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What does publicly available research submitted to the Scottish Prison Service Research Access and Ethics Committee (2012-2016), tell us about the distinct nature of Imprisonment in Scotland?

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The criminal justice system in Scotland is in many ways distinct from criminal justice systems both within the UK and Europe, which is reflected in the institutions, processes and experiences for those whose lives are affected by it.¹ Within this context, the Scottish Prison Service (SPS) is an Executive Agency of the Scottish Government which was established in April 1993. Since having been established, a wide range of research has been undertaken on and about the SPS throughout the prison estate that illustrates aspects of the distinct nature of imprisonment in Scotland.

This distinct context has both been a consequence and has been shaped by multiple factors, including the Scottish Centre for Crime and Justice Research (<http://www.sccjr.ac.uk/>). Within this context, this paper identifies and analyses publicly available research, based on primary research undertaken within the Scottish Prison Service Estate between 2012-2016. In order to identify research published during this period, we collated a database of all research proposals submitted to the SPS Research, Access and Ethics Committee (RAEC) between 2012-2016. Using this database as the basis of a literature review that identified 19 papers, this has allowed us to illuminate a number of aspects of

prison research in Scotland between 2012-2016, including the dominance of certain methods and focus on specific prisons. It is hoped that this paper will provide a template for shaping future submissions to the RAEC through highlighting gaps in the existing research base, which will ultimately lead to a deeper engagement between the research community and the SPS.

Towards a Distinct Penal Context in Scotland

The Scottish penal tradition has been shaped by a distinct set of practices and, some would say cultures, underpinned for the past 300 years by its own legal system and set of legal institutions.² Recent years have seen the issue of Scottish 'distinctiveness' in criminal justice and penal affairs debated from those arguing it is distinctive and underpinned by a more 'welfarist' approach,³ and those who argue that differences tend to be overstated, and that any differences that do exist can be explained by different governance structures rather than reflective of a different set of 'values' or 'cultures'.⁴ While the arguments around Scottish 'distinctiveness' tend to focus more on community justice and juvenile justice than imprisonment,⁵ arguments about imprisonment in Scotland do also

1. Audit Scotland. 2011. *An overview of Scotland's criminal justice system*, Edinburgh, Audit Scotland, Croall, H., MooneyY, G. & Munro, M. 2016. *Crime, justice and society in Scotland*, London, Routledge, McIvor, G., Barry, M. & Scotland. Central Research Unit. 2000. *Social work and criminal justice : the longer term impact of supervision*, Edinburgh, CRU, Hutton, N. & Duff, P. 1999. *Criminal justice in Scotland*, Aldershot, Dartmouth, Reid-Howie Associates & Scottish Prison Service. 2002. *Small units within the Scottish Prison Service*, Edinburgh, Scottish Prison Service.
2. McAra, L. 2005. 'Modelling Penal Transformation.' *Punishment and Society* 7(3): 277-302. McVie, S. 2017. *Social Order: Crime and Justice in Scotland*. *The New Sociology of Scotland*. D. McCrone, Sage. Young, P 1997 *Crime and Criminal Justice in Scotland*. Edinburgh: The Stationery Office.
3. McAra, L. 2005. 'Modelling Penal Transformation.' *Punishment and Society* 7(3): 277-302. McAra, L. 2008. 'Crime, Criminology and Criminal Justice in Scotland.' *European Journal of Criminology* 5(4): 481-504. McVie, S. 2017. *Social Order: Crime and Justice in Scotland*. *The New Sociology of Scotland*. D. McCrone, Sage.
4. Munro, M., et al. 2010. 'Criminal justice in Scotland: Overview and prospects.' *Criminal Justice in Scotland*: 261-278.
5. McVie, S. 2017. *Social Order: Crime and Justice in Scotland*. *The New Sociology of Scotland*. D. McCrone, London: Sage.

feature in debates about the 'nature' of criminal justice in Scotland.

