

PhD Research Proposal
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The impact of imprisonment for people labelled as having an intellectual disability: a qualitative life story approach in the Queensland context

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Table of Contents

Introduction to the Proposed Research	3
- Research questions	3
Literature Review	4
- The term ‘intellectual disability’	4
- General life experiences of people with intellectual disability	5
<i>Major themes and approaches to people with intellectual disability in the criminal justice system</i>	6
- Summary of the current literature	10
Methodology/Conceptual Framework	11
- Social constructionism	11
- Conceptual framework	12
- Structuration theory	12
- Agent and agency	12
- <i>Figure 1: Duality of Structure</i>	13
- Relevance of conceptual framework to this study	13
Method	14
- Crossing the communicative divide between the researcher and the researched	14
- Life story approach	15
- Sampling of the participants or ‘experts’	16
- Recruitment considerations	17
- The life story interview	17
- <i>Figure 2: In-depth Interview Model</i>	18
- Piloting the research	19
- Data collection, analysis and storage	19
Quality of the Study	20
Ethical considerations	22
- Informed consent	22
- Public research on private concerns and the principles of beneficence	23
- Confidentiality	23
- Indigenous participants	24
Conclusion	24
Research Timeframe	25
Resources	25
References	26
<i>Appendix A Kathy’s Life Map</i>	34

Introduction to the Proposed Research

Research Questions:

- How do individuals labelled as having an intellectual disability interpret their life experiences in prison and their subsequent re-entry into the community?
- What do people with intellectual disability identify as their needs with regards to humane containment, supervision and rehabilitation within Queensland custodial corrections and their needs for successful re-entry into the community?
- What strategies and resources do people with intellectual disability utilise to resolve the many problems of prison life and community re-entry and what are the intended and unintended outcomes of using such strategies and resources?
- What is the impact of Queensland correctional practice on the experiences of people with intellectual disability in prison and on re-entry into the community?
- How can the stories of ex-prisoners with intellectual disability inform policy and practice within the Queensland custodial/community corrections and the broader community?

This study strives to listen to ex-prisoners who have been labelled as having an ‘intellectual disability’* in order to have an in-depth understanding of their reflections of their experiences during and after imprisonment and its perceived impact on their present and future lives. There is a paucity of work both in Australia and overseas that captures this perspective, and those research projects that do often only provide brief case histories of people (see for example Missing Services Report 1985; Simpson, Martin & Green 2001).

A common justification in the literature for the study of people with intellectual disability who are involved with the criminal justice system is their over-representation within this system (Brown, B. S. & Courtless 1971; Cockram & Underwood 2000; Hayes 1997, 2000). Existing estimates of prevalence rates of intellectual disability of the total population range from 0.4% to 1.86% in Australia and 0.3% to 1.5% worldwide (Australian Institute of Health and Welfare 2003). In contrast, worldwide estimates of prevalence of intellectual disability amongst offenders and suspects at various stages in the criminal justice system have varied from 0% to 30% (Hayes 1997; McBrien 2003). The differences in such prevalence rates within the criminal justice system have been attributed to the heterogeneity of methods and size of samples used to identify people with intellectual disability in such systems (McBrien 2003). However, the average prevalence rate from a collation of all these studies appears to be approximate 10%, which is significantly higher than the average prevalence rates of intellectual disability in the total population worldwide (Parton, Day & White 2005).

Many explanations have been given to the over-representation of people with intellectual disability in the criminal justice system. Scholars in the early nineteenth century regarded many people with intellectual disability as “moral imbeciles” who had an inherited predisposition to criminality (Lindsay 2002). More recent explanations include exploring the connection between common personality traits of people with intellectual disability and criminal behaviour (Byrnes 1995; Porter 2004); the social disadvantage many people with intellectual disability experience that may drive them to criminal acts (Cockram 2005a); and the possibility

*The term “labelled as having an intellectual disability” is used to denote the social construction of intellectual disability. For ease of reference, the author will abbreviate this to intellectual disability, but recognises that this term is not always favoured by people who have had to carry this label.

that people with intellectual disability are less fairly treated by criminal justice authorities (Cockram 2005a; Porter 2004).

Those who write about people labelled with intellectual disability and their interaction with the criminal justice system both in Australia and internationally have traditionally adopted a quantitative approach to the research, or have relied on anecdotal reflections that often paint a picture of multiple layers of disadvantage for such people. This disadvantage is recognized in each stage of the criminal justice system, from first contact with police, sentencing in court, imprisonment and post-release.

Community Interest in the Subject

As in other states in Australia, the Department of Corrective Services (Qld), Legal Aid (Qld) and Disability Services Queensland have expressed an interest in formulating more responsive policy and legislation with regards to people who are deemed as having an 'intellectual disability'. In particular, these departments are beginning to recognise the need for a whole-of-government response that includes suitable health services, programs and activities for such prisoners (Department of Corrective Services Qld 2004). Any research that can explore pertinent issues that may contribute knowledge to crime prevention and recidivism in such offenders is of benefit not only to offenders themselves but also the community at large (Simpson, Martin & Green 2001). It is imperative that the voices of these people are allowed expression, as their insights on prison life and other related issues, as well as their experience of social exclusion, is likely to be compounded.

Literature Review

The term 'intellectual disability'

'Intellectual disability', the term most frequently used in the Australian context for people with learning difficulties, has been defined by the American Association of Mental Retardation (AAMR) (2002) as "a disability characterised by significant limitations both in intellectual functioning and in adaptive behaviour as expressed in conceptual, social, and practical adaptive skills." Other terminology used in different parts of the world and in varying contexts include developmental disabilities, mental retardation, mental subnormality or abnormality, mental or intellectual handicap, mental impairment, and learning disabilities, which refer to the same or similar conditions (Glaser, W. 1987; Holland, Clare & Mukhopadhyay 2002; McBrien 2003). There is also the overarching term 'mental disorder' which is meant to include intellectual disabilities as well as major mental health conditions, such as schizophrenia (McBrien 2003). The present author regards such a grouping as problematic, because even though many people with intellectual disability may also be diagnosed with a co-morbid mental illness, the conditions described by these labels are quite different, and these differences need to be acknowledged if the criminal justice system is to adequately address such people's needs.

According to the literature, the majority of offenders with intellectual disability would be regarded as having 'mild' or 'moderate intellectual impairment' under AAMR guidelines (2002), however, the 'accuracy' of identification is thwarted by many complex factors (Hayes & Craddock 1992). Assessment tools are shaped by the social context in which they are used, value judgments, personal and professional experiences, and theoretical assumptions of assessors, which in turn determine the conclusions and consequences for a person being labelled (Andersen 1994; Mlinarcik 2001). An added problem is the variance in the way systems are run in different areas, including differences in state sentencing, and prison reforms. There is also a lack of consistency in assessment criteria for intellectual disability amongst the different service agencies (Cockram, Jackson & Underwood 1998).

Many scholars have therefore criticised methodologies and debated the transferability of findings in research that involve people with 'intellectual disability' within the criminal justice system. This is associated with a positivist preoccupation with 'correct' terminology, identification and prevalence in the research literature, which may be important from a public policy approach (Blatt 1987), but fails to explore other pertinent issues for this group of people, such as those that are identified and articulated by the persons themselves who experience the court process, imprisonment and beyond.

Alternatives to this approach can be seen in the growing body of work outside of the criminal justice arena researching how people with intellectual disability perceive their own identity and experience (Beart, Hardy & Buchan 2005; Murphy, S. T. 1992; Rapley, Kiernan & Antaki 1998). A range of authors such as Edgerton (1967), Olney and Kim (2001), have found that the label of intellectual disability can stigmatise a person, which can result in individuals 'passing' or concealing any cognitive differences in order to avoid such categorisation.

Given these findings, this study approaches the term 'intellectual disability' with caution, as the author strongly asserts the social construction of this reference. The term is used in order to reflect the common language within the Australian context, but by doing so, it is not intended to convey that people so labelled always welcome this categorisation, nor necessarily should they. It is hoped that the reader will develop a critical spirit *vis-avis* her or his inherited understandings of the term, and avoid the reification of 'intellectual disability', in order to fully appreciate the complexity and uniqueness of each individual participant's experience (Crotty 1998).

The following literature review encapsulates the major themes in the research to date on people with intellectual disability in the criminal justice system. An outline is first given of the life experiences of people with intellectual disability in general. Common issues to all stages of the criminal justice system are then highlighted, finishing with particular findings from the research on people's interaction with police, the court system, corrections system and their experiences post-release.

General life experiences of people with intellectual disability

The literature on life experiences of people with intellectual disability has for a long time been defined by researchers, rather than the people themselves, because assumptions were made that such people could not offer a detailed account of their lives (Langness & Levine 1986; Taylor, S. J. & Bogdan 1996). The author believes that people labelled with intellectual disability have been historically 'done to' in society, and research has not been exempt from holding paternalistic attitudes about this population and regarding the field of study as their exclusive domain (Rioux 1997).

