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## Sexual Activity in British Men's Prisons: A Culture of Denial

Alisa Stevens

Theorized through Stanley Cohen's sociology of denial and informed by testimonies from formerly imprisoned men, this article argues that a culture of denial limits the ability and willingness of prison authorities and prison staff to recognise, acknowledge, and respond appropriately to the realities of sexual activity in British prisons. It has three objectives: to detail experiences of consensual and coercive sex; to elucidate the collective and collaborative cultural habit of 'don't ask, don't tell' by which what is known becomes not known and what is concealed, remains hidden; and to show how this strategy leaves unprotected those who choose to engage in, or are coerced into, sexual activity.

**Keywords:** prison, sex, rape, transactional sex, denial, condoms

Remarkably little research has been conducted on sexual activity<sup>1</sup> in British prisons. While empirically rich scholarship on the complexities of prison sexual culture, sexualities, and consensual sexual relationships, and the interpersonal and institutional dynamics of sexual violence, has emerged from the United States (Hensley 2002; Kunzel 2008); the minimal research undertaken in Britain has focused upon enumerating, from relatively small samples, how many prisoners willingly participate in same-sex sexual contact or are sexually assaulted (Strang *et al.* 1998; Banbury 2004). Invariably these studies conclude, in effect, 'we don't really know and more research is needed'.

So little is known about prisoners' sexual experiences only partly because they have so rarely been asked. The lack of knowledge and understanding, I suggest, reflects the lack of desire to know about a subject many, in and beyond the prison, would rather not confront nor feel compelled to address. Unlike more typical 'prison sex' publications, with their estimates of incidence and prevalence, the threefold purpose of this article is, first, by drawing upon the testimonies of 24 formerly imprisoned men, to advance a more nuanced exploration of this

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<sup>1</sup> Sexual activity includes masturbation but chiefly refers to penetrative and non-penetrative acts of a sexual nature between two or more people. I describe the activity as consensual when the agents participated willingly, and as coercive when it was unwanted or pressurized, including sexual assaults as defined by the Sexual Offences Act 2003.

aspect of 'life behind bars' than has previously been presented in British prison studies. Second, and theorized through Stanley Cohen's (1993, 2001) sociology of denial, to elucidate the collective and collaborative cultural habit of 'don't ask, don't tell' which structures and sustains what it is that prison authorities, prison staff, prisoners, and penologists are able to know, do not know, choose not to know, and know but prefer not to acknowledge about sexual activity behind bars. And third, to show how this conscious or unconscious avoidance of knowledge and of intervention, imperils those who choose to engage in, or are coerced into, sex. My argument is that while the realities of sexual activity are, to some extent, known, too often 'people react as if they do not know what they know. Or else the information is registered ... but its implications are ignored' (Cohen 2001: x).

For this critical analysis of denial, then, I apply the now well-utilised<sup>2</sup> conceptual framework developed by Cohen in his magnum opus, *States of Denial: Knowing about Atrocities and Suffering*. Through his insightful and distinctly sociological dissection of the individually, socially, and politically mediated processes and permutations of cognition and denial, Cohen demonstrated how it is possible for 'states of mind, or even whole cultures, in which we know and don't know at the same time' (2001: 4-5) to exist and persist. Denial, he explained, occurs when, rather than acknowledging harms and their moral, psychic, and emotional consequences, human suffering is ignored, evaded, reconfigured, or repressed, whether through ignorance, preoccupation, deception, identification with the perpetrator (rather than victim), or (the psychoanalytic concept of) unconscious defence mechanisms. Of the three distinct, yet sometimes coexisting, forms of denial Cohen (2001: 7-9) identified, *literal denial* straightforwardly rejects as factually untrue, or repudiates knowledge of, others' claims about 'what happened'. The more subtle *interpretative denial* reconstructs, normalises, demotes, or camouflages within euphemistic, technical, or legalistic language 'what happened' into something less significant, and hence less problematic, than the complainant alleges. With *implicatory denial*, it is not the knowledge which is contested but its repercussions. By deploying 'techniques of neutralization' (Sykes and Matza 1957), Cohen (2001: 60-4) explained, one may decide that no action is necessary, desirable, or possible because 'what happened' produced unintended harm (denial of responsibility) or only limited harm with

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<sup>2</sup> See, for example, Scott (2008) on some prison officers' negation of prisoners' human rights, Daems (2014) on the (ab)use of strip searching in Belgian prisons, and Bennett (2016) on attitudes towards ethnic diversity among prison managers.

minimal consequences (denial of injury), or the victim's complicity in 'what happened' renders any suffering self-inflicted or deserved (denial of victim).

Given my focus upon the qualitative experience of sexual activity in British prisons, detailing quantitative findings about its extent serves little purpose. It suffices to note that, in an early and relatively ambitious study, medical researchers (Strang *et al.* 1998; Green *et al.* 2003) who interviewed 1009 randomly selected men in 13 English and Welsh prisons concluded that between 1.6 and 3.4 per of the cohort willingly had sex, while 2 per cent had experienced unwanted sexual activity. The former figure corresponds with a recent survey of 5076 Scottish prisoners, of whom 2.5% reported having anal sex in prison (Taylor *et al.* 2013). The latter figure resonates with statistically reliable data derived from the confidential prisoner surveys administered by Her Majesty's Inspectorate of Prisons (HMIP) for England and Wales. These questionnaires, completed by up to a third of the population, randomly selected, at every prison inspected, have consistently shown that one per cent of prisoners report sexual abuse from other prisoners or staff, rising to between two and three per cent for people with disabilities and Muslim prisoners (Howard League 2012).

The paper is organized as follows: after describing the methods employed for this study, research findings about masturbation, consensual sex, coercive sex, and their implications, are discussed and illustrated through verbatim interview excerpts. Readers should be aware this necessitates the reproduction of sexually explicit language.