Literature which highlights distinctiveness in Scottish imprisonment discusses the role and influence of the 'founding father'⁶ of the SPS, William Brebner in the 19th Century, who was an early pioneer in enabling prisoners to maintain contact with their families and communities, and in promoting what we now regard as a form of 'throughcare'.⁷ Scotland's Special Unit in HMP Barlinnie is also highlighted by those seeking to promote an argument about Scottish 'distinctiveness'.⁸ The Special Unit was a 'unique experiment' which proposed a therapeutic regime for the most violent and disruptive of people held in Scotland's largest prison, which operated between 1973 and 1994. Beyond specific cases, it is argued that historically, SPS operated along therapeutic and rehabilitative principles, until they were tested in the 1980s with a series of high profile disturbances.⁹

Other literature disagrees that the SPS followed a 'welfarist' or more progressive philosophy (in contrast to England and Wales) arguing that there is a 'mythological' dimension to these claims.¹⁰ These authors point out that the Barlinnie Special Unit was a one-off penal experiment which was never repeated indeed, there was an 'uneasy' relationship between the Special Unit and the rest of the service). Munro et al¹¹ also point out that rates of imprisonment in Scotland remain amongst the highest in Western Europe, and altogether suggest a model of imprisonment with far greater convergence with England and Wales than those promoting Scottish distinctiveness may claim.

The publication in 2013 of the Organisational Review 'Unlocking Potential, Transforming Lives',¹² signalled a new direction for the SPS, and opened up

the potential for greater divergence with prisons in England and Wales. *Unlocking Learning, Transforming Lives* suggested a vision of imprisonment which was considerably more optimistic than that which preceded it, by placing individuals in custody, and their 'assets' at the centre of its operation. The Organisational Review readily adopted the vocabulary and key tenants of desistance theory¹³ into the operating rationale for the service. Key themes from desistance theory have subsequently been translated into strategic priorities and daily regimes throughout the service, for example, bespoke training on desistance for prison staff, and the inclusion of processes aimed at identifying and building self-agency and assets in case management processes. The language of 'rehabilitation' and 'reoffending' has diminished, and in its place 'citizenship' and 'reintegration' are discussed.¹⁴

A number of other notable examples are worth highlighting in relation to recent and current trajectories within SPS, which, together, point to an approach which has the potential to create greater divergence with practice in England and Wales. First, whilst a few decades ago, it was possible to state that reforming prisons in Scotland was constrained by the architecture of the estate,¹⁵ this is now no longer the case, and over the past

decade, the SPS has received significant investment in order to modernise the estate. Whether or not this was motivated by avoiding any costlier payments .. etc,¹⁶ a modernised estate has enabled the SPS to operate, for the most part, in decent physical environments. Second, reforming the prison estate and regimes for the female population has become a central priority following the publication of the critical Angiolini report, with the proposed Community Custody Units (CCUs) for women proposed for 2020. CCUs are small custodial units holding around 20 female people in each, they will