A shift in perspectives on people labelled with intellectual disability has occurred within the research in the last few decades, partly due to social advances such as the Community Living movement and influential theoretical paradigms such as the social model of disability that have highlighted the social oppression of people with disability in general (Williams & Heslop 2005). Many contemporary authors have sought to capture positive life experiences of people with intellectual disability often in the form of inspirational stories on deinstitutionalisation, highlighting what is possible when a person has adequate formal and/or informal supports in place within the community (Bradley, Ashbaugh & Blaney 1993; Cross 1999; Dennis & Chenoweth 2000). However, there is also a considerable amount of research that has focussed on quality of life studies examining people's needs in everyday life and the discriminatory conditions they may experience (Taylor, S. J. & Bogdan 1996).

In particular, it has been concluded by many researchers that adults with intellectual disability are at heightened societal risk because of a lack of supports to live within the community (National Research Council 2001; Tymchuk, Lakin & Luckasson 2001). They are over-represented amongst the homeless and unemployed, may be significantly more vulnerable than other homeless and unemployed populations, and can easily remain 'invisible' to bureaucracies, who rely on people actively approaching them for services rather than services outreaching to assist people (NSW Council for Intellectual Disability & The Opposition Youth Crisis Centre 1995; O'Connor & Coleman 1995; Underwood, Jackson & Lee 1993). Considerable research has also been conducted on the health needs of people labelled with intellectual disability, with consistent findings that such people experience disparity in health care service delivery (Community Living Program 2000; Fisher 2004; Lantman-De Valk et al. 2000; Lunskey & Reiss 1998). People with intellectual disability are also significantly more at risk for criminal victimisation than are other members of the general population (National Research Council 2001; Nettlebeck & Wilson 2002; Verdugo & Bermejo 1997).

Major themes and approaches to people with intellectual disability and their interaction with the criminal justice system

Much of the findings in the literature indicate that people with intellectual disability experience significant inequities within the criminal justice system. Although a minority group, they pose substantial challenges to a system that is meant to espouse values such as community protection, appropriate consequences for offending behaviour, and offender rehabilitation (Glaser, W. 2005). There are common themes or issues that present themselves in each segment of the system – namely over-representation, identification issues, competency and communication issues, and defining what is an appropriate response. There are also particular issues relevant to each stage in the pathway through the system. Both the broader and specific themes are generalised below.

Reasons for over-representation

For at least a century or more, there has been an interest in the link between intellectual disability and crime (Lindsay 2002), with early emphasis on the inherent criminality of persons labelled ‘feeble-minded’ (Goddard 1912), and then a gradual shift in debate to include the influence of social factors on offending behaviour (Mlinarcik 2001). Some of the key explanations for over-representation of people with intellectual disability in the criminal justice system in the current literature include:

- A person’s offending behaviour may be highly visible, impulsive and lack sufficient forethought and planning to avoid detection (Byrnes 1995; Prins 1980; Standing Committee on Law and Justice 1999);
- The person may have been scapegoated by her or his peers into acting as an accomplice to crimes and be left ‘holding the bag’ (Porter 2004, p. 59);
- The person may have co-morbid mental health issues which impact on behaviour (Hayes & McIlwain 1988; Jones & Coombes 1990);
- The person’s intentions may have been misinterpreted by others as threatening (Holland, Clare & Mukhopadhyay 2002);
- The person may express their sexuality in ways that others deem inappropriate or morally immature (Hassan & Gordon 2003; Porter 2004);
- The person’s level of social disadvantage, such as homelessness and unemployment may inadvertently encourage criminal behaviour (Cockram 2005b; New South Wales Law Reform Commission 1996)

Identification issues

The U.S. President’s Committee on Mental Retardation (1974 in Mlinarcik 2001, p. 19) commented on the ethical dilemma in identification of people with intellectual disability within the court system which continues to be debated within the literature today in all areas of the criminal justice system:

“The mentally retarded person is in a uniquely damned position before the courts. If his (or her) *sic* disability remains undetected, his (or her) *sic* chances of receiving proper court handling is reduced. But if his (or her) *sic* impairment is recognised, he (or she) *sic* may receive a long term institutional commitment without a trial for the alleged offence”

Those writers that highlight the negative outcomes of identification argue that whilst the level of formal institutionalisation has decreased since the 1970s for people with intellectual disability (Braddock et al. 2001; Parmenter, Briggs & Sullivan 1991), they are still finding themselves in hidden forms of incarceration and coerced placements as a result of recognition of their disability, such as secure mental health facilities, and ‘innovative’ housing arrangements isolated from everyday community life (Cockram 2005a; Dyke 2005; Petersilia 1997a). It is suggested that describing a suspect, defendant or prisoner as having an intellectual disability may lead to stereotyping him or her as more dangerous and susceptible to criminal activity (Kupers 1998 in Mlinarcik 2001); result in difficulties in obtaining access to

rehabilitative programs (Mental Health Court Task Force 1998); and impede social adjustment within the prison environment (Smith et al. 1990).

Despite the negative implications of identification of people with intellectual disability in the literature, there are many authors who regard 'accurate' identification as essential for better outcomes for such people (Hayes 1998, 2000; New South Wales Law Reform Commission 1996). It is argued that correct identification can lead to better assessments of a person's criminal responsibility (New South Wales Law Reform Commission 1996), prevent misinterpretation of intellectual disability as mental illness (Brennan & Brennan 1994; Stevens & Corbett 1990), and allow the option of 'diversion' for offenders with intellectual disability to the community with support from relevant health and social services (Barron, Hassiotis & Banes 2002).

As in many other countries, the literature describes assessing an individual for intellectual disability within the Australian criminal justice system as a difficult task (Hayes 2000, 2004; New South Wales Law Reform Commission 1996). Legal definitions of intellectual disability may not be the same as accepted definitions in professional intellectual disability arenas and *ad hoc* methods of assessments are often used (Hayes 2000, 2004). Confounding factors, such as people who present with a dual diagnosis (mental illness and intellectual disability), the cost in time and resources to undergo assessments, the influence of the immediate environment, and prejudicial attitudes of officials within the justice system are considered obstacles to 'accurate' identification (Hayes 1996; New South Wales Law Reform Commission 1994a).

Competence

Many ethical considerations for working with this group have been raised by authors, especially regarding the competency of individuals with intellectual disability to effectively engage in police interviews and court processes. Competence is relevant in regards to understanding questions posed, participation in a defence, the ability to give rational and reliable evidence, the ability to understand rights and to swear an oath, the ability to stand trial, the ability to understand choices put before the person, and the ability to properly instruct counsel (Crime and Misconduct Commission Queensland 2004; Hassan & Gordon 2003; McAfee & Gural 1988; Porter 2004; Zammit 2004). It is reported that accurate assessment of a person's competence is marred by many factors, including:

- a person's communication difficulties;
- lack of sufficient training and prejudicial treatment by legal personnel and police officers;
- antiquated English common law that applies principles and concepts of mental illness to intellectual disability;
- the sheer volume of cases and incidents that pass through criminal courts reducing the amount of time needed to determine competence;
- and police departments placing pressure on authorities to act expediently rather than spend sufficient time on assessments (Fulero & Everington 1995; McAfee 1999; McAfee & Gural 1988; Standing Committee on Law and Justice 1999).

Communication Issues

"The supposed need of the criminal justice system to pursue 'truth' forces high expectations and practices upon everyone's communicative ability" *fix endnote to use &* (Thomas and Fernandez 1993 in Brennan & Brennan 1994, p. 15). Concerns have been raised regarding the considerable stress people with intellectual disability can experience when they come into contact with the criminal justice system (Brennan & Brennan 1994; Office of the Public Advocate 2005). Other communicative issues that may lead to unfair treatment of people with intellectual disability in the criminal justice system include a person's interrogative suggestibility and lack of awareness of the need to remain silent at times (Brennan & Brennan 1994; Cockram, Jackson & Underwood 1998; Murphy, G. H. & Clare 1998; Porter 2004); and people's tendency towards acquiescence, confabulation and a desire to appear competent (Brennan & Brennan 1994; Cockram, Jackson & Underwood 1998; Edgerton 1967; Leighton 2002).

Appropriate responses

There is a strong argument within the literature for the need for cross-fertilisation of expertise and knowledge between the criminal justice system and disability agencies (Coffey, Procopiow & Miller 1989; Hayes & Craddock 1992; Holland, Clare & Mukhopadhyay 2002; Reed 1989; Simpson, Martin & Green 2001; Swanson & Garwick 1990). Debates have arisen around the merits and deficiencies of separate specialist facilities within prisons versus mainstreaming offenders with intellectual disability; community orders versus custodial orders; and custodial orders versus forensic orders within mental health facilities (Hayes & Craddock 1992; Intellectual Disability Rights Service 2005; Mlinarcik 2001). Problems and inadequacies in meeting the particular needs of suspects and offenders labelled with an intellectual disability have been largely attributed to difficulties in identifying a person's impairment; the fact that people with intellectual disability are regarded as a minority group within criminal justice systems; and the subsequent insufficient resources allocated to this population (Coffey, Procopiow & Miller 1989; Simpson, Martin & Green 2001).

