Responses to Deaths in Custody:
The Politics of Prisons and Immigration Removal Centres



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Abstract

My DPhil thesis explores responses to deaths in custody. Specifically, it is concerned with how a range of different actors respond to suicidal behaviour – including self-harm, attempted suicide and completed suicide – in prisons and immigration removal centres (IRCs).

It is a theoretical and empirical work, with two overarching aims. The first is to engage with theoretical accounts of imprisonment and immigration detention, as exemplified by literature on the sociology of punishment, and the politics of criminal justice and migration control. Throughout the thesis, I treat prisons and IRCs as social and political institutions, and analyse responses to the problems within them, including suicidal behaviour, as partly political in nature. The theoretical sections of the thesis are found mainly in Chapters 2 and 3, which review a wide range of relevant literature and develop an original argument about responses to deaths in custody. The theoretical claims made in these chapters are substantiated in later empirical sections.

The second aim is to make an original empirical contribution to the study of responses to suicidal behaviour in custody. There are three different types of 'response' that I discuss in the thesis, each of which corresponds to an empirical chapter. These are: prevention work inside immigration detention that is carried out by detainee custody officers and managers (Chapter 5); investigations into deaths in prisons and IRCs that are carried out by independent professionals (Chapter 6); policy efforts by political elites and expert bodies to reduce the number and rate of deaths in custody (Chapter 7). In each case, I set out the distinctive dynamics of the field, whether it is the internal life of an immigration detention centre, the bureaucratic process of a death investigation, or the bewildering world of government policymaking. The final chapter connects the theoretical and empirical sections of the thesis.

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Table of Abbreviations

ACCT – Assessment, Care in Custody and Teamwork

ACDT – Assessment, Care in Detention and Teamwork

C&R – control and restraint

CSU – Care and Separation Unit

DCO – detainee custody officer

DCM – detainee custody manager

EBPM – evidence-based policymaking

HMIP – Her Majesty's Inspectorate of Prisons

HMP – Her Majesty's Prison

IRC – immigration removal centre

PPO – Prisons & Probation Ombudsman

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Preface

Lives in Custody

In the UK today, tens of thousands of people are imprisoned, detained or held in some form of state custody (Sturge 2019). Many of them – over 80,000 – are in prison in England and Wales (Ministry of Justice 2019a). The prison population grew steadily over the course of the twentieth century, particularly in its later decades, and the number of prisoners in recent years is as high as it has ever been. A far smaller number of people – around 2,000 on any given day – are detained in immigration removal centres (IRCs) (Home Office 2019). These prison-like spaces are used to facilitate the deportation of foreign nationals, a substantial minority of whom are ex-prisoners (Bosworth 2014). Rates of detention and deportation expanded rapidly after the turn of the millennium (Gibney 2008), in a period when issues of migration, national identity and popular sovereignty were highly politically salient (Anderson 2013; Hampshire 2013). In addition to the populations of prisons and IRCs, many more people languish in police custody, court cells and secure mental health facilities. Throughout my thesis, I use the term 'custody' to refer to state institutions that deprive people of their freedom through coercive means. Although the private sector plays a significant role in administering some forms of custody – particularly immigration detention – the power to punish, imprison and detain belongs fundamentally to the state.

Prisons and IRCs – the two forms of state custody I focus on in this project – are dotted all over the country. There are around 120 prisons in England and Wales (Institute for Government 2018), as well as nine IRCs in the UK, two of which are short term holding facilities.[1] Both institutions exist in but not of their host cities, towns and villages. Most citizens never enter them, as coercive confinement is something that only a small proportion of people ever experience. Even in countries with high per capita imprisonment rates, such as the USA, spending time inside

[1] More information on each IRC is available online at <https://www.gov.uk/immigration-removal-centre> (last accessed 28/09/2019). The two short term holding facilities are Larne House in Antrim and Manchester Airport.

is not a normal feature of the life course, except for highly disadvantaged sub-groups, notably low-income black men who dropped out of high school (e.g. Western 2006). In the USA, the UK and in many other countries, there is an unmistakable connection between patterns of punishment and social stratification along lines of gender, race and class (Bosworth and Flavin 2007; Sim 2009; Wacquant 2009; Bosworth and Kaufman 2012; Scott 2013). Custody is, in every sense, a minority experience.

A great deal of academic research in the past few decades has tried to explain states' increased reliance on coercive measures like imprisonment and immigration detention, focusing on aggregate trends at the level of individual nation states. Countries in North America, Western Europe and Australasia have been the focus of much of this work (Tonry 2007). But beyond making broad observations about different levels of 'punitiveness' – itself a contested term (Pratt *et al* 2007) – our understanding of people's lives in custody is limited. What goes on from day to day, and what is the nature of punishment in modern societies? Moreover, we have only partial knowledge about the people who work in custody, how penal establishments are run, and their relationship with other state institutions. Criminologists and sociologists have an important role to play in casting light on relatively unseen, misunderstood social practices like imprisonment and immigration detention. The punishment of criminal offenders and the detention and expulsion of foreign nationals are both done in the public's name and with our collective consent. From a liberal democratic point of view, we ought to know exactly what is going on inside prisons and IRCs.

Primary empirical research on prisons and IRCs is valuable in many ways: it provides us with knowledge and information that we may not otherwise have; it collects rich, meaningful qualitative material as well as extensive amounts of quantitative data; it can verify or falsify existing theories of punishment, while also generating new concepts and ideas. But to research these institutions, to subject them to sustained analysis and searching critique, is to adopt an intellectual orientation towards our subject matter that is at odds with most public discourse about them. For

most people, prisons are institutions of morality and justice, which exist to punish wrongdoing and deter criminality. Similarly, IRCs are administrative sites that appease strongly held political and cultural beliefs about the importance of migrants following rules and obeying the laws of the land.

As social and political institutions, prisons and IRCs are not primarily places of the mind, nor are they expected to serve entirely rational or instrumental purposes (Garland 1990). They reflect a range of political ideologies, moral values and cultural norms (McBride 2007). Some of these are officially declared aims of imprisonment and detention, but others might be thought of as latent sociological functions. Crucially, politics, morality and culture are part of what prisons and IRCs are. Researchers cannot simply wish these things away or dismiss them as irrelevant. It is tempting to say that moral values 'cloud' our judgement about criminal justice, or that cultural norms 'distort' our public debate on migration control, but we must take these factors seriously if we are to write realistically and persuasively about the social world.

There are, in other words, many different factors at play whenever we think of criminal justice and migration control. To research them adequately, we must be prepared to draw on a wide range of intellectual, moral and cultural resources, and to make the imaginative and affective leap into the world of custody. Experientially, these are unusual and intense environments. To be detained in custody means being forced to eat, sleep and socialise in a place one does not want to be. Walking around them, the physical structures of prisons and detention centres are strange. Some are cramped and noisy, others are sprawling and impersonal. A wide range of human experience is compressed into these peculiar spaces: huge stretches of time are spent doing nothing, sitting around bored and waiting for something to happen; when the regime permits, inmates and detainees are allowed to work and exercise; occasionally, they will be visited by loved ones or have meetings with a lawyer; depending on what services are available, they may enrol in educational courses or undertake psychological programmes; from time to time, they will be

assessed or receive medical treatment. Custodial sites are, in Erving Goffman's evocative phrase, 'total institutions' (1961). They are never switched off. For those serving long prison sentences, they may spend the majority of their adult life inside, wasting away for decades with no hope of release. Similarly, immigration detainees do not know what will happen to them or how long their confinement will last. They may lose months or even years of their life in limbo, entirely uncertain about their future and where it will be lived.

These are basic truths about lives in custody. Thousands of people are held in coercive state institutions, for substantial periods of time, where they do not want to be. With these observations in mind, we might think of prisons and IRCs as environments unlike any other, micro-cultures unto themselves that have to be understood in terms of the customs, behaviours and testimonies of their inhabitants. According to this view, custodial sites are to a large extent enclaves that exist apart from their broader social surroundings. They have a discrete culture, follow domestic patterns, and must deal with problems of their own. Popular representations of prisons often portray them as autonomous institutions cast adrift from the wider world, with strict social hierarchies and a well-defined inmate code.

But to view prison and IRCs as *sui generis* institutions, with rules and norms entirely of their own, is misleading. For all their distinctiveness, they are also recognisable human environments. Like schools, factories and hospitals, they are cultural artefacts that have emerged in particular historical circumstances. If we treat them as separate spheres of the social world, we risk abrogating our responsibility to know and care about what goes on in them. As Richard Sparks puts it, prisons are 'an autocracy within a democratic polity' (Sparks 1994: 15). However little we see of them, and no matter our collective ignorance of what goes on in them, prisons and IRCs are public institutions where state power is expressed in its most concrete form. Criminal justice and migration control are policy areas that illuminate some of the most fundamental questions in the social sciences, not least what it means to govern a population and territory. To research prisons

and IRCs is therefore to confront many of the biggest issues of our time. Despite most people never experiencing imprisonment or immigration detention first hand, these are social and political practices that should concern us all.

Deaths in Custody

Perhaps the simplest observation to make about prisons and IRCs is that they are places where people live and suffer. By definition, punishment entails hardship. Imprisonment and immigration detention involve states forcibly separating people from their family and friends, and stripping away things the things they value – home, community, work, leisure, hobbies, free time and so on. Prison sentences typically last longer than periods of detention, but they have many of the same disorienting, disabling effects. Unsurprisingly, given the radically disruptive nature of such state intervention, much academic research on prisons and IRCs has been concerned with the *experience* of confinement for captive populations: what it is like, how it feels, and the effects it has on people.

My thesis explores a connected, but distinct, problem. It begins from the observation that people do more than simply live and suffer in prisons and IRCs. Occasionally, they die. Deaths in custody are rare events, insofar as the vast majority of people survive their confinement. However, across the prison and detention estates as a whole, dozens of people die every year. In the year up to December 2018, there were 325 deaths in prison in England and Wales, 92 of which were 'self-inflicted deaths' (Ministry of Justice 2019b). In 2017, the Home Office confirmed that four people died 'in the immigration estate while being held solely under immigration powers', although this 'does not include those who died while being detained solely under immigration powers in prison, or after leaving detention' (Home Office 2018). In most cases, deaths in custody are the result of natural causes. Prisoners' health, for example, is typically poor (Fazel and Baillargeon 2011), so deaths from heart disease, cancer and other conditions are common. With an ageing prison

population, it is likely that end of life care will become an increasingly important part of staff's work. As significant as natural cause deaths are, my thesis does not examine these cases. Instead, I focus on the other major cause of death in custody: suicide.

A significant proportion of all deaths in custody are 'self-inflicted', and suicide is one of the leading causes of death in prisons and IRCs, both nationally and globally (see Chapter 1). Suicides often lead to a huge number of life years lost (Harris 2015), and they are a particularly distressing and troubling type of death. Throughout human history, suicide has been regarded as a distinctive way for life to end, one that has many religious, cultural, legal and scientific connotations. Indeed, one of the most influential early texts in sociology was Emile Durkheim's *Le Suicide* (1897), which probed how the most private, personal act could show such statistical regularity at the level of a whole society. Another Frenchman, Albert Camus, began his meditation on suicide, *The Myth of Sisyphus*, by declaring:

> 'There is but one truly serious philosophical problem and that is suicide. Judging whether life is or is not worth living amounts to answering the fundamental question of philosophy. All the rest – whether or not the world has three dimensions, whether the mind has nine or twelve categories – comes afterwards. These are games; one must first answer.' (2000: 3)

Most research on deaths in custody focuses on suicide, and my research is no exception. But why is suicide a distinctive type of death, and can we learn anything more broadly about punishment by studying suicides in custody?

Perhaps the most important quality of any suicide is that it has an element of human agency. Suicide is, by definition, the intentional act of taking one's own life. It is not a random or naturally occurring event about which nothing can be done. Every suicide has a causal history, including moments when another person could have intervened and potentially stopped it. Suicides are of course complex, rare occurrences that are affected by a range of structural and

contextual factors, but there is always some degree of contingency in whether a person decides to end their life. In short, suicide is not inevitable, nor is it impossible to prevent.

Although we often fixate on the decisions of at-risk individuals towards the end of their life, we also ought to pay close attention to the many actors, institutions and processes that manage suicidal individuals. The more we have come to acknowledge that suicide is preventable, and that it is not entirely a matter of individual choice, the more we have come to expect of others. Suicide is now thought of as both a private act carried out by a person in distress and a matter of collective responsibility. Increasingly rational scientific knowledge about suicide has thus expanded our beliefs about what different actors can and should do when confronted individuals who are in crisis.

Since family and friends are not present in custody, it is up state actors or private sector employees to look after suffering individuals: custody officers, healthcare professionals, religious authorities, educational staff, Home Office caseworkers and others all have a role to play in providing multidisciplinary care in custody. In the past two decades, coercive sites like prisons and IRCs have developed increasingly sophisticated processes to identify and manage suicide risk. Post-hoc investigations into deaths in custody have become ever-more thorough and procedurally specified. Policymaking has drawn on the deepening stock of expert knowledge in this area. In short, suicide in custody has become a matter of politics, not fate (Gamble 2000).

To be more precise, then, my research project is about responses to suicide in custody. What institutional arrangements are in place to respond to suicide and related behaviours in prisons and IRCs? On what theoretical premises are they based, and how do they work in practice? These are the basic questions that I explore in my thesis. They are primarily analytical and descriptive questions, but they touch on many difficult normative issues about what prisons and IRCs ought to be like. The problem of suicide in prisons and IRCs raises many questions about what care, responsibility and accountability mean in a custodial context, and I argue throughout the text that

these issues are far more complicated than simply expecting members of staff to assist vulnerable individuals. Responses to the problem are connected to the culture and purposes of custodial institutions, as well as how they are organised, resourced and run. If custody officers and managers are expected to minimise suicide risk, they rely on the provision of adequate resources, the existence of relevant specialised services, and the support of a wider professional culture that regards suicide prevention as an important part of working life. As these comments suggest, there is much to be gained from thinking about the role of different actors, institutions and processes in both preventing and responding to deaths in custody.

The central argument I develop is that responses to deaths in custody are in part a political problem (see Chapters 2 and 3). A great deal of previous research has analysed the causes of suicide in prisons and IRCs, but it has paid relatively little attention to the social and political nature of the institutions in which the problem occurs. I argue that both academic research on deaths in custody, and the institutional arrangements that exist to prevent and respond to them, are depoliticised and technocratic in character. Whether it is the rational framework of rules and guidelines that prescribe custodial staff's actions in this area, the investigations by independent oversight bodies after a death in custody, or attempts to use evidence-based policymaking to reduce deaths in custody, there is a tendency towards the rationalisation of suicide in custody. By framing suicides in prisons and IRCs as a rational matter of knowledge, practice and expertise, we lose sight of the emotional, ethical and political dimensions of the problem.

Throughout the text, I speak of 'responses to deaths in custody', and use the term 'responses' to denote several different things. The first and most immediate type of response is by staff who work in custody (Chapter 5). As a matter of routine, they manage suicide risk by identifying vulnerable individuals, following suicide prevention guidelines, and preventing particular episodes of self-harm and intervening to stop suicide attempts. The *possibility* of suicide is constant, a point brought home by the presence of anti-suicide netting on prison wings and in

many IRC units. Some custodial staff will never encounter a death at work, but many will, often more than once.

The second type of response is following an individual death, when a cast of professionals is called upon to investigate it (Chapter 6). In England and Wales, the Prisons & Probation Ombudsman (PPO) conducts inquiries into all deaths in prisons and IRCs, followed by an inquest held in a coroner's court. These processes are designed to be independent and non-partisan, concerned only with establishing the facts of the case and discerning in detail what happened. These responses do not allocate blame or take direct action against establishments, nor do they comment on broader questions of institutional culture, resourcing or public policy. In short, they steer clear of contentious political questions.

Finally, policymakers and academic experts respond to the problem by engaging in efforts to reduce the overall number and rate of deaths in custody (Chapter 7). Policymakers are several steps removed from what goes on inside prisons and IRCs, and as a result their actions are highly mediated and indirect. Although there is a great deal of expert knowledge and evidence about the causes of suicide, particularly in prisons, attempts to implement evidence-based policymaking have fallen short. Policy responses to deaths in custody do not necessarily have the effects that their authors intend or expect, and in order to understand why we need to delve into the bewildering world of public policy, modern governance and the penal state.

My thesis is split into two broad sections: the first is theoretical and methodological, while the second is empirical and substantive. I begin with an extended vignette from my fieldwork in Brook House IRC (Chapter 1), which sets the scene for the thesis as a whole. It introduces some of the core emotional and ethical questions that arise when people harm themselves severely in a secure institution, and provides some context for discussing suicide and related behaviours in custody. I then outline a social and political framework for analysing criminal justice and migration control (Chapter 2), and review a wide range of literature on punishment, imprisonment and

detention. The next chapter theorises the politics of deaths in custody (Chapter 3), explaining the depoliticised and technocratic character of responses to deaths in custody. The following chapter describes the methods and sources I used in my research (Chapter 4), and explains my decision to conduct a qualitative inquiry into responses to deaths in custody. The next three chapters are empirical, beginning with an account of micro-level social action by custodial staff in an IRC (Chapter 5), which draws extensively on my fieldwork observations and testimonies from staff interviews. This is followed by an account of investigations into deaths in custody (Chapter 6), focusing on how the PPO carries out its inquiries in practice, as well as the reality of coroners' inquests. The final empirical chapter analyses policy responses to deaths in custody (Chapter 7), particularly the work of the Ministerial Council on Deaths in Custody and its efforts to use evidence-based policymaking to make places of custody safer. The thesis concludes with a theoretical and empirical argument about punishment and expulsion (Chapter 8), which I call the dilemma of pain, power and purpose.

Chapter 1

Pain on the Inside

'Go back to the beginning when you said about things that stick in my mind. There was a spontaneous C&R [control and restraint], it was a Nigerian charter, and it was on A wing. They called all available officers at lock up at dinner time. And it was a very large, muscular Nigerian male who didn't wanna go back. I've never seen so many deep cuts on a torso in my life. Anyway, we sort of had to jump in. He was bleeding everywhere, all over the wing. I don't know how he got out of his room but he did. And I ended up I guess taking control of his head. He had razor blades in his mouth, he had razor blades in his boxers, and he was trying to get the razor blades in his teeth to cut his shoulders and try and cut me. I had no PPE [personal protective equipment] cos it was spontaneous. […] So, yeah, we just had to grab him. I know a couple of officers had to change, cos they were just so tired. And the blood. Blood is so slippery it's unreal. And I was scared. I was scared. Cos he had blades in his mouth. I had to physically hold his head and he was very muscular.'

'How many other officers were there with you?'

'Loads. […] But, yeah, I just remember all the blood. I had all blood on my arms, just blood was everywhere, on my shoes. And we handed him over to TASCOR, the escort agent, to go on his Nigerian flight. They said they were gonna take him regardless and that riled him up even more, but we handed him over. And, yeah, I had blood all on me. Yeah, I won't ever forget that. Cos you never know what some of these people have. Hepatitis or some of these guys have HIV. So, yeah, again that's a worry, that's a stress on your mind. But yeah you're expected to just

do it without stopping and thinking, "Actually, what could go wrong here?" But there's been various situations like that.'

(Sam, Brook House)[2]

This testimony is from Sam, a young detainee custody officer (DCO). Sam was one of the employees I interviewed at Brook House, an immigration removal centre (IRC) located next to Gatwick Airport runway. Opened in 2009, Brook House IRC detains up to 508 adult men who are awaiting either deportation from the UK, transfer to another institution, or release back into the community (see generally Hall 2012; Silverman 2012; Bosworth 2014; Costello 2015; Shaw 2016, 2018). Its population is a mixture of failed asylum seekers, visa overstayers, ex-prisoners and others. Unlike most other IRCs, it holds men in Category B prison conditions, which is the second highest level of security for a prison in England and Wales. Despite its appearance, an immigration detention centre like Brook House is not formally considered to be a place of punishment, in the sense of state-sanctioned hardship for criminal wrongdoing (Bosworth 2017). Instead, detaining people there is regarded as an administrative measure, a necessary part of border enforcement and effective immigration control. Irrespective of the formal distinction between punitive and administrative measures (Zedner 2016), those held in IRCs often say that they feel like they are in prison (Bosworth 2014). At the level of subjective experience, then, immigration detention is punitive. Moreover, many of the problems that blight prisons – widespread pain and suffering, self-harm and suicide, drugs, racism and disorder – are also issues in the immigration detention estate.

Sam had been a DCO at Brook House for several years and had spent most of this time working on the residential units, which strongly resembled prison wings. A typical working week for him involved four consecutive 12-hour shifts, although in truth these often lasted longer. He

[2] All interviewees have been given a pseudonym.

found the long hours in an unpredictable environment to be physically draining and mentally exhausting, especially given the verbal abuse directed at staff, and the ever-present threat of violence and disorder. In total, Sam had spent thousands of hours working in Brook House. By this metric, he had spent more time inside the centre than most of the detained men, who were typically held for periods of less than three months. Many of his fellow officers were proud to be experienced members of staff, but Sam's time at Brook House seemed to weigh him down. As we concluded our first interview, he asked if we could meet again to do another one: there was so much to talk about and he felt he had more to say.

Sam seemed to be affected by his work. In both interviews, he emphasised how complex and intense working life was (see Bosworth 2019). Although he finished his shifts tired and sweaty most days, what mattered most was having a 'mental shower' when he left. Echoing his colleagues, he told me that 'this place' can take over your life. Some of his co-workers over the years had struggled to maintain a clear distinction between work and life, to the detriment of the latter. He spoke at length about a colleague who had suffered a breakdown while on shift, and another who was unable to talk or think about anything other than work, even when they socialised together. During fieldwork observations, Sam told others in the staffroom about a friend of a friend who worked as a prison officer. The man had a normal life, a wife and children, but came home from work one day and killed himself. Much like the harrowing scene he recounted for me during our first interview, these stories played on his mind.

Few people on the outside understood what an immigration detention centre was really like, he thought. It was rare to read about IRCs in the news, but the few stories he came across tended to misrepresent his place of work. They offered a snapshot of the most severe problems in the detention estate, or portrayed chaos in the prison system, but they did not convey the detailed reality. Representations of immigration detention were therefore incomplete. Accounts of immigration enforcement were selective and partisan, and public criticism of his place of work

made him feel unfairly impugned. What really goes on was rarely communicated to the wider world.

When I asked how he would describe Brook House to someone who knew nothing about it, he struggled to answer. Perhaps the question was a little simplistic. Arguably it lumped together issues that needed to be broken down and examined separately. Yet several of his colleagues had found the question easy to answer. They made it clear that Brook House was, in essence, a prison. 'It's a prison for illegal immigrants, basically', one manager told me. '[F]or all intents and purposes, it walks, talks, breathes like a prison, doesn't it?' another said. 'There are bars on the windows. There are 20 cells on each floor. You call them 'rooms' […] but they are kitted out as a prison cell, built to a [Category B] security standard, for foreign nationals that are pending removal from the country'. Sam, on the other hand, seemed less sure. He was reluctant to provide a definitive description of Brook House, and seemed more comfortable exploding myths and challenging misconceptions. There was a sense that only those who experience it – who live and work there – can truly understand what it is like. Authenticity, it seemed, emerged from being there, day after day.

Sam's difficulty in describing immigration detention is unsurprising. IRCs are elusive, opaque institutions. They are low-visibility sites that operate largely outside of meaningful public scrutiny, and immigration processes are subject to a limited degree of oversight (Costello 2015). By default, IRCs are closed off from the outside world, and workers tend to be suspicious of external bodies interfering in their affairs. Moreover, DCOs like Sam are told not to talk to outsiders about work. Although they can be deeply affected by the job they do, they are rarely permitted to share their experiences with anyone other than their colleagues. It was, Sam said, a relief to speak to me. In a hyper-diverse, racialised institution (Bhui 2016a), where thousands of strangers pass through every year, the familiarity of speaking to someone the same age, ethnicity and gender as him – mid-twenties, white, male – may have seemed welcome.

When he spoke about his relationship with detainees, he slipped between different analogies that hinted at the varied, context-specific work that DCOs do. Although he spent much of his time engaged in menial tasks, being a DCO required him to be many things to many people:

> 'It's kinda like you're a parent, really. Not that I'm a parent. A lot of these detainees don't act their age. Whether it's a front I dunno. Some of them are very desperate individuals, which is upsetting to see. Especially on the wing, you're in charge of where they live, their shampoo, their shower, their toothbrush, their toilet roll, their towels…it's kind of like hospitality I guess. But you're kind of looking after their wellbeing. It's kinda like a guardian position I guess. I guess we are here to look after their welfare. But on the wings especially, you're seeing them every day. Some of them you get to know really well.'

One thing that is clear from his testimony is that there is not a single model for a DCO to aspire to, nor is there an instruction manual to follow. Being a custody officer is in large part a pragmatic and action-oriented role, and the loose definition of DCOs' duties means that comparisons to other occupations always seem inadequate. Sam's testimony encapsulates the emotional and ethical complexities of administering coercive state power against individuals (Bosworth and Kellezi 2017).

Of all the things Sam had seen and done in Brook House, the episode detailed above stood out to him. The scene he describes is full of pain and desperation. According to his account, a group of officers were struggling to control a Nigerian detainee who had injured himself severely by cutting his chest. He had self-harmed in anticipation of being deported, an act which officers typically describe as a rationally motivated but extreme form of protest (Hall 2010). They were trying to remove the man from the centre and take him into someone else's hands, so that he could eventually be taken onto a plane and expelled from the UK. Once detainees are taken out of Brook House, they are no longer the responsibility of G4S, the private contractor responsible for running

the site. Officers' role during planned removals is to ensure that detainees are handed over to escort staff safely, although they are permitted to use force in certain circumstances if detainees are non-compliant.

While decisions to detain and deport foreign nationals are taken by Home Office caseworkers located off-site, it is up to IRC staff and escort companies to carry out deportation in practice.[3] The physical work of dragging individuals out of their cells, then onto a van, then onto a plane, is carefully planned. Yet we know little about how removals are done in practice. There is a great deal of talk about the outcome of these processes (De Genova and Peutz 2010; Anderson *et al* 2011) in media coverage of 'foreign criminals' (Griffiths 2017) and political discussion of net migration statistics (Boswell 2015). But there is little understanding of how removal targets and migration discourse are made flesh every day, as individuals are coerced onto vans and planes to be expelled from the UK (Drotbohm and Hasselberg 2015).

Situations such as these are extremely risky. In the case Sam describes, the man was bleeding profusely from cuts to his torso, which would ordinarily result in him being assessed and put on a formal suicide prevention form called Assessment, Care in Detention and Teamwork (ACDT), modelled on the equivalent prison policy document, Assessment, Care in Custody and Teamwork (ACCT) (Ministry of Justice 2012). However, Sam was not called to the situation in a caring capacity. He was there to assist other officers using control and restraint (C&R) techniques, a form of authorised physical coercion that creates dangers of its own. If an officer slips or loses their grip, they might injure the person being restrained or themselves.

G4S employees are likely to be especially conscious of these risks. In a notorious case in 2010, three G4S escort staff restrained and killed Jimmy Mubgena at Heathrow Airport, while he was waiting for his British Airways deportation flight to leave for Angola. Mr Mubenga was detained in Brook House prior to his scheduled flight. During the inquest (see Monaghan 2014),

[3] At the time of the research, TASCOR was the organisation responsible for escorts.

it was revealed that staff had used forbidden restraint techniques, including a particularly distressing position known colloquially as 'carpet karaoke', where officers push a person's face into the ground so that the individual screams for release. The wide-ranging coroner's inquiry also found that two of the three officers who killed him had previously shared many racist text messages on their phones. For these reasons, Jimmy Mubenga's death is a cautionary tale.

Sam's testimony conveys the brute physicality of grappling with a badly injured man while trying to keep the situation under control. In his recollection, many problems seem to be compressed into a single scenario. The blood, the razors, the black body – every detail contributes to the drama and intensity of his account. As is often the case during a 'live operation' in custody, a problem presented itself suddenly, which required those in authority to act swiftly and avoid a catastrophe.

Emotion Work

Sam did not say whether he felt sorry for the man he and his colleagues restrained. He mentions feeling tired, worried and stressed, but these emotions relate to the situation as a whole – they are not feelings directed towards a particular person. At other moments during our two interviews, he sounded cynical about the population detained in Brook House. As other scholars have noted (Hall 2012; Bosworth 2019), officers tend to describe being hardened by their environment and experience. They pride themselves on being unsentimental and tough, putting a premium on emotional resilience and stoic pragmatism. Much like prison officers, strategies of depersonalisation and detachment (Crawley 2004a) allow detention staff to cope with an environment that is otherwise highly emotional and potentially distressing (Barry 2017). Sam claimed that the immigration system tended to be harsh towards people of good character and reward those who did not deserve to stay in the country. For these reasons, he counselled scepticism about what detainees said:

> 'Most of them are criminals and some of them have done really vile acts to people. They're not all as innocent as they say they are. Don't get me wrong there are some, but you've really gotta know who you're dealing with here.'

Later, he told me:

> 'We had a couple of protests here: inhumane conditions, they shouldn't be locked up. But I honestly do not think they know what some of these people have done. And I'm talking paedophiles, I'm talking rapists, murderers. You know just consistently being a criminal for multiple years and they've served many, many years for their crimes. But often they're boasting about them in here.'

Like many of his colleagues, Sam was conscious of the risk of being 'conditioned' by detainees. If officers grew overly familiar with individuals, they would be taken in by men's stories, compromising their judgement. Officers who had been conditioned lost their impartiality, either by exhibiting favouritism or by treating certain detainees unfairly. Like many terms of art in detention, conditioning is a gendered concept (Bosworth and Kellezi 2014; Bosworth and Slade 2014). Young women, I was told, were especially at risk of being conditioned by manipulative men, who posed a particular risk to them. Feelings of compassion and solidarity are already in short supply in institutions designed to render people unfamiliar and foreign, and they suffer further in the presence of concepts like conditioning. As Bosworth and Slade observe, 'interpersonal relationships are hard to forge with strangers' (Bosworth and Slade 2014: 176). It is little surprise, then, that gendered and racialised stereotypes surface among detention staff (Bosworth 2018), who are acutely aware of any signs of 'threatening' behaviour by detainees and liable to read 'danger' into all sorts of mundane situations (Hall 2010). Negative stereotypes come far more easily than individualised care, and they are far less emotionally and ethically demanding.

The idea of conditioning that Sam alluded to was connected to a more general principle that DCOs had to be able to manage their emotions. As Arlie Hochschild puts it in her seminal

study of emotion work and feeling rules, 'Sometimes we try to stir up a feeling we wish we had, and at other times we try to block or weaken a feeling we wish we did not have' (1983: 43). Her account of the micro-management of affect in various occupational roles focuses on service workers in the post-industrial economy, but it has broader application to those working in secure sites such as detention centres and prisons (e.g. Crawley 2004b). These jobs demand emotional vigilance and require employees to refine their 'soft', interpersonal skills (Bosworth and Slade 2014). Calmness under pressure, a clear head and being unfazed by fast-moving events were highly prized personal qualities for staff in Brook House. Employees were expected to care about their job and work hard as part of a team, but they also had to stay coolly detached and maintain strict boundaries between themselves and others.

Despite their uniform, heavy boots and jangling keys, officers distanced themselves from 'old school prison guards'. They had to suppress any violent or brutal instincts, and avoid being easily provoked or upset. Feelings of any kind – affection, frustration, disgust, anger and exhaustion – had to be kept in check. In their relationships with detainees, it was important to have empathy, officers said, but not to feel sympathy (Bosworth 2014: 197). There was thus a sharp distinction between *recognition of* another, and *feeling as* another. Sympathy – feeling as another – brought staff and detainees too close together, blurring the boundary between 'us' and 'them'. In staff testimonies, they stressed the importance of placing limits on empathy as much as they recognised the virtues of empathy itself. Empathy had to be conditional and qualified, rather than absolute. Like everything else that went on in immigration detention, officers had to carefully manage their emotions.

Detainees' emotions, in contrast, were often expressed openly. Members of staff seemed wearily familiar with men's problems, noting that 'everyone's got a story' and that they had 'seen everything working in here'. Self-harm and attempted suicides were mentioned numerous times as an example of how unpredictable and challenging an environment Brook House was. Short of

these more extreme manifestations of pain, it was clear that detained men were profoundly frustrated by immigration bureaucracy. Ben Crewe's (2011a) account of the new bureaucratic pains of imprisonment – what he calls depth, weight and tightness – conveys the invasive psychological effects of uncertainty about the future, risk management regimes and expectations of self-governance, an analysis which in many ways chimes with the way detainees speak about the frustration and anxiety caused by immigration processes. Almost all of the detainees I spoke to mentioned how obscure and unfair they thought Home Office decision making was, especially those who had longstanding ties to the UK (Kaufman 2012; Bosworth 2014). Many were worried about the effect that detention was having on their family, and felt that their dignity was being chipped away. Detention had a corrosive psychological impact on them that wore them down as time passed (Bosworth 2016).

During fieldwork, several men cried as they told me about the life that awaited them in Afghanistan, Albania or Nigeria. Others were visibly unwell and struggled to move around the centre. Two men showed me their torture scars and recounted their ordeals in graphic detail. More generally, the emotions detainees expressed were distinctly negative and disabling: anxiety, sadness, stress, frustration and boredom were common (see Robjant *et al* 2009a; Robjant *et al* 2009b; Bosworth 2016). These feelings rendered men passive and withdrawn. Officers sometimes interpreted such fatalism and resignation as a sign of detainees' character defects. Unlike hard-working, motivated staff (Hall 2010), detainees were immature, emotionally weak and unwilling to 'go out and fight their case'. In truth, what bred such hopelessness was that detention and deportation made them feel like a government statistic rather than a human being rooted in a particular time and place.

One of the most basic but important observations to come out of my doctoral fieldwork is that IRCs are complex, intimate environments (see Bosworth 2014). They are shot through with emotions and personal stories (Bosworth and Kellezi 2017), while also being spaces where claims

are made – and typically ignored – about injustice, human rights and racial inequality. Elaine Crawley describes prisons as a 'quasi-domestic sphere' (2004a: 415), and others have written about the intricate, under-appreciated 'emotional geography of prison life' (Crewe *et al* 2014). These descriptions also apply to Brook House, a site where hundreds of people lived and worked together as strangers for uncertain periods of time.

The ostensibly tranquil atmosphere in the centre much of the time belied the fact that there was no meaningful consent to this state of affairs. Indeed, it was common to hear men openly contest the purpose and justification of immigration detention. Officers who dealt with detainees from day to day represented and embodied the power of the state and its private contractors, but they had almost no decision making power as individuals (Bosworth 2019). In spite of their keenly felt powerlessness, they were expected to manage a highly diverse, anxious and aggrieved population, with only limited means available to them. Most of the time, days passed without any major incidents, only a low-level sense of tension and a scattering of small-scale problems to be dealt with. But risks were stored up every day, as new people arrived and others were left to wait, feeling trapped and anxious. In places of custody, from time to time, a fragile state of order is shattered by a dramatic event such as C&R during a planned removal, or visible extreme suffering, such as self-harm or suicide.

Responding to Pain

Members of staff in IRCs have to witness detainees' pain, but they must try not to absorb it. Were they to internalise the suffering they witness at work, they would struggle to cope. In this context, Mary Bosworth speaks of how detention work leads to 'an abrogation of [the] self' rather than an 'engagement with the other' (2019: 544). She concludes that in spite of the emotional toll of witnessing and participating in border enforcement, the negative feelings of individual employees do not hinder the ability of states to carry out detention and deportation. Whatever

staff feel about their role does not ultimately restrict the capacity of states to mete out tough immigration measures. In the UK detention estate, Home Office decision making occurs at a distance, one step removed from the IRC itself, which limits the responsibility and ownership that detention staff feel for adverse outcomes. For many staff, knowing that they have little control over what happens to those foreign nationals they encounter, maintaining clinical detachment from work is the path of least resistance.

Officers' efforts to distance themselves from the suffering they see is aided by official policy documents and procedures for dealing with difficult circumstances. When they come across someone who has self-harmed or they identify a potential suicide risk, for example, they must open an ACDT document and follow a series of steps. In their ideal form, these best-practice guidelines help staff to gather relevant evidence, share information with their colleagues, and construct a personalised care map for a detainee. The purpose of these measures (e.g. informal observations, ACDT, constant watch) is to allow officers to 'manage the situation'. During fieldwork, I saw these standardised processes being used in Brook House. In many cases, the ACDT system enabled officers to listen patiently to detainees and attempt to work through problems with them, insofar as they could. ACDT represented staff in their most explicitly caring capacity, with specific duties to look after detainees and prioritise their emotional welfare. ACDT and other welfare policies imply that suicidal behaviour is not inevitable, and that institutions can mitigate some of the most extreme pains of custody through concerted effort and multidisciplinary teamwork. These policies recognise that custodial institutions vary in how 'survivable' they are, and that factors such as 'decency', 'legitimacy' and 'humanity' can ease the otherwise distressing experience of confinement (Liebling 2011a).

But it is important to recognise that formal processes for responding to self-harm and suicidal behaviour, whatever their merits, do not tell us the whole story. In practice, staff responses to extreme pain were more complex than simply following a risk assessment instrument or filling

in the required paperwork. DCOs were not always able to follow all of the procedural specifications of the ACDT document, given their limited time and resources (see Chapter 6). As a result, the quality of assessment and case management was variable. What formal processes also tell us little about is staff's adherence to cultural norms and informal practices. In all aspects of working life, officers in Brook House emphasised the value of first-hand experience, as opposed to formal training or abstract knowledge. Experience had taught many of them that detainees injuring themselves could be a cry for help, an act of manipulation, or simply immature, attention seeking behaviour. Whereas ACDT is predicated on the neutral concepts of risk management and multidisciplinary teamwork, staff's private feelings about detainees' suicide risk was a mixture of care and suspicion, empathy and vigilance. Qualitative fieldwork is particularly well suited to unearth the many meanings of responding to pain in custody. Given its focus on the meaning of social action, and attention to subjects' point of view, it can provide us with important insights into how care is delivered in custody.

In one-on-one interviews with employees at Brook House, this cultural perspective came into focus. When given the opportunity to speak openly about their work to an outsider, staff conveyed a range of complex and contradictory feelings towards the men in Brook House, including when they discussed self-harm and suicide prevention. There is no single term that captures the varied, contingent relationship between officers and detainees adequately. In any given interview, there are many layers to unfold. Self-harm, for example, was not simply an objective act of deliberate injury to one's body, such as cutting or scratching (Skegg 2005). Nor was responding to it a straightforward matter of providing care and adhering to evidence-based practice. These behaviours were also socially constructed and seen through a lens of moral desert and identity. Detainees' pain was interpreted by staff in many ways and elicited different reactions depending on the context. If we return to Sam, we find an example of ambivalence about detainees' pain, working life and staff relationships with detainees:

> 'I've seen a lot of assaults, blood, homemade weapons, vomit, faeces, bits and pieces like that. So yeah that sticks in your mind a little bit. I've had men opening veins up in front of me, all that sort of stuff. So I mean that's quite hard to see. But I'm quite good at not really thinking about it too much. […] If you're squeamish it's probably not the best place to work. But yeah I've seen people really, really hurt themselves. […] So, yeah, from a human perspective it's tricky. But I think the hard thing is, if you bring a camera in here, like Panorama or whatever, it takes snapshots of your day, I guess. And because you're working such long hours, there are times when officers will seem less human, they won't seem sympathetic or empathetic to distressing situations. […] We do 7 pm to 7 am hours on night shift, for example, and by the end of that you're just so tired. And if it's been hard, every night you've been bombarded with incidents, it can be very…I dunno you just have to deal with it in a professional manner. You might not appear to be sympathetic but there are times when you just have to – it's very clinical, really, you just have to do what you have to do.'

Sam's testimony is at times striking and evocative. Elsewhere it is mundane and confusing. He spoke emotionally about work and expressed a consistent strain of suspicion about detainees' moral character. Some of his language was racialised (e.g. 'very large, muscular Nigerian male' and his concerns about contracting HIV), and occasionally he made sweeping generalisations about detainees being criminals. As a low-grade member of staff who was required to do emotionally demanding, hands-on work, he was worried about things going wrong and lamented the low morale among his fellow officers:

> 'It's just the constant threat that something might happen to you. No one wants to come here with knowledge they won't go home the same, to their girlfriend or

whatever. It's constant. It's on your mind always. What happens if something goes wrong? And it goes wrong all the time.'

It would be easy, then, to portray him as unsympathetic or cruel. Critical social researchers who see it as their role to unmask powerful institutions and call them to account, would find much in Sam's testimony to confirm their worldview. However, his actions did not necessarily correspond to his words. He laughed and joked with detainees, and worked hard despite his disaffection about how the institution was run and the immigration system more generally. He was also keen to stress that detention and deportation are difficult, important subjects. He therefore rejected mischaracterisations by outsiders and felt misunderstood by people across the political spectrum.

I have quoted Sam's words at length because they convey so much, despite being only a single interview. There are, of course, risks in drawing heavily on a single testimony, and fixating on one unsettling episode of extreme self-harm. Such accounts can be easily misleading, as well as gratuitous and unrepresentative. There are many other reasons to be cautious in interpreting Sam's words. He is a G4S employee with imperfect recall of the situations he described, so his account is no doubt biased in various ways. His words tell us little about what the detainee himself was going through, how he was thinking and feeling, or what he was anticipating on a charter flight.

These qualifications are important. But it is nevertheless the case that Sam's testimony taps into many of the issues I explore in this thesis. His account complicates the notion of 'helping' people in custody or 'caring for them', which so many officers spoke of in Brook House. It suggests that indefinite immigration detention and deportation are fundamentally at odds with detainees' interests, yet staff are expected to manage this default state of conflict and misery, and do so with little training and for low pay. It implies that the political imperatives of immigration control and institutional structures of enforcement are far more powerful forces than individual subjects, no matter their intentions. It follows that detention and deportation will happen even if

it means extreme pain and indignity for migrants, just as endless evidence of despair and dysfunction in prisons does not lead to their closure. Finally, it suggests that the balance between care and custody is naturally weighted towards the latter. Care is a contingent, variable quality, whereas custody is a necessary and permanent feature of immigration detention and its constant point of comparison, the prison.

Research Questions

Sam's account of severe self-harm and restraint in an IRC is visceral and unsettling. His testimony gives us a glimpse into what it is like to deal with highly stressful situations in custody, as well as the day-to-day challenges of working in an immigration detention centre. But despite the clinical detail he provides, his words are in many ways ambiguous. To a qualitative researcher, they raise far more questions than they answer. It is by asking further questions about this vignette that we can move from this particular episode into some of the broader themes that I address in this thesis.

Perhaps the first question that comes to mind in this case is what drove this man to injure himself so severely. Given the setting in which it occurred, it is natural to wonder if his actions were partly a result of being detained and his pending deportation, in addition to any pre-existing risk factors he might have had. Although the vast majority of detainees do not resort to extreme self-injury in these circumstances, being served with removal directions is nevertheless considered a trigger for suicidal behaviour. Because they are so emotionally confronting, self-harm and suicide prompts us to search for causes and explanations, perhaps as a way of making rational sense of something that is otherwise profoundly upsetting and frightening. The causes of any individual case of suicidal behaviour are complex and multifactorial, the product of long term risks and short term proximate stresses. We can never answer these causal questions definitively, but they are nevertheless the starting point for any assessment and action plan for a vulnerable individual. In a

similar vein, we might ask what officers should do when they encounter people who have injured themselves or how they should deal with people who express suicidal ideation. Are members of staff capable of making a difference to detainees' wellbeing? How can we best prevent self-harm and suicide in custodial settings?

My own point of departure is different. If we return to the opening vignette, I would begin by observing that it is unclear how we should interpret the scenario. There is not a single, self-evident way of analysing what is going on in the situation, nor is the nature of the problem obvious or simple. Instead, following Carol Bacchi (2009), we should ask, what is the problem represented to be? Bacchi, a public policy scholar, argues that social scientists ought to embrace a paradigm of 'problem-*questioning*' rather than 'problem-*solving*' (Bacchi 2009: xvii). Instead of taking for granted the standard representation of social problems, scholars should explicitly question the 'deep conceptual premises' of policymaking and government action (*ibid*: xix).

In my case, this would mean asking some basic interpretive questions about Sam's account. For instance, is what he describes a case of officer-to-detainee protection? Could we explain it in terms of care, violence, or something else entirely? Perhaps it would be better to use the more neutral terminology of 'risk management' to explain this situation, or to say more informally that he is simply 'doing his job' and 'doing what he has to do'. These sorts of interpretive difficulties are common in qualitative social research, which pays close attention to the meaning of social action and tries to tap into people's different perspectives on the same set of circumstances (see Chapter 4). In this case, rather than thinking about the causes of the behaviour or how to prevent it (i.e. a problem solving approach), we might instead reflect on the institutional context of the crisis, or draw attention to the gendered, racialised quality of Sam's account. The man Sam restrained had slashed his body prior to deportation, while held in an institution that detains only foreign nationals, and is predicated on ideas of national sovereignty, ethnic identity and political exclusion. To isolate self-harm and suicide from this institutional context is to strip away many of

the most important questions in favour of a one-dimensional account of human behaviour that focuses narrowly on the causes of individual's behaviour, rather than broader meaning of events to all those involved.

All of which leads us to a more fundamental problem about self-harm and suicide in custody that I explore in my thesis. What exactly is the significance or distinctiveness of people harming themselves *in state custody*, as opposed to in the community or elsewhere? If punishing someone means subjecting them to state-sanctioned hardship, is it simply inevitable that detainees, prisoners and other captive populations will hurt themselves? What should happen when the pain of punishment turns inward and becomes self-inflicted? What does it mean for governments or private actors to provide care in custody? These are urgent questions in both the immigration and prison estates. In the final section of this chapter, I provide a brief review of the statistical evidence on suicide in prisons and immigration detention.

Suicide in Prison and Immigration Detention

Suicide is a global public health problem. It is estimated to be the tenth leading cause of death in the world, and it claims around 800,000 lives every year, equivalent to one death every 40 seconds (Hawton and van Heeringen 2009). Around 5,000 people die by suicide every year in the UK, which is relatively low in international terms. For centuries, *felo de se* (literally 'self-murder') was a criminal offence in England and Wales. Although there were very few prosecutions in the preceding decades, suicide was only formally decriminalised by the Suicide Act 1961. Decriminalisation occurred shortly before other landmark pieces of liberal social legislation, such as the decriminalisation of abortion and homosexuality later in the 1960s (see Jarvis 2005).

Since records began in 1978, more than 2,000 people have died by suicide in prisons in England and Wales.[4] Thousands more have died from natural causes. As the prison population grows older, health needs will become more complex and mortality rates are likely to grow. Most academic research on deaths in custody focuses on prisons, but they are not the only custodial institution in which people die (see Independent Advisory Panel 2011). Approximately 37 people have died in IRCs since 2000, 15 of which were suicides (INQUEST 2019a). Deaths in IRCs, whether by suicide or other means, have received relatively little attention (Athwal and Bourne 2007; Athwal 2015), in part because of the small number of cases, but also because of limited access to the sites (see Medical Justice 2016). Over the years, hundreds of people have died in police custody, disproportionately black men, although none of these cases has resulted in a successful police prosecution (Baker 2016a; Loader 2019). Thousands of people have died while on post-release supervision (Pratt *et al* 2006), a much neglected area that is only beginning to receive the attention it deserves. According to a recent study, 296 people died this way in 2015–16 alone (Phillips *et al* 2019: 162).

In addition to deaths in custody, many more people have attempted to end their lives (see Borril *et al* 2005; Rivlin *et al* 2013). 'Near misses' and attempted suicides are not officially recorded, so it is difficult to estimate their prevalence. Although attempted suicides are often substantially similar to completed suicides, and whether someone lives or dies is often a matter of chance, these cases are not externally investigated by independent bodies. Finally, self-harm incidents in prisons, IRCs and other establishments number into the hundreds of thousands, a problem which is particularly acute in the female prison estate (Chamberlen 2016).

One consistent finding of research into deaths in custody is that rates of suicide in prison are consistently higher than in the general population, around 4 or 5 to 1 for men and 20 to 1 for women (Fazel and Benning 2005; Fazel *et al* 2005). Custodial populations are disproportionately

[4] The statistics in the following paragraphs are drawn from Fazel and Danesh (2002); Fazel and Benning (2005, 2006, 2009); Fazel *et al* (2005, 2008, 2011); Fazel and Baillargeon (2011); Hawton *et al* (2014).

at risk of suicide prior to, during, and after incarceration (Pratt *et al* 2006). As Alison Liebling puts it, 'Arguably, the prison population is carefully selected to be at risk of suicide' (1995: 181), an observation equally true of immigration detainees. It is never possible to identify a single cause of suicide, since all cases are multifactorial. In general, suicides in prison and other secure sites are the culmination of many background risk factors, as well as short term stresses, personal motivations, and situational influences.

Early research on deaths in prison demonstrated that a large number of completed suicides occur in the early stages of a sentence, particularly in the first 24 hours and first few weeks inside (Topp 1979; Dooley 1990). The early shock of incarceration, as well as withdrawal from drugs and alcohol, are important factors. Situationally, suicides tend to occur at night, on weekends, shortly after receiving bad news (e.g. relationship break up, bereavement), or during periods of low staffing. By far the most common method of suicide is hanging, particularly in male prisons. Of all suicides in prison between 2008 and 2016, 93% were caused by hanging, strangulation and suffocation (Office for National Statistics 2019). The prevalence of suicide by hanging has been known for some time, and led to the rebuilding of many prison cells to reduce the number of available ligature points.

At the individual level, important risk factors include prior suicide attempts, previous contact with psychiatric services, self-harm and the presence of a mental disorder (Prison Service Instruction 2011; Prisons & Probation Ombudsman 2014a). Although an individual's previous behaviour is one of the strongest predictors of suicidal behaviour, actuarial risk instruments are as notable for the cases they do not identify as those they do. Many of those who die are not on the official suicide prevention forms, ACCT in prison and ACDT in IRCs (see Prisons & Probation Ombudsman 2014b). Suicides typically occur in single cells, creating a dilemma for governors and centre managers who are expected to reduce suicide rates but also to provide some degree of privacy for individual prisoners. Some research has suggested that overcrowding may be a

contributing factor to high suicide rates (Home Office 1990; Rabe 2012), but there is as yet no conclusive evidence on this. Whether there is something distinctive about the causes of suicides that occur in custody, rather than anywhere else, is an open question.

