The Decline in Sexual Assaults in Men’s Prisons in New South Wales: A “systems” Approach

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Abstract
Male prison rape and sexual assaults remains a serious and sensitive issue in many countries. Human rights groups claim that sexual assaults among male prisoners have reached pandemic proportions and need to be stopped. Researchers for many years have studied the causes of male sexual assault in prison and offered numerous recommendations on its prevention. Few, however, have presented evidence for a decline in male prisoner sexual assaults and investigated the reasons for the decline. This article provides evidence from population-based surveys of a steady decrease in male prisoner sexual assaults in New South Wales (NSW) between 1996 and 2009. The authors conducted in-depth interviews with former and current inmates, and using a “systems” approach they discuss the complexity of sexual assaults in prison, incorporating a multiplicity of perspectives. In particular, they bring together different sources of data and discuss this in relation to changes in power structures and control in a modern prison, the attitudes of older and

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younger prisoners, the concept of “duty of care,” introduction of prison drug programs, and prisoner attitudes toward gender and sexuality. In anthropology, the term “system” is used widely for describing sociocultural phenomena of a given society in a holistic manner without reducing the complexity of a given community.

Keywords
Australia, sexual assault, male rape, prisons, qualitative research, health policy

Introduction
Studies estimating prison sexual coercion and/or assaults in men’s prisons vary considerably. Prison surveys in United States penitentiaries report between 0% and 48% of male prisoners had nonconsensual sex while incarcerated (Carroll, 1977; Maitland & Sluder, 1998; Struckman-Johnson, & Struckman-Johnson, 2000; Struckman-Johnson, Struckman-Johnson, Rucker, Bumby, & Donaldson, 1996). In Russia, between 8% and 10% of 1,100 prisoners in one survey were classified as “untouchables” or “underdogs” and were forced to provide passive sex to other men (Albov & Issaev, 1994). Elsewhere, 0.3% (n = 3) of 979 English prisoners reported nonconsensual sex with another inmate (McGurk, Forde, & Barnes, 2000). Human rights organizations and others have documented anecdotal evidence of sexual assaults from former and current inmates in various countries and claim that it is widespread in their jurisdictions (Banbury, 2004; Helsinki Watch, 1989; Human Rights Watch, 1998, 2001; Moscow Centre for Prison Reform, 1996). Despite the numerous studies and reports, there is little agreement among researchers on a definition of sexual assault and rape while incarcerated. Time frames when sexual assaults occurred, furthermore, are nonspecific; we do not know if sexual assaults occurred recently or in the distant past (e.g., 20 years ago) during which prison policies may have changed significantly. Few of these studies, if any, have focused on prisons reporting a decline in sexual assaults.

In this article, we examine why sexual violence declined in men’s prisons in New South Wales (NSW) in Australia. Since 1991, a number of Australian-based surveys involving prisoner and ex-prisoners indicate a gradual decline in the prevalence rates of sexual assaults among male prisoners in NSW. Sexual assault data from in-depth interviews with male and transgendered prisoners and ex-prisoners also provides more detail and corroborates this decline. Using a “systems approach,” an interdisciplinary theory on complex systems...
(see Bateson 1979), we investigate the interactions between prisoner and prison environment on why men raped each other and how this was eventually prevented. In anthropology, the term “system,” not to be confused with functionalism, is used widely for describing sociocultural phenomena of a given society in a holistic manner, enabling anthropologists to capture reality without reducing the complexity of a given community. In this article, we incorporate multiple perspectives, the native and other viewpoints, using a nonrepresentative, open systems, interdisciplinary approach. We combine current and historical data from prisons to produce a multifaceted analysis on male sexual assaults in prison so that we can better understand the complexities surrounding prison sexual violence and its prevention.

**Background to Male Sexual Assaults in New South Wales Prisons—The Historical Context**

In 1998, a book on sexual assaults of young prisoners was published for the first time in Australia. David Heilpern, 4 years earlier, conducted a survey, using a hybrid sampling framework, of 300 male inmates aged between 18 and 25 years in NSW prisons (Table 1). He reported that 26% had been sexually assaulted and 50% were subjected to other assaults. At the same time, two accounts from his in-depth interviews on prisoners’ rape experiences indicated collusion and indifference by custodial staff to rapes was also identified (pp. 35-36).

While some may question Heilpern’s (1998) research methodology, his book caused debate when it was first published, as readers were left with the impression that male sexual violence was endemic in New South Wales’ prisons. He attributed the sexual violence to “perpetrators seeking power through sexual violence, the acquiescence of prison authorities, overcrowding, and the prior sexual experiences of perpetrators” (p. 223). Among his many recommendations, he suggested that prisoners aged 18 to 25 years should be housed in small groups of separately managed units. Prison officers should also be trained on sexual assaults with prisoners who had been sexually assaulted and failure to report sexual assaults should not go unpunished. Furthermore, the state should assume legal responsibility for the safety of prisoners.

Since Heilpern’s study, several population-based surveys of prisoners have shown that nonconsensual sex between male inmates in NSW prisons has steadily declined (Table 1). In particular, the NSW Inmate Health Surveys, a
highly comparative data source, report a decrease in male sexual assaults from 1.5% in 1996 to 0.1% in 2009 ($p < .0001$) and among inmates between 18 and 25 years from 2.7% in 1996 to 0% in 2009 ($p < .003$), much lower than Heilpern’s research.