Interaction with police

The first experience that many people with intellectual disability have with the criminal justice system is the initial contact they have with police. The police have been credited with having more contact with people with intellectual disability than all other mental health and social service occupations combined (Fogarty 1991). Although the nature of this contact may be brief, the literature has acknowledged the need for police to develop specialised knowledge about intellectual disability to effectively respond to such people (Fogarty 1991; McAfee, Cockram & Wolfe 2001; McAfee & Musso 1995).

Queensland's *Police Powers and Responsibilities Act 2000*, has formally recognised the need for fair process for people with an intellectual disability when being interviewed by the police (Crime and Misconduct Commission Queensland 2004). Despite formal guidelines being outlined in legislation, policy and procedure manuals, there is evidence to suggest that the unique needs of suspects with intellectual disability are not being practically addressed. A recent audit on interviews with Queensland Police found that police failed to adequately assess a person's capacity in 55% of interviews, where suspects specifically identified themselves as having a special need (Crime and Misconduct Commission Queensland 2004). This failure to identify and follow correct procedure is consistent with findings interstate and overseas, and very few authors have sufficiently identified instances of positive responses to this population from police (Bean & Nemitz 1995; Hayes 2000; Hyson 1988; Medford, Gudjonsson & Pearse 2003).

Even when official guidelines are followed for people with intellectual disability, these measures are not always in themselves satisfactory. If a person is assessed as having impaired capacity, section 253 of the *Police Powers and Responsibilities Act 2000* in Queensland requires questioning to take place in the presence of a support person, such as a parent or another adult who provides, or is able to provide, support necessary to help care for the person, by looking after or managing the person's interests (Crime and Misconduct Commission Queensland 2004; Medford, Gudjonsson & Pearse 2003; Simpson, Martin & Green 2001). The literature highlights both positive and negative outcomes associated with having a support person present in police interviews with people with intellectual disability. Positive outcomes include increased likelihood that a legal representative would also be present and would take a more active role in the interview; and less interrogative pressure on the suspect (Medford, Gudjonsson & Pearse 2003). Problematic issues that may occur with the use of support persons include concerns that the support person may encourage a suspect to dispense with his or her own rights and create a false impression of a fair and voluntary interview (Simpson, Martin & Green 2001); that support persons may be unskilled and consequently act only as a passive observer (Evans & Rawstorne 1997); that parents who act as a support person may be overtly hostile toward their children, or encourage the suspect to make admissions of guilt (Medford, Gudjonsson & Pearse 2003; Porter 2004); and that staff in specialised services for people with intellectual disability who act as support persons in interviews may regard the experience as an opportunity to remove a troublesome individual from their service (Cockram, Jackson & Underwood 1994).

Negotiating the court system

Findings regarding criminal courts have identified that these people are less likely to receive bail; and more likely to be remanded in custody than other offenders (Cockram & Underwood 2000). Consequently, there is a general consensus within the literature that the sentencing of offenders with intellectual disability requires a flexible approach that protects both the rights of the defendant and the community at large (Cockram 2005a; Simpson, Martin & Green 2001). Both NSW and WA studies call for a greater choice in non-custodial options for defendants with an intellectual disability (Cockram 2005a; Simpson, Martin & Green 2001). Offenders with intellectual disability in Queensland may be doubly disadvantaged in this regard, as the range of sentencing options does not include front-end home detention or periodic detention orders (Spence 2005).

Life in Prison

A disturbing picture is presented by the literature in Australia and internationally of many examples of abuse and neglect of suspects and offenders with intellectual disability, primarily by other prisoners and by the corrective services system in general. A culture of hierarchy and coercion can dominate the structure of correctional systems and be mirrored in the subculture of prisoners themselves (Mullen 2001). It is argued that prisoners with intellectual disability are identified as vulnerable and weak within the system, and may experience a lack of support with personal hygiene and incontinence issues, be subject to sexual assault by other prisoners and by correctional staff (increasing their exposure to AIDS), be abused or victimised in other ways such as having property stolen, or being used by more intelligent offenders to violate institutional rules or execute illegal activities such as drug dealing (Denkowski & Denkowski 1985; Glaser, W. & Deane 1999; Hall, J. N. 1992; Osman 1988; Petersilia 1997b; Smith et al. 1988; Walsh 2004). Hayes and Craddock (1992) also discuss the possibility of some prisoners committing suicide as the final sanction from the prison environment. It is difficult to determine the extent of victimisation of prisoners labelled with intellectual disability, as official prison records are not likely to cover all incidents, and victims may be reluctant to report abuse for fear of retribution from other prisoners or being placed in protective custody (Finn 1989). People with intellectual disability may not have the verbal or written skills to air a complaint, may withdraw complaints due to the pressures of interrogative investigations, and may not even be cognitively aware that abuse is taking place (Hayes & Craddock 1992; Langford 2005; Steiner 1984).

Finn (1989) cautions writers to avoid stereotyping prisoners with intellectual disability as primarily victims, and in her study of official records of New York State Prisons was able to find examples of occurrences where prisoners with intellectual disability engaged in taking advantage of others in prison. Others have interpreted such incidents as a yearning to be accepted within the prison culture and an act of modelling exploitative behaviour in order to fit in (Cockram, Jackson & Underwood 1998; French 1983; Hayes & Craddock 1992).

It has been reported by many prison staff that they find offenders with intellectual disability more difficult to manage than other offenders, requiring greater staffing and more individualised attention in an environment where staffing resources are likely to be stretched to the limit (Finn 1989; Glaser, W. & Deane 1999; Santamour 1986). Evidence of rule infractions has usually been taken from official prison records or accounts from prison staff and may reflect the difficulties people with intellectual disability may have in understanding routine and procedure (Brown, B. S. & Courtless 1967; Hall, J. N. 1992; Smith et al. 1988). In the final sample of Glaser and Deane's (1999) study of the prison records of adult male prisoners labelled with intellectual disability in Victoria, two-thirds had been involved in at least one incident in prison involving the offender committing usually minor, physical altercations and rule infractions.

Programs and prison employment opportunities

Overseas and Australian research has generally found that offenders with intellectual disability are likely to serve longer sentences because they usually do not have same access to programs and vocational training to be eligible for parole (Garcia & Steele 1988; Hayes & Craddock 1992; Petersilia 1997a). The frequent use of

separate maximum security units for the protection of prisoners labelled with intellectual disability may lead to the denial of opportunity to have the least restrictive environment, and may also prevent detainees achieving parole and participating in rehabilitation programs as would happen in a lower graded security setting (Glaser, W. & Deane 1999; Walsh 2004).

In Queensland, eligibility criteria for participation in general criminogenic programs within Corrective Services require participants to be 'responsive' (Walsh 2004). This stipulation may make it difficult for prisoners with intellectual disability who require extra support to take part in such programs and subsequently attain early release orders. There are also negative implications for a person's post-release transition into the outside community.

Post-release

Very little research has been gathered on ex-prisoners with intellectual disability, other than statistical data that primarily looks at recidivism rates compared to the general offender population (see for example, Klimecki, Jenkinson & Wilson 1994; Linhorst, McCutchen & Bennett 2003); and efficacy rates of programmatic interventions (Lindsay 2004; Taylor, J. L. et al. 2004; Taylor, J. L., Thorne & Slavkin 2004). There has also been some research on homelessness of ex-prisoners as a whole (Baldry & Maplestone 2003; Walsh 2004).

There are several identified factors that make it particularly difficult for prisoners with an intellectual disability to attain parole. For example, people with intellectual disability may be the subject of prejudicial assumptions by parole boards that equate intellectual disability with criminal behaviour (New South Wales Law Reform Commission 1994b). In addition, the requirement of potential parolees to show that they can adapt to normal community life can be especially difficult for people with intellectual disability, who may have little formal and informal supports and services to access within the community, yet require high levels of assistance to learn more socially acceptable conduct (Langford 2005).

The experience in New South Wales of re-entry of prisoners with intellectual disability into the community has been one fraught with social isolation for the parolee, lack of consistency in community support and failure to adequately meet people's needs (Langford 2005). Many people may utilize boarding house/hostel accommodation, which rarely offers the structure and support required. These factors may contribute to the reported high recidivism rate of offenders with intellectual disability (Klimecki, Jenkinson & Wilson 1994; Lindsay & Taylor 2005).

Summary of the Current Literature on the Experiences of People with Intellectual Disability in the Criminal Justice System

A predominant focus in the current literature on people with intellectual disability and the criminal justice system, particularly in the Australian context, has been on the verification of hypotheses such as whether people with intellectual disability receive differential treatment or have different needs than other populations within the criminal justice system and this has been typically established through studies on prevalence, anecdotal evidence from service providers and outcomes data from official records. Questions have been raised as to how much understanding people with intellectual disability have regarding the offences they commit; what is the extent of problematic and anti-social behaviours of offenders with intellectual disability; and how these can be addressed; and to what degree people with intellectual disability are victimised by the criminal justice system and all its processes.

A useful framework for encapsulating the answers to date to these questions is the theoretical position of Iris Marion Young's 'five faces of oppression' (1990, p. 39). Young focuses on social structures and processes that produce and reproduce injustice and the constraint on people's self-development and self-determination and delineates oppressions into the five intertwining elements of *exploitation, marginalisation, powerlessness, cultural imperialism, and violence*.