### *The study*

An independent Commission on Sex in Prison was established by the charity, The Howard League for Penal Reform, in 2012. Commissioners, who included politicians, lawyers, prison governors, and academics, received written and oral evidence, chiefly from voluntary and statutory agencies, during a series of seminars held over two years, with the aim of formulating evidence-based policy recommendations for improving the health, well-being, and safety of prisoners and children in custody.

As academic consultant to the Commission, I was tasked with conducting primary research with adults with direct experience of imprisonment. Permission to conduct research with serving prisoners and prison managers (with responsibilities for healthcare, equality and

diversity, safer custody, and/or violence reduction) was refused by the National Research Committee of the National Offender Management Service (NOMS), the government agency responsible for prisons and probation services in England and Wales. Two criminal justice charities instead agreed to place an advert inviting formerly imprisoned people, no longer subject to probation supervision, to contact the researcher 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 ... does not happen in prison.’

Of the 37 people who initially responded, seven chose not to proceed to interview, and four did not meet the inclusion criteria. Of the remaining 26 participants, 24 were male. Twenty semi-structured interviews were conducted by telephone and six in person, during the summer of 2014. The average interview lasted approximately 45 minutes, though this ranged from 20 to 100 minutes. With participants’ consent, the interviews were audio recorded and, once transcribed, subjected to thematic analysis in order to identify and develop inductively the data’s key and recurring categories and their properties. For reasons of clarity, the discussion which follows reflects the male participants’ experiences<sup>3</sup>. Where names are attributed to quotations, these are pseudonyms<sup>4</sup>.

Most male interviewees had substantial, recent experience of imprisonment, having served, on average, 64.6 months, within the last decade, when aged in their 20s and 30s. Collectively, they had resided in five Young Offenders’ Institutions and 64 adult prisons in England, Wales, and Scotland, encompassing the high security estate, long and medium-term training prisons, short-term local establishments, and open (minimal security) prisons. Eleven men (46% of interviewees) had offended sexually and so had served either the majority or entirety of their sentence in specialist ‘sex offender prisons’, or in a discrete ‘vulnerable prisoners’ unit’ (VPU) within an otherwise ‘mainstream’ establishment<sup>5</sup>. The remaining interviewees had been imprisoned for violence (33%), property and acquisitive offending (13%), and drug-related offences (8%).

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<sup>3</sup> The two female interviewees’ experiences are included in the research report (Stevens 2015).

<sup>4</sup> In addition to excerpts from interviews, I incorporate the men’s words into my commentary. These are denoted by double quotation marks, and thus are distinguishable from the single quotation marks used, for example, for quotes from literature.

<sup>5</sup> Some of these men had also served sentences for non-sexual offences ‘on normal location’. In describing the sample, however, interviewees were classified according to the offence which resulted in the longest custodial sentence.

This article therefore draws upon qualitative data deriving from a small, self-selecting, self-reporting cohort, with all the caveats this attracts. In particular, this study does not, and did not aspire to, present statistically generalizable insights into the sexual behaviour of British prisoners. Rather, the data is generated from 24 men who wanted and felt able to relate their prison experiences. Three points merit attention. First, retrospective accounts are always vulnerable to imperfect recall and the distorting influence of hindsight. When the subject matter is sensitive, however, geographical and psychic distance from those events can be advantageous. Notably, several participants stated that they would not have felt able to “speak up” while imprisoned, for fear of “leakage” of their confidential data and the potential (discussed presently) for ridicule or retaliation from the prison community. These concerns may explain why former, rather than serving, prisoners typically report higher rates of consensual (for example, Dolan *et al.* 1990 *cf.* Power *et al.* 1991) and coercive sex (Banbury 2004 *cf.* Edgar *et al.* 2003) in prison. Second, consensual same-sex sexual activity in custody is often a continuation of pre-prison behaviours (Power *et al.* 1991; Strang *et al.* 1998). It is therefore significant that of the eight interviewees who reported having consensual sex in prison, five had experienced male-to-male sex prior to entering prison, while two “discovered” their sexual orientation towards men in prison. Third, very young men, homosexual and bisexual prisoners, and men imprisoned for sexual offences, are at greater risk of sexual assault (Banbury 2004; Hensley *et al.* 2005). Of the three rape survivors, one was 20 years when transferred to an adult prison, one was gay, and one, a sexual offender. Of the three (other) men who had been sexually threatened, two were sexual offenders, one of whom was gay. The value of this article therefore lies in its inclusion of testimonies from the marginalized men from whom one otherwise rarely hears when discussing victimization between prisoners (O’Donnell 2004); its identification of the culture of denial which characterises NOMS’s approach to sexual expression and activity among prisoners; and the framework of enquiry it presents, and upon which researchers may in future be able to build.

### *Prisoners as sexual beings*

*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 British law, an inescapable consequence of the imposition of a custodial sentence is the curtailment of many of the rights enjoyed by other citizens<sup>6</sup>. Since all British prisons are same-sex, and (unlike other comparable jurisdictions) private family ('conjugal') visits are prohibited, prisoners accordingly suffer no human rights infringements by being deprived of heterosexual relationships; nor do they possess any unqualified entitlement to be located near to, or share a cell with, an imprisoned same-sex partner<sup>7</sup>. Yet, the fact of imprisonment does not of itself automatically extinguish interest in or longing for emotional intimacy generally, and sexual intercourse specifically. Consequently, and especially among long-term male prisoners, enforced celibacy, and the cumulative sexual frustration which results, is experienced as a peculiarly punishing and painful aspect of incarceration (Sykes 1958; Hulley *et al.* 2016).

It is an uncontroversial observation that nearly all male prisoners seek to lessen this pain and relieve this frustration through masturbation (Hensley *et al.* 2001). Arousal and enjoyment may be enhanced by the visual stimuli provided by pornographic magazines, which prisoners are permitted to purchase as long as the material is not "hardcore": a definition determined locally but which excludes images which are "gynaecological" or of erect penises<sup>8</sup>. Inevitably, an illicit rental market also exists, notwithstanding the dubious delights of "second-hand wank mags with the best pages stuck together." Less frequently noted, however, is that since two thirds of all prisons in England and Wales are overcrowded (Ministry of Justice 2016a), many prisoners are 'doubled up' in a cell originally intended for single occupancy and therefore people with usually no prior acquaintanceship must sleep, wash, eat, urinate, defecate – and masturbate – in very close proximity.

