic and inescapable regime. An expanding penal estate required effective and consistent administration within its institutions. In this context, Bentham proposed new regimes relating directly to the individual, providing an appropriate balance of pain and pleasure to modify and regulate behaviour. Ignatieff (1978:75) argues that Bentham believed in the ‘science of pain’ with punishment consistent and “ideally machines....used to inflict the exact price for crime”. He continues:

Punishment would then become a science, an objective use of pain by the state for the regulation of the egoistic calculus of individuals.

(ibid:76).

The relationship between pleasure and pain then, was fundamental. Bentham considered that offenders could be deterred from crime if the certainty of pain and

punishment outweighed the benefits and pleasure derived in crime and unlawful behaviour. It amounted to a commitment to 'penal engineering', in which the pain of punishment was rational, purposeful and quantifiable.

In 1791 Bentham published his proposals for a new prison design, the Panopticon. Central to the design was inspection with each individual securely confined in a walled cell preventing contact with other prisoners, with an open front secured by bars. At all times the prisoner and the guards could be supervised and observed from a central tower. Dobash (1983:9), states that the Panopticon:

...was intended to extract the greatest physical effort and moral reform from each inmate through omnipresent surveillance, one - way communication, impersonal administration, strict divisions and partitions of time and space, solitary seclusion and incessant, useful industry.

According to Foucault (1977:201), "... the major effect of the Panopticon (was) to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power". For Bentham, the power relation was a visible relation, with the prisoner able to see the watchtower. Also it needed to be 'unverifiable', with the prisoner never sure when observation was taking place: "He is seen, but he does not see" (ibid:200). This potential of observation, for Bentham, guaranteed order with Foucault identifying it as an important mechanism in automatisisation and disindividualising of power.

Experimentation on prisoners was a central objective of the Panopticon. Through systematic training and correction, Bentham proposed experimentation through

different forms of punishment: solitude, forced labour and instruction. These could be tested on individuals, according to their crime and character, thus establishing the most effective means of correction. (Foucault:ibid). Bentham's optimism for the Panopticon extended beyond the prison and the prisoner, to include: hospital patients, school children, the insane, and the 'idle', in hospitals, schools, houses of industry, workhouses, poor houses, 'manufactories' and 'mad houses' (Foucault 1977; Ignatieff 1978; Melossi and Pavarini 1981). According to Bentham, safe custody, confinement, solitude, forced labour and instruction were applicable to all institutional forms. Foucault (ibid:206) argues that, "in each of its applications, it makes it possible to perfect the exercise of power". Melossi and Pavarini (1981:42) regard the overall aim of the Panopticon to be the "control over the rising proletariat". They continue:

These institutions, their formative practices, the ideologies and theories prevailing within them, can only be understood in the light of capital's essential need to reproduce itself as it passes through various social moments, thereby producing a new society.

(ibid:46).

After twenty years of campaigning and negotiations, Bentham abandoned his Panopticon project. Although the Panopticon design was rejected, central elements of the vision eventually were adopted. However, as Ignatieff (1978:112) states:

The rejection of the Panopticon was a major event in the history of imprisonment. In turning its back on the idea of running prisons like factories, ruling opinion also rejected the idea of modelling the authority relation between state and prisoner on the relation between employer and worker.

The 1779 Penitentiary Act.

The early reformer's ideals were realised in the 1779 Penitentiary Act, drafted by Blackstone, Eden and Howard. According to McConville (1981:107) "the penal reformers were jubilant". Two penitentiaries were proposed for the London area, housing 600 men and 300 women respectively. It was envisaged that prisoners would be uniformed, subject to hard labour in association by day, and solitary confinement at night. According to Ignatieff (1978:93) work would consist of sawing stone, polishing marble, chopping rags, "... of the hardest and most servile kind, in which Drudgery is chiefly required and where the work is little liable to be spoiled by Ignorance, Neglect or Obstinacy". A basic diet of food including bread, water, meat and beer was to be provided for prisoners. Despite the provision of diet, clothing and improved hygiene, as Emsley (1987) points out, confinement was to be hard, rigorous and disagreeable to the individual.

Despite the Act, the penitentiaries were never built and the plan was abandoned. However, the ideas persisted. Although Emsley (ibid:218) argues that the 1784 Transportation Act, "signalled a continuing preference in central government circles for removing offenders overseas", by the end of the eighteenth century influential individuals and county administrators were building new gaols, refurbishing old ones and introducing new regimes. Although a site for the first national penitentiary had been acquired at Millbank, London in 1794, money from the Treasury was not forthcoming and Millbank did not become operational until 1816. Yet many of the new institutions, in their structure, design and regimes, resembled the ideals of the

penitentiary. An influential reformer, Sir George Onesiphorus Paul was responsible for the construction of Gloucester Penitentiary which opened in July 1791. Paul, “a relentless, dictatorial administrator.... single handedly made Gloucester penitentiary the model for prisons across the country” (Ignatieff, 1978:99).

The developing regimes retained the deterrent, retributive and punishment functions traditionally associated with confinement, alongside a surface commitment to the reformation of individuals and institutional practices. Ignatieff argues that reform had to reconcile ‘terror’ with humanity, with punishment severe but legitimate. McConville (1981) suggests that this was achieved through regimes based on humiliation, instilling shame and enforcing solitude.

Through hygienic rituals (5) prisoners, “would learn the value of method and order in their lives” (Ignatieff, *ibid*:101). Yet this purification process also stripped prisoners of their identity. Headshaving, although hygienic was deeply humiliating. The regular prison diet enhanced health but isolated prisoners from their family and friends. In fact, all access from those outside was prohibited. As Ignatieff (*ibid*:102) argues, this “quarantine was seen as the first pre-condition for moral re-education”. Solitude was the other pre-condition. Solitude by day and night in separate cells, although the ideal in Gloucester, was never fully achieved partly because of overcrowding and partly through the resistance of prisoners.

As Ignatieff’s (*ibid*) research shows, the late eighteenth century penitentiaries marked a significant change in the administration of penal justice with the principle ideas of

the reformers incorporated into prison design. Ignatieff emphasises the close relationship between the principles of the penitentiary and Bentham's Panoptica, replacing the 'pain of neglect' by the 'pain of intention', the authority of custom by the authority of rules, disorder and idleness by regimes of hard labour. Prisoners were clearly separated from the outside world through uniforms, bars and walls, reducing contact with families and friends. Central to these developments was the "eye of the state - impartial, humane and vigilant - holding the 'deviant' in the thrall of its omniscient gaze" (Ignatieff, *ibid*:113).

Eighteenth Century Justice : Scottish Penal Reform.

John Howard visited Scotland in 1779, 1782 and 1783 inspecting prisons in Edinburgh, Glasgow, Perth and Inverness. He was impressed with the general administration of prisons and found a lower rate of imprisonment than in England. Yet the overwhelming impression was one of dirt and discomfort, "... old buildings, dirty and offensive, without courtyards and also generally without water". (Cameron, 1983:50). The further problems he identified included insanitary conditions, lack of fresh air and sickness. Little attention was paid to the separation of the sexes or to systems of classification. Keepers were granted licences to sell liquor and no attempt was made to provide work for prisoners.

A different picture emerged however from Scotland's Bridewells, established to 'correct' vagrants and petty offenders through rigorous programmes of work. William Brebner, described by Coyle (1991) as the founding father of the Scottish Prison

System, was instrumental in establishing the philosophy of the Bridewells. According to Dobash (1983) the Glasgow Bridewell, built in 1798 and rebuilt in 1824, was the first purpose - built British prison to operate separate, solitary confinement. The Edinburgh Bridewell, completed in 1795, was the closest architectural design and building to Bentham's Panopticon.

While debate over the efficiency and legitimacy of the separate and silent systems of imprisonment (6) persisted, Brebner argued that neither could reform the individual within the "vacuum of a total institution" (Coyle, 1991:33). For Brebner prison was only the beginning of the reform process. The duty and role of the institution was to provide positive custody, thus ensuring no deterioration of the prisoner. While punishment was achieved through deprivation of liberty, the prison regime initiated the process of reforming prisoners, to be completed on their return to the community. On this principle Brebner founded a House of Refuge for released prisoners. As Coyle (ibid:33) states:

Brebner was in no doubt as to the primary purpose of the penal system. It was to be a servant of the court in carrying out the legal decision to deprive a citizen of his liberty for a fixed period in punishment for a wrong done.

Prisoners were employed in relatively productive labour, and introduced to education by teachers within the prison, aiming to provide some basic educational skills (Cameron,1983:60). Brebner also introduced classification systems, ensuring that prisoners were segregated by sex and age. He established a different regime for young offenders geared to teaching 'good habits' and a trade. Brebner showed concern for staff pay and working conditions and argued that regimes should operate

in the principles of humanity and kindness. According to Coyle (1991:228) Brebner's routine of prison discipline was 'original' becoming an inspiration for others. Prisoners had little interpersonal contact, working in their cell, for approximately eleven hours each day. They were visited regularly by the Governor and Chaplain in an attempt to maintain good physical and mental health.

Although both the Glasgow and Edinburgh Bridewells gained reputations as 'model' institutions, there were shortcomings (Dobash, 1983). The regimes were criticised for 'over - indulgence', with the provision of food, heating and wages identified as preferable to conditions outside. Eventually the expansion of sentences brought overcrowding which made separation of prisoners difficult. By 1817, Edinburgh which had approximately 100 separate cells had an average daily population of 228. Despite these concerns Brebner's penal philosophy and practice left its indelible mark on the development of Scottish prisons.

Early Nineteenth Century Justice : The Rise Of The Modern Penitentiary.

Although the work of reformers resulted in limited improvements, particularly the introduction of basic sanitary standards, prison conditions remained largely unaltered:

....the eighteenth- century practices in general continued unabated, and entrepreneurial keepers were left, in most places, to preside over neglected fee - and garnish - ridden establishments, into which prisoners were still promiscuously herded and left, very often, literally to rot....

(McConville, 1981:224).

This was particularly pertinent given the reduction in the death penalty and in public humiliation and the expansion of prisons for punishment. Prison reform brought an increased role for central government, particularly in the organisation, administration and supervision of prisons. Millbank and Pentonville national penitentiaries, opened in 1816 and 1842 respectively, and Perth General prison in Scotland, opened in 1842, indicated the move towards a centralised system. Following the creation of a prison inspectorate in 1835, the process was completed in 1877 with the centralisation of the entire system under Home Office authority.

As with previous decades, changes in prison administration was contextualised by deep social, economic and political disaffection. According to Ignatieff (1978), between 1810 and 1819, following the Napoleonic Wars, and the resultant trade depression and mass unemployment, the number of adult males committed for trial increased from 66 to over 210 per 100,000. Such expansionism clearly had consequences for the prisons, leading to overcrowding and the abandonment of solitary confinement. The early years of the nineteenth century were characterised by “radical popular agitation” (ibid:158). It was a period of radical opposition to imposed societal discipline, of increased alienation of the poor and ‘moral panics’ over crime levels.

With crime rates increasing throughout the 1820s pressure again increased to make regimes harsher, “lonely....inconvenient....irksome” (Ignatieff, 1977:175). While many of those imprisoned were sentenced for petty, summary offences, the broader portrayal of crime as indicative of a deep social and economic crisis prevailed.

Between 1824 and 1831 four new Acts were passed giving magistrates the power to try cases of assault, poaching, trespass and damage to property. Associated with these changes, was the 1829 Metropolitan Police Act and the formation of the new police.

Ignatieff (ibid:184) states:

The strictness of these new measures reflected the desires of magistrates and politicians in the 1820s to restore an older, nostalgically remembered social stability in a market economy.

It was in this developing climate that the first national penitentiary had opened at Millbank in 1816, the largest prison in Europe. The emerging disciplinary emphases, labour, seclusion and religion, prevailed at Millbank. Dobash, (1983:7) describes the rise of the modern penitentiary as “one of many institutions created to tighten and extend control over the labouring poor”. Following the Holford Committee recommendations and the 1779 Penitentiary Act, a ‘progressive’ stage system was initiated at Millbank. The first stage of the sentence was served in segregation and the second part in association. McConville, (1981:140) comments that, “...the newly arrived prisoner would be purged and punished, buoyed up by the prospect of the privileges of the second stage”. According to Ignatieff (1978), the rule of silence was extended at this time.

Labour in Millbank had a range of functions: to facilitate control and punishment; to act as a reforming mechanism - although later it was acknowledged that this was not happening; to have a political value in showing that prisoners contributed to their upkeep. The treadmill was introduced and was described by a magistrate as, “...the most tiresome, distressing, exemplary punishment that has ever been contrived by

human ingenuity” (Ignatieff, *ibid*:177). For many, the wheel was too demanding and pregnant women occasionally miscarried while treading the wheel.

The daily routine at Millbank, starting at 5.45 am, included chapel and prayers, exercise, reading and eating. Punishments ranged from the confiscation of earnings to whipping. McConville (1981:142) records the use of restricted diet in the dark cells, a form of “total sensory deprivation”. The dark cells were underground, measuring 9 feet by 7 feet and accessed ‘sideways’ down a narrow passage. Men and women prisoners were kept in such conditions, denied light, heating and food, often suffering scurvy and, in epidemic outbreaks, death. Prisoners resisted these regimes through breaking the code of silence by singing loudly or shouting and smashing their cells.

Sim (1990) argues that while men and women were similarly punished, subjected to the same harsh regime, women were seen to be different from men. They were wicked, deceitful, crafty, malicious, lewd and void of common feelings. Identified as being of ‘peculiar temperament’, women were considered difficult to reform and the assumed relationship between their sexuality and their deviance led to the introduction of programmes aimed at regulating the body, disciplining the mind and producing industrious, sexually controlled, submissive females.

The penitentiary at Millbank was to remain unique for twenty years until the ‘model penitentiary’ at Pentonville and the General Prison at Perth were opened in 1842. Ignatieff (1978:178) considers Millbank and its new regime of rigorous, punitive solitude and labour as a watershed in penal development:

The silent system, the bread and water diet, and the treadmill each mark a stage in the tightening up of prison discipline after 1820.

1823-1835 : The Move Towards Uniformity And Central Control.

Throughout the 1820s there was increased political pressure towards uniformity and central administration. The 1823 Gaol Act, sponsored by Peel, was significant but, as McConville (1981) argues, the Act was more concerned with discipline than administration. Despite this, Emsley (1987) suggests that the Act established some uniformity between prisons, codifying general rules for Local Authorities to follow. The Act was concerned primarily with health regulations, religious instruction, the separation of different categories of prisoners, increased facilities for hard labour, inspection by magistrates of local gaols, and annual reports to the Secretary of State (Emsley, *ibid*). In practice there was considerable discretion and many local gaols ignored the regulations.

Despite the upsurge in prison discipline, there remained little uniformity between establishments. As Whiting (1987:22) points out:

One (prisoner) might end up idle in a dirty, diseased, broken down building, able to exploit the women there, while the other might be worked hard on the treadmill in a purpose-built prison on a regular diet and under the care of a chaplain, doctor and salaried staff.

Following the 1835 Gaol Act uniformity was attempted through the appointment of prison inspectors whose role was to influence the development of local management and to monitor the application of prison legislation (McConville, 1981). Their powers

however, were limited and while they publicised abuses, they did not have the powers to demand changes or close prisons. Whiting (1987) argues that centralisation also marked a new era in the 'care' of prisoners through supervision. Ignatieff is more sceptical seeing the inspectorate as 'institutionalising' the reform movement (1978:189). This "professionalisation of reform" was accompanied by the professionalisation of prison and policing, recruited primarily from the armed forces:

This infusion of trained disciplinarians provided the personnel necessary for the centralisation and rationalisation of the machinery of public order in the 1830s.

(ibid:189).

The staffing of prisons was crucial to the success of prison administration. Following centuries of corruption, collusion with prisoners and profit making, a new, disciplined staff was required to achieve order, regularity and control. Throughout the 1820s and 1830s Millbank penitentiary had an abundance of staff and administrators. As McConville (1981:151) states:

At a time when the Home Office was staffed by a handful of clerks, this prison was virtually a new department of state.

The Millbank Committee, however, had difficulty in recruiting appropriate staff. Ostensibly gaolers were required to possess a range of qualities. They were not expected to be 'turnkeys' but instrumental in the moral transformation of prisoners, treating them with humanity. Despite this aim however, McConville (ibid) refers to many instances of trafficking and scandals among staff. In 1842, following the opening of Pentonville as a model prison, the Home Secretary introduced a Bill to

cease the use of Millbank as a national penitentiary. Priestley (1985) argues that Millbank was unsuccessful because of its architecture and regime.

Separate versus Silent Confinement.

Throughout the nineteenth century the debate continued over the most effective regime for ensuring effective prison discipline. The value of the separate and silent regimes were at the heart of this debate. Both systems advocated silence at all times. In the silent system, prisoners associated for work while in the separate system there was total separation. According to McConville (1981) the separate system prioritised reformation alongside deterrence, whereas the silent system was not effective in reformation or deterrence. Dobash (1983:13) argues that the Penal Acts of 1835 and 1839 were a triumph for the separate system in which “....solitude would provide the milieu and mental precondition to make prisoners receptive to training in labour and the moral persuasion of the staff”.

The first inspector of Scottish Prisons, Frederic Hill began visiting prisons during the 1830s. His first inspection and report:

....depicted rowdy, smelly, old, small, dilapidated, chaotic centres of moral and physical degeneration and neglect, characterised by drunkenness, idleness, riotousness and disorder.

(Forsythe, 1981:140).

Hill found that prisoners were not separated from each other or the outside world, that there was little opportunity for work or religious instruction and that security was lax.

Cleanliness and ventilation were poor with prisoners spending much of their time in idleness (Coyle,1991).

Hill considered that discipline and rehabilitation were the key functions of prison regimes, achievable only by adopting Howard's concept of the total institution and instigating a separate as opposed to silent system. Forsythe (1981:141) comments:

....the vision of a uniform, regulated, reformatory, regenerative, scientific, rational prison system with all its promise of strengthening social and economic cohesion fitted exactly into the evangelical and utilitarian traditions.

The 1839 Prison (Scotland) Act was described by Forsythe (ibid:142) as, "strikingly radical". The Act demanded a uniform system of management under a General Board of Directors of Prisons. The Board would administer prisons at a county level. In emphasising the link between prisons and the criminal justice system, the Board comprised of penal officials and others such as Sheriffs and Advocates. The main Board was to, "possess and exercise the full power of administration and management of all prisons in Scotland" (Coyle,1991:45), either directly or through newly established County Boards. Coyle, (ibid:46) argues that the first Board was, "instrumental in establishing the Scottish system of prison discipline during the course of the mid-nineteenth century". The Act also provided for the separation and classification of prisoners, women staff for women prisoners and the provision of productive work. Finally, it empowered the General Board of Directors to develop a general, central prison at Perth. Perth prison had been completed in 1812 and used

primarily for military purposes. After 1839 it became a criminal prison. Coyle, (ibid:47-48) comments:

The Prison Act of 1839 heralded the end of the era of idiosyncratic local prison management and ushered in the age of the disciplined tradition of the penitentiary which Howard had been advocating for some fifty years and which had been operating in the Glasgow Bridewell for thirty years.

Model Prisons : Perth and Pentonville.

Perth General Prison.

Renovations to the General Prison at Perth began in 1840 and, although not completed until 1859, the prison officially opened on 30 March 1842. When completed the prison had four separate wings built on a radial spoke plan with a central rotunda. There were 360 separate cells, radial segregated exercise yards and a chapel (Dobash, 1983). By 1845 it held 219 male and 109 female prisoners. The first Governor, Deverell from England, was given immediate responsibility to appoint staff and determine salaries. Within months he was dismissed amid allegations of financial irregularities. William Brebner took the post on a temporary basis until the former Superintendent of Police in Edinburgh, James Stuart, was appointed, remaining Governor for the next 20 years (Coyle, 1991).

The prison directors opted for a separate system accompanied by silence. The regime was aimed at discipline, reformation and deterrence. Dobash (1983:14) reflects that “the regime was directed at the transformation of disrespectful and unruly criminals into respectful members of the proletariat”. The regimented daily routine which began at 6 am, consisted of moral, religious and educational instruction and

continuous, 'useful' labour carried out in individual cells. Forsythe (1981:148) comments that the prison became, "a great processing machine for the purification of society".

According to Cameron (1983:103) the Governor's accounts of life in the General prison between 1845 and 1855, "make dismal reading". They show a frugal diet, often leading to sickness, and exacerbated hardship, poverty and neglect of the prisoners. The work was dreary and routine, punishments were severe with the harsh use of solitary confinement. Many of the prisoners were young. The brutalising and isolating regime led to many cases of suicide and insanity. Sickness prevailed and prisoners died and were buried in the prison grounds. Babies regularly were born dead to women or died in a matter of weeks. Cameron (ibid:105) states:

The scanty diet, the strain of the separate system, and the fact that many prisoners were in a poor state of health on admittance, led frequently to illness and death.

Throughout the 1840s there were many experiments with the separate system and evidence suggested that separation was detrimental to prisoners' health and well-being. Hill favoured the separate system, using silence while rejecting solitude. He ensured that this system prevailed at Perth with prisoners visited by prison staff on at least ten occasions daily. In his 1845 Annual Report Hill described the pre-requisites necessary for the separate system to operate effectively: prisoners needed useful labour, interesting and instructive books for leisure, and be "fed, clothed and lodged" in conditions better than their own homes (Coyle, 1991:71). While not wanting to seem lenient, Hill justified his position on the principle that the prisoner, "had entirely

lost his freedom, and ceased to be his own master....” (ibid). Prisoners were cut off from family and friends, deprived of companionship, prohibited from singing, whistling and shouting and confined in persistent monotony. Cameron (1983) maintains that solitary confinement created insanity with many prisoners transferred to the “lunatic wing”. Suicide attempts were frequent (two to three per day aged 12 to 30). Following the 1856 Inspectorate Report separation was relaxed, and prisoners were permitted to work and exercise together in small groups.

Perth General prison, unlike its English counterpart, Pentonville, was characterised by an emphasis on productive, rather than unproductive labour. Prisoners were taught trades or skills and staff at Perth included instructors in shoemaking, weaving, tailoring and mechanics. As Dobash (1983) points out, however, the emergence of a more repressive political climate brought more repressive forms of labour into the prison and in 1846 the ‘Crank’ was introduced.

Breaches of discipline in Perth were common, mainly communicating with others, being noisy or disturbing the peace. Punishments were futile, negative and, as Cameron, (1983:107) points out, “were frequent and of an unvarying monotony”. Prisoners on punishment had their diets reduced, were handcuffed in their cells or in dark cells for 72 hours. Cameron, (ibid) acknowledges the plight of 10, 12 and 16 year olds who spent endless hours in dark punishment cells. Disciplinary measures increased, and from 1852 all convicted prisoners were required to sleep on a wooden guard bed rather than a normal bed or hammock during their first month in prison. As

Coyle (1991) observes, while such changes were regressive, they brought Scotland in line with England.

Pentonville National Penitentiary.

Like Perth, Pentonville opened in 1842 as a model for prison architecture and discipline. Silence and solitude dominated the regime. Religion, labour and solitude were considered pre-requisites for reformation:

It was believed that, thrown in upon themselves, in the quiet, contemplative state of the solitary cell, convicts, assisted by their bibles and the exhortations of the chaplain would come to a realisation and repentance of their wrong doing.

(Emsley, 1987:226).

On reception, prisoners went through a humiliating ritual not dissimilar to that experienced today. They were stripped naked, their clothes and possessions taken away, often for fumigation. They were bathed, inspected for distinguishable marks, seen by a doctor, had their heads shaved and were given a number and a uniform. "Once initiated", states Ignatieff (1978:7) "the convict was severed from the outside". Prisoners were allowed one 15 minute visit every six months conducted in the presence of a warder. They were allowed to write and receive just one letter every six months.

Ignatieff (ibid) describes the monotony of the daily routine. Prisoners were awakened at 5.45 am, they dressed, washed, removed their hammock, cleaned the floor and arranged their bench ready for work. At 6 am they were inspected through the spy-

hole and began work. Breakfast, consisting of cocoa and bread, was served at 7.30 am. At 8 am they were herded, silent and masked, to the chapel which was divided into individual compartments. Following exercise in yards, the prisoners returned to their cells at 9 am, working for three hours before lunch and a further four after. Dinner at 6 pm was followed by two hours of contemplation in their cells. 'Lights out' was at 9 pm.

Priestley (1985:27) states that the, "cell was to be the physical hub of the new prisoner's unfamiliar future". While prisoners remained in solitary cells, communication and contamination were kept to a minimum. They were moved throughout the day, to the chapel and to exercise, increasing the potential for communication. To prevent this, the mask or 'beak' was utilised. According to Priestley (ibid:31) the mask was:

....a peculiar brown cloth cap, and the peak of this....(also of cloth) hangs so low down as to cover the face like a mask, the eyes alone of the individual appearing through the two holes cut in the front, and seeming almost like phosphoric lights shining through the sockets of the skull. This gives to the prisoners a half-spectral look.

Religion and the chapel were central to life in Pentonville with the chaplain maintaining rules and regulations. As Priestley (ibid:98) states:

The chapels with their peculiar trappings were the public face of the penitentiary, and they remained as abiding memorials to the spirit that inspired them - except that behind the scenes, the spirit itself had expired.

Despite Priestley's pessimism, Emsley and Ignatieff point to the presence of prisoner resistance. Warders were assaulted and prisoners communicated illegally through the "prison telegraph" (Ignatieff, 1978:9), tapping walls and drainpipes and scratching

messages, despite the threat of harsh punishment for any gesture, smile, sign or whisper. Prisoners took such risks as they desperately desired human companionship to relieve the pain of solitude.

Ignatieff (1978:9) estimates that each year between five and fifteen men were removed to the asylum, “sometimes there were screams. Men came apart in the loneliness and silence”. For others suicide was the solution to their pain and misery. At Pentonville, like Perth, for some the strict discipline was excessive, and resulted in “distress of the mind” (ibid:199). By 1847, the period of solitary imposed had been reduced from 18 to 12 months, and later to 9 months. This trend was extended in the 1850s when the chapel stalls were abolished together with solitary exercise pens and the use of the mask. Unlike Perth, labour in Pentonville was hard, dull, unproductive, uninteresting and monotonous. It consisted of marching the treadmill, turning the crank and picking oakum. As one prisoner commented, “imprisonment is slavery” (in Priestley, 1985:139). Yet the ideal of the penitentiary as a total institution, envisaged by reformers, had been realised.

Local Prisons 1840-1877.

Despite the existence of two ‘model prisons’, most prisoners served their sentences in both Scotland and England in local prisons. By the 1840s there were concerted central government attempts to direct the course of local prison policy, with Pentonville being presented as a national ideal. As McConville (1981) points out, central financial subsidies to local prisons encouraged compliance, direction and

control. Within a decade, local prison administration was rationalised, their regimes regulated and many small prisons closed. There were 178 locally administered Scottish prisons in 1839, many in a deplorable condition. Cameron (1983) reflects that most were little more than lock-up houses, cold, damp and often insecure. She comments:

Many of these hovels, vaults and damp, dark rooms up and down the country clearly did not justify the name of prison. The scandalous lack of care could have tragic results, as when the prison in Tain burned down and some prisoners were burnt alive, the keeper lived at a distance.

(Cameron, *ibid*:103).

Under the 1839 Act, the Board of Directors of Prisons imposed some uniformity on Scotland's prisons. Centralisation was resisted by local authorities but a common framework was achieved through the 1840s, prison rules developed and within twenty years many local prisons had closed.

The 1853 Penal Servitude Act suspended transportation, replacing seven years transportation with four years penal servitude. The second Penal Servitude Act, 1857, recommended correspondence between penal servitude and the previous sentences of transportation. Imprisonment, traditionally for petty and summary offenders, began to be used for more serious offenders and longer sentences were introduced.

According to McConville, (1981) there was an intensification of public condemnation of the poor during the 1850s with a renewed emphasis on the distinction between the 'deserving' and 'undeserving' poor. Further, the 'criminal classes' were distinguished from the unemployed poor, with "habitual criminals.... growing subjects of concern in

the formulation of penal policy” (McConville, *ibid*:327). This was reflected in the greater proportion of short sentences administered and the increasing use of imprisonment, sentences rising from 62,293 in 1857 to 100,525 in 1877 (*ibid*:331). De Lacy (1986:193) argues that for ‘radical historians’ the mid-nineteenth century “represents the apotheosis of the strictly regimented prison” and while the ‘radical version’ oversimplified the motives of reformism, it “correctly reveals the darker side of prison reform” (*ibid*:225). She continues:

Though prisoners did suffer in the “reformed” prisons, they suffered from corruption and peculation, bad food, filth, cold, uncomfortable cells, and intimidation by other prisoners. These were old and unsolved problems, not new instruments of manipulation.

(De Lacy, *ibid*:225).

De Lacy argues that prisons in Lancashire followed a daily routine similar to that at Pentonville, and Priestley, (1985:18) describes the reception and bathing of prisoners as the “universal institutional baptism”. One Leicester prisoner described his ‘baptism’ in a bath “not unlike mutton broth”, while another commented:

The bath-room is a dark dingy room, with a narrow strip of water on each side, divided into compartments, but not dividing the water; and it is not a very pleasant thing for a man to have a bath in the same water along with men suffering from every variety of skin disease and cutaneous eruptions.

(*ibid*:19).

Prisoners were washed, inspected, shaved, given a uniform and a prison number. Their beds were boards, thick coarse covered mattresses or hammocks - a legacy from the hulks - supplemented with dirty blankets. Priestley states that the immediate reaction of prisoners locked up in separate and silent regimes was desperation,

particularly first time offenders. He states that: "... the longer prospect was of a solitude for which nothing in the previous life of first-time prisoners could possibly have prepared them" (ibid:41). The harsh regimes utilised hard labour and food was poor, although De Lacy argues that while the diet was punitive, to act as a further deterrent, there was a desire to maintain the good health of prisoners. Priestley also identifies the necessity of giving prisoners engaged in hard labour a more nutritious diet and although medical care was available "on demand... its provision was hedged about with procedural obstacles and an air of deterrent unpleasantness" (ibid:168). Typhus was a serious problem in mid-Victorian prisons as were: cholera, dysentery, diarrhoea, enteritis and intestinal disease (De Lacy, 1986:188). Suicide was common, being fed by a combination of officers' brutality, and by the "intractability of the system as a whole" (Priestley, 1985:181). Opportunities for suicide were plentiful and prisoners used ligatures, handkerchiefs, bootlaces, braces and hammock straps, hanging themselves from window bars, hammock hooks and protruding gas pipes. Failed suicide attempts brought punitive charges and harsh responses rooted, according to Priestley (ibid:183-184) in "attitudes towards both the 'sin' and the 'criminal offence' of suicide".

According to Priestley, copies of the prison rules hung in prisoners' cells and any breach led to prisoners being placed on report with severe punishments the regular outcome: beatings, whippings, cold baths, the stocks, dark cells and reduced diet. Prisoners were restrained by handcuffs, chains, straitjackets, irons, the brank (a metal gag used on women in Shrewsbury prison), and hobbles. Sim (1990:146) describes the practice of 'hobbling', applied to both men and women:

Hobbling consists in binding the wrists and ankles of a prisoner, then strapping them together behind her back. This position caused great suffering, is barbarous, and can be enforced only by the doctor's orders....To the above was sometimes added, in violent cases, shearing and blistering of the head, or confinement in the dark cell. The dark cell was underground, and consisted of four walls, a ceiling, and a floor, with double doors, in which not a ray of light penetrated.

By the late 1850s there was considerable unrest throughout Scottish and English prisons. Staff were assaulted, prisoners escaped, smashed their cells and engaged in strike action. According to Ignatieff, (1978) they demanded the return of transportation and an end to sentence discrepancies. Ignatieff, Sim and Priestley show the increased resistance from women prisoners, challenging the prevalent ideologies of women's femininity, passiveness and submissiveness. Cameron, (1983) documents serious unrest and disturbances in both Perth national prison and local prisons. In late 1862 women prisoners rioted in the chapel at Perth, a disturbance triggered by a cell search which had revealed illegal substances including liquor.

The function of imprisonment, particularly the effectiveness of punishment and reform, remained at the centre of the penological debate throughout the mid-nineteenth century. Hill questioned the reformatory potential of prisons, and others, such as Jebb, argued that different functions should be aimed at different types of prisoners serving different lengths of sentence. As McConville, (1981:47) points out, "After 1850 the reformatory objective in penal policy underwent an almost total eclipse". In England the 1865 Prison Act emphasised the primacy of deterrence over reformation, stressing the requirement for continued separate confinement and increased and intensified hard labour. Although the Act restricted prison punishments

to diet restrictions, solitary confinement and corporal punishment, McConville, (ibid:363) observes that the “disciplinary system..... embodied in the 1865 Act was almost exclusively deterrent and retributive”.

The 1860 Prison (Scotland) Administration Act abolished the General Board of Directors. Coyle, (1991) argues that the Board had fulfilled its functions. Perth General Prison was brought under a group of managers. The Act also required that staff abide by set rules and meet certain standards, including the award of a civil service certificate.

The Consolidation Of Centralisation.

The 1861 Offences Against the Person Act abolished the death penalty for all crimes except high treason and murder. Emsley, (1987) argues that the deterrent effect of public torture and execution no longer was considered effective. For Foucault, (1977:14), “the age of sobriety in punishment had begun”, with punishment focused on the soul and the mind, rather than the body. Imprisonment therefore, consolidated as the primary punishment for offenders. With separate confinement no longer considered reformatory, purely punitive and deterrent, the campaign for uniformity gathered momentum, culminating in the nationalisation of all prisons in England and Scotland under the 1877 Prison Acts. Cameron, (1983) claims that this was the beginning of the modern prison system.

Prisons were centralised with local management replaced by the direct authority of the Home Secretary (Cameron, 1983). This structure remained consistent until the 1948 Criminal Justice Act. Prisons were administered by a small group of Prison Commissioners under the authority of the Home Secretary. Their aim was to equalise and standardise regimes of discipline, punishment, diet, health, labour and to increase staff professionalisation.

The first, and most influential, Chair of the Commission was Sir Edmund Du Cane, formerly a soldier, engineer and penal administrator. Elkin, (1959:116) states that Du Cane “ruled with a rod of iron” for twenty years, believing deterrence was the primary function of imprisonment, achievable through, “hard, dull, useless, uninteresting, monotonous labour as punishment” (ibid). According to Coyle, (1991:82), there was “no comparative figure in Scotland”. Whiting,(1987) provides five key methods employed by Du Cane. First, potential staff were to be subject to rigorous selection. According to Coyle, (1991) the minimum age for entry was 24 (men) and 22 (women). Scales of pay were introduced, staff were moved between institutions and consequently prison staff quarters were developed. Second, no special care was provided for women, the ‘feeble-minded’ or the young. All prisoners endured the same regime and conditions. Third, prisoners’ health was considered important. The death rate fell from 10.8 per 1000 in 1877 to 5.6 by 1898. Fourth, the wearing of masks, a feature of English prisons, was abolished. Fifth, hard labour (ie the crank, treadmill) was considered preferable to skilled work which failed as a deterrent. Finally, the progressive stage system was considered the most appropriate regime, particularly for longer term prisoners. The start of a sentence was characterised by a

strict, harsh regime, the prisoner confined in solitary confinement. As Whiting, (1987:67) states; once a prisoner became “absolutely obedient and docile he could have these penalties removed”. Emsley, (1987:231) characterises this reward system:

Ferocious abuse from a warder, a bread and water diet, solitary confinement, or a flogging provided the stick; gratuities for good conduct and industry among long-term prisoners, and the ability to work time off the end of a long sentence by collecting high ‘marks’, provided the carrot.

Du Cane perfected this system, introducing different uniforms for ‘good’ and ‘bad’ prisoners.

Coyle, (1991) argues that in Scotland, the 1877 Act completed the process of centralisation retaining some of the established and unique features despite pressure from Du Cane. Particularly significant was the commitment to useful, productive labour, previously advocated by Hill. With the abolition of local prison boards, the Commissioners took direct responsibility for the administration of Scotland’s remaining 56 prisons. Following their first meeting in 1878, a further 13 prisons were closed, and by late 1898 the number of prisons in Scotland had reduced to 14. (Cameron, 1983). New prisons were built in Scotland’s towns and cities. Building began in Barlinnie and Dumfries in 1882, Peterhead in 1886, Aberdeen in 1890 and Inverness in 1901, largely by prison labour (Coyle, 1991). Ignatieff, (1978:205) regards these Victorian prisons as the, “new symbolic representation of the state’s ultimate power”.

This power was extended further through the 1877 Acts which made provision for the Prison Inspectorate, formerly independent, to be employed directly by the Prison

Commission. Their reports were no longer made public and, as Cameron, (1983:127) observes; “the prison system became a closed bureaucracy and so it has remained”.

The prison population continued to rise, as did the length of the average sentence. However, as Cameron, (ibid) indicates, this was due primarily to the introduction of new statutory offences rather than to an increase in crime. Despite some improvements, mainly related to diet and hygiene, prison conditions remained poor throughout the latter part of the nineteenth century. Regimes were dominated by discipline, order, moral and religious instruction, limited education and hard labour in England, and useful, productive labour in Scotland. Severe punishments continued to dominate regimes. Solitary confinement, separation and the rule of silence persisted as key features within many prisons. The aim of imprisonment was to make prison life as unpleasant as possible combining punishment with deterrence. The late eighteenth and early nineteenth century reformers’ commitment to ‘correcting’ the individual had failed and was superseded by a prevalent, punitive authoritarianism.

In the 1890s a national system of criminal record keeping was established. Ignatieff, (1978:204) sees this as indicative of the failure of reformism with identification, surveillance, supervision and confinement as the concomitants of control and regulation. “In this strategy”, he concludes, “the institution was used, not for purposes of reformation, but for penal quarantine”.

Gladstone, Elgin and the Prison Act of 1898.

By the late 1890s it was clear that Du Cane's principles were not working. Recidivism remained high and many prisoners were released in a poor mental state (Elkin, 1959). The Government set up a committee to examine prison conditions, chaired by Herbert Gladstone. In 1895 the committee's Report concluded that while prisons had achieved some uniformity and discipline, they had failed to deter criminal activity or reform individuals. Although the remit of the Committee specified an examination of prison conditions, it went far beyond this. According to Fitzgerald and Sim (1982), this was the first official recognition of prisons as places of punishment rather than correction. The Report recommended that prisoners should experience an individual regime based on reform and rehabilitation, and that the classification of prisoners would facilitate such a strategy. King and Morgan, (1980:2) note:

The principles laid down by the Gladstone Committee in 1895 have served as guide-lines for the prison system ever since, though developments were slow, patchy and sometimes inconsistent.

Many of these principles were adopted in the 1898 Prison Act. The Secretary of State was given responsibility to make necessary rules and staff were given discretion to experiment with reform, treating each prisoner as an individual. The most important provisions included the abolition of unproductive, hard labour. This was replaced by mailbag making, tailoring, bookbinding, carpentry and other productive tasks. Cellular confinement was reduced to a month, and long term prisoners were allowed to communicate with each other. Gym was introduced and diets improved. One further significant provision was that prison doctors were required to have some

knowledge of mental illness and institutions were to ensure that such prisoners received special treatments (Whiting, 1987).

As Coyle (1991) points out, the Gladstone Report did not apply in Scotland. Scotland's prisons already implemented many of the functions outlined in the 1898 Act. The Glasgow Bridewell, for example, had an established regime based on reformation rather than punishment (Coyle *ibid*). Coyle considers that the 1900 Elgin Committee Report was of greater importance than Gladstone in Scotland. The committee, set up by the Secretary for Scotland, followed concern from Scottish members of Parliament over alleged inadequacies in Scottish prisons. In examining prison life as it affected the prisoner, the committee specified five focal areas: the provision for the nursing of sick prisoners; the general accommodation for prisoners; the classification systems; the sufficiency of the prison diet; the form and effect of prison labour. Although the committee conceded that there were problems with prison management and administration particularly concerning overcrowding, the need to separate young offenders and the need for medically qualified staff, it concluded that there was "nothing to justify the very hostile denunciation of the whole administration of Scottish prisons..." (in Coyle, *ibid*:91).

Into The Twentieth Century.

Early twentieth century imprisonment was characterised by a public commitment to rehabilitation. In England, Ruggle - Brise replaced Du Cane and implemented many of the Gladstone Recommendations and the 1898 Act. Despite this, prisons remained

harsh, punitive establishments. In 1905 Florence Maybrick (in Sim, 1990), published an account of her fifteen years imprisonment. She spoke of the severity of the regime which emphasised hard labour, solitary confinement, strip searching, constant supervision and the role of the prison doctor in ordering the cruellest form of punishments. Cameron, (1983:190) notes that in terms of “structure and policy... little or no change (had) taken place since 1877.” According to Cameron, (ibid:91) the over emphasis on control created a, “mutual hostility between staff and prisoners,” relegating the treatment and rehabilitation of prisoners to secondary consideration.

Dobash (1983) argues that by the turn of the century “professional reformers” utilised medical and therapeutic ideologies to conceptualise and develop regimes suitable for prisoners deemed to be ‘deficient’ mentally or physically. For women, as Sim (1990) shows, such regimes recognised their individuality but saw rehabilitation as preparing women for an accepted and acceptable form of womanhood and femininity.

Conclusions.

The shift from custom to legal codification was accompanied by the decline of public punishments inflicting pain. Throughout the eighteenth century, as has been shown, most offenders were whipped or placed in the stocks or pillory and imprisonment was reserved for debtors, those awaiting trial, and those convicted awaiting death or transportation. By 1860 such public rituals were considered cruel and an illegitimate means of punishment. The developing prison became the place where petty and serious offenders alike could be confined. The penitentiary, Howard’s concept of the

“total institution” was an ideal and a principle objective for reformers. Cameron, (1983:47) observes:

Although Howard’s proposed penitentiary was never built, its design, along with others of the period, was ultimately to have a profound effect on the structure and administration of today’s prisons.

Large, residential, total institutions in the name of reform emerged and developed. Ignatieff, (1985:80) regards these new prisons as systems of authority substituting “the pains of intention for pains of neglect”. Previously, neglect was justified as a deterrent, but this changed with the new prison regimes. A regular diet replaced inadequate food; uniforms replaced ragged clothing; medical attention recognised the significance of physical care; hygienic rituals were introduced to prisoners and the prison (Fitzgerald and Sim, 1982). Ad hoc, custom based conventions were superseded by a rule of rules. The unwritten, customary use of discipline and power in prisons was largely discretionary and lacked in “moral authority” (Ignatieff, 1978:77). This was replaced by a formal code of rules giving the state responsibility for the infliction of discipline and punishment. He argues:

As a ritual of state power, penitentiary discipline contrasted sharply with the ritual of public punishment. Whereas the public execution afforded both the public and the offender a role that the state was unable to control, the rites of discipline allowed no such opportunity.

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The reformed prison also enforced a greater social distance between the prisoner and the outside world. High walls and fences were erected, patrols and searches were instigated and access, both visiting and letter writing, was limited and regularised

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(Fitzgerald and Sim 1982; Ignatieff 1985). As De Lacy, (1986) argues, the age of reform brought prisoners greater protection from disease, hunger and violence, yet they suffered a loss of freedom and community contact.

In 1877 centralisation brought standardisation to the prison system with the objectives of uniformity and equality. However, centralisation did not create a better system and conditions and regimes remained much as they had been. Yet centralisation consolidated power. As Coyle, (1991:67) argues:

Imprisonment is an expression, in Britain today the ultimate expression, of the power which those who control society exercise over individuals within society. The act of imprisonment realises that power by controlling the detailed activities of the prisoner, by disciplining as far as is possible his every movement.

The justification for exercising such power is multi-faceted: the protection of the public; deterrence; retribution; and reform. Coyle argues, however, that the event preceded these theories and that the need to discipline the individual and to exercise power is used to justify imprisonment.

The power to punish then, has remained central in the history and development of imprisonment. Ignatieff, (1978) maintains that the efficiency of punishment depended on its legitimacy with punishment leading to repentance only if accepted by the offender and the public. As Foucault argues, the legitimate exercise of power through punishment had to be accountable and once achieved, this “paved the way for the increased use of imprisonment” (Coyle, 1991:68). Ignatieff, (1978) concurs, arguing

that such power was legitimated through reformatory theory which portrayed punishment as in the offenders' 'best interests' and, therefore, in the public interest.

For Foucault the emergence of the prison marks the institutionalisation of the power to punish. He states:

.... penal reform was born at the point of junction between the struggle against the super-power of the sovereign and that against the infra-power of acquired and tolerated illegalities.

(ibid:87).

The right to punish then, was transferred from the traditional 'vengeance of the King' to the defence and protection of society. Foucault refers to a "new economy" and a "new technology" of the power to punish: the offender being the enemy of society and therefore, the subject of legitimate punishment. According to Foucault, the objective of the new prisons or the "carceral system" was "not to punish less", but to "punish better".

The critical analysis and revision of the history of prisons demonstrates that the marginalisation and criminalisation of particular individuals, together with the rise in the use of imprisonment, were related directly to socio-economic and political change. For Melossi and Pavarini, (1981) the transition to a capitalist mode of production brought sudden and profound changes in finance, property ownership and the control of the means of production which not only had consequences for class relations, and their associated conflict, but also for the role of the state. Within this context, emergent political and workers' movements were a challenge to the social and political order. These challenges were, inevitably, outlawed and amounted to what

Foucault termed a “peasant illegality”. These were the ‘dangerous classes’, the criminal, barbaric, immoral and alien threat to the social stability. It was within this political definition and ideological construction that surveillance, regulation, control and punishment emerged as state responses.

Melossi and Pavarini (1981) note that such an enforcement of power was not confined to the prison. For them the prison and the factory were synonymous. They argue, “for the worker the factory is like a prison” (ibid:188), symbolised and realised by their loss of liberty and subordination. Further, “for the inmate the prison is like a factory” (ibid), enforcing work and discipline. Their analysis observes that, “prisoners must be workers, workers must be prisoners”, (ibid) the same institutional apparatus being functional for both.

At the heart of penal philosophy, from the early Houses of Correction and Bridewells through to twentieth century prisons has been the ‘reform’ of the individual, a “fundamental and permanent alteration in behaviour”, through which an “obedient society” can be achieved (Forsythe, 1987:4). Through strict regimes of separation and silence, through the example set by prison officers, immorality, criminality and disobedience could be ‘cured’. Discipline, order and the values of work could be delivered through hard labour. As Ignatieff (1978:213) states, these reformist ideals in which the ‘punisher’ and the ‘punished’ could be brought together in a “shared moral universe” had broad appeal to the middle classes.

Concern over the effectiveness and legitimacy of reformatory techniques brought a 'new' reformatory ideology also based on authoritarian, disciplinary methods. Academic, 'scientific' analysis emerged in the nineteenth century and focused particularly on crime and criminality. According to Foucault (1977:294), prison officials became "technicians of behaviour", their objective being the production of citizens, both "docile" and "capable". Prisoners' behaviour was subjected to constant observation and assessment, carried out mainly by medical and psychiatric professionals, combining scientific credibility with legal justification. Foucault argues that the relationship between medicine and jurisprudence was founded in the medico-legal discourses of the nineteenth century. The 'professionals'(teachers, doctors, social workers etc.) emerged as "judges of normality" and therefore, "abnormality". They founded disciplinary networks possessing extensive powers of supervision and assessment. In the name of reform and reformation, the prison and prisoner became "medicalised", "psychologised" and "educationalised". According to Ignatieff (1978:218) the "human sciences" were employed to impose "control, to dominate and to subdue". Vitaly, he concludes that, "it is this suffocating vision of the past that legitimises the abuses of the present and seeks to adjust us to the cruelties of the future" (ibid:220).

CHAPTER TWO.

**'THE POWER TO PUNISH': THE STATE, PUNISHMENT AND
LEGITIMACY.**

Introduction.

Punishment, formalised and routinised as an exercise in state authority is a central feature of all contemporary social democracies (Walker, 1991). Wright (1982:24) recognises that punishment is a, “very old and deep rooted principle; this does not necessarily justify it, although it makes it hard to eradicate”. Bean (1981:1), emphasising its all-pervasiveness, considers that “ the desire to punish is deeply ingrained within us and accept it as such”.

While taking many forms the ‘essence’ of punishment is concerned with the infliction of suffering, the purposeful imposition of pain. It is widespread, imposed in families, the workplace, schools and other institutional forms. Harding and Ireland (1989) suggest that punishment in the private, interpersonal sphere far outweighs that administered by the state. This chapter, however, is concerned with the state’s use of, *and justifications for punishment.*

Within liberal democratic theory and political practice, the state is regarded as holding supreme and sovereign authority, holding the power to take decisions on behalf of, yet governing, its citizens (McLennan et al 1984, 1987; Vincent 1987). On this basis it exercises, “its rightful claim to obedience from its subjects”. (Hall in McLennan et al, 1987:1). Authority then, implies official power, being recognised as valid, justified and lawful by those to whom it is applied. This process of legitimacy, underwritten in liberal democracies by elected representation, governs the use of force and coercion.

On this basis, as Max Weber concludes, the state holds the monopoly on the use of legitimate violence.

Prisons are 'of' the state, functioning to punish those who infringe rules, laws and customs (Scull 1984; Ignatieff 1978; Melossi and Pavarini 1981). Fitzgerald (1977:21) asserts that, "most people believe that the state has both the right and the obligation to punish violators of the law". Garland and Young (1989) distinguish between two forms of punishment. Philosophical analyses recognise the, "universal necessity to punish and control" (ibid:11) and establishing a rationale or justification(s) for the 'right to punish'. Sociological analyses are concerned primarily with the regimes, practices and institutions of punishment. They state that the, "penal realm is not a singular, coherent unit" but a "complex network composed of a variety of different institutions, practices and relations supported by a number of agencies, capacities and discourses" (ibid:15).

Imprisonment is a vital part of that network, with prisons "designed deliberately to cause suffering" (Fitzgerald, 1977:21). The loss of liberty implies the loss of family, friends, income and 'social identity' and the suffering which results is compounded by harsh regimes which demand order, obedience and control. As Scraton et al (1991:62) argue:

Life in most British prisons is an unrelenting imposition of authority. Any attempt by prisoners to negotiate or modify the regime is identified as a challenge to authority and, specifically, an affront to the authority of a particular prison officer.

While the imposition of that authority is an expression of formalised power relations and is visible and undoubted, its legitimacy requires closer investigation (1). Within democratic societies the imposition of authority and the use of power, should be consensual, involving consultation and political accountability, if it is to claim 'legitimacy'. Critical research and analysis questions the extent and form of consultation and acceptance in the administration of penal power. Scraton et al (1991:61) reject the notion of "consensual authority", asserting that, "It is not derived in consultation and agreement, nor is it legitimated by any process of representation and accountability". Sparks and Bottoms (1995:53) suggest that the daily imposition of power over prisoners is "fundamentally non-legitimate" thereby questioning the process and maintenance of order within prison regimes. Fear, coercion and violence each are presented as providing the context within which official authority is administered, sanctioned and legitimated. For Garland and Young, the incarcerated, once confined, become an, "object of a relation of force" (1989:22). Scraton et al (1991) concur, arguing that, "All forms of incarceration imply the use of force". Yet, prison is an authorised place of detention, where the use of force has to be 'reasonable' in the circumstances, where staff should not be above the law (see Scraton 1985a; Scraton and Chadwick 1987a).

This chapter examines the relationships between authority, order, power and legitimacy as they contextualise punishment. Central to this examination, as indicated above, is the issue of legitimacy in the use of punishment by state agencies. To that end it is important to consider the key characteristics of the liberal democratic state and the function, purpose and justification for the administration of punishment within

that context. What follows is a critique of liberal democratic theories and state practices and alternative constructions of the relationships between crime, punishment and the state, derived in contemporary critical analyses.

Liberal Democratic Theories of the State.

No one in Britain today lives beyond the reach of the state. In its numerous different guises it intervenes in all of our lives.

(Hillyard and Percy-Smith, 1988:13).

Hall (1982:12) states, “the twentieth century has seen the growth of the all-encompassing state - cradle to grave”. The pervasiveness of the contemporary state, and the government within, involves a complex and integrated range of functions including the provision and institutionalisation of necessary services, the establishment and maintenance of a legislative and judicial framework and the administration of that framework incorporating the power to punish on behalf of the state’s citizens. Dunleavy and O’Leary (1987) draw a distinction between organisational and functional definitions. An organisational definition refers to the state as a “set of governmental institutions, of relatively recent historical origin” (ibid:1), while functional definitions are concerned with the practices of state institutions as they set and achieve specified goals, purposes and objectives.

At the most basic definitional level the state consists, “.... of that set of social institutions concerned with the passing of laws, implementing and administering those

laws, and providing a legal machinery to enforce compliance with them” (Abercrombie et al, 1988:498-9).

Such state apparatuses, however, have evolved, as Hall (1982:12) comments, “the.... field of action of the state has altered almost beyond recognition over the last three centuries”. The classical liberal state in Britain emerged during the late eighteenth and early nineteenth centuries with the rise and consolidation of early capitalism (Hall 1982; Hall in McLennan, Held and Hall 1984,1987). The economic changes reflecting the fundamental shift from agrarian to early industrial capitalism created the material context within which the modern state was born. In the development of its manufacturing base, founded on international trade and free market principles, early capitalism required a ‘servicing’ state. According to Hall (ibid) the economy was not under the control of the state but the emergent ‘liberal’ state was grafted onto capitalism. It was not however, a democracy:

The majority could not vote, assemble as they chose, ‘publish and be damned’, join a trade union, hold many posts if they were dissenters, vote or dispose of property if they were women.

(Hall in McLennan, Held and Hall, 1987:10).

Reflecting the principle of *laissez-faire*, the state facilitated capitalism and was minimalist in its intervention. The relationship between the state and the economy changed due to the international developments in capitalism and the imperialist struggles between nation-states. Garland (1985:54) comments that, “the free-market economy of individual production, which grounded the whole ideology of *laissez-*

faire individualism, was thus transformed as a result of its own essential dynamic - the will to profit”.

The emergence and consolidation of state intervention within civil society, private life and the management of the economy, occurred in Britain with the adoption of Keynesian economic principles during the war time economic crisis between 1939 and 1945. After the war, laissez-faire liberalism, characterised by the minimalist state, gave way to interventionism. This reflected a political commitment to a ‘mixed economy’ and the emergence and consolidation of State Monopoly Capitalism. (see Friend and Metcalf 1981; Armstrong, Glyn and Harrison 1984; Cronin 1984).

As it developed, the liberal democratic state was neither singular nor monolithic. It comprised of a recognisable set of institutions, acknowledged and established through legal authority as apparatuses of public power (Dunleavy and O’Leary 1987; Hall in McLennan, Held and Hall 1987). As a public power above individual interest, the state’s relationship with civil society became most significant, for while the state came to be associated with public affairs, ‘social life’ (society) remained the ‘private’ domain, what Hall (ibid:20) refers to as, “voluntary, non-compulsory arrangements”.

King (1986:57) notes:

The liberal state is characterised by an apparently sharp differentiation between the realms of state and society, with the former characterised by binding commands and the rights and duties of citizenship, and the latter as a voluntary realm of affinities of interests and ideas.

For Hall (1987:21), however:

The boundaries between ‘state’ and ‘civil society’ are never fixed, but constantly changing. Public and private are not natural divisions, but socially and historically constructed ones.

While the distinction between the public and private is valid, increased state intervention in both the economy and civil society, as outlined in Chapter One, promoted greater investigation, surveillance and control of individuals and communities in both public and private realms (Hillyard and Percy-Smith, 1988). The necessity for order, obedience and stability throughout society, so evident in the nineteenth century, became the driving force behind state interventionism so clear in medico-legal discourses (see Mort, 1987). Vincent (1987:38) argues that authority implies the application of official power securing, “the obedience of others and specific functions, within the confines of certain rules”. The liberal democratic state form, however, also claims a duty to protect citizens. It both commands order and confers rights.

Within classical liberal theory (2), individuals were considered both rational and free-thinking, whose rights and liberties should be guaranteed and protected. In this context the liberal democratic state, based on popular sovereignty, should be, “of the people, by the people, for the people” (Hall, 1982:14). Within this framework the state should not hold a view, a character or interest of its own. For King (1986), the authority of the state is determined by securing the relationship between ruler and subject, with authority founded on consent. Thus the liberal democratic state is regarded implicitly as consensual and representative of society. It is through participation in the democratic system that consent is granted or with-held, thus, *consent and representation came to be intimately linked*. For Hall (1987:25), “the consensual basis of the state is sealed by the formal processes of representative government”. In democracies, citizens are represented via the electoral process,

thereby governments are 'delivered' as an expression of collective 'will'. According to Hillyard and Percy-Smith (1988:22), central government democracies should reflect:

.... popular participation, regular, 'free and fair' elections organised on the basis of 'one person, one vote, one value', informed consent to government, rational debate and discussion at all stages of the policy-making process, legitimate political authority, scrutiny and accountability.

Inevitably, however, the establishment and securing of order has utilised coercive and regulatory force. State powers embody the use of force and compulsion. As Hall (1987) argues, even the most consensual of states require a power base. In the application of force, legitimacy must also be secured. It is through legitimacy that state institutions win and maintain consent for their actions. As Hall (1987:16) argues:

The issue of legitimacy covers the whole spectrum of what might be called sanctioned domination..... If the state regulates, directs, legislates and compels 'legitimately', it is because it can lay claim to the authority to do so. Authority is power which the state is licensed or 'authorised' to exercise.

Legitimacy, therefore, suggests that citizens abide by rules and laws because collectively they view them as right and justified. As Held (in McLennan et al, 1984:302) comments, "a legitimate political order is one that is normatively sanctioned by the population".

The liberal democratic state then, claims to be representative, carrying the 'consent' of the people via the elected representation in government. Legitimacy in the use of state power, including the monopoly in the use of force up to and including lethal

force, is derived in that consent. There is, however, some recognition that society is pluralist with individuals and groups holding competing views and positions. This 'plurality of interests' is politically managed within democracies enabling diversity through its representation of contrasting views to a lesser or greater extent. Conflict within consensus is regarded as the healthy pursuit of economic and /or political power by competing interest groups or representative agencies. The state adopts the role of neutral arbiter between these competing interests.

Supreme power or sovereignty is applied within the defined territory of a nation-state, being recognised by other external states as a unit (Vincent, 1987). Hence, the sovereign state reflects an ideology of patriotism, and national identity and is committed to the preservation of citizenship. Within the nation-state the concepts of justice and freedom purport to ensure equal citizenship with sovereign power applied neutrally, impartially and universally. Parliamentary legislation ensures justice through its impartial enforcement and administration with the primary institutions acting with 'objectivity' and 'fairness' (see Griffiths, 1985). While consent, ultimately, is guaranteed by the coercive potential of the state, legitimacy is conferred on coercive powers through its correspondence and accountability to the 'common will'.

Further, liberal democratic theory combines the Rule of Law and the Separation of Powers to institute necessary checks and balances in the administration of state power. The rule of law, including the long history of common law and the current relationship between criminal and civil laws, operates on the principle of all being

equal before the courts, regardless of wealth, status, class, gender, ethnic background, age, or sexuality. More broadly, according to Scruton (1985b:260), “the autonomy of the rule of law is preserved, according to liberal democratic theorists, by the separation of powers”. This principle ensures that the three branches of the state: the executive (government), the administrative (civil service) and the legislative (judiciary and courts) are formally separated and independent institutions.

It is on this basis that state power is represented as pluralised, not restricted to one branch of the state but evenly distributed. As Hall (1982:14) comments, despite “collective concentrations of economic and social power, the state recognises only the political and legal equality of each individual citizen, of whatever rank”. Participatory and representative democracy (one person, one vote), ensures that elected politicians become the channels through which the social and political preferences of individuals and groups are registered and met. All state institutions, therefore, are formally accountable to the ‘common will’ through the rule of law and political mechanisms.

To summarise, liberal democratic theories of the state assume that power is democratised, participative and pluralised. This diversification guarantees consent. It is the consent of an active citizenry within the sovereign nation-state. Citizenship is both exclusive and inclusive, conferring rights, liberties and responsibilities on citizens while drawing legitimacy from their active participation. In that sense, citizenship is a social contract which also establishes obligations on and obedience from its citizens. Vincent (1987:39) maintains:

Both authority and legitimacy are closely tied to the concept of obligation. Authority embodies the presumption of legitimacy. In turn, legitimate

authority presumes a right to act which correlates with the duty of obedience.

Liberal Democratic Theories of Punishment.

Through the state a common way of life, common standards of behaviour, laws and customs can be secured throughout its territory.....In the name of the state, a certain type of order is imposed on its citizens, and those who wildly or violently deviate from its norms are punished.

(Hall, 1982:12).

As with other forms of state power, formalised punishment requires legitimacy. The debate around the politics of punishment focuses on its purpose and its utility for, as Duff and Garland (1994:2) assert, it “requires justification because it is morally problematic”. Central to such theoretical justification, has been contrasting analysis of the, “legitimate role and scope of the state” (ibid:3). As Carlen (in Garland and Young, 1989:203) notes:

Theories of punishment have, traditionally, been concerned not with the power to punish, but with the right to punish.