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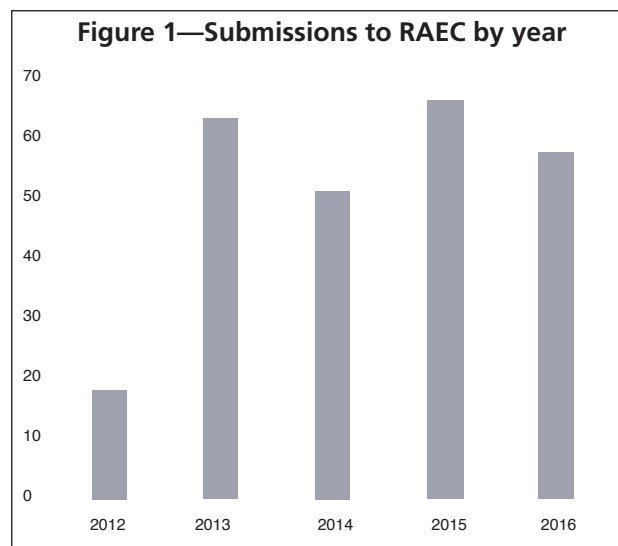
6. Coyle, A. 1991. *Inside: Rethinking Scotland's Prisons*. Edinburgh: Scottish Child.
7. Coyle, A. 1991. *Inside: Rethinking Scotland's Prisons*. Edinburgh, Scottish Child. Tombs, J. and L. Piacentini 2010. *Prisons and imprisonment in Scotland*, Willan Cullompton.
8. Coyle, A. 1991. *Inside: Rethinking Scotland's Prisons*. Edinburgh, Scottish Child. Tombs, J. and L. Piacentini 2010. *Prisons and imprisonment in Scotland*, Willan Cullompton.
9. YOUNG, P 1997 *Crime and Criminal Justice in Scotland*. Edinburgh: The Stationery Office
10. Munro, M., et al. 2010. 'Criminal justice in Scotland: Overview and prospects.' *Criminal Justice in Scotland*: 261-278.
11. Munro, M., et al. 2010. 'Criminal justice in Scotland: Overview and prospects.' *Criminal Justice in Scotland*: 261-278.
12. Scottish Prison Service. 2013. *Unlocking Potential, Transforming Lives: Organisational Review of the Scottish Prison Service*. Edinburgh Scottish Prison Service.
13. See; McNeill, F. 2016. Desistance and Criminal Justice in Scotland. *Crime, Justice and Society in Scotland*. H. Croall, Mooney, G., Munro, M. Abingdon, Routledge: 200-216.
14. Scottish Prison Service. 2016. Value Proposition. Edinburgh, Scottish Prison Service. Scottish Prison Service. 2017. Corporate Plan 2017-2020. Edinburgh, Scottish Prison Service.
15. McManus, J., et al. 1999. 'Imprisonment and other custodial sentences.' P. Duff, and N. Hutton, *Criminal Justice in Scotland*. London: Ashgate: 228-242.
16. For example, see Tombs, J. and L. Piacentini 2010. *Prisons and imprisonment in Scotland*, Willan Cullompton.

be located within more urban parts of Scotland than larger establishments, enabling women to maintain closer contact with their families and communities in this time.¹⁷ Third, the professionalisation agenda for prison staff, which will include professional qualifications and a requirement for ongoing CPD for staff.¹⁸

The current direction in Scotland is enabled by a stable political direction and support from the SNP Government. Since 2008 there have only been two Justice Secretaries under the same SNP Administration, and there has been a consistency of approach towards the SPS and sentencing policy. Following the publication of the Organisational Review, the potential for divergences in prisons and the experience of imprisonment have opened up further between Scotland and the rest of Great Britain. In this climate it seems even more necessarily to understand change, or reasons for stasis, both for the benefit of the Service, and for an understanding of penalty further afield. The relationship between the academic community and the SPS is better now than it has been in times of recent past,¹⁹ so one might expect an analysis of recent research activity in and around the service to highlight the diversity of important developments in recent published literature. However, as the analysis of the findings of the literature review undertaken to explore published research on the SPS between 2012-2016 illustrates, the publicly available research that has been published on the SPS does not illuminate many important facets of the distinct penal context outlined here.

The Sample

Through unique access to the RAEC agendas,²⁰ we collated all agendas submitted between 2012 to 2016 that included details of all submissions to the RAEC. This timeframe was selected for pragmatic reasons, as records prior to 2012 were problematic to access and that the literature review began in January 2017 (and was completed in June 2017). Within the timeframe selected for review, 255 applications were made to the SPS, RAEC. There are variations by year, with an average of 51 submissions per year between 2012-2016:



We do not outline the details of these submissions due to multiple reasons (including confidentiality), in order to ensure the integrity of and confidence in the RAEC process, that has supported and facilitated research within the SPS for almost twenty years.²¹ We used these submissions to shape a literature review following standard protocols,²² that are outlined in more detail below.