As part of the 2007 Sexual Health and Attitudes of Australian Prisoners survey (Richters et al., 2008), we carried out a number of in-depth interviews

Table 1. Nonconsensual Sex in Men’s Prisons in New South Wales

<table>
<thead>
<tr>
<th>NSW Prison Surveys</th>
<th>Nonconsensual Sex (and Sexual Contact)</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991 Survey on ex-prisoner injecting drug users (Sydney data)</td>
<td>N/A</td>
<td>5.0</td>
</tr>
<tr>
<td>1996 NSW Inmate Health Survey$^a,d$</td>
<td>15/657</td>
<td>1.5</td>
</tr>
<tr>
<td>2001 NSW Inmate Health Survey$^a,d$</td>
<td>3/747</td>
<td>0.4</td>
</tr>
<tr>
<td>2007 SHAAP Survey in NSW$^e$</td>
<td>11/1118</td>
<td>1.0</td>
</tr>
<tr>
<td>2009 NSW Inmate Health Survey$^a,f$</td>
<td>1/797</td>
<td>0.1</td>
</tr>
<tr>
<td>1994-95 Heilpern’s Survey (18-25 yrs)$^g$</td>
<td>77/300</td>
<td>25.6</td>
</tr>
<tr>
<td>1996 NSW Inmate Health Survey (18-25 yrs)$^b,d$</td>
<td>7/257</td>
<td>2.7</td>
</tr>
<tr>
<td>2001 NSW Inmate Health Survey (18-25 yrs)$^b,d$</td>
<td>1/279</td>
<td>0.4</td>
</tr>
<tr>
<td>2007 SHAAP Survey in NSW (18-25 yrs)$^e$</td>
<td>2/244</td>
<td>0.8</td>
</tr>
<tr>
<td>2009 NSW Inmate Health Survey (18-25 yrs)$^b,f$</td>
<td>0/292</td>
<td>0.0</td>
</tr>
</tbody>
</table>


c. Wodak et al. (1991): Purposive sampling strategy targeting injecting drug users who had been in prison. Survey of 1,245 ex-prisoner injecting drug users in NSW, showed that 908 were men. “Thirteen per cent of respondents reported having had sex with a man while in prison. Five per cent reported having been anally raped while in prison. Forty per cent of the sexually active men reported that they had had anal intercourse while in prison.”

d. Butler (1997): Face-to-face survey of male prisoners (cross-section randomized). “Have you ever had sex with another inmate since coming into prison? If yes, did you consent to it?”

e. Richters et al. (2008): Telephone CATI survey of male prisoners (cross-section randomized). “In all the time you have spent in prison, have you ever had any sexual contact, including touching, with another inmate? Did you agree to this?”

f. Indig et al. (2009): Telephone CATI survey of male prisoners (cross-section randomized). “Have you ever had sex with another inmate since coming into prison? If yes, did you consent to it?”

g. Heilpern (1998): Probability sampling of 111 male prisoner respondents (self-administered questionnaire) and nonprobability sampling of 189 male prisoner respondents (interviewed by Heilpern): “Have you been actually sexually assaulted while you have been in prison?” Heilpern defines sexual assault as “physical contact of a sexual kind, where your involvement is forced upon you, such as unwanted anal sex, oral sex, wanking, or fondling. The force may be by threat of, or actual, physical harm” (p. 16).
with prisoners and ex-prisoners. The qualitative study provides additional evidence that there has been a “real” decline in the number of sexual assaults in NSW prisons after the mid-1990s and gives more detailed explanations for this decline.

**Method**

The main objective of the qualitative research was to conduct an exploratory study investigating the sexual attitudes and behaviors of NSW prisoners. The qualitative research was part of the Sexual Health and Attitudes of Australian Prisoners study (SHAAP), which included a larger quantitative cross-sectional randomized survey of sexual attitudes and behaviors of male and female inmates in NSW and Queensland prisons. Some of the topics explored in the qualitative research included sexual culture in prisons, sexual behaviors inside and outside prison, sexual coercion and assault, and protective sexual practices.

**Recruitment**

Open-ended interviews were conducted face-to-face with 33 men and 7 male-to-female transgendered people who had served or were currently serving sentences in a New South Wales prison (Table 2). Some transgendered inmates were interviewed in women’s prisons; they had lived in both men and women’s prisons and could provide different perspectives. Participants were aged between 20 and 60 years and identified themselves as heterosexual, bisexual, or gay. These identity terms were not suitable for some male-to-female transgendered people, who described themselves as “having sexual relations with men only.” Inmates had prison sentences ranging from less than 12 months to 20 years; some were repeat offenders.

Respondents currently in prison were recruited using a snowball sampling strategy: prison nurses introduced the researcher (LY) to inmates who then introduced their friends and so on. Participants in the community were purposively sampled to ensure variation in gender, sexual orientation, and length of incarceration (short- or long-term inmates), with deliberate oversampling of those who had had sex in prison and who were open to discussing prison sexual culture. Prison location was not considered to be an important factor in selecting participants since most inmates had been transferred to multiple prisons during their incarceration episodes.