To manage (incompletely) the resulting deprivation of dignity such lack of privacy creates, an "etiquette of masturbation" has developed which is as much a part of the *savoir-vivre* of the prison community as other, more openly approved and sociologically scrutinized elements of the prisoner code. Thus the "considerate" cellmate masturbates "discretely" and "very, very quietly": unobtrusively and preferably, unobserved. This typically means waiting for one's

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<sup>6</sup> *R (Daly) v Secretary of State for the Home Department* [2001] 2 AC 532.

<sup>7</sup> *R (Bright and another) v Secretary of State for Justice* [2014] EWCA Civ 1628; *Hopkins, R (on the application of) v Sodexo/HMP Bronzefield and Others* [2016] EWHC 606 (Admin).

<sup>8</sup> Legitimate access to and possession of "gay porn" is accordingly "extremely difficult" in prisons which strictly observe this "no stiffies rule".

cellmate to fall asleep, but also capitalizing upon opportunities for “wank fests” when guaranteed time alone; for example, when one’s cellmate is receiving a two hour social visit. Such occasions provoke much good-humoured teasing between prisoners about the physical effects and observable evidence of excessive masturbation (“wrist sprain”, “calluses on the palm of my hand”, “the pallor of the obsessive wanker”), but also some competitive boasting about one’s stamina, prowess, and the frequency required “to empty the tank”.

Interviewees’ many jocular accounts of frantic and furtive autoeroticism indicated that some prisoners are able to reframe their predicament agentically. Asserting that “For men, sex is a physical need, a need for sexual release. An erect penis must be attended to” (Sean), serves to affirm one’s continuing, sovereign, hydraulic, sexual potency and so resists the spectre of ‘figurative castration’ (Sykes 1958: 70) which involuntary celibacy otherwise threatens. Among heterosexual men, recalling one’s sexual exploits, anticipating future conquests, or commenting upon the perceived physical attractiveness of the female staff “keeps you in the game”. In the gendered context of the prison, however, even normative displays of masculine performance tend to mask other, less acceptable, and hence publically inadmissible, anxieties and sorrows (Newton 1994; Jewkes 2005). Men’s objectification of women additionally communicates the reassuring sub-text: ‘I fancy women, ergo, I am not gay’; while evoking images of the female form, whether discursively and collectively through sexually explicit banter between men, or cognitively in moments of self-reflection, further reinforces the sexual unavailability of women. Memories of, or fantasizing about, a lover can both soothe and distress: to remember is to be reminded of what one has lost. The centrality of this psychological pain to the prison experience, and its only partial remedy through masturbation, was powerfully articulated by Lucas:

I’ll tell you what my abiding memory of prison is. It’s staring at the wall, wanking yourself off, night after night, trying to remember the touch of a woman, her taste, her smell; holding your cock in your hand and trying to remember how it *feels* to be with a woman. That’s prison.

Researchers have therefore long recognized that people in prison experience, and attempt to alleviate through masturbation, sexual frustration. Prison officers are necessarily aware of the delivery to the wing and possession of pornography and so it requires little imagination, if the officer chooses to imagine, the masturbatory aid pornography provides. Indeed,



“understanding” (and especially female) prison officers, interviewees noted, knock and pause before entering a cell and have “the good sense not to look” through the cell’s observation flap at night. The wider implications of this public knowledge about a private activity, however, have been largely occluded by prison authorities and in prison studies. By not thinking about masturbation as an indicator of continuing libido, it is easier to avoid thinking about the otherwise obvious, if inconvenient, truth that the sexual desires of, in particular, “testosterone-charged young men” cannot be “turned off like a tap” upon entering prison; and easier to avoid questioning how likely it is that the primal urge for sex is quelled merely by the knowledge, among law-breakers, of the legality of the ban on intimate relations within prison. Such unprocessed awareness and ‘not quite conscious’ evasion of facts (Cohen 2001: 5) matters because it is this institutionalized reluctance to perceive prisoners as sexual beings, and the attendant invisibility of and silence surrounding their sexual needs, which provides the basis upon which sexual activity can be not seen and not thought about, and hence denied.

#### *Consensual sex*

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!

(Craig)

There is no specific rule prohibiting sex between prisoners. *Observed* sexual activity may result in a disciplinary charge<sup>9</sup> and losses of incentives and earned privileges<sup>10</sup>. NOMS’s espoused position is that it does not ‘condone’ sex in prison; will not facilitate same-sex relationships by permitting or arranging for sexual partners to reside together in the same cell or closely located cells; will remove to different wings or establishments prisoners known or suspected to be having sex; and regards sexual relationships as inimical to maintaining good order and discipline<sup>11</sup>. One may think such a position is entirely reasonable. It does not, however, accord with interviewees’ experiences of long-term, mainstream and offence-segregated prisons.

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<sup>9</sup> Under Prison Rule 51(20); Prison Service Instruction (PSI) 47/2011, paragraph 1.76.

<sup>10</sup> PSI 30/2013, Annexe B: ‘Behavioural expectations’.

<sup>11</sup> See footnote 7.

Most participants, then, perceived that prison officers either knew or “strongly suspected” certain prisoners on their wing were sexually active, but chose not to intervene or investigate further. In saying this, interviewees were not criticizing officers for their quiescence. Rather, they stressed their sympathy for front line officers working on rambunctious, sometimes volatile, sometimes understaffed wings, for whom the key priority was, and had to be, the creation and maintenance of a relatively safe, non-violent environment. Consensual sex, by contrast, was relegated to “the least of anyone’s problems”. What research participants *were* critical of is the institutionalised “game playing” and “pretence” this demanded of officers when they knew “what was going on” but had to feign not to know, as the following quotations, with their striking visual metaphors of denial, illustrate:

Everyone knew what was going on. In prison, everyone’s watching everybody else, all the time; that’s what you do. So *everyone* knew, but nobody ever said anything about it ... 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. You’d have had to have been wearing blinkers not to see it! ... 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)

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?