Methods

Having created the database of 255 applications submitted to the RAEC, we undertook a literature review using 28 databases, covering all areas of social science, health research. Over a period of six months, a review was undertaken by using the name of the lead researcher and a number of key words from the title of the research project submitted. This included a number of variations, for example, prison, imprisonment, incarceration etc. The review identified 19 publications that were linked to the author and the key words from the submission to the RAEC. At the final stage of the review, a check of the identified literature was undertaken by identifying the lead researcher and contacting them to see if they had published anything publicly available in relation to their submission to the RAEC. This identified an additional three written outputs, that were all from studies with more than one output relating to an individual submission.

17. Scottish Prison Service. 2017. First two Community Custody Units for women announced. <http://www.sps.gov.uk/Corporate/News/News-5137.aspx>

18. Scottish Prison Service. 2017. Corporate Plan 2017-2020. Edinburgh, Scottish Prison Service.

19. McVie, S. 2017. Social Order: Crime and Justice in Scotland. *The New Sociology of Scotland*. D. McCrone, Sage. Morrison, K. S., R. SPARKS, R. 2016. Research, Knowledge, and Criminal Justice in Scotland: the Scottish Experience. *Crime, Justice and Society in Scotland*. H. Croall, Mooney, G., Munro, M. Abingdon, Routledge: 30-44.

20. Each of the three authors are SPS staff, one of whom (Matthew Maycock) is a sitting member of the RAEC.

21. The RAEC was originally a sub-committee of the SPS Research Strategy Group, and has existed in its current form since the mid-1990s.

22. Dawidowicz, P. 2010. *Literature reviews made easy: a quick guide to success*, Charlotte, N.C., Information Age Publishing. Machi, L. A. & McEvoy, B. T. 2012. *The literature review: six steps to success*, London, Sage Publications Ltd. Ridley, D. 2012. *The literature review: a step-by-step guide for students*, London, Sage.

Findings

The literature review identified 19 papers, reports and publicly available PhD dissertations that were based on a submission to the RAEC. This represents an 7 per cent return in relation to the 255 original submissions, during the 5 years considered in this paper.

Analysis of the 19 publications

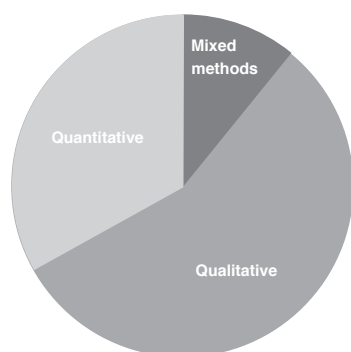
In this section of the paper we summarise and analyse various aspects of the 19 identified publications. This analysis begins with exploring aspects of the methods used within the studies.

Methods used in the studies

Qualitative/ Quantitative / Mixed methods studies

Slightly over half (10) of the studies identified in the literature review utilised qualitative methods, with only two of the studies utilising mixed methods:

Figure 2—Methods used in studies

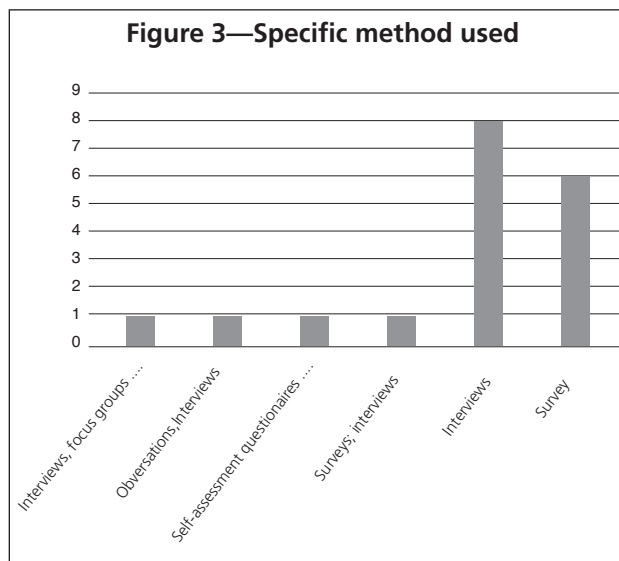


That there were so many studies (n=6) utilising quantitative methods (principally surveys) is somewhat surprising, given that in the social sciences qualitative methods are predominant. For example, within British Sociology (where many studies of prison would be located disciplinarily) Payne, Williams, and Chamberlain, suggest:

...only about one in ten papers in the mainstream journals used quantitative methods at the bi- or multivariate level.²³

Furthermore, it is surprising that there were so few studies that used mixed method, given the rise of mixed methods studies in the social sciences.²⁴ Although as the section below illustrates there were a number of studies that utilised a mixture of qualitative methods, but there were only two that mixed both quantitative and qualitative methods.

Figure 3—Specific method used



Analysing the studies at this more detailed level, indicates that interviews and surveys were the preferred methods by researchers. Along with the two mixed methods studies (using both qualitative and quantitative methods), figure 3 illustrates that two of the studies mixed a range of qualitative methods. This indicates that published research undertaken within Scottish prisons used in some senses a quite narrow range of possible methods. For example, despite recent substantial work on ethnographic approaches to prison research,²⁵ only 2 of the studies utilised observational methods, although this was alongside other qualitative methods. Additionally, there appears to be limited engagement in the identified studies with both participatory methods adapted for prison²⁶ as well as convict criminology more widely.²⁷

The prison focus of the studies

In Scotland there are 15 prisons (13 SPS run, and 2 privately run). There is significant diversity in prison architecture across the Scottish Prison Service Estate.²⁸

23. Payne, G., Williams, M. & Chamberlain, S. 2004. *Sociology*, 38, 153. P159.

24. Creswell, J. W. 2003. *Research design: Qualitative, quantitative, and mixed methods approaches*. Tashakkori, A. & Teddlie, C. *Ibid. Handbook of mixed methods in social and behavioral research*.

25. Drake, D. H., Earle, R. & Sloan, J. 2015. *Palgrave handbook of prison ethnography*, Basingstoke, Palgrave Macmillan.

26. Fine, M., Torre, M. E., Boudin, K., Bowen, I., Clark, J., Hylton, D. & Upegui, D. 2004. Participatory action research: From within and beyond prison bars. *Working method: Research and social justice*, 95119, Fine, M. & Torre, M. E. 2006. Intimate details: Participatory action research in prison. *Action Research*, 4, 253-269.

27. Earle, R. 2016. *Convict criminology: inside and out*, London, Policy Press, Ross, J. I. & Richards, S. C. 2003. *Convict criminology*, Belmont, Calif. ; London, Thomson/Wadsworth.

28. Historic Environment Scotland 2015. *Scotland's Prisons – Research Report 2015*. Edinburgh: Historic Environment Scotland.

Furthermore, local communities that have a formative influence prison culture,²⁹ through for example, shaping engagement with the voluntary sector local to each prison.³⁰ Despite these locally shaped aspects influencing the experience of, and culture within specific prisons, the studies included in this literature review focus on quite a small range of prisons in Scotland. When the study was explicit about the specific study within which the research was undertaken, this tended to mention either HMYOI Polmont (3) HMP and YOI Cornton Vale (3):

