

Commission on Sex in Prison



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Experiences of former prisoners

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A report for the Howard League's Commission on Sex in Prison by Dr Alisa Stevens,
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the Howard League for Penal Reform

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Executive summary

Of course people have sex in prison. Why wouldn't they? We're still human beings. Those feelings don't go away just because you're banged up. (Ryan)

In England and Wales, there has been minimal research into consensual and coercive sex in prison. In order to begin to address this knowledge gap, the Howard League for Penal Reform established an independent Commission on Sex in Prison, comprising eminent academics, former and serving prison governors, lawyers, former prisoners and health experts. Over two years, the Commission received written and oral evidence from voluntary and statutory agencies, prison staff, and serving and former prisoners on all aspects of sexual activity in prison and the healthy sexual development of children. Previous briefing papers have documented this evidence. This final briefing paper reports findings from interviews conducted with 26 former prisoners during the summer of 2014.

Former prisoners no longer under the supervision of the National Offender Management Service (NOMS) were invited to contact the Commission's academic consultant if they would be interested in being interviewed about 'their knowledge about or personal experience of sexual activity in prison' or 'if your experience is that sex between prisoners or with staff does not happen in prison.' People who contacted the researcher were motivated to discuss their own experiences and/or their knowledge of sexual activity among other prisoners; often with the stated intention of raising awareness of the reality of sex in prison and the health implications for those participating in unsafe sex and their sexual partners.

Research aims

To supplement the evidence gathered by the Commission on Sex in Prison, the aim of the primary research was to learn from former prisoners about their perspectives, experiences, and knowledge of consensual or non-consensual sexual activity and sexuality in prisons in England and Wales.

Key findings

- Nearly all interviewees managed their sexual needs in prison either wholly or partially through masturbation
- Eight male interviewees, seven of whom described their sexuality as either gay or bisexual, had had consensual sex with other male prisoners. While these seven interviewees had been open about their sexuality in prison, they conducted their sexual activities and relationships discreetly
- Some men who self-identified as heterosexual participated in same-sex activity but did not acknowledge this. Heterosexual men who engage in sexual activity with men 'out of necessity' do not perceive that this affects or alters their sexual identity
- The availability of condoms varied considerably between prisons
- Interviewees perceived that prison officers were sometimes aware of sexual activity but exercised their discretion not to intervene
- Most interviewees thought that coercive sex rarely occurs in British prisons. Three male interviewees disclosed they had been raped in prison by other prisoners, and none of these rapes were officially reported. Rape in prison is certain to be significantly under reported
- Some male prisoners had been known to trade sex in return for drugs, tobacco, food, or other valuable commodities.

Recommendations

- Coherently formulated and consistently applied policies, which recognise and respond to the reality of consensual and coercive sex in prison, are urgently needed. These must be set within a clear and concise ethical and operational framework which prioritises the protection of prisoners vulnerable to coerced sexual activity or unsafe sexual practice, and results in instructions to staff which are practical and enforceable
- Prisoners should receive equivalent healthcare services to those available in the community and NOMS should ensure that prisoners have easy and confidential access to condoms and other forms of protection against sexually transmitted infections (STIs)
- Prison staff need training and clear guidance on how to respond appropriately to consensual sexual activity and how to pro-actively prevent, detect, and respond to allegations and incidents of sexual assault
- To understand better the extent of the scale of consensual and coercive sex in prison, and the issues arising from sexual activity in prison, a national, statistically representative survey of both the serving prison population and of former prisoners, eliciting quantitative and qualitative data, and fully supported by but independent of NOMS, is urgently required.

Commissioners

Chris Sheffield OBE, (Chair) senior advisor to Salford University Centre for Prison Studies and former prison governor

Michael Amherst, a Director of Just Detention International

Marc Bealls, former prisoner

Deborah Cowley, former Director of Action for Prisoners' Families

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1. Introduction

In the United States, there exists a significant body of scholarship on sex and sexualities behind bars (Hensley, 2002; Kunzel, 2008), and since 2007 the Bureau of Justice Statistics has conducted an annual statistical review and analysis of the incidents and effects of prison rape, which currently surveys not less than 10 per cent of all prisons. By contrast, in England and Wales, there has been minimal research into consensual and coercive sex in prison. In order to begin to address this knowledge gap, the Howard League for Penal Reform established an independent Commission on Sex in Prison, comprising eminent academics, former and serving prison governors, lawyers, former prisoners and health experts. Over two years, the Commission received written and oral evidence from voluntary and statutory agencies, prison staff, and serving and former prisoners on all aspects of sexual activity in prison and the healthy sexual development of children. Previous briefing papers have documented this evidence. This fifth and final briefing paper reports findings from interviews conducted with 26 former prisoners.