There are many examples of oppression to draw from within the literature on offenders with intellectual disability:

- We see the potential and actual *exploitation* of people with intellectual disability within the general community and in the criminal justice system, by peers, criminal justice officials and researchers themselves (Community Living Program 2000; Hayes 2004; Rioux 1997).
- The common responses to problem behaviour of people with intellectual disability involve ignoring the problem or *marginalising* people within institutions such as correctional centres (Cockram 2005a; Hayes & Craddock 1992).
- People with intellectual disability can be considered *powerless*, in that their thoughts, feelings and experiences are often trivialised and denigrated by others, and official procedures, such as the use of an independent third party in police interviews, fail to protect them (Marks 1999; Medford, Gudjonsson & Pearse 2003).
- This author believes that *cultural imperialism* is evident in the very structures of the criminal justice system and within broader society. It appears that for a person to receive justice or fair treatment, he or she often has to be part of the dominant cultural set and have a certain level of cognitive ability. *Need to support this statement*
- The societal sanctioning of, and desensitisation to, *violence* against people with intellectual disability produces a fertile environment for such victims to become perpetrators of *violence* themselves (Finn 1989). Nearly all of the offenders with intellectual disability discussed in professional literature have been previous victims of abuse and may have learned to abuse others through such experiences or through observing abusive behaviour (Sobsey 1994).

Young (1990) provides a valuable critical edge to our understandings, yet there is also a need to account more for human agency, consciousness and meaning when regarding the experiences of offenders with intellectual disability, as well as to recognise the plurality of norms and values relating to 'normal' and 'deviant' behaviour when studying this population (Noaks & Wincup 2004). This author believes that a qualitative approach that combines both critical and interpretivist approaches to research in this area could significantly further the knowledge base, as it would allow closer examination of the interplay between societal structures and the understandings and capacity of individual actors.

Methodology/Conceptual Framework

This research acknowledges the importance of both realist and relativist, critical and hermeneutic philosophical stances in the study of people with intellectual disability within the criminal justice system (Kaspersen 2000; Parker 1992). However, the link between personal narratives and broader critical analyses of oppression of people with disabilities is a difficult task and has, in the past, been highly criticised by prominent academics and activists within the disability arena (for example, Oliver 1990; Swain 1993). From a critical perspective, the differences and complexities found in individual accounts have been regarded as diversions to fully addressing overarching problems in the external social environment (Marks 1999). From an interpretivist paradigm, social reality cannot be studied apart from the meanings people give to that reality (Engel & Schutt 2005).

Social Constructionism

In order to resolve some of these difficulties, the methodology of this study begins by utilising a *social constructionist* epistemology (Franklin 1995; Kaspersen 2000; Parker 1992). The existence of the world is not denied, but the meaning attributed to it is socially, historically and culturally constructed by the consciousness that engages with it. Human beings are active agents and generators of meaning (Crotty 1998; Franklin 1995). Therefore, the phenomena of people with varying intellectual abilities is considered real, but to say that some people are intellectually disabled or mentally retarded says more about what concepts are in the minds of those who use these terms than the way the people they describe actually are (Bogdan & Taylor 1982). *Social constructionism* cautions us against reifying people and objects, or in other words, taking the sense we make of things to be the way they actually are (Crotty 1998).

The social, political, cultural, economic, ethnic and gender influences that shape the way we perceive or even feel about the world are called into question by a *social constructionist* epistemology (Crotty 1998; Guba & Lincoln 2004). The phenomenon of *reification*, in which people's inherited understandings are regarded as 'the truth', is challenged, and received notions are considered to blind people to reality (Crotty 1998; Wolff 1989). In addition, focus can be directed to the interests of the vulnerable and 'at-risk' audiences, such as people labelled with an intellectual disability, arguing that their perspectives are worthy of equal consideration with those of other, more powerful players in society and with those of the researcher themselves (Guba & Lincoln 2004).

Conceptual Framework

Although *social constructionism* is able to capture social life as an active accomplishment of purposive, knowledgeable actors and link this to broader social forces, the connection made is a rudimentary one that fails to adequately conceptualise institutional analysis and transformation (Giddens 1979). However, it does allow the use of other specific methods to address these structural issues, and the conceptual framework of this thesis results from a merger of a *social constructionist* epistemological approach with a specific theoretical understanding of intellectual disability within the criminal justice system. In other words, this thesis takes a *social constructionist* approach to the *structuration theory* of Giddens (1984).

Structuration Theory

This author asserts that an understanding of the conditions faced by people with intellectual disability within the criminal justice system must also incorporate a critical theoretical viewpoint, such as the work of Young (1990), into the conceptual framework. A further examination of the connection of individual understanding and interpretation to the significance of institutional structures on individual behaviour and action is undertaken in this study through the framework of Giddens' *structuration theory* (Giddens 1984; Kaspersen 2000). This theory is useful in that human beings are regarded as participants in both the production and reproduction of social reality, and the theory is able to specify the tensions between the dominance of social systems such as the criminal justice system over the individual and the individual's possibilities for action (Haralambos & Holborn 2000).

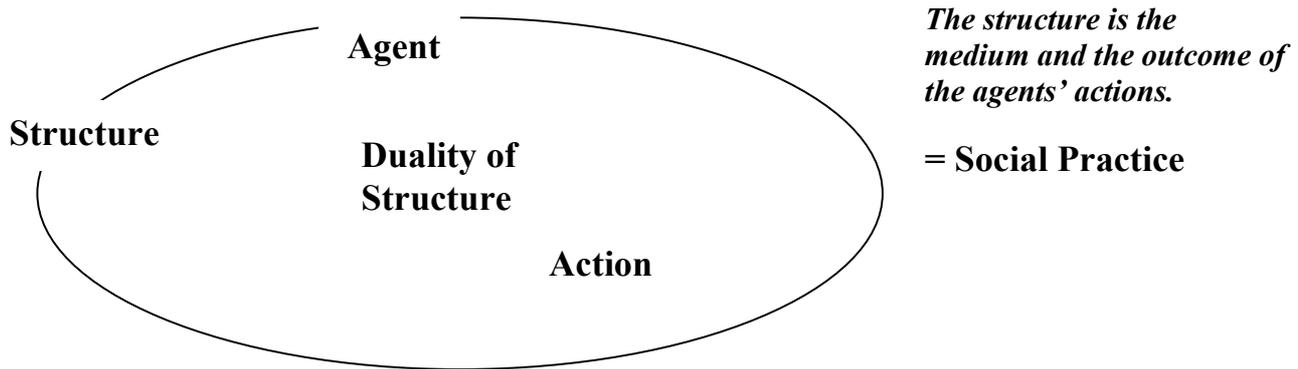
An example of the intertwined relationship of agent and structure can be seen within the prison system. Without question, imprisonment is a highly constraining influence on a person's life, yet the cumulative actions of individuals, including those with intellectual disability, may intentionally or unintentionally contribute to the oppressive facets and virtual order of such a system (Young 1990). According to Sparks, Bottoms and Hay, (1996, p. 73), "the reproduction of institutionalised social practices is accomplished in and through the routine doings of knowledgeable human subjects." The survival of institutions such as prisons is partly predicated on the consent of people operating within them to adhere to routines and regulations (Vaughan 2001).

The structured practices of correctional centres therefore do not exist external to the people who inhabit them, and in this way, the people and the practices are intimately connected (Giddens 1984). The 'macro' dimensions or systemic patterns of the prison are dependent on the coordination and reproduction of everyday conduct and behaviour (Sparks, Bottoms & Hay 1996). Similarly, that behaviour is influenced by the institutional power of the prison. The correctional centre is thus regarded as a set of rules and values that are both a means and an outcome of people's actions (Giddens 1984). Giddens labels this condition as the *duality of structure* or as *social practice* (see Figure 1).

Agent and agency

As with the *social constructionist* approach, human agency is an important element to the theory of *structuration* (Franklin 1995; Kaspersen 2000). Giddens, however, goes beyond *social constructionist* notions that meanings and understandings are only created by actors when they engage with others in social interaction,

Figure 1: Duality of Structure



(Kaspersen 2000, p. 33)

and includes and develops further the relationship between meaning and social structure (Kondrat 2002). As Giddens asserts, “anyone who participates in a social relationship, forming part of a social system produced and reproduced by its constituent actors over time, necessarily sustains some control over the character of that relationship or system” (1982, pp 198-199). For Giddens, even within the most constraining environments, such as prison, there still exists a relationship between actor’s meanings and structure, and therefore the possibility of agency (Giddens & Dallmayr 1982).

In Giddens’ theory, the agent or individual is regarded as knowledgeable, with knowledge of most of the actions he or she undertakes via a means of reflexive monitoring of that action (Bryant & Jary 2001; Kaspersen 2000). Agency is predicated by our recursive, day-to-day routines and activities that provide us with a sense of trust in the world or ontological security and create the foundation of a social order (Kaspersen 2000).