Despite analytical diversity, the primary concern within the liberal tradition is the need to uphold individual rights and freedoms. Punishment is justified in that it protects the freedom of individual citizens to live in safety, free from fear, violence and crime.

Punishments, according to Walker (1991:4), are, “subject to rules about consistency and appropriateness”. He identifies seven features of punishment: an inflicted and unwelcome act directed against the individual; intentional and purposeful; carried out

with formal authority; related directly to the breaking of law/s, custom/s or rule/s; the law/rule breaking was carried out voluntarily; the punishment is justified by the punisher; most importantly, the specific act of punishment is defined by the punisher and not the recipient. To these features, Coyle (1991, 1994) adds that guilt must be established and the subsequent punishment must be accompanied by pain and suffering.

While punishment is diverse the state plays a central role in its infliction. As Garland (1990:18) argues:

The location of state punishment within a specifically legal order gives punishment certain distinctive characteristics which are not a feature of punishments in other social settings.

Legal punishments, for example, are considered obligatory, an imperative, without negotiation. This is not so with punishment in other social settings, (ie the family). As discussed earlier, prison as punishment is a relatively recent development. Garland (1985) places the emergence of modern penality - the penal realm - between the 1895 Gladstone Committee Report and the start of the first World War in 1914. Arguing that while many of the, “sanctions, institutions and practices”, of the Victorian period continued:

.... the pattern of penal sanctioning which was established in this period, with its new agencies, techniques, knowledges and instructions, amounted to a new structure of penality.

(ibid:5).

State sanctions doubled throughout this period and prison as a form of punishment gained prominence having been initiated only during the mid-nineteenth century.

Coyle (1994) argues that imprisonment has been dominated by a lack of clarity over its purpose, aims and functions. He maintains that prisons developed in a, “very pragmatic manner with little coherence” (ibid:2). Their rationale, justification and legitimacy came after their establishment. Consequently, “many of the arguments for the use of imprisonment are based on the justification of what is already being done rather than on principle” (ibid). It is on this basis that the widespread belief in the necessity of prison has consolidated and expanded. Non-custodial sanctions are measured against imprisonment as the primary sentence and form of punishment and not vice versa.

The Carlisle Report of 1988 on the Parole System (in Lord Longford, 1991), examined the purposes of punishment as being: **denunciation** - ‘society’s’ disapproval of crime and deviance; **deterrence** - the deterrence of those being punished and the general deterrence of those who might contemplate crime; **incapacitation** - the protection of the public by removing the offender from circulation; **rehabilitation** - the reform of the offender; **reparation** - recompense to the victim and to the state; **retribution** - the imposition of the penalty in proportion to the offence. As Garland (1990:17) contends, “punishment, then, is not reducible to a single meaning or a single purpose”.

Despite this diversity, two traditions encompassing a range of justifications have been identified in scholarly work: utilitarian and retributive (Garland 1990; Walker 1991; Cavadino and Dignan 1992). Utilitarianism is forward looking and implies that the utility of punishment is tied to the reduction in crime. Retributivism is reflexive,

implying that the guilty must receive a penance, their 'just desserts'. Each tradition has produced conflicting penal models: correction, reform and rehabilitation (utilitarian) and the justice model of due process (retributive).

The Utilitarian Tradition.

Utilitarian philosophy developed during the eighteenth century, predominantly within the Classical school, (3) and was much influenced by Beccaria and Bentham. Classicists (4) argued that the process of crime control and the administration of justice was inhumane, irrational, inefficient and unfair. Punishment was harsh, essentially retributive and dominated by capital and corporal penalties (Fitzgerald et al 1981; Garland 1985; Cavadino and Dignan 1992). Beccaria published his influential Dei Delitti e delle Pene in 1764, in which he advocated rational and humane reform. Beccaria called for clarity, certainty and the regularity of punishment. It would be swift with penalties proportionate, precise and fixed, according to the gravity of the offence. It should be no harsher than that necessary to impose effective deterrence (Cavadino and Dignan, 1992).

Cavadino and Dignan (ibid), consider Bentham the principal founder of utilitarian philosophy. While agreeing with Beccaria that clarity, due process, and a proportionate tariff were important, and that punishment should have a deterrent effect, he proposed a further reductivist aim: reform. Prison was a mechanism of punishment for Bentham, clearly evident in his panoptican proposals. Constant surveillance and regular, consistent productive work would produce rational work

habits. Although Bentham's panopticon was never built, imprisonment became the, "pre-eminent method of punishment" (Cavadino and Dignan, *ibid*:48). Codification and classification, allowing lawful discretion in the enforcement and administration of the rule of law, became foundation stones of the modern criminal justice process. According to utilitarianism, punishment was morally right and acceptable, with its pain outweighing any pleasure gained through crime.

For Bean (1981:32), "deterrence operates in the form of a permanent threat". While deterrence is often associated with capital punishment or long prison sentences (Walker, 1991), it was a fundamental utilitarian principle. Bean (1981:36) comments that it prevents, "more mischief than it produces". Deterrence emerged as an essential element of social control, protecting the established social order by the imposition and threat of severe sanctions for law-breaking (Wright, 1973). Bean (1981:33) concludes that utilitarians, "say that punishment is to control action, and the law is the weapon to be used in control".

The processes of incapacitation are connected to deterrence in that offenders are prevented from further offending by the imposition of punishment. As Walker (1991) states, the death penalty or long-term prison sentences provide the most 'efficient' forms of incapacitation. Long-term sentences for the 'protection of the public' lies at the heart of the politics and ideology of incapacitation (Bottomley 1973; Fitzgerald 1977; Wright 1982; Walker 1991).

According to Garland (1985), from the rhetoric of the 1895 Gladstone Report onwards, reform has been pursued as a central aim of imprisonment. He continues:

.... it could assume this position of dominance without undermining the other 'concurrent' aims of deterrence and retribution, since what was being presented was not just a more civilised or liberal penalty, but also a more preventative, reformatory and efficacious form of social control.

(Ibid:27).

The improvement or modification of behaviour, thereby reducing crime, was focal to imprisonment's utility. Key reformist principles, according to Garland (ibid) were: "moral progress"; "civilized enlightenment"; "liberal conscience"; "more efficient and economical discipline". Fitzgerald (1977:23) asserts:

The prison reformists had few doubts that abstention from hard drinking, isolation from the contaminating influence of vice and debauchery, and exposure to hard work and religion would produce a general repentance and change.

Hudson (1987) explains that central to reformism has been, and remains, the belief in the self determination of the individual. Through 'free will' the individual has the potential to repent and become a good and useful citizen. She states:

For penal policy, this meant that adjudication rested first of all on culpability based on 'freely-willed responsibility' (Garland, 1985), and to proportionality of punishment based on calculations of pains to be exacted relative to the potential gains to be made from the offence.

(Hudson, ibid:6).

According to Garland (1985), the Victorian 'reformist' penal system changed between 1895 and 1914. Hudson (1987:7) suggests that the turn of the century, "saw a shift in the official discourse of penology from reformism to rehabilitationism". She contends

that rehabilitation implies determinism, individualism and pathology. This transformation coincided with the development of positivist criminology. Referring to this emergent “science of criminology”, Garland (1985:77) comments that its “concepts and recommended practices.... underpin many of the penal sanctions and institutions of nations throughout the modern world”.

Cesare Lombroso, a ‘founding father’ of positivist criminology described criminals as atavistic regressives (in L’Uomo Delinquente, 1876). Fundamental to the emergent ‘scientific method’ was the process of prediction, identification, diagnoses and treatment (correction). With behaviour ‘determined’ rather than arising from free will or voluntarism, rationality and responsibility was denied to the individual. Positivist method, therefore, claimed predictive qualities which, once the process of correction was in place, could be both preventative and responsive, initiating ‘treatment’ in accordance with the ‘needs’ of the individual. (5).

Hudson (1987) argues that positivist criminology provided a new ideology and new aims for the penal system. State agencies no longer relied on individuals to change, but identified their role as programme provision - diagnosis, treatment, cure - towards behavioural change. Garland (1985:82) confirms the role of the prison in the rehabilitative ideal, providing “an institutional surface of emergence for criminology and its particular concerns”.

Coyle (1994) contends that the onset of the ‘rehabilitative ideal’ coincided with the introduction of ‘experts’ into the penal realm. The ‘medical’ or ‘treatment’ model

within prisons was born. Bean (1981:54) asserts that, “the rehabilitationist theory sees crime as a manifestation of a social disease”. An alliance with new disciplines (psychiatry, physiology, sociology) characterised the new prison regimes. The classification of prisoners began in the courtroom where psychiatric, biological and ‘social work’ discourses presented competing accounts of the individual. Garland (ibid:82) equates the prison to an, “experimental laboratory.... a controlled enclosure in which the new knowledge could develop”. It provided for the long term observation of ‘criminals’, the development of appropriate statistics and experimentation with diet, discipline and regimes of labour. Hudson (1987:10) accords with this, stating that throughout the early twentieth century, “the ideas of rehabilitation, and the professional infrastructures needed to implement those ideas”, were fully established.

Coyle (1991:247) suggests that rehabilitation was and remains, linked to paternalism and to conformity, being, “measured by the degree to which he conforms to the imposed standard.” Initially this led to sentences of an intermediate length increasing with evidence of ‘cure’ being a prerequisite of release. Release became conditional on both the length of time served and the individual’s response to treatment. Significantly release was left to the judgement and ‘wisdom’ of the ‘treatment experts’ (Cavadino and Dignan 1992; Coyle 1994).

Throughout this period the prison became the ‘institution’, the prisoner the ‘inmate’. While Bean (1981) considers the second world war as the beginning of the rehabilitative era, Hudson (1987:x) identifies it as the onset of the “second wave of

rehabilitation dominating penal policy until the mid 1970s. She continues: “the rhetoric of penal systems was a rhetoric of help, cure, providing treatment rather than inflicting punishment “ (ibid). As the emphasis shifted from individual, biological explanations of crime to social, environmental, community explanations, prisons ceased to be the main foci of ‘punishment’. Rehabilitation took place in the community with greater input and intervention from the probation and social work professions (see Scull, 1984). As Bean ,(1981) argues, the justification for punishment became bound to the requirement of treatment geared to the ‘good’ of the offender. Rehabilitative or ‘corrective prison regimes were, in theory, more humane than the previous brutal and dehumanising regimes. (Hudson 1987; Wright 1973). According to Cavadino and Dignan, (1992) and Hudson, (1987) by the mid 1970s the rehabilitative model was under pressure and subsequently collapsed (10), giving way to a retributive, justice model of just desserts and due process.

The Retributive Tradition.

.... retribution operates from a consensus model of society where the community, through the law or through a system of rules, is acting in the right. Conversely, the criminal is acting in the wrong.

(Bean, 1981:17).

As Bean asserts, retributivism justifies punishment in the context of rules as they exist in liberal democracies. Consequently those who break them must be punished in direct relation to the ‘crime’. Bean also identifies the connection between punishment and guilt with only the guilty to be punished. Punishment however is linked to morality with wrongdoers punished because they deserve it. As Cavadino and

Dignan, (1992:38) comment, retributivism is the “complete antithesis of reductivism”. While reductivism is forward looking, retributivism looks back with punishment imposed because of a past offence. Walker, (1991) argues that utilitarian responses cannot guarantee crime reduction, with the exception of measures of incapacitation or elimination. He concludes, that in contrast to utilitarianism, the retributive approach promises the certainty that the guilty will be punished with sentencers under a moral obligation to inflict “just desserts”. Bean (1981:19) states “punishment implies desserts and desserts occur where laws are broken”. Therefore:

It is the existence of a penalising rule, whether in a code, a tradition, or an accepted practice, which legitimises hostility to the law-breaker and allows the retributivist to feel that punishing him is obligatory, no matter what the consequences.

(Walker, 1991:85).

Retributivism and, subsequently, the ‘Justice Model’, emerged as a critique of the positivism of rehabilitation. It questioned : individual pathology; the wide discretion given to experts which could ultimately disadvantage offenders; the inconsistency of justice; the theoretical basis of determinism, seen as an, “insult to human dignity” (Cavadino and Dignan, 1992:50).

Walker, (1991) proposes the original meaning of retribution involved offenders in repairing or ‘repaying’ their wrongdoing, acknowledging the injury inflicted through their actions. This could be through compensation to the victim or reparation to the community via community service or a fine. Cavadino and Dignan (1992:43) consider reparation “a sound and valid principle”, in the context of punishment.

Denunciation requires that as a part of punishment there should be a public demonstration of society's abhorrence to or rejection of the 'offence'. Cavadino and Dignan (ibid) identify 'instrumental' and 'expressive' denunciation. The former relies on the retributive tradition with punishment conveying a moral message that certain actions and behaviours are unacceptable and abhorrent. The latter signifies the *justification for punishment is simply society's abhorrence to crime, regardless of whether or not it has positive outcomes.*

Linked to denunciation, Cavadino and Dignan (ibid:43) identify the processes of disqualification and requalification amounting to public and symbolic shaming (see also Fitzgerald, 1977). Following the 'disqualification' of shaming requalification follows on from punishment with the offender reintegrated into society, conferred with full citizenship.

The emergence of the 'Justice Model' brought a return to the retributive 'ideal' of punishment, appearing "to offer all things to all people" (Hudson, 1987:37). Central to the Justice Model is the principle of matching appropriate punishment to the seriousness of the offence. Proportionality and "commensurate desserts" (Hudson, ibid:38; Walker, 1991.) presupposes an assessment of the degree of the severity of particular offences. A tariff system is used through which punishments of varying severity are matched to crimes of differing seriousness. Thus punishment fits the crime, "in proportion to the moral culpability shown by the offender in committing the crime". (Cavadino and Dignan, 1992:38). What results is a determinancy of

sentencing, with a fixed tariff. This model also embraces offenders' rights with prisoners knowing release dates and having a right to freedom once they have paid their 'debt' to 'society'.

A further, significant feature of the Justice Model is the restoration of due process thus limiting official discretion and reducing disparity between like cases. The claim is that strong links with justice should be achieved via commensurate desserts and the establishment of a tariff detailing appropriate punishments for particular offences. Disparity in sentencing, and the previous discretionary powers enjoyed by the judiciary and prison administrations, should be minimised. In defence of the Justice Model, Coyle (1991:251) argues:

A fundamental tenet of prison administration is that it must be seen, not least by the prisoners, to be treating law-breakers in a law-abiding fashion.

Hudson (1987:60) asserts that the model was put into practice between 1976 and 1980, and:

Criminal justice systems thus became rational - in the sense of being *predictable* - and *accountability* is introduced into what have hitherto been unaccountable, mysterious systems.

Overall, for Hudson (ibid:59):

....the modest minimalism and seductive simplicity of the justice model offered a reform agenda which could promise an end to both the excessive abuses and the unrealistic expectations of the treatment approach, while simultaneously signalling an end to the romantic tolerance extended to deviants in a society 'soft on crime'.

An Empirical Critique

.... philosophical accounts of punishment are ideal theories, which tell us what aims and values a system of punishment must embody if it is to be unqualifiedly justified.

(Duff and Garland, 1994:5).

Despite the apparent dichotomy between utilitarianism and retributivism, both punishment philosophies coexist in theory and practice. The rehabilitationist and Justice Models each have gained ascendancy periodically. For Coyle (1991), however, they do not adequately describe the reality of imprisonment. He contends that any theorising of imprisonment must take account of the realities experienced by prisoners and prison management /staff. Coyle questions whether the essential features of imprisonment can ever be applied in a constructive and positive manner, when the act of imprisonment is essentially negative inflicting the pain of the deprivation of liberty.

Wright (1973:22) however, maintains that the pre-eminence of state power is reflected in the imprisoning of an offender:

The punishment of crime is a political act. It represents the use of physical force by the state to control the lives of people the state has defined as criminal.

As Duff and Garland (1994) point out, all justifications of punishment pre-suppose a conception of crime. Their concern, however, is to establish who defines, labels and names a particular act as criminal. As Fitzgerald (1977), comments, 'crime' is not an activity restricted to those imprisoned as all citizens commit crimes. On this basis he considers that, "the notion that prisons exist to protect society outside is both curious,

and untenable” (Fitzgerald, *ibid*:16). For Wright (1973:25) the, “variability in patterns of punishment reflects deliberate political decisions”. They are not decisions taken in a vacuum, “they reflect the problems and values of the social order”.

Central to the debates over the politics of imprisonment, is the critique concerning recidivism. It applies to both utilitarian and retributivist justifications. The rationales of punishment as a deterrent, as a crime prevention strategy, or as rehabilitative, are undermined by the prevalence of re-offending. Further, is the contention that the experience of prison actually encourages re-offending with prisons referred to as “factories of crime” or “universities of crime” (Fitzgerald, 1977:17). Recidivism clearly undermines the claims concerning the function of deterrence. As Fitzgerald (*ibid*:18) argues:

The notion of deterrence is untenable because it is predicted upon a view of crime which is palpably false. The decision to commit crime is generally not a ‘rational’ one arrived at by weighing up in advance the consequences of an act.

More generally, Walker (1991) and Cavadino and Dignan (1992), cast doubts on the efficiency and attainability of deterrence. It is regarded as difficult, if not impossible, to predict deterrent effects on individuals. There is no evidence which unequivocally indicates that any punishments have ‘positive’ deterrent results. Walker also questions whether it is morally or ethically correct to sentence and imprison an individual with a primary motivation being the deterrence of others. Cavadino and Dignan (1992:35) conclude that, “if deterrence is the justification for punishment it seems almost certain that the penal system in the United Kingdom is engaging in massive and unjustifiable over-kill”.

Walker (1991) argues that there has been considerable scepticism concerning the attainability of utilitarian aims and their moral credibility. For Walker (ibid:137) this scepticism is a consequence of “exaggerated interpretations” of empirical evidence which indicates that general deterrents influenced fewer people than had previously been thought, and that corrective measures failed to work. The moral critique suggests that punishment causes suffering, hardship and inconvenience, that is unpleasant, damaging or destructive. This experience is not for the benefit of the offender but for the sake of others, “to penalise someone is to sacrifice him to the interests of others” (ibid:52). Walker regards this as an exaggeration, arguing that such moral criticisms are, “either weak or downright fallacious” (ibid:138).

The utilitarian aim proclaimed as most efficient is incapacitation with calls for longer prison sentences to incapacitate offenders (see Wilson, 1975). As Cavadino and Dignan (1992) point out, however, such a move will further escalate an already expanding and excessive prison population. Walker (1991) concludes that, ultimately, inflicting pain and distress is morally right and politically justifiable as long as it is in the interests of the individual. Walker’s optimism must be reconsidered in the light of the 1970s/1980s critique of rehabilitation. Bean (1981) points to the false assumptions concerning crime’s relationship to disease, that ‘experts’ can diagnose and ‘treat’ the condition. Concern over the types of ‘treatment’ carried out and the morality of attempts to ‘cure’ offenders were widespread. Hudson (1987), identifies three factions critiquing rehabilitation. First, civil liberties groups critiqued the extent and nature of intervention in people’s lives, unchallenged and legitimated by

rehabilitation and which reflected the power of the state over the powerless. Second, liberal, due-process lawyers were concerned with the processes of discretion which persistently undermined the administration of justice throughout the rehabilitation era. Finally, was the right wing law and order lobby which considered the policy of rehabilitation to be 'too soft' on offenders. Although disparate, as Hudson (ibid:22) states:

.... together they amounted to a formidable attack on the 'individualised' approach of a theory and practice of penal sanctions which were oriented to the offender rather than to the offence, where treatment was designed to suit the criminal, rather than punishment apportioned to reflect the crime.

Retributivism and the Justice Model equally have been subject to criticism. The principles of retributivism raise fundamental questions concerning its legitimacy. For, within the retributive framework, there is little debate about 'right' and 'wrong' and the 'value' or legitimacy of the law and rules is not questioned. Bean, Walker and Cavadino and Dignan, each question retributivists over forgiveness or mercy, considering that its primary objective is vengeance. Bean, (1981) argues that retributivism fails to consider the consequences of punishment, particularly with regard to the acquisition of guilt. Cavadino and Dignan (1992) purport that the theory could only be valid in a broader societal context of universal justice within which all citizens would be equal before the law. If as Wright suggests, offenders often are victims of structural inequalities, retributive punishment will serve to exacerbate such inequalities. This leads critics to question the morality of punishment. As Cavadino and Dignan (1992:40) conclude: "... despite its popularity and even fashionableness, retributivism remains an implausible justification for our practices of punishment".

One of the most contentious issues concerning the administration of the Justice Model in practice is, 'who' decides on the ranking order, and the 'appropriate' criteria, of offence seriousness. As Hudson (1987) argues, while there is some consensus about certain offences - such as the taking of a life or personal injury - there are fundamental disagreements concerning other offences - such as, victimless crimes or "life style offences". Further, the existence of tariffs linked to the seriousness of offences, takes no account of the needs of the offender or their rationale for offending. Hudson suggests that much of the criticism of the Justice Model in practice has questioned the effects of sentencing reform, the extent to which disparity has been reduced and indeterminacy in sentencing eliminated. She suggests that the Justice Model, far from being radical, is a return to old values, ideas and philosophies with the state relinquishing responsibility for all but punishment: "the minimalism of the Justice Model has justified a neglect of offenders and their problems..." (ibid:xi). For Hudson the state becomes the, "holder and expressor of consensus values" (ibid:56), ensuring that values are upheld and that transgressors are punished:

Just as the Justice Model returns to a seventeenth and eighteenth century view of the state, so its view of the individual is a return from the medical determinism of the rehabilitative model back to the free will individual rationality model of human nature of the enlightenment.

(Hudson, ibid:56).

In her later work, Hudson (1993), asserts that due process and just desserts which characterise the Justice Model, are not about addressing wider social justice but are about ensuring the credibility, legitimacy and continuation of state punishment.

Ultimately, all theories of punishment are theories which focus on power. Bean (1981:191) argues:

Punishment is for something and directed on someone. The relationship between punisher and punished is, by definition, not a relationship of equals. Suffering is inflicted by someone - perhaps acting as another's agent - against his will. The power resides in those doing the punishment. That power is derived not from naked force but from the ability to legislate, the claim to represent the right values, and the right to enforce them.

This returns the debate to the construction, application and legitimation of power within the liberal democratic state. If liberal democracies set out to represent competing interests and resolve the inherent conflicts arising, then in whose interests does the state rule? This question raises the crucial question of the politics of legitimacy and consensus.

Critical Theories of the State.

Political order is not achieved through common value systems, or general respect for the authority of the state, or legitimacy, or by contrast, simple brute force; rather, it is the outcome of a complex web of interdependencies between political, economic and social institutions and activities which create multiple pressures to comply. State power is a central aspect of these structures but it is not the only key variable.

(Held, in McLennan et al, 1984:361-362).

In his critique of liberal democratic theory, Held signals the complexities inherent in critical analyses of the state and state power. Rather than accepting the principles of justice, fairness and, above all, equality, critical analyses set out to expose and explain

structural inequalities which arise from capitalist, patriarchal, neo-colonial state forms.

Despite the diversity of critical theories of the state, its power and legitimacy, Scraton (1988:17) argues that they “owe their derivation to Marxist analysis and emphasise the structuring of opportunity and life chances through class relations”. For Marx, power was derived in the economic infrastructure of the capitalist mode of production. The driving force of capitalism being the reproduction and accumulation of capital. Through the wage relation, the mechanism of extracting surplus value forms the basis of the social relations of production:

....the social nature of people’s activities is located in class differences which, in capitalism, refers to the exploitative and inherently conflictual relationship between the owners and controllers of production on the one hand, and producers or wage-labourers on the other.

(King, 1986:62).

Class relations and class conflict, therefore, are central to advanced capitalism. For Marx and Engels the state is not independent of class struggle, as Hall et al (1987:197) state: “...it is, or it comes to be, the structure which enables a ruling class alliance to ‘give its ideas the form of universality, and represent them as the only rational, universally valid ones’”.

The role and function of the state are contextualised by the protection of ruling class interests, ensuring the control of subordinate classes. As Quinney (1980) argues, with the development of capitalism, its class divisions and class struggles, the state became the necessary, political means of establishing order. He asserts that the state

developed to, “protect and promote the interests of the dominant class, the class that owns and controls the means of production” (ibid:52). For Quinney this is the classic model of class exploitation and domination in which the rule of law, rather than representing all, reflects and responds to the interests of the capitalist class. He argues that the, “law emerged with the rise of capitalism” (ibid:53). Alongside the regulation implicit within the capitalist mode of production developed the legal system consolidating regulation and control. The legal system and criminal justice process, “forcefully protect its (the state) interests and those of the capitalist class” (ibid).

Quinney’s classical but contemporary Marxist analysis exposes the claims, made by liberal democratic theorists for neutrality, equality or representation. Power is derived directly within political-economic relations, the mutuality of the state and the economy. Hall (1982:15) maintains the state, “is seen as a sort of political committee of the ruling class, stamped with the indelible class character”. He indicates that this position has received considerable criticism for crudely interpreting state and economic functions. Implicit here is the critique of political instrumentalism (state as a tool) and economic reductionism (primacy of the relations of production) (see also Jessop, 1982). As Hall (ibid) states:

....it evades the fact that such societies have successfully incorporated the dominant classes into the framework of representative government, do rest on a wide measure of popular consent, and have achieved real, if limited, benefits for the subordinated classes.

Ralph Miliband (1969:8) argues that apart from the works of Antonio Gramsci, “Marxists have made little notable attempt to confront the question of the state in the light of the concrete socio-economic and political and cultural reality of actual

capitalist societies”. He set out to provide a thorough critique of the dominant liberal democratic interpretations of the state, through a critical analysis of the state and systems of power within advanced capitalism. Miliband, revising Marx and Engels, argues that power is derived through wealth, there being an explicit relationship between the state, the ruling class and economic power. For Miliband (ibid:237), the most important “political fact” within advanced capitalist societies is:

....the continued existence in them of private and ever more concentrated economic power. As a result of that power, the men-owners and controllers- in whose hands it lies enjoy a massive preponderance in society, in the political system, and in the determination of the state’s policies and actions.

Thus, the state acts directly in the interests of those with economic power. It is through the institutions of the state that political power is exercised, legitimating and preserving economic dominance and, ultimately, the capitalist mode of production. It follows that economic life cannot be separated from political life, with the inequalities of economic power, “inherently produce(ing) political inequality”.

Miliband focuses on the relationship between state institutions and the ruling class, what Scraton (1988:18) refers to as a, “coincidence of interests” between state institutions, industry, the judiciary, and the military. Miliband (1969:50) asserts that, “the government, the administration, the military and the police, the judicial branch, sub-central government and parliamentary assemblies” collectively constitute ‘the state’ and are the institutional forms of state power. It is a power, wielded by those who, “occupy the leading positions in each of these institutions - the ‘state elite’” (ibid:50). Miliband (ibid:51) recognises that others outside the state system might

hold power but they do not constitute, “actual repositories of state power”. He contends:

It may well be found that the relationship (between the state and the dominant economic class) is very close indeed and that the holders of state power are, for many different reasons, the agents of private economic power—that those who wield that power are also, therefore, and without unduly stretching the meaning of words, an authentic ‘ruling class’.

(ibid:51).

Althusser (1971) argues that it is through the state that capitalism is able to reproduce. For Althusser, however, this is not dependent on the economy and social relations of production but in legal, political and ideological structures dominated by the state. The ‘social’ reproduction of capitalism is accomplished through “repressive state apparatuses” which include the army, government, police and prisons and, equally significant, through “ideological state apparatuses” which reinforce dominant ideologies and include: the family, schools, churches, the mass media and political parties.

Poulantzas (1973), following Althusser, analyses the significance of the state in the reproduction and maintenance of capitalism. He emphasises the importance of social structure, minimising the importance of individuals and their social and cultural backgrounds. For Poulantzas the state is relatively autonomous of specific elites or the ruling class, not being a necessity for ruling class domination, as it is the presence of the capitalist state that serves and reproduces their interests. Poulantzas (ibid:51) states:

The state is related to a ‘society divided into classes’ and to political class domination, precisely in so far as it maintains, in the ensemble of

structures, that place and role which have the effect (in their unity) of dividing a formation into classes and producing political class domination.

As Scraton (1988:19) asserts, "the state exerts a cohesive influence, making unity from diversity".

As with Althusser, ideology, deeply rooted within the agencies of the state, is central to the 'manufacture' and management of consent. Values and beliefs become the vehicles through which the use of force is legitimated. Poulantzas (ibid:226-7) asserts that the "capitalist state holds the monopoly of legitimate force" and that such force is legitimated as it is "presented as corresponding to the general interest of the nation-people".

Miliband and Poulantzas both remain indebted to the work of Antonio Gramsci. Important here is the distinction between "political society" and "civil society" (Gramsci, 1971:12). Gramsci drew this distinction between state institutions directly responsible for domination - the army, police, prisons and the legal system - and societal institutions, such as churches, schools, families, trade unions and the media.

Hall (1982:16) considers that Gramsci conceived the state:

....as a set of social relations (not a thing, a tool or an instrument). For him, the state maintains a certain type of social order and develops it. It coordinates and 'cements' into a particular type of order the conflicting class interests and social forces over which it exerts authority.

For Gramsci, 'order' is achieved through 'force' and 'hegemony'. Hegemony refers to the mobilisation and reproduction of the 'active consent' of dominated groups

through intellectual, moral and political direction. Gramsci (ibid:12) describes hegemony as:

The “spontaneous” consent given by the great masses of the population to the general direction imposed on social life by the dominant fundamental group....This consent is “historically” caused by the prestige (and consequent confidence) which the dominant group enjoys because of its position and function in the world of production.

‘Force’ refers to the use of coercive apparatuses to secure conformity and compliance, being a “legal” enforcement “on those groups who do not consent either actively or passively” (ibid). The use of force by the state is, “constituted for the whole of society in anticipation of moments of crisis of command and direction when spontaneous consent has failed” (ibid). As Hall (1982) argues, the role of the state cannot be reduced to the political and economic, it also ‘educates’ the population morally, intellectually and culturally. To achieve hegemony the state must compromise, form alliances and make concessions to establish rule by consent rather than rule by force.

Scruton (1988:19) comments that the, “significance of these important, yet frequently inaccessible, debates, has been the varying degree of emphasis placed on the state as a relation” or as a series of relations. These relations are diverse and exist at various levels. Hall (in McLennan et al, 1987:22) claims that although the “state arises out of society and is powerfully shaped and constrained by the social relations which surround it”, it is powerful and interventionist in shaping society. It is this “relational nature of the state” which “is in constant interaction with society, regulating, ordering and organising it” (Hall, ibid). The state, then, is not autonomous. Yet, while it is the site of complex interrelationships and dependencies “....the state has been vested by

society within the ultimate power of supreme rule, and authorised to stand above society and govern it” (Hall, *ibid*:23).

Critical Theories of Punishment.

State punishment is a practice that claims to be structured by certain definite aims and values. Its officials justify the institution, and their activities with it, by reference to those legitimating aims and values, and often draw on normative philosophical theories of punishment to do so.

(Duff and Garland, 1994:2).

In stressing the significance of the relationship between theory and practice, Duff and Garland point to the significance of philosophical theories of, and justifications for, punishment. Such accounts take punishment as ‘given’, concentrating on penal policy and its modification. The ‘sociology of punishment’, however, questions the basis of and claims for punishment in its diverse forms. Garland (1990:11-12) argues that the sociology of punishment is:

.... presently constituted by a diverse variety of ‘perspectives’, each of which tends to develop its researches in virtual disregard of other ways of proceeding. In effect, the sociology of punishment is re-invented with each subsequent study, so that on each occasion we are presented with a new conception of the phenomena to be studied and the proper questions to be posed.

The three main theoretical perspectives have been derived in the work of Durkheim, Marx and Foucault. Although Durkheim was directly concerned with the concept of punishment, Garland (*ibid*:23) considers that his contribution has been, “pushed aside by more critical accounts”. Not constituting an “end in itself” it represents a, “first

step towards the construction of a more adequate framework for the analysis of penalty” (ibid).

For Durkheim, the concept of punishment was fundamental to an understanding of society (Garland and Young 1989; Garland 1990; Cavadino and Dignan 1992). The punishment played a vital role in the creation and maintenance of social solidarity, another Durkheimian primary concept and a pre-condition for social order. He argued that in pre-industrial societies individuals were united by the similarity of social roles and labour patterns which created a “conscience collective”. Crimes were acts which violated society’s conscience collective or, “essentially violations of the fundamental moral code which society holds sacred, and they provoke punishment for this reason” (Garland, 1990:29). Collectivised punishment was the means by which Durkheim conceived the restoration and reinforcement of the ‘conscience collective’. Cavadino and Dignan (1992) argue that this form of punishment was neither deterrent nor reformative, but retributive. Collective responses demand denunciation, to underwrite social cohesion. For Durkheim, crime had a moral significance requiring punitive responses.

In advanced industrial societies Durkheim recognised job specialisation which threatened social solidarity, social cohesion and, ultimately, the conscience collective. In a modification of his analysis he argued that punitive law was subsequently replaced by restitutive law requiring reparation to victims of crime rather than the imposition of retributive punishment. (see Garland 1990; Cavadino and Dignan 1992). Durkheim’s analysis proposes a kind of consensual social order which challenges, if

not eliminates, class conflict. Punishment is embedded in shared values and a common morality which find institutional expression and realisation. Garland (ibid:32) comments:

The force and energy of punishment, and its general direction, thus spring from sentimental roots - from the psychic reactions commonly felt by individuals when sacred collective values are violated.

Having revisited Durkheim's principle arguments, Garland maintains that Durkheim, "does succeed in opening up important dimensions of the social processes of punishment which are not otherwise apparent" recognising the "tragic quality of punishment" (ibid:80). For Durkheim its quality was its contribution to the maintenance of authority yet penologically it remained deficient.

While Durkheim's analysis neglects the relevance of economic relations with regard to punishment, for Marx they were central. As discussed previously, the rule of law is partial, directly associated with the class relations endemic to the capitalist mode of production, reflecting the structural inequalities therein. Garland (1990) identifies the key theoretical propositions contained in the influential work of Rusche and Kirchheimer, first published in 1939. First, they argued that punishments were historically specific and linked directly to the mode of production. While punishment operates as a method of crime control its significance goes far beyond this objective. Rusche and Kirchheimer proposed that penal policy was just one vehicle for controlling the poor and should be considered in the context of a network of institutions with similar aims. It follows from their analysis that:

punishment must be viewed not as a social response to the criminality of individuals, but, above all, as a mechanism which is deeply implicated within the class struggle between rich and poor, bourgeoisie and proletariat.

(Garland, *ibid*:92).

Finally, the official discourse of punishment, suggesting that punishment benefits all people in society is disregarded, as punishment is considered within the context of the economic class struggle.

Rusche and Kirchheimer maintained that penal measures are directly related to the labour process and the exploitation of the worker (prison labour is possible only in the context of industry; monetary fines in the context of a monetary economy). Theirs was a historical materialist analysis linking the introduction of penal measures to the development of capitalism, demonstrating how punishment was tied to economic and fiscal forces.

The revival of Rusche and Kirchheimer's analysis has not been without criticism. Cavadino and Dignan (1992), suggest that there is no explanation provided which links the economic imperative to penal practice. For them, human action, rationality and knowledge must form part of the equation and although Cavadino and Dignan (*ibid*:61) argue that the economic context should not be ignored, they conclude, "economics do not determine penal practices in a simple and direct manner".

Marxist analysis has been of major significance in the work of many penologists and prison historians (see Ignatieff 1978; Rothman 1980; Garland 1985). Garland (1990:129), however, argues that Marxism, "has little that is specific to say about the

institutions of punishment”, but it does present an account of, “penality’s relationship with its class-structured political and economic environment and the implications this has for penal forms and penal practices”. Yet, he continues:

Marxism offers no concepts or analyses which are peculiar to this set of institutions, and it has no particular theory of punishment as such. Instead, it describes how penality - like other social institutions - comes to be caught up by its location in class society and shaped by class-related determinations.

Cavadino and Dignan (1992) argue that Foucault, in contrast to his tutor Althusser, distanced himself from Marxism, while retaining a political radicalism. Despite controversy over Foucault’s academic - political position, his contribution to the sociology of punishment has been considerable. In fact, Duff and Garland (1994:33) assert that the “most sophisticated and influential social analysis of modern penality was developed by Michel Foucault”. Rather than limiting his analysis to the social context or moral foundations of penality, Foucault examines the actual technologies of penal power and their operation. In Discipline and Punish (1977), Foucault documents the shift from corporal to carceral punishment throughout the late eighteenth and early nineteenth centuries. As discussed in Chapter One, this transformation was the result of the emergence and consolidation of a new industrial order which required new techniques of power and new institutions to discipline and control the subordinate classes. The prison, alongside the factory, asylum, workhouse and school, developed in the context of these demands. The prison became a primary site of enforced discipline and conformity through surveillance, regulation and forced labour.

According to Foucault, the new forms of punishment had several defining features. First, punishment was no longer arbitrary, but linked to the nature of the offence ensuring that the fear of punishment served as a deterrent. Punishment was no longer a human decision reflecting 'human power', but derived in the nature of the offence. Therefore, "... the power that punishes is hidden" (Foucault, 1977:105). Second, the, "representation of the penalty and its disadvantages" outweighed the, "crime and its pleasures" (ibid:106). Through punishment the 'interest' in crime was challenged:

Against a bad passion, a good habit; against a force, another force, but it must be the force of sensibility and passion, not that of armed power.

(ibid).

Third, Foucault argues that punishment was to be no longer permanent, functioning effectively, "only if it comes to an end" (ibid:107). The principle was that individuals should benefit from punishment, its requirement diminishing as it produced 'positive' effects. Fourth, is Foucault's proposition that punishment was to benefit wider society, not just the convicted:

... punishment must be regarded as a retribution that the guilty man makes to each of his fellow citizens, for the crime that has wronged them all.

(ibid:109).

Part of retribution, then, was the eventual 'usefulness' of the reclaimed offender. The 'visibility' of public works and applied labour was the proof of the social and economic utility of punishment.

Fifth, was the principle of immediacy:

As soon as the crime is committed, the punishment will follow at once, enacting the discourse of the law and showing that the code, which links ideas, also links realities.

(ibid:110).

Finally, the criminal and the act was not to be glorified, nor was crime to be considered a “misfortune”, the criminal an “enemy who must be re-educated into social life” (ibid:112).

Central to Foucault’s analysis is his conceptualisation of the body. For the body, its physicality, was the primary target of punishment. It reflected a politics of physicality:

.... power relations have an immediate hold upon it; they invest it, mark it, train it, torture it, force it to carry out tasks, to perform ceremonies, to emit signs it is largely as a force of production that the body is invested with relations of power and domination.

(ibid:25-26).

As ceremonial, public punishment was replaced by imprisonment, the primary focus on the body weakened, but not entirely. Punishment has retained a persistent ‘hold’ on the body (eg in the control of diet and the restriction of movement and exercise). Smart (in Garland and Young, 1989:70) argues that there has been a, “significant change in both the form and the object of punishment”. Foucault, however, maintains that punishment in general and the prison in particular are governed by the political technology of the body. This ‘ultimate power’ to control ‘the body’ and determine its actions facilitated change. As the physical body became less significant - the soul in terms of the psyche, personality, consciousness and individuality, gained prominence. New forms of knowledge facilitated this shift.

This 'knowledge' emerged from within the human sciences - psychology, psychiatry, education - and as Sim (1990) argues, in the medical profession. The broader imperatives developed within medico-legal discourses consolidated in the prison, subsequently regulating penal practice. Garland (1985:29) comments that in Victorian penality, laws were applied without, "social inquiry" or "penological assessment". He continues: "...the law's categories were uniformly applied without seeking any special knowledge of the offender". New professional discourses, however, required knowledge of the offender to be precise, involving analysis of background, character and family. Inquiries, investigations, procedures of assessment, files, records and information on people, an entire process of classification, was initiated. Garland (ibid:30) concludes that as a result, "penality changes from being a blind, repressive discipline to being a more perspicacious, knowledgeable form of regulation". Essentially the prison became a laboratory where the observation and objectification of prisoners prevailed. Surveillance, individualisation and normalisation became key elements of the disciplinary project. As Sim (1990:9) argues, the aim was to create a "model individual" and a "medicalised society".

The development and consolidation of the prison established the, "institutionalisation of the power to punish" (Foucault, ibid:30), and the emergence of a disciplinary society. Although disciplinary methods were already in place, disciplining the body and soul is central to Foucault's historical account. He refers to the development of a "political anatomy" reflecting and reproducing the "mechanics of power". "The human body" he asserts, "was entering a machinery of power that explores it, breaks it

down and re-arranges it” (ibid:38). Ultimately for Foucault, “.... discipline produces subjected and practised bodies, ‘docile’ bodies” (ibid).

The significance of Foucault’s theoretical framework and analytical observation is profound, focusing on three principal and related concepts: power, knowledge and the body. The aim of the administration of punishment, through its agents, was unequivocal:

The agent of punishment must exercise a total power, which no third party can disturb; the individual to be corrected must be entirely enveloped in the power that is being exercised over him.

(Foucault, ibid:129).

Power and knowledge are intimately related with disciplinary punishments operating as power-knowledge mechanisms.

Developing a Critical Analysis of Crime, Punishment and the State.

Scheerer (1986:6) argues that the claims for imprisonment as providing the means for rehabilitation cannot be sustained: “at best it is thought to be a necessary evil to incapacitate dangerous offenders”. With the demise of the treatment model and the rehabilitative ideal, the legitimation of prisons has been brought into question. The Norwegian Professor and Abolitionist, Thomas Mathiesen (1990:15) argues that those in prison are, “subject to isolation, rejection, deprivation and meaninglessness”. For Mathiesen, “prison is a fiasco” without a “defence in the celebrated purposes espoused in penal theory” (ibid:19) and, therefore, imprisonment faces a “legitimacy crisis”.

For critical theorists this recognised failure of prisons and punishment is part of the failure of academic traditions which espoused liberalism, pluralism and dominant reformism. As Sim et al (1987:3) conclude:

Much of this work was based on the structural-functionalist assumption that 'crime', 'deviance' and 'conflict' were aberrations in an otherwise efficient, fair and just social system. In that scenario the 'corrective' or rehabilitative function of applied social sciences, particularly criminology or deviancy analyses, was a perfectly legitimate academic, interventionist function.

Radical criminology emerged in the early 1970s and in Britain the National Deviancy Conference (NDC) was formed, uniting academics, practitioners and campaigners in the pursuit of a radical alternative to mainstream criminology (see Hall and Scraton 1981; Cohen 1981, 1988). Documenting the significance of the NDC, Scraton (1991:83) comments that its main argument was, "... that reformism explicit in state welfarism disguised the implicit management and regulation of social conflict and political resistance inherent in the structural contradictions of advanced capitalist societies". From the NDC developed the 'New Criminology' and in 1973 Taylor, Walton and Young set the radical agenda with a text of that name. It proposed a manifesto for a 'fully social theory' of deviance. This entailed making the theoretical connections between the law, the state, legal and political relations and the functions of crime. Its objective was to evolve a Marxist perspective prioritising structural relations. Scraton, (1991:82-83) comments that from the outset:

It was an ambitious programme aimed at promoting the liberative potential of critical analysis. It stressed the significance of the everyday world of the 'criminal' or the 'deviant' - and the meanings vested in that world by its inhabitants - yet it explored also their relationships with state institutions geared to regulation and control. Further, it identified the complexity of social relationships, locating them within a broader historical and structural framework.

This political-economic focus on class is evident in the work of the American Radical, Richard Quinney (1970, 1980). Implicit in his analysis is the connection between class, crime and the state:

The capitalist system must continually reproduce itself. This is accomplished in a variety of ways ranging from the establishment of ideological hegemony to the further exploitation of labor, from the creation of public policy to coercive repression of the population. Most explicitly, it is the state that secures the capitalist order.

(Quinney, 1980:51).

He proposes that crime control provides the coercive means through which threats to the established social and economic order are identified and regulated. It is the state, through its legislation that establishes official means of crime control. Hence, “the coercive force of the state, embodied in law and legal repression, is the traditional means of maintaining the economic and social order” (ibid:52).

Quinney argues that either by coercive means - the repression of “dangerous” or “subversive” elements (ibid:53), or by subtle means - the manipulation of consciousness via ideology - the state’s role is to reproduce capitalist society and ensure the maintenance of the dominant social and economic order. The state, however, is not simply an “instrument” of class domination but a more complex “coordinating agency” (ibid:58).

In responding to this ‘radical’ direction in criminology, critics targetted its implied economic reductionism. They suggested that the rule of law and its relations were

reduced to a, “status of dependency on the needs of the political economy” (Scruton, 1991:83). Reflecting on this criticism, Scruton and Chadwick (1991:165) comment:

In prioritising the mode of production, the primacy of the economic, the politics of distribution and the dynamics of class conflict, radical criminology was severely criticised for drifting back or regressing into the crude formulae of economic determinism.

In other parts of Western Europe, notably Scandinavia, Holland and West Germany, the development of radical criminology was more inclined towards Abolitionism.

Cohen, (1986:3) comments:

Abolitionism is the product of the same countercultural politics of the Nineteen Sixties which gave rise to the cultural radicalism of the ‘new’ or ‘critical’ criminology.

de Haan (1990:9) defines Abolitionism as a, “social movement; a theoretical perspective; and a political strategy devoted to a radical critique of the criminal justice system and committed to penal abolition”. For abolitionists there can be no valid justification for punishment: “punishment is the heart of the matter” (ibid).

Reflecting on his book The Politics of Abolition published in 1974, Mathiesen (1986) reiterates the three key points to be addressed by abolitionists. First, the goal of penal abolition for radical criminal justice; second, an awareness that alternatives to prison could easily create ‘new prison-like structures’ (ibid:81), with similar functions to prisons; third, that the attainment of abolition requires a strategy and analysis of the relationship between short-term reforms and long-term abolition. Short-term goals are considered ‘negative’, an impediment to the long-term abolitionist goal.

Scheerer (1986) states that there is little consensus among abolitionists, some advocating radical reform, others questioning the fundamental bases of crime, punishment and the criminal justice system. Sim (forthcoming), however, summarises the central elements of Abolitionism: i) Prison is considered counter-productive, difficult to control and, consequently, a social problem in itself; ii) Crime is complex and socially constructed and reflects power relations; iii) Decentralisation of the criminal justice system is considered necessary; iv) Redress, compensation and reconciliation need to be introduced; v) Substantial reform of the prison system which changes power structures and the dominant culture is required; vi) social problems, conflicts and troubles should be taken seriously but not considered as crime.

Throughout the 1980s profound differences emerged within critical criminology, experienced most acutely in Britain. Key proponents of the 'New Criminology' of the 1970s redefined themselves as 'left realists'. Their roots, found in the work of Jock Young throughout the late 1970s, culminated in the publication of What is to be done about Law and Order? (Lea and Young, 1984). Their primary proposition was that 'crime' needs to be "taken seriously" and they called on politicians, policy makers and academics to "confront crime" - the title of a further publication in 1986 by Roger Matthews and Jock Young. Following these early texts 'left realism' flourished (6).

Sim et al (1987: 41-42) summarise the key issues of left realism:

....crime is a particular problem in deprived inner-city areas; it is predominantly intra-class and intra-racial; it is a reflection of those most basic of capitalist values, individualism and acquisitiveness and the policing of society must be made more effective and accountable so that it responds to the real needs of the community.

Emphasising crime, crime prevention and civil disorder, the left realist solution to the problem of crime is through a democratic, multi-agency approach which will provide a more equal distribution of resources and a reformed system of legal justice.

Central to the work of left realism has been the rejection of 'idealism' in radical criminology. They sought to expose the political and theoretical weaknesses of 'left idealism' as economically reductionist and deterministic. In discussing Young, Sim et al (1987:39) state:

While the qualities, and weaknesses, he linked with left idealism undoubtedly appeared in some left discussions about crime, as well as being applicable to elements of Marxist theory in general in its most reductionist manifestations, he over emphasised these elements and underestimated, indeed caricatured, the complexities of left interventionism in the 1970s and 1980s.

As Sim et al (ibid:41) further comment, 'idealists' were, "variously labelled 'left idealists', 'extreme idealists', 'abolitionists' or the 'headbanging left'."

Left realism, however, in concentrating on crime and a reformed law and order programme, neglected punishment and the increasing drift towards authoritarian punitive policies. Rather than questioning the morality or the necessity of punishment, as de Haan (1990:156) comments, left realists are prepared to discuss the fair distribution of punishment - "a just measure of pain". He maintains that in 'confronting crime' and by 'taking crime seriously', realists align themselves with "new social movements" (ibid:30), such as environmentalists, ethnic groups and feminists, each of whom has called on the criminal justice system "for protection against personal, sexual and racial violence".(ibid). The existing criminal law and

system of justice are considered satisfactory mechanisms for the resolution of conflict; all that is necessary are some implementary reforms.

Critical criminology, however, cannot be rejected so easily:

Casually dismissed as 'left idealism', abolitionism or economic reductionism by writers of both new right and left realist persuasions, radical criminology's analysis of social justice and civil liberties requires a more lasting assessment.

(Scraton, 1991:91).

In establishing a coherent, eclectic theoretical position, work from a range of critical sources has been utilised by critical criminologists. According to Scraton and Chadwick (1991) a 'second phase' in the development of critical criminology has emerged. Established theoretical principles have not been dismissed but refined, redeveloped and extended. The call from New Criminology to locate the world of everyday life within broader structural relations remains a basic principle. As Scraton and Chadwick (ibid:165) comment:

The emphasis of the critical approach was to analyse the contexts of social action and reaction rather than to persist with the crude reductionist obsessions with causation. Balancing the lived experiences of people and the immediacy of daily interaction with the often less visible structural arrangements - the political, economic and ideological management of social worlds - set the radical agenda for the consolidation of critical analysis within criminological theory.

Giddens (1979) refers to the relationship between 'structure' and 'agency'. Agency refers to the experiential, everyday world of diverse social relations and interaction. 'Structure' encompasses the world of institutions which ultimately determine much of

our social interaction. In connecting 'human action' with structure, Giddens (ibid:49) proposes:

.... a theory of the human agent, or of the subject; an account of the conditions and consequences of action; and an interpretation of 'structure' as somehow embroiled in both those conditions and consequences.

(ibid:49).

Moreover, while critical analysis remains committed to an economic analysis focusing on the relations of production and distribution, emphasising class relations and the consequences of the advancement of capitalism, other inter-related power structures and their institutional relations also are prioritised. These include the structural relations of reproduction and dependency, emphasising the global domination of women and the complexities and differences, yet universality, of patriarchies. Also significant are the structural relations of neo-colonialism, emphasising the extensiveness of institutional racism and the imperialist legacy, connecting slavery, colonisation, immigration and migration. Scraton (1991:93) identifies these structural relations as the "determining contexts" of social action and human potential. These are relations embodying exploitation, oppression and subordination. They are relations of power both economic and political. For Scraton and Chadwick (1991:166), their significance is clear:

If the new, critical version of criminology was to read any differently to its predecessors then it had to consider all structural forms of oppression, their inter-relationships and their mutual dependency. For questions of power, legitimacy, marginalisation and criminalisation could only be addressed with reference to the structural relations of production, reproduction and neo-colonialism as the primary determining contexts.

A further important dimension of critical analysis is the relationship between power and knowledge, developed, as noted above, by Foucault (1977). For Foucault, power is not uni-dimensional but, “ubiquitous and many-sided” (Cavadino and Dignan, 1992:67). Power is dispersed throughout society and does not rest with one dominant state, sovereign or class. Foucault, therefore, is concerned, “with the means through which power is exercised and the effects of this exercise” (Sim, 1990:9). For Foucault (1977:27), “power and knowledge directly imply one another”. Consequently, a site where power is exercised is also a place where knowledge is produced. Smart (1989:64) illustrates this power-knowledge relationship, referring to Foucault’s analysis of the carceral system:

The human sciences are made possible by the emergence of new forms of the exercise of power, which through the discipline and surveillance of populations produce both new domains of objects and definite forms of knowledge.

As discussed earlier, Foucault considers that the body is the main target for the exercise of power. At different times the body has been tortured, imprisoned, diagnosed and treated; it represents the object of new forms of knowledge. The relationship of power to truth is also central to Foucault’s analysis:

If torture was so strongly embedded in legal practice, it was because it revealed truth and showed the operation of power.

(Foucault, 1977:55).

Garland (1990:4) emphasises the significance of this relation in examining the necessity for prisons and punishment:

Through repeated use and respect for their authority, these instituted ways of doing things create their own ‘regime of truth’ which simultaneously shores up the institutional structure and closes off any fundamental questions which might undermine it.

Crucially, the power-knowledge axis permeates and sustains official discourses, “their language, logic, forms of definition and classification, measurement techniques and empiricism as essential elements in the technology of discipline and the process of normalisation” (Scraton and Chadwick, 1991:167). Critical theorists argue that official discourses are developed and reproduced through the primary determining contexts of class, ‘race’ and gender. Discrimination resulting from these determining contexts is experienced daily, interpersonally, at the level of agency. Yet also they have a structural significance in that classism, racism, sexism, heterosexism are institutionalised and oppressive constructs. They inform legislation, policy and practice throughout institutions, organisations and professions. As Scraton (1991:30) argues, “It is through the process of institutionalisation that relations of domination and subjugation gain their legitimacy and achieve structural significance”. He concludes:

What critical analysis has argued persuasively is that these relations of dominance create the context in which identifiable groups - the unemployed and low paid, women, black people - are pushed to the periphery of the mainstream relations of production and, further, this process of marginalisation is compounded at both the political and ideological levels.

(ibid).

The processes of marginalisation and criminalisation are central to critical analysis in examining the relationship between the law, crime, punishment and the state. According to Box (1983:207) the economic crisis of the 1970s, “has affected the way governments and the judiciary have ‘criminalised’ subordinate groups”. Quinney (1980) refers to this group as a “surplus population”, while Mathiesen (1974:77)

argues that the “expurgatory function” of imprisonment is how society rids itself of “unproductive elements one way is to criminalise their activities and punish them by imprisoning them”. This implies that during periods of economic recession, imprisonment is used increasingly to control and regulate the marginalised population. de Haan (1990:43), however, considers such claims to be, “based on dubious assumptions about the relationship between unemployment and crime, crime and imprisonment, and unemployment and imprisonment”.

Steven Box (1987) and Box and Hale (1982, 1985, 1986) contest the claim that rising unemployment leads to crime and automatically to an increased prison population. Their analysis considers the interrelationships between unemployment, crime and imprisonment. They argue that during economic crises the state, “experience a crisis of managing the ‘legitimacy’ of its major institutions” (Box and Hale, 1985:210). It is their contention that increases in street crime which can only be managed by tough law and order responses, is a myth constructed with the political objective of strengthening control agencies - (police powers and resources, sentencing, the expansion of prisons and harsher penal regimes). They conclude that imprisonment is:

.... not a direct response to any rise in crime, but is an ideologically motivated response to the perceived threat posed by the swelling population of economically marginalised persons.

(Box and Hale, 1982:22).

While economic changes bring political responses, in terms of state action, when such action is coercive or involves the use of force and violence, it has to be legitimated.

This is the dichotomy between consent and coercion. As Scraton and Chadwick (1991:172-173) argue:

The power to criminalise is not derived necessarily in consensus politics but is implicitly a political act. Criminalisation carries with it the ideologies associated with marginalisation and it is within these portrayals that certain actions are named, contained and regulated....This is a powerful process because it mobilises popular approval and legitimacy in support of powerful interests within the state.

Critical analysis demonstrates that the process of criminalisation protects, reinforces, and reproduces the interests of an established order be they primarily political or economic. As Chadwick and Little (1987:257) show, "the process is intricate as not only does it demand state institutional processesit also relies on the winning of popular consent for state policies and legal shifts which are essentially authoritarian". Negative reputations, stereotyped images and collective, violent identities - the stuff of 'folk devils' - are transmitted through ideologies. The state institutional response relies heavily on winning 'hearts and minds' in pursuing this ideological appeal through popular discourse (see Hall et al, 1978). Political, economic and ideological forces, then, are intricately connected in the creation, maintenance and portrayal of the criminalisation process. This dialectic is central to the development and consolidation of critical analysis and critical criminology. Ideologies, then, depend on institutions for their development, consolidation, transmission and reproduction. They form the basis of the political management of social and structural conflict and they 'manufacture' consent. Sim et al (1987:63) summarise these complex and often contradictory debates:

Class fragmentation and the political and economic marginalisation of fragmented elements within the working class, the oppression of women within the long and common history of patriarchal societies, and the post-

colonial exploitation of immigrant and migrant labour are not solely manifestations of economic determinants. Patriarchy and colonisation take political forms and engender political opposition - but also they generate ideological constructions of reality which justify, defend and reinforce the political-economic relations of dominance. It is at this point that the state and its institutions regenerate and reconstruct ideas as well as policies which serve to defend the structural contradictions - and their consequences - of a developing or receding national economy.

In dealing with the politics of crime and punishment, Box (1987) advocates a 'reductionist' as opposed to an 'abolitionist' policy. He argues that prison has both a symbolic and concrete function (see also Fitzgerald, 1977). Symbolically the prison distinguishes between that behaviour and those actions which are collectively condemned as unacceptable and those that are tolerated. Box argues that in so doing, "the prison clarifies, maintains and reinforces the moral boundaries of a society" (ibid:212). The problem with the contemporary penal system is, however, that it performs this function badly. Yet, he maintains:

Prisons play a concrete part in containing the crime problem. While locked up, offenders cannot prey on members of the public, and to that limited extent the level of crime is kept down. Since a reduced but reformed prison system would contain many 'dangerous' and 'violent' offenders, their incapacitation would be an unmitigated blessing.

(ibid:213).

Hudson (1993:150) refers to penal reductionists as "selective abolitionists" who attempt to "reduce" or "ration" imprisonment through positive strategies. These encompass alternatives to custody or encourage the abolition of custody for trivial offences. Hudson argues that reductionism is unrealistic as any reduction in numbers is always temporary:

The goal of prison rationing, of prison bifurcation along offence lines, can only be achieved if strategies more directly targeted at the decarceration of these groups of offenders are adopted.

(ibid:151).

She argues that 'vulnerable' people will continue to be imprisoned due to breaches of non-custodial orders and fine default. Elsewhere, Hudson (1987:183), reiterates her concern over the legitimacy of punishment:

Rather than basing criminal justice more unequivocally on punishment, we need as a society to start placing far narrower limits on our right to punish. We ought to recognise that penal systems have grown quite out of scale with the seriousness of the behaviours they are supposedly designed to control, and are therefore available to serve other, repressive purposes.

Scheerer (1986:6), states that it is this widespread "weariness" of the prison system that stimulates abolitionism. For Sim (forthcoming:21) abolitionism is part of the struggle to develop a radical discourse around penalty. It challenges the hegemony of imprisonment which, "historically and contemporaneously has united state servants, traditional reform groups and many academics on the same pragmatic and ideological terrain" (ibid:22). Further, as Cohen (1986:3) argues, abolitionism rather than searching for a "socialist criminology and crime policy" as advocated by left realism, "envisages the eventual abandonment of crime and criminology as viable constructs".

Since first writing in 1974, Mathiesen (1986) recognises the expansion of prison systems (see Rolston and Tomlinson, 1986). As Mathiesen (ibid:83) argues, this is not merely a reflection of increasing crime but the result of more complex relationships (an increase in long sentences and increasing numbers entering prison both rooted in "deep-seated class conflicts and political conflicts"). Further, "prison is

becoming an important repressive weapon in the hands of a strong state” (ibid). In light of this Mathiesen argues that rather than being abandoned, abolitionism remains crucial given the current expansionism within penal policies.

Significant within critical criminology and abolitionism is the concept and definition of crime. de Haan (1990:151) argues that no absolute definition of crime is possible, “given the fact that crime is an essentially contested concept”. Hulsman (1986:67-68) comments:

When we do not problematise (and reject) the concept of crime it means that we are stuck in a catasopic view of society in which our informational base (as well the ‘facts’ as their ‘interpretational frame’) depend mainly on the institutional framework of criminal justice.

de Haan also argues that critical criminology must abandon legal definitions and redefine crime on the basis of moral judgements and standards. However:

this raises the immediate question, of course, as to whether the moral standards implied by any definition of crime can be rationally justified and, if so, how this should be done.

(de Haan, ibid:153).

Christie (1982, in de Haan, ibid) also supports penal abolition, critiquing justifications for punishment and presenting a ‘moral rigorist’ position which demands abolition of intentionally inflicted pain. de Haan suggests that Christie’s argument is emotive, reflecting individual personal tastes and judgements. In contrast, de Haan identifies himself as a “moral rationalist”:

As a 'moral rationalist' I view morality, that is, the making and supporting of moral judgements, as a rational enterprise. It is my contention that the claim is correct that punishment is bad and that it is wrong even to consider it acceptable as a 'necessary evil'. However, I also feel that it is essential to point out why this is so.

(ibid:104).

It is de Haan's intention to provide abolitionism with a more "solid foundation"

(ibid:127), as to why punishment can never be justified. He concludes:

This can be done by showing that punishment is incompatible with notions of equality or justice, thereby, paving the way for more 'Utopian' or normative theory construction.