These research findings are both intellectually informative and ethically troubling. Taken at face value, they portray a system blighted by despair, injury and death. For this reason, it is important to stress that the vast majority of prisoners and detainees survive their incarceration. Although deaths are more common in prisons and IRCs than they are in many other institutions, they are not a daily occurrence, nor are all prisoners high risk all the time. Suicide is not inevitable, nor is it something that every person will attempt. Similarly, although self-harm is a regrettably common behaviour in custody, acts such as cutting, scratching and drug overdosing are done by a minority of prisoners and detainees. For these reasons, we ought to be careful not to overstate the prevalence of the problem or interpret evidence in the most negative way possible. The use of medical metaphors – such as an 'epidemic' of suicide – is both misleading and unhelpful.

What is clear, however, is that within the system as a whole, suicide in prison is a normal fact. Although numbers and rates of deaths in custody vary over time, nationally there will usually be one suicide in prison every week, sometimes more. In the detention estate, which is far smaller and has consequently had far fewer deaths, suicide attempts do occur and ACDT duties are an important part of detainee custody officers' daily routine. Owing to the normality of suicide and related behaviours at the system level, various indicators have been audited by HM Prison Service since 2003, complete with projected rates and annual targets (Crewe 2009). Notably, these are not zero. It is a foreseeable consequence of sending tens of thousands of individuals, many of who are socially marginalised and psychologically damaged, to prisons and IRCs that some fraction of them will end their lives.

Aggregate statistics on suicide across the system give us some sense of the scale of the problem, but they flatten important distinctions between and within prisons and IRCs, as well as

concealing significant variation over time. Deaths in custody are not a single problem that remains the same in all contexts. At any given time, the issue is affected by many different factors, all of which must be contextualised fully: populations and policies have changed; suicide rates have increased and decreased at different periods; the political salience of the problem has ebbed and flowed; particular prisons and IRCs have had different levels of success in dealing with suicide. There have always been some people who have ended their lives in custody (e.g. McConville 1995: 295–8), and there is always more to the issue than mere data.

As suicide rates in custody have changed over time, responses to the problem have changed. This is partly a reflection of broader shifts in social attitudes towards death, suicide and mental health, as well as long term historical processes of secularisation, rationalisation and individualisation (see Chapter 6). Death is a phenomenon unlike anything else, loaded with emotional, religious, philosophical, legal, social, and cultural meaning. Historians and sociologists have long viewed reactions to death, and its specific forms like suicide, as windows into different times and places (Durkheim [1897]/1951; Anderson 1987; Kearl 1989; MacDonald and Murphy 1990; Bailey 1998; Minois 1999; Houston 2010; Barbagli 2015). How we respond to it reveals something about who we are and what we value, who belongs and who deserves recognition. Although death is a universal phenomenon, understandings of it vary significantly in different times and places.

Due to its religious and legal history, suicide remains a stigmatised death, and lay explanations of it are often couched in moralised terms. The language of suicide frequently reinforces notions of personal responsibility and blame, as evidenced by phrases such as '*self-inflicted* death', '*commit* suicide', '*threaten* suicide', and 'take *one's own* life'. Suicides in prisons and IRCs are what some sociologists call 'bad deaths' (e.g. Kearl 1989: 134): closed off in institutional settings, without family or friends, stigmatised, anonymised, and estranged (see Chapter 6). Sociologist

Michael Kearl's comments about changing attitudes to death help us to contextual suicides in prisons and IRCs more fully:

> '[W]hen the forces of secularism broke religion's monopoly over the management and conceptualizations of death, the death concerns of individuals shifted from fears of post-mortem judgment to fears of dying undignified deaths within impersonal institutional settings.' (Kearl 1989: 14)

The dual features of suicide – its moral and scientific properties, the public consequences of private actions – have been a running theme in historical accounts of suicide, leading a group of historians to argue that, '[t]o modern sensibilities, suicide is still an awesome act of negation, at once self-evidently endowed with profundity and coolly measurable through objective science' (Brancaccio *et al* 2013: 616). Observations such as these suggest that, in order to understand the meaning and importance of suicide in custody, we need to look outside its four walls and into the domains of politics, society and culture. Most existing accounts of suicide in prison, however, pay relatively little attention to these external factors (e.g. Liebling 1992, 1995, 1999a; Liebling and Krarup 1993; Liebling *et al* 2005; Liebling and Ludlow 2016). Rather, they attempt to explain the 'minefield of causes and effects' of suicide in custody (Towl *et al* 2002: 4), motivated by a desire to reduce its incidence. These studies are problem-solving and policy-oriented, valuing scientific evidence and technocratic risk management, which are seen as vehicles to ameliorate the problem of suicide and other behaviours, such as self-harm.

Academic research on suicide in prison has been valuable in many ways, but its relatively narrow focus has had some unintended consequences. According to these accounts, suicide is an internal matter for administrators to deal with through practical decision making and enlightened management. The way to reduce risk is therefore through knowledge of contributory factors and evidence-based policymaking. But these are by no means the only ways of addressing the problem, nor are they necessarily the most effective ones. Safety in prisons and IRCs are also affected

indirectly by material conditions, institutional regimes and staff culture, all of which can change as a result of social and political pressure. A great deal of writing about deaths in custody is technocratic, insofar as it navigates a fog of contested statistics about causes, risk factors and confounding variables (e.g. Home Office 1990). Imprisonment and detention are thus depoliticised, and suicide is artificially separated from its institutional context (see Chapter 3).

In contrast to these accounts, my thesis is not about explaining why deaths in custody occur, nor is it about recommending how policy ought to be changed. Instead, it asks a set of descriptive and analytical questions about responses to deaths in custody. How do staff manage suicide risk in custody? How are deaths in custody investigated? What policy efforts have been made to reduce the number and rate of deaths in custody? The argument that runs throughout the thesis is that suicides in prisons and IRCs are not self-contained problems reducible to technocratic solutions or evidence-based policymaking, as useful as they can be. Rather, they are also a problem that must be understood in terms of the politics of criminal justice and migration control. Like any issue in custody, they spill into more fundamental, less manageable questions about what we value and how we should live together. These are not merely rational or technical questions, but contestable political ones. To this end, in the following chapter I place deaths in custody in a broader social and political framework.

Chapter 2

Criminal Justice and Migration Control: A Social and Political Framework

In this chapter, I propose a social and political framework for analysing criminal justice and migration control. I review several bodies of literature, including the sociology of punishment, the politics of criminal justice and migration control, empirical accounts of imprisonment and immigration detention, and citizenship studies. The argument that runs throughout the chapter is that suicides occurring in prisons and immigration removal centres (IRCs) ought to be situated in a broad social and political context, using a wide range of intellectual resources. At present, deaths in custody are often construed as an administrative problem for individual establishments to deal with, or as a technical challenge that requires more data and the use of increasingly sophisticated statistical techniques. However, this is an unduly narrow way of interpreting the phenomenon. Instead, academic research on prisons and IRCs ought to pay close attention to the relationship between the internal world of custody and its external social and political conditions.

Prisons and IRCs are compelling institutions in and of themselves, but they are also intriguing because they promise to help us understand the social world around them. It is difficult to imagine a society without prisons (Emsley 2005), while IRCs seem to be distinctly of their time, a response to mass mobility and contested national sovereignty (Bosworth 2014). Both institutions, in different ways, are concrete manifestations of ideas about how we should live together, under what rules, and with what consequences. They reflect and reinforce beliefs about who belongs, and are unmistakably connected to the inequalities of the world. While they seem to exist for obvious practical reasons – to punish wrongdoing and to control illegal migration – both are somewhat elusive, intellectually and morally.

Places of custody are low-visibility institutions, usually located off motorways or near airports, where they are unlikely to disturb the public conscience (Brown 2009, 2013; Bosworth

2014). Physical access to them is strictly controlled by elaborate security systems, to say nothing of the government bureaucracy that makes them inaccessible research spaces (Bosworth 2014). The public are not entitled to enter them at will (Bosworth 2007), and few do. Comfortably out of sight and out of mind, inhabited by stigmatised outsiders, prisoners and immigration detainees are about as socially marginalised and politically weak a group as can be imagined. Given our collectively low levels of identification with them, we might wonder whether anything can generate sympathy for them, shock us into realising what happens inside, done in our name but without our knowledge. Historically, we have left behind the time when state punishment deployed routine, physical violence against the body of the condemned (Foucault 1977; Spierenburg 1984; Garland 1990; Morris and Rothman 1995). Short of brute sovereign force and public degradation ceremonies, can the effects of coercive custody still disturb us?

Academics have amassed a wealth of evidence about the effects that contemporary imprisonment and immigration detention have on the individuals subject to them (e.g. Liebling and Maruna 2005; Bosworth 2014, 2016; Shaw 2016; Warr 2016). They have documented the internal world of state custody in ethnographies, reports and quantitative studies. One of the most influential early studies of imprisonment provided a typology of the 'pains of imprisonment' (Sykes 1958), a set of personal and material deprivations that were seen as intrinsic to incarceration. These were loss of liberty, desirable goods and services, heterosexual relationships, autonomy, and security. Modern scholarship has identified yet more pains of imprisonment, some of which are less tangible but nevertheless acute, such as the difficulties of being subject to invasive psychological assessment and the disorienting effects of Kafkaesque prison rules (Crewe 2011a). Importantly, the pains of imprisonment are variable within and between groups. The literature on the imprisonment of women (Bosworth 1999; Chamberlen 2018), ethnic minorities (Phillips 2012), foreign nationals (Kaufman 2015; Warr 2016) and the elderly (Crawley and Sparks 2006), for instance, suggests that punishment is about statuses other than 'prisoner'.

A great deal of academic labour has gone into documenting these emotional and physical hardships, sometimes in minute detail. The grim details of life inside seem to fascinate scholars, who are intent on demonstrating that punishment, even without savage beatings and bodily mutilation, is still painful. The most basic finding of this scholarship is that imprisonment and detention have adverse effects on people's wellbeing, both in the short and long term. This is unsurprising, given that punishment is, by definition, an experience that is undesirable or unpleasant.

Perhaps more importantly, research on the pains of imprisonment and the effects of custody reminds us of a fundamental truth about punishment. Harm that would be swiftly condemned in schools, hospitals, care homes, homeless shelters, barracks or other social institutions seems to be taken for granted in prison and detention. Indeed, for many it seems desirable. Although 'public opinion' is a complicated and frequently elusive phenomenon (e.g. Roberts and Hough 2002), we can say with confidence that the suffering of prisoners and detainees is, for most people, low down their list of political priorities. There are regularly calls from journalists and members of the public for prisons to be less 'comfortable', and it is common to see various media outlets portray migrants in a negative light (Blinder and Allen 2016; Griffiths 2017), particularly those who are racial and religious minorities from the developing world. Tellingly, these critiques of 'soft' punishment often dismiss human rights and penal reform efforts as liberal interferences with the real business of punishment, namely hard treatment in austere environments. Similarly, the desire to control and manage migration is often couched in terms of the state's ability to detain and expel non-members, a debate which often invokes concepts associated with criminal justice, particularly punishment. As Susan Sontag writes, 'No 'we' should be taken for granted when the subject is looking at other people's pain' (2003: 6).

These observations are nothing new, but they remind us that criminal justice and migration control have underlying political dynamics that ought to be appreciated. It is tempting to dismiss

tabloid commentary on prisons, for instance, as ill-informed, reactionary or another example of authoritarian populism that pits 'the pure people' against 'the corrupt elite' (Canovan 1999; Mudde 2004). But it does not follow that we should therefore ignore such claims. To dismiss large chunks of public discourse is to fail to take seriously the social phenomenon under study. Prisons and IRCs are public institutions of the state and its private sub-contractors, and the core concepts we associate with them are highly social and political in character: power, justice, liberty, equality, sovereignty, citizenship, democracy, identity and so on (Loader and Sparks 2016). To this extent, everyone has a stake in debates about punishment.

Moreover, there are intellectual benefits to taking a more capacious approach to the study of criminal justice and migration control. Thinking broadly forces us to ask different types of question and opens up new avenues of inquiry. Rather than continue to document the pains of imprisonment exhaustively, or provide further proof of the harm that immigration detention causes, research could instead pursue questions like the following. Why are most people not particularly concerned with people's suffering in penal institutions? How can we explain their indifference? What causes some people to care about the state of prisons and detention centres, at least some of the time? How does the state carry out punishment and detention in practice? What role do custodial staff play in shaping the experience of confinement? How important are regulatory bodies in monitoring, inspecting and investigating places of custody? What external actors draw our attention to harm and hardship in custody? What strategies do they use and how successful are they? What stands in the way of penal reform? These are important questions about the social and political dynamics of imprisonment and detention. Answers to them cannot be found in prisons and IRCs alone, although careful empirical study of these institutions is an important part of any research in this area.

In order to address these questions, my thesis focuses on one of the most extreme and ubiquitous problems in places of custody: suicide. When people die in prisons and IRCs, the links

between private actions and the public sphere, inside and outside, are made apparent. This particular issue is arguably the apex of the pains of imprisonment or the harm of detention. For this reason, it draws attention to a host of other problems in these institutions, such as material conditions, resources, health services, staff culture and much more. Analysing custodial suicides therefore requires an interpretive framework that is wide rather than narrow, concerned with society and politics as much as with the administrative detail of individual establishments.

The remainder of this chapter outlines a general interpretive framework for analysing prisons and IRCs, proceeding in three parts. The first section argues that crime and migration control are both intrinsically political and contingently politicised, and that prisons and IRCs are in part political institutions. The second section draws on the sociology of punishment literature and prison studies, arguing that both approaches provide important insights into the external and internal worlds of penal control. I suggest that many of the theoretical claims made in the punishment and society literature about prisons can also, with some revisions, be applied to IRCs. The final section of the interpretive framework considers citizenship as a theoretical concept and empirical practice, suggesting that as the internal cohesion of citizenship has fragmented, its exclusive edges have hardened.

The Politics of Criminal Justice and Migration Control

Responding to crime and migration are two primary functions of modern government, although there are clear limits on what states can do to control them (Garland 1996; Castles 2004; Bosworth 2008). Crime and migration control are at times considered highly salient political issues, as reflected in party manifestos and electoral campaigns, and there have been several periods when law and order questions and border control issues were top of the political agenda. Like any political issue, crime and migration are strongly influenced by historical inheritance (Pierson 2004), and at certain times they become focal points for wider social anxieties and insecurities (Girling *et*

al 2000). Rising crime in the age of affluence, and a steadily growing prison population, for instance, were significant long term trends in England and Wales throughout the latter half of the twentieth century (Morris 1989). Similarly, Commonwealth and other migration to Britain was one of the most consequential developments in postwar social history (Paul 1997; Hansen 2000; Hampshire 2005). Both crime and migration provide a steady supply of political scandal and controversy, and there seems to be considerable public demand to hear about government blunders and Ministerial mismanagement. Although criminal justice policy and migration control measures are not entirely determined by political factors, it is nevertheless the case that political dynamics matter a great deal, and that political institutions, processes, and events are distinctive influences on them. But what exactly does it mean to speak of the *politics* of criminal justice and migration control, and what would a political analysis of these areas look like?

Politics is a distinctive part of the social world that must be understood in its own terms (Leftwich 2004). Although political concepts and terminology are familiar to most people, such familiarity breeds misconceptions and misunderstanding. Throughout this chapter, I use the term politics as a shorthand for modern democratic politics as practised by liberal states in the developed world. The word is used in a descriptive and analytical sense, suspending judgement about particular political ideologies or constitutional settlements as far as is possible. Since it is not possible to provide a satisfactory definition of something as complex as politics, I instead describe some of its essential qualities and set out what distinguishes politics from other areas of the social world.

Fundamentally, politics is about how we live together, and who gets what, why, and how (Crick 1962; Dunn 2000; Hay 2002; Stoker 2006; Stone 2012). Politics is therefore about processes of *collective* decision making on public issues, as carried out by authorised actors and institutions. Collective decision making is required in large and diverse modern societies, and for centuries the locus of such activity has been the state (Geuss 2001; Hay *et al* 2006). While there are many

international and local dimensions of politics, as well as many economic, social, and cultural influences on it, a great deal of political activity is carried out at the level of the nation state, where the capacity to act is strongest. Power is therefore a central aspect of political life (see generally Lukes 1973, 1986; Barnes 1988; Morriss 2002; Hearn 2012). Politics is concerned with the acquisition and exercise of power, with how such power is used to govern and rule, and with how power is contested and resisted through formal and informal means (Geuss 2008).

Politics is also an *activity* (Flinders 2012). It is a practice that requires people to act together in pursuit of particular ends, which renders it unlike economic markets where individuals are left alone to satisfy their own preferences (Stone 2012). Political dynamics are therefore collective, rather than individual. Crucially, they are a mixture of conflict, competition and cooperation between different groups (Stoker 2006). Chantal Mouffe concludes her book *On the Political* by observing that, 'It is not in our power to eliminate conflicts and escape our human condition, but it is in our power to create the practices, discourses and institutions that would allow those conflicts to take an agonistic form' (2005: 130). Conflicts exist over many different collective problems, but they are often about how to secure certain public goods or group interests, how to allocate scarce resources, and generally about how to resolve fundamental disagreements over incompatible human purposes (Dunn 2000).

Given how significant such problems are, the means used to settle them are important. In democratic systems, there is an emphasis on the representation of different groups' values and interests, most obviously through political parties, which allows a range of voices and perspectives to be heard. In practice, of course, political power is often unevenly distributed, and there are many under-represented groups whose interests are ignored. Scholars have coined terms like post-democracy and post-political to express their concern about the demise of meaningful political conflict (Crouch 2004; Mouffe 2005; Mair 2013). Nevertheless, what matters is that politics provides a way of different groups gathering together to compete for power.

With some broad sense of what politics is, we can focus more specifically on the politics of criminal justice and migration control. Crime control and migration control are in some ways distinct political issues. Examples of differences between them are easy to find: the social and moral significance of crime and migration are not equivalent; they are largely separate areas of law (e.g. Wilsher 2011; Costello 2015); political debates are usually about one or the other, not both. There is, however, a degree of convergence between the two areas, both conceptually and empirically, as 'crimmigration' (Stumpf 2006) and border criminology scholars point out (Aas and Bosworth 2013). The formal and informal merging of these functions has a long history (Bosworth 2004, 2007, 2014; Weber and Bowling 2008). It is by no means recent that, for instance, certain crimes have been associated with particular migrant groups, or that crime and punishment have been strongly racialised cultural categories (Hall *et al* 1978; Bosworth and Flavin 2007). These underlying continuities are overlaid by new policies and developments requiring detailed investigation (e.g. Kaufman 2015). Acknowledging the similarities and differences between crime and migration control, my argument is that criminal justice and migration control share certain basic features that make them both political, in two senses of the word.

In the most fundamental sense, criminal justice and migration control are both intrinsically political. We cannot think about or discuss crime and migration control without confronting basic political concepts, such as the state, power, order, democracy, liberty, rights, equality, citizenship, and much more (see e.g. Hampshire 2013; Loader and Sparks 2016). Any particular issue in criminal justice or migration control is embedded in a set of deeper beliefs about how we should live together, what the good life is, and what we owe one another. Such issues are traditionally the domain of political philosophy, theory and ideology (see Freeden 1996, 2003a, 2006; Maynard 2013; Swift 2014; Wolff 2015). In other words, researching criminal justice and migration control necessarily requires us to engage with political thought.

For example, two primary aspects of sovereign power are the maintenance of peace and order (Barker 2013a), and the control and management of borders (Bosworth 2008). Managing crime and controlling migration requires state actors and institutions to use public resources and interference with fundamental human goods such as family life and liberty (Barker 2013a). Drawing on the description of politics given earlier, it is clear that crime and migration control require the reconciliation of competing group values and interests. This includes ideological differences between, say, conservatives and social democrats, or individualists and communitarians (Loader and Sparks 2016). Criminal justice and migration control policies also entail collisions between institutional interests, professional interests, and different working practices. Both crime and migration control are matters of the head and heart, blending intellectual complexity with emotional power. They are thus paradigmatic examples of political activity, largely exercised through the nation state on matters of fundamental public importance.[5]

In addition to the intrinsically political aspects of criminal justice and migration control, there is a second sense in which both are political. They are politicised in a contingent way, changing across time and space (on criminal justice see Morris 1989; Bottoms and Stephenson 1992; Windlesham 1993; Downes and Morgan 2002; Zedner 2003; Tonry 2004; Newburn 2007; on migration see Hansen 2000; Hampshire 2005, 2013). There is often a temptation to explain criminal justice or migration policy in particular periods as driven by a single overarching concept – welfarism, populism, risk management or nationalism, for example – but things are rarely so simple, even if the relative influence of one factor is greater than others at a given point in time. It is important to remember that crime and migration policy are never solely punitive, liberal, or restrictive, although each of these forms part of the picture. The literature on the politics of migration, for example, stresses that it is a dynamic process, mediated among other things by

[5] The role of private organisations in the administration of justice and migration control does not remove the question of politics. Private companies are political actors in the context of prisons and IRCs, since they are directly involved in the collective administration of public goods, although states still play a central role in creating and monitoring policy on crime and migration control.

entrenched attitudes among sections of the public and the priorities of elite decision makers (Hampshire 2013). Although policies and attitudes change over time, there remains a constant degree of contestation over what should be done.

Exactly how crime and migration are politicised, and what aspects of them are emphasised, is not constant. Most scholars agree that the politicisation of 'law and order' began in the 1970s (Garland 2001; Downes and Morgan 2002; Farrall *et al* 2016), insofar as crime and punishment became subjected to the vicissitudes of party competition spurred on by a majoritarian, winner-takes-all first past the post electoral system (Lacey 2008, 2012). Many of the most significant criminal justice developments in recent decades have been partly attributed to the political history of this period and coinciding socio-economic changes (e.g. neoliberalism, globalization, mass unemployment). In a similar vein, it is clear that politics has played a significant part in the recent 'deportation turn' in the UK (Gibney 2008). For instance, it was a political crisis about released foreign national prisoners that was the proximate cause of the 'hubs and spokes' policy, which conferred on prisons explicit immigration functions (Kaufman 2015).

We cannot, however, claim that crime control was not politicised prior to the 1970s. The considerable power previously wielded by liberal-minded, elitist technocrats is not 'apolitical' (Ryan 2003; Loader 2006, 2010). Moreover, there is an inevitable degree of overlap and exchange between political styles across time, rather than a bright line distinction between technocratic and populist penal politics (Loader and Sparks 2017), or between expansive or restrictive migration control (Hampshire 2013). Any attempt to characterise the politics of a particular era will gloss over points of friction and dispute, inadvertently construing a complex picture as tending naturally towards its conclusion. Reality is usually more contingent and unpredictable (Zedner 2002; Loader and Sparks 2004, 2012).

Politics is thus a significant factor in shaping crime and migration control. However, it does not stand alone. Punishment and migration control have their own dynamics and institutions,

influenced by politics but not reducible to it. The sociology of punishment represents the most developed area of scholarship to analyse connections between the inside and outside of prisons, and many of its insights can, with some modifications, be applied to IRCs. The following section develops my theoretical framework by incorporating the sociology of punishment, offering a critical reflection on the strengths and limitations of the field.

The Sociology of Punishment

Punishment and society scholarship treats state punishment as a sociological problem, beginning from the innocuous observation that there are important connections between the criminal justice system and its broader social context, albeit that the specific relationship between punishment and society is contingent and variable. There are many examples of such links: the criminal law changes over time and plays some part in regulating public morality; courts, trials, and sentencing are important cultural rituals that are about more than simply the administration of justice; prisons are in part historical artefacts, heavy with symbolism and distinctive iconography, not just mechanisms for containing rule-breakers. It would thus be meaningless to speak of any feature of the criminal justice system without reference to the values and organisation of society at large. As Antony Duff and David Garland put it, punishment 'is not an abstract ahistorical structure, but a social institution which takes different forms in different social contexts' (1994: 23). On top of these foundational connections, it is also true that punishment and society are related in more mundane ways. Prison populations change over time as people begin and end their sentences, just as staff enter and leave their place of work every day. To some extent, these individuals bring with them the social relations and attitudes of the external world, as do the lawyers and health care staff who regularly enter prisons. Similarly, prisons and IRCs have to be funded, regulated and managed by external political and legal institutions.

These observations may seem trivial, but they hint at an important point. Broad concepts such as 'punishment' and 'society' are enacted by particular people, and made meaningful through actually existing institutions and practices. They are more complex than their familiar labels might lead us to believe. Deportation, to take an example from border criminology, is not merely a social abstraction that can be explained entirely as a consequence of 'social solidarity' or 'public opinion', although these might be important sociological supports. It is also, crucially, an empirical fact. Deportations are carried out by people in authorised roles, through institutions like prisons and detention centres. There is a whole administrative apparatus required to identify, detain and transport individuals out of a country. Understanding how and why deportation exists, and works the way it does, requires us to think of deep, underlying social causes as well as more proximate, direct explanations that involve particular actors and institutions. To analyse how institutions work and what they do cannot be achieved only by theorising about them from outside.

For this reason, my thesis adopts a middle-range approach that sits between the abstract macro-sociological nature of many influential texts in the sociology of punishment, and the narrower micro-sociological approach of many institutional prison studies. In the remainder of this section, I review some of the theoretical insights of the sociology of punishment literature and offer a critique of the field. I then discuss the contribution of prison studies to our understanding of punishment, and argue that many of its basic claims can also be applied to IRCs. Finally, I suggest that the sociology of punishment and prison studies should be seen as a continuum, rather than discrete intellectual agendas.

What does the sociology of punishment tell us? Punishment and society scholarship treats crime and responses to it as general sociological problems, drawing on the resources of classical social theory (Garland 1990). It views punishment as a source of potential sociological insight, and uncovers the web of functions and meanings that links punishment to modern societies (Simon and Sparks 2012). It claims that there is no coherent or sustainable distinction between internal

and external accounts of punishment (Garland and Young 1983; Garland 1985; Wiener 1990), and that these relationships should be studied together, not apart, since both sides illuminate one another. A sociologist of punishment would argue that the separation of, say, legal scholarship from cultural studies is a consequence of the academic division of labour, not a reflection of nature (Duff and Garland 1994). Although the literature has had little to say about migration control thus far (although see De Giorgi 2010; Bosworth 2012), the connections between society (e.g. political competition, economic trends, and demographic changes) and the use of immigration controls such as deportation and detention are very apparent, as political scientists (e.g. Gibney 2008) and criminologists have made clear (e.g. Bosworth 2014).

The single most important theoretical premise of the sociology of punishment is that penal institutions such as prisons cannot be reduced to any single instrumental purpose, such as crime control or reducing reoffending rates. Penal institutions are internally conflicted, pulled in many directions simultaneously. Suicide prevention, for example, is but one part of that complex picture. Prisons and IRCs serve an array of purposes and are expected to appease competing interests and ideologies. They are not a single thing – 'power' or 'control', for example – that can be justified or explained solely in instrumental terms (Garland 1990), such as crime prevention or deportation numbers. The contested nature of punishment is evident in the endless debates over the purposes of imprisonment and competing sentencing rationales. Rather than focus exclusively on any one feature of punishment and assert its primacy (e.g. decency, retribution, welfarism), the sociology of punishment is theoretically pluralist and anti-reductionist (Daems 2009). In practice, however, authors tend to emphasise some dimensions of punishment (e.g. risk management) more than others (e.g. gendered and racialised prison experience) (see Bosworth and Kaufman 2012). A middle-range case study is less likely to fall into these traps.

Recurring debates and phrases capture this complex, multidimensional aspect of punishment: prison 'as or for' punishment; prisons as 'decent but austere'; the relationship between

'care and custody'; debates over retribution, rehabilitation, incapacitation, and deterrence in sentencing. Disputes over whether or not immigration detention and deportation are 'punishment' suggests that IRCs are similarly contested. Since ideas come and go, we are not capable of saying that one penal philosophy or migration rationale has definitively trumped all others (Tonry 2011). As was suggested above when describing the politics of crime and migration control, there is always a process of competition and negotiation between different values and ideas. The 'volatile and contradictory' (O'Malley 1999) quality of punishment exists not only at the level of policy aims and political ideologies, but also at the local level of administration and operational practice. Punishment simultaneously elicits feelings of anger, pain, disgust and regret. It attempts both to banish and include, to condemn and reform, to affirm our commitment to social order but also deny how exactly we do it (Garland 1990).

There is a large, multidisciplinary literature on punishment and society. Broadly speaking, this work has used a range of different explanatory factors to analyse state punishment. In many cases, scholarship has focused on aggregate patterns and trends, and has consequently given relatively limited attention to the practice of punishment at the local level, or to variations in punishment between and within modern societies. Early work focused on the political economy of punishment (Rusche and Kirkhheimer 1939; Ignatieff 1978; Melossi and Pavarini 1981; Sparks 1996; De Giorgi 2006; Bell 2011), which was then developed by later accounts concerned with the role of states (Garland 1996, 2001, 2013; Cavadino and Dignan 2005; Reiner 2007; Barker 2006, 2009; Lacey 2008; Miller 2008; Hamilton 2014). Conceptually, the sociology of punishment has drawn heavily on themes such as social solidarity and social exclusion (Garland 1990; Young 1999), power, domination and social control (Foucault 1979; Cohen 1985; Garland 1997a; Sim 2009), as well as culture (Wiener 1990; Smith 2008), risk management (Feeley and Simon 1992; Hudson 2003; O'Malley 2004; Hannah-Moffat 2005, 2012), and political factors (Downes 1988; Loader and Sparks 2004, 2012, 2016; McAra 2005; Whitman 2005; O'Sullivan and O'Donnell 2007; Simon 2007; Barker 2013b). Acknowledging that punishment falls disproportionately on poor ethnic

minority men, influential early analyses of class relations (Hay *et al* 1975) and the welfare state (Garland 1985) have been developed by a more intersectional account of race (Hall *et al* 1978**;** Bosworth 2004, 2007, 2014; Bosworth and Flavin 2007; Wacquant 2009) and gender (Zedner 1991; Howe 1994; Bosworth 1999, 2014) under conditions of both nationalism and globalization (Aas and Bosworth 2013; Bosworth 2012; Kaufman 2015).

The emphasis on each of these areas has been uneven, as the scholarship has centred on certain institutions (particularly the prison) and problems (explanations for per capita imprisonment rates), while paying relatively attention to other issues (Bottoms 1983; Zedner 2002; Braithewaite 2003; Bosworth 2004; Loader and Sparks 2004; Bosworth and Kaufman 2012; Robinson 2016). One recurring criticism of the literature is that the macro-sociological approach of some of the most influential scholarship has a tendency to gloss over what punishment means, how it is experienced at the individual level, and the effects of social stratification along lines of race, gender and class (Hannah-Moffat and Lynch 2012). These perspectives ought to be integrated more centrally into research, as they illuminate many of the social functions of punishment, and provide important qualifications to some of the more sweeping, essentialist claims about what punishment is.

Middle-range studies can bridge the gap between broad structures and processes, and how they relate to individual agency and experiences. Such an approach loosens the grip of abstract concepts and helps to specify particular causal mechanisms that produce penal outcomes (Garland 2013). One of the limitations of punishment and society scholarship is its tendency to employ contested concepts such as 'neoliberalism', 'public sensibilities', and 'globalization' in a rather monolithic and uncritical fashion. These framing concepts often obscure political contingencies, social and economic complexity, and specific legal mechanisms required for explaining penal change in different times and places (Loader and Sparks 2004). Despite its fondness for generality, the historical and geographical scope of the literature has been rather limited, focusing

overwhelmingly on the very recent history of the USA, Canada, Western Europe (particularly England), Australia and New Zealand. Such geographical narrowness has also accompanied a tendency to see change more clearly than continuity, and extrapolate too readily from particular cases to general claims (Tonry 2007).

Sitting alongside the sociology of punishment literature is a parallel body of work that is often referred to as prison studies (Clemmer 1940; Sykes 1958; Goffman 1961; Cohen and Taylor 1972; Fitzgerald and Sim 1979; Carlen 1983, 1998; Dobash *et al* 1986; Genders and Player 1989; King and McDermott 1989, 1995; Sparks *et al* 1996; Bosworth 1999; Liebling 2004; Crewe 2009; Phillips 2012). This research explores the internal world of the prison, along with developments in how it is organised and used. The literature has been concerned with concepts such as legitimacy and discipline, and explaining empirical developments such as expanded prison populations, the lengthening of prison sentences, the expansion of migration control and deportation, prison privatisation, and changing demographics inside custody such as increasing numbers of elderly prisoners, ethnic minorities, and foreign national prisoners.

Such studies in England and Wales frequently pay more attention to punishment than society, resulting in lopsided analysis that is heavy on administrative factors, ethnographic detail, and qualitative accounts of individual experience (Medlicott 2001). No satisfactory account of prisons can avoid acknowledging their distinctive internal life, but nor can it deny that they are moulded by prevailing historical, political, and social conditions. The sociological truism that punishment and society are related is often acknowledged in the introductions to academic works on imprisonment (e.g. Liebling 2004; Crewe 2009), but is seldom a sustained aspect of the analysis that follows. There are few attempts to specify how exactly the inside and outside are linked, other than nebulous references to 'culture', 'public opinion', or 'political climate'. Because of their research proximity to prisons and intimate knowledge of the minutiae of prison life, such studies frequently lose sight of larger scale processes.

In addition to a tendency to be sociologically narrow, prison studies in England and Wales typically have a short timeframe, seeking to understand very recent penal history, often taking the 1990 Strangeways Riot, 1991 Woolf Report and Criminal Justice Act 1991 as a starting point (e.g. Sparks *et al* 1996; Liebling 2004; Crewe 2009). Yet there is nothing 'normal' about this particular moment, indeed it was remarkable precisely because of the short-lived groundswell of support for liberal penal reform. Such accounts implicitly treat the Conservative Government from 1979 onwards as the relevant background political history, but make little attempt to understand this period in its own terms (cf Farrall and Hay 2010), nor its prehistory. Such implicit periodisation makes concepts such as managerialism, privatisation, and neoliberalism seem uncontested and dominant (e.g. Ludlow 2015). A more textured, balanced approach within a less restricted timeframe would counteract some of this intellectual myopia. Where the sociology of punishment ought to move down from the macro level to more grounded analysis, prison studies ought to look outward into society and backward into history. These approaches are not mutually exclusive, and they have much to learn from each other. A middle-range case study in the sociology of punishment, focusing on the politics of deaths in custody, will bring together the breadth of punishment and society literature with the precision and detail of prison studies.

Citizenship

One of the concepts that connects prisons and IRCs is citizenship, insofar as both institutions are predicated on a sharp distinction between membership of a community and removal from it. They force us to ask what it means to belong – socially, politically and legally – to a group. In the main, criminal justice scholars have not treated citizenship as a central analytical concept, with some notable exceptions (e.g. Bailey 1987; Duff 1998, 2010; Vaughan 2000; Ramsay 2006; Stumpf 2006; Bosworth 2007; Cole 2007; De Giorgi 2010; Dubber 2010; Zedner 2010, 2013; Bosworth and Aas 2013; Barker 2009, 2013a; Bosworth and Kaufman 2013; Aliverti 2013;

Kaufman 2015). In this section, I explore what citizenship means as a theoretical concept, before providing a more empirical discussion of membership and belonging in the UK. Specifically, I review an influential body of literature in political science and sociology that examines long term trends in citizenship, and argues that there has been a steady decline in various indicators of the quality of citizenship among the general population since the postwar period. Although many marginalised groups have secured important rights through civic movements for equality, in other ways citizenship is no longer construed as a normative ideal. As the internal cohesion of citizenship has fragmented, its exclusive edges have hardened. This section suggests that these two factors are related, and that they help to explain the continuing expansion of and reliance on prisons and IRCs.

As is often the case in the social sciences, citizenship means many things to many people. Any concept that is both abstract and fundamental lends itself to theorising and speculation as much as detailed empirical scrutiny. What exactly citizenship is, how much it matters, whether it is changing and other basic questions are subject to much debate (see e.g. Young 1990; Turner 1993; Beiner 1995; Stoker 2011). Citizenship is a slippery concept in part because it is used in two distinct senses: at times as a purely descriptive empirical phenomenon (i.e. minimal membership of a state and basic legal rights), and elsewhere as a normative theoretical ideal (i.e. public engagement and participation in civic life). Although the term is used in variety of ways, sometimes inconsistently, citizenship studies proceeds from three basic starting points.

First and foremost, citizenship refers to political membership (Joppke 1999, 2010; Bloemraad 2015), meaning a formal legal connection to a specific territorial unit, typically a nation state. Whatever the normative appeal of global or 'postnational' citizenship, for most people citizenship is exclusive to one state (Hansen 2009 cf Soysal 1994). In Hannah Arendt's terms, membership of a state matters because rights mean little without 'the right to have rights' (Arendt [1951]/1973; Benhabib 2004), as exemplified by the difficulties encountered by those who are

stateless. To be a member is a matter of formal status, and brings with it certain legal rights and political guarantees. Critical accounts of citizenship have demonstrated, however, that citizenship is internally differentiated. The political, economic, and social status of women and ethnic minorities, for example, highlights a gap between formal membership and substantive equality (e.g. Young 1990; Ramirez *et al* 1997). This is not to say that these groups are not citizens, only that they do not always enjoy the full range of rights that citizenship confers (Dubber 2010: 194). For instance, TH Marshall's ([1950]/1992) well-known but historically specific account of evolving generations of rights – civil, political, and social – was predicated on an assumption of full male employment, with women assumed to be naturally confined to the private, domestic sphere (Harris 1996). Formal status as a citizen is therefore a necessary but not sufficient part of an account of citizenship.

Another characteristic of citizenship is that it guarantees exclusive rights to members and requires contributions from them, while limiting the rights and duties of non-citizens. In the literature, it is often said that citizenship is internally inclusive and externally exclusive (Brubaker 1992; Joppke 2010). Defining who is a member is also an exercise in defining who is not. Citizenship is thus a way of connecting people through legal, political, and cultural identification. Membership links citizens to one another, to states, and vice versa. It places individuals in something bigger than themselves, an entity far more complex than other social formations such as families or local communities. Citizenship ties are often invisible, for example tax, welfare, public spending, and democratic rituals such as voting. They are also manifest in more visible ways, for instance through shared public space (e.g. town halls), collective institutions that socialise and assist people (e.g. schools and hospitals), engagement in civil society and, in some jurisdictions, military service. Historically, political membership has entailed a wide variety of different rights and obligations, becoming more formalised in the twentieth century through passports, visas, and border control institutions (Torpey 1999). The contemporary story of citizenship is thus strongly associated with the expansion of powerful modern states. Political membership is, in this account,

an equalising influence, marking out similarities rather than differences in the population, thereby helping to make groups coherent and united. There are many reasons to qualify this theoretical premise, but it is certainly true that citizenship entails some degree of internal inclusion and external exclusion, albeit unevenly.

A third, more amorphous aspect of citizenship is affective, often expressed in terms of identity and belonging. Membership in this sense is about more than simply a passport or taxation, it is the subjective feeling of belonging and some meaningful degree of involvement in civic life. In Bridget Anderson's terms, citizenship implies membership in a 'community of value' (2013). Critical accounts have stressed that the normative classical ideal of public participation and engagement in civil society is in fact unavailable to those who are excluded from these realms, whether by virtue of their gender, ethnicity, class or other structural disadvantages (Young 1990; Vincent 1991). There is not space to consider the substance of these claims fully, except to say that the rhetoric of citizenship does not always accord with reality.

Citizenship as set out above – a composite of formal membership, rights, and identity – has some theoretical coherence. However, we should not regard citizenship as an ideal type, or view it from an ahistorical vantage point. We ought to think about citizenship in particular times and places (e.g. Finlayson 1994; Harris 1996; Freeden 2003b; Hansen 2000; Hampshire 2005), in order to understand what it means to those involved, how it works, what rights it confers and duties it demands, who is included and excluded.

What, then, is the reality of citizenship in the UK today? For years, many political scientists and sociologists have been pessimistic. They argue that there has been a long term decline in various indicators of the quality of citizenship in the UK, as well as in other established democracies in Western Europe and the USA, since the high point of the postwar period. All of which has occurred while there have been unquestionable gains in the life opportunities of many citizens, for example women and ethnic minorities, and while democracy has flourished in many

parts of the world where it was previously absent. Despite the popularity of the concept of democracy in the abstract, sustained political engagement seems somewhat less appealing to many people. Reduced levels of civic participation, and lower levels of voter turnout and political party membership, for example, have prompted debates about how to renew people's sense of political membership and civic obligation. In contrast to the classical ideal, citizenship has become a passive affair for most people, resulting from a polity that is more atomised and consumerist, and less deferential to authority.

All of these factors have contributed to a weakened sense of the public good (Marquand 2004), and have fostered misunderstanding about how politics works (Stoker 2006; Hay 2007; Flinders 2012). The prevalence of unrealistic expectations about politics has led to many people losing faith in governments as drivers of positive change who are capable of delivering social goods (Stoker 2011). Scholars refer to such apathy, cynicism, and misunderstanding as 'anti-politics', which portrays politics as an inconvenience at best and a pathology at worst. This, political scientists argue, has had perverse effects on politics itself (Hay and Stoker 2009). In addition to the decline in various indicators of the quality of citizenship, citizenship has been complicated by the impact of globalization, migration, and multiculturalism (Kymlicka 1995; Joppke 1998; Honig 2001; Benhabib 2004; Bloemraad *et al* 2008). Ideas of national cohesion and solidarity seem less fixed than they once were, and the contentious politics of supranational government and devolution have complicated claims about national sovereignty and national citizenship.

These arguments about citizenship as a concept and an empirical practice have largely developed in isolation from studies about the exclusionary aspects of citizenship. There is, however, a connection between a weakened inclusionary aspect of citizenship and strengthened exclusionary mechanisms. The politicisation of law and order outlined above, and the reliance on prisons and IRCs as solutions to social problems, coincide with some of these wider developments in citizenship among the general population. The characteristics of citizenship set out above

emphasise securing membership and status in a political community, connecting defined groups of people through rights and cultural practices, and enabling emotional identification with other citizens through socialisation, civic participation, and community integration. But citizenship can unite groups of people as well as divide them. Identification, membership, and belonging are certainly not universal, nor are they extended equally to everyone in a political community. The dual inclusionary and exclusionary aspects of citizenship support and reinforce one another, as sociologist Vanessa Barker argues:

> 'Civic engagement is a significant factor in shaping the degree to which states infringe upon the rights and freedoms of others to realise public goods. Civic engagement provides the legitimacy, social meaning and checks and balances on the use of state power in criminal sanctioning; it acts as a break on or accelerator of punishment in the realisation of public goods such as safety, security and the reassertion of the rule of law. This is a lesson we learned from Emile Durkheim: punishment is made meaningful through the expression of collective sentiment. Penal sanctioning is not exclusively a top-down imposition of power relations, social stratification or racial social control; it must and does involve some measure of public support to be at all meaningful, packed with cultural resonance and emotional weight.' (Barker 2013b: 136)

Just as there are institutions that connect people and foster identification, so there are institutions that weaken recognition and encourage distance. Prisons and IRCs are institutions that step in when the bonds of citizenship break down. Prisons are last resorts for rule-breaking members of the polity, while IRCs are institutional manifestations of the divided membership of the world. Prisons and IRCs are thus paradigmatic examples of the internal differentiation of citizenship, and both of their populations have increased markedly in the past 30 years or so, albeit

from different starting points to different end points. A more exclusionary edge to citizenship is arguably a contributor to, and consequence of, weakened internal inclusion.

Striking evidence of this exclusionary mechanism can be found in the fact that removing citizenship has been an explicit policy aim in criminal justice (Zedner 2010). The exclusionary edge of citizenship bolsters other processes that reduce identification with prisoners and detainees, such as the violation of shared legal rules and social norms, racial and ethnic difference, linguistic and cultural 'foreignness', dehumanisation associated with poverty, gender, ill-health and lack of education, physical segregation from the community and rituals of degradation, loss of specific rights and capacities, including voting, liberty and free association. All of these enable us to minimise our identification with prisoners and detainees. The institutions themselves – coupled with the practices they use, their iconography and symbolism, and the specific groups they contain – contribute to a collective sense that prisoners and detainees are not 'us' (Anderson 2013). They are at best precarious members rather than full citizens.

When thinking about those without citizenship, housed in institutions that reinforce the idea that they do not belong, questions of duty are muddied. What do we owe to people who are not 'us'? What do they deserve? What sort of treatment is justified? These vexed political questions help to explain the confused and ambiguous world of immigration detention, void of any substantive aims other than containment and removal (Bosworth 2014). As Mary Bosworth and Emma Kaufman argue:

> 'The systematic push to detain and deport foreign nationals draws on this long history of excluding certain classes of people, including those who identify with the UK or who were at one time British subjects. The patterns of the last half-century demonstrate that British citizenship is a contingent and constantly changing idea. […] Contemporary imprisonment practices are thus part of a larger effort to reify the link between citizenship and rights. In an era of mass mobility,

> incarceration affirms a territorial notion of citizenship, and with it, the boundaries and sovereignty of the nation state.' (Bosworth and Kaufman 2013: 187)

Many recurring debates about prisoners and detainees are, in one form or another, questions about their membership, status, and rights. Citizenship is thus being invoked whenever we discuss prisons and IRCs. Treating citizenship as a theoretical concept and empirical practice provides a foundation for making sense of politics and punishment, particularly as it applies to those whose citizenship is weakened (prisoners) or in doubt (foreign national prisoners and immigration detainees). Citizenship studies provides conceptual tools to help specify mechanisms of inclusion and exclusion, and how they interact with one another. It is thus a way of connecting punishment and society, as well as punishment and politics. Citizenship as a concept also provides a natural point of comparison between prisons and IRCs.

Conclusion

Existing research on deaths in custody has focused largely on the internal world of prisons and IRCs. My research situates suicides in prisons and IRCs in a broader interpretive framework that is more sensitive to their social and political context. The central argument set out in this chapter is that punishment and migration control cannot be isolated from their surroundings, and so must be analysed in terms of a more general politics of criminal justice and migration control, sociology of punishment, and citizenship. Just as external political and social factors can help us think more clearly about deaths in custody, so too can deaths in custody clarify these broader themes.

What can deaths in custody tell us about politics, the sociology of punishment, and citizenship? Several observations about deaths in custody explain the interpretive framework outlined in this chapter, each of which explains one part of the argument. In terms of the politics of criminal justice and migration control, deaths in custody represent a distinct opportunity for

political mobilisation and contestation. Developing the description of politics above, deaths in custody cause groups of people to mobilise and draw attention to the issue; they disagree and debate about what should be done; they compete and cooperate with one another; they try to win over opponents, capture public opinion, and influence elite decision makers. These debates focus on questions about what we owe one another, what prisons and IRCs should be like (e.g. Harris 2015; Shaw 2016), who deserves sympathy and recognition, and what responses are realistic. In other words, responses to deaths in custody have recognisably political dynamics.

Suicide is often used by commentators to portray prisoners and detainees, who are usually stigmatised outsiders, as victims of a dysfunctional and inhumane system. High rates of suicide are marshalled as powerful evidence of failure and neglect, alongside other issues such as overcrowding, self-harm, violence, low staffing, and austere conditions. Public discussion of deaths in custody is also a way of critiquing particular penal institutions, as part of more general political commentary about a prisons 'crisis' (Chamberlen *et al* 2019), albeit a longstanding one (Sparks 1971; Fitzgerald and Sim 1979; King and McDermott 1989), or the problems of immigration detention. Suicide in prisons and IRCs is both a symptom and cause of a sense of failure, whether conceived in terms of the intrinsic value of human life or the safety of institutions. The politics of the issue does not only exist at the level of public discourse, however, as it can filter down into particular institutions. A cluster of suicides catalysed organisational reform at HMP Cornton Vale in Scotland in the 1990s, for example (Carlen 2001). Suicides open closed institutions to public scrutiny, putting pressure on staff and management, with rates of suicide often seen as an indicator of the health of the institution itself. The politics of such a charged issue therefore merits our attention.

The literature on deaths in custody is, in general, not particularly attentive to politics (although see Ryan 1996). Insofar as politics is written about it is often from a distinctly partisan perspective, which lends itself to many exaggerated claims and totalising arguments (e.g. Scraton

2007). Psychiatric research and institutional prison studies also tend to pay relatively little attention to wider social trends or political context. These accounts need a broader interpretive framework, incorporating politics more centrally, since suicides and their aftermath are, among other things, exercises in contest and cooperation, with different groups struggling to monopolise the public meaning of these tragedies.

A related reason for this case study is that deaths in custody are a clear example of the connections between punishment and society. Where they occur, the private actions of marginalised individuals open low-visibility institutions to public scrutiny and legal accountability. Public debate is generated through the publicity machinery of organisations such as INQUEST and The Howard League for Penal Reform, coverage in newspapers and other media, official investigations, reports and Parliamentary debates. The question of what goes on in prisons and IRCs is never far away from questions about their purposes (e.g. Harris 2015), and suicides often lead to probing questions about why the deceased was ever detained in the first place. Suicides occurring in prisons and IRCs are thus deaths with a public character (Ryan 1996). Parallel debates in wider society are likely to influence how this problem is construed and managed, including the politics of race, gender, class, mental health, risk, and rights.

The sociology of punishment has thus far tended towards macro-sociological theorising, rarely being explored empirically through case studies. One of the original contributions of my thesis is a detailed, grounded account of how punishment and society are connected by suicides in custody. A middle-range case study avoids the detachment of the sociology of punishment and the relative narrowness of many prison studies. Suicides in custody bring out the multidimensional, contested features of prisons and IRCs that the sociology of punishment highlights. They remind us that prisons and IRCs serve a range of functions, and must deal with the unintended consequences of detaining vulnerable individuals, up to and including the death of inmates. The internal contradictions and competing expectations of such contested institutions are thrown into

sharp relief when custody seems to have come at the expense of care. Deaths in prisons and IRCs, and responses to them, have the potential to illuminate the contested, complex features of punishment. Because they connect the private actions of structurally weak, marginalised individuals to the public sphere, deaths in custody require an interpretive framework that is sensitive to the sociology of punishment.

Finally, deaths in custody provoke debates about membership, recognition, and political obligation. Citizenship as a theoretical concept and empirical practice allows us to map connections between inside and outside, within a broad political and social context. Its mutually reinforcing dynamic of inclusion and exclusion helps us to analyse the distance between members and non-members, those who belong and those who do not. Citizenship is thus an important part of a theoretical framework that analyses prisons and IRCs. Going in the other direction, deaths in custody also highlight many vexed questions about the limits of membership, and barriers to recognition. The recent Harris Review (2015), for example, argued strongly that suicides among young people in prison require us to reflect soberly on the conditions in which 'future, productive citizens' are held. For Harris, the language of citizenship provided a way of linking our duties to prisoners to more fundamental duties towards one another as citizens. By comparing responses to suicide in prisons and IRCs, this case study can clarify what exactly membership entails, and whether the duties we owe to one another are also owed to those who are not formally members.