There are three levels of knowledge or consciousness that are available to the agent. *Discursive knowledge* refers to the knowledge that can be articulated and our ability to reason and provide rationale for action (Bryant & Jary 2001; Tucker 1998). *Practical knowledge* or *consciousness* describes the tacit knowledge we use in action, or unverbalsed awareness of how to respond (Bryant & Jary 2001; Sparks, Bottoms & Hay 1996). The third level is the *unconscious*, which involves our suppressed motives and cognitions that we cannot put into words but reflect our drive for trust and security in day-to-day life (Kaspersen 2000; Tucker 1998). Reflexive monitoring of action occurs at either level or both levels of *discursive consciousness* and *practical consciousness* but does not occur at the level of the *unconscious* (Bryant & Jary 2001; Giddens & Dallmayr 1982).

An agent’s knowledgeableability is limited by *unintended consequences*, and *unacknowledged conditions* of action (Kaspersen 2000). For example, a man with intellectual disability who is being questioned by police may be following cues he receives from his *practical consciousness* as to how to respond to people in authority. The *unintended consequence* of this may be that the person does not realise that they could be arrested for confessing to a crime. The *unacknowledged conditions* may include the police officer’s motivations behind the questions, and the rules and values inherent in police work.

The above example illustrates how Giddens incorporates a structure or constraining element to the concept of agency, but also retains a voluntaristic component, whereby these *unintended consequences* and *unacknowledged conditions* constitute the basis for future actions and change, and the agent has the potential to be able to act differently (Kaspersen 2000). In the above example, the person, regardless of his level of intellect, is still able to change his response to the situation but may need assistance in developing a response that is in his or her best interests.

Relevance of conceptual framework to this study

A *social constructionist* approach to *structuration theory* reveals intellectual disability as “a cultural artefact and not a physiological inevitability” (Ferguson 1987, p. 51). Whilst social constructionism does not

deny the existence of intellectual differences among people, it also recognises that social constructs or social-political beliefs of intellectual disability have been transformed into pseudo-biological concepts. It therefore allows this thesis to explore offenders with intellectual disability in a new light and to seek to comprehend participants' cognitive constructions of reality (Andersen 1994; Franklin 1995). The emphasis on human agency and the interactional view of human behaviour between persons and social environments moves beyond stereotypical assumptions of people with intellectual disability within the criminal justice system.

Giddens' *structuration theory* refines this concept of agency so that it is particularly useful for the participants in this study, as it places most importance on *practical consciousness* in order to understand social life (Kaspersen 2000). Giddens claims that many other theories have ignored *practical consciousness*, yet it is this tacit knowledge that plays a significant role in the maintenance and reproduction of social life (Bryant & Jary 2001; Kaspersen 2000). This recognition is vital for many people with intellectual disability, who may find the reliance on *discursive knowledge* to exercise agency as problematic, due to their level of expressive and receptive communication (Sigelman et al. 1981).

In addition, Giddens' notions of agency allow opportunity for research participants to reflexively engage in their stories of the past. This construction of agency calls for a method that enables participants to raise their awareness of events to a *discursive knowledge* level, allowing both the participant and the researcher to further account for the *unintended consequences* and previously *unacknowledged conditions* that the individuals involved were only cognisant of at a tacit knowledge level.

Method

The method used in this study emphasises the processes, meanings and interpretations of experience of people with intellectual disability before, during and after imprisonment. It adopts an interpretive 'bottom up' approach, but in order to achieve this, the researcher must first consider the ways in which to capture the disenfranchised voice of people with intellectual disability.

Crossing the communicative divide between the researcher and the researched

Booth and Booth (1996) identify four key communicative challenges for 'non-disabled' researchers who work with participants who have an intellectual disability. None of these challenges are exclusive to people with intellectual disability alone, but perhaps may be more overt than in other non-disabled research populations, due to the learning difficulties associated with intellectual disability, as well as the likelihood that the person will have had minimal education, will have come from a low socio-economic background and will probably have a significantly different life experience to the researcher (Booth & Booth 1994; Finlay & Lyons 2001; Heal & Sigelman 1995):

1. *Inarticulateness*: Difficulties in expressive communication may be more than mere shyness or anxiety for a person. The person may have restricted language skills, an accompanying lack of self-esteem, and ongoing experiences of social isolation and oppression in his or her life. All these factors may impinge on the person's abilities to provide a coherent account of his or her experiences (Goodley 1996).
2. *Unresponsiveness*: Some participants may have a limited ability to answer certain types of questions. Booth and Booth (1996) argue that a lack of responsiveness to open-ended questioning by informants with an intellectual disability can require the researcher to adopt a more direct style of interviewing. This, in turn, may result in the participant reverting consciously or unconsciously to response bias or acquiescence in order to please the researcher (Simons, Booth & Booth 1989). Acquiescence and positive bias can also occur when the question asked is not fully understood by the participant, but it also may be a feature in certain kinds of relationships a person is involved in. A person may perceive the other to hold more power within the relationship and acquiesce only in such a context. Given this, it cannot be readily assumed that acquiescence is a characteristic that is innate within all people with intellectual disability in all situations (Booth & Booth 1994; Sigelman et al. 1981).
3. *A concrete frame of reference*: There may be difficulties in generalising from experience and thinking in abstract terms (Booth & Booth 1996). The key focus of this research involves the referential function of

participants reconstructing past events in some sort of chronological order. There is also an evaluative component to the research in which past events are related to the present (Kohli 1981). These tasks may present as a challenge when the participant may use a concrete frame of reference; have difficulties making a general evaluation from a group of specific instances; lack certain expressive abilities; and have problems describing internal states and relating to and fully understanding diagnostic terms such as ‘intellectual disability’ (Booth & Booth 1996; Finlay & Lyons 2001).

4. *Problems with time*: People may have a strong present orientation and have difficulties with dates and numbers. These problems are only partly a consequence of not knowing how to tell the time or use a calendar, and can also be indicative of lives that lack many of the milestones people use to order their past. This may also place limits on the person’s ability to reconstruct and order past events (Booth & Booth 1996; Kohli 1981).

A primary consideration for the researcher thus becomes the need to establish rapport with participants with intellectual disability in qualitative research (Booth & Booth 1994; Knox, Mok & Parmenter 2000). The development of a shared meaning system between the participant and the inquirer can become achievable through the use of tools and techniques such as:

- creating a comfortable environment (Booth & Booth 1994);
- timing and pacing the communication at a rate that is comfortable for the person (Community Living Program 2000);
- care in the sequencing and wording of questions so that it encourages maximum participation in the interview (Community Living Program 2000; Rodgers 1999);
- use of augmentative communication symbols so that information can be presented both visually and verbally wherever beneficial (Community Living Program 2000; Rodgers 1999);
- checking understanding and rewording questions where necessary (Community Living Program 2000; Rodgers 1999).

The degree to which a participant is willing to allow the inquirer into his or her world or reality, and the ability of the inquirer to be open to the participant’s ways of understanding without any fixed assumptions of that understanding, will determine the extent to which communicative challenges can be minimised or overcome (Booth & Booth 1996). Developing rapport involves “a level of intimacy that goes beyond the normal relationship between interviewer and informant” (Booth & Booth 1994, p. 417). The researcher will draw not only upon her considerable professional experience in working with people with intellectual disability to assist in this process, but will recognise the importance of sharing some of her personal experience as a parent of a child with intellectual disability when appropriate. Whilst acknowledging the dangers in developing close personal ties with participants, some personal disclosure may enable a two-way process of communication to occur, and may help to establish credibility with participants (Booth & Booth 1994). This personal disclosure might include sharing brief information about the researcher’s own life experiences to act as a prompt for conversation.

Life Story Approach

A focussed and topical life story approach is adopted in this study, that recognises the expertise people with intellectual disability possess on their own lives (Knox, Mok & Parmenter 2000; Plummer 2001). Through a respectful collegial and collaborative relationship with participants, the researcher will aim for rich generation of meanings of experiences within the criminal justice system, that include participants’ everyday realities, and their recall of events (Goodley et al. 2004).

Atkinson (1998, p. 8) defines the life story as a:

“story a person chooses to tell about the life he or she has lived, told as completely and honestly as possible, what is remembered of it, and what the teller wants others to know of it, usually as a result of a guided interview by another.”

The life story has characteristics that align with *social constructionist* thought. Namely, it addresses the need for “grounded, multiple studies of lives in all their rich flux and change” and the recognition of the

‘unfinalisability’ of the lives involved within the story (Frank 2005; Plummer 2001, p. 13). The voice of the participant determines the frame of reference for the story and the method captures the interactions between the individual and social world, which may include moments of indecision, turning points, confusions and ambiguities which are common to everyday experience (Thompson 1981 in Booth & Booth 1996; Goodley 1996; Plummer 2001)..

One of the critical strands of thought that has promoted the life story research method has been the ‘excluded voice thesis’, which was developed from feminist research and critical race theory. This thesis emphasizes how life story methods give the reader access to perspectives and experiences of oppressed groups who have not been given the opportunity to have their voices heard through traditional modes of academic discourse (Atkinson, D. & Walmsley 1999; Farber & Sherry 1993). The life story method asserts that lives of people with intellectual disability exist to be recounted to redress the ongoing history of ‘invisibility’ of such people in research literature, and the false assumption that they have no capacity for understanding or relating their situation to others (Atkinson, D. & Walmsley 1999; Goodley 1996, 2000).