Former prisoners were introduced to the interviewer by community and social workers or recruited by means of printed flyers in community organizations.
Table 2. Sociodemographic Profile of Men and Transgendered Participants in-Depth Interviews

<table>
<thead>
<tr>
<th></th>
<th>Ex-Prisoners</th>
<th>Current Prisoners</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>10</td>
<td>23</td>
<td>33</td>
</tr>
<tr>
<td>Transgendered male-to-female</td>
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<td>5</td>
<td>7</td>
</tr>
<tr>
<td>Sexual identity (male only)</td>
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<td></td>
</tr>
<tr>
<td>Heterosexual</td>
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<td>9</td>
<td>18</td>
</tr>
<tr>
<td>Gay</td>
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<td>10</td>
<td>10</td>
</tr>
<tr>
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<td>4</td>
</tr>
<tr>
<td>Did not want to say</td>
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<tr>
<td>Age group</td>
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</tr>
<tr>
<td>21-30</td>
<td>2</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>31-40</td>
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<td>6</td>
<td>12</td>
</tr>
<tr>
<td>41-50</td>
<td>3</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>&gt;50 years</td>
<td>1</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>No response</td>
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<td>2</td>
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<tr>
<td>Region of birth</td>
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</tr>
<tr>
<td>Australia/New Zealand</td>
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<td>20</td>
<td>31</td>
</tr>
<tr>
<td>Europe</td>
<td>1</td>
<td>7</td>
<td>8</td>
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<td>Pacific</td>
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</tr>
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<td>Regional-ethnic grouping</td>
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<td>22</td>
<td>31</td>
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<tr>
<td>Aboriginal/Aboriginal-European</td>
<td>3</td>
<td>3</td>
<td>6</td>
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<tr>
<td>Pacific</td>
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<td>1</td>
</tr>
<tr>
<td>Middle East</td>
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<td>1</td>
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<tr>
<td>No response</td>
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<td>1</td>
</tr>
<tr>
<td>Education</td>
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<td></td>
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</tr>
<tr>
<td>No formal schooling</td>
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<td>1</td>
<td>1</td>
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<td>Lower secondary/school</td>
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<td>8</td>
<td>17</td>
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<td>certificate/intermediate</td>
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<td></td>
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<tr>
<td>certificate</td>
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<td></td>
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<td>Higher secondary school/HSC/</td>
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<td>10</td>
<td>12</td>
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<tr>
<td>VCE/leaving certificate</td>
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<td></td>
<td></td>
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<tr>
<td>Technical or trade certificate</td>
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<td>5</td>
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<tr>
<td>College certificate/diploma</td>
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<tr>
<td>Postgraduate university degree</td>
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</table>
(continued)
Table 2. (continued)

<table>
<thead>
<tr>
<th>Prisons incarcerated during lifetime</th>
<th>Ex-Prisoners</th>
<th>Current Prisoners</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two different prisons</td>
<td>1</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>3 or more different prisons</td>
<td>11</td>
<td>25</td>
<td>36</td>
</tr>
<tr>
<td>First year incarcerated</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1960s</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>1970s</td>
<td>0</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>1980s</td>
<td>3</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>1990s</td>
<td>7</td>
<td>4</td>
<td>11</td>
</tr>
<tr>
<td>2000-2007</td>
<td>1</td>
<td>19</td>
<td>20</td>
</tr>
</tbody>
</table>

accessed by ex-prisoners, including groups for drug users and sex workers. Interviews were conducted in private at these community venues.

**Interviews**

The interviewer and participant were the only people present during interviews. Inside prisons, in-depth interviews were conducted in meeting rooms, clinic rooms, or prison offices. Most of these rooms had video surveillance but no sound. Custodial staff were stationed outside interview rooms in case of emergency. They usually sat or stood behind a closed door or glass partition while interviews were conducted in private. Outside of prisons, interviews were held in private offices or counselling rooms of the community organization.

We asked participants about sexual assaults in prison, sexual networks in jail, sex in exchange for goods or favors, sex inside and outside prison, and sexual meanings. Interviews were open-ended and themes were pursued depending on the experiences and views offered by participants. Reflections after the interviews indicated that some inmates had agreed to talk to researchers as they felt their concerns were not being heard by NSW Corrective Services. None of the unwanted sexual incidents were verified with prison records.

**Data Analysis**

The qualitative data is nonrepresentative and was analyzed for the range of views expressed rather than the number of responses. We completed data collection when data saturation had been reached. Data saturation occurs when
the researcher is no longer hearing or seeing no new categories, themes, or explanations emerging from the data. The qualitative researcher analyzed the data throughout the study using QSR NVIVO 7.0 to manage the datasets into thematic codes. The thematic coding structure was continuously revised as each interview was analyzed. Some of the themes were based on previous research in the quantitative and qualitative prison sexual health literature, but new and original themes were categorized on their own to be explored further in future interviews.

Other Data Sources
Historical prison literature and NSW corrective services and parliamentary reports, statistics, policies, and guidelines were used to inform the discussions in this article.

Results
Dan (not his real name) is an Aboriginal man who had been in and out of New South Wales prisons between the late 1960s and 1990s. As a young man, he had been the target of numerous attempted rapes from other inmates and recalls a prison culture steeped in sexual violence toward young male inmates.

Heaps of rapes occurred in prison. I walked into upstairs at six wing one time and I seen a young bloke he was tied—they had him tied to the bed. The bed was up like that [vertical]. They had him tied and he was naked and they were lined up outside on the veranda all raping him and I tried to stop it and it was very hard because you get a name and then you’re violent, then people take notice of it. (Male, age 55)

After 17 years outside prison, he still held a firm belief that prison sexual violence remained unchanged in New South Wales.

We’ve got to try and fix it now. If we let it go it’s going to be too late. It’s like waiting for a boil to bust. We’ve got to get to it before it busts, because once it busts it’s all over us and all of us are going to be touched with it.