Research aims

To supplement the evidence gathered by the Commission on Sex in Prison, the aim of the primary research was to learn from former prisoners about their perspectives, experiences, and knowledge of consensual or non-consensual sexual activity and sexuality in prisons in England and Wales. This was achieved by conducting confidential, qualitative semi-structured interviews with participants who responded to an advert placed with two criminal justice charities.

This report is therefore based on a small, qualitative study, involving a non-random sample of people who contacted the researcher in order to discuss their personal or vicarious knowledge of sexual activity in prison. However, the research confirms other evidence amassed by the Commission on the Sex in Prison and earlier (albeit extremely limited) British academic research, that a minority of prisoners in England and Wales will experience consensual and/or coercive sex in prison.

2. Methodology

Permission to conduct research with serving prisoners was refused by the National Offender Management Service (NOMS), the government agency responsible for prisons and probation services in England and Wales. In the spring of 2014, an advert was placed with two criminal justice charities. One charity sent an electronic mailshot to its entire membership, while the second charity placed the advert in an edition of its quarterly magazine, freely available on its website. The advert invited former prisoners no longer under the supervision of NOMS to contact the Commission's academic consultant, a criminologist, if they would be interested in being interviewed about 'their knowledge about or personal experience of sexual activity in prison' or 'if your experience is that sex between prisoners or with staff does not happen in prison.' The project was approved by the researcher's University Research Ethics and Governance Committee and by the Howard League for Penal Reform Research Committee.

Thirty-seven people contacted the researcher, mostly as a direct result of the adverts, and were informed of the nature of the study and reassured of their rights to confidentiality. Seven people chose not to proceed to interview, and four were ineligible for inclusion in the study. Of the remaining 26 interviewees, 24 were men. Twenty interviews were conducted by telephone, and six in person. The interviews lasted between 20 to 100 minutes, with an average time of 45 minutes. With participants' consent, interviews were recorded, and the transcripts analysed thematically. Where names are attributed to quotes, these are pseudonyms.

Interviewees had been imprisoned for a wide range of offences. Forty-two per cent of the sample had served sentences (primarily or wholly) for sexual offences against children and/or adults; 31 per cent for (non-fatal) violent offences, sometimes including the use of firearms; 15 per cent for property and acquisitive offences, such as burglary and theft; and 12 per cent for the possession, supply, and/or importation of drugs. Nearly all had completed their sentences within the last decade. Time served for concurrent sentences ranged from three months to 13 years, with a mean of 53.8 months. Most interviewees therefore had significant experience of imprisonment, at a number of different institutions across the penal estate, from high security to open prisons. Eleven interviewees had served their sentence primarily on a Vulnerable Prisoner Unit (VPU) and/or in a prison largely or exclusively for convicted sexual offenders. (VPUs hold sexual offenders but also prisoners whose personality or mental health problems, unpaid debts, previous criminal justice occupation, gang affiliation, or reputation as an informant renders them 'vulnerable'.) Eighteen interviewees self-identified as heterosexual, four as gay, and four as bisexual.

The research findings are thus drawn from a small, non-random sample. People who contacted the researcher were motivated to discuss their own experiences and/or their knowledge of sexual activity among other prisoners; often with the stated intention of raising awareness of the reality of sex in prison and the health implications for those participating in unsafe sex and their sexual partners. It can be assumed that the vast majority of people who became aware of the research chose not to respond to the advert either because they considered they could not usefully contribute or because they did not wish to revisit their experiences of imprisonment.

3. Research findings

i) **Participants in consensual sex: ‘An erect penis must be attended to’**

Nearly all interviewees reported that they managed their sexual needs in prison through masturbation. Among men sharing cells, ‘the etiquette of masturbation’ dictated that this be performed unobtrusively, preferably when one was alone or one’s cell mate was asleep. Most interviewees had access to heterosexual pornographic magazines in prison, either by ordering them from a local newsagent or ‘renting’ a magazine for a night from another prisoner. Access to and tolerance of gay porn, however, varied significantly between prisons, as did institutional definitions of what constituted ‘hardcore’ porn, which is universally prohibited.

For men, sex is a physical need, a need for sexual release. An erect penis must be attended to. You can deal with it yourself, of course, but if there’s the chance of sex ... so much the better!