*... Did you ever report finding condoms?*

No! [Sounds incredulous, laughs] Besides, the officers already knew. I’d be out there with [supervising officers] and they’d just look the other way. Sometimes they’d tut-tut a bit; some would joke about it. But mostly, they pretended they weren’t there. And as long as I got rid before the Governor saw, they weren’t!

(Ron)

The values contained within the above comments will be instantly recognizable to penologists. Most members of the prison community try to avoid “upsetting” prisoners “if you can help it”: disturbing the equilibrium needlessly and without strong provocation. Prison

officers and governors routinely exercise discretion in determining what is and is not an appropriate or exigent concern, when, and under what circumstances and which, or which version of, prison rules, orders, and instructions to act upon in order to ensure the smooth running of prison life (Sykes 1958; Liebling *et al.* 2011). Prisoners also exhibit high levels of tolerance, even indifference, towards the “private” activities of their peers, but for reasons of self-preservation as much as permissiveness. For both jailors and the jailed, ‘knowing and not-knowing’ (Cohen 2001) about activities about which one does not want or need to know, accordingly becomes embedded as a cultural habit. As Jem explained:

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.

“Turning a blind eye” is contingent, however, upon prisoners not “pushing it”: not overtly, and again, needlessly, attracting attention to themselves. Officers can overlook the ‘bending’ of certain rules but not their flagrant destruction. “Sensible” sexually active men, even if they openly identify as gay or bisexual, therefore conduct their sexual liaisons discreetly. Gay interviewees recounted how they would, for example, never advertise their affection for, or relationship with, another prisoner by holding hands or kissing “in public”, and would enter into delicate negotiations with cellmates for time-limited exclusive use of their shared accommodation. Such precautions reflected not only the need to avoid disrupting the orderly, uneventful, “quiet life” desired by officers and prisoners alike, but also their own need for privacy and sense of decorum. Many had also resided in establishments (notably, Young Offenders’ Institutions and local prisons accommodating short-term and peripatetic prisoners), whose culture, rather than being one of apparent acceptance, was one of virulent homophobia.

Gay, bisexual, and straight interviewees agreed that most prisoners who engage in sex consensually identify as homosexual or bisexual, but that a minority of men “go gay for the stay”. Indeed, Craig, an openly gay man who gleefully recalled his custodial experiences in mainstream training prisons as “one long fuck fest”, estimated that the *majority* of his “about 30, 35” sexual partners were “otherwise straight”. He described fleeting but mutually

satisfying sexual encounters, pre-arranged and performed with minimal social interaction: “He’d come in [to my cell], 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!” Around the wing, typically no prior acquaintanceship was conceded; “prison gays”, Craig explained without rancour, do not associate with “genuine gays”. Likewise, the sole “100% straight” participant in this study who had “dabbled in gay sex” at a long-term prison, strictly compartmentalized his social and sexual relationships:

I wasn’t friends with them ... I fucked them purely out of necessity ... 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 normal sex.

He was, he stressed, “*always*” the “active” (orally and anally “inserter”) partner and would fantasize about former girlfriends or women depicted in pornography during his sexual encounters with men. He had thus remained psychologically committed to heterosexuality and heteronormativity during his sentence, and had resumed exclusively heterosexual relationships in the community.

The literature which confirms that some straight-identifying ‘heteroflexible’ men have sex with men, including when situationally exiled from women for prolonged periods, and without disturbing their sexual identity and ontological security (Ibrahim, 1974; Hensley *et al.* 2001), need not be deconstructed here. For the purposes of this analysis, what is important is that these sexual relations were always conducted “secretly, *massively* so” and “on the QT”, with both parties implicitly recognizing the undesirability of discussing, even in private, ‘what happened’; to the extent of equal complicity in maintaining in public the fiction that ‘nothing’ had, in fact, ‘happened’. Given this code of omertà, and the prudent lack of interest in others’ “business” Jem described, interviewees who had suspected “completely straight” men of having sex with men had neither the evidence nor inclination to question them. “It’s like the Army”, opined former soldier Marcus, “Shit happens. But – what happens on tour, stays on tour. What happens in prison, stays in prison. You don’t talk about it.” Concealed heteroflexibility therefore remains hidden; its extent, unknown and probably, unknowable.

To conclude this section with an arguably more commonplace, and certainly less incendiary, example: “openly gay” Liam successfully requested that his “good friend” move into his cell

on a VPU when the previous occupant was transferred. “Of course” he had not stipulated the sexual nature of their friendship, and because he and his partner behaved modestly and were never “caught out”, prison officers never questioned their co-habitation, as Liam explained:

Oh, they knew alright but obviously nothing was said ... If [the officers] 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!

Another gay couple, however, accommodated on the same VPU but in different cells, “made no secret” of their sexual relationship. They joined the prison’s Lesbian Gay, Bisexual and Transgender (LGBT) support group (itself established by a progressively minded, openly homosexual custodial manager), and became increasingly “vocal about gay rights”, culminating in a request to share a cell and their decision to enter into a civil partnership. At this point, they were moved to different prisons; a transfer Liam perceived as “vindictive” and “a warning” to other gay prisoners “not to cause problems”. Thus while their relationship was officially unknown and unseen, and hence denied and deniable by the prison, this couple could enjoy regular opportunities for sex. Once they made their relationship known and visible – once they (literally) asked and (metaphorically) told – NOMS’s ‘no sex’ doctrine required their separation.