Other respondents, in contrast, offered a different perspective on sexual violence in New South Wales prisons. Prisoners and ex-prisoners who had been incarcerated within the last 10 years had observed a dramatic shift
toward a less violent prison sexual culture. In the interviews, respondents typically commented,

Well, it used to happen a lot then, you know what I mean. Like one of my mates, he’s been, he’s on his second life lag-in now. So, he’s been in a long time, you know, and he used to talk to me about it back then when he first come to jail, when he was eighteen, you know, his first time in at [prison name] and he used to say, it used to happen a lot bro, you know, they’re all fucking mad, the cunts . . . And like you have them blokes that are raping the young fellas over the pot [toilet], you know. (Male, age 31)

I mean, that’s been like that since the old days [. . .] the old-school boys [prisoners from the 1960s to the 1980s]. I mean me, that’s what I’ve been told by the older boys, that’s how it’s meant to work. But jail’s changed a lot since then. [. . .] It was, it was more worse, it was more harder. [. . .] You get more people getting raped. A lot more people getting bashed. Just a lot of insecurity around the jail. Just a lot . . . back then. Now, it’s, it’s sort of, it’s sort of a bit different. (Male, age 20)

One inmate indicated a time frame for this shift, “fifteen years ago in jail apparently it was bad like that in Australia” (Male, age 27). Others suggested that prison sexual assaults and violence occurred on a much more frequent basis about 10, 20, or 30 years ago.

**The Decline in Prison Sexual Violence**

We explored in more detail the responses of prisoners and ex-prisoners on why they believed prison rapes and sexual violence occurred less frequently than in previous decades. As part of our “systems approach,” we analyzed their responses in relation to our current knowledge of the history of the prison organization, infrastructure, systems, and policies. We discuss the bidirectional interactions between prisoner and prison environment and historical factors and how these may have led to the decline in male prisoner sexual assaults in NSW. Discussions focused, in particular, on the shift in the structural power and control in a modern prison, the attitudes of older and younger prisoners, the concept of “duty of care,” drug supply and demand reduction, methadone maintenance programs, and prisoner attitudes toward gender and sexuality.
Power and Control in a Modern Prison

Between 1994 and 1995, Heilpern observed that prisons in NSW were overcrowded, housing between 10 and 15 inmates in small rooms, although these claims are disputed by NSW Corrective Services. Since 1996, nevertheless, new and modern prisons have been built in NSW mainly as a response to an increase in the inmate population rather than to prevent sexual assaults and, as an afterthought, during the design process, to reduce escalating staff costs and to promote custodial staff safety. In effect, modern prison architectural pods began to be designed to minimize “blind spot” areas and to make human surveillance of prisoners more efficient in each unit, requiring fewer staff. The newly commissioned prison cells were fitted with their own showers and toilets and each cell had better quality call systems to notify staff of emergencies when prisoners were locked in their cells day or night. New cells, in general, were shared by two inmates except for particular prisoners who were “sweepers” or unit cleaners, who had their own cells.

Throughout the mid- to late 1990s, closed-circuit television cameras were introduced into cells for “vulnerable” inmates, day rooms, yards, and program areas. These cameras provided a higher level of monitoring and continuous recording of prisoners’ and prison staff activities. Inmates entering a cell uninvited could be detected and identified and the risk of being caught after an assault was increased. Between 1994 and 1996, additional prison staff were posted on the ground with fewer in static posts next to doors that had to be manually opened and closed by officers. This made the presence of staff less predictable for inmates and allowed staff to be more responsive to security issues as they arose.

From the mid-1990s, prisons became better controlled and regulated. In a maximum security prison, inmates were locked in a yard or unit all day unless they were working, attending a course, or had a prearranged appointment elsewhere or were involved in a supervised recreational activity. Each inmate is now issued with an identification tag and must wear the green prison uniform. Prisoners are classified according to their crime and level of risk and placed accordingly into minimum, medium, maximum, or super maximum security areas. Prisoners on entry and after visits are constantly subject to strip searches, random drug tests, and body and cell searches. As one inmate commented, “they [inmates] know they can’t get away with this, this and that” (Male, age 20). Other methods of controlling prisoner behavior include the introduction of prisoner employment to train prisoners in new skills. Bored prisoners are less likely to conspire in bringing in illicit drugs or getting up to additional mischief if they are kept busy while incarcerated. An indication of how tightly controlled prisons are and how prisoners are currently managed is
the dramatic 700% decline in prisoner escapes from 93 escapes in 1997 (1.3 per 100 offender years) to 13 escapes in 2009 (0.1 per 100 offender years; Enriquez, 2010).

In contrast, during the 1980s, interviews suggested that inmates were in control of the prison. They were allowed to wander much more freely inside and outside the prison grounds.

But before, you’d just sing out, “gate,” and he’d come down and unlock the gate, and you’d just wander off to where you wanted to go... Where before you could go to three or four different jails and you’d be able to have day leave or weekend leave, or go out and work five days a week or go to play sports. There used to be a lot more outside activities. And again that activity brought in drugs. (Male, age 56)

The increased surveillance and control of prisoners and prison officers may also have reduced the level of corruption among custodial staff and made it more difficult for drugs to be brought in by inmates and prison staff. Prison officers today are subjected to searches of their person and belongings and are body scanned before they enter or leave the prison. They may be dismissed or undergo disciplinary action for any infringements.