(ibid:127-8).

de Haan introduces the concept of 'redress' as an alternative to punishment and crime.

He maintains:

To claim redress is merely to assert that an undesirable event has taken place and that something needs to be done about it. It carries no implications of what sort of reaction would be appropriate; nor does it define reflexively the nature of the initial event.

(ibid:158).

Accountability, responsibility and guilt would not disappear or dissipate, but through the politics of redress individual actions would be contextualised and given differential meaning. Hence, "justice might finally be done to the complexity of human action and social events" (ibid:160).

Other abolitionists have advocated strategies that would replace legal definitions and decentralise state punishment and penal justice. For Steinert (1986:30) the task is to, "find ways of treating conflicts which do not use social exclusion". He proposes a

process of arbitration, prior to the imposition of criminal law, as a form of conflict resolution. Likewise, Hulsman (1986), in searching for an alternative resolution to conflict in society, advocates face-to-face mediation and conflict resolution. The dissolution of legislation, regulations and the organisational requirements of the criminal justice system, he argues, should be accompanied by the abolition of other concepts such as seriousness, dangerousness, culpability, good and bad.

Yet, both de Haan and Mathiesen recognise that the practical application of abolitionism requires a change in collective, social mentality. Although not impossible, this would be difficult. de Haan concludes:

Through the application of discourse ethics and practical discourse, 'redress' can combine principles of generalizability and universality with those of contextuality, solidarity and care. It is an approach that is ambitious and modest at the same time; not a blue print, but a perspective and a commitment to a joint venture still ahead of us.

(ibid:168).

Conclusion: The Problem of Legitimacy.

This chapter has shown that the role of prisons and the functions of punishment are determined by the social, political and economic relations from within which they arise. They are historically specific and structurally open to change. Although prisons represent the most fundamental of total institutions, regimes are neither monolithic nor fixed. But, as Fitzgerald and Sim (1982:23) point out:

Prisons are a central feature of the debate about crime and punishment, and, more generally, of the efforts to establish, legitimate and maintain social order.

The 'crisis' in prisons is not simply concerned only with the 'state' of prisons but also with their contribution and effectiveness regarding the maintenance of social order. The key debate, however, is what King and Maguire (1994) refer to as the fundamental question of legitimacy. The history of British prisons is one of recurrent problems that have converged together to present a legitimization crisis (see Fitzgerald and Sim 1982; Mathiesen 1990; Cavadino and Dignan 1991). On its own terms, using the liberal democratic defences and justifications prison as a form of punishment has failed. As Mathiesen (1990:137) argues:

The theories of individual prevention - rehabilitation, incapacitation, individual deterrence - are unable to defend the prison. Neither is the other major theory of social defence - the theory of general prevention. And neither is, finally, the theory of justice. The prison does not have a defence, the prison is a fiasco in terms of its own purposes.

Why then, Mathiesen asks, do prisons persist? In addressing this contradiction he notes the persistence of "an ideology of prison.... which renders the prison as an institution and a sanction meaningful and legitimate" (ibid). For Mathiesen, this ideology is supported by two major components: the 'supportive' and the 'negating'.

To explain the former, Mathiesen outlines the four functions of imprisonment: expurgatory; power draining; diverting; symbolic. (7). He considers these functions as ideological in that, "they make prisons appear meaningful and legitimate" (ibid:138). To these he adds a fifth - the action function - whereby prison is not only symbolic but constitutes the most observable type of sanction in our society. For Mathiesen these functions explain why imprisonment persists, despite "the fact that

the need” for discipline, “formulated so acceptably and rationally, is not met”. (ibid:139).

The supportive component provides the prison with a positive identity while the negating component denies the ‘fiasco’ of the prison. This occurs in three public spheres: mass media; crime prevention (criminal justice process); professional groups. Each is given the task of keeping prisons under review and control. Mathiesen argues, however, that they have failed to examine prisons critically. The mass media adopts a policy of “non - recognition” (ibid) with participants pretending that prison is a success. Without such pretence, their work would be “meaningless and counterproductive” (ibid). Finally, professionals encompass both non - recognition and pretence despite the difficulty of ignoring the ‘fiasco’. Mathiesen suggests that “disregard“ is evident, that problems are overlooked, “simply not discussed or treated in the context of the functioning of the penal system as a whole” (ibid). Ultimately, for Mathiesen, the ‘fiasco’ of prison and the crisis of legitimacy can only be addressed by the contraction of imprisonment as punishment and its eventual abolition.

King and Maguire (1994) argue that Sparks’ conclusion to the question of prison legitimacy as more positive than that of Mathiesen. For Sparks (1994) and Sparks and Bottoms (1995) concern over legitimacy should be at the centre of penal politics. Sparks (ibid:15-16) comments that, “in principle legitimacy is an issue for every practice of punishment or sanctioning, as it is for all distributions of power and resources.” Further, he argues that, “where power fails to conform to its own rules of legal validity it is illegitimate” (ibid:15), stressing that power has to be legitimated.

In their analysis of the legitimacy, of Sparks and Bottoms draw on Beetham (1991). Legitimacy is conferred if power conforms to established rules and that these rules are accepted into the belief systems of both dominant and subordinate groups. Sparks and Bottoms consider that the crucial issues with regard to the legitimacy of prisons is, “the variety of existing and possible prison regimes, and prisoners’ differential responses to them” (ibid:54). They outline a number of legitimating factors relevant to the maintenance of order in prisons: fair procedures and consistent outcomes; staff conduct and staff - prisoner relationships; a basic regime that complies with common expected standards. Ultimately, prisoners have to be regarded as citizens with rights. They argue:

....a defensible and legitimated prison regime demands a dialogue in which prisoners’ voices (as to what is ‘justified in terms of their beliefs’) are registered and have a chance of being responded to.

(ibid:59).

Sparks (1994:26) advocates a “Utopian Realist” politics of imprisonment through which a future world without prisons can be conceived. Reform as opposed to abolition, is central to prisons, penal policy and their legitimacy.

Mathiesen (1974) argues that a legitimate distribution of power and authority in prisons is impossible. He identifies psychological difficulties of proposing short-term reforms while simultaneously working towards the longer-term objective of abolition. For Mathiesen (ibid:202), reforms, “by their very adjustment of, and re-legitimation of, the prevailing order, actually lessen the possibilities for a long-term abolition”. He distinguishes between ‘positive’ and ‘negative’ reforms. The former improve the

system so that it functions more effectively, at the same time it strengthens the system making the goal of abolition ever distant. The renewed legitimacy bestowed on the system results in the public viewing imprisonment as more reasonable, rational, improved and, therefore, a correct means of punishment.

Negative reforms are changes, “which abolish or remove greater or smaller parts on which the system in general is more or less dependent” (ibid). These may soften public criticism, thereby improving the basis of legitimacy. “An abolishing reform”, states Mathiesen (ibid), “may reduce the debit side of legitimacy, but it adds nothing to the credit side”. This creates a dilemma concerning the political appropriateness of positive or negative reforms. As Mathiesen points out, however, in practice the dilemma is often inconsequential as many short-term positive reforms are of little or no real benefit to prisoners.

Fitzgerald and Sim (1982) demonstrate that attempts have been made to relieve the ‘crisis’ in prisons since the late 1960s, thus establishing legitimacy for the use of prison as a form of punishment. However, they maintain that, “reform by its very nature, contains both positive and negative possibilities” (ibid:164). Hence, in proposing changes to the prison system:

We must always be aware of the contradictory nature of reform, and struggle to ensure that changes which do occur do not covertly extend the massive apparatus of repressive control which is the hallmark of the contemporary British prison system.
(ibid:164-165).

PART TWO

Part Two, divided into three chapters, examines the background to the SPS 'crisis'; the immediate official and alternative explanations to account for the problems; and qualitative data from prisoners and prison staff outlining their perceptions of the 'crisis' throughout the 1980s.

Chapter Three outlines the unrest experienced within the SPS during the mid to late 1980s. Taken together, the problems of overcrowding, poor conditions, the containment of short and long term prisoners, drug use in prison, youth custody, the incidence of self inflicted injuries and death by suicide, the prisoner protest and disturbances, have been identified as amounting to a serious 'crisis' in conditions and authority within the SPS. This chapter documents these problems and considers the proposition that rather than indicating a 'crisis' in Scottish Prisons, each forms part of an institutionalised failing amounting to serious structural 'malaise'.

Chapter Four considers a range of competing explanations which account for this structural malaise. Official discourse, expressed through official reports and inquiries, dominates the construction of knowledge concerning prisons, and has influenced penal theory, policy and practice for over a century. Accounts derived in official reports are contrasted with alternative accounts derived in independent research and prisoners' own accounts.

Chapter Five presents qualitative data from Scottish prisoners and prison staff interviewed for this research project. This data includes their reflective perceptions of the background to the SPS 'crisis', examining the nature of discontent and the factors

leading to it. The purpose of this chapter is to explore the contradictions revealed in the accounts presented in Chapter Four relating to the problems evident throughout the 1980s.

CHAPTER THREE

SCOTLAND'S PRISONS : CRISIS OR MALAISE ?

Introduction.

The last few months of 1986 was a traumatic period for the service with hostage incidents at Edinburgh and Peterhead Prisons.

(Scottish Home and Health Department, 1987:14).

1987 was a year of turmoil for the Scottish Prison Service.

(Scottish Home and Health Department, 1988a:5).

Incidents of mass indiscipline and confrontation with staff became the norm. Canteens which were located in the large dining/reception rooms were regularly broken into, staff alarms were set off surreptitiously by inmates on numerous occasions, and a number of fires were maliciously set. Staff morale plummeted as a result, and control diminished even further.

(Scottish Home and Health Department, 1989a:6-7).

These statements from the Inspectorate of Prisons for Scotland indicate that the 1980s was a particularly testing decade for the Scottish Prison Service, (SPS) with external and internal factors contributing towards the problems experienced. An initial source of pressure was the sharp increase in the Scottish Prison population. The average daily population rose from 4,753 in 1984 to 5,273 in 1985, the highest annual figure recorded since 1971 (Scottish Home and Health Department Statistical Bulletin, 1986:2). A further rise to 5,588 in 1986 constituted an 18% increase since 1984 (SPS, 1990a:20). While this was a severe rise it is also significant that longer sentences were administered and there was a marked increase in long term sentences. The adult male long term prisoner population rose by 50% (ie 600 individuals) between 1984 and 1987 (ibid:20). The pressures of overcrowding were felt most acutely in local prisons housing remand and short term prisoners (ie Edinburgh, Perth, Barlinnie).

Poor physical conditions tended to characterise those establishments with the most severe accommodation problems. In 1987 the Scottish Council for Civil Liberties (SCCL) made this connection :

The overall increase in the prison population has placed existing buildings and staff under tremendous stress and strain, especially in those prisons which contain high numbers of remand prisoners ie: the local prisons.

(SCCL, 1987:14).

The squalor of prison overcrowding had become severe with a lack of proper hygiene and sanitation. It was not unusual for two or three prisoners to be locked up for long periods of time throughout the day and night in spartan cells. D Hall housing the remand population in Edinburgh prison, renowned for having the worst accommodation in the Scottish Penal Estate (1), was singled out by the Prison Inspectorate in its 1981 Report: “the atmosphere was, to say the least, unpleasant for all concerned.” (Scottish Home and Health Department, 1981:8). Coyle (1994:31) described the atmosphere in the short term hall in the same prison as a “disorganised poor house.”

It would be wrong to assert, however, that poor physical conditions were confined to those establishments catering for remand and short term prisoners. A number of prisons housing long term prisoners, particularly Edinburgh, Perth and Peterhead offered little in the way of comfort to prisoners. Built in the Victorian period they carried the legacy of poor design and with a century of use the physical fabric, hygiene, and sanitation were poor.

Differential regime opportunities also characterised different categories of prisoners. While remand and short term prison regimes offer few opportunities for education and work and are often dull, boring and routine, long term prison regimes, although offering increased opportunities, are often over-secure, rigid and inadequate. However, inconsistencies in long term prison regimes throughout the 1980s left prisoners confused, frustrated and angry, placing another source of pressure on the Service. Greenock Prison reopened in 1986 for long term adult male prisoners with a positive, progressive regime. Coyle (ibid:80) describes Greenock as a “model prison”. The regime was based on mutual respect, named staff providing support for groups of prisoners who were encouraged to discuss their progress and plans with staff. Importantly, regular access to family and friends was encouraged through correspondence, improved visiting facilities and the introduction of pay phones for prisoners’ use. By comparison, Peterhead Prison, also catering for long term male prisoners, offered a restricted and over-secure regime as described by the SPS (1990a:22):

....long term prisoners were located in an area remote from their homes, where there was little possibility of maintaining contact with their families. Work and recreational opportunities were restricted, particularly for Category A prisoners. Nor was it possible for the regime to be wholly satisfactory in providing long term prisoners with access to a variety of interests or the opportunity to participate in decisions affecting their daily life.

Opportunity and Responsibility (SPS, 1990a:21) also pointed to deterrent sentencing practices throughout the 1980s which impacted upon the Service. In particular it refers to the greater numbers sentenced to terms of imprisonment, and for longer periods for drug dealing and other drug-related offences. While contributing to the

increase in the long term prison population, as noted above, the ramifications are much broader.

With an escalation in drug use, both legal and illegal within the community (Scottish Affairs Committee, 1994), concern relating to drug use in prisons, and the growing number of drug users experiencing imprisonment (Turnbull 1992; Shewan et al 1994), mounted. The associated problems presented by drug abuse, drug injecting, the sharing of needles and other injecting equipment, and the spread of HIV / AIDS and Hepatitis B, began to impact on Scottish prisons, dominating public health, prison security and the prison economy.

Pressures throughout the Service were not confined to adult prisoners or adult penal establishments. Youth custody underwent major changes throughout the early 1980s which exacerbated existing problems and introduced new ones. Of particular significance were the changes announced by the Home Secretary, William Whitelaw, at the 1981 Conservative Party Conference. He announced the arrival of the 'short, sharp, shock' initiative, stating that "life will be conducted at a swift tempo....there will be drill.... These will be no holiday camps" (in Scraton and Chadwick, 1986a:148).

Regimes in Detention Centres and Young Offenders' Institutions, already tough, punitive and rigid, and characterised by bullying, 'taxing' and intimidation were hardened further. The hard-line approach was legitimated by the short, sharp, shock initiatives which impacted on all forms of youth custody. Regimes at the Young

Offenders' Institution and Detention Centre at Glenochil in Scotland were heavily scrutinised in the mid 1980s following eight deaths, twenty five serious suicide attempts and over one hundred young men being placed on 'strict suicide observation' resulting in the commissioning of a Scottish Office Inquiry to review suicide precautions at Glenochil (see Scraton and Chadwick 1986a, 1987a).

Acts of self-mutilation, injury or suicide were not confined however to young offenders. Women contained in Scotland's only female prison, Cornton Vale, were involved in serious acts of self-injury and mutilation and presented a particular management problem for the SPS (see Scottish Home and Health Department 1982, 1988b; Scraton and Chadwick 1987a; Liebling 1994). Additionally, the quality of the regime at Cornton Vale and the attempt to 'feminise' women prisoners was recognised by independent research and accounts from prisoners as problematic (see Carlen 1983; Dobash et al 1986).

The assumption that criminal women are sick, mad or disturbed, in part, justifies this regime. The ideological construction of femininity and a woman's role in society as a caring, nurturing, passive individual, together with the social and ideological construction of women's criminality, not only affects the way women are treated in prison but also by the police and courts. Whereas men's criminality is considered normal and they are defined as 'bad' and in 'need of punishment', women who commit crimes are labelled 'sick', 'mad', or 'disturbed' and in 'need of treatment' (see Allen 1987; Carlen and Worrall 1987; Gelsthorpe and Morris 1990; Worrall 1990).

While recognising that problems relating to young offenders; to women; to the apparently excessive use of remand; poor conditions for remand and short term prisoners, each form part of the SPS 'crisis', it is the issue of adult, male, long-term imprisonment, identified by the SPS as central to the 'crisis', that is the focus of this chapter.

Perhaps the most public, visible sign of pressure throughout the 1980s was in the level of unrest and prisoner protest. Scottish prisons experienced persistent incidents in which prisoners: barricaded themselves in cells; engaged in 'dirty protests'; refused food in an attempt to draw attention to personal grievances; assaulted staff; held prison staff hostage and mounted a number of roof top protests, substantially damaging the fabric of many prisons (Sim 1987, 1991; Scraton, Sim and Skidmore 1988, 1991). Incidents were prevalent, although not confined, to those establishments holding long term prisoners (notably: Edinburgh, Glenochil, Perth, Peterhead and Shotts prisons). Staff morale was low and with such visible signs of disorder and unrest, public confidence in the prison system was seriously undermined (Frizzell, 1993).

For many (McKinlay 1986; Macauley 1987; SCCL 1987; Adler and Longhurst 1991a, 1994; Frizzell 1993), these factors taken together culminated in the manifestation of a 'crisis' in the SPS throughout the 1980s. The concept of a crisis, however, implies a momentary lapse, state or condition in an otherwise efficient, smooth running organisation or operation: an aberration. Indeed, as noted earlier in Chapter One, the history of imprisonment is characterised by perpetual crises (Foucault 1977; Ignatieff

1978). Fitzgerald and Sim (1982), argue that the contemporary crisis in British prisons is the crisis of reform throughout history.

Scottish penal history may also be characterised by continual structural and operational problems. As Coyle (1991:14) states:

Major incidents are not a new phenomenon in Scottish long term prisons although the scale and nature of the latest series of incidents far exceeds anything previously experienced.

A more recent history equally signifies problems throughout the SPS, as illustrated in the following newspaper headlines : 'Averting Crisis in Scottish Prisons' (The Glasgow Herald, 2 August 1972); ' Prisons Approach Breaking Point' (The Scotsman, 11 April 1980); 'Plight of Remand Prisoners Highlighted' (The Scotsman, 23 December 1981); 'Attack on 'Appalling' Prison Conditions' (The Scotsman, 14 April 1983); each of which appeared throughout the 1970s and early 1980s.

The severe problems experienced by the SPS during the mid to late 1980s, rather than being indicative of a crisis in Scottish Prisons, each indicates an institutionalised failing which, taken together, form a serious structural malaise rather than a crisis. Making such a distinction not only takes account of historical and contemporary problems and pressures on the Prison Service, but also allows for a more thorough understanding and analysis of the functions, purpose, success and legitimacy of imprisonment. This chapter, in examining the pressures on the SPS in relation to overcrowding, poor conditions, drug use in prison, and unrest, considers the proposition that a creeping structural malaise has come to dominate penal regimes drawing into question their legitimacy and accountability.

Overcrowding and Conditions.

Between 1973 and 1984 the average daily prison population exceeded 5,000 on only two occasions, in 1978 and 1983. In 1985 there was a sharp increase not only in the overall prison population, which rose from 4,753 in 1984 to 5,273, the highest figure ever recorded, but also in the categories which constitute this overall figure. The average number of prisoners held on remand increased by 16%, to a new record level of 1,092. The number of adults received from courts with sentences of three years or more rose by over 50%, from 343 in 1984 to 522 in 1985. At the other end of the spectrum, fine defaulters increased from 8,883 to 11,435 - by 29% (Scottish Home and Health Department Statistical Bulletin, 1986:2). In 1986 the problems consolidated with an increase of 6% in the average daily prison population and an increase of 19% in the number of adults sentenced to three years or more, totalling 5,588 and 1,166 respectively (Scottish Home and Health Department Statistical Bulletin, 1987:2).

While the increase in the prison population is disturbing, with an overall design capacity in the Scottish prison estate of 5,700, a simple examination of the statistics in relation to claims of overcrowding is both misleading and incorrect. As David Hearst (1980) comments:

Officially, Scottish prisons are not overcrowded. Unlike England and Wales where population exceeds design capacity by an "appalling" 40 per cent, Scotland is walking the tightrope between demand and supply.

(The Scotsman, 11 April 1980).

It is important to differentiate between the size of the total prison population in relation to capacity, and the balance of the population. An examination of the statistics reveals

that overall, the Prison Service has been consistently within capacity and that a problem of overcrowding does not exist in Scotland. However, there has been, and remains, serious overcrowding in certain halls and within local prisons. The statistics conceal the reality of permanent overcrowding in remand units and halls, and short term halls of local prisons. Barlinnie and Edinburgh prisons were regularly 30-40% above capacity throughout the 1980s.

Also significant were the increased numbers serving long sentences, as illustrated in the previous statistics. This, in part was due to judicial policy which imposed longer sentences on those convicted of the possession and supply of drugs. In 1985 those convicted and sentenced for drug offences rose by 44%, from 285 to 410 (Scottish Home and Health Department Statistical Bulletin, 1986:2). A second major factor was the new measures announced by the Home Secretary, Leon Brittan, in October 1983. It was Brittan's contention, supported by the Conservative Government, that sentencing in general had become lenient. It was his intention that no life sentence prisoners should be released without the confirmation of the Home Secretary and that for certain prisoners life would mean life (ie the murder of police officers, prison officers and children would carry minimum sentences of 20 years, as would those committing armed robbery or terrorist murders). Additionally, and crucially, were the changes in policy over parole. Those sentenced to more than five years for a violent offence to the person would not be released on parole except for a few months prior to the end of their sentence (Scruton, Sim and Skidmore, 1991).(2). While having a devastating impact on those serving long sentences, it also clearly had wide reaching implications for the overall size and balance of the prison population.

Under intense pressure and in order to alleviate the problems of overcrowding in certain prisons (ie Barlinnie, Edinburgh, Perth), the SPS embarked on a number of significant changes in the use of prison establishments to match available places to the types of prisoners held in custody. Named 'Grand Design' and introduced in 1987, the changes concentrated on four establishments whose classification was altered. Dumfries and Greenock Prisons both became Young Offender Institutions. Glenochil Young Offenders' Institution became an adult prison, the Glenochil Detention Centre became a Young Offenders' Institution. Finally, Noranside Young Offenders' Institution became an open prison. Phase II of Shotts Prison was opened in 1987, providing : four new halls each with the capacity of 117 prisoners; modern single cells with integral sanitation and hand basins; new dining halls and kitchens; sports hall; education unit; chapel; staff dining facility; a laundry which was to provide work for prisoners and service the entire Prison Service. The project cost £15.2 million and increased the capacity of the prison from 60 to 528 places (Scottish Home and Health Department, 1989b). While Grand Design went a long way towards easing pressures caused by overcrowding for remand and short term prisoners, it represented a major upheaval and considerable dissatisfaction among staff and prisoners. The Chief Inspector of Prisons for Scotland reflected on this in his 1988 Report:

.... In general, any major change in the function of an establishment needs to be given most careful consideration, with all implications scrutinised and a detailed plan prepared. Matters which must be considered are the precise regime to be set up, including any progression system, the adequacy of the facilities and the training of staff to carry out a different role.

(Scottish Home and Health Department, 1989c:18).

It was often those halls and prisons with the most chronic overcrowding which also offered unsatisfactory conditions for prisoners. With an ageing, largely Victorian prison estate, conditions were absolutely basic. The 1979 May Report, in its examination of Scottish prison conditions, listed none as better than 'fair' in its ratings, with the exception of Edinburgh prison which was thought to have better than 'moderate potential'. In addition, in a case brought by Jimmy and Sarah Boyle [X & Y v the UK, 1986], the European Court of Human Rights found that the UK Government was unable to maintain reasonable standards in Scottish prisons (SCCL, 1987:34). As Ruth Wishart stated at the time:

.... we have never grasped that the loss of liberty is itself a devastating punishment without the sordid conditions in which many staff and inmates are forced to live.

(The Scotsman, 9 May 1987).

Despite the comment in the May Report concerning Edinburgh Prison, the HM Inspectorate Report on the Prison in 1989 was particularly condemnatory of conditions:

The accommodation blocks at Edinburgh indicate a stark contrast between the outer facade and conditions inside. To the eye, the fascia of many of the buildings is not unattractive but inside, and within the cellular accommodation in particular, conditions are unsightly, generally unsatisfactory and even unsanitary in places. Although the main thoroughfares of the halls were kept reasonably clean, the fabric of the ablutions areas and virtually every cell was in poor repair, due to prolonged periods of abuse by successive occupants, and inadequate maintenance over many years.

(Scottish Home and Health Department, 1989d:7).

An Independent Committee of Inquiry commissioned by the Gateway Exchange in 1987 into the unrest and protests at Peterhead Prison asked prisoners to comment on

facilities at Peterhead. The general standard of hygiene, the quality of the food and sanitation facilities each were considered unsatisfactory. With no in-cell sanitation, prisoners used chamber pots and ‘slopped out’ in the morning. Some prisoners had the daily task of collecting parcels of excrement : the ‘shit detail’, thrown from cell windows overnight when the smell of urine and faeces became overbearing. This daily ritual was compounded by the general lack of toilet and washing facilities. As at other Scottish prison establishments (ie Barlinnie and Edinburgh), prisoners were restricted to weekly showers and a weekly change of underclothing. Prisoners at Peterhead commented : “we have two wash-hand basins, two showers for nearly forty men”; “one shower weekly. You can put your name down for a shower, it’s up to the SO to decide whether you will get one, that’s why I hardly ask”; “to have to practically kneel on the floor to get under the shower is deplorable” (The Report of the Independent Committee of Inquiry, 1987:43). With aged plumbing and drains frequently under pressure, blockages and overflowing were common and with poor ventilation, as one prisoner stated : “Peterhead Prison stinks (literally) - you always have the feeling of being dirty” (ibid).

A serving prison officer described the smell in prisons such as Edinburgh, Barlinnie and Perth as “overwhelming”. He commented further:

It’s a reality I live with, I don’t notice it. But it would make you, an outsider, physically sick. The prison smell is indescribable. It is carbolic combined with dirt, grease and filth. When you open a cell it hits you. It’s so thick you could cut it with a knife. When the heating malfunctions because the pipes are blocked, the window which opens five inches behind the bars is kept closed, so the ventilation is minimal.

(The Scotsman, 11 April 1980).

The condition of prison clothing provided to prisoners was also of concern and it was described at Peterhead as “ill-fitting and uncomfortable” (Scraton, Sim and Skidmore, 1991:46). The Chief Inspector of Prisons noted this concern in his 1990 Report, commenting on Barlinnie:

Despite the efficient management and good morale at Barlinnie, we were more than a little dismayed by the state of the clothing which the prisoners were required to wear. This sub-standard clothing was attributable partly to the difficulties encountered by the laundry in providing adequate service and partly to the treatment afforded by earlier users. But these are explanations not acceptable excuses and we could find no justification for the condition of clothing on issue. This problem is not unique to Barlinnie although no doubt its sheer size accentuated the impression of shoddiness. More generally, attention should be given to quality and design as well as to the condition and laundering of clothing.

(Scottish Home and Health Department, 1991:3).

Poor lighting and heating were a legacy of archaic accommodation. Lighting in Peterhead’s cells was described as poor and, with light switches located outside cells, prisoners had no control over the quality or amount of light used. Heating systems were temperamental and Peterhead prisoners reported sleeping in their uniforms during the winter months due to the severe cold in their cells. Scraton, Sim and Skidmore (1991:47) concluded:

This is the material context in which the majority of Peterhead prisoners served their sentences. Dirt, stench and squalor were embedded in the prison’s architecture, uniforms and hygienic rituals.

The SCCL (1987:40) in the conclusion to their Report on the Scottish Prison crisis present a bleak assessment of prison conditions and facilities:

Poor facilities, unnecessary searches, petty rules, health fears, and overcrowding, a shortage of opportunity for education and training, frustrating limitations on visiting, and the managerial imperative of a ‘quiet prison’ : all these make life inside prison futile and degrading, tense and

disturbing for staff and for inmates. All the evidence is that prison does more harm than good, that its publicly stated aim of rehabilitation has given way to an overriding concern with containment, in conditions which can hardly be described as humane.

Drugs and Imprisonment

As noted previously, during the 1980s there was an increase in the use of imprisonment for drug dealing or drug-related offences which brought an overall increase in the prison population, particularly those serving long sentences. There was also an increase in the percentage of prisoners who were drug users. Shewan, et al (1994:3) comment:

The Scottish Prison population contains a high proportion of prisoners who are drug users. By virtue of this, drug use has an impact on the prison system.

This suggested that the prison population contains a higher proportion of people with drug and alcohol problems than the population as a whole, a contention supported by the SPS (1993a:2) in its guidance document, Management of HIV/AIDS Prisoners, which states: “....a significant number of those in prison are either currently drug misusers or have a history of drug misuse.”

It is clear, however, that the use of drugs in Scotland, as elsewhere, has been increasing for over twenty years (Scottish Affairs Committee, 1994). Eventually and inevitably this will impact on the prison population. Pearce (1992:164), referring to drugs, argues that : “the last twenty years have seen enormous changes within the sub-culture of Scottish prisons in comparison with the previous two decades.” According

to Pearce, (ibid) this change is characterised by an increased challenge to authority, often manifesting in disorder within prisons. Although certain individuals were renowned for using illicit drugs throughout the 1960s and 1970s, Pearce argues that throughout the twentieth century the main 'illicit drug' in Scottish prisons was alcohol and the main 'licit drug' was tobacco. During the last twenty years, however, there has been an increase in other illicit substances.

The impact of this shift was realised by the SPS throughout the 1980s, accompanied by a set of problems that had to be addressed. The presence of drugs in prisons presents a problem for prison security. The elimination of illegal drugs within prisons presents a direct challenge for security regimes and operations. However, as Shewan et al (1994:8) point out:

.... drug use is a part of prison life, and the notion of a drug-free jail is either fanciful or would involve unacceptably stringent security measures, which would have a negative impact on the atmosphere of the prison for those who live and work there.

The problem evident for the Prison Service has been to balance the efforts to reduce the supply of drugs into prisons, against factors that might affect the overall atmosphere in prisons.

A further issue for the Prison Service has been that of public health. Illnesses such as Hepatitis B and HIV/AIDS, associated with certain forms of drug use, remain matters of concern. The Scottish Affairs Committee (1994) report that the use of heroin became widespread in the early 1980s and that a high level of drug injecting played a part in the spread of HIV among drug users in Edinburgh during the mid 1980s. It

was estimated that by mid 1988 the SPS as a whole had approximately fifteen times as many cases of HIV infection per 1000 prisoners than the Prison Service in England and Wales (Pearce, 1992).

The SPS, while not condoning or being seen to condone drug use in prison, was placed under pressure to develop an appropriate drugs and HIV/AIDS policy encouraging safer forms of drug use. As Gore and Bird (1993:147) point out: “a prison sentence, prohibiting access to clean needles for injectors, may become a death sentence”. Unlike other citizens, prisoners are denied access to needle exchanges, disinfectant to clean needles, and condoms. The reality that drug use has become a significant part of prison life, impacting on security, health, the prison economy and staff-prisoner relations, had to be recognised and acted upon.

Protests and Unrest.

While there were unprecedented major incidents within Scottish Prisons during the 1980s, the dirty protests, violence and rooftop demonstrations were not new. However, the ferocity and scale of the incidents were without precedent. Coyle (1991:140-141) comments:

In the period since 1984 the Scottish Prison Service has had to face an unprecedented series of major incidents. There were two significant features of these incidents. In the first place they were spread across several establishments holding long term prisoners and were not restricted to Peterhead Prison, which traditionally held most if not all prisoners who were actively disruptive within the Scottish Prison System. Secondly, most of the more recent incidents involved one or more members of staff being taken hostage.

Prior to this, the SPS had been forced to respond to unrest and disorder throughout the Service. On 14th January 1966, George Willis, the Minister of State at the Scottish Office announced the proposed new maximum security unit to be established at Inverness Prison to accommodate Scotland's toughest and most difficult prisoners. (The Glasgow Herald, 15 January 1966). The Unit, opened later that year, combined rigid discipline, segregation and the loss of privileges. From its inception the Unit was controversial, notoriously known as 'the Cages.' Prisoners experienced a brutal regime designed to isolate and punish the individual. McKinlay (1986:22) states: "The cage regime is pure psychological torture - designed to drive prisoners mad." Prisoners were contained in a caged area only three metres by two and a half, the service area being three by two metres, with one inch thick bars. There was no natural light and constant artificial light. Each cage consisted of a wooden seat for a bed, a plastic chamber pot and a concrete bollard seat. Scraton, Sim and Skidmore, (1991:15) describe the Cages as "inhumane, torturous punishment". In describing the regime they comment:

Standing naked before prison officers in a 'cage' nine feet by six feet, the prisoner underwent a full body search three times a day. The solitary confinement and personal humiliation of the cages represented the ultimate loss of dignity for any individual receiving this punishment.

(ibid:15).

Despite the introduction of the Cages at Inverness as a deterrent to 'subversive', 'recalcitrant' and 'violent' prisoners who were threatened with removal from the mainstream to the segregation unit, unrest continued within Scottish prisons, particularly at Peterhead. With worsening relations between prison staff and prisoners

in the early 1970s, prisoners responded throughout August 1972 with a series of rooftop demonstrations followed by violent confrontations which left officers and prisoners badly injured. At Peterhead Prison in particular, protests against conditions in the prison continued and poor staff-prisoner relations deteriorated further. In May 1975 five prisoners went on hunger strike. In 1977 there were two incidents of substantial numbers of prisoners refusing food. In October 1978 seven prisoners started a fire and then barricaded themselves in a cell for twenty four hours.

McKillop described the cells and the general atmosphere at Peterhead in 1977:

Peterhead lives up to its reputation. It is dismal.... Because of their age-almost a 100 years old - cells here are smaller than in other prisons. Essentially, however, the prison blocks are much the same as in any other jail. What is different is the atmosphere. Other prisons seemed to me to be alive - but Peterhead is a grim fortress.

(The Glasgow Herald, 7 September 1977).

Scruton, Sim and Skidmore, (1991:15), in documenting the unrest at Peterhead contend that such acts are not irrational or aberrations but are an “inevitable and rational reaction to a violent and repressive regime”.

Throughout 1979 tensions within Peterhead intensified. A number of prisoners released statements to the press alleging a repressive regime and the inhuman conditions experienced by those in the punishment cells. In May 1979 the Daily Record published contents of a smuggled letter in an article entitled “Zombie Cells Fury”. The 14-cell punishment block at Peterhead was described as keeping prisoners in solitary confinement for twenty two hours per day for up to one year. The letter stated:

A festering sore here is the scandal of the punishment block. A week or so in the punishment cells and the inmate is a Zombie - yet some are kept there for months on end. The prisoner can only walk up and down or sit on the floor brooding. After 6-12 months of that is it any wonder that the guy is a walking time-bomb ?

(in Scraton, Sim and Skidmore, 1991:17).

Following the refusal of legal aid in support of prisoners petitioning the European Court of Human Rights over conditions in Peterhead, a four day roof-top protest occurred in August 1979, the second in a matter of days at the Prison. Prisoners lit fires and threw slates from the roof while being showered with water from high pressure hoses aimed at the roof. Shouting defiantly at staff, one prisoner stated: "If we don't get results we're burning this place down. We will raze it to the ground" (Glasgow Herald, 23 August 1979). Malcolm Rifkind, the Scottish Office Minister for Home Affairs, visited the prison in early September following the announcement of a £1million improvement plan at Peterhead and described the demonstration as a "futile, stupid act" (The Scotsman, 4 September 1979).

As with previous incidents, prisoners alleged systematic beating and institutionalised violence from prison staff on coming down from the roof. Following these allegations three prison officers were charged with brutality against prisoners, who complained of being beaten and kicked. After hearing evidence that prison staff were dressed in riot gear and, as one witness stated, "were running around like madmen swiping at anyone in the way" (in Scraton, Sim and Skidmore, 1991:19), the three prison officers were acquitted of all charges and returned to work.

Simultaneously, the SPS announced the development of riot training for prison officers and a review of existing riot equipment, in order to be fully prepared for situations such as Peterhead. Scraton, Sim and Skidmore (ibid:19) state:

As Peterhead entered the 1980's the issues central to the unrest in the prison remained unresolved, the Scottish Office continued to deny any serious problem and the direction of the regime moved more quickly towards stronger forms of regulation and control - the paramilitary solution-and the need to protect prison officers from the 'violent minority.'

Confrontations continued and throughout 1982 there were dirty protests at Peterhead for most of the year. In May a prisoner claimed that a riot had taken place following assaults and beatings from prison officers. Four prisoners were removed to the Cages at Inverness and the Scottish Office confirmed that a number of prisoners were in punishment cells at Peterhead, many restrained by handcuffs and body belts. In October 1983, there was a further rooftop protest and an escape attempt. Fifteen prison officers were injured and three prisoners were transferred to the Cages. The Prison Service and the Scottish Office repeatedly blamed the trouble on a small minority of violent prisoners determined to cause maximum disruption. Clearly, however, a pattern was becoming institutionalised.

With little changing within the prison, a major protest began on 10th January 1984. The destruction of A Hall and a rooftop protest were ended after eighteen hours when prison officers with riot equipment broke through barricades. Dirty protests spread in the aftermath of the disturbance and prisoners complained about conditions in, and the over-use of the punishment block. In June 1984 a show trial took place at Peterhead High Court of thirteen prisoners charged with mobbing and rioting during the mass protest in January. Sentences totalling forty five years were imposed on eleven of the

prisoners. Alan Brown, Frank Halliday and John Gallagher, considered to be the ring leaders of the protest, each received six year sentences to run concurrently with their previous life sentences. The jury returned 'not proven' verdicts against Frank McPhie, acquitted amidst allegations that he had been framed by the Prison Service, and William Elliott, who appeared in court on dirty protest.

At the six week trial, costing over £250,000, the Judge, Lord Ross, prohibited discussion of prison conditions or prison officer brutality and refused to admit any evidence of events prior to six am on the 9th January, when the protest had begun. He stated that he was conducting a trial and not a public inquiry. Despite allegations that prisoners had been stripped and beaten since the protests, the court refused to act on these allegations (McKinlay, 1986:18).

Further unrest throughout 1985, included a refusal to work by prisoners in the tailor's shop following maltreatment of a prisoner, the taking of hostages during an escape attempt from the separate cells and a further hostage incident. Allegations of staff brutality towards prisoners continued. In November a prison officer faced trial charged with assaulting Gary McMenamin, a prisoner, by striking him on his head with handcuffs (The Scotsman, 9 November 1985). At the trial McMenamin referred to a further case of brutality at Peterhead, the case of Thomas Campbell. Campbell claimed to have been assaulted by a group of officers wearing shin guards and carrying riot sticks in retaliation for a disturbance at Peterhead. The incident occurred while Campbell was in solitary confinement in B Hall in November 1985. Following the assault, he was admitted to Aberdeen Royal Infirmary where he underwent an

operation for internal injuries to his stomach (The Scotsman, 24 June 1986). In June 1986 he was charged with assault on a prison officer during that incident and faced trial.

In October 1986, The Scotsman suggested that the problems of Peterhead Prison were filtering through and affecting other Scottish prisons. This followed a siege at Edinburgh Prison (The Scotsman, 31 October 1986). After the siege, in which a young prison officer was held hostage by five prisoners, four of the men received sentences at the High Court in Edinburgh totalling more than fifteen years. The trial revealed how the Special Air Service (SAS) and MI5 assisted the prison authorities end the week-long siege. Surveillance equipment, including special cameras and listening devices, were inserted through the walls of Edinburgh's B Hall, enabling security specialists to follow events. Specially equipped assault teams were on standby to move into B Hall where the officer was being held, however, following negotiations there was a peaceful conclusion to the incident (The Scotsman, 3 March 1987).

Less than two weeks after the Edinburgh siege, a further incident occurred at Peterhead. Three prisoners overpowered an officer, obtained his keys and released fifty other prisoners before barricading themselves and the officer into A Hall. They gained access to the roof of A Hall where they appeared regularly, some of them masked, to hang banners and print appeals on the roof, demanding access to a telephone in order to air their grievances. At times the prison officer was taken onto the roof, his life apparently under threat unless the prisoners' demands were met (The

Scotsman, 11 November 1986). The dramatic end to the siege, the largest in Scottish prison history came after five days with the release of Prison Officer, John Crossan, physically unhurt, but the roof of A Hall ablaze. The fifty prisoners barricaded in A Hall were unhurt but the Hall was extensively damaged by the fire (The Scotsman 14 November 1986). As with the Saughton hostage incident, three men stood trial charged with mobbing, rioting and hostage-taking. In March 1987 each received ten year sentences for their part in the incident.

There was a further escalation of unrest during 1987, which continued to spread from Peterhead to other Scottish prisons. Early in January 1987 there was a seven day siege, the longest to date, at Barlinnie Prison. Three officers were taken hostage by fifteen prisoners who broke through onto the roof. The incident erupted in B Hall allegedly after a number of prisoners attacked officers on the top floor of the hall. Following the disturbance, in which thirty four officers were injured, twenty four prisoners took over the upper floors of B Hall where five officers had barricaded themselves in a cell. McKenzie and Crainey, writing in The Scotsman (7 January 1987) state that prisoners burst into the cell, releasing two officers but taking the other three hostage. The prisoners, occupying the roof space of B Hall, appeared regularly on the roof parading riot shields and truncheons and demanding an inquiry into conditions at Barlinnie, following the alleged torture and ill treatment of a fellow prisoner, Sammy Ralston (The Scotsman, 9 January 1987).

On the fourth day, in exchange for food, the first hostage was released. Following the release of the other two hostages, a Scottish Office official spoke of the success of

their patience and softly-softly approach: “The prison authorities feel that substantial progress has been made in the negotiating process today in order to achieve a peaceful conclusion to the siege” (The Scotsman, 10 January 1987).

Perth Prison continued to be the scene of fires and prisoner protest throughout 1987. In April, five men appeared on the roof of A Hall, the scene of a serious fire in 1986. Prison officers in riot gear surrounded the prison, while the rooftop protesters threw slates from the roof. The Scotsman (16 April 1987) claimed to have been informed by prisoners in Perth that the protest concerned the failure of prisoners to be granted an inquiry into overcrowding and general conditions at the prison.

Later that month the Director of the SPS, Mr Alistair Thomson, stated that he was convinced that the violence, rooftop sieges and hostage takings at Peterhead, Edinburgh, Barlinnie and Perth were a result of the nature of the prison population. He pointed to a “new breed of violent young men” who faced lengthy “no-hope” sentences, concluding : “I think the prison service is under a lot of strain and it shows. I think the pressures are great and are getting greater” (The Glasgow Herald, 30 April 1987).

With issues unresolved at Peterhead, following the publication of the Chief Inspector of Prisons for Scotland’s Report into the disturbance at the prison in November 1986, in which prison officers were cleared of brutality (The Glasgow Herald 7 May 1987), further violence erupted. In early June, two prison officers were taken hostage. Although one was soon released, the other was held for five days until prison officers

stormed the prison bringing the disturbance to an end (Scruton, Sim and Skidmore, 1991). Within forty eight hours a further hostage incident, involving one officer, occurred at Perth. The following month, nine prisoners at Barlinnie barricaded themselves in their cells for more than sixty hours, protesting over another prisoner's grievance (The Scotsman, 5 October 1987).

In June 1987, a landmark in the history of Scottish prisons was reached : the first men's prison to be built in Scotland for sixty years was opened at Shotts in Lanarkshire. Malcolm Rifkind, the Secretary of State for Scotland, welcomed the opening of the prison, suggesting it would end the problems of overcrowding in a system which, he argued, had been partly to blame for the recent riots at Barlinnie, Peterhead and Edinburgh. He commented to the press :

“With the opening of Shotts, we now have no problem with overcrowding in Scotland, in the penal system as a whole, and also in individual prisons. The modern facilities here, and the relaxed regime, should mean a better relationship between prison officers and prisoners, because of the lack of tension”.

(The Scotsman, 20 June 1987).

Within three months the showpiece jail was in turmoil. In September, two fires and a stabbing incident preceded a twenty-four hour siege during which an officer was held hostage. The SCCL stated that the crisis at Shotts yet again demonstrated their view that the policy of building new prisons would not in itself solve the problems in Scotland's prisons.

Within days the spotlight was back on Peterhead. During the evening of 28th September, forty six prisoners in D Hall took two prison officers hostage. The

following morning, after a list of six grievances was broadcast on radio, one of the officers, Bill Florence, was released. The Daily Record (1 October 1987) reported that Mr Florence was suffering from serious injuries, having been beaten, stabbed three times and had his ankle broken during the siege. Later that evening forty two prisoners gave themselves up, with one following during the next day. Three prisoners, one officer, Jackie Stuart, remained on the roof.

While the Scottish Office reassured the media and the public that a “constructive dialogue” (The Independent, 1 October 1987) was taking place between the prisoners and the authorities, fears for the safety of Jackie Stuart intensified. The prisoners appeared sporadically on the roof of D Hall, displaying banners and smashing slates which were thrown into the prison courtyard. On a number of occasions Jackie Stuart was brought onto and across the roof. On the third day of the siege, The Scotsman (1 October 1987) reported that concern for the hostage had “heightened dramatically” because the mood of his three captors “turned ugly without warning”. The report continued:

For 35 harrowing minutes, Mr Stuart, a grandfather who is nearing retirement and who suffers from a kidney complaint, was dragged in chains across the shattered roof of D Hall. He appeared to be threatened with a hammer amid shouts of : “He gets it”, and was forced to remain slumped in obvious distress over the parapet of the 70 ft. high roof.

(*ibid*).

Scraton, Sim and Skidmore (1991:24) analyse the significance of the siege:

This one incident, more than any other over the previous five years, penetrated the consciousness of public opinion. For the first time and in front of the world’s media, a prison officer appeared about to lose his life.

The impact of the sensationalist reporting was dramatic and removed all attention from the prisoners' demands.

Following demands from the three rooftop protesters for a full public inquiry into prisoners' grievances at Peterhead, the SAS ended the 105 hour siege, the longest in Scottish penal history, releasing the hostage Jackie Stuart. In a dawn raid while the prisoners slept, CS gas and stun grenades were used in what was a military style operation. While the tabloid newspapers sensationalised the glamour and bravery of the SAS "A Team snatch squad" operation (Sunday Mail 4 October 1987), Jean Stead, a Guardian reporter, argued that the rescue operation at Peterhead marked a change in tactics from the authorities:

The SAS's rescue on Saturday of the prison officer held hostage at Peterhead gaol was the authorities' first use of armed force in the recent series of disturbances in Scottish prisons.

(The Guardian 5 October 1987).

Within thirty six hours of the ending of the Peterhead siege trouble broke out in Perth's C Hall, used for remand prisoners. A prison officer, George Jolly, was taken hostage by four prisoners. It was claimed that he had intervened in a fight in C Hall dining room when he was seized (Glasgow Herald 5 October 1987). Within minutes police and prison officers in riot gear, a mobile police headquarters, ambulances and fire engines arrived at the scene. Sixty police in riot gear occupied the roof of C Hall to deny the prisoners access and the prison authorities began negotiations with the prisoners.

The riots, hostage-takings and rooftop demonstrations could no longer be ignored. The Glasgow Herald's editorial of 5 October 1987 entitled "Reform Vital", called for a Commission of Inquiry as a matter of urgency emphasising that a Commission's terms would need to be comprehensive. John Home Robertson, MP for East Lothian and the Labour Party spokesperson on Scotland's prisons, also called for a, "wide ranging inquiry into the penal system in Scotland, perhaps presided over by a Judge" (The Independent 5 October 1987). The SCCL demanded a thorough overhaul of the system and the initiation of a Royal Commission. The Government, prison authorities and the Scottish Prison Officers' Association (SPOA) continued to argue that the main cause of the problems lay with a small group of violent trouble makers who required segregation and regulation in control units. The SPOA warned of the serious consequences if the Government refused to segregate violent prisoners. The Secretary of State for Scotland, Mr Malcolm Rifkind, agreed that a small minority of violent prisoners were at the centre of the prison crisis. He gave assurances that appropriate measures would be taken to secure Scottish prisons and to "restrict opportunities for a vicious minority of prisoners to disrupt the prison system" (The Independent 6 October 1987).

As the pathology explanation was mobilised, the prison authorities took steps to identify and segregate the assumed minority of violent and disruptive prisoners. The Scottish Office, meanwhile, announced a 'clamp-down' within all closed prisons in Scotland. This entailed locking prisoners in cells for long periods, the closure of workshops, a reduction in recreation and confinement to cells at meal times. Andrew Coyle, the Chair of the Scottish Prison Governors' Committee made the point clearly:

We recognise that in the short term this action was necessary. I hope that in the very near future we will move to the second and more important phase which is identifying and controlling that small group of prisoners which abuse the normal freedoms.

(The Independent 7 October 1987).

The crisis, however, continued. While the above statements were being made, five prisoners were injured in Barlinnie during a violent incident in a dining hall. There were further hostage incidents during 1988 at Perth and Edinburgh and widespread unrest throughout the system. In May 1988 Glenochil underwent a five day riot in A Hall resulting in extensive damage to the hall. 250 cells were smashed during the five-day lock-down. In the aftermath of the riot twenty three of A Hall's 'most difficult' prisoners were locked in their cells for twenty three hours a day, guarded by a squad of six officers in full riot gear. The prisoners, many on dirty protest, refused to co-operate with the prison authorities. In an unprecedented step, the Governor, Gordon Jackson, sent letters to all A Hall prisoners offering better conditions in exchange for greater co-operation. (The Scotsman 23 July 1988).

In January 1989 Glenochil's problems were compounded when it became clear that the Governor, Gordon Jackson, was to stand trial at Alloa Sheriff Court charged with the unauthorised possession of ammunition at the prison (The Scotsman 10 January 1989). His career was effectively over. By March 1989 officers at Glenochil were once again on duty in riot gear. The Scottish Office announced that there was unrest in A Hall, the scene of the 1988 riot. It was alleged that twelve prisoners had thrown chamber

pots and their contents, and food, at prison officers. A certain amount of damage had also been caused to cells (The Scotsman 2 March 1989).

Shotts Prison continued to experience unrest, culminating in a number of minor incidents early in 1988. In September a major disturbance erupted in which five prison officers were injured. The officers were attacked in a textile workshop where approximately eighty prisoners were working. Eighty three prisoners in B Hall were engaged in a simultaneous demonstration, refusing to return to their cells. It was claimed that the incident, which ended peacefully, was triggered by a prisoner being placed on report (The Scotsman, 8 September 1988).

The decade ended as it had begun with prisoner protest, violence, disruption and hostage incidents commonplace throughout the penal system. The SCCL (1987:7) reported:

In the absence of any substantive policy on imprisonment, the prison authorities have adopted a policy of crisis management. It is in this context of official inaction that prisoners own highly visible protests must be seen.

Campaign and reform groups and academic researchers called for a full public inquiry but the Government and the prison department remained adamant that the unrest was caused by a minority hard-core of violent men determined to cause maximum disruption within the system. Malcolm Rifkind consistently reaffirmed this explanation as the official position. Scraton, Sim and Skidmore (1991:28) conclude:

On the basis of an argument founded on the existence of a silent compliant majority and ultimate faith in the accountability and administration of the prison authorities, he opted for internal reports and recommendations. If the storm was to be survived by the prison department it would be achieved within the existing organisational structures, using the very mechanism

which had been found wanting. Effectively the door was closed on public debate and unofficial participation.

Conclusion.

This chapter has examined multiple problems and pressures faced by the SPS throughout the 1980s. For some, these problems culminated in a 'crisis'. Eddie Frizzell (1993), Chief Executive of the SPS outlined the key factors in the Scottish Prison crisis as follows: overcrowding; the endless spate of serious disorders; low staff morale; reduced public confidence in the system. While a crisis was evident during this period, the problems experienced within the SPS were not new. Overcrowding, differential regime opportunities, poor conditions, low staff morale, deaths in custody, prisoner protest and unrest had each been evident throughout Scotland's penal history as documented in Chapter One. More appropriately, this chapter shows that the SPS had experienced a 'creeping malaise', added to by new problems (ie the wider availability and use of drugs within prisons). The apparent managerial and institutional impotence to act in the face of such problems was clear until the explosive events of the 1980s when the pressures became too strong to ignore.

In suggesting that the problems of the SPS were not confined solely or unique to the 1980s, a more thorough analysis of the functions, purpose, success and legitimacy of imprisonment is required. Cavadino and Dignan (1992:30) outline the main factors which collectively contribute to the crisis of legitimacy in the penal system:

The crisis of legitimacy is at least threefold. The penal system needs to legitimate itself with three groups of people: with the public (including politicians, commentators etc.), with penal staff (including prison staff and

probation officers) and with the penal subjects (prisoners, probationers and others who are subject to penal treatment)... Failing to satisfy the sense of justice of these different audiences leads to the alarming visible 'symptoms' of the crisis; political problems, industrial relations problems, malaise among prison and probation staff, and disorder amongst prisoners.

The preceding section documents prisoner protest and unrest leading to persistent and serious disruption of Scotland's prisons throughout the 1980s. Throughout this period prison staff experienced a loss of confidence, reduced morale and an intensification of industrial relations problems. This was well illustrated at Barlinnie prison throughout 1987-1988.

During this period substantial numbers of prison officers were signed off work, many long term. At times a third of all discipline officers were absent from work. The Governor, Alan Walker, was widely reported as stating that much of the illness was due to "stress related nervous debilitation", undoubtedly after months of tension and confrontation at the prison (Glasgow Herald, 8 February 1988). This, in turn, had created a significant loss of confidence. Fitzgerald and Sim (1982:11) describe low staff morale and poor industrial relations as a 'crisis of authority'. They argue that such a 'crisis' emerged in British prisons as a result of progressive developments in penal policy which undermined the authority of prison officers. They state (ibid:11):

In seeking to re-establish this authority, prison officers have conflicted with prisoners, governors, prison department officials, outsiders brought in to perform specialist tasks within the prison system, and even their own union, the Prison Officers' Association.

The 'crisis of authority' was underpinned by : increased conflict with prisoners; hostility towards penal reformers or any outside commentators on penal affairs; uncertainty over the nature and role of the prison officer; worsening relationships

between uniformed officers, governors and prison department officials. In examining the political problems associated with imprisonment, Fitzgerald and Sim refer to the 'crisis of legitimacy' as the "final and most important aspect of the crisis in British prisons" (ibid:23). Relating this crisis to the abolitionist movement they critique the nature, uses and role of imprisonment. They propose that the nature of imprisonment is characterised by: the squalor of overcrowding; the failure of the prison system to provide humane conditions and adequate constructive regimes; the realities of penal policies and practices which not only dehumanise and degrade but also legitimate violence and brutality; a body of rules imposed at the uninhibited discretion of prison officers and governors, often denying basic rights and privileges (the 'crisis of conditions and containment'). Further, they examine the evidence that prisons do not work, demonstrating that recidivism statistics reveal that the majority of prisoners re-offend and are re-convicted within two years of release. Bottoms (1980) makes the related point that the crisis of legitimacy is founded on the collapse of the rehabilitative function of imprisonment. This function has dominated penal philosophy throughout the twentieth century and its failure has raised serious and persistent doubts over the plausibility of the system. If prisons no longer claim to 'treat' or 'train' prisoners, to 'cure' their criminality, then the system requires new forms of legitimisation.

Further, is the question of accountability within a social democracy. It is important that all aspects of prison life are shown to be answerable and accountable to 'wider society'. There are a series of issues which affect prisoners' lives regulated by and subject to the discretion of prison staff at all levels. That this regulation and discretion

takes place behind prison walls and within a bureaucracy which demands secrecy and maintains invisibility, indicates the need for a public, visible system of accountability. In theory, prisons appear to be 'open' to scrutiny via the formal system of accountability which includes Visiting Committees, the independent Inspector of Prisons, Local Sheriffs, the Parliamentary Commissioner and Procurator Fiscals, each of which has access to prisons and the power to make reports and recommendations. Yet there is substantial evidence to suggest that in practice this power is rarely exercised and prisons remain autonomous institutions exerting tight control of the flow of information both internally and externally (SCCL, 1987:24).

In examining the role of imprisonment Fitzgerald and Sim (1982:24) point to a more, "fundamental political crisis which transcends the prison walls". They argue that the role of imprisonment must be understood by locating the emergence and development of prisons within the wider context of the social, political and economic arrangements and structural relations within society. They conclude:

The crisis of the British prison system thus reflects not simply a concern about the state of the prisons, but a more widespread belief that the prisons of the State are not making an effective contribution to the maintenance of social order.

(Fitzgerald and Sim, *ibid*:24).

CHAPTER FOUR

OFFICIAL DISCOURSE VERSUS ALTERNATIVE ACCOUNTS: UNDERSTANDING THE MALAISE THROUGHOUT THE SCOTTISH PRISON SERVICE

Introduction.

Voices of prisoners have long been ignored within Criminology and by official inquiries and research. Traditionally, knowledge of prisons and imprisonment was shaped by official discourse presented by the Home Office, Scottish Office and Prison Departments. Official discourse, often expressed through Reports and Inquiries, imparts knowledge. Based on scientific, medical, or legal 'facts', this knowledge is considered neutral and objective. Official Reports and Inquiries are characterised by their status, public nature and advisory role, each proclaiming 'impartiality'. Official discourse then, presenting the 'view from above' has dominated the construction of knowledge concerning prisons and has influenced penal theory, policy and practice for over a century.

As discussed earlier, Foucault (1977) explores the connections between power and knowledge in his examination of 'the power to punish'. Professional discourses which are institutionally grounded allow those in possession of knowledge the power to define, make statements and attach meanings to particular events in a particular context. For both Foucault (ibid) and Mort (1987), discourses, knowledge and power are inter-related. Mort (ibid) argues that discourse embodies knowledge and that knowledge embodies power. As Foucault (1977:27) states: "Power and knowledge directly imply one another". Coleman (1990:5) in arguing that official discourse reflects and is part of structural power relations states, "official discourse is grounded in definite structural power relations and does not represent the language of 'objectivity' or 'neutrality'".

Official inquiries and reports are limited in scope, the parameters for debate often being narrow. Consequently their analysis of events can be selective and partial, with the voice of the powerless (ie the prisoner) absent from the debate. As Scraton, Sim and Skidmore (1991:4) comment:

Opportunities to speak out about imprisonment, the conditions, the treatment and the regimes are rare. They come in rolled up pieces of paper passed mouth-to-mouth as visitors kiss goodbye and, occasionally, they are draped from prison windows or shouted from the rooftops.

Cohen and Taylor (1979) document the difficulty in establishing and sustaining open, critical and independent research into prisons in an attempt to present alternative discourses. However, throughout the late 1970s and 1980s the monopoly of official discourse was challenged by academics, ex-prisoners and campaign groups (ie Preservation of The Rights of Prisoners (PROP), Radical Alternatives to Prison (RAP), Women in Prison (WIP), INQUEST) emphasising the need for independent inquiries into prisons. Such independent inquiries and research often receive little funding or support from state agencies. Given the 'oppositional character' of critical research, this is not surprising. Its significance is to be found in the testimonies of the individuals, groups and communities being studied. It is in presenting the 'view from below' that such research gains its legitimacy.

This chapter, divided into two parts, examines both official and alternative explanations in order to account for the specific problems within the Service identified earlier. The SPS described, in statements and official reports and enquiries, the 1980s as a period of 'crisis' which needed explanation and analysis. In 1991, John Irvine, the Deputy

Director of Planning and Development of the SPS (Personal interview, June 1991) claimed that population changes between 1984-1986, a period which saw a 21% increase in the overall prison population and more people sentenced for longer periods, resulted in a significant increase of long term prisoners. He considered this a result of a trend within the judiciary to view offences, especially drug related offences, more seriously. Linked to this were the changes to parole policy, the intention being to look less favourably on those committing crimes of violence, armed robbery or against the police. These factors combined with the differential progress in the development of regimes led to prisoner unrest and protest and therefore “fundamental problems” were raised. He considered 1987 to be a crucial year for staff unrest with the introduction of Fresh Start and Grand Design. Fresh Start brought changes in working practices effectively abolishing overtime, which had been financially beneficial to officers. With Grand Design changes were made to the prison estate and the function of a number of establishments, this led to staff transfers and substantial numbers having to work with prisoners with whose needs they were unfamiliar.

John Irvine considers the 1980s as a period in which the SPS was pursuing the recommendations of the 1979 May Report. Coyle (1991) however, discusses the indifference and lack of commitment to the recommendations. While the Scottish Home and Health Department appointed two administrative Civil Servants to set up a May Report Unit, with internal working groups considering various aspects of the Report, the subsequent reports produced by the working groups never appeared. It seemed that a review of the SPS was considered inappropriate or unnecessary.

Peter McKinlay, the Director of the SPS, stated: “In 1990 prisons are a disgrace, the wrong kind of buildings are in the wrong place” (Personal interview, June 1990). At the Prison Service Training College, the Deputy Director of Training, Bill Fearnley, stated that: “During the mid to late 1980s the SPS had lost control” (Personal interview, 1991). Rod MacCowan, the Head of Core and Operational Training, agreed stating that the SPS had: “lost control in administrative ways as well as in long term prisons” (Personal interview, June 1991). In 1992, Mike Duffy, then Head of Planning at the SPS Headquarters described how the Service had lost “public and political credibility” and was “looking into a pit”(Personal interview, June 1992). He further commented in 1993 that the 1980s had witnessed an “explosion” and that the SPS “couldn't hold it any longer” (Personal interview, June 1993). Following realisation of the seriousness of the problems facing the SPS it became clear, as Mike Duffy commented in 1993, that change was imperative. Yet, as he stated traditionally the SPS had not been a questioning agency. In future, however, all established procedures had to be questioned - “the old ways required examination” (ibid).