What brings these claims together is the argument that suicides in custody are a microcosm of bigger debates about the politics of punishment. Since we cannot research abstract concepts directly, a case study on deaths in custody can clarify and enrich our analysis of them. By treating prisons and IRCs as contested institutions, and viewing evidence of death and despair inside them as one part of that process of contestation, references to the politics of criminal justice and migration control, the sociology of punishment, and citizenship become more meaningful.

Chapter 3

Theorising the Politics of Deaths in Custody

The previous chapter provided a general social and political framework for analysing criminal justice and migration control. Reviewing the literature on the politics of crime (Loader 2006, 2010; Loader and Sparks 2004, 2011, 2016; Lacey 2008) and migration (Anderson 2013; Hampshire 2013), the sociology of punishment (Garland 1990; Barker 2006, 2009; Simon and Sparks 2012) and citizenship (Young 1990; Joppke 1998, 2010; Bosworth and Kaufman 2013; Bosworth 2014), it argued that prisons and IRCs must be understood as social and political institutions. Places of criminal punishment and national expulsion, I suggested, ought to be located within a broadly sociological framework that recognises the significance of social structure, culture and historical inheritance in shaping these institutions. At the same time, sociological analysis must also recognise that prisons and IRCs are highly specific organisations with internal dynamics of their own. Ethnographic accounts of prisons and IRCs illustrate the richness and depth of human experience in places of confinement, and demonstrate how basic social categories such as gender, race, power and citizenship are present in the everyday life of coercive custody (Bosworth 1999, 2014; Crewe 2009; Hall 2012; Phillips 2012; Kaufman 2015; Hasselberg 2016).

The essence of my argument, then, was for a middle-range account of punishment and detention that connects broad social structures to particular institutions and real human agents. The challenge for scholars of criminal justice and migration control is to convey that their objects of study are both simple and elusive. In one sense, they perform the basic state functions of enforcing criminal law and immigration policy through punishing criminal offending and facilitating deportation. These purposes are largely taken for granted and provide the justification for coercive custody in prisons and IRCs. Yet at the same time, these institutions do far more than

simply punish and expel, functions which are in any case carried out in highly selective and uneven ways.

A fully sociological account of prisons and IRCs must attempt to 'de-familiarize' them (Bauman 1990), subjecting their stated purposes to careful critique and resisting the temptation to take their publicly declared aims at face value. For instance, as scholars have long shown, penal rationales are not simple and unambiguous. Rather, they are 'volatile and contradictory' (O'Malley 1999). Prisons and IRCs may purport to be sanctions that are imposed on rule-breakers for their wrongdoing, but in practice they are imposed on a particular sample of marginalised, socially excluded people in any given society, noticeably racial minorities and the economically disadvantaged (Bosworth and Flavin 2007; Bhui 2016a; Bosworth *et al* 2018). As John Braithwaite (2003: 7) argues, most sociological accounts of punishment are more accurately described as studies of how the poor are punished. Finally, it is clear that while the nominal penalties handed down for law-breaking behaviour can be identical across different groups of people, the experiences of imprisonment and detention are stratified along lines of gender, race and other identities (Carlen 1983; Bosworth 1999, 2014; Phillips 2012). In sum, to understand prisons and IRCs, we must combine the range and ambition of theoretical sociology with the empirically sophisticated work done by ethnographers and other qualitative researchers.

This chapter refines my earlier theoretical framework by looking more closely at a particular element of the politics of prisons and IRCs. My argument begins from the same fundamental observation that criminal justice and migration control are in part political issues, but is more specifically concerned with the fact that for several decades they have been highly *contentious* public issues. Although the politicisation of these areas was historically contingent, and the vast majority of individual decisions made by courts and Home Office officials are legal-bureaucratic rather than passionate, certain aspects of these policy areas make them ripe for politicisation. Deeply held values collide over law and order, and border control intersects with many complex

moral, economic and cultural questions. Both policy areas cut across a wide range of social concerns, ethical values, cultural priorities, group identities and political concepts. As Ian Loader and Richard Sparks argue (2011, 2016), when we speak of criminal justice, there is always more at stake than simply crime and punishment. These contentious, emotional qualities are part of the reason why populists are able to stoke public anxieties about crime and migration. Both issues speak to fundamental concerns about order, identity and authority, which are often polarising and morally charged. Confronted with these inescapably political questions, governments must decide how to address them. Many mainstream parties have tried to manage this febrile atmosphere by adopting populist measures to demonstrate their governing credibility to 'the people', who are assumed to be morally conservative, law-abiding and patriotic. Populism has thus become an important characteristic of penal policy (Bottoms 1995; Roberts *et al* 2002; Pratt 2007) and border control (Bale 2013, 2018; Ford and Goodwin 2014) in recent decades.

However, I argue that in addition to a clear strain of populism in contemporary criminal justice and migration control, the contentious politics of these issues has simultaneously ushered in a rather different set of developments. My argument in this chapter is that many of the institutional arrangements in place for governing places of custody and responding to deaths in custody are strikingly depoliticised and technocratic. I provide a fuller account of the meaning of these terms in a later section, but the essence of my claim is that both depoliticisation and technocracy attempt to dial down the contested, ideological content of political questions, and replace it with government conducted in non-partisan, independent forums (depoliticisation), led by disinterested, expert professionals (technocracy).[6] The lure of depoliticisation and technocracy is that it offers a chance to introduce expertise, neutrality, evidence, efficiency, consensus and rationality into areas riven with moral conflict, partisanship and emotion. Drawing on Pierre

[6] The institutions I discuss are not fully technocratic in the sense of *powerful* actors whose authority rests with their technical knowledge and competence. In that sense, they are not comparable to technocrats in the spheres of economics or international law. However, they have many of the same formal characteristics as technocratic bodies and a similarly depoliticising effect.

Rosanvallon's (2008) analysis of 'counter-democracy', I suggest that the independent oversight bodies that govern custody through monitoring, inspection and investigation prioritise many of these values of rational consensus, and can therefore be described as depoliticised and technocratic. More importantly for my purposes, the institutions that officially respond to deaths in custody – the Prisons & Probation Ombudsman (PPO) and coroners during inquests – are strongly committed to procedural values of independence and neutrality. Both are self-consciously apolitical processes designed to be inquisitorial rather than adversarial. Official responses to deaths in custody are therefore an example of how a politically contentious, emotionally charged and ethically challenging question can be handled in a depoliticised, technocratic manner. [7]

The issues I discuss in this chapter are largely theoretical and require a detour into political theory. For these reasons, my argument proceeds in several steps. I begin by providing a brief overview of criminal justice and migration control as political problems, specifically the limitations of a rationalist account of these policy areas. I then provide some context about the politics of deaths in custody, reviewing to what extent suicides in prisons and IRCs have been discussed as political questions. The next section provides a theoretical account of the importance of conflict and contestation in politics, refuting the idea that these represent 'irrational' aspects of politics. I then go on to offer a general theoretical account of depoliticisation and technocracy, and argue that these strategies can be particularly appealing to governing elites in respect of contentious policy issues, such as criminal justice and migration control. The following section develops these ideas by drawing on Pierre Rosanvallon's concept of 'counter-democracy' (2008), showing how prisons and IRCs are governed by a range of independent oversight bodies that provide politically neutral, external scrutiny. The final section pulls these threads together by arguing that the institutional arrangements in place for responding to deaths in custody are depoliticised and technocratic, thus minimising the political nature of deaths in custody.

[7] In Chapter 6, I draw on interviews with PPO investigators and coroners to substantiate these claims, but for now my argument is primarily theoretical.

Rationalist Politics: Situating Deaths in Custody

> 'From inside the rationality project, politics looks messy, foolish, erratic, and inexplicable. Political events seem to leap outside the categories that logic and rationality offer. […] [T]he rationality project worships objectivity and seeks modes of analysis that will lead to the objectively best results for society. The categories of analysis are somehow supposed to be above politics or outside it. Rationality purports to offer a correct vantage point from which we can judge the goodness of the real world.' (Stone 2012: 7)

Criminal justice and migration control present many risks to the political actors responsible for them, whether they work in the Ministry of Justice, Home Office or the Parole Board. Both are heavily contentious policy areas, prone to unforeseen scandal or full-blown crisis. They generate strong political passions (Pettit 2002) and draw on emotional resources that are intensified, rather than diminished, when expressed (Stone 2012). The reasons for this are deeply rooted in ideas of state sovereignty and democratic government. Citizens expect sovereign states to provide them with protection from the harmful actions of other citizens (crime), or at least to respond effectively to criminal wrongdoing (Garland 1996, 2000). They also expect to consent to the boundaries of who 'the people' are (migration), or at least have their voices heard in political debates about who may live and work in the polity (Ford *et al* 2015). Maintaining order and securing borders are therefore two key tests of political competency in democratic life (Bosworth 2008; Bosworth and Guild 2008; Aas 2013; Barker 2013a; Green and Jennings 2017).

With these observations in mind, it is easy to see why political elites may be fearful of direct popular influence in these areas. Terrorism, crime rates, prison escapes, migration numbers, asylum policy, human rights law and police controversies are a small sample of the hazards politicians may encounter as they navigate criminal justice and migration control. The political salience of these issues means that government failures are highly visible and blunders can easily discredit

incumbent parties (e.g. Kaufman 2015). Ministers responsible for these areas are attacked on all fronts for being either too lenient or too harsh, decried as populist one moment then elitist the next, seen as being beholden to tabloid headlines yet ignorant of popular sentiments (Jewkes 2015; Greer and McLaughlin 2017). In these circumstances of high risk and political salience, government officials may be less concerned with directing positive change or solving long-standing problems, and more focused on managing ongoing difficulties or mitigating day-to-day risks.

The practical difficulties of overseeing criminal justice and border enforcement is a reminder of one of the basic insights of the sociology of punishment, an observation which can also be applied to the analysis of migration control. Namely, that punishment does not have a simple, singular purpose, such as penalising wrongdoing or reducing reoffending. Rather, punishment is a complex social activity that serves multiple, often competing, aims and addresses itself to audiences other than just an individual offender. Punishment thus carries a variety of political, moral, cultural and emotional connotations (Garland 1990; Simon and Sparks 2012). An analysis of state responses to criminal offending cannot therefore be reduced simply to technical questions about specific policies, conducted in an entirely rational, instrumental way, with no room for value and affect (Freiberg 2001; De Haan and Loader 2002; Karstedt 2002; Karstedt *et al* 2011). Punishment, like border control, always spills into bigger debates about the meaning of core political concepts including justice, rights, citizenship, liberty and identity (Loader and Sparks 2016). Because of their moral and cultural salience, these policy areas tend towards what political scientist Christina Boswell calls a 'democratic mode of settlement' rather than a 'technocratic mode' (Boswell 2009). Both are concerned with public goods and self-government, so reside in the spaces of democratic government.

Numerous criminological accounts have analysed the exact reasons for the political salience of crime and punishment towards the end of the twentieth century (e.g. Young 1999; Garland 2001; Zedner 2002; Loader and Sparks 2004; Newburn 2007; Jennings *et al* 2017).

Similarly, historians and immigration scholars in political science have provided compelling narratives of why migration matters so much at the beginning of the twenty first century (e.g. Holmes 1991; Paul 1997; Spencer 1997; Joppke 1998; Hansen 2000; Hampshire 2005; Messina 2007; Ellermann 2009; Anderson 2013; Ford and Goodwin 2014; Hollifield *et al* 2014; Dauvergne 2016; Geddes and Scholten 2016; Gatrell 2019). These accounts have tended to describe how long term increases in crime and migration in the post-war years stored up problems for political elites, which were periodically brought into focus by heavily symbolic events and moments of crisis. These factors interacted with a range of background social, economic, cultural, technological and political changes since the 1950s (Garland 2001) that have put post-material questions of identity, security, belonging and citizenship at the centre of public concern (Ford and Goodwin 2014). There are many debates to be had about such historical narratives, but the contingent factors that brought about the politicisation of crime and migration are not my main concern here. For my purposes, the most important observation to make is that in any historical moment, there are certain intrinsic aspects of criminal justice and migration control that make these areas ripe for politicisation. It is therefore important to reflect on the choices faced by political elites responsible for responding to crime and migration.

Confronted with the problem of maintaining order in a media-driven, ideologically polarised political environment, Ministers responsible for criminal justice in the 1980s spoke of 'doing good by stealth' (Jacobson and Hough 2018: 178). This comment conveys the difficulty of serious, open public debate on matters that are so often emotionally fraught and morally charged. It echoes the views of the 'Platonic guardians' of the British civil service, who saw public opinion as something to be carefully monitored and managed, not endorsed or given privileged status. According to this elitist liberal view of responsible government, once 'untutored public sentiment' (Loader 2006: 568) enters penal policy, scandal is never far away. It is perhaps unsurprising, then, that the position of Home Secretary, considered one of the four great offices of state, long held an informal reputation as a 'political graveyard' (Gibson 2008: 144). Since 2007, some areas of

responsibility (including prisons) have been moved from the Home Office to the Ministry of Justice, but storms follow wherever prisons go. The Ministry of Justice has seen a rapid turnover of Lord Chancellors (particularly since 2015), and controversy engulfed two of the longer serving Ministers, Kenneth Clarke (2010–12) and Chris Grayling (2012–15).

Deaths in custody have occasionally been one of these sources of controversy, particularly during Chris Grayling's period as Lord Chancellor. There was a sharp rise in the number of prison suicides towards the end of the Coalition Government's period in office (2010–15), which came alongside a more general trend of declining prison safety (Ministry of Justice 2018; Tomczak 2018). The former HM Chief Inspector of Prisons, Nick Hardwick, was one of many critical voices who highlighted rising levels of self-harm, violence and drug use in this period (HM Inspectorate of Prisons 2015; Hardwick 2016). Media reports and commentary at the time (e.g. BBC News 2015) suggested that declining safety in prisons was at least indirectly related to the fiscal policy of austerity, a central pillar of the Coalition Government's political strategy (Gamble 2014). There were significant reductions in staffing levels and budgets for many prisons (Institute for Government 2018), and an increasing number of suicides behind bars seemed to be one of the unintended consequences of this course of action. In the year leading up to December 2016, there were an unprecedented 119 self-inflicted deaths in prison in England and Wales, by which point the rate of suicide in prison had doubled compared to 2012 (Ministry of Justice 2017). The scale of suffering in prisons during this period drew attention to the fact that prisoners' wellbeing is at least partly a system-wide issue affected by resources, services and political decision making, rather than simply an administrative question for individual prisons to deal with. In short, it drew attention to deaths in custody as a political concern.

In contrast, deaths in immigration detention are relatively rare. There are typically no more than two or three per year across the estate (Medical Justice 2016), and the low public profile of IRCs means that these cases receive limited attention outside of left-leaning newspapers such as

The Guardian. There has, however, been a series of scandals about detention and deportation over the past decade or so. In the past two years, a cluster of suicides (particularly at Morton Hall IRC in Lincolnshire – see Taylor 2017) and BBC Panorama's exposé of abuse at G4S-run Brook House at Gatwick Airport, have drawn attention to serious problems in the detention estate (Shaw 2018; Verita 2018). The political fallout from the UK's 2016 referendum on European Union membership has also called into question to British immigration policy, including the Home Office's 'hostile environment' measures, as illustrated by the 'Windrush scandal' from late 2017 onwards (e.g. Gentleman 2017a, 2017b, 2018; The Guardian 2018). These periodic controversies about detention and deportation are embroiled in a wider set of debates about national identity, migration, race, belonging and citizenship, which have gained prominence since at least the 1990s (Schuster and Solomon 2004; Bloch and Schuster 2005; Flynn 2005). Yet for all the heat of immigration politics, immigration detention has been a largely uncontested political issue since the 2000s, with the notable exception of Shadow Home Secretary Diane Abbott's pledge to close down Yarl's Wood and Brook House IRCs if elected (BBC News 2018). IRCs encapsulate many of the biggest issues of our time, and the sharp end of migration control touches tens of thousands of lives every year (Bosworth 2014). But immigration detention remains below the radar for most people. It takes an event as extreme as a death in custody to draw any attention to them.[8]

As these observations suggest, the politics of deaths in prisons and IRCs are different in important ways. The uneven publicity afforded to prisons and IRCs is partly a product of the familiarity of the former, and the public's morbid fascination with issues of crime and punishment. But it also reflects certain structural and organisational differences between the two estates. The immigration detention system is far smaller, with an average daily population of over 2,000 people compared to around 85,000 in prisons. IRCs are not formally classified by security category or 'type' of detainee, although they are also gender-segregated institutions. Individual IRCs vary

[8] Riots and episodes of disorder are similarly rare, newsworthy events.

significantly in size, layout, regime and composition, and private sector companies (e.g. G4S, Serco and Mitie) have a relatively large influence in the management of detention centres compared to their role in prisons. IRCs are therefore a smaller, more complex and marginal institution in political life.

Although there are important differences between the prison and detention estates, from the perspective of political theory the similarities between the two institutions are striking. Both institutions are forms of coercive custody, where people are deprived of fundamental goods in austere, impersonal conditions. Several IRCs bear a striking physical resemblance to Category B prisons, often holding a substantial number of ex-prisoners and employing former prison staff. Concerns about order and security permeate daily life, and both captive populations are overwhelmingly male. Moreover, whenever deaths occur in prisons and IRCs, they raise a similar set of themes and questions. In both cases, deaths in custody are a major event, occurring in an institution that is contested and controversial. In the aftermath of a death, there is a degree of reflection about the decision to hold people in custody, their treatment while held inside, and the adequacy of resources and services provided for them prior to their death. While each individual case is fact-specific and highly contextual, a familiar set of political and administrative issues arise when people die in the custody of the state and its private sub-contractors.

'Irrational' Politics: Conflict and Contestation

If prisons and IRCs are political institutions, and deaths in custody are at least partly a political problem, then we ought to have some sense of what distinguishes the political from any other area of social life. Before I turn to the twin issues of depoliticisation and technocracy, I clarify my interpretation of politics and describe some of its general characteristics. In this section, I pay particular attention to the constitutive role that conflict and contestation play in politics, qualities that are strikingly absent from official responses to deaths in custody. Although many

people feel alienated by the spectacle of oppositional argument and ideological debate, I suggest that these are in fact healthy, necessary aspects of the political process in democratic cultures. Moreover, I observe that movements that claim to bypass compromised decision making and deliberative processes, such as populism, are dangerously anti-political. The following section argues that depoliticisation and technocracy also represent attempts to avoid politics, specifically its more adversarial elements, which I argue ultimately makes it difficult to address the political problem of deaths in custody.

In this chapter, I use the term 'politics' to refer to the ongoing process of cooperation and conflict over power and resources, animated by disputes about fundamental values, interests and ideas (Dunn 2000; Mouffe 2005; Stoker 2006; Geuss 2008; Stone 2012). The contemporary configuration of liberal democratic politics, organised around central concepts such as the state and rights, is historically specific (Geuss 2001), but it also has certain general properties that we can identify. Crucially, for the argument I develop here, political issues are raised and settled through forms of collective, centralised decision making. Political problems are often wide-ranging and seek to address major social issues, whether it be unemployment, educational inequality or healthcare provision. Political decisions therefore apply to all, or at least to large groups of people, although they may have unequal distributive consequences.

Politics, according to this view, is an ongoing process and dynamic activity. It follows that political issues are seldom resolved once and for all. In fact, political questions often do not permit any single, definitive answer applicable to all times and places. It is for this reason that political processes tend to produce messy, compromised outcomes (Stoker 2006). Unlike in markets, where individuals can have their preferences satisfied and products tailored to their consumer desires, political questions relate to many people at once in myriad ways (Stone 2012). It is therefore rare that a political decision will appease all interests, benefit all constituencies or deliver all public goods equally (Crick 1962). Politics requires people to hope that things can be changed for the

better, while regularly inducing a sense of disappointment from one moment to the next (Stoker 2006; Hay and Stoker 2009; Sleat 2013).

These observations suggest that frustration and disappointment are entirely understandable responses to the political process (Stoker 2006). Moreover, when the quality of political representation is poor, and the competence of parties or individuals is questionable, these feelings are likely to be intensified (Allen 2018; Clarke *et al* 2018). But it would be a mistake to conclude from the above description that political processes are entirely 'irrational', as they are often taken to be. Such a critique only makes sense if we believe that politics is an activity geared towards a single goal or crafted in pursuit of a particular outcome (Urbinati 2014). But that is not the nature of political activity. Politics is a way of organising power and managing conflicts over different human purposes (Dunn 2000). It is a way of conciliating incompatible interests and dividing scarce resources (Crick 1962).

Democratic politics in liberal societies therefore implies a degree of pluralism, and requires a willingness to negotiate, with an understanding that all decisions produce a mixture of winners and losers. Since democratic politics attempts to accommodate and conciliate clashing worldviews and settle competitions for power peacefully, we should think of conflict and contestation as healthy, necessary parts of it (Mouffe 2005). It is in recognition of the constitutive role of conflict and contestation that opposition is institutionalised in some parliaments, and that ideological cleavages are formalised through political parties and coalitions of interests (Mair 2013). In sum, conflict and contestation are virtues of democratic politics, not the pathological qualities they are sometimes thought to be. Public institutions like prisons and IRCs ought to be a part of this democratic political landscape.

Since the end of the Cold War, however, the ideological stakes of politics have been consciously reduced in many countries. A post-ideological third way politics, in which parties competed for credibility in the neoliberal centre, took hold (Crouch 2004; Mair 2013). Politics

retained its capacity to frustrate and disappoint citizens experientially, but lost the vitality of meaningful conflict and contestation. Already declining indicators of the quality of democratic citizenship (e.g. voter turnout, party membership) were accelerated by the degraded, diminished status of political argument and public institutions (Hay 2007). According to this pessimistic account, democratic politics entered a period of turbulence not because the stakes were so high, but because they were so low (Krastev 2014, 2017). A degree of trivialisation and disenchantment filled an ideological vacuum.

One way of responding to the disappointing, superficially 'irrational', quality of democratic politics is to capitalise on negative attitudes towards it. Over the past 20 years, populist parties across Europe have fed off a well-documented collapse in political trust, and portrayed themselves as the authentic voice of 'the pure people' against 'the corrupt elite' (Mudde 2004; Mudde and Kaltwasser 2017). Populism in its myriad forms thrives on anti-political sentiments by expressing simple, direct messages in an increasingly emotional, performance-oriented public sphere. Its actors claim to monopolise popular feeling against established parties and institutions through their charismatic leadership and moral authority. By doing so, they purport to channel 'the people' directly into political life (Canovan 1999), avoiding the frustration of complex deliberative processes and compromised decision making.

Populism, in this sense, is a radically disruptive force in representative democratic systems. It appears to embrace the conflict inherent in political life, and attempts to broaden the scope of what is politically acceptable or practically possible by making bold claims and far-reaching demands. Through its outright opposition to certain mainstream liberal values, it attempts to re-ignite dormant questions and shake up the political system. Populists re-politicise issues that have long been managed quietly and consensually by parties governing from the centre, who are criticised for retreating into the state and away from meaningful ideological conflict (Crouch 2004; Mair 2013). By putting issues such as crime, immigration and national identity on the political

agenda, populists can deride political elites as uniformly liberal, metropolitan and out-of-touch with ordinary citizens.

Yet despite their ostensible commitment to the importance of political conflict and open ideological debate, populists also adopt an anti-pluralist posture that denies the legitimacy of their opponents and accuses them of being an anti-democratic elite (*Müller 2017)*. They invoke 'common sense' and position themselves as honest, plain speaking voices, in contrast to the scripted, media-managed style of mainstream politicians, whom they regard as a coterie of special interests rather than genuine representatives. Whereas liberal democratic politics facilitates open debate and competition for power, populists in fact attempt to close down open political questions and centralise power. Populism thus capitalises on people's frustration with representative politics, particularly its messy compromises and disappointing outcomes, and promises to monopolise the state for a single end. In its attempt to open up political space for radically different ideas and ways of doing things, populism implies that less deliberate, more direct forms of democracy will reinvigorate politics.

Crime and migration are issues ripe for exploitation by populists. As noted above, both issues elicit strong moral reactions and tap into volatile emotions that can be easily whipped up. Identity, authority and sovereignty are consistent themes in populist rhetoric, and so it is little surprise that populists promise to impose law and order, while also reinforcing the primacy of borders and national cohesion. The account that I have provided so far is rooted in political accounts of populism, but it is of course true that scholars in criminology have analysed penal populism for years (e.g. Bottoms 1995; Roberts *et al* 2002; Pratt 2007). Penal populism is often invoked in a critical fashion to denounce a policy as irrational, superficial and short termist. Likewise in accounts of national populism (see Müller 2014), it is often claimed that populism degrades political discourse and harms marginalised groups, such as ethnic minorities and asylum seekers. Populism, according to these accounts, is a perversion of democratic politics. Although it

mimics the confrontational style of adversarial debate and puts forth simple demands, the underlying logic of populism is inimical to representative, pluralist democracy. Populism is therefore a creed rooted in apathy and withdrawal, rather than publicly engaged conflict and contestation.

Depoliticisation and Technocracy

My focus in this chapter is on parallel trends that scholars have paid less attention to, namely depoliticisation and technocracy (see Boswell 2009; Loader 2010; Shammas 2016; Loader and Sparks 2017). These may appear on the surface to be the polar opposites of populism, but they have a similarly impoverished, problematic conception of politics (Bickerton and Accetti 2017). Both populists and technocrats share the belief that politics is an activity geared towards singular outcomes that can be deduced from either the will of the people (populism) or rational expertise (technocracy) (Urbinati 2014). Whereas populists stir up contentious political questions and provide simple answers to them, depoliticisation and technocracy dial down the ideological content of political questions to allow apolitical experts to work out intricate solutions. In so doing, they recast value-laden political questions as technical challenges to be resolved outside of traditional arenas (depoliticisation), typically by independent experts and professionals (technocracy).

At the theoretical level, both populism and technocracy share a distaste for, and frustration with, democratic politics. There are certain formal similarities between populism and technocracy, but the latter is predicated on a different critique of representative democratic politics. The essence of the charge is that representative democratic politics is prone to short termism, partisanship and irrationality (Loader 2010). The public nature of political contest and the timing of electoral cycles distract parties from solving problems and governing effectively. It follows from these observations that the agency and discretion afforded to elected governments is suspect. To resolve

this, contentious political questions ought to be settled either outside of traditional political forums (depoliticisation), by actors who are apolitical and make rational decisions based on the competent appraisal of relevant evidence (technocracy).

The underlying rationale is a 'bad faith model of politics' (Flinders 2012: 91), which sees rent-seeking behaviour and perverse incentives as structural features of representative democratic systems. Administrators working in an independent, non-political environment are less likely to be affected by fickle political emotions, are better suited to following specified rules, and are more likely to take the most rational course of action in any given situation (Loader 2010). Public policy scholar Alasdair Roberts refers to political mechanisms that protect economic spheres from democratic pressures as a form of 'discipline' (Roberts 2009), insofar as they seek to secure certain processes and outcomes that would not be guaranteed in the absence of depoliticised, technocratic government. Whereas populism opens up new political space through its appearance of conflict and contestation, depoliticisation and technocracy attempt to narrow political horizons and minimise ideological conflict. These processes put a premium on closed, consensual processes rather than open, oppositional debate. Not only is depoliticised, technocratic government better suited to finding the right answers to difficult questions, the theory goes, it also takes some of the heat and irrationality out of political problems (Vibert 2007).[9]

Depoliticisation and technocracy do not make the substantively political content of policy questions disappear (Mouffe 1993). Rather, they are forms of statecraft. Moves towards depoliticisation and technocracy are typically instigated by political elites in relation to long-standing policy problems, such as economic growth and monetary policy (Burnham 2001). They bind political actors and allow them to deny their own capacity to act (Hay 2007). These processes produce an indirect, fragmented governing relationship with a particular policy area (Flinders 2004,

[9] Of course, all political questions invoke expertise and seek the advice of relevant knowledgeable individuals. What distinguishes technocracy from prudent government is the relative *power* given to experts and independent oversight bodies.

2012). Depoliticisation thus allows political actors to avoid blame, manage risks and transfer difficult questions elsewhere, a process some scholars call 'arena-shifting' (Flinders and Buller 2006: 296). This tendency can be observed whenever there is an initial report that someone has died in custody. Rather than make any comment on the case or acknowledge patterns of policy failure, the Ministry of Justice releases a statement announcing that the death will be independently investigated by the PPO and by a coroner's inquest, thus shifting attention away from political actors and onto depoliticised bodies comprised of apolitical professionals.

In a similar vein, technocracy conceals processes of decision making behind a veil of expertise and in so doing complicates the relationship between ruler and ruled. Decision making power no longer sits with identifiable political actors. Instead, responsibility is spread thin and wide across agencies, boards and committees, which are composed of experts who are not known to the public (Fischer 2009). One of the casualties of such fragmentation is a sense of clarity about how a system works. Who controls government? Who is responsible for what? Where does power lie? Accountability suffers in these circumstances, as political elites reinforce the idea that they cannot be trusted to govern, either by denying their capacity to act or voluntarily giving it away (Hay 2007).

The terms 'technocratic' and 'technocrat' often have pejorative connotations (Loader and Sparks 2017). Like the label 'populist', a 'technocrat' would rarely self-identify as such. It is usually a designation that comes from someone else, most likely an opponent or critic. The language of technocracy is thus frequently used to discredit a policy as excessively complicated, or to impugn an individual actor as elitist, bereft of charisma and lacking in popular democratic legitimacy. Such critical uses of the term tend to occur in the sphere of political economy, with reference to bodies such as the European Central Bank or other powerful unelected organisations.

Throughout the chapter, I use the terms in a more neutral, analytical way. The theory of technocracy allows us to identify important characteristics of actors, institutions and processes,

and to describe their underlying logic. Technocracy is not a fully-fledged ideology in the sense of liberalism, conservatism or socialism (Freeden 1996), and technocratic bodies can be found embedded in different types of political regime.[10] It is for this reason that I would describe technocracy as a 'thin' ideology, in the sense that Ben Stanley analyses populism (Stanley 2008). Like populism, technocracy can co-exist or combine with other political ideologies, and can be embedded in many different political arrangements. The reason for its ideological flexibility is that technocracy is predicated on an abstract set of ideas about how politics should be conducted and the values that ought to guide government action. These are often implicit or unacknowledged, but it is clear that technocracy emphasises the importance of rationality, expertise, neutrality, evidence, efficiency and pragmatism. To some, these may appear to be self-evidently good qualities to instil in political life, just as they would be in business or an organisation. But as others have argued, technocracy is in tension with many of the basic values that underpin democratic politics, such as open government and equality of status (Putnam 1977: 385–387).

Unlike 'thicker' ideologies, technocracy is not necessarily committed to any particular programme of reform or substantive policy ends. Indeed, its proponents would likely eschew the claim that they are 'ideological' (Gunnell 1982), and express commitment to instrumental rationality over utopian visions of the good society (Olson 2015). Technocracy, in other words, is an ideology of means, not ends. It offers a particular view of how social problems should be understood, how political argument should be formulated, and how proposals, programmes and policies should be evaluated. One of the important consequences of this way of thinking is its tendency to limit the political imagination and provide a narrow set of options for how to respond to social problems. As the political sociologist Miguel Centeno puts it:

[10] Technocracy can coexist with neoliberal, authoritarian, social democratic, communist and other political regimes. Technocracy does seem to be a fellow traveller with neoliberalism, in part because of the latter's economic underpinnings, but this is a contingent rather than necessary relationship.

> '[R]ather than an ideological system that offers authoritative decisions on every policy decision, the technocratic mentality concentrates on shaping patterns of problem recognition, option generation, and agenda placement that largely determine the eventual final choice of outcomes. We can understand this perspective not as an ideology of answers or issues, but an ideology of method: a belief in the ability to arrive at the optimal answer to any discussion through the application of particular practices. What the technocrats offer is often not a new set of political values, but a new methodology of understanding social problems; one that is explicitly "realistic and efficient".' (Centeno 1993: 312)

Scholars who study depoliticisation and technocracy have tended to focus on examples from macro-economic management, such as the creation of independent central banks, and the post-war emergence of supra-national institutions, most notably the European Union, strengthened constitutional courts and global governance structures such as the Bretton Woods institutions (see generally Majone 1994; Burnham 2001; Thatcher and Sweet 2002; Moran 2003; Flinders and Buller 2006; Roberts 2009; Flinders and Wood 2014). However, the influence of depoliticisation and technocracy – and similar processes such as the judicialisation of core political questions (Sweet 2000; Shapiro and Sweet 2002; Hirschl 2006; Randeria 2007; Moyn 2010) – is not confined to these major developments.

The influence of such rationalism in liberal democratic politics is more wide-ranging and subtle than is often acknowledged (Mouffe 1993). Calls for 'evidence-based policymaking' (Stoker and Evans 2016), for example, place significant faith in the value of reason and rationality in the public sphere (Clarence 2002; Parsons 2002; Sanderson 2002), and assume that political questions can, at least in principle, be approached from the objectively superior vantage point of scientific inquiry (Cairney 2016; Newman 2017). Arguments made in support of open migration policy or liberal asylum regimes often turn on these depoliticised, technocratic assumptions (Pécoud 2015),

as do claims that sentencing councils provide an effective, independent counter-weight to the irrationality of penal populism (Lacey 2008). Wherever intractable problems are found in political life – prisons and IRCs being two clear examples – there are likely to be calls for depoliticised, technocratic government (Clarence 2002).

Rational Consensus: The Politics of Independent Oversight Bodies

In his writings on distrust of government and an increasingly individualist, consumerist logic in political life, the French historian and political theorist Pierre Rosanvallon analyses the development of 'counter-democracy' (Rosanvallon 2008). Counter-democracy emerged in the shadow of the growing scale and complexity of government, most notably in the latter half of the twentieth century (O'Hara 2011). As state power expanded and its influence spread into ever-more areas of social and economic life, calls for accountability and transparency grew accordingly. The logic of counter-democracy dictates that the state must be formally held to account, and it must consistently demonstrate its commitment to democratic principles of open government. The emergence of counter-democracy was fuelled by a long term decline in deference to elite authority and citizens' increasing awareness of their rights vis-à-vis the state. By the close of the twentieth century, many public institutions and professions had been hit by scandals and sought to regain the public's trust (Boswell 2018). In these circumstances, older notions of governmental autonomy and professional self-regulation were replaced by a new agenda of modernisation and democratic reform (Moran 2003).

Independent oversight bodies or government 'watchdogs' are a paradigmatic example of counter-democracy in action. Such bodies can be found in many policy areas, especially those where parties seek to prove their governing competence to citizens, such as public spending or healthcare. In practice, governments themselves often instigate counter-democratic measures, meaning that the state is in effect holding itself to account. The basic function of independent

oversight is to secure and demonstrate government accountability through transparent procedures. In a similar way to publicising precise numerical targets for key priorities on contentious issues, such as migration numbers and asylum applications (Boswell 2015), independent oversight bodies allow governments to achieve several things simultaneously. By setting up a watchdog, governments are seen to signal certain political priorities, acknowledge a public concern, respond to an important problem, and demonstrate their commitment to transparency and accountability. According to Rosanvallon (2008), the creation of formal structures of independent oversight is an attempt to institutionalise distrust, and can be thought of as a form of surveillance on the state. In an era of low trust in political institutions (Boswell 2018), states themselves have tried to shore up their weakened authority and restore some public credibility. It is little surprise, then, that independent oversight bodies have proliferated in recent decades.

More precisely, it is also no coincidence that counter-democratic bodies flourished in the New Labour era of 'post-ideological', third way politics that emphasised modernisation and new public management (Burnham 2001; Newman 2001; Crouch 2004). Given the anti-political sentiments described earlier, and the critique of representative democracy as irrational and dysfunctional, depoliticised arenas of independent oversight can be portrayed as a consensual 'win–win' process (Mair 2013: 93), as everyone can be said to benefit from transparent government. Unlike the conflict and contestation of distributive, 'win–lose' politics, counter-democratic bodies are independent and non-partisan (Flinders 2012). They do not derive their legitimacy from direct popular consent (i.e. elections) nor do they represent a particular group or interest. Instead, they claim to serve the broad public interest in accountable government through their independence and expertise (Loader and Sparks 2013: 115–117). To this extent, their non-majoritarian status is part of their democratic appeal (Thatcher and Sweet 2002). They instantiate the values of constitutional democracy (government *for* the people), rather than popular democracy (government *by* the people) (Mair 2002). Rather than seeking public popularity or vying for political office, independent oversight bodies are primarily concerned with the quality of democratic

decision making for the people as a whole and with safeguarding the outputs of political life. Yet the image of independent oversight bodies as impartial technocrats belies the substantively political nature of the issues they investigate (see Mouffe 2005).

One of the most important characteristics of independent oversight bodies is that, in general, they do not have the power to create policy or allocate resources. These positive powers are traditionally reserved for elected governments, and so counter-democratic bodies can only exert influence in a negative, reactive way. Typically, they do this through the mechanism of voice (Hirschman 1970). Their role is to scrutinise government carefully and report back honestly to the public. The validity of their voice is therefore contingent on them being scrupulously apolitical and non-partisan. As they are rarely empowered to enforce their recommendations directly (Kirkham *et al* 2008: 510), their power lies in their ability to cast judgement or express disapproval (Rosanvallon 2008). They are in this sense a counterweight to the positive powers of the state. Their negative power typically comes in the form of public reports based on investigations or thorough audits, which allow them to express vigilance, denunciation and evaluation (Rosanvallon 2008). If we return to the theoretical account of technocracy offered above, the parallels between independent oversight bodies and depoliticised, technocratic government are clear. These bodies are committed first and foremost to procedural values of neutrality, transparency and consensus, as informed by evidence, rationality and expertise. Their apolitical, independent status is the source, and limit, of their power.

If we look more closely at a particular example of a counter-democratic independent oversight body, we can begin to see how these abstract principles take on a more concrete institutional form. An ombudsman, for example, is an independent third party that investigates individual complaints or allegations of maladministration against government bodies (Seneviratne 2002). The UK has ombudsmen in policy areas as diverse as energy, financial services, pensions, housing, local government, parliament and health (Buck *et al* 2011). For my purposes, it is notable

that since April 2004, all deaths in prisons and IRCs have been investigated by the PPO, which also investigates prisoner and detainee complaints. Ombudsmen were once seen as an admission of parliamentary failure to prevent governmental encroachment on citizens' rights (Harris 1990: 110–111). They are now deeply embedded in the state and a routine aspect of administrative justice (Kirkham 2016: 106). In the context of prisons and IRCs, the PPO embody cool rationality in areas that are fraught with the heated politics of emotion and morality (Loader and Sparks 2011: 108–114). Their independent status as a considered, disinterested professional is bolstered by the background of most ombudsmen, who have typically had distinguished careers as civil servants or in civil society organisations, such as NGOs and charities. Their voice on matters of punishment and detention is carefully crafted to be informed, unbiased and rational.

These theoretical observations about the form and function of counter-democratic bodies, and ombudsmen in particular, have a particular resonance when it comes to places of custody. Prisons and IRCs are coercive institutions where state and private power is wielded in its most brute, direct form. Moreover, custodial spaces are, by default, closed worlds (Shaw 2016). Low-ranking prison officers, for example, have significant amounts of discretion in how they work, form relationships, maintain order and enforce rules (Loughlin and Quinn 1993; Gilbert 1997; Liebling 2000) (see Chapter 7). The innate power imbalance between prisoners and staff means that there is a constant possibility that the latter's power will be abused, processes not followed or unfair treatment meted out (Crewe 2011b). These are fundamental features of coercive, secure spaces. Governing prisons through independent oversight bodies may therefore appear to be self-evidently good. If excessive state power is dangerous, surely having formal structures in place to regulate it is desirable.

IRCs are also susceptible to such abuses of power, as has been illustrated by undercover exposés at Brook House and Yarl's Wood detention centres (Shaw 2018; Verita 2018). Problems of power and accountability are compounded in the context of immigration control because

decisions about detention, deportation and release are made by Home Office officials located offsite (Bosworth 2017). This breeds constant tension for detainees who may feel that their cases are not being processed fairly. Even if they feel this way, they may struggle to express their concerns because of language barriers, a lack of information about available options, or fear of the consequences. Moreover, the unstructured daily life of IRCs, and the uncertain length of detention for most detainees, means that relationships between DCOs and detainees are loose and informal (Bosworth 2014), creating a risk that officers will blur the boundaries between professional conduct and inappropriate behaviour. With a rapidly changing population in detention and profound inequalities between detainees and the state, there are good reasons to argue that IRCs require careful public scrutiny. At the same time, coercive detention on grounds of citizenship openly flouts some basic liberal premises of justified punishment (Bosworth 2013; Zedner 2016), raising questions about how effective forms of democratic accountability and oversight are in these spaces.

At present, prisons and IRCs are subject to continuous processes of monitoring, inspection and investigation. The institutional arrangements for governing places of custody are intricate (see Shute 2013; Bennett 2014; Behan and Kirkham 2016; Bhui 2016b; Hardwick 2016), so I focus only on some of the formal mechanisms here. Primarily, independent oversight is performed by the Independent Monitoring Board (IMB), HM Inspectorate of Prisons (HMIP) and the PPO. While there is some degree of overlap between the concepts of monitoring, inspection and investigation, each body is functionally independent. The IMB provides a local set of eyes and ears to monitor what goes in a particular prison or IRC, and maintains links between places of punishment and civil society. HMIP conducts unannounced inspections on establishments at least once every five years, takes on casework, and produces public reports on individual prisons and IRCs, as well as an annual review of the estate as a whole. Finally, the PPO handles individual complaints and, since April 2004, conducts independent investigations into all deaths in prisons, IRCs, approved premises and secure training centres, which are archived online as Fatal Incident Reports. In their

1999 study of government 'waste-watchers, quality police and sleazebusters', Christopher Hood and colleagues argued that prisons in England and Wales are 'subject to one of the densest patterns of regulatory oversight of any public-sector activity in the UK' (Hood *et al* 1999: 117). In addition to this tripartite structure of monitoring, inspection and investigation, custodial sites have a plethora of internal policies and auditing systems, as well as standardised rules, best-practice guidelines and legal instruments that specify how they should be run. Investigations into deaths in custody, which I discuss later, are therefore one part of a broader repertoire of evaluative standards and regulatory oversight to which prisons and IRCs are subject (Behan and Kirkham 2016).

Places of custody are thus governed by a set of counter-democratic bodies, whose values are distinctly procedural, informed by a paradigm of corrective administrative justice (Buck *et al* 2010). As regulators, they monitor to what extent government complies with its own stated policy, and on occasion draw attention to the consequences of resource allocation decisions. They are a mechanism for disciplining government bodies and ensuring compliance with official regulations. They are therefore keen to make their work and findings public, to maximise accountability. What they cannot do, however, is make a more positive case for how policy should be changed or where resources should be spent. In the context of prisons and IRCs, we might think of highly critical independent inspections of HMP Liverpool in 2017 (Buchanan 2017) and G4S-run HMP Birmingham in 2018 (Elgot 2018) as illustrations of the negative power of independent oversight bodies. In a similar way, thorough investigations of Home Office decisions to detain foreign nationals have highlighted issues of fairness, transparency and efficiency in detainee casework (HM Inspectorate of Prisons 2012), as have surveys with immigration detainees in prison (HM Inspectorate of Prisons 2015). These published documents were critical, despite subscribing to no positive, all-encompassing vision of justice or the good society. As a secondary body that is parasitic on primary government activity, in this case the power to punish and detain, HMIP places a premium on its independence and commitment to transparent, evidence-based inspection above all else.

The argument I have made so far, and elaborate on in the final section, is not against independent oversight bodies as such, nor is it to suggest that they serve no useful purpose. Rather, my purpose is to draw attention to the particular form that democratic accountability and legitimacy takes in places of custody, and to think through the consequences of existing institutional arrangements, which place such a premium on technocratic values of process and procedure. Where rationality and neutrality reign, the political virtues of conflict and contestation are weakened.

The Limits of Rational Consensus: Official Responses to Deaths in Custody

Official responses to deaths in custody are a significant example of how prisons and IRCs are governed through independent oversight bodies. When a person dies in prison or detention, the otherwise secretive world of coercive custody is opened up to an unusually high degree of public scrutiny. I focus here on the two formal investigations carried out by the state in the aftermath of deaths in custody (see Chapter 6). The first is by the PPO, which has conducted independent investigations into all deaths in prisons, IRCs and other establishments since April 2004.[11] In keeping with its values of independence and transparency, all its Fatal Incident Reports are archived online, as are Annual Reviews and other policy documents.[12] The initial PPO investigation sets out in detail what happened in a particular case, what decisions were made by members of staff, and issues a series of actionable recommendations to the particular prison or IRC in question. The PPO investigation is followed by an inquest held in a coroner's court. Inquests are an ancient legal-medical inquiry into the circumstances of 'unnatural' deaths, including deaths in any form of state custody (Matthews 2014). Inquests discharge the state's duties in

[11] Young offenders' institutions, secure training centres, escorts, approved premises, short term holding facilities and courts. Deaths during or after police contact are investigated by the Independent Office for Police Conduct, previously known as the Independent Police Complaints Commission, before they go to inquest.

[12] Fatal Incident Reports are available online at <https://www.ppo.gov.uk/document/fii-report/> (last accessed 09/01/2019).

respect of the right to life under Article 2 of the European Convention on Human Rights (Martynowicz 2011). The requirements for a full investigation have become more extensive since the passage of the Human Rights Act 1998 and several landmark cases in the House of Lords (particularly *R (Middleton) v West Somerset Coroner*), such that inquests are now longer and more complex than ever before (see Chapter 6). These brief descriptions indicate that the institutional arrangements for responding to deaths in custody are strikingly bureaucratic and legal in character. They each take place outside of traditional political arenas of ideological contestation, and are led by disinterested professionals acting in an independent, non-partisan capacity.

Both PPO investigations and coroner's inquests expose the inner workings of prisons and IRCs in a way that few other processes do. Paperwork and decision making that would otherwise be ignored are pored over in great detail by expert professionals. How a prisoner or detainee felt in the days before their death is carefully considered, as members of staff are questioned about their duty of care and competence in managing vulnerable individuals. Deaths in custody are highly emotional incidents (Liebling 2017), and they often raise troubling ethical questions about how individuals were treated, and the services they received, prior to their death. In recent years, as numbers and rates of suicide in custody have increased, individual deaths can seem to encapsulate a whole series of criticisms about prisons and IRCs as unsafe, inhumane and destructive institutions (Tomczak 2018).

For these and other reasons, it might be thought that official responses to deaths in custody would offer an opportunity to ask searching, critical questions about prisons and IRCs. Perhaps a death in custody is an event that leads us to contest and challenge the way we punish citizens, or to reflect seriously on our treatment of detained and deportable foreign nationals. Where there were manifest failures to provide sufficient mental health support for vulnerable people or to staff wings properly, surely PPO investigations and inquests provide a space where these issues can be highlighted and scrutinised. But that is not what I argue here. Building on the analysis offered

earlier in this chapter, I show how responses to suicide in prisons and IRCs are depoliticised and technocratic. Moreover, I suggest that depoliticised, technocratic investigations are limited in their ability to address the political nature of deaths in custody. The consequences of these depoliticised, technocratic processes is that deaths in prisons and IRCs are narrowly construed as administrative challenges to be resolved by individual establishments, rather than systemic issues relating to the prison and detention estates as a whole. Instead of generating the political dynamics of conflict and contestation over prisons and IRCs, they produce a rationalist, consensual set of procedures for dealing with individual cases. In sum, official responses to deaths in custody have a depoliticising effect, leaving prisons and IRCs uncontested.

It is important to acknowledge that the exact circumstances of any death in custody, particularly suicides, do require careful reconstruction. State responses to deaths in custody are 'fundamentally reactive' (Shute 2013: 499) and with good reason. They are triggered by a particular event and confine themselves to issues directly relevant to the death. In each case, a person's final days are investigated in as much detail as possible. Timings, decisions, phone calls and formal responsibilities are revisited, sometimes months after the death took place. There is a preoccupation with the minutiae of who did what, when and how. Rather than inquiring broadly into the culture or organisation of an establishment, investigations drill down into those actions that are procedurally required and which can be objectively verified through a paper trail or other bureaucratic record.

The narrowness of these investigations is accompanied by an emphasis on procedural neutrality. PPO reports state clearly that the organisation's 'vision' is 'to carry out independent investigations to make custody and community supervision safer and fairer' (Prisons & Probation Ombudsman 2018). One of its core values is to be 'impartial: we do not take sides'. Inquests are similarly neutral processes that limit themselves to asking questions about who the deceased was, where and when they died, and in what circumstances. For this reason, they are formally

inquisitorial proceedings (Matthews 2014). Unlike adversarial criminal trials, the purpose of an inquest is primarily fact-finding, rather than accusatory. As Isabel McArdle explains:

> 'An inquest has a very distinct role and scope. Members of the public often have an inaccurate understanding of the function of an inquest, and how its function limits the type of questions which may be asked, and what type of outcome an inquest might achieve. […] As to its role, an inquest is a fact-finding exercise: it cannot determine questions of civil liability or criminal liability on the part of a named person. […] Despite a sometimes contradictory impression (interested persons being separately represented, inquests taking place in courts), an inquest is not a trial; it is an inquisitorial rather than adversarial process.' (2016: 39–40)

Such neutral, bureaucratic rituals are a way of making sense of something shocking. Just as public inquiries respond to issues of major political significance or social anxiety (Burgess 2011), the fact that deaths in custody are officially investigated in a dispassionate manner ironically suggests that the loss of life in places of state coercion is in fact a distinctly troubling and serious matter. The very act of investigating an event confers gravity on it, and implies that it can be understood in a way that is meaningful and instructive (Maclean 2001). Investigations are a formal acknowledgement that human events rarely just happen with no identifiable cause or in the absence of any underlying structure or agency. Political theorists, for example, distinguish between matters that are 'political' and those that belong to the realm of 'fate' (Gamble 2000): the former can be influenced or controlled by purposeful collective action, whereas the latter are mere events that are better described in terms of randomness, chance or luck. As governments have grown in size and complexity, they have found themselves regulating evermore aspects of economic and social life. Many issues that would previously have been seen as religious, private or uncontrollable are now seen as amenable to human, political influence. Deaths in custody are one such example. An individual's suicide may previously have been viewed as inevitable or unpreventable, especially if

the deceased was determined to take their own life. However, with changed attitudes towards suicide and improved understanding of its causes (as well as challenges to myths and misperceptions about it), there is now some recognition that many deaths can be prevented through changes in resources, training, environment and culture. As the title of a report by HMIP (1999) put it, *Suicide is Everyone's Concern*.