(Sean)

There has been almost no research on the extent of consensual sexual activity among men in British prisons. A Home Office study (Strang et al. 1998, cited in Prison Reform Trust and The National Aids Trust, 2005) conducted in 1994–1995 indicated that between 1.6 and 3.4 per cent of their random sample of 1009 male prisoners had reported having had sex with another male prisoner.

In this research study, eight male interviewees reported that they had consensual sex with other prisoners. Five of these men had had same-sex relationships outside of prison; two ‘discovered’ their sexuality in prison, and one described himself then and now as ‘completely straight’ but had ‘dabbled’ in same-sex sexual activity in prison ‘out of necessity’.

Gay and bisexual male research participants reported that while they were ‘fairly’ or ‘totally’ open about their sexuality on the wing, they were discreet about their sexual activities and relationships. Sex was conducted usually in the cell of one of the participants or in the showers, during periods of association (recreation time), or at night between men sharing cells. When asked how many sexual partners interviewees had had in prison, numbers ranged from one to ‘about 30, 35’. Male interviewees who formed relationships in prison stated they would never show affection ‘in public’, by holding hands or kissing. Some interviewees were aware that, if ‘caught in the act’ or considered by staff to be behaving inappropriately, they could be charged with a disciplinary offence and this encouraged them to confine their displays of affection or sexuality to ‘private’ domains. More often, however, the reasons for this circumspection reflected the specific culture of the institution at which they were held: sometimes they were acutely aware of the homophobic attitudes of other prisoners and feared their scorn or the potential for physical or sexual assault; whereas in more ‘easy-going’ (generally lower security) prisons, their discretion reflected their own sense of decorum or respect for the sensitivities of other prisoners. Prison culture is known to vary considerably between prisons, and even between wings and shifts within the same prison, due to the specific population held, the quality of staff-prisoner working relationships, the attitudes of staff in leadership positions, and whether the prison is primarily concerned with security (for example, the high security estate) or rehabilitation (training, open, and resettlement prisons) (Crawley, 2004; Liebling assisted by Arnold, 2004; Bryans, 2007).

Gay and bisexual interviewees, and other interviewees who became aware of sexual activity in men's prisons, stated that sexual partners were mostly other gay and bisexual prisoners. Sometimes, however, sexual partners were men who self-identified as heterosexual, some of whom were described as being, in their manner and topic of conversation, 'macho' and 'anti-gay'. Some were known to be sustaining a relationship, through social visits, telephone calls, and letters, with a wife or girlfriend. These men would typically request oral sex, or would anally penetrate the gay prisoner. Gay interviewees reported that these partners, – men they described as 'prison gays', 'jail gays', or 'gay on the inside', never acknowledged the homosexual nature of what had occurred between them, and would subsequently ignore them on the wing. They were neither surprised nor offended by straight sexual partners, as these interview excerpts illustrate:

Oh my god, it was like I'd died and gone to heaven! As a gay man, prison was a fabulous sexual experience. I've never had so much sex. I was very popular, and I loved it! ...

He'd come in, not say a word, pull his cock out, I'd suck him off, and that was it; out the door again. Never said a word!

Interviewer: And how did you feel about that?

What do you mean?

Interviewer: Well, did you feel, for example, you had been used sexually?

*No, not at all. We both got what we wanted.
(Craig)*

The one heterosexual interviewee who had willingly participated in 'gay sex' confirmed that he had not been 'friends' with the men with whom he had 'dabbled' in prison, or socialised with them, and the sex had always been executed 'quickly' and 'secretly'. The research interview was the first time (and he said, would be the only time) he had disclosed its occurrence. This interviewee had had consensual anal and oral sex with gay or bisexual prisoners 'out of necessity', and described how he had sometimes thought about former girlfriends, or looked at heterosexual porn, while having sex. Since leaving prison, he had resumed exclusively heterosexual relationships: 'I'm completely straight; what happened then was just about having my sexual needs met, in a particular time and place, where I couldn't get [heterosexual] sex.' He had remained psychologically committed to heterosexuality throughout his prison sentence, and his sexual experiences had not challenged his core identity as a heterosexual. This ability of heterosexual people to engage, temporarily and situationally, in homosexual activity has long been recognised in the research literature (Ibrahim, 1974; Sagarin, 1976; Severance, 2005).