Further pressure for change came from other official reports, notably the suicides at Glenochil and the prisoner protests at Peterhead. These resulted in the publication of the Chiswick Report and a HM Chief Inspectorate Report respectively.

John Steele, provides a frank and chilling account of life inside Scotland's prisons as a long term prisoner:

It is time we opened our eyes. Our prison system is geared to torment its human stock, to lock us away in concrete tombs and cages, degrade us, strip us of our identity, punish us mentally and physically, and leave us to rot and die a thousand deaths in the space of years or even months. With its constant misery, pain, deaths, psychiatric hospitals, and of course riots and escapes, the system has failed prisoners and society.

(Steele, 1992:viii).

Steele's autobiography is one of a number written by prisoners in recent years (Boyle 1977, 1985) providing direct accounts of life and experiences behind bars in Scotland. In these accounts prisoners articulate and express their feelings, desires and motivations about their prison experiences and different strategies adopted for 'serving time'. Their analyses of the prison system and of those working within the system are thorough and systematic, exposing not only the futility of imprisonment but also the destruction of self, identity and humanity. Attempts to restore dignity, meaning and self-worth are graphically portrayed in these texts which in themselves are a testimony to their authors - a 'view from below'.

It was within the context of drawing on prisoners' experiences and testimonies that the Gateway Exchange in Edinburgh decided to set up an Independent Inquiry into the events at Peterhead Prison, aimed at providing a broad, analytical account of the origins and development of the regime. It drew on information from a wide range of individuals, organisations, documents and publications. Most significantly, the Inquiry sought to contact as many prisoners as possible who had been in Peterhead during the protests to secure their accounts. Prisoners were invited to complete an extensive questionnaire and to 'write up' personal accounts. The subsequent report, The Roof Comes Off, placed the events at Peterhead analytically within their historical and

political contexts and detailed prisoners' experiences of the Peterhead regime. Following the publication of the Independent Inquiry, three of the Inquiry team members, Phil Scraton, Joe Sim and Paula Skidmore, published a further account which relied heavily on the experiences and views of prisoners. Prisons Under Protest, in examining long term imprisonment in Scotland is, "unequivocally about the unheard voice of the underdog" (Boyle, Forward to Scraton, Sim and Skidmore, 1991:vii). He continues "The contents vividly remind us that there is another story which until now, has remained untold - that of the prisoner".

As part of the SPS strategic planning process, the Central Research Unit undertook a survey of all staff and prisoners in Scottish prisons, to, "assess standards, to measure the atmosphere and relationships in prison, and to discover how staff and prisoners want to see the SPS develop in the future" (Wozniak and McAllister, 1992:1). The questionnaire survey was administered in late 1990 and early 1991. While it aimed to solicit the views of staff and prisoners on issues including conditions, facilities, relationships and atmosphere, its broader remit was to feed these views into the prison planning process. This 'in house' research had a response rate among prisoners of 65% and among staff of 40%. Using official and alternative sources, this chapter will present competing explanations to account for the structural malaise within the SPS.

Official Discourse: The 'View from Above'.

Overcrowding and Conditions.

The previous chapter documented the increase in numbers of those imprisoned for petty offences, particularly fine default and of those serving long sentences throughout the 1980s. That the 1979 May Report drew attention to the problems of overcrowding and recommended alternative non-custodial disposals as a solution, appeared to be of little consequence to sentencing trends throughout this period. These trends were influenced directly by the Home Secretary's proposals in October 1983 at the Conservative Party Conference. Leon Brittan delivered these proposals following a year of significant unrest within the long term prison population in the United Kingdom. (1).

Drawing on populist notions and his Party's political agenda that crime, particularly violent crime, was out of control, Brittan set an agenda for tougher law and order policies. He told the conference:

“Tackling lawlessness and disorder is, of course, my top priority....is more than just my top priority. In our first term of office the fight against the evil of inflation was the Government's most fundamental task. I believe that in our second term the fight against crime is the key task of all. There is today a great wave of anger against the wanton violence which disfigures our society. That anger is not confined to this conference and this Party. It is real, it is genuine. I share it to the full”.

(in Sim, 1985:14).

A further popular assumption was that the courts had become 'soft on crime', imposing fewer and more lenient sentences. While these claims were questionable (2), violence

and dangerousness were sensationalised to imply that law and order had broken down and what was needed was greater regulation, discipline and authoritarianism.

Against this powerful ideology and imagery, Leon Brittan announced proposals to alleviate leniency in sentencing procedures. He recommended that no life sentence prisoners should be released without the confirmation of the Home Secretary, that for some offences life would mean life, that the murder of police officers, prison officers, and children would carry sentences of 20 years as would those committing armed robbery or terrorist murders. Crucially for long-termers he announced changes to the parole system so that those sentenced to more than five years for violence to the person would not be released on parole (Scruton, Sim and Skidmore, 1991). The proposals also clearly had wide reaching implications for the size of the prison population.

In Scotland the Chief Inspector of Prisons considered the impact of the parole changes on those serving long sentences:

For many VLTPs (very long term prisoners), hope of parole after serving one-third of their sentence is a major incentive towards good behaviour. But the change in the rules of parole....has resulted in loss of hope by many VLTPs....The objective in changing the rules for parole was to deter serious crime but within the prisons the man of violence becomes a 'no-hoper' may also become a serious danger to prison officers and other prisoners.

(Scottish Home and Health Department, 1987:15).

As stated previously, SPS officials consider that the early 1980s law and order campaign led to longer prison sentences, creating overcrowding in Scotland's prisons. Overcrowding had consequences for physical conditions and regime opportunities.

Longer sentences, with little chance of early release, created a prison population experiencing hopelessness, despair, frustration and anger.

Staff Unrest.

Coyle (1991:14) states that, "It is necessary....to examine the prison system as an organisation, containing both captors and captives who interact with each other". He concedes that little attention has been paid to staff overtime, either in academic research or within the prison service. Consequently, "Officers have seen their duty as being to carry out the legal requirement to deprive prisoners of their liberty" (ibid:13). The role of the prison officer is often ambiguous, caught between the demands of control, security, containment and discipline, and the welfare and care of those in their control.

In discussing the events throughout the Service in 1987, described as "a year of turmoil", the Chief Inspector of Prisons for Scotland specified the conflicting and complex role of the prison officer:

These changes and events around the Service have accelerated the rate at which the role of the prison officer has been developing and evolving in the past few years. At one end of the scale, the officer has to be prepared to cope with attacks from groups of prisoners, either psychological or physical, while at the other extreme he has to be able to show special care for the weaker prisoners, some of whom may be suffering from mental disorder or have personality defects. Between these extremes there is the much larger number of prisoners who normally conform with the regime but who need some help to meet their problems inside and outside the prison.

(Scottish Home and Health Department, 1988a:5).

Throughout the 1980s with an increase in staff militancy, deteriorating industrial relations and an unprecedented increase in staff absence due to illness, prison officers were not prepared to accept their working conditions, questioning their role and place in the SPS. Recognising the problem the HM Inspectorate Report on Shotts prison (Scottish Home and Health Department, 1989a:14), stated that prior to 1988, “it was stated staff control did not exist, inmate regimes were “wide open” and constantly abused, and staff morale was at rock bottom” (ibid:14). Many reasons were given for these circumstances including: a shortage of staff; the sudden arrival of large numbers of prisoners than could be integrated; the negative attitude of many of those arriving; the size of worksheds, where prisoners outnumbered staff; the design and layout of parts of the prison militating against staff control and supervision.

The Chief Inspector’s 1987 Report recorded concern at stress levels among staff that had been noted by the 1987 Peterhead Inquiry. He recognised that the problem was also being experienced in other institutions, citing Barlinnie Prison where sickness levels up to 25% were reached following a series of incidents. The Chief Inspector’s 1988 Report returned to the issue of high levels of staff sickness and absenteeism caused through stress and concern for safety. He also made the link with the introduction of Fresh Start. This point was reiterated in the HM Inspectorate Report on Glenochil prison (Scottish Home and Health Department, 1988c:60) which concluded, “that virtually from the inception of Fresh Start, staff sickness rose significantly and with removal of overtime as a means of meeting shortfalls in staffing, most establishments struggled to maintain staff levels”.

It had been hoped that Fresh Start would provide the opportunity to develop the role and skills of the prison officer (Scottish Home and Health Department, 1987:7). Introduced in 1987, the initiative's changes were wide-ranging. Attempting to introduce a new managerialism into the service, structures were formulated to give a clear role to middle managers responsible for a team of officers. Overtime hours and payments were abolished and the concept of officers' working set hours each week for an annual salary was introduced. The changes were quickly implemented at a time when the SPS was experiencing high levels of prisoner unrest and adjusting with the changing role of establishments under 'Grand Design'. With little opportunity for staff training, problems were inevitable and the Chief Inspector referred to these as, "teething troubles" (Scottish Home and Health Department, 1988a:8). The problems were evident particularly with middle management grades. Chief and Principal Officers were faced with major changes in their role, much of which they were ill-equipped to deal with due to lack of training, knowledge and experience. Many prisons also experienced difficulties in balancing officers' hours to meet the needs of the establishment. The Chief Inspector concluded:

As a package measure, we believe Fresh Start offers many good features....However, we must say that early signs are that unless the vexed question of staffing levels is resolved at an early date, the requirements of Fresh Start will result in serious difficulties for the proper running of penal establishments....Already there are signs of frustration among staff which could easily lead to low morale and in some establishments there are indications that inmate regimes may have to be curtailed. This is a precarious combination and, if allowed to run unchecked, the risk of further disruption must be increased accordingly.

(Scottish Home and Health Department, 1987:8).

To assess the views of staff and prisoners about prison regimes and their operation the SPS Central Research Unit was asked to undertake a comprehensive survey in August 1990. The Prison Survey (Wozniak and McAllister, 1992) was published in March 1992. Although staff considered that the quality of relationships in prisons were good, with a more relaxed atmosphere than the troubled 1980s, there were a number of unresolved problems. Although 81% of officers reported enjoying their job (ibid:2), they expressed considerable dissatisfaction with conditions and facilities. These ranged from concerns over facilities provided for specific duties such as writing reports (70%), facilities for changing clothing before and after work (70%) and inadequate eating facilities (66%) to inadequate shower facilities (66%) (ibid:1). The survey revealed widespread discontent with communications in the SPS. Peter McKinlay, the Director of the SPS expressed anxiety concerning the “gulf.....between people running prisons and those at Headquarters” (Personal interview, June 1990). He noted a “cultural identity problem” because many civil servants at Headquarters had never worked in prisons (ibid). Poor communication was also frequently cited as a problem in the annual Chief Inspector’s reports, for example the 1989 Report commented that many basic grade staff “felt left in the dark on most policy matters....” (Scottish Home and Health Department, 1990a:7). The 1991-92 Report stated, “we were concerned at the apparent gulf which had developed between the tiers of local management and between Governors and Headquarters” (Scottish Home and Health Department, 1992:5). Also prevalent was “the impression that Governors sometimes felt isolated and ill-informed on policy and development issues and that this affected the quality of information and communications at local level” (ibid:5).

The most important staff observation in the survey was poor communications at all levels within the Service. Only 17% felt that the Service was good at communicating its new ideas to staff and 44% considered that their suggestions concerning the running of the prison would be ignored by senior management (ibid:2). Two further staff concerns were compulsory transfer and physical safety. Although staff understood that they were liable for transfer anywhere in Scotland, only 43% stated that they would move willingly if transferred. 60% of staff stated that at some point in their career they had been worried about their physical safety (ibid:3).

Staff were not prepared to accept poor working conditions. While Fresh Start attempted to alleviate staff problems, its inception was ill-considered and ill-timed, further deepening the staffing crisis. The hierarchical culture of the SPS was criticised and communication at all levels were considered inadequate. Above all the ambiguous role of the prison officer, the dichotomy between discipline and care, remained unresolved. Taken together these factors led to a crisis in staffing which, although officially recognised, had been inadequately identified, analysed and resolved.

Prisoner Protest and Unrest.

Coyle (1994:91-92) records that by late 1987, “there was a real fear that the whole structure of the Scottish Prison system might collapse” and that there “was a belief that these incidents were being orchestrated with the precise aim of bringing the system to its knees”. The task of the SPS was to identify and manage those deemed responsible for incidents of indiscipline and destruction. As most events had occurred in prisons

housing long term prisoners they became the focus for scrutiny. Official reports and commentaries universally focused their explanations and analyses on the principle of a few “bad apples” who “manipulate an otherwise quiescent prison population into confrontation, disturbance and demonstration” (Sim, 1985:11).

The Chief Inspectorate Report for 1986 emphasised the problems of dealing with “very long term prisoners”, whose numbers had increased. It noted that they were young men with a background of incarceration as young offenders for violence and drug offences. The Chief Inspector reported: “A proportion do not accept their sentence and enter prison in a bitter, unco-operative frame of mind. As such they are liable to be disruptive, anti-authority and may inflict physical injury on prison officers or other prisoners” (Scottish Home and Health Department, 1987:15 para 8.4).

While recognising that other prisoners suffer from ‘personality disorders’ and that parole changes had a significant, detrimental impact on long term prisoners, the Report identified “the man of violence who becomes a ‘no-hoper’ (who) may also become a serious danger to prison officers and other prisoners” (ibid:15 para 8.7). At the time of the HM Inspection of Glenochil Prison in 1988, the prison was recovering from serious disruption by long term prisoners and a ‘lock down’ (3) had been in operation for four months. The Report contextualised this lock down by referring to the arrival of large numbers of adults following the closure of the Young Offenders’ Institution at the Complex. It maintained that the decision to lock down was “almost inevitable” (Scottish Home and Health Department, 1988c:12): “Many of the arriving adults, far from appreciating the enhanced living accommodation being afforded them, took every

opportunity to air grievances, real or imaginary, and also began acting in concert in attempts to intimidate staff and force management to make regime concessions” (ibid:12-13).

Referring to this intimidation, the Report commented that some prisoners “revelled in the climate they were creating” and preferred “confrontation to co-existence” (ibid:13). While identifying a minority of “recalcitrant prisoners” (ibid:14) as responsible for coercion, intimidation and bullying, the Report considered this minority could cause disruption only because of the “compliance or concurrence” (ibid:66) of the vast majority. According to the Inspectorate, the final catalyst leading to disruption was an official embargo on visits. The ensuing damage and destruction was widespread throughout the prison, “as to be virtually all encompassing” (ibid:65). The Report concluded:

It is a fact of prison life that always within any prison community or grouping, will be those who seek to confront or usurp authority; who will abuse any privilege; who will seek to undermine any system; who will act only in their own selfish interest; and who will intimidate and threaten their peers for their own ends. We should not be surprised therefore that those so described existed at Glenochil and acted entirely in character.

(ibid:65).

As with the Glenochil Report, the Inspectorate Report on Shotts prison (Scottish Home and Health Department, 1989), in referring to an incident in September 1988, focused on the behaviour of a minority. Staff lost control and the prisoners began to “assume unwarranted and unauthorised ‘authority’” (ibid:6).

As noted earlier, Peterhead Prison was the scene of major disturbances and, like Glenochil and Shotts, was subject to internal inspections. The 1982 Report on Peterhead was critical of welfare, work, dining and recreational facilities at the prison but placed responsibility for the violence on a small number of prisoners prepared to create violence and endanger the lives of others (in Scraton, Sim and Skidmore, 1991). Following events at Edinburgh and Peterhead prisons during 1986, the Secretary of State for Scotland ordered an internal inquiry to be carried out by HM Chief Inspector of Prisons. His remit was to investigate the, “nature, extent and validity of general grievances indicated by prisoners at HM Prison, Peterhead about conditions and treatment of inmates” (Scottish Home and Health Department, 1987b:Preface). Throughout the eight week investigation, 240 staff and prisoners were interviewed about all aspects of Peterhead and its regime. While recommending a greater range of activities for work and recreation, and improved catering facilities, overall the Report noted a general satisfaction with the Peterhead regime. Under a section on the daily routine, the Report stated that, “Contrary to popular myth, the macho, austere and uncaring image of Peterhead Prison and its staff and inmates bears very little resemblance to the truth” (ibid:18). The Inspectorate found no evidence of the physical maltreatment of prisoners. Further, it concluded “it is very difficult to conclusively verify such an intangible as ‘mental brutality’” (ibid:20). Finally it did, “not believe there is a concerted campaign by staff against the inmates but it may well be that some staff, quite unwittingly, are causing the more fretful inmates further discomfort and we mentioned this possibility to the Governor” (ibid). The medical and nursing staff supported these findings, assuring the investigating team that, “.... had there been any physical maltreatment of prisoners, this could not have been overlooked by them as

every injury received by inmates or staff must be formally recorded” (ibid:35). Despite interviewing staff and prisoners, the prisoners’ views were absent while staff views and experiences were given full chapter.

Officers were emphatic that there was no physical abuse of prisoners at Peterhead, but reported prisoner assaults on staff. Many spoke of the injuries they had received and criticised trivial punishments imposed on prisoners. Officers attributed the problems at Peterhead to a “hard core” of disruptive prisoners, mainly: “young men who do not accept their sentence” (ibid:66). These assertions were re-affirmed when the Inspectorate concentrated on “dangerous” and “difficult” prisoners. The source of the more serious incidents at Peterhead was identified as being a, “very small minority of the inmate population, pernicious by nature and often volatile in temperament” (ibid:78). This minority continues, “to kick against ‘the system’ and show anti-authoritarian and disruptive behaviour” (ibid:85).

Common to official discourse on prison protest and unrest, is the emphasis on individual pathology. The concentration on ‘dangerous’, ‘difficult’, ‘subversive’, ‘recalcitrant’, ‘evil’ and at times ‘mentally disturbed’, diverts attention from the operational policies and practices within prisons (see Macdonald and Sim 1978; Sim 1985, 1991; Scraton, Sim and Skidmore 1988, 1991). This emphasis is typified in a statement by the Secretary of State for Scotland, Malcolm Rifkind in October during the Perth hostage taking:

“I think the real point to make is that whatever the regime be it harsh or liberal, be it in an old prison or a modern prison there will always be a tiny number of individual prisoners who are violent, who are psychopaths who are in prison precisely because of their dangerous proclivities and we shouldn't

perhaps be too surprised that they do not cease to be violent from the moment they enter the prison gates. What we have to do is to minimise indeed try and remove entirely the threat they pose not only to the public and to the prison officers but very often to other prisoners as well ...”.

(Scraton, Sim and Skidmore, 1991:5).

Having identified the ‘problem’ population, the issue becomes their effective management. The Chief Inspector’s 1987 Report on Peterhead recommended that disruptive prisoners be moved to small units with non punitive regimes in which good staff-prisoner relationships could be fostered and personal attention be given to long term prisoners. This style of management was not new to the SPS. The Inverness Unit, opened in 1986, the Barlinnie Special Unit opened in 1973, and two units opened in Peterhead in 1984 (4), each intended to create alternative environments and regimes for ‘difficult’ and ‘disruptive’ prisoners.

According to Coyle (1994), it was decided to segregate all prisoners responsible for disturbances throughout the Scottish penal estate, removing them to Peterhead Prison. Coyle notes the irony, given the level of unrest and allegations of brutality at Peterhead. By 1988 approximately sixty men considered “violent or subversive” (ibid:92) were held at Peterhead, labelled the “most dangerous” men in the Scottish prison system. Held under Prison Rule 36 they were kept in virtual isolation, each dealt with by no less than three staff, wearing body armour, riot helmets and carrying perspex shields. The justification for the use of segregation, and the imposition of Rule 36 was simply the containment of the ‘men of violence’.

The 'View from Below': Prisoners Explanations and Alternative Accounts.

Autonomy, Privacy, Regulation and Routine.

John Steele (1992:129) describes his first experience, aged sixteen, of the reception area at Barlinnie Prison where he was kept en route to Borstal:

In the reception area there were 'dog boxes' for holding prisoners while they're getting undressed and changing into prison attire. Sometimes as many as four guys are kept in them for hours on end. The seat was only large enough for two, so prisoners took turns to sit and to stand. If you can imagine yourself in a box in which you cannot spread your arms without touching the sides, with no window, one dull light hanging overhead and the door locked from the outside by a steel bolt, then you'll know what I mean when I say it was very uncomfortable and degrading. Some guys couldn't stand it for long and would try kicking the door down; they'd end up getting a severe beating from the warders. It was horrible being in that little dog box listening to the squeals of some guy getting beaten up. The warders could be heard shouting and running, their heavy boots crashing on the floor and their keys jingling.

Jimmy Boyle (1977:85-86) also experienced Barlinnie Prison at the age of sixteen. He recalls the procedure following his wait in the 'dog box':

I was called out and taken in front of a desk where a screw told me to undress in front of all these other screws and "trusties". I did so while he marked all my personal belongings and property onto a card. I was then asked a series of questions: Have you ever been in a mental institution? Ever had venereal diseases? Any insanity in your family? A long list of questions while I stood there with a towel wrapped around my middle. I was then given a bath - we were only allowed three inches of water which a "trusty" measured out with a key that he had for the taps. After a couple of minutes a screw came along telling everybody to soap off. At first I thought he was joking - I hadn't had any time to put soap on.

The prison routine following admission and reception is derived in wider concerns about security, order, regulation and discipline. Despite periods of work, exercise and

recreation, The Report of the Independent Committee of Inquiry (1987:48) report that most prisoners spend the time alone, locked in their cells reading, writing, listening to music or the radio or exercising. Many prisoners report lying and staring at the ceiling for long periods of time, reflecting on their past experiences and looking towards the future. For many these times are the most painful. As one prisoner wrote in a letter to Jimmy Boyle (18 February 1987): “Guys are reaching for the Largactil to ease the boredom and pressures of the regime. This jail, it’s full of insane men, but not violent, they are left with nothing to do, not a thing”.

Scruton, Sim and Skidmore, (1991:48) argue that the “fixed rigidity” of the routine has a profound psychological effect on prisoners. On entering prison, they relinquish their autonomy and the power to direct their own lives through personal responsibility and decision-making processes. There is no privacy and prisoners are kept under constant surveillance by prison officers and security cameras. Prisoners responding to the Independent Inquiry recorded a lack of privacy, particularly: cell searches; personal searches; security camera surveillance; censorship of mail; toileting facilities. Typical comments were:

There are too many people living in too small a space and screws have the right to enter your cell and search through personal property, all in the name of security...The only privacy I have is when I am locked up behind my door at night. You can’t even have privacy when using the toilet or having a shower or a visit.

Lack of privacy causes stress....There’s the deep down feeling that it’s all deliberate.

(The Report of the Independent Committee of Inquiry, 1987:50).

Jimmy Boyle (1984:248) describes his humiliation over the censoring of mail:

A staff member goes to the small wooden mailbox, opens the flap and takes out the mail. He comes to the toilet area where there is a small table, puts the letters down and begins censoring them. I have written one to Sarah. My eyes keep straying towards him as he reads letter after letter. Watching this I feel as though part of me is being raped.

Prisoners regarded as a security risk, particularly Category A prisoners, are subject to more rigorous measures and routines. This includes: strict regulation and recording of movements; a denial of education, work and recreation facilities; cell lights burning throughout the night. The following comments to the Independent Inquiry are typical:

Searches sometimes nine times a day. They just barge into your cell or look through the spy-hole. I suffer more because, for some reason known to no-one, I am a security prisoner.

For the past three years, four months, I have had my light on in the cell twenty-four hours and have a prison officer specially assigned to monitor my movements at his discretion (Strict Escapee/Category A Prisoner).

(The Report of the Independent Committee of Inquiry, 1987:50).

John Steele (1992:281), also an escapee described his feelings of anger and despair while on segregation in the Cages at Inverness:

The door on the toilet cubicle was only about two and a half feet high, enabling the warders to see the prisoner's head, shoulders and legs. It was disgusting and degrading: they stood there looking on, and it was even worse when they all stood there in silence, listening.

Lack of privacy, strict supervision and regulation, and boredom combine to humiliate prisoners, creating despair and depression:

At times when things get on top of me, I could be doing with some place quiet to go to by myself to get my head squared up. Quietness is hard to find in prison.

When you really need time on your own, you can never be alone at all, anywhere.

(Prisoners comments to The Report of the Independent Committee of Inquiry, 1987:50).

Physical Conditions - Overcrowding, Hygiene, Sanitation.

Jimmy Boyle (1977:86) vividly describes the physical conditions of his first remand cell at Barlinnie:

There was a single bed which was a board nailed to the floor, and a bunk which swayed at the slightest movement and I got the bottom bed there. The blankets were filthy with lots of burn holes from guys smoking. The cell was filthy and there was an overwhelming stench of urine that came from the three stained chamber pots in the far corner. There was no escaping from this stench. There was a table that we were to use for eating on but it was covered with dog-ends. There were three old mugs and these were for our water to last us through the night and for our tea when it came round....The prisoners were locked up twenty-three hours a day and allowed out for half an hour in the morning and afternoon to walk around the prison yard.

Much of the accommodation in male prisons is inadequate. The Independent Inquiry into conditions at Peterhead found that while many prisoners described the general physical conditions and standards of hygiene and sanitation as “unsatisfactory”, others used the terms “diabolical” and “atrocious” (The Report of the Independent Committee of Inquiry, 1987:42). One prisoner noted:

The conditions are inhumane and barbaric, dehumanising, counter-productive in the ‘imaginary’ sphere of reform. Geared simply towards cheapest possible confinement and maintenance and maximum industry.

John Steele (1992:300) describes the condition of his cell while on solitary and during a dirty protest at Peterhead:

There were hundreds of flies in my cell because of the shit and stench, and they were breeding. They swarmed all over my food; when it was dark I could hear nothing except the flies buzzing around. I would spend hours killing them and throwing the maggots I found amongst the food slops in my cell out of the window. My food was always cold and insufficient, and they wouldn't give me plastic utensils because they said I could tunnel through the walls with them. One of the cells I was moved to was crawling with lice....To stop the lice from crawling on me I set fire to a piece of towel and let it burn out: then I took the burnt black material and rubbed it all over my naked body. I stayed like this until they fumigated my cell and rid it of the lice.

Whilst Steele's account could be described as an extreme example, the 1992 Prison Survey revealed a degree of overall dissatisfaction about levels of cleanliness and the general state of repair of prisons. 37% described the toilets and showers as dirty; 22% and 20% respectively, stated that the halls and cells were dirty and 17% expressed concern over the cleanliness of visiting rooms. While there is variation between prisons over prisoners' assessments of cleanliness, Edinburgh (42%) and Perth (63%) were considered particularly bad (Wozniak and McAllister, 1992:50-51). 43% of prisoners overall expressed dissatisfaction with the general state of repair of the prison estate. This was compounded when asked about levels of heating and standards of ventilation, with 42% and 33% respectively expressing dissatisfaction (ibid:52-53).

Prisoners also expressed concern about the cleanliness of their clothes. The Uniforms, often ill-fitting and uncomfortable, were considered unclean by 35% of prisoners. One prisoner stated:

The state of prisoners' clothes is disgusting. We're given a pair of trousers and they're never changed - we have to wear them all the time. If we get a sweater it's out of pure luck!

(Wozniak & McAllister, 1992:50).

Prisoners' concerns about clothing also relate to its communal use and lack of personal clothes. Equally they are concerned about facilities for personal hygiene, commenting on inadequate facilities, bad repair and inappropriate access.

John Steele (1993:131) describes the reality of sanitary arrangements in his Barlinnie cell which he shared with two other prisoners:

During the night we had to use the chamber pots, but we agreed that if one of us needed to shit we'd do so in a bit of paper and throw it out of the window. This was very common in gaols - there was even a work party whose job it was to collect the 'shit bombs'. We used to hear them hitting the ground below us with a thud. Some guys would shout, 'Bombs away' or 'Cop yer whack for this!' when throwing them out of their cell windows, while others tied messages on their bombs, reading something like 'Best wishes from the Phantom Bomber'. When one of us decided we had to have a shit, the other two would go under the bed covers so as not to cause any embarrassment and to hide from the smell.

Prison Food.

Food is a big problem - lacking in essential vitamins and minerals.

Most of us supply our own vitamins brought from our own wages as the food is all wrong in preparation and very odd, ever had spaghetti hoops for breakfast, or a salad when it's below freezing point outside?

(The Report of the Independent Committee of Inquiry, 1987:43).

The 1992 Prison Survey confirmed that prisoners view most aspects of food and catering arrangements negatively. 47% thought that the way in which food was served

was either fairly bad or very bad. 64% expressed the same feelings about the quality of food and 62% about the choice of menu available (Wozniak and McAllister, 1992:52). Those requiring or requesting different diets were highly critical of the choice offered. Only 7% of prisoners can, at present, cook some of their own food, yet 81% indicated their desire to do so as one possible solution to the current problem (Wozniak and McAllister, 1992:48).

Education, Work and Recreation.

Education provision in Scottish Prisons is limited. Although Rule 68(3) of the 1952 Prison Rules states that: "Every prisoner able to profit by the education facilities provided shall be encouraged to do so" (in *The Report of the Independent Committee of Inquiry*, 1987:47), it appears that few benefit from education. For those who do, the facilities are inadequate and unsatisfactory. The 1992 Prison Survey revealed that 28% of prisoners are involved in either full or part-time education while in prison (Wozniak and McAllister, 1992:48). Access is limited due to too few classes offering a limited choice of subjects, with few classroom resources. Prisoners in Peterhead commented:

Education is poor - not because of the teachers, but the lack of basic equipment, pencils, paper, etc.

Education classes lack the appropriate material.

(*The Report of the Independent Committee of Inquiry*, 1987:47).

Prisoners in Scotland are required to work as a statutory part of the SPS provision. Refusal to work (other than on medical grounds) or unco-operative/negligent behaviour

while at work, is a punishable offence. The range of work offered however, is restricted. One prisoner commented that in Peterhead his: “first 3½ years were spent bored to near insanity in a workshop that had no work to offer”. (Scraton, Sim and Skidmore, 1991:51). For many the experience of alienation is all encompassing: “I sew hems on jackets....it’s really soul destroying to look at blank faces all day. (ibid:51)

The wage structure is also universally condemned by prisoners as humiliating and exploitative, giving the majority little opportunity to save, send money home or buy goods while in prison. The Prison Survey revealed that although wages vary, 70% of all prisoners earn between £2.60 and £4.50 per week (Wozniak and McAllister, 1992:48).

Recreation in prison is viewed by the authorities as a privilege, not a right and it can be withdrawn at any time. Only 19% of prisoners regarded recreational facilities to be of a reasonable standard (Wozniak and McAllister, ibid:53). Many prisoners complain that the facilities are inadequate to cater for the demand and that opportunities for alternative forms of recreation are few. The facilities and opportunities available largely consist of pool/snooker, television, video, darts, board games, reading, writing, chatting and listening to music.

The daily routine consists of a rigid timetable which combines work, recreation, education and lock up. Order, regularity and boredom are endemic within this routine. Scraton, Sim and Skidmore (1991:55) conclude in their analysis of Peterhead prison: “This routine left little scope for individual development because of both the ideological

reluctance within state institutions to provide humane facilities and, more fundamentally, the drive to contain such development within the vice of discipline”.

Prison Staff.

In addition to general prison conditions, facilities and repressive regimes, the ‘quality of life’ of prisoners is influenced primarily by the staff. Within the closed world of a prison, officers at all levels have immense power, influence and, above all, discretion in the direction and style of a regime. As one prisoner commented: “I think the prison officers think they’re hard with their uniforms on....I think their job, the power goes to their head. (Wozniak and McAllister, 1992:60). Scraton, Sim and Skidmore (1991:56) consider that it is institutional autonomy that “enables regimes to be developed at the discretion of prison governors but crucially to be interpreted and operationalised at the discretion of prison officers”.

Prisoners are also concerned about the diverse and unpredictable nature of the treatment they receive. Typical comments to The Report of the Independent of Inquiry (1987:73-74) were:

Some are okay but some are right bastards and treat you like shit.

Nothing can be said to staff in confidence because at the end of the day it would be noted and relayed back no matter how insignificant.

The ‘them’ and ‘us’ relationship dominates prisons with meaningful contact between staff and prisoners virtually impossible. As one prisoner noted:

As virtually all of them are not in the least bit interested in the way I am feeling or thinking about any subject including ways we (us and them!!!) can improve the day to day (year to year!!!) running of prison life and the system in general, tends to make me reluctant to try and form a relationship with

people who have such dogmatic and lethargic attitudes, it is also off-putting that as a body of men they have recently voted unanimously for the re-introduction of the death penalty.

(ibid:74-75).

Regimes.

In order to maintain good order and discipline prison regimes operate under an umbrella of rules and regulations which, although guided by the Prison (Scotland) Rules 1952, are formal and informal. Under Rule 42, a prisoner may be found guilty of “communicating with another prisoner without authority”, “committing any nuisance”, “in any way offends against good order and discipline” or “making repeated and groundless complaints”. These examples illustrate that the rules can be petty, trivial, subjective and, above all, subject to the discretionary decision-making of individual prison officers.

A prisoner in Peterhead described his feelings and frustrations towards the disciplinary system: “The ‘against good order and discipline’ rule is too open and gives them scope to put you on report for what is most of the time virtually nothing more than a slip of the tongue, or merely a reaction to what has been said to you or the manner in which it was said” (ibid:82).

The formal system of discipline operates by placing prisoners suspected of an offence ‘on report’. The prisoner then appears before the Governor who adjudicates in the presence of the prisoner and the officer reporting the offence. Prisoners in Peterhead expressed their concerns about this discipline system:

It’s one-sided. A prisoner can’t put any defence. If an officer says coal’s white, it’s white.

The screw's word is always right...If you choose to speak against the charge....then the punishment is harsher. If you remain quiet, then you are still punished.

(Scraton, Sim and Skidmore, 1991:85).

Many prisoners when initially placed 'on report' are removed to segregation cells pending the Governor's hearing. Solitary confinement can be awarded as a punishment if the prisoner is found guilty. Prisoners painfully recount their experiences of segregation in Peterhead:

Kept in cell for three months with steel plates welded over window to exclude daylight - only allowed mattress and pot for seven weeks - had to wash with prison officers watching, holding riot-sticks.

I've been locked up in this silent cell for eight days....this is not the average silent cell. This is a new addition. When you step into the cell, you see a box. That's the silent cell. Around this is all their strip-lights and big heaters. Also metal straps to keep the heat in. The inside is about three square yards. There are two spy holes and two small air vents. It's a human furnace. I've had headaches all week. Sitting here in this cell is like having a hand clasped around your throat. I find it very hard to breath.

(The Report of the Independent Committee of Inquiry, 1987:73).

John Steele (1992: 211-212) reflects how the punishment block at Peterhead was the pride and joy of officers and was often used as a threat when disciplining prisoners.

Being a mystery to many, its reputation was terrifying:

It stood on its own, a two-story granite building with cells on one side only, eight cells on each floor. Prisoners weren't allowed to mix with anyone - solitary confinement was the main part of the punishment. It was a prison within a prison. It was rumoured that blood was coated into the walls from the beatings handed out there.

One prisoner described the Ten-Cell Unit at Peterhead as 'torture'. He recounted:

In the unit everything you say gets recorded. When you leave your cell there are three screws with you at all times. If you go to recreation there are five sitting with you.

(Extract from prison letter dated 15.5.85).

The isolation and boredom of those in solitary further adds to this torture. Jimmy Boyle

(1977:220) describes these feelings while in the Inverness cages:

Inverness was the prison that I felt most helpless in. It was structured to be that way and built for boredom. Being inside a cage, inside a cell in the solitary block which was only a part of the prison as a whole, made me feel that I was at the very core of isolation. I realised just how alienated I had become.

For many, long periods in solitary confinement lead to considerable distress and, for some, psychological disorientation:

My head aches from morning until night. To put another human being into that silent cell you would have to be pure barbarous. The effects are severe!! The thought of returning to Peterhead is very frightening. I've spoken many times about my feelings and nothing has been done.

(Extract from a prison letter, undated).

Suffering from isolation, alienation, despair and often feeling angry and frustrated, many prisoners become caught in a, "spiral of confrontation" (Scraton, Sim and Skidmore, 1991:85) and violence which then leads to further punishment. As one prisoner explains: "If a man smashes up his cell, there has to be a reason, a problem, personal or otherwise; so why not help him instead of making it worse by punishing him more. (Scraton, Sim and Skidmore, 1991:85).

Prison Violence and Brutality.

The Report of the Independent Inquiry recorded 86% of its sample of prisoners in Peterhead stating that they did not feel safe in prison with 62% recording that fear was a “predominant factor” in their daily lives (Scraton, Sim and Skidmore, *ibid*:68).

Prisoners commented on threats of violence by other prisoners:

I have been assaulted four times by other prisoners two of which left me with large, visible scars for life. All of which made it necessary for me to be housed in the annexe at Peterhead.

No one feels safe in prison. I for one don't. That's why I end up in so much trouble....I fear dying, loneliness, going insane, solitary confinement.

(*ibid*:68).

Inside, the climate of fear and dominance can be total and all-encompassing with nowhere to hide or escape. This fear, however, is not only evident between prisoners but also clearly manifests itself in staff-prisoner relationships. Of those prisoners asked to comment on their experiences of brutality in Peterhead, a percentage declined to answer for fear of their safety. Despite this, 71% recorded that they had experienced assaults by staff and 62% that they had witnessed assaults by staff on other prisoners (*ibid*:69). Prisoners reported that it was often trivial incidents which led to direct confrontation:

During any incident or argument staff are liable to lash out first, due to fear, and this is frightening as it usually involves anything up to 6 of them. Six lashing out with sticks can cause some damage to a person.

(*ibid*:71).

The Independent Committee of Inquiry Report, (1987) concluded that violence was commonplace at Peterhead and part of prison life. However, such allegations and acts were not confined to Peterhead and other sources suggest that such brutality has been endemic throughout the system. After being found guilty of murder, Jimmy Boyle was taken to Barlinnie to begin his life sentence. On being refused access to his lawyer to prepare his Appeal case, he punched the hall Governor and ended up in solitary confinement. His story continues:

A short time later I heard the sound of heavy boots and the cell door opened. There stood the heavy mob all wearing coloured overalls and they told me to take off my clothes. I refused, saying that if they wanted to fight why didn't they get on with it. I was told that there would be no brutality, all they wanted was my clothes for the cops. I thought this over and accepted that they were telling the truth as there was enough of them to beat me up with my clothes on. No sooner had I stripped off than some of them moved in punching and kicking me. I tried to hit back, calling them cowardly lumps of shit. These were shouts of anger, but they beat me to the floor, leaving me in a pool of blood.

(Boyle, 1977:157).

Prison regimes in Scotland over time have established reputations for fear, intimidation, violence and a lack of trust and faith in the procedures for redress and complaint. Scraton, Sim and Skidmore (1991:71) conclude that, "More than any other issue it is this implicit lack of trust which negates the effectiveness of accountability concerning the violence of staff and feeds the climate of paranoia and fear".

The Complaints System.

The 1992 Prison Survey, in acknowledging the need for a fundamental review of grievance procedures, revealed that 53% of prisoners expressed difficulty in seeing the visiting committee; 48% experienced difficulties in seeing a Governor over official complaints; 63% reported access to anyone responsible for handling official complaints (ie the police) was either fairly, or very bad (Wozniak and McAllister, 1992:54). This lack of trust and frustration with the procedure for complaints suggests that initially many prisoners do not complain knowing they are unlikely to gain an impartial conclusion. Others are discouraged from complaining for fear of committing a disciplinary offence under Rule 42 which states that, "repeated and groundless complaints" constitute an offence. This is particularly pertinent in the case of prisoners complaining of staff assaults. As the law requires corroboration, prisoners assaulted are often unable to provide witnesses given that they take place in private.

Inevitably this contributes further to hostility, conflict and confrontation within the prison system. One prisoner concluded:

I wrote petitions, I wrote to members of the Visiting Committee, I wrote to my MP, the Police, the PF (Procurator Fiscal), my lawyer, I had visits from the police and PF....and replies to my petitions and letters. At the end of the day it all turned out to be a complete waste of time....It seems there (are) two types of laws, one for prisoners and the other for staff, prisoners always get charged while the staff don't, plus it all takes months on our part but staff have things moving for them in a matter of days....No, I've never felt happy with the outcome, if anything it's made me more bitter towards certain staff.

(Scraton, Sim and Skidmore, 1991:89).

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(Scruton, Sim and Skidmore, 1991:89).

Visits and Families.

The 1992 Prison Survey recognised access to family and friends as an issue of priority for all prisons, with less than 10% of prisoners describing family contact and visits as 'very good'. The Survey (Wozniak and McAllister, 1992:58) concludes:

...there is considerable dissatisfaction with visits in the prison and concern about maintaining strong links with family and friends. The issues of privacy in visits, length of visits and quality of visits can be addressed from within the prison itself. Broader issues such as cost/distance of visits and the extension of the Home Leave Scheme must also be addressed at a national level.

Over the years prisoners have complained bitterly about the problems associated with maintaining relationships and meaningful contact with those outside. Central to this dissatisfaction is the quality of visits in prison. The number and length of visits coupled with the inflexibility of the system are of concern. A prisoner in Peterhead effectively described the reality of the situation:

Right now I get two visits per month from my girlfriend which is a total of twenty-four hours per year. How am I expected to keep a relationship going by only seeing her for one full day per year? That time will be halved when my mother and sister come home from Cyprus in July. So I will most probably lose her....

(The Report of the Independent Committee of Inquiry, 1987:64).

The inflexibility of the system was noted by another Peterhead prisoner:

I have only had one visit since I came up here in October 1983, that was from my daughter last June when she was only sixteen. She had just found out that I was her father and wanted to see me. I had not seen her for thirteen years. She came up on a Saturday by train - missed the connecting bus and didn't arrive at the prison until 4.40 pm. They allowed me fifteen minutes with her....

(ibid:64).

These problems are compounded for many by the extreme difficulties and cost which families face, particularly when trying to travel from the central belt of Scotland to some of the more remote prisons. For those travelling to Peterhead, the journey can take up to sixteen hours. Such journeys are exhausting and costly. One prisoner commented:

My wife and daughter travel from Dunoon on a Saturday morning arriving at the prison at approximately 2.00pm - fatigued. Our first visit on the Saturday is usually tense and to make matters worse we are separated by a four foot counter topped with eight inches of glass. These conditions are humiliating and only add to the tension.

(ibid:62).

The physical structure of many visiting rooms further reinforces the already tense atmosphere and strained relationship between prisoners and their visitors. In Peterhead there were tables and chairs, but prisoners and visitors were separated by a fixed wooden base on the table and partitioned by glass on all sides. Physical contact is effectively prevented:

My father died and my mother came to visit me to break the news, had to sit in tears while several members of staff looked on, also very frustrating as there was about two foot of wood and glass between us as I tried to console her....

(Prisoner in Scraton, Sim and Skidmore, 1991:97).

76% of prisoners expressed their dissatisfaction at levels of privacy during visits (Wozniak and McAllister, 1992:55). Until the recent installation of pay phones into Scottish prisons, the only other means of family contact for prisoners was through letters. The Report of the Independent Committee of Inquiry (1987:65) revealed that

prisoners had considerable problems with incoming and outgoing mail. They stated that their mail was delayed, withheld and censored, and that staff regularly commented on the content of their letters. Typical of this was the following comment:

Apart from accumulated visits that is, I depend mostly on letters to help me keep in contact with my family but how can you write your personal feelings when you know that the letters are being scrutinised by an ordinary prison officer who has been given the job of mail censor?

(Ibid).

Parole and Preparation for Release.

The Parole System, which allows for certain prisoners to be released before the end of their allotted sentence, was operationalised in Scotland on 1 April 1968. Throughout the early years many prisoners refused to comply with the parole system, regarding it as a control mechanism. As Scraton, Sim and Skidmore (1991:102) comment:

Since its inception the parole system has been subjected to a range of criticisms, including: its arbitrary nature; the bureaucracy involved; the lack of prisoners' rights both during the process and after release; the denial of appeal procedures; the tension involved for prisoners and their families; and the lack of information and secrecy which allows the authorities to withhold the reasons why prisoners have been refused early release.

Preparation for release once parole is granted was also a matter for concern. The 1992 Prison Survey revealed that only 4% of prisoners acknowledged that a uniformed staff member had helped them with problems of finding a job, accommodation and family relations upon release. One comment was typical:

I have spent most of my life in prison and can only say that the system is a 'hellhole'. They keep you locked up for years at a time, then just open the gate and chuck you out with a week's Giro.

(Wozniak and McAllister, 1992:65).

Conclusion.

The above accounts emphasise the negative experiences of prisoners within Scotland's prison regimes. Coyle (1991:9), recognises that there, "can be nothing positive about the act of locking someone up". It is the conditions as described, however, endured by those incarcerated in Scotland's prisons which adds to the depersonalisation and inhumanity already experienced. Overcrowding, boredom, isolation, insanitary conditions and the arbitrary use of intimidation, force and violence culminate to create a brutal regime.

The expectation that individuals will adapt to such an environment, mentally and physically, without questioning its rationality or purpose is enshrined in penal philosophy. Those who respond negatively to the prison regime are categorised as 'management problems', the term encompassing a range of activities, responses and behaviours. For those who plunge into the depths of despair, unable to cope with the rigors of prison life, withdrawing into the self, often leading to suicide attempts there is the categorisation of individual pathology. Scraton, Sim and Skidmore (1991:63) question, "why is it that so few prisoners are broken to the point of self-inflicted injury or death?...given the anti-social, hostile, inhuman, degrading and intimidatory reality of many British prisons".

'Effective management' is offered as the means of isolating those already desperate individuals in conditions of sensory deprivation where any further anti-social, 'abnormal' or disruptive behaviour is then considered a punishable offence. Those

responding violently while inside, either individually or collectively, are also considered a management problem, again categorised as suffering from a personality disorder. However, unlike the previous group they are classified as evil, difficult, unruly and violent - a small 'hard-core' determined to disrupt the daily routine. Alternatively, many of those labelled 'troublemakers' could be seen as responding rationally to or resisting an irrational regime. Often, apparently trivial incidents relating to, 'winding up', intimidation, restricting access to family, poor food, petty restrictions on movement or opportunities, escalate to become major incidents. Through frustration, prisoners retaliate which leads to punishment and a reiteration of anger, bitterness and resentment thus perpetuating a hostile, tense and violent environment.

That prisoners attempt to keep face, preserve their self respect and identity, resist and retaliate against harsh regimes is evident. Placed in isolation units, segregation cells, punishment blocks, and silent cells, prisoners will adopt different coping strategies. Although not condoning the level of violence and the hostage-takings throughout this period, such incidents must be analysed and explained within a structural context which takes into account historical and contemporary regimes and staff responses, rather than focusing on the perceived inadequacies or pathological violence of certain individuals. Following an escape attempt and a subsequent beating by officers in the punishment block at Peterhead, John Steele (1992:219-220) describes the collective endeavour to destroy the block which was the, "'warders' pride and joy":

We stayed up there for three days and nights, tearing the place apart like madmen and doing as much damage as we could. At night we gathered round the fire and talked about our families and our pasts. We agreed that we would do it again once we were back in circulation - which suited me because it was easier to wreck the place than to accept it.

As Scraton, Sim and Skidmore (1991:63) argue, rebellion in prison is considered as meaningless behaviour and often dismissed as “mindless”, “drug induced” or “hysterical”. They suggest: “By stripping prisoners’ actions of meaning and by criminalising their acts the authorities depoliticise and pathologise their resistance. Punishment is extended and intensified, thus emphasising the absolute authority of the regime and protecting its established order and practices”.

CHAPTER FIVE

VIEWING THE DESTABILISATION OF SCOTTISH PRISONS : REFLECTIONS ON THE 1980s

Introduction.

Unrest throughout the SPS during the 1980s, evident through overcrowding, poor conditions, differential regime opportunities, low staff morale, deaths in custody and prisoner protest, was fully documented in Chapter Three. It was argued that the SPS over time had developed a structural, 'creeping malaise', rather than a 'crisis', occurring at a specific moment or short period. It was proposed that the persistence of this structural malaise brought into question the legitimacy of the SPS and its prison regimes. This chapter documents the personal experiences of both staff and prisoners during this period and presents their reflections on the causes of unrest.

The staff interviewed for this project had been in active service throughout the 1980s, some for longer periods, and had witnessed and experienced the conflict. All but two of the prisoners interviewed had been in Scottish prisons for extensive periods throughout the 1970s and 1980s and were directly involved, actively or passively, in the disturbances. One prisoner had entered prison as a first-time offender in 1990, while another entered Scottish Prisons in 1990, following many years in English Prisons. Between them, the prisoners had been in every adult prison and Young Offenders' Institution in Scotland and collectively had served four hundred and thirty five years imprisonment.

Prisoner Accounts.

The majority of prisoners interviewed recalled their experiences of life in Scottish prisons throughout the 1970s and 1980s and offered personal explanations of the problems within the system. A number of prisoners reported that throughout the 1970s Peterhead, often regarded as central to the unrest in Scottish Prisons, was a good prison to be in, that governors at the time were reasonable and that prisoners knew 'where they stood' with the staff, who were considered to be firm but fair. This situation deteriorated by the 1980s.

Others reported that throughout this same period there was unrest in Peterhead caused by a variety of factors. One prisoner commented:

The biggest factor - it was too far to visit. The prison was way, way at the end of the world.

(Prisoner, Edinburgh).

Others referred to the organised brutality at Peterhead, that officers would "beat you up if they didn't like the look of your face", following which you could be "called in front of the Governor and charged with assault to cover the prison officer". (Prisoner, Edinburgh). The same prisoner commented:

The first time at Peterhead was a bit of a rough ride, it was a very brutal system. I couldn't accept the brutality of the system. I had been a policeman myself for eight years before I left and opened a shop, and although brutality was used by the police and probably still is on occasions, it was controlled by controlled brutality.

(Prisoner, Edinburgh).

He commented further on Peterhead's regime:

If they attacked a screw, punched a screw then they got it and expected it. But it was starting to get to the stage that you got a doing for almost anything. It was that aspect that I wasn't prepared to accept. I knew why I was in prison and deserved to be in prison. I wasn't happy about it but knew I had done wrong and had to be punished for it. I was satisfied that I was in prison but I objected to the reality of being in prison as I found it didn't compare to what I had seen in photos and read about it outside.

Reflecting on those early days of his confinement, he noted that prison was "bad and brittle", essentially prisoners being "thrown into a concrete box and told they have five minutes to adjust to it" (Prisoner, Edinburgh).

Following a previous conviction and time spent in Peterhead, another prisoner recalled the period of his confinement in Peterhead for the second time, in the mid 1980s. For the first six years he wanted his freedom and continually escaped from prison. Although he never assaulted a prisoner or prison officers, much of his time was spent in solitary confinement following escape attempts. He was removed to the 'Cages' at Inverness on three occasions (for four and a half months, two months, and fourteen months), but continued his escape attempts:

I broke out of the mainstream, broke out of solitary and broke out of the Cages, for which nineteen years were added to my sentence.

(Prisoner, Edinburgh).

Following his involvement in an incident in the tailor shop (1985) he was put in solitary, which he described as "psychological warfare" with staff "trying to break the spirit of prisoners". The 1980s were testing times for prisoners and staff. Many long term prisoners lost their chance of parole following the changes to legislation. Although recognising that parole is "not a right, but a privilege" the result of the changes was like being "sentenced

twice”. The impact of Fresh Start led to low staff morale, ultimately everything collapsed and “staff walked out of Peterhead and let it go” (ibid).

Another reason put forward for the unrest during the 1980s was prisoners demanding to be moved to the Barlinnie Special Unit:

The worst mistake the prison system every made was to open the Special Unit at Barlinnie because they (the prisoners) were having a life of Riley. With their televisions, visits in their cells and their videos.

(Prisoner, Perth).

He suggested that its existence led prisoners who were doing life to wonder how they could get into the Unit and that a manipulative prisoner could try to use other prisoners to cause trouble. He described his involvement in a roof-top incident at Peterhead in 1979, which was a ploy to mobilise prison riot staff while other prisoners were trying to escape via the sewers:

The people who had planted the seeds were trying to get into the Barlinnie Special Unit on the backs of other people. Of course some of the people up there on the roof were up there for devilment. It wasn't for any great grievances. What you will find is that quite a lot of the trouble at Peterhead was attributed to people wanting to go to these places. Now that is the truth.

(Prisoner, Perth).

A prisoner in Glenochil recalled the second year of his sentence in Edinburgh Prison in 1985:

I was sharing a prison cell with another prisoner, where you don't have any privacy, you don't have time to do anything on your own. I think a lot of times, particularly doing a life sentence there's a lot in your head, a lot for you to think about, to sort your life out, and at that time I just don't have anything, I don't have any privacy at all and somebody smashed up the roof, I think it was a roof protest at that time. That time I was carrying a mathematics book to my work, I was going to use it during my tea time and there's a place in the corridor they

call 'snitch n snatch', and basically you're dragged in, and I was told I would not be allowed a mathematics book. I just happened to be in a bad mood and punched an officer, I was dragged back to the hall and placed on report....

(Prisoner, Glenochil).

He told the Governor that the prison was not working, and was sent to Peterhead. He had heard many stories of Peterhead's "bad" and "horrific" reputation but he discovered the atmosphere was more relaxed than he had expected. On arrival he was told that a riot had been planned. That Sunday at about 4 pm, while making toast, he heard furniture fall and footsteps on the landing. He collected his tea and toast, went to his cell and shut the door. He recalled that a couple of minutes later the door opened:

It was a prisoner with a mask on his face, he says "do you mind if I smash your light mate?" I say "no, carry on". He says "give us a hand.... throw the blanket over the railings, so the officers don't see us". Some prisoner then showed me how to take the prison door off, I was so amazed it is so easy, all you need is a book, put it on the hinge and slam the door and it comes off.

The doors were used to block the stairs and everything in the hall was smashed. The disturbance lasted for four nights and five days, during which time no food was passed to prisoners. He noted:

People were sharing things, it was the first time I have seen unity in the prisons.... being a foreigner, as a minority, I felt I was a part, not a deviant. I felt comfortable being among cons.

A prisoner in Glenochil reflected on the disturbances there throughout the 1980s. Following disturbances at Perth and Edinburgh Prisons, which he suggests were caused by the reduction in parole and bad management decisions, he argues that the SPS came up with this "great thing called Grand Design", which reallocated prisoners and revised the implementation of the security category system. Consequently, large numbers of prisoners were moved throughout the system. Trouble was anticipated but never materialised. In Glenochil there was a feeling that prisoners were being given "too much" in privileges and

it was reversed overnight. This resulted in the assault of a prison officer in D Hall and a fire in A Hall in 1988. The entire prison was 'locked down' and visits were stopped until further notice. He noted:

That's what caused the trouble here, there was no riot because every single cell was locked up. So there was internal damage that was understandable. It was deliberately designed to get a reaction and it's exactly what did happen.

(Prisoner, Glenochil).

For ten to twelve days during a very hot May, no one came out of their cells. There was no water, as it had been disconnected, there was no access to toilet facilities and little food.

Prisoners turned their cells into dormitories by breaking through side walls:

Prisoners for something to do and for communication simply knocked the walls down. In C Hall second flat, the whole seven cells were knocked through.

He suggested that prison officers began to regain control, performing their duties in riot gear. Following this disturbance there was no outdoor exercise for over a year. Another prisoner in Glenochil recalled the period following the same disturbance in 1988:

After a riot there's an initial period of daze. The hall I was in, C Hall, a couple of weeks after the riot, they started feeding us behind the doors - grille gate shut, you got exercised in your section. This is all head wasting stuff. Locked up twenty three hours a day.

(Prisoner, Glenochil).

He noted that routines and privileges develop little by little over a period of time (ie the television returns, work parties are re-established), suggesting:

It's a gradual process and then it gets back to normal.

(Prisoner, Glenochil).

Another prisoner commented on the aftermath of disturbances:

The MUFTI Squad move in and prisoners are taken down to the 'digger', you never get treated the same after that. However, if you are doing life it doesn't mean anything to you.

(Prisoner, Glenochil).

Additional to these personal accounts and explanations, prisoners offered many factors concerning broader problems, unrest and tension throughout prisons, suggesting that there was not one specific cause but a combination of factors. Many argued that the official explanations put forward at the time were 'nonsense' and that their confinement in the system made them better judges of the problems and their causes.

The physical condition of prisons is often cited as a primary cause of distress and discomfort among prisoners. Prisoners recognised that poor conditions were evident in Scottish long term prisons, the following comment being typical:

They are a disgrace to any civilised nation.

(Prisoner, Edinburgh).

It was also noted that Scotland has modern facilities. One prisoner commented that he had been asked by prison officers why the new accommodation at Shotts had been 'smashed up'. He replied:

Well you have given them toilets in their cells but you have given them thirty year sentences with no hope and nothing to do. What are they supposed to do - just keep flushing the toilet and hope that time will pass?

(Prisoner, Edinburgh).

Another prisoner stated:

It's nothing to do with overcrowding or conditions, because in 1987 they opened Shotts, a brand new prison. One month later they'd wrecked the place.

They didn't wreck it because - it wasn't overcrowded - the conditions were second to none, very very good.

(Prisoner, Glenochil).

Others cited the changes to parole in the early 1980s, leading to longer sentences and increased sentences for drugs-related offences, as key factors in the deterioration of relations:

Changes occurred overnight, it was applied to people who were already in the system doing long sentences. The proverbial carrot of early release via parole had been completely taken away. Added to which was the fact that the type of prisoner who was in the jail then - who was getting these long sentences was people who were a wee bit more educated, had a wee bit more money than prisoners used to have before....they took it upon themselves to say to themselves - what on earth is going on here - who are these people - who do they think they are that they can just turn round and take away the opportunity of parole?

(Prisoner, Glenochil).

During the early 1980s there was an upsurge in drugs-related offences, the hype was that drugs is the big problem so they started dishing out sentences that hitherto would probably have been by way of a fine and the sentences they started dishing out were monstrous.

(Prisoner, Glenochil).

For some prisoners the existence of drugs in prison is considered to be the root cause of trouble:

Drugs are the main problem. People are in debt because of drugs, strung out, short tempered, violence and stabbings occur between prisoners.

(Prisoner, Shotts).

A prisoner in Glenochil suggested that prisoners can spend at least £20 per day to "get a jag". This often results in intimidation, bullying and prisoners threatening each other. He noted:

The difference here is that you are confined and everything that happens within here, is within because you can't get out.

(Prisoner, Glenochil).

In turn, this leads to tighter surveillance and security measures:

There is tighter surveillance and security. A clamp down at visits - diving on people at visits and taking them away to be charged with suspicion. This causes a lot of animosity and grievance, then the place goes up.

(Prisoner, Shotts).

In recognising that drugs have had a major impact on prisons and are part of a new prison culture in which many substances are available and widely used, often creating 'gang warfare' between prisoners, it was widely acknowledged by prisoners that the existence of drugs also helps to keep the peace. As one prisoner commented:

If they were to stop all the drugs coming into the jail, altogether it would be murder - it's just a 'nut house'. Ninety per cent of the guys take drugs of some sort.

(Prisoner, Edinburgh).

A prisoner in Shotts suggested that aggression has always been a problem in prisons and more acutely so in Scottish Prisons where a more aggressive culture predominates. While recognising that there are no easy answers to problems in prison, another prisoner commented that there is a "hard core" of men with a variety of grievances. First, those who have been harshly treated by the system and who have "real" grievances (he gave the example of refusal for a visit to a dying relative). Second, there are a "hard core" who have not accepted their sentence - many that should not be in prison - or others who cannot

accept discipline. Third, there are those he refers to as “the sheep”, often young and full of activity, who for the sheer hell of it “smash the place up”. He stated:

Unfortunately the prison system gives you a huge amount of time and boredom. To my mind the riots start off with the small hard core who ferment it and it just spreads like wild fire. This could then have a knock-on effect - either in that prison or in other prisons.

(Prisoner, Edinburgh).

Others commented on the boredom, despair and mental strain experienced in prison:

When there’s nothing to do you resort to desperate measures like going up on the roof.

(Prisoner, Edinburgh).

Prison puts a great mental strain on people. There’s great pressure on families outside and this puts you on a high even at good times. A lot of the staff are not very sympathetic. Some prisoners get help and others don’t and this causes resentment.

(Prisoner, Shotts).

Frustration, now that’s another word to add to boredom. Now what I mean by that is frustration in here waiting for answers to the simplest of requests.

(Prisoner, Edinburgh).

A number of prisoners reiterated the point that young men in prison often were responsible for the disturbances:

Different generations in prisons at the same time cause problems. The younger generation were not as accommodating as their predecessors and with no recourse or avenue to follow if they are unhappy, trouble was inevitable.

(Prisoner, Edinburgh).

A lot of the young prisoners who sparked off the riots - they had clear defined reasons. However it was used as a platform by others to get discretions.

(Prisoner, Edinburgh).

Others commented more generally:

Some guys want to cause havoc and screws will provoke them.

(Prisoner, Edinburgh).