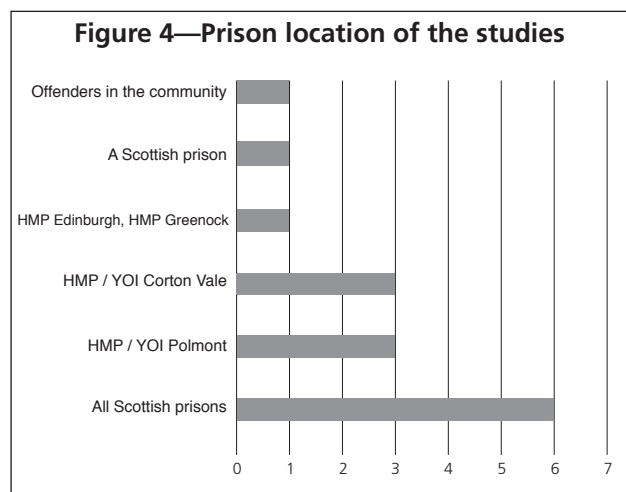
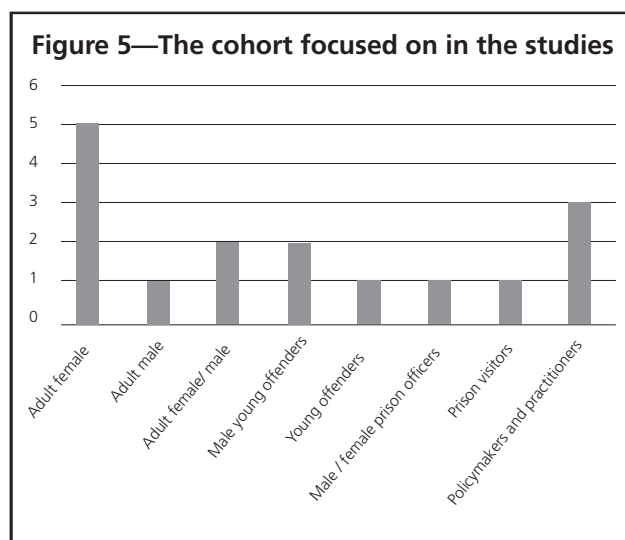


Figure 4 illustrates that research insights into aspects of imprisonment in Scotland the are likely to be quite partial, given that 11 of the 15 prisons have not been the explicit focus of study within the published research between 2012-2016. That the studies are so focused on two groups of people in the custody (female prisoners and young offenders) in HMYOI Polmont HMP and YOI Cornton Vale respectively, despite these groups being minority groups within the wider prison population in Scotland, is explored in more detail below.

Prison cohort studied

On 4th August 2017, the SPS had 7,453 people in custody. Of these, 53 were 16 or 17 years old and, 294 were aged 18 to 21, equating to a young offender population of 4.7 per cent. Despite young offenders constituting only constituting under 5 per cent of the prison population, they were the focus of 3 (Or 17 per cent) of the studies included in this review:



This overrepresentation of young offenders in the research included in this interview review, raises questions about the connection of prison research in Scotland to various prisoner cohorts within prisons in Scotland. In relation to gender our review also raises a number of issues. Between 2016-2017, the daily average population within SPS Establishments was 7552, 7185 (or 95 per cent) were male and 366 (or 5 per cent) were female. Figure 6 below illustrates the gender focus of the studies in our review:

Figure 6—gender of the prison cohort considered in the studies

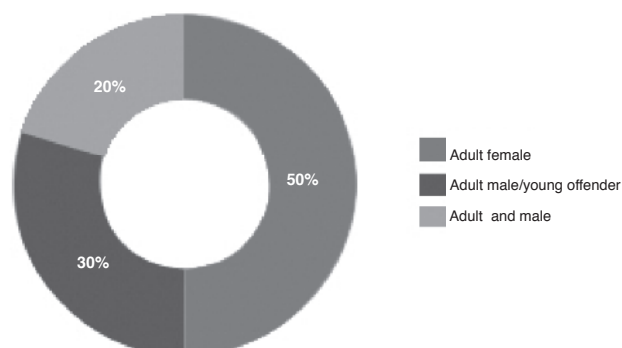


Figure 6 indicates that while female people in custody constitute around 5 per cent of the Scottish prison population (resonating with a global figure of 3 per cent of the worlds prison population being female[1]),³¹ 5 studies (or 50 per cent) focused of female prisoners in our review (where the study was explicit about the gender of the cohort examined). Despite this, we were unable to identify any studies

29. Irwin, J. & Cressey, D. R. 1962. Thieves, Convicts and the Inmate Culture. *Social Problems*, 10, 142-155, JACOBS, J. B. 1977. *Stateville : the penitentiary in mass society*, Chicago, University of Chicago Press, Morenoff, J. D. & Harding, D. J. 2014. *Incarceration, Prisoner Reentry, and Communities. Annual review of sociology*, 40, 411-429.