Sampling of participants or ‘experts’

As in most qualitative research, this project seeks to capture the uniqueness of each experience and is committed to an emic, idiographic case-based position to understanding the impact of imprisonment on people labelled with intellectual disability. The research therefore employs a purposive, rather than a random sampling model, and seeks out individuals where and for whom the processes being studied are likely to occur (Denzin & Lincoln 1994; Glaser, B. G. & Strauss 1967). The purposeful selection of participants will be based on their level of experiential expertise, rather than being representative of a broader population (Knox & Hickson 2001).

This project enables people with intellectual disability to reflect on all stages of their involvement in the criminal justice system in Queensland. The researcher was unable to gain formal approval from the Department of Corrective Services to interview people within the prison environment, and therefore, the study will recruit approximately ten volunteers who are ex-prisoners with intellectual disability and are not subject to any correctional order. There will be no limits placed on the length of time a person has spent within prison, and prison experiences may include detention in remand and/or full custodial sentence, but not exclusively police custody. The focus is on those people who have spent a longer time incarcerated than what is the experience in police custody.

Adult individuals, self-identified as over 18 years of age and of both genders and preferably from a variety of cultural backgrounds will form the basis of the sample. They will ideally have been released from prison no more than two years prior to being interviewed, in order to ensure that findings reflect recent trends within Queensland’s criminal justice system.

The ex-prisoners which this study is seeking, will have been assigned the label of intellectual disability at some stage in their life either by service providers, schooling systems or the criminal justice system. This will be verified through the gate-keeping agencies in which participants are to be recruited. Participants will also need to be aware that the research involves the selective and cautionary use of the label of intellectual disability in the dissemination of findings. It is assumed that participants will have learning difficulties of some kind, likely involving developmental delays of a global nature, to warrant such a label. However, the degree of such delays will inevitably vary between different participants, with the likelihood that the vast majority of participants will fall within the ‘mild’ to ‘borderline’ range of intellectual disability as indicated by the literature (Hayes & Craddock 1992).

Recruitment Considerations

A significant challenge in this research will involve finding willing participants who fit the above criteria. There are several reasons for difficulties in recruitment of participants for this study:

- There is not an accurate universal data set of people with intellectual disability in Queensland to draw upon, and even if there were, a lack of sharing of information across government departments would make it impossible to trace the movements of individuals through the criminal justice system (Lennox et

al. 2005).

- Systems often fail to identify suspects or offenders with intellectual disability and often people themselves do not have any formal disability support service in their lives to assist such identification (Simpson, Martin & Green 2001).
- The researcher may be reliant on the goodwill of organizations involved in people's lives in order to gain access to the study group. Organizations may refuse access on the grounds that the time needed to attain informed consent with potential participants is too lengthy; the research provides no immediate benefit to the organization; and key players within organizations may consider the research methodology inappropriate (Lee 1993; Lennox et al. 2005; Siegel & Ellis 1985). Organizations will also inevitably decide whom they will issue invitations to, and suggest potential participants.
- Potential participants may be highly transient due to unstable living conditions in the community and may also continue to be involved in criminal matters that lead to their subsequent re-arrest and incarceration (Baldry & Maplestone 2003).

The researcher will seek to minimise some of the negative outcomes related to these issues by seeking the personal assistance of contacts already made within both the services for ex-prisoners, and the services for people labelled with an intellectual disability. Other avenues for recruitment enquiries will be employment agencies, education providers, homeless shelters, disability and prisoner advocacy agencies, and prison chaplains. The benefits of recruiting in this manner include the likelihood that potential participants will already have some type of formal support in place if they should need this in telling their stories; paid workers may be able to assist in providing any additional background information about the person if necessary, including communication needs etc. (Cambridge & Forrester-Jones 2003); the onus does not rest on the researcher to engage in any formalised assessment, such as IQ tests to determine intellectual disability. The costs of such an approach include the 'gate-keeping' issues mentioned above; the limiting of the sample of participants to those who have some kind of formal support in place; and being resource intensive to the research process.

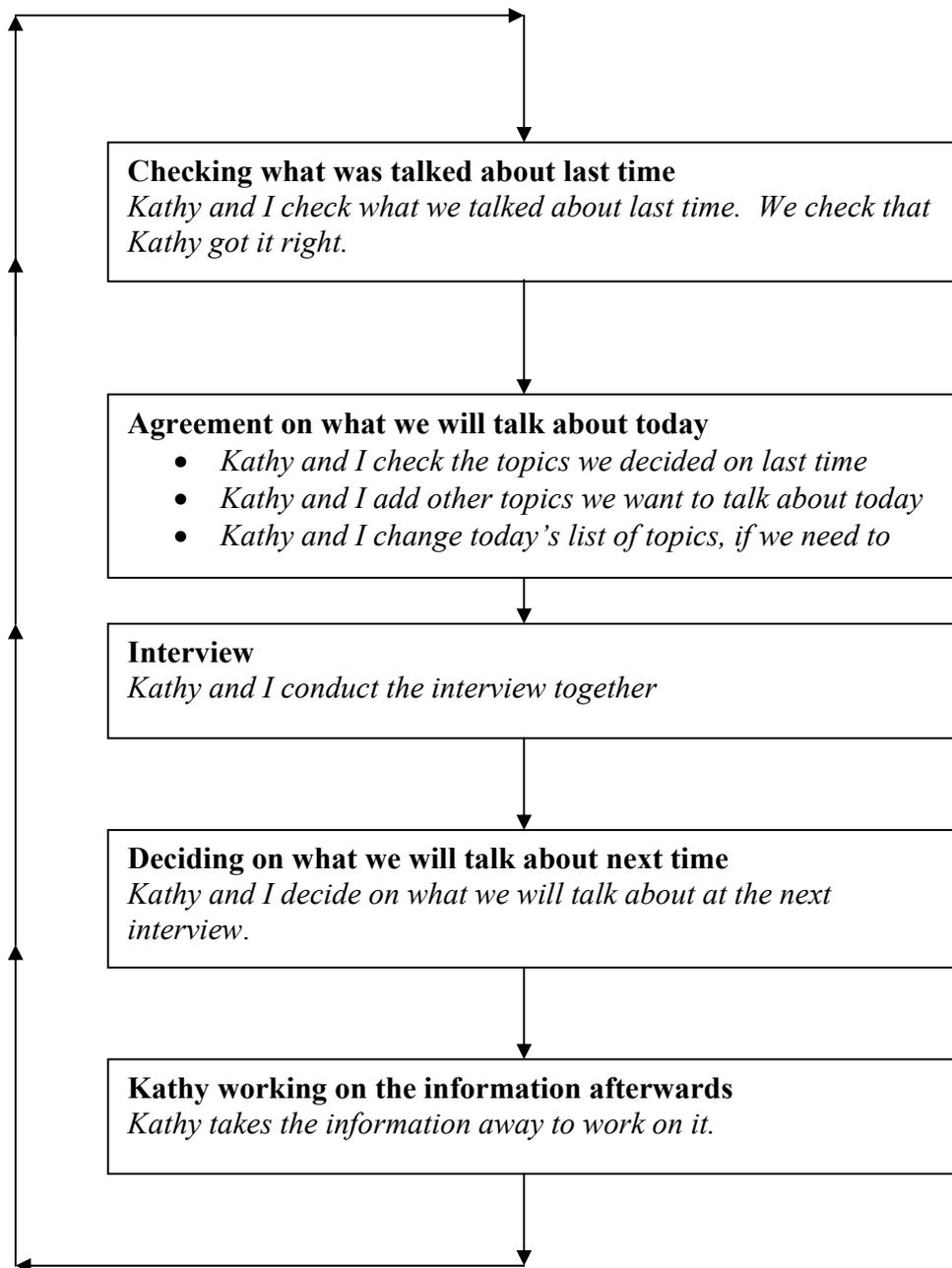
The life story interview

It is anticipated that a minimum of four contacts with each participant will take place for this study. The time spent with each participant will be dependent on the person's level of understanding of the research process, the time needed to gain informed consent and time allowed to provide feedback on the research to the interviewee. Interviews will be tape recorded and transcribed, will be semi-structured and in-depth in nature, and will utilise an interview guide or *aide-memoire* that identifies possible themes or topics for the interviews drawn out of concepts from the literature and from the key research questions of this study (Booth & Booth 1994; Engel & Schutt 2005).