To family and friends, however, a death may seem to be beyond rational comprehension. Loved ones may speculate about what happened to the deceased and why. These questions are especially pressing when a death occurs in a coercive state institution that is by default inaccessible to outsiders. There may be some understandable suspicion about what caused the death, and for many families their first concern may be to confirm that their loved one was not murdered or that certain religious rituals were performed. In some cases, suicide may be stigmatised or difficult to accept. Given these emotional responses to deaths in custody, it could be argued that there are good reasons to establish clear procedures for thorough, independent, neutral investigations into all deaths in custody.

But such an approach has its limits. By focusing narrowly and neutrally on the proximate causes and contributing factors, officially responses to deaths in custody pay little attention to the coercive, punitive logic of prisons and IRCs. Official investigations also bracket off questions that are harder to answer, or issues that are not easily verifiable, such as the culture of a particular institution or the attitudes of its staff. PPO investigators, for example, are not able to make comments about prison staff culture or to offer their thoughts on, say, the gendered dynamics of officers' relationships with detainees, unless these can be shown to have a clear and direct bearing on the death, which they rarely do. Similarly, an inquest is not a forum for discussing resource allocation decisions or suggesting how prisons or IRCs in general ought to be reformed.

Prisons and IRCs thus come out of official investigations with their basic justifications of intentional hardship and state-sanctioned pain uncontested. In this sense, investigations into

deaths in custody do not aspire to fundamentally change conditions in prison and IRCs. That would be considered too openly political a goal and therefore outside their remit. What they do offer, however, is a process whose form acts as a counterweight to its content. Deaths are contentious, emotional and morally complex, and so the investigation that follows is routinised, neutral and inquisitorial. The PPO investigation and the coroner's inquest are an attempt to make sense of a tragedy that is often charged with emotion and controversy. They are formal efforts to step back from feelings of pain and anger, and to leave aside notions of blame and regret.

PPO investigations and coroner's inquests are about inquiring dispassionately into the circumstances of a particular death. Their primary task is therefore to establish facts about a case and draw verifiable conclusions about an event. Who was the deceased? What was known about them? What happened in the period before, during and after the death? Who made important decisions? Were policies followed? Was information shared and paperwork completed? Are there any lessons to be learned to prevent future deaths? These are not necessarily simple questions to answer, but what matters for my purposes is that they are narrowly construed and precise, rather than wide-ranging and fundamental. A more politicised inquiry into deaths in custody would not hesitate to draw on the language of justice, fairness, equality, dignity and materialism. To develop the distinction drawn earlier between politics and fate, a political conception of deaths in custody would stress that conditions in prisons and IRCs do not have to be brutal or degrading: these are the products of human will and collective action.

All of which is to say that investigations into deaths in custody are depoliticising in appearance, form and effect. They narrow major ethical and political questions into a set of precisely defined factual, procedural problems of compliance with rules and guidelines. If we return to Pierre Rosanvallon's discussion of 'counter-democracy', we find an analysis of the consequences of such reactive processes:

> 'The initial consequence of counter-political strategies and actions is to dissolve signs of a *shared world*. Reactive in essence, these strategies and actions cannot sustain or structure collective projects. The distinctive feature of this sort of unpolitical counter-democracy is that it combines democratic *activity* with non-political *effects*. […] The development of counter-democracy is therefore both complex and problematic. Complex because it combines positive elements of growth in social power with populist-reactive temptations. Problematic because the evolution toward "civil democracy" leads to fragmentation and dissemination where coherence and comprehensiveness are needed.' (Rosanvallon 2008: 23)

In other words, both processes deal with individual cases rather than the broader context in which events occur. Particular cases may illustrate the consequences of systemic problems such as under-staffing or poor training, but a PPO report or inquest recommendation is not well-suited to analysing the causes of these issues.

Conclusion

My argument in this chapter is that official responses to deaths in custody are depoliticised and technocratic. Normatively, this is a weakness. Prisons and IRCs are institutions that intentionally deprive people of fundamental goods, and deliberately subject them to hardship and emotional suffering. When such suffering turns inwards, and people end their lives in state custody, this ought to invite serious reflection on what punishment is for and whether detention can be justified. The emotional and ethical weight of these cases calls for far-reaching discussions of justice, including critical questions about who is sent into prisons and IRCs, how they are treated, and what services and resources they receive. Such questions cannot be resolved once and for all, nor do they have a simple, single answer. In this sense, they are political questions, and so ought to be settled through forms of open ideological contest. As the political theorist Matt Sleat

explains, 'Politics is the sphere of contest in which people struggle to realise their competing ideals and values in practice' (2013: 15).

In practice, however, deaths in custody result in a set of procedures that are depoliticised and technocratic, the domain of civil servants, lawyers and experts, rather than political actors with the power to change the institutions themselves. These bureaucratic investigations are narrowly circumscribed, and foreground procedural values of neutrality, independence and rationality. They lean towards fact-finding and knowledge production, issuing only precise, administrative recommendations about what a particular prison or IRC should do. As depoliticised independent oversight bodies, however, the PPO and coroners have no powers of enforcement, and there is no sanction for prisons or IRCs that fail to comply with recommendations. This rationalist framework provides little space to discuss fundamental political concepts such as power, inequality and distributive questions about resources, far less so cultural questions about gender, race, class and health.

Investigations thus leave punishment and detention fundamentally uncontested. Their narrow scope and focus on individual cases means that questions about what prisons and IRCs are for, who is sent there and why, are entirely absent from each investigation. Yet it is precisely for these reasons that deaths in custody are contentious. Investigations, then, naturalise punishment and detention, and in the process reduce the emotional power of deaths in custody. The focus on actions rather than meaning, paperwork rather than culture, is indicative of processes that are depoliticised and technocratic.

The weakness of legalistic, depoliticised approaches to changing prisons was vividly illustrated in an unsuccessful judicial review challenge against HMP Woodhill in Milton Keynes, which had 19 suicides in the five years leading up to 2016 (Tomczak 2018). In its closing *obiter* remarks, the High Court said:

> '[I]t is not obvious precisely what else it is said should be done to address the problem. The Claimants' submissions came close to an argument that "something must be done", without identifying what it is that could be done. In our view, a remedy of the sort proposed by the Claimants would serve little purpose. The Courts can and do provide a remedy for specific failures in specific cases. However the reality, we suspect, is that this is not a problem with which the Courts are equipped to deal in generality. Suicides in prison raise complex societal issues. The solution to those problems, acute as they are, lies not with judges applying principles of public law but with those who have the unenviable task of managing prisons.' (*R (Scarfe and others) v Governor of HMP Woodhill and The Secretary of State for Justice* 2017: 70–71)

The depoliticised, technocratic quality of current institutional arrangements for responding to deaths in custody has several consequences. First, it tends to narrow arguments about reform of prisons and IRCs, by limiting the range of permissible ideological positions on the issue and focusing on small administrative changes for individual members of staff in particular establishments. In so doing, it deflects attention away from political actors who have the power to affect change, for instance through resource allocation decisions and penal policy levers. While official responses to deaths in custody often highlight the *consequences* of political decisions (e.g. about staffing levels and service provision), they are ill-equipped to address the causes of these problems in the first place.

Deaths in custody cry out for political conflict and contestation. Instead, they are managed rationally and consensually outside of political forums of ideological debate. What is to be done? What do prisoners and detainees deserve? How much money should be allocated where? Should sentencing policy or healthcare provision be substantially revised? Why do the marginalised and excluded fill our prisons and detention centres, in life and death? These are open-ended, wide-

ranging questions. They cannot be resolved in a simple way with reference to a single outcome or value, nor can they be deduced from scientific principles or the vantage point of positivist social science. In a word, they are *political* questions.

Chapter 4

Methods and Sources

> 'From a phenomenological point of view, to do research is always to question the way we experience the world, to want to know the world in which we live as human beings. And since to *know* the world is profoundly to *be* in the world in a certain way, the act of researching – questioning – theorizing is the intentional act of attaching ourselves to the world, to become more fully part of it, or better, to *become* the world.' (van Manen 1997: 5)

All social research must grapple with questions of method. How can we understand the social world? Is it possible to produce reliable knowledge about it? What are the ultimate aims of our research? How should we conduct it? These are thorny philosophical problems, but they are also practical dilemmas for researchers busily conducting fieldwork, handing out questionnaires and interviewing participants. Methodology is implicated in every aspect of a research project, from the initial formulation of a problem through to the conclusions it eventually draws. Our ability to discover and produce knowledge about the social world is therefore closely connected to the methods we use.

Social scientists are no strangers to debates about methodology. Academic journals in criminology, sociology and other disciplines are filled with studies that employ all manner of research methods, including large-n quantitative projects, longitudinal cohort studies, discourse analysis, archival research, elite interviews and ethnographies (see Liebling *et al* 2016). Notwithstanding the 'paradigm wars' over quantitative and qualitative approaches (Gage 1989; Bryman 2008), social scientists tend to have an open mind about research methods. Typically, they acknowledge that research is a craft requiring a range of intellectual tools (Bosworth and Hoyle

2011). Critics might see this variety of styles as evidence of the shaky, unscientific foundations of social research, but pluralism is a sign of vitality, not weakness. There is no generic form of inquiry that is appropriate for all areas of social science, given the eclectic list of topics it covers and the elusive nature of its subject matter (Benton and Craib 2001). Societies, after all, are dense webs of individuals, groups and institutions, with multiple layers to unfold and hidden depths to uncover (Mason 2002). Each approach can tell us something important about how we live together, shedding light on different aspects of the human condition.

Empirically-minded scholars, whatever their methodological persuasion, begin from the premise that the social world is complex. Frustratingly, it does not simply present itself to us in a pure, unambiguous form. If anything, it seems resistant to our attempts to understand it. But rather than be dismayed by these conditions, empirical researchers are excited to explore them, guided by social theory and broad explanatory frameworks (Barnes 1995; Cooper 2008). Social scientists take the seemingly natural concepts and categories that organise our world – family, work, gender, education, class, law, religion, power, health, age, beliefs and so on – and subject them to analysis and critique. In the process, the ordinary and the obvious are turned into intellectual puzzles in need of explanation (Mears 2017). The substantive aims of social research – to clarify and explain the world around us, while also complicating and challenging how we see it – require an accompanying set of guidelines about how to conduct our inquiries (Mason 2002: 7–8).

Qualitative research, the umbrella term that covers the method I have used (see Seale *et al* 2004; Wincup 2017), is distinguished from other approaches by the close attention it pays to the meaning and interpretation of social action (Flick 2007a). It is not content merely to observe and record verifiable facts, such as people's externally visible behaviour, nor is its purpose to analyse the frequency and distribution of particular actions within a population. These activities are useful in many ways, but they are best undertaken by quantitative researchers with training in the collection and analysis of statistics. Instead, qualitative research is animated by the desire to

understand from within, to explain not only what happens but what it means and how it is perceived (Bevir and Blakeley 2018). This often includes observing people in their natural settings to see what they do and how they behave, but it includes the additional step of analysing the underlying significance of people's actions.

Research in the qualitative tradition therefore delves into people's subjective experiences, thoughts and feelings, bringing these submerged aspects of social life to the surface (Morris 2015: 5). It recognises the 'pluralization of lifeworlds' (Flick 2014: 11), the fact that social relations and individual experience in modern societies are highly diverse, contextual and specific, and therefore ought to be understood as precisely as possible. In this sense, the 'quality' it provides is that of texture and detail, rather than validity or generalisability (Seale 1999). As Hilary Arksey and Peter Knight argue, 'Social science disciplines are concerned with the sentient experience of being human and have in common an interest in human thought, life, culture and action' (1999: 10). Whereas quantitative research is typically concerned with that which can be counted, measured and tested, the character of qualitative research is more exploratory and indeterminate (Mason 2002: 24). Qualitative research is therefore less codified than its quantitative counterpart (Bryman 2016: 400), and adheres less strictly to procedures for gathering and analysing data.

In the most general sense, qualitative research contributes to academic knowledge by collecting and interpreting rich, meaningful data on important social phenomena (Mason 2002: 3–4). Typically, this comes in the form of spoken language or written text (Gibbs 2007), but it can also include art, music and other forms of expression or communication. Whereas quantitative research trades in numbers and measurements, in qualitative studies talk is data (Flick 2014). The range of subjects that can be addressed using qualitative techniques is vast (see Denzin and Lincoln 2017). Researchers might want to learn more about people's reactions to major events (e.g. a political or economic crisis, a terrorist atrocity) or historical processes (e.g. deindustrialisation, the women's movement); they may wish to tap into participants' interpretations of abstract concepts

(e.g. love, community, democracy, art) or try to understand what it is like to live or work in certain institutions (e.g. a prison, a ghetto, a hospital, a newsroom). In any case, they are interested in people's perspectives and beliefs as situated in particular contexts (Bryman 2016: 395). The aim of qualitative inquiry is 'to unpick how people construct the world around them, what they are doing or what is happening to them in terms that are meaningful and that offer rich insight' (Flick 2007b: x).

To this end, qualitative research has a dual identity vis-à-vis its subject matter. It sits within and without, getting close to participants' subjective worldview while maintaining a more detached, impartial perspective (Kvale 2007: xvii). Insofar as it is possible, it aspires to be both a spectator and a participant, looking onto things from the outside yet rendering them in a way that is recognisable to those on the inside (Wincup 2017: 4, 15). At its best, qualitative work provides a reliable and accurate account of significant social phenomena, but does so in a way that is psychologically astute and emotionally insightful. Like great novels, investigative journalism and historical writing, qualitative research helps us to see life in the round. Although 'theory' (see Abend 2008) is often exalted as the pinnacle of social scientific work, we should not underestimate 'the generation of novel empirical findings' (Besbris and Khan 2017: 152) and 'thick description' (Geertz 1973) as major contributions to knowledge. In qualitative work, 'precision in description and stringency in meaning interpretation correspond to exactness in quantitative measurements' (Kvale 2007: 12).

Sociologists often use the Weberian term *verstehen* to describe an ideal of deep understanding that is characteristic of good qualitative research (although see Leat 1972; Platt 1985). Scholarship of this kind is situated somewhere in the hinterland between objective reality and subjective lifeworlds. Here, we can see not only how things are but what they mean and why they matter. It is borne of a patient and empathetic sensibility, which is committed to careful study and detailed description of particular contexts (Seale *et al* 2004: 9–10). Ultimately, then, qualitative

research strives for a persuasive interpretation of the meaning of social action (Benton and Craib 2001: 77–81).

Given its preoccupation with meaning and interpretation, qualitative work often gathers datasets that are extensive and unwieldy (Gibbs 2007). Intuitively, we are aware that people experience and interpret the world in a variety of ways. Our everyday experience tells us that we are not mechanistic creatures that respond to stimuli in an entirely predictable manner. As two philosophers of social science explain, 'We are constantly involved in interpretive processes when we talk, but we can never arrive at some final, definite interpretation' (Benton and Craib 2001: 95). For these reasons, data produced by qualitative inquiries – whether they are interview transcripts or observational fieldnotes – are complex. They convey the particularity of social situations and human experience, as distinct from general laws or highly abstract theoretical models (Mason 2002: 1).

Although qualitative researchers often aggregate responses and make generalisations about their findings, it is rare to find total uniformity or consensus among participants. More commonly, subjects express a wide range of views and often speak in ways that diverge from how they act (Jerolmack and Khan 2014). When asked for their opinion, they articulate positions that, on closer inspection, are inconsistent or simply incoherent. Research that finds points of tension in a single testimony, and uncovers significant differences between respondents alongside certain underlying similarities, is a sign that it is a truthful account of human life, rather than the product of academic theory or intellectual speculation. In its search for subtlety and nuance as well as certainty and reliability, qualitative research has a humanistic streak. The qualitative mindset demands that we make sense of the many meanings things have for people, in all their complex and contradictory detail.

Why, then, are qualitative methods particularly suited to my own research project? One of the guiding principles of research methodology is 'appropriateness' (Flick 2007a). Research tools

ought to fit their subject matter in order to get at core problems and questions (Arksey and Knight 1999: 14). A great deal of academic work on prisons and IRCs draws on aggregate statistics and official quantitative sources. This has been especially useful for identifying patterns of state power and demonstrating the extent to which criminal justice and migration control fall heavily on marginalised and socially disadvantaged groups (e.g. Western 2006). Quantitative research is also well-placed to spot trends inside prisons, such as increased levels of violence or high rates of self-harm and suicide (Liebling and Ludlow 2016). Provided that there are clear definitions of key concepts and reliable systems for recording them, quantitative research can help us understand continuity and change in places of custody.

However, as I have argued in the preceding chapters, places of punishment and expulsion ought to be understood as social and political institutions. To the extent that we exclude values, interests, power and identity from our analysis, we risk mischaracterising our subject matter. Imprisonment and detention are social practices that ought to be described in detail, which means situating them historically and analysing them sociologically. Given that the experience of confinement, and the craft of working in custody, are so unusual and intense, qualitative research can enlighten us about the practice of punishment (Liebling 1999b, 2001; Bosworth *et al* 2005; Crawley 2004b; King and Liebling 2007; Crewe 2009; Bennett 2016). By carrying out observations, interviews and other forms of qualitative empirical research, we are able to understand more fully what punishment is and how it works. Discerning the meaning of punishment – and more particularly the meaning of self-harm and suicide in custody (Chamberlen 2016) – is therefore an interpretive exercise that requires the tools of qualitative research. In my case, I sought to understand how deaths in custody are prevented and responded to by a range of actors and institutions, including custodial staff, professional death investigators, academic experts and policymakers (Tomczak 2018). By speaking to a sample of people in each of these roles, I was able to interpret the different meanings of extreme pain in coercive institutions.

In this chapter, I outline the approach I took to my doctoral research project, setting out the methods and sources I used for my DPhil. Given that research is an emergent process, I begin by explaining how and why I came to study this particular topic. I then explain my decision to conduct a set of elite interviews, and describe my experience interviewing a range of professionals in law, government, academia and the third sector. In the final section, I describe the process of conducting fieldwork in immigration detention, beginning from the point of getting access to Brook House IRC through to the daily grind of hanging around, speaking to detainees and interviewing staff. Here, I offer some reflexive comments on my own position as a researcher, and consider the ethical challenges of doing research in a coercive institution.

Beginnings

Getting There, Slowly

Research is a process, and every part of it is significant. Ideally, the researcher begins with a clear set of questions in mind, and an appropriate strategy for exploring them. Once the basic aims of a project have been identified, they make pragmatic decisions about what data they need and how they will collect it, in order to address the core questions. (Is it best to think of this as a qualitative or quantitative project? Who do I need to speak to? How can this particular group of people be accessed? Is the proposed research feasible and ethical?) Then begins fieldwork, the most substantive part of the research process. Fieldwork can include participant observation, interviews, focus groups, questionnaires and much more. Whatever its form, the primary characteristic of fieldwork is the collection of original data by the researcher themselves. Once collected, these data are then transcribed, coded and analysed. Finally, findings and results are written up in the form of a thesis or article. There is thus a chronological structure to the research process that begins with questions, proceeds through research design and data collection, and ends with findings and the write up stage (e.g. Crow and Semmens 2008: 12–17).

In reality, things are rarely so linear. Research is certainly a process, but it is a haphazard and unpredictable one. As expressed most clearly by confessional ethnographic tales (Van Maanen 1988; Souhami 2019), qualitative research is an activity full of unexpected twists and turns. Although researchers strive for general academic values of clarity, rigour and accuracy (Liebling 2011b), in private they often doubt the basis of their knowledge and are acutely aware of the limits of their expertise. In my experience, the path from my initial research questions to the final write up was winding and diversionary. As Franz Kafka once wrote in a letter to his sister Ottla, 'I write differently from what I speak, I speak differently from what I think, I think differently from the way I ought to think, and so it all proceeds into deepest darkness' (1988: 8).

Throughout my doctorate, I spent a great deal of time lost in areas that had only tangential relevance to my topic, temporarily convinced of some nebulous but important connection that I was about to grasp. Occasionally I managed to marry different literatures, which allowed me to think differently about a particular area, but more often than not I was unsuccessful. A similar sense of disorientation characterised my fieldwork (see Crewe 2009: 463–489 and Bosworth 2014: 52–85 for extended discussions). During research it was largely through speaking to people and observing their actions that I came to find what I was looking for. Informal conversations and off-hand remarks prompted many productive lines of thought, but I had not factored these into my initial research proposals. Looking back on my project, it is striking how different the final product is compared to the original plan.

All of which is to say that qualitative research is emergent (Mason 2002). It tends to work according to a logic of induction, acquiring its form and content over time. Vague notions are eventually refined into more detailed claims. Connections between seemingly unrelated contexts slowly become apparent. For these reasons, it is hard to anticipate what a qualitative research project will entail prior to doing it. Fragments of research activity – reading, conversations, observations, interviews, writing – crystallise into an idea or argument, sometimes far later than

hoped. As time passes, questions transform almost beyond recognition, and the intellectual tools needed to address them change accordingly.

Sources

My own interest in imprisonment and immigration detention sprang from my Law degree at the University of Edinburgh, particularly a third year course entitled Punishment & Society, which introduced me to sociological and historical accounts of punishment. In 2013–14, I wrote my LLB dissertation on suicide in prison in England and Wales (Liebling 1992; 1999a), and thereafter paid close attention to developments in the penal system. Talk of a 'prison crisis' was common at this point (Chamberlen and Carvalho 2019), and issues such as suicide and self-harm (Tomczak 2018) were often listed alongside reduced staffing levels, violence, drug abuse and disorder as evidence of major problems in the estate (e.g. HM Chief Inspector of Prisons 2015). Problems in prisons were explicitly politicised in this period, and public discussion of criminal justice was situated in the broader political economy of fiscal austerity in the aftermath of the global financial crisis 2007–08.

During my MSc in Criminology & Criminal Justice at the University of Oxford, I took a course on the relationship between criminal justice and migration control, punishment and citizenship, which opened my eyes to the immigration detention estate, as well as other contemporary forms of state power vis-à-vis non-citizens (Aas and Bosworth 2013). These seemed in many ways similar to the criminal justice system (Stumpf 2006), yet they were also sufficiently different that they required separate explanation. It occurred to me that my doctorate could be expanded to include an analysis of immigration detention as well as imprisonment. I decided to stick with my original plan to research deaths in custody, because this particular topic was a way of getting into broader questions about the politics of punishment, the governance of custodial environments, and the difficulties of penal reform. Rather than look at penal policy in general (e.g.

Faulkner 2001), or at states' use of different coercive measures against migrants (e.g. Ellermann 2009), I wanted to anchor my analysis of politics in a specific topic and a concrete set of institutions.

Once I began my DPhil, I read voraciously. I consumed books and papers on imprisonment and detention, and began to develop a stronger interest in history and politics as academic disciplines. In addition to finding sources by searching for key terms on SOLO, the University of Oxford's online catalogue, I perused libraries, journals and online databases for further readings. My desk was always messy. I piled up dozens of annotated books and was surrounded by printed journal articles. The culmination of my first year's reading is Chapter 2, which pulls together social and political accounts of punishment, alongside empirical studies of prisons, detention centres and other coercive institutions.

When reading around the subject of deaths in custody, I became increasingly aware of the masses of written material produced on this subject. In addition to published work by academics in criminology (e.g. Liebling 1992, 1999a), psychology (e.g. Towl *et al* 2002) and psychiatry (e.g. Marzano *et al* 2016), the entire archive of the Prisons & Probation Ombudsman (PPO) is in the public domain, as are Prevention of Future Death Reports issued by coroners, publications by third sector organisations, large numbers of relevant policy documents, and screeds of grey literature from government sources (e.g. Joint Committee on Human Rights 2004; Harris 2015). It would have been impractical for me to wade my way through all of this material exhaustively, although I did read samples from each of these different sources. What seemed more significant than the content of this writing was the fact that there was such a proliferation of talk about the issue, yet little seeming to be done about it. Put simply, if there was such a chorus of consensus about deaths in custody being a major problem, why did they continue to occur so frequently? How could we explain the persistence of a problem that everyone seemed to regard as intolerable?

The more I thought about the disjunction between official concern over self-harm and suicide in custody, and the persistence of unsafe environments for prisoners and detainees, it occurred to me that more attention ought to be paid to the political dynamics of this problem. As discussed in Chapter 7, many political issues take the form of widespread concern about a problem, but contestation over what ought to be done about it, both in terms of means and ends. As I have argued in the preceding chapters, politics is the domain where major questions about our collective life are raised and settled. It is representative decision making on a large scale, which seeks to accommodate and conciliate different values and interests. Since democratic politics is concerned with the peaceful management of social conflicts, to think politically about an issue is to see it from different points of view and to engage with all relevant actors in their specific contexts. For this reason, I thought it would be instructive to interview a wide range of professionals from different organisations to try to understand responses to deaths in custody in all their complexity.

As the political scientist Gerry Stoker notes in *Why Politics Matters: Making Democracy Work*, a book which made a lasting impression on me early in my DPhil, 'Politics matters because it reflects the tensions created when human beings rub against each other and at times it does more than just express those conflicts: it finds a way of settling them' (2006: 7). On the surface, everyone agrees that people should not die in custody, and that prisons and IRCs should not be institutions marred by despair and dysfunction. But in order to realise these ends, we must think through many contentious political questions. Levels of safety are determined, among other things, by resource allocation decisions, by staff culture, by the particular regimes and activities available on the inside, and by a wider ideological climate that shapes what prisons and IRCs are for. These issues are contestable and value-laden. They do not have simple answers. They cannot be resolved through recourse to facts and evidence alone. By reckoning with these deeper sources of conflict and contestation (Mouffe 2005), what I call the politics of criminal justice and migration control, we can place deaths in custody in their proper context. It was with this thought that I began my research in earnest.

Refining the Project

Given the topic I set out to study – responses to deaths in custody – I was aware that my project raised many ethical questions. I had to think carefully about who I would speak to, what I would ask them, the information I would gather and how I would use it. Arguably, the most important group of people to speak to in order to understand custodial institutions is those held inside, whether prisoners or detainees, especially those identified as at risk of suicide (Liebling 1992; Borrill *et al* 2005; Marzano *et al* 2009; Carlton and Segrave 2011). However, I resolved early on not to do any formal interviews with incarcerated people. There were several reasons for this decision. Research on vulnerable people in custody has already been done by academics and practitioners with far better institutional access than me, and their projects have also benefited from significantly greater levels of experience, expertise and resources (Liebling *et al* 2005; Liebling and Ludlow 2016). Specifically, I would have relatively little to add to our understanding of the causes of self-harm and suicide in custody. In any case, I did not wish to document in greater detail the pains of imprisonment, the harm of immigration detention and the generally malign effects of unfreedom. Ethically, I was not prepared to interview people about extremely painful feelings or experiences when it would provide little, if any, direct benefit to them. Taking it as a given that social research, like medical practice, should first do no harm (Hammersley and Traianou 2012: 57–74), I thought it better to speak primarily to custodial staff and other professionals who investigate deaths in custody, as well as those who influence policy in this area. In the course of my fieldwork, I had many informal conversations with detained people, but I did not tape their testimonies. I made it clear to them that I was not a counsellor or mental health professional, nor a Home Office caseworker or qualified lawyer. As valuable as their insights were, they are not the central concern of my thesis.

My decision to focus on a range of *responses* to deaths in custody made my project less ethically difficult. I undertook research in two distinct phases, both of which I discuss in greater

detail later in this chapter. The first phase was a set of elite interviews with coroners, inquest lawyers, staff from the PPO, HM Inspectorate of Prisons (HMIP), third sector groups (e.g. INQUEST, The Howard League for Penal Reform, Medical Justice), academic experts and miscellaneous professionals who had been involved in major inquiries into deaths in custody. These interviews form the basis of Chapters 6 and 7, which discuss investigations and policy responses to deaths in custody, respectively. The second phase of research was a one-month period of institutional fieldwork at Brook House IRC, which included several weeks of observations, followed by 18 interviews with employees of all levels of seniority. My institutional fieldwork is discussed in depth in Chapter 5, which explores how staff prevent and respond to self-harm and suicidal behaviour in an IRC.

Before I spoke to any interviewee or set foot Brook House, my project was approved by the Central University Research Ethics Committee (CUREC). To receive ethics clearance, I was required to set out the purpose of my research, indicate who I would like to interview, and provide various sample research materials (e.g. interview invitations, proposed interview schedule, consent form, debrief form). When completing my CUREC application, my primary concern was to ensure that all participants would give informed consent, that they would know their testimonies were confidential and anonymous, and that I would collect, store and use the data I gathered responsibly (Crow and Semmens 2008: 50–55). My application was reviewed and approved quickly, which allowed me to begin my empirical research proper.

Elite Interviews

Interviewing in Theory

Interviews are a standard part of the social science repertoire. Throughout the twentieth century, this form of purposeful conversation (Kvale 2007: 7) became increasingly common as a way of gathering information about the population and sampling public opinion. The ubiquitous

presence of interviews – in mass media, politics, professional life, cultural domains and academic research – has led some sociologists to argue that we live in an 'interview society' (Atkinson and Silverman 1997). The interview society presumes that the true self is a Romantic subject, fundamentally defined by their emotions and inner being. To know the self is therefore not to observe behaviours or other externally verifiable actions, but to access a person's private life and explore their subjective consciousness. At once informative and confessional, interviews are a simple way of learning more about a person and their situation. Data are gathered seemingly unmediated from the source themselves. In this sense, we can think of interviewers as miners who dig deep into a subject to uncover something valuable (Kvale 2007: 19). Given that interviewers ask questions about complex subjects and experiential phenomena, people's responses are often 'polyvocal' (Brinkmann 2013: 23), with layers of ambiguity and meaning that permit multiple interpretations. They reflect a conception of knowledge as provisional, incomplete and contextual (Arksey and Knight 1999: 19).

It may seem that interviews are a natural way of conducting research. They are in essence an extension of the most human of activities, talking and listening (Rapley 2004). Yet for all their popularity and familiarity, interviews are rather unusual interactions (Mason 2002: 67). Typically, the interviewer requests a stranger to open up to them at length, giving up their precious time and expending effort, for little in return. Interviewees are expected to be candid, thoughtful and reflective, despite not knowing exactly how their words will be used and being unlikely to see the final product. Interviews thus rely on asymmetrical relations between the person asking the questions and the person answering them. As Svend Brinkmann observes, 'We seldom stop and consider the "magic" of interviewing – that a stranger is willing to tell an interviewer so many things about her life, simply because the interviewer presents herself as a researcher' (2013: 28).

Moreover, interviewers are not engaged in the natural flow of conversation, with all its give and take, animated by an equal desire to contribute and participate. They are, instead, involved in

the craft of interviewing (Kvale 2007: xvii). Interviewers are careful about what they choose (not) to disclose, and they decide beforehand what questions to ask, in what order and in what exact way. To direct the conversation, they play different roles and feed off of their respondents' words, gestures and other clues, such as body language, facial expressions and vocal intonation. One moment they feign ignorance, the next they demonstrate their expertise. They are perennially interested in what their participant says to them and rarely interrupt them. Interviews are like conversations in many ways, but they are also a skilled activity that requires planning and practice (Morris 2015).

Interviews are not primarily concerned with understanding what people do, since social action is better understood through participant observation. Rather, they tend to explore how people make sense of their action and the meaning they give to it (Arksey and Knight 1999: 15). A qualitative interview 'seeks to cover both a factual and a meaning level' (Kvale 2007: 11), and tends towards the latter. They are thus interpretive exercises predicated on the constructivist notion that the world is what we make it and things are how we think them to be (Gibbs 2007). Interviews can of course uncover facts, but their qualitative significance is more often their ability to tap into people's perceptions and viewpoints (Kvale 2007: 8). Interviews are a direct, perhaps unique, way of accessing people's thoughts, experiences and expertise (Rubin and Rubin 1995). Their premise is that individuals are experts on themselves, and that through partially structured conversation people will reveal themselves honestly, knowing that the interviewer is not judging them (Morris 2015: 79). The desired outcome is detailed description of a person's world, whether that is their individual experience, their professional expertise or their broader cultural milieu.

As these remarks suggest, there are several reasons why I chose to conduct semi-structured qualitative interviews for my own project (Mason 2002: 63–67). First, I was researching an issue – responses to deaths in custody – that affects a small minority of the population, but that is highly significant for those affected. It is a topic that needs to be understood in detail and contextualised

fully. Qualitative research is well-suited to investigating such high-impact occurrences (in this case, literally matters of life and death), as it consciously seeks to understand topics in all their particularity and from an insider's perspective. Second, deaths in custody, and the responses they generate, are not simple phenomena that can be understood entirely through quantification and related analytical techniques. They are a complex empirical phenomenon in terms of the emotions they arouse, the institutional processes they trigger, and the political dynamics they generate. Understanding deaths in custody is an interpretive exercise that requires researchers to pay close attention to the meaning of the event and the processes that follow it. Each piece of the puzzle has to be looked at closely in its own terms, a task that befits qualitative inquiry (Wincup 2017: 99). Third, although deaths in custody are a concern for only a narrow selection of the population, a wide range of professional actors are called upon in their aftermath. The diverse viewpoints of ombudsman investigators, coroners, lawyers, charity workers, academic experts and policymakers are likely to be empirically rich and varied (Towl and Crighton 2017; Tomczak 2018).

Ethics in Elite Interviews

In the main, my elite interviews were ethically straightforward (Mason 2002: 79–82). Participants were invited to interview by email, which included a briefing on the purpose of the research and information about my background. Whenever anyone agreed to be interviewed, we arranged a mutually convenient time and place. Almost all interviews were conducted in person, although two were done via Skype video call and one was done on the phone. In any case, I began by telling all subjects that, barring exceptional circumstances, their comments would be confidential and anonymous, and that they were free to withdraw at any point with no adverse consequences. They then read and signed a consent form, or gave clear, informed verbal consent for interviewees on Skype and on the phone. The information sheet I had prepared informed them about who to contact if they had any issues with the interview. I concluded interviews by giving

the person a debrief form that included information about me, as well as contact details for mental health organisations Samaritans and Mind. Aside from expressions of interests about my project, few people had any concerns about being involved and several had been interviewed many times before. In one case, I asked a Queen's Counsel barrister what they had planned for later that day, and they responded that their next meeting was 'another PhD student'.

Most of the questions I asked were open-ended and exploratory. They gave participants the opportunity to provide as much or as little detail as they wished, based on their professional experience and personal reflections. I avoided asking intrusive questions and reminded people throughout that they could refuse to answer any questions that made them uncomfortable. It was rare for a participant to refuse to answer a question, but when this occurred I simply moved on and did not dwell on it. Occasionally, towards the end of the meeting, an interviewee would ask to say something off the record, at which point I switched off my dictaphone and simply listened to what they had to say (Wincup 2017: 136). In these cases, participants were typically making negative comments about specific individuals, usually relating to a particular situation or memorable experience, or expressing strong personal disagreements with colleagues or superiors. When transcribing interviews, I removed all references to the person's name, although it was impossible to remove all identifying information without losing material that was substantively important. When analysing interviews and quoting individual testimonies, I gave each participant a pseudonym and ensured that they could not be identified from their words or my description of them. Anonymity is difficult to ensure when writing about identified institutions like Brook House or specific organisations like the Ministerial Council on Deaths in Custody. In these cases, I have used deliberately broad, generic titles for people (e.g. 'custody manager', 'member of the Council'), although their pseudonym reflects their gender.

Elite Interviewing in Practice

In total, I completed more than 35 elite interviews, with a small number of individuals being interviewed twice. Most of these took place in London, either in interviewee's offices or in coffee shops nearby, although in some cases I travelled to areas in the midlands or north of England to interview people. The vast majority of my elite interviews were recorded on a dictaphone before being transcribed and analysed. In two cases, it was not possible to record the meeting because the interviewee took me out for lunch and wanted to keep our discussion informal. Two other participants did not want to have their words taped. In cases where our discussions were not recorded, I took written notes during the meeting and shortly afterwards found somewhere private to record my recollections of the person's testimony as fully as possible. Interviews varied in length, but on average they lasted a little over an hour. As a result, I amassed a large amount of rich, meaningful data.

In the early stages of my DPhil, I began compiling a list of potential interviewees. I noted any person who had either been directly involved in investigating the aftermath of a death in custody, or any person with relevant experience or expertise in safer custody issues. In total, I sent out over 100 invitations to interview on official letter-headed paper, and in each gave a concise explanation of my doctoral research. I stated why I would like to speak to the particular person, and offered to meet them at a suitable location, even if it included several hours of travel. My sampling was therefore purposive, in that there were particular individuals I had in mind and wanted to meet. With a few exceptions, I had no prior connection to any interviewee, so my invitations were being sent out to strangers. Throughout my DPhil research, I relied heavily on the goodwill of others. Those who agreed to be interviewed were typically gracious and generous with their time, considering that I had little to offer them in return. Aside from buying some participants coffee or giving them an opportunity to get things off their chest, I was the sole beneficiary of these meetings.

My interview subjects were a loose array of individuals from different professions. Some were in an occupational role where they dealt directly with deaths in custody, such as coroners, inquest lawyers and PPO investigators, and these interviews form the empirical basis of Chapter 6. Others had a more indirect relationship with the subject matter, such as staff from HMIP, employees at third sector organisations (e.g. INQUEST, Medical Justice, the Howard League for Penal Reform), or experts who had been involved in committees on deaths in custody (e.g. academic psychiatrists, psychologists and lawyers), and their testimonies are analysed primarily in Chapter 7. I deliberately targeted a wide range of individuals from different organisations and institutions. My intention was to sample a spread of experience and expertise, but also to try to see connections between the many organisations in a congested field. Research on prisons and IRCs often takes these institutions in isolation, just as penal theory tends to speak of 'the state' or 'public policy' as monolithic entities. In practice, modern bureaucracies are a dense cluster of different actors, institutions and processes. As a result, my interviewees could shed light on different issues and offer multiple perspectives on a single question.

I prepared for each interview by looking into the person's background, professional experience, and reading anything they had written that was in the public domain. While there were certain broad themes I addressed in every interview, I also tailored certain questions to the particular person, based on what I knew about their current role or background. For instance, for anyone who had previously worked in a prison, I asked them to describe what that entailed, including the culture of the institution and what daily life was like. Without fail, prisons in the 1980s and 1990s were described as bleak, corrupt environments, with major problems of officer brutality, racism and harassment of female employees (see Sim 2013). These insights helped me understand the worldview of the interviewee, while also providing an important corrective to the emphasis on welfarism in histories of penal institutions.

In other cases, when speaking to coroners and lawyers, I asked them to explain the purpose of an inquest, how it is conducted from beginning to end, the significance of human rights law in this area (especially Article 2 of the European Convention on Human Rights), how legal aid works for inquests (Ministry of Justice 2019c), and about the formal distinction between inquisitorial and adversarial proceedings (Matthews 2014; McArdle 2016). Often, this was an efficient way of understanding technical issues. It also allowed interviewees to demonstrate their expertise and authority to me, an aspect of interviews that several middle-aged men seemed to enjoy. Although I was arguably patronised by a small number of interviewees for being a young student (I was 25 at the time), most subjects gave answers that were clear and direct. My affiliation with an elite university and my status as a white, middle class young man no doubt affected how people spoke to me (Phillips and Earle 2010). It was particularly difficult in some cases to ask, or get meaningful responses, about race and ethnicity (Morris 2015: 109), although differences between the male and female estates was something that many interviewees mentioned, even before I had asked about it.

Since these were semi-structured qualitative interviews, I was flexible about asking questions in an unexpected order (Flick 2009: 171) or following the conversation down a different path if it seemed particularly relevant or interesting (Arksey and Knight 1999: 39). The sequence of dialogue often followed a pattern of question, negotiation of meaning, concrete description, the interviewer's interpretation of the description, then a coda (Brinkmann 2013: 16). At times certain interviewees needed to be reminded what the question was or gently probed to return to more salient issues, but in general I was able to ask most of the questions I wanted and received what seemed like candid, thoughtful responses. I cannot guarantee that subjects' testimonies are 'the truth' beyond certain basic factual claims that I trust to be correct. Instead, responses provided detail, texture and realism to the otherwise hidden world of responses to deaths in custody.

As research proceeded, I began to develop questions based on previous discussions, or ask participants to respond to something a different interviewee had said to me. In general, my questions were open-ended and exploratory, although at times I felt it necessary to demonstrate my knowledge to certain professionals so that they would regard me as credible and well-informed. On occasion, I noticed that the discussion became more lively when I stopped asking broad, general questions (e.g. 'Can you tell me a little bit about what a psychiatrist's perspective on suicide is?') and began to ask more precise, detailed questions (e.g. 'Do we currently have a model for thinking about suicide in prison that encompasses the human sciences, law and policy?'). Where possible, I mentioned specific pieces of legislation, policies and cases, and took opportunities to demonstrate my knowledge of social and political history in a bid to enhance my credibility as a researcher (Arksey and Knight 1999: 104).

My elite interviewees were typically confident, articulate, and comfortable with debating and discussing issues (King and Horrocks 2012: 57). In these circumstances, I was less worried about maintaining strict neutrality in the phrasing of questions, and more interested in generating a discussion and exploring arguments with subjects (Rapley 2004). During interviews, I avoided looking at my notes as far as possible and ensured I made regular eye contact (Crow and Semmens 2008: 121). As I grew in confidence, my ability to make questions seem improvised improved. When participants were speaking at length or discussing difficult subjects, I periodically used affirmative verbal cues (e.g. 'yeah', 'of course') (Arksey and Knight 1999: 101) to demonstrate active listening (Morris 2015: 89). At the conclusion of each interview, I asked if there was anything I had missed, or any further comments or questions. In most cases, I was told I had covered everything and that I seemed to know my subject well.

As with any research project, I could have interviewed more people or sought a more representative sample of opinion. It would have been particularly good to speak to more government officials, civil servants and others who act on behalf of the state or its private sub-

contractors. However, my aim was not to provide a comprehensive, objective account of what every different actor thinks about the subject. It was not a purely descriptive empirical project. My intention was to gain an insight into the part played by different actors in law, policy, academia and the third sector. The empirical material I have gathered is represented faithfully and without distortion, but its role is to illustrate ideas and contribute to a broader interpretation of and argument about the politics of deaths in custody. For these reasons, I asked interviewees about their relationships with other powerful organisations, and where they fitted into the broader field that surrounds deaths in custody. I asked about what it would take for political will to translate into political action, and other more speculative questions. Unsurprisingly, responses were varied and not all consistent with one another. In some ways, the diversity of views I elicited alone encapsulates the conflictual nature of the social and political world that I have tried to theorise in my thesis more broadly (Mouffe 2005; Geuss 2008; Goodman *et al* 2015).

Fieldwork in Brook House IRC

Participant Observation

Qualitative fieldwork attracts an unusual degree of intellectual and ethical controversy. There is intense disagreement about what exactly it is, and to what extent it is a valid or reliable form of inquiry. In its purest form, ethnography, researchers immerse themselves as fully as possible in the lives of participants, observing the behaviours, rituals, rules and customs of a population (Hammersley and Atkinson 2007), in the hope of discerning the social unconscious that is 'culture' (Eagleton 2000, 2016). Research of this variety is concerned with the particular rather than the general, and so observations take place in a small number of natural settings for an extended period of time. Researchers' proximity to the field and its participants ought to give them privileged access to everyday conduct, witnessed in real time. Through careful observation and extended interviews, researchers can begin to make sense of social practices and organisational

structures as they are manifest in local contexts (Cunha 2014). Ethnography, and qualitative fieldwork more broadly, has immense potential to help us understand the social world, but it is accompanied by significant methodological challenges and it throws up many ethical problems (Drake *et al* 2015).

It is impossible for fieldwork to be 'comprehensive', in the sense of providing an exhaustive understanding of a particular culture, but it certainly aspires to be as thorough and detailed as possible. With the passage of time and the accumulation of social exchanges, researchers build trust with their participants and deepen their relationships. The cumulative effect of routine interaction is that the researcher begins to make sense of the field and the collective life of its inhabitants. Although during fieldwork a great deal of time is spent speaking to individuals, ultimately it aims to understand the social life of groups (Angrosino 2007). In the case of institutional research, tapping into the shared world of an IRC or a prison requires prolonged exposure to its routines and norms (e.g. Liebling 2004; Crewe 2009; Bosworth 2014). The sheer dedication of being there, hour after hour, day after day, is an important part of fieldwork. Researchers must prove themselves to research subjects in order to be accepted as an outsider-insider. Presence and persistence facilitate this hybrid status. So long as the researcher has a keen eye and is a shrewd observer of human behaviour, there ought to be a correspondence between the duration of fieldwork and the reliability of research findings.

Researching IRCs

IRCs contain a highly diverse and rapidly changing population. Diversity in detention is predictably racialised (Bosworth and Kellezi 2014), and is one of the most striking features of entering an IRC, particularly if it is located in a part of the UK where the local population is predominantly white. The vast majority of detainees are ethnic minority men from the global south, some of whom have lived in Britain for decades and face the prospect of deportation to a

country they have not been to since childhood (Bosworth 2014). At the time of the research (July 2017), there were around 2,500 people in detention in the UK on any given day, with approximately 27,000 people passing through the system each year (Home Office 2019). The number of people in detention tends to be represented statistically, but there is also a distinctive qualitative dimension to population turnover. IRCs constantly receive and release people, while a small number of individuals find themselves stuck for months or even years in the immigration estate (Griffiths 2014; Turnbull 2016).

Researching IRCs means encountering the global, national and local all at once. The variety of languages spoken, religions observed and life experiences compressed into a small space is extraordinary. It is difficult to convey the sound of multiple languages echoing in a packed corridor or the confusion I felt speaking to 'foreign national' detainees with strong London accents. The sense of confusion, disorientation and uncertainty that researchers feel when they first arrive is not just a reflection of the difficulties of stepping into a new environment populated by strangers. Rather, it is an indication that these are important characteristics of the immigration detention estate itself and state-migrant relations more broadly (Bosworth 2014).

Access

Brook House IRC was opened in 2009 on a site located next to Gatwick Airport runway. The adjacent centre, Tinsley House, was opened in 1996 as the first purpose-built immigration detention centre in the UK. I had not been to either establishment prior to conducting my DPhil fieldwork, so I was unsure what to expect. I had, however, previously done fieldwork at Harmondsworth and Colnbrook IRCs next to Heathrow Airport, and spent some time inside Campsfield House in Oxfordshire and Morton Hall in Lincolnshire as a research assistant. I was therefore familiar with the regime inside an IRC and had some sense of the ebb and flow of everyday life. My original plan had been to do my DPhil fieldwork at Harmondsworth, but what

started as a delayed response eventually began to seem like I had been refused access. So instead, through my supervisor's existing contacts, we got in touch with senior management at Brook House. We discussed the possibility of me doing a research project there on issues related to suicide and self-harm, including informal observations and formal interviews with staff. I received a positive response from the centre manager, and was invited to have a meeting about the project.

When we met, the centre manager seemed relatively comfortable with the prospect of me doing research on 'safer communities'. I explained my background and previous research experience, the purpose of my project, and stated how I would ideally spend my time in the centre. As Emma Wincup explains, 'accounts given [to gatekeepers] need to be plausible to those involved. In other words, researchers should be explicit about the implications of the research for the setting and those who work within it' (2017: 63). Access was granted to me on the loose understanding that I would do research for a few weeks, provided it was feasible to accommodate me. Partly because of the centre's relatively good reputation at the time (June 2017), and as the only large IRC that had never had a death in custody, I was welcomed. The centre manager, and another member of senior management, made a genuine effort to incorporate me into the life of the centre and allowed me to carry out my work unimpeded. After my first meeting I was chaperoned by a detainee custody manager (DCM) who gave me a tour of the centre, but once my fieldwork began I spent my days independently seeking out detainees and officers to talk to.

Entering the Field

Like any place of custody, Brook House is a bounded community with strictly controlled access. Even if I had wanted to, it would not have been possible to live among participants or to fully immerse myself in the field. Once inside, however, I was afforded a significant degree of freedom to conduct my research. As I had done elsewhere, I drew keys to facilitate my movement around the centre. Drawing keys provided me with a level of freedom unthinkable to a detainee

(Earle 2014). I could wander around the entire centre, speaking to dozens of detainees and staff, and was at liberty to go almost anywhere at any time. Moreover, I could choose whether to go in each day and when to go home in the evening, a privilege not available to the captive population or staff. I was also able to follow my interests and exit from situations where I felt uncomfortable or at risk. For four weeks, I went into Brook House most weekdays from around 9 am till 6 pm, never staying later than 7 pm.

Fieldworkers often describe the shock of entering a new environment and their struggles to get to grips with ways of being that are unfamiliar or unsettling. I knew no one in Brook House, and as an outsider I expected to encounter some suspicion or hostility towards me. Knowing that IRCs are unpredictable institutions, I had also anticipated that there might be moments when I would feel on edge. Fortunately, barring a few isolated incidents, this was not the case. Some members of staff were preoccupied with security concerns, but in the main I felt comfortable in Brook House. The few moments of high drama I encountered were fairly standard for an IRC or prison, although they seemed highly significant as they were happening. There was a 'brawl' one afternoon involving more than a dozen Albanian and Afro-Caribbean men, followed by a very tense stand-off in the nearby courtyard. Several men cut themselves in their rooms or refused food for days on end, which led them to be put on Assessment, Care in Detention and Teamwork (ACDT) or constant watch. I witnessed a man protesting for over an hour on the suicide netting, refusing to come down despite the pleas of numerous members of staff. One day, a man on E wing – which held especially vulnerable or troubled men – suddenly screamed and threw food at me and another detainee, Hassan, who I had been speaking to at length. Hassan was frightened and reacted by running up and hitting him, which required staff to use control and restraint to break up the situation. Hassan was put on Rule 42, meaning he was sent to the segregation unit for his response. I later had to fill in a security report based on the incident. When I handed it in, DCM Andy said, 'It makes you jump, doesn't it?' Yes, it does.

These and other episodes were memorable, but they were not necessarily any more important than the more mundane details of everyday life. Many hours were spent taking notes on the dull compulsion of the detention regime, watching each hour unfold from roll count to bang up. I listened as people hung around, played pool, worked, ate, joked, moped, cried, complained, learned, exercised, protested and waited. Nothing I observed was strictly speaking irrelevant, since all social life counted as data. A whole gamut of direct sensory experiences went into my notebooks. The banter, the silences, the sound of the radio, the echo of the wings, the indignities, the social groups, the food, the relationships, the cells, the inspections, the smells, the loneliness, the routines, the entries and exits: all of these things constituted Brook House IRC. In spare moments, I transcribed the exact wording of eye-catching posters and counted pieces of furniture, which were almost always fewer in number than they should have been, given the population. I tried to record as many remarks as I could and jot down the details of almost every conversation. At once painstaking, boring and slow, fieldwork bears at least a passing resemblance to life inside.