An important finding to emerge from this interview data was the very variable access prisoners had to condoms and dental dams which would enable them to minimize their risk of exposure to sexually transmitted infections (STIs). Some sexually active men requested, but were refused, access to condoms because 'they aren't allowed in prison' (in fact, Prison Service Order 3845 allows for condoms to be prescribed to prevent the spread of STIs). Other male interviewees were able, or were aware it 'might be possible', to access condoms from healthcare, but this was often in circumstances which did not allow for any privacy and so risked inadvertently 'outing' the recipient to other prisoners: 'You'd have to queue up and ask for them in front of everyone else and I wasn't prepared to do that.' Sometimes

condoms were rationed; at one category B training prison, men could obtain two condoms from 'a weekly STD clinic' run by healthcare, 'but if you asked for more, questions were asked.' At another category C prison, an interviewee was 'shocked, to put it mildly' to be informed in reception that he was entitled to six condoms and a tube of lubricant, but 'you had to return the used [condoms] in a bag to healthcare before you could get any more.' Another interviewee who had spent the majority of his sentence at a prison solely for sexual offenders was 'astonished' to find posters 'all over the place' advertising the availability of condoms from healthcare. Other interviewees had resided in institutions where condoms were available through attendance at Lesbian, Gay, Bisexual and Transgender support groups, facilitated by the prison, or from the managing chaplain.

Thus, research participants had found that their access to condoms, and the ease and frequency of that access, was dependent upon the discretionary, and hence unpredictable, policy of the individual institution. This inconsistency of provision was also noted in evidence presented to the Commission by Her Majesty's Inspector of Prisons, The Terrence Higgins Trust, and The National Aids Trust (Howard League, 2013).

ii) **Other prisoners' knowledge of consensual sex: 'Live and let live'**

Interviewees who had not personally had sex in prison were sometimes aware of consensual sex taking place among other prisoners: 'On my wing, it was quite blatant. There was one spur especially, we called it "the married quarters" because there were so many gays there – or, at least, jail gays – and they were having a whale of time!' One interviewee described the arrangement he had made with his cellmate that if 'the [cell] door was shut during association, I should leave them alone for a while.' Another described a less considerate cellmate who would bring a 'known gay' prisoner in to their cell for sex and bluntly warn the interviewee, 'you can either fuck off down the gym or close your eyes and put your headphones on.' He preferred the former option, and noted that as a result of his 'very frequent' trips to the gym, he 'really bulked up – my missus wondered why I'd become such a gym bunny and I didn't know how to tell her!'

Neither of the two women interviewed for this research had personal experience of sex in prison but both confirmed that the formation of supportive, 'close friendships' and strong emotional bonds were commonplace among women prisoners, and sometimes became sexual.

I couldn't believe how much kissing and cuddling was going on. It was a big, big shock, a big culture shock. Someone like me, never been in prison before; I didn't know where to look half the time! ... [But] also a lot of women are just looking for some support, just someone to have a little cuddle with, really. They're not all proper lesbians.
(Paula)

In contrast to sexually active male prisoners who felt the need to be 'discreet', female prisoners were more overtly affectionate, and more willing to be seen to be emotionally and socially reliant upon other women prisoners to 'cope with' their imprisonment. The salience of emotional and sexual relationships between women, sometimes comprising platonic 'make-believe' or 'play families', or romantic and sexual dyadic relationships and 'marriages', has been a consistently observed feature of studies of women's prisons (Propper, 1982; Owen, 1998; Maeve, 1999; Howard League, 2014a).

Interviewees stated that sex predominantly occurred within long-term, closed (secure) prisons and open (minimally secure) prisons, and among long-term prisoners, including those serving life or other indeterminate sentences. Four of the eight men who described their experiences of consensual sex were held at the time on a VPU or in a 'sex offender only' institution. In other words, sex appears to happen more frequently in certain 'types' of prisons, and among certain 'types' of prisoners. Conversely, interviewees had no knowledge of sex occurring in the local prisons in which people remanded or sentenced to custody are initially held, and whose population is relatively short-term and transient.