30. Abrams, L. S., Hughes, E., Inderbitzin, M., Meek, R 2016. *The Voluntary Sector in Prisons. Encouraging Personal and Institutional Change*, London.

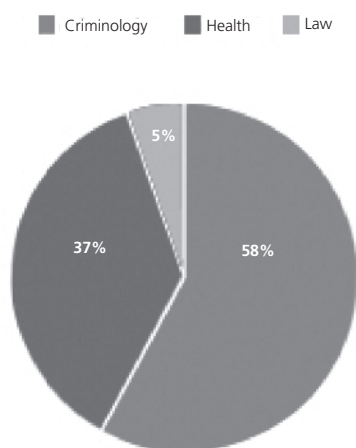
31. Warmsley, R. 2016. *World Prison Population List (eleventh edition)*. London: The Institute for Criminal Policy Research (ICPR).

that explicitly focused on female young offenders (women under 21 years old). That such a high proportion of the studies included in this review focus on adult female people in custody alongside a relative lack of focus on adult male people in custody, raises questions relating to the drivers of these research projects. Is this reflective of funders orientations, or perhaps reflective of aspects of reform of the female custodial estate in Scotland³² attracting significant research interest?

Discipline the study is located

Prison studies are consistently diverse and are located in wide range of disciplines.³³ Based on a consideration of the journal in which the publication was published and the faculty of the lead author, we conducted an analysis of the discipline in which the study was located. This indicated that the majority (11) of the studies were based in criminology and published in criminology related journals:

Figure 7—Discipline the study is located



That so many studies are located within health, broadly defined is significant, given that prison health in Scotland has been through some substantial transitions in recent years.³⁴ However, that the 19 studies in this review are so dominated of two disciplines, is perhaps not reflective of the wider disciplinary diversity in the penal studies more broadly.³⁵

Gap analysis and resultant ethical considerations

The above analysis of the 19 papers identified points towards a number of gaps in the published literature relating to the SPS between 2012-2016. In particular the majority of papers utilise qualitative methods and are located in two prisons and focus on two minority cohorts within the wider prison population. This exposes certain issues with the published prison research on and in the SPS, indicating that some prisons have had very little research undertaken within them.

There is a longstanding ethical debate relating to research in prisons,³⁶ that highlights the importance of people in custody being able to take part in studies that they might expect to participate in, in community settings.³⁷ However, that the research in this literature review is so heavily focused on two prisons, raises ethical concerns relating to the research burden amongst the female people in custody and young offenders who participate in research, as well as for the staff who have to facilitate access. To contextualise the focus on these women and young people in custody more widely, a subsequent analysis of the 255 submissions to RAEC was undertaken. This substantiates the gaps identified through the focus on young offenders and female people in custody in the published research. 34 out of the 255 studies (or 13 per cent) either had young offender or HMP YOI Polmont mentioned in the title of the study. Additionally, 20 (0r 8 per cent) of the 255 submissions mentioned female people in custody or HMP Cornton Vale in its title, further consolidating the finding that research conducted within the SPS is in some senses quite narrow.

While there appear to be no overt ethical issues with any of the research undertaken in prison included in this review (unlike some historical analysis of prison research in the US),³⁸ research burden of research participants at HMYOI Polmont HMP and YOI Cornton Vale deserves further scrutiny and should be carefully considered in future research projects. This also raises ethical issues relating to people in custody in the majority of Scottish prisons not having the opportunity to take part in research projects. In one sense this

32. Scottish Government 2012. Final report. Scottish Government Commission on Women Offenders, Scottish Government 2017. Justice Vision and Priorities. Delivery Plan 2017-18.: Scottish Government. Scottish Prison Service. 2017. First two Community Custody Units for women announced. <http://www.sps.gov.uk/Corporate/News/News-5137.aspx>

33. Jewkes, Y., Crewe, B. & Bennett, J. 2016. *Handbook on prisons*, London, Routledge.

34. RCN 2016. Five Years on: Royal College of Nursing Scotland review of the transfer of Prison Health Care from The Scottish Prison Service TO NHS Scotland. Scotlan: RCN.