My first two weeks in Brook House revolved around observing life in the centre. I spent at least a morning or afternoon on each wing, and periodically roamed around the courtyards and activities corridor, while also spending time in staff offices. In later weeks, my main focus was on interviewing staff, although between interviews I wandered around the centre and continued speaking to as many people as possible, or catching up with those I had met before. At times, observations felt rather aimless. Huge stretches of time in immigration detention are tedious. Wings seem empty and the regime is repetitive. There were periods where I was doing laps of the centre, struggling to find anyone to speak to, or sensing that my presence might have been agitating people. Very occasionally, I retreated into the music room and played the keyboard. (The guitars were beyond repair, alas, so my offer to restring and tune them was futile.) People's willingness to speak to me was strong initially, but this weaned as I began to blend into the furniture of the centre and became just another person with a lanyard round my neck who was incapable of aiding anyone's release. The longer I stayed, people joked, 'You're still here?!' and asked why an Oxford

student who already had a law degree would waste their time in a detention centre. I responded to these light-hearted comments by trying to show that my curiosity was genuine, and by diverting attention away from myself and towards Brook House.

Reflexivity

Qualitative researchers have become increasingly aware of their own role in the collection and production of academic knowledge. Where previously data might have been construed as objective – untainted and free of any interference by the researcher – there is a growing acceptance of the idea that who a researcher is, the context in which they do research, and the way that they interact with participants, can affect what is found (Phillips and Earle 2010). Knowledge is not something that is simply gathered from an external source or discovered in an undiluted form. Rather, it is co-produced by interactions between researcher and researched. For these reasons, it is imperative that qualitative researchers are aware of their own influence on their findings and interpretations. They are expected not only to be reflexive after the fact, but also to do reflexivity in real time during research (Lumsden and Winter 2014).

One of the unique characteristics of qualitative research is therefore the centrality of the researcher, who is themselves the research instrument (Flick 2007b: xi). This is particularly true of ethnographic work that employs participant observation, but it is also a feature of qualitative interviewing. Fieldwork, as Alison Liebling observes, requires 'full use of your self' (1999b: 475). Large amounts of data are gathered in settings that are informal and uncontrolled, through interactions that are unplanned and improvised. There is something organic, then, about how qualitative research is practised. It feeds off of spontaneous social action and supplements its observations with more structured, organised interviews. All of the data used in my thesis – specifically, testimonies and observations – are original. They were collected in the course of interactions with participants. To this extent, my own identity, characteristics and personality are

all crucial aspects of the work itself. It would be a mistake to think that the content of people's speech or the way that participants conducted themselves was entirely determined by the fact that they were speaking to me (e.g. Damsa and Ugelvik 2017), but there is no doubt that personal and contextual factors can and do affect research findings (e.g. Earle and Phillips 2015).

For these reasons, during observations and interviews, I was constantly engaged in impression management. It would be impossible to list the full range of attributes I attempted to convey, but my general approach was to come across as friendly, trustworthy and competent. Given my age and style of dress, it was no surprise that people thought I was a Home Office caseworker or an employee from a detention charity. I was therefore careful to distance myself from any government affiliation and stressed my status as an independent researcher. To this end, I carried a folder with 'University of Oxford' written on it, and made it clear that I could not assist anyone with their individual case or offer legal advice. Inevitably, there were times when people challenged my presence in the centre or conveyed their contempt for researchers like me who had nothing to offer them. I responded with equanimity, in part because of my natural temperament, but also to avoid creating any difficult situations.

In addition to language barriers and other basic obstacles to communication (e.g. people being asleep, locked in their rooms or otherwise unable or unwilling to talk), there are distinct styles of communication in immigration detention, often inherited from prisons, that researchers must learn to deal with. Often, communication is very direct and would, in other contexts, appear to be confrontational or accusatory. Given that the population is highly anxious and uncertain, and that detainees often have to meet strangers who could tell them life-altering news or make significant decisions about them, speech is often terse. It is common to be asked, 'Who do you work for?' or 'What are you doing here?' Having divulged one's status as a researcher, people may be cynical or dismissive: 'What's the point of that? It's pointless. You're not helping us. Why not

help us?' A researcher must be composed when dealing with these questions, and it is necessary to be able to explain oneself simply and clearly to a confused or unconvinced audience.

Ethics in Fieldwork

Doing fieldwork in Brook House IRC was ethically demanding. Every stage of fieldwork creates challenges, and often ethical issues arise unexpectantly. Prior to conducting fieldwork, I made it clear to the centre manager that my research was about trying to understand in greater detail how self-harm and suicide are prevented in a custodial setting, and that I would like to interview staff about their role in safer communities. Thereafter, I gave a consistent account of who I was and what I was doing in Brook House to anyone I spoke to, whether they were an employee or a detainee. Often, the most important thing was to clarify who I was not. Some people initially assumed that I worked for the Home Office or a detention charity, so I spent a great deal of time explaining that I was a doctoral student at the University of Oxford, entirely independent of the UK government and G4S.

During observations, I explained my role as clearly as possible before speaking to anyone. Although I often sought people out and introduced myself to them, in many cases people asked who I was and wanted to know why I was in Brook House. As Abigail Rowe notes about doing research in prison, a detention centre is not a place where one 'just happens to be' (2014: 411). These secure spaces are low-trust environments, where suspicion and cynicism are pervasive. Language barriers and unfamiliarity with academic research meant that not everyone understood my role at Brook House. In general, however, detainees and staff were relatively forthcoming. As busy places populated by strangers, people in IRCs are used to speaking to outsiders they have never met before and 'telling their story' (Bosworth and Kellezi 2017). Some people spoke to me out of curiosity, and no doubt in some cases simply to alleviate boredom. A few conversations were utterly impenetrable. Others were banal but friendly, such as a Sudanese man who followed

me around the courtyard listing places in Glasgow near where I grew up ('Scotstoun, Whiteinch, Partick…').

Most of my conversations were respectful and informative. Several were emotionally draining, especially when people recounted traumatic experiences at length or described their anguish at being separated from their families. On the few occasions that I was especially concerned about someone I had spoken to, for instance if they mentioned self-harm or expressed suicidal ideation, I informed a member of staff, and later made an effort to catch up whenever I saw them. This was a rare occurrence, and staff were already aware of the difficulties faced by the men I mentioned. Although researchers are often expected to adopt a neutral, dispassionate stance towards the field under study – suspending judgement and trying to observe things as they are – this is difficult where vulnerable people are being held in distressing conditions (Bosworth and Kellezi 2017). In many cases, I spoke to men at length about their lives, allowing them the opportunity to explain who they were and what circumstances they were facing. It would have been impossible not to relate to them or to show no emotion. Anne Oakley's observation about interviewing, that there is 'no intimacy without reciprocity' (1981: 49), applies equally to fieldwork. As I had done with elite interviewees, I tried to be empathetic and affirmative when people spoke, allowing them the chance to express themselves without being judged or interrupted. On many occasions, men thanked me for listening and made gestures of gratitude, such as offering me food or cups of tea, which I politely turned down.

I was able to sit in on a small number of ACDT reviews and other informal conversations with vulnerable detainees. In these situations, I did not take notes, although I jotted down some broad observations shortly after they had ended. I ensured that the men consented to my presence in the room, and I was as unobtrusive as possible. The ACDT reviews were variable, and in two cases they were essentially continuations of impotent arguments about the person's immigration status. Although some efforts were made to come up with an individualised care map for the

person, the underlying cause of their distress and difficulty – uncertainty about deportation – was beyond the scope of the review.

Interviewing Custodial Staff

Following observations, I conducted 18 staff interviews with detainee custody officers (DCOs), DCMs, senior managers and other employees. I began by explaining the purpose of my research, and that although I had a specific interest in issues related to the prevention of self-harm and suicide, I also had a more general desire to learn about what it was like to work in a detention centre. I explained that their words may be quoted anonymously in my thesis, future academic publications or conference talks. Participants were reminded of their right to withdraw at any point, and ensured that their testimonies would be confidential and anonymous, absent exceptional circumstances. They all signed a consent form and, with one exception, agreed to be recorded. When transcribing interviews, I removed as much identifying information as I could.

The vast majority of these interviews were ethically unproblematic, although several participants recounted in graphic detail episodes of self-harm and attempted suicide they had witnessed (Barry 2017). In preparation for fieldwork, I attended workshops on vicarious trauma at the University of Oxford, so was able to recognise symptoms such as emotional exhaustion, physical fatigue and low mood (Gerlach 2018). During fieldwork, I tried to follow recommendations such as debriefing with colleagues and friends after leaving Brook House, exercising regularly and eating well. Unfortunately, as a British citizen whose research was conducted from 2015–19, I found the injunction to 'avoid negative news or upsetting media coverage' impossible to implement.

As with my elite interviews, I tried to offer personal invitations to staff to be interviewed. However, I was also assisted by a member of the senior management team in recruiting and rostering some employees to participate. This allowed me to speak to a range of subjects across

lines of seniority, experience, gender, and age, although unfortunately I was only able to interview two non-white participants. Because other members of staff had to cover interviewees for the duration of our conversation, this partially compromised the confidentiality and anonymity of each participant. My subjects did not seem troubled by this, and often told one another about the fact that they were speaking to me. One interviewee described the experience of being interviewed as 'like therapy', an observation that is familiar to other institutional researchers (Jewkes and Wright 2016: 667).

During an interview with Andy, a DCM who was working on E wing for the afternoon, several members of staff continually walked into the room or stayed with us as I interviewed him. Not only were his colleagues interrupting him, talking over him or distracting him as he spoke, but cell alarms were repeatedly sounding in the office. Despite these non-ideal circumstances, he proved to be a thoughtful and candid interviewee. Halfway through our disjointed discussion, he provided a particularly graphic description of self-harm that stayed with me for many days after:

> 'One self-harm that was probably the worst self-harm that I'd seen. I'm fine with blood and things like that, doesn't bother me. But this one, it was just over in [room] 13 [E wing] actually, and he'd just absolutely shredded himself. I don't think there was a part on him that wasn't cut. And we were obviously just trying to look after him while healthcare were doing what they were doing, and just the smell – you know that real iron blood smell? – every time I came down here I could smell it for a while.'
>
> 'When was that?'
>
> 'That was quite a few years ago.'
>
> [Interviewee answers cell alarm that is being called repeatedly.]
>
> 'Was that somebody who you think was attempting suicide?'

'He was going on a charter flight. It was Pakistani charter flight. He was quite an elderly bloke. He was due to go on it. They got him to the hospital and got him back in time to go on it and he did go. He'd written his suicide note in blood all over the wall, you know it was quite a serious attempt.'

'And quite gory? Quite visceral?'

'Yeah, yeah. I think because…he'd splashed water all over the floor, which made the blood look ten times worse. It looked like a bloody abattoir in there. Visually, it wasn't as bad as it looked. But every time I came down here for a while I could smell it.'

As is clear from this testimony, and from the material quoted in Chapter 5, custodial staff are expected to witness extreme pain and manage it as best they could. In general, employees were open with me about the difficulties of working in Brook House, and I had few ethical qualms about discussing difficult subjects with them, given how readily they spoke about such events in staff rooms and meetings.

What was more ethically problematic, however, was one particular episode during a recorded conversation with a DCO in the Care and Separation Unit (CSU), less euphemistically known as the segregation unit. In this case, I had to terminate the interview because a young man in the room next to us was self-harming. The audio recording includes the crashing sound of a door being punched repeatedly and a voice shouting. I asked my participant if he needed to see to the young man and he said not immediately. Minutes later, one of his colleagues walked in and told him that the young man was cutting his arm, so he needed assistance. At this point, I left the office with him and stood in the CSU. We agreed to reconvene at a later date.

The episode was later mentioned to me as an example of how I had 'seen how quickly things can turn in here'. Although my research did not, as far as I am aware, cause any harm to anyone, the custodial environment is one where evidence of pain and suffering is all around

(Bosworth and Kellezi 2017). The normalisation of anxiety, uncertainty and misery is one of the most insidious features of IRCs, and I realised as time passed that I was becoming desensitised to it. One of the ethical problems of 'bearing witness' (Kaufman 2015) is that researchers eventually 'go native'. Researchers, like staff, are easily numbed or hardened by their experience. I knew that I was at risk of inadvertently taking on institutional values and myths, or of trivialising people's suffering. For all the talk of 'conditioning' by detainees, my biggest concern was being conditioned by the detention centre and not being sensitive enough to detained people's plight.

Conclusion

Qualitative research is an open-ended way of exploring important social phenomena. It takes human beings as they are, and produces knowledge about them that is detailed, contextual and meaningful. While qualitative and quantitative work is complementary in many ways, my own project sits firmly within the qualitative, interpretative tradition. My doctoral research included over 35 semi-structured elite interviews, 18 staff interviews in Brook House IRC, and a period of observational fieldwork in custody. It is no surprise that my participants spoke with many voices, and that taken together their testimonies are a cacophony of different perspectives. Although they described the same world, their understandings of it and beliefs about it varied considerably. It is the task of the qualitative researcher to make sense of this labyrinth. While it is not true to say that in qualitative work 'anything goes' or 'there are no right answers', there is some degree of freedom in how we interpret primary empirical data. My own approach has been to construct meaningful, insightful arguments about responses to deaths in custody that situate them within a broad social and political framework. The following three empirical chapters are the product of these methodological labours.

Chapter 5

Staff Responses to Self-Harm and Attempted Suicide in an Immigration Removal Centre

In this first empirical chapter, I describe and analyse staff accounts of self-harm and attempted suicide in Brook House immigration removal centre (IRC), the larger of two IRCs located next to Gatwick Airport runway. I illustrate the different meanings that self-harm and attempted suicide had in Brook House, and reflect on staff's various interpretations of detainees' self-injury and suicidal behaviour. To do this, I draw on a set of semi-structured qualitative interviews carried out with 18 employees at Brook House. Interviewees included those who were detainee custody officers (DCOs), detainee custody managers (DCMs), senior managers, and several non-custodial staff from the education and healthcare departments. In addition to these recorded interviews, I also rely on fieldwork observations and informal conversations with detainees and staff, which were collected over a one month period in July 2017.

The first section of the chapter describes some of the cases of self-harm and attempted suicide that staff had encountered over the years. As there has not been a death in custody inside Brook House (or the adjacent site, Tinsley House), I discuss some examples of 'near-misses', where a person's life was saved or where their survival was a matter of chance. The next section examines staff's explanations of the causes of self-harm and suicidal behaviour. In particular, I focus on their accounts of the pains of immigration detention, as well as some employees' belief that self-harm was at times a form of 'manipulation'. In the final section, I analyse formal responses to self-harm and attempted suicide, including the Assessment, Care in Detention and Teamwork (ACDT) policy and the use of 'constant watch' for detainees considered to be at imminent risk of serious harm to themselves. I conclude this section with a discussion of officers' more informal approach to dealing with vulnerable detainees, namely through talking and listening.

Care and Custody

'…I guess I'd say it wasn't a very happy place…'

(Emily, Brook House)

Opened in 2009, Brook House IRC is situated next to the runway at Gatwick Airport, and can hold up to 508 adult men. In its early days, it was notorious within the detention estate for being a volatile, high-security centre. Violence was a recurring problem and there was a riot on site in 2010. Early inspections expressed serious concerns about safety in the centre (HM Inspectorate of Prisons 2010) and criticised managers for running an excessively punitive regime (HM Inspectorate of Prisons 2011). More recently, Brook House came into the public eye when a 2017 BBC Panorama expos*é* captured staff violence and detainee drug taking on camera, as well as a host of other problems in the centre (Shaw 2018; Verita 2018). Run by private security company G4S and built according to Category B prison design, Brook House is a complex and contested institution.

In 2017, I spent one month in Brook House observing daily life on the wings and interviewing officers about their working lives. My particular interest was how staff responded to detainees who injured themselves and how they dealt with men at risk of suicide. Given the vulnerable population held inside detention centres, the austere conditions of Brook House, and the minimal training staff receive on mental health issues, the management of suicide risk was a pressing concern.

During fieldwork observations and throughout interviews, staff of all levels presented Brook House as a place of care and welfare. They stressed that Brook House was a humane institution. Its basic function was to look after men awaiting deportation to another country, transfer to a different institution, or release back into the UK. Officers' accounts of working life varied, but in most cases they emphasised the importance of interpersonal skills and teamwork.

They were keen to distance themselves from 'old school' prison guards and rejected the notion that they were brutish disciplinarians.

In many ways, these claims were borne out by their actions. DCOs spent much of their time assisting detainees with paperwork or completing menial tasks for them (Bosworth and Slade 2014). Their interactions were typically brief, sometimes lasting only a few seconds. Officers handed out paracetamol tablets, returned phone chargers or checked men's IDs as they re-entered their wing. As these observations suggest, everyday life in Brook House was often mundane rather than dramatic (Bosworth 2014; 2019). Gabriel, an experienced manager at Brook House, made it clear what working in a custodial environment truly required, as opposed to the misconceptions that people had about detention staff:

> '[T]his is a job about connecting with people, and while there are many extremes in the job that we do – be it self-harm, suicide, C&R [control and restraint] – it's all just literally about being human and dealing with humans, so connecting with people. It's that simple. […] It's not a prison. We don't run around with batons, we don't beat anybody up. We literally try to make the best of the situation and, y'know, you're there to be friendly but not friends.'

According to his account, effective employees were those who could communicate clearly and treated detainees with decency. Yet the many references staff made to notions of 'respect' and 'courtesy' were somewhat at odds with the appearance and feel of the institution they worked in. It was difficult to reconcile how employees like Gabriel spoke about Brook House with other basic observations about the centre. Although he claimed that Brook House was 'not a prison', it was nonetheless a secure site surrounded by high fences and razor wire (Hasselberg and Turnbull 2017). At reception, there were biometric systems to control entry and exit to the building. Inside, there were heavy doors and the regular sound of booming noise. Residential units strongly resembled prison wings, with uniform rows of cells and communal shower areas. There was an

area exclusively reserved for vulnerable detainees (E wing), with an adjacent Care and Separation Unit, known more colloquially as the segregation unit or 'the seg'. DCOs wore custody uniforms and were authorised to restrain detainees in certain circumstances. As an architectural space, Brook House was power incarnate: a physical manifestation of national sovereignty and private profit (Bosworth and Guild 2008; Bosworth 2012; Kaufman 2015).

Moreover, officers' emphasis on care and welfare sat uncomfortably with some of their other observations about detainees (Hall 2010; Bosworth 2018). Throughout interviews and during fieldwork observations, employees expressed their suspicion about detainees' behaviour and articulated scepticism about their moral character. They acknowledged that men in Brook House could be vulnerable, while also highlighting that detainees could be immature, attention seeking and manipulative. Officers justified their role in terms of welfare needs, but many of them pined for stronger disciplinary powers and envied the punitive sanctions that prison officers could issue for bad behaviour. In sum, their accounts illustrated that there is tension between care and custody. In this chapter, I locate their accounts of self-harm and attempted suicide within their broader working environment, and show the complex and contradictory feelings that staff had towards those they dealt with every day. In a contested political institution like an IRC, there is inevitably tension between the aspiration of care and the harsh fact of custody.

Most research on self-harm and suicidal behaviour in custody has focused on prisons (e.g. Liebling 1992; Walker and Towl 2015; Towl and Crighton 2017). Studies have identified lists of risk factors and suggested theoretical models of 'pathways to suicide', often using large datasets and regression analysis techniques (e.g. Fazel *et al* 2017). The quantitative scientific orientation of this literature is accompanied by a pragmatic problem solving approach to social problems. Whether it is changing the physical environment (e.g. ligature points), access to resources (e.g. storing medications for overdoses) or screening processes (e.g. risk assessments on arrival),

academic research in this area seeks to ameliorate harm through improved understanding of how and why individuals harm themselves (Marzano *et al* 2016; Zalsman *et al* 2016).

Many improvements have been made to custodial spaces to make them safer, and better understanding of issues such as alcohol and drug detoxing have likely saved many lives in the past two decades. Custodial sites nevertheless remain high-risk places due to the socio-economic profile of those inside them and commonly observed features of the institutions, such as isolation and bullying (Liebling and Ludlow 2016). Moreover, many known risk factors are not capable of being modified by an institution such as an IRC or a prison. Age, sex and ethnicity, for example, cannot be changed on arrival, nor are these broad demographic markers sensitive enough to predict behaviour at the individual level (Rivlin *et al* 2013). Quite simply, the population of IRCs and prisons are at higher than average risk of self-harm and suicide before, during and after custody (Pratt *et al* 2006).

In contrast to scientific studies that discuss these issues in terms of their causes and how to prevent them, my account is descriptive and analytical. How did staff in an IRC speak about self-harm and attempted suicide? What did it mean for them to deal with vulnerable men whose detention and pending deportation was adding to their distress? In what ways did responses to self-harm and attempted suicide reflect other aspects of the centre and the attitudes of those working in it? To answer these open-ended, exploratory questions, I draw on testimonies from 18 semi-structured, qualitative interviews with employees in Brook House IRC, as well as informal observations and conversations with detainees, which took place over a one-month period. Participants in this study came from a range of occupational roles, including DCOs, DCMs, senior managers, and non-custodial staff from the education and healthcare departments. Some had worked in Brook House since it first opened, while others had been employed for less than a year. While the testimonies cannot be said to be 'representative' of staff views in any conclusive way, they do give an indication of the views of the men and women, of different ages and ethnicities,

working in this particular IRC. I therefore treat this empirical material as an illustrative but partial representation of Brook House, acknowledging that interviewees did not speak with one voice, nor were their accounts always coherent in their own terms. All lengthy quotations are from formal interviews, which took place in either private staff offices or in staff rooms on the wings.

Cases

Immigration detention, like any form of coercive confinement (Liebling and Maruna 2005; Crewe 2011a), is painful for those subjected to it (Bosworth 2016). Detainees miss their families, they feel disempowered and they worry about deportation. They encounter many difficulties and indignities every day in an environment that reminds them that they do not belong in the UK. Detainees' pain has been described in ethnographic accounts of immigration detention (Hall 2012; Bosworth 2014) and is a recurring theme in campaign work by organisations critical of immigration detention. In addition to these qualitative sources, there have been attempts to measure distress in detention (Robjant *et al* 2009a). Such studies have found high levels of distress among detained people, including concerning rates of depression, self-harm and suicidal ideation (Robjant *et al* 2009b). Levels of mental illness and self-harm, for example, are significantly higher in the immigration detention estate than in the community, reflecting the vulnerable profile of those held in IRCs (Sen *et al* 2018). Although immigration detention is formally a non-punitive, administrative measure, it is clear that being held indefinitely in an IRC is a painful experience.

Brook House was no exception to these broader trends. All DCOs I spoke to had encountered self-harm at work, and some had dealt with men who had attempted suicide. At the time of writing, there has not been a death inside Brook House, which opened in 2009, nor has the smaller adjacent site Tinsley House had a death since it opened in 1996. According to the Independent Monitoring Board for Brook House, there were 143 individual instances of self-harm recorded in Brook House in 2016, one of which required treatment at an outside hospital

(Independent Monitoring Board 2017). The majority of these cases were individual men self-harming on a single occasion, although there were a small number of 'prolific' self-harmers who cut or starved themselves several times. For those who worked in Brook House, their first encounter with self-harm or suicidal behaviour was shocking. Many interviewees offered this as an example of how unpredictable and volatile the centre could be, one of the features that distinguished it from a 'normal' work environment. However, officers' sensitivity to these behaviours gradually declined, as responding to self-harm and attempted suicide became a more routine part of working life.

No Death in Custody

Work related to self-harm and suicide prevention in Brook House was referred to as 'safer communities', a variation on the term 'safer custody' used in the prison estate (Prison Service Instruction 2011). According to staff, safer communities could be considered a success. Unlike most other IRCs, there had never been a death at Brook House, a morbid point of pride for long-serving employees, who knocked on the table for good luck as they spoke about the centre's record. Given that thousands of vulnerable individuals were detained each year, and that there had been numerous suicide attempts in the past, it is easy to see why staff regarded this as a success.

Whether their good fortune could last was disputed. One DCO was adamant that sheer 'probability' meant that a death was inevitable at some point. Although she could not predict it exactly, it would be naïve to think that Brook House could go on indefinitely without a death, whether by suicide or other means. A similarly fatalist observation was made by Ian, a manager who had worked for decades in HM Prison Service and had dealt with around a dozen deaths in custody over his career:

> 'In my view, if a person wants to kill themselves, I think the person chooses the time, the place and how they're gonna do it. And I think if somebody does wanna do it, you're never gonna deter them.'

Ian was more pessimistic than most of his colleagues, which partly reflected his long period of employment in difficult prisons. But leaving his stoicism to one side, he clearly implied that some people held in custody are truly determined to end their lives, and that they represent an insurmountable challenge for anyone working in an IRC or prison. To this extent, his testimony was similar to others', as most interviewees distinguished those in 'absolute crisis' who were 'intent on ending their lives' from those who, for example, cut themselves as a 'release' or as a 'cry for help'. Far more men in Brook House fell into the latter group than the former, and those considered high-risk were closely monitored on E Wing, which held vulnerable detainees. Lauren, a young DCO, compared what she saw in immigration detention to the 'rough' local prison she had worked in previously:

> 'I don't think anyone in here intentionally wants to die. But when it comes to prison, they *actually* wanna die. So in prison, there's only so much you can do. Like if they've got someone on an hourly [observation], these people are aware of this system and they know, once you've checked on them, they can kill themselves as soon as you leave. There's nothing that officer can do. […] But in here, they're not like that. I don't think they actually wanna kill themselves, literally it's cries for help. They want that support, and I think the company is aware of that. That's why they have that support here. But in the Prison Service, if they wanna die, they will find a way.'

Having relatively few detainees who were 'determined' to end their lives was a source of comfort to many staff, as higher levels of lethal intention is one of the factors that differentiates attempted or completed suicides from self-harm (Rivlin *et al* 2013). However, the absence of stated

suicidal intention among detainees did not eliminate the possibility that self-harm could be fatal. Judy, a member of the mental health team, described her concern that a death could result from severe self-harm:

> 'It's not self-harm as a coping mechanism. It's not "I want to kill myself". It's a sort of in-between. It's despair. It's "I don't know what else to do to stop deportation". We have people sewing their lips together…we have people not eating or drinking because they think that will stop their flight. Well it won't, y'know? And I think, sooner or later, somebody will kill themselves and not actually mean to do it at all.'

Other interviewees echoed Judy's idea that detainees did not in fact 'mean' to harm themselves or were not 'really' intent on ending their lives. They inferred this from the fact that detainees typically cut their forearms horizontally rather than vertically, the latter being the more dangerous method or, as one DCO put it, 'the proper way to do it'. When describing detainees' self-harming behaviour, staff sometimes downplayed men's agency, suggesting that their actions were not always true reflections of how they felt. Instead, they saw detainees' behaviour as a manifestation of helplessness or an inability to cope. Tracy, a DCO who had previously worked in non-custodial mental health settings, said that self-harm was done by people 'who can't deal with their emotions'. It was, she said, 'their way of coping, it makes them feel better'. Despite studying mental health for years and working with many patients who injured their bodies, self-harm remained incomprehensible to her. As she put it, 'I could never say I understand it because I'd never do it myself'.

Other employees, particularly those who worked in healthcare, observed that most men in Brook House who harmed themselves did not have any pre-existing mental illness or clinical diagnosis (see Skegg 2005; Nock 2010). As one nurse put it, the most common conditions that detainees experienced were 'reactive' in nature, such as stress and sleeplessness. Michael, a member

of the mental health team, said he had 'no idea how bad it was' in the detention estate prior to working in Brook House. His opinion was that, 'It's stress and anxiety related. It's not very often you get a real mental, y'know, a *real* mental health issue. It's all related to immigration'. Poor mental health in Brook House was, according to him, largely a consequence of men's 'situation', so much so that 'they would be fine if they were out in the community and didn't have this hanging over them'. His colleague Judy agreed that such problems were 'purely' stress-related rather than manifestations of any underlying mental illness. These comments implied that they thought men's distress was rooted in the 'deprivation' of custody, rather than 'imported' from outside (Dye 2010; Carlton and Segrave 2011; Liebling and Ludlow 2016). Although Brook House had not had a death in custody, detention itself seemed to increase the risk that men would harm themselves.

'Near Misses'

Although there had never been a death at Brook house, most interviewees who had spent more than a year at the centre could recall at least one 'near miss', in which a person was saved from a life-threatening situation or in which their survival was a matter of chance (Marzano *et al* 2009). Several people remembered particular cases and details vividly, although they often struggled to recall when events had occurred and whether any significant changes had followed. Unlike when individuals die in custody, there is no external investigation into near misses. Decision making and policy compliance are not scrutinised as closely as they are for deaths, despite the fact that many lessons can be learned from these harrowing events, which are often substantially similar to completed suicides (Borrill *et al* 2005). Indeed, in some cases investigating near misses may be more instructive to practitioners because the survivor can be interviewed, providing insights into how ideas and feelings are converted into plans and actions (Rivlin *et al* 2013).

There had been several near misses at Brook House over the years. During interviews, staff described cases that had stayed with them for many years, reconstructing them in detail and often

reflecting on how close the men had come to dying inside. The exact details of each case were difficult to verify, but the basic accounts offered give a sense of how thin the line can be between life and death. Each of the following cases was described by a member of staff who had been directly involved in saving a person's life. On two separate occasions men had thrown themselves over the wing landings and hanged themselves using bedsheets, in one case before suicide prevention netting had been installed. One man had tied a plastic bag over his head and hid in the locker under his bed, later to be found by staff following the roll count. (Staff initially thought he had escaped.) At least one man had hanged himself from a television bracket and been found by a DCO, which led to the installation of television brackets that collapsed under weight. Several men had spent many days without any food or fluids, in some cases accompanied by a stated intention to die. Finally, at Tinsley House in 2008, Amadou Nyang had run head first into a wall, leaving him permanently paralysed with a broken spine.[13] These cases were often formative experiences for those who responded to them, having occurred while other problems in the centre were unfolding or shortly after disruptive behaviour by the detainees. There are few reliable records of such incidents, however, as they were never investigated by an external authority such as the Prisons & Probation Ombudsman or a coroner during an inquest.

Younger staff, I was told, often did not realise how severe the risk of death was. It was only with the experience of responding to individual cases that staff learned about how unpredictable the centre truly was. With little formal training and few resources at their disposal, officers had to muddle through and do their best to keep detainees alive. By focusing on a single testimony, it becomes apparent how risky an IRC can be. Eric, a DCO, provided a clinical description of a man's suicide attempt, followed by an account of how he had been treated by officers prior to the incident:

13 More details are available in the High Court decision, see *Nyang v G4S Care & Justice Services Ltd & Ors* [2013] EWHC 3946 (QB).

'I've actually saved probably three lives and the ligatures are tight. It could be a cord. I had one gentleman actually put a belt around his neck and he actually got the clasp done up. Because if you self-strangulate, after a while you're gonna just pass out and the pressure's off. But when you've got a belt round there, you've got no choice. Three days after that, I actually got speaking to him, and it turned out it was a little bit to do with his case but a lot of it was […] officers were talking at night close to his room, and they were just saying he was faking it. So it just turned him the other way so he just…it was a little bit to do with his case but it pushed him that little bit further. […] But three days afterwards I was on his constant [watch], he wasn't eating but he was just lying on the floor on a mattress. I just happened to go in there and said, "Look, are you aware that it was me that actually found you with the belt around your neck?" And he just jumped up and hugged me. Just jumped up and hugged me and said, "Thank you very much". But that was a little bit to do with his case but he was pushed further by actions of other people.'

The details of this case as described are concerning, especially the suggestion that officers had been overheard saying that a vulnerable man was 'faking it' and that hearing this may have added to his distress. These remarks also illustrate the risks of employees trivialising self-harm by making superficial judgements about detainees' intentions, moods and emotions, especially if they go on to voice or act on such assessments. Like most of his colleagues, however, Eric was proud of how staff in Brook House dealt with vulnerable men:

'A lot of people on constants or I've helped through self-harm, every single one of them has said, "Thank you". And I just brush it off. I say, "I'm just doing my job, that's all I'm here for is your care". But you go home, y'know, that's another one saved.'

Causes and Explanations

The Pains of Immigration Detention

Witnessing self-harm and suicidal behaviour can be distressing, and researchers have commented on how exposure to such events can emotionally harden staff (Barry 2017; Bosworth 2019). In addition to their secondary effects on members of staff, they also prompt people to search for causes and explanations. Whether it is speculation about why individuals cut themselves, or informed reflection on the seriousness of a case of food and fluid refusal, self-harm and suicidal behaviour are constantly interpreted by members of staff.

Like many issues in immigration detention, one of the ways that staff made sense of self-harm and suicide risk was through the lens of detainees' immigration cases (Bosworth 2014). If someone had been detained for a prolonged period, or was facing imminent deportation, these factors were seen as contributing to their poor mental state. Officers repeatedly told me that detention and the prospect deportation had negative effects on detainee's wellbeing, leading some men to feel 'desperate' and 'vulnerable'. Although the vast majority of detainees did not physically harm themselves, manager Claire pointed out that, 'If you're feeling particularly vulnerable, I'm not sure how being in a room at Brook House would help that'. Self-harm and attempted suicide were in this sense the most extreme manifestations of detainees' broader condition of anxiety and vulnerability (Bosworth 2016). When men injured themselves, the corrosive psychological hardship of detention became a physical injury requiring an official response. Private, emotional suffering was transformed into visible, embodied pain (Chandler 2012; Chamberlen 2016). Understood in this way, self-harm is a communicative act that turns subjective feelings into public scars.

During interviews, most staff showed a clear awareness of the hardship detainees experienced. Given how routinely they encountered detainees' distress, it would be difficult for them to be unaware of the strains men were under. Anyone who enters an IRC, whether as a

researcher or in any other capacity, is quickly confronted with pleas for help from people who are highly anxious (Bosworth and Kellezi 2017). Many of my informal conversations with detainees were structured around their migration status, and on several occasions simply asking a passing question led to someone poring over their complicated personal histories and describing their family circumstances in great detail. When I asked DCO Lauren what sort of things detainees were concerned about, she gave a sense of their ongoing hardship:

> 'They miss their family, they miss their children, they miss the food, they miss being able to just come and go as they please and go to work and things like that. Just normal everyday things that I guess we take for granted cos it's been taken away from them. Mostly, there's a lot of people stressed about their family. They miss their family, they miss their kids, they don't wanna leave. Some of them say, "I've been here a long time, this is all I know". Some of them, they've come over here when they were young, and this is all they've known. Sometimes I think about it and I'm like, if someone said to me, "You're gonna live in Jamaica", it's not really something I'd wanna do. I don't really know Jamaica. So, in that sense, I understand their frustration. It must be scary to know you've gotta go somewhere when you've not been there like that, you don't understand the system. That's scary. So a lot of them do say that to me about going back home.'

Efforts to prevent self-harm and suicide in an IRC must acknowledge that detention and deportation are themselves drivers of distress, albeit that they are not the only causes. Any explanation of detainees' vulnerability must recognise the hardship that they routinely express to anyone who will listen. Detainees' default state of anxiety of course primarily affects those in custody and their family, but it also creates everyday problems for officers. With little power to affect detainees' cases, and therefore being unable to alleviate the ultimate source of their hardship, staff in Brook House encouraged men to exercise in the gym, use the library or go to the art room.

They recommended anything that would help men 'take their mind off' their immigration case, at least in the short term. These distraction techniques may have helped some detainees, but they could not alter the fact that detention was fundamentally opposed to detainees' interests.

Despite the large number of nationalities and backgrounds found in detention, frustration with immigration policy was one of the few things that detainees shared. Factors such as age, ethnicity, gender, health, sexual orientation, language and migration status affect people's experiences of detention (Bosworth 2014), but men in Brook House were unified by their hardship. The indignity of detention diminished them as individuals, but it brought them closer together as strangers. Andy, a manager who had worked in the centre for eight years, recalled being forced to confront the reality of indefinite detention during his training course:

> 'The lady doing our training on [suicide prevention] made us write a list of the five most important things to us. 99% of the class said, "Wife, kids, family, health, money, security, job" – that sort of stuff. And she said to us, "Take one of those away, how do you feel? Take two of those away, how do you feel? Take three of those away…Now take *all* of them away, how do you feel?" And it was like, well yeah, actually, you put it like that, I'd be feeling pretty shit about myself.'

As this short training exercise demonstrated to him, hardship is a basic feature of immigration detention as practised in the UK. Some pains of immigration detention are generalised and intrinsic, analogous to Gresham Sykes' typology of the 'pains of imprisonment' (1958). Men in Brook House had lost their freedom and autonomy, for example, and were deprived of basic goods and services that they enjoyed outside. It became unremarkable for me to hear a stream of complaints about the circumstances of a person's arrest, their arrival into the centre, or the way that Home Office decision makers had treated them. The normalisation of pain and suffering, anxiety and frustration, in detention is one of its most insidious effects.

To be more precise, pain in detention has a distinct temporal quality (Griffiths 2014; Bosworth and Vannier 2016; Turnbull 2016). The pain of indefinite detention was something that numerous interviewees commented on when I asked them about self-harm and attempted suicide. In British IRCs, detainees do not know how far through their 'stay' they are, and in most cases they cannot count down days or mark milestones (e.g. 'halfway there', 'one month to go'). In his discussion of foreign national prisoners, Jason Warr (2016) calls this pain 'the deprivation of certitude'. Unlike many other countries, the UK does not have an upper time limit on detention. Time spent in an IRC is thus qualitatively different to prison time, albeit that detainees tend to be held for shorter periods (days and weeks) than prisoners (months and years).

During fieldwork observations, ex-prisoners often told me that detention was 'worse than prison', and most staff acknowledged that the uncertain length of detention, coupled with anxiety about deportation, added to the hardship detainees experienced. DCO Tracy, for instance, was clear that, 'Long term detention isn't good for anyone'. Long term detainees became increasingly resigned and hopeless as time passed, and staff informally monitored mood changes and kept track of shifts in men's demeanour. Emily, who spent many hours a day with detainees in her classroom, described how prolonged detention affected her students:

> 'You see it happen. They come in and slowly over time [their mental health] just gets lower and lower, which you could kind of understand. I mean one of the guys was here nearly two years and he was just like, y'know, "I've lost the will to live", which you would.'

Immigration detention as currently administered blends the pain of time with spatial disorientation. Men in Brook House were in limbo, neither recognised as British citizens nor certain that they would be expelled to their country of origin. They were within and without, ostensibly denied the right to stay in Britain while also subject to the state's most coercive powers. Being held in a centre next to Gatwick Airport runway, so close that planes could be heart taking

off and landing while standing inside the residential units, men were constantly reminded of their uncertain future. Highly personal problems were often exacerbated by Home Office bureaucracy and frustration with solicitors, a point that Rahim, a manager at Brook House, made to me. When I asked him why he thought some people harmed themselves, he did not hesitate to explain the reason:

> 'Case. Their case. Hence the reason that leads them to self-harm and try to attempt suicide. It's just the case. It's the Home Office, what they're doing with their case, when they're gonna fly back, or when they're gonna be released, or the case worker, or their solicitor's not good enough etc. It's always their case. Nothing else.'

'Manipulation'

Although most DCOs and managers took self-harm and suicidal behaviour seriously, their concerns existed alongside an undercurrent of suspicion about detainees' motives and behaviour (Hall 2010). Self-harm was interpreted by some staff as a 'protest' against deportation, used by detainees who had been served with 'removal directions' in a final effort to resist their expulsion from the UK. On numerous occasions, Brook House employees described men's self-harm in instrumental terms. Words such as 'manipulation' and 'attention seeking' were used during interviews, and phrases such as '*threatening* to self-harm' reinforced the idea that injuring one's body was a self-interested act more than a cause for concern.

Several interviewees were aware that they were not supposed to express such opinions, but felt that self-harm was often 'manipulation'. The following excerpt from manager Liz illustrates the cultural belief that self-harm was not always 'genuine':

> '[T]here's a very high percentage, rightly or wrongly, and we're told not to say this, however, a lot of it is manipulation. Because if you don't eat food for a number of days and you get to the point where actually you're fairly critical, you'll get released.

> And it only takes one or two for that to happen to for the message to filter around. And then you get a trend of people doing that. But…a lot of it, rightly or wrongly, in my opinion, is a manipulation tool. […] We've had people, when escorts turn up, will pull a blade out, slice their arm. Well, you've done some damage, you need to go to hospital cos we're not accepting you. And rightly so, cos I wouldn't accept somebody that's just hurt themselves. So that's your flight delayed, isn't it? Again, you've got a little bit more extra time. So it's an effective tool.'

According to staff's accounts, the cumulative effect of hearing such 'threats' was that they became desensitised to suicidal ideation and forms of non-lethal self-harm. A degree of scepticism about detainees' emotions was considered a mark of experience. Self-harm was not simply a cause for concern and multidisciplinary care, but also a matter of trying to assess a detainee's motivation, honesty and character. Liz's description does not foreground distress or vulnerability. Rather, it calls into question the authenticity of men's pain. What does this particular detainee want? What is he trying to achieve? To answer these questions, some officers constructed a false dichotomy. Self-harm was either evidence of genuine distress or it was instrumental, as if these were two mutually exclusive categories. Cutting oneself could be a cry for help, or it could be 'attention seeking'. Similarly, detainees were regarded either as helpless and vulnerable, or as highly rational 'protestors' whose demands needed to be managed. In the latter cases, what was noteworthy to staff was not the circumstances that drove men to express their feelings in such a risky manner, but the lengths that detainees would go to in order to get their own way. According to this view, self-harm was yet another example of detainees' manipulative behaviour, which reinforced staff's initial hypervigilance and suspicion towards detainees.

In practice, officers were required to make judgements about detainees' intentions and motivations, as there are gradations of severity when people injure themselves. These assessments were based on background risk factors, such as mental illness or previous self-harm, as well as

more contextual factors related to the individual's personality and situation. Staff's descriptive judgements were, however, interspersed with normative judgements about men's self-injury. Numerous officers drew informal distinctions between more or less valid reasons for self-harm, saying that they could not understand why, for example, having a 'wrong name on a form' (Tracy) would lead someone to cut themselves. As DCM Rob rather coarsely put it, 'I've never wanted to kill myself because my telly didn't work'. Yet the reasons for self-harm and suicidal behaviour are not necessarily easy to discern. There was a temptation to draw simplistic conclusions based on men's situations, for instance that a man cut himself because he had 'been refused bail' or 'he's been told he's going on a flight tomorrow'. Such superficial assessments are confounded by the fact that self-harm and suicidal behaviour rarely have a single readily identifiable cause (O'Carroll 1993; Skegg 2005).

In most cases, self-harm as a 'protest' was ineffective. Men who were taken to hospital for treatment were then swiftly returned to Brook House and reminded that self-harm had no bearing on the outcome of their case. Despite describing self-harm as an 'effective tool' in the short term, Liz later made it clear that, in fact, the state ultimately dictated what happened to detainees:

> 'I was in a review the other day and the Home Office said, "Just so you know we're gonna be writing to you tomorrow to let you know that you refusing food is gonna have no impact on your case and the result of your case".'

Staff scepticism about the reasons for self-harm and suicidal behaviour was partly rooted in their reverence for first-hand experience, as distinct from classroom teaching or theoretical knowledge. Experience had taught them that detainees often 'conditioned' staff and that self-harm tended to be 'superficial' rather than severe. Although self-harm and suicidal behaviour were shocking at first, they steadily lost their emotional power. As manager Claire described, 'People make threats a lot, so when you hear that day in, day out, several times a day, it can kind of erode your ability to identify when it's genuine, like the boy who cried wolf'.

Employees who did suicide prevention training insisted that they prioritised 'empathy' and encouraged staff to be aware of triggers and risk factors, rather than simply teaching them how to fill in a document. However, Emily, who was employed in a non-custodial role, noted that the training more broadly embedded suspicion about detainees from the beginning: 'the detainees are the enemy, it was very much that'. Registering her discomfort about her colleagues and place of work, she was critical of some of the assumptions her more 'jaded', albeit 'experienced', counterparts made about detainees:

> 'Every time I show concern for somebody, they'll be like, "Oh, they're just putting it on". […] The other day I went to see somebody and he was really down. I went to the office and asked, "Has he got a [suicide prevention form]?" and the guy was like, "Why? Why?" I said, "He's just really down" and he just said, "Well everyone's down in here". It's quite sort of dismissive. So I think they've almost become normalised to that behaviour, whereas if you encountered that in any other situation, you'd be really shocked, y'know, a man crying. Whereas here it becomes normalised, so I guess that comes with [staff] being here too long maybe.'

Officially, such cynicism would have been regarded as unacceptable. As one manager put it, 'It's not for them to prove you wrong'. But it was clear that officers' concerns about men's welfare existed alongside an undercurrent of suspicion about detainees' behaviour and moral character. DCOs, in particular, were uncertain about the nature of their relationship with detainees. Many were sincerely committed to helping detainees as far as possible, while others felt limited sympathy for them. They strove for a balance of empathy and hardness, both of which were qualified and conditional rather than absolute. Their explanations of self-harm and suicidal behaviour as both a genuine cause for concern and an example of manipulative self-interest reflected a broader ambivalence about their relationship with detainees.

Staff Responses to Self-Harm and Attempted Suicide

Identifying Risk: Assessment, Care in Detention and Teamwork

The Assessment, Care in Detention and Teamwork (ACDT) process, modelled on the equivalent prison policy Assessment, Care in Custody and Teamwork (ACCT), is the most common response to detainees who harm themselves or are identified as at risk of suicide. Detainees are put on ACDT for various reasons, but they typically relate to a stated intention (or 'threat') about self-harm, or because of developments in a person's immigration case, for instance that they have been refused bail, served with removal directions or have a deportation flight scheduled for the following day. Some men arrived from prison or another centre on an open ACDT, although I was told that in the month prior to my fieldwork, only eight out of 20 booklets had been received from other IRCs. An ACDT booklet can be opened by anyone who has concerns about a detainee, and once opened is followed up by an assessment, then a multidisciplinary case review (involving a manager, healthcare staff and any other relevant staff, such as chaplaincy) (see Ministry of Justice 2012).

ACDT and associated suicide prevention work represented staff in their most explicitly caring role, and provided a window into other aspects of life in the centre. I concentrate here on how the emotional labour of safer communities work was inflected by gender and race, although interviewees often hesitated while making this point or clarified that emotional work did not intentionally fall along these lines. In many ways such a gendered division of labour is unsurprising. IRCs, like prisons or indeed any social institution, are gendered and racialised (Bosworth and Kellezi 2014; Bosworth and Slade 2014; Bhui 2016a; Bosworth 2018). Moreover, the feminised qualities of care and listening were essential to the ACDT process, so we may expect to find that those who carry out these roles tend to be women.

In practice, however, gender intersected with race and religion. Whether 'the feminine touch' would work was said to be contingent on the ethnicity, nationality and religion of the

recipient detainee. The assessor group was disproportionately 'older females' who were often construed as 'motherly', in sharp contrast to the 'big, butch, bald' men who were called upon to do the archetypally masculine work of 'C&R' (control and restraint) and 'hostage negotiation'. When providing care, several staff observed that the gender 'diversity' of the workforce was a strategic advantage, a point that manager Tara made explicitly:

> '[Y]ou play to your strengths, knowing how certain kinda nationalities will respond. So for example, sometimes you'll get a Muslim chap that will respond really well to a male. They won't necessarily respond really well to females. And that might be just a cultural thing. So if I want a really good case review from a chap that might be Muslim, I'd be more inclined to say, "Send a male down to go and have a conversation", just because I'll probably get more. And that's not cos the female assessors can't, that's just about understanding what this person might do better. […] If I've got a Jamaican chap, a young Jamaican chap, they're very respectful of females. Is a young Jamaican chap gonna rock up and talk about how he's feeling to another guy? Not necessarily. […] In that respect, yeah, you play to your strengths.'

Gendered and racialised stereotypes were not confined to staff whose roles were predominantly custodial or security-oriented. In my interview with two healthcare staff, Michael and Judy, their initial language of care and concern quickly lapsed into more speculative claims about the different nationalities and religions in the centre. Despite insisting that stereotypes should be avoided, Judy noted that, 'Different cultures have got different levels of stress that they can manage'. The use of self-harm as a coping mechanism was, Michael claimed, especially prevalent among young men from 'Afghanistan and those countries'. I asked if they associated particular problems associated with different countries:

> 'Judy: Poland is substance misuse.

Michael: And alcohol.

Judy: And anger problems. [Laughs.]

Michael: Afghanistan is argumentative and they're quite…

Judy: Yeah and self-harm.

Michael: Self-harmers, yeah.

Judy: The Asian Indian, Pakistan and Bangladesh, they've just got low coping, they need a lot of reassurance and comforting and that.

Michael: With Sikhs you get a lot of alcohol problems, with the Sikhs.

Judy: Yeah, Sikhs have a big alcohol problem. And the Jamaicans…well it's just the Jamaicans! [Laughs.] Obviously they have a bit of drug…drug-related.

Michael: Cannabis.

Judy: They're quite self-sufficient, really.

Michael: Very self-sufficient.

Judy: […] There's a lot of stigma about mental health with the Jamaicans, they don't like to admit it. And if you get one that comes that's not doing it for a single room or anything else, you know they're poorly. You know they're poorly.'

All staff I encountered in Brook House officially rejected classifications based on race or religion, stressing that 'it all comes down to the individual'. But it was clear that stereotypes – whether they related to gender, nationality, ethnicity or religion – helped them make sense of detention and allowed them to interpret men's hardship in a way they found meaningful (Kaufman 2012; Bosworth and Kellezi 2014; Bhui 2016a). Indeed, some interviewees invoked national stereotypes to demonstrate their experience and expertise (Bosworth 2018), or in an attempt to show sympathy for detainees. But to the extent that employees' sympathy was racially inflected, so

too was their suspicion about particular groups of men. During observations and interviews, there were occasional allusions to the idea that black men were more aggressive, intimidating or physical than others, and that Muslim men were more misogynistic and disrespectful to staff who were younger than them. Staff's efforts to identify those men at risk of suicide and provide them care through ACDT was thus connected to broader practices of identification and classification that staff did not officially accept.

Managing Bodies: Constant Watch

The ACDT process was generally carried out well in Brook House. Staff did not hesitate to identify risks and act on them, and may if anything have been excessively risk averse. ACDT is an active, dynamic policy document that requires staff to invest time and effort in identifying detainees' needs and helping them overcome difficulties. But in exceptional cases, ACDT was not thought to be enough. Detainees who presented an imminent risk to themselves were put on 'constant watch'. According to official policy, constant watches are supposed to be an exceptional measure, and reviews of the detention estate have tended to be critical of their over-use (Shaw 2016). However, during fieldwork there was typically at least one detainee on E wing who was being monitored in this way and accompanied at all times by a member of staff. In 2016, there were 226 constant watches for 126 men (Independent Monitoring Board 2017), although staff insisted that such an invasive measure was used for the shortest time possible.