Minor things like a guy not getting a visit can spark off major riots. You know, it can be lethal.

You need to understand prison mentality and psychology. You do have leaders but you also have independent guys who do their own thing and can think for themselves.

(Prisoner, Glenochil).

For many, relations between staff and prisoners, and staff behaviour were considered important dimensions in analysing problems. One prisoner commented that the troubles were caused by:

The wrong mentality on both sides.

(Prisoner, Edinburgh).

He suggested that both staff and prisoners were unhappy and had total contempt for each other, but that staff think they are safe behind a uniform:

Most guys have no respect for uniform, its just a little boy inside a big uniform and when he comes out talking like a hardman you just punch a hole in him.

Another commented:

I would call this place a hate factory.

(Prisoner, Edinburgh).

It was suggested that some staff could be 'bloody-minded' people who by their behaviour initiated unrest:

These people can cause a wee cancer to grow in a prison situation where some will go away and brood and brood, with a genuine grievance. It only needs a few to start a riot.

(Prisoner, Edinburgh).

You've got night san. and it's switched on and the screws are singing Happy New Year through it, it's not pleasant but again, they see it as a God given right - if one of their pals is taken hostage then there will be repercussions, mainly the MUFTI mob and when they come in they don't ask you questions - it's just bang, bang, bang, wallop and you're dragged away.

(Prisoner, Glenochil).

A suggestion was that some prisoners will exploit 'weak' prison officers to obtain extra privileges. In turn, this leads to a lack of control within the system and general disillusionment among staff who believe they do not have the support of management in making certain stands. This, he argued, leads to lethargy on the part of staff.

Prison officers are insular people. They don't like making decisions which is why the prisons are in such a state - nobody likes making a decision.

(Prisoner, Edinburgh).

For many prisoners there was a recognition that prisons in Scotland had stagnated and that new ideas were needed. The over-riding concerns were the need to address boredom, frustration, despair, the harshness and brutality of regimes and the behaviour and attitude of prison officers and management. A simple, but fundamental, statement from a prisoner in Glenochil encapsulated the overall feeling: "Prisoners need to be treated as human beings".

He commented further:

As a prisoner, I am in prison, I'm doing a life sentence. What more can you do to me? But if you abuse prisoners you do further damage.

(Prisoner, Glenochil).

Staff Accounts.

As with prisoner perceptions, the staff interviewed (which included senior managers at Headquarters, prison officers and governors of all grades, and internal research staff from the Central Research Unit) acknowledged that there was not a simple answer to the difficulties experienced during the 1980s but a range of factors which required consideration. A senior manager at Headquarters recalled working in Peterhead throughout the 1970s when all 'difficult' prisoners in Scotland were held there. At times the numbers of 'difficult' prisoners in Peterhead peaked at 467. He recounted a roof-top demonstration in 1972, when 180 prisoners took to the roof:

It was a very good natured demonstration. Chants of abuse and damage to the roof. They took up some tiles and put them down very carefully to get access to the inside water tanks - and when we went round they shouted and jeered and sang songs, but there was no enormous hostility.

(Senior Manager, SPS Headquarters).

He suggested:

People understood where the line was, they related and they spoke and very rarely did people cross over it.

(*ibid*).

He did concede that following this roof top demonstration there was an increased number of assaults on staff from a small group of prisoners which led to the opening of the Inverness Segregation Cages. He recalled that throughout the 1970s the Department coped without any "significant hassle". He noted:

PROP arrived down south which caused a bit of a stir - we had the odd sit down in the yard - we didn't have to go around the floor with teams of people with sticks and beat prisoners.

He recounted that by the 1980s little had changed throughout the penal system:

We had continued I suppose, for ever in the way we were doing things. The Prison Rules were out of date - Standing Orders were out of date. There was little in the way of policy, directional instructions - there was nothing new in the service. We just soldiered along, we had soldiered along without problem.

A Governor Grade also referred to the lack of development in the SPS throughout the 1970s and 1980s:

Regimes had probably remained fairly stagnant and we were not prepared to address the needs of a new group of prisoners - that rising group of long term prisoners. Therefore a pressure came for change. As an organisation the evidence would point to the fact that we have not looked at our main customer. We were probably caught out in the smoke screen around the mid 80s.

(Governor Grade, SPS).

The senior manager, quoted above, suggested that an unfortunate combination of circumstances followed. He noted that the first hostage-taking at Barlinnie:

Really knocked the heart out of staff - because whatever else had happened, Scottish staff were in control - not in a sinister way that they duffed people up. Hostage-taking arrived and they were no longer in control.

(Senior Manager, SPS Headquarters).

He maintained that the Governor at Barlinnie at the time, "didn't get it right", he committed the staff to retake a hall when "they ought not to have done":

They took some quite serious injuries - they didn't lose anybody but they could have done.

He was moved to Barlinnie in July 1987, at a time when prisoners considered they were in control. He recalled:

It was horrendous. The staff had no confidence. The prisoners would abuse staff - staff didn't touch the alarm bell because they knew and the prisoners knew there was no-one going to come. There weren't any staff to respond to alarm bells.

He recounted an incident where he cornered a prisoner on a gallery for not conforming to the regime:

The next thing I knew there were four of his (prisoner) friends saying, "get out of the way or there will be trouble on the gallery." So I went away. When I think now I get goose bumps - it was terrible, it really was.

The disturbances spread to other prisons in Scotland. He recalled the paranoia of staff at the time:

Some of my colleagues had a view that there was this conspiracy - that there were some secret telephone numbers out there and prisoners were making contact with them and orchestrating this mass campaign. I remember a particular sequence with something like Edinburgh, Shotts and Peterhead and they were back to back. We would run out of staff, we would run out of equipment, we'd run out of everything. If it had hit one more time we would have been in even more difficulties. I don't know how we would have coped. We did get breathing space - so there is a good Lord, he did smile on us for that particular time.

Swift action was obviously necessary and two strategies were adopted. First, there was a 'lock down' at all establishments, something which the Senior Manager recognises can escalate the problems it is designed to ease. He recalled the scenario:

You lock down. You get locked down in your establishment after you have actually done nothing. All of a sudden you are locked up - your visits are curtailed and your recreation is curtailed, your work is curtailed. And you say, "hold on, I haven't done no wrong, why am I being locked down".

He felt that it was obvious that lock down was not sensible and that Governors were under pressure very quickly to ease the lock down. The second response was the 'thinking process' through which senior officials realised the necessity of restructuring Headquarters and rethinking the whole concept of imprisonment, the prisoner and the staff role and response.

Broader explanations for the disturbances were also offered by prison staff. One key recurring issue was the failure of the SPS to keep up with changes in the wider context of society:

I suppose what there must have been was a gradual slow erosion in terms of relationships and everything else. We stood still I think and the rest of the world changed.

(Senior Manager, SPS Headquarters).

Change was driven by increased numbers of long term prisoners. I think also driven by the fact that prisoners come into the prison world with quite a different experience of society from twenty years previous. Their expectation of their lot in society was quite different and also I think the general attitude to authority had changed. This was reflected in the prison population - challenging behaviour was normal behaviour.

(Governor Grade, SPS).

Another Governor Grade also commented that the background to the crisis had to be related to a change in society that:

The service hadn't really managed to come to terms with prisoners who were no longer the same as they used to be. The idea that prisoners would be compliant by being in prison and would accept the legitimacy of orders given by prison staff was starting to go out of the window, as it was outside - it used to be the 'beat bobby' who said what went down. Inside, people would say why? Why do I have to do that, I don't understand your rules, they don't mean anything to me, they don't have any legitimacy as far as I'm concerned. And that was probably the real start of the litigious phase that we're now going through, where prisoners are challenging. We didn't have the mechanisms in place for challenging at that time.

(Governor Grade, SPS).

She continued:

We suffered what society suffered, a kind of kick back from a younger group of people saying that they didn't like some of the systems here and they weren't going to stand up for it. The only way they knew how to stand up to it was through violence because that was the only way for those who were not very good on paper or articulate. That was the only way they knew how to do it. They also knew that we as a service were not prepared for it. They could see

our fallibility in terms of no central incident command teams, untrained. We used to handle control and restraint in a cell by rushing in with a mattress. We've become more professional at that over the years, but prisoners have now accepted that we can handle most situations.

Others referred to stock answers as explanations. These included: overcrowding; the Secretary of State's announcement to impose very long sentences for certain offences; mandatory life sentences so that prisoners were unable to see the end of their sentence; sub-cultural factors evident inside and outside of prison, (ie drugs, drug dealing, money dealing and threats to people's families). A Governor Grade commented that disturbances had become quite 'fashionable', and not only in Scotland:

I think there was a lot of copy-cat influence from down south. I think pressure group influence being organised on a scale that we had never met before. I think prisoner pressure groups were far more sophisticated and prisoners were probably far more informed about what other prisoners were thinking and doing elsewhere.

(Governor Grade, SPS).

One basic grade officer, responsible for the Induction Programme in a long term prison, although recognising the difficulties of identifying a single cause of the disturbances, suggested that prisoners were given too many privileges. He argued:

In the years leading up to some of the major troubles in the eighties, we were telling them (prisoners) what to do but they were also given an awful lot. They were given an awful lot of facilities which wasn't their choice entirely - they were just handed them. Somehow psychologically, the more they got, the more they rebelled against it because it wasn't right.

(Prison Officer, SPS).

He suggested that the older prisoners returning to prison time after time have difficulty accepting these privileges:

They prefer the old days where they got nothing, were told precisely what to do - there were no grey areas - it was all black and white. They were told you will do, or go there. If they didn't then it was behind the door - bread and water style.

He maintained that during the years leading up to 1988 everybody could get anything in prison:

There was televisions, easy access at visits to smuggle stuff in. There were televisions coming in through the visits - the small ones. There was exceptionally easy access to drugs and drink. So there was so much in the system that it ended up causing trouble.

A senior researcher at the Central Research Unit disputed this claim that prisoners have had an easy time in prison. He commented:

I think when one looks at many of the disturbances we've had, from a perspective of the prisoner and in fact from an objective perspective, the actions are in fact very rational. I think, if you look at the conditions of captivity that many people are held in, in the mid 80s the capriciousness, if that's the word, in the way they were dealt with. It's little wonder that they react in the way they do.

(Senior Researcher, SPS).

In terms of the key issue of 'difficult prisoners' a Governor Grade reflected on the policy document, Assessment and Control (1988):

Assessment and Control was an attempt to say how do we control these difficult people? All the emphasis was on doing things to them, to manage them when they displayed this behaviour. There wasn't anything that said, now we have got prisoners who are displaying this behaviour, how do we encourage them not to behave like that? It was all how will we manage them when they do? At that time there was a group of people in HQ who were visionary; they were prepared to look at a different way of managing prisoners - very radical - and not yet accepted as far as I can see.

(Governor Grade, SPS).

She recalled that the idea was not to worry about how to control 'difficult' prisoners, but to ensure that problems did not arise in the first place. She noted:

It was the right time because we were beginning to run out of options in terms of controlling people. We were looking at control ratings at one time, as well as a security category - labelling them as trouble makers.

The impetus for the policy documents that followed was considered to be the need to reassess the concept of the prisoner. As a prison officer stated:

The background to Opportunity and Responsibility, if you really think about it was prisoners - prisoners were always told what to do. We always told prisoners - you will get up at such a time, you will go to work, you will go to education, you will do this you will do that. Opportunity and Responsibility was looking at this - 'you will'.

(Prison Officer, SPS).

The new philosophy was to foster "empowerment and migrate responsibility" to the prisoner (Senior Manager, SPS). Placed in a broader context, a Governor Grade commented:

With hindsight you can see with Opportunity and Responsibility, the drafters of the document had taken quite a clear reading of the environment that we were moving into nationally and politically in terms of preparing a pretty stagnant prison service for a climate where charter rights were going to become common currency right across the public service sector. So I think it was a very forward thinking document and it was a document that acted as a catalyst for change.

Concluding Comments.

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Four). Most significantly, however, both raised broader issues relating to imprisonment, the management of prisons and for the prisoners, the behaviour and attitude of staff. It was recognised that the SPS had stagnated, that it had not kept pace with changes in wider society. Rather than focusing attention on a 'hard-core', a 'few bad apples' who were upsetting an otherwise smooth-running system, the staff recognised that this was an inadequate explanation.

PART THREE

Having considered the historical, theoretical and contemporary contextualisation and background to the ongoing 'crises' within the SPS, Part Three examines the subsequent policy initiatives which emerged. Further primary research presents evaluative accounts from prisoners and prison staff of the contemporary experience of imprisonment and the overall impact of these policy changes on Scotland's long term prisoners.

Specifically, Chapter Six considers the response of the SPS to the problems identified. As previously outlined, in developing a 'vision for the future' geared to the creation of a 'quality, enlightened' service, a series of policy documents were released. The key principles of these documents are presented, followed by an examination of the implementation of new initiatives and strategies adopted by the service throughout the late 1980s and into the 1990s.

Chapter Seven relies solely on the testimonies of long term prisoners in Scotland who present their views and experiences of life in Scotland's long term prisons. All aspects of the daily routine and the prison regime are considered. Interviews took place in four prisons (see: Appendix Two), but the experience of imprisonment at other institutions are also covered.

Chapter Eight explores the outcomes to date of the implementation of policies in practice. Prisoners and staff document the changes that have occurred, recount their experience of change and comment on the success or failure of the new initiatives.

Prisoners and staff also suggest how the penal system could be managed more effectively and outline their visions for the future.

The conclusion to the study provides a summary of the changes that have occurred in the SPS. This chapter evaluates the data collected, both documentary and empirical, and considers the implications of the findings for penal policy in Scotland. It also provides reflections on the key theoretical and analytical frameworks on which the research is based. In terms of the empirical study, the new initiatives, concepts and philosophies are located within the broader context of the shift towards managerialism. Within this context, the means through which imprisonment is conceived and legitimated and the implications of a growing authoritarianism are discussed. Given the key political and theoretical debates between renewed authoritarian philosophies of punishment, reconstructed reformist principles and the critical perspective of abolitionism, the events within the SPS 1988-1995 and their interpretation, provide an important case study in contemporary penal philosophy and practice.

CHAPTER SIX

FROM POLICY TO PRACTICE: THE RESPONSE OF THE SCOTTISH PRISON SERVICE

Introduction.

At the height of the disturbances and hostage takings the Scottish Prison Officers' Association (SPOA) called for small specialist control units to isolate and segregate "trouble makers" (Christie: 6 October 1987) while the branch secretary of the Prison Officers' Association (POA) at Armley Prison, Leeds demanded "rioting rooftop convicts to be gunned down" (Daily Record: 6 October 1987). The Secretary of State for Scotland, Malcolm Rifkind, promised swift action to deal with prison violence beginning with an immediate and indefinite 'lock-down' of the long term prison population. Emphasising the concern at the deteriorating situation he set out the central aims of future penal policy in a speech to representatives of the SPS. He specified the need for a clear corporate philosophy ensuring a more professional and effective service. This would include the following central policy aims: to punish appropriately; to protect the public from dangerous criminals; to deter people; to encourage offenders to turn away from crime. He acknowledged the inherent difficulty in securing a, "balance between deterrence, punishment and protection of the public on one side and attempts to rehabilitate the offender on the other..." (Scottish Information Office, 25 January 1988). Future policies would provide a "sufficient range of constraints on offending and opportunities for reform" for all prisoner categories.

Rifkind endorsed the core principles of Custody and Care, published by the SPS in March 1988. This consultative document was the 'starting point' for a new direction in penal policy. In the Forward, Lord James Douglas-Hamilton states:

This paper will initiate a period of sustained and intensive development in the Scottish Prison Service. Comments and further discussion will be a valuable and necessary part of this process.

(SPS, 1988a).

The SPS announced a new era of openness and self appraisal, involving the public and the media as well as prisoners in consultation. As Eddie Frizzell, later to become Chief Executive of the SPS, states:

The honesty and thoroughness of the appraisal were such that no part of the Service or its traditions went unexamined. Unusually for a public service, and a Prison Service in particular, the debate was open. Media access was encouraged and what would previously have been regarded as internal documents were published.

(Frizzell, 1993:203-204).

There followed a series of SPS documents which aimed to develop a corporate philosophy and plan encompassing management based on strategic planning, staff training and the increased efficiency of operational and security strategies. Of particular importance was a 'customer' focus, identifying staff, prisoners and the public as SPS customers with needs, demands and rights. Most importantly, the documents presented policies for the positive treatment of prisoners. Tasks and responsibilities were addressed within a commitment to creating a positive environment, generating a better quality of life for prisoners and better professional standards for staff. To achieve this, the development of regime and action plans for each institution was required with the management of long term prisoners given considerable attention. The concepts of 'opportunity' and 'responsibility', underpinning a programme of sentence planning, were identified as the guiding principles initially for long term prisoners, and ultimately, for all prisoners.

For the SPS to establish an appropriate ‘corporate culture’ the existing hierarchical ‘judgmental’ structures, which inhibited initiative and were not trusted, needed to be challenged. For Frizzell (1993:204), “the self analysis and openness which resulted from the traumatic events of the late 1980s were the seeds from which cultural change was to start growing”.

‘Custody and Care’: Policy and Plans for the Scottish Prison Service

Recognising the complexity of managing penal institutions, Custody and Care (1988) sought to, “set out a framework of aims and objectives for the future management of penal establishments in Scotland” (SPS, 1988a:para 1.2). Although this was to be wide-ranging, it was introduced as, “a starting point, not an end in itself”. Yet its primary objective was to develop a “coherent corporate philosophy” to guide the management of the SPS and its regimes ensuring institutional good practice, high standards and legitimacy. It would provide a “better quality of life for inmates” and “better professional standards for staff at all levels”.

The document recognised that custody and care are not alternative concepts but complementary elements which, together, underpin good management, good practice and efficient regimes:

The appropriate balance of elements of the task is a matter of judgement based on experience, specialised advice, perception of the risk or positive potential of inmates, and availability of facilities or resources.

(*ibid*:para 2.12).

Custody and Care, as potentially conflicting principles, remained contextualised within the priorities of security and control: the “duty of lawful, secure custody...is paramount” (ibid:para 2.6). Having established security, disciplinary measures were proposed to ensure control and good order, the balance between custody and care being an “administrative or operational matter as well as a legal issue” (ibid:para 3.16). Combining domestic law, established for many years, and various international conventions, often less familiar, the document recognised that legal requirements had to be more accessible to staff and be evident in practice. With objectives of ‘openness’ and ‘appraisal’ the document established a framework of accountability for staff to understand and meet specified requirements. This included legal, administrative and financial accountability.

Introducing the concept of ‘sentence planning’, Custody and Care addressed policies and priorities for prisoners, from allocation to preparation for release:

The aim must be to achieve the best quality of life by getting inmates to accept the necessary restrictions which custody imposes but then encouraging them to make the best use of the available opportunities.

(ibid:para 8.2).

An opportunities agenda was proposed requiring prisoners to act responsibly while taking responsibility for their sentence. The onus is placed on prisoners with the establishment providing basic necessities including privacy, education, work, help with personal problems, contact with family and friends and health and welfare services. It was for prisoners to ‘help themselves’ by making choices, abiding by the rules and regulations of the regime.

Custody and Care promoted active planning relying on assessment, dialogue and review with a prisoners' behaviour throughout their sentence monitored and assessed and plans amended accordingly. It proposed a progressive or developmental approach to opportunities with prisoners receiving 'privileges' as they 'progressed' through their sentences. Planning for release would start, for both long and short term prisoners, with knowledge of release dates or prospects of release. With preparation for release the final objective, sentence planning would, "get the individual to come to terms with his or her sentence and to complete it as peaceably and constructively as possible (ibid:para 9.4).

Finally Custody and Care called for regime plans for each prison in the context of broader SPS objectives. These plans would break unwritten traditional practices creating an environment in which basic routines and opportunities were established and transparent. A crucial feature of the development of regime plans was the involvement of staff:

If staff have a "stake" in the regime plans of their establishment, they will be better able to respond quickly to comments, suggestions or complaints from inmates and will be more confident in recognising the *limits or constraints on behaviour which have to be enforced.*

(ibid:para 10.5).

Regime plans would respond to the needs of different categories of prisoner, establish an appropriate opportunities agenda and policies to guarantee security, control and discipline. They would address all aspects of prison life, from daily routines to sophisticated plans for security and the maintenance of discipline.

Custody and Care stressed the importance of individual regime plans but called for progress on the “reduction of unnecessary and unhelpful differences of regime”, recommending “greater flexibility and co-operation between establishments”. (ibid:para 12.1).

Custody and Care considered training and staff development to be essential, ensuring the training of “individuals in and for appropriate grades of responsibility” (ibid:para 13.1). The SPS College would play a central role in the dissemination of good training practices, being, “responsible for improving and pooled for improved links between central and local training and ‘training the trainers’, college tutors and local Staff Training Officers” (ibid:para 13.5). Staff training was considered vital as discipline prison officers were identified as, “the largest and most important resource of the Scottish Prison Service” (ibid:para 14.4). Training and development, therefore, should focus on individual development, good group working practices, and contributions to the planning of and delivery of regimes. Although recognising the divergent needs of both staff and prisoners, Custody and Care, for the first time, identified a shared enterprise between the SPS and the prisoner. Coyle (1991, 1994), points out that the rhetoric of ‘treatment and training’ was abandoned and that a new vocabulary, signifying a new theoretical dimension, was established. This was ‘enabling’ rather than ‘prescriptive’ (ie SPS as ‘providers’, ‘promoters’, etc). As a consultative document, a starting point, on the future management of the SPS, Custody and Care was generally welcomed and well received.

'Assessment and Control': The Management of Violent and Disruptive Prisoners

In an attempt to continue the review of the SPS, Assessment and Control (SPS, 1988b) was published in October 1988 addressing the particular problems of violent and disruptive prisoners. Lord James Douglas-Hamilton argued that the concepts of assessment and control although, "not ends in themselves", were the "key to the better management of difficult prisoners". Through 'assessment', prisoners "prone to violence or disruptive behaviour" would be identified early in their sentences and resources would be directed towards resolving their 'problems'. 'Control' would establish appropriate procedures to minimise disruptive behaviour.

Although recognising the history of disturbance throughout the SPS, Assessment and Control identified the major incidents of the late 1980s as "unprecedented in intensity, duration and in the degree of public interest aroused" (ibid:para 1.6). Patterns and causes of incidents were discussed, considering a range of factors and explanations. The document concludes that there was no single factor or combination of factors responsible for the incidents. Yet it concentrated on individual pathology as an explanation for violent and disruptive behaviour, profiling violent and disruptive prisoners and maintaining that such prisoners display certain features related to individual personality and behaviour. The document stated:

If it is accepted that it is the response of the individual to the pressures inherent in the prison environment which lie at the root of violent and disruptive behaviour, then the importance of identifying those individuals who may be particularly prone to violent and disruptive behaviour becomes apparent.

(ibid:para 2.13).

Assessment and Control recommended that these procedures for identifying potentially violent/disruptive prisoners, based on security risk, should be supplemented to assess 'control risk', being the degree of "dangerousness" presented by the prisoner. This would include detailed profiling using documentary analyses of previous records and current observation and assessment and as an "integral part of a process of continuous sentence-planning" (ibid:para 4.11). The development and components of "control risk profiles" included: the need to assess previous criminal history, current conviction and sentence; security categorisation; intelligence record, highlighting previous sentences and disciplinary record; the individual's response of custody. The role of prison officers and other professionals was considered crucial to profiling and the identification of violent and disruptive behaviour. Record keeping, constructive dialogue and continual assessment and reassessment was to be encouraged among staff.

The proposals, recognised "a need for additional maximum security accommodation to complement existing facilities and to offer the main adult closed prisons relief from the problems of violent and disruptive inmates" (ibid:para 8.2) and outlined plans for one or more new maximum security units of 60 places. The first unit would be built at Shotts Prison. Following a period of assessment and review a further unit was planned for Peterhead Prison. These 'new generation' maximum security units would provide the main response to the problem presented by difficult and disruptive prisoners. To reduce tension and discontent among long-termers the document recommended improvements in allocation procedures, assessment and opportunities for prisoners. The opportunities agenda for long term prisoners in closed, semi-open and open

conditions was considered in need of further consideration, particularly opportunities for outside activities and home leave schemes. As with the previous document, Assessment and Control argued that “incentives must be earned” and not seen as automatic or placatory (ibid:para 11.15). Assessment and Control’s unquestioning acceptance of individual pathology theories as providing the most appropriate explanations for violent and disruptive behaviour evoked much criticism, as did the proposals for the expansion of maximum security units and facilities for such prisoners. Adler and Longhurst (1991a), were concerned that this expansion would be largely ineffective and unjust, for any attempt to predict violent prisoners would only be achieved through a substantial injustice to prisoners. They conclude that such a strategy would:

largely determine the character of the whole Scottish Prison Service and that the restrictive proposals in Assessment and Control would largely undermine many of the more progressive proposals in Custody and Care.

(ibid:209).

In this context, sentence planning would be, “tainted by its use in the assessment of control risk” (ibid:209), with moves towards “normalisation” restricted because of greater surveillance and security.

The Business Plan for the Scottish Prison Service: 1989-1992

In March 1989 the SPS published its first Business Plan outlining aims and objectives for the following three years and the strategies planned to achieve them. Its statement of intention was to act in a ‘fair’, ‘efficient’, ‘caring’ and ‘professional’ manner (SPS, 1989:3). Peter McKinlay, then Director of the SPS, commented:

This is the first time a three year forward plan for the Scottish Prison Service has been prepared and made public. The Plan is also important because it sets out, for the first time, a short statement of the corporate purpose and mission of the Scottish Prison Service.

(Scottish Information Office: News Release 30 March 1989:2-3).

According to the Business Plan, the SPS would be accountable for its decisions, use of resources and its management actions. The corporate direction and purpose of the SPS was encapsulated in its Mission Statement, introduced in the Business Plan. The SPS mission was to:

Keep in custody those committed by the courts, to maintain good order in each prison, to look after inmates with humanity, and to provide them with all possible opportunities to help them to lead law abiding and useful lives after release.

(ibid:2).

The task of fulfilling this mission within the context of the corporate philosophy of accountability would rest with the management. The five priority areas for management were: “promotion of effective and efficient management”; “the delivery of improved training for staff at all levels”; “the development of regimes for inmates so as to provide them with as full, active and constructive a life as possible”; “the improvement of the operational effectiveness of the Service”; “the delivery of administrative justice in all aspects of the work of the Service” (ibid:3).

The Plan confirmed that secure and controlled custody should be provided for prisoners and that the penal estate should provide and maintain suitable standards of accommodation for staff and prisoners. It committed the SPS to improved education, work, vocational training and physical exercise for prisoners. Objectives to be pursued

included: vocational training through City and Guilds and Scotvec; a comprehensive, basic programme of education; provision of a full programme of PE, particularly for the under-21s; industrial production for internal consumption and sale (ibid:13). Such a programme, providing increased regime opportunities, was aimed at promoting and preserving the self respect of prisoners, encouraging a positive outlook on release. The Plan also emphasised the need to provide the, “highest possible professional standards of service and care” (ibid:15), particularly regarding, “catering, medical, dental, ophthalmic, psychological, psychiatric, social work and chaplaincy services” (ibid). A full review of these services was to be initiated. The need to further improve the professionalisation of staff through training and career development was specified in the Plan from initial training through to a national programme of “operational and management development training” (ibid:18). The document proposed the decentralisation and delegation of authority to establishment managers which would be served by an information systems network, a review of the legal and administrative framework guiding management and a review of regimes particularly for the management of long term prisoners (ibid:19). Finally, the Plan called for improved administrative procedures: for parole; in the management of long term and difficult prisoners; in transferring those suitable into less secure conditions; for investigating prisoners’ complaints (ibid:21).

The Business Plan identified three ‘Statements of Policy’ to be pursued. First, while maintaining authority and control, it was considered a duty of all staff to ensure that prisoners were treated equally, fairly and with respect and that ‘arbitrary force’ and discrimination were eliminated. “Communications with staff” would be improved, with

the introduction of regular “Team Briefings” throughout the Service. Finally, a statement of the policy of the Prison Service on ‘Equal Opportunities’ would be prepared by 1st April 1990 (ibid:23).

The Business Plan provided a detailed plan for the development of the Service, within a specified period and with cost implications. Peter McKinlay (Scottish Information Office, 1989:3) concluded:

It is our intention that the detailed Plan for the Prison Service will be revised annually. It is an important stage in our proposals to develop further the financial and management planning capabilities of the Scottish Prison Service and to improve the quality of service we provide.

Opportunity and Responsibility: Developing New Approaches to the Management of the Long Term, Prison System in Scotland

In May 1990, the SPS published Opportunity and Responsibility (SPS, 1990a), a document aimed at developing ‘new approaches’ to the management of prisoners serving long sentences. The Chief Executive of the Service, Eddie Frizzell describes Opportunity and Responsibility as the: “most far-reaching and widely praised document” (1993:204) to date. For Coyle (1994:89), it, “broke new ground in penal policy in the United Kingdom...” He earlier argued that the agenda of Opportunity and Responsibility was characterised by “honesty and consistency” (Coyle, 1991:269). In short, the proposals outlined represent a significant programme of change in the quality and form of the long term prison system.

Opportunity and Responsibility describes the context for the review of policy by identifying the pressures for change and the recent developments in the system since 1988. It also presents a framework for the future development of the long term prisoner system. The document reviews the aims of current penal policy and traces the development of broader penal philosophy and the purpose of imprisonment. Dismissing the principles of treatment, training and positive custody, it outlines a new penal philosophy based on the concept of the 'Responsible Prisoner'. Custody and Care (1988), in an attempt to balance the needs of secure custody and control within prison regimes, with the care of those in custody, introduced the principle of diversity of programmes to give prisoners opportunities for personal development. To be effective, however, this relied on the co-operation of the prisoner who would be treated as a responsible person. Opportunity and Responsibility takes the proposal further.

Implementing the concept of the responsible prisoner relies on prison staff becoming facilitators. This alters the relationship between prisoners and staff from one in which staff have complete control and authority over prisoners to one where staff are expected to exercise such authority only in the context of security and control. Otherwise, their role is to facilitate personal development with prisoners taking greater control over their own lives and decisions. The 'mutual' responsibilities of the SPS to the prisoners and of prisoners to the prison community is emphasised. It follows therefore that, "...the prisoner should find himself in a situation in which, in exercising choice, he is expected to face the consequences of his decisions" (ibid:18).

Critics of Assessment and Control argued that it concentrated on individual pathology, “that is, the pattern of circumstances which might cause individual prisoners to react against the penal system” (ibid:19). Opportunity and Responsibility acknowledges this criticism, suggesting that other pressures are also significant in understanding the prison crisis. These are: overcrowding; the impact of Grand Design; differential progress in the liberalisation of regimes; the use of ‘deterrent sentencing’ by the courts for drug related offences; changes to parole policy; the role of Peterhead Prison as a maximum security prison. Taken together, these factors led to an established “need for a thorough reassessment of the aims and direction of the prison system” (ibid:22).

The document asserts that following the period of disruption, between 1986 and 1988, an emphasis on the maintenance of order was paramount. Regimes attempted to provide “prisoners with incentives to conform and to respond positively” (ibid:24). Consequently, the numbers removed from mainstream circulation and placed on Rule 36 decreased. For those remaining disruptive, Peterhead remained a viable option. Despite this, the role of Peterhead as a maximum secure facility for disruptive prisoners had continued to decline, with those responding positively being returned to the mainstream. Alongside this reduced role for Peterhead was the development of other long term establishments dealing with their ‘own’ disruptive prisoners. Throughout 1989, modifications to the classification system along the lines suggested in Assessment and Control had occurred and new proposals for assessment procedures and sentence planning for all long term prisoners had been introduced. A new training approach was initiated in 1988 stressing that training and staff development would be developmental.

Adler and Longhurst (1991b:170), specify the pragmatism of Opportunity and Responsibility, the translation of initiatives on paper into policy and practice. This includes the concept of ‘shared responsibilities’ throughout the system which link opportunities, responsibility and accountability. Reaffirming an earlier statement the SPS acknowledges the need for improved initial assessment and continuous sentence planning for all long term prisoners, suggesting that the solution to ‘difficult’ prisoners is not to be found in purpose built control units as advocated in Assessment and Control, but in providing a better quality mainstream system. To do this a new view of the prisoner is required as a “person who is presented with opportunities for responsible choice, personal development and self improvement”. Central to this process is Sentence Planning, enabling “each prisoner to share in a decision making process relating to how he spends his sentence” (ibid:30).

Ultimately the aim is to create equality of regimes between establishments and to develop long term regimes in which previously considered ‘privileges’ become part of the ‘basic threshold quality of life’. This will reduce the ‘alienation’ of long term prisoners as they take responsibility and are ‘allowed’ a greater role in decisions concerning their own sentence and future. Further, the SPS confirms its support to the prioritisation and commitment to minimising, “the harmful effects of the prisoner’s removal from normal life” (ibid:37). This is to be achieved through greater access to families with increased home leave opportunities for Category C and D prisoners and the possibility of family visits for A and B categories, unable to leave the prison. Additionally there will be improvements in privacy, sanitation, recreation and leisure,

and basic amenities alongside more appropriate regime activities geared to preparation for release (ie industries, education, physical fitness, vocational training, recreation, pre release training and Training for Freedom). These 'new opportunities' will enable prisoners to lead a more 'normal' life within the constraints of security and control.

Opportunity and Responsibility reviews the balance between security, order and regime opportunities, identifying the need to reassess security categorisation. For,

Too often decisions about security category have wrongly been related to the prisoner's response to staff. Conversely on many occasions conforming prisoners have not been able to benefit from opportunities or privileges because their offences required a higher security category than that to which the additional privileges were related.

(ibid:41-42).

The document recognises that successful prison regimes depend on establishing a correct balance between security, order and regime, particularly regarding categorisation. For tighter security categorisation inevitably results in an over-secure establishment with pressure placed on control leading to restricted regime opportunities. The document notes that liberalisation can lead to enhanced regime opportunities, putting security and control under pressure. Both possibilities create an unbalanced prison system and the potential for disruption. By reviewing the category system the intention is to change the role and function of long term prisons, developing balanced regimes.

Prisoners considered a security or control risk will be located in the mainstream system with appropriate regimes developed within each long term prison. Developing from a 'progressive system' based on security categorisation to a specialised hall system is

“expected to assist in resolving a number of control issues” (ibid:45). The SPS recognises problems for prisoners serving very long sentences who have few incentives and opportunities at the outset and limited options mid-sentence.

The earlier proposal to develop a 60 place maximum security complex at Shotts, offering four small regimes for ‘difficult’ prisoners “was felt to be contrary to the traditions of the Scottish Prison Service” (ibid:47) and such a unit would quickly become a control unit. The alternative, addressing the issues of opportunity and responsibility for prisoners considered a management problem, according to the document, was to establish small regimes.

The rationale for this proposal was the success of small regimes already operating throughout the system. Barlinnie Special Unit was deemed successful because of the “close relationships between staff and prisoners and to the pursuit of activities which have been in themselves staff intensive” (ibid:48). Opportunity and Responsibility proposes more small units with positive regimes enabling those with difficulties to move easily to and from the mainstream and come to terms with, and work through individual problems.

Despite difficulties in building and redevelopment, it prioritises small units within refurbishment programmes and the overall estates strategy with smaller units within the mainstream also encouraged:

We believe that a move to divide the prisoner population into small identifiable groups, each with a dedicated team of staff, is a key development to improve the regime experienced by prisoners.

(Ibid:50).

To compliment small units, specialist regimes with multi-disciplinary teams to meet the needs of identifiable groups of prisoners should provide programmes concerning: drugs and other forms of 'addiction'; personal relationships; social skills; education; litigation. These are underway, enabling prisoners to benefit, "from the opportunity to join one or more of the small regime programmes of this type" (ibid:52). In contrast to the proposals advocated in Assessment and Control, the SPS concludes:

We have now come to the conclusion that the long term prisoner system should be developed in such a way as to provide as wide and diverse a range of opportunities for prisoners as possible, through the sub-division of the accommodation into discrete small regimes.

(ibid:53).

The history of small units in Scotland and a policy for future development are discussed in the document, which identifies two distinct traditions. First, control or segregation units such as the Inverness Unit. Staff and prisoners are assigned, regimes are restricted but offer periods of 'time out' from the mainstream and establish an environment where staff safety is paramount. Second, community-based units, such as Barlinnie and Shotts, where staff and prisoners enter voluntarily and work together in the "creation of a community" (ibid:58). Policy proposals for the future of small units suggest they should be an integral part of the prison system, complementary to the mainstream and that it is no longer appropriate to identify certain prisoners as difficult. On this basis small units, will be kept under review, catering for a minority of prisoners who are have difficulties in the mainstream. While recognising that strategies adopted proposed in Opportunity and Responsibility will take several years to implement, the SPS is committed to its principles and policies across the prison system.

Organising for Excellence: Review of the Organisation of the Scottish Prison Service.

Organising for Excellence, (SPS, 1990b) published in December 1990 on the organisation of the SPS, was written in consultation with management consultants, Coopers & Lybrand Deloitte. It was developed following the SPS's realisation that "the current organisation and structure of the headquarters' Divisions did not provide the most effective framework for the strategic management of the SPS" (ibid:1). Organising for Excellence presents the findings and recommendations of a review working team set up to examine current organisational structures and to provide a vision for the future. Peter McKinlay then the Director of the SPS, stated:

This latest document is very much an agenda for the staff of our Service. Although the primary focus is on the top management structure, these proposals, if implemented, would lead to greater delegation of responsibility and accountability throughout the Service. If we are to deliver a modern, high quality Prison Service, then it will be essential to empower and involve management and staff at all levels in the task of bringing that transformation about.

(Scottish Office News Release, 5 February 1991:2).

The document outlines the current organisational structure of the SPS, the strengths of which were identified as being in its flexibility and ability to adapt according to changing demands and technical expertise. However, this "process of adaptation has tended to be piece-meal and ad hoc" (ibid:13). The structure also fails to integrate strategic planning and operational activities effectively resulting in Deputy Directors being overly concerned and involved with daily operational procedures. This is exacerbated by a, "lack of a coherent, integrated line management structure" (ibid:16). This overcentralisation is reflected in the control of key operational issues and in the

“limited delegation of financial budgets” (ibid:15) to individual penal establishments, resulting in Prison Governors feeling “constrained and disenfranchised” (ibid:1). The document demonstrates the importance of establishing a unified structure encompassing headquarters and the prisons.

The progress in restoring order, authority and discipline throughout the SPS is documented and considered successful because of staff commitment, clear leadership and the direction of senior management. This group had developed a, “vision of the broad strategic direction” (ibid:1) including the SPS Mission (detailed above). Its ‘vision’ includes: ‘value for money’; being “responsive to the needs of those the Scottish Prison Service serves”; devolving “authority, responsibility and accountability for service delivery to the lowest possible level”; improving the “quality of service to prisoners”; providing “staff with interesting and worthwhile jobs”; “promoting public awareness” in the work of the SPS (ibid:21).

This restructuring process must incorporate several objectives and principles. First, in recognising the Secretary of State’s direct responsibility and accountability to Parliament for all aspects of the work of the SPS, a clear delineation of the relationship between strategic planning and operational management is required (ibid:24). Second, the devolution of authority to establishment level within a framework of accountability must be met (ibid:25). Third, is the creation of a prison service with a more unified culture shared by staff at headquarters and in establishments (ibid:27). Fourth, the creation of a framework for strategic management based on objectives rather than reacting to events (ibid:29). Fifth, is establishing the distinction between strategy and

operational issues (ibid:30). Sixth, is the development of a coherent line management structure linking headquarters to prisons and establishing a chain of command between the Director, Divisional Headquarters and Governors-in-Charge (ibid:31). Seventh, is the development of effective financial control and management information systems to ensure the effective responsibility and efficiency of devolvement of such responsibilities to establishments (ibid:32). Finally, new organisational arrangements are required to support and ensure the delivery of a higher quality service with improved value for money (ibid:33).

Organising for Excellence proposes a new structure for the SPS with four key areas established, each headed by a Director who would be directly accountable to a Chief Executive. These areas are: Strategy and Planning; Human Resources; Prisons; and Finance and Information Systems (ibid:38). All senior managers constitute a new Prisons Board to advise on the development of strategies and plans and their implementation (ibid:38).

Given that the SPS consistently claims that its most important resource is its staff, the development of a Human Resources Directorate to concentrate on, “strategic and policy issues in terms of personnel policy and personnel management” (ibid:46) was identified as a crucial development. It should deal with ‘people centred’ issues.

The Prisons Directorate should be lead by the Deputy Chief Executive, responsible for the day to day direction and operational control of prisons, governors having full responsibility and accountability for managing their establishments and reporting to a

“senior line manager” (ibid:57). Three Area Directors, responsible for approximately seven establishments each, would be appointed to support Governors in the implementation of policy changes necessary to meet strategic objectives. The Deputy Chief Executive would also have three further specialist posts to “assist him in co-ordinating key resource and activity areas across all prisons, namely Heads of Estates, Custody, and Prison Industries and Supplies” (ibid:57). Specialist advisors on medicine, health and safety, and catering would provide ad-hoc advice when required.

The main objective of the Finance and Information Services Directorate should be to “design, develop and maintain financial and management information systems which will support the realisation of the strategic objectives” (ibid:71). The senior management team, headed by the Chief Executive, should monitor and control systems and performance “from the centre” (ibid:111) with area managers and Governors controlling budgets and operational issues. The restructuring of Headquarters into four Directorates and a Secretariat and the proposed transfer of a “number of functions to prisons from the present headquarters Divisions” (ibid:82) requires management teams within penal establishments to be strengthened in order to meet the new skills and expertise required.

Organising for Excellence is clear that to meet the strategic objectives and to implement the proposed organisational arrangements, “support and contribution” (ibid:89) of staff within the SPS is crucial. The Chief Executive and Senior Management Team should provide, “leadership and strategic vision” to the staff but using strategies that are inclusive of all staff within the Service. Apart from effective

communications the SPS notes the need to develop its staff's competencies establishing known criteria for performance and accountability.

Organising for Excellence, while accepting that the proposed changes would involve complex and lengthy processes set an agenda for completion of devolution and decentralisation to be operational by mid-1993.

From Theory to Practice: The Implementation of Policy into Practice.

Following its operational and management problems, the SPS recognised the need to change from a, "reactive and defensive culture" responding to incidents and crises, to a "more open, proactive one" (Frizzell, 1993:203), emphasising the importance of planning to the anticipation and solution of problems. By 1990 the SPS had adopted its strategic planning approach developing, "a vision of the future, a clearer understanding of its purpose and a clear statement of the mission of the Scottish Prison Service" (ibid:204-205). The Prisons in Scotland Report for 1988-89 (1990) outlines the events and developments throughout the SPS during this period. It indicates that preparations for a full review of the SPS estate and its modernisation had begun, with the aim of, "carrying out the work required to make the prison estate suitable for the 21st Century" (Scottish Home and Health Department, 1990b:14).

In 1991 the SPS produced a new style report, for the period 1989-1990, in which its Mission Statement was introduced. In the Forward Peter McKinlay notes:

Conditions for staff and prisoners continued to improve in 1989-90. Significant problems remain which will take time to overcome, but the

overall mood of the Service and the public's perception of us through the media got better.

(Scottish Home and Health Department, 1991a:2).

Although staff were 'in control' and there were improvements in education, physical education, and in leisure and recreation, McKinlay acknowledged problems remained in existence but: "a mood for change is evident in the Service and, increasingly, in society" (ibid:3). Describing the SPS as a "people business", he concludes:

Our task in managing the Service is to enable every member of the Service and every prisoner to realise their full potential as individuals in contributing towards making the Service an organisation of which Scottish society can be proud.

(ibid:3).

The Report reviewed arrangements for Parole in light of decisions published in the Kincaig Report on Parole and Related Issues and in response to proposals from the Standing Committee on Difficult Prisoners. Following the latter's recommendations seven prisoners had been removed to the Inverness Unit during 1989-90, transferred from Peterhead Prison. Arrangements were also made to monitor the use of Rule 36 at Peterhead Prison, "in the interests of good order and discipline" (ibid 6).

With internal managerial change, emphasis was placed on the provision of higher standards of security and control, better planning within the Service and a review for the improvement of existing prison stock. In order to improve and modernise the Estate, expenditure on prison building in 1989-90 was approximately £17.3 million,

£14 million of which was spent on capital projects and £3.3 million on maintenance.

The Shotts Alternative Unit was completed during this period.

With departmental restructuring focusing on industrial relations, personnel and training, the objective was to, “develop all round professionalism in industrial relations” (ibid:18). The scope of staff training increased with new courses offered throughout the SPS. The training budget expanded from £800,000 in 1987-88 to £2,740,000 in 1989-1990. A major investment in the training of Tutors at the SPS College and Staff Training Officers attached to establishments was prioritised and undertaken throughout the year. Throughout the year the delivery of Core Skills and Development Training took place at the level of Initial Recruit Training , and on a newly launched programme of Development Training for experienced officers and Senior Officers. This was complemented by an accelerated promotion scheme. A range of specialist training courses was delivered throughout the year including the management of serious incidents and the control and restraint of violent prisoners.

While maintaining existing levels of service to prisoners, a number of new initiatives were developed throughout the year. Some of these focused on vocational training, additional tuition, physical education training programmes and pre-release training, including courses run by Apex to facilitate the employment of ex-offenders.

Following the 1989 Business Plan, the Division, in liaison with the SPS developed a series of strategic management planning workshops for Governors, Deputy Directors and senior management teams, in an attempt to implement an integrated management planning system. This was accompanied by further work to develop processes of budgetary devolvement to prison managers, first started in 1988. In September 1989 an Information Systems was Unit established to, “take responsibility for the general co-ordination and direction of the development of information systems for the SPS” (ibid:35). Peter McKinlay commented:

We have begun to engage members of the Service at all levels in developing the new initiatives which will turn those plans into practice. We have also begun to develop the necessary skills at all levels of the Service, to equip us to work in new ways. And we have laid our plans for the organisational changes which will be necessary, to decentralise authority and responsibility and to empower and engage staff at all levels of the Service in the delivery of quality.

(ibid, 1991:2).

In order to facilitate these improvements Peter McKinlay argued that a fundamental change in traditional attitudes, understanding and approach, was required, not only from management and staff but also, prisoners, their families, other elements of the criminal justice system, and wider society.

The Operations Division reported another year of stability with the average daily prison population falling from 4,886 in 1989-1990, to 4,739 in 1990-1991, a reduction of 3%. The largest percentage reduction was in the Under 21 category where numbers fell by 7% (ibid:8). One major incident took place throughout the year at Shotts Prison and minor incidents continued to take place, “as a means to draw attention to some grievance or to cause disruption” (ibid:10). Following the establishment of the

Drug Detection Dogs Unit in the previous year, two further dogs were introduced to the Unit in February 1991.

Having previously adopted new policies for the 'management' of long term prisoners, Perth Prison developed a number of programmes to address the individual needs of long termers. These included a pre-release pilot course structured and run for prisoners, a counselling package for six offenders, an anger control group addressing aggression and an in-house alcohol addiction group. Peterhead Prison continued to hold long term prisoners unable to serve their sentences in a mainstream prison.

Throughout the year sub-committees and Working Parties were established to review and implement policies of key personnel issues such as Equal Opportunities, Personnel Procedures, the Discipline Code, Retirement Policy and Staff Appraisal. Work continued throughout the year on the development of the Service's corporate planning system, based on a strategic management planning approach. The second phase of strategic management planning workshops for Governors and senior management teams was delivered with each prison completing strategic plans, sharing a common planning process.

During the year the Planning and Development Division announced a new initiative, the Prison Survey, which was to:

provide a regular means by which all staff and prisoners have the opportunity to comment on standards, facilities, conditions and to make suggestions for change and improvement in the SPS.

(ibid:36).

As stated previously, Opportunity and Responsibility was published in 1990 and it was well received, “gaining recognition as a significant initiative to re-interpret penal philosophy and practice in ways which are relevant to the issues of the 1990s” (ibid:37). In line with the proposals outlined in Opportunity and Responsibility, a number of key initiatives were launched or developed further. A Project Board was set up to develop and implement the Sentence Planning Scheme.

Working Groups were set up to design and implement the provision of electrical power in cells and a scheme to allow prisoners to use their own resources to rent or buy televisions. Other Working Groups concentrated on reviewing policy governing vulnerable prisoners, suicide prevention, viral infections and alcohol abuse. Finally, a pay phone system for use by Scottish prisoners was installed, “designed to substantially improve availability, security and control and allowed access for the first time, with certain additional controls, to the small number of Category ‘A’ prisoners (ibid:37). During 1990-1991 £11 million was spent on capital projects and £3.3 million on maintenance.

The SPS College training programme for the first time provided training for all levels of staff throughout the Service including the introduction of the core competency course for Principal Officers. In 1990-91 the accumulated total of residential and local training amounted to 6 days per annum per member of staff, with a target for training to be delivered by 1994-95 set at 10 days per annum (ibid:44). Despite a national dispute with the Scottish Prison Officers’ Association from December 1990 to January 1991, the Industrial Relations Unit managed to resolve the issues and avert industrial

action. According to the Director of the SPS this was a “great credit to the professionalism of the industrial relations mechanisms which are now in place in management’s and in the Trade Union side” (ibid:3).

The new Chief Executive of the SPS, Eddie Frizzell, was appointed in October 1991.

Commenting in the Foreword to his first Annual Report, for 1991-1992, he stated:

Thanks to the vision of my predecessor and his senior colleagues, and the dedication of staff at all levels, much progress had been made since the difficult days of disorder and disruption which marked the late 1980s.

(Scottish Home and Health Department, 1993a:viii).

Elsewhere, Eddie Frizzell (1993), comments that by 1990 the SPS’s Strategic Planning approach to management was a significant step forward in the process of change. This was to be consolidated in July 1991 when the Secretary of State for Scotland endorsed the principles of Organising for Excellence. The revised structure at Headquarters was put in place in November 1991. It included four Directorates (Strategy and Planning; Human Resources; Finance and Information systems; the Prisons Directorate). They were responsible to a new Prisons Board. At the first meeting of the Board it established its priority as being to “reconsider and endorse the new philosophies and approach which underpinned the direction mapped out for the Service by its predecessors” (ibid:ix).

The overall aim of the Directorate of Strategy and Planning was established. It is to “support the management of cultural change and the delivery of a high quality Prison Service which is strategically driven” (ibid:35). The means to achieve this are outlined

in The Justice Charter for Scotland. The Charter outlines the steps already taken and those planned for the future, in ensuring that the administration of justice in Scotland is of the highest quality. The Charter describes:

What the citizen is entitled to expect from each main public service in the justice system - the Police, the Courts, and the Procurator Fiscal Service, the Prison Service and the Social Work Services.

(Scottish Home and Health Department, 1991a:4).

The Prison Service role reflects the principles and priorities outlined in the key policy documents discussed above. This includes a commitment to the provision of a “high quality service” to benefit the public, the prisoner and the prisoner’s family. The public are entitled to be protected from certain citizens who “will be held in safe and secure custody” (ibid:12). Prisoners however, can expect to receive a service which provides them “with as full a life as possible” (ibid). The quality of life experienced by prisoners is identified as crucial and a commitment is made concerning improved catering and the abolition of ‘slopping out’. It states that prisoners will be encouraged to maintain their family responsibilities whilst in prison. The SPS will provide for this by improving visiting arrangements and facilities for prisoners’ families. Links between prisons and local communities will continue to be promoted.

The document also outlines the importance of the ‘Personal Development’ of prisoners which is promoted and developed via the Sentence Planning Scheme. Through ‘personal development’ programmes, problems will be identified and prisoners will be enabled to, “make responsible choices, and devise a sentence plan” (ibid:13).

To ensure accountability, the SPS will continue its own monitoring and review procedures with Her Majesty's Chief Inspectorate continuing to inspect and report on each penal establishment. Finally, the existing grievance system for complaints will be reviewed and new procedures which will include an, "independent element...by 1993" (ibid:14).

Following the publication of the Justice Charter, the Secretary of State for Scotland in February 1992 announced that the SPS had been considered suitable for 'Executive Agency' status. Agency status was granted on 1 April 1993, providing the Chief Executive with the authority and flexibility to manage the Service. In the Forward to the Agency Framework Document (SPS, 1993b:3), Ian Lang, the Secretary of State for Scotland comments:

Agency status is about specifying clearly and publicly the tasks and responsibilities of the Scottish Prison Service and the levels of service which must be delivered. It will assist the Service in fulfilling the principles of the Citizen's Charter in all aspects of its operation, and in meeting the commitments set out in the Justice Charter for Scotland.

The significance of Agency status was that it specified, "clearly and publicly, the tasks and responsibilities of the Service, the resources to be made available, and the levels of service which are to be delivered" (Scottish Home and Health Department, 1993a:35). Lines of accountability were established: the Secretary of State for Scotland to remain accountable to Parliament and the Chief Executive to be answerable to the Secretary of State for the Agency's operation and performance. The Chief Executive, unlike previous Directors of the Service was given full managerial authority for the Agency and day-to-day operational policies and practices. Significantly, the Chief Executive

can increase the delegation of authority and accountability to Governors in individual prisons, a proposal advocated in Organising for Excellence. As with the previous year each prison in Scotland produced a strategic plan, “analysing its present position and setting out key initiatives for the future” (ibid:35-36). This strategic planning process was extended throughout the new Directorates.

The Division reported on ‘Project Development’ during the period. The strategy for the management of HIV/AIDS prisoners made progress. The Suicide Prevention Strategy was finalised culminating in a manual providing guidance for staff and the commencement of a staff training programme. The Sentence Planning Scheme continued and progress was made throughout the year with the preparation of nine videos of prisons designed to inform long term prisoners of the opportunities available in each prison. The use of the ‘personal development file’ was piloted at Shotts Prison and the Division claimed positive results, noting a high prisoner participation rate. Training packages were prepared for Sentence Planning Implementation Teams from each establishment. Finally, with an implementation date of 6 July 1992, eighty senior staff from Headquarters and prisons participated in preparatory workshops to prepare for implementation.

Major changes took place throughout the year in devolving line management responsibility to specific prisons. Significant plans were made for the implementation of an Equal Opportunities posting policy in April 1992, enabling staff to work in male or female prisons, irrespective of their sex. The priority of staff training and development was reflected in the increased expansion of the training budget which had

risen from £0.8 million in 1987 to £3.126 million in 1991-92. Six training priorities were identified and developed: improved staff access to training; quality assurance of the core programme of competency training; the development of the Training Organisation's capacity to support the SPS programme of strategic change; improved financial and management control; improved continuity and supply of skilled trainers and facilitators; encouragement of a corporate spirit within the training organisation.

It was recognised by the Finance and Information Systems Directorate that an up to date, computerised information system was essential to the SPS's objectives of increasing the financial accountability of Governors and achieving value for money. In 1992 recommendations for three priority systems: financial accounting and management; prisoner records, and staff records were accepted.

In the Forward to the Annual Report 1992-93 (SPS, 1993b:viii) the Chief Executive, Eddie Frizzell paid tribute to the, "willingness of the Scottish Prison staff to meet the challenges that changes bring". He noted that prisoner numbers had increased throughout the year, peaking at over 5,900 in March and leading to overcrowding in some prisons. He stated: "the consequences of record population levels - for staff, for sickness levels, for costs, and for prisoners themselves - are evident" (ibid). Despite making progress on a range of initiatives, he also reported three serious hostage incidents occurred throughout the year, two at Perth and one at Shotts.

New developments during the year included: the introduction of a new classification system which related security category to 'assessed dangerousness' of a prisoner; the

completion of a review of prisoner grievance procedures; the introduction of a new suicide prevention strategy; the introduction of a plated meal system at Aberdeen and Glenochil; increases in the food budget; continued progress with access to night sanitation; the introduction of the Sentence Planning Scheme. Organisational change continued to progress, and significantly, the SPS claimed to be a 'full equal opportunities employer' by introducing opposite sex postings.

A guidance manual on the management of HIV/AIDS prisoners was issued to prisons in March 1993 and the Directorate organised a two day drug prevention conference, attended by staff, prisoners and representatives from relevant organisations. Following this an outline strategy for dealing with drug misuse in prisons was presented. The report of the Working Party on prisoners' grievance procedures, entitled Right and Just was presented for consultation. The Human Resources Directorate reported that the staff training and development budget increased to £3.80 million during 1992-93. Priorities for training included: the development of initiatives to support change; improving the skills base of staff; developing consultancy services; core competency training development; the improved management of physical resources.

New security classification arrangements were introduced in January 1993. Existing schemes to help prisoners maintain family contacts were extended to include summer leave in open establishments and Training for Freedom Hostels, and that Christmas leave was extended to category D young offenders. It was also noted that good progress had been made with the preparation of user specifications and operational requirements to enable the Scottish Prisons Information Network (SPIN) project to

proceed further. All establishments were provided with computer equipment throughout the year.

The Annual Report for 1993-94 (Scottish Home and Health Department, 1994) reported on the Service's first year as an Executive Agency of the Scottish Office. Throughout the year the prisoner population reached its highest recorded total, averaging 5900. The Chief Executive, Eddie Frizzell commented that this:

stretched accommodation and services and it is to the credit of all staff and the majority of prisoners that relationships and good order in prisons were maintained.

(ibid:7).

He commented that good relationships prevailed despite two major incidents of disorder at Shotts and at Glenochil, where a prison officer was held hostage.

The Prisons Directorate reported that no category A prisoners, but thirteen Category B prisoners, escaped throughout the year. Additionally there were eight serious assaults on staff and fifty six on prisoners recorded. The Custody Division completed a review of the recruitment, training and management of Incident Command Teams. The Standing Committee on Difficult Prisoners was replaced by an Advisory Committee on Prisoner Management. The Committee, dominated by lay membership, was to give "an independent view of SPS combined with operational experience" (ibid:42) and it conducted thirty two interviews with prisoners considered to be a 'management problem'.

The Regime Services and Supplies Division announced that central storage and distribution had been market tested, the in-house team successfully gaining the tender, and that the competitive tendering of prison-based education was in progress. The Division also reported that a review of prison industries in the hope of making them more opportunity-focused had been postponed due to other pressures until 1994-95. The Estates and Buildings Division published The Estates Strategy in June 1993 and reported that by the end of March 1994, 51.8% of prisoners had access to night sanitation.

The Strategy and Corporate Affairs Directorate reported on considerable progress throughout the year. The first Corporate Plan was published in August 1993 outlining strategic objectives and specific performance targets. Statement of Charter Standards for the public, visitors and for prisoners were published in January 1994. The second Prison Survey was published in February 1994 and a revised system for dealing with prisoners' requests and complaints was also introduced in February 1994. This Grievance Procedure system was designed to resolve problems and to give prisoners written responses.

Project development continued. A revised video on HIV/AIDS was produced and a leaflet and calendar providing information were distributed to prisoners. A guidance manual on the management of prisoners using drugs was issued in March 1994 and sterilising tablets were made available to all prisoners. Drug-reduction programmes were introduced at Edinburgh and Glenochil Prisons. Additionally, a Communications Branch was established in March 1994 to take over the Scottish Office Information

Directorate with responsibility for relations with the media and to co-ordinate and implement the Service's communications strategy.

The Finance and Information Systems Directorate announced that throughout the year it had continued to, "design, develop and maintain financial and management information systems which actively support the achievement of the Service's strategic objectives" (ibid:46). The Human Resources Directorate reported that it provided a range of services to line management in Manpower Planning, Industrial Relations and Personnel Management. A programme of change and restructuring, devolving authority and responsibility to line management and reviewing staffing systems and structures also was instituted. The Directorate reported that staff training and development continued as a priority for the SPS, which invested £4 million throughout the year. 20,000 person days of training were delivered centrally by the SPS College and an average of thirty hours per member of staff by local Staff Training Officers, totalling seventy hours training per person in 1993-94.

Conclusion.

From 1988 onwards the SPS has invested considerable time, effort and resources in its attempt to reorganise and develop what it considers to be a progressive, enlightened and quality service. The policy documents which were published throughout the period, to some extent, have been implemented in practice. Significantly, the proposals for the reorganisation of the Service as advocated in Organising for Excellence have been realised. The reorganisation of Headquarters to produce a more streamlined

structure under a Chief Executive and a Prisons Board is now operational and has been assisted by the acquisition of Agency Status. This chapter documents the transfer, over time, of decision making and financial responsibility from Headquarters to Governors in each local prison. The SPS management agenda, based on strategic and corporate planning, was consolidated by the publication of the second Corporate Plan in July 1994 which outlined the framework for development and objective targets for the period 1994-97.

This new management agenda has as indicated in the introduction to this thesis, been referred to as 'new managerialism' (Clarke and Langan 1993; Jones 1993; Clarke, Cochrane and McLaughlin 1994; Clarke 1996; Newman and Clarke 1996). Clarke and Langan (1993:67) suggest that new management theories derived in the USA in the late 1970s stressing: "flexibility, adaptability, a commitment to 'quality' products and services, and customer orientations." This emergent new managerialism is evident in all public sector organisations, significantly, as Clarke, Cochrane and McLaughlin (1994:4) observe: "managerialization constitutes the means through which the structure and culture of public services are being recast." The role of management in the reform of the public sector according to Clarke, Cochrane and McLaughlin (*ibid*) focuses on two areas or strategies, each consistent with SPS reforms outlined in this chapter. Firstly, a commitment to strategic planning whereby strong management teams provide central leadership and direction, outlined in Mission Statements. Secondly, the implementation of operational priorities, devolving responsibility and emphasising local management initiatives. The success of these new initiatives requires a degree of closeness and openness with customers.