This study recognises that many people with intellectual disability have little access to the written word, and may also struggle with the spoken word as previously indicated. A tension therefore arises in the life story interview as to how to ensure that the process is a collaborative venture, when it is likely that the researcher will be relied upon as a facilitator, interpreter and scribe within the process (Atkinson, D. & Walmsley 1999). For this reason, the model of in-depth interviewing developed by Knox, Mok and Parmenter (2000, pp. 51-2) for working with people with intellectual disability will be utilised in this study. This model involves five interconnecting phases and provides a valuable explanation to participants of the interview process (*see Figure 2*):

- Checking with participants or 'experts' what was talked about last time
- Agreement/negotiation on what will be discussed today
- Doing the interview
- Deciding on what to talk about the next time
- The researcher working on the information afterwards

Figure 2 – In-depth Interview Model (Knox, Mok & Parmenter 2000, p. 52)



In addition to using this model, the researcher will utilise the following interview guide that lists the general areas she wishes to cover in the interviews (Mlinarcik 2001):

<i>Interview Guide for Participants</i>
<ul style="list-style-type: none">• Chronology of major life events (using Life Map)• Daily life in prison• Problems in prison• Person's identified needs in prison• Friends in prison• Parole applications• Leaving prison• First day in community• Daily life now• Friends now• Problems now• Future

Piloting the research

The life story method used in this study will first be piloted before formal data collection takes place. The researcher will recruit one ex-prisoner with an intellectual disability to interview using the life story method. The intent of the pilot study is to:

- Allow the researcher to develop skills in the research method and be prepared to deal with sensitive ethical issues that are likely to arise
- Reveal any further unanticipated problems with the research design, instruments, and conceptual framework before investing significant time and resources in the full study (Hall, D. J., Hall & Campling 1996; van Teijlingen & Hundley 2001)
- Receive direct feedback from the participant involved
- Assess the likely success of proposed recruitment strategies (van Teijlingen & Hundley 2001)
- Examine the effectiveness of using NVivo software to manage the data derived from this research population

The data collected from the pilot study will not be included in the final research. However, the lessons learnt from this initial stage will be documented and will be critical in developing the end research product.

Data collection, analysis and storage

Interviews with participants will be audio-taped unobtrusively by the researcher in most instances (Engel & Schutt 2005), however Booth and Booth (1994) suggest that flexibility in the use of tape recorders is essential when working with people with intellectual disability. There may be interview sessions where there is a strong case not to record, for example, when the interview needs to take place in different rooms in the person's living environment, and the researcher will need to explore other creative ways of collecting data.

Data collection must therefore also involve the taking of additional field notes that include silences, observations, reactions, comments, feelings, visual images and at times involve the entire reconstruction of an interview (Booth & Booth 1994). The growing volume of notes, documents and tapes will require regular and disciplined transcription, which the researcher will undertake herself. As transcriber or editor, it may be at times necessary to take a very full part in reconstituting the transcripts as a life story. This is particularly so when participants may not have a great degree of expressive language skills. In such instances, authenticity of the person's own voice may be compromised, and the researcher must ensure that the text accurately reflects the data and also make clear whose voice is speaking (Booth & Booth 1996).

The analysis of life stories is not bounded by one common theoretical form, practice, or discipline and the researcher that engages in such work must somehow make many choices within this theoretical and

methodological complexity (Daiute & Lightfoot 2004). At this point in time, a *voice relational analysis* of the life stories looks promising to this author, as it appears to fulfil the function of answering the study's core research questions and identifying pertinent themes, without losing the thread of each person's story in the analysis (Brown, L. M. & Gilligan 1993; Goodley et al. 2004; Proctor 2001). *Voice relational analysis* involves four distinct readings of life stories:

1. *Reading for plot and our response to the narrative* – looking at story, characters, and sub-plots; reader placing her or himself in relation to the person.
2. *Reading for the voice of 'I'* – examining how the interviewee talks about her or himself before others speak of her or him.
3. *Reading for relationships* – exploring how respondents speak of interpersonal relationships. This reading stage will be extended in this study to include not only relationships with other people and broader social networks, but also relationships with Giddens' notions of structure (Giddens 1984).
4. *Reading for the effects of cultural contexts and social structures* – investigating issues in terms of broader political, cultural and structural contexts.

This thesis will use this analysis as a lens only to allow a cumulative picture to be built up around individual's experiences and relationships, without necessarily being bound by the method (Proctor 2001). The multi-faceted layers of *voice relational analysis* are based on notions of selves in relation to others which include the participant's personal relationships, relationships with the broader structural, social and cultural context, and the relationship between the participant and the researcher herself (Goodley et al. 2004). This type of analysis provides another opportunity to merge both interpretivist and critical approaches.

The storage of data will be under secure arrangements within the School of Social Work and Applied Human Sciences, and will be catalogued under three main categories (Plummer 2001):

1. *Core files*: Unedited data catalogued in chronological order providing a complete and ongoing record of all materials that are gathered.
2. *Analytic files*: Constantly changing files that highlight and organize key theoretical themes and concepts and layers of analysis that have evolved in the research to date.
3. *Personal log or diary*: Ongoing accounts of the researcher's changing personal impressions of the interviewee, of the research context, and of any personal concerns and feelings the researcher may have.

The author will consider the use of qualitative analysis software Nvivo as a means of managing the data from interviews, which has the flexibility to cater for many types of analyses and reports (Engel & Schutt 2005). A careful evaluation will need to be made as to whether computer-assisted analysis will develop the quality of data required, as software cannot and should not substitute creative thinking in analysis (Seale 2001).

Quality of the Study

Any measurement of quality in life story research must take into account the qualitative nature of such research, and in this particular project, the *social constructionist* paradigm that shapes the work. From a *social constructionist* perspective, any criteria for judging either 'reality' or validity as absolutist is problematic and should be replaced with 'realities' that emerge from community consensus of what is useful and has meaning (Guba & Lincoln 2003). Therefore, the life story approach in this project does not seek an 'exact' record of what happened in the lives of people with intellectual disability. Rather, this study provides a selective reconstruction of the past that is dependent on the values, interests and communicative abilities of the narrator and the researcher at the time (Riessman 1993), and that is in turn shaped by the broader contemporary values and interests of the society in which the person lives.

Using the concept of *validation*, Mishler (1990) argues that researchers using methods such as the life story, need to engage in a process of evaluating 'trustworthiness' of their own work. This is not done by utilising formal rules or standardised procedures, but depends upon the investigator's tacit understanding of actual, situated practices in their area of study. A study is validated when the relevant community of scientists regards the reported findings as 'sufficiently trustworthy to rely on them in their own work' (Mishler 1990, p. 417).

Lincoln and Guba (1985) apply four criteria for establishing trustworthiness in qualitative research:

Trustworthiness Criteria – Quality of the Product	
1. Credibility	Ability of the researcher to interpret the multiple constructions of reality in the inquiry adequately so that these interpretations are believable to the research participants
2. Transferability	Sufficient descriptive data is provided by the researcher regarding the phenomena studied and the context in which they are set, so that judgments can be made by the reader about the similarity of the findings to other contexts
3. Dependability	If a study is regarded as credible, it also said to be dependable. Procedures of gathering, analysing and interpreting data are documented, taking into account both factors of instability and factors of phenomenal or design induced change.
4. Confirmability	It can be confirmed that the research results are linked to the data collected during the inquiry.

In addition, Guba and Lincoln (1994) added a fifth criterion, *authenticity*, in order to be consistent with a *social constructionist* view that research findings represent no more than a temporary consensus of views of what is considered to be true:

Authenticity Dimensions – Quality of the Process	
1. Fairness	Researchers show they have represented a range of ‘different realities’
2. Ontological	Assist research participants to develop a greater awareness of the phenomena being studied
3. Educative	Assist participants to better understand and respect the values systems of others around them
4. Catalytic	Research stimulates some sort of action
5. Tactical	Research empowers participants to act

Credibility, or the extent to which the researcher’s interpretations are believable to participants will be enhanced in this study through the use of prolonged engagement and persistent observation (Lincoln & Guba 1985). Prolonged engagement with participants will assist in the facilitation of an open and honest researcher-interviewee relationship and help to overcome any communication barriers with each individual informant (Booth & Booth 1996). Interviews will be supplemented with time spent with the person in other settings and situations, so that a growing picture is developed of the person’s current life. Such extended engagement may assist the researcher to better understand non-verbal cues from participants when this may be a significant way in which people communicate (Booth & Booth 1996).

The written academic language used in analysis is likely to be inaccessible to this population due to differences in comprehension and this will limit the degree of *credibility* in the research (Stalker 1998). The process of *member checking*, which Lincoln and Guba (1985) regard as the most crucial element in ensuring *credibility* in qualitative research, will seek to overcome some, but not all of these comprehension issues. Depending on each person’s preferences, participants in this project will be given the opportunity to listen to interviews via audiotape, and be offered a copy of the tape. The researcher will also aim to inform participants directly of how she has summarised and analysed the data before the findings are presented in the thesis, so that they may comment on and correct the researcher’s interpretations (Atkinson, R. 1998; Stalker 1998). A two-page summary of the research written in Plain English will also be provided to participants.

As per Lincoln and Guba’s (1985) recommendations, the researcher will seek the assistance from ‘disinterested’ academic peers to review the inquirer’s biases, meanings explored and clarify the basis for

interpretation. This allows for greater *credibility*, *dependability* and *confirmability* within the research. The procedures around submitting a PhD dissertation provide many opportunities for such a review or audit (for example, the use of regular academic supervision) and the researcher will utilise these, as well as any additional debriefing that may be necessary.