If ACDT represents staff acting in an explicitly caring capacity – working with detainees, patiently discussing their problems and respecting the dignity of vulnerable people – constant watch seems more analogous to surveillance or the sort of 'hypervigilance' (Hall 2010) that characterises staff-detainee relations at other times. Several interviewees noted that constant observations were innately 'intrusive' and could be 'counterproductive', since 'someone sitting and staring at me is gonna remind me why I feel that way'. During constant observations, an officer is

required to keep a detainee in their sight at all times, even during sleep or when they use the toilet. Such an approach has no identifiable curative or therapeutic purpose, and merely removes a person's capacity to injure themselves.

Staff's engagement with men on constant observations was variable, despite being encouraged to supervise men actively rather than merely observe them. A great deal of time and labour was spent watching men who were asleep, not moving, with their bedsheets covering their face. During observations, a DCO would sit on a stool outside the 'constant rooms', which had larger viewing panels than regular rooms, periodically taking notes or having brief conversations. Often their interactions amounted to unanswered questions: 'You alright there?', 'Do you want a drink of water?', 'What's that you've got there?' If men began to harm themselves, members of staff were obliged to intervene, for instance stopping detainees self-strangulating or removing objects from them. In these circumstances, detainees were reduced to mere bodies. They lay passive yet were construed as highly risky. Questions of dignity and agency were put to one side as staff did whatever was necessary to avoid a fatal outcome, often unaware of what detainees were feeling or thinking. Constant watches reduce the staff-detainee relationship to observer and observed.

Talking and Listening

My first interview with Eric, a DCO from E wing, took place in the segregation unit. It was cut short because a segregated detainee had started cutting himself (see Chapter 4). We quickly abandoned the interview and reconvened several days later. During our second interview, he explained his frustration with how some of his newer colleagues treated men on constant watches:

> 'We just had a new influx of staff and I put them on the constant watch, first time on a constant watch, and you can see it in their eyes: *they are scared*. "Cos I'm watching him, I'm the only one here, what do I do if – " That's what they say to

you, "What do I do if he does something?" Well, call me. Call me. He's not gonna die [clicks fingers] like that. He's gonna take a couple of minutes to die, so we've got a couple of minutes to deal with it. Just call me. If no one's around, that's what your red button's for. Press the red button. Simple. "Yeah but but but…" No. What you gotta do is watch him. Just watch him. Y'know, talk to him as well. You can talk to him, y'know! You've got a voice, he's got a voice. You can talk to him. And half the time that's what it is. Just talk to him. You'd be surprised how you can turn someone around just by talking.'

During fieldwork, it became apparent that many staff placed as much faith in talking and listening as they did in formal interventions or assessments. Claire, a DCM, was of the opinion that despite all the 'policy and process around it', often 'the best tool is just having someone to listen'. Lauren, a DCO and former prison officer, was similarly persuaded of the importance of talking and listening:

'There's loads of things available to them. They can go to Samaritans, they can go to the mental health team, they have got that support. Sometimes just having someone that's right there available where you don't gotta go out your way to talk to someone, I think it does make a massive difference to them that you've listened to them and help them de-stress, cos it is good to talk.'

While detainees waited anxiously for the Home Office to process paperwork, staff attempted to find shared points of interest or experience in their conversations with detainees, whether it was slightly strained banter, offering a cigarette or discussions about football. Talking and listening are essential aspects of care, and it is little surprise that staff placed such faith in direct communication with detainees. Talking and listening are free, innocuous concepts that, in their ideal form, imply a measure of respect and equal status. But in the context of immigration detention, talking and listening are not enough. Just as IRCs are 'saturated in stories' (Bosworth

and Kellezi 2017: 126), they are also full of talk. There is little else to do on a shared wing but speak or sit around listening to others. Several men told me they were tired of 'chatting shit' and complained about the superficial nature of their interactions with others in the centre, with whom they had little in common. Having access to a mobile phone enabled them to stay in touch with their loved ones, but when it came to speaking to figures of authority – most notably Home Office officials, embassies, judges, solicitors and doctors – communication was often talk without consequences. Lacking any meaningful power or agency, detainees' words rarely enabled them to resolve any substantive issues.

Although staff told me that it was important to 'talk through problems' or 'hear what's on their minds', English-speaking detainees had little difficulty identifying their problems or articulating their frustration. Rather, their concern was that nothing was being done about them. Home Office representatives were not present at ACDT reviews, and G4S employees regularly appealed to their own powerlessness in respect of immigration decisions, admitting to me that 'as operators' G4S 'protect' the Home Office. Where there was no change in a detainee's case, ACDT reviews sometimes became a proxy for yet another argument about the Home Office.

Communication in immigration detention is therefore connected to questions of power. The unequal status of detainees compared to officers and officials is the basic logic of the system, and their relative weakness is reinforced by language barriers and cultural distance. Unlike her colleagues elsewhere in the centre, Emily from education was aware of the limitations of mere talk. When I asked whether she thought detainees felt taken care of in the centre, she gave a pessimistic answer:

> 'No. I get the sense they don't feel looked after at all. When somebody's ill, they only get given paracetamol, no matter how ill they are. It makes them feel unloved, not taken seriously. And then emotional wellbeing, there's Talking Therapies. I don't know anything about it, but from [what the detainees say] they literally sit

> down and somebody says, "How are you this week?" It's not really about making changes or making steps forward, it's just, "How are you doing?" which I think is quite frustrating for some of them. They actually want more counselling or psychological therapy. I guess it's money, isn't it? I don't know. It's a business.'

In conditions of profound inequality of status and power, where state and private power are mobilised fully against non-citizens, speech alone is not consequential, nor is it an end in itself. The appeal of talking and listening is precisely that it superficially resembles negotiation and interaction while in fact doing relatively little, airing grievances and venting frustration without affecting their causes. Outnumbered by staff in ACDT reviews and repeating demands to no avail, detainees were not equal to employees. Detainees were aware of how little staff could do to affect their case, so were sceptical of officers' claims to 'help' them. Given that staff could also be judgemental about 'fake' or 'manipulative' self-harm, detainees had further reason to doubt the power of their own voice.

Conclusion

Can self-harm and attempted suicide tell us anything more broadly about immigration detention, or should we instead think of these as risky, extreme behaviours that only a small number of detainees engage in? As I have shown in this chapter, how IRC staff explained and responded to these problems was not simply a matter of providing care to distressed individuals. Although in the main officers made sincere efforts to help vulnerable men as far as they could, their actions existed alongside private feelings of suspicion about detainees' intentions and behaviour. Even in their most explicitly caring role, staff felt ambivalent and conflicted about the nature of their relationship with detainees. Despite their recognition of some of the pains of immigration detention and the hardships men faced, they were also accustomed to seeing detainees as challenging and disobedient. Self-harm and attempted suicide were thus partly interpreted as

behavioural problems to be managed, as well as manifestations of emotional difficulty and psychological pain.

Their working conditions did little to foster good relationships with detainees or promote a caring environment for vulnerable men. DCOs, in particular, worked long hours in prison-like conditions, and had little in the way of training, support, resources or expertise to call on in difficult times. In addition to these limitations, there were other institutional factors that prevented them from providing meaningful care for detainees. The rapid population turnover meant that life in Brook House had a transient, impersonal quality. Most men were detained in Brook House for no longer than a few weeks, since the ultimate purpose of immigration detention is to facilitate the expulsion of foreign nationals from the UK, rather than to rebuild people's lives or change their behaviour. Some detainees spoke little English and felt they could not trust staff, including the healthcare team. Staff generally knew little about men arriving into the centre, and so did what they could to build a 'rapport' with them. But the weakness of this concept was exposed when it came to dealing with men who needed more substantial care or treatment.

In staff testimonies, self-harm and attempted suicide were often cited as examples of how unpredictable a place Brook House was. As one manager put it, 'Things can go wrong here very quickly'. To deal with such an environment, I was told, officers needed to balance care and vigilance, empathy and suspicion. These qualities were required in all aspects of their working lives, even when dealing with self-harm and attempted suicide.

Chapter 6

Investigating Deaths in Custody

The previous chapter provided an account of the internal world of custody, and analysed staff's responses to self-harm and suicidal behaviour in Brook House immigration removal centre (IRC). In this chapter, I move outside of the local custodial context and focus instead on the aftermath of deaths in prisons and IRCs. What happens when someone ends their life in custody? What external actors are called upon to investigate it? What form do their investigations take, and what substantive questions do they address? The two processes I examine here are independent investigations conducted by the Prisons & Probation Ombudsman (PPO), and inquests held in coroners' courts. All deaths in prison and immigration detention are investigated by the PPO before going to inquest. Drawing on academic literature on the sociology of death, as well as a set of elite interviews with professionals who investigate deaths in custody, I explore how the state responds when an individual loses their life inside.

Before I discuss my empirical research on investigations into deaths in custody, I provide a broader theoretical argument about the social construction of death in modern societies. Drawing on a body of literature known as 'the sociology of death', I explain some of the major trends in how we understand death and dying in contemporary culture. I pay particular attention to the distinction between 'good deaths' and 'bad deaths', arguing that suicides in custody are paradigmatic example of a bad death. Then, I look at the rationalisation and bureaucratisation of death, and suggest that PPO investigations and coroners' inquests are processes that turn a private tragedy into a public inquiry. The final theoretical component of my argument is about the role of rationality, facts and objectivity in death investigations. Given the contentious nature of many suicides in state institutions, investigations attempt to provide some minimum degree of consensus in a situation potentially riven with conflict, accusation and pain.

The Sociology of Death

> 'There is really nothing more to say – except why. But since *why* is difficult to handle, one must take refuge in *how*.' (Morrison 1970: 1)

Social scientists have spent the past few decades researching the *how* of death: how people die; how they cope with terminal illness; how they manage their demise; how families grieve and commemorate loved ones; how 'death work' specialists like funeral directors and forensic pathologists influence the end of life; how social norms and cultural sensibilities shape our understanding of mortality (see Walter 2008 for an overview). They have addressed these questions by conducting ethnographic research, drawing on historical sources and analysing popular representations of death (Walter 1994; McNamara 2001; Exley 2004). Research of this kind reminds us that although death is a biological fact, it is also culturally inflected (Malone 2019). Studying the end of life gives us an indication of differences and inequalities within any given society, and can teach us a great deal about how lives are lived (Riley 1983). More generally, research on death demonstrates that while there are certain enduring existential questions about the human condition, the answers to these questions vary significantly across time and space.

A consistent theme in sociological work to date has been scepticism about the idea that death is a taboo subject that is denied and under-discussed in late modern societies (Walter 1991; Seale 1998; cf Kellehear 1984). There is some historical plausibility in the idea that the more gruesome parts of life – disease, illness, suffering, punishment and death – are now sequestered from public view compared to centuries past (Elias 1985; Garland 1990; Mellor 1992), and it is certainly true that dying tends to take place in private spaces. More so than before, its aftermath is processed behind the closed doors of specialist institutions like law firms, counselling services and therapy groups. What sociologists call the 'sequestration of death' (Mellor and Shilling 1993) has

bred a fear of dying alone, in the absence of family or friends, or in the impersonal settings of a hospital or hospice (Seale 1995).

Yet our contemporary preoccupation with health and illness (e.g. Conrad 2007), as well as our fascination with the deaths of well-known public figures, suggests that life's finitude is not a taboo. We are, it seems, sensitive to the presence of death in life (Bauman 1992). Moreover, increased life expectancy, an ageing society, and the prevalence of discussions about social care, loneliness, dementia and euthanasia have given mortal questions a renewed urgency. The public discussion of private matters has been facilitated by the mass media and, more recently, information technology, both of which have given rise to new forms of emotional expression and culturally acceptable grief (Gibson 2007). These social conditions make it hard to sustain the argument that ours is a death-denying culture that shies away from talking about mortality (Tradii and Robert 2019a, 2019b). To adopt Charles Mills' phrase about the sociological imagination, while death is always a private trouble for the bereaved, it is also routinely made into a public issue (Mills 1959).

Beyond scepticism about the taboo of death, the more positive contribution of academic work in this area has been to highlight the many ways we understand death and dying, and to show how one of life's few universal experiences is socially organised (e.g. Prior 1989) and historically contingent (e.g. Ariès 1974, 1981). As sociologist Tony Walter puts it, death 'provides a classic way to show how something that is at root natural (our bodies eventually pack up and die) is also inherently social' (2008: 328). Walter's claim is that the sociological significance of death is not simply a matter of morbid fascination. Studying the end of life allows sociologists to tap into major social trends and reveal important aspects of our collective experience, in much the same way that studies of relationships, sport, consumerism and other cultural domains reveal the nature of our social relations. In this vein, scholars have paid close attention to the increasingly secular character of commemoration, as well as the individualism of contemporary funerals that celebrate the

deceased's personality and uniqueness. A person's death is a time when the sovereign subject comes to the fore, whereas previously it drew attention to a dutiful citizen with unchosen ties of kinship and community. Memorials now allow families to express who the deceased truly was, describing the habits and idiosyncrasies that defined their personality. Accounting for a person's life in this way is necessarily a selective process, and poses particular difficulties when the deceased was troubled or manifestly flawed in some way. But from a sociological perspective, what is most striking is not the content of any particular funeral, but the trend towards a more individualistic, secular form of commemoration.

This aspect of commemoration is largely the work of family and close friends, but these private influences are not the only factors that shape our understanding of mortality. The grip of secular individualism is tight, but it is not total. There remain important sources of cultural authority that shape our understanding of dying and death beyond the individual's character. Medical expertise, for instance, informs how the end of life is experienced and narrated. The story of a person's demise is often told with reference to medical decisions, doctors' pronouncements and increasingly futile clinical interventions (McNamara 2001). Later on, once the scientific rationality of modern medicine reaches its limits, bereaved families must then sift through a bureaucratic morass of paperwork and legal administration. Both medicine and law rationalise death, providing order and routine in the face of difficult circumstances. The weaning of religious authority, collective identities and other traditional cultural sources have thus given way to a postmodern combination of individualism, spiritualism and rationalism (Walter 1994). These factors coexist in an uneasy formation, but they provide clues about why we mourn and process death the way we do.

Lying behind this rationalist individualism is a set of long term empirical changes in patterns of health and mortality, which have brought about certain normative ideals about how death *ought* to be experienced (Kellehear 2007). The hospice movement of the 1960s, patients'

rights organisations and euthanasia advocates have together articulated a new *ars moriendi*, the art of dying. Avoiding narrow medical models of wellbeing, these movements prioritise comfort, autonomy and the alleviation of suffering. 'Good deaths' are those that are relatively painless, dignified and short. Ideally, an individual retains control of their body and mind, and exercises their autonomy in making important decisions about their treatment. They have time to prepare for the end of their life, and spend their final days in the company of family and friends, either at home or in a place of comfort. They come to accept their illness and minimise symptoms as far as possible. The good death is a model of control, in which a person carefully manages their decline before eventually being left to their fate. In their sociological critique of this development, Bethne Hart and colleagues explain, 'What has emerged is a prevailing good death ideology that upholds the ideals of dying with dignity, peacefulness, preparedness, awareness, adjustment and acceptance' (Hart *et al* 1998: 72).

For my purposes, the equal and opposite notion of 'bad deaths' is more relevant. There is less open discussion about these cases, and for many people their details are best forgotten. Unsurprisingly, there are not advocates of bad deaths, nor are there checklists of all the ways the end of life can go wrong. But this does not mean the concept is without meaning. Where dying is a prolonged and painful affair, or where it is sudden and violent, we can speak of a bad death. In either case, life ends in circumstances that are psychologically distressing and emotionally difficult. Particular types of death encapsulate the notion vividly, especially those where life is cut short through some form of human agency. The stigma attached to suicide (Owens *et al* 2008) and homicide (Chapple *et al* 2015) often leads to 'disenfranchised grief' that is not fully recognised by others (see also Frost *et al* 2007). Suicide in particular causes distinctive emotional difficulties for the bereaved and can be accompanied by a degree of moral confusion and psychological disorientation (Cvinar 2005; Feigelman *et al* 2009). Since suicides typically occur in isolation, complex feelings of guilt and shame are a common response among family members and loved ones (Biddle 2003).

As these observations suggest, suicides in custody are a paradigmatic example of a bad death. Prisons and IRCs institutionalise stigma and censure, degrading their populations as criminals and non-citizens. The pains of custody – lack of freedom, indignity, mental suffering, and a lack of purpose or meaning – make good deaths almost unthinkable. Research on elderly prisoners confirms the intuition that losing one's life in prison is a terrifying prospect (Crawley and Sparks 2006). Those who end their lives in custody die in circumstances that are isolated and austere, a far cry from the ideal of being surrounded by family in the comfort of one's home. Moreover, suicides in closed institutions invite an unwelcome degree of speculation about what happened and what they mean, which is likely to be distressing for those left behind. In short, state detention is not only a profoundly undesirable place to live, it is also a tragic place to die.

Investigating Deaths: Rationality, Facts and Objectivity

In addition to the emotional hardship that sudden, suspicious deaths create for bereaved families, these cases also initiate formal state responses that turn a private tragedy into a public inquiry (Beckett 1999; INQUEST 2016; Spillane *et al* 2019). Suspected suicides and deaths by accident are initially classified as 'unnatural' (Harris and Walker 2019), and they prompt a sequence of formal investigations and public hearings (Biddle 2003). To this extent, they are a powerful illustration of how death is socially organised and culturally constructed. As the social psychologist Mary Bradbury explains, 'When someone dies a small drama is set in motion' (1999: 46). The cast includes a coroner, the police, medical experts, lawyers and many others, all of whom are enlisted after the fact to give meaning to a shocking event that seems to defy immediate rational explanation (Timmermans 2005).

Rationality is one of the central organising principles of contemporary death investigations. The form of investigations is highly procedurally specified, and their content is strictly factual and objective. The concept of rationality is embodied by professionals with relevant legal and scientific

credentials, who conduct their inquiries according to values of independence and impartiality (see Maclean 2001). Inquests, for instance, provide authoritative legal determinations about the causes of suspicious deaths, in accordance with a set of legal standards and in light of relevant medical expertise (Burney 2000). However, given the nature of the subject matter, death investigations inevitably run into other concepts and categories that are not entirely neutral or scientific. The residual category of 'death by accident or misadventure' (Green 1992), for instance, is not a strict legal or medical verdict, but a cultural one (Timmermans 2005). Similarly, owing to the history of the criminal law as influenced by particular religious and moral values, suicide verdicts must be proved to the higher criminal standard of proof, 'beyond reasonable doubt', rather than the lower civil standard of proof, 'on the balance of probabilities', which is used for most conclusions (Tait and Carptener 2016). For this reason, some argue that suicides are under-recorded and prefer instead to use the broader term 'self-inflicted death' to capture cases that are not formally classified as resulting from an *intentional* effort to end of one's life (Tait *et al* 2015). The increasing use of 'narrative verdicts' at inquest has also complicated the collection of reliable statistics on suicides (Gunnell *et al* 2011).

Unlike deaths in clinical settings, where patients are closely monitored and their care is provided by a cast of medical professionals, few people if any witness suicides in custody, which are often unexpected and hard to predict. They are considered 'unnatural' deaths in part because they disrupt normal routines and provoke soul-searching among officers and authorities. Stefan Timmermans, in his ethnographic account of 'death brokering' in the USA, explains the role of death investigators in difficult cases:

> 'In contrast with common health care interventions, death investigators' work is guided not by cure or care – avoiding death or preparing for the final transition – but by the need to generate expert knowledge about life. Determining the cause and manner of suspicious deaths is highly technical work, dependent on scene

> investigation findings, autopsy observations, toxicology test values, and a close reading of medical files. This expert work necessarily has a strong cultural dimension, because it involves locating corpses in contested categories of death.' (Timmermans 2006: 3)

As Timmermans suggests, the desire to rationally identify causes, explain particular facts and produce objective knowledge about life lies at the heart of contemporary death investigations. Professional inquiries transform a shocking, exceptional event into a routine, bureaucratic process. The passions of bereaved families are slowly drained away, as a death moves from being an existential event beyond human comprehension into an objective fact in need of explanation (Bray 2010). As time passes, the volatile emotions provoked by a sudden death are subsumed into a system of rational, dispassionate inquiry, legitimated by legal and medical expertise. Just as judges and lawyers treat 'conflicts as property' (Christie 1977), so do PPO investigations and coroners' inquests monopolise the aftermath of deaths in state custody. As these observations suggest, deep currents of rationalism, individualism and secularism lie beneath contemporary death investigations. From the vantage point of sociological analysis, these are bureaucratic rituals that attempt to produce some minimal degree of rational consensus in a situation potentially riven with conflict, accusation and pain.

The rationalisation and individualisation of death is particularly apparent when looking at responses to deaths in prison and immigration detention. Beginning with an investigation by the PPO, which outlines chronologically what happened in a particular case, and ending with a coroner's inquest held in front of a jury, state responses to deaths in custody are primarily concerned with establishing facts. They seek to provide an agreed-upon account of events that is verified by witnesses and that accords with specified procedures laid down in official policy documents. In their ideal form, state investigations help to dispel myths and rumours, as well as reassure families that all required action was taken by staff in discharging their duty of care. In

more contentious cases, state investigations may reveal failures of administration, poor record keeping and limited awareness of due process. Occasionally, they unearth significant defects in how an individual was treated before, during or after their death. For this reason, investigations into deaths in custody are conducted in a consciously independent, non-partisan fashion by professionals with relevant expertise.

The production of facts, like the production of official statistics, is an important activity for governments in a liberal, democratic society, and it is worth reflecting on why facts are so central to death investigations (Bray 2010). Almost any realm of social life can be rendered as a matter of fact, in much the same way that we pervasively quantify and enumerate our world (Espeland and Stevens 2008; Berman and Hirschman 2018). To produce facts about an event is to make uncontestable statements of truth about it, or to construct propositions about it that cannot reasonably be denied. Having more facts about a situation does not necessarily guarantee greater insight or understanding of it. But the role of facts is to provide an authoritative description of a state of affairs that is in some sense beyond dispute. The need to settle contested questions is particularly acute when it comes to an event as significant as the end of life. Sociological studies of suicide have long relied on facts and statistics about death, both of which purport to remove bias and resist any undue human interference.

With these broad observations in mind, we can begin to understand the elevated status of facts in death investigations. In Mary Poovey's book, *A History of the Modern Fact* (1998), she argues that the precision and specificity of facts is part of what lends them their epistemological authority in modern societies. They are 'observed particulars' that conform to a scientific ideal of 'noninterpretive descriptions' of the world (Poovey 1998: xv). Whereas so much of human life is contingent, messy and ambiguous, facts offer knowledge that is necessary, clear and undisputed. Put simply, we can trust facts because they do not reflect any particular group's interests or agenda. They are a direct representation of reality that corresponds precisely with the external world. By

existing outside of any person or group, facts are objective, in the sense described by Martha Nussbaum:

> 'Sometimes it is thought that what we are looking for when we look for "objectivity" or "objective truth" is a standpoint on the world from which we have access to the world as it is in itself, in no way mediated by either our human interests or even our mental structure. Like Plato's souls in the *Phaedrus*, we march out to the rim of heaven and see being as it really is, with no interference from our faculties, bodily or even mental. The mind is a pure receiver of the world. In other words, objectivity requires the complete absence of subjectivity, the complete bracketing of anything our minds themselves contribute.' (2001: 884)

Although never articulated in such an elevated philosophical idiom, Nussbaum's account makes explicit what is implied in PPO investigations and inquest proceedings. Facts, like truth, are universal. They provide us with 'unmediated access to the world of nature' (Nussbaum 2001: 884), and describe a shared reality that we can all accept no matter our differences. This is particularly important in social situations where there is the potential for conflict and thus where political dynamics can play out. Whether it is competing accounts of the truth, different normative beliefs about what ought to be done, or clashing values and interests, facts introduce a welcome element of consensus that can unite divided groups. The objective, rational properties of facts make them particularly compatible with the ideology of liberalism (Freeden 2012), a philosophical creed that seeks to reconcile incommensurable values and accommodate competing visions of the good society within a single framework. Since legal institutions and the rule of law are essential components of liberalism, it is little surprise that courts and other judicial bodies place such heavy emphasis on the importance of value-free facts, produced through a politically neutral procedure.

Death investigations are thus characterised by the primacy of rationality, facts and objectivity. But what is perhaps most striking about state responses to deaths in custody is what

they obscure and omit. The bureaucratic rituals I discuss in this chapter provide justice that is narrowly defined as fact-finding through transparent procedures and scrupulous neutrality. Investigations are carried out by independent professionals whose interpretive role is minimal, supporting my theoretical argument that responses to deaths in custody are depoliticised and technocratic (see Chapter 3). As I show in this chapter, investigations into deaths in custody are unable to ask searching questions about justice and inequality, and therefore do not address the significance of people dying in state institutions. Part of the reason why these questions are not asked is that they cannot be managed: their answers do not lie in paper trails, policy documents or any other verifiable material. Questions about justice and inequality are contestable by their very nature. They cannot be simply adjudicated upon by a third party, whether an ombudsman or a coroner, to find a single correct answer. Like all political questions, they are a complex mixture of values, ideas and interests. In practice, death investigations are concerned with a narrow, rational set of questions about facts, actions and causes. PPO investigations and coroner's inquests are inquiries that focus on documenting exactly what happened in a single case, rather than argue about the broader meaning or interpretation of deaths in custody. To return to the Toni Morrison epigraph above, they are firmly rooted in the *how* of death, not the *why*.

In this chapter, I substantiate my earlier theoretical argument that the institutional arrangements for investigating deaths in custody are depoliticised and technocratic, both in form and effect. They are a rationalist, individualistic response that does not address a set of major emotional, ethical and political issues. As the sociologist Will Davies puts it, 'Pain demands explanation and justification' (2018: 108). While investigations can provide some level of explanation, they do not engage with the question of justifying extreme pain and suffering in places of punishment. State detention remains fundamentally uncontested by these inquiries. Instead of such tragedies provoking serious ethical reflection and searching institutional criticism, they become the property of independent professionals who neutralise their political significance. To substantiate these claims, I draw on a set of interviews with staff from the PPO, HM Inspectorate

of Prisons (HMIP), senior coroners and lawyers who do inquest work. Research on these organisations tends to rely on their public outputs, such as Fatal Incident Reports and Prevention of Future Death Reports, as well as the recommendations they issue in annual reports and thematic reviews. However, by interviewing practitioners and professionals, it becomes clear that political questions about the state, power, legal representation, resources, culture and identity are deeply embedded in death investigations.

The Prisons & Probation Ombudsman

Since April 2004, the PPO has been responsible for investigating all deaths in prisons, IRCs and several other forms of state custody. Set up in 1994 in the aftermath of the Woolf Report (1991) into the 1990 Strangeways riots, its original purpose was to investigate allegations of misconduct and prisoner complaints, a function that continues to this day. The PPO's work is now split broadly into two areas: the investigation of complaints, and the investigation of deaths in custody (Prisons & Probation Ombudsman 2018). The PPO is sponsored by the Ministry of Justice, but is substantially independent in how it operates and the judgements it reaches in individual cases (Prisons & Probation Ombudsman 2017a).

Whenever a person dies in prison or immigration detention, the PPO are notified and visit the institution within five days. In these early stages, investigators interview witnesses, including staff and people held in custody, and collect relevant pieces of evidence as part of a fact-finding inquiry. Several months later, they produce a report on the case. PPO Fatal Incident Reports are archived online, and provide a factual summary of the circumstances of a person's death.[14] Reports are written chronologically, and document key actions and decisions in the days and weeks leading up to the death. Often, Fatal Incident Reports include recommendations for further action to be taken by an establishment in order to 'learn lessons' and prevent future deaths, although there is

[14] Available online at <https://www.ppo.gov.uk/document/fii-report/> (last accessed 05/08/2019).

no formal mechanism for ensuring compliance with recommendations. In addition to publishing individual reports, the PPO also writes thematic reports, produces best practice guidelines, and provides expert evidence on safer custody in policy circles.

My elite interviews included meetings with two current and two former PPO employees, as well as two current and two former staff from HMIP, whose work and values are increasingly aligned with the PPO (see Prisons & Probation Ombudsman 2018). My intention was to understand more fully the role and significance of the PPO, beyond its publicly declared values that appear on the front of every Fatal Incident Report. According to these, the organisation is: 'Impartial: we do not take sides; Respectful: we are considerate and courteous; Inclusive: we value diversity; Dedicated: we are determined and focused; Fair: we are honest and act with integrity'. The purpose of these interviews was to understand in greater detail what the PPO does and how it works, particularly the process of carrying out investigations and the consequences of them. What sort of factors do PPO investigators look out for, and how do they make sense of a human tragedy in a way that is considered sufficiently rational, factual and independent?

Time and Money

When asked about the history and purpose of the organisation, all interviewees commented on its major problem with providing reports on time. For those who had worked there in its early years, issues of timeliness and the corresponding backlog of cases were their abiding memories. These issues, interviewees claimed, meant that the organisation initially struggled to establish its credibility as an independent, authoritative body. Rachael, a senior investigator and long serving member of staff, recalled the creation of the PPO's Fatal Incidents Team:

> 'The Fatal Incidents Team was set up in 2004. […] It was set up on the back foot really quickly, too quickly, and there was just a *vast* amount of casework and *far* too

> few people to do it. So immediately there was a massive backlog and things were *hugely* delayed. So for those reasons I don't think the PPO initially was taken as seriously as it might have been. Because I think we were producing reports into deaths that were two years old or whatever and the learning has kind of passed by then. […] I'm sure that our effectiveness was massively undermined by [our] constant firefighting and huge delays.'

All PPO interviewees made reference to the problem of 'timeliness', and noted that it was only from around 2013 onwards that Fatal Incident Reports began to be produced on time and in an increasingly standardised fashion. One of its earliest reports, on the deaths of six women at HMP/YOI Styal (see Corston 2007), included an apology for the long period of time between the deaths and the published report (Prisons & Probation Ombudsman 2005), something which is noticeably absent from more recent cases. Long delays were detrimental to its credibility, no matter the thoroughness or quality of the reports. Interviewees noted that the PPO's ability to be taken seriously by the prison estate suffered in these circumstances.

The problem of timeliness was an acute one throughout its early years, according to all interviewees. Other factors did, however, work to its advantage. When it was set up in 2004, the PPO benefitted from favourable political conditions of ideological support under the New Labour Government (1997–2010). Speaking of the earlier days of the PPO, former employee Peter noted:

> 'There's a bit of money, there's keenness. There's an acceptance that this is a good thing. You should have independent oversight, you should have independent complaints processes. […] You have politicians and officials who understand that if somebody dies in your care, that's really rather serious.'

Following the 2007–08 global financial crisis and fiscal austerity under the Coalition Government (2010–15), however, the broader political and economic conditions in which the PPO worked began to deteriorate. Ironically, as the PPO's own efficiency and consistency began

to improve in the Coalition years, external conditions became less favourable. Callum, a senior manager, described the financial strain of recent years as an understaffed organisation was expected to investigate an increased numbers of deaths, particularly in the prison estate. A scrupulously neutral civil servant, he observed:

> 'We have not had an increase in our resources commensurate with the increase in demand. So what I would say it we are feeling very acutely the impact of increased demand on our resources.'

Complaints about under-funding and under-staffing are common in many organisations. It is striking, however, that the acute staff shortages in the prison estate since around 2013 coincided with a marked increase in the number of deaths in custody (Ministry of Justice 2019b; Office for National Statistics 2019), meaning that the PPO began to do a far larger number of investigations per year, often at the same establishments (e.g. Prisons & Probation Ombudsman 2013; Tomczak 2018). Interviewees explained that observations about prison staffing levels and budget cuts (see Institute for Government 2018) would be unlikely to be explicitly discussed in Fatal Incident Reports because of the difficulty of proving their causal relevance in individual cases. However, most interviewees acknowledged that austerity measures had adversely affected prison safety. As Peter observed, 'Resource is important *in the real world*. Actually, I believe in more for less. The trouble is you end up with less for less, which is what you end up with in prisons.'

Others implied that budget cuts must have had some impact on levels of safety, particularly in prisons, but that the operational independence of the PPO prevented them from commenting on policy questions about how resources ought to be allocated. The factual observation that there seemed to be a striking coincidence between reduced budgets and lower levels of safety could not be translated into a more wide-ranging argument about what the prison system should look like. The constraints imposed by independence and neutrality prevent the PPO from engaging with some of the biggest issues affecting the penal system, unless they can be directly observed in

individual cases. Commenting on the impact of various reports into the state of prisons, such as the 10 year anniversary of the Corston Report (2007) into women's imprisonment and the Harris Review (2015) into the deaths of young people in custody, Rachael was unconvinced that under current conditions they could be translated into meaningful political action:

> 'Alongside all of these reports has come a *huge* reduction in resources and so obviously it's gonna impact on services. Had these reports been delivered at a time when resources could have been invested, maybe we would see some kind of productive outcome. But it's been more, "How do we manage this without actually spending any more money or changing anything very much?"'

These remarks speak to a fundamental political difficulty for an independent oversight body like the PPO. Its democratic legitimacy rests on its expertise, which is providing independent investigations into deaths in custody. To maintain its credibility, it must stick closely to its remit of investigating cases one at a time, providing a factual reconstruction of what happened, and issuing practical, actionable recommendations for the relevant establishment. Yet such an individualised approach means that the broader conditions in which prisons and IRCs operate are beyond the scope of their investigations. A former investigator, Robbie, used the phrase 'managing expectations' on several occasions to convey the circumscribed role the PPO plays. Although the PPO, like many ombudsman schemes, is broadly committed to human rights and promoting 'good outcomes' for people held in custody, beyond that its field of vision is distinctly narrow. As Rachael pointed out, 'our strength is in our limitations'. Having a specified function and distinct area of expertise was the PPO's unique selling point. Perhaps unsurprisingly, no interviewees were of the opinion that the PPO's limitations were its limitations.

Independent Oversight

Following any death in custody, PPO investigators attend the establishment within five days. These initial visits allow them to meet the governor or director, speak to those who were 'first on scene' (i.e. those who found the body or were present during the death), make themselves known to relevant people (e.g. cellmates, friends, custody officers, chaplaincy), and make initial efforts to gather evidence. As PPO investigators do not directly observe the deaths they investigate, they rely heavily on verifiable records such as official paperwork, case notes and CCTV footage. Describing the function of a first visit, Callum noted that the PPO's initial impressions are formed by 'the prison view' of the event:

> '[They] might say, "D'you know what, we stuffed up", which would be interesting, or they might be saying, "We never saw this one coming", or they might say, "No biggie, this was always gonna happen". So I guess we get the overall flavour of what may or may not have happened. There may be a sort of, "Oh gosh, not again!" kind of reaction aswell. And a lot of it will be emotional because of the impact on the establishment.'

The overall objectives of an investigation, he went on to explain, are:

> 'Simply set out what happened, and in so doing to address concerns of bereaved families; to assist the coroner […]; to identify where things went wrong if that's appropriate; and to identify areas of learning for the organisations within whose remit the deaths occurred.'

Investigations into deaths in custody, then, are guided by principles of independence, transparency and timeliness. Being independent, and being seen to be independent, was an important part of staff's self-understanding, as it was for HMIP employees. PPO investigators conveyed their awareness that prisons are intrinsically difficult institutions to run, that staff have a challenging role, and that exclusively criticising establishments is unfair and possibly counter-

productive. As Rachael put it, 'It is necessary to say that we only ever see the most acute cases. I'm absolutely convinced that so much good work goes on in prison but we unfortunately never see it'. A mixture of ambivalence and realism about imprisonment was evident in their testimonies, as it was with HMIP employees. They felt it unreasonable or simplistic to blame over-worked, under-resourced prison staff, and often noted that the PPO's job is not to 'point the finger'. As such, they strive to avoid accusatory language or an excessively critical tone in their reports.

This sits in contrast with other organisations whose work revolves around deaths in custody, some of whom are significantly more politically vocal. According to Rachael, a charity like INQUEST, which is devoted exclusively to working with bereaved families whose loved ones have died in custody or in contact with the state (Ryan 1996), 'want us to be more confrontational whereas we're more fact finding'. Some acknowledged the importance of the agenda-setting and casework done by INQUEST, but were put off by its fixation on conflict and critique (see Coles and Shaw 2012; INQUEST 2019b). Describing how inquest lawyers responded to PPO reports for the purpose of political mobilisation, Peter said:

> 'There was a lot of picking and choosing. "This is a great report, it's so rude about the prison. This is a rubbish report because it's not." I never found that terribly grown up, if I'm honest about it. It's what lawyers do, it's the nature of the trade.'

At the same time, the PPO's independence did not preclude them from saying anything critical, and employees could often describe cases they felt were shocking or handled poorly (e.g. Prisons & Probation Ombudsman 2016, 2017b, 2017c). Given the balance of relationships they had to maintain with institutions, families, government and the wider public, former employee Robbie pointed out that the PPO is 'nobody's friend'. If the PPO is 'not liked by people, that's natural'.

Interviewees provided considered, thoughtful responses to questions about deaths in prison, as befits an independent oversight body. They were highly knowledgeable about the

workings of the prison system, and recognised the complexities of providing care in custody, particularly in periods of reduced resouces across the estate. Their knowledge of immigration detention, by way of contrast, was strikingly limited. Almost all comments on IRCs came with caveats about how 'unfamiliar' or 'odd' an environment they are, as well as the 'small dataset' of deaths in the immigration estate (Medical Justice 2016; INQUEST 2019a). PPO staff were comfortable describing the pressures that prisons were under and could see different 'cultures' within and between prisons. They also seemed aware of important distinctions between the male and female estates, especially in how 'care' and suicide prevention work was performed. Local versus training, high security rather than low, were all discussed in well-informed remarks. But there was no comparable sense of familiarity with IRCs, and I was told that it is 'always a surprise if someone dies in an IRC' (Robbie). Even independent experts who were charged with investigating deaths inside them regarded them as relatively unknown spaces. Peter, who was familiar with both prisons and IRCs, gave his account of the confusion about what IRCs are for and how they should be run:

> 'You know very little about the people as they come in, you may learn little about them because they don't have much command of English or prefer not to engage with you, and three or four weeks later they're on a plane somewhere and you know nothing about what the rest of their life is like. […] Confusion manifests itself as much in the fact that you've got one that's very small, one that's very big, one's an ex-prison, two that look like prisons, one up in Scotland […] [W]here would we like them? What do you think the optimum size should be? What degree of security do we need? What facilities shall we provide? […] I think that is a fundamental weakness for anybody trying to make sense of IRCs. Until you decide what you want them for, who you wanna have in them and where you're gonna place them, then you can begin to make some more sensible decisions. Otherwise there's no…it becomes sort of meaningless.'

Perhaps because of these weaknesses and confusion about their purpose, he suggested, staff in IRCs routinely resort to risk-averse strategies like 'constant watches'. As he put it, 'It may not do much for [detainees'] inner well-being, but you could argue it keeps them alive'. As discussed in Chapter 5, it was a source of pride to staff in Brook House that they had never had a death in custody, unlike almost every other detention centre. Given the major bureaucratic consequences that follow a death in custody, and staff' more general preoccupation with outcomes and metrics as performance indicators, it is little surprise that they consistently mentioned this as evidence of all that was good about Brook House.

Following Rules

As an independent, non-partisan public body that does not claim to represent a particular group of people, the PPO is an organisation commited to following rules. Its role is to check that prisons and IRCs comply with their own guidelines and implement best practice, albeit in difficult circumstances. As explained in Chapter 3, it is a depoliticised, technocratic body (Burnham 2001; Flinders and Buller 2006) that disciplines the institutions it oversees (Roberts 2009). To hold powerful institutions to account, in these terms, is to insist upon clear guidelines for professional conduct, and strict procedures for investigating such conduct after the fact. In principle, this should be uncontroversial. The formal processes for monitoring at-risk individuals – Assessment, Care in Custody and Teamwork (ACCT) and Assessment, Care in Detention and Teamwork (ACDT) – were generally approved of by interviewees, who noted that they set out clear procedures and well-defined expectations for multidisciplinary care of vulnerable individuals. According to Rachael, very often Fatal Incident Reports involve the PPO 'reminding people of their own policy'.

But the seemingly innocuous expectation that prisons and IRCs should follow their own rules runs into difficulty in practice. Callum, who noted the recurring difference between policy

and practice, described how many prisons felt that there were unrealistic expectations of them given the intrinsic difficulties of managing prisons from day to day:

> 'If they have a problem with their policies, that's for them to resolve within the organisation. ACCT procedurally makes every sense. In the abstract it tries to get at the truth. It's self-evident that it's trying to do the right thing. […] We're regularly told that in a busy operating environment you can't be so procedurally specific and constrained. The other way of looking at it is how can you deliver a safer environment which isn't so procedurally defined. […] It is challenging to do something which is as process-heavy, detailed and specific as the key policy response to rising deaths in custody.'

A former employee, Robbie, articulated a similar commitment to the importance of compliance with rules and procedures. As he put it, 'We recognise it's difficult, but we have standards and expectations'. One result of this fixation with process is that reports routinely comment on issues such as uncompleted paperwork or poorly shared information. What is missing is any account of the systemic or institutional factors that cause such complacency in the first place, such as resource levels or long-standing staff culture. The focus on factors and events that immediately preceded a death, its proximate causes, as well as the tendency to rely on paperwork and other available records, means that the PPO consciously tries to stay away from more indirect, intractable factors like 'culture' or 'attitudes', far less the 'contentious' issues of gender and race, which were often framed by staff in terms of direct discrimination and psychological prejudice. Ultimately, as Robbie put it, 'We're not there to say "Why"', and even identifying proximate causes is difficult 'unless someone has spray painted it in giant yellow letters on the wall'.

Rates of suicide in prison and immigration detention are not fundamentally problems of note-taking or record-keeping, and it would be possible to have a system with large numbers of deaths which were monitored in meticulous detail. Rachael stressed that, 'Our investigations […]

form the structure and basis for the inquest. […] It's very much the individual case and it's all about the circumstances for that individual who died.' In addition to the individualising effect of investigations, there is also an inevitable rationalising of the underlying problem, which misrepresents the nature of the issue. Recommendations that are issued by the PPO are almost universally accepted by their addressees, but beyond this the ombudsman loses any power to affect change. As Callum put it, 'We do not find that acceptance of our recommendations is an issue. We do find that implementation is much less transparent.'

Questions about 'political will' and fundamental institutional change linger on the edge of thousands of PPO Fatal Incident Reports, dozens of bulletins and regular press releases about a rising toll of despair. As is common among ombudsmen schemes (Seneviratne 2002; Buck *et al* 2011), the PPO has no power to enforce its recommendations (Kirkham *et al* 2008). Policy decisions, which often include complex trade-offs, value-laden judgements and resource allocations decisions, are properly dealt with by elected government. The PPO's power therefore derives less from formal capacities to direct change than from its ability to influence using its public voice, which requires it to have authority and credibility in the eyes of its addressees (Kirkham *et al* 2008: 511–2). The danger of having an independent voice without meaningful power, however, is that this may actually compromise independence. The PPO are keen that recommendations are taken seriously and seen as realistic, so they implicitly defer to prison norms or the logic of detention and deportation. They cannot expect too much to change, but the difficulty is that this might mean that nothing changes, as (narrow) recommendations are accepted but either not implemented or unrelated to the structural conditions that produce unsafe environments.

Coroners' Inquests

> 'I think inquests are an opportunity for the family to do two things. To find answers to questions, and then secondly to obtain the closure of a formal process. And you

> do often see at the start of an inquest a family with all sorts of issues. They don't understand why this or that happened, they're not happy about this. But then they hear witnesses give their evidence and you can almost see the anger subside a little bit as the understanding goes up. Then right at the end of the inquest, you've got a family who were quite angry at the beginning, you can almost see an understanding, almost an acceptance and a relief it's over, and they've gone away with that sense of closure.' (Martin, Senior Coroner)

As an interviewee, Martin was careful to come across as balanced. He avoided making controversial arguments and hesitated to say anything that could be considered political. In keeping with his strict professionalism and moderate worldview, the testimony quoted above provides the standard defence of an inquest (see Ministry of Justice 2014). The essence of his claim is simple: a formal process – in this case a legal inquiry – can help bring about closure for a bereaved family whose loved one died in state custody or other suspicious circumstances. According to this view, there is an implicit connection between the form of an inquest and its effect on bereaved families. An inquest is a neutral, inquisitorial process conducted by professionals with relevant expertise in medicine or law. The inquiry is structured to build consensus and address issues that are strictly relevant to the individual's death. Ultimately, the aim of an inquest is to find facts and produce objective knowledge about the circumstances of an 'unnatural' death.

If done properly, a coroner's inquest helps to restore order following a disruptive, shocking event. At its best, it is a cathartic exercise that helps grieving families come to terms with a loss that was at first shrouded in mystery, what some scholars refer to as 'therapeutic jurisprudence' (Freckelton 2007). Since inquests take place over a matter of days or weeks, and often begin months after the death, as the inquiry progresses, any residual feelings of anger or confusion are tempered. Instead of myths or rumours circulating about a person's demise, some agreement is reached about what actually occurred. Hearing testimonies from members of staff and going

through written records ought to reassure families that everything was done according to procedure. Paying close attention to every detail signals that the state is providing a thorough, transparent inquiry. Facts in an inquest thus represent some minimal degree of consensus in a situation where there may be competing accounts of the truth and where families may be suspicious about the circumstances of their loved one's death.

'A Neutral, Fact-Finding Inquiry'

Inquests are preoccupied with facts above all else (Bray 2010). They are the basic currency of the death investigation, which functions as a public ritual of verification (Power 1997). But it is important to be clear about the relationship that an inquest has with facts. Coroners' inquests do not simply discover facts that already exist out there in the world. In reality, they also produce them. A death does not lie in wait to be unearthed as fact, for the simple reason that factual determinations rely on unspoken concepts and categories, and only become facts once certain bureaucratic processes have run their course. A suicide verdict at inquest, for instance, is more than a mere description of a particular state of affairs; it is a judgement contingent on many layers of interpretation that must be evidenced in court and meet the high criminal standard of proof.

Inquests are the only legal tribunal that deals exclusively with death (Wells 1991: 82), and facts are particularly important when liberal democratic governments are faced with contentious, difficult issues like deaths in state custody. Events of this kind have the potential to stir controversy and provoke criticism of state authorities, as numerous historical examples attest (Sim and Ward 1994). The 1972 Bloody Sunday massacre in Derry, the 1989 Hillsborough disaster in Sheffield, and the 2017 Grenfell Tower fire in London are among the best known examples of public tragedies with large numbers of fatalities, all of which raised the profile of inquests and drew attention to the limited scope of coronial investigations (see also Luce 2003). In each case, certain key facts were disputed, and for many grassroots organisations the quest for justice is equated with

the search for truth. Whether it was the circumstances of over a dozen civilians being shot dead at a civil rights march in Northern Ireland (Dawson 2005; Aitken 2015), the behaviour of South Yorkshire Police and Liverpool FC fans (Scraton 2013), or the unheeded warnings of a local tenants organisation about the dangers of combustible cladding (Bulley *et al* 2019), facts play a central role in providing justice.

In these cases, facts may begin as contested claims about the truth, but eventually they settle disputes and regain their credibility as objective, irrefutable accounts of the world. Establishing facts is the first step in a longer process of establishing the public meaning and interpretation of events. To name and narrate public tragedies is to open up a set of fundamental questions about justice, equality, state authority and the value of human lives that goes far beyond a factual account of events (see Bray 2010). To answer these questions requires collective efforts of interpretation and inter-subjective judgement. This form of political activity cannot be reduced to a narrowly procedural, evidential notion of ascertaining the truth (Coleman 2018).

Facts, then, are integral to coronial justice, which begins and ends with the truth. In theoretical terms, uncovering facts is what constitutes the inquiry, while producing facts is what legitimates it. To achieve this, the liberal state must be neutral towards all participants and be seen as an objective arbiter of truth and justice. However, when deaths are contentious and stir up questions about inequality and injustice, the state's claim to neutrality and objectivity can be called into question. As Rebecca Bray and Greg Martin explain, '[C]oronial investigations are not reducible to mere fact-finding; they perform a much broader meaning-making task around death, and their justice work is complicated' (Bray and Martin 2016a: 105). In their analysis of Aboriginal deaths in custody in Australia, they point out that, '[W]hile the fact-finding task of the coroner may seem, at first blush, uncontroversial, scholars have unpacked that labour to highlight how death's 'facts' have an extra-legal life, where the call for justice is loaded with particular histories' (2016b: 122).

One important consequence of an inquiry concerned only with facts and truth is that inquests cannot apportion blame, nor can they mete out retributive justice. Questions of judgement and punishment are entirely excluded from the inquiry. Such a narrow, procedural role is unusual for a judicial body in the common law system of England and Wales, and can be confusing for the families involved (see Shaw and Coles 2007). Despite taking place in a court, with legal representatives speaking in front of an independent authority, inquests are formally inquisitorial rather than adversarial (Matthews 2014). This distinguishes them from criminal trials, which are predicated on a model of conflict between two opponents who contest the truth in front of a disinterested third party judge who adjudicates. All inquests do is determine conclusively who the deceased was, when, where and how they died. Describing their strict parameters, senior coroner Geoffrey explained:

> 'An inquest basically is an inquiry. It's not a court case in the generally understood way that courts operate. So we're not seeking to find somebody guilty of an offence or somebody civilly responsible and liable to pay damages. It's sometimes said that we're a neutral, fact-finding inquiry. So some families come to an inquest with great expectations. They don't quite expect the coroner to end the inquest with "Send him down!" but they think that there's going to be rather more blaming and naming. Of course a thorough inquest where something has gone wrong, for example an operation, it's going to be plainly obvious what has gone wrong and who may be responsible, but that is not the purpose of our inquest. It is to determine the name, the identity of the deceased, how, when and where she died. And then the particulars needed to register the death. That's the limit of our authority.'

Inquests are thus narrow, fact-finding inquiries. By focusing on the facts of each individual case, the inquest provides an authoritative account of an unnatural, and possibly unwitnessed,

death. The primary objective of the process is to establish what happened to a person near the end of their life in as much detail as possible. Where a death was sudden and unexpected – for instance a suicide – information is typically in short supply. By definition, the central actor cannot be reached, which makes the task of reconstructing their death intrinsically difficult. Where there is a dearth of information, a coroner's court is required to produce an official version of events that answers basic questions about who did what, when and how.