Opportunity and Responsibility established the purpose of the SPS through its Mission Statement providing the basis for the development of policies for the 1990s. It made particular reference to the needs of long term prisoners. The 'new approach advocated in the document identified a need for prisoners and the SPS to act 'responsibly'. Long term prisoners were to be encouraged to address their offending behaviour, make use of the opportunities provided by the Prison Service, and to 'take charge' of their personal development. Despite suggesting a range of policy initiatives to facilitate and enable this new philosophy to develop, the main, structural development has been the Sentence Planning Scheme, introduced in 1992. It is with these changes, and particularly the emergence, development and application of the Sentence Planning Scheme as it has been experienced by long term prisoners, that the primary research is concerned.

CHAPTER SEVEN

**THE CONTEMPORARY EXPERIENCE OF LONG TERM IMPRISONMENT IN
SCOTLAND**

Autonomy, Privacy, Regulation and Routine.

A prisoner's first experience of prison is the reception area on arrival. It is here that prisoners are faced with the dehumanising process of having their identity stripped. Their name is replaced by a number; their personal clothes are exchanged for a prison uniform; their personal property becomes public property; their freedom and autonomy is replaced by supervision, regulation, strict routines, order and control. Human dignity and any respect for privacy is lost in this institutionalised process. A first time offender recalled his feelings when locked up in Barlinnie Prison:

It was a bit of a surprise, you know, just going into your cell, at night, you just want to get into a comfy bed - it was all new to me and someone just slamming that door and locking you up - and it's 7 o'clock at night and that's you.

(Prisoner, Glenochil).

The prison routine that follows admission and reception reflects the wider concerns of security, order, regulation and discipline. The daily timetable is tightly structured to ensure regularity and order. At all times prisoners are counted and escorted by officers. The general timetable applied throughout the week is rigidly adhered to and consists of periods of work, exercise, recreation, meal breaks and time spent locked in cells. The timetables for each prison visited were similar and consisted of the following :

- 6.30 am - Cell doors are opened;
- 7.00 am - Breakfast, showers, requests to Governor;
- 8.00 am - Work parties;
- 11.30 am - Return to Hall, lunch, exercise;
- 1.30 pm - Return to work;

- 3.30 pm - Return to Hall;
- 4.00 pm - Tea;
- 4.45 pm - Lock Up;
- 6.30 pm - Recreation;
- 9.00 pm - Lock Up.

This routine applies to all, with the exception of those on the hospital wing, and those in segregation who are locked up for twenty three hours per day. The weekend timetable differs, with periods of recreation accompanied by long periods of 'lock-up'. Although timetables differ slightly, the general weekend routine is:

- 7.30 am - Cell Doors are opened;
- 8.00 am - Breakfast, association/recreation;
- 11.00 am - Lunch;
- 11.45 am - Lock Up;
- 1.30 pm - Association/recreation;
- 4.00 pm - Tea;
- 4.45 pm - Lock Up.

Prisoners universally commented that it was impossible to achieve real privacy in prison:

Does that come in bottles or tins ?!! You can create a false privacy but you've no real privacy because they (prison officers) can be on top of you anytime they want.

(Prisoner, Edinburgh).

Mental space is a big thing in here, there is not enough mental space. And I don't put that down to bureaucracy, I don't put it down to cons. I put it down to the way the building is, the way the halls are built. People are constantly coming out and talking to each other, shouting and that, you know. So basically it's very difficult.

(Prisoner, Glenochil).

One of the worst things is no privacy, I've tried to commit suicide a few times because of no privacy. There are no quiet moments.

(Prisoner, Shotts).

A number of prisoners noted that having a single cell was important and there was concern expressed by those approaching the end of their sentences, due for a move to Open Prisons where much of the accommodation is in dormitories:

In a way I don't mind the long lock up, because in a way when I'm locked up, I know that's me for the rest of the night. I'm able to do a little studying, a little writing, I value that time very much. In fact during recreation, I am dying to be locked up because when you are open you have nothing to do, they got television in each section but you don't have the quietness to watch it, people are shouting and walking about. It's not worth it.

(Prisoner, Glenochil).

Only privacy is when your door is locked after 9.00 pm, if you've got a single cell. If you don't have a single cell you've no privacy.

(Prisoner, Edinburgh).

There is supposed to be progression. I could now go to a semi-open - Greenock but they have made it into a 'two-ed up'. Although visits are more relaxed this doesn't appeal to me.

(Prisoner, Perth).

I would rather do an extra couple of years rather than endure dormitories. I will fight them (SPS) through the courts on a legal point that long termers are entitled to a single cell.

(Prisoner, Edinburgh).

Prisoners in Pentland Hall in Edinburgh Prison had mixed views concerning possession of their cell keys and the impact this had on privacy:

Now I have privacy, for the first time in my twenty four years I have got privacy. For two years I have had a key to my door. It's one of the biggest advancements in the prison I've seen. I can lock my door at any time and only associate when I want to do. It treats me like a responsible adult for once.

(Prisoner, Edinburgh).

He noted that officers persist with the head count and still enter cells with a master key. However, they knock on the door before entering, a change which requires both staff and prisoners to alter their perspective considerably.

Conversely, another prisoner in Pentland Hall complained that it was impossible to get any peace and quiet or privacy. He maintained that:

Guys are running about all night, you never really get a decent night's sleep. It was the worst thing they ever did - allowing you to be opened up until whatever time you want. It is seen as a privilege but it also causes problems.

(Prisoner, Edinburgh).

Several prisoners commented that there was little privacy when showering and using the toilet. It was suggested that the half doors to the toilets be replaced and doors should have 'engaged' signs. One prisoner commented on the shower facilities:

The shower in the landing is right opposite the office. Now we have a woman officer and sometimes you don't feel comfortable. I have no objection to women in the hall but I felt that the shower room should be put in a corner or maybe the end of the section, not right in front of the office....When you come out of the shower you feel people are looking at you.

(Prisoner, Glenochil).

Although not prompted, many prisoners raised the issue of mail censorship. Prison staff still open prisoners' mail, in some prisons in front of them, to check for money or anything illegal, but no longer read letters. For those whose letters were not opened in their presence, there was some scepticism:

It seems like letters aren't censored.

(Prisoner, Edinburgh).

For others there was some satisfaction with the system:

This regime is quite good concerning mail. You get your letter in and it's unopened, they open it in front of you. So that's quite fair, it's quite just.

(Prisoner, Glenochil).

All but one prisoner reported experiencing extreme boredom. To alleviate boredom prisoners: read books, listened to music and the radio, worked out in the gym, painted, did crosswords and, as one prisoner commented, "smoking hash which makes you feel mellow and relaxed" (Prisoner, Glenochil). The majority of those interviewed stated that for long term prisoners boredom was a major problem and it was not adequately addressed by staff and management.

Physical Conditions : Overcrowding, Hygiene, Sanitation.

Facilities and physical conditions vary throughout the penal estate and comments from prisoners were specific to their immediate environment. Prisoners in Glenochil, Shotts and Edinburgh were reasonably satisfied with their accommodation, as illustrated in the following comments:

Conditions are good. Hygiene is a personal thing. No slopping out makes a difference.

(Prisoner, Glenochil).

Sanitation is fine, you can go for a shower any time you like.

(Prisoner, Glenochil).

Shotts offers the best conditions. Good sanitation and hygiene.

(Prisoner, Shotts).

The conditions in this Hall are the best I have ever seen....What we are living in is like a cheap hotel. You have got a key to your door, the room runs off a corridor, it's carpeted, you have a nice box in the corner with a white plastic sink. You have got power which is a great advancement. I have had it for two years and I have got a computer - thanks to Jimmy Boyle and the Gateway Trust. I have a C.D., tranny, a bedside lamp all running off power. What a terrific advance when you are not running off batteries all the time. What a saving.

(Prisoner, Edinburgh).

It was recognised that personal cleanliness was the responsibility of individual prisoners.

As one prisoner commented:

Hygiene and sanitation are self regulatory, if you want to be clean you can be. If you want to be dirty, you can be.

(Prisoner, Edinburgh).

It was also acknowledged that the general cleanliness of Halls was the responsibility of pass-men and that if they did not do their job this created low standards of cleanliness and hygiene.

Prisoners in 'E' Hall in Perth Prison were dissatisfied with their accommodation which was described as 'dirty' and in which 'slopping out' still occurred. There were only six showers for seventy people. At the time of the interviews the Hall was being renovated and

prisoners were optimistic about modernisation including: night sanitation; power sockets; adequate showers and toilets.

Prison Food.

That food should be nutritious, good quality, well-presented and varied, appears of little concern to the SPS. It lacked variety, flavour and nutrition, often arriving cold and unappetising. Prisoners have limited finances and opportunities to supplement their diet. Inevitably, prisoners were critical of their food and its preparation:

The food is crap, some of it is rotten and they know that.

(Prisoner, Glenochil).

Prison food - that can be a sore point.

(Prisoner, Edinburgh).

Food is awful, awful some of the things you get are unbelievable.

(Prisoner, Edinburgh).

The one thing I miss most is food. Sometimes the food they come up with is really horrific. Sometimes I don't know how I survive eating food here. You may feel hungry but when the food arrives you can't eat it.... I remember we had Chicken Supreme, it sounds excellent, but when it comes you could turn the plate upside down and it wouldn't fall off the plate.

(Prisoner, Glenochil).

Glenochil, Edinburgh and Perth Prisons operate a menu system in which prisoners choose their meals two to three weeks in advance. It was a welcome change but there were problems:

It looks brilliant on paper, but on the plate it's a different thing.

(Prisoner, Edinburgh).

Although the choice is reasonable there is a big difference between the menu and what you actually get.

(Prisoner, Edinburgh).

Shotts Prison does not have a menu system but offers prisoners a choice every two days. Prisoners suggested that the standard was reasonable. Their main concern, related to the delivery and presentation of meals. Meals were prepacked on individual trays and sent from the cookhouse to Halls on hot trolleys. Prisoners commented:

It's a sore point to me, the food is terrible and since they introduced these heated trays, if we didn't have a microwave in the hall there would be all hell to pay.

(Prisoner, Glenochil).

I know that the structure of the kitchen has a lot to do with it. Because it is so removed, the food is cooked then placed on a trolley in trays that are sealed. But the food, especially the chips are soggy.

(Prisoner, Glenochil).

A few prisoners expressed satisfaction with the food. One commented that after a life in boarding schools and the Army he was not the best person to comment. He stated:

You can't really complain about the food because you pick it yourself a fortnight in advance, like a hospital, it's a pre-set menu - you really can't complain. The standard is reasonable and the choice is very good.

(Prisoner, Glenochil).

He suggested that there was variety in the menu and the food fulfilled the appropriate rules.

Another prisoner recognised the need for good quality nutritional food, stating:

The food in itself is okay, I mean again it's personal, I'm looking for nutritional value in liver and things like that, so it's okay. You have a menu, you can select your meals.

(Prisoner, Glenochil).

It was recognised generally that an effort was being made to improve quality and vary the menu and choices available. One prisoner commented:

The cook here has made an effort - he gives at the top end of the jail not at the bottom. ... An attempt is made to vary the food but there is too much spice in the food for my choice. European week, Chinese week, Spanish week, French week - but all they really do is put different spices in the mince.

(Prisoner, Edinburgh).

The same prisoner noted however that the tea-time meal had not changed:

It continues to be cornbeef, potatoes and cabbage or slab pie - perhaps to remind you that you are still in prison.

Prisoners gave universal support to the principle of cooking their food:

It would be heaven to be able to cook my own food.

(Prisoner, Edinburgh).

I think the idea of prisoners cooking their own food is brilliant, I've advocated it for years.

(Prisoner, Glenochil).

Whilst recognising practical problems, prisoners had many ideas as to how the scheme could be made feasible, suggesting that smaller units would be necessary, as in Cornton Vale, where women cook their own food. As one prisoner stated:

The existing TV lounges could be transformed into kitchens if prisoners had in-cell TV. However, that would be far too radical.

(Prisoner, Edinburgh).

Education, Work and Recreation.

Access to full-time education varies according to a prisoner's position in the progression system. Full-time education, part-time education and evening classes were available in all the prisons at the time of the interviews. Prisoners' attitudes to access, course variety and availability, and the standard of education varied:

Education facilities are good, if you're keen they'll go out of their way to give you the packages or whatever you need. That also applies to the library - they'll try and get you any book you want - excellent, excellent.

(Prisoner, Glenochil).

Education in the jail - second to none - excellent. All of this is nothing to do with the prison, but down to the people that run education.

(Prisoner, Glenochil).

I'm doing sociology and computing. I did computing because my son is doing it at secondary school. There's a future in that.

(Prisoner, Perth).

The mainstream education is a joke. But there are plenty of avenues to get into higher education.

(Prisoner, Edinburgh).

I've gained a lot over the past ten years, from books mainly. You don't get any encouragement in fact you get a lot of destruction, a lot of obstacles.

(Prisoner, Glenochil).

The variety of educational courses was generally impressive and included remedial courses, short courses, City and Guilds courses, Scotvec, Highers, Open University courses and degree courses. Some prisoners made suggestions for improvements. One prisoner suggested community links:

I think they should extend education itself into the community, colleges and places like that. Prisoners should be allowed out to college. I think the community is an important thing in the prison. I don't think they should put up barriers because we are only human.

(Prisoner, Glenochil).

Another commented that education provision was adequate, but inappropriate:

It's not a basic education people need - it's an understanding of why they have ended up in prison and what they can do about it and how we can help them when the situation comes up again to recognise the dangers before the cell door closes.

(Prisoner, Edinburgh).

The issue of work, however, was universally more problematic for prisoners. Concerns raised by prisoners related to the type of work available, the wage structure and the wider purpose of work in relation to personal development. The range of work offered was seriously restricted, unchallenging, boring and repetitive with little potential for personal development or use on prisoners' release. The privileged jobs were identified as passmen (in the surgery, reception, visit pass, and the Governor's office). Other jobs: hall passman, joinery, engineering, textiles and boat building in Glenochil; textiles, bricklaying, joinery, P.T. course and the cookhouse in Perth; engineering, assembly, heavy textiles (mailbags), hairdressing and gardening in Edinburgh; printshop, woodwork and hairdressing in Shotts, were considered to be inadequate. Prisoners commented:

Work in the sheds is boring and repetitive, it could be improved dramatically.

(Prisoner, Edinburgh).

For two years I was just folding aprons....quality control.....total boredom.

(Prisoner, Edinburgh).

I don't go to the sheds, I just refuse to go to them.

(Prisoner, Perth).

The work is depressing....sitting in front of a sewing machine.

(Prisoner, Perth).

The work available does not cater for people with talent in here.

(Prisoner, Shotts).

A number of prisoners suggested that privatisation should enhance work opportunities in prison and create a better wage structure. The current wage structure provoked anger, resentment and bitterness in prisoners, with the average weekly wage ranging between £6 and £7. The following comments were typical:

The pay structure is an insult....particularly as they keep you grafting all day long.

(Prisoner, Edinburgh).

The wages are terrible, they are Victorian wages.

(Prisoner, Edinburgh).

They are just crap.

(Prisoner, Perth).

Nobody likes work, but if you don't get paid for it, it's so depressing. No incentive.

(Prisoner, Perth).

The wages are nonsense, absolute nonsense, as we all know. I think sheds should be oriented towards mass production but the guys should get paid for their labour and they should be getting paid for the quality, it's a workshop, a workhouse and they produce quite good work.

(Prisoner, Glenochil).

Many prisoners commented that work did not prepare them for release:

Work doesn't prepare people for release. Prisoners should be given apprenticeships so they can train for a trade.

(Prisoner, Glenochil).

Personal development is very much neglected at workshop level.

(Prisoner, Shotts).

When I first got sentenced, I thought what am I doing in here. I mean if you commit a crime you go to prison. If I have done a wrong to society there should be a right for me to pay the society back, to do something constructive. In the workshops most of the time you are doing nothing, you just sit there. To keep officers in a job. That is senseless. There is so much resources among prisoners.

(Prisoner, Glenochil).

There are lots of people who are keen to start different things. However their ideas are blocked. They (prison staff) don't want the prisoners to be seen as intelligent human beings.

(Prisoner, Perth).

Prisoners considered that the recreation facilities were inadequate and contributed to a stagnant prison regime. Recreation facilities include: snooker, darts, table tennis, television, gym, and fieldnights during the summer months. Many opted out of these activities because there were permanent queues, particularly for snooker. It was impossible to hear the television because of the background noise. These prisoners spent time in their cells, reading, listening to the radio, or chatting. One prisoner in Shotts commented that recreation facilities were geared to younger prisoners, and that for older prisoners there was very little available. As one prisoner commented:

Most nights men are hanging over the landing staring at nothing and sitting talking about the same thing.

(Prisoner, Edinburgh).

Prisoners suggested a range of alternatives including: more outdoor sports activities; night workshops on offending behaviour; family visits; concerts; drama classes; meetings with outside agencies. As one prisoner commented:

Utilise the community, help the handicapped, etc. We're not ogres, we are human beings.

(Prisoner, Glenochil).

Many prisoners commented, however, that recreational facilities were seriously limited because of the commitment to maintaining a secure prison. One prisoner noted:

I think they have done as much as they can do given the security, the numbers and the staff.

(Prisoner, Perth).

Regimes : Discipline, Punishment, Solitary Confinement.

To maintain good order and discipline, prison regimes operate under an umbrella of rules and regulations which, although at the time of the research were guided by the Prison (Scotland) Rules 1952, are both formal and informal. Formal rules, regulations, Standing Orders and Circular Instructions are not widely available to prisoners; their access to this knowledge is often limited to those sections of the Prison (Scotland) Rules 1952 that staff consider 'relevant'.

Prisoners were asked if they had access to these formal rules. The unanimous reply was 'no'. A prisoner in Edinburgh Prison recalled that when first entering prison, prisoners were given extracts of the prison rules:

You get the basic few rules when you first come in and are sitting in the dogbox. You're 'lived up' and have to sit in a dogbox the size of a cupboard and read these rules.

(Prisoner, Edinburgh).

Otherwise prisoners were not given a copy of the rules. Extracts are given on request and prisoners learn about the rules from each other and through experience. They commented that generally the rules were petty:

Personally, it would annoy us even more if we knew what the rules were.

(Prisoner, Edinburgh).

Rules still exist that say you should ask permission to speak to another prisoner. It creates visions of quarries and chaining us to the rocks.

(Prisoner, Glenochil).

Two prisoners stated that they had their own copy of the rules. One commented:

I have my own copy. Prisoners are kept in ignorance so they can't complain and question. I lend my copy to prisoners - I'm not very popular with Governors. I've been to court forty two times so far to prove them and enforce them.

(Prisoner, Edinburgh).

Another prisoner stated that he had made it his business to become involved in litigation:

The management in this prison adopt this position - I know something you don't know therefore I'm in charge and if I don't tell you there's always something you don't know. The biggest frustration in prison is not being told what is happening - good or bad.

(Prisoner, Glenochil).

In addition to the formal rules, each prison operates a set of informal rules which are often administered and controlled by those officers working on landings, wings, Halls and in worksheds. Taken together, the formal and informal rules and regulations are geared to

discipline and order, but the discretion afforded to officers in their implementation causes animosity among prisoners. Prisoners reported that they would accept fair and consistent discipline but that the administration of rules constantly changed:

One day it's okay to do something, the next it's not, so you don't know where you stand.

(Prisoner, Glenochil).

The rules appear to be very abstract, they (prison officers) put things in to suit themselves.

(Prisoner, Perth).

Discipline, again it depends on an individual basis, it depends who you're dealing with, on the staff. I mean all these staff in here are George, Andy and Paul and things like that. It's very, very liberal, but at the end of the day they'll kick your arse as hard as anyone else. That's the bottom line you know. It's a Catch 22, in all fairness, they will be fair with you, but at the end of the day they've got to lock you up.

(Prisoner, Glenochil).

Prisoners also suggested that there was no consistency in administering punishments. Breaches of discipline lead to placing prisoners on report to appear before the Governor. Prisoners stated that they were now allowed to represent themselves and to put their case on paper but as was noted:

Usually it disappears....it's still the same, it's just a big facade.

(Prisoner, Glenochil).

They tend to have 'the Governor knows best' attitude - it's not worth arguing with them.

(Prisoner, Glenochil).

If I was put on report, I wouldn't say nothing. It's just a farce as far as I'm concerned.

(Prisoner, Perth).

Governors can impose discretionary punishments and prisoners listed the punishments they had received: loss of remission; loss of earnings; solitary confinement; closed visits; loss of recreation; loss of SEL's (special escorted leave). The following example was typical:

I was placed on report in Saughton for nicking two flowers out of the greenhouse and I lost seven days rec and seven days wages for that.

(Prisoner, Glenochil).

In the case of more serious or repeated offences, the Prison Visiting Committee adjudicates and awards punishments. There is no legal representation. A number of prisoners commented that punishment was meaningless as they had 'nothing to lose':

They've done everything to me in the past. There's no punishment that a Governor could hand to me that would have any effect on me. I would just laugh. That's just the way I see it - they can't take anything off me because I'm a life sentence prisoner.

(Prisoner, Perth).

As a lifer, it's very difficult to deal with me you know. But at the end of the day I know that the reports are all accumulating and when the parole board sees them they'll look at it and go ah - this for violence, this for that, etc.

(Prisoner, Glenochil).

A prisoner must be certified 'fit' by a Medical Officer before being given a term of solitary confinement and must be visited daily by the Governor and a Medical Officer. One prisoner commented:

Solitary confinement is abused in this jail day in and day out. It should only be used for a maximum of three days, but people get locked up for months.

(Prisoner, Glenochil).

Prisoner testimonies certainly suggest that a significant number spend months, and in some cases years, in solitary confinement. Many have been identified as a security problem and are confined under Rule 36. One prisoner noted:

It's probably the crudest form of punishment short of actual physical torture that you can impose on someone. It doesn't do any good at all.

(Prisoner, Edinburgh).

Prisoners recounted their painful experiences of solitary confinement:

I have been in the punishment block for six months in Glenochil, then placed in A Hall which at the time was a punishment hall.

(Prisoner, Glenochil).

He recalled this experience in A Hall in 1987:

There were no windows in the cell because they had been smashed. The officer gave me a blanket to place on the frame, but the wind blew it off. He then gave me a plastic sheet to put on first, then the blanket, again the wind blew it off. It was raining and in the morning my cell was soaking.

A prisoner, currently in Perth Prison, stated that he had spent four and a half to five years of his sentence in solitary confinement, mainly in Peterhead Prison. He commented:

I've been to the bottom - I've been years away from my people with nothing but a blanket.

(Prisoner, Perth).

He maintained that his spirit was never broken in solitary, he coped but recognised that damage had been done:

You know they are trying to break you, but they certainly never did that to me. But it is certainly damaging although you don't know it, other people, my people point it out to me. People see it who love and care for you, but you don't see it yourself.

He continued:

You actually stop thinking when you are on your own. You begin eating in a certain way, you forget your manners. When you are on your own, it doesn't matter how you eat or the noise you make - you are private in your cell. You find you still do that when people are around. We slept during the day and talked at night, that was easier to handle.

Other prisoners recounted their experiences:

I've had my bed taken away, my mattress taken away and my blankets during the day. I've sat naked in a cell all day.

(Prisoner, Edinburgh).

It's solitary all the time in prison, but I've had one night down the digger and it was horrific. One night after seven years and three months in a jail. I thought I could cope with anything. And one night, Oh my God it was freezing.

(Prisoner, Glenochil).

He concluded:

By isolating prisoners you are breeding trouble, psychologically you are breeding trouble.

A prisoner in Shotts, two years into his sentence recently had returned from solitary after thirteen months. He spent the first four months fighting officers and engaging in dirty protests. He was disturbed and experiencing difficulties adjusting to the mainstream. He "could not face work" and was locked in his cell during work hours and opened up for recreation. He was waiting to be placed at the Perth Time Out Unit ostensibly to help him reintegrate into the mainstream.

Some prisoners felt that their 'time out' in solitary benefitted them psychologically. One prisoner spent three and a half out of ten years in solitary in Edinburgh Prison where he had

experienced beatings from prison officers. However, he felt that he had benefitted from the quiet of solitary:

In fact when I'm locked up on my own, I think I am more content. I can read a lot of books.

(Prisoner, Glenochil).

Other prisoners made similar comments:

Solitary was a break. Well the first time I wasn't happy about it, it wasn't just segregation. But the subsequent times were a breather - a break from the normal.....Gives you a chance to get your head clear.

(Prisoner, Edinburgh).

Strangely it can be a relief to get there for a while. It's a little block - two or three cells in the middle of the prison. In a strange way I found it positive being taken out of the mainstream. I think you need it every so often depending on who you are.

(Prisoner, Glenochil).

It is an indictment of the conditions and function of mainstream regimes that solitary confinement can be presented as a better alternative.

Prison Staff.

Prisoners were asked to comment on staff-prisoner relationships and the general atmosphere in each prison. Prisoners in Glenochil and Perth commented that relations were fairly good, as was the general atmosphere. The following comments were typical:

It's good here because staff can take a joke, which I think makes it easier on the prisoners, there can be a bit of fun, rather than some officers who can be too strict, as if you were at school.

(Prisoner, Glenochil).

The atmosphere in this hall is okay, not as much supervision. I have not got any complaints. Since I came into this hall, six or seven years ago there has not been one screw who has treated me badly. I don't go around calling anyone a scumbag. I'll treat the guy like a human being and expect to be treated in the same way.

(Prisoner, Perth).

Prisoners in Edinburgh and Shotts were less positive about relationships. Prisoners in Edinburgh commented:

The general atmosphere in here is contempt, total contempt...it's all provocation - without actually hitting a con so they'll hit back, it's provocation. Lock us at every turn, say no at every opportunity and just treat us like dirt.

(Prisoner, Edinburgh).

It's a pretence in here. Previously there was a stronger boundary between staff and prisoners. Before the water was clear, now it is murky. It is false, not so good.

(Prisoner, Edinburgh).

Prisoners in Shotts commented:

The atmosphere is electric. The staff attitude is more severe. The grille gates are locked at times.

(Prisoner, Shotts).

The atmosphere in the prison is bad, it could explode anytime. Staff-prisoner relationships are false. They (staff) are okay to your face but bitterness is below the surface. There is no trust in the relationship.

(Prisoner, Shotts).

Prison officers operate in a hierarchical structure which is devoid from outside, public scrutiny and accountability. As is the case with prisoners, prison officers' daily routines are regularised and regimented, generally consisting of locking, unlocking, supervising, counting, regulating and punishing prisoners, in order to maintain good order and

discipline. The apparent dichotomy between the need for discipline and the need for care of prisoners by creating a healthy, meaningful regime and relationships, drew extensive comments from prisoners. Most stated that it was impossible to achieve appropriate balance between custody and care:

It can't work.

(Prisoner, Perth).

It's totally impossible for the two roles to work together. Always treat you with suspicion.

(Prisoner, Edinburgh).

The same prisoner stated that following outside placements, random searches take place and he was always searched. He observed:

They won't speak to you during the process. Afterwards they want to be pals with you. They've had me in that room for the last ten minutes hoping to find something that will take five years of my life away. Then they expect me to socialise with them. Hate it. I say to them - 'If you want to play screw, play screw, I'm a con, go away.' I don't talk to screws, I talk to people.

Another prisoner commented:

I have noticed recently that the staff are a wee bit more receptive to communications than they have been in the past. But staff are all two-faced so they are able to carry out these dual functions. However, prisoners are under no illusions about the character of these people.

(Prisoner, Edinburgh).

Some prisoners recognised that changes had taken place, but were understandably cautious:

Some staff will actively do things to help you. You can call some of the staff by their first names, they're not too bothered about that now. That sort of thing has broken down this 'us' and 'them' barrier - but only slightly - it's always there.

(Prisoner, Edinburgh).

Things have changed, but only facial, everything's all done behind your back now - mental - mental torture - tell you one thing and then do another thing. They play mind games with you all the time.

(Prisoner, Edinburgh).

A number of prisoners reported their experiences of confiding in staff:

There's a lot of animosity between officer and prisoner. A lot of times the prisoner just won't confide their private life to an officer. Initially there are very sympathetic, afterwards you hear rumours that the story has been told to others. This prevents prisoners seeking help.

(Prisoner, Edinburgh).

There are lots of prison officers who don't like prisoners - full stop. Prisoners tell them their problems and they use that against them.

(Prisoner, Shotts).

A prisoner, currently in Perth, described his experience in the Shotts Unit:

Officers would enquire about my family. It's none of their concern, that's not what they're getting paid for. It's just a big game, I couldn't play it. I can't handle the supposed care and then being locked up at night. I'll be nice but I don't want to be chinwagging with them. When you have done some of the things that I have done - you become a high profile prisoner - and being through the things I have - I'm not used to dealing with them. I bought a 25p stamp and sent a letter to the Governor rather than deal with all the other people and request.

(Prisoner, Perth).

A number of prisoners commented on recent recruits compared to experienced officers in terms of their attitudes to prisoners:

In all fairness, a lot of staff are very open-minded, there's a lot of youth coming into the prison service and I'm glad to see it because it's getting rid of all the dinosaurs at the top end, getting rid of their boots and segs and whatever else they use to kick people.

(Prisoner, Glenochil).

Others commented that the 'dinosaur' element would never change, but many recorded their concern about the behaviour and attitude of younger officers:

Some of the young staff that come in think they know everything, but they don't. Some of them are maybe a wee bit too cheeky.

(Prisoner, Glenochil).

The trouble with young staff is that they suffer from peer pressure. The dinosaurs hold them back, as they are afraid of change.

(Prisoner, Shotts).

All prisoners want is a kind ear but most officers are not interested. In my hall I would say that 70% of the younger screws are more interested in getting someone on report and getting a feather in his cap than helping the prisoners. I see screws being deliberately nippy and knocking prisoners back on visits for no reason at all. This happens too often by young tups trying to be noticed.

(Prisoner, Edinburgh).

Prisoners also noted that prison officers regularly 'wind up' prisoners, leading to confrontation. The following two comments were typical:

With night san in cell, at night time about 4 am officers will call through the system "are you awake". Sometimes they will press more than one button so when you talk to one prisoner you talk to the lot. You wake people up. It's psychological games.

(Prisoner, Glenochil).

They don't realise they have created such hardships to prisoners, so prisoners just smash the place up.... A lot of things were unjust on the part of the officer. They still try to aggravate prisoners, they know when riots are coming but they don't do anything about it. It gives them more resources - more money, more wages.... A lot of riots are aggravated by prison officers.

(Prisoner, Edinburgh).

Prison Violence and Brutality.

Intimidation and violence in prisons are commonplace. The culture of masculinity evident in male prisons reinforces hierarchies based on physical strength, dominance and power (see Sim, 1995). A climate of fear is all-pervasive in which intimidation, fighting, victimisation, settling scores and drugs dealing are each indicative of the institutionalisation of male violence. Bullying of the weak and their domination by prisoners considered 'hard' men is part of the day-to-day routine of prison life. While a few prisoners reported that they felt safe in prison and that prisoners did not victimise each other, the majority had other experiences:

Prisoners do intimidate each other. If you can take it or take a joke you get on okay with your sentence. If you can't take it, then there are problems.

(Prisoners, Glenochil).

I don't feel safe in prison. You have to be on guard all the time. Prisoners are your worst enemy in jail. If they see a guy getting something, they want it, they feel hostile and they resent the guy.

(Prisoner, Edinburgh).

There's a climate of fear in prison. Thugs (prisoners) pick on the weaker ones.

(Prisoner, Perth).

You've got to try and understand why people are violent - often it is fear rather than anger. Yes you do start feeling very unsafe because you know you've got a psychotic nutcase - that's wrong, I shouldn't even use those terms - that's their terms - you've got somebody in pain, running about the place and the only way they have shown so far in their lives to get rid of that pain is to inflict pain on somebody else. Then you feel unsafe because you know you've got a timebomb walking about.

(Prisoner, Edinburgh).

I never feel safe in prison. I've no reason not to feel safe, but I don't think anyone is safe. Things have changed though - previously it was fists. But in this

day and age, in this environment, it's blades.

(Prisoner, Glenochil).

A number of prisoners commented that much of the trouble and violence between prisoners is drug-related:

Drugs have ruined prison. It's a bad time for people to be in prison.

(Prisoner, Perth).

Violence and intimidation happens through drugs. Drugs have acted in favour of the prison system. They have split prisoners up. Prisoners don't stick together as they did years ago.

(Prisoner, Perth).

Aggressive masculinity continues, largely unchecked by prison staff, who at times reinforce and encourage brutalisation. The unlawful, unreasonable and discretionary force used by prison staff remains evident in prisons. As previously outlined, life in prison revolves around order, authority and discipline, hence containment and security. Any dissent by prisoners from the strict regimes imposed represents a challenge to order and authority. Any breach of discipline is punished by a range of formal, official sanctions but invariably is accompanied by informal unofficial sanctions including physical and/or mental intimidation, violence and torture. Despite the outward appearance of 'normality' and superficial harmony in the daily routines of prison, a tense atmosphere of mistrust, contempt and, often, hatred permeates relationships between prisoners and staff.

Prisoners commented that staff violence and brutality was a complex issue and not as blatant in contemporary prisons. The following comment was typical:

We don't see it, but it exists.

(Prisoner, Edinburgh).

Others commented:

You never see violence from staff. You only see it if someone gives them a really hard time.

(Prisoner, Edinburgh).

You only get physical violence from staff in the long term halls when down in segregation - in the digger. That's the one weapon they've got left, when you're in the digger.

(Prisoner, Perth).

In this day and age in prisons, as you say, they're presenting a new facade - with personal officers and dealing with personal problems - the mental side of things; talking things through - dealing with this, dealing with that. But in the background, while this big facade's presented, there's still guys getting their ribs kicked in. It's still happening as of today and that's dictatorship. We're supposed to be a humane system. It still happens, it still goes on, but it's more concealed.

(Prisoner, Glenochil).

The same prisoner recalled witnessing an act of brutality in Edinburgh Prison:

I heard a guy screaming his lungs out, in the morning. This was the night I was in the digger. I woke up in the morning hearing this screaming, bumps on the wall. I didn't know what to do. I thought, what's going on here? That guy was getting a doing - a physical doing with boots and punches, and that's sad, it's sad.

Violence inevitably produces a climate which is tense and volatile. As a result, confrontations between prisoners intensify and conflict between staff and prisoners occurs over the most trivial of issues. Prisoners lashing out, often following torment, provocation and intimidation, are taken to punishment blocks to be 'taught a lesson'. As one prisoner commented:

They get you when there are no witnesses. Prisoners are often charged with

assault. The Governor always backs officers which is unjust.

(Prisoner, Glenochil).

Prison officers are rarely found guilty of assault; their use of force is often justified as being reasonable in the course of duty when restraining and controlling a violent prisoner. Meanwhile, a prisoner may be charged with assault, making false allegations, thus receiving further punishment.

The Complaints System.

The interviews indicated that many prisoners are deeply dissatisfied with many aspects of prison life. Immediately prior to the interviews taking place, the SPS introduced a new complaints system, the Grievance Procedure. A prisoner in Glenochil explained the intricacies of the old and new systems:

They say it's easier to make a complaint now. In the old system, if you wanted to complain you had a petition, but before that you had to go on request, to the hall P.O., S.O. or the Governor, who then dealt with it as best he could. Now they've got a new system introduced, it's called a GP1 form and that's when you speak to a gallery officer. And if you don't think he's dealing with the problem, it's a GP2 goes to the S.O., a GP3 goes to the P.O., a GP4 goes to a governor, GP5 is an external committee, GP6 to No.1 Governor. But again, it's just a sequence of events. It's more barriers.

(Prisoner, Glenochil).

His concerns were mirrored by other prisoners:

The system is garbage 'cos in nine out of ten complaints the Governor has to make a decision - so it just takes longer to get through the system.

(Prisoner, Edinburgh).

It's a joke, they've just changed the paper that's all.

(Prisoner, Edinburgh).

I've never used it, it's pointless to complain, you're not going anywhere. The new system is an obstacle course to put you off going anywhere. It's like Rule 1, Rule 2 and after Rule 8 you can go to see the Governor.

(Prisoner, Edinburgh).

The new system seems to be creating a job for someone sitting in an office. It wears you down. At the end of the day you may as well shut your face - you can end up more frustrated and using your hands. I've never known any prisoner being successful.

(Prisoner, Perth).

They have to give you a reply in writing. Good idea, smashing, but we've yet to see if it works.

(Prisoner, Glenochil).

One prisoner commented on the difficulties he had encountered with the system. As he was making his complaint about the officer to whom he had to submit the GP1 form, it proved to be unworkable. However, he stated:

I know the system a wee bit. I can bypass the GP system in prison. Rule 50 gives me direct access to someone from the lifer section of the Department. But a lot of guys are not aware of what they can do.

(Prisoner, Glenochil).

Another commented:

The only way to get anything done is to get someone outside to petition. If you complain in prison you're labelled a trouble maker.

(Prisoner, Edinburgh).

A prisoner in Shotts concluded:

The new complaints system is well designed, it looks good because educated people have set it up. But at the end of the day you're not going to beat them.

(Prisoner, Shotts).

Visits and Families.

Access to families and friends is of paramount concern to prisoners and is the issue over which they are most vulnerable emotionally. Visits, letters and access to payphones are not offered to prisoners as rights, but as privileges and, as such, are tightly controlled being only permitted at the discretion of the prison authorities. Equally, the emotional needs and desires of prisoners and their families have received little recognition from the prison authorities. Families outside receive minimal support or sympathy often experiencing personal isolation, despair and difficulties coping with the responsibility for finance, children and maintaining a home. Prisoners' families, although not physically confined, also serve a sentence of sorts and this is apparent to prisoners.

When asked if it was possible to maintain contact with family and friends while in prison, the responses from prisoners were mixed:

Over a long period of time, no, it is impossible for the majority of people - it's a disaster.

(Prisoner, Edinburgh).

When you first come into prison, visits available (are) totally inadequate to maintain contact. By the time visiting increases it's too late, the damage has already been done, you're marriage is finished. It just leaves guys bitter.

(Prisoner, Edinburgh).

It is possible to maintain effective contact. The amount of visits has improved.

(Prisoner, Shotts).

A number of prisoners commented on the installation of telephones in halls:

The introduction of telephones has done more to maintain family contact than anything else.

(Prisoner, Glenochil).

The telephones are a big help. The most important thing is contact from outside. Visits, visits and more visits.

(Prisoner, Edinburgh).

Some prisoners stated that telephone calls were monitored for reasons of security:

I won't use the telephone as conversations are taped. Christmas Day maybe, or if there's an emergency.

(Prisoner, Perth).

Except for most prisoners in Edinburgh, prisoners were generally dissatisfied with visiting facilities:

The visit room is too open, young kids running about screaming, you have officers joking about things. We need a little bit more privacy. I can understand the issue of the drug problem.... They need small private rooms and if they're concerned about drugs then install cameras.

(Prisoner, Glenochil).

They should do away with the visit room - crowds of people are there while you're trying to have a meaningful visit. You're actually visiting on a wee plastic chair, a table here, your folks sit at the other side. If you want to talk private it's very difficult. There's security cameras and guys (officers) sitting on stools.

(Prisoner, Glenochil).

Prisoners in Shotts were particularly concerned over visits:

The amount of visits have improved, but prisoners have ruined it. Initially family visits were very relaxed but trust was abused so they are now strictly regulated.

(Prisoner, Shotts).

The visit room is really tense - cameras and officers everywhere. There's no physical contact between prisoners.

(Prisoner, Shotts).

I hate visits - the atmosphere is terrible. They (officers) need to be more discreet, they walk about throughout visits with their earpieces, and the cameras. Drugs have ruined prisons.

(Prisoner, Shotts).

Prisoners in Pentland Hall in Edinburgh Prison, and those prisoners in other prisons entitled to family visits and special escorted leave (SEL's), were more positive about the visiting facilities:

You have got to differentiate between here and the rest of the prison. We have our own facility for visits here. Elsewhere there is an enormous room with bolted chairs - horrendous - three lines with a camera at the end of the line. Tables are separated by a board, so there is no contact. Here it is very different, we can sit round a table and relax. We have family visits where you can have privacy - screened off. However, only allowed two every quarter.

(Prisoner, Edinburgh).

During family visits they can bring in food - biscuits, cakes, homebaking - but can't bring in a hot meal. Can bring sandwiches, a cold chicken, silly restrictions - not a flask for obvious reasons. Why not a hot meal for Christ's sake?

(Prisoner, Edinburgh).

A prisoner in Perth commented that more family visits were needed to maintain effective contact:

(They are) not enough for someone who has got a family. They are more relaxed, that's how they are better.

(Prisoner, Perth).

Another prisoner, currently in Perth, spoke of his experience in the Shotts Unit:

I could be a father in the Shotts Unit - to me that was the most important thing I took out of that place. My eighteen month old son came with his Grandma and

I could spend a whole day with him - feeding, washing and clothing him - I can't do that in a place like this.

(Prisoner, Perth).

The imposition of the procedures of stop and search on prisoners and their visitors, justified as security priorities create serious problems for prisoners and lead to tension. One prisoner commented:

Visits, you're stripped searched after every visit. I find that quite....since I was caught with a joint it's just....but, I don't know, I find it quite degrading, personally.

(Prisoner, Glenochil).

Prisoners also commented that during SEL's and home leave, security was often overpowering and unnecessary. During an interview in Glenochil a prisoner was informed that he had been awarded home leave the following weekend. He stated how important it was to pick an officer as escort who knew and trusted you. He recalled an experience of being taken into his home handcuffed to a prison officer, who sat with him and his wife throughout the visit, without giving them any time alone.

Parole and Preparation For Release.

Parole allows for certain prisoners to be released before the end of their allotted sentence. A prisoner applies for parole in writing giving their justification and perceived eligibility for early release. This, along with official prison reports outlining behaviour, application, suitability and prospects, is then considered by the Local Review Committee (LRC). If considered appropriate, the subsequent LRC recommendation and relevant documentation is forwarded to the Scottish Home and Health Department for deliberation. Those cases

deemed suitable for release by the Secretary of State are referred to the Parole Board which reaches a final decision.

The process is lengthy and cumbersome and at any stage a prisoner may be refused parole. As there is no legal requirement to justify rejection, many prisoners are left unaware of the reasons for failure. Successful applicants are issued with an early release date and must *agree to comply with specified conditions. This parole licence usually lasts until the original date of release.* However, for those serving a Life Sentence and for those young people detained at Her Majesty's Pleasure, the parole licence is lifelong. Any breach of the parole conditions result in revocation of the licence and the re-incarceration of the individual.

Prisoners commented on their experience of the parole system:

Prisoners need to know what is happening but nobody tells them. Certain offenders get parole over others, this is often seen as arbitrary and unfair.

(Prisoner, Glenochil).

Last year I got a knock back. For a lifer what's the difference, a one year knock back, two years, five years - I still don't have a date. It could be anything, it doesn't mean anything - I could have ten consecutive years, it doesn't matter.

(Prisoner, Glenochil).

Referring to his experience in Edinburgh Prison, this prisoner continued:

I was in Pentland Hall in Saughton and I was doing well. Meeting the public, going to college, I was doing well. But really at the end of the day if they want you out they'll let you out and that's that. I got caught with a joint and I've lost a year, I know I've lost a year minimum, that's my opinion. But when it goes in front of the Parole Board, who knows? The system seems to get slower as you get to the end and have to wait too long for a date.

(Prisoner, Edinburgh).

Most prisoners reported that preparation for release was inadequate. Pre-release courses and Training for Freedom (TFF) are offered, but those prisoners who had previous experience of them were negative:

I spent ten months in TFF in 1977, I went out with nothing.

(Prisoner, Edinburgh).

I don't think there can be preparation. You have had the experience and how you are going to cope - no one can help you. My first day on TFF walking along the road you feel like everybody are androids and you have nothing in common with them. Lifers and long termers could end up on release as recluses.

(Prisoner, Edinburgh).

For long termers how do you integrate - you are in a no-man's land when you are released.

(Prisoner, Edinburgh).

A number of prisoners commented that preparation for release should start at the beginning of the sentence:

(they) should be training people for release as soon as they come into prison - that's my philosophy. The whole prison sentence should be a pre-release course.

(Prisoner, Edinburgh).

He noted that people had been in Pentland Hall for ten to fifteen years and that the regime was stagnant:

It makes them totally inadequate and then they are expected to go out and take responsibility. You can't expect them to do that. I go out there two or three times a week and it's a real struggle for me. I stand on a traffic island and just don't know where the traffic's coming from. I am so confused.

Concluding Comments.

Through its use of primary qualitative research material this chapter has presented a view of contemporary long term imprisonment in four Scottish prisons although the prisoners' accounts also include references to other regimes. Prisoners' experiences and perceptions of their confinement, although diverse, shared common themes. They recognised that every aspect of the prison regime is ordered, regulated and geared to the needs of authority, discipline and security. Consequently the 'care' needs of prisoners individually and collectively are negated or ignored. Highly structured routines and regimes also operated to benefit staff. One prisoner commented that the problem with Scottish prisons is that:

The regime has developed for the convenience of staff instead of for the convenience of staff and prisoners. That's the way it should be. That's why it finishes on Saturday night so they can take their wives out.

(Prisoner, Edinburgh).

Prisoners also recognised that 'doing time' was far from easy, both mentally and physically, and that their punishment went far beyond the loss of liberty. Regimes and their operation by managers and staff were judged to be primitive at all levels. There were minimal attempts to facilitate rehabilitation, rather the primary aim of imprisonment was that of secure containment. The following comment was typical:

My experience is that prison does not want a positive thing for you.

(Prisoner, Edinburgh).

The commonly-shared position was that prison denied prisoners their dignity, humanity or sense of self-worth. They were clearly resentful of the imposition of harsh regimes and lack of opportunity or effective accountability. Apart from the fear of the prison, which had

lessened over recent years, the heaviest pressures were around visits, treatment of families and maintaining good relationships. The range of problems experienced by male long term prisoners clearly mitigate against the potential and promise of 'sentence-planning'.

CHAPTER EIGHT

CHANGE THROUGHOUT THE SCOTTISH PRISON SERVICE.

Introduction.

This chapter examines the impact of the changes in SPS philosophy and operational policy on the strategies, regimes and practices which prevail in Scotland's prisons. It considers these changes from the experiences of staff and long term prisoners focusing on the main sites of controversy: opportunity and responsibility; rights and responsibilities; sentence planning and professional accountability. This chapter is in two parts, dealing first with prisoners' accounts and experiences followed by those of prison staff.

Part One : Prisoners' Accounts.

Sentence Planning.

Based on the principle that prisoners should take a shared responsibility for their progress and development, sentence planning was introduced in 1992. Frizzell (1993:206) states that a sentence plan is:

the means by which the prisoner matches his or her own needs and priorities to the opportunities available. The intention is that prisoners will be shown a range of opportunities and encouraged to select those which most suit their needs. This selection becomes the sentence plan. As facilitators, and personal officers, prison officers assist the prisoner in the preparation of the sentence plan.

Accordingly, the SPS aims to offer prisoners a full range of programmes which provide opportunities for personal development. This 'opportunities agenda' includes: employment, education, vocational training and programmes to address offending

behaviour. It is 'delivered' through a signed 'contract' between the SPS and the prisoner. Frizzell (ibid:207) suggests that sentence planning is a continuous process:

It will be approached in stages and, once made, a plan will be subject to revision by the prisoner at any time. I emphasise that it is the prisoner's plan, as it is only by achieving ownership by the prisoner that we can hope to eliminate the rejection which accompanies coercion. Throughout we must keep in sight the ultimate aim of encouraging the prisoner to make a more positive use of his or her sentence.

Theoretically, sentence planning begins when a prisoner is sentenced and chooses a prison, but in practice:

You can choose where you want to serve your sentence and then they'll tell you where is available.

(Prisoner, Edinburgh).

Choice of prison is non-existent.

(Prisoner, Edinburgh).

A number of prisoners suggested that the concept of sentence planning was a positive step but that it was impossible to implement. The following comments were typical:

It's perfect on paper, perfect idea.

(Prisoner, Glenochil).

Its concept is brilliant if allowed to be put into practice - but it isn't. Conceptually it's the best thing that's ever happened for prisoners in Scotland and for prison staff, but it needs time to assess its viability.

(Prisoner, Glenochil).

The theory of sentence planning is good, but it's a total impossibility. Prisoners view the exercise as the Department trying to get inside your brain to see how you tick.

(Prisoner, Shotts).

Other prisoners were less positive about the introduction of sentence planning:

It doesn't exist - it's a paper exercise.

(Prisoner, Edinburgh).

Sentence planning is nothing other than a psychological prop to get people through their sentence.

(Prisoner, Perth).

I think it was created just to satisfy the public.

(Prisoner, Glenochil).

How can you plan your future when you don't know what it's going to be from day to day. You don't have any control over your own future and there is no way they are going to give it you.

(Prisoner, Perth).

Prisoners had varied experiences of the sentence planning scheme. Many prisoners refused to participate in the scheme, others were very sceptical about its impact and success, according to their experience. The following comments illustrate these positions:

If I sign a contract, I'd be damned sure that what was on that contract I'd expect to receive it if I met the criteria. Now, there's people, myself included, who have filled the criteria after doing X, Y, Z or whatever - being a good boy. Now when it comes to getting your carrot - you're not getting it, they put it further and further away.

(Prisoner Glenochil).

The same prisoner noted that for the system to be effective it has to be a two-way process:

The whole idea is to plan your sentence so unfortunately if you plan your sentence, meet the criteria but they don't come up with the goods at the end of the day, it causes problems.

This scepticism was shared by other prisoners in different prisons:

Sentence planning - I heard of it when I came here. I've never seen anyone about it. I don't know whether it's good or it's bad.

(Prisoner, Perth).

I don't take part in that idea.

(Prisoner, Perth).

Sentence planning doesn't really mean a lot to me. At first you get a job, after that there is no real use for it.

(Prisoner, Glenochil).

When I went through it I had done twenty two years, it was a joke. If run properly, sticking to the ideals, it would be a good thing and would give the prisoner - hope, aims, encouragement, actual targets to aim for if 'I keep my head down'.

(Prisoner, Edinburgh).

I got a sentence plan four years ago. The Governor who did my sentence planning with me couldn't even use family planning! It was a joke.

(Prisoner, Edinburgh).

When asked whether opportunities had increased, the majority of prisoners responded negatively:

There's no opportunity and no responsibility.

(Prisoner, Edinburgh).

The opportunities haven't increased. The opportunities you make yourself. I've decided to do my sentence my own way to benefit myself. Sentence planning hasn't made a change to my life in prison but also it hasn't had time to work.

(Prisoner, Glenochil).

Opportunities haven't increased because of sentence planning. I think that because roofs have come off jails, that's why changes have occurred. Real issues are never addressed at the end of the day, it's all about politics.

(Prisoner, Glenochil).

One prisoner, however, commented that opportunities had increased, suggesting:

You now see before you what is on the table for you.

(Prisoner, Glenochil).

To aid the delivery of sentence planning, each prisoner is given a Prisoner Personal Development Pack. This consists of a Personal Development File which addresses aspects of personal development and offers prisoners worksheets and simple exercises to complete. Issues covered include: education and work; attitudes to the police, law and prisons; spare time activities such as leisure, money, exercise, health and friends; the role of alcohol, drugs and gambling; knowing yourself better; personal relationships, including partners, children, parents, other family members, and other people. The introduction to the file states:

In a sense everything that happens, good or bad, planned or unplanned, affects our personal development. Every day we make decisions and choices which influence our own lives and the lives of others. Often, important matters are ignored while trivial decisions take up all our time and energy. Sometimes the decisions we make prove to be the right ones - while others prove to be wrong. This file has been designed to help you recognise how to make better decisions and how these affect your personal development. The ultimate goal is that you know enough about yourself and what is important to you to shape your own future.

(Scottish Prison Service, 1992).

Prisoners were asked to comment on the usefulness of the Prisoner Personal Development Pack. Several were surprised, commenting that they were unaware of its existence or had been unable to obtain a copy:

I didn't even know it existed, ... those things are not for prisoners but for visitors, people like yourself who come into prison, it's all a big sham.

(Prisoner, Glenochil).

A what? What's that, a survival kit? No, never seen one of those.

(Prisoner, Glenochil).

Prisoners who had seen the Personal Development File commented:

I've still got the sentence planning folder, it's meaningless to me.

(Prisoner, Glenochil).

Some of the questions in it, no prisoner is going to answer truthfully. Do you take drugs? What do you think about the police? What do you think about the prison staff? What it needs is for both sides to be honest. Officers should tell prisoners that if they are honest then staff will back him one hundred per cent.

(Prisoner, Perth).

Only useful for anyone up to thirty for instance. I'm forty six, so it's talking about attitudes to the courts, the police - how you change your attitudes - you can't teach an old dog new tricks! It looks at family relationships - well I've got children older than some of the prison officers who are meant to be personal officers. In practice they come to me for advice, whereas the Personal Officer Scheme is asking me to go to them for advice. So it doesn't really apply to anyone over thirty years of age.

(Prisoner, Glenochil).

The Personal Officer Scheme operates throughout Scottish prisons. Each prisoner is allocated a personal officer who is his first point of contact. They assist in the sentence planning process and write three-monthly reports on prisoners, used as indicators of

the prisoner's progress. Prisoners were asked to comment on their experience of the Scheme. Most responses were negative:

Staff have been given lots of fancy titles and most are completely unqualified for the jobs.

(Prisoner, Perth).

The age of Personal Officers is a problem. The young guys are totally indiscreet.

(Prisoner, Shotts).

I've got a Personal Officer but I wouldn't go to him with problems. My problems are outside. How my son is doing at school, my mother and nieces and nephews - that's where my problems are.

(Prisoner, Perth).

Other than doing quarterly reports on prisoners, there's nothing else they can do - you know.

(Prisoner, Perth).

The Personal Officer Scheme is another waste of time and effort because if I've got a problem I'm not going to wait to see my Personal Officer I'm going to see the man who's on the desk. They write reports on you, you read and sign them even if you don't agree with it. Often the reports are very bland because they don't see you and don't know you. But reports are very important to the review procedure.

(Prisoner, Edinburgh).

Personal Officer Scheme is as dead as a dodo - not interested. It doesn't work and it's not going to work until you provide an atmosphere around it that promotes its ideas.

(Prisoner, Edinburgh).

A couple of prisoners commented that prison managers do not have any input into the Scheme, leaving Personal Officers responsible for its operation:

They've delegated things down to the Personal Officer level, which is a good thing, but then deprive him of making a decision. If he wants to do

something he's got to hand it on to someone else. The principles are good but if they're not given the opportunity to mature they'll get nowhere.

(Prisoner, Glenochil).

They're restricted, they're very limited as to what they can do. They are as much in the dark as we are. If you want the answers to why this or that they move it on to someone else.

(Prisoner, Perth).

What emerged universally from the interviews was the dichotomy between custody and care, suggesting that the Personal Officer Scheme, inappropriately expected officers to perform counselling or social work roles. Most prisoners considered this to be unrealisable, given the primary roles of custodian and disciplinarian. It was considered that if the Scheme was deficient then so also was the Sentence Planning Scheme.

The Responsible Prisoner.

Frizzell (1993:205-206) explains the SPS's definition of responsibility:

At the core of the concept is the view that prisoners serve prison sentences as a consequence of a series of decisions made by them in the community. They have accounted for their actions in court, have been made to be responsible for them, and duly sentenced. The proposition is that when they arrive in prison we should continue to view them as no less responsible by virtue of their sentence, and as capable therefore of taking decisions over as many areas of their life as is compatible with the restrictions of imprisonment.

Prisoners commented on the means by which the concept of the 'responsible prisoner' had been explained to them. The following responses were typical:

The responsible prisoner - I didn't know we were supposed to be responsible prisoners, I didn't even know that.

(Prisoner, Glenochil).

They never talk to you about the concept of responsibility - no guidelines.

(Prisoner, Edinburgh).

They tell you as little as possible so you'll make a mess of things and they can slap you for it. If you want to know anything you've got to ask and with new things being instituted how can you ask if you don't even know they exist - it's catch 22.

(Prisoner, Edinburgh).

Given that few prisoners had been provided with official explanations, they were asked for their understanding of the concept:

If a prisoner is responsible they don't need as many staff because prisoners can look after themselves.

(Prisoner, Perth).

If I was a responsible prisoner I would have been a responsible citizen outside and probably wouldn't have been in the jail. It's a bit late in the day to change. They're supposing that people are like machines. Opportunities need to exist much earlier on. It's over simplistic for someone who conceived this personal file and responsibility to suppose that people will look at it the same way they do, or even want to do it. They're dealing with people who are all different.

(Prisoner, Glenochil).

They show you the carrot and the stick. Point out what will happen if you do well but also what will happen if you do bad things.

(Prisoner, Perth).

They are asking me to be normal in an abnormal society. To me prison is an abnormal way of life and I can't work out how I have to become abnormal and then go on a Training For Freedom course to make me normal again to go to the outside world.

(Prisoner, Perth).

This prisoner claimed that the SPS does not want to accept this as it is “politically incorrect”, however, he maintained that they are asking for the impossible:

I have got to handle it the best way I can and if drugs help me they shouldn't attach too much to that. But we've got to be cleaner than clean. They've got us over a barrel.

Many prisoners suggested that the concept sounded good in theory but that it failed in practice:

It's okay some suit saying that you've got a range of choices and opportunities to go for. But you are limited. You're limited within security, within containment and a system within a system. Within certain limits, if you're placing boundaries I'm afraid choice doesn't come into it.

(Prisoner, Glenochil).

In theory it sounds good but in practice it's non-existent. We are supposed to be responsible people but we can't even be trusted to play a game of pool - a classic example. No, I'm afraid it's non-existent. It's a figment of their imagination.

(Prisoner, Perth).

It doesn't exist! Opportunity and Responsibility is a document that came out by the Department and it's a load of hot air. They certainly don't know how to put it into practice. Fancy sounding words, designed and calculated to placate an interested or uninterested public.

(Prisoner, Glenochil).

A number of prisoners commented that a certain amount of responsibility is permitted but that it is tightly controlled and regulated:

They will only let you be as responsible as they want you to be. They define the limits for responsibility.

(Prisoner, Perth).

There is no responsibility given to us. I have not been given the opportunity to do things, I am not in control of my destiny. So basically, if I wanted to

do things, the prison is not giving me any help. Encouragement doesn't exist.

(Prisoner, Glenochil).

It is just manipulating people. They know exactly where they want you to go.

(Prisoner, Perth).

Prisoners' Rights and Accountability.

Frizzell (1993:209) notes: "The new approach to the relationship with the prisoner has to be matched by a prison system which is itself accountable". Prisoners were asked to comment on the extent to which their rights were identified and realised and, accordingly, the levels of accountability which had emerged throughout the SPS. Their comments were short and to the point:

Prisoners don't have any rights.

(Prisoner, Edinburgh).

I don't think I know how to spell it! No nothing whatsoever.

(Prisoner, Glenochil).

Rights are not being respected, they are being violated daily, because they are not sticking to the rules that Parliament has decided.

(Prisoner, Glenochil).

Europe has created some rights for prisoners.

(Prisoner, Glenochil).

Prisoners were also pessimistic about the accountability of the SPS:

The SPS are not answerable - they are a law unto themselves.

(Prisoner, Edinburgh).

They say they are but I don't think so.

(Prisoner, Perth).

I've a fair head on my shoulders and I try to look for two sides of an argument. But the SPS are not able to account for themselves, it's just lies.

(Prisoner, Glenochil).

Overall Change.

Asked to comment on and summarise the changes that had taken place throughout the SPS, prisoners were mixed in their responses:

I'm forty five years old and been in prison for thirty two years. I'm a great believer in looking for change. In terms of penology the SPS has left everybody behind - they are keen to experiment. However, the prison system has not really changed very much. There have been lots of surveys and paper exercises; lots of window dressing; changes to terminology, words and concepts. But the SPS has wasted resources.

(Prisoner, Shotts).

Things are getting better. The ideas seem to be good, but are very slow coming into practice. It takes time to implement these things. It has been a gradual change in comparison to what we were told would happen.

(Prisoner, Shotts).

It's becoming a place of containment more than anything else. Since my recall in 1992 and release in 1983 the changes have been drastic. In my experience, prison in the 1970's, it was like a healthy field of corn or wheat. The way it should be. My experience since I came back, it's been totally devastated by wind and rain. Something that had a healthiness has now gone.

(Prisoner, Edinburgh).

I've been coming into prisons for twenty five years and the changes that I've seen have been phenomenal. I first came to Glenochil when I was fifteen.

The first night I arrived I got such a doing, there was blood coming out of me. The screws years ago were exclusively drafted from the army and very intimidating. Corridors had to be cleaned with a toothbrush. That was then, not now.

(Prisoner, Glenochil).