It happens [rape], yes, but as I said, very, very rarely now because the inmate movements are so controlled. And that control goes everywhere, whether the flow-on from visits and drugs coming in from visits, or... to my knowledge there aren’t very many outside activities for any prisoners in New South Wales any more. (Male, age 56)

I’ve heard people that when they came to jail first, they were very young, and then they tried to rape them. I’ve got a friend here, unfortunately he’s spent most of his life in jail. Now he’s about forty years old. But he first came to jail when he was only eighteen. And he was very blond, very like a girlie. He’s not gay or anything, but he’s, I suppose he’s handsome or something like that. He told me that he always had problems, people trying to touch him and rape him. But also he tells me that the situation in jail now is improved a lot in that way. That before it used to be more dangerous in that way. [...] He told me that there is much more control now. Before it used to be like not enough screws to watch. But apparently now in that sense the situation has changed... he told me things that I cannot believe that it happened. He tells me things about the screws bringing drugs in, people here being very corrupt. (Male, age 41)
Despite problems with blind spots (e.g., communal showers, toilets, laundry), the increased surveillance has provided some security for inmates who might otherwise be targets for rape by other inmates. To illustrate, in one prisoner’s experience,

He’d cornered me [in the laundry] and he’s pushing against me and that but I sort of wriggled and got out and I didn’t run to the officer, I just got myself to be seen and ever since that I’ve always stayed where I could be seen by officers. (Transgendered inmate, age withheld)

The changes have brought security and stability within men’s prisons for both prisoners and prison officers. Closed-circuit television and recorded video surveillance has potentially reduced situations in which prison officers allowed favored prisoners to rape inmates covertly and protected prisoners targeted for sexual assaults. In Heilpern’s interviews, some respondents reported that prison officers allowed inmates to enter another prisoner’s cell in the night to rape the prisoner. In our interviews, former inmates explained that these prison officers had ceded part of their control of the prisons to particular prisoners, as a means of protecting themselves as they were vulnerable to attack by inmates who greatly outnumbered them. Trusted inmates were rewarded with particular favors in return for this protective role.

In them days [1960s–1980s] the officers used to do favors for the senior prisoners, the tough guys. [. . .] It was like they’d throw them a bit of meat, a bit of young meat and that’s how—that’s how the system worked . . . Like there’s only one prison officer and he needs a certain amount of prisoners he can trust that give him certain protection. (Male, age 55)

On occasion, prison officers lost control of prisoners who manipulated them into doing something illegal or contrary to prison policy and then blackmailed them, for example, into bringing illicit drugs into prison. This scenario was discussed in length during an induction workshop in 2006 for new recruits in NSW Corrective Services and Justice Health, attended by the researcher (LY).

**Attitudes of Older Versus Younger Prisoners**

Older respondents said that current inmates entering prison were younger and sentenced for nonviolent crimes whereas, in the past, “jail systems then were
[full of] hard crims, you know, like gangster-type crims” (Male, age 60). Inmates have also noted that prisons have become “quieter,” “settled down” (Male, age 27) and were “calmer and calmer and calmer” (Male, age 22). One transgendered inmate who had been in and out of prison since 1976 remarked on the differences between the men she knew in jail in the past (including men who had raped while incarcerated) and the younger generation of inmates.

It’s just a different wave of prisoner that’s coming through the system now, compared to the older guys that I sort of grew up with in jail. [. . .] Yeah, they’re younger, and they’re not, the criminals today. They aren’t the violent, ready to shoot to kill people that there used to be a lot of [. . .] If they do crime, it’s like a snatch and grab, or run into a petrol station or building society, very rarely a bank, but it does happen. And they basically just go in there and say, “I’ve got a weapon,” and demand money, and might get a few thousand dollars. But back with the guys that I grew up with, you know they’d go in, one or two, and have shotguns, and intimidate, really intimidate the people. They would go around to the drawers and the till and the safe and take the money there. They were the ones that were ready to shoot to get out of there free, without the police coming. (Transgendered inmate, age withheld)

The changing character of the prisoner population has led to a breakdown in some of the old prison rules and divisions between prison staff and inmates. “Old school” prisoners have complained that newer inmates readily formed friendships with prison officers and were keen to inform on others to prison officers, breaking one of the cardinal rules of prison life—the code of silence.

The first thing, when you come to jail, is drilled into you, you do not dob. No matter what, you do not dob, you do not dob, you do not dob. (Male, age 22)

In jail, an inmate who informed on his assailant in a physical or sexual assault was socially stigmatized and labeled a “dog,” and often forced into Protective custody by the other prisoners. Rather than informing on the assailant, prisoners sometimes dealt with the situation in extreme ways by taking revenge on their attacker by, for example, stabbing or pouring boiling water over him. However, the changing attitudes of newer prisoners and their willingness to inform on others has made some of the “old school” prisoners wary of the new generation of inmates.
It’s changed in that the people here have never done what’s called “real jail.” They’ve never been to the Goulburn jail. They’ve never been to jails like Maitland, which were jails whereby green was green, blue was blue. And green fought against the blue. [. . .] Inmates against officers. [. . .] And here it’s sort of like inmates are all pally-pally, buddy-buddy with officers. And some of the inmates here actually think they’re officers—it’s got to the point where, in this jail, you wouldn’t want to hit anybody because you’d know fine well they would run and tell. And it doesn’t matter how mad you get with them or how much they annoy you or aggravate you, you don’t retaliate, because you know they will run and tell, and you will get moved out. [. . .] They’re such pals with the officers. Or at least they think they are. The truth is, blue is blue, green is green. And if the crunch came to the crunch, their so-called “friendly officers” would beat the living daylights out of them if need be. (Male, age 56)