In bureaucratic institutions like prisons and IRCs, this means relying on records that are almost all in the possession of the state or a private contractor. As noted in the previous chapter, new public management audit techniques have created tightly specified procedures for managing suicide risk, which require regular assessment, close teamwork and good quality record-keeping. Looking back on the sequence of events, written records are proof of the fact that an action was taken or a decision was made. During an inquest, the jury's attention is therefore drawn towards whether staff complied with official processes and to what extent they followed rules. An ironic consequence of having an individualised, factually detailed inquiry is that it leads to a highly impersonal bureaucratic ritual that emphasises the importance of processes and rules far more than staff's discretion and judgement.

In theory, the inquisitorial, fact-finding nature of inquests means that all legal personnel involved cooperate in pursuit of the same goal. But in practice, both coroners and lawyers recognised an adversarial element in the proceedings, which often puts the deceased's family at a distinct disadvantage. Phillip, a senior coroner, described his misgivings about the system:

> 'You see there isn't a level playing field, this is the trouble. If somebody dies in prison, I can tell you now that the Prison Service will be automatically represented by the government legal department […] who will instruct counsel, instruct a barrister. If a prison officer is implicated in some way, then they go to the Prison Officers' Association who will appoint legal representation for them. If the issues

> we are talking about are medical, and they often are, then doctors subscribe to their defence unions, so they get represented. So everybody and their cat is represented but the poor old family, who probably have more to gain from the inquest than anyone else. So it isn't a level playing field. And it is really not desirable that you should have all this representation of everybody else but the family don't.'

Socio-legal scholars have long recognised the significant role played by legal representatives in providing justice (e.g. McBarnet 1981). Good quality legal representation means the ability to find relevant facts, disclose hidden records and open up areas of enquiry that are legally relevant in ways that may not be immediately obvious. Such diligence and thoroughness can affect both how justice is experienced as a process, and the substantive outcomes for a particular client. These issues are particularly relevant in the context of a death in custody inquest, which is a rare opportunity to interrogate the workings of custodial institutions. An experienced immigration solicitor, Clive, who had been involved in several inquests about deaths in IRCs, explained how they are uniquely illuminating:

> 'It's the only situation where there's that level of scrutiny, where you get to question all the different people. We bring a case for unlawful detention and it's against the Home Office. You might get a Home Office witness who may or may not have been involved in the decision making. But you never get custodial staff or healthcare. […] [An inquest] gets everyone together.'

Numerous interviews with lawyers highlighted the issue of inequality of arms and inadequate legal representation (Ministry of Justice 2019c). Without proper representation, fact-finding would not be conducted properly, nor would there be a fair inquiry. Solicitors and barristers who represent bereaved families were critical of government lawyers, who they claimed often took an adversarial approach to death in custody cases. Sarah, a solicitor who had been involved in

many inquests on deaths in prison and secure mental health facilities, described the conflicts between representatives acting for bereaved families and government lawyers:

> 'I couldn't ever work for the [NHS] Trust or the prison. I mean, I just couldn't do that job and I don't know how a lot of people do that job given the instructions that they're given [about] how they should deal with inquests. You know, the fairly well publicised cases of other interested parties turning up and deciding that they'll blame the deceased that they'll blame family members of the deceased and that will be their tactics for a certain inquest. In essence, prison barristers […] their role is to try and restrict the scope of the inquest as much as possible and to restrict criticism of their client and to ensure that the coroner doesn't make any Prevention of Future Death Reports.'

Interviewees' descriptions of legal representation complicated and qualified the notion that inquests are entirely inquisitorial proceedings concerned with fact-finding and consensus-building. Instead, inquests were portrayed as somewhat adversarial, particularly when a death may have revealed inadequate action on the part of the state or a private company. A range of behind the scenes tactics were used prior to and during the inquest to avoid criticism of state authorities and to deflect attention from failures to carry out their duty of care towards the deceased. Government lawyers were criticised by many interviewees for behaviour they regarded as uncooperative, confrontational and difficult. Moreover, given the quantity and quality of state representation – teams of 'slick London barristers' was how Geoffrey described it – family's representatives felt out-numbered and under-resourced by their counterparts. Sonia, a solicitor who had dealt with many custodial inquests, described her experience with some government lawyers:

> 'Ideally the inquest process is supposed to be inquisitorial, there's not supposed to be any parties, any winners or losers, it's not supposed to attribute blame. But with state authorities, it doesn't work like that. They all individually lawyer up and it

> makes the whole process a lot more aggressive and contentious and difficult for families as well. I've noticed that the prison lawyers have become more and more aggressive lately and minimised the failings or any problems and issues within the prison. That's been really difficult.'

Despite the inquisitorial form of inquests, testimonies from my interviewees suggest that in practice they have an element of adversarial content, which reflects the intrinsic contentiousness of imprisonment and detention. Some lawyers acknowledged that they themselves contributed to the adversarial quality of the inquest, in a bid to represent their client as fully as possible. Queen's Counsel barrister, Olivia, put it bluntly:

> 'I have never been in an Article 2 [right to life] inquest that is not adversarial and that's the end of it. I cross-examine, and if I was stopped from cross-examining, I would complain. They are adversarial.'

Coroners who oversee inquests were more reticent to say that their courtroom was a place of conflict and emotion. They tried, as far as possible, to avoid having a combative atmosphere. Geoffrey, a senior coroner, described prison death inquests as follows:

> 'The fiction in these cases is that it is inquisitorial. It's a mixture, really. You've got an adversarial element. And when you think of our duty in an Article 2 case – identifying the issues and seeing where mistakes have been made – it's difficult for a family's lawyer not to be just a touch adversarial because you need to get the evidence out. It's interesting, in my experience of a long inquest, you'll have the first day or two where there's sort of muscle-bulging and posturing by barristers. By day three, they've all settled down, realised that cooperation is rather better than open warfare, and you have a really good inquest.'

The practical demands of producing facts about a death in custody are considerable. Secure institutions are secretive places whose default setting is closure and defensiveness. As the dead

cannot speak, all remaining traces of the end of their life must be identified and brought together. Paperwork, CCTV footage, informal conversations, roll counts, medication doses, phone calls, cell alarm calls, radio transmissions, fish knives, resuscitation efforts, the body itself: all of these fragments are gathered together as evidence and become the primary material of the inquiry. These traces are verified at inquest and treated as a mystery to be explained. A death in custody is thus transformed from a personal tragedy that belongs to the family, into an object of inquiry that rests within the expert domains of medicine and, increasingly, law.

The Right to Life

The primacy of facts and the increasingly central role of legal procedure has meant that in recent years inquests have become more thorough and complex (Dorries 2014; Thomas *et al* 2014; Owen and Macdonald 2015; Cross and Garnham 2016). Following the passage of the Human Rights Act 1998, and after several landmark cases in the House of Lords, the requirements of an Article 2 compliant inquest have become more exacting (Freckelton and McGregor 2014). Previously, in so-called *Jamieson* inquests (*R v HM Coroner for North Humberside and Scunthorpe ex parte Jamieson* 1995), a suicide in prison or other state facility was required to address only a small number of issues: who the deceased was, where, when and how they died. The question of 'how' they died was interpreted narrowly, meaning 'by what means' they died. An inquest verdict was therefore a clinical description of the method used by the deceased to end their life. However, following the *Middleton* case (*R (Middleton) v West Somerset Coroner* 2004), the technical meaning of 'how' a person died has expanded from 'by what means' to a broader, interpretive formulation of 'in what circumstances'. The distinction between 'by what means' and 'in what circumstances' has opened up a wider range of issues that may now be considered relevant to the circumstances of the death. Describing what sorts of issues are now explored that might not have been before, senior coroner Martin explained:

> 'It's more work in the sense of more evidence, more technical, more thorough. But it is more work. And that particularly applies with Article 2 cases. […] In an Article 2 death in custody, it's more likely we'd seek independent expert evidence than we would before, for instance to do with medical care in prison or psychiatric care, which we wouldn't previously have done if it wasn't an Article 2 case and if the family wasn't pushing for findings about failings and that kind of thing. […] In an Article 2 case for a death in custody, we might go back further in the chain of events. So yes we've got admission to prison and the processes that they go through on induction during the course of their care. But then there might be in an Article 2 case a question about the police station before they went to prison, what assessments were carried out there. There might be a question about before they went into custody at the police station, they were seen by the local mental health trust. So the actual chain of events, the chronology will reach back further than what it would have done before.'

A coroner's court is now the legal forum where the state's duties to respect the right to life are carried out (Matthews 2014). A series of cases in the European Court of Human Rights has established what is required for a satisfactory investigation (see Martynowicz 2011). Each of these terms is explored in more depth in the jurisprudence, but the main requirements are that the state conducts an independent, effective, reasonably prompt, transparent investigation that allows the next of kin to participate to the extent necessary to safeguard their interests (see *Jordan v United Kingdom* 2003 paras 105–109; *R (Amin) v Secretary of State for the Home Department* 2004; *Edwards v United Kingdom* 2002 paras 69–73). One of the consequences of the bureaucratisation and legalisation of inquests is that coroners process large numbers of cases, but now in far greater detail than before (see Baker 2016b). As a locally funded and delivered service, some coroners' areas are particularly stretched, which creates a risk of justice by geography. In common with many other professionals I interviewed, coroners complained of being over-worked and dealing with an

unmanageable caseload. The following exchange with Geoffrey, a senior coroner, gives a sense of the practical difficulties faced in conducting large numbers of inquests:

> 'So in prison deaths, for instance, the complexity has vastly increased. I can remember when I first became a coroner, one would deal with a death in custody hopefully very thoroughly, certainly within a week. But now an unnatural death in custody, if there's controversy, can take weeks, and goes into minute detail.'
>
> 'Has the coronial system increased in complexity?'
>
> 'Out of all recognition, yes.'

These observations about increasingly detailed, procedurally specified inquests were brought home to me during fieldwork, when I observed an inquest at Southwark Coroner's Court in south London. A young man had died at HMP Isis in Greenwich following a drug overdose (see Prisons & Probation Ombudsman 2017d). Although the exact circumstances of his overdose were unclear, the case was not especially contentious. There were no fundamental disagreements about what had caused his death, nor did it seem that there was any particular action that staff could have taken to prevent the death. Such cases are suited to an inquisitorial investigation, where all involved wish to ascertain the truth and provide closure for the family.

In keeping with the dual aims of state administration and therapeutic justice (Freckelton 2007), the proceedings focused on proving the exact medical cause of the man's death, as well as reassuring his two sisters present that staff had followed procedures properly. To this end, there were extended periods of questioning about the minutiae of his fatal overdose: prison officers were asked how many chest compressions were performed on the young man once he had been found; the coroner confirmed the thickness of the mattress on which these compressions were initially performed (around six inches), before the deceased had been moved to the more appropriate concrete floor; employees described how they lifted and moved his body, and explained that chest compressions require a person's back to be laid flat on a hard, solid surface; prison officers were

asked why they had failed to call a 'code blue' on their internal radio system, and what signs (if any) there had been that 'the offender' had been in difficulty in the week prior to his death; paramedics were asked how many minutes it took for them to reach the man's cell once they had arrived at the gatehouse; healthcare staff were asked which emergency response equipment they had carried with them to the scene, and they explained how the different weights of each kit bag affected their ability to arrive in good time.

Exchanges like these are characteristic of increasingly technical and procedurally specified Article 2 inquests. Their purpose is not to establish guilt or to provide justice in the sense of retributive judgement, as may be the case in a criminal trial or civil dispute. Rather, coronial justice is a more administrative matter. The court's role is to assess whether and how members of staff performed certain actions, and to conduct their proceedings in a timely and transparent manner. For this reason, inquests focus on verifiable, operational issues. Evidence is provided about the timings of key actions (e.g. phone calls, ACCT/ACDT reviews, paramedics' arrival) and the spatial dimensions of the death scene (e.g. prison cell details, position of furniture, ligature points, viewing panels on doors, how many staff were present in the cell). The thoroughness and precision of these questions is in keeping with an ideal of judicial objectivity, where reason and evidence reign supreme. By reconstructing events in a clinical, detached fashion, the death becomes a source of expert, factual knowledge in its own right, rather than a contestable political question about what institutions do, how they are funded or their working cultures.

The individualised nature of inquests, and their orientation towards detail and procedure, can be a valuable source of insight. In many cases, administrative minutiae will be more important than broad questions about resources in prison or staff culture. Suicides are contingent on dozens of preceding factors, and it is often the case that the lessons to be learned from a PPO report or inquest may relate to seemingly minor decisions or small mistakes. However, the preoccupation

with facts and details means that inquests tend to exclude any consideration of broader policy questions and pay little attention to systemic problems that affect places of custody.

During interviews, I asked about the extent to which the individualisation of inquests precluded the examination of broader systemic questions about resources, staff culture, race, gender and other factors. A Queen's Counsel barrister, Olivia, with considerable experience of acting in Article 2 inquests, explained:

> 'You can to a certain extent get in systemic issues, but focus is very much on the individual. […] There's a lot to be said for an inquest, but one of the problems is they're very individually focused. The function of an inquest is to look at what caused *this death*.'

Olivia was especially critical of how difficult it was to ask questions about the race of a deceased person at inquest, particularly in police restraint cases. Absent a clear element of racist discrimination on the part of an individual officer, race would be considered irrelevant or beyond the scope of the inquiry. The observation that there are a disproportionate number of black deaths in police custody (Angiolini 2017: 89–91), for example, would not in itself be considered sufficient to warrant questioning about race and racism. The individualisation of inquests, and their preoccupation with facts and verifiable sources of evidence, has the effect of relegating important issues to a secondary concern. Academic research confirms that concepts such as race, gender and class are important aspects of how custody is experienced, and they inform the worldview of staff who work in secure sites (Bosworth 2018). As noted in Chapter 5, staff's efforts to prevent self-harm and attempted suicide can be understood partly in these terms. Yet they are rarely thought to have any bearing on any individual case. The focus of the inquiry is on the exact circumstances of the death, less so the custodial context in which it occurred. Despite their intuitive appeal and relevance, concepts like 'staff culture' or 'organisational ethos' are too nebulous to be operationalised in a legal context, just as terms like 'care' and 'respect' are too diffuse to be precisely

verified at inquest. The relative absence of systemic issues from inquests is partly a function of the individualisation and legalisation of the process, as well as its emphasis on factual, rational matters that can be verified in writing or other official records.

Conclusion

Following any death in a prison or IRC, the PPO are called upon to provide an independent investigation, which is followed by an inquest held in a coroner's court. Both processes are fact-finding inquiries, insofar as they are concerned primarily with establishing facts in accordance with principles of rationality and objectivity. Both investigations are inquisitorial, aiming to create some degree of consensus in a situation that is potentially riven with conflict, accusation and pain. Neither the PPO nor coroners allocate blame to particular actors or institutions, nor do they comment on policy questions. PPO investigations and coroners' inquests thus steer clear of emotions, ethics and politics. Producing facts through independent third party investigations discharges the state's duty to respect the right to life under Article 2 of the European Convention on Human Rights.

But to the extent that investigations into deaths in custody are narrowly construed, procedural exercises that focus entirely on the facts of individual cases, they risk failing to capture the fundamental seriousness of their subject matter. The inquisitorial, fact-finding structure of both inquiries obscures and omits broader questions that fundamentally challenge institutions of punishment. As a result, the purpose of punishment and its effects are left unquestioned. Similarly, the culture of particular institutions and the conditions it holds people in are outside the scope of the investigation. Since investigations are conducted into individual deaths, systemic questions about the number and rate of deaths in custody across the whole estate do not fall within their remit.

The overall effect of these processes is to depoliticise deaths in custody. As Rachael put it, 'Our investigations […] form the structure and basis for the inquest. […] It's very much the individual case and it's all about the circumstances for that individual who died.' Independent oversight bodies like the PPO are highly constrained in what factors they are permitted to discuss and the conclusions they can drawn in individual cases. Their remit is distinctly narrow, as it focuses entirely on whether a prison or IRC complied with official rules and procedures. Broader questions about the number and rate of deaths in custody, the conditions in which people are held, or the purposes of punishment, are beyond the scope of their investigations. These questions about the politics of prisons and IRCs are relegated to a background concern. By individualising a systemic problem, and focusing on the minutiae of cases in an inquisitorial forum, investigations into deaths in custody leave punishment uncontested.

Chapter 7

Policy Responses to Deaths in Custody

In this final empirical chapter, I examine policy responses to deaths in custody. Whereas the previous two chapters were concerned with micro-level social action – staff responses to self-harm and attempted suicide in Brook House (Chapter 5), and independent investigations into deaths in custody (Chapter 6) – the policy level is several steps removed from these local contexts. Penal policy, which I focus on in this chapter, is made at the national level by Ministers and civil servants working in relevant government departments, most importantly the Ministry of Justice. Their work addresses problems affecting the penal system as a whole, or at least large numbers of prisons. A policy perspective is therefore not concerned with the dynamics of any particular establishment, nor with the actions of specific individuals working in custody. It has a far broader field of vision and is capable of addressing issues on a scale that no single prison could. In short, penal policy is formed by elite actors and institutions located outside of prisons, then implemented by thousands of local actors on the ground. It is therefore an example of collective decision making by government authorities, which is both highly consequential for individual prisons and often overtly political in character.

Policy formation and policy implementation are complex, which creates methodological challenges for researchers who wish to analyse them. Criminologists and sociologists are familiar with studying individual prisons, for instance, and they are adept at examining the fine balance of organisational bureaucracy and human relationships that are required to produce order in a secure setting (Sparks *et al* 1996; Liebling 2004; Crewe 2009). With an institutional study of a single prison, there are a finite number of actors to observe and interview, and the subsequent analysis proceeds on the basis of what was directly seen and heard. But when it comes to analysing policy, matters are not so simple. We cannot observe the penal system as a whole, and it is nigh on impossible to

give an exhaustive account of the workings of a large government department, let alone a modern state. The field under study is simply too complicated for direct empirical investigation. Policy work involves dozens of actors and institutions who are engaged in intricate, and often confidential, processes of collective decision making. To reach a decision, policymakers must first identify problems, conduct research, reach out to relevant stakeholders, consult with other departments, consider what options are available, then assess the possible consequences of proposed actions. All of which occurs before anyone agrees on what to do.

What is more, Ministerial decision making is influenced by factors outside of the specific policy area, such as short term electoral calculations, political ideology and party interests, broader economic conditions, relationships with key service providers, and public opinion data. In short, political action is carried out in volatile and unpredictable circumstances that depart from ideal types of the policy process (Hill and Varone 2017). In their book on *Evidence-Based Policymaking in the Social Sciences*, Gerry Stoker and Mark Evans explain:

> 'The policy process is not characterised by temporal neatness. The policy process only rarely follows the linear process of conceptualising the problem, designing an intervention, providing solutions and evaluating that intervention. […] [It] involves a complex set of elements that interact over time. […] Only rarely will the conditions emerge for a pure problem-solving model: a clear and shared definition of the problem, timely and appropriate research answers, political actors willing to listen and the absence of strong opposing forces. Much more often, social scientists, like many other policy players, struggle to find the appropriate window of opportunity in which to make their impact.' (2016: 15)

Despite its historically close relationship with the penal state, and particularly with government departments like the Home Office and Ministry of Justice, criminologists have paid relatively little attention to the intricacies of policymaking (Faulkner 2001; Stevens 2011; Barton

and Johns 2012). Although the term 'policy' is commonly invoked in academic writing, it is rarely used with any precision (although see Annison *et al* 2018). Beyond allusions to 'political culture' or the baleful effects of 'penal populism', there is little serious analysis of what policy is, how it is made and why it works the way it does. Criminologists are often struck by the perverse outcomes of particular policies, and are inclined to highlight what they see as failings or major shortcomings. But in order to understand why public policy often seems to be ineffective in criminal justice (Monaghan 2010), we need to look in greater detail at how it is formed in the first place, then how it is implemented. Both of these tasks are essential if we are to provide a meaningful critique of government policymaking, and they are the substantive focus of this chapter.

My argument proceeds as follows. I begin by describing the phenomenon of 'wicked problems', by which I mean intractable social problems that are complex, persistent and prone to cycles of controversy. I suggest that the causes of crime and the question of punishment can be analysed in these terms, and that penal policy is therefore an innately difficult undertaking for governments. In the following section, I situate these particular wicked problems in the context of national governments' increasing use of public policy throughout the twentieth century to address social ills. I argue that there are certain fundamental constraints on policymakers' ability to affect what happens in prisons, in part because of the severity of the problems imported into them, but also because of the highly discretionary, contextual nature of prison work. Prisons are street-level bureaucracies that cannot be entirely controlled or planned by external actors, which limits the capacity of the penal state to bring about particular outcomes, such as reduced numbers of deaths in custody. The penal state, as numerous scholars have noted, is a fractious and differentiated entity with limited power, not the omnipotent monolith it is sometimes presented as being.

The remainder of the chapter is empirically grounded, looking at a particular example of the penal state in action. Drawing on elite interviews with former members of the Ministerial Council on Deaths in Custody ('the Council'), I explain why this body was unsuccessful in reducing

the number and rate of deaths in state custody. I begin with a brief account of the creation of the Council and describe some of the work that it does. Then, through an analysis of my interviews with those who know it well, I develop the argument that independent, technocratic bodies like the Council inevitably struggle to implement evidence-based policymaking because of the heavily politicised, contentious policy field in which they operate.

Wicked Problems

Policymakers are often confronted with intractable social problems, those that refuse to go away despite the best efforts of bright minds (Ney 2009). Social planners in the 1970s coined the term 'wicked problems' to describe issues that seemed almost impossibly complex and messy (Rittel and Webber 1973). They had in mind areas of social life that generate endless controversy and conflict, constantly inducing frustration and disappointment among policymakers and the public (Schön and Rein 1994). Wicked problems are well known to social scientists (Weiss 1995), who produce entire industries of research on the causes of crime, the persistence of poverty, the gender pay gap, educational inequalities, housing segregation, unemployment and so on. Whenever a scandal breaks about any of these issues, a set of well-rehearsed debates are played out in a predictable fashion. Accusations are made and statistics are recited, but the issues themselves are no closer to being resolved. New programmes and policies are occasionally rolled out, but the good intentions of their authors are rarely matched by successful outcomes in the real world (Schön and Rein 1994; Ney 2009). When discussing wicked problems, it is far easier to say what is going wrong than to prescribe what exactly ought to be done (Mulgan 2005: 221). These issues seem to provide evidence of the imperfectability of human society. As a pioneer of policy studies once put it, 'Our words (hence our thought) imply that problems have solutions, as if they could be solved once and for all, but our experience suggests that, like the poor, they are always with us' (Wildavsky 1979: 16). In a word, wicked problems seem perennially stuck. Trying to eliminate

them is reminiscent of the myth of Sisyphus, where the king of Ephyra was condemned to push a huge boulder uphill for eternity only for it to be rolled back down whenever he reached the top.

What is it about wicked problems that makes them so durable? Is our failure to tackle them simply due to the absence of political will or a lack of collective imagination? These factors are no doubt relevant, but there are more fundamental reasons why wicked problems like crime and punishment, poverty and inequality persist. One reason is the contentious nature of the issues themselves. Wicked problems tend to produce circular debates that cannot be resolved, where people talk past one another and struggle to agree on any practical course of action. Discussions about prisons, for instance, exhibit this tendency. Prisons are routinely criticised for their shortcomings, but they seem to be a permanent feature of our political landscape. Terms like 'broken', 'failure' and 'waste' are common in criminal justice discourse (e.g. Garside and McMahon 2006; The Secret Barrister 2018), yet fundamental redesign of the system seems difficult to imagine. Despite many promises to transform or revolutionise (e.g. Ministry of Justice 2016a, 2016b) a criminal justice system forever 'in crisis' (Dockley and Loader 2013; Chamberlen *et al* 2019), the basic features of the penal system tend to stay the same. If anything, the tendency is for expansion in the numbers of people caught up in the broken, failing system.

Many other characteristics of wicked problems are familiar to criminologists and sociologists. For instance, any single wicked problem is entangled in a web of others, which makes it exceptionally difficult to address in isolation. They tend to be 'nested and interdependent' (Head 2008: 107). As criminological research demonstrates, crime cannot be explained fully in terms of culpable wrongdoing by individual human agents. Rather, patterns of crime suggest that policymakers must also take into consideration questions of gender, age, socialisation, family, peers, housing, employment, routines, opportunities, emotions and many other factors. In sociological terms, crime is the product of both human agency and social structure, the well-established patterns of collective life that are reproduced in the political, economic and cultural

spheres. Political actors responsible for matters of crime and punishment must therefore choose whether to interpret these problems as a sub-set of wider social and economic policy, or whether to act on them as problems in and of themselves. This dilemma is described by Stuart Scheingold in a perceptive early article on the politicisation of street crime in the USA:

> 'Street criminals are objectionable in their own right, but they are also are serviceable surrogates for displacing other more immediate discontents. It is easier, in short, to criminalize the symptoms of poverty, unemployment, and homelessness than to struggle against the underlying causes.' (1995: 166)

As Scheingold's analysis suggests, any policymaker who wishes to address crime is quickly thrown into a cascade of social causation, where the problem itself and the socio-economic context in which it occurs blur into one another. The more precisely we zoom in on crime on its own in the hope of addressing a single problem, the more closely we see it connected to its surrounding milieu. The issue and the broader context are so interwoven that they appear to be almost one and the same. In short, penal policymakers are necessarily concerned with a gamut of entrenched social problems, few of which respond readily to government intervention.

The practical challenge of addressing or, ideally, eliminating wicked problems is accompanied by a great of confusion over how to talk about them. The phenomenon itself is often a matter of dispute (Gallie 1956), which means that it is difficult to discuss the subject without being criticised or stirring controversy (Bacchi 2009; Haidt 2012). Disagreements rage over the nature of wicked problems, as well as their causes and potential solutions to them (Head 2008). Like all social concepts, wicked problems are always being re-interpreted and are thus transformed by the way we talk about them. The 'discursive turn' in policy analysis has drawn attention to the constitutive role of language, rhetoric and other techniques of persuasion in how policy is devised and executed (e.g. Majone 1989; Fischer 2003).

Donald Schön and Martin Rein (1994) use the metaphor of a 'frame' to analyse the political dynamics of entrenched social problems. In their account, each actor has a particular way of framing the contentious subject, which provides them with a stock of ideas, stories and beliefs that animate their arguments (Newman 2001: 65). The existence of the problem, the extent and nature of it, and how best to solve it each provide opportunities for contestation. Those on the left tend to frame criminal justice questions as a matter of social and economic injustice, highlighting the adverse effects of poverty, inequality, lack of opportunity, inadequate social services and other policy failures. On the right, conservatives emphasise the decline of deference to authority, personal responsibility, discipline, family, school and community (Lakoff 2002). These opposing frames imply very different policy responses, and are the grounds for the mutual incomprehension and misrepresentation that characterises public debate on criminal justice.

Having described some of the general characteristics of wicked problems – persistence, complexity, contestation, intractability – we can use this framework to analyse penal policy and the politics of imprisonment. Prisons, as scholars have long noted, are an example of a tragic social institution that seems doomed to fail and disappoint us (Garland 1990: 292). Yet it is very difficult to imagine prisons not existing in one form or another. Moreover, and in keeping with the analysis set out above, prisons are not one single wicked problem, but a collection of different issues clustered together. People typically enter them already damaged, carrying the baggage of dysfunctional, troubled lives (e.g. Corston 2007). The wicked problems of poverty, school exclusion, drug addiction, mental illness, physical abuse and psychological trauma are imported into prisons, long before the institution itself leaves its mark (e.g. Liebling and Maruna 2005; Health and Social Care Committee 2018). The scale of concentrated hardship and multiple deprivation in prisons is extreme, such that they are often accused of being 'dumping grounds' for all manner of social ills, or 'warehouses' for the marginalised and socially excluded (Commission on English Prisons Today 2009: 6). Research in the community demonstrates the importance of socio-economic deprivation on patterns of suicide (e.g. Hawton *et al* 2001; Lorant *et al* 2005), and

it is striking that suicide prevention guidelines often single out prisoners as a distinctly vulnerable high-risk group (e.g. World Health Organization 2014: 37; Department of Health and Social Care 2019). Innumerable pre-existing problems thus find their way into places of punishment, overlapping and reinforcing one another in line with the concept of cumulative disadvantage. When we add these different factors up, it becomes clear why it is so difficult for policymakers to make prisons safer and improve the lives of people in custody.

Theorising Penal Policy

For centuries, most social problems were addressed at the local level by religious and voluntary organisations who provided welfare relief to fellow citizens. Throughout the 20th century, however, national governments became increasingly involved in almost every aspect of social and economic life (Garland 2014), and found themselves heavily invested in trying to eliminate persistent social problems. There is now a vast infrastructure of service provision that comes under the rubric of public policy in the modern welfare state, in addition to that which is provided by civil society organisations, campaign groups, grassroots organisations and other third sector bodies. It would be difficult to list all government public policy provision in a single area, given the dense web of programmes they provide. As the public policy scholar Ray Pawson observes, any initiative enters into a congested field of pre-existing practices:

> '[I]n the real world policy formation takes place in an unregulated chariot race of carts and horses. Nothing happens from scratch. Policy interventions are always policy changes, added to a beam balance already loaded with existing provision. In such circumstances, it is not easy to identify a clean point of incision in which to inject evidence.' (2006: 12)

'Public policy', for my purposes, refers to all of those areas of collective life in which rulers make decisions to allocate resources and provide services in an attempt to exert influence over a

population (Goodin *et al* 2006). Policy is therefore intentional collective action on public problems that spans the variety of political actors, institutions and processes that constitute 'the state'. The sheer scale of modern government intervention is immense, and its variety of forms has complicated traditional notions of what it means to govern a territory and population (Flinders 2006). For this reason, scholars in political science tend to use the looser label 'governance', rather than 'government', when describing institutional arrangements for tackling social problems. Governance refers to the simultaneous operation of overlapping political orders in which modern states act (e.g. global, regional, national, local), and alludes to the constraints and limitations of their authority in these conditions. As Christopher Pierson explains:

> '[The essence of governance] lies in the idea that governing – that is, the business of making binding and effective collective decisions for a given political community – is less and less the exclusive business of the state and its agencies (including law enforcement) and more and more a matter of the negotiation of decision making (and implementation) between state actors (at various levels) and societal interests, a process mediated through both formal and informal channels.' (2004: 155)

The governance literature highlights how policymaking is now dispersed across multiple networks of experts, practitioners and other stakeholders, away from a more centralised model of elite decision making (Rhodes 1990, 1996, 1997; Pierre 2000; Pierre and Peters 2000). Accountability is spread between those with traditional political authority and the epistemic communities whose knowledge is the source of their power (Newman 2001). The move away from command and control, hierarchical decision making means that, 'The linear, autonomous conception of governing [has] been replaced by far more complex arrangements for making and delivering policy' (Peters and Pierre 2006: 220).

The political fragmentation associated with modern governance is illustrated clearly by public policy on wicked problems like crime and punishment. On these contentious questions, there is a congested field of actors and institutions all vying for influence. Those competing for power are not merely public officials with a democratic mandate to implement their political programme. In practice, collective action on wicked problems involves input from academic experts, professional service providers, campaign groups, charities and other organisations. In criminology, researchers have paid much attention to the influence of the media and victims' rights organisations on penal policy (Barker 2007). Moreover, recent research by Philippa Tomczak on the penal voluntary sector maps the network of charities and campaign groups in the penal field who serve, advise and act on behalf of (ex-)prisoners (Tomczak and Buck 2019).

These actors all have different ways of framing social problems, providing a cacophony of competing voices and claims of expertise. As Janet Newman explains in her study of governance under New Labour, 'No single agency, public or private, has all the knowledge and information required to solve complex problems in a dynamic and diverse society, and no single actor has the power to control events in a complex and diverse field of actions and interactions' (2001: 15). Similarly, public policy scholar Carol Weiss describes the mediated, indirect way that decisions are reached in state bureaucracies:

> 'So rather than the image of a few powerful people sitting around a table making a decision at one particular time, you have scores of people in dozens of offices doing their jobs. They take small steps – write a memo, draft a paragraph, respond to queries from the field, send out a press release. Each of these small steps closes off some options and sets some precedents. Without ever thinking of what they are doing as decision making, they gradually move toward an accommodation that only later, looking backward, can be seen as a decision.' (1995: 142)

The reality of modern governance is such that there are many intervening steps between the initial identification of a social problem and governing authorities then deciding on a specific course of action to address it. Policy formation is easier to identify after the fact, looking backwards at processes of collective decision making, since there is not a single moment when policy is conclusively formed. Rather, it emerges out of a protracted sequence of problem identification, discussion, research, negotiation and compromise. As Peter Haas notes in his analysis of 'epistemic communities' of experts and how they influence government action, 'The path from truth to power is a circuitous route at best' (2004: 571).

Street-Level Bureaucracy

To a large extent, public policy scholarship addresses policy formation, namely the processes by which political actors come to exercise their power through making binding collective decisions. But when it comes to penal policy, many of the most important questions are about how to *implement* policy, irrespective of how it is formed in the first place. Specifically, the question of how to make custody safer – how to reduce the number and rate of deaths in custody – is in many ways a practical challenge for those involved in the operation and administration of prisons, not just a macro-level puzzle for externally located policymakers to solve. As noted above, one of the difficulties with successfully implementing penal reform to make prisons safer is that many pre-existing problems are imported into custody, which makes prisons a non-ideal environment for government programmes. By the time people have entered custody, many of them will have harmed themselves, attempted suicide or otherwise fit a high-risk profile (Pratt *et al* 2006). For this reason, prisons are highly likely to have higher numbers and rates of suicide than they would if their population were randomly selected (see Office for National Statistics 2019). Added to this, however, are certain intrinsic limitations of government power in prisons, an issue which requires some theoretical elaboration.

Put simply, one of the major constraints on penal policymaking is the gulf between the broad aspirations of political elites and the local action needed to bring them into effect. Penal policy is formed at the national level by a highly centralised state machinery, but to be effective it must filter down into particular outcomes on the ground. There is, in theoretical terms, a large gap between policy formation and policy implementation (Dorey 2005; Cairney 2012). Although they are public institutions that political elites can influence to some extent, prisons are also establishments that are heavily influenced by local culture, customs and practices.

As such, the question of policy implementation is especially important in prisons, which pose major obstacles to carrying out general objectives in particular contexts. Those working in prisons are tasked with '[translating] vague philosophical notions into concerted actions and specific work behaviours' (Gilbert 1997: 51), something which is especially difficult in environments that are so unpredictable and hard to control. Some scholars have argued that penal policy as declared by elites is increasingly divorced from penal practice as enacted on a daily basis by officers and managers. Writing about the role of governors in women's prisons in the early 2000s, for instance, Pat Carlen observed that 'the gap between the proclaimed aspirations of paper policies and the actualities of prison practice is as big, and maybe bigger, than it has ever been' (2002: 30).

A helpful framework for analysing the gap between policy formation and policy implementation is by thinking of places of custody as 'street-level bureaucracies' (Lipsky 1980), run by public servants with high levels of discretion in how they carry out their duties and the power to act largely without supervision or oversight (Gilson 2015). Prison officers and detainee custody officers – much like police officers, doctors, teachers and social workers – are directly involved in delivering a public service to a particular group of people. They interact with 'clients', in this case prisoners and detainees, on a daily basis, and are responsible for putting broad objectives into practice. In many ways, their actions are more significant and consequential than

the policy documents or pieces of legislation that bind them (Liebling 2000). From a bottom-up perspective, then, street-level bureaucrats *are* the public service they deliver: they embody the state and their actions therefore constitute public policy (Yanow 2000: 9). Lipsky's framework of street-level bureaucracy is readily applicable to prison officers (Gilbert 1997), and poses a major challenge to the high modernist view (Goodin *et al* 2002) of centralised policymaking by all-seeing, all-knowing and all-powerful elites.

In a highly discretionary context like a prison, policy implementation is imperfect. In terms of Peter Dorey's typology of eight 'prerequisites for perfect implementation', penal policymaking is characterised by the presence of multiple 'dependency relationships' and numerous 'decision points' (Dorey 2005: 198 *et seq*). For an order to be carried out, it requires the consent, cooperation and coordination of actors below (Cairney 2012: 35), in this case prison officers and custody managers, who have competing demands on their time and limited resources at their disposal. Policy compliance is therefore not guaranteed, given that officers can effectively veto decisions by simply refusing to comply, directing their attentions elsewhere, reframing their goals and duties, or claiming that they were following a different order (Lipsky 1980). In his account of policymaking in Britain, Peter Dorey explains:

> 'The laudable intentions of central or national level policy makers may well flounder when they encounter the myriad local level policy actors with a role to play in the administration of such policies, each of whom might well need to be consulted at some stage, and thus effectively granted an opportunity to modify or adapt the practical application of the policy 'on the ground'. Clearly, the more policy actors involved, the more "decision points" which are likely to arise, thereby increasing the likelihood that the policy which is actually implemented is somewhat different to that originally devised by Ministers and civil servants, and given legislative effect by Parliament.' (2005: 202)

These limitations of penal policymaking illustrate a broader point about the nature of collective action on social problems. Human behaviour at the individual level is not capable of being understood or controlled entirely by political elites (Scott 1998), who can be thought of as 'those who have vastly disproportionate control over or access to a resource' (Khan 2012: 362), in this case the policy levers of the state. To eliminate certain wicked problems would require a level of government intervention that is entirely impractical and unethical. In any case, policy efforts often have unintended consequences that worsen the problems they seek to solve, complicate them further, or simply have no effect at all (Sanderson 2002: 7–8). As policy scholar Wayne Parsons argues in his critique of evidence-based policymaking, 'Human organizations are […] *complex* systems. They *do not* operate in the mechanistic way assumed by those who contend that knowledge can be managed and systematised. Policy-making takes place in conditions of uncertainty, flux, unpredictability and variation' (Parsons 2002: 51 emphasis in original). Operating several steps removed from the social world, policymakers are bound to over-simplify, misunderstand or distort the social problems they seek to address. With these observations in mind, we can begin to think more realistically about the likelihood of centralised policy measures affecting something as locally and situationally influenced as levels of self-harm and suicide in custody.

The Penal State

The arguments advanced by scholars like Aaron Wildavsky, Carol Weiss, James Scott and Michael Lipsky help us identify some of the intrinsic limitations of collective action through public policy, spelling out theoretically the more intuitive notion that governments cannot solve everything. But to understand more fully why collective action often fails to address social problems, we must look in greater detail at the collection of actors, institutions and processes that enact public policy and therefore constitute the state. In criminology, the state is sometimes treated

as a black box that simply produces certain outcomes in the social world, typically harsh and unfair ones (see Schoenfeld 2011 on Wacquant 2009). In order to explain broad processes of penal change (Garland 2013) or the more local contexts in which policy is enacted (Rubin and Phelps 2016), it is necessary to specify what the penal state is and how it works. Joshua Page's comment about 'the penal field', that too often the 'intervening mechanisms that translate […] large-scale phenomena into actual outcomes are missing' (Page 2012: 152), is equally applicable to much analysis of the penal state.

The majority of academic literature on the state comes from disciplines concerned with power and its exercise, such as politics, history, sociology, philosophy and anthropology (for overviews see Skinner and Strath 2003; Pierson 2004; Hay *et al* 2006). There are many ontological and conceptual debates about the meaning of the state, with some questioning its very existence or its autonomy from society (Skocpol 1985; Abrams 1988; Mitchell 1991). It is not my intention to wade into these discussions here, other than to make a few broad observations about the state in theorising about punishment. As Nicola Lacey's notes, 'States are, of course, complex entities at the institutional level' (Lacey 2010: 781). Given that we cannot directly observe the state in its totality, it is not possible to prove its existence through exhaustive empirical description. For these reasons, it is helpful to think of the state as an 'as if real' concept: a necessary conceptual abstraction and starting point from which theorising proceeds (Hay 2014).

The centrality of the state is particularly apparent in criminal justice (Garland 1996) and migration control (Bosworth 2008; Ellermann 2009; Aas and Bosworth 2013; Wong 2015; Bertram 2018), both of which are unthinkable without it. According to the standard Weberian conception of the state as the entity that monopolises the legitimate use of physical force over a given territory (Weber 1946), enforcing order and securing borders are constitutive activities for states (Barker and Miller 2017). The state, in these contexts, is no arcane philosophical construct, but a concrete set of actors and institutions with the authority to coerce, control and manage populations, often

those that are marginalised and socially disadvantaged (Nethery and Silverman 2015; Furman *et al* 2016). Punishing crime and controlling borders both shore up the authority of the state, which can be thought of as the 'institutional complex claiming sovereignty for itself as the supreme political authority within a defined territory for whose governance it is responsible' (Hay and Lister 2006: 5).

The state is thus intrinsically important, but the particular form the penal state takes is also a decisive influence on patterns of punishment. Recent scholarship on US mass incarceration, for instance, has explored how the major aggregate trend of prison growth since the 1970s has been accompanied by highly variable and contingent rates of punishment at the state and local level (e.g. Barker 2006, 2009; Lynch 2009; Campbell and Schoenfeld 2013; Campbell 2018; Schoenfeld 2019). These textured, detailed accounts demonstrate that the penal state is not a single entity that produces uniform effects. It is, rather, a collection of actors and institutions that have to be contextualised historically (Gottschalk 2016; Hinton 2016). Similarly, an emerging body of literature in Europe, writing in the tradition of historical sociology and the new institutionalism, pays close attention to the effects of political institutions, electoral systems, bureaucratic structures and elite cultural dynamics on penal outcomes (Lacey 2008; Lappi-Seppälä 2011; Snacken and Dumortier 2011; Hamilton 2014; Barker 2017; Lacey *et al* 2018).

These works provide a more meaningful account of penal policymaking from the inside, conveying the situated nature of political action, as influenced by certain enduring 'rationalities' and taken-for-granted assumptions (e.g. Annison 2018a, 2018b). As Ashley Rubin and Michelle Phelps (2016) argue, we ought to 'fracture the penal state' to reveal it as a differentiated and variegated entity. Rather than assume that the penal state is a unified and coherent body with a singular will, scholars must pay attention to the tensions, struggles and sources of conflict that lie underneath it (Goodman *et al* 2015). As argued in Chapter 3, conflict and contestation are intrinsic

features of political life (Mouffe 2005), and they are channelled through political actors and institutions like the penal state.

In the remainder of this chapter, I look at a particular example of the penal state in action. Drawing on elite interviews with professionals involved in the Ministerial Council on Deaths in Custody, I reflect on policy efforts explicitly aimed at addressing the problem of deaths in custody, specifically suicides in prison. I argue that attempts to reduce the number and rate of suicides in prison must be situated broadly within the context of penal policymaking, which imposes various constraints on collective action. Although the problem of deaths in custody has been clearly identified, and there is in principle consensus that too many people are ending their lives in prisons and other forms of state custody, I suggest that these are necessary but not sufficient conditions for making prisons safer. Despite the superficial appeal of having independent, technocratic bodies enacting evidence-based policymaking, the reality of penal policy and modern governance prevents this aspiration from being realised.

Identifying a Problem: The Ministerial Council on Deaths in Custody

> 'In theory, everybody was on the side of not having people die unnecessarily in custody. However, they had different views of what was and was not possible, what could and could not be done, who should initiate things and so on.' (Adam, the Council)

These remarks are from an elite figure who was heavily involved in the three-tier Ministerial Council on Deaths in Custody ('the Council'). The Council was set up in 2009 in response to longstanding concerns about deaths in all forms of state custody (see Towl and Crighton 2017: 103–119), and is still in operation at the time of writing. It focuses on the most common causes of death in custody, suicides and natural cause deaths, although its work also covers rarer cases such as restraint deaths and homicides. 'Custody' is defined widely to include prisons, immigration

removal centres (IRCs), police custody, various forms of youth custody and secure mental health facilities. However, since very little of the Council's work addresses IRCs, I focus primarily on prisons here. Officially, the Council was established after the publication of the Fulton Report (2008), which recommended replacing the existing Ministerial Roundtable on Suicide and the Forum for Preventing Deaths in Custody with a new body. Unofficially, according to several elite informants, the Council was established because the government at the time had been threatened with legal action over deaths in custody, which prompted it to establish a body whose sole purpose was addressing this issue. According to its website, 'The shared purpose of the Ministerial Council is to bring about a continuing and sustained reduction in the number and rate of deaths in all forms of state custody in England and Wales' (Ministerial Council on Deaths in Custody 2019).

The Council has a tripartite structure. At the apex is the Ministerial Board on Deaths in Custody ('the Ministerial Board'), chaired by Ministers from the three relevant government departments: the Ministry of Justice, the Home Office, and the Department of Health. In principle, the Ministerial Board is a decision making body with the power to put the Council's research findings and expert recommendations into practice. The second tier is the Independent Advisory Panel on Deaths in Custody ('the Independent Advisory Panel'), which conducts original research and produces reviews on deaths in custody, most notably the 2015 Harris Review, entitled *Changing Prisons, Saving Lives: Report of the Independent Review Into Self-Inflicted Deaths in Custody of 18–24 Year Olds* (Harris 2015). In addition to this major study, the Independent Advisory Panel collects and analyses data on deaths in custody, publishes studies and feeds its work into the Ministerial Board. It is a small group dominated by experts in relevant academic disciplines and professions, such as psychology, psychiatry and law. The final tier is the Practitioner and Stakeholder Group, 'an open ended group consisting of representatives from a range of organisations' (Ministerial Council on Deaths in Custody 2019). This is a residual group of all other parties with an interest in the subject of deaths in custody. Its members include: representatives of staff working in custody; trade unions such as the Prison Officers Association and Prison Governors Association; regulatory bodies like

the Prisons & Probation Ombudsman (PPO), HM Inspectorate of Prisons (HMIP) and the Independent Monitoring Board; and third sector organisations including INQUEST, the Howard League for Penal Reform and the Prison Reform Trust. Overall, then, a broad range of organisations are represented on the Council, whose work which cuts across three large government departments.

As the testimony quoted above suggests, there is consensus among the many different groups on the Council that deaths in custody are a serious problem. For many years, concerns about deaths in custody have been raised by penal reform groups (e.g. Howard League for Penal Reform 1993, 2016; Prison Reform Trust 2012), the PPO (Prisons & Probation Ombudsman 2013) and HMIP (HM Chief Inspector of Prisons for England and Wales 2014). Notably, too, the President of the Prison Governors Association, Andrea Albutt, publicly criticised the government for levels of suicide, self-harm, drug abuse and violence (BBC News 2016), a point which she connected to under-staffing and under-resourcing (Prison Governors Association 2017). Across the three-tier Council, there is agreement that there are too many deaths, each of which leaves a terrible toll on loved ones, other prisoners and staff. Moreover, the Council is keen to ensure that lessons are learned and that good practice is shared across different custodial settings. The underlying premise of the Ministerial Council is that with expert input, clear direction and concerted action, prisons and other forms of state custody can be made safer.

By the most basic measure, the Council has not achieved what it set out to. Since 2009, and particularly around the years 2013–15, prison safety declined sharply (see Institute for Government 2019: 105–117). During this period, suicides were identified as a major problem, alongside a multidimensional crisis of inadequate funding, poor infrastructure and low staffing levels, which were said to contribute to high levels of suicide and self-harm, as well as excessive violence, drug use and disorder (Chamberlen and Carvalho 2019). Despite a chorus of agreement that these issues were reaching intolerable levels, the Council had no demonstrable effect on what

was happening inside prisons. Indeed, suicide and other problems worsened during this period. If the Council was set up to bring about a 'continuing and sustained reduction in the number and rate of deaths in all forms of state custody in England and Wales', it has been unsuccessful. The question is why.

Solving a Problem: The Dilemma of Collective Action

> 'I think there was a lot of *will*. Nobody wants to increase deaths in custody and everybody's anxious about the problem. I think there were just quite a lot of people trying to do too many things, really. I think a small unit that really concentrated on the issue might be a more effective way of doing things than trying to corral loads of people to give their pennies worth the whole time.' (Jennifer, the Council)

These observations come from another elite figure who was involved in the Council. In a few sentences, Jennifer articulates the classic political dilemma of collection action (see Olson 1965). According to her, there was widespread agreement about the seriousness of deaths in custody among members of the Council, all of whom were sincerely committed to making prisons safer. A specific problem had been identified, and the relevant actors – including Ministers – agreed to gather in a forum to deliberate and act. Yet in practice, the Council had little success in creating lasting change. One reason for this, Jennifer argues, is that the Council was not sufficiently specialist. It would have been preferable to have a dedicated team devoted to a single issue, rather than a multi-layered organisation that represented many different interests and perspectives. To the extent that the Council accommodated a wide spectrum of views and sought input from multiple stakeholders, it was prevented from acting as a coherent unit.

Collective action is a generic problem in political life. In any area of public policy, there are disagreements over the ultimate aims of government intervention, as well as disputes over how best to achieve them. Politics is the art of the possible, and possibilities for penal reform are often

limited. But that does not mean it is impossible to form cross-party coalitions and reconcile competing interests, even on contentious policy questions. In fact, political actors are highly skilled at managing conflicts and working together with opponents in pursuit of a range of different goals. Why, then, did the Council not achieve more? Surely effective cooperation is most likely when all participants agree on a specific problem and share a strong desire to eliminate it?

In the remainder of this chapter, I want to suggest that the apparent consensus in the Council about addressing deaths in custody is misleading. Beneath the surface, there are fundamental sources of political conflict in ostensibly independent, technocratic bodies like the Council. It is relatively easy for different actors to say in the abstract that there are too many deaths in custody, and that more ought to be done to prevent them. But when it comes to deciding what specific action should be taken to address the issue, matters become more overtly political. Coming up with measures to make prisons safer forces policymakers to grapple with the many wicked problems outlined earlier in this chapter. Given how entangled and mutually reinforcing such problems are, any course of action will soon run into fundamental political questions about how to manage prisons. What are prisons for? What funding should they receive? What should their priorities be? What services should be available to prisoners? What role should custody officers, managers, governors and others play in preventing suicide?

These issues are value-laden and contestable, touching on fundamental normative questions about how the state should govern and what justice demands. These are problems that are rightly raised and settled in political forums. Expert knowledge about the causes of suicide in custody, and evidence about the effectiveness of particular policy interventions to prevent them, is not sufficient to address these questions. Once we begin to ask these questions, it draws our attention to the limitations of independent expert bodies. While it is possible, and often laudable, to construct a coalition of actors whose aggregated voice expresses concern about a serious problem, it is a far more difficult task for them then to work together and solve it.