I was an orderly and one of my jobs was to clean up the exercise yard outside the lifers' wing. There were often used condoms, a really surprising amount... chucked out of the [cell] windows. At [my prison], lifers could get away with all sorts, which the rest of us couldn't. But I suppose you don't really want to upset lifers if you can help it, do you?
(Ron)

As noted above, only one male interviewee discussed having sex atypically with men in prison as a temporary substitute for heterosexual sex. While a few male interviewees agreed that men can have sex with each other for sexual release, without it affecting or altering their sexual identity, others were more sceptical about the ability to be 'heteroflexible':

You miss sex, a lot, but if you're not attracted to blokes' hairy arses, nothing's going to change that ... Jail gays must always have had gay tendencies. I don't buy into this bisexual thing – it's like being a bit pregnant. You either are or you aren't.
(Reece)

Generally, among the research participants in this study, there was a high degree of tolerance towards other prisoners participating in consensual sex. This reflected both a sense of benign permissiveness towards others, and an entirely sensible attitude of self-preservation and culturally endorsed belief that prisoners should 'do their own time':

If both girls are happy about it, if it makes you happy in a miserable place, it's no one else's business, is it?
(Alesha)

I think the general attitude, certainly among long-termers is, whatever people get up to, behind their door, is up to them. Sex, drugs, mobile phones – whatever gets you through the night. As long as it doesn't impact on anyone else, you know, live and let live. Plus, you'll keep your nose out of other people's business, if you've got any sense.
(Jem)

A common observation was that prisoners who became indebted to others, typically as a result of drug habits or gambling losses, and/or who had very limited financial resources to buy commodities they desired, would offer 'sexual favours' in lieu of payment or in return for 'canteen'. Other interviewees had observed vulnerable individuals, who were socially isolated and lacked external financial support, being targeted or 'groomed' for sex. In these circumstances, it is highly problematic to describe the sexual activity as genuinely consensual, because it was only offered as a commercial exchange: 'This one guy, he would basically prostitute himself for heroin'; 'At [my prison], the going rate for oral [sex] was a Mars Bar'; 'You'd be amazed at what some cons will do to get their tobacco'. Smoking is due to be

banned in cells in all prison institutions by 2017. If tobacco becomes a prohibited item, prisoners who feel unable to stop smoking may, like drug users, take more desperate measures to ensure a continued supply.

iii) **Survivors of sexual coercion: 'What happened ruined my life'**

In contrast to research participants' universal awareness of consensual sexual activity among other prisoners, most interviewees either had no knowledge of sexual assaults in British prisons at all, or had learned about 'only' one or two instances during their prison careers: 'It's a prison myth. It doesn't happen here'; 'I only heard of one young lad getting raped ... It's nothing like America where, as you know, rape is a major problem'.

This perception accurately reflects the very little that is known about coercive sex in the prisons of England and Wales. In their five year study of violence in institutions for both adults and young people who offend, Edgar, O'Donnell, and Martin (2003) found that three quarters of the 590 men they interviewed thought that sexual assaults either did not occur or were very rare in the British penal system. Less than two per cent said they had been sexually assaulted. Her Majesty's Inspectorate of Prisons advised the Commission that one per cent of prisoners who completed its anonymous survey (administered routinely as part of the inspection process), disclosed that they had been sexually assaulted (Howard League, 2014b). Banbury's (2004) research with 208 male and female former prisoners similarly found that one per cent had been raped anally or vaginally.

In this research study, three male interviewees disclosed they had been raped in prison, by prisoners. William had been repeatedly raped and coerced into performing sexual acts by one prisoner over a prolonged period: 'I belonged to this guy ... I was totally powerless.' He had never felt able to report the abuse; partly because, as a young, middle class, gay man who had initially struggled to adapt to and survive in the 'terrifying environment' of the prison, his abuser had 'protected' him from the sexual interest and assaults of other prisoners and 'kept me safe ... I've no doubt I would not have survived without him.' In the years since his release from prison, the sustained 'sexual torture' he had endured continued to traumatise him, had 'decimated' his self-esteem, and had 'profoundly affected' his capacity for trusting and loving relationships and friendships: 'Quite simply, what happened ruined my life.' The research interview was the first time he had talked about his experiences: 'I've wanted to talk about it for a long time, but the means were not there. Because nobody wants to know, nobody wants to hear about this horrendous, horrendous abuse.'

Bradley was serving a sentence for a sexual offence against a woman and was raped in the shower with an implement by a heterosexual prisoner. He was certain he was attacked because of his offence: 'I know because he told me. He said, "You're a nonce [sexual offender]. See how you like it."' He did not report the rape because of the so-called inmate code or 'the unwritten rule of no grassing' (informing) against other prisoners, and the fear of reprisals if he did.