The “going on” of sex in prison is therefore enabled through the communication and collective endorsement of a ‘don’t ask, don’t tell’ strategy<sup>12</sup>. To borrow momentarily from Zerubavel’s (2006) theoretically complimentary scholarship on the social organisation of silence, the ability of prison authorities to ignore ‘the elephant in the room’ is facilitated by a prison(er) culture which is frequently invested in ‘the keeping of open secrets’. Sexually active prisoners do not need to avoid detection, but merely to be fortunate enough to be supervised by pragmatic prison officers who enforce the rules selectively, and to be shrewd enough not to do anything themselves – such as entering into a legally recognized relationship or conspicuously engaging in or bragging about sexual relations – which would force the prison to know and be unable to continue “pretending” not to know. If these conditions are met, one can feasibly, in Cohen’s terms, engage in literal denial: ‘I see no sexual activity therefore there is no sexual activity.’

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<sup>12</sup> This phrase formerly described American military policy towards homosexual personnel.

One can only feel sympathy for prison staff who have to negotiate the morally ambiguous quagmire of prisoners' sexual relationships, when 'officially' such relationships do not exist or at least, are never tolerated. Nevertheless, this institutionalized unwillingness to 'know' about sexual activity matters because it permits some establishments to avoid engaging with 'the condom policy', to the potential detriment to the health of prisoners and the public.

*'The condom policy'*

Unprotected sex – in prison as elsewhere – risks the transmission of blood-borne viruses (BBVs) and sexually transmitted infections (STIs). Medical professionals working in English, Welsh and Scottish prisons are accordingly authorized to dispense condoms, dental dams and water-based lubricants if, in their clinical judgement, doing so will minimize the risk of infection transmission<sup>13</sup>. NOMS has not, however, specified its preferred approach to condom distribution across the penal estate. Each prison's senior management team must therefore decide how to implement the policy. The result is grossly iniquitous variance in the availability of condoms in British prisons.

In recollecting their experiences of condom provision across the spectrum of the penal (mainstream and 'vulnerable') estate, then, some interviewees had resided in prisons where prominently displayed posters promoted safe sex messages, and in which "pretty much unlimited" amounts of condoms were "readily" obtainable from healthcare, and less frequently, from drug workers, the chaplaincy, or at LGBT meetings. Others had been advised at reception of their automatic entitlement to a specified number of condoms per week from healthcare – sometimes with the proviso of a "one-for-one swap": "you had to return the used ones ... before you could get any more" – meaning that prisoners found in possession of "excessive" condoms (that is, beyond the stipulated quota), were liable to be disciplined for 'unauthorised articles'<sup>14</sup>. Only exceptionally, however, had interviewees been able to self-dispense condoms or obtain them in ways which they considered adequately guaranteed their anonymity and privacy. For, and as many interviewees observed, prisoners

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<sup>13</sup> This policy dates from (at least) a 1995 'Dear Doctor' letter, subsequently clarified in case law (*R v Secretary of State for Home Department Ex Parte Glen Fielding* [1999] EWHC Admin 641) and operationalized in Prison Service Order 3845 (1999). The policy has never applied in Northern Ireland.

<sup>14</sup> Contrary to Prison Rule 51(12).

in closed conditions are not autonomous agents, able to transport themselves to healthcare for a confidential consultation with their preferred primary care practitioner. An appointment requires permission to leave the wing and proceed through a series of locked doors and gates to access the clinic, whereupon prisoners will encounter other men awaiting medical treatment, and staff who may or may not be sympathetic to their request. Upon returning to the wing, prisoners will be searched. These practical obstacles had consequently deterred some men from obtaining condoms:

I never used condoms. I couldn't risk outing myself ... You'd have to queue up and ask for them in front of everyone else and I wasn't prepared to do that.

(Simon)

I was, at that time, straight. So how could I come back on the wing clutching a bag of condoms? ... Yeah, unsafe sex is a risk, but I thought it was a better risk than people knowing.

(Clem)

No, I didn't [use condoms]. Unfortunately you can't always trust healthcare staff not to report you.

(Craig)

Other interviewees, however, had requested but been refused access to condoms because, they had been told, providing condoms “encourages homosexuality” and hence might increase involvement in consensual sex, and by being (mis)used to conceal contraband, could increase levels of drug misuse. (Both objections are empirically refutable: Butler *et al.* 2013; Yap *et al.* 2007). As Noah recalled, in terms similar to the metaphoric allusion to “a blind eye” above:

When I moved to [an open prison], I was aware of guys having sex so I raised it with Diversity. I believe condoms should be freely available but I was told no, ‘prisoners aren't allowed condoms’ because they could be used to smuggle drugs ... It was a kind of blindness, really, wilful blindness to what was going on, and ignorance about the potential risk to those guys, because staff had a responsibility to help but they wouldn't because they were more worried about drugs.

What Noah is describing here, then, is such prisons' ‘moral indifference’ (Cohen 2001: 98-101) to sexually active prisoners and their sexual health needs; indifference inculcated

during officers' training and occupational socialization, and institutionalised within daily practice, by the foregrounding of security as the master status and meta-narrative for all that the prison is, does, and seeks to achieve (Arnold 2008). By reference to the familiar justifications of security and control, the prison can deny the countervailing imperative of sexual health and its ethical obligations to, and moral responsibilities for the health of, those in its care: the perceived risk to institutional good order overrides the risk to the sexual health of individuals. Moreover, from this perspective, if prisoners are not 'allowed' to do something and do it anyway, any adverse outcomes they suffer are their own fault: the neutralising technique of 'denial of victim'. It is more difficult, however, to apply the same logic to 'innocent' people in the community who recommence or begin a sexual relationship with a formerly imprisoned, and now infected, partner.