Life in prison is worse than in 1988.

(Prisoner, Perth).

Prisoners were asked to comment on specific changes in conditions:

I can safely say that conditions have got worse.

(Prisoner, Perth).

I've seen an effort being made at this end to improve living conditions - especially in here.

(Prisoner, Edinburgh).

Others commented on regimes and the general atmosphere:

Speaking for this jail it's less tense, there's less pressure and less discipline.

(Prisoner, Edinburgh).

The regime is more relaxed, a bit more freedom of movement. However, one step out of line and you know about it. As long as you go with the flow, you're okay.

(Prisoner, Edinburgh).

The regime is totally meaningless at every level. The problem of long term imprisonment is not cured by providing radios and playing snooker.

(Prisoner, Edinburgh).

More specifically:

We're not locked up twenty three hours a day like we used to be. You are allowed to have a smoke whenever you want - can smoke in the sheds now.

(Prisoner, Edinburgh).

Telephones and toilets are the only two positive things I can think of.

(Prisoner, Edinburgh).

Toilets and washbasins in cells are a big advantage but I prefer the old system when you knew where you stood. Here you are in limbo - they tell you one thing and another. I don't like people getting into my head.

(Prisoner, Shotts).

In Perth I've seen changes to security - extra walls, cameras, barbed wire. Perks are carrots for progressing through the system. Since 1972 changes in the Hall include the introduction of washing machines and microwaves. For twenty years I think that's scandalous.

(Prisoner, Perth).

Others commented that visiting facilities had improved:

I have seen changes for the better and for the worse. The better changes I have seen are with the visits - a lot more liberal than they previously were.

(Prisoner, Perth).

The visits have improved a lot, although we need more visits and more family contact. That has a more humanising and stabilising effect on a prisoner than anything else.

(Prisoner, Edinburgh).

The most significant barrier to the implementation of change, according to prisoners, was staff attitudes. Some commented that the staff role was problematic:

Staff don't want to become too involved with prisoners. Fresh Start didn't do anyone any good. Overnight staff were promoted to grades they had never considered possible. Staff now have to deal with problems they are quite unqualified for. This affects their judgement and it affects the prison as a whole.

(Prisoner, Edinburgh).

Prisoners commented specifically on staff training:

To improve the system basically they will first of all have to take the staff along with them. Re-educate the staff, even if it means employing new faces. Good ideas come from the top, also people like you coming in and passing on good ideas. When it filters down here the people who have got to put it into operation are not interested.

(Prisoner, Edinburgh).

The things they learn at college are all out of the window once they get here.

(Prisoner, Edinburgh).

The attitudes of older, established staff were considered to be problematic:

A lot of the changes haven't been made because you've got dinosaurs in the system. Prison officers who've been too long in the system. Young officers come in who want to change the system but the old ones end up shouting them down. So they become just like the older ones.

(Prisoner, Edinburgh).

It's a vicious circle - the young ones come in but the old dinosaurs show them the ropes, write reports on them and decide whether they get jobs. Therefore if they don't do the same as the dinosaurs they won't get good reports.

(Prisoner, Edinburgh).

A number of prisoners commented on the introduction of female staff and the impact of this on the prison environment and atmosphere. The introduction of female officers was considered to be controversial and views were mixed:

Females are more empathetic, they can read people better. They can read situations better, they can spot when a guy's having trouble.

(Prisoner, Glenochil).

Female officers take the hardness out of regimes. There is not as much threatening behaviour. However they have been taken out of C Hall.

(Prisoner, Shotts).

Only a few prisoners were pessimistic about the introduction of female officers. One commented:

I don't think women staff will help in any way. Basically I don't think the female is capable of doing the job in a male prison. Certainly there are jobs that they can't do such as supervising showers and rub down searches. The size of them is a danger to themselves. It's an effort in equal opportunities. I would never disagree that a woman is quite capable of being a prison officer in a female prison.

(Prisoner, Edinburgh).

The same prisoner did concede, however:

On the benefit side I find they can diffuse situations but once it's got beyond that, they have to stand back and they are not paid to stand back. However, there is almost an unwritten rule among prisoners that you don't assault a female officer.

Future Improvements.

Prisoners were asked to comment on the measures considered necessary to improve the system. For most prisoners their responses were personal, relating directly to their own experiences. A range of changes were suggested, however, with visits universally high on the agenda:

Apart from wishing I had more access to facilities for things that I'm good at, such as music, I would like to see conjugal visits for those attached prisoners. Extended family visits would also help long term prisoners. For example, chalets within the prison walls for weekend family visits would be beneficial.

(Prisoner, Edinburgh).

The SPS has got to involve families.

(Prisoner, Shotts).

Prisoners commented that the staff culture had to change if prisons were to become more humane places:

They need to stop bringing people in in suits who have never experienced jail in their lives - that is the wrong way to do it. The suits should be interacting and developing positive regimes, then they will get positive feedback. Prison officers should be more highly qualified.

(Prisoner, Glenochil).

Need to take uniforms off officers, first and foremost because anything in a black shiny uniform is not welcome in Britain. That would take away a lot of the regimentation from them straight away because then they would be able to express a bit of individuality in their own way of dress.

(Prisoner, Edinburgh).

While welcoming the opportunity to act responsibly, prisoners generally thought that further changes were needed to facilitate this:

More freedom will bring responsibility. You can go out to college on your own but an officer must escort you on an SEL. Where's the responsibility in that? Where's the trust?

(Prisoner, Edinburgh).

Introducing cooking facilities, washing machines and tumble dryers would all be welcome and would be another way of making prisoners responsible.

(Prisoner, Edinburgh).

It was viewed that the complaints procedure, although recently changed, remains unfair, requiring further review. One prisoner commented:

There needs to be an individual body to investigate complaints that has nothing to do with the Governor, with prisons.

(Prisoner, Glenochil).

Another prisoner suggested that every prison should have a prisoners' 'advice shop', run by ex - prisoners and volunteers trained by the Citizens Advice Bureau.

Another universal comment concerned smaller units, with big prisons considered a 'thing of the past':

To build trust and relationships my belief is you require small units - that's the key. Once halls become so large that they become impersonal and people haven't got anything to invest, can't relate and have no identity to the hall, then they lose it. It begins to represent authority and then it suffers from vandalism and graffiti.

(Prisoner, Edinburgh).

It's something I've always advertised. I think Glenochil is the perfect situation for this type of thing. It has night san., has sections so you can concentrate people who have problems and those who can help him and sit them down. The units could have washing machines and all facilities. It's a big drastic change, when you get sentenced, the shock of the sentence, you need units that will help you cope with all these things.

(Prisoner, Glenochil).

Privatisation was considered to be a significant issue and the following comment was typical:

I'm dying to see privatisation, I think things would improve a lot.

(Prisoner, Glenochil).

Only one prisoner was cautious of privatisation:

I don't like the idea of privatisation. A lot of prisoners think it will be great for us. However, I'm just being realistic. We will be kept in security for as little money as possible. There would be cuts in education etc. One prison officer for fifty prisoners doing twenty five years - they are not going to care. It would be terrible.

(Prisoner, Perth).

Prisoners were acutely aware of the problems that the threat of privatisation was currently causing:

The majority of staff came in for job security. However, the bubble has now burst, they are all unsure and it's reflecting right throughout the system. The more uncertain they are about their own future, then the more nippy they become with the prisoner.

(Prisoner, Glenochil).

A number of prisoners also suggested that staff could provoke unrest in prisons to avert the onset of privatisation:

It's a very cynical process at the moment, their jobs are on the line with privatisation and they are trying to provoke an incident. They want this jail to blow up because this is usually the last place to have trouble.... they want an incident here to protect their jobs.

(Prisoner, Edinburgh).

Part Two : Staff Accounts.

Sentence Planning.

Sentence Planning was recognised by all staff interviewed as fundamental to the future development and success of the SPS. As one sentence planning induction officer stated:

Sentence Planning broadly covers everything. Sentence Planning is the key initiative that answers Opportunity and Responsibility. It's a broad thing, it's got a Personal Officer's Scheme, it's got open reporting, it encourages the responsible individual. It covers a broad sphere of things.

(Prison Officer, SPS).

A number of staff commented that there had not been sufficient forward planning prior to introduction. As one officer stated:

It wasn't there one day, it was there the next day for all establishments. Basically the facilities were there but they weren't adequate facilities.

(Prison Officer, SPS).

Staff were asked to comment on the success of the Sentence Planning Scheme. Overwhelmingly, it was recognised that there were problems and that the scheme had not been as successful as had been envisaged. A Senior Manager agreed, suggesting that the scheme was introduced too quickly and without enough preparation. He also noted:

We sold it very much on the notion of prisoners choosing their establishment and of course it's a lot more than prisoners choosing their establishment. Of course it is important that I can serve my sentence near my wife or girlfriend. But holy hell it's a lot more than that.

(Senior Manager, SPS).

Others commented on its apparent failings:

I think it's been misunderstood. I've always been conscious of this. I initially worked at Headquarters on the planning of Sentence Planning. What prisoners and staff believe Sentence Planning was, was a way of managing people and saying to them on day one - here is where you'll be on day three million and sixty. And we kept saying to them, that's not what it is, it's about the quality of dialogue that takes place between staff and prisoners.

(Governor Grade, SPS).

She continued:

We were trying to say to everyone, this is about a different way of reacting to a prisoner, about giving you different skills to handle different situations, about starting to address with a prisoner why he's here, about his family and all that stuff and giving you a forum where you can actually come together and talk.

The misunderstanding occurred, therefore, because Sentence Planning did not deliver what was expected. The same Governor Grade also pointed to inadequacies in planning and training:

I think the training strategy was totally inappropriate for what we were trying to do. Plus the kind of culture change that was envisaged with Sentence Planning was very ambitious with the Service having gone through a lot of riots and gone into a business culture.

(ibid).

It was stated by a senior manager, that the problems of the Sentence Planning Scheme had been recognised, that it had been reviewed at Headquarters and was to be relaunched. The senior manager commented on the new scheme:

It's going to be less bureaucratic. We've consulted with the staff and the staff are going to get to do much more. Sadly we found when we did the evaluation we found that some staff believed that their function in sentence planning was to complete the sentence planning dossier. In some places absolutely nothing happened. We recognised we had got it wrong, but it wasn't a question of saying let's leave it. It was a question of saying this is a key component of Opportunity and Responsibility - terribly important so we'll review and relaunch.

(Senior Manager, SPS).

The Personal Officer Scheme.

Staff were asked to comment on the success of the Personal Officer Scheme. Although views were mixed, it was recognised that further work was necessary for the scheme to be successful. One prison officer commented that there had always been interaction between prisoners and staff but that previously it was never structured. He noted that previous interaction was:

always left open to this idea of peer group pressure amongst staff and prisoners. Staff seen talking to prisoners were regarded as too much like Social Workers. Prisoners seen talking to staff too much were regarded as a grass.

(Prison Officer, SPS).

He commented on the new system:

Now this is for every prisoner, so when a prisoner is seen sitting down with a member of staff, that isn't unusual. Everybody's expected to do it or at least everybody's being given the opportunity. The bulk of prisoners in this prison want to be able to sit down and talk sensibly to staff about what they are doing, their life, their sentence etc.

One Governor Grade recognised that along with Sentence Planning, staff were not adequately prepared for the introduction of the Personal Officer Scheme:

I think we have not delivered the vision clear enough to staff who are meant to fill the role of Personal Officer as to what is involved, and that is certainly now being addressed.

(Governor Grade, SPS).

He suggested that in the future the role of Personal Officer should be enhanced, with skills recognised and financially rewarded.

A senior manager also recognised the need to develop appropriate skills among staff. He recognised that the use of “sticks and teargas” was not the way forward for the SPS as this would damage relationships and, “staff know that interpersonal skills are the most important part” (Senior Manager, SPS). While control and restraint training was considered to be very important by the same senior manager, he claimed that, “Every time we use it we have failed because the main skill is actually talking to the prisoner and if we have failed to diffuse the situation, to resolve the problem by talking to him, we have to resort to this and therefore we have failed”.

A Governor Grade recognised that the success of the scheme varies in different prisons. She suggested that when first introduced into her prison it was not taken seriously by management and that this lack of commitment filtered down to staff and prisoners:

Now we have got a new management team and what we are saying is, it very much matters how you do it. So what we have built in is a whole new series of monitoring things.

(Governor Grade, SPS).

An example of this monitoring process is reviewing personal officer reports and feeding back deficiencies to officers.

Staff - Prisoner Relationships.

Central to proposals in Opportunity and Responsibility, and underpinning Sentence Planning and the Personal Officer Scheme, is the quality of relationships between staff

and prisoners. Staff were asked to comment on the development of good relationships and trust in the prison environment. A Governor Grade commented:

Trust - I don't know if either side will ever trust either side. You can go so far but I don't know how far you can go.

(Governor Grade, SPS).

A senior researcher from the Central Research Unit noted that the issue of relationships and trust is complex:

At a very superficial level we ask staff and prisoners how they would rate relationships amongst themselves and it's always surprised me that both staff and prisoners rate the relationships they have with each other as a good relationship. And that can happen days before a riot takes place and it can happen days after a riot takes place.

(Senior Researcher, SPS).

In terms of developing trust, he stated:

I think there never will be full trust, undoubtedly. I think in terms of being one hundred per cent open with your Personal Officer, that's remarkably difficult. I think you can only go so far - prisoners will only go so far, staff will only go so far.

In order to gain good relationships and trust, a senior manager at Headquarters noted:

You have got to be able to relate to people, talking to people means trust and the only way you can get trust is by talking to people. It's a very simple circle and there are two ways - either you get into it or you get out.

(Senior Manager, SPS).

He commented further that relationships are:

...Not important, but actually critical. When relationships break down good order breaks down, when good order breaks down, staff are at risk. That's a selfish view - prisoners are also at risk.

He considered that the introduction of women into the Service to work in male jails was long overdue, criticising the 'muster room' culture of 'macho' men, suggesting that women's presence had challenged this:

The more we have got women the better it has got and that's about relationships - because they really talk to the men. And we have got men in Cornton Vale who do talk to the women and they relate better.

When asked to comment on the dichotomy between custody and care within the prison officer's role, most staff stressed that their primary role was to ensure discipline, control and security:

I think we're down to basics. The prisoners realise we're discipline first and foremost.

(Prison Officer, SPS).

Staff will always see their primary role as being security and control. The caring side in terms of working with prisoners and developing prisoners will always be seen as secondary for staff across the board.

(Senior Researcher, SPS).

Staff, however, recognised that Opportunity and Responsibility advocates that the prison officer act as a facilitator and a carer. They commented on the negotiation of two roles:

Staff are sort of multilingual at the moment, if you want to call it that, because we do a number of duties in the establishment. The types of things that a Social Worker would do for them in the past we are now allowed to do for them. It's getting to the stage where although the prisoner knows we are there for discipline, he knows we are also there to help him. However, personal relationships are very difficult but things do develop.

(Prison Officer, SPS).

Prisoners will always recognise that the staff are there to keep them against their will and maintain some degree of control. But if you get the right staff

and train them well, resource them, give them support, then I think you can actually change the nature of the job.

(Senior Researcher, SPS).

These respondents suggested that this dichotomy also prevailed in other professions, such as social work and teaching. When it was suggested that the power relationships may be different in total institutions, they responded:

I don't see there is any way around it because at the end of the day we still have to have control of a prison.

(Prison Officer, SPS).

Because the power relations exist, it will always remain in the background. Unless we attempt to make that change prison will remain as it always has been, and some would argue, as it always should be - I would have argued that case myself twenty years ago - 'let's be open about the naked power relationship'. But I think it's far better to be much more consultative and much more participatory in the way that we run establishments and I think it can be done in some of the smaller establishments.

(Senior Researcher, SPS).

A Governor Grade with experience of working in progressive regimes at Greenock Prison and the Shotts Unit, suggested that the dual role of custody and care was a 'realistic expectation of staff'. He commented:

I have to concede there will be an element of conflict from whatever standpoint you want to take. But it doesn't mean to say that the task is impossible. To succeed I think that parties have to understand the ground rules from the beginning, particularly with long term prisoners. It is possible to create an environment of trust, all parties working within the parameters of the realities of the situation can have a reasonable existence.

(Governor Grade, SPS).

Long Term Prisoners.

Staff were asked to comment on whether parity between long term regimes, advocated in Opportunity and Responsibility, had been achieved. The general response was that parity was being worked towards and that some success had been realised. Despite this there were problems:

I think the physical estate is always a problem. If you have six prisons housing long term prisoners, I think you will find because of the physical facilities available, that one may have electricity in the cells, the other may have no electricity, no integral sanitation, difficult access to showers, but we're talking at a superficial level.

(Senior Researcher, SPS).

It was suggested by a number of staff that for prisoners, regime parity was limited to the progression system and what privileges were possible:

Parity meant bedspreads, table lamps and mats, curtains and tape recorders. So we have tried to build all those into what one might describe as 'A Threshold Quality of Life'. Rather than being regarded as privileges in a progression system, they are considered to be basics. So to some extent we have managed to circumvent this issue of parity of regime.

(Senior Manager, SPS).

A basic grade officer, considered that the onset of Agency Status would create a contradiction for management in the desire to create parity:

You've given with one hand and taken away with the other, but as soon as you say that yes, Sentence Planning works and brings greater parity, but Agency Status means every prison for its own, and it's taken away. You're contradicting yourself. If you have to make as much money as you can, then corners will be cut to make it cheaper.

(Prison Officer, SPS).

Having discussed regime parity, staff were asked to comment on how meaningful opportunities, choices and regimes were developed and provided for long term prisoners. A basic grade officer outlined the available opportunities:

For a long term prisoner - education, work parties, vocational training courses where they can get certificates. You're limited in what you can provide - if you've got four to five hundred prisoners and they all want a different course, it doesn't work.

(Prison Officer, SPS).

A Governor Grade spoke of the difficulties involved in providing meaningful regimes:

It's really hard. In terms of work and group work and education and P.T. we are second to none. So someone who is easily bored can spend two or three months here and there and we can just keep moving them and that breaks the time up. But what we need to work harder at I think, for long-termers and lifers especially, is this thought that the first four years is dead time. They have got it into their heads that nothing happens and it doesn't much matter what they do.

(Governor Grade, SPS).

She suggested that it was the job of prison officers to address this issue with prisoners and enable them, "to see that the door at the end of the tunnel is not closed but open".

The early part of a long sentence was also discussed by a senior manager who suggested that planning and creating opportunities at the beginning of a sentence was problematic:

How do you start with them? What is the point in giving them a vocational training course at the beginning of a twenty five year sentence? So we have to start with his welfare needs, we encourage him to break his sentence into manageable chunks. The first chunk is about encouraging him to survive. That is the priority. Once we have got him through that survival crisis, then it's a question of saying, 'this is our book and this is what we can offer in vocational training, education etc.'

(Senior Manager, SPS).

The difficulties and complexity of debate concerning the provision of meaningful regimes was raised by a senior researcher who suggested that there are different positions on the issue:

One school of thought says right, everybody should be entitled to X from the very first moment they come into an establishment and that's it. That should apply across all six establishments that house similar types of prisoners. A system that says you come in at the bottom and work your way up, these are graduated steps and at each of those graduated steps you may have differential access to particular types of job, also addressing offending behaviour etc.

(Senior Researcher, SPS).

He noted that the Prison Survey shows that prisoners prefer the progression system:

Where they had in their own words, and this was repeated hundreds of times, 'something to look forward to'. They wanted the steps to exist. Now, I think there is a problem there, a major problem in terms of how you treat people, because if you follow the line of what prisoners want then you have the old progression system alive and kicking. And I think there is an education process that really needs to go on here.

He suggested that this was the wrong way forward for the SPS, given the existence of a philosophical problem relating to wants and needs. He commented that this had to be addressed through the opportunities agenda:

There must be opportunities that we provide which are considerably more meaningful than at present and relate to personal development, to personal problems about work and the future. Opportunities that relate to better access to their families and particular worries. I don't think we have progressed very much on this. I don't think we have really thought too hard about taking forward the opportunities agenda.

In support of the existing progressive regime, a basic grade officer suggested:

There are only so many opportunities available outside in society to any of us. We all have to make choices throughout our life and a prisoner before he came here had a choice - to commit a crime or not. Now that he is here, in prison, he has lost his liberty, there are a set of choices in here based on what we can offer, what society can offer within this establishment. So you've got to make a choice - what is the best choice out of those for me.

(Prison Officer, SPS).

This traditional conception of the progression system was challenged by a Governor Grade in the same prison, who also challenged any conception of the prison providing meaningful opportunities. He noted:

How do we provide, how can we provide? I thought one of the great things about Opportunity and Responsibility was it was up to the prisoner to mark out his future.

(Governor Grade, SPS).

He outlined his position drawing on his experience of the Shotts Unit:

A previous Director who was sitting in the hot seat when Opportunity and Responsibility was launched, he had quite a clear vision that the customer concept had to be driven through. His vision was that the customer would tell you what he wanted. Our additional obligation was to provide according to the customer needs. But the onus was on the customer to identify what he or she felt was necessary.

Although recognising the constraints of this proposition, he suggested that the Shotts Unit was designed to provide for the SPS an information opportunity as to possible developments on a micro scale, being extended to a macro scale. Referring to the prison in which he worked, he noted:

Now in here we have got enlightened prisoners, but behind all this is a challenge to light the candle of hope. You see, what you're dealing with, with your long term prisoner and your lifer is that he's lost any hope. But is he any different from your long term unemployed man who is sitting there in the fourteenth storey of a leaking multi-storey local authority flat. It's creating hope and vision in individuals, and that needs a whole host of people to do that, a whole host of inputs.

When asked how possible this was in a large prison, he replied:

Well you see each group of cells as a unit and make sure that a member of staff that's down there can respond, that there's dialogue and there's enough people getting through, enough opportunities for meeting outside influence. The world should pass through prisons if for no other reason than to see what they are about and to stop them coming.

In relation to Opportunity and Responsibility, and the realisation of increased opportunities, he stated:

I honestly don't know if they have increased. I think if you asked a prisoner he would say no, but I think in reality we could say through a regime analysis across the whole service, yes there has been probably a significant increase in the places available in traditional opportunities in education and work etc. I think the reality has been created for the prisoner to take the opportunity and to sit down and discuss his future and to try and plan his future in quite a different way.

Normalisation.

Opportunity and Responsibility calls for prison life and prison regimes to be made as 'normal as possible'. Staff were asked to comment on the possibility of this occurring.

Responses were varied and often contradictory:

No....do you think it's possible?

(Prison Officer, SPS).

Yes it's easy to completely normalise it, because what is normal? Whose interpretation of normal are we using - society's? What's normal for a prison? Normal, yes, we're *making things more realistic*. You've got to apply for a change in a work party, if there's ten spaces in the work party and twenty applicants, then the best ten get them.

(Prison Officer, SPS).

Referring to the Induction period where prisoners are given information about the opportunities available in prison, the officer commented:

We're actually preparing them for as normal a life as possible. They won't be able to go out in the rain, play on the grass with the bairns - no it won't be normal in that sense - that is a loss of liberty.

Other staff also responded at some length on normalisation:

In terms of normalisation, of course you've got a set of definitions. It's like customers, if you use that word there's got to be set, specific definitions. But I think there's a lot we could do to make prisons more like the outside world, both in terms of allowing people greater autonomy, greater involvement, greater participation, allowing people from the outside in a lot more, allowing those on the inside out a lot more - not just in terms of family, but in terms of work etc.

(Senior Researcher, SPS).

He suggested that a series of ordinary changes could be made to enhance normalisation:

Why don't prisoners have holidays? Why can't they have leave? Why can't they get paid in kind? Why can't they have time off in lieu? You know, a whole series of normal aspects. Prison does undoubtedly sever a whole range of normal behaviours.

The Responsible Prisoner.

Staff were asked to comment on their interpretation of the SPS definitions of the responsible prisoner and, conversely, the irresponsible prisoner. The complexity of the concepts was highlighted in their responses. Of the responsible prisoner, staff commented:

I have never really given that a lot of thought except to see what society wishes to see for us all. I wouldn't look for anything different than I would look for in my own children.

(Governor Grade, SPS).

In terms of responsibility, I think it's about taking control of your actions - from the simple actions up to the major actions that you have. Taking responsibility for shaping your direction and making choices during your period of imprisonment. I think you need to confront your offending behaviour. But you might see that as a responsible decision not to confront that.

(Senior Researcher, SPS).

Responsibility... at times I don't think the SPS knows, to be quite candid. The narrow minded approach, of the responsible prisoner is the prisoner who gets into the system, who's a very good little boy, talks very politely to staff all the time, goes to work and works very hard, attends education - who very clinically looks at education and work, working together. Is planning for his future. Who has views about his sentence, his time inside and what he's going to do when he gets outside - very much through rose coloured spectacles. There's your responsible individual.

(Prison Officer, SPS).

'Irresponsibility' simply was regarded by staff as the converse of their definition of responsibility:

Irresponsibility - the nature of irresponsibility is not taking control of ones actions, not accepting responsibility. It's the converse. So irresponsibility I suppose, is not facing up to the series of choices you ought to be making about your life. Not taking control of your life and that is what it's about. For many men in prisons, they've been used to coming into prison and going into a period of suspended animation. I think it is the Prison Service's business, over a period of time, to turn that around, so people do actually find themselves making responsible choices about everything.

(Senior Researcher, SPS).

Your irresponsible individual is your individual who maybe, to a certain extent I think, the SPS looks at it in terms of the progressive system. Your irresponsible individual is the guy who stays at the bottom end of the system, limiting very much his opportunities and the facilities that are available to him.

(Prison Officer, SPS).

The contradictions implicitly linking responsibility and irresponsibility to the progression system, were noted by the same officer:

I think the progressive regime makes it very hard for the responsible prisoner. The guy that stays in B Hall may be acting very responsibly, staying with the people he knows. Staying there for a specific reason, either it's because he's safer because of the peer pressure within the prison or because he enjoys it there - he's settled in his cell. He's actually thinking responsibly about his sentence. But the service sees him as irresponsible

because they are restricting the facilities available to him because he is not prepared to progress.

It was also recognised by some staff that the SPS also had a duty to act responsibly:

Set alongside the responsible prisoner has to be the responsible prison service. The SPS has got to act responsibly.

(Senior Researcher, SPS).

Disruptive Prisoners.

Having focused on those prisoners considered to be irresponsible, staff commented on those prisoners considered by the SPS to be disruptive and a management problem.

Senior management were keen to report that responses to these prisoners had changed markedly. When asked what happens to disruptive prisoners they stated:

Umm...no longer see it as a knee jerk response ie: get them up to Peterhead, get them off to Barlinnie Special Unit, get them off to Shotts or wherever. They often give breathing space, remove people for short periods.

(Senior Researcher, SPS).

A senior manager agreed, suggesting that local establishments are encouraged to deal with the problem and that the use of the Ten Cell Unit at Peterhead Prison is a last resort:

A disruptive prisoner is firstly the responsibility of the Governor who must contain his own disruptive prisoners. He has within his confines a punishment block. There is also a swapping system between prisons, often prisoners just need a change of face - ninety nine point nine per cent of the time that works. For a very small percentage I will authorise Peterhead. My presumption though is that prisons have got to be responsible for their own disturbances. Governors have to prove to me that all the options have been tried. Peterhead is the ultimate and rare sanction after all else has failed.

(Senior Manager, SPS).

Governor Grades identified their responsibilities as follows:

Local management have to manage. However, I have to say that there is still a small group, much smaller than it used to be, but a small group of prisoners who are so disruptive to the mainstream, and who will not accept the responsibility to other prisoners to live peaceably, so we still need something like Peterhead.

(Governor Grade, SPS).

I think probably what has happened is there has been quite a substantial increase in the tolerance of staff and management in the mainstream prisons. A greater effort is now taken to try and negotiate a way forward for trouble makers. It would probably be too easy a button for us all to press, to say right, let's 'phone the Governor of Peterhead.

(Governor Grade, SPS).

Small Regimes.

Opportunity and Responsibility(1990) advocates the adoption of small regimes within larger establishments as a way forward for the SPS. Staff were asked to comment on their perceptions of small regimes or units and the possibility of the idea being implemented in practice:

I don't think 124 in a Hall is conducive to good case work and good relationships. However, the reality of the units we already have is very expensive. In terms of price per prisoner per year it is roughly three times what it costs to keep a prisoner here. So while in principle I think it is a fine idea, in practice it is not going to happen. I am sure units have a place but the extension of them is not practical.

(Governor Grade, SPS).

Very enthusiastic. Our design concept is to build fifty-people units - five blocks of ten. So within five blocks of ten we can have a lock down if needed, an open prison regime, an investigative and behavioural regime. That's what I'd like, but it's resources again. They are more expensive in staffing terms and building terms.

(Senior Manager, SPS).

Visits and Access to Families.

Opportunity and Responsibility (1990) acknowledged the importance of maintaining and developing effective links between prisoners and their family and friends. Staff commented on whether access to family and friends had increased and on whether visiting facilities were adequate:

Yes, I think we've come on a great deal with regard to that. There used to be a senior officer in charge of the visits, they changed on a daily basis. Then they put a regular man on and he and a committee got together and restructured all the visits. He has a great rapport going with visitors. He will sort out prolonged visits and family visits - that is just one adult and the children. So I think we have got a very good visit system.

(Prison Officer, SPS).

In terms of the number of hours you can have with your family, yes probably. In terms of the quality of that time, yes it has also improved here. We have introduced family visits. But the thing that prisoners want most at visits is something that we will never deliver, and that is privacy and conjugal visits.

(Governor Grade, SPS).

When asked whether this would ever be a possibility, she responded:

In the present political climate, no. I think it was more likely three or four years ago, but politically it is a vote loser.

A senior researcher reported that the number of home leaves had increased, that strategic plans contained proposals on the improvement of visiting facilities and that market research was in progress to find out what visitors think of the facilities, conditions and civility that they experienced. He commented:

So we are very quality focused in that way. What we haven't really addressed is how far we can take home leave and how early we can take home leave.

He considered that family access earlier rather than later in a long sentence had to be on the agenda as prisoners have much more to sort out with their families at the beginning of a sentence. He noted:

I think that unless we deliver in the SPS well improved access to families, by allowing prisoners greater freedoms to go home, then the troubles won't disappear, the troubles will remain, the troubles will always be there.

Prison Staff.

Staff were asked to comment on changes to their jobs specifically in relation to the devolution of power from Headquarters to individual establishments. Governors being responsible for managing their budgets, a step welcomed by a senior researcher, who commented:

That I think allows establishments to refocus their agenda based on their strategic plans, and allows them to make very real choices.

(Senior Researcher, SPS).

He also commented that a restructuring exercise over Principal and Senior Officers had created a, "flatter, leaner structure", with Principal Officers replaced by Hall Managers or Line Managers and Senior Officers having the responsibility for the day to day running of Halls. This, he argued, had eradicated duplication of activities previously inherent in the two roles:

I think the last two or three years have seen strong attempts to try and make people much more aware of who actually makes decisions - to cut out duplication of who actually makes decisions - cut out the ability to blame others.

Basic grade officers reported that while a lot more responsibility was given to them, they recognised that they were supported within their establishments and that the availability of staff training was important to their development. It was reported, however, that at times there is resistance from line managers who want to retain their power. One officer commented:

There is a resistance from up high to hold on. To have that ultimate power, that you can overturn a decision etc. And it's regularly done just so they can say 'now, you mind'. That's the difficult bit.

(Prison Officer, SPS).

Managers were asked to comment on how staff had perceived the changes. The following comment was typical:

They've seen when things go wrong, in the main they get support. The Governors like it, I think the staff like it and certainly the prison officers like it.

(Senior Manager, SPS).

Managers were also asked to comment on the SPS response to those staff who retained traditional, entrenched views and were opposed to change. The response from senior management was unequivocal:

We address it by telling them what the process is, that when they are in the process we can't cope with many of them opting out. In addition to everything else we make it very clear that the people we want to keep are the people who want to work with us, not just stand still. Bad staff hold us back and we have got enough to do without that. I hope that doesn't sound dictatorial and menacing. Well it's a problem that has to be addressed. You can't move forward with the dinosaurs basically.

(Senior Manager, SPS).

SPS Accountability.

Opportunity and Responsibility (1990) is clear about the expectations of prisoners to act responsibly. It also outlines briefly the converse, that the SPS should be accountable to prisoners. Staff were asked to comment on the accountability of the Service and any changes that had occurred. Staff were overwhelmingly positive about systems of accountability:

The Service is accountable more so than ever before. If we operate in a legitimate fashion using rules which are not whims but are actually powers, we are okay. If we mis-use our powers, the prisoners will act. We have more and more litigious prisoners who are saying that if you fail to deliver your side of the bargain, we will take you through every court in the country.

(Governor Grade, SPS).

Some of the prisoners run intelligent rings round the staff. It drives some of the staff nuts. They can cope with violent prisoners but find it difficult coping with very intellectual prisoners. I think we are more accountable to the public than ever before because of performance measures. That has led to an increase in the European Court side of things - I think it has been good for the system.

(Governor Grade, SPS).

The only dissenting voice in this debate was a member of the Central Research Unit who reported that there was still a "long way to go" regarding effective accountability.

He noted:

I think there's little happened in this area. I think if you were to ask most prisoners do they feel that they have an accountable prison service, in the sense - will the system respond to any valid criticisms they may have? I'm

sure the vast majority would say no. We don't have redress in the normal way. What I think we could do and what I'd like to see happen is, and it's not just gimmicky, we ought to have a far greater articulation of standards. In analysing the issue of rights, we haven't really got very far in that area.

(Senior Researcher, SPS).

Evaluation of Change.

Staff were asked to comment on the overall impact of change within the SPS, particularly on their role as staff and also their perceptions of the impact on prisoners' lives in prison. On the impact of changes to staff, responses were varied:

On the prison officers' side I think there's mixed feelings. I think the majority are all for the changes but you've always got that element who just won't accept it. But I would say the majority have accepted the changes as positive.

(Prison Officer, SPS).

A lot of people have said that it's all happened too quickly.

(Prison Officer, SPS).

In general, staff are not feeling too bad, but I think they are feeling battered. The biggest problem is the advent of market testing. They have responded to the challenge, but of course people who have had a job for life, are now told by the Government that they no longer have a job for life. This has had an impact on everyone. So the changes have got clouded with all this, but despite all of that there is the enthusiasm there. The majority of staff are very good with prisoners, they loyally try and make things work despite all the pressures. I am delighted with that.

(Senior Manager, SPS).

One Governor Grade acknowledged a degree of resentment from staff, particularly since the advent of market testing and an imminent staff structure review which would change terms and conditions of employment. She commented:

What they see at the moment is the prisoners have gained and they have lost. If it hadn't been for this review they could probably have lived with

the way the service was going. Since the threat of market testing and the staff structure review their perception is you are giving it to the prisoners and taking it all away from us. So it leads to some hostility. I am not confident that they are positive towards it.

(Governor Grade, SPS).

When asked to comment on the changes for long term prisoners and prisoners' perceptions of these changes, staff provided a range of responses:

The prisoner side of it, they have to accept it because it's all for their benefit. So if they don't accept it there's something wrong with them, in my eyes anyway.

(Prison Officer, SPS).

I think Opportunity and Responsibility has brought access to meaningful programmes of addressing offending behaviour. The extended home leave scheme, the improved visits, education and employment. They are the biggest things and the opportunity to do something better with your sentence.

(Senior Manager, SPS).

I think they've hardly seen any changes. If I was a prisoner in here ten years ago I think I could say there is now access to opportunities, more access to PT and education, visits a bit better, food a bit better. But a day is much like it was ten years ago. There may be a better quality of life but not that much has changed. A lot has been achieved in the service but if I was a prisoner I wouldn't see it that way. Maybe we don't put ourselves in their shoes often enough.

Governor Grade, SPS).

While basic grade staff expressed concern that existing changes should be consolidated before initiating further change, senior management recognised that the process was evolutionary, that evaluation and monitoring were essential. One basic grade officer commented:

I think possibly they are running before they can walk. I think too many changes at once is bad. Fair enough, change has got to happen but not just change for change sake.

(Prison Officer, SPS).

A senior manager, however, argued that continual evaluation and review was essential:

It is a fascinating situation, every time we think we have got ourselves sorted out, I call it in and do it again. It's very wearying but terribly exciting. It really is. I know there are people out there who are saying 'Holy Hell, will this never end?' Probably not - in a dynamic organisation it ought not to end, otherwise we end up in the pre '87 mould. It's got to be balanced and sensible. I think we are all willing people but we just can't stop - we have to keep doing things.

(Senior Manager, SPS).

The same manager commented further that the openness and honesty throughout the service enabled meaningful evaluation and continual change to take place.

A senior researcher concurred with this by suggesting that the task of improvement was a continual process, but also recognised that significant changes had taken place:

Devolving responsibility to individual governors has led to strategic planning across the Service. Strategic planning has led to a customer focus. A customer focus has led to notions of quality. These may all seem very strange things, they may seem very trite, but I think there are a lot of people in the business of improving the quality of service.

(Senior Researcher, SPS).

Concluding Comments.

This chapter documents prisoners' and staff accounts of change throughout the SPS and the impact of that change on their daily experience of imprisonment. It is clear

that considerable change has occurred at policy level and that some of this has been implemented in practice. Staff from all levels in the hierarchy were united in their commitment to these changes. They recognised that change was a continual process, the impact of which had to be constantly monitored, evaluated and reviewed. Self-assessment was considered to be essential in the creation of a dynamic, progressive and 'thinking' Service. In restructuring and streamlining the Service, the staff role was considered to have changed dramatically from a mere turnkey to a professional officer expected to perform a multitude of often contradictory roles.

Prisoners were also aware that there was an expectation that their position should change. While acknowledging that some change and new initiatives had impacted positively on their lives, overwhelmingly the response from prisoners was negative. Prisoners considered that change had not gone far enough and that ultimately the balance of power between staff and prisoners had not changed. Prisoners recognised that despite the well-meaning principles advocated in Opportunity and Responsibility, many constraints determined and restricted their potential to act responsibly and benefit from the opportunities supposedly available. Typical here was one prisoner's response concerning the discretionary power afforded to prison staff:

You've only got what they let you have - and that's the bare minimum.

(Prisoner, Edinburgh).

Prisoners also expressed their concern and scepticism about the purpose of change. Many suggested that superficially and in the rhetoric of change, barriers between staff and prisoners had been challenged but they could never be removed, given the nature of the relationship between the confined and the captors. As one prisoner commented:

In the old days, they showed the hostility towards you - the prison officers - the prisoners were the enemy, and the screws were the enemy for the prisoners - you didn't talk to them. Now you talk to each other but it's all psychology - it's all mind games.

(Prisoner, Edinburgh).

CONCLUSION.

This research project is derived in the conflict, tensions and hostility within Scottish Prisons over the last two decades. Persistently referred to as a 'crisis' in penal policies and practices, the circumstances of prisoner protest and prison reorganisation have been analysed within their historical theoretical and policy contexts. In researching the literature it is clear that two accounts of the events and formal responses to them have emerged and consolidated. First, official discourse (SPS Annual Reports; SPS internal policy documents; HM and Chief Inspectorate Reports; Statistical Bulletins; Central Research Unit 'in house' studies; Official Inquiries) has provided a clear foundation on which recent policy has developed. Second, alternative accounts (independent research; unofficial inquiries; published prisoners' accounts) has challenged the 'received wisdom' of official discourse, often providing conflicting versions of events. The research project has added substantially to the debate in prioritising qualitative research and providing accounts, in-depth, from prison managers, prison officers and prisoners.

According to official accounts published during the 1980s, the 'crisis' primarily concerned overcrowding, poor conditions, serious disorder and prisoner protest, low staff morale and, consequently, loss of public confidence in the ability of the SPS to manage prisons effectively. Added pressure was placed on the SPS by a substantial increase in sentenced short term offenders together with an increase in long termers. Further, has been the high incidence of drug use, and other illicit substances, in prison, which has created serious tensions. The official response to drug use in prison, particularly concerning long term prisoners, has revealed sharply the contradictions between care and control, treatment and discipline, within contemporary prisons.

Related to this, significant emphasis has been placed on those considered to be disruptive prisoners in establishing the most effective strategies for managing 'violent', 'subversive' and 'dangerous' prisoners, targeted as a small 'hard core' of 'troublemakers'.

The prison staff interviewed, recognised the problems created by overcrowding, the prevalence of drugs and drug use in prison and the impact on policy, of bifurcation, creating longer sentences for certain offences, while suggesting that the SPS should accept responsibility for the form and extent of the crisis. Staff respondents suggested that the SPS had been stuck in a 'time warp', that little had changed in terms of operational policy and practice since the 1980s. In short Scottish prisons and their regimes had 'stagnated' and they had failed to keep pace with changes in society. Significantly, changes to the 'nature' of the prison population had not been recognised or acknowledged.

Prison staff suggested that prisoners had become more intelligent and more readily questioned rules, regimes and decisions that impacted on their life in prison. It was recognised that authority was under scrutiny and challenge. For those less articulate prisoners, violence was a means of defying authority. Additionally, prison staff recounted that the SPS was unprepared for the intensity of the unrest and, at times, had responded inadequately and inappropriately, particularly when it was recognised that control in prisons had been lost. While recognising that the SPS might shoulder some of the responsibility for the persistent unrest, the emphasis for change was

directed at prisoners rather than towards broader issues concerning the functions or necessity of imprisonment.

Prisoners also offer a range of explanations for the 'crisis' in Scottish prisons but theirs is also a broader account. In particular, prisoners demonstrated their experiences of harsh, brutal and oversecure regimes which also lacked purpose or meaning in terms of reform or rehabilitation, often leading to severe boredom, despair, frustration and mental stress. While a small number of prisoners suggested that a 'hard core' of violent prisoners, often young and involved in prison drug cultures, were responsible for violence and unrest in prisons, most referred to the prison regime and the attitude and behaviour of prison staff as key precipitating factors.

In utilising this broader context which includes prison regimes and relations within prisons, this research concludes that although under considerable pressure throughout the 1980s, the SPS was not experiencing a 'crisis', but in fact a condition better illustrated as a structural 'malaise'. Chapters One and Two highlighted the problems evident throughout the history and development of the SPS, specifically focusing on the changing conceptions, philosophies and theories of imprisonment derived in the institutional failure of the prisons to fulfil their own functions.

This project has also considered the policy response of the SPS once it had recognised that there had been a 'loss of control' or a crisis in authority within Scottish prisons. The subsequent reorganisation of the Service, an on-going project, is documented in Chapter Six. Strategic and corporate planning were the main priorities in restructuring

the SPS. Significant here is a commitment to a 'shared' process with 'customers' identifying and fulfilling, wherever possible their 'needs'. Also central to this was the conceptualisation of the prisoner as a 'responsible' participant in the process, whose access to 'rights' would be granted through his/her acceptance of responsibilities.

In July 1994 the SPS published its Corporate Plan for the period 1994 to 1997. The Chief Executive of the Service, in the Foreword to the document comments on the significance of Agency Status, granted in April 1993, which has provided an, "appropriate framework within which to take forward the programme of change on which we have embarked" (SPS, 1994:5). He continues that Agency Status has given: "a stimulus to greater accountability through the requirement for a clear public statement of the purpose of the Service and of the standards we are expected to achieve". The Corporate Plan outlines these standards which are incorporated into the aims, objectives, operating principles and values expected of the SPS.

Initially, the aims and objectives were set out in the SPS Agency Framework Document (1993) and agreed by the Secretary of State for Scotland. The aim or mission statement identifies the following priorities: keeping in custody those committed by the courts; maintaining good order in each prison; caring for prisoners with humanity; providing prisoners with a range of opportunities to exercise personal responsibility and to prepare for release. A fuller statement of these aims was issued to the SPS by the Secretary of State for Scotland (see Chapter Six). In order to fulfil these aims, specific objectives were identified for the SPS. They include : "to operate a safe and secure service; to be responsive to the needs of those it serves; to deliver

quality of service and value for money within available resources; to present prisoners with a range of opportunities to allow them to use their time in prison responsibly; and to strive to fulfil the Citizens' Charter principles in all aspects of its operation". (SPS, 1993:7; 1994:8-9).

In realising these objectives the SPS has identified a number of operating principles, first outlined in The Justice Charter for Scotland (1991). These state that the SPS will strive to:

discharge with integrity and professionalism its primary responsibility for the safety of the public through the secure custody of prisoners;

provide an administration which is just, fair, consistent, open and accountable in its dealings with prisoners, the public and staff;

provide a safe and pleasant working environment for staff and prisoners and opportunities for interesting work and personal development;

foster good staff relations, team work and a spirit of shared enterprise, and help staff develop their skills and abilities in support of the Service's aims;

develop the appropriate management style, structure and systems to deliver value for money;

devolve authority, responsibility and accountability for service delivery to the lowest possible level; and

increase public awareness of, and involvement in, the work of the Service.

(SPS, 1994:9).

Further, the SPS published 'Charter Standard Statements' in 1994 which explain how The Service will meet the principles laid down in the Citizens' Charter. The expectations of prisoners and their responsibilities are outlined together with the service they can expect to receive from the SPS.

Clearly these changes have been profound, at least on paper, and have formed the foundations for much-proclaimed advances within the SPS for its handling of the long term prison population. It is with this process of redefinition and reconstruction and its impact on the lives of prisoners that the project is concerned. Mathiesen (1990) in discussing the 'legitimacy crisis' of modern prisons suggests that prisons according to the justifications both implicit and explicit within liberal democratic theories, (rehabilitation, prevention, incapacitation, deterrence, justice), do not work. He asserts: "the prison is a fiasco, and does not find a defence in the celebrated purposes espoused in penal theory" (ibid:19). Given Mathiesen's pessimism, this project was concerned to establish whether the SPS process of reconstruction or realignment of penal policy, has developed an effective strategy for meeting its own celebrated purposes through its creation of a new penal agenda. For it was this agenda which, on its own terms, encompassed a 'new vision' concerning the accommodation and treatment of long term prisoners.

The need to restore good order in the SPS during the 1980s reaffirmed a commitment, first prioritised in the Mountbatten Report (1966), to security. It was recognised that the first task of the SPS was to ensure custody. The Corporate Plan (SPS, 1994:29), stresses this priority stating that, "The prime purpose of every establishment remains keeping prisoners in custody with the appropriate degree of security and control." This research has established that in dealing with those prisoners considered a security risk or a management problem, the SPS has adopted a policy of dispersal rather than concentration as previous policy dictated. Consequently, each long term prison has

become responsible for the containment of such prisoners within mainstream regimes. The research findings show that for many prisoners concern with security is all-pervasive. For example, prisoners in Shotts Prison expressed considerable anger that grille gates in halls were kept locked at all times, effectively creating small, secure, self-contained units. Coyle (1994:86) suggests that the use of grille gates creates physical and psychological barriers between prison staff and prisoners. They become: "symbolic of the divide between officers and prisoners". He notes ironically, that the safety of staff and the compliability of prisoners is more likely to be ensured if prisoners are kept active leading as 'normal' a life as is possible.

It has also been established that the demands of security permeate every aspect of the prison regime and daily routine. They dictate when, how and where prisoners will eat, work, associate, and be confined to their cells. Additionally, the research shows that the prioritisation of discipline and good order creates animosity among prisoners. The imposition of petty rules and the level of discretion used by Governors and prison staff in the implementation and execution of formal and informal rules were particular and general concerns of prisoners.

The second principle adopted by the SPS is its commitment to delivering a just, fair, consistent, open and accountable administration. Prison staff indicated that this objective was achieved through: less restricted access to the media; the publication of internal documents; the installation of pay phones for prisoner use and the abolition of routine censorship of mail; prison based conferences to which prisoners are invited; the

implementation of appropriate bureaucratic structures to administer requests and complaints.

This research has shown that prison management and staff are confident in the ability of the Service to administer its policies with justice and accountability. Many of those interviewed considered that the SPS had become more accountable as a result of the reorganisation. Prisoners, however, did not share this optimism about openness, fairness and accountability. Their primary concerns focused on the administration of discipline and punishment. The research findings demonstrate that prisoners do not have access to formal rules and this institutional denial of information was regarded as a reflection of the prison authorities' disguised commitment to the retention of power through knowledge. Further, prisoners commented that there was no consistency in the imposition of punishments, reflecting the broad discretion afforded to Governors. Prisoners were unimpressed with the new grievance procedures introduced to administer complaints. The research findings show that this was considered by prisoners to be merely a bureaucratic change which, while seeming to be impressive, has not altered the operational quality of the process.

The research found that both prison staff and prisoners prioritised better contact with the public and wider community. Greater community links were advocated through which prisoners could spend more time at college or on work placements. Significantly, it was noted that individuals and agencies should be encouraged to visit prisons to work co-operatively with prisoners and share experiences on a diverse range of projects.

Concerning accountability, this research has shown that prisoners were sceptical and dismissive of the claims made by the SPS. They were unequivocal concerning the lack of basic rights. Opportunity and Responsibility (SPS, 1990a), makes little reference to prisoners' rights, or the means by which they could be identified, prioritised or guaranteed. Rather, the document emphasises that if prisoners act responsibly and face the consequences of their decisions, the SPS will respond by ensuring fair and just treatment and accountability. Prisoners, however, recognised that in the absence of a formal commitment to rights, they were placed institutionally in a vulnerable position, particularly if and when they acted irresponsibly or took decisions considered by staff to be inappropriate or unacceptable. The issue of accountability within regimes is directly related to assessments of prisoners' responsibilities being met. Consequently, for example, prisoners can be moved against their will, placed in solitary confinement, deprived of privileges and opportunities without any effective means of redress.

Additionally, despite the implementation of bureaucratic structures to ensure redress and accountability, this research shows that although prisoners may be able to make complaints and claim redress, the well-established structural inequalities within prisons and prison regimes remain untouched and unchanged.

The establishment of a safe and pleasant working environment for staff and prisoners, in which creative work and personal development can be pursued and achieved represents the third objective of the SPS. Prisoners' accounts suggest that there is much dissatisfaction with the quality of prison life. Many of these concerns were

shared by prison management and staff. The research found considerable variation throughout the SPS estate, with marked differences in the type and quality of accommodation offered. Poor physical conditions, although of concern to prisoners did not appear to be the top priority. Staff, however, recognised that improving the SPS estate remains a continual priority. This was linked to the need to create parity in regimes throughout Scotland's long term prisons. Additionally, staff recognised the necessity and the difficulty of creating meaningful regimes, particularly for long term prisoners. This relates to the effectiveness of the progression system and the ability of regimes to eradicate the concept of 'dead time', whereby prisoners remain locked in a repetitive, often boring daily routine for many years. Staff concluded that in order to provide meaningful regimes, and for a progression system to operate effectively, prison regimes must introduce a proper opportunities agenda.

This research documents the adoption by the SPS of the concepts of opportunity and responsibility as key initiatives in the development of the Service's future. A Sentence Planning Scheme was identified as being central to the 'opportunities agenda'. Although staff acknowledged that the scheme had not been successfully implemented, the commitment to the initiative was evident and the scheme was under revision. While a few prisoners agreed that Sentence Planning was a worthy initiative and a positive step forwards, the majority suggested that it was merely a 'paper exercise' and difficult to implement in practice. The main issue here was the implicit contradiction in effective and meaningful sentence planning for those prisoners serving a long sentence. Prisoners linked this to the opportunities agenda, suggesting that the range and type of opportunities available had not changed or increased.

Overwhelmingly, prisoners were dissatisfied with most aspects of the prison regime and opportunities for personal development. Their views regarding access, variety, availability and standard of education varied. Those with positive experiences attributed this to individual education staff and not to prison management, while those with negative experiences referred to regime restrictions as being responsible. The quality of work experience was a major concern for prisoners. The range of work offered was considered to be poor, in the majority of cases: “boring”, “repetitive”, “depressing”, “inadequate”, a “nonsense”, and “senseless”. For the majority, the work undertaken did little to enhance personal development. Additionally prisoners reported that the wage structure was undermining and insulting, giving little or no incentive. The provision of recreation was also considered to be limited. Combined, these key ‘opportunities’ were considered inadequate, contributing collectively to stagnating regimes. Prisoners concluded that limited opportunities were inevitable given the over-emphasis on maintaining secure, discipline-based, regimes.

As discussed earlier, the Prisoner Personal Development Pack was introduced to enhance the personal development of prisoners and to facilitate effective Sentence Planning. Many prisoners were unaware of its existence and those who had seen the pack were far from impressed with its content. Prisoners also reported that the Personal Officer Scheme was problematic, reflecting the dichotomy and contradictions between care and control. With the prioritisation of security, discipline and good order, prisoners noted the difficulties of establishing meaningful prisoner-staff relationships, based on trust. Many noted that staff were unqualified for a role as

Personal Officers and, in practice, report writing by staff was the sole activity performed within the scheme. Staff conceded that the scheme in its present form was not without difficulties and required revision. Yet they considered, in contrast to prisoners interviewed, that its introduction had created a worthwhile forum for staff and prisoners to communicate and interact.

For the SPS, the concept of personal development for prisoners and the philosophy of the responsible prisoner is located within a commitment to progressive regimes. Effectively what this means is that progressive regimes are considered operational when prisoners adhere to their personal development plans, previously agreed with staff, thus receiving appropriate 'rewards' or privileges. Privileges and an enhanced regime are the incentives for prisoners to act 'responsibly'. In fulfilling this objective of 'responsibility' prisoners are expected by staff to demonstrate self-control for their actions and, ultimately, for their destiny by making 'positive choices'. As with other new initiatives and concepts, prisoners suggested that in theory the ideas were sound but in practice there were fundamental problems. They noted that 'responsibility' was only identified and established within defined structures and it was tightly controlled and regulated. Access to parole and preparation for release has been shown in the research to be indicative of this dilemma for prisoners. Prisoners referred to the problems inherent within progressive systems, suggesting that if they make a single mistake it can prove to be costly. The significance attached to progression placed immense pressure on prisoners to conform and adhere to defined values and principles.

This research also has shown that the development of a safe and pleasant working environment for staff and prisoners is incompatible with institutionalised violence, brutality and intimidation evident throughout prisons. Prisoners universally reported experiencing a climate of fear in which violence and intimidation were commonplace. The majority of prisoners suggested that they did not feel safe in prison and attributed this primarily to the behaviour of other prisoners who attempted to live up to a 'macho' image. Also important was the issue of drug-related violence, and routine bullying and victimisation. Prisoners noted that much of this violence was ignored by prison staff and further condoned and institutionalised by the discretionary and, at times, unlawful use of violence by prison Staff. It was suggested throughout the research that although violence perpetrated by staff was not as blatant and upfront as it had been prior to reorganisation, there was still evidence of its existence.

The fourth principle advocated by the SPS relates to the fostering of good staff relations, team work, a shared enterprise, and an environment conducive to the development of staff skills and abilities. The project found consistency between prison managers and staff in recognising the significance of the relationship between staff and prisoners in securing the future success of the Service. Staff noted that in order to develop positive staff-prisoner relationships, trust has to be established and consolidated. This was recognised as a complex process and difficult to achieve. 'Communication' and 'dialogue' were identified as central to the process, with Sentence Planning and the utilisation of the Personal Officer Scheme as key mechanisms through which effective relationships can be achieved. Staff recognised that their primary role was to ensure discipline and security and that ultimately, the

relationships between staff and prisoners always will be 'control' relationships. It was suggested, however, that the role of the staff could be extended to incorporate and achieve 'caring' functions. It was noted that the introduction of female officers into male prisons was a step forward and that women were particularly able in forming positive relationships of trust with male prisoners.

The views of prisoners concerning staff-prisoner relationships were mixed. Some commented that relationships were fairly good and that a reasonable atmosphere prevailed. Others were negative, referring to provocation from staff and the existence of mutual contempt. Prisoners in Shotts Prison were particularly concerned about poor staff-prisoner relations, noting the 'electric atmosphere' and the existence of 'false' relationships leading to much bitterness. Most prisoners commented on the dichotomy between custody and care, suggesting that the two objectives were incompatible. Even when prisoners were more positive about relations they expressed caution, suggesting that they were unable to confide in, or trust staff with their personal problems, feelings or observations. Most prisoners welcomed the introduction of female officers, who they considered to be more approachable. They welcomed the recruitment of younger staff and the retirement of 'dinosaurs'. Others, however, were concerned about the behaviour and attitude of younger officers who they identified as "cheeky", "cocky", "inexperienced" and influenced by the "dinosaurs". It was the universal concern of prisoners that while in prison they be treated with humanity and dignity.

This research has indicated that the objective of developing a 'shared enterprise' is problematic. Prison management recognised that dismantling long-established barriers between staff and prisoners, although essential, was particularly difficult. Management conceded that staff had not been prepared adequately for changes in their role and that more effective training had to be delivered to develop skills. It was advocated that the development of interpersonal skills was the way forward for the SPS and it was recognised that once an officer resorts to violence or force in dealing with prisoners, effective communication had failed and trust was destroyed. It was noted that plans were under way to enhance the role of the Personal Officer and to create separate roles for prison officers, thereby formalising the distinction between custody and care.

It is appropriate to address the final three principles of the SPS together: the need for an appropriate management style to deliver value for money; to devolve authority, responsibility and accountability to the lowest possible level; to increase public awareness and involvement in the Service. This research has documented the organisational change throughout the SPS following the adoption of a Strategic Planning approach to the management of the Service. This has been the central element in aiding the SPS to develop a 'vision' for the future, a clear understanding of purpose, and a clear set of aims and objectives - the Mission Statement.

This research shows that the SPS Headquarters underwent a successful restructuring process closely reflecting the proposals outlined in Organising for Excellence (SPS, 1990b). Following reorganisation significant powers and responsibilities for the day-to-day running of prisons was devolved from Headquarters to each establishment. The

development of strategic plans for each prison was considered by prison management to be a positive step forward, allowing prisons to set their own agendas and priorities. Equally, the devolution of budgetary responsibility to Governors, and administrative and operational tasks to prison staff, occurred throughout the SPS post 1992.

The aims of restructuring have been to create a corporate identity and clear vision; to empower Governors and staff and foster a sense of ownership; to create a supportive, co-operative and open environment in order to encourage leadership and commitment; to effectively respond to the needs of 'customers'. To achieve these strategic aims and to fulfil the principles outlined above, the SPS recognises the continuing need to constantly evaluate and monitor the changes that have taken place. In terms of this research, then, prison managers, staff and prisoners were asked to evaluate the overall change that had take place throughout the SPS.

Prisoners provided both positive and negative responses. Referring to the specifics of regimes they commented positively on the introduction of telephones, integral sanitation, microwaves and washing machines on landings. Enhanced regimes with better facilities and a range of possibilities for contact with families (family visits, SEL's) were welcomed, but considered to be fundamental rights offered as 'privileges' too late in a sentence. Prisoners were clear that the type, variety, frequency and quality of visits were inadequate and that, for many, it was difficult to maintain effective family contact over a long period of time. Enhanced visits, it was noted, occurred too late in a sentence to recover broken family ties. Further, prisoners were critical of prison food, suggesting that its delivery, presentation and standard were

poor. Considerable support was expressed for the idea that prisoners should be allowed to cook their own food.

As noted previously, staff attitudes were considered to be a source of many problems. Prisoners considered that too much was expected of staff and that in order to facilitate their changing role, staff should be better qualified. It was also recommended that prisoners should have more contact with senior management and that uniforms should be abolished in an attempt to break down barriers. Universally, prisoners suggested that the future of prisons and their regimes was in the development of small units. For stability and the realisation of many of the 'new' objectives prisoners considered small units to be the only effective means. They would also enable the development of mutual relationships of trust.

In summary, prisoners noted that although the SPS was keen to experiment, the experience and the system of imprisonment had not notably changed. The ideas, concepts, and rhetoric were regarded as positive and prisoners recorded a range of superficial or surface changes to the system. The foundations, underlying objectives and aims of imprisonment however, had remained unaltered. Consequently, the structures and concepts of discipline, regulation, surveillance and security had remained intact.

Senior management and staff, although more positive about specific changes also were cautious concerning the impact of overall change and a better quality of life for long term prisoners. Staff also prioritised visits as being central to the well-being of

prisoners and smooth-running of regimes. Staff identified them as crucial within the prison environment, noting that access, facilities and range of visits had improved significantly post reorganisation, and contributed to the delivery of a 'quality service'.

Senior management reported that their in-house research had indicated that a large proportion of prison staff considered that too much change had occurred too quickly, suggesting that 'new' initiatives be consolidated before the development and implementation of further change. Senior management asserted that monitoring, evaluation and change formed parts of an ongoing process. The introduction of market testing and the arrival of privatisation were recognised as threats to jobs and to their terms and conditions of employment. Overall, a number of staff expressed the view that the changes initiated had greatly benefited prisoners often to the detriment of staff. Senior management, however, while recognising that considerable change had occurred, regarded its impact on the experience of long term imprisonment as being minimal, mainly because an opportunities agenda had not developed.

A close examination of the SPS policy documents provides a clear indication of the reasons for the failure of the SPS to implement successfully the changes and new philosophies and concepts advocated. Opportunity and Responsibility (SPS 1990a) represented a substantial advance in the proposals outlined in Assessment and Control (SPS 1988b) and Custody and Care (SPS 1988a), attempting to deliver a clear philosophy of imprisonment and the role of the prisoner. Opportunity and Responsibility however, provides the key to the future of long term imprisonment in Scotland. Adler and Longhurst (1994:224) regard it as a, "remarkable document".