35. Henry, S. & Lukas, S. A. 2017. Recent developments in criminological theory: toward disciplinary diversity and theoretical integration. *International library of criminology, criminal justice and penology Second series*. Place of publication not identified: Routledge,.

36. Pope, A., Vanchieri, C. & Gostin, L. O. 2007. *Ethical considerations for research involving prisoners*, National Academies Press, Brewer-Smyth, K. 2008. Ethical, Regulatory, and Investigator Considerations in Prison Research. *Advances in Nursing Science*, 31, 119-127, Overhllser, J. C. 1987. Ethical issues in prison research: A risk/benefit analysis. *Behavioral Sciences & the Law*, 5, 187-202.

37. Warr, J. 2017. Quid Pro Quo in Prison Research. Available from: <https://www.compen.crim.cam.ac.uk/Blog/blog-pages-full-versions/blog-18-jasonwarr>.

38. Hornblum, A. M. 1997. They were cheap and available: prisoners as research subjects in twentieth century America. *BMJ : British Medical Journal*, 315, 1437-1441, Hornblum, A. M. 1998. *Acres of skin : human experiments at Holmesburg Prison : a true story of abuse and exploitation in the name of medical science*, London, Routledge.

represents a weakness of the published prison research in Scotland, however, this also indicates that there is significant potential for original and innovative research in a wide range of prisons outside of Scotland's central belt, on adult male people in custody, and utilising a wider range of methods. Finally, that people in custody themselves seem to have had limited influence on the research undertaken on them within prison (as indicated by a lack of discussion of participatory methods for example), represents another opportunity to shape future prison research around research questions that are important to people in custody and prison staff.

Limitations of the study

While the findings of the literature review has illuminated a number of gaps, there are a number of limitations with the study methodology. The RAEC only considers research applications from PhD and established researchers, so this literature review will have omitted any research at undergraduate, masters level or research undertaken in non-academic settings (such as research undertaken by research consultancies). Furthermore, there may have been prison related studies conducted in the community which will have not been submitted to the RAEC. Additionally, there may be studies published on or about the Scottish Prison Service Estate that did not entail primary data collection from within the SPS prison estate. The timed nature of the literature review raises a number of issues, particularly in relation to the sometimes lengthy period between the submission of an article and it being published.³⁹ This lag in publication may result in some papers based on

research undertaken within the reporting period to be published after this review was conducted. Ultimately, it is evident that while many studies were submitted to the RAEC, permission granted to undertake the research and the data collection having taken place, much of this research is not publicly available.

Conclusions

As we have identified, there is a distinct penal context in Scotland and has both shaped and been influenced by a distinct research community and engagement. Within this context, we have used access to SPS Research Access and Ethics Committee agendas to shape an analysis of published research on the SPS. The literature review undertaken of RAEC agendas between 2012-2016, identified 19 publicly available papers and dissertations. The analysis of these publications illuminates important aspects of the experience of prison in Scotland. The analysis also illuminates a range of gaps in the published research, that could form the basis for future prisons research in Scotland. That so many studies are focused on two prisons (HMYOI Polmont HMP and YOI Cornton Vale) and two cohorts within those prisons (young people and female people in custody), represents a significant opportunity for future prison research in Scotland. It is hoped that this literature review points towards future research engagement between the SPS and academia that is more impactful, broader in its reach, and that will illuminate aspects of imprisonment in Scotland that have not been fully considered in recently published research.

39. Björk, B.-C. & Solomon, D. 2013. The publishing delay in scholarly peer-reviewed journals. *Journal of Informetrics*, 7, 914-923.