Simultaneously to know about the need for condoms and knowingly evade its implications demands a substantial and sustained investment in denial. In establishments with openly advertised and codified condom distribution schemes, it is impossible for prison staff not to be aware, at the very least, of the likelihood that prisoners obtaining condoms are doing so in order to have sex – and yet, as argued above, neither sexual activity among prisoners nor the capacity for heteroflexibility is publicly acknowledged. By relying upon the erroneous heteronormative assumption that only "genuinely" gay men have sex with men, prison staff were able, for example, to inform prison inspectors that 'access to barrier protection was unnecessary because none of its prisoners were homosexual' (HMIP in Howard League 2012: 3). Establishments which do not permit, or make it very difficult in practice for, their prisoners to access condoms are choosing not to know about sexual activity, and not to think about the potential consequences of unprotected sex. They fail to consider the risk of transmission (denial of injury) or alternatively, nullify their own culpability (denial of responsibility) by relocating the risk and hence attribution of blame to the sexually active prisoner who 'chose' not to subject himself to the humiliations of semi-public access to condoms (denial of victim). Variations in the policy's implementation across the penal estate also serve to disempower prisoners, who cannot assume that they will be able to obtain condoms, either at all or with dignity, or retain them in their cell without attracting censure. For some sexually active men, these experiences of unpredictability and indifference, and the uncertainties and anxieties they foster, deter them from attempting to limit their exposure, and that of their present and prospective partners, to STIs and BBVs. Some 20 years after the condom policy was formally instituted, it therefore remains likely that only a *minority* of men



who have sex in prison, use condoms (Strang *et al.* 1998; Taylor *et al.* 2013). This, then, is a significant harm which the condom policy was intended to acknowledge, but which some prisons, in their inconsistent and inadequate response, continue to deny.

### *Coercive sex*

Quite simply, what happened ruined my life ... 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.

(William)

In an incisive paper published in this journal, O'Donnell (2004) explained what is exceptionally American about prison rape. As participants in this and other studies (for example, Edgar *et al.* 2003) concur, rape in British prisons *is* statistically rare, and fear of rape does not permeate British penal culture.

A numerically “*much* bigger problem than rape”, according to interviewees, is transactional sex. The trading and borrowing of permitted and contraband items (notably, classified drugs, prescription medications, mobile phones, tobacco, and alcohol) and services (gambling, credit) is an entrenched feature of prison life. Much prison violence – bullying, intimidation, and physical assaults – is associated with securing repayment from reluctant debtors; after all, there are no legitimate means by which to compel the honouring of illicit agreements (Edgar *et al.* 2003; Crewe 2009). Less well recognized (though see Banbury 2004), however, is the situation whereby prisoners in debt or “with zero credit” and minimal external social and financial support, offer “sexual favours” in lieu of payment or in return for goods purchased by the recipient of the “favour”. Research participants reported witnessing such transactions occurring in both mainstream and ‘vulnerable’ settings, but it was those who had resided in VPUs who stressed how “frequently” they had observed predatory paedophiles pursue the closest approximation to their preferred prey, “boyish-looking” prisoners, whose sexual capitulation was rewarded with “gifts”:

This one [mainstream] guy, he would basically prostitute himself for heroin. He'd got a habit and no other way to pay for it.

(Donald)

At [my VPU], the going rate for oral [sex] was a Mars Bar. Sounds ridiculous, I know, but – depends how desperate you are ... You see that *a lot*, older guys with private cash grooming young guys with fuck all.

(Ollie)

Views about whether sex might be offered and accepted as re-payment of debts already incurred were more mixed, however, and none of the interviewees had ever heard of a prisoner being sexually assaulted as punishment for non-payment or as a prospective strategy of debt enforcement.

Transactional sex is therefore neither a simple extension of the normal rules and codes by which the prison's informal economy operates, nor straightforwardly coercive. Interviewees hypothesized that those who trade in sex agentically ascribe an instrumental meaning to their behaviour – they consent to enter into a commercial exchange at the market “going rate”, out of need, not desire – in order to protect themselves psychologically from the spoiled identity which unwanted, and for some, same-sex, sexual activity would otherwise confer. Donald's comparison with prostitution is therefore apt: a binary distinction between consensual and coercive sex is morally problematic to sustain when drug addiction or economic pressure obfuscate the divide between wholly voluntary and manifestly involuntary conduct. Moreover, any such interpretative and indeed ‘personal denial’ (Cohen 2001: 10) about exchanging sex for goods is mirrored by the failure of the prison to initiate the identification and labelling of transactional sex as, at minimum, abusive and inherently exploitative sexual activity. ‘Traders’, no matter how “desperate”, will not perceive themselves as victims until the prison does – and these “sort of wrong” “not really consensual” acts will continue to be neglected and negated in assessments of sexual activity in British prisons.

Moreover, just as participants had asserted that prison officers could only *not* know about consensual sex by “wearing blinkers”, so they wondered how it was possible for them not to notice the “blindingly obvious”, “up-to-no-good” “arrangements” which were readily apparent to prisoners. As Vinny decried, in recalling his time in a high security prison:

You don't have to be a genius to figure it out. These guys have got bugger all – but a drug habit – and yet there's this dealer, or a mate of the dealer, going into his cell, closing the door, coming out five minutes later looking very

pleased with himself, and hey presto, the druggie keeps getting his stuff! ... I can only describe it as shameful, shameful inaction by the prison, because it's obvious something's not right. But also, to be fair, it's pretty shaming that [prisoners] say nothing either – but of course you can't, because that would make you a grass.

Vinny's exasperation thus relates not just to the prison staff's failure "to figure it out", but to the vaunted inmate code prohibition against informing – 'grassing', or in American parlance, 'snitching' – whether as victim or observer. These two points merit expansion as they are implicated in the non-reporting of indisputably coercive sexual acts. Although the extent to which 'grassing' remains inviolate within the (criminal and) prisoner code of 'acceptable' behaviours is debatable (Crewe 2009), the fear and actuality of grievous retribution heaped upon 'grasses' and 'snitches' features regularly in analyses of contributory factors to non-reporting of sexual assault in prisons (Struckman-Johnson *et al.* 1996; Edgar *et al.* 2003), and to 'the cycle of sexual victimization' (Banbury 2004: 125) which economic dependency and transactional sex foster. None of the three men in this study who had been raped in prison, had their assaults 'officially' recorded as such. Aiden's account illustrates why. Shortly after his transfer from a Young Offenders' Institution to an adult training prison, Aiden was anally raped by five assailants, sustaining internal injuries which required in-prison medical treatment. Aiden was explicitly discouraged from reporting the rapes by a principal officer because to name the perpetrators would "mark his cards" for the remainder of his sentence and risk retaliatory attacks from their associates. Instead, the officer relocated Aiden, initially to the segregation unit for his 'own protection' and soon after, another prison. This response may have been well-meaning and even well-grounded – Aiden himself accepted: "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" – but it was contrary to policy<sup>15</sup>.