The Council is to a large extent an independent, technocratic body composed chiefly of experts and practitioners, whose role is to provide social scientific evidence on a particular issue, then make recommendations to the government. But there is an important caveat. The Council was created for reasons of *realpolitik*, and it is headed by overtly political officials in elected office, who are ultimately responsible for what it decides to do. To establish an independent, expert body is not a politically neutral act, since penal policy is not made on purely technical grounds, as proponents of evidence-based policymaking might wish. For these reasons, I argue that efforts to minimise deaths in custody through expert bodies like the Council, using evidence-based policymaking, will always be limited in their effectiveness because of the substantively political questions that inhere in penal policymaking. The underlying politics of imprisonment is thus capable of fracturing a seemingly unified group whose sole purpose is to reduce deaths in custody.

'Wading Through Treacle': The Reality of Modern Governance

> 'I suppose I was a bit naïve in that this was a new structure, I thought this would make more of a difference more quickly than was actually the case. Because the principle was [that the] Independent Advisory Panel, with serious people with serious expertise in the subject, would make recommendations to the Ministerial Board on Deaths in Custody, the Ministerial Board would take decisions, those would then be implemented by the various service areas reflected, and that [HM Inspectorate of Prisons] would also make sure that those changes actually took place. [But] public administration doesn't work as simply as that. It's complicated and torturous and like wading through treacle to get things done, but that was the principle behind it. […] I was slightly innocent as to how easy it would be to make things work.' (Adam, the Council)

In these remarks, Adam, a former member of the Council with decades of experience in public service, describes how his initial optimism about the Council faded the longer he worked for it. His comments capture the reality of modern governance, and his rather dispiriting language – 'complicated and torturous' – conveys the difficulties of navigating a labyrinth system of government processes. Tellingly, he was not the only interviewee to use the phrase 'wading through treacle' when describing his frustration with Whitehall bureaucracy.

Adam's observations are a reminder that an independent, non-partisan body like the Council does not stand alone. It is created by political actors with particular objectives in mind, and is then slotted into an array of existing state structures and government processes. Its ability to affect change is heavily mediated and indirect, revealing how limited the power of any single organisation is in a modern state. As Carol Weiss argues, 'in large bureaucracies people do not feel that they have a great deal of authority'. In such environments, people are 'much more aware of the limits to their authority than to the scope they [have]' (Weiss 1995: 147). One consequence of having so many policy actors is that they become increasingly embedded in social problems themselves. As government policy is used to address an ever-growing number of issues, officials find themselves correcting their own errors and multiplying bureaucratic challenges in the process. As Aaron Wildavsky argues in his account of policy as its own cause, 'Policy spaces are dense; any major move sets off a series of changes many of which – because they are large and connected – inevitably transform any problem they were originally supposed to solve' (1979: 7).

My research included four elite interviews with individuals who were directly involved in the Council's work, as well as other academic experts who had experience with similar government initiatives. Across the board, participants were frustrated by what they saw as the impotence and ineffectiveness of the Council. Among other things, they decried its unclear chain of authority, its lack of strategic direction and the limited involvement of Ministers. For instance, Jennifer described how, by the end of her time working with them, 'I came to the conclusion that the whole

architecture was wrong'. At the senior decision making level, each of the three Ministers heads a large, centralised government department with a high degree of public visibility. The political salience of justice, home affairs and health means that responding to deaths in custody is only one small part of their work. According to interviewees, the Ministerial Board held few meetings, and struggled to get all senior public officials in the same room together. David, a former member of the Council, described the difficulty of converting expert talk into political action:

> '[The] permanent issue I always thought, and I think others shared this, was trying to get the establishment to change, and by that I mean often it was the civil service, it was the Ministries, to take seriously what we were saying and implement it. And that was partly the sort of culture of defensiveness, partly that there was often no real leverage or pressure on them. […] The Ministerial Board was chaired in theory by one of the three Ministries – could have been different Ministers – in rotation, so no one had ownership. And we never saw the same Minister ever. They'd come and they'd get sacked. Next time it'd be Health and Home Office, and then someone would be sacked. […] So none of them had any ownership. So this is what we were talking about. There was no real follow-up process. That was the problem on the Ministerial Board. It was always another sort of talking shop. It didn't make decisions. And when we made very specific proposals, there was no proper follow-up mechanism.'

Comments like these were made by several interviewees. In David's experience, the three Ministries did not approach the issue in a spirit of cooperation or with a genuine desire to take action, despite their professed concerns about safety in custody. Instead, they had a 'culture of defensiveness' and were inclined to be suspicious of external scrutiny by academic experts, human rights lawyers and others. Several interviewees singled out the Ministry of Justice as a particularly uncooperative department that was difficult for outsiders to penetrate. They implied that it stalled

the progress of the Council and was an obstacle to much of its activity, for instance by making it difficult to access official data on deaths in custody for research purposes. Prior to dealing with the Ministry of Justice, Jennifer's main experience was with the Department of Health, and in our interview she conveyed how unimpressed she was with the former:

> 'I found the Ministry of Justice pretty unresponsive, pretty difficult to navigate. I'll say no more than that. […] I found it as an organisation pretty hard to navigate. Nothing got done easily and there was a *Yes, Minister* sort of sense of the whole place, in a way I haven't encountered elsewhere.'

Similar observations were made by John, an academic expert who had spent more than a decade working with governments on issues related to suicide prevention and mental health policy:

> 'Lots of the government departments are essentially microcosms of the service they oversee. So the Ministry of Justice is very hierarchical, doesn't take any sort of backchat from people, it works by command, and it doesn't accept outside challenge very readily.'

The Ministry of Justice, like HM Prison Service, is organised in a distinctly centralised, hierarchical way. Several interviewees commented that, like its sister department the Home Office, it had an 'insular' culture and was relatively reluctant to engage with external stakeholders compared to other government departments. In political terms, this is unsurprising, given the contentious nature of its policy area and the fact that the very creation of the department was as a result of a major scandal at the Home Office, following the release of over 1,000 foreign national prisoners who were eligible for deportation (Kaufman 2015). The centralisation of political control is most likely in crisis-prone areas, and the government department that oversees prisons, probation and parole is clearly one such area. The following excerpt from a former member of the Council, Kevin, helps explain the political difficulties for governments responsible for managing prisons:

> 'I say this in a non-party political way, I think there's something genuinely difficult with a brief for prisons. It's not a vote-winner. […] Imagine if you have the NHS brief. Well, you have a high moral ground to start off with, there's all sorts of stuff you already have. If you have the Treasury, we can be *careful* with what we do with money, everyone says we have to be *careful* with public finances […] But with *prisons*, there's no votes in them…In a sense, it's a sort of area where you get into trouble if it goes wrong, but really what does going right look like? If you look historically at it, it was very tricky…So I think, to be fair, I think whatever Minister has a genuinely difficult brief. It really is. Difficult one for people to get…So I think that's more a lack of political *power* than a lack of political will, at that level.'

Kevin spoke with considerable insight about the politics of prisons. His career was varied, having previously worked in prisons, in government as a civil servant, and in higher education as an academic researcher. Owing to these experiences, he was all too aware of prisons being used as a 'political football', and was sceptical of what he called a 'criminal justice ideology' that dehumanises those it punishes. At the same time, he did not deny the complexity of running prisons. The word 'difficult' was scattered throughout my interviews, alongside related terms like 'challenging', 'tricky' and 'struggle'. Difficulty runs deep in prisons, and it expresses itself in many ways. He went on:

> 'I think the barriers are: politically it's a *genuinely* challenging brief compared to other areas when you're trying to negotiate resources and so on, and to have a political rhetoric which is credible with the public. So the will in the sense is to say I want the votes, I want the power, I want to make changes. But the vulnerability is, if I say too much which sounds too namby pamby liberal about prisons, I'm gonna get screwed over on these areas. Then in prison I think there's this criminal justice ideology, there's this security ideology which is much stronger than the

health and social care ideology. And so it will trump it, and it will trump it in very practical ways that will map resource allocation on a day to day level. So in that sense I thought [former Director General of HM Prison Service] Martin Narey was bold when he said he would rather have another escape than another death in prison. And what was powerful about that was it was very counter-culture. And he was significantly criticised for that.'

One of the benefits of conducting elite qualitative interviews is that they help clarify the political dynamics of powerful institutions, bringing to the fore what is often hidden or unstated. Respondents were unanimous in their criticism of the structure and organisation of both the Council and the Ministry of Justice, and regarding the latter suggested that a centralised, hierarchical model of policymaking was accompanied by a culture that did not welcome external scrutiny. It is with this institutional context about the politics of prisons and criminal justice that we turn finally to the question of using expert knowledge to bring about political change, in other words evidence-based policymaking.

Evidence-Based Policymaking? Rationalising Penal Policy

'[P]olitical leadership means to say the thing that is not going to get the favourable headline and is putting the long term ahead of the short term. And it means accepting external scrutiny or not just scrutiny, external input. External, unbiased input is not necessarily a bad thing. And governments are frightened of it, which is why they manage it in the way they do: all these committees, all these reports, all these delayed responses, all these sort of partial acceptances. All of that is a way of shutting down the system, shutting down the argument. And so leadership would be to say we're not gonna do that anymore. We're going to have an independent board or chair or something which is going to be full of people who are going to

> say things that we don't particularly like to hear, but we will create a transformation of the strategy in the penal system.' (John, Academic)

According to John, one way for governments to show leadership is to take research evidence seriously and be open to external input from academic experts and experienced practitioners. A university professor with over a decade's experience working with government on health policy, both for those in the community and in custody, he was in favour of empowering independent expert bodies to hold government to account. In short, his remarks imply support for the concept commonly known as evidence-based policymaking (EBPM). Like several other interviewees, he expressed disappointment and frustration with the outcomes of collective decision making, and was critical of governments for pursuing policies that were not supported by research evidence. If democratic politics incentivises elites to make irrational, reckless decisions about prisons that endangers people's lives, then surely political processes ought to be made more rational to secure better outcomes for those inside.

EBPM is often presented as an antidote to the difficulties of collective action on contentious social problems (Maruna and Barber 2011). According to its proponents (e.g. Sherman 2009), EBPM is consciously non-ideological and apolitical. It is concerned exclusively with demonstrating the effectiveness or otherwise of specific interventions, in respect of clearly defined objectives. Its scientific status is guaranteed by the strict criteria of proof it demands for causal claims about policy interventions, most importantly the 'gold standard' of randomised controlled trials and meta-analysis of all major studies on a particular question (Hough 2010). Theoretically sound, empirically sophisticated research ought to be devoid of partisan interests and have no committed to any particular set of political values. As an influential example of depoliticisation and technocracy (see Chapter 3), EBPM is concerned with means, not ends. It promotes generic public policy values (Stewart 2009) that are instrumental and methodological, rather than substantive. According to one sceptical account:

> 'For evidence-based policymaking, values, like naughty children, must be seen, but never heard: evidence-based policymaking is about what works rather than what you believe. It is about efficiency, effectiveness and economy in delivery, rather than ethics. Values are the messy things which have to be extracted to give good objective knowledge of what works.' (Parsons 2002: 54)

Given its organisational structure and the prominent role of experts within it, the Council can be thought of as a depoliticised, technocratic body with an underlying commitment to EBPM. Like independent investigations carried out by the PPO and coroners' inquests (see Chapter 6), the Council distances itself from the partisanship and ideological conflict of democratic politics. Its legitimacy derives from its expertise, which is compromised to the extent that it becomes embroiled in contentious policy debates. The pragmatic, problem-solving ethos of EBPM would seem to be particularly suitable in respect of deaths in custody, since there is a clear outcome to measure and a correspondingly simple way to evaluate policy success (Cartwright and Hardie 2012), namely by assessing whether the number and rate of deaths in custody decreased over a given period of time.

The high watermark of EBPM was during the late 1990s and early 2000s (Newman 2001: 69–72; Wells 2007), a period in which the New Labour Government declared that 'what counts is what works' (Cabinet Office 1999: 40). The guiding principles of this third way approach to policymaking have since been built into the practices of many public bodies, including the Council. The 'how to' guides on EBPM note that this approach is most likely to succeed when there is strong causal evidence of the effectiveness of a particular policy, alongside the presence of a range of contextual supporting factors (Cartwright and Hardie 2012).

Its basic appeal is twofold. Negatively, it claims to avoid the value-laden, ideological aspects of politics, since EBPM is predicated on a critique of adversarial democratic politics as practised in competitive, two-party systems like the UK and USA. EBPM thus purports to transcend

ideology and bypass the entrenched element of conflict in democratic politics. More positively, EBPM supporters can cite numerous examples of research-led government initiatives and social interventions that have demonstrably improved people's lives, often in areas like finance, health and education (e.g. Banerjee and Duflo 2012). EBPM is thus a technocratic movement founded on a conception of knowledge as power and an unstated preference for top-down, centralised political decision making (Cairney 2015). It is a 'framework of instrumental rationality [which] abstracts the process of policymaking from its political, normative and organizational context' (Sanderson 2004: 368).

EBPM has some intuitively appealing features in certain contexts. It seems to be a pragmatic, enlightened way of using knowledge in the service of human flourishing. After all, who would *not* want political decisions to be based on evidence, and surely it is sensible to consider whether an intervention will work before deciding to pursue it using public funds (Bulmer *et al* 2007: 87)? On contentious subjects, EBPM promises to cut through divisive arguments and complex deliberative processes, providing a clear and direct way to exercise power and rule.

But EBPM has not proved to be as successful as its supporters might have hoped in respect of penal policy. In the case of the Council, it has no shortage of research evidence about deaths in custody (see National Institute for Clinical Excellence 2019). Since its creation, it has commissioned original research by academics, accessed and analysed large datasets on deaths in custody, and has consulted with networks of experts and practitioners (Independent Advisory Panel 2015). Moreover, there is a pre-existing body of international research on suicide in prison for it to learn from, including high quality studies that evaluate the effectiveness of particular policies and risk management interventions (Konrad *et al* 2007; Pratt 2015; Marzano *et al* 2016; Zalsman 2016). There is an abundance of evidence on which to base policymaking, but there would appear to be a disconnect between its two eponymous elements. Kevin, who had professional

experience both in policy work and academic research, argued that there were diminishing marginal returns with an ever-greater quantity of evidence on this topic:

> 'At a recent conference, I concluded the paper – a study of 2,000 prison suicides – I said, "Look, we *do not* need any more research. I do not think we need to do *any* more research on suicide in prison." I really don't. I think we know plenty. I think our problem is what we do about what we know.' (Kevin, the Council)

As Kevin suggests, the truly difficult problem is not understanding why deaths in custody occur or what ought to happen to prevent them. The challenge is about how to incorporate this body of knowledge into existing political arrangements of collective decision making. In general, penal policy is an area where EBPM is difficult to implement, both in principle and in practice (Bulmer *et al* 2007: 99). As scholars have long noted, criminal justice is a heavily politicised, contentious area of public policy (Naughton 2005; Monaghan 2010) that speaks to deep-seated questions of morality, identity and security (Loader and Sparks 2016). Moreover, there is a great deal of pre-existing 'folk knowledge' and 'common sense' about crime and punishment, which makes these issues culturally resonant and politically perilous (Tilley and Laycock 2000). For political elites, public opinion and media reaction are highly significant factors that they cannot simply wish away. Moreover, for EBPM to be effective, there must be clear incentives for political actors to use evidence-based analysis and heed its advice (Head 2010: 81), and in penal policy such incentives are not readily apparent. Finally, causal mechanisms in criminal justice and penal policy must work through human behaviour, which is not entirely predictable nor scientific (Maruna and Barber 2011).

It might be thought, however, that when it comes to a subject as serious as deaths in custody – literally a matter of life and death – that policymaking could be conducted in a more rational, dispassionate manner, informed by evidence and guided by proof of what works. This is the essence of the argument in favour of EBPM: where there are clear goals that all (or the vast

majority of people) agree on, then governments should seek the advice of experts, who can instruct them on how to make the 'right' decision. But even on matters of life and death, the challenges of penal reform do not disappear. Despite professing to stand outside of politics, those who call for EBPM are, ironically, making highly contentious political claims about how scarce resources should be rationed (e.g. Harrison 1998) and how collective decisions ought to be made. Indeed, the more we examine the premises and assumptions of EBPM as a concept, and the greater attention we pay to the historical context of its emergence, the clearer it becomes that EBPM is itself a political project, albeit one that purports to get around the 'undesirable' aspects of politics like interests and ideology (Shapiro 1999; Loader 2010). As Gerry Stoker and Mark Evans observe, '[V]alues matter in the policy process. The 'what works' rhetoric can imply that choices are entirely technical but nothing could be further from reality in democratic policy making' (2016: 21).

Conclusion

In this final empirical chapter, I have explored policy responses to deaths in custody, which offers the starkest illustration of how politics shapes what happens in the penal system. Analysing policy requires us to look at the bigger picture and recognise the complexity of the wicked problems that policymakers confront, the reality of modern governance, the street-level bureaucracy of custodial institutions, the fractured nature of the penal state, and the limits of technocratic approaches to penal policymaking, in particular EBPM.

The policy level is full of irony and contradiction. At first blush, since the actors and institutions of the state are political elites, we may assume that they have the power to affect change on a scale that no single establishment could, let alone individual custody officers working on the wings. But as I have argued, wicked problems like crime and punishment resist centralised government intervention by virtue of their intractability and complexity, and because of the contestation and polarisation they inspire. Moreover, the more closely we look at the penal state,

the clearer it becomes that it is an unwieldy, complex arrangement of different actors and institutions that must reconcile competing values, interests and purposes. The penal state is pluralist configuration with many inbuilt constraints, not an omnipotent monolith that can be pulled in a single direction in pursuit of an isolated outcome, in this case reducing deaths in custody. For these reasons, EBPM has only superficial allure. A model of knowledge as power and 'non-ideological', centralised decision making is not possible to implement in a policy area as contentious as prisons. In politics, as in wicked problems, things come together, entangled and inseparable, which places limits on what collective action can do to improve people's lives, including those of prisoners.

Chapter 8

The Dilemma of Pain, Power and Purpose

Whenever I arrived at Brook House IRC, I read the text displayed near the entrance and studied the signs on the interior walls. There was not much to look at, with the exception of a multilingual welcome sign, some security notices, and a set of posters declaring G4S's corporate values. When inside, however, one sign always captured my attention. [15] In the 'sterile area' – the name for the courtyard that connects the gatehouse to the main part of the detention centre – there was a large poster emblazoned with the G4S logo. The text on it was prominent and bold. It read, 'We are just one big family here, whoever we are'. These words were attributed to 'Alvin', a 'former resident' of Brook House. Alvin, I was later told, had been detained in Brook House following his prison sentence, which he served for robbing a G4S van.

The physical prominence of the sign was striking, as was the message it conveyed. It implied that unity, kinship and equality were the watchwords of the institution, much as a school motto might extol the virtues of learning or a courthouse might display symbols of equal justice through the rule of law. Rather than draw attention to division, otherness and injustice, the sign suggested that Brook House was a fundamentally benign institution that treated its 'residents' – not 'detainees' – well. The absurdity of the message was obvious. An IRC is not, of course, a family. In fact, given how often detainees described to me the pain of separation from their partners and children, the very suggestion was insensitive. The phrase 'whoever we are' hinted vaguely at principles of tolerance and diversity, a rather jarring notion for an institution that exclusively incarcerates foreign nationals, almost all of whom are ethnic and racial minorities, in Category B prison conditions.

[15] During a later visit in June 2019, I noticed that the sign had been removed, hence my use of the past tense.

Irony was clearly not Brook House's strong suit. But that does not mean these words should simply be dismissed as meaningless corporate spin. In fact, they encapsulated a prominent, troubling myth about immigration detention that staff of all levels propagated. Although from the outside the myth sounds implausible, inside it was repeated so often that it took on a truth of its own. In this final chapter, I consider the meaning and implications of this myth, and argue that it illustrates a fundamental dilemma about modern punishment, which is the the dilemma of pain, power and purpose.

At its simplest, the myth is that custodial sites like Brook House 'care for' and 'help' the captive population. Their function is to look after people and address detainees' welfare needs while the Home Office deals with their case. Despite the physical resemblance to prison, immigration detention is not punishment. Rather, it is an interim form of assistance for people in a difficult situation. Regrettably, detention can be prolonged because of government bureaucracy or legal complexities, but there is nothing intrinsically wrong with detaining foreign nationals in prison conditions. In short, the myth of care and welfare implicitly denies that there is anything contentious or controversial about incarcerating people on grounds of citizenship. The presence of a welfare unit, on-site healthcare, a gym, education classes, a library, computer suites and other recreational facilities is all evidence of the centrality of care, not custody. The myth recasts the relationship between the state and detainees as a consensual, fair one. Discourses of help and assistance portray custodial institutions as cooperative environments where different people's interests are aligned unproblematically. The myth is therefore predicated on a normative, aspirational claim about the *purpose* of the institution, not a factual one about its practices. It is an internalist justification that does not recognise the function of immigration detention within the larger external system of border control.

Myths like this can be analysed through a Marxist lens as an example of 'ideology' in action (Freeden 2003a: 12–30). Ideology, in the critical sense, lays bare the techniques used by powerful

actors and institutions to legitimate their domination of subordinate groups. In the same way that a *camera obscura* distorts our vision, ideology presents an unjust world as natural, inevitable and uncontestable (Eagleton 1991). Ideological myths are therefore a way of deflecting criticism and shoring up existing institutional arrangements. Vested interests and unfair privileges are articulated in the 'language of universal right' (Garland 1990: 112), which 'papers over the real conflicts in society, making what is artificial and coerced appear natural and free' (Festenstein and Kenny 2005: 8). To analyse ideology, then, is to reflect on 'the ways in which meaning serves to establish and sustain relations of domination' (Thompson 1990: 56).

Reading the myth of care and welfare in this way chimes with detainees' accounts of their situation. Men in Brook House made it clear that their interests were at odds with those of the institution detaining them. They did not feel part of 'one big family', nor did they describe being 'cared for' or 'looked after'. They consistently articulated their anger and profound frustration at the UK government for authorising their incarceration, and their testimonies expressed a fundamental dynamic of conflict between themselves and the state. As an observational finding from my fieldwork, we might say that the myth is an interesting detail, but not necessarily an insight of any fundamental importance. There is, however, a broader, more theoretical way of interpretating this myth that can help explain some of the underlying contradictions of modern custodial institutions, and it is these opposing forces that I want to draw attention to in this final chapter.

Put simply, IRCs like Brook House tend to foreground their *purposes*, while concealing the *pain* they cause and denying the *power* they use to coerce and control people. The relationship between pain, power and purposes is complicated, but what matters is that they are in tension with each other. Crucially, pain and power are *necessary* conditions of state custody. They are requirements of coercive systems like immigration detention and imprisonment, not merely incidental features of them. Purposes, by way of contrast, are far more contingent and variable.

There is no logical limit to how many purposes an institution can claim to serve, and it is possible to assert these even if they are in tension with, or flatly contradict, existing practices. Although the adverse effects of state custody are plain to see, institutions themselves declare that their purpose is to protect people, not to cause them harm.

Whereas pain and power are properties of whole systems and institutions, purposes are often articulated by individuals, who emphasise their good intentions and sincere commitment to assist the people they encounter at work. IRCs thus represent themselves as places of care and decency, with dedicated staff working in a dynamic, secure environment. Employees draw attention to all the goods and services that captive populations can access, all the ways that a seemingly austere site is in fact permissive and relaxed. They see it as their purpose to limit the pain of punishment, and through interactions with detainees to humanise the exercise of impersonal sovereign power. Purposes thus minimise pain and power.

A similar form of legitimation is apparent in the way that modern prisons represent themselves. The 'civilising process' of penal reform (Pratt 2002), as articulated by the sanitised language of new public management (Bennett 2016), has meant that contemporary prisons are construed as rationalised, bureaucratic public services (Cheliotis 2006). They emphasise instrumental goals like efficiency and value for money (Garland 1997b), both aims which are internal to the penal system and have few broader social referents (Brownlee 2005: 325). To the extent that prisons promote non-instrumental values, these are typically expressed as decency, legitimacy and professionalism (see Liebling and Crewe 2012), none of which speaks to wider ambitions to change individuals' lives nor to any broader conception of a just society. Imprisonment is increasingly legitimated without any reference to its core punitive function.

One of the ironies of modern custodial institutions, then, is how little they profess to punish those they detain. Traditional notions of firm discipline and moral reform have been lost, as to a large extent have physical brutality and other overtly punitive practices. In their place have

arisen the decency agenda, risk management and decision making based on impersonal bureaucratic structures of authority (Crewe 2011a). All of which makes the daily experience of confinement disorienting and difficult to interpret (Bosworth 2014). Purposes that staff regularly assert seem to be at odds with fundamental features of custodial institutions. Their values and aspirations seem inconsistent with their practices and effects.

At the level of daily administration and operational practice, the core functions of punishment – containing and managing a population in tough conditions – remain intact. Prisons and IRCs are still painful, powerful institutions, as reflected in their physical design, their coercive powers and staff's underlying right to use force to ensure behavioural compliance. Many local prisons, in particular, are dilapidated and dirty, spaces of neglect whose very architecture is painful (Hancock and Jewkes 2011; Moran and Jewkes 2015). These establishments are often over-crowded and under-resourced, as well as being cramped, loud and intimidating environments, none of which is conducive to healthy, trusting staff-prisoner relationships. For many prisoners, they spend the vast majority of their time locked inside their cell, unable to work, attend classes or complete courses. Knowing that harsh penal policy is unlikely to cure many social ills, Nils Christie describes punishing crime as 'an equally clumsy answer in the form of a spoonful of pain' (1981: 11). Were prisons and IRCs to acknowledge pain and power more openly, we would have relatively little trouble understanding what they are for and how they work. It is when the basic aim of punishing individuals is overlaid with claims to care for them, to address their needs and promote their welfare, that sources of tension and contradiction become apparent.

In my interviews with Brook House employees, managers were aware of the dilemma of pain, power and purpose. Partly, this reflected their awareness of what the centre was for. Although they spoke in general terms about concepts like care, needs and vulnerability, their seniority within the organisation left them in no doubt about Home Office priorities and the function of immigration detention within 'the removal process'. During our interview, manager James

compared Brook House to other custodial environments he had worked in. 'Professional development' had originally drawn him to his job in detention, but he had some misgivings about joining Brook House. He could not pretend to be ignorant of the pain that detainees experience, and the power of the Home Office to detain and expel foreign nationals. He described the workings of immigration control thus:

> 'Really the function here is to look after people safely while their immigration case is being progressed and then ultimately to assist with their removal from the country. So it is a bit kind of harder-nosed in terms of the function. […] So I had to get my head around the value-based issue for me. Where I get my value from was not from rehabilitating [people] anymore but was from making sure that we deliver a contract with the Home Office in a humane and caring, safe way. So that's really where I had to shift my motivation to work with this kind of client group. I found it to be a very challenging experience, actually. […] [We have] a clientele that are in very desperate situations, certainly that is their felt experience. It's desperate in some ways. Desperate not to be removed, desperate to find an outcome to their case, and that drives behaviours sometimes that are quite extreme.'

James' testimony captures the dilemma of pain, power and purpose vividly, and does so at the level of an individual employee who wants to act ethically, but does not want to acknowledge his institution's role within a painful, powerful system. Tellingly, his reference to a 'harder-nosed […] function' is soon counteracted by his idealised account of delivering 'a humane and caring, safe' contract. He is aware that the basic function of sites like detention centres is to contain and manage a 'desperate' population, and he knows that holding them in custody is at odds with their basic interests. But this fundamental element of conflict and division is too raw, and so it must be reframed in terms of cooperation and consent. Claire, a fellow manager, provided a more pessimistic account of the intrinsic difficulties of running an institution like Brook House:

> 'I normally describe Brook House as built like a prison, prison wing style accommodation, holding nearly 500 adult men of any nationality that you could possibly name on a day. Some of them have been here for a very long time, some of them get very frustrated. There are days when there can be incidents of violence, assaults, fights, self-harm. There are kind of underlying cultural issues that can cause problems at any given time. So it's really…It feels sometimes like a bit of a melting pot of just lots of people who are very frustrated with their situations and don't want to be here.'

There was a clear difference between how more senior staff spoke about Brook House and the testimonies of those who interacted with detainees as part of their working routine. Those who worked on the wings and in other services tended to minimise the functions and effects of custody, and instead provided a more constructive, purposeful account of what they do and why. They expressed a sincere commitment to treat detainees with decency and respect. When they spoke about job satisfaction, they tended to cite examples of meaningful human interactions with detainees, or told me about times when they were able to assist someone in a difficult situation, if only in a small way. Working in immigration detention meant that they were surrounded by pain and suffering on a daily basis (Bosworth 2019), but they were motivated to limit people's misery, or at least render it tolerable. Detention staff felt themselves caught between the principle of care and the reality of custody, so tried as far as possible to prioritise the former. The discourse of welfare and assistance was expressed most clearly by manager Rahim:

> 'Come to work because you enjoy working and you enjoy serving the detainees, cos primarily that's what we're here for. We are only here to look after the detainees. Yes, obviously there's a money aspect to it etc. etc. But I think you should come in here and work wholeheartedly, making sure when you leave at the

end of the day you are happy with yourself that I've actually helped someone to do something positive in their life. That's how I see it.'

As noted in Chapter 5, staff in Brook House consistently expressed confusion and ambivalence about their role as custody officers and managers. They were many things at once, with no single status that applied to all situations: part security, part welfare; emasculated prison officer and untrained social worker; the only people who routinely interacted with detainees, yet little more than a go-between who pointed detainees towards other services (e.g. welfare, healthcare, solicitors, Home Office caseworkers, the charity Bail for Immigration Detainees). Working in an institution with no intrinsic purpose, only the instrumental one of facilitating deportation, custodial staff in Brook House constructed a range of professional values and struggled to articulate a clear institutional identity (Bosworth and Slade 2014). Just as detainees were distinctly powerless and bewildered by the immigration system, staff too felt an acute lack of power and could not understand decisions being made by the Home Office.

Leaving the centre after my final day of fieldwork, I felt distinctly ambivalent about what I had witnessed during my time there. All of my conversations with detained men had revolved around their hardship and suffering, which reinforced the centrality of pain in custody. One of the last scenes I saw was a mother and child walking through the rainy 'sterile area' after a visit. The sight of a little girl in a pink hoodie laughing as her mum swung her over a puddle was particularly poignant, bringing home the consequences of custody even for those who are ostensibly free (Comfort 2008; Condry and Smith 2018). I looked at the sign again. 'We are just one big family here, whoever we are'.

Although I was in no doubt about the negative effects Brook House had on many people, I was also sure that the majority of staff I had met were not bad people. Indeed, many of them worked hard at an unrewarding job, and did so in conditions that were often genuinely challenging. It was hard to reconcile the corrosive effects of the institution with the fact that those working in

it by and large did not intend anyone harm. Several weeks after I left Brook House, as I began to distance myself from the intense particularity of life inside a coercive site, I remembered an observation made by an elite figure I had interviewed several months earlier. In my conversation with Michael, a civil servant who knew both the detention and prison estates well, he stressed the importance of understanding how entire systems of state custody work, and cautioned against fixating on individual actors within them. Speaking of the various public scandals that have brought IRCs into the limelight, he explained:

> 'The problems weren't really created by the people in the detention centres, they were created by the people detaining. […] To understand the problem you need to take a broad view of how the system as a whole is operating, rather than look very narrowly at individual behaviours, either of staff or of detainees.'

By focusing on the political dynamics of criminal justice and migration control, rather than the intentions and actions of individual employees who administer them, we can analyse prisons and IRCs more clearly. Ultimately, prisons and immigration detention centres are not designed to 'help' or 'care for' the people inside them. The purposes they declare are always constrained by the fact that they necessarily inflict pain on their populations and exercise various forms of power over them. Individual members of staff may treat their 'clientele' well, and systems may be created to mitigate the pains of confinement, but these are not the central concern of states when they build coercive institutions, brick by shameful brick (Stern 1989). Functionally, IRCs are places of punishment and social exclusion, much like prisons (Carlen 1994). They are geared towards the identification, classification and expulsion of non-members (Bosworth 2014). What this means is that they operate according to a social and political logic that is fundamentally exclusionary and conflictual, rather than inclusive and consensual (Aas and Bosworth 2013; Barker 2013a). If we recognise the basic function and effects of detaining people in prison conditions, it is little surprise that Brook House detainees felt so disempowered and degraded.

These are not parochial observations with no broader relevance to the study of punishment. The personal feelings of custodial staff speak to an underlying source of tension in modern penal institutions, and we ought to think through these contradictions when we theorise punishment more broadly. There is a fundamental conflict between pain, power and purpose in custody, whether that is an immigration detention centre, a prison or any other coercive institution. These three factors all pull in different directions, and their consequences play out at multiple different levels. The dilemma of pain, power and purpose manifests itself most acutely inside penal establishments, as I have noted above, but the problem also filters outside of them and into the broader politics of imprisonment and immigration detention. Within individual establishments, it helps to explain the incoherence and ambivalence that staff feel about their work, especially their attitudes towards self-harm and suicidal behaviours. In the aftermath of deaths in custody, these three factors make it difficult for investigations by external regulatory bodies to provide a far-reaching critique of punishment, which means that they do not capture the full significance of suicides in state institutions. Finally, from a policy perspective, attempts to reform punishment and make custody safer are hampered by the core assumption of penal policy that, whatever the purpose of detaining or imprisoning people, institutions must remain painful and powerful. The dilemma runs deep, and it can be detected at every level of analysis, from the local life of a single institution all the way through to the national politics of criminal justice and migration control.

Theorising Punishment

> 'Elegance remains, I suppose, a general scientific ideal; but in the social sciences, it is very often in departures from that ideal that truly creative developments occur. Scientific advancement commonly consists in a progressive complication of what once seemed a beautifully simple set of notions but now seems an unbearably simplistic one.' (Geertz 1973: 33)

A great deal of writing about punishment is highly theoretical, worlds apart from the brick and mortar of actually existing penal institutions. Writing in this tradition conceives of its subject matter as a single phenomenon that can be defined in the abstract, then subjects it to general philosophical analysis. Punishment is typically defined as a sanction [16] that is experienced as unpleasant or painful, imposed by a recognised legal authority, against an individual for conduct that violates the criminal law (e.g. Hart 1968; Matravers 2016). The essential components of punishment, then, are legally sanctioned hard treatment for culpable wrongdoing. Scholars in moral philosophy and jurisprudence have devoted much of their time to asking whether punishment, defined in these terms, can be justified (e.g. Boonin 2012; Zaibert 2018). The question of justification is posed succinctly by Nicola Lacey when she asks, 'By what moral alchemy does the *prima facie* wrong of punishment following on the wrong of the offence create a morally preferable situation? Why should an offence alone generate a moral reason for punitive action?' (1988: 22)

Punishment, viewed in this way, is a philosophical puzzle. It represents an ethical dilemma for the liberal state, the sovereign entity tasked with enforcing the law while also protecting the rights of all citizens. When conceived of in such abstract terms, punishment neatly illustrates how individual rights can come into conflict under the social contract, and offers an interesting case study in applied ethics and practical legal reasoning. One striking feature of such work, however, is its lack of engagement with broader social and political questions, and how little it concerns itself with custodial institutions as they are used to imprison and detain over 10 million people worldwide (Walmsley 2018). To a large extent, penal theory banishes context and contingency in favour of abstraction and necessity. In principle, its arguments are equally relevant in Lichtenstein and Louisiana, because theory is that which floats above messy practical affairs and argues over

[16] The sanction writers have in mind is usually imprisonment, although this is often implicit rather than clearly stated.

questions of universal significance. In an early critique of such lofty philosophical discourse, David Garland argues:

> '[T]he philosophical mode of analysis marginalises the crucial and substantive issue of actual *means* used to exercise that "right" [to punish]. The specific sanctions, apparatuses, techniques, and practices of penality disappear from the analysis in favour of an abstract and general discussion of "justice" and its requirements. Penality is reduced to an abstract and negative entity – "an evil", "an unpleasantness", "an ill", or quite simply, "pain". […] Unfortunately, social institutions such as penal sanctions find it difficult to confine themselves to the realm of philosophical negativity. They insist on materiality, substance, and positive significance. They involve definite techniques, practices, knowledges, objectives, and ideologies, all of which carry definite social and political implications and clearly require to be evaluated, criticised, or justified in a detailed and concrete manner.' (1983: 82)

Punishment, as Garland implies, cannot be reduced to a philosophical proposition or to a formal definition. To engage with punishment only at the abstract level of what it *ought* to be is to mischaracterise it and neglect some of its most important qualities. The decision to inflict suffering and hardship on rule-breakers does indeed raise many difficult normative questions that philosophers and jurists can cast light on. However, throughout my thesis I have theorised punishment as a social and political institution, as informed by punishment and society scholarship, the politics of criminal justice and migration control, as well as empirical studies of prisons, immigration detention centres and other coercive institutions (see Chapter 2). These bodies of literature do not always achieve the clarity of philosophical argument, but they succeed in demonstrating that state punishment is connected to several different layers of social reality at once.

There is no single vantage point that allows us to view prisons and IRCs in their entirety or in their purest form. At most, we can attempt to piece together their component parts with theoretical reflection and careful empirical study. To do this requires us to recognise that theory and practice are equally foundational elements of social research, not separate intellectual labours. The philosopher Onora O'Neill, writing on the concepts of rights and responsibilities in bioethics, provides a helpful analogy for conceptualising the interdependence of theory and practice:

> 'We might choose to describe a chessboard either as a white ground with black squares on it, or as a black ground with white squares on it. Neither the white nor the black squares are more fundamental to a chequerboard pattern. Rather they form, limit, indeed constitute one another. It would be absurd to ask whether the black or the white squares of a chequerboard pattern are more fundamental.' (2002: 80)

To research prisons and detention centres is partly to ask what they are for, as in the philosophical tradition of the justifications of punishment. However, the interpretation of what an institution is 'for' and what it 'does' ought to be broad and capacious, as informed by the whole spectrum of social scientific knowledge. Unless we provide empirically rich, detailed description of prisons and IRCs, we risk providing a highly stylised account of what these institutions are, which results in a superficial understanding of punishment. Analysis of punishment must therefore be prepared to look inside the four walls of custodial institutions, while also casting its gaze outwards to the worlds of politics and society. Philosophical debates about the justification, purpose or function of punishment are a good place to start our analysis, but it would be a mistake to end there.

How, then, should we theorise punishment? As set out in Chapters 2 and 3, prisons and IRCs of course respond to criminal wrongdoing and breaches of immigration rules at the individual level, but like any institution, they are also embedded in more complex social and political

arrangements that require our attention. In the broadest sense, institutions of punishment reflect and reinforce structures of social stratification and inequality, most notably those of gender, class and race; they are shaped by particular historical circumstances, political decision making and the local working cultures of administrators who work in them; penal outcomes are affected by the intentional actions of policymakers, interest groups and legal authorities, and more indirectly by popular discontents and media representations of crime and migration; the political economy of the relevant jurisdiction affects patterns of crime and punishment, just as resources and ideologies (e.g. welfarism, rehabilitation, incapacitation) directly affect what services are provided and what punishment entails in practice; they are influenced by citizens' moral beliefs, prevailing cultural sensibilities and particular high-profile events that draw attention to the workings (or failings) of the criminal justice system or border control; inside custody, particular regimes operate and working cultures prevail; the experience of custody is affected by the population that enters it, the material conditions they experience, relationships with staff, the availability of services and the constant negotiation of power relations. In sum, a fuller characterisation of punishment highlights the weaknesses of a purely philosophical approach.

One of the dangers of theorising punishment – either in the legal-philosophical mode or on the basis of empirical research – is the risk of essentialism. It is easy to identify *one* important aspect of prisons or detention centres, for instance, then proceed to treat it as *the* defining characteristic of the institution as a whole. Certain concepts seem so fundamental to punishment that they are particularly prone to being used in this way, but reductionism of this kind is always a mistake.

There is a clear temptation to see punishment entirely through the lens of power, control and authority, for example, given that punishment necessarily involves all of them to some degree as a formal expression of sovereign domination over rule-breakers (e.g. Foucault 1977; Johnston 2008). Similarly, given the populations found in places of punishment, questions related to

inequality and identity seem especially pressing if we are to understand social institutions that are gendered, racialised and marked by numerous forms of concentrated disadvantage (e.g. Bosworth and Carrabine 2001; Western 2006). Critical accounts of imprisonment and detention focus on the centrality of pain and suffering in custody (e.g. Scott 2008; Sim 2008), inviting us to challenge the institutions for the harm they cause to people and their adverse effects on human welfare (e.g. Scott 2013). Prison sociologists in England have been particularly taken by the concept of legitimacy (e.g. Sparks *et al* 1996), which is related to the quality of relationships in penal establishments, as well as their ability to secure order, gain prisoners' trust and treat inmates with decency and humanity (e.g. Liebling 2004). Viewed from the outside, we might be inclined to focus on the bureaucratic, rationalistic features of contemporary punishment (e.g. Cheliotis 2006), the social solidarity and populist rhetoric that supports punishment (e.g. Garland 2012), or the influence of political economy on patterns of punishment (e.g. Lacey 2008).

Each of these approaches has much to recommend it, but to analyse punishment as a single essence above all else is to construct a one-dimensional account of it that distorts its multi-faceted, pluralist character. Instead, we ought to think of punishment as a complex social and political institution, and approach it in a spirit of intellectual pluralism. Punishment is not solely a metaphysical abstraction or a moral problem for the liberal state. It is also people at work, independent bodies regulating an institution, and policymakers trying to affect change in prisons and detention centres, as my empirical material makes clear. Those with a capacious attitude are more likely to appreciate its multidimensional, complex character, and help provide insights that are genuinely new. Rather than force every aspect of this social and political practice into a single concept or category, we should strive to know many things about it at once.

Responses to Deaths in Custody

'I went to an afternoon meeting for all senior management and relevant managers about the charter flight tomorrow for Nigerian and Ghanaian nationals. They discussed a lot of issues. Who is on 'the manifest' (i.e. the list of people due to be deported)? Who do they think 'will walk' and who will 'put up a fight'? Have any of them refused to comply with 'removal directions' before or been disruptive on a plane? How many of them know they are going? How did those men respond to being told? When you spoke to them, were they on their own or with other people? How will they manage to move the detainees around the centre without creating a scene? How many people on the charter haven't yet arrived in the centre? (Some are coming from prison, some from other IRCs.) Is there enough space on the wings? Will there be lunch packs made for them? Can people please not mention where the flight is leaving from? What do we do about the 'high-risk' man who has said if he is deported he will (try to) kill himself? Do any of them have any health problems we need to know about? Are there any visits planned for the afternoon or evening? If any of them go onto the netting, will we have enough negotiators in? Have we already arranged for some overtime? Are there funds for that? Could we get an extra nurse in? In what order will we take them out? What time are the two coaches arriving? Do local police know what motorways we'll be using? How long is our window to get them out the door and onto the coaches? What do we do if the escorts show up late? Have they said how many staff they are bringing? Can we try to discharge them when everyone else is locked up? Can we please not use the term 'bang up' when we mean 'lock up'? This isn't a prison.'

(Brook House Fieldwork Diary, 26 June 2017)

Most of the meetings I attended during my fieldwork in Brook House were unremarkable. I was invited to sessions on a range of topics, including safer communities, violence reduction, and a monthly discussion of high-profile, high-risk detainees. The tone of these meetings was informal and relaxed. Much of the time, discussions were meandering. Staff made vague commitments to follow something up or look into an issue in greater detail, but by and large meetings seemed rather inconsequential. When it came to questions that were genuinely difficult, managerial language flowed freely: 'it's a process that we'll have to manage'; 'we'll just have to wait and see what the decision is'; 'we want to make sure that we're hitting our targets'. As is often the case in complex institutions, meetings rarely changed anything. A great deal of time was spent circling around unresolved problems or speculating about important decisions that had not yet been made. At most, these rituals kept staff aware of pressing issues in Brook House and reminded them of what they ought to be doing to keep the centre running smoothly. If all an observer had to go on was the content of these meetings, they might think that Brook House was a modern bureaucracy just like any other. In much of its day to day work, it gave the impression of being a benign, consensual institution committed to treating its service-users well.

The charter flight meeting was different. It was conducted in a highly pragmatic manner, animated by a clear sense of purpose and a shared desire to act decisively. Everyone in the room acknowledged the importance of the work and felt responsible for carrying it out properly. Between them, managers in the room had decades of collective experience managing detainees and carrying out forced removals. Their knowledge of the centre and its population allowed them to think through the minutiae of the operation, drawing on a wealth of institutional expertise that was at once impressive and sinister. Staff usually portrayed themselves as reflective practitioners who were aware of detainees' vulnerability and felt some measure of empathy for those who were stuck in a difficult situation. In the charter flight meeting, however, detainees were mere numbers in the game of removal targets.

The tone of the discussion was both strategic and operational, reminiscent of a military unit preparing for a high-risk engagement. Managers anticipated all manner of practical problems they might encounter and quickly came up with contingency plans. There were knowing nods whenever someone pointed out potential flaws in the preparations, a reflection of staff's familiarity with the processes involved and their awareness of the inherent dangers of forced removals in custody. Much of the time, Brook House was characterised by a pervasive sense of confusion and uncertainty, but the charter flight meeting was a rare moment of clarity. The discussion threw the core functions of immigration detention into sharp relief, while downplaying the adverse effects of coercive custody.

At several points in the charter flight meeting, managers mentioned self-harm and suicidal behaviour. As noted above, someone asked, 'What do we do about the 'high-risk' man who has said if he is deported he will (try to) kill himself? Do any of them have any health problems we need to know about?' Self-harm and suicide always posed a risk to the institution, but in this particular context these behaviours could prevent Brook House from carrying out its core function of facilitating deportation. As a result, self-harm and suicide were not thought of in a paradigm of care or welfare. There was no mention of the ACDT process, multidisciplinary teamwork or constant watches. Talking and listening were an afterthought. Off-handedly, managers were told, 'We're not gonna be having any in-depth conversations with men about how they're feeling about the prospect of removal'.

During fieldwork, I was often told that detainees' welfare and safety was paramount. Under normal circumstances, vulnerable men were offered support and encouraged to open up about their mental health, even if they were sometimes judged privately by staff for their 'childishness' or 'dependency'. As explained in Chapter 5, Brook House employees consistently emphasised the importance of talking and listening, and they were proud of having an embedded system of formal safeguards for at-risk detainees, including ACDT reviews and constant watches. Moreover, as set

out in Chapters 6 and 7, there are detailed processes and policies for staff to follow when dealing with suicidal people in custody, and several custody officers expressed their fear at the thought of ever appearing in a coroner's court with a death on their conscience. But when it came to deporting them – the very issue that was at the root of so much distress, uncertainty and anxiety – men's risk to themselves was merely one factor in a broader calculation about removal targets. In this context, the much-lauded notion of 'looking after' detainees during their 'stay' lost its central importance. When it came to deportation, the time for care and welfare, talking and listening, was over. Detention and expulsion were essentially matters that required action, not feeling. This was real work.

This excerpt from my field notes demonstrates how contextual responses to self-harm and suicide in custody are. Although custody officers and managers do not wish to see people die in their place of work, and acknowledging that many staff go to great lengths to help distressed people, it is not the case that suicide prevention work in custody is solely about providing care (Chapter 5). Just as prisons and IRCs are social and political institutions with many dimensions, so too are responses to deaths in custody more complex than simply addressing people's needs or managing their risk. Similarly, despite their inquisitorial form and preoccupation with rationality, facts and objectivity, death investigations are not merely neutral, fact-finding inquiries conducted by independent professionals (Chapter 6). Rather, they are a particular set of institutional arrangements designed to avoid conflict and circumvent difficult questions about what custodial institutions are for and how they should be run. Finally, at the policy level, efforts to make custody safer are not simply a matter of identifying a problem then solving it (Chapter 7). As useful as expert knowledge about the causes of suicide in custody is, to make prisons and IRCs safer it must be incorporated into existing structures of collective decision making and modern governance that are not strictly evidence-based.

The central argument of my thesis is that deaths in custody are in part a political problem, not simply an administrative challenge for individual institutions and their staff to manage. If we understand politics as purposeful collective action over public issues, which attempts to reconcile competing values and interests through peaceful means, then the treatment of vulnerable people in state custody is a highly political matter. When captive populations consistently harm themselves, attempt to end their lives or die by suicide, fundamental questions about prisons and IRCs arise. How much pain is tolerable in custody, and how much is too much? What role should different actors and institutions play in preventing and responding to suicide, and how can we hold them to account? Why do we detain and imprison so many people, and is any rationale strong enough to justify a system in which there is consistent evidence of severe suffering, up to and including death?

These are profoundly difficult questions that no amount of reason, evidence and independence can resolve, though they can inform political discussions. My empirical material suggests that there is an overriding imperative to *rationalise* the problem of pain in custody, to render it a technical question of knowledge and administration, rather than a political problem about collective action and the limits of suffering in coercive institutions. Although efforts to moderate and manage people's pain through rational systems are laudable in many ways, they do not capture what is so troubling about this issue. Suicidal behaviour in custody is subjective suffering made flesh. Hardship that is normally private and hidden is converted into public, objective pain (Chandler 2012; Chamberlen 2016). Any adequate response must therefore reckon with the deeply emotional, ethical and political character of this problem.

To do this requires us to acknowledge the fundamental truth that some problems have an ineradicable element of conflict, and that they cannot simply be managed away by rationality, facts and objectivity. Chantal Mouffe summarises her 'agonistic' approach to social and political theory by explaining that she 'denies the possibility of a non-adversarial democratic politics and criticizes

those who, by ignoring the dimension of "the political", reduce politics to a set of supposedly technical moves and neutral procedures' (2005: 34). Conflict and contestation are built into our collective life, and so they ought to be channelled through political institutions and practices, rather than denied or avoided.

A very different thinker, the liberal philosopher and historian of ideas Isaiah Berlin, wrote a great deal about the incommensurability of human values and the inevitable collision of different political ends. He understood the imperfections of social arrangements and acknowledged the contradictions of political life, capturing them beautifully in his essay on 'The Pursuit of the Ideal'. For a thesis about the ultimate human tragedy in institutions that are ultimately tragic, it is fitting to give the final word to him:

> 'The notion of the perfect whole, the ultimate solution, in which all good things coexist, seems to me to be not merely unattainable – that is a truism – but conceptually incoherent; I do not know what is meant by a harmony of this kind. Some among the Great Goods cannot live together. That is a conceptual truth. We are doomed to choose, and every choice may entail an irreparable loss. Happy are those who live under a discipline which they accept without question, who freely obey the orders of leaders, spiritual or temporal, whose word is fully accepted as unbreakable law; or those who have, by their own methods, arrived at clear and unshakeable convictions about what to do and what to be that brook no possible doubt. I can only say that those who rest on such comfortable beds of dogma are victims of forms of self-induced myopia, blinkers that may make for contentment, but not for understanding of what it is to be human.' (2013: 11)

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