It has been suggested that the growing empathy between prison officers and prisoners could be attributed to the introduction of the case management program started in 1993 and expanded throughout NSW prisons. The program was introduced to improve the management of new inmates on arrival who were often distressed after being brought straight from court. Prior to this, new arrivals were usually herded off the prison truck and processed by a prison officer who usually ordered the prisoner to remove his clothes in front of others so that he could be searched, and each tattoo and body scar documented. There was little consideration given to the prisoner’s state of mind and emotions as the custodial officer’s duty was to process these inmates quickly. In the past, some prisons were notorious in punishing newly arrived inmates violently. According to a Report of the Royal Commission into New South Wales Prisons, “capable, tactful and robust officers” were involved in physical assaults of newly arrived inmates to break them physically and mentally. These duties were sanctioned by their union, the Public Service Association, Prison Officers’ Vocational Branch. More descriptively,

“. . . upon first admission to the gaol, intractable prisoners were the subject of a “reception biff,” which consisted of a physical beating of the prisoner about the back, buttocks, shoulders, legs and arms by two or three officers using rubber batons.” (Parliament of NSW, 1978, p. 14)

The contrast today is distinct. New inmates enter the case management program and are given refreshments on entry by a noncustodial officer. They
are then placed on the phone to a family member, reducing the prisoner’s anxiety and distress and making it easier for custodial officers to manage the new prisoners. Case management also involves prison officers below a certain grade taking on individual prisoner case loads. Prison officers get to know the prisoner and find out how they are coping in prison. This gives inmates an opportunity to discuss their anxieties and other issues causing them distress. The case management program is one of the activities that support the “duty of care” concept.

**Duty of Care**

Concurrent to the above events were changes in prison officer culture. High prisoner suicide rates led to the *Nagle Royal Commission into NSW Prisons* (1976-78; tabled in the Parliament of NSW in 1978) and the *Royal Commission on or into Aboriginal Deaths in Custody* (1987-1991) which first introduced the concept of duty of care. Duty of care is seen as the obligation owed to anyone whom it is reasonably foreseeable would be injured by the lack of care of that person. Custodial staff are required to have more regard for the safety and well-being of individual inmates. In more detail,

The department is vicariously liable for the negligent acts of its employees when those acts amount to negligent performance of their duties. The department, as custodian of inmates and an employer of staff, owes a duty of care to prevent injury to inmates and staff arising, amongst other things, from self-harm, assaults, the occupation and activities associated with correctional centres, and industrial accidents (NSW DCS Operations Manual, 2007).

As a result of gradual policy changes and introduction of “duty of care,” custodial staff began to improve their awareness of their duty of care obligations to victims of prison sexual assaults. Prison officers have become aware that the department can be found in breach if it failed in its duty of care. Today, interviewees observed how the concept of duty of care has translated to more programs on injury prevention and safety, and how sexual assaults may have been affected by these programs.

Well back in the old days I don’t think you could ever claim that type of thing, whereas today you can—there’s so many issues today—OH&S [Occupational Health and Safety], and all sorts of issues that come into it. You can perhaps sue the department if it was known that
this person raped people [and you were placed in the same cell]. Then you wouldn’t be put, shouldn’t be put in there. (Male, age 58)

Other interviews reported that sexual assaults were investigated after a complaint was made to prison officers and victim and alleged assailant were usually immediately separated.

The other guy woke up, he [another prisoner] was sucking [him] off or something [. . .] And so he was moved. (Male, age 32)

This is in contrast to the two reported experiences of the sexual assault victims in Heilpern’s interviews, whose complaints were often quickly dismissed by indifferent officers and the prisoner returned to the same cell as his sexual attacker.

Nevertheless, several issues were raised by respondents on how “duty of care” is implemented and which ought to be addressed. The first issue concerns one witness who did not want to report a sexual assault as he was afraid of having his name revealed by prison officers to the perpetrator. He did not feel reassured that prison officers would be responsible in ensuring his safety from future retaliation by the perpetrator.

On two occasions I’ve gone to the showers and walked away. [Why?] One bloke was raped in there . . . one bloke actually attacking another bloke for sex . . . The bloke was putting up a fight . . . The bloke that was being raped, his trousers had been ripped off . . . He was my cellmate . . . [How did you feel after when you saw both of them?] Piece of shit. Right? Because that’s a human being. But if I go and report it, I can wager ten to one that the screw that takes the report will tell the bloke that’s doing the rape, and he’ll probably tell him my name too. (Male, age 27)

The second issue, raised in the same interview, was that prison officers were oblivious to or neglected the signs of distress displayed by a victim of sexual assault and therefore did not meet their obligations for mandatory notification to make a referral.

[My cellmate] wouldn’t come out [from] under his bed. We used to get kicked out of our rooms at 7:30 in the morning . . . the officers would check our rooms at 6:30 to make sure everything was, you know, all right. So he didn’t want to come out in the yard . . . So he would hide
under his bed and then pull the fruit box in front of him. And this went on for a little while. [What did the officers say about that?] “Get out from underneath the bed!” [Did they think there was something wrong?] Nup.

The third concerns male victims of sexual assault who are victimised a second time. Their lives are placed at risk after being forced into Protection for their own safety by prison officers. Inside Protective custody, the sexual assault victim is punished by being misidentified as a “rock spider” or paedophile, the lowest form of life in the prison social hierarchy, even worse than “dogs” or informants. Prisoners in the main prison hate this type of criminal and are willing to commit murder and hence, movements of prisoners in Protection and the main prison are regulated to such an extent that the two groups must be moved at separate times so that they never meet, or there needs to be a solid and soundproof physical barrier separating them. Once in Protection, the stigma and threats to the sexual victim’s life follow him throughout his incarceration and successive lag-ins, whereas the sexual aggressor returns to the main prison without discrimination, his reputation still intact.