Transferability will not be indexed in this study for other researchers. Sharing the identifying features of the contexts in which individual participants' experiences take place can compromise the confidentiality of participants, and therefore names and places may be altered to prevent this. Nevertheless, the researcher, as much as possible, will attempt to provide a 'thick' description of the context in which the study is set that will seek to provide a richly exemplified understanding of the many layers of meaning, action and feeling available in the studied situation (Denzin 1989; Geertz 1973; Seale 1999).

In terms of *authenticity*, this research will pursue *fairness* in terms of purposive sampling of participants of different gender, age and cultural background in order to cover a range of 'different realities' (Guba & Lincoln 1994). The nature of the life story is essentially *ontological*, as it guides participants towards a truer understanding of themselves and their inner being. It becomes an injunction to know oneself, the phenomenon being studied (Plummer 2001). This project may also be *educative*, *catalytic* and *tactical* dependent on the findings and their implications.

Quality in research can also be measured in terms of the degree in which participants with disabilities can exercise control over the design, implementation and interpretation of findings in a given work (Barnes 2001). This study seeks to capture the voice of people with intellectual disability within the criminal justice system, yet the degree to which it is participatory is marred by the requirements the researcher has to meet to complete her doctoral dissertation (Swain, Heyman & Gillman 1998). In particular, people with intellectual disability have not formulated the research design, and this proposal is an individual piece of work created by the researcher, which will be marked as such for doctorate requirements. Lack of ownership of the means of research production, and the extent to which voices of participants are filtered and given meaning in the researcher's terms are problematic in terms of answering the core research question (Oliver 1990). Yet it could also be argued that the relatively unexplored issues in Queensland are more important considerations, as it brings issues in people's experiences up for debate within the research community (Swain, Heyman & Gillman 1998). As Goodley and others (Goodley et al. 2004, p. 149) suggest, there is a moral justification for academic analysis of life stories, in order "to take further what stories might tell or tacitly acknowledge", to prevent these stories from being left "open to a relativistic audience, who can do with the stories what they want."

The matter of *feasibility* must also be considered with this study. Life story research is resource intensive in terms of time for the researcher and participants involved, with a large quantity of material to be recorded, transcribed and analysed (Lieblich, Tuval-Mashiach & Zilber 1998). In addition, the challenges in recruitment, the extra care needed in communicative and ethical processes (some of which are outlined below), and the relatively uncharted nature of this research have significant implications for the successful and timely completion of this study.

Ethical Considerations

Informed consent

It is imperative in this research that potential participants with intellectual disability are able to provide voluntary, informed and comprehending consent. Information must be provided at the participant's level of comprehension, and include the purpose, methods, demands, risks, inconveniences, discomforts and possible outcomes of the research project. A record must also be kept by the researcher to confirm that potential participants were given sufficient information to make an informed choice and participants must also be aware that they may withdraw from the study at any time without penalty (Booth & Booth 1994; University Human Research Ethics Committee 2004).

Informed consent can not be simply contracted at the outset with this population, but rather needs to be a continuous process to be re-affirmed as the research progresses to take into account that life story inquiry may go down lines which neither researcher nor participants expect (Swain, Heyman & Gillman 1998). Explaining

the requirements of the study needs to be an interactive process, which recognises that participants may have their own objectives for participating separate from those of the researcher's (Walmsley 1993 in Swain, Heyman & Gillman 1998). For example, for some people with intellectual disability, it may be misconstrued that involvement in the research may lead to meaningful friendship between the researcher and the researched, and therefore great care must be taken in establishing healthy boundaries between both parties, and withdrawing from the relationship with care and sensitivity once the research is completed (Booth & Booth 1994; Edgerton 1967; Stalker 1998).

Although it is likely that most potential participants will have a 'mild' or 'borderline' level of intellectual disability, and therefore will be able to provide informed consent, in some instances, some people may not be able to do so because of cognitive limitations, despite all adaptations being made. It would be easy to exclude such participants from the study, but to do so could be interpreted by some as contributing to a history in research of silencing the voices of people with intellectual differences (Atkinson, D. & Walmsley 1999). Therefore, in some situations, it may be necessary to gain proxy consent through a substitute decision maker, and advice would be sought through the Office of the Adult Guardian if this situation arises.

Public research on private concerns and the principle of beneficence

Anonymity cannot be guaranteed in life story accounts because of the identifying features of biographical details (Swain, Heyman & Gillman 1998). This study could therefore be considered as a public exposition of private concerns of which consenting participants need to be aware. There also needs to be some justification of the study in terms of its beneficence to its participants and the community at large.

The research is likely to be of benefit to the general public and may lead to a more effective response to the needs of people with intellectual disability within the criminal justice system. It also allows an opportunity for participants to reflect on and disseminate their story, and serves an essential function for the researcher, enabling her to eventually achieve a doctoral dissertation (Swain, Heyman & Gillman 1998).

Counter to this, it must also be acknowledged that participation in this research may result in psychological distress for some participants if a person were to discuss previous traumatic incidents in their life. The researcher's practice experience as a social worker may assist in negating or minimising the risk of psychological distress, and links will be made prior to the stage of interviewing with appropriate support services as a risk management strategy (University Human Research Ethics Committee 2004). These support services will be bound by the rules of confidentiality of the project as a whole (Booth & Booth 1994).

Confidentiality

This research seeks to ensure confidentiality in all stages of the project. For example, in most cases, invitations to participate in the research will be issued by organizations involved, so that names and identities are not disclosed to the researcher. The worker or workers involved will be thoroughly briefed on the method and aims of the research and will decide when and how to approach potential participants (Booth & Booth 1994). Similarly, if a person accepts a research invitation, they will be asked to contact the researcher directly, to ensure that the organization is not aware that the person will be participating (University Human Research Ethics Committee 2004). These measures seek to ensure privacy for potential participants, but are not without problems – such as the person being unduly influenced by the worker who first approaches him or her, and the potential that the researcher will be incorrectly identified as belonging to the agency who is assisting (Booth & Booth 1994).

It must also be said that there may be times when there is a need to breach confidentiality (Swain, Heyman & Gillman 1998). For example, this may occur if authorities subpoenaed the research notes in order to investigate an act of crime in which the participant may be implicated. In such an instance, it is imperative that the researcher specifies the circumstances where confidentiality may be breached prior to engaging in the interview process.

Indigenous participants

Extra consideration needs to be given to the recruitment of Indigenous participants in this study. Principles of ethical research that involve Indigenous peoples include the need for consultation, negotiation and input from Indigenous communities, and acknowledging sources of information and those who have contributed to research (Australian Institute of Aboriginal and Torres Strait Islander Studies 2000).

Conclusion

This thesis seeks to educate the reader with the words of offenders with intellectual disability, those who know most about their struggles (Bogdan & Taylor 1982). Ward and Flynn (1994, p. 24) aptly capture the space people with intellectual disability or “Poor Relations” have traditionally occupied within the “Research Family”:

“Poor Relations learn throughout their lives that their views can be bypassed – apparently legitimately – by the Specialist, Professional and Research Families. The reasons given include: their limited or absent verbal skills; their speech, which is difficult to understand; a tendency to acquiesce; difficulty in expressing themselves in a consistent manner; and difficulties in making judgements about whether an interviewer can be expected to possess essential contextual information in order to make sense of responses given. Layered onto this are two further disadvantages: being socialised into believing that their views are not important since those of others generally take priority; and living, working and learning in settings that are not structured to enhance their capacity for expressing views.”

This research takes stock of such comments, and is essentially an exploration with people with intellectual disability on the issues that they perceive are relevant to them within the criminal justice system in Queensland. Their views are highly relevant to the practice of social work and to broader policy and legislation matters, and therefore the time and resources used to engage with such people can only be of benefit to understanding the notions of social justice for minority groups and the wider community. It is through engagement with the disenfranchised voice that this thesis can make a worthy contribution and yield additional insights and questions for further research.

Research Timeframe

Month/Year	Research Activity
October - November 2005	<ul style="list-style-type: none"> • Ethical clearance
November - December 2005	<ul style="list-style-type: none"> • Refine proposed methodology through pilot study
January – April 2006	<ul style="list-style-type: none"> • Recruit participants • Obtain participants’ informed consent • Data collection/in-depth interviews
May – August 2006	<ul style="list-style-type: none"> • Transcribe interviews • Attend NVivo training • Data analysis • Attend ACSPRI Winter Program
September – January 2007	<ul style="list-style-type: none"> • Write first draft of thesis • Present at ASSID conference
February – June 2007	<ul style="list-style-type: none"> • Edit first draft
July 2007	<ul style="list-style-type: none"> • Submit final thesis

Resources

Resources	Approximate Cost
Stationary and postage	\$100
Photocopying and printing	\$200
Tapes	\$100
Research and computer training	\$1000
Travel to Sydney for pilot study	\$200
Accommodation in Sydney	\$0
Travel, accommodation and attendance costs ASSID conference Canberra	\$900
Counselling for participants if needed	\$500
Total Cost	\$3000

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Appendix A Kathy's Life Map