Although, then, Aiden felt unable to report the rapes, he subsequently signalled his distress indirectly through self-harming behaviours. The self-loathing he developed for his body manifested itself in anorexia, while his initial feelings of profound shame and constant anxiety metamorphosed into anger and isolationism. He uncharacteristically began to provoke or participate in fights with other prisoners or refuse to co-operate with staff,

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<sup>15</sup> The perpetrator(s) should normally be relocated (Howard League 2012). Rape (and other sexual offences) 'must be referred to the police' (NOMS *et al.* 2015: Annexe B).

accumulating numerous disciplinary adjudications and sojourns “down the block” (punitive segregation) in the two years following the multiple perpetrator rape. No one asked Aiden what these changes in his behaviour ‘meant’: why he was not eating or why he had become aggressive, uncommunicative, and withdrawn. It was only five years later, after Aiden entered into prolonged group psychotherapy at Grendon therapeutic community prison (see Stevens 2013), that he eventually felt able to disclose his victimization and came to understand how hurting himself and others was directly related to his sublimated trauma.

Rape and sexual assault, of course, are habitually invisible offences. Victims in the community can be deterred by, for example, embarrassment, rape myths (which for male victims, include negative aspersions about their masculinity and sexuality), and distrust or lack of confidence in investigatory authorities (Rumney 2009; Weiss 2011). In the total and robustly masculinist institutional environment of the prison, however, these concerns and their inhibitory effects are both amplified and supplemented, as discussed above, by the potential repercussions of ‘grassing’ (Miller 2010). Non-reporting is therefore not just the norm – American researchers found that fewer than a third of prisoners who disclosed sexual coercion to them, had informed prison authorities (Struckman-Johnson *et al.* 1996) – but is to be anticipated. Just how opaque the dark figure of unreported (and hence unrecorded) assaults inevitably is, however, appears not to be fully appreciated by the Ministry of Justice (2015: unpaginated), which only tepidly concedes that ‘due to the nature of the type of assault not all sexual assaults may be reported’. *Most* sexual assaults in prison are not reported<sup>16</sup>.

In relation to coercive sex, the ‘don’t ask, don’t tell’ strategy accordingly presents itself in more subtle, more amorphous form. Some incidents are not ‘seen’ because they were never ‘seen’: the nature of denial is rarely literal. Aiden, for example, was not told that he was not raped, but his suffering was interpretively denied; his ordeal reformulated to require the silencing of the victim, rather than a criminal investigation into the rapists, and his subsequent trauma reframed as self-harming and institutionally ‘troublesome’ behaviours. While prison authorities cannot know what they are unable to know because of non-reporting,

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<sup>16</sup> Space precludes discussion of the well-evidenced opportunities for attrition between reporting, recording, referral to the police, and prosecution in the community (Kelly *et al.* 2005). These ‘gaps’ help to explain, though, the discrepancy between HMIP’s findings that at least one per cent of prisoners are sexually assaulted (Howard League 2012) – which extrapolating from daily prison population figures equates to approximately 850 men and women – and NOMS incident reporting data of 300 sexual assaults for 2015 (Ministry of Justice 2016b).

they could communicate their receptiveness to ‘knowing’ by unflinchingly acknowledging that the true extent of sexual assaults is not only *significantly greater* than officially recorded, but as Cohen almost said, a ‘known unknown’; the opacity of which could be lessened by, for example, improving staff adherence to and understanding of reporting and recording procedures, increasing prisoners’ confidence in those procedures, and by permitting research. For, to overcome denial and under-reaction entails moving beyond the acquisition of knowledge to, and as Cohen (2001:9) did say, ‘doing the “right” thing with this knowledge’, by appreciating and acting upon its implications.

Denial may also emanate, however, *not* from ‘not seeing’, but from not looking. ‘The universal tendency to see only what is convenient to see’ (Cohen 1993: 103) produces a cognitive confirmation bias in which information is selected to fit one’s existing perceptual frames. If one does not see what one does not expect to see, prison staff who, relying upon the low rates of *reported* sexual assaults, ‘know’ that such crimes are comparatively rare, will not anticipate encountering evidence of their existence nor ponder the *actual* levels of assault. Such ‘cultural not-noticing’, because it does not correspond with the prison’s ‘taken-for-granted view of the world’ (Cohen 2001:9), may then result in a foreclosure of imagination and of avenues of enquiry. This failure to look beyond presenting symptoms – here, of coercion, grooming, or reluctant engagement in transactional sex – to discern the chains of causation and possibilities for meaningful intervention (Cohen 2001), can foster the perception among prisoners that “nobody wants to know”. More simply stated, if victims of sexual coercion are not asked, they may not feel able to tell. (Conversely, as this and many other studies demonstrate, when asked, with sensitivity and in conditions of confidentiality, some prisoners, and the formerly imprisoned, will feel able to tell.) Arguably, if prison staff were more fully apprised through training of American research which catalogues the persistently observed characteristics of victims and perpetrators of sexual assaults (Dumond 2000; Morash *et al.* 2010), and were more imaginatively inquisitive about how, for example, substance-abusing prisoners with limited financial resources fund their habit, they might be more alert to tell-tale signs that “something’s not right” and be able “to figure it out”. They would then be better equipped to intervene, prospectively and pro-actively, to enquire into and prevent or curtail abusive behaviours and situations; and at least to consider whether problematic behaviour might be a consequence of trauma. Otherwise, not noticing and not

thinking results in not knowing, leaving the sexually assaulted and sexually exploited unprotected, and their survival and recovery unaided.