Aiden had been raped by five assailants in a cell and required in-prison medical treatment. This interviewee had committed a serious offence of violence when a teenager and was subsequently 'starred up' to move from a Young Offender's Institution to an adult prison, where the multiple perpetrator rape took place. Some years later, he was still trying to understand why he was victimised but could think of 'no obvious reason' other than his 'young and thin' appearance: 'I guess I looked easy

prey.' Both he and his attackers were heterosexual, although being raped had led him to question his own sexuality and worry that he inadvertently 'gave off gay vibes'.

Aiden was encouraged to report the rapes by the nurse who treated him, but when he related what had happened to a principal officer, he was dissuaded from making a formal complaint. As a prisoner in the early stages of a long sentence, the officer advised Aiden that to 'grass' upon other prisoners in this way would 'mark his cards' for the rest of his time inside, and having once been a victim, would increase his chances of victimisation in the future. (This latter perception is empirically borne out; see, for example, Struckman-Johnson et al., 1996; Banbury, 2004). The officer's approach was instead to transfer Aiden, firstly to the segregation unit for his 'own protection', and then, swiftly, to another prison. When asked whether, in hindsight, he wished he had insisted upon reporting the rapes and their referral to the police, Aiden responded that

although on one level what [the officer] said was wrong, because [the rapists] got away with it, he was right, because if I had, I would have been a target ... I'd have been labelled a grass, and in prison, a label like that follows you around forever and can cause you serious trouble.

Like Bradley, Aiden also feared reprisals, including from associates of the rapists whom he might encounter in other prisons, if he 'grassed'.

Three other interviewees had been threatened with rape by other prisoners and one was the recipient of unwelcome, unreciprocated sexual advances over several months by a 'predatory nonce'. One threat of rape was reported to prison officers but no further action was taken. Additionally, one of the men threatened with rape, who was openly gay, experienced attempted 'grooming' from a male prison officer. He reported the officer and was subsequently informed that the officer had been reprimanded by a governor, but to his knowledge no 'real' consequences followed: the officer was transferred to another wing within the same prison.

None of the rapes suffered by interviewees were 'officially' reported and therefore none would have appeared in the assault statistics collated and published by the Ministry of Justice. Other research participants who knew of sexual assaults on other prisoners commented that incidents were 'hushed up', and the typical response was to move the prisoner alleging assault (and not the alleged assailant) to another wing or another prison, while a prison governor (and not the police) investigated. The Prisons and Probation Ombudsman (2013: 6) has noted that some 'abusive sexual behaviours are not always taken sufficiently seriously and the quality of internal investigations is variable.'

In contrast, according to the Ministry of Justice (2015), of 170 cases of sexual assault reported in 2013, 77 per cent were referred to the police for investigation and/or 50 per cent were referred for adjudication (internal disciplinary hearing). The Ministry of Justice (2015: unnumbered) conceded, however, that 'due to the nature of the type of assault not all sexual assaults may be reported.'

This is an understatement. It is well recognised that the majority of sexual assaults in the general population (against women and men) are not reported to the police because, among other things, survivors do not think they will be believed, lack confidence in the police to deal with their complaint sensitively, or fear the adversarial nature of a criminal trial. These concerns are exacerbated in prison. It is not known, and to some extent never can be known, how many incidents are never reported

by prisoners, and how many are reported to prison staff who do not then take the allegations 'sufficiently seriously' and record them 'officially'. As with sexual assault in wider society, statistics upon the prevalence of sexual assault in prison can only ever be an indicative, not definitive, figure. Rape in prison, as with rape outside, is certain to be significantly under reported.

iv) Prison staff and their perceived attitudes: 'Don't ask, don't tell'

Just as most male prisoners in shared cells had followed an unspoken 'gentlemen's agreement' about the need to masturbate 'discreetly' and 'very, very quietly', so it was their experience that prison officers usually had 'the good sense not to look' through the cell door's observation flap at night, and 'not to make a fuss' about the possession of pornographic magazines or 'private photos' of sexual partners (in the outside world). The tacit acceptance by staff of both pornography and masturbation is reflected in this account of one interviewee's first night in prison. Feeling 'overwhelmed and nervous', he asked the night staff for a Bible. After some time, an officer returned and apologetically explained that he had not been able to locate a Bible, but could lend him instead a selection of pornographic magazines 'to help you get to sleep.' To whom these magazines belonged – prisoner or staff member – was unclear, 'but that taught me a lot about night times in prison!'

