

Chapter 5

Ethical Principles for Vulnerable Australian Aboriginal and Torres Strait Islander People in the Criminal Justice System

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ABSTRACT

Australian Aboriginal and Torres Strait Islander people are over-represented and have higher rates of incarceration compared to non-Aboriginal people. They are more vulnerable in terms of being exploited and oppressed when interacting with institutions such as prisons. This chapter identifies several key ethical principles which constitute an Indigenous research paradigm. The paradigm guides researchers when working with and not on Indigenous people. The proposed paradigm is couched in a case study and describes how the key principles were applied in a research study with former prisoners and family members in two remote Aboriginal communities in Northern Australia.

INTRODUCTION

This chapter provides a self-reflexive account of my research in working with Australian Aboriginal and Torres Strait (Indigenous) people who are perceived as vulnerable due to their interactions with the criminal justice system. Prisoners are

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considered a vulnerable population due to poor health, alcohol and drug use and a propensity for re-offending. They also are more likely to be homeless, unemployed, have lower levels of education and suffer from trauma (Weatherburn & Holmes, 2010). The chapter describes how my research with Indigenous people has been guided by a set of ethical principles which underpin an Indigenous research paradigm that has aided me in successfully working with Indigenous communities to produce outcomes which have had a positive impact on their lives. The chapter has three aims:

1. To identify the key ethical principles which constitute Indigenous research and have the potential to transform and empower vulnerable Aboriginal and Torres Strait Islander people.
2. To illustrate how the adoption of this paradigm elevates the voices of marginalized people which have traditionally been silenced and dis-empowered due to their interactions with powerful institutions such as police, courts and prisons in the Queensland criminal justice system.
3. To provide a reflective account based on my lived experiences as a researcher who has successfully worked with Aboriginal and Torres Strait Islander communities through the application of the ethical principles which together constitute an Indigenous research paradigm.

The structure of the chapter initially describes the current problem, commonly known as the “over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system” (Weatherburn & Holmes, 2010, p.30). The provision of current statistics from the Closing the Gap Report (2023) includes a comparison of incarceration rates between Indigenous and non-Indigenous people and highlights the need for alternative approaches to address this problem. This is followed by a review of some of the criminological literature which highlights the risk factors that contribute to the over-representation problem. It will also be argued that Indigenous people who have been incarcerated in prisons should be seen as at risk and vulnerable in terms of being the subjects of institutional violence, the victims of mental health issues and face reduced opportunities for successfully reintegrating back to their community’s post-prison.

The chapter then turns to a description of two remote communities in Queensland, Australia to provide context for the research conducted at each site. Following this the key ethical principles will be presented and how they guided this research to empower Indigenous people in addressing the problem of crime and recidivism in their respective communities.

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