**Drug Supply, Demand Reduction, and Methadone Maintenance Programs**

Current drug supply, demand, and harm reduction programs are also surmised to have affected the frequency of sexual assaults in prison. Interviews with inmates who had been sexually assaulted in earlier decades revealed a pattern of dependency on heroin and other drugs. Respondents reported lowered awareness of their surroundings and personal security leaving them vulnerable to sexual attacks during their search for heroin after being given drugs, or after getting into debt in prison.

The drugs always had a lot to do with it, because if you’re chasing drugs, your awareness of what’s going on around you, you can let slip, because you only have that desire to get that drug, you know, and sometimes tend to not pay too much attention to things that you should have, and that leaves you open for an attack. (Transgendered inmate, age withheld)

In one interview, a man spoke of first entering prison as a heroin drug addict in the 1980s and how he was forced to pay back a debt with sexual favours to his creditor.
I was a heroin addict. So if a bloke’s gonna give me something, I’m gonna take it. I’m not gonna say, “What do you want for it?” And, and I went to his cell a few weeks later and I think that was the, the closest I’ve ever, ever come to being really, really scared in jail. [. . .] I went to his cell and asked him for some more, more gear [heroin]. And he said, “No mate, I’ve got nothin.” He said, “Just shut the door for a minute.” So I shut the door. And I think, I thought he was gonna get something, something out for me, you know. So I shut the door. And he said, “Just keep copy for me for a minute.” So I was looking at the door and he said, “No, don’t worry about it.” I walked up to the end of his cell to get a drink of water and he said to me, “Listen, that gear and that pot that I’ve been giving ya, it’s time to pay up,” and that sort of thing. But in different words. And I said, “What do you mean by that mate?” And he said, “Well I don’t let anyone walk away from me, you know.” “I’ve got nothing for you but the television. You can have that.” And he said, “No.” He said, “Listen. I want you to, you know, suck my dick.” Yeah. It was sort of, it was pretty full-on for a couple of minutes in there. Like he had me really, really scared. And he’s a . . . a big man. Yeah, that was the scariest I’ve ever been. [So did you end up giving it to him?] Yeah, I did. (Male, age 41)

Since the mid-1990s, prisons in NSW have gradually scaled up their drug surveillance of prison officers, inmates, and visitors for illegal drugs. At the same time, methadone maintenance programs were also introduced to inmates who are heroin dependent. NSW currently has the most extensive methadone maintenance programs in Australia operating in almost all NSW prisons. Methadone maintenance programs may have lessened the demand for heroin among some inmates thereby reducing the number of inmates placing themselves in risky situations and being raped or forced to pay back drug debts with sexual favors. As observed by inmates, its effects may have also led to prisons increasingly becoming “quieter” (Male, age 27), “calmer,” and “less hectic” (Male, age 22).

Prisoner Attitudes to Gender and Sexuality

Since the 1970s, the gay and lesbian community in NSW has mobilized to raise awareness of gender and sexuality as a political issue, achieving legislation against discrimination on grounds of homosexuality and changes in age of consent laws. With the advent of AIDS in the 1980s this movement became mainstream as part of health promotion to prevent HIV and other sexually
transmissible infections. Prisons ran programs to educate prisoners on HIV/AIDS and prison officers began to openly talk to inmates about preventing HIV/AIDS and sexually transmitted diseases, much to the dismay of the Prison Officers Union, who would not allow condoms to be introduced to prisoners in the 1980s and early 1990s (Yap et al. 2007).

Changing community attitudes in Sydney toward people with different sexualities may have filtered through the New South Wales prison system, spreading with the incarceration of more openly gay inmates, and HIV/AIDS education in prisons. As one prisoner observed,

I haven’t actually seen any sexual violence in prison say, in ten years [from the mid-1990s]. Yeah, well it’s because now it’s more, sexuality is more open, in the sense which means, the mentality’s changed too. It wasn’t all right to be gay back in those days, because you were bashed up, and so, if you done it, you done it in a violent way to make it all right, that kind of attitude. Where now, there’s a lot of gay people in jail, a lot of transgenders in jail, the attitude towards gays in general has slackened off in the community. So it also reflects in prison as well. It’s become more accepted. So why would you need to go do that to someone in a violent way, unless you were doing it for the violence, it wasn’t just for the sex, when the opportunities are far more, where you can go down to the pod and you know a guy who’s gay, and if you want to get your dick sucked, you can, without the violence. Of course, if you’re into violence, and that’s why you do it, then that’s how it’s going to go for you. (Male, age 40)

For a prisoner wanting a sexual service, engaging with a willing partner is more possible than in earlier decades, as the gay man is more likely to be “out.” In the above extract, the respondent does not reflect on whether such a transaction may raise doubts about the heterosexuality or masculinity of the man seeking the service. Greater visibility and acceptance of gays can paradoxically raise the need for boys and young men to display or perform their heterosexuality more vigorously (Plummer, 1999), and there is evidence that situational or youthful homosexual contact is now less common than it was in the 1960s (Schmidt, Klusmann, Zeitschel, & Lange, 1994).