Such 'matter of factness' extended to consensual sex. Most interviewees perceived that prison officers generally either knew or 'strongly suspected' if prisoners on their wing were having consensual sex, but chose to exercise their discretion not to intervene or, alternatively, ignored the activity in order 'to keep the peace'. Many expressed sympathy for prison officers working on understaffed, volatile wings. In these circumstances, the primary concern of both prisoners and officers was the maintenance of a relatively safe, non-violent environment, rendering consensual sexual activity 'the least of anyone's problems':

Everyone knew what was going on ... The officers have got two eyes in their head, just as prisoners have; they see the same things, more sometimes ... Staff will turn a blind eye, as long as you don't push it.
(Martin)

On that spur, you couldn't not know. ... Most officers just want a quiet life, and as long as [the men having sex] caused no trouble and weren't too in your face with it, they just, you know, ignored it.
(Jason)

Two gay interviewees had been able (at different institutions) to share a cell with their sexual partner. Neither had ever been questioned by prison officers about the nature of their relationship, which they attributed to a pragmatic 'don't ask, don't tell' attitude:

If they had known for sure, they might have felt they had to do something about it. So I don't think they wanted to know. Put it this way, they were sensible enough never to barge in [to the cell] without warning!
(Liam)

Other research participants observed that they had known some openly homosexual couples being allowed to share cells in some institutions. NOMS policy, however, is that men who are known, or are discovered, to be in a sexual relationship are not allowed to share a cell and will be separated. One interviewee reported that a senior officer had moved a young prisoner, who had confided he was 'confused' about his

sexuality, into the cell of an openly gay, older prisoner, in order to help him 'sort himself out'. This action had been perceived at the time as well-intentioned, but underlines the need for staff training upon how to manage discussions around sex and sexuality and how to recognise the potential for grooming and abuse.

Prison staff 'must not ... have any sexual involvement with a prisoner' (Prison Service Order 1215, Annexe A), and can be disciplined and have their employment terminated for forming an 'unprofessional' relationship, or even prosecuted for misconduct in a public office. Illicit relationships have sometimes resulted in the compromised staff member being corrupted into breaching security, including smuggling contraband into the prison or becoming involved in other illegal activities and criminal enterprises.

In this current study, one male interviewee disclosed having what he described as 'the lovely surprise' of a 'tender, loving, I would call it loving' relationship with a female member of non-operational staff over a number of months, but which did not progress beyond 'kissing and cuddling' because 'we both knew that a sexual relationship was a complete no-no, an impossibility, while I was inside.' He clearly regarded the relationship as mutually consensual, and spoke wistfully of how, if it had not been 'the wrong time, wrong place', the relationship could have blossomed. (In the United States, because of the power differential between staff and prisoners, any romantic and/or sexual relationship is perceived as inherently coercive.) A minority of interviewees recalled hearing about sexual relationships between female officers and male prisoners, male officers and female prisoners, and female officers and female prisoners. Three interviewees, two male, one female, had resided in prisons in which 'rumours' about staff members had been validated by subsequent, well publicised convictions. More generally, though, interviewees recognised that such rumours sometimes arose simply from 'boasting' or 'wishful thinking', and that some male prisoners tended to ascribe a sexual motivation to any act of kindness or show of concern from a female member of staff (and see Crewe, 2006):

There's always some inmates who'll tell you that this screwess is gagging for it, just because she smiled at him or spent a bit of time with him, listening to his problems. Total bollocks. I'm not saying it never happens, but nowhere near as much as some cons make out.
(Dexter)

4. Discussion and Conclusions

This briefing paper draws upon findings from qualitative interviews with 26 former prisoners, who were willing to discuss their personal or vicarious knowledge of sexual activity in prison. The resulting data has four key implications.

First, while serving a custodial sentence, a minority of men and women will engage in consensual sex. This should be undeniable, and unsurprising: sexual activity among prisoners has been noted across international jurisdictions; is confirmed by other evidence amassed by the Commission on Sex in Prison; in prior (albeit extremely limited) British academic research; and may be said to be inevitable, given that prisoners are 'still human beings' who may feel that their sexual needs cannot be met solely or satisfactorily through masturbation. Furthermore, a minority of men and women prisoners will experience sexual assault, as equally confirmed by evidence presented to the Commission, prior research, and by Ministry of Justice statistics on sexual assaults.