First, because it responds to criticisms made of the earlier documents and second, importantly, for “questioning many of the taken-for-granted assumptions and practices about prisons in Scotland and developing a positive and coherent philosophy of imprisonment”. Others, while referring to the document as “liberal” and “progressive” (Scruton, Sim and Skidmore 1991; Sim 1991), point to the fundamental weaknesses of the document.

Fundamentally, the document introduces a ‘new’ language based on liberal reformism, which aims to ‘empower’ staff and prisoners, thus creating a sense of ‘ownership’. The concepts of ‘care’, ‘opportunity’ and ‘responsibility’, in particular, signal a shift in penal philosophy, suggesting a commitment to implementing change. As this research has shown, the theoretical concepts of ‘opportunity’ and ‘responsibility’ have failed to have any substantial impact on the lived experiences of long term imprisonment in Scotland. The operation of regimes geared primarily towards discipline, good order, control and security have remained unchanged. The concept of opportunity is merely a revised and updated form of rehabilitation which, as Coyle (1991) points out, is only positive if recognised and adhered to voluntarily by the prisoner. It is a negative force if imposed from above. It is central to the findings of this research that Opportunity and Responsibility provides little detail of the real opportunities to be made available to prisoners. This neglect has been mirrored in practice, where it appears that the opportunities available to prisoners have not improved.

Closely associated to this ‘opportunities agenda’ and the intended creation of a ‘positive environment’, prisoners are expected to take responsibility for their actions.

As this research has indicated, the applied definitions of 'responsibility' and, conversely, 'irresponsibility', have been created and imposed by prison authorities without prior consultation or effective communication with prisoners. The definitions are narrow and, as Sim (1991) notes, impose a degree of responsibility on the individual but fails to consider the individual as a rational being. He refers to the decisions to protest or to challenge the authority of prison staff and regimes as rational. This research has shown that the very imposition of acceptable and unacceptable behaviour actually denies responsibility to prisoners. Equally, by linking responsibility to the progression system, initiatives aimed at empowering prisoners by making them responsible for their actions, such as Sentence Planning, effectively operate as sophisticated forms of discipline and control, rewarding those prisoners who conform and punishing those who deviate. This closely reflects Foucault's identification of the 'new prison regimes' of the nineteenth century as creating the 'disciplined subject', not through compulsion but through conformity.

The dichotomy between care and control has been recognised throughout this research project. Opportunity and Responsibility ignored the institutional relations of power which dominate daily contact between prisoners and staff. It portrayed staff-prisoner relations as being those of mutual interdependence with the prison officer acting as a facilitator and social worker via the Personal Officer Scheme. This research has recognised the power relations inherent in the staff-prisoner relationship and the difficulties of balancing the demands of custody and care. Opportunity and Responsibility failed to develop a critical analysis of the role and daily practices of prison staff which are dominated by a culture of discipline, regulation and masculinity

and underpinned by discretionary control of prison regimes. As Adler and Longhurst (1994:230) note:

The authors of *Opportunity and Responsibility* failed to recognise that the relationships between prisoners and all those in authority over them are imbued with power. This is why prisoners need protection and why the neglect of prisoners' rights was of such significance.

Adler and Longhurst indicate that prisoners' rights and institutional accountability both are neglected in Opportunity and Responsibility and as the prisoners interviewed stated, neither has been addressed adequately by the SPS following reorganisation. Prisoner protection and rights have not materialised, despite the onus placed on individuals to act responsibly, leaving prisoners vulnerable to the excesses of institutional control and power. The discretionary control exercised by prison management and staff, is institutionally unregulated and unaccountable. The 'customer' focus advocated by the SPS, outlined in the Justice and Citizens' Charters which prioritise rights, accountability, shared enterprise and devolved power, have not been developed in practice. As this research has shown, the identification of the prisoner as a customer depoliticises the experience and nature of imprisonment. As Sim (1993:43) comments:

The metamorphosis of the prisoner into a consumer is therefore likely to fracture and atomise the prison population still further, marginalising the social and political context of the prison experience and transforming the discourses of discipline and punishment which underpin penalty into politically neutral and individually safe questions of satisfaction or dissatisfaction with the commodity or service on offer within an individual establishment.

This research has suggested that the proposals outlined in Organising for Excellence which relate to management structures, strategic planning and corporate identity have

been adopted and have guided the future direction of the SPS. Yet, the proposals contained in Opportunity and Responsibility only have been implemented in part. This goes some way to explaining why prisoners' experiences of long sentences of imprisonment have changed only marginally. Significantly, the process, while appearing to be consultative has marginalised the 'view from below' ensuring that official discourses, their construction and rationale, have dominated explanations, analyses and change.

According to the official discourse of the SPS, managerial solutions are identified as central to the resolution of organisational problems. The shift towards a managerialist and enterprise culture is consistent with Government policies and has been the driving force behind change in the SPS. Creating a unified Service, sharing a common culture and developing enlightened, progressive and quality provision is the 'vision' and the future identified for the SPS. All forms of official discourse relating to aspects of criminal justice throughout the last twenty years, from Lord Scarman's Report (1981) into the 'Brixton disorders', to the 1993 Royal Commission on Criminal Justice, have operated on the principle that structural, institutional problems can be resolved via managerialism. Scraton (1994:2) notes:

It is not unusual to find that the outcomes of Royal Commissions, Home Office inquiries or other official inquiries fail to deal with central issues and often pay little more than lip-service to the circumstances out of which they emerge.

Significantly however, throughout the late 1980s and early 1990s, new forms of managerialism, identified throughout this thesis, have emerged throughout public sector and many private organisations. For Clarke, Cochrane and McLaughlin

(1994:3) this new managerialism is a “dynamic, transformative process which cuts across the domain of social policy.” In concurrence, Newman and Clarke (1994:13) comment:

It is difficult to miss the importance of management in the restructuring of the state during the 1980s and 1990s. No policy initiative has been taken without a reference to the need for a supporting infrastructure of ‘good management’ to achieve its objectives. No self-respecting senior figure of a public sector organisation would be without a strategy, vision or mission statement. Devolved budgets, business plans and sensitivity to customers are to be found everywhere.

Primarily, new managerialism aims to reform old institutional forms, arrangements and practices. According to Jones (1993), the principles of efficiency, effectiveness and economic management were central to the political agenda of the ‘Thatcher revolution’. Specifically she comments: “Time-wasting and unresponsive institutions were to be made more accountable to ‘customer needs’”(ibid:187). State intervention into public sector services was to be minimised, facilitating free market competition and the increased power of consumers to control service provision, ultimately giving individuals control over their own lives. Additionally, Clarke and Langan (1993:67) point to the promise of increased accountability.

In order to achieve greater accountability, by the late 1980s the Conservative Government invited the Public Accounts Committee, the National Audit Office and the Audit Commission to investigate the criminal justice system. Subsequent reports have suggested that “Reform is to be achieved within an overall framework of organizational restructuring, fiscal accountability and rationalization” (McLaughlin and Muncie, 1994:119). Consequently policies have centralised certain activities, devolved

others, introduced market testing and where appropriate contracted out to private companies. Jones (1993) argues that this auditing process has had a fundamental impact on the criminal justice process, not least, in subjecting criminal justice agencies to an “unprecedented degree of scrutiny” (Jones, 1993:199) and hence public accountability. She goes on to argue however:

Instead of officials being responsible to ministers for their decisions, ministers are forced to rely upon the professional values of accountants and auditors.... Accountants are no longer simply providers of financial information: they are in the forefront of decision-making. Policy making thus moves outside recognised political channels.

(ibid:199).

The new language of managerialism stresses openness and closeness and a commitment to the demands of competing interests. According to Clarke, Cochrane and McLaughlin (1994) the empowerment of managers, employees, and service users indicates greater accountability to all these competing interests. Conversely, these multiple competing interests can, according to the authors be managed flexibly, they note: “managers assess, negotiate and trade off between the different interests, calculating where power, interest and advantage lie” (ibid:236).

In adopting implementary reforms which advocate that the ‘crisis’ is largely administrative, bureaucratic and managerial, the SPS fails to deal with the fundamental structural relations of power and its legitimacy through state institutions and the political - legal discourses which contextualise accountability. In challenging the processes and outcomes of recent SPS policy, particularly relating to long term prisoners, a critical analysis returns the analytical focus to questions of state power,

discipline and control. For it is within this institutional context that the 'new agenda' of reform is defined, developed and operationalised by the SPS. This 'new agenda', whatever the claims for its 'visionary status', remains locked into implementary reforms inevitably focusing the concept of 'responsibility' on the actions of individuals. The structural relations, which are the 'determining contexts' (Scruton and Chadwick, 1991) of those actions, are rarely questioned. If they are it is only in terms of institutional efficiency or effectiveness. Thus Opportunity and Responsibility, and subsequent policy initiatives, have failed to contextualise prison within wider social and political relations. Consequently, the prison, and its administration, remains isolated from the wider economic, political and ideological processes which underpin its operation. The assumption is that 'in essence' imprisonment is justifiable, functions well and is in need of adjustment to restore the 'balance' between staff and prisoner, custody and care, rehabilitation and discipline.

This thesis has asserted that prison must be located within the context of structural and state relations. The liberal, implementary reforms of the SPS require analysis in the context of political, material and ideological developments within the state, particularly the consolidation of a strong authoritarian state. Stuart Hall's (1978) theorisation of authoritarian populism analysed the political and institutional shift towards a strong, coercive state. This state form was consolidated by successive Thatcher Governments which utilised primary 'folk devils' to account for Britain's economic and social decline and the breakdown of political consensus. According to Sim et al (1987), these included: the power of the unions (leading to the criminalisation of industrial action); overdependency on welfare (leading to legislation against claimants, the

persistent imagery of the 'scrounger' and the more recent moralising of the 'underclass', see: Murray, 1990); the decline in moral values (the breakdown of the family, decline in morality, the rise of 'sexual permissiveness' and the fracturing of gender roles, see: Murray 1990; Dennis 1993; Dennis and Erdos 1993); the emergence of 'lawlessness' and a resurgence of street crime. Thatcherism utilised a strong law and order ideology to mobilise populist policies which would 'deal with' a nation of 'militants', 'sexual deviants', 'permissives', 'scroungers' and above all, 'criminals'. The solution was a strong, authoritarian state, tough on crime.

The consolidation of authoritarianism within the state is evident, according to Sim (1993), in: the centralisation of power within the criminal justice system; an increasing emphasis on the militarisation of state institutions using coercion as a means of maintaining good order; and the fracturing of civil and political liberties. Notably Sim et al (1995) suggest further that this shift towards authoritarianism is also characterised in other European states.

Important here, in relation to new managerialism is the question of centralisation and decentralisation. On the surface, as in so many other examples of public sector reforms, the appearance is that of devolution of responsibility, budgetary control and unit administration. How far does this go? Does it extend to real decision-making, carrying the powers to initiate and consolidate contrasting agendas? Or is it that new managerialism is a more institutionally effective and efficient form of administrative regulation and control? Thus encouraging conformity and conservatism as opposed to innovation and change.

Jones (1993:200) notes that the auditing process enables central government to maintain control over the criminal justice system “more effectively and less obtrusively.” Newman and Clarke (1996:15) reject the notion that there has been a straight forward transfer from centralised to decentralised systems, suggesting “there has been a realignment of power in which the rhetoric and practice of decentralisation masks considerable concentration of power at the centre.”

New managerialism emerged in conjunction with the New Right in the mid 1970s, essentially with overlapping agendas, identified by Clarke (1996:18) as: “hostility to bureaucratic organisation”; “commitment to entrepreneurial dynamism and competition”; the “drive towards de-regulation”; and the “demand for the ‘freedoms’ necessary to give managers ‘the right to manage’.” While recognising this alliance Clarke (ibid) is concerned not to “treat managerialism simply as the organisational ‘proxy’ of the New Right”.

The progressive rhetoric and radicalism of new managerialism in the delivery of justice, has the potential to challenge authoritarianism. However, as McLaughlin and Muncie (1994:137) point out: “It is undoubtedly the case that the regulatory powers of the state and policy parameters have been much more clearly defined and strengthened in order to oversee the system.” Equally Jones (1993:188) notes that despite the powerful, progressive rhetoric the “old hierarchy still operates within the same power structure ‘behind a false front’.”

Also important here is the potential within managerial solutions for depoliticising the structural problems inherent within the administration of 'justice', in this case prisons. By addressing the issues as ones of regime effectiveness and agency efficiency the question of the legitimacy of imprisonment as it has evolved, is lost. In fact, through adopting the rhetoric of rights and responsibilities the radical right has been able to give the appearance of progressive reformism. In that sense the potential of new managerialism, and its emphasis on strategy, policy and practices, is that it 'relegitimizes' the functions of imprisonment without ever addressing the fundamental questions of role or purpose.

Hudson (1987) contends that a drift into a law and order society is predictable in a recessionary crisis, as the creation of moral panics over crime and disorder act as an "escape route" from the difficulties faced by the state. Control is retained, "as economic decline brought about a fracturing of normative - consensual control and produced a large, disaffected population of the young, the unemployed, and ethnic minority groups" (ibid:165). This thesis has shown that the state develops and utilises political ideologies and official discourses in its marginalisation of identifiable groups and individuals within society. It is through this process that such groups and individuals become criminalised. By defining crime and disorder as a major social problem which impacts on all citizens, the state employs populist ideologies to achieve hegemony and ensure the legitimacy of its rule. Hence social authoritarianism masks and dismisses the institutionalisation of classism, racism, sexism and heterosexism and asserts that the rule of law is 'natural' and 'just', consensually regulating and disciplining those who are disruptive or unproductive.

In the context of new managerialism, Jones (1993) refers to a shift from this formal commitment to 'rational justice' and the 'rule of law', to 'managerial justice'. She argues that the "construction of the consumer as a participant in the management of his or her own life served as a useful ideological strategy for stabilising this increasing focus on 'law and order' in society" (ibid:200). For Jones (ibid), new managerialism provides a "gloss of equality where none exists".

Ryan and Sim (1995:120) maintain the importance of recognising that the historical, contemporary and future role of penal systems can be characterised by their:

....coercive capacity to manage and regulate those on society's economic and political margins who have simultaneously been positioned within a set of discourses which have denigrated, demonized and dehumanized them.

This thesis demonstrates that the SPS has failed to meet the well established and institutionalised objectives of imprisonment. It does not rehabilitate, protect the public, deter or prevent crime. It does not administer justice or punishment fairly. Equally, this research indicates that the SPS has failed to meet its 'new' objectives as advocated in the penal philosophies outlined throughout this thesis. The issues raised by Mathiesen (1990) concerning the persistence of prisons and the need to examine possible alternatives, including abolition, remain central. As Rutherford (1986:6-7) notes: "The very presence of the prison system discourages constructive thinking and action around alternatives".

Mathiesen (1986:85) maintains that, “the importance of abolition of the prison as a way of solving interhuman conflicts, however long range the goal, has not become less significant over time”. While recognising the contradictory nature of reform, Mathiesen asserts that abolition remains a priority to be pursued, but with “negative” reforms in mind. He argues that improving the conditions of life for prisoners is important and must not be underestimated. While even the worst, most deplorable prison conditions do not lead to abolition, as this thesis has shown, in calling for reforms it is possible to expose and emphasise “the inhumanity, the cruelty, and the inefficiency of prison” (ibid:87). Mathiesen proposes that critical criminology should research and campaign for the short term goal of prison reduction.

Strategically and politically, this view is shared by other abolitionists. Scheerer (1986:19), however, comments that abolitionism cannot count on the automatic support of the political left for its policies. Thus he sees the importance of distinguishing, “between middle and long range aims of abolitionist policy”, while seeking out, “allies in the pursuit of middle range aims”.

This thesis has illustrated that official discourse plays a key role in the processes of marginalisation and criminalisation and in the mobilisation of liberal reform programmes. Official discourse incorporates Foucault’s ‘regimes of truth’, reflecting dominant ‘ways of seeing’, understanding and defining ‘knowledge’. It creates an ideology of consensus through its language, text and meaning, ensuring that certain knowledges become approved and legitimacy is confirmed. As this thesis has shown, knowledge therefore becomes institutionalised and professionalised. This

institutionalisation of knowledge operates to create the impression that there is a 'truth', that expert knowledge is seen as constituting the truth. In presenting a 'view from below' this thesis has challenged official knowledge concerning the experience of long term imprisonment and the rhetoric of reform. Alternative definitions, which often remain hidden, or are 'disqualified', have been uniquely articulated throughout this thesis.

By challenging official discourse, presenting a 'view from below' and developing a critical theoretical analysis which concentrates on the relationship between crime, punishment, state power and the institutionalisation of structural inequalities, this project has been conceived and realised within a contemporary politics of interventionism. According to Sim et al (1987:10) such interventionism reflects, "a real commitment to the powerless in the context of an unjust and inequitable social order". This does not mean that the analysis is without objectivity or analytical rigour. It is precisely in identifying its theoretical standpoint, and the politics of research which underpins its position, that critical analysis is clear about its roots, its direction and its commitment to 'alternative' discourses. This project effectively has 'monitored' the first seven years of state penal policies and intervention, from initiation through to operational practice. The rationale and claims which have been central to SPS policy and priorities, particularly concerning the incarceration of long term prisoners, have been tested 'on their own terms'.

Clearly there are many aspects of SPS policy during this period which remain to be researched (remand; women's custody; youth custody; short term sentences; suicide

prevention; drug use etc) but this research has shown that if the politics of imprisonment are to be understood then it is essential to place official discourse, which incorporates the 'view from above', alongside the views of those individuals whose experiences provide essential testimony concerning the daily reality of operational policy on regimes.

It is accepted that realistically even the most radical reductionist programme within penal reform will need to provide for people who are incarcerated for long periods of time. What this research demonstrates is that if it is to be acknowledged that the loss of liberty is the sanction, then within that context - the prison and its regime - prisoners have rights and the authorities have a duty of care for those in their custody. On paper, the SPS have recognised these principles, but rather than identifying such rights and duties as inalienable, the Service and its Government department, has elected to use them, as has been the penal tradition, as an instrument of 'exchange'. The Social Contract, or Compact in England and Wales, upon which Sentence Planning has developed presents rights and duties as privileges to be achieved by long term prisoners. It is this issue, above all, which makes prisoners sceptical of the 'potential' of the SPS's 'vision' for the future. While rights are represented as privileges and care is exchanged for prisoner responsibilities, liberal, 'innovatory' programmes remain trapped within an authoritarianism which has dominated British penal policy since the opening of the first 'new prisons'.

It is difficult to conceive of alternative policies at a time when the media, political commentary and 'public opinion' collectively is so trenchant in demanding harsh

regimes for long term prisoners. Yet, without a real commitment to resolving the questions raised by the prison protests of the 1980s, and subsequently identified as valid by the SPS, policy initiatives such as those central to Opportunity and Responsibility can only fail. What this research has shown is that the daily reality of the dichotomies between custody and care, punishment and treatment, discipline and rehabilitation, persist within even the most 'enlightened' of regimes. As this project was completed the Barlinnie Special Unit was closed following an internal report which condemned its regime as 'stagnant'. This was because those prisoners within the unit could not move on to less secure accommodation but had to move back into mainstream conditions in order to progress. To do that they were required to forfeit the conditions and 'privileges' associated with the Unit. The closure of the internationally-renowned Special Unit, at a time when the SPS was proclaiming its 'progressiveness' at the forefront of penal reform, was a salutary reminder that the 'politics' of imprisonment often reveals its underlying conservatism and bureaucratic functioning.

FOOTNOTES

Introduction

1. *Long term imprisonment refers to those serving three years and over.*
2. Critical research includes: Carlen 1983, 1985; Campbell 1987; The Report of the Independent Committee of Inquiry 1987; Scraton, Sim and Skidmore 1988, 1991; Smith 1989. Prisoners' accounts include : Boyle 1977, 1984; Probyn 1977; Peckham 1985; Conlon 1990; Hill 1990; Ward 1990; Leech 1992; Steele 1992.

Chapter One

1. Penal establishments that existed throughout this period included: castle dungeons, tollbooths, church steeples (Cameron, 1983).
2. According to Mellossi and Pavarini (1981), Houses of Correction were used to confine the poor and Bridewells for petty criminals.
3. Coyle (1991:24) suggests this was because: court sentences were less severe; Judges had greater discretionary powers; and corporal punishment remained in Scotland.
4. According to Ignatieff (1978:84), Howard estimated that the prison population increased by 73% between 1776 and 1786.
5. These included the introduction of baths, a regular diet, prison uniforms, prison hospitals and increased medical attention (Ignatieff, 1978:100).
6. According to Priestley (1985), the silent system allowed prisoners to associate for work but demanded they remain silent at all times.

Chapter Two

1. Legitimacy in relation to prisons has attracted much attention (see Scraton et al 1991; Woolf 1991; Cavadino 1992; Sim 1992; Sparks 1994; Sparks and Bottoms 1992, 1995).
2. It should be noted that there is more than one theoretical interpretation of the liberal democratic state. (see Dunleavy and O'Leary 1987; Vincent 1987; Hall and Ikenberry 1989).
3. Classicism grew out of eighteenth century enlightenment which stressed the importance of human reason. Individuals were considered to be fully responsible for their actions.

4. For a critique of Classicism, see Garland, 1985.
5. Positivists are sceptical about retributivism and advocate reductivist principles of incapacitation and reform. Due process and proportionality are not considered appropriate in diagnosis and treatment.
6. See: Kinsey 1984; Lea and Young 1984; Matthews and Young 1986, 1992; Kinsey, Lea and Young 1986; Young and Matthews 1992.
7. Mathieson (1974) outlines four functions of imprisonment: i) Expurgatory - society disposes of its 'unproductive' elements by imprisoning them; ii) Power-draining-prisoners are relatively powerless when confined, compared to those who imprison them; iii) diverting - attention is diverted from dangerous acts committed by those in power; iv) Symbolic - stigmatising the confined.

Chapter Three

1. This statement was made during a visit to HM Prison Edinburgh in June 1993 by a senior prison officer.
2. For further discussion of Leon Brittan's proposals see: Ryan and Sim 1985; Sim 1984.

Chapter Four

1. Scraton, Sim and Skidmore (1991:134) document the unrest among long term prisoners in the UK.
2. For a further discussion of this see : Ryan and Sim 1984.
3. A 'lock down' refers to a regime whereby prisoners are confined to their cells for twenty four hours a day .
4. For a full discussion of the Barlinnie Special Unit and its recent closure, see: Sim and Macdonald 1973; Cooke 1989, 1990; Sparks 1993; Bottomley et al 1994; Gow 1994.

APPENDIX ONE
METHODOLOGY

This appendix documents the research process and research methodology undertaken throughout the research project. The relationship between theory and research; knowledge construction; the politics of prison research; the methodological debates and the methodology in practice will be examined within the broader context of critical research into state institutions.

Critical Research Methods: The Theory.

Jupp (1987), in discussing the politics of Criminological research raises four key questions: what gets studied?; who gets studied?; what gets published?; what gets used? Commenting on prison research, Cohen and Taylor (1982:215) suggest that official research need say nothing significant, the main issue is its “window dressing potential”. Of their own research with long term prisoners they note:

All along - as we should have realised earlier - the political forces shaping prison research in this country were stacked against us. Control of such research is highly centralised and it can be backed up by blanket legal pavers of the Official Secrets Act.

(ibid: 220).

Muncie (et al 1990), recognise the “indissoluble links” between research and theory and between theory and policy, in recognising that research is not value free but is, “initiated and informed by particular theoretical and political positions” (ibid:12). While accepting this proposition, Sapsford et al (1990) note that, “just as the relationship of specific theories to paradigms is not simple and straight forward, neither is the relationship between these specific theories and different types of method” (ibid:65). de Vaus (1994:11) suggests that

the relationship between theory and research is clear arguing that “observations require explanation but equally explanations need to be tested against the facts”.

The Principles and Politics of Critical Research

The challenge to positivism throughout the 1960s led to the development of alternative research paradigms (Oakley 1992; Kramarae and Spender 1993). Bell and Newby (1977:10) refer to a “methodological pluralism” which emerged from the demise of the “former positivistic hegemony in sociology”. Critical research emphasises the key constructs of control and regulation, social, political and economic conflict, structural relations of power, ideology and knowledge. According to Jupp and Norris (1993:45) the “critical paradigm is heavily theoretical (and overtly political) and is not by inclination, interested in traditional research methods”.

Critical research is concerned to challenge the existing social order, constructing alternative discourses which focus on authority and power and are geared to change. Further, critical research into state institutions addresses institutional forms and the power they specify. Priorities within such research recognise the importance of historical contextualisation, encompassing official historical accounts - history ‘from above’, and alternative accounts, personal and oral histories - history ‘from below’. Such historical accounts document change and highlight alternative ways in which social life has been experienced and organised. Neuman (1994:69) noted that people are, “constrained by the material conditions, cultural context, and historical conditions in which they find themselves”.

Further, people occupy a world of structures that contextualise opportunities and shape beliefs and behaviours. Analysing structural relations, institutional forms and the context within which they operate is a further research priority. Emphases include critiques of contemporary policy processes and practices; professional ideologies, the maintenance and reproduction of official discourse. Finally, critical research prioritises the 'experiential', examining the world at the 'level of appearances', as it is lived and experienced. The view 'from below' attempts to understand and theorise social relations and resistance. For Neuman (ibid:67), the purpose of critical research is to change the world, to uncover: "myths, reveal hidden truths, and help people to change the world for themselves".

Hence critical research has the potential to become action research (see Mathiesen, 1974). The critical researcher, "asks embarrassing questions, exposes hypocrisy, and investigates conditions in order to encourage dramatic social change from the grass-roots level" (Neuman, 1994:67). Critical research does not 'speak' for the subordinated but "reveals the underlying mechanisms that account for social relations" (ibid). Clearly such work is 'action-oriented'. Discussing "feminist praxis", Stanley (1990:15) comments, "succinctly the point is to change the world, not only to study it".

Critical research that exposes issues can also utilise monitoring as a political strategy. In challenging racism, Sivanandan (1990), talks about the strategy of turning cases into issues.

He comments:

We need to concentrate on cases which raise a number of issues and so bring together the various aspects of our struggle and the different groups involved in them.

(ibid:74).

As with any critical research into state institutions the research process is complex and raises methodological, personal, political, moral and ethical issues and problems. King and Elliott (1977:33), state that it, "is seldom easy to do social research, and it is usually much harder than many researchers suggest". Referring to their research in the 1970s at Albany Prison they observe:

Perhaps few contexts can provide such a bewildering complexity of considerations for the research worker to take into account as the legally and morally divided world of the prison.

(ibid).

Literature Search

Although substantial material had been collected prior to primary research, it was necessary to undertake a lengthy literature review. As Neuman (1994:72) notes, "a literature review is based on the assumption that knowledge accumulates, that we learn from and build on what others have done" (see also: Berg, 1995). Official reports and guidelines were accessed directly from the SPS and the Central Research Unit, while statistical bulletins and government documents were provided by the Scottish Office. Newspaper archives were researched extensively at Edinburgh Central Library and other related documentation was obtained on numerous visits to the SPS Library at the Scottish Office to which access had been negotiated. Personal correspondence with relevant organisations, campaigning groups (SCCL; SACRO) and academics with expertise in Scottish prisons also produced materials relevant to the literature review.

The literature search and review continued throughout the research process, significantly it has facilitated an examination of prior research in the area and highlighted areas requiring further research.

Negotiating Access.

The aim of this research was to interview long term prisoners, senior officials and governors and uniformed staff in the SPS. While recognising the importance of interviewing officials, the main priority was to interview prisoners in depth. Being fully aware of the problems of obtaining formal access to prisons arising from the centralisation of power and the role of 'gatekeepers' (Cohen and Taylor 1979, 1981; Scraton, Sim and Skidmore 1991), the objective was to use established personal contacts with Governors and staff to initially access prisons. This strategy was successful and a number of interviews were arranged and conducted with prison officers. However, during an interview with a member of the Central Research Unit at the SPS Headquarters it was decided that the research proposal should be processed and cleared by a Research Committee at Headquarters.

After consideration of whether to pursue personal contacts or follow official channels, a research proposal was submitted to the Research Unit outlining the aims and objectives of the research project. Following this initial visit to the Research Unit, positive feedback on the project proposal led to cautious optimism that access would be granted. As Shaffir and Stebbins (1991) comment, access may be determined by the researcher's relationship to the research setting and this might include relationships

with gatekeepers. Further they note that, “in the course of getting in, researchers must present not only themselves but also their proposed research” (ibid:26).

Access was requested to interview prisoners and staff in the eight prisons in Scotland containing adult long term prisoners - Edinburgh, Glenochil, Perth, Peterhead, Shotts, the Barlinnie Special Unit and the Shotts Unit, each designated as male prisons, and Cornton Vale which at the time was the only prison in Scotland accommodating women.

Although overall access was granted to carry out the research project, (see Appendix Two) initially access to four of the prisons was denied. Peterhead was considered inappropriate as its status had changed. Although the 10-cell Unit remained for Rule 36 prisoners, Peterhead had become allocated to accommodate Scotland’s sex offenders. As the only women’s prison in Scotland, Cornton Vale was considered to be ‘over researched’. Severe unrest and a ‘lock-down’ at Shotts resulted in access being denied to all female researchers, whether internal or external. Finally, the Shotts Unit and the Barlinnie Special Unit were undergoing a review process rendering external research inappropriate.

Six months after conducting the research at Edinburgh, Perth and Glenochil a second attempt was made to negotiate access to Shotts, Cornton Vale and the two Units. As Shaffir and Stebbins (ibid) note, research access is an ongoing issue for the researcher. It is not merely granted at one particular moment, but involves negotiation and re-negotiation and subsequently influences the kind of research that can be completed (see

also Burgess, 1991). Following an interview with a senior manager of the SPS, access was finally granted to Shotts prison and to revisit Edinburgh. No problems were encountered in arranging and conducting interviews with senior officials and prison staff and these took place while negotiating access to interview prisoners. Significant access was therefore obtained to four prisons and to the staff at SPS Headquarters.

Obtaining access is often a difficult and time-consuming process. Additionally, Hornsby-Smith (1993) argues that researchers must decide whether their research is to be overt or covert, "whether or not to inform the subjects of the research about his or her role and about the particular focus of the proposed investigation" (ibid:2). The research proposal was overt in its objectives and theoretical location but at no time were the proposals subjected to official scrutiny or opposition.

Access to Edinburgh Prison was arranged with a Principal Staff Development Officer who delegated the responsibility of contacting prisoners to a Senior Prison Officer working in a long term hall. Edinburgh was the only prison where the research project was fully explained to prisoners. Following a discussion initiated by the Senior Officer, volunteers offered their names prior to the research visit. The subsequent interviews took place in Pentland Hall, a long term hall, in a ground floor recreation room which was out of the sight and hearing of prison officers. The atmosphere was very relaxed and, at times, the researcher's presence in the hall went unnoticed. On a number of occasions the mid afternoon shift change took place, invariably the new shift would be unaware of the researcher until an escort was requested some hours later. Given the informal atmosphere, interviews were between one and a half and three hours in

duration. All but one were tape recorded. The majority of prisoners stated that the presence of the tape recorder was inconsequential and that they would repeat their responses to anybody. The respondent who refused to allow the interview to be taped was fearful of his experiences being recorded.

Access to HM Prison Glenochil was initially arranged with a Governor Grade who took responsibility throughout the visit. Most interviews took place in a Social Work interview room in the Education Unit. One interview took place in the Surgery and another in the Board Room. At Glenochil the interviews were out of the hearing of prison officers and lasted between one and two and a half hours. However, officers advised that the researcher should sit facing the door in the Social Work interview room, enabling regular observation of the interview through the glass window. This was to ensure safety.

Initially, the process of selecting prisoners for interviews was haphazard. Those fulfilling the criteria (long term prisoners who had experience of imprisonment prior to the new initiatives and had experienced the changes), passing through the Education Unit were directed to the project. Following the first day of interviewing prisoners' experiences created a 'snow ball' effect resulting in a queue of prisoners, often with names of friends, waiting to be interviewed. Prisoners from all Halls took part in the project and all interviews in Glenochil were tape recorded. As with Edinburgh, the atmosphere was relaxed and there was considerable interest in the project from staff and prisoners.

Access to HM Prison Perth was arranged with a Governor Grade who provided the daily escort to 'E' Hall, a long term hall where all the interviews took place. Based on the criteria for selection, 'appropriate' prisoners were approached by hall staff. The interviews took place in the 'E' Hall Board Room and a Social Work Interview Room with no interference from staff. Unlike the very positive reception and intrigue from prisoners in Edinburgh and Glenochil, the majority of prisoners in Perth appeared indifferent to the research. Additionally, for the first time, a level of scepticism was expressed by some prisoners concerning the role of the research, the researcher as an academic, and the relationship of the research to the SPS and the Central Research Unit. Despite these reservations, the long term prisoners approached agreed to partake and all interviews were tape recorded.

Access to HM Prison Shotts was arranged with a Governor Grade who expressed hostility and scepticism towards the research. Responsibility for welfare and movement throughout the prison was delegated to another Governor Grade. Initially, the process of finding long term prisoners to be interviewed was haphazard, and at times, appeared to be a chore for the Governor Grade involved. On one occasion the researcher was left waiting for one and a half hours in the prison officer locker/mess room.

The general atmosphere in the prison was uneasy and volatile. Security procedures were outlined, should an incident occur, something not experienced in the three other prisons. The first prisoner to be interviewed was accommodated permanently in the punishment/segregation block. He was escorted into the room where the interview

took place, handcuffed. The Governor Grade advised that two prison officers should sit through the interview to ensure safety. The researcher refused this and a compromise was reached whereby an officer observed the interview from outside the room through the glass panel of the door. The interview lasted two hours.

Other interviews took place in an interview room in 'C' Hall which accommodates long term prisoners. En route to 'C' Hall was an initial experience of the 'route' to and from work, a routine whereby prisoners are moved in single file, appropriately spaced, along a 'man made', narrow corridor flanked by prison officers. This movement of prisoners was impersonal and performed in complete silence.

'C' Hall, although the 'top' hall in the progression system at Shotts, was tense, and this was clearly reflected in the interviews. The fieldwork at Shotts was carried out six months after the initial fieldwork. Following negotiations with management at Prison Headquarters access was denied to tape record interviews. This created problems as it proved extremely difficult to take notes and conduct an interview in parallel. This was particularly so during two difficult and emotional interviews: one where a prisoner had recently been released from eighteen months in solitary confinement and the second where a prisoner recounted a lifetime of institutional confinement and a history of suicide attempts. Leaving Shotts on the final day, there was a deep feeling of never wanting to enter another prison again.

Interviewing Staff.

Prison Officers and Governor Grades were interviewed at each of the four prisons as were senior management officials at the SPS Headquarters. Interviews were arranged personally with staff members and took place in their offices or, in the case of prison officers, in interview rooms. All staff agreed to the tape recording of interviews, although occasionally asked for the tape to be turned off, for 'off the record' comments.

The Fieldwork.

Mathiesen (1974) comments that different type of research techniques, such as questionnaires, participant observation, interviews, result in different types of information being retrieved. This research project employed a range of techniques in order to obtain qualitative data. First, was the extensive use of in-depth semi-structured interviews with both prisoners and staff. A variety of interviews, from highly structured to unstructured, are utilised by researchers (see Kane 1991; Hagan 1993; de Vaus 1994; Berg 1995). The use of a semi-structured format allowed for an interview schedule to be prepared in advance and presented to interviewees prior to the interview. It also enabled discretion and flexibility in the timing and direction of questioning. As Berg (1995:33) notes:

Questions used in a semi standardised interview can reflect an awareness that individuals understand the world in varying ways. Researchers thus approach the world from the subject's perspective. Researchers can accomplish this through unscheduled probes that arise from the interview process itself.

The use of probing is particularly important when conducting semi-structured interviews, in order to expand upon or clarify particular responses. Both Kane (1991) and Hagan (1993) note that probing further develops incomplete answers and should be pursued as a 'natural' extension of the interview rather than a cross-examination. Kane (ibid:69) comments, "they are not used to badger the respondent into giving up every smidge of information he possesses".

Berg (1995) proposes ten commandments to be followed throughout the interview process: never begin an interview cold, always have a few minutes discussion beforehand; remember the purpose and keep on track; present a natural front; demonstrate aware hearing by giving appropriate non verbal responses; think about appearance; interview in a comfortable place; do not be satisfied with monosyllabic answers; be respectful; practice technique; be cordial and appreciative. The ethical and moral issues raised by this will be examined shortly.

Hagan (1993) suggests that the advantage of interviewing is the opportunity to experience personal contact and a rapport with the 'subject' or interviewee. However, *interviews can be time consuming and mistakes can be made with equipment used.* This proved to be the case during a number of interviews when it was discovered that the tape recording machine, for a variety of reasons was not recording. The vast amount of material provided by the tapes also proved to be problematic.

Unstructured, informal interviews and discussions were also an important source of information. This often occurred at the beginning or end of interviews where 'off the

record' material was elicited. Further, significant information was gained from: prison officers assigned the duty of escort around prisons; from lunches with Governors and prison officers; from general discussions with civilian staff, such as teachers and receptionists. A related dimension throughout the fieldwork was that of personal observation. A proportion of time in prisons was spent waiting and moving around - in Governors' Suites, reception areas, canteens, mess rooms, corridors and interview rooms - over-hearing conversations, observing practices and relationships, listening to phone conversations during interviews with staff, and being taken into a confidence. Participant observation, rooted in ethnography (see Hammersley, 1992) refers to the practice through which researchers are placed:

in the midst of whatever it is they study. From this vantage, researchers can examine various phenomena as perceived by participants and represent these observations as accounts.

(Berg, 1995:86-87).

While clearly unable to fully participate or observe in the prison setting, ethnography is significant to the research project, in taking in the physical setting, tracking, observing, eavesdropping and asking questions. The recording of these observations, as often as possible, in field notes or a research diary proved invaluable and is advocated by many qualitative researchers (see Mathiesen 1974; Hagan 1993). As Webb et al (in Hagan, *ibid*:195) note, "the palest ink is clearer than the best memory".

The Research Problematics.

Shaffir and Stebbins (1991:4) note that field work, despite its rigors, may be a rewarding personal experience:

Among them are the often warm relations to be had with subjects and the challenges of understanding a new culture and overcoming anxieties.

Further, they comment:

Field research is accompanied by a set of experiences that are, for the most part, unavailable through other forms of social scientific research. These experiences are bound together with satisfactions, embarrassments, challenges, pains, triumphs, ambiguities, and agonies, all of which blend into what has been described as the field research adventure.

(ibid:7).

For Shaffir and Stebbins there are four stages to field research: entering the setting; learning how to play one's role while there; maintaining and surviving the relations that emerge; and finally leaving the setting. Each stage raises ethical, moral, personal and political issues for the critical researcher. As Kimmel (1988:9) notes:

The ethical issues encountered in applied social research are subtle and complex, raising difficult moral dilemmas that, at least on a superficial level, appear unresolvable.

Access and Selection of Participants.

As previously outlined access to state institutions is problematic. The denial of access to a number of long term prisoners inevitably weakened the research, but was

unavoidable. Further, projects that do not gain the full cooperation of staff and prisoners do face difficulties. As Shaffir and Stebbins (1991:28) noted:

As field workers sometimes have painfully discovered, completing a successful bargain with the gate-keepers is no guarantee of full cooperation from the group members or even the gatekeepers themselves.

Managing scepticism from staff and prisoners and occasional hostility from gatekeepers, although a persistent feature of the fieldwork, did not hinder the research project.

A further related dilemma concerning access is raised by King and Elliott (1977), in examining the effect of their access and research on future research workers. Two dimensions emerge here: first, that following publication of research, further access for all researchers maybe denied. Second, the impact on current research resulting from previous research projects which may have left both staff and prisoners experiencing a sense of betrayal, disillusionment, suspicion and scepticism. This raises broader political concerns about exploitation and power, the purpose of the research, who the research is for, and the politics of the researcher.

King and Elliott (*ibid*), question the independence of researchers in state institutions, commenting that their very presence in the institution suggests a degree of official support. Returning to Becker's (1967) discussion of research sympathies, this raises the question of the potential for researchers to identify both with staff and prisoner perspectives simultaneously. For some, this dilemma is irresolvable. Sykes (1958:136) in his prominent study commented that in the, "polarized society of prison it is

extremely difficult not to become partisan, consciously or unconsciously". Hence, he advocated the need to remain "neutral in one's sympathies" (ibid).

In conducting this research project, although recognising the dilemma, a neutral stance was not considered appropriate. The position adopted is summarised by King and Elliott (1977), who noted that Cohen and Taylor had utilised Matza's (1969) phrase, "the appreciative stance", in empathising with the prisoners, while being mindful of the dangers of sentimentality and romanticism.

The process of selecting prisoners for interview proved more problematic. Given the nature of the project it was not possible to arrange the interviews in advance or to personally negotiate or explain the dynamics of the research project to prisoners. As previously documented, the prisoners were selected internally and, often, haphazardly. According to Neuman (1994), the issue of informed consent is a fundamental ethical principle of social research. He comments:

It is not enough to get permission from subjects; they need to know what they are being asked to participate in so that they can make an informed decision.

(ibid:435).

Both Neuman and Hornsby-Smith (1993) however, suggest that certain groups are unable to give true voluntary informed consent, particularly those without the power to resist intrusion. Cohen and Taylor (1979:72) recommend that it should be the, "absolute right of all prisoners to refuse to take part in any research, experimentation or clinical tests."

The British Sociological Association guidelines on informed consent, suggest that a number of key issues should be explained to each participant as fully as possible. These include what the research is about, who is undertaking it, who is financing it, why it is being undertaken and how it is to be disseminated. Recognising this, the dynamics of the research and the background of the researcher were presented prior to the commencement of each interview. Additionally, each potential interviewee was invited to examine the interview schedule and offered the opportunity to withdraw. None chose this option. Following acceptance to partake in the research, the researcher ensured privacy, anonymity and confidentiality. As Neuman (1993) notes, the need to protect anonymity and confidentiality is particularly important when researching 'captive' populations such as prisoners. Having explained this procedure, many interviewees commented that their views were widely known and that they were unconcerned about protecting their anonymity.

The Interview.

Before, during, and after conducting a study, a researcher has opportunities to, and should, reflect on research actions and consult his or her conscience.

(Neuman, *ibid*:428).

As previously indicated, conducting research in prisons is difficult, the relationships between gatekeepers, researchers and the interviewees involves power and trust. Stanley and Wise (1983) argue that the researcher has control over the interview situation due to their education and status. In adopting a feminist methodology they attempt to reject this traditional relationship between the researcher and the researched, commenting:

It is obscene because it treats people as mere objects, there for the researcher to do research 'on'. Treating people as objects - sex objects or research objects - is morally unjustifiable.

(Stanley and Wise, *ibid*:170).

This assumed power imbalance between the researched and the researcher, according to Smart (1985) does not fit with her experience of interviewing men within the legal profession, where the converse operated.

Finch (1993) raises similar problematics to Stanley and Wise when discussing the ethical and political concerns of being a woman researcher eliciting material from other women. Finch comments on the ease with which the women she interviewed responded to her, maintaining that this was because, "both parties share a subordinate structural position by virtue of their gender" (*ibid*:170), and that a male interviewer would not achieve the same response. Cotterill (1983) suggests that interviews are fluid encounters, where the balances of power shift. The interviewer and respondent being vulnerable at different times throughout the proceedings.

During interviews with both staff and prisoners this process was evident as 'power relations' constantly shifted. However, by acquiring trust and establishing a rapport (see Gelsthorpe 1990; Griffin 1991; Finch 1993; Hagan 1993) power imbalances were minimised. To lessen power structures further, the researcher should be prepared to invest some of their own identity and to be honest about the research, their intentions and answer all questions asked, thereby dealing with some of the issues raised by power and control during the interview process.

There are further influences on the interview process which may impact on relations and the material offered. Tone of voice, manner, gestures and personal characteristics are each important. Cohen and Taylor (1977:73), in discussing their prison research, raise the issue of directing interviews:

For one thing, we soon became aware of the subtle and not so subtle ways in which the researcher influences his data by telling the subject enough to produce the definitions of reality he wants to hear about anyway. This is, after all, a feature of most structured talk; when a friend comes to 'talk his problems over' with us, we pick up enough clues to know what sort of response is wanted: sympathy, advice or a sharing of our own problems.

Although aware of this throughout the interview process, particularly since the project was overt, interviewees spoke for themselves and the variation in response is evident in their accounts.

Gendered Power Relations.

Neff Gurney (1991:83) comments that researchers must, "learn to appreciate the distinctive concerns and ways of behaving in the world that he or she is observing". This statement is particularly pertinent for female researchers undertaking fieldwork in male-dominated settings. Despite the presence of women in male prisons, they remain a minority in masculinist institutions. As Gelsthorpe (1990:95) notes, "One of my first experiences working in the prison was to realise, with some force, that I, and my female colleague, were quite out of place".

Conducting research in a male dominated institution as a female researcher with feminist politics raised many issues relating to power and control. The importance of style, dress, age, language, experience, gender, ethnicity and sexuality were particularly

significant. As Gelsthorpe (ibid) argues, such factors have been under-played in traditional research methods. For example, Smart (1985) discusses the significance of dress in the research process. While interviewing members of the legal profession, she recognised that if she dressed too casually she would not be recognised as a researcher, hence contemplated whether to dress like a stereo-typed probation officer, solicitor, or academic woman. Further, she noted that it was regularly assumed, regardless of age or dress, that she was working on somebody else's project. She comments, "my gender dictated my status" (ibid:5). As Griffin (1991:10-9) notes:

The dominant discourses, roles and expectations of field researchers are predominantly masculine.

In accordance with Smart, Griffin (ibid:112) discusses "constructing a suitably respectable feminine appearance" for her fieldwork research in schools.

Consideration of dress was important throughout the fieldwork for this research project. The style of dress adopted was smart but casual. A primary concern was not related to status but to sexuality. Having previously experienced sexual comments, taunts and abuse from male prisoners and staff in prison, the style of clothing was chosen to conceal as much of the researchers body as possible. However, at no time during interviews with male staff and prisoners was there any indication of sexual or physical threat. Overt sexism in the form of sexual remarks, innuendoes and jokes was not evident, however at times staff members purposefully ignored the researcher's presence. A strategy of not acknowledging or ignoring her presence led to invisibility.

Smart (1985:7) notes that in her experience:

interviewing the legal profession and the magistracy gives very few opportunities for feminist practice to emerge.

Despite Smart's reservations, a feminist politics can influence the research process, even in male dominated institutions. This includes the initial approach to the research, style of interviewing and content of discussions. Neff Gurney (1991:55) argues that female researchers can be a "definite asset" especially in a male-dominated setting. She contends that, "females generally are perceived as warmer and less threatening than males" (ibid:56). Laws (1991) suggests that qualitative research methods "fit" with femininity, that the researcher requires considerable social sensitivity, tact and understanding. While it would be impossible to predict whether responses would have been different with a male interviewer, male respondents were friendly, hospitable and cooperative. As Smart (1985:5) states of her own experience:

It is possible to speculate that I was perceived as less threatening and less 'official' than a male counterpart would have been.

While recognising an unequal balance of power, which for the researcher can amount to the acquisition of authority, Gelsthorpe (1990:98) contends that the overt feminist politics of herself and her colleague impacted on their research in prisons. They describe how their feminist commitment, "arose in our refusal to restrict conversations to the research questions and we frequently abandoned formal interviews altogether in the fact of someone's distress or concern to express a particular point".

This occurred on a number of occasions throughout this project where interviews digressed while a prisoner shared experiences outside the interview schedule, or where formal interviews were abandoned due to the distress of the respondent. In such cases the interviewer took on the role of a counsellor. Managing emotions in the fieldwork

setting is difficult. Kleinman (1991:184) suggests that, "feelings become resources for understanding the phenomenon under study". In this sense such encounters proved valuable indicators of the experience of long term imprisonment. At such times the need for sympathetic friends, family and colleagues is essential - emotional discomfort does not disappear easily, if ever.

Reciprocity.

Considering the personal, moral, ethical and political problems of doing critical research into state institutions, the issues of reciprocity and of leaving the field and keeping in touch are fundamental to the research process. Adler and Adler (1991:175-176) comment on reciprocity:

Because researchers are in a position of wanting information from their subjects, they commonly seek ways of evening the exchange by contributing something to the individuals or groups involved.

Honouring commitments to respondents, respecting reciprocity and attempting to gain feedback are high on the list of ethics for critical researchers. Cohen and Taylor (1977) and Mathiesen (1974) describe their unique and unusual opportunities in prison research, of gaining feedback from prisoners on completion of interviews, during the *writing up stages of their projects*.

Following the completion of the fieldwork, letters were sent to all respondents thanking them for their participation and informing them that a report outlining the key themes of the research would be forwarded when complete. Relations with a number

of prisoners continued following the end of the fieldwork. As Kleinman (1991:208-209) concludes:

although the researcher may leave the field in a physical sense, he or she may remain there indefinitely in terms of both *maintaining friendships* that were formed and contending with the human issues generated by the research.

Concluding Comments.

In constructing alternative discourses which challenge official discourses and the power, authority and legitimacy of state institutions, critical research must identify and negotiate power relations. Independent, critical research can form the base on which to campaign for change. However, the research must stand on its own merits, it can not be based on generalisations, it has to have credibility. As Becker (1967) concludes, in identifying with the oppressed and being clear as to 'whose side' the research is 'on', there is no denial of objectivity. What is significant is that the theoretical grounding, the methodology and the development of the data is sound, accurate and reflective. It is this combination of factors which delivers 'good' research.

APPENDIX TWO

Given that data was derived from four different prisons it is necessary to present an anatomy of each prison and the differential regimes in operation at the time of the research fieldwork in order to contextualise the case study material.

HM Prison - Edinburgh

Edinburgh Prison is situated on a forty acre site a few miles west of the City centre. The original site was purchased in 1913 to build a prison to replace Calton Jail which was located on Calton Hill to the east of the City. The prison was built between 1913 and 1926 and while there has been some building development, the main accommodation is in the original buildings.

Edinburgh Prison serves the courts, holding those remanded or sentenced, from Edinburgh, the Lothians and Borders, Kirkcaldy and Dunfermline. The prison accommodates four categories of prisoners: the untried on remand; short term prisoners serving sentences of four years or less; national facilities for long term prisoners at the top end of the system; a Training for Freedom Hostel.

The Prison was designed to house 242 prisoners and the current capacity is 519. According to the SPS Annual Report for 1993-94 (SPS, 1994:22) "The Prison continued to suffer severe pressure from prisoner numbers, which peaked at 730". The average for the year was 670. The prison contains six accommodation halls, the Training for Freedom Hostel, workshops, a chapel, a hospital, an administration block, a prefabricated Staff

Training Unit, and the Allermuir Unit, a facility redeveloped initially to provide a high standard of support for HIV/AIDS prisoners.

The main accommodation Halls are the traditional gallery type and most are three storeys. At the time of the research, prisoners were contained in six Halls - 'A', 'B', 'C', 'D', Forth and Pentland. 'A' Hall contains prisoners serving sentences of up to twelve months. During a visit to the prison in 1993 it was recorded that due to the pressure of numbers 'A' Hall was holding a mixture of prisoners - adults and young offenders, both convicted and unconvicted. 'B' Hall has prisoners serving sentences of twelve to twenty-four months and 'C' Hall those serving more than two years. 'C' Hall has two dormitories as well as a cellular area. 'D' Hall accommodates remand prisoners. Forth and Pentland Halls accommodate long term prisoners as part of the progression system.

Forth and Pentland Halls have single cell accommodation. Forth Hall is the traditional gallery type and, according to the HM Inspectorate Report in 1992, although the Hall is at the top end of the Scottish progression system, its condition was considered to be generally disappointing. Under the progression system, rules or entitlements about visits, clothing, personal possessions, cell fitments and hobbies become progressively relaxed as a prisoner moves through the system.

Pentland Hall is the top of the progression scale and is used as a national facility in Scotland. All cellular accommodation has carpets, sink units, small wardrobes and power points for electrical appliances. Accommodation is divided into three flats, each with its own television room and an adjoining laundry room. Prisoners in Forth and Pentland Halls

have access to night sanitation and are in possession of keys to their own cell doors. Prisoners in Forth and Pentland are employed in the workshops, are on full-time education or are on outside work or college placements. Since completing the research Forth Hall has ceased to accommodate national long term prisoners and has become a 'local' Hall.

HM Prison - Glenochil

Glenochil is Scotland's second largest prison, providing accommodation outside in two separate institutions. A Young Offenders Institution has the capacity to house 177 young men serving sentences of up to two years, following allocation from Polmont Young Offenders Institution. The adult prison has the capacity to accommodate 596 male long term prisoners serving over four years to life. All admissions to Glenochil are transferred from other prisons.

Glenochil Prison is situated across the valley from the Ochil Hills on open ground near Tullibody in Alloa. According to a pamphlet written by the Glenochil Staff Training Unit, entitled Out of The Darkness Into Light, Glenochil "began its life as a coal mine"(1990:3). The SPS acquired the site and from 1963 until 1966 the existing buildings were converted into accommodation for a new Detention Centre. The first prisoners were transferred to Glenochil in August 1966. In 1973 further work began on the site to construct accommodation blocks to house young offenders and in 1976 the new Young Offenders Institution was opened. Significantly the accommodation was designed so the doors in the Halls could be electronically locked and unlocked including cell doors. This enabled prisoners night access to toilets and abolished the practice of 'slopping out'.

The problems encountered at Glenochil as a youth complex, and management responses, are documented in Chapters Three and Four. Under 'Grand Design', introduced in 1986, the Young Offenders Institution changed to an adult long term prison, and during the latter part of 1986 and early 1987 the prisoner exchange took place.

Prisoners are accommodated in four main halls; 'A', 'B', 'C', 'D'. Each hall is identical with three flats to each hall and three groups or sub-sections within each flat. Each sub-section is self-contained behind a grille gate which, according to the HM Inspectorate Report on Glenochil (1992:5), "has proven to be a useful control feature". Additionally, there is a two storey self-contained Segregation Block which contains twelve cells, one 'silent' cell and an enclosed exercise yard. The night sanitation facility, controlled by the Central Operations Room, permits one prisoner at a time to be released from his cell to obtain hot water or to use the toilet. These activities are contained within the area behind the grille gate. Each cell has a unit with a drawer and a sink with a mixer tap. Beds are fixed to the floor and wall.

Glenochil's regime strategy is 'progressive' and prisoners are rewarded for good behaviour and demonstrating a positive response to their sentence. These rewards include extra visits, increased pay, better quality working parties, longer periods of recreation and greater freedom of movement. On admission to Glenochil prisoners are accommodated in a flat in 'A' Hall for a two week induction course including individual interviews, group sessions with each Head of Department and the initiation into sentence planning. Following induction, prisoners are moved to 'B' Hall where they are allocated work which may

include - wood assembly, engineering and welding, textile and upholstery, and a range of vocational training courses. Education courses, from remedial to degree level, are offered by the education department. Time spent in 'B' Hall on a standard regime, can vary from a few weeks to a few years. While the average is six months, some prisoners serving lengthy sentences may be advised or prefer to divide their time between halls. Progression from 'B' Hall is to 'D' Hall and finally to 'C' Hall which is the top of the progression system. These enhanced regimes have satellite television, with privileges extended to 'C' Hall prisoners including the right to wear civilian clothing and track-suits during recreational periods.

'Difficult' and 'vulnerable' prisoners are located in flats in 'A' Hall. Those prisoners downgraded from progression halls or those involved in disruptive behaviour, experience a restricted regime ranging from total 'lock down' conditions to a less restrictive regime where limited association is permitted. Vulnerable prisoners requiring protection are offered an enhanced regime, but within the limited facilities available.

HM Prison - Perth

Perth Prison is located on the south side of the City and is Scotland's oldest prison. Built between 1840 and 1859, it was initially opened in 1842 and was designed on a radial system which included four accommodation halls. According to the HM Inspectorate Report on Perth (1993:2), during its history Perth has accommodated every category of prisoner - remand, female, convicted, juveniles and "male and female insane prisoners - the Criminal Lunatic Department continued to operate until 1957". At present,

accommodation is in four halls : 'A', 'C', 'D', 'E' Hall - the original 'B' Hall was demolished in 1949.

Perth Prison holds short term local prisoners, serving under four years, including fine defaulters, remand prisoners from the Tayside Region and North Fife and long term adult male prisoners from throughout Scotland, serving sentences up to life imprisonment. Although its primary function is as a Category B adult male closed establishment, it contains prisoners across all security categories. A Training for Freedom Hostel for Category D prisoners has accommodation for ten prisoners approaching the end of their sentences. They work on various community projects or outside practical work experience. A small 'Time Out' Unit, accommodating six prisoners, is located at Perth. It functions as a national regime, based on intensive staff-prisoner interaction, for those prisoners experiencing difficulties or behaving disruptively in mainstream long term prisons. Using a restricted regime the aim of the Unit is to prepare prisoners for return to normal association.

Perth is designed to hold 445 prisoners in both single cell and dormitory accommodation. 'A', 'C', and 'D' Halls are the traditional gallery style. 'C' Hall accommodates a variety of prisoners including remand, protection prisoners, those on observation and punishment, short term convicted prisoners and some long term prisoners unable to be accommodated in 'D' Hall.

'D' Hall is the first stage in the progression system for long term prisoners and has 113 single cells and four dormitories each containing three beds. A few cells have integral

sanitation. According to the HM Inspectorate Report (1993), those sentenced to less than ten years will spend a minimum of three months in the hall, while those sentenced to ten years or over can expect to be there for twelve months.

'A' Hall is the second stage of the progression system. As with 'D' Hall, some cells have integral sanitation, prisoners attend work, exercise daily, have recreational facilities and access to card phones. The, "only discernible differences between 'D' and 'A' Halls were that in the latter the individual cells and the recreation facility were slightly larger" (ibid:28).

The top end of the progression system is 'E' Hall which is newer and different in design from the other halls. The accommodation on two storeys is divided into three wings and has 74 single cells and two dormitories, one for three and the other for five prisoners. Given the status of 'E' Hall as the top hall, the standard of furniture, cleanliness, paintwork, and toilet facilities were described by the HM Inspectorate Report (ibid) as disappointing and antiquated. At the time of the research at Perth, 'E' Hall was undergoing upgrading including redecoration, access to night sanitation, power in cells and in-cell light switches. In 'E' Hall prisoners can wear their own clothes, have unrestricted access to showers and more generous access to recreational facilities. There is a menu system for the advanced booking of meals and all-day access to a microwave oven and toasters.

HM Prison - Shotts

Shotts Prison is located in rural Lanarkshire, midway between Glasgow and Edinburgh. It is a modern prison holding long term adult male prisoners who require holding in secure

conditions, including some who are maximum security. Phase I at Shotts was opened in 1978 consisting of a sixty cell accommodation block on three levels. Currently operating as 'E' Hall, this block houses those prisoners requiring maximum security. Phase II which opened in 1987 provides single cell accommodation for 461 prisoners in four linked halls - 'A', 'B', 'C', and 'D'. Each hall has three flats accommodating prisoners in sections of seventeen to twenty cells. Self-contained, behind grille gates, each section has its own recreation room and each cell is fitted with a toilet and wash hand basin. Halls have large dining/recreation areas, group rooms and interview rooms. Additionally the site has a hospital, a segregation unit providing accommodation for twelve prisoners and two further separate cells. The Shotts Unit, opened in 1990 for up to twelve prisoners is contained within its own secure perimeter; worksheds; an Education Centre; fully equipped Sports Hall; a Chapel Complex; and a staff canteen outside the perimeter fence.

According to the HM Inspectorate Report (1989:2), "in terms of facilities and conditions, Shotts offers the best available within the Scottish setting". Overall Shotts Prison is regarded as "large, complex and not unimpressive" (ibid).

The Shotts Regimes Plan (1994) notes that newly admitted prisoners are accommodated in 'A' Hall where they undergo a two week Sentence Planning induction programme. Additionally, 'A' Hall operates a standard regime and grille gates are kept locked during all association and recreation periods, prisoners dine in cells and employment is offered within the main workshop area, excluding vocational training facilities and education classes. 'B' Hall operates an advanced regime. Although all association and recreation takes place behind locked grille gates, prisoners are afforded extra privileges. These include extra

visits; the opportunity to undertake vocational training courses and to apply for education courses and evening classes on a part-time basis. The enhanced regime in 'C' Hall allows for extra visits, the possibility to dine in association, greater work opportunities and enhanced educational opportunities. In common with 'A' and 'B' Halls, grille gates are kept locked at all times.

'D' Hall operates standard and enhanced regimes for vulnerable prisoners, and 'E' Hall operates a restricted regime for those prisoners removed from normal association on account of their 'disruptive' behaviour in the mainstream regimes. Consequently: exercise, recreation, work, education and access to canteen facilities are either strictly restricted, work, education and access to canteen facilities are either strictly restricted or not permitted. With no integral sanitation prisoners are required to 'slop out'.

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