### *Conclusion*

*So it sounds as if you're saying the Prison Service is in denial?*  
Oh, for sure. Denial's not just a river in Egypt, you know!

(Frankie)

As theorized through Stanley Cohen's (1993, 2001) sociology of denial, and illustrated through interviewees' accounts of sexual relationships and sexual assaults, this article has shown how a collective and collaborative strategy and cultural habit of 'don't ask, don't tell' ensures that too often, inconvenient knowledge is avoided and necessary interventions evaded.

This culture of denial begins with the institutional failure to recognise that imprisoned men remain sexual beings, with sexual needs, which a minority of men will seek to satisfy by having sex with other men. Both prisoners and staff conspire to ensure that consensual same-sex sexual relationships can pass unseen; while transactional sex is not noticed and not labelled as abusive, because of the fallacious polarity between consensual and non-consensual sex in an inherently coercive environment. The prisoner code against 'grassing' induces the silence of many, perhaps most, victims of sexual coercion; compounded sometimes by the inattention and inaction, or inappropriate action, of frontline officers little used to anticipating, or responding appropriately to, reports of sexual assaults (Miller 2010). Equivocal and inconsistently applied policies about what is and is not permitted in prison, and how (or even whether) to implement the condom policy, result in inequalities in practice between establishments, dressed up as localized discretion. The sexually active prisoner may be lucky, and find himself in a prison which facilitates anonymized access to condoms; or at least, where the personal values of managers favour the prioritisation of public health over 'moral opprobrium and security risks' (see Bennett 2016:126). Conversely, a prisoner may find himself accommodated in a prison where sexual health needs are more than usually subservient to the insistent and irresistible demands of security, and in which the

impracticalities of the procedures by which he is expected to acquire condoms deter him from protecting himself – and others – against STIs and BBVs.

While the road from “wilful blindness” to “shameful inaction” can be short, my contention is that the prison’s response is not generally one of purposive cover-up but of unimaginative complacency: complacency which comes from knowing a little, and knowing that one knows only a little, and not wanting to know more – because if one does, one may feel obliged to do something about it. The ease with which this ignorance about sexual activity has been accepted and perpetuated is most evident in the lack of research. Undoubtedly, such research is exceptionally difficult to conduct, methodologically and ethically – but not insurmountably so, as the depth and breadth of American scholarship attests. Perhaps, however, because most research reassuringly suggests that the percentage of prisoners suffering sexual violence or willingly having sex is in single digits, British penologists and NOMS have been lulled into believing that the subject does not warrant further investigation. This, however, would be to miss the point. There are sound reasons for believing that consensual sex among the long-term population in particular, but also sexual activity which traverses the continuum of coercion, is more widespread than currently thought. Moreover, for those who are sexually assaulted, it matters little that theirs is an atypical experience. For those for whom sexual relations are, to varying degrees, a choice but who are or feel unable to obtain condoms, it matters a great deal if their sexual health, and that of present and future sexual partners, is jeopardised. Actual and potential harms follow from just one person being raped or just one person having unprotected sex.

To ‘knowingly know’, or to actively seek to learn, more about sexual activity in British prisons invites the prospect of unwelcome discoveries and uncomfortable truths. Congruent with Carlen’s (2008)<sup>17</sup> concept of ‘imaginary penalties’, prisons maintain the official rhetoric that, and proceed ‘as if’, prisoners do not have sex, yet are permitted to distribute condoms because they ‘know’ some do. One might therefore reasonably anticipate that NOMS would be sensitive to the national collection and publication of data which is shown to countermand its policies on consensual sex, or exposes inaction on, or impotency in the face of, coercive and transactional sex. Equally, prisoners may not relish revelations about the sexual behaviour of some of their brethren. To uncover more about the phenomenon of

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<sup>17</sup> I am grateful to the anonymous reviewer for this insight and indeed to both referees for their constructive comments on an earlier draft.

heteroflexibility in particular would threaten the conspiracies of silence surrounding straight men who temporarily engage in male-to-male sexual contact, but whose discursive positioning of themselves as perpetually priapic heterosexuals is the only enactment of their sexuality the hypermasculine and homophobic prison environment permits. While the present levels of denial about sex and sexual assault are therefore understandable, not knowing, not choosing to know, or knowing but preferring not to think about what this means or necessitates in response, leaves unprotected those people who willingly engage in, or are coerced into, sex in prison. Denial, in short, has immensely harmful consequences.

As others have urged (Stewart 2007), there *is* a pressing need for more research; research which both integrates and progresses a reformatory agenda by which, to misquote Cohen (1993: 97), one can ‘do’ both criminology and human rights. Although 24 former prisoners do not constitute a representative sample or produce generalizable findings, their testimonies do suggest that important aspects of the prisoner experience have been empirically neglected. Thus ‘we *still* don’t really know and more research is needed’ – well funded, methodologically rigorous research which would allow penologists to understand better the realities and complexities of sexual activity in British prisons. However challenging, what is required is a sustained commitment to research which encompasses the perspectives of serving and former prisoners and prison staff, elicits quantitative and qualitative data on all manifestations of sexual activity, and is facilitated by but independent of NOMS. However uncomfortable, what is required is a clear-eyed determination across the penal estate to recognize prisoners’ continuing sexual needs, the certainty of some consensual sex, the potential for sexual exploitation and rape, and the consequences these have for prisoners’ well-being and safety and for trauma-informed practice. Such awareness could be embedded through enhanced staff training and a philosophical and operational framework which prioritizes the identification and protection of prisoners vulnerable to unsafe sexual practices, sexual coercion, and grooming (Stevens 2015). This would then result in realistic policies and enforceable instructions to staff which more effectively safeguard prisoners’ sexual health and minimize the risks of sexual coercion; and so would – finally – acknowledge sexual activity in British prisons, ‘not just its existence but its moral implications’ (Cohen 1993: 113).

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