Nevertheless, the majority of male prisoners disapproved of same-sex contact: 62% in the telephone survey agreed that sex between two adult men was “always wrong” (Richters et al., 2008), compared with 37% in the general community 5 years earlier (Rissel, Richters, Grulich, de Visser, & Smith, 2003). Attitudes of male prisoners toward transgendered people and men regarded
as effeminate, in particular, are often far from respectful. In one interview, a transgendered inmate reported being the target of sexual harassment and public displays of sexual violence in men’s prisons. She recounted her experience in 2003 of being physically assaulted for rejecting a demand for sexual favors from a male inmate in front of a roomful of male prisoners.

“What about a ‘start’?” (How about some sex?) is the most common phrase. [. . .] You know, and then it becomes fairly crude as well, you know. “Just want you to suck my cock for a while,” and that sort of stuff: “You know you’re a slut anyway and you’re this, and you’re that, you fucking trannies.” And they try to use a lot of intimidation. And when they’re told “no” they get aggressive as well. (Transgendered inmate, age withheld)

The researcher also observed unwelcome sexual harassment during an interview with another transgendered inmate.

(A male inmate was standing outside the glass cubicle and looking at the researcher and the interviewee in the enclosed room. He pointed a finger at the interviewee and then at himself and then at the interviewee again, then blew a kiss to her and mouthed, “You and me?” A prison officer appeared and the inmate was forced to leave.) [So is that the type of harassment?] Yeah, shit like that. Just stupid shit [visibly annoyed] (Transgendered inmate, age withheld)

“Systems Approach” and the Decline in Sexual Assaults in NSW Prisons

In this article, we demonstrated how a “systems approach” can capture the reality of male sexual assaults in prison without reducing the complexity of the data. Human societies are complex systems involving many variables and this method of engaging a multiplicity of perspectives allows the researcher to encapsulate sociocultural ideas and behaviors, between the subject and their environment, real and abstract. In this article, we investigated the emergent behaviors of the overall complex prisoner-prison environment system and the emergent bidirectional interactions between the individual and his environment over time. In particular, we explored sexual assault incidents in its own situational context taking into account significant changes in departmental attitudes, programs, procedures, regulations, and policies.
From the evidence, we surmise that a confluence of historical events and policy changes from the mid-1990s contributed to the decline in sexual assaults in men’s prisons in NSW. From our analysis of Heilpern’s historical interviews and our data, the evidence indicates that the increased prevalence of rape and sexual assaults more than a decade ago was led by higher level prison authorities who failed to or were incapable of systematically controlling the different power structures within the prison system. Their failure to protect and control prisoners and custodial staff promoted a culture of fear and corruption and led to the dehumanization of prisoners from entry. Prisoners feared other prisoners and prison officers feared inmates who were capable of intimidating, blackmailing, and/or corrupting them. To protect themselves, prisoner leaders and gangs created their own fiefdoms, sometimes using sexual violence and sexual enslavement of “weaker” inmates to establish their leadership and consolidate their power base. Prison officers, on the other hand, would ally themselves with particular prisoners and exchange favors for protection or used violence to intimidate and physically and mentally subjugate the prisoners who greatly outnumbered them.

Some of Heilpern’s concerns have been addressed, namely, fewer prisoners in cells to reduce overcrowding and the state assuming legal responsibility for the safety of prisoners. As new prisons were built to reduce overcrowding and modern video surveillance and recording equipment introduced, prison authorities began to take back control and power from prisoner leaders and gangs and impose stricter supervision and discipline on its own custodial staff. Prison officer’s fears for their own safety receded, and sexual violence among prisoners gradually diminished.

In the meantime, attitudes to prisons also underwent major paradigm shifts in thinking from “places of punishment” where physical and sexual assaults were condoned by custodial staff to “places of rehabilitation” with the introduction of case management, duty of care and more humane prison system processes, and drug and methadone treatment programs. Prison officers and prisoners consequently appeared to be less adversarial and confrontational to each other, and prison officers were less indifferent to the victims of sexual assault.

Moreover, the advent of HIV/AIDS and the changing societal attitudes to others of differing sexualities may have contributed to more tolerant attitudes in prison even though male-to-female transgendered and effeminate male inmates still suffer greatly from continuous sexual harassment and are sometimes targeted for sexual assault if they are alone and do not have a partner for protection. Homosexuality may be more acceptable than it once was but it is still not generally accepted by male prisoners.
The Future

Despite the low rates of sexual assault in NSW jails, any unwanted sexual event is still unacceptable and the Department needs to be constantly vigilant in its prevention strategies. Ongoing surveillance of prisoners’ sexual assault is recommended to monitor changes in patterns of the assaults and the attitudes of prisoners and prison officers to sexual health matters in prison. Our data suggests that there are still rooms (e.g., laundry, showers) in NSW prisons that are not adequately monitored by security cameras or prison officers. A number of inmates believed that these areas were unsafe and those that felt vulnerable to attack felt forced to avoid these areas. This suggests that more aggressive inmates are less likely to assault another inmate if they feel that they are being watched by custodial staff. Video cameras should always constantly be added in response to any adverse incidents where surveillance may have prevented an incident. New programs also need to be implemented to develop a more enabling environment promoting gender and sexual tolerance toward transgendered prisoners and effeminate men to reduce sexual aggression and harassment in prison.

“Duty of care” in prisons could be improved with better regulations and procedures to ensure that the identities of witnesses and informants of sexual assaults remain confidential and they are safe from retaliation and also that prison officers are trained to be able to recognize the signs of distress from inmates who have been sexually assaulted. Segregating alleged sexual perpetrators and sexual victims should also be achieved in a manner more appropriate to the prison culture, without further victimizing already traumatized sexual victims by inadvertently and falsely stigmatizing them as child molesters or pedophiles while in Protection and consequently placing their lives at risk.

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