Second, the European Prison Rules (40.3) require prisoners to have access to health services 'without discrimination on the grounds of their legal situation.' This principle of equivalence of care means that prison healthcare should replicate the same quality and range of health care services as that available to the general population. Those prisoners who are having sex and wish to avail themselves of protection against STIs should therefore be enabled to do so; indeed, Prison Service Order 3845 also allows for condoms to be prescribed 'if in the clinical judgement of the doctor there is a risk of HIV or STD transmission.' Yet currently, only some prisoners, in some institutions, are provided with condoms, and the procedure for obtaining them legitimately may deter some prisoners from requesting them. Participation in unsafe sex is not just a sexual health issue for the prisoner, but for the general public: released prisoners who resume or initiate sexual relationships with heterosexual or homosexual partners in the community may pass on STIs acquired in the prison. There are obvious parallels here with the harm reduction policies now favoured in relation to drug users: it is better that, if people are going to inject drugs, they do so with clean needles in order to reduce the risk of transmission of AIDS and hepatitis. Similarly, if prisoners are going to have sex, it is better that they do so in a way that protects their health and that of their present and future sexual partners.

Third, prison policy and practice on the management of consensual sexual activity is equivocal and contradictory, and the quality of managerial investigations into allegations of sexual assault is 'variable' (Prisons and Probation Ombudsman, 2013). This leaves frontline prison staff uncertain about how to respond appropriately, and prisoners uncertain about what response they will receive. Prison Service Instruction 47/2011 confirms that there is no specific rule prohibiting sex between prisoners, although sexual activity may be punishable if the circumstances amount to 'using abusive ... behaviour', contrary to Prison Rule 51(20). Evidence to the Commission further established that NOMS's position is that prison staff do 'not allow' prisoners to engage in sexual activity and sexual relationships are 'not encouraged'. Yet, in some prisons condoms are widely available and openly advertised; making it impossible for staff in these institutions not to be aware, at the very least, of the likelihood that prisoners obtaining condoms are doing so in order to have sex. In other prisons, though, not 'allowing' sex seems to have translated into a belief that condoms cannot be provided, or that prisoners can be disciplined if found in possession of condoms.

Inconsistent policy and practice, and hence unpredictability of the institutional response, may discourage prisoners from seeking assistance with their sexual (and emotional) health and reduce their confidence in the prison to investigate complaints of sexual coercion with due rigour; and makes it more difficult for prison officers in particular to acknowledge that sex on their wing may occur, consensually or coercively. Prison staff should receive instruction upon what constitutes, and hence how to recognise, abusive relationships, including the potential for sex to be traded in return for drugs or canteen and for vulnerable individuals to be targeted for abuse. Consideration of a prisoner's potential vulnerability to grooming or other forms of sexual coercion should also be incorporated into cell sharing risk assessments.

Fourth, the seemingly small numbers of reported cases of sexual assault in the prisons of England and Wales should not give rise to complacency. As with rape and sexual assault in the general population, reliance upon official statistics will only ever provide a partial picture of the extent of coerced sex. American scholars, for example, have established that only around a third of prisoners who disclosed sexual coercion to researchers reported the incident to correctional staff (Nacci and Kane, 1983; Struckman-Johnson et al., 1996; Struckman-Johnson and Struckman-Johnson, 2002). Furthermore, almost no research has been conducted in England and Wales on consensual sex in prison, and the consequences this may have for prisoners' psychological and emotional well-being and, when that sex is unprotected, for sexual health. Some interviewees commented that if the Howard League had been permitted to conduct interviews with serving prisoners, people would not have spoken to the researcher because of their lack of confidence in the prison to facilitate and respect conditions of confidentiality; it was only now, as free citizens, that they felt able to 'speak up'.

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Commission on Sex in Prison

The Howard League for Penal Reform established an independent Commission on Sex in Prison. The Commission comprised eminent academics, former prison governors and health experts and focused on three broad themes: consensual sex in prison, coercive sex in prison and healthy sexual development among young people in prison. The Commission undertook the first ever review of sex inside prisons in England and Wales. The Commission sought to understand the nature and scale of the issues and problems and to make recommendations with a view to making prisons safer.

About the Howard League for Penal Reform

The Howard League for Penal Reform is a national charity working for less crime, safer communities and fewer people in prison. It is the oldest penal reform charity in the world. It was established in 1866 and is named after John Howard, the first prison reformer.

We work with parliament and the media, with criminal justice professionals, students and members of the public, influencing debate and forcing through meaningful change to create safer communities. We campaign on a wide range of issues including short term prison sentences, real work in prison, community sentences and youth justice. Our legal team provides free, independent and confidential advice, assistance and representation on a wide range of issues to young people under 21 who are in prisons or secure children's homes and centres.

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